

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

8 SYNOPSIS: This bill would implement the constitutional
9 amendment proposed in SB214 of the 2020 Regular
10 Session providing further for the powers and duties
11 of the Alabama Lottery Corporation, further provide
12 for the Lottery Trust Fund and the use of lottery
13 proceeds for postsecondary scholarships, specify
14 the disposition of unclaimed lottery prize money,
15 and provide for the sale of lottery tickets by
16 retailers.

17 Amendment 621 of the Constitution of Alabama
18 of 1901, now appearing as Section 111.05 of the
19 Official Recompilation of the Constitution of
20 Alabama of 1901, as amended, prohibits a general
21 law whose purpose or effect would be to require a
22 new or increased expenditure of local funds from
23 becoming effective with regard to a local
24 governmental entity without enactment by a 2/3 vote
25 unless: it comes within one of a number of
26 specified exceptions; it is approved by the
27 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment. However,
6 the bill does not require approval of a local
7 governmental entity or enactment by a 2/3 vote to
8 become effective because it comes within one of the
9 specified exceptions contained in the amendment.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT

14
15 Relating to lotteries; to provide legislative
16 intent; to provide powers and duties of the Alabama Lottery
17 Commission; to create a Lottery Retailer Advisory Board; to
18 provide for the membership and duties of the advisory board;
19 to provide for use of lottery proceeds; to provide for the use
20 of unclaimed lottery prizes; to provide for the disposition of
21 unclaimed prize money; to provide for postsecondary
22 scholarships funded by the lottery; to provide limitations on
23 retailers of lottery tickets; to provide penalties for
24 violations; to require certain reporting requirements; to
25 provide for audits and certain financial disclosures; to
26 provide for rulemaking authority; and in connection therewith
27 would have as its purpose or effect the requirement of a new

1 or increased expenditure of local funds within the meaning of
2 Amendment 621 of the Constitution of Alabama of 1901, now
3 appearing as Section 111.05 of the Official Recompilation of
4 the Constitution of Alabama of 1901, as amended.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

8 Section 2. The Legislature finds and declares the
9 following:

10 (1) The purpose of this act is to further implement
11 the constitutional amendment proposed in SB214 of the 2021
12 Regular Session, upon adoption of the amendment by the voters
13 of this state providing for the Alabama Education Lottery.

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

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

24 (4) The operation of a lottery necessitates unique
25 activities for state government and a corporate structure will
26 best enable a lottery to be managed in an entrepreneurial and
27 business-like manner. It is the intent of the Legislature that

1 the Alabama Lottery Corporation shall be accountable to the
2 Governor, the Legislature, and the people of the state through
3 a system of audits, reports, and thorough financial
4 disclosures as required by this act.

5 Section 3. Definitions.

6 For the purposes of this act, the following terms
7 shall have the following meanings:

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

14 (2) COMMISSION. The Alabama Gaming Commission
15 created by this amendment.

16 (3) CORPORATION. The Alabama Lottery Corporation.

17 (4) EXECUTIVE DIRECTOR. The Executive Director of
18 the Alabama Lottery Corporation.

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

21 (6) LOTTERY VENDOR. Any individual or entity who has
22 entered into a major lottery contract with the corporation.

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

26 (8) MAJOR LOTTERY CONTRACT. Any gaming product or
27 service costing in excess of one hundred thousand dollars

1 (\$100,000), including, but not limited to, major advertising
2 contracts, annuity contracts, prize payment agreements,
3 consulting services, equipment, tickets, and other products
4 and services unique to the Alabama Education Lottery, but not
5 including materials, supplies, equipment, and services common
6 to the ordinary operations of a corporation.

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

22 Section 4. Alabama Lottery Corporation created.

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

27 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 shall serve until confirmed or rejected by the
16 Senate at the next regular session of the Legislature.

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

21 (b) (1) Members of the board shall be residents of
22 this state, prominent individuals in their businesses or
23 profession, and shall have no felony convictions.

