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SENATE BILL 370

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Phil A. Griego

AN ACT

**RELATING TO GAMING; AUTHORIZING THE GAMING CONTROL BOARD TO
REGULATE BINGO AND RAFFLE ACTIVITIES; ESTABLISHING A TAX RATE
FOR MANUFACTURERS, DISTRIBUTORS AND COMMERCIAL LESSORS OF BINGO
AND RAFFLE EQUIPMENT; AMENDING AND ENACTING SECTIONS OF THE
NMSA 1978.**

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

**Section 1. Section 60-2B-3 NMSA 1978 (being Laws 1981,
Chapter 259, Section 3, as amended) is amended to read:**

**"60-2B-3. DEFINITIONS. --As used in the Bingo and Raffle
Act:**

**A. "charitable organization" means any
organization, not for pecuniary profit, which is operated for
the relief of poverty, distress or other condition of public
concern in New Mexico and which has been so engaged for three**

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1 years immediately prior to making application for a license
2 under the Bingo and Raffle Act and which has been granted an
3 exemption from federal income tax by the United States
4 commissioner of internal revenue as an organization described
5 in Section 501 (c) of the United States Internal Revenue Code
6 of 1954, as amended or renumbered;

7 B. "chartered branch, lodge or chapter of a
8 national or state organization" means any branch, lodge or
9 chapter which is a civic or service organization, not for
10 pecuniary profit, and authorized by its written constitution,
11 charter, articles of incorporation or bylaws to engage in a
12 fraternal, civic or service purpose in New Mexico and which has
13 been so engaged for three years immediately prior to making
14 application for a license under the Bingo and Raffle Act;

15 C. "commercial lessor" means an entity that leases
16 space to a qualified organization;

17 D. "distributor" means a person who supplies
18 equipment to a qualified organization but does not manufacture
19 equipment;

20 [~~C.~~] E. "educational organization" means any
21 organization within the state, not organized for pecuniary
22 profit, whose primary purpose is educational in nature and
23 designed to develop the capabilities of individuals by
24 instruction and which has been in existence in New Mexico for
25 three years immediately prior to making application for a

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1 license under the Bingo and Raffle Act;

2 ~~[D.]~~ F. "fraternal organization" means any
3 organization within the state, except college and high school
4 fraternities, not for pecuniary profit, which is a branch,
5 lodge or chapter of a national or state organization and exists
6 for the common business, brotherhood or other interests of its
7 members and which has existed in New Mexico for three years
8 immediately prior to making application for a license under the
9 Bingo and Raffle Act;

10 ~~[E.]~~ G. "labor organization" means any
11 organization, not for pecuniary profit, within the state, which
12 exists for the purpose, in whole or in part, of dealing with
13 employers concerning grievances, labor disputes, wages, rates
14 of pay, hours of employment or conditions of work and which has
15 existed in New Mexico for that purpose and has been so engaged
16 for three years immediately prior to making application for a
17 license under the Bingo and Raffle Act;

18 ~~[F.]~~ H. "qualified organization" means any bona
19 fide chartered branch, lodge or chapter of a national or state
20 organization or any bona fide religious, charitable,
21 environmental, fraternal, educational or veterans' organization
22 operating without profit to its members which has been in
23 existence in New Mexico continuously for a period of three
24 years immediately prior to the making of an application for a
25 license under the Bingo and Raffle Act and which has had,

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1 during the entire three-year period, a dues-paying membership
2 engaged in carrying out the objects of the corporation or
3 organization. A voluntary firemen's organization is a
4 qualified organization and a labor organization is a qualified
5 organization for the purpose of the Bingo and Raffle Act if it
6 uses the proceeds from a game of chance solely for scholarship
7 or charitable purposes;

8 [G.] I. "environmental organization" means any
9 organization primarily concerned with the protection and
10 preservation of the natural environment and which has existed
11 in New Mexico for three years immediately prior to making
12 application for a license under the Bingo and Raffle Act;

