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SENATE BILL 606

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

INTRODUCED BY

BEN D. ALTAMIRANO

AN ACT

RELATING TO GAMING; ENACTING THE VIDEO GAMING ACT; PROVIDING FOR VIDEO MACHINE GAMING AT LICENSED CLUBS; PROVIDING FOR A GAMING TAX IN LIEU OF OTHER GROSS RECEIPTS OR EXCISE TAXES; PROVIDING PENALTIES; MAKING APPROPRIATIONS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. [NEW MATERIAL] SHORT TITLE. --Sections 1 through 36 of this act may be cited as the "Video Gaming Act".

Section 2. [NEW MATERIAL] PURPOSE. --The purpose of the Video Gaming Act is to:

A. authorize and regulate the use and operation of video gaming machines at licensed clubs in the state; and

B. take all actions necessary to ensure the integrity, reliability and security of all games of chance

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1 located on the premises of licensed clubs.

2 Section 3. [NEW MATERIAL] PUBLIC POLICY OF STATE
3 CONCERNING GAMING. --The legislature finds and declares it to be
4 the public policy of this state that:

5 A. regulation of video gaming at licensed clubs is
6 critical to ensure that it is conducted honestly and uniformly
7 throughout New Mexico;

8 B. the public's confidence and trust in the conduct
9 of permitted video gaming activities at licensed clubs can be
10 obtained and maintained only through strict regulation of all
11 persons, locations, practices, associations and activities
12 related directly or indirectly to nontribal video gaming
13 conducted in the state; and

14 C. a holder of a license issued pursuant to the
15 Video Gaming Act to conduct permitted gaming activities at
16 licensed clubs does not acquire any vested interest or right in
17 or under the license and has only a revocable privilege.

18 Section 4. [NEW MATERIAL] DEFINITIONS. --As used in the
19 Video Gaming Act:

20 A. "associated equipment" means any proprietary
21 device, machine or part used in the manufacture or maintenance
22 of a video gaming machine, including but not limited to
23 integrated circuit chips, printed wired assembly, printed wire
24 boards, printing mechanisms, video display monitors and metering
25 devices;

1 B. "board" means the video gaming board that
2 regulates video gaming pursuant to the provisions of the Video
3 Gaming Act;

4 C. "committee" means the gaming oversight committee
5 that oversees the operation of video gaming in the state and is
6 created in the Video Gaming Act;

7 D. "distributor" means any person who distributes or
8 sells video gaming machines or associated equipment to a
9 licensed club in New Mexico;

10 E. "licensed club" means a nonprofit organization
11 that has been licensed pursuant to the Video Gaming Act;

12 F. "licensee" means any person who is granted a
13 license pursuant to the Video Gaming Act;

14 G. "major procurement" means any procurement or
15 contract for the purchase or lease of facilities, equipment,
16 goods or services used primarily for the regulation and control
17 of video gaming, the value of which is in excess of twenty
18 thousand dollars (\$20,000), including computer equipment,
19 accounting, consulting or other procurements deemed necessary by
20 the superintendent;

21 H. "manufacturer" means any person who assembles or
22 produces video gaming machines or associated equipment to be
23 sold or used in New Mexico;

24 I. "net take" means the total of all cash received
25 from patrons for the play of video gaming machines less the

1 total of all cash paid out in prizes;

2 J. "nonprofit organization" means any organization,
3 described in Section 501(c)(8), 501(c)(10), 501(c)(19) or
4 501(c)(23) of the federal Internal Revenue Code of 1986, as
5 amended, that is exempt from federal income taxation pursuant to
6 Section 501(a) of that code and that has been issued a license
7 pursuant to Section 60-6A-5 NMSA 1978;

8 K. "operator" means any person who sells, leases,
9 services or places video gaming machines or associated equipment
10 for use in the state;

11 L. "person" means an individual or any legal entity,
12 including a partnership, joint venture, limited partnership,
13 limited liability company or corporation;

14 M "regulation" means a rule, regulation, order,
15 standard or statement of policy issued or adopted by the board
16 pursuant to the Video Gaming Act regarding the regulation or
17 operation of video gaming in the state;

18 N. "superintendent" means the superintendent of
19 regulation and licensing;

20 O. "vendor" means any person who provides a major
21 procurement under contract with the division or security
22 division;

23 P. "video game" means a simulated game of chance
24 that may involve skill of the player or application of the
25 element of chance, or both, that is displayed and played on a

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1 video gaming machine that has been authorized by the board;

2 Q. "video gaming licensee" means a nonprofit
3 organization that has obtained a license pursuant to the Video
4 Gaming Act to have video gaming machines in operation on the
5 licensee's premises;

6 R. "video gaming machine" means any electronic or
7 electromechanical device, contrivance or machine, including
8 those commonly known as slot machines, that is available for
9 play upon the payment of consideration and when played may
10 entitle the player to receive or may deliver to the player
11 something of value, including currency, coins, premiums,
12 merchandise, credits, tokens or a voucher, whether by reason of
13 the skill of the player or application of the element of chance,
14 or both; and

15 S. "voucher" means a receipt, credit slip or other
16 tangible evidence printed out by a video gaming machine that
17 entitles the holder to receive something of value for having
18 played the machine and won its game.

19 Section 5. BOARD--MEMBERSHIP--QUALIFICATIONS. --

20 A. [NEW MATERIAL] The "video gaming board" is
21 created and is administratively attached to the regulation and
22 licensing department.

23 B. The board shall consist of the following five
24 members:

25 (1) the state treasurer or a person designated

1 by the state treasurer who can represent that office;

2 (2) two persons appointed by the governor, one
3 of whom shall have had five years' experience in the management
4 of a law enforcement agency and one of whom shall have had three
5 years' experience in the management of a video gaming
6 enterprise;

7 (3) one person appointed by the president pro
8 tempore of the senate; and

9 (4) one person appointed by the speaker of the
10 house of representatives.

11 C. Members of the board shall be citizens of the
12 United States.

13 D. Members of the board are subject to confirmation
14 by the senate and shall serve four-year terms, except that the
15 members appointed by the president pro tempore of the senate or
16 the speaker of the house of representatives shall serve
17 two-year terms. No person shall serve on the board for more
18 than twelve years.

19 E. The board shall annually elect a chairman from
20 among its members.

21 F. The special investigations division of the
22 department of public safety shall conduct background
23 investigations of all appointed members of the board prior to
24 each taking office. The background investigations shall include
25 but not be limited to credit checks, police checks, conviction

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1 records checks and national and statewide criminal records
2 clearinghouse and fingerprint checks. The result of the
3 investigations shall be provided to the governor, the president
4 pro tempore of the senate, the speaker of the house of
5 representatives and the senate rules committee.

6 G. An individual convicted of a crime, not including
7 a petty misdemeanor, that involves gambling, moral turpitude,
8 fraud or theft shall not be eligible to serve on or be appointed
9 to the board.

10 H. A board member shall report his arrest for or
11 conviction of a crime, not including a petty misdemeanor, that
12 includes gambling, moral turpitude, fraud or theft to the person
13 who appointed him and to the chairman of the board within three
14 days of the arrest or conviction. A member convicted of a crime
15 specified in this subsection shall resign or be removed from the
16 board by the person who appointed that member to the board.

17 I. No person who has or later acquires an ownership
18 interest in a vendor or licensee or is a member of a licensed
19 club shall serve on the board.

20 Section 6. [NEW MATERIAL] MEETINGS--QUORUM-RECORDS.--

21 A. A majority of the qualified membership of the
22 board then in office constitutes a quorum. No action may be
23 taken by the board unless at least three members concur.

24 B. The board may hold regular or special meetings
25 upon reasonable notice.

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1 C. Meetings of the board shall be open and public in
2 accordance with the Open Meetings Act, except that the board may
3 have closed meetings to hear security and investigative
4 information that is otherwise permitted by law to be
5 confidential, to evaluate confidential proprietary information
6 provided as part of a major procurement proposal and to consider
7 those matters specified as confidential in the Video Gaming Act.

8 D. All proceedings of the board shall be recorded by
9 audiotape or other equivalent verbatim audio recording device;
10 however, tapes of closed meetings shall not be made available to
11 the public.

12 Section 7. [NEW MATERIAL] BOARD DUTIES--ADMINISTRATIVE
13 SUPPORT.--

14 A. The board shall adopt, amend or repeal all
15 regulations necessary to administer the Video Gaming Act and to
16 assure the honest and secure operation of the board and video
17 gaming in the state.

18 B. All administrative support required by the board
19 shall be provided by the superintendent.

20 C. The board shall oversee implementation of all
21 adopted regulations.

22 D. The board may delegate the authority to enforce
23 all adopted regulations to the superintendent.

24 E. The board shall provide notice and an opportunity
25 to be heard in proceedings for the adoption, amendment or repeal

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1 of regulations applicable to licensees.

2 F. Within one hundred eighty days following the date
3 on which the Video Gaming Act becomes effective, the board shall
4 adopt regulations consistent with the policy, objectives and
5 purposes of that act.

