

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

SENATE BILL 418

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

LEONARD TSOSIE

AN ACT

RELATING TO GAMBLING; ENACTING THE GAMING COMPACT ACT, THE VIDEO GAMBLING ACT AND THE CHARITY GAMES ACT; ESTABLISHING PROCEDURES FOR THE RATIFICATION, NEGOTIATION, APPROVAL AND EXECUTION OF GAMING COMPACTS BETWEEN THE STATE AND INDIAN TRIBES; AUTHORIZING AND REGULATING CERTAIN GAMBLING ACTIVITIES; CHANGING CERTAIN EXISTING LAW PROVISIONS RELATING TO GAMBLING; CHANGING PROVISIONS RELATING TO LOTTERY BONDS; IMPOSING TAXES, FEES AND PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 6 of this act may be cited as the "Gaming Compact Act".

Section 2. [NEW MATERIAL] DEFINITIONS. -- As used in the Gaming Compact Act:

Underscored material = new  
[bracketed material] = delete

1           A. "committee" means the joint legislative committee  
2 on compacts created pursuant to Section 5 of the Gaming Compact  
3 Act;

4           B. "compact" means a tribal-state gaming compact  
5 entered into between a tribe and the state pursuant to IGRA and  
6 includes an ancillary agreement or proposed ancillary agreement  
7 related to that compact;

8           C. "gaming" means "class III gaming" as defined in  
9 IGRA;

10           D. "governor" means the governor of New Mexico;

11           E. "IGRA" means the federal Indian Gaming Regulatory  
12 Act (25 U. S. C. A. Sections 2701 et seq.); and

13           F. "tribe" means an Indian nation, tribe or pueblo  
14 located in whole or in part within the state.

15           Section 3. [NEW MATERIAL] COMPACTS--RATIFICATION.--  
16 Compacts signed by the governor and the pueblos of Taos, San  
17 Juan, Santa Clara, Pojoaque, Tesuque, San Felipe, Santa Ana,  
18 Sandia, Isleta, Acoma, Nambe and San Ildelfonso and the  
19 Mescalero and Jicarilla Apache tribes that were approved by the  
20 secretary of the interior and published in the federal register  
21 are ratified by the legislature. The governor is authorized to  
22 execute those compacts on behalf of the state of New Mexico.

23           Section 4. [NEW MATERIAL] COMPACTS--NEGOTIATION--  
24 SUBMISSION TO LEGISLATURE BY GOVERNOR--APPROVAL OR REJECTION--  
25 COMPACT PROVISIONS--REPORT OF GOVERNOR TO LEGISLATURE.--

Underscored material = new  
[bracketed material] = delete

1           A. A request by a tribe to negotiate a compact  
2 initially or to renegotiate or amend an existing compact shall  
3 be submitted to the governor in writing pursuant to IGRA.

4           B. The governor may designate a representative to  
5 negotiate the terms of a compact. The designation shall be  
6 written and a copy of the designation shall be delivered or  
7 mailed within three days of the designation to the speaker of  
8 the house of representatives and the president pro tempore of  
9 the senate. The designated representative of the governor is  
10 authorized to negotiate the terms of a compact on behalf of the  
11 state, but neither the representative nor the governor is  
12 authorized to execute a compact on behalf of the state without  
13 legislative approval granted pursuant to the provisions of this  
14 section.

15           C. At the conclusion of negotiations a proposed  
16 compact shall be prepared and submitted by the governor to the  
17 committee. Submittal of a proposed compact occurs when the  
18 compact and the submittal document are received for the  
19 committee by the legislative council service.

20           D. The committee shall review the proposed compact  
21 and within thirty days after its receipt shall:

22                   (1) by written report to the legislature  
23 recommend approval of the compact as proposed; or

24                   (2) by written transmittal document to the  
25 governor or his designated representative propose specific

Underscored material = new  
[bracketed material] = delete

1 modifications to the compact and request the governor to resume  
2 negotiations with the tribe.

3 E. If the committee proposes specific modifications  
4 to the proposed compact, the governor or his designated  
5 representative may resume negotiations with the tribe in  
6 accordance with the committee's recommendations. If, within  
7 thirty days of receipt by the governor of the transmittal  
8 document on the specific modifications proposed, either the  
9 governor or the tribe notifies the other in writing that it  
10 refuses to negotiate further, the governor shall promptly give  
11 written notification to the committee of the decision. If  
12 negotiations are resumed, the governor shall notify the  
13 committee of the date that he or his designated representative  
14 has resumed negotiations on the requested modifications. The  
15 approval process described in this section for the originally  
16 submitted proposed compact shall be followed for consideration  
17 of a proposed modified compact, except that the time limitation  
18 for review by the committee specified in Subsection D of this  
19 section is reduced to ten days.

20 F. Within five days of being notified that further  
21 negotiations are refused by the tribe or the governor, the  
22 committee shall reconsider the proposed compact and vote to  
23 recommend its approval or rejection or shall vote to make no  
24 recommendation on the proposed compact.

25 G. If the legislature is in session when a report of

Underscored material = new  
[bracketed material] = delete

1 the committee recommending approval or rejection of a proposed  
2 compact is made or a report of a vote of no recommendation is  
3 made, within five days of the date the report is received the  
4 committee shall prepare and introduce in each house a resolution  
5 approving the proposed compact as submitted by the governor.

6 A single resolution in each house may cover more than one  
7 compact if the terms of the compacts are identical except for  
8 the name of the tribe and the name of the person executing the  
9 compact on behalf of the tribe. A copy of the committee report  
10 shall be submitted with the resolution. If a majority of the  
11 members present of each house votes to adopt the resolution, the  
12 compact is approved by the legislature and the governor shall  
13 execute it on behalf of the state.

14 H. If the legislature is not in session when a  
15 report of the committee recommending approval or rejection of a  
16 proposed compact is made or a report of a vote of no  
17 recommendation is made, the committee shall inform the speaker  
18 of the house of representatives and the president pro tempore of  
19 the senate, and the legislature shall proceed pursuant to the  
20 provisions of Subsection G of this section by no later than the  
21 fifth day after the legislature convenes in a regular session or  
22 a special session called for the purpose of considering the  
23 proposed compact.

24 I. The legislature may not amend or modify a  
25 proposed compact submitted to it pursuant to the provisions of

Underscored material = new  
[bracketed material] = delete

1 this section, and it may not refer a proposed compact to a  
2 committee.

3 J. A compact negotiated on behalf of the state  
4 pursuant to this section shall contain:

5 (1) a provision recognizing the right of each  
6 party to the compact to request that the compact be amended,  
7 renegotiated or replaced by a new compact, including the right  
8 of the legislature by joint resolution to request amendment,  
9 renegotiation or replacement of the compact, and providing terms  
10 under which either party, including the legislature, may request  
11 amendment, renegotiation or replacement of a compact; and

12 (2) a provision that, in the event of a request  
13 for amendment, renegotiation or replacement of the compact, the  
14 existing compact will remain in effect until amended,  
15 renegotiated or replaced.

16 K. If a request for negotiation of a compact is made  
17 by a tribe and the proposed compact is identical to a compact  
18 previously approved by the legislature except for the name of  
19 the compacting tribe and the names of the persons to execute the  
20 compact on behalf of the tribe and on behalf of the state, the  
21 governor shall approve and sign the compact on behalf of the  
22 state without submitting the compact for approval pursuant to  
23 the provisions of this section. A compact signed by the  
24 governor pursuant to this subsection is deemed approved by the  
25 legislature.

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1           Section 5.   [NEW MATERIAL]   JOINT LEGISLATIVE COMMITTEE ON  
2   COMPACTS-- CREATION-- MEMBERSHIP-- AUTHORITY. --

3           A.   The "joint legislative committee on compacts" is  
4   created.   Once established it shall continue operating until  
5   specific action is taken by the legislature to terminate its  
6   existence.

7           B.   The committee shall have eight members, four from  
8   the house of representatives and four from the senate.   House  
9   members shall be appointed by the speaker of the house of  
10   representatives, and senate members shall be appointed by the  
11   committees' committee of the senate or, if the senate  
12   appointments are made in the interim, by the president pro  
13   tempore of the senate after consultation with and agreement of a  
14   majority of the members of the committees' committee.   Members  
15   shall be appointed from each house to give the two major  
16   political parties in each house equal representation on the  
17   committee.   At least two of the committee members shall be  
18   legislators who are also members of a tribe if there are two or  
19   more legislators meeting that requirement.   If there is but one  
20   legislator meeting that requirement, that legislator shall be  
21   appointed as a committee member, and the membership shall be  
22   adjusted subsequently if additional qualifying legislators  
23   become available.

24           C.   In addition to its duty to review proposed  
25   compacts, the committee may establish and transmit to the

Underscored material = new  
[bracketed material] = delete

1 governor proposed guidelines reflecting the public policies and  
2 state interests, as embodied in the constitution of New Mexico,  
3 state laws and case law of the state, that are consistent with  
4 IGRA and that will be used by the committee in reviewing  
5 proposed compacts.

6 D. The president pro tempore of the senate shall  
7 designate a senate member of the committee to be chairman of the  
8 committee in odd-numbered years and the vice chairman in even-  
9 numbered years. The speaker of the house of representatives  
10 shall designate a house member of the committee to be chairman  
11 of the committee in even-numbered years and the vice chairman in  
12 odd-numbered years.

13 E. The committee may meet at the call of the  
14 chairman.

15 F. The committee may meet during legislative  
16 sessions as needed.

17 G. Staff services for the committee shall be  
18 provided by the legislative council service.

19 Section 6. [NEW MATERIAL] ACCESS TO DOCUMENTS--  
20 LIMITATION.--The following documents are confidential and shall  
21 not be made available to the public without the express consent  
22 of the tribe or except as is otherwise provided in an approved  
23 compact:

24 A. reports containing results of background  
25 investigations of individuals employed at tribal gaming

Underscored material = new  
[bracketed material] = delete

1 enterprises, vendors, contractors and management officials and  
2 any other documents pertaining to those investigations;

3 B. documents showing income and expenses of tribal  
4 gaming facilities;

5 C. documents pertaining to complaints or allegations  
6 of violations of applicable laws or compact provisions and  
7 investigations into those complaints or allegations; and

8 D. documents pertaining to licensing of or  
9 investigation into gaming devices and documents showing payouts  
10 of individual gaming devices.

11 Section 7. [NEW MATERIAL] SHORT TITLE. -- Sections 7  
12 through 26 of this act may be cited as the "Video Gambling Act".

13 Section 8. [NEW MATERIAL] PURPOSE. -- The purpose of the  
14 Video Gambling Act is to make lawful and regulate the conduct  
15 and operation of certain electronic video games of chance by  
16 certain nonprofit organizations and the operation of both  
17 electronic video games of chance and slot machines by  
18 racetracks.

19 Section 9. [NEW MATERIAL] DEFINITIONS. -- As used in the  
20 Video Gambling Act:

21 A. "department" means the regulation and licensing  
22 department, the superintendent of regulation and licensing or an  
23 employee of the department exercising authority lawfully  
24 delegated to that employee by the superintendent;

25 B. "distributor" means a person who sells, offers

Underscored material = new  
[bracketed material] = delete

1 for sale or otherwise furnishes to another person a video  
2 gambling machine or a slot machine;

3 C. "fraternal organization" means an organization  
4 within this state, not organized for pecuniary profit, that:

5 (1) is a branch, lodge or chapter of a national  
6 or state organization and exists for the common business,  
7 brotherhood or other interests of its members;

8 (2) has existed in New Mexico for at least  
9 three years immediately prior to making application for a  
10 license pursuant to the Video Gambling Act;

11 (3) has been granted an exemption from federal  
12 income tax by the United States commissioner of internal revenue  
13 as an organization described in Section 501(c) of the Internal  
14 Revenue Code of 1986, as amended;

15 (4) is exempt from state income tax pursuant to  
16 Section 7-2-4 NMSA 1978; and

17 (5) is not a college or high school fraternity  
18 or sorority;

19 D. "gross receipts" means the total amount of money  
20 and the value of other consideration received from selling,  
21 renting, leasing, distributing, operating, conducting or  
22 assisting in the operation or conduct of any activities  
23 authorized by the Video Gambling Act, except, in an exchange in  
24 which the money or other consideration received does not reflect  
25 the value of the property exchanged, "gross receipts" means the

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1 reasonable value of the property exchanged as determined by the  
2 department;

3 E. "licensee" means the holder of a license issued  
4 pursuant to the Video Gambling Act;

5 F. "manufacturer" means a person who assembles, from  
6 parts or raw materials, a video gambling machine or slot  
7 machine;

8 G. "net receipts" means gross receipts from  
9 operating a video gambling machine or slot machine, or both,  
10 less the amounts paid as prizes and winnings by the machine;

11 H. "operate" means to possess, for the purpose of  
12 allowing persons to play, or to maintain a video gambling  
13 machine or slot machine;

14 I. "person" means an individual or other legal  
15 entity;

16 J. "play" means to activate a video gambling machine  
17 or slot machine and to manipulate or work it for the purpose of  
18 trying to win money, prizes or other consideration;

19 K. "qualified organization" means a fraternal  
20 organization or a veterans' organization.

21 L. "racetrack" means a facility or person licensed  
22 by the state racing commission to conduct horse racing within  
23 this state;

24 M. "slot machine" means any mechanical or electronic  
25 machine that upon insertion of a coin or token may be played and

Underscored material = new  
[bracketed material] = delete

1 that, by chance, dispenses, or the player may otherwise receive,  
2 cash, tokens, free plays or credits that can be redeemed for  
3 cash, coins, tokens or other consideration, but "slot machine"  
4 does not include amusement-type game machines that are commonly  
5 used for amusement only, which only pay out free games or  
6 tickets or credits that may only be exchanged for merchandise of  
7 insignificant value and are not operated by a licensee;

8 N. "veterans' organization" means an organization  
9 within this state, or any branch, lodge or chapter of a national  
10 or state organization within this state, that is not organized  
11 for pecuniary profit, the membership of which consists entirely  
12 of individuals who were members of the armed services or forces  
13 of the United States, that has been in existence in New Mexico  
14 for at least three years immediately prior to making application  
15 for a license pursuant to the Video Gambling Act, that has been  
16 granted an exemption from federal income tax by the United  
17 States commissioner of internal revenue as an organization  
18 described in Section 501(c) of the Internal Revenue Code of  
19 1986, as amended, and that is exempt from state income tax  
20 pursuant to Section 7-2-4 NMSA 1978; and

21 O. "video gambling machine" means any electronic  
22 device that, upon payment of any consideration, simulates the  
23 play of any game of chance, including but not limited to pull  
24 tabs, poker, keno, blackjack, craps, roulette and any other  
25 similar games defined by regulation of the department, that uses

Underscored material = new  
[bracketed material] = delete

1 video display and microprocessors and that, by chance or through  
2 some combination of chance and skill, dispenses, or the player  
3 may otherwise receive, cash, tokens, free plays or credits that  
4 can be redeemed for cash, coins or tokens, prizes or other  
5 consideration, but "video gambling machine" does not include  
6 amusement-type video game machines that do not simulate the play  
7 of any game of chance and that are commonly used for amusement  
8 only, which only pay out free games or tickets or credits that  
9 may only be exchanged for merchandise of insignificant value and  
10 are not operated by a licensee.

