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HOUSE BILL 22

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

INTRODUCED BY

David M Parsons

FOR THE LOTTERY OVERSIGHT COMMITTEE

AN ACT

CREATING A GAMING OVERSIGHT COMMITTEE AND PROVIDING FOR ITS  
AUTHORITY AND DUTIES; AMENDING SECTIONS 6-24-10, 6-24-27,  
6-24-28 AND 6-24-33 NMSA 1978 (BEING LAWS 1995, CHAPTER 155,  
SECTIONS 10, 27, 28 AND 33); REPEALING SECTION 6-24-9 NMSA  
1978 (BEING LAWS 1995, CHAPTER 155, SECTION 9); DECLARING AN  
EMERGENCY.

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

Section 1. [NEW MATERIAL] LEGISLATIVE GAMING OVERSIGHT  
COMMITTEE CREATED-- MEMBERSHIP-- ORGANIZATION-- ADVISORY  
MEMBERS-- PAYMENT OF COMMITTEE MEMBERS-- DISQUALIFYING  
INTERESTS-- PROHIBITED ACTS. --

A. The "gaming oversight committee" is created as  
a joint interim legislative committee.

B. The committee consists of eight members, four

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1 from the house of representatives and four from the senate.  
2 The house members shall be appointed by the speaker of the  
3 house of representatives. The senate members shall be  
4 appointed by the committees' committee of the senate or, if  
5 the senate appointments are made in the interim, by the  
6 president pro tempore of the senate after consultation with  
7 and agreement of a majority of the members of the committees'  
8 committee. Members shall be appointed so that there are two  
9 members of the committee from each of the major political  
10 parties from each house. The power of appointment shall be  
11 exercised by the appointing authority at the beginning of each  
12 interim so that committee members may be reappointed or  
13 replaced. Members shall serve a term beginning with the date  
14 of appointment and ending on the first day of the regular  
15 session of the legislature following the interim for which the  
16 member is appointed. No representative or senator shall serve  
17 as a committee member for more than four consecutive interims.  
18 Vacancies on the committee shall be filled by the appointing  
19 authority to serve until the end of the interim in which the  
20 succeeding member is appointed.

21 C. The chairman of the first committee appointed  
22 pursuant to this section shall be designated by the speaker of  
23 the house of representatives and the vice chairman of the  
24 first committee appointed shall be designated by the president  
25 pro tempore of the senate. The positions of chairman and vice

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1 chairman shall thereafter rotate at the beginning of each  
2 interim so that a senate member is designated chairman for the  
3 committee serving during the second interim and a house member  
4 is designated vice chairman.

5 D. The respective appointing authorities may  
6 appoint members of the two bodies of the legislature as  
7 advisory members of the committee. The conditions of  
8 appointment of members shall also apply to the appointment of  
9 advisory members. Advisory members shall not vote on actions  
10 taken by the committee.

11 E. A quorum consists of five voting members of the  
12 committee.

13 F. Members and advisory members shall be paid per  
14 diem and mileage for attendance at a regularly called meeting  
15 of the committee if a quorum of the membership is present or,  
16 in the absence of a quorum, if a majority of the total  
17 membership of the committee, including advisory members, is  
18 present.

19 G. A legislator shall not be appointed to or serve  
20 on the committee if he has a pecuniary interest in an entity  
21 operating gaming activities within the state or supplying  
22 services or personal property to an entity operating or  
23 regulating gaming activities within the state. As used in  
24 this subsection, "pecuniary interest" means an ownership  
25 interest that is of a quality or quantity to affect

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1 significantly, directly or indirectly, the decisions or  
2 activities of an entity operating gaming activities within the  
3 state or supplying services or personal property to an entity  
4 operating or regulating gaming activities within the state.

