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SENATE BILL

No. 1369

Introduced by Senators Cedillo and Battin

(Principal coauthor: Assembly Member Torrico)

**(Coauthors: Senators Cogdill, Denham, Ducheny, Florez,
Maldonado, Padilla, Runner, and Wyland)**

(Coauthors: Assembly Members Adams, Aghazarian, Anderson, Benoit,
Berryhill, Cook, Emmerson, Furutani, Garcia, Horton, Keene, La
Malfa, Lieu, Plescia, Silva, and Smyth)

February 21, 2008

An act to add Sections 19850.5 and 19850.6 to the Business and Professions Code, and to amend Sections 326.5 and 337j of, and to add ~~Section 326.3~~ *Sections 326.3 and 326.4* to, the Penal Code, relating to bingo, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1369, as amended, Cedillo. Remote caller bingo.

Existing law permits cities, counties, and cities and counties to allow bingo games to be conducted by specified organizations for charitable purposes, subject to provisions of law which, if violated, constitute a crime. Existing law defines bingo for the purposes of these provisions as a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card that conform to numbers or

symbols that are selected at random. Existing law prohibits the total value of prizes awarded for any bingo game from exceeding \$250 in cash or kind, or both, for each separate game that is held. Existing law prohibits any person from receiving or paying a profit, wage, or salary from any bingo game, except that security personnel employed by the organization conducting the bingo game may be paid from bingo game revenues. A violation of this provision is a misdemeanor.

This bill would also permit cities, counties, and cities and counties to allow bingo games to be conducted by ~~school districts~~ *charitable organizations affiliated with a school district* for charitable purposes. The bill would modify the definition of bingo to mean a game of chance in which prizes are awarded on the basis of designated numbers or symbols that are marked or covered by the player on a tangible card in the player's possession and that conform to numbers or symbols, selected at random and announced by a live caller. The bill would prohibit the use of electronics or video displays in connection with a bingo game, except as specified, and would also increase the allowable value of prizes for a bingo game to \$500. By changing the definition of a crime, this bill would impose a state-mandated local program.

This bill would also permit cities, counties, and cities and counties to allow remote caller bingo games, defined as bingo games in which the organization conducting the game uses audio or video technology to link electronically any of its in-state facilities for the purpose of the remote calling of a game from a single location to multiple locations owned, leased, or rented by that organization or pursuant to specified agreements. The bill would limit the operation of remote caller bingo games to organizations that have been incorporated or in existence for 3 years or more, and would allow the organization conducting the game to pay administrative, managerial, technical, financial, and security personnel reasonable fees for services rendered from bingo game revenues, with certain limitations. The bill would prohibit the value of prizes awarded during the conduct of any remote caller bingo game from exceeding 37% of the gross receipts for that game, and would require that all prize money exceeding state and federal exemption limits on prize money be subject to income tax reporting and withholding requirements under applicable state and federal laws and regulations. The bill would require remote caller bingo games to be played using traditional paper or other tangible bingo cards and daubers and would prohibit certain locations from participating in the games. The bill would provide for the regulation of remote caller bingo by the

California Gambling Control Commission, as specified. The bill would make related changes.

By changing the definition of a crime, this bill would impose a state-mandated local program.

This bill would also provide that players who are physically present at a bingo game may use hand-held, portable, card-minding devices, as described, to assist in monitoring the numbers or symbols announced in a live game. The bill would provide for the regulation of card-minding devices by the California Gambling Control Commission, as specified.

The bill would allow the commission to adopt emergency regulations implementing these provisions.

The bill would establish the California Bingo Fund and would authorize a loan from the Gambling Control Fund to the California Bingo Fund, on or after January 1, 2009, in an amount of up to \$500,000 to fund operating, personnel, and other startup costs incurred by the Gambling Control Commission relating to this act, as specified.

This bill would also establish the Charity Bingo Mitigation Fund. The bill would loan \$5,000,000 from the Indian Gaming Special Distribution Fund to the Charity Bingo Mitigation Fund to make mitigation payments to eligible nonprofit organizations, as specified. The bill would also appropriate \$5,000,000 from that loan to the Gambling Control Commission for the purposes of providing mitigation payments to certain charitable organizations, as described.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 California Remote Caller Bingo Act.
- 3 SEC. 2. Section 19850.5 is added to the Business and
- 4 Professions Code, to read:
- 5 19850.5. Notwithstanding Section 19850 or any other provision
- 6 of law, this chapter shall apply to both of the following:

1 (a) The operation, regulation, and enforcement of remote caller
2 bingo, as defined in paragraph (1) of subdivision (t) of Section
3 326.3 of the Penal Code, to the extent expressly made applicable
4 by Section 326.3 of the Penal Code. No requirement contained in
5 this chapter shall apply to remote caller bingo unless expressly
6 made applicable by Section 326.3 of the Penal Code.

7 (b) The regulation of card-minding devices as provided in
8 subdivision (p) of Section 326.5 of the Penal Code, to the extent
9 expressly made applicable by Section 326.5 of the Penal Code.
10 No requirement contained in this chapter shall apply to
11 card-minding devices unless expressly made applicable by Section
12 326.5 of the Penal Code.