13 [H.] J. "religious organization" means any
14 organization, church, body of communicants or group, not for
15 pecuniary profit, gathered in common membership for mutual
16 support and edification in piety, worship and religious
17 observances or a society, not for pecuniary profit, of
18 individuals united for religious purposes at a definite place,
19 which organization, church, body of communicants, group or
20 society has been so gathered or united in New Mexico for three
21 years immediately prior to making application for a license
22 under the Bingo and Raffle Act;

23 [I.] K. "veterans' organization" means any
24 organization within the state or any branch, lodge or chapter
25 of a national or state organization within this state, not for

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1 pecuniary profit, the membership of which consists of
2 individuals who were members of the armed services or forces of
3 the United States, which has been in existence in New Mexico
4 for three years immediately prior to making application for a
5 license under the Bingo and Raffle Act;

6 [J-] L. "voluntary firemen's organization" means
7 any organization for firefighting within the state, not for
8 pecuniary profit, established by the state or any of its
9 political subdivisions, which has been in existence in New
10 Mexico for three years immediately prior to making application
11 for a license under the Bingo and Raffle Act;

12 [K-] M. "dues-paying membership" means those
13 members of an organization who pay regular monthly, annual or
14 other periodic dues or who are excused from paying such dues by
15 the charter, articles of incorporation or bylaws of the
16 organization and those who contribute voluntarily to the
17 corporation or organization to which they belong for the
18 support of the corporation or organization;

19 [~~L.~~ "~~equipment~~" means, with respect to bingo or
20 lotto, the receptacle and numbered objects drawn from it; the
21 master board upon which the numbered objects are placed as
22 drawn; the cards or sheets bearing numbers or other
23 designations to be covered and the objects used to cover them;
24 the board or signs, however operated, used to announce or
25 display the numbers or designations as they are drawn; the

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1 ~~public address system; and all other articles essential to the~~
2 ~~operation, conduct and playing of bingo or lotto; or, with~~
3 ~~respect to raffles, implements, devices and machines designed,~~
4 ~~intended or used for the conduct of raffles and the~~
5 ~~identification of the winning number or unit and the ticket or~~
6 ~~other evidence or right to participate in raffles;]~~

7 N. "equipment" means:

8 (1) with respect to bingo or lotto:

9 (a) the receptacle and numbered objects
10 drawn from it;

11 (b) the master board upon which the
12 numbered objects are placed as drawn;

13 (c) the cards or sheets bearing numbers
14 or other designations to be covered and the objects used to
15 cover them;

16 (d) the board or signs, however
17 operated, used to announce or display the numbers or
18 designations as they are drawn;

19 (e) the public address system; and

20 (f) all other articles essential to the
21 operation, conduct and playing of bingo or lotto; and

22 (2) with respect to a raffle, implements,
23 devices and machines designed, intended or used for the conduct
24 of raffles and the identification of the winning number or unit
25 and the ticket or other evidence or right to participate in

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1 raffles;

2 [M-] O. "game of chance" means that specific kind
3 of game of chance commonly known as bingo or lotto in which
4 prizes are awarded on the basis of designated numbers or
5 symbols on a card conforming to numbers or symbols selected at
6 random and that specific kind of game of chance commonly known
7 as [~~raffles~~] a raffle which is conducted by drawing for prizes
8 or the allotment of prizes by chance or by the selling of
9 shares, tickets or rights to participate in the game;

10 [N-] P. "gross receipts" means receipts from the
11 sale of shares, tickets or rights in any manner connected with
12 participation in a game of chance or the right to participate
13 in a game of chance, including any admission fee or charge, the
14 sale of equipment or supplies and all other miscellaneous
15 receipts;

16 [Ø-] Q. "lawful purposes" means educational,
17 charitable, patriotic, religious or public-spirited purposes,
18 which terms are defined to be the benefiting of an indefinite
19 number of persons either by bringing their minds or hearts
20 under the influence of education or religion, by relieving
21 their bodies from disease, suffering or constraint, by
22 assisting them in establishing themselves in life, by erecting
23 or maintaining public buildings or works, by providing legal
24 assistance to peace officers or firemen in defending civil or
25 criminal actions arising out of the performance of their duties

