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HOUSE BILL 101

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY

Raymundo Lara and Phelps Anderson and Randall Pettigrew and  
Steven P. Neville

AN ACT

RELATING TO THE LOTTERY; ENACTING THE NEW MEXICO LOTTERY  
EDUCATIONAL ASSISTANCE ACT; PROVIDING FOR SPORTS WAGERING AND  
TABLE GAMING THROUGH THE LOTTERY; CREATING THE EDUCATIONAL  
ASSISTANCE FUND; PROVIDING PENALTIES; AMENDING A DEFINITION IN  
THE CRIMINAL CODE; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 31 of this act may be cited as the "New Mexico Lottery  
Educational Assistance Act".

SECTION 2. [NEW MATERIAL] LEGISLATIVE FINDINGS.--The  
legislature finds that:

A. the New Mexico lottery's purpose includes  
providing the maximum amount of revenue, without imposing  
additional taxes or using other state revenue, for the purpose

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1 of providing tuition assistance to resident undergraduates at  
2 New Mexico post-secondary educational institutions;

3 B. as the amount of revenue available for tuition  
4 assistance has steadily declined over the years, it is proper  
5 and necessary to explore revenue enhancement opportunities for  
6 the New Mexico lottery;

7 C. other states have included products such as  
8 table games and sports wagering through their lotteries to  
9 generate additional revenue to support the purposes of their  
10 lotteries;

11 D. the operation of sports wagering and table games  
12 on the premises of racetrack licensees would serve to protect,  
13 preserve, promote and enhance the tourism industry of the state  
14 as well as the general fiscal well-being of the state and its  
15 political subdivisions;

16 E. the granting of licenses pursuant to the  
17 provisions of the New Mexico Lottery Educational Assistance  
18 Act, while maintaining all ownership rights and exercising  
19 control through strict regulation of all sports wagering and  
20 table games authorized by the provisions of that act,  
21 constitutes an appropriate exercise of the power granted to the  
22 state of New Mexico;

23 F. the operation of sports wagering and table games  
24 in a manner consistent with the provisions of the New Mexico  
25 Lottery Educational Assistance Act is in keeping with the

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1 letter and intent of the Indian gaming compacts entered into by  
2 the state and sovereign federally recognized Indian tribes and  
3 will not result in a diminution of revenue-sharing payments set  
4 forth in those gaming compacts; and

5 G. a desirable, efficient and effective means for  
6 generating additional revenue through the New Mexico lottery  
7 and supporting tourism, in the best interests of the state, is  
8 the addition of table games and sports wagering to enrich  
9 tuition assistance for New Mexico residents seeking to better  
10 themselves through an undergraduate education at one of New  
11 Mexico's post-secondary educational institutions.

12 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
13 New Mexico Lottery Educational Assistance Act:

14 A. "adjusted gross receipts" means an operator's  
15 gross receipts from sports wagering or table games, less  
16 winnings paid to patrons who placed wagers in such games;

17 B. "authority" means the New Mexico lottery  
18 authority established pursuant to the New Mexico Lottery Act;

19 C. "chief executive officer" means the chief  
20 executive officer of the authority;

21 D. "collegiate sport or athletic event" means a  
22 sport or athletic event offered or sponsored by, or played in  
23 connection with, a public or private institution that offers  
24 educational services beyond the secondary level;

25 E. "complimentary" means services or items that are

1 given to patrons free of charge;

2 F. "gaming area" means one or more designated areas  
3 on the premises of a racetrack licensee where sports wagering  
4 or table games are authorized by the authority;

5 G. "gaming equipment" means a mechanical,  
6 electronic or other device, mechanism or equipment and related  
7 supplies used or consumed in the operation of sports wagering  
8 or table games within a gaming area, including kiosks installed  
9 to accept sports wagers, gaming tables, cards, dice, chips,  
10 tokens, shufflers, roulette wheels and drop boxes;

11 H. "government" means a governmental unit of a  
12 national, state or local body exercising governmental  
13 functions, other than the United States government;

14 I. "gross receipts" means the total of all sums  
15 including checks, currency, tokens, coupons, vouchers or  
16 instruments of monetary value, whether collected or  
17 uncollected, received by an operator licensee from operating  
18 sports wagering or table games but does not include promotional  
19 play credits issued by the operator or match play coupons  
20 issued in table games;

21 J. "license" means a license issued by the  
22 authority pursuant to the New Mexico Lottery Educational  
23 Assistance Act, including:

24 (1) a license to act as an agent of the  
25 authority in operating sports wagering or table games at a

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1 gaming area, known as an "operator license";

2 (2) a license to supply an operator with  
3 gaming equipment or services necessary for the operation of  
4 sports wagering or table games, known as a "supplier license";

5 (3) a license to be employed by an operator  
6 when an employee works in a designated gaming area that has  
7 sports wagering or table games, or performs duties in  
8 furtherance of or associated with the operation of sports  
9 wagering or table games, known as an "occupational license"; or

10 (4) a license to provide management services  
11 pursuant to a contract with an operator, known as a "management  
12 services provider license";

13 K. "lottery" means public gaming systems or games  
14 regulated, controlled, owned and operated by the authority  
15 pursuant to the New Mexico Lottery Educational Assistance Act  
16 and the New Mexico Lottery Act;

17 L. "online platform" means a digital service that  
18 facilitates interactions between two or more users who interact  
19 through the service via the internet;

20 M. "operator" and "operator licensee" mean a person  
21 licensed to operate sports wagering, including sports pools, or  
22 table games;

23 N. "patron" means a person who is a customer of an  
24 operator licensee or who the operator licensee is seeking to  
25 make a customer;

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1           O. "player's account" means a financial record  
2 established by an operator licensee for an individual patron in  
3 which the patron may deposit and withdraw funds for sports  
4 wagering and other authorized purchases and to which the  
5 operator licensee shall credit winnings or other amounts due to  
6 that patron;

7           P. "professional sport or athletic event" means an  
8 event at which two or more persons participate in a sports or  
9 athletic event and receive compensation in excess of actual  
10 expenses for their participation in such event;

11           Q. "racetrack licensee" means a person licensed as  
12 a racetrack licensee pursuant to the Horse Racing Act and as a  
13 gaming operator pursuant to the Gaming Control Act;

14           R. "skin" means a particular brand used in online  
15 and mobile sports wagering;

16           S. "sports event" means a professional sport or  
17 athletic event, collegiate sport or athletic event, e-sports  
18 event, motor race event or other special event authorized by  
19 the authority pursuant to the New Mexico Lottery Educational  
20 Assistance Act that need not be related to sports or athletic  
21 performances;

22           T. "sports wagering" means the business of  
23 accepting wagers on sports events and other events, the  
24 individual performance statistics of athletes in a sports event  
25 or other events, daily fantasy sports or a combination of any

1 of the same by a system or method of wagering approved by the  
2 authority, including mobile applications and other online  
3 platforms that utilize communications technology to accept  
4 wagers originating within this state. "Sports wagering"  
5 includes exchange wagering, parlays, over-under, moneyline,  
6 pools and straight bets. "Sports wagering" does not include:

7 (1) pari-mutuel betting on the outcome of  
8 horse races as authorized by the Horse Racing Act;

9 (2) lottery games of the New Mexico state  
10 lottery as authorized by the New Mexico Lottery Act; and

11 (3) table games, authorized pursuant to the  
12 New Mexico Lottery Educational Assistance Act;

13 U. "sports wagering agreement" means a written  
14 agreement between the authority and one or more other  
15 governments whereby persons who are physically located in a  
16 signatory jurisdiction may participate in sports wagering  
17 conducted by one or more operators licensed by the signatory  
18 governments;

19 V. "supplier" means a person licensed by the  
20 authority to provide an operator licensee with goods or  
21 services to be used in connection with the operation of sports  
22 wagering or table games;

23 W. "table games" means games played with cards,  
24 dice or any mechanical, electromechanical or electronic device  
25 or machine for money, credit or any representative of value,

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1 including baccarat, blackjack, poker, craps, roulette, wheel of  
2 fortune or any variation of these games similar in design or  
3 operation and expressly authorized by rule promulgated by the  
4 authority. "Table games" does not include slot machines,  
5 electronic table games, machines and devices, video lottery,  
6 punchboards, faro, numbers tickets, push cards, jar tickets,  
7 pull tabs or similar games;

8 X. "wager" means a sum of money or thing of value  
9 risked on an uncertain occurrence; and

10 Y. "winnings" means the total cash value of all  
11 property or sums, including currency, tokens or instruments of  
12 monetary value, paid to players as a direct result of wagers  
13 placed on sports wagering or table games.

