

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE JOINT
RESOLUTION 40

By: Henry

AS INTRODUCED

A Joint Resolution relating to amusements and sports; ordering a legislative referendum pursuant to the Oklahoma Constitution; creating the Oklahoma Lottery for Education Act; providing short title; stating intent; defining terms; creating Oklahoma Lottery for Education Corporation; providing for status and location thereof; subjecting records of corporation to Oklahoma Open Records Act; providing for governance by board of directors; providing for membership, terms, conflicts of interest, travel reimbursement, officers and conducting of business thereof; subjecting meetings of board to Oklahoma Open Meeting Act; providing for appointment of Lottery Retailer Advisory Board; specifying duties of board of directors; providing for appointment, compensation and duties of chief executive officer; specifying powers of corporation; specifying rules which may be promulgated by board of directors subject to Administrative Procedures Act; providing for employees of corporation and specifying certain provisions related thereto; providing for apportionment of lottery proceeds; creating Lottery for Education Revolving Fund and providing for deposits thereto and expenditures therefrom; creating certain shortfall reserve accounts; specifying certain duties of Office of State Finance; creating Lottery for Education Expenditure Approval Board; providing for membership and duties thereof; prohibiting expenditure of nonlottery funds for certain purposes; stating intent and provisions relating to participation by minority businesses; specifying certain requirements relating to lottery system vendors; requiring disclosure of certain information; prohibiting entry into major procurement contracts with certain persons; prohibiting gifts or payments under certain circumstances; requiring vendors to meet certain requirements; requiring competitive bid of certain contracts; providing for compensation and qualification of lottery retailers; prohibiting transfer or assignment of retailer contracts and sale of tickets by persons other than stated retailers; allowing corporation to establish fidelity fund and reserve accounts; allowing corporation to require retailers to post bond or maintain securities; providing for termination of retail contracts; providing that lottery sales constitute trust fund and providing for deposit of lottery proceeds; specifying certain restrictions with respect to lottery retailer rental payments; prohibiting sale of lottery ticket at price other

than that established by corporation; providing exception; specifying certain restrictions on sale or gift of lottery tickets; subjecting proceeds of lottery prize to state income tax; providing for withholding of certain amounts from lottery prizes; specifying duties of corporation to establish system of verification of validity of tickets or shares; specifying certain restrictions on payment of prizes; prohibiting sale of tickets to certain persons; providing for unclaimed prize money; providing for availability of records of corporation; specifying duties of corporation with respect to criminal background investigations and violations of act; prohibiting certain acts and providing penalties; providing for enforcement; providing for competitive bidding of contracts; providing for appeal of board decisions; allowing corporation to borrow certain funds and purchase or lease property; specifying duties of board of directors with respect to financial integrity of lottery; creating Oklahoma Lottery for Education Corporation Legislative Oversight Committee; providing for membership and duties thereof; amending 21 O.S. 2001, Section 1051, which relates to crimes and punishments; providing that conduct of lottery under act not violation of criminal provisions; amending 62 O.S. 2001, Section 7.2, which relates to public finance; allowing agency special account for prize funds; providing for codification; providing an effective date; providing ballot title; and directing filing.

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
2ND SESSION OF THE 48TH OKLAHOMA LEGISLATURE:

SECTION 1. Pursuant to Section 3 of Article V of the Oklahoma Constitution, there is hereby ordered the following legislative referendum which shall be filed with the Secretary of State and addressed to the Governor of the state, who shall submit the same to the people for their approval or rejection at the next General Election.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 701 of Title 3A, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Lottery for Education Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 702 of Title 3A, unless there is created a duplication in numbering, reads as follows:

It is the intent of the people of the State of Oklahoma:

1. That net proceeds of lottery games conducted pursuant to this act shall be used to support improvements and enhancements for educational purposes and programs and that such net proceeds shall be used to supplement rather than replace existing resources for educational purposes and programs;

2. That the lottery is an entrepreneurial enterprise and that there shall be created a public body, corporate and politic, known as the Oklahoma Lottery for Education Corporation, with comprehensive and extensive powers as generally exercised by corporations engaged in entrepreneurial pursuits, and with requirements for full public disclosure of its operations and finances;

3. That lottery games shall be operated and managed in a manner which provides full and complete public disclosure of lottery operations, provides continuing entertainment to the public, maximizes revenues, and ensures that the lottery is operated with integrity and dignity and free of political influence;

4. That the Oklahoma Lottery for Education be operated in such a manner that, after the initial state appropriation, to be repaid pursuant to the provisions of Section XX of this act, it is self-sustaining and self-funded; and

5. That the Oklahoma Lottery for Education Corporation shall be accountable to the Legislature and to the people of this state through availability to the public of its records pursuant to the Oklahoma Open Records Act, access to all meetings pursuant to the Oklahoma Open Meeting Act, and development and monitoring of a comprehensive system of public audits and reports.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 703 of Title 3A, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Administrative expenses" means operating expenses, excluding amounts set aside for prizes, regardless of whether such prizes are claimed and excluding amounts held as a fidelity fund pursuant to Section 20 of this act;
2. "Board" means the board of directors of the Oklahoma Lottery for Education Corporation;
3. "Capital outlay projects" means the acquisition, construction, installation, modification, renovation, repair, extension, renewal, replacement, or rehabilitation of land, interests in land, buildings, structures, facilities, or other improvements and the acquisition, installation, modification, renovation, repair, extension, renewal, replacement, rehabilitation, or furnishing of fixtures, machinery, equipment, computers, software, laboratories, furniture, textbooks, and reference material or other property of any nature whatsoever used on, in, or in connection with educational facilities;
4. "Casino gambling" means a location or business for the purpose of conducting illegal gambling activities, but excluding the sale and purchase of lottery tickets or shares as authorized by this act;
5. "Chief executive officer" means the chief executive officer of the Oklahoma Lottery for Education Corporation;
6. "Corporation" means the Oklahoma Lottery for Education Corporation;
7. "Educational facilities" means land, structures, and buildings owned or operated by and through the Oklahoma State Regents for Higher Education, the State Board of Education, the Oklahoma State Department of Career and Technology Education, or by

any school district within this state; provided, however, that a public road or highway leading to an educational facility shall not be considered an educational facility;

8. "Educational purposes and programs" means:

- a. capital outlay projects for educational facilities,
- b. tuition grants, scholarships, or loans to citizens of this state to enable such citizens to attend colleges and universities located within this state, regardless of whether such colleges and universities are owned or operated by the Oklahoma State Regents for Higher Education, or to attend institutions operated under the authority of the Oklahoma State Department of Career and Technology Education,
- c. costs of providing to teachers at accredited public institutions who teach levels K-12, personnel at technology centers under the authority of the Oklahoma State Department of Career and Technology Education, and professors and instructors within the Oklahoma State System of Higher Education the necessary training in the use and application of computers and advanced electronic instructional technology to implement interactive learning environments in the classroom and to access the state-wide distance learning network,
- d. costs associated with repairing and maintaining advanced electronic instructional technology,
- e. costs associated with pre-kindergarten and full-day kindergarten programs, and
- f. an education shortfall reserve;

9. "Lottery", "lotteries", "lottery game", or "lottery games" means any game of chance approved by the board and operated pursuant to this act, including, but not limited to, instant tickets, on-line

games, and games using mechanical or electronic devices but excluding charity games conducted pursuant to the Oklahoma Charity Games Act, pari-mutuel betting conducted pursuant to the Oklahoma Horse Racing Act and casino gambling as defined in this section;