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1 or by otherwise lessening the burden of government. These
2 terms include the erection, acquisition, improvement,
3 maintenance, insurance or repair of property, real, personal or
4 mixed, if the property is used for one or more of the purposes
5 stated in this subsection;

6 [P.-] R. "lawful use" means the devotion of the
7 entire net proceeds of a game of chance exclusively to lawful
8 purposes;

9 [Q.-] S. "licensee" means any qualified organization
10 to which a license has been issued by the licensing authority;

11 [R.-] T. "licensing authority" means the [~~regulation~~
12 ~~and licensing department~~] gaming control board;

13 U. "manufacturer" means a person who manufacturers,
14 fabricates, assembles, produces, programs or makes
15 modifications to equipment for use or play in New Mexico or for
16 sale or distribution outside of New Mexico;

17 [S.-] V. "member" means an individual who has
18 qualified for membership in a qualified organization pursuant
19 to its charter, articles of incorporation, bylaws, rules or
20 other written statement;

21 [T.-] W. "net proceeds" means the receipts less the
22 expenses, charges, fees and deductions as are specifically
23 authorized under the Bingo and Raffle Act;

24 [U.-] X. "occasion" means a single gathering or
25 session at which a series of successive bingo or lotto games

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1 ~~[is]~~ are played;

2 ~~[V-]~~ Y. "person" means a natural person, firm,
3 association, corporation or other legal entity; and

4 ~~[W-]~~ Z. "premises" means any room, hall, enclosure
5 or outdoor area used for the purpose of playing a game of
6 chance. "

7 Section 2. Section 60-2B-4 NMSA 1978 (being Laws 1981,
8 Chapter 259, Section 4, as amended) is amended to read:

9 "60-2B-4. LICENSING AUTHORITY-- POWERS-- DUTIES-- HEARINGS--
10 APPEALS. --

11 A. The ~~[regulation and licensing department is~~
12 ~~designated as the "licensing authority" of the Bingo and Raffle~~
13 ~~Act. The superintendent of regulation and licensing is the~~
14 ~~executive in charge of enforcement of the terms and provisions~~
15 ~~of that act and, as the state]~~ licensing authority has the
16 powers and duties as follows:

17 (1) to grant or refuse licenses under the
18 Bingo and Raffle Act. In addition, the licensing authority has
19 the power, on its own motion based on reasonable grounds or on
20 complaint made and after investigation by the licensing
21 authority or by the special investigations division of the
22 department of public safety and public hearing at which the
23 licensee shall be afforded an opportunity to be heard, to
24 assess administrative fines to the licensee and to suspend or
25 revoke any license issued by the licensing authority for any

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1 violation by the licensee or any officer, director, agent,
2 member or employee of the licensee of the provisions of that
3 act or any rule [~~or regulation~~] authorized under that act.

4 Notice of suspension or revocation, as well as notice of the
5 hearing, shall be given by certified mail to the licensee at
6 the address contained in the license. Any license may be
7 temporarily suspended for a period not to exceed thirty days
8 pending any prosecution, investigation or public hearing;

9 (2) to supervise the administration of the
10 Bingo and Raffle Act and to adopt, amend and repeal rules [~~and~~
11 ~~regulations~~] governing the holding, operating and conducting of
12 games of chance, the rental of premises and the purchase of
13 equipment to the end that games of chance shall be held,
14 operated and conducted only by licensees for the purposes and
15 in conformity with the constitution of New Mexico and the
16 provisions of that act;

17 (3) to hear and determine at public hearings
18 all complaints against any licensee and to administer oaths and
19 issue subpoenas to require the presence of persons and
20 production of papers, books and records necessary to the
21 determination of any hearing held;

22 (4) to keep records of all actions and
23 transactions of the licensing authority;

