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HOUSE BILL 735

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

INTRODUCED BY

DANIEL P. SILVA

AN ACT

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

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

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

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

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

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1 elements and influence; and

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

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

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

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

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

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

25 E. "credit instrument" means a writing that

1 evidences a gaming debt owed to a person who holds a gaming  
2 establishment license at the time the debt is created, and  
3 includes any writing taken in consolidation, redemption or  
4 payment of a prior credit instrument;

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

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

10 H. "equity security" means:

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

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

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

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

21 I. "game" or "gambling game" means any game played  
22 with cards, dice, equipment or any mechanical, electromechanical  
23 or electronic device or machine for money, property, checks,  
24 credit or any representative of value; but "game" or "gambling  
25 game" does not include games played with cards in private homes

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1 or residences in which no person makes money for operating the  
2 game except as a player;

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

5 K. "gaming device" means any mechanical,  
6 electromechanical or electronic contrivance, component or  
7 machine used in connection with gaming or any game that affects  
8 the result of a wager by determining win or loss. "Gaming  
9 device" includes a system for processing information that can  
10 alter the normal criteria of random selection that affects the  
11 operation of any game or determines the outcome of a game.  
12 "Gaming device" does not include a system or device that affects  
13 a game solely by stopping its operation so that the outcome  
14 remains undetermined;

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

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1 engaged solely in preparing or serving food or beverages, or  
2 secretarial personnel, janitorial, stage, sound and light  
3 technicians and other nongaming personnel;

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

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

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

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

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

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1 and

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

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

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

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

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

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

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

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

25 (1) has one or more classes of securities

1 registered pursuant to the securities laws of the United States  
2 or of New Mexico;

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

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

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

13 "Regulation" does not include:

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

17 (2) a declaratory ruling;

18 (3) an interagency memorandum; or

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

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

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

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

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

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

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

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

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



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1 engaged in authority business.

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

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

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

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

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

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

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1 investigative information.

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

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

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

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

17 B. The authority shall:

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

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

24 (3) conduct itself, or employ a hearing officer  
25 to conduct, all hearings required by the provisions of the

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1 Gaming Control Act and any other hearings it deems appropriate  
2 to fulfill its responsibilities;

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

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

10 C. The authority may:

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

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

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

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1 (4) administer oaths and take depositions to  
2 the same extent and subject to the same limitations as would  
3 apply if the deposition were pursuant to discovery rules in a  
4 civil action in the district court;

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

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

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

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

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

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

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

24 A. The authority may adopt any regulation:

25 (1) consistent with the provisions of the

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1 Gaming Control Act; and

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

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

19 C. The authority shall adopt regulations:

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

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

25 (3) requiring the fingerprinting or other

1 reliable methods of identification of applicants;

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

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

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

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

12 (8) establishing hours of operation for gaming;

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

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

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

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

24 (13) governing accounting procedures, security,  
25 collection and verification procedures required of licensees and

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1 matters regarding financial responsibility of licensees; and  
2 (14) establishing grounds and procedures for  
3 the denial, suspension or revocation of a license.

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

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

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

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

22 A. In addition to all other provisions of New Mexico  
23 law regarding conflicts of interest of state officials and  
24 employees, a member of the authority, an authority employee or  
25 any person residing in the household of a member of the

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1 authority or an employee shall not:

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

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

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

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

21 A. in a licensed gaming establishment;

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

24 C. at no more than two locations in:

25 (1) a class B county:



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1 (a) having a population as determined by  
2 the 1990 federal census of not more than twenty-five thousand  
3 persons and not less than ten thousand persons; and

4 (b) having a 1993 net taxable value of  
5 property, as that term is defined in the Property Tax Code, of  
6 at least two hundred seventy million dollars (\$270,000,000) but  
7 not more than three hundred thirty million dollars  
8 (\$330,000,000); and

9 (2) a class A county currently having a  
10 population of less than four hundred thousand persons; and

11 D. if the requirement of Section 11 of the Gaming  
12 Control Act has been complied with.

13 Section 11. [NEW MATERIAL] POSITIVE REFERENDUM  
14 REQUIREMENT. -- Casino gaming permitted pursuant to Section 10 of  
15 the Gaming Control Act shall not be conducted within a  
16 municipality or within a county outside of the boundaries of a  
17 municipality unless an election is held pursuant to this section  
18 and a simple majority of the registered voters of the  
19 municipality or the area of a county outside the boundaries of a  
20 municipality, respectively, voting on the question votes in  
21 favor of permitting the casino gaming. The governing body of a  
22 municipality or a county, respectively, shall adopt a resolution  
23 calling for an election within seventy-five days of the  
24 effective date of the Gaming Control Act on the question of  
25 permitting the casino gaming authorized by that act. The

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1 question may be submitted to the voters and voted on as a  
2 separate question at any general election or at any special  
3 election called for that purpose by the appropriate governing  
4 body. The election on the question shall be called, held,  
5 conducted and canvassed in substantially the same manner as is  
6 provided by law for general elections. If the question of  
7 permitting gaming in the municipality or county, respectively,  
8 fails, the appropriate governing body shall not call an election  
9 on the question of permitting casino gaming until two years has  
10 elapsed from the previous election. No election shall be held  
11 pursuant to this section within forty-two days of any primary,  
12 general, municipal or school district election unless the  
13 election is held on the day of the primary, general, municipal  
14 or school district election.

15 Section 12. [NEW MATERIAL] LICENSE REQUIRED FOR CERTAIN  
16 ACTIVITIES. --

17 A. No person shall own, possess or control a place  
18 used for gaming unless the place is licensed as a gaming  
19 establishment.

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

22 C. No person shall manufacture, assemble, program or  
23 make modifications to a gaming device for use or play in this  
24 state or for distribution outside this state unless he is  
25 licensed as a manufacturer.

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

6           E. No person shall service or repair a gaming device  
7 or associated equipment unless he is licensed as a service  
8 technician.

9           F. No person shall engage in any activity for which  
10 the authority requires a license or permit without obtaining the  
11 license or permit.

