

SENATE TAX, BUSINESS AND TRANSPORTATION
COMMITTEE SUBSTITUTE FOR
SENATE BILL 336

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

AN ACT

RELATING TO GAMING CONTROL; ALLOWING THE USE OF RACETRACK FUNDS TO OFFSET THE COSTS OF JOCKEY AND EXERCISE RIDER INSURANCE AND THE COSTS OF COMPLYING WITH FEDERAL LAW; TEMPORARILY DECREASING THE PERCENTAGE OF NET TAKE THAT IS ALLOCATED TO THE GAMING TAX; DIRECTING THE STATE RACING COMMISSION TO REVIEW AND PROVIDE LEGISLATIVE RECOMMENDATIONS ON CHANGES RELATING TO THE USE OF NET TAKE FOR PURSES; DECLARING AN EMERGENCY.

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

SECTION 1. Section 60-2E-47 NMSA 1978 (being Laws 1997, Chapter 190, Section 49, as amended) is amended to read:

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

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

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underscoring material = new
[bracketed material] = delete

1 B. The gaming tax is an amount equal to ten percent
2 of the gross receipts of manufacturer licensees from the sale,
3 lease or other transfer of gaming devices in or into the state,
4 except receipts of a manufacturer from the sale, lease or other
5 transfer to a licensed distributor for subsequent sale or lease
6 may be excluded from gross receipts; ten percent of the gross
7 receipts of distributor licensees from the sale, lease or other
8 transfer of gaming devices in or into the state; ten percent of
9 the net take of a gaming operator licensee that is a nonprofit
10 organization; and [~~twenty-six~~] twenty-one and four-tenths
11 percent of the net take of every other gaming operator
12 licensee. For the purposes of this section, "gross receipts"
13 means the total amount of money or the value of other
14 consideration received from selling, leasing or otherwise
15 transferring gaming devices.

16 C. The gaming tax imposed on a licensee is in lieu
17 of all state and local gross receipts taxes on that portion of
18 the licensee's gross receipts attributable to gaming
19 activities.

20 D. The gaming tax is to be paid on or before the
21 fifteenth day of the month following the month in which the
22 taxable event occurs. The gaming tax shall be administered and
23 collected by the taxation and revenue department in cooperation
24 with the board. The provisions of the Tax Administration Act
25 apply to the collection and administration of the tax.

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1 E. In addition to the gaming tax, a gaming operator
2 licensee that is a racetrack shall pay:

3 (1) twenty percent of its net take solely to
4 purses [~~to be distributed~~] in accordance with rules adopted by
5 the state racing commission; and

6 (2) four and six-tenths percent of its net
7 take solely to offset the costs of jockey and exercise rider
8 insurance and to comply with federal and state laws affecting
9 horse racing.

10 F. An amount not to exceed twenty percent of the
11 interest earned on the balance of any fund consisting of money
12 for purses distributed by racetrack gaming operator licensees
13 pursuant to this subsection may be expended for the costs of
14 administering the distributions. A racetrack gaming operator
15 licensee shall spend no less than one-fourth percent of the net
16 take of its gaming machines to fund or support programs for the
17 treatment and assistance of compulsive gamblers.

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

22 SECTION 2. Section 60-2E-47 NMSA 1978 (being Laws 1997,
23 Chapter 190, Section 49, as amended) is repealed and a new
24 Section 60-2E-47 NMSA 1978 is enacted to read:

25 "60-2E-47. [NEW MATERIAL] GAMING TAX--IMPOSITION--

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1 ADMINISTRATION.--

2 A. An excise tax is imposed on the privilege of
3 engaging in gaming activities in the state. This tax shall be
4 known as the "gaming tax".

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

19 C. The gaming tax imposed on a licensee is in lieu
20 of all state and local gross receipts taxes on that portion of
21 the licensee's gross receipts attributable to gaming
22 activities.

23 D. The gaming tax is to be paid on or before the
24 fifteenth day of the month following the month in which the
25 taxable event occurs. The gaming tax shall be administered and

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1 collected by the taxation and revenue department in cooperation
 2 with the board. The provisions of the Tax Administration Act
 3 apply to the collection and administration of the tax.

4 E. In addition to the gaming tax, a gaming operator
 5 licensee that is a racetrack shall pay twenty percent of its
 6 net take to purses in accordance with rules adopted by the
 7 state racing commission. An amount not to exceed twenty
 8 percent of the interest earned on the balance of any fund
 9 consisting of money for purses distributed by racetrack gaming
 10 operator licensees pursuant to this subsection may be expended
 11 for the costs of administering the distributions. A racetrack
 12 gaming operator licensee shall spend no less than one-fourth
 13 percent of the net take of its gaming machines to fund or
 14 support programs for the treatment and assistance of compulsive
 15 gamblers.

16 F. A nonprofit gaming operator licensee shall
 17 distribute at least sixty percent of the balance of its net
 18 take, after payment of the gaming tax and any income taxes,
 19 for charitable or educational purposes."

20 SECTION 3. TEMPORARY PROVISION--STATE RACING COMMISSION--
 21 REVIEW EFFECTIVENESS OF USING NET TAKE FOR PURSES TO OFFSET THE
 22 COSTS OF JOCKEY INSURANCE AND TO COMPLY WITH FEDERAL AND STATE
 23 LAWS AFFECTING HORSE RACING.--The state racing commission shall
 24 review the effectiveness of the amendments to Section 60-2E-47
 25 NMSA 1978 enacted in Section 1 of this act and shall, no

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1 earlier than July 1, 2026 and no later than December 1, 2026,
2 provide the conclusions of its review and any legislative
3 recommendations to the interim legislative committees that
4 address taxation and horse racing.

5 SECTION 4. EFFECTIVE DATE.--The effective date of the
6 provisions of Section 2 of this act is July 1, 2027.

7 SECTION 5. EMERGENCY.--It is necessary for the public
8 peace, health and safety that this act take effect immediately.