24 (5) to prepare and transmit annually, in the
25 form and manner prescribed by the licensing authority pursuant

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1 to the provisions of law, a report accounting to the governor
2 and the legislature for the efficient discharge of all
3 responsibilities assigned by law or directive to the licensing
4 authority; [~~and~~]

5 (6) to issue publications of the licensing
6 authority intended for circulation in quantity outside the
7 executive branch in accordance with fiscal rules promulgated by
8 the licensing authority;

9 (7) to adopt rules establishing a system of
10 licensing governing commercial lessors, distributors,
11 manufacturers and qualified organizations;

12 (8) to adopt rules establishing a system of
13 permits for all individuals employed or engaged in the conduct
14 of games of chance or the manufacture or distribution of
15 equipment;

16 (9) to adopt rules establishing reasonable
17 amounts for expenses; and

18 (10) to develop, adopt and promulgate all
19 rules necessary to implement and administer the provisions of
20 the Bingo and Raffle Act.

21 B. Proceedings brought against a licensee for a
22 violation of the Bingo and Raffle Act shall be brought by the
23 licensing authority by serving, in the manner provided in the
24 rules of civil procedure, a complaint upon the licensee and
25 notifying the licensee of the place and date, not less than

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1 twenty days after the date of service, at which a hearing shall
2 be held. The complaint shall set forth, in the manner of
3 complaints in civil action, the violations of the Bingo and
4 Raffle Act or the rules [~~and regulations~~] of the licensing
5 authority that the licensing authority alleges the licensee has
6 committed. The licensing authority or the department of public
7 safety may stop the operation of a game of chance pending
8 hearing, in which case the hearing shall be held within ten
9 days after notice.

10 C. The licensing authority shall cause the notice
11 of hearing to be served personally upon an officer of the
12 licensee or the member in charge of the conduct of the game of
13 chance or to be sent by registered or certified mail to the
14 licensee at the address shown in the license.

15 D. When proceedings are brought against a licensee
16 for a violation of the Bingo and Raffle Act, the licensing
17 authority shall hear the matter and make written findings in
18 support of its decision. The licensee shall be informed
19 immediately of the decision and, in the event of a suspension
20 or revocation, the effective date of the suspension or
21 revocation.

22 E. For the first violation by a licensee of the
23 Bingo and Raffle Act, the licensing authority may assess an
24 administrative fine of not to exceed one thousand dollars
25 (\$1,000). For a second or subsequent violation by the licensee

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1 of that act, the licensing authority may assess an
2 administrative fine of not to exceed two thousand five hundred
3 dollars (\$2,500). The amount of the administrative fine shall
4 be determined by the severity and nature of the violation of
5 the Bingo and Raffle Act and by the number of prior violations
6 of that act.

7 F. When a license is ordered suspended or revoked,
8 the licensee shall surrender the license to the licensing
9 authority on or before the effective date of the suspension or
10 revocation. No license is valid beyond the effective date of
11 the suspension or revocation, whether surrendered or not.

12 G. Upon the finding of a violation of the Bingo and
13 Raffle Act or the rules [~~and regulations, or both~~] that would
14 warrant the suspension or revocation of a license, the
15 licensing authority, in addition to any other penalties that
16 may be imposed, may declare the violator ineligible to conduct
17 a game of chance and to apply for a license under that act for
18 a period not exceeding twelve months. The declaration of
19 ineligibility may be extended to include, in addition to the
20 violator, any of its subsidiary organizations, its parent
21 organization or an organization otherwise affiliated with the
22 violator when in the opinion of the licensing authority the
23 circumstances of the violation warrant that action.

24 H. Upon receipt by a licensee of a complaint signed
25 by the licensing authority and notice of a hearing, the

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1 licensee shall answer, in the manner of civil actions, the
2 complaint and inform the licensing authority whether oral
3 argument is desired and whether the licensee desires to produce
4 witnesses.

