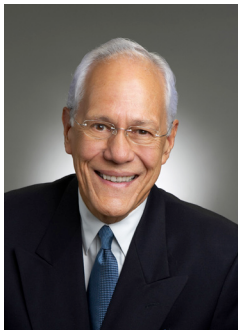




# insight

## MESSAGE FROM CHAIRMAN DAVID L. NORVELL A NOTE ABOUT THE RATON CONUNDRUM



The journey began in September of 2003. A trip from Ontario, Canada, to Albuquerque, New Mexico, in search of a racetrack and casino — where? In RATON. You gotta be kidding, right? No, Michael Moldenhauer, from Mississauga, Ontario, Canada, came rolling into town looking to open a racetrack in Raton. The same town where a La Mesa Racetrack (sin casino) existed until it shut its doors in 1992. One problem, there wasn't one available in 2003. But Michael is a persistent fellow. He just hung around, off and on, until 2007 when the Legislature, the gaming Tribes and the Governor amended the Tribal Gaming Compact. One of the amendments provided

for the addition of one more state-regulated racetrack and casino in New Mexico.

Mr. Moldenhauer, along with several applicants, then applied for that one additional license. After a long and extended regulatory process with the New Mexico Racing Commission and the New Mexico Gaming Control Board, Mr. Moldenhauer waddled off with a nice fancy shiny racetrack/casino license located in Raton. These can be pretty valuable little pieces of paper because there can't be anymore of them until 2037.

This occurred at a special meeting of the Gaming Control Board on

June 9, 2009, which was the third hearing conducted by the Board on this application, which had been approved by the Racing Commission in January of this year.

The casual observer might ask, why did this process take so long? Unfortunately there is no short answer to that question, but the primary reason is that the financial quality of the applicant became very difficult to quantify because his assets are so diverse and wide-spread. Nevertheless, due in large part to the exemplary work of the Gaming Control Board's Licensing and Audit staff, we were finally able to unscramble thousands of financial documents to an extent that satisfied a majority of the Board that Mr. Moldenhauer was a gentleman of sufficient business probity and financial strength to meet the Board's regulatory standards. This was not an easy decision, to say the least, nor was it made in haste, obviously. Not all Board members agreed with the decision. Nevertheless, a decision was made and construction on the project is expected to begin shortly after a ribbon-cutting ceremony scheduled for June 24 in Raton, just across the highway from the old La Mesa facility just south of town.

Everyone in the Raton area seems very excited about their new neighbor and all have high hopes that the facility will bring new and needed economic relief to their corner of the state.

We wish Mr. Moldenhauer and Northeastern New Mexico our very best wishes for a successful and robust venture.

## New Law Regulating Bingo and Raffles

By: T. Scott Osta, Management Analyst

The Bingo and Raffle Act (2007) has more than just a new name. Significant changes come with the New Mexico Bingo and Raffle Act which became law July 1, 2009.

One of the first changes is the requirement that a "qualified organization" must have been in existence for a minimum of two consecutive years prior to application. This is a relaxing of the old language which had the requirement at three years.

The next change is in the life of licenses and permits. The old law required licenses and permits to be renewed annually whereas the new law allows for three-year licenses and three-year work permits. A further relaxing of work permit requirements is that employees are no longer required to be members of the licensed organization. This however does not apply to a Bingo Manager or the Alternate Bingo Manager who are required to be bona fide members of the organizations for whom they are permitted to work.

The limit on the aggregate amount of bingo prize per occasion has increased from \$1,500.00 to \$2,500.00. The prize reporting threshold has also increased. Now any prize of \$600.00 or more requires that the licensee report the winner's name and address to the Board.

The number of occasions permitted is up from two to three per day and from five to six per week. The restriction of no more than 260 occasions per year remains. The changes result in greater flexibility for licensees to operate.

One of the more significant changes is the rate and calculation of the Bingo and Raffle Tax. This tax will now be calculated on one-half percent (0.5%) of the gross receipts rather than the current three per cent (3%) of net receipts. In addition, the tax will now be reported and paid quarterly rather than monthly.

Some changes will affect both licensed and non-licensed events including raffles. Any raffle with a prize payout greater than \$75,000.00 must begin with notification to the Board ten days prior to the event and the winners' names, phone number, and addresses must be reported at the conclusion of the event.

