

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 228

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO GAMES OF CHANCE; REPEALING THE BINGO AND RAFFLE
ACT; ENACTING THE NEW MEXICO BINGO AND RAFFLE ACT; REGULATING
CERTAIN GAMES OF CHANCE; REQUIRING LICENSES AND PERMITS;
PROVIDING CIVIL AND CRIMINAL PENALTIES; IMPOSING TAXES.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 26 of this act may be cited as the "New Mexico Bingo
and Raffle Act".

Section 2. [NEW MATERIAL] PURPOSE.--The purpose of the
New Mexico Bingo and Raffle Act is to authorize and regulate
certain games of chance by licensed nonprofit organizations.

Section 3. [NEW MATERIAL] GAMING CONTROL BOARD TO
ADMINISTER ACT.--The gaming control board shall implement the
state's policy on games of chance consistent with the

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1 provisions of the New Mexico Bingo and Raffle Act. It shall
2 fulfill all duties assigned to it pursuant to the New Mexico
3 Bingo and Raffle Act, and it shall have the authority necessary
4 to carry out those duties.

5 Section 4. [NEW MATERIAL] DEFINITIONS.--As used in the
6 New Mexico Bingo and Raffle Act:

7 A. "bingo" means a game of chance in which each
8 player has one or more bingo cards printed with different
9 numbers on which to place markers when the respective numbers
10 are drawn and announced by a bingo caller;

11 B. "bingo caller" means the individual who, in the
12 game of bingo, draws and announces numbers;

13 C. "bingo employee" means a person connected
14 directly with a game of chance such as cashiers, floor sales
15 clerks and pull-tab workers. A bingo employee may or may not
16 be a member of a qualified organization;

17 D. "bingo manager" means the person responsible for
18 overseeing bingo and pull-tab activities conducted pursuant to
19 a bingo license;

20 E. "board" means the gaming control board;

21 F. "charitable organization" means an organization,
22 not for pecuniary profit, that is operated for the relief of
23 poverty, distress or other condition of public concern in New
24 Mexico and that has been granted an exemption from federal
25 income tax as an organization described in Section 501(c) of

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1 the United States Internal Revenue Code of 1986, as amended or
2 renumbered;

3 G. "chartered branch, lodge or chapter of a
4 national or state organization" means a branch, lodge or
5 chapter that is a civic or service organization, not for
6 pecuniary profit, and that is authorized by its written
7 constitution, charter, articles of incorporation or bylaws to
8 engage in a fraternal, civic or service purpose in New Mexico;

9 H. "distributor" means a person, other than a
10 manufacturer, who provides equipment to a qualified
11 organization but does not manufacture the equipment;

12 I. "educational organization" means an organization
13 within the state, not organized for pecuniary profit, whose
14 primary purpose is educational in nature and designed to
15 develop the capabilities of individuals by instruction;

16 J. "environmental organization" means an
17 organization within the state, not organized for pecuniary
18 profit, that is primarily concerned with the protection and
19 preservation of the natural environment;

20 K. "equipment" means:

21 (1) with respect to bingo:

22 (a) the receptacle and numbered objects
23 drawn from it;

24 (b) the master board upon which the
25 numbered objects are placed as drawn;

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1 (c) the cards or sheets bearing numbers
2 or other designations to be covered and the objects used to
3 cover them;

4 (d) the board or signs, however
5 operated, used to announce or display the numbers or
6 designations as they are drawn;

7 (e) bingo card minders; and

8 (f) all other articles having a
9 significant effect on the outcome of a game and necessary to
10 the operation, conduct and playing of bingo; and

11 (2) with respect to pull-tabs:

12 (a) the pull-tabs;

13 (b) the pull-tab flares; and

14 (c) the dispensing machines;

15 L. "fraternal organization" means an organization
16 within the state, except college and high school fraternities,
17 not for pecuniary profit, that is a branch, lodge or chapter of
18 a national or state organization and that exists for the common
19 business, brotherhood or other interests of its members;

20 M. "game accountant" means the individual in charge
21 of preparing and submitting the quarterly report form;

22 N. "game of chance" means that specific kind of
23 game of chance commonly known as bingo, that specific kind of
24 game of chance commonly known as a raffle or that specific game
25 of chance commonly known as pull-tab;

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1 O. "gross receipts" means proceeds received by a
2 bingo licensee from the sale of bingo cards, raffle tickets or
3 pull-tab tickets; the sale of rights in any manner connected
4 with participation in a game of chance or the right to
5 participate in a game of chance, including any admission fee or
6 charge; the sale of playing materials; and all other
7 miscellaneous receipts;

8 P. "lawful purposes" means:

9 (1) educational, charitable, patriotic,
10 religious or public-spirited purposes that benefit an
11 indefinite number of persons either by bringing their minds or
12 hearts under the influence of education or religion, by
13 relieving their bodies from disease, suffering or constraint,
14 by assisting them in establishing themselves in life, by
15 erecting or maintaining public buildings or works, by providing
16 legal assistance to peace officers or firefighters in defending
17 civil or criminal actions arising out of the performance of
18 their duties or by otherwise lessening the burden of
19 government. "Lawful purposes" includes the erection,
20 acquisition, improvement, maintenance, insurance or repair of
21 property, real, personal or mixed, if the property is used for
22 one or more of the benefits stated in this paragraph; or