5 I. At the request of any party and for good cause
6 shown, the licensing authority or the department of public
7 safety shall issue subpoenas for the attendance of witnesses
8 and the production of books, records and other documents, but
9 in no case shall a subpoena be made returnable more than five
10 days after service.

11 J. Whenever oral testimony of witnesses is taken at
12 the hearing, the licensing authority or the department of
13 public safety shall have a certified reporter present to
14 prepare a record of the proceedings. The original transcript
15 shall be filed with the licensing authority. Any party is
16 entitled to secure a copy from the reporter at ~~[his]~~ the
17 party's own expense.

18 K. Hearings may be convened by the licensing
19 authority from time to time at the request of any party, but
20 only for good cause shown. Hearings shall be held and
21 concluded with reasonable dispatch and without unnecessary
22 delay. The licensing authority shall decide any matter within
23 thirty days of the hearing.

24 L. Upon the determination of any matter heard, the
25 licensing authority shall state its findings. All parties

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1 shall be notified by the licensing authority of the action of
2 the licensing authority and shall be furnished a copy of the
3 findings.

4 M Applicants for a license or the licensee may be
5 represented by counsel.

6 N. Any person appearing before the licensing
7 authority in a representative capacity shall be required to
8 show his authority to act in that capacity.

9 O. No person shall be excused from testifying or
10 producing any book or document in any investigation or hearing
11 when ordered to do so by the licensing authority upon the
12 ground that testimony or documentary evidence required of [~~him~~]
13 the person may tend to incriminate or subject [~~him~~] the person
14 to penalty or forfeiture, but no person may be prosecuted,
15 punished or subjected to any penalty or forfeiture on account
16 of any matter or thing concerning which [~~he~~] the person, under
17 oath, testified or produced documentary evidence, except that
18 [~~he~~] the person shall not be exempt from prosecution or
19 punishment for any perjury committed by [~~him~~] the person in
20 [~~his~~] the person's testimony.

21 P. If a person subpoenaed to attend in any
22 investigation or hearing fails to obey the command of the
23 subpoena without reasonable cause or if a person in attendance
24 in any investigation or hearing refuses, without lawful cause,
25 to be examined or to answer a legal or pertinent question or to

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1 exhibit any book, account, record or other document when
2 ordered to do so by the representative of the licensing
3 authority holding the hearing or by either the licensing
4 authority or the department of public safety performing the
5 investigation, the licensing authority or the department of
6 public safety may apply to any judge of the district court,
7 upon proof by affidavit of the facts, for an order returnable
8 in not less than five nor more than ten days directing the
9 person to show cause before the judge why ~~he~~ the person
10 should not comply with the subpoena or order.

11 Q. Upon return of the order, the judge before whom
12 the matter comes for hearing shall examine the person under
13 oath. If the judge determines after giving the person an
14 opportunity to be heard that ~~he~~ the person refused without
15 lawful excuse to comply with the subpoena ~~[or the order]~~ of the
16 licensing authority or refused without lawful authority to
17 comply with the order of the licensing authority or the
18 department of public safety holding the investigation, the
19 judge may order the person to comply with the subpoena or order
20 forthwith, and any failure to obey the order of the judge may
21 be punished as a contempt of the district court.

22 R. Every witness is entitled to be paid for
23 attendance or attendance and travel by the party on whose
24 behalf he is subpoenaed, at the rates prescribed by law, before
25 being required to testify.

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1 S. The decision of the licensing authority in
2 suspending or revoking any license under the Bingo and Raffle
3 Act shall be subject to review. A licensee aggrieved by a
4 decision of the licensing board may appeal to the district
5 court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

6 T. No proceeding to vacate, reverse or modify any
7 final order rendered by the licensing authority shall operate
8 to stay the execution or effect of any final order unless the
9 district court, on application and three days' notice to the
10 licensing authority, allows the stay. In the event a stay is
11 ordered, the petitioner shall be required to execute his bond
12 in a sum the court may prescribe, with sufficient surety to be
13 approved by the judge or clerk of the court, which bond shall
14 be conditioned upon the faithful performance by the petitioner
15 of his obligation as a licensee and upon the prompt payment of
16 all damages arising from or caused by the delay in the taking
17 effect or enforcement of the order complained of and for all
18 costs that may be assessed or required to be paid in connection
19 with the proceedings. "

