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SENATE BILL 229

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Phil A. Griego

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO GAMING; AMENDING, REPEALING AND ENACTING CERTAIN
SECTIONS OF THE GAMING CONTROL ACT; DECLARING AN EMERGENCY.

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

Section 1. Section 60-2E-3 NMSA 1978 (being Laws 1997,
Chapter 190, Section 5, as amended) is amended to read:

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

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

B. "affiliated company" means a company that:

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

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1 (2) is involved in gaming activities or
2 involved in the ownership of property on which gaming is
3 conducted;

4 C. "applicant" means a person who has applied for a
5 license or for approval of an act or transaction for which
6 approval is required or allowed pursuant to the provisions of
7 the Gaming Control Act;

8 D. "application" means a request for the issuance
9 of a license or for approval of an act or transaction for which
10 approval is required or allowed pursuant to the provisions of
11 the Gaming Control Act, but "application" does not include a
12 supplemental form or information that may be required with the
13 application;

14 E. "associated equipment" means equipment or a
15 mechanical, electromechanical or electronic contrivance,
16 component or machine used in connection with gaming activity;

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

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

20 H. "cheat" or "cheating" means:

21 (1) to alter the elements of chance that
22 determines the result of the game;

23 (2) to claim, collect or take money or
24 anything of value in or from a game, without having made a bet
25 contingent upon winning; or

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1 (3) to knowingly take an amount greater than
2 the amount won;

3 ~~[H.]~~ I. "company" means a corporation, partnership,
4 limited partnership, trust, association, joint stock company,
5 joint venture, limited liability company or other form of
6 business organization that is not a natural person; "company"
7 does not mean a nonprofit organization;

8 ~~[F.]~~ J. "distributor" means a person who supplies
9 gaming devices to a gaming operator but does not manufacture
10 gaming devices;

11 ~~[J.]~~ K. "equity security" means an interest in a
12 company that is evidenced by:

- 13 (1) voting stock or similar security;
- 14 (2) a security convertible into voting stock
15 or similar security, with or without consideration, or a
16 security carrying a warrant or right to subscribe to or
17 purchase voting stock or similar security;
- 18 (3) a warrant or right to subscribe to or
19 purchase voting stock or similar security; or
- 20 (4) a security having a direct or indirect
21 participation in the profits of the issuer;

22 ~~[K.]~~ L. "executive director" means the chief
23 administrative officer appointed by the board pursuant to
24 Section 60-2E-7 NMSA 1978;

25 ~~[L.]~~ M. "finding of suitability" means a

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1 certification of approval issued by the board permitting a
2 person to be involved directly or indirectly with a licensee,
3 relating only to the specified involvement for which it is
4 made;

5 N. "foreign institutional investor" means:

6 (1) a government-related pension plan of a
7 foreign government; or

8 (2) a person that meets the requirement of a
9 qualified institutional buyer as defined by the governing
10 financial regulatory agency of the foreign country in which the
11 company's primary operations are located and is registered or
12 licensed in that country as a bank, an insurance company, an
13 investment company, an investment advisor, a collective trust
14 fund, an employee benefit plan or pension fund sponsored by a
15 publicly traded corporation registered with the board or a
16 group composed entirely of entities specified in this
17 subsection;

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

25 ~~[N.]~~ P. "gaming" means offering a game for play;

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1 ~~[Q-]~~ Q. "gaming activity" means an endeavor
2 associated with the manufacture or distribution of gaming
3 devices or the conduct of gaming;

4 ~~[P-]~~ R. "gaming device" means associated equipment
5 or a gaming machine and includes a system for processing
6 information that can alter the normal criteria of random
7 selection that affects the operation of a game or determines
8 the outcome of a game;

9 ~~[Q-]~~ S. "gaming employee" means a person connected
10 directly with a gaming activity; "gaming employee" does not
11 include:

12 (1) bartenders, cocktail servers or other
13 persons engaged solely in preparing or serving food or
14 beverages;

15 (2) secretarial or janitorial personnel;

16 (3) stage, sound and light technicians; or

17 (4) other nongaming personnel;

18 ~~[R-]~~ T. "gaming establishment" means the premises
19 on or in which gaming is conducted;

20 ~~[S-]~~ U. "gaming machine" means a mechanical,
21 electromechanical or electronic contrivance or machine that,
22 upon insertion of a coin, token or similar object, or upon
23 payment of any consideration, is available to play or operate a
24 game, whether the payoff is made automatically from the machine
25 or in any other manner;

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1 ~~[F.]~~ V. "gaming operator" means a person who
2 conducts gaming;

3 ~~[H.]~~ W. "holding company" means a company that
4 directly or indirectly owns or has the power or right to
5 control a company that is an applicant or licensee, but a
6 company that does not have a beneficial ownership of more than
7 ten percent of the equity securities of a publicly traded
8 corporation is not a holding company;

9 ~~[V.]~~ X. "immediate family" means natural persons
10 who are related to a specified natural person by affinity or
11 consanguinity in the first through the third degree;

12 ~~[W.]~~ Y. "independent administrator" means a person
13 who administers an annuity, who is not associated in any manner
14 with the gaming operator licensee for which the annuity was
15 purchased and is in no way associated with the person who will
16 be receiving the annuity;

17 ~~[X.]~~ Z. "institutional investor" means:

18 (1) a foreign institutional investor;

19 (2) a state or federal government pension
20 plan; or

21 (3) a person that meets the requirements of a
22 qualified institutional buyer as defined in Rule 144A of the
23 federal Securities Act of 1933, and is:

24 ~~[†]~~ (a) a bank as defined in Section
25 3(a)(6) of the federal Securities Exchange Act of 1934;

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1 [~~(2)~~] (b) an insurance company as
2 defined in Section 2(a)(17) of the federal Investment Company
3 Act of 1940;

4 [~~(3)~~] (c) an investment company
5 registered under Section 8 of the federal Investment Company
6 Act of 1940;

7 [~~(4)~~] (d) an investment adviser
8 registered under Section 203 of the federal Investment Advisers
9 Act of 1940;

10 [~~(5)~~] (e) collective trust funds as
11 defined in Section 3(c)(11) of the federal Investment Company
12 Act of 1940;

13 [~~(6)~~] (f) an employee benefit plan or
14 pension fund that is subject to the federal Employee Retirement
15 Income Security Act of 1974, excluding an employee benefit plan
16 or pension fund sponsored by a publicly traded corporation
17 registered with the board; or

