

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 864

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO REGULATION OF WAGERING; TRANSFERRING REGULATORY  
AUTHORITY FOR PARIMUTUEL WAGERING, SIMULCASTING, CERTAIN  
LICENSING AUTHORITY AND OTHER ADMINISTRATIVE DUTIES TO THE  
GAMING CONTROL BOARD; RECONCILING MULTIPLE AMENDMENTS TO THE  
SAME SECTION OF LAW IN LAWS 1989; AMENDING, REPEALING AND  
ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

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

"60-1-1. CONDUCTING A RACE WITHOUT LICENSE PROHIBITED.--  
It is unlawful for any person [~~firm, association or~~  
~~corporation~~] to hold public horse races or race [~~meetings~~  
meets for profit or gain in any manner unless [~~a license~~  
~~therefor has first been obtained from the racing commission as~~

underscoring material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 ~~provided in the Horse Racing Act]~~ the person is licensed as a  
2 racetrack gaming operator by the board pursuant to the Gaming  
3 Control Act."

4 Section 2. A new section of the Horse Racing Act, Section  
5 60-1-1.1 NMSA 1978, is enacted to read:

6 "60-1-1.1. [NEW MATERIAL] DEFINITIONS.--As used in the  
7 Horse Racing Act:

8 A. "board" means the gaming control board created  
9 in the Gaming Control Act;

10 B. "commission" means the state racing commission;

11 C. "concessionaire" means a person who has entered  
12 into a contract with the commission to operate a concession on  
13 the racing grounds of a racetrack gaming operator licensee;

14 D. "gaming employee":

15 (1) means a person who is connected directly  
16 with:

17 (a) a gaming activity; or

18 (b) a horse racetrack performing  
19 accounting, administration or management, cash handling,  
20 parimutuel wagering operations, security and simulcasting  
21 operations; and

22 (2) does not include:

23 (a) bartenders, cocktail servers or  
24 other persons engaged solely in preparing or serving food or  
25 beverages;

.159683.6

- 1 (b) secretarial or janitorial personnel;
- 2 (c) stage, sound and light technicians;
- 3 (d) a horseman's bookkeeper; or
- 4 (e) other nongaming personnel;

5 E. "horse" includes a mule;

6 F. "horse race" means a competition among horses on  
7 a predetermined course in which the horse completing the course  
8 in the least amount of time generally wins;

9 G. "horse racetrack" means a place where horse  
10 races are conducted;

11 H. "horse racing activity" means a horse race or  
12 any activity or service provided at a horse race, that if  
13 conducted in compliance with the Horse Racing Act or Gaming  
14 Control Act or rules adopted pursuant to those acts, requires a  
15 license or work permit;

16 I. "licensee" means a person licensed by the  
17 commission who is not a gaming employee;

18 J. "parimutuel wagering" means a system of wagering  
19 in which bets on a live or simulcasted horse race are placed in  
20 a common pool and then paid, less a management fee and taxes,  
21 to those holding winning tickets;

22 K. "permittee" means a person who has been issued a  
23 work permit by the commission;

24 L. "race meet" means a period of horse racing  
25 authorized by the commission in which live horse races are

underscored material = new  
[bracketed material] = delete

1 conducted on the racing grounds of a racetrack gaming operator  
2 licensee;

3 M. "racehorse" means a horse bred and trained to  
4 compete in horse races;

5 N. "racing grounds" means the area of a racetrack  
6 gaming operator licensee's premises used for the purpose of  
7 conducting horse races and all activities ancillary to the  
8 conduct of horse races, including the track, horse barns and  
9 stalls, jockey's quarters and horse training areas;

10 O. "racetrack employee" means a person issued a  
11 work permit or license by the commission, who is not a gaming  
12 employee and is not licensed by the board;

13 P. "racetrack gaming operator licensee" means a  
14 person licensed pursuant to the Gaming Control Act by the board  
15 to conduct gaming and horse races on the licensee's premises;  
16 and

17 Q. "simulcast" means a live audio-visual broadcast  
18 of a horse race being run at a horse racetrack other than the  
19 horse racetrack at which the broadcast is being received for  
20 viewing pursuant to a simulcasting contract."

21 Section 3. Section 60-1-3 NMSA 1978 (being Laws 1933,  
22 Chapter 55, Section 2, as amended by Laws 1989, Chapter 99,  
23 Section 1 and also by Laws 1989, Chapter 377, Section 1) is  
24 amended to read:

25 "60-1-3. APPLICATION FOR LICENSES--STATE RACING

.159683.6

underscored material = new  
[bracketed material] = delete

1 COMMISSION CREATED--MEMBERS--TERMS OF OFFICE--VACANCIES--POWERS  
2 AND DUTIES.--

3 ~~[A. Any person, firm, association or corporation~~  
4 ~~desiring to hold a horse race or to engage in horse race~~  
5 ~~meetings shall apply to the state racing commission for a~~  
6 ~~license.~~

7 ~~B. There is created]~~ A. The "state racing  
8 commission" is created and is administratively attached to the  
9 tourism department. The state racing commission shall consist  
10 of five members, no more than three of whom shall be members of  
11 the same political party. They shall be appointed by the  
12 governor, and no less than three of them shall be practical  
13 breeders of racehorses within the state. Each member shall be  
14 an actual resident of New Mexico and of [~~such~~] good character  
15 and reputation [~~as to promote~~] that public confidence in the  
16 administration of racing affairs is promoted in the state.

17 ~~[E.]~~ B. The term of office of each member of the  
18 [~~state racing~~] commission shall be six years from [~~his~~] the  
19 member's appointment, and [~~he~~] the member shall serve until  
20 [~~his~~] a successor is appointed and qualified. In case of [~~any~~]  
21 a vacancy in the membership of the commission, the governor  
22 shall fill the vacancy by appointment for the unexpired term.

23 ~~[D.]~~ C. No person shall be eligible for appointment  
24 as a member of the [~~state racing~~] commission who is an officer,  
25 official or director in [~~any~~] an association or corporation

underscored material = new  
[bracketed material] = delete

1 conducting racing within the state.

2 [E.] D. During [~~his~~] the member's term of office,  
3 [~~no~~] a member of the [~~state racing~~] commission shall not be  
4 permitted to participate in [~~any~~] horse races or [~~meetings~~]  
5 race meets as an owner or trainer.

6 [F.] E. Members of the [~~state racing~~] commission  
7 shall receive no salary, but each member of the commission  
8 shall receive per diem and mileage in accordance with the Per  
9 Diem and Mileage Act. The commission may appoint [~~a secretary~~]  
10 an executive director and fix [~~his~~] the executive director's  
11 duties and compensation.

12 [G.] F. The [~~state racing~~] commission [~~has the~~  
13 ~~power to~~] may:

14 (1) grant, refuse and revoke licenses for  
15 racetrack employees or for horseracing activities, but not for  
16 people or activities licensed by the board pursuant to the  
17 Gaming Control Act;

18 (2) make rules [~~and regulations for the~~  
19 ~~holding, conducting and operating of~~] necessary to conduct all  
20 race meets and horse races held in the state and to fix and set  
21 racing dates;

22 (3) make an annual report to the governor of  
23 its administration of the racing laws;

24 (4) require of each applicant for a license  
25 the full name of the person, association or corporation

.159683.6

underscored material = new  
[bracketed material] = delete

1 applying and, if the applicant is a corporation or an  
2 association, the name of the state in which incorporated, the  
3 nationality and residence of the members of the association and  
4 the names of the stockholders and directors of the corporation;

5 ~~[(5) require of an applicant for a license the~~  
6 ~~exact location where it is desired to conduct or hold a race or~~  
7 ~~race meeting, whether or not the racetrack or plant is owned or~~  
8 ~~leased and, if leased, the name and residence of the fee owner~~  
9 ~~or, if the owner is a corporation, the names of the directors~~  
10 ~~and stockholders, a statement of the assets and liabilities of~~  
11 ~~the person, association or corporation making the application,~~  
12 ~~the kind of racing to be conducted and the period desired and~~  
13 ~~such other information as the commission may require;~~

14 ~~(6)]~~ (5) require on each application a  
15 statement under oath that the information contained in the  
16 application is true;

17 ~~(7) personally or by agents and~~  
18 ~~representatives supervise and check the making of parimutuel~~  
19 ~~pools and the distribution from those pools;~~

20 ~~(8) cause the various places where race meets~~  
21 ~~are held to be visited and inspected at reasonable intervals;~~

22 ~~(9) make rules governing, restricting or~~  
23 ~~regulating bids on leases;~~

24 ~~(10)]~~ (6) regulate rates charged by the  
25 licensee for admission to races or for the performance of [any]

.159683.6

underscored material = new  
[bracketed material] = delete

1 a service or the sale of [~~any~~] an article on the premises of  
2 the racetrack gaming operator licensee;

3 [~~(11)~~] (7) approve all proposed extensions,  
4 additions or improvements to the buildings, stables or tracks  
5 upon property owned or leased by a licensee and require the  
6 removal of any employee or official employed by the licensee;

7 [~~(12)~~] ~~completely supervise and control the~~  
8 ~~parimutuel machines and equipment at all races held or operated~~  
9 ~~by the state or any state agency or commission;~~

10 [~~(13)~~] ~~approve all contracts and agreements for~~  
11 ~~the payment of money and all salaries, fees and compensations~~  
12 ~~by any licensee;~~

13 [~~(14)~~] (8) regulate the size of the purse,  
14 stake or [~~reward~~] award to be offered for the conducting of  
15 [~~any~~] a horse race;

16 [~~(15)~~] (9) exclude or compel the exclusion of,  
17 from all [~~racecourses, any~~] racing grounds, a person whom the  
18 commission deems detrimental to the best interests of racing or  
19 [~~any~~] a person who willfully violates the racing laws or [~~any~~]  
20 a rule [~~regulation~~] or order of the commission or [~~any~~] a law  
21 of the United States or of [~~this~~] the state;

22 [~~(16)~~] (10) compel the production of all  
23 documents showing the receipts and disbursements of [~~any~~] a  
24 licensee; and

25 (11) determine the manner in which [~~such~~]

.159683.6



underscored material = new  
[bracketed material] = delete

1 financial records of a licensee shall be kept.

2 [~~(17) investigate the operations of any~~  
3 ~~licensee, and the commission has authority to place attendants~~  
4 ~~and such other persons as may be deemed necessary in the~~  
5 ~~offices, on the tracks or in places of business of any licensee~~  
6 ~~for the purpose of satisfying itself that the rules and~~  
7 ~~regulations are strictly complied with; and~~

8 (18) employ staff as peace officers for the  
9 purpose of conducting investigations and for enforcing rules  
10 and regulations of the racing commission and the laws of the  
11 state and to obtain documents and information from other  
12 agencies in order to assist the racing commission. Staff  
13 employed as peace officers shall be required to satisfactorily  
14 complete a basic law enforcement training program but such  
15 peace officers shall not carry firearms or other deadly weapons  
16 while on duty.

17 H.] G. The [state racing] commission shall publicly  
18 state its reasons for refusing an application for a license.

19 [~~The reasons shall be included in the minute book of the~~  
20 ~~commission, and the minute book shall be subject to public~~  
21 ~~inspection at all reasonable times.~~

22 I.] H. The [state racing] commission [has the power  
23 to] may summon witnesses, books, papers, documents or tangible  
24 things and [to] administer oaths for the [effectual] effective  
25 discharge of the commission's duties. The commission may

.159683.6

underscored material = new  
[bracketed material] = delete

1 appoint a hearing officer to conduct ~~[any]~~ a hearing to adopt  
2 rules or for any purpose required by the Horse Racing Act or  
3 any rule ~~[or regulation promulgated]~~ adopted pursuant to that  
4 act.

5 I. The commission shall work cooperatively with the  
6 board to develop rules and procedures to exercise the following  
7 powers and duties:

8 (1) visit and inspect the racing grounds of  
9 each horse racetrack in the state where horse races are  
10 conducted;

11 (2) approve all contracts and agreements for  
12 the payment of money and all salaries, fees and compensation  
13 pertaining to the operation of the horse racetrack by a  
14 racetrack gaming operator licensee;

15 (3) exclude or compel the exclusion from any  
16 or all horse racetracks in the state of a person whose behavior  
17 is found to be detrimental to the best interests of horse  
18 racing, as defined by the board, or a person who willfully  
19 violates the racing laws or rules of this state or another  
20 state;

21 (4) observe and investigate the operations of  
22 licensees or permittees to ensure that the racing laws and  
23 rules of New Mexico and other relevant jurisdictions are  
24 complied with;

25 (5) participate in approval of an original or

.159683.6

underscored material = new  
[bracketed material] = delete

1 renewed racetrack gaming operator's license by certifying to  
2 the board that the horse racetrack on the premises of a  
3 racetrack gaming operator licensee has complied with the  
4 requirements of the commission and is approved for operation;

5 (6) employ law enforcement officers for the  
6 purpose of conducting investigations and for enforcing rules of  
7 the commission and board;

8 (7) summon witnesses, books, papers, documents  
9 or tangible things and administer oaths and employ hearing  
10 officers to conduct hearings pursuant to the Gaming Control Act  
11 and the Horse Racing Act; and

12 (8) impose civil penalties and initiate  
13 criminal investigations of the violation of provisions of the  
14 Horse Racing Act, the Gaming Control Act or any other state law  
15 applicable."

16 Section 4. Section 60-1-4 NMSA 1978 (being Laws 1955,  
17 Chapter 87, Section 2) is amended to read:

18 "60-1-4. APPOINTMENT OF MEMBERS OF COMMISSION--The five  
19 [~~racetrack commissioners~~] members of the commission shall be  
20 appointed at large from the state by the governor [~~and~~] with  
21 the advice and consent of the senate."

