

1 SB309  
2 210993-2  
3 By Senator Marsh  
4 RFD: Tourism  
5 First Read: 09-MAR-21

2  
3  
4 ENGROSSED

5  
6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to lotteries; to provide legislative  
12 intent; to provide powers and duties of the Alabama Lottery  
13 Commission; to create a Lottery Retailer Advisory Board; to  
14 provide for the membership and duties of the advisory board;  
15 to provide for use of lottery proceeds; to provide for the use  
16 of unclaimed lottery prizes; to provide for the disposition of  
17 unclaimed prize money; to provide for postsecondary  
18 scholarships funded by the lottery; to provide limitations on  
19 retailers of lottery tickets; to provide penalties for  
20 violations; to require certain reporting requirements; to  
21 provide for audits and certain financial disclosures; to  
22 provide for rulemaking authority; and in connection therewith  
23 would have as its purpose or effect the requirement of a new  
24 or increased expenditure of local funds within the meaning of  
25 Amendment 621 of the Constitution of Alabama of 1901, now  
26 appearing as Section 111.05 of the Official Recompilation of  
27 the Constitution of Alabama of 1901, as amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. This act shall be known and may be cited  
3 as the Alabama Education Lottery Act.

4 Section 2. The Legislature finds and declares the  
5 following:

6 (1) The purpose of this act is to further implement  
7 the constitutional amendment proposed in SB319 of the 2021  
8 Regular Session, upon adoption of the amendment by the voters  
9 of this state providing for the Alabama Education Lottery.

10 (2) That net proceeds of lottery games conducted  
11 pursuant to this act shall be used to support postsecondary  
12 scholarship programs as provided in this act and that any net  
13 proceeds shall be used to supplement, not supplant, existing  
14 resources for postsecondary scholarship programs.

15 (3) That lottery games shall be operated and managed  
16 in a manner that provides continuing entertainment to the  
17 public, maximizes revenues, and ensures that the lottery is  
18 operated with integrity and dignity and free of political  
19 influence.

20 (4) The operation of a lottery necessitates unique  
21 activities for state government and a corporate structure will  
22 best enable a lottery to be managed in an entrepreneurial and  
23 business-like manner. It is the intent of the Legislature that  
24 the Alabama Lottery Corporation shall be accountable to the  
25 Governor, the Legislature, and the people of the state through  
26 a system of audits, reports, and thorough financial  
27 disclosures as required by this act.

1                   Section 3. Definitions.

2                   For the purposes of this act, the following terms  
3 shall have the following meanings:

4                   (1) ALABAMA EDUCATION LOTTERY. Any large-scale  
5 intrastate, multistate, or multi-sovereign lottery approved by  
6 the commission for operation by the Alabama Lottery  
7 Corporation such as Pick-3, Pick-4, Mega Millions, or  
8 Powerball. The term includes instant tickets. The term does  
9 not include a video lottery or video lottery terminal.

10                  (2) COMMISSION. The Alabama Gaming Commission  
11 created by the constitutional amendment proposed in SB319 of  
12 the 2021 Regular Session.

13                  (3) CORPORATION. The Alabama Lottery Corporation.

14                  (4) EXECUTIVE DIRECTOR. The Executive Director of  
15 the Alabama Lottery Corporation.

16                  (5) INSTANT TICKET. A lottery game in which a player  
17 manipulates a ticket to determine if the player has won.

18                  (6) LOTTERY VENDOR. Any individual or entity who has  
19 entered into, or proposes to enter into, a major lottery  
20 contract with the corporation.

21                  (7) LOTTERY RETAILER. Any individual or entity with  
22 whom the corporation has contracted to sell lottery tickets to  
23 the public.

24                  (8) MAJOR LOTTERY CONTRACT. Any gaming product or  
25 service costing in excess of fifty thousand dollars (\$50,000),  
26 including, but not limited to, major advertising contracts,  
27 annuity contracts, prize payment agreements, consulting

1 services, equipment, tickets, and other products and services  
2 unique to the Alabama Education Lottery, but not including  
3 materials, supplies, equipment, and services common to the  
4 ordinary operations of a corporation.

5 (9) VIDEO LOTTERY or VIDEO LOTTERY TERMINAL. Any  
6 electronic interactive game, machine, or device equipped with  
7 a video screen and buttons, keys, a keyboard, touchscreen or  
8 other input method allowing input by an individual player and  
9 into which the player inserts coins, tokens, currency, or  
10 other representation of value, including, but not limited to,  
11 an electronic card, ticket, or other thing on which value is  
12 electronically recorded, as consideration in order for play of  
13 a game to be available, and through which, as a result of play  
14 of a game to be available, and through which, as a result of  
15 the play of the game, the player may receive free games,  
16 credits, redeemable for cash or a noncash prize, or some other  
17 thing of value, whether received directly from the device or  
18 otherwise, determined wholly or predominantly by chance. The  
19 term does not include electronic bingo or casino-style game.

20 Section 4. Alabama Lottery Corporation created.

21 There is created a public corporation to be known as  
22 the Alabama Lottery Corporation which shall be deemed to be an  
23 instrumentality of the state, and not a state agency. The  
24 corporation shall be located in Montgomery County.

25 Section 5. Board of Directors.

1 (a) (1) The corporation shall be governed by a board  
2 of directors composed of seven members to be appointed as  
3 follows:

4 a. Three members appointed by the Governor, one of  
5 whom shall be an attorney licensed in this state and one of  
6 whom shall be a certified public accountant.

7 b. One member appointed by the Lieutenant Governor,  
8 who shall have expertise in business and marketing.

9 c. One member appointed by the President Pro Tempore  
10 of the Senate.

11 d. One member appointed by the Speaker of the House  
12 of Representatives.

13 e. One member appointed by the Attorney General.

14 (2) All members shall be subject to confirmation of  
15 the Senate and may not participate in any function or  
16 deliberation of the commission until they are confirmed by the  
17 Senate.