20 Section 3. Section 60-2B-9 NMSA 1978 (being Laws 1981,
21 Chapter 259, Section 9, as amended) is amended to read:

22 "60-2B-9. REPORTS REQUIRED- - CRITERIA [~~DEFINITIONS--TAX~~
23 ~~IMPOSED~~]. - -

24 A. On April 15, July 15, October 15 and January 15
25 of each year, the licensee shall file with the licensing

1 authority upon forms prescribed by the licensing authority a
2 duly verified statement covering the preceding calendar quarter
3 showing the amount of the gross receipts derived during that
4 period from games of chance, the expenses incurred or paid and
5 a brief description of the classification of the expenses, the
6 name and address of each person to whom has been paid two
7 hundred fifty dollars (\$250) or more and the purpose of the
8 expenditure, the net proceeds derived from each game of chance
9 and the uses to which the net proceeds have been or are to be
10 applied. It is the duty of each licensee to maintain and keep
11 the books and records necessary to substantiate the particulars
12 of each report.

13 B. If a licensee fails to file reports within the
14 time required or if the reports are not properly verified or
15 not fully, accurately and truthfully completed, any existing
16 license may be suspended until the default has been corrected.

17 C. All money collected or received from the sale of
18 admission, extra regular cards, special game cards, sale of
19 supplies and all other receipts from the games of bingo shall
20 be deposited in a special account of the licensee which shall
21 contain only such money. All expenses for the game shall be
22 withdrawn from the account by consecutively numbered checks
23 duly signed by specified officers of the licensee and payable
24 to a specific person or organization. There shall be written
25 on the check the nature of the expense for which the check is

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1 drawn. No check shall be drawn to "cash" or a fictitious
2 payee.

3 D. No part of the net profits, after they have been
4 given over to another organization, shall be used by the donee
5 organization to pay any person for services rendered or
6 materials purchased in connection with the conducting of games
7 of bingo by the donor organization.

8 E. No item of expense shall be incurred or paid in
9 connection with holding, operating or conducting any game of
10 chance pursuant to any license except bona fide expenses of a
11 reasonable amount as determined by the licensing authority.

12 Expenses may be incurred only for the following purposes:

13 (1) the purchase of goods, wares and
14 merchandise furnished;

15 (2) payment for services rendered that are
16 reasonably necessary for repairs of equipment, operating or
17 conducting the game of bingo;

18 (3) for rent if the premises are rented or for
19 janitorial services if not rented;

20 (4) for accountant's fees;

21 (5) for license fees; and

22 (6) for utilities.

23 ~~[F. For the purposes enumerated in Subsection E of~~
24 ~~this section:~~

25 ~~(1) "goods, wares and merchandise" means~~

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1 ~~prizes, equipment as defined in Section 60-2B-3 NMSA 1978,~~
2 ~~articles of a minor nature such as pencils, crayons, tickets,~~
3 ~~envelopes, paper clips and coupons necessary to the conduct of~~
4 ~~games of chance;~~

5 ~~(2) "services rendered" means repair to~~
6 ~~equipment, reasonable compensation to bookkeepers or~~
7 ~~accountants, not more than two in the aggregate, for services~~
8 ~~in preparing financial reports for an amount not exceeding the~~
9 ~~total amount of thirty dollars (\$30.00) for each occasion,~~
10 ~~rental of premises not exceeding the amount of fifty dollars~~
11 ~~(\$50.00) for each occasion except upon prior approval of a~~
12 ~~greater amount by the licensing authority, a reasonable amount~~
13 ~~for janitorial service not exceeding a total amount of fifty~~
14 ~~dollars (\$50.00) for each occasion, a reasonable amount for~~
15 ~~assisting in the operation not exceeding a total amount of two~~
16 ~~hundred fifty dollars (\$250), and not exceeding twenty-five~~
17 ~~dollars (\$25.00) for any one employee, for each occasion and a~~
18 ~~reasonable amount for security expense based on established~~
19 ~~need as determined by the licensing authority.~~

