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FISCAL IMPACT REPORT

ORIGINAL DATE 02/17/09
 SPONSOR Park LAST UPDATED 03/18/09 HJR 19/aSJC
 SHORT TITLE Extend Downs of Albuquerque Lease SB _____
 ANALYST Leger

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	\$332.0	\$2,000.0	Nonrecurring	Other State Funds (State Fair Fund)

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		(\$332.0)	(\$2,000.0)	(\$2,332.0) *Revenue that would be lost if Lease is not renewed	Nonrecurring	Other State Funds (State Fair Fund)

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

New Mexico State Fair Commission (SFC)

New Mexico State Racing Commission (SRC)

SUMMARY

Synopsis of SJC Amendment

Senate Judiciary Committee amendment item #1 resolves the approval of the lease extension until January 11, 2011 “contingent upon the amount due, under the lease, being increased by no less than ten percent over the amount due under the lease before that extension”. The approval of the lease extension until January 11, 2012 calls for duplicate measures...“upon the amount due, under the lease, being increased by no less than ten percent over the amount due under the lease before that extension”.

Synopsis of Original Bill

House Joint Resolution 19 is made pursuant to NMSA 1978, Section 13-6-3, which requires ratification and approval by the legislature of a lease for consideration of one hundred thousand dollars (\$100.0) or more. The Resolution grants The Downs of Albuquerque, Inc. legislative ratification and approval to extend the current lease with the New Mexico State Fair until January 11, 2011, with an option to extend the lease until January 11, 2012.

FISCAL IMPLICATIONS

Since January 11, 1985, the Downs of Albuquerque has leased from the New Mexico state fair the racetrack, grandstand and casino area of the state fairgrounds. SFC is an enterprise fund and must generate its own revenue to cover operating expenses. The only general fund money appropriated to the State Fair Commission is for educational programs at the African American Performing Arts Center.

According to SFC, an extension of the Downs of Albuquerque lease through January 10, 2011 with an option through January 10, 2012 guarantees lease payments to SFC through all of FY10. The current annual lease amount is \$2,000.0 per year. The FY10 impact to SFC would be \$332.0. SFC expects the annual rent would; at a minimum remain the same as current. The option to extend the lease through January 11, 2012, if executed, would provide SFC with \$2,000.0 in revenue if the annual rent remains at \$2,000.0. SFC would generate \$1,053.0 in rent for FY12 if the one year option to renew is executed by the Downs of Albuquerque. There will be a loss in revenue in the stated amounts once the lease with the Downs of Albuquerque is terminated.

SIGNIFICANT ISSUES

May 2008, the Downs of Albuquerque received approval¹ to transfer the location of its racetrack and casino to Moriarty, New Mexico for the 2009 racing season. In response to the vacancy by the Downs of Albuquerque, Governor Richardson created the Expo New Mexico redevelopment task force in November 2008 to create a redevelopment plan for the State Fairgrounds which included an upgraded equestrian center and development of commercial parcels. The consultant report² was prepared with the assumption that the Downs at Albuquerque would be moving to Moriarty at the expiration of their current lease.

¹ Laura Nesbitt, “The Downs’ Move Gets Panel OK,” *Albuquerque Journal*, May 28, 2008.

² CH Johnson Consulting, “Site Evaluation and Site Utilization for Development Plan for Expo New Mexico, January 2009.

The lease with the Downs of Albuquerque expires April 30, 2010.

ADMINISTRATIVE IMPLICATIONS

According to SFC, should the HJR19 to extend the Downs' lease pass, it would be mutually beneficial for SFC and the Downs of Albuquerque. SFC has enjoyed a positive landlord-tenant relationship with the Downs of Albuquerque for many years, and the lease represents a positive revenue stream to EXPO.

TECHNICAL ISSUES

SFC notes that the lease is between the State Fair Commission and the Downs at Albuquerque not the Downs of Albuquerque.

AGO states, section 13-6-3 requires that the lease extension be subject to the ratification and approval of the state legislature prior to lease becoming effective. As such, HJR 19 should include the date that the original lease is scheduled to terminate.

OTHER SUBSTANTIVE ISSUES

House Joint Resolution 19 resolves the following:

- Section 13-6-3 NMSA 1978 requires ratification and approval by the Legislature of a lease for a period exceeding twenty-five years in duration of real property belonging to a state agency, which lease shall be for a consideration of one hundred thousand dollars (\$100.0) or more;
- The Downs of Albuquerque, incorporated, has, since January 11, 1985, eased from the New Mexico state fair the racetrack, grandstand and casino area of the state fairgrounds, which is operated by the lessee as the Downs of Albuquerque;
- The consideration paid for the lease by the Downs of Albuquerque, incorporated, since January 11, 1985, has been one hundred thousand dollars (\$100.0); and
- The parties desire to extend the current lease to January 11, 2011 with an option to extend the lease an additional year to January 11, 2012.

JL/mt:svb