11 Section 10. [NEW MATERIAL] PROHIBITION OF ACTIVITIES  
12 INVOLVING UNAUTHORIZED VIDEO GAMBLING MACHINES AND SLOT  
13 MACHINES-- EXCEPTION. --

14 A. Except as provided in Subsection B of this  
15 section, unless a person has a valid appropriate license or  
16 permit issued by the department pursuant to the Video Gambling  
17 Act, a person shall not:

18 (1) manufacture, import, sell, lease, rent,  
19 distribute, operate or participate in the operation of a video  
20 gambling machine or slot machine; or

21 (2) conduct or participate in any activity  
22 involving a video gambling machine or slot machine.

23 B. The prohibition in Subsection A of this section  
24 does not apply to an Indian nation, tribe or pueblo.

25 Section 11. [NEW MATERIAL] LICENSING GENERAL

Underscored material = new  
[bracketed material] = delete

1 PROVISIONS. --

2 A. Licenses may be issued only in accordance with  
3 the provisions of the Video Gambling Act.

4 B. Any applicant for or holder of a license issued  
5 pursuant to the Video Gambling Act shall produce and furnish all  
6 records, documents and information requested by the department.  
7 No applicant or holder of a license shall interfere or attempt  
8 to interfere with an investigation by the department.

9 C. The department shall investigate the  
10 qualifications of applicants for licenses under the Video  
11 Gambling Act. The department shall investigate the conditions  
12 existing in the community in which the premises for which any  
13 license is sought are located before the license is issued to  
14 ensure that a license is not issued to persons or for locations  
15 if the issuance is prohibited by state law or contrary to the  
16 public health or safety.

17 D. No license shall be issued to:

18 (1) a proprietorship if the proprietor has been  
19 convicted of a felony;

20 (2) a general partnership if a general partner  
21 has been convicted of a felony;

22 (3) a limited partnership if a general partner  
23 has been convicted of a felony or if a limited partner  
24 contributing ten percent or more of the total value of  
25 contributions made to the limited partnership or entitled to ten

Underscored material = new  
[bracketed material] = delete

1 percent or more of the profits earned or other compensation by  
2 way of income paid by the limited partnership has been convicted  
3 of a felony;

4 (4) a limited liability company if a manager or  
5 member with management responsibilities has been convicted of a  
6 felony;

7 (5) a corporation, association or similar  
8 entity having a shareholder holding more than ten percent of the  
9 stock of the entity, a director or an officer who has been  
10 convicted of a felony; or

11 (6) a person subject to the control of an  
12 individual or person who has been convicted of a felony when  
13 that control arises out of relationships defined by regulations  
14 of the department as resulting in control.

15 E. A licensee shall not employ an individual in a  
16 position having authority or responsibility to supervise machine  
17 gambling for the licensee if that individual has been convicted  
18 of a felony.

19 F. An applicant for a license shall file with the  
20 application two complete sets of fingerprints taken under the  
21 supervision of and certified by an officer of the New Mexico  
22 state police, a county sheriff or a municipal chief of police  
23 for the following described individuals:

24 (1) if the applicant is a proprietorship, the  
25 proprietor;

Underscored material = new  
[bracketed material] = delete

1 (2) if the applicant is a general partnership,  
2 each general partner;

3 (3) if the applicant is a limited partnership,  
4 all general partners and each limited partner contributing ten  
5 percent or more of the total value of contributions to the  
6 limited partnership or entitled to ten percent or more of the  
7 profits earned or other compensation by way of income paid by  
8 the limited partnership;

9 (4) if the applicant is a limited liability  
10 company, each manager or member with management  
11 responsibilities;

12 (5) if the applicant is a corporation,  
13 association or similar entity, each shareholder holding ten  
14 percent or more of the outstanding stock, each principal  
15 officer, each director and any agent responsible for the  
16 operation of the licensee; and

17 (6) an individual having control of an  
18 individual or entity applicant when that control arises out of  
19 relationships defined by regulations of the department as  
20 resulting in control.

21 G. The department may exchange identification  
22 records and information with law enforcement agencies for  
23 official use. Any identification records received from the  
24 United States department of justice, including identification  
25 records based on fingerprints, shall be used only to accomplish

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1 the licensing purposes and comply with the provisions of the  
2 Video Gambling Act. The department shall not disseminate  
3 identification records or information received to any person  
4 except law enforcement agencies for official use only.

5 H. An application for the issuance or annual renewal  
6 of a license shall be accompanied by a license fee in the amount  
7 of one thousand dollars (\$1,000).

8 I. The department shall by regulation set forth the  
9 requirements for and contents of an application for issuance and  
10 renewal of licenses, consistent with the provisions of the Video  
11 Gambling Act. The regulations shall include detailed provisions  
12 describing those situations and relationships among persons and  
13 applicants in which a person is determined to have control of  
14 another for the purpose of qualifications and investigations  
15 required for licensure.

16 J. All licenses issued pursuant to the Video  
17 Gambling Act expire on July 1 of each year and may be renewed if  
18 the licensee makes the required application and pays the  
19 required fee. If a license expires, the licensee shall cease  
20 all video gambling activities and transactions until the license  
21 is renewed.

22 K. The holder of a license issued pursuant to the  
23 Video Gambling Act has no vested property right in the license.  
24 The license is the property of the state. Licenses issued  
25 pursuant to the Video Gambling Act are not subject to sale,

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1 lease, devise, transfer, assignment, execution, attachment, a  
2 security transaction, liens or receivership.

3 Section 12. [NEW MATERIAL] VIDEO GAMBLING MACHINE  
4 LICENSE. --

5 A. A license may be issued to a qualified  
6 organization to own and operate video gambling machines for  
7 which permits have been issued by the department. A video  
8 gambling machine licensee shall not own or operate slot  
9 machines. A video gambling machine licensee shall operate video  
10 gambling machines only at the location of its primary place of  
11 business and at no other location.

12 B. A video gambling machine licensee may install and  
13 operate video gambling machines only at the location stated in  
14 its application and approved by the department.

15 C. No person other than an active member of a  
16 veterans' organization or a fraternal organization or a bona  
17 fide guest of that active member may play video gambling  
18 machines owned or operated by a veterans' organization or the  
19 fraternal organization that is a video gambling machine  
20 licensee.

21 D. The department shall prescribe by regulation the  
22 information required, frequency of reporting, which shall be no  
23 less often than quarterly, and the form of the reports to be  
24 made by video gambling machine licensees.

25 E. No video gambling machine licensee may purchase,

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1 lease or otherwise receive a video gambling machine except from  
2 a distributor licensed pursuant to the Video Gambling Act.

3 F. No more than twenty-five video gambling machines  
4 may be operated by a video gambling machine licensee at any  
5 given time, subject to the limitations contained in Section 17  
6 of the Video Gambling Act.

7 Section 13. [NEW MATERIAL] RACETRACK LICENSE. --

8 A. A license may be issued to a racetrack to own and  
9 operate video gambling machines or slot machines, or both.

10 B. A racetrack licensee may install and operate  
11 video gambling machines or slot machines, or both, for which  
12 permits have been issued by the department only at the location  
13 stated in its application and approved by the department. That  
14 location constitutes the licensed premises of the racetrack  
15 licensee for purposes of the Video Gambling Act.

16 C. No racetrack may operate and no person may play  
17 or be allowed by the racetrack to play a video gambling machine  
18 or slot machine at the racetrack except in strict compliance  
19 with the following provisions:

20 (1) a video gambling machine or slot machine  
21 may be played only on days the racetrack is holding a live  
22 formal race meet or simulcasting live races occurring at  
23 racetracks elsewhere in New Mexico and authorized by the state  
24 racing commission, during times established by the commission  
25 but for no more than twelve hours on those days; and

Underscored material = new  
[bracketed material] = delete

1 (2) members of the public patronizing the  
2 racetrack, except individuals who have not attained the age of  
3 twenty-one, shall be allowed to play any video gambling machine  
4 or slot machine operated by the racetrack licensee.

5 D. No racetrack licensee may purchase, lease or  
6 otherwise receive a video gambling machine or slot machine  
7 except from a distributor licensed pursuant to the Video  
8 Gambling Act.

9 E. The maximum number of video gambling machines or  
10 slot machines, or both, that may be operated by a racetrack  
11 licensee on that licensee's licensed premises at any time shall  
12 be established by the department based upon recommendations from  
13 the state racing commission.

14 Section 14. [NEW MATERIAL] MANUFACTURER'S LICENSE. --

15 A. A license may be issued to a person desiring to  
16 manufacture video gambling machines or slot machines, or both,  
17 in this state.

18 B. No person shall manufacture video gambling  
19 machines or slot machines, or both, in this state unless the  
20 person is issued a manufacturer's license by the department.

21 C. A licensed manufacturer shall report to the  
22 department, on prescribed forms, information required by  
23 regulation of the department.

24 D. No licensed manufacturer may sell or solicit to  
25 sell a video gambling machine or slot machine to any person

Underscored material = new  
[bracketed material] = delete

1 except a licensed distributor.

2 E. No licensed manufacturer may operate, receive for  
3 resale or participate directly or indirectly in the operation or  
4 resale of a video gambling machine or slot machine.

5 Section 15. [NEW MATERIAL] DISTRIBUTOR'S LICENSE. --

6 A. A license may be issued to a person desiring to  
7 distribute video gambling machines or slot machines, or both, by  
8 sale, lease or other transaction in this state.

9 B. No person may distribute video gambling machines  
10 or slot machines by sale, lease or other transaction in this  
11 state unless the person is issued a distributor's license by the  
12 department.

13 C. No licensed distributor may distribute a video  
14 gambling machine by sale, lease or other transaction except to a  
15 video gambling machine licensee or racetrack licensee. No  
16 licensed distributor may distribute a slot machine by sale,  
17 lease or other transaction except to a racetrack licensee.

18 D. A licensed distributor shall report to the  
19 department, on prescribed forms, information required by  
20 regulation of the department.

21 E. No licensed distributor may operate, receive for  
22 resale or participate directly or indirectly in the operation or  
23 resale of a video gambling machine or slot machine.

24 Section 16. [NEW MATERIAL] REGULATIONS. --

25 A. The department may adopt regulations necessary to

Underscored material = new  
[bracketed material] = delete

1 implement the Video Gambling Act. Other than emergency  
2 regulations adopted pursuant to the provisions of Subsection B  
3 of this section, no regulation affecting any person or agency  
4 outside the department shall be adopted, amended or repealed  
5 without a public hearing on the proposed action before the  
6 department or a designated hearing officer. The public hearing  
7 shall be held in Santa Fe county. Notice of the subject matter  
8 of the regulation, the date, time and place of the public  
9 hearing, the manner in which interested persons may present  
10 their views and the method by which copies of the proposed  
11 regulation, amendment or repeal may be obtained shall be  
12 published once at least thirty days prior to the hearing date in  
13 a newspaper of general circulation. All regulations shall be  
14 filed in accordance with the State Rules Act.

15 B. If the department determines that an emergency  
16 exists that requires immediate action to implement or enforce  
17 the provisions of the Video Gambling Act, it may adopt a  
18 regulation or amendment or repeal thereof without notice and  
19 hearing, and the emergency regulation shall become effective  
20 immediately upon its filing under the State Rules Act. The  
21 emergency regulation shall not continue in effect longer than  
22 forty-five days unless within that time the department commences  
23 proceedings to adopt the regulation by issuing the notice  
24 required in Subsection A of this section. If the department  
25 commences proceedings by issuing notice, the emergency

1 regulation shall remain in effect until a permanent regulation  
2 takes effect or until the procedures are otherwise completed.

3 C. Regulations adopted by the department may provide  
4 for the following:

5 (1) reporting requirements in addition to those  
6 set forth in the Video Gambling Act;

7 (2) required provisions in purchase or leasing  
8 contracts relating to video gambling machines and slot machines;

9 (3) appropriate security measures providing for  
10 the safety of participants in the conduct of video gambling;

11 (4) the contents of and process for  
12 applications for licenses or permits issued pursuant to the  
13 Video Gambling Act;

14 (5) minimum required percentage of paybacks by  
15 video gambling machines and slot machines; and

16 (6) other regulations consistent with the  
17 provisions of the Video Gambling Act that provide for the  
18 integrity, honesty and security of the conduct of video gambling  
19 and slot machine activities or transactions by licensees.

20 D. The department shall enter into a contract with  
21 the New Mexico lottery authority to conduct the monitoring of  
22 video gambling machines and slot machines, including receiving  
23 and transmitting to the department by the lottery authority the  
24 information required by the Video Gambling Act, performing  
25 electronic funds transfers, enabling and disabling video

Underscored material = new  
[bracketed material] = delete

1 gambling machines and slot machines and performing other  
2 services relating to the operation and administration of video  
3 gambling machines and slot machines. The contract is not  
4 subject to the Procurement Code. Compensation to the lottery  
5 authority shall not exceed actual costs incurred by the  
6 authority in performing the services plus up to two percent of  
7 the net receipts of a monitored licensee. The contract may  
8 provide for electronic funds transfer of that portion of the  
9 compensation. The department shall provide by regulation for  
10 the allocation and payment of the compensation.

11 E. The department shall, on or before January 1,  
12 1997, adopt by regulation mechanical and electronic standards  
13 for video gambling machines and slot machines, ensuring the  
14 integrity, honesty and security of the machines, which standards  
15 shall not be more lenient than those applied to similar machines  
16 in lawful use within the United States by any other jurisdiction  
17 regulating the conduct of video machine and slot machine  
18 gambling.

19 Section 17. [NEW MATERIAL] PERMITTING OF VIDEO GAMBLING  
20 MACHINES AND SLOT MACHINES. --

21 A. The department shall ensure that no more than two  
22 thousand video gambling machines are permitted and operated  
23 within the state at any given time by video gambling machine  
24 licensees. This limitation does not apply to racetrack  
25 licensees. If the number of completed applications for permits

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1 exceeds the number of permits available, the department shall  
2 allocate permits based upon regulations of the department  
3 according to membership size, geographic diversity and any other  
4 factors deemed relevant by the department. Completed  
5 applications are those that provide all information requested,  
6 indicate the licensee is able to place immediately the video  
7 gambling machines or slot machines for which a permit is  
8 requested into operation at the approved premises, include the  
9 appropriate application fees and specifically comply with all  
10 requirements of the Video Gambling Act and regulations adopted  
11 pursuant to that act. If a licensee removes a video gambling  
12 machine or slot machine from operation for longer than ten  
13 consecutive days, he shall notify the department immediately,  
14 and the permit issued for that machine shall be canceled.

15 B. A licensee who intends to own or operate a video  
16 gambling machine or slot machine shall file an application for a  
17 permit with the department for each video gambling machine or  
18 slot machine purchased, leased or otherwise acquired by the  
19 licensee on forms prescribed by the department within twenty  
20 days after purchasing, leasing or otherwise acquiring the  
21 machine. The department shall not issue a permit for any  
22 machine that has not been tested in accordance with the  
23 provisions of Section 18 of the Video Gambling Act or, after  
24 January 1, 1997, does not comply with standards adopted by the  
25 department by regulation.