12           Section 13. [NEW MATERIAL] LICENSURE--APPLICATION.--

13           A. The authority shall establish the following  
14 categories of licenses:

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

23           B. Except for a gaming establishment licensee having  
24 licensed machines, no licensee shall hold more than one type of  
25 license issued pursuant to the provisions of the Gaming Control

1 Act or own a majority interest in, manage or otherwise control,  
2 a holder of another type of license issued pursuant to the  
3 provisions of that act.

4 C. Applicants for a license shall apply on forms  
5 provided by the authority and furnish all information requested  
6 by the authority. Submission of an application constitutes  
7 consent to a credit check of the applicant and all persons  
8 having a substantial interest in the applicant and any other  
9 background investigations required pursuant to the Gaming  
10 Control Act or deemed necessary by the authority.

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

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

16 F. The application for a license shall include:

- 17 (1) the name of the proposed licensee;  
18 (2) the location of the proposed operation;  
19 (3) the gaming devices to be operated,  
20 supplied, distributed or serviced;  
21 (4) the names of all persons directly or  
22 indirectly interested in the business and the nature of such  
23 interest; and  
24 (5) such other information and details as the  
25 authority may require.

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1           G. The authority shall furnish to the applicant  
2 supplemental forms that the applicant shall complete and file  
3 with the application. Such supplemental forms shall require,  
4 but shall not be limited to, complete information and details  
5 with respect to the applicant's habits, character, criminal  
6 records, business activities, financial affairs and business  
7 associates, covering at least a ten-year period immediately  
8 preceding the date of filing of the application.

9           Section 14. [NEW MATERIAL] LICENSE FEES. --

10           A. The following license fees shall be paid to the  
11 authority:

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

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

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

21                       (4) for each separate gaming machine licensed,  
22 one hundred dollars (\$100) initially and one hundred dollars  
23 (\$100) annually for renewal.

24           B. The authority shall establish the license fee for  
25 service technicians and the fee for any other license or permit

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1 by regulation, but no fee established by the authority shall  
2 exceed one hundred dollars (\$100). The authority shall also  
3 establish by regulation a nonrefundable application fee of no  
4 more than five hundred dollars (\$500) to be charged to  
5 applicants other than establishment license applicants.

6 Section 15. [NEW MATERIAL] REQUIRED DISCLOSURE BY  
7 APPLICANTS. --

8 A. The following disclosures are required of all  
9 applicants:

10 (1) name and address of the applicant and the  
11 name and address of the following:

12 (a) if the applicant is a corporation,  
13 the officers, directors and each stockholder in the corporation;  
14 except that, in the case of stockholders of publicly held equity  
15 securities of a publicly traded corporation, only the names and  
16 addresses of those known to the corporation to beneficially own  
17 five percent or more of the securities;

18 (b) if the applicant is a trust, the  
19 trustee and all persons entitled to receive income or benefit  
20 from the trust;

21 (c) if the applicant is an association,  
22 the members, officers and directors;

23 (d) if the applicant is a subsidiary, the  
24 officers, directors and each stockholder of the parent  
25 corporation; except that in the case of stockholders of publicly

1 held equity securities of a publicly traded corporation, only  
2 the names and addresses of those known to the corporation to  
3 beneficially own five percent or more of the securities;

4 (e) if the applicant is a partnership or  
5 joint venture, all of the general partners, limited partners or  
6 joint venturers;

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

14 (g) if any member of the immediate family  
15 of any individual applicant is involved in the applicant's  
16 business in any capacity, then all of the information required  
17 in this section shall be disclosed for the immediate family  
18 member as if the family member were the applicant;

19 (2) all the states and jurisdictions in which  
20 each control person:

21 (a) does business and the nature of that  
22 business for each state and jurisdiction;

23 (b) has contracts to supply gaming  
24 devices, associated equipment or gaming services, including the  
25 nature of the devices, equipment or services involved for each

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1 state or jurisdiction; and

2 (c) has applied for, has sought renewal  
3 of, has received, has been denied, has pending or has had  
4 revoked a gaming license of any kind, and the disposition of the  
5 application, renewal, denial, pendency or revocation of the  
6 license in each state or jurisdiction; and regarding any gaming  
7 license that has been revoked or has not been renewed, or any  
8 gaming license application that has been denied or is or has  
9 remained pending for greater than six months, all the facts and  
10 circumstances underlying the failure to receive a license by  
11 renewal or application or regarding the revocation;

12 (3) the details of any conviction in or  
13 judgment of a state or federal court of each control person of  
14 any felony and any other criminal offense other than traffic  
15 offenses;

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

18 (5) for each control person who is a natural  
19 person, the general details of employment, residence, education  
20 and military history since the age of eighteen years and any  
21 federal, state or local elective position ever held by the  
22 control person;

23 (6) a consolidated report of all reportable  
24 information on all reportable contributions by each control  
25 person to any local, state or federal political candidate or

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1 political committee in this state for the past five years that  
2 is reportable pursuant to the provisions of any existing state  
3 or federal law;

4 (7) the identity of any entity with which each  
5 control person has a joint venture or other contractual  
6 arrangement to supply any state or jurisdiction with gaming  
7 devices, associated equipment or gaming services, including a  
8 disclosure with regard to the entity of all of the information  
9 requested in Paragraph (1) of this subsection;

10 (8) financial statements and copies of federal  
11 and state income tax returns of the applicant for the five years  
12 prior to the date of application;

13 (9) any economic interest known by the  
14 applicant that is held by any member of the authority or an  
15 employee of the authority in the business of the applicant or  
16 any control person; and

17 (10) any additional disclosures as determined  
18 to be necessary by the authority.

19 B. No license may be issued or renewed for an  
20 applicant or licensee who has not complied with the disclosure  
21 requirements, including periodic updates required pursuant to  
22 regulations of the authority, described in this section for each  
23 of its control persons.

24 C. As used in this section, "control person" means  
25 the applicant and all persons whose identity must be disclosed

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1 in Paragraph (1) of Subsection A of this section.

2 D. Any response to a request for a name, address,  
3 date of birth, social security number, place of birth, current  
4 residence, current marital status, duration of marriage,  
5 residence addresses for the last ten years and spouse's name,  
6 address, date of birth and social security number shall include  
7 all versions of that information that has been used by the  
8 applicant or the control person for whom the information has  
9 been requested.

10 E. Pursuant to regulations adopted by the authority,  
11 all or any part of the costs of any disclosure or background  
12 investigation of any applicant may be billed to and shall be  
13 paid by the applicant.