24 (2) Members of the board may not have any direct or
25 indirect interest in an undertaking that puts their personal
26 interest in conflict with that of the corporation, including,

1 but not limited to, an interest in a major procurement
2 contract or a participating retailer.

3 (c) Members shall serve terms of five years, except
4 that of the initial members appointed, three shall be
5 appointed for initial terms of two years, two shall be
6 appointed for initial terms of four years, and two shall be
7 appointed for initial terms of five years. Any vacancy
8 occurring on the board shall be filled by the appointing
9 authority for the unexpired term.

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

14 (e) The members shall elect from their membership a
15 chair and vice chair. The members shall also elect a secretary
16 and treasurer who may be the chief executive officer of the
17 corporation. The officers shall serve for such terms as shall
18 be prescribed by the bylaws of the corporation or until their
19 respective successors are elected and qualified. No member of
20 the board shall hold more than any one office of the
21 corporation, except that the same individual may serve as
22 secretary and treasurer.

23 (f) A majority of members in office shall constitute
24 a quorum for the transaction of any business and for the
25 exercise of any power or function of the corporation.

26 (g) Action may be taken and motions and resolutions
27 adopted by the board at any meeting of the board by an

1 affirmative vote of a majority of present and voting board
2 members.

3 (h) No vacancy in the membership of the board shall
4 impair the right of the members to exercise all the powers and
5 perform all the duties of the board.

6 Section 6. Lottery Retailer Advisory Board.

7 (a) The chair of the board of directors shall
8 appoint a Lottery Retailer Advisory Board to be composed of 10
9 lottery retailers in the state. The chair shall ensure that
10 his or her appointments are inclusive and reflect the racial,
11 gender, geographic, urban/rural, and economic diversity of the
12 state. The advisory board shall advise the board of directors
13 on retail aspects of the Alabama Education Lottery and
14 represent the interests and concerns of lottery retailers
15 throughout the state.

16 (b) Members appointed to the Lottery Retailer
17 Advisory Board shall serve terms of two years; provided,
18 however, that five of the initial appointees shall serve
19 initial terms of one year.

20 (c) The advisory board shall establish its own rules
21 and internal operating policies and procedures. Members of the
22 advisory board shall serve without compensation or
23 reimbursement of expenses. The advisory board may report to
24 the board of directors or to the Alabama Gaming Commission in
25 writing at any time. The board of directors may also allow
26 members of the advisory board to attend regular meetings of
27 the board and make presentations to the board.

1 Section 7. Powers of the Board of Directors.

2 The board of directors shall do all of the
3 following:

4 (1) Approve, disapprove, amend, or modify the budget
5 recommended by the executive director for the operation of the
6 corporation.

7 (2) Approve, disapprove, amend, or modify the terms
8 of major lottery contracts recommended by the executive
9 director.

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

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

14 Section 8. Executive Director.

15 The board of directors shall appoint and shall
16 provide for the compensation of an Executive Director of the
17 Alabama Lottery Corporation who shall be an employee of the
18 corporation and who shall direct the day-to-day operations and
19 management of the corporation and shall be vested with all
20 powers and duties as specified by the board and by law. The
21 chief executive officer shall serve at the pleasure of the
22 board.

23 Section 9. Powers of the Corporation.

24 The corporation shall have all of the following
25 powers necessary and convenient to carrying out and
26 effectuating the purposes of this act:

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

3 (2) To adopt and alter a seal.

4 (3) To adopt, amend, and repeal bylaws, rules, and
5 policies and procedures for the regulation of its affairs and
6 the conduct of its business; to elect and prescribe the duties
7 of officers and employees of the corporation; and to perform
8 such other matters as the corporation may determine.

9 (4) To procure or to provide insurance.

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

12 (6) To initiate, supervise, and administer the
13 operation of the lottery in accordance with this act and
14 rules, policies, and procedures adopted pursuant to the
15 authority granted in this act.

