

LFC Requester:	Noah Montano
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2-11-2025 *Check all that apply:*
Bill Number: SB 323 Original Correct
 Amendment Substit

Sponsor: Candy Spence Ezzell, James G. Townsend, William E. Sharer, Larry R. Scott, Nicholas A. Paul **Agency Name and Code** Gaming Control Board 00465
Short Title: Horse Racing Group, Gaming & Audits **Person Writing** Michelle Pato
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
(\$2,616.465 - \$33,175.343)	(\$2,616.465 - \$33,175.343)	(\$2,616.465 - \$33,175.343)	Recurring	General

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

The bill proposes changes to three sections of the New Mexico Horseracing Act. The first proposed change adds “weeks” into §60-1A-16(E) NMSA 1978. The second proposed change to add a new subsection F to §60-1A-17 NMSA 1978 which would designate the New Mexico Horsemen’s Association as the state designated horsemen’s group. The third proposed change would change the inspection and audit of racetrack records from the racing commission to the state auditor in §60-1A-20(C) NMSA 1978.

The bill also proposes changes to §60-2E-27(E) NMSA 1978 of the Gaming Control Act which would change “days” to “weeks” and limit racetrack casino hours to only when live races or simulcasting of *New Mexico* race meets are conducted.

This analysis will focus on the proposed change to §60-2E-27(E) NMSA 1978 of the Gaming Control Act as the Racing Commission is better equipped to analyze the proposed changes to the Horseracing Act.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

The limiting of gaming machine operating hours to the simulcasting or conducting of live New Mexico races only would create a significant reduction in gaming taxes paid to the State’s general fund.

The limitation would not only result in a significant reduction in gaming tax revenue to the State, but it would also greatly reduce horse racing purses as well as the amount paid into problem gambling funds. See attachments 1 and 2.

PERFORMANCE IMPLICATIONS

It should be noted that the numbers in the Revenue Table above have such a wide range due to the lack of clarity with how “weeks” will be determined. It is not clear if the change from “days” to “weeks” would mean the gaming machines may be played only if live horse races or simulcasting of New Mexico races is conducted each day of the week or if any number of days in a week will suffice.

Calculations were done based on 2024 statistics (Attachments 3 and 4) in two different ways:

1. The actual number of race days (187) within the State of New Mexico. (Attachment 5)

In this case, the difference in gaming tax revenue would amount to a reduction of \$33,175,343 (48.8%).

2. Actual number of weeks racing occurs in New Mexico even if there is only one race day in that week.

There are only two full weeks in the year during which New Mexico has absolutely no live racing. This difference resulted in a loss of \$2,616,465 (3.8%)

If the bill anticipates that the casinos may operate only on weeks that have New Mexico races on all days of the week, the percentage will be much higher.

With that in mind, the best case scenario is the reduction calculated in #2 above.

ADMINISTRATIVE IMPLICATIONS

The lack of clarity with regard to whether races must fill the entire week or if the casino may operate on any given week that has even one day of New Mexico races is likely to create issues with respect to when the gaming machines may be operated and how much the racetracks are to pay in taxes.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

The lack of clarity with what constitutes a valid “week” for purposes of operation makes calculations and interpretation challenging.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

As far as the proposed changes to §60-2E-27(E) NMSA 1978 only, there would be no loss to the State from reduced gaming taxes, purses would not be reduced, and the amount contributed to problem gambling would not be reduced.

AMENDMENTS

**SB 323 RACETRACK OPERATORS GAMING TAX ANALYSIS
BASED ON INDIVIDUAL RACE DATES
FISCAL YEAR 2024**

Gaming Tax Based on Individual Race Dates:

Gaming Tax, Racetrack Operators (365 calendar days)	68,028,092	
Gaming Tax, Racetrack Operators - Daily Average	186,378	
*New Mexico Race Dates	187	
Estimated Gaming Tax - New Mexico Race Dates ONLY	34,852,749	51.2%
Estimated Decrease in Racetrack Gaming Tax	33,175,343	48.8%

Horse Racing Purse Based on Individual Race Dates:

Amount Paid into Horse Racing Purses (365 calendar days)	54,177,914	
Amount Paid into Horse Racing Purses - Daily Average	148,433	
*New Mexico Race Dates	187	
Estimated Horse Racing Purses - New Mexico Race Dates ONLY	27,756,904	51.2%
Estimated Decrease in Horse Racing Purses	26,421,010	48.8%

Problem Gambling Funds Based on Individual Race Dates:

Amount Paid into Problem Gambling Funds (365 calendar days)	677,224	
Amount Paid into Problem Gambling Funds - Daily Average	1,855	
*New Mexico Race Dates	187	
Estimated Problem Gambling Funds - New Mexico Race Dates ONLY	346,961	51.2%
Estimated Decrease in Problem Gambling Funds	330,263	48.8%

*Note: The number of 187 scheduled race dates is per the 2023/2024 New Mexico Race Dates Schedule published by the New Mexico Racing Commission.

