

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR  
2 SENATE BILL 406

3 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

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10 AN ACT

11 RELATING TO HORSE RACING; RENAMING THE RACEHORSE TESTING FUND  
12 THE RACEHORSE TESTING AND ENFORCEMENT FUND AND PROVIDING  
13 ADDITIONAL PURPOSES OF THE FUND; REMITTING A PORTION OF CERTAIN  
14 RACETRACKS' NET TAKE TO THE RACEHORSE TESTING AND ENFORCEMENT  
15 FUND.

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 60-1A-14.1 NMSA 1978 (being Laws 2013,  
19 Chapter 102, Section 1) is amended to read:

20 "60-1A-14.1. RACEHORSE TESTING AND ENFORCEMENT FUND--  
21 CREATED--PURPOSE.--

22 A. The "racehorse testing and enforcement fund" is  
23 created in the state treasury. The purpose of the fund is to:

24 (1) ensure the testing of racehorses at a  
25 laboratory that meets or exceeds the current national

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1 laboratory standards for the testing of drugs or other foreign  
2 substances not naturally occurring in a horse, as established  
3 by the association of racing commissioners international,  
4 incorporated; and

5 (2) provide additional resources to the  
6 commission to enforce the requirements and prohibitions of the  
7 Horse Racing Act and commission rules.

8 B. The fund consists of:

9 (1) one-half of the daily capital outlay tax  
10 appropriated and transferred pursuant to Paragraph (4) of  
11 Subsection A of Section 60-1A-20 NMSA 1978;

12 (2) two-tenths percent of the net take of a  
13 gaming operator licensee that is a racetrack remitted and  
14 deposited pursuant to Paragraph (2) of Subsection E of Section  
15 60-2E-47 NMSA 1978; and

16 (3) appropriations, gifts, grants and  
17 donations made to the fund.

18 C. Income from investment of the fund shall be  
19 credited to the fund.

20 D. The commission shall administer the racehorse  
21 testing and enforcement fund, and money in the fund is  
22 appropriated to the commission:

23 (1) for the handling and testing of blood  
24 serum plasma, urine or other appropriate test samples taken  
25 from racehorses pursuant to Section 60-1A-14 NMSA 1978; and

1                   (2) to offset enforcement costs.

2                   E. Any unexpended or unencumbered balance remaining  
 3 in the racehorse testing and enforcement fund at the end of a  
 4 fiscal year in excess of [~~six hundred thousand dollars~~  
 5 ~~(\$600,000)~~] one million dollars (\$1,000,000) shall revert to  
 6 the general fund.

7                   F. Expenditures from the fund shall be made on  
 8 warrant of the secretary of finance and administration pursuant  
 9 to vouchers signed by the executive director of the  
 10 commission."

11                   **SECTION 2.** Section 60-1A-20 NMSA 1978 (being Laws 2007,  
 12 Chapter 39, Section 20, as amended) is amended to read:

13                   "60-1A-20. DAILY CAPITAL OUTLAY TAX--CAPITAL OUTLAY  
 14 OFFSET--STATE FAIR COMMISSION DISTRIBUTION--DAILY LICENSE  
 15 FEES.--

16                   A. A "daily capital outlay tax" of two and three-  
 17 sixteenths percent is imposed on the gross amount wagered each  
 18 day at a racetrack where horse racing is conducted on the  
 19 premises of a racetrack licensee and also on the gross amount  
 20 wagered each day when a racetrack licensee is engaged in  
 21 simulcasting pursuant to the Horse Racing Act. After deducting  
 22 the amount of offset allowed pursuant to this section, any  
 23 remaining daily capital outlay tax shall be paid by the  
 24 commission to the taxation and revenue department from the  
 25 retainage of a racetrack licensee from on-site wagers made on

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1 the licensed premises of the racetrack licensee for deposit in  
2 the general fund. Of the daily capital outlay tax imposed  
3 pursuant to this subsection:

4 (1) for a class A racetrack licensee, not more  
5 than one-half of the daily capital outlay tax imposed on the  
6 first two hundred fifty thousand dollars (\$250,000) of the  
7 daily handle may be offset by the amount that the class A  
8 racetrack licensee expends for capital improvements or for  
9 long-term financing of capital improvements at the racetrack  
10 licensee's existing facility;

11 (2) for a class B racetrack licensee, not more  
12 than one-half of the daily capital outlay tax imposed on the  
13 first two hundred fifty thousand dollars (\$250,000) of the  
14 daily handle may be offset:

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

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

22 (3) through December 31, 2014, for both class  
23 A and class B racetrack licensees, an amount equal to one-half  
24 of the daily capital outlay tax is appropriated and transferred  
25 to the state fair commission for expenditure on capital

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1 improvements at the state fairgrounds and for expenditure on  
2 debt service on negotiable bonds issued for the state  
3 fairgrounds' capital improvements; and

4 (4) on and after January 1, 2015, for both  
5 class A and class B racetrack licensees, an amount equal to  
6 one-half of the daily capital outlay tax is appropriated and  
7 transferred to the racehorse testing and enforcement fund.