18 (3) The appointing authorities of the board of  
19 directors shall coordinate their appointments to assure the  
20 board membership is inclusive and reflects the racial, gender,  
21 geographic, urban/rural, and economic diversity of the state.

22 (b) (1) Members of the board shall be residents of  
23 this state, prominent individuals in their businesses or  
24 profession, and shall have no felony convictions or  
25 convictions for property offenses, fraud, or unlawful  
26 gambling, or offenses involving moral turpitude.

1           (2) Members of the board may not have any direct or  
2 indirect interest in an undertaking that puts their personal  
3 interest in conflict with that of the corporation, including,  
4 but not limited to, an interest in a major procurement  
5 contract or a participating retailer.

6           (c) (1) Members shall serve terms of five years,  
7 except that of the initial members appointed, they shall serve  
8 as follows:

9           a. One member appointed by the Governor and the  
10 member appointed by the Lieutenant Governor shall serve an  
11 initial term of five years.

12           b. One member appointed by the Governor and the  
13 member appointed by the President Pro Tempore of the Senate  
14 shall serve an initial term of four years.

15           c. One member appointed by the Governor, the member  
16 appointed by the Speaker of the House of Representatives, and  
17 the member appointed by the Attorney General shall serve an  
18 initial term of three years.

19           (2) Members may not serve more than two terms.

20           (d) Upon approval by the chair, members of the board  
21 shall be reimbursed for actual and reasonable expenses  
22 incurred for each day's service spent in the performance of  
23 the duties of the corporation.

24           (e) The members shall elect from their membership a  
25 chair and vice chair. The members shall also elect a secretary  
26 and treasurer who may be the executive director of the  
27 corporation. The officers shall serve for such terms as shall

1 be prescribed by the bylaws of the corporation or until their  
2 respective successors are elected and qualified, subject to  
3 the two-term limitation provided in subdivision (c) (2). No  
4 member of the board shall hold more than any one office of the  
5 corporation, except that the same individual may serve as  
6 secretary and treasurer.

7 (f) Four members shall constitute a quorum for the  
8 transaction of any business and for the exercise of any power  
9 or function of the corporation.

10 (g) Action may be taken and motions and resolutions  
11 adopted by the board at any meeting of the board by an  
12 affirmative vote of a majority of present and voting board  
13 members.

14 (h) No vacancy in the membership of the board shall  
15 impair the right of the members to exercise all the powers and  
16 perform all the duties of the board.

17 (i) (1) Members of the board shall meet at least  
18 quarterly and at other times called by the chair or a majority  
19 of the members.

20 (2) Members of the board may participate in a  
21 meeting of the board by means of video conference or similar  
22 communications equipment by means of which all persons  
23 participating in the meeting may hear and see each other at  
24 the same time. Participation by such means shall constitute  
25 presence in person at a meeting for all purposes. The  
26 commission may allow members of the public to participate in



1 meetings by video conference or similar communications  
2 equipment.

3 (j) If any member is absent from two meetings of the  
4 four quarterly meetings during any calendar year, the member  
5 shall be deemed to have forfeited his or her position on the  
6 board, and a replacement shall be appointed by the respective  
7 appointing authority as provided in this act.

8 Section 6. Lottery Retailer Advisory Board.

9 (a) A Lottery Retailer Advisory Board is created, to  
10 be composed of six members and appointed as follows: the chair  
11 of the board of directors shall appoint one member; the vice  
12 chair shall appoint one member; and the remaining members of  
13 the board shall each appoint one member. One member each, four  
14 members total, shall be appointed by the minority and majority  
15 caucuses of the House and Senate. Each member of the board of  
16 directors shall ensure that his or her appointments are  
17 inclusive and reflect the racial, gender, geographic,  
18 urban/rural, and economic diversity of the state. The advisory  
19 board shall advise the board of directors on retail aspects of  
20 the Alabama Education Lottery and represent the interests and  
21 concerns of lottery retailers throughout the state.

22 (b) Members appointed to the Lottery Retailer  
23 Advisory Board shall serve two-year terms, except that the  
24 following five members shall serve an initial one-year term:

25 (1) One member appointed by the chair under  
26 subsection (a).

1           (2) One member appointed by the vice chair under  
2 subsection (a).

3           (3) Three of the members appointed by the remaining  
4 members of the board of directors under subsection (a),  
5 excluding the remaining members appointed by the chair or vice  
6 chair not referenced in subdivisions (1) and (2).

7           (c) The advisory board shall establish its own rules  
8 and internal operating policies and procedures. Members of the  
9 advisory board shall serve without compensation or  
10 reimbursement of expenses. The advisory board may report to  
11 the board of directors or to the Alabama Gaming Commission in  
12 writing at any time. The board of directors may also allow  
13 members of the advisory board to attend regular meetings of  
14 the board and make presentations to the board.

15           Section 7. Powers of the Board of Directors.

16           The board of directors shall do all of the  
17 following:

18           (1) Approve, disapprove, amend, or modify the budget  
19 recommended by the executive director for the operation of the  
20 corporation.

21           (2) Approve, disapprove, amend, or modify the terms  
22 of major lottery contracts recommended by the executive  
23 director.

24           (3) Adopt rules, policies, and procedures relating  
25 to the conduct of lottery games.

26           (4) Perform such other duties and functions as  
27 necessary in furtherance of this act.

1                   Section 8. Executive Director.

2                   The board of directors shall appoint and shall  
3 provide for the compensation of an Executive Director of the  
4 Alabama Lottery Corporation who shall be an employee of the  
5 corporation and who shall direct the day-to-day operations and  
6 management of the corporation and shall be vested with all  
7 powers and duties as specified by the board and by law. The  
8 chief executive officer shall serve at the pleasure of the  
9 board.