14 SECTION 4. [NEW MATERIAL] AUTHORITY POWERS AND DUTIES.--

15 A. In addition to the duties set forth elsewhere in  
16 the New Mexico Lottery Educational Assistance Act and the New  
17 Mexico Lottery Act, the authority has the authority to regulate  
18 sports pools, the conduct of sports wagering and the conduct of  
19 table games.

20 B. The authority has the authority to promulgate  
21 rules that it considers necessary or appropriate for the  
22 successful implementation, administration and enforcement of  
23 the New Mexico Lottery Educational Assistance Act. Rules  
24 proposed by the authority before December 1, 2021 may be  
25 promulgated as emergency rules. Rules promulgated by the



1 authority shall include those governing:

2 (1) the acceptance of wagers on a sports  
3 event, a series of sports events or table games;

4 (2) maximum wagers that may be accepted by an  
5 operator from any one patron on any one sports event or table  
6 game;

7 (3) types of wagering tickets that may be  
8 used;

9 (4) methods of issuing tickets;

10 (5) methods of accounting to be used by  
11 operators;

12 (6) types of records that shall be kept;

13 (7) use of credit and checks by patrons;

14 (8) types of systems for wagering;

15 (9) protections for patrons placing wagers;

16 and

17 (10) promotion of social responsibility and  
18 responsible gaming and the inclusion of the statement "PLAY  
19 RESPONSIBLY. HELPLINE: 800-572-1142" in every designated area  
20 approved for sports wagering or table games and on a mobile  
21 application or other online platform used to place wagers on  
22 sports events.

23 C. The authority shall establish minimum internal  
24 control standards and approve minimum internal control  
25 standards proposed by operators for administration of sports

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1     wagering operations, table games operations, gaming equipment  
2     and systems or other items used to conduct sports wagering or  
3     table games, as well as maintenance of financial records and  
4     other required records.

5             D. The authority shall determine the eligibility of  
6     a person to hold or continue to hold a license, shall issue all  
7     licenses and shall maintain a record of all licenses issued  
8     pursuant to the New Mexico Lottery Educational Assistance Act.  
9     The authority shall accept applications, evaluate  
10    qualifications of applicants and undertake initial review of  
11    licenses prior to promulgation of emergency rules upon the  
12    effective date of the New Mexico Lottery Educational Assistance  
13    Act.

14            E. The authority shall levy and collect all fees,  
15    surcharges, civil penalties and weekly taxes on adjusted gross  
16    receipts imposed pursuant to the New Mexico Lottery Educational  
17    Assistance Act and deposit all money into the educational  
18    assistance fund, except as otherwise provided pursuant to that  
19    act.

20            F. The authority may sue to enforce any provision  
21    of the New Mexico Lottery Educational Assistance Act or any  
22    rule of the authority by civil action or petition for  
23    injunctive relief.

24            G. The authority shall exercise any other powers  
25    necessary to effectuate the provisions of the New Mexico

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1 Lottery Educational Assistance Act and the rules promulgated by  
2 the authority.

3 SECTION 5. [NEW MATERIAL] AUTHORITY STAFF--CONDITIONS OF  
4 EMPLOYMENT.--

5 A. The chief executive officer, with the approval  
6 of the authority, shall appoint professional, clerical,  
7 technical and administrative personnel deemed necessary to  
8 implement the provisions of the New Mexico Lottery Educational  
9 Assistance Act. Such personnel shall be authority employees  
10 hired in accordance with the authority's personnel code. Prior  
11 to appointment, each applicant for employment by the authority  
12 shall provide fingerprints and undergo a thorough background  
13 investigation, including a national criminal records check by  
14 the New Mexico state police division of the department of  
15 public safety and the federal bureau of investigation.

16 B. Authority employees shall not directly or  
17 indirectly hold an ownership or a financial interest in an  
18 operator license, supplier license or management services  
19 provider license, in a holding company that owns such a license  
20 or in a business related to the license for federal income tax  
21 purposes or be an applicant for such a license.

22 C. Authority employees shall not knowingly wager or  
23 be paid a prize from a wager at an operator licensee within  
24 this state or at a facility outside this state or this country  
25 that is directly or indirectly owned or operated by:

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- 1 (1) an operator licensee; or  
2 (2) a person that directly or indirectly owns  
3 a license issued pursuant to the New Mexico Lottery Educational  
4 Assistance Act.

5 SECTION 6. [NEW MATERIAL] LICENSES REQUIRED.--

6 A. A person shall not engage in an activity in  
7 connection with sports wagering or table games in New Mexico  
8 unless all necessary licenses have been obtained as required by  
9 the New Mexico Lottery Educational Assistance Act and rules of  
10 the authority. Four types of licenses shall be issued pursuant  
11 to the New Mexico Lottery Educational Assistance Act, and  
12 persons shall not engage in sports wagering or table games  
13 operation or activity without first obtaining the appropriate  
14 license.

15 B. The authority shall not grant a license until it  
16 determines that each person who has control of the applicant  
17 meets all qualifications for licensure. The following persons  
18 are considered to have control of an applicant:

19 (1) a person associated with a corporate  
20 applicant, including a corporate holding company, parent  
21 company or subsidiary company of the applicant, who has the  
22 ability to control the activities of the corporate applicant or  
23 elect a majority of the board of directors of that corporation;  
24 this restriction does not include a bank or other licensed  
25 lending institution that holds a mortgage or other lien

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1 acquired in the ordinary course of business;

2 (2) a person associated with a non-corporate  
3 applicant who directly or indirectly holds a beneficial or  
4 proprietary interest in the applicant's business operation or  
5 who the authority otherwise determines has the ability to  
6 control the applicant; and

7 (3) key personnel of an applicant, including  
8 an executive, employee or agent having the power to exercise  
9 significant influence over decisions concerning a part of the  
10 applicant's business operation.

11 C. Applicants for a license issued pursuant to the  
12 New Mexico Lottery Educational Assistance Act shall submit an  
13 application to the authority in the form the authority requires  
14 and submit fingerprints for a national criminal records check  
15 by the New Mexico state police division of the department of  
16 public safety and the federal bureau of investigation. The  
17 fingerprints shall be furnished by all persons required to be  
18 named in the application and shall be accompanied by a signed  
19 authorization for the release of information by the division  
20 and the federal bureau of investigation. The authority shall  
21 require additional background checks on licensees when they  
22 apply for license renewal, and an applicant convicted of a  
23 disqualifying offense shall not be licensed.

24 D. Operator licensees, supplier licensees and  
25 management services provider licensees shall display their

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1 licenses conspicuously in their places of business or have  
2 their licenses available for inspection by an agent of the  
3 authority or a law enforcement agency.

4 E. Holders of an occupational license shall carry  
5 the license and have some indicia of licensure prominently  
6 displayed on the licensee's person at all times when working in  
7 a gaming area in accordance with rules promulgated by the  
8 authority.

9 F. Persons licensed pursuant to the New Mexico  
10 Lottery Educational Assistance Act shall give the authority  
11 written notice within thirty days of a change to information  
12 provided in the licensee's application for a license or license  
13 renewal.