10. "Major procurement contract" means any gaming product or service costing in excess of Seventy-five Thousand Dollars (\$75,000.00), including, but not limited to, major advertising contracts, annuity contracts, prize payment agreements, consulting services, equipment, tickets, and other products and services unique to the Oklahoma lottery, but not including materials, supplies, equipment, and services common to the ordinary operations of a corporation;

11. "Member" or "members" means a director or directors of the board of directors of the Oklahoma Lottery for Education Corporation;

12. "Member of a minority" means an individual who is a member of a race which comprises less than fifty percent (50%) of the total population of the state;

13. "Minority business" means any business which is owned by:
- a. an individual who is a member of a minority who reports as his or her personal income for Oklahoma income tax purposes the income of such business,
 - b. a partnership in which a majority of the ownership interest is owned by one or more members of a minority who report as their personal income for Oklahoma income tax purposes more than fifty percent (50%) of the income of the partnership, or
 - c. a corporation organized under the laws of this state in which a majority of the common stock is owned by one or more members of a minority who report as their personal income for Oklahoma income tax purposes more

than fifty percent (50%) of the distributed earnings of the corporation;

14. "Net proceeds" means all revenue derived from the sale of lottery tickets or shares and all other moneys derived from the lottery less operating expenses;

15. "Operating expenses" means all costs of doing business, including, but not limited to, prizes, commissions, and other compensation paid to retailers, advertising and marketing costs, personnel costs, capital costs, depreciation of property and equipment, funds for compulsive gambling education and treatment, amounts held in or paid from a fidelity fund pursuant to Section 20 of this act, and other operating costs;

16. "Pari-mutuel betting" means the pari-mutuel system of wagering as defined in Section 200.1 of Title 3A of the Oklahoma Statutes. Such term shall not include a lottery game which may be predicated on a horse racing scheme that does not involve actual track events or traditional lottery games which may involve the distribution of winnings by pools;

17. "Person" means any individual, corporation, partnership, unincorporated association, limited liability company, or other legal entity;

18. "Retailer" means a person who sells lottery tickets or shares on behalf of the corporation pursuant to a contract;

19. "Share" means any intangible evidence of participation in a lottery game;

20. "Ticket" means any tangible evidence issued by the lottery to provide participation in a lottery game; and

21. "Vendor" means a person who provides or proposes to provide goods or services to the corporation pursuant to a major procurement contract, but does not include an employee of the corporation, a retailer, or a state agency or instrumentality thereof. Such term does not include any corporation whose shares are publicly traded

and which is the parent company of the contracting party in a major procurement contract.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 704 of Title 3A, unless there is created a duplication in numbering, reads as follows:

There is hereby created a body corporate and politic to be known as the Oklahoma Lottery for Education Corporation which shall be deemed to be an instrumentality of the state, and not a state agency, and a public corporation. The principal office of the corporation shall be located in Oklahoma County. The records of the Oklahoma Lottery for Education Corporation shall be subject to the Oklahoma Open Records Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 705 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The corporation shall be governed by a board of directors composed of seven (7) members to be appointed by the Governor with the advice and consent of the Senate. Not more than two members shall be appointed from any single congressional district.

B. Members shall be residents of the State of Oklahoma, shall be prominent persons in their businesses or professions, and shall not have been convicted of any felony offense. At least one member of the board shall be engaged in the practice of law, at least one member shall be engaged in the practice of accounting and at least one member shall have expertise in marketing.

C. Members shall serve terms of five (5) years, except that of the initial members appointed, three shall be appointed for initial terms of two (2) years, two shall be appointed for initial terms of four (4) years, and two shall be appointed for initial terms of five (5) years. Any vacancy occurring on the board shall be filled by the Governor by appointment for the remainder of the unexpired term.

D. Members of the board shall not have any direct or indirect interest in an undertaking that puts their personal interest in conflict with that of the corporation, including, but not limited to, an interest in a major procurement contract or a participating retailer.

E. Members of the board shall be reimbursed for travel expenses pursuant to the State Travel Reimbursement Act.

F. The members shall elect from their membership a chair, vice-chair, secretary, and treasurer. Such officers shall serve for such terms as shall be prescribed by the bylaws of the corporation or until their respective successors are elected and qualified. No member of the board shall hold more than any one office of the corporation, except that the same person may serve as secretary and treasurer.

G. The board of directors shall employ a chief executive officer of the corporation.

H. The board of directors may delegate to any one or more of its members, to the chief executive officer, or to any agent or employee of the corporation such powers and duties as it may deem proper.

I. A majority of members in office shall constitute a quorum for the transaction of any business and for the exercise of any power or function of the corporation.

J. All meetings of the board shall be subject to the Oklahoma Open Meeting Act. Action may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of a majority of present and voting board members.

K. No vacancy in the membership of the board shall impair the right of the members to exercise all the powers and perform all the duties of the board.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 706 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The chair of the board of directors shall appoint a Lottery Retailer Advisory Board to be composed of ten (10) lottery retailers representing the broadest possible spectrum of geographical, racial, and business characteristics of lottery retailers. The function of the advisory board shall be to advise the board of directors on retail aspects of the lottery and to present the concerns of lottery retailers throughout the state.

B. Members appointed to the Lottery Retailer Advisory Board shall serve terms of two (2) years; provided, however, that five of the initial appointees shall serve initial terms of one (1) year.

C. The advisory board shall establish its own rules and internal operating procedures. Meeting of the advisory board shall be subject to the Oklahoma Open Meeting Act. Members of the advisory board shall serve without compensation or reimbursement of expenses. The advisory board may report to the board of directors or to the oversight committee created in Section 35 of this act in writing at any time. The board of directors may invite the advisory board to make an oral presentation to the board of directors at regular meetings of the board.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 707 of Title 3A, unless there is created a duplication in numbering, reads as follows:

The board of directors shall provide the chief executive officer with private-sector perspectives of a large marketing enterprise. The board shall:

1. Approve, disapprove, amend, or modify the budget recommended by the chief executive officer for the operation of the corporation;
2. Approve, disapprove, amend, or modify the terms of major lottery procurements recommended by the chief executive officer;

3. Hear appeals of hearings required by this act;

4. Promulgate rules relating to the conduct of lottery games and as specified in the Administrative Procedures Act; and

5. Perform such other functions as specified by this act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 708 of Title 3A, unless there is created a duplication in numbering, reads as follows:

The board of directors shall appoint and shall provide for the compensation of a chief executive officer who shall be an employee of the corporation and who shall direct the day-to-day operations and management of the corporation and shall be vested with such powers and duties as specified by the board and by law. The chief executive officer shall serve at the pleasure of the board.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 709 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The corporation shall have any and all powers necessary or convenient to its usefulness in carrying out and effectuating the purposes and provisions of this act which are not in conflict with the Oklahoma Constitution and laws of this state and which are generally exercised by corporations engaged in entrepreneurial pursuits, including, but without limiting the generality of the foregoing, the following powers:

1. To sue and be sued in contract and in tort and to complain and defend in all courts;

2. To adopt and alter a seal;

3. To adopt, amend, and repeal bylaws, regulations, and policies and procedures for the regulation of its affairs and the conduct of its business, to elect and prescribe the duties of officers and employees of the corporation, and to perform such other matters as the corporation may determine. In the adoption of bylaws, regulations, policies, and procedures or in the exercise of

any regulatory power, the corporation shall be subject to the Administrative Procedures Act;

4. To procure or to provide insurance;

5. To hold copyrights, trademarks, and service marks and enforce its rights with respect thereto;

6. To initiate, supervise, and administer the operation of the lottery in accordance with the provisions of this act and regulations, policies, and procedures adopted pursuant thereto;

7. To enter into written agreements with one or more other states or sovereigns for the operation, participation in marketing, and promotion of a joint lottery or joint lottery games;

