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SENATE BILL 701

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

INTRODUCED BY

MANNY M ARAGON

AN ACT

RELATING TO GAMING; PERMITTING LIMITED CASINO GAMING ACTIVITIES;
ESTABLISHING ADMINISTRATIVE AND REGULATORY PROVISIONS; IMPOSING
A TAX ON CASINO GAMING ACTIVITIES; CREATING THE GAMING
AUTHORITY; PROVIDING PENALTIES; MAKING AN APPROPRIATION;
AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. [NEW MATERIAL] SHORT TITLE. --Sections 1
through 45 of this act may be cited as the "Gaming Control Act".

Section 2. [NEW MATERIAL] LEGISLATIVE POLICY. --It is the
policy of the legislature that:

A. limited gaming activities should be permitted in
the state if those activities are strictly regulated to ensure
honest and competitive gaming free from criminal and corruptive
elements and influence; and

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1 B. the holder of any license or permit issued by the
2 state in connection with the regulation of gaming activities has
3 only a revocable privilege and has no property right or vested
4 interest in the license or permit.

5 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the
6 Gaming Control Act:

7 A. "applicant" means any person who has applied for
8 a manufacturer's license, distributor's license, establishment
9 license, service technician's license or gaming machine license
10 pursuant to the provisions of the Gaming Control Act or for
11 approval of any act or transaction for which approval is
12 required or permitted under the provisions of that act;

13 B. "application" means a request for the issuance of
14 a manufacturer's license, distributor's license, establishment
15 license, service technician's license or gaming machine license
16 pursuant to the provisions of the Gaming Control Act or for
17 approval of any act or transaction for which approval is
18 required or permitted under the provisions of that act but does
19 not include any supplemental forms or information that may be
20 required with the application;

21 C. "authority" means the gaming authority created
22 pursuant to the Gaming Control Act;

23 D. "casino gaming" means all types of gaming;

24 E. "credit instrument" means a writing that
25 evidences a gaming debt owed to a person who holds a gaming

1 establishment license at the time the debt is created, and
2 includes any writing taken in consolidation, redemption or
3 payment of a prior credit instrument;

4 F. "distributor" means a person who distributes
5 gaming devices to a gaming establishment licensee;

6 G. "distributor's license" means any license issued
7 by the authority that authorizes the person named to be a
8 distributor;

9 H. "equity security" means:

10 (1) any voting stock of a company or similar
11 security;

12 (2) any security convertible, with or without
13 consideration, into voting stock or similar security or carrying
14 any warrant or right to subscribe to or purchase voting stock or
15 similar security;

16 (3) any warrant or right to subscribe to or
17 purchase voting stock or similar security; or

18 (4) any security having a direct or indirect
19 participation in the profits of the issuer;

20 I. "game" or "gambling game" means any game played
21 with cards, dice, equipment or any mechanical, electromechanical
22 or electronic device or machine for money, property, checks,
23 credit or any representative of value; but "game" or "gambling
24 game" does not include games played with cards in private homes
25 or residences in which no person makes money for operating the

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1 game except as a player;

2 J. "gaming" or "gambling" means to operate, carry
3 on, conduct, maintain or expose for play any game;

4 K. "gaming device" means any mechanical,
5 electromechanical or electronic contrivance, component or
6 machine used in connection with gaming or any game that affects
7 the result of a wager by determining win or loss. "Gaming
8 device" includes a system for processing information that can
9 alter the normal criteria of random selection that affects the
10 operation of any game or determines the outcome of a game.

11 "Gaming device" does not include a system or device that affects
12 a game solely by stopping its operation so that the outcome
13 remains undetermined;

14 L. "gaming employee" means any person connected
15 directly with the operation of a gaming establishment licensed
16 to conduct any gaming; the term "gaming employee" also includes
17 employees of a person holding a manufacturer's license whose
18 duties are directly involved with manufacture of gaming devices
19 within New Mexico; employees of a person holding a distributor's
20 license whose duties are directly involved with the distributor
21 of or gaming devices within New Mexico; and employees of a
22 person whose duties are directly involved with servicing and
23 repairing gaming devices within New Mexico. "Gaming employee"
24 does not include bartenders, cocktail servers or other persons
25 engaged solely in preparing or serving food or beverages, or

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1 secretarial personnel, janitorial, stage, sound and light
2 technicians and other nongaming personnel;

3 M. "gaming establishment license" or "establishment
4 license" means a license to conduct casino gaming at a location
5 specified in the license;

6 N. "gaming machine" means any mechanical,
7 electrical, electronic or electromechanical device, contrivance
8 or machine that, upon insertion of a coin, token or similar
9 object, or upon payment of any consideration, is available to
10 play or operate, the play or operation of which, whether by
11 reason of the skill of the player or operator or application of
12 the element of chance, or both, may deliver or entitle the
13 player or operator to receive cash, premiums, credits,
14 merchandise, tokens or any thing of value, whether the payoff is
15 made automatically from the machine or in any other manner;

16 O. "gross revenue" means the total of all the
17 following, less the total of all cash paid out as losses to
18 winning patrons and those amounts paid to purchase annuities to
19 fund losses paid to winning patrons over several years by
20 independent administrators:

21 (1) cash received from patrons for the purpose
22 of gaming;

23 (2) cash received in payment for credit
24 extended by a licensee to a patron for the purpose of gaming;
25 and

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1 (3) compensation received for conducting any
2 game in which the licensee is not a party to a wager;

3 P. "license" means a manufacturer's license, a
4 distributor's license, an establishment license, a technician's
5 license or a license required by the authority by regulation for
6 conducting other gaming activities;

7 Q. "licensed gaming establishment" means any
8 premises in which or on which gaming is conducted pursuant to a
9 license revised by the authority;

10 R. "licensee" means any person to whom a valid
11 license has been issued;

12 S. "manufacturer" means a person who manufactures,
13 assembles, produces, programs or makes modifications to any
14 gaming device for use or play in New Mexico or for distribution
15 outside New Mexico from any location within New Mexico;

16 T. "manufacturer's license" means any license issued
17 by the authority that authorizes the licensee to manufacture,
18 assemble, produce, program or otherwise produce or make
19 modifications to any gaming device in New Mexico or from a
20 location outside New Mexico for use or play in New Mexico;

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

22 V. "publicly traded corporation" means a corporation
23 that:

24 (1) has one or more classes of securities
25 registered pursuant to the securities laws of the United States

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1 or of New Mexico;

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

4 (3) has one or more classes of securities
5 registered or is an issuer pursuant to applicable foreign laws
6 that the authority finds provide protection for investors that
7 is comparable to or greater than the stricter of the securities
8 laws of the United States or of New Mexico laws; and

9 W. "regulation" means a rule, standard, directive or
10 statement of general applicability that effectuates the law or
11 policy or describes the procedures of the authority.

12 "Regulation" does not include:

13 (1) a statement concerning only the internal
14 management of the authority and not affecting the rights or
15 procedures available to any licensee or other person;

16 (2) a declaratory ruling;

17 (3) an interagency memorandum; or

18 (4) the authority's decision in a contested
19 case or relating to the application for a license.

20 Section 4. [NEW MATERIAL] GAMING AUTHORITY CREATED. --

21 A. The "gaming authority" is created and consists of
22 five members. Two members shall be appointed by the governor
23 with the consent of the senate. One member shall be appointed
24 by the president pro tempore of the senate with the consent of
25 the senate. One member shall be appointed by the speaker of the

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1 house of representatives with the consent of the senate. One
2 member shall be appointed by the other four members of the
3 authority, with the consent of the senate. All members of the
4 authority shall be residents of New Mexico and citizens of the
5 United States.

6 B. The members of the authority shall be appointed
7 for terms of five years, except, of the members who are first
8 appointed, two shall be appointed for a term of five years, two
9 shall be appointed for a term of four years and two shall be
10 appointed for a term of three years. Thereafter, all members
11 shall be appointed for terms of five years. An appointed
12 authority member shall serve and have all of the duties and
13 powers of that office during the period of time prior to final
14 action by the senate confirming or rejecting his appointment.

15 C. Vacancies on the authority shall be filled within
16 thirty days by the person originally appointing the member whose
17 position is vacant and the appointee shall serve for the
18 unexpired portion of the term in which the vacancy occurs.

19 D. The authority shall appoint a chair annually from
20 its membership.

21 E. No more than three members of the authority shall
22 be from the same political party.

23 F. The members of the authority shall be reimbursed
24 pursuant to the provisions of the Per Diem and Mileage Act when
25 engaged in authority business.

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1 G. The special investigations division of the
2 department of public safety shall conduct background
3 investigations of all members of the authority prior to
4 confirmation by the senate. A person who has been convicted of
5 a felony or any crime involving gambling, moral turpitude, fraud
6 or theft is not eligible for appointment and shall not serve as
7 a member of the authority.

8 H. No member of the authority or any member of his
9 immediate family or household shall have any financial interest
10 in or derive any financial benefit from a business that is
11 regulated by the authority, and at the time of taking office,
12 each authority member shall file with the secretary of state a
13 sworn statement to that effect.

14 Section 5. [NEW MATERIAL] AUTHORITY--MEETINGS--QUORUM -
15 RECORDS. --

16 A. A majority of the qualified membership of the
17 authority then in office constitutes a quorum. No action may be
18 taken by the authority unless at least three members concur.

19 B. Written notice of the time and place of each
20 meeting of the authority shall be given to each member at least
21 ten days prior to the meeting.

22 C. Meetings of the authority shall be open and
23 public in accordance with the Open Meetings Act, except that the
24 authority may have closed meetings to hear security and
25 investigative information.

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1 D. All proceedings of the authority shall be
2 recorded by audio tape or other equivalent verbatim audio
3 recording device.

4 E. The chairman of the authority or a majority of
5 its members then in office may call a special meeting of the
6 authority upon written notice to all members of the authority.

7 Section 6. [NEW MATERIAL] AUTHORITY' S POWERS AND
8 DUTIES. --

9 A. The authority shall develop and implement the
10 state's policy on gaming consistent with the provisions of the
11 Gaming Control Act. It has the duty to fulfill all
12 responsibilities assigned to it pursuant to that act and has all
13 powers necessary to carry out those responsibilities. It may
14 delegate power to its employees but it retains accountability.
15 The authority is an adjunct agency.

16 B. The authority shall:

17 (1) make the final decision on issuance,
18 denial, suspension and revocation of all licenses pursuant to
19 and consistent with the provisions of the Gaming Control Act;

20 (2) develop, adopt and promulgate all
21 regulations necessary to implement and administer the provisions
22 of the Gaming Control Act;

23 (3) conduct itself, or employ a hearing officer
24 to conduct, all hearings required by the provisions of the
25 Gaming Control Act and any other hearings it deems appropriate

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1 to fulfill its responsibilities;

2 (4) meet at least once each month; and

3 (5) prepare and submit an annual report in
4 December of each year to the governor and the legislature
5 covering its activities in the most recently completed fiscal
6 year, a summary of gaming activities in the state authorized
7 pursuant to the Gaming Control Act and any recommended changes
8 in or additions to the laws relating to gaming in the state.

9 C. The authority may:

10 (1) employ individuals to assist it in carrying
11 out its responsibilities;

12 (2) impose civil fines not to exceed ten
13 thousand dollars (\$10,000) for the first violation and fifteen
14 thousand dollars (\$15,000) for subsequent violations of any
15 prohibitory provision of the Gaming Control Act or any
16 prohibitory provision of a regulation adopted pursuant to that
17 act;

18 (3) conduct investigations, subpoena persons
19 and documents to compel access to or for the production of
20 books, papers, records or memoranda in the custody or control of
21 any licensee or compel the appearance of employees of a licensee
22 or other persons for the purpose of ascertaining compliance with
23 any provision of the Gaming Control Act or a regulation adopted
24 pursuant to its provisions;

25 (4) administer oaths and take depositions to

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1 the same extent and subject to the same limitations as would
2 apply if the deposition were pursuant to discovery rules in a
3 civil action in the district court;

4 (5) sue and be sued subject to the limitations
5 of the Tort Claims Act;

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

8 (7) conduct audits of applicants, licensees and
9 persons affiliated with licensees;

10 (8) inspect all places where gaming is
11 conducted or gaming devices are manufactured, sold or
12 distributed and inspect all equipment and supplies in those
13 places;

14 (9) summarily seize and remove from places
15 inspected and impound any equipment, supplies, documents or
16 records for the purpose of examination or inspection; and

17 (10) except for the powers specified in
18 Paragraphs (2) and (5) of this subsection, carry out all or part
19 of any of the foregoing powers and activities through delegation
20 of authority to its employees.

21 Section 7. [NEW MATERIAL] AUTHORITY REGULATIONS--
22 DISCRETIONARY REGULATIONS--PROCEDURE--REQUIRED PROVISIONS. --

23 A. The authority may adopt any regulation:

24 (1) consistent with the provisions of the
25 Gaming Control Act; and

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1 (2) deemed necessary by it to implement the
2 provisions of the Gaming Control Act.

3 B. No regulation affecting any person or agency
4 outside the authority shall be adopted, amended or repealed
5 without a public hearing on the proposed action before the
6 authority or a hearing officer designated by it. The public
7 hearing shall be held in Santa Fe. Notice of the subject matter
8 of the regulation, the action proposed to be taken, the time and
9 place of the hearing, the manner in which interested persons may
10 present their views and the method by which copies of the
11 proposed regulation or a proposed amendment to or proposed
12 repeal of an existing regulation may be obtained shall be
13 published once at least thirty days prior to the hearing date in
14 a newspaper of general circulation and mailed at least thirty
15 days prior to the hearing date to all persons who have made a
16 written request for advance notice of hearing. All regulations
17 shall be filed in accordance with the State Rules Act.

18 C. The authority shall adopt regulations:

19 (1) prescribing the method and form of
20 application to be followed by applicants for licenses;

21 (2) requiring work permits for gaming employees
22 and prescribing the information to be furnished by a licensee
23 about his gaming employees;

24 (3) requiring the fingerprinting or other
25 reliable methods of identification of applicants;

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1 (4) prescribing the manner and procedure of all
2 hearings conducted by the authority or a hearing officer;

3 (5) requiring an applicant to pay all or part
4 of the fees and costs of investigation of the applicant as
5 determined by the authority;

6 (6) prescribing the manner and method of
7 collection and payment of fees and the issuance of licenses;

8 (7) defining the area, games and gaming devices
9 permitted and the methods of operation of the games and gaming
10 devices;

11 (8) establishing hours of operation for gaming;

12 (9) prescribing under what conditions the
13 nonpayment of a gambling debt by a gaming establishment licensee
14 is grounds for suspension or revocation of its license;

15 (10) governing the manufacture, sale,
16 distribution, repair and servicing of gaming devices;

17 (11) requiring any applicant or licensee to
18 waive any privilege with respect to any testimony at any hearing
19 or meeting of the authority, except a privilege afforded by the
20 constitutions of the United States or New Mexico;

21 (12) governing the specifications for approval
22 and licensing of gaming machines;

23 (13) governing accounting procedures, security,
24 collection and verification procedures required of licensees and
25 matters regarding financial responsibility of licensees; and

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1 (14) establishing grounds and procedures for
2 the denial, suspension or revocation of a license.

3 Section 8. [NEW MATERIAL] EMPLOYEES-- BACKGROUND
4 INVESTIGATION. --

5 A. A background investigation shall be conducted on
6 each applicant for employment with the authority. The authority
7 shall contract with the department of public safety for the
8 performance of the investigations. The background
9 investigations shall include credit checks, police record
10 checks, conviction record checks, national and statewide
11 criminal records clearinghouse checks and fingerprint checks.
12 All information obtained through a background investigation
13 shall be confidential, except that the authority may exchange
14 such confidential information with state, federal and local law
15 enforcement agencies.

16 B. Any individual convicted of a felony or any crime
17 involving gambling, moral turpitude, fraud or theft shall not be
18 employed by the authority.

19 Section 9. [NEW MATERIAL] CONFLICTS OF INTEREST--
20 AUTHORITY-- EMPLOYEES. --

21 A. In addition to all other provisions of New Mexico
22 law regarding conflicts of interest of state officials and
23 employees, a member of the authority, an authority employee or
24 any person residing in the household of a member of the
25 authority or an employee shall not:

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1 (1) directly or indirectly, individually, as a
2 member of a partnership or other association, or as a
3 stockholder, director or officer of a corporation, have an
4 interest in a business licensed pursuant to the Gaming Control
5 Act; or

6 (2) accept or agree to accept any economic
7 opportunity, gift, loan, gratuity, special discount, favor,
8 hospitality or service having an aggregate value of one hundred
9 dollars (\$100) or more in any calendar year from a person
10 licensed or applying for a license pursuant to the Gaming
11 Control Act.

12 B. If a member of the authority, an employee of the
13 authority or any person residing in the household of any of the
14 named persons violates any provision of this section or
15 Subsection H of Section 4 of the Gaming Control Act, the member
16 of the authority or an employee of the authority shall be
17 removed from his office or position.

18 Section 10. [NEW MATERIAL] CASINO GAMING PERMITTED--
19 ELIGIBLE COUNTIES--CONDITIONS.--Casino gaming is permitted:

20 A. in a licensed gaming establishment;

21 B. at the times, in the manner and under the
22 conditions prescribed by regulations of the authority; and

23 C. at no more than two locations in:

24 (1) a class B county:

25 (a) having a population as determined by

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1 the 1990 federal census of not more than twenty-five thousand
2 persons and not less than ten thousand persons; and

3 (b) having a 1993 net taxable value of
4 property, as that term is defined in the Property Tax Code, of
5 at least two hundred seventy million dollars (\$270,000,000) but
6 not more than three hundred thirty million dollars
7 (\$330,000,000); and

8 (2) a class A county currently having a
9 population of less than four hundred thousand persons.

10 Section 11. [NEW MATERIAL] LICENSE REQUIRED FOR CERTAIN
11 ACTIVITIES. --

12 A. No person shall own, possess or control a place
13 used for gaming unless the place is licensed as a gaming
14 establishment.

15 B. No person shall sell or distribute in the state
16 any gaming device unless he is licensed as a distributor.

17 C. No person shall manufacture, assemble, program or
18 make modifications to a gaming device for use or play in this
19 state or for distribution outside this state unless he is
20 licensed as a manufacturer.

21 D. No person shall possess or control a place where
22 there is an unlicensed gaming machine. Any unlicensed gaming
23 machine, except one in the possession of a licensee while
24 awaiting licensure of the machine, is subject to forfeiture and
25 confiscation by any law enforcement agency or officer.

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1 E. No person shall service or repair a gaming device
2 or associated equipment unless he is licensed as a service
3 technician.

4 F. No person shall engage in any activity for which
5 the authority requires a license or permit without obtaining the
6 license or permit.

7 Section 12. [NEW MATERIAL] LICENSURE--APPLICATION.--

8 A. The authority shall establish the following
9 categories of licenses:

- 10 (1) manufacturers;
11 (2) distributors;
12 (3) establishment;
13 (4) machines;
14 (5) service technicians; or
15 (6) any other category of license deemed
16 necessary for secure, orderly, effective and efficient control
17 and operation of casino gaming in the state.

18 B. Except for a gaming establishment licensee having
19 licensed machines, no licensee shall hold more than one type of
20 license issued pursuant to the provisions of the Gaming Control
21 Act or own a majority interest in, manage or otherwise control,
22 a holder of another type of license issued pursuant to the
23 provisions of that act.

24 C. Applicants for a license shall apply on forms
25 provided by the authority and furnish all information requested

1 by the authority. Submission of an application constitutes
2 consent to a credit check of the applicant and all persons
3 having a substantial interest in the applicant and any other
4 background investigations required pursuant to the Gaming
5 Control Act or deemed necessary by the authority.

6 D. All licenses issued by the authority pursuant to
7 the provisions of this section shall be reviewed for renewal
8 annually, unless revoked, suspended, canceled or terminated.

9 E. No license issued pursuant to the provisions of
10 the Gaming Control Act shall be transferred or assigned.

11 F. The application for a license shall include:

12 (1) the name of the proposed licensee;

13 (2) the location of the proposed operation;

14 (3) the gaming devices to be operated,

15 supplied, distributed or serviced;

16 (4) the names of all persons directly or
17 indirectly interested in the business and the nature of such
18 interest; and

19 (5) such other information and details as the
20 authority may require.

21 G. The authority shall furnish to the applicant
22 supplemental forms that the applicant shall complete and file
23 with the application. Such supplemental forms shall require,
24 but shall not be limited to, complete information and details
25 with respect to the applicant's habits, character, criminal

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1 records, business activities, financial affairs and business
2 associates, covering at least a ten-year period immediately
3 preceding the date of filing of the application.

4 Section 13. [NEW MATERIAL] LICENSE FEES. --

5 A. The following license fees shall be paid to the
6 authority:

7 (1) establishment license, two hundred fifty
8 thousand dollars (\$250,000) for the initial license and twenty-
9 five thousand dollars (\$25,000) for annual renewal;

10 (2) manufacturer's license, five thousand
11 dollars (\$5,000) for the initial license and one thousand
12 dollars (\$1,000) for annual renewal;

13 (3) distributor's license, five thousand
14 dollars (\$5,000) for the initial license and one thousand
15 dollars (\$1,000) for annual renewal; and

16 (4) for each separate gaming machine licensed,
17 one hundred dollars (\$100) initially and one hundred dollars
18 (\$100) annually for renewal.

19 B. The authority shall establish the license fee for
20 service technicians and the fee for any other license or permit
21 by regulation, but no fee established by the authority shall
22 exceed one hundred dollars (\$100). The authority shall also
23 establish by regulation a nonrefundable application fee of no
24 more than five hundred dollars (\$500) to be charged to
25 applicants other than establishment license applicants.

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1 Section 14. [NEW MATERIAL] REQUIRED DISCLOSURE BY
2 APPLICANTS. --

3 A. The following disclosures are required of all
4 applicants:

5 (1) name and address of the applicant and the
6 name and address of the following:

7 (a) if the applicant is a corporation,
8 the officers, directors and each stockholder in the corporation;
9 except that, in the case of stockholders of publicly held equity
10 securities of a publicly traded corporation, only the names and
11 addresses of those known to the corporation to beneficially own
12 five percent or more of the securities;

13 (b) if the applicant is a trust, the
14 trustee and all persons entitled to receive income or benefit
15 from the trust;

16 (c) if the applicant is an association,
17 the members, officers and directors;

18 (d) if the applicant is a subsidiary, the
19 officers, directors and each stockholder of the parent
20 corporation; except that in the case of stockholders of publicly
21 held equity securities of a publicly traded corporation, only
22 the names and addresses of those known to the corporation to
23 beneficially own five percent or more of the securities;

24 (e) if the applicant is a partnership or
25 joint venture, all of the general partners, limited partners or

1 joint venturers;

2 (f) if the parent company, general
3 partner, limited partner or joint venturer of any applicant is
4 itself a corporation, trust, association, subsidiary,
5 partnership or joint venture, then all the information required
6 in this section shall be disclosed by the parent company,
7 general partner, limited partner or joint venturer as if it were
8 itself the applicant so that full disclosure is achieved; and

9 (g) if any member of the immediate family
10 of any individual applicant is involved in the applicant's
11 business in any capacity, then all of the information required
12 in this section shall be disclosed for the immediate family
13 member as if the family member were the applicant;

14 (2) all the states and jurisdictions in which
15 each control person:

16 (a) does business and the nature of that
17 business for each state and jurisdiction;

18 (b) has contracts to supply gaming
19 devices, associated equipment or gaming services, including the
20 nature of the devices, equipment or services involved for each
21 state or jurisdiction; and

22 (c) has applied for, has sought renewal
23 of, has received, has been denied, has pending or has had
24 revoked a gaming license of any kind, and the disposition of the
25 application, renewal, denial, pendency or revocation of the

1 license in each state or jurisdiction; and regarding any gaming
2 license that has been revoked or has not been renewed, or any
3 gaming license application that has been denied or is or has
4 remained pending for greater than six months, all the facts and
5 circumstances underlying the failure to receive a license by
6 renewal or application or regarding the revocation;

7 (3) the details of any conviction in or
8 judgment of a state or federal court of each control person of
9 any felony and any other criminal offense other than traffic
10 offenses;

11 (4) the details of any bankruptcy, insolvency,
12 reorganization or any pending litigation of each control person;

13 (5) for each control person who is a natural
14 person, the general details of employment, residence, education
15 and military history since the age of eighteen years and any
16 federal, state or local elective position ever held by the
17 control person;

18 (6) a consolidated report of all reportable
19 information on all reportable contributions by each control
20 person to any local, state or federal political candidate or
21 political committee in this state for the past five years that
22 is reportable pursuant to the provisions of any existing state
23 or federal law;

24 (7) the identity of any entity with which each
25 control person has a joint venture or other contractual

1 arrangement to supply any state or jurisdiction with gaming
2 devices, associated equipment or gaming services, including a
3 disclosure with regard to the entity of all of the information
4 requested in Paragraph (1) of this subsection;

5 (8) financial statements and copies of federal
6 and state income tax returns of the applicant for the five years
7 prior to the date of application;

8 (9) any economic interest known by the
9 applicant that is held by any member of the authority or an
10 employee of the authority in the business of the applicant or
11 any control person; and

12 (10) any additional disclosures as determined
13 to be necessary by the authority.

14 B. No license may be issued or renewed for an
15 applicant or licensee who has not complied with the disclosure
16 requirements, including periodic updates required pursuant to
17 regulations of the authority, described in this section for each
18 of its control persons.

19 C. As used in this section, "control person" means
20 the applicant and all persons whose identity must be disclosed
21 in Paragraph (1) of Subsection A of this section.

22 D. Any response to a request for a name, address,
23 date of birth, social security number, place of birth, current
24 residence, current marital status, duration of marriage,
25 residence addresses for the last ten years and spouse's name,

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1 address, date of birth and social security number shall include
2 all versions of that information that has been used by the
3 applicant or the control person for whom the information has
4 been requested.

5 E. Pursuant to regulations adopted by the authority,
6 all or any part of the costs of any disclosure or background
7 investigation of any applicant may be billed to and shall be
8 paid by the applicant.

9 Section 15. [NEW MATERIAL] ACTION BY AUTHORITY ON
10 APPLICATIONS. --

11 A. Any person that the authority determines is
12 qualified to receive a license pursuant to the provisions of the
13 Gaming Control Act, having due consideration for the proper
14 protection of the health, safety, morals, good order and general
15 welfare of the inhabitants of this state and the declared policy
16 of this state, may be issued a license. The burden of proving
17 qualifications is on the applicant.

18 B. An application to receive a license shall not be
19 granted unless the authority is satisfied that the applicant is:

20 (1) a person of good moral character, honesty
21 and integrity;

22 (2) a person whose prior activities, criminal
23 record, if any, reputation, habits and associations do not pose
24 a threat to the public interest or to the effective regulation
25 and control of gaming or create or enhance the dangers of

1 unsuitable, unfair or illegal practices, methods and activities
2 in the conduct of gaming or the carrying on of the business and
3 financial arrangements incidental thereto; and

4 (3) in all other respects qualified to be
5 licensed consistent with the laws of this state.

6 C. A license shall not be granted pursuant to the
7 Gaming Control Act unless the applicant has satisfied the
8 authority that:

9 (1) the applicant has adequate business
10 probity, competence and experience in business or gaming;

11 (2) the proposed financing of the applicant is
12 adequate for the nature of the proposed license and from a
13 suitable source; any lender or other source of money or credit
14 that the authority finds does not meet the standards set forth
15 in Subsection B of this section shall be deemed unsuitable; and

16 (3) the applicant is sufficiently capitalized
17 under standards set by the authority to conduct the business
18 covered by the license applied for.

19 D. In addition to other requirements for licensure,
20 an applicant for an establishment license shall at the time of
21 submitting the application:

22 (1) pay a nonrefundable deposit of one hundred
23 thousand dollars (\$100,000) to cover the expenses of background
24 investigations necessary to be performed in connection with that
25 application;

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1 (2) present an irrevocable commitment to
2 construction of a hotel with a minimum of two hundred rooms
3 adjoining the proposed casino gaming establishment with the
4 completion of the construction to be a condition precedent to
5 the issuance of the license; and

6 (3) demonstrate to the satisfaction of the
7 authority that the applicant has the ability and the willingness
8 to promote economic development and employment in the community
9 in which the establishment is located.

10 E. An application to receive a license constitutes a
11 request for a determination of the applicant's general moral
12 character, integrity and ability to participate or engage in or
13 be associated with gaming. Any written or oral statement made
14 in the course of an official proceeding of the authority or by
15 any witness testifying under oath that is relevant to the
16 purpose of the proceeding is absolutely privileged and does not
17 impose liability for defamation or constitute a ground for
18 recovery in any civil action.

19 F. The authority shall investigate the
20 qualifications of each applicant before any license is issued by
21 the authority and shall continue to observe and monitor the
22 conduct of all licensees and the persons having a material
23 involvement directly or indirectly with a licensed gaming
24 operation.

25 G. The authority has the authority to deny any

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1 application or limit, condition, restrict, revoke or suspend any
2 license for any reasonable cause.

3 H. The authority may issue or deny a license to the
4 applicant. The authority may limit or place those reasonable
5 conditions it deems necessary to the public interest upon any
6 license for which application has been made.

7 I. After the issuance of the license, it shall
8 continue in effect upon proper payment of the license fees,
9 subject to the power of the authority to revoke, suspend,
10 condition or limit licenses.

11 J. The authority has full and absolute power to deny
12 any application for any cause it deems reasonable. If an
13 application is denied, the authority shall prepare and file its
14 written decision upon which its order denying the application is
15 based.

16 Section 16. [NEW MATERIAL] EXCLUSION OR EJECTION OF
17 CERTAIN PERSONS FROM LICENSED ESTABLISHMENTS-- PERSONS
18 INCLUDED. --

19 A. The authority shall by regulation provide for the
20 establishment of a list of persons who are to be excluded or
21 ejected from any licensed gaming establishment. The list may
22 include any person whose presence in the establishment is
23 determined by the authority to pose a threat to the public
24 interest or to licensed gaming, or both.

25 B. In making the determination in Subsection A of

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1 this section, the authority may consider any:

2 (1) prior conviction of a crime that is a
3 felony under state or federal law, a crime involving moral
4 turpitude or a violation of the gaming laws of any jurisdiction;

5 (2) violation or conspiracy to violate the
6 provisions of the Gaming Control Act relating to:

7 (a) the failure to disclose an interest
8 in a gaming establishment for which the person must obtain a
9 license; or

10 (b) willful evasion of fees or taxes;

11 (3) notorious or unsavory reputation that would
12 adversely affect public confidence and trust that the gaming
13 industry is free from criminal or corruptive demands; or

14 (4) written order of any other governmental
15 agency in this state or any other state that authorizes the
16 exclusion or ejection of the person from an establishment at
17 which gaming is conducted.

18 C. A licensed gaming establishment has the right,
19 without any list established by the board, to exclude or eject
20 any person from the establishment who poses a threat to the
21 public interest or to licensed gaming or for any business
22 reason.

23 D. Race, color, creed, national origin or ancestry,
24 age, disability or sex shall not be grounds for placing the name
25 of a person upon the list or for exclusion or ejection under

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1 Subsection C of this section.