6 Section 8. [NEW MATERIAL] COMMITTEE--DUTIES--
7 COMPENSATION.--

8 A. There is created a joint interim legislative
9 oversight committee, which shall be known as the "gaming
10 oversight committee". The committee shall function from the
11 date of its appointment until the first day of December prior to
12 the second session of the forty-fifth legislature.

13 B. The committee shall be composed of ten members.
14 Five members of the house of representatives shall be appointed
15 by the speaker of the house of representatives, and five members
16 of the senate shall be appointed by the committees' committee of
17 the senate or, if the senate appointments are made in the
18 interim, by the president pro tempore of the senate after
19 consultation with and agreement of a majority of the members of
20 the committees' committee. Members shall be appointed so that
21 there is a member from each of the major political parties from
22 each house. No person who has or later acquires an ownership or
23 membership interest in any vendor or licensee shall serve on the
24 committee.

25 C. The committee shall oversee the operations and

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1 regulation of video gaming, as well as periodically review and
2 evaluate the success with which the board is accomplishing its
3 duties and regulating video gaming activities pursuant to the
4 Video Gaming Act. The committee may conduct as it deems
5 necessary an independent audit or investigation of the gaming
6 functions of the board or the regulation and licensing
7 department.

8 D. Members of the committee may receive per diem and
9 mileage in accordance with the provisions of the Per Diem and
10 Mileage Act when the legislature is not in session and shall
11 receive no other compensation, perquisite or allowance.

12 E. The committee shall report its findings and
13 recommendations on video gaming to each regular session of the
14 legislature.

15 Section 9. [NEW MATERIAL] REGULATIONS. --

16 A. The regulations adopted by the board and
17 administered by the superintendent pursuant to the Video Gaming
18 Act shall include but are not limited to regulations governing:

19 (1) security for video games;

20 (2) application requirements for licensees,

21 including disclosure requirements related to the ownership and
22 control of licensees and other disclosures necessary to evaluate
23 the competence, background, integrity or character of the
24 licensee;

25 (3) the manner and schedule of implementation

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1 of video gaming authorized by and consistent with the Video
2 Gaming Act;

3 (4) enforcement of prohibitions on the playing
4 of video games by or for an individual younger than twenty-one
5 years of age;

6 (5) the specific games to be conducted within
7 the categories of video games to ensure that no specific game is
8 operated that is unfair or misleading;

9 (6) the percentage payout for video gaming
10 machines and how it should be calculated, provided that at least
11 eighty-five percent of the amount played or bet computed on a
12 regular and systematic basis shall be paid or awarded in cash or
13 credits;

14 (7) the hours during which video gaming
15 machines may be operated;

16 (8) the procedures to be followed by a video
17 gaming licensee in payment of valid prizes, including annuities;

18 (9) the qualifications of vendors or licensees;

19 (10) minimum standards for video gaming
20 machines that should reflect Nevada or New Jersey standards;

21 (11) the operations of distributors and
22 operators to ensure their compliance with the Video Gaming Act;
23 and

24 (12) any other matter necessary or desirable as
25 determined by the superintendent to promote and ensure the

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1 integrity, security, honesty and fairness of the operation and
2 administration of video gaming.

3 B. Regulations shall be adopted to implement and
4 enforce the Video Gaming Act not more than one hundred eighty
5 days following the date on which that act becomes effective.
6 The regulations adopted pursuant to this section shall be valid
7 for no longer than a period of ten years following adoption
8 unless earlier reviewed and approved by the superintendent.

9 Section 10. [NEW MATERIAL] ADMINISTRATION--HEARING--
10 REGULATIONS.--

11 A. Regulations shall be adopted, amended or repealed
12 only after a public hearing by the board. Notice of the hearing
13 shall be given at least twenty days in advance in a newspaper of
14 general circulation in the state and shall set forth the
15 proposed regulation, amendment or the regulation proposed to be
16 repealed. The board shall either approve or disapprove the
17 proposed regulation, amendment or repeal of the regulations
18 within ten days following the hearing.

19 B. Certified copies of any approved regulations
20 shall be submitted to the committee and, as required, to the
21 records center pursuant to the State Rules Act. Copies of the
22 regulations in force shall be made available to any person upon
23 request.

24 C. The board shall adopt regulations to implement
25 this section and for the conduct of all hearings.

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1 Section 11. [NEW MATERIAL] ADMINISTRATIVE SUPPORT. -- The
2 superintendent shall provide all necessary administrative
3 support to the board, including clerical, administrative,
4 investigatory or other functions deemed necessary and
5 appropriate by the board to carry out its duties pursuant to the
6 Video Gaming Act.

7 Section 12. [NEW MATERIAL] SECURITY. --

8 A. The superintendent shall be responsible for
9 providing security services to the board, including conducting
10 background investigations on appropriate personnel.

11 B. The department of public safety, at the request
12 of the board or superintendent, shall perform a full criminal
13 background investigation on any employee who is directly
14 involved in administration, implementation or oversight of the
15 provisions of the Video Gaming Act. The background
16 investigations shall include credit checks, police record
17 checks, conviction record checks, national and statewide
18 criminal records clearinghouse checks and fingerprint checks.
19 The board shall reimburse the department of public safety for
20 the actual costs of an investigation. All information obtained
21 through a background investigation shall be confidential, except
22 that the superintendent may exchange such confidential
23 information with state, federal and local law enforcement
24 agencies.

25 C. Any individual convicted of a felony or any crime

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1 involving gambling, moral turpitude, fraud or theft shall not be
2 eligible for employment involving the administration of the
3 Video Gaming Act.

4 D. An employee of the regulation and licensing
5 department directly involved in the administration,
6 implementation or oversight of video gaming shall report his
7 arrest for or conviction of a felony or any crime involving
8 gambling, moral turpitude, fraud or theft to the superintendent
9 within three days of such arrest or conviction.

10 E. By January 1, 1998 and at least once every two
11 years thereafter, the superintendent shall employ an independent
12 firm that is experienced in security, including computer
13 security and systems security, to conduct a comprehensive
14 confidential study of all aspects of video gaming security,
15 including:

- 16 (1) regulation and licensing department
17 personnel security;
- 18 (2) vendor and licensee security;
- 19 (3) security against fraudulent winning;
- 20 (4) computer system security and data
21 communications, database and systems security;
- 22 (5) security of payment procedures; and
- 23 (6) other security aspects of video gaming
24 regulatory operations.

25 F. The board shall provide the governor and the

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1 committee with a copy of the confidential security study.

2 G. The board, after consultation with the committee,
3 shall develop a plan to improve the security of video gaming
4 based upon the recommendations of the confidential security
5 study; however, nothing in this section requires the board to
6 implement any of the recommendations made in the security study.

7 Section 13. [NEW MATERIAL] INFORMATION AND DATA--
8 CONFIDENTIALITY--DISCLOSURE. --

9 A. All of the following information and data are
10 confidential and may be revealed in whole or in part only in the
11 course of the necessary administration of the Video Gaming Act
12 or upon the lawful order of a court of competent jurisdiction,
13 except that the board may reveal confidential information and
14 data to an authorized agent of any governmental agency pursuant
15 to a reciprocal agreement with the other governmental agency to
16 share information and maintain confidentiality of the
17 information as provided in this section:

18 (1) security measures and internal security
19 reports;

20 (2) information and data provided by a
21 governmental agency required by that agency's governing law to
22 be kept confidential;

23 (3) trade secrets and proprietary information
24 of any applicant, licensee or vendor;

25 (4) personal data, including personal financial

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1 data, not otherwise public and not directly related to the
2 license or major procurement contract; and
3 (5) data or information as otherwise authorized
4 by law.

5 B. Notice of the content of any information or data
6 furnished or released pursuant to Paragraphs (3) and (4) of
7 Subsection A of this section shall be given to any applicant or
8 licensee in a manner prescribed by regulations adopted pursuant
9 to the Video Gaming Act.

10 Section 14. [NEW MATERIAL] BOARD- - RECORDS- -
11 REQUIREMENTS. - -

12 A. The board shall make and keep records that
13 accurately and fairly reflect transactions of video gaming
14 conducted pursuant to the Video Gaming Act, including the
15 receipt of funds, prize claims, prizes paid, expenses and all
16 other activities and financial transactions involving revenue
17 generated by video gaming, to permit preparation of financial
18 statements in conformity with generally accepted accounting
19 principles and to maintain daily accountability.

20 B. The board shall maintain a file of all
21 applications for licenses pursuant to the Video Gaming Act,
22 together with a record of all action taken with respect to those
23 applications. The file and record are open to public
24 inspection, except those portions declared by law to be
25 confidential.

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1 C. The board may maintain other files and records as
2 it deems desirable.

