

Gaming in New Mexico

New Mexico has 24 tribal casinos¹ and five racetrack casinos. Tribal casinos may operate casino-style gaming, including slot machines and table gaming, while slot machines are allowed at racetrack casinos, as well as at licensed non-profit and fraternal organizations. The Gaming Control Board (GCB) regulates gaming in the state. See Chart 1 for GCB’s annual budget.

The state collects money from gaming in two key ways: revenue sharing from tribal casinos (see more detail below), and taxing revenues from racetrack casinos and other licensed operators. Non-tribal casino revenues are taxed at 26 percent of slot gaming net win and licensed non-profits and fraternal organizations are taxed at 10 percent.

In FY18, revenue from tribal casino revenue sharing was \$62.8 million. Tax revenue from non-tribal operators was \$61.6 million (Chart 2). Of non-tribal tax revenue, 97 percent came from racetrack casinos, and the remaining 3 percent came from non-profit operators, manufacturers, and distributors. Tribal casino revenue sharing and non-tribal gaming taxes have fluctuated over time, but both have decreased since FY11.

AGENCY: New Mexico Racing Commission; Gaming Control Board

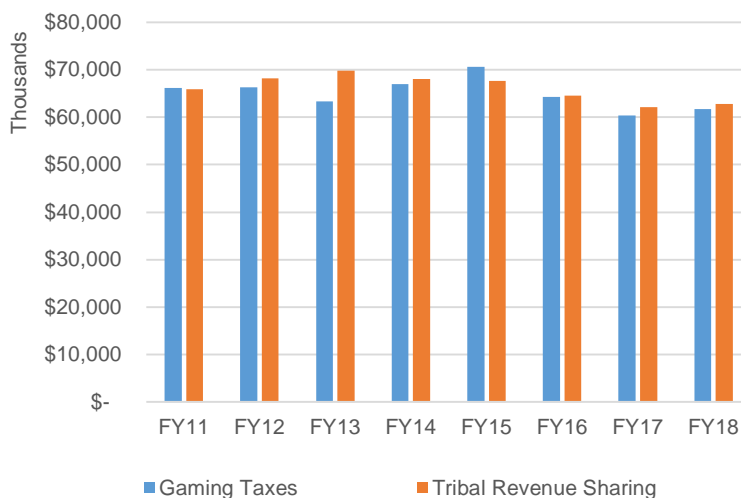
DATE: July 12, 2019

PURPOSE OF HEARING: Racing and Gaming Issues in New Mexico

WITNESSES: Raechelle Camacho, State Gaming Representative, Gaming Control Board; Ismael "Izzy" Trejo, Executive Director, New Mexico Racing Commission; Beverly Bourguet, Chairwoman, New Mexico Racing Commission; Ethan Linder, Director of Marketing, Sunland Park Racetrack & Casino; Jeff True, General Manager, Ruidoso Downs

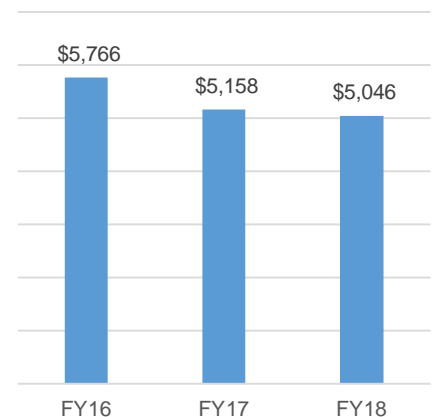
PREPARED BY:
Alison Nichols

Chart 2. State Gaming Revenues



Source: GCB

Chart 1. Gaming Control Board Annual Budget, FY16-FY18
\$ Thousands



Source: LFC

¹ Two of the 24 tribal casinos are “express” or “travel stop” style casinos at the same location as a main casino at Laguna and San Felipe Pueblos.

Revenue Sharing and Tribal Compacts

A key piece of gaming regulation in New Mexico is based on gaming compacts, or agreements between the state and Indian tribes. The federal Indian Gaming Regulatory Act of 1988 permits Indian tribes to conduct Class III gaming on Indian lands, in agreement with tribal-state compacts. The state's current compact dates to 2015 and is in effect through June 30, 2037. All 14 tribes that operate casinos are signatories to the 2015 compact.

See Table 1 for a summary of tribal casinos in New Mexico.