5 Section 2. [NEW MATERIAL] GAMING OVERSIGHT COMMITTEE--  
6 DUTIES AND AUTHORITY--STAFFING. --

7 A. The gaming oversight committee shall exercise  
8 its responsibility for oversight by:

9 (1) continuously reviewing the operations of  
10 all state agencies and instrumentalities involved in the  
11 operation of or regulation of gaming activities within the  
12 state;

13 (2) during an interim, making advisory  
14 recommendations to the executive branch for appropriate  
15 actions by it to improve the operations and regulation of  
16 gaming activities within the state;

17 (3) at the close of an interim, making  
18 recommendations to the legislature for legislation or other  
19 actions in the next following regular legislative session to  
20 improve the operations and regulation of gaming activities  
21 within the state; and

22 (4) making and publishing an annual report of  
23 its activities prior to the end of each interim, copies of  
24 which shall be furnished to the governor, the speaker of the  
25 house of representatives and the chairman of the committees'

underscored material = new  
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1 committee of the senate with further distribution of the  
2 report as determined by the committee.

3 B. In exercising its responsibilities for  
4 oversight, the gaming oversight committee:

5 (1) may investigate the operations and  
6 regulation of gaming activities within the state;

7 (2) may require persons to appear and testify  
8 before it and to produce information in any form for review by  
9 the committee if the subject matter of the testimony or  
10 information sought is relevant to the committee's  
11 responsibilities specified in Subsection A of this section;

12 (3) may issue appropriate subpoenas to compel  
13 persons to appear and testify and to produce information as  
14 specified in Paragraph (2) of this subsection and, in the  
15 event of noncompliance with an issued subpoena, may seek  
16 enforcement of the subpoena in the district court of the first  
17 judicial district; and

18 (4) may take action reasonably necessary to  
19 fulfill its responsibilities delineated in this section even  
20 though specific authority for a particular action is not  
21 expressed in this section.

22 C. Staff services for the gaming oversight  
23 committee shall be furnished by the legislative council  
24 service and funds for its expenses shall be budgeted by the  
25 legislative council service. Staff services that are not

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1 readily available from the legislative council service may be  
2 provided to the committee if requested from and approved by  
3 the legislative council.

4 Section 3. Section 6-24-10 NMSA 1978 (being Laws 1995,  
5 Chapter 155, Section 10) is amended to read:

6 "6-24-10. CHIEF EXECUTIVE OFFICER--COMPENSATION--  
7 APPOINTMENT--DUTIES.--

8 A. The board shall appoint and set the  
9 compensation of a "chief executive officer", who shall serve  
10 at the pleasure of the board.

11 B. The chief executive officer, who shall be an  
12 employee of the authority, shall:

13 (1) manage and direct the operation of the  
14 lottery and all administrative and technical activities of the  
15 authority in accordance with the provisions of the New Mexico  
16 Lottery Act and pursuant to rules, policies and procedures  
17 adopted by the board pursuant to that act;

18 (2) employ and supervise such personnel as  
19 deemed necessary;

20 (3) with the approval of the board and  
21 pursuant to rules, policies and procedures adopted by the  
22 board, enter into contracts for materials, equipment and  
23 supplies to be used in the operation of the lottery, for the  
24 design and installation of lottery games, for consultant  
25 services and for promotion of the lottery;

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1 (4) contract with lottery retailers pursuant  
2 to the New Mexico Lottery Act and board rules;

3 (5) promote or provide for promotion of the  
4 lottery and any functions related to the authority;

5 (6) hire an executive vice president for  
6 security and an internal auditor and take all necessary  
7 measures to provide for the security and integrity of the  
8 lottery;

9 (7) prepare an annual budget for the approval  
10 of the board;

11 (8) provide quarterly to the board, the  
12 governor, the [~~lottery~~] gaming oversight committee and the  
13 legislative finance committee a full and complete report of  
14 lottery revenues and expenses for the preceding quarter; and

15 (9) perform such other duties as are  
16 necessary to implement and administer the lottery.

17 C. The chief executive officer may refuse to renew  
18 [~~any~~] a lottery contract in accordance with the provisions of  
19 the New Mexico Lottery Act or the rules, policies and  
20 procedures of the board.

