

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

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(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 328 Original Correction
 Amendment Substitute

Sponsor: Antonio Maestas **Agency Name and Code** 49600
Short Title: Related to Gaming; reviewing governing racetrack licenses and gaming licenses; providing for confidentiality of certain **Number:** _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0	0	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	0	0	N/A	N/A

(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	0	0	0	0	N/A	N/A

(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: This bill seeks to change the role of the NM Racing Commission regarding the tracks' race meet days from the current assignment to approval. It also seeks to eliminate altogether the current "class a" and "class b" designation of tracks based on the gross amount wagered at specific tracks on pari-mutuel wagering. The legislation seeks to make confidential licensee applications and communications regarding licensing applications. It seeks to increase the duration of racetrack licenses from one year to three years. In light of the proposal to eliminate the current statutory classes of racetracks, the legislation proposed modifying the statute regarding daily pari-mutuel taxes to eliminate sections dependent upon the classifications of tracks. Similar changes are proposed with respect to retainage. The proposed legislation seeks to remove the NM Horsemen's Association from receiving a percentage of winning pari-mutuel tickets which were not cashed out by the wagers and from receiving a percentage of simulcast wagering. The legislation seeks to amend the Gaming Control Act by increasing license duration from one year to three years, and the same for work permits. Also with respect to the Gaming Control Act, the legislation seeks to allow gaming operators which also have horse race licenses to conduct live racing either at the licenses premise or at another licensed premises authorized by the Racing Commission.

FISCAL IMPLICATIONS

None

SIGNIFICANT ISSUES

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.

PERFORMANCE IMPLICATIONS

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 providing 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 first hand 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 required confidential information etc. to be maintained in a "secure place accessible only to members of the board". One necessary correction: all references to "board" needs to be removed and replaced with "commission".

The elimination of the classifications of race tracks based on pari-mutuel wagering amounts is fine with the Commission given those classifications have been outdated in practical terms for years. It follows that any and all references to such classifications should also be removed altogether

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.

The Commission supports the elimination of all references to the New Mexico Horsemen's Association throughout the Horseracing Act. The Horsemen's Association has already removed itself from its statutory role in split sample testing in 60-1A-14(C). Given that and the NM Horsemen's Association unsuccessful "strategy" of multi-litigation against the Commission, the organization has shown itself to be unfortunately detrimental to the state's horseracing industry.

ADMINISTRATIVE IMPLICATIONS

The codification into law of many of the proposed changes would require significant changes to the Commission's administrative rules.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

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.

OTHER SUBSTANTIVE ISSUES

The codification into law of many of the proposed changes would result in conflicts between administrative rules and the statutes, creating confusion and uncertainty given the statutes, by design, do not go into the specifics necessary for the Commission to effectuate the legislative intent. As a result, the Commission and the tracks might face litigation from licensees.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If the sections regarding the confidentiality of certain Commission records are not enacted, the Commission, like agencies small, medium and large, will continue to spend enormous amounts of personal time and taxpayer dollars fulfilling records requests numbering in the hundreds or more. Small agencies such as the Commission will continue to spend less work time on the mission and legislative mandate for the organization.

If all the other proposals are not passed, the status quo will be in effect meaning all administrative rules in effect will remain and the Commission will retain the administrative authority necessary to regulate the horse racing industry in a responsible and productive manner.

AMENDMENTS

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.