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SENATE BILL 607

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

BEN D. ALTAMIRANO

AN ACT

RELATING TO GAMBLING; PROVIDING FOR CERTAIN CHARITABLE GAMBLING
ACTIVITIES AND THE REGULATION OF THOSE ACTIVITIES; MAKING AN
APPROPRIATION; AMENDING, REPEALING AND ENACTING SECTIONS OF THE
NMSA 1978.

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

Section 1. Section 60-2B-1 NMSA 1978 (being Laws 1981,
Chapter 259, Section 1) is amended to read:

"60-2B-1. SHORT TITLE. -- [~~This act~~] Chapter 60, Article 2B
NMSA 1978 may be cited as the [~~"Bingo and Raffle Act"~~]
"Charitable Gaming Act". "

Section 2. Section 60-2B-2 NMSA 1978 (being Laws 1981,
Chapter 259, Section 2) is amended to read:

"60-2B-2. FINDINGS--PURPOSE OF ACT. --

A. The legislature finds that:

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1 (1) lack of economic growth and lack of growth
2 in job opportunities continue to affect New Mexicans adversely
3 and limit the expansion of the tax base and the state's ability
4 to increase tax revenues;

5 (2) there is a continuing and expanding need
6 for more social services in New Mexico;

7 (3) in times of slow economic growth or
8 economic contraction, tax revenues are not available to provide
9 programs to assist those New Mexicans who fall through the
10 safety net;

11 (4) nonprofit institutions are a major source
12 of assistance for needy people who do not receive state or
13 federal public assistance;

14 (5) nonprofit institutions must be afforded
15 every opportunity to raise funds for the purpose of caring for
16 elderly, infirm, sick and indigent persons, veterans and victims
17 of broken families; and

18 (6) to the extent that care is provided by
19 private charities, the burden on the taxpayer is less and the
20 care may be provided without many burdensome governmental
21 restrictions.

22 B. The [purpose] purposes of the [Bingo and Raffle]
23 Charitable Gaming Act [is] are to:

24 (1) make lawful and regulate the conducting of
25 certain games of chance by certain nonprofit organizations;

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1 (2) prevent organized crime from influencing
2 charitable gaming; and

3 (3) provide maximum opportunity for charitable
4 fundraising, ensure proper accounting and administration of such
5 fundraising."

6 Section 3. Section 60-2B-3 NMSA 1978 (being Laws 1981,
7 Chapter 259, Section 3, as amended) is repealed and a new
8 Section 60-2B-3 NMSA 1978 is enacted to read:

9 "60-2B-3. [NEW MATERIAL] DEFINITIONS.--As used in the
10 Charitable Gaming Act:

11 A. "active member" means an individual who has
12 qualified for membership in a qualified organization pursuant to
13 its charter, articles of incorporation, bylaws, rules or other
14 written document;

15 B. "adjusted gross income" means all gross income
16 derived from the operation of games of chance pursuant to the
17 Charitable Gaming Act after prizes paid to winners, including an
18 accrual for progressive games, have been deducted;

19 C. "alternate game manager" means a person who is
20 twenty-one years of age or older and has been an active member
21 in good standing of a qualified organization for at least six
22 months prior to making application for the alternate game
23 manager position and who has never been convicted of a felony;

24 D. "assistant game manager" means a person who is
25 twenty-one years of age or older and has been an active member

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1 in good standing of a qualified organization for at least six
2 months immediately prior to making application for the assistant
3 game manager position and who has never been convicted of a
4 felony;

5 E. "authorized fundraising expense" means an expense
6 authorized by the Charitable Gaming Act in conjunction with the
7 operation of games of chance under that act;

8 F. "bingo" means a game of chance played on paper
9 cards, rigid cards or through the utilization of an electronic,
10 computer or other technological aids displays;

11 G. "building lessor" means any person owning or
12 operating a building that is rented, leased or used by qualified
13 organizations licensed under the Charitable Gaming Act for the
14 conduct of authorized games of chance. Building lessors may
15 rent or lease equipment only to tenants of the rented or leased
16 premises;

17 H. "care organization" means any qualified
18 organization within the state, not organized for pecuniary
19 profit, whose primary purpose is the care of children, the aged
20 and infirm or the mentally or physically handicapped, primary
21 care for the destitute and homeless, assistance to youth,
22 instruction or assistance in combating drugs or disease,
23 assistance to battered and abused men, women or children or any
24 other assistance to the needy;

25 I. "charitable organization" means any qualified

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1 organization within the state, not organized for pecuniary
2 profit, that is operated for the relief of poverty, distress or
3 other condition of public concern;

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

10 K. "deal" for the purpose of electronic pull tab
11 gaming or paper pull tab gaming, means a finite number of plays
12 or tickets having a predetermined number of winners and losers,
13 so that the selection by a player of a winning play or ticket
14 reduces the total pool of winning plays or tickets available;

15 L. "drawing or door prize" means a prize awarded by
16 random selection of admission slips or similar means, for which
17 no additional consideration has been paid, which prize is not
18 included in the total prizes paid on each session by the
19 licensee;

20 M. "distributor" means a person who rents, leases,
21 sells, offers for sale or otherwise furnishes to any person
22 gaming materials or supplies for use in the conduct of any game
23 of chance;

24 N. "double session" means two sessions played
25 consecutively by the same qualified organization;

1 O. "educational organization" means any qualified
2 organization within the state, not organized for pecuniary
3 profit, whose primary purpose is educational in nature and that
4 is designed to develop the capabilities of individuals through
5 instruction;

6 P. "electronic pull tab gaming" means gaming on any
7 electronic pull tab machine;

8 Q. "electronic pull tab machine" means any pull tab
9 machine that is electronically operated and uses any number,
10 letter or symbol, or combination of numbers, letters or symbols,
11 to play a pull tab game. The electronic pull tab machine shall
12 not dispense cash payments. The machine will be configured to
13 allow the player to insert cash into the machine and the cash
14 will be converted into credits of equal value. The player may
15 activate the machine to display numbers, letters or symbols, or
16 a combination or sequence of numbers, letters or symbols, to
17 display the winning or losing plays. Each play reduces the
18 number of credits. A winning play will award additional
19 credits. The player may redeem the credit balance for cash at
20 any time or may choose to continue to play on the same machine.
21 At the end of play on the machine, the machine will produce a
22 "valid credit voucher", which shall be redeemed by the qualified
23 organization. Each play is subtracted or deducted from the deal
24 until the deal is exhausted. The electronic pull tab machine
25 shall be capable of providing remote dial-up access by the

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1 licensing authority to monitor the following:

2 (1) the name of the qualified organization;

3 (2) the location of the machine;

4 (3) the time of day in hours and minutes in
5 which the machine is in play;

6 (4) the machine serial number;

7 (5) the serial number of the deal in play; and

8 (6) the size of the deal;

9 R. "environmental organization" means any qualified
10 organization, not organized for pecuniary profit, primarily
11 concerned with the protection and preservation of the natural
12 environment;

13 S. "equipment" means, with respect to bingo and pull
14 tabs, the receptacle and numbered objects drawn from it; the
15 master board upon which such objects are placed; the cards
16 bearing numbers or other designations to be covered; the boards
17 or signs, however operated, used to announce or display the
18 numbers or designations as they are drawn; television monitors;
19 tables and chairs; public address systems; and electronic,
20 computer or other technologic aids or displays, including master
21 programs, controllers and machines to display electronic bingo
22 and pull tabs. "Equipment" includes all other similar articles
23 essential to the operation of bingo or pull tabs, but it does
24 not include gaming materials or supplies;

25 T. "fraternal organization" means any qualified

1 organization within this state, except for college and high
2 school fraternities, not organized for pecuniary profit, that is
3 a chartered branch, post, lodge or chapter of a national or
4 state organization and exists for the common business,
5 brotherhood or other interests of its members;

6 U. "game manager" means a person who is twenty-one
7 years of age or older and has been an active member in good
8 standing of a qualified organization for at least six months
9 immediately prior to making application for the game manager
10 position and who has never been convicted of a felony;

11 V. "game of chance" means:

- 12 (1) bingo;
- 13 (2) pull tabs, jar raffles or electronic pull
14 tab gaming;
- 15 (3) raffles;
- 16 (4) drawings;
- 17 (5) door prizes; or
- 18 (6) video bingo;

19 W. "gaming materials and supplies" means:

- 20 (1) bingo sheets, commonly referred to as
21 "paper" or "specials", or hard cards bearing numbers or other
22 designations to be covered and the daubers or markers used to
23 cover them;
- 24 (2) gaming programs that are periodically
25 completed and replaced;

1 (3) software for generating plays for
2 electronic pull tab gaming; or

3 (4) pull tabs or jar raffle cards, whether of
4 paper or cardboard construction, with one or more tabs that may
5 be pulled off as opened or with seals that may be broken to
6 uncover a series of numbers, figures or symbols that by their
7 arrangement indicate either a winning or losing combination of
8 numbers, figures or symbols;