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

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

10. To enter into contracts to incur debt in its own name and enter into financing agreements with the state, agencies or instrumentalities of the state, or with any commercial financial institution or credit provider; provided, however, that any such debt must be approved by the Attorney General and State Treasurer. Provided further, any such debt shall not constitute a debt of the state and under no circumstances shall the general funds of the state be reached in order to satisfy any obligation of the corporation;

11. To be authorized to administer oaths, take depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence relative to any investigation or proceeding conducted by the corporation;

12. To appoint and select officers, agents, and employees, including professional and administrative staff and personnel and hearing officers to conduct hearings required by this act, and to fix their compensation, pay their expenses, and provide a benefit program, including, but not limited to, a retirement plan and a group insurance plan;

13. To select and contract with vendors and retailers;

14. To enter into contracts or agreements with state or local law enforcement agencies for the performance of law enforcement, background investigations, and security checks;

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

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

17. To advertise and promote the lottery and lottery games;

18. To act as a retailer, to conduct promotions which involve the dispensing of lottery tickets or shares, and to establish and operate a sales facility to sell lottery tickets or shares and any related merchandise; and

19. To adopt and amend such regulations, policies, and procedures as necessary to carry out and implement its powers and duties, organize and operate the corporation, regulate the conduct of lottery games in general, and any other matters necessary or desirable for the efficient and effective operation of the lottery or the convenience of the public. The promulgation of any such regulations, policies, and procedures shall be subject to the Administrative Procedures Act.

B. The powers enumerated in subsection A of this section are cumulative of and in addition to those powers enumerated elsewhere in this act, and no such powers limit or restrict any other powers of the corporation.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 710 of Title 3A, unless there is created a duplication in numbering, reads as follows:

The board may promulgate rules, subject to the Administrative Procedures Act, regulating the conduct of lottery games in general, including, but not limited to, rules specifying:

1. The type of games to be conducted, including, but not limited to, instant lotteries, on-line games, and other games traditional to the lottery. Such games may include the selling of tickets or shares or the use of electronic or mechanical devices;

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

3. The number and amount of prizes;

4. The method and location of selecting or validating winning tickets or shares;

5. The manner and time of payment of prizes, which may include lump sum payments or installments over a period of years;

6. The manner of payment of prizes to the holders of winning tickets or shares, including without limitation provision for payment of prizes by retailers not exceeding Six Hundred Dollars (\$600.00) after deducting the price of the ticket or share and after performing validation procedures appropriate to the game and as specified by the board. The board may provide for a limited number of retailers who can pay prizes of up to Five Thousand Dollars (\$5,000.00) after performing validation procedures appropriate to

the game and as specified by the board without regard to where such ticket or share was purchased;

7. The frequency of games and drawings or selection of winning tickets or shares;

8. The means of conducting drawings;

9. The method to be used in selling tickets or shares, which may include the use of electronic or mechanical devices, but such devices may be placed only in locations on the premises of the lottery retailer which are within the view of such retailer or an employee of such retailer. All electronic or mechanical devices shall bear a conspicuous label prohibiting the use of such device by persons under eighteen (18) years of age. A lottery retailer who knowingly allows a person under eighteen (18) years of age to purchase a lottery ticket or share from an electronic or mechanical device shall be subject to the penalties provided in Section 27 of this act;

10. The manner and amount of compensation to lottery retailers; and

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

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 711 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The chief executive officer of the corporation shall direct and supervise all administrative and technical activities in accordance with the provisions of this act and with the rules promulgated by the board. It shall be the duty of the chief executive officer to:

1. Facilitate the initiation and supervise and administer the operation of the lottery games;

2. Employ and direct such personnel as deemed necessary;

3. Employ by contract and compensate such persons and firms as deemed necessary;

4. Promote or provide for promotion of the lottery and any functions related to the corporation;

5. Prepare a budget for the approval of the board;

6. Require bond from such retailers and vendors in such amounts as required by the board;

7. Report quarterly to the State Auditor and Inspector and the board a full and complete statement of lottery revenues and expenses for the preceding quarter; and

8. Perform other duties generally associated with a chief executive officer of a corporation of an entrepreneurial nature.

B. The chief executive officer may for good cause suspend, revoke, or refuse to renew any contract entered into in accordance with the provisions of this act or the rules of the board.

C. The chief executive officer or designee may conduct hearings and administer oaths to persons for the purpose of assuring the security or integrity of lottery operations or to determine the qualifications of or compliance by vendors and retailers.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 712 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The corporation shall establish and maintain a personnel program for its employees and fix the compensation and terms of compensation of its employees, including, but not limited to, production incentive payments.

B. No employee of the corporation shall have a financial interest in any vendor doing business or proposing to do business with the corporation.

C. No employee of the corporation with decision-making authority shall participate in any decision involving a retailer with whom the employee has a financial interest.

D. No employee of the corporation who leaves the employment of the corporation may represent any vendor or lottery retailer before the corporation for a period of two (2) years following termination of employment with the corporation.

E. A background investigation shall be conducted on each applicant who has reached the final selection process prior to employment by the corporation at the level of division director and above and at any level within any division of security and as otherwise required by the board. The corporation shall be authorized to pay for the actual cost of such investigations and may contract with the Oklahoma State Bureau of Investigation for the performance of such investigations. The results of such a background investigation shall not be considered a record open to the public pursuant to the Oklahoma Open Records Act.

F. No person who has been convicted of a felony or bookmaking or other forms of illegal gambling or of a crime involving moral turpitude shall be employed by the corporation.

G. The corporation shall bond corporation employees with access to corporation funds or lottery revenue in such an amount as provided by the board and may bond other employees as deemed necessary.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 713 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. All lottery proceeds shall be the property of the corporation. From its lottery proceeds the corporation shall pay the operating expenses of the corporation. As nearly as practical, at least forty-five percent (45%) of the amount of money from the actual sale of lottery tickets or shares shall be made available as

prize money; provided, however, that the provisions of this subsection shall be deemed not to create any lien, entitlement, cause of action, or other private right, and any rights of holders of tickets or shares shall be determined by the corporation in setting the terms of its lottery or lotteries. As nearly as practical, for each fiscal year, net proceeds shall equal at least thirty-five percent (35%) of the lottery proceeds. However, for the first two full fiscal years and any partial first fiscal year of the corporation, net proceeds need only equal thirty percent (30%) of the proceeds as nearly as practical.

B. On or before the fifteenth day of each calendar quarter, the corporation shall transfer to the State Treasurer, for credit to the Lottery for Education Revolving Fund, the amount of all net proceeds during the preceding calendar quarter. There is hereby created in the State Treasury a revolving fund to be designated the "Lottery for Education Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Treasurer as provided in this subsection. All moneys accruing to the credit of the fund are hereby appropriated and may be budgeted and expended as provided in subsection E of this section. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

Upon their deposit into the state treasury, any moneys representing a deposit of net proceeds shall then become the unencumbered property of the State of Oklahoma and the corporation shall have no power to agree or undertake otherwise. Such moneys shall be invested by the State Treasurer in accordance with state investment practices. All earnings attributable to such investments shall likewise be the unencumbered property of the state and shall accrue to the credit of the fund.

C. Any appropriation of General Revenue Fund monies for the operation of the Oklahoma Lottery for Education and other expenses incurred in connection with the conduct of lotteries pursuant to the Oklahoma Lottery for Education Act shall be repaid with interest to the General Revenue Fund as excess monies are available in the Lottery for Education Revolving Fund, but in no case later than twelve (12) months from the effective date of the appropriation of such General Revenue Fund monies. The interest shall be based upon the principal amount outstanding each month until repaid and the average interest rate on time deposit, open accounts for each such month.

