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SENATE BILL 381

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

INTRODUCED BY

FERNANDO R. MACIAS

AN ACT

RELATING TO GAMING; ENACTING THE HORSE RACING INDUSTRY
ENHANCEMENT ACT; PERMITTING ELECTRONIC MACHINE GAMING AT
RACETRACKS; PROVIDING FOR OFF-TRACK PARI-MUTUEL WAGERING ON
HORSE RACES; PROVIDING FOR REGULATION AND LICENSING OF THE
PERMITTED ACTIVITIES; CREATING A REGULATORY BOARD; PROVIDING
PENALTIES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978;
MAKING AN APPROPRIATION.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1
through 35 of this act shall be known and may be cited as the
"Horse Racing Industry Enhancement Act".

Section 2. [NEW MATERIAL] PURPOSE. -- The purpose of the
Horse Racing Industry Enhancement Act is to:

- A. authorize and regulate the use and operation of

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1 electronic gaming machines at racetracks in the state;

2 B. authorize and regulate the implementation and
3 operation of pari-mutuel wagering at facilities other than
4 racetracks, otherwise known as off-track betting;

5 C. take all actions necessary to ensure the
6 integrity, reliability and security of electronic games at
7 racetracks and off-track betting; and

8 D. encourage and enhance the horse racing industry
9 in this state, by increasing purse funds in order to
10 reinvigorate competitive motivation for horse trainers,
11 breeders, owners and racetracks in this state.

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

15 A. regulation of electronic games at racetracks and
16 off-track betting is critical to ensure that they are conducted
17 honestly and competitively;

18 B. the public's confidence and trust in the
19 permitted electronic gaming activities at racetracks and off-
20 track betting can be obtained and maintained only through strict
21 regulation of all persons, locations, practices, associations
22 and activities related directly or indirectly to electronic
23 gaming at racetracks and off-track betting conducted in the
24 state; and

25 C. a holder of a license issued pursuant to the

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1 Horse Racing Industry Enhancement Act to conduct permitted
2 gaming activities at racetracks and off-track betting does not
3 acquire any vested interest or right in or under the license and
4 has only a revocable privilege.

5 Section 4. [NEW MATERIAL] DEFINITIONS. --As used in the
6 Horse Racing Industry Enhancement Act:

7 A. "associated equipment" means any proprietary
8 device, machine, component or part used in the manufacture or
9 maintenance of an electronic gaming machine, including, but not
10 limited to, integrated circuit chips, printed wired assembly,
11 printed wire boards, printing mechanisms, video display monitors
12 and metering devices;

13 B. "board" means the gaming board regulating gaming
14 under the Horse Racing Industry Enhancement Act;

15 C. "commission" means the state racing commission as
16 authorized pursuant to the Horse Racing Act;

17 D. "committee" means the gaming oversight committee
18 created pursuant to Section 7 of the Horse Racing Industry
19 Enhancement Act;

20 E. "distributor" means a person who finances and
21 distributes gaming devices to a racetrack in return for
22 consideration, but does not include a manufacturer or its
23 affiliate providing electronic gaming machines directly to a
24 racetrack;

25 F. "electronic game" means any simulated game of

1 chance, which may involve skill of the player or application of
2 the element of chance, or both, that is displayed and played on
3 an electronic gaming machine which has been authorized by the
4 commission;

5 G. "electronic gaming machine" means any electronic
6 or electromechanical or other device, contrivance or machine,
7 including without limitation video lottery machines, and those
8 machines commonly known as slot machines, that, upon the
9 insertion of a coin, currency, token, credit voucher, or upon
10 payment of any consideration, is available to play or operate or
11 simulate the play of electronic games, the play of which may
12 deliver or entitle a winning player to receive cash, premiums,
13 merchandise, credits, tokens or anything of value that reflects
14 credits earned that may be redeemed for any of the above,
15 whether the payoff is made automatically from the machine or in
16 any other manner;

17 H. "licensee" means a person other than a racetrack
18 licensee to whom a valid license has been issued under the Horse
19 Racing Industry Enhancement Act;

20 I. "licensed race meet" means a live or simulcast
21 race meet licensed by the commission for a period of duration
22 specified in the license;

23 J. "major procurement" means any procurement or
24 contract entered into by the board or commission for the
25 purchase or lease of facilities, equipment, goods or services

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1 used by the board or commission primarily for regulation of
2 electronic games in excess of twenty thousand dollars (\$20,000);

3 K. "manufacturer" means any person who assembles or
4 produces electronic gaming machines or associated equipment for
5 sale or use in this state;

6 L. "net machine income" means:

7 (1) the sum of all money wagered by players of
8 electronic games on a single licensed electronic gaming device,
9 not including counterfeit money or tokens; coins of other
10 countries that are received in electronic gaming devices, except
11 to the extent that they are readily convertible into United
12 States currency; cash taken in fraudulent acts perpetrated
13 against a licensee for which the licensee is not reimbursed or
14 cash received as entry fees for contests or tournaments in which
15 the patrons compete for prizes; and

16 (2) less the amount paid out to winning
17 players, including those amounts paid to purchase annuities to
18 fund amounts paid to winning players over several years;

19 M. "off-track betting" means pari-mutuel wagering on
20 horse races at facilities or locations other than racetracks;

21 N. "OTB facility" means a facility or location other
22 than a racetrack which conducts licensed off-track betting as an
23 extension of a live race meet conducted at a licensed New Mexico
24 racetrack and may include a facility or location established and
25 operated on property that is owned or leased and which is not

1 used solely for the operation of an OTB facility;

2 0. "person" means an individual or any legal entity,
3 including a partnership, joint venture, limited liability
4 company or corporation;

5 P. "progressive jackpot" means a prize that
6 increases over time or as electronic gaming machines that are
7 linked to a progressive system are played;

8 Q. "progressive system" means one or more electronic
9 gaming machines linked to one or more common progressive
10 jackpots. A "local area progressive system" shall consist
11 solely of electronic gaming machines located at a single-license
12 racetrack. A "wide area progressive system" may link electronic
13 gaming machines at multiple-license racetracks;

14 R. "racetrack" means a horse racetrack in New Mexico
15 licensed by the commission to conduct pari-mutuel wagering at
16 licensed race meets;

17 S. "racetrack license" means a license issued to a
18 racetrack pursuant to the Horse Racing Industry Enhancement Act
19 to have electronic gaming machines in operation in that
20 racetrack's facilities;

21 T. "racetrack licensee" means a racetrack that has
22 obtained a racetrack license;

23 U. "vendor" means any person who is awarded a major
24 procurement contract; and

25 V. "winning percentage" means the portion of the

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1 gross terminal revenue that is available for the payment of
2 prizes to winning players.

3 Section 5. [NEW MATERIAL] GAMING BOARD CREATED. --

4 A. The "gaming board" is created. The board is
5 administratively attached to the regulation and licensing
6 department and consists of five members who are:

7 (1) the superintendent of regulation and
8 licensing or his designee;

9 (2) the secretary of public safety or his
10 designee;

11 (3) the state treasurer or his designee;

12 (4) an individual selected by the president pro
13 tempore of the senate; and

14 (5) an individual appointed by the speaker of
15 the house of representatives.

16 All members of the board shall be citizens of the United
17 States.

18 B. The members of the board appointed by the speaker
19 of the house of representatives and the president pro tempore of
20 the senate shall be appointed for terms of two years.

21 C. The board shall elect a chair annually from the
22 board's membership.

23 D. The special investigations division of the
24 department of public safety shall conduct background
25 investigations of all members of the board prior to their taking

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1 office. Such background investigations shall include, but not
2 be limited to, credit checks, police record checks, conviction
3 record checks, national and statewide criminal records
4 clearinghouse checks and fingerprint checks. The results of
5 that investigation shall be furnished to the governor, the
6 president pro tempore of the senate and the speaker of the house
7 of representatives.

8 E. Any individual convicted of any crime not a petty
9 misdemeanor and involving gambling, moral turpitude, fraud or
10 theft, or of a felony shall not be eligible to serve on or be
11 appointed to the board.

12 F. Board members shall report any arrest for or
13 conviction of any crime not a petty misdemeanor and involving
14 gambling, moral turpitude, fraud or theft, or of a felony to the
15 governor within three days of such arrest or conviction.

16 G. No person who has or later acquires an ownership
17 interest in any vendor, licensee or racetrack licensee shall
18 serve on the board.

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

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

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

25 C. Meetings of the board shall be open and public in

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1 accordance with the Open Meetings Act, except that the board may
2 have closed meetings to hear security and investigative
3 information that is otherwise permitted by law to be
4 confidential, to evaluate confidential proprietary information
5 provided as part of a major procurement proposal and those
6 matters specified as confidential in Section 13 of the Horse
7 Racing Industry Enhancement Act.