9 X. "immediate family" means a person's spouse or
10 children;

11 Y. "labor organization" means any qualified
12 organization, not organized for pecuniary profit, within this
13 state that exists for the purpose, in whole or in part, of
14 dealing with employers concerning grievances, labor disputes,
15 wages, rates of pay, hours of employment or conditions of work;

16 Z. "licensee" means any qualified organization,
17 distributor or building lessor to which a license has been
18 issued by the licensing authority;

19 AA. "licensing authority" means the regulation and
20 licensing department;

21 BB. "minor" means any individual less than twenty-
22 one years of age;

23 CC. "person" means a natural person, firm, limited
24 liability company, partnership, joint venture, association,
25 corporation or other legal entity;

1 DD. "premises" means any building, room, hall,
2 enclosure or outdoor area used for the purpose of playing a game
3 of chance, including a multi-user building in which more than
4 one licensee operates games of chance;

5 EE. "progressive bingo" means bingo played and
6 structured in a way that no more than five hundred dollars
7 (\$500) per session may be contributed to a fund or account that
8 accumulates until a player wins the accumulated amount;

9 FF. "qualified organization" means any entity within
10 the state, not organized for pecuniary profit, that has been so
11 engaged for two years immediately prior to making application
12 for license under the Charitable Gaming Act and that has been
13 granted an exemption from federal income taxation by the United
14 States commissioner of internal revenue as an organization
15 described in Section 501 of the United States Internal Revenue
16 Code of 1986;

17 GG. "raffle" means the selling of tickets or similar
18 products with winners to be determined by a drawing of tickets
19 on a random basis for predetermined prizes;

20 HH. "religious organization" means any qualified
21 organization that is a church, body of communicants or group,
22 not organized for pecuniary profit, gathered in common
23 membership for mutual support and edification in piety, worship
24 and religious observances or a society, not for pecuniary
25 profit, of individuals united for religious purposes at a

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1 definite place;

2 II. "session" or "occasion" means a single gathering
3 at which a series of successive bingo games are played;

4 JJ. "veterans' organization" means any qualified
5 organization within the state or any branch, post, lodge or
6 chapter of a national or state organization within the state,
7 not organized for pecuniary profit, the membership of which
8 consists of individuals who were members of the armed services
9 or forces of the United States;

10 KK. "video bingo" means any bingo game utilizing a
11 computer-generated card image to display and track numbers and
12 letters as they are called; and

13 LL. "voluntary firemen's organization" means any
14 qualified organization for firefighting within the state, not
15 organized for pecuniary profit, established by the state or any
16 of its political subdivisions."

17 Section 4. Section 60-2B-4 NMSA 1978 (being Laws 1981,
18 Chapter 259, Section 4, as amended) is amended to read:

19 "60-2B-4. LICENSING AUTHORITY-- POWERS-- DUTIES. --

20 A. The regulation and licensing department is
21 designated as the "licensing authority" of the [~~Bingo and~~
22 ~~Raffle~~] Charitable Gaming Act. The superintendent of regulation
23 and licensing is the executive in charge of enforcement of the
24 terms and provisions of that act and, as the state licensing
25 authority, has the powers and duties as follows:

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1 (1) to grant or refuse licenses under the
2 [~~Bingo and Raffle~~] Charitable Gaming Act [~~In addition, the~~
3 ~~licensing authority has the power, on its own motion based on~~
4 ~~reasonable grounds or on complaint made and after investigation~~
5 ~~by the special investigations division of the public safety~~
6 ~~department and public hearing at which the licensee shall be~~
7 ~~afforded an opportunity to be heard, to assess administrative~~
8 ~~finer to the licensee and to suspend or revoke any license~~
9 ~~issued by the licensing authority for any violation by the~~
10 ~~licensee or any officer, director, agent, member or employee of~~
11 ~~the licensee of the provisions of that act or any rule or~~
12 ~~regulation authorized under that act. Notice of suspension or~~
13 ~~revocation, as well as notice of the hearing, shall be given by~~
14 ~~certified mail to the licensee at the address contained in the~~
15 ~~license. Any license may be temporarily suspended for a period~~
16 ~~not to exceed thirty days pending any prosecution, investigation~~
17 ~~or public hearing];~~

18 (2) to supervise the administration of the
19 [~~Bingo and Raffle~~] Charitable Gaming Act and to adopt, amend and
20 repeal rules and regulations governing the [~~holding, operating~~
21 ~~and conducting~~] operation of games of chance, the rental of
22 premises and the purchase of equipment to the end that games of
23 chance shall be held, operated and conducted only by licensees
24 for the purposes and in conformity with the constitution of New
25 Mexico and the provisions of that act;

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1 (3) to hear and determine at public hearings
2 all complaints against any licensee and to administer oaths and
3 issue subpoenas to require the presence of persons and
4 production of papers, books and records necessary to the
5 determination of any hearing so held;

6 (4) to keep records of all actions and
7 transactions of the licensing authority;

8 (5) to assess administrative fines on a
9 licensee and to suspend or revoke any license issued by the
10 licensing authority for any violation by the licensee or any
11 officer, director, agent, member or employee of the licensee of
12 any provision of the Charitable Gaming Act or any rule or
13 regulation authorized under that act;

14 [~~(5)~~] (6) to prepare and transmit annually, in
15 the form and manner prescribed by the licensing authority
16 pursuant to the provisions of law, a report accounting to the
17 governor and the legislature for the efficient discharge of all
18 responsibilities assigned by law or directive to the licensing
19 authority; and

20 [~~(6)~~] (7) to issue publications of the
21 licensing authority intended for circulation in quantity outside
22 the executive branch in accordance with fiscal rules promulgated
23 by the licensing authority.

24 B. Proceedings brought against a licensee for a
25 violation of the [~~Bingo and Raffle~~] Charitable Gaming Act shall

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1 be brought by the licensing authority by serving, in the manner
2 provided in the rules of civil procedure, a complaint upon the
3 licensee and notifying the licensee of the place and date, not
4 less than twenty days after the date of service, at which a
5 hearing shall be held. The complaint shall set forth, in the
6 manner of complaints in civil action, the violations of the
7 ~~[Bingo and Raffle]~~ Charitable Gaming Act or the rules and
8 regulations of the licensing authority ~~[which]~~ that the
9 licensing authority alleges the licensee has committed. The
10 licensing authority ~~[or the public safety department]~~ may ~~[stop]~~
11 halt the operation of a game of chance pending hearing, ~~[in~~
12 ~~which case the hearing shall be held within ten days after~~
13 ~~notice]~~ pursuant to rules and regulations adopted pursuant to
14 the Administrative Procedures Act.

15 C. The licensing authority shall cause the notice of
16 hearing to be served personally upon an officer of the licensee
17 or the ~~[member in charge of the conduct of the game of chance]~~
18 game manager or to be sent by registered or certified mail to
19 the licensee at the address shown in the license.

20 D. When proceedings are brought against a licensee
21 for a violation of the ~~[Bingo and Raffle]~~ Charitable Gaming Act,
22 the licensing authority shall hear the matter and make written
23 findings in support of its decision. The licensee shall be
24 informed immediately of the decision and, in the event of a
25 suspension or revocation, the effective date of the suspension

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1 or revocation.

2 E. For petty violations by a licensee of the
3 Charitable Gaming Act, the licensing authority may assess an
4 administrative fine not to exceed one hundred dollars (\$100) per
5 violation. The superintendent of regulation and licensing shall
6 adopt regulations defining what constitutes petty violations.

7 [E.] F. For the first violation by a licensee of the
8 [Bingo and Raffle] Charitable Gaming Act the licensing authority
9 may assess an administrative fine of not to exceed [one thousand
10 dollars (\$1,000)] two hundred fifty dollars (\$250). For a
11 second or subsequent violation by the licensee of that act, for
12 other than a petty violation, the licensing authority may assess
13 an administrative fine of not to exceed two thousand five
14 hundred dollars (\$2,500) [The amount of the administrative fine
15 shall be determined by the severity and nature of the violation
16 of the Bingo and Raffle Act and by the number of prior
17 violations of that act] and suspension of license in accordance
18 with rules and regulations to be adopted by the licensing
19 authority.

20 G. For violation of the provisions of the Charitable
21 Gaming Act or any regulation promulgated pursuant to that act,
22 no suspension or revocation shall take place until the licensee
23 has been given written notice of the violation and proposed
24 penalty and provided a reasonable period of time to cure or
25 correct the violation.

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1 [F-] H. When a license is ordered suspended or
2 revoked, the licensee shall surrender the license to the
3 licensing authority on or before the effective date of the
4 suspension or revocation. No license is valid beyond the
5 effective date of the suspension or revocation, whether
6 surrendered or not.