13 SEC. 3. Section 19850.6 is added to the Business and
14 Professions Code, to read:

15 19850.6. (a) In order to avoid delays in implementing the
16 California Remote Caller Bingo Act, including implementing
17 remote caller bingo, testing and certifying card-minding devices,
18 and to avoid disruption of fundraising efforts by nonprofit
19 organizations, the Legislature finds and declares that it is necessary
20 to provide the commission with a limited exemption from normal
21 rulemaking procedural requirements. *The commission is directed*
22 *to adopt appropriate emergency regulations as soon as possible,*
23 *the initial regulatory action to be filed with the Office of*
24 *Administrative Law no later than May 1, 2009. The commission*
25 *is further directed to complete the normal public notice and*
26 *comment process, giving careful consideration to the comments*
27 *of all interested parties. It is the intent of the Legislature to provide*
28 *the commission with full authority and sufficient flexibility to adopt*
29 *all needed regulations. These regulations may be adopted in a*
30 *series of regulatory actions. Subsequent regulatory actions may*
31 *amend or repeal earlier regulatory actions, as necessary, to reflect*
32 *program experience and concerns of the regulated public.*

33 (b) The commission shall adopt emergency regulations
34 concerning remote caller bingo and concerning card-minding
35 devices no later than May 1, 2009. The adoption, amendment,
36 repeal, or readoption of a regulation authorized by this section is
37 deemed to address an emergency, for purposes of Sections 11346.1
38 and 11349.6 of the Government Code, and the commission is
39 hereby exempted for this purpose from the requirements of
40 subdivision (b) of Section 11346.1 of the Government Code, but

1 shall otherwise be subject to the review and approval of the Office
2 of Administrative Law.

3 (c) The emergency regulations adopted pursuant to this section
4 shall be effective initially for a period of 180 days from the date
5 ~~of adoption or from May 1, 2009, whichever is earlier. The~~
6 ~~regulations may be readopted once pursuant to this section for a~~
7 ~~period of not more than 90 days. the regulations are filed with the~~
8 *Secretary of State by the Office of Administrative Law or upon any*
9 *later date specified by the commission in a written instrument filed*
10 *with, or as part of, the regulation. Notwithstanding subdivision*
11 *(h) of Section 11346.1 of the Government Code, the regulations*
12 *may be readopted only once pursuant to this section for a period*
13 *of not more than 180 days. The exemption created by this section*
14 *applies to all emergency regulations readopted by the commission*
15 *pursuant to this section until December 31, 2009.*

16 SEC. 4. Section 326.3 is added to the Penal Code, to read:

17 326.3. (a) The Legislature finds and declares all of the
18 following:

19 (1) Nonprofit organizations provide important and essential
20 educational, philanthropic, and social services to the people of the
21 State of California.

22 (2) One of the great strengths of California is a vibrant nonprofit
23 sector.

24 (3) Nonprofit and philanthropic organizations touch the lives
25 of every Californian through service and employment.

26 (4) Many of these services would not be available if nonprofit
27 organizations did not provide them.

28 (5) There is a need to provide methods of fundraising to
29 nonprofit organizations to enable them to provide these essential
30 services.

31 (6) Historically, many nonprofit organizations have used
32 charitable bingo as one of their key fundraising strategies to
33 promote the mission of the charity.

34 (7) Legislation is needed to provide greater revenues for
35 nonprofit organizations to enable them to fulfill their charitable
36 purposes, and especially to meet their increasing social service
37 obligations.

38 (8) Legislation is also needed to clarify that existing law requires
39 that all charitable bingo must be played using a tangible card and
40 that the only permissible electronic devices to be used by charitable

bingo players are card-minding devices, ~~except that no card-minding devices may be used in connection with a remote caller bingo game.~~ devices.

(b) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any remote caller bingo game that is played or conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the California Constitution, if the ordinance allows a remote caller bingo game to be played or conducted only in accordance with the requirements of this section, including the following requirements:

(1) The game may be conducted only by the following organizations:

(A) An organization that is exempted from the payment of the bank and corporation tax by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701w, or 23701l of the Revenue and Taxation Code.

(B) A mobilehome park association.

(C) A senior citizens organization.

(D) ~~A~~ Charitable organizations affiliated with a school district.

(2) The organization conducting the game shall have been incorporated or in existence for three years or more.

(3) The organization conducting the game shall be licensed pursuant to subdivision (l) of Section 326.5.

(4) The receipts of the game shall be used only for charitable purposes. The organization conducting the game shall determine the disbursement of the net receipts of the game.

(5) The operation of bingo may not be the primary purpose for which the organization is organized.

(c) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any remote caller bingo game, provided that administrative, managerial, technical, financial, and security personnel employed by the organization conducting the bingo game may be paid reasonable fees for services rendered from the revenues of bingo games, as provided in subdivision (l), except that fees paid under those agreements shall not be determined as a percentage of receipts or other revenues from, or *be dependant* on the outcome of, the game.

(d) A violation of subdivision (c) shall be punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine shall be

1 deposited in the general fund of the city, county, or city and county
2 that enacted the ordinance authorizing the remote caller bingo
3 game. A violation of any provision of this section, other than
4 subdivision (c), is a misdemeanor.

5 (e) The city, county, or city and county that enacted the
6 ordinance authorizing the remote caller bingo game, or the Attorney
7 General, may bring an action to enjoin a violation of this section.

8 (f) No minors shall be allowed to participate in any remote caller
9 bingo game.

10 (g) A remote caller bingo game shall not include any site that
11 is not located within this state.

