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FISCAL IMPACT REPORT

ORIGINAL DATE 02/09/11

SPONSOR Nunez LAST UPDATED _____ HB 231

SHORT TITLE Minimum Amount of Days for Live Horse Racing SB _____

ANALYST Wilson

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	(\$3,000.0-\$4,000.0)	(\$3,000.0-\$4,000.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Conflicts with SB 85 and relates to SB 27 and SB 114

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$400.0-500.0	\$400.0-\$500.0	\$800.0- \$1,000.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Gaming Control Board (GCB)

State Racing Commission (SRC)

SUMMARY

Synopsis of Bill

House Bill 231 amends the Horse Racing Act to require a minimum of 60 days of live racing per year for racetracks other than tracks that are instrumentalities of the state. Racetracks that are instrumentalities of the state will be required to have 17 days of live racing per year.

This bill amends the Gaming Control Act to provide that a racetrack gaming operator's license would automatically become void if it failed to hold the required 60 days of live racing.

FISCAL IMPLICATIONS

While pari-mutuel wagering could increase, increasing pari-mutuel tax, several racetracks could not accommodate such a significant increase in race days in the current economic climate. In some cases racetrack locations in relation to weather patterns and safety of the horses and riders would be an issue. Regulatory oversight by the SRC is not funded and could not accommodate at the current level of funding the increased staffing, drug testing, and expenses associated with increased number of days and potential long overlaps of racetracks running simultaneously.

SRC regulatory oversight for additional days is approximately \$4900 per day not including drug testing costs which vary based on testing protocols developed for the changing variety of drugs being tested for. Currently, at Sunland Park, the drug testing costs are approximately \$1,355.00 per day. Current budget and staffing could not support the increase.

The GCB noted this bill could create a significant loss of gaming tax revenue to the state in the event a racetrack license was voided for failure to hold the minimum required live races. The aggregate amount of gaming tax paid by all five licensed horse racetracks for the last four quarters was \$64,310,723.

SIGNIFICANT ISSUES

It is unknown if there is a large enough racehorse population to support such an increase. Catastrophic injuries could increase if the frequency in which horses compete were compromised due to short fields and the need to have enough horses competing.

The AGO provided the following:

The proposed amendment signifies that a racetrack licensee, other than a licensee that is an instrumentality of the state, shall run at least 60 days per year. This language is surely intended to refer to the State Fair licensee, which has historically conducted 17 days of live horseracing during the New Mexico State Fair. However, there is no statutory authority, nor statutory reference indicating that the state fair licensee is an instrumentality of the state. Moreover, the actual licensees are the individual commissions of the New Mexico State Fair Commission. As such, the proposed amendment may require specific, legal reference to clarify this exception.

Conversely, the Downs at Albuquerque licensee maintains a lease with the New Mexico State Fair Racetrack to conduct live horseracing on their grounds. House Bill 231 does not exclude the Downs at Albuquerque licensee from the sixty day requirement. However, without such exclusion, it would be impossible for this licensee to overlap with the New Mexico State Fair licensee and simultaneously run sixty days on the same racetrack. Thus, the proposed amendment may require additional exclusions for the Downs at Albuquerque licensee.

House Bill 231's proposed effective date is July 1, 2011. However, pursuant to NMSA 1978, § 60-1A-4, the New Mexico Racing Commission has assigned race dates for the 2011 racing season to all licensed race tracks in the state. Only one of the six licensed race tracks has been assigned 60 days of live horseracing. As such, the effective date conflicts with 2011 racing season and must be amended.

ADMINISTRATIVE IMPLICATIONS

The SRC cannot handle the provision in this bill with existing staff and financial resources.

CONFLICT/RELATIONSHIP

HB 231 conflicts with SB 85, Transfer Authority to Gaming Commission and relates to SB 27, Extend Daily Capital Outlay Horse Racing Tax and SB 114, Racing Commission Sunset & Fair Tax Delay

DW/mew