3 Section 15. [NEW MATERIAL] AUDITS. --

4 A. The board shall provide for a certified public
5 accountant to conduct an independent audit for each fiscal year
6 of all accounts and transactions related to video gaming. The
7 independent audit shall be reviewed by the office of the state
8 auditor. The certified public accountant shall not have an
9 ownership interest in a vendor or licensee and shall report any
10 conflict of interest to the board. The certified public
11 accountant shall present an audit report to the board, the
12 governor and the committee not later than December 31 of the
13 year following the fiscal year for which the audit was
14 performed. The report shall contain recommendations to improve
15 the efficiency of video gaming regulatory operations.

16 B. Each vendor's or licensee's records relating to
17 the Video Gaming Act are subject to audit.

18 C. The board, after consultation with the committee,
19 shall develop a plan to improve the efficiency of the regulation
20 of video gaming based upon the recommendations of the certified
21 public accountant; however, nothing in this section requires the
22 board to implement any of the recommendations made by the
23 certified public accountant.

24 D. All accounts and transactions relating to video
25 gaming are exempt from the Audit Act.

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1 Section 16. [NEW MATERIAL] INVESTIGATORY POWERS. -- The
2 board has the power to:

3 A. examine, under oath, any person or any officer,
4 employee or agent of any organization or corporation;

5 B. compel by subpoena the production of records; and

6 C. compel by subpoena the attendance of any person
7 in this state to testify before the board when such
8 investigation is necessary to the proper administration of the
9 Video Gaming Act.

10 Section 17. [NEW MATERIAL] ATTORNEY GENERAL-- OTHER LAW
11 ENFORCEMENT AUTHORITY-- POWERS AND DUTIES. --

12 A. The board may confer with the attorney general as
13 deemed necessary and advisable for the proper administration of
14 the Video Gaming Act. Upon request of the board, it is the duty
15 of the attorney general and any other law enforcement authority
16 to whom a violation is reported to investigate and cause
17 appropriate proceedings to be instituted without delay.

18 B. The attorney general and the department of public
19 safety shall furnish to the board any information that they may
20 have in their possession as may be necessary to ensure security,
21 honesty, fairness and integrity in the operation and
22 administration of video gaming conducted pursuant to the Video
23 Gaming Act. The board shall be considered to be a criminal
24 justice agency and shall be furnished that information without
25 charge upon proper written request from the board.

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1 Section 18. [NEW MATERIAL] CONFLICTS OF INTEREST--
2 COMPLIANCE WITH OTHER LAWS-- VIOLATION-- REMOVAL FROM OFFICE. --

3 A. The superintendent, the committee, the members of
4 the board or other restricted persons shall not, directly or
5 indirectly:

6 (1) knowingly hold a financial interest or
7 acquire stocks, bonds or any other interest in any entity that
8 is a licensee or vendor; or

9 (2) have a financial interest in the ownership
10 or leasing of property used in the conduct or regulation of
11 video gaming.

12 B. The superintendent, the committee, the members of
13 the board or other restricted persons shall not ask for, offer
14 to accept or receive any gift, gratuity or other thing of value
15 that would inure to that person's benefit from:

16 (1) any entity seeking to supply equipment,
17 materials or services for use in the conduct or regulation of
18 video gaming;

19 (2) any applicant for a license; or

20 (3) any vendor or licensee.

21 C. No person seeking to supply equipment, materials
22 or services for use in the conduct or regulation of video
23 gaming, no applicant for a license and no vendor or licensee
24 shall offer or give to the superintendent, the committee,
25 members of the board or other restricted persons any gift,

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1 gratuity or other thing of value that would inure to the
2 recipient's personal benefit.

3 D. For purposes of this section:

4 (1) "gift, gratuity or other thing of value"
5 does not include the provision of a breakfast, luncheon, dinner
6 or other refreshment consisting of food and beverage provided
7 for immediate consumption; and

8 (2) "other restricted person" means anyone
9 living in the same household as the superintendent, a member of
10 the committee or any member of the board.

11 E. The superintendent and members of the board shall
12 comply with all state laws applicable to ethics in government,
13 conflict of interest and financial disclosure.

14 F. If the superintendent or a member of the board
15 violates this section, he may be removed from his position after
16 notice and a hearing before the board or the remaining members
17 of the board.

18 Section 19. [NEW MATERIAL] TAX IMPOSED--RATE. --

19 A. For the privilege of offering video gaming
20 machines for play on its premises pursuant to the Video Gaming
21 Act, an excise tax that may be cited as the "gaming tax" is
22 imposed upon licensed clubs.

23 B. The gaming tax is imposed in an amount equal to
24 ten percent of the net take of each video gaming machine located
25 on the premises of the licensed club.

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1 C. The revenue from the gaming tax shall be
2 distributed in the following manner:

3 (1) one-fourth of one percent of the revenue
4 received from a licensee for each video gaming machine on its
5 premises is appropriated to the department of health and shall
6 be used for education, prevention and treatment programs for
7 compulsive gamblers; and

8 (2) the remainder of the revenue received from
9 a licensee for each video gaming machine on its premises shall
10 be distributed to the general fund.

11 D. The gaming tax shall be paid to and administered
12 and enforced by the taxation and revenue department pursuant to
13 the provisions of the Tax Administration Act.

14 E. The gaming tax is imposed in lieu of gross
15 receipts tax or any other excise tax imposed by the state or
16 local government.

17 Section 20. [NEW MATERIAL] PROCUREMENT OF GOODS AND
18 SERVICES. --The superintendent shall enter into all contracts,
19 subject to approval of the board, for procurement of goods and
20 services required by the board to carry out its duties and
21 responsibilities under the provisions of the Video Gaming Act.

22 Section 21. [NEW MATERIAL] MAJOR PROCUREMENT--VENDOR--
23 DISCLOSURES REQUIRED-- CONTRACT APPROVAL-- REQUIREMENTS. --

24 A. The board shall request proposals for major
25 procurements for effectuating the purpose of the Video Gaming

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1 Act. No contract for a major procurement may be assigned by a
2 vendor except by a written agreement approved and signed by the
3 board.

4 B. The board may require persons making major
5 procurement proposals to disclose information to enable it to
6 review and evaluate the responses to the requests for proposals
7 on the basis of competence, background, integrity, character and
8 nature of the ownership and control of vendors and to ensure
9 compliance with the provisions of the Video Gaming Act.

10 C. The board shall investigate, as part of the
11 process for analyzing responses to requests for proposals for
12 any major procurement, the financial responsibility, security
13 and integrity of any party whose proposal is under final
14 consideration. The board shall require a background
15 investigation of any person with a substantial interest, as
16 defined by the board, in a party whose proposal is under final
17 consideration. A background investigation shall include credit
18 checks, police record checks, conviction record checks, national
19 and statewide criminal records clearinghouse checks and
20 fingerprint checks. Each party whose proposal is under final
21 consideration shall pay the costs of that party's background
22 investigation.

23 D. No major procurement shall be entered into if any
24 person with a substantial interest, as defined by the board, in
25 the person making a major procurement proposal has been

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1 convicted of a felony or any crime involving gambling, moral
2 turpitude, fraud or theft.

3 E. A vendor shall report an arrest for or conviction
4 of a felony or any crime involving gambling, moral turpitude,
5 fraud or theft for any person with a substantial interest in
6 that vendor to the board within three days of such arrest or
7 conviction.

8 F. No major procurement proposal shall be approved
9 by the board if the person making the proposal makes a material
10 misrepresentation of fact in his proposal or during the proposal
11 review process or if the person making the proposal fails to
12 comply with this section. Any contract entered into with a
13 vendor who has made a material misrepresentation of fact or has
14 failed to comply with this section shall be void.

15 G. This section shall be construed broadly and
16 liberally to achieve the end of full disclosure of all
17 information necessary to allow for a full, complete and ongoing
18 evaluation by the board of the competence, integrity,
19 background, character and nature of the ownership and control of
20 vendors.

21 Section 22. [NEW MATERIAL] MAJOR PROCUREMENT--VENDOR--
22 PERFORMANCE BOND.--Each vendor shall post a performance bond
23 with the board, using a surety acceptable to the board, in
24 consultation with the superintendent of insurance in an amount
25 equal to the full amount estimated to be paid annually to the

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1 vendor under the contract. Nothing in the Video Gaming Act
2 shall be construed to restrict the authority of the board to
3 specify liquidated or other damages in contracts with vendors.

4 Section 23. [NEW MATERIAL] LICENSING. --

5 A. No person may sell, service, install or allow
6 play on video gaming machines or sell, service or install
7 associated equipment without first obtaining a license from the
8 board pursuant to the Video Gaming Act.

9 B. The board shall adopt regulations concerning
10 licensing criteria. The regulations shall require that it
11 consider an applicant's financial responsibility, the security
12 of the applicant's place of business or activity and the
13 integrity and reputation of the applicant. It is unlawful to
14 consider political affiliation, activities or monetary
15 contributions to political organizations or candidates for any
16 public office.

17 C. Video gaming licensees shall be granted a license
18 to operate a specific number of video gaming machines on
19 premises identified in the license application consistent with
20 the Video Gaming Act. In the event that a video gaming licensee
21 desires to change the number of machines in operation on his
22 premises, the video gaming licensee shall apply to the board for
23 an amendment to his license authorizing a change in the number
24 of machines.