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1 C. Each application for a permit shall be  
2 accompanied by a permit fee of one hundred dollars (\$100) per  
3 machine.

4 D. The department shall issue a permit for a video  
5 gambling machine or slot machine if it complies with all  
6 conditions of the Video Gambling Act and regulations adopted  
7 pursuant to that act and if a properly completed application  
8 along with the required application fee for each machine has  
9 been submitted, but the department may refuse to issue a permit  
10 for a specific machine if it believes that the machine is  
11 inaccurate, unreliable or will not be operated in accordance  
12 with the provisions of the Video Gambling Act or regulations  
13 adopted pursuant to that act.

14 E. No person may operate a video gambling machine or  
15 slot machine and no person may play a video gambling machine or  
16 slot machine unless the department has issued a permit for the  
17 machine.

18 F. All applications for a permit shall provide  
19 information required by regulation of the department.

20 G. A video gambling machine licensee and a racetrack  
21 licensee shall place a video gambling machine into operation  
22 within ten days of issuance of the permit for that machine. A  
23 racetrack licensee shall place a slot machine into operation  
24 within ten days of issuance of the permit for that machine. If  
25 a video gambling machine or slot machine is not placed into

Underscored material = new  
[bracketed material] = delete

1 operation within ten days, the permit shall be canceled by the  
2 department.

3 Section 18. [NEW MATERIAL] VIDEO GAMBLING MACHINE AND  
4 SLOT MACHINE TESTING AND INSPECTION. --

5 A. No video gambling machine or slot machine may be  
6 permitted without having first been tested and certified for  
7 accuracy and reliability by an independent testing laboratory  
8 approved by the department. The costs of the testing shall be  
9 paid by the licensee.

10 B. No video gambling machine or slot machine may be  
11 operated if it, or the software used to control its electronic  
12 functions, has been modified in any way without having been  
13 tested after the modification and certified for accuracy and  
14 reliability by an independent testing laboratory approved by the  
15 department.

16 C. A licensee seeking to obtain a permit for a video  
17 gambling machine or slot machine shall pay all costs of testing  
18 the machine.

19 D. A permitted video gambling machine or slot  
20 machine and the premises at which it is being operated or played  
21 shall be open to inspection at all times by the department or by  
22 any law enforcement officer. Whenever the department or any law  
23 enforcement officer has probable cause to believe that any video  
24 gambling machine or slot machine was obtained from an unlicensed  
25 manufacturer or distributor, is being operated by an unlicensed

Underscored material = new  
[bracketed material] = delete

1 person, is unpermitted or otherwise fails to meet the  
2 requirements of the Video Gambling Act or regulations adopted  
3 pursuant to that act, he shall remove and impound the video  
4 gambling machine or slot machine for the purpose of testing and  
5 detention and shall retain possession of the machine until  
6 otherwise ordered by a district court.

7 Section 19. [NEW MATERIAL] CONDUCT OF VIDEO GAMBLING AND  
8 SLOT MACHINE GAMBLING. --

9 A. No licensee shall allow access for the purpose of  
10 playing a video gambling machine or slot machine to any person  
11 who is under the age of twenty-one years.

12 B. No video gambling licensee shall allow access to  
13 licensed premises for the purpose of playing a video gambling  
14 machine by any person who is not an active member or a bona fide  
15 guest of an active member of the qualified organization.

16 C. Video gambling machines or slot machines may not  
17 be located on any licensed liquor premises unless specifically  
18 exempted by the Liquor Control Act.

19 D. If a video gambling machine or slot machine fails  
20 to meet specifications and requirements of the Video Gambling  
21 Act or any regulation adopted pursuant to that act at any time  
22 after a permit is issued, the licensee operating the machine  
23 shall cease operating it immediately and not operate it until it  
24 has been adjusted to meet all requirements.

25 E. All tables displaying prizes or awards shall be

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1 prominently displayed on each video gambling machine and slot  
2 machine.

3 F. A licensee may establish house rules regulating  
4 the operation and play of the video gambling machines or slot  
5 machines, provided they do not conflict with any established by  
6 the department.

7 G. A licensee operating a video gambling machine or  
8 slot machine shall display on the machine, or in a conspicuously  
9 visible place, the telephone number of the department that can  
10 be called to report device malfunctions or complaints.

11 Section 20. [NEW MATERIAL] VIDEO GAMBLING MACHINE AND  
12 SLOT MACHINE REQUIREMENTS--MONITORING.--

13 A. A video gambling machine or slot machine operated  
14 by a licensee shall be connected to and be capable of providing  
15 the following information to the department or its contractor  
16 through the use of existing telecommunications lines and systems  
17 and through a data report or detailed tape:

18 (1) the time of day in hours and minutes in  
19 which the machine is in play;

20 (2) the location of the machine;

21 (3) for video pull tab machines, the number of  
22 the pool of tickets or deal and the size of the pool;

23 (4) the serial and permit numbers of the  
24 machine;

25 (5) the cumulative amount of money inserted

Underscored material = new  
[bracketed material] = delete

1 into the machine at any given time;

2 (6) the amount of money contained in the  
3 machine at any given time;

4 (7) the amount of money, credits or other  
5 consideration paid to players by the machine at any given time;

6 (8) the version number of the software running  
7 on the machine; and

8 (9) other information determined by the  
9 department to be required.

10 B. Each licensee that operates video gambling  
11 machines or slot machines, at its own expense, shall connect all  
12 machines to telecommunications systems and lines to allow the  
13 department or its contractor access to the information required  
14 by the Video Gambling Act and regulations adopted pursuant to  
15 that act as a condition of and prior to operating the machines.

16 C. A video gambling machine and a slot machine shall  
17 contain a printer that is capable of printing a performance  
18 synopsis of the gambling played and creates an exact and  
19 identical copy of all items printed that is retained inside the  
20 machine. A video gambling machine and a slot machine shall have  
21 electronic and mechanical meters. The printer inside the  
22 machine shall be capable of printing the information on the  
23 meters.

24 D. The main logic board and the printed circuit  
25 board containing gambling erasable program read-only memory, or

1 "EPROMs", shall be isolated in a locked area of a video gambling  
2 machine or slot machine. The EPROMs shall be sealed to the  
3 board by the manufacturer using a process approved by the  
4 department. The sealing shall be of a type that permits field  
5 examination of the EPROMs and permits the EPROMs to be resealed  
6 effectively.

7 E. A video gambling machine and a slot machine shall  
8 have a nonremovable serial number plate that provides at least  
9 the following information:

10 (1) the permit number issued by the department;  
11 and

12 (2) the manufacturer's name, date of  
13 manufacture and manufacturer's serial number.

14 F. Access to a video gambling machine and to a slot  
15 machine shall be controlled through locks.

16 G. A video gambling machine and a slot machine shall  
17 have surge protection and a battery backup system and shall pass  
18 a static discharge test of at least forty thousand volts.

19 H. A video gambling machine, other than a video pull  
20 tab machine, and a slot machine, shall allow for random play and  
21 winning.

22 Section 21. [NEW MATERIAL] VIDEO GAMBLING MACHINES AND  
23 SLOT MACHINES-- TESTING, AUDITING AND SEIZURE. --

24 A. The department may by written directive require a  
25 licensee, at the licensee's expense, to have a video gambling

Underscored material = new  
[bracketed material] = delete

1 machine or slot machine, whether or not a permit has been issued  
2 for the machine, manufactured, distributed, owned, leased or  
3 operated by that licensee tested for reliability and accuracy by  
4 an independent laboratory approved or designated by the  
5 department. If a test is required of a machine, it shall not be  
6 operated or distributed by a licensee until it has been tested  
7 and the department is satisfied that the machine is accurate and  
8 reliable based upon the results of the test.

9 B. The department or its designated agents or  
10 contractors may, without advance notice to a licensee, audit or  
11 test the operation of a video gambling machine or slot machine  
12 to ensure reliability and accuracy. A licensee shall allow  
13 access to its video gambling machines, slot machines and its  
14 licensed premises to the department or its designated agents or  
15 contractors immediately upon request.

16 C. The department or its designated agents or  
17 contractors may audit all records of a licensee, whether or not  
18 they are in the licensee's possession, to ensure compliance with  
19 the provisions of the Video Gambling Act or any regulations  
20 adopted pursuant to that act. A licensee requested to produce  
21 records relating to its video gambling machine and slot machine  
22 operations by the department, its designated agents or  
23 contractors shall do so immediately upon request.

24 D. The department may seize, seal or order a  
25 licensee to cease operating any or all of its video gambling

Underscored material = new  
[bracketed material] = delete

1 machines or slot machines without prior notice if the department  
2 believes that the licensee is violating any provision of the  
3 Video Gambling Act or of any regulation adopted pursuant to that  
4 act or if any machine is not accurate or reliable or has been  
5 changed or modified in any manner not approved by the  
6 department.

7 Section 22. [NEW MATERIAL] DENIAL, SUSPENSION OR  
8 REVOCATION OF LICENSE. --

9 A. The department shall refuse to issue or renew or  
10 shall suspend or revoke any license issued pursuant to the Video  
11 Gambling Act or shall fine a licensee in an amount not to exceed  
12 ten thousand dollars (\$10,000) per incident, or both, upon a  
13 finding that the applicant or licensee or any officer, director,  
14 employee or agent of the applicant or licensee has:

- 15 (1) violated any provision of the Video  
16 Gambling Act or of any regulation adopted pursuant to that act;
- 17 (2) provided false or misleading information to  
18 the department;
- 19 (3) been convicted of a felony involving fraud  
20 or theft or convicted of any gambling-related offense;
- 21 (4) modified or changed any video gambling  
22 machine or slot machine so as to endanger or compromise its  
23 accuracy, security or reliability;
- 24 (5) engaged in dishonest or deceptive practices  
25 with respect to its video gambling machine or slot machine

Underscored material = new  
[bracketed material] = delete

1 operations; or

2 (6) conducted its video gambling machine or  
3 slot machine operations in a manner that may be considered a  
4 public nuisance.

5 B. When the department contemplates taking any  
6 action against an applicant or licensee to refuse to issue,  
7 renew, revoke or suspend a license or impose a fine, it shall  
8 serve written notice upon the applicant or licensee containing  
9 the following:

10 (1) a statement that the department has  
11 sufficient evidence that, if not rebutted or explained, will  
12 justify the department in taking the contemplated action;

13 (2) a statement indicating the general nature  
14 of the evidence; and

15 (3) a statement advising the applicant or  
16 licensee that, unless the applicant or licensee within twenty  
17 days after service of the notice delivers a written request for  
18 hearing to the department, the department will take the  
19 contemplated action.

20 C. If the applicant or licensee does not deliver a  
21 request for hearing within the time required by this section,  
22 the department may take the action contemplated in the notice,  
23 and such action shall be final and not subject to judicial  
24 review.

25 D. If the applicant or licensee delivers a request

1 for hearing within the time required by this section, the  
2 department shall, within twenty days of receipt of the request,  
3 notify the applicant or licensee of the time and place of  
4 hearing and the name of the person who shall conduct the hearing  
5 for the department, which hearing shall be held not more than  
6 sixty or less than fifteen days from the date of service of the  
7 notice of hearing.

8 E. All hearings under this section shall be held in  
9 Santa Fe county.

10 F. The department may conduct the hearings or have  
11 them conducted by a hearing officer appointed by the department.

12 G. All hearings shall be open to the public.

13 H. A licensee or applicant entitled to and  
14 requesting a hearing shall have the right to be represented by  
15 counsel, to present all relevant evidence, to examine all  
16 opposing witnesses and to have subpoenas issued by the  
17 department to compel the attendance of witnesses and the  
18 production of documents.

19 I. The department or hearing officer may impose any  
20 appropriate evidentiary sanction against a party who fails to  
21 provide discovery or to comply with a subpoena.

22 J. The department or hearing officer shall cause a  
23 complete record to be made of all evidence received during the  
24 course of a hearing.

25 K. After a hearing has been completed, the

Underscored material = new  
[bracketed material] = delete

1 department shall render its decision as soon as is practicable.

2 L. Any applicant or licensee who is aggrieved by an  
3 adverse decision of the department may obtain a review of the  
4 decision in the district court of Santa Fe county by filing with  
5 the court a petition for review within twenty days after the  
6 date of service of the decision. Failure to file a petition for  
7 review in the manner and within the time stated shall operate as  
8 a waiver of the right to judicial review and shall result in the  
9 decision of the department becoming final.

10 M Upon the review of any decision of the  
11 department, the district judge shall sit without a jury and may  
12 hear oral arguments and receive written briefs, but evidence not  
13 offered at the hearing shall not be taken. The court shall  
14 affirm the decision of the department unless it finds that the  
15 substantial rights of the petitioner have been prejudiced  
16 because the decision was in violation of constitutional  
17 provisions, in excess of the statutory authority or jurisdiction  
18 of the department, made upon unlawful procedure affected by  
19 other error of law, unsupported by substantial evidence based  
20 upon a review of the entire record submitted or arbitrary or  
21 capricious.

22 N. Any party to the review proceeding in the  
23 district court, including the department, may appeal to the  
24 supreme court from the decision of the district court.

25 Section 23. [NEW MATERIAL] RECORDS REQUIRED AND RECORD

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1 RETENTION. --

2 A. In addition to other records required to be  
3 generated or kept pursuant to the Video Gambling Act, a licensee  
4 shall maintain complete video gambling machine and slot machine  
5 operation records, including audit tapes, and shall make them  
6 available for inspection by the department or any law  
7 enforcement officer upon request. Those records shall include:

8 (1) all permit and licensing documents issued  
9 by the department;

10 (2) a complete record of all funds paid out by  
11 each machine, including the date, time and amount of the funds  
12 paid out;

13 (3) a record of all gross receipts from  
14 operation of each machine by date; and

15 (4) any records required by regulations adopted  
16 pursuant to the Video Gambling Act.

17 B. Each licensee shall maintain records required by  
18 the Video Gambling Act or any regulation adopted pursuant to  
19 that act, within this state, for a minimum period of at least  
20 three years.

21 C. Each applicant for a license pursuant to the  
22 Video Gambling Act or current licensee, as a condition of  
23 licensure, shall grant the department or its authorized designee  
24 access to all tax returns maintained by the United States  
25 internal revenue service or the taxation and revenue department

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1 that have been filed on behalf of any individual having any  
2 ownership, managerial, directorship or financial interest in the  
3 applicant or any activity of the licensee carried out pursuant  
4 to the Video Gambling Act, and those of any entity applying for  
5 licensure pursuant to that act. The department shall consider  
6 those records when determining qualifications for initial  
7 licensure or actions under Section 22 of the Video Gambling Act.

8 Section 24. [NEW MATERIAL] TAX IMPOSED--DENOMINATED AS  
9 MACHINE GAMBLING TAX--RATE--ADMINISTRATION AND ENFORCEMENT.--

10 A. In addition to all other taxes imposed by other  
11 state laws, an excise tax is imposed for the privilege of  
12 engaging in the activities authorized pursuant to the Video  
13 Gambling Act. The tax is denominated as and shall be known as  
14 the "machine gambling tax".

