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SENATE BILL 422

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO GAMING; ENACTING THE CHARITABLE GAMING ACT;
AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 17 of this act may be cited as the "Charitable Gaming Act".

Section 2. [NEW MATERIAL] POLICY. -- It is the policy of the state to allow only certain organizations to conduct, within the strict parameters set forth in the Charitable Gaming Act, certain games of amusement or chance for the sole purpose of raising money to support their charitable, community, educational, fraternal, political or religious purposes.

Section 3. [NEW MATERIAL] DEFINITIONS. -- As used in the

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1 Charitable Gaming Act:

2 A. "alternate game manager" means a member of a
3 qualified organization designated by the officers of that
4 qualified organization and approved by the licensing authority
5 to be in charge of and responsible for the conduct of
6 charitable games during each scheduled session in the absence
7 of the game manager;

8 B. "amusement game" means a game played for
9 entertainment in which:

- 10 (1) the player actively participates;
- 11 (2) the outcome depends in part on the skill
12 of the player;
- 13 (3) wagers are placed using tokens or credit
14 that may be purchased with money and exchanged for prizes;
- 15 (4) only non-cash prizes are awarded;
- 16 (5) the outcome is not in the control of the
17 operator;
- 18 (6) wagers are placed, winners are determined
19 and the distribution of prizes or property is made in the
20 presence of all players; and
- 21 (7) the game is conducted or operated by an
22 organization that has been issued a casino night license in a
23 manner and at locations authorized by rules adopted by the
24 licensing authority pursuant to the Charitable Gaming Act.

25 The games commonly known as cake walks and fishponds shall be

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1 treated as amusement games for all purposes pursuant to that
2 act;

3 C. "bingo" means a game of chance played using
4 paper or hardboard cards or handheld electronic devices that
5 may play up to twelve cards in which:

6 (1) each paper or hardboard card consists of
7 a five-by-five matrix containing twenty-four numbered spaces
8 and a center space marked "free";

9 (2) each column of the card is designated by
10 a letter of the word "bingo" with the first column designated
11 as "B" and the fifth column as "0";

12 (3) numbers between one and fifteen inclusive
13 appear in the first column, numbers between sixteen and thirty
14 inclusive appear in the second column, numbers between thirty-
15 one and forty-five inclusive appear in the third column,
16 numbers between forty-six and sixty inclusive appear in the
17 fourth column and numbers between sixty-one and seventy-five
18 inclusive appear in the fifth column of the card;

19 (4) at intervals during the game, a caller
20 draws a ping pong ball or other similar object from a
21 receptacle and announces to the players the letter and number
22 appearing on that ball or object;

23 (5) each player checks his hand-held
24 electronic bingo device or the paper or hardboard card he is
25 playing to determine if there is a match on the player's card

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1 with the letter and number called and if there is a match, the
2 player marks the space;

3 (6) after marking each space that is
4 matched, the player determines whether the ensuing pattern
5 matches a pre-established winning pattern;

6 (7) if the player believes his card shows the
7 winning pattern of marked spaces, the player immediately calls
8 out "bingo"; and

9 (8) the caller stops until the win is
10 verified;

11 D. "casino night" means a fundraising event where
12 money is paid for the opportunity to play the allowed games
13 and to win non-cash prizes;

14 E. "charitable gaming" and "charitable games" mean
15 those amusement games and games of chance specifically
16 authorized by the Charitable Gaming Act; provided that games
17 of chance or amusement games that are played on electronic
18 gaming equipment are prohibited except for the use of hand-
19 held electronic bingo devices approved by the licensing
20 authority;

21 F. "community purposes" means purposes of
22 environmental, veterans, volunteer firefighter and employee
23 labor organizations;

24 G. "day" means a twenty-four-hour period beginning
25 immediately after midnight and ending on the following

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1 midnight;

2 H. "deal" means a finite pool of paper pull-tab
3 tickets all having the same serial number and in which each
4 ticket represents an equal share of the pool. Each deal shall
5 have a predetermined number of tickets, of which the number of
6 winning and losing tickets is predetermined and that has a
7 predetermined percentage of payout. Once the size of a deal
8 is predetermined, the deal shall not be manipulated to alter
9 the size of the deal. Paper pull-tab tickets are removed from
10 the deal as they are purchased until the entire deal is
11 exhausted;

12 I. "fundraising event" means an event conducted
13 not more than two times in any calendar year for not more than
14 eight consecutive hours in one day, during which amusement
15 games and games of chance are permitted;

16 J. "game manager" means the member of a qualified
17 organization or an organization licensed to conduct casino
18 nights designated by the officers of that organization and
19 approved by the licensing authority to be in charge of and
20 responsible for the conduct of the charitable games on each
21 scheduled session;

22 K. "game of chance" means any contest, game or
23 gaming equipment in which the outcome depends in a material
24 degree upon an element of chance, notwithstanding that skill
25 of the contestants may also be a factor in determining the

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1 outcome;

2 L. "gaming equipment" means:

3 (1) a device or mechanism through the
4 operation of which a right to money, credits, deposits or
5 other things of value may be created, in return for a
6 consideration, as the result of the operation of an element of
7 chance;

8 (2) a device or mechanism that when operated
9 for a consideration does not return the same value or thing of
10 value for the same consideration upon each operation thereof;

11 (3) a device, mechanism, furniture, fixture,
12 construction or installation designed primarily for use in
13 connection with gambling; and

14 (4) a subassembly or essential part designed
15 or intended for use in connection with a device, mechanism,
16 furniture, fixture, construction or installation;

17 M "gaming premises" means a building, room,
18 enclosure, vehicle, vessel or other place used or intended to
19 be used for charitable gaming; "gaming premises" applies to a
20 place where gaming equipment is found based on the presumption
21 that the gaming equipment is intended to be used for
22 charitable gaming;

23 N. "gross receipts" means the total amount of
24 money or the value of other consideration received from
25 players for permission to play charitable games, the rental or

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1 sale of equipment and the sale of supplies;

2 0. "licensee" means a qualified organization that
3 has been issued a license by the licensing authority to
4 conduct charitable games in accordance with the Charitable
5 Gaming Act;

6 P. "licensing authority" means the alcohol and
7 gaming division of the regulation and licensing department;

8 Q. "net profit" means the gross receipts minus the
9 total of prizes paid and expenses of conducting charitable
10 games;

11 R. "permittee" means a person who has been issued
12 a staff permit by the licensing authority;

13 S. "player" means a natural person who engages on
14 equal terms with other participants and solely as a contestant
15 or bettor in charitable gaming;

16 T. "paper pull-tabs" means a game of chance in
17 which the player purchases a ticket from a deal and physically
18 removes or uncovers numbers, letters or symbols or a
19 combination or sequence of numbers, letters or symbols to
20 expose a winning or losing ticket. Once the pull-tab is
21 removed by the player, the player will immediately know
22 whether the pull-tab ticket contains a winning combination,
23 thereby entitling the player to a prize;

24 U. "prize" means cash, merchandise, goods or
25 services awarded to the winner of a charitable game; provided

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1 that alcoholic beverages by the drink or in unbroken packages
2 shall not be prizes;

3 V. "qualified organization" means:

4 (1) a nonprofit organization that has been
5 in existence in New Mexico continuously for three or more
6 years prior to the time of application for a charitable gaming
7 license, is exempt from the payment of federal and state
8 income taxes under Section 501(c) of the federal Internal
9 Revenue Code of 1986, that has bona fide members and that
10 exists solely for charitable, community, educational,
11 fraternal or religious purposes; or

12 (2) a political party or election campaign
13 that is required to file campaign finance reports with the
14 secretary of state's office or county clerks' offices;
15 provided, however, that an organization that holds a license
16 issued by the gaming control board shall not be a "qualified
17 organization";

18 W. "raffle" means a game of chance that is
19 conducted by randomly drawing stubs from tickets that have
20 been sold to players and are drawn at a pre-established date
21 and time, where the ticket stubs contain a number or the
22 player's name and address, are placed in a receptacle designed
23 so that each ticket stub has an equal chance to be drawn as a
24 winner, a winning ticket stub is drawn from all ticket stubs
25 sold and the number or name on a ticket stub drawn from the

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1 receptacle is called out, making the player holding the
2 matching ticket stub a winner;

3 X. "session" means a period of time not to exceed
4 four hours in which games of chance are conducted;

5 Y. "week" means a seven-day period beginning on
6 Sunday; and

7 Z. "worker" means a person, either paid or
8 volunteer, who assists in conducting or operating authorized
9 charitable games.

10 Section 4. [NEW MATERIAL] CHARITABLE GAMING-- CONDUCT OF
11 GAMES LIMITED-- LICENSING AUTHORITY-- POWERS AND DUTIES. --

12 A. All charitable gaming shall be conducted in
13 accordance with the provisions of the Charitable Gaming Act
14 and rules adopted pursuant to that act.

15 B. The licensing authority may:

16 (1) authorize and issue for terms of one year
17 or less, licenses to qualified organizations to conduct
18 charitable games;

19 (2) authorize and issue for one-time use,
20 licenses to conduct casino nights;

21 (3) authorize and issue for terms of one year
22 or less, staff permits for game managers, alternate game
23 managers and workers for each licensee;

24 (4) authorize and issue for terms of one year
25 or less, licenses to sell, distribute, supply or manufacture

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1 gaming equipment or supplies for use within this state for
2 charitable games;

3 (5) authorize and issue for terms of one year
4 or less, licenses to provide business services to licensees;

5 (6) fine licensees or revoke or suspend
6 charitable gaming licenses for violations of the Charitable
7 Gaming Act or rules adopted pursuant to that act;

8 (7) temporarily issue or suspend charitable
9 gaming licenses subject to final action by the licensing
10 authority; and

11 (8) limit by rule the amounts wagered by
12 players at a casino night.