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

12 Section 7. [NEW MATERIAL] GAMING OVERSIGHT COMMITTEE--
13 DUTIES--COMPENSATION. --

14 A. A joint interim legislative oversight committee
15 to be known as the "gaming oversight committee" is created. The
16 committee shall function from the date of its appointment until
17 the first day of December prior to the first session of the
18 forty-fifth legislature.

19 B. The committee shall be composed of ten members.
20 Five members of the house of representatives shall be appointed
21 by the speaker of the house of representatives and five members
22 of the senate shall be appointed by the committees' committee of
23 the senate or, if the senate appointments are made in the
24 interim, by the president pro tempore of the senate after
25 consultation with and agreement of a majority of the members of

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1 the committees' committee. Members shall be appointed so that
2 there is a member from each of the major political parties from
3 each house. No person who has or later acquires an ownership
4 interest in any vendor, licensee or racetrack licensee shall
5 serve on the committee.

6 C. The committee shall oversee the regulation of
7 electronic games, as well as periodically review and evaluate
8 the success with which the board is accomplishing its duties and
9 regulating electronic gaming activity pursuant to the Horse
10 Racing Industry Enhancement Act. The committee may conduct any
11 independent audit or investigation of the regulation of
12 electronic gaming or the board as it deems necessary.

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

17 E. The committee shall report its findings and
18 recommendations on electronic gaming and the operation of the
19 board to each regular session of the legislature.

20 Section 8. [NEW MATERIAL] RULES AND REGULATIONS. --

21 A. The board shall have the power to adopt, amend or
22 repeal those rules and regulations, consistent with the policy,
23 objectives and purposes of the Horse Racing Industry Enhancement
24 Act, as it deems necessary or desirable in the public interest
25 in carrying out the policy and provisions of that act, which

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1 shall include but not be limited to rules and regulations
2 governing:

3 (1) security for electronic games;

4 (2) application requirements for racetrack
5 licensees, including disclosure requirements related to the
6 ownership and control of licensees and other disclosures
7 necessary to evaluate the competence, background, integrity or
8 character of the racetrack licensee; provided, however, that the
9 board shall have access to and shall utilize and review all
10 information obtained by the commission in connection with its
11 licensing of the racetrack licensee's race meet and the
12 racetrack licensee shall not be required to duplicate that
13 information for the board, and provided further that the board
14 may impose such additional requirements for information on the
15 applicant as the board may deem necessary or appropriate;

16 (3) application requirements for licensees,
17 including disclosure requirements related to the ownership and
18 control of licensees and other disclosures necessary to evaluate
19 the competence, background, integrity or character of the
20 licensee;

21 (4) the percentage chances of winning
22 electronic games and the prize structure for electronic games so
23 that the winning percentage shall be at least eighty-five
24 percent of the amount played or bet computed on a regular and
25 systematic basis;

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1 (5) the procedures to be followed by a
2 racetrack licensee in payment of valid prizes, including
3 annuities;

4 (6) the qualifications of vendors and
5 licensees, and, in cooperation with the commission, the
6 qualifications of racetrack licensees;

7 (7) minimum standards for electronic gaming
8 machines;

9 (8) the operations of distributors to ensure
10 compliance with the Horse Racing Industry Enhancement Act;

11 (9) insurance and bonding requirements for
12 vendors; and

13 (10) any other matter necessary or desirable as
14 determined by the board to promote and ensure the integrity,
15 security, honesty and fairness of the operation of electronic
16 games.

17 B. The rules and regulations promulgated pursuant to
18 this section shall be promulgated not later than ninety days
19 from the effective date of the Horse Racing Industry Enhancement
20 Act and shall be valid for no longer than a period of ten years
21 following their promulgation unless earlier reenacted by the
22 board.

23 Section 9. [NEW MATERIAL] STATE RACING COMMISSION-- POWERS
24 AND DUTIES. --

25 A. The commission shall oversee implementation of

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1 all rules and regulations adopted by the board that are
2 applicable to racetrack licensees and licensees who are licensed
3 by the commission under the Horse Racing Act.

4 B. The board may delegate to the commission the
5 authority to enforce all rules and regulations adopted by the
6 board that are applicable to racetrack licensees and licensees.

7 C. The board shall provide the commission notice and
8 an opportunity to be heard in proceedings for the adoption,
9 amendment or repeal of rules or regulations applicable to
10 racetrack licensees.

11 D. Within ninety days of the effective date of the
12 Horse Racing Industry Enhancement Act, the commission shall
13 adopt, amend or repeal such rules, regulations and policies,
14 consistent with the policy, objectives and purposes of that act,
15 as it deems necessary or desirable for the operation of
16 racetrack licensees and electronic gaming machines for the
17 purpose of maximizing revenue and enhancing purses, encouraging
18 attendance at race meets and increasing public interest in horse
19 racing in New Mexico, including, but not limited to rules,
20 regulations and policies relating to:

21 (1) enforcement of prohibitions on the playing
22 of electronic games by or for an individual younger than twenty-
23 one years of age;

24 (2) the specific games to be conducted within
25 the electronic games to ensure that no specific game is operated

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1 that is unfair or misleading;

2 (3) the hours of operation of electronic games;

3 (4) the number of electronic gaming machines at
4 each racetrack licensee, subject to Section 30 of the Horse
5 Racing Industry Enhancement Act;

6 (5) the establishment of criteria and
7 conditions for the operation of progressive jackpots and
8 progressive systems;

9 (6) directing and ensuring that all necessary
10 or appropriate security systems and personnel are in place at
11 racetrack licensees to ensure the security and integrity of the
12 operation of electronic games;

13 (7) the minimum and maximum bet per play; and

14 (8) such other policies, rules and regulations,
15 not inconsistent with those promulgated by the board, as may be
16 appropriate for the proper and fair operation of electronic
17 gaming under the Horse Racing Industry Enhancement Act.

18 Section 10. [NEW MATERIAL] ADMINISTRATION-- HEARING-- RULES
19 AND REGULATIONS. --

20 A. Rules and regulations shall be adopted,
21 promulgated, amended or repealed only after a public hearing by
22 the adopting authority. Notice of the hearing shall be given at
23 least twenty days in advance in a newspaper of general
24 circulation in the state. The adopting authority shall either
25 approve or disapprove the proposed adoption, promulgation,

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1 amendment or repeal of such rules and regulations within ten
2 days of the hearing.

3 B. Certified copies of any approved rules and
4 regulations shall be submitted to the committee, the board, if
5 adopted by the commission, the commission, if adopted by the
6 board, and, as required, to the state records center pursuant to
7 the State Rules Act. Copies of the rules and regulations in
8 force shall be made available to any person upon request.

9 C. The adopting authority shall adopt and promulgate
10 rules and regulations for the conduct of all hearings.

11 Section 11. [NEW MATERIAL] ADMINISTRATIVE SUPPORT. -- The
12 regulation and licensing department shall be responsible for
13 providing to the board and commission all necessary and
14 appropriate administrative support, which shall include but not
15 be limited to clerical, administrative, investigatory or such
16 other functions as are necessary or appropriate to carry out the
17 functions of the board and commission.

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

19 A. The regulation and licensing department shall be
20 responsible for providing security-related services to the board
21 and commission, including but not limited to obtaining
22 background checks on appropriate state personnel.

23 B. The department of public safety shall perform a
24 full criminal background investigation of any state employee,
25 other than members of the board, directly involved in

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1 administration, implementation or oversight of the Horse Racing
2 Industry Enhancement Act. Such background investigations shall
3 include, but not be limited to, credit checks, police record
4 checks, conviction record checks, national and statewide
5 criminal records clearinghouse checks and fingerprint checks.
6 The board shall reimburse the department of public safety for
7 the actual costs of an investigation.

8 C. An individual convicted of any crime, other than
9 a petty misdemeanor, involving gambling, moral turpitude, fraud
10 or theft or a felony shall not be eligible for state employment
11 in any capacity directly involved in administration,
12 implementation or oversight of the Horse Racing Industry
13 Enhancement Act.

14 D. Any state employee directly involved in
15 administration, implementation or oversight of the Horse Racing
16 Industry Enhancement Act shall report any arrest for or
17 conviction of any crime not a petty misdemeanor involving
18 gambling, moral turpitude, fraud or theft or a felony to the
19 board within three days of such arrest or conviction.

20 E. By July 1, 1997, and at least once every two
21 years thereafter, the board shall employ an independent firm
22 that is experienced in security, including computer security and
23 systems security, to conduct a comprehensive confidential study
24 of all aspects of electronic gaming security, including:

- 25 (1) vendor, licensee and racetrack licensee

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1 security;

2 (2) security against voucher counterfeiting and
3 alteration and other means of fraudulent winning;

4 (3) computer system security, data
5 communications, database and systems security;

6 (4) security of validation and payment
7 procedures;

8 (5) security of electronic gaming machines; and

9 (6) other security aspects of board operations.

10 F. The board shall provide the governor, the
11 committee and the commission with a copy of the confidential
12 security study.

