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SENATE BILL 330

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Antonio Maestas

AN ACT

RELATING TO EXECUTIVE REORGANIZATION; MOVING THE REGULATION OF HORSE RACING TO THE REGULATION AND LICENSING DEPARTMENT; ABOLISHING THE STATE RACING COMMISSION; PROVIDING FOR THE TRANSFER OF FUNCTIONS, APPROPRIATIONS, MONEY, PERSONNEL, PROPERTY, CONTRACTUAL OBLIGATIONS, STATUTORY REFERENCES AND RULES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-1-8.8 NMSA 1978 (being Laws 2019, Chapter 87, Section 2, as amended) is amended to read:

"7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE AND LEGISLATIVE AGENCIES.--An employee of the department may reveal confidential return information to the following agencies; provided that a person who receives the information on behalf of the agency shall be subject to the penalties in

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1 Section 7-1-76 NMSA 1978 if the person fails to maintain the
2 confidentiality required:

3 A. a committee of the legislature for a valid
4 legislative purpose, return information concerning any tax or
5 fee imposed pursuant to the Cigarette Tax Act;

6 B. the attorney general, return information
7 acquired pursuant to the Cigarette Tax Act for purposes of
8 Section 6-4-13 NMSA 1978 and the master settlement agreement
9 defined in Section 6-4-12 NMSA 1978;

10 C. the commissioner of public lands, return
11 information for use in auditing that pertains to rentals,
12 royalties, fees and other payments due the state under land
13 sale, land lease or other land use contracts;

14 D. the secretary of human services or the
15 secretary's delegate under a written agreement with the
16 department:

17 (1) the last known address with date of all
18 names certified to the department as being absent parents of
19 children receiving public financial assistance, but only for
20 the purpose of enforcing the support liability of the absent
21 parents by the child support enforcement division or any
22 successor organizational unit;

23 (2) return information needed for reports
24 required to be made to the federal government concerning the
25 use of federal funds for low-income working families;

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1 (3) return information of low-income taxpayers
2 for the limited purpose of outreach to those taxpayers;
3 provided that the human services department shall pay the
4 department for expenses incurred by the department to derive
5 the information requested by the human services department if
6 the information requested is not readily available in reports
7 for which the department's information systems are programmed;

8 (4) return information required to administer
9 the Health Care Quality Surcharge Act; and

10 (5) return information in accordance with the
11 provisions of the Easy Enrollment Act;

12 E. the department of information technology, by
13 electronic media, a database updated quarterly that contains
14 the names, addresses, county of address and taxpayer
15 identification numbers of New Mexico personal income tax
16 filers, but only for the purpose of producing the random jury
17 list for the selection of petit or grand jurors for the state
18 courts pursuant to Section 38-5-3 NMSA 1978;

19 F. the state courts, the random jury lists produced
20 by the department of information technology under Subsection E
21 of this section;

22 G. the director of the New Mexico department of
23 agriculture or the director's authorized representative, upon
24 request of the director or representative, the names and
25 addresses of all gasoline or special fuel distributors,

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1 wholesalers and retailers;

2 H. the public regulation commission, return
3 information with respect to the Corporate Income and Franchise
4 Tax Act required to enable the commission to carry out its
5 duties;

6 I. the ~~[state racing commission]~~ regulation and
7 licensing department, return information with respect to the
8 state, municipal and county gross receipts taxes paid by
9 racetracks;

10 J. the gaming control board, tax returns of license
11 applicants and their affiliates as provided in Subsection E of
12 Section 60-2E-14 NMSA 1978;

13 K. the director of the workers' compensation
14 administration or to the director's representatives authorized
15 for this purpose, return information to facilitate the
16 identification of taxpayers that are delinquent or noncompliant
17 in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA
18 1978;

19 L. the secretary of workforce solutions or the
20 secretary's delegate, return information for use in enforcement
21 of unemployment insurance collections pursuant to the terms of
22 a written reciprocal agreement entered into by the department
23 with the secretary of workforce solutions for exchange of
24 information;

25 M. the New Mexico finance authority, information

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1 with respect to the amount of municipal and county gross
2 receipts taxes collected by municipalities and counties
3 pursuant to any local option municipal or county gross receipts
4 taxes imposed, and information with respect to the amount of
5 governmental gross receipts taxes paid by every agency,
6 institution, instrumentality or political subdivision of the
7 state pursuant to Section 7-9-4.3 NMSA 1978;

8 N. the superintendent of insurance, return
9 information with respect to the premium tax and the health
10 insurance premium surtax;

11 O. the secretary of finance and administration or
12 the secretary's designee, return information concerning a
13 credit pursuant to the Film Production Tax Credit Act;

14 P. the secretary of economic development or the
15 secretary's designee, return information concerning a credit
16 pursuant to the Film Production Tax Credit Act;

17 Q. the secretary of public safety or the
18 secretary's designee, return information concerning the Weight
19 Distance Tax Act;

20 R. the secretary of transportation or the
21 secretary's designee, return information concerning the Weight
22 Distance Tax Act;

23 S. the secretary of energy, minerals and natural
24 resources or the secretary's designee, return information
25 concerning tax credits or deductions for which eligibility is

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1 certified or otherwise determined by the secretary or the
2 secretary's designee; and

3 T. the secretary of environment or the secretary's
4 designee, return information concerning tax credits for which
5 eligibility is certified or otherwise determined by the
6 secretary or the secretary's designee."

7 SECTION 2. Section 7-9-40 NMSA 1978 (being Laws 1970,
8 Chapter 60, Section 2, as amended) is amended to read:

9 "7-9-40. EXEMPTION--GROSS RECEIPTS TAX--PURSES AND JOCKEY
10 REMUNERATION AT NEW MEXICO RACETRACKS--RECEIPTS FROM GROSS
11 AMOUNTS WAGERED.--

12 A. Exempted from the gross receipts tax are the
13 receipts of horsemen, jockeys and trainers from race purses at
14 New Mexico horse racetracks subject to the jurisdiction of the
15 [~~state racing commission~~] regulation and licensing department.

16 B. Exempted from the gross receipts tax are the
17 receipts of a racetrack from the commissions and other amounts
18 authorized by Section [~~60-1-10~~] 60-1A-19 NMSA 1978 to be
19 retained by a racetrack conducting horse races under the
20 authority of a license from the [~~state racing commission~~]
21 regulation and licensing department."

22 SECTION 3. Section 60-1A-2 NMSA 1978 (being Laws 2007,
23 Chapter 39, Section 2) is amended to read:

24 "60-1A-2. DEFINITIONS.--As used in the Horse Racing Act:

25 A. "board" means the gaming control board;

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1 B. "breakage" means the odd cents by which the
2 amount payable on each dollar wagered exceeds a multiple of
3 ten;

4 C. "department" or "commission" means the [~~state~~
5 ~~racing commission~~] regulation and licensing department;

6 D. "exotic wagering" means all wagering other than
7 on win, place or show, through pari-mutuel wagering;

8 E. "export" means to send a live audiovisual
9 broadcast of a horse race in the process of being run at a
10 horse racetrack from the originating horse racetrack to another
11 location;

12 F. "guest state" means a jurisdiction, other than
13 the jurisdiction in which a horse race is run, in which a horse
14 racetrack, off-track wagering facility or other facility that
15 is a member of and subject to an interstate common pool is
16 located;

17 G. "guest track" means a horse racetrack, off-track
18 wagering facility or other licensed facility in a location
19 other than the state in which a horse race is run that is a
20 member of and subject to an interstate common pool;

21 H. "handle" means the total of all pari-mutuel
22 wagering sales, excluding refunds and cancellations;

23 I. "horse race" means a competition among
24 racehorses on a predetermined course in which the horse
25 completing the course in the least amount of time generally

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1 wins;

2 J. "host state" means the jurisdiction within which
3 a sending track is located, also known as a "sending state";

4 K. "host track" means the horse racetrack from
5 which a horse race subject to an interstate common pool is
6 transmitted to members of that interstate common pool, also
7 known as a "sending track";

8 L. "import" means to receive a live audiovisual
9 broadcast of a horse race;

10 M. "interstate common pool" means a pari-mutuel
11 pool that combines comparable pari-mutuel pools from one or
12 more locations that accept wagers on a horse race run at a
13 sending track for purposes of establishing payoff prices at the
14 pool members' locations, including pools in which pool members
15 from more than one state simultaneously combine pari-mutuel
16 pools to form an interstate common pool;

17 N. "jockey club" means an organization that
18 administers thoroughbred registration records and registers
19 thoroughbreds;

20 O. "licensed premises" means land, together with
21 all buildings, other improvements and personal property located
22 on the land, that is under the direct control of a racetrack
23 licensee, including the restricted areas, grandstand and public
24 parking areas;

25 P. "licensee" means a person licensed by the

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1 [commission] department and includes a holder of an
2 occupational, secondary or racetrack license;