14 G. Authority employees shall not be an applicant  
15 for a license issued pursuant to the New Mexico Lottery  
16 Educational Assistance Act.

17 H. Racetrack licensees are not eligible to be  
18 licensed pursuant to the New Mexico Lottery Educational  
19 Assistance Act. Employees of a racetrack licensee shall not be  
20 eligible for an occupational license issued pursuant to the New  
21 Mexico Lottery Educational Assistance Act.

22 I. Racetrack licensees leasing or otherwise  
23 providing space to an operator licensee need not be and shall  
24 not be eligible to be licensed in any capacity pursuant to the  
25 New Mexico Lottery Educational Assistance Act. An agreement

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1 for space shall be in writing and shall designate one or more  
2 gaming areas for the operation of sports wagering or table  
3 games and other space necessary or appropriate for the operator  
4 licensee's operations. An agreement for space shall state that  
5 the racetrack licensee shall not operate sports wagering or  
6 table games. An agreement for space may contain rent  
7 provisions that include revenue sharing. All such written  
8 agreements shall be subject to approval of the authority for  
9 compliance with the provisions of the New Mexico Lottery  
10 Educational Assistance Act.

11 SECTION 7. [NEW MATERIAL] SPORTS WAGERING AND TABLE  
12 GAMES--OPERATOR LICENSES.--

13 A. An operator licensee may operate sports wagering  
14 or table games upon the approval of the authority, and the  
15 authority shall have the general responsibility for the  
16 implementation of the New Mexico Lottery Educational Assistance  
17 Act and applicable rules promulgated by the authority.

18 B. Operator licenses for sports wagering and for  
19 table games shall be separate and distinct from one another.  
20 The authority shall develop separate application forms for  
21 sports wagering and table games operator licenses.

22 C. Sports wagering and table games authorized by  
23 the New Mexico Lottery Educational Assistance Act shall be  
24 lottery games owned by the state. An operator license granted  
25 by the authority pursuant to the New Mexico Lottery Educational

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1 Assistance Act grants operator licensees lawful authority to  
2 conduct either sports wagering or table games, but not both  
3 unless both such licenses are applied for and issued by the  
4 authority, within the terms and conditions of the license and  
5 rules promulgated by the authority. An operator license shall  
6 include the transfer by the authority to the operator licensee  
7 of limited license rights in and to the authority's  
8 intellectual property ownership of the lottery games, including  
9 granting operator licensees limited lawful authority relating  
10 to the conduct of sports wagering or table games for  
11 consideration, within the terms and conditions established  
12 pursuant to the New Mexico Lottery Educational Assistance Act  
13 and rules promulgated by the authority.

14 D. The authority may issue up to six licenses to  
15 operate sports wagering and six licenses to operate table games  
16 at any given time, in accordance with the provisions of the New  
17 Mexico Lottery Educational Assistance Act. A license to  
18 operate sports wagering shall include the right to operate  
19 three different skins on approved mobile applications and  
20 online platforms. Each operator license gives the operator the  
21 right to operate sports wagering or table games on the premises  
22 of a single racetrack licensee. A party seeking licensure to  
23 operate at more than one racetrack licensee shall submit an  
24 application for each such location.

25 E. Upon submission of the appropriate application

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1 and payment of a fifty-thousand-dollar (\$50,000) application  
2 fee, the authority shall grant an operator license to an  
3 operator that provides for the right to conduct sports wagering  
4 or table games, respectively; provided that the applicant meets  
5 the requirements for licensure pursuant to the New Mexico  
6 Lottery Educational Assistance Act and rules promulgated by the  
7 authority. Such licenses shall be issued for a five-year  
8 period and shall be renewed for five-year periods upon  
9 application for renewal and payment of a fifty-thousand-dollar  
10 (\$50,000) renewal fee if an operator continues to meet all  
11 qualification requirements.

12 F. An operator license authorizes the operation of  
13 sports wagering or table games at one or more locations on a  
14 racetrack licensee's premises where horse racing is conducted.  
15 An operator license also authorizes operation of sports  
16 wagering through a mobile application or other online platform  
17 approved by the authority.

18 G. In order to coordinate various licensed  
19 activities within facilities of a racetrack licensee, the  
20 provisions of the New Mexico Lottery Educational Assistance Act  
21 and the Gaming Control Act shall be interpreted to allow sports  
22 wagering, table games and gaming machines pursuant to those  
23 acts to be harmoniously conducted in the same gaming area.

24 H. An operator licensee shall not enter into a  
25 management services contract that would permit a person other

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1 than the licensee to act as the authority's agent in operating  
2 sports wagering or table games unless the management service  
3 contract:

4 (1) is with a person licensed pursuant to the  
5 New Mexico Lottery Educational Assistance Act to provide  
6 management services;

7 (2) is in writing; and

8 (3) has been approved by the authority.

9 I. An operator licensee shall submit every material  
10 change in a management services contract, previously approved  
11 by the authority, to the authority for its approval or  
12 rejection before the material change takes effect.

13 J. The duties and responsibilities of a management  
14 services provider pursuant to a management services contract  
15 shall not be assigned, delegated, subcontracted or transferred  
16 to a third party without the prior approval of the authority.

17 K. When applying to renew a license, a licensed  
18 operator shall submit to the authority documentation or  
19 information the authority may require demonstrating to the  
20 satisfaction of the chief executive officer that the operator  
21 licensee continues to meet the requirements of the New Mexico  
22 Lottery Educational Assistance Act and rules promulgated by the  
23 authority. Required documentation or information shall be  
24 submitted no later than five years after issuance of an  
25 operator license and every five years thereafter, or within

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1 lesser periods based on circumstances specified by the  
2 authority.

3 L. Upon application for a license and annually  
4 thereafter, an operator licensee shall submit to the authority  
5 an annual audit of the financial transactions and condition of  
6 the licensee's total operations prepared by a certified public  
7 accountant in accordance with generally accepted accounting  
8 principles and applicable federal and state laws and a copy of  
9 the operator licensee's federal tax return. The annual audited  
10 financial statements and tax return shall be submitted to the  
11 authority no later than thirty days following the filing of the  
12 tax return.

13 M. An operator licensee shall provide suitable  
14 office space on the premises where it is in operation, at no  
15 cost, for the authority to perform the duties required of it  
16 pursuant to the New Mexico Lottery Educational Assistance Act  
17 and rules promulgated by the authority.

18 N. An operator licensee shall demonstrate that its  
19 gaming area will:

20 (1) be accessible to disabled individuals, in  
21 accordance with applicable federal and state laws;

22 (2) be licensed in accordance with the New  
23 Mexico Lottery Educational Assistance Act and all other  
24 applicable federal, state and local laws; and

25 (3) meet other qualifications specified in

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1 rules promulgated by the authority.

2 SECTION 8. [NEW MATERIAL] MANAGEMENT SERVICES PROVIDERS--  
3 LICENSE REQUIREMENTS.--

4 A. The holder of an operator's license may contract  
5 with an entity to conduct that operation in accordance with  
6 rules promulgated by the authority. That licensee shall obtain  
7 a license as a management services provider prior to the  
8 effectiveness of any such contract, and such license shall be  
9 issued pursuant to the New Mexico Lottery Educational  
10 Assistance Act and rules promulgated by the authority.

11 B. An applicant for a management services provider  
12 license shall meet all requirements for licensure and pay a  
13 nonrefundable license and application fee of ten thousand  
14 dollars (\$10,000). The authority shall promulgate rules  
15 establishing additional requirements for a licensed management  
16 services provider. The authority shall accept licensing by  
17 another jurisdiction that the authority specifically determines  
18 to have similar licensing requirements as evidence that the  
19 applicant meets management services provider licensing  
20 requirements.

21 C. Management services provider licenses shall be  
22 renewed annually to a licensee who continues to be in  
23 compliance with all requirements and who files a renewal  
24 application and pays the annual nonrefundable renewal fee of  
25 five thousand dollars (\$5,000).