Table 1. Tribal Casino Summary

Name	Tribe	Slots	Table Games	Hotel Rooms
Apache Nugget	Jicarilla Apache	130	0	0
Black Mesa*	San Felipe Pueblo	680	7	0
Buffalo Thunder	Pojoaque Pueblo	1,200	18	395
Casino Apache	Mescalero Apache	380	10	0
Cities of Gold	Pojoaque Pueblo	503	0	0
Dancing Eagle	Laguna Pueblo	600	0	0
Fire Rock	Navajo Nation	1,100	7	0
Flowing Water	Navajo Nation	130	0	0
Inn of the Mountain Gods	Mescalero Apache	840	35	273
Isleta Resort	Isleta Pueblo	1,743	34	201
Jake's Casino	Pojoaque Pueblo	63	0	0
Northern Edge	Navajo Nation	750	10	0
Ohkay Casino	Ohkay Owingeh	700	3	101
Palace West	Isleta Pueblo	261	0	0
Route 66*	Laguna Pueblo	1,375	34	154
Sandia	Sandia Pueblo	2,300	38	228
Santa Ana Star	Santa Ana Pueblo	1,600	21	0
Santa Claran	Santa Clara Pueblo	680	6	122
Sky City	Acoma Pueblo	669	10	134
Taos Mountain	Taos Pueblo	200	4	0
Tesuque Casino	Tesuque Pueblo	800	10	0
Wild Horse	Jicarilla Apache	190	0	41
<i>Tribal Casino Total</i>		<i>16,894</i>	<i>247</i>	<i>1,649</i>

*Two casinos at same location (main casino and "express" casino)
Sources: Union Gaming Analytics, casino websites, Casino City website

Figure 1. Tribal Casino Gaming Classifications

Class I: Traditional Indian gaming, often part of tribal ceremonies and celebrations, and social gaming for minimal prizes.

Class II: Bingo and other games similar to bingo (including electronic or computer-based games); non-banked card games (games played exclusively against other players rather than against the house).

Class III: All forms of gaming that are neither class I nor II, including common casino games such as slot machines, blackjack, craps, and roulette, as well as wagering games and electronic facsimiles of any game of chance.

Source: National Indian Gaming Commission

The compact lays out conditions for revenue sharing, wherein tribal casinos remit a portion of casino revenues from Class III games to the state (see Figure 1 for a description of gaming classifications). Generally, mechanical, electromechanical, and electronic games are subject to revenue sharing and table games (those that rely on a casino attendant to play) are not subject to revenue sharing. The compact also limits the number of non-tribal casinos to six, which must be part of a racetrack.

Revenue sharing percentages are based on the casino's annual adjusted net win, or the amount wagered on gaming machines, less the amount paid out in cash and non-cash prizes, less state and tribal regulatory fees (Table 2). Revenue is remitted to the state treasurer and also includes a regulatory fee to the state.

Table 2. Revenue Sharing Percentages Set by 2015 Gaming Compact

Annual Adjusted Net Win	July 1, 2018 – June 30, 2030	July 1, 2030 – June 30, 2037
Under \$20 million	2% of the first \$6 million, and 8.75% on the rest	2% of the first \$6 million, and 9.50% on the rest
\$20-\$40 million	8.75%	9.50%
\$40-\$80 million	9.50%	10.25%
More than \$80 million	10.00%	10.75%

Source: 2015 Indian Gaming Compact

Tribal revenue sharing amounts have fallen by almost 10 percent since FY13. There are two fewer tribal casinos than there were five years ago. In addition, New Mexico has seen just 1 percent population growth during this time period, meaning that the total gaming market is unlikely to be growing significantly, perhaps reflected by the fact that tax revenues from non-tribal casinos have also declined. In addition, growth in online gambling may be taking market share from casinos. Net win per slot machine varies significantly by tribe, ranging from less than \$40 to over \$200 per day.

Tribal revenue sharing amounts have fallen by almost 10 percent since FY13, while non-tribal gaming taxes fell by 3 percent

Tribal casinos report revenue, or adjusted net win, to GCB on a quarterly basis, and GCB receives monthly slot accounting reports from tribal casinos, which it compares against revenue reports. Per the current gaming compact, GCB’s State Gaming Representative also accesses central monitoring systems at each casino that track the activity of all Class III gaming machines. In addition, the State Gaming Representative has authority to inspect Class III machines at tribal casinos, and visits each casino in person at least annually. GCB does not monitor table games at tribal casinos, since they are not subject to revenue sharing.

The revenue sharing agreement in the compact would be terminated if the state were to:

- Restrict the scope or extent of Indian gaming;
- Allow any entity other than six licensed racetracks and veterans and fraternal organizations to operate gaming machines;
- Permit racetrack casinos to operate for longer hours, install more machines, or add table games; or
- Allow other entities to operate Class III gaming other than the state lottery, betting on horse racing and bicycle racing, and operation of gaming machines by non-profit organizations.

