

11/19/10

BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

DISCUSSION DRAFT

FOR THE GOVERNMENT RESTRUCTURING TASK FORCE

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; TRANSFERRING REGULATORY AUTHORITY FOR HORSE RACING, PARI-MUTUEL WAGERING, SIMULCASTING, INTERSTATE COMMON POOL WAGERING, LICENSING AUTHORITY AND OTHER ADMINISTRATIVE DUTIES TO THE GAMING CONTROL BOARD; TRANSFERRING FUNCTIONS, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

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

"60-2E-1. SHORT TITLE.--Chapter 60, Article 2E NMSA 1978 may be cited as the "Gaming Control and Horse Racing Act"."

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

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"60-2E-2. POLICY.--It is the state's policy on gaming and horse racing that:

A. limited gaming activities and pari-mutuel wagering should be allowed in the state if those activities are strictly regulated to ensure honest and competitive gaming and horse racing that is free from criminal and corruptive elements and influences; and

B. the holder of any license issued by the state in connection with the regulation of gaming activities and pari-mutuel wagering has a revocable privilege only and has no property right or vested interest in the license."

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

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

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

B. "affiliated company" means a company that:

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

(2) is involved in:

(a) gaming activities; [or involved in]

(b) pari-mutuel wagering; or

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1                   (c) the ownership of property on which  
2 gaming, pari-mutuel wagering or horse racing is conducted;

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

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

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

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

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

19           H. "cheat" or "cheating" means to alter the element  
20 of chance, the method of selection or other criteria in a  
21 manner that determines:

22                   (1) the result of the game;

23                   (2) the amount or frequency of payment in a  
24 game, including taking advantage of a malfunctioning machine;

25                   (3) the value of a wagering instrument; or

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1                   (4) the value of a wagering credit;

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

7           J. "distributor" means a person who supplies gaming  
8 devices to a gaming operator but does not manufacture gaming  
9 devices;

10           K. "equity security" means an interest in a company  
11 that is evidenced by:

12                   (1) voting stock or similar security;

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

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

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

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

24           M. "finding of suitability" means a certification  
25 of approval issued by the board permitting a person to be

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1 involved directly or indirectly with a licensee, relating only  
2 to the specified involvement for which it is made;

3 N. "foreign institutional investor" means:

4 (1) a government-related pension plan of a  
5 foreign government; or

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

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

22 P. "gaming" means offering a game for play;

23 Q. "gaming activity" means an endeavor associated  
24 with the manufacture or distribution of gaming devices or the  
25 conduct of gaming;

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1 R. "gaming device" means associated equipment or a  
2 gaming machine and includes a system for processing information  
3 that can alter the normal criteria of random selection that  
4 affects the operation of a game or determines the outcome of a  
5 game;

6 S. "gaming employee":

7 (1) means a person who is connected directly  
8 with:

9 (a) a gaming activity; [~~"gaming~~  
10 ~~employee"~~]

11 (b) a horse racetrack if that person  
12 performs accounting, administration or management, cash  
13 handling, pari-mutuel wagering operations, security or  
14 simulcasting operations for the racetrack; or

15 (c) a horse racetrack if that person has  
16 access to a restricted area on a licensed premises, including a  
17 horse owner, trainer, jockey, agent, apprentice, groom,  
18 exercise person, veterinarian, valet, farrier, starter,  
19 clocker, racing secretary, pari-mutuel clerk and other  
20 personnel designated by the board whose work, in whole or in  
21 part, is conducted around racehorses or a pari-mutuel  
22 betting window; and

23 (2) does not include:

24 (1) (a) bartenders, cocktail servers  
25 or other persons engaged solely in preparing or serving food or

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1 beverages;

2 [~~(2)~~] (b) secretarial or janitorial  
3 personnel;

4 [~~(3)~~] (c) stage, sound and light  
5 technicians; [~~or~~]

6 (d) a horseman's bookkeeper; or

7 [~~(4)~~] (e) other nongaming personnel;

8 T. "gaming establishment" means the premises on or  
9 in which gaming is conducted;

10 U. "gaming machine" means a mechanical,  
11 electromechanical or electronic contrivance or machine that,  
12 upon insertion of a coin, token or similar object, or upon  
13 payment of any consideration, is available to play or operate a  
14 game, whether the payoff is made automatically from the machine  
15 or in any other manner;

16 V. "gaming operator" means a person who conducts  
17 gaming at a gaming establishment or pari-mutuel wagering at a  
18 horse racetrack on live or simulcast horse races;

19 W. "holding company" means a company that, directly  
20 or indirectly, owns or has the power or right to control a  
21 company that is an applicant or licensee; [~~but~~] "holding  
22 company" does not include a company that does not have a  
23 beneficial ownership of more than ten percent of the equity  
24 securities of a publicly traded corporation [~~is not a holding~~  
25 ~~company~~];

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1 X. "horse race" means a competition among horses,  
2 on a predetermined course, in which the horse that completes  
3 the course in the least amount of time generally wins;

4 Y. "horse racetrack" means a place where horse  
5 racers are conducted;

6 [~~X+~~] Z. "immediate family" means natural persons  
7 who are related to a specified natural person by affinity or  
8 consanguinity in the first through the third degree;

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

14 [~~Z+~~] BB. "institutional investor" means:

15 (1) a foreign institutional investor;

16 (2) a state or federal government pension

17 plan; or

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

21 (a) a bank as defined in Section 3(a)(6)  
22 of the federal Securities Exchange Act of 1934;

23 (b) an insurance company as defined in  
24 Section 2(a)(17) of the federal Investment Company Act of 1940;

25 (c) an investment company registered

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1 under Section 8 of the federal Investment Company Act of 1940;  
2 (d) an investment adviser registered  
3 under Section 203 of the federal Investment Advisers Act of  
4 1940;

5 (e) collective trust funds as defined in  
6 Section 3(c)(11) of the federal Investment Company Act of 1940;

7 (f) an employee benefit plan or pension  
8 fund that is subject to the federal Employee Retirement Income  
9 Security Act of 1974, excluding an employee benefit plan or  
10 pension fund sponsored by a publicly traded corporation  
11 registered with the board; or

12 (g) a group [~~comprised~~] composed  
13 entirely of persons specified in Subparagraphs (a) through (f)  
14 of this paragraph;

15 [~~AA-~~] CC. "intermediary company" means a company  
16 that:

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

19 (2) is a subsidiary with respect to any  
20 holding company;

21 [~~BB-~~] DD. "key executive" means an executive of a  
22 licensee or other person having the power to exercise  
23 significant influence over decisions concerning any part of the  
24 licensed operations of the licensee or whose compensation  
25 exceeds an amount established by the board in a rule;

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1 [~~EE-~~] EE. "license" means an authorization required  
2 by the board for engaging in gaming activities, horse racing or  
3 pari-mutuel wagering;

4 [~~DD-~~] FF. "licensee" means a person to whom a valid  
5 license has been issued;

6 [~~EE-~~] GG. "manufacturer" means a person who  
7 manufactures, fabricates, assembles, produces, programs or  
8 makes modifications to any gaming device for use or play in New  
9 Mexico or for sale, lease or distribution outside New Mexico  
10 from any location within New Mexico;

11 [~~FF-~~] HH. "net take" means the total of the  
12 following, less the total of all cash paid out as losses to  
13 winning patrons and those amounts paid to purchase annuities to  
14 fund losses paid to winning patrons over several years by  
15 independent administrators:

16 (1) cash received from patrons for playing a  
17 game or pari-mutuel wagering;

18 (2) cash received in payment for credit  
19 extended by a licensee to a patron for playing a game or pari-  
20 mutuel wagering; and

21 (3) compensation received for conducting a  
22 game or pari-mutuel wagering in which the licensee is not a  
23 party to a wager;

24 [~~GG-~~] II. "nonprofit organization" means:

25 (1) a bona fide chartered or incorporated

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

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

13 JJ. "pari-mutuel wagering" means a system of  
14 wagering in which bets on a live or simulcast horse race are  
15 pooled and held by the racetrack operator licensee for  
16 distribution of the total amount, less the deductions  
17 authorized by law, to holders of winning tickets; "pari-mutuel  
18 wagering" does not include bookmaking or pool selling;

19 ~~[HH-]~~ KK. "person" means a legal entity;

20 ~~[II-]~~ LL. "premises" means land, together with all  
21 buildings, improvements and personal property located on the  
22 land;

23 ~~[JJ-]~~ MM. "progressive jackpot" means a prize that  
24 increases over time or as gaming machines that are linked to a  
25 progressive system are played and upon conditions established

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1 by the board may be paid by an annuity;

2 ~~[KK-]~~ NN. "public post-secondary educational  
3 institution" means an institution designated in Article 12,  
4 Section 11 of the constitution of New Mexico or an institution  
5 designated in Chapter 21, Article 13, 14 or 16 NMSA 1978;

6 ~~[LL-]~~ OO. "progressive system" means one or more  
7 gaming machines linked to one or more common progressive  
8 jackpots;

9 ~~[MM-]~~ PP. "publicly traded corporation" means a  
10 corporation that:

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

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

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

21 QQ. "race meet" means a period of time within dates  
22 specified by the board in which a racetrack operator licensee  
23 is authorized to conduct live racing on the racing grounds;

24 RR. "racing grounds" means the area of a racetrack  
25 operator licensee's premises used for the purpose of conducting

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1 horse races and all activities ancillary to the conduct of  
2 horse races, including the track, stable area, jockeys'  
3 quarters and horse training areas;

4 SS. "racing season" means a period of live horse  
5 racing conducted on the racing grounds of a racetrack operator  
6 licensee and authorized by the board pursuant to the Gaming  
7 Control and Horse Racing Act;

8 TT. "racetrack gaming operator" means a gaming  
9 operator at a racetrack;

10 UU. "racetrack operator" means a person who  
11 conducts horse races at a horse racetrack;

12 [NN-] VV. "registration" means a board action that  
13 authorizes a company to be a holding company with respect to a  
14 company that holds or applies for a license or that relates to  
15 other persons required to be registered pursuant to the Gaming  
16 Control and Horse Racing Act;

17 WW. "simulcast" means a transmission of a live  
18 audiovisual broadcast of a horse race being run at a horse  
19 racetrack other than the horse racetrack or other licensed  
20 facility at which the broadcast is being received for viewing  
21 pursuant to a simulcasting contract;

22 [OO-] XX. "subsidiary" means a company, all or a  
23 part of whose outstanding equity securities are owned, subject  
24 to a power or right of control or held, with power to vote, by  
25 a holding company or intermediary company;

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

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

9 SECTION 4. Section 60-2E-4 NMSA 1978 (being Laws 1997,  
10 Chapter 190, Section 6) is amended to read:

11 "60-2E-4. LIMITED GAMING ACTIVITY AND PARI-MUTUEL  
12 WAGERING PERMITTED.--Gaming activity [~~is~~] and pari-mutuel  
13 wagering are permitted in New Mexico only if it is conducted in  
14 compliance with and pursuant to:

15 A. the Gaming Control and Horse Racing Act; or

16 B. a state or federal law other than the Gaming  
17 Control and Horse Racing Act that expressly permits the  
18 activity or exempts it from the application of the state  
19 criminal law, or both."

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

22 "60-2E-5. GAMING CONTROL BOARD CREATED.--

23 A. The "gaming control board" is created and  
24 consists of [~~five~~] seven members. [~~Four~~] Members are appointed  
25 by the governor with the advice and consent of the senate [~~and~~

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1 ~~one ex-officio member is the chairman of the state racing~~  
2 ~~commission~~. All members of the board shall be residents of  
3 New Mexico and citizens of the United States. One [appointed]  
4 member of the board shall have a minimum of five years of  
5 previous employment in a supervisory and administrative  
6 position in a law enforcement agency; one [appointed] member of  
7 the board shall be a certified public accountant in New Mexico  
8 who has had at least five years of experience in public  
9 accountancy; one [appointed] member of the board shall be an  
10 attorney who has been admitted to practice before the supreme  
11 court of New Mexico; three members of the board shall be  
12 practical breeders of racehorses within New Mexico; and one  
13 [appointed] member of the board shall be a public member who  
14 has knowledge and experience in business management and  
15 financing.

16 B. ~~The appointed~~ Members of the board shall be  
17 appointed for terms of five years, except, of the members who  
18 are first appointed, the member with law enforcement experience  
19 shall be appointed for a term of five years; the member who is  
20 a certified public accountant shall be appointed for a term of  
21 four years; the member who is an attorney shall be appointed  
22 for a term of three years; and the public member shall be  
23 appointed for a term of two years. When first appointed, one  
24 practical breeder member shall be appointed for a term of four  
25 years, one practical breeder member shall be appointed for a

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1 term of three years; and one practical breeder member shall be  
2 appointed for a term of two years. Thereafter, all members  
3 shall be appointed for terms of five years. ~~No~~ A person  
4 shall not serve as a board member for more than two consecutive  
5 terms or ten years total.

6 C. ~~No~~ A full-time board member who receives a  
7 salary pursuant to Subsection G of this section ~~may~~ shall not  
8 be employed in any other capacity ~~or~~ and shall not in any  
9 manner receive compensation for services rendered to any person  
10 or entity other than the board while a member of the board.

11 D. A vacancy on the board ~~of an appointed member~~  
12 shall be filled within thirty days by the governor with the  
13 advice and consent of the senate for the unexpired portion of  
14 the term in which the vacancy occurs. A person appointed to  
15 fill a vacancy shall meet all qualification requirements of the  
16 office established in this section.

17 E. The governor shall choose a ~~chairman~~ chair  
18 annually from the board's appointed full-time, salaried  
19 members.

20 F. No more than ~~three~~ four members of the board  
21 shall be from the same political party.

22 G. The law enforcement, certified public accountant  
23 and attorney members of the board shall be full-time state  
24 officials and shall receive a salary set by the governor. The  
25 public member and ~~ex-officio member~~ practical breeder members

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1 of the board shall not receive salaries for their work for the  
2 board. All ~~appointed~~ members of the board ~~shall~~ are  
3 entitled to receive per diem and mileage pursuant to the  
4 provisions of the Per Diem and Mileage Act.

5 H. The department of public safety shall conduct  
6 background investigations of all members of the board prior to  
7 confirmation by the senate. To assist the department in the  
8 background investigation, a prospective board member shall  
9 furnish a disclosure statement to the department on a form  
10 provided by the department containing that information deemed  
11 by the department as necessary for completion of a detailed and  
12 thorough background investigation. The required information  
13 shall include at least:

14 (1) a full set of fingerprints made by a law  
15 enforcement agency on forms supplied by the department;

16 (2) complete information and details with  
17 respect to the prospective board member's antecedents, habits,  
18 immediate family, character, criminal record, business  
19 activities, financial affairs and business associates covering  
20 at least a ten-year period immediately preceding the date of  
21 submitting the disclosure statement;

22 (3) complete disclosure of ~~any~~ an equity  
23 interest held by the prospective board member or a member of  
24 ~~his~~ the prospective board member's immediate family in a  
25 company that is an applicant or licensee or an affiliate,

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1 affiliated company, intermediary company or holding company in  
2 respect to an applicant or licensee; and

3 (4) the names and addresses of members of the  
4 immediate family of the prospective board member.

5 I. ~~No~~ A person ~~may~~ shall not be appointed or  
6 confirmed as a member of the board if that person or member of  
7 ~~his~~ that person's immediate family holds an equity interest  
8 in a company that is an applicant or licensee or an affiliate,  
9 affiliated company, intermediary company or holding company in  
10 respect to an applicant or licensee.

11 J. A prospective board member shall provide  
12 assistance and information requested by the department of  
13 public safety or the governor and shall cooperate in any  
14 inquiry or investigation of the prospective board member's  
15 fitness or qualifications to hold the office to which ~~he~~ the  
16 prospective board member is appointed. The senate shall not  
17 confirm a prospective board member if it has reasonable cause  
18 to believe that the prospective board member has:

19 (1) knowingly misrepresented or omitted a  
20 material fact required in a disclosure statement;

21 (2) been convicted of a felony, a gaming-  
22 related offense or a crime involving fraud, theft or moral  
23 turpitude within ten years immediately preceding the date of  
24 submitting a disclosure statement required pursuant to the  
25 provisions of Subsection H of this section;

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1 (3) exhibited a history of willful disregard  
2 for the gaming laws of this or any other state or the United  
3 States; or

4 (4) had a permit or license issued pursuant to  
5 the gaming laws of this or any other state or the United States  
6 permanently suspended or revoked for cause.

7 K. At the time of taking office, each board member  
8 shall file with the secretary of state a sworn statement that  
9 ~~[he]~~ the board member is not disqualified under the provisions  
10 of Subsection I of this section."

11 SECTION 6. Section 60-2E-6 NMSA 1978 (being Laws 1997,  
12 Chapter 190, Section 8) is amended to read:

13 "60-2E-6. BOARD--MEETINGS--QUORUM--RECORDS.--

14 A. A majority of the qualified membership of the  
15 board then in office constitutes a quorum. No action may be  
16 taken by the board unless at least ~~[three]~~ four members concur.

17 B. Written notice of the time and place of each  
18 board meeting shall be given to each member of the board at  
19 least ten days prior to the meeting.

20 C. Meetings of the board shall be open and public  
21 in accordance with the Open Meetings Act, except that the board  
22 may close a meeting to hear confidential security and  
23 investigative information and other information made  
24 confidential by the provisions of the Gaming Control and Horse  
25 Racing Act.