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1           D. A person that shares in revenue, including an  
2 affiliate operating pursuant to a revenue share agreement,  
3 shall be licensed pursuant to this section; provided, however,  
4 that a racetrack licensee may share in revenues pursuant to a  
5 lease or other agreement for the use of space on its premises  
6 without being licensed hereunder and shall not be deemed to be  
7 acting as a management services provider by providing space for  
8 the operation of sports wagering or table games.

9           **SECTION 9. [NEW MATERIAL] SUPPLIERS--LICENSE**  
10 **REQUIREMENTS.--**

11           A. The authority shall issue a supplier license to  
12 a person to sell or lease gaming equipment, systems or other  
13 gaming items necessary to conduct sports wagering or table  
14 games and offer services related to such equipment or other  
15 gaming items to an operator licensee while the license is  
16 active. The authority shall establish the conditions pursuant  
17 to which the authority may issue provisional licenses pending  
18 completion of final action on an application.

19           B. The authority shall promulgate rules  
20 establishing additional requirements for a supplier license and  
21 systems or other equipment utilized for sports wagering or  
22 table games. The authority may accept licensing by another  
23 jurisdiction that the authority specifically determines to have  
24 similar licensing requirements as evidence that the applicant  
25 meets New Mexico lottery supplier licensing requirements.

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1           C. An applicant for a supplier license shall  
2 demonstrate that the equipment, system or services that the  
3 applicant plans to offer to an operator licensee conform to  
4 standards established by the authority and applicable state  
5 law. The authority may accept approval by another jurisdiction  
6 that the authority specifically determines has similar  
7 equipment standards as evidence that the applicant meets the  
8 standards established by the authority and applicable state  
9 law.

10           D. Applicants shall pay to the authority a  
11 nonrefundable license and application fee in the amount of one  
12 thousand dollars (\$1,000). After the initial one-year term,  
13 the authority may renew a supplier license annually thereafter.  
14 Renewal of a supplier license shall be granted to a renewal  
15 applicant that has continued to comply with all applicable  
16 statutory and regulatory requirements, upon submission of the  
17 authority-issued renewal application and payment of a  
18 nonrefundable one-thousand-dollar (\$1,000) renewal fee.

19           E. A supplier licensee shall submit to the  
20 authority a list of all gaming equipment and services sold,  
21 delivered or offered to an operator licensee in this state, as  
22 required by the authority, all of which shall be tested and  
23 approved by an independent testing laboratory approved by the  
24 authority. An operator licensee may continue to use supplies  
25 acquired from a supplier licensee even if a supplier's license

.218742.3

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1 expires or is otherwise canceled, unless the authority finds a  
2 defect in the supplies.

3 SECTION 10. [NEW MATERIAL] OCCUPATIONAL LICENSES.--

4 A. All persons employed to be engaged directly in  
5 activities related to sports wagering or table games, or  
6 otherwise conducting or operating sports wagering or table  
7 games, shall be licensed by the authority and maintain a valid  
8 occupational license at all times. The authority shall issue  
9 such licenses to be employed in the operation of sports  
10 wagering or table games to a person who meets the requirements  
11 of the New Mexico Lottery Educational Assistance Act.

12 B. An occupational license permits the occupational  
13 licensee to be employed in the capacity designated by the  
14 authority while the license is still active. The authority  
15 shall establish by rule job classifications with different  
16 requirements to recognize the extent to which a particular job  
17 has the ability to impact the proper operation of sports  
18 wagering or table games.

19 C. Applicants shall submit required application  
20 forms required by the authority and pay a nonrefundable  
21 application fee of one hundred dollars (\$100). The fee may be  
22 paid on behalf of an applicant by the employer.

23 D. An occupational licensee shall pay to the  
24 authority an annual nonrefundable license fee of one hundred  
25 dollars (\$100) by June 30 of each year. The fee may be paid on

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1 behalf of the occupational licensee by the employer. In  
2 addition to a renewal fee, each occupational licensee shall  
3 annually submit a renewal application on the form required by  
4 the authority.

5 SECTION 11. [NEW MATERIAL] LICENSE PROHIBITIONS.--

6 A. The authority shall not grant a license pursuant  
7 to the provisions of the New Mexico Lottery Educational  
8 Assistance Act if evidence satisfactory to the authority shows  
9 the applicant:

10 (1) has knowingly made a false statement of a  
11 material fact to the authority;

12 (2) has been suspended from operating a  
13 gambling game, gaming device or gaming operation or has had a  
14 license revoked by a governmental authority responsible for  
15 regulation of gaming activities;

16 (3) has been convicted of a crime of moral  
17 turpitude, a gambling-related offense or a theft or fraud  
18 offense or has otherwise demonstrated, either by a police  
19 record or other satisfactory evidence, a lack of respect for  
20 law and order; or

21 (4) is a person that has been directly  
22 employed by an illegal or offshore book that serviced the  
23 United States, or otherwise accepted black market wagers from  
24 individuals located in the United States.

25 B. The authority may deny a license to an

.218742.3



1 applicant, suspend or revoke a license or take other  
2 disciplinary action if:

3 (1) the applicant or licensee has not  
4 demonstrated to the satisfaction of the authority financial  
5 responsibility sufficient to adequately meet the requirements  
6 of the proposed enterprise;

7 (2) the applicant or licensee is not the true  
8 owner of the business or is not the sole owner and has  
9 intentionally failed to disclose the existence or identity of  
10 other persons who have an ownership interest in the business;

11 (3) the applicant or licensee knowingly  
12 employs an individual in a job classification that includes  
13 management duties who has been convicted of a crime of moral  
14 turpitude, a gambling-related offense or a theft or fraud  
15 offense or knowingly employs an individual in a job  
16 classification that includes management duties who has had a  
17 license relating to the operation of a gaming activity revoked  
18 by this state or another state; or

19 (4) the applicant or licensee is a corporation  
20 that sells more than five percent of a licensee's voting stock,  
21 or more than five percent of the voting stock of a corporation  
22 that controls the licensee, or sells a licensee's assets, other  
23 than those bought and sold in the ordinary course of business,  
24 or an interest in the assets, to a person not already  
25 determined by the authority to have met the qualifications of a

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1 licensee pursuant to the New Mexico Lottery Educational  
2 Assistance Act.

3 C. In the case of an applicant or licensee, the  
4 authority shall deny a license to an applicant, suspend or  
5 revoke a license or take other disciplinary action if the  
6 applicant or licensee has not met the requirements of this  
7 section or another provision of the New Mexico Lottery  
8 Educational Assistance Act.

9 SECTION 12. ~~[NEW MATERIAL]~~ LICENSE DENIAL--LICENSE  
10 REVOCATION--LICENSE SUSPENSION--DISCIPLINARY ACTION.--

11 A. The authority shall deny a license to an  
12 applicant, suspend or revoke a license or take other  
13 disciplinary action if the applicant or licensee, or a person  
14 having control of the applicant or licensee:

15 (1) fraudulently or deceptively obtains or  
16 attempts to obtain a license for the applicant, a licensee or  
17 another person;

18 (2) fraudulently or deceptively uses a  
19 license;

20 (3) is convicted of a felony pursuant to the  
21 laws of this state, another state, the United States or a  
22 territory of the United States; or

23 (4) is convicted of a misdemeanor pursuant to  
24 the laws of this state, another state, the United States or a  
25 territory of the United States for gambling or a gambling-

.218742.3

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1 related activity.

2 B. Instead of or in addition to suspending or  
3 revoking a license or taking other disciplinary action pursuant  
4 to Subsection A of this section, the authority may impose a  
5 civil penalty pursuant to Section 26 of the New Mexico Lottery  
6 Educational Assistance Act.

