

1 SB320  
2 211581-3  
3 By Senators McClendon, Gudger and Marsh  
4 RFD: Tourism  
5 First Read: 09-MAR-21

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3  
4 ENGROSSED

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6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to lotteries; to provide for legislative  
12 intent; the powers and duties of the Alabama Lottery  
13 Commission; the use of lottery proceeds; and limitations on  
14 retailers of lottery tickets.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. This act shall be known and may be cited  
17 as the Alabama Lottery Act.

18 Section 2. (a) The purpose of this act is to further  
19 implement the constitutional amendment proposed by SB319 upon  
20 adoption of the amendment by the voters.

21 (b) The Legislature hereby recognizes that the  
22 operations of a lottery are unique activities for state  
23 government and that a corporate structure will best enable a  
24 lottery to be managed in an entrepreneurial and business like  
25 manner. It is the intent of the Legislature that the Alabama  
26 Lottery Corporation shall be accountable to the Governor, the  
27 Legislature, and the people of the State of Alabama through a

1 system of audits, reports, and thorough financial disclosures  
2 as required by this act.

3 Section 3. For the purposes of this act, the terms  
4 commission, corporation, executive director, and retailer have  
5 the same meaning as those terms are defined in the  
6 constitutional amendment proposed in SB319.

7 Section 4. Alabama Lottery Commission; composition;  
8 duties; powers.

9 (a) The commission shall consist of five members  
10 appointed as provided in this section who shall elect a chair  
11 from among the members.

12 (b) Individuals appointed shall be residents of the  
13 state, citizens, and prominent persons in their business or  
14 profession and may not have been any of the following:

15 (1) Convicted of a felony.

16 (2) An officer of or occupy an official position in  
17 any political party.

18 (3) An elected official.

19 (4) Actively engaged in the business of or have a  
20 pecuniary interest in a licensed facility.

21 (c) The members of the commission shall be appointed  
22 as follows:

23 (1) Two members by the Governor.

24 (2) One member by the Lieutenant Governor.

25 (3) One member by the President Pro Tempore of the  
26 Senate.

1                   (4) One member by the Speaker of the House of  
2 Representatives.

3                   (d) The existence of the corporation shall begin  
4 when the original five members of the commission are  
5 appointed, without confirmation by the Senate. Subsequent  
6 appointments shall be subject to Senate confirmation. If a  
7 vacancy occurs when the Legislature is not in session, an  
8 interim appointment shall be made by the appropriate  
9 appointing authority, and shall be subject to Senate  
10 confirmation upon the next session of the Legislature.

11                  (e) Members shall serve a term of four years and may  
12 service two complete terms and any portion of an initial term  
13 less than four years or any portion of an unexpired term to  
14 which appointed. Any vacancy occurring on the commission shall  
15 be filled for the unexpired term by the appointing authority  
16 as described in this part or as otherwise provided by an act  
17 of the Legislature. The initial terms of office upon the  
18 effective date of this part shall be as follows:

19                  (1) Three years for the member appointed by the  
20 Speaker of the House of Representatives.

21                  (2) Four years for the member appointed by the  
22 President Pro Tempore of the Senate.

23                  (3) Three years for the member appointed by the  
24 Lieutenant Governor.

25                  (4) Four years for the members appointed by the  
26 Governor.

1           (f) Each member shall serve for the duration of his  
2 or her term and until his or her successor is duly appointed  
3 and confirmed by the Senate.

4           (g) Members of the commission shall be reimbursed  
5 for necessary travel and other reasonable expenses incurred in  
6 the performance of their official duties.

7           (h) The commission shall appoint and shall provide  
8 for the compensation of an executive director who shall direct  
9 the day-to-day operations and management of the corporation.  
10 The executive director shall serve at the pleasure of the  
11 commission.

12           (i) Members of the commission may not participate in  
13 the lottery.

14           (j) The commission shall provide the executive  
15 director with private-sector perspectives on the operation of  
16 a large marketing enterprise. The commission shall do all of  
17 the 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 procurements recommended by the executive  
23 director.

24           (3) Serve as a board of appeals for any denial,  
25 revocation, or cancellation by the executive director of a  
26 contract with a lottery retailer.

1           (k) The commission may adopt, without recourse to  
2 the administrative rule process unless it so desires, rules  
3 for the conduct of specific lottery games, including, but not  
4 limited to, rules specifying any of the following:

5           (1) The types of games to be conducted, including,  
6 but not limited to, a state lottery or a multistate lottery,  
7 instant tickets, scratch-off ticket games, Keno, iLottery, or  
8 any other lottery offered in another state.