7 [G-] I. Upon [~~the finding of a violation of the~~
8 ~~Bingo and Raffle Act or the rules and regulations, or both, that~~
9 ~~would warrant the suspension or~~] revocation of a license, the
10 licensing authority, in addition to any other penalties [~~which~~
11 ~~that~~ may be imposed, may declare the violator ineligible to
12 conduct a game of chance and to apply for a license under [~~that~~
13 the Charitable Gaming Act for a period not exceeding [~~twelve~~
14 twenty-four months. The declaration of ineligibility may be
15 extended to include, in addition to the violator, any of its
16 subsidiary organizations, its parent organization or an
17 organization otherwise affiliated with the violator when, in the
18 opinion of the licensing authority, the circumstances of the
19 violation warrant that action.

20 [H-] J. Upon receipt by a licensee of a complaint
21 signed by the licensing authority and notice of a hearing, the
22 licensee shall answer, in the manner of civil actions, the
23 complaint and inform the licensing authority whether oral
24 argument is desired and whether the licensee desires to produce
25 witnesses.

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1 ~~[I.]~~ K. At the request of any party and for good
2 cause shown, the licensing authority or the department of public
3 safety ~~[department]~~ shall issue subpoenas for the attendance of
4 witnesses and the production of books, records and other
5 documents ~~[but in no case shall a subpoena be made returnable~~
6 ~~more than five days after service]~~.

7 ~~[J.]~~ L. Whenever oral testimony of witnesses is
8 taken at the hearing, the licensing authority ~~[or]~~, the
9 department of public safety ~~[department shall have]~~ or the
10 licensee may request, at the expense of the requesting party, a
11 certified reporter to be present to prepare a record of the
12 proceedings. The original transcript shall be ~~[filed with the~~
13 ~~licensing authority]~~ the property of the party paying for the
14 record. Any party is entitled to secure a copy from the
15 reporter at his own expense.

16 ~~[K.]~~ M. Hearings may be convened by the licensing
17 authority from time to time at the request of any party, but
18 only for good cause shown. Hearings shall be held and concluded
19 with reasonable dispatch and without unnecessary delay. The
20 licensing authority shall decide any matter within thirty days
21 of the hearing.

22 ~~[L.]~~ N. Upon the determination of any matter heard,
23 the licensing authority shall state its findings. All parties
24 shall be notified by the licensing authority of the action of
25 the licensing authority and shall be furnished a copy of the

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1 findings.

2 [M-] O. Licensees and applicants for a license or
3 the licensee may be represented by counsel.

4 [N-] P. Any person appearing before the licensing
5 authority in a representative capacity shall be required to show
6 his authority to act in that capacity.

7 [O-] Q. No person shall be excused from testifying
8 or producing any book or document pertaining to the charges made
9 in any investigation or hearing when ordered to do so by the
10 licensing authority upon the ground that testimony or
11 documentary evidence required of him may tend to incriminate or
12 subject him to penalty or forfeiture, but no ~~[person may be~~
13 ~~prosecuted, punished or subjected to any penalty or forfeiture~~
14 ~~on account of any matter or thing concerning which he, under~~
15 ~~oath, testified or produced documentary evidence]~~ person's
16 testimony or production of any book or document may be used in a
17 criminal proceeding, except that he shall not be exempt from
18 prosecution or punishment for any perjury committed by him in
19 his testimony.

20 [P-] R. If a person subpoenaed to attend in any
21 investigation or hearing fails to obey the command of the
22 subpoena without reasonable cause or if a person in attendance
23 in any investigation or hearing refuses, without lawful cause,
24 to be examined or to answer a legal or pertinent question or to
25 exhibit any book, account, record or other document pertaining

1 directly to the investigation when ordered to do so by the
2 representative of the licensing authority holding the hearing or
3 by the department of public safety [~~department~~] performing the
4 investigation, the licensing authority or the department of
5 public safety [~~department~~] may apply to any judge of the
6 district court, upon proof by affidavit of the facts, for an
7 order returnable in not less than five nor more than ten days
8 directing the person to show cause before the judge why he
9 should not comply with the subpoena or order.

10 [Q.] S. Upon return of the order, the judge before
11 whom the matter comes for hearing shall examine the person under
12 oath. If the judge determines after giving the person an
13 opportunity to be heard that he refused without lawful excuse to
14 comply with the subpoena or the order of the licensing authority
15 or the department of public safety [~~department~~] holding the
16 investigation, the judge may order the person to comply with the
17 subpoena or order forthwith, and any failure to obey the order
18 of the judge may be punished as a contempt of the district
19 court.

20 [R.] T. Every witness is entitled to be paid for
21 attendance or attendance and travel by the party on whose behalf
22 he is subpoenaed, at the rates prescribed by law for witnesses
23 in the district court, before being required to testify.

24 [S.] U. The decision of the licensing authority [~~in~~
25 ~~suspending or revoking~~] to suspend or revoke any license under

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1 the [~~Bingo and Raffle~~] Charitable Gaming Act shall be subject to
2 review. Any licensee aggrieved by a decision, within thirty
3 days after [~~receipt of a copy~~] entry of the order of the
4 licensing authority, may file a petition in the district court.
5 [~~of Santa Fe county. That~~] The court has jurisdiction, after
6 notice to the licensing authority, to hear and determine the
7 petition and to affirm, reverse, vacate or modify the order of
8 the licensing authority complained of if, upon consideration of
9 the record, the court is of the opinion that the order was
10 unlawful or unreasonable.

11 [~~F.~~] V. Upon any petition being filed, a copy shall
12 be served upon the licensing authority by delivery of a copy to
13 the licensing authority. [~~In the petition, the petitioner shall~~
14 ~~be denominated as respondent.~~] The petition shall set forth the
15 errors complained of.

16 [~~U.~~] W. Upon service of a petition, the licensing
17 authority, within twenty days or within such further time as the
18 court may grant, shall file an answer to the petition in the
19 office of the clerk of the court. With its answer, the
20 licensing authority shall file a transcript of the records and
21 orders of the licensing authority and a transcript of all papers
22 and of all evidence adduced upon the hearing before the
23 licensing authority in the proceedings complained of. The
24 court shall hear and determine the matter upon the petition,
25 answer and transcripts.

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

15 Section 5. Section 60-2B-5 NMSA 1978 (being Laws 1981,
16 Chapter 259, Section 5) is repealed and a new Section 60-2B-5
17 NMSA 1978 is enacted to read:

18 "60-2B-5. [NEW MATERIAL] AUTHORITY OF THE DEPARTMENT OF
19 PUBLIC SAFETY. --The department of public safety has authority
20 over all investigations and enforcement activities required
21 pursuant to the Charitable Gaming Act, except for those
22 provisions relating to the issuance, denial, suspension or
23 revocation of licenses unless its assistance is requested by the
24 superintendent of regulation and licensing. "

25 Section 6. Section 60-2B-6 NMSA 1978 (being Laws 1981,

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1 Chapter 259, Section 6) is repealed and a new Section 60-2B-6
2 NMSA 1978 is enacted to read:

3 "60-2B-6. [NEW MATERIAL] ORGANIZATIONS ENTITLED TO
4 LICENSES-- FEES. --

5 A. The licenses provided under the Charitable Gaming
6 Act shall be issued by the licensing authority to applicants
7 qualified under that act upon payment of a fee as follows for:

8 (1) bingo and pull tabs, including machines,
9 five hundred dollars (\$500);

10 (2) raffle, one hundred fifty dollars (\$150);

11 (3) distributor, five thousand dollars
12 (\$5,000); and

13 (4) building lessor, five hundred dollars
14 (\$500).

15 B. The licenses shall expire at the end of the
16 calendar year in which they are issued by the licensing
17 authority and may be renewed by the licensing authority upon the
18 filing of an application for renewal provided by the licensing
19 authority and the payment of a fee in accordance with the
20 schedule in Subsection A of this section. No license or renewal
21 granted under the Charitable Gaming Act shall be transferable.

22 C. No licensee shall be eligible to have more than
23 one charitable gaming license of the same type, and no bingo,
24 pull tab or raffle licensee shall have more than one licensed
25 gaming location, except that a fraternal or any organization

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1 defined in Subsection J, T or KK of Section 60-2B-3 NMSA 1978,
2 or a veterans' organization operating under a national or state
3 charter, may apply for a separate pull tab license, including
4 electronic finite pull tab machines, for its post, chapter or
5 club but only if that post, chapter or club is restricted to
6 members and guests of the licensed organization. This does not
7 preclude the auxiliary of the licensee, if the licensing
8 requirements have been met, from applying for and receiving a
9 license to operate games of chance under the provisions of the
10 Charitable Gaming Act.

11 D. Except as otherwise provided in Section 60-2B-7
12 NMSA 1978, no bingo, pull tab or raffle licensee shall lease,
13 rent or purchase any gaming materials, supplies or equipment,
14 including electronic aids, from any source, except a distributor
15 licensed under the Charitable Gaming Act.

16 E. When an amendment is made to a license, a fee of
17 twenty-five dollars (\$25.00) shall be remitted to the licensing
18 authority prior to the acceptance of the amendment.

19 F. The revenue collected from all fees is
20 appropriated to the licensing department to be used for the
21 administration of the Charitable Gaming Act only."