25 D. Applicants for licensure, renewal or amendment

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1 shall pay a fee to the board to be submitted with the
2 application not to exceed the following:

3 (1) video gaming licensees, twenty-five dollars
4 (\$25.00) for each video gaming machine;

5 (2) operators, three thousand (\$3,000) for
6 initial licensure and one thousand five hundred dollars (\$1,500)
7 for annual renewal;

8 (3) distributors, five thousand dollars
9 (\$5,000) for initial licensure and two thousand five hundred
10 dollars (\$2,500) annually for renewal;

11 (4) manufacturers, ten thousand dollars
12 (\$10,000) for initial licensure and five thousand dollars
13 (\$5,000) annually for renewal; and

14 (5) gaming manager, one hundred dollars (\$100)
15 annually.

16 E. Licenses issued pursuant to the Video Gaming Act
17 shall be valid for one year. Upon application for renewal, the
18 board may require additional information as it deems necessary
19 to evaluate the renewal application.

20 F. The board shall require background investigations
21 of any person with a substantial interest, as defined by the
22 board, in an applicant. Background investigations shall include
23 but not be limited to credit checks, police record checks,
24 conviction record checks, national and statewide criminal
25 records clearinghouse checks and fingerprint checks. The

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1 applicant shall pay the costs of the background investigation.

2 G. No license shall be granted to an applicant if an
3 officer of a licensed club or any person with a substantial
4 interest, as defined by the board, in the applicant has been
5 convicted of a felony or a crime involving gambling, moral
6 turpitude, fraud or theft within ten years prior to the
7 application.

8 H. The licensee shall report the arrest for or
9 conviction of a felony or any crime involving gambling, moral
10 turpitude, fraud or theft of an officer of a licensed club or of
11 any person with a substantial interest in that licensee to the
12 board within ten days of the person's arrest or conviction.

13 I. No license shall be granted by the board if the
14 applicant makes a material misrepresentation of fact in his
15 application or during the application process or if the
16 applicant fails to comply with this section. Any license
17 granted to an applicant who has made a material
18 misrepresentation of fact or has failed to comply with this
19 section shall be void. The board may deny any application for
20 or limit or condition any license.

21 J. The burden of proving qualifications for
22 licensure is on the applicant.

23 K. If an application is denied, the board shall
24 prepare and make available to the applicant a written decision
25 upon which the order denying the application is based.

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1 L. No video gaming licensee shall engage in business
2 primarily to operate video gaming machines.

3 M. No licensee may transfer a license to another
4 person. For purposes of this section, "transfer" means a change
5 in ownership or control of the licensee involving five percent
6 or more of the ownership or control interest of the licensee. A
7 licensee shall notify the board of any transfer.

8 N. The holder of any license does not acquire any
9 vested interest or right in or under the license, and a license
10 issued pursuant to the Video Gaming Act is a revocable
11 privilege.

12 O. This section shall be construed broadly and
13 liberally to achieve the end of full disclosure of all
14 information necessary to allow for a full and complete
15 evaluation by the board of an applicant's fitness.

16 P. The license fees paid to the board pursuant to
17 this section in fiscal years 1996 through 1998 are appropriated
18 to the board for expenditure in fiscal years 1996 through 1998
19 for the purpose funding the costs of creating the regulatory,
20 security and enforcement infrastructure required to implement
21 the Video Gaming Act.

22 Section 24. [NEW MATERIAL] LICENSURE--LICENSED CLUBS--
23 VIDEO GAMING--NET TAKE DISTRIBUTIONS. --

24 A. A nonprofit organization may apply for and may be
25 issued a license as a video gaming licensee by the board to

1 offer video gaming on its club premises pursuant to the Video
2 Gaming Act and the regulations adopted to implement and enforce
3 that act. A nonprofit organization that is a video licensee is
4 a licensed club.

5 B. No more than five video gaming machines per each
6 one hundred members of a licensed club, not to exceed twenty-
7 five video gaming machines, may be offered for play on the
8 premises of a licensed club.

9 C. Nothing in the Video Gaming Act shall prevent a
10 licensed club from owning the video gaming machines placed on
11 that club's premises; provided that the video gaming machines
12 comply with the Video Gaming Act and the regulations adopted
13 pursuant to that act.

14 D. No licensed club shall permit play on video
15 gaming machines on that club's premises on Tuesdays through
16 Saturdays between the hours of 2:00 a.m. and 7:00 a.m., on
17 Sundays between the hours of 2:00 a.m. and noon and on Mondays
18 between the hours of midnight and 7:00 a.m.

19 E. Video game jackpots or prizes shall not exceed a
20 value of five thousand dollars (\$5,000).

21 F. Plays on video gaming machines shall not exceed:

22 (1) on five, ten, and twenty-five cent video
23 gaming machines, not including video poker machines, not more
24 than thirty-two credits;

25 (2) on five, ten and twenty-five cent video

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1 poker machines, not more than thirty-two credits; and

2 (3) on dollar video gaming machines, not more
3 than five credits.

4 G. Licensed clubs shall use a minimum of twenty
5 percent of the net take of each video gaming machine for
6 charitable or benevolent purposes as described in the bylaws or
7 charter of the organization.

8 H. Licensed clubs shall submit an accounting of
9 distributions made pursuant to Subsection G of this section to
10 the board by December 31 of each calendar year for distributions
11 made in the fiscal year ending June 30 of that year.

12 Section 25. [NEW MATERIAL] GAME MANAGER'S LICENSE. --

13 A. All games of chance conducted by a licensed club
14 shall be under the supervision of a game manager or assistant
15 game manager. A game manager is responsible for the accounting
16 and security of all income received by the licensed club from
17 video gaming machines and for ensuring that the conduct of all
18 video gaming is in compliance with all laws and regulations.

19 B. A licensed club may not have more than one game
20 manager and two assistant game managers at any time.

21 C. A person may not serve as a game manager or an
22 assistant game manager for a licensed club unless the person has
23 been issued a valid game manager's license by the board. The
24 board shall not issue a game manager's license to a person who
25 is a manufacturer, distributor, operator, licensed club or

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1 person having a substantial financial interest, as defined by
2 the board, in a manufacturer, distributor, operator or a
3 licensed club.

4 D. The board may by regulation require all game
5 managers to receive training prior to assuming the duties of a
6 game manager and periodic training regarding the lawful control
7 of video gaming.

8 Section 26. [NEW MATERIAL] VIDEO GAMING LICENSEES--
9 GENERAL RESTRICTIONS-- PLAYER AGE LIMIT-- RULES FOR PLACEMENT. --

10 A. No person under twenty-one years of age may play
11 a video gaming machine licensed pursuant to the Video Gaming
12 Act.

13 B. Video gaming machines may only be available for
14 play in an area restricted to persons twenty-one years of age or
15 older. A video gaming licensee shall erect a "permanent
16 physical barrier" to allow for multiple uses of the premises by
17 persons of all ages. For purposes of this section, "permanent
18 physical barrier" means a floor-to-ceiling wall separating the
19 general areas from the restricted areas. The entrance to the
20 area where video gaming machines are located shall display a
21 sign that the premises are restricted to persons twenty-one
22 years or older. Persons under the age of twenty-one shall not
23 enter the premises where video gaming machines are located.

24 C. A person who violates the provisions of this
25 section is guilty of a misdemeanor and upon conviction shall be

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1 sentenced pursuant to the provisions of Section 31-19-1 NMSA
2 1978.

3 Section 27. [NEW MATERIAL] MULTIPLE TYPES OF LICENSES
4 PROHIBITED. -- A manufacturer, distributor or operator shall
5 not be licensed as or own, manage or control a video gaming
6 licensee. A manufacturer shall not be licensed as or own,
7 manage or control an operator.

8 Section 28. [NEW MATERIAL] REVOCATION-- CONTRACT--
9 LICENSE. --

10 A. Failure of a vendor to comply with any provision
11 of the Video Gaming Act or the regulations adopted pursuant to
12 that act shall be sufficient cause for suspension or termination
13 of a procurement contract; provided, however, suspension or
14 termination of a procurement contract shall not relieve the
15 vendor from prosecution for any of the alleged violations or
16 from imposition of fines and penalties.

17 B. If a licensee fails to respond to a written
18 request from the board or violates any provision of the Video
19 Gaming Act or any regulation adopted pursuant to that act, the
20 license of the offending licensee may be suspended, canceled or
21 revoked by the board; provided, however, the licensee shall have
22 reasonable notice and opportunity to be heard before the board
23 before suspension, cancellation, limitation or revocation; and
24 provided, further, the suspension, cancellation, limitation or
25 revocation of any license does not relieve the licensee from

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1 prosecution for any of the alleged violations or from imposition
2 of fines and penalties.