18 [~~(7)~~] (g) a group comprised entirely of
19 persons specified in [~~Paragraphs (1) through (6) of this~~
20 ~~subsection~~] Subparagraphs (a) through (f) of this paragraph;

21 [~~Y.~~] AA. "intermediary company" means a company
22 that:

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

25 (2) is a subsidiary with respect to any

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1 holding company;

2 [Z-] BB. "key executive" means an executive of a
3 licensee or other person having the power to exercise
4 significant influence over decisions concerning any part of the
5 licensed operations of the licensee or whose compensation
6 exceeds an amount established by the board in a rule;

7 [~~AA-~~] CC. "license" means an authorization required
8 by the board for engaging in gaming activities;

9 [~~BB-~~] DD. "licensee" means a person to whom a valid
10 license has been issued;

11 [~~CC-~~] EE. "manufacturer" means a person who
12 manufactures, fabricates, assembles, produces, programs or
13 makes modifications to any gaming device for use or play in New
14 Mexico or for sale, lease or distribution outside New Mexico
15 from any location within New Mexico;

16 [~~DD-~~] FF. "net take" means the total of 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 playing a
22 game;

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

25 (3) compensation received for conducting a

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1 game in which the licensee is not a party to a wager;

2 [~~EE-~~] GG. "nonprofit organization" means:

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

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

16 [~~FF-~~] HH. "person" means a legal entity;

17 [~~GG-~~] II. "premises" means land, together with all
18 buildings, improvements and personal property located on the
19 land;

20 [~~HH-~~] JJ. "progressive jackpot" means a prize that
21 increases over time or as gaming machines that are linked to a
22 progressive system are played and upon conditions established
23 by the board may be paid by an annuity;

24 [~~II-~~] KK. "public post-secondary educational
25 institution" means an institution designated in Article 12,

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1 Section 11 of the constitution of New Mexico [~~and~~] or an
2 institution designated in Chapter 21, [~~Articles~~] Article 13, 14
3 [~~and~~] or 16 NMSA 1978;

4 [~~JJ.~~] LL. "progressive system" means one or more
5 gaming machines linked to one or more common progressive
6 jackpots;

7 [~~KK.~~] MM. "publicly traded corporation" means a
8 corporation that:

9 (1) has one or more classes of securities
10 registered pursuant to the securities laws of the United States
11 or New Mexico;

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

14 (3) has one or more classes of securities
15 registered or is an issuer pursuant to applicable foreign laws
16 that, the board finds, provide protection for institutional
17 investors that is comparable to or greater than the stricter of
18 the securities laws of the United States or New Mexico;

19 [~~LL.~~] NN. "registration" means a board action that
20 authorizes a company to be a holding company with respect to a
21 company that holds or applies for a license or that relates to
22 other persons required to be registered pursuant to the Gaming
23 Control Act;

24 [~~MM.~~] OO. "subsidiary" means a company, all or a
25 part of whose outstanding equity securities are owned, subject

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1 to a power or right of control or held, with power to vote, by
2 a holding company or intermediary company;

3 ~~[NN-]~~ PP. "technician" means a person approved by
4 the board to repair and service gaming devices or associated
5 equipment but who is prohibited from programming gaming
6 devices; and

7 ~~[OO-]~~ QQ. "work permit" means a card, certificate
8 or permit issued by the board, whether denominated as a work
9 permit, registration card or otherwise, authorizing the
10 employment of the holder as a gaming employee."

11 Section 2. Section 60-2E-8 NMSA 1978 (being Laws 1997,
12 Chapter 190, Section 10, as amended) is amended to read:

13 "60-2E-8. BOARD REGULATIONS--DISCRETIONARY REGULATIONS--
14 PROCEDURE--REQUIRED PROVISIONS.--

15 A. The board may adopt any regulation:

16 (1) consistent with the provisions of the
17 Gaming Control Act; and

18 (2) it decides is necessary to implement the
19 provisions of the Gaming Control Act.

20 B. No regulation shall be adopted, amended or
21 repealed without a public hearing on the proposed action before
22 the board or a hearing officer designated by it. Notice of the
23 subject matter of the regulation, the action proposed to be
24 taken, the time and place of the hearing, the manner in which
25 interested persons may present their views and the method by

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1 which copies of the proposed regulation, amendment or repeal
2 may be obtained shall be published once at least thirty days
3 prior to the hearing date in a newspaper of general circulation
4 and mailed at least thirty days prior to the hearing date to
5 all persons who have made a written request for advance notice
6 of hearing. All regulations and actions taken on regulations
7 shall be filed in accordance with the State Rules Act.

8 C. The board shall adopt regulations:

9 (1) prescribing the method and form of
10 application to be followed by an applicant;

11 (2) prescribing the information to be
12 furnished by an applicant or licensee concerning ~~[his]~~ the
13 applicant's or licensee's antecedents, immediate family,
14 habits, character, associates, criminal record, business
15 activities and financial affairs, past or present;

16 (3) prescribing the manner and procedure of
17 all hearings conducted by the board or a hearing officer;

18 (4) prescribing the manner and method of
19 collection and payment of fees;

20 (5) prescribing the manner and method of the
21 issuance of licenses, permits, registrations, certificates and
22 other actions of the board not elsewhere prescribed in the
23 Gaming Control Act;

24 (6) defining the area, games and gaming
25 devices allowed and the methods of operation of the games and

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1 gaming devices for authorized gaming;

2 (7) prescribing under what conditions the
3 nonpayment of winnings is grounds for suspension or revocation
4 of a license of a gaming operator;

5 (8) governing the manufacture, sale,
6 distribution, repair and servicing of gaming devices;

7 (9) prescribing accounting procedures,
8 security, collection and verification procedures required of
9 licensees and matters regarding financial responsibility of
10 licensees;

11 (10) prescribing what shall be considered to
12 be an unsuitable method of operating gaming activities;

13 (11) restricting access to confidential
14 information obtained pursuant to the provisions of the Gaming
15 Control Act and ensuring that the confidentiality of that
16 information is maintained and protected;

17 (12) prescribing financial reporting and
18 internal control requirements for licensees;

19 (13) prescribing the manner in which winnings,
20 compensation from gaming activities and net take shall be
21 computed and reported by a gaming operator licensee;

22 (14) prescribing the frequency of and the
23 matters to be contained in audits of and periodic financial
24 reports relevant to [his] the gaming operator licensee's gaming
25 activities from a gaming operator licensee consistent with

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1 standards prescribed by the board;

