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FISCAL IMPACT REPORT

ORIGINAL DATE 03/10/21

SPONSOR Campos/Diamond LAST UPDATED _____ HB _____

SHORT TITLE Horse Racing Advance Deposit Wagering SB 362

ANALYST Nichols

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
	Indeterminate	Indeterminate	Recurring	General Fund
	Indeterminate	Indeterminate	Recurring	Racehorse Testing Fund
	Indeterminate	Indeterminate	Recurring	Breeders Reward Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB199

SOURCES OF INFORMATION

LFC Files
New Mexico Racing Commission Annual Report

Responses Received From

New Mexico Racing Commission
Gaming Control Board
Office of the Attorney General

SUMMARY

Synopsis of Bill

Senate Bill 362 would amend the Horse Racing Act to allow advance deposit wagering (ADW),

wherein an individual could deposit funds in an account with an authorized licensee and use the funds to engage in pari-mutuel wagering on horse races by electronic means. Wagers could be made on either live or simulcast horse races. ADW could only be conducted by a racetrack licensee, or by an ADW service provider. The New Mexico Racing Commission would approve a licensee's request to conduct ADW, contingent on the licensee providing certain required information.

The bill would also amend the definition of "pari-mutuel wagering pool" to include money wagered through ADW.

The bill directs NMRC to promulgate rules to conduct wagering that includes the use of third-party information and technology service providers.

Racetracks and ADW service providers could retain up to 5 percent of wagers made by New Mexico bettors on New Mexico racetracks. The remainder would be apportioned based on existing provisions of the Horse Racing Act.

Racetracks and ADW service providers would be required to pay 5 percent of total wagers from New Mexico residents made on races outside the state into a trust account held by the New Mexico Horsemen's Association. Of the assessed 5 percent "source market fee," 45 percent would be allocated to racetracks based on the number of live racing days in the current calendar year to be used as purse, or prize, money; 45 percent would be allocated to racetracks as revenue, based on the number of live racing days in the current calendar year; 5 percent would be allocated to the breeder award fund; and 5 percent would be allocated to NMRC for the racehorse testing fund.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

SB362 does not contain an appropriation. NMRC does not anticipate additional costs to implement provisions of the bill other than a possible minimal expense for rule hearings and some additional administrative costs.

Allowing ADW on New Mexico races would likely increase the total pari-mutuel handle, which would increase revenues to the state. Pari-mutuel taxes are up to \$650 or \$300 per live race day, depending on the track classification, and one-eighth percent of the racetrack's total daily handle (amount wagered) on days when races are simulcast from other locations. The total handle for 2018, the last year for which NMRC has released an annual report, was \$165.9 million. Current racing revenue to the state is approximately \$900 thousand annually. In addition, expanding the pari-mutuel betting pool would result in increased revenues for the racehorse testing fund, and increased purse money for racetracks.

It is not clear how much ADW activity would increase the pari-mutuel handle. NMRC expects only a "modest" increase. It is not clear whether ADW would attract new bettors, or would merely cannibalize existing racetrack betting by diverting bettors' activity from in-person to online.

SIGNIFICANT ISSUES

Wagering on New Mexico horse races using electronic means is currently not allowed. Bettors must be present at a licensed racetrack to wager on live races at that track or on simulcast races from other locations. Currently, New Mexico residents can wager on horse races in other states using online or mobile ADW services that are not regulated by the state, but cannot wager electronically on New Mexico races. Similarly, bettors in other states can wager on New Mexico races, using ADW services, and this activity is not regulated by the state. SB362 would allow New Mexico bettors to wager on horse races without being physically present at a racetrack.

Any expansion of gaming activity in the state could risk violating the state’s tribal gaming compact. SB362 does not appear to violate any provisions of the compact, which allows “the conduct by licensed horse racetracks [...] of pari-mutuel betting on races at such tracks, and on simulcast races at other tracks elsewhere in the country.” The Horse Racing Act currently states that pari-mutuel wagering on the licensed premises of a racetrack is not considered gambling. SB362 would amend the statute to include ADW.

OTHER SUBSTANTIVE ISSUES

New Mexico has five licensed racetracks and racing also takes place at the State Fair. The five licensed racetracks also operate casinos, which are allowed to operate slot machines. Twenty percent of casino net win goes towards horseracing purses. Tribal casinos may operate slot machines and table games, per the state’s tribal gaming compact. The Gaming Control Board does not anticipate any impact, fiscal or otherwise, as a result of SB362.

CONFLICT, DUPLICATION, RELATIONSHIP

SB362 is a duplicate of HB199.

SB362 may conflict with HB101, which authorizes the Lottery Authority to regulate the conduct of sports pools, sports wagering, and table games at licensed racetracks. However, SB362 specifies that sports wagering does not include pari-mutuel wagering on horse races.

TECHNICAL ISSUES

The bill makes mention of, but does not define, “technology service provider” and “advance deposit wagering service provider.”

On page 8, subsection D, the bill says that NMRC “shall” approve a request by a licensee to conduct ADW. The bill does not provide for an option for NMRC to deny a request to conduct ADW should a licensee not meet requirements, for example.

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