16 (7) To enter into written agreements with one or
17 more other states or sovereigns for the operation,
18 participation in marketing, and promotion of a joint lottery
19 or joint lottery game.

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

25 (9) To acquire or lease real property and make
26 improvements thereon and acquire by lease or by purchase
27 personal property, including, but not limited to, computers;

1 mechanical, electronic, and on-line equipment and terminals;
2 and intangible property, including, but not limited to,
3 computer programs, systems, and software.

4 (10) To enter into contracts to incur debt in its
5 own name and enter into financing agreements with the state,
6 agencies or instrumentalities of the state, or with any
7 commercial bank or credit provider.

8 (11) To administer oaths, take depositions, issue
9 subpoenas, and compel the attendance of witnesses and the
10 production of books, papers, documents, and other evidence
11 relative to any investigation or proceeding relating to
12 lotteries conducted by the corporation.

13 (12) To appoint and select an executive director,
14 agents, and employees, including professional and
15 administrative staff, and to fix their compensation, pay their
16 expenses, and provide a benefit program, including, but not
17 limited to, a retirement plan and a group insurance plan.

18 (13) To select and contract with vendors and
19 retailers.

20 (14) To enter into contracts or agreements with
21 state or local law enforcement agencies, including the Alabama
22 State Law Enforcement Agency, for the performance of law
23 enforcement, background investigations, security checks, and
24 auditing and enforcement of license requirements required by
25 this act.

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

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

4 (17) To advertise and promote the lottery and
5 lottery games.

6 (18) To administer grants or other programs that aid
7 compulsive gambling.

8 (19) To borrow or accept and expend, in accordance
9 with the provisions of this act, such funds as may be received
10 from any source, including income from the corporation's
11 operations, for effectuating its corporate purposes, including
12 the payment of the initial expenses of initiation,
13 administration, and operation of the corporation and the
14 lottery.

15 (20) To purchase, lease, or lease-purchase goods or
16 services as are necessary for effectuating the purposes of
17 this act.

18 (21) To act as a retailer, to conduct promotions
19 that involve the dispensing of lottery tickets or shares and
20 to establish and operate a sales facility to sell lottery
21 tickets or shares and any related merchandise.

22 (22) To adopt and amend rules, policies, and
23 procedures as necessary to carry out and implement its powers
24 and duties, organize and operate the corporation, regulate the
25 conduct of lottery games in general, and any other matters
26 necessary or desirable for the efficient and effective
27 operation of the lottery or the convenience of the public.

1 Section 10. Adoption of rules, policies, and
2 procedures by board of directors.

3 Subject to review and approval by the Alabama Gaming
4 Commission, the board may adopt rules, policies, and
5 procedures regulating the conduct of lottery games in general,
6 including, but not limited to, all of the following:

7 (1) The type of games to be conducted, including,
8 but not limited to, instant lotteries, Internet games, and
9 other games traditional to the lottery. The games may include
10 the selling of tickets or shares or the use of electronic or
11 mechanical devices.

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

16 (3) The number and amount of prizes.

17 (4) The method and location of selecting or
18 validating winning tickets or shares.

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

22 (6) The manner of payment of prizes to the holders
23 of winning tickets or shares, including without limitation
24 provision for payment of prizes not exceeding amounts as
25 provided by the board after deducting the price of the ticket
26 or share and after performing validation procedures
27 appropriate to the game and as specified by the board. The

1 board may provide for a limited number of retailers who can
2 pay prizes of up to a specified amount provided by the board
3 after performing validation procedures appropriate to the game
4 and as specified by the board without regard to where such
5 ticket or share was purchased.

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

8 (8) The means of conducting drawings.

9 (9) The method to be used in selling tickets or
10 shares, including a requirement that all retailers display a
11 sign prohibiting the sale of lottery tickets to individuals
12 under 21 years of age.

13 (10) The manner and amount of compensation to
14 lottery retailers.