These are not all of the changes in the new law but are the ones we believe to be the most significant. Before conducting any game of chance authorized by the New Mexico Bingo & Raffle Act, we recommend that you read and understand the law and consult with your attorney.

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# Gaming Machine Possession and Destruction

By: Vickie Duran, Commander of Enforcement

Have you ever wondered if you can legally own a one-armed bandit (a.k.a slot machine) or other type of gaming machine without the machine being licensed? What consequences would be imposed if a violation of a law was committed? Have you been curious about the life of a gaming machine and what happens to those metal and plastic boxes of blinking lights and electronic components once their luck has run out?

Under New Mexico State Statute unlicensed gambling in New Mexico can either be classified as a petty misdemeanor if you gamble on an illegal device or a fourth degree felony if you are engaged in commercial gambling. So, is owning a gaming machine considered gambling? Ownership or being in physical possession of an unlicensed gaming machine while residing in the State of New Mexico can clearly be fun and exciting if used solely for personal recreation and is not in itself illegal. The important consideration for people who want to own a slot machine for recreational purposes is how that device is transported. The laws regarding homeownership have recently changed. To legally obtain a slot machine in New Mexico, it **must** be purchased from a distributor or manufacturer licensed to distribute or manufacture machines by the State of New Mexico. **Only** licensed manufacturers and distributors licensed by the Gaming Control Board may transport gaming machines in New Mexico. You may not purchase a slot machine in another state and bring it into this state without first complying with New Mexico law and federal law, the Johnson Act, 15 USC 1171. Any slot machine purchased and transported into New Mexico without first complying with State and Federal law, is subject under the law to forfeiture and destruction. The homeowner may

not offer the slot machine for resale; to sell a gaming machine in New Mexico, you must be licensed to do so. A homeowner may not transport the slot machine from one location to another on his own, only a licensed manufacturer or distributor may transport gaming machines. It should be noted that antique gaming machines are an exception. If the gaming machine is an antique, meaning that it is older than 1970, is substantially in original condition, and is not used for gambling; it is by definition not a gaming machine and need not comply with the transportation restrictions.

Gaming Machines that have been seized, recovered or forfeited, or possibly have just ran their course and are not needed any longer, are destroyed after a legal process is completed. An affidavit and a petition for destruction are submitted to the appropriate district court in the proper jurisdiction for approval in destroying the machines. Included within this packet is an order for destruction that the district court judge will sign allowing the destruction of the machines. The machines are destroyed at the city landfill and the event is documented and photographed. Once the orders have been signed and the gaming machines have been destroyed, a certification of destruction is completed and filed within the district court closing the case out that was originally initiated to have the gaming machines destroyed.

If you have additional questions in regards to homeownership, please review our Homeownership policy on our website. Moreover, you may want to consult with your own attorney if you have any other questions about this fairly confusing legal question.

## An Industry Focus

By Loretta M. Chavez, Public Relations Coordinator

As Co-Editor of INSIGHT, the New Mexico Gaming Control Board's online publication, it is surprising how many folks shy away from volunteering to write an article — albeit the bulk of some of their responsibilities require good writing skills in performing their daily tasks. Bobby Garcia, the agency's Legislative Liaison, stopped by my office one afternoon and I was quick to ask him if he would like to write an article for our newsletter or if he had any suggestions for an article.

After mulling a few ideas, we came up with a topic for an article and I proceeded to interview him. In our conversation, I mentioned that the agency would be celebrating its 11th anniversary on June 15, 2009. We tossed around a number of possibilities that might interest readers. Almost instantly Bobby was taken back to 1997 at which time he was an active lobbyist. He took me down memory lane and told a great story of how a type of off-reservation gaming became reality. Its sole purpose was intended for reinvigorating the horse racing industry in New Mexico. He gazed up and chuckled, "Not reality, actuality." If you do not know Bobby, he demonstrates a warm personality with a jovial attitude.