2 (15) prescribing the procedures to be followed
3 by a gaming operator licensee for the exclusion of persons from
4 gaming establishments;

5 (16) establishing criteria and conditions for
6 the operation of progressive systems;

7 (17) establishing criteria and conditions for
8 approval of procurement by the board of personal property
9 valued in excess of twenty thousand dollars (\$20,000),
10 including background investigation requirements for a person
11 submitting a bid or proposal;

12 (18) establishing an applicant fee schedule
13 for processing applications that is based on costs of the
14 application review incurred by the board whether directly or
15 through payment by the board for costs charged for
16 investigations of applicants by state departments and agencies
17 other than the board, which regulation shall set a maximum fee
18 of one hundred thousand dollars (\$100,000); and

19 (19) establishing criteria and conditions for
20 allowing temporary possession of gaming devices:

21 (a) by post-secondary educational
22 institutions; [~~and~~]

23 (b) for trade shows;

24 (c) for film or theater productions; or

25 (d) for other non-gaming purposes."

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1 Section 3. Section 60-2E-12 NMSA 1978 (being Laws 1997,
2 Chapter 190, Section 14) is amended to read:

3 "60-2E-12. CONFLICTS OF INTEREST--BOARD--EXECUTIVE
4 DIRECTOR--EMPLOYEES.--

5 A. In addition to all other provisions of New
6 Mexico law regarding conflicts of interest of state officials
7 and employees, a member of the board, the executive director,
8 an employee of the board or a person in the immediate family of
9 or residing in the household of any of the foregoing persons,
10 shall not:

11 (1) directly or indirectly, as a proprietor or
12 as a member, stockholder, director or officer of a company,
13 have an interest in a business engaged in gaming activities in
14 this or another jurisdiction; or

15 (2) accept or agree to accept any economic
16 opportunity, gift, loan, gratuity, special discount, favor,
17 hospitality or service having an aggregate value of one hundred
18 dollars (\$100) or more in any calendar year from a licensee or
19 applicant.

20 B. If a member of the board, the executive director
21 or a person in the immediate family of or residing in the
22 household of a member of the board or the executive director
23 violates a provision of this section, the member of the board
24 or executive director shall be removed from office. A board
25 member shall be removed by the governor, and the executive

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1 director shall be removed from [~~his~~] the executive director's
2 position by the board."

3 Section 4. Section 60-2E-13.1 NMSA 1978 (being Laws 2002,
4 Chapter 102, Section 9) is amended to read:

5 "60-2E-13.1. TEMPORARY POSSESSION OF GAMING DEVICE FOR
6 LIMITED PURPOSE.--

7 A. A public post-secondary educational institution
8 may temporarily possess gaming devices for the limited purpose
9 of providing instruction on the technical aspects of gaming
10 devices to persons seeking certification as technicians
11 qualified to repair and maintain gaming devices. [~~Any~~] A
12 gaming device allowed for such limited use shall be subject to
13 registration, transport, possession and use requirements and
14 restrictions established in board regulations.

15 B. Trade shows and similar events for the purpose
16 of demonstrating and marketing gaming devices may be conducted
17 in the state at the discretion of the board. [~~Any~~] A gaming
18 device allowed in the state for such limited use shall be
19 subject to registration, transport, possession and use
20 requirements and restrictions established in board regulations.

21 C. A person may possess an unlicensed gaming device
22 used by [~~him~~] the person for the purposes of testing or
23 demonstration if that person is a manufacturer licensee or has
24 obtained a waiver pursuant to the Gaming Control Act.

25 D. A person may possess a gaming device for the

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1 purpose of film or theater productions or other non-gaming
2 purposes permitted by regulation of the board. Any gaming
3 device allowed in the state for such limited use shall be
4 subject to registration, transport, possession and use
5 requirements and restrictions established in board
6 regulations."

7 Section 5. Section 60-2E-16 NMSA 1978 (being Laws 1997,
8 Chapter 190, Section 18, as amended) is amended to read:

9 "60-2E-16. ACTION BY BOARD ON APPLICATIONS.--

10 A. A person that the board determines is qualified
11 to receive a license pursuant to the provisions of the Gaming
12 Control Act may be issued a license. The burden of proving
13 qualifications is on the applicant.

14 B. A license shall not be issued unless the board
15 is satisfied that the applicant is:

16 (1) a person of good moral character, honesty
17 and integrity;

18 (2) a person whose prior activities, state and
19 federal criminal records, reputation, habits and associations
20 do not pose a threat to the public interest or to the effective
21 regulation and control of gaming or create or enhance the
22 dangers of unsuitable, unfair or illegal practices, methods and
23 activities in the conduct of gaming or the carrying on of the
24 business and financial arrangements incidental thereto; and

25 (3) in all other respects qualified to be

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1 licensed consistent with the laws of this state.

2 C. A license shall not be issued unless the
3 applicant has satisfied the board that:

4 (1) the applicant has adequate business
5 probity, competence and experience in business and gaming;

6 (2) the proposed financing of the applicant is
7 adequate for the nature of the proposed license and from a
8 suitable source; any lender or other source of money or credit
9 that the board finds does not meet the standards set forth in
10 Subsection B of this section shall be deemed unsuitable; and

11 (3) the applicant is sufficiently capitalized
12 under standards set by the board to conduct the business
13 covered by the license.

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

24 E. The board [~~shall not issue~~] may deny a license
25 or certification to an applicant who has previously been denied

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1 a license or certification in this state or another state, who
2 has had a certification, permit or license issued pursuant to
3 the gaming laws of a state or the United States permanently
4 suspended or revoked for cause or who is currently under
5 suspension or subject to any other limiting action in this
6 state or another state involving gaming activities or licensure
7 for gaming activities.

8 F. The board shall investigate the qualifications
9 of each applicant before a license, certification or work
10 permit is issued by the board and shall continue to observe and
11 monitor the conduct of all licensees, work permit holders,
12 persons certified as being suitable and the persons having a
13 material involvement directly or indirectly with a licensee.

14 G. The board has the authority to deny an
15 application or limit, condition, restrict, revoke or suspend a
16 license, certification or permit for any cause.

17 H. After issuance, a license, certification or
18 permit shall continue in effect upon proper payment of the
19 initial and renewal fees, subject to the power of the board to
20 revoke, suspend, condition or limit licenses, certifications
21 and permits.

22 I. The board has full and absolute power and
23 authority to deny an application for any cause it deems
24 reasonable. If an application is denied, the board shall
25 prepare and file its written decision on which its order

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1 denying the application is based."