2 Section 17. [NEW MATERIAL] INTERNAL AND EXTERNAL CONTROL
3 SYSTEMS. --

4 A. Each licensed gaming establishment shall adopt
5 internal and external control systems that shall include, but
6 not be limited to, provisions for:

7 (1) safeguarding its assets and revenues,
8 especially the recording of cash and evidences of indebtedness;

9 (2) making and maintaining reliable records,
10 accounts and reports of transactions, operations and events,
11 including reports to the board; and

12 (3) a system by which the amount wagered on
13 each gaming machine and the amount paid out by each machine is
14 recorded on a daily basis, which results may be obtained by the
15 authority by appropriate means as described in regulations
16 promulgated by the authority; all manufacturers will be required
17 to have such a system available for licensed gaming
18 establishments for the gaming machines that it supplies for use
19 in New Mexico; and all distributors shall make such a system
20 available to establishments.

21 B. The internal control system shall be designed to
22 reasonably ensure that:

23 (1) assets are safeguarded;

24 (2) financial records are accurate and
25 reliable;

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1 (3) transactions are performed only in
2 accordance with management's general or specific authorization;

3 (4) transactions are recorded adequately to
4 permit proper reporting of gaming revenue and of fees and taxes,
5 and to maintain accountability of assets;

6 (5) access to assets is permitted only in
7 accordance with management's specific authorization;

8 (6) recorded accountability for assets is
9 compared with actual assets at reasonable intervals and
10 appropriate action is taken with respect to any discrepancies;
11 and

12 (7) functions, duties and responsibilities are
13 appropriately segregated and performed in accordance with sound
14 accounting and management practices by competent, qualified
15 personnel.

16 C. Each licensed gaming establishment and each
17 applicant for a gaming establishment license shall describe, in
18 the manner the authority may approve or require, its
19 administrative and accounting procedures in detail in a written
20 system of internal control. Each licensed gaming establishment
21 and applicant for a gaming establishment license shall submit a
22 copy of its written system to the authority. Each written
23 system shall include:

24 (1) an organizational chart depicting
25 appropriate segregation of functions and responsibilities;

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1 (2) a description of the duties and
2 responsibilities of each position shown on the organizational
3 chart;

4 (3) a detailed, narrative description of the
5 administrative and accounting procedures designed to satisfy the
6 requirements of Subsection A of this section;

7 (4) a written statement signed by the
8 licensee's chief financial officer and either the licensee's
9 chief executive officer or a licensed owner attesting that the
10 system satisfies the requirements of this section;

11 (5) if the written system is submitted by an
12 applicant, a letter from an independent certified public
13 accountant stating that the applicant's written system has been
14 reviewed by the accountant and complies with the requirements of
15 this section; and

16 (6) such other items as the authority may
17 require.

18 D. The authority shall adopt and publish minimum
19 standards for internal control procedures.

20 Section 18. [NEW MATERIAL] GAMING EMPLOYEES--ISSUANCE OF
21 WORK PERMITS--REVOCATION OF WORK PERMITS. --

22 A. A person shall not be employed as a gaming
23 employee unless the person holds a valid work permit issued by
24 the authority.

25 B. A work permit shall be issued and may be revoked

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1 by the authority as provided in regulations adopted by the
2 authority.

3 C. Any person whose work permit has been denied or
4 revoked may seek judicial review as provided in applicable law.

5 Section 19. [NEW MATERIAL] AGE REQUIREMENT FOR PATRONS
6 AND GAMING EMPLOYEES. --A person under the age of twenty-one
7 years of age shall not:

8 A. play, be allowed to play, place wagers or collect
9 winnings from, whether personally or through an agent, any game
10 authorized under the Gaming Control Act; or

11 B. be employed as a gaming employee.

12 Section 20. [NEW MATERIAL] ACCEPTANCE OF CREDIT
13 INSTRUMENTS BY LICENSEE. --

14 A. A credit instrument evidencing a gaming debt is
15 authorized by the Gaming Control Act and may be enforced by
16 legal process.

17 B. A gaming establishment licensee or person acting
18 on the licensee's behalf may accept an incomplete credit
19 instrument that is signed by a patron and states the amount of
20 the debt in figures. The licensee may complete the instrument
21 as is necessary for the instrument to be presented for payment.

22 C. A gaming establishment licensee or person acting
23 on behalf of a licensee:

24 (1) shall not accept a credit instrument that
25 is incomplete except as authorized in Subsection B of this

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1 section; and

2 (2) may accept a credit instrument that is
3 payable to an affiliate or affiliated company or may complete a
4 credit instrument in the name of an affiliate or affiliated
5 company as payout if the credit instrument otherwise complies
6 with this section and the records of the affiliate or an
7 affiliated company pertaining to the credit instrument are made
8 available to the authority upon request.

9 D. This section does not prohibit the establishment
10 of an account by a deposit of cash, recognized traveler's check
11 or any other instrument that is equivalent to cash.

12 E. Any person, gaming establishment licensee or its
13 agents or employees that violates the provisions of this section
14 is subject only to the penalties provided by regulations of the
15 authority. The failure of a person to comply with the
16 provisions of this section or the regulations of the authority
17 does not invalidate a credit instrument or affect the ability to
18 enforce the credit instrument or the debt that the credit
19 instrument represents.

20 Section 21. [NEW MATERIAL] FACE VALUE OF CREDIT
21 INSTRUMENT INCLUDED IN COMPUTATION OF GROSS REVENUE--
22 EXCEPTIONS--CASH RECEIVED IN PAYMENT OF DEBT NOT INCLUDED IN
23 GROSS REVENUE. --

24 A. For the purposes of the Gaming Control Act,
25 except as otherwise provided in Subsection C of this section,

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1 the computation of gross revenue shall include the face value of
2 any credit instrument if, within two years after the last day of
3 the month following the month in which that instrument was
4 accepted by the gaming establishment licensee, the authority
5 determines that:

6 (1) the instrument was not signed by the patron
7 or otherwise acknowledged by him in a written form satisfactory
8 to the authority;

9 (2) the licensee did not have an address for
10 the patron at the time of accepting the instrument, or, in lieu
11 of that address, has not provided the authority, within a
12 reasonable time after its request, the current address of the
13 patron to whom the credit was extended;

14 (3) the licensee has not provided the authority
15 with any evidence that the licensee made a reasonable effort to
16 collect the debt;

17 (4) the licensee has not provided the authority
18 with any evidence that the licensee checked the credit history
19 of the patron before extending credit to him;

20 (5) the licensee has not produced the
21 instrument within a reasonable time after a request by the
22 authority for the instrument unless it:

23 (a) is in the possession of a court,
24 governmental agency or financial institution;

25 (b) has been returned to the patron upon

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1 his partial payment of the instrument and the licensee has
2 obtained a substitute credit instrument for the remaining
3 balance;

4 (c) has been stolen and the licensee has
5 made a written report of the theft to the appropriate law
6 enforcement agency; or

7 (d) cannot be produced because of any
8 other circumstance that is beyond the licensee's control;

9 (6) the signature of the patron on the
10 instrument was forged and the licensee has not made a written
11 report of the forgery to the appropriate law enforcement agency;
12 or

13 (7) upon an audit by the authority, the
14 licensee requested the auditors not to confirm the unpaid
15 balance of the debit with the patron and there is not other
16 satisfactory means of confirmation.

17 B. For the purpose of the Gaming Control Act, the
18 computation of gross revenue shall not include cash or its
19 equivalent that is received in full or partial payment of a debt
20 previously included in the computation of gross revenue pursuant
21 to Subsection A of this section.

22 C. The provisions of Subsection A of this section do
23 not apply to any credit instrument that is settled for less than
24 its face amount to:

25 (1) induce a substantial partial payment;

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- 1 (2) compromise a dispute; or
2 (3) obtain a patron's business if:
3 (a) an agreement is entered into to
4 discount the face amount of a credit instrument before it is
5 issued to induce timely payment of the credit instrument; and
6 (b) the percentage of discount of the
7 instrument is reasonable as compared to the prevailing practice
8 in the industry.

9 Section 22. [NEW MATERIAL] CALCULATION OF GROSS REVENUE--
10 CERTAIN EXPENSES NOT DEDUCTIBLE. --

11 A. In calculating gross revenue, any prizes,
12 premiums, drawings, benefits or tickets that are redeemable for
13 money or merchandise or other promotional allowance, except
14 money or tokens paid at face value directly to a patron as the
15 result of a specific wager and the amount of cash paid to
16 purchase an annuity to fund losses paid to winning patrons,
17 shall not be deducted as losses from winnings at any game except
18 a gaming machine.

19 B. In calculating gross revenue from gaming
20 machines, the actual cost to the licensee of any personal
21 property distributed to a patron as the result of a legitimate
22 wager may be deducted as a loss, but not travel expenses, food,
23 refreshments, lodging or services. For the purposes of this
24 section, "as the result of a legitimate wager" means that the
25 patron must make a wager prior to receiving the personal

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1 property, regardless of whether the receipt of the personal
2 property is dependent on the outcome of the wager.

3 Section 23. [NEW MATERIAL] LIMITATIONS ON TAXES AND
4 LICENSE FEES. --No municipality or other political subdivision of
5 the state shall impose any license fee or tax on any licensee
6 licensed pursuant to the Gaming Control Act except for the
7 imposition of property taxes and gross receipts taxes.

8 Section 24. [NEW MATERIAL] USE OF CHIPS, TOKENS OR LEGAL
9 TENDER REQUIRED FOR ALL GAMING. --All gaming shall be conducted
10 with chips, tokens or other instrumentalities approved by the
11 board or with the legal currency of the United States.

12 Section 25. [NEW MATERIAL] RECORDS OF GAMING
13 ESTABLISHMENT LICENSEES. --

14 A. A gaming establishment licensee shall keep its
15 books and records to clearly show the amount of gross revenue
16 and other revenues received.

17 B. On a monthly basis, the gaming establishment
18 licensee shall furnish to the authority reports and information
19 as the authority may require with respect to its activities on
20 forms designed and supplied for that purpose by the authority.

21 Section 26. [NEW MATERIAL] COMMUNICATION OR DOCUMENT OF
22 APPLICANT OR LICENSEE ABSOLUTELY PRIVILEGED-- PRIVILEGE NOT
23 WAIVED-- DISCLOSURE OF PRIVILEGED INFORMATION PROHIBITED. --

24 A. Any communication or document of an applicant or
25 licensee is absolutely privileged and does not impose liability

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1 for defamation or constitute a ground for recovery in any civil
2 action if it is required by:

3 (1) law or the regulations of the authority; or

4 (2) a subpoena issued by the authority to be
5 made or transmitted to the authority.

6 B. The privilege created pursuant to Subsection A of
7 this section is not waived or lost because the document or
8 communication is disclosed to the authority.

9 C. Notwithstanding the powers granted to the
10 authority by the Gaming Control Act, the authority:

11 (1) shall not release or disclose any
12 privileged information, documents or communications provided by
13 an applicant or licensee without the prior written consent of
14 the applicant or licensee or pursuant to a lawful court order
15 after timely notice of the proceedings has been given to the
16 applicant or licensee;

17 (2) shall maintain all privileged information,
18 documents and communications in a secure place accessible only
19 to members of the authority; and

20 (3) shall adopt procedures and regulations to
21 protect the privileged nature of information, documents and
22 communications provided by an applicant or licensee.

23 Section 27. [NEW MATERIAL] MOTION FOR RELEASE OF
24 CONFIDENTIAL INFORMATION. --An application to a court for an
25 order requiring the authority to release any information

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1 declared by law to be confidential shall be made only upon
2 motion in writing on ten days written notice to the authority,
3 the attorney general and all persons who may be affected by the
4 entry of such an order. Copies of the motion and all papers
5 filed in support of it shall be served with the notice by
6 delivering a copy in person or by certified mail to the last
7 known address of the person to be served.

8 Section 28. [NEW MATERIAL] GAMING MACHINE CENTRAL
9 SYSTEM --The authority shall develop and operate a central
10 system to which all licensed gaming machines are connected. The
11 central system shall be capable of:

12 A. retrieving and auditing the operation, financial
13 data and program information of the network;

14 B. disabling from operation or play any gaming
15 machine in the network that does not comply with the provisions
16 of the Gaming Control Act or the regulations of the authority;

17 C. communicating, through program modifications or
18 other equally effective means, with all gaming machines licensed
19 by the authority;

20 D. interacting, reading, communicating and linking
21 with gaming machines from a broad spectrum of manufacturers and
22 associated equipment; and

23 E. providing linkage to each gaming machine in the
24 network at a reasonable and affordable cost to the state or the
25 establishment and allowing for program modifications and system

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1 updating at a reasonable rate of cost.

2 Section 29. [NEW MATERIAL] MACHINE SPECIFICATIONS. -- To be
3 eligible for licensure, each gaming machine shall meet all
4 specifications established by regulations of the authority and:

5 A. be unable to be manipulated in a manner that
6 affects the random probability of winning plays or in any other
7 manner determined by the authority to be desirable;

8 B. have at least one mechanism that accepts coins or
9 currency, but does not accept bills of denominations greater
10 than twenty dollars (\$20.00);

11 C. be capable of having play suspended through the
12 central system by the authority until the authority resets the
13 gaming machine;

14 D. house nonresettable mechanical and electronic
15 meters within a readily accessible locked area of the gaming
16 machine that maintain a permanent record of all money inserted
17 into the machine, all cash payouts of winnings, all refunds of
18 winnings made by the machine's printer, all credits played for
19 additional games and all credits won by players;

20 E. have a printing mechanism capable of printing out
21 at the request of the authority readings on the electronic
22 meters of the machine;

23 F. be capable of printing a ticket voucher stating
24 the value of a cash prize won by the player at the completion of
25 each game, the date and time of the day the game was played in a

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1 twenty-four hour format showing hours and minutes, the machine
2 serial number, the sequential number of the ticket voucher and
3 an encrypted validation number for determining the validity of a
4 winning ticket voucher;

5 G. be capable of being linked to the authority's
6 central system for the purpose of auditing the operation,
7 financial data and program information as required by the
8 authority;

9 H. provide for a payback value for each credit
10 wagered, determined over time, of not less than eighty percent
11 or more than ninety-six percent;

12 I. offer only games authorized and examined by the
13 authority; and

14 J. display the gaming machine license issued for
15 that machine in an easily accessible place, before and during
16 the time that a machine is available for use.

17 Section 30. [NEW MATERIAL] POSTING OF GAMING MACHINE
18 ODDS. -- The odds of winning on each gaming machine shall be
19 posted on or near each gaming machine. The authority shall
20 provide the manner in which the odds shall be posted by
21 regulation.

22 Section 31. [NEW MATERIAL] EXAMINATION OF MACHINES AND
23 EQUIPMENT-- COST ALLOCATION. --

24 A. The authority shall examine prototypes of gaming
25 devices of manufacturers seeking a license as required pursuant

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1 to the provisions of the Gaming Control Act.

2 B. The authority by regulation shall require the
3 manufacturer seeking the licensing of a gaming device to pay the
4 anticipated actual costs of the examination in advance and,
5 after the completion of the examination, shall refund
6 overpayments or charge and collect amounts sufficient to
7 reimburse the authority for underpayments of actual costs.

8 C. The authority may contract for the examination of
9 gaming devices to meet the requirements of this section.

10 Section 32. [NEW MATERIAL] GAMING TAX--IMPOSITION--
11 ADMINISTRATION.--

12 A. An excise tax is imposed upon the privilege of
13 conducting casino gaming in the state. This tax shall be known
14 as the "gaming tax".

15 B. The gaming tax is measured as a percentage of
16 gross revenue of a licensed gaming establishment. The rate of
17 the tax is twelve percent.

18 C. The gaming tax shall be administered and
19 collected by the taxation and revenue department in cooperation
20 with the authority, and the provisions of the Tax Administration
21 Act apply to the collection and administration of the tax.

22 Section 33. [NEW MATERIAL] GAMING FUND CREATED--
23 DISTRIBUTION OF ALL FEES AND TAXES TO THE GAMING FUND--
24 DISTRIBUTION FROM THE FUND.--

25 A. The "gaming fund" is created in the state

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1 treasury. All license fees collected pursuant to the Gaming
2 Control Act and all net proceeds of the gaming tax shall be
3 deposited into the gaming fund.

4 B. The gaming fund shall be invested as are other
5 state funds. Interest earned on the investment of the fund
6 shall be retained in the fund.

7 C. Money in the gaming fund is appropriated as
8 follows:

9 (1) the receipts to the fund from license fees
10 and other administrative impositions to the authority to
11 administer the Gaming Control Act; and

12 (2) the balance to the general fund;

13 Section 34. [NEW MATERIAL] FRAUDULENT ACTS--PENALTY.--

14 A. A person commits an offense if the person
15 knowingly:

16 (1) alters or misrepresents the outcome of a
17 game or other event on which wagers have been made after the
18 outcome is made sure but before it is revealed to the players;

19 (2) places, increases or decreases a bet or
20 determines the course of play after acquiring knowledge not
21 available to all players of the outcome of the game or any event
22 that affects the outcome of the game or that is the subject of
23 the bet or to aid anyone in acquiring that knowledge for the
24 purpose of placing, increasing or decreasing a bet or
25 determining the course of play contingent upon that event or

1 outcome;

2 (3) claims, collects or takes, or attempts to
3 claim, collect or take, money or anything of value in or from a
4 gambling game, with intent to defraud, without having made a
5 wager contingent thereon, or claims, collects or takes an amount
6 greater than the amount won;

7 (4) entices or induces another to go to any
8 place where a gambling game is being conducted or operated in
9 violation of the provisions of the Gaming Control Act, with the
10 intent that the other person play or participate in that
11 gambling game;

12 (5) places or increases a bet after acquiring
13 knowledge of the outcome of the game or other event that is the
14 subject of the bet, including past-posting and pressing bets;

15 (6) reduces the amount wagered or cancels the
16 bet after acquiring knowledge of the outcome of the game or
17 other event that is the subject of the bet, including pinching
18 bets; or

19 (7) manipulates, with the intent to cheat, any
20 component of a gaming device in a manner contrary to the
21 designed and normal operational purpose for the component,
22 including, but not limited to, varying the pull of the handle of
23 a slot machine, with knowledge that the manipulation affects the
24 outcome of the game or with knowledge of any event that affects
25 the outcome of the game.

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1 B. An offense under this section is a fourth degree
2 felony, and upon conviction a person shall be sentenced pursuant
3 to the provisions of Section 31-18-15 NMSA 1978.

4 Section 35. [NEW MATERIAL] USE OF DEVICE FOR CALCULATING
5 PROBABILITIES. --

6 A. A person commits an offense who, at a licensed
7 gaming establishment, uses or possesses with the intent to use
8 any device to assist:

9 (1) in projecting the outcome of the game;

10 (2) in keeping track of the cards played;

11 (3) in analyzing the probability of the
12 occurrence of an event relating to the game; or

13 (4) in analyzing the strategy for playing or
14 betting to be used in the game.

15 B. An offense under this section is a misdemeanor,
16 and upon conviction a person shall be sentenced pursuant to the
17 provisions of Section 31-19-1 NMSA 1978.

18 Section 36. [NEW MATERIAL] USE OF COUNTERFEIT OR
19 UNAPPROVED CHIPS OR TOKENS OR UNLAWFUL COINS OR DEVICES--
20 POSSESSION OF CERTAIN DEVICES, EQUIPMENT, PRODUCTS OR
21 MATERIALS. --

22 A. A person commits an offense who knowingly uses
23 counterfeit chips in a gambling game.

24 B. A person commits an offense who, in playing or
25 using any gambling game designed to be played with, receive or

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1 be operated by chips or tokens approved by the board or by
2 lawful currency of the United States knowingly uses chips or
3 tokens other than those approved by the authority, uses currency
4 that is not lawful currency of the United States or uses
5 currency not of the same denomination as the currency intended
6 to be used in that gambling game.

7 C. A person other than a duly authorized employee of
8 a gaming establishment licensee or of the authority acting in
9 furtherance of his employment within a licensed establishment
10 commits an offense who knowingly has on his person or in his
11 possession on or off the premises of any licensed gaming
12 establishment any device intended to be used by him to violate
13 the provisions of the Gaming Control Act.

14 D. A person other than a duly authorized employee of
15 a gaming establishment licensee acting in furtherance of his
16 employment within a licensed establishment commits an offense
17 who knowingly has on his person or in his possession on or off
18 the premises of any licensed gaming establishment any key or
19 device known by him to have been designed for the purpose of and
20 suitable for opening, entering or affecting the operation of any
21 gambling game, drop box or any electronic or mechanical device
22 connected thereto, or for removing money or other contents
23 therefrom.

24 E. A person commits an offense who knowingly and
25 with intent to use them for cheating has on his person or in his

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1 possession any paraphernalia for manufacturing slugs. As used
2 in this subsection, "paraphernalia for manufacturing slugs"
3 means the equipment, products and materials that are intended
4 for use or designed for use in manufacturing, producing,
5 fabricating, preparing, testing, analyzing, packaging, storing
6 or concealing a counterfeit facsimile of the chips or tokens
7 approved by the board or a lawful coin of the United States, the
8 use of which is unlawful pursuant to the Gaming Control Act.

9 The term includes but is not limited to:

- 10 (1) lead or lead alloys;
- 11 (2) molds, forms or similar equipment capable
12 of producing a likeness of a gaming token or coin;
- 13 (3) melting pots or other receptacles;
- 14 (4) torches; and
- 15 (5) tongs, trimming tools or other similar
16 equipment.

17 F. Possession of more than two items of the
18 equipment, products or material described in Subsection E of
19 this section permits a rebuttable inference that the possessor
20 intended to use them for cheating.

21 G. An offense under this section is a third degree
22 felony and upon conviction a person shall be sentenced pursuant
23 to the provisions of Section 31-18-15 NMSA 1978.

24 Section 37. [NEW MATERIAL] CHEATING. --

25 A. A person commits an offense who knowingly cheats

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1 at any gambling game.

2 B. An offense under this section is a fourth degree
3 felony and upon conviction a person shall be sentenced pursuant
4 to the provisions of Section 31-18-15 NMSA 1978.

5 Section 38. [NEW MATERIAL] PENALTY FOR POSSESSION OF
6 DEVICE, EQUIPMENT OR MATERIAL MANUFACTURED, SOLD OR DISTRIBUTED
7 IN VIOLATION OF LAW. --

8 A. A person commits an offense who knowingly
9 possesses any gaming device that has been manufactured, sold or
10 distributed in violation of the Gaming Control Act.

11 B. An offense under this section is a fourth degree
12 felony and upon conviction a person shall be sentenced pursuant
13 to the provisions of Section 31-18-15 NMSA 1978.

14 Section 39. [NEW MATERIAL] UNLAWFUL MANUFACTURE, SALE,
15 DISTRIBUTION, MARKING, ALTERING OR MODIFICATION OF EQUIPMENT AND
16 DEVICES ASSOCIATED WITH GAMING--UNLAWFUL INSTRUCTION. --

17 A. A person commits an offense who manufactures,
18 sells or distributes any cards, chips, dice, game or device that
19 is intended by him to be used to violate any provision of the
20 Gaming Control Act.

21 B. A person commits an offense who marks, alters or
22 otherwise modifies any associated equipment or gaming device in
23 a manner that:

24 (1) affects the result of a wager by
25 determining win or loss; or

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[bracketed material] = delete

1 (2) alters the normal criteria of random
2 selection, which affects the operation of a game or which
3 determines the outcome of a game.

4 C. A person commits an offense who instructs another
5 in cheating or in the use of any device for that purpose with
6 the knowledge or intent that the information or use so conveyed
7 may be employed to violate any provision of the Gaming Control
8 Act.

9 D. An offense under this section is a fourth degree
10 felony, and upon conviction a person shall be sentenced pursuant
11 to the provisions of Section 31-18-15 NMSA 1978.

12 Section 40. [NEW MATERIAL] REPORTING AND RECORD
13 VIOLATIONS--PENALTY.--

14 A. A person commits an offense if the person, in a
15 license application, in a book or record required to be
16 maintained by the Gaming Control Act or by a regulation adopted
17 under that act, or in a report required to be submitted by that
18 act:

19 (1) knowingly makes a statement or entry that
20 the person knows to be false or misleading; or

21 (2) fails to maintain or make an entry the
22 person knows is required to be maintained or made.

23 B. A person commits an offense if the person
24 knowingly refuses to produce for inspection by the authority a
25 book, record or document required to be maintained or made by

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1 the Gaming Control Act or a regulation adopted under that act.

2 C. An offense under this section is a fourth degree
3 felony, and upon conviction a person shall be sentenced pursuant
4 to the provisions of Section 31-18-15 NMSA 1978.

5 Section 41. [NEW MATERIAL] GAMING BY INDIVIDUAL UNDER
6 TWENTY-ONE YEARS OF AGE. --

7 A. A person commits an offense if the person
8 knowingly permits an individual who the person knows is younger
9 than twenty-one years of age to participate in gaming.

10 B. An individual commits an offense if the
11 individual participates in gaming and the individual is younger
12 than twenty-one years of age at the time of participation.

13 C. An offense under this section is a misdemeanor,
14 and upon conviction a person shall be sentenced pursuant to the
15 provisions of Section 31-19-1 NMSA 1978.

16 Section 42. [NEW MATERIAL] GENERAL PENALTIES FOR
17 VIOLATION OF ACT. --

18 A. A person commits an offense who willfully
19 violates, attempts to violate or conspires to violate any of the
20 provisions of the Gaming Control Act specifying prohibited acts.

21 B. Any offense under the Gaming Control Act, the
22 classification of which is not specifically stated in that act,
23 is a misdemeanor, and upon conviction a person shall be
24 sentenced pursuant to the provisions of Section 31-19-1 NMSA
25 1978.

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1 Section 43. [NEW MATERIAL] DETENTION AND QUESTIONING OF
2 PERSON SUSPECTED OF VIOLATING ACT--LIMITATIONS ON LIABILITY--
3 POSTING OF NOTICE.--

4 A. Any gaming establishment licensee or its
5 officers, employees or agents may question any person in its
6 establishment suspected of violating any of the provisions of
7 the Gaming Control Act. No gaming establishment licensee or any
8 of its officers, employees or agents is criminally or civilly
9 liable:

10 (1) on account of any such questioning; or

11 (2) for reporting to the authority or law
12 enforcement authorities the person suspected of the violation.

13 B. Any gaming establishment licensee or any of its
14 officers, employees or agents who has reasonable cause for
15 believing that there has been a violation of the Gaming Control
16 Act in its establishment by any person may take that person into
17 custody and detain him in the establishment in a reasonable
18 manner and for a reasonable length of time. Such a taking into
19 custody and detention does not render the licensee or his
20 officers, employees or agents criminally or civilly liable
21 unless it is established by clear and convincing evidence that
22 the taking into custody and detention are unreasonable under all
23 the circumstances.

24 C. No gaming establishment licensee or its officers,
25 employees or agents is entitled to the immunity from liability

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1 provided for in Subsection B of this section unless there is
2 displayed in a conspicuous place in the establishment a notice
3 in boldface type clearly legible and in substantially this form:

4 "Any gaming establishment licensee or any of his officers,
5 employees or agents who has reasonable cause for believing
6 that any person has violated any provision of the Gaming
7 Control Act prohibiting cheating in gaming may detain that
8 person in the establishment."

9 Section 44. [NEW MATERIAL] ADMINISTRATIVE APPEAL OF
10 AUTHORITY ACTION. --

11 A. Any person aggrieved by an action taken by the
12 authority may request and receive a hearing for the purpose of
13 reviewing the action. To obtain a hearing, the aggrieved person
14 shall file a request for hearing with the authority within
15 thirty days after the date the action is taken. Failure to file
16 the request within the specified time is an irrevocable waiver
17 of the right to a hearing, and the action complained of shall be
18 final with no further right to review, either administratively
19 or by a court.

20 B. The authority shall adopt procedural regulations
21 to govern the procedures to be followed in administrative
22 hearings pursuant to the provisions of this section. As a
23 minimum, the regulations shall provide:

- 24 (1) for the hearings to be public;
25 (2) for the appointment of a hearing officer to

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1 conduct the hearing and make his recommendation to the board not
2 more than ten days after the completion of the hearing;

3 (3) procedures for discovery;

4 (4) assurance that procedural due process
5 requirements are satisfied;

6 (5) for the maintenance of a record of the
7 hearing proceedings and assessment of costs of any transcription
8 of testimony that is required for judicial review purposes; and

9 (6) for the place of the hearing to be in Santa
10 Fe for hearings on actions of statewide application and for
11 enforcement hearings on actions of statewide application and for
12 enforcement hearings and for hearings on actions of limited
13 local concern to be held in the place or area affected.

14 C. Actions taken by the authority after a hearing
15 pursuant to the provisions of this section shall be:

16 (1) written and shall state the reasons for the
17 action;

18 (2) made public when taken;

19 (3) communicated to all persons that have made
20 a written request for notification of the action taken; and

21 (4) taken within not more than thirty days
22 after the submission of the hearing officer's report to the
23 authority.

24 Section 45. [NEW MATERIAL] JUDICIAL REVIEW OF
25 ADMINISTRATIVE ACTIONS. --

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1 A. Any person adversely affected by an action taken
2 by the board after review pursuant to the provisions of Section
3 44 of the Gaming Control Act may appeal the action to the court
4 of appeals. The appeal shall be on the record made at the
5 hearing. To support his appeal, the appellant shall make
6 arrangements with the board for a sufficient number of
7 transcripts of the record of the hearing on which the appeal is
8 based. The appellant shall pay for the preparation of the
9 transcripts.

10 B. On appeal, the court of appeals shall set aside
11 the administrative action only if it is found to be:

12 (1) arbitrary, capricious or an abuse of
13 discretion;

14 (2) not supported by substantial evidence in
15 the whole record; or

16 (3) otherwise not in accordance with law.

17 Section 46. Section 7-1-2 NMSA 1978 (being Laws 1965,
18 Chapter 248, Section 2, as amended) is amended to read:

19 "7-1-2. APPLICABILITY. --The Tax Administration Act applies
20 to and governs:

21 A. The administration and enforcement of the
22 following taxes or tax acts as they now exist or may hereafter
23 be amended:

24 (1) Income Tax Act;

25 (2) Withholding Tax Act;

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1 (3) Gross Receipts and Compensating Tax Act and
2 any state gross receipts tax;

3 (4) Liquor Excise Tax Act;

4 (5) Local Liquor Excise Tax Act;

5 [~~(6)~~ ~~Banking and Financial Corporations Tax~~
6 ~~Act~~;

7 ~~(7)~~ (6) any municipal local option gross
8 receipts tax;

9 [~~(8)~~ (7) any county local option gross
10 receipts tax;

11 [~~(9)~~ (8) Special Fuels Supplier Tax Act;

12 [~~(10)~~ (9) Gasoline Tax Act;

13 [~~(11)~~ (10) petroleum products loading fee,
14 which fee shall be considered a tax for the purpose of the Tax
15 Administration Act;

16 [~~(12)~~ (11) Cigarette Tax Act;

17 [~~(13)~~ (12) Estate Tax Act;

18 [~~(14)~~ (13) Railroad Car Company Tax Act;

19 [~~(15)~~ (14) Investment Credit Act;

20 [~~(16)~~ (15) Corporate Income Tax Act;

21 [~~(17)~~ (16) Corporate Income and Franchise Tax
22 Act;

23 [~~(18)~~ (17) Uniform Division of Income for Tax
24 Purposes Act;

25 [~~(19)~~ (18) Multistate Tax Compact;

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1 [~~(20)~~] (19) Tobacco Products Tax Act;
2 [~~(21)~~] (20) Filmmaker's Credit Act; and
3 [~~(22)~~] (21) the telecommunications relay
4 service surcharge imposed by Section 63-9F-11 NMSA 1978, which
5 surcharge shall be considered a tax for the purposes of the Tax
6 Administration Act;

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

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

- 20 (10) Copper Production Ad Valorem Tax Act; and
- 21 (11) any advance payment required to be made by
22 any act specified in this subsection, which advance payment
23 shall be considered a tax for the purposes of the Tax
24 Administration Act;

25 C. the administration and enforcement of the

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1 following taxes, surcharges, fees or acts as they now exist or
2 may hereafter be amended:

3 (1) Weight Distance Tax Act;
4 (2) Special Fuels Tax Act;
5 (3) the workers' compensation fee authorized by
6 Section 52-5-19 NMSA 1978, which fee shall be considered a tax
7 for purposes of the Tax Administration Act;

8 (4) Controlled Substance Tax Act;
9 (5) Uniform Unclaimed Property Act;
10 (6) 911 emergency surcharge and the network and
11 database surcharge, which surcharges shall be considered taxes
12 for purposes of the Tax Administration Act;

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

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

19 (9) the gaming tax imposed pursuant to the
20 Gaming Control Act.