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

4 E. The ~~[chairman]~~ chair of the board, the executive  
5 director or a majority of the members of the board then in  
6 office may call a special meeting of the board upon at least  
7 five days' prior written notice to all members of the board and  
8 the executive director."

9 SECTION 7. Section 60-2E-7 NMSA 1978 (being Laws 1997,  
10 Chapter 190, Section 9, as amended) is amended to read:

11 "60-2E-7. BOARD'S POWERS AND DUTIES.--

12 A. The board shall implement the state's policy on  
13 gaming, pari-mutuel wagering and horse racing consistent with  
14 the provisions of the Gaming Control and Horse Racing Act and  
15 the New Mexico Bingo and Raffle Act. It has the duty to  
16 fulfill all responsibilities assigned to it pursuant to those  
17 acts, and it has all authority necessary to carry out those  
18 responsibilities. It may delegate authority to the executive  
19 director, but it retains accountability. The board is an  
20 adjunct agency.

21 B. The board shall:

22 (1) employ the executive director;

23 (2) make the final decision on issuance,

24 denial, suspension and revocation of all licenses pursuant to  
25 and consistent with the provisions of the Gaming Control and

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1 Horse Racing Act and the New Mexico Bingo and Raffle Act;  
2 (3) develop, adopt and promulgate all  
3 ~~[regulations]~~ rules necessary to implement and administer the  
4 provisions of the Gaming Control and Horse Racing Act and the  
5 New Mexico Bingo and Raffle Act;  
6 (4) conduct itself, or employ a hearing  
7 officer to conduct, all hearings required by the provisions of  
8 the Gaming Control and Horse Racing Act and other hearings it  
9 deems appropriate to fulfill its responsibilities;  
10 (5) meet at least once each month; ~~and~~  
11 (6) prepare and submit an annual report in  
12 December of each year to the governor and the legislature,  
13 covering activities of the board in the most recently completed  
14 fiscal year, a summary of gaming activities, pari-mutuel  
15 wagering and horse racing in the state and any recommended  
16 changes in or additions to the laws relating to gaming and  
17 horse racing in the state;  
18 (7) require background investigations of  
19 gaming or horse racing employees and exclude or compel the  
20 exclusion from any gaming establishment or horse racetrack in  
21 the state a person whose behavior is found to be detrimental to  
22 the best interests of gaming or horse racing, as defined by the  
23 board, or a person who willfully violates the gaming or horse  
24 racing laws or rules of this state or another state;  
25 (8) personally or by agents or

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1 representatives, supervise and verify the making of pari-mutuel  
2 wagering pools and the distributions from those pools;  
3 (9) adopt rules governing, restricting or  
4 regulating bids on leases at racetracks;  
5 (10) make rules to hold, conduct and operate  
6 all horse races held in the state and to identify and assign  
7 racing dates;  
8 (11) approve all improvements proposed to be  
9 completed on the licensed premises of a horse racetrack,  
10 including extensions, additions or improvements of buildings,  
11 stables or tracks;  
12 (12) approve contracts for simulcasting, pari-  
13 mutuel wagering and capital improvements funded pursuant to  
14 Section 60-2E-47 NMSA 1978 entered into by horse racetracks;  
15 and  
16 (13) supervise and control the pari-mutuel  
17 machines and equipment at all horse races held or operated by  
18 the state, its agencies or commissions.  
19 C. The board may:  
20 (1) impose civil fines not to exceed twenty-  
21 five thousand dollars (\$25,000) for the first violation of any  
22 prohibitory provision of the Gaming Control and Horse Racing  
23 Act or any prohibitory provision of a regulation adopted  
24 pursuant to that act and fifty thousand dollars (\$50,000) for  
25 subsequent violations;

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- 1 (2) conduct investigations;
- 2 (3) subpoena persons and documents to compel  
3 access to or the production of documents and records, including  
4 books and memoranda, in the custody or control of a licensee;
- 5 (4) compel the appearance of employees of a  
6 licensee or persons for the purpose of ascertaining compliance  
7 with provisions of the Gaming Control and Horse Racing Act or a  
8 ~~[regulation]~~ rule adopted pursuant to its provisions;
- 9 (5) administer oaths and take depositions to  
10 the same extent and subject to the same limitations as would  
11 apply if the deposition were pursuant to discovery rules in a  
12 civil action in the district court;
- 13 (6) sue and be sued subject to the limitations  
14 of the Tort Claims Act;
- 15 (7) contract for the provision of goods and  
16 services necessary to carry out its responsibilities;
- 17 (8) conduct audits, relevant to their pari-  
18 mutuel wagering or gaming activities, of applicants, licensees  
19 and persons affiliated with licensees;
- 20 (9) inspect, examine, photocopy and audit all  
21 documents and records of an applicant or licensee relevant to  
22 the applicant's or licensee's gaming activities or pari-mutuel  
23 wagering in the presence of the applicant or licensee or the  
24 applicant's or licensee's agent;
- 25 (10) require verification of income and all

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- 1 other matters pertinent to the gaming activities or pari-mutuel  
2 wagering of an applicant or licensee affecting the enforcement  
3 of any provision of the Gaming Control and Horse Racing Act;
- 4 (11) inspect all places where gaming  
5 activities, pari-mutuel wagering or horse racing are conducted  
6 and inspect all property connected with gaming, pari-mutuel  
7 wagering or horse racing in those places;
- 8 (12) summarily seize, remove and impound from  
9 places inspected any gaming ~~[devices]~~ machines, property  
10 connected with gaming or pari-mutuel wagering, documents or  
11 records for the purpose of examination or inspection;
- 12 (13) inspect, examine, photocopy and audit  
13 documents and records, relevant to the affiliate's gaming  
14 activities or pari-mutuel wagering, of an affiliate of an  
15 applicant or licensee that the board knows or reasonably  
16 suspects is involved in the financing, operation or management  
17 of the applicant or licensee. The inspection, examination,  
18 photocopying and audit shall be in the presence of a  
19 representative of the affiliate or its agent when practicable;  
20 and
- 21 ~~[(14) conduct background investigations~~  
22 ~~pursuant to the Horse Racing Act; and~~
- 23 ~~(15)]~~ (14) except for the powers specified in  
24 Paragraphs (1) and (4) of this subsection, carry out all or  
25 part of the foregoing powers and activities through the

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1 executive director.

2 D. The board shall monitor all activity authorized  
3 in an Indian gaming compact between the state and an Indian  
4 nation, tribe or pueblo. The board shall appoint the state  
5 gaming representative for the purposes of the compact."

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

8 "60-2E-8. BOARD [REGULATIONS] RULES--DISCRETIONARY  
9 [REGULATIONS] RULES--PROCEDURE--REQUIRED PROVISIONS.--

10 A. The board may adopt any [regulation] rule that:

11 (1) is consistent with the provisions of the  
12 Gaming Control and Horse Racing Act; and

13 (2) it decides is necessary to implement the  
14 provisions of the Gaming Control and Horse Racing Act.

15 B. No [regulation] rule shall be adopted, amended  
16 or repealed without a public hearing on the proposed action  
17 before the board or a hearing officer designated by it. Notice  
18 of the subject matter of the [regulation] rule, the action  
19 proposed to be taken, the time and place of the hearing, the  
20 manner in which interested persons may present their views and  
21 the method by which copies of the proposed [regulation] rule,  
22 amendment or repeal may be obtained shall be published once at  
23 least thirty days prior to the hearing date in a newspaper of  
24 general circulation and mailed at least thirty days prior to  
25 the hearing date to all persons who have made a written request

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1 for advance notice of hearing. All [regulations] rules and  
2 actions taken on [regulations] rules shall be filed in  
3 accordance with the State Rules Act.

4 C. The board shall adopt [regulations] rules:

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

7 (2) prescribing the information to be  
8 furnished by an applicant or licensee concerning the  
9 applicant's or licensee's antecedents, immediate family,  
10 habits, character, associates, criminal record, business  
11 activities and financial affairs, past or present;

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

14 (4) prescribing the manner and method of  
15 collection and payment of fees;

16 (5) prescribing the manner and method of the  
17 issuance of licenses, permits, registrations, certificates and  
18 other actions of the board not elsewhere prescribed in the  
19 Gaming Control and Horse Racing Act;

20 (6) defining the area, games and gaming  
21 devices allowed and the methods of operation of the games and  
22 gaming devices for authorized gaming;

23 (7) prescribing under what conditions the  
24 nonpayment of winnings is grounds for suspension or revocation  
25 of a license of a gaming operator;

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

3 (9) prescribing accounting procedures,  
4 security, collection and verification procedures required of  
5 licensees and matters regarding financial responsibility of  
6 licensees;

7 (10) prescribing what shall be considered to  
8 be an unsuitable method of operating gaming activities, horse  
9 racing or pari-mutuel wagering;

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

15 (12) prescribing financial reporting and  
16 internal control requirements for licensees;

17 (13) prescribing the manner in which winnings,  
18 compensation from gaming activities and pari-mutuel wagering  
19 and net take shall be computed and reported by a [~~gaming~~  
20 ~~operator~~] licensee;

21 (14) prescribing the frequency of and the  
22 matters to be contained in audits of and periodic financial  
23 reports relevant to [~~the gaming operator~~] a licensee's gaming  
24 activities [~~from a gaming operator licensee~~] or pari-mutuel  
25 wagering consistent with standards prescribed by the board;

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1 (15) prescribing the procedures to be followed  
2 by a [~~gaming operator~~] licensee for the exclusion of persons  
3 from gaming establishments or horse racetracks;

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

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

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

18 (19) governing pari-mutuel wagering, horse  
19 racing and interstate common pool wagering; and

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

22 (a) by post-secondary educational  
23 institutions;

24 (b) for trade shows;

25 (c) for film or theater productions; or

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(d) for other non-gaming purposes."

SECTION 9. Section 60-2E-10 NMSA 1978 (being Laws 1997, Chapter 190, Section 12, as amended) is amended to read:

"60-2E-10. EXECUTIVE DIRECTOR--POWERS--DUTIES.--

A. The executive director shall implement the policies of the board.

B. The executive director shall employ all personnel who work for the board. The employees shall be covered employees pursuant to the provisions of the Personnel Act. Among those personnel, ~~he~~ the executive director shall employ and designate an appropriate number of individuals as law enforcement officers subject to proper certification pursuant to the Law Enforcement Training Act. Law enforcement officers shall not carry firearms on racing grounds, except as provided in the rules adopted by the board.

C. The executive director shall establish organizational units ~~he~~ that the executive director determines are appropriate to administer the provisions of the Gaming Control and Horse Racing Act.

D. The executive director:

(1) may delegate authority to subordinates as ~~he~~ the executive director deems necessary and appropriate, clearly delineating the delegated authority and the limitations on it, if any;

(2) shall take administrative action by

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issuing orders and instructions consistent with the Gaming Control and Horse Racing Act and ~~regulations~~ rules of the board to ~~assure~~ ensure implementation of and compliance with the provisions of that act and those ~~regulations~~ rules;

(3) may issue administrative citations to ~~any~~ a licensee upon a reasonable belief that the licensee has violated or is violating any provision of the Gaming Control and Horse Racing Act or ~~regulations~~ rules of the board;

(4) may conduct research and studies that will improve the operations of the board and the provision of services to the citizens of the state;

(5) may provide courses of instruction and practical training for employees of the board and other persons involved in the activities regulated by the board with the objectives of improving operations of the board and achieving compliance with the law and ~~regulations~~ rules;

(6) shall prepare an annual budget for the board and submit it to the board for approval; and

(7) shall make recommendations to the board of proposed ~~regulations~~ rules and any legislative changes needed to provide better administration of the Gaming Control and Horse Racing Act and fair and efficient regulation of gaming activities, pari-mutuel wagering and horse racing in the state."

SECTION 10. Section 60-2E-11 NMSA 1978 (being Laws 1997,

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1 Chapter 190, Section 13, as amended) is amended to read:

2 "60-2E-11. INVESTIGATION OF EXECUTIVE DIRECTOR

3 CANDIDATES AND EMPLOYEES.--

4 A. A person who is under consideration in the final  
5 selection process for appointment as the executive director  
6 shall file a disclosure statement pursuant to the requirements  
7 of this section, and the board shall not make an appointment of  
8 a person as executive director until a background investigation  
9 is completed by the department of public safety and a report is  
10 made to the board.

11 B. A person who has reached the final selection  
12 process for employment by the executive director shall file a  
13 disclosure statement pursuant to the requirements of this  
14 section if the executive director or the board has directed the  
15 person do so. The person shall not be further considered for  
16 employment until a background investigation is completed by the  
17 board's law enforcement officers and a report is made to the  
18 executive director.

19 C. Forms for the disclosure statements required by  
20 this section shall be developed by the board in cooperation  
21 with the department of public safety. At least the following  
22 information shall be required of a person submitting a  
23 statement:

24 (1) a full set of fingerprints made by a law  
25 enforcement agency on forms supplied by the board;

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1 (2) complete information and details with  
2 respect to the person's antecedents, habits, immediate family,  
3 character, criminal record, business activities and business  
4 associates, covering at least a ten-year period immediately  
5 preceding the date of submitting the disclosure statement; and

6 (3) a complete description of any equity  
7 interest held in a business connected with the gaming or horse  
8 racine industry.

9 D. In preparing an investigative report, the  
10 board's law enforcement officers may request and receive  
11 criminal history information from the federal bureau of  
12 investigation or any other law enforcement agency or  
13 organization. The board's law enforcement officers shall  
14 maintain confidentiality regarding information received from a  
15 law enforcement agency that may be imposed by the agency as a  
16 condition for providing the information to the department of  
17 public safety, except that the board's law enforcement officers  
18 may provide criminal history information and reports to  
19 licensees or tribal gaming casinos when conducting background  
20 checks on behalf of the licensee or tribal gaming casino.

21 E. A person required to file a disclosure statement  
22 shall provide any assistance or information requested by the  
23 department of public safety or the board and shall cooperate in  
24 any inquiry or investigation.

25 F. If information required to be included in a

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1 disclosure statement changes or if information is added after  
2 the statement is filed, the person required to file it shall  
3 provide that information in writing to the person requesting  
4 the investigation. The supplemental information shall be  
5 provided within thirty days after the change or addition.

6 G. The board shall not appoint a person as  
7 executive director, and the executive director shall not employ  
8 a person, if the board or the executive director has reasonable  
9 cause to believe that the person has:

10 (1) knowingly misrepresented or omitted a  
11 material fact required in a disclosure statement;

12 (2) been convicted of a felony, a gaming- or  
13 horse racing-related offense or a crime involving fraud, theft  
14 or moral turpitude within ten years immediately preceding the  
15 date of submitting a disclosure statement required pursuant to  
16 this section;

17 (3) exhibited a history of willful disregard  
18 for the gaming or horse racing laws of this or any other state  
19 or the United States; or

20 (4) had a permit or license issued pursuant to  
21 the gaming or horse racing laws of this or any other state or  
22 the United States permanently suspended or revoked for cause.

23 H. Both the board and the executive director may  
24 exercise absolute discretion in exercising their respective  
25 appointing and employing powers."

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1 SECTION 11. Section 60-2E-12 NMSA 1978 (being Laws 1997,  
2 Chapter 190, Section 14, as amended) is amended to read:

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

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

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

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

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

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1 member shall be removed by the governor, and the executive  
2 director shall be removed from the executive director's  
3 position by the board."

4 SECTION 12. Section 60-2E-13 NMSA 1978 (being Laws 1997,  
5 Chapter 190, Section 15, as amended) is amended to read:

6 "60-2E-13. GAMING ACTIVITIES REQUIRING LICENSING.--

7 A. A person shall not conduct gaming unless the  
8 person is licensed as a gaming operator.

9 B. A person shall not sell, supply or distribute a  
10 gaming device or associated equipment for use or play in this  
11 state or for use or play outside of this state from a location  
12 within this state unless the person is licensed as a  
13 distributor or manufacturer, but a gaming operator licensee may  
14 sell or trade in a gaming device or associated equipment to a  
15 gaming operator licensee, distributor licensee or manufacturer  
16 licensee.

17 C. Except as provided in Subsection D of this  
18 section, a person shall not manufacture, fabricate, assemble,  
19 program or make modifications to a gaming device or associated  
20 equipment for use or play in this state or for use or play  
21 outside of this state from any location within this state  
22 unless the person is a manufacturer licensee. A manufacturer  
23 licensee may sell, supply or distribute only the gaming devices  
24 or associated equipment that the manufacturer licensee  
25 manufactures, fabricates, assembles, programs or modifies.

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1 D. Upon receiving a written request from a person  
2 who manufactures associated equipment, the board may waive the  
3 requirement for a manufacturer's license on the terms and  
4 conditions the board deems necessary as long as the waiver is  
5 consistent with the purpose of the Gaming Control and Horse  
6 Racing Act.

7 E. Except as provided in Section 60-2E-13.1 NMSA  
8 1978, a gaming operator licensee or a person other than a  
9 manufacturer licensee or distributor licensee shall not possess  
10 an unlicensed or illegal gaming device or possess or control a  
11 place where there is an unlicensed or illegal gaming device.  
12 Any unlicensed or illegal gaming device, except a gaming  
13 machine in the possession of a licensee while awaiting transfer  
14 to a gaming operator licensee for licensure of the machine, or  
15 as provided in Section 60-2E-13.1 NMSA 1978, is subject to  
16 seizure and forfeiture pursuant to Section 30-19-10 NMSA 1978.