7 SECTION 13. [NEW MATERIAL] HEARING PROCEDURES.--

8 A. Except as otherwise provided by law, before the  
9 authority takes an adverse action involving a licensee pursuant  
10 to the New Mexico Lottery Educational Assistance Act, the  
11 authority shall give the licensee against whom the action is  
12 contemplated an opportunity for a hearing, either before the  
13 authority or a hearing examiner designated by the authority.

14 B. The authority shall give notice and hold the  
15 hearing in accordance with the Administrative Procedures Act.  
16 The notice shall be sent to the licensee by certified mail,  
17 addressed to the last known address of the licensee at least  
18 thirty days before the hearing. The licensee may be  
19 represented at the hearing by legal counsel.

20 C. If a licensee fails to comply with a subpoena  
21 issued for purposes of this section, on petition of the  
22 authority, the district court may compel obedience to the  
23 subpoena. If after due notice the licensee against whom the  
24 action is contemplated fails or refuses to appear or provide  
25 the item or items for which a subpoena duces tecum was issued,

.218742.3

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1 the authority or the authority's designated hearing officer  
2 shall hear and determine the matter.

3 SECTION 14. [NEW MATERIAL] HOUSE RULES--POSTING OF  
4 RULES--LOTTERY LOGOS.--

5 A. An operator shall adopt comprehensive house  
6 rules for game play governing sports wagering or table games  
7 with its patrons. The comprehensive rules shall be published  
8 as part of the minimum internal control standards. The rules  
9 shall specify the amounts to be paid on winning wagers and the  
10 effect of schedule changes. House rules shall be approved by  
11 the authority prior to implementation.

12 B. House rules, together with other information the  
13 authority deems appropriate, shall be conspicuously displayed  
14 and included in the terms and conditions of the sports wagering  
15 and table games operations. Copies of house rules and other  
16 information deemed appropriate by the authority shall be made  
17 readily available to patrons upon request.

18 C. The authority shall license and require the  
19 display of New Mexico lottery game logos on game surfaces,  
20 other gaming items and locations the authority considers  
21 appropriate.

22 SECTION 15. [NEW MATERIAL] SPORTS WAGERING--POSTING  
23 BETTING LIMITS.--A sports wagering operator licensee shall  
24 conspicuously post a sign at each sports wagering location  
25 indicating the minimum and maximum wagers permitted at that

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1 location and shall comply with the minimum and maximum limits.

2 SECTION 16. [NEW MATERIAL] TABLE GAMES--RULES OF PLAY--  
3 DISPUTES--BETTING LIMITS.--

4 A. A person licensed as a table games operator  
5 shall have written rules of play for each table game it  
6 operates that are approved by the authority before the table  
7 game is offered to the public. Rules of play proposed by a  
8 table games operator licensee shall be approved, amended or  
9 rejected by the authority.

10 B. Table games shall be conducted according to the  
11 specific rules of play approved by the authority. All wagers  
12 and pay-offs of winning wagers shall be made according to those  
13 rules of play, which rules shall establish limitations  
14 necessary to ensure the vitality of table games operations.

15 C. A table games operator licensee shall make  
16 available in printed form to a patron, upon request, the  
17 complete text of the rules of play of a table game in operation  
18 at its location, pay-offs of winning wagers and other  
19 information to the player as required by the authority.

20 D. Patrons are considered to have agreed that the  
21 determination of whether a patron is a valid winner is subject  
22 to the rules of play and, in the case of a dispute, the dispute  
23 shall be determined by the authority. The determination by the  
24 authority shall be final and binding upon all patrons and shall  
25 not be subject to further review or appeal.

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1           E. A table games operator licensee shall, as agent  
2 of the authority, in the exercise of the licensee's business  
3 judgment, determine and establish with the approval of the  
4 authority, with respect to table games:

- 5                   (1) minimum and maximum wagers;
- 6                   (2) advertising and promotional activities;
- 7                   (3) hours of operation;
- 8                   (4) the days during which games may be played;

9 and

- 10                   (5) currency denominations accepted by  
11 mechanical or electronic bill acceptors.

12           F. The authority shall establish the following  
13 parameters for table games:

- 14                   (1) minimum and maximum payout percentages;
- 15                   (2) probability limits of obtaining the  
16 maximum payout for a particular play; and

- 17                   (3) limitations on the types and amounts of  
18 financial transactions, including extension of credit to a  
19 patron, that a table games operator licensee can enter into  
20 with its patrons.

21           SECTION 17. [NEW MATERIAL] MISCELLANEOUS LICENSE  
22 PROVISIONS.--

23           A. The authority shall include on each license that  
24 it issues:

- 25                   (1) the type of license;

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1 (2) the identity and address of the licensee;

2 (3) the effective date and expiration date of  
3 the license;

4 (4) for occupational licenses, a photograph of  
5 the licensee; and

6 (5) other information the authority considers  
7 appropriate.

8 B. Operator licensees, management services provider  
9 licensees and supplier licensees shall display the license  
10 conspicuously in their places of business or have the license  
11 readily available for inspection at the request of an agent of  
12 the authority or of a state or local law enforcement agency.

13 C. Occupational licensees shall carry the license  
14 on the licensee's person at all times when present on the  
15 premises at which the licensee is employed and, if required by  
16 rules adopted by the authority with respect to the particular  
17 capacity in which the licensee is employed, have some indicia  
18 of licensure visibly displayed on the licensee's person in  
19 accordance with rules of the authority.

20 D. Licensees pursuant to the New Mexico Lottery  
21 Educational Assistance Act shall give the authority written  
22 notice of a change of address or a change of other information  
23 provided in the licensee's application for a license or for  
24 renewal of a license, as soon as the effective date of the  
25 change is known by the licensee but not later than thirty days

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1 after the change occurs.

2 SECTION 18. [NEW MATERIAL] OPERATOR LICENSEE DUTIES AND  
3 OPERATIONS.--

4 A. Operator licensees shall perform the following,  
5 as specified for the type of license held:

6 (1) sports wagering operators shall employ a  
7 monitoring system utilizing software to identify non-normal  
8 irregularities in volume or odds swings that could signal  
9 suspicious activities that should require further  
10 investigation, which irregularities or swings shall be  
11 immediately reported to and investigated by the authority.  
12 System requirements and specifications shall be developed  
13 according to industry standards and implemented by the  
14 authority as part of the minimum internal control standards;

15 (2) operator licensees shall promptly report  
16 to the authority facts or circumstances related to the  
17 operation of the licensee that constitute a violation of state  
18 or federal law;

19 (3) operator licensees shall immediately  
20 report to the appropriate state or federal authorities  
21 suspicious betting over a threshold set by the operator that  
22 has been approved by the authority;

23 (4) operator licensees shall conduct sports  
24 wagering and table games activities and functions in a manner  
25 that does not pose a threat to the public health, safety or

.218742.3



1 welfare and does not adversely affect the security or integrity  
2 of the authority;

3 (5) operator licensees shall hold the  
4 authority and the state harmless from and defend and pay for  
5 the defense of all claims that may be asserted against a  
6 licensee, the authority, the state or employees thereof arising  
7 from the licensee's actions or omissions while acting as an  
8 agent of the authority operating sports wagering or table games  
9 pursuant to the New Mexico Lottery Educational Assistance Act;

10 (6) operator licensees shall assist the  
11 authority in maximizing sports wagering and table games  
12 revenues; and

13 (7) operator licensees shall keep current in  
14 all payments and obligations to the authority.

