



New Mexico State Legislature

STATE CAPITOL
Santa Fe

February 13, 2014

The Honorable Gary K. King
Attorney General of the State of New Mexico
P.O. Drawer 1508
Santa Fe, NM 87504-1508

Dear Attorney General King:

We are writing to formally request you to expand your investigation of The Downs Racetrack and Casino (The Downs) in Albuquerque based on new testimony heard in the Second Session of the Fifty-First Legislature.

On Monday, February 10, 2014, the Senate Rules Committee hosted an informational briefing on issues relating to the New Mexico State Fair and The Downs.

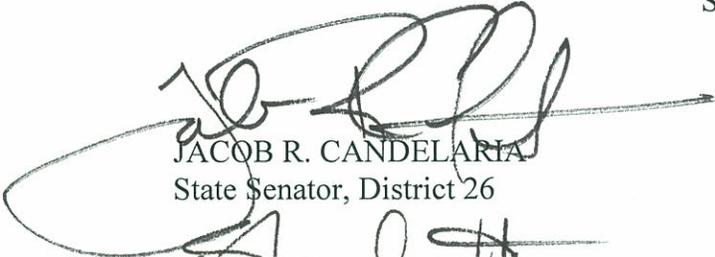
The committee heard testimony from two former and one current governor-appointed state fair commissioners, Tom Tinnin, Charlotte Rode and Kenneth Smith. Each spoke to possible wrongdoing in the handling of the lease currently held by The Downs. We ask that you investigate the following issues that arose during the hearing:

- whether the administration violated the Procurement Code when it hand-picked the request for proposals (RFP) selection committee;
- whether commissioners were intimidated by the governor to approve the lease;
- who actually wrote the RFP and whether the way it was developed violated any statutes or rules for developing an RFP;
- whether an RFP developed without a formal determination of the fair market value of state assets meets the minimum requirements for determining values for state leases;
- whether the 30-day window to respond to the RFP was unreasonably short;
- whether it was appropriate to simultaneously negotiate the lease while evaluating The Downs proposal;
- whether it was appropriate to make adjustments for only one bidder to The Downs lease after the RFP submission deadline but before the submission scoring period;

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- whether there was direct communication between the governor's staff and commissioners voting on the lease;
- why leased assets, such as the horse barns, were shifted from The Downs to the state, and did the state receive fair market value for such an adjustment;
- whether non-market-based rental rate pricing is appropriate;
- whether it was appropriate for The Downs to write the lease agreement rather than the state writing it;
- whether non-state employees were authorized to conduct business on behalf of the state;
- whether state employees conducted business with political contributors or their agents; and
- whether The Downs has breached its contract with the state because: it has not paid an approximate \$2 million debt it owes to the state; it has not shared the revenue it is required to share with the state; it has not remodeled the grandstands or added required green space; and it has not notified the state of these contract violations.

Sincerely,



JACOB R. CANDELARIA
State Senator, District 26



STEPHANIE GARCIA RICHARD
State Representative, District 43



EMILY KANE
State Representative, District 15



LINDA M. LOPEZ
State Senator, District 11



BRIAN F. EGOLF, JR.
State Representative, District 47



DANIEL A. IVEY-SOTO
State Senator, District 15

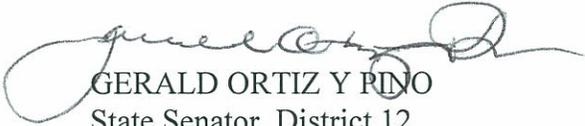


TIMOTHY M. KELLER
State Senator, District 17



HOWIE C. MORALES
State Senator, District 28

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GERALD ORTIZ Y PINO
State Senator, District 12



JEFF STEINBORN
State Senator, District 35

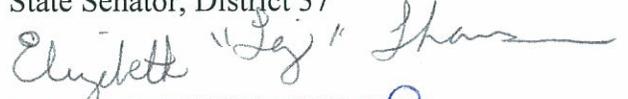


JIM R. TRUJILLO
State Representative, District 45

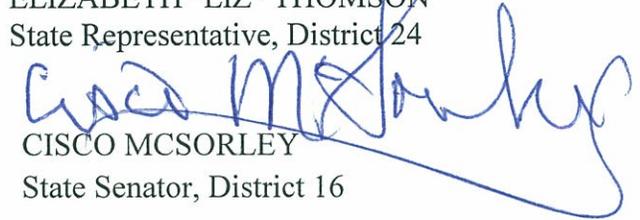
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WILLIAM P. SOULES
State Senator, District 37



ELIZABETH "LIZ" THOMSON
State Representative, District 24



CISCO MCSORLEY
State Senator, District 16