10                   Section 9. Powers of the Corporation.

11                   The corporation shall have all of the following  
12 powers necessary and convenient to carrying out and  
13 effectuating the purposes of this act:

14                   (1) To sue and be sued in courts of competent  
15 jurisdiction.

16                   (2) To adopt and alter a seal.

17                   (3) To adopt, amend, and repeal bylaws, rules, and  
18 policies and procedures for the regulation of its affairs and  
19 the conduct of its business; to elect and prescribe the duties  
20 of officers and employees of the corporation; and to perform  
21 such other matters as the corporation may determine.

22                   (4) To procure or to provide insurance.

23                   (5) To hold copyrights, trademarks, and service  
24 marks and enforce its rights with respect thereto.

25                   (6) To initiate, supervise, and administer the  
26 operation of the lottery in accordance with this act and

1 rules, policies, and procedures adopted pursuant to the  
2 authority granted in this act.

3 (7) To enter into written agreements with one or  
4 more other states or sovereigns for the operation,  
5 participation in marketing, and promotion of a joint lottery  
6 or joint lottery game.

7 (8) To conduct market research as is necessary or  
8 appropriate, which may include an analysis of the demographic  
9 characteristics of the players of each lottery game and an  
10 analysis of advertising, promotion, public relations,  
11 incentives, and other aspects of communication.

12 (9) To acquire or lease real property and make  
13 improvements thereon and acquire by lease or by purchase  
14 personal property, including, but not limited to, computers;  
15 mechanical, electronic, and on-line equipment and terminals;  
16 and intangible property, including, but not limited to,  
17 computer programs, systems, and software.

18 (10) To enter into contracts to incur debt in its  
19 own name and enter into financing agreements with the state,  
20 agencies or instrumentalities of the state, or with any  
21 commercial bank or credit provider.

22 (11) To administer oaths, take depositions, issue  
23 subpoenas, and compel the attendance of witnesses and the  
24 production of books, papers, documents, and other evidence  
25 relative to any investigation or proceeding relating to  
26 lotteries conducted by the corporation.

1           (12) To appoint and select an executive director,  
2 agents, and employees, including professional and  
3 administrative staff, and to fix their compensation, pay their  
4 expenses, and provide a benefit program, including, but not  
5 limited to, a retirement plan and a group insurance plan.

6           (13) To select and contract with vendors and  
7 retailers.

8           (14) To enter into contracts or agreements with  
9 state or local law enforcement agencies, including the Alabama  
10 State Law Enforcement Agency, for the performance of law  
11 enforcement, background investigations, security checks, and  
12 auditing and enforcement of license requirements required by  
13 this act.

14           (15) To enter into contracts of any and all types on  
15 such terms and conditions as the corporation may determine.

16           (16) To establish and maintain banking  
17 relationships, including, but not limited to, establishment of  
18 checking and savings accounts and lines of credit.

19           (17) To advertise and promote the lottery and  
20 lottery games.

21           (18) To administer grants or other programs that aid  
22 compulsive gambling.

23           (19) To borrow or accept and expend, in accordance  
24 with the provisions of this act, such funds as may be received  
25 from any source, including income from the corporation's  
26 operations, for effectuating its corporate purposes, including  
27 the payment of the initial expenses of initiation,

1 administration, and operation of the corporation and the  
2 lottery.

3 (20) To purchase, lease, or lease-purchase goods or  
4 services as are necessary for effectuating the purposes of  
5 this act.

6 (21) To act as a retailer, to conduct promotions  
7 that involve the dispensing of lottery tickets or shares and  
8 to establish and operate one or more facilities as authorized  
9 by the commission to sell lottery tickets or shares and any  
10 related merchandise.

11 (22) To adopt and amend rules, policies, and  
12 procedures as necessary to carry out and implement its powers  
13 and duties, organize and operate the corporation, regulate the  
14 conduct of lottery games in general, and any other matters  
15 necessary or desirable for the efficient and effective  
16 operation of the lottery or the convenience of the public.

17 Section 10. Adoption of rules, policies, and  
18 procedures by board of directors.

19 Subject to review and approval by the Alabama Gaming  
20 Commission, the board may adopt rules, policies, and  
21 procedures regulating the conduct of lottery games in general,  
22 including, but not limited to, all of the following:

23 (1) The type of games to be conducted, including,  
24 but not limited to, instant lotteries, Internet games, and  
25 other games traditional to the lottery. The games may include  
26 the selling of tickets or shares or the use of electronic or  
27 mechanical devices.

1           (2) The sale price of tickets or shares and the  
2 manner of sale; provided, however, that all sales shall be for  
3 cash only and payment by checks, credit cards, charge cards,  
4 or any form of deferred payment is prohibited.

5           (3) The number and amount of prizes.

6           (4) The method and location of selecting or  
7 validating winning tickets or shares.

8           (5) The manner and time of payment of prizes, which  
9 may include lump sum payments or installments over a period of  
10 years.

11           (6) The manner of payment of prizes to the holders  
12 of winning tickets or shares, including without limitation  
13 provision for payment of prizes not exceeding amounts as  
14 provided by the board after deducting the price of the ticket  
15 or share and after performing validation procedures  
16 appropriate to the game and as specified by the board. The  
17 board may provide for a limited number of retailers who can  
18 pay prizes of up to a specified amount, pursuant to rules of  
19 the commission, after performing validation procedures  
20 appropriate to the game and as specified by the board without  
21 regard to where such ticket or share was purchased.

22           (7) The frequency of games and drawings or selection  
23 of winning tickets or shares.

24           (8) The means of conducting drawings.

25           (9) The method to be used in selling tickets or  
26 shares, including a requirement that all retailers display a

1 sign prohibiting the sale of lottery tickets to individuals  
2 under 21 years of age.

3 (10) The manner and amount of compensation to  
4 lottery retailers.