15 B. Operator licensees shall:

16 (1) acquire gaming equipment by purchase,  
17 lease or other assignment and provide a secure location for the  
18 placement, operation and play of gaming equipment;

19 (2) prevent persons from tampering with or  
20 interfering with the operation of sports wagering or table  
21 games;

22 (3) ensure that sports wagering and table  
23 games are within the sight and control of designated employees  
24 of the licensee and that wagering within the gaming area, or  
25 otherwise available by the licensee, is conducted under

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1 continuous observation by security equipment in conformity with  
2 specifications and requirements of the authority;

3 (4) ensure that sports wagering and table  
4 games occur only in the specific locations within the  
5 designated gaming areas approved by the authority or, with  
6 regard to sports wagering, using an authority-approved mobile  
7 application or other online platform that utilizes  
8 communications technology to accept wagers originating within  
9 this state. Sports wagering shall only be offered in  
10 additional authorized manners in accordance with the rules  
11 promulgated by the authority; provided that all on-premises  
12 sports wagering shall be done within approved gaming areas;

13 (5) maintain sufficient cash and other  
14 supplies to conduct sports wagering or table games at all  
15 times;

16 (6) maintain daily records showing the gross  
17 receipts and adjusted gross receipts of the licensee from  
18 sports wagering and table games and timely file with the  
19 authority additional reports required by rule promulgated by  
20 the authority or by other provisions set forth in the New  
21 Mexico Lottery Educational Assistance Act;

22 (7) upon request by the authority, provide the  
23 authority with access to all records and the physical premises  
24 where the licensee's operations occur, for the purpose of  
25 monitoring or inspecting the licensee's activities, the gaming

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1 equipment and gaming area and security equipment; and

2 (8) offer complimentary services, gifts, cash  
3 or other items of value to a patron only in the manner  
4 permitted pursuant to the New Mexico Lottery Educational  
5 Assistance Act and rules promulgated by the authority.

6 SECTION 19. ~~[NEW MATERIAL]~~ COMPLIMENTARY SERVICES--  
7 COMPLIMENTARY GIFTS--COMPLIMENTARY CASH--OTHER ITEMS.--

8 A. Operator licensees shall not offer or provide  
9 complimentary services, gifts, cash or other items of value to  
10 a patron unless the complimentary services, gifts, cash or  
11 other items of value consist of:

12 (1) room, food, beverage or entertainment  
13 expenses provided directly to the patron or the patron's guests  
14 by the operator or indirectly on behalf of the licensee by a  
15 third party;

16 (2) documented transportation expenses  
17 provided directly to the patron or the patron's guests on  
18 behalf of the operator by a third party; provided that the  
19 operator complies with the rules promulgated by the authority  
20 to ensure that a patron's and the patron's guests' documented  
21 transportation expenses are paid for or reimbursed only once;  
22 or

23 (3) coins, tokens, cash or other complimentary  
24 items or services provided through a complimentary distribution  
25 program, the terms of which shall be filed with the authority

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1 upon implementation of the program or maintained pursuant to  
2 rules promulgated by the authority.

3 B. Changes in the terms of a complimentary program  
4 shall be filed with the authority upon implementation of the  
5 change.

6 C. Operator licensees may offer and provide  
7 complimentary cash or non-cash gifts that are not otherwise  
8 included in this section to a person; provided that  
9 complimentary cash or non-cash gifts in excess of an amount per  
10 trip to be set by rule promulgated by the authority are  
11 supported by documentation regarding the reason the gift was  
12 provided to the patron or the patron's guests, including, where  
13 applicable, a patron's player rating. The documentation shall  
14 be maintained by an operator in accordance with rules  
15 promulgated by the authority. For the purposes of this  
16 subsection, all gifts presented to a patron or a patron's  
17 guests directly by the operator or indirectly on behalf of the  
18 operator by a third party within a five-day period shall be  
19 considered to have been made during a single trip.

20 SECTION 20. [NEW MATERIAL] SPORTS WAGERING AGREEMENTS  
21 WITH OTHER JURISDICTIONS.--

22 A. The authority is authorized to:

23 (1) enter into sports wagering agreements with  
24 other governments whereby persons who are physically located in  
25 a signatory jurisdiction may participate in sports wagering

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1 conducted by one or more operators licensed by the signatory  
2 governments; and

3 (2) take all necessary actions to ensure that  
4 a sports wagering agreement entered into pursuant to this  
5 section becomes effective.

6 B. Rules adopted by the authority pursuant to this  
7 section shall include provisions prescribing:

8 (1) the form, length and terms of an agreement  
9 entered into by the authority and another government, including  
10 provisions relating to how:

11 (a) taxes are to be treated by this  
12 state and another government;

13 (b) revenues are to be shared and  
14 distributed; and

15 (c) disputes with patrons are to be  
16 resolved;

17 (2) information to be furnished to the  
18 authority by a government that proposes to enter into an  
19 agreement with this state pursuant to this section;

20 (3) information to be furnished to the  
21 authority to enable the authority and chief executive officer  
22 to fulfill the purposes of this section;

23 (4) the manner and procedure for hearings  
24 conducted by the authority pursuant to this section, including  
25 special rules or notices; and

.218742.3

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1 (5) information required to be furnished to  
2 the authority to support recommendations made to the authority  
3 pursuant to this section.

4 C. The authority shall not enter into a sports  
5 wagering agreement pursuant to this section unless the  
6 agreement includes provisions that:

7 (1) account for the sharing of revenues by  
8 this state and another government;

9 (2) permit the effective regulation of sports  
10 wagering by New Mexico, including provisions relating to  
11 licensing of persons, technical standards, resolution of  
12 disputes by patrons, requirements for bankrolls, enforcement,  
13 accounting and maintenance of records;

14 (3) require each government that is a  
15 signatory to the agreement to prohibit operators of sports  
16 wagering, management or other service providers or suppliers,  
17 manufacturers or distributors of sports wagering systems from  
18 engaging in an activity permitted by the sports wagering  
19 agreement unless they are licensed in New Mexico or in a  
20 signatory jurisdiction with similar requirements approved by  
21 the authority;

22 (4) no variation from the requirements of the  
23 sports wagering agreement is permitted for a signatory  
24 government without a lack of opposition by this state and all  
25 signatory governments;

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1 (5) prohibit subordinate or side agreements  
2 among a subset of governments that are signatories to the  
3 agreement except agreements that relate exclusively to the  
4 sharing of revenues; and

5 (6) require the government to establish and  
6 maintain regulatory requirements governing sports wagering that  
7 are consistent with the requirements of New Mexico in all  
8 material respects if the sports wagering agreement allows  
9 persons physically located in this state to participate in  
10 sports wagering conducted by another government or an operator  
11 licensed by another government.

12 SECTION 21. [NEW MATERIAL] AUTHORIZATION OF SPORTS  
13 WAGERING--REQUIREMENTS.--

14 A. An operator may accept wagers on sports events  
15 and other events authorized pursuant to the New Mexico Lottery  
16 Educational Assistance Act from persons physically present  
17 within a gaming area where authorized sports wagering occurs or  
18 from persons not physically present who wager by means of  
19 electronic devices. A person placing a wager shall be at least  
20 twenty-one years of age.

21 B. An operator may accept wagers from an individual  
22 physically located within this state using a mobile or other  
23 online platform or a sports wagering device, approved by the  
24 authority, through the patron's player's account.

25 C. An operator may accept wagers from an individual

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1 physically located in a state or jurisdiction with which the  
2 authority has entered into a sports wagering agreement using a  
3 mobile or other online platform or a sports wagering device  
4 through the patron's player's account so long as the device or  
5 platform is approved by the authority and all other  
6 requirements of the agreement are satisfied.

7 D. The authority or operator may ban a person from  
8 entering a gaming area where sports wagering is conducted, or  
9 the larger premises that includes the gaming area, or from  
10 participating in the play or operation of sports wagering. A  
11 log of all excluded players shall be maintained by the  
12 authority and each operator licensee, and no player on the  
13 authority's exclusion list or the operator licensee's exclusion  
14 list shall wager on sports wagering pursuant to the New Mexico  
15 Lottery Educational Assistance Act.

16 E. The authority shall promulgate rules  
17 implementing the provisions of this section.

18 F. A licensed employee shall not place a wager on a  
19 sports event at the employer's gaming area or through a mobile  
20 application or online platform of the licensed employee's  
21 employer.