He recounted after days of listening to the debate and arguments for and against legalized gambling — the issue was highly charged and debate was often emotional — everyone anxiously waited to hear the outcome vote. On Thursday, March 20, 1997, only two days before the session would end, the bill died on the House floor on a tie vote. There were gasps and almost an instant silence in the jam packed House chamber as the electronic voting machine registered 35-35. House members themselves were stunned! The next twenty-four hours could only be described as excruciating for everyone. Governor Gary Johnson had said he would not call a special session on gambling. The bill would enact state-tribal compacts for casinos on Indian lands and allow slot machine gambling at racetracks and at veterans' and fraternal clubs.

Then on Friday, March 21, 1997, gambling lobbyists scurried to get someone to change their "no vote" to a "yes vote." On Saturday, March 22, 1997, with only ten hours before the session would adjourn, the House re-voted on the gambling bill and it passed by ONE. I told Bobby I could only imagine the pandemonium that followed with the final tally. Bobby said, "It was indescribable." A State Representative from Rio Arriba County changed her "no vote" to "YES." Three weeks later, Governor Gary Johnson signed the bill into law. However, funds were not appropriated until 1998. I then told Bobby, "I know the next part of your story." And in May 1998, Governor Gary Johnson ap-

pointed the first Board members to the New Mexico Gaming Control Board and they held their first public meeting on June 15, 1998. I know because I was there. I could only wish to have been there when the final vote was called on the 22nd of March 1997.

In July, Bobby will complete five years of service with the agency and sees the gaming industry apparently bucking the recession. While many industries have been limping along by falling sales, it seems that the gaming industry continues to move right along. He said you would think the market was already saturated. Bobby reflected on the positive impact of slot machine play on the pari-mutuel/horse racing industry. He sees the beneficial trickle-down effect racinos have also made on the entire agricultural and horse breeders' community. Bobby thinks that slot machines have been a favorite pastime for so many people. He also feels that in the near future, gaming could expand to allow sports betting which would impact the gaming taxes to the state.

With that said, he also noted patrons should only play with money that they can afford to spare. That's the best way to enjoy the thrill and excitement. Not only with the recreational activity of slot machines, but that applies to anything else — golfing, traveling, going to the movies, eating out at nice restaurants, purchasing imported vehicles, etc. The list goes on.

Bobby is glad to see the industry's commitment to responsible gambling and that there is help for those few that take a recreational benefit to the next level. The Board is responsible and proactive in its initiatives in addressing societal obligations.

And that's how off-reservation gaming got started in New Mexico. As we reflect back on the past eleven years, the Board's dedicated staff marches forward with its tasks of modifying the Minimum Internal Control Standards, rules, policy-making decision, regulating Bingo & Raffle, etc. The Board and its staff are genuinely committed to qualifying gaming venues through a rigorous licensing and certification process designed to ensure a fair and honest gaming environment, while recognizing the broad importance of gaming tax revenue to the state's economy.

To realize the value of one year, you must first multiply tiny pieces of time with small increments of daily effort — to collectively recognize we have accomplished a great deal! So here's a special salute to all the folks that have contributed to another successful year of regulating New Mexico's gaming industry.

# Charitable Gaming in New Mexico

By: Tom Fair, Director of Audit and Compliance

*During calendar 2008, nonprofit gaming organizations donated more than \$1.1 million to charity.*

One of the benefits that gaming provides for the people of New Mexico is the significant amount of money generated for charitable purposes by nonprofit gaming in the state. New Mexico currently has a total of 59 licensed nonprofit gaming operators. These organizations are primarily veterans' organizations, such as the American Legion and VFW; and fraternal organizations including groups like the Benevolent & Protective Order of Elks, the Loyal Order of Moose, and the Fraternal Order of Eagles. Nonprofit entities that are licensed by the NMGCB may also conduct video gaming at their location. The Gaming Control Act limits those who may play at these locations to members and auxiliary members of these organizations. There are also 94 charitable organizations that are licensed to conduct bingo. In addition to the types of nonprofits listed above, bingo licensees include schools, churches and child/general welfare organizations. Licensed bingo operators generate additional funds through the sale of pull-tabs and periodic raffles. Lastly, any qualified charitable organization is authorized to conduct up to four raffles per year to generate funds for their charity.