21 D. The chief executive officer or his designee may  
22 conduct hearings and administer oaths to persons for the  
23 purpose of assuring the security or integrity of lottery  
24 operations or to determine the qualifications of or compliance  
25 by lottery vendors and lottery retailers. "

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1           Section 4.   Section 6-24-27 NMSA 1978 (being Laws 1995,  
2 Chapter 155, Section 27) is amended to read:

3           "6-24-27.   REVENUE AND BUDGET REPORTS--RECORDS--  
4 INDEPENDENT AUDITS. --

5           A.   The board shall:

6                   (1)   submit quarterly and annual reports to  
7 the governor, legislative finance committee and [~~lottery~~]  
8 gaming oversight committee disclosing the total lottery  
9 revenue, prizes, commissions, ticket costs, operating expenses  
10 and net revenues of the authority during the reporting period  
11 and, in the annual report, describe the organizational  
12 structure of the authority and summarize the functions  
13 performed by each organizational division within the  
14 authority;

15                   (2)   maintain weekly or more frequent records  
16 of lottery transactions, including the distribution of lottery  
17 tickets to retailers, revenue received, claims for prizes,  
18 prizes paid, prizes forfeited and other financial transactions  
19 of the authority; and

20                   (3)   use the state government fiscal year.

21           B.   The board shall provide, for informational  
22 purposes, to the department of finance and administration and  
23 the legislative finance committee, by December 1 of each year,  
24 a copy of the annual proposed operating budget for the  
25 authority for the succeeding fiscal year.   This budget



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1 proposal shall also be accompanied by an estimate of the net  
2 revenues to be deposited in the public school capital outlay  
3 fund and the lottery tuition fund for the current and  
4 succeeding fiscal years.

5 C. The board shall contract with an independent  
6 certified public accountant or firm for an annual financial  
7 audit of the authority. The certified public accountant or  
8 firm shall have no financial interest in any lottery  
9 contractor. The certified public accountant or firm shall  
10 present an audit report no later than March 1 for the prior  
11 fiscal year. The certified public accountant or firm shall  
12 evaluate the internal auditing controls in effect during the  
13 audit period. The cost of this financial audit shall be an  
14 operating expense of the authority. The legislative finance  
15 committee may, at any time, order an audit of any phase of the  
16 operations of the authority, at the expense of the authority,  
17 and shall receive a copy of the annual independent financial  
18 audit. A copy of any audit performed by the certified public  
19 accountant or ordered by the legislative finance committee  
20 shall be transmitted to the governor, the speaker of the house  
21 of representatives, the president pro tempore of the senate,  
22 the legislative finance committee and the [~~lottery~~] gaming  
23 oversight committee. "

24 Section 5. Section 6-24-28 NMSA 1978 (being Laws 1995,  
25 Chapter 155, Section 28) is amended to read:

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1 "6-24-28. INTERNAL AUDITOR--APPOINTMENT--DUTIES. --

2 A. The board, with the recommendation and  
3 assistance of the chief executive officer, shall employ an  
4 internal auditor. The internal auditor, who shall be an  
5 employee of the authority, shall be qualified by training and  
6 experience as an auditor and management analyst and have at  
7 least five years of auditing experience. The internal auditor  
8 shall take direction as needed from the chief executive  
9 officer and be accountable to the board.

10 B. The internal auditor shall conduct and  
11 coordinate comprehensive audits for all aspects of the  
12 lottery, provide management analysis expertise and carry out  
13 any other duties specified by the board and by law. The  
14 internal auditor shall specifically:

15 (1) conduct, or provide for through a  
16 competitive bid process, an annual financial audit and  
17 observation audits of drawings;

18 (2) create an annual audit plan to be  
19 approved by the board;

20 (3) search for means of better efficiency and  
21 cost savings and waste prevention;

22 (4) examine the policy and procedure needs of  
23 the lottery and determine compliance;

24 (5) ensure that proper internal controls  
25 exist;