The compact would also be terminated if tribes do not submit payment to the state within 30 days of notice of non-payment. GCB indicates that it has only issued one notice of non-payment under the current compact, and payment was remitted within several days of notice.²

² The Pueblo of Pojoaque did not sign the current compact until 2017. During the two-year period in which the pueblo was not party to the compact, the U.S. attorney allowed Pojoaque to continue to operate its casinos, while placing an amount equal to what it would owe under the compact – approximately \$10 million – in a trust account. Following a legal fight over the compact’s terms, the pueblo and the state reportedly reached an agreement in June 2019 whereby the state will receive approximately \$6.2 million of the funds and the pueblo will keep the remainder.

Class II Gaming Machines

Under the current gaming compact, the state only receives a share of revenues from Class III gaming machines, and not from Class III table games or Class II games.³ While Class II games have traditionally included primarily non-electronic bingo games, technological advances in Class II machines have led to more advanced electronic bingo-style machines that can match the performance of Class III machines.

The state could see lower revenues if Class II machines become a larger share of tribal casino offerings. Currently, GCB reports that Class II machines make up a small share of total machines. According to a 2019 GCB survey of tribal casinos, Class II machines account for approximately 1.4 percent of all gaming machines; however, three tribes declined to provide updated figures for the survey. In 2012, GCB reported that Class II machines made up 1.3 percent of gaming machines. GCB periodically surveys casinos in response to legislative requests, and the Tribal Gaming Representative also conducts periodic in-person surveys of Class II machines while visiting casinos to inspect Class III machines. However, since the state does not have jurisdiction over Class II machines, tribal casinos are not required to share information, and it is difficult to fully verify numbers or changes from year to year.

Similarly, Class II machines are not consistently tracked in other states with tribal gaming, since they do not fall under tribes' compacts with states. Casino Journal, an industry publication, reported in April 2019 that the industry is increasing its footprint of Class II games, and that there has been growth in Class II machines in markets that do not have Class III machine compacts, leading to the opening of Class II-only facilities in Indiana, Alabama, and Texas. The same article also indicated that "growth isn't evident in markets that include both Class II and Class III" games, which includes New Mexico.

Oklahoma's Gaming Compliance Unit publishes an annual report detailing, among other information, the number of Class II and Class III machines. The share of Class II machines has risen steadily since 2008, to make up 43 percent of total gaming machines in Oklahoma's tribal casinos, suggesting that there may be significant demand. However, Oklahoma differs from most other states with Class III compacts, as gaming in the state began with only Class II machines, and Class III machines were included in tribal compacts in 2004.

Some gaming machine manufacturers promote Class II machines as an attractive alternative for tribal casinos. For example, the Casino Journal article quotes gaming company representatives as saying that, "in most cases, it is difficult for the player to notice any difference between a Class II and Class III game," and that the "diminishing performance gap, coupled with the tax benefits of operating Class II games, often creates a compelling financial case for tribal operators to add more Class II products to their floor." According to a New Mexico casino industry representative, the cost of new Class II and Class III machines is comparable, as is

Gaming machine manufacturers promote Class II machines as an attractive alternative for tribal casinos

³ Under the Indian Gaming Regulatory Act of 1988, states do not have jurisdiction over Class I and II gaming at tribal casinos.

the life of the machines, although revenue sharing agreements with manufacturers may differ (for example, some manufacturers will replace poorly performing Class II machines under an 80-20 revenue sharing agreement).

There is anecdotal evidence that some tribal casinos in New Mexico are installing Class II machines in separate areas from the rest of the casino, in order to be able to serve alcohol on the floor. For example, Inn of the Mountain Gods advertises “The Enclave” on its website, where guests can enjoy drinks while playing their favorite slots (Figure 2). While the website does not specify, this space likely has Class II gaming machines, as alcohol is prohibited on casino floors where Class III machines are present.⁴ This could be an attractive offering to casino visitors, especially those accustomed to being able to drink alcohol while gaming in other states, including in Las Vegas casinos.