13 C. The licensing authority shall adopt rules that:

14 (1) require applications for all licenses and
15 permits and require that all requested information be
16 provided;

17 (2) require fingerprinting and background
18 checks of a person:

19 (a) seeking a license, other than a
20 casino night license, or permit pursuant to the provisions of
21 the Charitable Gaming Act;

22 (b) holding an interest in a charitable
23 gaming operation, building or the equipment to be used for
24 charitable gaming; or

25 (c) participating as a game manager or

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1 alternate game manager or worker in the operation of any
2 charitable game; provided, however, that a person
3 participating as a game manager, alternate game manager or
4 worker solely for a casino night is only required to submit to
5 fingerprinting when deemed necessary by the licensing
6 authority;

7 (3) establish a schedule of annual license
8 fees;

9 (4) require identification stamps to be
10 affixed to gaming equipment and set fees for the stamps;

11 (5) prescribe the method of payment of fees
12 and penalties to be paid to or collected by the licensing
13 authority;

14 (6) require that every licensee maintain
15 records and submit reports deemed necessary by the licensing
16 authority;

17 (7) regulate and establish the scope and
18 manner of conducting charitable games;

19 (8) regulate the collection of and the
20 accounting for fees that may be imposed and collected by a
21 licensee;

22 (9) cooperate with and secure the cooperation
23 of county, city or other local or state agencies in
24 investigating any matter within the scope of its duties;

25 (10) restrict the number and hours of

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1 charitable games and value of prizes;

2 (11) regulate the use of handheld electronic
3 bingo devices; and

4 (12) establish minimum standards for internal
5 control procedures for accounting of gross receipts and
6 granting of prizes from charitable gaming and casino nights
7 and dates on which reports will be due.

8 D. The licensing authority shall adopt, amend and
9 repeal other rules deemed necessary to carry out the purposes
10 and provisions of the Charitable Gaming Act.

11 E. The licensing authority shall perform all other
12 duties necessary to carry out the purposes and provisions of
13 the Charitable Gaming Act.

14 F. The licensing authority shall not issue, deny,
15 suspend or revoke a license because of the race, gender,
16 creed, color, ethnicity, national origin, disability or
17 political affiliation of members of the applicant.

18 Section 5. [NEW MATERIAL] AUTHORIZED ACTIVITIES. --

19 A. A licensee may conduct the following games in
20 compliance with the provisions of the Charitable Gaming Act
21 and rules adopted pursuant to that act:

- 22 (1) bingo;
- 23 (2) paper pull-tab games; and
- 24 (3) raffles.

25 B. No games regulated by the gaming control board

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1 pursuant to the Gaming Control Act may be conducted by a
2 licensee.

3 C. Charitable gaming shall not be conducted in the
4 state unless it is conducted pursuant to a license issued by
5 the licensing authority.

6 Section 6. [NEW MATERIAL] CASINO NIGHTS. --

7 A. Casino nights may be conducted by an
8 organization that has been issued a casino night license by
9 the licensing authority when the casino nights are conducted
10 in accordance with all other requirements of the Charitable
11 Gaming Act and rules of the licensing authority and other
12 applicable laws.

13 B. An organization licensed to conduct casino
14 nights shall designate a game manager who will be present on
15 the premises where and at the time the casino night is
16 conducted.

17 C. Casino nights shall not be conducted in the
18 state unless they are conducted pursuant to a license issued
19 by the licensing authority.

20 D. An organization licensed to conduct casino
21 nights shall:

- 22 (1) expend all receipts from the operation of
23 a casino night for the purposes for which the organization
24 licensed to conduct casino nights was chartered, after
25 deducting the cost of prizes and other costs permitted by rule

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1 of the licensing authority; and

2 (2) maintain records, including sales
3 receipts of prizes and other expenditures made to conduct the
4 casino night, for one year following the date of the event
5 that accurately show, at minimum, the gross receipts from each
6 game, details of the permitted costs of conducting the games,
7 costs of prizes and details of the uses for which the gross
8 receipts from the casino night were used.

9 Section 7. [NEW MATERIAL] CHARITABLE GAMING-- LICENSE TO
10 CONDUCT-- APPLICATION-- FEES. --

11 A. A qualified organization may apply to the
12 licensing authority for a license to conduct charitable
13 gaming.

14 B. An application for a license to conduct
15 charitable gaming shall require the following:

16 (1) the name and address of the applicant;

17 (2) information required by the licensing
18 authority to verify the applicant's status as a qualified
19 organization;

20 (3) the names and addresses of the
21 applicant's four highest ranking officers, if any;

22 (4) the names and addresses of the game
23 manager and alternate game manager;

24 (5) a list of all workers who will assist the
25 game manager in the operation of the charitable games;

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1 (6) the specific games intended to be held,
2 operated and conducted by the applicant under the license
3 applied for;

4 (7) the place where the charitable games are
5 intended to be held, operated and conducted by the applicant
6 under the license applied for;

7 (8) the days and times that charitable games
8 are intended to be held, operated and conducted;

9 (9) a list of all persons having a managerial
10 or ownership interest in the building in which the charitable
11 gaming will occur;

12 (10) a list of all persons having a
13 managerial or ownership interest in the equipment to be used
14 for any charitable game;

15 (11) a statement of operational policies and
16 procedures that describes how the charitable games will be
17 conducted and maintained, including:

18 (a) a description of the internal
19 control procedures; and

20 (b) the applicant's administrative and
21 accounting procedures; and

22 (12) any other information required by the
23 licensing authority.

24 C. A fee shall be submitted with an application
25 for a license to conduct charitable games. The rate of the

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1 license fee shall be set by the licensing authority at a level
2 that covers all or part of the costs of issuing the license.
3 The licensing authority may decline to proceed with its
4 investigation, and no license shall be issued until the
5 license fee is paid.

6 Section 8. [NEW MATERIAL] CASINO NIGHTS--LICENSE TO
7 CONDUCT--APPLICATIONS--FEES.--

8 A. A qualified organization or nonprofit
9 organization, as defined in Section 60-2E-3 NMSA 1978, that
10 has been issued a license by the gaming control board pursuant
11 to the provisions of the Gaming Control Act, may apply to the
12 licensing authority for a license to conduct a casino night by
13 completing an application form developed by the licensing
14 authority and providing all information required by the
15 licensing authority.

16 B. A fee shall be submitted with each application
17 for a license to conduct a casino night. The rate of the fee
18 shall be established by the licensing authority at a level
19 that covers all or part of the costs of issuing the license.
20 The licensing authority may decline to proceed with its
21 investigation, and no license shall be issued until the fee is
22 paid.

23 Section 9. [NEW MATERIAL] CHARITABLE GAMING--STAFF
24 PERMITS--APPLICATIONS--FEES.--

25 A. The game manager, the alternate game manager,

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1 the four highest ranking officers of the licensee and each
2 worker shall apply for a staff permit to conduct, operate or
3 manage charitable games.

4 B. A game manager, alternate game manager or
5 worker conducting a charitable game shall have in his
6 possession his staff permit.

7 C. An application for a staff permit to conduct,
8 operate or manage charitable games shall require the
9 following:

10 (1) the name, address and telephone number of
11 the applicant;

12 (2) a sworn affidavit stating that the
13 applicant has not been convicted of a felony in any
14 jurisdiction; and

15 (3) other information required by the
16 licensing authority.

17 D. A fee shall be submitted with each application
18 for a staff permit. The rate of the fee shall be established
19 by the licensing authority at a level that covers all or part
20 of the costs of issuing the permit. The licensing authority
21 may decline to proceed with its investigation, and no permit
22 shall be issued until the permit fee is paid.

23 Section 10. [NEW MATERIAL] LICENSE TO MANUFACTURE,
24 SUPPLY OR DISTRIBUTE GAMING EQUIPMENT OR SUPPLIES--
25 APPLICATIONS-- FEES. --

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1 A. An application for a license to manufacture,
2 supply or distribute gaming equipment or supplies shall
3 require the following:

4 (1) the name and address of the applicant;

5 (2) the names and addresses of its four
6 highest ranking officers, if any;

7 (3) the names and addresses of owners of ten
8 percent or greater interest in the applicant's business, if
9 any;

10 (4) the specific gaming equipment or supplies
11 to be manufactured, supplied or distributed by the applicant
12 for which the applicant seeks a license; and

13 (5) other information required by the
14 licensing authority.

15 B. No person in New Mexico shall manufacture,
16 supply or distribute gaming equipment or supplies for use in
17 charitable games unless he has been issued a license
18 authorizing him to manufacture, supply or distribute gaming
19 equipment or supplies by the licensing authority.

20 C. A fee shall be submitted with an application
21 for a license to manufacture, supply or distribute gaming
22 equipment or supplies. The rate of the fee shall be
23 established by the licensing authority at a level that covers
24 all or part of the costs of issuing the license. The
25 licensing authority may decline to proceed with its

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1 investigation, and no license shall be issued until the
2 license fee is paid.