D. 1. A scholarship shortfall reserve account shall be maintained within the fund. An amount equal to ten percent (10%) of the total amount of lottery proceeds disbursed during the preceding fiscal year in the form of scholarships and grants for higher education from the fund shall be deposited from lottery proceeds each year until such amount equals fifty percent (50%) of such sum. Thereafter, only an amount necessary to maintain the scholarship shortfall reserve account in an amount equal to fifty percent (50%) of the amount of lottery proceeds disbursed during the preceding fiscal year shall be deposited into the account. If the net proceeds paid into the fund in any year are not sufficient to meet the amount appropriated for higher education scholarships, the shortfall reserve account may be drawn upon to meet the deficiency. In the event it becomes necessary to draw from the reserve account in any fiscal year, the scholarship program shall be reviewed and shall be reduced to accommodate available lottery proceeds, exclusive of the scholarship shortfall reserve account, through such methods as reducing the family income cap qualification, reducing or eliminating grants for student fees and books, and reducing the academic years funded.

2. A shortfall reserve account shall be maintained within the fund. The amount of the shortfall reserve account shall be equal to ten percent (10%) of the total amount of lottery proceeds deposited into the fund for the preceding fiscal year. If the net proceeds deposited into the fund in any year, exclusive of the amount in the shortfall reserve account, are not sufficient to meet the amount appropriated for education purposes pursuant to subsection E of this section, the shortfall reserve account may be drawn upon to meet the deficiency. In the event the shortfall reserve account is drawn upon, the account shall be brought back to the appropriate level with the first available funds duly deposited into the fund.

E. On or before February 1 of each year, the Office of State Finance shall estimate and report to the Governor and the Legislature the amount of net proceeds and treasury earnings thereon to be credited to the fund during the following fiscal year and the amount of unappropriated surplus estimated to be accrued in the fund at the beginning of the following fiscal year. The sum of estimated net proceeds, treasury earnings thereon, and unappropriated surplus shall be designated lottery proceeds.

F. There is hereby created the Lottery for Education Expenditure Approval Board, which shall consist of seven (7) members, one appointed by each of the following appointing authorities:

1. The Governor;
2. The President Pro Tempore of the Senate;
3. The Speaker of the House of Representatives;
4. The Attorney General;
5. The State Treasurer;
6. The State Auditor and Inspector; and
7. The State Superintendent of Public instruction.

The initial appointed members shall serve staggered terms of office as provided for by law. Thereafter, the appointed members of

the Board shall serve seven-year terms of office. At least one appointee shall be appointed from each congressional district, and not more than two appointees shall be appointed from any single congressional district. Not more than four appointees shall be members of the same political party. An appointee shall have been a member of the political party to which the appointee belongs for at least one (1) year prior to the date of appointment. Appointees shall have demonstrated expertise in education. The Board shall meet at least one time each calendar quarter.

The Board shall approve and oversee the expenditure of lottery proceeds for programs and services for the benefit of the children of Oklahoma, with particular emphasis on common and higher education, before- and after-school and pre-school programs, and other programs and services designed to improve the health and quality of life of children.

If, for any educational purpose or program, less is expended in or during the fiscal year than is authorized, the excess shall be available for expenditure the following fiscal year and shall not retain its character as funds for the particular purpose.

G. No deficiency in the Lottery for Education Revolving Fund shall be replenished by reducing any nonlottery funds, including specifically but without limitation the General Revenue Fund or the Constitutional Reserve Fund; nor shall any program or project started specifically from lottery proceeds be continued from the General Revenue Fund or the Constitutional Reserve Fund. Such programs must be adjusted or discontinued according to available lottery proceeds unless the Legislature by general law establishes eligibility requirements and appropriates specific funds therefor. Except as otherwise provided in subsection C of this section, no surplus in the Lottery for Education Revolving Fund shall be reduced or transferred to correct any nonlottery deficiencies in sums available for general appropriations.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 714 of Title 3A, unless there is created a duplication in numbering, reads as follows:

It is the intent of the people of this state that the corporation encourage participation by minority businesses. Accordingly, the board of directors shall adopt a plan which achieves to the greatest extent possible a level of participation by minority businesses taking into account the total number of all retailers and vendors, including any subcontractors. The corporation is authorized and directed to undertake training programs and other educational activities to enable such minority businesses to compete for contracts on an equal basis. The board shall monitor the results of minority business participation and shall report the results of minority business participation to the Governor and the Legislature at least on an annual basis.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 715 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The corporation shall investigate the financial responsibility, security, and integrity of any lottery system vendor who is a finalist in submitting a bid, proposal, or offer as part of a major procurement. At the time of submitting such bid, proposal, or offer to the corporation, the corporation may require the following items:

1. A disclosure of the vendor's name and address and, as applicable, the names and addresses of the following:

- a. if the vendor is a corporation, the officers, directors, and each stockholder in such corporation; provided, however, that in the case of owners of equity securities of a publicly traded corporation, only the names and addresses of those known to the

corporation to own beneficially five percent (5%) or more of such securities need be disclosed,

- b. if the vendor is a trust, the trustee and all persons entitled to receive income or benefits from the trust,
- c. if the vendor is an association, the members, officers, and directors, and
- d. if the vendor is a partnership or joint venture, all of the general partners, limited partners, or joint venturers;

2. A disclosure of all the states and jurisdictions in which the vendor does business and the nature of the business for each such state or jurisdiction;

3. A disclosure of all the states and jurisdictions in which the vendor has contracts to supply gaming goods or services, including, but not limited to, lottery goods and services, and the nature of the goods or services involved for each such state or jurisdiction;

4. A disclosure of all the states and jurisdictions in which the vendor has applied for, has sought renewal of, has received, has been denied, has pending, or has had revoked a lottery or gaming license of any kind or had fines or penalties assessed to the vendor's license, contract, or operation and the disposition of such in each such state or jurisdiction. If any lottery or gaming license or contract has been revoked or has not been renewed or any lottery or gaming license or application has been either denied or is pending and has remained pending for more than six (6) months, all of the facts and circumstances underlying the failure to receive such a license shall be disclosed;

5. A disclosure of the details of any finding or plea, conviction, or adjudication of guilt in a state or federal court of the vendor for any felony or any other criminal offense other than a traffic violation;

6. A disclosure of the details of any bankruptcy, insolvency, reorganization, or corporate or individual purchase or takeover of another corporation, including bonded indebtedness, or any pending litigation of the vendor; and

7. Such additional disclosures and information as the corporation may determine to be appropriate for the procurement involved.

If at least twenty-five percent (25%) of the cost of a vendor's contract is subcontracted, the vendor shall disclose all of the information required by this section for the subcontractor as if the subcontractor were itself a vendor.

B. A lottery procurement contract shall not be entered into with any lottery system vendor who has not complied with the disclosure requirements described in subsection A of this section, and any contract with such a vendor is voidable at the option of the corporation. Any contract with a vendor who does not comply with such requirements for periodically updating such disclosures during the tenure of contract as may be specified in such contract may be terminated by the corporation. The provisions of this section shall be construed broadly and liberally to achieve the ends of full disclosure of all information necessary to allow for a full and complete evaluation by the corporation of the competence, integrity, background, and character of vendors for major procurements.

C. A major procurement contract shall not be entered into with any vendor who has been found guilty of a felony related to the security or integrity of the lottery in this or any other jurisdiction.

D. A major procurement contract shall not be entered into with any vendor if such vendor has an ownership interest in an entity that had supplied consultation services under contract to the corporation regarding the request for proposals pertaining to those particular goods or services.