12 (h) An organization authorized to conduct a remote caller bingo
13 game pursuant to subdivision (b) shall conduct the game only on
14 property that is owned or leased by the organization, or the use of
15 which is donated to the organization, provided that the operation
16 of bingo games may not be a primary purpose for which the
17 organization is organized. Nothing in this subdivision shall be
18 construed to require that the property that is owned or leased by,
19 or the use of which is donated to, the organization be used or leased
20 exclusively by, or donated exclusively to, that organization.

21 (i) (1) All remote caller bingo games shall be open to the public,
22 not just to the members of the authorized organization.

23 (2) No more than 750 players may participate in a remote caller
24 bingo game in a single location.

25 (3) If the Governor of California or the President of the United
26 States declares a state of emergency in response to a natural disaster
27 or other public catastrophe occurring in California, an organization
28 authorized to conduct remote caller bingo games may, while that
29 declaration is in effect, conduct those games pursuant to this section
30 with more than 750 participants in a single venue if the net
31 proceeds of the games, after deduction of prizes and overhead
32 expenses, are donated to or expended exclusively for the relief of
33 the victims of the disaster or catastrophe, and the organization
34 gives the California Gambling Control Commission at least 10
35 days' written notice of the intent to conduct those games.

36 (4) An organization authorized to conduct remote caller bingo
37 games shall provide the commission with at least 30 ~~days~~ days'
38 advance written notice of its intent to conduct those games. That
39 notice shall include all of the following:

1 (A) The legal name of the organization and the address of record
2 of the agent upon whom legal notice may be served.

3 (B) The locations of the caller and remote players, whether the
4 property is owned by the organization or donated, and if donated,
5 by whom.

6 (C) The name of the licensed caller and site manager.

7 (D) The names of administrative, managerial, technical,
8 financial, and security personnel employed.

9 (E) The name of the vendor and any person or entity maintaining
10 the equipment used to operate and transmit the game.

11 (F) The name of the person designated as having a fiduciary
12 responsibility for the game pursuant to paragraph (2) of subdivision
13 (j).

14 (G) The license numbers of all persons specified in
15 subparagraphs (A) to (F), inclusive, who are required to be licensed.

16 (H) A copy of the local ordinance for the counties in which the
17 game will be played. The commission shall post the ordinance on
18 its Internet Web site.

19 (j) (1) A remote caller bingo game shall be operated and staffed
20 only by members of the authorized organization that organized it.
21 Those members shall not receive a profit, wage, or salary from
22 any bingo game. Only the organization authorized to conduct a
23 remote caller bingo game shall operate that game, or participate
24 in the promotion, supervision, or any other phase of a remote caller
25 bingo game. Subject to the provisions of subdivision (l), this
26 subdivision shall not preclude the employment of administrative,
27 managerial, technical, financial, or security personnel who are not
28 members of the authorized organization at a location participating
29 in the remote caller bingo game by the organization conducting
30 the game. Notwithstanding any other provisions of law, exclusive
31 or other agreements between the authorized organization and other
32 entities or persons to provide services in the administration,
33 management, or conduct of the game shall not be considered a
34 violation of the prohibition against holding a legally cognizable
35 financial interest in the conduct of the remote caller bingo game
36 by persons or entities other than the charitable organization, or
37 other entity authorized to conduct the remote caller bingo games,
38 provided that those persons or entities obtain the gambling licenses,
39 the key employee licenses, or the work permits required by, and
40 otherwise comply with, Chapter 5 (commencing with Section

1 19800) of Division 8 of the Business and Professions Code. Fees
2 to be paid under any such agreements shall be reasonable and shall
3 not be determined as a percentage of receipts or other revenues
4 from, or be dependent on the outcome of, the game.

5 (2) An organization that conducts a remote caller bingo game
6 shall designate a person as having fiduciary responsibility for the
7 game.

8 (k) No individual, corporation, partnership, or other legal entity,
9 except the organization authorized to conduct or participate in a
10 remote caller bingo game, shall hold a legally cognizable financial
11 interest in the conduct of such a game.

12 (l) An organization authorized to conduct a remote caller bingo
13 game pursuant to this section shall not have overhead costs
14 exceeding 20 percent of gross sales, except that the limitations of
15 this section shall not apply to one-time, nonrecurring capital
16 acquisitions. For purposes of this subdivision, “overhead costs”
17 includes, but is not limited to, amounts paid for rent and equipment
18 leasing and the reasonable fees authorized to be paid to
19 administrative, managerial, technical, financial, and security
20 personnel employed by the organization pursuant to subdivision
21 (c).

22 (m) No person shall be allowed to participate in a remote caller
23 bingo game unless the person is physically present at the time and
24 place where the remote caller bingo game is being conducted. A
25 person shall be deemed to be physically present at the place where
26 the remote caller bingo game is being conducted if he or she is
27 present at any of the locations participating in the remote caller
28 bingo game in accordance with this section.

29 (n) (1) An organization shall not cosponsor a remote caller
30 bingo game with one or more other organizations unless one of
31 the following ~~are~~ is true:

32 (A) All of the cosponsors are affiliated under the master charter
33 or articles and bylaws of a single organization.

34 (B) All of the cosponsors are affiliated through an organization
35 described in paragraph (1) of subdivision (b), and have the same
36 Internal Revenue Service activity code.

37 (2) Notwithstanding paragraph (1), a maximum of 10
38 unaffiliated organizations described in paragraph (1) of subdivision
39 (b) may enter into an agreement to cosponsor a remote caller game,
40 provided the game shall have not more than 10 locations.