3 Q. "occupational license" means a license issued by
4 the [commission] department to a vendor or to a person having
5 access to a restricted area on the licensed premises, including
6 a horse owner, trainer, jockey, agent, apprentice, groom,
7 exercise person, veterinarian, valet, farrier, starter,
8 clocker, racing secretary, pari-mutuel clerk and other
9 personnel designated by the [commission] department whose work,
10 in whole or in part, is conducted around racehorses or pari-
11 mutuel betting windows;

12 R. "pari-mutuel wagering" means a system of
13 wagering in which bets on a live or simulcast horse race are
14 pooled and held by the racetrack licensee for distribution of
15 the total amount, less the deductions authorized by law, to
16 holders of winning tickets; "pari-mutuel wagering" does not
17 include bookmaking or pool selling;

18 S. "pari-mutuel wagering pool" means the money
19 wagered on a specific horse race through pari-mutuel wagering;

20 T. "practical breeder" means a person who has
21 practical experience in breeding horses, although the person
22 may not be actively involved in breeding horses;

23 U. "primary residence" means the domicile where a
24 person resides for most of the year, and, if the person is
25 temporarily out of state, the address where a person will

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1 return when the person returns to New Mexico or the address
2 that a person uses for purposes of a driver's license, passport
3 or voting;

4 V. "quarter horse" means a racehorse that is
5 registered with the American quarter horse association or any
6 successor association;

7 W. "race meet" means a period of time within dates
8 specified by the ~~[commission]~~ department in which a racetrack
9 licensee is authorized to conduct live racing on the racing
10 grounds;

11 X. "racehorse" means a quarter horse or
12 thoroughbred that is bred and trained to compete in horse
13 races;

14 Y. "racetrack license" means a license to conduct
15 horse races issued by the ~~[commission]~~ department;

16 Z. "racetrack licensee" means a person who has been
17 issued a racetrack license;

18 AA. "racing grounds" means the area of the
19 restricted area of licensed premises used for the purpose of
20 conducting horse races and all activities ancillary to the
21 conduct of horse races, including the track, stable area,
22 jockey's quarters and horse training areas;

23 BB. "retainage" means money that is retained from
24 wagers on win, place and show and on exotic wagers by a
25 racetrack licensee pursuant to the Horse Racing Act;

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1 CC. "restricted areas" means the stable area, the
2 area behind the pari-mutuel betting windows and anywhere on the
3 racing grounds;

4 DD. "secondary licensee" means all officers,
5 directors, shareholders, lenders or holders of evidence of
6 indebtedness of a corporation or legal entity owning a horse
7 racetrack, and all persons holding a direct or indirect
8 interest of any nature whatsoever in the horse racetrack,
9 including interests or positions that deal with the funds of
10 the racetrack or that are administrative, policymaking or
11 supervisory;

12 EE. "simulcast" means a transmission of a live
13 audiovisual broadcast of a horse race being run at a horse
14 racetrack other than the horse racetrack or other licensed
15 facility at which the broadcast is being received for viewing
16 pursuant to a simulcasting contract;

17 FF. "stakes race" means a horse race in which
18 nominations or entry or starting fees contribute to the purse;
19 an overnight race is not a stakes race;

20 GG. "steward" means an employee of the [~~commission~~]
21 department who supervises horse races and oversees a race meet
22 while in progress, including holding hearings regarding
23 licensees and enforcing the rules of the [~~commission~~]
24 department and the horse racetrack;

25 HH. "takeout" means amounts authorized by statute

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1 to be deducted from the pari-mutuel wagers;

2 II. "thoroughbred" means a racehorse that is
3 registered with the jockey club;

4 JJ. "track" means the surfaced oval area on which
5 horse races are conducted; and

6 KK. "vendor" means a person who provides goods or
7 services to or in the racing grounds or restricted area of the
8 licensed premises of a horse racetrack."

9 SECTION 4. Section 60-1A-4 NMSA 1978 (being Laws 2007,
10 Chapter 39, Section 4) is amended to read:

11 "60-1A-4. [~~COMMISSION~~] DEPARTMENT--POWERS--DUTIES.--

12 A. The [~~commission~~] department may:

13 (1) grant, deny, suspend or revoke
14 occupational licenses, secondary licenses and racetrack
15 licenses, establish the terms for each classification of a
16 racetrack license and set fees for submitting an application
17 for a license;

18 (2) exclude or compel the exclusion of a
19 person from all horse racetracks [~~who~~] whom the [~~commission~~]
20 department deems detrimental to the best interests of horse
21 racing or who willfully violates the Horse Racing Act, a rule
22 or order of the [~~commission~~] department or [~~a~~] federal or state
23 law [~~of the United States or New Mexico~~];

24 (3) compel the production of documents, books
25 and tangible items, including documents showing the receipts

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1 and disbursements of a racetrack licensee;

2 (4) investigate the operations of a licensee
3 and place a designated representative of the department on the
4 licensed premises of a racetrack licensee for the purpose of
5 observing compliance with the Horse Racing Act and rules or
6 orders of the [~~commission~~] department;

7 (5) employ staff as required to administer the
8 Horse Racing Act and employ staff with basic law enforcement
9 training to be stationed at racetracks to maintain peace and
10 order, enforce the law, conduct investigations and enforce the
11 Horse Racing Act or rules or orders of the [~~commission~~]
12 department; provided that staff employed with law enforcement
13 training may not carry firearms or other deadly weapons while
14 on duty for the [~~commission~~] department;

15 (6) summon witnesses;

16 (7) administer oaths for the effective
17 discharge of the [~~commission's~~] department's authority; and

18 (8) appoint a hearing officer to conduct
19 hearings required by the Horse Racing Act or a rule adopted
20 pursuant to that act.

21 B. The [~~commission~~] department shall:

22 (1) make rules to hold, conduct and operate
23 all race meets and horse races held in the state and to
24 identify and assign racing dates;

25 (2) require the following information for each

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1 applicant on an application for a license:

2 (a) the full name, address and contact
3 information of the applicant, and if the applicant is a
4 corporation, the name of the state of incorporation and the
5 names, addresses and contact information of officers, members
6 of the board of directors and managers of the corporation;

7 (b) the exact location at which the
8 applicant desires to conduct a horse race or race meet;

9 (c) whether the horse racetrack is owned
10 or leased, and, if leased, the name and residence of the fee
11 owner of the land or, if the owner is a corporation, the names
12 of the directors and stockholders;

13 (d) a statement of the assets and
14 liabilities of [~~the person or corporation~~] persons making the
15 application;

16 (e) the kind of racing to be conducted;

17 (f) the beginning and ending dates
18 desired for the race meet and the days during that time period
19 when horse races are to be scheduled; and

20 (g) other information determined by the
21 [~~commission~~] department to be necessary to assess the potential
22 for success of the applicant;

23 (3) require a statement under oath by the
24 applicant that the information on the application is true;

25 (4) supervise and oversee the making of pari-

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1 mutuel pools and the distribution from those pools;

2 (5) make on-site inspections of horse
3 racetracks in New Mexico at reasonable intervals;

4 (6) approve all improvements proposed to be
5 completed on the licensed premises of a horse racetrack,
6 including extensions, additions or improvements of buildings,
7 stables or tracks;

8 (7) monitor and oversee the pari-mutuel
9 machines and equipment at all horse races or race meets held in
10 the state;

11 (8) approve contracts for simulcasting, pari-
12 mutuel wagering and capital improvements funded pursuant to
13 Section 60-1A-20 NMSA 1978 entered into by horse racetracks;

14 (9) regulate the size of the purses to be
15 offered at horse races run in the state;

16 (10) require background investigations of
17 employees of a racetrack licensee as set forth in the rules of
18 the [commission] department; and

19 (11) provide an annual report to the governor
20 regarding the [commission's] department's administration of
21 horse racing in the state."

22 SECTION 5. Section 60-1A-5 NMSA 1978 (being Laws 2007,
23 Chapter 39, Section 5, as amended) is amended to read:

24 "60-1A-5. [COMMISSION] DEPARTMENT RULES--ALL LICENSES--
25 SUSPENSION, REVOCATION OR DENIAL OF LICENSES--PENALTIES.--

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1 A. The [~~commission~~] department shall adopt rules to
2 implement the Horse Racing Act and to ensure that horse racing
3 in New Mexico is conducted with fairness and that the
4 participants and patrons are protected against illegal
5 practices.

6 B. Every license issued by the [~~commission~~]
7 department shall require the licensee to comply with the rules
8 adopted by the [~~commission~~] department. A racetrack licensee
9 shall post printed copies of the rules in conspicuous places on
10 the racing grounds and shall maintain them during the period
11 when live horse races are being conducted.

12 C. The [~~commission~~] department may suspend, revoke
13 or deny renewal of a license of a person who violates the
14 provisions of the Horse Racing Act or rules adopted pursuant to
15 that act. The [~~commission~~] department shall provide a licensee
16 facing suspension, revocation or denial of renewal of a license
17 reasonable notice and an opportunity for a hearing. The
18 suspension, revocation or denial of renewal of a license shall
19 not relieve the licensee from prosecution for the violations or
20 from the payment of fines and penalties assessed the licensee
21 by the [~~commission~~] department.