2 Section 6. Section 60-2E-19 NMSA 1978 (being Laws 1997,
3 Chapter 190, Section 21, as amended) is amended to read:

4 "60-2E-19. [~~REGISTRATION WITH BOARD BY~~] COMPANY
5 APPLICANTS--NONPROFIT [~~ORGANIZATIONS~~] ORGANIZATION APPLICANTS--
6 REQUIRED INFORMATION.--

7 A. A company applicant for a license or a renewal
8 of a license shall provide the following information to the
9 board on forms provided by the board:

10 (1) the organization, financial structure and
11 nature of the business to be operated, including the names and
12 personal histories of all officers, directors and key
13 executives;

14 (2) the rights and privileges acquired by the
15 holders of different classes of authorized securities;

16 (3) the terms and conditions of all
17 outstanding loans, mortgages, trust deeds, pledges or any other
18 indebtedness or security interest evidenced by a security
19 instrument pertaining to the proposed gaming operation or other
20 licensed activity in this state and the name and address of the
21 person who is servicing the loan, mortgage, trust deed, pledge
22 or other indebtedness or security interest;

23 (4) remuneration to persons, other than
24 directors, officers and key executives, exceeding [~~fifty~~
25 ~~thousand dollars (\$50,000)] one hundred thousand dollars~~

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1 (\$100,000) per year;

2 (5) bonus and profit-sharing arrangements
3 within the company;

4 (6) a list of management and service contracts
5 pertaining to the proposed gaming activity in this state;

6 (7) balance sheets and profit and loss
7 statements for at least the three preceding fiscal years, or,
8 if the company has not been in business for a period of three
9 years, balance sheets and profit and loss statements from the
10 time of its commencement of business operations and projected
11 for three years from the time of its commencement of business
12 operations. All balance sheets and profit and loss statements
13 shall be [~~certified~~] audited by independent certified public
14 accountants; and

15 (8) any further financial data that the board
16 deems necessary or appropriate.

17 B. A nonprofit organization applying for a license
18 or a renewal of a license as a nonprofit gaming operator
19 pursuant to the Gaming Control Act shall provide in its
20 application:

21 (1) the organization, financial structure and
22 nature of the nonprofit organization, including the names of
23 all officers, directors and key executives;

24 (2) the terms and conditions of all
25 outstanding loans, mortgages, trust deeds, pledges or any other

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1 indebtedness or security interest evidenced by a security
2 instrument pertaining to the proposed gaming operation or other
3 licensed activity in this state and the name and address of the
4 person who is servicing the loan, mortgage, trust deed, pledge
5 or other indebtedness or security interest;

6 (3) management and service contracts
7 pertaining to the proposed gaming activity in this state;

8 (4) balance and profit and loss statements for
9 at least the three preceding fiscal years or, if the nonprofit
10 organization has not been in business for a period of three
11 years, balance sheets and profit and loss statements from the
12 date of charter or incorporation and projected for three years
13 from the date of charter or incorporation. All balance sheets
14 and profit and loss statements shall be [~~certified by~~
15 ~~independent certified public accountants~~] submitted in a manner
16 prescribed by the board;

17 (5) any further financial data that the board
18 deems necessary or appropriate;

19 (6) if the nonprofit organization has various
20 classes of members, information detailing the rights and
21 privileges attributed to each class of member and providing the
22 number of members in each class;

23 (7) the level of remuneration for all paid
24 employees of the nonprofit organization; and

25 (8) details about any other form of

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1 remuneration or awards that are conferred on members."

2 Section 7. Section 60-2E-20 NMSA 1978 (being Laws 1997,
3 Chapter 190, Section 22, as amended) is amended to read:

4 "60-2E-20. INDIVIDUAL CERTIFICATION OF FINDING OF
5 SUITABILITY OF OFFICERS, DIRECTORS AND OTHER PERSONS.--

6 A. An officer, director, equity security holder of
7 five percent or more, partner, general partner, limited
8 partner, trustee or beneficiary of the company that holds or
9 has applied for a license shall [~~be certified~~] individually
10 apply for and obtain a certification of finding of suitability,
11 according to the provisions of the Gaming Control Act, and if,
12 in the judgment of the board the public interest is served by
13 requiring any or all of the company's key executives to [~~be~~
14 ~~certified~~] apply for and obtain a certification of finding of
15 suitability, the company shall require those persons to apply
16 for certification. A person who is required to be certified
17 pursuant to this subsection shall apply for certification
18 within thirty days after becoming an officer, director, equity
19 security holder of five percent or more, partner, general
20 partner, limited partner of five percent or more, trustee,
21 beneficiary or key executive. A person who is required to be
22 certified pursuant to a decision of the board shall apply for
23 certification within thirty days after the board so requests.
24 A person required or requested to be certified pursuant to this
25 subsection shall provide to the board an application for

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1 certification, including a personal history, a financial
2 statement, copies of the person's income tax returns for the
3 three years immediately prior to the year of the application
4 and other information that the board deems necessary or
5 appropriate.

6 B. The key executives of a nonprofit organization
7 that holds or has applied for a license shall ~~[be certified]~~
8 individually apply for and obtain a certification of finding of
9 suitability. For purposes of this subsection, key executives
10 are those officers, employees, volunteers and other persons who
11 are designated by the nonprofit organization as key executives.
12 The board may require additional officers, employees,
13 volunteers and other persons to ~~[become certified]~~ apply for
14 and obtain a certification of finding of suitability if the
15 board determines the public interest is served by the
16 additional certifications. A person who is required to be
17 certified pursuant to this subsection shall apply for
18 certification within thirty days after becoming an officer or
19 key executive. A person who is required to be certified
20 pursuant to a decision of the board shall apply for
21 certification within thirty days after the board so requests.
22 ~~[An officer, employee, volunteer or other]~~ A person required or
23 requested to be certified pursuant to this subsection shall
24 provide to the board an application for certification,
25 including a personal history, a financial statement, copies of

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1 the person's income tax returns for the three years immediately
2 prior to the year of the application and other information that
3 the board deems necessary or appropriate."