15 (11) Any and all other matters necessary, desirable,
16 or convenient toward ensuring the efficient and effective
17 operation of lottery games, the continued entertainment and
18 convenience of the public, and the integrity of the lottery.

19 Section 11. Duties of the Executive Director.

20 (a) The executive director of the corporation shall
21 direct and supervise all administrative and technical
22 activities in accordance with this act and with the rules,
23 policies, and procedures adopted by the board. The executive
24 director shall do all of the following:

25 (1) Facilitate the implementation and administration
26 of the operation of the lottery games.

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

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

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

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

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

11 (7) Report quarterly to the Governor, the
12 Legislature, and the board of directors a full and complete
13 statement of lottery revenues and expenses for the preceding
14 quarter.

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

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

21 (c) The executive director or his designee may
22 conduct hearings and administer oaths to individuals for the
23 purpose of assuring the security or integrity of lottery
24 operations or to determine the qualifications of or compliance
25 by vendors and retailers.

26 Section 12. Employees.

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

4 (2) An employee of the corporation with
5 decision-making authority may not participate in any decision
6 involving a retailer with whom the employee has a financial
7 interest.

8 (b) An employee of the corporation who leaves the
9 employment of the corporation may not represent any vendor or
10 lottery retailer before the corporation for a period of two
11 years following termination of employment with the
12 corporation.

13 (c) An applicant for employment with the corporation
14 shall submit to the executive director, on a form sworn to by
15 the applicant, his or her name, date of birth, Social Security
16 number, and two complete sets of fingerprints for completion
17 of a criminal history background check. The executive director
18 shall submit the fingerprints to the Alabama State Law
19 Enforcement Agency for a state criminal history background
20 check. The fingerprints shall be forwarded by the agency to
21 the Federal Bureau of Investigation for a national criminal
22 history background check. Costs associated with conducting a
23 criminal history background check may be paid by the
24 corporation.

25 (d) An individual who has been convicted of a
26 felony, a crime involving moral turpitude, or a crime

1 involving unlawful gambling may not be employed by the
2 corporation.

3 (e) The corporation shall bond corporation employees
4 who have access to corporation funds or lottery revenue in
5 such an amount as provided by the board and may bond other
6 employees as deemed necessary.

7 (f) Officers and employees of the corporation shall
8 not be state Merit System employees, but shall be entitled to
9 insurance, retirement, and other state employees' benefits.

10 (g) Employees of the corporation shall be subject to
11 the Ethics Laws, Sections 36-25-1, et seq., Code of Alabama
12 1975.

13 Section 13. Allocation of lottery proceeds.

14 (a) (1) From its lottery proceeds, the corporation
15 shall pay the operating expenses of the corporation, including
16 costs associated with the administration, regulation, and
17 promotion of the lottery, the payment of all prizes, and the
18 funding of programs that aid compulsive gambling.

19 (2) The corporation shall adopt policies and
20 procedures providing for the award of grants to third parties
21 to administer compulsive gambling programs. The corporation
22 shall provide an annual report to the Governor, the
23 Legislature, and the Alabama Gaming Commission regarding the
24 compulsive gambling programs funded by the corporation.

25 (3) The corporation shall ensure that a certain
26 percentage of money from the actual sale of lottery tickets or
27 shares shall be made available as prize money, as determined

1 by the Alabama Gaming Commission; provided, however, this
2 subsection does not create any lien, entitlement, cause of
3 action, or other private right, and any rights of holders of
4 tickets or shares shall be determined by the corporation in
5 setting the terms of its lottery or lotteries.

6 (b) After the payment of lottery proceeds as
7 provided under subsection (a), the corporation shall deposit
8 the remaining funds in the Lottery Trust Fund created in the
9 State Treasury pursuant to the Constitution of Alabama of
10 1901. Proceeds in the Lottery Trust Fund shall be appropriated
11 by and through an independent supplemental appropriation for
12 the postsecondary scholarship program provided for in Sections
13 30 and 31.