13 G. The board and the commission shall develop a plan
14 to improve the security of the electronic gaming based upon the
15 recommendations of the confidential security study; however,
16 nothing in this section shall be construed as requiring the
17 board or commission to implement any of the recommendations made
18 by the study.

19 Section 13. [NEW MATERIAL] INFORMATION AND DATA--
20 CONFIDENTIALITY--DISCLOSURE. --

21 A. All of the following information and data are
22 confidential and may be revealed in whole or in part only in the
23 course of the necessary administration of the Horse Racing
24 Industry Enhancement Act or upon the lawful order of a court of
25 competent jurisdiction, except that the board or commission may

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1 reveal confidential information or data to an authorized agent
2 of any governmental agency pursuant to a reciprocal agreement
3 with the other governmental agency to share information and
4 maintain confidentiality of the information as provided in this
5 section:

6 (1) security measures and internal security
7 reports;

8 (2) information or data provided by a
9 governmental agency that is required by that agency's governing
10 law to be kept confidential;

11 (3) trade secrets and proprietary information
12 of any applicant, racetrack licensee, licensee or vendor;

13 (4) personal data, including personal financial
14 data, not otherwise public and not directly related to the
15 license or major procurement contract; and

16 (5) any information or data that are otherwise
17 made confidential by law.

18 B. Notice of the content of any information or data
19 furnished or released pursuant to this section may be given to
20 any applicant or licensee in a manner prescribed by regulations
21 adopted pursuant to the Horse Racing Industry Enhancement Act.

22 Section 14. [NEW MATERIAL] BOOKS AND RECORDS--
23 REQUIREMENTS. --

24 A. The regulation and licensing department, on
25 behalf of the board and commission, shall make and keep books

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1 and records that accurately and fairly reflect transactions of
2 electronic games conducted pursuant to the Horse Racing Industry
3 Enhancement Act, including the receipt of funds, expenses and
4 all other activities and financial transactions involving
5 revenue generated by electronic games, so as to permit
6 preparation of financial statements in conformity with generally
7 accepted accounting principles and to maintain daily
8 accountability.

9 B. The regulation and licensing department, on
10 behalf of the board and commission, shall maintain a file of all
11 applications for licenses and racetrack licenses under the Horse
12 Racing Industry Enhancement Act, together with a record of all
13 action taken with respect to those applications. The file and
14 record are open to public inspection, except those portions
15 declared by law to be confidential.

16 C. The regulation and licensing department, on
17 behalf of and as directed by the board and commission, may
18 maintain such other files and records as it deems desirable.

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

20 A. The board shall provide for a certified public
21 accountant to conduct an independent audit for each fiscal year
22 of all accounts and transactions related to electronic gaming.
23 The independent audit shall be reviewed by the state auditor.
24 The certified public accountant shall not have an ownership
25 interest in a vendor, racetrack licensee or licensee and shall

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1 report any conflict of interest to the board. The certified
2 public accountant shall present an audit report to the board,
3 the commission, the governor and the committee not later than
4 December 31 of the year following the fiscal year for which the
5 audit was performed.

6 B. Each vendor's, licensee's and racetrack
7 licensee's records relating to the Horse Racing Industry
8 Enhancement Act are subject to audit by the board.

9 C. The board and the committee shall develop a plan
10 to improve the efficiency of the board based upon the
11 recommendations of the certified public accountant; however,
12 nothing in this section shall be construed as requiring the
13 board to implement any of the recommendations made by the
14 certified public accountant.

15 D. All accounts and transactions relating to gaming
16 are exempt from the Audit Act.

17 Section 16. [NEW MATERIAL] INVESTIGATORY POWERS. -- The
18 board and the commission shall have the power to:

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

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

22 C. compel by subpoena the attendance of any person
23 in this state to testify before the board or commission when
24 such investigation is necessary to the proper administration of
25 the Horse Racing Industry Enhancement Act.

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

3 A. The board or commission may confer with the
4 attorney general as deemed necessary and advisable for the
5 proper administration of the Horse Racing Industry Enhancement
6 Act. Upon request of the board, it shall be the duty of the
7 attorney general and any other law enforcement authority to whom
8 a violation is reported to investigate and cause appropriate
9 proceedings to be instituted without delay.

10 B. The attorney general and the department of public
11 safety shall furnish to the board and the commission any
12 information that they may have in their possession as may be
13 necessary to ensure security, honesty, fairness and integrity in
14 the operation and administration of electronic games conducted
15 pursuant to the Horse Racing Industry Enhancement Act. The
16 board and commission shall be considered to be criminal justice
17 agencies and shall be furnished such information without charge
18 upon proper written request.

19 Section 18. [NEW MATERIAL] CONFLICTS OF INTEREST--
20 NUMERATED-- COMPLIANCE WITH OTHER LAWS-- VIOLATION-- REMOVAL FROM
21 OFFICE. --

22 A. The members of the board, the committee, the
23 commission and the regulation and licensing department and other
24 restricted persons shall not, directly or indirectly:

- 25 (1) knowingly hold a financial interest or

1 acquire stocks, bonds or any other interest in any entity that
2 is a distributor or manufacturer, licensee, racetrack licensee
3 or vendor; or

4 (2) have a financial interest in the ownership
5 or leasing of property used in the conduct or regulation of
6 electronic games.

7 B. The members of the board, the committee, the
8 commission or the regulation and licensing department shall not
9 ask for, offer to accept or receive any gift, gratuity or other
10 thing of value that would inure to that person's benefit from

11 (1) any entity seeking to supply equipment,
12 materials or services for use in the conduct or regulation of
13 electronic games;

14 (2) any applicant for a license or racetrack
15 license; or

16 (3) any vendor, licensee or racetrack licensee.

17 C. No person seeking to supply equipment, materials
18 or services for use in the conduct or regulation of electronic
19 games, no applicant for a license and no vendor or licensee
20 shall offer or give to the members of the board, the committee,
21 the commission or the regulation and licensing department any
22 gift, gratuity or other thing of value that would inure to the
23 recipient's personal benefit.

24 D. For purposes of this section:

25 (1) "gift, gratuity or other thing of value"

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1 does not include the provision of a breakfast, luncheon, dinner
2 or other refreshment consisting of food or beverage provided for
3 immediate consumption; and

4 (2) "other restricted person" means anyone
5 living in the same household as the board member, a member of
6 the committee, a member of the commission, the superintendent of
7 regulation and licensing or any administrative personnel or
8 security personnel directly involved in administering or
9 overseeing the Horse Racing Industry Enhancement Act.

10 E. The board, commission and regulation and
11 licensing department shall comply with all state laws applicable
12 to ethics in government, conflict of interest and financial
13 disclosure.

14 F. Anyone who violates this section may be removed
15 from his position after notice and a hearing before the board,
16 committee, commission or regulation and licensing department, as
17 applicable.

18 Section 19. [NEW MATERIAL] APPLICATION OF STATE REVENUES
19 FROM ELECTRONIC GAMES--STATE GAMING FUND ESTABLISHED--
20 DISTRIBUTIONS. --

21 A. The "state gaming fund" is established as a
22 separate fund within the state treasury. The fund consists of
23 all revenue received from electronic games and interest accrued
24 thereon, license and application fees under the Horse Racing
25 Industry Enhancement Act and all money credited to the fund from

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1 any other fund or source under law, except as otherwise provided
2 in the Horse Racing Industry Enhancement Act.

3 B. Money in the state gaming fund may be used only
4 for the following purposes and shall be distributed as follows:

5 (1) the payment of costs incurred in the
6 operation and administration of electronic games, including any
7 fees paid to a vendor;

8 (2) five percent of the balance shall be
9 distributed:

10 (a) among municipalities in the same
11 proportion as the revenue raised pursuant to Subsection D of
12 Section 30 of the Horse Racing Industry Enhancement Act from
13 racetrack licensees located within a municipality bears to the
14 total revenue raised in the state from all racetrack licensees;
15 and

16 (b) among counties in the same proportion
17 as the revenue raised pursuant to Subsection D of Section 30 of
18 the Horse Racing Industry Enhancement Act from racetrack
19 licensees located in a county outside the boundaries of any
20 municipality bears to the total revenue raised in the state from
21 all racetrack licensees; and

22 (3) the balance shall be paid into the general
23 fund.

24 Section 20. [NEW MATERIAL] PROCUREMENT OF GOODS OR
25 SERVICES-- POWERS-- LIMITATION. -- The superintendent of regulation

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1 and licensing, subject to the approval of the board, shall enter
2 into all contracts for procurement of goods and services
3 required by the board to carry out its duties and
4 responsibilities under the Horse Racing Industry Enhancement
5 Act.

6 Section 21. [NEW MATERIAL] MAJOR PROCUREMENT--VENDOR--
7 DISCLOSURE REQUIRED-- CONTRACT APPROVAL-- REQUIREMENTS. --

8 A. The board shall request proposals for major
9 procurements by the board for effectuating the purpose of the
10 Horse Racing Industry Enhancement Act. No contract for a major
11 procurement may be assigned by a vendor except by a written
12 agreement approved by the board.