E. No lottery system vendor nor any applicant for a major procurement contract may pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, to the chief executive officer, any board member, or any employee of the corporation or to a member of the immediate family residing in the same household as any such person.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 716 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. 1. Each vendor shall, at the execution of the contract with the corporation, post a performance bond or letter of credit from a bank or credit provider acceptable to the corporation in an amount as deemed necessary by the corporation for that particular bid or contract. In lieu of the bond, a vendor may, to assure the faithful performance of its obligations, deposit and maintain with the corporation securities that are interest bearing or accruing and that are rated in one of the three highest classifications by an established nationally recognized investment rating service.

Securities eligible under this section are limited to:

- a. certificates of deposit issued by solvent banks or savings associations approved by the corporation and which are organized and existing under the laws of this state or under the laws of the United States,
- b. United States bonds, notes, and bills for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest, and
- c. corporate bonds approved by the corporation. The corporation which issued the bonds shall not be an affiliate or subsidiary of the depositor.

Such securities shall be held in trust and shall have at all times a market value at least equal to the full amount estimated to be paid annually to the lottery vendor under contract.

2. Because of certain economic considerations, minority businesses may not be able financially to comply with the bonding, deposit of securities, or letter of credit requirements of paragraph 1 of this subsection. Notwithstanding any other provisions of this subsection, in order to assure minority participation in major procurement contracts to the most feasible and practicable extent possible, the chief executive officer is authorized and directed to waive the bonding, deposit of securities, and letter of credit requirements of paragraph 1 of this subsection for a period of five (5) years from the time that a minority business enters into a major procurement contract for any minority business which substantiates financial hardship pursuant to the policies and procedures established by the board.

B. Each vendor shall be qualified to do business in this state and shall file appropriate tax returns as provided by the laws of this state. All contracts under this section shall be governed by the laws of this state.

C. No contract shall be let with any vendor in which a public official has an ownership interest of ten percent (10%) or more.

D. All major procurement contracts must be competitively bid pursuant to policies and procedures approved by the board unless there is only one qualified vendor and that vendor has an exclusive right to offer the service or product.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 717 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The people of this state recognize that to conduct a successful lottery, the corporation must develop and maintain a statewide network of lottery retailers that will serve the public

convenience and promote the sale of tickets or shares and the playing of lottery games while ensuring the integrity of the lottery operations, games, and activities.

B. The corporation must make every effort to provide small retailers a chance to participate in the sales of lottery tickets or shares.

C. The corporation shall provide for compensation to lottery retailers in the form of commissions in an amount of not less than five percent (5%) of gross sales and may provide for other forms of compensation for services rendered in the sale or cashing of lottery tickets or shares.

D. The corporation shall issue a certificate of authority to each person with whom it contracts as a retailer for purposes of display. Every lottery retailer shall post and keep conspicuously displayed in a location on the premises accessible to the public its certificate of authority. No certificate shall be assignable or transferable.

E. The board shall develop a list of objective criteria upon which the qualification of lottery retailers shall be based. Separate criteria shall be developed to govern the selection of retailers of instant tickets and on-line retailers. In developing these criteria, the board shall consider such factors as the applicant's financial responsibility, security of the applicant's place of business or activity, accessibility to the public, integrity, and reputation. The board shall not consider political affiliation, activities, or monetary contributions to political organizations or candidates for any public office. The criteria shall include but not be limited to the following:

1. The applicant shall be current in filing all applicable tax returns to the State of Oklahoma and in payment of all taxes, interest, and penalties owed to the State of Oklahoma, excluding items under formal appeal pursuant to applicable statutes. The

Oklahoma Tax Commission is authorized and directed to provide this information to the corporation;

2. No person, partnership, unincorporated association, corporation, or other business entity shall be selected as a lottery retailer who:

- a. has been convicted of a criminal offense related to the security or integrity of the lottery in this or any other jurisdiction,
- b. has been convicted of any illegal gambling activity, false statements, false swearing, or perjury in this or any other jurisdiction or convicted of any crime punishable by more than one year of imprisonment or a fine of more than One Thousand Dollars (\$1,000.00) or both unless the person's civil rights have been restored and at least five (5) years have elapsed from the date of the completion of the sentence without a subsequent conviction of a crime described in this subparagraph,
- c. has been found to have violated the provisions of this act or any rule, regulation, policy, or procedure of the corporation unless either ten (10) years have passed since the violation or the board finds the violation both minor and unintentional in nature,
- d. is a vendor or any employee or agent of any vendor doing business with the corporation,
- e. resides in the same household as an officer of the corporation,
- f. has made a statement of material fact to the corporation knowing such statement to be false, or
- g. is engaged exclusively in the business of selling lottery tickets or shares; provided, however, that this subsection shall not preclude the corporation

from selling or giving away lottery tickets or shares for promotional purposes;

3. Persons applying to become lottery retailers shall be charged a uniform application fee for each lottery outlet.

Retailers who participate in on-line games shall be charged a uniform application fee for each on-line outlet;

4. Any lottery retailer contract executed pursuant to this section may, for good cause, be suspended, revoked, or terminated by the chief executive officer or designee if the retailer is found to have violated any provision of this act or objective criteria established by the board. Review of such activities shall be in accordance with the procedures outlined in this act and shall not be subject to the Administrative Procedure Act; and

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

F. No lottery retailer or applicant to be a lottery retailer shall pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, to the chief executive officer, any board member, or any employee of the corporation or to a member of the immediate family residing in the same household as any such person.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 718 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. No lottery retailer contract shall be transferable or assignable. No lottery retailer shall contract with any person for lottery goods or services except with the approval of the board.

B. Lottery tickets and shares shall only be sold by the retailer stated on the lottery retailer certificate.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 719 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The corporation may establish a fidelity fund separate from all other funds and shall assess each retailer a one-time fee not to exceed One Hundred Dollars (\$100.00) per sales location. The corporation is authorized to invest the funds or place such funds in one or more interest-bearing accounts. Moneys deposited to the fund may be used to cover losses the corporation experiences due to nonfeasance, misfeasance, or malfeasance of a lottery retailer. In addition, the funds may be used to purchase blanket bonds covering the Oklahoma Lottery for Education Corporation against losses from all retailers. At the end of each fiscal year, the corporation shall pay to the Lottery for Education Revolving Fund any amount in the fidelity fund which exceeds Five Hundred Thousand Dollars (\$500,000.00), and such funds shall be commingled with and treated as net proceeds from the lottery.

B. A reserve account may be established as a general operating expense to cover amounts deemed uncollectible. The corporation shall establish procedures for minimizing any losses that may be experienced for the foregoing reasons and shall exercise and exhaust all available options in such procedures prior to amounts being written off to this account.

C. The corporation may require any retailer to post an appropriate bond, as determined by the corporation, using an insurance company acceptable to the corporation. The amount should not exceed the applicable district sales average of lottery tickets for two billing periods.

D. 1. In its discretion, the corporation may allow a retailer to deposit and maintain with the corporation securities that are interest bearing or accruing. Securities eligible under this paragraph shall be limited to:

- a. certificates of deposit issued by solvent banks or savings associations organized and existing under the laws of this state or under the laws of the United States,
- b. United States bonds, notes, and bills for which the full faith and credit of the United States is pledged for the payment of principal and interest, and
- c. federal agency securities by an agency or instrumentality of the United States government.