21 D. the administration and enforcement of all other
22 laws, with respect to which the department is charged with
23 responsibilities pursuant to the Tax Administration Act, but
24 only to the extent that such other laws do not conflict with the
25 Tax Administration Act. "

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1 Section 47. A new section of the Tax Administration Act is
2 enacted to read:

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

7 Section 48. Section 10-15-1 NMSA 1978 (being Laws 1974,
8 Chapter 91, Section 1, as amended) is amended to read:

9 "10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN
10 MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED
11 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, rule, regulation or formal action
3 occurs and at which a majority or quorum of the body is in
4 attendance, and any closed meetings, shall be held only after
5 reasonable notice to the public. The affected body shall
6 determine at least annually in a public meeting what notice for
7 a public meeting is reasonable when applied to that body. That
8 notice 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.

3 Except for emergency matters, a public body shall take action
4 only on items appearing on the agenda. For purposes of this
5 subsection, an "emergency" refers to unforeseen circumstances
6 that, if not addressed immediately by the public body, will
7 likely result in injury or damage to persons or property or
8 substantial financial loss to 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 and that portion of meetings at which the
12 contents of competitive sealed proposals solicited pursuant to
13 the Procurement Code are discussed during the contract
14 negotiation process. The actual approval of purchase of the
15 item or final action regarding the selection of a contractor
16 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

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

3 (10) those portions of meetings of the gaming
4 authority held pursuant to the Gaming Control Act at which
5 security and investigative information is presented to the
6 board.

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

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

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

25 J. Following completion of any closed meeting, the

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

8 Section 49. Section 30-19-6 NMSA 1978 (being Laws 1963,
9 Chapter 303, Section 19-6, as amended) is amended to read:

10 "30-19-6. PERMISSIVE LOTTERY--EXEMPTIONS. --

11 A. Nothing in [~~Article 19~~] Chapter 30, Article 19
12 NMSA 1978 shall be construed to apply to any sale or drawing of
13 any prize at any fair held in this state for the benefit of any
14 church, public library or religious society situate or being in
15 this state, or for charitable purposes when all the proceeds of
16 [~~such~~] the fair shall be expended in this state for the benefit
17 of [~~such~~] the church, public library, religious society or
18 charitable purposes.

19 A lottery shall be operated for the benefit of the
20 organization or charitable purpose only when the entire proceeds
21 of the lottery go to the organization or charitable purpose and
22 no part of such proceeds go to any individual member or employee
23 thereof.

24 B. Nothing in [~~Article 19~~] Chapter 30, Article 19
25 NMSA 1978 shall be held to prohibit any bona fide motion picture

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1 theater from offering prizes of cash or merchandise for
2 advertising purposes, in connection with such business or for
3 the purpose of stimulating business, whether or not any
4 consideration other than a monetary consideration in excess of
5 the regular price of admission is exacted for participation in
6 drawings for prizes.

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

14 D. Nothing in [~~Article 19~~] Chapter 30, Article 19
15 NMSA 1978 shall be construed to apply to any lottery operated by
16 an organization exempt from the state income tax pursuant to
17 Subsection [~~C~~] B of Section 7-2-4 NMSA 1978 and not subject to
18 the 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 E. Gaming activities and activities associated with
5 gaming permitted pursuant to the Gaming Control Act are neither
6 prohibited nor subject to prosecution pursuant to any provision
7 of Chapter 30, Article 19 NMSA 1978. "

8 Section 50. Section 60-7A-19 NMSA 1978 (being Laws 1981,
9 Chapter 39, Section 96) is amended to read:

10 "60-7A-19. COMMERCIAL GAMBLING ON LICENSED PREMISES. --

11 A. It is a violation of the Liquor Control Act for a
12 licensee to knowingly allow commercial gambling on the licensed
13 premises.

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

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

19 (1) "commercial gambling" means:

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

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

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

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

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

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

9 (2) "commercial gambling" does not include
10 activities authorized pursuant to the New Mexico Lottery Act or
11 the Gaming Control Act. "

12 Section 51. SEVERABILITY. --If any part or application of
13 this act is held invalid, the remainder or its application to
14 other situations or persons shall not be affected.

15 Section 52. EFFECTIVE DATE. --The effective date of the
16 provisions of this act is July 1, 1996.

1 FORTY- SECOND LEGISLATURE

2 SECOND SESSION, 1996

3
4
5
6 FEBRUARY 1, 1996

7
8 Mr. President:

9
10 Your COMMITTEES' COMMITTEE, to whom has been referred

11
12 SENATE BILL 701

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

18
19 Respectfully submitted,

20
21
22
23
24
25 _____
SENATOR MANNY M. ARAGON, Chairman

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Adopted _____ Not Adopted _____

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(Chief Clerk)

(Chief Clerk)

Date _____

S0701CC1

1 FORTY-SECOND LEGISLATURE

2 SECOND SESSION, 1996

3
4
5
6 February 2, 1996

7
8 Mr. President:

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

11
12 SENATE BILL 701

13
14 has had it under consideration and reports same with recommendation that

15 it DO NOT PASS, and that

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17
18 SENATE COMMITTEE OF THE WHOLE SUBSTITUTE FOR

19 SENATE BILL 701

20
21 be reported WITHOUT RECOMMENDATION.

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24 Respectfully submitted,

Manny M. Aragon, Chairman

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(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was by voice vote

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SENATE COMMITTEE OF THE WHOLE SUBSTITUTE FOR

SENATE BILL 701

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

AN ACT

RELATING TO GAMING; ENACTING THE VIDEO GAMING ACT; PROVIDING FOR
VIDEO MACHINE GAMING AT RACETRACKS, LICENSED RESORTS, LICENSED
LIQUOR ESTABLISHMENTS AND LICENSED CLUBS; CREATING A FUND AND
PROVIDING FOR DISTRIBUTION OF REVENUE; PROVIDING FOR A DEDUCTION
FROM GROSS RECEIPTS OF RECEIPTS FROM THE OPERATION OF VIDEO
GAMING MACHINES; PROVIDING FOR LOCAL OPTION REFERENDA ON CERTAIN
VIDEO GAMING; PROVIDING PENALTIES; AMENDING AND ENACTING
SECTIONS OF THE NMSA 1978; MAKING APPROPRIATIONS; DECLARING AN
EMERGENCY.

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

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

Section 2. [NEW MATERIAL] PURPOSE. -- The purpose of the

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Video Gaming Act is to:

A. establish video gaming to provide revenue that will benefit the state and its citizens;

1 B. regulate the use, operation, distribution and
2 manufacture of video gaming machines in the state; and

3 C. take all actions necessary to ensure the integrity,
4 reliability and security of all games of chance not otherwise
5 subject to regulation by another agency or authority created by
6 state or federal law.

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

10 A. regulation of video gaming is critical to ensure
11 that it is conducted honestly and uniformly throughout New
12 Mexico and to maintain the integrity of video gaming in the
13 state; and

14 B. the public's confidence and trust in the conduct of
15 permitted video gaming activities can be obtained and maintained
16 only through strict regulation of all persons, locations,
17 practices, associations and activities related directly or
18 indirectly to nontribal video gaming conducted in the state.

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

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

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1 devices;

2 B. "charitable organization" means an organization
3 described in Section 501(c)(3) of the federal Internal Revenue Code
4 of 1986, that is exempt from federal income taxation pursuant to
5 Section 501(a) of that code and that has been issued a license
6 pursuant to the Bingo and Raffle Act;

7 C. "committee" means the legislative lottery and gaming
8 oversight committee that oversees the operation of video gaming in
9 the state and is created in the Video Gaming Act;

10 D. "director" means the director of the division;

11 E. "distributor" means any person who distributes or
12 sells video gaming machines or associated equipment in New Mexico;

13 F. "division" means the alcohol and gaming division of
14 the regulation and licensing department;

15 G. "electronic pull tab machine" means any pull tab
16 machine that is electronically operated and uses any number, letter
17 or symbol, or combination of numbers, letters or symbols, to play a
18 pull tab game and does not dispense cash payments;

19 H. "gaming administration personnel" means those
20 employees of the division who administer the provisions of the
21 Video Gaming Act and the regulations adopted pursuant to that act.
22 "Gaming administration personnel" does not include security
23 division personnel;

24 I. "licensed charitable organization" means a charitable
25 organization that has been issued a license as a video gaming

1 licensee pursuant to the Vide Gaming Act as a video gaming licensee
 2 to permit the conduct of video gaming on the premises of the
 3 charitable organization;

4 J. "licensed club" means a nonprofit organization that
 5 has been licensed pursuant to the Video Gaming Act as a video
 6 gaming licensee to permit the conduct of video gaming on the
 7 premises of that nonprofit organization;

8 K. "licensed liquor establishment" means a liquor
 9 establishment that has been issued a license pursuant to the Video
 10 Gaming Act as a video gaming licensee to permit the conduct of
 11 video gaming on the premises of the liquor establishment;

12 L. "licensed resort" means a resort that has been issued
 13 a license pursuant to the Video Gaming Act as a video gaming
 14 licensee to permit the conduct of video gaming on the premises of
 15 the resort;

16 M. "licensee" means any person who is granted a license
 17 pursuant to the Video Gaming Act;

18 N. "liquor establishment" means a person who has been
 19 issued a license pursuant to Section 60-6A-3 or 60-6A-4 NMSA 1978
 20 whose licensed premises has a permanent seating capacity for more
 21 than thirty patrons and whose premises has a permanent physical
 22 barrier creating an age-restricted area if persons under the age of
 23 twenty-one are permitted on the licensed premises;

24 O. "lottery" means the New Mexico state lottery;

25 P. "major procurement" means any procurement or contract

1 for the purchase or lease of facilities, equipment, goods or
2 services used primarily for the regulation and control of video
3 gaming, the value of which is in excess of twenty thousand dollars
4 (\$20,000), including computer equipment, accounting, consulting or
5 other procurements deemed necessary by the superintendent;

6 Q. "manufacturer" means any person who assembles or
7 produces video gaming machines or associated equipment to be sold
8 or used in New Mexico;

9 R. "net take" means the total of all receipts paid by
10 patrons to play video gaming machines less the total of all cash,
11 annuities or other things of value paid out in prizes;

12 S. "nonprofit organization" means any organization,
13 described in Section 501(c)(8), (10), (19) or (23) of the federal
14 Internal Revenue Code of 1986, exempt from federal income taxation
15 pursuant to Section 501(a) of that code and that has been issued a
16 license pursuant to Section 60-6A-5 NMSA 1978;

17 T. "operator" means any person who enters into a contract
18 or other arrangement with a video gaming licensee for a percentage
19 of the receipts from a video gaming machine or who otherwise
20 leases, services or places a video gaming machine or associated
21 equipment on the premises of a video gaming licensee;

22 U. "person" means an individual or any legal entity,
23 including a partnership, joint venture, limited partnership,
24 limited liability company or corporation;

25 V. "racetrack" means a horse racetrack in New Mexico

1 licensed pursuant to the Horse Racing Act;

2 W. "regulation" means a rule, regulation, order, standard
3 or statement of policy issued or adopted by the superintendent
4 regarding the regulation or operation of video gaming in the state;

5 X. "resort" means a house or complex of buildings that
6 has available for public lodging at least one hundred fifty guest
7 rooms and that has on the same premises a restaurant that has
8 seating for and can serve meals to at least two hundred patrons at
9 one time;

10 Y. "security director" means the director of the security
11 division;

12 Z. "security division" means the gaming security division
13 of the regulation and licensing department;

14 AA. "superintendent" means the superintendent of
15 regulation and licensing;

16 BB. "vendor" means any person who provides a major
17 procurement under contract with the division or security division;

18 CC. "video amusement machine" means an electronic or
19 electromechanical device, contrivance or machine that may be
20 available for play upon the payment of consideration and when
21 played may, by reason of the skill of the player accompanied by
22 some chance, entitle the player to receive additional play on the
23 same or a similar video amusement machine or a voucher or credit
24 slip that may be exchanged for merchandise of insignificant value;

25 DD. "video game" means a game of chance played on a video

1 gaming machine;

2 EE. "video gaming licensee" means a racetrack, a
3 nonprofit organization, a charitable organization, a resort or a
4 liquor establishment that has obtained a license pursuant to the
5 Video Gaming Act to have video gaming machines in operation on the
6 licensee's premises;

7 FF. "video gaming machine" means any electronic or
8 electromechanical device, contrivance or machine that is available
9 for 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 cash, coins, premiums, merchandise,
12 credits, tokens or a voucher, whether by reason of the skill of the
13 player or application of the element of chance, or both; "video
14 gaming machine" includes electronic pull tab machines but does not
15 include video amusement machines; and

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

20 Section 5. [NEW MATERIAL] LOTTERY AND GAMING OVERSIGHT
21 COMMITTEE-- DUTIES-- COMPENSATION. --

22 A. There is created a joint interim legislative oversight
23 committee, which shall be known as the "lottery and gaming
24 oversight committee". The committee shall function from the date
25 of its appointment until the first day of December prior to the

1 second session of the forty-fifth legislature.

2 B. The committee shall be composed of ten members. Five
3 members of the house of representatives shall be appointed by the
4 speaker of the house of representatives, and five members of the
5 senate shall be appointed by the committees' committee of the
6 senate or, if the senate appointments are made in the interim, by
7 the president pro tempore of the senate after consultation with and
8 agreement of a majority of the members of the committees'
9 committee. Members shall be appointed so that there is a member
10 from each of the major political parties from each house. No
11 person who has or later acquires an ownership interest in any
12 vendor or licensee shall serve on the committee.

13 C. The committee shall oversee the start-up, operations
14 and regulation of video gaming, as well as periodically review and
15 evaluate the success with which the superintendent is accomplishing
16 his duties and regulating video gaming activity pursuant to the
17 Video Gaming Act. The committee may conduct any independent audit
18 or investigation of the gaming functions of the regulation and
19 licensing department it deems necessary.

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

24 E. The committee shall report its findings and
25 recommendations on video gaming to each regular session of the

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1 legislature.

2 F. The committee shall perform duties as required by the
3 New Mexico Lottery Act in addition to the duties specified in this
4 section.

5 Section 6. [NEW MATERIAL] SUPERINTENDENT--DUTIES.--

6 A. The superintendent shall adopt all regulations
7 necessary to administer the Video Gaming Act and to assure the
8 honest and secure operation of video gaming in the state.

9 B. The superintendent shall clearly delegate areas of
10 authority to the director and to the security director to prevent
11 duplication of staff effort, but shall retain the ultimate
12 decision-making authority in all areas of operation or
13 administration of the Video Gaming Act.

14 C. The superintendent shall oversee and review all
15 actions taken by the director or the security director. The
16 director and the security director shall report directly to the
17 superintendent.

18 Section 7. [NEW MATERIAL] SUPERINTENDENT--DIRECTOR--SECURITY
19 DIRECTOR--APPOINTMENT--BACKGROUND INVESTIGATION.--

20 A. The governor shall appoint the superintendent, the
21 director and the security director, who shall all serve at the
22 pleasure of the governor.

23 B. The superintendent and director shall have extensive
24 employment experience in supervisory, administrative and management
25 positions. A person appointed as superintendent or director prior

1 to the date on which the Video Gaming Act becomes effective shall
2 submit to a background investigation to be conducted by the
3 department of public safety, the costs of which shall be reimbursed
4 by the regulation and licensing department.

5 C. The security director shall have five years of work
6 experience in supervisory, administrative or management positions
7 in law enforcement or security and shall have completed training at
8 a law enforcement academy or an equivalent law enforcement program.

9 D. A background investigation shall be conducted on each
10 applicant for the positions of superintendent, director or security
11 director who has reached the final selection process. The
12 department of public safety shall perform the investigations and
13 shall be reimbursed from funds of the regulation and licensing
14 department. Background investigations shall include but are not
15 limited to credit checks, police record checks, conviction record
16 checks, national and statewide criminal records clearinghouse
17 checks and fingerprint checks. All information obtained through a
18 background investigation shall be confidential, except that the
19 superintendent may exchange such confidential information with
20 state, federal and local law enforcement agencies.

21 E. Any individual convicted of a felony or any crime
22 involving gambling, moral turpitude, fraud or theft shall not be
23 eligible for the position of superintendent, director or security
24 director. The superintendent, director or security director shall
25 report his arrest for or conviction of a felony or any crime

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1 involving gambling, moral turpitude, fraud or theft to the governor
2 within three days of the arrest or conviction.

3 Section 8. [NEW MATERIAL] DIRECTOR-- POWERS-- DUTIES. --

4 A. The director has authority and shall exercise strict
5 control and close supervision over video gaming conducted in this
6 state to promote and ensure integrity, security, honesty and
7 fairness in the operation, administration and regulation of video
8 gaming.

9 B. The director has authority to contract for, purchase
10 or lease equipment, goods or services, including consultants,
11 marketing representatives, financial services, technical services
12 and advertisers necessary for effectuating the purposes of the
13 Video Gaming Act.

14 C. The director shall regulate the operation of video
15 games. The director may approve new technologies in video games
16 and video gaming as it becomes available. The director shall
17 approve new video games for play in the state. The director shall
18 exclude any game that he deems to be unfair or misleading or may
19 exclude any game that he deems to be not financially beneficial to
20 the state.

21 D. The director shall authorize video gaming licensees to
22 begin to operate video games by February 1, 1997, unless the
23 superintendent determines in his sole discretion that
24 implementation by that date will compromise the secure operation of
25 video gaming in New Mexico.

1 E. The director shall implement all regulations necessary
2 to administer the Video Gaming Act.

3 F. The director has authority to determine the prize
4 structure for each game, including the authority to authorize the
5 payment of prizes in installments and to administer the regulation
6 of payment of video game prizes. However, any prize paid in excess
7 of two hundred fifty thousand dollars (\$250,000) shall be paid with
8 an annuity, the term of which shall be determined by the director.

9 G. The director shall make a continuous study of the
10 Video Gaming Act, the regulations adopted pursuant to that act,
11 similar existing laws in other states and the concerns of citizens
12 regarding existing and potential features of video gaming to
13 ascertain any improvement and operational efficiencies beneficial
14 to the state or its residents. The director shall report his
15 findings to the superintendent and the committee for the purposes
16 of making recommendations for improving the Video Gaming Act, the
17 regulations adopted pursuant to that act or the regulation of video
18 gaming in the state.

19 H. The director shall supervise the gaming administration
20 personnel.

21 I. The director shall cooperate and coordinate the gaming
22 administration activities of the division with the security
23 director whenever necessary and appropriate.

24 J. The director shall exercise the authority and perform
25 all duties delegated to him by the superintendent and the Video

1 Gaming Act.

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

3 A. The regulations adopted by the superintendent and
4 administered by the director and the security director pursuant to
5 the Video Gaming Act shall include regulations governing:

6 (1) security for video games;

7 (2) application requirements for licensees,
8 including disclosure requirements related to the ownership and
9 control of licensees, the applicant's financial responsibility, the
10 security of the applicant's place of business, the integrity and
11 reputation of the applicant and other disclosures necessary to
12 evaluate the competence, background, integrity or character of the
13 licensee, but shall not consider political affiliation, activities
14 or monetary contributions to political organizations or candidates
15 for any public office;

16 (3) the definition of "a person with a substantial
17 interest", which shall include a person with an ownership interest
18 of five percent or more in a licensee or vendor and employees of
19 vendors or licensees in management positions or having management
20 responsibilities;

21 (4) the manner and schedule of implementation of
22 video gaming authorized by and consistent with the Video Gaming
23 Act;

24 (5) enforcement of prohibitions on the playing of
25 video games by or for an individual younger than twenty-one years

1 of age;

2 (6) specific games to be conducted within the
3 categories of video games to ensure that no specific game is
4 operated that is unfair or misleading;

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

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

12 (9) procedures to ensure that only valid vouchers
13 are paid;

14 (10) procedures for collecting from winners of
15 prizes in excess of six hundred dollars (\$600) money owed for
16 delinquent child support or taxes;

17 (11) methods and limitations on marketing and
18 advertising;

19 (12) qualifications of vendors or licensees;

20 (13) mechanical and electronic standards for video
21 gaming machines ensuring the integrity, honesty and security of the
22 machines, which standards shall not be more lenient than those
23 applied to similar machines in lawful use within the United States
24 by any other jurisdiction regulating the conduct of video gaming;

25 (14) operations of distributors and operators to

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1 ensure their compliance with the Video Gaming Act;

2 (15) insurance and bonding requirements for vendors
3 or licensees;

4 (16) minimum requirements for plans to be submitted
5 by each video gaming licensee to identify how that licensee will
6 assist in the prevention, education and treatment of compulsive
7 gambling;

8 (17) registration of persons offering video
9 amusement machines for play and periodic inspections of the
10 premises where video amusement machines are available for play; and

11 (18) any other matter necessary or desirable as
12 determined by the superintendent to promote and ensure the
13 integrity, security, honesty and fairness of the operation and
14 administration of video gaming.

15 B. The regulations adopted pursuant to this section shall
16 be valid for no longer than a period of ten years following
17 adoption unless earlier reviewed and approved by the
18 superintendent.

19 Section 10. [NEW MATERIAL] ADMINISTRATION-- HEARING--
20 REGULATIONS. --

21 A. Regulations shall be adopted, amended or repealed only
22 after a public hearing by the superintendent. Notice of the
23 hearing shall be given at least twenty days in advance in a
24 newspaper of general circulation in the state and shall set forth
25 the proposed regulation, amendment or the regulation proposed to be

1 repealed. Written notice from the superintendent directed to the
 2 clerk of a municipality or county in which twenty percent or more
 3 of the licensed video gaming machines in the state are located
 4 shall be mailed at least twenty days prior to the hearing. The
 5 superintendent shall either approve or disapprove the proposed
 6 regulation or the amendment or repeal of a regulation within twenty
 7 days following the hearing.

8 B. Certified copies of any approved regulations shall be
 9 submitted to the committee and, as required, to the records center
 10 pursuant to the State Rules Act. Copies of the regulations in
 11 force shall be made available to any person upon request.

12 C. The superintendent shall adopt and promulgate
 13 regulations to implement this section and for the conduct of all
 14 hearings.

15 Section 11. [NEW MATERIAL] ADMINISTRATIVE PERSONNEL. --

16 A. The director shall appoint all gaming administration
 17 personnel necessary but shall not appoint security division
 18 personnel. The gaming administration personnel appointed by the
 19 director shall serve at the will of the director. In no event
 20 shall the gaming administration personnel appointed by the director
 21 exceed fifteen people, without the consent of the superintendent
 22 and after notifying the committee.

23 B. Gaming administration personnel are specifically
 24 exempted from the Personnel Act. The director, subject to the
 25 approval of the superintendent, shall set the salaries of the

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1 gaming administration personnel.

2 C. Personnel of the security division shall conduct
3 background investigations of all individuals seeking employment
4 with the director. The background investigations shall include
5 credit checks, police record checks, conviction record checks,
6 national and statewide criminal records clearinghouse checks and
7 fingerprint checks.

8 D. Any individual convicted of a felony or any crime
9 involving gambling, moral turpitude, fraud or theft shall not be
10 eligible for employment.

11 E. An individual employee of the gaming administration
12 personnel shall report his arrest for or conviction of a felony or
13 any crime involving gambling, moral turpitude, fraud or theft to
14 the director within three days of such arrest or conviction.

15 Section 12. [NEW MATERIAL] SECURITY DIVISION--BACKGROUND
16 INVESTIGATIONS--SECURITY AUDIT.--

17 A. The security director shall administer the security
18 division. The security director may employ security division
19 personnel as he considers necessary and shall ensure that security
20 division personnel are commissioned as peace officers. Security
21 division personnel are specifically exempt from the Personnel Act.
22 Security division personnel serve at the pleasure of the security
23 director. The security director, subject to approval of the
24 superintendent, shall set the salaries of the security division
25 personnel.

1 B. The department of public safety shall perform a full
2 criminal background investigation of a prospective investigator or
3 any other security division personnel. The department of public
4 safety shall report the findings to the security director except
5 for background information on the security director, which shall be
6 reported to the superintendent. The background investigations
7 shall include but are not limited to credit checks, police record
8 checks, conviction record checks, national and statewide criminal
9 records clearinghouse checks and fingerprint checks. The security
10 division shall reimburse the department of public safety for the
11 actual costs of an investigation. All information obtained through
12 a background investigation shall be confidential, except that the
13 security director may exchange such confidential information with
14 state, federal and local law enforcement agencies.

15 C. Any individual convicted of a felony or any crime
16 involving gambling, moral turpitude, fraud or theft shall not be
17 eligible for employment in the security division.

18 D. An individual employee of the security division
19 personnel shall report his arrest for or conviction of a felony or
20 any crime involving gambling, moral turpitude, fraud or theft to
21 the security director within three days of such arrest or
22 conviction.

23 E. By January 1, 1998 and at least once every two years
24 thereafter, the superintendent shall employ an independent firm
25 that is experienced in security, including computer security and

1 systems security, to conduct a comprehensive confidential study of
2 all aspects of video gaming security, including:

- 3 (1) regulation and licensing department personnel
4 security;
- 5 (2) vendor, licensee and racetrack security;
- 6 (3) security against fraudulent winning;
- 7 (4) computer system security, data communications,
8 database and systems security;
- 9 (5) gaming administration and security premises
10 security;
- 11 (6) security of payment procedures;
- 12 (7) security of video gaming machines; and
- 13 (8) other security aspects of video gaming
14 regulatory operations.

15 F. The security director shall provide the governor, the
16 committee and the superintendent with a copy of the confidential
17 security study.

18 G. The security director, after consultation with the
19 committee, shall develop a plan to improve the security of video
20 gaming based upon the recommendations of the confidential security
21 study; however, nothing in this section requires the security
22 director to implement any of the recommendations made in the
23 security study.

24 H. The security director shall keep files that he deems
25 necessary for the secure and efficient operation of the security

1 division.

2 I. The security director shall cooperate and coordinate
3 the activities of the security division with the director in order
4 to resolve security issues raised by the director to the greatest
5 extent possible. The security director shall exercise the
6 authority and perform the duties delegated to him by the
7 superintendent.

8 J. If at any time the volume of background
9 investigations required exceeds the capacity for the security
10 division to complete the investigations in a timely or effective
11 manner, the security director or superintendent may contract with
12 the department of public safety for completion of background
13 investigations as needed.

14 Section 13. [NEW MATERIAL] INFORMATION AND DATA--
15 CONFIDENTIALITY--DISCLOSURE. --

16 A. All of the following information and data are
17 confidential and may be revealed in whole or in part only in the
18 course of the necessary administration of the Video Gaming Act or
19 upon the lawful order of a court of competent jurisdiction, except
20 that the security director may reveal confidential information and
21 data to an authorized agent of any governmental agency pursuant to
22 a reciprocal agreement with the other governmental agency to share
23 information and maintain confidentiality of the information as
24 provided in this section:

- 25 (1) security measures and internal security reports;

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

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

6 (4) personal data, including personal financial
7 data, not otherwise public and not directly related to the license
8 or major procurement contract; and

9 (5) data or information as otherwise authorized by
10 law.

11 B. Notice of the content of any information or data
12 furnished or released pursuant to Paragraphs (3) and (4) of
13 Subsection A of this section shall be given to any applicant or
14 licensee in a manner prescribed by regulations adopted pursuant to
15 the Video Gaming Act.

16 Section 14. [NEW MATERIAL] DIVISION--RECORDS--REQUIREMENTS. -

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

1 B. The director shall maintain a file of all applications
2 for licenses pursuant to the Video Gaming Act, together with a
3 record of all action taken with respect to those applications. The
4 file and record are open to public inspection, except those
5 portions declared by law to be confidential.

6 C. The director may maintain such other files and records
7 as he deems desirable.

8 D. The superintendent may examine the records or files
9 maintained by the director at any time.

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

11 A. The superintendent shall provide for a certified
12 public accountant to conduct an independent audit for each fiscal
13 year of all accounts and transactions related to video gaming. The
14 independent audit shall be reviewed by the state auditor. The
15 certified public accountant shall not have an ownership interest in
16 a vendor or licensee and shall report any conflict of interest or
17 prior or existing business relationship with a vendor or licensee
18 to the superintendent. The certified public accountant shall
19 present an audit report to the superintendent, the governor and the
20 committee not later than March 1 of the year following the fiscal
21 year for which the audit was performed. The report shall contain
22 recommendations to improve the efficiency of video gaming
23 regulatory operations.

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

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1 C. The superintendent, after consultation with the
2 committee, shall develop a plan to improve the efficiency of the
3 regulation of video gaming based upon the recommendations of the
4 certified public accountant; however, nothing in this section
5 requires the superintendent to implement any of the recommendations
6 made by the certified public accountant.

7 D. All records, accounts and transactions relating to
8 video gaming are exempt from the Audit Act.

9 Section 16. [NEW MATERIAL] INVESTIGATORY POWERS. -- The
10 superintendent, director and security director have the power to:

11 A. examine, under oath, any person or any officer,
12 employee or agent of any person;

13 B. compel by subpoena the production of records;

14 C. compel by subpoena the attendance of any person in
15 this state to testify before the superintendent, director or
16 security director when such investigation is necessary to the
17 proper administration of the Video Gaming Act; and

18 D. inspect the premises and records of a licensee
19 licensed pursuant to the Video Gaming Act or any place where gaming
20 machines are located, without prior notice during regular work
21 hours.

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

24 A. The superintendent, security director or director may
25 confer with the attorney general as deemed necessary and advisable

1 for the proper administration of the Video Gaming Act. Upon
 2 request of the superintendent, it is the duty of the attorney
 3 general and any other law enforcement authority to whom a violation
 4 is reported to investigate and cause appropriate proceedings to be
 5 instituted without delay.

6 B. The attorney general and the department of public
 7 safety shall furnish to the superintendent any information that
 8 they may have in their possession as may be necessary to ensure
 9 security, honesty, fairness and integrity in the operation and
 10 administration of video gaming conducted pursuant to the Video
 11 Gaming Act. The security division shall be considered to be a
 12 criminal justice agency and shall be furnished that information
 13 without charge upon proper written request from the superintendent
 14 or security director.

15 Section 18. ~~[NEW MATERIAL]~~ CONFLICTS OF INTEREST--COMPLIANCE
 16 WITH OTHER LAWS--VIOLATION--REMOVAL FROM POSITION.--

17 A. The superintendent, the committee, the director,
 18 gaming administration personnel, the security director, security
 19 division personnel or other restricted persons shall not, directly
 20 or indirectly:

21 (1) knowingly hold a financial interest or acquire
 22 stocks, bonds or any other interest in any entity that is a
 23 licensee or vendor; or

24 (2) have a financial interest in the ownership or
 25 leasing of property used in the conduct or regulation of video

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1 gaming.