22 Section 5. Section 60-1-5 NMSA 1978 (being Laws 1973,  
23 Chapter 323, Section 3, as amended) is amended to read:

24 "60-1-5. LICENSES--~~[QUALIFICATIONS]~~ WORK PERMITS--  
25 BACKGROUND CHECKS--COMMISSION DUTIES.--

.159683.6

underscoring material = new  
[bracketed material] = delete

1           ~~[A. All persons engaged in racing, or employed on a~~  
2 ~~licensee's premises by those engaged in racing, or operating a~~  
3 ~~horse racing meeting, and persons operating concessions for or~~  
4 ~~under authority of any licensee or employed by the~~  
5 ~~concessionaire shall be licensed by the state racing commission~~  
6 ~~after a background check has been conducted. The commission~~  
7 ~~shall develop policies and procedures for conducting the~~  
8 ~~background checks. The policies and procedures shall:~~

9                     ~~(1) require two fingerprint cards to be~~  
10 ~~submitted for each applicant for a license or license renewal,~~  
11 ~~one card to be transmitted to the department of public safety~~  
12 ~~for a statewide check and the other to be transmitted to the~~  
13 ~~federal bureau of investigation for a nationwide check;~~

14                     ~~(2) if an application for license or license~~  
15 ~~renewal is denied, provide the applicant with the ability to~~  
16 ~~inspect or challenge the validity of the record upon which the~~  
17 ~~denial was based;~~

18                     ~~(3) provide that arrest record information,~~  
19 ~~received from the department of public safety or the federal~~  
20 ~~bureau of investigation, is privileged and shall not be~~  
21 ~~disclosed to persons not directly involved in the decision~~  
22 ~~affecting the specific applicant or employee; and~~

23                     ~~(4) require the applicant to pay the cost of~~  
24 ~~the background check.~~

25           ~~B. Racetracks shall be licensed each calendar year.~~

.159683.6

underscoring material = new  
[bracketed material] = delete

1           ~~C. The state racing commission may provide by~~  
2 ~~regulation for the issuance of licenses for terms not to exceed~~  
3 ~~five years for horse owners, trainers, jockeys and their~~  
4 ~~employees; veterinarians; and employees of a racetrack. Fees~~  
5 ~~for licenses under this subsection, not to exceed one hundred~~  
6 ~~dollars (\$100), shall be set by regulation of the commission.]~~

7           A. The commission may issue licenses or work  
8 permits to authorize the presence on the racing grounds during  
9 a race meet of persons who are necessary to the conduct of a  
10 race meet, including racetrack employees, persons engaged in  
11 racing, concessionaires, persons employed by concessionaires or  
12 other persons who are engaged in necessary activities on the  
13 racing grounds but are not licensed by the board.

14           B. The commission shall adopt rules specifying what  
15 categories of service providers, contractors or employees shall  
16 be issued licenses and what categories of service providers,  
17 contractors or employees shall be issued work permits.

18           C. The board shall conduct all background checks on  
19 behalf of the commission and shall forward the findings to the  
20 commission for a final decision on granting the person a work  
21 permit or license. Background checks shall be performed  
22 pursuant to the procedures adopted by the board regarding  
23 background checks.

24           D. The commission may adopt procedures that are  
25 complementary to and comply with the background check

.159683.6

underscored material = new  
[bracketed material] = delete

1 requirements of the board, including:

2 (1) providing a means to transmit the board's  
3 findings and recommendations to the commission; and

4 (2) assessing a fee, not to exceed the actual  
5 cost for the background check, to the person applying for a  
6 license or work permit.

7 E. All licenses and work permits issued by the  
8 commission shall be renewed on an annual basis unless otherwise  
9 specified by rule of the commission. No license shall be valid  
10 for more than five years without renewal.

11 F. The commission shall set license and work permit  
12 fees by rule, provided that no license fee or work permit fee  
13 exceeds one hundred dollars (\$100) annually and work permit  
14 fees are less than license fees.

15 ~~[D.]~~ G. The ~~[state racing]~~ commission shall not  
16 issue or renew a license or work permit and shall revoke or  
17 suspend ~~[any]~~ a license or work permit issued pursuant to this  
18 section if, after due consideration for the proper protection  
19 of public health, safety, morals, good order and the general  
20 welfare of the inhabitants of this state, it finds that the  
21 issuance of the license or work permit or the holding of the  
22 license or work permit is inconsistent with the public  
23 interest. The burden of proving ~~[his]~~ the qualifications to  
24 receive and hold a license ~~[under]~~ or work permit issued  
25 pursuant to this section shall be at all times on the

.159683.6

underscored material = new  
[bracketed material] = delete

1 applicant, [~~or~~] licensee or permittee. The [~~state racing~~]  
2 commission shall establish by [~~regulation such~~] rule the  
3 qualifications for licenses to be issued pursuant to this  
4 section. [~~as it deems in the public interest.~~

5 ~~E. Any~~ H. A person who is addicted to or uses  
6 narcotic drugs or who has been convicted of a violation of any  
7 federal or state narcotics law shall not be licensed [~~on any~~  
8 ~~New Mexico racetrack~~] or issued a work permit by the commission  
9 to work on the racing grounds of a gaming operator licensee,  
10 unless sufficient evidence of rehabilitation is presented to  
11 the [~~state racing~~] commission.

12 [~~F.~~] I. If the [~~state racing~~] commission finds that  
13 [~~any~~] a person has [~~done any of~~] participated in one or more of  
14 the following acts, the person shall not be licensed or issued  
15 a work permit by the commission for a period of five years from  
16 the date of the finding that the person, for the purpose of  
17 stimulating or depressing a horse or affecting its speed or  
18 stamina in a race or workout:

19 (1) administered, attempted to administer or  
20 conspired with others to administer to [~~any~~] a horse, in or  
21 prior to a horse race, [~~any dope~~] a drug, chemical agent,  
22 stimulant or depressant, either internally, externally or  
23 hypodermically;

24 (2) attempted to use, used or conspired with  
25 others to use in [~~any~~] a horse race [~~any~~] an electrical or

underscored material = new  
[bracketed material] = delete

1 mechanical buzzer, goad, device, implement or instrument,  
2 [~~excepting only the~~] with the exception of an ordinary whip  
3 [~~and~~] or spur, or acted to sponge the nostrils or windpipe of a  
4 racehorse; or

5 (3) used [~~any~~] another method, whether  
6 injurious or [~~otherwise, for the purpose of stimulating or~~  
7 ~~depressing~~] not, to stimulate or depress a horse or [~~affecting~~]  
8 affect its speed or stamina in a race or workout.

9 [G. ~~The validity of any license issued by the state~~  
10 ~~racing commission shall be conditioned upon the licensee not~~  
11 ~~engaging in racing, operating a horse racing meeting or~~  
12 ~~participating as an employee or concessionaire at any racetrack~~  
13 ~~in New Mexico operating or permitting to be operated an~~  
14 ~~organized wagering system not licensed by the commission. Any~~  
15 ~~licensee not complying with that condition shall, after~~  
16 ~~reasonable notice and hearing, have his license revoked, and~~  
17 ~~the license shall not be reissued until the expiration of one~~  
18 ~~year from the date of revocation.~~]

19 J. The commission shall:

20 (1) deny a license or work permit to an  
21 applicant if the commission verifies that the applicant has  
22 participated in or is participating in horse racing activities  
23 conducted in the state in violation of the provisions of the  
24 Horse Racing Act or rules adopted pursuant to that act; or

25 (2) revoke or deny a renewal for the license

.159683.6



underscored material = new  
[bracketed material] = delete

1 or work permit of a licensee or permittee if the commission  
2 verifies that the licensee or permittee has participated in or  
3 is participating in horse racing activities conducted in the  
4 state in violation of the provisions of the Horse Racing Act or  
5 rules adopted pursuant to that act.

6 K. The commission shall provide due process and an  
7 opportunity for an applicant, licensee or permittee to present  
8 exculpatory evidence prior to having that applicant's,  
9 licensee's or permittee's license or work permit denied or  
10 revoked. Appeals of decisions made by the commission pursuant  
11 to a hearing before a hearing officer shall be heard and  
12 decided by the full commission.

13 L. A license or work permit that is revoked or  
14 denied renewal by the commission pursuant to Subsection J of  
15 this section shall not be reissued for one year from the date  
16 of revocation or denial. An applicant who is denied a license  
17 or work permit pursuant to Subsection J of this section shall  
18 not reapply for the license or work permit for one year from  
19 the date of the denial."

20 Section 6. Section 60-1-11 NMSA 1978 (being Laws 1933,  
21 Chapter 55, Section 7, as amended) is amended to read:

22 "60-1-11. RULES ~~[AND REGULATIONS]~~--LICENSURE--  
23 REPRESENTATIVES OF COMMISSION--~~[SPECIAL POLICEMEN]~~ REVOCATION  
24 ~~[OR CANCELLATION]~~ OF LICENSES OR WORK PERMITS--PENALTIES.--

25 A. The ~~[racing]~~ commission shall adopt reasonable

underscored material = new  
[bracketed material] = delete

1 rules ~~[and regulations in writing to achieve the objectives~~  
2 ~~that all horse races be]~~ necessary to assure that all horse  
3 races are conducted with fairness and that the participants and  
4 the patrons ~~[be]~~ are protected against ~~[all]~~ wrongful, unlawful  
5 or unfair conduct and practices ~~[of every kind on the grounds~~  
6 ~~where the races are held]~~. The commission shall ~~[give~~  
7 ~~reasonable public notice of the promulgation of its~~  
8 ~~regulations]~~ promulgate rules pursuant to the Administrative  
9 Procedures Act.

10 ~~[B. Every license issued by the commission shall~~  
11 ~~require the applicant to abide by the rules and regulations~~  
12 ~~promulgated by the commission, and the holder of each license~~  
13 ~~shall post printed copies of the rules and regulations in~~  
14 ~~conspicuous places upon the grounds where the races are being~~  
15 ~~conducted and shall maintain them during the period when races~~  
16 ~~are held.~~

17 ~~G.]~~ B. The ~~[racing]~~ commission shall appoint a  
18 representative ~~[or representatives]~~ to be personally present at  
19 horse races to oversee them, to require strict observance of  
20 rules ~~[and regulations]~~ adopted by the commission, to avoid  
21 violations ~~[thereof]~~ of those rules and to ~~[protect against the~~  
22 ~~want of integrity on the part of the licensee or his~~  
23 ~~representatives in conducting the races]~~ prevent violations of  
24 the Horse Racing Act.

25 ~~[D.]~~ C. For the purpose of preserving order and

underscored material = new  
[bracketed material] = delete

1 preventing violations of the Horse Racing Act and rules [~~and~~  
2 ~~regulations promulgated~~] adopted pursuant [~~thereto~~] to that  
3 act, a [~~track~~] horse racetrack licensed to conduct a [~~horse~~]  
4 race meet, with the prior approval of the commission, shall  
5 appoint special [~~policemen~~] police officers, who shall have the  
6 same powers and immunities within and around the grounds of the  
7 [~~track~~] horse racetrack as are vested in county sheriffs to  
8 protect the property within [~~such~~] the racing grounds, to eject  
9 or arrest all persons within the racing grounds who are guilty  
10 of disorderly conduct or who [~~shall~~] neglect to pay fees or  
11 neglect to observe the rules of the commission. The  
12 appointment of [~~any such person~~] special police officers shall  
13 not be deemed to supersede the authority of peace officers  
14 within the grounds of the racetrack.

15 [E.] D. In the event of [~~any~~] a violation by a  
16 [~~license holder~~] licensee or permittee of the provisions of the  
17 Horse Racing Act or of [~~any of~~] the rules [~~and regulations~~  
18 ~~promulgated~~] adopted by the [~~racing~~] commission, the license or  
19 work permit of the offending [~~license holder~~] licensee or  
20 permittee may be [~~cancelled or~~] revoked at any time by the  
21 commission, provided [~~however~~] that the licensee or permittee  
22 shall have reasonable notice and opportunity to be heard before  
23 [~~cancellation or~~] revocation, and provided further that the  
24 [~~cancellation or~~] revocation of [~~any~~] a license or work permit  
25 shall not [~~relieve the licensee from~~] prevent the prosecution

.159683.6

underscored material = new  
[bracketed material] = delete

1 of the licensee or permittee for ~~[any of]~~ the violations or  
2 ~~[from payment]~~ the assessment of fines and penalties.

3 ~~[F.]~~ E. The commission ~~[is authorized to]~~ may  
4 impose civil penalties upon ~~[any]~~ a licensee or permittee for a  
5 violation of the Horse Racing Act or ~~[any rules or regulations~~  
6 ~~promulgated]~~ a rule adopted pursuant ~~[thereto not exceeding]~~ to  
7 that act. The fines shall not exceed five thousand dollars  
8 (\$5,000) for each violation ~~[which penalties]~~ and shall be paid  
9 into the current school fund.

10 ~~[G. The commission shall not approve the hiring of~~  
11 ~~any personnel or any special policemen pursuant to this section~~  
12 ~~unless it finds that the system of security services to be~~  
13 ~~provided will be at least equal to the services which would be~~  
14 ~~provided by the thoroughbred racing protective bureau of the~~  
15 ~~thoroughbred racing association of the United States under~~  
16 ~~similar conditions.]"~~

17 Section 7. Section 60-1-12 NMSA 1978 (being Laws 1973,  
18 Chapter 323, Section 7, as amended) is amended to read:

19 "60-1-12. STEWARDS--POWERS AND DUTIES--REVIEW.--There  
20 shall be three stewards, licensed and employed by the ~~[state~~  
21 ~~racing]~~ commission, to supervise each horse race ~~[meeting]~~  
22 meet. One of the stewards shall be designated the presiding  
23 official steward of the race meet. Stewards, other than the  
24 presiding official steward, shall be employed subject to the  
25 approval of the licensee. All stewards shall be licensed or

.159683.6

underscored material = new  
[bracketed material] = delete

1 certified by a nationally recognized horse racing organization.  
2 Stewards shall exercise those powers and duties prescribed by  
3 the rules [~~and regulations~~] of the commission. [~~Any~~] A  
4 decision or action of the stewards may be reviewed or  
5 reconsidered by the commission."

