

1 AN ACT

2 RELATING TO RACETRACKS; DISTRIBUTING A PORTION OF THE  
3 PARI-MUTUEL TAX TO THE STATE FAIR COMMISSION; REDUCING THE  
4 CAPITAL IMPROVEMENTS OFFSET; AUTHORIZING THE STATE FAIR TO  
5 ENTER INTO A LONG-TERM LEASE WITH A RACETRACK LICENSEE.

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

8 Section 1. Section 16-6-15 NMSA 1978 (being Laws 1935,  
9 Chapter 69, Section 3, as amended) is amended to read:

10 "16-6-15. ADDITIONAL POWERS.--In addition to the powers  
11 which it may now have, the New Mexico state fair shall have  
12 power to:

13 A. acquire, by purchase, gift or the exercise of  
14 the right of eminent domain, and hold and dispose of real or  
15 personal property or rights or interests therein except as  
16 limited by Section 13-6-2.1 NMSA 1978, which provisions  
17 requiring state board of finance approval of certain actions  
18 are applicable to the state fair. The right of eminent  
19 domain shall be exercised in the same manner as is provided  
20 for the exercise of such power by the state or any county,  
21 municipality or school district;

22 B. build, construct, improve, repair or maintain  
23 buildings, structures, improvements, grounds and equipment  
24 which may be required by or convenient for the purpose of  
25 operating a state fair;

1           C. enter into a new long-term lease, not to exceed  
2 twenty-five years, for the purpose of providing a lessee that  
3 is a racetrack licensee with the use of buildings and other  
4 facilities on the grounds of the state fair; provided,  
5 however, that a lease entered into pursuant to this  
6 subsection shall contain a provision for termination of the  
7 lease at the end of any calendar year in which there is no  
8 class III tribal gaming being conducted in New Mexico;

9           D. acquire any project and to own, operate and  
10 maintain such project;

11           E. accept grants of money, materials or property  
12 of any kind from a federal agency upon such terms and  
13 conditions as the federal agency may impose;

14           F. borrow money and issue bonds and provide for  
15 the payment of the same and for the rights of the holders  
16 thereof, provided that the commission shall not issue bonds,  
17 negotiate loans or renegotiate loans without the prior  
18 approval of the state board of finance; and

19           G. perform all acts and do all things necessary or  
20 convenient to carry out the powers granted in this article,  
21 or heretofore granted, to obtain loans or grants or both from  
22 any federal agency and to accomplish the purposes of this  
23 article and secure the benefits of the Recovery Act."

24           Section 2. Section 60-1-15 NMSA 1978 (being Laws 1933,  
25 Chapter 55, Section 9, as amended) is amended to read:

1           "60-1-15. TAX LEVIED--CERTAIN LICENSE FEES AND TAXES  
2 PROHIBITED.--

3           A. In addition to the daily tax provided in  
4 Section 60-1-8 NMSA 1978, a tax of two and three-sixteenths  
5 percent is levied on the gross amount wagered each day at  
6 each place where horse racing is conducted by any state fair  
7 association designated by law that in good faith conducts a  
8 public fair and exhibition of stock and farming products or  
9 where horse racing for profit is held. The tax shall be paid  
10 from the commissions of the licensee.

11           B. To encourage the improvement of horse racing  
12 facilities for the benefit of the public, breeders and horse  
13 owners and to increase the revenue to the state from the  
14 increase in pari-mutuel wagering and tourism resulting from  
15 these improvements, not more than one-half of the tax levied  
16 under Subsection A of this section for the first two hundred  
17 fifty thousand dollars (\$250,000) of daily handle only, shall  
18 be offset for class A licensees by the amount that the class  
19 A licensee expends for capital improvements or in financing  
20 term investment in capital improvements at existing racetrack  
21 facilities and for class B licensees by the amount that the  
22 class B licensee expends for capital improvements, not to  
23 exceed fifty percent of the offset amount allowed pursuant to  
24 this subsection, and by the amount the class B licensee  
25 expends for advertising, marketing and promoting horse racing

1 in the state, not to exceed fifty percent of the offset  
2 amount allowed pursuant to this subsection. The offset  
3 provided in this paragraph shall also apply to the daily  
4 handle generated at its facility by a licensee engaged solely  
5 in simulcasting pursuant to Section 60-1-25 NMSA 1978. The  
6 term "capital improvement" means any capital investment in  
7 items that are subject to depreciation under the United  
8 States Internal Revenue Code of 1986 and are approved by the  
9 state racing commission.

10 C. To compensate for the additional municipal  
11 services required by the location of a racetrack within a  
12 municipality, an amount of revenue derived from the tax  
13 levied on such a racetrack under Subsection A of this  
14 section, above the amount offset by capital expenditures and  
15 advertising as provided in Subsection B of this section,  
16 shall be transferred to the municipal treasurer of the  
17 municipality in which the track generating the revenue is  
18 located for expenditure by the municipality in providing  
19 those additional municipal services. The amount to be  
20 transferred shall be determined in accordance with the  
21 provisions of Section 60-1-15.2 NMSA 1978.

22 D. An amount equal to one-half of the tax levied  
23 pursuant to Subsection A of this section is appropriated and  
24 shall be transferred to the state fair commission for  
25 expenditure on capital improvements at the state fairgrounds,

1 other than improvements of the casino, and for expenditure  
2 for debt service on negotiable bonds issued for the capital  
3 improvements.

4 E. Accurate records shall be kept by the licensee  
5 to show all commissions, total gross amounts wagered and  
6 breakage, as well as other information the state racing  
7 commission may require. Records shall be open to inspection  
8 and shall be audited by the commission or any of its  
9 authorized representatives. Should any licensee fail to keep  
10 records accurately and intelligibly, the commission may  
11 prescribe the method in which the licensee shall keep  
12 records.

13 F. All remaining revenues collected as a result of  
14 the tax on the gross amount wagered shall be deposited in the  
15 state general fund.

16 G. Notwithstanding any other provision of law, no  
17 political subdivision of this state may impose any  
18 occupational tax against a racetrack operating under  
19 authority of a license granted by the state racing  
20 commission. No political subdivision may levy an excise tax  
21 against any racetrack operating under authority of a license  
22 granted by the state racing commission, except that local  
23 option gross receipts taxes may be imposed to the extent  
24 permitted by law."

25 Section 3. EFFECTIVE DATE.--The effective date of the

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provisions of Section 2 of this act is July 1, 2004. \_\_\_\_\_