22 D. The [~~commission~~] department may impose civil
23 penalty fines upon a licensee for a violation of the provisions
24 of the Horse Racing Act or rules adopted by the [~~commission~~]
25 department. The fines shall not exceed one hundred thousand

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1 dollars (\$100,000) or one hundred percent of a purse related to
2 the violation, whichever is greater, for each violation.

3 E. Fines shall be paid into the current school
4 fund.

5 F. When a penalty is imposed pursuant to this
6 section for administering a performance-altering substance as
7 provided in Subsection A of Section 60-1A-28 NMSA 1978, the
8 [~~commission~~] department shall direct its [~~executive director~~]
9 staff to report the violation to the district attorney for the
10 county in which the violation occurred and to the horse racing
11 licensing authority in any other jurisdiction in which the
12 licensee being penalized is also licensed."

13 SECTION 6. Section 60-1A-6 NMSA 1978 (being Laws 2007,
14 Chapter 39, Section 6) is amended to read:

15 "60-1A-6. CLASSIFICATION OF RACETRACK LICENSES.--

16 A. A license to conduct a race meet in New Mexico
17 shall be classified as either a class A or class B license,
18 determined by the [~~commission~~] department as follows:

19 (1) a class A racetrack license shall be
20 issued to a racetrack licensee who received from all race meets
21 in the preceding calendar year a gross amount wagered through
22 the pari-mutuel system of ten million dollars (\$10,000,000) or
23 more; and

24 (2) a class B racetrack license shall be
25 issued to a racetrack licensee who received from all race meets

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1 in the preceding calendar year a gross amount wagered through
2 the pari-mutuel system of less than ten million dollars
3 (\$10,000,000).

4 B. A new racetrack license to conduct a race meet
5 in New Mexico shall be given a classification by the
6 [~~commission~~] department based on an estimate of the anticipated
7 gross amounts projected to be received by the new racetrack
8 licensee from all pari-mutuel wagering in the racetrack
9 licensee's first full calendar year of racing. After the
10 racetrack licensee's first full calendar year of racing, the
11 [~~commission~~] department shall review the classification and
12 change it if necessary.

13 C. Each class of license is subject to all
14 provisions of the Horse Racing Act, except as otherwise
15 provided in that act. The [~~commission~~] department shall adopt
16 and promulgate rules necessary to provide for license
17 classification."

18 SECTION 7. Section 60-1A-7 NMSA 1978 (being Laws 2007,
19 Chapter 39, Section 7, as amended) is amended to read:

20 "60-1A-7. ALL LICENSE APPLICATIONS--BACKGROUND
21 INVESTIGATIONS--RULES.--

22 A. A person applying for a license pursuant to the
23 Horse Racing Act shall submit to a background investigation to
24 be conducted by the board. The [~~commission~~] department and the
25 board shall adopt rules to coordinate the manner in which the

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1 background investigations are conducted. The rules shall at
2 minimum require that:

3 (1) an applicant for a license shall submit
4 two fingerprint cards to the [~~commission~~] department, with one
5 card to be submitted to the board for a statewide check and the
6 other card to be submitted to the federal bureau of
7 investigation for a nationwide check;

8 (2) arrest record information from a law
9 enforcement agency or the federal bureau of investigation and
10 information obtained as a result of the background
11 investigation conducted by the board is privileged and shall
12 not be disclosed to persons not directly involved in the
13 decision affecting the specific applicant;

14 (3) an applicant shall provide all of the
15 information required by the [~~commission~~] department; and

16 (4) the cost of the background investigation
17 shall be paid by the applicant.

18 B. An applicant for a license who is denied the
19 license by the [~~commission~~] department shall have an
20 opportunity to inspect and challenge the validity of the record
21 on which the denial of the license was based."

22 SECTION 8. Section 60-1A-8 NMSA 1978 (being Laws 2007,
23 Chapter 39, Section 8) is amended to read:

24 "60-1A-8. RACETRACK LICENSES--APPLICATIONS--SPECIFIC
25 REQUIREMENTS.--

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1 A. It is a violation of the Horse Racing Act for a
2 person to hold a public horse race or a race meet for profit or
3 gain in any manner unless the person has been issued a
4 racetrack license by the [~~commission~~] department and has been
5 authorized by the [~~commission~~] department to hold the horse
6 race or race meet on specific dates.

7 B. An application for a racetrack license shall be
8 submitted in writing on forms designated by the [~~commission~~]
9 department. An applicant shall affirm that information
10 contained in the application is true and accurate. The
11 application shall be signed by the applicant or the applicant's
12 agent, and the signature shall be notarized.

13 C. A racetrack license shall be valid for a period
14 not to exceed one year. The [~~commission~~] department may renew
15 a racetrack license upon expiration of the term of the license.

16 D. Renewal applications for racetrack licenses
17 shall be filed no later than June 1 of each year. The race
18 dates for the upcoming year shall be set by the [~~commission~~]
19 department after the [~~commission~~] department receives all
20 renewal applications.

21 E. An application shall specify the dates and days
22 of the week of the race meet that the applicant is requesting
23 the [~~commission~~] department to approve.

24 F. An application shall be filed not less than
25 sixty days prior to the first day the proposed horse race or

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1 race meet is to be held.

2 G. The fee for a new racetrack license issued
3 pursuant to this section shall not exceed five thousand dollars
4 (\$5,000).

5 H. The [~~commission~~] department may schedule a date
6 for a hearing on the application for a new racetrack license to
7 determine the eligibility of the applicant pursuant to the
8 Horse Racing Act or as needed for determining the eligibility
9 for the renewal of a racetrack license. The applicant shall be
10 notified of the hearing at least five days prior to the date of
11 the hearing. The applicant has the right to present testimony
12 in support of the application. Notice shall be mailed to the
13 address of the applicant appearing upon the application for the
14 racetrack license. Notice of the hearing date, time and
15 location shall be postmarked by United States mail five days
16 prior to the date of the hearing. Deposit of the hearing
17 notice in United States mail constitutes notice.

18 I. If, after a hearing on the application, the
19 [~~commission~~] department finds the applicant ineligible pursuant
20 to the provisions of the Horse Racing Act or rules adopted by
21 the department or rules adopted by the board concerning gaming,
22 the racetrack license shall be denied.

23 J. If there is more than one application for a
24 racetrack license pending at the same time, the [~~commission~~]
25 department shall determine the racing days that will be

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1 allotted to each successful applicant. Upon renewal, the
2 [~~commission~~] department shall determine the racing days that
3 will be allotted to each applicant upon terms and conditions
4 established by the [~~commission~~] department.

5 K. A person shall not have a direct, indirect or
6 beneficial interest of any nature, whether or not financial,
7 administrative, policymaking or supervisory, in more than two
8 horse racetracks in New Mexico. For purposes of this
9 subsection, a person shall not be considered to have a direct,
10 indirect or beneficial interest in a horse racetrack if the
11 person owns or holds less than ten percent of the total
12 authorized, issued and outstanding shares of a corporation that
13 is licensed to conduct a race meet in New Mexico, unless the
14 person has some other direct, indirect or beneficial interest
15 of any nature, whether or not financial, administrative,
16 policymaking or supervisory, in more than two licensed horse
17 racetracks.

18 L. To determine interest held in a racetrack, to
19 the extent that the interest is based on stock ownership:

20 (1) stock owned, directly or indirectly, by or
21 for a corporation, partnership, estate or trust shall be
22 considered as being owned proportionately by its shareholders,
23 partners or beneficiaries;

24 (2) an individual shall be considered as
25 owning the stock, directly or indirectly, if it is held by an

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1 immediate family member. For purposes of this paragraph, an
2 "immediate family member" includes only the individual's
3 siblings, spouse or children; and

4 (3) stock constructively owned by a person by
5 reason of the application of Paragraph (1) of this subsection
6 shall be considered to be actually owned by the person; and
7 stock shall be constructively owned by an individual by reason
8 of the application of Paragraph (2) of this subsection if the
9 purpose of the constructive ownership is to make a person other
10 than the individual applicant appear as the owner of the stock.

11 M. A corporation holding a racetrack license shall
12 not issue to a person shares of its stock amounting to ten
13 percent or more of the total authorized, issued and outstanding
14 shares, and a corporation holding a racetrack license shall not
15 issue shares of its stock that would, when combined with that
16 stock transferee's existing shares owned, total more than ten
17 percent of the total authorized, issued and outstanding shares
18 of the corporation, unless:

19 (1) the corporation gives written notice to
20 the [~~commission~~] department at least sixty days before the
21 contemplated stock transfer that the person to whom the stock
22 is being transferred will become an owner of ten percent or
23 more of the total authorized, issued and outstanding shares of
24 the corporation; and

25 (2) the corporation receives written approval

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1 from the [~~commission~~] department of the proposed transfer.