23 (2) augmenting the revenue of and promoting
24 the New Mexico state fair;

25 Q. "licensee" means any qualified organization to

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1 which a bingo license has been issued by the board or any
2 person to which a manufacturer's or distributor's license has
3 been issued by the board;

4 R. "manufacturer" means a person who manufactures,
5 fabricates, assembles, produces, programs or makes
6 modifications to equipment for use or play in games of chance
7 in New Mexico or for sale or distribution outside of New
8 Mexico;

9 S. "occasion" means a single gathering at which a
10 series of successive bingo games are played;

11 T. "permittee" means any person issued a permit by
12 the board;

13 U. "premises" means a room, hall, enclosure or
14 outdoor area that is identified on a license issued pursuant to
15 the New Mexico Bingo and Raffle Act and used for the purpose of
16 playing games of bingo or pull-tabs;

17 V. "prize" means cash or merchandise won for
18 participation in a game of chance;

19 W. "progressive pot" means a prize from a pull-tab
20 or a portion of a prize from a pull-tab that is allowed to
21 carry over from one pull-tab game to the next so that the
22 carried-over prizes are allowed to accumulate into a larger
23 prize;

24 X. "pull-tab" means gaming pieces used in a game of
25 chance that are made completely of paper or paper products with

1 concealed numbers or symbols that must be exposed by the player
2 to determine wins or losses or a gaming piece that is made
3 completely of paper or paper products with an instant-win
4 component that must be exposed by the player on a concealed
5 card and can be used in a speed round for additional winnings
6 utilizing a bingo blower. A "pull-tab" includes a tip board
7 and can include a progressive pot;

8 Y. "qualified organization" means a bona fide
9 chartered branch, lodge or chapter of a national or state
10 organization or any bona fide religious, charitable,
11 environmental, fraternal, educational or veterans' organization
12 operating without profit to its members that has been in
13 existence in New Mexico continuously for a period of two years
14 immediately prior to conducting a raffle or making an
15 application for a license under the New Mexico Bingo and Raffle
16 Act and that has had a membership engaged in carrying out the
17 objects of the corporation or organization. A voluntary
18 firefighter's organization is a qualified organization and a
19 labor organization is a qualified organization for the purposes
20 of the New Mexico Bingo and Raffle Act if they use the proceeds
21 from a game of chance solely for scholarship or charitable
22 purposes;

23 Z. "raffle" means a drawing where multiple persons
24 buy tickets to win a prize and the winner is determined by the
25 drawing of the ticket stub out of a container that holds all

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1 the ticket stubs sold for the event;

2 AA. "religious organization" means an organization,
3 church, body of communicants or group, not for pecuniary
4 profit, gathered in common membership for mutual support and
5 edification in piety, worship and religious observances or a
6 society, not for pecuniary profit, of individuals united for
7 religious purposes at a definite place; and

8 BB. "veterans' organization" means an organization
9 within the state or any branch, lodge or chapter of a national
10 or state organization within this state, not for pecuniary
11 profit, the membership of which consists of individuals who
12 were members of the armed services or forces of the United
13 States.

14 Section 5. [NEW MATERIAL] APPLICATION OF ACT.--The New
15 Mexico Bingo and Raffle Act applies to:

16 A. unless exempted pursuant to Section 26 of that
17 act, qualified organizations that conduct games of chance and
18 the games of chance conducted by the qualified organizations;

19 B. persons who provide equipment for a fee to
20 qualified organizations for use or play of games of chance in
21 New Mexico; and

22 C. persons who manufacture, fabricate, assemble,
23 produce, program or make modifications to equipment for use or
24 play of games of chance in New Mexico or for sale or
25 distribution outside of New Mexico.

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1 Section 6. [NEW MATERIAL] BOARD--POWERS.--The board may:

2 A. grant, deny, suspend, condition or revoke
3 licenses or permits issued pursuant to the New Mexico Bingo and
4 Raffle Act, establish the terms for each classification of
5 license to be issued pursuant to that act and set fees for
6 submitting an application for a license;

7 B. compel the production of documents, books and
8 tangible items, including documents showing the receipts and
9 disbursements of a licensee;

10 C. investigate the operations of a licensee and
11 place a designated representative on the premises for the
12 purpose of observing compliance with the New Mexico Bingo and
13 Raffle Act and rules or orders of the board;

14 D. summon witnesses;

15 E. take testimony under oath for the effective
16 discharge of the board's authority;

17 F. appoint a hearing officer to conduct hearings
18 required by the New Mexico Bingo and Raffle Act or rules
19 adopted pursuant to that act;

20 G. make rules to hold, conduct and operate all
21 games of chance held in the state except those specifically
22 exempted under the New Mexico Bingo and Raffle Act;

23 H. adopt rules to implement the New Mexico Bingo
24 and Raffle Act and to ensure that games of chance conducted in
25 New Mexico are conducted with fairness and that the

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1 participants and patrons are protected against illegal
2 practices on any premises;

3 I. determine qualifications for licensees;

4 J. establish a system of standard operating
5 procedures for licensees;

6 K. adopt rules establishing a system of licensing
7 distributors and manufacturers and licensing and governing
8 qualified organizations;

9 L. adopt rules establishing a system of permits for
10 individuals designated as bingo managers, bingo callers and
11 such other bingo employees as the board requires;