2 B. The superintendent, the committee, the director,
3 gaming administration personnel, the security director, security
4 division personnel or other restricted persons shall not ask for,
5 offer to accept or receive any gift, gratuity or other thing of
6 value that would inure to that person's benefit from:

7 (1) any entity seeking to supply equipment,
8 materials or services for use in the conduct or regulation of video
9 gaming;

10 (2) any applicant for a license; or

11 (3) any vendor or licensee.

12 C. No person seeking to supply equipment, materials or
13 services for use in the conduct or regulation of video gaming, no
14 applicant for a license and no vendor or licensee shall offer or
15 give to the superintendent, the committee, the director, gaming
16 administration personnel, the security director, security division
17 personnel or other restricted persons any gift, gratuity or other
18 thing of value that would inure to the recipient's personal
19 benefit.

20 D. The superintendent, the director, gaming
21 administration personnel, the security director and security
22 division personnel shall comply with all state laws applicable to
23 ethics in government, conflict of interest and financial
24 disclosure.

25 E. If the director, the security director or any employee

1 of the security division or an employee of the division who works
 2 in gaming administration violates this section, he shall be
 3 suspended or removed from his position after notice and a hearing
 4 before the superintendent. The governor may appoint an independent
 5 hearing officer to receive testimony on alleged violations of the
 6 Video Gaming Act by the superintendent. The hearing officer shall
 7 report his findings to the governor and the committee.

8 F. For purposes of this section:

9 (1) "gift, gratuity or other thing of value" does
 10 not include the provision of a breakfast, luncheon, dinner or other
 11 refreshment consisting of food and beverage provided for immediate
 12 consumption; and

13 (2) "other restricted person" means anyone living in
 14 the same household as the superintendent, the director, a member of
 15 the committee, any gaming administration personnel, the security
 16 director or security division personnel.

17 Section 19. [NEW MATERIAL] PROCUREMENT OF GOODS OR SERVICES-
 18 -DIRECTOR- -POWERS- -LIMITATION. --All procurement shall be subject to
 19 the Video Gaming Act and shall be exempt from the Procurement Code
 20 and any other state law concerning the purchase of any goods or
 21 services. The director, subject to the approval of the
 22 superintendent, shall enter into all contracts for procurement.
 23 The superintendent may adopt provisions of the Procurement Code as
 24 may be practically applied in administering and regulating
 25 procurement for gaming administration and security.

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1 Section 20. ~~[NEW MATERIAL]~~ MAJOR PROCUREMENT--VENDOR--
2 DISCLOSURES REQUIRED--CONTRACT APPROVAL--REQUIREMENTS.--

3 A. The director shall request proposals for major
4 procurements for effectuating the purpose of the Video Gaming Act.
5 In awarding contracts in response to requests for proposals, the
6 director shall award contracts to the responsible party who submits
7 the best proposal that maximizes the benefits to the state in
8 relation to the cost in the areas of security, competence, quality
9 of product, capability, timely performance and maximization of net
10 revenue. No contract for a major procurement may be assigned by a
11 vendor except by a written agreement approved and signed by the
12 director.

13 B. The director shall require proposed vendors to
14 disclose information to enable him to review and evaluate the
15 responses to the requests for proposals on the basis of competence,
16 background, integrity, character and nature of the ownership and
17 control of vendors and to ensure compliance with the provisions of
18 the Video Gaming Act.

19 C. The director shall investigate, as part of the process
20 for analyzing responses to requests for proposals for any major
21 procurement and prior to agreeing to an assignment of a major
22 procurement, the financial responsibility, security and integrity
23 of any party whose proposal is under final consideration. The
24 director shall require a background investigation to be conducted
25 by the security division of any person with a substantial interest

1 in a person whose proposal is under final consideration. A
2 background investigation shall include credit checks, police record
3 checks, conviction record checks, national and statewide criminal
4 records clearinghouse checks and fingerprint checks. Each proposed
5 vendor who is under final consideration shall pay the costs of that
6 person's background investigation.

7 D. No major procurement shall be entered into if any
8 person with a substantial interest in the proposed vendor has been
9 convicted of a felony or a crime involving gambling, moral
10 turpitude, fraud or theft.

11 E. If any person with a substantial interest in a vendor
12 is charged with a felony or any crime involving gambling, moral
13 turpitude, fraud or theft, the vendor shall report the arrest or
14 conviction to the director within three days of the arrest or
15 conviction.

16 F. No major procurement proposal shall be approved by the
17 director if the proposed vendor makes a material misrepresentation
18 of fact in his proposal or during the proposal review process or if
19 the proposed vendor fails to comply with this section. Any
20 contract entered into with a vendor who has made a material
21 misrepresentation of fact or has failed to comply with this section
22 shall be void.

23 G. This section shall be construed broadly and liberally
24 to achieve the end of full disclosure of all information necessary
25 to allow for a full, complete and ongoing evaluation by the

1 director of the competence, integrity, background, character and
2 nature of the ownership and control of vendors.

3 Section 21. [NEW MATERIAL] MAJOR PROCUREMENT--VENDOR--
4 PERFORMANCE BOND.--Each vendor shall post a performance bond with
5 the director, using a surety acceptable to the director, in
6 consultation with the superintendent of insurance in an amount
7 equal to the full amount estimated to be paid annually to the
8 vendor under the contract. Nothing in the Video Gaming Act shall
9 be construed to restrict the authority of the director to specify
10 liquidated or other damages in contracts with vendors.

11 Section 22. [NEW MATERIAL] LICENSING--RENEWALS.--

12 A. No person may act, or conduct any activity, as a video
13 gaming licensee, distributor, manufacturer or operator without
14 first obtaining an appropriate license pursuant to the Video Gaming
15 Act.

16 B. The burden of proving qualifications for licensure is
17 on the applicant.

18 C. The director shall require background investigations
19 of the applicant and any person with a substantial interest in the
20 applicant. Background investigations to be conducted by the
21 security division may include at a minimum credit checks, police
22 record checks, conviction record checks, national and statewide
23 criminal records clearinghouse checks and fingerprint checks. The
24 applicant shall pay the costs of the background investigation.

25 D. No license shall be granted to an applicant if the

1 applicant or any person with a substantial interest in the
2 applicant has been convicted of a a felony or any crime involving
3 gambling, moral turpitude, fraud or theft within ten years prior to
4 the application.

5 E. Licenses issued pursuant to the Video Gaming Act shall
6 be valid for one year.

7 F. Upon application for renewal, the director may require
8 such additional information as he deems necessary to evaluate the
9 renewal application.

10 G. This section shall be construed broadly and liberally
11 to achieve full disclosure of all information necessary to allow
12 for a full and complete evaluation by the director of an
13 applicant's fitness.

14 Section 23. [NEW MATERIAL] LICENSING-- DENIAL-- CANCELLATION--
15 TRANSFER. --

16 A. No license shall be granted by the director if the
17 applicant makes a material misrepresentation of fact in his
18 application or during the application process, or if the applicant
19 fails to comply with any provision required as part of the
20 licensing procedure. Any license granted to an applicant who has
21 made a material misrepresentation of fact or has failed to comply
22 with this section shall be void and canceled by the director.

23 B. The director may deny an application for or limit,
24 cancel or condition any license with cause.

25 C. If an application is denied, canceled, limited or

1 conditioned, the director shall prepare and make available to the
2 applicant a written decision upon which the order denying the
3 application is based.

4 D. If an applicant is denied a license, renewal or
5 amendment, or the application is withdrawn prior to a determination
6 being made by the director on the application, the fee submitted
7 shall be returned to the applicant less an administrative fee to be
8 set by the director. For video gaming licensees, a total not
9 exceeding the amount of one administrative fee shall be retained
10 and not a separate administrative fee for each video gaming machine
11 requested to be licensed.

12 E. The director shall determine the circumstances under
13 which it is possible to return the background check fee if an
14 application is denied or withdrawn.

15 F. No licensee may transfer a license to another person.
16 For purposes of this section, "transfer" means a change in
17 ownership or control of the licensee involving five percent or more
18 of the ownership or control interest of the licensee. A licensee
19 shall notify the director of any transfer.

20 G. The holder of any license does not acquire any vested
21 interest or right in or under the license, and a license issued
22 pursuant to the Video Gaming Act is a revocable privilege.

23 Section 24. [NEW MATERIAL] LICENSE FEES.--

24 A. Applicants for licensure, renewal, amendment or
25 registration shall pay a fee to the division to be submitted with

1 the application not to exceed the following:

- 2 (1) manufacturers, twenty thousand dollars
- 3 (\$20,000);
- 4 (2) distributors, ten thousand dollars (\$10,000);
- 5 (3) operators, seven thousand five hundred dollars
- 6 (\$7,500);
- 7 (4) video amusement machine registration, ten
- 8 dollars (\$10.00) for each video amusement machine; and
- 9 (5) video gaming licensees, five hundred dollars
- 10 (\$500) for each video gaming machine and one hundred dollars (\$100)
- 11 annually for renewal.

12 B. License fees shall be deposited in the general fund.

13 Section 25. [NEW MATERIAL] TAX IMPOSED--VIDEO GAMING TAX--
14 RATE--ADMINISTRATION AND ENFORCEMENT.--

15 A. In addition to all other taxes imposed by other state
16 laws, an excise tax is imposed for the privilege of engaging in the
17 activities authorized pursuant to the Video Gaming Act. The tax
18 shall be known as the "video gaming tax".

19 B. The video gaming tax is imposed in an amount equal to
20 twenty percent of the net take of a person who operates video
21 gaming machines.

22 C. The video gaming tax shall be credited to the general
23 fund.

24 D. The video gaming tax shall be paid to and administered
25 and enforced by the taxation and revenue department pursuant to the

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1 provisions of the Tax Administration Act.

2 Section 26. [NEW MATERIAL] LICENSURE--LICENSED CHARITABLE
3 ORGANIZATIONS--ELECTRONIC PULL TAB MACHINES--NET TAKE
4 DISTRIBUTIONS.--

5 A. A charitable organization licensed to conduct bingo
6 and raffles pursuant to the Bingo and Raffle Act may apply for and
7 be issued a license as a video gaming licensee by the director to
8 offer video gaming limited to electronic pull tab machines on its
9 premises pursuant to the Video Gaming Act and the regulations
10 adopted to implement and enforce that act.

11 B. A licensed charitable organization shall not permit
12 electronic pull tab machines to be placed for use on their premises
13 until each machine has had a license affixed following approval by
14 the director.

15 C. No more than twenty-five electronic pull tab machines
16 may be offered for operation and play on the premises of a licensed
17 charitable organization.

18 D. No electronic pull tab machine on the premises of a
19 licensed charitable organization may award a prize that exceeds one
20 thousand dollars (\$1,000).

21 E. Licensed charitable organizations shall distribute a
22 minimum of twenty percent of the net take of each electronic pull
23 tab machine to organizations with at least one office located in
24 New Mexico that are described in Section 501(c)(3) of the Internal
25 Revenue Code of 1986 and have received an exemption from payment of

1 federal income taxes pursuant to Section 501(a) of that act. No
 2 money shall be distributed from the proceeds of electronic pull tab
 3 machines to organizations described in this section by which an
 4 officer, director or employee or a family member of an officer,
 5 director or employee is employed or will directly benefit.

6 F. Licensed charitable organizations shall submit an
 7 accounting of distributions made pursuant to Subsection E of this
 8 section to the director by December 31 of each calendar year.

9 G. Electronic pull tab machines may be played on the
 10 premises of a licensed charitable organization Sunday through
 11 Saturday from 12:00 noon until 12:00 midnight.

12 Section 27. [NEW MATERIAL] LICENSURE--LICENSED CLUBS--VIDEO
 13 GAMING--NET TAKE DISTRIBUTIONS.--

14 A. A nonprofit organization may apply for and be issued a
 15 license as a video gaming licensee by the director to offer video
 16 gaming on its club premises pursuant to the Video Gaming Act and
 17 the regulations adopted to implement and enforce that act. A
 18 nonprofit organization that is a video gaming licensee is a
 19 licensed club.

20 B. Licensed clubs shall not permit video gaming machines
 21 to be placed for use on their premises until each machine has had a
 22 license affixed following approval by the director.

23 C. No more than twenty-five video gaming machines may be
 24 offered for operation and play on the premises of a licensed club.
 25 No video gaming machine that dispenses cash or coins as a prize may

1 be played on the premises of a licensed club.

2 D. No video gaming machine on the premises of a licensed
3 club may award a prize that exceeds one thousand dollars (\$1,000).

4 E. Licensed clubs shall distribute a minimum of twenty
5 percent of the net take of each video gaming machine to
6 organizations with at least one office located in New Mexico that
7 are described in Section 501(c)(3) of the Internal Revenue Code of
8 1986 and have received an exemption from payment of federal income
9 taxes pursuant to Section 501(a) of that act. No money shall be
10 distributed from the proceeds of video gaming machines to
11 organizations described in this section by which an officer,
12 director or employee or a family member of an officer, director or
13 employee is employed or will directly benefit.

14 F. Licensed clubs shall submit an accounting of
15 distributions made pursuant to Subsection E of this section to the
16 director by December 31 of each calendar year.

17 G. Video gaming machines may be played on the premises of
18 a licensed club Sunday through Saturday from 12:00 noon until 12:00
19 midnight.

20 Section 28. [NEW MATERIAL] LICENSURE--RACETRACKS--VIDEO
21 GAMING--NET TAKE DISTRIBUTIONS.--

22 A. A racetrack licensed by the state racing commission
23 pursuant to the Horse Racing Act to conduct live horse races or
24 simulcast races may apply for and be issued a license as a video
25 gaming licensee by the director to offer video gaming on its

1 premises where live racing is conducted pursuant to the Video
2 Gaming Act and regulations adopted to implement and enforce that
3 act.

4 B. A racetrack's video gaming license to operate video
5 gaming machines shall automatically become void if:

6 (1) the racetrack no longer holds an active license
7 to conduct pari-mutuel wagering; or

8 (2) the racetrack fails to maintain ninety percent
9 of the number of racing days and conduct ninety percent of the
10 number of live horse races as it did in the 1994 calendar year,
11 unless otherwise approved by the director in consultation with the
12 state racing commission.

13 C. The video gaming license of any racetrack that did not
14 conduct live racing in 1994 shall automatically become void if:

15 (1) the racetrack no longer holds an active license
16 to conduct pari-mutuel wagering; or

17 (2) the racetrack fails to conduct that number of
18 live horse races on that number of racing days that would represent
19 the minimum number of the horse races and racing days conducted by
20 any racetrack in New Mexico in the 1994 calendar year, unless
21 otherwise approved by the director in consultation with the state
22 racing commission.

23 D. No license shall be issued to a racetrack that has
24 dismantled or removed any part of the facilities required for the
25 operation of the track, including offices, stables, sheds or patron

1 seating or shelter, within two years prior to the date on which the
2 Video Gaming Act becomes effective.

3 E. A video gaming licensee that is a racetrack may have
4 no more than four hundred video gaming machines, including those
5 machines commonly known as video slot machines, provided that the
6 number of video gaming machines to be located on the licensee's
7 premises is specified in the licensee's video gaming license.

8 F. A video gaming licensee that is a racetrack is not
9 subject to limitations regarding maximum prize amounts; provided,
10 however, video gaming licensees that are racetracks shall comply
11 with all prize and payout requirements of the Video Gaming Act and
12 all regulations adopted pursuant to that act, except those that
13 only apply to licensed charities, licensed clubs and licensed
14 liquor establishments.

15 G. Video gaming licensees that are racetracks shall pay:

16 (1) twenty percent of the net take of each video
17 gaming machine to the New Mexico horsemen's association, of which
18 percentage one-fourth of one percent will be distributed to the New
19 Mexico horsemen's association benevolence fund and the balance will
20 be distributed to the appropriate New Mexico purse enhancement
21 funds; and

22 (2) five percent to the New Mexico horse breeders'
23 association for the New Mexico breeder incentive fund.

24 H. Video gaming licensees that are racetracks shall
25 submit an accounting of distributions made pursuant to Paragraphs

1 (1) and (2) of Subsection G of this section to the director by
2 December 31 of each calendar year.

3 I. Video gaming machines may be played on the premises of
4 a licensed racetrack only on days when the racetrack conducts live
5 horse races or simulcast races and only from 12:00 noon until 12:00
6 midnight.

7 Section 29. [NEW MATERIAL] LICENSURE-- LIQUOR ESTABLISHMENTS--
8 - VIDEO GAMING-- NET TAKE DISTRIBUTIONS. --

9 A. A liquor establishment may apply for and be issued a
10 license as a video gaming licensee by the director to offer video
11 gaming on its premises pursuant to the Video Gaming Act and the
12 regulations adopted to implement and enforce that act.

13 B. No more than five video gaming machines, including
14 those commonly known as slot machines, may be offered for play on
15 the premises of a licensed liquor establishment.

16 C. No video gaming machine located on the premises of a
17 licensed liquor establishment shall pay out a prize that exceeds
18 one thousand dollars (\$1,000).

19 D. Video gaming machines may be played on the premises of
20 a licensed liquor establishment Sunday through Saturday from 12:00
21 noon until 12:00 midnight.

22 Section 30. [NEW MATERIAL] LICENSURE-- RESORTS-- VIDEO GAMING--
23 - NET TAKE DISTRIBUTIONS. --

24 A. A resort may apply for and be issued a license as a
25 video gaming licensee by the director to offer video gaming on its

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1 premises pursuant to the Video Gaming Act and the regulations
2 adopted to implement and enforce that act.

3 B. A licensed resort may have an unlimited number of
4 video gaming machines, including those machines commonly known as
5 slot machines, provided that the number of video gaming machines to
6 be located on the licensee's premises is specified in the
7 licensee's video gaming license.

8 C. A licensed resort is not subject to limitations
9 regarding maximum prize amounts; provided, however, a licensed
10 resort shall comply with all prize and payout requirements of the
11 Video Gaming Act and all regulations adopted pursuant to that act,
12 except those that only apply to licensed charitable organizations,
13 licensed clubs and liquor establishments.

14 D. Video gaming machines may be played on the premises of
15 a licensed resort Sunday through Saturday from 12:00 noon until
16 12:00 midnight.

17 E. A licensed resort may be established only following a
18 referendum in which the majority of the registered voters approves
19 permitting video gaming at licensed resorts. The referendum may be
20 held only in:

21 (1) class B counties:

22 (a) having populations as determined by the
23 1990 federal census of not more than twenty-five thousand persons
24 and not less than ten thousand persons; and

25 (b) having a 1993 net taxable value of

1 property, as that term is defined in the Property Tax Code, of at
2 least two hundred seventy million dollars (\$270,000,000) but not
3 more than three hundred thirty million dollars (\$330,000,000); and

4 (2) class A counties having populations as
5 determined by the 1990 federal census of less than four hundred
6 thousand persons.

7 Section 31. [NEW MATERIAL] VIDEO GAMING LICENSEES--GENERAL
8 PROVISIONS--PLAYER AGE LIMIT--RULES FOR PLACEMENT.--

9 A. An applicant for licensure as a video gaming licensee
10 shall submit with the application a plan for assisting in the
11 prevention, education and treatment of compulsive gambling. The
12 plan shall include regular educational training sessions for
13 employees. The director must approve the plan as part of the
14 licensing process.

15 B. Video gaming licensees shall be granted a license to
16 operate a specific number of machines on premises identified in the
17 license application consistent with the Video Gaming Act and shall
18 be granted a license for each video gaming machine.

19 C. A video gaming licensee that desires to change the
20 number of machines in operation on his premises shall apply to the
21 director for an amendment to his license authorizing a change in
22 the number of machines.

23 D. No person under twenty-one years of age may play a
24 video gaming machine licensed pursuant to the Video Gaming Act.

25 E. Video gaming machines may be available for play only

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1 in an area restricted to persons twenty-one years of age or older.
2 A video gaming licensee shall erect a permanent physical barrier to
3 allow for multiple uses of the premises by persons of all ages.
4 For purposes of this section, "permanent physical barrier" means a
5 floor-to-ceiling wall separating the general areas from the
6 restricted areas. The entrance to the area where video gaming
7 machines are located shall display a sign that the premises are
8 restricted to persons twenty-one years or older. Persons under the
9 age of twenty-one shall not enter the premises where video gaming
10 machines are located.

11 F. No video gaming licensee shall have automated teller
12 machines on the premises.

13 G. No video gaming licensee shall provide, allow,
14 contract or arrange to provide alcohol or food at reduced prices as
15 an incentive or enticement to gamble.

16 H. No licensee may transfer a license to another person.
17 For purposes of this section, "transfer" means a change in
18 ownership or control of the licensee involving five percent or more
19 of the ownership or interest of the licensee. A licensee shall
20 notify the director of a transfer.

21 I. No licensed charitable organization, licensed club or
22 licensed liquor establishment shall engage in business to offer
23 video gaming as its primary business or activity.

24 Section 32. [NEW MATERIAL] VIDEO GAMING MACHINES--
25 SPECIFICATIONS AND REQUIREMENTS. --

1 A. The director shall examine and approve prototypes of
2 video gaming machines of licensed manufacturers prior to that type
3 of video gaming machine being sold, leased or placed anywhere in
4 this state. The director shall require the manufacturer seeking
5 the examination and approval of a video gaming machine or
6 associated equipment to pay the anticipated actual cost of the
7 examination in advance and, after the completion of the
8 examination, shall refund overpayments or charge and collect
9 amounts sufficient to reimburse the director for underpayments of
10 actual costs. The director may contract for the examination of
11 video gaming machines and associated equipment as required by this
12 section.

13 B. Each video gaming machine licensed pursuant to the
14 Video Gaming Act shall:

15 (1) be identical to a prototype of that video gaming
16 machine as approved by the director or, if not, then specifically
17 approved by the director;

18 (2) offer only games authorized by the director;

19 (3) not have any means of manipulation that affects
20 the random probabilities of winning;

21 (4) have nonresettable meters that keep a permanent
22 record of all cash inserted into the machine and all awards of
23 prizes;

24 (5) not have the capabilities to accept a bill
25 larger than twenty dollars (\$20.00);

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1 (6) have the license prominently displayed on it in
2 such a way that an attempt at alteration will result in a
3 mutilation of the license; and

4 (7) be linked to a central communications system to
5 provide auditing program information as required by the director.

6 C. Any machine that does not comply with the requirements
7 of this section is contraband and a public nuisance and is subject
8 to confiscation by any law enforcement or peace officer.

9 D. No contract or other arrangement with a video gaming
10 licensee for the lease or maintenance of video gaming machines
11 shall allow the operator to receive more than thirty percent of the
12 net take of each video gaming machine.

13 E. Nothing in the Video Gaming Act prevents a video
14 gaming licensee from owning the video gaming machines located on
15 that licensee's premises, provided that the machines comply with
16 the Video Gaming Act and regulations adopted pursuant to that act.

17 Section 33. [NEW MATERIAL] LOCAL OPTION. --

18 A. In any county or municipality in which the local
19 option provision of the Video Gaming Act has been accepted by the
20 voters, the use of video gaming machines is prohibited or permitted
21 in accordance with the outcome of the referendum.

22 B. Placement or use of video gaming machines on the
23 premises of a racetrack is not subject to prohibition by a local
24 option referendum.

25 Section 34. [NEW MATERIAL] LOCAL OPTION ELECTION-- CHARITABLE

1 ORGANIZATIONS--NONPROFIT ORGANIZATIONS--LICENSED LIQUOR
2 ESTABLISHMENTS--RESORTS--PROCEDURE.--

3 A. A county as described in Subsection E of Section 30 of
4 the Video Gaming Act, not including incorporated municipalities
5 within its boundaries, or an incorporated municipality within a
6 county as described in Subsection E of Section 30 of the Video
7 Gaming Act becomes a local option district if:

8 (1) the option of prohibiting video gaming on the
9 premises of charitable organizations, nonprofit organizations and
10 liquor establishments in that county or incorporated municipality
11 is adopted by the registered voters of that county or municipality;
12 or

13 (2) the option of permitting video gaming in resorts
14 in that county or incorporated municipality is adopted by the
15 registered voters of that county or municipality.

16 B. An incorporated municipality may have a local option
17 referendum in that municipality, even if the county in which the
18 incorporated municipality is located has had a referendum and
19 resolved the local option question for the county.

20 C. Based on the content of the petition, a local
21 governing body of a proposed local option district shall place one
22 or both of the following questions on the ballot:

23 (1) "Shall video gaming at certain charitable
24 organizations, nonprofit clubs and liquor establishments be
25 prohibited in (name of proposed local option district), effective

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1 July 1, 19__? _____YES _____NO"; or

2 (2) "Shall video gaming be permitted at resorts in
3 (name of proposed local option district), effective July 1, 19__?
4 _____YES _____NO".

5 D. The procedures for adopting the local option provision
6 regarding video gaming are:

7 (1) at any time from the effective date of the Video
8 Gaming Act, the registered voters of any proposed local option
9 district may petition the governing body by filing one or more
10 petitions in the appropriate office to hold a referendum to
11 determine whether the proposed local option district shall adopt a
12 local option provision of the Video Gaming Act. Each petition
13 shall state the question that will be present on the ballot. If
14 the aggregate of the signatures of the registered voters on all the
15 petitions equals or exceeds five percent of the number of
16 registered voters of the proposed local option district at the time
17 of the last general election, the governing body shall call an
18 election within ninety days of the verification of the petition.
19 The date of the filing of the petition shall be three months after
20 the date on which the first signature was obtained;

21 (2) except as otherwise provided in this section,
22 the election shall be called and conducted and votes shall be
23 counted and canvassed substantially in the manner provided by law
24 for general elections within the county or pursuant to the
25 Municipal Election Code for an incorporated municipality;

1 (3) except as otherwise provided in this section,
 2 contests, recounts and rechecks shall be permitted as provided for
 3 in the case of candidates for county offices in general elections
 4 or as provided for in the Municipal Election Code for candidates
 5 for municipal office. Applications for contests, recounts or
 6 rechecks may be filed by any person who voted in the election, and
 7 service shall be made upon the county clerk or municipal clerk.
 8 The payment of the costs and expenses of the contest, recount or
 9 recheck shall be assessed in the manner provided by the Election
 10 Code for contests in a general election of candidates for county
 11 offices or pursuant to the Municipal Election Code for candidates
 12 for municipal office;

13 (4) if a majority of all the votes cast at an
 14 election:

15 (a) seeking to prohibit video gaming on the
 16 premises of charitable organizations, nonprofit organizations and
 17 liquor establishments is in favor of the local option provision to
 18 prohibit video gaming in the local option district, the chairman of
 19 the governing body shall declare by order entered upon the records
 20 of the local option district that the local option district has
 21 adopted the local option provision of the Video Gaming Act
 22 prohibiting video gaming on the premises of charitable
 23 organizations, nonprofit organizations and liquor establishments
 24 and shall notify the superintendent of the results; or

25 (b) seeking to permit video gaming at resorts

1 is in favor of the local option provision to permit video gaming
2 machines in the local option district, the chairman of the
3 governing body shall declare by order entered upon the records of
4 the local option district that the local option district has
5 adopted the local option provision of the Video Gaming Act
6 permitting video gaming machines to be operated on the premises of
7 licensed resorts and shall notify the superintendent of the
8 results; and

9 (5) no election shall be held pursuant to this
10 section within forty-two days of any primary, general, municipal or
11 school district election unless the election is held on the day of
12 any primary, general, municipal or school district election.

13 Section 35. [NEW MATERIAL] RESUBMISSION OF LOCAL OPTION
14 QUESTION. --

15 A. In a local option district in which a local option
16 provision of the Video Gaming Act has been rejected by the voters,
17 it is permissible after the expiration of three years from the date
18 of the election at which the local option provision was rejected to
19 have another local option election in the district by following the
20 procedure provided for in the Video Gaming Act.

21 B. In a local option district in which a local option
22 provision of the Video Gaming Act has been accepted by the voters,
23 it is permissible after the expiration of twelve years from the
24 date of election at which the local option provision was accepted
25 to have another local option election that may allow voters to

1 rescind the local option previously adopted in the county or
2 municipality by following the procedures provided for in the Video
3 Gaming Act.

4 Section 36. [NEW MATERIAL] MULTIPLE TYPES OF LICENSES
5 PROHIBITED. --

6 A. Except as set forth in Subsection B of this section, a
7 manufacturer, distributor or operator shall not be licensed as or
8 own, manage or control a video gaming licensee. A manufacturer
9 shall not be licensed as or own, manage or control an operator.

10 B. Nothing in the Video Gaming Act shall prevent an
11 applicant that is otherwise eligible for a license as a video
12 gaming licensee and that is owned, in whole or in part, by a
13 manufacturer on the date of passage of that act from applying for a
14 license as a video gaming licensee. However, no more than thirty-
15 five percent of the video gaming machines or associated equipment
16 operated by the video gaming licensee may be manufactured by the
17 manufacturer that owns the licensee. If a video gaming licensee
18 operates or uses any video gaming machines or associated equipment
19 that is manufactured by the manufacturer that owns the video gaming
20 licensee, the manufacturer shall not qualify as a vendor of
21 equipment or communications systems that regulates or audits video
22 gaming operations in the state.

23 Section 37. [NEW MATERIAL] REVOCATION-- CONTRACT-- LICENSE. --

24 A. Failure of a vendor to comply with any provision of
25 the Video Gaming Act or the regulations adopted pursuant to that

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1 act shall be sufficient cause for suspension or termination of a
2 procurement contract; provided, however, suspension or termination
3 of a procurement contract shall not relieve the vendor from
4 prosecution for any of the alleged violations or from imposition of
5 fines and penalties.

6 B. If a licensee fails to respond timely to a written
7 request from the superintendent, director or security director or
8 violates any provision of the Video Gaming Act or any regulation
9 adopted pursuant to that act, the license of the offending licensee
10 may be suspended, canceled, limited or revoked by the
11 superintendent; provided, however, the licensee shall have
12 reasonable notice and opportunity to be heard before the
13 superintendent before suspension, cancellation, limitation or
14 revocation; and provided, further, the suspension, cancellation,
15 limitation or revocation of any license does not relieve the
16 licensee from prosecution for any of the alleged violations or from
17 imposition of fines and penalties.

18 C. The superintendent may levy a fine against a vendor or
19 licensee for violation of the provisions of the Video Gaming Act or
20 regulations adopted pursuant to that act, not to exceed one hundred
21 thousand dollars (\$100,000) per violation; provided, however, the
22 licensee has a reasonable opportunity to be heard by the
23 superintendent before the imposition of the fine. Nothing in this
24 section limits the superintendent from pursuing contractual
25 remedies, including assessing penalties, pursuant to the terms of a

1 contract with a vendor.

2 D. The director shall not issue a license to a person who
3 has been convicted of a felony or any crime involving gambling,
4 moral turpitude or fraud in another jurisdiction.

5 E. The director shall not issue a license to a person who
6 has had a similar license revoked in another jurisdiction or has
7 failed to be issued a similar license for good cause, as determined
8 by the superintendent pursuant to a hearing.

9 F. If a licensee fails to adequately implement a plan to
10 aid in the prevention, education and treatment of compulsive
11 gambling, the license of the offending licensee may be suspended,
12 limited or revoked by the superintendent or the offending licensee
13 may be fined.