22 Section 7. Section 60-2B-7 NMSA 1978 (being Laws 1981,
23 Chapter 259, Section 7) is repealed and a new Section 60-2B-7
24 NMSA 1978 is enacted to read:

25 "60-2B-7. [NEW MATERIAL] APPLICATION FOR GAMING

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1 LICENSES. --

2 A. Each applicant for a bingo, pull tab or raffle
3 license to be issued under the provisions of this section shall
4 file with the licensing authority a written application in the
5 form prescribed by the licensing authority, duly executed and
6 verified, and in which shall be included:

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

8 (2) except for a veterans' organization, a
9 state charter or other similar evidences evidencing that the
10 organization has been in existence in the state for two
11 consecutive years prior to making application under the
12 Charitable Gaming Act;

13 (3) a certificate of good standing current to
14 within sixty days of the date of application;

15 (4) if the organization is a veterans'
16 organization or a chartered branch, post, lodge or chapter of a
17 national or state organization, a copy of the national or state
18 roster that evidences all branches, posts, lodges or chapters in
19 good standing shall suffice as a written application if the
20 branch, post, lodge or chapter has been in continuous operation
21 for a period of not less than two years immediately prior to
22 making application under the Charitable Gaming Act;

23 (5) a letter of exemption from the internal
24 revenue service evidencing that the applying organization has
25 been granted a federal tax exemption under one or more of the

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1 sections of the Internal Revenue Code of 1986, except for those
2 organizations qualifying under Paragraph (4) of this subsection;

3 (6) a notarized statement from the applying
4 organization signed by its chief executive officer and by its
5 treasurer or chief financial officer stating that all net
6 profits derived from the operation of any games of chance under
7 the Charitable Gaming Act after those profits have been paid
8 over to its general, corporate or operating account shall be
9 utilized in compliance with Section 501 of the Internal Revenue
10 Code of 1986, and with all the rules and regulations promulgated
11 under that section under which the letter of exemption has been
12 granted to the organization;

13 (7) if an exemption from federal taxes is
14 acquired through a national or state organization, or a diocese
15 or similar governing body in the case of a church or religious
16 organization, a copy of that exemption and sufficient data to
17 show that exemption extends to the applying organization, except
18 for those organizations qualifying under Paragraph (4) of this
19 subsection;

20 (8) any additional information required by the
21 licensing authority relating to the organization to prove to the
22 licensing authority that it is a qualified organization;

23 (9) the names and addresses of the applying
24 organization's officers;

25 (10) a listing of the membership of the

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[bracketed material] = delete

1 organization;

2 (11) the specific kind of games of chance
3 intended to be operated by the applying organization under the
4 license applied for; and

5 (12) the place where the games of chance are
6 intended to be operated by the applying organization under the
7 license applied for, and, if the premises are to be rented or
8 leased, a copy of the lease specifying rental rates for the
9 building and equipment.

10 B. In each application, there shall be members
11 designated to operate the games of chance for which application
12 is being made, and those members shall have been active members
13 of the applying organization for no less than six months prior
14 to the application being made by the applying organization.
15 These designated persons shall be the game manager, the
16 assistant game manager and the alternate game manager. The
17 alternate game manager is authorized to act as the member in
18 charge only in the absence of the game manager and assistant
19 game manager. Attached to the application shall be a statement
20 executed by the applicant, the game manager, the assistant game
21 manager and the alternate game manager stating that they will be
22 responsible for the operation of games of chance in accordance
23 with the terms of the license and provisions of the Charitable
24 Gaming Act.

25 C. If any officer or pastor of the applicant

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1 organization is submitted as game manager, assistant game
2 manager or alternate game manager, the executive committee,
3 board of directors or primary governing body of the applicant
4 organization shall submit a statement, duly signed by all
5 members of the governing body, authorizing those officers to be
6 so appointed and stating that all proceeds from operating games
7 of chance under the Charitable Gaming Act shall be utilized in
8 compliance with Section 501 of the Internal Revenue Code of 1986
9 and with the provisions of the charter of the applying
10 organization. "

11 Section 8. A new Section 60-2B-7.1 NMSA 1978 is enacted to
12 read:

13 "60-2B-7.1. [NEW MATERIAL] DISPLAY OF LICENSE. -- Each
14 license issued for the conduct of any games of chance shall be
15 conspicuously displayed at all times during the conduct of the
16 games and for at least thirty minutes after the last game has
17 been concluded or after the premises have been vacated,
18 whichever comes first. "

19 Section 9. Section 60-2B-8 NMSA 1978 (being Laws 1981,
20 Chapter 259, Section 8) is amended to read:

21 "60-2B-8. PERSONS PERMITTED TO CONDUCT GAMES--PREMISES--
22 EQUIPMENT--EXPENSES [COMPENSATION]. --

23 A. No person shall [hold] operate [or conduct] any
24 [games] game of chance under any license issued under the [Bingo
25 and Raffle] Charitable Gaming Act except [an active member of

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1 ~~the organization to which the license is issued, and no person~~
2 ~~shall assist in the holding, operating or conducting of any~~
3 ~~games of chance under that license except an active member or a~~
4 ~~member of an organization or association which is an auxiliary~~
5 ~~to the licensee, a member of an organization or association of~~
6 ~~which the licensee is an auxiliary or a member of an~~
7 ~~organization or association which is affiliated with the~~
8 ~~licensee by being, with it, auxiliary to another organization or~~
9 ~~association and except bookkeepers or accountants as provided in~~
10 ~~this section. No item of expense shall be incurred or paid in~~
11 ~~connection with the holding, operating or conducting of any game~~
12 ~~of chance held, operated or conducted pursuant to any license~~
13 ~~issued under that act except bona fide expenses in reasonable~~
14 ~~amount for goods, wares and merchandise furnished or services~~
15 ~~rendered, reasonably necessary for the holding, operating or~~
16 ~~conducting thereof. No games of chance shall be conducted with~~
17 ~~any equipment except that which is owned or leased by the~~
18 ~~licensee] the game manager, assistant game manager or alternate~~
19 ~~game manager.~~

20 B. The [officers] governing body of a licensee shall
21 designate [a bona fide] three active [member] members of the
22 licensee, [to] any of whom shall be in charge of and primarily
23 responsible for the conduct of the games of [bingo or lotto on]
24 chance in each [occasion] session. The [member in charge] game
25 manager, assistant game manager or alternate game manager shall

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1 supervise all activities [~~on the occasion~~] for the session for
2 which he is in charge and be responsible for the making of the
3 required report. The member in charge shall be familiar with
4 the provisions of the state laws, the rules and regulations of
5 the licensing authority and the provisions of the license. He
6 shall be present on the premises continuously during the games
7 and for a period of at least thirty minutes after the last game

8 ~~[C. The officers of a licensee shall designate an~~
9 ~~officer to be in full charge and primarily responsible for the~~
10 ~~proper utilization of the entire net proceeds of any game in~~
11 ~~accordance with state law.~~

12 ~~D. The entire net proceeds of any game shall be~~
13 ~~devoted to a lawful use or uses.~~

14 ~~E. Each license issued for the conduct of games of~~
15 ~~chance shall be conspicuously displayed at the place where any~~
16 ~~game is being conducted at all times during the conduct of the~~
17 ~~game and for at least thirty minutes after the last game has~~
18 ~~been concluded.~~

19 ~~F. The premises where any game of chance is being~~
20 ~~held, operated or conducted or where it is intended that any~~
21 ~~equipment be used shall at all times be open to inspection by~~
22 ~~the licensing authority, its agents and employees and by peace~~
23 ~~officers of any political subdivision of the state.~~

24 ~~G. No licensee may hold, operate or conduct a game~~
25 ~~of bingo or lotto more often than on two hundred sixty occasions~~

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1 ~~in any calendar year.~~

2 ~~H. When any merchandise prize is awarded in a game~~
3 ~~of bingo, its value shall be its current retail price. No~~
4 ~~merchandise prize shall be redeemable or convertible into cash~~
5 ~~directly or indirectly.~~

6 ~~I. Equipment, prizes and supplies for games of bingo~~
7 ~~shall not be purchased or sold at prices in excess of the usual~~
8 ~~price thereof.~~

9 ~~J. The aggregate amount of all prizes offered or~~
10 ~~given in all games played on a single occasion shall not exceed~~
11 ~~one thousand five hundred dollars (\$1,500), which shall be~~
12 ~~exclusive of pull tabs.~~

13 ~~K. No games shall be conducted more than five times~~
14 ~~in any one calendar week, with no game lasting more than four~~
15 ~~hours on each occasion and not more than two occasions in one~~
16 ~~calendar day by any one licensee.~~

17 ~~L. The net profits derived from the holding of games~~
18 ~~of chance must be devoted to the lawful purposes of the~~
19 ~~organization permitted to conduct the games. Any organization~~
20 ~~desiring to hold the net profits of games of chance for a period~~
21 ~~longer than one year must apply to the licensing authority for~~
22 ~~special permission, and, upon good cause shown, the authority~~
23 ~~shall grant the request.~~