12 M. require a statement under oath by the applicant
13 for a license to be issued pursuant to the New Mexico Bingo and
14 Raffle Act that the information on the application is true;

15 N. inspect any games of chance being conducted;

16 O. make on-site inspections of premises where games
17 of chance are being held;

18 P. inspect all equipment used for games of chance;

19 Q. regulate the monetary value of prizes to be
20 awarded for games of chance;

21 R. require disclosure of information sufficient to
22 make a determination of the suitability of an applicant for a
23 license or permit to be issued pursuant to the New Mexico Bingo
24 and Raffle Act;

25 S. adopt and enforce all rules necessary to

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1 implement and administer the provisions of the New Mexico Bingo
2 and Raffle Act; and

3 T. provide an annual report to the governor
4 regarding the board's administration of the New Mexico Bingo
5 and Raffle Act.

6 Section 7. [NEW MATERIAL] ORGANIZATIONS ELIGIBLE FOR
7 BINGO LICENSES.--

8 A. Any qualified organization is eligible to apply
9 for a bingo license to be issued by the board under the New
10 Mexico Bingo and Raffle Act.

11 B. The New Mexico state fair:

12 (1) may apply to the board for and shall be
13 issued a bingo license pursuant to the New Mexico Bingo and
14 Raffle Act to conduct games of chance on the grounds of the New
15 Mexico state fair during the state fair; and

16 (2) shall pay a licensing fee to the board of
17 one hundred dollars (\$100) per calendar year at the time of
18 application for or renewal of a license issued pursuant to the
19 New Mexico Bingo and Raffle Act.

20 C. A qualified organization may conduct a raffle on
21 the grounds of the New Mexico state fair during the state fair
22 only after obtaining express prior approval of the state fair
23 commission and the board.

24 Section 8. [NEW MATERIAL] CLASSIFICATIONS OF LICENSES AND
25 PERMITS.--

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1 A. The board shall establish and may issue the
2 following categories of licenses:

- 3 (1) bingo license;
- 4 (2) distributor's license; and
- 5 (3) manufacturer's license.

6 B. The board shall establish and may issue permits
7 for the following employees:

- 8 (1) bingo manager;
- 9 (2) bingo caller; and
- 10 (3) any other bingo employee position for

11 which the board, by rule, requires a permit.

12 Section 9. [NEW MATERIAL] DISCLOSURE OF BACKGROUND
13 INFORMATION.--

14 A. The board may require an applicant for a license
15 or permit to be issued pursuant to the New Mexico Bingo and
16 Raffle Act to disclose information sufficient for the board to
17 make a determination as to the applicant's suitability. The
18 board may adopt rules to coordinate the manner in which the
19 information is produced.

20 B. An applicant shall provide all of the
21 information required by the board.

22 C. The cost of a background investigation, not to
23 exceed one hundred dollars (\$100), shall be paid by the
24 applicant.

25 Section 10. [NEW MATERIAL] APPLICATION FOR LICENSES OR

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1 PERMITS.--

2 A. Each applicant for a license or permit to be
3 issued under the New Mexico Bingo and Raffle Act shall file
4 with the board a written application in the form prescribed by
5 the board, duly executed and verified and containing:

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

7 (2) if not an individual, sufficient facts
8 relating to its incorporation or organization to enable the
9 board to determine whether or not the applicant is qualified
10 and the names and addresses of its officers, members of the
11 board of directors and managers;

12 (3) such other information deemed necessary by
13 the board to ensure that the applicant complies with the
14 provisions of the New Mexico Bingo and Raffle Act and rules
15 adopted pursuant to that act; and

16 (4) an affirmation signed by the applicant or
17 the applicant's agent that the information contained in the
18 application is true and accurate. The application shall be
19 signed by the applicant or the applicant's agent, and the
20 signature shall be notarized.

21 B. In addition to the requirements of Subsection A
22 of this section, each applicant for a bingo license shall
23 provide the board with the following:

24 (1) the names of the bingo manager, the bingo
25 caller and the game accountant, and a statement from those

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1 persons that they shall be responsible for the holding,
2 operation and conduct of games of chance in accordance with the
3 terms of the license and the provisions of the New Mexico Bingo
4 and Raffle Act;

5 (2) sufficient facts relating to the
6 organization to enable the board to determine whether or not it
7 is a qualified organization;

8 (3) the exact location at which the applicant
9 will conduct bingo and pull-tabs;

10 (4) the specific kind of games of chance
11 intended to be conducted; and

12 (5) whether the premises are owned or leased
13 and, if leased, the name and address of the fee owner of the
14 land or, if the owner is a corporation, the names of the
15 directors and members of the board of directors.

16 C. The failure to accurately and truthfully provide
17 the information required in Subsection A or B of this section
18 is a violation of the New Mexico Bingo and Raffle Act and shall
19 subject the applicant to the provisions of Sections 14, 23 and
20 25 of that act.

21 Section 11. [NEW MATERIAL] STANDARDS FOR GRANTING A
22 LICENSE OR PERMIT.--

23 A. An application for a bingo license shall not be
24 granted unless the applicant is a qualified organization and is
25 authorized to do business in New Mexico.

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1 B. An application for a manufacturer's license or a
2 distributor's license shall not be granted unless the applicant
3 is qualified to do business in New Mexico.