17 F. A person shall not service or repair a gaming  
18 device or associated equipment unless the person is licensed as  
19 a manufacturer, is employed by a manufacturer licensee or is a  
20 technician approved by the board and employed by a distributor  
21 licensee or a gaming operator licensee.

22 G. A person shall not engage in an activity for  
23 which the board requires a license or permit without obtaining  
24 the license or permit.

25 H. Except as provided in Subsections B and D of

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1 this section, a person shall not purchase, lease or acquire  
2 possession of a gaming device or associated equipment except  
3 from a distributor licensee or manufacturer licensee.

4 I. A distributor licensee may receive a percentage  
5 of the amount wagered, the net take or other measure related to  
6 the operation of a gaming machine as a payment pursuant to a  
7 lease or other arrangement for furnishing a gaming machine, but  
8 the board shall adopt a ~~[regulation]~~ rule setting the maximum  
9 allowable percentage."

10 SECTION 13. Section 60-2E-13.1 NMSA 1978 (being Laws  
11 2002, Chapter 102, Section 9, as amended) is amended to read:

12 "60-2E-13.1. TEMPORARY POSSESSION OF GAMING DEVICE FOR  
13 LIMITED PURPOSE.--

14 A. A public post-secondary educational institution  
15 may temporarily possess gaming devices for the limited purpose  
16 of providing instruction on the technical aspects of gaming  
17 devices to persons seeking certification as technicians  
18 qualified to repair and maintain gaming devices. A gaming  
19 device allowed for such limited use shall be subject to  
20 registration, transport, possession and use requirements and  
21 restrictions established in board ~~[regulations]~~ rules.

22 B. Trade shows and similar events for the purpose  
23 of demonstrating and marketing gaming devices may be conducted  
24 in the state at the discretion of the board. A gaming device  
25 allowed in the state for such limited use shall be subject to

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1 registration, transport, possession and use requirements and  
2 restrictions established in board ~~[regulations]~~ rules.

3 C. A person may possess an unlicensed gaming device  
4 used by the person for the purposes of testing or demonstration  
5 if that person is a manufacturer licensee or has obtained a  
6 waiver pursuant to the Gaming Control and Horse Racing Act.

7 D. A person may possess a gaming device for the  
8 purpose of film or theater productions or other non-gaming  
9 purposes permitted by ~~[regulation]~~ rule of the board. Any  
10 gaming device allowed in the state for such limited use shall  
11 be subject to registration, transport, possession and use  
12 requirements and restrictions established in board  
13 ~~[regulations]~~ rules."

14 SECTION 14. Section 60-2E-14 NMSA 1978 (being Laws 1997,  
15 Chapter 190, Section 16, as amended) is amended to read:

16 "60-2E-14. LICENSURE--APPLICATION.--

17 A. The board shall establish and issue the  
18 following categories of licenses:

- 19 (1) manufacturer;
- 20 (2) distributor;
- 21 (3) gaming operator; ~~and~~
- 22 (4) gaming machine;
- 23 (5) racetrack operator; and
- 24 (6) racetrack gaming operator.

25 B. The board shall issue certifications of findings

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1 of suitability for key executives and other persons for whom  
2 certification is required. The board may issue one  
3 certification of finding of suitability for a key executive or  
4 other person found suitable for employment in both gaming and  
5 horse racing operations.

6 C. The board shall issue work permits for gaming  
7 employees. The board may issue one permit to allow a gaming  
8 employee to work in both gaming and horse racing operations.

9 D. A licensee shall not be issued more than one  
10 type of license, but this provision does not prohibit a  
11 licensee from owning, leasing, acquiring or having in the  
12 licensee's possession licensed gaming machines if that activity  
13 is otherwise allowed by the provisions of the Gaming Control  
14 and Horse Racing Act. A licensee shall not own a majority  
15 interest in, manage or otherwise control a holder of another  
16 type of license issued pursuant to the provisions of that act.

17 E. An applicant for a license, a certification of  
18 finding of suitability or a work permit shall apply on forms  
19 provided by the board and shall furnish to the board two sets  
20 of fingerprint cards and all other information requested by the  
21 board. Submission of an application constitutes consent to a  
22 national criminal background check of the applicant, a credit  
23 check of the applicant and all persons having a substantial  
24 interest in the applicant and any other background  
25 investigations required pursuant to the Gaming Control and

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1 Horse Racing Act or deemed necessary by the board. The board  
2 may obtain from the taxation and revenue department copies of  
3 tax returns filed by or on behalf of the applicant or its  
4 affiliates and information concerning liens imposed on the  
5 applicant or its affiliates by the taxation and revenue  
6 department.

7 F. Unless otherwise stated in the Gaming Control  
8 and Horse Racing Act, all licenses issued by the board pursuant  
9 to the provisions of this section shall be reviewed for renewal  
10 annually unless revoked, suspended, canceled or terminated.

11 G. A license shall not be transferred or assigned.

12 H. The application for a license shall include:

13 (1) the name of the applicant;

14 (2) the location of the proposed operation;

15 (3) if for a gaming operator license or a

16 racetrack gaming operator license, the gaming devices to be  
17 operated, manufactured, distributed or serviced;

18 (4) if for a racetrack operator license, the  
19 dates and days of the week of the race meet that the applicant  
20 is requesting the board to approve;

21 [~~4~~] (5) the names of all persons having a  
22 direct or indirect interest in the business of the applicant  
23 and the nature of such interest; and

24 [~~5~~] (6) such other information and details  
25 as the board may require.

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1 I. The board shall furnish to the applicant  
2 supplemental forms that the applicant shall complete and file  
3 with the application. The supplemental forms shall require two  
4 sets of fingerprint cards and complete information and details  
5 with respect to the applicant's antecedents, habits, immediate  
6 family, character, state and federal criminal records, business  
7 activities, financial affairs and business associates, covering  
8 at least a ten-year period immediately preceding the date of  
9 filing of the application.

10 J. In conducting a background investigation and  
11 preparing an investigative report on the applicant, the board's  
12 law enforcement officers may request and receive criminal  
13 history information from the federal bureau of investigation or  
14 any other law enforcement agency or organization. The board's  
15 law enforcement officers shall maintain confidentiality  
16 regarding information received from a law enforcement agency  
17 that may be imposed by the agency as a condition for providing  
18 the information to the board."

19 SECTION 15. A new section of the Gaming Control and  
20 Horse Racing Act is enacted to read:

21 "[NEW MATERIAL] CLASSIFICATION OF RACETRACK GAMING  
22 OPERATOR LICENSES.--

23 A. A gaming operator licensee authorized to conduct  
24 pari-mutuel wagering on live horse races on the racing grounds  
25 of a racetrack operator licensee and on simulcast horse races

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1 received on the racetrack operator licensee's premises shall be  
2 issued either a class A or class B racetrack gaming operator  
3 license pursuant to the following:

4 (1) a class A license shall be issued to a  
5 racetrack gaming operator licensee for a horse racetrack at  
6 which the total gross amount wagered through the pari-mutuel  
7 system in the preceding calendar year from live horse races and  
8 simulcast races was ten million dollars (\$10,000,000) or more;  
9 and

10 (2) a class B license shall be issued to a  
11 racetrack gaming operator licensee for a horse racetrack at  
12 which the total gross amount wagered through the pari-mutuel  
13 system in the preceding calendar year from live horse races and  
14 simulcast races was less than ten million dollars  
15 (\$10,000,000).

16 B. A new racetrack gaming operator licensee shall  
17 be given a classification by the board based on the best  
18 estimate of the projected total gross amount to be wagered at  
19 the new horse racetrack through the pari-mutuel system from  
20 live horse races and simulcast races.

21 C. Each class of license is subject to the  
22 provisions of the Gaming Control and Horse Racing Act, except  
23 as explicitly stated in that act.

24 D. The board shall adopt rules as necessary to  
25 provide for racetrack gaming operator license classification."

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1 SECTION 16. A new section of the Gaming Control and  
2 Horse Racing Act is enacted to read:

3 "[NEW MATERIAL] RACETRACK OPERATOR LICENSES--  
4 APPLICATIONS--SPECIFIC REQUIREMENTS.--

5 A. A racetrack operator license shall be valid for  
6 a period not to exceed one year. The board may renew a  
7 racetrack operator license upon expiration of the term of the  
8 license.

9 B. Renewal applications for racetrack operator  
10 licenses shall be filed no later than June 1 of each year. The  
11 race dates for the upcoming year shall be set by the board  
12 after the board receives all renewal applications.

13 C. An application shall specify the dates and days  
14 of the week of the race meet that the applicant is requesting  
15 the board to approve.

16 D. An application shall be filed not less than  
17 sixty days prior to the first day the proposed horse race or  
18 race meet is to be held.

19 E. The board may schedule a date for a hearing on  
20 the application for a new racetrack operator license to  
21 determine the eligibility of the applicant pursuant to the  
22 Gaming Control and Horse Racing Act or as needed for  
23 determining the eligibility for the renewal of a racetrack  
24 operator license. The applicant shall be notified of the  
25 hearing at least five days prior to the date of the hearing.

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1 The applicant has the right to present testimony in support of  
2 the application. Notice shall be mailed to the address of the  
3 applicant appearing upon the application for the racetrack  
4 operator license. Notice of the hearing date, time and  
5 location shall be postmarked by United States mail five days  
6 prior to the date of the hearing. Deposit of the hearing  
7 notice in the United States mail constitutes notice.

8 F. If, after a hearing on the application, the  
9 board finds the applicant ineligible pursuant to the provisions  
10 of the Gaming Control and Horse Racing Act or rules adopted by  
11 the board, the racetrack operator license shall be denied.

12 G. If there is more than one application for a  
13 racetrack operator license pending at the same time, the board  
14 shall determine the racing days that will be allotted to each  
15 successful applicant. Upon renewal, the board shall determine  
16 the racing days that will be allotted to each applicant upon  
17 terms and conditions established by the board.

18 H. A person shall not have a direct, indirect or  
19 beneficial interest of any nature, whether or not financial,  
20 administrative, policymaking or supervisory, in more than two  
21 horse racetracks in New Mexico. For purposes of this  
22 subsection, a person shall not be considered to have a direct,  
23 indirect or beneficial interest in a horse racetrack if the  
24 person owns or holds less than ten percent of the total  
25 authorized, issued and outstanding shares of a corporation that

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1 is licensed to conduct a race meet in New Mexico, unless the  
2 person has some other direct, indirect or beneficial interest  
3 of any nature, whether or not financial, administrative,  
4 policymaking or supervisory, in more than two licensed horse  
5 racetracks.

6 I. To determine interest held in a racetrack, to  
7 the extent that the interest is based on stock ownership:

8 (1) stock owned, directly or indirectly, by or  
9 for a corporation, partnership, estate or trust shall be  
10 considered as being owned proportionately by its shareholders,  
11 partners or beneficiaries;

12 (2) an individual shall be considered as  
13 owning the stock, directly or indirectly, if it is held by an  
14 immediate family member. For purposes of this paragraph,  
15 "immediate family member" includes only the individual's  
16 siblings, spouse or children; and

17 (3) stock constructively owned by a person by  
18 reason of the application of Paragraph (1) of this subsection  
19 shall be considered to be actually owned by the person; and  
20 stock shall be constructively owned by an individual by reason  
21 of the application of Paragraph (2) of this subsection if the  
22 purpose of the constructive ownership is to make a person other  
23 than the individual applicant appear as the owner of the stock.

24 J. A corporation holding a racetrack operator  
25 license shall not issue to a person shares of its stock

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1 amounting to ten percent or more of the total authorized,  
2 issued and outstanding shares, and a corporation holding a  
3 racetrack license shall not issue shares of its stock that  
4 would, when combined with that stock transferee's existing  
5 shares owned, total more than ten percent of the total  
6 authorized, issued and outstanding shares of the corporation,  
7 unless:

8 (1) the corporation gives written notice to  
9 the board at least sixty days before the contemplated stock  
10 transfer that the person to whom the stock is being transferred  
11 will become an owner of ten percent or more of the total  
12 authorized, issued and outstanding shares of the corporation;  
13 and

14 (2) the corporation receives written approval  
15 from the board of the proposed transfer.

16 K. A determination made by the board of a matter  
17 pursuant to this section shall be final and not subject to  
18 appeal."

19 SECTION 17. Section 60-2E-15 NMSA 1978 (being Laws 1997,  
20 Chapter 190, Section 17) is amended to read:

21 "60-2E-15. LICENSE, CERTIFICATION AND WORK PERMIT  
22 FEES.--

23 A. License and other fees shall be established by  
24 board [regulation] rule but shall not exceed the following  
25 amounts:

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1 (1) manufacturer's license, twenty thousand  
2 dollars (\$20,000) for the initial license and five thousand  
3 dollars (\$5,000) for annual renewal;

4 (2) distributor's license, ten thousand  
5 dollars (\$10,000) for the initial license and one thousand  
6 dollars (\$1,000) for annual renewal;

7 (3) ~~[gaming operator's license for a]~~  
8 racetrack gaming operator's license, fifty thousand dollars  
9 (\$50,000) for the initial license and ten thousand dollars  
10 (\$10,000) for annual renewal;

11 (4) gaming operator's license for a nonprofit  
12 organization, one thousand dollars (\$1,000) for the initial  
13 license and two hundred dollars (\$200) for annual renewal;

14 (5) for each separate gaming machine licensed  
15 to a person holding an operator's license, five hundred dollars  
16 (\$500) for the initial license and one hundred dollars (\$100)  
17 for annual renewal; ~~[and]~~

18 (6) work permit, one hundred dollars (\$100)  
19 annually; and

20 (7) racetrack operator license, five thousand  
21 dollars (\$5,000) for the initial license and one thousand  
22 dollars (\$1,000) for annual renewal.

23 B. The board shall establish the fee for  
24 certifications or other actions by ~~[regulation]~~ rule, but no  
25 fee established by the board shall exceed one thousand dollars

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1 (\$1,000), except for fees established pursuant to Paragraph  
2 (18) of Subsection C of Section ~~[10 of the Gaming Control Act]~~  
3 60-2E-8 NMSA 1978.

4 C. All license, certification or work permit fees  
5 shall be paid to the board at the time and in the manner  
6 established by ~~[regulations]~~ rules of the board."

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

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

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

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

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

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

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1 and

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

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

6 (1) the applicant has adequate business  
7 probity, competence and experience in business and gaming,  
8 pari-mutuel wagering or horse racing;

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

14 (3) the applicant is sufficiently capitalized  
15 under standards set by the board to conduct the business  
16 covered by the license.

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

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1 constitute a ground for recovery in any civil action.

2 E. The board shall not issue a license or  
3 certification to an applicant who has previously been denied a  
4 license or certification in this state or another state, who  
5 has had a certification, permit or license issued pursuant to  
6 the gaming, pari-mutuel wagering or horse racing laws of a  
7 state or the United States permanently suspended or revoked for  
8 cause or who is currently under suspension or subject to any  
9 other limiting action in this state or another state involving  
10 gaming activities, pari-mutuel wagering or horse racing or  
11 licensure for gaming activities, pari-mutuel wagering or horse  
12 racing, unless the violation that is the basis of the denial,  
13 permanent suspension or other limiting action regarding a  
14 license, certification or permit applied for or issued in this  
15 state or another state is determined by the board to be a  
16 technical violation, and, if the board finds the violation to  
17 be a technical violation, the board may choose to issue a  
18 license or certification.

19 F. The board shall investigate the qualifications  
20 of each applicant before a license, certification or work  
21 permit is issued by the board and shall continue to observe and  
22 monitor the conduct of all licensees, work permit holders,  
23 persons certified as being suitable and the persons having a  
24 material involvement directly or indirectly with a licensee.

25 G. The board has the authority to deny an

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1 application or limit, condition, restrict, revoke or suspend a  
2 license, certification or permit for any cause.

3 H. After issuance, a license, certification or  
4 permit shall continue in effect upon proper payment of the  
5 initial and renewal fees, subject to the power of the board to  
6 revoke, suspend, condition or limit licenses, certifications  
7 and permits.

8 I. The board has full and absolute power and  
9 authority to deny an application for any cause it deems  
10 reasonable. If an application is denied, the board shall  
11 prepare and file its written decision on which its order  
12 denying the application is based."

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

15 "60-2E-19. COMPANY APPLICANTS--NONPROFIT ORGANIZATION  
16 APPLICANTS--REQUIRED INFORMATION.--

17 A. A company applicant for a license or a renewal  
18 of a license shall provide the following information to the  
19 board on forms provided by the board:

20 (1) the organization, financial structure and  
21 nature of the business to be operated, including the names and  
22 personal histories of all officers, directors and key  
23 executives;

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

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1 (3) the terms and conditions of all  
2 outstanding loans, mortgages, trust deeds, pledges or any other  
3 indebtedness or security interest evidenced by a security  
4 instrument pertaining to the proposed gaming, pari-mutuel  
5 wagering or horse racing operation or other licensed activity  
6 in this state and the name and address of the person who is  
7 servicing the loan, mortgage, trust deed, pledge or other  
8 indebtedness or security interest;

9 (4) remuneration to persons, other than  
10 directors, officers and key executives, exceeding one hundred  
11 thousand dollars (\$100,000) per year;

12 (5) bonus and profit-sharing arrangements  
13 within the company;

14 (6) a list of management and service contracts  
15 pertaining to the proposed gaming activity, pari-mutuel  
16 wagering or horse racing in this state;

17 (7) balance sheets and profit and loss  
18 statements for at least the three preceding fiscal years, or,  
19 if the company has not been in business for a period of three  
20 years, balance sheets and profit and loss statements from the  
21 time of its commencement of business operations and projected  
22 for three years from the time of its commencement of business  
23 operations. All balance sheets and profit and loss statements  
24 shall be audited by independent certified public accountants;  
25 and

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1 (8) any further financial data that the board  
2 deems necessary or appropriate.

