

AN ACT

RELATING TO GAMING; ELIMINATING THE LOTTERY OVERSIGHT COMMITTEE; PROVIDING FOR LEGISLATIVE OVERSIGHT OF THE LOTTERY BY THE LEGISLATIVE FINANCE COMMITTEE; DECLARING AN EMERGENCY.

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

Section 1. Section 6-24-9 NMSA 1978 (being Laws 1995, Chapter 155, Section 9) is amended to read:

"6-24-9. LEGISLATIVE OVERSIGHT--LEGISLATIVE FINANCE COMMITTEE--DUTIES.--

A. The legislative finance committee shall oversee the operations of the authority, as well as periodically review and evaluate the success with which the authority is accomplishing its duties and operating the lottery pursuant to the New Mexico Lottery Act. The committee may conduct an independent audit or investigation of the lottery or the authority.

B. The legislative finance committee shall report annually its findings and recommendations on the lottery and the operation of the authority to each regular session of the legislature."

Section 2. Section 6-24-10 NMSA 1978 (being Laws 1995, Chapter 155, Section 10) is amended to read:

"6-24-10. CHIEF EXECUTIVE OFFICER--COMPENSATION--

APPOINTMENT-- DUTIES. --

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

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

(1) manage and direct the operation of the lottery and all administrative and technical activities of the authority in accordance with the provisions of the New Mexico 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;

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

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

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

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

lottery;

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

(8) provide quarterly to the board, the governor and the legislative finance committee a full and complete report of lottery revenues and expenses for the preceding quarter; and

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

C. The chief executive officer may refuse to renew a lottery contract in accordance with the provisions of 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 purpose of assuring the security or integrity of lottery operations or to determine the qualifications of or compliance by lottery vendors and lottery retailers."

Section 3. Section 6-24-27 NMSA 1978 (being Laws 1995, Chapter 155, Section 27) is amended to read:

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

A. The board shall:

(1) submit quarterly and annual reports to the governor and the legislative finance committee disclosing the total lottery revenue, prizes, commissions,

ticket costs, operating expenses and net revenues of the authority during the reporting period and, in the annual report, describe the organizational structure of the authority and summarize the functions performed by each organizational division within the authority;

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

(3) use the state government fiscal year.

B. The board shall provide, for informational 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 proposal shall also be accompanied by an estimate of the net revenues to be deposited in the public school capital outlay fund and the lottery tuition fund for the current and succeeding fiscal years.

C. The board shall contract with an independent certified public accountant or firm for an annual financial audit of the authority. The certified public accountant or firm shall have no financial interest in any lottery contractor. The certified public accountant or firm shall present an audit report no later than March 1 for the prior

fiscal year. The certified public accountant or firm shall evaluate the internal auditing controls in effect during the audit period. The cost of this financial audit shall be an operating expense of the authority. The legislative finance committee may, at any time, order an audit of any phase of the operations of the authority, at the expense of the authority, and shall receive a copy of the annual independent financial audit. A copy of any audit performed by the certified public accountant or ordered by the legislative finance committee shall be transmitted to the governor, the speaker of the house of representatives, the president pro tempore of the senate and the legislative finance committee."

Section 4. Section 6-24-28 NMSA 1978 (being Laws 1995, 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 internal auditor. The internal auditor, who shall be an employee of the authority, shall be qualified by training and experience as an auditor and management analyst and have at least five years of auditing experience. The internal auditor shall take direction as needed from the chief executive officer and be accountable to the board.

B. The internal auditor shall conduct and coordinate comprehensive audits for all aspects of the

lottery, provide management analysis expertise and carry out any other duties specified by the board and by law. The internal auditor shall specifically:

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

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

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

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

(5) ensure that proper internal controls exist;

(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 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 payment procedures;
- (14) security involving unclaimed prizes;
- (15) security aspects applicable to each particular lottery game;
- (16) security of drawings in games whenever 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, administration or sales; and
- (18) any other aspects of security applicable to any particular lottery game and to the lottery and its operations.

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

Section 5. Section 6-24-33 NMSA 1978 (being Laws 1995, Chapter 155, Section 33) is amended to read:

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

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

(1) the chief executive officer, a board member or an employee of the authority; or

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

B. Notwithstanding the provisions of Subsection A of this section, the chief executive officer may authorize in 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 contract compliance. Any prize awarded as a result of such ticket purchase shall become the property of the authority and shall be added to the prize pools of

subsequent lottery games.

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

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

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

F. Any person who violates any provision of this section for a second or subsequent time is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of 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. _____