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SENATE BILL 292

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

John Arthur Smith

FOR THE LEGISLATIVE FINANCE COMMITTEE

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. [~~LOTTERY~~] LEGISLATIVE OVERSIGHT [~~COMMITTEE--~~
~~BIPARTISAN]~~ -- LEGISLATIVE FINANCE COMMITTEE-- DUTIES. --

~~[A. There is created a joint interim legislative
committee, which shall be known as the "lottery oversight
committee".~~

~~B. The lottery oversight committee shall be
composed of four members. Two members of the house of
representatives shall be appointed by the speaker of the house~~

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1 of representatives and two members of the senate shall be
2 appointed by the committees' committee of the senate or, if
3 the senate appointments are made in the interim, by the
4 president pro tempore of the senate after consultation with
5 and agreement of a majority of the members of the committees'
6 committee. Members shall be appointed so that there is a
7 member from each of the major political parties from each
8 house. No member who has a financial interest in any lottery
9 contractor, lottery retailer or lottery vendor shall be
10 appointed to the committee.

11 ~~C.]~~ A. The [~~lottery oversight~~] legislative finance
12 committee shall oversee the operations of the authority, as
13 well as periodically review and evaluate the success with
14 which the authority is accomplishing its duties and operating
15 the lottery pursuant to the New Mexico Lottery Act. The
16 committee may conduct [~~any~~] an independent audit or
17 investigation of the lottery or the authority [~~it deems~~
18 necessary].

19 ~~D.]~~ B. The [~~lottery oversight~~] legislative
20 finance committee shall report annually its findings and
21 recommendations on the lottery and the operation of the
22 authority to each regular session of the legislature. "

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

25 "6-24-10. CHIEF EXECUTIVE OFFICER--COMPENSATION--

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1 APPOINTMENT-- DUTIES. --

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

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

7 (1) manage and direct the operation of the
8 lottery and all administrative and technical activities of the
9 authority in accordance with the provisions of the New Mexico
10 Lottery Act and pursuant to rules, policies and procedures
11 adopted by the board pursuant to that act;

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

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

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

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

24 (6) hire an executive vice president for
25 security and an internal auditor and take all necessary

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1 measures to provide for the security and integrity of the
2 lottery;

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

5 (8) provide quarterly to the board, the
6 governor [~~the lottery oversight committee~~] and the legislative
7 finance committee a full and complete report of lottery
8 revenues and expenses for the preceding quarter; and

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

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

15 D. The chief executive officer or his designee may
16 conduct hearings and administer oaths to persons for the
17 purpose of assuring the security or integrity of lottery
18 operations or to determine the qualifications of or compliance
19 by lottery vendors and lottery retailers. "

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

22 "6-24-27. REVENUE AND BUDGET REPORTS--RECORDS--
23 INDEPENDENT AUDITS. --

24 A. The board shall:

25 (1) submit quarterly and annual reports to

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1 the governor and the legislative finance committee [~~and~~
2 ~~lottery oversight committee~~] disclosing the total lottery
3 revenue, prizes, commissions, ticket costs, operating expenses
4 and net revenues of the authority during the reporting period
5 and, in the annual report, describe the organizational
6 structure of the authority and summarize the functions
7 performed by each organizational division within the
8 authority;

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

14 (3) use the state government fiscal year.

15 B. The board shall provide, for informational
16 purposes, to the department of finance and administration and
17 the legislative finance committee, by December 1 of each year,
18 a copy of the annual proposed operating budget for the
19 authority for the succeeding fiscal year. This budget
20 proposal shall also be accompanied by an estimate of the net
21 revenues to be deposited in the public school capital outlay
22 fund and the lottery tuition fund for the current and
23 succeeding fiscal years.

24 C. The board shall contract with an independent
25 certified public accountant or firm for an annual financial

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

18 Section 4. Section 6-24-28 NMSA 1978 (being Laws 1995,
19 Chapter 155, Section 28) is amended to read:

20 "6-24-28. INTERNAL AUDITOR-- APPOINTMENT-- DUTIES. --

21 A. The board, with the recommendation and
22 assistance of the chief executive officer, shall employ an
23 internal auditor. The internal auditor, who shall be an
24 employee of the authority, shall be qualified by training and
25 experience as an auditor and management analyst and have at

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1 least five years of auditing experience. The internal auditor
2 shall take direction as needed from the chief executive
3 officer and be accountable to the board.

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

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

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

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

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

18 (5) ensure that proper internal controls
19 exist;

20 (6) perform audits that meet or exceed
21 governmental audit standards; and

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

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- 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;

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1 (17) the completeness of security against
2 locating winners in lottery games with preprinted winners by
3 persons involved in their production, storage, distribution,
4 administration or sales; and

5 (18) any other aspects of security applicable
6 to any particular lottery game and to the lottery and its
7 operations.

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

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

14 "6-24-33. UNLAWFUL PURCHASE OF LOTTERY TICKET--
15 PENALTY. --

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

19 (1) the chief executive officer, a board
20 member [~~a member of the lottery oversight committee~~] or an
21 employee of the authority; or

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

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

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

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

19 E. Any person who violates any provision of this
20 section for the first time is guilty of a misdemeanor and
21 shall be sentenced pursuant to the provisions of Section
22 31-19-1 NMSA 1978.

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

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1 provisions of Section 31-18-15 NMSA 1978. "

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

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