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## FISCAL IMPACT REPORT

LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 3/11/2025

SPONSOR Maestas

BILL  
NUMBER Senate Bill 328

SHORT TITLE Racetrack and Gaming Operator Licensing

ANALYST Montano

### REVENUE\* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
License fee	\$0	(\$142.8)	(\$142.8)	\$0	(\$142.8)	Recurring	General Fund

Parentheses ( ) indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMAG	*No fiscal impact	*No fiscal impact	*No fiscal impact			

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Is a companion to House Bill 367 and Senate Bill(s) 92, 323, 513

### Sources of Information

LFC Files

Agency Analysis Received From  
State Racing Commission (SRC)  
Gaming Control Board (GCB)  
New Mexico Attorney General (NMAG)

## SUMMARY

### Synopsis of Senate Bill 328

Senate Bill 328 (SB328) amends section 60-1A-4(B)(1) labeled Commission Powers and Duties, which replaces the Racing Commission's ability to assign racing dates to only being able to approve the dates a racetrack assigns.

The bill also removes parts A and B in section 60-1A-6 labeled Classification of Racetrack Licenses, which created two different license types. These two license types were class A, which would be issued to a racetrack licensee who received more than \$10 million from the pari-mutuel system, and class B, which would be issued to a racetrack licensee who received less than \$10

million from the pari-mutuel system. All licenses will now fall under the regulations placed on the class A license.

SB328 adds a new section, 60-1A-7.1. This section makes any communication or document of an applicant or licensee confidential and protects the applicant from defamation if information within the application is required by the State Racing Commission (SRC). This new section also authorizes SRC to only disclose confidential information after receiving written consent from the applicant or from a court order, to maintain all confidential information in a secure place for only members of the commission to see, and to make rules to protect this confidential information from outside entities.

SB328 creates another new section, 60-1A-7.2, which requires SRC to create a petition in a district court to release confidential information. SRC is also required to have a hearing within 10 to 20 days after presenting the petition to the board, the attorney general, and all entities affected by the petition.

The bill also alters section 60-1A-8(C), extending the racetrack license from one year to three years.

SB328 also changes section 60-1A-19 and removes the New Mexico's Horsemen's Association from the title of the section. The section will now be called Retainage for the New Mexico Horse Breeders' Association. The bill also removes allocation of 33.33 percent of the total amount received from unclaimed winning pari-mutuel tickets to the Horsemen's Association for future purses. The bill also redirects 0.5 percent of the gross amount wagered on simulcast horses will be from the Horsemen's Association for medical benefits to SRC or an organization designated by SRC.

Section 60-1A-20, Daily Capital Outlay Tax, is also changed, and SB328 removes all mentions of class A and class B license types. Section 60-1A-21 also removes the New Mexico Horsemen's Association from the title and removes section 60-1A-21(B), which included procedures to allocate unreceivable money to the Horsemen's Association.

The bill also amends section 60-2E-14, Licensure Application, and adds the previous change that all licenses issued by the Gaming Control Board (GCB) will be extended from one year to three years. The bill also adds a new section labeled as 60-2E-14(G), which also allows all certifications and work permits issued by SRC to be reviewed for renewal every three years.

Section 60-2E-27, Gaming Operator Licensees, is changed to clarify that a racetrack licensed by SRC can be issued a gaming license to only operate gaming machines at the licensed racetrack premises. The bill also allows the licensed racetrack to conduct live racing at another licensed premise if it has been authorized by SRC. The bill also increases protections for licensees by clarifying that the board must come to a decision and by only requiring the racetrack to have three live race days with ten races each day to be considered a viable race week.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## FISCAL IMPLICATIONS

SRC is not expecting any fiscal implications from SB328.

GCB is responsible for issuing racetrack licenses and other racing affiliated licenses; because license renewals were extended from one year to three years, it is expected that the agency will generate less revenue. GCB provided license renewal fee data from FY24 and an estimate for the total loss of revenue from SB328. The agency also highlighted that the number of licenses may fluctuate for future years, and to only treat this total as a projection. In FY24, GCB collected \$142.8 thousand from the license types affected by SB328. If all licensees start the three-year renewal process in FY25, then there will be no expected revenue loss for FY25. However, there will be a projected loss of \$142.8 thousand in FY26 and FY27, which is a total of \$285.6 thousand loss at the completion of a three-year renewal process. In FY28, the licensees will renew their licenses, which will start the three-year renewal process over again.