2 N. A determination made by the [~~commission~~]
3 department of a matter pursuant to this section shall be final
4 and not subject to appeal."

5 SECTION 9. Section 60-1A-9 NMSA 1978 (being Laws 2007,
6 Chapter 39, Section 9) is amended to read:

7 "60-1A-9. SECONDARY LICENSES--APPLICATIONS--SPECIFIC
8 REQUIREMENTS.--

9 A. A person who is actively and directly engaged in
10 the administration of a horse racetrack, whether in a
11 financial, administrative, policymaking or supervisory
12 capacity, shall hold a secondary license issued by the
13 [~~commission~~] department.

14 B. An application for a secondary license shall be
15 submitted in writing on forms designated by the [~~commission~~]
16 department. An applicant shall affirm that information
17 contained in the application is true and accurate. The
18 application shall be signed by the applicant or the applicant's
19 agent, and the signature shall be notarized.

20 C. If an applicant for a racetrack license is a
21 corporation, all officers, directors, lenders or holders of
22 evidence of indebtedness of the corporation and all persons who
23 participate in any manner in a financial, administrative,
24 policymaking or supervisory capacity are required to hold a
25 secondary license issued by the [~~commission~~] department.

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1 D. A person who owns or holds, directly, indirectly
2 or beneficially, ten percent or more of the total authorized,
3 issued and outstanding shares of a corporation that is a
4 racetrack licensee is required to hold a secondary license
5 issued by the ~~[commission]~~ department. If the ~~[commission]~~
6 department finds that a person who owns or holds, directly,
7 indirectly or beneficially, ten percent or more of the total
8 authorized, issued and outstanding shares of a corporation that
9 is a racetrack licensee is unqualified to be issued a secondary
10 license, the ~~[commission]~~ department shall give notice of its
11 finding to the corporation and to the person owning or holding
12 the interest. The ineligible person shall without delay offer
13 the shares to the corporation for purchase. If the corporation
14 does not elect to purchase the shares, the person owning or
15 holding the interest may offer the interest to other
16 purchasers, subject to prior approval of the purchasers by the
17 ~~[commission]~~ department.

18 E. A secondary license shall be valid for a period
19 not to exceed three years. The ~~[commission]~~ department may
20 renew a secondary license upon expiration of the term of the
21 license.

22 F. The fee for a secondary license issued pursuant
23 to this section shall not exceed five hundred dollars (\$500)."

24 **SECTION 10.** Section 60-1A-10 NMSA 1978 (being Laws 2007,
25 Chapter 39, Section 10) is amended to read:

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1 "60-1A-10. OCCUPATIONAL LICENSES--APPLICATION--SPECIFIC
2 REQUIREMENTS.--

3 A. A person required by the Horse Racing Act to
4 have an occupational license shall apply for and may be issued
5 an occupational license by the [~~commission~~] department.

6 B. An application for an occupational license shall
7 be submitted in writing on forms designated by the [~~commission~~]
8 department. An applicant shall affirm that information
9 contained in the application is true and accurate. The
10 application shall be signed by the applicant or the applicant's
11 agent.

12 C. An occupational license shall be valid for a
13 period not to exceed five years. The [~~commission~~] department
14 may renew an occupational license upon expiration of the term
15 of the license.

16 D. The fee for an occupational license issued
17 pursuant to this section shall not exceed one hundred dollars
18 (\$100)."

19 SECTION 11. Section 60-1A-11 NMSA 1978 (being Laws 2007,
20 Chapter 39, Section 11, as amended by Laws 2017, Chapter 28,
21 Section 1 and by Laws 2017, Chapter 145, Section 1) is amended
22 to read:

23 "60-1A-11. GRANTING A LICENSE--STANDARDS--DENIAL AND
24 REVOCATION--SUSPENSION AND PENALTIES.--

25 A. A license shall not be issued or renewed unless
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1 the applicant has satisfied the [~~commission~~] department that
2 the applicant:

3 (1) is of good moral character, is honest and
4 has integrity;

5 (2) does not currently have a license
6 suspended by a horse racing licensing authority in another
7 jurisdiction;

8 (3) does not have any prior activities,
9 criminal record, reputation, habits or associations that:

10 (a) pose a threat to the public
11 interest;

12 (b) pose a threat to the effective
13 regulation and control of horse racing; or

14 (c) create or enhance the dangers of
15 unsuitable, unfair or illegal practices, methods and activities
16 in the conduct of horse racing, the business of operating a
17 horse racetrack licensed pursuant to the Horse Racing Act or
18 the financial activities incidental to operating a horse
19 racetrack;

20 (4) is qualified to be licensed consistent
21 with the Horse Racing Act;

22 (5) has sufficient business probity,
23 competence and experience in horse racing as determined by the
24 [~~commission~~] department;

25 (6) has proposed financing that is sufficient

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1 for the nature of the license and from a suitable source that
2 meets the criteria set forth in this subsection; and

3 (7) is sufficiently capitalized pursuant to
4 standards set by the ~~[commission]~~ department to conduct the
5 business covered by the license.

6 B. The ~~[commission]~~ department shall establish by
7 rule additional qualifications for a licensee as it deems in
8 the public interest.

9 C. A person issued or applying for an occupational
10 license who has positive test results for a controlled
11 substance or who has been convicted of a violation of a
12 ~~[federal or]~~ state controlled substance law shall be denied a
13 license or shall be subject to revocation of an existing
14 license unless sufficient evidence of rehabilitation is
15 presented to the ~~[commission]~~ department.

16 D. The ~~[commission]~~ department may deny or revoke
17 an occupational license if the applicant or occupational
18 licensee, for the purpose of stimulating or depressing a
19 racehorse or affecting its speed or stamina during a race or
20 workout, is found to have administered, attempted to administer
21 or conspired to administer to a racehorse, internally,
22 externally or by injection, a drug, chemical, stimulant or
23 depressant, or other prohibited substance as defined by the
24 association of racing commissioners international,
25 incorporated, or a successor organization or, if none, by

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1 another nationally recognized organization that has published
2 substantially similar guidelines that are generally accepted in
3 the horse racing industry as determined by the [~~commission~~]
4 department.

5 E. In addition to its authority to deny or revoke
6 an occupational license for the conduct described in Subsection
7 D of this section, the [~~commission~~] department may suspend a
8 license and impose fines on a licensee. For suspensions and
9 fines, the [~~commission~~] department shall adopt as its own rules
10 the model rules for the imposition of penalties for the use of
11 prohibited substances published by the association of racing
12 commissioners international, incorporated, or a successor
13 organization or, if none, by another nationally recognized
14 organization that has published substantially similar rules
15 that are generally accepted in the horse racing industry as
16 determined by the [~~commission~~] department.

17 F. The [~~commission~~] department shall revoke for a
18 period not to exceed five years an occupational license if the
19 occupational licensee used, attempted to use or conspired with
20 others to use an electrical or mechanical device, implement or
21 instrument for the purpose of affecting the speed or stamina of
22 a racehorse.

23 G. The burden of proving the qualifications of an
24 applicant or licensee to be issued a license or have a license
25 renewed shall be on the applicant or licensee."

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1 SECTION 12. Section 60-1A-12 NMSA 1978 (being Laws 2007,
2 Chapter 39, Section 12) is amended to read:

3 "60-1A-12. STEWARDS--POWERS--DUTIES.--There shall be
4 three stewards, licensed and employed by the [~~commission~~]
5 department, to supervise each horse race meet. One of the
6 stewards shall be designated the presiding official steward of
7 the race meet. Stewards, other than the presiding official
8 steward, shall be employed subject to the approval of the
9 racetrack licensee. All stewards shall be licensed or
10 certified by a nationally recognized horse racing organization.
11 Stewards shall exercise those powers and duties prescribed by
12 [~~commission~~] department rules. A decision or action of a
13 steward may be reviewed or reconsidered by the [~~commission~~]
14 department."

15 SECTION 13. Section 60-1A-13 NMSA 1978 (being Laws 2007,
16 Chapter 39, Section 13, as amended by Laws 2017, Chapter 28,
17 Section 2 and by Laws 2017, Chapter 145, Section 2) is amended
18 to read:

19 "60-1A-13. EQUINE HEALTH AND TESTING ADVISOR--
20 QUALIFICATIONS--DUTIES.--The [~~commission~~] department shall hire
21 or contract with an equine health and testing advisor. An
22 equine health and testing advisor shall be a doctor of
23 veterinary medicine or shall hold a doctorate degree in
24 chemistry or a related field and shall be knowledgeable and
25 experienced in the techniques used for testing the specimens

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1 collected pursuant to Section 60-1A-14 NMSA 1978. The equine
2 health and testing advisor shall exercise the duties prescribed
3 by rules of the [~~commission~~] department."