14 Section 16. [NEW MATERIAL] ACTION BY AUTHORITY ON  
15 APPLICATIONS. --

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

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

25 (1) a person of good moral character, honesty

1 and integrity;

2 (2) a person whose prior activities, criminal  
3 record, if any, reputation, habits and associations do not pose  
4 a threat to the public interest or to the effective regulation  
5 and control of gaming or create or enhance the dangers of  
6 unsuitable, unfair or illegal practices, methods and activities  
7 in the conduct of gaming or the carrying on of the business and  
8 financial arrangements incidental thereto; and

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

11 C. A license shall not be granted pursuant to the  
12 Gaming Control Act unless the applicant has satisfied the  
13 authority that:

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

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

21 (3) the applicant is sufficiently capitalized  
22 under standards set by the authority to conduct the business  
23 covered by the license applied for.

24 D. In addition to other requirements for licensure,  
25 an applicant for an establishment license shall at the time of

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1 submitting the application:

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

6 (2) present an irrevocable commitment to  
7 construction of a hotel with a minimum of two hundred rooms  
8 adjoining the proposed casino gaming establishment with the  
9 completion of the construction to be a condition precedent to  
10 the issuance of the license; and

11 (3) demonstrate to the satisfaction of the  
12 authority that the applicant has the ability and the willingness  
13 to promote economic development and employment in the community  
14 in which the establishment is located.

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

24 F. The authority shall investigate the  
25 qualifications of each applicant before any license is issued by

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1 the authority and shall continue to observe and monitor the  
2 conduct of all licensees and the persons having a material  
3 involvement directly or indirectly with a licensed gaming  
4 operation.

5 G. The authority has the authority to deny any  
6 application or limit, condition, restrict, revoke or suspend any  
7 license for any reasonable cause.

8 H. The authority may issue or deny a license to the  
9 applicant. The authority may limit or place those reasonable  
10 conditions it deems necessary to the public interest upon any  
11 license for which application has been made.

12 I. After the issuance of the license, it shall  
13 continue in effect upon proper payment of the license fees,  
14 subject to the power of the authority to revoke, suspend,  
15 condition or limit licenses.

16 J. The authority has full and absolute power to deny  
17 any application for any cause it deems reasonable. If an  
18 application is denied, the authority shall prepare and file its  
19 written decision upon which its order denying the application is  
20 based.

21 Section 17. [NEW MATERIAL] EXCLUSION OR EJECTION OF  
22 CERTAIN PERSONS FROM LICENSED ESTABLISHMENTS-- PERSONS  
23 INCLUDED. --

24 A. The authority shall by regulation provide for the  
25 establishment of a list of persons who are to be excluded or

1 ejected from any licensed gaming establishment. The list may  
2 include any person whose presence in the establishment is  
3 determined by the authority to pose a threat to the public  
4 interest or to licensed gaming, or both.

5 B. In making the determination in Subsection A of  
6 this section, the authority may consider any:

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

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

12 (a) the failure to disclose an interest  
13 in a gaming establishment for which the person must obtain a  
14 license; or

15 (b) willful evasion of fees or taxes;

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

19 (4) written order of any other governmental  
20 agency in this state or any other state that authorizes the  
21 exclusion or ejection of the person from an establishment at  
22 which gaming is conducted.

23 C. A licensed gaming establishment has the right,  
24 without any list established by the board, to exclude or eject  
25 any person from the establishment who poses a threat to the

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1 public interest or to licensed gaming or for any business  
2 reason.

3 D. Race, color, creed, national origin or ancestry,  
4 age, disability or sex shall not be grounds for placing the name  
5 of a person upon the list or for exclusion or ejection under  
6 Subsection C of this section.

7 Section 18. [NEW MATERIAL] INTERNAL AND EXTERNAL CONTROL  
8 SYSTEMS. --

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

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

14 (2) making and maintaining reliable records,  
15 accounts and reports of transactions, operations and events,  
16 including reports to the board; and

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

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1           B. The internal control system shall be designed to  
2 reasonably ensure that:

- 3                   (1) assets are safeguarded;
- 4                   (2) financial records are accurate and  
5 reliable;
- 6                   (3) transactions are performed only in  
7 accordance with management's general or specific authorization;
- 8                   (4) transactions are recorded adequately to  
9 permit proper reporting of gaming revenue and of fees and taxes,  
10 and to maintain accountability of assets;
- 11                   (5) access to assets is permitted only in  
12 accordance with management's specific authorization;
- 13                   (6) recorded accountability for assets is  
14 compared with actual assets at reasonable intervals and  
15 appropriate action is taken with respect to any discrepancies;  
16 and
- 17                   (7) functions, duties and responsibilities are  
18 appropriately segregated and performed in accordance with sound  
19 accounting and management practices by competent, qualified  
20 personnel.

21           C. Each licensed gaming establishment and each  
22 applicant for a gaming establishment license shall describe, in  
23 the manner the authority may approve or require, its  
24 administrative and accounting procedures in detail in a written  
25 system of internal control. Each licensed gaming establishment



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1 and applicant for a gaming establishment license shall submit a  
2 copy of its written system to the authority. Each written  
3 system shall include:

4 (1) an organizational chart depicting  
5 appropriate segregation of functions and responsibilities;

6 (2) a description of the duties and  
7 responsibilities of each position shown on the organizational  
8 chart;

9 (3) a detailed, narrative description of the  
10 administrative and accounting procedures designed to satisfy the  
11 requirements of Subsection A of this section;

12 (4) a written statement signed by the  
13 licensee's chief financial officer and either the licensee's  
14 chief executive officer or a licensed owner attesting that the  
15 system satisfies the requirements of this section;

16 (5) if the written system is submitted by an  
17 applicant, a letter from an independent certified public  
18 accountant stating that the applicant's written system has been  
19 reviewed by the accountant and complies with the requirements of  
20 this section; and

21 (6) such other items as the authority may  
22 require.

23 D. The authority shall adopt and publish minimum  
24 standards for internal control procedures.

25 Section 19. [NEW MATERIAL] GAMING EMPLOYEES--ISSUANCE OF

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1 WORK PERMITS-- REVOCATION OF WORK PERMITS. --

2 A. A person shall not be employed as a gaming  
3 employee unless the person holds a valid work permit issued by  
4 the authority.

