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SENATE BILL 271

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

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO GAMING; AMENDING CERTAIN PROVISIONS OF THE NEW MEXICO LOTTERY ACT TO IMPROVE THE ADMINISTRATION OF THE NEW MEXICO LOTTERY AND CLARIFY EXISTING LAW; DECLARING AN EMERGENCY.

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

Section 1. Section 6-24-12 NMSA 1978 (being Laws 1995, Chapter 155, Section 12) is amended to read:

"6-24-12. EXECUTIVE VICE PRESIDENT FOR SECURITY--  
QUALIFICATIONS-- DUTIES. --

A. The chief executive officer shall hire an executive vice president for security, who shall be qualified by training and experience, including at least five years of law enforcement experience, and be knowledgeable and experienced in computer security. The executive vice

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1 president for security shall take direction as needed from the  
2 chief executive officer and shall be accountable to the board.

3 B. The executive vice president for security  
4 shall:

5 (1) be the chief administrative officer of  
6 the security division of the authority, which is designated as  
7 a law enforcement agency for the purposes of administering the  
8 security provisions of the New Mexico Lottery Act;

9 (2) be responsible for assuring the security,  
10 honesty, fairness and integrity of the operation and  
11 administration of the lottery and to that end shall institute  
12 all necessary security measures, including [ ~~but not limited~~  
13 ~~to~~] an examination of the background of all prospective  
14 employees, lottery retailers, lottery vendors and lottery  
15 contractors;

16 (3) in conjunction with the chief executive  
17 officer, confer with the attorney general or his designee to  
18 promote and ensure the security, honesty, fairness and  
19 integrity of the operation and administration of the lottery;  
20 and

21 (4) in conjunction with the chief executive  
22 officer, report any alleged violation of law to the attorney  
23 general or any other appropriate law enforcement authority for  
24 further investigation and action.

25 C. The executive vice president for security and

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1 the employees of the division assigned by him as security  
2 agents shall be commissioned by the board as peace officers  
3 with full powers of arrest in the performance of their duties.  
4 These peace officers shall seek and must obtain certification  
5 pursuant to the provisions of the Law Enforcement Training  
6 Act.

7           D. At the request of the authority, the department  
8 of public safety is authorized to accept and process  
9 fingerprints for an examination of a criminal history  
10 background and, to the extent provided by federal law, to  
11 exchange state, multistate and federal criminal history  
12 records with the authority. If permitted by federal law, the  
13 authority may install and use a national crime information  
14 center computer terminal for the purpose of conducting  
15 background investigations required by the New Mexico Lottery  
16 Act. "

17           Section 2. Section 6-24-21 NMSA 1978 (being Laws 1995,  
18 Chapter 155, Section 21) is amended to read:

19           "6-24-21. DRAWINGS FOR AND PAYMENT OF PRIZES--UNCLAIMED  
20 PRIZES--APPLICABILITY OF TAXATION. --

21           A. All lottery prize drawings shall be [ ~~held in~~  
22 open to the public. If the prior written approval of the  
23 chief executive officer and the executive vice president for  
24 security are obtained, the selection of winning entries [ ~~shall~~  
25 not] may be performed by an employee of the lottery. [ ~~or by~~] A

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1 member of the board [A++] shall not perform the selection of a  
2 winning entry. Drawings for a prize of more than five  
3 thousand dollars (\$5,000) shall be conducted and videotaped by  
4 the security division and witnessed by the internal auditor of  
5 the authority or his designee. Promotional drawings for a  
6 prize of less than five thousand dollars (\$5,000) are exempt  
7 from the requirements of this subsection if prior written  
8 approval is given by the chief executive officer and the  
9 executive vice president for security. All lottery drawing  
10 equipment used in public drawings to select winning numbers or  
11 entries or participants for prizes shall be examined and  
12 tested by the chief executive officer's staff and the internal  
13 auditor of the authority or his designee prior to and after  
14 each public drawing.