14 Section 14. Minority business participation.

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

1 Section 15. Disclosure by lottery vendors;
2 prohibited acts.

3 (a) The corporation shall investigate the financial
4 responsibility, security, and integrity of any lottery vendor
5 who may contract with the corporation. The corporation shall
6 adopt policies and procedures that requires a lottery vendor
7 to submit certain information relating to the fitness of the
8 vendor to perform under the terms of a major lottery contract.

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

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

20 (a) (1) Each lottery vendor, at the execution of the
21 contract with the corporation, shall post a performance bond
22 or letter of credit from a bank or credit provider acceptable
23 to the corporation in an amount as deemed necessary by the
24 corporation for that particular bid or contract. In lieu of
25 the bond, a vendor, to assure the faithful performance of its
26 obligations, may deposit and maintain with the corporation
27 securities that are interest bearing or accruing and that are

1 rated in one of the three highest classifications by an
2 established nationally recognized investment rating service as
3 provided by rules adopted by the board of directors.

4 (2) The board, through adoption of policies and
5 procedures, may provide exceptions from the requirements of
6 subdivision (1) for minority businesses that are not
7 financially able to comply with the bonding or security
8 requirements.

9 (b) Each vendor shall be qualified to do business in
10 this state and shall file appropriate tax returns as provided
11 by the laws of this state. All contracts under this section
12 shall be governed by the laws of this state.

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

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

20 Section 17. Statewide network of lottery retailers;
21 contracts; qualifications.

22 (a) The corporation shall develop and maintain a
23 statewide network of lottery retailers that will serve the
24 public convenience and promote the sale of tickets or shares
25 and the playing of lottery games while ensuring the integrity
26 of the lottery operations, games, and activities.

1 (b) The corporation shall make every effort to
2 provide small lottery retailers a chance to participate in the
3 sales of lottery tickets or shares.

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

9 (d) (1) The corporation shall issue a certificate of
10 authority to each person with whom it contracts as a retailer
11 for purposes of display. Every lottery retailer shall post and
12 keep conspicuously displayed in a location on the premises of
13 the lottery retailer accessible to the public its certificate
14 of authority. No certificate shall be assignable or
15 transferable.

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

18 (e) The board of directors, by rule, shall develop a
19 list of objective criteria upon which the qualification of
20 lottery retailers shall be based. Separate criteria shall be
21 developed to govern the selection of retailers of instant
22 tickets and online retailers. In developing these criteria,
23 the board shall consider such factors as the applicant's
24 financial responsibility, prior criminal activity, security of
25 the applicant's place of business or activity, accessibility
26 to the public, integrity, and reputation. The board shall not
27 consider political affiliation, activities, or monetary

1 contributions to political organizations or candidates for any
2 public office. The criteria may include other considerations
3 adopted pursuant to rules of the board.

4 (f) Persons applying to become lottery retailers
5 shall be charged a uniform application fee for each lottery
6 outlet. Retailers who participate in online games shall be
7 charged a uniform application fee for each online outlet.

8 (g) Any lottery retailer contract executed pursuant
9 to this section, for good cause, may be suspended, revoked, or
10 terminated by the executive director or his or her designee if
11 the retailer violates any provision of this act or objective
12 criteria established by the board by rule.

13 (h) All lottery retailer contracts may be renewable
14 annually in the discretion of the corporation unless sooner
15 canceled or terminated.

16 (i) A lottery retailer contract is not transferable
17 or assignable. A lottery retailer may not contract with any
18 person for lottery goods or services except with the approval
19 of the board.

20 (j) A lottery retailer or applicant to be a lottery
21 retailer may not pay, give, or make any economic opportunity,
22 gift, loan, gratuity, special discount, favor, hospitality, or
23 service, excluding food and beverages having an aggregate
24 value not exceeding one hundred dollars (\$100) in any calendar
25 year, to the executive director, any board member, or any
26 employee of the corporation or to a member of the immediate

1 family residing in the same household as the director, board
2 member, or employee.