5 B. A work permit shall be issued and may be revoked  
6 by the authority as provided in regulations adopted by the  
7 authority.

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

10 Section 20. [NEW MATERIAL] AGE REQUIREMENT FOR PATRONS  
11 AND GAMING EMPLOYEES. -- A person under the age of twenty-one  
12 years of age shall not:

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

16 B. be employed as a gaming employee.

17 Section 21. [NEW MATERIAL] ACCEPTANCE OF CREDIT  
18 INSTRUMENTS BY LICENSEE. --

19 A. A credit instrument evidencing a gaming debt is  
20 authorized by the Gaming Control Act and may be enforced by  
21 legal process.

22 B. A gaming establishment licensee or person acting  
23 on the licensee's behalf may accept an incomplete credit  
24 instrument that is signed by a patron and states the amount of  
25 the debt in figures. The licensee may complete the instrument

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1 as is necessary for the instrument to be presented for payment.

2 C. A gaming establishment licensee or person acting  
3 on behalf of a licensee:

4 (1) shall not accept a credit instrument that  
5 is incomplete except as authorized in Subsection B of this  
6 section; and

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

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

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

25 Section 22. [NEW MATERIAL] FACE VALUE OF CREDIT

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1 INSTRUMENT INCLUDED IN COMPUTATION OF GROSS REVENUE--  
2 EXCEPTIONS-- CASH RECEIVED IN PAYMENT OF DEBT NOT INCLUDED IN  
3 GROSS REVENUE. --

4 A. For the purposes of the Gaming Control Act,  
5 except as otherwise provided in Subsection C of this section,  
6 the computation of gross revenue shall include the face value of  
7 any credit instrument if, within two years after the last day of  
8 the month following the month in which that instrument was  
9 accepted by the gaming establishment licensee, the authority  
10 determines that:

11 (1) the instrument was not signed by the patron  
12 or otherwise acknowledged by him in a written form satisfactory  
13 to the authority;

14 (2) the licensee did not have an address for  
15 the patron at the time of accepting the instrument, or, in lieu  
16 of that address, has not provided the authority, within a  
17 reasonable time after its request, the current address of the  
18 patron to whom the credit was extended;

19 (3) the licensee has not provided the authority  
20 with any evidence that the licensee made a reasonable effort to  
21 collect the debt;

22 (4) the licensee has not provided the authority  
23 with any evidence that the licensee checked the credit history  
24 of the patron before extending credit to him;

25 (5) the licensee has not produced the

1 instrument within a reasonable time after a request by the  
2 authority for the instrument unless it:

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

5 (b) has been returned to the patron upon  
6 his partial payment of the instrument and the licensee has  
7 obtained a substitute credit instrument for the remaining  
8 balance;

9 (c) has been stolen and the licensee has  
10 made a written report of the theft to the appropriate law  
11 enforcement agency; or

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

14 (6) the signature of the patron on the  
15 instrument was forged and the licensee has not made a written  
16 report of the forgery to the appropriate law enforcement agency;  
17 or

18 (7) upon an audit by the authority, the  
19 licensee requested the auditors not to confirm the unpaid  
20 balance of the debit with the patron and there is not other  
21 satisfactory means of confirmation.

22 B. For the purpose of the Gaming Control Act, the  
23 computation of gross revenue shall not include cash or its  
24 equivalent that is received in full or partial payment of a debt  
25 previously included in the computation of gross revenue pursuant

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1 to Subsection A of this section.

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

5 (1) induce a substantial partial payment;

6 (2) compromise a dispute; or

7 (3) obtain a patron's business if:

8 (a) an agreement is entered into to  
9 discount the face amount of a credit instrument before it is  
10 issued to induce timely payment of the credit instrument; and

11 (b) the percentage of discount of the  
12 instrument is reasonable as compared to the prevailing practice  
13 in the industry.

14 Section 23. [NEW MATERIAL] CALCULATION OF GROSS REVENUE--  
15 CERTAIN EXPENSES NOT DEDUCTIBLE. --

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

24 B. In calculating gross revenue from gaming  
25 machines, the actual cost to the licensee of any personal

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1 property distributed to a patron as the result of a legitimate  
2 wager may be deducted as a loss, but not travel expenses, food,  
3 refreshments, lodging or services. For the purposes of this  
4 section, "as the result of a legitimate wager" means that the  
5 patron must make a wager prior to receiving the personal  
6 property, regardless of whether the receipt of the personal  
7 property is dependent on the outcome of the wager.

8 Section 24. [NEW MATERIAL] LIMITATIONS ON TAXES AND  
9 LICENSE FEES. --No municipality or other political subdivision of  
10 the state shall impose any license fee or tax on any licensee  
11 licensed pursuant to the Gaming Control Act except for the  
12 imposition of property taxes and gross receipts taxes.

13 Section 25. [NEW MATERIAL] USE OF CHIPS, TOKENS OR LEGAL  
14 TENDER REQUIRED FOR ALL GAMING. --All gaming shall be conducted  
15 with chips, tokens or other instrumentalities approved by the  
16 board or with the legal currency of the United States.

17 Section 26. [NEW MATERIAL] RECORDS OF GAMING  
18 ESTABLISHMENT LICENSEES. --

19 A. A gaming establishment licensee shall keep its  
20 books and records to clearly show the amount of gross revenue  
21 and other revenues received.

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

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1           Section 27. ~~[NEW MATERIAL]~~ COMMUNICATION OR DOCUMENT OF  
2 APPLICANT OR LICENSEE ABSOLUTELY PRIVILEGED-- PRIVILEGE NOT  
3 WAIVED-- DISCLOSURE OF PRIVILEGED INFORMATION PROHIBITED. --

4           A. Any communication or document of an applicant or  
5 licensee is absolutely privileged and does not impose liability  
6 for defamation or constitute a ground for recovery in any civil  
7 action if it is required by:

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

9                   (2) a subpoena issued by the authority to be  
10 made or transmitted to the authority.

11           B. The privilege created pursuant to Subsection A of  
12 this section is not waived or lost because the document or  
13 communication is disclosed to the authority.