5 (11) Any and all other matters necessary, desirable,  
6 or convenient toward ensuring the efficient and effective  
7 operation of lottery games, the continued entertainment and  
8 convenience of the public, and the integrity of the lottery.

9 Section 11. Duties of the Executive Director.

10 (a) The executive director of the corporation shall  
11 direct and supervise all administrative and technical  
12 activities in accordance with this act and with the rules,  
13 policies, and procedures adopted by the board. The executive  
14 director shall do all of the following:

15 (1) Facilitate the implementation and administration  
16 of the operation of the lottery games.

17 (2) Employ and direct such personnel as deemed  
18 necessary.

19 (3) Employ by contract and compensate persons and  
20 firms as deemed necessary for the operation and administration  
21 of the corporation.

22 (4) Promote or provide for promotion of the lottery  
23 and any functions related to the corporation.

24 (5) Prepare a budget for the approval of the board.

25 (6) Require a bond from any retailers and vendors in  
26 any amounts as required by the board of directors.



1           (7) Report quarterly to the Governor, the  
2           Legislature, and the board of directors a full and complete  
3           statement of lottery revenues and expenses for the preceding  
4           quarter.

5           (8) Perform other duties generally associated with a  
6           chief executive officer of a corporation.

7           (b) The executive director, for good cause shown,  
8           may suspend, revoke, or refuse to renew any contract entered  
9           into in accordance with this act or the rules, policies, and  
10          procedures of the board.

11          (c) The executive director or his designee may  
12          conduct hearings and administer oaths to individuals for the  
13          purpose of assuring the security or integrity of lottery  
14          operations or to determine the qualifications of or compliance  
15          by vendors and retailers.

16                   Section 12. Employees.

17          (a) (1) An employee of the corporation may not have a  
18          financial interest in any vendor doing business or proposing  
19          to do business with the corporation.

20          (2) An employee of the corporation with  
21          decision-making authority may not participate in any decision  
22          involving a retailer with whom the employee has a financial  
23          interest.

24          (b) An employee or director of the corporation who  
25          leaves the employment of the corporation may not represent any  
26          vendor or lottery retailer before the corporation for a period

1 of two years following termination of employment with the  
2 corporation.

3 (c) An applicant for employment with the corporation  
4 shall submit to the executive director, on a form sworn to by  
5 the applicant, his or her name, date of birth, Social Security  
6 number, and two complete sets of fingerprints for completion  
7 of a criminal history background check. The executive director  
8 shall submit the fingerprints to the Alabama State Law  
9 Enforcement Agency for a state criminal history background  
10 check. The fingerprints shall be forwarded by the agency to  
11 the Federal Bureau of Investigation for a national criminal  
12 history background check. Costs associated with conducting a  
13 criminal history background check may be paid by the  
14 corporation.

15 (d) An individual who has been convicted of a  
16 felony, a crime involving moral turpitude, or a crime  
17 involving unlawful gambling may not be employed by the  
18 corporation.

19 (e) The corporation shall bond corporation employees  
20 who have access to corporation funds or lottery revenue in  
21 such an amount as provided by the board and may bond other  
22 employees as deemed necessary.

23 (f) Officers and employees of the corporation shall  
24 not be state Merit System employees, but shall be entitled to  
25 insurance, retirement, and other state employees' benefits to  
26 be paid by the corporation.

1 (g) Employees and directors of the corporation shall  
2 be subject to the Ethics Laws, Sections 36-25-1, et seq., Code  
3 of Alabama 1975.

4 Section 13. Allocation of lottery proceeds.

5 (a) (1) From its lottery proceeds, the corporation  
6 shall pay the operating expenses of the corporation, including  
7 costs associated with the administration, regulation, and  
8 promotion of the lottery, the payment of all prizes, and the  
9 funding of programs that aid compulsive gambling, which shall  
10 not be less than one-half of one percent of the lottery  
11 proceeds.

12 (2) The corporation shall adopt policies and  
13 procedures providing for the award of grants to third parties  
14 to administer compulsive gambling programs. The corporation  
15 shall provide an annual report to the Governor, the  
16 Legislature, and the Alabama Gaming Commission regarding the  
17 compulsive gambling programs funded by the corporation.

18 (3) The corporation shall ensure that a certain  
19 percentage of money from the actual sale of lottery tickets or  
20 shares shall be made available as prize money, as determined  
21 by the Alabama Gaming Commission; provided, however, this  
22 subsection does not create any lien, entitlement, cause of  
23 action, or other private right, and any rights of holders of  
24 tickets or shares shall be determined by the corporation in  
25 setting the terms of its lottery or lotteries.

26 (b) After the payment of lottery proceeds as  
27 provided under subsection (a), the corporation shall deposit

1 the remaining funds in the Lottery Trust Fund created in the  
2 State Treasury pursuant to the Constitution of Alabama of  
3 1901. Proceeds in the Lottery Trust Fund shall be appropriated  
4 by and through an independent supplemental appropriation for  
5 the postsecondary scholarship program provided for in section  
6 30.

7 Section 14. Minority business participation.

8 It is the intent of the Legislature that the  
9 corporation encourage participation by minority businesses.  
10 Accordingly, the board of directors shall adopt a plan that  
11 achieves to the greatest extent possible a level of  
12 participation by minority businesses taking into account the  
13 total number of all retailers and vendors, including any  
14 subcontractors. The corporation may administer training  
15 programs and other educational activities to enable eligible  
16 minority businesses to compete for contracts on an equal  
17 basis. The board shall monitor the results of minority  
18 business participation and shall report the results of  
19 minority business participation to the Governor and the  
20 Legislature at least on an annual basis.

21 Section 15. Disclosure by lottery vendors;  
22 prohibited acts.

23 (a) The corporation shall investigate the financial  
24 responsibility, security, and integrity of any lottery vendor  
25 who may contract with the corporation. The corporation shall  
26 adopt policies and procedures that requires a lottery vendor

1 to submit certain information relating to the fitness of the  
2 vendor to perform under the terms of a major lottery contract.