13 B. The board may require major procurement vendors
14 to disclose information to enable the board to review and
15 evaluate the responses to the requests for proposals on the
16 basis of competence, background, integrity, character and nature
17 of the ownership and control of vendors and to ensure compliance
18 with the provisions of the Horse Racing Industry Enhancement
19 Act.

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

1 defined by the board, in a party whose proposal is under final
2 consideration. Such background investigation may include credit
3 checks, police record checks, conviction record checks, national
4 and statewide criminal records clearinghouse checks and
5 fingerprint checks. Each party whose proposal is under final
6 consideration shall pay the costs of that party's background
7 investigation.

8 D. No major procurement with any vendor shall be
9 entered into if any person with a substantial interest, as
10 defined by the board, in the vendor has been convicted of a
11 felony.

12 E. A vendor shall report any arrest for or
13 conviction of a felony for any person with a substantial
14 interest in that vendor to the board within ten days of such
15 arrest or conviction.

16 F. No contract shall be approved by the board unless
17 the vendor has complied with this section. Any contract entered
18 into with a vendor who has not complied with this section shall
19 be void.

20 G. This section shall be construed broadly and
21 liberally to achieve the end of full disclosure of all
22 information necessary to allow for a full, complete and ongoing
23 evaluation by the board of the competence, integrity,
24 background, character and nature of the ownership and control of
25 vendors for major procurements.

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1 Section 22. [NEW MATERIAL] MAJOR PROCUREMENT--VENDOR--
2 PERFORMANCE BOND.-- Each vendor for a major procurement shall
3 post a performance bond with the board, using a surety
4 acceptable to the board, in consultation with the superintendent
5 of insurance in an amount equal to the full amount estimated to
6 be paid annually to the vendor under the contract. Nothing in
7 the Horse Racing Industry Enhancement Act shall be construed to
8 restrict the authority of the board to specify liquidated or
9 other damages in contracts with vendors.

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

11 A. No person may act as a manufacturer or
12 distributor without first obtaining an appropriate license
13 pursuant to the Horse Racing Industry Enhancement Act.

14 B. Any racetrack may apply to become a racetrack
15 licensee. A racetrack that has received approval from the
16 commission for specific race days in fiscal year 1996 may apply
17 for and receive a temporary racetrack licensee's license upon
18 payment of the license fee required for regular licensure. The
19 temporary license shall expire six months from the date of
20 issuance unless otherwise extended by the board for good cause.
21 Unless the racetrack licensee has completed the application for
22 and has been granted a regular racetrack licensee's license on
23 or before the date of expiration of the temporary license, the
24 racetrack licensee is not entitled to carry on electronic gaming
25 operations on the racetrack licensee's premises after that date

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1 until the racetrack licensee applies for and receives a regular
2 license. A temporary racetrack licensee is entitled to have the
3 license fee it has paid credited as payment of its regular
4 racetrack license fee to cover the period of one year from the
5 date of issuance of the temporary racetrack license.

6 C. The board and commission shall adopt regulations
7 concerning the licensing criteria. The board shall require
8 licensees who are not distributors or manufacturers, or
9 affiliates or employees of distributors or manufacturers, to be
10 licensed by the commission and shall delegate licensing of those
11 persons to the commission. The regulations shall require
12 consideration of such factors as the applicant's financial
13 responsibility, security of the applicant's place of business or
14 activity, accessibility to the public and the applicant's
15 integrity and reputation. It shall be unlawful to consider
16 political affiliation, activities or monetary contributions to
17 political organizations or candidates for any public office.

18 D. Applicants for licensure, renewal or amendment
19 shall pay a fee to be submitted with the application not to
20 exceed the following:

21 (1) racetrack license, twenty-five dollars
22 (\$25.00) annually for each electronic gaming machine;

23 (2) distributors, five thousand dollars
24 (\$5,000) for initial licensure and two thousand five hundred
25 dollars (\$2,500) for annual renewal;

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1 (3) manufacturers, ten thousand dollars
2 (\$10,000) for initial licensure and five thousand dollars
3 (\$5,000) for annual renewal; and

4 (4) other licenses as defined by the board or
5 commission, at fee amounts determined by the board or
6 commission.

7 E. Licenses and racetrack licenses issued pursuant
8 to the Horse Racing Industry Enhancement Act shall be valid for
9 one year. Upon application for renewal, the board may require
10 such additional information as the board deems necessary to
11 evaluate the application.

12 F. The board shall require background investigations
13 of any person with a substantial interest, as defined by the
14 board, in the applicant. Such background investigations may
15 include, but not be limited to, credit checks, police record
16 checks, conviction record checks, national and statewide
17 criminal records clearinghouse checks and fingerprint checks.
18 The applicant shall pay the costs of the background
19 investigation.

20 G. No license or racetrack license shall be granted
21 to an applicant if any person with a substantial interest, as
22 defined in the regulations, if the applicant has, within ten
23 years prior to the application, been convicted of a crime, other
24 than a petty misdemeanor, involving gambling, moral turpitude,
25 fraud, or theft or a felony.

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1 H. The licensee or racetrack licensee shall report
2 any arrest for or conviction of a felony of any person with a
3 substantial interest in that licensee or racetrack licensee to
4 the board within ten days of such arrest or conviction.

5 I. No license or racetrack license shall be granted
6 by the board unless the applicant complies with this section.
7 Any license or racetrack license granted to an applicant who has
8 not complied with this section shall be void.

9 J. The burden of proving qualifications for
10 licensure is on the applicant.

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

14 L. The holder of any license or racetrack license
15 does not acquire any vested interest or right in or under the
16 license, and a license issued pursuant to the Horse Racing
17 Industry Enhancement Act is a revocable privilege.

18 M. This section shall be construed broadly and
19 liberally to achieve the end of full disclosure of all
20 information necessary to allow for a full and complete
21 evaluation by the board of an applicant's fitness.

22 N. The license fees paid pursuant to this section in
23 fiscal years 1997 and 1998 are appropriated one-half to the
24 regulation and licensing department and board and one-half to
25 the commission for expenditure in that fiscal year to pay the

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1 start-up costs incurred in establishing a regulatory system for
2 the gaming activities permitted pursuant to the Horse Racing
3 Industry Enhancement Act.

4 Section 24. [NEW MATERIAL] REVOCATION-- CONTRACT--
5 LICENSE. --

6 A. Failure to comply with any provision of the Horse
7 Racing Industry Enhancement Act or the rules and regulations
8 promulgated thereunder shall be sufficient cause for suspension
9 or termination of a procurement contract; provided, however,
10 that suspension or termination of a procurement contract shall
11 not relieve the vendor from prosecution for any of the alleged
12 violations or from imposition of fines and penalties.

13 B. If a licensee or racetrack licensee fails to
14 respond to a written request from the board or violates any
15 provision of the Horse Racing Industry Enhancement Act or any
16 rule or regulation promulgated thereunder, the license of the
17 offending licensee or racetrack licensee may be suspended,
18 canceled or revoked by the board; provided, however, that the
19 licensee or racetrack licensee shall have reasonable notice and
20 opportunity to be heard before the board before suspension,
21 cancellation, limitation or revocation; and provided, further,
22 that the suspension, cancellation, limitation or revocation of
23 any license shall not relieve the licensee or racetrack licensee
24 from prosecution for any of the alleged violations or from
25 imposition of fines and penalties.

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1 C. The board may levy a fine against a vendor,
2 licensee or racetrack licensee for violation of the provisions
3 of the Horse Racing Industry Enhancement Act or regulations
4 promulgated pursuant to that act, not to exceed ten thousand
5 dollars (\$10,000) per violation; provided, however, that the
6 licensee or racetrack licensee shall have a reasonable
7 opportunity to be heard by the board before the imposition of
8 such fine. Nothing in this section shall limit the board from
9 pursuing contractual remedies, including assessing penalties,
10 pursuant to the terms of a contract with a vendor.

11 Section 25. [NEW MATERIAL] EMERGENCY ORDERS OF BOARD. --

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

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

16 (1) any licensee or racetrack licensee has
17 failed to report, pay or truthfully account for and pay over any
18 fee or money imposed by or owed under the provisions of the
19 Horse Racing Industry Enhancement Act or attempted in any manner
20 to evade or defeat any such fee or debt or payment thereof;

21 (2) any licensee or racetrack licensee has
22 violated any provision of the Horse Racing Industry Enhancement
23 Act and the violation impairs the security of electronic gaming
24 activities; or

25 (3) any licensee or racetrack licensee is

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1 convicted of a crime, not a petty misdemeanor, involving
2 gambling, moral turpitude, fraud, theft or a felony.

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

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

8 E. The emergency order is effective immediately upon
9 issuance and service upon the licensee or racetrack licensee or
10 resident agent of the licensee or racetrack licensee. The
11 emergency order remains effective until further order of the
12 board or final disposition of the case.