3 Section 11. [NEW MATERIAL] CHARITABLE GAMING--BUSINESS
4 SERVICE LICENSES--APPLICATIONS--FEES.--

5 A. An application for a license to provide
6 business services to licensees shall require the following:

7 (1) the name and address of the applicant;

8 (2) the names and addresses of its four
9 highest ranking officers, if any;

10 (3) the names and addresses of owners of ten
11 percent or greater interest in the applicant's business, if
12 any;

13 (4) the specific services to be provided by
14 the applicant under the license applied for; and

15 (5) other information required by the
16 licensing authority.

17 B. No person shall supply business services to a
18 licensee unless he has been issued a license authorizing him
19 to supply business services to a licensee by the licensing
20 authority.

21 C. A fee shall be submitted with an application
22 for a license to provide business services to licensees. The
23 rate of the fee shall be established by the licensing
24 authority at a level that covers all or part of the costs of
25 issuing the license. The licensing authority may decline to

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1 proceed with its investigation, and no license shall be issued
2 until the license fee is paid.

3 Section 12. [NEW MATERIAL] CHARITABLE GAMING--LOCATION--
4 PREMISES-- OPERATION. --

5 A. Charitable gaming premises shall comply with
6 all state and local zoning, fire, health, building and similar
7 statutes, rules or ordinances, including those limiting or
8 controlling location of charitable gaming premises.

9 B. A licensee may allow its premises and the
10 furnishings, gaming equipment or other facilities on the
11 premises to be used by other licensees to engage in charitable
12 gaming. Gaming equipment may not be removed from a licensee's
13 premises to allow its use by other licensees.

14 C. Each charitable game shall be operated and
15 managed by a game manager designated by the licensee that has
16 a staff permit issued by the licensing authority and is
17 present on the premises where charitable gaming or a casino
18 night is being conducted at all times during the charitable
19 gaming or casino night. Each licensee shall designate no more
20 than one game manager and may designate no more than one
21 alternate game manager.

22 D. A licensee shall conduct no more than six
23 charitable game sessions in a week and shall conduct no more
24 than two sessions in a day.

25 E. The gross receipts from charitable games, less

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1 reasonable expenses, as defined by rule of the licensing
2 authority, shall be used solely for the charitable purposes of
3 the licensee.

4 F. All licensees shall generate a minimum net
5 profit to be determined as a percentage of the licensee's
6 gross receipts as follows:

7 (1) gross receipts of one hundred fifty
8 thousand dollars (\$150,000) or less, minimum net profit of
9 eight percent;

10 (2) gross receipts of one hundred fifty
11 thousand dollars (\$150,000) to two hundred fifty thousand
12 dollars (\$250,000), minimum net profit of ten percent;

13 (3) gross receipts of two hundred fifty
14 thousand dollars (\$250,000) to three hundred fifty thousand
15 dollars (\$350,000), minimum net profit of twelve percent; and

16 (4) gross receipts over three hundred fifty-
17 thousand dollars (\$350,000), minimum net profit of fourteen
18 percent.

19 H. Gross receipts from charitable games shall be
20 recorded and reported as set forth by rule of the licensing
21 authority. Records shall disclose gross receipts from all
22 sources, all expenses incurred to conduct all charitable
23 games, the nature and value of all prizes and distributions of
24 net profit. Reports shall disclose gross receipts from all
25 sources, the nature and value of all prizes and distributions

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1 of net profits.

2 I. No less than once every three years or more
3 often as required by the licensing authority, a review of the
4 records of a licensee to determine whether that licensee is
5 operating in compliance with rules of and the operational
6 policies and procedures approved by the licensing authority
7 shall be conducted by an independent certified public
8 accountant engaged by the licensee. A copy of the review and
9 certification by the accountant that the accounting is
10 accurate and that the licensee has complied with the
11 provisions of the Charitable Gaming Act shall be submitted to
12 the licensing authority by a date to be determined by the
13 licensing authority.

14 J. Gaming equipment and supplies for any
15 charitable games shall be provided by distributors licensed by
16 the licensing authority, unless the gaming equipment and
17 supplies are owned by the licensee. Gaming equipment owned by
18 the licensee shall be provided by distributors, suppliers or
19 manufacturers licensed or otherwise approved by the licensing
20 authority.

21 K. Gaming equipment and supplies used for
22 charitable games must be tested by a tester approved by the
23 licensing authority and certified for accuracy annually, and
24 the certification provided to the licensing authority.

25 L. The maximum aggregate amount that may be

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1 awarded for bingo prizes shall not exceed two thousand five
2 hundred dollars (\$2,500) per session.

3 Section 13. [NEW MATERIAL] CHARITABLE GAMING GROSS
4 RECEIPTS TAX--ADMINISTRATION.--

5 A. For the privilege of offering charitable gaming
6 to the public, the "charitable gaming gross receipts tax" is
7 imposed in the amount of one-fourth of one percent on the
8 gross receipts of each licensee from all games of chance
9 conducted by that licensee.

10 B. The charitable gaming gross receipts tax shall
11 be paid monthly on the twenty-fifth day of each month on the
12 gross receipts from charitable games conducted in the
13 preceding month to the taxation and revenue department on
14 forms developed by that department.

15 C. The tax shall be administered pursuant to the
16 Tax Administration Act.

17 Section 14. [NEW MATERIAL] COMPLIANCE--WARRANTLESS
18 SEARCH AND ENFORCEMENT.--

19 A. The special investigations division of the
20 department of public safety shall enforce the Charitable
21 Gaming Act by monitoring the activities of licensees for
22 compliance with the law and rules adopted pursuant to that
23 act. The special investigations division shall investigate
24 complaints against licensees and may issue administrative or
25 criminal citations for violations of any provision of law.

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1 B. An agent of the special investigations division
2 of the department of public safety is authorized to enter the
3 premises of a licensee at any time without a warrant to
4 investigate pursuant to the provisions of the Charitable
5 Gaming Act or to enforce the provisions of that act.

6 C. Upon request by the licensing authority, the
7 special investigations division shall investigate licensees or
8 activities that the licensing authority has reasonable cause
9 to believe are in violation of the Charitable Gaming Act.

10 D. Within thirty days after issuance of an
11 administrative or criminal citation pursuant to the provisions
12 of the Charitable Gaming Act, the issuing agency shall report
13 the citation to the licensing authority.

14 E. Upon receipt of an administrative citation, the
15 licensing authority shall initiate administrative adjudicatory
16 proceedings.

17 Section 15. [NEW MATERIAL] ADMINISTRATIVE ADJUDICATORY
18 PROCEEDINGS. --

19 A. Administrative adjudicatory proceedings may be
20 either formal or informal.

21 B. In conducting either formal or informal
22 administrative adjudicatory proceedings, the licensing
23 authority shall afford all parties an opportunity for full and
24 fair hearing after reasonable notice.

25 C. The notice shall include:

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- 1 (1) a short and plain statement of the
- 2 matters of fact and law asserted and the proposed
- 3 administrative adjudicatory action;
- 4 (2) an explanation of the informal and formal
- 5 administrative adjudication processes;
- 6 (3) the name, title, address, telephone and
- 7 fax numbers of the person to whom the licensee should respond;
- 8 and
- 9 (4) a date and time within which the licensee
- 10 should respond.

11 D. The licensing authority may make informal

12 disposition of any administrative adjudicatory proceeding by

13 stipulation, agreed settlement, consent order or default.

14 E. If the licensee and the licensing authority are

15 unable to make informal disposition of an administrative

16 citation, either party may request a hearing in writing. The

17 hearing shall be conducted in accordance with the procedures

18 described in Sections 12-8-10 through 12-8-13 NMSA 1978.

19 Section 16. [NEW MATERIAL] DENIAL, SUSPENSION OR

20 REVOCATION OF A LICENSE OR PERMIT. --

21 A. The licensing authority may deny an

22 application, fine a person or organization holding a license

23 or permit issued by the licensing authority or suspend or

24 revoke a license or permit issued by the licensing authority,

25 if the applicant or person or organization holding the license

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1 or permit:

2 (1) has violated, failed or refused to comply
3 with the provisions, requirements, conditions, limitations or
4 duties imposed by the Charitable Gaming Act, or a rule adopted
5 by the licensing authority pursuant to that act;

6 (2) causes, aids, abets or conspires with
7 another to cause a person to violate a law of this state or a
8 rule of the licensing authority;

9 (3) misrepresents or fails to disclose a
10 material fact to the licensing authority or otherwise obtains
11 a license or permit by fraud, misrepresentation, concealment
12 or through inadvertence or mistake;

13 (4) is subject to current prosecution or
14 pending charges, or a conviction that is under appeal, for any
15 of the offenses included pursuant to Paragraph (3) of this
16 subsection;

17 (5) has been convicted of, forfeited bond
18 upon a charge of or pleaded guilty to any crime, whether a
19 felony or misdemeanor;

20 (6) denies the licensing authority or its
21 authorized representatives, including authorized local law
22 enforcement agencies, access to a place where a charitable
23 game is conducted or fails to produce promptly for inspection
24 or audit a book, record, document or item required by law or
25 licensing authority rule;

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1 (7) fails to display its license in full view
2 of the public at all times during the operation of the
3 charitable game on the premises where the game is conducted;
4 or

5 (8) fails to prove, by clear and convincing
6 evidence, that he is qualified to hold a license or permit in
7 accordance with the provisions of the Charitable Gaming Act.