The money generated by nonprofit gaming provides assistance in communities across the state. Organizations that benefit financially from this assistance

include, but are not limited to, hospitals, schools, children's sports leagues, scholarship funds, police and fire departments, veteran's and other purpose-specific charities. Much of the charity expenditures are concentrated in the communities where the nonprofit is located. In addition to the benefits derived by each charity, both the local and state governments are relieved of some social welfare burden by these donations, thus saving taxpayers some of these costs.

During calendar 2008, nonprofit gaming organizations donated more than \$1.1 million to charity. Additionally, these same organizations generated about \$1.4 million to support their organizations and their missions in the communities. Bingo operators in the state, who are all qualified nonprofit organizations, earned more than \$4.5 million for their "lawful purpose" which supports these groups, their nonprofit activities, and supports a number of charities in the state. Overall, gaming and bingo accounted for a total of \$7.5 million in charity and nonprofit funds in calendar 2008 alone.

While the old adage "charity begins at home" is certainly true, we know that in New Mexico the nonprofit and gaming operators do a great deal to benefit good causes in the state.

## Problem Gambling Awareness

By: Board Member Don E. Dutton, Esq.

As many of you are aware, the legislature passed Senate Bill 229 which in part allows the New Mexico Gaming Control Board (NMGCB) to develop a process for persons with a gambling addiction or gambling problem to self-exclude (ban) themselves from New Mexico licensed gaming establishments. We are in the process of developing such a process. A first meeting with all racetrack operators was held at the NMGCB headquarters on June 10th to seek input and to give them a heads-up as to where the Board was headed. The meeting was a good exchange of ideas, comments, and suggestions. We look forward to additional working sessions with the racetrack operators, as well as the nonprofit operators. The intent is to develop a policy by the end of August, and follow that with a pilot program in the racetrack casinos. The next step will be to issue rules for all licensed operators. This will not be an easy task to accomplish, but with the assistance from our licensees, we will get it done.

The 2006 STUDY OF GAMBLING AND PROBLEM GAMBLING IN NEW MEXICO<sup>1</sup> prepared for the Responsible Gaming Association of New Mexico indicated that the prevalence of pathological gambling in New Mexico is 1.1% and the prevalence of problem gambling is

<sup>1</sup> Volberg & Bernhard, 2006

1.1%. The prevalence of at-risk gambling in New Mexico is 6.4%. This is at the lower end of the range of prevalence rates identified in other states nationally. (Volberg & Bernhard 2006). The most recent census identified 1.3 million individuals living in New Mexico aged 18 and over. Based on these figures, there are between 9,400 and 19,400 New Mexico adults who can be classified as pathological gamblers. Another 9,400 to 19,400 New Mexico adults can be classified as problem gamblers. Finally, an additional 72,100 to 95,600 New Mexico adults can be classified as at-risk gamblers.

The legislatively created New Mexico Compulsive Gambling Counsel is set to release its 2009 Report to the Governor and the Legislature. The report will outline a strategic plan for New Mexico, including standardized casino employee training, gambling counselor training, and a public health approach to deal with addictive gamblers within New Mexico.

The overall intent is to create a program of education, prevention, and treatment. The self-exclusion program will be one spoke in the wheel of success.

## Central Monitoring System Communication Line Changes

By: Greg Saunders, Deputy Executive Director, CIO, and PIO

As of the end of July 2009, the Board will be making a move to different communications architecture for the Central Monitoring System (CMS). Currently the CMS uses dedicated point-to-point connections to each of our licensed racetrack casinos. The connections have been in place since racetrack gaming started in 1999 and were a necessity with the old CMS. These communication lines are very expensive and that cost is borne by the state through the Board's budget. With the new system, the Board now has better cost-effective options. Starting in July, the Board will pilot a project by which the data transfer communications will be handled over the Internet.

What we are looking for in this change is threefold — up-time, security, and significantly reduced costs. In this process, up-time is king. Slot machines at the licensed racetracks and veterans and fraternal organizations only work when they are in communication with the CMS. The CMS guarantees the software in the game is legal and fair. The CMS ensures the proper amount of tax is paid to the state and the horseman's purse. If the CMS is not in communication with these venues, gaming ceases and the revenue stream dries up. Since 1999, we have had almost a 100% up-time on the CMS and the Board does not want to jeopardize that track record. As such, the new communi-

cations architecture will utilize redundant paths, two separate Internet providers, and guaranteed bandwidth availability to insulate the system from down-time.