14           C. Notwithstanding the powers granted to the  
15 authority by the Gaming Control Act, the authority:

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

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

25                   (3) shall adopt procedures and regulations to



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1 protect the privileged nature of information, documents and  
2 communications provided by an applicant or licensee.

3 Section 28. [NEW MATERIAL] MOTION FOR RELEASE OF  
4 CONFIDENTIAL INFORMATION. --An application to a court for an  
5 order requiring the authority to release any information  
6 declared by law to be confidential shall be made only upon  
7 motion in writing on ten days written notice to the authority,  
8 the attorney general and all persons who may be affected by the  
9 entry of such an order. Copies of the motion and all papers  
10 filed in support of it shall be served with the notice by  
11 delivering a copy in person or by certified mail to the last  
12 known address of the person to be served.

13 Section 29. [NEW MATERIAL] GAMING MACHINE CENTRAL  
14 SYSTEM --The authority shall develop and operate a central  
15 system to which all licensed gaming machines are connected. The  
16 central system shall be capable of:

17 A. retrieving and auditing the operation, financial  
18 data and program information of the network;

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

22 C. communicating, through program modifications or  
23 other equally effective means, with all gaming machines licensed  
24 by the authority;

25 D. interacting, reading, communicating and linking

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1 with gaming machines from a broad spectrum of manufacturers and  
2 associated equipment; and

3 E. providing linkage to each gaming machine in the  
4 network at a reasonable and affordable cost to the state or the  
5 establishment and allowing for program modifications and system  
6 updating at a reasonable rate of cost.

7 Section 30. [NEW MATERIAL] MACHINE SPECIFICATIONS. -- To be  
8 eligible for licensure, each gaming machine shall meet all  
9 specifications established by regulations of the authority and:

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

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

16 C. be capable of having play suspended through the  
17 central system by the authority until the authority resets the  
18 gaming machine;

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

25 E. have a printing mechanism capable of printing out

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1 at the request of the authority readings on the electronic  
2 meters of the machine;

3 F. be capable of printing a ticket voucher stating  
4 the value of a cash prize won by the player at the completion of  
5 each game, the date and time of the day the game was played in a  
6 twenty-four hour format showing hours and minutes, the machine  
7 serial number, the sequential number of the ticket voucher and  
8 an encrypted validation number for determining the validity of a  
9 winning ticket voucher;

10 G. be capable of being linked to the authority's  
11 central system for the purpose of auditing the operation,  
12 financial data and program information as required by the  
13 authority;

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

17 I. offer only games authorized and examined by the  
18 authority; and

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

22 Section 31. [NEW MATERIAL] POSTING OF GAMING MACHINE  
23 ODDS. --The odds of winning on each gaming machine shall be  
24 posted on or near each gaming machine. The authority shall  
25 provide the manner in which the odds shall be posted by

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1 regulation.

2 Section 32. [NEW MATERIAL] EXAMINATION OF MACHINES AND  
3 EQUIPMENT-- COST ALLOCATION. --

4 A. The authority shall examine prototypes of gaming  
5 devices of manufacturers seeking a license as required pursuant  
6 to the provisions of the Gaming Control Act.

7 B. The authority by regulation shall require the  
8 manufacturer seeking the licensing of a gaming device to pay the  
9 anticipated actual costs of the examination in advance and,  
10 after the completion of the examination, shall refund  
11 overpayments or charge and collect amounts sufficient to  
12 reimburse the authority for underpayments of actual costs.

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

15 Section 33. [NEW MATERIAL] GAMING TAX-- IMPOSITION--  
16 ADMINISTRATION. --

17 A. An excise tax is imposed upon the privilege of  
18 conducting casino gaming in the state. This tax shall be known  
19 as the "gaming tax".

20 B. The gaming tax is measured as a percentage of  
21 gross revenue of a licensed gaming establishment. The rate of  
22 the tax is twelve percent.

23 C. The gaming tax shall be administered and  
24 collected by the taxation and revenue department in cooperation  
25 with the authority, and the provisions of the Tax Administration

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1 Act apply to the collection and administration of the tax.

2 Section 34. [NEW MATERIAL] GAMING FUND CREATED--  
3 DISTRIBUTION OF ALL FEES AND TAXES TO THE GAMING FUND--  
4 DISTRIBUTION FROM THE FUND. --

5 A. The "gaming fund" is created in the state  
6 treasury. All license fees collected pursuant to the Gaming  
7 Control Act and all net proceeds of the gaming tax shall be  
8 deposited into the gaming fund.

9 B. The gaming fund shall be invested as are other  
10 state funds. Interest earned on the investment of the fund  
11 shall be retained in the fund.

12 C. Money in the gaming fund is appropriated as  
13 follows:

14 (1) the receipts to the fund from license fees  
15 and other administrative impositions to the authority to  
16 administer the Gaming Control Act; and

17 (2) the balance to the general fund;

18 Section 35. [NEW MATERIAL] FRAUDULENT ACTS--PENALTY.--

19 A. A person commits an offense if the person  
20 knowingly:

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

24 (2) places, increases or decreases a bet or  
25 determines the course of play after acquiring knowledge not

1 available to all players of the outcome of the game or any event  
2 that affects the outcome of the game or that is the subject of  
3 the bet or to aid anyone in acquiring that knowledge for the  
4 purpose of placing, increasing or decreasing a bet or  
5 determining the course of play contingent upon that event or  
6 outcome;

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

12 (4) entices or induces another to go to any  
13 place where a gambling game is being conducted or operated in  
14 violation of the provisions of the Gaming Control Act, with the  
15 intent that the other person play or participate in that  
16 gambling game;

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

20 (6) reduces the amount wagered or cancels the  
21 bet after acquiring knowledge of the outcome of the game or  
22 other event that is the subject of the bet, including pinching  
23 bets; or

24 (7) manipulates, with the intent to cheat, any  
25 component of a gaming device in a manner contrary to the

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[bracketed material] = delete

1 designed and normal operational purpose for the component,  
2 including, but not limited to, varying the pull of the handle of  
3 a slot machine, with knowledge that the manipulation affects the  
4 outcome of the game or with knowledge of any event that affects  
5 the outcome of the game.