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- (6) perform audits that meet or exceed governmental audit standards; and
  - (7) submit audit reports on a quarterly basis to the board, the chief executive officer, the state auditor, the ~~[lottery]~~ gaming oversight committee and the legislative finance committee.
- C. The internal auditor shall conduct audits as needed in the areas of:
- (1) personnel security;
  - (2) lottery retailer security;
  - (3) lottery contractor security;
  - (4) security of manufacturing operations of lottery contractors;
  - (5) security against lottery ticket counterfeiting and alteration and other means of fraudulently winning;
  - (6) security of drawings among entries or finalists;
  - (7) computer security;
  - (8) data communications security;
  - (9) database security;
  - (10) systems security;
  - (11) lottery premises and warehouse security;
  - (12) security in distribution;
  - (13) security involving validation and

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- 1 payment procedures;
- 2 (14) security involving unclaimed prizes;
- 3 (15) security aspects applicable to each
- 4 particular lottery game;
- 5 (16) security of drawings in games whenever
- 6 winners are determined by drawings;
- 7 (17) the completeness of security against
- 8 locating winners in lottery games with preprinted winners by
- 9 persons involved in their production, storage, distribution,
- 10 administration or sales; and
- 11 (18) any other aspects of security applicable
- 12 to any particular lottery game and to the lottery and its
- 13 operations.

14 D. Specific audit findings related to security  
15 invasion techniques are confidential and may be reported only  
16 to the chief executive officer or his designee, the board, the  
17 governor and the attorney general. "

18 Section 6. Section 6-24-33 NMSA 1978 (being Laws 1995,  
19 Chapter 155, Section 33) is amended to read:

20 "6-24-33. UNLAWFUL PURCHASE OF LOTTERY TICKET--  
21 PENALTY. --

22 A. It is unlawful for the following persons to  
23 purchase a lottery ticket or to share knowingly in the lottery  
24 winnings of another person:

- 25 (1) the chief executive officer, a board

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1 member [~~a member of the lottery oversight committee~~] or an  
2 employee of the authority; or

3 (2) an owner, officer or employee of a  
4 lottery vendor or, in the case of a corporation, an owner of  
5 five percent or more of the corporate stock of a lottery  
6 vendor.

7 B. Notwithstanding the provisions of Subsection A  
8 of this section, the chief executive officer may authorize in  
9 writing any employee of the authority and any employee of a  
10 lottery contractor to purchase a lottery ticket for the  
11 purposes of verifying the proper operation of the lottery with  
12 respect to security, systems operation and lottery retailer  
13 contract compliance. Any prize awarded as a result of such  
14 ticket purchase shall become the property of the authority and  
15 shall be added to the prize pools of subsequent lottery games.

16 C. Nothing in this section shall prohibit lottery  
17 retailers or their employees from purchasing lottery tickets  
18 or from being paid a prize for a winning ticket.

19 D. Certain classes of persons who, because of the  
20 unique nature of the supplies or services they provide for use  
21 directly in the operation of the lottery, may be prohibited,  
22 in accordance with rules adopted by the board, from  
23 participating in any lottery in which such supplies or  
24 services are used.

25 E. Any person who violates any provision of this

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1 section for the first time is guilty of a misdemeanor and  
2 shall be sentenced pursuant to the provisions of Section  
3 31-19-1 NMSA 1978.

4 F. Any person who violates any provision of this  
5 section for a second or subsequent time is guilty of a fourth  
6 degree felony and shall be sentenced pursuant to the  
7 provisions of Section 31-18-15 NMSA 1978. "

8 Section 7. REPEAL. --Section 6-24-9 NMSA 1978 (being Laws  
9 1995, Chapter 155, Section 9) is repealed.

10 Section 8. EMERGENCY.--It is necessary for the public  
11 peace, health and safety that this act take effect  
12 immediately.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3  
4  
5  
6 March 10, 1999

7  
8 Mr. Speaker:

9  
10 Your JUDICIARY COMMITTEE, to whom has been referred

11  
12 HOUSE BILL 22

13  
14 has had it under consideration and reports same with  
15 recommendation that it DO NOT PASS, but that

16 HOUSE JUDICIARY COMMITTEE SUBSTITUTE  
17 FOR HOUSE BILL 22

18  
19 DO PASS, and thence referred to the APPROPRIATIONS AND  
20 FINANCE COMMITTEE.