1 ~~(3) An organization permitted to conduct a remote caller game~~
2 ~~shall not conduct a game more than one time per week.~~

3 (3) *An organization shall not conduct remote caller bingo more*
4 *than one day per week.*

5 (4) Before sponsoring or operating any game authorized under
6 paragraph (1) or (2), each of the cosponsoring organizations shall
7 have entered into a written agreement, a copy of which shall be
8 provided to the commission, setting forth how the expenses and
9 proceeds of the game are to be allocated among the participating
10 organizations, the bank accounts into which all receipts are to be
11 deposited and from which all prizes are to be paid, and how game
12 records are to be maintained and subjected to annual audit.

13 (o) The value of prizes awarded during the conduct of any
14 remote caller bingo game shall not exceed 37 percent of the gross
15 receipts for that game. Every remote caller bingo game shall be
16 played until a winner is declared. Progressive prizes are prohibited.
17 The declared winner of a remote caller bingo game shall provide
18 his or her identifying information and a mailing address to the
19 onsite manager of the remote caller bingo game. Prizes shall be
20 paid only by check; no cash prizes shall be paid. The organization
21 conducting the remote caller bingo game may issue a check to the
22 winner at the time of the game, or may send a check to the declared
23 winner by United States Postal Service certified mail, return receipt
24 requested. All prize money exceeding state and federal exemption
25 limits on prize money shall be subject to income tax reporting and
26 withholding requirements under applicable state and federal laws
27 and regulations and those reports and withholding shall be
28 forwarded, within 10 business days, to the appropriate state or
29 federal agency on behalf of the winner. A report shall accompany
30 the amount withheld identifying the person on whose behalf the
31 money is being sent. Any game interrupted by a transmission
32 failure, electrical outage, or act of God shall be considered void
33 in the location that was affected. A refund for a canceled game or
34 games shall be ~~refunded~~ *provided* to the purchasers.

35 (p) (1) The California Gambling Control Commission shall
36 regulate remote caller bingo, including, but not limited to, licensure
37 and operation. The commission shall establish reasonable criteria
38 regulating, and shall require the licensure and registration of, the
39 following:

1 (A) Any person who conducts remote caller bingo games
2 pursuant to this section, including, but not limited to, owners,
3 employees, persons having fiduciary responsibility for remote
4 caller bingo games, site managers, and bingo callers.

5 (B) Any person who directly or indirectly manufactures,
6 distributes, supplies, vends, leases, or otherwise provide supplies,
7 devices, services, or other equipment designed for use in the
8 playing of bingo games by any nonprofit organization registered
9 to conduct bingo games.

10 (C) *Beginning January 31, 2009, or a later date as may be*
11 *established by the commission, all persons described in*
12 *subparagraph (A) or (B) may submit to the commission a letter of*
13 *intent to submit an application for registration or licensure. The*
14 *letter shall clearly identify the principal applicant, all categories*
15 *under which the application will be filed, and the names of all*
16 *those particular individuals who are applying. Each charitable*
17 *organization shall provide an estimate of the frequency with which*
18 *it plans to conduct remote caller bingo operations, including the*
19 *number of locations. The letter of intent may be withdrawn or*
20 *updated at any time.*

21 (2) (A) The Department of Justice shall conduct background
22 investigations and conduct field enforcement as it relates to remote
23 caller bingo consistent with the Gambling Control Act (Chapter 5
24 (commencing with Section 19800) of Division 8 of the Business
25 and Professions Code) and as specified in regulations promulgated
26 by the commission.

27 (B) Fees to cover background investigation costs shall be paid
28 and accounted for in accordance with Section 19867 of the
29 Business and Professions Code.

30 (3) (A) Every application for a license or approval shall be
31 accompanied by a nonrefundable fee, the amount of which shall
32 be adopted by the commission by regulation.

33 (B) Fees and revenue collected pursuant to this paragraph shall
34 be deposited in the California Bingo Fund, which is hereby created
35 in the State Treasury. The funds deposited in the California Bingo
36 Fund shall be available, upon appropriation by the Legislature, for
37 expenditure by the commission and the department exclusively
38 for the support of the commission and department in carrying out
39 their duties and responsibilities under this section and Section
40 326.5.

(C) A loan is hereby authorized from the Gambling Control Fund to the California Bingo Fund on or after January 1, 2009, in an amount of up to five hundred thousand dollars (\$500,000) to fund operating, personnel, and other startup costs incurred by the commission relating to this act. Funds from the California Bingo Fund shall be available to the commission upon appropriation by the Legislature in the annual Budget Act. The loan shall be subject to all of the following conditions:

(i) The loan shall be repaid to the Gambling Control Fund as soon as there is sufficient money in the California Bingo Fund to repay the amount loaned, but no later than five years after the date of the loan.

(ii) Interest on the loan shall be paid from the California Bingo Fund at the rate accruing to moneys in the Pooled Money Investment Account.

(iii) The terms and conditions of the loan are approved, prior to the transfer of funds, by the Department of Finance pursuant to appropriate fiscal standards.

The commission may assess and collect reasonable fees and deposits as necessary to defray the costs of regulation and oversight.

(q) The administrative, managerial, technical, financial, and security personnel employed by an organization that conducts remote caller bingo games shall apply for, obtain, and thereafter maintain valid work permits, as defined in Section 19805 of the Business and Professions Code.

(r) An organization that conducts remote caller bingo games shall retain records in connection with the remote caller bingo game for five years.