14 Section 38. [NEW MATERIAL] EMERGENCY ORDERS OF
15 SUPERINTENDENT. --

16 A. The superintendent may issue an emergency order for
17 suspension or limitation of a license.

18 B. An emergency order may be issued only when the
19 superintendent finds that a licensee has failed to report, pay or
20 truthfully account for and remit any fee or money imposed by or
21 owed under the provisions of the Video Gaming Act or attempted in
22 any manner to evade or defeat a fee, debt or required payment.

23 C. An emergency order shall be issued only when the
24 superintendent finds that:

- 25 (1) a licensee has violated any provision of the

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1 Video Gaming Act and the violation impairs the security of video
2 gaming activities; or

3 (2) a licensee is convicted of a crime involving a
4 felony or gambling, moral turpitude, fraud or theft.

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

8 E. An emergency order may be issued only with the
9 approval of and upon signature of the superintendent.

10 F. The emergency order is effective immediately upon
11 issuance and service upon the licensee. The emergency order
12 remains effective until further order of the superintendent.

13 G. Within twenty days of the order, the licensee may
14 request that a hearing be held by the superintendent regarding the
15 issuance and maintenance of the emergency order. The
16 superintendent shall then hold a hearing within twenty days and
17 enter a final order in the case.

18 H. If no hearing is requested in a timely manner, the
19 superintendent may enter a final order in the case.

20 Section 39. [NEW MATERIAL] COMMUNICATIONS SYSTEM -- Each
21 video gaming machine and voucher validation system shall be linked
22 to a central communications system to provide auditing program and
23 financial information as required by the director. No
24 communications system required by the director shall limit
25 participation to only one manufacturer of video gaming machines by

1 either cost of implementing the necessary program modifications to
2 communicate or the inability to communicate with the communications
3 system.

4 Section 40. [NEW MATERIAL] TRADE NAMES--LIMITATIONS.-- No
5 licensee may use a name or trade name that contains the words
6 casino, gambling, names of traditional casino style games,
7 including poker, blackjack or keno, or the name of any city outside
8 this state in which a casino exists unless the name has been used
9 by the licensee for one year prior to the effective date of the
10 Video Gaming Act. However, the director may authorize vendors or
11 licensees whose physical location is in San Miguel county to use
12 the words "Las Vegas" in their names.

13 Section 41. [NEW MATERIAL] VIDEO GAMING LICENSEE--STATE
14 REVENUE--DEPOSITS--PROHIBITIONS.--

15 A. The director may require each video gaming licensee to
16 deposit all money owed to the state into financial institutions
17 designated by the director for credit to the general fund.

18 B. The director may authorize the electronic transfer of
19 money from the accounts of video gaming licensees to the general
20 fund.

21 C. No video gaming machine shall be played by and no
22 prize shall be awarded to any video gaming licensee or business
23 that is engaged in supplying associated equipment, supplies or
24 services being used in the operation of video gaming machines or to
25 any officer, member of the board of directors, employee or owner of

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1 a licensee or associated equipment business, unless authorized in
2 writing by the director for research purposes. However, no prize
3 may be awarded as a result of play for research purposes.

4 Section 42. [NEW MATERIAL] CRIMINAL PROHIBITIONS--
5 VIOLATIONS--PENALTIES.--

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

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

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

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

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

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

1 G. It is a fourth degree felony to possess an unlicensed
2 video gaming machine.

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

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

13 Section 43. [NEW MATERIAL] DISTRICT COURT OF SANTA FE
14 COUNTY-- JURISDICTION-- APPEAL. -- The district court of Santa Fe
15 county has exclusive original jurisdiction of all legal
16 proceedings, except criminal actions, related to the
17 administration, enforcement or fulfillment of the responsibilities,
18 duties or functions performed pursuant to the Video Gaming Act. An
19 aggrieved party, including a party subject to a fine, may seek
20 review of an order or decision of the superintendent by filing an
21 appeal with the district court of Santa Fe county within thirty
22 days after the date of the order or decision.

23 Section 44. [NEW MATERIAL] EXEMPTION FROM LOCAL TAXES. --
24 Video gaming machines licensed and operated pursuant to the Video
25 Gaming Act are exempt from any local excise tax assessed by any

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1 political subdivision of the state having the power to levy, assess
2 or collect such a tax.

3 Section 45. [NEW MATERIAL] LOCAL LAWS PREEMPTED--
4 APPLICABILITY OF OTHER LAWS. --The Video Gaming Act shall be applied
5 uniformly throughout the state and to all political subdivisions of
6 the state, and no local authority shall enact any ordinances or
7 regulations that expand or conflict with the provisions of that
8 act.

9 Section 46. [NEW MATERIAL] VIDEO AMUSEMENT MACHINES--
10 REGISTRATION. --

11 A. Video amusement machines are not subject to the
12 licensure provisions of the Video Gaming Act.

13 B. A person who offers video amusement machines for use
14 by the public shall:

15 (1) register with the division; and

16 (2) be subject to inspection by the director or the
17 security director.

18 Section 47. Section 6-24-9 NMSA 1978 (being Laws 1995,
19 Chapter 155, Section 9) is amended to read:

20 "6-24-9. LOTTERY AND GAMING OVERSIGHT COMMITTEE-- ~~[BIPARTISAN]~~
21 DUTIES. --

22 ~~[A. There is created a joint interim legislative~~
23 ~~committee, which shall be known as the "lottery oversight~~
24 ~~committee".~~

25 ~~B. The lottery oversight committee shall be composed of~~

1 ~~four members. Two members of the house of representatives shall be~~
 2 ~~appointed by the speaker of the house of representatives, and two~~
 3 ~~members of the senate shall be appointed by the committees'~~
 4 ~~committee of the senate or, if the senate appointments are made in~~
 5 ~~the interim, by the president pro tempore of the senate after~~
 6 ~~consultation with and agreement of a majority of the members of the~~
 7 ~~committees' committee. Members shall be appointed so that there is~~
 8 ~~a member from each of the major political parties from each house.~~
 9 ~~No member who has a financial interest in any lottery contractor,~~
 10 ~~lottery retailer or lottery vendor shall be appointed to the~~
 11 ~~committee.~~

12 ~~C.]~~ A. The lottery and gaming oversight committee created
 13 pursuant to the Video Gaming Act shall oversee the operations of
 14 the authority, as well as periodically review and evaluate the
 15 success with which the authority is accomplishing its duties and
 16 operating the lottery pursuant to the New Mexico Lottery Act. The
 17 committee may conduct any independent audit or investigation of the
 18 lottery or the authority it deems necessary.

19 ~~D.]~~ B. The lottery and gaming oversight committee shall
 20 report annually its findings and recommendations on the lottery and
 21 the operation of the authority to each regular session of the
 22 legislature. "

23 Section 48. Section 6-24-27 NMSA 1978 (being Laws 1995,
 24 Chapter 155, Section 27) is amended to read:

25 "6-24-27. REVENUE AND BUDGET REPORTS--RECORDS--INDEPENDENT

1 AUDITS. --

2 A. The board shall:

3 (1) submit quarterly and annual reports to the
4 governor, legislative finance committee and lottery and gaming
5 oversight committee disclosing the total lottery revenue, prizes,
6 commissions, ticket costs, operating expenses and net revenues of
7 the authority during the reporting period and, in the annual
8 report, describe the organizational structure of the authority and
9 summarize the functions performed by each organizational division
10 within the authority;

11 (2) maintain weekly or more frequent records of
12 lottery transactions, including the distribution of lottery tickets
13 to retailers, revenue received, claims for prizes, prizes paid,
14 prizes forfeited and other financial transactions of the authority;
15 and

16 (3) use the state government fiscal year.

17 B. The board shall provide, for informational purposes,
18 to the department of finance and administration and the legislative
19 finance committee, by December 1 of each year, a copy of the annual
20 proposed operating budget for the authority for the succeeding
21 fiscal year. This budget proposal shall also be accompanied by an
22 estimate of the net revenues to be deposited in the public school
23 capital outlay fund and the lottery tuition fund for the current
24 and succeeding fiscal years.

25 C. The board shall contract with an independent certified

1 public accountant or firm for an annual financial audit of the
 2 authority. The certified public accountant or firm shall have no
 3 financial interest in any lottery contractor. The certified public
 4 accountant or firm shall present an audit report no later than
 5 March 1 for the prior fiscal year. The certified public accountant
 6 or firm shall evaluate the internal auditing controls in effect
 7 during the audit period. The cost of this financial audit shall be
 8 an operating expense of the authority. The legislative finance
 9 committee may, at any time, order an audit of any phase of the
 10 operations of the authority, at the expense of the authority, and
 11 shall receive a copy of the annual independent financial audit. A
 12 copy of any audit performed by the certified public accountant or
 13 ordered by the legislative finance committee shall be transmitted
 14 to the governor, the speaker of the house of representatives, the
 15 president pro tempore of the senate, the legislative finance
 16 committee and the lottery and gaming oversight committee."

17 Section 49. Section 6-24-28 NMSA 1978 (being Laws 1995,
 18 Chapter 155, Section 28) is amended to read:

19 "6-24-28. INTERNAL AUDITOR--APPOINTMENT--DUTIES.--

20 A. The board, with the recommendation and assistance of
 21 the chief executive officer, shall employ an internal auditor. The
 22 internal auditor, who shall be an employee of the authority, shall
 23 be qualified by training and experience as an auditor and
 24 management analyst and have at least five years of auditing
 25 experience. The internal auditor shall take direction as needed

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1 from the chief executive officer and be accountable to the board.

2 B. The internal auditor shall conduct and coordinate
3 comprehensive audits for all aspects of the lottery, provide
4 management analysis expertise and carry out any other duties
5 specified by the board and by law. The internal auditor shall
6 specifically:

7 (1) conduct, or provide for through a competitive
8 bid process, an annual financial audit and observation audits of
9 drawings;

10 (2) create an annual audit plan to be approved by
11 the board;

12 (3) search for means of better efficiency and cost
13 savings and waste prevention;

14 (4) examine the policy and procedure needs of the
15 lottery and determine compliance;

16 (5) ensure that proper internal controls exist;

17 (6) perform audits that meet or exceed governmental
18 audit standards; and

19 (7) submit audit reports on a quarterly basis to the
20 board, the chief executive officer, the state auditor, the lottery
21 and gaming oversight committee and the legislative finance
22 committee.

23 C. The internal auditor shall conduct audits as needed in
24 the areas of:

25 (1) personnel security;

- 1 (2) lottery retailer security;
- 2 (3) lottery contractor security;
- 3 (4) security of manufacturing operations of lottery
- 4 contractors;
- 5 (5) security against lottery ticket counterfeiting
- 6 and alteration and other means of fraudulently winning;
- 7 (6) security of drawings among entries or finalists;
- 8 (7) computer security;
- 9 (8) data communications security;
- 10 (9) database security;
- 11 (10) systems security;
- 12 (11) lottery premises and warehouse security;
- 13 (12) security in distribution;
- 14 (13) security involving validation and payment
- 15 procedures;
- 16 (14) security involving unclaimed prizes;
- 17 (15) security aspects applicable to each particular
- 18 lottery game;
- 19 (16) security of drawings in games whenever winners
- 20 are determined by drawings;
- 21 (17) the completeness of security against locating
- 22 winners in lottery games with preprinted winners by persons
- 23 involved in their production, storage, distribution, administration
- 24 or sales; and
- 25 (18) any other aspects of security applicable to any

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1 particular lottery game and to the lottery and its operations.

2 D. Specific audit findings related to security invasion
3 techniques are confidential and may be reported only to the chief
4 executive officer or his designee, the board, the governor and the
5 attorney general. "

6 Section 50. Section 6-24-33 NMSA 1978 (being Laws 1995,
7 Chapter 155, Section 33) is amended to read:

8 "6-24-33. UNLAWFUL PURCHASE OF LOTTERY TICKET--PENALTY.--

9 A. It is unlawful for the following persons to purchase a
10 lottery ticket or to share knowingly in the lottery winnings of
11 another person:

12 (1) the chief executive officer, a board member, a
13 member of the lottery and gaming oversight committee or an employee
14 of the authority; or

15 (2) an owner, officer or employee of a lottery
16 vendor or, in the case of a corporation, an owner of five percent
17 or more of the corporate stock of a lottery vendor.

18 B. Notwithstanding the provisions of Subsection A of this
19 section, the chief executive officer may authorize in writing any
20 employee of the authority and any employee of a lottery contractor
21 to purchase a lottery ticket for the purposes of verifying the
22 proper operation of the lottery with respect to security, systems
23 operation and lottery retailer contract compliance. Any prize
24 awarded as a result of such ticket purchase shall become the
25 property of the authority and shall be added to the prize pools of

1 subsequent lottery games.

2 C. Nothing in this section shall prohibit lottery
3 retailers or their employees from purchasing lottery tickets or
4 from being paid a prize for a winning ticket.

5 D. Certain classes of persons who, because of the unique
6 nature of the supplies or services they provide for use directly in
7 the operation of the lottery, may be prohibited, in accordance with
8 rules adopted by the board, from participating in any lottery in
9 which such supplies or services are used.

10 E. Any person who violates any provision of this section
11 for the first time is guilty of a misdemeanor and shall be
12 sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

13 F. Any person who violates any provision of this section
14 for a second or subsequent time is guilty of a fourth degree felony
15 and shall be sentenced pursuant to the provisions of Section 31-18-
16 15 NMSA 1978. "

17 Section 51. Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter
18 248, Section 2, as amended) is amended to read:

19 "7-1-2. APPLICABILITY. --The Tax Administration Act applies to
20 and governs:

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

- 23 (1) Income Tax Act;
- 24 (2) Withholding Tax Act;
- 25 (3) Gross Receipts and Compensating Tax Act and any

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1 state gross receipts tax;

2 (4) Liquor Excise Tax Act;

3 (5) Local Liquor Excise Tax Act;

4 [~~(6)~~ Banking and Financial Corporations Tax Act;

5 ~~(7)] (6) any municipal local option gross receipts~~

6 tax;

7 [~~(8)] (7) any county local option gross receipts~~

8 tax;

9 [~~(9)] (8) Special Fuels Supplier Tax Act;~~

10 [~~(10)] (9) Gasoline Tax Act;~~

11 [~~(11)] (10) petroleum products loading fee, which~~

12 fee shall be considered a tax for the purpose of the Tax

13 Administration Act;

14 [~~(12)] (11) Cigarette Tax Act;~~

15 [~~(13)] (12) Estate Tax Act;~~

16 [~~(14)] (13) Railroad Car Company Tax Act;~~

17 [~~(15)] (14) Investment Credit Act;~~

18 [~~(16)] (15) Corporate Income Tax Act;~~

19 [~~(17)] (16) Corporate Income and Franchise Tax Act;~~

20 [~~(18)] (17) Uniform Division of Income for Tax~~

21 Purposes Act;

22 [~~(19)] (18) Multistate Tax Compact;~~

23 [~~(20)] (19) Tobacco Products Tax Act;~~

24 [~~(21)] (20) Filmmaker's Credit Act; and~~

25 [~~(22)] (21) the telecommunications relay service~~

1 surcharge imposed by Section 63-9F-11 NMSA 1978, which surcharge
2 shall be considered a tax for the purposes of the Tax
3 Administration Act;

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

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

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

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

- 24 (1) Weight Distance Tax Act;
- 25 (2) Special Fuels Tax Act;

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

4 (4) Controlled Substance Tax Act;

5 (5) Uniform Unclaimed Property Act;

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

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

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

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

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

22 Section 52. A new section of the Tax Administration Act is
23 enacted to read:

24 "[NEW MATERIAL] DISTRIBUTION OF VIDEO GAMING TAX. -- A
25 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to

1 the general fund of the net receipts attributable to the video
 2 gaming tax. "

3 Section 53. A new section of the Gross Receipts and
 4 Compensating Tax Act is enacted to read:

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

9 Section 54. Section 9-16-4 NMSA 1978 (being Laws 1983,
 10 Chapter 297, Section 20, as amended) is amended to read:

11 "9-16-4. DEPARTMENT ESTABLISHED. --There is created in the
 12 executive branch the "regulation and licensing department". The
 13 department shall not be a cabinet department. The department shall
 14 consist of but not be limited to [~~five~~] seven divisions as follows:

- 15 A. the administrative services division;
- 16 B. the construction industries division;
- 17 C. the financial institutions division;
- 18 D. the securities division; [~~and~~]
- 19 E. the manufactured housing division;
- 20 F. the alcohol and gaming division; and
- 21 G. the gaming security division. "

22 Section 55. Section 10-15-1 NMSA 1978 (being Laws 1974,
 23 Chapter 91, Section 1, as amended) is amended to read:

24 "10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN
 25 MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS. --

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

13 B. All meetings of a quorum of members of any board,
14 commission, administrative adjudicatory body or other policymaking
15 body of any state agency, any agency or authority of any county,
16 municipality, district or any political subdivision, held for the
17 purpose of formulating public policy, including the development of
18 personnel policy, rules, regulations or ordinances, discussing
19 public business or for the purpose of taking any action within the
20 authority of or the delegated authority of any board, commission or
21 other policymaking body are declared to be public meetings open to
22 the public at all times, except as otherwise provided in the
23 constitution of New Mexico or the Open Meetings Act. No public
24 meeting once convened that is otherwise required to be open
25 pursuant to the Open Meetings Act shall be closed or dissolved into

1 small groups or committees for the purpose of permitting the
2 closing of the meeting.

3 C. If otherwise allowed by law or rule of the public
4 body, a member of a public body may participate in a meeting of the
5 public body by means of a conference telephone or other similar
6 communications equipment when it is otherwise difficult or
7 impossible for the member to attend the meeting in person, provided
8 that each member participating by conference telephone can be
9 identified when speaking, all participants are able to hear each
10 other at the same time and members of the public attending the
11 meeting are able to hear any member of the public body who speaks
12 during the meeting.

13 D. Any meetings at which the discussion or adoption of
14 any proposed resolution, rule, regulation or formal action occurs
15 and at which a majority or quorum of the body is in attendance, and
16 any closed meetings, shall be held only after reasonable notice to
17 the public. The affected body shall determine at least annually in
18 a public meeting what notice for a public meeting is reasonable
19 when applied to that body. That notice shall include broadcast
20 stations licensed by the federal communications commission and
21 newspapers of general circulation that have provided a written
22 request for such notice.

23 E. A public body may recess and reconvene a meeting to a
24 day subsequent to that stated in the meeting notice if, prior to
25 recessing, the public body specifies the date, time and place for

1 continuation of the meeting, and, immediately following the
2 recessed meeting, posts notice of the date, time and place for the
3 reconvened meeting on or near the door of the place where the
4 original meeting was held and in at least one other location
5 appropriate to provide public notice of the continuation of the
6 meeting. Only matters appearing on the agenda of the original
7 meeting may be discussed at the reconvened meeting.

8 F. Meeting notices shall include an agenda containing a
9 list of specific items of business to be discussed or transacted at
10 the meeting or information on how the public may obtain a copy of
11 such an agenda. Except in the case of an emergency, the agenda
12 shall be available to the public at least twenty-four hours prior
13 to the meeting. Except for emergency matters, a public body shall
14 take action only on items appearing on the agenda. For purposes of
15 this subsection, an "emergency" refers to unforeseen circumstances
16 that, if not addressed immediately by the public body, will likely
17 result in injury or damage to persons or property or substantial
18 financial loss to the public body.

19 G. The board, commission or other policymaking body shall
20 keep written minutes of all its meetings. The minutes shall
21 include at a minimum the date, time and place of the meeting, the
22 names of members in attendance and those absent, the substance of
23 the proposals considered and a record of any decisions and votes
24 taken that show how each member voted. All minutes are open to
25 public inspection. Draft minutes shall be prepared within ten

1 working days after the meeting and shall be approved, amended or
 2 disapproved at the next meeting where a quorum is present. Minutes
 3 shall not become official until approved by the policymaking body.

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

6 (1) meetings pertaining to issuance, suspension,
 7 renewal or revocation of a license, except that a hearing at which
 8 evidence is offered or rebutted shall be open. All final actions
 9 on the issuance, suspension, renewal or revocation of a license
 10 shall be taken at an open meeting;

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

21 (3) deliberations by a public body in connection
 22 with an administrative adjudicatory proceeding. For purposes of
 23 this paragraph, an "administrative adjudicatory proceeding" means a
 24 proceeding brought by or against a person before a public body in
 25 which individual legal rights, duties or privileges are required by

1 law to be determined by the public body after an opportunity for a
2 trial-type hearing. Except as otherwise provided in this section,
3 the actual administrative adjudicatory proceeding at which evidence
4 is offered or rebutted and any final action taken as a result of
5 the proceeding shall occur in an open meeting;

6 (4) the discussion of personally identifiable
7 information about any individual student, unless the student, his
8 parent or guardian requests otherwise;

9 (5) meetings for the discussion of bargaining
10 strategy preliminary to collective bargaining negotiations between
11 the policymaking body and a bargaining unit representing the
12 employees of that policymaking body and collective bargaining
13 sessions at which the policymaking body and the representatives of
14 the collective bargaining unit are present;

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

25 (7) meetings subject to the attorney-client

1 privilege pertaining to threatened or pending litigation in which
2 the public body is or may become a participant;

3 (8) meetings for the discussion of the purchase,
4 acquisition or disposal of real property or water rights by the
5 public body; and

6 (9) those portions of meetings of committees or
7 boards of public hospitals that receive less than fifty percent of
8 their operating budget from direct public funds and appropriations
9 where strategic and long-range business plans are discussed.

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

12 (1) if made in an open meeting, shall be approved by
13 a majority vote of a quorum of the policymaking body; the authority
14 for the closure and the subject to be discussed shall be stated
15 with reasonable specificity in the motion calling for the vote on a
16 closed meeting; the vote shall be taken in an open meeting; and the
17 vote of each individual member shall be recorded in the minutes.

18 Only those subjects announced or voted upon prior to closure by the
19 policymaking body may be discussed in a closed meeting; and

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

. 111506. 2

Underscored material = new
[bracketed material] = delete

1 J. Following completion of any closed meeting, the
2 minutes of the open meeting that was closed or the minutes of the
3 next open meeting if the closed meeting was separately scheduled
4 shall state that the matters discussed in the closed meeting were
5 limited only to those specified in the motion for closure or in the
6 notice of the separate closed meeting. This statement shall be
7 approved by the public body under Subsection G of this section as
8 part of the minutes. "

9 Section 56. Section 13-1-98 NMSA 1978 (being Laws 1984,
10 Chapter 65, Section 71, as amended) is amended to read:

11 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE. -- The
12 provisions of the Procurement Code [~~shall~~] do not apply to:

13 A. procurement of items of tangible personal property or
14 services by a state agency or a local public body from a state
15 agency, a local public body or external procurement unit except as
16 otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;

17 B. procurement of tangible personal property or services
18 for the governor's mansion and grounds;

19 C. printing and duplicating contracts involving materials
20 [~~which~~] that are required to be filed in connection with
21 proceedings before administrative agencies or state or federal
22 courts;

23 D. purchases of publicly provided or publicly regulated
24 gas, electricity, water, sewer and refuse collection services;

25 E. purchases of books and periodicals from the publishers

1 or copyright holders thereof;

2 F. travel or shipping by common carrier or by private
3 conveyance or to meals and lodging;

4 G. purchase of livestock at auction rings or to the
5 procurement of animals to be used for research and experimentation
6 or exhibit;

7 H. contracts with businesses for public school
8 transportation services;

9 I. procurement of tangible personal property or services,
10 as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the
11 corrections industries division of the corrections department
12 pursuant to regulations adopted by the corrections [~~industries~~]
13 commission, which shall be reviewed by the purchasing division of
14 the general services department prior to adoption;

15 J. minor purchases consisting of magazine subscriptions,
16 conference registration fees and other similar purchases where
17 prepayments are required;

18 K. municipalities having adopted home rule charters and
19 having enacted their own purchasing ordinances;

20 L. the issuance, sale and delivery of public securities
21 pursuant to the applicable authorizing statute, with the exception
22 of bond attorneys and general financial consultants;

23 M. contracts entered into by a local public body with a
24 private independent contractor for the operation, or provision and
25 operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA

. 111506.2

1 1978;

2 N. contracts for maintenance of grounds and facilities at
3 highway rest stops and other employment opportunities, excluding
4 those intended for the direct care and support of persons with
5 handicaps, entered into by state agencies with private, nonprofit,
6 independent contractors who provide services to persons with
7 handicaps;

8 O. contracts and expenditures for services to be paid or
9 compensated by money or other property transferred to New Mexico
10 law enforcement agencies by the United States department of justice
11 drug enforcement administration;

12 P. contracts for retirement and other benefits pursuant
13 to Sections 22-11-47 through 22-11-52 NMSA 1978; [~~and~~]

14 Q. contracts with professional entertainers; and

15 R. any procurement made pursuant to the Video Gaming
16 Act. "

17 Section 57. Section 30-19-1 NMSA 1978 (being Laws 1963,
18 Chapter 303, Section 19-1, as amended) is amended to read:

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

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

25 B. "bet" means a bargain in which the parties agree that,

1 dependent upon chance, even though accompanied by some skill, one
2 stands to win or lose anything of value specified in the agreement.

3 A "bet" does not include:

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

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

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

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

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

17 (4) betting otherwise permitted by law;

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

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1 C. "calcutta" means a pool associated with an athletic
2 sporting event in which a party invests in a competitor or team and
3 agrees to a bargain that, dependent upon chance even though
4 accompanied by some skill on the part of oneself or another,
5 results in the loss of the party's initial investment or winning of
6 a percentage of the net pool, where the percentages of the net pool
7 allocated to winners are predetermined and specified by the rules
8 of the sponsor;

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

16 E. "gambling place" means [~~any~~] a building or tent, [~~any~~]
17 a vehicle, whether self-propelled or not, or [~~any~~] a room within
18 any of them, that is not within the premises of a person licensed
19 as a lottery retailer or to provide video gaming pursuant to the
20 New Mexico Lottery Act or the Video Gaming Act and one of whose
21 principal uses is:

- 22 (1) making and settling of bets;
23 (2) receiving, holding, recording or forwarding bets
24 or offers to bet;
25 (3) conducting lotteries; or

1 (4) playing gambling devices;

2 F. "lottery" means an enterprise wherein, for a
 3 consideration, the participants are given an opportunity to win a
 4 prize, the award of which is determined by chance, even though
 5 accompanied by some skill. "Lottery" does not include the New
 6 Mexico state lottery established and operated pursuant to the New
 7 Mexico Lottery Act or video gaming that is licensed and operated
 8 pursuant to the Video Gaming Act. As used in this section,
 9 "consideration" means anything of pecuniary value required to be
 10 paid to the promoter in order to participate in a gambling or
 11 gaming enterprise; and

12 G. "video gaming machine" means any electronic or
 13 electromechanical device, contrivance or machine that is available
 14 for play upon the payment of a consideration and when played may
 15 entitle the player to receive or may deliver to the player
 16 something of value, including currency, coins, premiums,
 17 merchandise, credits, tokens or a voucher, whether by reason of the
 18 skill of the player or application of the element of chance, or
 19 both; "video gaming machine" does not include video amusement
 20 machines. "

21 Section 58. Section 30-19-6 NMSA 1978 (being Laws 1963, Chap-
 22 ter 303, Section 19-6, as amended) is amended to read:

23 "30-19-6. [~~PERMISSIVE LOTTERY~~] AUTHORIZED GAMING-- FAIRS--
 24 THEATERS-- TAX-EXEMPT ORGANIZATIONS-- CALCUTTAS. --

25 A. Nothing in [~~Article 19~~] Chapter 30, Article 19 NMSA

1 1978 [~~shall be construed to apply to any~~] prohibits a sale or
2 drawing of [~~any~~] a prize at [~~any~~] a fair held in this state for the
3 benefit of [~~any~~] a church, public library or religious society
4 [~~situate or being~~] located in this state, or for charitable
5 purposes when all the proceeds of [~~such~~] the fair [~~shall be~~] are
6 expended in this state for the benefit of [~~such~~] the church, public
7 library, religious society or charitable purposes.

8 A [~~lottery shall be operated~~] calcutta, sale or drawing
9 conducted pursuant to this subsection is for the benefit of the
10 organization or charitable purpose only [~~when~~] if the entire
11 proceeds [~~of the lottery~~] from the calcutta, sale or drawing go to
12 the organization or charitable purpose and no part of [~~such~~] the
13 proceeds go to any individual member or employee [~~thereof~~] of the
14 organization.

15 B. Nothing in [~~Article 19~~] Chapter 30, Article 19 NMSA
16 1978 [~~shall be held to prohibit any~~] prohibits a bona fide motion
17 picture [~~theatre~~] theater from offering prizes of cash or
18 merchandise for advertising purposes, in connection with [~~such~~] the
19 business of the theater or for the purpose of stimulating business,
20 whether or not [~~any~~] consideration other than a monetary
21 consideration in excess of the regular price of admission is
22 [~~exacte~~] charged for participation in drawings for prizes.

23 C. Nothing in [~~Article 19~~] Chapter 30, Article 19 NMSA
24 1978 [~~shall be held to apply to any~~] prohibits a bona fide county
25 fair, including [~~fairs~~] fair for more than one county, [~~which shall~~

1 have] that has been held annually at the same location for at least
 2 two years [~~and which shall offer~~] from offering prizes of livestock
 3 or poultry in connection with [~~such~~] the fair [~~when~~] if the
 4 proceeds of [~~such~~] the drawings [~~shall be~~] are used for the benefit
 5 of [~~said~~] the fair.

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

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

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

17 ~~(3) no part of the proceeds of any lottery shall go~~
 18 ~~to any individual member or employee of any organization except as~~
 19 ~~payment for the purchase of prizes at no more than the reasonable~~
 20 ~~retail price.]~~

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

. 111506. 2

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

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

5 (a) bona fide members of the qualifying
6 organization who are not paid for their services in the operation
7 or management of the event; or

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

11 (3) no person receives any part of the proceeds of
12 the fundraising event except:

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

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

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

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

24 (6) the qualifying organization conducting the
25 fundraising event maintains records for a period of one year after

1 the date of the event that accurately show the gross revenue
 2 generated by the event, details of the expenses of conducting the
 3 event and details of how the gross revenue is used, and the
 4 qualifying organization makes the records available for review by
 5 the director of the alcohol and gaming division of the regulation
 6 and licensing department or the attorney general, or both, at their
 7 request;

8 (7) no video gaming machines and no slot machines
 9 are operated during the fundraising event;

10 (8) no persons less than the age of twenty-one are
 11 allowed to participate in the operation or management of the
 12 fundraising event or to play any game at the event; and

13 (9) the fundraising event is conducted pursuant to a
 14 permit issued by the alcohol and gaming division of the regulation
 15 and licensing department.

16 E. Nothing in Chapter 30, Article 19 NMSA 1978 prohibits
 17 or applies to gaming activities permitted and licensed pursuant to
 18 the New Mexico Lottery Act or the Video Gaming Act.

19 F. As used in Subsections A and D of this section,
 20 "lottery" means a paper lottery, a raffle, paper pull tabs or other
 21 games of chance, not including any electronic facsimile of a game
 22 of chance played on a video gaming machine."

23 Section 59. Section 60-7A-19 NMSA 1978 (being Laws 1981,
 24 Chapter 39, Section 96) is amended to read:

25 "60-7A-19. COMMERCIAL GAMBLING ON LICENSED PREMISES. --

1 A. It is a violation of the Liquor Control Act for a li-
2 censee to knowingly allow commercial gambling on the licensed
3 premises.