9           (2) The price of tickets.

10          (3) The number and amount of prizes.

11          (4) The method and location of selecting or  
12 validating winning tickets.

13          (5) The frequency and the means of conducting  
14 drawings which shall be open to the public.

15          (6) The manner of payment of prizes.

16          (7) The frequency of games and drawings.

17          (8) The manner and amount of compensation to lottery  
18 retailers, which shall be uniform.

19          (9) Any other matters necessary or desirable for the  
20 efficient and effective operation of the lottery and for the  
21 convenience of the public.

22          (1) The executive director may not be a member of  
23 the commission.

24          (1) The commission shall be subject to the Alabama  
25 Sunset Law, Chapter 20 of Title 40, Code of Alabama 1975, as  
26 an enumerated agency as provided in Section 41-20-3, Code of  
27 Alabama 1975, and shall have a termination date of October 1,

1 2025, and every four years thereafter, unless continued  
2 pursuant to the Alabama Sunset Law.

3 Section 5. Alabama Lottery Corporation; powers and  
4 duties.

5 (a) The corporation may enter into written  
6 agreements with one or more states for the operation,  
7 marketing, and promotion of a joint lottery or joint lottery  
8 games.

9 (b) The corporation shall adopt rules providing for  
10 a system of continuous internal audits and shall maintain  
11 weekly or more frequent records of lottery transactions,  
12 including distribution of tickets to lottery retailers,  
13 revenues received, claims for prizes, prizes paid, and all  
14 other financial transactions of the corporation.

15 (c) No employee of the corporation shall be deemed a  
16 state employee or entitled to any benefits of a state  
17 employee.

18 (d) No officer or employee of the corporation may  
19 have a financial interest in any vendor doing business or  
20 proposing to do business with the corporation.

21 (e) No officer, director, or employee of the  
22 corporation may organize, participate in, or contribute to a  
23 political action committee.

24 (f) No officer, director, or employee of the  
25 corporation may participate in the lottery.

26 (g) The executive director shall direct and  
27 supervise all administrative and technical activities in

1 accordance with this act and with rules adopted by the  
2 commission.

3 (h) The corporation shall conduct and administer  
4 lottery games that provide continuing entertainment to the  
5 public, maximize revenues, and ensure that the lottery is  
6 operated with integrity and dignity and free of political  
7 influence.

8 Section 6. Disposition of Lottery Proceeds.

9 (a) On or before the last business day of the  
10 succeeding month, the corporation shall transfer the lottery  
11 proceeds shall be deposited into the Education Trust Fund, 5  
12 percent of which shall be distributed to the Education  
13 Retirees' Trust Fund, until the amount in the fund reaches  
14 \$100,000,000.

15 (b) Lottery proceeds distributed to the Education  
16 Trust Fund under subsection (a) shall be used to establish a  
17 postsecondary scholarship program to include a loan  
18 forgiveness component for scholarship participants who pursue  
19 a degree in education for in-demand fields and who teach in  
20 this state for a specified time frame. For every six-months of  
21 employment in an in-demand field in this state following  
22 graduation, tuition for each semester spent in pursuit of the  
23 degree shall be forgiven. The Alabama Commission on Higher  
24 Education shall adopt rules for the implementation and  
25 administration of the scholarship program.



1 (c) Lottery proceeds distributed to the state  
2 General Fund under subsection (a) shall only be used for  
3 capital and nonrecurring expenses.

4 Section 7. Grocery Tax.

5 (a) For the purposes of this section, "food" means  
6 food as defined in 7 U.S.C § 2011, et seq., for the purposes  
7 of the federal Supplemental Nutrition Assistance Program,  
8 excluding candy, sugar and sweets, and ready-to-drink soft  
9 drinks and other beverages, regardless of where or by what  
10 means food is sold. In the event that the federal Supplemental  
11 Nutrition Assistance Program definition is repealed, the  
12 Legislature shall provide a new definition of food by general  
13 law.

14 (b) (1) For taxable periods beginning on and after  
15 September 1, 2023, the state sales and use tax rate under  
16 general law on food shall be 2 percent of the gross receipts  
17 from the sale or use of food.