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

9 Section 36. [NEW MATERIAL] USE OF DEVICE FOR CALCULATING  
10 PROBABILITIES. --

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

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

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

16 (3) in analyzing the probability of the

17 occurrence of an event relating to the game; or

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

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

23 Section 37. [NEW MATERIAL] USE OF COUNTERFEIT OR  
24 UNAPPROVED CHIPS OR TOKENS OR UNLAWFUL COINS OR DEVICES--  
25 POSSESSION OF CERTAIN DEVICES, EQUIPMENT, PRODUCTS OR

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[bracketed material] = delete

1 MATERIALS. --

2 A. A person commits an offense who knowingly uses  
3 counterfeit chips in a gambling game.

4 B. A person commits an offense who, in playing or  
5 using any gambling game designed to be played with, receive or  
6 be operated by chips or tokens approved by the board or by  
7 lawful currency of the United States knowingly uses chips or  
8 tokens other than those approved by the authority, uses currency  
9 that is not lawful currency of the United States or uses  
10 currency not of the same denomination as the currency intended  
11 to be used in that gambling game.

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

19 D. A person other than a duly authorized employee of  
20 a gaming establishment licensee acting in furtherance of his  
21 employment within a licensed establishment commits an offense  
22 who knowingly has on his person or in his possession on or off  
23 the premises of any licensed gaming establishment any key or  
24 device known by him to have been designed for the purpose of and  
25 suitable for opening, entering or affecting the operation of any



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1 gambling game, drop box or any electronic or mechanical device  
2 connected thereto, or for removing money or other contents  
3 therefrom.

4 E. A person commits an offense who knowingly and  
5 with intent to use them for cheating has on his person or in his  
6 possession any paraphernalia for manufacturing slugs. As used  
7 in this subsection, "paraphernalia for manufacturing slugs"  
8 means the equipment, products and materials that are intended  
9 for use or designed for use in manufacturing, producing,  
10 fabricating, preparing, testing, analyzing, packaging, storing  
11 or concealing a counterfeit facsimile of the chips or tokens  
12 approved by the board or a lawful coin of the United States, the  
13 use of which is unlawful pursuant to the Gaming Control Act.

14 The term includes but is not limited to:

- 15 (1) lead or lead alloys;
- 16 (2) molds, forms or similar equipment capable  
17 of producing a likeness of a gaming token or coin;
- 18 (3) melting pots or other receptacles;
- 19 (4) torches; and
- 20 (5) tongs, trimming tools or other similar  
21 equipment.

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

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[bracketed material] = delete

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

4           Section 38. [NEW MATERIAL] CHEATING. --

5           A. A person commits an offense who knowingly cheats  
6 at any gambling game.

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

10          Section 39. [NEW MATERIAL] PENALTY FOR POSSESSION OF  
11 DEVICE, EQUIPMENT OR MATERIAL MANUFACTURED, SOLD OR DISTRIBUTED  
12 IN VIOLATION OF LAW. --

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

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

19          Section 40. [NEW MATERIAL] UNLAWFUL MANUFACTURE, SALE,  
20 DISTRIBUTION, MARKING, ALTERING OR MODIFICATION OF EQUIPMENT AND  
21 DEVICES ASSOCIATED WITH GAMING--UNLAWFUL INSTRUCTION. --

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

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[bracketed material] = delete

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

4                   (1) affects the result of a wager by  
5 determining win or loss; or

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

9           C. A person commits an offense who instructs another  
10 in cheating or in the use of any device for that purpose with  
11 the knowledge or intent that the information or use so conveyed  
12 may be employed to violate any provision of the Gaming Control  
13 Act.

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

17           Section 41. [NEW MATERIAL] REPORTING AND RECORD  
18 VIOLATIONS--PENALTY. --

19           A. A person commits an offense if the person, in a  
20 license application, in a book or record required to be  
21 maintained by the Gaming Control Act or by a regulation adopted  
22 under that act, or in a report required to be submitted by that  
23 act:

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

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

3 B. A person commits an offense if the person  
4 knowingly refuses to produce for inspection by the authority a  
5 book, record or document required to be maintained or made by  
6 the Gaming Control Act or a regulation adopted under that act.

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

10 Section 42. [NEW MATERIAL] GAMING BY INDIVIDUAL UNDER  
11 TWENTY-ONE YEARS OF AGE. --

12 A. A person commits an offense if the person  
13 knowingly permits an individual whom the person knows is younger  
14 than twenty-one years of age to participate in gaming.

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

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

21 Section 43. [NEW MATERIAL] GENERAL PENALTIES FOR  
22 VIOLATION OF ACT. --

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

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1           B. Any offense under the Gaming Control Act, the  
2 classification of which is not specifically stated in that act,  
3 is a misdemeanor, and upon conviction a person shall be  
4 sentenced pursuant to the provisions of Section 31-19-1 NMSA  
5 1978.

6           Section 44. [NEW MATERIAL] DETENTION AND QUESTIONING OF  
7 PERSON SUSPECTED OF VIOLATING ACT--LIMITATIONS ON LIABILITY--  
8 POSTING OF NOTICE.--

9           A. Any gaming establishment licensee or its  
10 officers, employees or agents may question any person in its  
11 establishment suspected of violating any of the provisions of  
12 the Gaming Control Act. No gaming establishment licensee or any  
13 of its officers, employees or agents is criminally or civilly  
14 liable:

- 15                   (1) on account of any such questioning; or  
16                   (2) for reporting to the authority or law  
17 enforcement authorities the person suspected of the violation.

18           B. Any gaming establishment licensee or any of its  
19 officers, employees or agents who has reasonable cause for  
20 believing that there has been a violation of the Gaming Control  
21 Act in its establishment by any person may take that person into  
22 custody and detain him in the establishment in a reasonable  
23 manner and for a reasonable length of time. Such a taking into  
24 custody and detention does not render the licensee or his  
25 officers, employees or agents criminally or civilly liable

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[bracketed material] = delete

1 unless it is established by clear and convincing evidence that  
2 the taking into custody and detention are unreasonable under all  
3 the circumstances.

4 C. No gaming establishment licensee or its officers,  
5 employees or agents is entitled to the immunity from liability  
6 provided for in Subsection B of this section unless there is  
7 displayed in a conspicuous place in the establishment a notice  
8 in boldface type clearly legible and in substantially this form:

9 "Any gaming establishment licensee or any of his officers,  
10 employees or agents who has reasonable cause for believing  
11 that any person has violated any provision of the Gaming  
12 Control Act prohibiting cheating in gaming may detain that  
13 person in the establishment."