15 B. The machine gambling tax is imposed in an amount  
16 equal to:

17 (1) five percent of the receipts of a  
18 manufacturer from the sales of video gambling machines and slot  
19 machines manufactured in the state;

20 (2) five percent of the receipts of a  
21 distributor from the distribution of video gambling machines and  
22 slot machines in the state; and

23 (3) ten percent of the net receipts of a person  
24 who operates video gambling machines or slot machines, or both.

25 C. The machine gambling tax shall be paid to, and

Underscored material = new  
[bracketed material] = delete

1 administered and enforced by, the taxation and revenue  
2 department pursuant to the provisions of the Tax Administration  
3 Act.

4 Section 25. [NEW MATERIAL] PENALTIES. -- A person who  
5 violates a provision of the Video Gambling Act or regulation  
6 adopted pursuant to that act is guilty of a misdemeanor and  
7 shall be sentenced pursuant to the provisions of Section 31-19-1  
8 NMSA 1978. A person convicted pursuant to this section is  
9 prohibited from owning, operating or participating in the  
10 proceeds from the manufacture, distribution or operation of a  
11 video gambling machine or slot machine for a period of five  
12 years after the date of the conviction.

13 Section 26. [NEW MATERIAL] FUND CREATED. -- There is  
14 created in the state treasury the "machine gambling fund". All  
15 money in the fund and all interest attributable to it is  
16 appropriated to the department for the purpose of carrying out  
17 the provisions of the Video Gambling Act. All fees and the net  
18 receipts of the machine gambling tax paid pursuant to the Video  
19 Gambling Act or regulations adopted pursuant to that act shall  
20 be credited to the fund. Balances in the fund at the end of a  
21 fiscal year shall revert to the general fund.

22 Section 27. [NEW MATERIAL] SHORT TITLE. -- Sections 27  
23 through 47 of this act may be cited as the "Charity Games Act".

24 Section 28. [NEW MATERIAL] PURPOSE OF ACT. -- The purpose  
25 of the Charity Games Act is to make lawful and regulate the

Underscored material = new  
[bracketed material] = delete

1 conduct of specific games of chance by certain nonprofit  
2 organizations. The legislature declares that the raising of  
3 funds for the promotion of certain nonprofit organizations is in  
4 the public interest as is participation in the activities  
5 authorized in that act.

6 Section 29. [NEW MATERIAL] DEFINITIONS.--As used in the  
7 Charity Games Act:

8 A. "bingo" means the game commonly known as bingo in  
9 which prizes are awarded on the basis of designated numbers or  
10 symbols on a card conforming to numbers or symbols selected at  
11 random and in which no cards are sold except at the time and  
12 place of the game;

13 B. "bingo hall permit" means a permit issued by the  
14 department to a commercial lessor for premises that have been  
15 approved by the department for the conduct of games of chance by  
16 more than two licensed qualified organizations;

17 C. "commercial lessor" means a person who leases  
18 premises to two or more licensed qualified organizations for the  
19 conduct of lawful games of chance;

20 D. "department" means the regulation and licensing  
21 department, the superintendent of regulation and licensing or an  
22 employee of the department exercising authority lawfully  
23 delegated to that employee by the superintendent;

24 E. "distributor" means a person who purchases or  
25 obtains equipment, devices or supplies used in games of chance

1 and who sells or otherwise furnishes those items to another  
2 person for use, resale, display or operation of the equipment,  
3 devices or supplies in this state;

4 F. "electronic bingo" means a game in which a player  
5 uses an electronic device that simulates the numbers and symbols  
6 on a card in bingo for the opportunity to win a prize;

7 G. "equipment" means:

8 (1) with respect to bingo, the receptacle and  
9 numbered objects drawn from it; the master board upon which the  
10 numbered objects are placed as drawn; the cards or sheets  
11 bearing numbers or other designations to be covered and the  
12 objects used to cover them; the board or signs, however  
13 operated, used to announce or display the numbers or  
14 designations as they are drawn; the public address system; and  
15 all other articles essential to the operation, conduct and  
16 playing of bingo; or

17 (2) with respect to raffle, implements, devices  
18 and machines designed, intended or used for the conduct of  
19 raffle and the identification of the winning number or unit and  
20 the ticket or other evidence or right to participate in raffle;

21 H. "game manager" means a person, whether  
22 compensated or not, who is responsible for operating and  
23 controlling authorized games of chance and to whom a licensed  
24 qualified organization has delegated the authority to make  
25 decisions regarding the operation of the games;

1 I. "game of chance" means bingo, raffle, pull tabs,  
2 electronic bingo or lottery game;

3 J. "gross profit" means gross receipts less the  
4 amount actually expended for prizes;

5 K. "gross receipts" means receipts from the sale of  
6 shares, tickets or rights in any manner connected with  
7 participation in a game of chance or the right to participate in  
8 a game of chance, including any admission fee or charge,  
9 receipts from the sale of equipment or supplies and all other  
10 miscellaneous receipts;

11 L. "lawful purpose" means the primary purpose for  
12 which a qualified organization is formed;

13 M. "lessor" means a person who leases premises to a  
14 qualified organization for the conduct of lawful games of  
15 chance;

16 N. "licensed premises" means premises in or on  
17 which licensed games of chance are conducted, as approved for a  
18 licensed qualified organization by the department;

19 O. "licensee" means a person to whom a license under  
20 the Charity Games Act is issued by the department;

21 P. "lottery game" means an instant lottery game  
22 authorized and conducted pursuant to the New Mexico Lottery Act  
23 or the Charity Games Act;

24 Q. "manufacturer" means a person who assembles from  
25 raw materials or subparts a completed piece of equipment or

1 pieces of equipment, devices or supplies for conducting games of  
2 chance and who sells or furnishes the equipment, devices or  
3 supplies to a distributor and includes a person who converts,  
4 modifies, adds to or removes parts from any equipment used in a  
5 game of chance;

6 R. "member" means an individual who has qualified  
7 for membership in a qualified organization pursuant to its  
8 charter, articles of incorporation, bylaws, rules or other  
9 written statement, and that action is recorded in the official  
10 minutes of a regular meeting, or an individual who has held full  
11 and regular membership status in the organization for a period  
12 of not less than twelve consecutive months prior to  
13 participation in the management or operation of any games of  
14 chance pursuant to the Charity Games Act;

15 S. "net profit" mean gross receipts less the prizes  
16 paid, expenses, charges, fees and deductions specifically  
17 authorized pursuant to the Charity Games Act;

18 T. "occasion" means a single gathering or session at  
19 which a series of one or more games of chance is played;

20 U. "person" means an individual or other legal  
21 entity;

22 V. "premises" means all or the part of a building or  
23 property used for the purpose of playing a game of chance;

24 W. "pull tab" means a single folded or banded ticket  
25 or card, the face of which is initially covered or otherwise

Underscored material = new  
[bracketed material] = delete

1 hidden from view to conceal one or more numbers or symbols, and  
2 the ticket or card is part of a set of tickets or cards out of  
3 which some tickets or cards have been designated prior to use in  
4 pull tabs as winning tickets or cards;

5 X. "pull tabs" means a game in which a person pays  
6 directly or indirectly some consideration for the opportunity to  
7 obtain a pull tab, view the numbers or symbols on it and  
8 possibly obtain a prize-winning pull tab but does not include  
9 any activity that is authorized and regulated pursuant to the  
10 New Mexico Lottery Act;

11 Y. "qualified organization" means an organization  
12 described in Paragraphs (1) through (8) of this subsection that  
13 has been granted an exemption from federal income tax by the  
14 United States commissioner of internal revenue as an  
15 organization described in Section 501(c) of the Internal Revenue  
16 Code of 1986, as amended, that is exempt from state income tax  
17 pursuant to Section 7-2-4 NMSA 1978 and that is not organized or  
18 operated primarily for the purpose of conducting gaming  
19 activities:

20 (1) a charitable organization that is not  
21 organized for pecuniary profit, is operated for the relief of  
22 poverty, distress or other condition of public concern in New  
23 Mexico and has been operated for those purposes for three years  
24 immediately prior to making application for a license pursuant  
25 to the Charity Games Act;

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1 (2) an educational organization within the  
2 state that is not organized for pecuniary profit, has as its  
3 primary purpose an educational endeavor designed to develop the  
4 capabilities of individuals by instruction and has been in  
5 existence in New Mexico for three years immediately prior to  
6 making application for a license pursuant to the Charity Games  
7 Act;

8 (3) a labor organization within the state that  
9 is not organized for pecuniary profit, exists for the sole  
10 purpose of dealing with employers on behalf of their employees  
11 concerning grievances, labor disputes, wages, rates of pay,  
12 hours of employment or conditions of work and has been in  
13 existence in New Mexico for three years immediately prior to  
14 making application for a license pursuant to the Charity Games  
15 Act;

16 (4) a voluntary firemen's organization within  
17 the state that is not organized for pecuniary profit, exists for  
18 the sole purpose of providing fire-fighting and rescue services  
19 to specific communities and has been in existence in New Mexico  
20 for three years immediately prior to making application for a  
21 license pursuant to the Charity Games Act;

22 (5) an environmental organization within the  
23 state that is not organized for pecuniary profit, is primarily  
24 concerned with the protection and preservation of the natural  
25 environment and has existed in New Mexico for three years

Underscored material = new  
[bracketed material] = delete

1 immediately prior to making application for a license pursuant  
2 to the Charity Games Act;

3 (6) a religious organization, including any  
4 church, temple, synagogue or other house of worship or bona fide  
5 religious congregation within the state, that is not organized  
6 for pecuniary profit, whose members gather in common membership  
7 at a specific location on specified dates and times for mutual  
8 support and edification in piety, worship and religious  
9 observances or for religious purposes and that has existed in  
10 New Mexico for three years immediately prior to making  
11 application for a license pursuant to the Charity Games Act;

12 (7) a fraternal organization within this state  
13 that is not organized for pecuniary profit and that:

14 (a) is a branch, lodge or chapter of a  
15 national or state organization and exists for the common  
16 business, brotherhood or other interests of its members;

17 (b) has existed in New Mexico for at  
18 least three years immediately prior to making application for a  
19 license under the Charity Games Act; and

20 (c) is not a college or high school  
21 fraternity or sorority; and

22 (8) a veterans' organization within this state,  
23 or any branch, lodge or chapter of a national or state  
24 organization within this state, that is not organized for  
25 pecuniary profit, the membership of which consists entirely of

1 individuals who were members of the armed services or forces of  
2 the United States and that has been in existence in New Mexico  
3 for at least three years immediately prior to making application  
4 for a license pursuant to the Charity Games Act;

5 Z. "raffle" means a game in which individual tickets  
6 are sold and a prize or prizes are awarded, with the winner  
7 determined by a random drawing that takes place at a set  
8 location and date and includes door prizes but does not include  
9 any activity that is authorized and regulated under the New  
10 Mexico Lottery Act; and

11 AA. "substantial interest" means the interest a  
12 person has in an organization, association or business as  
13 follows:

14 (1) if, with respect to a sole proprietorship,  
15 an individual or his spouse owns, operates, manages or conducts,  
16 directly or indirectly, any part of the organization,  
17 association or business;

18 (2) if, with respect to a partnership, the  
19 individual or his spouse has a right to a share in any of the  
20 profits or potential profits of the partnership activities;

21 (3) if, with respect to a corporation, an  
22 individual or his spouse is an officer or director of or the  
23 individual or his spouse is a holder, directly or beneficially,  
24 of five percent or more of any class of stock of the  
25 corporation;

Underscored material = new  
[bracketed material] = delete

1 (4) if, with respect to an organization not  
2 covered by Paragraph (1), (2) or (3) of this subsection, an  
3 individual or his spouse is an officer or manages the business  
4 affairs of the organization or the individual or his spouse  
5 owns, controls or has the right to control five percent or more  
6 of the assets of the organization; or

7 (5) if an individual or his spouse provides ten  
8 percent or more of the capital, whether in cash, goods or  
9 services, for the operation of a business, association or  
10 organization during a calendar year.

11 Section 30. [NEW MATERIAL] REGULATIONS. --

12 A. The department may make and adopt regulations  
13 necessary to implement the Charity Games Act, including  
14 regulations that establish the type, scope and manner of  
15 conducting the games of chance authorized by that act. Except  
16 as provided in Subsection B of this section, no regulation  
17 affecting any person or agency outside the department shall be  
18 adopted, amended or repealed without a public hearing on the  
19 proposed action before the department or a designated hearing  
20 officer. The public hearing shall be held in Santa Fe county.  
21 Notice of the subject matter of the regulation; the date, time  
22 and place of the public hearing; the manner in which interested  
23 persons may present their views; and the method by which copies  
24 of the proposed regulation, amendment or repeal may be obtained  
25 shall be published once at least thirty days prior to the

Underscored material = new  
[bracketed material] = delete

1 hearing date in a newspaper of general circulation. All  
2 regulations shall be filed in accordance with the State Rules  
3 Act.

4 B. If the department determines that an emergency  
5 exists that requires immediate action to implement or enforce  
6 the provisions of the Charity Games Act, it may adopt a  
7 regulation or amend or repeal a regulation without notice and  
8 hearing, and the emergency action shall be effective immediately  
9 upon its filing pursuant to the State Rules Act. The emergency  
10 action shall not continue in effect longer than forty-five days  
11 unless within that time the department commences proceedings to  
12 ratify the emergency action by issuing the notice required in  
13 Subsection A of this section. If the department commences  
14 proceedings by issuing the notice, the emergency action shall  
15 remain in effect until ratified or until the procedures are  
16 otherwise completed.

17 C. Regulations adopted by the department may include  
18 any provisions the department deems appropriate to ensure the  
19 integrity, honesty and security of the conduct of games of  
20 chance.

21 Section 31. [NEW MATERIAL] ORGANIZATIONS AND PERSONS  
22 ELIGIBLE FOR LICENSES--FEES. --

23 A. A qualified organization that has had, since the  
24 date of filing an application for a license pursuant to the  
25 Charity Games Act and during the entire three-year period

Underscored material = new  
[bracketed material] = delete

1 preceding the filing of its application, an active membership  
2 engaged in carrying out the objects of the organization may be  
3 issued a license by the department pursuant to the Charity Games  
4 Act if it complies with all requirements for the licensure  
5 pursuant to that act and regulations adopted by the department.

6 B. Manufacturers, distributors, commercial lessors  
7 and game managers who comply with the requirements of the  
8 Charity Games Act and regulations of the department may be  
9 issued licenses pursuant to the Charity Games Act.

10 C. No manufacturer, distributor or commercial lessor  
11 or any person who has a substantial interest in a manufacturer,  
12 distributor or commercial lessor may be a game manager.

13 D. The department shall adopt regulations  
14 establishing licensing fees. The amount of the fees shall bear  
15 a direct relationship to the costs estimated to be incurred by  
16 the department in administering the Charity Games Act. The  
17 department may establish different classes of licenses within a  
18 category of license and may provide for different fees for the  
19 different classes. License fees may be based on the estimated  
20 gross receipts of the licensee. Fees for the following licenses  
21 shall not exceed the indicated amounts:

22 (1) commercial lessor, two hundred fifty  
23 dollars (\$250);

24 (2) bingo hall permits, five hundred dollars  
25 (\$500); and

Underscored material = new  
[bracketed material] = delete

1 (3) game manager, one hundred dollars (\$100).