18 (2) For taxable periods beginning on and after  
19 September 1, 2024, and every taxable period thereafter, the  
20 state sales and use tax rate shall be 2 percent of the gross  
21 receipts from the sale or use of food, except as follows:

22 a. If the Finance Director certifies that the  
23 proceeds from the lottery from the prior taxable year were  
24 more than \$297,000,000, but less than \$396,000,000, the sales  
25 and use tax rate shall be 1 percent of the gross receipts from  
26 the sale or use of food.

1           b. If the Finance Director certifies that the  
2 proceeds from the lottery from the prior taxable year were  
3 \$396,000,000 or more, there shall be no state sales and use  
4 tax on food.

5           (c) Any local sales and use tax on food in effect on  
6 the effective date of this act may not be increased.

7           Section 8. Statewide Network of Retailers.

8           (a) The Legislature hereby recognizes that to  
9 conduct a successful lottery, the corporation must develop and  
10 maintain a statewide network of lottery retailers that will  
11 serve the public convenience and promote the sale of tickets,  
12 while insuring the integrity of the lottery.

13           (b) An applicant may not be engaged exclusively in  
14 the sale of lottery tickets. However, this subsection does not  
15 preclude the corporation from contracting for the sale of  
16 lottery tickets with nonprofit, charitable organizations or  
17 units of local government in accordance with this act.

18           (c) Each lottery retailer shall be issued a lottery  
19 retailer certificate that shall be conspicuously displayed at  
20 the place where the lottery retailer is authorized to sell  
21 lottery tickets.

22           (d) Except as otherwise provided in subsection (e)  
23 and except for lottery vending machines located in factories  
24 or package liquor stores, bars, or taverns to which persons  
25 under the age of 18 years are not permitted access or operated  
26 by blind persons as a part of a program established by a  
27 federal or state law, a lottery retailer shall locate all

1 vending machines from which lottery tickets are dispensed in  
2 the sight of an employee of the lottery retailer.

3 (e) Lottery kiosks or vending machines that are  
4 equipped with ID readers that determine the player is of legal  
5 age may be located out of sight of an employee of the lottery  
6 retailer.

7 Section 9. Proceeds from Ticket Sales; Rule  
8 Governing Retailers' Deposit of Lottery Proceeds.

9 (a) All proceeds from the sale of lottery tickets,  
10 net of allowable sales commissions and credit for lottery  
11 prizes paid to winners by lottery retailers, shall constitute  
12 a trust fund until paid to the corporation either directly, or  
13 through the corporation's authorized collection  
14 representative. Proceeds shall include unsold instant tickets  
15 received by a lottery retailer and cash proceeds of sale of  
16 any lottery products. Sales proceeds and unused instant  
17 tickets shall be delivered to the corporation or its  
18 authorized collection representative upon demand. The  
19 corporation shall require retailers to place all lottery  
20 proceeds due the corporation in accounts in institutions  
21 insured by the Federal Deposit Insurance Corporation or  
22 Federal Savings and Loan Insurance Corporation not later than  
23 the close of the next banking day after the date of their  
24 collection by the retailer until the date they are paid over  
25 to the corporation. The corporation may require a retailer to  
26 establish a single separate electronic funds transfer account,  
27 where available, for the purpose of receiving monies from

1 ticket sales, making payments to the corporation, and  
2 receiving payments from the corporation. Lottery retailers  
3 shall be personally liable for all proceeds. This section  
4 shall apply to all lottery tickets generated by computer  
5 terminal, other electronic device, and any other tickets  
6 delivered to lottery retailers.

7 (b) Whenever any lottery retailer becomes insolvent,  
8 or dies insolvent, the proceeds due the corporation from the  
9 person or his or her estate shall have preference over all  
10 debts or demands.

11 (c) Except as otherwise provided in subsections (d)  
12 and (e), a lien is hereby given to the corporation on all  
13 funds and other personal property, on all real property, and  
14 on all rights to real or personal property owned or  
15 subsequently acquired by each lottery retailer in the amount  
16 of, and to secure, the retailer's obligations to remit lottery  
17 proceeds to the corporation. The lien shall be in the amount  
18 of all sums due to the corporation at any time, together with  
19 all interest, penalties, fees, commissions, charges, and other  
20 expenses incurred by reason of nonpayment of the lottery  
21 proceeds to the corporation or in the process of collecting  
22 those proceeds, and shall have priority over any other  
23 obligation or liability for which the funds or real or  
24 personal property are liable. The lien shall be of equal rank  
25 with the tax liens of the state, or any city, county, or other  
26 taxing authority within the state. The lien shall arise upon  
27 the receipt of lottery proceeds by the retailer, whether or

1 not the retailer is at that time obligated to remit all or any  
2 portion of those proceeds to the corporation, and shall be  
3 enforceable until the liability is paid or extinguished.