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

17 Section 26. [NEW MATERIAL] CENTRAL COMPUTER SYSTEM -- Each
18 electronic gaming machine shall be linked via a communications
19 network to a central computer system or systems that monitor the
20 play or operation of each electronic gaming machine and will
21 provide financial reporting information as required by the
22 board. If only one central computer system is required by the
23 board, that central computer system shall not limit
24 participation to only one manufacturer of electronic gaming
25 machines by either cost of implementing the necessary program

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1 modifications to communicate or the inability to communicate
2 with the central computer system.

3 Section 27. [NEW MATERIAL] RACETRACK LICENSEE--FUNDS--
4 CONFLICTS--CHILD SUPPORT.--

5 A. The board may require each racetrack licensee to
6 deposit all money owed to the state under the Horse Racing
7 Industry Enhancement Act into financial institutions designated
8 by the board for credit to the state gaming fund.

9 B. The board may authorize the electronic transfer
10 of funds, other than funds derived from off-track betting, owed
11 to the state under the Horse Racing Industry Enhancement Act
12 from the accounts of racetrack licensees to the state gaming
13 fund.

14 C. No electronic gaming machine shall be played by
15 and no prize shall be awarded to any racetrack licensee or
16 business that is engaged in supplying equipment, supplies or
17 services being used in the operation of electronic gaming
18 machines or any officer, director, employee or owner of such
19 licensee or business unless authorized in writing by the board
20 for research purposes. However, no prize may be awarded as a
21 result of play for research purposes.

22 D. The superintendent of regulation and licensing
23 shall investigate the feasibility of implementing a policy to
24 recover delinquent child support payments or outstanding state
25 tax liability from payment of electronic gaming prizes in excess

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1 of six hundred dollars (\$600). If the board determines that
2 such a policy is feasible, the superintendent of regulation and
3 licensing shall implement a policy to credit any electronic
4 gaming prize first against any delinquent child support owed by
5 the winner and then against any outstanding state tax liability
6 owed by the winner and shall pay the balance of the prize to the
7 winner. The policy shall ensure that any person who
8 investigates the money owed by the prize winner shall have no
9 liability to a person to whom a delinquent child support payment
10 may be owed, to the human services department or to the taxation
11 and revenue department, if the investigator fails to discover
12 that a winner owes money that is to be applied according to the
13 policy.

14 Section 28. [NEW MATERIAL] REQUIREMENTS FOR LICENSED
15 ELECTRONIC GAMING MACHINES. --

16 A. Each electronic gaming machine licensed under the
17 Horse Racing Industry Enhancement Act shall fulfill as a minimum
18 all requirements imposed by the state of Nevada to licensure and
19 shall:

- 20 (1) offer only games authorized by the
21 commission;
- 22 (2) not have any means of manipulation that
23 affects the random probabilities of winning;
- 24 (3) have one or more mechanisms that accept
25 coins, tokens or cash in the form of bills. The mechanisms

1 shall be designed to prevent obtaining credits without paying by
2 any form of tampering. If such attempts involve physical
3 tampering, the machine shall suspend itself from operation until
4 reset;

5 (4) have nonresettable meters that keep a
6 permanent record of all coins, tokens and cash inserted into the
7 machine and all awards of prizes, whether in coin, tokens or
8 cash;

9 (5) have accounting software that keeps an
10 electronic record that includes but is not limited to the
11 following:

12 (a) total coin, tokens and cash inserted
13 into the machine;

14 (b) the value of coin, tokens or cash
15 paid to players; and

16 (c) the winning percentage credited
17 players of each electronic game; and

18 (6) be linked via a communications network to a
19 central computer system or systems designated by the board to
20 provide security and financial information as required by the
21 board.

22 B. The board shall examine prototypes of electronic
23 gaming machines of licensed manufacturers. The board shall
24 require the manufacturer seeking the examination and approval of
25 any electronic gaming machine or associated equipment to pay the

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1 anticipated actual costs of the examination in advance and,
2 after the completion of the examination, shall refund
3 overpayments or charge and collect amounts sufficient to
4 reimburse the board for underpayments of actual costs. The
5 board may contract for the examination of electronic gaming
6 machines and associated equipment as required by this section.

7 C. Each electronic gaming machine shall be licensed
8 by the board before placement or operation on the premises of a
9 racetrack licensee. Each machine shall have the license
10 prominently displayed thereon in such a way that an attempt at
11 alteration will result in a mutilation of the license. Any
12 machine that does not display the license required by this
13 section is contraband and a public nuisance subject to
14 confiscation by any law enforcement or peace officer.

15 Section 29. [NEW MATERIAL] AGE LIMIT-- RULES FOR PLACEMENT
16 OF ELECTRONIC GAMING MACHINES. --

17 A. No person under twenty-one years of age may play
18 an electronic gaming machine licensed under the Horse Racing
19 Industry Enhancement Act.

20 B. Electronic gaming machines may only be operated
21 in an area restricted to persons twenty-one years of age or
22 older. An establishment may erect a permanent physical barrier
23 to allow for multiple uses of the premises by persons of all
24 ages. The entrance to the area where electronic gaming machines
25 are located shall display a sign that the premises are

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1 restricted to persons twenty-one years or older. Subject to the
2 prohibition of Subsection A of this section, and except as
3 otherwise permitted by the commission, persons under the age of
4 twenty-one shall not enter the premises where electronic gaming
5 machines are located unless they are accompanied by a parent,
6 guardian or spouse aged twenty-one or older.

7 Section 30. [NEW MATERIAL] RACETRACK LICENSEES--
8 ELECTRONIC GAMING MACHINES-- DISTRIBUTION. --

9 A. The number of electronic gaming machines
10 permitted upon the premises of a racetrack licensee will be that
11 number requested by the racetrack licensee and so designated by
12 the commission.

13 B. Nothing in the Horse Racing Industry Enhancement
14 Act shall prevent a racetrack licensee from leasing or owning
15 the electronic gaming machines in operation in that racetrack
16 licensee's facilities or purchasing or leasing electronic gaming
17 machines directly from a licensed manufacturer, provided that
18 the electronic gaming machines comply with the Horse Racing
19 Industry Enhancement Act and regulations promulgated thereunder.

20 C. A racetrack licensee may operate electronic
21 gaming machines at its facilities if approved by the commission,
22 provided that:

23 (1) effective for a live licensed race meet
24 beginning after January 1, 1997, the licensed racetrack conducts
25 live racing an average of four days per week during such race

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1 meet; and

2 (2) the commission may waive the live race day
3 requirements of this subsection for good cause shown with due
4 regard for the interests of the licensed racetrack, the horsemen
5 and the breeders.

6 D. Licensed racetracks shall pay:

7 (1) ten percent of the net machine income of
8 each licensed electronic gaming machine, of which:

9 (a) the amount due as gross receipts tax
10 under the Gross Receipts and Compensating Tax Act shall be paid
11 to the state general fund;

12 (b) one-fourth of one percent shall be
13 paid for addictive behavior programs into an account
14 administered by the board; and

15 (c) the balance shall be paid in lieu of
16 all other taxes, including but not limited to income taxes, to
17 the state gaming fund in a manner directed by the board;

18 (2) twenty and eighteen hundredths percent of
19 the net machine income of each electronic gaming machine to the
20 New Mexico horsemen's association, of which percentage one-
21 fourth of one percent will be distributed to the New Mexico
22 horsemen's association benevolence fund and the balance will be
23 distributed to the appropriate New Mexico purse enhancement
24 funds; and

25 (3) four and eighty-two hundredths percent to

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1 the New Mexico horse breeders' association to be divided equally
2 among the New Mexico breeder incentive fund and each New Mexico
3 bred purse enhancement fund.

4 E. Racetrack licensees shall submit an annual
5 accounting of distributions made pursuant to Paragraph (2) of
6 Subsection D of this section to the board within ninety days of
7 the end of the racetrack licensee's fiscal year each year.

8 Section 31. [NEW MATERIAL] PROHIBITED ACTS--VIOLATIONS--
9 PENALTIES. --

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

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

15 C. It is a misdemeanor to release any information
16 obtained through a background investigation performed by the
17 board without the prior written consent of the subject of the
18 investigation except as provided otherwise in the Horse Racing
19 Industry Enhancement Act.

20 D. It is a fourth degree felony to tamper with an
21 electronic gaming machine with intent to interfere with the
22 proper operation of such machine.

23 E. It is a fourth degree felony to tamper with a
24 voucher or electronic gaming machine with intent to manipulate
25 the outcome or payoff of an electronic gaming machine.

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1 F. It is a fourth degree felony to knowingly possess
2 an unlicensed electronic gaming machine.

3 G. It is a fourth degree felony to falsify
4 information provided to the board for purposes of applying for a
5 contract or a license with the board or for purposes of
6 completing a background investigation pursuant to the Horse
7 Racing Industry Enhancement Act.