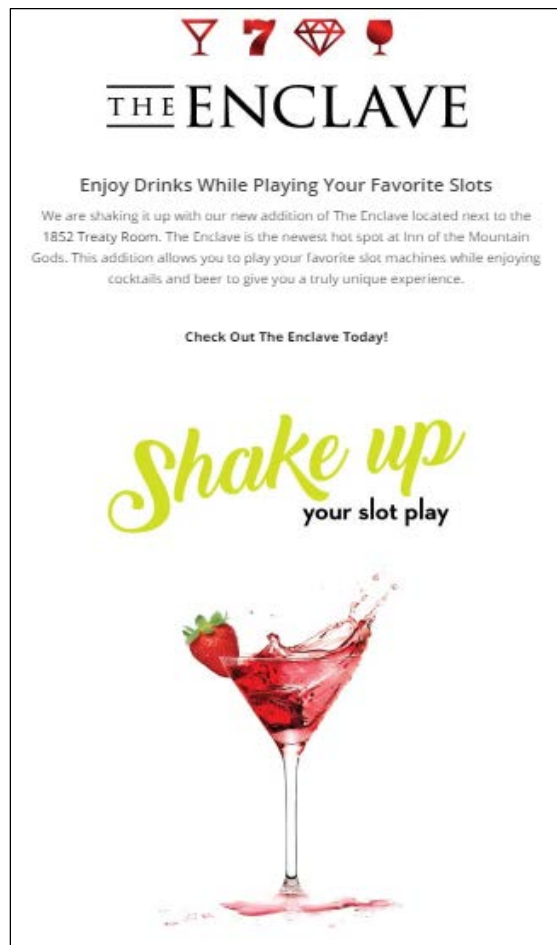
Sports Betting

Some tribal casinos in New Mexico have begun operating sports books, but expanding sports betting to non-tribal casinos could void revenue sharing in the compact. While it is illegal to operate a sportsbook in New Mexico (NMSA Section 30-19-15), the tribal gaming compact does not specifically prohibit tribal casinos from operating sportsbooks, which is a type of Class III gaming. In 2018, the U.S. Supreme Court struck down a federal law (the Professional and Amateur Sports Protection Act, or PAPSA) that banned states from regulating and taxing sports betting. Two New Mexico tribal casinos – Santa Ana Star and Buffalo Thunder – began operating sportsbooks in 2018 and 2019, respectively.

In late June, Inn of the Mountain Gods Casino announced that it would launch a sportsbook, in partnership with William Hill, a UK-based betting company. Bettors at the casino will have access to the company’s mobile sports wagering application, which could potentially move the casino towards a form of internet gaming, which is not authorized in the state. The current tribal compact states that in the event that internet gaming were to be authorized, the state and signatory tribes agree to reopen “good faith negotiations to evaluate the impact [...] of internet gaming and consider adjustments to the Compact.”

Were New Mexico to fully legalize sports betting, allowing non-tribal casino operators to operate sportsbooks, this could void the revenue sharing agreement in the compact. In late 2018, the New Mexico Lottery Authority announced plans to offer a new game tied to outcomes of sporting events; however, this would likely not void the agreement.⁵

Figure 2. Advertisement for Class II Gaming Area



⁴ A proposed bill in the 2019 session (SB 178) would have legalized consuming alcohol on casino floors at racetrack casinos, although would not have allowed buying or selling it on the casino floor (patrons would have to purchase drinks at a bar elsewhere in the facility).

⁵ The tribal compact allows for the operation of a state lottery, but does not specify which games are allowed, only stating that the compact would be terminated if the state allows

Sports betting accounted for \$250 million in casino winnings in Nevada in 2017 and generated \$16.8 million in tax revenues, based on a tax rate of 6.75 percent

In late 2018, the Taxation and Revenue Department (TRD) estimated projected revenues were the state to allow sports betting at racetrack casinos. TRD estimated revenues of \$21 million, assuming a 26 percent tax rate, or \$12 million, assuming a 15 percent tax rate (which would apply to table games). However, these revenues could be offset by a loss of \$60 to \$70 million annually in tribal revenue sharing. A 2018 brief from the National Conference of State Legislatures points out that while the repeal of PAPSA generated enthusiasm for sports betting, based on the potential to increase state gambling revenues, even large sums in sports betting wagers do not necessarily translate to significant tax revenues for states, since sports betting is a low-margin business. For example, in 2017, sports betting accounted for nearly \$250 million in casino winnings in Nevada and generated \$16.8 million in tax revenues for the state, based on the state’s tax rate of 6.75 percent.

Figure 3. Requirements for Racetrack Casino Operators

Racetrack casinos:

- Cannot have table games
- Cannot have more than 600 slot machines, or 750 if approved by GCB and NMRC
- Can only operate slot machines on days when racetrack holds live races or streams horse races in other locations
- Cannot operate slot machines for more than 18 hours per day and 112 hours per week

Source: 2015 Indian Gaming Compact

Sixth Racetrack Casino License

Currently, there are five racetrack casinos (sometimes referred to as racinos) in New Mexico, with a sixth casino license outstanding. While there is no limit to the number of racetrack licenses that can be issued by the New Mexico Racing Commission (NMRC), the tribal gaming compact limits the number of racetrack casino operator licenses to six. NMRC is responsible for awarding racetrack licenses, while GCB approves casino licenses. See Figure 3 for requirements for racetrack casinos, per the gaming compact.