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

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

9 (1) "commercial gambling" means:

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

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

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

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

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

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

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

25 (a) activities authorized pursuant to the New

1 Mexico Lottery Act:

2 (b) the conduct of activities pursuant to
3 Subsection D of Section 30-19-6 NMSA 1978; and

4 (c) the conduct of video gaming authorized
5 pursuant to the Video Gaming Act on the licensed premises of a
6 video gaming licensee licensed pursuant to that act."

7 Section 60. APPROPRIATION.--One million dollars (\$1,000,000)
8 is appropriated from the general fund to the regulation and
9 licensing department for expenditure in fiscal years 1996 and 1997
10 for the purpose of implementation of the Video Gaming Act. Any
11 unexpended or unencumbered balance remaining at the end of fiscal
12 year 1997 shall revert to the general fund.

13 Section 61. SEVERABILITY.--If any part or application of the
14 Video Gaming Act is held invalid, the remainder or its application
15 to other situations or persons shall not be affected.

16 Section 62. EFFECTIVE DATE.--The effective date of the
17 provisions of this act shall be the date on which tribal-state
18 gaming compacts negotiated pursuant to the provisions of the
19 federal Indian Gaming Regulatory Act are approved by the
20 legislature, the governor and the pueblos of Taos, San Juan, Santa
21 Clara, San Ildefonso, Nambé, Pojoaque, Tesuque, Santo Domingo, San
22 Felipe, Santa Ana, Sandia, Isleta, Laguna and Acoma and the
23 Mescalero Apache and Jicarilla Apache tribes.

24 Section 63. EMERGENCY.--It is necessary for the public peace,
25 health and safety that this act take effect immediately.

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FORTY-SECOND LEGISLATURE

SECOND SESSION

February 3, 1996

SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE
WHOLE SUBSTITUTE FOR SENATE
BILL 701

Amendment sponsored by Senator JOHN ARTHUR SMITH

1. On page 40, line 11, after the semi colon strike "and".
2. On page 40, between lines 11 and 12, insert the following:

"(2) class B counties:

(a) having populations as determined by the
1990 federal census of not more than ten thousand persons and not
less than nine thousand persons; and

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SCW/SB 701

(b) having a 1993 net taxable value of property, as that term is defined in the Property Tax Code, of at least one hundred five million dollars (\$105,000,000) but not more than one hundred ten million dollars (\$110,000,000); and".

3. Renumber the succeeding paragraph accordingly.

John Arthur Smith

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

Underscored material = new
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FORTY-SECOND LEGISLATURE

SECOND SESSION

February 3, 1996

SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE
WHOLE SUBSTITUTE FOR
SENATE

BILL 701

Amendment sponsored by Senator Tom Rutherford

1. On page 36, line 10, following the period insert "No
racetrack located on property owned by the state may apply for or
be issued a license as a video gaming licensee."

Underscored material = new
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FORTY-FIRST LEGISLATURE
SECOND SESSION

1 SCW/SB 701

2 HB701

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4 _____
5 **Tom Rutherford**

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9 Adopted _____ Not Adopted _____
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FORTY-SECOND LEGISLATURE

SECOND SESSION

February 3, 1996

SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE

WHOLE SUBSTITUTE FOR SENATE

BILL 701

Amendment sponsored by Senator Ben D. Altamirano

1. On page 3, between lines 16 and 17, insert the following
new subsection:

"G. "electronic bingo device" means a portable,
electronic contrivance that records and stores card information,
matches the numbers that are inserted by the user against the
stored card information, is used in conjunction with an
authorized bingo game and is not connected, attached or otherwise
linked in any manner during the course of a game to a central

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FORTY-FIRST LEGISLATURE
SECOND SESSION

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computer, sales station or any other device that could alter the
cards or numbers;".

2. Reletter the succeeding subsections accordingly.

3. On page 7, line 2, after the semicolon insert "'video
amusement machine" does not include an electronic bingo device;".

4. On page 7, line 18, after "machines" insert "or electronic
bingo devices".

Ben D. Altamirano

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

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FORTY-FIRST LEGISLATURE
SECOND SESSION

SWC/SB 701

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

February 5, 1996

SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE
WHOLE

SUBSTITUTE FOR SENATE BILL 701,
as amended,
with emergency clause

AMENDMENT sponsored by SENATOR RHODES

1. On page 52, line 22, following the period, insert the

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FORTY-FIRST LEGISLATURE
SECOND SESSION

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following:

"No licensee may use lights commonly known as spot or search
lights on the premises or as part of an advertising campaign."

Senator Virgil O. Rhodes

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

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FORTY-FIRST LEGISLATURE
SECOND SESSION

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SCW/SB 701

FORTY-SECOND LEGISLATURE
SECOND SESSION

February 4, 1996

SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE
WHOLE SUBSTITUTE FOR
SENATE
BILL 701

Amendment sponsored by Senator Roman M Maes III

1. On page 83, between lines 13 and 14, insert the following
new sections:

"Section 59. Section 41-11-1 NMSA 1978 (being Laws 1983,
Chapter 328, Section 1, as amended) is amended to read:

"41-11-1. TORT LIABILITY FOR ALCOHOLIC LIQUOR SALES OR

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SECOND SESSION

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SERVICE. --

A. No civil liability shall be predicated upon the breach of Section 60-7A-16 NMSA 1978 by a licensee, except in the case of the licensee [~~who~~]:

(1) who sold or served alcohol to a person who was intoxicated;

(2) to whom it was reasonably apparent [~~to the licensee~~] that the person buying or apparently receiving service of alcoholic beverages was intoxicated; and

(3) [~~the licensee~~] who knew from the circumstances that the person buying or receiving service of alcoholic beverages was intoxicated.

B. No person who was sold or served alcoholic beverages while intoxicated shall be entitled to collect any damages or obtain any other relief against the licensee who sold or served the

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3 alcoholic beverages unless the licensee is determined to have
4 acted with gross negligence and reckless disregard for the safety
5 of the person who purchased or was served the alcoholic beverages.
6

7 C. No licensee is chargeable with knowledge of previous
8 acts by which a person becomes intoxicated at other locations un-
9 known to the licensee.
10

11 D. As used in this section:

12 (1) "licensee" means:

13 (a) a person licensed under the
14 provisions of the Liquor Control Act and the agents or servants of
15 the licensee; or
16

17 (b) an Indian nation, tribe or pueblo that is a
18 party to a valid gaming compact with the state and that dispenses
19 alcoholic beverages to persons in connection with its operation of
20 gaming activities pursuant to that compact if the compact contains
21 a provision binding the Indian nation, tribe or pueblo to accept
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Underscored material = new
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FORTY-FIRST LEGISLATURE
SECOND SESSION

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the provisions of this section and to waive sovereign immunity in any action brought in a court of competent jurisdiction to enforce a claim arising under this section; and

(2) "intoxicated" means the impairment of a person's mental and physical faculties as a result of alcoholic beverage use so as to substantially diminish that person's ability to think and act in a manner in which an ordinary prudent person, in full possession of his faculties, would think and act under like circumstances.

E. No person who has gratuitously provided alcoholic beverages to a guest in a social setting may be held liable in damages to any person for bodily injury, death or property damage arising from the intoxication of the social guest unless the alcoholic beverages were provided recklessly in disregard of the rights of others, including the social guest.

F. A licensee may be civilly liable for the negligent violation of ~~[Sections]~~ Section 60-7B-1 ~~[and 60-7B-1.1]~~ NMSA 1978.

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3 The fact-finder shall consider all the circumstances of the sale
4 in determining whether there is negligence such as the
5 representation used to obtain the alcoholic beverage. It shall
6 not be negligence
7 per se to violate [~~Sections~~] Section 60-7B-1 [~~and 60-7B-1.1~~] NMSA
8 1978.

9
10 G. A licensee shall not be held civilly liable pursuant
11 to the provisions of Subsection F of this section except when:

12
13 (1) it is demonstrated by the preponderance of the
14 evidence that the licensee knew, or that a reasonable person in
15 the same circumstances would have known, that the person who
16 received the alcoholic beverages was a minor; and

17
18 (2) the licensee's violation of Section 60-7B-1 [~~or~~
19 ~~60-7B-1.1~~] NMSA 1978 was a proximate cause of the plaintiff's
20 injury, death or property damage.
21
22

23 H. No person may seek relief in a civil claim against a
24

25 111218.2

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licensee or a social host for injury or death or damage to property ~~[which]~~ that was proximately caused by the sale, service or provision of alcoholic beverages except as provided in this section.

I. Liability arising under this section shall not exceed fifty thousand dollars (\$50,000) for bodily injury to or death of one person in each transaction or occurrence or, subject to that limitation for one person, one hundred thousand dollars (\$100,000) for bodily injury to or death of two or more persons in each transaction or occurrence, and twenty thousand dollars (\$20,000) for property damage in each transaction or occurrence."

Section 60. Section 60-3A-5 NMSA 1978 (being Laws 1981, Chapter 39, Section 112, as amended) is amended to read:

"60-3A-5. EXEMPTIONS FROM ACT. -- Except for the specific exception in Subsection D of this section, nothing in the Liquor Control Act applies to:

A. the transportation of alcoholic beverages through New

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3 Mexi co;

4
5 B. the transportation of alcoholic beverages into a
6 United States customs bonded warehouse located in New Mexico;

7
8 C. ethyl alcohol intended for or used for any of the
9 following purposes:

10
11 (1) scientific, mechanical, industrial, medical,
12 chemical or culinary purposes;

13
14 (2) use by those authorized to procure the same
15 tax-free, as provided by the acts of congress and regulations
16 promulgated thereunder; or

17
18 (3) in the manufacture of denatured alcohol
19 produced and used as provided by the acts of congress and
20 regulations
21 promulgated thereunder; or

22
23 D. the sale, service, possession or public consumption
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of alcoholic beverages by any person within the boundaries of
lands over which an Indian nation, tribe or pueblo has
jurisdiction if the alcoholic beverages are purchased from New
Mexico wholesalers and if the sale, service, possession or public
consumption of alcoholic beverages is authorized by the laws of
the Indian nation, tribe or pueblo having jurisdiction over those
lands and is consistent with the ordinance of the Indian nation,
tribe or pueblo certified by the secretary of the interior and
published in the federal register according to the laws of the
United States, but this exemption does not relieve an Indian
nation, tribe or pueblo defined as a licensee
pursuant to the provisions of Subsection D of Section 41-11-1 NMSA
1978 from the prohibition of Section 60-7A-16 NMSA 1978 and from
liability pursuant to Section 41-11-1 NMSA 1978 predicated upon a
violation of Section 60-7A-16 NMSA 1978. "".

2. Renumber the succeeding sections accordingly.

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6 _____
7 Roman M Maes III

10 Adopted _____ Not Adopted _____
11 (Chief Clerk) (Chief Clerk)

14 Date _____

Underscored material = new
[bracketed material] = delete

FORTY-SECOND LEGISLATURE

SECOND SESSION

February 5, 1996

SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE
WHOLE SUBSTITUTE FOR
SENATE BILL 701, as
amended

Amendment sponsored by Senator

1. On page 8, line 12, after the period strike the remainder
of the line, strike line 13 through the period and insert in lieu
thereof:

"Members shall be appointed from each house so as to give the
two major political parties the same proportional representation
as prevails in each house; however, in no event shall either party
have fewer than one member from each house on the committee."

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FORTY-SECOND LEGISLATURE

SECOND SESSION

February 4, 1996

SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE
WHOLE SUBSTITUTE FOR
SENATE
BILL 701

Amendment sponsored by Senator Ben D. Altamirano

1. On page 78, line 6, after the semicolon insert:

"gambling device" does not include an electronic bingo device
that is a portable, electronic contrivance that records and stores
card information, matches the numbers that are inserted by the
user against the stored card information, is used in conjunction
with an authorized bingo game and is not connected, attached or
otherwise linked in any manner during the course of a game to a
central computer, sales station or any other device that could

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3 alter the cards or numbers;".
4

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7 _____
8 Ben D. Altamirano
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FORTY-SECOND LEGISLATURE

SECOND SESSION

February 4, 1996

SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE
WHOLE SUBSTITUTE FOR
SENATE
BILL 701, as amended

Amendment sponsored by Senator Roman M Maes III

1. On page 1, line 17, after "PENALTIES;" insert "LIMITING
SOLICITATION OR ACCEPTANCE OF CAMPAIGN CONTRIBUTIONS FROM GAMING
INTERESTS;".

2. On page 56, between lines 3 and 4, insert the following
new section:

"Section 47. A new section of the Campaign Reporting Act is
enacted to read:

111478.3

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"[NEW MATERIAL] SOLICITING OR ACCEPTING CAMPAIGN
CONTRIBUTIONS FROM GAMING INTERESTS LIMITED. -- No candidate shall
solicit or accept a campaign contribution in excess of two hundred
fifty dollars (\$250) from:

A. a person who holds or is an applicant for a license
issued pursuant to the Video Gaming Act or an employee, officer or
representative of that person;

B. an Indian nation, tribe or pueblo that engages in
gaming or an officer, employee, member of a governing body or
representative of that Indian entity; or

C. a person who is a contractor that operates gaming
activities on behalf of an Indian nation, tribe or pueblo or an
officer, employee or representative of that person."

3. Renumber the succeeding sections accordingly.

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Roman M Maes III

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**FORTY- SECOND LEGISLATURE
SECOND SESSION**

February 5, 1996

SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE
WHOLE SUBSTITUTE FOR
SENATE
BILL 701, as amended

Amendment sponsored by Senator Tom Rutherford

1. On page 1, line 17, after "AMENDING" insert ", REPEALING".
2. On page 56, between lines 3 and 4, insert the following

additional sections:

"Section 47. Section 6-24-5 NMSA 1978 (being Laws 1995,

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Chapter 155, Section 5) is amended to read:

"6-24-5. NEW MEXICO LOTTERY AUTHORITY CREATED. --

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

B. The authority shall be governed by a board of directors composed of seven members who are residents of New Mexico appointed by the governor with the advice and consent of the senate. The members of the board of directors shall be prominent persons in their businesses or professions and shall be appointed so as to provide equitable geographical representation. No more than four members of the board shall be from any one political party. The governor shall consider appointing at least one member who has at least five years experience as a law

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3 enforcement officer, at least one member who is an attorney
4 admitted to practice in New Mexico and at least one member who is
5 a certified public accountant certified in New Mexico.
6

7 C. Board members shall be appointed for five-year terms.
8 To provide for staggered terms, four of the initially appointed
9 members shall be appointed for terms of five years and three
10 members for terms of three years. Thereafter, all members shall
11 be appointed for five-year terms. A vacancy shall be filled by
12 appointment by the governor for the remainder of the unexpired
13 term. A member shall serve until his replacement is confirmed by
14 the senate. Board members shall be eligible for reappointment.
15

16 D. The board shall select one of its members as chairman
17 annually. A chairman may be selected for successive years.
18 Members of the board may be removed by the governor for
19 malfeasance, misfeasance or willful neglect of duty after
20 reasonable notice and a public hearing unless the notice and
21 hearing are expressly waived in writing by the member.
22

23 E. The board shall hold regular meetings at the call of
24

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the chairman, but not less often than once each calendar quarter.

A board meeting may also be called upon the request in writing of three or more board members. A majority of members then in office constitutes a quorum for the transaction of any business and for the exercise of any power or function of the authority.

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

G. A board member shall be subject to a background check and investigation to determine his fitness for office and shall make the disclosures required by Section 6-24-20 NMSA 1978. The results of that background check shall be made available to the governor and the senate. "

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

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

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3 A. The authority shall have [~~any and~~] all powers
4 necessary or convenient to carry out and effectuate the purposes
5 and provisions of the New Mexico Lottery Act that are not in
6 conflict with the constitution of New Mexico and that are
7 generally exercised by corporations engaged in entrepreneurial
8 pursuits, including [~~but without limiting the generality of the~~
9 ~~foregoing~~] the power to:

10
11 (1) sue and be sued;

12
13 (2) adopt and alter a seal;

14
15 (3) adopt, amend and repeal bylaws, rules, policies
16 and procedures for the conduct of its affairs and its business;

17
18 (4) procure or provide insurance;

19
20 (5) hold copyrights, trademarks and service marks
21 and enforce its rights with respect thereto;

22
23 (6) initiate, supervise and administer the
24

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Underscored material = new
[bracketed material] = delete

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operation of the lottery in accordance with the provisions of the
New Mexico Lottery Act and rules, policies and procedures adopted
pursuant to that act;

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

(8) acquire or lease real property and make
improvements thereon and acquire by lease or by purchase personal
property, including ~~[but not limited to]~~ computers, mechanical,
electronic and on-line equipment and terminals and intangible
property, including ~~[but not limited to]~~ computer programs,
systems and software;

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

(10) receive and expend, in accordance with the

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3 provisions of the New Mexico Lottery Act, all money received from
4 any lottery or nonlottery source for effectuating the purposes of
5 the New Mexico Lottery Act;

6
7 (11) administer oaths, take depositions, issue
8 subpoenas and compel the attendance of witnesses and the
9 production of books, papers, documents and other evidence relative
10 to any investigation or proceeding conducted by the authority;

11
12 (12) appoint and prescribe the duties of officers,
13 agents and employees of the authority, including professional and
14 administrative staff and personnel, and to fix their compensation,
15 pay their expenses and provide a benefit program, including ~~but~~
16 ~~not limited to~~ a retirement plan and a group insurance plan;

17
18 (13) select and contract with lottery vendors and
19 lottery retailers;

20
21 (14) enter into contracts or agreements with state,
22 local or federal law enforcement agencies or private investigators
23 or other persons for the performance of law enforcement,

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background investigations and security checks;

(15) establish an applicant fee schedule for processing permit applications that is based on costs of application review incurred by the authority and also costs incurred for investigations of applicants by state departments and agencies other than the authority, which regulation shall provide for the reimbursement of these costs to the authority or other department or agency from the fees charged and shall also limit the fee to be not greater than ten thousand dollars (\$10,000);

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

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

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

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3 [~~(18)~~] (19) act as a lottery retailer, conduct
4 promotions that involve the dispensing of lottery tickets and
5 establish and operate a sales facility to sell lottery tickets and
6 any related merchandise; and

7
8 [~~(19)~~] (20) adopt, repeal and amend such rules,
9 policies and procedures as necessary to carry out and implement
10 its powers and duties, organize and operate the authority, conduct
11 lottery games and any other matters necessary or desirable for the
12 efficient and effective operation of the lottery and the
13 convenience of the public.

14
15 B. The powers enumerated in this section are cumulative
16 of and in addition to those powers enumerated elsewhere in the New
17 Mexico Lottery Act, and no such powers limit or restrict any other
18 powers of the authority. "".

19
20 3. Renumber the succeeding sections accordingly.

21
22 4. On page 57, between lines 8 and 9, insert the following
23 additional sections:
24

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Underscored material = new
[bracketed material] = delete

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"Section 48. Section 6-24-11 NMSA 1978 (being Laws 1995,
Chapter 155, Section 11) is amended to read:

"6-24-11. EMPLOYEES--CONFLICT OF INTEREST--INVESTIGATIONS--
BONDS.--

A. No employee of the authority shall participate in any
decision involving a lottery retailer with whom the employee has a
financial interest.

B. No employee of the authority who leaves the
employment of the authority may represent any lottery vendor or
lottery retailer before the authority for a period of two years
following termination of employment with the authority.

C. A background investigation shall be conducted on each
applicant who has reached the final selection process prior to
employment by the authority if an investigation of that applicant
is directed by the authority or requested by the lottery and
gaming oversight committee. If a background investigation of an
applicant is directed or requested, the applicant shall make the

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3 disclosures required by Section 6-24-20 NMSA 1978. The authority
4 is authorized to pay for the actual cost of such investigations
5 and may contract with the department of public safety for the
6 performance of the investigations.
7

8 D. The authority shall bond authority employees with
9 access to authority funds or lottery revenue in an amount
10 determined by the board and may bond other employees as deemed
11 necessary. "
12

13 Section 49. Section 6-24-20 NMSA 1978 (being Laws 1995,
14 Chapter 155, Section 20) is repealed and a new Section 6-24-20
15 NMSA 1978 is enacted to read:
16

17 "6-24-20. [NEW MATERIAL] DISCLOSURES REQUIRED FOR BOARD
18 MEMBERS, EMPLOYEES, LOTTERY VENDORS AND RETAILERS. --
19

20 A. A prospective board member shall file a disclosure
21 statement pursuant to the requirements of this section at the time
22 of his appointment by the governor, and the senate shall not take
23 the appointment under consideration until a background
24

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investigation is completed and a report is made to the senate and the governor.

B. A person who is under consideration in the final selection process for appointment as the authority's chief executive officer shall file a disclosure statement pursuant to the requirements of this section, and the authority shall not make an appointment of a person as chief executive officer until a background investigation is completed and a report is made to the authority.

C. A person who has reached the final selection process in his application for employment by the authority shall file a disclosure statement pursuant to the requirements of this section if the authority has directed or the lottery and gaming oversight committee has requested that the applicant do so. The person shall not be further considered for employment unless a background investigation is completed and a report is made to the authority.

D. A lottery vendor and a person seeking a contract as a lottery retailer shall file with any proposal a disclosure

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statement pursuant to the provisions of this section. No contract shall be executed between the authority and a lottery vendor or a lottery retailer unless a background investigation is completed and a report is made to the authority covering the vendor or retailer.

E. The forms for disclosure statements required by this section shall be developed by the authority in cooperation with the department of public safety. As a minimum, the following information shall be required of a person submitting a statement:

(1) if the person submitting the statement is a prospective board member, an applicant for the position of chief executive officer, an applicant for employment with the authority or an applicant for a contract as a lottery retailer:

(a) a full set of fingerprints made by a law enforcement agency on forms supplied by the authority;

(b) complete information and details with

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respect to the person's antecedents, habits, character, criminal records, business activities and business associates covering at least a ten- year period immediately preceding the date of submitting the disclosure statement; and

(c) a complete description of any equity interest held in a business connected with the gambling industry;

(2) if the person submitting the statement is a prospective lottery vendor:

(a) the lottery vendor's business name and address and the names and addresses of the following:

1) if the lottery vendor is a partnership, all of the general and limited partners;

2) if the lottery vendor is a trust, the trustee and all persons entitled to receive income or benefit from the trust;

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3
4 3) if the lottery vendor is an
5 association, the members, officers and directors;

6
7 4) if the lottery vendor is a corporation,
8 the officers, directors and each owner or holder, directly or
9 indirectly, of any equity security or other evidence of ownership
10 of any interest in the corporation; except that, in the case of
11 owners or holders of publicly held equity securities of a publicly
12 traded corporation, only the names and addresses of those owning
13 or holding five percent or more of the publicly held securities
14 must be disclosed; and

15
16 5) if the lottery vendor is a subsidiary
17 company, each intermediary company, holding company or parent
18 company involved and the officers, directors and stockholders of
19 each; except that, in the case of owners or holders of publicly
20 held securities of an intermediary company, holding company or
21 parent company that is a publicly traded corporation, only the
22 names and addresses of those owning or holding five percent or
23 more of the publicly held securities must be disclosed;

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Underscored material = new
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(b) if the lottery vendor is a corporation, all the states in which the lottery vendor is authorized to do business and the nature of that business;

(c) other jurisdictions in which the lottery vendor has contracts to supply gaming materials, equipment or services;

(d) the details of any conviction by a federal or any state court of the lottery vendor or any person whose name and address are required under this section for a criminal offense punishable by imprisonment for more than one year and shall submit to the board a full set of fingerprints of such person made at a law enforcement agency by an agent or officer of such agency on forms supplied by the authority;

(e) the details of any disciplinary action taken by any state against the lottery vendor or any person whose name and address are required by this section regarding any matter related to gaming services or the selling, leasing, offering for sale or lease, buying or servicing of gaming materials or equipment;

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3 (f) audited annual financial statements of the
4 lottery vendor for the preceding five years;

5
6 (g) a statement of the lottery vendor's gross
7 receipts realized in the preceding year from gaming services and
8 the sale, lease or distribution of gaming materials or equipment
9 to states operating lotteries and to private persons licensed to
10 conduct gambling, differentiating that portion of the gross
11 receipts attributable to transactions with states operating
12 lotteries from that portion of the gross receipts attributable to
13 transactions with private persons licensed to conduct gambling;

14
15 (h) the name and address of any source of
16 gaming materials or equipment for the lottery vendor;

17
18 (i) the number of years the lottery vendor has
19 been in the business of supplying gaming services or gaming
20 materials or equipment; and

21
22 (j) any other information, accompanied by any
23 documents the board by rule may reasonably require as being
24

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necessary or appropriate in the public interest to accomplish the purposes of the New Mexico Lottery Act.

F. Upon the request of the governor in the case of a prospective board member and upon the request of the authority in all other cases, the department of public safety shall prepare and transmit to the requesting person an investigative report of the person submitting the disclosure statement, based in part upon the statement. The report shall be prepared and transmitted within ninety days after the receipt of a copy of the disclosure statement. Upon good cause, the ninety days may be extended for a reasonable period of time by the person requesting the investigative report.

G. In preparing an investigative report the department of public safety may request and receive criminal history information from the federal bureau of investigation or any other law enforcement agency or organization. The department of public safety shall maintain confidentiality regarding information received from a law enforcement agency that may be imposed by the agency as a condition for providing the information to the

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3 department of public safety.
4

5 H. All persons required to file a disclosure statement
6 shall provide any assistance or information requested by the
7 department of public safety, the governor or the authority and
8 shall cooperate in any inquiry or investigation.
9

10 I. If any information required to be included in a
11 disclosure statement changes or if any information is added after
12 filing the statement, the person required to file it shall provide
13 that information in writing to the person requesting the
14 investigation. The supplemental information shall be provided
15 within thirty days after the change or addition.
16

17 J. No contract for supplying goods or services for use
18 in the operation of the lottery is enforceable against the
19 authority unless the requirements of this section have been
20 fulfilled.
21

22 K. The senate shall refuse to confirm a prospective
23 board member and the authority shall not appoint, employ or enter
24

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into a contract with a person if the senate or the authority,
respectively, has reasonable cause to believe that the prospective
board member or the person has:

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

(2) been convicted of a felony or a crime involving
moral turpitude within ten years immediately preceding the date of
submitting a disclosure statement required pursuant to this
section;

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

(4) had any permit or license issued pursuant to
the gambling laws of a state or the United States permanently
suspended or revoked for cause.

L. The department of public safety shall transmit copies

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of all investigative reports prepared on a prospective board member to the legislative organized crime oversight committee."".

5. Renumber the succeeding sections accordingly.

Tom Rutherford

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

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FORTY-FIRST LEGISLATURE
SECOND SESSION

SF1/SCW/SB 701, aa

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SCW/SB 701

FORTY- SECOND LEGISLATURE
SECOND SESSION

February 5, 1996

SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE
WHOLE SUBSTITUTE FOR
SENATE
BILL 701, as amended

Amendment sponsored by Senator Ben D. Altamirano

1. On page 40, between lines 3 and 4, insert the following:

"(1) class B counties:

(a) having populations as determined by the
1990 federal census of not more than thirteen thousand persons and

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FORTY-FIRST LEGISLATURE
SECOND SESSION

SF1/SCW\SB 701, aa

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not less than twelve thousand persons; and

(b) having a 1993 net taxable value of property, as that term is defined in the Property Tax Code, of at least one hundred fifty-nine million dollars (\$159,000,000) but not more than one hundred sixty-five million dollars (\$165,000,000);".

2. Renumber the succeeding paragraphs accordingly.

Ben D. Altamirano

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

FORTY-FIRST LEGISLATURE
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SECOND SESSION

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

February 5, 1996

SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE
WHOLE

SUBSTITUTE FOR SENATE
BILL 701, AS AMENDED
WITH EMERGENCY CLAUSE

AMENDMENT sponsored by SENATOR L. SKIP VERNON

1. On page 85, Section 62, line 14, after the period, insert
the following sentence:

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SECOND SESSION

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"Provided, however, that no provision of this act shall become effective unless all tribal-state gaming compacts contain a specific provision requiring that all parties to the tribal-state gaming compact agree to be fully bound by all provisions of the Campaign Reporting Act, Section 1-19-1 NMSA 1978, et seq."

Senator L. SKIP VERNON

Adopted _____ Not Adopted _____

(Chief Clerk)

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FORTY-FIRST LEGISLATURE
SECOND SESSION

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(Chief Clerk)

Date _____

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3 FORTY-SECOND LEGISLATURE
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7 February 5, 1996
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10 SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE
11 WHOLE SUBSTITUTE FOR

12 SENATE

13 BILL 701, as amended
14

15
16 Amendment sponsored by Senator Manny M Aragon
17

18
19 1. On page 33, line 1, strike "twenty" and insert in lieu
20 thereof "fifteen".
21

22 2. On page 37, line 11, strike "no more than four hundred"
23 and insert in lieu thereof "an unlimited number of".
24

25 111807.3

FORTY-FIRST LEGISLATURE
SECOND SESSION

SFI/SCW/SB 701, aa

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3. On page 37, line 12, strike "video".

4. On page 37, line 24, after "twenty" insert "and eighteen hundredths".

5. On page 38, line 5, strike "five" and insert in lieu thereof "four and eighty-two hundredths".

6. On page 38, strike lines 11 through 14 and insert in lieu thereof:

"I. A racetrack may conduct video gaming only on days the racetrack is holding a live race meet or simulcasting. The hours during which gaming may be conducted shall be established by regulation of the director but shall provide a minimum of twelve hours a day."

7. On page 83, between lines 13 and 14, insert the following new sections:

"Section 59. A new Section 60-1-9.1 NMSA 1978 is enacted to

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3 read:

4
5 "60-1-9.1. [NEW MATERIAL] SUPERINTENDENT OF REGULATION AND
6 LICENSING TO HAVE ACCESS TO LICENSURE INFORMATION. --The state
7 racing commission shall provide access to all information obtained
8 by the commission in connection with its licensing of horse race
9 meetings to the superintendent of regulation and licensing
10 operating pursuant to the Video Gaming Act, and the superintendent
11 shall utilize and review all such information in connection with
12 the issuance of licenses pursuant to that act and shall not
13 require the duplication of such information."
14

15 Section 60. A new Section 60-1-25.2 NMSA 1978 is enacted to
16 read:

17
18 "60-1-25.2. [NEW MATERIAL] OFF-TRACK PARI-MUTUEL WAGERING. --

19
20 A. Off-track betting at licensed OTB facilities in this
21 state is declared to be legal.
22

23 B. The state racing commission is authorized and
24

25 111807.3

FORTY-FIRST LEGISLATURE
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empowered to adopt, repeal and amend such rules and regulations as
it may deem necessary or appropriate to regulate and govern the
conduct of off-track betting so as to ensure the integrity,
reliability and security of off-track betting and for the
protection of the public, including, without limitation,
regulations covering:

(1) grant, refusal and revocation of licenses for
OTB facilities, persons holding a direct or indirect interest in
or control of those facilities, and persons supplying goods or
services to those facilities; provided that no OTB facility may be
licensed to conduct off-track betting unless it is doing so as an
extension of a live race meet conducted at a licensed New Mexico
racetrack and receives, except as otherwise permitted by the
commission, the simulcast of all live races from licensed race
meets;

(2) inspection and visitation at reasonable
intervals at OTB facilities;

(3) the governing, restricting or regulating of

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SECOND SESSION

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3 operation of off-track betting and all equipment used in
4 connection with it;

5
6 (4) the approval of all contracts and agreements
7 related to off-track betting or an OTB facility;

8
9 (5) supervision and regulation of the operation of
10 an entity formed or joint agreement entered into at the discretion
11 of one or more racetracks to construct, contract or subcontract
12 for, establish or operate one or more OTB facilities, the
13 formation of such an entity or the entering into of such an
14 agreement being hereby specifically authorized; and

15
16 (6) any and all such other matters as the
17 commission may deem necessary or appropriate to accomplish the
18 objectives of this section.