**SB 323 RACETRACK OPERATORS GAMING TAX ANALYSIS
ON WEEKS WHEN THE RACETRACK LICENSEE IS IMPORTING A RACE
FROM ANOTHER NEW MEXICO-LICENSED HORSE RACETRACK
FISCAL YEAR 2024**

Gaming Tax Based on Weeks With NM Race Dates:

Gaming Tax, Racetrack Operators (52 weeks/365 calendar days)	68,028,092	
Gaming Tax, Racetrack Operators - Weekly Average (52 weeks)	1,308,233	
*Number of Weeks with New Mexico Race Dates	50	
Estimated Gaming Tax - Weeks with NM Race Dates ONLY	65,411,627	96.2%
Estimated Decrease in Gaming Tax	2,616,465	3.8%

Horse Racing Purse Based on Weeks with NM Race Dates:

Amount Paid into Horse Racing Purses (52 weeks/365 calendar days)	54,177,914	
Amount Paid into Horse Racing Purses - Weekly Average (52 weeks)	1,041,883	
*Number of Weeks with New Mexico Race Dates	50	
Estimated Horse Racing Purses - Weeks with NM Race Dates ONLY	52,094,148	96.2%
Estimated Decrease in Horse Racing Purses	2,083,766	3.8%

Problem Gambling Fund Analysis Based on Weeks with NM Race Dates:

Amount Paid into Problem Gambling Funds (52 weeks/365 calendar days)	677,224	
Amount Paid into Problem Gambling Funds - Weekly Average (52 weeks)	13,024	
*Number of Weeks with New Mexico Race Dates	50	
Estimated Problem Gambling Funds - Weeks with NM Race Dates ONLY	651,177	96.2%
Estimated Decrease in Problem Gambling Funds	26,047	3.8%

*Note: The scheduled race dates for calendar year 2024 end on December 18, 2024. The number of days without racing scheduled in New Mexico is 13 days (December 19-31). The scheduled race dates are per the 2023/2024 New Mexico Race Dates Schedule published by the New Mexico Racing Commission.

New Mexico Gaming Control Board - Quick Facts
Fiscal Year 2024

<i>Type of Licensee</i>	<i>1st Qtr</i>	<i>2nd Qtr</i>	<i>3rd Qtr</i>	<i>4th Qtr</i>	<i>FY Total</i>
Gaming Tax					
Racetrack Operators	\$ 16,815,769	\$ 15,714,495	\$ 16,798,938	\$ 16,349,131	\$ 65,678,334
Non-Profit Operators	\$ 238,622	\$ 222,850	\$ 238,739	\$ 242,261	\$ 942,472
Total Operators	\$ 17,054,391	\$ 15,937,345	\$ 17,037,677	\$ 16,591,392	\$ 66,620,806
Manufacturers	\$ 181,417	\$ 107,351	\$ 103,652	\$ 24,058	\$ 416,479
Distributors	\$ 67,701	\$ 68,384	\$ 66,186	\$ 25,398	\$ 227,668
Total Gaming Taxes	\$ 17,303,510	\$ 16,113,080	\$ 17,207,514	\$ 16,640,848	\$ 67,264,953
Gaming Machine Net Take					
Racetrack Operators	\$ 67,805,522	\$ 63,364,899	\$ 67,737,653	\$ 65,923,917	\$ 264,831,990
Non-Profit Operators	\$ 2,386,220	\$ 2,228,504	\$ 2,387,390	\$ 2,422,607	\$ 9,424,721
Total Gaming Machine Net Take	\$ 70,191,742	\$ 65,593,402	\$ 70,125,042	\$ 68,346,524	\$ 274,256,711
Average Daily Net Take Per Machine at Quarter End					
Racetrack Operators	\$ 274	\$ 252	\$ 287	\$ 252	
Non-Profit Operators	\$ 45	\$ 42	\$ 47	\$ 47	
Amount Paid into Horse Racing Purses					
Racetrack Operators	\$ 13,561,104	\$ 12,672,980	\$ 13,547,531	\$ 13,184,783	\$ 52,966,398
Amount Designated for Problem Gaming					
Racetrack Operators	\$ 169,514	\$ 158,412	\$ 169,344	\$ 164,810	\$ 662,080
Charitable & Educational Payments					
Revised 2023 HB 253 Charitable Contributions	\$ 257,712	\$ 240,678	\$ 257,838	\$ 261,642	\$ 1,017,870
Gaming Machines at End of Each Quarter					
Racetrack Gaming Machines	2,828	2829	2827	2834	
Non-Profit Gaming Machines	583	580	581	556	
GCB Licensing Fees and Fines					
Fees	\$ 48,262	\$ 115,459	\$ 95,423	\$ 66,460	\$ 325,604
Fines	\$ -	\$ -	\$ 3,040	\$ 450	\$ 3,490
Total Licensing Fees and Fines	\$ 48,662	\$ 115,679	\$ 98,463	\$ 66,910	\$ 329,714