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HJC/CSHB 22

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Respectfully submitted,

\_\_\_\_\_  
R. David Pederson, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Garcia, Luna, Sanchez

Absent: None

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HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 22

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

AN ACT

CREATING A GAMING OVERSIGHT COMMITTEE AND PROVIDING FOR ITS  
AUTHORITY AND DUTIES; AMENDING SECTIONS 6-24-10, 6-24-27,  
6-24-28 AND 6-24-33 NMSA 1978 (BEING LAWS 1995, CHAPTER 155,  
SECTIONS 10, 27, 28 AND 33); REPEALING SECTION 6-24-9 NMSA  
1978 (BEING LAWS 1995, CHAPTER 155, SECTION 9); DECLARING AN  
EMERGENCY.

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

Section 1. [NEW MATERIAL] LEGISLATIVE GAMING OVERSIGHT  
COMMITTEE CREATED-- MEMBERSHIP-- ORGANIZATION-- ADVISORY  
MEMBERS-- PAYMENT OF COMMITTEE MEMBERS-- DISQUALIFYING  
INTERESTS-- PROHIBITED ACTS. --

A. The "gaming oversight committee" is created as  
a joint interim legislative committee.

B. The committee consists of eight members, four  
from the house of representatives and four from the senate.  
The house members shall be appointed by the speaker of the  
house of representatives. The senate members shall be

1 appointed by the committees' committee of the senate or, if  
2 the senate appointments are made in the interim, by the  
3 president pro tempore of the senate after consultation with  
4 and agreement of a majority of the members of the committees'  
5 committee. Members shall be appointed so that there are two  
6 members of the committee from each of the major political  
7 parties from each house. The power of appointment shall be  
8 exercised by the appointing authority at the beginning of each  
9 interim so that committee members may be reappointed or  
10 replaced. Members shall serve a term beginning with the date  
11 of appointment and ending on the first day of the regular  
12 session of the legislature following the interim for which the  
13 member is appointed. Vacancies on the committee shall be  
14 filled by the appointing authority to serve until the end of  
15 the interim in which the succeeding member is appointed.

14 C. The chairman of the first committee appointed  
15 pursuant to this section shall be designated by the speaker of  
16 the house of representatives and the vice chairman of the  
17 first committee appointed shall be designated by the president  
18 pro tempore of the senate. The positions of chairman and vice  
19 chairman shall thereafter rotate at the beginning of each  
20 interim so that a senate member is designated chairman for the  
21 committee serving during the second interim and a house member  
22 is designated vice chairman.

22 D. A quorum consists of five members of the  
23 committee.

24 E. Members shall be paid per diem and mileage for  
25 attendance at a regularly called meeting of the committee if a

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1 quorum of the membership is present.

2 F. A legislator:

3 (1) shall not be appointed to or serve on the  
4 committee if he has an ownership interest in an entity  
5 operating gaming activities within the state or supplying  
6 services or personal property to an entity operating or  
7 regulating gaming activities within the state;

8 (2) appointed as a member of the committee  
9 shall not receive or accept anything of value directly or  
10 indirectly from a person who:

11 (a) operates gaming activities in this  
12 state or elsewhere;

13 (b) has a current contract with any  
14 person who operates gaming activities in this state or  
15 elsewhere;

16 (c) is a potential or actual bidder,  
17 offeror or contractor for the provision of services or  
18 personal property to a person who operates or regulates gaming  
19 activities in this state or elsewhere; or

20 (d) is an organization, association or  
21 other entity having a membership that includes persons  
22 described in Subparagraph (a), (b) or (c) of this paragraph;  
23 and

24 (3) who is a member of the committee shall  
25 not accept or receive anything of a value of more than twenty-  
five dollars (\$25.00) in the aggregate as a contribution to  
the member's campaign in a primary or general election from  
any person described in Subparagraphs (a) through (d) of