6 Section 8. Section 60-1-13 NMSA 1978 (being Laws 1975,  
7 Chapter 189, Section 1) is amended to read:

8 "60-1-13. OFFICIAL STATE RACING CHEMIST--QUALIFICATIONS--  
9 DUTIES.--The [~~racing~~] commission shall designate one or more  
10 "official state racing [~~chemist~~] chemists". An official state  
11 racing chemist shall hold a doctorate degree in chemistry or a  
12 related field and shall be knowledgeable and experienced in the  
13 techniques used for testing the blood, urine and saliva of  
14 horses for drugs, [~~dope~~] chemical agents, stimulants and  
15 depressants. [~~He~~] The official state racing chemist may be  
16 either an employee of a private laboratory located in New  
17 Mexico or an employee of an agency of the state. [~~of New~~  
18 ~~Mexico~~ ~~He~~] The chemist shall exercise [~~those~~] the duties [~~as~~]  
19 prescribed by the rules [~~and regulations~~] of the commission."

20 Section 9. Section 60-1-17 NMSA 1978 (being Laws 1977,  
21 Chapter 161, Section 2, as amended) is amended to read:

22 "60-1-17. BREEDERS' AWARDS.--

23 A. To promote and improve the quality of racehorse  
24 breeding in New Mexico, the [~~track~~] horse racetrack shall pay a  
25 sum of money equal to ten percent of the first money of each

.159683.6

underscored material = new  
[bracketed material] = delete

1     purse won in New Mexico by a [~~horse~~] racehorse registered with  
2     the New Mexico horse breeders' association or the New Mexico  
3     Appaloosa racing association as New Mexico bred, except stake-  
4     race purses, in which case an amount equal to ten percent of  
5     the added money shall be paid.

6             B. The sum of money provided for in Subsection A of  
7     this section shall be paid weekly to the owner of the dam of  
8     the [~~animal~~] horse at the time the [~~animal~~] horse was foaled  
9     upon certification of the [~~state racing~~] commission and either  
10    the New Mexico horse breeders' association or the New Mexico  
11    Appaloosa racing association, depending on the registry of the  
12    [~~horse~~] racehorse.

13            C. In addition to the money distributed pursuant to  
14    Subsection A of this section, the New Mexico horse breeders'  
15    association shall distribute the money collected by the  
16    association pursuant to [~~Subsections C and D of~~] Section  
17    [~~60-1-10 NMSA 1978~~] 60-2E-47.7 NMSA 1978 in the following  
18    manner and in accordance with the rules [~~and regulations~~  
19    ~~promulgated~~] adopted by the [~~state racing~~] commission:

20                   (1) forty-five percent of the money to the  
21    owners of the dams of the first place winners at the time the  
22    winners were foaled;

23                   (2) seven percent of the money to the owners  
24    of the studs that sired the first place winners at the time the  
25    winners were foaled;

.159683.6

underscored material = new  
[bracketed material] = delete

1 (3) no more than eight percent of the money to  
2 be retained by the New Mexico horse breeders' association for  
3 the purpose of administering the commission distribution  
4 program; and

5 (4) the remaining money to be divided among  
6 the first, second and third place finishers during each New  
7 Mexico [~~commercial~~] race meet [~~which finishers~~] that are  
8 registered as New Mexico bred with the New Mexico horse  
9 breeders' association.

10 D. The New Mexico horse breeders' association shall  
11 file a fiduciary bond with the [~~state racing~~] commission in a  
12 face amount equal to the total money distributed during the  
13 previous calendar year pursuant to Subsection C of this  
14 section. [~~which~~] The bond shall be executed by a surety  
15 company authorized to do business in New Mexico; provided that  
16 the fiduciary bond shall be in an amount not less than two  
17 million dollars (\$2,000,000).

18 E. In the event that money to be distributed to the  
19 New Mexico horse breeders' association or the New Mexico  
20 Appaloosa racing association pursuant to this section cannot be  
21 properly administered or distributed to the members of the  
22 association by one of those associations, the commission shall  
23 receive the distribution for the New Mexico horse breeders'  
24 association or the New Mexico Appaloosa racing association due  
25 pursuant to this section and shall administer and distribute

.159683.6

underscored material = new  
[bracketed material] = delete

1 the money as required. If the commission is required to  
2 administer or distribute money on behalf of the New Mexico  
3 horse breeders' association or the New Mexico Appaloosa racing  
4 association, the maximum percentage of funds required to be  
5 distributed pursuant to this section shall be distributed to  
6 the commission and shall be paid by the commission to the New  
7 Mexico horse breeders' association or the New Mexico Appaloosa  
8 racing association as a fee to obtain the certification of the  
9 registry of the dam and stud of New Mexico bred horses.

10 F. In the event that money to be distributed to the  
11 New Mexico horsemen's association pursuant to this section  
12 cannot be properly administered or distributed to the members  
13 of the association by that association, the commission shall  
14 receive, administer and distribute the money to the horsemen as  
15 required by Section 60-2E-47.7 NMSA 1978. If the commission  
16 is required to administer or distribute funds to horsemen, the  
17 maximum percentage of funds to be distributed pursuant to this  
18 section shall be distributed to the commission to administer  
19 and distribute."

20 Section 10. Section 60-1-20 NMSA 1978 (being Laws 1947,  
21 Chapter 94, Section 1) is amended to read:

22 "60-1-20. INFLUENCING RACE RESULTS--PENALTY.--Any person  
23 influencing or attempting to influence in any manner by offer  
24 of money, thing of value, future benefit, favor [~~preferment~~] or  
25 preferential treatment or by [~~any~~] a form of pressure or

.159683.6



underscored material = new  
[bracketed material] = delete

1 threat, or seeking or having an agreement or understanding or  
2 [~~conniving~~] conspiring with [~~any~~] an owner, jockey, groom or  
3 other person associated with or [~~interested~~] having an interest  
4 in [~~any~~] a stable of horses, a horse or [~~race~~] a horserace, in  
5 which [~~any such~~] a horse participates, to predetermine the  
6 result of [~~any such race shall be deemed~~] a horserace is guilty  
7 of a felony and upon conviction [~~thereof~~] shall be imprisoned  
8 in the state penitentiary for not less than one [~~(1)~~] year or  
9 more than two [~~(2)~~] years or fined not less than one thousand  
10 [~~(\$1,000.00)~~] dollars (\$1,000) or more than five thousand  
11 [~~(\$5,000.00)~~] dollars (\$5,000), or [~~penalized by~~] both [~~such~~  
12 ~~imprisonment and fine, in the discretion of the Court~~]."

13 Section 11. Section 60-1-21 NMSA 1978 (being Laws 1947,  
14 Chapter 94, Section 2) is amended to read:

15 "60-1-21. AFFECTING SPEED OR STAMINA OF HORSE--PENALTY.--

16 Any person:

17 A. administering, [~~or~~] attempting to administer or  
18 conspiring with others to administer to [~~any~~] a horse, in or  
19 prior to a race, [~~or prior thereto, any dope~~] a drug, chemical  
20 agent, stimulant or depressant, either internally, externally  
21 or hypodermically; [~~or~~]

22 B. attempting to use, using or conspiring with  
23 others to use in [~~any~~] a race [~~any~~] an electrical or mechanical  
24 buzzer, goad, device, implement or instrument, excepting only  
25 [~~the~~] an ordinary whip and spur; [~~or the act of~~]

.159683.6

underscored material = new  
[bracketed material] = delete

1           C. sponging the nostrils or windpipe of a  
2 racehorse; [~~or~~]

3           D. using [~~any~~] a method, whether injurious or  
4 [~~otherwise~~] not, for the purpose of stimulating or depressing  
5 [~~such~~] a horse or affecting its speed or stamina in a race or  
6 workout; [~~and any person~~] or

7           E. within the confines of the track, stands,  
8 stables, sheds or other places where horses are kept [~~which~~]  
9 that are eligible to race [~~over~~] on the racetrack of [~~any~~  
10 racetrack gaming operator licensee,  
11 having [~~within his~~] in the person's possession with intent to  
12 use, sell, give away, exchange or deliver to another, [~~and~~  
13 possession shall be prima facie evidence of intent, any such  
14 dope] a drug, chemical agent, stimulant, depressant; or an  
15 electrical or mechanical buzzer, goad, device, implement,  
16 instrument or applicator, [~~excepting only the~~] not including an  
17 ordinary whip and spur, [~~which could~~] that may be used for the  
18 purpose of affecting the speed or stamina of a horse, [~~shall be~~  
19 deemed] is guilty of a misdemeanor [~~and~~]. Each offense shall  
20 be punished by a fine of not less than five hundred [~~(\$500.00)]~~  
21 dollars (\$500) and not more than one thousand [~~(\$1,000.00)]~~  
22 dollars (\$1,000) or by imprisonment in the county jail for not  
23 more than six [~~(6)] months, or [~~by~~] both [~~such fine and~~~~  
24 imprisonment]."

25           Section 12. Section 60-1-22 NMSA 1978 (being Laws 1975,

.159683.6

underscored material = new  
[bracketed material] = delete

1 Chapter 190, Section 1) is amended to read:

2 "60-1-22. TESTING SPECIMENS--FORWARDING TO THE  
3 DEPARTMENT OF HEALTH [~~AND SOCIAL SERVICES DEPARTMENT~~].--The  
4 commission shall adopt rules [~~and regulations~~] for the testing  
5 of urine and other specimens taken from [~~such~~] racehorses [~~as~~  
6 ~~are~~] designated by the commission. Provided that a sufficient  
7 amount of specimen is available, each specimen taken from a  
8 racehorse shall be divided into two or more portions. One  
9 portion shall be tested by the commission or its designated  
10 agent in order to detect the presence of [~~any~~] a drug, [~~dope~~]  
11 chemical agent, stimulant or depressant. A second portion  
12 shall be forwarded by the commission to the scientific  
13 laboratory [~~system~~] of the department of health. [~~and social~~  
14 ~~services department. After~~] If a questionable, cloudy or  
15 positive test result is obtained on the portion tested by the  
16 commission or its designated agent [~~and~~] or upon the written  
17 request of the president or manager of the New Mexico  
18 horsemen's association on forms prepared and approved by the  
19 commission, the scientific laboratory [~~system~~] shall transmit  
20 the corresponding second portion to the New Mexico horsemen's  
21 association. The scientific laboratory [~~system~~] shall keep all  
22 other specimens in a safe place in a controlled environment for  
23 a period of at least three months and shall, after the  
24 expiration of at least ten days from the date of receipt,  
25 perform random tests on the specimens in order to detect the

.159683.6

underscored material = new  
[bracketed material] = delete

1 presence of [~~any~~] a drug, [~~dope~~] chemical agent, stimulant or  
2 depressant. The results of all [~~such~~] tests performed by the  
3 scientific laboratory under this section shall be transmitted  
4 immediately by the laboratory to the commission, but they shall  
5 have no evidentiary value in [~~any~~] a hearing before the  
6 commission."

7 Section 13. Section 60-2E-3 NMSA 1978 (being Laws 1997,  
8 Chapter 190, Section 5, as amended) is amended to read:

9 "60-2E-3. DEFINITIONS.--As used in the Gaming Control  
10 Act:

11 A. "affiliate" means a person who, directly or  
12 indirectly through one or more intermediaries, controls, is  
13 controlled by or is under common control with a specified  
14 person;

15 B. "affiliated company" means a company that:

16 (1) controls, is controlled by or is under  
17 common control with a company licensee; and

18 (2) is involved in gaming activities or  
19 involved in the ownership of property on which gaming is  
20 conducted;

21 C. "applicant" means a person who has applied for a  
22 license or for approval of an act or transaction for which  
23 approval is required or allowed pursuant to the provisions of  
24 the Gaming Control Act;

25 D. "application" means a request for the issuance

.159683.6

1 of a license or for approval of an act or transaction for which  
2 approval is required or allowed pursuant to the provisions of  
3 the Gaming Control Act, but "application" does not include a  
4 supplemental form or information that may be required with the  
5 application;

6 E. "associated equipment" means equipment or a  
7 mechanical, electrotechnical or electronic contrivance,  
8 component or machine used in connection with gaming activity;

9 F. "board" means the gaming control board;

10 G. "certification" means a notice of approval by  
11 the board of a person required to be certified by the board;

12 H. "certified technician" means a person certified  
13 by a manufacturer licensee to repair and service gaming  
14 devices, but who is prohibited from programming gaming devices;

15 I. "company" means a corporation, partnership,  
16 limited partnership, trust, association, joint stock company,  
17 joint venture, limited liability company or other form of  
18 business organization that is not a natural person; "company"  
19 does not mean a nonprofit organization;

20 J. "distributor" means a person who supplies gaming  
21 devices to a gaming operator but does not manufacture gaming  
22 devices;

23 K. "equity security" means an interest in a company  
24 that is evidenced by:

25 (1) voting stock or similar security;

1 (2) a security convertible into voting stock  
2 or similar security, with or without consideration, or a  
3 security carrying a warrant or right to subscribe to or  
4 purchase voting stock or similar security;

5 (3) a warrant or right to subscribe to or  
6 purchase voting stock or similar security; or