3 B. A nonprofit organization applying for a license  
4 or a renewal of a license as a nonprofit gaming operator  
5 pursuant to the Gaming Control and Horse Racing Act shall  
6 provide in its application:

7 (1) the organization, financial structure and  
8 nature of the nonprofit organization, including the names of  
9 all officers, directors and key executives;

10 (2) the terms and conditions of all  
11 outstanding loans, mortgages, trust deeds, pledges or any other  
12 indebtedness or security interest evidenced by a security  
13 instrument pertaining to the proposed gaming, pari-mutuel  
14 wagering or horse racing operation or other licensed activity  
15 in this state and the name and address of the person who is  
16 servicing the loan, mortgage, trust deed, pledge or other  
17 indebtedness or security interest;

18 (3) management and service contracts  
19 pertaining to the proposed gaming activity or pari-mutuel  
20 wagering or horse racing operation in this state;

21 (4) balance and profit and loss statements for  
22 at least the three preceding fiscal years or, if the nonprofit  
23 organization has not been in business for a period of three  
24 years, balance sheets and profit and loss statements from the  
25 date of charter or incorporation and projected for three years

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1 from the date of charter or incorporation. All balance sheets  
2 and profit and loss statements shall be submitted in a manner  
3 prescribed by the board;

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

6 (6) if the nonprofit organization has various  
7 classes of members, information detailing the rights and  
8 privileges attributed to each class of member and providing the  
9 number of members in each class;

10 (7) the level of remuneration for all paid  
11 employees of the nonprofit organization; and

12 (8) details about any other form of  
13 remuneration or awards that are conferred on members."

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

16 "60-2E-20. INDIVIDUAL CERTIFICATION OF FINDING OF  
17 SUITABILITY OF OFFICERS, DIRECTORS AND OTHER PERSONS.--

18 A. An officer, director, equity security holder of  
19 five percent or more, partner, general partner, limited  
20 partner, trustee or beneficiary of the company that holds or  
21 has applied for a license shall individually apply for and  
22 obtain a certification of finding of suitability, according to  
23 the provisions of the Gaming Control and Horse Racing Act, and  
24 if, in the judgment of the board the public interest is served  
25 by requiring any or all of the company's key executives to

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1 apply for and obtain a certification of finding of suitability,  
2 the company shall require those persons to apply for  
3 certification. A person who is required to be certified  
4 pursuant to this subsection shall apply for certification  
5 within thirty days after becoming an officer, director, equity  
6 security holder of five percent or more, partner, general  
7 partner, limited partner of five percent or more, trustee,  
8 beneficiary or key executive. A person who is required to be  
9 certified pursuant to a decision of the board shall apply for  
10 certification within thirty days after the board so requests.  
11 A person required or requested to be certified pursuant to this  
12 subsection shall provide to the board an application for  
13 certification, including a personal history, a financial  
14 statement, copies of the person's income tax returns for the  
15 three years immediately prior to the year of the application  
16 and other information that the board deems necessary or  
17 appropriate.  
18 B. The key executives of a nonprofit organization  
19 that holds or has applied for a license shall individually  
20 apply for and obtain a certification of finding of suitability.  
21 For purposes of this subsection, key executives are those  
22 officers, employees, volunteers and other persons who are  
23 designated by the nonprofit organization as key executives.  
24 The board may require additional officers, employees,  
25 volunteers and other persons to apply for and obtain a  
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1 certification of finding of suitability if the board determines  
2 the public interest is served by the additional certifications.  
3 A person who is required to be certified pursuant to this  
4 subsection shall apply for certification within thirty days  
5 after becoming an officer or key executive. A person who is  
6 required to be certified pursuant to a decision of the board  
7 shall apply for certification within thirty days after the  
8 board so requests. A person required or requested to be  
9 certified pursuant to this subsection shall provide to the  
10 board an application for certification, including a personal  
11 history, a financial statement, copies of the person's income  
12 tax returns for the three years immediately prior to the year  
13 of the application and other information that the board deems  
14 necessary or appropriate."  
15 SECTION 21. Section 60-2E-22 NMSA 1978 (being Laws 1997,  
16 Chapter 190, Section 24, as amended) is amended to read:  
17 "60-2E-22. CHANGE IN COMPANY OWNERSHIP.--  
18 A. If a company applicant or company licensee  
19 proposes to transfer ownership of twenty percent or more of the  
20 applicant or licensee, it shall notify the board in writing and  
21 provide the following information about the successor company:  
22 (1) if the company is a publicly traded  
23 corporation, as of the date the company became a publicly  
24 traded corporation, and on any later date when the information  
25 changes, the names of all stockholders of record who hold five  
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1 percent or more of the outstanding shares of any class of  
2 equity securities issued by the publicly traded corporation;

3 (2) the names of all officers within thirty  
4 days of their respective appointments;

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

7 (4) the organization, financial structure and  
8 nature of the businesses the company operates;

9 (5) if the company is a publicly traded  
10 corporation, the terms, position, rights and privileges of the  
11 different classes of securities outstanding as of the date the  
12 company became a publicly traded corporation;

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

20 (7) the terms and conditions of all  
21 outstanding indebtedness and evidence of security pertaining  
22 directly or indirectly to the company;

23 (8) remuneration exceeding one hundred  
24 thousand dollars (\$100,000) per year paid to persons other than  
25 directors, officers and key executives who are actively and

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1 directly engaged in the administration or supervision of the  
2 gaming activities or pari-mutuel wagering or horse racing  
3 operations of the company;

4 (9) bonus and profit-sharing arrangements  
5 within the company directly or indirectly relating to its  
6 gaming activities or pari-mutuel wagering or horse racing  
7 operations;

8 (10) management and service contracts of the  
9 company pertaining to its gaming activities or pari-mutuel  
10 wagering or horse racing operations;

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

13 (12) balance sheets and profit and loss  
14 statements, certified by independent certified public  
15 accountants or their foreign equivalents, for not less than the  
16 three fiscal years preceding the date of the proposed transfer  
17 of ownership;

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

20 (14) a description of the company's affiliated  
21 companies and intermediary companies and gaming licenses,  
22 permits and approvals held by those entities.

23 B. The board shall determine whether the proposed  
24 transaction is a transfer or assignment of the license as  
25 prohibited by Subsection G of Section 60-2E-14 NMSA 1978. If

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1 the board determines that the proposed transaction is  
2 prohibited, it shall notify the licensee in writing and shall  
3 require the proposed transferee to file an application for a  
4 license. If the board determines that the proposed transaction  
5 is not a prohibited transfer or assignment of the license, it  
6 shall make a determination as to whether to issue a  
7 certification approving the transaction. The board shall  
8 consider the following information about the successor company  
9 in determining whether to certify the transaction:

10 (1) the business history of the company,  
11 including its record of financial stability, integrity and  
12 success of its gaming operations or pari-mutuel wagering or  
13 horse racing operations in other jurisdictions;

14 (2) the current business activities and  
15 interests of the company, as well as those of its officers,  
16 promoters, lenders and other sources of financing, or any other  
17 persons associated with it;

18 (3) the current financial structure of the  
19 company as well as changes that could reasonably be expected to  
20 occur to its financial structure as a consequence of its  
21 proposed action;

22 (4) the present and proposed compensation  
23 arrangements between the company and its directors, officers,  
24 key executives, securities holders, lenders or other sources of  
25 financing;

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1 (5) the equity investment, commitment or  
2 contribution of present or prospective directors, key  
3 executives, investors, lenders or other sources of financing;  
4 and

5 (6) the dealings and arrangements, prospective  
6 or otherwise, between the company and its investment bankers,  
7 promoters, finders or lenders and other sources of financing.

8 C. The board may issue a certification upon receipt  
9 of a proper application and consideration of the criteria set  
10 forth in Subsection B of this section if it finds that the  
11 certification would not be contrary to the public interest or  
12 the policy set forth in the Gaming Control and Horse Racing  
13 Act.

14 D. The board shall require the officers, directors,  
15 key executives and holders of an equity security interest of  
16 five percent or more of the successor company and any other  
17 person specified in the Gaming Control and Horse Racing Act to  
18 apply for and obtain a certification of finding of  
19 suitability."

20 SECTION 22. Section 60-2E-27 NMSA 1978 (being Laws 1997,  
21 Chapter 190, Section 29, as amended) is amended to read:

22 "60-2E-27. RACETRACK GAMING OPERATOR LICENSEES--SPECIAL  
23 CONDITIONS FOR RACETRACKS--NUMBER OF GAMING MACHINES--DAYS AND  
24 HOURS OF OPERATIONS.--

25 A. [\*] The board may issue a racetrack gaming

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1 ~~operator's license to a horse~~ racetrack [~~licensed by the state~~  
2 ~~racing commission pursuant to the Horse Racing Act~~] to conduct  
3 live horse races or simulcast races [~~may be issued a gaming~~  
4 ~~operator's license~~] and to operate gaming machines on its  
5 premises where live racing is conducted; provided that the  
6 racetrack is in compliance with the requirements of the Gaming  
7 Control and Horse Racing Act and the board.

8 B. A [~~racetrack's~~] racetrack gaming operator's  
9 license shall automatically become void if:

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

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

16 C. Unless a larger number is allowed pursuant to  
17 Subsection D of this section, a racetrack gaming operator  
18 licensee [~~that is a racetrack~~] may have up to six hundred  
19 licensed gaming machines.

20 D. By execution of an allocation agreement, signed  
21 by both the allocating racetrack and the racetrack to which the  
22 allocation is made, a racetrack gaming operator licensee [~~that~~  
23 ~~is a racetrack~~] may allocate any number of its authorized  
24 gaming machines to another racetrack gaming operator licensee  
25 [~~that is a racetrack~~]. To be valid, the allocation agreement

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1 must bear the written approval of the board [~~and the state~~  
2 ~~racing commission~~], and this approval shall make specific  
3 reference to the [~~meeting~~] meetings at which the action of  
4 approval was taken and the number of votes cast both for and  
5 against the approval. By allocating a number of its authorized  
6 machines to another racetrack, the allocating racetrack  
7 automatically surrenders all rights to operate the number of  
8 machines allocated. No racetrack shall operate or be  
9 authorized to operate more than seven hundred fifty gaming  
10 machines.

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

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1 within the limitations imposed by this subsection, the hours it  
2 will offer gaming machines for operation each day and shall  
3 notify the board in writing of those hours.

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

12 (1) the inability of a racetrack gaming  
13 operator licensee to fill races as published in the licensee's  
14 condition book;

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

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

19 (4) a power outage, electrical failure or  
20 failure or unavailability of any equipment or supplies  
21 necessary to conduct a race or meet;

22 (5) hazardous conditions or other threats to  
23 the public health or safety; or

24 (6) any other act, event or occurrence that  
25 the board finds is not within the control of the licensee even

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1 with the exercise of reasonable diligence or care.

2 G. Alcoholic beverages shall not be sold, served,  
3 delivered or consumed in the area restricted pursuant to  
4 Subsection F of Section 60-2E-26 NMSA 1978."

5 SECTION 23. A new section of the Gaming Control and  
6 Horse Racing Act is enacted to read:

7 "[NEW MATERIAL] PARI-MUTUEL WAGERING--RACETRACK GAMING  
8 OPERATOR LICENSEES--LIMITED TO ENCLOSURE WHERE HORSE RACES ARE  
9 CONDUCTED--GAMBLING STATUTES DO NOT APPLY.--

10 A. A racetrack gaming operator licensed by the  
11 board may conduct pari-mutuel wagering on live horse races or  
12 on simulcast horse races.

13 B. Pari-mutuel wagering may be conducted only  
14 within the enclosure where horse races are conducted on the  
15 racing grounds of a racetrack gaming operator licensee.

16 C. A racetrack gaming operator licensee may sell  
17 pari-mutuel tickets or certificates only for:

18 (1) live races being conducted on the racing  
19 grounds on the premises of the racetrack gaming operator  
20 licensee; or

21 (2) simulcast races received on the premises  
22 of the racetrack gaming operator licensee.

23 D. Pari-mutuel tickets or certificates may be sold  
24 only in the racing enclosure on the racing grounds of a  
25 racetrack gaming operator licensee or in areas set aside for

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1 viewing simulcast races on the premises of the racetrack gaming  
2 operator licensee.

3 E. The sale to patrons present on the licensed  
4 premises of a racetrack operator licensee of pari-mutuel  
5 tickets or certificates is not gambling as defined in Section  
6 30-19-2 or 30-19-3 NMSA 1978.

7 F. Placing a wager while on the premises of the  
8 racetrack gaming operator licensee is not placing a bet  
9 pursuant to Section 30-19-1 NMSA 1978.

10 G. The licensed premises of a horse racetrack is  
11 not a "gambling place" as that term is defined in Section  
12 30-19-1 NMSA 1978."

13 SECTION 24. A new section of the Gaming Control and  
14 Horse Racing Act is enacted to read:

15 "[NEW MATERIAL] HORSE RACE SIMULCASTING ALLOWED--  
16 RACETRACK GAMING OPERATOR LICENSEES.--

17 A. The board may allow simulcasting of horse races  
18 being conducted on the racing grounds of a racetrack gaming  
19 operator licensee to other locations within or outside of the  
20 state holding a pari-mutuel license or gaming license allowing  
21 pari-mutuel wagering.

22 B. Simulcasting of horse races licensed and  
23 conducted outside of the state may be permitted on the racing  
24 grounds of racetrack gaming operator licensees.

25 C. A racetrack gaming operator licensee shall not  
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1 be allowed to simulcast horse races unless that racetrack  
2 gaming operator licensee offers at least seventeen days per  
3 year of pari-mutuel wagering on live horse races run on the  
4 premises of the racetrack gaming operator licensee.

5 D. Pari-mutuel wagering on the racing grounds of a  
6 racetrack gaming operator licensee on simulcast races is  
7 permitted only on days on which live races are conducted on the  
8 racing grounds of the licensee or on days when the licensee is  
9 receiving simulcast races from another gaming operator licensee  
10 facility racetrack in New Mexico.

11 E. Pari-mutuel wagering shall be conducted on  
12 simulcast races on the premises of a racetrack gaming operator  
13 licensee located within an eighty-mile radius of another  
14 racetrack gaming operator licensee facility at which live races  
15 are in progress only if there is a mutual agreement of the two  
16 racetrack gaming operator licensees.

17 F. The board shall adopt rules concerning the  
18 simulcasting of horse races pursuant to this section."

19 SECTION 25. A new section of the Gaming Control and  
20 Horse Racing Act is enacted to read:

21 "[NEW MATERIAL] INTERSTATE COMMON POOL WAGERING  
22 AUTHORIZED--RACETRACK GAMING OPERATOR LICENSEES.--

23 A. Subject to the federal Interstate Horse Racing  
24 Act of 1978, the board may permit a racetrack gaming operator  
25 licensee to participate in interstate common pools. All

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1 provisions of the Gaming Control and Horse Racing Act that  
2 govern pari-mutuel wagering apply to pari-mutuel wagering in  
3 interstate common pools, except as otherwise provided in this  
4 section.

5 B. Subject to prior approval of the board, the  
6 following provisions apply when a racetrack gaming operator  
7 licensee participates in interstate common pools on a horse  
8 race that originates outside of New Mexico:

9 (1) the licensee may combine its pari-mutuel  
10 pools with comparable pari-mutuel pools at the host track and  
11 other locations. The types of wagering, takeout, distribution  
12 of winnings and rules of racing in effect for pari-mutuel pools  
13 at the host track shall govern wagers placed at the guest track  
14 in this state and merged into the interstate common pool.

15 Breakage for interstate common pools shall be calculated in  
16 accordance with the rules governing the host track and shall be  
17 distributed in a manner agreed upon by the racetrack gaming  
18 operator licensee guest track and the host track;

19 (2) with the concurrence of the host track, an  
20 interstate common pool that excludes the host track may be  
21 formed among the racetrack gaming operator licensee guest track  
22 and other locations outside the state where the host track is  
23 located. When such an interstate common pool is formed, the  
24 board may approve types of wagering takeout, distribution of  
25 winnings, rules of racing and calculation of breakage that are

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1 different than those that would otherwise be in effect in New  
2 Mexico, provided that they are applied consistently to all  
3 persons in the interstate common pool;

4 (3) the racetrack gaming operator licensee may  
5 deduct from retainage resulting from an interstate common pool  
6 any reasonable fee paid to the person conducting the horse race  
7 for the privilege of conducting pari-mutuel wagering on the  
8 race and participating in the common pool; and

9 (4) provisions of law or contract governing  
10 the distribution of pari-mutuel taxes, breeder or other awards  
11 and purses from the takeout of wagers placed in this state  
12 shall remain in effect for wagers placed in interstate common  
13 pools; provided that:

14 (a) if the board approves an adjustment  
15 in the takeout rate, the distribution of the takeout within New  
16 Mexico shall be adjusted proportionately to reflect the  
17 adjustment in the takeout rate; and

18 (b) with the concurrence of the  
19 racetrack gaming operator licensee and the organization  
20 representing a majority of the breeders, horsemen or other  
21 persons entitled to shares of the distribution and subject to  
22 approval of the board, the respective shares to the breeders or  
23 other awards or purses may be modified.