1 Paragraph (2) of this subsection.

2 Section 2. [NEW MATERIAL] GAMING OVERSIGHT COMMITTEE--  
3 DUTIES AND AUTHORITY--STAFFING. --

4 A. The gaming oversight committee shall exercise  
5 its responsibility for oversight by:

6 (1) continuously reviewing the operations of  
7 all state agencies and instrumentalities involved in the  
8 operation of or regulation of gaming activities within the  
9 state;

10 (2) during an interim, making advisory  
11 recommendations to the executive branch for appropriate  
12 actions by it to improve the operations and regulation of  
13 gaming activities within the state;

14 (3) making and publishing an annual report of  
15 its activities prior to the end of each interim, copies of  
16 which shall be furnished to the governor, the speaker of the  
17 house of representatives and the chairman of the committees'  
18 committee of the senate with further distribution of the  
19 report as determined by the committee.

20 B. In exercising its responsibilities for  
21 oversight, the gaming oversight committee:

22 (1) may investigate the operations and  
23 regulation of gaming activities within the state;

24 (2) may require persons to appear and testify  
25 before it and to produce information in any form for review by  
the committee if the subject matter of the testimony or  
information sought is relevant to the committee's  
responsibilities specified in Subsection A of this section;

1 and

2 (3) may take action reasonably necessary to  
3 fulfill its responsibilities delineated in this section even  
4 though specific authority for a particular action is not  
5 expressed in this section.

6 C. Staff services for the gaming oversight  
7 committee shall be furnished by the legislative council  
8 service and funds for its expenses shall be budgeted by the  
9 legislative council service. Staff services that are not  
10 readily available from the legislative council service may be  
11 provided to the committee if requested from and approved by  
12 the legislative council.

13 Section 3. Section 6-24-10 NMSA 1978 (being Laws 1995,  
14 Chapter 155, Section 10) is amended to read:

15 "6-24-10. CHIEF EXECUTIVE OFFICER--COMPENSATION--  
16 APPOINTMENT--DUTIES.--

17 A. The board shall appoint and set the  
18 compensation of a "chief executive officer", who shall serve  
19 at the pleasure of the board.

20 B. The chief executive officer, who shall be an  
21 employee of the authority, shall:

22 (1) manage and direct the operation of the  
23 lottery and all administrative and technical activities of the  
24 authority in accordance with the provisions of the New Mexico  
25 Lottery Act and pursuant to rules, policies and procedures  
adopted by the board pursuant to that act;

(2) employ and supervise such personnel as  
deemed necessary;

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1 (3) with the approval of the board and  
2 pursuant to rules, policies and procedures adopted by the  
3 board, enter into contracts for materials, equipment and  
4 supplies to be used in the operation of the lottery, for the  
5 design and installation of lottery games, for consultant  
6 services and for promotion of the lottery;

7 (4) contract with lottery retailers pursuant  
8 to the New Mexico Lottery Act and board rules;

9 (5) promote or provide for promotion of the  
10 lottery and any functions related to the authority;

11 (6) hire an executive vice president for  
12 security and an internal auditor and take all necessary  
13 measures to provide for the security and integrity of the  
14 lottery;

15 (7) prepare an annual budget for the approval  
16 of the board;

17 (8) provide quarterly to the board, the  
18 governor, the [~~lottery~~] gaming oversight committee and the  
19 legislative finance committee a full and complete report of  
20 lottery revenues and expenses for the preceding quarter; and

21 (9) perform such other duties as are  
22 necessary to implement and administer the lottery.

23 C. The chief executive officer may refuse to renew  
24 [~~any~~] a lottery contract in accordance with the provisions of  
25 the New Mexico Lottery Act or the rules, policies and  
procedures of the board.

