

1 SENATE BILL 240

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Phil A. Griego

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10 AN ACT

11 RELATING TO TAXATION; CREATING THE LIVE HORSE RACE GAMING TAX
12 CREDIT.

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

15 SECTION 1. A new section of the Gaming Control Act is
16 enacted to read:

17 "[NEW MATERIAL] LIVE HORSE RACE GAMING TAX CREDIT.--

18 A. Beginning on January 1, 2016, a taxpayer that is
19 a gaming operator licensee that is a racetrack may claim, and
20 the taxation and revenue department may allow, a tax credit
21 against the taxpayer's gaming tax liability pursuant to Section
22 60-2E-47 NMSA 1978, subject to the limitations of this section.
23 The tax credit provided by this section may be referred to as
24 the "live horse race gaming tax credit".

25 B. The purpose of the live horse race gaming tax

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1 credit is to help offset the expense of live horse racing in
2 New Mexico.

3 C. The live horse race gaming tax credit shall not
4 exceed:

5 (1) twelve thousand five hundred dollars
6 (\$12,500) for each day that a live horse race is conducted at
7 the licensee's premises during a fiscal year; provided that the
8 gaming operator licensee paid gaming tax in an amount equal to
9 ten million dollars (\$10,000,000) or less in the fiscal year
10 immediately prior to the fiscal year in which the taxpayer
11 claims the tax credit; or

12 (2) seven thousand five hundred dollars
13 (\$7,500) for each day that a live horse race is conducted at
14 the licensee's premises during a fiscal year; provided that the
15 gaming operator licensee paid gaming tax in an amount equal to
16 more than ten million dollars (\$10,000,000) in the fiscal year
17 immediately prior to the fiscal year in which the taxpayer
18 claims the tax credit.

19 D. The aggregate amount of live horse race gaming
20 tax credits provided pursuant to this section that the taxation
21 and revenue department may allow in a fiscal year shall not
22 exceed three million dollars (\$3,000,000). If the aggregate
23 amount of live horse race gaming tax credits claimed exceeds
24 the limitation in this subsection, the available amount of tax
25 credits shall be prorated among the taxpayers eligible for the

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1 live horse race gaming tax credit in that fiscal year. The
2 maximum tax credit amount an individual taxpayer may claim
3 shall not exceed seventy-five percent of the gaming tax
4 liability due from that taxpayer in that fiscal year.

5 E. The live horse race gaming tax credit may be
6 claimed on a monthly basis against the gaming tax remitted to
7 the state on a form provided by the taxation and revenue
8 department. The tax credit claimed each month shall not exceed
9 seventy-five percent of the taxpayer's monthly gaming tax
10 liability. Any additional tax credit that may be allowed may
11 be carried forward to any month of the fiscal year in which the
12 taxpayer claims the tax credit; provided that the maximum tax
13 credit amount an individual taxpayer may claim shall not exceed
14 seventy-five percent of the gaming tax liability due from that
15 taxpayer in the fiscal year.

16 F. To be eligible for the live horse race gaming
17 tax credit, the taxpayer shall, in the fiscal year prior to the
18 fiscal year for which the tax credit is claimed, conduct no
19 fewer days of live horse racing than were conducted in fiscal
20 year 2014, as determined by the state racing commission, unless
21 the taxpayer receives approval from the state racing commission
22 for the taxpayer to vary the minimum number of live horse
23 racing days.

24 G. The state racing commission shall certify the
25 eligibility of a taxpayer for purposes of obtaining a live

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1 horse race gaming tax credit and shall promulgate rules
2 establishing procedures for certification. The rules shall
3 ensure compliance with the provisions of this section. The
4 state racing commission shall issue a dated certificate of
5 eligibility containing the identifying information of the
6 taxpayer that qualifies for the live horse race gaming tax
7 credit. All certificates of eligibility issued pursuant to
8 this subsection shall be sequentially numbered, and an account
9 of all certificates issued or destroyed shall be maintained by
10 the state racing commission. The taxation and revenue
11 department shall audit the records of the live horse race
12 gaming tax credit maintained by the state racing commission on
13 a periodic basis to ensure effective administration of the tax
14 credit and compliance with the Tax Administration Act and the
15 provisions of this section.

16 H. The taxpayer shall report to the state racing
17 commission the number of live horse racing days conducted in a
18 fiscal year and the increase from a prior fiscal year, the
19 number of New Mexico breed races held and the number of New
20 Mexico-bred horses that raced at the licensee's premises and
21 any other information that the state racing commission requires
22 to determine the eligibility of the taxpayer and the
23 effectiveness of the live horse race gaming tax credit.

24 I. To claim a live horse race gaming tax credit,
25 the taxpayer shall provide to the taxation and revenue

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1 department the certificate of eligibility issued by the state
2 racing commission to the taxpayer pursuant to Subsection G of
3 this section.

4 J. A taxpayer allowed a tax credit pursuant to this
5 section shall report the amount of the tax credit to the
6 taxation and revenue department in a manner required by the
7 department.

8 K. The taxation and revenue department, with the
9 cooperation of the state racing commission, shall compile an
10 annual report on the live horse race gaming tax credit that
11 shall include the number of taxpayers approved by the
12 department to receive the tax credit, the aggregate amount of
13 tax credits approved and any other information necessary to
14 evaluate the effectiveness of the tax credit. Beginning in
15 2017, the taxation and revenue department shall compile and
16 present the annual reports to the revenue stabilization and tax
17 policy committee and the legislative finance committee with an
18 analysis of the effectiveness and cost of the tax credit and
19 whether the tax credit is performing the purposes for which it
20 was created.

21 L. The live horse race gaming tax credit shall be
22 administered by the taxation and revenue department pursuant to
23 the Tax Administration Act."

24 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
25 provisions of this act is January 1, 2016.

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