7 (4) a security having a direct or indirect  
8 participation in the profits of the issuer;

9 L. "executive director" means the chief  
10 administrative officer appointed by the board pursuant to  
11 Section 60-2E-7 NMSA 1978;

12 M. "finding of suitability" means a certification  
13 of approval issued by the board permitting a person to be  
14 involved directly or indirectly with a licensee, relating only  
15 to the specified involvement for which it is made;

16 N. "game" means an activity in which, upon payment  
17 of consideration, a player receives a prize or other thing of  
18 value, the award of which is determined by chance even though  
19 accompanied by some skill; "game" does not include an activity  
20 played in a private residence in which no person makes money  
21 for operating the activity except through winnings as a player;

22 O. "gaming" means offering a game for play;

23 P. "gaming activity" means an endeavor associated  
24 with the manufacture or distribution of gaming devices or the  
25 conduct of gaming;

underscored material = new  
[bracketed material] = delete

1 Q. "gaming device" means associated equipment or a  
2 gaming machine and includes a system for processing information  
3 that can alter the normal criteria of random selection that  
4 affects the operation of a game or determines the outcome of a  
5 game;

6 R. "gaming employee":

7 (1) means a person connected directly with:

8 (a) a gaming activity; [~~"gaming~~  
9 ~~employee"~~] or

10 (b) a horse racetrack who performs  
11 accounting, administration or management, cash handling,  
12 parimutuel wagering operations, security and simulcasting  
13 operations for the racetrack; and

14 (2) does not include:

15 [~~(1)~~] (a) bartenders, cocktail servers  
16 or other persons engaged solely in preparing or serving food or  
17 beverages;

18 [~~(2)~~] (b) secretarial or janitorial  
19 personnel;

20 [~~(3)~~] (c) stage, sound and light  
21 technicians; [~~or~~]

22 (d) a horseman's bookkeeper; or

23 [~~(4)~~] (e) other nongaming personnel;

24 S. "gaming establishment" means the premises on or  
25 in which gaming is conducted;

.159683.6

underscored material = new  
[bracketed material] = delete

1           T. "gaming machine" means a mechanical,  
2           electrotechnical or electronic contrivance or machine that,  
3           upon insertion of a coin, token or similar object, or upon  
4           payment of any consideration, is available to play or operate a  
5           game, whether the payoff is made automatically from the machine  
6           or in any other manner;

7           U. "gaming operator" means a person who conducts  
8           gaming at a gaming establishment or parimutuel wagering at a  
9           horse racetrack on live or simulcast horse races;

10          V. "holding company" means a company that directly  
11          or indirectly owns or has the power or right to control a  
12          company that is an applicant or licensee, but a company that  
13          does not have a beneficial ownership of more than ten percent  
14          of the equity securities of a publicly traded corporation is  
15          not a holding company;

16          W. "horse race" means a competition among horses on  
17          a predetermined course, in which the horse completing the  
18          course in the least time generally wins;

19          X. "horse racetrack" means a place where horse  
20          racers are conducted;

21          [~~W.~~] Y. "immediate family" means natural persons  
22          who are related to a specified natural person by affinity or  
23          consanguinity in the first through the third degree;

24          [~~X.~~] Z. "independent administrator" means a person  
25          who administers an annuity, who is not associated in any manner

.159683.6



underscoring material = new  
[bracketed material] = delete

1 with the gaming operator licensee for which the annuity was  
2 purchased and is in no way associated with the person who will  
3 be receiving the annuity;

4 [Y.] AA. "institutional investor" means a state or  
5 federal government pension plan or a person that meets the  
6 requirements of a qualified institutional buyer as defined in  
7 Rule 144A of the federal Securities Act of 1933, and is:

8 (1) a bank as defined in Section 3(a)(6) of  
9 the federal Securities Exchange Act of 1934;

10 (2) an insurance company as defined in Section  
11 2(a)(17) of the federal Investment Company Act of 1940;

12 (3) an investment company registered under  
13 Section 8 of the federal Investment Company Act of 1940;

14 (4) an investment adviser registered under  
15 Section 203 of the federal Investment Advisers Act of 1940;

16 (5) collective trust funds as defined in  
17 Section 3(c)(11) of the federal Investment Company Act of 1940;

18 (6) an employee benefit plan or pension fund  
19 that is subject to the federal Employee Retirement Income  
20 Security Act of 1974, excluding an employee benefit plan or  
21 pension fund sponsored by a publicly traded corporation  
22 registered with the board; or

23 (7) a group comprised entirely of persons  
24 specified in Paragraphs (1) through (6) of this subsection;

25 [Z.] BB. "intermediary company" means a company

.159683.6

underscored material = new  
[bracketed material] = delete

1 that:

2 (1) is a holding company with respect to a  
3 company that is an applicant or licensee; and

4 (2) is a subsidiary with respect to any  
5 holding company;

6 [~~AA.~~] CC. "key executive" means an executive of a  
7 licensee or other person having the power to exercise  
8 significant influence over decisions concerning any part of the  
9 licensed operations of the licensee or whose compensation  
10 exceeds an amount established by the board in a rule;

11 [~~BB.~~] DD. "license" means an authorization required  
12 by the board for engaging in gaming activities or for engaging  
13 in parimutuel wagering on live or simulcasted horse races;

14 [~~CC.~~] EE. "licensee" means a person to whom a valid  
15 license has been issued;

16 [~~DD.~~] FF. "manufacturer" means a person who  
17 manufactures, fabricates, assembles, produces, programs or  
18 makes modifications to any gaming device for use or play in New  
19 Mexico or for sale, lease or distribution outside New Mexico  
20 from any location within New Mexico;

21 [~~EE.~~] GG. "net take" means the total of the  
22 following, less the total of all cash paid out as losses to  
23 winning patrons and those amounts paid to purchase annuities to  
24 fund losses paid to winning patrons over several years by  
25 independent administrators:

.159683.6

underscored material = new  
[bracketed material] = delete

1 (1) cash received from patrons for playing a  
2 game;

3 (2) cash received in payment for credit  
4 extended by a licensee to a patron for playing a game; and

5 (3) compensation received for conducting a  
6 game in which the licensee is not a party to a wager;

7 [~~FF.~~] HH. "nonprofit organization" means:

8 (1) a bona fide chartered or incorporated  
9 branch, lodge, order or association, in existence in New Mexico  
10 prior to January 1, 1997, of a fraternal organization that is  
11 described in Section 501(c)(8) or (10) of the federal Internal  
12 Revenue Code of 1986 and that is exempt from federal income  
13 taxation pursuant to Section 501(a) of that code; or

14 (2) a bona fide chartered or incorporated  
15 post, auxiliary unit or society of, or a trust or foundation  
16 for the post or auxiliary unit, in existence in New Mexico  
17 prior to January 1, 1997, of a veterans' organization that is  
18 described in Section 501(c)(19) or (23) of the federal Internal  
19 Revenue Code of 1986 and that is exempt from federal income  
20 taxation pursuant to Section 501(a) of that code;

21 II. "parimutuel wagering" means a system of  
22 wagering in which bets on a live or simulcasted horse race are  
23 placed in a common pool and then paid, less a management fee  
24 and taxes, to those holding winning tickets;

25 [~~GG.~~] JJ. "person" means a legal entity;

.159683.6

underscored material = new  
[bracketed material] = delete

1           ~~[HH.]~~ KK. "premises" means land, together with all  
2 buildings, improvements and personal property located on the  
3 land;

4           ~~[II.]~~ LL. "progressive jackpot" means a prize that  
5 increases over time or as gaming machines that are linked to a  
6 progressive system are played and upon conditions established  
7 by the board may be paid by an annuity;

8           ~~[JJ.]~~ MM. "public post-secondary educational  
9 institution" means an institution designated in Article 12,  
10 Section 11 of the constitution of New Mexico and an institution  
11 designated in Chapter 21, Articles 13, 14 and 16 [~~and 17~~] NMSA  
12 1978;

13           ~~[KK.]~~ NN. "progressive system" means one or more  
14 gaming machines linked to one or more common progressive  
15 jackpots;

16           ~~[LL.]~~ OO. "publicly traded corporation" means a  
17 corporation that:

18                   (1) has one or more classes of securities  
19 registered pursuant to the securities laws of the United States  
20 or New Mexico;

21                   (2) is an issuer subject to the securities  
22 laws of the United States or New Mexico; or

23                   (3) has one or more classes of securities  
24 registered or is an issuer pursuant to applicable foreign laws  
25 that, the board finds, provide protection for institutional

.159683.6

underscored material = new  
[bracketed material] = delete

1 investors that is comparable to or greater than the stricter of  
2 the securities laws of the United States or New Mexico;

3 PP. "racing grounds" means the area of a licensee's  
4 premises used for the purpose of conducting horse races and all  
5 activities ancillary to the conduct of horse races, including  
6 the track, horse barns and stalls, jockeys' quarters and horse  
7 training areas;

8 QQ. "racing season" means a period of live horse  
9 racing conducted on the racing grounds of a racetrack gaming  
10 operator licensee and authorized by the state racing commission  
11 pursuant to the Horse Racing Act;

12 ~~[MM.]~~ RR. "registration" means a board action that  
13 authorizes a company to be a holding company with respect to a  
14 company that holds or applies for a license or that relates to  
15 other persons required to be registered pursuant to the Gaming  
16 Control Act;

17 SS. "simulcast" means a live audio-visual broadcast  
18 of a horse race being run at a horse racetrack other than the  
19 horse racetrack at which the broadcast is being received for  
20 viewing pursuant to a simulcasting contract;

21 ~~[NN.]~~ TT. "subsidiary" means a company, all or a  
22 part of whose outstanding equity securities are owned, subject  
23 to a power or right of control or held, with power to vote, by  
24 a holding company or intermediary company; and

25 ~~[OO.]~~ UU. "work permit" means a card, certificate

underscored material = new  
[bracketed material] = delete

1 or permit issued by the board, whether denominated as a work  
2 permit, registration card or otherwise, authorizing the  
3 employment of the holder as a gaming employee."

4 Section 14. Section 60-2E-5 NMSA 1978 (being Laws 1997,  
5 Chapter 190, Section 7, as amended) is amended to read:

6 "60-2E-5. GAMING CONTROL BOARD CREATED.--

7 A. The "gaming control board" is created and  
8 consists of five members. [~~Four~~] Members are appointed by the  
9 governor with the advice and consent of the senate [~~and one ex-~~  
10 ~~officio member is the chairman of the state racing commission~~].  
11 All members of the board shall be residents of New Mexico and  
12 citizens of the United States. One [~~appointed~~] member of the  
13 board shall have a minimum of five years of previous employment  
14 in a supervisory and administrative position in a law  
15 enforcement agency; one [~~appointed~~] member of the board shall  
16 be a certified public accountant in New Mexico who has had at  
17 least five years of experience in public accountancy; one  
18 [~~appointed~~] member of the board shall be an attorney who has  
19 been admitted to practice before the supreme court of New  
20 Mexico; one member of the board shall be a public member of the  
21 state racing commission; and one [~~appointed~~] member of the  
22 board shall be a public member who has knowledge and experience  
23 in business management and financing.

24 B. The [~~appointed~~] members of the board shall be  
25 appointed for terms of five years, except, of the members who

.159683.6

underscoring material = new  
[bracketed material] = delete

1 are first appointed, the member with law enforcement experience  
2 shall be appointed for a term of five years; the member who is  
3 a certified public accountant shall be appointed for a term of  
4 four years; the member who is an attorney shall be appointed  
5 for a term of three years; and the public member, who is not a  
6 state racing commissioner, shall be appointed for a term of two  
7 years. Thereafter, all members shall be appointed for terms of  
8 five years. ~~[No]~~ A person shall not serve as a board member  
9 for more than two consecutive terms or ten years total.

10 C. ~~[No]~~ A full-time board member who receives a  
11 salary pursuant to Subsection G of this section may not be  
12 employed in any other capacity or shall not in any manner  
13 receive compensation for services rendered to any person or  
14 entity other than the board while a member of the board.

15 D. A vacancy on the board of an appointed member  
16 shall be filled within thirty days by the governor with the  
17 advice and consent of the senate for the unexpired portion of  
18 the term in which the vacancy occurs. A person appointed to  
19 fill a vacancy shall meet all qualification requirements of the  
20 office established in this section.

21 E. The governor shall choose a ~~[chairman]~~ chair  
22 annually from the board's appointed full-time, salaried  
23 members.

24 F. No more than three members of the board shall be  
25 from the same political party.

.159683.6

underscoring material = new  
[bracketed material] = delete

1           G. The law enforcement, certified public accountant  
2 and attorney members of the board shall be full-time state  
3 officials and shall receive a salary set by the governor. The  
4 public member and [~~ex-officio~~] state racing commission member  
5 of the board shall not receive salaries for their work for the  
6 board. All [~~appointed~~] members of the board shall receive per  
7 diem and mileage pursuant to the provisions of the Per Diem and  
8 Mileage Act.

9           H. The department of public safety shall conduct  
10 background investigations of all members of the board prior to  
11 confirmation by the senate. To assist the department in the  
12 background investigation, a prospective board member shall  
13 furnish a disclosure statement to the department on a form  
14 provided by the department containing that information deemed  
15 by the department as necessary for completion of a detailed and  
16 thorough background investigation. The required information  
17 shall include at least:

18                   (1) a full set of fingerprints made by a law  
19 enforcement agency on forms supplied by the department;

20                   (2) complete information and details with  
21 respect to the prospective board member's antecedents, habits,  
22 immediate family, character, criminal record, business  
23 activities, financial affairs and business associates covering  
24 at least a ten-year period immediately preceding the date of  
25 submitting the disclosure statement;

.159683.6



underscoring material = new  
[bracketed material] = delete

1 (3) complete disclosure of any equity interest  
2 held by the prospective board member or a member of [~~his~~] the  
3 prospective board member's immediate family in a company that  
4 is an applicant or licensee or an affiliate, affiliated  
5 company, intermediary company or holding company in respect to  
6 an applicant or licensee; and

7 (4) the names and addresses of members of the  
8 immediate family of the prospective board member.