2 E. The holder of any license issued pursuant to the  
3 Charity Games Act has no vested property right in the license.  
4 The license is the property of the state. Licenses issued  
5 pursuant to the Charity Games Act are not subject to sale,  
6 lease, devise, transfer, assignment, execution, attachment, a  
7 security transaction, liens or receivership.

8 F. All licenses issued pursuant to the Charity Games  
9 Act shall be issued for a period of two years.

10 G. In addition to basic license or permit fees, the  
11 department may require additional fees of manufacturers,  
12 distributors and commercial lessors necessary to defray the  
13 costs of background investigations, including but not limited to  
14 costs for applicants for whom background information is not  
15 readily available. The department shall adopt regulations for  
16 the assessment and reasonable notice of time for payment of the  
17 additional fees.

18 H. The department may issue temporary or provisional  
19 licenses for periods not to exceed sixty days.

20 Section 32. [NEW MATERIAL] APPLICATION FOR LICENSE--  
21 GENERAL PROVISIONS GOVERNING LICENSURE. --

22 A. Any person seeking licensure pursuant to the  
23 Charity Games Act shall submit an application to the department  
24 on forms provided by the department. The application shall  
25 contain information required by regulation of the department.

Underscored material = new  
[bracketed material] = delete

1 In addition to the information required on the application form,  
2 the department may require the applicant to furnish additional  
3 information the department deems necessary to fulfill the  
4 purposes and requirements of the Charity Games Act.

5 B. An applicant for a license shall, during pendency  
6 of the application, notify the department immediately of any  
7 change respecting any facts set forth in the application. A  
8 change occurring after the issuance of a license shall be  
9 reported to the department within ten days of the date of the  
10 change. A licensee shall notify the department of a change in  
11 its organization, structure or mode of operation or a change in  
12 the identity of or the nature or extent of an interest held by  
13 persons named or required to be named in the application.  
14 Failure to give a required notice of change is cause for denial  
15 of an application for a license or suspension or revocation of a  
16 license that has been issued.

17 C. The department may require fingerprinting of and  
18 background checks on any person seeking licenses pursuant to the  
19 Charity Games Act, any person holding an interest in games of  
20 chance or a building or equipment to be used for conducting  
21 games of chance or any person participating as an employee in  
22 the operation of games of chance. The department may establish  
23 and assess fees to defray the expenses of fingerprinting and  
24 conducting background checks.

25 Section 33. [NEW MATERIAL] QUALIFIED ORGANIZATION

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1 LICENSE. --

2 A. A license may be issued to a qualified  
3 organization to conduct games of chance.

4 B. A qualified organization shall designate in its  
5 license application a game manager and up to two assistant game  
6 managers, who shall be members of the organization, designated  
7 as responsible for the conduct of the games of chance on each  
8 occasion.

9 C. A qualified organization shall designate in its  
10 license application a member of the organization to be the  
11 financial officer in full charge and primarily responsible for  
12 the proper distribution of the organization's net profits in  
13 accordance with the Charity Games Act.

14 D. An applicant for a qualified organization license  
15 shall have at the time of application and licensing at least  
16 twenty-five members.

17 E. An applicant for a qualified organization license  
18 shall not have as an officer or member of its governing body any  
19 person who, within two years prior to issuance of the license,  
20 has had a license issued by the department revoked for a  
21 violation of law or department regulations.

22 F. If premises are to be leased or rented by the  
23 qualified organization applying for a license, a copy of the  
24 lease or rental agreement shall be provided with the  
25 application.

. 110360. 4GJ

1           Section 34.   [NEW MATERIAL]   COMMERCIAL LESSOR' S LICENSE. --

2           A.   A commercial lessor's license may be issued to a  
3 person desiring to lease premises to more than one qualified  
4 organization.  No person may lease premises to more than one  
5 qualified organization for the conduct of games of chance unless  
6 the person has a commercial lessor's license for the premises to  
7 be leased.  A lessor may not lease premises for the conduct of  
8 games of chance at more than one location without a separate  
9 commercial lessor's license for each location.  The department  
10 may issue one or more commercial lessor's licenses to a person  
11 who applies and complies with the requirements for licensure  
12 contained in the Charity Games Act and department regulations.

13           B.   The following persons are not eligible for a  
14 commercial lessor's license:

15                   (1)  an elected or appointed public officer or  
16 employee;

17                   (2)  a person who extends credit to, loans money  
18 to or pays or provides for the payment of license fees for a  
19 qualified organization; or

20                   (3)  a person married or related in the first  
21 degree by consanguinity or affinity to one of those persons  
22 listed in Paragraph (1) or (2) of this subsection.

23           C.   No commercial lessor may lease premises to more  
24 than seven licensed qualified organizations for the conduct of  
25 games of chance.

Underscored material = new  
[bracketed material] = delete

1           D. No lessor or commercial lessor shall directly or  
2 indirectly:

3                   (1) provide to the players, patrons, spectators  
4 or charitable organization members or workers present at the  
5 lessor's premises anything of economic value in the form of a  
6 gift or prize, regardless of whether or not compensation is  
7 required for receipt of the prize or gift;

8                   (2) loan money to a qualified organization to  
9 which premises are leased, but a lessor or commercial lessor may  
10 forebear or reduce the rent to an amount less than the amount  
11 stipulated by written lease as the lessor or commercial lessor  
12 does not reclaim the amount of any reduction or forbearance; or

13                   (3) sell, donate or otherwise distribute rights  
14 of participation in any game of chance.

15           E. No lessor, commercial lessor or an employee or  
16 agent of a lessor or commercial lessor, and no owner of premises  
17 or any person having a substantial interest in the owner, lessor  
18 or commercial lessor, shall take part in, share in the proceeds  
19 from the conduct of or assist with the holding, operating or  
20 conduct of a game of chance. The department may by regulation  
21 further define or list the types of activity that constitute  
22 prohibited participation in the conduct of a game of chance.

23           F. The department shall issue bingo hall permits in  
24 accordance with regulations.

25           G. No lessor, commercial lessor or person having a

Underscored material = new  
[bracketed material] = delete

1 substantial interest in a lessor or commercial lessor shall:

2 (1) serve as an officer, director or member of  
3 the governing body of any licensed qualified organization that  
4 rents, leases or uses the premises of the lessor or commercial  
5 lessor for conducting games of chance; or

6 (2) provide accounting services to a licensed  
7 qualified organization conducting games of chance on premises  
8 leased from the lessor or commercial lessor.

9 H. No lease or contract between a qualified  
10 organization licensee and a lessor or commercial lessor shall  
11 provide for consideration based upon a percentage or share in  
12 the proceeds from the conduct of any game of chance by the  
13 qualified organization licensee.

14 Section 35. [NEW MATERIAL] MANUFACTURER' S AND  
15 DISTRIBUTOR' S LICENSES. --

16 A. No person may sell, supply or store for the  
17 purpose of sale to a person in this state or for use in this  
18 state supplies, devices or equipment designed to be used in  
19 playing games of chance or engage in any intrastate activities  
20 involving those items, unless the manufacturer or distributor  
21 has a current manufacturer's or distributor's license issued by  
22 the department.

23 B. An applicant for a manufacturer's or  
24 distributor's license shall file with the department a written  
25 application on a form prescribed by the department.

. 110360. 4GJ

1           C. The following persons are not eligible for a  
2 manufacturer's or distributor's license:

3                   (1) an elected or appointed public officer or  
4 public employee;

5                   (2) a person who conducts, promotes or  
6 administers or assists in conducting, promoting or administering  
7 games of chance for which a license is required by the Charity  
8 Games Act;

9                   (3) a person who has had a license to  
10 manufacture or distribute gaming equipment, devices or supplies  
11 revoked by another state within one year preceding the date of  
12 application; or

13                   (4) an individual related in the first degree  
14 by consanguinity or affinity to an individual ineligible to  
15 receive a license pursuant to the Charity Games Act.

16           D. The Charity Games Act does not apply to  
17 manufacturers or distributors licensed by the New Mexico lottery  
18 authority who do not sell or supply or offer to sell or supply  
19 equipment, devices or supplies for use by licensed qualified  
20 organizations.

21           E. No manufacturer or distributor shall solicit  
22 sales or sell or ship equipment for games of chance for use or  
23 storage in this state before a license is issued to the  
24 manufacturer or distributor by the department.

25           F. No distributor shall rent or lease equipment to a

Underscored material = new  
[bracketed material] = delete

1 licensed qualified organization on an income-sharing basis or on  
2 a percentage-of-income-sharing basis.

3 Section 36. [NEW MATERIAL] GAME MANAGER'S LICENSE. --

4 A. All games of chance conducted by a licensed  
5 qualified organization shall be under the supervision of a game  
6 manager or assistant game manager. A game manager designated by  
7 an organization is responsible for the gross receipts of the  
8 organization and for the conduct of all games of chance in  
9 compliance with all laws and regulations.

10 B. A licensed qualified organization may not have  
11 more than one game manager and two assistant game managers at  
12 any time.

13 C. A person may not serve as a game manager for a  
14 licensed qualified organization unless the person possesses a  
15 valid game manager's license issued by the department. The  
16 department shall not issue a game manager's license to a person  
17 who is a manufacturer, distributor, lessor, commercial lessor or  
18 person having a substantial financial interest in a  
19 manufacturer, distributor, lessor or commercial lessor.

20 D. The department may by regulation require all game  
21 managers to receive training prior to assuming the duties of a  
22 game manager and periodic training regarding the laws and  
23 regulations governing lawful games of chance.

24 Section 37. [NEW MATERIAL] DENIAL, SUSPENSION OR  
25 REVOCATION OF LICENSE. --

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1           A. If, for reasons beyond the control of the  
2 department, sufficient information is not available to allow the  
3 department to determine the eligibility of an applicant for a  
4 license authorized to be issued pursuant to the Charity Games  
5 Act, the department may deny the application unless and until  
6 the applicant provides the required information.

7           B. The department shall deny an application, or  
8 suspend or revoke any license or permit issued by it, if the  
9 applicant or licensee or any person with a substantial interest  
10 in the applicant or licensee:

11                   (1) has ever been convicted of a felony or any  
12 offense punishable by one year or more in prison, a crime  
13 involving gambling or assault or a criminal violation involving  
14 the use of a firearm;

15                   (2) has violated, failed or refused to comply  
16 with the provisions, requirements, conditions, limitations or  
17 duties imposed by the Charity Games Act or any regulation  
18 adopted by the department pursuant to that act;

19                   (3) knowingly causes, aids, abets or conspires  
20 with another to cause any person to violate any of the  
21 provisions of the Charity Games Act or the regulations of the  
22 department adopted pursuant to that act;

23                   (4) has obtained a license or permit by fraud,  
24 misrepresentation, concealment or through inadvertence or  
25 mistake;

1 (5) has been convicted of or forfeited bond  
2 upon a charge of or pleaded guilty to forgery, larceny,  
3 extortion, conspiracy to defraud, willful failure to make  
4 required payments or reports to a governmental agency at any  
5 level, filing false reports therewith, any similar offense or  
6 offenses, bribing or otherwise unlawfully influencing a public  
7 official or employee of any state or the United States or any  
8 crime, whether a felony or misdemeanor, involving any game of  
9 chance or physical harm to individuals or involving moral  
10 turpitude;

11 (6) makes a misrepresentation of or fails to  
12 disclose a material fact to the department;

13 (7) if a qualified organization, has failed to  
14 earn a net profit during any calendar year from the conduct of  
15 games of chance; or

16 (8) is subject to current prosecution for any  
17 offense described in Paragraphs (1) through (6) of this  
18 subsection.

19 C. If any license is revoked, the holder of the  
20 revoked license is not eligible to apply for another license  
21 until after the expiration of the period of one year from the  
22 date of such revocation or such longer period of time as the  
23 department may reasonably determine, not to exceed five years.  
24 The licensee shall be notified in writing at the time of  
25 revocation of the period of ineligibility and the reasons for

1 the determination.

2 D. When the department contemplates taking any  
3 action against an applicant or licensee to refuse to issue or  
4 renew or to revoke or suspend a license, it shall serve written  
5 notice upon the applicant or licensee containing the following:

6 (1) a statement that the department has  
7 sufficient evidence, which if not rebutted or explained, will  
8 justify the department in taking the contemplated action;

9 (2) a statement indicating the general nature  
10 of the evidence; and

11 (3) a statement advising the applicant or  
12 licensee that unless the applicant or licensee within twenty  
13 days after service of the notice delivers a written request for  
14 hearing to the department, the department will take the  
15 contemplated action.

16 E. If the applicant or licensee does not deliver a  
17 request for hearing within the time required by this section,  
18 the department may take the action contemplated in the notice,  
19 and such action shall be final and not subject to judicial  
20 review.

21 F. If the applicant or licensee delivers a request  
22 for hearing within the time required by this section, the  
23 department shall, within twenty days of receipt of the request,  
24 notify the applicant or licensee of the time and place of  
25 hearing and the name of the person who shall conduct the hearing

1 for the department, which hearing shall be held not more than  
2 sixty nor less than fifteen days from the date of service of the  
3 notice of hearing.

4 G. All hearings under this section shall be held in  
5 Santa Fe county.

6 H. The department may conduct the hearings or have  
7 them conducted by a hearing officer appointed by the department.

8 I. All hearings shall be open to the public.

9 J. A licensee or applicant entitled to and  
10 requesting a hearing shall have the right to be represented by  
11 counsel, to present all relevant evidence, to examine all  
12 opposing witnesses and to have subpoenas issued by the  
13 department to compel the attendance of witnesses and the  
14 production of documents.

15 K. The department or hearing officer may impose any  
16 appropriate evidentiary sanction against a party who fails to  
17 provide discovery or to comply with a subpoena.

18 L. The department or hearing officer shall cause a  
19 complete record to be made of all evidence received during the  
20 course of a hearing.

21 M. After a hearing has been completed, the  
22 department shall render its decision as soon as is practicable.

23 N. Any applicant or licensee who, after a properly  
24 requested hearing, is aggrieved by an adverse decision of the  
25 department may obtain a review of the decision in the district

Underscored material = new  
[bracketed material] = delete

1 court of Santa Fe county by filing with the court a petition for  
2 review within twenty days after the date of service of the  
3 decision. Failure to file a petition for review in the manner  
4 and within the time stated shall operate as a waiver of the  
5 right to judicial review and shall result in the decision of the  
6 department becoming final.

7 0. Upon the review of any decision of the  
8 department, the district judge shall sit without a jury and may  
9 hear oral arguments and receive written briefs, but evidence not  
10 offered at the hearing shall not be taken. The court shall  
11 affirm the decision of the department unless it finds that the  
12 substantial rights of the petitioner have been prejudiced  
13 because the decision was in violation of constitutional  
14 provisions in excess of the statutory authority or jurisdiction  
15 of the department, made upon unlawful procedure, affected by  
16 other error of law unsupported by substantial evidence based  
17 upon a review of the entire record submitted, arbitrary or  
18 capricious.