In conjunction with up-time is security. The data collected from the slot machines is strictly confidential and must be protected. In addition, the Board must insure that the data cannot be intercepted and manipulated. The new communication schema uses secured Virtual Private Network (VPN) technology and encryption to guarantee the security and confidentiality of client information, giving both the Board and the licensee confidence that net win and play data are protected.

Finally, there is the cost factor. It makes sense to cut costs while improving business processes in any economic environment, but with today's times it is crucial. And while the Board has been contemplating this move for some time, now is when the move is finally possible. Making this change will save the taxpayers of New Mexico about \$38,000 a year. This is a significant number in terms of the Board's budget and will help cover the budget cuts suggested by the Governor and the Legislature.

## Total Gaming Revenue Amounts

### Gaming Revenue Earned by Licensees

	January - 09	February - 09	March - 09
Racetrack Operators	\$22,058,466.00	\$22,093,331.00	\$ 21,805,762.00
Nonprofit Operators	\$1,072,366.00	\$1,032,332.00	\$ 1,029,075.00
<b>Total</b>	<b>\$23,130,832.00</b>	<b>\$23,125,663.00</b>	<b>\$22,834,837.00</b>

### Gaming Taxes Billed

	January - 09	February - 09	March - 09
Racetrack Operators	\$5,735,201.00	\$5,744,266.00	\$5,669,498.00
Nonprofit Operators	\$107,237.00	\$103,233.00	\$102,908.00
<b>Total</b>	<b>\$5,841,438.00</b>	<b>\$5,847,499.00</b>	<b>\$5,772,406.00</b>

### Average Daily Net Take Per Machine (=Arithmetic Mean)

	January - 09	February - 09	March - 09
Racetrack Operators	\$263.00	\$291.00	\$254.00
Nonprofit Operators	\$55.00	\$58.00	\$51.00

### Gaming Taxes Paid

	January - 09	February - 09	March - 09
Manufacturers	\$51,692.00	\$68,187.00	\$ 195,342.00
Distributors	\$28,670.00	\$33,929.00	\$ 26,209.00

### Amount Paid into Horse Racing Purses

	January - 09	February - 09	March - 09
Racetrack Operators	\$4,411,693.00	\$4,418,666.00	\$4,361,152.00

**Tribal Revenue-Quarter Ending March 31, 2009\*\***  
**Total Revenue Sharing Payments Received by the State: \$15,980,476**  
**Total Tribal Net Win: \$175,991,262**

\*\*\*These tribal figures are based on all submitted reports in NMGCB possession at the time of release and are subject to change upon receipt of additional information.

## Upcoming Meetings

### NM Gaming Control Board

Meetings in Albuquerque  
 Executive Session 9:00 a.m.  
 Public Session 1:30 p.m.

Tuesday, July 14, 2009

Tuesday, August 18, 2009

Wednesday, September 23, 2009

Tuesday, October 20, 2009

Wednesday, November 18, 2009

Tuesday, December 15, 2009

### NM Racing Commission

Executive Session 8:30 a.m.  
 Public Session 9:30 a.m.

Wednesday, July 15, 2009  
 Ruidoso

Wednesday, August 19, 2009  
 Santa Fe

Thursday, September 24, 2009  
 Albuquerque - NMGCB Headquarters

Thursday, October 29, 2009  
 Hobbs

Thursday, November 19, 2009  
 Albuquerque - NMGCB Headquarters

### Veterans, Fraternal, & Non-Profit Clubs of New Mexico

Meetings are held the 4th Tuesday of each month. Lunch is served at 12:00 noon, with the meeting immediately following. For location information contact Bruce Jorgenson at 314-6723.

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## NMGCB Mission Statement

The mission of the New Mexico Gaming Control Board is to uphold the integrity of gaming regulations at licensed racetracks and nonprofit organizations, and to monitor tribal gaming activity in the state. The Gaming Control Board qualifies gaming venues through a rigorous licensing and certification process designed to ensure a fair and honest gaming environment, while recognizing the broad importance of gaming tax revenue to the state economy.