3 (b) A lottery vendor or any applicant for a major  
4 lottery contract with the corporation may not pay, give, or  
5 make any economic opportunity, gift, loan, gratuity, special  
6 discount, favor, hospitality, or service, excluding food and  
7 beverages having an aggregate value not exceeding one hundred  
8 dollars (\$100) in any calendar year, to the executive  
9 director, any board member, any advisory board member, or any  
10 employee of the corporation or to a member of the immediate  
11 family residing in the same household as the director, board  
12 member, any advisory board member, or employee.

13 Section 16. Bonding of vendors; qualification to do  
14 business in the state; and competitive bidding.

15 (a) Each lottery vendor, at the execution of the  
16 contract with the corporation, shall post a performance bond  
17 or letter of credit from a bank or credit provider acceptable  
18 to the corporation in an amount as deemed necessary by the  
19 corporation for that particular bid or contract. In lieu of  
20 the bond, a vendor, to assure the faithful performance of its  
21 obligations, may deposit and maintain with the corporation  
22 securities that are interest bearing or accruing and that are  
23 rated in one of the three highest classifications by an  
24 established nationally recognized investment rating service as  
25 provided by rules adopted by the board of directors.

26 (b) Each vendor shall be qualified to do business in  
27 this state and shall file appropriate tax returns as provided

1 by the laws of this state. All contracts under this section  
2 shall be governed by the laws of this state.

3 (c) No contract shall be let with any lottery vendor  
4 in which a state or local public official has an ownership  
5 interest of 10 percent or more.

6 (d) All major lottery contracts must be  
7 competitively bid pursuant to rules adopted by the board  
8 unless there is only one qualified vendor and that vendor has  
9 an exclusive right to offer the service or product.

10 Section 17. Statewide network of lottery retailers;  
11 contracts; qualifications.

12 (a) The corporation shall develop and maintain a  
13 statewide network of lottery retailers that will serve the  
14 public convenience and promote the sale of tickets or shares  
15 and the playing of lottery games while ensuring the integrity  
16 of the lottery operations, games, and activities.

17 (b) The corporation shall make commercially  
18 reasonable effort to provide small lottery retailers a chance  
19 to participate in the sales of lottery tickets or shares.

20 (c) The corporation shall provide for compensation  
21 to lottery retailers in the form of commissions in an amount  
22 of 6 percent of gross sales and may provide for other forms of  
23 incentive compensation as provided by rules adopted by the  
24 board of directors.

25 (d) (1) The corporation shall issue a certificate of  
26 authority to each person with whom it contracts as a retailer  
27 for purposes of display. Every lottery retailer shall post and

1 keep conspicuously displayed in a location on the premises of  
2 the lottery retailer accessible to the public its certificate  
3 of authority. No certificate shall be assignable or  
4 transferable.

5 (2) Lottery tickets and shares shall only be sold by  
6 the retailer stated on the lottery retailer certificate.

7 (e) The board of directors, by rule, shall develop a  
8 list of objective criteria upon which the qualification of  
9 lottery retailers shall be based. Separate criteria shall be  
10 developed to govern the selection of retailers of instant  
11 tickets and online retailers. In developing these criteria,  
12 the board shall consider such factors as the applicant's  
13 financial responsibility, prior criminal activity, security of  
14 the applicant's place of business or activity, accessibility  
15 to the public, integrity, and reputation. The board shall not  
16 consider political affiliation, activities, or monetary  
17 contributions to political organizations or candidates for any  
18 public office. The criteria may include other considerations  
19 adopted pursuant to rules of the board.

20 (f) Persons applying to become lottery retailers  
21 shall be charged a uniform application fee for each lottery  
22 outlet. Retailers who participate in online games shall be  
23 charged a uniform application fee for each online outlet.

24 (g) Any lottery retailer contract executed pursuant  
25 to this section, for good cause, may be suspended, revoked, or  
26 terminated by the executive director or his or her designee if

1 the retailer violates any provision of this act or objective  
2 criteria established by the board by rule.

3 (h) All lottery retailer contracts may be renewable  
4 annually in the discretion of the corporation unless sooner  
5 canceled or terminated.

6 (i) A lottery retailer contract is not transferable  
7 or assignable, except as approved by the board. A lottery  
8 retailer may not contract with any person for lottery goods or  
9 services except with the approval of the board.

10 (j) A lottery retailer or applicant to be a lottery  
11 retailer may not pay, give, or make any economic opportunity,  
12 gift, loan, gratuity, special discount, favor, hospitality, or  
13 service, excluding food and beverages having an aggregate  
14 value not exceeding one hundred dollars (\$100) in any calendar  
15 year, to the executive director, any board member, or any  
16 employee of the corporation or to a member of the immediate  
17 family residing in the same household as the director, board  
18 member, or employee.

19 Section 18. Cancellation of retail contracts.

20 (a) Any retail contract executed by the corporation  
21 pursuant to this act shall specify the reasons for which a  
22 contract may be cancelled, suspended, revoked, or terminated  
23 by the corporation, which reasons shall include but not be  
24 limited to, any of the following:

25 (1) Commission of a violation of this act, a rule,  
26 or a policy or procedure of the corporation.



1           (2) Failure to accurately or timely account for  
2 lottery tickets, lottery games, revenues, or prizes as  
3 required by the corporation.

4           (3) Commission of any fraud, deceit, or  
5 misrepresentation.

6           (4) Insufficient sales.

7           (5) Conduct prejudicial to public confidence in the  
8 lottery.

9           (6) The retailer filing for or being placed in  
10 bankruptcy or receivership.

11           (7) Any material change as determined in the sole  
12 discretion of the corporation in any matter considered by the  
13 corporation when executing the contract with the retailer.

14           (8) Failure to meet any of the retailer  
15 qualifications established by the corporation pursuant to  
16 rules adopted by the commission.