9 I. [~~No~~] A person may not be appointed or confirmed  
10 as a member of the board if that person or member of [~~his~~] that  
11 person's immediate family holds an equity interest in a company  
12 that is an applicant or licensee or an affiliate, affiliated  
13 company, intermediary company or holding company in respect to  
14 an applicant or licensee.

15 J. A prospective board member shall provide  
16 assistance and information requested by the department of  
17 public safety or the governor and shall cooperate in any  
18 inquiry or investigation of the prospective board member's  
19 fitness or qualifications to hold the office to which he is  
20 appointed. The senate shall not confirm a prospective board  
21 member if it has reasonable cause to believe that the  
22 prospective board member has:

23 (1) knowingly misrepresented or omitted a  
24 material fact required in a disclosure statement;

25 (2) been convicted of a felony, a gaming

.159683.6

underscored material = new  
[bracketed material] = delete

1 related offense or a crime involving fraud, theft or moral  
2 turpitude within ten years immediately preceding the date of  
3 submitting a disclosure statement required pursuant to the  
4 provisions of Subsection H of this section;

5 (3) exhibited a history of willful disregard  
6 for the gaming laws of this or any other state or the United  
7 States; or

8 (4) had a permit or license issued pursuant to  
9 the gaming laws of this or any other state or the United States  
10 permanently suspended or revoked for cause.

11 K. At the time of taking office, each board member  
12 shall file with the secretary of state a sworn statement that  
13 [~~he~~] the board member is not disqualified under the provisions  
14 of Subsection I of this section."

15 Section 15. Section 60-2E-7 NMSA 1978 (being Laws 1997,  
16 Chapter 190, Section 9, as amended) is amended to read:

17 "60-2E-7. BOARD'S POWERS AND DUTIES.--

18 A. The board shall implement the state's policy on  
19 gaming consistent with the provisions of the Gaming Control Act  
20 and the Bingo and Raffle Act. It has the duty to fulfill all  
21 responsibilities assigned to it pursuant to those acts, and it  
22 has all authority necessary to carry out those  
23 responsibilities. It may delegate authority to the executive  
24 director, but it retains accountability. The board is an  
25 adjunct agency.

.159683.6

underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

B. The board shall:

(1) employ the executive director;

(2) make the final decision on issuance, denial, suspension and revocation of all licenses pursuant to and consistent with the provisions of the Gaming Control Act and the Bingo and Raffle Act;

(3) develop, adopt and promulgate all regulations necessary to implement and administer the provisions of the Gaming Control Act and the Bingo and Raffle Act;

(4) conduct itself, or employ a hearing officer to conduct, all hearings required by the provisions of the Gaming Control Act and other hearings it deems appropriate to fulfill its responsibilities;

(5) meet at least once each month; ~~and~~

(6) prepare and submit an annual report in December of each year to the governor and the legislature, covering activities of the board in the most recently completed fiscal year, a summary of gaming activities in the state and any recommended changes in or additions to the laws relating to gaming in the state;

(7) issue or renew a racetrack gaming operator's license only after the state racing commission certifies to the board that the horse racetrack of the gaming operator licensee has complied with the requirements of the

.159683.6

underscored material = new  
[bracketed material] = delete

1 state racing commission and is approved for operation, and  
2 issue work permits for gaming employees who are employed on the  
3 racing grounds or performing duties for the horse racetrack of  
4 the racetrack gaming operator licensee;

5 (8) personally or by agents or  
6 representatives, supervise and verify the making of parimutuel  
7 pools and the distribution from those pools;

8 (9) adopt rules governing, restricting or  
9 regulating bids on leases at racetracks; and

10 (10) supervise and control the parimutuel  
11 machines and equipment at all horse races held or operated by  
12 the state, its agencies or commissions.

13 C. The board may:

14 (1) impose civil fines not to exceed  
15 twenty-five thousand dollars (\$25,000) for the first violation  
16 and fifty thousand dollars (\$50,000) for subsequent violations  
17 of any prohibitory provision of the Gaming Control Act or any  
18 prohibitory provision of a regulation adopted pursuant to that  
19 act;

20 (2) conduct investigations;

21 (3) subpoena persons and documents to compel  
22 access to or the production of documents and records, including  
23 books and memoranda, in the custody or control of a licensee;

24 (4) compel the appearance of employees of a  
25 licensee or persons for the purpose of ascertaining compliance

.159683.6

underscored material = new  
[bracketed material] = delete

1 with provisions of the Gaming Control Act or a regulation  
2 adopted pursuant to its provisions;

3 (5) administer oaths and take depositions to  
4 the same extent and subject to the same limitations as would  
5 apply if the deposition were pursuant to discovery rules in a  
6 civil action in the district court;

7 (6) sue and be sued subject to the limitations  
8 of the Tort Claims Act;

9 (7) contract for the provision of goods and  
10 services necessary to carry out its responsibilities;

11 (8) conduct audits, relevant to their gaming  
12 activities, of applicants, licensees and persons affiliated  
13 with licensees;

14 (9) inspect, examine, photocopy and audit all  
15 documents and records of an applicant or licensee relevant to  
16 [~~his~~] the applicant's or licensee's gaming activities in the  
17 presence of the applicant or licensee or [~~his~~] the applicant's  
18 or licensee's agent;

19 (10) require verification of income and all  
20 other matters pertinent to the gaming activities of an  
21 applicant or licensee affecting the enforcement of any  
22 provision of the Gaming Control Act;

23 (11) inspect all places where gaming  
24 activities are conducted and inspect all property connected  
25 with gaming in those places;

.159683.6

underscored material = new  
[bracketed material] = delete

1 (12) summarily seize, remove and impound from  
2 places inspected any gaming devices, property connected with  
3 gaming, documents or records for the purpose of examination or  
4 inspection;

5 (13) inspect, examine, photocopy and audit  
6 documents and records, relevant to ~~[his]~~ the affiliate's gaming  
7 activities, of any affiliate of an applicant or licensee that  
8 the board knows or reasonably suspects is involved in the  
9 financing, operation or management of the applicant or  
10 licensee. The inspection, examination, photocopying and audit  
11 shall be in the presence of a representative of the affiliate  
12 or its agent when practicable; and

13 (14) except for the powers specified in  
14 Paragraphs (1) and (4) of this subsection, carry out all or  
15 part of the foregoing powers and activities through the  
16 executive director.

17 D. The board shall monitor all activity authorized  
18 in an Indian gaming compact between the state and an Indian  
19 nation, tribe or pueblo. The board shall appoint the state  
20 gaming representative for the purposes of the compact.

21 E. The board shall work cooperatively with the  
22 state racing commission to develop rules and procedures to  
23 exercise the following powers and duties:

24 (1) visit and inspect the racing grounds of  
25 each horse racetrack in the state where horse races are

.159683.6

underscored material = new  
[bracketed material] = delete

1 conducted;

2 (2) approve all contracts and agreements for  
3 the payment of money and all salaries, fees and compensation by  
4 a racetrack gaming operator licensee;

5 (3) exclude or compel the exclusion from any  
6 or all horse racetracks in the state a person whose behavior is  
7 found to be detrimental to the best interests of horse racing,  
8 as defined by the board, or a person who willfully violates the  
9 racing laws or rules of this state or another state;

10 (4) observe and investigate the operations of  
11 a licensee to assure that the racing laws and rules of New  
12 Mexico and other relevant jurisdictions are complied with;

13 (5) withhold final approval of an original  
14 license or a renewal license for a racetrack gaming operator  
15 until the state racing commission has certified to the board  
16 that the horse racetrack on the premises of a racetrack gaming  
17 operator licensee is in compliance with the requirements of the  
18 commission and is approved for operation;

19 (6) employ law enforcement officers for the  
20 purpose of conducting investigations and for enforcing rules of  
21 the board and state racing commission;

22 (7) summon witnesses, books, papers, documents  
23 or tangible things and administer oaths and employ hearing  
24 officers to conduct hearings pursuant to the Gaming Control Act  
25 and the Horse Racing Act; and

.159683.6

underscored material = new  
[bracketed material] = delete

1                   (8) impose civil penalties and initiate  
2 criminal investigations of the violation of provisions of the  
3 Horse Racing Act, the Gaming Control Act or any other  
4 applicable state law.

5                   F. All powers and duties of the Horse Racing Act  
6 not expressly transferred to the board or not expressly  
7 identified as a power or duty to be cooperatively exercised by  
8 the board and the state racing commission shall remain within  
9 the exclusive jurisdiction and authority of the state racing  
10 commission."

11                   Section 16. Section 60-2E-10 NMSA 1978 (being Laws 1997,  
12 Chapter 190, Section 12, as amended) is amended to read:

13                   "60-2E-10. EXECUTIVE DIRECTOR--POWERS--DUTIES.--

14                   A. The executive director shall implement the  
15 policies of the board.

16                   B. The executive director shall employ all  
17 personnel who work for the board. The employees shall be  
18 covered employees pursuant to the provisions of the Personnel  
19 Act. Among those personnel, [~~he~~] the executive director shall  
20 employ and designate an appropriate number of individuals as  
21 law enforcement officers subject to proper certification  
22 pursuant to the Law Enforcement Training Act. Law enforcement  
23 officers shall not carry firearms on racing grounds, except as  
24 provided in rules adopted by the board, and pursuant to  
25 approval of the state racing commission.

.159683.6



underscoring material = new  
[bracketed material] = delete

1 C. The executive director shall establish  
2 organizational units [~~he~~] the executive director determines are  
3 appropriate to administer the provisions of the Gaming Control  
4 Act.

5 D. The executive director:

6 (1) may delegate authority to subordinates as  
7 [~~he~~] the executive director deems necessary and appropriate,  
8 clearly delineating the delegated authority and the limitations  
9 on it, if any;

10 (2) shall take administrative action by  
11 issuing orders and instructions consistent with the Gaming  
12 Control Act and regulations of the board to assure  
13 implementation of and compliance with the provisions of that  
14 act and those regulations;

15 (3) may issue administrative citations to  
16 [~~any~~] a licensee upon a reasonable belief that the licensee has  
17 violated or is violating any provision of the Gaming Control  
18 Act or regulations of the board;

19 (4) may conduct research and studies that will  
20 improve the operations of the board and the provision of  
21 services to the citizens of the state;

22 (5) may provide courses of instruction and  
23 practical training for employees of the board and other persons  
24 involved in the activities regulated by the board with the  
25 objectives of improving operations of the board and achieving

.159683.6

underscored material = new  
[bracketed material] = delete

1 compliance with the law and regulations;

2 (6) shall prepare an annual budget for the  
3 board and submit it to the board for approval; and

4 (7) shall make recommendations to the board of  
5 proposed regulations and any legislative changes needed to  
6 provide better administration of the Gaming Control Act and  
7 fair and efficient regulation of gaming activities in the  
8 state."

9 Section 17. Section 60-2E-14 NMSA 1978 (being Laws 1997,  
10 Chapter 190, Section 16, as amended) is amended to read:

11 "60-2E-14. LICENSURE--APPLICATION.--

12 A. The board shall establish and issue the  
13 following categories of licenses:

14 (1) manufacturer;

15 (2) distributor;

16 (3) gaming operator; and

17 (4) gaming machine.

18 B. The board shall issue certifications of findings  
19 of suitability for key executives and other persons for whom  
20 certification is required. The board may issue one  
21 certification of finding of suitability for a key executive or  
22 other person found suitable for employment in both gaming and  
23 racing operations.

24 C. The board shall issue work permits for gaming  
25 employees. The board may issue one permit to allow a gaming

.159683.6

underscored material = new  
[bracketed material] = delete

1 employee to work in both gaming and racing operations.

2 D. A licensee shall not be issued more than one  
3 type of license, but this provision does not prohibit a  
4 licensee from owning, leasing, acquiring or having in [~~his~~] the  
5 licensee's possession licensed gaming machines if that activity  
6 is otherwise allowed by the provisions of the Gaming Control  
7 Act. A licensee shall not own a majority interest in, manage  
8 or otherwise control a holder of another type of license issued  
9 pursuant to the provisions of that act.

10 E. Applicants shall apply on forms provided by the  
11 board and furnish all information requested by the board.  
12 Submission of an application constitutes consent to a credit  
13 check of the applicant and all persons having a substantial  
14 interest in the applicant and any other background  
15 investigations required pursuant to the Gaming Control Act or  
16 deemed necessary by the board. The board may obtain from the  
17 taxation and revenue department copies of tax returns filed by  
18 or on behalf of the applicant or its affiliates and information  
19 concerning liens imposed on the applicant or its affiliates by  
20 the taxation and revenue department.

21 F. All licenses issued by the board pursuant to the  
22 provisions of this section shall be reviewed for renewal  
23 annually unless revoked, suspended, canceled or terminated.

24 G. A license shall not be transferred or assigned.

25 H. The application for a license shall include:

.159683.6

underscored material = new  
[bracketed material] = delete

- 1 (1) the name of the applicant;
- 2 (2) the location of the proposed operation;
- 3 (3) the gaming devices to be operated,
- 4 manufactured, distributed or serviced;
- 5 (4) the names of all persons having a direct
- 6 or indirect interest in the business of the applicant and the
- 7 nature of such interest; and
- 8 (5) such other information and details as the
- 9 board may require.