4 C. An application for a permit shall not be granted
5 if the applicant has been convicted of a felony offense or a
6 violation of the New Mexico Bingo and Raffle Act within ten
7 years of the date of application.

8 D. The board may establish by rule additional
9 qualifications for a licensee or permittee as it deems in the
10 public interest.

11 Section 12. [NEW MATERIAL] LICENSES AND PERMITS--SPECIFIC
12 REQUIREMENTS.--

13 A. A license issued pursuant to the New Mexico
14 Bingo and Raffle Act shall be valid for three years and may be
15 renewed for successive three-year terms.

16 B. A permit issued pursuant to the New Mexico Bingo
17 and Raffle Act shall be valid for three years from the date of
18 issuance and may be renewed for successive three-year terms.

19 C. A license or permit or a renewal of a license or
20 permit is not transferable.

21 Section 13. [NEW MATERIAL] FEES FOR LICENSES AND
22 PERMITS--DISPOSITION OF REVENUE.--

23 A. Fees for licenses and permits issued pursuant to
24 the New Mexico Bingo and Raffle Act shall be established by
25 board rule but shall not exceed the following amounts:

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1 (1) bingo license, five hundred dollars (\$500)
2 for the initial license and five hundred dollars (\$500) for
3 each renewal;

4 (2) manufacturer's license, five hundred
5 dollars (\$500) for the initial license and five hundred dollars
6 (\$500) for each renewal;

7 (3) distributor's license, five hundred
8 dollars (\$500) for the initial license and five hundred dollars
9 (\$500) for each renewal; and

10 (4) permit, seventy-five dollars (\$75.00) for
11 the initial permit and seventy-five dollars (\$75.00) for each
12 renewal.

13 B. All administrative receipts, including license
14 and permit fees, collected pursuant to the New Mexico Bingo and
15 Raffle Act shall be deposited in the general fund.

16 Section 14. [NEW MATERIAL] FORFEITURE OF LICENSE--
17 INELIGIBILITY TO APPLY FOR LICENSE OR PERMIT.--Any person who
18 makes a material false statement in an application for a
19 license or permit to be issued pursuant to the New Mexico Bingo
20 and Raffle Act or in any statement submitted with the
21 application, fails to keep sufficient books and records to
22 substantiate the quarterly reports required under Section 19 of
23 the New Mexico Bingo and Raffle Act, falsifies any books or
24 records insofar as they relate to a transaction connected with
25 the holding, operating and conducting of a game of chance under

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1 any such license or permit or violates any of the provisions of
2 the New Mexico Bingo and Raffle Act or of any term of the
3 license or permit, in addition to any other criminal or civil
4 penalties that may be imposed, may, at the option of the board,
5 be required to forfeit any license issued under that act and be
6 ineligible to apply for a license under that act for at least
7 one year thereafter.

8 Section 15. [NEW MATERIAL] PERSONS PERMITTED TO CONDUCT
9 BINGO AND PULL-TAB GAMES--PREMISES.--

10 A. The officers of a bingo licensee shall designate
11 a bingo manager to be in charge and primarily responsible for
12 the conduct of all games of bingo and pull-tabs. The bingo
13 manager shall supervise all activities on the occasion for
14 which the bingo manager is in charge. The bingo manager shall
15 be familiar with the provisions of the state laws, the rules of
16 the board and the provisions of the bingo license. The bingo
17 manager shall be present on the premises continuously during
18 the games and for a period of at least thirty minutes after the
19 last game.

20 B. The bingo manager shall designate a game
21 accountant to be primarily responsible for the proper
22 preparation of the quarterly reports in accordance the New
23 Mexico Bingo and Raffle Act.

24 C. For a bingo game, the bingo manager shall
25 designate a bingo caller to be responsible for drawing and

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1 announcing the bingo numbers.

2 D. The premises where any game of chance is being
3 held, operated or conducted or where it is intended that any
4 equipment be used shall at all times be open to inspection by
5 the board and its agents and employees and by peace officers of
6 the state or any political subdivision of the state.

7 E. No owner or co-owner of the premises or, if a
8 corporation is the owner of the premises, any officer, director
9 or stockholder owning more than ten percent of the outstanding
10 stock shall be designated as a bingo manager, a game accountant
11 or a bingo caller.

12 Section 16. [NEW MATERIAL] DISPLAY OF LICENSE.--Each
13 license issued pursuant to the New Mexico Bingo and Raffle Act
14 shall contain a statement of the name and address of the
15 licensee, date of issuance and date of expiration. Any such
16 license issued for the conduct of any games of bingo or
17 pull-tab shall be conspicuously displayed at the place where
18 the games are to be conducted.

19 Section 17. [NEW MATERIAL] EQUIPMENT.--

20 A. No bingo or pull-tab game shall be conducted
21 with any equipment except that which is purchased or leased
22 from a licensed distributor or manufacturer or another bingo
23 licensee.

24 B. The equipment used in the playing of a bingo or
25 pull-tab game and the method of play shall be such that each

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1 bingo card or pull-tab has an equal opportunity to be a winner.
2 The objects or balls to be drawn shall be essentially the same
3 as to size, shape, weight, balance and all other
4 characteristics that may influence their selection.