15 B. Any lottery prize is subject to applicable  
16 state taxes. The authority shall report to the state and  
17 federal taxing authorities any lottery prize exceeding six  
18 hundred dollars (\$600).

19 C. The authority shall adopt rules, policies and  
20 procedures to conduct fair and equitable drawings and  
21 establish a system of verifying the validity of tickets  
22 claimed to win prizes and to effect payment of such prizes,  
23 provided:

24 (1) no prize shall be paid upon a ticket  
25 purchased or sold in violation of the New Mexico Lottery Act.

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1 Any such prize shall constitute an unclaimed prize for  
2 purposes of this section;

3 (2) the authority is discharged from all  
4 liability upon payment of a prize;

5 (3) the board may by rule provide for the  
6 payment of prizes by lottery retailers, whether or not the  
7 lottery retailer sold the winning ticket, whenever the amount  
8 of the prize is less than an amount set by board rule.

9 Payment shall not be made directly to a player by a machine or  
10 a mechanical or electronic device;

11 (4) prizes not claimed within the time period  
12 established by the authority are forfeited and shall be paid  
13 into the prize fund. No interest is due on a prize when a  
14 claim is delayed; [and]

15 (5) the right to a prize is not assignable,  
16 but prizes may be paid to a deceased winner's estate or to a  
17 person designated by judicial order;

18 (6) until a signature or mark is placed on a  
19 ticket in the area designated for signature, a ticket is owned  
20 by the bearer of the ticket, but after a signature or mark is  
21 placed on a ticket in the area designated for signature, a  
22 ticket is owned by the person whose signature or mark appears,  
23 and that person is entitled to any prize attributable to the  
24 owner; and

25 (7) the authority is not responsible for lost

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1 or stolen tickets. "

2 Section 3. Section 6-24-29 NMSA 1978 (being Laws 1995,  
3 Chapter 155, Section 29) is amended to read:

4 "6-24-29. UNLAWFULLY INFLUENCING AND FRAUD- -PENALTIES. - -

5 A. It is unlawful to knowingly:

6 (1) influence the winning of a prize through  
7 the use of coercion, fraud, deception or tampering with  
8 lottery equipment or materials; [ or ]

9 (2) make a material false statement in any  
10 application for selection as a lottery retailer or any lottery  
11 vendor proposal or other proposal to conduct lottery  
12 activities or to make a material false entry in any book or  
13 record that is compiled or maintained or submitted pursuant to  
14 the provisions of the New Mexico Lottery Act;

15 (3) obtain or attempt to obtain access to a  
16 computer database or information maintained by the authority  
17 without the specific written authorization of the authority;  
18 or

19 (4) obtain or attempt to obtain access to a  
20 computer database or information maintained by a person  
21 pursuant to a contract with the authority without the specific  
22 written authorization of the authority.

23 B. Any person who violates any provision of  
24 Subsection A of this section is guilty of a fourth degree  
25 felony and shall be sentenced pursuant to the provisions of

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1 Section 31-18-15 NMSA 1978. "

2 Section 4. Section 6-24-30 NMSA 1978 (being Laws 1995,  
3 Chapter 155, Section 30) is amended to read:

4 "6-24-30. CONFLICTS OF INTEREST--PENALTIES. --

5 A. It is unlawful for the chief executive officer,  
6 a board member or any employee of the authority or any person  
7 residing in the household [~~thereof~~] of the officer, board  
8 member or employee to:

9 (1) have, directly or indirectly, an interest  
10 in a business, knowing that such business contracts with the  
11 lottery for a major procurement, whether such interest is as a  
12 natural person, partner, member of an association, stockholder  
13 or director or officer of a corporation; or

14 (2) accept or agree to accept any economic  
15 opportunity, gift, loan, gratuity, special discount, favor,  
16 service or hospitality [~~other than food and beverages~~]  
17 having an aggregate value of more than twenty dollars (\$20.00)  
18 [~~or less~~] in any calendar year, except for food and beverages  
19 consumed by the recipient at the time of receipt, from a  
20 person, knowing that [~~such~~] the person:

21 (a) contracts or seeks to contract with  
22 the state to supply gaming equipment, materials, lottery  
23 tickets or consulting services for use in the lottery; or

24 (b) is a lottery retailer.