22 G. An authority employee shall not knowingly wager  
23 or be paid a prize from a wager placed with a sports wagering  
24 operator licensee within New Mexico or at a facility outside  
25 New Mexico that is directly or indirectly owned or operated by

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1 an operator licensee.

2 SECTION 22. [NEW MATERIAL] UNAUTHORIZED TABLE GAMES  
3 WAGERING.--

4 A. A table games operator licensee shall receive  
5 wagers only from an individual physically present in a  
6 designated gaming area with table games.

7 B. Table games operator licensees shall use a  
8 method of wagering whereby the player's money for wagering on  
9 table games is, at the request of the player, converted to  
10 tokens, electronic cards or other electronic media or chips at  
11 the table or elsewhere at the licensed racetrack.

12 C. Tokens, electronic cards or other electronic  
13 media or chips issued by a table games operator licensee may  
14 only be used for wagering with that licensee.

15 D. Wagering on table games shall not be conducted  
16 with money, other negotiable currency, tokens, electronic cards  
17 or other electronic media or chips not issued by the table  
18 games operator licensee where the table games are played.

19 E. At the request of a player, the table games  
20 operator licensee shall convert the player's tokens, electronic  
21 cards or other electronic media or chips to currency.

22 F. A table games operator licensee shall not charge  
23 a fee for converting a player's money to an acceptable media  
24 for play at a gaming table or charge a fee for converting the  
25 acceptable media for wagering at a gaming table to currency.

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1           G. An employee of a table games operator licensee  
2 shall not place a wager on a table game located on the premises  
3 where that employee works.

4           SECTION 23. [NEW MATERIAL] REVENUE AND TAXES--  
5 ACCOUNTING--LIMITATION OF TAXES--RECOUPMENT.--

6           A. For the privilege of holding a license to  
7 operate sports wagering pursuant to the New Mexico Lottery  
8 Educational Assistance Act, there is a tax imposed and  
9 collected by the state in the amount of ten percent of the  
10 licensee's adjusted gross receipts from the operation of sports  
11 wagering. The accrual method of accounting shall be used for  
12 purposes of calculating the amount of the tax owed by the  
13 sports wagering operator licensee.

14           B. For the privilege of holding a license to  
15 operate table games pursuant to the New Mexico Lottery  
16 Educational Assistance Act, there is a tax imposed and  
17 collected by the state in the amount of fifteen percent of the  
18 licensee's adjusted gross receipts from the operation of table  
19 games. The accrual method of accounting shall be used for  
20 purposes of calculating the amount of the tax owed by the table  
21 games operator licensee.

22           C. The taxes imposed and collected pursuant to  
23 Subsections A and B of this section are due and payable to the  
24 authority in weekly installments on or before the Wednesday  
25 following the calendar week in which the adjusted gross

.218742.3

1 receipts were received and the tax obligation accrued.

2 D. Operator licensees shall complete and submit a  
3 tax return for the preceding week by electronic communication  
4 to the authority, on or before Wednesday of each week, in a  
5 form prescribed by the authority that provides:

6 (1) the total gross receipts and adjusted  
7 gross receipts from operation of sports wagering or table games  
8 during that week;

9 (2) the tax amount for which the operator  
10 licensee is liable; and

11 (3) additional information necessary for the  
12 computation and collection of the tax on adjusted gross  
13 receipts as required by the authority.

14 E. The tax due shall be remitted by electronic  
15 funds transfer simultaneously with the filing of the return.  
16 All taxes received by the authority pursuant to this section  
17 shall be deposited in the educational assistance fund.

18 F. When adjusted gross receipts for a week is a  
19 negative number because winnings paid to patrons wagering on  
20 the operator licensee's sports wagering or table games exceeds  
21 the operator licensee's gross receipts from sports wagering or  
22 table games, the authority shall allow the operator licensee to  
23 carry over the negative amount to returns filed for subsequent  
24 weeks. The negative amount of adjusted gross receipts shall  
25 not be carried back to an earlier week, and taxes previously

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1 received by the authority shall not be refunded, except if the  
2 licensee surrenders its operator's license and the operator  
3 licensee's last return reported negative adjusted gross  
4 receipts. In that case, the authority shall multiply the  
5 amount of negative adjusted gross receipts by ten percent and  
6 pay the amount to the operator licensee.

7 G. The tax on adjusted gross receipts imposed by  
8 this section is in lieu of all state and local gross receipts  
9 taxes and fees imposed on the operation of or the proceeds from  
10 operation of sports wagering or table games.

11 H. Credit shall not be allowed against the tax  
12 obligations imposed by this section for an investment in gaming  
13 equipment or for an investment in or improvement to real  
14 property that is used in the operation of sports wagering or  
15 table games.

16 SECTION 24. [NEW MATERIAL] EDUCATIONAL ASSISTANCE FUND--  
17 DISTRIBUTION OF FUNDS.--

18 A. The "educational assistance fund" is created as  
19 a nonreverting fund in the state treasury. The fund consists  
20 of appropriations, taxes, fees, gifts, grants and donations to  
21 the fund and income from investment of the fund. Money in the  
22 fund shall be invested by the state investment officer as  
23 provided for other funds. Money in the fund, subject to  
24 appropriation by the legislature, may be expended by the  
25 authority for the purposes of carrying out the provisions of

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1 the New Mexico Lottery Educational Assistance Act.  
2 Disbursements from the fund shall be by warrant of the  
3 secretary of finance and administration pursuant to vouchers  
4 signed by the chief executive officer or the chief executive  
5 officer's designee pursuant to the New Mexico Lottery  
6 Educational Assistance Act.

7 B. The authority shall be reimbursed on a monthly  
8 basis from the educational assistance fund in an amount equal  
9 to all expenses incurred by the authority in the administration  
10 and enforcement of the New Mexico Lottery Educational  
11 Assistance Act.

12 C. At the end of each quarter of a fiscal year,  
13 seventy-five percent of the amount in the educational  
14 assistance fund shall be transferred into the lottery tuition  
15 fund, up to a maximum of ten million dollars (\$10,000,000) in a  
16 fiscal year, after which the transfer shall be to the general  
17 fund.

18 SECTION 25. [NEW MATERIAL] LAW ENFORCEMENT.--The  
19 authority shall use the New Mexico state police for law  
20 enforcement services uniquely related to gaming necessary to  
21 enforce the provisions of the New Mexico Lottery Educational  
22 Assistance Act that are not subject to federal jurisdiction.  
23 The New Mexico state police shall have exclusive jurisdiction  
24 only over offenses relating to sports wagering and table games.

25 SECTION 26. [NEW MATERIAL] CIVIL PENALTIES.--

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1           A. The authority shall impose on a person who  
2 violates the provisions of the New Mexico Lottery Educational  
3 Assistance Act a civil penalty not to exceed fifty thousand  
4 dollars (\$50,000) for each violation. Penalties are not  
5 limited to persons licensed pursuant to the New Mexico Lottery  
6 Educational Assistance Act.

7           B. Prior to the imposition of a civil penalty  
8 pursuant to Subsection A of this section, the alleged offender  
9 shall be given notice and an opportunity to be heard pursuant  
10 to rules promulgated by the authority.

11           C. The provisions of this section shall not apply  
12 to persons participating in social gambling, which is wagering  
13 between individuals in a private place in which all economic  
14 benefits go to the winner of the wager.

15           SECTION 27. [NEW MATERIAL] UNLICENSED ACTIVITIES--  
16 CRIMES--PENALTIES.--

17           A. A person other than a licensee pursuant to the  
18 New Mexico Lottery Educational Assistance Act who accepts a  
19 sports wager or facilitates or operates a sports wagering or  
20 table games operation is guilty of a misdemeanor and upon  
21 conviction shall be sentenced pursuant to the provisions of  
22 Section 31-19-1 NMSA 1978.