5 C. Electronic bingo machines and video pull-tabs
6 are not authorized for use on the premises. However,
7 electronic hand-held bingo units, commonly called bingo card
8 minders, are authorized if the number of cards per game does
9 not exceed one hundred eighty.

10 Section 18. [NEW MATERIAL] CONDUCT OF GAMES OF CHANCE.--

11 A. For games of bingo:

12 (1) a bingo licensee may hold, operate or
13 conduct no more than two hundred sixty occasions in any
14 twelve-month period;

15 (2) occasions shall not be conducted more than
16 six times in any one calendar week, with no occasion lasting
17 more than four hours and not more than three occasions
18 conducted in one calendar day by any one licensee;

19 (3) when any merchandise prize is awarded in a
20 bingo game, its value shall be its current retail price. No
21 merchandise prize shall be redeemable or convertible into cash;

22 (4) the aggregate amount of all prizes offered
23 or given in all bingo games played on a single occasion shall
24 not exceed two thousand five hundred dollars (\$2,500),
25 exclusive of pull-tabs, raffles and door prizes;

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1 (5) all objects or balls to be used in a game
2 shall be present in the receptacle before the game is begun.
3 All numbers announced shall be plainly and clearly audible to
4 all the players present. Where more than one room is used for
5 any one game, the receptacle and the bingo caller shall be
6 present in the room where the greatest number of players are
7 present, and all numbers announced shall be plainly audible to
8 the players in that room and also audible to the players in the
9 other rooms;

10 (6) the receptacle and the bingo caller who
11 removes the objects or balls from the receptacle shall be
12 visible to all the players at all times except where more than
13 one room is used for any one game, in which case the provisions
14 of Paragraph (5) of this subsection shall prevail;

15 (7) the particular arrangement of numbers
16 required to be covered in order to win the game and the amount
17 of the prize shall be clearly and audibly described and
18 announced to the players immediately before each game is begun;

19 (8) any player is entitled to call for a
20 verification of all numbers drawn at the time a winner is
21 determined and for a verification of the objects or balls
22 remaining in the receptacle and not yet drawn. The
23 verification shall be made in the immediate presence of the
24 bingo manager; and

25 (9) no person who is not physically present on

1 the premises where the game is actually conducted shall be
2 allowed to participate as a player in the game.

3 B. For a raffle:

- 4 (1) all raffle tickets sold shall be
5 represented in the container from which the winner is drawn;
6 (2) the drawing shall be open to the public;
7 (3) each raffle ticket shall display all
8 information as directed by the board; and
9 (4) when any merchandise prize is awarded in a
10 raffle, its value shall be its current retail price. No
11 merchandise prize shall be redeemable or convertible into cash.

12 C. For games of pull-tabs:

- 13 (1) pull-tabs shall be sold only on the
14 premises;
15 (2) winners shall be paid only on the
16 premises; and
17 (3) when any merchandise prize is awarded in a
18 pull-tab game, its value shall be its current retail price. No
19 merchandise prize shall be redeemable or convertible into cash.

20 Section 19. [NEW MATERIAL] QUARTERLY REPORTS REQUIRED--
21 ACCOUNTING REQUIREMENTS.--

22 A. On or before April 25, July 25, October 25 and
23 January 25, the game accountant shall file with the board, upon
24 forms prescribed by the board, a duly verified statement
25 covering the preceding calendar quarter showing the amount of

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1 the gross receipts derived during that period from games of
2 chance, the total amount of prizes paid, the name and address
3 of each person to whom has been paid six hundred dollars (\$600)
4 or more and the purpose of the expenditure, the gross receipts
5 derived from each game of chance and the uses to which the net
6 proceeds have been or are to be applied. It is the duty of
7 each bingo licensee to maintain and keep the books and records
8 necessary to substantiate the particulars of each report.

9 B. If a bingo licensee fails to file reports within
10 the time required or if the reports are not properly verified
11 or not fully, accurately and truthfully completed, the licensee
12 is subject to disciplinary action, including a suspension,
13 until the default has been corrected.

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

24 D. No check shall be drawn to "cash" or a
25 fictitious payee.

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1 E. No portion of any contribution to lawful
 2 purposes, after it has been given over to another organization,
 3 shall be returned to the donor organization.

4 Section 20. [NEW MATERIAL] EXPENSES--COMPENSATION.--

5 A. No item of expense shall be incurred or paid in
 6 connection with the holding, operating or conducting of a game
 7 of chance held, operated or conducted pursuant to a bingo
 8 license except bona fide expenses in reasonable amounts for
 9 goods, wares and merchandise furnished or services rendered
 10 reasonably necessary for the holding, operating or conducting
 11 of a game of chance. Bona fide expenses include expenditures
 12 for payroll, building and equipment rent, utilities, security,
 13 janitorial supplies, office supplies, equipment, insurance,
 14 bank charges, automated teller machine fees, costs related to
 15 card minders, legal fees, advertising, accounting fees, state
 16 and federal payroll-related taxes, state and federal gaming-
 17 related taxes and all other reasonable expenses necessary for
 18 the operation of games of chance.

19 B. A qualified organization desiring to retain the
 20 receipts derived from games of chance in the bingo and raffle
 21 operating account and for a period longer than one year shall
 22 apply to the board for special permission and, upon good cause
 23 shown, the board shall grant the request.