3 C. The board may levy a fine against a vendor or
4 licensee for violation of the provisions of the Video Gaming Act
5 or regulations adopted pursuant to that act, not to exceed ten
6 thousand dollars (\$10,000) per violation; provided, however, the
7 licensee has a reasonable opportunity to be heard by the board
8 before the imposition of the fine. Nothing in this section
9 limits the board from pursuing contractual remedies, including
10 assessing penalties, pursuant to the terms of a contract with a
11 vendor.

12 Section 29. [NEW MATERIAL] EMERGENCY ORDERS OF BOARD. --

13 A. The board may issue an emergency order for
14 suspension or limitation of a license.

15 B. An emergency order may be issued only when the
16 board finds that:

17 (1) a licensee has failed to report, pay or
18 truthfully account for and remit any fee, fine or tax imposed by
19 or owed under the provisions of the Video Gaming Act or
20 attempted in any manner to evade or defeat a fee, debt or
21 required payment;

22 (2) a licensee has violated any provision of
23 the Video Gaming Act and the violation impairs the security of
24 video gaming activities; or

25 (3) a licensee is convicted of a felony or any

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1 crime other than a petty misdemeanor, involving gambling, moral
2 turpitude, fraud or theft.

3 C. The emergency order shall set forth the grounds
4 upon which it is issued, including a statement of facts
5 constituting the alleged emergency necessitating the action.

6 D. An emergency order may be issued only with the
7 approval of and upon signature of three members of the board.

8 E. The emergency order is effective immediately upon
9 issuance and service upon the licensee, game manager or resident
10 agent of the licensee. The emergency order remains effective
11 until further order of the board.

12 F. The licensee may request that a hearing be held
13 by the board regarding the issuance and maintenance of the
14 emergency order. The board shall then hold a hearing within
15 twenty days.

16 Section 30. [NEW MATERIAL] COMMUNICATIONS SYSTEM -- Each
17 video gaming machine within eighteen months from the date on
18 which the Video Gaming Act becomes effective shall be linked to
19 a central communications system to provide auditing program and
20 financial information as required by the board. No
21 communications system required by the board shall limit
22 participation to only one manufacturer of video gaming machines
23 by either cost of implementing the necessary program
24 modifications to communicate or the inability to communicate
25 with the communications system.

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1 Section 31. [NEW MATERIAL] VIDEO GAMING LICENSEE--STATE
2 REVENUE--DEPOSITS--PROHIBITIONS--DELINQUENT CHILD SUPPORT. --

3 A. The taxation and revenue department may require
4 each video gaming licensee to deposit all money owed to the
5 state pursuant to provisions of the Video Gaming Act into
6 financial institutions designated by that department for credit
7 to the state gaming fund.

8 B. The taxation and revenue department may authorize
9 the electronic transfer of money from the accounts of video
10 gaming licensees to the state gaming fund.

11 C. No video gaming machine shall be played by and no
12 prize shall be awarded to any video gaming licensee or business
13 that is engaged in supplying associated equipment, supplies or
14 services being used in the operation of video gaming machines or
15 any officer, member of the board of directors, employee or owner
16 of a licensee or associated equipment business unless authorized
17 in writing by the board for research purposes. However, no
18 prize may be awarded as a result of play for research purposes.

19 D. The board shall implement a procedure to recover
20 delinquent child support payments or outstanding state tax
21 liability from payment of video gaming prizes in excess of six
22 hundred dollars (\$600). The licensee shall credit any video
23 gaming prize first against any delinquent child support owed by
24 the winner and second against any outstanding state tax
25 liability owed by the winner and shall pay the balance of the

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1 prize to the winner. The procedure shall ensure that any person
2 who investigates the money owed by the prizewinner shall have no
3 liability to a person to whom a delinquent child support payment
4 may be owed, the human services department or the taxation and
5 revenue department if the investigator fails to discover that a
6 winner owes money that is to be applied according to the policy.

7 Section 32. [NEW MATERIAL] REQUIREMENTS FOR LICENSED
8 VIDEO GAMING MACHINES. --

9 A. Each video gaming machine licensed pursuant to
10 the Video Gaming Act shall:

11 (1) offer only games authorized by the board;

12 (2) not have any means of manipulation that
13 affects the random probabilities of winning;

14 (3) have nonresettable meters that keep a
15 permanent record of all cash inserted into the machine and all
16 awards of prizes, whether in cash or by voucher;

17 (4) have accounting software that keeps an
18 electronic record that includes but is not limited to the
19 following:

20 (a) total cash inserted into the machine;

21 (b) the value of cash or vouchers paid to
22 players and the date and time of payment; and

23 (c) the payback percentage credited to
24 players of each video gaming machine; and

25 (5) be linked to a central communications

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1 system to provide auditing program information as required by
2 the board.

3 B. The board shall, on or before January 1, 1997,
4 adopt by regulation mechanical and electronic standards for
5 video gaming machines and slot machines, ensuring the integrity,
6 honesty and security of the machines, which standards shall not
7 be more lenient than those applied to similar machines in lawful
8 use within the United States by any other jurisdiction
9 regulating the conduct of video machine and slot machine gaming.

10 C. The board shall examine prototypes of video
11 gaming machines of licensed manufacturers. The director shall
12 require the manufacturer seeking the examination and approval of
13 a video gaming machine or associated equipment to pay the
14 anticipated actual costs of the examination in advance and,
15 after the completion of the examination, shall refund
16 overpayments or charge and collect amounts sufficient to
17 reimburse the director for underpayment of actual costs. The
18 board may contract for the examination of video gaming machines
19 and associated equipment as required by this section.

20 D. Each video gaming machine shall be licensed by
21 the board before placement or operation on the premises of a
22 video gaming licensee. Each machine shall have the license
23 prominently displayed on it in such a way that an attempt at
24 alteration will result in a mutilation of the license. Any
25 machine that does not display the license required by this

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1 section is contraband and a public nuisance subject to
2 confiscation by any law enforcement or peace officer.

3 Section 33. [NEW MATERIAL] PROHIBITED ACTS-- VIOLATIONS--
4 PENALTIES. --

5 A. It is a misdemeanor for a video gaming licensee
6 to fail to make available to the board all records pertaining to
7 accounts maintained for revenue derived from the operation of
8 video gaming machines.

9 B. It is a misdemeanor for any video gaming licensee
10 to knowingly allow any person under twenty-one years of age to
11 play a video gaming machine.

12 C. It is a misdemeanor for a person under twenty-one
13 years of age to play a video gaming machine.

14 D. It is a misdemeanor to release any information
15 obtained through a background investigation performed by the
16 superintendent or the department of public safety without the
17 prior written consent of the subject of the investigation,
18 except as provided otherwise in the Video Gaming Act.

19 E. It is a fourth degree felony to tamper with a
20 video gaming machine with intent to interfere with the proper
21 operation and reporting of the video gaming machine.

22 F. It is a fourth degree felony to tamper with or
23 falsify a voucher or to tamper with a video gaming machine with
24 intent to manipulate the outcome or payoff of the video gaming
25 machine.

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1 G. It is a fourth degree felony to have an
2 unlicensed video gaming machine on the premises of a licensed
3 club.

4 H. It is a fourth degree felony to provide false
5 information or to intentionally make a material
6 misrepresentation of fact to the board or superintendent for
7 purposes of applying for a contract or a license or for purposes
8 of completing a background investigation pursuant to the Video
9 Gaming Act.

10 I. Any person convicted of a violation of
11 Subsections A through D of this section shall be sentenced
12 pursuant to the provisions of Section 31-19-1 NMSA 1978. Any
13 person convicted of a violation of Subsections E through H of
14 this section shall be sentenced pursuant to the provisions of
15 Section 31-18-15 NMSA 1978.

16 Section 34. [NEW MATERIAL] DISTRICT COURT OF SANTA FE
17 COUNTY-- JURISDICTION-- APPEAL. --The district court of Santa Fe
18 county has exclusive original jurisdiction of all legal
19 proceedings, except criminal actions, related to the
20 administration, enforcement or fulfillment of the
21 responsibilities, duties or functions performed pursuant to the
22 Video Gaming Act. An aggrieved party, including a party subject
23 to a fine, may seek review of an order or decision of the board
24 by filing an appeal with the district court of Santa Fe county
25 within thirty days after the date of the order or decision.

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1 Section 35. [NEW MATERIAL] EXEMPTION FROM LOCAL TAXES. --
2 Video gaming machines licensed and operated pursuant to the
3 Video Gaming Act are exempt from any local tax except property
4 taxes assessed by any political subdivision of the state having
5 the power to levy, assess or collect such a tax.

6 Section 36. [NEW MATERIAL] LOCAL LAWS PREEMPTED--
7 APPLICABILITY OF OTHER LAWS. --The Video Gaming Act shall be
8 applied uniformly throughout the state and to all political
9 subdivisions of the state, and no local authority shall enact
10 any ordinances, rules or regulations that expand or conflict
11 with the provisions of that act.