17           (b) (1) If, in the discretion of the executive  
18 director or his or her designee, cancellation, denial,  
19 revocation, suspension, or rejection of renewal of a lottery  
20 retailer contract is in the best interest of the lottery, the  
21 public welfare, or this state, the executive director or his  
22 or her designee may cancel, suspend, revoke, or terminate,  
23 after notice and a right to a hearing, any contract issued  
24 pursuant to this act.

25           (2) The contract may be temporarily suspended by the  
26 executive director or his or her designee without prior notice

1 pending any prosecution, hearing, or investigation, whether by  
2 a third party or by the executive director.

3 (3) A contract may be suspended, revoked, or  
4 terminated by the executive director or his or her designee  
5 for any one or more of the reasons enumerated in this section.

6 (4) Any hearing held shall be conducted by the  
7 executive director or his or her designee. A party to the  
8 contract aggrieved by the decision of the executive director  
9 or his or her designee may appeal the adverse decision to the  
10 board. The appeal shall be pursuant to the rules, policies,  
11 and procedures set by the board.

12 Section 19. Handling of funds by retailers.

13 (a) All proceeds from the sale of the lottery  
14 tickets or shares shall constitute a trust fund until paid to  
15 the corporation either directly or through the corporation's  
16 authorized collection representative. A lottery retailer and  
17 officers of a lottery retailer's business shall have a  
18 fiduciary duty to preserve and account for lottery proceeds,  
19 and lottery retailers shall be personally liable for all  
20 proceeds. Proceeds shall include unsold instant tickets  
21 received by a lottery retailer and cash proceeds on the sale  
22 of any lottery products, net of allowable sales commissions  
23 and credit for lottery prizes sold to or paid to winners by  
24 lottery retailers. Sales proceeds and unused instant tickets  
25 shall be delivered to the corporation or its authorized  
26 collection representative upon demand.

1           (b) The corporation shall require retailers to place  
2 all lottery proceeds due the corporation in accounts in  
3 institutions insured by the Federal Deposit Insurance  
4 Corporation not later than the close of the next banking day  
5 after the date of their collection by the retailer and until  
6 the date they are paid over to the corporation. At the time of  
7 the deposit, lottery proceeds shall be deemed to be the  
8 property of the corporation. The corporation may require a  
9 retailer to establish a single separate electronic funds  
10 transfer account where available for the purpose of receiving  
11 moneys from ticket or share sales, making payments to the  
12 corporation, and receiving payments for the corporation.  
13 Unless otherwise authorized in writing by the corporation,  
14 each lottery retailer shall establish a separate bank account  
15 for lottery proceeds which shall be kept separate and apart  
16 from all other funds and assets and shall not be commingled  
17 with any other funds or assets.

18           (c) If any person who receives proceeds from the  
19 sale of lottery tickets or shares in the capacity of a lottery  
20 retailer becomes insolvent, the proceeds due the corporation  
21 from such person shall have preference over all debts or  
22 demands.

23           (d) Whenever any person who receives proceeds from  
24 the sale of lottery tickets or shares in the capacity of a  
25 lottery retailer dies insolvent, the proceeds due the  
26 corporation from the person's estate shall have preference

1 over all debts or demands except as provided otherwise in  
2 Chapter 8 of Title 43, Code of Alabama 1975.

3 Section 20. Lottery retail sales for purposes of  
4 computing rental payments.

5 If a lottery retailer's rental payments for the  
6 business premises of the lottery retailer are contractually  
7 computed, in whole or in part, on the basis of a percentage of  
8 retail sales and the computation of retail sales is not  
9 explicitly defined to include sales of tickets or shares in a  
10 state operated or state managed lottery, only the compensation  
11 received by the lottery retailer from the corporation may be  
12 considered the amount of the lottery retail sale for purposes  
13 of computing the rental payment.

14 Section 21. Limitations on sale of lottery tickets.

15 (a) A person may not sell a ticket or share at a  
16 price other than established by the corporation unless  
17 authorized in writing by the executive director. A person  
18 other than a duly certified lottery retailer may not sell  
19 lottery tickets, but this subsection does not prohibit a  
20 person who may lawfully purchase tickets or shares from making  
21 a gift of lottery tickets or shares to another person. Nothing  
22 in this act shall be construed to prohibit the corporation  
23 from designating certain agents and employees to sell lottery  
24 tickets or shares directly to the public.

25 (b) Lottery tickets or shares may be given by  
26 merchants as a means of promoting goods or services to

1 customers or prospective customers subject to prior approval  
2 by the corporation.

3 (c) A lottery retailer may not sell a lottery ticket  
4 or share except from the locations listed in the lottery  
5 retailer contract and as evidenced by the certificate of  
6 authorization unless the corporation authorizes in writing any  
7 temporary location not listed in the contract.

8 (d) No lottery tickets or shares shall be sold to  
9 persons under 21 years of age, but this section does not  
10 prohibit the purchase of a lottery ticket or share by a person  
11 21 years of age or older for the purpose of making a gift to  
12 any person of any age. In such case, the corporation shall  
13 direct payment of proceeds of any lottery prize to an adult  
14 member of the person's family or a legal representative of the  
15 person on behalf of the person.

16 Section 22. Appeal of board decisions.

17 (a) Any retailer, vendor, or applicant for a  
18 retailer or vendor contract aggrieved by an action of the  
19 board may appeal that decision to the Circuit Court of the  
20 Fifteenth Judicial Circuit.

21 (b) The Circuit Court of the Fifteenth Judicial  
22 Circuit shall hear appeals from decisions of the board,  
23 subject to de novo review, and based upon the record of the  
24 proceedings before the board may reverse the decision of the  
25 board only if the appellant proves the decision to be any of  
26 the following:

27 (1) Clearly erroneous.

1 (2) Arbitrary or capricious.

2 (3) Procured by fraud.