(s) (1) All equipment used for remote caller bingo shall be approved in advance by the California Gambling Control Commission pursuant to regulations adopted pursuant to subdivision (r) of Section 19841 of the Business and Professions Code.

(2) The California Gambling Control Commission shall monitor operation of the transmission and other equipment used for remote caller bingo, and monitor the game.

(t) (1) As used in this section, "remote caller bingo game" means a game of bingo, as defined in subdivision (o) of Section 326.5, in which the numbers or symbols on randomly drawn plastic

balls are announced by a natural person present at the site at which the live game is conducted, and the organization conducting the bingo game uses audio and video technology to link any of its in-state facilities for the purpose of transmitting the remote calling of a live bingo game from a single location to multiple locations owned, leased, or rented by that organization, or as described in subdivision (n). The audio or video technology used to link the facilities may include cable, Internet, satellite, broadband, or telephone technology, or any other means of electronic transmission that ensures the secure, accurate, and simultaneous transmission of the announcement of numbers or symbols in the game from the location at which the game is called by a natural person to the remote location or locations at which players may participate in the game. The drawing of each ball bearing a number or symbol by the natural person calling the game shall be visible to all players as the ball is drawn, including through a simultaneous live video feed at remote locations at which players may participate in the game.

(2) The caller in the live game must be licensed by the California Gambling Control Commission. A game may be called by a nonlicensed caller if the drawing of balls and calling of numbers or symbols by that person is observed and personally supervised by a licensed caller.

(3) Remote caller bingo games shall be played using traditional paper or other tangible bingo cards and daubers, and shall not be played by using electronic devices, except card-minding devices, as described in paragraph (1) of subdivision (p) of Section 326.5.

~~(4) The~~ *Prior to conducting a remote caller bingo game, the* organization that conducts remote caller bingo shall submit to the commission the controls, methodology, and standards of game play, which shall include, but not be limited to, the equipment used to select bingo numbers and create or originate cards, control or maintenance, distribution to participating locations, and distribution to players. Those controls, methodologies, and standards shall be subject to prior approval by the commission, provided that the controls shall be deemed approved by the commission after 90 days from the date of submission unless disapproved.

(u) A location shall not be eligible to participate in a remote caller bingo game if bingo games are conducted at that location in violation of Section 326.5 or any regulation adopted by the

1 commission pursuant to Section 19841 of the Business and
2 Professions Code, including, but not limited to, a location at which
3 unlawful electronic devices are used.

4 (v) (1) The vendor of the equipment used in a remote caller
5 bingo game shall have its books and records audited at least
6 annually by an independent California certified public accountant
7 and shall submit the results of that audit to the California Gambling
8 Control Commission within 120 days after the close of the vendor's
9 fiscal year. In addition, the California Gambling Control
10 Commission shall audit the books and records of the vendor at any
11 time.

12 (2) An organization that conducts remote caller bingo games
13 shall provide copies of the records pertaining to those games to
14 the California Gambling Control Commission within 30 days after
15 the end of each calendar quarter. In addition, those records shall
16 be audited by an independent California certified public accountant
17 at least annually and copies of the audit reports shall be provided
18 to the California Gambling Control Commission within 120 days
19 after the close of the organization's fiscal year.

20 (3) The costs of the licensing and audits required by this section
21 shall be borne by the person or entity required to be licensed or
22 audited. The audit shall enumerate the receipts for remote caller
23 bingo, the prizes disbursed, the overhead costs, and the amount
24 retained by the nonprofit organization. The commission may audit
25 the books and records of an organization that conducts remote
26 caller bingo games at any time.

27 (4) If, during an audit, the commission identifies practices in
28 violation of this section, the license for the audited entity may be
29 suspended pending review and hearing before the commission for
30 a final determination.

31 (5) No audit required to be conducted by the commission shall
32 commence before January 1, 2010.

33 (w) (1) The provisions of this section are severable. If any
34 provision of this section or its application is held invalid, that
35 invalidity shall not affect other provisions or applications that can
36 be given effect without the invalid provision or application.

37 (2) Notwithstanding paragraph (1), if paragraph (1) or (3) of
38 subdivision (t), or the application of either of those provisions, is
39 held invalid, this entire section shall be invalid.

(x) The commission shall submit a report to the Legislature, on or before January 1, 2012, on the fundraising effectiveness and regulation of remote caller bingo, and other matters that are relevant to the public interest regarding remote caller bingo.

(y) The following definitions apply for purposes of this section:

(1) "Commission" means the California Gambling Control Commission.

(2) "Person" includes a natural person, corporation, limited liability company, partnership, trust, joint venture, association, or any other business organization.

SEC. 5. Section 326.4 is added to the Penal Code, to read:

326.4. 326.4. (a) Consistent with the Legislature's finding that card-minding devices, as described in subdivision (p) of Section 326.5, are the only permissible electronic devices to be used by charity bingo players, and in an effort to ease the transition to remote caller bingo on the part of those nonprofit organizations that, as of July 1, 2008, used electronic devices other than card-minding devices to conduct games in reliance on an ordinance of a city, county, or city and county that, as of July 1, 2008, expressly recognized the operation of electronic devices other than card-minding devices by organizations purportedly authorized to conduct bingo in the city, county or city and county, there is hereby created the Charity Bingo Mitigation Fund.

(b) The Charity Bingo Mitigation Fund shall be administered by the Gambling Control Commission.

(c) Mitigation payments to be made by the Charity Bingo Mitigation Fund shall not exceed five million dollars in the aggregate.