19 P. Any party to the review proceeding in the  
20 district court, including the department, may appeal to the  
21 supreme court from the decision of the district court.

22 Section 38. [NEW MATERIAL] CONDUCT OF GAMES--PREMISES--  
23 EQUIPMENT--GENERAL PROVISIONS.--

24 A. A qualified organization holding a current  
25 qualified organization license pursuant to the Charity Games Act

1 may conduct the following specific games of chance as defined  
2 and restricted by the Charity Games Act and the regulations of  
3 the department:

- 4 (1) bingo;
- 5 (2) pull tabs;
- 6 (3) electronic bingo;
- 7 (4) raffle; or
- 8 (5) lottery game.

9 B. Each license issued to a qualified organization  
10 shall be in a form prescribed by the department and shall be  
11 conspicuously displayed at the place where any game of chance is  
12 being conducted at all times during the conduct of the game and  
13 for at least thirty minutes after the last game has been  
14 concluded or the premises are vacated, whichever is earlier.

15 C. A licensed qualified organization may not conduct  
16 games of chance at any location other than the single location  
17 approved as its licensed premises by the department, except as  
18 follows:

- 19 (1) upon prior written approval of the  
20 department, the licensee may conduct one of its sessions of  
21 games of chance each year at a temporary location for a special  
22 event or similar purpose; and
- 23 (2) a veterans' organization that is a licensee  
24 pursuant to the Charity Games Act and whose licensed premises is  
25 located in a bingo hall may obtain from the department a

Underscored material = new  
[bracketed material] = delete

1 separate permit authorizing the sale of paper pull tabs at its  
2 chapter or post location, provided that the chapter or post  
3 location is restricted to members and bona fide guests of the  
4 members of the licensee organization.

5 D. No person shall hold, operate or conduct any game  
6 of chance under a qualified organization license issued pursuant  
7 to the Charity Games Act except under the supervision of a  
8 licensed game manager. The game manager and any assistant game  
9 managers shall be active members of the qualified organization  
10 licensed to conduct games of chance, except that a game manager  
11 licensed pursuant to the Charity Games Act may supervise games  
12 for licensed qualified organizations other than the organization  
13 of which he is a member. The department shall be notified in  
14 writing of a change in game managers. Notification shall be  
15 made prior to the date that the new game manager assumes the  
16 prior game manager's duties. The game manager or assistant game  
17 manager shall supervise all activities on the occasion for which  
18 he is in charge and be responsible for making all reports  
19 required of the conduct of games and accounting for gross  
20 receipts.

21 E. No person shall assist in the holding, operating  
22 or conducting of any games of chance pursuant to a qualified  
23 organization license except an active member of the licensee or  
24 a member of an organization or association that is an auxiliary  
25 to the licensee, a member of an organization or association of

Underscored material = new  
[bracketed material] = delete

1 which the licensee is an auxiliary or a member of an  
2 organization or association that is affiliated with the licensee  
3 by being, with it, auxiliary to another organization or  
4 association. This provision does not prohibit bookkeepers and  
5 accountants from assisting in preparation of required financial  
6 reports.

7 F. No item of expense shall be incurred or paid in  
8 connection with the holding, operating or conducting of any game  
9 of chance held, operated or conducted pursuant to any license  
10 issued pursuant to the Charity Games Act except bona fide  
11 expenses in a reasonable amount for goods, wares and merchandise  
12 furnished or services rendered reasonably necessary for the  
13 holding, operating or conducting of the games of chance.

14 G. The premises where any game of chance is being  
15 held, operated or conducted or where it is intended that any  
16 equipment be used shall at all times be open to inspection by  
17 the department, its agents and employees and by peace officers.

18 H. No licensed qualified organization may obtain by  
19 purchase or any other manner equipment, devices or supplies from  
20 a person other than a distributor licensed pursuant to the  
21 Charity Games Act, except that a licensed qualified organization  
22 may make an occasional sale of equipment or supplies to another  
23 licensed qualified organization with the prior written  
24 permission of the department. No game of chance shall be  
25 conducted with any equipment except that which is owned or

Underscored material = new  
[bracketed material] = delete

1 leased by the licensee.

2 I. No game of chance shall be conducted more than  
3 five times in any one calendar week, with no game lasting more  
4 than four hours on each occasion and not more than two  
5 occasions in one calendar day by any one licensee.

6 J. No alcoholic beverages may be dispensed, sold or  
7 consumed on any premises authorized for the conduct of lawful  
8 games of chance, except on the premises of licensed qualified  
9 organizations that are veterans' or fraternal organizations  
10 that:

11 (1) hold a current club liquor license for such  
12 premises pursuant to the Liquor Control Act; and

13 (2) restrict admittance to the premises  
14 licensed pursuant to the Charity Games Act and the Liquor  
15 Control Act exclusively to members of the organization and bona  
16 fide guests of the members who are twenty-one years of age or  
17 older.

18 Section 39. [NEW MATERIAL] TAX IMPOSED-- DENOMINATED AS  
19 CHARITY GAMES TAX-- RATE-- ADMINISTRATION AND ENFORCEMENT. --

20 A. In addition to other taxes imposed by other state  
21 laws, an excise tax is imposed for the privilege of engaging in  
22 the activity of commercial leasing for the conduct of charity  
23 games authorized pursuant to the Charity Games Act. The tax is  
24 denominated as and shall be known as the "charity games tax".

25 B. The charity games tax is imposed in an amount

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1 equal to ten percent of the receipts of a commercial lessor  
2 received pursuant to a contract or lease with a licensed  
3 qualified organization under which premises are leased, rented  
4 or provided to the licensed qualified organization for the  
5 conduct of games of chance authorized pursuant to the Charity  
6 Games Act.

7 C. The charity games tax shall be paid to and  
8 administered and enforced by the taxation and revenue department  
9 pursuant to the provisions of the Tax Administration Act.

10 Section 40. [NEW MATERIAL] REPORTING REQUIREMENTS. --

11 A. Every qualified organization licensed to conduct  
12 games of chance and every applicant for a qualified organization  
13 license shall file quarterly reports, an annual financial report  
14 and an annual activity report containing the information  
15 required by department regulations. The information required by  
16 the department may include the information deemed necessary by  
17 the department to fully disclose the eligibility and ability of  
18 the organization to lawfully conduct games of chance, the  
19 participants in the operation of games of chance, the amount  
20 of gross receipts, gross profit and net profit, the distribution  
21 and utilization of all revenue from games of chance, the  
22 organization's progress in fulfillment of the purposes of the  
23 organization and the organization's compliance with the Charity  
24 Games Act. The department may take into account the nature and  
25 extent of the games of chance conducted or to be conducted by

Underscored material = new  
[bracketed material] = delete

1 the licensee or applicant or otherwise in determining the extent  
2 of information required. Each licensed qualified organization  
3 or applicant for a qualified organization license shall maintain  
4 and keep the books and records necessary to substantiate the  
5 particulars of each report.

6 B. Every manufacturer and distributor shall file  
7 quarterly reports providing information required by regulation  
8 of the department.

9 C. Every commercial lessor shall file semi annual  
10 reports providing information required by regulation of the  
11 department.

12 Section 41. [NEW MATERIAL] ACCOUNTING BY QUALIFIED  
13 ORGANIZATIONS--ALLOWABLE EXPENSES--GAME ACCOUNTS.--

14 A. All money collected or received from the sale of  
15 admission, extra regular cards, special game cards, supplies and  
16 all other receipts from the conduct of games of chance shall be  
17 deposited in a special game account of the licensee, which shall  
18 contain only such money. All expenses for the game shall be  
19 withdrawn and paid directly from the game account by  
20 consecutively numbered checks duly signed by specified officers  
21 of the licensee and payable to a specific person or  
22 organization. There shall be written on the check the nature of  
23 the expense for which the check is drawn. No check shall be  
24 drawn to "cash" or a fictitious payee.

25 B. Gross profits from games of chance may only be

1 spent for allowable expenses or lawful purposes. Expenses may  
2 be incurred only for the following purposes:

3 (1) the purchase of goods, wares and  
4 merchandise furnished;

5 (2) payment for services rendered that are  
6 reasonably necessary for repairs of equipment owned by the  
7 licensee or operating or conducting games of chance;

8 (3) rent if the premises are rented or for  
9 janitorial services if not rented;

10 (4) reasonable accountants' fees and bank  
11 charges;

12 (5) utilities that are not included in rent,  
13 such as telephone;

14 (6) license fees and federal or state taxes  
15 imposed on gross receipts and on income from conducting games of  
16 chance pursuant to the Charity Games Act; and

17 (7) the reasonable costs of an audit required  
18 by the department if the cost is approved by the department in  
19 writing.

20 C. All of the net profits derived from the holding  
21 of games of chance shall be devoted to the lawful purposes of  
22 the qualified organization licensed to conduct the games.

23 D. The department may by regulation establish the  
24 maximum amounts that may be expended for the allowable expenses  
25 specified in Subsection B of this section.

1           Section 42.   [NEW MATERIAL]   CONFIDENTIAL INFORMATION. --

2           A.   The following information shall not be considered  
3 public record and is not subject to inspection under the  
4 Inspection of Public Records Act and shall not be revealed by  
5 the department except under order of a court of competent  
6 jurisdiction or with written permission of the owner or provider  
7 of the information:

8                   (1)   technical manuals, instructions or wiring  
9 or logic diagrams for the machine;

10                   (2)   listings of source codes and flow charts;

11                   (3)   results of simulations and related  
12 information explaining simulation methodology;

13                   (4)   model EPROMs or logic boards containing  
14 compiled programs; and

15                   (5)   tax returns received from the internal  
16 revenue service or the taxation and revenue department.

17           B.   Information relating to the results of actual  
18 operations as shown on a machine's meter is not confidential and  
19 may be used to compile studies or reports.

20           C.   Persons with access to confidential information  
21 as described in Subsection A of this section may not use or  
22 reveal anything of a confidential nature outside the scope of  
23 its intended purpose.

24           D.   The department shall secure confidential  
25 information and restrict all persons from access, except

Underscored material = new  
[bracketed material] = delete

1 designated employees whose duties include testing and  
2 interpretation of the information. Such information is not  
3 public record and may not be released to any member of the  
4 public.

5 Section 43. [NEW MATERIAL] EXAMINATION OF BOOKS AND  
6 RECORDS. --

7 A. The premises, equipment and all the books and  
8 records of any person or organization conducting games of chance  
9 authorized by the Charity Games Act and any person or  
10 organization receiving profits therefrom or having any interest  
11 therein shall be subject to inspection and audit at any  
12 reasonable time, with or without notice, upon demand, by the  
13 department, the secretary of public safety or his designee or  
14 the chief of police or the district attorney of any city, town  
15 or county in which the person or organization is located, for  
16 the purpose of determining compliance or noncompliance with the  
17 provisions of the Charity Games Act and any regulations or local  
18 ordinances incident thereto.

19 B. Licensees shall provide any reports or records to  
20 the department relating to their activities pursuant to the  
21 Charity Games Act upon request.

22 Section 44. [NEW MATERIAL] ACCESS TO INTERNAL REVENUE  
23 SERVICE INFORMATION. -- Each applicant for a license pursuant to  
24 the Charity Games Act or current licensee, as a condition of  
25 licensure, shall grant the department or its authorized designee

Underscored material = new  
[bracketed material] = delete

1 access to all tax returns maintained by the internal revenue  
2 service or the taxation and revenue department that have been  
3 filed on behalf of any individual having any ownership,  
4 managerial, directorship or financial interest in the applicant  
5 or the conduct of games of chance by the licensee and those of  
6 any entity applying for licensure under that act. The  
7 department shall consider those records when determining  
8 qualifications for initial licensure or other actions under the  
9 Charity Games Act.

10 Section 45. [NEW MATERIAL] PENALTIES. --

11 A. Every licensee; every officer, agent or employee  
12 of the licensee; and every other person or corporation who  
13 willfully violates or who procures, aids or abets in the willful  
14 violation of the Charity Games Act by making false statements or  
15 material omissions in any application or report filed with the  
16 department is guilty of a fourth degree felony and shall be  
17 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
18 1978.

19 B. Any person who violates any other provision of  
20 the Charity Games Act or regulations adopted pursuant to that  
21 act is guilty of a misdemeanor and, upon conviction thereof,  
22 shall be sentenced pursuant to the provisions of Section 31-19-1  
23 NMSA 1978.

24 C. A manufacturer or distributor who is not licensed  
25 pursuant to the Charity Games Act and who sells or attempts to

Underscored material = new  
[bracketed material] = delete

1 sell equipment, devices or supplies to a qualified organization  
2 is guilty of a third degree felony and shall be sentenced  
3 pursuant to the provisions of Section 31-18-15 NMSA 1978.

4 Section 46. [NEW MATERIAL] FUND CREATED. -- There is  
5 created in the state treasury the "charity games fund". All  
6 fees and the net receipts of the charity games tax paid pursuant  
7 to the Charity Games Act or regulations adopted pursuant to that  
8 act shall be credited to the fund. All money in the fund and  
9 all interest attributable to it is appropriated to the  
10 department for the purpose of carrying out the provisions of the  
11 Charity Games Act. Money remaining in the fund at the end of  
12 each fiscal year shall revert to the general fund.

13 Section 47. [NEW MATERIAL] RECREATIONAL BINGO EXEMPTED  
14 FROM ACT. --

15 A. Nothing in the Charity Games Act prohibits a  
16 senior citizen group from conducting bingo at a senior citizen  
17 center if no person other than a player participating in the  
18 bingo game receives or becomes entitled to receive a part of the  
19 proceeds from the game and if no minor is permitted to  
20 participate in the conduct of the game or play the game.

21 B. As used in this section, "senior citizen group"  
22 means an organization in which the majority of the membership  
23 consists of individuals who are fifty-five years of age or older  
24 and that has as its primary purpose and activity the provision  
25 of recreational or social activities for those individuals.

Underscored material = new  
[bracketed material] = delete

1           Section 48. Section 6-24-5 NMSA 1978 (being Laws 1995,  
2 Chapter 155, Section 5) is amended to read:

3           "6-24-5. NEW MEXICO LOTTERY AUTHORITY CREATED- - BOARD OF  
4 DIRECTORS. --

5           A. There is created a public body, politic and  
6 corporate, separate and apart from the state, constituting a  
7 governmental instrumentality to be known as the "New Mexico  
8 lottery authority". The authority is created and organized for  
9 the purpose of establishing and conducting the [~~New Mexico~~  
10 ~~state~~] lottery to provide revenues for the public purposes  
11 designated by the New Mexico Lottery Act.

12           B. The authority shall be governed by a board of  
13 directors composed of seven members who are residents of New  
14 Mexico appointed by the governor with the advice and consent of  
15 the senate. The members of the board of directors shall be  
16 prominent persons in their businesses or professions and shall  
17 be appointed so as to provide equitable geographical  
18 representation. No more than four members of the board shall be  
19 from any one political party. The governor shall consider  
20 appointing at least one member who has at least five years of  
21 experience as a law enforcement officer, at least one member who  
22 is an attorney admitted to practice in New Mexico and at least  
23 one member who is a certified public accountant certified in New  
24 Mexico.