4 SECTION 14. Section 60-1A-14 NMSA 1978 (being Laws 2007,
5 Chapter 39, Section 14, as amended by Laws 2017, Chapter 28,
6 Section 3 and by Laws 2017, Chapter 145, Section 3) is amended
7 to read:

8 "60-1A-14. TESTING SPECIMENS.--

9 A. The [~~commission~~] department shall adopt rules
10 applying to the handling of pre- and post-race, out-of-
11 competition and necropsy testing of blood serum plasma, urine
12 or other appropriate test samples identified by the
13 [~~commission~~] department to be taken from racehorses, following
14 guidelines that meet or exceed the standards established in
15 model rules published by the association of racing
16 commissioners international, incorporated, or a successor
17 organization or, if none, by another nationally recognized
18 organization that has published substantially similar
19 guidelines that are generally accepted in the horse racing
20 industry as determined by the [~~commission~~] department.

21 B. Each specimen taken from a racehorse shall be
22 divided into two or more samples, and:

23 (1) one sample, designated as the "official
24 sample", shall be tested by the [~~commission~~] department or its
25 designated laboratory in order to detect the presence of

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1 unauthorized drugs, chemicals, stimulants, depressants or other
2 prohibited substances as defined in guidelines published by the
3 association of racing commissioners international,
4 incorporated, or a successor organization or, if none, by
5 another nationally recognized organization that has published
6 substantially similar guidelines that are generally accepted in
7 the horse racing industry as determined by the [~~commission~~
8 department]; and

9 (2) the remaining samples, each designated as
10 a "split sample", may be forwarded by the [~~commission~~
11 department] to the scientific laboratory division of the
12 department of health or maintained by the [~~commission~~
13 department] in a manner that meets or exceeds the guidelines
14 identified in Paragraph (1) of this subsection.

15 C. After a positive test result on the official
16 sample tested by the [~~commission~~] department or its designated
17 laboratory and upon a written request from the president,
18 executive director or manager of the New Mexico horsemen's
19 association on forms designated by the [~~commission~~] department,
20 a corresponding split sample shall be transferred to an
21 independent laboratory in a manner prescribed by [~~commission~~
22 department] rule.

23 D. All samples shall be kept in a controlled
24 environment for a period of time specified by the [~~commission~~
25 department] in each case.

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1 E. The [~~commission~~] department shall contract with
2 an independent laboratory to maintain a quality assurance
3 program. The laboratory shall meet or exceed the current
4 national laboratory standards for the testing of drugs or other
5 foreign substances in a horse, as established by the
6 association of racing commissioners international,
7 incorporated, or of a successor organization or, if none, of
8 another nationally recognized organization that has published
9 substantially similar guidelines that are generally accepted in
10 the horse racing industry."

11 **SECTION 15.** Section 60-1A-14.1 NMSA 1978 (being Laws
12 2013, Chapter 102, Section 1, as amended by Laws 2017, Chapter
13 28, Section 4 and by Laws 2017, Chapter 145, Section 4) is
14 amended to read:

15 "60-1A-14.1. RACEHORSE TESTING FUND--CREATED--PURPOSE.--
16 The "racehorse testing fund" is created in the state treasury.
17 The purpose of the fund is to ensure the testing of racehorses
18 at a laboratory that meets or exceeds the current national
19 laboratory standards for the testing of drugs or other foreign
20 substances not naturally occurring in a horse, as established
21 by the association of racing commissioners international,
22 incorporated, or of a successor organization or, if none, of
23 another nationally recognized organization that has published
24 substantially similar guidelines that are generally accepted in
25 the horse racing industry. The fund consists of one-half of
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1 the daily capital outlay tax appropriated and transferred
2 pursuant to Paragraph (4) of Subsection A of Section 60-1A-20
3 NMSA 1978 and appropriations, gifts, grants and donations made
4 to the fund. Income from investment of the fund shall be
5 credited to the fund. The [~~commission~~] department shall
6 administer the racehorse testing fund, and money in the fund is
7 appropriated to the [~~commission~~] department for the handling of
8 pre- and post-race, out-of-competition and necropsy testing of
9 blood serum plasma, urine or other appropriate test samples
10 taken from racehorses pursuant to Section 60-1A-14 NMSA 1978
11 and to compensate the equine health and testing advisor
12 employed or selected pursuant to Section 60-1A-13 NMSA 1978.
13 Any unexpended or unencumbered balance remaining in the
14 racehorse testing fund at the end of a fiscal year in excess of
15 six hundred thousand dollars (\$600,000) shall revert to the
16 general fund. Expenditures from the fund shall be made on
17 warrant of the secretary of finance and administration pursuant
18 to vouchers signed by the [~~executive director of the~~
19 ~~commission~~] superintendent of regulation and licensing or the
20 superintendent's authorized representative."

21 SECTION 16. Section 60-1A-16 NMSA 1978 (being Laws 2007,
22 Chapter 39, Section 16) is amended to read:

23 "60-1A-16. SIMULCASTING.--

24 A. All simulcasting of horse races shall have prior
25 approval of the [~~commission~~] department, and the [~~commission~~]

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1 department shall adopt rules concerning the simulcasting of
2 horse races as provided in this section.

3 B. A racetrack licensee shall not be allowed to
4 simulcast horse races unless that racetrack licensee offers at
5 least seventeen days per year of pari-mutuel wagering on live
6 horse races run on the premises of the racetrack licensee.

7 C. The [~~commission~~] department may permit exporting
8 of a horse race being run by a racetrack licensee to another
9 racetrack licensee within New Mexico or exporting of a horse
10 race from a racetrack licensee to another location holding a
11 pari-mutuel or gaming license that allows simulcasting of a
12 horse race from outside of the state or jurisdiction that
13 licenses that out-of-state facility.

14 D. The [~~commission~~] department may permit importing
15 by a racetrack licensee of horse races that are being run at
16 racetracks outside of the state licensed by a host state.

17 E. Pari-mutuel wagering on simulcast horse races
18 shall be prohibited except on the licensed premises of a
19 racetrack licensee during the licensee's race meet at the horse
20 racetrack or when the racetrack licensee is importing a race
21 meet from another New Mexico-licensed horse racetrack.

22 F. A New Mexico-licensed horse racetrack that is
23 within a radius of eighty miles of any other New Mexico-
24 licensed horse racetrack with a race meet in progress may only
25 conduct pari-mutuel wagering on imported horse races if there

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1 is a written agreement between the two racetrack licensees
2 allowing pari-mutuel wagering on imported horse races during
3 the period of time that the live horse races are taking place."

4 SECTION 17. Section 60-1A-17 NMSA 1978 (being Laws 2007,
5 Chapter 39, Section 17) is amended to read:

6 "60-1A-17. INTERSTATE COMMON POOL WAGERING--AUTHORIZED.--

7 A. Subject to the federal Interstate Horseracing
8 Act of 1978, the [~~commission~~] department may permit a racetrack
9 licensee to participate in interstate common pools. All
10 provisions of the Horse Racing Act that govern pari-mutuel
11 wagering apply to pari-mutuel wagering in interstate common
12 pools except as otherwise provided in this section.

13 B. Daily pari-mutuel tax and daily capital outlay
14 tax shall not be imposed upon amounts wagered in an interstate
15 common pool other than upon amounts wagered within New Mexico.

16 C. Subject to prior approval of the [~~commission~~]
17 department, the following provisions apply when a racetrack
18 licensee participates in interstate common pools on a horse
19 race that originates outside of New Mexico:

20 (1) a racetrack licensee may combine its pari-
21 mutuel pools at the host track and other locations. The types
22 of wagering, takeout, distribution of winnings and rules of
23 racing in effect for pari-mutuel pools at the host track shall
24 govern wagers placed in New Mexico and merged into the
25 interstate common pool. Breakage for interstate common pools

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1 shall be calculated in accordance with the rules governing the
2 host track and shall be distributed in a manner agreed upon by
3 the racetrack licensee in New Mexico and the host track;

4 (2) with the concurrence of the host track, an
5 interstate common pool that excludes the host track may be
6 formed with the racetrack licensee in New Mexico and other
7 locations outside of the host state. When an interstate common
8 pool is formed pursuant to this paragraph, the [~~commission~~]
9 department may approve types of wagering, takeout, distribution
10 of winnings, rules of racing and calculation of breakage that
11 are different from those that are in effect in New Mexico;
12 provided that the rules are applied consistently to all persons
13 in the interstate common pool;

14 (3) the racetrack licensee may deduct from
15 retainage resulting from an interstate common pool a reasonable
16 fee to be paid to the person conducting the horse race at the
17 host track for the privilege of conducting pari-mutuel wagering
18 on the race and participating in the interstate common pool and
19 for payment of costs incurred to transmit the simulcast horse
20 race; and

21 (4) provisions of New Mexico law or contracts
22 governing the distribution of daily pari-mutuel tax and daily
23 capital outlay tax and breeders' or other awards and purses
24 from the takeout from wagers placed in New Mexico shall remain
25 in effect for wagers placed in an interstate common pool;

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1 provided that if the [~~commission~~] department approves an
2 adjustment in the takeout rate, the distribution of the takeout
3 within New Mexico shall be adjusted proportionately to reflect
4 the adjustment in the takeout rate; and provided further that
5 with the concurrence of the racetrack licensee and the
6 organization representing a majority of the breeders, horsemen
7 or other persons entitled to shares of the distribution and
8 subject to approval of the [~~commission~~] department, the
9 respective shares to breeders' or other awards or purses may be
10 modified.

