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3 SENATE TOURISM & MARKETING COMMITTEE SUBSTITUTE TO SB320
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8 SYNOPSIS: This bill would implement the constitutional
9 amendment contained in SB319 upon ratification of
10 the amendment by providing for: The powers, duties,
11 and operation of the Alabama Lottery, the Alabama
12 Lottery Corporation, and the Alabama Lottery
13 Commission; the use of lottery proceeds; and
14 limitations on retailers of lottery tickets.
15

16 A BILL
17 TO BE ENTITLED
18 AN ACT
19

20 Relating to lotteries; to provide for legislative
21 intent; the powers and duties of the Alabama Lottery
22 Commission; the use of lottery proceeds; and limitations on
23 retailers of lottery tickets.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

4 (b) The Legislature hereby recognizes that the
5 operations of a lottery are unique activities for state
6 government and that a corporate structure will best enable a
7 lottery to be managed in an entrepreneurial and business like
8 manner. It is the intent of the Legislature that the Alabama
9 Lottery Corporation shall be accountable to the Governor, the
10 Legislature, and the people of the State of Alabama through a
11 system of audits, reports, and thorough financial disclosures
12 as required by this act.

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

17 Section 4. Alabama Lottery Commission; composition;
18 duties; powers.

19 (a) The commission shall consist of five members
20 appointed as provided in this section who shall elect a chair
21 from among the members.

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

25 (1) Convicted of a felony.

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

1 (3) An elected official.

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

4 (c) The members of the commission shall be appointed
5 as follows:

6 (1) Two members by the Governor.

7 (2) One member by the Lieutenant Governor.

8 (3) One member by the President Pro Tempore of the
9 Senate.

10 (4) One member by the Speaker of the House of
11 Representatives.

12 (d) The existence of the corporation shall begin
13 when the original five members of the commission are
14 appointed, without confirmation by the Senate. Subsequent
15 appointments shall be subject to Senate confirmation. If a
16 vacancy occurs when the Legislature is not in session, an
17 interim appointment shall be made by the appropriate
18 appointing authority, and shall be subject to Senate
19 confirmation upon the next session of the Legislature.

20 (e) Members shall serve a term of four years and may
21 service two complete terms and any portion of an initial term
22 less than four years or any portion of an unexpired term to
23 which appointed. Any vacancy occurring on the commission shall
24 be filled for the unexpired term by the appointing authority
25 as described in this part or as otherwise provided by an act
26 of the Legislature. The initial terms of office upon the
27 effective date of this part shall be as follows:

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

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

5 (3) Three years for the member appointed by the
6 Lieutenant Governor.

7 (4) Four years for the members appointed by the
8 Governor.

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

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

15 (h) The commission shall appoint and shall provide
16 for the compensation of an executive director who shall direct
17 the day-to-day operations and management of the corporation.
18 The executive director shall serve at the pleasure of the
19 commission.

20 (i) The commission shall provide the executive
21 director with private-sector perspectives on the operation of
22 a large marketing enterprise. The commission shall do all of
23 the following:

24 (1) Approve, disapprove, amend, or modify the budget
25 recommended by the executive director for the operation of the
26 corporation.

1 (2) Approve, disapprove, amend, or modify the terms
2 of major lottery procurements recommended by the executive
3 director.

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

7 (j) The commission may adopt, without recourse to
8 the administrative rule process unless it so desires, rules
9 for the conduct of specific lottery games, including, but not
10 limited to, rules specifying any of the following:

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

15 (2) The price of tickets.

16 (3) The number and amount of prizes.

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

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

21 (6) The manner of payment of prizes.

22 (7) The frequency of games and drawings.

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

25 (9) Any other matters necessary or desirable for the
26 efficient and effective operation of the lottery and for the
27 convenience of the public.

1 (k) The executive director may not be a member of
2 the commission.

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) The executive director shall direct and
25 supervise all administrative and technical activities in
26 accordance with this act and with rules adopted by the
27 commission.