8 B. No license shall be suspended or revoked
9 without informal disposition by the parties or administrative
10 adjudicatory proceedings.

11 Section 17. [NEW MATERIAL] PENALTIES. -- The licensing
12 authority shall adopt rules setting forth uniform standards of
13 penalties concerning fines, suspensions and revocations.

14 Section 18. Section 30-19-6 NMSA 1978 (being Laws 1963,
15 Chapter 303, Section 19-6, as amended) is amended to read:

16 "30-19-6. PERMISSIVE LOTTERY. --

17 A. Nothing in [~~Article 19~~] Chapter 30, Article 19
18 NMSA 1978 shall [~~be construed to~~] apply to [~~any~~]:

19 (1) a sale or drawing of [~~any~~] a prize at
20 [~~any~~] a fair held [~~in this state~~] for the benefit of [~~any~~] a
21 church, public library or religious society [~~situate or being~~]
22 located in this state, or for charitable purposes when all the
23 proceeds of [~~such~~] the fair [~~shall~~] are required to be
24 expended in this state for the benefit of [~~such~~] the church,
25 public library, religious society or charitable purposes; or

underscored material = new
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1 (2) a lottery [~~shall be~~] operated for the
2 benefit of [~~the organization or~~] a church, public library or
3 religious society for a charitable purpose only when the
4 entire proceeds of the lottery go to the [~~organization or~~]
5 church, public library or religious society for a charitable
6 purpose [~~and~~]. No part of [~~such~~] the proceeds may go to any
7 individual member or employee [~~thereof~~] of the church, library
8 or religious society.

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

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

25 D. Nothing in [~~Article 19~~] Chapter 30, Article 19

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1 NMSA 1978 shall ~~[be construed to]~~ apply to ~~[any lottery~~
2 ~~operated by an organization exempt from the state income tax~~
3 ~~pursuant to Subsection C of Section 7-2-4 NMSA 1978 and not~~
4 ~~subject to the provisions of Subsection A of this section;~~
5 ~~provided that:~~

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

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

12 (3) ~~no part of the proceeds of any lottery~~
13 ~~shall go to any individual member or employee of any~~
14 ~~organization except as payment for the purchase of prizes at~~
15 ~~no more than the reasonable retail price] games conducted~~
16 ~~pursuant to the provisions of the Charitable Gaming Act. "~~

17 Section 19. Section 60-2E-3 NMSA 1978 (being Laws 1997,
18 Chapter 190, Section 5) is amended to read:

19 "60-2E-3. DEFINITIONS. --As used in the Gaming Control
20 Act:

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

25 B. "affiliated company" means a company that:

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

3 (2) is involved in gaming activities or
4 involved in the ownership of property on which gaming is
5 conducted;

6 C. "applicant" means a person who has applied for
7 a license or for approval of an act or transaction for which
8 approval is required or allowed pursuant to the provisions of
9 the Gaming Control Act;

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

16 E. "associated equipment" means equipment or a
17 mechanical, electromechanical or electronic contrivance,
18 component or machine used in connection with gaming;

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

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

22 H. "certified technician" means a person certified
23 by a manufacturer licensee to repair and service gaming
24 devices, but who is prohibited from programming gaming
25 devices;

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

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

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

10 (1) voting stock or similar security;

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

15 (3) a warrant or right to subscribe to or
16 purchase voting stock or similar security; or

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

19 L. "executive director" means the chief
20 administrative officer appointed by the board pursuant to
21 ~~[Section 9 of the Gaming Control Act]~~ Section 60-2E-7 NMSA
22 1978;

23 M "finding of suitability" means a certification
24 of approval issued by the board permitting a person to be
25 involved directly or indirectly with a licensee, relating only

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1 to the specified involvement for which it is made;

2 N. "game" means an activity in which, upon payment
3 of consideration, a player receives a prize or other thing of
4 value, the award of which is determined by chance even though
5 accompanied by some skill; "game" does not include an activity
6 played in a private residence in which no person makes money
7 for operating the activity except through winnings as a
8 player;

9 O. "gaming" means offering a game for play;
10 "gaming" does not include amusement games and games of chance
11 approved by the alcohol and gaming division of the regulation
12 and licensing department to be offered for play solely at
13 charitable gaming events or casino nights and that are
14 operated pursuant to the provisions of the Charitable Gaming
15 Act;

16 P. "gaming activity" means any endeavor associated
17 with the manufacture or distribution of gaming devices or the
18 conduct of gaming;

19 Q. "gaming device" means associated equipment or a
20 gaming machine and includes a system for processing
21 information that can alter the normal criteria of random
22 selection that affects the operation of a game or determines
23 the outcome of a game; "gaming device" does not include:

24 (1) a system or device that affects a game
25 solely by stopping its operation so that the outcome remains

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1 undetermined; or
2 (2) amusement games and gaming equipment
3 approved by the alcohol and gaming division of the regulation
4 and licensing department to be used solely to conduct
5 charitable games and casino nights pursuant to the Charitable
6 Gaming Act;

7 R. "gaming employee" means a person connected
8 directly with a gaming activity; "gaming employee" does not
9 include:

10 (1) bartenders, cocktail servers or other
11 persons engaged solely in preparing or serving food or
12 beverages;

13 (2) secretarial or janitorial personnel;

14 (3) stage, sound and light technicians; or

15 (4) other nongaming personnel;

16 S. "gaming establishment" means the premises on or
17 in which gaming is conducted;

18 T. "gaming machine" means a mechanical,
19 electromechanical or electronic contrivance or machine that,
20 upon insertion of a coin, token or similar object, or upon
21 payment of any consideration, is available to play or operate
22 a game, whether the payoff is made automatically from the
23 machine or in any other manner; "gaming machine" does not
24 include amusement games and gaming equipment approved by the
25 alcohol and gaming division of the regulation and licensing

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1 department to be used solely to conduct charitable games and
2 casino nights pursuant to the Charitable Gaming Act ;

3 U. "gaming operator" means a person who conducts
4 gaming;

5 V. "holding company" means a company that directly
6 or indirectly owns or has the power or right to control a
7 company that is an applicant or licensee, but a company that
8 does not have a beneficial ownership of more than ten percent
9 of the equity securities of a publicly traded corporation is
10 not a holding company;

11 W. "immediate family" means natural persons who
12 are related to a specified natural person by affinity or
13 consanguinity in the first through the third degree;

14 X. "independent administrator" means a person who
15 administers an annuity, who is not associated in any manner
16 with the gaming operator licensee for which the annuity was
17 purchased and is in no way associated with the person who will
18 be receiving the annuity;

19 Y. "institutional investor" means a state or
20 federal government pension plan or a person that meets the
21 requirements of a qualified institutional buyer as defined in
22 Rule 144A of the federal Securities Act of 1933, and is:

23 (1) a bank as defined in Section 3(a)(6) of
24 the federal Securities Exchange Act of 1934;

25 (2) an insurance company as defined in

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1 Section 2(a)(17) of the federal Investment Company Act of
2 1940;

3 (3) an investment company registered under
4 Section 8 of the federal Investment Company Act of 1940;

5 (4) an investment adviser registered under
6 Section 203 of the federal Investment Advisers Act of 1940;

7 (5) collective trust funds as defined in
8 Section 3(c)(11) of the federal Investment Company Act of
9 1940;

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

15 (7) a group comprised entirely of persons
16 specified in Paragraphs (1) through (6) of this subsection;

17 Z. "intermediary company" means a company that:

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

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

22 AA. "key executive" means an executive of a
23 licensee or other person having the power to exercise
24 significant influence over decisions concerning any part of
25 the licensed operations of the licensee or whose compensation

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1 exceeds an amount established by the board in a regulation;

2 BB. "license" means an authorization required by
3 the board for engaging in gaming activities;

4 CC. "licensee" means a person to whom a valid
5 license has been issued;

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

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

16 (1) cash received from patrons for playing a
17 game;

18 (2) cash received in payment for credit
19 extended by a licensee to a patron for playing a game; and

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

22 FF. "nonprofit organization" means:

23 (1) a bona fide chartered or incorporated
24 branch, lodge, order or association, in existence in New
25 Mexico prior to January 1, 1997, of a fraternal organization

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

11 GG. "person" means a legal entity;

12 HH. "premises" means land, together with all
13 buildings, improvements and personal property located on the
14 land;

15 II. "progressive jackpot" means a prize that
16 increases over time or as gaming machines that are linked to a
17 progressive system are played and upon conditions established
18 by the board may be paid by an annuity;

19 JJ. "progressive system" means one or more gaming
20 machines linked to one or more common progressive jackpots;

21 KK. "publicly traded corporation" means a
22 corporation that:

23 (1) has one or more classes of securities
24 registered pursuant to the securities laws of the United
25 States or New Mexico;

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

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

8 LL. "registration" means a board action that
9 authorizes a company to be a holding company with respect to a
10 company that holds or applies for a license or that relates to
11 other persons required to be registered pursuant to the Gaming
12 Control Act;

13 MM "subsidiary" means a company, all or a part of
14 whose outstanding equity securities are owned, subject to a
15 power or right of control or held, with power to vote, by a
16 holding company or intermediary company; and

17 NN. "work permit" means a card, certificate or
18 permit issued by the board, whether denominated as a work
19 permit, registration card or otherwise, authorizing the
20 employment of the holder as a gaming employee. "

21 Section 20. Section 60-7A-19 NMSA 1978 (being Laws 1981,
22 Chapter 39, Section 96, as amended) is amended to read:

23 "60-7A-19. COMMERCIAL GAMBLING ON LICENSED PREMISES. --

24 A. It is a violation of the Liquor Control Act for
25 a licensee to knowingly allow commercial gambling on the

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1 licensed premises.