11 D. Subject to prior approval of the [~~commission~~]
12 department, the following provisions apply when a racetrack
13 licensee in New Mexico participates in interstate common pools
14 as a host track:

15 (1) a racetrack licensee may permit one or
16 more of its horse races to be used for pari-mutuel wagering at,
17 and may export a horse race to, one or more licensed sites
18 outside of New Mexico. The racetrack licensee may also permit
19 pari-mutuel pools in other locations to be combined with the
20 racetrack licensee's comparable pari-mutuel wagering pools or
21 with wagering pools established in other jurisdictions. The
22 [~~commission~~] department may modify its rules and adopt separate
23 rules for the interstate common pools and their calculation of
24 breakage; and

25 (2) except as otherwise provided in this

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1 section, New Mexico law or contracts governing the distribution
2 of shares of the takeout for daily pari-mutuel tax or daily
3 capital outlay tax and breeders' or other awards and purses
4 shall remain in effect for amounts wagered within New Mexico in
5 interstate common pools; provided that with the concurrence of
6 the racetrack licensee of the host track and the organization
7 representing a majority of the breeders, horsemen or other
8 persons entitled to shares of the distribution, and subject to
9 approval of the ~~[commission]~~ department, the respective shares
10 to breeders' or other awards or purses may be modified.

11 E. When the laws and rules of the host state and
12 guest states permit, an interstate common pool may be
13 established on a regional or other basis between two or more
14 guest states and not include a merger into the host state's
15 pari-mutuel wagering pool, in which case, one of the guest
16 state's tracks shall serve as if it were the host track for the
17 purposes of calculating the pari-mutuel wagering pool. An
18 interstate common pool may include members located outside of
19 the United States. Except as otherwise set forth in
20 ~~[commission]~~ department rules, participation by a person in an
21 interstate common pool with wagering facilities in one or more
22 states or jurisdictions shall not cause the participating
23 person to be deemed to be doing business in a jurisdiction
24 other than the jurisdiction in which that person is physically
25 located.

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1 F. The [~~commission~~] department may adopt rules
2 necessary to implement this section."

3 SECTION 18. Section 60-1A-19 NMSA 1978 (being Laws 2007,
4 Chapter 39, Section 19) is amended to read:

5 "60-1A-19. RETAINAGE--NEW MEXICO HORSE BREEDERS'
6 ASSOCIATION AND NEW MEXICO HORSEMEN'S ASSOCIATION--BREAKAGE--
7 DISTRIBUTION OF RETAINED AMOUNTS.--

8 A. Each racetrack licensee shall notify the
9 [~~commission~~] department at least thirty days prior to each race
10 meet of the amount of exotic wager retainage that the racetrack
11 licensee will retain pursuant to Paragraph (1) or (2) of this
12 subsection. There shall be an amount retained by the racetrack
13 licensee equal to:

14 (1) for a class A racetrack licensee:
15 (a) nineteen percent of the gross amount
16 wagered on win, place and show, of which: 1) eighteen and
17 three-fourths percent shall be retained by the racetrack
18 licensee; and 2) one-fourth percent shall be remitted to the
19 taxation and revenue department for deposit in the general
20 fund; and

21 (b) not less than twenty-one percent and
22 not greater than twenty-five percent of the gross amount
23 wagered in exotic wagers; and

24 (2) for a class B racetrack licensee:
25 (a) not less than eighteen and three-

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1 fourths percent and not greater than twenty-five percent of the
2 gross amount wagered daily on win, place and show; and

3 (b) not less than twenty-one percent and
4 not greater than thirty percent of the gross amount wagered in
5 exotic wagers.

6 B. There shall be retained by a racetrack licensee
7 for allocation to the New Mexico horse breeders' association
8 amounts equal to:

9 (1) five-eighths percent of the gross amount
10 wagered on win, place and show to be allocated weekly to the
11 New Mexico horse breeders' association for further distribution
12 pursuant to the provisions of Subsection D of Section 60-1A-24
13 NMSA 1978; and

14 (2) one and three-eighths percent of the gross
15 amount wagered in exotic wagers to be allocated weekly to the
16 New Mexico horse breeders' association for further distribution
17 pursuant to the provisions of Subsection D of Section 60-1A-24
18 NMSA 1978.

19 C. The breakage from the gross amount wagered
20 through pari-mutuel wagering shall be retained by the licensee
21 and allocated as follows:

22 (1) fifty percent of the total breakage shall
23 be retained by the racetrack licensee; and

24 (2) fifty percent of the total breakage shall
25 be allocated by the racetrack licensee to enhance the race

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1 purses of established stakes races that include only New
2 Mexico-bred horses that are registered with the New Mexico
3 horse breeders' association. The New Mexico horse breeders'
4 association shall distribute the percentage designated to
5 purses pursuant to Subsection D of Section [~~60-1-24~~] 60-1A-24
6 NMSA 1978, subject to the approval of the [~~commission~~]
7 department.

8 D. All money resulting from the failure of patrons
9 who purchased winning pari-mutuel tickets during a race meet to
10 redeem their winning tickets before the end of the sixty-day
11 period immediately succeeding the closing day of the race meet
12 or from all money resulting from the failure of patrons who
13 purchased pari-mutuel tickets that were entitled to a refund
14 but were not refunded by the end of the sixty-day period
15 immediately following the race meet shall be apportioned as
16 follows:

17 (1) thirty-three and thirty-three hundredths
18 percent shall be retained by the racetrack licensee;

19 (2) thirty-three and thirty-four hundredths
20 percent shall be distributed to the New Mexico horse breeders'
21 association to enhance each racetrack licensee's established
22 overnight purses for races that include only horses registered
23 as New Mexico bred pursuant to Paragraph (3) of Subsection D of
24 Section 60-1A-24 NMSA 1978, subject to the approval of the
25 [~~commission~~] department; and

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1 (3) thirty-three and thirty-three hundredths
2 percent shall be allocated to the New Mexico horsemen's
3 association for purses.

4 E. One-half percent of the gross amount wagered on
5 simulcast horse races broadcast to a horse racetrack in New
6 Mexico shall be distributed by the racetrack licensee to the
7 New Mexico horsemen's association for medical benefits for the
8 members of the New Mexico horsemen's association. The
9 ~~[commission]~~ department shall by rule provide for the timing
10 and manner of the distribution required pursuant to this
11 subsection and shall audit or arrange for an independent audit
12 of the distributions required.

13 F. Amounts to be deducted from the retainage by the
14 racetrack licensee from any form of wager made on the licensed
15 premises of the racetrack licensee are:

16 (1) the daily pari-mutuel tax imposed by
17 Section 60-1A-18 NMSA 1978;

18 (2) money allocated in this section to the New
19 Mexico horse breeders' association;

20 (3) money allocated by this section to the New
21 Mexico horsemen's association;

22 (4) expenses incurred to engage in intrastate
23 simulcasting pursuant to the Horse Racing Act; provided that
24 the deduction for a racetrack licensee shall be a portion of
25 five percent of the gross amount wagered at all the sites

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1 receiving the same simulcast horse races and:

2 (a) the deduction for a racetrack
3 licensee shall be an amount allocated to the racetrack licensee
4 by agreement voluntarily reached between all the racetracks
5 sending or receiving the same simulcast horse races; or

6 (b) the deduction for a racetrack
7 licensee shall be an amount identified by the [~~commission~~]
8 department if all the racetracks sending or receiving the same
9 simulcast horse races fail to reach a voluntary agreement on
10 the level at which to set the rate of the deduction for
11 expenses incurred for engaging in intrastate simulcasting; and

12 (5) fees incurred to receive interstate
13 simulcasts pursuant to the Horse Racing Act.

14 G. A racetrack licensee shall allocate to the New
15 Mexico horse breeders' association five percent of the daily
16 retainage on interstate common pools received from a guest
17 state by a racetrack licensee. Of the net retainage from all
18 wagers, after deductions:

19 (1) fifty percent shall be allocated to
20 purses; and

21 (2) fifty percent shall be retained by the
22 racetrack licensee."