12 Section 37. Section 7-1-2 NMSA 1978 (being Laws 1965,
13 Chapter 248, Section 2, as amended) is amended to read:

14 "7-1-2. APPLICABILITY. --The Tax Administration Act applies
15 to and governs:

16 A. the administration and enforcement of the
17 following taxes or tax acts as they now exist or may hereafter
18 be amended:

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

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

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1 Administration Act;

2 B. the administration and enforcement of the
3 following taxes, surtaxes, advanced payments or tax acts as they
4 now exist or may hereafter be amended:

- 5 (1) Resources Excise Tax Act;
- 6 (2) Severance Tax Act;
- 7 (3) any severance surtax;
- 8 (4) Oil and Gas Severance Tax Act;
- 9 (5) Oil and Gas Conservation Tax Act;
- 10 (6) Oil and Gas Emergency School Tax Act;
- 11 (7) Oil and Gas Ad Valorem Production Tax Act;
- 12 (8) Natural Gas Processors Tax Act;
- 13 (9) Oil and Gas Production Equipment Ad Valorem
14 Tax Act;

- 15 (10) Copper Production Ad Valorem Tax Act; and
- 16 (11) any advance payment required to be made by
17 any act specified in this subsection, which advance payment
18 shall be considered a tax for the purposes of the Tax
19 Administration Act;

20 C. the administration and enforcement of the
21 following taxes, surcharges, fees or acts as they now exist or
22 may hereafter be amended:

- 23 (1) Weight Distance Tax Act;
- 24 (2) Special Fuels Tax Act;
- 25 (3) the workers' compensation fee authorized by

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1 Section 52-5-19 NMSA 1978, which fee shall be considered a tax
2 for purposes of the Tax Administration Act;

3 (4) Controlled Substance Tax Act;

4 (5) Uniform Unclaimed Property Act;

5 (6) 911 emergency surcharge and the network and
6 database surcharge, which surcharges shall be considered taxes
7 for purposes of the Tax Administration Act;

8 (7) the solid waste assessment fee authorized
9 by the Solid Waste Act, which fee shall be considered a tax for
10 purposes of the Tax Administration Act; [and]

11 (8) the water conservation fee imposed by
12 Section 74-1-13 NMSA 1978, which fee shall be considered a tax
13 for the purposes of the Tax Administration Act; and

14 (9) the gaming tax imposed pursuant to the
15 Video Gaming Act; and

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

21 Section 38. A new section of the Tax Administration Act is
22 enacted to read:

23 "[NEW MATERIAL] DISTRIBUTION OF GAMING TAX. -- A
24 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made
25 to the video gaming fund of the net receipts attributable to the

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1 gaming tax. "

2 Section 39. A new section of the Gross Receipts and
3 Compensating Tax Act is enacted to read:

4 " [NEW MATERIAL] DEDUCTION-- GROSS RECEIPTS TAX. -- Receipts
5 of video gaming licensees from the operation of video gaming
6 machines pursuant to the Video Gaming Act may be deducted from
7 gross receipts. "

8 Section 40. Section 10-15-1 NMSA 1978 (being Laws 1974,
9 Chapter 91, Section 1, as amended) is amended to read:

10 "10-15-1. FORMATION OF PUBLIC POLICY-- PROCEDURES FOR OPEN
11 MEETINGS-- EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS. --

12 A. In recognition of the fact that a representative
13 government is dependent upon an informed electorate, it is
14 declared to be public policy of this state that all persons are
15 entitled to the greatest possible information regarding the
16 affairs of government and the official acts of those officers
17 and employees who represent them. The formation of public
18 policy or the conduct of business by vote shall not be conducted
19 in closed meeting. All meetings of any public body except the
20 legislature and the courts shall be public meetings, and all
21 persons so desiring shall be permitted to attend and listen to
22 the deliberations and proceedings. Reasonable efforts shall be
23 made to accommodate the use of audio and video recording
24 devices.

25 B. All meetings of a quorum of members of any board,

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1 commission, administrative adjudicatory body or other
2 policymaking body of any state agency, any agency or authority
3 of any county, municipality, district or any political
4 subdivision, held for the purpose of formulating public policy,
5 including the development of personnel policy, rules,
6 regulations or ordinances, discussing public business or for the
7 purpose of taking any action within the authority of or the
8 delegated authority of any board, commission or other
9 policymaking body are declared to be public meetings open to the
10 public at all times, except as otherwise provided in the
11 constitution of New Mexico or the Open Meetings Act. No public
12 meeting once convened that is otherwise required to be open
13 pursuant to the Open Meetings Act shall be closed or dissolved
14 into small groups or committees for the purpose of permitting
15 the closing of the meeting.

16 C. If otherwise allowed by law or rule of the public
17 body, a member of a public body may participate in a meeting of
18 the public body by means of a conference telephone or other
19 similar communications equipment when it is otherwise difficult
20 or impossible for the member to attend the meeting in person,
21 provided that each member participating by conference telephone
22 can be identified when speaking, all participants are able to
23 hear each other at the same time and members of the public
24 attending the meeting are able to hear any member of the public
25 body who speaks during the meeting.

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1 D. Any meetings at which the discussion or adoption
2 of any proposed resolution, regulation or formal action occurs
3 and at which a majority or quorum of the body is in attendance,
4 and any closed meetings, shall be held only after reasonable
5 notice to the public. The affected body shall determine at
6 least annually in a public meeting what notice for a public
7 meeting is reasonable when applied to that body. That notice
8 shall include broadcast stations licensed by the federal
9 communications commission and newspapers of general circulation
10 that have provided a written request for such notice.

11 E. A public body may recess and reconvene a meeting
12 to a day subsequent to that stated in the meeting notice if,
13 prior to recessing, the public body specifies the date, time and
14 place for continuation of the meeting, and, immediately
15 following the recessed meeting, posts notice of the date, time
16 and place for the reconvened meeting on or near the door of the
17 place where the original meeting was held and in at least one
18 other location appropriate to provide public notice of the
19 continuation of the meeting. Only matters appearing on the
20 agenda of the original meeting may be discussed at the
21 reconvened meeting.

22 F. Meeting notices shall include an agenda
23 containing a list of specific items of business to be discussed
24 or transacted at the meeting or information on how the public
25 may obtain a copy of such an agenda. Except in the case of an

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1 emergency, the agenda shall be available to the public at least
2 twenty-four hours prior to the meeting. Except for emergency
3 matters, a public body shall take action only on items appearing
4 on the agenda. For purposes of this subsection, an "emergency"
5 refers to unforeseen circumstances that, if not addressed
6 immediately by the public body, will likely result in injury or
7 damage to persons or property or substantial financial loss to
8 the public body.

9 G. The board, commission or other policymaking body
10 shall keep written minutes of all its meetings. The minutes
11 shall include at a minimum the date, time and place of the
12 meeting, the names of members in attendance and those absent,
13 the substance of the proposals considered and a record of any
14 decisions and votes taken that show how each member voted. All
15 minutes are open to public inspection. Draft minutes shall be
16 prepared within ten working days after the meeting and shall be
17 approved, amended or disapproved at the next meeting where a
18 quorum is present. Minutes shall not become official until
19 approved by the policymaking body.

20 H. The provisions of Subsections A, B and G of this
21 section do not apply to:

22 (1) meetings pertaining to issuance,
23 suspension, renewal or revocation of a license, except that a
24 hearing at which evidence is offered or rebutted shall be open.
25 All final actions on the issuance, suspension, renewal or

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1 revocation of a license shall be taken at an open meeting;

2 (2) limited personnel matters; provided that
3 for purposes of the Open Meetings Act, "limited personnel
4 matters" means the discussion of hiring, promotion, demotion,
5 dismissal, assignment or resignation of or the investigation or
6 consideration of complaints or charges against any individual
7 public employee; provided further that this subsection is not to
8 be construed as to exempt final actions on personnel from being
9 taken at open public meetings, nor does it preclude an aggrieved
10 public employee from demanding a public hearing. Judicial
11 candidates interviewed by any commission shall have the right to
12 demand an open interview;

13 (3) deliberations by a public body in
14 connection with an administrative adjudicatory proceeding. For
15 purposes of this paragraph, an "administrative adjudicatory
16 proceeding" means a proceeding brought by or against a person
17 before a public body in which individual legal rights, duties or
18 privileges are required by law to be determined by the public
19 body after an opportunity for a trial-type hearing. Except as
20 otherwise provided in this section, the actual administrative
21 adjudicatory proceeding at which evidence is offered or rebutted
22 and any final action taken as a result of the proceeding shall
23 occur in an open meeting;

24 (4) the discussion of personally identifiable
25 information about any individual student, unless the student,

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1 his parent or guardian requests otherwise;

2 (5) meetings for the discussion of bargaining
3 strategy preliminary to collective bargaining negotiations
4 between the policymaking body and a bargaining unit representing
5 the employees of that policymaking body and collective
6 bargaining sessions at which the policymaking body and the
7 representatives of the collective bargaining unit are present;

8 (6) that portion of meetings at which a
9 decision concerning purchases in an amount exceeding two
10 thousand five hundred dollars (\$2,500) that can be made only
11 from one source, that portion of meetings dealing with
12 confidential or proprietary information regarding procurement
13 made pursuant to the Video Gaming Act and that portion of
14 meetings at which the contents of competitive sealed proposals
15 solicited pursuant to the Procurement Code are discussed during
16 the contract negotiation process. The actual approval of
17 purchase of the item or final action regarding the selection of
18 a contractor shall be made in an open meeting;

19 (7) meetings subject to the attorney-client
20 privilege pertaining to threatened or pending litigation in
21 which the public body is or may become a participant;

22 (8) meetings for the discussion of the
23 purchase, acquisition or disposal of real property or water
24 rights by the public body; and

25 (9) those portions of meetings of committees or

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1 boards of public hospitals that receive less than fifty percent
2 of their operating budget from direct public funds and
3 appropriations where strategic and long-range business plans are
4 discussed.