8 B. An additional daily license fee of five hundred  
9 dollars (\$500) shall be paid to the commission by the racetrack  
10 licensee for each day of live racing on the premises of the  
11 racetrack licensee.

12 C. Accurate records shall be kept by the racetrack  
13 licensee to show gross amounts wagered, retainage, breakage and  
14 amounts received from interstate common pools and distributions  
15 from gross amounts wagered, retainage, breakage and amounts  
16 received from interstate common pools, as well as other  
17 information the commission may require. Records shall be open  
18 to inspection and shall be audited by the commission, its  
19 authorized representatives or an independent auditor selected  
20 by the commission. The commission may prescribe the method in  
21 which records shall be maintained. A racetrack licensee shall  
22 keep records that are accurate, legible and easy to understand.

23 D. Notwithstanding any other provision of law,  
24 a political subdivision of the state shall not impose an  
25 occupational tax on a horse racetrack owned or operated by a

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1 racetrack licensee. A political subdivision of the state shall  
2 not impose an excise tax on a horse racetrack owned or operated  
3 by a racetrack licensee. Local option gross receipts taxes  
4 authorized by the state may be imposed to the extent authorized  
5 and imposed by a subdivision of the state on a horse racetrack  
6 owned or operated by a racetrack licensee."

7 SECTION 3. Section 60-2E-47 NMSA 1978 (being Laws 1997,  
8 Chapter 190, Section 49, as amended) is amended to read:

9 "60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--

10 A. An excise tax is imposed on the privilege of  
11 engaging in gaming activities in the state. This tax shall be  
12 known as the "gaming tax".

13 B. The gaming tax is an amount equal to ten percent  
14 of the gross receipts of manufacturer licensees from the sale,  
15 lease or other transfer of gaming devices in or into the state,  
16 except receipts of a manufacturer from the sale, lease or other  
17 transfer to a licensed distributor for subsequent sale or lease  
18 may be excluded from gross receipts; ten percent of the gross  
19 receipts of distributor licensees from the sale, lease or other  
20 transfer of gaming devices in or into the state; ten percent of  
21 the net take of a gaming operator licensee that is a nonprofit  
22 organization; and twenty-six percent of the net take of every  
23 other gaming operator licensee. For the purposes of this  
24 section, "gross receipts" means the total amount of money or  
25 the value of other consideration received from selling, leasing

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1 or otherwise transferring gaming devices.

2 C. The gaming tax imposed on a licensee is in lieu  
3 of all state and local gross receipts taxes on that portion of  
4 the licensee's gross receipts attributable to gaming  
5 activities.

6 D. The gaming tax is to be paid on or before the  
7 fifteenth day of the month following the month in which the  
8 taxable event occurs. The gaming tax shall be administered and  
9 collected by the taxation and revenue department in cooperation  
10 with the board. The provisions of the Tax Administration Act  
11 apply to the collection and administration of the tax.

12 E. In addition to the gaming tax, a gaming operator  
13 licensee that is a racetrack shall:

14 (1) pay ~~[twenty]~~ nineteen and eight-tenths  
15 percent of its net take to purses to be distributed in  
16 accordance with rules adopted by the state racing commission.  
17 An amount not to exceed twenty percent of the interest earned  
18 on the balance of any fund consisting of money for purses  
19 distributed by racetrack gaming operator licensees pursuant to  
20 this ~~[subsection]~~ paragraph may be expended for the costs of  
21 administering the distributions; and

22 (2) remit two-tenths percent of its net take  
23 to the taxation and revenue department for deposit in the  
24 racehorse testing and enforcement fund.

25 F. A racetrack gaming operator licensee shall spend

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1 no less than one-fourth percent of the net take of its gaming  
2 machines to fund or support programs for the treatment and  
3 assistance of compulsive gamblers.

4 ~~[F-]~~ G. A nonprofit gaming operator licensee shall  
5 distribute at least sixty percent of the balance of its net  
6 take, after payment of the gaming tax and any income taxes,  
7 for charitable or educational purposes."

8 **SECTION 4. TEMPORARY PROVISION--FUND NAME CHANGE.--**The  
9 racehorse testing and enforcement fund is the new name for the  
10 racehorse testing fund and is not a new fund created by this  
11 act.

12 **SECTION 5. EFFECTIVE DATE.--**The effective date of the  
13 provisions of this act is July 1, 2015.

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