24 ~~M. Any licensee which does not report, during any~~
25 ~~one year period, net profits will be required to show cause~~

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[bracketed material] = delete

1 ~~before the licensing authority why its right to conduct games of~~
2 ~~bingo should not be revoked.~~

3 N. ~~No person shall assist in the holding, operating~~
4 ~~or conducting of a bingo game under any license except bona fide~~
5 ~~active members of the licensee, active members of any~~
6 ~~organization which is an auxiliary to the licensee or active~~
7 ~~members of an organization which is affiliated with the licensee~~
8 ~~by being, with it, auxiliary to another organization.~~

9 O. ~~The equipment used in the playing of bingo and~~
10 ~~the method of play shall be such that each card has an equal~~
11 ~~opportunity to be a winner. The objects or balls to be drawn~~
12 ~~shall be essentially the same as to size, shape, weight, balance~~
13 ~~and all other characteristics that may influence their~~
14 ~~selection. All objects or balls shall be present in the~~
15 ~~receptacle before each game is begun. All numbers announced~~
16 ~~shall be plainly and clearly audible to all the players present.~~
17 ~~Where more than one room is used for any one game, the~~
18 ~~receptacle and the caller must be present in the room where the~~
19 ~~greatest number of players are present, and all numbers~~
20 ~~announced shall be plainly audible to the players in the~~
21 ~~aforesaid room and also audible to the players in the other~~
22 ~~rooms. A fair and equal chance shall be given to all~~
23 ~~participants, and any licensee, its representative, agent or~~
24 ~~employees whose acts or action may tend to negate the "right of~~
25 ~~equal chance" shall constitute grounds for revoking such~~

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1 ~~license.~~

2 ~~P. The receptacle the caller who removes the objects~~
3 ~~or balls from the receptacle must be visible to all the players~~
4 ~~at all times except where more than one room is used for any one~~
5 ~~game, in which case the provisions of Subsection 0 of this~~
6 ~~section shall prevail.~~

7 ~~Q. The particular arrangement of numbers required to~~
8 ~~be covered in order to win the game and the amount of the prize~~
9 ~~shall be clearly and audibly described and announced to the~~
10 ~~players immediately before each game is begun.~~

11 ~~R. Any player is entitled to call for a verification~~
12 ~~of all numbers drawn at the time a winner is determined and for~~
13 ~~a verification of the objects or balls remaining in the~~
14 ~~receptacle and not yet drawn. The verification shall be made in~~
15 ~~the immediate presence of the member designated to be in charge~~
16 ~~of the occasion but, if such member is also the caller, then in~~
17 ~~the immediate presence of any officer of the licensee.~~

18 ~~S. In the playing of bingo, no person who is not~~
19 ~~physically present on the premises where the game is actually~~
20 ~~conducted shall be allowed to participate as a player in the~~
21 ~~game.~~

22 ~~T. No person shall act as a caller in the conduct of~~
23 ~~any game of bingo unless he has been a member in good standing~~
24 ~~of the licensee conducting the game or one of its licensed~~
25 ~~auxiliaries for at least six months immediately prior to the~~

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1 ~~date of such game, is of good moral character and has never been~~
2 ~~convicted of a felony.~~

3 U. ~~No owner, co-owner or lessee of the premises or,~~
4 ~~if a corporation is the owner of the premises, any officer,~~
5 ~~director or stockholder owning more than ten percent of the~~
6 ~~outstanding stock shall be a person responsible for or assisting~~
7 ~~in the holding, operating or conducting of any game of bingo] or~~
8 ~~until the premises are vacated, whichever comes first.~~"

9 Section 10. Section 60-2B-9 NMSA 1978 (being Laws 1981,
10 Chapter 259, Section 9, as amended) is amended to read:

11 "60-2B-9. REPORTS REQUIRED-- CRITERIA-- DEFINITIONS-- TAX
12 IMPOSED. --

13 A. On [~~April 15, July 15, October 15 and January 15~~]
14 or before the fifteenth day of each [~~year~~] month, the licensee
15 shall file with the licensing authority upon forms prescribed by
16 the licensing authority a duly verified statement covering the
17 preceding calendar [~~quarter~~] month showing the amount of the
18 gross [~~receipts~~] income and adjusted gross income derived during
19 that period from games of chance, [~~the expenses incurred or paid~~
20 ~~and a brief description of the classification of the expenses~~]
21 the name and address of each person to whom has been paid [~~two~~
22 ~~hundred fifty dollars (\$250)~~] one thousand two hundred dollars
23 (\$1,200) or more in gross prizes and the [~~purpose of the~~
24 ~~expenditure~~] nature of those prizes and the net proceeds derived
25 from each game of chance [~~and the uses to which the net proceeds~~

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1 ~~have been or are to be applied~~. It is the duty of each
2 licensee to maintain and keep the books and records necessary to
3 substantiate the particulars of each report.

4 B. If a licensee fails to file reports within the
5 time required or if the reports are not properly verified or not
6 fully, accurately and truthfully completed, any existing license
7 may be suspended until the default has been corrected.

8 C. If a licensee fails to file reports within the
9 time required, a two hundred fifty dollar (\$250) penalty shall
10 be assessed. In addition, the licensee may be levied the sum of
11 twenty-five dollars (\$25.00) for each day the report is filed
12 late, up to a maximum of seven hundred fifty dollars (\$750).

13 D. The revenue collected from any penalty assessed
14 in Subsection C of this section shall be used for the
15 administration of the Charitable Gaming Act.

16 [~~E.~~] E. All money collected or received from the
17 sale of admission, [~~extra~~] regular cards, extra cards, paper
18 special game cards, video bingo machines, bingo machines, pull
19 tabs, electronic pull tab machines, raffles, the sale of
20 supplies and all other receipts from the games of [bingo] chance
21 shall be deposited in a special account of the licensee [which
22 shall contain only such money] entitled "bingo account". All
23 expenses for the [game] games of chance shall be withdrawn from
24 the bingo account by consecutively numbered checks duly signed
25 by [specified officers] the game manager, assistant game manager

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1 or alternate game manager of the licensee and payable to a
2 specific person or organization. There shall be written on the
3 check the nature of the expense for which the check is drawn.
4 No check shall be drawn to "cash" or a fictitious payee.

5 ~~[D. No part of the net profits, after they have been~~
6 ~~given over to another organization, shall be used by the donee~~
7 ~~organization to pay any person for services rendered or~~
8 ~~materials purchased in connection with the conducting of games~~
9 ~~of bingo by the donor organization.]~~

10 ~~E. No item of expense shall be incurred or paid in~~
11 ~~connection with holding, operating or conducting any game of~~
12 ~~chance pursuant to any license except bona fide expenses of a~~
13 ~~reasonable amount.]~~

14 F. All net proceeds shall be deposited in the
15 corporate, general or operating account of the qualified
16 organization.

17 G. Expenses may be incurred only for the following
18 operational purposes:

19 (1) the purchase of goods, wares and
20 merchandise furnished players as prizes and gaming materials,
21 such as bingo paper forms, pull tabs, video programs, software
22 programs, tickets and any material incidental or necessary to
23 the operation or conduct of bingo, pull tabs, electronic pull
24 tab gaming, bingo or raffle games of chance;

25 (2) payment for services rendered [~~that are~~

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1 ~~reasonably necessary for repairs of equipment]~~ in operating or
2 conducting the ~~[game of bingo]~~ games of chance;

3 (3) ~~[for rent if the premises are rented or~~
4 ~~for]~~ janitorial services if not ~~[rented]~~ included in the rental
5 agreement or lease for the rented premises;

6 (4) ~~[for]~~ accountant's fees;

7 (5) ~~[for]~~ license fees; ~~[and]~~

8 (6) ~~[for]~~ utilities, including telephone
9 expenses;

10 (7) rental, repair and building maintenance
11 allowance;

12 (8) advertising;

13 (9) legal fees;

14 (10) bank and check verification charges,
15 liability insurance, workers' compensation insurance, employer
16 taxes, federal and state taxes and other required and necessary
17 insurance and taxes;

18 (11) equipment rental; and

19 (12) security services and equipment.

20 H. All net profits in the bingo account shall be
21 transferred to the corporate, general or operating account of
22 the qualified organization on a weekly basis, except for an
23 amount to be retained in the bingo account as reserve for taxes
24 to be paid to the licensing authority and a reserve in the
25 amount reasonably necessary to cover anticipated prizes. All

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1 expenditures of the qualified organization in compliance with
2 the Internal Revenue Code of 1986 are to be paid from the
3 corporate, general or operating fund of the qualified
4 organization, as the bingo account is to be used solely for the
5 operation of games of chance.

6 I. Authorized expenses paid from the qualified
7 organization's bingo account are the only expenses that may be
8 incurred in conjunction with the operation of any game of
9 chance, and no other money may be used regardless of source,
10 including funds or donations to or from the qualified
11 organization or auxiliary.