14 Section 45. [NEW MATERIAL] ADMINISTRATIVE APPEAL OF  
15 AUTHORITY ACTION. --

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

25 B. The authority shall adopt procedural regulations

1 to govern the procedures to be followed in administrative  
2 hearings pursuant to the provisions of this section. As a  
3 minimum, the regulations shall provide:

- 4 (1) for the hearings to be public;
- 5 (2) for the appointment of a hearing officer to  
6 conduct the hearing and make his recommendation to the board not  
7 more than ten days after the completion of the hearing;
- 8 (3) procedures for discovery;
- 9 (4) assurance that procedural due process  
10 requirements are satisfied;
- 11 (5) for the maintenance of a record of the  
12 hearing proceedings and assessment of costs of any transcription  
13 of testimony that is required for judicial review purposes; and
- 14 (6) for the place of the hearing to be in Santa  
15 Fe for hearings on actions of statewide application and for  
16 enforcement hearings on actions of statewide application and for  
17 enforcement hearings and for hearings on actions of limited  
18 local concern to be held in the place or area affected.

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

- 21 (1) written and shall state the reasons for the  
22 action;
- 23 (2) made public when taken;
- 24 (3) communicated to all persons that have made  
25 a written request for notification of the action taken; and

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[bracketed material] = delete

1 (4) taken within not more than thirty days  
2 after the submission of the hearing officer's report to the  
3 authority.

4 Section 46. [NEW MATERIAL] JUDICIAL REVIEW OF  
5 ADMINISTRATIVE ACTIONS. --

6 A. Any person adversely affected by an action taken  
7 by the board after review pursuant to the provisions of Section  
8 45 of the Gaming Control Act may appeal the action to the court  
9 of appeals. The appeal shall be on the record made at the  
10 hearing. To support his appeal, the appellant shall make  
11 arrangements with the board for a sufficient number of  
12 transcripts of the record of the hearing on which the appeal is  
13 based. The appellant shall pay for the preparation of the  
14 transcripts.

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

17 (1) arbitrary, capricious or an abuse of  
18 discretion;

19 (2) not supported by substantial evidence in  
20 the whole record; or

21 (3) otherwise not in accordance with law.

22 Section 47. Section 7-1-2 NMSA 1978 (being Laws 1965,  
23 Chapter 248, Section 2, as amended) is amended to read:

24 "7-1-2. APPLICABILITY. -- The Tax Administration Act applies  
25 to and governs:



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1                   A. The administration and enforcement of the  
2 following taxes or tax acts as they now exist or may hereafter  
3 be amended:

4                   (1) Income Tax Act;  
5                   (2) Withholding Tax Act;  
6                   (3) Gross Receipts and Compensating Tax Act and  
7 any state gross receipts tax;

8                   (4) Liquor Excise Tax Act;  
9                   (5) Local Liquor Excise Tax Act;

10                  [~~(6)~~] ~~Banking and Financial Corporations Tax~~  
11 Act;

12                  [~~(7)~~] (6) any municipal local option gross  
13 receipts tax;

14                  [~~(8)~~] (7) any county local option gross  
15 receipts tax;

16                  [~~(9)~~] (8) Special Fuels Supplier Tax Act;

17                  [~~(10)~~] (9) Gasoline Tax Act;

18                  [~~(11)~~] (10) petroleum products loading fee,  
19 which fee shall be considered a tax for the purpose of the Tax  
20 Administration Act;

21                  [~~(12)~~] (11) Cigarette Tax Act;

22                  [~~(13)~~] (12) Estate Tax Act;

23                  [~~(14)~~] (13) Railroad Car Company Tax Act;

24                  [~~(15)~~] (14) Investment Credit Act;

25                  [~~(16)~~] (15) Corporate Income Tax Act;

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1                                    [~~(17)~~] (16) Corporate Income and Franchise Tax  
2 Act;

3                                    [~~(18)~~] (17) Uniform Division of Income for Tax  
4 Purposes Act;

5                                    [~~(19)~~] (18) Multistate Tax Compact;

6                                    [~~(20)~~] (19) Tobacco Products Tax Act;

7                                    [~~(21)~~] (20) Filmmaker's Credit Act; and

8                                    [~~(22)~~] (21) the telecommunications relay  
9 service surcharge imposed by Section 63-9F-11 NMSA 1978, which  
10 surcharge shall be considered a tax for the purposes of the Tax  
11 Administration Act;

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

15                                    (1) Resources Excise Tax Act;

16                                    (2) Severance Tax Act;

17                                    (3) any severance surtax;

18                                    (4) Oil and Gas Severance Tax Act;

19                                    (5) Oil and Gas Conservation Tax Act;

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

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

22                                    (8) Natural Gas Processors Tax Act;

23                                    (9) Oil and Gas Production Equipment Ad Valorem  
24 Tax Act;

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

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1 (11) any advance payment required to be made by  
2 any act specified in this subsection, which advance payment  
3 shall be considered a tax for the purposes of the Tax  
4 Administration Act;

5 C. the administration and enforcement of the  
6 following taxes, surcharges, fees or acts as they now exist or  
7 may hereafter be amended:

8 (1) Weight Distance Tax Act;

9 (2) Special Fuels Tax Act;

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

13 (4) Controlled Substance Tax Act;

14 (5) Uniform Unclaimed Property Act;

15 (6) 911 emergency surcharge and the network and  
16 database surcharge, which surcharges shall be considered taxes  
17 for purposes of the Tax Administration Act;

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

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

24 (9) the gaming tax imposed pursuant to the  
25 Gaming Control Act.