10 I. The board shall furnish to the applicant  
11 supplemental forms that the applicant shall complete and file  
12 with the application. [~~Such~~] The supplemental forms shall  
13 require complete information and details with respect to the  
14 applicant's antecedents, habits, immediate family, character,  
15 criminal record, business activities, financial affairs and  
16 business associates, covering at least a ten-year period  
17 immediately preceding the date of filing of the application."

18 Section 18. A new section of the Gaming Control Act,  
19 Section 60-2E-14.1 NMSA 1978, is enacted to read:

20 "60-2E-14.1. [NEW MATERIAL] CLASSIFICATION OF  
21 LICENSES.--

22 A. A gaming operator licensee authorized to conduct  
23 parimutuel wagering on live horse races on the racing grounds  
24 of the racetrack gaming operator licensee and on simulcasted  
25 horse races received on the racetrack gaming operator

.159683.6

underscored material = new  
[bracketed material] = delete

1 licensee's premises shall be issued either a class A or class B  
2 racetrack gaming operator license pursuant to the following:

3 (1) a class A license shall be issued to a  
4 gaming operator licensee for a horse racetrack at which the  
5 total gross amount wagered through the parimutuel system in the  
6 preceding calendar year from live horse races and simulcasted  
7 races was ten million dollars (\$10,000,000) or more; and

8 (2) a class B license shall be issued to a  
9 gaming operator licensee for a horse racetrack at which the  
10 total gross amount wagered through the parimutuel system in the  
11 preceding calendar year from live horse races and simulcasted  
12 races was less than ten million dollars (\$10,000,000).

13 B. A new gaming operator licensee shall be given a  
14 classification by the board based on the best estimate of the  
15 projected total gross amount to be wagered at the new horse  
16 racetrack through the parimutuel system from live horse races  
17 and simulcasted races.

18 C. Each class of license is subject to the  
19 provisions of the Gaming Control Act and the Horse Racing Act,  
20 except as explicitly stated in one of those acts.

21 D. The board shall adopt rules as necessary to  
22 provide for racetrack gaming operator license classification."

23 Section 19. A new section of the Gaming Control Act,  
24 Section 60-2E-16.1 NMSA 1978, is enacted to read:

25 "60-2E-16.1. [NEW MATERIAL] LICENSING REQUIREMENTS--

.159683.6

underscored material = new  
[bracketed material] = delete

1 RACETRACK GAMING OPERATOR LICENSEES--SPECIAL CONDITIONS.--

2 A. The board may limit the number of persons  
3 holding direct or indirect financial interests in a gaming  
4 operator's license.

5 B. The board shall determine if the financial  
6 interests of an applicant or group of applicants are compatible  
7 with the general welfare of the residents of the state.

8 C. A person shall not have a direct or indirect  
9 interest of any nature in gaming operator's licenses at more  
10 than two horse racetracks in the state.

11 D. The board shall order a person having a direct  
12 or indirect interest in more than two horse racetracks in New  
13 Mexico to immediately divest himself of the interest. From the  
14 date the board issues the order to divest, the person shall  
15 not:

16 (1) exercise financial, administrative,  
17 policymaking or supervisory power with respect to the horse  
18 racetrack;

19 (2) act as an officer or director of the horse  
20 racetrack;

21 (3) receive dividends, either in cash or stock  
22 from the horse racetrack;

23 (4) hold or receive interest on a certificate  
24 of indebtedness from the horse racetrack;

25 (5) exercise, individually or through a

.159683.6

underscored material = new  
[bracketed material] = delete

1 trustee, nominee or agent, a voting right or other power or  
2 privilege conferred by the person's direct or indirect interest  
3 in the horse racetrack; or

4 (6) otherwise receive remuneration of any kind  
5 or nature from the business.

6 E. As used in this section, "direct or indirect  
7 interest" means an administrative, policymaking, supervisory,  
8 financial interest or other interest deemed by the board to  
9 provide significant control over the conduct of horse racing,  
10 the handling or generation of proceeds or the development or  
11 implementation of policy of a horse racetrack; a financial  
12 interest is one held directly or indirectly, or beneficially,  
13 comprising ten percent or more of the total authorized, issued  
14 and outstanding securities of a business that is licensed to  
15 conduct horse racing in New Mexico."

16 Section 20. Section 60-2E-27 NMSA 1978 (being Laws 1997,  
17 Chapter 190, Section 29, as amended) is amended to read:

18 "60-2E-27. GAMING OPERATOR LICENSEES--SPECIAL CONDITIONS  
19 FOR RACETRACKS--NUMBER OF GAMING MACHINES--DAYS AND HOURS OF  
20 OPERATIONS.--

21 A. The board may issue a gaming operator's license  
22 to a horse racetrack [~~licensed by the state racing commission~~  
23 ~~pursuant to the Horse Racing Act~~] to conduct live horse races  
24 or simulcast races [~~may be issued a gaming operator's license~~]  
25 and to operate gaming machines [~~on its premises where live~~

.159683.6

underscored material = new  
[bracketed material] = delete

1 ~~racetrack is conducted~~], provided that the state racing commission  
2 certifies to the board that the horse racetrack is in  
3 compliance with the requirements of the commission and is  
4 approved for operation.

5 B. The board may approve the renewal of the license  
6 of a racetrack gaming operator licensee only after the state  
7 racing commission has certified to the board that the horse  
8 racetrack on the premises of the racetrack gaming operator  
9 licensee has complied with the requirements of the commission  
10 and is approved for continued operation.

11 ~~[B.]~~ C. A ~~[racetrack's]~~ racetrack gaming operator's  
12 license shall automatically become void if

13 ~~[(1) the racetrack no longer holds an active~~  
14 ~~license to conduct parimutuel wagering; or~~

15 ~~(2)]~~ the horse racetrack fails to maintain a  
16 minimum of four live race days a week with at least nine live  
17 races on each race day during its licensed ~~[race meet]~~ racing  
18 season.

19 ~~[C.]~~ D. A racetrack gaming operator licensee ~~[that~~  
20 ~~is a racetrack]~~ may have up to six hundred licensed gaming  
21 machines, but the number of gaming machines to be located on  
22 the licensee's premises shall be specified in the gaming  
23 operator's license.

24 ~~[D.]~~ E. By execution of an allocation agreement,  
25 signed by both the allocating horse racetrack and the horse

.159683.6



underscored material = new  
[bracketed material] = delete

1 racetrack to whom the allocation is made, a gaming operator  
2 licensee that is a horse racetrack may allocate any number of  
3 its authorized gaming machines to another racetrack gaming  
4 operator licensee [~~that is a racetrack~~]. To be valid, the  
5 allocation agreement must bear the written approval of the  
6 board and the state racing commission, and this approval shall  
7 make specific reference to the [~~meeting~~] meetings at which the  
8 action of approval was taken and the number of votes cast both  
9 for and against the approval. By allocating a number of its  
10 authorized machines to another horse racetrack, the allocating  
11 horse racetrack automatically surrenders all rights to operate  
12 the number of machines allocated. No horse racetrack shall  
13 operate or be authorized to operate more than seven hundred  
14 fifty gaming machines.

15 [~~E-~~] F. Gaming machines on a racetrack gaming  
16 operator licensee's premises may be played only on days when  
17 the racetrack is either conducting live horse races or  
18 simulcasting horse [~~race meets~~] races. On days when gaming  
19 machines are permitted to be operated, a racetrack gaming  
20 operator licensee may offer gaming machines for operation for  
21 up to eighteen hours per day; provided that the total number of  
22 hours in which gaming machines are operated does not exceed one  
23 hundred twelve hours in a one-week period beginning on Tuesday  
24 at 8:00 a.m. and ending at 8:00 a.m. on the following Tuesday.  
25 A racetrack gaming operator licensee may offer gaming machines

.159683.6

underscored material = new  
[bracketed material] = delete

1 for play at any time during a day, provided that the total  
2 hours of operation in each day from just after midnight of the  
3 previous day until midnight of the current day does not exceed  
4 eighteen hours. A racetrack gaming operator licensee shall  
5 determine, within the limitations imposed by this subsection,  
6 the hours it will offer gaming machines for operation each day  
7 and shall notify the board in writing of those hours.

8 [F-] G. Alcoholic beverages shall not be sold,  
9 served, delivered or consumed in the area restricted pursuant  
10 to Subsection F of Section 60-2E-26 NMSA 1978."

11 Section 21. A new section of the Gaming Control Act,  
12 Section 60-2E-27.1 NMSA 1978, is enacted to read:

13 "60-2E-27.1. [NEW MATERIAL] PARIMUTUEL WAGERING--  
14 RACETRACK GAMING OPERATOR LICENSEES--LIMITED TO ENCLOSURE WHERE  
15 HORSE RACES ARE CONDUCTED.--

16 A. A racetrack gaming operator licensed by the  
17 board may conduct parimutuel wagering on live horse races or on  
18 simulcasted horse races.

19 B. Parimutuel wagering may be conducted only within  
20 the enclosure where horse races are conducted on the racing  
21 grounds of a racetrack gaming operator licensee.

22 C. A racetrack gaming operator licensee may sell  
23 parimutuel tickets or certificates only for:

24 (1) live races being conducted on the racing  
25 grounds on the premises of the racetrack gaming operator

.159683.6

underscored material = new  
[bracketed material] = delete

1 licensee; or

2 (2) simulcasted races received on the premises  
3 of the racetrack gaming operator licensee.

4 D. Parimutuel tickets or certificates may be sold  
5 only in the racing enclosure on the racing grounds of a gaming  
6 operator licensee or in areas set aside for viewing simulcasted  
7 races on the premises of the gaming operator licensee."

8 Section 22. A new section of the Gaming Control Act,  
9 Section 60-2E-27.2 NMSA 1978, is enacted to read:

10 "60-2E-27.2. [NEW MATERIAL] HORSE RACE SIMULCASTING  
11 ALLOWED--RACETRACK GAMING OPERATOR LICENSEES.--

12 A. The board may allow simulcasting of horse races  
13 being conducted on the racing grounds of a racetrack gaming  
14 operator licensee to other locations within or outside of the  
15 state holding a parimutuel license or gaming license allowing  
16 parimutuel wagering.

17 B. Simulcasting of horse races licensed and  
18 conducted outside of the state may be permitted on the racing  
19 grounds of racetrack gaming operator licensees.

20 C. Parimutuel wagering on the racing grounds of a  
21 gaming operator licensee on simulcasted races is permitted only  
22 on days on which live races are conducted on the racing grounds  
23 of the licensee or on days when the licensee is receiving  
24 simulcasted races from another licensed horse racetrack in New  
25 Mexico.

.159683.6

underscored material = new  
[bracketed material] = delete

1           D. Parimutuel wagering shall be conducted on  
2 simulcasted races on the premises of a gaming operator licensee  
3 located within an eighty-mile radius of another licensed New  
4 Mexico horse racetrack at which live races are in progress only  
5 if there is a mutual agreement of the two racetrack gaming  
6 operator licensees.

7           E. A racetrack gaming operator licensee shall not  
8 receive broadcasts of simulcasted horse races unless that horse  
9 racetrack offers at least seventeen days per year of parimutuel  
10 wagering on on-premises live horse races.

11           F. The board shall adopt rules concerning the  
12 simulcasting of horse races pursuant to this section."

13           Section 23. A new section of the Gaming Control Act,  
14 Section 60-2E-27.3 NMSA 1978, is enacted to read:

15           "60-2E-27.3. [NEW MATERIAL] INTERSTATE COMMON-POOL  
16 WAGERING AUTHORIZED--RACETRACK GAMING OPERATOR LICENSEES.--

17           A. Subject to the federal Interstate Horseracing  
18 Act of 1978, the board may permit a racetrack gaming operator  
19 licensee to participate in interstate common pools. All  
20 provisions of the Gaming Control Act that govern parimutuel  
21 wagering apply to parimutuel wagering in interstate common  
22 pools, except as otherwise provided in this section.

23           B. Subject to prior approval of the board, the  
24 following provisions apply when a racetrack gaming operator  
25 licensee participates in interstate common pools on a horse

.159683.6

underscoring material = new  
[bracketed material] = delete

1 race that originates outside of New Mexico:

2 (1) the licensee may combine its parimutuel  
3 pools with comparable parimutuel pools at the host track and  
4 other locations. The types of wagering, takeout, distribution  
5 of winnings and rules of racing in effect for parimutuel pools  
6 at the host track shall govern wagers placed at the guest track  
7 in this state and merged into the interstate common pool.  
8 Breakage for interstate common pools shall be calculated in  
9 accordance with the rules governing the host track and shall be  
10 distributed in a manner agreed upon by the racetrack gaming  
11 operator licensee guest track and the host track;

12 (2) with the concurrence of the host track, an  
13 interstate common pool that excludes the host track may be  
14 formed among the racetrack gaming operator licensee guest track  
15 and other locations outside the state where the host track is  
16 located. When such an interstate common pool is formed, the  
17 board may approve types of wagering takeout, distribution of  
18 winnings, rules of racing and calculation of breakage that are  
19 different than those that would otherwise be in effect in New  
20 Mexico, provided that they are applied consistently to all  
21 persons in the interstate common pool;

22 (3) the racetrack gaming operator licensee may  
23 deduct from retainage resulting from an interstate common pool  
24 any reasonable fee paid to the person conducting the horse race  
25 for the privilege of conducting parimutuel wagering on the race

.159683.6

underscored material = new  
[bracketed material] = delete

1 and participating in the common pool; and

2 (4) provisions of law or contract governing  
3 the distribution of parimutuel taxes, breeder or other awards  
4 and purses from the takeout of wagers placed in this state  
5 shall remain in effect for wagers placed in interstate common  
6 pools; provided that:

7 (a) if the board approves an adjustment  
8 in the takeout rate, the distribution of the takeout within New  
9 Mexico shall be adjusted proportionately to reflect the  
10 adjustment in the takeout rate; and

11 (b) with the concurrence of the  
12 racetrack gaming operator licensee and the organization  
13 representing a majority of the breeders, horsemen or other  
14 persons entitled to shares of the distribution and subject to  
15 approval of the board, the respective shares to the breeders or  
16 other awards or purses may be modified.