24 Section 21. [NEW MATERIAL] TAX IMPOSITION.--

25 A. A bingo and raffle tax equal to one-half percent

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1 of the gross receipts of any game of chance held, operated or
2 conducted for or by a qualified organization shall be imposed
3 on the qualified organization.

4 B. No other state or local gross receipts tax shall
5 apply to a qualified organization's receipts generated by a
6 game of chance authorized by the New Mexico Bingo and Raffle
7 Act.

8 C. The tax imposed pursuant to this section shall
9 be submitted quarterly to the taxation and revenue department
10 on or before April 25, July 25, October 25 and January 25.

11 D. The taxation and revenue department shall
12 administer the tax imposed in this section pursuant to the Tax
13 Administration Act.

14 Section 22. [NEW MATERIAL] VIOLATION OF ACT.--

15 A. Unless exempted pursuant to Section 26 of the
16 New Mexico Bingo and Raffle Act, it is a violation of that act
17 for a qualified organization to hold a game of bingo or
18 pull-tabs for profit or gain in any manner unless the person
19 has been issued a bingo license by the board and has been
20 authorized by the board to hold the game of chance.

21 B. It is a violation of the New Mexico Bingo and
22 Raffle Act for a person who does not manufacture, fabricate,
23 assemble, produce, program or make modifications to equipment
24 to provide equipment to a qualified organization for use or
25 play of games of chance in New Mexico unless the person has

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1 been issued a distributor's license pursuant to that act.

2 C. It is a violation of the New Mexico Bingo and
3 Raffle Act for a person to manufacture, fabricate, assemble,
4 produce, program or make modifications to equipment for use or
5 play of games of chance in New Mexico or for sale or
6 distribution outside of New Mexico unless the person has been
7 issued a manufacturer's license pursuant to that act.

8 D. It is a violation of the New Mexico Bingo and
9 Raffle Act for a person to act as a bingo manager, a bingo
10 caller or any other bingo employee position for which the
11 board, by rule, requires a permit unless the person has been
12 issued a permit pursuant to that act.

13 Section 23. [NEW MATERIAL] ENFORCEMENT HEARINGS.--

14 A. A license or permit shall not be revoked or
15 suspended without just cause.

16 B. The board shall make appropriate investigations
17 to:

18 (1) determine whether there has been any
19 violation of the New Mexico Bingo and Raffle Act or of any
20 regulations adopted pursuant to that act;

21 (2) determine any facts, conditions, practices
22 or matters that it deems necessary or proper to aid in the
23 enforcement of the New Mexico Bingo and Raffle Act or
24 regulations adopted pursuant to that act; or

25 (3) aid in adopting regulations.

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1 C. If after an investigation the board is satisfied
2 that a license or permit issued pursuant to the New Mexico
3 Bingo and Raffle Act or prior approval by the board of any
4 transaction for which approval was required by the provisions
5 of the New Mexico Bingo and Raffle Act should be limited,
6 conditioned, suspended or revoked, or that a fine should be
7 levied, the board shall initiate a hearing by filing a
8 complaint and transmitting a copy of it to the licensee or
9 permittee, together with a summary of evidence in its
10 possession bearing on the matter and the transcript of
11 testimony at any investigative hearing conducted by or on
12 behalf of the board. The complaint shall be a written
13 statement of charges that sets forth in ordinary and concise
14 language the acts or omissions with which the respondent is
15 charged. It shall specify the statutes or regulations that the
16 respondent is alleged to have violated but shall not consist
17 merely of charges raised in the language of the statutes or
18 regulations.

19 D. The respondent shall file an answer within
20 thirty days after service of the complaint.

21 E. Upon filing the complaint, the board shall
22 appoint a hearing examiner to conduct further proceedings.

23 F. The hearing examiner shall conduct proceedings
24 in accordance with the New Mexico Bingo and Raffle Act and the
25 regulations adopted by the board. At the conclusion of the

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1 proceedings, the hearing examiner may recommend that the board
2 take any appropriate action, including revocation, suspension,
3 limitation or conditioning of a license or permit issued
4 pursuant to the New Mexico Bingo and Raffle Act or the
5 imposition of a fine not to exceed one thousand dollars
6 (\$1,000) for each violation or any combination of the foregoing
7 actions.

8 G. The hearing examiner shall prepare a written
9 decision containing the hearing examiner's recommendation to
10 the board and shall serve it on all parties.

11 H. The board shall by a majority vote accept,
12 reject or modify the recommendation.

13 I. If the board limits, conditions, suspends or
14 revokes any license or permit issued pursuant to the New Mexico
15 Bingo and Raffle Act or limits, conditions, suspends or revokes
16 any prior approval or imposes any fine, it shall issue a
17 written order specifying its action.

18 J. The board's order is effective on the date
19 issued and continues in effect unless reversed upon judicial
20 review, except that the board may stay its order pending a
21 rehearing or judicial review upon such terms and conditions as
22 it deems proper.

23 Section 24. [NEW MATERIAL] APPEALS.--

24 A. The decision of the board in denying, suspending
25 or revoking any license or permit issued pursuant to the New

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1 Mexico Bingo and Raffle Act or imposing any fine shall be
2 subject to review. A licensee or permittee aggrieved by a
3 decision of the board may appeal to the district court pursuant
4 to the provisions of Section 39-3-1.1 NMSA 1978.