As of early 2019, the five existing racetrack casinos had just over 3,000 slot machines and 232 hotel rooms (Table 3). Racetrack casinos account for approximately 15 percent of all slot machines in the state.

Table 3. Racetrack Casinos in New Mexico

Name	Location	Slots	Table Games	Hotel Rooms
Ruidoso Downs	Ruidoso	325	0	0
Sunland Park	Sunland Park	773	0	78
SunRay Park	Farmington	476	0	0
The Downs at Albuquerque	Albuquerque	690	0	0
Zia Park	Hobbs	750	0	154
<i>Racetrack Casino Total</i>		<i>3,014</i>	<i>0</i>	<i>232</i>

Source: Union Gaming Analytics

The award of a sixth license has been on hold while NMRC responded to pending litigation. Five organizations submitted bids for the license (three in Clovis, and one each in Tucumcari and Lordsburg), and one of the bidders filed for an injunction, claiming that a feasibility study conducted by NMRC was flawed. In

“any non-Indian person or entity to engage in any other form of Class III gaming other than a state-sponsored lottery,” suggesting that it is permissible for the lottery to operate other forms of Class III gaming, including sports betting.

April, the Office of the Attorney General announced that it had reached a settlement agreement with NMRC and Hidalgo Downs LLC, the company that filed the injunction. At its June meeting, NMRC decided to indefinitely table the awarding of a sixth racetrack license. NMRC also indicated that that further study needs to be done on how a sixth racetrack would impact the industry.

A 2019 analysis by Union Gaming Analytics, a gaming industry consultancy, suggested that a majority of revenues generated at a racetrack casino in Clovis would come from residents of Texas, and that given the distance between Clovis and other racetrack casinos, a sixth racetrack casino would unlikely to draw business away from other racetrack casino locations.

Union Gaming Analytics also included in its report projections on potential revenue growth under different scenarios in which gaming at racetrack casinos were expanded, with the addition of both unlimited slots and table games, as well as sports betting, which would represent a significant change to both state regulations and the industry. In a scenario in which a sixth racetrack casino license were awarded, the analysis projects incremental annual tax revenue to the state of approximately \$51 million, and in a scenario in which no sixth license were awarded, incremental annual tax revenue of approximately \$33 million.

However, were the state to allow for full-scale gaming and sports betting at racetrack casinos, this would void the revenue sharing agreement with tribal casinos, and the state would lose the \$60 million to \$70 million that it currently receives annually from tribal casinos. Were the revenue sharing agreement to be voided, the state could potentially allow the operation of additional non-tribal casinos, which would generate tax revenues. Given that the gaming market does not seem to be growing, however, new casinos would potentially compete with existing casinos, rather than generate significant incremental tax revenues for the state.

Problem Gambling

Gaming revenues also go towards programming to address problem or compulsive gambling. Racetrack casino operators are required to contribute one quarter of one percent of net slot revenues toward prevention, education, and treatment of problem gambling. Each gaming operator develops their own plan for these funds, which are submitted to GCB for approval (NMAC 15.1.18.9). In FY18, revenues used for problem gambling totaled \$575.5 thousand. GCB also maintains an “exclusion list” of individuals who pose a threat to the public interest or to licensed gaming activities. There are currently 20 individuals on the exclusion list on GCB’s website. In addition, individuals can opt to place themselves on a self-exclusion list.

According to a 2016 report from the National Council on Problem Gambling, approximately 1.2 percent of New Mexico adults have a gambling problem.

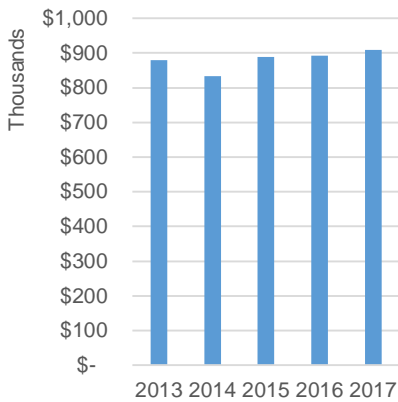
Horseracing in New Mexico

Horseracing in New Mexico is regulated by NMRC, which oversees both racing and wagering on races. See Chart 3 for NMRC’s annual budget. NMRC comprises five commissioners, appointed by the governor. There are five racetracks in the state, all operating casinos (as detailed earlier). Races also take place for 17 days at the New Mexico State Fair.