19
20 C. For purposes of this section, the state racing
21 commission shall have all the powers and authority conferred upon
22 it by the Horse Racing Act as if those powers and authority were
23 restated in this section.

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SECOND SESSION

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D. Distribution of the gross amount wagered at an OTB facility will be made as follows:

(1) with respect to the gross amount wagered as off-track betting on horse races run live in this state, after deductions by the racetrack, racetracks or racetrack entity operating the OTB facility as provided in Subsection H of Section 60-1-10 NMSA 1978, except that no deduction shall be taken pursuant to Paragraph (1) of Subsection B of Section 60-1-15 NMSA 1978, net retainage will be distributed to the racetrack holding the live race meet upon which off-track betting was wagered for distribution in accordance with that subsection; and

(2) with respect to the gross amount wagered as offtrack betting on horse races run live other than in this state, after deductions by the racetrack, racetracks or racetrack entity operating the OTB facility as provided in Subsection H of Section 60-1-10 NMSA 1978, except that the deduction in Paragraph (4) of

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that subsection for expenses incurred to engage in simulcasting shall be one and one-half percent and no deduction shall be taken pursuant to Paragraph (1) of Subsection B of Section 60-1-15 NMSA 1978, each racetrack will receive a proportion of net retainage equal to the net retainage multiplied by the ratio of the number of live race days run at that racetrack to the total number of live race days run in this state during the preceding state fiscal year, the net retainage so received by a racetrack being then distributed as provided by Subsection H of Section 60-1-10 NMSA 1978. "".

8. Renumber the succeeding sections accordingly.

Manny M. Aragon

FORTY-FIRST LEGISLATURE
SECOND SESSION

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

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**FORTY-FIRST LEGISLATURE
SECOND SESSION**

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**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

February 5, 1996

**SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE
WHOLE**

**SUBSTITUTE FOR SENATE
BILL 701, AS AMENDED
WITH EMERGENCY CLAUSE**

AMENDMENT sponsored by SENATOR DUNCAN SCOTT

- 1. Add a final sentence to Section 62, page 85 that reads:**

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FORTY-FIRST LEGISLATURE
SECOND SESSION

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"Provided, however, that a condition of approval of compacts shall be that the tribe or pueblo shall have in effect at all times a Dram Shop Act substantially similar to New Mexico's Dram Shop Act subjecting the tribe or pueblo to liability."

Senator Duncan Scott

Adopted _____

Not Adopted _____

(Chief Clerk)

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FORTY-FIRST LEGISLATURE
SECOND SESSION

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FORTY-FIRST LEGISLATURE
SECOND SESSION

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

February 5, 1996

SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE
WHOLE

SUBSTITUTE FOR SENATE
BILL 701, AS AMENDED
WITH EMERGENCY CLAUSE

AMENDMENT sponsored by SENATOR DUNCAN SCOTT

1. On page 54, delete Section 43, requiring legal proceedings to be brought in Santa Fe county, and

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FORTY-FIRST LEGISLATURE
SECOND SESSION

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renumber accordingly.

Senator Duncan Scott

Adopted _____ Not Adopted _____

(Chief Clerk)

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Date _____

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FORTY-SECOND LEGISLATURE

SECOND SESSION

February 4, 1996

SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE
WHOLE SUBSTITUTE FOR
SENATE
BILL 701

Amendment sponsored by Senator Manny M Aragon

1. On page 3, between lines 3 and 4, insert the following:

"B. "casino games" means a banking or nonbanking game of chance, including card games, craps, roulette, big 6 and other table games of chance or games of chance played with specialized gambling equipment; "casino game" does not include sports betting;

C. "casino gaming" means the conduct or play of casino games; "

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SECOND SESSION

1 SCW/SB 701

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3 2. Reletter the succeeding subsections accordingly.

4
5 3. On page 7, line 9, after "premises" insert "and in the
6 case of licensed resorts, includes casino gaming".

7
8 4. On page 32, line 14, strike "and".

9
10 5. On page 32, line 15, strike "video gaming licensees" and
11 insert in lieu thereof "licensed charities, licensed clubs,
12 licensed liquor establishments or racetracks".

13
14 6. On page 32, line 17, strike the period and insert in lieu
15 thereof "; and".

16
17 7. On page 32, between lines 17 and 18, insert the following:

18
19 "(6) licensed resorts, two hundred fifty thousand
20 dollars (\$250,000) for an initial license and twenty-five thousand
21 dollars (\$25,000) annually for renewal."

22
23 8. On page 39, line 8, after the first "gaming" insert "and
24

25 111709.1

FORTY-FIRST LEGISLATURE
SECOND SESSION

SFI/SCW/SB 701

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casino games".

9. On page 39, line 22, after "machines" insert "and casino games".

10. On page 40, line 2, after "at" strike the remainder of the line, strike line 3 in its entirety and insert in lieu thereof:

"two licensed resorts in the counties described in this section. The referendum may be held only in the following counties:".

11. On page 40, between lines 14 and 15, insert the following:

"F. A person who wants to become a licensed resort may apply to become a video gaming licensee even if he does not meet the lodging or restaurant criteria of the Video Gaming Act if that person presents to the superintendent an irrevocable commitment to construct facilities that meet all of the resort requirements. The superintendent may set aside a video gaming license for that

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SECOND SESSION

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person until after that person completes a facility that meets the requirements of licensure for a resort; provided, however, that the superintendent is satisfied that the person applying for licensure:

(1) will complete construction of the facility in a timely manner;

(2) has a firm financing commitment for full funding of the construction of the facility;

(3) has a facility plan, including a facility design completed by an architect licensed in New Mexico;

(4) has a business plan that includes an operations plan; and

(5) meets any other criteria set forth in regulations and adopted by the superintendent."

FORTY-FIRST LEGISLATURE
SECOND SESSION

SF1/SCW/SB 701

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Manny M. Aragon

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

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**FORTY-FIRST LEGISLATURE
SECOND SESSION**

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**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

February 5, 1996

**SENATE FLOOR AMENDMENT number _____ to SENATE COMMITTEE OF THE
WHOLE**

**SUBSTITUTE FOR SENATE
BILL 701, AS AMENDED
WITH EMERGENCY CLAUSE**

AMENDMENT sponsored by SENATOR TITO D. CHAVEZ

- 1. Add a final sentence to Section 62, page 85 that reads:**

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FORTY-FIRST LEGISLATURE
SECOND SESSION

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"In addition, a condition of approval of any compact shall be that any gaming shall be excluded from the Indian trust land located at the southeast corner of 12th Street and Menaul Boulevard NW in Albuquerque, New Mexico."

Senator Tito D. Chavez

Adopted _____ Not Adopted _____

(Chief Clerk)
(Chief Clerk)

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FORTY-FIRST LEGISLATURE
SECOND SESSION

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Date _____

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SENATE FLOOR SUBSTITUTE FOR SENATE COMMITTEE OF THE WHOLE
SUBSTITUTE FOR SENATE BILL 701

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

AN ACT

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

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

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

Section 2. [NEW MATERIAL] DEFINITIONS. -- As used in the

1 Gaming Compact Act:

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

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

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

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

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

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

16 Section 3. [NEW MATERIAL] COMPACTS--RATIFICATION.--

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

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

1 COMPACT PROVISIONS-- REPORT OF GOVERNOR TO LEGISLATURE. --

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

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

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

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

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

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

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

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

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

24 G. If the legislature is in session when a report of the
25 committee recommending approval or rejection of a proposed compact

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

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

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

22 I. The legislature may not amend or modify a proposed
 23 compact submitted to it pursuant to the provisions of this section,
 24 and it may not refer a proposed compact to a committee.

25 J. A compact negotiated on behalf of the state pursuant

1 to this section shall contain:

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

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

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

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

24 A. The "joint legislative committee on compacts" is
25 created. Once established it shall continue operating until

1 specific action is taken by the legislature to terminate its
2 existence.

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

19 C. In addition to its duty to review proposed compacts,
20 the committee may establish and transmit to the governor proposed
21 guidelines reflecting the public policies and state interests, as
22 embodied in the constitution of New Mexico, state laws and case law
23 of the state, that are consistent with IGRA and that will be used
24 by the committee in reviewing proposed compacts.

25 D. The president pro tempore of the senate shall

1 designate a senate member of the committee to be chairman of the
2 committee in odd-numbered years and the vice chairman in even-
3 numbered years. The speaker of the house of representatives shall
4 designate a house member of the committee to be chairman of the
5 committee in even-numbered years and the vice chairman in odd-
6 numbered years.

7 E. The committee may meet at the call of the chairman.

8 F. The committee may meet during legislative sessions as
9 needed.

10 G. Staff services for the committee shall be provided by
11 the legislative council service.

12 Section 6. [NEW MATERIAL] ACCESS TO DOCUMENTS--LIMITATION. --

13 The following documents are confidential and shall not be made
14 available to the public without the express consent of the tribe or
15 except as is otherwise provided in an approved compact:

16 A. reports containing results of background
17 investigations of individuals employed at tribal gaming
18 enterprises, vendors, contractors and management officials and any
19 other documents pertaining to those investigations;

20 B. documents showing income and expenses of tribal gaming
21 facilities;

22 C. documents pertaining to complaints or allegations of
23 violations of applicable laws or compact provisions and
24 investigations into those complaints or allegations; and

25 D. documents pertaining to licensing of or investigation

1 into gaming devices and documents showing payouts of individual
2 gaming devices.

3 Section 7. [NEW MATERIAL] CLASS III GAMING-- CLARIFICATION--
4 SCOPE. --

5 A. The class III gaming activities listed in Subsection B
6 of this section are permitted within the state, but only on Indian
7 land:

8 (1) under governmental control of a tribe that has a
9 compact with the state of New Mexico that was entered into or
10 ratified pursuant to the Gaming Compact Act; and

11 (2) the title to which is held in trust by the
12 federal government or is subject to restriction by the federal
13 government against alienation.

14 B. Class III gaming activities that are permitted
15 pursuant to the conditions stated in Subsection A of this section
16 are limited to:

- 17 (1) electronic video gaming machines;
- 18 (2) electronic, electromechanical or mechanical slot
19 machines;
- 20 (3) card games, including:
 - 21 (a) poker;
 - 22 (b) blackjack; or
 - 23 (c) baccarat;
- 24 (4) roulette;
- 25 (5) craps;

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1 (6) wheels of fortune;

2 (7) keno; or

3 (8) lotteries.

4 Section 8. [NEW MATERIAL] SHORT TITLE. --Sections 8 through
5 26 of this act may be cited as the "Video Gambling Act".

6 Section 9. [NEW MATERIAL] PURPOSE. --The purpose of the Video
7 Gambling Act is to make lawful and regulate the conduct and
8 operation of certain electronic video games of chance by certain
9 nonprofit organizations and the operation of both electronic video
10 games of chance and slot machines by racetracks.

11 Section 10. [NEW MATERIAL] DEFINITIONS. --As used in the
12 Video Gambling Act:

13 A. "department" means the regulation and licensing
14 department, the superintendent of regulation and licensing or an
15 employee of the department exercising authority lawfully delegated
16 to that employee by the superintendent;

17 B. "distributor" means a person who sells, offers for
18 sale or otherwise furnishes to another person a video gambling
19 machine;

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

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

25 (2) has existed in New Mexico for at least three

1 years immediately prior to making application for a license
2 pursuant to the Video Gambling Act;

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

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

9 (5) is not a college or high school fraternity or
10 sorority;

11 D. "gross receipts" means the total amount of money and
12 the value of other consideration received from selling, renting,
13 leasing, distributing, operating, conducting or assisting in the
14 operation or conduct of any activities authorized by the Video
15 Gambling Act, except, in an exchange in which the money or other
16 consideration received does not reflect the value of the property
17 exchanged, "gross receipts" means the reasonable value of the
18 property exchanged as determined by the department;

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

21 F. "manufacturer" means a person who assembles, from
22 parts or raw materials, a video gambling machine;

23 G. "net receipts" means gross receipts from operating a
24 video gambling machine, less the amounts paid as prizes and
25 winnings by the machine;

1 H. "operate" means to possess, for the purpose of
2 allowing persons to play, or to maintain a video gambling machine;

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

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

7 K. "qualified organization" means a fraternal
8 organization or a veterans' organization;

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

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

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

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

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

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

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

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

25 Section 12. [NEW MATERIAL] LICENSING GENERAL

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1 PROVISIONS. --

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

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

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

16 D. No license shall be issued to:

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

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

21 (3) a limited partnership if a general partner has
22 been convicted of a felony or if a limited partner contributing ten
23 percent or more of the total value of contributions made to the
24 limited partnership or entitled to ten percent or more of the
25 profits earned or other compensation by way of income paid by the

1 limited partnership has been convicted of a felony;

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

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

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

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

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

22 (1) if the applicant is a proprietorship, the
23 proprietor;

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

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

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

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

13 (6) an individual having control of an individual or
14 entity applicant when that control arises out of relationships
15 defined by regulations of the department as resulting in control.

16 G. The department may exchange identification records and
17 information with law enforcement agencies for official use. Any
18 identification records received from the United States department
19 of justice, including identification records based on fingerprints,
20 shall be used only to accomplish the licensing purposes and comply
21 with the provisions of the Video Gambling Act. The department
22 shall not disseminate identification records or information
23 received to any person except law enforcement agencies for official
24 use only.

25 H. An application for the issuance or annual renewal of a

1 license shall be accompanied by a license fee in the amount of one
2 thousand dollars (\$1,000).

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

11 J. All licenses issued pursuant to the Video Gambling Act
12 expire on July 1 of each year and may be renewed if the licensee
13 makes the required application and pays the required fee. If a
14 license expires, the licensee shall cease all video gambling
15 activities and transactions until the license is renewed.

16 K. The holder of a license issued pursuant to the Video
17 Gambling Act has no vested property right in the license. The
18 license is the property of the state. Licenses issued pursuant to
19 the Video Gambling Act are not subject to sale, lease, devise,
20 transfer, assignment, execution, attachment, a security
21 transaction, liens or receivership.

22 Section 13. [NEW MATERIAL] VIDEO GAMBLING MACHINE LICENSE. --

23 A. A license may be issued to a qualified organization to
24 own and operate video gambling machines for which permits have been
25 issued by the department. A video gambling machine licensee shall

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1 operate video gambling machines only at the location of its primary
2 place of business and at no other location.

3 B. A video gambling machine licensee may install and
4 operate video gambling machines only at the location stated in its
5 application and approved by the department.

6 C. No person other than an active member of a veterans'
7 organization or a fraternal organization or a bona fide guest of
8 that active member may play video gambling machines owned or
9 operated by a veterans' organization or the fraternal organization
10 that is a video gambling machine licensee.

11 D. The department shall prescribe by regulation the
12 information required, frequency of reporting, which shall be no
13 less often than quarterly, and the form of the reports to be made
14 by video gambling machine licensees.

15 E. No video gambling machine licensee may purchase, lease
16 or otherwise receive a video gambling machine except from a
17 distributor licensed pursuant to the Video Gambling Act.

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

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

23 A. A license may be issued to a person desiring to
24 manufacture video gambling machines in this state.

25 B. No person shall manufacture video gambling machines in

1 this state unless the person is issued a manufacturer's license by
2 the department.

3 C. A licensed manufacturer shall report to the
4 department, on prescribed forms, information required by regulation
5 of the department.

6 D. No licensed manufacturer may sell or solicit to sell a
7 video gambling machine to any person except a licensed distributor.

8 E. No licensed manufacturer may operate, receive for
9 resale or participate directly or indirectly in the operation or
10 resale of a video gambling machine.

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

12 A. A license may be issued to a person desiring to
13 distribute video gambling machines by sale, lease or other
14 transaction in this state.

15 B. No person may distribute video gambling machines by
16 sale, lease or other transaction in this state unless the person is
17 issued a distributor's license by the department.

18 C. No licensed distributor may distribute a video
19 gambling machine by sale, lease or other transaction except to a
20 video gambling machine licensee or racetrack licensee.

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

24 E. No licensed distributor may operate, receive for
25 resale or participate directly or indirectly in the operation or

1 resale of a video gambling machine.

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

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

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

1 section. If the department commences proceedings by issuing
2 notice, the emergency regulation shall remain in effect until a
3 permanent regulation takes effect or until the procedures are
4 otherwise completed.

5 C. Regulations adopted by the department may provide for
6 the following:

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

9 (2) required provisions in purchase or leasing
10 contracts relating to video gambling machines;

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

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

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

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

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

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

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

17 Section 17. [NEW MATERIAL] PERMITTING OF VIDEO GAMBLING
18 MACHINES. --

19 A. The department shall ensure that no more than two
20 thousand video gambling machines are permitted and operated within
21 the state at any given time by video gambling machine licensees.
22 If the number of completed applications for permits exceeds the
23 number of permits available, the department shall allocate permits
24 based upon regulations of the department according to membership
25 size, geographic diversity and any other factors deemed relevant by

1 the department. Completed applications are those that provide all
 2 information requested, indicate the licensee is able to place
 3 immediately the video gambling machines for which a permit is
 4 requested into operation at the approved premises, include the
 5 appropriate application fees and specifically comply with all
 6 requirements of the Video Gambling Act and regulations adopted
 7 pursuant to that act. If a licensee removes a video gambling
 8 machine from operation for longer than ten consecutive days, he
 9 shall notify the department immediately, and the permit issued for
 10 that machine shall be canceled.

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

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

23 D. The department shall issue a permit for a video
 24 gambling machine if it complies with all conditions of the Video
 25 Gambling Act and regulations adopted pursuant to that act and if a

1 properly completed application along with the required application
2 fee for each machine has been submitted, but the department may
3 refuse to issue a permit for a specific machine if it believes that
4 the machine is inaccurate, unreliable or will not be operated in
5 accordance with the provisions of the Video Gambling Act or
6 regulations adopted pursuant to that act.

7 E. No person may operate a video gambling machine and no
8 person may play a video gambling machine unless the department has
9 issued a permit for the machine.

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

12 G. A video gambling machine licensee shall place a video
13 gambling machine into operation within ten days of issuance of the
14 permit for that machine. If a video gambling machine is not placed
15 into operation within ten days, the permit shall be canceled by the
16 department.

17 Section 18. [NEW MATERIAL] VIDEO GAMBLING MACHINE TESTING
18 AND INSPECTION. --

19 A. No video gambling machine may be permitted without
20 having first been tested and certified for accuracy and reliability
21 by an independent testing laboratory approved by the department.
22 The costs of the testing shall be paid by the licensee.

23 B. No video gambling machine may be operated if it, or
24 the software used to control its electronic functions, has been
25 modified in any way without having been tested after the

1 modification and certified for accuracy and reliability by an
2 independent testing laboratory approved by the department.

3 C. A licensee seeking to obtain a permit for a video
4 gambling machine shall pay all costs of testing the machine.

5 D. A permitted video gambling machine and the premises at
6 which it is being operated or played shall be open to inspection at
7 all times by the department or by any law enforcement officer.
8 Whenever the department or any law enforcement officer has probable
9 cause to believe that any video gambling machine was obtained from
10 an unlicensed manufacturer or distributor, is being operated by an
11 unlicensed person, is unpermitted or otherwise fails to meet the
12 requirements of the Video Gambling Act or regulations adopted
13 pursuant to that act, he shall remove and impound the video
14 gambling machine for the purpose of testing and detention and shall
15 retain possession of the machine until otherwise ordered by a
16 district court.

17 Section 19. [NEW MATERIAL] CONDUCT OF VIDEO GAMBLING. --

18 A. No licensee shall allow access for the purpose of
19 playing a video gambling machine to any person who is under the age
20 of twenty-one years.

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

25 C. Video gambling machines may not be located on any

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1 licensed liquor premises unless specifically exempted by the Liquor
2 Control Act.

3 D. If a video gambling machine fails to meet
4 specifications and requirements of the Video Gambling Act or any
5 regulation adopted pursuant to that act at any time after a permit
6 is issued, the licensee operating the machine shall cease operating
7 it immediately and not operate it until it has been adjusted to
8 meet all requirements.

9 E. All tables displaying prizes or awards shall be
10 prominently displayed on each video gambling machine.

11 F. A licensee may establish house rules regulating the
12 operation and play of the video gambling machines, provided they do
13 not conflict with any established by the department.

14 G. A licensee operating a video gambling machine shall
15 display on the machine, or in a conspicuously visible place, the
16 telephone number of the department that can be called to report
17 device malfunctions or complaints.

18 Section 20. [NEW MATERIAL] VIDEO GAMBLING MACHINE
19 REQUIREMENTS--MONITORING.--

20 A. A video gambling machine operated by a licensee shall
21 be connected to and be capable of providing the following
22 information to the department or its contractor through the use of
23 existing telecommunications lines and systems and through a data
24 report or detailed tape:

- 25 (1) the time of day in hours and minutes in which

1 the machine is in play;

2 (2) the location of the machine;

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

5 (4) the serial and permit numbers of the machine;

6 (5) the cumulative amount of money inserted into the
7 machine at any given time;

8 (6) the amount of money contained in the machine at
9 any given time;

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

12 (8) the version number of the software running on
13 the machine; and

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

16 B. Each licensee that operates video gambling machines,
17 at its own expense, shall connect all machines to
18 telecommunications systems and lines to allow the department or its
19 contractor access to the information required by the Video Gambling
20 Act and regulations adopted pursuant to that act as a condition of
21 and prior to operating the machines.

22 C. A video gambling machine shall contain a printer that
23 is capable of printing a performance synopsis of the gambling
24 played and creates an exact and identical copy of all items printed
25 that is retained inside the machine. A video gambling machine

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1 shall have electronic and mechanical meters. The printer inside
2 the machine shall be capable of printing the information on the
3 meters.

4 D. The main logic board and the printed circuit board
5 containing gambling erasable program read-only memory, or "EPROMs",
6 shall be isolated in a locked area of a video gambling machine.
7 The EPROMs shall be sealed to the board by the manufacturer using a
8 process approved by the department. The sealing shall be of a type
9 that permits field examination of the EPROMs and permits the EPROMs
10 to be resealed effectively.

11 E. A video gambling machine shall have a nonremovable
12 serial number plate that provides at least the following
13 information:

- 14 (1) the permit number issued by the department; and
15 (2) the manufacturer's name, date of manufacture and
16 manufacturer's serial number.

17 F. Access to a video gambling machine shall be controlled
18 through locks.

19 G. A video gambling machine shall have surge protection
20 and a battery backup system and shall pass a static discharge test
21 of at least forty thousand volts.

22 H. A video gambling machine, other than a video pull tab
23 machine, shall allow for random play and winning.

24 Section 21. [NEW MATERIAL] VIDEO GAMBLING MACHINES-- TESTING,
25 AUDITING AND SEIZURE. --

1 A. The department may by written directive require a
2 licensee, at the licensee's expense, to have a video gambling
3 machine, whether or not a permit has been issued for the machine,
4 manufactured, distributed, owned, leased or operated by that
5 licensee tested for reliability and accuracy by an independent
6 laboratory approved or designated by the department. If a test is
7 required of a machine, it shall not be operated or distributed by a
8 licensee until it has been tested and the department is satisfied
9 that the machine is accurate and reliable based upon the results of
10 the test.

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

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

24 D. The department may seize, seal or order a licensee to
25 cease operating any or all of its video gambling machines without

1 prior notice if the department believes that the licensee is
2 violating any provision of the Video Gambling Act or of any
3 regulation adopted pursuant to that act or if any machine is not
4 accurate or reliable or has been changed or modified in any manner
5 not approved by the department.

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

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

14 (1) violated any provision of the Video Gambling Act
15 or of any regulation adopted pursuant to that act;

16 (2) provided false or misleading information to the
17 department;

18 (3) been convicted of a felony involving fraud or
19 theft or convicted of any gambling-related offense;

20 (4) modified or changed any video gambling machine
21 so as to endanger or compromise its accuracy, security or
22 reliability;

23 (5) engaged in dishonest or deceptive practices with
24 respect to its video gambling machine operations; or

25 (6) conducted its video gambling machine operations

1 in a manner that may be considered a public nuisance.

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

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

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

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

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

19 D. If the applicant or licensee delivers a request for
20 hearing within the time required by this section, the department
21 shall, within twenty days of receipt of the request, notify the
22 applicant or licensee of the time and place of hearing and the name
23 of the person who shall conduct the hearing for the department,
24 which hearing shall be held not more than sixty or less than
25 fifteen days from the date of service of the notice of hearing.

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1 E. All hearings under this section shall be held in Santa
2 Fe county.

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

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

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

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

14 J. The department or hearing officer shall cause a
15 complete record to be made of all evidence received during the
16 course of a hearing.

17 K. After a hearing has been completed, the department
18 shall render its decision as soon as is practicable.

19 L. Any applicant or licensee who is aggrieved by an
20 adverse decision of the department may obtain a review of the
21 decision in the district court of Santa Fe county by filing with
22 the court a petition for review within twenty days after the date
23 of service of the decision. Failure to file a petition for review
24 in the manner and within the time stated shall operate as a waiver
25 of the right to judicial review and shall result in the decision of

1 the department becoming final.

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

13 N. Any party to the review proceeding in the district
14 court, including the department, may appeal to the supreme court
15 from the decision of the district court.

16 Section 23. [NEW MATERIAL] RECORDS REQUIRED AND RECORD
17 RETENTION. --

18 A. In addition to other records required to be generated
19 or kept pursuant to the Video Gambling Act, a licensee shall
20 maintain complete video gambling machine operation records,
21 including audit tapes, and shall make them available for inspection
22 by the department or any law enforcement officer upon request.

23 Those records shall include:

- 24 (1) all permit and licensing documents issued by the
25 department;

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

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

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

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

10 C. Each applicant for a license pursuant to the Video
11 Gambling Act or current licensee, as a condition of licensure,
12 shall grant the department or its authorized designee access to all
13 tax returns maintained by the United States internal revenue
14 service or the taxation and revenue department that have been filed
15 on behalf of any individual having any ownership, managerial,
16 directorship or financial interest in the applicant or any activity
17 of the licensee carried out pursuant to the Video Gambling Act, and
18 those of any entity applying for licensure pursuant to that act.

19 The department shall consider those records when determining
20 qualifications for initial licensure or actions under Section 22 of
21 the Video Gambling Act.

22 Section 24. [NEW MATERIAL] TAX IMPOSED--DENOMINATED AS VIDEO
23 GAMBLING TAX--RATE--ADMINISTRATION AND ENFORCEMENT.--

24 A. In addition to all other taxes imposed by other state
25 laws, an excise tax is imposed for the privilege of engaging in the

1 activities authorized pursuant to the Video Gambling Act. The tax
2 is denominated as and shall be known as the "video gambling tax".

3 B. The video gambling tax is imposed in an amount equal
4 to:

5 (1) five percent of the receipts of a manufacturer
6 from the sales of video gambling machines manufactured in the
7 state;

8 (2) five percent of the receipts of a distributor
9 from the distribution of video gambling machines in the state; and

10 (3) ten percent of the net receipts of a person who
11 operates video gambling machines.

12 C. The video gambling tax shall be paid to, and
13 administered and enforced by, the taxation and revenue department
14 pursuant to the provisions of the Tax Administration Act.

15 Section 25. [NEW MATERIAL] PENALTIES. -- A person who violates
16 a provision of the Video Gambling Act or regulation adopted
17 pursuant to that act is guilty of a misdemeanor and shall be
18 sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.
19 A person convicted pursuant to this section is prohibited from
20 owning, operating or participating in the proceeds from the
21 manufacture, distribution or operation of a video gambling machine
22 for a period of five years after the date of the conviction.

23 Section 26. [NEW MATERIAL] FUND CREATED. -- There is created
24 in the state treasury the "video gambling fund". All money in the
25 fund and all interest attributable to it is appropriated to the

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1 department for the purpose of carrying out the provisions of the
2 Video Gambling Act. All fees and the net receipts of the video
3 gambling tax paid pursuant to the Video Gambling Act or regulations
4 adopted pursuant to that act shall be credited to the fund.

5 Balances in the fund at the end of a fiscal year shall revert to
6 the general fund.

7 Section 27. [NEW MATERIAL] SHORT TITLE. --Sections 27 through
8 47 of this act may be cited as the "Charity Games Act".

9 Section 28. [NEW MATERIAL] PURPOSE OF ACT. --The purpose of
10 the Charity Games Act is to make lawful and regulate the conduct of
11 specific games of chance by certain nonprofit organizations. The
12 legislature declares that the raising of funds for the promotion of
13 certain nonprofit organizations is in the public interest as is
14 participation in the activities authorized in that act.

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

17 A. "bingo" means the game commonly known as bingo in
18 which prizes are awarded on the basis of designated numbers or
19 symbols on a card conforming to numbers or symbols selected at
20 random and in which no cards are sold except at the time and place
21 of the game;

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

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

4 D. "department" means the regulation and licensing
5 department, the superintendent of regulation and licensing or an
6 employee of the department exercising authority lawfully delegated
7 to that employee by the superintendent;

8 E. "distributor" means a person who purchases or obtains
9 equipment, devices or supplies used in games of chance and who
10 sells or otherwise furnishes those items to another person for use,
11 resale, display or operation of the equipment, devices or supplies
12 in this state;

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

16 G. "equipment" means:

17 (1) with respect to bingo, the receptacle and
18 numbered objects drawn from it; the master board upon which the
19 numbered objects are placed as drawn; the cards or sheets bearing
20 numbers or other designations to be covered and the objects used to
21 cover them; the board or signs, however operated, used to announce
22 or display the numbers or designations as they are drawn; the
23 public address system; and all other articles essential to the
24 operation, conduct and playing of bingo; or

25 (2) with respect to raffle, implements, devices and

1 machines designed, intended or used for the conduct of raffle and
2 the identification of the winning number or unit and the ticket or
3 other evidence or right to participate in raffle;

4 H. "game manager" means a person, whether compensated or
5 not, who is responsible for operating and controlling authorized
6 games of chance and to whom a licensed qualified organization has
7 delegated the authority to make decisions regarding the operation
8 of the games;

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

11 J. "gross profit" means gross receipts less the amount
12 actually expended for prizes;

13 K. "gross receipts" means receipts from the sale of
14 shares, tickets or rights in any manner connected with
15 participation in a game of chance or the right to participate in a
16 game of chance, including any admission fee or charge, receipts
17 from the sale of equipment or supplies and all other miscellaneous
18 receipts;

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

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

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

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

3 P. "lottery game" means an instant lottery game
4 authorized and conducted pursuant to the New Mexico Lottery Act or
5 the Charity Games Act;

6 Q. "manufacturer" means a person who assembles from raw
7 materials or subparts a completed piece of equipment or pieces of
8 equipment, devices or supplies for conducting games of chance and
9 who sells or furnishes the equipment, devices or supplies to a
10 distributor and includes a person who converts, modifies, adds to
11 or removes parts from any equipment used in a game of chance;

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

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

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

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

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

4 W. "pull tab" means a single folded or banded ticket or
5 card, the face of which is initially covered or otherwise hidden
6 from view to conceal one or more numbers or symbols, and the ticket
7 or card is part of a set of tickets or cards out of which some
8 tickets or cards have been designated prior to use in pull tabs as
9 winning tickets or cards;

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

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

24 (1) a charitable organization that is not organized
25 for pecuniary profit, is operated for the relief of poverty,

1 distress or other condition of public concern in New Mexico and has
2 been operated for those purposes for three years immediately prior
3 to making application for a license pursuant to the Charity Games
4 Act;

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

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

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

24 (5) an environmental organization within the state
25 that is not organized for pecuniary profit, is primarily concerned

1 with the protection and preservation of the natural environment and
2 has existed in New Mexico for three years immediately prior to
3 making application for a license pursuant to the Charity Games Act;

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

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

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

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

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

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

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

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

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

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

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

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

24 (4) if, with respect to an organization not covered
 25 by Paragraph (1), (2) or (3) of this subsection, an individual or

1 his spouse is an officer or manages the business affairs of the
2 organization or the individual or his spouse owns, controls or has
3 the right to control five percent or more of the assets of the
4 organization; or

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

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

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

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

13 C. Regulations adopted by the department may include any
 14 provisions the department deems appropriate to ensure the
 15 integrity, honesty and security of the conduct of games of chance.