D. The chief executive officer or his designee may  
conduct hearings and administer oaths to persons for the

1 purpose of assuring the security or integrity of lottery  
2 operations or to determine the qualifications of or compliance  
3 by lottery vendors and lottery retailers. "

4 Section 4. Section 6-24-27 NMSA 1978 (being Laws 1995,  
5 Chapter 155, Section 27) is amended to read:

6 "6-24-27. REVENUE AND BUDGET REPORTS--RECORDS--  
7 INDEPENDENT AUDITS. --

8 A. The board shall:

9 (1) submit quarterly and annual reports to  
10 the governor, legislative finance committee and [~~lottery~~]  
11 gaming oversight committee disclosing the total lottery  
12 revenue, prizes, commissions, ticket costs, operating expenses  
13 and net revenues of the authority during the reporting period  
14 and, in the annual report, describe the organizational  
15 structure of the authority and summarize the functions  
16 performed by each organizational division within the  
17 authority;

18 (2) maintain weekly or more frequent records  
19 of lottery transactions, including the distribution of lottery  
20 tickets to retailers, revenue received, claims for prizes,  
21 prizes paid, prizes forfeited and other financial transactions  
22 of the authority; and

23 (3) use the state government fiscal year.

24 B. The board shall provide, for informational  
25 purposes, to the department of finance and administration and  
the legislative finance committee, by December 1 of each year,  
a copy of the annual proposed operating budget for the  
authority for the succeeding fiscal year. This budget

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1 proposal shall also be accompanied by an estimate of the net  
2 revenues to be deposited in the public school capital outlay  
3 fund and the lottery tuition fund for the current and  
4 succeeding fiscal years.

5 C. The board shall contract with an independent  
6 certified public accountant or firm for an annual financial  
7 audit of the authority. The certified public accountant or  
8 firm shall have no financial interest in any lottery  
9 contractor. The certified public accountant or firm shall  
10 present an audit report no later than March 1 for the prior  
11 fiscal year. The certified public accountant or firm shall  
12 evaluate the internal auditing controls in effect during the  
13 audit period. The cost of this financial audit shall be an  
14 operating expense of the authority. The legislative finance  
15 committee may, at any time, order an audit of any phase of the  
16 operations of the authority, at the expense of the authority,  
17 and shall receive a copy of the annual independent financial  
18 audit. A copy of any audit performed by the certified public  
19 accountant or ordered by the legislative finance committee  
20 shall be transmitted to the governor, the speaker of the house  
21 of representatives, the president pro tempore of the senate,  
22 the legislative finance committee and the [~~lottery~~] gaming  
23 oversight committee. "

24 Section 5. Section 6-24-28 NMSA 1978 (being Laws 1995,  
25 Chapter 155, Section 28) is amended to read:

"6-24-28. INTERNAL AUDITOR--APPOINTMENT--DUTIES. --

A. The board, with the recommendation and  
assistance of the chief executive officer, shall employ an



1 internal auditor. The internal auditor, who shall be an  
 2 employee of the authority, shall be qualified by training and  
 3 experience as an auditor and management analyst and have at  
 4 least five years of auditing experience. The internal auditor  
 5 shall take direction as needed from the chief executive  
 6 officer and be accountable to the board.

7 B. The internal auditor shall conduct and  
 8 coordinate comprehensive audits for all aspects of the  
 9 lottery, provide management analysis expertise and carry out  
 10 any other duties specified by the board and by law. The  
 11 internal auditor shall specifically:

12 (1) conduct, or provide for through a  
 13 competitive bid process, an annual financial audit and  
 14 observation audits of drawings;

15 (2) create an annual audit plan to be  
 16 approved by the board;

17 (3) search for means of better efficiency and  
 18 cost savings and waste prevention;

19 (4) examine the policy and procedure needs of  
 20 the lottery and determine compliance;

21 (5) ensure that proper internal controls  
 22 exist;

23 (6) perform audits that meet or exceed  
 24 governmental audit standards; and

25 (7) submit audit reports on a quarterly basis  
 to the board, the chief executive officer, the state auditor,  
 the [lottery] gaming oversight committee and the legislative  
 finance committee.