2. Such securities shall be held in trust in the name of the Oklahoma Lottery for Education Corporation.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 720 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any retail contract executed by the corporation pursuant to this act shall specify the reasons for which a contract may be canceled, suspended, revoked, or terminated by the corporation, which reasons shall include but not be limited to:

1. Commission of a violation of this act, a rule, a regulation, or a policy or procedure of the corporation;

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

3. Commission of any fraud, deceit, or misrepresentation;

4. Insufficient sales;

5. Conduct prejudicial to public confidence in the lottery;

6. The retailer filing for or being placed in bankruptcy or receivership;

7. Any material change as determined in the sole discretion of the corporation in any matter considered by the corporation in executing the contract with the retailer; or

8. Failure to meet any of the objective criteria established by the corporation pursuant to this act.

B. If, in the discretion of the chief executive officer or designee, cancellation, denial, revocation, suspension, or rejection of renewal of a lottery retailer contract is in the best interest of the lottery, the public welfare, or the State of Oklahoma, the chief executive officer or designee may cancel, suspend, revoke, or terminate, after notice and a right to a hearing, any contract issued pursuant to this act. Such contract may, however, be temporarily suspended by the chief executive officer or designee without prior notice pending any prosecution, hearing, or investigation, whether by a third party or by the chief executive officer. A contract may be suspended, revoked, or terminated by the chief executive officer or designee for any one or more of the reasons enumerated in this section. Any hearing held shall be conducted by the chief executive officer or designee. A party to the contract aggrieved by the decision of the chief executive officer or designee may appeal the adverse decision to the board. Such appeal shall be pursuant to the rules set by the board and is not subject to the Administrative Procedures Act.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 721 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. All proceeds from the sale of the lottery tickets or shares shall constitute a trust fund until paid to the corporation either directly or through the corporation's authorized collection representative. A lottery retailer and officers of a lottery retailer's business shall have a fiduciary duty to preserve and account for lottery proceeds and lottery retailers shall be personally liable for all proceeds. Proceeds shall include unsold instant tickets received by a lottery retailer and cash proceeds of the sale of any lottery products, net of allowable sales commissions and credit for lottery prizes sold to or paid to winners by lottery retailers. Sales proceeds and unused instant tickets shall be

delivered to the corporation or its authorized collection representative upon demand.

B. The corporation shall require retailers to place all lottery proceeds due the corporation in accounts in institutions insured by the Federal Deposit Insurance Corporation not later than the close of the next banking day after the date of their collection by the retailer until the date they are paid over to the corporation. At the time of such deposit, lottery proceeds shall be deemed to be the property of the corporation. The corporation may require a retailer to establish a single separate electronic funds transfer account where available for the purpose of receiving moneys from ticket or share sales, making payments to the corporation, and receiving payments for the corporation. Unless otherwise authorized in writing by the corporation, each lottery retailer shall establish a separate bank account for lottery proceeds which shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets.

C. Whenever any person who receives proceeds from the sale of lottery tickets or shares in the capacity of a lottery retailer becomes insolvent or dies insolvent, the proceeds due the corporation from such person or the person's estate shall have preference over all debts or demands.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 722 of Title 3A, unless there is created a duplication in numbering, reads as follows:

If a lottery retailer's rental payments for the business premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales and such computation of retail sales is not explicitly defined to include sales of tickets or shares in a state operated or state managed lottery, only the compensation received by the lottery retailer from the corporation

may be considered the amount of the lottery retail sale for purposes of computing the rental payment.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 723 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. No person shall sell a ticket or share at a price other than established by the corporation unless authorized in writing by the chief executive officer. No person other than a duly certified lottery retailer shall sell lottery tickets, but this subsection shall not be construed to prevent a person who may lawfully purchase tickets or shares from making a gift of lottery tickets or shares to another. Nothing in this act shall be construed to prohibit the corporation from designating certain of its agents and employees to sell or give lottery tickets or shares directly to the public.

B. Lottery tickets or shares may be given by merchants as a means of promoting goods or services to customers or prospective customers subject to prior approval by the corporation.

C. No lottery retailer shall sell a lottery ticket or share except from the locations listed in the retailer's contract and as evidenced by the certificate of authorization unless the corporation authorizes in writing any temporary location not listed in the contract.

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

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 724 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Proceeds of any lottery prize shall be subject to the Oklahoma state income tax.

B. Except as otherwise provided in this act, attachments, garnishments, or executions authorized and issued pursuant to law shall be withheld if timely served upon the corporation. This subsection shall not apply to a retailer.

C. The corporation shall adopt regulations, policies, and procedures to establish a system of verifying the validity of tickets or shares claimed to win prizes and to effect payment of such prizes, except that:

1. No prize, any portion of a prize, or any right of any person to a prize awarded shall be assignable. Any prize or any portion of a prize remaining unpaid at the death of a prize winner shall be paid to the estate of the deceased prize winner or to the trustee of a trust established by the deceased prize winner as settlor if a copy of the trust document or instrument has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death. Following a settlor's death and prior to any payment to such a successor trustee, the corporation shall obtain from the trustee a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this section, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled;

2. No prize shall be paid arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or

issued in error, unreadable, not received, or not recorded by the corporation within applicable deadlines; lacking in captions that conform and agree with the play symbols as appropriate to the particular lottery game involved; or not in compliance with such additional specific regulations and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved;

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

4. A holder of a winning cash ticket or share from a lottery game shall claim a cash prize within one hundred eighty (180) days, or for a multistate or multisoovereign lottery game within one hundred eighty (180) days, after the drawing in which the cash prize was won. In any Oklahoma lottery game in which the player may determine instantly if the player has won or lost, the player shall claim a cash prize within ninety (90) days, or for a multistate lottery game within one hundred eighty (180) days, after the end of the lottery game. If a valid claim is not made for a cash prize within the applicable period, the cash prize shall constitute an unclaimed prize for purposes of this act.

D. No prize shall be paid upon a ticket or share purchased or sold in violation of this act. Any such prize shall constitute an unclaimed prize for purposes of this act.

E. The corporation is discharged of all liability upon payment of a prize.

F. No ticket or share shall be purchased by and no prize shall be paid to any member of the board of directors, any officer or employee of the corporation, or to any spouse, child, brother, sister, or parent residing as a member of the same household in the

principal place of residence of any such person. No ticket or share shall be purchased by and no prize shall be paid to any officer, employee, agent, or subcontractor of any vendor or to any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of any such person if such officer, employee, agent, or subcontractor has access to confidential information which may compromise the integrity of the lottery.

G. No lottery game utilizing an electronic or mechanical machine may use a machine which dispenses coins or currency.

H. Unclaimed prize money shall not constitute net lottery proceeds. A portion of unclaimed prize money, not to exceed Two Hundred Thousand Dollars (\$200,000.00) annually, shall be transferred to the Department of Human Services for the treatment of compulsive gambling disorder and educational programs related to such disorder. In addition, unclaimed prize money may be added to the pool from which future prizes are to be awarded or used for special prize promotions.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 725 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Except as authorized in this act, the corporation is subject to the provisions of the Oklahoma Open Records Act. The corporation is specifically authorized to determine which information relating to the operation of the lottery is confidential as provided in the Oklahoma Open Records Act. Such information includes trade secrets, security measures, systems, or procedures, security reports, information concerning bids or other contractual data, the disclosure of which would impair the efforts of the corporation to contract for goods or services on favorable terms, employee personnel information unrelated to compensation, duties, qualifications, or responsibilities, and information obtained

pursuant to investigations which is otherwise confidential.

Information deemed confidential pursuant to this section is exempt from the provisions of the Oklahoma Open Records Act. Meetings or portions of meetings devoted to discussing information deemed confidential pursuant to this section may be held in executive session pursuant to the Oklahoma Open Meeting Act.

