

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 265

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO TAXATION; PROVIDING FOR A CREDIT AGAINST THE GAMING
TAX TO OFFSET THE EXPENSE OF LIVE HORSE RACES.

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

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

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

A. Beginning on July 1, 2014 and prior to July 1,
2017, a taxpayer that is a gaming operator licensee that is a
racetrack may claim, and the taxation and revenue department
may allow subject to the limitations pursuant to Subsection C
of this section, a tax credit in an amount not to exceed:

(1) twelve thousand five hundred dollars
(\$12,500) for each day that a live horse race is conducted at
the licensee's premises during a fiscal year; provided that the

1 gaming operator licensee paid gaming tax in an amount equal to
2 ten million dollars (\$10,000,000) or less in the fiscal year
3 immediately prior to the fiscal year in which the taxpayer
4 claims the tax credit; or

5 (2) seven thousand five hundred dollars
6 (\$7,500) 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 more than ten million dollars (\$10,000,000) in the fiscal year
10 immediately prior to the fiscal year in which the taxpayer
11 claims the tax credit.

12 B. The tax credit that may be claimed pursuant to
13 this section may be referred to as the "live horse race gaming
14 tax credit".

15 C. The aggregate amount of live horse race gaming
16 tax credits provided pursuant to this section that the taxation
17 and revenue department may allow in a fiscal year shall not
18 exceed three million dollars (\$3,000,000). If the aggregate
19 amount of live horse race gaming tax credits claimed exceeds
20 the limitation in this subsection, the available amount of tax
21 credits shall be prorated among the taxpayers eligible for the
22 live horse race gaming tax credit in that fiscal year. The
23 maximum tax credit amount an individual taxpayer may claim
24 shall not exceed seventy-five percent of the gaming tax
25 liability due from that taxpayer in that fiscal year.

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1 D. Subject to the provisions of this section, the
2 tax credit provided for in this section may be claimed on a
3 monthly basis against the gaming tax remitted to the state on a
4 form provided by the taxation and revenue department. The tax
5 credit claimed each month shall not exceed the lesser of
6 one-twelfth of seventy-five percent of the gaming tax paid in
7 the prior fiscal year or seventy-five percent of the taxpayer's
8 monthly gaming tax liability pursuant to Section 60-2E-47 NMSA
9 1978. Any additional tax credit that may be allowed may be
10 claimed in the last month of the fiscal year.

11 E. The purpose of the live horse race gaming tax
12 credit is to offset the expense of each day that live horse
13 racing is conducted at the premises of a gaming operator
14 licensee that is a racetrack and to promote live horse racing
15 days in New Mexico.

16 F. To be eligible for the live horse race gaming
17 tax credit, a gaming operator licensee that is a racetrack
18 shall:

19 (1) conduct at least one more day of live
20 horse racing and at least one more quarter horse race in the
21 current fiscal year for which the tax credit is being claimed
22 than in the fiscal year immediately prior to the fiscal year in
23 which the tax credit is being claimed; provided that if the
24 gaming operator licensee claimed a tax credit and was denied
25 the credit, the licensee shall only be required to conduct one

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1 more day of live horse racing and one more quarter horse race
2 than in the most recent fiscal year in which a tax credit was
3 claimed and approved or than in the fiscal year in which the
4 gaming operator licensee first claimed a live horse race gaming
5 tax credit, whichever is most recent; or

6 (2) conduct at least five more days of live
7 horse racing and at least five more quarter horse races in the
8 current fiscal year for which the tax credit is being claimed
9 than in the fiscal year immediately prior to the fiscal year in
10 which the gaming operator licensee first claimed and was
11 approved a live horse race gaming tax credit.

12 G. The state racing commission shall certify the
13 eligibility of a gaming operator licensee that is a racetrack
14 for purposes of obtaining a live horse race gaming tax credit
15 and shall promulgate rules establishing procedures for
16 certification. The rules shall ensure compliance with the
17 provisions of Subsection C of this section and that a taxpayer
18 shall not be eligible for the live horse racing gaming tax
19 credit if during any fiscal year the taxpayer conducts fewer
20 days of live horse racing than the taxpayer conducted during
21 the fiscal year in which the taxpayer first claimed a live
22 horse race gaming tax credit. The state racing commission
23 shall issue a dated certificate of eligibility containing the
24 identifying information of the taxpayer that qualifies for the
25 live horse race gaming tax credit. All certificates of

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1 eligibility issued pursuant to this subsection shall be
2 sequentially numbered, and an account of all certificates
3 issued or destroyed shall be maintained by the state racing
4 commission. The taxation and revenue department shall audit
5 the records of the live horse race gaming tax credit maintained
6 by the state racing commission on a periodic basis to ensure
7 effective administration of the tax credit and compliance with
8 the Tax Administration Act and the provisions of this section.

9 H. To claim a live horse race gaming tax credit,
10 the taxpayer shall provide to the taxation and revenue
11 department the certificate of eligibility issued by the state
12 racing commission to the taxpayer pursuant to this section.

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

21 J. The taxation and revenue department, with the
22 cooperation of the state racing commission, shall compile an
23 annual report on the live horse race gaming tax credit created
24 pursuant to this section that shall include the number of
25 taxpayers approved by the department to receive the tax credit,

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1 the aggregate amount of tax credits approved and any other
2 information necessary to evaluate the effectiveness of the tax
3 credit. In 2016, the taxation and revenue department shall
4 compile and present the annual reports to the revenue
5 stabilization and tax policy committee and the legislative
6 finance committee with an analysis of the effectiveness and
7 cost of the tax credit and whether the tax credit is performing
8 the purpose for which it was created.

9 K. The live horse race gaming tax credit shall be
10 administered by the taxation and revenue department pursuant to
11 the Tax Administration Act."

12 SECTION 2. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2013.