12 [F.] J. For the purposes enumerated in Subsection
13 [E] I of this section,

14 [~~(1)~~] ~~"goods, wares and merchandise" means~~
15 ~~prizes, equipment as defined in Section 60-2B-3 NMSA 1978,~~
16 ~~articles of a minor nature such as pencils, crayons, tickets,~~
17 ~~envelopes, paper clips and coupons necessary to the conduct of~~
18 ~~games of chance;~~

19 ~~(2)] "services rendered" means:~~

20 ~~(1) repair to owned equipment; [reasonable~~
21 ~~compensation to bookkeepers or accountants, not more than two in~~
22 ~~the aggregate, for services in preparing financial reports for~~
23 ~~an amount not exceeding the total amount of thirty dollars~~
24 ~~(\$30.00) for each occasion, rental of premises not exceeding the~~
25 ~~amount of fifty dollars (\$50.00) for each occasion except upon~~

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1 ~~prior approval of a greater amount by the licensing authority, a~~
2 ~~reasonable amount for janitorial service not exceeding a total~~
3 ~~amount of fifty dollars (\$50.00) for each occasion, a reasonable~~
4 ~~amount for assisting in the operation not exceeding a total~~
5 ~~amount of two hundred fifty dollars (\$250), and not exceeding~~
6 ~~twenty five dollars (\$25.00) for any one employee, for each~~
7 ~~occasion and a reasonable amount for security expense based on~~
8 ~~established need as determined by the licensing authority]~~

9 (2) amounts for other services of not more than
10 five hundred twenty-five dollars (\$525) per session for total
11 payroll or not more than thirty-five dollars (\$35.00) for any
12 employee; seventy-five dollars (\$75.00) for the game manager;
13 fifty dollars (\$50.00) for the assistant game manager; or fifty
14 dollars (\$50.00) for the alternate game manager in the absence
15 of the game manager or assistant game manager; and

16 (3) a reasonable amount for pack preparation
17 not to exceed ten cents (\$.10) per pack.

18 ~~[G-]~~ K. There shall be paid to the licensing
19 authority a tax equal to ~~[three]~~ six percent of the ~~[net~~
20 ~~proceeds]~~ adjusted gross income of any game of chance held,
21 operated or conducted under the provisions of the ~~[Bingo and~~
22 ~~Raffle]~~ Charitable Gaming Act. ~~[and]~~ No other state or local
23 gross receipts tax shall apply to the gross receipts of any such
24 game of chance. The revenue from the tax, administrative
25 receipts, license fees and civil fines and penalties collected

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1 pursuant to the Charitable Gaming Act shall be deposited in the
2 general fund.

3 L. An amount equal to twenty percent of taxes
4 collected by the state under Subsection K of this section shall
5 be transferred to the municipal treasurer of the municipality in
6 which the premises generating the revenue are located or to the
7 county treasurer of the county in which the premises are located
8 if the premises are not within the boundaries of a municipality
9 for expenditure by the municipality or county in providing
10 additional services. "

11 Section 11. A new Section 60-2B-9.1 NMSA 1978 is enacted
12 to read:

13 "60-2B-9.1. [NEW MATERIAL] RENTAL AGREEMENTS--VENDING AND
14 ENTERTAINMENT MACHINES. --Any income realized from vending or
15 entertainment machines installed in a building used for bingo,
16 except for those gaming machines specifically authorized in the
17 Charitable Gaming Act, may accrue to the bingo building lessor
18 or to the organizations, but that income shall not be used for
19 any licensed activity or for promotion of any licensed
20 activity. "

21 Section 12. Section 60-2B-10 NMSA 1978 (being Laws 1981,
22 Chapter 259, Section 10) is repealed and a new Section 60-2B-10
23 NMSA 1978 is enacted to read:

24 "60-2B-10. [NEW MATERIAL] EXAMINATION OF BOOKS, RECORDS,
25 OPERATIONS AND PREMISES. --

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[bracketed material] = delete

1 A. At any time, without advance notice, any
2 authorized employee of the licensing authority may enter any
3 premises where any game of chance is being conducted, or where
4 it is intended that any game of chance will be conducted, or
5 where any equipment being used or intended to be used in the
6 conduct of a game of chance is found, for the purpose of
7 inspecting the operation, premises, equipment or the license
8 issued under the Charitable Gaming Act.

9 B. Any authorized employee of the licensing
10 authority may examine the bingo and pull tab books, papers,
11 records, equipment and dates of business of any licensee, in
12 order to verify the accuracy of required reports or the
13 expenditures of proceeds from the bingo account of any licensee.

14 C. Any refusal by a licensee to permit an
15 examination or inspection of the premises where games of chance
16 are conducted, license, equipment, books or papers or any other
17 type of record pertaining to the operation of games of chance
18 held or kept by the licensed organization, its game manager,
19 assistant game manager, alternate game manager or his officers
20 and directors is sufficient grounds for suspension of its
21 license pending a hearing to be conducted by the licensing
22 authority to show cause why the license issued under the
23 Charitable Gaming Act should not be revoked. "

24 Section 13. Section 60-2B-11 NMSA 1978 (being Laws 1981,
25 Chapter 259, Section 11) is amended to read:

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1 "60-2B-11. FORFEITURE OF LICENSE--INELIGIBILITY TO APPLY
2 FOR LICENSE.--Any person who makes any false statement in any
3 application for any license or in any statement annexed
4 [thereto] to an application, fails to keep sufficient books and
5 records to substantiate the quarterly reports required under
6 Section [~~8 of the Bingo and Raffle Act~~] 60-2B-9 NMSA 1978,
7 falsifies any books or records insofar as they relate to any
8 transaction connected with the holding, operating and conducting
9 of any game of chance under any [~~such~~] license or violates any
10 of the provisions of the [~~Bingo and Raffle~~] Charitable Gaming
11 Act or of any term of the license, if convicted, in addition to
12 suffering any other penalties [~~which~~] that may be imposed shall
13 forfeit any license issued to him under that act and shall be
14 ineligible to apply for a license under that act for at least
15 [~~one year thereafter~~] two years after conviction. "

16 Section 14. Section 60-2B-12 NMSA 1978 (being Laws 1981,
17 Chapter 259, Section 12, as amended) is amended to read:

18 "60-2B-12. ENFORCEMENT.--It is the duty of all sheriffs
19 and police officers to enforce the provisions of the [~~Bingo and~~
20 ~~Raffle~~] Charitable Gaming Act. It is the duty of the district
21 attorney of the county in which a violation is committed to
22 prosecute such violation of that act in the manner and form as
23 is now provided by law for the prosecutions of crimes and
24 misdemeanors. "

25 Section 15. Section 60-2B-13 NMSA 1978 (being Laws 1981,

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1 Chapter 259, Section 13) is amended to read:

2 "60-2B-13. EXEMPTIONS. -- Nothing in the [~~Bingo and Raffle~~]
3 Charitable Gaming Act shall be construed to apply to:

4 A. any drawing or any prize at any fair or fiesta
5 held in New Mexico under the sponsorship or authority of the
6 state or any of its political subdivisions, or for the benefit
7 of any church situated [~~and being~~] in this state or for
8 charitable purposes when all the proceeds of the sale or drawing
9 shall be expended within New Mexico for the benefit of that
10 church or charitable purpose, provided [~~such~~] the fair or fiesta
11 must have been held on an annual basis for not less than two
12 years immediately preceding and for a period of not more than
13 fourteen consecutive calendar days in each year; or

14 B. any bingo or raffle held by any group or
15 organization as defined in Section [~~3 of the Bingo and Raffle~~
16 ~~Act which~~] 60-2B-3 NMSA 1978 that holds a bingo or raffle only
17 once during three consecutive calendar months and not exceeding
18 four occasions in one calendar year. "

19 Section 16. Section 60-2B-14 NMSA 1978 (being Laws 1981,
20 Chapter 259, Section 14) is amended to read:

21 "60-2B-14. PENALTIES. -- Every licensee and every officer,
22 agent or employee of the licensee and every other person or
23 corporation who willfully violates or who procures, aids or
24 abets in the willful violation of the [~~Bingo and Raffle~~]
25 Charitable Gaming Act is guilty of a misdemeanor and [~~upon~~

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1 ~~conviction thereof shall be punished by a fine of not more than~~
2 ~~one thousand dollars (\$1,000) or by imprisonment in the county~~
3 ~~jail for not more than six months, or by both such fine and~~
4 ~~imprisonment] shall be sentenced pursuant to the provisions of~~
5 Section 31-19-1 NMSA 1978. "

6 Section 17. A new Section 60-2B-15 NMSA 1978 is enacted to
7 read:

8 "60-2B-15. [NEW MATERIAL] PRIZES. --

9 A. When any merchandise prize is awarded in a game
10 of chance, its value shall be its current retail price. No
11 merchandise prize shall be redeemable or convertible into cash
12 directly or indirectly by the awarding organization.