Horseracing generates revenues for the state totaling approximately \$900 thousand per year (Chart 4). Revenues come from a pari-mutuel tax on wagering, a daily racing tax, licensing fees, and occupational fines. Pari-mutuel taxes are up to \$650 or \$300 per live race day, depending on the track classification,⁶ and one-eighth percent of the racetrack’s total daily handle (amount wagered) on days when races are simulcast from other locations. In addition to revenues for the state, wagering proceeds also go towards capital improvement tax credits for racetracks, a racehorse testing fund, and to NMRC.

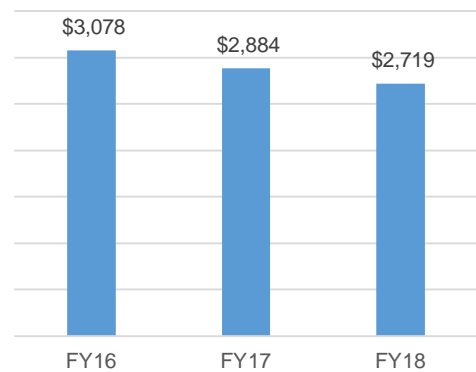
Racetracks receive 20 percent of net win from racetrack casino operators for horseracing purses, or prize money, totaling \$46 million in FY18.

Chart 4. Total State Revenues From Horseracing



Source: NMRC

Chart 3. New Mexico Racing Commission Annual Budget, FY16-FY18
\$ Thousands



Source: LFC

Racehorse Fatalities

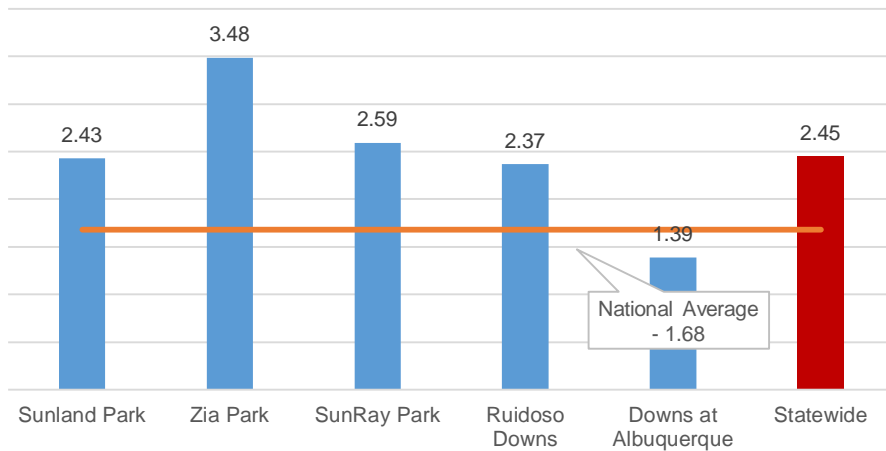
Historically, New Mexico has seen high rates of racehorse injuries and fatalities. For example, a 2012 investigation by the New York Times found that five of the seven tracks with the nation’s highest incident rates were in New Mexico, and four of the state’s five tracks had incident rates double the national average.

In 2018, New Mexico’s racehorse fatality rate was 2.45 per 1,000 starts, compared to a national average of 1.68. Four of the state’s five racetracks had rates that were higher than the national average (Chart 5). NMRC relies on racetracks to self-report catastrophic injury rates, and has not retained records beyond the past three years, making it difficult to track progress over time. Based on figures from an LFC evaluation from 2013, the statewide rate fell from 3.5 to 2.45 fatalities per 1,000 starts between 2013 and 2018, and all five racetracks saw declines in their fatality rates.

New Mexico’s racehorse fatality rate has declined since 2013, but is still above the national average

⁶ Class A racetracks are those that receive over \$10 million per year in total wagers; class B racetracks receive less than \$10 million in wagers.

Chart 5. Catastrophic Injuries per 1,000 Starts, 2018



Source: NMRC, Jockey Club Equine Injury Database

Causes of racehorse injuries and fatalities include unsafe racing surfaces and use of performance enhancing drugs. A 2019 National Geographic article identified limb injuries as the leading cause of racehorse deaths, followed by respiratory, digestive, and multiorgan system disorders. Risk of injury or death is exacerbated by use – and abuse – of performance enhancing drugs or painkillers that can mask injuries or pain.

Representatives from one New Mexico racetrack indicated that state laws requiring racetracks to maintain three or four live race days per week, with nine or ten live races per day, depending on the track’s net win (Section 60-2E-27 NMSA), may encourage owners and trainers to race tired horses, exacerbating the risk of injury or fatality.

