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HOUSE BILL 692

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

INTRODUCED BY

JAMES ROGER MADALENA

AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Section 11. [NEW MATERIAL] LICENSING GENERAL

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1 PROVISIONS. --

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

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

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

17 D. No license shall be issued to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 E. No video gambling machine licensee may purchase,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 except a licensed distributor.

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

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

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

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

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

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

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

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

25 A. The department may adopt regulations necessary to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 E. All tables displaying prizes or awards shall be

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

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

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

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

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

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

20 (2) the location of the machine;

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

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

25 (5) the cumulative amount of money inserted

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1 into the machine at any given time;

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

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

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

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

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

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

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

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

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

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

11 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 operations; or

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

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

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

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

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

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

25 D. If the applicant or licensee delivers a request

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

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

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

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

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

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

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

25 K. After a hearing has been completed, the

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

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

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

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

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

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1 **RETENTION. --**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 G. "equipment" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Section 33. [NEW MATERIAL] QUALIFIED ORGANIZATION

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1 LICENSE. --

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 substantial interest in a lessor or commercial lessor shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 the determination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (1) upon prior written approval of the
20 department, the licensee may conduct one of its sessions of
21 games of chance each year at a temporary location for a special
22 event or similar purpose; and

23 (2) a veterans' organization that is a licensee
24 pursuant to the Charity Games Act and whose licensed premises is
25 located in a bingo hall may obtain from the department a

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

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

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

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

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

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

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

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1 leased by the licensee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (11) administer oaths, take depositions, issue

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 now exist or may hereafter be amended:

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

11 Tax Act;

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

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

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

- 20 (1) Weight Distance Tax Act;
- 21 (2) Special Fuels Tax Act;
- 22 (3) the workers' compensation fee authorized by
23 Section 52-5-19 NMSA 1978, which fee shall be considered a tax
24 for purposes of the Tax Administration Act;
- 25 (4) Controlled Substance Tax Act;

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

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

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

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

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

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

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

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

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

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

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

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

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1 the agreement. A bet does not include:

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

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

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

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

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

15 (4) betting otherwise permitted by law;

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

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

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

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

8 (1) making and settling of bets;

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

11 (3) conducting lotteries; or

12 (4) playing gambling devices;

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

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

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

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

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

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

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

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1 the organization.

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

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

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

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

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

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

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

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

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

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

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

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

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1 of the fundraising event except:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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[bracketed material] = delete

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

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

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

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

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

11 (1) "commercial gambling" means:

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

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

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

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

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

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

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

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

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

20 Section 62. EFFECTIVE DATE. --

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

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

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

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