24 C. Subject to prior approval of the board, the  
25 following provisions apply when a racetrack gaming operator

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1 licensee participates in interstate common pools on a horse  
2 race that originates at the licensee's track:

3 (1) a licensee may permit one or more of its  
4 horse races to be utilized for pari-mutuel wagering at, and may  
5 transmit audio-visual signals of horse races the licensee  
6 conducts to, one or more locations outside New Mexico. The  
7 racetrack gaming operator licensee may also permit pari-mutuel  
8 wagering pools in other locations to be combined with the  
9 licensee's comparable pari-mutuel wagering pools or with  
10 wagering pools established in other jurisdictions. The board  
11 may modify its rules and adopt separate rules for interstate  
12 common pools and their calculation of breakage;

13 (2) daily pari-mutuel taxes shall not be  
14 imposed upon amounts wagered in an interstate common pool other  
15 than upon amounts wagered within this state;

16 (3) except as otherwise provided in this  
17 section, any provisions of law or contract governing the  
18 distribution of shares of the takeout as New Mexico pari-mutuel  
19 taxes, breeder or other awards and purses shall remain in  
20 effect for amounts wagered within this state in interstate  
21 common pools; provided that with the concurrence of the  
22 racetrack gaming operator licensee and the organization  
23 representing a majority of the breeders, horsemen or other  
24 persons entitled to shares of the distribution, and subject to  
25 approval of the board, the respective shares to breeder or

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1 other awards or purses may be modified; and

2 (4) with respect to the retainage on  
3 interstate common pooling received from a guest state by a  
4 racetrack gaming operator licensee, that licensee shall  
5 allocate to the New Mexico horse breeders' association five  
6 percent of the daily retainage. Of the retainage remaining  
7 after the allocation to the New Mexico horse breeders'  
8 association, fifty percent shall be allocated to race purses  
9 and fifty percent shall be retained by the racetrack gaming  
10 operator licensee.

11 D. When the laws and rules of the host and guest  
12 states permit, an interstate common pool may be established on  
13 a regional or other basis between two or more guest states and  
14 not include a merger into the host track's pari-mutuel pool, in  
15 which case one of the guest tracks shall serve as if it were  
16 the host track for the purposes of calculating the pari-mutuel  
17 pool. An interstate common pool may include members located  
18 outside the United States. Except as otherwise set forth in  
19 the board's rules, participation by a person in a common pool  
20 with wagering facilities in one or more other guest states  
21 shall not cause the participating person to be deemed to be  
22 doing business in any state other than the state in which that  
23 person is physically located.

24 E. The board may adopt rules necessary or  
25 appropriate to exercise its powers and duties pursuant to this

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1 section.

2 F. As used in this section:

3 (1) "guest state" means the jurisdiction  
4 within which a guest track is located;

5 (2) "guest track" means the horse racetrack,  
6 off-track wagering facility or other facility in a location  
7 other than the state in which the horse race is run that is a  
8 member of and subject to an interstate common pool;

9 (3) "host state" means the jurisdiction within  
10 which a host track is located;

11 (4) "host track" means the horse racetrack  
12 from which the horse race is run that is transmitted to members  
13 of and is subject to an interstate common pool; and

14 (5) "interstate common pool" means a pari-  
15 mutuel pool that combines comparable pari-mutuel pools of one  
16 or more locations accepting wagers on a horse race run at the  
17 host track for purposes of establishing payoff prices at the  
18 pool members' locations. Pool members from more than one state  
19 may simultaneously combine pari-mutuel pools into an interstate  
20 common pool."

21 SECTION 26. Section 60-2E-29 NMSA 1978 (being Laws 1997,  
22 Chapter 190, Section 31, as amended) is amended to read:

23 "60-2E-29. LICENSING OF MANUFACTURERS OF GAMING  
24 DEVICES--EXCEPTION--DISPOSITION OF GAMING DEVICES.--

25 A. It is unlawful for a person to operate, carry

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1 on, conduct or maintain any form of manufacturing of a gaming  
2 device or associated equipment for use or play in New Mexico or  
3 any form of manufacturing of a gaming device or associated  
4 equipment in New Mexico for use or play outside of New Mexico  
5 without first obtaining and maintaining a manufacturer's  
6 license.

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

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

10 (2) any previously approved gaming device  
11 manufactured by the manufacturer is subject to revocation of  
12 approval if the reasons for the revocation of the license also  
13 apply to that gaming device;

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

17 (4) any association or agreement between the  
18 manufacturer and a distributor licensee or gaming operator  
19 licensee in New Mexico shall be terminated.

20 C. An agreement between a manufacturer licensee and  
21 a distributor licensee or a gaming operator licensee in New  
22 Mexico shall be deemed to include a provision for its  
23 termination without liability for the termination on the part  
24 of either party upon a finding by the board that either party  
25 is unsuitable. Failure to include that condition in the

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1 agreement is not a defense in an action brought pursuant to  
2 this section to terminate the agreement.

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

- 7 (1) the board;
- 8 (2) a laboratory selected by the board; or
- 9 (3) gaming officials in Nevada or New Jersey  
10 for current use.

11 E. The board may inspect every gaming device that  
12 is manufactured:

- 13 (1) for use in New Mexico; or
- 14 (2) in New Mexico for use outside of New  
15 Mexico.

16 F. The board may inspect every gaming device that  
17 is offered for play within New Mexico by a gaming operator  
18 licensee.

19 G. The board may inspect all associated equipment  
20 that is manufactured and sold for use in New Mexico or  
21 manufactured in New Mexico for use outside of New Mexico.

22 H. In addition to all other fees and charges  
23 imposed pursuant to the Gaming Control and Horse Racing Act,  
24 the board may determine, charge and collect from each  
25 manufacturer an inspection fee, which shall not exceed the

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1 actual cost of inspection and investigation.

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

5 SECTION 27. Section 60-2E-30 NMSA 1978 (being Laws 1997,  
6 Chapter 190, Section 32, as amended) is amended to read:

7 "60-2E-30. LICENSING OF DISTRIBUTORS OF GAMING  
8 DEVICES.--

9 A. It is unlawful for [~~any~~] a person to operate,  
10 carry on, conduct or maintain any form of distribution of [~~any~~]  
11 a gaming device for use or play in New Mexico or any form of  
12 distribution of [~~any~~] a gaming device in New Mexico for use or  
13 play outside of New Mexico without first obtaining and  
14 maintaining a distributor's or manufacturer's license.

15 B. If the board revokes a distributor's license:

16 (1) no new gaming device distributed by the  
17 person may be approved;

18 (2) any previously approved gaming device  
19 distributed by the distributor is subject to revocation of  
20 approval if the reasons for the revocation of the license also  
21 apply to that gaming device;

22 (3) no new gaming device or associated  
23 equipment distributed by the distributor may be distributed,  
24 sold, transferred or offered for use or play in New Mexico; and

25 (4) [~~any~~] an association or agreement between

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1 the distributor and a gaming operator licensee shall be  
2 terminated. An agreement between a distributor licensee and a  
3 gaming operator licensee shall be deemed to include a provision  
4 for its termination without liability on the part of either  
5 party upon a finding by the board that the other party is  
6 unsuitable. Failure to include that condition in the agreement  
7 is not a defense in any action brought pursuant to this section  
8 to terminate the agreement.

9 C. The board may inspect every gaming device that  
10 is distributed for use in New Mexico.

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

16 SECTION 28. Section 60-2E-31 NMSA 1978 (being Laws 1997,  
17 Chapter 190, Section 33) is amended to read:

18 "60-2E-31. SUITABILITY OF CERTAIN PERSONS FURNISHING  
19 SERVICES OR PROPERTY OR DOING BUSINESS WITH GAMING OPERATORS OR  
20 RACETRACK GAMING OPERATORS--TERMINATION OF ASSOCIATION.--

21 A. The board may determine the suitability of any  
22 person who furnishes services or property to a gaming operator  
23 licensee or a racetrack gaming operator under any arrangement  
24 pursuant to which the person receives compensation based on  
25 earnings, profits or receipts from gaming or pari-mutuel

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1 wagering. The board may require the person to comply with the  
2 requirements of the Gaming Control and Horse Racing Act and  
3 with the ~~[regulations]~~ rules of the board. If the board  
4 determines that the person is unsuitable, it may require the  
5 arrangement to be terminated.

6 B. The board may require a person to apply for a  
7 finding of suitability to be associated with a gaming operator  
8 licensee, racetrack gaming operator licensee or racetrack  
9 operator licensee if the person:

10 (1) does business on the premises of a gaming  
11 establishment or horse racetrack; or

12 (2) provides any goods or services to a gaming  
13 operator licensee or racetrack gaming operator licensee for  
14 compensation that the board finds to be grossly  
15 disproportionate to the value of the goods or services.

16 C. If the board determines that a person is  
17 unsuitable to be associated with a gaming operator licensee,  
18 racetrack gaming operator licensee or racetrack operator  
19 licensee, the association shall be terminated. Any agreement  
20 that entitles a business other than gaming, pari-mutuel  
21 wagering or horse racing to be conducted on the premises of a  
22 gaming establishment or horse racetrack, or entitles a person  
23 other than a licensee to conduct business with the ~~[gaming~~  
24 ~~operator]~~ licensee, is subject to termination upon a finding of  
25 unsuitability of the person seeking association with a ~~[gaming~~

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1 ~~operator~~ licensee. Every agreement shall be deemed to include  
2 a provision for its termination without liability on the part  
3 of the gaming operator licensee, racetrack gaming operator  
4 licensee or racetrack operator licensee upon a finding by the  
5 board of the unsuitability of the person seeking or having an  
6 association with the ~~[gaming operator]~~ licensee. Failure to  
7 include that condition in the agreement is not a defense in any  
8 action brought pursuant to this section to terminate the  
9 agreement. If the application is not presented to the board  
10 within thirty days following demand or the unsuitable  
11 association is not terminated, the board may pursue any remedy  
12 or combination of remedies provided in the Gaming Control and  
13 Horse Racing Act."

14 SECTION 29. Section 60-2E-32 NMSA 1978 (being Laws 1997,  
15 Chapter 190, Section 34, as amended) is amended to read:

16 "60-2E-32. REASONS FOR INVESTIGATIONS BY BOARD--  
17 COMPLAINT BY BOARD--BOARD TO APPOINT HEARING EXAMINER--REVIEW  
18 BY BOARD--ORDER OF BOARD.--

19 A. The board shall make appropriate investigations  
20 to:

21 (1) determine whether there has been ~~[any]~~ a  
22 violation of the Gaming Control and Horse Racing Act or of ~~[any~~  
23 ~~regulations]~~ rules adopted pursuant to that act;

24 (2) determine any facts, conditions, practices  
25 or matters that it deems necessary or proper to aid in the

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1 enforcement of the Gaming Control and Horse Racing Act or  
2 ~~[regulations]~~ rules adopted pursuant to that act;

3 (3) aid in adopting ~~[regulations]~~ rules;

4 (4) secure information as a basis for  
5 recommending legislation relating to the Gaming Control and  
6 Horse Racing Act; or

7 (5) determine whether a licensee is able to  
8 meet its financial obligations, including all financial  
9 obligations imposed by the Gaming Control and Horse Racing Act,  
10 as they become due.

11 B. If after an investigation the board is satisfied  
12 that a license, registration, finding of suitability or prior  
13 approval by the board of ~~[any]~~ a transaction for which approval  
14 was required by the provisions of the Gaming Control and Horse  
15 Racing Act should be limited, conditioned, suspended or  
16 revoked, or that a fine should be levied, the board shall  
17 initiate a hearing by filing a complaint and transmitting a  
18 copy of it to the licensee, together with a summary of evidence  
19 in its possession bearing on the matter and the transcript of  
20 testimony at any investigative hearing conducted by or on  
21 behalf of the board. The complaint shall be a written  
22 statement of charges that sets forth in ordinary and concise  
23 language the acts or omissions with which the respondent is  
24 charged. It shall specify the statutes or ~~[regulations]~~ rules  
25 that the respondent is alleged to have violated but shall not

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1 consist merely of charges raised in the language of the  
2 statutes or ~~[regulations]~~ rules. The summary of the evidence  
3 shall be confidential and made available only to the respondent  
4 until such time as it is offered into evidence at ~~[any]~~ a  
5 public hearing on the matter.

6 C. The respondent shall file an answer within  
7 thirty days after service of the complaint.

8 D. Upon filing the complaint, the board shall  
9 appoint a hearing examiner to conduct further proceedings.

10 E. The hearing examiner shall conduct proceedings  
11 in accordance with the Gaming Control and Horse Racing Act and  
12 the ~~[regulations]~~ rules adopted by the board. At the  
13 conclusion of the proceedings, the hearing examiner may  
14 recommend that the board take ~~[any]~~ appropriate action,  
15 including revocation, suspension, limitation or conditioning of  
16 a license or imposition of a fine not to exceed fifty thousand  
17 dollars (\$50,000) for each violation or ~~[any]~~ a combination or  
18 all of the foregoing actions.

19 F. The hearing examiner shall prepare a written  
20 decision containing ~~[his]~~ the hearing examiner's recommendation  
21 to the board and shall serve it on all parties.

22 G. The board shall by a majority vote accept,  
23 reject or modify the recommendation.

24 H. If the board limits, conditions, suspends or  
25 revokes ~~[any]~~ a license or imposes a fine or limits,

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1 conditions, suspends or revokes ~~[any]~~ a registration, finding  
2 of suitability or prior approval, it shall issue a written  
3 order specifying its action.

4 I. The board's order is effective on the date  
5 issued and continues in effect unless reversed upon judicial  
6 review, except that the board may stay its order pending a  
7 rehearing or judicial review upon such terms and conditions as  
8 it deems proper."

9 **SECTION 30.** Section 60-2E-33 NMSA 1978 (being Laws 1997,  
10 Chapter 190, Section 35) is amended to read:

11 "60-2E-33. EMERGENCY ORDERS OF BOARD.--The board may  
12 issue an emergency order for suspension, limitation or  
13 conditioning of a license, registration, finding of suitability  
14 or work permit or may issue an emergency order requiring a  
15 gaming operator licensee to exclude an individual licensee from  
16 the premises of the gaming operator licensee's gaming  
17 establishment or the racetrack gaming operator licensee's horse  
18 racetrack or not to pay an individual licensee any remuneration  
19 for services or any profits, income or accruals on ~~[his]~~ the  
20 individual licensee's investment in the ~~[licensed gaming]~~  
21 establishment in the following manner:

22 A. an emergency order may be issued only when the  
23 board believes that:

24 (1) a licensee has willfully failed to report,  
25 pay or truthfully account for and pay over any fee imposed by

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1 the provisions of the Gaming Control and Horse Racing Act or  
2 willfully attempted in any manner to evade or defeat any fee or  
3 payment thereof;

4 (2) a licensee or gaming employee has cheated  
5 at a game; [or]

6 (3) a licensee or gaming employee has used  
7 pari-mutuel wagering in a manner not authorized by the board,  
8 influenced or attempted to influence a horse race or attempted  
9 to affect the speed or stamina of a racehorse; or

10 [or] (4) the emergency order is necessary for  
11 the immediate preservation of the public peace, health, safety,  
12 morals, good order or general welfare;

13 B. the emergency order shall set forth the grounds  
14 upon which it is issued, including a statement of facts  
15 constituting the alleged emergency necessitating such action;

16 C. the emergency order is effective immediately  
17 upon issuance and service upon the licensee or resident agent  
18 of the licensee or gaming employee or, in cases involving  
19 registration or findings of suitability, upon issuance and  
20 service upon the person or entity involved or resident agent of  
21 the entity involved; the emergency order may suspend, limit,  
22 condition or take other action in relation to the license of  
23 one or more persons in an operation without affecting other  
24 individual licensees or the gaming operator licensee. The  
25 emergency order remains effective until further order of the

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1 board or final disposition of the case; and

2 D. within five days after issuance of an emergency  
3 order, the board shall cause a complaint to be filed and served  
4 upon the person or entity involved; thereafter, the person or  
5 entity against whom the emergency order has been issued and  
6 served is entitled to a hearing before the board and to  
7 judicial review of the decision and order of the board in  
8 accordance with the provisions of the board's [regulations]  
9 rules."

10 SECTION 31. Section 60-2E-34 NMSA 1978 (being Laws 1997,  
11 Chapter 190, Section 36) is amended to read:

12 "60-2E-34. EXCLUSION OR EJECTION OF CERTAIN PERSONS FROM  
13 GAMING ESTABLISHMENTS AND HORSE RACETRACKS--PERSONS INCLUDED.--

14 A. The board shall by [regulation] rule provide for  
15 the establishment of a list of persons who are to be excluded  
16 or ejected from a gaming establishment or a horse racetrack.  
17 The list may include any person whose presence in the gaming  
18 establishment or a horse racetrack is determined by the board  
19 to pose a threat to the public interest or licensed gaming  
20 activities.