16 Section 31. [NEW MATERIAL] ORGANIZATIONS AND PERSONS
 17 ELIGIBLE FOR LICENSES-- FEES. --

18 A. A qualified organization that has had, since the date
 19 of filing an application for a license pursuant to the Charity
 20 Games Act and during the entire three-year period preceding the
 21 filing of its application, an active membership engaged in carrying
 22 out the objects of the organization may be issued a license by the
 23 department pursuant to the Charity Games Act if it complies with
 24 all requirements for the licensure pursuant to that act and
 25 regulations adopted by the department.

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1 B. Manufacturers, distributors, commercial lessors and
2 game managers who comply with the requirements of the Charity Games
3 Act and regulations of the department may be issued licenses
4 pursuant to the Charity Games Act.

5 C. No manufacturer, distributor or commercial lessor or
6 any person who has a substantial interest in a manufacturer,
7 distributor or commercial lessor may be a game manager.

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

- 17 (1) commercial lessor, two hundred fifty dollars
18 (\$250);
19 (2) bingo hall permits, five hundred dollars (\$500);
20 and
21 (3) game manager, one hundred dollars (\$100).

22 E. The holder of any license issued pursuant to the
23 Charity Games Act has no vested property right in the license. The
24 license is the property of the state. Licenses issued pursuant to
25 the Charity Games Act are not subject to sale, lease, devise,

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

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

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

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

15 Section 32. [NEW MATERIAL] APPLICATION FOR LICENSE--GENERAL
16 PROVISIONS GOVERNING LICENSURE.--

17 A. Any person seeking licensure pursuant to the Charity
18 Games Act shall submit an application to the department on forms
19 provided by the department. The application shall contain
20 information required by regulation of the department. In addition
21 to the information required on the application form, the department
22 may require the applicant to furnish additional information the
23 department deems necessary to fulfill the purposes and requirements
24 of the Charity Games Act.

25 B. An applicant for a license shall, during pendency of

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

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

20 Section 33. [NEW MATERIAL] QUALIFIED ORGANIZATION LICENSE. --

21 A. A license may be issued to a qualified organization to
22 conduct games of chance.

23 B. A qualified organization shall designate in its
24 license application a game manager and up to two assistant game
25 managers, who shall be members of the organization, designated as

1 responsible for the conduct of the games of chance on each
2 occasion.

3 C. A qualified organization shall designate in its
4 license application a member of the organization to be the
5 financial officer in full charge and primarily responsible for the
6 proper distribution of the organization's net profits in accordance
7 with the Charity Games Act.

8 D. An applicant for a qualified organization license
9 shall have at the time of application and licensing at least
10 twenty-five members.

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

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

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

20 A. A commercial lessor's license may be issued to a
21 person desiring to lease premises to more than one qualified
22 organization. No person may lease premises to more than one
23 qualified organization for the conduct of games of chance unless
24 the person has a commercial lessor's license for the premises to be
25 leased. A lessor may not lease premises for the conduct of games

1 of chance at more than one location without a separate commercial
2 lessor's license for each location. The department may issue one
3 or more commercial lessor's licenses to a person who applies and
4 complies with the requirements for licensure contained in the
5 Charity Games Act and department regulations.

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

8 (1) an elected or appointed public officer or
9 employee;

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

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

16 C. No commercial lessor may lease premises to more than
17 seven licensed qualified organizations for the conduct of games of
18 chance.

19 D. No lessor or commercial lessor shall directly or
20 indirectly:

21 (1) provide to the players, patrons, spectators or
22 charitable organization members or workers present at the lessor's
23 premises anything of economic value in the form of a gift or prize,
24 regardless of whether or not compensation is required for receipt
25 of the prize or gift;

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

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

8 E. No lessor, commercial lessor or an employee or agent
9 of a lessor or commercial lessor, and no owner of premises or any
10 person having a substantial interest in the owner, lessor or
11 commercial lessor, shall take part in, share in the proceeds from
12 the conduct of or assist with the holding, operating or conduct of
13 a game of chance. The department may by regulation further define
14 or list the types of activity that constitute prohibited
15 participation in the conduct of a game of chance.

16 F. The department shall issue bingo hall permits in
17 accordance with regulations.

18 G. No lessor, commercial lessor or person having a
19 substantial interest in a lessor or commercial lessor shall:

20 (1) serve as an officer, director or member of the
21 governing body of any licensed qualified organization that rents,
22 leases or uses the premises of the lessor or commercial lessor for
23 conducting games of chance; or

24 (2) provide accounting services to a licensed
25 qualified organization conducting games of chance on premises

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1 leased from the lessor or commercial lessor.

2 H. No lease or contract between a qualified organization
3 licensee and a lessor or commercial lessor shall provide for
4 consideration based upon a percentage or share in the proceeds from
5 the conduct of any game of chance by the qualified organization
6 licensee.

7 Section 35. [NEW MATERIAL] MANUFACTURER'S AND DISTRIBUTOR'S
8 LICENSES. --

9 A. No person may sell, supply or store for the purpose of
10 sale to a person in this state or for use in this state supplies,
11 devices or equipment designed to be used in playing games of chance
12 or engage in any intrastate activities involving those items,
13 unless the manufacturer or distributor has a current manufacturer's
14 or distributor's license issued by the department.

15 B. An applicant for a manufacturer's or distributor's
16 license shall file with the department a written application on a
17 form prescribed by the department.

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

20 (1) an elected or appointed public officer or public
21 employee;

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

25 (3) a person who has had a license to manufacture or

1 distribute gaming equipment, devices or supplies revoked by another
2 state within one year preceding the date of application; or

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

6 D. The Charity Games Act does not apply to manufacturers
7 or distributors licensed by the New Mexico lottery authority who do
8 not sell or supply or offer to sell or supply
9 equipment, devices or supplies for use by licensed qualified
10 organizations.

11 E. No manufacturer or distributor shall solicit sales or
12 sell or ship equipment for games of chance for use or storage in
13 this state before a license is issued to the manufacturer or
14 distributor by the department.

15 F. No distributor shall rent or lease equipment to a
16 licensed qualified organization on an income-sharing basis or on a
17 percentage-of-income-sharing basis.

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

19 A. All games of chance conducted by a licensed qualified
20 organization shall be under the supervision of a game manager or
21 assistant game manager. A game manager designated by an
22 organization is responsible for the gross receipts of the
23 organization and for the conduct of all games of chance in
24 compliance with all laws and regulations.

25 B. A licensed qualified organization may not have more

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1 than one game manager and two assistant game managers at any time.

2 C. A person may not serve as a game manager for a
3 licensed qualified organization unless the person possesses a valid
4 game manager's license issued by the department. The department
5 shall not issue a game manager's license to a person who is a
6 manufacturer, distributor, lessor, commercial lessor or person
7 having a substantial financial interest in a manufacturer,
8 distributor, lessor or commercial lessor.

9 D. The department may by regulation require all game
10 managers to receive training prior to assuming the duties of a game
11 manager and periodic training regarding the laws and regulations
12 governing lawful games of chance.

13 Section 37. [NEW MATERIAL] DENIAL, SUSPENSION OR REVOCATION
14 OF LICENSE. --

15 A. If, for reasons beyond the control of the department,
16 sufficient information is not available to allow the department to
17 determine the eligibility of an applicant for a license authorized
18 to be issued pursuant to the Charity Games Act, the department may
19 deny the application unless and until the applicant provides the
20 required information.

21 B. The department shall deny an application, or suspend
22 or revoke any license or permit issued by it, if the applicant or
23 licensee or any person with a substantial interest in the applicant
24 or licensee:

25 (1) has ever been convicted of a felony or any

1 offense punishable by one year or more in prison, a crime involving
2 gambling or assault or a criminal violation involving the use of a
3 firearm;

4 (2) has violated, failed or refused to comply with
5 the provisions, requirements, conditions, limitations or duties
6 imposed by the Charity Games Act or any regulation adopted by the
7 department pursuant to that act;

8 (3) knowingly causes, aids, abets or conspires with
9 another to cause any person to violate any of the provisions of the
10 Charity Games Act or the regulations of the department adopted
11 pursuant to that act;

12 (4) has obtained a license or permit by fraud,
13 misrepresentation, concealment or through inadvertence or mistake;

14 (5) has been convicted of or forfeited bond upon a
15 charge of or pleaded guilty to forgery, larceny, extortion,
16 conspiracy to defraud, willful failure to make required payments or
17 reports to a governmental agency at any level, filing false reports
18 therewith, any similar offense or offenses, bribing or otherwise
19 unlawfully influencing a public official or employee of any state
20 or the United States or any crime, whether a felony or misdemeanor,
21 involving any game of chance or physical harm to individuals or
22 involving moral turpitude;

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

25 (7) if a qualified organization, has failed to earn

1 a net profit during any calendar year from the conduct of games of
2 chance; or

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

5 C. If any license is revoked, the holder of the revoked
6 license is not eligible to apply for another license until after
7 the expiration of the period of one year from the date of such
8 revocation or such longer period of time as the department may
9 reasonably determine, not to exceed five years. The licensee shall
10 be notified in writing at the time of revocation of the period of
11 ineligibility and the reasons for the determination.

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

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

19 (2) a statement indicating the general nature of the
20 evidence; and

21 (3) a statement advising the applicant or licensee
22 that unless the applicant or licensee within twenty days after
23 service of the notice delivers a written request for hearing to the
24 department, the department will take the contemplated action.

25 E. If the applicant or licensee does not deliver a

1 request for hearing within the time required by this section, the
2 department may take the action contemplated in the notice, and such
3 action shall be final and not subject to judicial review.

4 F. If the applicant or licensee delivers a request for
5 hearing within the time required by this section, the department
6 shall, within twenty days of receipt of the request, notify the
7 applicant or licensee of the time and place of hearing and the name
8 of the person who shall conduct the hearing for the department,
9 which hearing shall be held not more than sixty nor less than
10 fifteen days from the date of service of the notice of hearing.

11 G. All hearings under this section shall be held in Santa
12 Fe county.

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

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

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

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

24 L. The department or hearing officer shall cause a
25 complete record to be made of all evidence received during the

1 course of a hearing.

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

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

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

24 P. Any party to the review proceeding in the district
25 court, including the department, may appeal to the supreme court

1 from the decision of the district court.

2 Section 38. [NEW MATERIAL] CONDUCT OF GAMES--PREMISES--
3 EQUIPMENT--GENERAL PROVISIONS. --

4 A. A qualified organization holding a current qualified
5 organization license pursuant to the Charity Games Act may conduct
6 the following specific games of chance as defined and restricted by
7 the Charity Games Act and the regulations of the department:

- 8 (1) bingo;
- 9 (2) pull tabs;
- 10 (3) electronic bingo;
- 11 (4) raffle; or
- 12 (5) lottery game.

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

19 C. A licensed qualified organization may not conduct
20 games of chance at any location other than the single location
21 approved as its licensed premises by the department, except as
22 follows:

- 23 (1) upon prior written approval of the department,
- 24 the licensee may conduct one of its sessions of games of chance
- 25 each year at a temporary location for a special event or similar

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1 purpose; and

2 (2) a veterans' organization that is a licensee
3 pursuant to the Charity Games Act and whose licensed premises is
4 located in a bingo hall may obtain from the department a separate
5 permit authorizing the sale of paper pull tabs at its chapter or
6 post location, provided that the chapter or post location is
7 restricted to members and bona fide guests of the members of the
8 licensee organization.

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

24 E. No person shall assist in the holding, operating or
25 conducting of any games of chance pursuant to a qualified

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

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

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

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

1 department. No game of chance shall be conducted with any
2 equipment except that which is owned or leased by the licensee.

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

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

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

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

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

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

24 B. The charity games tax is imposed in an amount equal to
25 ten percent of the receipts of a commercial lessor received

1 pursuant to a contract or lease with a licensed qualified
 2 organization under which premises are leased, rented or provided to
 3 the licensed qualified organization for the conduct of games of
 4 chance authorized pursuant to the Charity Games Act.

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

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

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

1 applicant for a qualified organization license shall maintain and
2 keep the books and records necessary to substantiate the
3 particulars of each report.

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

7 C. Every commercial lessor shall file semiannual reports
8 providing information required by regulation of the department.

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

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

21 B. Gross profits from games of chance may only be spent
22 for allowable expenses or lawful purposes. Expenses may be
23 incurred only for the following purposes:

24 (1) the purchase of goods, wares and merchandise
25 furnished;

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

4 (3) rent if the premises are rented or for
5 janitorial services if not rented;

6 (4) reasonable accountants' fees and bank charges;

7 (5) utilities that are not included in rent, such as
8 telephone;

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

12 (7) the reasonable costs of an audit required by the
13 department if the cost is approved by the department in writing.

14 C. All of the net profits derived from the holding of
15 games of chance shall be devoted to the lawful purposes of the
16 qualified organization licensed to conduct the games.

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

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

21 A. The following information shall not be considered
22 public record and is not subject to inspection under the Inspection
23 of Public Records Act and shall not be revealed by the department
24 except under order of a court of competent jurisdiction or with
25 written permission of the owner or provider of the information:

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- 1 (1) technical manuals, instructions or wiring or
- 2 logic diagrams for the machine;
- 3 (2) listings of source codes and flow charts;
- 4 (3) results of simulations and related information
- 5 explaining simulation methodology;
- 6 (4) model EPROMs or logic boards containing compiled
- 7 programs; and
- 8 (5) tax returns received from the internal revenue
- 9 service or the taxation and revenue department.

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

13 C. Persons with access to confidential information as
14 described in Subsection A of this section may not use or reveal
15 anything of a confidential nature outside the scope of its intended
16 purpose.

17 D. The department shall secure confidential information
18 and restrict all persons from access, except designated employees
19 whose duties include testing and interpretation of the information.
20 Such information is not public record and may not be released to
21 any member of the public.

22 Section 43. [NEW MATERIAL] EXAMINATION OF BOOKS AND
23 RECORDS. --

24 A. The premises, equipment and all the books and records
25 of any person or organization conducting games of chance authorized

1 by the Charity Games Act and any person or organization receiving
 2 profits therefrom or having any interest therein shall be subject
 3 to inspection and audit at any reasonable time, with or without
 4 notice, upon demand, by the department, the secretary of public
 5 safety or his designee or the chief of police or the district
 6 attorney of any city, town or county in which the person or
 7 organization is located, for the purpose of determining compliance
 8 or noncompliance with the provisions of the Charity Games Act and
 9 any regulations or local ordinances incident thereto.

10 B. Licensees shall provide any reports or records to the
 11 department relating to their activities pursuant to the Charity
 12 Games Act upon request.

13 Section 44. [NEW MATERIAL] ACCESS TO INTERNAL REVENUE
 14 SERVICE INFORMATION. -- Each applicant for a license pursuant to the
 15 Charity Games Act or current licensee, as a condition of licensure,
 16 shall grant the department or its authorized designee access to all
 17 tax returns maintained by the internal revenue service or the
 18 taxation and revenue department that have been filed on behalf of
 19 any individual having any ownership, managerial, directorship or
 20 financial interest in the applicant or the conduct of games of
 21 chance by the licensee and those of any entity applying for
 22 licensure under that act. The department shall consider those
 23 records when determining qualifications for initial licensure or
 24 other actions under the Charity Games Act.

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

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

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

12 C. A manufacturer or distributor who is not licensed
13 pursuant to the Charity Games Act and who sells or attempts to sell
14 equipment, devices or supplies to a qualified organization is
15 guilty of a third degree felony and shall be sentenced pursuant to
16 the provisions of Section 31-18-15 NMSA 1978.

17 Section 46. [NEW MATERIAL] FUND CREATED.--There is created
18 in the state treasury the "charity games fund". All fees and the
19 net receipts of the charity games tax paid pursuant to the Charity
20 Games Act or regulations adopted pursuant to that act shall be
21 credited to the fund. All money in the fund and all interest
22 attributable to it is appropriated to the department for the
23 purpose of carrying out the provisions of the Charity Games Act.
24 Money remaining in the fund at the end of each fiscal year shall
25 revert to the general fund.

1 Section 47. [NEW MATERIAL] RECREATIONAL BINGO EXEMPTED FROM
2 ACT. --

3 A. Nothing in the Charity Games Act prohibits a senior
4 citizen group from conducting bingo at a senior citizen center if
5 no person other than a player participating in the bingo game
6 receives or becomes entitled to receive a part of the proceeds from
7 the game and if no minor is permitted to participate in the conduct
8 of the game or play the game.

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

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

16 "6-24-5. NEW MEXICO LOTTERY AUTHORITY CREATED- - BOARD OF
17 DIRECTORS. --

18 A. There is created a public body, politic and corporate,
19 separate and apart from the state, constituting a governmental
20 instrumentality to be known as the "New Mexico lottery authority".
21 The authority is created and organized for the purpose of
22 establishing and conducting the [~~New Mexico state~~] lottery to
23 provide revenues for the public purposes designated by the New
24 Mexico Lottery Act.

25 B. The authority shall be governed by a board of

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1 directors composed of seven members who are residents of New Mexico
2 appointed by the governor with the advice and consent of the
3 senate. The members of the board of directors shall be prominent
4 persons in their businesses or professions and shall be appointed
5 so as to provide equitable geographical representation. No more
6 than four members of the board shall be from any one political
7 party. The governor shall consider appointing at least one member
8 who has at least five years of experience as a law enforcement
9 officer, at least one member who is an attorney admitted to
10 practice in New Mexico and at least one member who is a certified
11 public accountant certified in New Mexico.

12 C. Board members shall be appointed for five-year terms.
13 To provide for staggered terms, four of the initially appointed
14 members shall be appointed for terms of five years and three
15 members for terms of three years. Thereafter, all members shall be
16 appointed for five-year terms. A vacancy shall be filled by
17 appointment by the governor for the remainder of the unexpired
18 term. A member shall serve until his replacement is confirmed by
19 the senate. Board members shall be eligible for reappointment.

20 D. The board shall select one of its members as chairman
21 annually. A chairman may be selected for successive years.
22 Members of the board may be removed by the governor for
23 malfeasance, misfeasance or willful neglect of duty after
24 reasonable notice and a public hearing unless the notice and
25 hearing are expressly waived in writing by the member.

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

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

11 G. A board member shall be subject to a background check
 12 and investigation to determine his fitness for office. The results
 13 of that background check shall be made available to the governor
 14 and the senate.

15 H. Neither the members of the board of directors nor any
 16 person acting on behalf of the board, while acting within the scope
 17 of their authority, shall be subject to any personal liability for
 18 any action taken or omitted within that scope of authority. "

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

21 "6-24-6. POWERS OF THE AUTHORITY. --

22 A. The authority shall have any and all powers necessary
 23 or convenient to carry out and effectuate the purposes and
 24 provisions of the New Mexico Lottery Act that are not in conflict
 25 with the constitution of New Mexico and that are generally

1 exercised by corporations engaged in entrepreneurial pursuits,
2 including but without limiting the generality of the foregoing the
3 power to:

- 4 (1) sue and be sued;
- 5 (2) adopt and alter a seal;
- 6 (3) adopt, amend and repeal bylaws, rules, policies
7 and procedures for the conduct of its affairs and its business;
- 8 (4) procure or provide insurance;
- 9 (5) hold copyrights, trademarks and service marks
10 and enforce its rights with respect thereto;
- 11 (6) initiate, supervise and administer the operation
12 of the lottery in accordance with the provisions of the New Mexico
13 Lottery Act and rules, policies and procedures adopted pursuant to
14 that act;
- 15 (7) enter into written agreements with one or more
16 other states for the operation, participation in or marketing or
17 promotion of a joint lottery or joint lottery games;
- 18 (8) acquire or lease real property and make
19 improvements thereon and acquire by lease or by purchase personal
20 property, including but not limited to computers, mechanical,
21 electronic and on-line equipment and terminals and intangible
22 property, including but not limited to computer programs, systems
23 and software;
- 24 (9) enter into contracts to incur debt and borrow
25 money in its own name and enter into financing agreements with the

1 state, with agencies or instrumentalities of the state or with any
 2 commercial bank or credit provider;

3 (10) receive and expend, in accordance with the
 4 provisions of the New Mexico Lottery Act, all money received from
 5 any lottery or nonlottery source for effectuating the purposes of
 6 the New Mexico Lottery Act;

7 (11) administer oaths, take depositions, issue
 8 subpoenas and compel the attendance of witnesses and the production
 9 of books, papers, documents and other evidence relative to any
 10 investigation or proceeding conducted by the authority;

11 (12) appoint and prescribe the duties of officers,
 12 agents and employees of the authority, including professional and
 13 administrative staff and personnel, and to fix their compensation,
 14 pay their expenses and provide a benefit program, including but not
 15 limited to a retirement plan and a group insurance plan;

16 (13) select and contract with lottery vendors and
 17 lottery retailers;

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

22 (15) enter into agreements with the superintendent
 23 of regulation and licensing and the department of public safety to
 24 monitor, enable and disable video gambling machines, perform
 25 electronic funds transfers and other services relating to the

1 operation and administration of video gambling machines. Net
2 income received by the authority for performing such agreements
3 shall be included in net revenue of the lottery to be distributed
4 as provided in the New Mexico Lottery Act. Compensation shall not
5 exceed actual costs incurred by the lottery authority in performing
6 the services plus two percent of the difference between gross
7 receipts from the conduct of video machine gambling and winnings
8 paid by each licensee;

9 ~~[(15)]~~ (16) enter into contracts of any and all
10 types on such terms and conditions as the authority may determine;

11 ~~[(16)]~~ (17) establish and maintain banking
12 relationships, including but not limited to establishment of
13 checking and savings accounts and lines of credit;

14 ~~[(17)]~~ (18) advertise and promote the lottery and
15 lottery games;

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

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

1 B. The powers enumerated in this section are cumulative
2 of and in addition to those powers enumerated elsewhere in the New
3 Mexico Lottery Act, and no such powers limit or restrict any other
4 powers of the authority."

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

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

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

14 "6-24-26. AUTHORIZATION TO ISSUE REVENUE BONDS.--

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

21 B. The board may issue bonds to refund other bonds issued
22 pursuant to this section.

23 C. The bonds shall have a maturity of no more than five
24 years from the date of issuance. The board shall determine all
25 other terms, covenants and conditions of the bonds; provided,

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1 however, that the bonds may provide for prepayment in part or in
2 full of the balance due at any time without penalty.

3 D. The bonds shall be executed with the manual or
4 facsimile signature of the chief executive officer or the chairman
5 of the board and attested to by another member of the board. The
6 bonds may bear the seal, if any, of the authority.

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

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

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

24 H. An amount of money from the sources specified in
25 Subsection A of this section sufficient to pay the principal of and

1 interest on the bonds as they become due in each year shall be set
2 aside, and is hereby pledged, for the payment of the principal and
3 interest on the bonds.

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

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

11 Section 52. Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter
12 248, Section 2, as amended) is amended to read:

13 "7-1-2. APPLICABILITY. --The Tax Administration Act applies to
14 and governs:

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

- 17 (1) Income Tax Act;
- 18 (2) Withholding Tax Act;
- 19 (3) Gross Receipts and Compensating Tax Act and any

20 state gross receipts tax;

- 21 (4) Liquor Excise Tax Act;
- 22 (5) Local Liquor Excise Tax Act;

23 [~~(6) Banking and Financial Corporations Tax Act;~~

24 ~~(7)] (6) any municipal local option gross receipts
25 tax;~~

Underscored material = new
[bracketed material] = delete

1 [~~(8)~~] (7) any county local option gross receipts
2 tax;

3 [~~(9)~~] (8) Special Fuels Supplier Tax Act;

4 [~~(10)~~] (9) Gasoline Tax Act;

5 [~~(11)~~] (10) petroleum products loading fee, which
6 fee shall be considered a tax for the purpose of the Tax
7 Administration Act;

8 [~~(12)~~] (11) Cigarette Tax Act;

9 [~~(13)~~] (12) Estate Tax Act;

10 [~~(14)~~] (13) Railroad Car Company Tax Act;

11 [~~(15)~~] (14) Investment Credit Act;

12 [~~(16)~~] (15) Corporate Income Tax Act;

13 [~~(17)~~] (16) Corporate Income and Franchise Tax Act;

14 [~~(18)~~] (17) Uniform Division of Income for Tax

15 Purposes Act;

16 [~~(19)~~] (18) Multistate Tax Compact;

17 [~~(20)~~] (19) Tobacco Products Tax Act;

18 [~~(21)~~] (20) Filmmaker's Credit Act; and

19 [~~(22)~~] (21) the telecommunications relay service
20 surcharge imposed by Section 63-9F-11 NMSA 1978, which surcharge
21 shall be considered a tax for the purposes of the Tax
22 Administration Act;

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

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- (1) Resources Excise Tax Act;
 - (2) Severance Tax Act;
 - (3) any severance surtax;
 - (4) Oil and Gas Severance Tax Act;
 - (5) Oil and Gas Conservation Tax Act;
 - (6) Oil and Gas Emergency School Tax Act;
 - (7) Oil and Gas Ad Valorem Production Tax Act;
 - (8) Natural Gas Processors Tax Act;
 - (9) Oil and Gas Production Equipment Ad Valorem Tax
- Act;
- (10) Copper Production Ad Valorem Tax Act; and
 - (11) any advance payment required to be made by any

act specified in this subsection, which advance payment shall be considered a tax for the purposes of the Tax Administration Act;

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

- (1) Weight Distance Tax Act;
 - (2) Special Fuels Tax Act;
 - (3) the workers' compensation fee authorized by
- Section 52-5-19 NMSA 1978, which fee shall be considered a tax for purposes of the Tax Administration Act;
- (4) Controlled Substance Tax Act;
 - (5) Uniform Unclaimed Property Act;
 - (6) 911 emergency surcharge and the network and

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[bracketed material] = delete

1 database surcharge, which surcharges shall be considered taxes for
2 purposes of the Tax Administration Act;

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

6 (8) the water conservation fee imposed by Section
7 74-1-13 NMSA 1978, which fee shall be considered a tax for the
8 purposes of the Tax Administration Act; [~~and~~]

9 (9) the video gambling tax imposed pursuant to the
10 Video Gambling Act; and

11 (10) the charity games tax imposed pursuant to the
12 Charity Games Act; and

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

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

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

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

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

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

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

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

14 "30-19-1. DEFINITIONS RELATING TO GAMBLING. --As used in
15 Chapter 30, Article 19 NMSA 1978:

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

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

23 A bet does not include:

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

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[bracketed material] = delete

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

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

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

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

12 (4) betting otherwise permitted by law;

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

21 ~~D.]~~ C. "gambling device" means a contrivance other than
22 an antique gambling device that, for a consideration, affords the
23 player an opportunity to obtain anything of value, the award of
24 which is determined by chance, even though accompanied by some
25 skill and whether or not the prize is automatically paid by the

1 device; [~~and~~

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

5 (1) making and settling of bets;

6 (2) receiving, holding, recording or forwarding bets
 7 or offers to bet;

8 (3) conducting lotteries; or

9 (4) playing gambling devices;

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

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

21 G. "video gambling" means any form of gambling in which,
 22 upon payment of a consideration, an electronic device may be played
 23 that simulates the play of a game of chance, utilizes a video
 24 display and microprocessors and that by chance, or through some
 25 combination of chance and skill, a player may receive or the device

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1 may dispense to the player cash, coins or tokens or free games or
2 credits that may be redeemed for cash, coins or tokens."

3 Section 57. Section 30-19-6 NMSA 1978 (being Laws 1963, Chap-
4 ter 303, Section 19-6, as amended) is amended to read:

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

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

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

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

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

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

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

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

24 (3) ~~no part of the proceeds of any lottery shall go~~
 25 ~~to any individual member or employee of any organization except as~~

1 ~~payment for the purchase of prizes at no more than the reasonable~~
2 ~~retail price]~~

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

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

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

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

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

19 (3) no person receives any part of the proceeds of
20 the fundraising event except:

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

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

25 (4) the net proceeds of the fundraising event are

expended in the state for the benefit of the qualifying organization or purposes for which it was formed;

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

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

(7) no video gambling is conducted and not more than two slot machines are operated during the fundraising event;

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

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

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

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1 regulated pursuant to the provisions of the Video Gambling Act and
2 the Charity Games Act. "

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

5 "30-19-6.1. [NEW MATERIAL] PERMITTED GAMBLING--RECREATIONAL
6 BINGO. --

7 A. Nothing in Chapter 30, Article 19 NMSA 1978 prohibits
8 a senior citizen group from conducting bingo at a senior citizen
9 center if no person other than a player participating in the bingo
10 game receives or becomes entitled to receive a part of the proceeds
11 from the game and if no minor is permitted to participate in the
12 conduct of the game or play the game.

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

18 Section 59. Section 60-7A-19 NMSA 1978 (being Laws 1981,
19 Chapter 39, Section 96) is amended to read:

20 "60-7A-19. COMMERCIAL GAMBLING ON LICENSED PREMISES. --

21 A. It is a violation of the Liquor Control Act for a li-
22 censee to knowingly allow commercial gambling on the licensed
23 premises.

24 B. In addition to any criminal penalties, any person who
25 violates Subsection A of this section may have his license

1 suspended or revoked or a fine imposed, or both, pursuant to the
2 Liquor Control Act.

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

4 (1) "commercial gambling" means:

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

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

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

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

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

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

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

20 (a) activities authorized pursuant to the New
21 Mexico Lottery Act;

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

24 (c) the conduct of video machine gambling
25 authorized pursuant to the Video Gambling Act on the licensed

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1 premises of a club licensee licensed pursuant to Section 60-6A-5

2 NMSA 1978; and

3 (d) the conduct of activities authorized or
4 games permitted pursuant to the Charity Games Act on the licensed

5 premises of a club licensee licensed pursuant to Section 60-6A-5

6 NMSA 1978. "

7 Section 60. REPEAL. -- Sections 60-2B-1 through 60-2B-14 NMSA
8 1978 (being Laws 1981, Chapter 259, Sections 1 through 14, as
9 amended) are repealed.

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

13 Section 62. EFFECTIVE DATE. --

14 A. The effective date of the provisions of Sections 20,
15 27 through 47 and 60 of this act is January 1, 1997.

16 B. The effective date of the provisions of Sections 8
17 through 19 and 21 through 26 of this act is July 1, 1996.

18 Section 63. EMERGENCY. -- It is necessary for the public peace,
19 health and safety that this act take effect immediately.

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