The New Mexico Attorney General highlights that the changes in section 60-1A-7.2 may affect the agency's operating budget dependent on the depth of the role NMAG will take in SRC's petition process. The agency could face operating budget impacts if the agency's role adds responsibilities that the agency could not absorb.

## SIGNIFICANT ISSUES

SRC highlights:

The Racing Commission is concerned about the proposal to have it "approve" the tracks' race meet calendar as compared to "assign" given its impact might reduce the Racing Commission's authority to determine the number of race days in a year and its work to limit as much as possible overlap between meets.

The Racing Commission is concerned about extending the tracks' license to conduct horse racing from one year to three years given it is unclear whether the tracks would submit three years of proposed race dates with license renewal applications, given the legislation seeks to increase the duration of track licenses from one year to three years.

The Racing Commission is concerned about the significant changes to two separate acts, the Horseracing Act and the Gaming Control Act, in a single piece of legislation given the two very different missions, statutory acts, and administrative rules.

Regarding section 60-1A-18(B)(1)(a)(b), the commission submits those sections should be deleted entirely given is long outdated reference to the 2000 federal decennial census rendering that section inapplicable.

SRC notes:

Currently, the tracks are required to apply for license renewal annually and part of that process is submitting their proposed race meet days for their next meet. If the licenses are extended to three years, it is unclear if that means the tracks and commission must determine the live racing calendar for three years. If so, the commission would have to make changes to its administrative rules regarding license renewal and race days determination. If the tracks submit proposed race meets with an increase in race days, the

commission may not have sufficient budget and staff to conduct proper regulation and insufficient funds in the Equine Test Fund to test racehorses.

The commission is interested in that section of the bill which renders licensing information confidential and provides for a process in district court to gain access to such records. As a very small agency which historically had received a total of 40 IPRA requests in a calendar year to having received approximately 800 IPRA requests in approximately a three-and-a-half year period, nearly 100 in a six day period, the commission knows firsthand the drain on resources and the shocking amount of tax payer dollars in personnel time siphoned from it meeting its statutory mission and instead transferred to fulfilling records requests. The commission is unclear regarding what subsection (C)(2) means when it requires confidential information etc. to be maintained in a "secure place accessible only to members of the board." One necessary correction: all references to "board" need to be removed and replaced with "commission".

## ADMINISTRATIVE IMPLICATIONS

SRC notes:

If the changes are enacted related to pari-mutuel taxes and retainage, it appears the horserace tracks would need to make changes to their software, processes and protocols. The commission's financial staff might also need to modify their processes and procedures as well.

GCB notes:

Several items, including the Johnson Act, are submitted annually with license renewals. Without the annual renewal of licenses, the Audit division may have to monitor those documents which may require the addition of an FTE.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

NMAG states:

There are several companion bills in this session: (1) HB367 Add Days of Live Horse Racing; (2) SB92 Horse Racing & Jockey Insurance Fund; and (3) Horse Racing Group, Gaming & Audits. Several of these bills amend the same Article of the NMSA: Chapter 60, Article 1A Horse Racing Act. Section 2 of SB323 states, pursuant to the federal Interstate Horseracing Act of 1978, the New Mexico horsemen's association established in 1966 is designated as the horsemen's group required by that act. Section 7 of SB328 removes references to New Mexico Horsemen's Association.

This bill revises several parts of Section 60-2E-27 which were revised in HB367. A reconciliation between the two bills is recommended.

GCB also adds that Senate Bill 323 attempts to amend race meet days in one fashion or another and SB323 also aims to change the number of races per live race day.

## TECHNICAL ISSUES

SRC notes:

Under 60-1A-7 .1, the term "board" should be replaced with "commission" given that is the official term for the Racing Commission.

If the NM Horsemen's Association is removed entirely from the Horseracing Act, the commission suggests the addition of the following definition in 60-1A-2(J): "horsemen's group" means with reference to any racetrack licensee, the group which represents the majority of the owners and trainers racing there, for races subject to the interstate off-track wager on any racing day", consistent with the federal Horseracing Act.

NM/hj/SL2