23 SECTION 19. Section 60-1A-20 NMSA 1978 (being Laws 2007,
24 Chapter 39, Section 20, as amended) is amended to read:

25 "60-1A-20. DAILY CAPITAL OUTLAY TAX--CAPITAL OUTLAY

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1 OFFSET [~~STATE FAIR COMMISSION DISTRIBUTION~~] DAILY LICENSE
2 FEES.--

3 A. A "daily capital outlay tax" of two and three-
4 sixteenths percent is imposed on the gross amount wagered each
5 day at a racetrack where horse racing is conducted on the
6 premises of a racetrack licensee and also on the gross amount
7 wagered each day when a racetrack licensee is engaged in
8 simulcasting pursuant to the Horse Racing Act. After deducting
9 the amount of offset allowed pursuant to this section, any
10 remaining daily capital outlay tax shall be paid by the
11 [~~commission~~] department to the taxation and revenue department
12 from the retainage of a racetrack licensee from on-site wagers
13 made on the licensed premises of the racetrack licensee for
14 deposit in the general fund. Of the daily capital outlay tax
15 imposed pursuant to this subsection:

16 (1) for a class A racetrack licensee, not more
17 than one-half of the daily capital outlay tax imposed on the
18 first two hundred fifty thousand dollars (\$250,000) of the
19 daily handle may be offset by the amount that the class A
20 racetrack licensee expends for capital improvements or for
21 long-term financing of capital improvements at the racetrack
22 licensee's existing facility;

23 (2) for a class B racetrack licensee, not more
24 than one-half of the daily capital outlay tax imposed on the
25 first two hundred fifty thousand dollars (\$250,000) of the

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1 daily handle may be offset:

2 (a) in an amount not to exceed one-half
3 of the offset allowed, the amount expended by the class B
4 racetrack licensee for capital improvements; and

5 (b) in an amount not to exceed one-half
6 of the offset allowed, the amount expended by the class B
7 racetrack licensee for advertising, marketing and promoting
8 horse racing in the state; and

9 [~~(3)~~ through December 31, 2014, for both class
10 A and class B racetrack licensees, an amount equal to one-half
11 of the daily capital outlay tax is appropriated and transferred
12 to the state fair commission for expenditure on capital
13 improvements at the state fairgrounds and for expenditure on
14 debt service on negotiable bonds issued for the state
15 fairgrounds' capital improvements; and

16 ~~(4)~~] (3) on and after January 1, 2015, for
17 both class A and class B racetrack licensees, an amount equal
18 to one-half of the daily capital outlay tax is appropriated and
19 transferred to the racehorse testing fund.

20 B. An additional daily license fee of five hundred
21 dollars (\$500) shall be paid to the [~~commission~~] department by
22 the racetrack licensee for each day of live racing on the
23 premises of the racetrack licensee.

24 C. Accurate records shall be kept by the racetrack
25 licensee to show gross amounts wagered, retainage, breakage and

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1 amounts received from interstate common pools and distributions
2 from gross amounts wagered, retainage, breakage and amounts
3 received from interstate common pools, as well as other
4 information the [~~commission~~] department may require. Records
5 shall be open to inspection and shall be audited by the
6 [~~commission~~] department, its authorized representatives or an
7 independent auditor selected by the [~~commission~~] department.
8 The [~~commission~~] department may prescribe the method in which
9 records shall be maintained. A racetrack licensee shall keep
10 records that are accurate, legible and easy to understand.

11 D. Notwithstanding any other provision of law,
12 a political subdivision of the state shall not impose an
13 occupational tax on a horse racetrack owned or operated by
14 a racetrack licensee. A political subdivision of the state
15 shall not impose an excise tax on a horse racetrack owned
16 or operated by a racetrack licensee. Local option gross
17 receipts taxes authorized by the state may be imposed to the
18 extent authorized and imposed by a subdivision of the state
19 on a horse racetrack owned or operated by a racetrack
20 licensee."

21 SECTION 20. Section 60-1A-21 NMSA 1978 (being Laws 2007,
22 Chapter 39, Section 21) is amended to read:

23 "60-1A-21. INABILITY TO RECEIVE OR ADMINISTER
24 DISTRIBUTIONS--NEW MEXICO HORSE BREEDERS' ASSOCIATION--NEW
25 MEXICO HORSEMEN'S ASSOCIATION--[COMMISSION] DEPARTMENT

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1 AUTHORITY--NEW MEXICO-BRED HORSE REGISTRY.--

2 A. In the event that money allocated to the New
3 Mexico horse breeders' association pursuant to Section 60-1A-19
4 NMSA 1978 cannot be received or administered by the New Mexico
5 horse breeders' association, the [~~commission~~] department or
6 another organization designated by the [~~commission~~] department
7 and under the absolute control of the [~~commission~~] department
8 shall receive and administer the money that is allocated to be
9 distributed by the New Mexico horse breeders' association
10 pursuant to Section 60-1A-24 NMSA 1978. If the [~~commission~~]
11 department or its designee organization is required to receive,
12 administer and distribute money on behalf of the New Mexico
13 horse breeders' association, the maximum percentage of
14 retainage from Paragraph (3) of Subsection D of Section
15 60-1A-24 NMSA 1978 shall be distributed by the [~~commission~~]
16 department to the New Mexico horse breeders' association as a
17 fee to certify the dam and stud of New Mexico-bred horses from
18 the registry maintained by the New Mexico horse breeders'
19 association.

20 B. In the event that money allocated to the New
21 Mexico horsemen's association pursuant to the Horse Racing Act
22 cannot be received or administered by the New Mexico horsemen's
23 association, the [~~commission~~] department or another
24 organization designated by the [~~commission~~] department and
25 under the absolute control of the [~~commission~~] department shall

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1 receive and administer the money that is allocated by Section
2 60-1A-19 NMSA 1978 to the New Mexico horsemen's association and
3 distribute the money as required by Section 60-1A-19 NMSA
4 1978."

5 SECTION 21. Section 60-1A-22 NMSA 1978 (being Laws 2007,
6 Chapter 39, Section 22) is amended to read:

7 "60-1A-22. PAYMENT OF TAXES--PAYMENT OF LICENSE FEES.--

8 A. Taxes imposed pursuant to the Horse Racing Act
9 shall be remitted to the [~~commission~~] department, and a notice
10 of the remittance shall accompany the taxes paid by a racetrack
11 licensee by the close of the business day on Thursday of every
12 week. Failure to make weekly remittances by the racetrack
13 licensee shall result in an assessment by the [~~commission~~]
14 department against the racetrack licensee in an amount equal to
15 one percent of the amount that was due to be submitted.

16 B. Fees for licenses issued by the [~~commission~~]
17 department shall be paid to the [~~commission~~] department. Daily
18 license fees imposed by Section 60-1A-20 NMSA 1978 shall be
19 submitted to the [~~commission~~] department by the racetrack
20 licensee by the close of the business day on Thursday of each
21 week of on-track or simulcast racing.

22 C. Except for three thousand dollars (\$3,000) to be
23 retained by the [~~commission~~] department in the horse racing
24 suspense fund, daily license fees and taxes shall be submitted
25 by the [~~commission~~] department to the taxation and revenue

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1 department on a date to be set by the taxation and revenue
2 department that is no later than the twenty-fifth day of the
3 month following the month in which the fees and taxes are
4 received from a racetrack licensee."

5 SECTION 22. Section 60-1A-23 NMSA 1978 (being Laws 2007,
6 Chapter 39, Section 23) is amended to read:

7 "60-1A-23. HORSE RACING SUSPENSE ACCOUNT.--

8 A. The "horse racing suspense account" is created
9 in the state treasury to hold funds remitted to the
10 [~~commission~~] department for payment of all legal claims for
11 refunds.

12 B. Money in the horse racing suspense account
13 exceeding three thousand dollars (\$3,000) shall be transferred
14 to the [~~taxation and revenue department for deposit in the~~]
15 general fund.

16 C. The money in the horse racing suspense account
17 shall be used to pay claims for refunds that have been
18 determined by the [~~commission~~] department to be legally due to
19 the remitter."

20 SECTION 23. Section 60-1A-24 NMSA 1978 (being Laws 2007,
21 Chapter 39, Section 24, as amended) is amended to read:

22 "60-1A-24. BREEDERS' AWARDS.--

23 A. The New Mexico horse breeders' association shall
24 create a fund to pay horse breeders of New Mexico-bred horses
25 merit and incentive awards.

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1 B. A racetrack licensee shall pay into a fund
2 created by the New Mexico horse breeders' association an amount
3 equal to ten percent of the first money of a purse won, except
4 for stakes-race purses, at a horse race in New Mexico by a
5 horse registered with the New Mexico horse breeders'
6 association as a New Mexico-bred horse. From stakes-race
7 purses, a racetrack licensee shall pay into the fund created by
8 the New Mexico horse breeders' association an amount equal to
9 ten percent of the added money.

10 C. The money deposited with the New Mexico horse
11 breeders' association by a racetrack licensee pursuant to
12 Subsection B of this section shall be paid weekly to the
13 breeder of record as recorded by the New Mexico horse breeders'
14 association upon certification of the [~~commission~~] department.