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

14 Section 32. [NEW MATERIAL] DISTRICT COURT OF SANTA FE
15 COUNTY-- JURISDICTION-- APPEAL. -- The district court of Santa Fe
16 county shall have exclusive original jurisdiction of all legal
17 proceedings, except criminal actions, related to the
18 administration, enforcement or fulfillment of the
19 responsibilities, duties or functions of the board and
20 commission under the Horse Racing Industry Enhancement Act. An
21 aggrieved party, including a party subject to a fine, may seek
22 review of an order or decision of the board or commission by
23 filing an appeal with the district court of Santa Fe county
24 within thirty days after the date of such order or decision.

25 Section 33. [NEW MATERIAL] EXEMPTION FROM LOCAL TAXES. --

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1 Electronic games conducted pursuant to the Horse Racing Industry
2 Enhancement Act shall be exempt from any local tax levied or
3 assessed by any political subdivision having the power to levy,
4 assess or collect such tax.

5 Section 34. [NEW MATERIAL] LOCAL LAWS PREEMPTED--
6 APPLICABILITY OF OTHER LAWS--SEVERABILITY. --

7 A. The Horse Racing Industry Enhancement Act shall
8 be applicable and uniform throughout the state and all political
9 subdivisions, and no local authority shall enact any ordinances,
10 rules or regulations in conflict with the provisions of that
11 act.

12 B. If any provision of the Horse Racing Industry
13 Enhancement Act or the application thereof to any person or
14 circumstance is held invalid, such invalidity shall not affect
15 other provisions or applications of that act that can be given
16 effect without the invalid provision or application, and to this
17 end the provisions of that act are severable.

18 Section 35. [NEW MATERIAL] OFF-TRACK PARI-MUTUEL
19 WAGERING. --

20 A. Off-track betting at licensed OTB facilities in
21 this state is declared to be legal.

22 B. The commission is authorized and empowered to
23 adopt, repeal and amend such rules and regulations as it may
24 deem necessary or appropriate to regulate and govern the conduct
25 of off-track betting so as to ensure the integrity, reliability

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1 and security of off-track betting and for the protection of the
2 public, including, without limitation, regulations covering:

3 (1) grant, refusal and revocation of licenses
4 for OTB facilities, persons holding a direct or indirect
5 interest in or control of those facilities, and persons
6 supplying goods or services to those facilities; provided that
7 no OTB facility may be licensed to conduct off-track betting
8 unless it is doing so as an extension of a live race meet
9 conducted at a licensed New Mexico racetrack and receives,
10 except as otherwise permitted by the commission, the simulcast
11 of all live races from licensed race meets;

12 (2) inspection and visitation at reasonable
13 intervals at OTB facilities;

14 (3) the governing, restricting or regulating of
15 operation of off-track betting and all equipment used in
16 connection with it;

17 (4) the approval of all contracts and
18 agreements related to off-track betting or an OTB facility;

19 (5) supervision and regulation of the operation
20 of an entity formed or joint agreement entered into at the
21 discretion of one or more racetracks to construct, contract or
22 subcontract for, establish or operate one or more OTB
23 facilities, the formation of such an entity or the entering into
24 of such an agreement being hereby specifically authorized; and

25 (6) any and all such other matters as the

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1 commission may deem necessary or appropriate to accomplish the
2 objectives of this section.

3 C. For purposes of this section, the commission
4 shall have all the powers and authority conferred upon it by the
5 Horse Racing Act as if those powers and authority were restated
6 in this section.

7 D. Distribution of the gross amount wagered at an
8 OTB facility will be made as follows:

9 (1) with respect to the gross amount wagered as
10 off-track betting on horse races run live in this state, after
11 deductions by the racetrack, racetracks or racetrack entity
12 operating the OTB facility as provided in Subsection H of
13 Section 60-1-10 NMSA 1978, except that no deduction shall be
14 taken pursuant to Paragraph (1) of Subsection B of Section
15 60-1-15 NMSA 1978, net retainage will be distributed to the
16 racetrack holding the live race meet upon which off-track
17 betting was wagered for distribution in accordance with that
18 subsection; and

19 (2) with respect to the gross amount wagered as
20 off-track betting on horse races run live other than in this
21 state, after deductions by the racetrack, racetracks or
22 racetrack entity operating the OTB facility as provided in
23 Subsection H of Section 60-1-10 NMSA 1978, except that the
24 deduction in Paragraph (4) of that subsection for expenses
25 incurred to engage in simulcasting shall be one and one-half

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1 percent and no deduction shall be taken pursuant to Paragraph
2 (1) of Subsection B of Section 60-1-15 NMSA 1978, each racetrack
3 will receive a proportion of net retainage equal to the net
4 retainage multiplied by the ratio of the number of live race
5 days run at that racetrack to the total number of live race days
6 run in this state during the preceding state fiscal year, the
7 net retainage so received by a racetrack being then distributed
8 as provided by Subsection H of Section 60-1-10 NMSA 1978.

9 Section 36. Section 10-15-1 NMSA 1978 (being Laws 1974,
10 Chapter 91, Section 1, as amended) is amended to read:

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

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

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

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

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1 body who speaks during the meeting.

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

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

23 F. Meeting notices shall include an agenda
24 containing a list of specific items of business to be discussed
25 or transacted at the meeting or information on how the public

1 may obtain a copy of such an agenda. Except in the case of an
2 emergency, the agenda shall be available to the public at least
3 twenty-four hours prior to the meeting.

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

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

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

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

Underscored material = new
[bracketed material] = delete

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

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

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

25 (4) the discussion of personally identifiable

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1 information about any individual student, unless the student,
2 his parent or guardian requests otherwise;

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

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

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

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

24 (9) those portions of meetings of committees or
25 boards of public hospitals that receive less than fifty percent

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[bracketed material] = delete

1 of their operating budget from direct public funds and
2 appropriations where strategic and long-range business plans are
3 discussed; and

4 (10) those portions of meetings of the gaming
5 board held pursuant to the Horse Racing Industry Enhancement Act
6 during which are discussed security and investigative
7 information that is otherwise permitted by law to be
8 confidential, proprietary information furnished as part of a
9 major procurement proposal or matters made confidential pursuant
10 to Section 13 of the Horse Racing Industry Enhancement Act.

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

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

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

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[bracketed material] = delete

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

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

12 Section 37. Section 30-19-1 NMSA 1978 (being Laws 1963,
13 Chapter 303, Section 19-1, as amended) is amended to read:

14 "30-19-1. DEFINITIONS RELATING TO GAMBLING. --As used in
15 Chapter 30, Article 19 NMSA 1978:

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

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

24 (1) bona fide business transactions that are
25 valid under the law of contracts, including [without

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[bracketed material] = delete

1 ~~limitation~~]:

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

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

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

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

13 (4) betting otherwise permitted by law;

14 C. "lottery" means an enterprise ~~[other than]~~
15 excluding both the New Mexico state lottery established and
16 operated pursuant to the New Mexico Lottery Act and the
17 operation of electronic gaming machines licensed pursuant to the
18 Horse Racing Industry Enhancement Act, wherein, for a
19 consideration, the participants are given an opportunity to win
20 a prize, the award of which is determined by chance, even though
21 accompanied by some skill. As used in this subsection,
22 "consideration" means anything of pecuniary value required to be
23 paid to the promoter in order to participate in such enterprise;
24 D. "gambling device" means a contrivance other than
25 an electronic gaming machine or other device licensed pursuant

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1 to the Horse Racing Industry Enhancement Act or other lawfully
2 enacted similar act, other than an antique gambling device that,
3 for a consideration, affords the player an opportunity to obtain
4 anything of value, the award of which is determined by chance,
5 even though accompanied by some skill and whether or not the
6 prize is automatically paid by the device; and

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

10 (1) making and settling of bets;

11 (2) receiving, holding, recording or forwarding
12 bets or offers to bet;

13 (3) conducting lotteries; or

14 (4) playing gambling devices. "

15 Section 38. Section 30-19-6 NMSA 1978 (being Laws 1963,
16 Chapter 303, Section 19-6, as amended) is amended to read:

17 "30-19-6. [~~PERMISSIVE LOTTERY~~] PERMITTED ACTIVITIES. --

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

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[bracketed material] = delete

1 A lottery shall be operated for the benefit of the
2 organization or charitable purpose only when the entire proceeds
3 of the lottery go to the organization or charitable purpose and
4 no part of such proceeds go to any individual member or employee
5 thereof.

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

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

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

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[bracketed material] = delete

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

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

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

11 E. Nothing in Chapter 30, Article 19 NMSA 1978
12 prohibits or applies to gaming activities permitted pursuant to
13 the Horse Racing Industry Enhancement Act."