17 C. Subject to prior approval of the board, the  
18 following provisions apply when a racetrack gaming operator  
19 licensee participates in interstate common pools on a horse  
20 race that originates at the licensee's track:

21 (1) a licensee may permit one or more of its  
22 horse races to be utilized for parimutuel wagering at, and may  
23 transmit audio-visual signals of horse races the licensee  
24 conducts to, one or more locations outside New Mexico. The  
25 licensee may also permit parimutuel wagering pools in other

.159683.6

underscoring material = new  
[bracketed material] = delete

1 locations to be combined with the licensee's comparable  
2 parimutuel wagering pools or with wagering pools established in  
3 other jurisdictions. The board may modify its rules and adopt  
4 separate rules for interstate common pools and their  
5 calculation of breakage;

6 (2) daily parimutuel taxes shall not be  
7 imposed upon amounts wagered in an interstate common pool other  
8 than upon amounts wagered within this state;

9 (3) except as otherwise provided in this  
10 section, any provisions of law or contract governing the  
11 distribution of shares of the takeout as New Mexico parimutuel  
12 taxes, breeder or other awards and purses shall remain in  
13 effect for amounts wagered within this state in interstate  
14 common pools, provided that with the concurrence of the  
15 racetrack gaming operator licensee and the organization  
16 representing a majority of the breeders, horsemen or other  
17 persons entitled to shares of the distribution, and subject to  
18 approval of the board, the respective shares to breeder or  
19 other awards or purses may be modified; and

20 (4) with respect to the retainage on  
21 interstate common pooling received from a guest state by a  
22 racetrack gaming operator licensee, that licensee shall  
23 allocate to the New Mexico horse breeders' association five  
24 percent of the daily retainage. Of the retainage remaining  
25 after the allocation to the New Mexico horse breeders'

.159683.6

underscored material = new  
[bracketed material] = delete

1 association, fifty percent shall be allocated to race purses  
2 and fifty percent shall be retained by the racetrack gaming  
3 operator licensee.

4 D. When the laws and rules of the host and guest  
5 states permit, an interstate common pool may be established on  
6 a regional or other basis between two or more guest states and  
7 not include a merger into the host track's parimutuel pool, in  
8 which case one of the guest tracks shall serve as if it were  
9 the host track for the purposes of calculating the parimutuel  
10 pool. An interstate common pool may include members located  
11 outside the United States. Except as otherwise set forth in  
12 the board's rules, participation by a person in a common pool  
13 with wagering facilities in one or more other guest states  
14 shall not cause the participating person to be deemed to be  
15 doing business in any state other than the state in which that  
16 person is physically located.

17 E. The board may adopt rules necessary or  
18 appropriate to exercise its powers and duties pursuant to this  
19 section.

20 F. As used in this section:

21 (1) "guest state" means the jurisdiction  
22 within which a guest track is located;

23 (2) "guest track" means the horse racetrack,  
24 off-track wagering facility or other facility in a location  
25 other than the state in which the horse race is run that is a

.159683.6



underscored material = new  
[bracketed material] = delete

1 member of and subject to an interstate common pool;

2 (3) "host state" means the jurisdiction within  
3 which a host track is located;

4 (4) "host track" means the horse racetrack  
5 from which the horse race is run that is transmitted to members  
6 of and is subject to an interstate common pool; and

7 (5) "interstate common pool" means a  
8 parimutuel pool that combines comparable parimutuel pools of  
9 one or more locations accepting wagers on a horse race run at  
10 the host track for purposes of establishing payoff prices at  
11 the pool members' locations. Pool members from more than one  
12 state may simultaneously combine parimutuel pools into an  
13 interstate common pool."

14 Section 24. A new section of the Gaming Control Act,  
15 Section 60-2E-47.1 NMSA 1978, is enacted to read:

16 "60-2E-47.1. [NEW MATERIAL] HORSE RACING--DAILY  
17 PARIMUTUEL EXCISE TAX--IMPOSITION--AMOUNT--DISTRIBUTION.--

18 A. A tax that may be cited as the "daily parimutuel  
19 excise tax" is imposed for the privilege of conducting  
20 parimutuel wagering on the racing grounds of a racetrack gaming  
21 operator licensee.

22 B. The amount of the daily parimutuel excise tax to  
23 be paid when the licensee offers parimutuel wagering on live  
24 races conducted on the racing grounds of the premises of the  
25 racetrack gaming operator licensee shall be:

.159683.6

1 (1) for a class A license, six hundred fifty  
2 dollars (\$650) for each racing day authorized by the state  
3 racing commission; and

4 (2) for a class B license, one-eighth percent  
5 of a class B licensee's gross amount wagered each day, up to a  
6 maximum of three hundred dollars (\$300), for each racing day  
7 authorized by the state racing commission for class B licenses.

8 C. The daily parimutuel excise tax shall be  
9 remitted to the racing suspense account and then transferred to  
10 the taxation and revenue department for distribution pursuant  
11 to the Tax Administration Act.

12 D. The daily parimutuel excise tax to be paid when  
13 a racetrack gaming operator licensee offers no parimutuel  
14 wagering on live races on the racing grounds on its premises  
15 and offers parimutuel wagering solely on simulcasted races  
16 shall be one-eighth percent of the licensee's gross amount  
17 wagered each day, up to a maximum of three hundred dollars  
18 (\$300) for each racing day authorized by the state racing  
19 commission.

20 E. The daily parimutuel excise tax for a state fair  
21 association designated by law, that in good faith conducts a  
22 public fair and exhibition of stock and farming products, shall  
23 be six hundred fifty dollars (\$650) per day for each racing day  
24 authorized; provided, however, that where a licensed state fair  
25 association offers no parimutuel wagering on live races on the

underscored material = new  
[bracketed material] = delete

1 racing grounds on its premises and offers parimutuel wagering  
2 solely on simulcasted races, the daily parimutuel excise tax  
3 shall be one-eighth percent of the racetrack gaming operator  
4 licensee's gross amount wagered each day, up to a maximum of  
5 three hundred dollars (\$300)."

6 Section 25. A new section of the Gaming Control Act,  
7 Section 60-2E-47.2 NMSA 1978, is enacted to read:

8 "60-2E-47.2. [NEW MATERIAL] DAILY RACING TAX--  
9 IMPOSITION--RACETRACK GAMING OPERATOR LICENSEES--AMOUNT--  
10 PROHIBITION OF CERTAIN OTHER TAXES.--

11 A. In addition to the daily parimutuel excise tax  
12 imposed pursuant to Section 60-2E-47.1 NMSA 1978, but in lieu  
13 of the gross receipts tax imposed pursuant to the Gross  
14 Receipts and Compensating Tax Act on receipts of a racetrack  
15 gaming operator licensee from the gross amount wagered each  
16 day, a tax that may be referred to as the "daily racing tax" is  
17 imposed in an amount of two and three-sixteenths percent of the  
18 gross amount wagered each day on horse races on the premises of  
19 a racetrack gaming operator licensee. The tax shall be paid  
20 from the commissions on parimutuel wagering of the racetrack  
21 gaming operator licensee. The tax shall be paid on the gross  
22 amount wagered each day from live racing on the racing grounds  
23 of the racetrack gaming operator licensee or on simulcasted  
24 races on the premises of the racetrack gaming operator  
25 licensee.

.159683.6

underscoring material = new  
[bracketed material] = delete

1           B. A deduction or offset from the daily racing tax  
2 due and owed by a racetrack gaming operator licensee may be  
3 taken on forms provided by the taxation and revenue department  
4 by the racetrack gaming operator licensee of not more than one-  
5 half of the annual daily racing tax due and owed for the first  
6 two hundred fifty thousand dollars (\$250,000) of the gross  
7 amount wagered each day for a taxable year, as follows:

8                   (1) a class A racetrack gaming operator  
9 licensee may deduct the amount that the class A racetrack  
10 gaming operator licensee expends for capital improvements or in  
11 financing capital improvements at existing racetrack  
12 facilities; and

13                   (2) a class B racetrack gaming operator  
14 licensee may deduct:

15                           (a) the amount that the class B  
16 racetrack gaming operator licensee expends for capital  
17 improvements, not to exceed fifty percent of the offset amount  
18 allowed pursuant to this subsection; and

19                           (b) the amount that the class B  
20 racetrack gaming operator licensee expends for advertising,  
21 marketing and promoting horse racing in the state, not to  
22 exceed fifty percent of the offset allowed pursuant to this  
23 subsection.

24           C. The balance of revenue derived from the daily  
25 racing tax of a racetrack gaming operator licensee that remains  
.159683.6

underscoring material = new  
[bracketed material] = delete

1 after the deduction allowed pursuant to Subsection B of this  
2 section shall be remitted to the racing suspense account for  
3 transfer to the taxation and revenue department for  
4 distribution to eligible municipalities pursuant to Section  
5 60-2E-47.3 NMSA 1978.

6 D. Regarding the horse racetrack located on the  
7 fairgrounds of the state fair, an amount equal to one-half of  
8 the daily racing tax imposed pursuant to Subsection A of this  
9 section is appropriated from the general fund in fiscal year  
10 2006 and in subsequent fiscal years to the state fair  
11 commission for expenditure as needed on capital improvements at  
12 the state fairgrounds and expenditure for debt service on  
13 negotiable bonds issued for the capital improvements. The  
14 unexpended or unencumbered balance remaining at the end of a  
15 fiscal year shall not revert to the general fund.

16 E. Revenues from the daily racing tax not otherwise  
17 appropriated by provisions of this section shall be deposited  
18 to the credit of the general fund.

19 F. Accurate records shall be kept by a racetrack  
20 gaming operator licensee to show all commissions, total amounts  
21 wagered, retainage, distributions and breakage and other  
22 information requested by the board. Records shall be open to  
23 inspection and shall be audited by the board or its authorized  
24 representatives. A racetrack gaming operator licensee is  
25 required to maintain records for parimutuel wagering and all

.159683.6

underscored material = new  
[bracketed material] = delete

1 other financial transactions of the horse racetrack according  
2 to generally accepted accounting principles, pursuant to  
3 requirements established by the board.

4 G. Notwithstanding any other provision of law, a  
5 political subdivision of the state shall not impose an  
6 occupational or excise tax on a racetrack operating pursuant to  
7 the provisions of the Gaming Control Act or the Horse Racing  
8 Act. A political subdivision may impose local option gross  
9 receipts taxes on businesses within the political subdivision's  
10 jurisdiction to the extent authorized and permitted by law.

11 H. As used in this section, "capital improvement"  
12 means a capital investment in infrastructure that is subject to  
13 depreciation pursuant to the federal Internal Revenue Code of  
14 1986 and is approved by the state racing commission."

15 Section 26. A new section of the Gaming Control Act,  
16 Section 60-2E-47.3 NMSA 1978, is enacted to read:

17 "60-2E-47.3. [NEW MATERIAL] DETERMINATION OF MUNICIPAL  
18 COMPENSATION.--

19 A. No later than August 31 of each year, the  
20 taxation and revenue department shall determine the total  
21 amount of local option gross receipts taxes paid in the  
22 previous fiscal year by a racetrack gaming operator licensee to  
23 the municipality in which the racetrack gaming operator  
24 licensee is located, that is subject to distribution pursuant  
25 to Section 7-1-6.12 NMSA 1978 to the municipality in which the

.159683.6

underscored material = new  
[bracketed material] = delete

1 premises of the racetrack gaming operator licensee is located.

2 B. If the total distribution pursuant to Section  
3 7-1-6.12 NMSA 1978 to a municipality from the racetrack gaming  
4 operator licensee is:

5 (1) less than fifty thousand dollars  
6 (\$50,000), then the taxation and revenue department shall  
7 distribute the difference between fifty thousand dollars  
8 (\$50,000) and the amount of local option gross receipts taxes  
9 distributed to the municipality from payments of local option  
10 gross receipts taxes made by the racetrack gaming operator  
11 licensee in the last fiscal year from the revenue remitted in  
12 daily racing taxes pursuant to Section 60-2E-47.2 NMSA 1978; or

13 (2) equal to or exceeds fifty thousand dollars  
14 (\$50,000), then no amount of daily racing taxes from that  
15 racetrack gaming operator licensee shall be distributed to the  
16 municipality.

17 C. The taxation and revenue department shall update  
18 the board periodically of its progress in calculating the  
19 distributions and notify the board when the distributions are  
20 complete.

21 D. The taxation and revenue department shall inform  
22 the board of the amount of daily racing tax distributed  
23 pursuant to this section to municipalities from each racetrack  
24 gaming operator licensee no later than August 31 of each year.

25 E. Balances of daily racing tax remaining after

.159683.6

underscored material = new  
[bracketed material] = delete

1 distribution to municipalities shall be deposited to the credit  
2 of the general fund."

3 Section 27. A new section of the Gaming Control Act,  
4 Section 60-2E-47.4 NMSA 1978, is enacted to read:

5 "60-2E-47.4. [NEW MATERIAL] DAILY RACE LICENSE FEE--  
6 IMPOSITION--AMOUNT--RACETRACK GAMING OPERATOR LICENSEE.--In  
7 addition to all other daily racing taxes, a daily race license  
8 fee of five hundred dollars (\$500) is imposed on a racetrack  
9 gaming operator licensee for each day of live racing conducted  
10 on the racing grounds of the racetrack gaming operator  
11 licensee."