21 B. In making the determination in Subsection A of  
22 this section, the board may consider a:

23 (1) prior conviction for a crime that is a  
24 felony under state or federal law, a crime involving moral  
25 turpitude or a violation of the gaming laws of any

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1 jurisdiction;

2 (2) violation or conspiracy to violate the  
3 provisions of the Gaming Control and Horse Racing Act relating  
4 to:

5 (a) the failure to disclose an interest  
6 in a gaming activity, pari-mutuel wagering or horse racing for  
7 which the person must obtain a license; or

8 (b) willful evasion of fees or taxes;

9 (3) notorious or unsavory reputation that  
10 would adversely affect public confidence and trust that the  
11 gaming or horse racing industry is free from criminal or  
12 corruptive influences; or

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

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

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

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1 Subsection A or C of this section."

2 SECTION 32. Section 60-2E-34.1 NMSA 1978 (being Laws  
3 2009, Chapter 199, Section 14) is amended to read:

4 "60-2E-34.1. SELF-EXCLUSION FROM GAMING ESTABLISHMENTS  
5 AND HORSE RACETRACKS--PROCEDURE--FINES--CONFIDENTIALITY.--

6 A. The board shall develop rules that permit a  
7 person who is a compulsive gambler to be voluntarily excluded  
8 from a gaming establishment or horse racetrack.

9 B. Self-exclusion shall occur through written  
10 application made by the compulsive gambler to the board and  
11 shall be governed by the following provisions:

12 (1) self-exclusion shall be enforceable upon  
13 issuance of a self-exclusion order by the board to each  
14 applicable gaming establishment and horse racetrack identified  
15 in the order;

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

18 (3) the application shall be submitted to the  
19 board;

20 (4) except for notification of the gaming  
21 establishments or horse racetracks for which the self-exclusion  
22 order is effective and for notification for mailing list  
23 exclusion pursuant to this section, the application and the  
24 self-exclusion order shall be held confidential by employees of  
25 the board and a gaming operator licensee or racetrack gaming

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1 operator licensee and its employees and key executives;

2 (5) a self-exclusion order may apply to one or  
3 more gaming establishments or horse racetracks licensed  
4 pursuant to the Gaming Control and Horse Racing Act;

5 (6) a self-excluded person, if present at a  
6 gaming establishment or horse racetrack from which the person  
7 is excluded, shall forfeit the following to that gaming  
8 establishment or horse racetrack; provided that all money or  
9 other property forfeited shall be used by the gaming  
10 establishment or horse racetrack only to supplement the one-  
11 fourth percent of the net take of its gaming machines or pari-  
12 mutuel wagering to fund or support programs for the treatment  
13 and assistance of compulsive gamblers pursuant to Subsection E  
14 of Section 60-2E-47 NMSA 1978:

15 (a) all winnings of the person obtained  
16 while present at the gaming establishment or horse racetrack;  
17 and

18 (b) all credits, tokens or vouchers  
19 received by the person while present at the gaming  
20 establishment or horse racetrack;

21 (7) a gaming establishment or horse racetrack  
22 is immune from liability arising out of its efforts to exclude  
23 a person identified in a self-exclusion order; and

24 (8) a specific term shall be set for each  
25 self-exclusion order.

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1 C. Notice shall be submitted by the board at least  
2 monthly to all gaming establishments and horse racetracks  
3 listing all persons who are currently self-excluded and  
4 ordering the removal of their names from direct mail or  
5 electronic advertisement or promotional lists.

6 D. The state gaming representative may negotiate an  
7 agreement with each tribal casino in the state to allow the  
8 state to include tribal casinos in the self-exclusion orders."

9 SECTION 33. Section 60-2E-37 NMSA 1978 (being Laws 1997,  
10 Chapter 190, Section 39) is amended to read:

11 "60-2E-37. AGE REQUIREMENT FOR PATRONS AND GAMING  
12 EMPLOYEES.--A person under the age of twenty-one years shall  
13 not:

14 A. play, be allowed to play, place wagers on or  
15 collect winnings from, whether personally or through an agent,  
16 any game or pari-mutuel wagering authorized or offered to play  
17 pursuant to the Gaming Control and Horse Racing Act; or

18 B. be employed as a gaming employee."

19 SECTION 34. Section 60-2E-41 NMSA 1978 (being Laws 1997,  
20 Chapter 190, Section 43) is amended to read:

21 "60-2E-41. COMMUNICATION OR DOCUMENT OF APPLICANT OR  
22 LICENSEE ABSOLUTELY CONFIDENTIAL--CONFIDENTIALITY NOT  
23 WAIVED--DISCLOSURE OF CONFIDENTIAL INFORMATION PROHIBITED.--

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

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

3 (1) law or the [~~regulations~~] rules of the  
4 board; or

5 (2) a subpoena issued by the board to be made  
6 or transmitted to the board.

7 B. The confidentiality created pursuant to  
8 Subsection A of this section is not waived or lost because the  
9 document or communication is disclosed to the board.

10 C. Notwithstanding the powers granted to the board  
11 by the Gaming Control and Horse Racing Act, the board:

12 (1) may release or disclose any confidential  
13 information, documents or communications provided by an  
14 applicant or licensee only with the prior written consent of  
15 the applicant or licensee or pursuant to a lawful court order  
16 after timely notice of the proceedings has been given to the  
17 applicant or licensee;

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

21 (3) shall adopt procedures and [~~regulations~~]  
22 rules to protect the confidentiality of information, documents  
23 and communications provided by an applicant or licensee."

24 SECTION 35. Section 60-2E-47 NMSA 1978 (being Laws 1997,  
25 Chapter 190, Section 49, as amended) is amended to read:

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1 "60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--

2 A. An excise tax is imposed on the privilege of  
3 engaging in gaming activities in the state. This tax shall be  
4 known as the "gaming tax".

5 B. The gaming tax is an amount equal to ten percent  
6 of the gross receipts of manufacturer licensees from the sale,  
7 lease or other transfer of gaming devices in or into the state,  
8 except receipts of a manufacturer from the sale, lease or other  
9 transfer to a licensed distributor for subsequent sale or lease  
10 may be excluded from gross receipts; ten percent of the gross  
11 receipts of distributor licensees from the sale, lease or other  
12 transfer of gaming devices in or into the state; ten percent of  
13 the net take of a gaming operator licensee that is a nonprofit  
14 organization; and twenty-six percent of the net take of every  
15 other gaming operator licensee. For the purposes of this  
16 section, "gross receipts" means the total amount of money or  
17 the value of other consideration received from selling, leasing  
18 or otherwise transferring gaming devices.

19 C. The gaming tax imposed on a licensee is in lieu  
20 of all state and local gross receipts taxes on that portion of  
21 the licensee's gross receipts attributable to gaming  
22 activities.

23 D. The gaming tax is to be paid on or before the  
24 fifteenth day of the month following the month in which the  
25 taxable event occurs. The gaming tax shall be administered and

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1 collected by the taxation and revenue department in cooperation  
2 with the board. The provisions of the Tax Administration Act  
3 apply to the collection and administration of the tax.

4 E. In addition to the gaming tax, a racetrack  
5 gaming operator licensee [~~that is a racetrack~~] shall pay twenty  
6 percent of its net take to purses to be distributed in  
7 accordance with rules adopted by the [~~state racing commission~~]  
8 board. An amount not to exceed twenty percent of the interest  
9 earned on the balance of any fund consisting of money for  
10 purses distributed by racetrack gaming operator licensees  
11 pursuant to this subsection may be expended for the costs of  
12 administering the distributions. A racetrack gaming operator  
13 licensee shall spend no less than one-fourth percent of the net  
14 take of its gaming machines to fund or support programs for the  
15 treatment and assistance of compulsive gamblers.

16 F. A nonprofit gaming operator licensee shall  
17 distribute at least sixty percent of the balance of its net  
18 take, after payment of the gaming tax and any income taxes,  
19 for charitable or educational purposes."

20 SECTION 36. A new section of the Gaming Control and  
21 Horse Racing Act is enacted to read:

22 "[NEW MATERIAL] HORSE RACING--DAILY PARI-MUTUEL EXCISE  
23 TAX--IMPOSITION--AMOUNT--DISTRIBUTION.--

24 A. A tax that may be cited as the "daily pari-  
25 mutuel excise tax" is imposed for the privilege of conducting

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1 pari-mutuel wagering on the racing grounds of a racetrack  
2 gaming operator licensee.

3 B. The daily pari-mutuel excise tax imposed on  
4 class A racetrack gaming operator licensees pursuant to this  
5 section shall be:

6 (1) for each racing day that a class A  
7 racetrack gaming operator licensee offers pari-mutuel wagering  
8 on live on-track horse races, six hundred fifty dollars (\$650);  
9 provided, however, that a class A racetrack gaming operator  
10 licensee shall deduct from the six hundred fifty dollars (\$650)  
11 and remit to the municipality in which the licensee is located  
12 one hundred fifty dollars (\$150) if the licensee is located in  
13 a municipality having a population according to the most recent  
14 federal decennial census of:

15 (a) less than six thousand located in a  
16 county with a population of more than ten thousand but less  
17 than fifteen thousand; or

18 (b) more than eight thousand but less  
19 than ten thousand located in a county with a population of more  
20 than one hundred thousand but less than one hundred fifty  
21 thousand; and

22 (2) for each day a class A racetrack gaming  
23 operator licensee offers no pari-mutuel wagering on live  
24 on-track horse races and offers solely pari-mutuel wagering on  
25 simulcast races pursuant to the Gaming Control and Horse Racing

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1 Act, one-eighth percent of the licensee's gross daily handle,  
2 not to exceed three hundred dollars (\$300) per racing day.

3 C. The daily pari-mutuel excise tax imposed on a  
4 class B racetrack gaming operator licensee pursuant to this  
5 section shall be:

6 (1) for each racing day a class B racetrack  
7 gaming operator licensee offers pari-mutuel wagering on live  
8 on-track horse races, one-eighth percent of the licensee's  
9 gross daily handle, not to exceed three hundred dollars (\$300)  
10 per racing day; and

11 (2) for each day a class B racetrack gaming  
12 operator licensee offers no pari-mutuel wagering on live  
13 on-track horse races and offers solely pari-mutuel wagering on  
14 simulcast races pursuant to the Gaming Control and Horse Racing  
15 Act, one-eighth percent of the licensee's gross daily handle,  
16 not to exceed three hundred dollars (\$300) per racing day.

17 D. The daily pari-mutuel excise tax for a licensed  
18 state fair association designated by law that in good faith  
19 conducts a public fair and exhibition of stock and farming  
20 products shall be six hundred fifty dollars (\$650) per day for  
21 each racing day authorized; provided, however, that where a  
22 state fair association offers no pari-mutuel wagering on live  
23 races on the racing grounds of its premises and offers pari-  
24 mutuel wagering solely on simulcast races, the daily pari-  
25 mutuel excise tax shall be one-eighth percent of the racetrack

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1 gaming operator licensee's gross amount wagered each day, up to  
2 a maximum of three hundred dollars (\$300)."

3 SECTION 37. A new section of the Gaming Control and  
4 Horse Racing Act is enacted to read:

5 "[NEW MATERIAL] DAILY RACING TAX--IMPOSITION--RACETRACK  
6 GAMING OPERATOR LICENSEES--AMOUNT--PROHIBITION OF CERTAIN OTHER  
7 TAXES.--

8 A. In addition to the daily pari-mutuel excise tax  
9 imposed pursuant to Section 36 of this 2011 act, but in lieu of  
10 the gross receipts tax imposed pursuant to the Gross Receipts  
11 and Compensating Tax Act on receipts of a racetrack gaming  
12 operator licensee from the gross amount wagered each day, a tax  
13 that may be referred to as the "daily racing tax" is imposed in  
14 an amount of two and three-sixteenths percent of the gross  
15 amount wagered each day on horse races on the premises of a  
16 racetrack gaming operator licensee. The tax shall be paid from  
17 the commissions on pari-mutuel wagering of the racetrack gaming  
18 operator licensee. The tax shall be paid on the gross amount  
19 wagered each day from live racing on the racing grounds of the  
20 racetrack gaming operator licensee or on simulcast races on the  
21 premises of the racetrack gaming operator licensee.

22 B. A deduction or offset from the daily racing tax  
23 due and owed by a racetrack gaming operator licensee may be  
24 taken on forms provided by the taxation and revenue department  
25 by the racetrack gaming operator licensee of not more than one-

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1 half of the annual daily racing tax due and owed for the first  
2 two hundred fifty thousand dollars (\$250,000) of the gross  
3 amount wagered each day for a taxable year, as follows:

4 (1) a class A racetrack gaming operator  
5 licensee may deduct the amount that the licensee expends for  
6 capital improvements or in financing capital improvements at  
7 existing racetrack facilities; and

8 (2) a class B racetrack gaming operator  
9 licensee may deduct:

10 (a) the amount that the licensee expends  
11 for capital improvements, not to exceed fifty percent of the  
12 offset amount allowed pursuant to this subsection; and

13 (b) the amount that the licensee expends  
14 for advertising, marketing and promoting horse racing in the  
15 state, not to exceed fifty percent of the offset allowed  
16 pursuant to this subsection.

17 C. The balance of revenue derived from the daily  
18 racing tax of a racetrack gaming operator licensee that remains  
19 after the deduction allowed pursuant to Subsection B of this  
20 section shall be remitted to the racing suspense account for  
21 transfer to the taxation and revenue department for  
22 distribution to eligible municipalities pursuant to Section  
23 38 of this 2011 act.

24 D. Regarding the horse racetrack located on the  
25 fairgrounds of the state fair, an amount equal to one-half of

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1 the daily racing tax imposed pursuant to Subsection A of this  
2 section is appropriated from the general fund in fiscal year  
3 2011 and in subsequent fiscal years to the state fair  
4 commission for expenditure as needed on capital improvements at  
5 the state fairgrounds and expenditure for debt service on  
6 negotiable bonds issued for the capital improvements. The  
7 unexpended or unencumbered balance remaining at the end of a  
8 fiscal year shall not revert to the general fund.

9 E. Revenues from the daily racing tax not otherwise  
10 appropriated by provisions of this section shall be deposited  
11 to the credit of the general fund.

12 F. Accurate records shall be kept by a racetrack  
13 gaming operator licensee to show all commissions, total amounts  
14 wagered, retainage, distributions and breakage and other  
15 information requested by the board. Records shall be open to  
16 inspection and shall be audited by the board or its authorized  
17 representatives. A racetrack gaming operator licensee is  
18 required to maintain records for pari-mutuel wagering and all  
19 other financial transactions of the horse racetrack according  
20 to generally accepted accounting principles, pursuant to  
21 requirements established by the board.

22 G. Notwithstanding any other provision of law, a  
23 political subdivision of the state shall not impose an  
24 occupational or excise tax on a racetrack operating pursuant to  
25 the provisions of the Gaming Control and Horse Racing Act. A

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1 political subdivision may impose local option gross receipts  
2 taxes on businesses within the political subdivision's  
3 jurisdiction to the extent authorized and permitted by law.

4 H. As used in this section, "capital improvement"  
5 means a capital investment in infrastructure that is subject to  
6 depreciation pursuant to the federal Internal Revenue Code of  
7 1986 and is approved by the board."

8 SECTION 38. A new section of the Gaming Control and  
9 Horse Racing Act is enacted to read:

10 "[NEW MATERIAL] HORSE RACING--DETERMINATION OF MUNICIPAL  
11 COMPENSATION.--

12 A. No later than August 31 of each year, the  
13 taxation and revenue department shall determine the total  
14 amount of local option gross receipts taxes paid in the  
15 previous fiscal year by a racetrack gaming operator licensee to  
16 the municipality in which the racetrack gaming operator  
17 licensee is located that is subject to distribution pursuant to  
18 Section 7-1-6.12 NMSA 1978 to the municipality in which the  
19 premises of the racetrack gaming operator licensee is located.

20 B. If the total distribution pursuant to Section  
21 7-1-6.12 NMSA 1978 to a municipality from the racetrack gaming  
22 operator licensee is:

23 (1) less than fifty thousand dollars  
24 (\$50,000), then the taxation and revenue department shall  
25 distribute the difference between fifty thousand dollars  
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1 (\$50,000) and the amount of local option gross receipts taxes  
2 distributed to the municipality from payments of local option  
3 gross receipts taxes made by the racetrack gaming operator  
4 licensee in the last fiscal year from the revenue remitted in  
5 daily racing taxes pursuant to Section 37 of this 2011 act; or  
6 (2) equal to or exceeds fifty thousand dollars  
7 (\$50,000), then no amount of daily racing taxes from that  
8 licensee shall be distributed to the municipality.

9 C. The taxation and revenue department shall update  
10 the board periodically of its progress in calculating the  
11 distributions and notify the board when the distributions are  
12 complete.

13 D. The taxation and revenue department shall inform  
14 the board of the amount of daily racing tax distributed  
15 pursuant to this section to municipalities from each racetrack  
16 gaming operator licensee no later than August 31 of each year.

17 E. Balances of daily racing tax remaining after  
18 distribution to municipalities shall be deposited to the credit  
19 of the general fund."