B. The corporation shall perform full criminal background investigations prior to the execution of any vendor contract.

C. The corporation or its authorized agent shall:

1. Conduct criminal background investigations and credit investigations on all potential retailers;

2. Supervise ticket or share validation and lottery drawings;

3. Inspect at times determined solely by the corporation the facilities of any vendor or lottery retailer in order to determine the integrity of the vendor's product or the operations of the retailer in order to determine whether the vendor or the retailer is in compliance with its contract;

4. Report any suspected violations of this act to the appropriate district attorney or the Attorney General and to any law enforcement agencies having jurisdiction over the violation; and

5. Upon request, provide assistance to any district attorney, the Attorney General, or a law enforcement agency investigating a violation of this act.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 726 of Title 3A, unless there is created a duplication in numbering, reads as follows:

Any person who knowingly sells a lottery ticket or share to a person under eighteen (18) years of age or permits a person under eighteen (18) years of age to play any lottery games shall, upon conviction, be guilty of a misdemeanor and shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for the first offense and for each subsequent

offense not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00). It shall be an affirmative defense to a charge of a violation under this section that the retailer reasonably and in good faith relied upon representation of proof of age in making the sale.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 727 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any person who, with intent to defraud, falsely makes, alters, forges, utters, passes, or counterfeits a state lottery ticket shall, upon conviction, be punished by a fine not to exceed Fifty Thousand Dollars (\$50,000.00), by imprisonment for not longer than five (5) years, or by both such fine and imprisonment.

B. Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials shall, upon conviction, be punished by a fine not to exceed Fifty Thousand Dollars (\$50,000.00), by imprisonment for not longer than five (5) years, or by both such fine and imprisonment.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 728 of Title 3A, unless there is created a duplication in numbering, reads as follows:

No person shall knowingly or intentionally make a material false statement in any application for a license or proposal to conduct lottery activities or make a material false entry in any book or record which is compiled or maintained or submitted to the board pursuant to the provisions of this act. Any person who violates the provisions of this section shall, upon conviction, be punished by a fine not to exceed Twenty-five Thousand Dollars (\$25,000.00) or the dollar amount of the false entry or statement, whichever is greater, by imprisonment for not longer than five (5) years, or by both such fine and imprisonment.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 729 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The corporation may enter into intelligence sharing, reciprocal use, or restricted use agreements with the federal government, law enforcement agencies, lottery regulation agencies, and gaming enforcement agencies of other jurisdictions which provide for and regulate the use of information provided and received pursuant to the agreement.

B. Records, documents, and information in the possession of the corporation received pursuant to an intelligence-sharing, reciprocal use, or restricted use agreement entered into by the corporation with a federal department or agency, any law enforcement agency, or the lottery regulation or gaming enforcement agency of any jurisdiction shall be considered investigative records of a law enforcement agency and are not subject to the Oklahoma Open Records Act and shall not be released under any condition without the permission of the person or agency providing the record or information.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 730 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The corporation shall enter into its contracts for major procurements after competitive bidding. The requirement for competitive bidding does not apply in the case of a single vendor having exclusive rights to offer a particular service or product. Procedures adopted by the board shall be designed to allow the selection of proposals that provide the greatest long-term benefit to the state, the greatest integrity for the corporation, and the best service and products for the public.

B. In any bidding process, the corporation may administer its own bidding and procurement or may utilize the services of the Department of Central Services.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 731 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any retailer, vendor, or applicant for a retailer or vendor contract aggrieved by an action of the board may appeal that decision to the District Court of Oklahoma County.

B. The District Court of Oklahoma County shall hear appeals from decisions of the board and based upon the record of the proceedings before the board may reverse the decision of the board only if the appellant proves the decision to be:

1. Clearly erroneous;
2. Arbitrary and capricious;
3. Procured by fraud;
4. A result of substantial misconduct by the board; or
5. Contrary to the United States Constitution or the Oklahoma Constitution or the provisions of this act.

C. The court may remand an appeal to the board to conduct further hearings.

D. Any person who appeals the award of a major procurement contract for the supply of a lottery ticket system, share system, or an on-line or other mechanical or electronic system shall be liable for all costs of appeal and defense in the event the appeal is denied or the contract award upheld. Cost of appeal and defense shall specifically include but not be limited to court costs, bond, legal fees, and loss of income to the corporation resulting from institution of the appeal if, upon the motion of the corporation, the court finds the appeal to have been frivolous.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 732 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The corporation may borrow, or accept and expend, in accordance with the provisions of this act, such moneys as may be received from any source, including income from the corporation's operations, for effectuating its corporate purposes, including the payment of the initial expenses of initiation, administration, and operation of the corporation and the lottery.

B. The corporation shall be self-sustaining and self-funded. Moneys in the General Revenue Fund shall not be used or obligated to pay the expenses of the corporation or prizes of the lottery, and no claim for the payment of an expense of the lottery or prizes of the lottery may be made against any moneys other than moneys credited to the corporation operating account.

C. The corporation may purchase, lease, or lease-purchase such goods or services as are necessary for effectuating the purposes of this act. The corporation may make procurements which integrate functions such as lottery game design, lottery ticket distribution to retailers, supply of goods and services, and advertising. In all procurement decisions, the corporation shall take into account the particularly sensitive nature of the state lottery and shall act to promote and ensure security, honesty, fairness, and integrity in the operation and administration of the lottery and the objectives of raising net proceeds for the benefit of educational programs and purposes.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 733 of Title 3A, unless there is created a duplication in numbering, reads as follows:

To ensure the financial integrity of the lottery, the corporation through its board of directors shall:

1. Submit quarterly and annual reports to the Governor, State Auditor and Inspector, and the oversight committee created by Section 35 of this act, disclosing the total lottery revenues, prize disbursements, operating expenses, and administrative expenses of the corporation during the reporting period. The annual report shall additionally describe the organizational structure of the corporation and summarize the functions performed by each organizational division within the corporation;

2. Adopt a system of internal audits;

3. Maintain weekly or more frequent records of lottery transactions, including the distribution of tickets or shares to retailers, revenues received, claims for prizes, prizes paid, prizes forfeited, and other financial transactions of the corporation;

4. Contract with a certified public accountant or firm for an annual financial audit of the corporation. The certified public accountant or firm shall have no financial interest in any vendor with whom the corporation is under contract. The certified public accountant or firm shall present an audit report not later than seven months after the end of the fiscal year. The certified public accountant or firm shall evaluate the internal auditing controls in effect during the audit period. The cost of this annual financial audit shall be an operating expense of the corporation. The State Auditor and Inspector may at any time conduct an audit of any phase of the operations of the Oklahoma Lottery for Education Corporation at the expense of the state and shall receive a copy of the annual independent financial audit. A copy of any audit performed by the certified public accountant or firm or the state auditor shall be transmitted to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives, the State Auditor and Inspector, and the chairperson of the oversight committee created in Section 35 of this act;

5. Submit to the Office of State Finance and the State Auditor and Inspector by June 30 of each year a copy of the annual operating budget for the corporation for the next fiscal year. This annual operating budget shall be approved by the board and be on such forms as prescribed by the Office of State Finance;

6. For informational purposes only, submit to the Office of State Finance on September 1 of each year a proposed operating budget for the corporation for the succeeding fiscal year. This budget proposal shall also be accompanied by an estimate of the net proceeds to be deposited into the Lottery for Education Revolving Fund during the succeeding fiscal year. This budget shall be on such forms as prescribed by the Office of State Finance; and

7. Adopt the same fiscal year as that used by state government.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 734 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created as a joint committee of the Legislature the Oklahoma Lottery for Education Corporation Legislative Oversight Committee, to be composed of the members of the Senate Finance Committee and the House Revenue and Taxation Committee. The chair of such committees shall serve as cochair of the oversight committee. The oversight committee shall periodically inquire into and review the operations of the Oklahoma Lottery for Education Corporation, as well as periodically review and evaluate the success with which the corporation is accomplishing its statutory duties and functions as provided in this act. The oversight committee may conduct any independent audit or investigation of the corporation it deems necessary.