3 Section 18. Cancellation of retail contracts.

4 (a) Any retail contract executed by the corporation
5 pursuant to this act shall specify the reasons for which a
6 contract may be cancelled, suspended, revoked, or terminated
7 by the corporation, which reasons shall include but not be
8 limited to, any of the following:

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

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

14 (3) Commission of any fraud, deceit, or
15 misrepresentation.

16 (4) Insufficient sales.

17 (5) Conduct prejudicial to public confidence in the
18 lottery.

19 (6) The retailer filing for or being placed in
20 bankruptcy or receivership.

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

24 (8) Failure to meet any of the retailer
25 qualifications established by the corporation pursuant to
26 rules adopted by the board.

1 (b) (1) If, in the discretion of the executive
2 director or his or her designee, cancellation, denial,
3 revocation, suspension, or rejection of renewal of a lottery
4 retailer contract is in the best interest of the lottery, the
5 public welfare, or this state, the executive director or his
6 or her designee may cancel, suspend, revoke, or terminate,
7 after notice and a right to a hearing, any contract issued
8 pursuant to this act.

9 (2) The contract may be temporarily suspended by the
10 executive director or his or her designee without prior notice
11 pending any prosecution, hearing, or investigation, whether by
12 a third party or by the executive director.

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

16 (4) Any hearing held shall be conducted by the
17 executive director or his or her designee. A party to the
18 contract aggrieved by the decision of the executive director
19 or his or her designee may appeal the adverse decision to the
20 board. The appeal shall be pursuant to the rules, policies,
21 and procedures set by the board.

22 Section 19. Handling of funds by retailers.

23 (a) All proceeds from the sale of the lottery
24 tickets or shares shall constitute a trust fund until paid to
25 the corporation either directly or through the corporation's
26 authorized collection representative. A lottery retailer and
27 officers of a lottery retailer's business shall have a

1 fiduciary duty to preserve and account for lottery proceeds,
2 and lottery retailers shall be personally liable for all
3 proceeds. Proceeds shall include unsold instant tickets
4 received by a lottery retailer and cash proceeds on the sale
5 of any lottery products, net of allowable sales commissions
6 and credit for lottery prizes sold to or paid to winners by
7 lottery retailers. Sales proceeds and unused instant tickets
8 shall be delivered to the corporation or its authorized
9 collection representative upon demand.

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

1 (c) If any person who receives proceeds from the
2 sale of lottery tickets or shares in the capacity of a lottery
3 retailer becomes insolvent, the proceeds due the corporation
4 from such person shall have preference over all debts or
5 demands.

6 (d) Whenever any person who receives proceeds from
7 the sale of lottery tickets or shares in the capacity of a
8 lottery retailer dies insolvent, the proceeds due the
9 corporation from the person's estate shall have preference
10 over all debts or demands except the provision of one-year's
11 support for the person's family.

12 Section 20. Lottery retail sales for purposes of
13 computing rental payments.

14 If a lottery retailer's rental payments for the
15 business premises of the lottery retailer are contractually
16 computed, in whole or in part, on the basis of a percentage of
17 retail sales and the computation of retail sales is not
18 explicitly defined to include sales of tickets or shares in a
19 state operated or state managed lottery, only the compensation
20 received by the lottery retailer from the corporation may be
21 considered the amount of the lottery retail sale for purposes
22 of computing the rental payment.

23 Section 21. Limitations on sale of lottery tickets.

24 (a) A person may not sell a ticket or share at a
25 price other than established by the corporation unless
26 authorized in writing by the executive director. A person
27 other than a duly certified lottery retailer may not sell

1 lottery tickets, but this subsection does not prohibit a
2 person who may lawfully purchase tickets or shares from making
3 a gift of lottery tickets or shares to another person. Nothing
4 in this act shall be construed to prohibit the corporation
5 from designating certain agents and employees to sell or give
6 lottery tickets or shares directly to the public.