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

6 C. As used in this section:

7 (1) "commercial gambling" means:

8 (a) participating in the earnings of or
9 operating a gambling place;

10 (b) receiving, recording or forwarding
11 bets or offers to bet;

12 (c) possessing facilities with the
13 intent to receive, record or forward bets or offers to bet;

14 (d) for gain, becoming a custodian of
15 anything of value bet or offered to be bet;

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

19 (f) setting up for use for the purpose
20 of gambling, or collecting the proceeds of, any gambling
21 device or game; and

22 (2) "commercial gambling" does not mean:

23 (a) activities authorized pursuant to
24 the New Mexico Lottery Act;

25 (b) the conduct of activities pursuant

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1 to Subsection D of Section 30-19-6 NMSA 1978; [and]

2 (c) gaming authorized pursuant to the
3 Gaming Control Act on the premises of a gaming operator
4 licensee licensed pursuant to that act; and

5 (d) charitable gaming authorized
6 pursuant to the Charitable Gaming Act. "

7 Section 21. REPEAL. -- Effective June 30, 1999, Sections
8 60-2B-1 through 60-2B-14 NMSA 1978 (being Laws 1981, Chapter
9 259, Sections 1 through 14, as amended) are repealed.

10 Section 22. EFFECTIVE DATE. -- The effective date of the
11 provisions of Sections 1 through 20 of this act is July 1,
12 1999.

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
3
4
5

6 March 5, 1999
7

8 Mr. President:
9

10 Your PUBLIC AFFAIRS COMMITTEE, to whom has been
11 referred
12

13 SENATE BILL 422
14

15 has had it under consideration and reports same with
16 recommendation that it DO NOT PASS, but that
17

18
19 SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
20 SENATE BILL 422
21

22 DO PASS, and thence referred to the JUDICIARY COMMITTEE.
23
24

25 Respectfully submitted,

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Shannon Robinson, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against
Yes: 5
No: 0
Excused: Boitano, Leavell, Stockard, Smith
Absent: None

S0422PA1

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 422

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

AN ACT

RELATING TO GAMING; ENACTING THE CHARITABLE GAMING ACT;
AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 15 of this act may be cited as the "Charitable Gaming Act".

Section 2. [NEW MATERIAL] POLICY.--It is the policy of the state to allow only qualified organizations to conduct, within the strict parameters set forth in the Charitable Gaming Act, certain games of chance for the sole purpose of raising money to support their charitable, community, educational, fraternal, political or religious purposes.

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

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1 A. "alternate game manager" means a member of a
2 qualified organization designated by the officers of that
3 qualified organization and approved by the licensing authority
4 to be in charge of and responsible for the conduct of
5 charitable games during each scheduled session in the absence
6 of the game manager;

7 B. "bingo" means a game of chance played using paper
8 or hardboard cards in which:

9 (1) each paper or hardboard card is printed
10 with lettered and numbered spaces up to the number seventy-
11 five;

12 (2) at intervals during the game, a caller
13 draws a ping pong ball or other similar object from a
14 receptacle and announces to the players the letter and number
15 appearing on that ball or object;

16 (3) each player checks the paper or hardboard
17 card he is playing to determine if there is a match on the
18 player's card with the letter and number called and if there
19 is a match, the player marks the space;

20 (4) after marking each space that is matched,
21 the player determines whether the ensuing pattern matches a
22 pre-established winning pattern;

23 (5) if the player believes his card shows the
24 winning pattern of marked spaces, the player immediately calls
25 out "bingo"; and

1 (6) the caller stops until the win is verified;

2 C. "charitable gaming" and "charitable games" mean
3 those games of chance specifically authorized by the
4 Charitable Gaming Act; provided that games of chance that are
5 played on electronic gaming equipment are prohibited;

6 D. "community purposes" means purposes of
7 environmental, veterans, volunteer firefighter and employee
8 labor organizations;

9 E. "day" means a twenty-four-hour period beginning
10 immediately after midnight and ending on the following
11 midnight;

12 F. "deal" means a finite pool of paper pull-tab
13 tickets all having the same serial number and in which each
14 ticket represents an equal share of the pool. Each deal shall
15 have a predetermined number of tickets, of which the number of
16 winning and losing tickets is predetermined and that has a
17 predetermined percentage of payout. Once the size of a deal
18 is predetermined, the deal shall not be manipulated to alter
19 the size of the deal. Paper pull-tab tickets are removed from
20 the deal as they are purchased until the entire deal is
21 exhausted;

22 G. "game manager" means the member of a qualified
23 organization designated by the officers of that organization
24 and approved by the licensing authority to be in charge of and
25 responsible for the conduct of the charitable games on each

1 scheduled session;

2 H. "game of chance" means any contest, game or
3 gaming equipment in which the outcome depends in a material
4 degree upon an element of chance, notwithstanding that skill
5 of the contestants may also be a factor in determining the
6 outcome;

7 I. "gaming equipment" means:

8 (1) a device or mechanism through the
9 operation of which a right to money, credits, deposits or
10 other things of value may be created, in return for a
11 consideration, as the result of the operation of an element of
12 chance;

13 (2) a device or mechanism that when operated
14 for a consideration does not return the same value or thing of
15 value for the same consideration upon each operation thereof;

16 (3) a device, mechanism, fixture, construction
17 or installation designed primarily for use in connection with
18 gambling; and

19 (4) a subassembly or essential part designed or
20 intended for use in connection with a device, mechanism,
21 furniture, fixture, construction or installation;

22 J. "gaming premises" means a building, room,
23 enclosure, vehicle, vessel or other place used or intended to
24 be used for charitable gaming; "gaming premises" applies to a
25 place where gaming equipment is found based on the presumption

1 that the gaming equipment is intended to be used for
2 charitable gaming;

3 K. "gross receipts" means the total amount of money
4 or the value of other consideration received from players for
5 permission to play charitable games, the rental or sale of
6 equipment and the sale of supplies;

7 L. "licensee" means a qualified organization that
8 has been issued a license by the licensing authority to
9 conduct charitable games in accordance with the Charitable
10 Gaming Act;

11 M. "licensing authority" means the alcohol and
12 gaming division of the regulation and licensing department;

13 N. "net profit" means the gross receipts minus the
14 total of prizes paid and expenses of conducting charitable
15 games;

16 O. "permittee" means a person who has been issued a
17 staff permit by the licensing authority;

18 P. "player" means a natural person who engages on
19 equal terms with other participants and solely as a contestant
20 or bettor in charitable gaming;

21 Q. "paper pull-tabs" means a game of chance in which
22 the player purchases a ticket from a deal and physically
23 removes or uncovers numbers, letters or symbols or a
24 combination or sequence of numbers, letters or symbols to
25 expose a winning or losing ticket. Once the pull-tab is

1 removed by the player, the player will immediately know
2 whether the pull-tab ticket contains a winning combination,
3 thereby entitling the player to a prize;

4 R. "prize" means cash, merchandise, goods or
5 services awarded to the winner of a charitable game; provided
6 that alcoholic beverages by the drink or in unbroken packages
7 shall not be prizes;

8 S. "qualified organization" means:

9 (1) a nonprofit organization that has been in
10 existence in New Mexico continuously for three or more years
11 prior to the time of application for a charitable gaming
12 license, is exempt from the payment of federal and state
13 income taxes under Section 501(c) of the federal Internal
14 Revenue Code of 1986, that has bona fide members and that
15 exists solely for charitable, community, educational,
16 fraternal or religious purposes; or

17 (2) a political party or election campaign that
18 is required to file campaign finance reports with the
19 secretary of state's office or county clerks' offices;
20 provided, however, that an organization that holds a license
21 issued by the gaming control board shall not be a "qualified
22 organization";

23 T. "raffle" means a game of chance that is conducted
24 by randomly drawing stubs from tickets that have been sold to
25 players and are drawn at a pre-established date and time,

1 where the ticket stubs contain a number or the player's name
2 and address, are placed in a receptacle designed so that each
3 ticket stub has an equal chance to be drawn as a winner, a
4 winning ticket stub is drawn from all ticket stubs sold and
5 the number or name on a ticket stub drawn from the receptacle
6 is called out, making the player holding the matching ticket
7 stub a winner;

8 U. "session" means a period of time not to exceed
9 four hours in which games of chance are conducted;

10 V. "week" means a seven-day period beginning on
11 Sunday; and

12 W. "worker" means a person, either paid or
13 volunteer, who assists in conducting or operating authorized
14 charitable games.

15 Section 4. [NEW MATERIAL] CHARITABLE GAMING-- CONDUCT OF
16 GAMES LIMITED-- LICENSING AUTHORITY-- POWERS AND DUTIES. --

17 A. All charitable gaming shall be conducted in
18 accordance with the provisions of the Charitable Gaming Act
19 and rules adopted pursuant to that act.