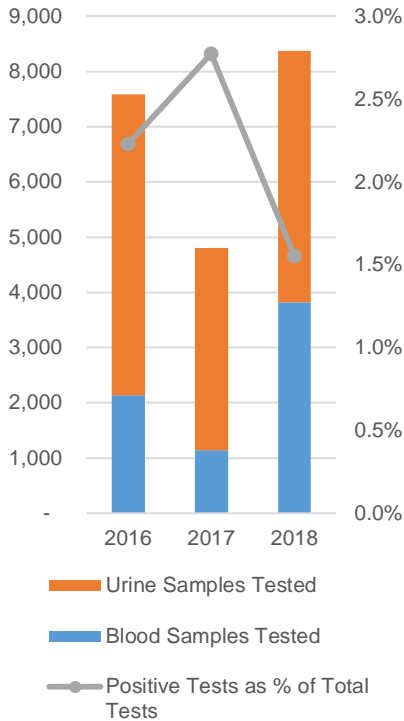
Nationwide, racehorse fatalities have spurred concern and legislation. According to a 2019 New York Times article, the fatality rate at U.S. racetracks is 2.5 to five times greater than in the rest of the racing world. Churchill Downs, home to the Kentucky Derby, is one of the deadliest racetracks in the country, with a fatality rate 50 percent higher than the national average. Recent attention has also focused on Santa Anita racetrack in California, which saw 30 racehorse deaths between December and June. The high number of fatalities has become a focus for animal rights advocates, and the Los Angeles Times recently reported that the California racing industry may be “one general election away from extinction” if it is unable to convince the public that it can effectively address the issue of racehorse deaths.

At the federal level, the proposed Horseracing Integrity Act (H.R. 1754) would create a private, independent horse racing anti-doping authority, responsible for developing and administering a nationwide anti-doping and medication control program for horse racing. It would be affiliated with the United States Anti-Doping Agency, the official anti-doping agency for U.S. Olympic sports. Proponents of the bill claim that replacing the current patchwork of rules and regulations would result in increased out-of-competition testing and help to ensure that horses are free from performance-enhancing drugs during racing and training.

Racehorse Testing

NMRC tests blood, urine, and hair samples from racehorses. Funding for testing comes from the racehorse testing fund, created in 2015, which receives 50 percent of a daily capital outlay tax collected from racetrack licensees. In 2017, the fund received \$735.5 thousand.

Chart 6. Post-Race Testing, 2016-2018



Source: NMRC submission to Association of Racing Commissioners International Survey

Per statute, NMRC has authority to promulgate rules and regulations related to horse races in the state (Section 60-1A-5 NMSA). To set penalties for use of prohibited substances, NMRC has adopted the Association of Racing Commissioners International (ARCI) “model rules” of racing, which are used as a global standard for horseracing. For use of a drug carrying a Category A penalty (the most serious violation), penalties for trainers range from a one-year suspension and fines of \$10,000 to a five-year suspension and fines of up to \$100,000, depending on the number of offenses. Owners face lesser penalties, including loss of the purse, and up to \$50,000 in fines.

In 2017, NRMC collected \$228.1 thousand in fines. However, the commission also has a significant amount of uncollected fine revenue. According to the Office of the State Auditor, as of the end of FY18, uncollected fines accounted for 95 percent – or almost \$1 million – of total fines assessed. Unpaid fines result in a suspension for the offending owner or trainer. Offenders can also appeal their fines, and fines are often dismissed. Appeals first go to NMRC, and then to district court.

NMRC began consistently tracking figures on testing and violations in 2016. The commission tested approximately 78 percent and 10 percent more blood and urine post-race samples, respectively, between 2016 and 2018, after a decline in 2017 (Chart 6). The number of samples that tested positive for prohibited substances fell by 30 percent during the same time period. However, since tracking of testing data only goes back to 2016, it is difficult to know whether meaningful progress has been made over a longer time period. Post-race testing is conducted on the winning horse, and two or three other randomly selected horses.

Out-of-competition testing (testing that takes place outside of race days) stayed at nearly the same level between 2016 and 2018, with approximately 500 tests per year, after a decline in 2017, and the percent of positive samples fell from 5 percent to 4 percent.

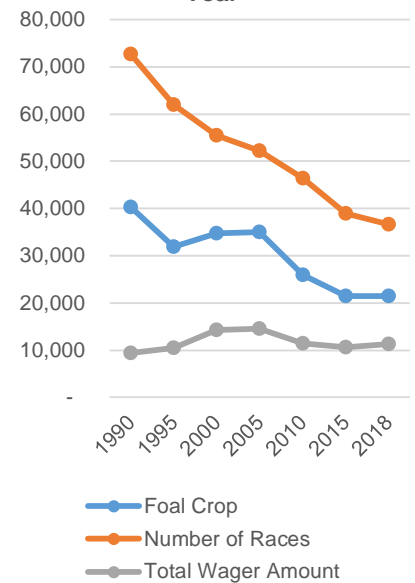
Despite increased testing and stricter penalties, challenges remain. Representatives from one New Mexico racetrack told the LFC that new drugs or forms of drugs are constantly being developed and administered to racehorses, with cheaters staying “one or two steps ahead” of racetracks and regulators. In addition, ARCI sanctions do not apply to veterinarians, who may knowingly administer prohibited substances to racehorses. NMRC could consider adopting penalties that exceed ARCI standards, and setting penalties for veterinarians who administer illegal drugs.