13 B. The aggregate amount of all prizes offered or
14 given in all games played on a single occasion, including door
15 prizes and drawings, shall not exceed three thousand dollars
16 (\$3,000), which shall be exclusive of pull tabs, electronic pull
17 tab gaming, video bingo, raffles and amounts paid from
18 accumulated progressive bingo funds or accounts. However,
19 amounts contributed to progressive bingo funds or accounts shall
20 be included in this limit at the time of contribution.

21 C. The conduct of all raffles, including the total
22 amount of prizes offered, shall be subject to the prior approval
23 of the licensing authority.

24 D. In progressive bingo, no more than five hundred
25 dollars (\$500) per session may be contributed from the allowable

Underscored material = new
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1 limit of three thousand dollars (\$3,000) to a fund or account
2 that can accumulate until a player wins the accumulated amount.

3 E. Door prizes and drawings up to one thousand
4 dollars (\$1,000) per session shall not require approval from the
5 licensing authority and shall not be included in the total
6 amount of prizes paid on each session held by the licensed
7 organization. Playing materials or discounts on playing
8 materials may be awarded in lieu of cash. "

9 Section 18. A new Section 60-2B-16 NMSA 1978 is enacted to
10 read:

11 "60-2B-16. [NEW MATERIAL] NET PROCEEDS. --

12 A. The net proceeds derived from the holding of
13 games of chance shall be utilized according to Section 501 of
14 the Internal Revenue Code of 1986 and all rules and regulations
15 promulgated under that section. The internal revenue service is
16 the agency authorized to determine compliance with that section
17 under which a letter of exemption has been granted to the
18 organization.

19 B. Any licensee that does not report net proceeds
20 from its licensed activities during any one-quarter period will
21 be required to show cause before the licensing authority why its
22 right to conduct games of chance should not be revoked. A newly
23 licensed or relocated organization shall not be required to
24 report any amount of net proceeds in compliance with this
25 subsection for the first quarter of operations.

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1 C. "Net proceeds", for the purpose of this section,
2 shall be the adjusted gross income less all authorized expenses
3 as those terms are defined in the Charitable Gaming Act."

4 Section 19. A new Section 60-2B-17 NMSA 1978 is enacted to
5 read:

6 "60-2B-17. [NEW MATERIAL] BINGO--OPERATION OF GAMES.--

7 A. No bingo games shall be conducted by any one
8 qualified organization more than six times in any one calendar
9 week, with no game lasting more than eight hours on each session
10 and not more than one session in one calendar day by any one
11 licensee. No game shall begin earlier than 9:00 a.m. or last
12 later than midnight.

13 B. In bingo games, the particular arrangement of
14 numbers required to be covered in order to win the game and the
15 amount of the prize shall be clearly and audibly described and
16 announced to the players immediately before each game is begun.

17 C. The equipment used in the playing of bingo and
18 the method of play shall be such that all players have an equal
19 opportunity to be winners. The objects or balls to be drawn
20 shall be essentially the same in size, shape, weight, balance
21 and all other characteristics that may influence their
22 selection. All objects or balls shall be present in the
23 receptacle before each game is begun. All numbers announced
24 shall be plainly and clearly audible to all the players present.
25 Where more than one room is used for any one game, the

1 receptacle and the caller must be present in the room where the
2 greatest number of players are present, and all numbers
3 announced shall be plainly audible to the players in that room
4 and also audible to the players in the other rooms. Any
5 licensee, its representative, agent or employees whose acts may
6 tend to negate the opportunity for an equal chance to win shall
7 constitute grounds for revoking its license.

8 D. In bingo games, the receptacle and removal of the
9 objects or balls from the receptacle shall be visible to all the
10 players at all times, except where more than one room is used
11 for any one game, in which case the provisions of Subsection C
12 of this section shall prevail.

13 E. In operating progressive bingo, the amount of
14 prize money contributed to the progressive pot per session shall
15 be deemed to have been paid whether it is actually paid out to a
16 winner as part of the total prize or, in case there is no
17 winner, is allowed to accumulate. The progressive pot may be
18 awarded, in whole or in part, in any session or game held by any
19 participating organization and may be combined with any other
20 prize awarded in that game or session.

21 F. Any player is entitled to call for a verification
22 of all numbers drawn at the time a winner is determined and for
23 a verification of the objects or balls remaining in the
24 receptacle and not yet drawn. The verification shall be made in
25 the immediate presence of the member designated to be in charge

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1 of the session, but if that member is also the caller, then in
2 the immediate presence of any two randomly selected bingo
3 players.

4 G. No person shall act as a caller in the conduct of
5 any game of bingo unless he has been a member in good standing
6 of the licensee operating the game or one of its licensed
7 auxiliaries for at least six months immediately prior to the
8 date of the game and has never been convicted of a felony.

9 H. No person who is not physically present on the
10 premises where games of chance are operated shall be allowed to
11 participate as a player in the game.

12 I. No bingo building lessor shall be allowed to
13 assist in the operation of any game of chance whether on a paid
14 or volunteer basis.

15 J. No member of the immediate family of any active
16 member working during any session or occasion during which any
17 game of chance is being operated shall compete in that game of
18 chance. "

19 Section 20. A new Section 60-2B-18 NMSA 1978 is enacted to
20 read:

21 "60-2B-18. [NEW MATERIAL] PULL TABS-- OPERATION OF
22 GAMES. --

23 A. A qualified veterans' organization may apply for
24 a separate pull tab license as defined in Section 60-2B-6 NMSA
25 1978 for a branch, post, lodge or chapter that is operated by

1 the qualified organization.

2 B. Pull tabs may be operated no more than six times
3 in any one calendar week, with no game being operated more than
4 eight hours during each session and not more than one session in
5 one calendar day by one qualified organization. No game shall
6 begin earlier than 9:00 a.m. or last later than midnight.

7 C. A paper deal is a package of paper pull tabs with
8 a given number of pull tabs in a series. Each pull tab in a
9 paper deal shall bear a printed serial number placed by the
10 manufacturer, clearly identifying the deal from which the pull
11 tab originated.

12 D. Electronic pull tab machines may be operated
13 continuously from 9:00 a.m. to midnight.

14 E. In operating electronic pull tab machines, once
15 the master program has been activated, it shall not be withdrawn
16 or discontinued but shall be operated until the program is
17 completed and all prizes in the program have been paid. In the
18 event of machine malfunction or program failure, the master
19 program may be de-activated, in which event the profit or loss
20 for accounting purposes of the deal shall be based upon the
21 audit period to date of failure.

22 F. Pull tabs may be sold on the floor of the bingo
23 building or premises during bingo operations provided that the
24 entire deal is available for inspection to players and a flare
25 providing information on the deal is displayed by the individual

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1 selling on the floor. "

2 Section 21. A new Section 60-2B-19 NMSA 1978 is enacted to
3 read:

4 "60-2B-19. [NEW MATERIAL] RAFFLES--OPERATION OF GAMES. --
5 One or more raffles may be operated during any game of chance
6 and shall mean the selling of tickets or similar products,
7 consecutively numbered, that contain the price of tickets sold
8 to participants of the raffle, date, location and time where and
9 when the drawing is to be held and sufficient information to
10 identify the item or items being raffled, including the awarding
11 of cash as a prize. The winners are to be determined by a
12 drawing of tickets on a random basis. All raffles shall be
13 individually authorized by the licensing authority. "

14 Section 22. A new Section 60-2B-20 NMSA 1978 is enacted to
15 read:

16 "60-2B-20. [NEW MATERIAL] SPECIAL GAMING PERMIT. -- Any
17 group or organization that holds a game of chance only once
18 during three consecutive calendar months and not exceeding four
19 sessions in one calendar year shall, prior to holding the event,
20 apply for a special gaming license on an application form
21 provided by the licensing authority and submit a fee of twenty-
22 five dollars (\$25.00) with that application. This license shall
23 authorize the organization or group for which it is issued to
24 hold an authorized game of chance. The special gaming permit
25 shall conform to all applicable provisions of the Charitable

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1 Gaming Act and its regulations. "

2 Section 23. A new Section 60-2B-21 NMSA 1978 is enacted to
3 read:

4 "60-2B-21. [NEW MATERIAL] DISTRIBUTOR OR BUILDING LESSOR
5 LICENSE. --

6 A. A distributor license or building lessor license
7 issued under the Charitable Gaming Act:

8 (1) is an annual license that expires December
9 31 of each year, unless suspended or revoked by the licensing
10 authority;

11 (2) is effective for a single business entity;

12 (3) vests no property or right to the
13 distributor or building lessor, except to conduct the licensed
14 business during the period the license is in effect;

15 (4) is nontransferable, nonassignable and not
16 subject to execution; and

17 (5) terminates upon the death of an individual
18 licensee or upon the dissolution of any sole proprietorship,
19 partnership or corporation that is a licensed distributor or
20 building lessor.

21 B. An application for the renewal of a distributor
22 or building lessor license shall be made to the licensing
23 authority upon forms prescribed by the licensing authority no
24 less than one month prior to expiration of a distributor or
25 building lessor license.