1                   C. The internal auditor shall conduct audits as  
2 needed in the areas of:

- 3                   (1) personnel security;
- 4                   (2) lottery retailer security;
- 5                   (3) lottery contractor security;
- 6                   (4) security of manufacturing operations of  
7 lottery contractors;
- 8                   (5) security against lottery ticket  
9 counterfeiting and alteration and other means of fraudulently  
10 winning;
- 11                   (6) security of drawings among entries or  
12 finalists;
- 13                   (7) computer security;
- 14                   (8) data communications security;
- 15                   (9) database security;
- 16                   (10) systems security;
- 17                   (11) lottery premises and warehouse security;
- 18                   (12) security in distribution;
- 19                   (13) security involving validation and  
20 payment procedures;
- 21                   (14) security involving unclaimed prizes;
- 22                   (15) security aspects applicable to each  
23 particular lottery game;
- 24                   (16) security of drawings in games whenever  
25 winners are determined by drawings;
- (17) the completeness of security against  
locating winners in lottery games with preprinted winners by  
persons involved in their production, storage, distribution,

1 administration or sales; and

2 (18) any other aspects of security applicable  
3 to any particular lottery game and to the lottery and its  
4 operations.

5 D. Specific audit findings related to security  
6 invasion techniques are confidential and may be reported only  
7 to the chief executive officer or his designee, the board, the  
8 governor and the attorney general."

9 Section 6. Section 6-24-33 NMSA 1978 (being Laws 1995,  
10 Chapter 155, Section 33) is amended to read:

11 "6-24-33. UNLAWFUL PURCHASE OF LOTTERY TICKET--  
12 PENALTY. --

13 A. It is unlawful for the following persons to  
14 purchase a lottery ticket or to share knowingly in the lottery  
15 winnings of another person:

16 (1) the chief executive officer, a board  
17 member [~~a member of the lottery oversight committee~~] or an  
18 employee of the authority; or

19 (2) an owner, officer or employee of a  
20 lottery vendor or, in the case of a corporation, an owner of  
21 five percent or more of the corporate stock of a lottery  
22 vendor.

23 B. Notwithstanding the provisions of Subsection A  
24 of this section, the chief executive officer may authorize in  
25 writing any employee of the authority and any employee of a  
lottery contractor to purchase a lottery ticket for the  
purposes of verifying the proper operation of the lottery with  
respect to security, systems operation and lottery retailer

underscored material = new  
[bracketed material] = delete

1 contract compliance. Any prize awarded as a result of such  
2 ticket purchase shall become the property of the authority and  
3 shall be added to the prize pools of subsequent lottery games.

4 C. Nothing in this section shall prohibit lottery  
5 retailers or their employees from purchasing lottery tickets  
6 or from being paid a prize for a winning ticket.

7 D. Certain classes of persons who, because of the  
8 unique nature of the supplies or services they provide for use  
9 directly in the operation of the lottery, may be prohibited,  
10 in accordance with rules adopted by the board, from  
11 participating in any lottery in which such supplies or  
12 services are used.

13 E. Any person who violates any provision of this  
14 section for the first time is guilty of a misdemeanor and  
15 shall be sentenced pursuant to the provisions of Section  
16 31-19-1 NMSA 1978.

17 F. Any person who violates any provision of this  
18 section for a second or subsequent time is guilty of a fourth  
19 degree felony and shall be sentenced pursuant to the  
20 provisions of Section 31-18-15 NMSA 1978. "

21 Section 7. REPEAL. --Section 6-24-9 NMSA 1978 (being Laws  
22 1995, Chapter 155, Section 9) is repealed.

23 Section 8. EMERGENCY. --It is necessary for the public  
24 peace, health and safety that this act take effect  
25 immediately.

underscored material = new  
[bracketed material] = delete

1 FORTY- FOURTH LEGISLATURE  
2 FIRST SESSION, 1999

3  
4 March 12, 1999

5  
6  
7 Mr. Speaker:

8  
9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to  
10 whom has been referred

11 HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
12 HOUSE BILL 22

13  
14 has had it under consideration and reports same with  
15 recommendation that it DO PASS.

16  
17 Respectfully submitted,

18  
19  
20  
21 \_\_\_\_\_  
22 Max Coll, Chairman  
23  
24  
25

underscored material = new  
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HJC/HB 22

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 14 For 0 Against

Yes: 14

Excused: Coll, Heaton, Picraux

Absent: None

J: \99BillSWP\H0022

underscored material = new  
[bracketed material] = delete