7 (b) Lottery tickets or shares may be given by
8 merchants as a means of promoting goods or services to
9 customers or prospective customers subject to prior approval
10 by the corporation.

11 (c) A lottery retailer may not sell a lottery ticket
12 or share except from the locations listed in the lottery
13 retailer contract and as evidenced by the certificate of
14 authorization unless the corporation authorizes in writing any
15 temporary location not listed in the contract.

16 (d) No lottery tickets or shares shall be sold to
17 persons under 21 years of age, but this section does not
18 prohibit the purchase of a lottery ticket or share by a person
19 21 years of age or older for the purpose of making a gift to
20 any person of any age. In such case, the corporation shall
21 direct payment of proceeds of any lottery prize to an adult
22 member of the person's family or a legal representative of the
23 person on behalf of the person.

24 Section 22. Appeal of board decisions.

25 (a) Any retailer, vendor, or applicant for a
26 retailer or vendor contract aggrieved by an action of the

1 board may appeal that decision to the Circuit Court of the
2 Fifteenth Judicial Circuit.

3 (b) The Circuit Court of the Fifteenth Judicial
4 Circuit shall hear appeals from decisions of the board and
5 based upon the record of the proceedings before the board may
6 reverse the decision of the board only if the appellant proves
7 the decision to be any of the following:

8 (1) Clearly erroneous.

9 (2) Arbitrary or capricious.

10 (3) Procured by fraud.

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

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

14 (c) Any person who appeals the award of a major
15 lottery contract shall be liable for all costs of appeal and
16 defense in the event the appeal is denied or the contract
17 award upheld. Cost of appeal and defense shall specifically
18 include but not be limited to court costs, bond, attorney's
19 fees, and loss of income to the corporation resulting from
20 institution of the appeal if, upon the motion of the
21 corporation, the court finds the appeal to have been
22 frivolous.

23 Section 23. Applicability of state income taxation
24 and attachments, garnishments, or executions; payment of
25 prizes.

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

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

3 (b) Except as expressly provided otherwise,
4 attachments, garnishments, or executions authorized and issued
5 pursuant to law shall be withheld if timely served upon the
6 corporation. This subsection shall not apply to a lottery
7 retailer.

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

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

1 any person, pursuant to an appropriate court order, shall be
2 paid the prize to which a winner is entitled.

3 (3) No prize shall be paid arising from claimed
4 tickets that are stolen, counterfeit, altered, fraudulent,
5 unissued, produced or issued in error, unreadable, not
6 received, or not recorded by the corporation within applicable
7 deadlines; lacking in captions that conform and agree with the
8 play symbols as appropriate to the particular lottery game
9 involved; or not in compliance with any additional specific
10 rules and public or confidential validation and security tests
11 of the corporation appropriate to the particular lottery game
12 involved.

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

18 (5) A holder of a winning cash ticket or share from
19 a lottery game shall claim a cash prize within a timeframe
20 established by the corporation, or for a multistate or
21 multisovereign lottery game within a timeframe established
22 pursuant to rules of the game, after the drawing in which the
23 cash prize was won. In any Alabama Education Lottery game in
24 which the player may determine instantly if he has won or
25 lost, the player shall claim a cash prize within 90 days, or
26 for a multistate lottery game within a timeframe established
27 pursuant to rules of the game, after the end of the lottery

1 game. If a valid claim is not made for a cash prize within the
2 applicable period, the cash prize shall constitute an
3 unclaimed prize for purposes of this section.

4 (d) A prize may not be paid upon a ticket or share
5 purchased or sold in violation of this act. Any such prize
6 shall constitute an unclaimed prize for purposes of Section
7 24.

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

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

23 Section 24. Unclaimed prize money; agricultural
24 grant program.

25 (a) Unclaimed prize money does not constitute net
26 lottery proceeds.