5 I. If any meeting is closed pursuant to the
6 exclusions contained in Subsection H of this section, the
7 closure:

8 (1) if made in an open meeting, shall be
9 approved by a majority vote of a quorum of the policymaking
10 body; the authority for the closure and the subject to be
11 discussed shall be stated with reasonable specificity in the
12 motion calling for the vote on a closed meeting; the vote shall
13 be taken in an open meeting; and the vote of each individual
14 member shall be recorded in the minutes. Only those subjects
15 announced or voted upon prior to closure by the policymaking
16 body may be discussed in a closed meeting; and

17 (2) if called for when the policymaking body is
18 not in an open meeting, shall not be held until public notice,
19 appropriate under the circumstances, stating the specific
20 provision of the law authorizing the closed meeting and stating
21 with reasonable specificity the subject to be discussed is given
22 to the members and to the general public.

23 J. Following completion of any closed meeting, the
24 minutes of the open meeting that was closed or the minutes of
25 the next open meeting if the closed meeting was separately

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1 scheduled shall state that the matters discussed in the closed
2 meeting were limited only to those specified in the motion for
3 closure or in the notice of the separate closed meeting. This
4 statement shall be approved by the public body under Subsection
5 G of this section as part of the minutes. "

6 Section 41. Section 10-15-1 NMSA 1978 (being Laws 1974,
7 Chapter 91, Section 1, as amended) is amended to read:

8 "10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN
9 MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS. --

10 A. In recognition of the fact that a representative
11 government is dependent upon an informed electorate, it is
12 declared to be public policy of this state that all persons are
13 entitled to the greatest possible information regarding the
14 affairs of government and the official acts of those officers
15 and employees who represent them. The formation of public
16 policy or the conduct of business by vote shall not be conducted
17 in closed meeting. All meetings of any public body except the
18 legislature and the courts shall be public meetings, and all
19 persons so desiring shall be permitted to attend and listen to
20 the deliberations and proceedings. Reasonable efforts shall be
21 made to accommodate the use of audio and video recording
22 devices.

23 B. All meetings of a quorum of members of any board,
24 commission, administrative adjudicatory body or other
25 policymaking body of any state agency, any agency or authority

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1 of any county, municipality, district or any political
2 subdivision, held for the purpose of formulating public policy,
3 including the development of personnel policy, rules,
4 regulations or ordinances, discussing public business or for the
5 purpose of taking any action within the authority of or the
6 delegated authority of any board, commission or other
7 policymaking body are declared to be public meetings open to the
8 public at all times, except as otherwise provided in the
9 constitution of New Mexico or the Open Meetings Act. No public
10 meeting once convened that is otherwise required to be open
11 pursuant to the Open Meetings Act shall be closed or dissolved
12 into small groups or committees for the purpose of permitting
13 the closing of the meeting.

14 C. If otherwise allowed by law or rule of the public
15 body, a member of a public body may participate in a meeting of
16 the public body by means of a conference telephone or other
17 similar communications equipment when it is otherwise difficult
18 or impossible for the member to attend the meeting in person,
19 provided that each member participating by conference telephone
20 can be identified when speaking, all participants are able to
21 hear each other at the same time and members of the public
22 attending the meeting are able to hear any member of the public
23 body who speaks during the meeting.

24 D. Any meetings at which the discussion or adoption
25 of any proposed resolution, regulation or formal action occurs

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1 and at which a majority or quorum of the body is in attendance,
2 and any closed meetings, shall be held only after reasonable
3 notice to the public. The affected body shall determine at
4 least annually in a public meeting what notice for a public
5 meeting is reasonable when applied to that body. That notice
6 shall include broadcast stations licensed by the federal
7 communications commission and newspapers of general circulation
8 that have provided a written request for such notice.

9 E. A public body may recess and reconvene a meeting
10 to a day subsequent to that stated in the meeting notice if,
11 prior to recessing, the public body specifies the date, time and
12 place for continuation of the meeting, and, immediately
13 following the recessed meeting, posts notice of the date, time
14 and place for the reconvened meeting on or near the door of the
15 place where the original meeting was held and in at least one
16 other location appropriate to provide public notice of the
17 continuation of the meeting. Only matters appearing on the
18 agenda of the original meeting may be discussed at the
19 reconvened meeting.

20 F. Meeting notices shall include an agenda
21 containing a list of specific items of business to be discussed
22 or transacted at the meeting or information on how the public
23 may obtain a copy of such an agenda. Except in the case of an
24 emergency, the agenda shall be available to the public at least
25 twenty-four hours prior to the meeting. Except for emergency

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1 matters, a public body shall take action only on items appearing
2 on the agenda. For purposes of this subsection, an "emergency"
3 refers to unforeseen circumstances that, if not addressed
4 immediately by the public body, will likely result in injury or
5 damage to persons or property or substantial financial loss to
6 the public body.

7 G. The board, commission or other policymaking body
8 shall keep written minutes of all its meetings. The minutes
9 shall include at a minimum the date, time and place of the
10 meeting, the names of members in attendance and those absent,
11 the substance of the proposals considered and a record of any
12 decisions and votes taken that show how each member voted. All
13 minutes are open to public inspection. Draft minutes shall be
14 prepared within ten working days after the meeting and shall be
15 approved, amended or disapproved at the next meeting where a
16 quorum is present. Minutes shall not become official until
17 approved by the policymaking body.

18 H. The provisions of Subsections A, B and G of this
19 section do not apply to:

20 (1) meetings pertaining to issuance,
21 suspension, renewal or revocation of a license, except that a
22 hearing at which evidence is offered or rebutted shall be open.
23 All final actions on the issuance, suspension, renewal or
24 revocation of a license shall be taken at an open meeting;

25 (2) limited personnel matters; provided that

1 for purposes of the Open Meetings Act, "limited personnel
2 matters" means the discussion of hiring, promotion, demotion,
3 dismissal, assignment or resignation of or the investigation or
4 consideration of complaints or charges against any individual
5 public employee; provided further that this subsection is not to
6 be construed as to exempt final actions on personnel from being
7 taken at open public meetings, nor does it preclude an aggrieved
8 public employee from demanding a public hearing. Judicial
9 candidates interviewed by any commission shall have the right to
10 demand an open interview;

11 (3) deliberations by a public body in
12 connection with an administrative adjudicatory proceeding. For
13 purposes of this paragraph, an "administrative adjudicatory
14 proceeding" means a proceeding brought by or against a person
15 before a public body in which individual legal rights, duties or
16 privileges are required by law to be determined by the public
17 body after an opportunity for a trial-type hearing. Except as
18 otherwise provided in this section, the actual administrative
19 adjudicatory proceeding at which evidence is offered or rebutted
20 and any final action taken as a result of the proceeding shall
21 occur in an open meeting;

22 (4) the discussion of personally identifiable
23 information about any individual student, unless the student,
24 his parent or guardian requests otherwise;

25 (5) meetings for the discussion of bargaining

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1 strategy preliminary to collective bargaining negotiations
2 between the policymaking body and a bargaining unit representing
3 the employees of that policymaking body and collective
4 bargaining sessions at which the policymaking body and the
5 representatives of the collective bargaining unit are present;

6 (6) that portion of meetings at which a
7 decision concerning purchases in an amount exceeding two
8 thousand five hundred dollars (\$2,500) that can be made only
9 from one source, that portion of meetings dealing with
10 confidential or proprietary information regarding procurement
11 made pursuant to the Video Gaming Act and that portion of
12 meetings at which the contents of competitive sealed proposals
13 solicited pursuant to the Procurement Code are discussed during
14 the contract negotiation process. The actual approval of
15 purchase of the item or final action regarding the selection of
16 a contractor shall be made in an open meeting;

17 (7) meetings subject to the attorney-client
18 privilege pertaining to threatened or pending litigation in
19 which the public body is or may become a participant;

20 (8) meetings for the discussion of the
21 purchase, acquisition or disposal of real property or water
22 rights by the public body; and

23 (9) those portions of meetings of committees or
24 boards of public hospitals that receive less than fifty percent
25 of their operating budget from direct public funds and

1 appropriations where strategic and long-range business plans are
2 discussed.