New Mexico Gaming Control Board - Quick Facts
Fiscal Year 2023

<i>Type of Licensee</i>	<i>1st Qtr</i>	<i>2nd Qtr</i>	<i>3rd Qtr</i>	<i>4th Qtr</i>	<i>FY Total</i>
Gaming Tax					
Racetrack Operators	\$ 17,913,030	\$ 16,719,480	\$ 18,362,036	\$ 17,135,792	\$ 70,130,338
Non-Profit Operators	\$ 245,365	\$ 238,441	\$ 243,126	\$ 241,839	\$ 968,771
Total Operators	\$ 18,158,394	\$ 16,957,922	\$ 18,605,162	\$ 17,377,632	\$ 71,099,110
Manufacturers	\$ 242,440	\$ 221,347	\$ 175,538	\$ 128,757	\$ 768,082
Distributors	\$ 71,873	\$ 62,032	\$ 70,052	\$ 70,969	\$ 274,927
Total Gaming Taxes	\$ 18,472,707	\$ 17,241,301	\$ 18,850,752	\$ 17,577,358	\$ 72,142,118
Gaming Machine Net Take					
Racetrack Operators	\$ 68,896,268	\$ 64,305,694	\$ 70,623,216	\$ 69,095,936	\$ 272,921,114
Non-Profit Operators	\$ 2,453,648	\$ 2,384,414	\$ 2,431,257	\$ 2,418,394	\$ 9,687,713
Total Gaming Machine Net Take	\$ 71,349,916	\$ 66,690,108	\$ 73,054,473	\$ 71,514,330	\$ 282,608,827
Average Daily Net Take Per Machine at Quarter End					
Racetrack Operators	\$ 266	\$ 249	\$ 289	\$ 259	
Non-Profit Operators	\$ 46	\$ 45	\$ 47	\$ 46	
Amount Paid into Horse Racing Purses					
Racetrack Operators	\$ 13,779,254	\$ 12,861,139	\$ 14,124,643	\$ 13,819,187	\$ 54,584,223
Amount Designated for Problem Gaming					
Racetrack Operators	\$ 172,241	\$ 160,764	\$ 176,558	\$ 172,740	\$ 682,303
Charitable & Educational Payments					
Non-Profit Operators	\$ 463,739	\$ 450,654	\$ 459,508	\$ 457,076	\$ 1,830,978
Gaming Machines at End of Each Quarter					
Racetrack Gaming Machines	2,866	2863	2861	2864	
Non-Profit Gaming Machines	582	595	592	582	
GCB Licensing Fees and Fines					
Fees	\$ 32,470	\$ 124,285	\$ 73,811	\$ 73,106	\$ 303,672
Fines	\$ 505,438	\$ -	\$ 9,020	\$ 400	\$ 514,858
Total Licensing Fees and Fines	\$ 537,908	\$ 128,995	\$ 82,831	\$ 73,506	\$ 823,240

2023/2024 New Mexico Race Dates

2023/2024 Sunland Park (Sunland Park, NM)

55 Days – Thursday, Friday, Saturday, Sunday

January: 5,6,7,11,12,13,14,18,19,20,21,25,26,27,28

February: 1,2,3,4,8,9,10,11,15,16,17,18,22,23,24,25,29

March: 1,2,3,7,8,9,10,14,15,16,17,21,22,23,24,28,29,30,31

April: 4,5,6,7

*10.19.2023 NMRC approved change of days per Sunland's request to amend 2024 primary application.

2024 SunRay Park (Farmington, NM)

18 Days – Friday, Saturday, Sunday

April: 12,13,14,19,20,21,26,27,28

May: 3,4,5,10,11,12,17,18,19

2024 Ruidoso Downs (Ruidoso Downs, NM)

47 Days – Friday, Saturday, Sunday (2 Mondays & 1 Thursday)

May: 24,25,26,27,31

June: 1,2,7,8,9,14,15,16,21,22,23,28,29,30

July: 4,5,6,7,12,13,14,19,20,21,26,27,28

August: 2,3,4,9,10,11,16,17,18,23,24,25,31

September: 1,2

2024 Downs at Albuquerque (Albuquerque, NM)

20 Days – Friday, Saturday, Sunday, Wednesday

August: 29,30,31

September: 1

October: 2,4,5,6,9,11,12,13,16,18,19,20,23,25,26,27

2024 New Mexico State Fair (Albuquerque, NM)

17 Days – Semi-Consecutive

September: 5,6,7,8,11,12,13,14,15,18,20,21,22,25,27,28,29

2024 Zia Park (Hobbs, NM)

30 Days – Saturday, Sunday, Monday, Tuesday (1 Friday & 1 Wednesday)

November: 2,3,4,5,9,10,11,12,16,17,18,19,23,24,25,26,29,30

December: 1,2,3,7,8,9,10,14,15,16,17,18

TOTAL RACE DAYS = 187