4 Section 8. Section 60-2E-21 NMSA 1978 (being Laws 1997,
5 Chapter 190, Section 23) is amended to read:

6 "60-2E-21. REQUIREMENTS IF COMPANY IS OR BECOMES A
7 SUBSIDIARY--INVESTIGATIONS--RESTRICTIONS ON UNSUITABLE
8 PERSONS--OTHER REQUIREMENTS.--

9 A. If the company applicant or licensee is or
10 becomes a subsidiary, each nonpublicly traded holding company
11 and intermediary company with respect to the subsidiary company
12 shall:

13 (1) qualify to do business in New Mexico; and
14 (2) register with the board and furnish to the
15 board the following information:

16 (a) a complete list of all beneficial
17 owners of five percent or more of its equity securities, which
18 shall be updated within thirty days after any change;

19 (b) the names of all company officers
20 and directors within thirty days of their appointment or
21 election;

22 (c) its organization, financial
23 structure and nature of the business it operates;

24 (d) the terms, position, rights and
25 privileges of the different classes of its outstanding

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1 securities;

2 (e) the terms on which its securities
3 are to be, and during the preceding three years have been,
4 offered;

5 (f) the holder of and the terms and
6 conditions of all outstanding loans, mortgages, trust deeds,
7 pledges or any other indebtedness or security interest
8 pertaining to the applicant or licensee;

9 (g) the extent of the securities
10 holdings or other interest in the holding company or
11 intermediary company of all officers, directors, key
12 executives, underwriters, partners, principals, trustees or any
13 direct or beneficial owners, and the amount of any remuneration
14 paid them as compensation for their services in the form of
15 salary, wages, fees or by contract pertaining to the licensee;

16 (h) remuneration to persons other than
17 directors, officers and key executives exceeding [~~fifty~~
18 ~~thousand dollars (\$50,000)] two hundred fifty thousand dollars
19 (\$250,000) per year;~~

20 (i) bonus and profit-sharing
21 arrangements within the holding company or intermediary
22 company, if deemed necessary by the board;

23 (j) management and service contracts
24 pertaining to the licensee or applicant, if deemed necessary by
25 the board;

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1 (k) options existing or to be created in
2 respect to the company's securities or other interests, if
3 deemed necessary by the board;

4 (l) balance sheets and profit and loss
5 statements, [~~certified~~] audited by independent certified public
6 accountants or their foreign equivalents, for not more than the
7 three preceding fiscal years, or, if the holding company or
8 intermediary company has not been in existence more than three
9 years, balance sheets and profit and loss statements from the
10 time of its establishment, together with projections for three
11 years from the time of its establishment;

12 (m) any further financial statements
13 necessary or appropriate to assist the board in making its
14 determinations; and

15 (n) a current annual profit and loss
16 statement, a current annual balance sheet and a copy of the
17 company's most recent federal income tax return or its foreign
18 equivalent within thirty days after the return is filed.

19 B. The board may require all holders of five
20 percent or more of the equity security of a holding company or
21 intermediary company [~~shall~~] to apply for a certification of
22 finding of suitability.

23 C. The board may in its discretion perform the
24 investigations concerning the officers, directors, key
25 executives, underwriters, security holders, partners,

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1 principals, trustees or direct or beneficial owners of any
2 interest in any holding company or intermediary company as it
3 deems necessary, either at the time of initial registration or
4 at any time thereafter.

5 D. If at any time the board finds that any person
6 owning, controlling or holding with power to vote all or any
7 part of any class of securities of, or any interest in, any
8 holding company or intermediary company is unsuitable to be
9 connected with a licensee, it shall so notify both the
10 unsuitable person and the holding company or intermediary
11 company. The unsuitable person shall immediately offer the
12 securities or other interest to the issuing company for
13 purchase. The company shall purchase the securities or
14 interest offered upon the terms and within the time period
15 ordered by the board.

16 E. Beginning on the date when the board serves
17 notice that a person has been found to be unsuitable pursuant
18 to Subsection D of this section, it is unlawful for the
19 unsuitable person to:

20 (1) receive any dividend or interest upon any
21 securities held in the holding company or intermediary company,
22 or any dividend, payment or distribution of any kind from the
23 holding company or intermediary company;

24 (2) exercise, directly or indirectly or
25 through a proxy, trustee or nominee, any voting right conferred

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1 by the securities or interest; or

2 (3) receive remuneration in any form from the
3 licensee, or from any holding company or intermediary company
4 with respect to that licensee, for services rendered or
5 otherwise.

6 F. A holding company or intermediary company
7 subject to the provisions of Subsection A of this section shall
8 not make any public offering of any of its equity securities
9 unless such public offering has been approved by the board.

10 G. This section does not apply to a holding company
11 or intermediary company that is a publicly traded corporation,
12 the stock of which is traded on recognized stock exchanges,
13 which shall instead comply with the provisions of Section [24
14 of the Gaming Control Act] 60-2E-22 NMSA 1978."

15 Section 9. Section 60-2E-22 NMSA 1978 (being Laws 1997,
16 Chapter 190, Section 24) is amended to read:

17 "60-2E-22. [~~REGISTRATION AND CERTIFICATION OF PUBLICLY~~
18 ~~TRADED CORPORATIONS]~~ CHANGE IN COMPANY OWNERSHIP.--

19 A. If a company applicant or company licensee [~~is~~
20 ~~or becomes a publicly traded corporation, it shall register~~
21 ~~with the board]~~ proposes to transfer ownership of twenty
22 percent or more of the applicant or licensee, it shall notify
23 the board in writing and provide the following information
24 about the successor company:

25 (1) if the company is a publicly traded

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1 corporation, as of the date the company became a publicly
2 traded corporation, and on any later date when the information
3 changes, the names of all stockholders of record who hold five
4 percent or more of the outstanding shares of any class of
5 equity securities issued by the publicly traded corporation;

6 (2) the names of all officers within thirty
7 days of their respective appointments;

8 (3) the names of all directors within thirty
9 days of their respective elections or appointments;

10 (4) the organization, financial structure and
11 nature of the businesses the [~~publicly traded corporation~~]
12 company operates;

13 (5) if the company is a publicly traded
14 corporation, the terms, position, rights and privileges of the
15 different classes of securities outstanding as of the date the
16 company became a publicly traded corporation;

17 (6) if the company is a publicly traded
18 corporation, the terms on which the company's securities were
19 issued during the three years preceding the date on which the
20 company became a publicly traded corporation and the terms on
21 which the publicly traded corporation's securities are to be
22 offered to the public as of the date the company became a
23 publicly traded corporation;

24 (7) the terms and conditions of all
25 outstanding indebtedness and evidence of security pertaining

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1 directly or indirectly to the [~~publicly traded corporation~~]
2 company;