20 SECTION 39. A new section of the Gaming Control and Horse  
21 Racing Act is enacted to read:

22 "[NEW MATERIAL] DAILY RACE LICENSE FEE--IMPOSITION--  
23 AMOUNT--RACETRACK OPERATOR LICENSEE.--In addition to all other  
24 daily racing taxes, a daily race license fee of five hundred  
25 dollars (\$500) is imposed on a racetrack operator licensee for  
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1 each day of live racing conducted on the racing grounds of the  
2 licensee."

3 SECTION 40. A new section of the Gaming Control and Horse  
4 Racing Act is enacted to read:

5 "[NEW MATERIAL] PAYMENT OF DAILY RACING FEES AND TAXES.--

6 A. Daily race license fees, daily pari-mutuel  
7 excise taxes and daily racing taxes imposed by the Gaming  
8 Control and Horse Racing Act shall be paid to the board for  
9 deposit in the racing suspense account at the close of the  
10 business day on Thursday of every week.

11 B. Failure to make weekly remittances by the  
12 licensee shall result in an assessment by the board against the  
13 licensee of a fine of one percent of the amount due weekly.

14 C. Fines shall be distributed from the racing  
15 suspense account to the current school fund pursuant to Article  
16 12, Section 4 of the constitution of New Mexico."

17 SECTION 41. Section 60-2E-39 NMSA 1978 (being Laws 1997,  
18 Chapter 190, Section 41) is amended to read:

19 "60-2E-39. LIMITATIONS ON TAXES AND LICENSE FEES.--A  
20 political subdivision of the state shall not impose a license  
21 fee or tax on any licensee licensed pursuant to the Gaming  
22 Control and Horse Racing Act except for the imposition of  
23 property taxes, local option gross receipts taxes with respect  
24 to receipts not subject to the gaming tax ~~[and the distribution~~  
25 ~~provided for and determined pursuant to Subsection C of Section~~  
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1 ~~60-1-15 and Section 60-1-15.2 NMSA 1978~~, the daily pari-mutuel  
2 excise tax and the daily racing tax."

3 SECTION 42. A new section of the Gaming Control and Horse  
4 Racing Act is enacted to read:

5 "[NEW MATERIAL] RACING SUSPENSE ACCOUNT CREATED.--

6 A. The "racing suspense account" is created in the  
7 tax administration suspense fund, into which the board shall  
8 deposit all daily racing taxes, the daily pari-mutuel excise  
9 taxes and all fees.

10 B. The taxation and revenue department shall  
11 administer the racing suspense account.

12 C. A mandatory balance of three thousand dollars  
13 (\$3,000) shall be maintained in the racing suspense account  
14 after transfers are made to the tax administration suspense  
15 fund pursuant to this section.

16 D. Money in the account above the mandatory balance  
17 shall be transferred by the end of business each Friday to the  
18 tax administration suspense fund for distribution pursuant to  
19 the Tax Administration Act and deposit in the general fund.

20 E. All money in the racing suspense account shall  
21 be identified as to the source of the money.

22 F. The board shall obtain information about the  
23 deposits, distributions and daily balances in the racing  
24 suspense account on a monthly basis and upon request of the  
25 board to the taxation and revenue department."

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1 SECTION 43. A new section of the Gaming Control and Horse  
2 Racing Act is enacted to read:

3 "[NEW MATERIAL] HORSEMEN'S COMMISSIONS--MAXIMUM--  
4 COMMISSION DISTRIBUTION--COMMISSION FEE.--

5 A. A class A racetrack gaming operator licensee  
6 shall be paid a commission of nineteen percent of the gross  
7 amount wagered on win, place and show through the pari-mutuel  
8 system, of which eighteen and three-fourths percent shall be  
9 retained by the licensee. A fee in the amount of one-fourth  
10 percent on the commission retained by the class A racetrack  
11 gaming operator licensee shall be remitted to the racing  
12 suspense account for deposit in the general fund.

13 B. A class B racetrack gaming operator licensee  
14 shall be paid a commission in an amount determined by the class  
15 B racetrack gaming operator licensee of not less than eighteen  
16 and three-fourths percent and not greater than twenty-five  
17 percent of the gross amount wagered on win, place and show  
18 through the pari-mutuel system. The commission shall be  
19 retained by a class B racetrack gaming operator licensee. Each  
20 class B racetrack gaming operator licensee shall advise the  
21 board not less than thirty days prior to the first day of each  
22 horse racing season of the percentage of commission that the  
23 licensee will retain.

24 C. From the commissions, each racetrack gaming  
25 operator licensee shall allocate five-eighths percent to the

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1 New Mexico horse breeders' association weekly for distribution  
2 pursuant to the provisions of Section 59 of this 2011 act.

3 D. In regard to exotic wagers:

4 (1) a class A racetrack gaming operator  
5 licensee shall retain a commission of not less than twenty-one  
6 percent and not more than twenty-five percent of the gross  
7 amount wagered in exotic wagers;

8 (2) a class B racetrack gaming operator  
9 licensee shall elect, with the approval of the board, to retain  
10 a commission of not less than twenty-one percent and not  
11 greater than thirty percent of the gross amount wagered in  
12 exotic wagers;

13 (3) each racetrack gaming operator licensee  
14 shall advise the board not less than thirty days prior to the  
15 first day of a racing season of the amount of commission to be  
16 retained by the licensee from the gross amount wagered in  
17 exotic wagers; and

18 (4) a racetrack gaming operator licensee shall  
19 allocate one and three-eighths percent to the New Mexico horse  
20 breeders' association weekly of redistribution pursuant to the  
21 provisions of Section 59 of this 2011 act.

22 E. The odd cents of all redistributions to the  
23 wagerer over the next lowest multiple of ten from the gross  
24 amount wagered through the pari-mutuel system shall be retained  
25 by the racetrack gaming operator licensee, with fifty percent

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1 of the total of the odd cents wagered being allocated to  
2 enhance the race purses of established stake races that include  
3 only horses registered as New Mexico bred with the New Mexico  
4 horse breeders' association, to be distributed by the New  
5 Mexico horse breeders' association pursuant to Section 59 of  
6 this 2011 act and subject to the approval of the board.

7 F. Money resulting from the failure of patrons who  
8 purchased winning pari-mutuel tickets during a horse race  
9 season to redeem their winning tickets before the end of the  
10 sixty-day period immediately following the closing day of the  
11 horse racing season and money resulting from the failure of  
12 patrons who purchased pari-mutuel tickets that were entitled to  
13 refund but were not refunded during the same sixty-day period  
14 shall be apportioned as follows:

15 (1) the racetrack gaming operator licensee  
16 shall retain thirty-three and thirty-three hundredths percent;

17 (2) the New Mexico horse breeders' association  
18 shall receive a distribution of thirty-three and thirty-four  
19 hundredths percent to enhance each horse racetrack's  
20 established overnight purses for races that include only horses  
21 registered as New Mexico bred with the New Mexico horse  
22 breeders' association, subject to board approval, pursuant to  
23 Section 59 of this 2011 act; and

24 (3) thirty-three and thirty-three hundredths  
25 percent shall be allocated to horsemen's race purses.

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1 G. To promote and improve the quality of horse  
2 racing and simulcasting and the participation of interested  
3 persons in horse racing in New Mexico, one-half percent of the  
4 gross amount wagered on simulcast horse races at each licensed  
5 racetrack in New Mexico that receives simulcast horse races  
6 shall be allocated by each racetrack gaming operator licensee  
7 for distribution to the New Mexico horsemen's association;  
8 provided that at least one-fourth percent of the gross amount  
9 wagered on simulcast races that is allocated to the New Mexico  
10 horsemen's association is used solely for medical benefits for  
11 the members of the New Mexico horsemen's association; and  
12 provided further that the remaining one-fourth percent of the  
13 gross amount wagered on simulcast races that is allocated to  
14 the New Mexico horsemen's association shall be used to enhance  
15 purses at each licensed racetrack.

16 H. The board shall by rule provide for the timing  
17 and manner of the distributions required by this section and  
18 shall audit, or arrange for an independent audit of, the  
19 disbursements required by this section.

20 I. Fifty percent of the net retainage of each  
21 licensee shall be allocated to race purses. For purposes of  
22 this section, "net retainage" of the licensee means the  
23 commission retained by the licensee on all forms of wagers  
24 minus:

25 (1) the daily taxes imposed on racetrack

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1 gaming operator licensees pursuant to the Gaming Control and  
2 Horse Racing Act;

3 (2) money allocated to the New Mexico horse  
4 breeders' association by this section and Section 59 of this  
5 2011 act;

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

8 (4) a deduction for expenses incurred to  
9 engage in intrastate simulcasting pursuant to Section 25 of this  
10 2011 act; provided that:

11 (a) the deduction for each racetrack  
12 gaming operator licensee shall be a portion of five percent of  
13 the gross amount wagered at all the sites receiving the same  
14 simulcast horse races;

15 (b) the deduction portion for each  
16 racetrack gaming operator licensee shall be an amount allocated  
17 to that licensee by agreement voluntarily reached among all of  
18 the horse racetracks sending or receiving the same simulcast  
19 horse races; and

20 (c) the deduction portion for each  
21 racetrack gaming operator licensee shall be an amount allocated  
22 to that licensee by the board if all of the racetrack gaming  
23 operator licensees sending or receiving the same simulcast  
24 horse races fail to reach a voluntary agreement pursuant to  
25 Section 60-2E-27.3 NMSA 1978; and

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1 (5) a deduction for fees and commissions  
2 incurred to receive interstate simulcasts pursuant to the  
3 Gaming Control and Horse Racing Act.

4 J. As used in this section, "exotic wager" means a  
5 wager made on other than win, place or show through the pari-  
6 mutuel system."

7 SECTION 44. A new section of the Gaming Control and Horse  
8 Racing Act is enacted to read:

9 "[NEW MATERIAL] ILLEGAL USE OF PARI-MUTUEL WAGERING.--

10 A. A person shall not use pari-mutuel wagering  
11 except as permitted by the board pursuant to the Gaming Control  
12 and Horse Racing Act or pursuant to other state law providing  
13 licensing of persons to use pari-mutuel wagering.

14 B. A person who, directly or indirectly, uses pari-  
15 mutuel wagering in a manner that is not authorized by the board  
16 or other state law is guilty of a fourth degree felony and upon  
17 conviction shall be sentenced pursuant to Section 31-18-15 NMSA  
18 1978."

19 SECTION 45. A new section of the Gaming Control and Horse  
20 Racing Act is enacted to read:

21 "[NEW MATERIAL] PREDETERMINING HORSE RACES--INFLUENCING OR  
22 ATTEMPTING TO INFLUENCE--FOURTH DEGREE FELONY.--

23 A. A person shall not influence or attempt to  
24 influence the outcome of a horse race by offering money, a  
25 thing of value, a future benefit, a favor, preferred treatment

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1 or a form of pressure or threat.

2 B. A person shall not enter into an agreement with  
3 an owner, jockey, groom or any other person associated with or  
4 having an interest in a racehorse to predetermine the outcome  
5 of a horse race.

6 C. A person who influences or attempts to influence  
7 the outcome of a horse race or a person who enters into an  
8 agreement to predetermine the outcome of a horse race is guilty  
9 of a fourth degree felony and upon conviction shall be  
10 sentenced pursuant to Section 31-18-15 NMSA 1978."

11 SECTION 46. A new section of the Gaming Control and Horse  
12 Racing Act is enacted to read:

13 "[NEW MATERIAL] AFFECTING SPEED OR STAMINA OF A RACEHORSE--  
14 PENALTIES.--

15 A. A person administering, attempting to administer  
16 or conspiring with others to administer to a racehorse a drug,  
17 chemical, stimulant or depressant or other foreign substance  
18 not naturally occurring in a racehorse, whether internally,  
19 externally or by injection, for the purpose of stimulating or  
20 depressing the racehorse or affecting the speed or stamina of  
21 the racehorse during a horse race or workout is guilty of a  
22 fourth degree felony and upon conviction shall be sentenced  
23 pursuant to Section 31-18-15 NMSA 1978.

24 B. A person who uses, attempts to use or conspires  
25 with others to use during a horse race or workout an

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1 electrically or mechanically prohibited device, implement or  
2 instrument, other than an ordinary whip, is guilty of a fourth  
3 degree felony and upon conviction shall be sentenced pursuant  
4 to Section 31-18-15 NMSA 1978.

5 C. A person who sponges the nostrils or trachea of  
6 a racehorse or who uses anything to injure a racehorse for the  
7 purpose of stimulating or depressing the racehorse or affecting  
8 the speed or stamina of the racehorse during a horse race or  
9 workout is guilty of a fourth degree felony and upon conviction  
10 shall be sentenced pursuant to Section 31-18-15 NMSA 1978.

11 D. It is prima facie evidence of intent to commit  
12 any of the crimes set forth:

13 (1) in Subsection A of this section for a  
14 person to be found within the racing grounds of a racetrack  
15 licensee, including the stands, stables, sheds or other areas  
16 where racehorses are kept, who possesses with the intent to  
17 use, sell, give away or otherwise transfer to another person a  
18 drug, chemical, stimulant or depressant or other foreign  
19 substance not naturally occurring in a racehorse to stimulate  
20 or depress a racehorse or to affect the speed or stamina of a  
21 racehorse;

22 (2) in Subsection B of this section for a  
23 person to be found within the racing grounds of a racetrack  
24 operator licensee, including the stands, stables, sheds or  
25 other areas where racehorses are kept, who possesses with the

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1 intent to use, sell, give away or otherwise transfer to another  
2 person an electrically or mechanically prohibited device,  
3 implement or instrument, other than an ordinary whip; and

4 (3) in Subsection C of this section for a  
5 person to be found within the racing grounds of a racetrack  
6 operator licensee, including the stands, stables, sheds or  
7 other areas where racehorses are kept, who possesses with the  
8 intent to use, sell, give away or otherwise transfer to another  
9 person paraphernalia or substances used to sponge the nostrils  
10 or trachea of a racehorse or that may be used to injure a  
11 racehorse for the purpose of stimulating or depressing the  
12 racehorse or affecting its speed or stamina during a horse race  
13 or workout."

14 SECTION 47. A new section of the Gaming Control and Horse  
15 Racing Act is enacted to read:

16 "[NEW MATERIAL] HORSE RACING--UNLAWFUL ACTS.--Prohibitions  
17 against horse racing, bookmaking, pool selling or other methods  
18 of wagering on horse races are not repealed. Pari-mutuel  
19 wagering on horse races that are conducted on the premises of a  
20 racetrack gaming operator licensee is the only authorized  
21 method of wagering on horse races permitted in the state."

22 SECTION 48. A new section of the Gaming Control and Horse  
23 Racing Act is enacted to read:

24 "[NEW MATERIAL] PENALTY.--If a person, directly or  
25 indirectly, uses a pari-mutuel system of wagering except when

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1 licensed as a racetrack gaming operator licensee by the board  
2 and pursuant to the provisions of the Gaming Control and Horse  
3 Racing Act, the person is guilty of a misdemeanor and upon  
4 conviction shall be fined an amount not to exceed five thousand  
5 dollars (\$5,000) or sentenced to imprisonment for not more than  
6 ninety days or sentenced with both a fine and imprisonment. An  
7 officer of a corporation or company violating a provision of  
8 the Gaming Control and Horse Racing Act pertaining to horse  
9 racing shall be deemed personally responsible and subject to  
10 the penalties imposed pursuant to this section."

11 SECTION 49. A new section of the Gaming Control and Horse  
12 Racing Act is enacted to read:

13 "[NEW MATERIAL] HORSE RACING--STEWARDS--POWERS--DUTIES.--  
14 There shall be three stewards, licensed and employed by the  
15 board, to supervise each horse race meet. One of the stewards  
16 shall be designated the presiding official steward of the race  
17 meet. Stewards, other than the presiding official steward,  
18 shall be employed subject to the approval of the racetrack  
19 operator licensee. All stewards shall be licensed or certified  
20 by a nationally recognized horse racing organization. Stewards  
21 shall exercise those powers and duties prescribed by board  
22 rules. A decision or action of a steward may be reviewed or  
23 reconsidered by the board."

24 SECTION 50. A new section of the Gaming Control and Horse  
25 Racing Act is enacted to read:

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1 "[NEW MATERIAL] OFFICIAL CHEMIST--QUALIFICATIONS--  
2 DUTIES.--The board shall designate at least one official  
3 chemist. An official chemist shall hold a doctorate degree in  
4 chemistry or a related field and shall be knowledgeable and  
5 experienced in the techniques used for testing the blood, urine  
6 and saliva of horses for drugs, chemicals, stimulants,  
7 depressants or other foreign substances not naturally occurring  
8 in a horse. The official chemist may be an employee of a  
9 private laboratory located in New Mexico or an employee of an  
10 agency of New Mexico. The official chemist shall exercise the  
11 duties prescribed by rules of the board."

12 SECTION 51. A new section of the Gaming Control and Horse  
13 Racing Act is enacted to read:

14 "[NEW MATERIAL] HORSE RACING--TESTING SPECIMENS.--

15 A. The board shall adopt rules applying to the  
16 handling and testing of urine and other specimens identified by  
17 the board to be taken from racehorses.