5 B. No proceeding to vacate, reverse or modify any
6 final order rendered by the board shall operate to stay the
7 execution or effect of any final order unless the district
8 court, on application and three days' notice to the board,
9 allows the stay. In the event a stay is ordered, the
10 petitioner shall be required to execute the petitioner's bond
11 in a sum the court may prescribe, with sufficient surety to be
12 approved by the judge or clerk of the court, which bond shall
13 be conditioned upon the faithful performance by the petitioner
14 of the petitioner's obligation as a licensee or permittee and
15 upon the prompt payment of all damages arising from or caused
16 by the delay in the taking effect or enforcement of the order
17 complained of and for all costs that may be assessed or
18 required to be paid in connection with the proceedings.

19 Section 25. [NEW MATERIAL] DUTY TO ENFORCE ACT--CRIMINAL
20 PENALTIES.--

21 A. It is the duty of all law enforcement officers
22 to enforce the provisions of the New Mexico Bingo and Raffle
23 Act. It is the duty of the district attorney of the county in
24 which a violation is committed to prosecute such violation of
25 that act in the manner and form as is now provided by law for

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1 the prosecutions of crimes and misdemeanors.

2 B. A licensee, a permittee or an officer, agent or
3 employee of a licensee or any other person who willfully
4 violates or who procures, aids or abets in the willful
5 violation of the New Mexico Bingo and Raffle Act is guilty of a
6 misdemeanor and, upon conviction thereof:

7 (1) for a first offense, shall be punished by
8 a fine of not more than one thousand dollars (\$1,000) or by
9 imprisonment for not more than six months, or both; or

10 (2) for a subsequent offense, shall be
11 punished by a fine of not more than two thousand five hundred
12 dollars (\$2,500) or by imprisonment for not more than one year,
13 or both.

14 Section 26. [NEW MATERIAL] EXEMPTIONS.--

15 A. Except as provided in Subsection B of this
16 section, nothing in the New Mexico Bingo and Raffle Act shall
17 be construed to apply to:

18 (1) a drawing or a prize at a fair or fiesta
19 held in New Mexico under the sponsorship or authority of the
20 state or any of its political subdivisions, or for the benefit
21 of a religious organization situated in this state or for
22 charitable purposes when all the proceeds of the sale or
23 drawing shall be expended within New Mexico for the benefit of
24 that political subdivision, religious organization or
25 charitable purpose; or

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1 (2) a bingo or a raffle held by a qualified
2 organization that holds no more than one bingo occasion or one
3 raffle in any three consecutive calendar months and not
4 exceeding four occasions in one calendar year.

5 B. Notwithstanding the provisions of Subsection A
6 of this section, no raffle with an individual prize exceeding
7 seventy-five thousand dollars (\$75,000) shall be held without a
8 ten-day prior notification to the board of the conduct of the
9 event and a subsequent notification to the board of the names,
10 addresses and phone numbers of all prize winners.

11 C. Nothing in the New Mexico Bingo and Raffle Act
12 shall be construed to apply to a lottery established and
13 operated pursuant to the New Mexico Lottery Act or gaming that
14 is licensed and operated pursuant to the Gaming Control Act.

15 Section 27. Section 30-19-6 NMSA 1978 (being Laws 1963,
16 Chapter 303, Section 19-6, as amended) is amended to read:

17 "30-19-6. PERMISSIVE LOTTERY.--

18 ~~[A. Nothing in Article 19 Chapter 30 NMSA 1978~~
19 ~~shall be construed to apply to any sale or drawing of any prize~~
20 ~~at any fair held in this state for the benefit of any church,~~
21 ~~public library or religious society situate or being in this~~
22 ~~state, or for charitable purposes when all the proceeds of such~~
23 ~~fair shall be expended in this state for the benefit of such~~
24 ~~church, public library, religious society or charitable~~
25 ~~purposes.~~

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1 ~~A lottery shall be operated for the benefit of the~~
 2 ~~organization or charitable purpose only when the entire~~
 3 ~~proceeds of the lottery go to the organization or charitable~~
 4 ~~purpose and no part of such proceeds go to any individual~~
 5 ~~member or employee thereof.~~

6 ~~B.] A.~~ Nothing in Chapter 30, Article 19 [~~Chapter~~
 7 ~~30]~~ NMSA 1978 shall be held to prohibit any bona fide motion
 8 ~~picture theater from offering prizes of cash or merchandise for~~
 9 ~~advertising purposes, in connection with such business or for~~
 10 ~~the purpose of stimulating business, whether or not any~~
 11 ~~consideration other than a monetary consideration in excess of~~
 12 ~~the regular price of admission is exacted for participation in~~
 13 ~~drawings for prizes.~~

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

21 ~~D. Nothing in Article 19 Chapter 30 NMSA 1978 shall~~
 22 ~~be construed to apply to any lottery operated by an~~
 23 ~~organization exempt from the state income tax pursuant to~~
 24 ~~Subsection C of Section 7-2-4 NMSA 1978 and not subject to the~~
 25 ~~provisions of Subsection A of this section; provided that:~~

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

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

7 ~~(3) no part of the proceeds of any lottery~~
8 ~~shall go to any individual member or employee of any~~
9 ~~organization except as payment for the purchase of prizes at no~~
10 ~~more than the reasonable retail price.]~~

11 B. Nothing in Chapter 30, Article 19 NMSA 1978
12 shall be construed to apply to any activity:

13 (1) regulated by the New Mexico Bingo and
14 Raffle Act; or

15 (2) specifically exempted from regulation by
16 the provisions of the New Mexico Bingo and Raffle Act."

