

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 265

3 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

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10 AN ACT

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

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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 July 1, 2014 and prior to July 1,
19 2020, a taxpayer that is a gaming operator licensee that is a
20 racetrack may claim, and the taxation and revenue department
21 may allow, a tax credit in an amount equal to twenty thousand
22 dollars (\$20,000) for each day that a live horse race is
23 conducted at the licensee's premises during a fiscal year;
24 provided that the maximum credit amount shall not exceed
25 seventy-five percent of the gaming tax liability due from the

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underscored material = new
[bracketed material] = delete

1 taxpayer in the fiscal year.

2 B. The tax credit that may be claimed pursuant to
3 this section may be referred to as the "live horse race gaming
4 tax credit".

5 C. Subject to the provisions of Subsection A of
6 this section, the credit provided for in this section may be
7 claimed on a monthly basis against the gaming tax remitted to
8 the state on a form provided by the taxation and revenue
9 department. The credit claimed each month shall not exceed the
10 lesser of one-twelfth of seventy-five percent of the gaming tax
11 paid in the prior fiscal year or seventy-five percent of the
12 taxpayer's monthly gaming tax liability pursuant to Section
13 60-2E-47 NMSA 1978. Any additional credit that may be allowed
14 may be claimed in the last month of the fiscal year.

15 D. The purpose of the live horse race gaming tax
16 credit is to offset the expense of each day that live horse
17 racing is conducted at the premises of a gaming operator
18 licensee that is a racetrack and to promote live horse racing
19 days in New Mexico.

20 E. To be eligible for the live horse race gaming
21 tax credit, a gaming operator licensee that is a racetrack
22 shall:

23 (1) conduct at least one more day of live
24 horse racing in the current fiscal year for which the credit is
25 being claimed than in the fiscal year immediately prior to the

.191974.2

1 fiscal year in which the credit is being claimed; provided that
2 if the gaming operator licensee claimed a credit and was denied
3 the credit, the licensee shall only be required to conduct one
4 more day of live horse racing than in the most recent fiscal
5 year in which a credit was claimed and approved or than in the
6 fiscal year in which the gaming operator licensee first claimed
7 a live horse race gaming tax credit, whichever is most recent;
8 or

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

14 F. The state racing commission shall certify the
15 eligibility of a gaming operator licensee that is a racetrack
16 for purposes of obtaining a live horse race gaming tax credit
17 and shall adopt rules establishing procedures for
18 certification. The state racing commission shall issue a dated
19 certificate of eligibility containing the identifying
20 information of the taxpayer that qualifies for the live horse
21 race gaming tax credit. All certificates of eligibility issued
22 pursuant to this subsection shall be sequentially numbered, and
23 an account of all certificates issued or destroyed shall be
24 maintained by the state racing commission. The taxation and
25 revenue department shall audit the records of the live horse

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1 race gaming tax credit maintained by the state racing
2 commission on a periodic basis to ensure effective
3 administration of the tax credit and compliance with the Tax
4 Administration Act and this section.

5 G. To claim a live horse race gaming tax credit,
6 the taxpayer shall provide to the taxation and revenue
7 department the certificate of eligibility issued by the state
8 racing commission to the taxpayer pursuant to this section.

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

17 I. The taxation and revenue department, with the
18 cooperation of the state racing commission, shall compile an
19 annual report on the live horse race gaming tax credit created
20 pursuant to this section that shall include the number of
21 taxpayers approved by the department to receive the tax credit,
22 the aggregate amount of credits approved and any other
23 information necessary to evaluate the effectiveness of the tax
24 credit. Beginning in 2017 and every three years thereafter,
25 the department shall compile and present the annual reports to

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1 the revenue stabilization and tax policy committee and the
2 legislative finance committee with an analysis of the
3 effectiveness and cost of the tax credit and whether the tax
4 credit is performing the purpose for which it was created.

5 J. The live horse race gaming tax credit shall be
6 administered by the taxation and revenue department pursuant to
7 the Tax Administration Act."

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