20 ~~G. There shall be paid to the licensing authority a~~
21 ~~tax equal to three percent of the net proceeds of any game of~~
22 ~~chance held, operated or conducted under the provisions of the~~
23 ~~Bingo and Raffle Act, and no other state or local gross~~
24 ~~receipts tax shall apply to the gross receipts of any such game~~
25 ~~of chance.] "~~

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1 Section 4. A new section of the Bingo and Raffle Act is
2 enacted to read:

3 "[NEW MATERIAL] TAXES--IMPOSITION--COLLECTION--
4 ADMINISTRATION. --

5 A. The following taxes are imposed on activities
6 authorized by the Bingo and Raffle Act:

7 (1) on a qualified organization, a bingo and
8 raffle tax equal to three percent of the net proceeds of any
9 game of chance held, operated or conducted for or by the
10 qualified organization pursuant to the Bingo and Raffle Act;

11 (2) on a distributor or manufacturer, a bingo
12 equipment tax equal to ten percent of the gross receipts from
13 the sale, lease or other transfer of equipment within or into
14 the state; or

15 (3) on a lessor of premises or equipment to be
16 used for games of chance authorized by the Bingo and Raffle
17 Act, a bingo lease tax equal to ten percent of the gross
18 receipts from the lease of premises or equipment to qualified
19 organizations.

20 B. No other state or local gross receipts tax shall
21 apply to a qualified organization's gross receipts or net
22 proceeds generated by a game of chance authorized by the Bingo
23 and Raffle Act.

24 C. Taxes imposed pursuant to this section shall be
25 submitted monthly to the taxation and revenue department on or

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1 before the twenty-fifth day of the month following the month in
2 which the gross receipts or net proceeds that are taxable were
3 generated by the taxpayer.

4 D. The taxation and revenue department shall
5 administer the taxes imposed in this section pursuant to the
6 Tax Administration Act.

7 E. For purposes of this section, "gross receipts"
8 means the total amount of money or the value of consideration
9 received from selling, leasing or otherwise transferring
10 equipment or leasing premises for use by or for a qualified
11 organization for offering games of chance pursuant to the Bingo
12 and Raffle Act. "

13 Section 5. Section 60-2B-13 NMSA 1978 (being Laws 1981,
14 Chapter 259, Section 13) is amended to read:

15 "60-2B-13. EXEMPTIONS.--Nothing in the Bingo and Raffle
16 Act shall be construed to apply to:

17 A. [~~any~~] a drawing or [~~any~~] a prize at [~~any~~] a fair
18 or fiesta held in New Mexico under the sponsorship or authority
19 of the state or any of its political subdivisions, or for the
20 benefit of [~~any~~] a church situated [~~and being~~] in this state or
21 for charitable purposes when all the proceeds of the sale or
22 drawing shall be expended within New Mexico for the benefit of
23 that church or charitable purpose, provided [~~such~~] the fair or
24 fiesta [~~must have~~] has been held on an annual basis for not
25 less than two years immediately preceding and for a period of

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underscored material = new
[bracketed material] = delete

1 not more than fourteen consecutive calendar days in each year;
2 or

3 B. ~~[any]~~ bingo or a raffle held by ~~[any]~~ a group or
4 organization as defined in Section ~~[3 of the Bingo and Raffle~~
5 ~~Act which]~~ 60-2B-3 NMSA 1978 that holds [a] bingo or a raffle
6 only once during three consecutive calendar months and not
7 exceeding four occasions in one calendar year. "

8 Section 6. Section 60-2E-7 NMSA 1978 (being Laws 1997,
9 Chapter 190, Section 9, as amended) is amended to read:

10 "60-2E-7. BOARD'S POWERS AND DUTIES. --

11 A. The board shall implement the state's policy on
12 gaming consistent with the provisions of the Gaming Control Act
13 and the Bingo and Raffle Act. It has the duty to fulfill all
14 responsibilities assigned to it pursuant to ~~[that act]~~ those
15 acts, and it has all authority necessary to carry out those
16 responsibilities. It may delegate authority to the executive
17 director, but it retains accountability. The board is an
18 adjunct agency.

