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HOUSE BILL 101

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

INTRODUCED BY

Raymundo Lara and Phelps Anderson

AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 given to patrons free of charge;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 authority shall include those governing:

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

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

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

9 (4) methods of issuing tickets;

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

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

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

14 (8) types of systems for wagering;

15 (9) protections for patrons placing wagers;

16 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 acquired in the ordinary course of business;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 E. Upon submission of the appropriate application

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

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

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

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

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

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

7 (2) is in writing; and

8 (3) has been approved by the authority.

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

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

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

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

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

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

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

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

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

25 (3) meet other qualifications specified in

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1 rules promulgated by the authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 B. The authority may deny a license to an

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 related activity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 and

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

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

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

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

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

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

- 25 (1) the type of license;

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

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

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

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

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

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

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

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1 after the change occurs.

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

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

6 (1) sports wagering operators shall employ a
7 monitoring system utilizing software to identify non-normal
8 irregularities in volume or odds swings that could signal
9 suspicious activities that should require further
10 investigation, which irregularities or swings shall be
11 immediately reported to and investigated by the authority.

12 System requirements and specifications shall be developed
13 according to industry standards and implemented by the
14 authority as part of the minimum internal control standards;

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

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

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

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

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

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

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

15 B. Operator licensees shall:

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

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

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

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

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

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

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

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

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1 equipment and gaming area and security equipment; and

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

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

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

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

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

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

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

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

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

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

22 A. The authority is authorized to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 C. An operator may accept wagers from an individual

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

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

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

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

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

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1 an operator licensee.

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

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

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

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

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

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

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

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

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

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

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

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

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1 receipts were received and the tax obligation accrued.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 of Section 31-19-1 NMSA 1978.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 (4) betting otherwise permitted by law;

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

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

15 (1) making and settling of bets;

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

18 (3) conducting lotteries; or

19 (4) playing gambling devices; and

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

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

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

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