25           C. Board members shall be appointed for five-year

Underscored material = new  
[bracketed material] = delete

1 terms. To provide for staggered terms, four of the initially  
2 appointed members shall be appointed for terms of five years and  
3 three members for terms of three years. Thereafter, all members  
4 shall be appointed for five-year terms. A vacancy shall be  
5 filled by appointment by the governor for the remainder of the  
6 unexpired term. A member shall serve until his replacement is  
7 confirmed by the senate. Board members shall be eligible for  
8 reappointment.

9 D. The board shall select one of its members as  
10 chairman annually. A chairman may be selected for successive  
11 years. Members of the board may be removed by the governor for  
12 malfeasance, misfeasance or willful neglect of duty after  
13 reasonable notice and a public hearing unless the notice and  
14 hearing are expressly waived in writing by the member.

15 E. The board shall hold regular meetings at the call  
16 of the chairman, but not less often than once each calendar  
17 quarter. A board meeting may also be called upon the request in  
18 writing of three or more board members. A majority of members  
19 then in office constitutes a quorum for the transaction of any  
20 business and for the exercise of any power or function of the  
21 authority.

22 F. Board members shall receive no compensation for  
23 their services, but shall be paid expenses incurred in the  
24 conduct of authority business as allowed and approved by the  
25 authority in accordance with policies adopted by the board.

Underscored material = new  
[bracketed material] = delete

1           G. A board member shall be subject to a background  
2 check and investigation to determine his fitness for office.  
3 The results of that background check shall be made available to  
4 the governor and the senate.

5           H. Neither the members of the board of directors nor  
6 any person acting on behalf of the board, while acting within  
7 the scope of their authority, shall be subject to any personal  
8 liability for any action taken or omitted within that scope of  
9 authority. "

10           Section 49. Section 6-24-6 NMSA 1978 (being Laws 1995,  
11 Chapter 155, Section 6) is amended to read:

12           "6-24-6. POWERS OF THE AUTHORITY. --

13           A. The authority shall have any and all powers  
14 necessary or convenient to carry out and effectuate the purposes  
15 and provisions of the New Mexico Lottery Act that are not in  
16 conflict with the constitution of New Mexico and that are  
17 generally exercised by corporations engaged in entrepreneurial  
18 pursuits, including but without limiting the generality of the  
19 foregoing the power to:

- 20                           (1) sue and be sued;
- 21                           (2) adopt and alter a seal;
- 22                           (3) adopt, amend and repeal bylaws, rules,  
23 policies and procedures for the conduct of its affairs and its  
24 business;
- 25                           (4) procure or provide insurance;

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1 (5) hold copyrights, trademarks and service  
2 marks and enforce its rights with respect thereto;

3 (6) initiate, supervise and administer the  
4 operation of the lottery in accordance with the provisions of  
5 the New Mexico Lottery Act and rules, policies and procedures  
6 adopted pursuant to that act;

7 (7) enter into written agreements with one or  
8 more other states for the operation, participation in or  
9 marketing or promotion of a joint lottery or joint lottery  
10 games;

11 (8) acquire or lease real property and make  
12 improvements thereon and acquire by lease or by purchase  
13 personal property, including but not limited to computers,  
14 mechanical, electronic and on-line equipment and terminals and  
15 intangible property, including but not limited to computer  
16 programs, systems and software;

17 (9) enter into contracts to incur debt and  
18 borrow money in its own name and enter into financing agreements  
19 with the state, with agencies or instrumentalities of the state  
20 or with any commercial bank or credit provider;

21 (10) receive and expend, in accordance with the  
22 provisions of the New Mexico Lottery Act, all money received  
23 from any lottery or nonlottery source for effectuating the  
24 purposes of the New Mexico Lottery Act;

25 (11) administer oaths, take depositions, issue

Underscored material = new  
[bracketed material] = delete

1 subpoenas and compel the attendance of witnesses and the  
2 production of books, papers, documents and other evidence  
3 relative to any investigation or proceeding conducted by the  
4 authority;

5 (12) appoint and prescribe the duties of  
6 officers, agents and employees of the authority, including  
7 professional and administrative staff and personnel, and to fix  
8 their compensation, pay their expenses and provide a benefit  
9 program, including but not limited to a retirement plan and a  
10 group insurance plan;

11 (13) select and contract with lottery vendors  
12 and lottery retailers;

13 (14) enter into contracts or agreements with  
14 state, local or federal law enforcement agencies or private  
15 investigators or other persons for the performance of law  
16 enforcement, background investigations and security checks;

17 (15) enter into agreements with the  
18 superintendent of regulation and licensing and the department of  
19 public safety to monitor, enable and disable video gambling  
20 machines and slot machines, perform electronic funds transfers  
21 and other services relating to the operation and administration  
22 of video gambling machines and slot machines. Net income  
23 received by the authority for performing such agreements shall  
24 be included in net revenue of the lottery to be distributed as  
25 provided in the New Mexico Lottery Act. Compensation shall not

. 110360. 4GJ

1 exceed actual costs incurred by the lottery authority in  
2 performing the services plus two percent of the difference  
3 between gross receipts from the conduct of machine gambling and  
4 winnings paid by each licensee;

5 [~~(15)~~] (16) enter into contracts of any and all  
6 types on such terms and conditions as the authority may  
7 determine;

8 [~~(16)~~] (17) establish and maintain banking  
9 relationships, including but not limited to establishment of  
10 checking and savings accounts and lines of credit;

11 [~~(17)~~] (18) advertise and promote the lottery  
12 and lottery games;

13 [~~(18)~~] (19) act as a lottery retailer, conduct  
14 promotions that involve the dispensing of lottery tickets and  
15 establish and operate a sales facility to sell lottery tickets  
16 and any related merchandise; and

17 [~~(19)~~] (20) adopt, repeal and amend such rules,  
18 policies and procedures as necessary to carry out and implement  
19 its powers and duties, organize and operate the authority,  
20 conduct lottery games and any other matters necessary or  
21 desirable for the efficient and effective operation of the  
22 lottery and the convenience of the public.

23 B. The powers enumerated in this section are  
24 cumulative of and in addition to those powers enumerated  
25 elsewhere in the New Mexico Lottery Act, and no such powers

Underscored material = new  
[bracketed material] = delete

1 limit or restrict any other powers of the authority. "

2 Section 50. Section 6-24-17 NMSA 1978 (being Laws 1995,  
3 Chapter 155, Section 17, as amended) is amended to read:

4 "6-24-17. DISCLOSURE OF ODDS. --The authority shall make  
5 adequate disclosure of the odds with respect to each lottery  
6 game by stating the odds in lottery game advertisements, on  
7 lottery tickets or by posting the odds at each place in which  
8 lottery tickets are sold. "

9 Section 51. Section 6-24-26 NMSA 1978 (being Laws 1995,  
10 Chapter 155, Section 26) is amended to read:

11 "6-24-26. AUTHORIZATION TO ISSUE REVENUE BONDS. --

12 A. In order to provide funds for the initial  
13 development and operation of the lottery, the board is  
14 authorized to issue lottery revenue bonds in an amount not to  
15 exceed [~~three million dollars (\$3,000,000)~~] six million dollars  
16 (\$6,000,000) payable solely from revenues of the authority  
17 generated from operation of the lottery.

18 B. The board may issue bonds to refund other bonds  
19 issued pursuant to this section.

20 C. The bonds shall have a maturity of no more than  
21 five years from the date of issuance. The board shall determine  
22 all other terms, covenants and conditions of the bonds;  
23 provided, however, that the bonds may provide for prepayment in  
24 part or in full of the balance due at any time without penalty.

25 D. The bonds shall be executed with the manual or

Underscored material = new  
[bracketed material] = delete

1 facsimile signature of the chief executive officer or the  
2 chairman of the board and attested to by another member of the  
3 board. The bonds may bear the seal, if any, of the authority.

4 E. The proceeds of the bonds and the earnings on  
5 those proceeds are appropriated to the authority for the initial  
6 development and operation of the lottery, to pay expenses  
7 incurred in the preparation, issuance and sale of the bonds, to  
8 pay any obligations relating to the bonds and the proceeds of  
9 the bonds under the Internal Revenue Code of 1986 and for any  
10 other lawful purpose.

11 F. The bonds may be sold either at a public sale or  
12 at a private sale to the state investment officer or to the  
13 state treasurer. If the bonds are sold at a public sale, the  
14 notice of sale and other procedures for the sale shall be  
15 determined by the chief executive officer or the board.

16 G. This section is full authority for the issuance  
17 and sale of the bonds, and the bonds shall not be invalid for  
18 any irregularity or defect in the proceedings for their issuance  
19 and sale and shall be incontestable in the hands of bona fide  
20 purchasers or holders of the bonds for value.

21 H. An amount of money from the sources specified in  
22 Subsection A of this section sufficient to pay the principal of  
23 and interest on the bonds as they become due in each year shall  
24 be set aside, and is hereby pledged, for the payment of the  
25 principal and interest on the bonds.

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1 I. The bonds shall be legal investments for any  
2 person or board charged with the investment of public funds and  
3 may be accepted as security for any deposit of public money, and  
4 the bonds and interest thereon are exempt from taxation by the  
5 state and any political subdivision or agency of the state.

6 J. The bonds shall be payable by the authority,  
7 which shall keep a complete record relating to the payment of  
8 the bonds. "

9 Section 52. Section 7-1-2 NMSA 1978 (being Laws 1965,  
10 Chapter 248, Section 2, as amended) is amended to read:

11 "7-1-2. APPLICABILITY. --The Tax Administration Act applies  
12 to and governs:

13 A. the administration and enforcement of the  
14 following taxes or tax acts as they now exist or may hereafter  
15 be amended:

- 16 (1) Income Tax Act;
- 17 (2) Withholding Tax Act;
- 18 (3) Gross Receipts and Compensating Tax Act and  
19 any state gross receipts tax;
- 20 (4) Liquor Excise Tax Act;
- 21 (5) Local Liquor Excise Tax Act;
- 22 [~~(6) Banking and Financial Corporations Tax~~  
23 ~~Act;~~
- 24 ~~(7)] (6) any municipal local option gross~~
- 25 receipts tax;

Underscored material = new  
[bracketed material] = delete

1                    [~~(8)~~] (7) any county local option gross  
2 receipts tax;  
3                    [~~(9)~~] (8) Special Fuels Supplier Tax Act;  
4                    [~~(10)~~] (9) Gasoline Tax Act;  
5                    [~~(11)~~] (10) petroleum products loading fee,  
6 which fee shall be considered a tax for the purpose of the Tax  
7 Administration Act;  
8                    [~~(12)~~] (11) Cigarette Tax Act;  
9                    [~~(13)~~] (12) Estate Tax Act;  
10                    [~~(14)~~] (13) Railroad Car Company Tax Act;  
11                    [~~(15)~~] (14) Investment Credit Act;  
12                    [~~(16)~~] (15) Corporate Income Tax Act;  
13                    [~~(17)~~] (16) Corporate Income and Franchise Tax  
14 Act;  
15                    [~~(18)~~] (17) Uniform Division of Income for Tax  
16 Purposes Act;  
17                    [~~(19)~~] (18) Multistate Tax Compact;  
18                    [~~(20)~~] (19) Tobacco Products Tax Act;  
19                    [~~(21)~~] (20) Filmmaker's Credit Act; and  
20                    [~~(22)~~] (21) the telecommunications relay  
21 service surcharge imposed by Section 63-9F-11 NMSA 1978, which  
22 surcharge shall be considered a tax for the purposes of the Tax  
23 Administration Act;  
24                    B. the administration and enforcement of the  
25 following taxes, surtaxes, advanced payments or tax acts as they

Underscored material = new  
[bracketed material] = delete

1 now exist or may hereafter be amended:

2 (1) Resources Excise Tax Act;

3 (2) Severance Tax Act;

4 (3) any severance surtax;

5 (4) Oil and Gas Severance Tax Act;

6 (5) Oil and Gas Conservation Tax Act;

7 (6) Oil and Gas Emergency School Tax Act;

8 (7) Oil and Gas Ad Valorem Production Tax Act;

9 (8) Natural Gas Processors Tax Act;

10 (9) Oil and Gas Production Equipment Ad Valorem  
11 Tax Act;

12 (10) Copper Production Ad Valorem Tax Act; and

13 (11) any advance payment required to be made by  
14 any act specified in this subsection, which advance payment  
15 shall be considered a tax for the purposes of the Tax  
16 Administration Act;

17 C. the administration and enforcement of the  
18 following taxes, surcharges, fees or acts as they now exist or  
19 may hereafter be amended:

20 (1) Weight Distance Tax Act;

21 (2) Special Fuels Tax Act;

22 (3) the workers' compensation fee authorized by  
23 Section 52-5-19 NMSA 1978, which fee shall be considered a tax  
24 for purposes of the Tax Administration Act;

25 (4) Controlled Substance Tax Act;

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

- 1 (5) Uniform Unclaimed Property Act;
- 2 (6) 911 emergency surcharge and the network and  
3 database surcharge, which surcharges shall be considered taxes  
4 for purposes of the Tax Administration Act;
- 5 (7) the solid waste assessment fee authorized  
6 by the Solid Waste Act, which fee shall be considered a tax for  
7 purposes of the Tax Administration Act; [~~and~~]
- 8 (8) the water conservation fee imposed by  
9 Section 74-1-13 NMSA 1978, which fee shall be considered a tax  
10 for the purposes of the Tax Administration Act; [~~and~~]
- 11 (9) the machine gambling tax imposed pursuant  
12 to the Video Gambling Act; and
- 13 (10) the charity games tax imposed pursuant to  
14 the Charity Games Act; and

15 D. the administration and enforcement of all other  
16 laws, with respect to which the department is charged with  
17 responsibilities pursuant to the Tax Administration Act, but  
18 only to the extent that such other laws do not conflict with the  
19 Tax Administration Act."

20 Section 53. A new section of the Tax Administration Act is  
21 enacted to read:

22 "[NEW MATERIAL] DISTRIBUTION OF CHARITY GAMES TAX. -- A  
23 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made  
24 to the charity games fund of the net receipts attributable to  
25 the charity games tax."

Underscored material = new  
[bracketed material] = delete

1           Section 54. A new section of the Tax Administration Act is  
2 enacted to read:

3           "[NEW MATERIAL] DISTRIBUTION OF MACHINE GAMBLING TAX. -- A  
4 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made  
5 to the machine gambling fund of the net receipts attributable to  
6 the machine gambling tax."

7           Section 55. Section 7-27-5.21 NMSA 1978 (being Laws 1995,  
8 Chapter 155, Section 36) is amended to read:

9           "7-27-5.21. NEW MEXICO LOTTERY REVENUE BONDS. -- The  
10 severance tax permanent fund may be invested in revenue bonds  
11 issued by the New Mexico lottery authority pursuant to the  
12 provisions of the New Mexico Lottery Act. The amount invested  
13 shall not exceed [~~three million dollars (\$3,000,000)~~] six  
14 million dollars (\$6,000,000)."

