

1 AN ACT

2 RELATING TO HORSE RACING; CREATING THE RACEHORSE TESTING  
3 FUND; PROVIDING A NATIONAL STANDARD FOR RACEHORSE TESTING;  
4 DEDICATING A PORTION OF THE DAILY CAPITAL OUTLAY TAX TO TEST  
5 RACEHORSES; MAKING AN APPROPRIATION.

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

8 SECTION 1. A new section of the Horse Racing Act is  
9 enacted to read:

10 "RACEHORSE TESTING FUND--CREATED--PURPOSE.--The  
11 "racehorse testing fund" is created in the state treasury.  
12 The purpose of the fund is to ensure the testing of  
13 racehorses at a laboratory that meets or exceeds the current  
14 national laboratory standards for the testing of drugs or  
15 other foreign substances not naturally occurring in a horse,  
16 as established by the association of racing commissioners  
17 international, incorporated. The fund consists of one-half  
18 of the daily capital outlay tax appropriated and transferred  
19 pursuant to Paragraph (4) of Subsection A of Section 60-1A-20  
20 NMSA 1978 and appropriations, gifts, grants and donations  
21 made to the fund. Income from investment of the fund shall  
22 be credited to the fund. The commission shall administer the  
23 racehorse testing fund, and money in the fund is appropriated  
24 to the commission for the handling and testing of blood serum  
25 plasma, urine or other appropriate test samples taken from

1 racehorses pursuant to Section 60-1A-14 NMSA 1978. Any  
2 unexpended or unencumbered balance remaining in the racehorse  
3 testing fund at the end of a fiscal year in excess of six  
4 hundred thousand dollars (\$600,000) shall revert to the  
5 general fund. Expenditures from the fund shall be made on  
6 warrant of the secretary of finance and administration  
7 pursuant to vouchers signed by the executive director of the  
8 commission."

9 SECTION 2. Section 60-1A-14 NMSA 1978 (being Laws 2007,  
10 Chapter 39, Section 14) is amended to read:

11 "60-1A-14. TESTING SPECIMENS.--

12 A. The commission shall adopt rules applying to  
13 the handling of pre- and post-race, out-of-competition and  
14 necropsy testing of both blood serum plasma and urine as well  
15 as other appropriate samples identified by the commission to  
16 be taken from racehorses.

17 B. Each specimen taken from a racehorse shall be  
18 divided into two or more equal samples, and:

19 (1) one sample shall be tested by the  
20 commission or its designated laboratory in order to detect  
21 the presence of unauthorized drugs, chemicals, stimulants,  
22 depressants or other foreign substances as defined by the  
23 association of racing commissioners international,  
24 incorporated, classification guidelines as class 1 or  
25 class 2, penalty class A drugs; and

1                   (2) the second sample shall be forwarded by  
2 the commission to the scientific laboratory division of the  
3 department of health.

4                   C. After an inconclusive or positive test result  
5 on the sample tested by the commission or its designated  
6 laboratory and upon a written request from the president,  
7 executive director or manager of the New Mexico horsemen's  
8 association on forms designated by the commission, the  
9 scientific laboratory division shall transmit the  
10 corresponding second sample to the New Mexico horsemen's  
11 association.

12                  D. The scientific laboratory division shall keep  
13 all samples in a controlled environment for a period of at  
14 least three months.

15                  E. The commission shall contract with an  
16 independent laboratory to maintain a quality assurance  
17 program. The designated laboratory of the commission shall  
18 meet or exceed the current national laboratory standards for  
19 the testing of drugs or other foreign substances in a horse,  
20 as established by the association of racing commissioners  
21 international, incorporated."

22                  SECTION 3. Section 60-1A-20 NMSA 1978 (being Laws 2007,  
23 Chapter 39, Section 20, as amended) is amended to read:

24                  "60-1A-20. DAILY CAPITAL OUTLAY TAX--CAPITAL OUTLAY  
25 OFFSET--STATE FAIR COMMISSION DISTRIBUTION--DAILY LICENSE

1 FEES.--

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

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

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

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

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

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

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

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

23 C. Accurate records shall be kept by the racetrack  
24 licensee to show gross amounts wagered, retainage, breakage  
25 and amounts received from interstate common pools and

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

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

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