25 B. It is unlawful for a lottery retailer or a

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1 lottery vendor to offer, pay, give or make any economic  
2 opportunity, gift, loan, gratuity, special discount, favor,  
3 service or hospitality [~~other than food and beverages~~] having  
4 an aggregate value of more than twenty dollars (\$20.00) in any  
5 calendar year, except food and beverages consumed by the  
6 recipient at the time of receipt, to a person, knowing [~~such~~]  
7 the person is the chief executive officer, a board member or  
8 an employee of the authority, or a person residing in the  
9 household [~~thereof~~] of the officer, board member or employee.

10 C. Any person who violates any provision of this  
11 section is guilty of a misdemeanor and shall be sentenced  
12 pursuant to the provisions of Section 31-19-1 NMSA 1978.

13 D. If a board member, the chief executive officer  
14 or an employee of the authority, or any person residing in the  
15 household thereof, is convicted of a violation of this  
16 section, that board member, chief executive officer or  
17 employee shall be removed from office or employment with the  
18 authority. "

19 Section 5. Section 6-24-31 NMSA 1978 (being Laws 1995,  
20 Chapter 155, Section 31) is amended to read:

21 "6-24-31. FORGERY OF LOTTERY TICKET--PENALTY. --

22 A. It is unlawful to falsely make, alter, forge,  
23 pass, present or counterfeit, with intent to defraud, a  
24 lottery ticket, or receipt for the purchase thereof, issued or  
25 purported to have been issued by the lottery under the New

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Mexico Lottery Act.

B. It is unlawful to steal, knowingly possess or attempt to redeem stolen lottery tickets.

~~[B.—Any]~~ C. A person who violates the provisions of Subsection A of this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

D. A person who violates the provisions of Subsection B of this section is guilty of a fourth degree felony if the face value of the stolen tickets knowingly possessed or attempted to be redeemed is less than two thousand five hundred dollars (\$2,500). If the face value of the stolen tickets is two thousand five hundred dollars (\$2,500) or more, the person is guilty of a third degree felony. A person convicted of violating Subsection B of this section shall be sentenced pursuant to Section 31-18-15 NMSA 1978. "

Section 6. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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FORTY- FOURTH LEGISLATURE SB 271/a  
FIRST SESSION, 1999

March 5, 1999

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

SENATE BILL 271

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. On page 3, strike lines 7 through 16 and insert in lieu thereof:

"D. The department of public safety in conjunction with the authority shall develop policy and procedures to require background checks. The policy and procedures shall

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FORTY- FOURTH LEGISLATURE  
FIRST SESSION, 1999

SPAC/SB 271

Page 11

require the fingerprinting of all board members and prospective employees. Fingerprint cards will be submitted to the department of public safety records bureau for processing through the federal bureau of investigation. The department of public safety will not disseminate the criminal history information to the authority.

E. An applicant for consideration shall be fingerprinted and shall provide two fingerprint cards to the department of public safety. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with Section 6-24-18 NMSA 1978. Other information contained in the federal bureau of investigation record supported by independent evidence can form the basis for the denial, suspension or revocation for good and just cause. Such records and any related information shall be privileged and shall not be disclosed to individuals not directly involved in the decisions affecting the specific applicants or employees. The authority shall pay for the cost of obtaining the federal bureau of investigation record. The

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

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SPAC/SB 271

Page 12

department of public safety shall implement the provisions of  
this section on or before July 1, 1999. "".,

and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

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Shannon Robinson, Chairman

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FORTY- FOURTH LEGISLATURE  
FIRST SESSION, 1999