4 (d) The lien imposed by subsection (c) shall not be  
5 valid as against any purchaser, judgment lien creditor, or  
6 holder of a security interest or mechanic's lien until notice  
7 of the corporation's lien has been filed by the corporation  
8 with the county clerk of any county or counties in which the  
9 retailer's business or residence is located, or in any county  
10 in which the retailer has an interest in property. The  
11 recording of the lien shall constitute notice of both the  
12 original obligation to the corporation and all subsequent  
13 obligations to the corporation of the same retailer. Upon  
14 request, the corporation shall disclose the specific amount of  
15 liability at any given date to any interested party legally  
16 entitled to the information.

17 (e) The lien imposed by subsection (c) shall not be  
18 valid with respect to a security interest which comes into  
19 existence after the notice of lien has been filed by reason of  
20 disbursements made within 45 days after the date the lien was  
21 filed or the date the person making the disbursements had  
22 actual notice of the lien filing, whichever is earlier, if the  
23 security interest is both of the following:

24 (1) In property that at the time of filing is  
25 subject to the lien imposed by subsection (c), and is covered  
26 by the terms of a written agreement entered into before the  
27 lien is filed.

1           (2) Protected under local law against a judgment  
2     lien arising as of the time of the lien filing, out of an  
3     unsecured obligation.

4           (f) The corporation shall be afforded the same  
5     rights and remedies with respect to enforcement of any lien  
6     and collection of lottery proceeds as is afforded state,  
7     county, city, and other taxing authorities.

8           Section 10. Ticket sales.

9           (a) No person may sell a ticket at a price other  
10    than that established by the corporation unless authorized in  
11    writing by the executive director.

12          (b) No person other than a duly certified lottery  
13    retailer may sell lottery tickets.

14          (c) Lottery tickets may be given by merchants as a  
15    means of promoting goods or services to customers or  
16    prospective customers subject to approval by the corporation.

17          (d) No lottery retailer may sell a ticket away from  
18    the locations listed in the contract of the retailer.

19          Section 11. Sale of tickets to individuals under 21  
20    years of age.

21          (a) No ticket may knowingly be sold to any person  
22    under the age of 21 years.

23          (b) This section does not prohibit the purchase of a  
24    ticket by a person 21 years of age or older for the purpose of  
25    making a gift to any person of any age. In that case, the  
26    corporation shall direct payments to an adult member of the

1 person's family or the legal guardian of the person on behalf  
2 of the person.

3 Section 12. Computation of Retailer's Rental  
4 Payments.

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

13 Section 13. Verification Rules and Prize Payments.

14 (a) The commission shall adopt rules to establish a  
15 system of verifying the validity of tickets claimed to win  
16 prizes and to effect payment of such prizes, except that:

17 (1) No prize, any portion of a prize, or any right  
18 of any person to a prize awarded is assignable. Any prize, or  
19 portion thereof, remaining unpaid at the death of a prize  
20 winner shall be paid to the estate of the deceased prize  
21 winner or to the trustee under a revocable living trust  
22 established by the deceased prize winner as settlor, provided  
23 that a copy of the trust has been filed with the corporation  
24 along with a notarized letter of direction from the settlor  
25 and no written notice of revocation has been received by the  
26 corporation prior to the settlor's death. Following the death  
27 of the settlor and prior to any payment to the trustee, the

1 corporation shall obtain from the trustee and each trust  
2 beneficiary a written agreement to indemnify and hold the  
3 corporation harmless with respect to any claims that may be  
4 asserted against the corporation arising from payment to or  
5 through the trust. Notwithstanding any other provision of this  
6 section, any person, pursuant to an appropriate judicial  
7 order, shall be paid the prize to which a winner is entitled.

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

17 (3) No particular prize in any lottery game shall be  
18 paid more than once, and in the event of a binding  
19 determination that more than one claimant is entitled to a  
20 particular prize, the sole remedy of such claimants is the  
21 award to each of them of an equal share in the prize.