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1           D. the administration and enforcement of all other  
2 laws, with respect to which the department is charged with  
3 responsibilities pursuant to the Tax Administration Act, but  
4 only to the extent that such other laws do not conflict with the  
5 Tax Administration Act. "

6           Section 48. A new section of the Tax Administration Act is  
7 enacted to read:

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

12           Section 49. Section 10-15-1 NMSA 1978 (being Laws 1974,  
13 Chapter 91, Section 1, as amended) is amended to read:

14           "10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN  
15 MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED  
16 MEETINGS. --

17           A. In recognition of the fact that a representative  
18 government is dependent upon an informed electorate, it is  
19 declared to be public policy of this state that all persons are  
20 entitled to the greatest possible information regarding the  
21 affairs of government and the official acts of those officers  
22 and employees who represent them. The formation of public  
23 policy or the conduct of business by vote shall not be conducted  
24 in closed meeting. All meetings of any public body except the  
25 legislature and the courts shall be public meetings, and all

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1 persons so desiring shall be permitted to attend and listen to  
2 the deliberations and proceedings. Reasonable efforts shall be  
3 made to accommodate the use of audio and video recording  
4 devices.

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

21 C. If otherwise allowed by law or rule of the public  
22 body, a member of a public body may participate in a meeting of  
23 the public body by means of a conference telephone or other  
24 similar communications equipment when it is otherwise difficult  
25 or impossible for the member to attend the meeting in person,

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1 provided that each member participating by conference telephone  
2 can be identified when speaking, all participants are able to  
3 hear each other at the same time and members of the public  
4 attending the meeting are able to hear any member of the public  
5 body who speaks during the meeting.

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

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

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1 reconvened meeting.

2 F. Meeting notices shall include an agenda  
3 containing a list of specific items of business to be discussed  
4 or transacted at the meeting or information on how the public  
5 may obtain a copy of such an agenda. Except in the case of an  
6 emergency, the agenda shall be available to the public at least  
7 twenty-four hours prior to the meeting.

8 Except for emergency matters, a public body shall take action  
9 only on items appearing on the agenda. For purposes of this  
10 subsection, an "emergency" refers to unforeseen circumstances  
11 that, if not addressed immediately by the public body, will  
12 likely result in injury or damage to persons or property or  
13 substantial financial loss to the public body.

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

25 H. The provisions of Subsections A, B and G of this

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1 section do not apply to:

2 (1) meetings pertaining to issuance,  
3 suspension, renewal or revocation of a license, except that a  
4 hearing at which evidence is offered or rebutted shall be open.

5 All final actions on the issuance, suspension, renewal or  
6 revocation of a license shall be taken at an open meeting;

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

18 (3) deliberations by a public body in  
19 connection with an administrative adjudicatory proceeding. For  
20 purposes of this paragraph, an "administrative adjudicatory  
21 proceeding" means a proceeding brought by or against a person  
22 before a public body in which individual legal rights, duties or  
23 privileges are required by law to be determined by the public  
24 body after an opportunity for a trial-type hearing. Except as  
25 otherwise provided in this section, the actual administrative



1 adjudicatory proceeding at which evidence is offered or rebutted  
2 and any final action taken as a result of the proceeding shall  
3 occur in an open meeting;

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

7 (5) meetings for the discussion of bargaining  
8 strategy preliminary to collective bargaining negotiations  
9 between the policymaking body and a bargaining unit representing  
10 the employees of that policymaking body and collective  
11 bargaining sessions at which the policymaking body and the  
12 representatives of the collective bargaining unit are present;

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

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

25 (8) meetings for the discussion of the

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1 purchase, acquisition or disposal of real property or water  
2 rights by the public body; [~~and~~]

3 (9) those portions of meetings of committees or  
4 boards of public hospitals that receive less than fifty percent  
5 of their operating budget from direct public funds and  
6 appropriations where strategic and long-range business plans are  
7 discussed; and

8 (10) those portions of meetings of the gaming  
9 authority held pursuant to the Gaming Control Act at which  
10 security and investigative information is presented to the  
11 board.

12 I. If any meeting is closed pursuant to the  
13 exclusions contained in Subsection H of this section, the  
14 closure:

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

24 (2) if called for when the policymaking body is  
25 not in an open meeting, shall not be held until public notice,

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[bracketed material] = delete

1 appropriate under the circumstances, stating the specific  
2 provision of the law authorizing the closed meeting and stating  
3 with reasonable specificity the subject to be discussed is given  
4 to the members and to the general public.

5 J. Following completion of any closed meeting, the  
6 minutes of the open meeting that was closed or the minutes of  
7 the next open meeting if the closed meeting was separately  
8 scheduled shall state that the matters discussed in the closed  
9 meeting were limited only to those specified in the motion for  
10 closure or in the notice of the separate closed meeting. This  
11 statement shall be approved by the public body under Subsection  
12 G of this section as part of the minutes."

13 Section 50. Section 30-19-6 NMSA 1978 (being Laws 1963,  
14 Chapter 303, Section 19-6, as amended) is amended to read:

15 "30-19-6. PERMISSIVE LOTTERY--EXEMPTIONS. --

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

24 A lottery shall be operated for the benefit of the  
25 organization or charitable purpose only when the entire proceeds

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1 of the lottery go to the organization or charitable purpose and  
2 no part of such proceeds go to any individual member or employee  
3 thereof.

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

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

19 D. Nothing in [~~Article 19~~] Chapter 30, Article 19  
20 NMSA 1978 shall be construed to apply to any lottery operated by  
21 an organization exempt from the state income tax pursuant to  
22 Subsection [~~E~~] B of Section 7-2-4 NMSA 1978 and not subject to  
23 the 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 E. Gaming activities and activities associated with  
10 gaming permitted pursuant to the Gaming Control Act are neither  
11 prohibited nor subject to prosecution pursuant to any provision  
12 of Chapter 30, Article 19 NMSA 1978. "

13 Section 51. Section 60-7A-19 NMSA 1978 (being Laws 1981,  
14 Chapter 39, Section 96) is amended to read:

15 "60-7A-19. COMMERCIAL GAMBLING ON LICENSED PREMISES. --

16 A. It is a violation of the Liquor Control Act for a  
17 licensee to knowingly allow commercial gambling on the licensed  
18 premises.

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

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

24 (1) "commercial gambling" means:

25 [~~(1)~~] (a) participating in the earnings

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[bracketed material] = delete

1 of or operating a gambling place;

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

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

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

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

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

14 (2) "commercial gambling" does not include  
15 activities authorized pursuant to the New Mexico Lottery Act or  
16 the Gaming Control Act. "

17 Section 52. 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 53. EFFECTIVE DATE. -- The effective date of the  
21 provisions of this act is July 1, 1996.