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SENATE BILL 72

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

INTRODUCED BY

Mary Kay Papen

AN ACT

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

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

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

"[NEW MATERIAL] RACEHORSE TESTING FUND--CREATED--  
PURPOSE.--The "racehorse testing fund" is created in the state  
treasury. The purpose of the fund is to ensure the testing of  
racehorses at a laboratory that meets or exceeds the current  
national laboratory standards for the testing of drugs or other  
foreign substances not naturally occurring in a horse, as  
established by the association of racing commissioners

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1 international, inc. The fund consists of one-half of the daily  
2 capital outlay tax appropriated and transferred pursuant to  
3 Paragraph (4) of Subsection A of Section 60-1A-20 NMSA 1978 and  
4 appropriations, gifts, grants and donations made to the fund.  
5 Income from investment of the fund shall be credited to the  
6 fund. The commission shall administer the racehorse testing  
7 fund, and money in the fund is appropriated to the commission  
8 for the handling and testing of urine and other specimens taken  
9 from racehorses pursuant to Section 60-1A-14 NMSA 1978. Any  
10 unexpended or unencumbered balance remaining in the racehorse  
11 testing fund at the end of a fiscal year in excess of six  
12 hundred thousand dollars (\$600,000) shall revert to the general  
13 fund. Expenditures from the fund shall be made on warrant of  
14 the secretary of finance and administration pursuant to  
15 vouchers signed by the executive director of the commission."

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

18 "60-1A-14. TESTING SPECIMENS.--

19 A. The commission shall adopt rules applying to the  
20 handling and testing of urine and other specimens identified by  
21 the commission to be taken from racehorses.

22 B. Each specimen taken from a racehorse shall be  
23 divided into two or more samples, and:

24 (1) one sample shall be tested by the  
25 commission or its designated laboratory in order to detect the

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1 presence of unauthorized drugs, chemicals, stimulants,  
2 depressants or other foreign substances not naturally occurring  
3 in a horse; and

4 (2) the second sample shall be forwarded by  
5 the commission to the scientific laboratory division of the  
6 department of health.

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

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

17 E. The commission shall contract with an  
18 independent laboratory to maintain a quality assurance program.  
19 The designated laboratory of the commission shall meet or  
20 exceed the current national laboratory standards for the  
21 testing of drugs or other foreign substances not naturally  
22 occurring in a horse, as established by the association of  
23 racing commissioners international, inc."

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

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1 "60-1A-20. DAILY CAPITAL OUTLAY TAX--CAPITAL OUTLAY  
2 OFFSET--STATE FAIR COMMISSION DISTRIBUTION--DAILY LICENSE  
3 FEES.--

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

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

24 (2) for a class B racetrack licensee, not more  
25 than one-half of the daily capital outlay tax imposed on the

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1 first two hundred fifty thousand dollars (\$250,000) of the  
2 daily handle may be offset:

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

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

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

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

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

25 C. Accurate records shall be kept by the racetrack

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

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