12 Section 28. A new section of the Gaming Control Act,  
13 Section 60-2E-47.5 NMSA 1978, is enacted to read:

14 "60-2E-47.5. [NEW MATERIAL] PAYMENT OF DAILY RACING FEES  
15 AND TAXES.--

16 A. Daily race license fees, daily parimutuel excise  
17 taxes and daily racing taxes imposed by the Gaming Control Act  
18 shall be paid to the board for deposit in the racing suspense  
19 account at the close of the business day on Thursday of every  
20 week.

21 B. Failure to make weekly remittances by the  
22 licensee shall result in an assessment by the board against the  
23 licensee of a fine of one percent of the amount due weekly.

24 C. Fines shall be distributed from the racing  
25 suspense account to the current school fund pursuant to Article

.159683.6



underscored material = new  
[bracketed material] = delete

1 12, Section 4 of the constitution of New Mexico."

2 Section 29. A new section of the Gaming Control Act,  
3 Section 60-2E-47.6 NMSA 1978, is enacted to read:

4 "60-2E-47.6. [NEW MATERIAL] RACING SUSPENSE ACCOUNT  
5 CREATED.--

6 A. The "racing suspense account" is created in the  
7 tax administration suspense fund, into which the board shall  
8 deposit all daily racing taxes, the daily parimutuel excise  
9 taxes and all fees.

10 B. The taxation and revenue department shall  
11 administer the racing suspense account.

12 C. A mandatory balance of three thousand dollars  
13 (\$3,000) shall be maintained in the racing suspense account  
14 after transfers are made to the tax administration suspense  
15 fund pursuant to this section.

16 D. Money in the account above the mandatory balance  
17 shall be transferred by the end of business each Friday to the  
18 tax administration suspense fund for distribution pursuant to  
19 the Tax Administration Act and deposit in the general fund.

20 E. All money in the racing suspense account shall  
21 be identified as to the source of the money.

22 F. The board shall obtain information about the  
23 deposits, distributions and daily balances in the racing  
24 suspense account on a monthly basis and upon request of the  
25 board to the taxation and revenue department."

.159683.6

underscored material = new  
[bracketed material] = delete

1           Section 30. A new section of the Gaming Control Act,  
2 Section 60-2E-47.7 NMSA 1978, is enacted to read:

3           "60-2E-47.7. [NEW MATERIAL] HORSEMEN'S COMMISSIONS--  
4 MAXIMUM--COMMISSION DISTRIBUTION--COMMISSION FEE.--

5           A. A class A racetrack gaming operator licensee  
6 shall be paid a commission of nineteen percent of the gross  
7 amount wagered on win, place and show through the parimutuel  
8 system, of which eighteen and three-fourths percent shall be  
9 retained by the class A racetrack gaming operator licensee. A  
10 fee in the amount of one-fourth percent on the commission  
11 retained by the class A racetrack gaming operator licensee  
12 shall be remitted to the racing suspense account for deposit in  
13 the general fund.

14           B. A class B racetrack gaming operator licensee  
15 shall be paid a commission in an amount determined by the class  
16 B racetrack gaming operator licensee of not less than eighteen  
17 and three-fourths percent and not greater than twenty-five  
18 percent of the gross amount wagered on win, place and show  
19 through the parimutuel system. The commission shall be  
20 retained by a class B racetrack gaming operator licensee. Each  
21 class B racetrack gaming operator licensee shall advise the  
22 board not less than thirty days prior to the first day of each  
23 horse racing season of the percentage of commission that the  
24 licensee will retain.

25           C. From the commissions, each racetrack gaming

.159683.6

underscoring material = new  
[bracketed material] = delete

1 operator licensee shall allocate five-eighths percent to the  
2 New Mexico horse breeders' association weekly for distribution  
3 pursuant to the provisions of Section 60-1-17 NMSA 1978.

4 D. In regard to exotic wagers:

5 (1) a class A racetrack gaming operator  
6 licensee shall retain a commission of not less than twenty-one  
7 percent and not more than twenty-five percent of the gross  
8 amount wagered in exotic wagers;

9 (2) a class B racetrack gaming operator  
10 licensee shall elect, with the approval of the board, to retain  
11 a commission of not less than twenty-one percent and not  
12 greater than thirty percent of the gross amount wagered in  
13 exotic wagers;

14 (3) each racetrack gaming operator licensee  
15 shall advise the board not less than thirty days prior to the  
16 first day of a racing season of the amount of commission to be  
17 retained by the licensee from the gross amount wagered in  
18 exotic wagers; and

19 (4) a racetrack gaming operator licensee shall  
20 allocate one and three-eighths percent to the New Mexico horse  
21 breeders' association weekly of redistribution pursuant to the  
22 provisions of Section 60-1-17 NMSA 1978.

23 E. The odd cents of all redistributions to the  
24 wagerer over the next lowest multiple of ten from the gross  
25 amount wagered through the parimutuel system shall be retained

.159683.6

1 by the racetrack gaming operator licensee, with fifty percent  
2 of the total of the odd cents wagered being allocated to  
3 enhance the race purses of established stake races that include  
4 only horses registered as New Mexico bred with the New Mexico  
5 horse breeders' association, to be distributed by the New  
6 Mexico horse breeders' association pursuant to Section 60-1-17  
7 NMSA 1978 subject to the approval of the state racing  
8 commission.

9 F. Money resulting from the failure of patrons who  
10 purchased winning parimutuel tickets during a horse race season  
11 to redeem their winning tickets before the end of the sixty-day  
12 period immediately following the closing day of the horse  
13 racing season and money resulting from the failure of patrons  
14 who purchased parimutuel tickets that were entitled to refund  
15 but were not refunded during the same sixty-day period shall be  
16 apportioned as follows:

17 (1) the racetrack gaming operator licensee  
18 shall retain thirty-three and thirty-three hundredths percent;

19 (2) the New Mexico horse breeders' association  
20 shall receive a distribution of thirty-three and thirty-four  
21 hundredths percent to enhance each horse racetrack's  
22 established overnight purses for races that include only horses  
23 registered as New Mexico bred with the New Mexico horse  
24 breeders' association, subject to board approval, pursuant to  
25 Section 60-1-17 NMSA 1978; and

.159683.6

underscored material = new  
[bracketed material] = delete

1                   (3) thirty-three and thirty-three hundredths  
2 percent shall be allocated to horsemen's race purses.

3                   G. To promote and improve the quality of horse  
4 racing and simulcasting and the participation of interested  
5 persons in horse racing in New Mexico, one-half percent of the  
6 gross amount wagered on simulcasted horse races at each  
7 licensed racetrack in New Mexico that receives simulcasted  
8 horse races shall be allocated by each racetrack gaming  
9 operator licensee for distribution to the New Mexico horsemen's  
10 association, provided that at least one-fourth percent of the  
11 gross amount wagered on simulcasted races that is allocated to  
12 the New Mexico horsemen's association is used solely for  
13 medical benefits for the members of the New Mexico horsemen's  
14 association, and provided further that the remaining one-fourth  
15 percent of the gross amount wagered on simulcasted races that  
16 is allocated to the New Mexico horsemen's association shall be  
17 used to enhance purses at each licensed racetrack.

18                   H. The board shall by rule provide for the timing  
19 and manner of the distributions required by this section and  
20 shall audit, or arrange for an independent audit of, the  
21 disbursements required by this section.

22                   I. Fifty percent of the net retainage of each  
23 licensee shall be allocated to race purses. For purposes of  
24 this section, "net retainage" of the licensee means the  
25 commission retained by the licensee on all forms of wagers

.159683.6

1 minus:

2 (1) the daily taxes imposed on racetrack  
3 gaming operator licensees pursuant to the Gaming Control Act;

4 (2) money allocated to the New Mexico horse  
5 breeders' association by this section and Section 60-1-17 NMSA  
6 1978;

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

9 (4) a deduction for expenses incurred to  
10 engage in intrastate simulcasting pursuant to Section 60-2E-27.2  
11 NMSA 1978; provided that:

12 (a) the deduction for each racetrack  
13 gaming operator licensee shall be a portion of five percent of  
14 the gross amount wagered at all the sites receiving the same  
15 simulcasted horse races;

16 (b) the deduction portion for each  
17 racetrack gaming operator licensee shall be an amount allocated  
18 to that licensee by agreement voluntarily reached among all of  
19 the horse racetracks sending or receiving the same simulcasted  
20 horse races; and

21 (c) the deduction portion for each  
22 racetrack gaming operator licensee shall be an amount allocated  
23 to that licensee by the board if all of the licensees sending  
24 or receiving the same simulcasted horse races fail to reach a  
25 voluntary agreement pursuant to Section 60-2E-27.3 NMSA 1978;

.159683.6

underscoring material = new  
[bracketed material] = delete

1 and

2 (5) a deduction for fees and commissions  
3 incurred to receive interstate simulcasts pursuant to the  
4 Gaming Control Act.

5 J. As used in this section, "exotic wager" means a  
6 wager made on other than win, place or show through the  
7 parimutuel system."

8 Section 31. A new section of the Gaming Control Act is  
9 enacted to read:

10 "[NEW MATERIAL] HORSE RACING--UNLAWFUL ACTS.--Prohibitions  
11 against horse racing, bookmaking, pool selling or other methods  
12 of wagering on horse races are not repealed. Parimutuel  
13 wagering on horse races that are conducted on the premises of a  
14 racetrack gaming operator licensee is the only authorized  
15 method of wagering on horse races permitted in the state, on  
16 Sunday or any other day."

17 Section 32. A new section of the Gaming Control Act,  
18 Section 60-2E-63 NMSA 1978, is enacted to read:

19 "60-2E-63. [NEW MATERIAL] PENALTY.--If a person directly  
20 or indirectly uses a parimutuel system of wagering except when  
21 licensed as a racetrack gaming operator licensee by the board  
22 and pursuant to the provisions of the Gaming Control Act and  
23 the Horse Racing Act, the person is guilty of a misdemeanor and  
24 upon conviction shall be fined an amount not to exceed five  
25 thousand dollars (\$5,000) or sentenced to imprisonment for not

.159683.6

underscoring material = new  
[bracketed material] = delete

1 more than ninety days or sentenced with both a fine and  
2 imprisonment. An officer of a corporation or company violating  
3 a provision of the Gaming Control Act pertaining to horse  
4 racing shall be deemed personally responsible and subject to  
5 the penalties imposed pursuant to this section."

6 Section 33. A new section of the Tax Administration Act  
7 is enacted to read:

8 "[NEW MATERIAL] DISTRIBUTIONS--DAILY HORSE RACING TAXES--  
9 MUNICIPAL SHARES.--The following distributions shall be made  
10 pursuant to the provisions of Section 7-1-6.1 NMSA 1978 from  
11 the following amounts transferred to the department from the  
12 racing suspense account:

13 A. one hundred fifty dollars (\$150) of the daily  
14 parimutuel excise tax imposed by Section 60-2E-47.1 NMSA 1978  
15 remitted by a class A racetrack gaming operator licensee shall  
16 be distributed to the treasury of the municipality in which the  
17 class A racetrack gaming operator licensee's horse racetrack is  
18 located if the class A racetrack gaming operator licensee's  
19 racetrack is located in an incorporated municipality with a  
20 population according to the 1990 federal decennial census that  
21 is either:

22 (1) less than six thousand persons if located  
23 in a county with a population of more than ten thousand but  
24 less than fifteen thousand persons; or

25 (2) more than eight thousand persons but less

.159683.6



underscored material = new  
[bracketed material] = delete

1 than ten thousand persons if located in a county with a  
2 population of more than one hundred thousand persons but less  
3 than one hundred fifty thousand persons; and

4 B. the balance of the daily racing tax imposed by  
5 Section 60-2E-47.2 NMSA 1978 after deductions pursuant to  
6 Subsection B of that section are taken shall be distributed to  
7 the treasury of a municipality in which a horse racetrack is  
8 located that is eligible for distributions pursuant to Section  
9 60-2E-47.3 NMSA 1978."

10 Section 34. A new section of the Tax Administration Act  
11 is enacted to read:

12 "[NEW MATERIAL] RACING SUSPENSE ACCOUNT--GAMING CONTROL  
13 BOARD ACCESS TO INFORMATION.--The department shall provide the  
14 gaming control board with monthly reports on the deposits,  
15 balances, refunds and transfers from the racing suspense  
16 account and shall provide additional information about the  
17 account upon request by the gaming control board. Information  
18 about the account may be disclosed fully to the gaming control  
19 board, including deposits attributed to specific horse  
20 racetracks."

21 Section 35. REPEAL.--Sections 60-1-2, 60-1-6 through  
22 60-1-10, 60-1-14, 60-1-15, 60-1-15.2 through 60-1-16, 60-1-18,  
23 60-1-19 and 60-1-24 through 60-1-25.1 NMSA 1978 (being Laws  
24 1977, Chapter 245, Section 123, Laws 1973, Chapter 323, Section  
25 4, Laws 1991, Chapter 7, Section 1, Laws 1933, Chapter 55,  
.159683.6

underscoring = new  
~~[bracketed material]~~ = delete

1 Sections 3 through 6, 8 and 9, Laws 1992, Chapter 110, Section  
2 2, Laws 1993, Chapter 300, Section 1, Laws 1933, Chapter 55,  
3 Section 10, Laws 1965, Chapter 270, Section 1, Laws 1933,  
4 Chapter 55, Section 11, Laws 1973, Chapter 323, Section 11 and  
5 Laws 1991, Chapter 195, Sections 6 and 4, as amended) are  
6 repealed.

7 Section 36. EFFECTIVE DATE.--The effective date of the  
8 provisions of this act is July 1, 2006.

9 - 82 -

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25