3 (8) remuneration exceeding [~~fifty thousand~~
4 ~~dollars (\$50,000)~~] one hundred thousand dollars (\$100,000) per
5 year paid to persons other than directors, officers and key
6 executives who are actively and directly engaged in the
7 administration or supervision of the gaming activities of the
8 [~~publicly traded corporation~~] company;

9 (9) bonus and profit-sharing arrangements
10 within the [~~publicly traded corporation~~] company directly or
11 indirectly relating to its gaming activities;

12 (10) management and service contracts of the
13 [~~corporation~~] company pertaining to its gaming activities;

14 (11) options existing or to be created
15 pursuant to its equity securities;

16 (12) balance sheets and profit and loss
17 statements, certified by independent certified public
18 accountants or their foreign equivalents, for not less than the
19 three fiscal years preceding the date [~~the company became a~~
20 ~~publicly traded corporation~~] of the proposed transfer of
21 ownership;

22 (13) any further financial statements deemed
23 necessary or appropriate by the board; and

24 (14) a description of the [~~publicly traded~~
25 ~~corporation's~~] company's affiliated companies and intermediary

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1 companies and gaming licenses, permits and approvals held by
2 those entities.

3 B. The board shall [~~consider the following criteria~~
4 ~~in determining whether to certify a publicly traded~~
5 ~~corporation~~] determine whether the proposed transaction is a
6 transfer or assignment of the license as prohibited by
7 Subsection G of Section 60-2E-14 NMSA 1978. If the board
8 determines that the proposed transaction is prohibited, it
9 shall notify the licensee in writing and shall require the
10 proposed transferee to file an application for a license. If
11 the board determines that the proposed transaction is not a
12 prohibited transfer or assignment of the license, it shall make
13 a determination as to whether to issue a certification
14 approving the transaction. The board shall consider the
15 following information about the successor company in
16 determining whether to certify the transaction:

17 (1) the business history of the [~~publicly~~
18 ~~traded corporation~~] company, including its record of financial
19 stability, integrity and success of its gaming operations in
20 other jurisdictions;

21 (2) the current business activities and
22 interests of the [~~applicant~~] company, as well as those of its
23 officers, promoters, lenders and other sources of financing, or
24 any other persons associated with it;

25 (3) the current financial structure of the

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1 ~~[publicly traded corporation]~~ company as well as changes that
2 could reasonably be expected to occur to its financial
3 structure as a consequence of its proposed action;

4 (4) the present and proposed compensation
5 arrangements between the ~~[publicly traded corporation]~~ company
6 and its directors, officers, key executives, securities
7 holders, lenders or other sources of financing;

8 (5) the equity investment, commitment or
9 contribution of present or prospective directors, key
10 executives, investors, lenders or other sources of financing;
11 and

12 (6) the dealings and arrangements, prospective
13 or otherwise, between the ~~[publicly traded corporation]~~ company
14 and its investment bankers, promoters, finders or lenders and
15 other sources of financing.

16 C. The board may issue a certification upon receipt
17 of a proper application and consideration of the criteria set
18 forth in Subsection B of this section if it finds that the
19 certification would not be contrary to the public interest or
20 the policy set forth in the Gaming Control Act.

21 D. The board may require the officers, directors
22 key executives and holders of an equity security interest of
23 five percent or more of the successor company and any other
24 person specified in the Gaming Control Act to apply for and
25 obtain a certification of finding of suitability."

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1 Section 10. Section 60-2E-25 NMSA 1978 (being Laws 1997,
2 Chapter 190, Section 27) is amended to read:

3 "60-2E-25. REPORT OF PROPOSED ISSUANCE OR TRANSFER OF
4 [~~SECURITIES~~] OWNERSHIP--REPORT OF CHANGE IN CORPORATE OFFICERS
5 AND DIRECTORS--APPROVAL OF BOARD.--

6 A. Before a company licensee, other than a publicly
7 traded corporation, may issue or transfer five percent or more
8 of its [~~securities~~] ownership to [~~any~~] a person, it shall file
9 a report of its proposed action with the board, which report
10 shall request the approval of the board. The board shall have
11 ninety days within which to approve or deny the request. If
12 the board fails to act in ninety days, the request is deemed
13 approved. If the board denies the request, the company shall
14 not issue or transfer five percent or more of its securities to
15 the person about whom the request was made.

16 B. A company licensee shall file a report of each
17 change of the corporate officers and directors with the board
18 within thirty days of the change. The board shall have ninety
19 days from the date the report is filed within which to approve
20 or disapprove such change. During the ninety-day period and
21 thereafter, if the board does not disapprove the change, an
22 officer or director is entitled to exercise all powers of the
23 office to which [~~he~~] the officer or director was elected or
24 appointed.

25 C. A company licensee shall report to the board in

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1 writing [~~any~~] a change in company personnel who have been
2 designated as key executives. The report shall be made no
3 later than thirty days after the change.

4 D. The board may require that a company licensee
5 furnish the board with a copy of its federal income tax return
6 within thirty days after the return is filed."

7 Section 11. Section 60-2E-26 NMSA 1978 (being Laws 1997,
8 Chapter 190, Section 28) is amended to read:

9 "60-2E-26. GAMING OPERATOR LICENSEES--GENERAL
10 PROVISIONS--BUSINESS PLAN--PLAYER AGE LIMIT--RESTRICTIONS.--

11 A. An applicant for [~~licensure as a gaming~~
12 ~~operator~~] a gaming operator's license shall submit with the
13 application a plan for assisting in the prevention, education
14 and treatment of compulsive gambling. The plan shall include
15 regular educational training sessions for employees. The board
16 shall forward a copy of each plan submitted to the department
17 of health or its designee, which shall review the proposed plan
18 and provide the board with its evaluation. Plan approval by
19 the board is a condition of issuance of the license.

20 B. An applicant for [~~licensure as a gaming~~
21 ~~operator~~] a gaming operator's license shall submit with the
22 application a proposed business plan. The plan shall include
23 at least:

24 (1) a floor plan of the area to be used for
25 gaming machine operations;

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- 1 (2) an advertising and marketing plan;
2 (3) the proposed placement and number of
3 gaming machines;
4 (4) a current financial [~~control~~] status and
5 gaming protection plan;
6 (5) a security plan;
7 (6) a staffing plan for gaming machine
8 operations; [~~and~~]
9 (7) internal control systems in compliance
10 with Section 60-2E-35 NMSA 1978; and
11 [~~(7)~~] (8) details of any proposed progressive
12 systems.