1 (b) (1) The first fifteen million dollars
2 (\$15,000,000) of unclaimed prize money shall be directed to
3 the Department of Agriculture and Industries for the award of
4 grants to individuals and entities for agricultural programs.

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

8 (3) Upon the deposit of fifteen million dollars
9 (\$15,000,000) to agricultural grant programs under subdivision
10 (1), the unclaimed prize money shall be used for postsecondary
11 scholarships as provided in Sections 30 and 31.

12 Section 25. Open Meetings Act and public records;
13 confidentiality of information.

14 (a) The corporation shall be subject to the Alabama
15 Open Meetings Act, Chapter 25A of Title 36, Code of Alabama
16 1975.

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

20 (2) The corporation may determine which information
21 and records relating to the operation of the lottery is
22 confidential and not subject to public disclosure. The
23 information includes trade secrets; security measures,
24 systems, or procedures; security reports; information
25 concerning bids or other contractual data, the disclosure of
26 which would impair the efforts of the corporation to contract
27 for goods or services on favorable terms; employee personnel

1 information unrelated to compensation, duties, qualifications,
2 or responsibilities; and information obtained pursuant to
3 investigations which is otherwise confidential. Information
4 deemed confidential pursuant to this section shall be exempt
5 from public disclosure.

6 (c) The corporation shall keep all information
7 regarding the winner of awards of two hundred fifty thousand
8 dollars (\$250,000) or greater confidential upon the prize
9 winner making a written request that his or her information be
10 kept confidential.

11 Section 26. Audits and reports.

12 (a) To ensure the financial integrity of the
13 lottery, the corporation through its board of directors shall
14 do all of the following:

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

23 (2) Adopt a system of internal audits.

24 (3) Maintain weekly or more frequent records of
25 lottery transactions, including the distribution of tickets or
26 shares to retailers, revenues received, claims for prizes,

1 prizes paid, prizes forfeited, and other financial
2 transactions of the corporation.

3 (4) Contract with a certified public accountant or
4 firm for an annual financial audit of the corporation. The
5 certified public accountant or firm shall have no financial
6 interest in any vendor with whom the corporation is under
7 contract. The certified public accountant or firm shall
8 present an audit report not later than four months after the
9 end of the fiscal year. The certified public accountant or
10 firm shall evaluate the internal auditing controls in effect
11 during the audit period. The cost of this annual financial
12 audit shall be an operating expense of the corporation.

13 (5) Adopt the same fiscal year as that used by state
14 government.

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

17 Section 27. Penalties for sale of lottery tickets to
18 individuals under 21 years of age.

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

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

1 Section 28. Penalties for counterfeiting lottery
2 tickets.

3 (a) A person who, with intent to defraud, falsely
4 makes, alters, forges, utters, passes, or counterfeits a state
5 lottery ticket shall be guilty of a Class D felony.

6 (b) A person who influences or attempts to influence
7 the winning of a prize through the use of coercion, fraud,
8 deception, or tampering with lottery equipment or materials
9 shall be guilty of a Class D felony.

10 Section 29. Penalties for making false entry or
11 statement.

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

18 (b) Any person who violates subsection (a) shall be
19 guilty of a Class D felony.

20 Section 30. Lottery Trust Fund; transfer to
21 Education Trust Fund and postsecondary scholarships.

22 (a) Fifty percent of the proceeds in the Lottery
23 Trust Fund shall be distributed to the Education Trust Fund.

24 (b) (1) Fifty percent of the proceeds in the Lottery
25 Trust Fund shall be used for a postsecondary scholarship
26 program to be administered by the Alabama Commission on Higher
27 Education based on a combination of both merit and need.

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

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

12 Section 32. This act shall take effect on the first
13 day of the third month following its passage and approval by
14 the Governor or its otherwise becoming law, contingent and
15 operative upon ratification of the constitutional amendment
16 proposed in Senate Bill 214 of the 2021 Regular Session
17 creating the Alabama Education Lottery,