

# Legislative Council Service

## Information Memorandum

DATE: October 13, 2010

TO: Government Restructuring Task Force Members

FROM: Kim Bannerman

SUBJECT: GAMING CONTROL AND HORSE RACING ACT — SECTION-BY-SECTION EXPLANATION

Following is a section-by-section explanation of the proposed Gaming Control and Horse Racing Act and necessary amendatory sections. Sections that only include simple language amendments are not addressed. Any opinions expressed are those of the author and do not necessarily reflect the opinions of the New Mexico legislative council or other members of its staff.

The purpose of the bill is to transfer all regulatory authority related to horse racing and pari-mutuel wagering to the gaming control board. In addition, it attempts to make the licensing requirements for horse racing and gaming activities more efficient.

**Section 1 (page 1). Short title** — This section amends the "Gaming Control Act" to the "Gaming Control and Horse Racing Act".

**Section 2 (pages 1-2). Policy** — This section states that it is New Mexico's policy to allow limited and regulated gaming, pari-mutuel wagering and horse racing activities.

**Section 3 (pages 2-14). Definitions** — This section: adds "pari-mutuel wagering" and "horse racing" to the defined terms already found in the Gaming Control Act; adds persons connected to horse racing to the definition of "gaming employee"; and adds definitions needed for horse racing and pari-mutuel wagering previously found in the Horse Racing Act, including "horse race", "horse racetrack", "pari-mutuel wagering", "race meet", "racing season", "racetrack gaming operator", "racetrack operator" and "simulcast".

**Section 5 (pages 14-19). Gaming control board created** — This section provides the

structure of the gaming control board, changing the board structure from the previous structure under the Gaming Control Act. The board is structured as follows:

- seven members (previously four) — all appointed by governor with the advice and consent of the senate:
  - one member with a minimum of five years of previous employment in a law enforcement agency;
  - one member that is a certified public accountant;
  - one member that is an attorney;
  - three members that are practical breeders of racehorses; and
  - one public member with experience in business management and financing; and
- the law enforcement, certified public accountant and attorney members all receive a salary set by the governor and, while on the board, are prohibited from being employed in any other capacity or receiving compensation for services rendered to any person or entity other than the board.

**Section 7 (pages 20-25). Board's powers and duties** — This section adds several powers and duties related to the regulation of horse racing and pari-mutuel wagering to the existing powers and duties of the board addressing gaming.

**Section 14 (pages 38-41). Licensure and certification** — This section sets forth the types of licenses the board can issue and adds "racetrack operator" and "racetrack gaming operator" to the list, which already covers gaming activity licenses.

The section also provides for certification of suitability and work permits for both gaming licensees and horse racing licensees. Due to these amendments, the secondary and occupational licenses required under the Horse Racing Act are no longer needed. Under the Horse Racing Act, secondary licenses were required for key executives or shareholders involved in the administration of a horse racetrack. Occupational licenses were required for vendors or other people having access to restricted areas at a horse racetrack or access to pari-mutuel betting windows. Under the Gaming Control Act, no secondary or occupational licenses were required for similar individuals. Rather, the person would apply for a certification or work permit. This section allows the board to issue a certification of suitability or work permit in the situations previously needing secondary or occupational licenses. It also allows the board to issue one certification or work permit for a gaming employee that works in both gaming and horse racing.

The certification process is addressed in Section 20.

**Section 17 (pages 46-48). License, certification and work permit fees** — This section sets forth all the fees for the different types of licenses, as well as certifications and work permits. The fee for a "racetrack operator license" is added to the list, which already covers all gaming licensing fees.

**Sections 23 through 25 (pages 64-71).** These sections move all the previous Horse Racing Act provisions governing pari-mutuel wagering, horse race simulcasting and interstate common pool wagering under the control of the gaming control board.

**Sections 36 through 40 (pages 89-97).** These sections move all the tax matters associated with horse racing and pari-mutuel wagering into the new act.

**Section 42 (page 98).** This section moves the racing suspense account into the new act and makes the board responsible for the account.

**Section 43 (pages 99-104).** This section moves the horsemen's commission, a commission retained by a racetrack gaming operator for a win, place or show in the pari-mutuel system for remittance to the racing suspense account, into the new act. A portion of the money is distributed to the New Mexico horse breeders' association, pursuant to Section 59.

**Sections 44 through 48 (pages 104-108).** These sections move all penalties and illegal activities related to horse racing into the new act.

**Sections 49 and 50 (pages 108-109).** These sections move horse racing stewards under the control of the board and provide for the testing of specimens related to horse racing.

**Sections 59 and 60 (pages 117-120).** These sections move the horse breeders' awards provisions of the Horse Racing Act into the new act.

**Sections 61 and 62 (pages 120-122).** These sections add the horse racing taxes to the Tax Administration Act and require the taxation and revenue department to report on the racing suspense account to the board.

**Section 63 (page 122). Temporary provision; transfers** — This is a standard transfer section that includes transfers of the functions, property and contractual obligations of the state racing commission to the gaming control board.

**Section 64 (page 122). Repeal** — This section repeals the Horse Racing Act.

**Section 65 (page 122). Effective date** — The effective date is July 1, 2011. The task force may want another effective date if it determines the process of moving these two entities

into one will take more time.

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