13 C. A gaming operator licensee shall be granted a
14 license to operate a [~~specific~~] number of machines, not to
15 exceed the statutory maximum, at a gaming establishment
16 identified in the license application and shall be granted a
17 license for each gaming machine.

18 D. A gaming operator licensee [~~who desires to~~
19 ~~change the number of machines in operation at a gaming~~
20 ~~establishment shall apply to the board for an amendment to his~~
21 ~~license authorizing a change in the number of machines~~] shall
22 apply for and pay the machine license fee for any increase in
23 the number of authorized gaming machines in operation at the
24 licensed premises and shall notify the board of any decrease in
25 the number of authorized gaming machines in operation at the

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1 licensed premises.

2 E. Gaming machines may be available for play only
3 in an area restricted to persons twenty-one years of age or
4 older.

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

15 G. A gaming operator licensee shall not have
16 automated teller machines in the area restricted pursuant to
17 Subsection F of this section.

18 H. A gaming operator licensee shall not provide,
19 allow, contract or arrange to provide alcohol or food for no
20 charge or at reduced prices as an incentive or enticement for
21 patrons to game.

22 I. Only a racetrack licensed by the state racing
23 commission or a nonprofit organization may apply for or be
24 issued a gaming operator's license. No other persons are
25 qualified to apply for or be issued a gaming operator's license

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1 pursuant to the Gaming Control Act."

2 Section 12. Section 60-2E-27 NMSA 1978 (being Laws 1997,
3 Chapter 190, Section 29, as amended) is amended to read:

4 "60-2E-27. GAMING OPERATOR LICENSEES--SPECIAL CONDITIONS
5 FOR RACETRACKS--NUMBER OF GAMING MACHINES--DAYS AND HOURS OF
6 OPERATIONS.--

7 A. A racetrack licensed by the state racing
8 commission pursuant to the Horse Racing Act to conduct live
9 horse races or simulcast races may be issued a gaming
10 operator's license to operate gaming machines on its premises
11 where live racing is conducted.

12 B. A racetrack's gaming operator's license shall
13 automatically become void if:

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

16 (2) the racetrack fails to maintain a minimum
17 of four live race days a week with at least nine live races on
18 each race day during its licensed race meet, except as provided
19 in Subsection F of this section.

20 C. Unless a larger number is allowed pursuant to
21 Subsection D of this section, a gaming operator licensee that
22 is a racetrack may have up to six hundred licensed gaming
23 machines [~~but the number of gaming machines to be located on~~
24 ~~the licensee's premises shall be specified in the gaming~~
25 ~~operator's license)].~~

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

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

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

9 F. Maintaining fewer than four live race days or
10 nine live races on each race day during a licensed race meet
11 does not constitute a failure to maintain the minimum number of
12 live race days or races as required by Paragraph (2) of
13 Subsection B of this section if the licensee submits to the
14 board written approval by the state racing commission for the
15 licensee to vary the minimum number of live race days or races,
16 and the variance is due to:

17 (1) the inability of a racetrack gaming
18 operator licensee to fill races as published in the licensee's
19 condition book;

20 (2) severe weather or other act, event or
21 occurrence resulting from natural forces;

22 (3) a strike or work stoppage by jockeys or
23 other persons necessary to conduct a race or meet;

24 (4) a power outage, electrical failure or
25 failure or unavailability of any equipment or supplies

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1 necessary to conduct a race or meet;

2 (5) hazardous conditions or other threats to
3 the public health or safety; or

4 (6) any other act, event or occurrence that
5 the board finds is not within the control of the licensee even
6 with the exercise of reasonable diligence or care.

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

10 Section 13. Section 60-2E-29 NMSA 1978 (being Laws 1997,
11 Chapter 190, Section 31) is amended to read:

12 "60-2E-29. LICENSING OF MANUFACTURERS OF GAMING
13 DEVICES--EXCEPTION--DISPOSITION OF GAMING DEVICES.--

14 A. It is unlawful for [~~any~~] a person to operate,
15 carry on, conduct or maintain any form of manufacturing of
16 [~~any~~] a gaming device or associated equipment for use or play
17 in New Mexico or any form of manufacturing of [~~any~~] a gaming
18 device or associated equipment in New Mexico for use or play
19 outside of New Mexico without first obtaining and maintaining a
20 manufacturer's license.

21 B. If the board revokes a manufacturer's license:

22 (1) no new gaming device manufactured by the
23 manufacturer may be approved for use in this state;

24 (2) any previously approved gaming device
25 manufactured by the manufacturer is subject to revocation of

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1 approval if the reasons for the revocation of the license also
2 apply to that gaming device;

3 (3) no new gaming device or associated
4 equipment made by the manufacturer may be distributed, sold,
5 transferred or offered for use or play in New Mexico; and

6 (4) any association or agreement between the
7 manufacturer and a distributor licensee or gaming operator
8 licensee in New Mexico shall be terminated.

9 C. An agreement between a manufacturer licensee and
10 a distributor licensee or a gaming operator licensee in New
11 Mexico shall be deemed to include a provision for its
12 termination without liability for the termination on the part
13 of either party upon a finding by the board that either party
14 is unsuitable. Failure to include that condition in the
15 agreement is not a defense in ~~[any]~~ an action brought pursuant
16 to this section to terminate the agreement.

17 D. A gaming device shall not be used and offered
18 for play by a gaming operator licensee unless it is identical
19 in all material aspects to a model that has been specifically
20 tested and approved by:

21 (1) the board; or
22 (2) a laboratory selected by the board [~~or~~
23 ~~(3) gaming officials in Nevada or New Jersey~~
24 ~~for current use~~].

25 E. The board may inspect every gaming device that

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1 is manufactured:

2 (1) for use in New Mexico; or

3 (2) in New Mexico for use outside of New
4 Mexico.

5 F. The board may inspect every gaming device that
6 is offered for play within New Mexico by a gaming operator
7 licensee.

8 G. The board may inspect all associated equipment
9 that is manufactured and sold for use in New Mexico or
10 manufactured in New Mexico for use outside of New Mexico.

11 H. In addition to all other fees and charges
12 imposed pursuant to the Gaming Control Act, the board may
13 determine, charge and collect from each manufacturer an
14 inspection fee, which shall not exceed the actual cost of
15 inspection and investigation.

16 I. The board may prohibit the use of a gaming
17 device by a gaming operator licensee if it finds that the
18 gaming device does not meet the requirements of this section."