17 Section 28. Section 60-2E-7 NMSA 1978 (being Laws 1997,
18 Chapter 190, Section 9, as amended) is amended to read:

19 "60-2E-7. BOARD'S POWERS AND DUTIES.--

20 A. The board shall implement the state's policy on
21 gaming consistent with the provisions of the Gaming Control Act
22 and the New Mexico Bingo and Raffle Act. It has the duty to
23 fulfill all responsibilities assigned to it pursuant to those
24 acts, and it has all authority necessary to carry out those
25 responsibilities. It may delegate authority to the executive

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underscoring material = new
[bracketed material] = delete

1 director, but it retains accountability. The board is an
2 adjunct agency.

3 B. The board shall:

4 (1) employ the executive director;

5 (2) make the final decision on issuance,
6 denial, suspension and revocation of all licenses pursuant to
7 and consistent with the provisions of the Gaming Control Act
8 and the New Mexico Bingo and Raffle Act;

9 (3) develop, adopt and promulgate all
10 regulations necessary to implement and administer the
11 provisions of the Gaming Control Act and the New Mexico Bingo
12 and Raffle Act;

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

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

18 (6) prepare and submit an annual report in
19 December of each year to the governor and the legislature,
20 covering activities of the board in the most recently completed
21 fiscal year, a summary of gaming activities in the state and
22 any recommended changes in or additions to the laws relating to
23 gaming in the state.

24 C. The board may:

25 (1) impose civil fines not to exceed

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1 twenty-five thousand dollars (\$25,000) for the first violation
2 of any prohibitory provision of the Gaming Control Act or any
3 prohibitory provision of a regulation adopted pursuant to that
4 act and fifty thousand dollars (\$50,000) for subsequent
5 violations [~~of any prohibitory provision of the Gaming Control~~
6 ~~Act or any prohibitory provision of a regulation adopted~~
7 ~~pursuant to that act~~];

8 (2) conduct investigations;

9 (3) subpoena persons and documents to compel
10 access to or the production of documents and records, including
11 books and memoranda, in the custody or control of a licensee;

12 (4) compel the appearance of employees of a
13 licensee or persons for the purpose of ascertaining compliance
14 with provisions of the Gaming Control Act or a regulation
15 adopted pursuant to its provisions;

16 (5) administer oaths and take depositions to
17 the same extent and subject to the same limitations as would
18 apply if the deposition were pursuant to discovery rules in a
19 civil action in the district court;

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

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

24 (8) conduct audits, relevant to their gaming
25 activities, of applicants, licensees and persons affiliated

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1 with licensees;

2 (9) inspect, examine, photocopy and audit all
3 documents and records of an applicant or licensee relevant to
4 the applicant's or licensee's gaming activities in the presence
5 of the applicant or licensee or the applicant's or licensee's
6 agent;

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

11 (11) inspect all places where gaming
12 activities are conducted and inspect all property connected
13 with gaming in those places;

14 (12) summarily seize, remove and impound from
15 places inspected any gaming devices, property connected with
16 gaming, documents or records for the purpose of examination or
17 inspection;

18 (13) inspect, examine, photocopy and audit
19 documents and records, relevant to the affiliate's gaming
20 activities, of an affiliate of an applicant or licensee that
21 the board knows or reasonably suspects is involved in the
22 financing, operation or management of the applicant or
23 licensee. The inspection, examination, photocopying and audit
24 shall be in the presence of a representative of the affiliate
25 or its agent when practicable;

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1 (14) conduct background investigations
2 pursuant to the Horse Racing Act; and

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

7 D. The board shall monitor all activity authorized
8 in an Indian gaming compact between the state and an Indian
9 nation, tribe or pueblo. The board shall appoint the state
10 gaming representative for the purposes of the compact."

11 Section 29. TEMPORARY PROVISION--EXISTING LICENSEES,
12 OBLIGATIONS, VIOLATIONS AND PROSECUTIONS.--

13 A. On the effective date of this act, a licensee
14 under the Bingo and Raffle Act shall, for all purposes, be
15 considered to be a licensee under the New Mexico Bingo and
16 Raffle Act until the term of the license expires, at which time
17 the license may be renewed under the New Mexico Bingo and
18 Raffle Act.

19 B. Any taxes, fines, civil penalties or other
20 obligations owed under the Bingo and Raffle Act on the
21 effective date of this act shall be owed and enforceable under
22 the New Mexico Bingo and Raffle Act.

23 C. Notwithstanding the repeal of the Bingo and
24 Raffle Act, any violation of that act prior to its repeal may
25 be investigated and prosecuted pursuant to the provisions of

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1 that act unless otherwise prohibited by law.

2 Section 30. REPEAL.--Sections 60-2B-1 through 60-2B-14
3 NMSA 1978 (being Laws 1981, Chapter 259, Sections 1 through 9,
4 Laws 2005, Chapter 349, Section 4 and Laws 1981, Chapter 259,
5 Sections 10 through 14, as amended) are repealed.

6 Section 31. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2009.

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underscored material = new
~~[bracketed material]~~ = delete