14 Section 39. Section 60-1-3 NMSA 1978 (being Laws 1933,
15 Chapter 55, Section 2, as amended by Laws 1989, Chapter 99,
16 Section 1 and also by Laws 1989, Chapter 377, Section 1) is
17 amended to read:

18 "60-1-3. APPLICATION FOR LICENSES--STATE RACING COMMISSION
19 CREATED-- MEMBERS-- TERMS OF OFFICE-- VACANCIES-- POWERS AND
20 DUTIES. --

21 A. Any person, firm, association or corporation
22 desiring to hold a horse race or to engage in horse race
23 meetings shall apply to the state racing commission for a
24 license.

25 B. There is created the "state racing commission".

Underscored material = new
[bracketed material] = delete

1 The state racing commission shall consist of five members, no
2 more than three of whom shall be members of the same political
3 party. They shall be appointed by the governor, and no less
4 than three of them shall be practical breeders of racehorses
5 within the state. Each member shall be an actual resident of
6 New Mexico and of such character and reputation as to promote
7 public confidence in the administration of racing affairs.

8 C. The term of office of each member of the state
9 racing commission shall be six years from his appointment, and
10 he shall serve until his successor is appointed and qualified.
11 In case of any vacancy in the membership of the commission, the
12 governor shall fill the vacancy by appointment for the unexpired
13 term.

14 D. No person shall be eligible for appointment as a
15 member of the state racing commission who is an officer,
16 official or director in any association or corporation
17 conducting racing within the state.

18 E. Members of the state racing commission shall
19 receive no salary, but each member of the commission shall
20 receive per diem and mileage in accordance with the Per Diem and
21 Mileage Act. The commission may appoint a secretary and fix his
22 duties and compensation.

23 F. The state racing commission has the power to:

- 24 (1) grant, refuse and revoke licenses;
25 (2) make rules and regulations for the holding,

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1 conducting and operating of all race meets and races held in the
2 state and to fix and set racing dates;

3 (3) oversee implementation of all rules and
4 regulations adopted by the gaming board acting pursuant to the
5 Horse Racing Industry Enhancement Act that are applicable to
6 racetrack licensees and licensees who are authorized to operate
7 electronic gaming machines at racetracks in the state and are
8 authorized to operate pari-mutuel wagering at facilities other
9 than racetracks pursuant to the Horse Racing Industry
10 Enhancement Act and who are licensed by the commission under the
11 Horse Racing Act; and, subject to a delegation of such authority
12 to the commission by the gaming board, enforce all rules and
13 regulations adopted by the gaming board that are applicable to
14 racetrack licensees and licensees pursuant to the Horse Racing
15 Industry Enhancement Act;

16 [~~(3)~~] (4) make an annual report to the governor
17 of its administration of the racing laws;

18 [~~(4)~~] (5) require of each applicant for a
19 license the full name of the person, association or corporation
20 applying and, if the applicant is a corporation or an
21 association, the name of the state in which incorporated, the
22 nationality and residence of the members of the association and
23 the names of the stockholders and directors of the corporation;

24 [~~(5)~~] (6) require of an applicant for a license
25 the exact location where it is desired to conduct or hold a race

1 or race meeting, whether or not the racetrack or plant is owned
2 or leased and, if leased, the name and residence of the fee
3 owner or, if the owner is a corporation, the names of the
4 directors and stockholders, a statement of the assets and
5 liabilities of the person, association or corporation making the
6 application, the kind of racing to be conducted and the period
7 desired and such other information as the commission may
8 require;

9 ~~[(6)]~~ (7) require on each application a
10 statement under oath that the information contained in the
11 application is true;

12 ~~[(7)]~~ (8) personally or by agents and
13 representatives supervise and check the making of pari-mutuel
14 pools and the distribution from those pools;

15 ~~[(8)]~~ (9) cause the various places where race
16 meets are held to be visited and inspected at reasonable
17 intervals;

18 ~~[(9)]~~ (10) make rules governing, restricting or
19 regulating bids on leases;

20 ~~[(10)]~~ (11) regulate rates charged by the
21 licensee for admission to races or for the performance of any
22 service or the sale of any article on the premises of the
23 licensee;

24 ~~[(11)]~~ (12) approve all proposed extensions,
25 additions or improvements to the buildings, stables or tracks

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1 upon property owned or leased by a licensee and require the
2 removal of any employee or official employed by the licensee;

3 ~~[(12)]~~ (13) completely supervise and control
4 the pari-mutuel machines and equipment at all races held or
5 operated by the state or any state agency or commission;

6 ~~[(13)]~~ (14) approve all contracts and
7 agreements for the payment of money and all salaries, fees and
8 compensations by any licensee;

9 ~~[(14)]~~ (15) regulate the size of the purse,
10 stake or reward to be offered for the conducting of any race;

11 ~~[(15)]~~ (16) exclude or compel the exclusion of,
12 from all racecourses, any person whom the commission deems
13 detrimental to the best interests of racing or any person who
14 willfully violates the racing laws or any rule, regulation or
15 order of the commission or any law of the United States or of
16 this state;

17 ~~[(16)]~~ (17) compel the production of all
18 documents showing the receipts and disbursements of any licensee
19 and determine the manner in which such financial records shall
20 be kept;

21 ~~[(17)]~~ (18) investigate the operations of any
22 licensee, and the commission has authority to place attendants
23 and such other persons as may be deemed necessary in the
24 offices, on the tracks or in places of business of any licensee
25 for the purpose of satisfying itself that the rules and

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1 regulations are strictly complied with; and

2 [~~(18)~~] (19) employ staff as peace officers for
3 the purpose of conducting investigations and for enforcing rules
4 and regulations of the state racing commission and the laws of
5 the state and to obtain documents and information from other
6 agencies in order to assist the state racing commission. Staff
7 employed as peace officers shall be required to satisfactorily
8 complete a basic law enforcement training program, but such
9 peace officers shall not carry firearms or other deadly weapons
10 while on duty.

11 G. The state racing commission shall publicly state
12 its reasons for refusing an application for a license. The
13 reasons shall be included in the minute book of the commission,
14 and the minute book shall be subject to public inspection at all
15 reasonable times.

16 H. The state racing commission has the power to
17 summon witnesses, books, papers, documents or tangible things
18 and to administer oaths for the effectual discharge of the
19 commission's duties. The commission may appoint a hearing
20 officer to conduct any hearing required by the Horse Racing Act
21 or any rule or regulation promulgated pursuant to that act. "

22 Section 40. A new section 60-1-9.1 NMSA 1978 is enacted to
23 read:

24 "60-1-9.1. [NEW MATERIAL] GAMING BOARD TO HAVE ACCESS TO
25 LICENSURE INFORMATION. --The state racing commission shall

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1 provide access to all information obtained by the commission in
2 connection with its licensing of horse race meetings to the
3 gaming board operating pursuant to the Horse Racing Industry
4 Enhancement Act, and the board shall utilize and review all such
5 information in connection with the issuance of licenses pursuant
6 to that act and shall not require the duplication of such
7 information."

8 Section 41. Section 60-1-10 NMSA 1978 (being Laws 1933,
9 Chapter 55, Section 6, as amended) is amended to read:

10 "60-1-10. PARI-MUTUEL METHOD LEGALIZED--MAXIMUM
11 COMMISSIONS--HORSEMEN'S COMMISSION--GAMBLING STATUTES NOT
12 REPEALED--COMMISSION DISTRIBUTION.--

13 A. Within the enclosure where any horse races are
14 conducted, either as live on-track horse races or as horse races
15 simulcast pursuant to Section 60-1-25 NMSA 1978, and where the
16 licensee has been licensed to use the pari-mutuel method or
17 system of wagering on races, the pari-mutuel system is lawful,
18 but only within the enclosure where races are conducted.

19 B. The sale to patrons present on the grounds of
20 pari-mutuel tickets or certificates on the races or the use of
21 the pari-mutuel system shall not be construed to be betting,
22 gambling or pool selling and is authorized under the conditions
23 provided by law.

24 C. There shall be for each class A licensee a
25 commission of nineteen percent of the gross amount wagered on

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1 win, place and show through the pari-mutuel system, of which
2 eighteen and three-fourths percent shall be retained by a class
3 A licensee and one-fourth of one percent shall be allocated to
4 the general fund. A commission in an amount determined by the
5 licensee of not less than eighteen and six-eighths percent and
6 not greater than twenty-five percent of the gross amount wagered
7 on win, place and show through the pari-mutuel system shall be
8 retained by a class B licensee. Each class B licensee shall
9 advise the state racing commission not less than thirty days in
10 advance of each horse racing meeting of the percentage the
11 licensee shall retain as commission. From that commission, each
12 class A and class B licensee shall allocate five-eighths of one
13 percent to the New Mexico horse breeders' association weekly for
14 distribution pursuant to the provisions of Subsection C of
15 Section 60-1-17 NMSA 1978.