B. The Oklahoma Lottery for Education Corporation shall provide the oversight committee not later than December 1 of each year with a complete report of the level of participation of minority

businesses in all retail and major procurement contracts awarded by the corporation.

SECTION 36. AMENDATORY 21 O.S. 2001, Section 1051, is amended to read as follows:

Section 1051. A lottery is any scheme for the disposal or distribution of property by chance among persons who have paid, or promised, or agreed to pay any valuable consideration for the chance of obtaining such property, or a portion of it, or for any share of or interest in such property, upon any agreement, understanding or expectation that it is to be distributed or disposed of by a lot or chance, whether called a lottery, a raffle, or a gift enterprise, or by whatever name the same may be known. Valuable consideration shall be construed to mean money or goods of actual pecuniary value. Provided, it shall not be a violation of the lottery or gambling laws of this state for ~~(1)~~ a:

1. The Oklahoma Lottery for Education Corporation to conduct a lottery pursuant to the provisions of the Oklahoma Lottery for Education Act;

2. A bona fide resident merchant or merchants of a city or town, acting in conjunction with the Chamber of Commerce or Commercial Club of this state thereof, to issue free of charge numbered tickets on sales of ~~his~~ merchandise, the corresponding stub of one or more of which tickets to be drawn or chosen by lot by a representative or representatives of ~~said~~ the Chamber of Commerce or of ~~said~~ the Commercial Club in the manner set forth on ~~said~~ the tickets, the numbered stub or stubs so drawn to entitle the holder of the corresponding numbered issued ticket to a valuable prize donated by ~~said~~ the merchant; ~~(2)~~ a or

3. A bona fide community chest welfare fund on a military post or reservation to issue numbered tickets in conjunction with voluntary contributions to ~~said~~ the fund, the corresponding stub or stubs of one or more of ~~said~~ the tickets to be drawn by lot under

the supervision of a military commander, the stub or stubs so drawn entitling the ticket holder to a prize of some value. Provided, however, that no person shall sell tickets or receive contributions to ~~said~~ the fund off the military reservation.

SECTION 37. AMENDATORY 62 O.S. 2001, Section 7.2, is amended to read as follows:

Section 7.2 A. There is hereby re-created, to continue until July 1, 2002, in accordance with the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes, a Special Agency Account Board, to consist of the Director of State Finance, the State Treasurer and the Director of the Legislative Service Bureau. The Board shall have the authority to approve the establishment of agency special accounts in the official depository of the State Treasury. In the case of institutions of higher education, the Special Agency Account Board, acting in conjunction with the Oklahoma State Regents for Higher Education, shall establish special agency accounts as appropriate which shall be consistent with provisions of the Oklahoma Budget Law of 1947, Section 41.1 et seq. of this title, as it relates to institutions in The Oklahoma State System of Higher Education.

B. The Board, created by this section, shall adopt procedures including application forms, justification and other pertinent information as to the basis for a state agency application for the establishment of agency special accounts.

C. The Board may approve agency special accounts for money received by state agencies for the following purposes:

1. Benefit programs for individuals, including, but not limited to, unemployment compensation, workers' compensation and state retirement programs;

2. Revenues produced by activities or facilities ancillary to the operation of a state agency which receive no money, directly or indirectly, from or through that state agency, including, but not

limited to, revenues from the sales of food at retail level, sales at canteens, sales at student unions, sales at student bookstores, receipts from athletic programs and receipts from housing.

Provided, however, that a state institution of higher learning may purchase necessary equipment and instructional supplies and office supplies from a student bookstore, or, subject to authorization by the Oklahoma State Regents for Higher Education, may rent building space for institutional use in a building operated by an organization or entity whose existence is ancillary to the operation of a state agency, and whose cost was financed in whole or in part with revenue-type bonds; provided, further, that the cost of such office supplies or space rental shall not exceed the cost of similar supplies or rentals available commercially;

3. Gifts, devises and bequests with an agency as beneficiary, unless otherwise provided by statute;

4. Evidence funds for law enforcement agencies;

5. Student loan funds and scholarship funds;

6. Funds held in escrow;

7. Land Commission funds;

8. Funds for which the state agency acts as custodian, including, but not limited to, fees from employee earnings approved by the governing board of the agency, funds of student organizations including student activity fees collected by an educational institution as a separate item in enrollment procedures, professional organizations, patients and inmates;

9. Funds used by the Oklahoma Tax Commission to pay for the filing of liens with the Federal Aviation Administration;

10. Temporary accounts for funds arising from new or amended legislation not otherwise provided for in statute or for other emergency situations. Such accounts are to be utilized only pending legislative action directing custody of such funds;

11. Payment of liability claims against the state;

12. Activities of the various Armory Boards of the Oklahoma Military Department to receive and dispense funds derived by the Armory Boards pursuant to Sections 232.6 and 232.7 of Title 44 of the Oklahoma Statutes; ~~and~~

13. Payment of expenses incurred in connection with the acceptance of payments made with nationally recognized credit cards; and

14. Funds used by the Oklahoma Lottery for Education Corporation for payment of prizes.

D. The State Treasurer is authorized to accept deposit of money made directly to agency special accounts approved by the Board. All money received by a state agency, as described in Section 7.1 of this title, shall be deposited in State Treasury funds or accounts and no money shall be deposited in banks or other depositories unless the bank accounts are maintained by the State Treasurer or are for the deposit of authorized petty cash funds.

E. Money deposited in agency special accounts shall be disbursed on vouchers issued by the state agency concerned to accomplish the purpose for which the money was intended.

F. Funds and revenues of the Grand River Dam Authority are exempt from the requirements of this section.

G. Funds and revenues of the Oklahoma Municipal Power Authority are exempt from the requirements of this section.

H. Monies used for investment purposes by the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the State Insurance Fund, the State and Education Employees Group Insurance Board, the Commissioners of the Land Office, and the Oklahoma State Regents for Higher Education for its Endowment Trust Fund are exempt from the requirements of

this section, and shall be placed with the respective custodian bank or trust company.

SECTION 38. This act shall become effective July 1, 2003, upon approval by the people.

SECTION 39. The Ballot Title for the proposed act shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure creates the Oklahoma Lottery for Education Act. It creates the Oklahoma Lottery for Education Corporation, governed by a board of directors and run by a chief executive officer. Records of the corporation are subject to the Oklahoma Open Records Act and meetings of the board are subject to the Oklahoma Open Meeting Act. The corporation will run a state lottery. At least 45% of ticket sales will be returned as prizes. The net proceeds of the lottery, at least 35% of ticket proceeds except for the first two years, will be used for education and other children's programs. The Lottery for Education Expenditure Approval Board will decide which programs will be funded with lottery proceeds. The act contains many provisions relating to selection of retailers, ticket sales to minors, contracts entered into by the corporation, and other issues relating to the conduct of a state lottery.

SHALL THIS ACT BE APPROVED BY THE PEOPLE?

- YES, FOR THE ACT
- NO, AGAINST THE ACT

SECTION 40. The President Pro Tempore of the Senate shall, immediately after the passage of this order for legislative referendum, prepare and file in accordance with Section 3 of Article V of the Oklahoma Constitution, one copy of this order for legislative referendum, including the Ballot Title set forth in

SECTION 39, with the Secretary of State and one copy with the
Attorney General.

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