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SENATE BILL 406

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

INTRODUCED BY

George K. Munoz

AN ACT

RELATING TO HORSE RACING; RENAMING THE RACEHORSE TESTING FUND
THE RACEHORSE TESTING AND ENFORCEMENT FUND AND PROVIDING
ADDITIONAL PURPOSES OF THE FUND; DISTRIBUTING A PORTION OF THE
MONEY WAGERED ON CERTAIN SIMULCAST HORSE RACES TO THE RACEHORSE
TESTING AND ENFORCEMENT FUND.

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

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

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

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

(1) ensure the testing of racehorses at a
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) one percent of the gross amount wagered on
13 simulcast horse races broadcast to a horse racetrack in New
14 Mexico remitted and deposited pursuant to Subsection F of
15 Section 60-1A-19 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

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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-19 NMSA 1978 (being Laws 2007,
12 Chapter 39, Section 19) is amended to read:

13 "60-1A-19. RETAINAGE--NEW MEXICO HORSE BREEDERS'
14 ASSOCIATION AND NEW MEXICO HORSEMEN'S ASSOCIATION--BREAKAGE--
15 DISTRIBUTION OF RETAINED AMOUNTS.--

16 A. Each racetrack licensee shall notify the
17 commission at least thirty days prior to each race meet of the
18 amount of exotic wager retainage that the racetrack licensee
19 will retain pursuant to Paragraph (1) or (2) of this
20 subsection. There shall be an amount retained by the racetrack
21 licensee equal to:

- 22 (1) for a class A racetrack licensee:
 - 23 (a) nineteen percent of the gross amount
 - 24 wagered on win, place and show, of which: 1) eighteen and
 - 25 three-fourths percent shall be retained by the racetrack

1 licensee; and 2) one-fourth percent shall be remitted to the
2 taxation and revenue department for deposit in the general
3 fund; and

4 (b) not less than twenty-one percent and
5 not greater than twenty-five percent of the gross amount
6 wagered in exotic wagers; and

7 (2) for a class B racetrack licensee:

8 (a) not less than eighteen and three-
9 fourths percent and not greater than twenty-five percent of the
10 gross amount wagered daily on win, place and show; and

11 (b) not less than twenty-one percent and
12 not greater than thirty percent of the gross amount wagered in
13 exotic wagers.

14 B. There shall be retained by a racetrack licensee
15 for allocation to the New Mexico horse breeders' association
16 amounts equal to:

17 (1) five-eighths percent of the gross amount
18 wagered on win, place and show to be allocated weekly to the
19 New Mexico horse breeders' association for further distribution
20 pursuant to the provisions of Subsection D of Section 60-1A-24
21 NMSA 1978; and

22 (2) one and three-eighths percent of the gross
23 amount wagered in exotic wagers to be allocated weekly to the
24 New Mexico horse breeders' association for further distribution
25 pursuant to the provisions of Subsection D of Section 60-1A-24

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1 NMSA 1978.

2 C. The breakage from the gross amount wagered
3 through pari-mutuel wagering shall be retained by the licensee
4 and allocated as follows:

5 (1) fifty percent of the total breakage shall
6 be retained by the racetrack licensee; and

7 (2) fifty percent of the total breakage shall
8 be allocated by the racetrack licensee to enhance the race
9 purses of established stakes races that include only New
10 Mexico-bred horses that are registered with the New Mexico
11 horse breeders' association. The New Mexico horse breeders'
12 association shall distribute the percentage designated to
13 purses pursuant to Subsection D of Section [~~60-1-24~~] 60-1A-24
14 NMSA 1978, subject to the approval of the commission.

15 D. All money resulting from the failure of patrons
16 who purchased winning pari-mutuel tickets during a race meet to
17 redeem their winning tickets before the end of the sixty-day
18 period immediately succeeding the closing day of the race meet
19 or from all money resulting from the failure of patrons who
20 purchased pari-mutuel tickets that were entitled to a refund
21 but were not refunded by the end of the sixty-day period
22 immediately following the race meet shall be apportioned as
23 follows:

24 (1) thirty-three and thirty-three hundredths
25 percent shall be retained by the racetrack licensee;

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1 (2) thirty-three and thirty-four hundredths
2 percent shall be distributed to the New Mexico horse breeders'
3 association to enhance each racetrack licensee's established
4 overnight purses for races that include only horses registered
5 as New Mexico bred pursuant to Paragraph (3) of Subsection D of
6 Section 60-1A-24 NMSA 1978, subject to the approval of the
7 commission; and

8 (3) thirty-three and thirty-three hundredths
9 percent shall be allocated to the New Mexico horsemen's
10 association for purses.

11 E. One-half percent of the gross amount wagered on
12 simulcast horse races broadcast to a horse racetrack in New
13 Mexico shall be distributed by the racetrack licensee to the
14 New Mexico horsemen's association for medical benefits for the
15 members of the New Mexico horsemen's association. The
16 commission shall by rule provide for the timing and manner of
17 the distribution required pursuant to this subsection and shall
18 audit or arrange for an independent audit of the distributions
19 required.

20 F. One percent of the gross amount wagered on
21 simulcast horse races broadcast to a horse racetrack in New
22 Mexico shall be remitted by the racetrack licensee to the
23 taxation and revenue department for deposit in the racehorse
24 testing and enforcement fund.

25 [~~F.~~] G. Amounts to be deducted from the retainage

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1 by the racetrack licensee from any form of wager made on the
2 licensed premises of the racetrack licensee are:

3 (1) the daily pari-mutuel tax imposed by
4 Section 60-1A-18 NMSA 1978;

5 (2) money allocated in this section to the New
6 Mexico horse breeders' association;

7 (3) money allocated by this section to the New
8 Mexico horsemen's association;

9 (4) expenses incurred to engage in intrastate
10 simulcasting pursuant to the Horse Racing Act; provided that
11 the deduction for a racetrack licensee shall be a portion of
12 five percent of the gross amount wagered at all the sites
13 receiving the same simulcast horse races and:

14 (a) the deduction for a racetrack
15 licensee shall be an amount allocated to the racetrack licensee
16 by agreement voluntarily reached between all the racetracks
17 sending or receiving the same simulcast horse races; or

18 (b) the deduction for a racetrack
19 licensee shall be an amount identified by the commission if all
20 the racetracks sending or receiving the same simulcast horse
21 races fail to reach a voluntary agreement on the level at which
22 to set the rate of the deduction for expenses incurred for
23 engaging in intrastate simulcasting; and

24 (5) fees incurred to receive interstate
25 simulcasts pursuant to the Horse Racing Act.

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1 [~~G-~~] H. A racetrack licensee shall allocate to the
2 New Mexico horse breeders' association five percent of the
3 daily retainage on interstate common pools received from a
4 guest state by a racetrack licensee. Of the net retainage from
5 all wagers, after deductions:

6 (1) fifty percent shall be allocated to
7 purses; and

8 (2) fifty percent shall be retained by the
9 racetrack licensee."

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

12 "60-1A-20. DAILY CAPITAL OUTLAY TAX--CAPITAL OUTLAY
13 OFFSET--STATE FAIR COMMISSION DISTRIBUTION--DAILY LICENSE
14 FEES.--

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

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1 the general fund. Of the daily capital outlay tax imposed
2 pursuant to this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

10 SECTION 5. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2015.