23           B. A person convicted of a second violation of  
24 Subsection A of this section is guilty of a misdemeanor and  
25 upon conviction shall be sentenced pursuant to the provisions

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1 of Section 31-19-1 NMSA 1978.

2 C. A person convicted of a third or subsequent  
3 violation of Subsection A of this section is guilty of a fourth  
4 degree felony and upon conviction shall be sentenced pursuant  
5 to the provisions of Section 31-18-15 NMSA 1978.

6 SECTION 28. [NEW MATERIAL] UNAUTHORIZED OPERATIONS--  
7 CRIMES--PENALTIES.--

8 A. An operator licensee is guilty of unlawful  
9 operation and is guilty of a misdemeanor when the operator  
10 licensee:

11 (1) operates sports wagering or table games  
12 without authorization of the authority to do so;

13 (2) operates sports wagering or table games in  
14 a location or in a manner not approved by the authority;

15 (3) knowingly conducts, carries on, operates  
16 or allows sports wagering or table games to occur on premises,  
17 or through another device, if equipment or material has been  
18 tampered with or exposed to conditions in which it will be  
19 operated in a manner designed to deceive the public;

20 (4) acts or employs another person to act as  
21 if the person is not an agent or employee of the licensee in  
22 order to encourage participation in sports wagering or table  
23 games; or

24 (5) exchanges tokens, chips, electronic media  
25 or other forms of credit used for wagering for anything of

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1 value except money or credits applied to a player's account  
2 authorized pursuant to the New Mexico Lottery Educational  
3 Assistance Act.

4 B. A person is guilty of a fourth degree felony  
5 when:

6 (1) the person offers, promises or gives  
7 anything of value to anyone for the purpose of influencing the  
8 outcome of a race, sports event, contest, table game or other  
9 game upon which a wager may be made, or a person places,  
10 increases or decreases a wager after acquiring knowledge, not  
11 available to the general public, that anyone has been offered,  
12 promised or given anything of value for the purpose of  
13 influencing the outcome of the race, sports event, contest,  
14 table game or game upon which the wager is placed, increased or  
15 decreased or attempts to do any of the same;

16 (2) the person changes or alters the normal  
17 outcome of a game played on a mobile or other online platform,  
18 including an interactive gaming system used to monitor the same  
19 or the way in which the outcome is reported to a participant in  
20 the game;

21 (3) the person manufactures, sells or  
22 distributes a device that is intended by that person to be used  
23 to violate a provision of the New Mexico Lottery Educational  
24 Assistance Act;

25 (4) the person places a bet or aids another

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1 individual in placing a bet on a sports event or other sports  
2 wagering game or offering authorized pursuant to the New Mexico  
3 Lottery Educational Assistance Act or table game after  
4 unlawfully acquiring knowledge of the outcome on which winnings  
5 from that bet are contingent;

6 (5) the person claims, collects or takes  
7 anything of value through sports wagering or table games with  
8 intent to defraud or attempts such action without having made a  
9 wager which would have resulted in legitimately winning such  
10 amount or value;

11 (6) the person knowingly places a wager using  
12 counterfeit currency or other counterfeit form of credit for  
13 wagering on sports wagering or table games; or

14 (7) the person, when not an operator licensee  
15 pursuant to the New Mexico Lottery Educational Assistance Act  
16 or an employee or agent of an operator licensee pursuant to  
17 that act and acting in furtherance of the operator licensee's  
18 interest, has in the person's possession within the gaming area  
19 licensed pursuant to that act or on grounds contiguous to the  
20 gaming area, a key or device intended to be used to violate a  
21 provision of that act or a rule of the authority.

22 C. A person who violates Subsection A of this  
23 section is guilty of a misdemeanor and upon conviction shall be  
24 sentenced pursuant to the provisions of Section 31-19-1 NMSA  
25 1978.

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1           D. A person who violates Subsection B of this  
2 section is guilty of a fourth degree felony and upon conviction  
3 shall be sentenced pursuant to the provisions of Section  
4 31-18-15 NMSA 1978.

5           E. Operator licensees shall post notice of the  
6 prohibitions and penalties of Subsection B of this section in a  
7 manner determined by rules promulgated by the authority.

8           **SECTION 29. [NEW MATERIAL] PREEMPTION.--**No local law or  
9 rule providing a penalty, disability, restriction, regulation  
10 or prohibition for operating sports wagering or table games or  
11 supplying an operator licensee may be enacted. The provisions  
12 of the New Mexico Lottery Educational Assistance Act shall  
13 preempt all regulations, rules, ordinances and laws of a county  
14 or municipality in conflict with that act.

15           **SECTION 30. [NEW MATERIAL] EXEMPTION FROM FEDERAL LAW.--**  
16 Pursuant to Subsection (a) of 15 U.S.C. Section 1172, the state  
17 of New Mexico is exempt from 15 U.S.C. Sections 1171 through  
18 1178.

19           **SECTION 31. [NEW MATERIAL] SHIPMENT OF GAMBLING**  
20 **DEVICES.--**All shipments of gambling devices, including sports  
21 wagering devices or related materials, to operator licensees in  
22 New Mexico are legal shipments of gambling devices into the  
23 state if the registering, recording and labeling of which have  
24 been completed by the supplier thereof in accordance with 15  
25 U.S.C. Section 1171 through 1178.

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1           SECTION 32. Section 30-19-1 NMSA 1978 (being Laws 1963,  
2 Chapter 303, Section 19-1, as amended) is amended to read:

3           "30-19-1. DEFINITIONS RELATING TO GAMBLING.--As used in  
4 Chapter 30, Article 19 NMSA 1978:

5           A. "antique gambling device" means a gambling  
6 device manufactured before 1970 and substantially in original  
7 condition that is not used for gambling or commercial gambling  
8 or located in a gambling place;

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

13                   (1) bona fide business transactions that are  
14 valid under the law of contracts, including:

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

17                           (b) agreements to compensate for loss  
18 caused by the happening of the chance, including contracts for  
19 indemnity or guaranty and life or health and accident  
20 insurance;

21                   (2) offers of purses, prizes or premiums to  
22 the actual contestants in any bona fide contest for the  
23 determination of skill, speed, strength or endurance or to the  
24 bona fide owners of animals or vehicles entered in such  
25 contest;

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

2 (4) betting otherwise permitted by law;

3 C. "gambling device" means a contrivance other than  
4 an antique gambling device that is not licensed for use  
5 pursuant to the Gaming Control Act and that, for a  
6 consideration, affords the player an opportunity to obtain  
7 anything of value, the award of which is determined by chance,  
8 even though accompanied by some skill, whether or not the prize  
9 is automatically paid by the device;

10 D. "gambling place" means a building or tent, a  
11 vehicle, whether self-propelled or not, or a room within any of  
12 them that is not within the premises of a person licensed as a  
13 lottery retailer or that is not licensed pursuant to the Gaming  
14 Control Act, one of whose principal uses is:

15 (1) making and settling of bets;

16 (2) receiving, holding, recording or  
17 forwarding bets or offers to bet;

18 (3) conducting lotteries; or

19 (4) playing gambling devices; and

20 E. "lottery" means an enterprise wherein, for a  
21 consideration, the participants are given an opportunity to win  
22 a prize, the award of which is determined by chance, even  
23 though accompanied by some skill. "Lottery" does not include  
24 the New Mexico state lottery established and operated pursuant  
25 to the New Mexico Lottery Act or the New Mexico Lottery

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1 Educational Assistance Act or gaming that is licensed and  
2 operated pursuant to the Gaming Control Act. As used in this  
3 subsection, "consideration" means anything of pecuniary value  
4 required to be paid to the promoter in order to participate in  
5 a gambling or gaming enterprise."

6 SECTION 33. EFFECTIVE DATE.--The effective date of the  
7 provisions of this act is July 1, 2021.

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