3 I. If any meeting is closed pursuant to the
4 exclusions contained in Subsection H of this section, the
5 closure:

6 (1) if made in an open meeting, shall be
7 approved by a majority vote of a quorum of the policymaking
8 body; the authority for the closure and the subject to be
9 discussed shall be stated with reasonable specificity in the
10 motion calling for the vote on a closed meeting; the vote shall
11 be taken in an open meeting; and the vote of each individual
12 member shall be recorded in the minutes. Only those subjects
13 announced or voted upon prior to closure by the policymaking
14 body may be discussed in a closed meeting; and

15 (2) if called for when the policymaking body is
16 not in an open meeting, shall not be held until public notice,
17 appropriate under the circumstances, stating the specific
18 provision of the law authorizing the closed meeting and stating
19 with reasonable specificity the subject to be discussed is given
20 to the members and to the general public.

21 J. Following completion of any closed meeting, the
22 minutes of the open meeting that was closed or the minutes of
23 the next open meeting if the closed meeting was separately
24 scheduled shall state that the matters discussed in the closed
25 meeting were limited only to those specified in the motion for

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1 closure or in the notice of the separate closed meeting. This
2 statement shall be approved by the public body under Subsection
3 G of this section as part of the minutes. "

4 Section 42. Section 30-19-1 NMSA 1978 (being Laws 1963,
5 Chapter 303, Section 19-1, as amended) is amended to read:

6 "30-19-1. DEFINITIONS RELATING TO GAMBLING. -- As used in
7 Chapter 30, Article 19 NMSA 1978:

8 A. "antique gambling device" means a gambling device
9 twenty-five years of age or older and substantially in original
10 condition that is not used for gambling or commercial gambling
11 or located in a gambling place;

12 B. "bet" means a bargain in which the parties agree
13 that, dependent upon chance, even though accompanied by some
14 skill, one stands to win or lose anything of value specified in
15 the agreement. A "bet" does not include:

16 (1) bona fide business transactions that are
17 valid under the law of contracts, including ~~[without~~
18 ~~limitation]~~:

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

21 (b) agreements to compensate for loss
22 caused by the happening of the chance, including ~~[without~~
23 ~~limitation]~~ contracts for indemnity or guaranty and life or
24 health and accident insurance;

25 (2) offers of purses, prizes or premiums to the

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1 actual contestants in any bona fide contest for the
2 determination of skill, speed, strength or endurance or to the
3 bona fide owners of animals or vehicles entered in such contest;

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

5 (4) betting otherwise permitted by law;

6 [~~C. "lottery" means an enterprise other than the New~~
7 ~~Mexico state lottery established and operated pursuant to the~~
8 ~~New Mexico Lottery Act wherein, for a consideration, the~~
9 ~~participants are given an opportunity to win a prize, the award~~
10 ~~of which is determined by chance, even though accompanied by~~
11 ~~some skill. As used in this subsection, "consideration" means~~
12 ~~anything of pecuniary value required to be paid to the promoter~~
13 ~~in order to participate in such enterprise;~~

14 ~~D.] C. "gambling device" means a contrivance other~~
15 ~~than an antique gambling device that, for a consideration,~~
16 ~~affords the player an opportunity to obtain anything of value,~~
17 ~~the award of which is determined by chance, even though~~
18 ~~accompanied by some skill, [and] whether or not the prize is~~
19 ~~automatically paid by the device, and that is not licensed for~~
20 ~~use pursuant to the Video Gaming Act;~~

21 [~~E.] D. "gambling place" means [any] a building or~~
22 ~~tent, [any] a vehicle, whether self-propelled or not, or [any] a~~
23 ~~room within any of them that is not within the premises of a~~
24 ~~person licensed as a lottery retailer or to permit the conduct~~
25 ~~of video gaming pursuant to the New Mexico Lottery Act or the~~

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1 Video Gaming Act and one of whose principal uses is:

- 2 (1) making and settling of bets;
- 3 (2) receiving, holding, recording or forwarding
- 4 bets or offers to bet;
- 5 (3) conducting lotteries; or
- 6 (4) playing gambling devices;
- 7

8 E. "lottery" means an enterprise other than the New

9 Mexico state lottery established and operated pursuant to the

10 New Mexico Lottery Act wherein, for a consideration, the

11 participants are given an opportunity to win a prize, the award

12 of which is determined by chance, even though accompanied by

13 some skill. As used in this subsection, "consideration" means

14 anything of pecuniary value required to be paid to the promoter

15 in order to participate in the enterprise;

16 F. "raffle" means a game in which the prize is won

17 by random drawing of the name or number of one or more persons

18 purchasing a chance; and

19 G. "video gaming machine" means any electronic or

20 electromechanical device, contrivance or machine that is

21 available for play upon the payment of consideration and when

22 played may entitle the player to receive or may deliver to the

23 player something of value, including currency, coins, premiums,

24 merchandise, credits, tokens or a voucher, whether by reason of

25 the skill of the player or application of the element of chance.

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1 or both; "video gaming machine" includes video slot machines.

2 Section 43. Section 30-19-6 NMSA 1978 (being Laws 1963,
3 Chapter 303, Section 19-6, as amended) is amended to read:

4 "30-19-6. [~~PERMISSIVE LOTTERY~~] AUTHORIZED GAMBLING--FAIRS,
5 THEATERS AND TAX-EXEMPT ORGANIZATIONS--VIDEO GAMBLING ACT AND
6 CHARITY GAMES ACT ACTIVITIES. --

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

22 B. Nothing in [~~Article 19~~] Chapter 30, Article 19
23 NMSA 1978 [~~shall be held to prohibit any~~] prohibits a bona fide
24 motion picture [theatre] theater from offering prizes of cash or
25 merchandise for advertising purposes in connection with [such]

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1 the business of the theater or for the purpose of stimulating
2 business, whether or not [~~any~~] consideration other than a
3 monetary consideration in excess of the regular price of
4 admission is [~~exacted~~] charged for participation in drawings for
5 prizes.

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

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

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

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

25 (3) ~~no part of the proceeds of any lottery~~

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1 ~~shall go to any individual member or employee of any~~
2 ~~organization except as payment for the purchase of prizes at no~~
3 ~~more than the reasonable retail price]~~

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

10 (1) the fundraising events are conducted no
11 more than twice in a calendar year by the qualifying
12 organization;

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

15 (a) bona fide members of the qualifying
16 organization who are not paid for their services in the
17 operation or management of the event; or

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

21 (3) no person receives any part of the proceeds
22 of the fundraising event except:

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

25 (b) pursuant to a contract described in

Underscored material = new
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1 Subparagraph (b) of Paragraph (2) of this subsection:

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

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

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

18 (7) no persons less than the age of twenty-one
19 are allowed to participate in the operation or management of the
20 fundraising event or to play any game at the event; and

21 (8) the fundraising event is conducted pursuant
22 to a permit issued by the alcohol and gaming division of the
23 regulation and licensing department.

24 E. Nothing in Chapter 30, Article 19 NMSA 1978
25 prohibits activities authorized and the games of chance

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1 permitted and regulated pursuant to the provisions of the Video
2 Gaming Act. "

3 Section 44. Section 60-7A-19 NMSA 1978 (being Laws 1981,
4 Chapter 39, Section 96) is amended to read:

5 "60-7A-19. COMMERCIAL GAMBLING ON LICENSED PREMISES. --

6 A. It is a violation of the Liquor Control Act for a
7 licensee to knowingly allow commercial gambling on the licensed
8 premises.

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

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

14 (1) "commercial gambling" means:

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

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

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

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

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

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

4 (2) "commercial gambling" does not include:

5 (a) activities authorized pursuant to the
6 New Mexico Lottery Act;

7 (b) the conduct of games pursuant to
8 Subsection D of Section 30-19-6 NMSA 1978; and

9 (c) the conduct of video gaming
10 authorized pursuant to the Video Gaming Act on the licensed
11 premises of a club licensee licensed pursuant to Section 60-6A-5
12 NMSA 1978. "

13 Section 45. SEVERABILITY. --If any part or application of
14 the Video Gaming Act is held invalid, the remainder or its
15 application to other situations or persons shall not be
16 affected.

17 Section 46. EMERGENCY. --It is necessary for the public
18 peace, health and safety that this act take effect immediately.

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

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5 JANUARY 31, 1996

6
7 Mr. Presi dent:

8
9 Your COMMI TTEES' COMMI TTEE, to whom has been referred

10
11 SENATE BILL 606

12
13 has had it under consideration and finds same to be GERMANE, PURSUANT
14 TO CONSTITUTIONAL PROVISIONS, and thence referred to the COMMI TTEE
15 OF THE WHOLE COMMI TTEE.

16
17 Respectfully submi tted,

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22 _____
23 SENATOR MANNY M. ARAGON, Chai rman
24
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Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

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1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996
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5 February 2, 1996
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7 Mr. President:
8

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

11 SENATE BILL 606
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
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25

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

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Date _____

The roll call vote was by voice vote

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