19 Section 14. A new section of the Gaming Control Act,
20 Section 60-2E-34.1 NMSA 1978, is enacted to read:

21 "60-2E-34.1. [NEW MATERIAL] SELF-EXCLUSION FROM GAMING
22 ESTABLISHMENTS--PROCEDURE--FINES--CONFIDENTIALITY.--

23 A. The board shall develop rules that permit a
24 person who is a compulsive gambler to be voluntarily excluded
25 from a gaming establishment.

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1 B. Self-exclusion shall occur through written
2 application made by the compulsive gambler to the board and
3 shall be governed by the following provisions:

4 (1) self-exclusion shall be enforceable upon
5 issuance of a self-exclusion order by the board to each
6 applicable gaming establishment identified in the order;

7 (2) only the person who is the compulsive
8 gambler may apply on that person's behalf;

9 (3) the application shall be submitted to the
10 board;

11 (4) except for notification of the gaming
12 establishments for which the self-exclusion order is effective
13 and for notification for mailing list exclusion pursuant to
14 this section, the application and the self-exclusion order
15 shall be held confidential by employees of the board and a
16 gaming operator licensee and its employees and key executives;

17 (5) a self-exclusion order may apply to one or
18 more gaming establishments licensed pursuant to the Gaming
19 Control Act;

20 (6) a self-excluded person, if present at a
21 gaming establishment from which the person is excluded, in
22 addition to any criminal penalty, shall forfeit the following
23 to that gaming establishment, provided that all money or other
24 property forfeited shall be used by the gaming establishment
25 only to supplement the one-fourth percent of the net take of

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1 its gaming machines to fund or support programs for the
2 treatment and assistance of compulsive gamblers pursuant to
3 Subsection E of Section 60-2E-47 NMSA 1978:

4 (a) all winnings of the person obtained
5 while present at the gaming establishment; and

6 (b) all credits, tokens or vouchers
7 received by the person while present at the gaming
8 establishment;

9 (7) the self-excluded person shall sign a
10 waiver of legal claims against each gaming establishment from
11 which the person is excluded;

12 (8) a gaming establishment is immune from
13 liability arising out of its efforts to exclude a person
14 identified in a self-exclusion order; and

15 (9) a specific term shall be set for each
16 self-exclusion order.

17 C. Notice shall be submitted by the board at least
18 monthly to all gaming establishments listing all persons who
19 are currently self-excluded and ordering the removal of their
20 names from direct mail or electronic advertisement or
21 promotional lists.

22 D. A gaming operator licensee that fails to use due
23 diligence to implement a self-exclusion order issued by the
24 board may be subject to a fine, at the discretion of the board,
25 of up to one thousand dollars (\$1,000) per occurrence.

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1 E. The state gaming representative may negotiate an
2 agreement with each tribal casino in the state to allow the
3 state to include tribal casinos in the self-exclusion orders."

4 Section 15. Section 60-2E-61 NMSA 1978 (being Laws 1997,
5 Chapter 190, Section 63, as amended) is amended to read:

6 "60-2E-61. LIEN ON WINNINGS FOR DEBT COLLECTED BY HUMAN
7 SERVICES DEPARTMENT--PROCEDURE.--

8 A. The human services department, acting as the
9 state's child support enforcement agency pursuant to
10 Title IV-D of the federal Social Security Act, shall
11 [~~periodically certify to the board~~] develop and operate a
12 secure web site containing a database searchable by the names
13 and social security numbers of persons currently owing a debt
14 to or collected by the human services department. The web site
15 shall provide secure, encrypted access to each gaming operator
16 licensee using a system of passwords unique to each licensee.

17 B. Prior to the payment of a gaming machine payout
18 [~~in excess~~] of one thousand two hundred dollars (\$1,200) [~~the~~
19 ~~board shall check the name of the winner against the list of~~
20 ~~names and social security numbers of persons owing a debt to or~~
21 ~~collected by the human services department~~] or more, a gaming
22 operator licensee shall check the name of the winner by
23 accessing the secure human services department web site and
24 searching the database by name and social security number to
25 determine if the winner is a person owing a debt to or

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1 collected by the department.

2 C. If the winner is ~~[on the list of persons]~~ a
3 person owing a debt to or collected by the agency, the ~~[board~~
4 ~~shall make a good faith attempt to notify the human services~~
5 ~~department, and the department then has]~~ gaming operator
6 licensee shall retain the payout and notify the human services
7 department, which shall have a lien against the winnings in the
8 amount of the debt owed to or collected by the agency. The
9 ~~[board]~~ gaming operator licensee has no liability to the human
10 services department or to the person on whose behalf the
11 department is collecting the debt if the ~~[board]~~ gaming
12 operator licensee fails to match a winner's name to a name on
13 the list or is unable to notify the department of a match. The
14 department shall provide the ~~[board]~~ gaming operator licensee
15 with written notice of a support lien promptly within five
16 working days after the ~~[board]~~ gaming operator licensee
17 notifies the department of a match.

18 D. If the amount won is to be paid directly by the
19 ~~[board]~~ gaming operator licensee, the amount of the debt owed
20 to or collected by the human services department shall be held
21 by the ~~[board]~~ gaming operator licensee for a period of thirty
22 days from the ~~[board's]~~ department's confirmation of the amount
23 of the debt to allow the department to institute any necessary
24 garnishment or wage withholding proceedings. If a garnishment
25 or withholding proceeding is not initiated within the thirty-

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1 day period, the [~~board~~] gaming operator licensee shall release
2 the amount won to the winner.

3 E. The human services department, in its
4 discretion, may release or partially release the support lien
5 upon written notice to the [~~board~~] gaming operator licensee.

6 F. A support lien under this section is in addition
7 to any other lien created by law."

8 Section 16. A new section of the Gaming Control Act is
9 enacted to read:

10 "[NEW MATERIAL] CRIME--ENTERING A GAMING ESTABLISHMENT BY
11 A SELF-EXCLUDED PERSON.--A person who is self-excluded pursuant
12 to Section 60-2E-34.1 NMSA 1978 and who, for any reason, enters
13 a gaming establishment from which the person is self-excluded
14 is guilty of a petty misdemeanor and shall be sentenced
15 pursuant to the provisions of Subsection B of Section 31-19-1
16 NMSA 1978."

17 Section 17. REPEAL.--Section 60-2E-45 NMSA 1978 (being
18 Laws 1997, Chapter 190, Section 47) is repealed.

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