(d) (1) To allow the Charity Bingo Mitigation Fund to become immediately operable, five million dollars (\$5,000,000) shall be loaned from the accrued interest in the Indian Gaming Special Distribution Fund to the Charity Bingo Mitigation Fund on, or after January 1, 2009, to make mitigation payments to eligible non-profit organizations. Five million dollars (\$5,000,000) of this loan amount is hereby appropriated to the Gambling Control Commission for the purposes of providing mitigation payments to certain charitable organizations, as described in subdivision (e). Pursuant to Section 16304 of the Government Code, after three years the unexpended balance shall revert back to the Charity Bingo Mitigation Fund.

(2) To reimburse the Special Distribution Fund, those nonprofit organizations that conduct a remote caller bingo game pursuant to Section 326.3 shall pay to the Gambling Control Commission an amount equal to 5 percent of the gross revenues of each remote caller bingo game played until that time as the full advanced amount plus interest on the loan at the rate accruing to moneys in the Pooled Money Investment Account is reimbursed.

(e) (1) An organization meeting the requirements in subdivision (a) shall be eligible to receive mitigation payments from the Charity Bingo Mitigation Fund only if the city, county, or city and county in which the organization is located maintained official records of the net revenues generated for the fiscal year ending June 30, 2008, by the organization from the use of electronic devices or the organization maintained audited financial records for the fiscal year ending June 30, 2008, which show the net revenues generated from the use of electronic devices.

(2) In addition, an organization applying for mitigation payments shall provide proof that its board of directors has adopted a resolution and its chief executive officer has signed a statement executed under penalty of perjury stating that, as of January 1, 2009, the organization has ceased using electronic devices other than card-minding devices, as described in subdivision (p) of Section 326.5, as a fundraising tool.

(3) Each eligible organization may apply to the Gambling Control Commission no later than January 31, 2009, for the mitigation payments in the amount equal to net revenues from the fiscal year ending June 30, 2008, by filing an application, including therewith documents and other proof of eligibility, including any and all financial records documenting the organization's net revenues for the fiscal year ending June 30, 2008, as the Gambling Control Commission may require. The Gambling Control Commission is authorized to access and examine the financial records of charities requesting funding in order to confirm the legitimacy of the request for funding. In the event that the total of those requests exceeds five million dollars (\$5,000,000), payments to all eligible applicants shall be reduced in proportion to each requesting organization's reported or audited net revenues from the operation of electronic devices.

~~SEC. 5.~~

SEC. 6. Section 326.5 of the Penal Code is amended to read:

1 326.5. (a) Neither the prohibition on gambling in this chapter
2 nor in Chapter 10 (commencing with Section 330) applies to any
3 bingo game that is conducted in a city, county, or city and county
4 pursuant to an ordinance enacted under Section 19 of Article IV
5 of the State Constitution, if the ordinance allows games to be
6 conducted only in accordance with this section and only by
7 organizations exempted from the payment of the bank and
8 corporation tax by Sections 23701a, 23701b, 23701d, 23701e,
9 23701f, 23701g, 23701k, 23701w, and 23701l of the Revenue and
10 Taxation Code and by mobilehome park associations, senior
11 citizens organizations, and school districts; and if the receipts of
12 those games are used only for charitable purposes.

13 (b) It is a misdemeanor for any person to receive or pay a profit,
14 wage, or salary from any bingo game authorized by Section 19 of
15 Article IV of the State Constitution. Security personnel employed
16 by the organization conducting the bingo game may be paid from
17 the revenues of bingo games, as provided in subdivisions (j) and
18 (k).

19 (c) A violation of subdivision (b) shall be punishable by a fine
20 not to exceed ten thousand dollars (\$10,000), which fine is
21 deposited in the general fund of the city, county, or city and county
22 that enacted the ordinance authorizing the bingo game. A violation
23 of any provision of this section, other than subdivision (b), is a
24 misdemeanor.

25 (d) The city, county, or city and county that enacted the
26 ordinance authorizing the bingo game may bring an action to enjoin
27 a violation of this section.

28 (e) No minors shall be allowed to participate in any bingo game.

29 (f) An organization authorized to conduct bingo games pursuant
30 to subdivision (a) shall conduct a bingo game only on property
31 owned or leased by it, or property whose use is donated to the
32 organization, and which property is used by that organization for
33 an office or for performance of the purposes for which the
34 organization is organized. Nothing in this subdivision shall be
35 construed to require that the property owned or leased by, or whose
36 use is donated to, the organization be used or leased exclusively
37 by, or donated exclusively to, that organization.

38 (g) All bingo games shall be open to the public, not just to the
39 members of the authorized organization.

(h) A bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such a game, or participate in the promotion, supervision, or any other phase of a bingo game. This subdivision does not preclude the employment of security personnel who are not members of the authorized organization at a bingo game by the organization conducting the game.

(i) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct a bingo game, shall hold a financial interest in the conduct of a bingo game.

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Those profits shall be used only for charitable purposes.

(k) With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Proceeds are the receipts of bingo games conducted by organizations not within subdivision (j). Those proceeds shall be used only for charitable purposes, except as follows:

(1) The proceeds may be used for prizes.

(2) (A) Except as provided in subparagraph (B), a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or two thousand dollars (\$2,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel.