20 B. The licensing authority may:

21 (1) authorize and issue for terms of one year
22 or less, licenses to qualified organizations to conduct
23 charitable games;

24 (2) authorize and issue for terms of one year
25 or less, staff permits for game managers, alternate game

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1 managers and workers for each licensee;

2 (3) authorize and issue for terms of one year
3 or less, licenses to sell, distribute, supply or manufacture
4 gaming equipment or supplies for use within this state for
5 charitable games;

6 (4) authorize and issue for terms of one year
7 or less, licenses to provide business services to licensees;

8 (5) fine licensees or revoke or suspend
9 charitable gaming licenses for violations of the Charitable
10 Gaming Act or rules adopted pursuant to that act; and

11 (6) temporarily issue or suspend charitable
12 gaming licenses subject to final action by the licensing
13 authority.

14 C. The licensing authority shall adopt rules that:

15 (1) require applications for all licenses and
16 permits and require that all requested information be
17 provided;

18 (2) require fingerprinting and background
19 checks of a person:

20 (a) seeking a license or permit pursuant to
21 the provisions of the Charitable Gaming Act;

22 (b) holding an interest in a charitable
23 gaming operation or the equipment to be used for charitable
24 gaming; or

25 (c) participating as a game manager or

1 alternate game manager;

2 (3) establish a schedule of annual license
3 fees;

4 (4) require identification stamps to be affixed
5 to gaming equipment and set fees for the stamps;

6 (5) prescribe the method of payment of fees and
7 penalties to be paid to or collected by the licensing
8 authority;

9 (6) require that every licensee maintain
10 records and submit reports deemed necessary by the licensing
11 authority;

12 (7) regulate and establish the scope and manner
13 of conducting charitable games;

14 (8) regulate the collection of and the
15 accounting for fees that may be imposed and collected by a
16 licensee;

17 (9) cooperate with and secure the cooperation
18 of county, city or other local or state agencies in
19 investigating any matter within the scope of its duties;

20 (10) restrict the number and hours of
21 charitable games and value of prizes;

22 (11) permit an organization exempt from the
23 state income tax pursuant to Subsection B of Section 7-2-4
24 NMSA 1978 to conduct games authorized by the Charitable Gaming
25 Act for a period of up to eight hours in one day not more than

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1 two times in a calendar year; and

2 (12) establish minimum standards for internal
3 control procedures for accounting of gross receipts and
4 granting of prizes from charitable gaming and dates on which
5 reports will be due.

6 D. The licensing authority shall adopt, amend and
7 repeal other rules deemed necessary to carry out the purposes
8 and provisions of the Charitable Gaming Act.

9 E. The licensing authority shall perform all other
10 duties necessary to carry out the purposes and provisions of
11 the Charitable Gaming Act.

12 F. The licensing authority shall not issue, deny,
13 suspend or revoke a license because of the race, gender,
14 creed, color, ethnicity, national origin, disability or
15 political affiliation of members of the applicant.

16 Section 5. [NEW MATERIAL] AUTHORIZED ACTIVITIES. --

17 A. A licensee may conduct the following games in
18 compliance with the provisions of the Charitable Gaming Act
19 and rules adopted pursuant to that act:

- 20 (1) bingo;
21 (2) paper pull-tab games; and
22 (3) raffles.

23 B. No games regulated by the gaming control board
24 pursuant to the Gaming Control Act may be conducted by a
25 licensee.

1 C. Charitable gaming shall not be conducted in the
2 state unless it is conducted pursuant to a license issued by
3 the licensing authority.

4 Section 6. [NEW MATERIAL] CHARITABLE GAMING-- LICENSE TO
5 CONDUCT-- APPLICATION-- FEES. --

6 A. A qualified organization may apply to the
7 licensing authority for a license to conduct charitable
8 gaming.

9 B. An application for a license to conduct
10 charitable gaming shall require the following:

- 11 (1) the name and address of the applicant;
- 12 (2) information required by the licensing
13 authority to verify the applicant's status as a qualified
14 organization;
- 15 (3) the names and addresses of the applicant's
16 four highest ranking officers, if any;
- 17 (4) the names and addresses of the game manager
18 and alternate game manager;
- 19 (5) a list of all workers who will assist the
20 game manager in the operation of the charitable games;
- 21 (6) the specific games intended to be held,
22 operated and conducted by the applicant under the license
23 applied for;
- 24 (7) the place where the charitable games are
25 intended to be held, operated and conducted by the applicant

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1 under the license applied for;

2 (8) the days and times that charitable games
3 are intended to be held, operated and conducted;

4 (9) a list of all persons having a managerial
5 or ownership interest in the building in which the charitable
6 gaming will occur;

7 (10) a list of all persons having a managerial
8 or ownership interest in the equipment to be used for any
9 charitable game;

10 (11) a statement of operational policies and
11 procedures that describes how the charitable games will be
12 conducted and maintained, including:

13 (a) a description of the internal control
14 procedures; and

15 (b) the applicant's administrative and
16 accounting procedures; and

17 (12) any other information required by the
18 licensing authority.

19 C. A fee shall be submitted with an application for
20 a license to conduct charitable games. The rate of the
21 license fee shall be set by the licensing authority at a level
22 that covers all or part of the costs of issuing the license.
23 The licensing authority may decline to proceed with its
24 investigation, and no license shall be issued until the
25 license fee is paid.

1 Section 7. [NEW MATERIAL] CHARITABLE GAMING-- STAFF
2 PERMITS-- APPLICATIONS-- FEES. --

3 A. The game manager, the alternate game manager, the
4 four highest ranking officers of the licensee and each worker
5 shall apply for a staff permit to conduct, operate or manage
6 charitable games.

7 B. A game manager, alternate game manager or worker
8 conducting a charitable game shall have in his possession his
9 staff permit.

10 C. An application for a staff permit to conduct,
11 operate or manage charitable games shall require the
12 following:

13 (1) the name, address and telephone number of
14 the applicant;

15 (2) a sworn affidavit stating that the
16 applicant has not been convicted of a felony in any
17 jurisdiction; and

18 (3) other information required by the licensing
19 authority reasonably related to the operation of the games
20 authorized by the Charitable Gaming Act.

21 D. A fee shall be submitted with each application
22 for a staff permit. The rate of the fee shall be established
23 by the licensing authority at a level that covers all or part
24 of the costs of issuing the permit. The licensing authority
25 may decline to proceed with its investigation, and no permit

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1 shall be issued until the permit fee is paid. The licensing
2 authority may waive the fee for workers who were employed by
3 licensees prior to the effective date of the Charitable Gaming
4 Act.

5 Section 8. [NEW MATERIAL] LICENSE TO MANUFACTURE, SUPPLY
6 OR DISTRIBUTE GAMING EQUIPMENT OR SUPPLIES-- APPLICATIONS--
7 FEES. --

8 A. An application for a license to manufacture,
9 supply or distribute gaming equipment or supplies shall
10 require the following:

- 11 (1) the name and address of the applicant;
- 12 (2) the names and addresses of its four highest
13 ranking officers, if any;
- 14 (3) the names and addresses of owners of ten
15 percent or greater interest in the applicant's business, if
16 any;
- 17 (4) the specific gaming equipment or supplies
18 to be manufactured, supplied or distributed by the applicant
19 for which the applicant seeks a license; and
- 20 (5) other information required by the licensing
21 authority.

22 B. No person in New Mexico shall manufacture, supply
23 or distribute gaming equipment or supplies for use in
24 charitable games unless he has been issued a license
25 authorizing him to manufacture, supply or distribute gaming

1 equipment or supplies by the licensing authority.

2 C. A fee shall be submitted with an application for
 3 a license to manufacture, supply or distribute gaming
 4 equipment or supplies. The rate of the fee shall be
 5 established by the licensing authority at a level that covers
 6 all or part of the costs of issuing the license. The
 7 licensing authority may decline to proceed with its
 8 investigation, and no license shall be issued until the
 9 license fee is paid.

10 Section 9. [NEW MATERIAL] CHARITABLE GAMING--BUSINESS
 11 SERVICE LICENSES--APPLICATIONS--FEES.--

12 A. An application for a license to provide business
 13 services to licensees shall require the following:

- 14 (1) the name and address of the applicant;
- 15 (2) the names and addresses of its four highest
 16 ranking officers, if any;
- 17 (3) the names and addresses of owners of ten
 18 percent or greater interest in the applicant's business, if
 19 any;
- 20 (4) the specific services to be provided by the
 21 applicant under the license applied for; and
- 22 (5) other information required by the licensing
 23 authority.

24 B. No person shall supply business services to a
 25 licensee unless he has been issued a license authorizing him

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1 to supply business services to a licensee by the licensing
2 authority.

3 C. A fee shall be submitted with an application for
4 a license to provide business services to licensees. The rate
5 of the fee shall be established by the licensing authority at
6 a level that covers all or part of the costs of issuing the
7 license. The licensing authority may decline to proceed with
8 its investigation, and no license shall be issued until the
9 license fee is paid.

10 Section 10. [NEW MATERIAL] CHARITABLE GAMING--LOCATION--
11 PREMISES--OPERATION.--

12 A. Charitable gaming premises shall comply with all
13 state and local zoning, fire, health, building and similar
14 statutes, rules or ordinances, including those limiting or
15 controlling location of charitable gaming premises.

16 B. A licensee may allow its premises and the
17 furnishings, gaming equipment or other facilities on the
18 premises to be used by other licensees to engage in charitable
19 gaming. Gaming equipment may not be removed from a licensee's
20 premises to allow its use by other licensees.