22 (4) A holder of a winning cash ticket from an  
23 Alabama Lottery game shall claim the prize within 365 days  
24 after the drawing in which the prize was won. A holder of a  
25 winning ticket from a multistate lottery game shall claim the  
26 prize within 180 days after the drawing in which the prize was  
27 won. In any Alabama Lottery game in which the player may



1 determine instantly if he or she has won or lost, he or she  
2 shall claim a prize within 365 days after the purchase of the  
3 ticket, or within 180 days after the purchase of the ticket  
4 for a multistate lottery. If a valid claim is not made for a  
5 prize within the applicable period, the prize shall constitute  
6 an unclaimed prize for purposes of subsection (c).

7 (5) No prize shall be paid upon a ticket purchased  
8 or sold in violation of this act. Any such prize shall  
9 constitute an unclaimed prize for purposes of subsection (c).

10 (b) Any unclaimed prize money may be retained by the  
11 corporation and added to the pool from which future prizes are  
12 to be awarded or used for special prize promotions. A portion  
13 of the unclaimed prize money, not to exceed two hundred  
14 thousand dollars (\$200,000) annually, shall be directed to the  
15 Alabama Department of Public Health for the treatment of  
16 compulsive gaming disorder and educational programs related to  
17 such programs.

18 (c) Upon payment of a prize, the corporation is  
19 discharged of all liability.

20 (d) No ticket may be purchased by and no prize may  
21 be paid to any of the following persons:

22 (1) Any member of the board of directors, officers,  
23 or employees of the corporation.

24 (2) Any vendor or related entity, or any member of  
25 the commission, officers, employees of, partners in, or owners  
26 of any vendor or related entity to a vendor.

1           (3) Any spouse, child, brother, sister, or parent  
2 residing as a member of the same household in the principal  
3 place of abode of any person listed in this subsection.

4           (e) The winner of any prize of two hundred fifty  
5 thousand dollars (\$250,000) or higher may elect to remain  
6 anonymous.

7           Section 14. Procurement Procedures.

8           The corporation shall adopt rules establishing its  
9 procurement procedures. The rules shall be designed to provide  
10 for the purchase of supplies, equipment, services, and  
11 construction items that provide the greatest long term benefit  
12 to the state, the greatest integrity for the corporation, and  
13 the best service and products for the public.

14           Section 15. Content of Contracts; Powers of  
15 Executive Director in Regard to Contracts.

16           (a) Any contract executed by the corporation  
17 pursuant to this act shall specify the reasons for which any  
18 contract may be suspended, revoked, or terminated by the  
19 corporation, including, but not limited to, any of the  
20 following:

21           (1) Commission of a violation of this act or rules  
22 adopted pursuant thereto.

23           (2) Failure to accurately account for lottery  
24 tickets, revenues, or prizes as required by the corporation.

25           (3) Commission of fraud, deceit, or  
26 misrepresentation.

27           (4) Insufficient sale of tickets.

1           (5) Conduct prejudicial to public confidence in the  
2 lottery.

3           (6) Any material change in any matter considered by  
4 the corporation in executing the contract with the retailer.

5           (b) If the executive director determines the denial,  
6 revocation, suspension, or rejection of renewal of a contract  
7 under this section is in the best interests of the lottery,  
8 the public welfare, or the State of Alabama, the executive  
9 director, after notice and a hearing, may deny the contract or  
10 suspend, revoke, or terminate a contract entered into pursuant  
11 to this act. A contract may be temporarily suspended by the  
12 executive director without prior notice pending any  
13 prosecution, hearing, or investigation, whether by a third  
14 party or by the executive director. A contract may be  
15 suspended, revoked, or terminated by the executive director  
16 for one or more of the reasons enumerated in subsection (a).

17           Section 16. This act shall take effect immediately  
18 upon its passage and approval by the Governor or upon its  
19 otherwise becoming law, and shall become operative only upon  
20 ratification by the voters of Alabama of the constitutional  
21 amendment contained in Senate Bill 319 of the 2021 Regular  
22 Session of the Alabama Legislature. In the event the  
23 constitutional amendment contained in Senate Bill 319 of the  
24 2021 Regular Session of the Legislature is not ratified by the  
25 voters of Alabama, this act is void.

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Senate

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

Reported from Tourism as Favorable with 1 substi-  
tute..... 18-MAR-21

Read for the third time and passed as amended .... 07-APR-21

Yeas 30  
Nays 2

Patrick Harris,  
Secretary.