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

6 Section 6. Disposition of Lottery Proceeds.

7 On or before the last business day of the succeeding
8 month, the corporation shall transfer the lottery proceeds
9 held in the Lottery Trust Fund as follows:

10 (1) 50 percent to the state General Fund; and

11 (2) 50 percent to the Education Trust Fund.

12 Section 7. Statewide Network of Retailers.

13 (a) The Legislature hereby recognizes that to
14 conduct a successful lottery, the corporation must develop and
15 maintain a statewide network of lottery retailers that will
16 serve the public convenience and promote the sale of tickets,
17 while insuring the integrity of the lottery.

18 (b) An applicant may not be engaged exclusively in
19 the sale of lottery tickets. However, this subsection does not
20 preclude the corporation from contracting for the sale of
21 lottery tickets with nonprofit, charitable organizations or
22 units of local government in accordance with this act.

23 (c) Each lottery retailer shall be issued a lottery
24 retailer certificate that shall be conspicuously displayed at
25 the place where the lottery retailer is authorized to sell
26 lottery tickets.

1 (d) Except as otherwise provided in subsection (e)
2 and except for lottery vending machines located in factories
3 or package liquor stores, bars, or taverns to which persons
4 under the age of 18 years are not permitted access or operated
5 by blind persons as a part of a program established by a
6 federal or state law, a lottery retailer shall locate all
7 vending machines from which lottery tickets are dispensed in
8 the sight of an employee of the lottery retailer.

9 (e) Lottery kiosks or vending machines that are
10 equipped with ID readers that determine the player is of legal
11 age may be located out of sight of an employee of the lottery
12 retailer.

13 Section 8. Proceeds from Ticket Sales; Rule
14 Governing Retailers' Deposit of Lottery Proceeds.

15 (a) All proceeds from the sale of lottery tickets,
16 net of allowable sales commissions and credit for lottery
17 prizes paid to winners by lottery retailers, shall constitute
18 a trust fund until paid to the corporation either directly, or
19 through the corporation's authorized collection
20 representative. Proceeds shall include unsold instant tickets
21 received by a lottery retailer and cash proceeds of sale of
22 any lottery products. Sales proceeds and unused instant
23 tickets shall be delivered to the corporation or its
24 authorized collection representative upon demand. The
25 corporation shall require retailers to place all lottery
26 proceeds due the corporation in accounts in institutions
27 insured by the Federal Deposit Insurance Corporation or

1 Federal Savings and Loan Insurance Corporation not later than
2 the close of the next banking day after the date of their
3 collection by the retailer until the date they are paid over
4 to the corporation. The corporation may require a retailer to
5 establish a single separate electronic funds transfer account,
6 where available, for the purpose of receiving monies from
7 ticket sales, making payments to the corporation, and
8 receiving payments from the corporation. Lottery retailers
9 shall be personally liable for all proceeds. This section
10 shall apply to all lottery tickets generated by computer
11 terminal, other electronic device, and any other tickets
12 delivered to lottery retailers.

13 (b) Whenever any lottery retailer becomes insolvent,
14 or dies insolvent, the proceeds due the corporation from the
15 person or his or her estate shall have preference over all
16 debts or demands.

17 (c) Except as otherwise provided in subsections (d)
18 and (e), a lien is hereby given to the corporation on all
19 funds and other personal property, on all real property, and
20 on all rights to real or personal property owned or
21 subsequently acquired by each lottery retailer in the amount
22 of, and to secure, the retailer's obligations to remit lottery
23 proceeds to the corporation. The lien shall be in the amount
24 of all sums due to the corporation at any time, together with
25 all interest, penalties, fees, commissions, charges, and other
26 expenses incurred by reason of nonpayment of the lottery
27 proceeds to the corporation or in the process of collecting

1 those proceeds, and shall have priority over any other
2 obligation or liability for which the funds or real or
3 personal property are liable. The lien shall be of equal rank
4 with the tax liens of the state, or any city, county, or other
5 taxing authority within the state. The lien shall arise upon
6 the receipt of lottery proceeds by the retailer, whether or
7 not the retailer is at that time obligated to remit all or any
8 portion of those proceeds to the corporation, and shall be
9 enforceable until the liability is paid or extinguished.