21 C. Each charitable game shall be operated and
22 managed by a game manager designated by the licensee that has
23 a staff permit issued by the licensing authority and is
24 present on the premises where charitable gaming is being
25 conducted at all times during the charitable gaming. Each

1 licensee shall designate no more than one game manager and may
 2 designate no more than one alternate game manager.

3 D. A licensee shall conduct no more than six
 4 charitable game sessions in a week and shall conduct no more
 5 than two sessions in a day.

6 E. The gross receipts from charitable games, less
 7 reasonable expenses, as defined by rule of the licensing
 8 authority, shall be used solely for the charitable purposes of
 9 the licensee.

10 F. All licensees shall generate a minimum net profit
 11 to be determined as a percentage of the licensee's gross
 12 receipts as follows:

13 (1) gross receipts of one hundred fifty
 14 thousand dollars (\$150,000) or less, minimum net profit of
 15 eight percent;

16 (2) gross receipts of one hundred fifty
 17 thousand dollars (\$150,000) to two hundred fifty thousand
 18 dollars (\$250,000), minimum net profit of ten percent;

19 (3) gross receipts of two hundred fifty
 20 thousand dollars (\$250,000) to three hundred fifty thousand
 21 dollars (\$350,000), minimum net profit of twelve percent; and

22 (4) gross receipts over three hundred fifty-
 23 thousand dollars (\$350,000), minimum net profit of fourteen
 24 percent.

25 G. Gross receipts from charitable games shall be

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1 recorded and reported as set forth by rule of the licensing
2 authority. Records shall disclose gross receipts from all
3 sources, all expenses incurred to conduct all charitable
4 games, the nature and value of all prizes and distributions of
5 net profit. Reports shall disclose gross receipts from all
6 sources, the nature and value of all prizes and distributions
7 of net profits.

8 H. No less than once every three years or more often
9 as required by the licensing authority, a review of the
10 records of a licensee to determine whether that licensee is
11 operating in compliance with rules of and the operational
12 policies and procedures approved by the licensing authority
13 shall be conducted by an independent certified public
14 accountant engaged by the licensee. A copy of the review and
15 certification by the accountant that the accounting is
16 accurate and that the licensee has complied with the
17 provisions of the Charitable Gaming Act shall be submitted to
18 the licensing authority by a date to be determined by the
19 licensing authority.

20 I. Gaming equipment and supplies for any charitable
21 games shall be provided by distributors licensed by the
22 licensing authority, unless the gaming equipment and supplies
23 are owned by the licensee. Gaming equipment owned by the
24 licensee shall be provided by distributors, suppliers or
25 manufacturers licensed or otherwise approved by the licensing

1 authority.

2 J. Gaming equipment and supplies used for charitable
3 games must be tested by a tester approved by the licensing
4 authority and certified for accuracy annually, and the
5 certification provided to the licensing authority.

6 K. The maximum aggregate amount that may be awarded
7 for bingo prizes shall not exceed two thousand five hundred
8 dollars (\$2,500) per session.

9 Section 11. [NEW MATERIAL] CHARITABLE GAMING GROSS
10 RECEIPTS TAX-- ADMINISTRATION. --

11 A. For the privilege of offering charitable gaming
12 to the public, the "charitable gaming gross receipts tax" is
13 imposed in the amount of one-fourth of one percent on the
14 gross receipts of each licensee from all games of chance
15 conducted by that licensee.

16 B. The charitable gaming gross receipts tax shall be
17 paid monthly on the twenty-fifth day of each month on the
18 gross receipts from charitable games conducted in the
19 preceding month to the taxation and revenue department on
20 forms developed by the department.

21 C. The tax shall be administered pursuant to the Tax
22 Administration Act.

23 Section 12. [NEW MATERIAL] COMPLIANCE-- WARRANTLESS
24 SEARCH AND ENFORCEMENT. --

25 A. The special investigations division of the

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1 department of public safety shall enforce the Charitable
2 Gaming Act by monitoring the activities of licensees for
3 compliance with the law and rules adopted pursuant to that
4 act. The special investigations division shall investigate
5 complaints against licensees and may issue administrative or
6 criminal citations for violations of any provision of law.

7 B. An agent of the special investigations division
8 of the department of public safety is authorized to enter the
9 premises of a licensee, if the licensing authority has
10 probable cause to suspect a violation of the Charitable Gaming
11 Act is occurring, any time without a warrant to investigate
12 pursuant to the provisions of the Charitable Gaming Act or to
13 enforce the provisions of that act.

14 C. Upon request by the licensing authority, the
15 special investigations division shall investigate licensees or
16 activities that the licensing authority has reasonable cause
17 to believe are in violation of the Charitable Gaming Act.

18 D. Within thirty days after issuance of an
19 administrative or criminal citation pursuant to the provisions
20 of the Charitable Gaming Act, the issuing agency shall report
21 the citation to the licensing authority.

22 E. Upon receipt of an administrative citation, the
23 licensing authority shall initiate administrative adjudicatory
24 proceedings.

25 Section 13. [NEW MATERIAL] ADMINISTRATIVE ADJUDICATORY

1 PROCEEDINGS. --

2 A. Administrative adjudatory proceedings may be
3 either formal or informal.

4 B. In conducting either formal or informal
5 administrative adjudatory proceedings, the licensing
6 authority shall afford all parties an opportunity for full and
7 fair hearing after reasonable notice.

8 C. The notice shall include:

9 (1) a short and plain statement of the matters
10 of fact and law asserted and the proposed administrative
11 adjudatory action;

12 (2) an explanation of the informal and formal
13 administrative adjudication processes;

14 (3) the name, title, address, telephone and fax
15 numbers of the person to whom the licensee should respond; and

16 (4) a date and time within which the licensee
17 should respond.

18 D. The licensing authority may make informal
19 disposition of any administrative adjudatory proceeding by
20 stipulation, agreed settlement, consent order or default.

21 E. If the licensee and the licensing authority are
22 unable to make informal disposition of an administrative
23 citation, either party may request a hearing in writing. The
24 hearing shall be conducted in accordance with the procedures
25 described in Sections 12-8-10 through 12-8-13 NMSA 1978.

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1 Section 14. [NEW MATERIAL] DENIAL, SUSPENSION OR
2 REVOCATION OF A LICENSE OR PERMIT. --

3 A. The licensing authority may deny an application,
4 fine a person or organization holding a license or permit
5 issued by the licensing authority or suspend or revoke a
6 license or permit issued by the licensing authority, if the
7 applicant or person or organization holding the license or
8 permit:

9 (1) has violated, failed or refused to comply
10 with the provisions, requirements, conditions, limitations or
11 duties imposed by the Charitable Gaming Act, or a rule adopted
12 by the licensing authority pursuant to that act;

13 (2) causes, aids, abets or conspires with
14 another to cause a person to violate a law of this state or a
15 rule of the licensing authority;

16 (3) misrepresents or fails to disclose a
17 material fact to the licensing authority or otherwise obtains
18 a license or permit by fraud, misrepresentation, concealment
19 or through inadvertence or mistake;

20 (4) is subject to current prosecution or
21 pending charges, or a conviction that is under appeal, for any
22 of the offenses included pursuant to Paragraph (3) of this
23 subsection;

24 (5) has been convicted of, forfeited bond upon
25 a charge of or pleaded guilty to any crime, whether a felony

1 or misdemeanor; provided, however, that a felony or
 2 misdemeanor conviction pursuant to Chapter 66, Article 8 NMSA
 3 1978 shall not be the basis for denial, revocation or
 4 suspension of a license or permit;

5 (6) denies the licensing authority or its
 6 authorized representatives, including authorized local law
 7 enforcement agencies, access to a place where a charitable
 8 game is conducted or fails to produce promptly for inspection
 9 or audit a book, record, document or item required by law or
 10 licensing authority rule;

11 (7) fails to display its license in full view
 12 of the public at all times during the operation of the
 13 charitable game on the premises where the game is conducted;
 14 or

15 (8) fails to prove, by clear and convincing
 16 evidence, that he is qualified to hold a license or permit in
 17 accordance with the provisions of the Charitable Gaming Act.

18 B. No license shall be suspended or revoked without
 19 informal disposition by the parties or administrative
 20 adjudicatory proceedings.

21 Section 15. [NEW MATERIAL] PENALTIES. -- The licensing
 22 authority shall adopt rules setting forth uniform standards of
 23 penalties concerning fines, suspensions and revocations.

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

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1 "30-19-6. PERMISSIVE LOTTERY. --

2 A. Nothing in [~~Article 19~~] Chapter 30, Article 19
3 NMSA 1978 shall [~~be construed to~~] apply to [any]:

4 (1) a sale or drawing of [any] a prize at [any]
5 a fair held [~~in this state~~] for the benefit of [any] a church,
6 public library or religious society [~~situate or being~~] located
7 in this state, or for charitable purposes when all the
8 proceeds of [~~such~~] the fair [~~shall~~] are required to be
9 expended in this state for the benefit of [~~such~~] the church,
10 public library, religious society or charitable purposes; or

11 (2) a lottery [~~shall be~~] operated for the
12 benefit of [~~the organization or~~] a church, public library or
13 religious society for a charitable purpose only when the
14 entire proceeds of the lottery go to the [~~organization or~~]
15 church, public library or religious society for a charitable
16 purpose [~~and~~]. No part of [~~such~~] the proceeds may go to any
17 individual member or employee [~~thereof~~] of the church, library
18 or religious society.