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1 C. When a license issued to a distributor or
2 building lessor terminates because of the death of an individual
3 licensee, the dissolution of a corporation or partnership or as
4 a result of receivership or bankruptcy, the licensing authority
5 may permit the successor, upon application, to operate the
6 business under the same license throughout the remainder of the
7 licensed year, provided that the successor is a qualified person
8 under the Charitable Gaming Act. The license is subject to
9 suspension or revocation under the same provisions as is any
10 other license issued under the Charitable Gaming Act. An
11 original license application is required upon expiration of the
12 extension. "

13 Section 24. A new Section 60-2B-22 NMSA 1978 is enacted to
14 read:

15 "60-2B-22. [NEW MATERIAL] APPLICATION FOR DISTRIBUTOR OR
16 BUILDING LESSOR LICENSE. --

17 A. Except for building lessors, each distributor
18 shall obtain a license from the licensing authority to rent,
19 lease, sell or otherwise distribute:

- 20 (1) bingo equipment, materials and supplies;
21 (2) pull tab equipment, materials and supplies;
22 (3) electronic pull tab gaming machines,
23 hardware and programs; and
24 (4) video bingo hardware and programs.

25 B. Each distributor shall file with the licensing

1 authority a written application on a form prescribed by the
2 licensing authority, duly executed and verified that includes
3 but is not limited to the following information:

4 (1) the full name and address of the applicant
5 to distribute, including any branches or auxiliary operations
6 within the state;

7 (2) if the applicant to distribute is a
8 partnership or a corporate distributor, the names and addresses
9 of all partners, officers, directors and stockholders; and

10 (3) if the applicant to distribute is a foreign
11 corporation, the name, business name, business address and home
12 address of its registered agent for service in this state.

13 C. Persons convicted of criminal fraud, illegal
14 gambling or any felony are not eligible for a license under this
15 section.

16 D. No distributor may hold any interest, either
17 direct or indirect, in any organization that is licensed to
18 conduct bingo or pull tabs in the state. "

19 Section 25. A new Section 60-2B-23 NMSA 1978 is enacted to
20 read:

21 "60-2B-23. [NEW MATERIAL] PROHIBITED FINANCIAL
22 TRANSACTIONS-- CREDIT TRANSACTIONS. --

23 A. It is unlawful for a person who has a financial
24 interest in the licensed distributor's business to limit in any
25 way any other party's right to secure gaming supplies and

Underscored material = new
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1 equipment from any source.

2 B. It is unlawful for a licensed distributor or his
3 agents to secure or attempt to secure a contract of lease or
4 bailment of gaming equipment by coercion, threats or
5 intimidation, through the commission of or threats to commit any
6 act prohibited by the criminal statutes of the state or the
7 Charitable Gaming Act. Whoever commits a violation of this
8 subsection is guilty of a fourth degree felony and shall be
9 sentenced pursuant to the provisions of Section 31-18-15 NMSA
10 1978.

11 C. Any licensed distributor may make an extension of
12 credit to a licensee under the Charitable Gaming Act for gaming
13 supplies and equipment for business or commercial purposes
14 subject to the following terms and conditions:

15 (1) before making the first such extension of
16 credit, the distributor shall first notify the licensing
17 authority of the intent of that distributor to make extensions
18 of credit in the conduct of the licensee's business;

19 (2) the consideration for these extensions of
20 credit shall be based on reasonable and commercial terms;

21 (3) on any credit extension, other than normal
22 thirty-day net transactions using dates of purchase as effective
23 dates, no extension of credit shall be made unless evidenced by
24 a written agreement signed by the parties, specifying the amount
25 of excess credit extended and the consideration for the

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1 extension of credit and the terms on which the credit is to be
2 repaid;

3 (4) each licensed distributor making extensions
4 of credit shall keep books and records, which shall be
5 consistent with accepted accounting and auditing practices
6 relating to all extensions of credit authorized by the
7 Charitable Gaming Act sufficient to enable the licensing
8 authority to determine whether the licensed distributor is
9 complying with the provisions of this section. Such records
10 shall be preserved for three years from the date of the
11 transactions to which they relate or two years from the date of
12 the final entry made with regard to that transaction, whichever
13 is later; and

14 (5) at such times as the licensing authority
15 may deem necessary, the licensing authority may examine the
16 place of business of each licensed distributor and may inquire
17 into and examine the transactions, books, accounts, papers,
18 correspondence and other records. The licensing authority may,
19 during the course of the examination, administer oaths and
20 examine any person under oath upon any subject pertinent to any
21 matter about which the licensing authority is authorized or
22 required by this section to consider, investigate or secure
23 information. Any licensed distributor who fails or refuses to
24 let the licensing authority examine or make copies of such books
25 or other relevant documents shall be in violation of this

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1 section. The information obtained may be used in criminal,
2 civil or administrative procedures. "

3 Section 26. A new Section 60-2B-24 NMSA 1978 is enacted to
4 read:

5 "60-2B-24. [NEW MATERIAL] GENERAL PROVISIONS. --

6 A. The licensing authority may examine the books and
7 records of any applicant for a license.

8 B. An unlicensed person who sells or attempts to
9 induce the sale of bingo and pull tab equipment, devices or
10 supplies to a person licensed to conduct bingo games is subject
11 to the penalties set forth in Section 60-2B-14 NMSA 1978.

12 C. An applicant for a license shall, during pendency
13 of the application, notify the licensing authority within ten
14 days of any change regarding any facts set forth in the
15 application. Failure to give a required notice is cause for
16 denial of a pending application.

17 D. No minor shall participate in any gaming
18 activity. "

19 Section 27. A new Section 60-2B-25 NMSA 1978 is enacted to
20 read:

21 "60-2B-25. [NEW MATERIAL] PROHIBITED PRACTICES. --

22 A. A distributor shall not, by express or implied
23 agreement with another distributor, fix or attempt to fix the
24 price at which equipment, devices or supplies may be sold.

25 B. No distributor shall rent or lease equipment to

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1 qualified organizations under the Charitable Gaming Act on an
2 income-sharing basis or on a percentage-of-income-sharing
3 basis. "

4 Section 28. A new Section 60-2B-26 NMSA 1978 is enacted to
5 read:

6 "60-2B-26. [NEW MATERIAL] REPORTS REQUIRED-- LICENSE
7 FEES. --

8 A. Each month the licensed distributor shall file
9 with the licensing authority upon forms prescribed by the
10 licensing authority a duly verified statement reflecting the
11 sales or rentals of equipment or machines and the sale of cards
12 and supplies to qualified organizations in this state.

13 B. The report shall be filed each quarter on or
14 before the fifteenth day of the month following the end of the
15 quarter.

16 C. The report shall contain the customer's name and
17 license number and total sales of:

18 (1) bingo cards, sheets, pads and electronic
19 programs or aids;

20 (2) pull tabs and jar raffles, either paper or
21 electronic;

22 (3) all other gaming equipment; and

23 (4) any other types of supplies or merchandise
24 sold to the qualified organization.

25 D. The distributor shall retain a copy of the report

1 and the supporting invoices and documentation for each
2 individual transaction in his records for at least three years
3 after the date on which the report is filed.

4 E. All deliveries or sales shall be accompanied by a
5 consecutively numbered invoice that is prepared in at least two
6 parts, one for the distributor and one for the qualified
7 organization, which clearly and accurately show the date,
8 purchasing organization's name, address, license number, price,
9 distributor's name, distributor's license number, the quantity
10 and sales price of each individual item of merchandise sold or
11 delivered and the serial numbers of all pull tabs or jar
12 raffles.

13 F. The distributor and the qualified organization
14 shall retain a copy of the invoice for a period of not less than
15 three years from the date of transaction. The invoices shall be
16 open for inspection and examination by the licensing authority
17 during all usual business hours or at any reasonable time if the
18 licensed distributor does not maintain regular business hours,
19 and credit sales or memoranda shall be prepared in the same
20 detail as if they were sales invoices.

21 G. Each deal of pull tabs shall have the stamp of
22 the distributor conspicuously placed on the box. "

23 Section 29. EFFECTIVE DATE. --The effective date of the
24 provisions of this act is July 1, 1996.

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5 JANUARY 31, 1996
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7 Mr. Presi dent:
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9 Your COMMI TTEES' COMMI TTEE, to whom has been referred
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11 SENATE BILL 607
12

13 has had it under consideration and finds same to be GERMANE, PURSUANT
14 TO CONSTITUTIONAL PROVISIONS, and thence referred to the COMMI TTEE
15 OF THE WHOLE.
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17 Respectfully submi tted,
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23 SENATOR MANNY M. ARAGON, Chai rman
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Adopted _____

Not Adopted _____

(Chief Clerk)

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5 February 2, 1996
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7 Mr. President:
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9 Your COMMITTEE OF THE WHOLE, to whom has been referred
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11 SENATE BILL 607
12

13 has had it under consideration and reports same WITHOUT
14 RECOMMENDATION, and thence placed on the President's
15 Table.
16

17 Respectfully submitted,
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22 Manny M. Aragon, Chairman
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Adopted _____ Not Adopted _____

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The roll call vote was by voice vote

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