15           Section 56. Section 30-19-1 NMSA 1978 (being Laws 1963,  
16 Chapter 303, Section 19-1, as amended) is amended to read:

17           "30-19-1. DEFINITIONS RELATING TO GAMBLING. -- As used in  
18 Chapter 30, Article 19 NMSA 1978:

19           A. "antique gambling device" means a gambling device  
20 twenty-five years of age or older and substantially in original  
21 condition that is not used for gambling or commercial gambling  
22 or located in a gambling place;

23           B. "bet" means a bargain in which the parties agree  
24 that, dependent upon chance, even though accompanied by some  
25 skill, one stands to win or lose anything of value specified in

Underscored material = new  
[bracketed material] = delete

1 the agreement. A bet does not include:

2 (1) bona fide business transactions that are  
3 valid under the law of contracts, including without limitation:

4 (a) contracts for the purchase or sale,  
5 at a future date, of securities or other commodities; and

6 (b) agreements to compensate for loss  
7 caused by the happening of the chance, including without  
8 limitation contracts for indemnity or guaranty and life or  
9 health and accident insurance;

10 (2) offers of purses, prizes or premiums to the  
11 actual contestants in any bona fide contest for the  
12 determination of skill, speed, strength or endurance or to the  
13 bona fide owners of animals or vehicles entered in such contest;

14 (3) a lottery as defined in this section; or

15 (4) betting otherwise permitted by law;

16 ~~[C. "lottery" means an enterprise other than the New~~  
17 ~~Mexico state lottery established and operated pursuant to the~~  
18 ~~New Mexico Lottery Act wherein, for a consideration, the~~  
19 ~~participants are given an opportunity to win a prize, the award~~  
20 ~~of which is determined by chance, even though accompanied by~~  
21 ~~some skill. As used in this subsection, "consideration" means~~  
22 ~~anything of pecuniary value required to be paid to the promoter~~  
23 ~~in order to participate in such enterprise;~~

24 ~~D.]~~ C. "gambling device" means a contrivance other  
25 than an antique gambling device that, for a consideration,

Underscored material = new  
[bracketed material] = delete

1 affords the player an opportunity to obtain anything of value,  
2 the award of which is determined by chance, even though  
3 accompanied by some skill and whether or not the prize is  
4 automatically paid by the device; [~~and~~

5 ~~E.]~~ D. "gambling place" means any building or tent,  
6 any vehicle, whether self-propelled or not, or any room within  
7 any of them, one of whose principal uses is:

8 (1) making and settling of bets;

9 (2) receiving, holding, recording or forwarding  
10 bets or offers to bet;

11 (3) conducting lotteries; or

12 (4) playing gambling devices;

13 E. "lottery" means an enterprise other than the New  
14 Mexico state lottery established and operated pursuant to the  
15 New Mexico Lottery Act wherein, for a consideration, the  
16 participants are given an opportunity to win a prize, the award  
17 of which is determined by chance, even though accompanied by  
18 some skill. As used in this subsection, "consideration" means  
19 anything of pecuniary value required to be paid to the promoter  
20 in order to participate in the enterprise;

21 F. "raffle" means a game in which the prize is won  
22 by random drawing of the name or number of one or more persons  
23 purchasing a chance; and

24 G. "video gambling" means any form of gambling in  
25 which, upon payment of a consideration, an electronic device may

Underscored material = new  
[bracketed material] = delete

1 be played that simulates the play of a game of chance, utilizes  
2 a video display and microprocessors and that by chance, or  
3 through some combination of chance and skill, a player may  
4 receive or the device may dispense to the player cash, coins or  
5 tokens or free games or credits that may be redeemed for cash,  
6 coins or tokens."

7 Section 57. Section 30-19-6 NMSA 1978 (being Laws 1963,  
8 Chapter 303, Section 19-6, as amended) is amended to read:

9 "30-19-6. ~~[PERMISSIVE LOTTERY]~~ AUTHORIZED GAMBLING--FAIRS,  
10 THEATERS AND TAX-EXEMPT ORGANIZATIONS--VIDEO GAMBLING ACT AND  
11 CHARITY GAMES ACT ACTIVITIES.--

12 A. Nothing in ~~[Article 19]~~ Chapter 30, Article 19  
13 NMSA 1978 ~~[shall be construed to apply to any]~~ prohibits a sale  
14 or drawing of [any] a prize at [any] a fair held in this state  
15 for the benefit of [any] a church, public library or religious  
16 society [situate or being] located in this state or for  
17 charitable purposes when all the proceeds of [such] the fair  
18 [shall be] are expended in this state for the benefit of [such]  
19 a church, public library, religious society or charitable  
20 purposes. A [lottery shall be operated] sale or drawing  
21 conducted pursuant to this subsection is for the benefit of the  
22 organization or charitable purpose only [when] if the entire  
23 proceeds [of] from the [lottery] sale or drawing go to the  
24 organization or charitable purpose and no part of [such] the  
25 proceeds go to any individual member or employee [thereof] of

Underscored material = new  
[bracketed material] = delete

1 the organization.

2 B. Nothing in [~~Article 19~~] Chapter 30, Article 19  
3 NMSA 1978 [~~shall be held to prohibit any~~] prohibits a bona fide  
4 motion picture [~~theatre~~] theater from offering prizes of cash or  
5 merchandise for advertising purposes in connection with [~~such~~]  
6 the business of the theater or for the purpose of stimulating  
7 business, whether or not [~~any~~] consideration other than a  
8 monetary consideration in excess of the regular price of  
9 admission is [~~exacted~~] charged for participation in drawings for  
10 prizes.

11 C. Nothing in [~~Article 19~~] Chapter 30, Article 19  
12 NMSA 1978 [~~shall be held to apply to any~~] prohibits a bona fide  
13 county fair, including [~~fairs~~] a fair for more than one county,  
14 [~~which shall have~~] that has been held annually at the same  
15 location for at least two years [~~and which shall offer~~] from  
16 offering prizes of livestock or poultry in connection with  
17 [~~such~~] the fair [~~when~~] if the proceeds of [~~such~~] the drawings  
18 [~~shall be~~] are used for the benefit of [~~said~~] the fair.

19 [~~D. Nothing in Article 19, Chapter 30 NMSA 1978~~  
20 ~~shall be construed to apply to any lottery operated by an~~  
21 ~~organization exempt from the state income tax pursuant to~~  
22 ~~Subsection C of Section 7-2-4 NMSA 1978 and not subject to the~~  
23 ~~provisions of Subsection A of this section; provided that:~~

24 (1) ~~no more than two lotteries shall be~~  
25 ~~operated in any year by such an organization;~~

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

1                   ~~(2) all the gross proceeds less the reasonable~~  
2 ~~cost of prizes of any lottery operated by such an organization~~  
3 ~~shall be expended in the state for the benefit of the~~  
4 ~~organization or public purposes; and~~

5                   ~~(3) no part of the proceeds of any lottery~~  
6 ~~shall go to any individual member or employee of any~~  
7 ~~organization except as payment for the purchase of prizes at no~~  
8 ~~more than the reasonable retail price]~~

9                   D. Nothing in Chapter 30, Article 19 NMSA 1978  
10 prohibits an organization that is exempt from state income tax  
11 pursuant to Section 7-2-4 NMSA 1978 from conducting bingo games,  
12 raffles, lotteries or table games, including poker, craps,  
13 blackjack, roulette and the like, at a fundraising event if:

14                   (1) the fundraising events are conducted no  
15 more than twice in a calendar year by the qualifying  
16 organization;

17                   (2) the only persons authorized to participate  
18 in the operation or management of the fundraising event are:

19                   (a) bona fide members of the qualifying  
20 organization who are not paid for their services in the  
21 operation or management of the event; or

22                   (b) persons who provide goods or services  
23 for the fundraising event for a flat fee or an hourly fee  
24 pursuant to a written contract with the qualifying organization;

25                   (3) no person receives any part of the proceeds

Underscored material = new  
[bracketed material] = delete

1 of the fundraising event except:

2 (a) as payment for prizes purchased at no  
3 more than the reasonable retail prices for the prizes; or

4 (b) pursuant to a contract described in  
5 Subparagraph (b) of Paragraph (2) of this subsection;

6 (4) the net proceeds of the fundraising event  
7 are expended in the state for the benefit of the qualifying  
8 organization or purposes for which it was formed;

9 (5) gross revenue, expenses, prizes paid and  
10 the date, time and location of the fundraising event are  
11 reported to the alcohol and gaming division of the regulation  
12 and licensing department within thirty days after the event;

13 (6) the qualifying organization conducting the  
14 fundraising event maintains records for a period of one year  
15 after the date of the event that accurately show the gross  
16 revenue generated by the event, details of the expenses of  
17 conducting the event and details of how the gross revenue is  
18 used, and the qualifying organization makes the records  
19 available for review by the director of the alcohol and gaming  
20 division of the regulation and licensing department or the  
21 attorney general, or both, at their request;

22 (7) no video gambling is conducted and no slot  
23 machines are operated during the fundraising event;

24 (8) no persons less than the age of twenty-one  
25 are allowed to participate in the operation or management of the

Underscored material = new  
[bracketed material] = delete

1 fundraising event or to play any game at the event; and  
2 (9) the fundraising event is conducted pursuant  
3 to a permit issued by the alcohol and gaming division of the  
4 regulation and licensing department.

5 E. Nothing in Chapter 30, Article 19 NMSA 1978  
6 prohibits activities authorized and the games of chance  
7 permitted and regulated pursuant to the provisions of the Video  
8 Gambling Act and the Charity Games Act."

9 Section 58. A new Section 30-19-6.1 NMSA 1978 is enacted  
10 to read:

11 "30-19-6.1. [NEW MATERIAL] PERMITTED GAMBLING--  
12 RECREATIONAL BINGO.--

13 A. Nothing in Chapter 30, Article 19 NMSA 1978  
14 prohibits a senior citizen group from conducting bingo at a  
15 senior citizen center if no person other than a player  
16 participating in the bingo game receives or becomes entitled to  
17 receive a part of the proceeds from the game and if no minor is  
18 permitted to participate in the conduct of the game or play the  
19 game.

20 B. As used in this section, "senior citizen group"  
21 means an organization in which the majority of the membership  
22 consists of individuals who are fifty-five years of age or older  
23 and that has as its primary purpose and activity the provision  
24 of recreational or social activities for those individuals."

25 Section 59. Section 60-7A-19 NMSA 1978 (being Laws 1981,

Underscored material = new  
[bracketed material] = delete

1 Chapter 39, Section 96) is amended to read:

2 "60-7A-19. COMMERCIAL GAMBLING ON LICENSED PREMISES. --

3 A. It is a violation of the Liquor Control Act for a  
4 licensee to knowingly allow commercial gambling on the licensed  
5 premises.

6 B. In addition to any criminal penalties, any person  
7 who violates Subsection A of this section may have his license  
8 suspended or revoked or a fine imposed, or both, pursuant to the  
9 Liquor Control Act.

10 C. [~~For purposes of~~] As used in this section:

11 (1) "commercial gambling" means:

12 [~~(1)~~] (a) participating in the earnings  
13 of or operating a gambling place;

14 [~~(2)~~] (b) receiving, recording or  
15 forwarding bets or offers to bet;

16 [~~(3)~~] (c) possessing facilities with the  
17 intent to receive, record or forward bets or offers to bet;

18 [~~(4)~~] (d) for gain, becoming a custodian  
19 of anything of value bet or offered to be bet;

20 [~~(5)~~] (e) conducting a lottery where both  
21 the consideration and the prize are money or whoever with intent  
22 to conduct a lottery possesses facilities to do so; or

23 [~~(6)~~] (f) setting up for use for the  
24 purpose of gambling, or collecting the proceeds of, any gambling  
25 device or game; and

. 110360. 4GJ

Underscored material = new  
[bracketed material] = delete

- 1                                   (2) "commercial gambling" does not include:  
2                                    (a) activities authorized pursuant to the  
3 New Mexico Lottery Act;  
4                                    (b) the conduct of games pursuant to  
5 Subsection D of Section 30-19-6 NMSA 1978;  
6                                    (c) the conduct of machine gambling  
7 authorized pursuant to the Video Gambling Act on the licensed  
8 premises of a club licensee licensed pursuant to Section 60-6A-5  
9 NMSA 1978 or the licensed premises of a racetrack; and  
10                                  (d) the conduct of activities authorized  
11 or games permitted pursuant to the Charity Games Act on the  
12 licensed premises of a club licensee licensed pursuant to  
13 Section 60-6A-5 NMSA 1978. "

14                   Section 60. REPEAL. --Sections 60-2B-1 through 60-2B-14  
15 NMSA 1978 (being Laws 1981, Chapter 259, Sections 1 through 14,  
16 as amended) are repealed.

17                   Section 61. SEVERABILITY. --If any part or application of  
18 this act is held invalid, the remainder or its application to  
19 other situations or persons shall not be affected.

20                   Section 62. EFFECTIVE DATE. --

21                   A. The effective date of the provisions of Sections  
22 20, 27 through 47 and 60 of this act is January 1, 1997.

23                   B. The effective date of the provisions of Sections  
24 7 through 19 and 21 through 26 of this act is July 1, 1996.

25                   Section 63. EMERGENCY. --It is necessary for the public

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

1 peace, health and safety that this act take effect immediately.

2 - 97 -

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

. 110360. 4GJ

1 FORTY- SECOND LEGI SLATURE  
2 SECOND SESSI ON, 1996  
3  
4

5 JANUARY 29, 1996  
6

7 Mr. Presi dent:  
8

9 Your COMMI TTEES' COMMI TTEE, to whom has been referred  
10

11 SENATE BILL 418  
12

13 has had it under consideration and finds same to be GERMANE, PURSUANT  
14 TO PROVISIONS, and thence referred to the COMMI TTEE OF THE WHOLE  
15 COMMI TTEE.  
16

17 Respectfully submi tted,  
18  
19

20  
21  
22 \_\_\_\_\_  
23 SENATOR MANNY M. ARAGON, Chai rman  
24  
25

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

- 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

Date \_\_\_\_\_

S0418CC1

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

1 FORTY- SECOND LEGI SLATURE  
2 SECOND SESSI ON, 1996  
3  
4

5 February 2, 1996  
6

7 Mr. President:  
8

9 Your COMMITTEE OF THE WHOLE, to whom has been referred  
10

11 SENATE BILL 418  
12

13 has had it under consideration and reports same WITHOUT  
14 RECOMMENDATION, and thence placed on the President's  
15 Table.  
16

17 Respectfully submitted,  
18

19 \_\_\_\_\_  
20  
21  
22 Manny M. Aragon, Chairman  
23  
24  
25

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

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

Date \_\_\_\_\_

The roll call vote was 24 For 8 Against

Yes: 24

No: Donisthorpe, Kidd, Lyons, Rawson, Riley, Rutherford, Scott,  
Smith

Excused: Benavides, Carraro, Ingle, E. Jennings, T. Jennings, McKibben,  
Naranjo, Rodriguez, Stefani cs, Vernon

Absent: None

S0418WS1

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