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

23 (e) The lien imposed by subsection (c) shall not be
24 valid with respect to a security interest which comes into
25 existence after the notice of lien has been filed by reason of
26 disbursements made within 45 days after the date the lien was
27 filed or the date the person making the disbursements had

1 actual notice of the lien filing, whichever is earlier, if the
2 security interest is both of the following:

3 (1) In property that at the time of filing is
4 subject to the lien imposed by subsection (c), and is covered
5 by the terms of a written agreement entered into before the
6 lien is filed.

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

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

14 Section 9. Ticket sales.

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

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

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

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

25 Section 10. Sale of tickets to individuals under 18
26 years of age.

1 (a) No ticket may knowingly be sold to any person
2 under the age of 18 years.

3 (b) This section does not prohibit the purchase of a
4 ticket by a person 18 years of age or older for the purpose of
5 making a gift to any person of any age. In that case, the
6 corporation shall direct payments to an adult member of the
7 person's family or the legal guardian of the person on behalf
8 of the person.

9 Section 11. Computation of Retailer's Rental
10 Payments.

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

19 Section 12. Verification Rules and Prize Payments.

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

23 (1) No prize, any portion of a prize, or any right
24 of any person to a prize awarded is assignable. Any prize, or
25 portion thereof, remaining unpaid at the death of a prize
26 winner shall be paid to the estate of the deceased prize
27 winner or to the trustee under a revocable living trust

1 established by the deceased prize winner as settlor, provided
2 that a copy of the trust has been filed with the corporation
3 along with a notarized letter of direction from the settlor
4 and no written notice of revocation has been received by the
5 corporation prior to the settlor's death. Following the death
6 of the settlor and prior to any payment to the trustee, the
7 corporation shall obtain from the trustee and each trust
8 beneficiary a written agreement to indemnify and hold the
9 corporation harmless with respect to any claims that may be
10 asserted against the corporation arising from payment to or
11 through the trust. Notwithstanding any other provision of this
12 section, any person, pursuant to an appropriate judicial
13 order, shall be paid the prize to which a winner is entitled.

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

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

1 (4) A holder of a winning cash ticket from an
2 Alabama Lottery game shall claim the prize within 365 days
3 after the drawing in which the prize was won. A holder of a
4 winning ticket from a multistate lottery game shall claim the
5 prize within 180 days after the drawing in which the prize was
6 won. In any Alabama Lottery game in which the player may
7 determine instantly if he or she has won or lost, he or she
8 shall claim a prize within 365 days after the purchase of the
9 ticket, or within 180 days after the purchase of the ticket
10 for a multistate lottery. If a valid claim is not made for a
11 prize within the applicable period, the prize shall constitute
12 an unclaimed prize for purposes of subsection (c).

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

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

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

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

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

3 (2) Any vendor or related entity, or any member of
4 the commission, officers, employees of, partners in, or owners
5 of any vendor or related entity to a vendor.

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

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

12 Section 13. Procurement Procedures.

13 The corporation shall adopt rules establishing its
14 procurement procedures. The rules shall be designed to provide
15 for the purchase of supplies, equipment, services, and
16 construction items that provide the greatest long term benefit
17 to the state, the greatest integrity for the corporation, and
18 the best service and products for the public.

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

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

26 (1) Commission of a violation of this act or rules
27 adopted pursuant thereto.

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

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

5 (4) Insufficient sale of tickets.

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

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

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

22 Section 15. This act shall take effect immediately
23 upon its passage and approval by the Governor or upon its
24 otherwise becoming law, and shall become operative only upon
25 ratification by the voters of Alabama of the constitutional
26 amendment contained in Senate Bill 319 of the 2021 Regular
27 Session of the Alabama Legislature. In the event the

1 constitutional amendment contained in Senate Bill 319 of the
2 2021 Regular Session of the Legislature is not ratified by the
3 voters of Alabama, this act is void.