19 B. Nothing in [~~Article 19~~] Chapter 30, Article 19
20 NMSA 1978 shall [~~be held to~~] prohibit [any] a bona fide motion
21 picture theater from offering prizes of cash or merchandise
22 for advertising purposes, in connection with [~~such~~] its
23 business or for the purpose of stimulating business, whether
24 or not any consideration other than a monetary consideration
25 in excess of the regular price of admission is [~~exacte~~] paid

1 for participation in drawings for prizes.

2 C. Nothing in [~~Article 19~~] Chapter 30, Article 19
 3 NMSA 1978 shall [~~be held to~~] apply to [~~any~~] a bona fide county
 4 fair, including fairs for more than one county, [~~which shall~~
 5 ~~have~~] that has been held annually at the same location for at
 6 least two years and [~~which shall offer~~] offers prizes of
 7 livestock or poultry in connection with [~~such~~] the fair when
 8 the proceeds of [~~such~~] the drawings [~~shall be~~] are used for
 9 the benefit of [~~said~~] the fair.

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

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

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

22 (3) ~~no part of the proceeds of any lottery~~
 23 ~~shall go to any individual member or employee of any~~
 24 ~~organization except as payment for the purchase of prizes at~~
 25 ~~no more than the reasonable retail price] games conducted~~

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1 pursuant to the provisions of the Charitable Gaming Act. "

2 Section 17. Section 60-2E-3 NMSA 1978 (being Laws 1997,
3 Chapter 190, Section 5) is amended to read:

4 "60-2E-3. DEFINITIONS. --As used in the Gaming Control
5 Act:

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

10 B. "affiliated company" means a company that:

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

13 (2) is involved in gaming activities or
14 involved in the ownership of property on which gaming is
15 conducted;

16 C. "applicant" means a person who has applied for a
17 license or for approval of an act or transaction for which
18 approval is required or allowed pursuant to the provisions of
19 the Gaming Control Act;

20 D. "application" means a request for the issuance of
21 a license or for approval of an act or transaction for which
22 approval is required or allowed pursuant to the provisions of
23 the Gaming Control Act, but "application" does not include a
24 supplemental form or information that may be required with the
25 application;

1 E. "associated equipment" means equipment or a
2 mechanical, electromechanical or electronic contrivance,
3 component or machine used in connection with gaming;

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

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

7 H. "certified technician" means a person certified
8 by a manufacturer licensee to repair and service gaming
9 devices, but who is prohibited from programming gaming
10 devices;

11 I. "company" means a corporation, partnership,
12 limited partnership, trust, association, joint stock company,
13 joint venture, limited liability company or other form of
14 business organization that is not a natural person;

15 J. "distributor" means a person who supplies gaming
16 devices to a gaming operator but does not manufacture gaming
17 devices;

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

20 (1) voting stock or similar security;

21 (2) a security convertible into voting stock or
22 similar security, with or without consideration, or a security
23 carrying a warrant or right to subscribe to or purchase voting
24 stock or similar security;

25 (3) a warrant or right to subscribe to or

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1 purchase voting stock or similar security; or

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

4 L. "executive director" means the chief
5 administrative officer appointed by the board pursuant to
6 ~~[Section 9 of the Gaming Control Act]~~ Section 60-2E-7 NMSA
7 1978;

8 M "finding of suitability" means a certification of
9 approval issued by the board permitting a person to be
10 involved directly or indirectly with a licensee, relating only
11 to the specified involvement for which it is made;

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

19 O. "gaming" means offering a game for play; "gaming"
20 does not include games of chance approved by the alcohol and
21 gaming division of the regulation and licensing department
22 offered for play solely at charitable gaming events and that
23 are operated pursuant to the provisions of the Charitable
24 Gaming Act;

25 P. "gaming activity" means any endeavor associated

1 with the manufacture or distribution of gaming devices or the
2 conduct of gaming;

3 Q. "gaming device" means associated equipment or a
4 gaming machine and includes a system for processing
5 information that can alter the normal criteria of random
6 selection that affects the operation of a game or determines
7 the outcome of a game; "gaming device" does not include:

8 (1) a system or device that affects a game
9 solely by stopping its operation so that the outcome remains
10 undetermined; or

11 (2) gaming equipment approved by the alcohol
12 and gaming division of the regulation and licensing department
13 to be used solely to conduct charitable games pursuant to the
14 Charitable Gaming Act;

15 R. "gaming employee" means a person connected
16 directly with a gaming activity; "gaming employee" does not
17 include:

18 (1) bartenders, cocktail servers or other
19 persons engaged solely in preparing or serving food or
20 beverages;

21 (2) secretarial or janitorial personnel;

22 (3) stage, sound and light technicians; or

23 (4) other nongaming personnel;

24 S. "gaming establishment" means the premises on or
25 in which gaming is conducted;

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1 T. "gaming machine" means a mechanical,
2 electromechanical or electronic contrivance or machine that,
3 upon insertion of a coin, token or similar object, or upon
4 payment of any consideration, is available to play or operate
5 a game, whether the payoff is made automatically from the
6 machine or in any other manner; "gaming machine" does not
7 include gaming equipment approved by the alcohol and gaming
8 division of the regulation and licensing department to be used
9 solely to conduct charitable games pursuant to the Charitable
10 Gaming Act;

11 U. "gaming operator" means a person who conducts
12 gaming;

13 V. "holding company" means a company that directly
14 or indirectly owns or has the power or right to control a
15 company that is an applicant or licensee, but a company that
16 does not have a beneficial ownership of more than ten percent
17 of the equity securities of a publicly traded corporation is
18 not a holding company;

19 W. "immediate family" means natural persons who are
20 related to a specified natural person by affinity or
21 consanguinity in the first through the third degree;

22 X. "independent administrator" means a person who
23 administers an annuity, who is not associated in any manner
24 with the gaming operator licensee for which the annuity was
25 purchased and is in no way associated with the person who will

1 be receiving the annuity;

2 Y. "institutional investor" means a state or federal
 3 government pension plan or a person that meets the
 4 requirements of a qualified institutional buyer as defined in
 5 Rule 144A of the federal Securities Act of 1933, and is:

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

8 (2) an insurance company as defined in Section
 9 2(a)(17) of the federal Investment Company Act of 1940;

10 (3) an investment company registered under
 11 Section 8 of the federal Investment Company Act of 1940;

12 (4) an investment adviser registered under
 13 Section 203 of the federal Investment Advisers Act of 1940;

14 (5) collective trust funds as defined in
 15 Section 3(c)(11) of the federal Investment Company Act of
 16 1940;

17 (6) an employee benefit plan or pension fund
 18 that is subject to the federal Employee Retirement Income
 19 Security Act of 1974, excluding an employee benefit plan or
 20 pension fund sponsored by a publicly traded corporation
 21 registered with the board; or

22 (7) a group comprised entirely of persons
 23 specified in Paragraphs (1) through (6) of this subsection;

24 Z. "intermediary company" means a company that:

25 (1) is a holding company with respect to a

1 company that is an applicant or licensee; and

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

4 AA. "key executive" means an executive of a licensee
5 or other person having the power to exercise significant
6 influence over decisions concerning any part of the licensed
7 operations of the licensee or whose compensation exceeds an
8 amount established by the board in a regulation;

9 BB. "license" means an authorization required by the
10 board for engaging in gaming activities;

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

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

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

23 (1) cash received from patrons for playing a
24 game;

25 (2) cash received in payment for credit

1 extended by a licensee to a patron for playing a game; and

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

4 FF. "nonprofit organization" means:

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

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

18 GG. "person" means a legal entity;

19 HH. "premises" means land, together with all
20 buildings, improvements and personal property located on the
21 land;

22 II. "progressive jackpot" means a prize that
23 increases over time or as gaming machines that are linked to a
24 progressive system are played and upon conditions established
25 by the board may be paid by an annuity;

1 JJ. "progressive system" means one or more gaming
2 machines linked to one or more common progressive jackpots;

3 KK. "publicly traded corporation" means a
4 corporation that:

5 (1) has one or more classes of securities
6 registered pursuant to the securities laws of the United
7 States or New Mexico;

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

10 (3) has one or more classes of securities
11 registered or is an issuer pursuant to applicable foreign laws
12 that the board finds provide protection for institutional
13 investors that is comparable to or greater than the stricter
14 of the securities laws of the United States or New Mexico;

15 LL. "registration" means a board action that
16 authorizes a company to be a holding company with respect to a
17 company that holds or applies for a license or that relates to
18 other persons required to be registered pursuant to the Gaming
19 Control Act;

20 MM. "subsidiary" means a company, all or a part of
21 whose outstanding equity securities are owned, subject to a
22 power or right of control or held, with power to vote, by a
23 holding company or intermediary company; and

24 NN. "work permit" means a card, certificate or
25 permit issued by the board, whether denominated as a work

1 permit, registration card or otherwise, authorizing the
2 employment of the holder as a gaming employee. "

3 Section 18. REPEAL. -- Effective June 30, 1999, Sections
4 60-2B-1 through 60-2B-14 NMSA 1978 (being Laws 1981, Chapter
5 259, Sections 1 through 14, as amended) are repealed.

6 Section 19. EFFECTIVE DATE. -- The effective date of the
7 provisions of Sections 1 through 17 of this act is July 1,
8 1999.

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underscored material = new
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