19 B. The board shall:

20 (1) employ the executive director;

21 (2) make the final decision on issuance,
22 denial, suspension and revocation of all licenses pursuant to
23 and consistent with the provisions of the Gaming Control Act
24 and the Bingo and Raffle Act;

25 (3) develop, adopt and promulgate all

underscored material = new
[bracketed material] = delete

1 regulations necessary to implement and administer the
2 provisions of the Gaming Control Act and the Bingo and Raffle
3 Act;

4 (4) conduct itself, or employ a hearing
5 officer to conduct, all hearings required by the provisions of
6 the Gaming Control Act and other hearings it deems appropriate
7 to fulfill its responsibilities;

8 (5) meet at least once each month; and

9 (6) prepare and submit an annual report in
10 December of each year to the governor and the legislature,
11 covering activities of the board in the most recently completed
12 fiscal year, a summary of gaming activities in the state and
13 any recommended changes in or additions to the laws relating to
14 gaming in the state.

15 C. The board may:

16 (1) impose civil fines not to exceed twenty-
17 five thousand dollars (\$25,000) for the first violation and
18 fifty thousand dollars (\$50,000) for subsequent violations of
19 any prohibitory provision of the Gaming Control Act or any
20 prohibitory provision of a regulation adopted pursuant to that
21 act;

22 (2) conduct investigations;

23 (3) subpoena persons and documents to compel
24 access to or the production of documents and records, including
25 books and memoranda, in the custody or control of [any] a

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[bracketed material] = delete

1 licensee;

2 (4) compel the appearance of employees of a
3 licensee or persons for the purpose of ascertaining compliance
4 with provisions of the Gaming Control Act or a regulation
5 adopted pursuant to its provisions;

6 (5) administer oaths and take depositions to
7 the same extent and subject to the same limitations as would
8 apply if the deposition were pursuant to discovery rules in a
9 civil action in the district court;

10 (6) sue and be sued subject to the limitations
11 of the Tort Claims Act;

12 (7) contract for the provision of goods and
13 services necessary to carry out its responsibilities;

14 (8) conduct audits, relevant to their gaming
15 activities, of applicants, licensees and persons affiliated
16 with licensees;

17 (9) inspect, examine, photocopy and audit all
18 documents and records of an applicant or licensee relevant to
19 his gaming activities in the presence of the applicant or
20 licensee or his agent;

21 (10) require verification of income and all
22 other matters pertinent to the gaming activities of an
23 applicant or licensee affecting the enforcement of any
24 provision of the Gaming Control Act;

25 (11) inspect all places where gaming

1 activities are conducted and inspect all property connected
2 with gaming in those places;

3 (12) summarily seize, remove and impound from
4 places inspected any gaming devices, property connected with
5 gaming, documents or records for the purpose of examination or
6 inspection;

7 (13) inspect, examine, photocopy and audit
8 documents and records, relevant to his gaming activities, of
9 any affiliate of an applicant or licensee that the board knows
10 or reasonably suspects is involved in the financing, operation
11 or management of the applicant or licensee. The inspection,
12 examination, photocopying and audit shall be in the presence of
13 a representative of the affiliate or its agent when
14 practicable; and

15 (14) except for the powers specified in
16 Paragraphs (1) and (4) of this subsection, carry out all or
17 part of the foregoing powers and activities through the
18 executive director.

19 D. The board shall monitor all activity authorized
20 in an Indian gaming compact between the state and an Indian
21 nation, tribe or pueblo. The board shall appoint the state
22 gaming representative for the purposes of the compact."