

**AN ACT**

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

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

**Section 1. LEGISLATIVE GAMING OVERSIGHT COMMITTEE  
CREATED-- MEMBERSHIP-- ORGANIZATION-- ADVISORY MEMBERS-- PAYMENT  
OF COMMITTEE MEMBERS-- DISQUALIFYING INTERESTS-- PROHIBITED  
ACTS. --**

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

B. The committee consists of eight members, four from the house of representatives and four from the senate. The house members shall be appointed by the speaker of the house of representatives. The senate members shall be appointed by the committees' committee of the senate or, if the senate appointments are made in the interim, by the president pro tempore of the senate after consultation with and agreement of a majority of the members of the committees' committee. Members shall be appointed so that there are two members of the committee from each of the major political parties from each house. The power of appointment shall be exercised by the appointing authority

at the beginning of each interim so that committee members may be reappointed or replaced. Members shall serve a term beginning with the date of appointment and ending on the first day of the regular session of the legislature following the interim for which the member is appointed. No representative or senator shall serve as a committee member for more than four consecutive interims. Vacancies on the committee shall be filled by the appointing authority to serve until the end of the interim in which the succeeding member is appointed.

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

D. The respective appointing authorities may appoint members of the two bodies of the legislature as advisory members of the committee. The conditions of appointment of members shall also apply to the appointment of advisory members. Advisory members shall not vote on

actions taken by the committee.

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

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

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

**Section 2. GAMING OVERSIGHT COMMITTEE-- DUTIES AND AUTHORITY-- STAFFING. --**

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

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

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

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

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

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

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

(2) may require persons to appear and testify before it and to produce information in any form for

review by the committee if the subject matter of the testimony or information sought is relevant to the committee's responsibilities specified in Subsection A of this section; and

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

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

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

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

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

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

(1) manage and direct the operation of the

lottery and all administrative and technical activities of the authority in accordance with the provisions of the New Mexico Lottery Act and pursuant to rules, policies and procedures adopted by the board pursuant to that act;

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

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

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

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

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

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

(8) provide quarterly to the board, the governor, the gaming oversight committee and the legislative finance committee a full and complete report of lottery

revenues and expenses for the preceding quarter; and

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

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

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

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

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

A. The board shall:

(1) submit quarterly and annual reports to the governor, legislative finance committee and lottery oversight committee disclosing the total lottery revenue, prizes, commissions, ticket costs, operating expenses and net revenues of the authority during the reporting period and, in the annual report, describe the organizational structure of the authority and summarize the functions performed by each organizational division within the

authori ty;

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

(3) use the state government fiscal year.

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

C. The board shall contract with an independent certified public accountant or firm for an annual financial audit of the authority. The certified public accountant or firm shall have no financial interest in any lottery contractor. The certified public accountant or firm shall present an audit report no later than March 1 for the prior fiscal year. The certified public accountant or firm shall evaluate the internal auditing controls in effect during the audit period. The cost of this financial audit shall be an



operating expense of the authority. The legislative finance committee may, at any time, order an audit of any phase of the operations of the authority, at the expense of the authority, and shall receive a copy of the annual independent financial audit. A copy of any audit performed by the certified public accountant or ordered by the legislative finance committee shall be transmitted to the governor, the speaker of the house of representatives, the president pro tempore of the senate, the legislative finance committee and the gaming oversight committee. "

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

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

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

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

internal auditor shall specifically:

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

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

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

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

(5) ensure that proper internal controls exist;

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

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

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

(1) personnel security;

(2) lottery retailer security;

(3) lottery contractor security;

(4) security of manufacturing operations of lottery contractors;

- (5) security against lottery ticket counterfeiting and alteration and other means of fraudulently winning;
- (6) security of drawings among entries or finalists;
- (7) computer security;
- (8) data communications security;
- (9) database security;
- (10) systems security;
- (11) lottery premises and warehouse security;
- (12) security in distribution;
- (13) security involving validation and payment procedures;
- (14) security involving unclaimed prizes;
- (15) security aspects applicable to each particular lottery game;
- (16) security of drawings in games whenever winners are determined by drawings;
- (17) the completeness of security against locating winners in lottery games with preprinted winners by persons involved in their production, storage, distribution, administration or sales; and
- (18) any other aspects of security applicable to any particular lottery game and to the lottery

and its operations.

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

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

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

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

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

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

B. Notwithstanding the provisions of Subsection A of this section, the chief executive officer may authorize in writing any employee of the authority and any employee of a lottery contractor to purchase a lottery ticket for the purposes of verifying the proper operation of the lottery with respect to security, systems operation and lottery retailer contract compliance. Any prize awarded as a result

of such ticket purchase shall become the property of the authority and shall be added to the prize pools of subsequent lottery games.

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

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

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

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

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