15 D. In addition to the money distributed pursuant to
16 Subsection B of this section, the New Mexico horse breeders'
17 association shall distribute the money allocated to the New
18 Mexico horse breeders' association pursuant to Subsections B, C
19 and D of Section 60-1A-19 NMSA 1978 in the following manner and
20 pursuant to rules adopted by the [~~commission~~] department:

21 (1) forty-five percent of the money to the
22 breeders of record as recorded by the New Mexico horse
23 breeders' association of the first-, second- and third-place
24 finishers;

25 (2) seven percent of the money to the owners

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1 of the stallions that sired the first-place winners at the time
2 the winners were conceived;

3 (3) no more than eight percent of the money to
4 be retained by the New Mexico horse breeders' association for
5 the purpose of administering the distribution program set forth
6 in this section; and

7 (4) the remaining money to be divided among
8 the owners of the first-, second- and third-place finishers
9 during each race meet, provided that the first-, second- and
10 third-place finishers are registered as New Mexico-bred horses
11 with the New Mexico horse breeders' association and the owners
12 are members of the association.

13 E. The [~~commission~~] department shall establish by
14 rule fiduciary, security and insurance safeguards for the money
15 deposited with and paid out or distributed by the New Mexico
16 horse breeders' association pursuant to the Horse Racing Act.

17 F. A check or other negotiable instrument
18 representing a payment pursuant to Subsection D of this section
19 that is not negotiated within one year from the date of
20 issuance is no longer valid and negotiable. The money
21 represented by the check or other negotiable instrument shall
22 revert to the fund created pursuant to Subsection A of this
23 section and the recipient shall no longer be eligible for the
24 payment.

25 G. A person otherwise eligible for a payment

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1 pursuant to Subsection D of this section shall not be eligible
2 if the person does not provide within ninety days of
3 eligibility for a merit and incentive award information
4 necessary for the New Mexico horse breeders' association to
5 comply with state and federal tax law."

6 SECTION 24. Section 60-1A-26 NMSA 1978 (being Laws 2007,
7 Chapter 39, Section 26) is amended to read:

8 "60-1A-26. ILLEGAL USE OF PARI-MUTUEL WAGERING.--

9 A. A person shall not use pari-mutuel wagering
10 except as permitted by the [~~commission~~] department pursuant to
11 the Horse Racing Act or pursuant to other state law providing
12 licensing of persons to use pari-mutuel wagering.

13 B. A person who, directly or indirectly, uses pari-
14 mutuel wagering in a manner that is not authorized by the
15 [~~commission~~] department or other state law is guilty of a
16 fourth degree felony and upon conviction shall be sentenced
17 pursuant to Section 31-18-15 NMSA 1978."

18 SECTION 25. Section 60-1A-28 NMSA 1978 (being Laws 2007,
19 Chapter 39, Section 28, as amended) is amended to read:

20 "60-1A-28. AFFECTING SPEED OR STAMINA OF A RACEHORSE--
21 PENALTIES.--

22 A. A person administering, attempting to administer
23 or conspiring with others to administer to a racehorse a drug,
24 chemical, stimulant or depressant or other performance-altering
25 substance defined as a class 1 or class 2 penalty class A drug

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1 by the association of racing commissioners international,
2 incorporated, or a successor organization or, if none, by
3 another nationally recognized organization that has published
4 substantially similar guidelines that are generally accepted in
5 the horse racing industry as determined by the [~~commission~~]
6 department whether internally, externally or by injection for
7 the purpose of stimulating or depressing the racehorse or
8 affecting the speed or stamina of the racehorse during a horse
9 race or workout is guilty of a fourth degree felony and upon
10 conviction shall be sentenced pursuant to Section 31-18-15 NMSA
11 1978.

12 B. A person who uses, attempts to use or conspires
13 with others to use during a horse race or workout an
14 electrically or mechanically prohibited device, implement or
15 instrument, other than a [~~commission-approved~~] department-
16 approved riding crop, is guilty of a fourth degree felony and
17 upon conviction shall be sentenced pursuant to Section 31-18-15
18 NMSA 1978.

19 C. A person who sponges the nostrils or trachea of
20 a racehorse or who uses anything to injure a racehorse for the
21 purpose of stimulating or depressing the racehorse or affecting
22 the speed or stamina of the racehorse during a horse race or
23 workout is guilty of a fourth degree felony and upon conviction
24 shall be sentenced pursuant to Section 31-18-15 NMSA 1978.

25 D. It is prima facie evidence of intent to commit

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1 any of the crimes set forth:

2 (1) in Subsection A of this section for a
3 person to be found within the racing grounds of a racetrack
4 licensee, including the stands, stables, sheds or other areas
5 where racehorses are kept, who possesses with the intent to
6 use, sell, give away or otherwise transfer to another person a
7 drug, chemical, stimulant or depressant or other performance-
8 altering substance defined as a class 1 or class 2 penalty
9 class A drug by the association of racing commissioners
10 international, incorporated, or a successor organization or, if
11 none, by another nationally recognized organization that has
12 published substantially similar guidelines that are generally
13 accepted in the horse racing industry as determined by the
14 [~~commission~~] department, to stimulate or depress a racehorse or
15 to affect the speed or stamina of a racehorse;

16 (2) in Subsection B of this section for a
17 person to be found within the racing grounds of a racetrack
18 licensee, including the stands, stables, sheds or other areas
19 where racehorses are kept, who possesses with the intent to
20 use, sell, give away or otherwise transfer to another person an
21 electrically or mechanically prohibited device, implement or
22 instrument, other than a [~~commission-approved~~] department-
23 approved riding crop; and

24 (3) in Subsection C of this section for a
25 person to be found within the racing grounds of a racetrack

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1 licensee, including the stands, stables, sheds or other areas
2 where racehorses are kept, who possesses with the intent to
3 use, sell, give away or otherwise transfer to another person
4 paraphernalia or substances used to sponge the nostrils or
5 trachea of a racehorse or that may be used to injure a
6 racehorse for the purpose of stimulating or depressing the
7 racehorse or affecting its speed or stamina during a horse race
8 or workout."

9 SECTION 26. Section 60-1A-28.1 NMSA 1978 (being Laws
10 2014, Chapter 6, Section 1) is amended to read:

11 "60-1A-28.1. RACETRACK LICENSEES--POWER TO EJECT OR
12 EXCLUDE.--

13 A. A racetrack licensee may eject or exclude from
14 the association grounds any person whose occupational license
15 has been suspended or revoked by the [~~commission~~] department
16 for administering a performance-altering substance as provided
17 in Subsection A of Section 60-1A-28 NMSA 1978.

18 B. Nothing in this section shall be construed to
19 limit a racetrack licensee's power to eject or exclude a person
20 from the association grounds for any other lawful reason.

21 C. For the purposes of this section, "association
22 grounds" means all real property used during a race meeting by
23 a person holding a license from the [~~commission~~] department to
24 conduct racing with pari-mutuel wagering, including the
25 racetrack, grandstand, casino, concession stands, offices,

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1 barns, stable area, employee housing facilities and parking
2 lots."

3 SECTION 27. Section 60-1A-30 NMSA 1978 (being Laws 2007,
4 Chapter 39, Section 33) is amended to read:

5 "60-1A-30. TEMPORARY PROVISIONS.--

6 ~~[A. Members of the state racing commission who are~~
7 ~~on the commission on June 30, 2007 shall remain on the state~~
8 ~~racing commission and complete the terms to which they were~~
9 ~~appointed, or if the member's term expires on June 30, 2007,~~
10 ~~until a replacement is appointed.~~

11 ~~B. all]~~ A. On July 1, 2024, all functions,
12 appropriations, money, personnel, records, equipment, supplies
13 and other property of the state racing commission [on June 30,
14 2007 shall remain the personnel, records, equipment, supplies
15 and property of the state racing commission created in this
16 2007 act.

17 ~~C. Appropriations to and]~~ shall be transferred to
18 the regulation and licensing department for the regulation of
19 horse racing and the purposes of the Horse Racing Act.

20 B. Money held by or for the state racing commission
21 that does not revert to the general fund or another fund on
22 June 30, [2007] 2024 shall continue on July 1, [2007] 2024 to
23 be held by [or] the regulation and licensing department for the
24 [state racing commission created in this 2007 act] regulation
25 of horse racing and the purposes of the Horse Racing Act.

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1 C. On July 1, 2024, all agreements and contractual
2 obligations of the state racing commission shall be binding on
3 the regulation and licensing department.

4 D. On July 1, 2024, references in the law to the
5 state racing commission shall be construed as references to the
6 regulation and licensing department as to its regulation of
7 horse racing and the purposes of the Horse Racing Act.

8 E. The rules of the state racing commission shall
9 be the rules of the regulation and licensing department as to
10 its regulation of horse racing and the purposes of the Horse
11 Racing Act until the department amends or repeals the rules."

12 SECTION 28. REPEAL.--Sections 60-1A-3 and 60-1A-29 NMSA
13 1978 (being Laws 2007, Chapter 39, Sections 3 and 29, as
14 amended) are repealed.

15 SECTION 29. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2024.