(B) For the purposes of bingo games conducted by the Lake Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or three thousand dollars (\$3,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel. Any amount of the proceeds

1 that is additional to that permitted under subparagraph (A), up to
2 one thousand dollars (\$1,000), shall be used for the purpose of
3 financing the rebuilding of the facility and the replacement of
4 equipment that was destroyed by fire in 2007. The exception to
5 subparagraph (A) that is provided by this subparagraph shall remain
6 in effect only until the cost of rebuilding the facility is repaid, or
7 January 1, 2019, whichever occurs first.

8 (3) The proceeds may be used to pay license fees.

9 (4) A city, county, or city and county that enacts an ordinance
10 permitting bingo games may specify in the ordinance that if the
11 monthly gross receipts from bingo games of an organization within
12 this subdivision exceed five thousand dollars (\$5,000), a minimum
13 percentage of the proceeds shall be used only for charitable
14 purposes not relating to the conducting of bingo games and that
15 the balance shall be used for prizes, rental of property, overhead,
16 administrative expenses, and payment of license fees. The amount
17 of proceeds used for rental of property, overhead, and
18 administrative expenses is subject to the limitations specified in
19 paragraph (2).

20 (l) (1) A city, county, or city and county may impose a license
21 fee on each organization that it authorizes to conduct bingo games.
22 The fee, whether for the initial license or renewal, shall not exceed
23 fifty dollars (\$50) annually, except as provided in paragraph (2).
24 If an application for a license is denied, one-half of any license
25 fee paid shall be refunded to the organization.

26 (2) In lieu of the license fee permitted under paragraph (1), a
27 city, county, or city and county may impose a license fee of fifty
28 dollars (\$50) paid upon application. If an application for a license
29 is denied, one-half of the application fee shall be refunded to the
30 organization. An additional fee for law enforcement and public
31 safety costs incurred by the city, county, or city and county that
32 are directly related to bingo activities may be imposed and shall
33 be collected monthly by the city, county, or city and county issuing
34 the license; however, the fee shall not exceed the actual costs
35 incurred in providing the service.

36 (m) No person shall be allowed to participate in a bingo game,
37 unless the person is physically present at the time and place where
38 the bingo game is being conducted.

39 (n) The total value of prizes available to be awarded during the
40 conduct of any bingo games shall not exceed five hundred dollars

1 (\$500) in cash or kind, or both, for each separate game which is
2 held.

3 (o) As used in this section, “bingo” means a game of chance in
4 which prizes are awarded on the basis of designated numbers or
5 symbols that are marked or covered by the player on a tangible
6 card in the player’s possession and that conform to numbers or
7 symbols, selected at random and announced by a live caller.
8 Notwithstanding Section 330c, as used in this section, the game
9 of bingo includes tangible cards having numbers or symbols that
10 are concealed and preprinted in a manner providing for distribution
11 of prizes. Electronics or video displays shall not be used in
12 connection with the game of bingo, except in connection with the
13 caller’s drawing of numbers or symbols and the public display of
14 that drawing, and except as provided in subdivision (p). The
15 winning cards shall not be known prior to the game by any person
16 participating in the playing or operation of the bingo game. All
17 preprinted cards shall bear the legend, “for sale or use only in a
18 bingo game authorized under California law and pursuant to local
19 ordinance.” Only a covered or marked tangible card possessed by
20 a player and presented to an attendant may be used to claim a prize.
21 It is the intention of the Legislature that bingo as defined in this
22 subdivision applies exclusively to this section and shall not be
23 applied in the construction or enforcement of any other provision
24 of law.

25 (p) (1) Players who are physically present at a bingo game may
26 use hand-held, portable card-minding devices, as described in this
27 subdivision, to assist in monitoring the numbers or symbols
28 announced by a live caller as those numbers or symbols are called
29 in a live game. Card-minding devices may not be used in
30 connection with any game where a bingo card may be sold or
31 distributed after the start of the ball draw for that game. A
32 card-minding device shall do all of the following:

33 (A) Be capable of storing in the memory of the device bingo
34 faces of tangible cards purchased by a player.

35 (B) Provide a means for bingo players to input manually each
36 individual number or symbol announced by a live caller.

37 (C) Compare the numbers or symbols entered by the player to
38 the bingo faces previously stored in the memory of the device.

39 (D) Identify winning bingo patterns that exist on the stored
40 bingo faces.

1 (2) A card-minding device shall perform no functions involving
2 the play of the game other than those described in paragraph (1).
3 Card-minding devices shall not do any of the following:

4 (A) Be capable of accepting or dispensing any coins, currency,
5 or other representative of value or on which value has been
6 encoded.

7 (B) Be capable of monitoring any bingo card face other than
8 the faces of the tangible bingo card or cards purchased by the
9 player for that game.

10 (C) Display or represent the game result through any means,
11 including, but not limited to, video or mechanical reels or other
12 slot machine or casino game themes, other than highlighting the
13 winning numbers or symbols marked or covered on the tangible
14 bingo cards or giving an audio alert that the player's card has a
15 prize-winning pattern.

16 (D) Determine the outcome of any game or be physically or
17 electronically connected to any component that determines the
18 outcome of a game or to any other bingo equipment, including,
19 but not limited to, the ball call station, or to any other card-minding
20 device. No other player-operated or player-activated electronic or
21 electromechanical device or equipment is permitted to be used in
22 connection with a bingo game.

23 (3) (A) A card-minding device shall be approved in advance
24 by the commission ~~pursuant to subdivision (r) of Section 19841~~
25 ~~of the Business and Professions Code~~ as meeting the requirements
26 of Section 326.5 and any additional requirements stated in
27 regulations adopted by the commission. Any proposed material
28 change to the device, including any change to the software used
29 by the device, shall be submitted to the commission and approved
30 by the commission prior to implementation.