Horseracing Industry Trends

Nationally, horseracing has been in decline for almost three decades. Since 1990, the number of thoroughbred foals born, as well as the number of races, has dropped by almost half. The pari-mutuel handle (or amount wagered on races) rose from 1990 through the early 2000s, before falling by almost 25 percent (Chart 7).

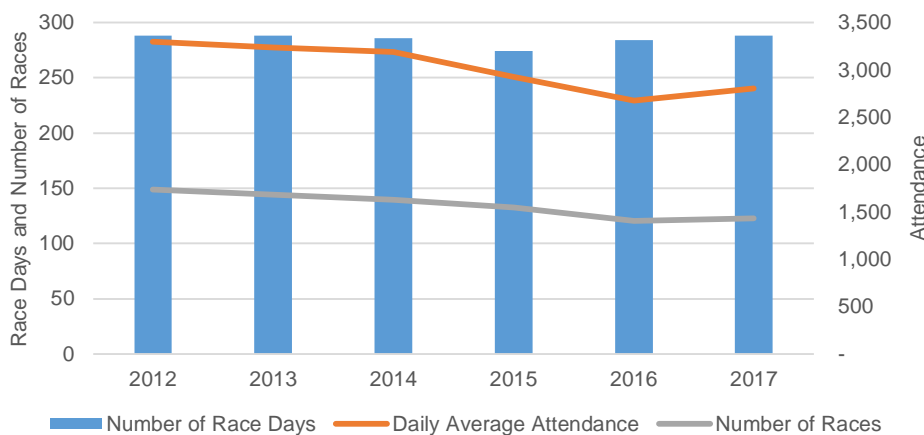
In New Mexico, while the number of race days has remained steady since 2012, the number of races fell by 18 percent between 2012 and 2017, and average daily attendance declined by 15 percent (Chart 8).

Chart 7. Foal Crop, Races, and Amount Wagered on Races by Year



Source: Jockey Club Fact Book

Chart 8. New Mexico Race Days and Daily Average Attendance



Source: NMRC

Declines in the number of races and attendees may be a potential limitation to the award of a sixth racetrack casino license. As the horseracing market shrinks, it may become more difficult for racetracks to support the minimum number of 17 annual race days (currently, SunRay Park in Farmington has the fewest number of race days, at 17).

Another threat to the racing industry is sports betting, with significant potential to compete for wagering dollars with horseracing. A 2019 Associated Press article points out that unlike professional sports that can be wagered on, but don’t directly benefit financially from those wagers, the horse racing industry counts on betting as its primary source of revenues. The article also quotes a racing industry figure as saying that “the familiarity that everyday people have with those sports that they grew up with, the free access to data, and the type of bets allowed, all favor sports betting over horse racing.” While sports betting at New Mexico racetracks could benefit track operators, by attracting visitors and generating more revenues for

The horseracing industry faces a threat from sports betting, which competes for wagering dollars

prize money, sports betting at casino racetracks is not currently allowed, per state laws.

Racing Revenue Collection

NMRC monitors gross revenues from pari-mutuel wagering, and oversees compliance with payment of taxes associated with horse racing. A 2013 LFC evaluation on racing and gaming found that pari-mutuel wagering taxes paid to the state by racetracks were self-reported, and not audited regularly or effectively monitored by NMRC. The evaluation also found that reported totals of gaming revenues allocated to horse racing purses varied between NMRC and GCB.

In response to similar findings from the state auditor in FY15 and FY16, NMRC has taken several steps, including hiring an internal auditor, and updating its audit process and internal control procedures. NMRC began holding meetings with its internal auditor and track management to review track audit reports, and conducting daily, random evaluations of track wagering reports. Taxes received by NMRC are compared to weekly wagering reports. To better match reported purse amounts, NMRC compares weekly track reports against information from GCB's centralized gaming system.

In FY17, NMRC's audit found that both major findings – review of wagering taxes and reconciliation of purses – had been resolved. However, it is not clear whether NMRC purse amount reports align with GCB reporting. NMRC reports purse amounts for the racing year (beginning in December) while GCB reports on a fiscal year basis, and NMRC was not able to provide monthly or daily purse amounts in order to verify fiscal year totals.