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SPAC/SB 271

Page 13

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

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Boitano, Stockard, Smith

Absent: None

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

SPAC/SB 271

Page 14

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

March 10, 1999

Mr. President:

Your FINANCE COMMITTEE, to whom has been referred

SENATE BILL 271, as amended

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

Respectfully submitted,

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SPAC/SB 271

Page 15

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Ben D. Altami rano, Chair man

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

Adopted \_\_\_\_\_

(Chi ef Clerk)

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Date \_\_\_\_\_

The roll call vote was 8 For 0 Agai nst

Yes: 8

No: 0

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SPAC/SB 271

Page 16

Excused: Carraro, Gri ego, Ingle, McKi bben, Rodri guez

Absent: None

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1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
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6 March 15, 1999  
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8 Mr. Speaker:  
9

10 Your JUDICIARY COMMITTEE, to whom has been referred  
11

12 SENATE BILL 271, as amended  
13

14 has had it under consideration and reports same with  
15 recommendation that it DO PASS, amended as follows:  
16

17 1. On page 9, strike lines 4 through 17 in their  
18 entirety and insert in lieu thereof the following new  
19 subsections:

20 "C. A person who violates the provisions of  
21 Subsection A of this section when:

22 (1) the value of all things received in return  
23 for the forged lottery ticket or forged receipt for the  
24 purchase of a lottery ticket is one hundred dollars (\$100)  
25 or less is guilty of a petty misdemeanor and shall be

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HJC/SB 271 aa

Page 18

sentenced pursuant to the provisions of Section 31-19-1 NMSA  
1978;

(2) the value of all things received in return  
for the forged lottery ticket or forged receipt for the  
purchase of a lottery ticket is more than one hundred  
dollars (\$100) but not more than one thousand dollars  
(\$1,000) is guilty of a misdemeanor and shall be sentenced  
pursuant to the provisions of Section 31-19-1 NMSA 1978;

(3) the value of all things received in return  
for the forged lottery ticket or forged receipt for the  
purchase of a lottery ticket is more than one thousand  
dollars (\$1,000) but not more than two thousand five hundred  
dollars (\$2,500) is guilty of a fourth degree felony and  
shall be sentenced pursuant to the provisions of Section 31-  
18-15 NMSA 1978;

(4) the value of all things received in return  
for the forged lottery ticket or forged receipt for the  
purchase of a lottery ticket is more than two thousand five

1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999

3 HJC/SB 271 aa

Page 19

4 hundred dollars (\$2,500) but not more than twenty thousand  
5 dollars (\$20,000) is guilty of a third degree felony and  
6 shall be sentenced pursuant to the provisions of Section 31-  
7 18-15 NMSA 1978; and

8  
9 (5) the value of all things received in return  
10 for the forged lottery ticket or forged receipt for the  
11 purchase of a lottery ticket is more than twenty thousand  
12 dollars (\$20,000) is guilty of a second degree felony and  
13 shall be sentenced pursuant to the provisions of Section 31-  
14 18-15 NMSA 1978.

15 D. A person who violates the provisions of  
16 Subsection B of this section when:

17  
18 (1) the face value of the lottery tickets is  
19 one hundred dollars (\$100) or less is guilty of a petty  
20 misdemeanor and shall be sentenced pursuant to the  
21 provisions of Section 31-19-1 NMSA 1978;

22 (2) the face value of the lottery tickets is  
23 more than one hundred dollars (\$100) but not more than one  
24 thousand dollars (\$1,000) is guilty of a misdemeanor and  
25 shall be sentenced pursuant to the provisions of Section 31-  
19-1 NMSA 1978;

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HJC/SB 271 aa

Page 20

(3) the face value of the lottery tickets is more than one thousand dollars (\$1,000) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(4) the face value of the lottery tickets is more than two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(5) the face value of the lottery tickets is more than twenty thousand dollars (\$20,000) is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."".

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HJC/SB 271 aa

Page 21

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: Luna, Martinez, Sanchez

Absent: None

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