16 D. Except as otherwise provided in this subsection,
17 a commission shall be retained by the licensee at the election
18 of each class A licensee of not less than twenty-one percent and
19 not greater than twenty-five percent of the gross amount wagered
20 on exotic wagering and at the election of each class B licensee,
21 and with the approval of the state racing commission, of not
22 less than twenty-one percent and not greater than thirty percent
23 of the gross amount wagered on exotic wagering. For the purpose
24 of this subsection, "exotic wagering" means all wagering other
25 than win, place and show, through the pari-mutuel system. Each

1 licensee shall advise the state racing commission not less than
2 thirty days in advance of each horse racing meeting of the
3 amount of the commission of the gross amount wagered on exotic
4 wagering to be retained by the licensee. From that commission,
5 the licensee shall allocate one and three-eighths percent to the
6 New Mexico horse breeders' association weekly for distribution
7 pursuant to the provisions of Subsection C of Section 60-1-17
8 NMSA 1978.

9 E. The odd cents of all redistributions to the
10 wagerer over the next lowest multiple of ten from the gross
11 amount wagered through the pari-mutuel system shall be retained
12 by the licensee, with fifty percent of the total being allocated
13 to enhance the race purses of established stake races that
14 include only horses registered as New Mexico bred with the New
15 Mexico horse breeders' association, to be distributed by the New
16 Mexico horse breeders' association pursuant to Paragraph (3) of
17 Subsection C of Section 60-1-17 NMSA 1978 subject to the
18 approval of the state racing commission.

19 F. All money resulting from the failure of patrons
20 who purchased winning pari-mutuel tickets during the meeting to
21 redeem their winning tickets before the end of the sixty-day
22 period immediately succeeding the closing day of the meeting and
23 all money resulting from the failure of patrons who purchased
24 pari-mutuel tickets that were entitled to refund but were not
25 refunded during the same sixty-day period shall be apportioned

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1 as follows:

2 (1) thirty-three and thirty-three hundredths
3 percent shall be retained by the licensee;

4 (2) thirty-three and thirty-four hundredths
5 percent shall be distributed to the New Mexico horse breeders'
6 association to enhance each track's established overnight purses
7 for races that include only horses registered as New Mexico bred
8 with the New Mexico horse breeders' association pursuant to
9 Paragraph (3) of Subsection C of Section 60-1-17 NMSA 1978,
10 subject to the approval of the state racing commission; and

11 (3) thirty-three and thirty-three hundredths
12 percent shall be allocated to [~~horseman's~~] horsemen's race
13 purses.

14 G. To promote and improve the quality of horse
15 racing and simulcasting and the participation of interested
16 persons in horse racing in New Mexico, one-half of one percent
17 of the gross amount wagered on simulcast horse races at each
18 licensed racetrack in New Mexico that receives simulcast horse
19 races shall be allocated by each licensee for distribution to
20 the New Mexico horsemen's association, provided that at least
21 one-quarter of one percent of the gross amount wagered on
22 simulcast races that is so allocated is used solely for medical
23 benefits for the members of the New Mexico horsemen's
24 association, and provided further that the remaining one-quarter
25 of one percent of the gross amount wagered on simulcast races

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[bracketed material] = delete

1 that is so allocated shall be used to enhance purses at each
2 such licensed racetrack. The state racing commission shall by
3 regulation provide for the timing and manner of the distribution
4 required by this subsection and shall audit, or arrange for an
5 independent audit of, the disbursement required by this
6 subsection.

7 H. Subject to the provisions of Subsection D of
8 Section 35 of the Horse Racing Industry Enhancement Act, fifty
9 percent of the net retainage of each licensee shall be allocated
10 to race purses. For purposes of this section, "net retainage"
11 of the licensee means the commission retained by the licensee on
12 all forms of wagers minus:

13 (1) the taxes delineated in Sections 60-1-8 and
14 60-1-15 NMSA 1978;

15 (2) money allocated to the New Mexico horse
16 breeders' association by this section and Section 60-1-17 NMSA
17 1978;

18 (3) money allocated to the New Mexico
19 horsemen's association by this section;

20 (4) a deduction for expenses incurred to engage
21 in intrastate simulcasting pursuant to Section
22 60-1-25 NMSA 1978, provided that:

23 (a) the deduction for each licensee shall
24 be a portion of five percent of the gross amount wagered at all
25 the sites receiving the same simulcast horse races;

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[bracketed material] = delete

1 (b) the deduction portion for each
2 licensee shall be an amount allocated to the licensee by
3 agreement voluntarily reached among all the licensees sending or
4 receiving the same simulcast horse races; and

5 (c) the deduction portion for each
6 licensee shall be an amount allocated to the licensee by the
7 state racing commission if all the licensees sending or
8 receiving the same simulcast horse races fail to reach a
9 voluntary agreement under Subparagraph (b) of this paragraph;
10 and

11 (5) a deduction for fees and commissions
12 incurred to receive interstate simulcasts pursuant to Section
13 60-1-25 NMSA 1978.

14 I. Existing statutes of this state against horse
15 racing on Sundays or on bookmaking, pool selling or other
16 methods of wagering on the racing of horses are not repealed but
17 are hereby expressly continued in effect, with the exception
18 that the operation of the pari-mutuel method or system in
19 connection with the racing of horses, when used as provided by
20 law, is lawful.

21 J. In the event any money paid or allocated to the
22 New Mexico horse breeders' association or the New Mexico
23 Appaloosa racing association pursuant to the Horse Racing Act
24 cannot be paid to or allocated or administered by such
25 associations, then the state racing commission, or such other

Underscored material = new
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1 organization as may be designated, retained or absolutely
2 controlled by the state racing commission, shall receive all
3 such money and shall pay, allocate and administer all such money
4 pursuant to the provisions of Section 60-1-17 NMSA 1978. If the
5 state racing commission or its controlled designee is required
6 to pay, allocate or administer money on behalf of the New Mexico
7 horse breeders' association or the New Mexico Appaloosa racing
8 association pursuant to this subsection, then the maximum
9 percentage of funds set forth in Paragraph (3) of Subsection C
10 of Section 60-1-17 NMSA 1978 shall be paid by the state racing
11 commission to the New Mexico horse breeders' association or the
12 New Mexico Appaloosa racing association as a fee to obtain the
13 certification of the registry of the dam and stud of the New
14 Mexico bred horse.

15 K. In the event any money paid or allocated to the
16 New Mexico horsemen's association pursuant to the Horse Racing
17 Act cannot be paid to or allocated or administered by the
18 association, then the state racing commission, or such other
19 organization as may be designated, retained or absolutely
20 controlled by the state racing commission, shall receive all
21 such money and shall pay, allocate and administer all such money
22 to achieve the purposes of the provisions of this section."

23 Section 42. Section 60-7A-19 NMSA 1978 (being Laws 1981,
24 Chapter 39, Section 96) is amended to read:

25 "60-7A-19. COMMERCIAL GAMBLING ON LICENSED PREMISES. --

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[bracketed material] = delete

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

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

8 C. For purposes of this section, "commercial
9 gambling" means:

10 (1) participating in the earnings of or
11 operating a gambling place;

12 (2) receiving, recording or forwarding bets or
13 offers to bet;

14 (3) possessing facilities with the intent to
15 receive, record or forward bets or offers to bet;

16 (4) for gain, becoming a custodian of anything
17 of value bet or offered to be bet;

18 (5) conducting a lottery where both the
19 consideration and the prize are money, or whoever with intent to
20 conduct a lottery possesses facilities to do so; or

21 (6) setting up for use for the purpose of
22 gambling, or collecting the proceeds of, any gambling device or
23 game.

24 D. A horse racetrack or off-track betting facility
25 licensed to conduct parimutuel wagering or electronic gaming is

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exempt from the application of the provisions of this section."

- 70 -

1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996
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5 JANUARY 29, 1996
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7 Mr. Presi dent:
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9 Your COMMI TTEES' COMMI TTEE, to whom has been referred
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11 SENATE BILL 381
12

13 has had it under consideration and finds same to be GERMANE, PURSUANT
14 TO CONSTITUTIONAL PROVISIONS, and thence referred to the COMMI TTEE
15 OF THE WHOLE COMMI TTEE.
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17 Respectfully submit ted,
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23 SENATOR MANNY M. ARAGON, Chai rman
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Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

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Date _____

S0381CC1

1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996
3
4

5 February 2, 1996
6

7 Mr. President:
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9 Your COMMITTEE OF THE WHOLE, to whom has been referred
10

11 SENATE BILL 381
12

13 has had it under consideration and reports same WITHOUT
14 RECOMMENDATION, and thence placed on the President's
15 Table.
16

17 Respectfully submitted,
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19 _____
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22 Manny M. Aragon, Chairman
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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

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Date _____

The roll call vote was 19 For 12 Against

Yes: 19

No: Aragon, Donisthorpe, Kidd, Kysar, Lyons, Rawson, Rhodes,
Riley, Romero, Rutherford, Scott, Smith

Excused: Benavides, Carraro, Ingle, E. Jennings, T. Jennings, McKibben,
Naranjo, Rodriguez, Stefani cs, Vernon, Wiener

Absent: None

S0381WS1

Underscored material = new
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