18 B. Each specimen taken from a racehorse shall be  
19 divided into two or more samples, and:

20 (1) one sample shall be tested by the board or  
21 its designated laboratory in order to detect the presence of  
22 unauthorized drugs, chemicals, stimulants, depressants or other  
23 foreign substances not naturally occurring in a horse; and

24 (2) the second sample shall be forwarded by  
25 the board to the scientific laboratory division of the

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1 department of health.

2 C. After an inconclusive or positive test result on  
3 the sample tested by the board or its designated laboratory and  
4 upon a written request from the president, executive director  
5 or manager of the New Mexico horsemen's association on forms  
6 designated by the board, the scientific laboratory division  
7 shall transmit the corresponding second sample to the New  
8 Mexico horsemen's association.

9 D. The scientific laboratory division shall keep  
10 all samples in a controlled environment for a period of at  
11 least three months.

12 E. The board shall contract with an independent  
13 laboratory to maintain a quality assurance program."

14 SECTION 52. Section 60-2E-48 NMSA 1978 (being Laws 1997,  
15 Chapter 190, Section 50) is amended to read:

16 "60-2E-48. CIVIL ACTIONS TO RESTRAIN VIOLATIONS OF GAMING  
17 CONTROL AND HORSE RACING ACT.--

18 A. The attorney general, at the request of the  
19 board, may institute a civil action in any court of this state  
20 against any person to enjoin a violation of a prohibitory  
21 provision of the Gaming Control and Horse Racing Act.

22 B. An action brought against a person pursuant to  
23 this section shall not preclude a criminal action or  
24 administrative proceeding against that person."

25 SECTION 53. Section 60-2E-49 NMSA 1978 (being Laws 1997,

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1 Chapter 190, Section 51) is amended to read:

2 "60-2E-49. TESTIMONIAL IMMUNITY.--

3 A. The board may order a person to answer a  
4 question or produce evidence and confer immunity pursuant to  
5 this section. If, in the course of an investigation or hearing  
6 conducted pursuant to the Gaming Control and Horse Racing Act,  
7 a person refuses to answer a question or produce evidence on  
8 the ground that ~~[he]~~ the person will be exposed to criminal  
9 prosecution by doing so, then the board may by approval of  
10 ~~[three]~~ four members, after the written approval of the  
11 attorney general, issue an order to answer or to produce  
12 evidence with immunity.

13 B. If a person complies with an order issued  
14 pursuant to Subsection A of this section, ~~[he]~~ the person shall  
15 be immune from having a responsive answer given or responsive  
16 evidence produced, or evidence derived from either, used to  
17 expose ~~[him]~~ the person to criminal prosecution, except that  
18 the person may be prosecuted for ~~[any]~~ perjury committed in the  
19 answer or production of evidence and may also be prosecuted for  
20 contempt for failing to act in accordance with the order of the  
21 board. An answer given or evidence produced pursuant to the  
22 grant of immunity authorized by this section may be used  
23 against the person granted immunity in a prosecution of the  
24 person for perjury or a proceeding against ~~[him]~~ the person for  
25 contempt."

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1 SECTION 54. Section 60-2E-51 NMSA 1978 (being Laws 1997,  
2 Chapter 190, Section 53) is amended to read:

3 "60-2E-51. CRIME--USE OF COUNTERFEIT OR UNAPPROVED  
4 TOKENS, CURRENCY OR DEVICES--POSSESSION OF CERTAIN DEVICES,  
5 EQUIPMENT, PRODUCTS OR MATERIALS.--

6 A. A person who, in playing ~~[any]~~ a game designed  
7 to be played with, to receive or to be operated by tokens  
8 approved by the board or by lawful currency of the United  
9 States, knowingly uses tokens other than those approved by the  
10 board, uses currency that is not lawful currency of the United  
11 States or uses currency not of the same denomination as the  
12 currency intended to be used in that game is guilty of a third  
13 degree felony and shall be sentenced pursuant to the provisions  
14 of Section 31-18-15 NMSA 1978.

15 B. A person who knowingly has on ~~[his]~~ the person's  
16 person or in ~~[his]~~ the person's possession within a gaming  
17 establishment any device intended to be used by ~~[him]~~ the  
18 person to violate the provisions of the Gaming Control and  
19 Horse Racing Act is guilty of a third degree felony and shall  
20 be sentenced pursuant to the provisions of Section 31-18-15  
21 NMSA 1978.

22 C. A person, other than a duly authorized employee  
23 of a gaming operator acting in furtherance of ~~[his]~~ the  
24 employee's employment within a gaming establishment, who  
25 knowingly has on ~~[his]~~ the person's person or in ~~[his]~~ the

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1 person's possession within a gaming establishment [~~any~~] a key  
2 or device known by [~~him~~] the person to have been designed for  
3 the purpose of and suitable for opening, entering or affecting  
4 the operation of [~~any~~] a game, dropbox or [~~any~~] an electronic  
5 or mechanical device connected to the game or dropbox or for  
6 removing money or other contents from them is guilty of a third  
7 degree felony and shall be sentenced pursuant to the provisions  
8 of Section 31-18-15 NMSA 1978.

9 D. A person who knowingly and with intent to use  
10 them for cheating has on [~~his~~] the person's person or in [~~his~~]  
11 the person's possession [~~any~~] paraphernalia for manufacturing  
12 slugs is guilty of a third degree felony and shall be sentenced  
13 pursuant to the provisions of Section 31-18-15 NMSA 1978. As  
14 used in this subsection, "paraphernalia for manufacturing  
15 slugs" means the equipment, products and materials that are  
16 intended for use or designed for use in manufacturing,  
17 producing, fabricating, preparing, testing, analyzing,  
18 packaging, storing or concealing a counterfeit facsimile of  
19 tokens approved by the board or a lawful coin of the United  
20 States, the use of which is unlawful pursuant to the Gaming  
21 Control and Horse Racing Act. The term includes:

- 22 (1) lead or lead alloy;  
23 (2) molds, forms or similar equipment capable  
24 of producing a likeness of a gaming token or coin;  
25 (3) melting pots or other receptacles;

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- 1 (4) torches; and  
2 (5) tongs, trimming tools or other similar  
3 equipment.

4 E. Possession of more than two items of the  
5 equipment, products or material described in Subsection D of  
6 this section permits a rebuttable inference that the possessor  
7 intended to use them for cheating."

8 SECTION 55. Section 60-2E-54 NMSA 1978 (being Laws 1997,  
9 Chapter 190, Section 56) is amended to read:

10 "60-2E-54. CRIME--REPORTING AND RECORD VIOLATIONS--  
11 PENALTY.--A person who, in an application, book or record  
12 required to be maintained [~~by~~] pursuant to the Gaming Control  
13 and Horse Racing Act, [~~or by~~] a [~~regulation~~] rule adopted under  
14 that act or in a report required to be submitted [~~by~~] pursuant  
15 to that act or a [~~regulation~~] rule adopted under that act,  
16 knowingly makes a statement or entry that is false or  
17 misleading or fails to maintain or make an entry the person  
18 knows is required to be maintained or made is guilty of a  
19 fourth degree felony and shall be sentenced pursuant to the  
20 provisions of Section 31-18-15 NMSA 1978."

21 SECTION 56. Section 60-2E-55 NMSA 1978 (being Laws 1997,  
22 Chapter 190, Section 57) is amended to read:

23 "60-2E-55. CRIME--UNLAWFUL MANUFACTURE, SALE,  
24 DISTRIBUTION, MARKING, ALTERING OR MODIFICATION OF DEVICES  
25 ASSOCIATED WITH GAMING--UNLAWFUL INSTRUCTION--PENALTY.--

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1 A. A person who manufactures, sells or distributes  
2 a device that is intended by ~~him~~ the person to be used to  
3 violate ~~any~~ a provision of the Gaming Control and Horse  
4 Racing Act is guilty of a fourth degree felony and shall be  
5 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
6 1978.

7 B. A person who marks, alters or otherwise modifies  
8 ~~any~~ a gaming device in a manner that affects the result of a  
9 wager by determining win or loss or alters the normal criteria  
10 of random selection that affects the operation of a game or  
11 that determines the outcome of a game is guilty of a fourth  
12 degree felony and shall be sentenced pursuant to the provisions  
13 of Section 31-18-15 NMSA 1978."

14 SECTION 57. Section 60-2E-57 NMSA 1978 (being Laws 1997,  
15 Chapter 190, Section 59) is amended to read:

16 "60-2E-57. CRIME--GENERAL PENALTIES FOR VIOLATION OF  
17 ACT.--A person who willfully violates, attempts to violate or  
18 conspires to violate any of the provisions of the Gaming  
19 Control and Horse Racing Act specifying prohibited acts, the  
20 classification of which is not specifically stated in that act,  
21 is guilty of a fourth degree felony and shall be sentenced  
22 pursuant to the provisions of Section 31-18-15 NMSA 1978."

23 SECTION 58. Section 60-2E-58 NMSA 1978 (being Laws 1997,  
24 Chapter 190, Section 60) is amended to read:

25 "60-2E-58. DETENTION AND QUESTIONING OF A PERSON  
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1 SUSPECTED OF VIOLATING ACT--LIMITATIONS ON LIABILITY--POSTING  
2 OF NOTICE.--

3 A. A gaming operator licensee, racetrack gaming  
4 operator licensee or racetrack operator licensee or its  
5 officers, employees or agents may question a person in its  
6 gaming establishment or horse racetrack suspected of violating  
7 ~~any of~~ the provisions of the Gaming Control and Horse Racing  
8 Act. No gaming operator licensee, racetrack gaming operator  
9 licensee or racetrack operator licensee or any of its officers,  
10 employees or agents is criminally or civilly liable:

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

12 (2) for reporting to the board or law

13 enforcement authorities the person suspected of the violation.

14 B. A gaming operator licensee, racetrack gaming  
15 operator licensee or racetrack operator licensee or any of its  
16 officers, employees or agents who has reasonable cause for  
17 believing that there has been a violation of the Gaming Control  
18 and Horse Racing Act in the gaming establishment or horse  
19 racetrack by a person may detain that person in the gaming  
20 establishment or horse racetrack in a reasonable manner and for  
21 a reasonable length of time. Such a detention does not render  
22 the ~~[gaming operator]~~ licensee or ~~[his]~~ the licensee's  
23 officers, employees or agents criminally or civilly liable  
24 unless it is established by clear and convincing evidence  
25 detention was unreasonable under the circumstances.

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

8 "Any gaming operator licensee, racetrack gaming  
9 operator licensee or racetrack operator licensee or  
10 any of [~~his~~] the licensee's officers, employees or  
11 agents who have reasonable cause for believing that  
12 [~~any~~] a person has violated [~~any~~] a provision of the  
13 Gaming Control and Horse Racing Act prohibiting  
14 cheating in gaming and horse racing may detain that  
15 person in the establishment.".

16 SECTION 59. A new section of the Gaming Control and Horse  
17 Racing Act is enacted to read:

18 "[~~NEW MATERIAL~~] BREEDERS' AWARDS.--

19 A. The New Mexico horse breeders' association shall  
20 create a fund to pay horse breeders of New Mexico-bred horses  
21 merit and incentive awards.

22 B. A racetrack gaming operator licensee shall pay  
23 into a fund created by the New Mexico horse breeders'  
24 association an amount equal to ten percent of the first money  
25 of a purse won, except for stakes-race purses, at a horse race

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1 in New Mexico by a horse registered with the New Mexico horse  
2 breeders' association as a New Mexico-bred horse. From  
3 stakes-race purses, a racetrack gaming operator licensee shall  
4 pay into the fund created by the New Mexico horse breeders'  
5 association an amount equal to ten percent of the added money.

6 C. The money deposited with the New Mexico horse  
7 breeders' association by a racetrack gaming operator licensee  
8 pursuant to Subsection B of this section shall be paid weekly  
9 to the owner of the dam of the horse at the time that the  
10 animal was foaled upon certification of the board and the New  
11 Mexico horse breeders' association.

12 D. In addition to the money distributed pursuant to  
13 Subsection B of this section, the New Mexico horse breeders'  
14 association shall distribute the money allocated to the New  
15 Mexico horse breeders' association pursuant to Section 43 of  
16 this 2011 act in the following manner and pursuant to rules  
17 adopted by the board:

18 (1) forty-five percent of the money to the  
19 owners at the time the winners were foaled of the dams of the  
20 first-place winners;

21 (2) seven percent of the money to the owners  
22 at the time the winners were foaled of the studs that sired the  
23 first-place winners;

24 (3) no more than eight percent of the money to  
25 be retained by the New Mexico horse breeders' association for

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1 the purpose of administering the distribution program set forth  
2 in this section; and

3 (4) the remaining money to be divided among  
4 the first-, second- and third-place finishers during each race  
5 meet; provided that the first-, second- and third-place  
6 finishers are registered as New Mexico-bred horses with the New  
7 Mexico horse breeders' association."

8 SECTION 60. A new section of the Gaming Control and Horse  
9 Racing Act is enacted to read:

10 "[NEW MATERIAL] INABILITY TO RECEIVE OR ADMINISTER  
11 DISTRIBUTIONS--NEW MEXICO HORSE BREEDERS' ASSOCIATION--NEW  
12 MEXICO HORSEMEN'S ASSOCIATION--BOARD AUTHORITY--NEW MEXICO-BRED  
13 HORSE REGISTRY.--

14 A. In the event that money allocated to the New  
15 Mexico horse breeders' association pursuant to Section 43 of  
16 this 2011 act cannot be received or administered by the New  
17 Mexico horse breeders' association, the board or another  
18 organization designated by the board and under the absolute  
19 control of the board shall receive and administer the money  
20 that is allocated to be distributed to the horse breeders'  
21 association pursuant to Section 59 of this 2011 act. If the  
22 board or its designee organization is required to receive,  
23 administer and distribute money on behalf of the New Mexico  
24 horse breeders' association, the maximum percentage of  
25 retainage from Paragraph (3) of Subsection D of Section 59 of  
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1 this 2011 act shall be distributed by the board to the New  
2 Mexico horse breeders' association as a fee to certify the dam  
3 and stud of New Mexico-bred horses from the registry maintained  
4 by the New Mexico horse breeders' association.

5 B. In the event that money allocated to the New  
6 Mexico horsemen's association pursuant to the Gaming Control  
7 and Horse Racing Act cannot be received or administered by the  
8 New Mexico horsemen's association, the board or another  
9 organization designated by the board and under the absolute  
10 control of the board shall receive and administer the money  
11 that is allocated by Section 43 of this 2011 act to the New  
12 Mexico horsemen's association and distribute the money as  
13 required by Section 43 of this 2011 act."

14 SECTION 61. A new section of the Tax Administration Act  
15 is enacted to read:

16 "[NEW MATERIAL] DISTRIBUTIONS--DAILY HORSE RACING TAXES--  
17 MUNICIPAL SHARES.--The following distributions shall be made  
18 pursuant to the provisions of Section 7-1-6.1 NMSA 1978 from  
19 the following amounts transferred to the department from the  
20 racing suspense account:

21 A. one hundred fifty dollars (\$150) of the daily  
22 pari-mutuel excise tax imposed by Section 36 of this 2011 act  
23 remitted by a class A racetrack gaming operator licensee shall  
24 be distributed to the treasury of the municipality in which the  
25 class A racetrack gaming operator licensee's horse racetrack is  
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1 located if the class A racetrack gaming operator licensee's  
2 racetrack is located in an incorporated municipality with a  
3 population according to the most recent federal decennial  
4 census that is either:

5 (1) less than six thousand persons if located  
6 in a county with a population of more than ten thousand but  
7 less than fifteen thousand persons; or

8 (2) more than eight thousand persons but less  
9 than ten thousand persons if located in a county with a  
10 population of more than one hundred thousand persons but less  
11 than one hundred fifty thousand persons; and

12 B. the balance of the daily racing tax imposed by  
13 Section 37 of this 2011 act after deductions pursuant to  
14 Subsection B of that section are taken shall be distributed to  
15 the treasury of a municipality in which a horse racetrack is  
16 located that is eligible for distributions pursuant to Section  
17 37 of this 2011 act."

18 **SECTION 62.** A new section of the Tax Administration Act  
19 is enacted to read:

20 "[NEW MATERIAL] RACING SUSPENSE ACCOUNT--GAMING CONTROL  
21 BOARD ACCESS TO INFORMATION.--The department shall provide the  
22 gaming control board with monthly reports on the deposits,  
23 balances, refunds and transfers from the racing suspense  
24 account and shall provide additional information about the  
25 account upon request by the gaming control board. Information

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1 about the account may be disclosed fully to the gaming control  
2 board, including deposits attributed to specific horse  
3 racetracks."

4 **SECTION 63.** TEMPORARY PROVISION--TRANSFERS--STATUTORY  
5 REFERENCES.--

6 A. On the effective date of this act, all  
7 functions, appropriations, money, records, files, furniture,  
8 equipment, supplies and other property of the state racing  
9 commission are transferred to the gaming control board.

10 B. On the effective date of this act, all  
11 contractual obligations of the state racing commission shall be  
12 binding on the gaming control board.

13 C. On the effective date of this act, all  
14 references in law to the state racing commission shall be  
15 deemed to be references to the gaming control board.

16 **SECTION 64.** REPEAL.--Sections 60-1A-1 through 60-1A-30  
17 NMSA 1978 (being Laws 2007, Chapter 39, Sections 1 through 29  
18 and 33) are repealed.

19 **SECTION 65.** EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2011.

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