31 (B) In accordance with Chapter 5 (commencing with Section
32 19800) of Division 8 of the Business and Professions Code, the
33 commission shall establish reasonable criteria for, and require the
34 licensure and registration of, any person that directly or indirectly
35 manufacturers, distributes, supplies, vends, leases, or otherwise
36 provides card-minding devices or other supplies, equipment, or
37 services designed for use in the playing of bingo games by any
38 nonprofit organization registered to conduct bingo games.

(C) A person or entity that supplies or services any card-minding device shall meet all licensing or registration requirements established by the commission in regulations.

(4) The costs of any testing, certification, license, or determination required by this subdivision shall be borne by the person or entity seeking it.

(5) On and after January 1, 2010, the commission and the Department of Justice may inspect all card-minding devices at any time without notice, and may immediately prohibit the use of, or impound, of any device that does not comply with the requirements of subdivision (r) of Section 19841 of the Business and Professions Code. *The Department of Justice may at any time, without notice, impound any device the use of which has been prohibited by the commission.*

(6) The California Gambling Control Commission shall issue regulations to implement the requirements of this subdivision and may issue regulations regarding the means by which the operator of a bingo game, as required by applicable law, may offer assistance to a player with disabilities in order to enable that player to participate in a bingo game, provided that the means of providing that assistance shall not be through any electronic, electromechanical, or other device or equipment that accepts the insertion of any coin, currency, token, credit card, or other means of transmitting value, and does not constitute or resemble and is not itself or a part of a system that constitutes or resembles a slot machine, video lottery terminal, or any gambling device prohibited in or is not a part of a system that constitutes a video lottery terminal, slot machine, or devices prohibited by Chapter 10 (commencing with Section 330).

(7) The following definitions apply for purposes of this subdivision:

(A) "Commission" means the California Gambling Control Commission.

(B) "Person" includes a natural person, corporation, limited liability company, partnership, trust, joint venture, association, or any other business organization.

~~SEC. 6.~~

SEC. 7. Section 337j of the Penal Code is amended to read:

337j. (a) It is unlawful for any person, as owner, lessee, or employee, whether for hire or not, either solely or in conjunction

1 with others, to do any of the following without having first
2 procured and thereafter maintained in effect all federal, state, and
3 local licenses required by law:

4 (1) To deal, operate, carry on, conduct, maintain, or expose for
5 play in this state any controlled game.

6 (2) To receive, directly or indirectly, any compensation or
7 reward or any percentage or share of the revenue, for keeping,
8 running, or carrying on any controlled game.

9 (3) To manufacture, distribute, or repair any gambling equipment
10 within the boundaries of this state, or to receive, directly or
11 indirectly, any compensation or reward for the manufacture,
12 distribution, or repair of any gambling equipment within the
13 boundaries of this state.

14 (b) It is unlawful for any person to knowingly permit any
15 controlled game to be conducted, operated, dealt, or carried on in
16 any house or building or other premises that he or she owns or
17 leases, in whole or in part, if that activity is undertaken by a person
18 who is not licensed as required by state law, or by an employee of
19 that person.

20 (c) It is unlawful for any person to knowingly permit any
21 gambling equipment to be manufactured, stored, or repaired in
22 any house or building or other premises that the person owns or
23 leases, in whole or in part, if that activity is undertaken by a person
24 who is not licensed as required by state law, or by an employee of
25 that person.

26 (d) Any person who violates, attempts to violate, or conspires
27 to violate this section shall be punished by imprisonment in a
28 county jail for not more than one year or by a fine of not more than
29 ten thousand dollars (\$10,000), or by both imprisonment and fine.
30 A second offense of this section is punishable by imprisonment in
31 a county jail for a period of not more than one year or in the state
32 prison or by a fine of not more than ten thousand dollars (\$10,000),
33 or by both imprisonment and fine.

34 (e) (1) As used in this section, “controlled game” means any
35 poker or Pai Gow game, and any other game played with cards or
36 tiles, or both, and approved by the Department of Justice, and any
37 game of chance, including any gambling device, played for
38 currency, check, credit, or any other thing of value that is not
39 prohibited and made unlawful by statute or local ordinance.

(2) As used in this section, “controlled game” does not include any of the following:

(A) The game of bingo conducted pursuant to Section 326.3 or 326.5.

(B) Parimutuel racing on horse races regulated by the California Horse Racing Board.

(C) Any lottery game conducted by the California State Lottery.

(D) Games played with cards in private homes or residences, in which no person makes money for operating the game, except as a player.

(f) This subdivision is intended to be dispositive of the law relating to the collection of player fees in gambling establishments. A fee may not be calculated as a fraction or percentage of wagers made or winnings earned. The amount of fees charged for all wagers shall be determined prior to the start of play of any hand or round. However, the gambling establishment may waive collection of the fee or portion of the fee in any hand or round of play after the hand or round has begun pursuant to the published rules of the game and the notice provided to the public. The actual collection of the fee may occur before or after the start of play. Ample notice shall be provided to the patrons of gambling establishments relating to the assessment of fees. Flat fees on each wager may be assessed at different collection rates, but no more than five collection rates may be established per table. However, if the gambling establishment waives its collection fee, this fee does not constitute one of the five collection rates.

~~SEC. 7.~~

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.