3 (4) A result of substantial misconduct by the board.

4 (5) Contrary to the United States Constitution, the  
5 Constitution of Alabama of 1901, or this act.

6 (c) Any person who appeals the award of a major  
7 lottery contract shall be liable for all costs of appeal and  
8 defense in the event the appeal is denied or the contract  
9 award upheld. Cost of appeal and defense shall specifically  
10 include but not be limited to court costs, bond, attorney's  
11 fees, and loss of income to the corporation resulting from  
12 institution of the appeal if, upon the motion of the  
13 corporation, the court finds the appeal to have been  
14 frivolous.

15 Section 23. Applicability of state income taxation  
16 and attachments, garnishments, or executions; payment of  
17 prizes.

18 (a) (1) Proceeds of any lottery prize shall be  
19 subject to the state income tax.

20 (2) The Department of Revenue may adopt rules for  
21 the implementation and administration of this subsection.

22 (b) Except as expressly provided otherwise,  
23 attachments, garnishments, or executions authorized and issued  
24 pursuant to law shall be withheld if timely served upon the  
25 corporation. This subsection shall not apply to a lottery  
26 retailer.

1 (c) (1) The corporation shall adopt policies and  
2 procedures to establish a system of verifying the validity of  
3 tickets or shares claimed to win prizes and to effect payment  
4 of the prizes.

5 (2) A prize, any portion of a prize, or any right of  
6 any person to a prize awarded is not assignable. Any prize or  
7 any portion of a prize remaining unpaid at the death of a  
8 prize winner shall be paid to the estate of the deceased prize  
9 winner or to the trustee of a trust established by the  
10 deceased prize winner as settlor if a copy of the trust  
11 document or instrument has been filed with the corporation  
12 along with a notarized letter of direction from the settlor  
13 and no written notice of revocation has been received by the  
14 corporation prior to the settlor's death. Following a  
15 settlor's death and prior to any payment to a successor  
16 trustee, the corporation shall obtain from the trustee a  
17 written agreement to indemnify and hold the corporation  
18 harmless with respect to any claims that may be asserted  
19 against the corporation arising from payment to or through the  
20 trust. Notwithstanding any other provision of this section,  
21 any person, pursuant to an appropriate court order, shall be  
22 paid the prize to which a winner is entitled.

23 (3) No prize shall be paid arising from claimed  
24 tickets that are stolen, counterfeit, altered, fraudulent,  
25 unissued, produced or issued in error, unreadable, not  
26 received, or not recorded by the corporation within applicable  
27 deadlines; lacking in captions that conform and agree with the

1 play symbols as appropriate to the particular lottery game  
2 involved; or not in compliance with any additional specific  
3 rules and public or confidential validation and security tests  
4 of the corporation appropriate to the particular lottery game  
5 involved.

6 (4) A particular prize in any lottery game may not  
7 be paid more than once, and in the event of a determination  
8 that more than one claimant is entitled to a particular prize,  
9 the sole remedy of the claimants is the award to each of them  
10 of an equal share in the prize.

11 (5) A holder of a winning cash ticket or share from  
12 a lottery game shall claim a cash prize within a timeframe  
13 established by the corporation, or for a multistate or  
14 multisovereign lottery game within a timeframe established  
15 pursuant to rules of the game, after the drawing in which the  
16 cash prize was won. In any Alabama Education Lottery game in  
17 which the player may determine instantly if he has won or  
18 lost, the player shall claim a cash prize within 90 days, or  
19 for a multistate lottery game within a timeframe established  
20 pursuant to rules of the game, after the end of the lottery  
21 game. If a valid claim is not made for a cash prize within the  
22 applicable period, the cash prize shall constitute an  
23 unclaimed prize for purposes of this section.

24 (d) A prize may not be paid upon a ticket or share  
25 purchased or sold in violation of this act. Any such prize  
26 shall constitute an unclaimed prize for purposes of Section  
27 24.



1 (e) The corporation shall be discharged of all  
2 liability upon payment of a prize.

3 (f) A ticket or share may not be purchased by and no  
4 prize shall be paid to any member of the board of directors;  
5 any member of the advisory board; any officer or employee of  
6 the corporation; or to any spouse, child, brother, sister, or  
7 parent residing as a member of the same household in the  
8 principal place of residence of any such person. No ticket or  
9 share shall be purchased by and no prize shall be paid to any  
10 officer, employee, agent, or subcontractor of any vendor or to  
11 any spouse, child, brother, sister, or parent residing as a  
12 member of the same household in the principal place of  
13 residence of the person if the officer, employee, agent, or  
14 subcontractor has access to confidential information which may  
15 compromise the integrity of the lottery.

16 Section 24. Unclaimed prize money; agricultural  
17 grant program.

18 (a) Unclaimed prize money does not constitute net  
19 lottery proceeds.

20 (b) (1) The first twenty million dollars  
21 (\$20,000,000) of unclaimed prize money annually shall be  
22 directed to the Department of Agriculture and Industries for  
23 the award of grants to individuals and entities for  
24 agricultural programs.

25 (2) The Department of Agriculture and Industries  
26 shall adopt rules for the implementation and administration of  
27 agricultural grant programs as provided in this subsection.

1                   (3) Upon the deposit of fifteen million dollars  
2 (\$15,000,000) to agricultural grant programs under subdivision  
3 (1), the unclaimed prize money shall be used for postsecondary  
4 scholarships as provided in section 30.

5                   Section 25. Open Meetings Act and public records;  
6 confidentiality of information.

7                   (a) The corporation shall be subject to the Alabama  
8 Open Meetings Act, Chapter 25A of Title 36, Code of Alabama  
9 1975.

10                   (b) (1) Except as provided in subdivision (2),  
11 records of the corporation shall be public records for  
12 purposes of Section 36-12-40, Code of Alabama 1975.

13                   (2) The corporation may determine which information  
14 and records relating to the operation of the lottery is  
15 confidential and not subject to public disclosure, including  
16 bid information, which may be disclosed five years after an  
17 award of a contract subject to the bid. The information  
18 includes trade secrets; security measures, systems, or  
19 procedures; security reports; information concerning bids or  
20 other contractual data, the disclosure of which would impair  
21 the efforts of the corporation to contract for goods or  
22 services on favorable terms; employee personnel information  
23 unrelated to compensation, duties, qualifications, or  
24 responsibilities; and information obtained pursuant to  
25 investigations which is otherwise confidential. Information  
26 deemed confidential pursuant to this section shall be exempt  
27 from public disclosure.

1 (c) The corporation shall keep all information  
2 regarding the winner of awards of two hundred fifty thousand  
3 dollars (\$250,000) or greater confidential upon the prize  
4 winner making a written request that his or her information be  
5 kept confidential.

6 Section 26. Audits and reports.

7 (a) To ensure the financial integrity of the  
8 lottery, the corporation through its board of directors shall  
9 do all of the following:

10 (1) Submit annual reports to the Governor,  
11 Legislature, and the Alabama Gaming Commission disclosing the  
12 total lottery revenues, prize disbursements, operating  
13 expenses, consumer complaints received by the corporation, and  
14 administrative expenses of the corporation during the  
15 reporting period. The annual report shall additionally  
16 describe the organizational structure of the corporation and  
17 summarize the functions performed by each organizational  
18 division within the corporation.

19 (2) Adopt a system of internal audits.

20 (3) Maintain weekly or more frequent records of  
21 lottery transactions, including the distribution of tickets or  
22 shares to retailers, revenues received, claims for prizes,  
23 prizes paid, prizes forfeited, and other financial  
24 transactions of the corporation.

25 (4) Contract with a certified public accountant or  
26 firm for an annual financial audit of the corporation. The  
27 certified public accountant or firm shall have no financial

1 interest in any vendor with whom the corporation is under  
2 contract. The certified public accountant or firm shall  
3 present an audit report not later than four months after the  
4 end of the fiscal year. The certified public accountant or  
5 firm shall evaluate the internal auditing controls in effect  
6 during the audit period. The cost of this annual financial  
7 audit shall be an operating expense of the corporation.

8 (5) Adopt the same fiscal year as that used by state  
9 government.

10 (b) The Department of Examiners of Public Accounts  
11 may audit or examine the corporation.

12 Section 27. Penalties for sale of lottery tickets to  
13 individuals under 21 years of age.

14 (a) A person who knowingly sells a lottery ticket or  
15 share to a person under 21 years of age or permits a person  
16 under 21 years of age to play any lottery games shall be  
17 guilty of a Class A misdemeanor.

18 (b) It shall be an affirmative defense to a charge  
19 of a violation under this section that the retailer reasonably  
20 and in good faith relied upon representation of proof of age  
21 in making the sale.

22 Section 28. Penalties for counterfeiting lottery  
23 tickets.

24 (a) A person who, with intent to defraud, falsely  
25 makes, alters, forges, utters, passes, or counterfeits a state  
26 lottery ticket shall be guilty of a Class C felony.

1 (b) A person who influences or attempts to influence  
2 the winning of a prize through the use of coercion, fraud,  
3 deception, or tampering with lottery equipment or materials  
4 shall be guilty of a Class C felony.

5 Section 29. Penalties for making false entry or  
6 statement.

7 (a) A person may not knowingly or intentionally make  
8 a material false statement in any application for a license or  
9 proposal to conduct lottery activities or make a material  
10 false entry in any book or record that is compiled or  
11 maintained or submitted to the board of directors pursuant to  
12 this act.

13 (b) Any person who violates subsection (a) shall be  
14 guilty of a Class C felony.

15 Section 30. Lottery Trust Fund; transfer to  
16 Education Trust Fund and postsecondary scholarships.

17 (a) Fifty percent of the proceeds in the Lottery  
18 Trust Fund, of which 70 percent shall be used for K-12  
19 education, including 10 percent for failing schools, and 30  
20 percent shall be used for higher education shall be  
21 distributed to the Education Trust Fund.

22 (b) (1) Fifty percent of the proceeds in the Lottery  
23 Trust Fund shall be used to establish a postsecondary  
24 scholarship program to include a loan forgiveness component  
25 for scholarship participants who pursue a degree in in-demand  
26 fields and who work in this state for a specified time frame.  
27 For every six months of employment in an in-demand field, as

1 determined by the Alabama Commission on Higher Education, in  
2 this state following graduation, tuition for each semester  
3 spent in pursuit of the degree shall be forgiven.

4 (2) The commission shall adopt rules for the  
5 implementation and administration of the scholarship program  
6 required under subdivision (1).

7 Section 31. Although this bill would have as its  
8 purpose or effect the requirement of a new or increased  
9 expenditure of local funds, the bill is excluded from further  
10 requirements and application under Amendment 621, as amended  
11 by Amendment 890, now appearing as Section 111.05 of the  
12 Official Recompilation of the Constitution of Alabama of 1901,  
13 as amended, because the bill defines a new crime or amends the  
14 definition of an existing crime.

15 Section 32. This act shall take effect on the first  
16 day of the third month following its passage and approval by  
17 the Governor or its otherwise becoming law, contingent and  
18 operative upon ratification of the constitutional amendment  
19 proposed in Senate Bill 319 of the 2021 Regular Session  
20 creating the Alabama Education Lottery,

1  
2  
3  
4  
5  
6  
7  
8  
9  
  
10  
11  
12  
13  
14  
15  
16

Senate

Read for the first time and referred to the Senate  
committee on Tourism..... 09-MAR-21

Reported from Tourism as Favorable..... 18-MAR-21

Read for the third time and passed as amended .... 13-APR-21

Yeas 27  
Nays 1

Patrick Harris,  
Secretary.