

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1434

By: Murdock

AS INTRODUCED

An Act relating to the Oklahoma Education Lottery Act; amending 3A O.S. 2021, Section 703, which relates to definitions; defining terms; amending 3A O.S. 2021, Section 709, which relates to the powers of the Oklahoma Lottery Commission; authorizing the board of trustees to enter into agreements or contracts for the implementation of sports pools; allowing for certain agreements to be made; providing for promulgation of rules for the implementation of sports pools; authorizing the board of trustees to develop criteria for licensure of retailers seeking to operate sports pools; specifying certain criteria for licensure; providing for licensing fees; requiring the Oklahoma Lottery Commission to provide annual reports, conduct internal audits, and maintain records; exempting individuals from certain penalty if played lawfully; providing for promulgation of rules; creating the Sports Pools Fund; stating purpose; establishing funding procedures; requiring a certain appropriation; repealing 3A O.S. 2021, Section 735, which relates to prohibition of other Class III gaming; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 3A O.S. 2021, Section 703, is amended to read as follows:

Section 703. As used in the Oklahoma Education Lottery Act:

1. "Administrative expenses" means operating expenses, excluding amounts set aside for prizes, regardless of whether such

1 prizes are claimed and excluding amounts deposited to the Fidelity  
2 Revolving Fund pursuant to Section 20 of this act;

3 2. "Board" means the board of trustees of the Oklahoma Lottery  
4 Commission;

5 3. "Capital outlay projects" means the acquisition,  
6 construction, installation, modification, renovation, repair,  
7 extension, renewal, replacement, or rehabilitation of land,  
8 interests in land, buildings, structures, facilities, or other  
9 improvements and the acquisition, installation, modification,  
10 renovation, repair, extension, renewal, replacement, rehabilitation,  
11 or furnishing of fixtures, machinery, equipment, computers,  
12 software, laboratories, furniture, textbooks, and reference material  
13 or other property of any nature whatsoever used on, in, or in  
14 connection with educational facilities;

15 4. "Commission" means the Oklahoma Lottery Commission;

16 5. "Educational facilities" means land, structures, and  
17 buildings owned or operated by and through the Oklahoma State  
18 Regents for Higher Education, the State Board of Education, the  
19 Oklahoma Department of Career and Technology Education, or by any  
20 school district within this state. A public road or highway leading  
21 to an educational facility shall not be considered an educational  
22 facility;

23 6. "Executive director" means the chief executive officer and  
24 administrator of the Oklahoma Lottery Commission;

1           7. "Gross proceeds" means all revenue derived from the sale of  
2 lottery tickets or shares and all other monies derived from the  
3 lottery;

4           8. "Instant ticket" means a lottery ticket that requires the  
5 player to remove a coating to determine if a prize has been won;

6           9. "Lottery", "lotteries", "lottery game", or "lottery games"  
7 means an activity conducted by the Commission under the Oklahoma  
8 Education Lottery Act through which prizes are awarded or  
9 distributed by chance among persons who have paid for a chance or  
10 other opportunity to receive a prize, including, but not limited to,  
11 instant tickets and on-line games, but excluding charity bingo and  
12 games conducted pursuant to the Oklahoma Charity Games Act, poker,  
13 blackjack, slot machines, pulltab machines, card games, dice,  
14 dominos, roulette wheels, or other similar forms of gambling, or  
15 electronic or video forms of these gambling activities, or games  
16 where winners are determined by the outcome of a sports contest, or  
17 pari-mutuel betting conducted pursuant to the Oklahoma Horse Racing  
18 Act;

19           10. "Major procurement contract" means any gaming product or  
20 service costing in excess of Twenty-five Thousand Dollars  
21 (\$25,000.00), including, but not limited to, major advertising  
22 contracts, annuity contracts, prize payment agreements, consulting  
23 services, equipment, tickets, and other products and services unique  
24 to the Oklahoma lottery, but not including materials, supplies,

1 equipment, and services common to the ordinary operations of the  
2 Commission;

3 11. "Member" or "members" means a trustee or trustees of the  
4 board of trustees of the Oklahoma Lottery Commission;

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

8 13. "Minority business" means any business which is owned by:

- 9 a. an individual who is a member of a minority who  
10 reports as the personal income of the individual for  
11 Oklahoma income tax purposes the income of the  
12 business,
- 13 b. a partnership in which a majority of the ownership  
14 interest is owned by one or more members of a minority  
15 who report as their personal income for Oklahoma  
16 income tax purposes more than fifty percent (50%) of  
17 the income of the partnership, or
- 18 c. a corporation organized under the laws of this state  
19 in which a majority of the common stock is owned by  
20 one or more members of a minority who report as their  
21 personal income for Oklahoma income tax purposes more  
22 than fifty percent (50%) of the distributed earnings  
23 of the corporation;

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

4 15. "On-line games" means a game where tickets or shares are  
5 purchased through a network of computer terminals located at retail  
6 outlets, and such terminals are linked to a central computer that  
7 records the purchases;

8 16. "Operating expenses" means all costs of doing business,  
9 including but not limited to, prizes, commissions, and other  
10 compensation paid to retailers, advertising and marketing costs,  
11 personnel costs, capital costs, amounts held in or paid from the  
12 Fidelity Revolving Fund pursuant to Section 20 of this act, debt  
13 service payments for the payment of the initial expenses of start-  
14 up, administration, and operation of the Commission and the lottery,  
15 and other operating costs;

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

22 18. "Person" means any individual, corporation, partnership,  
23 unincorporated association, limited liability company, or other  
24 legal entity;

1 19. "Retailer" means a person who sells lottery tickets or  
2 shares on behalf of the Commission pursuant to a contract;

3 20. "Share" means any intangible evidence of participation in a  
4 lottery game;

5 21. "Sports pools" means any in-person wagering and wagering  
6 conducted on a mobile device on the outcome of sporting events or  
7 other events, other than horse or other animal races;

8 22. "Sports pools retailer" means any licensed in-person  
9 establishment or Internet-based application that allows for an  
10 individual to wager on sports pools;

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

13 ~~22.~~ 24. "Vendor" means a person who provides or proposes to  
14 provide goods or services to the Commission pursuant to a major  
15 procurement contract, but does not include an employee of the  
16 Commission, a retailer, or a state agency or instrumentality  
17 thereof. Such term does not include any corporation whose shares  
18 are publicly traded and which is the parent company of the  
19 contracting party in a major procurement contract.

20 SECTION 2. AMENDATORY 3A O.S. 2021, Section 709, is  
21 amended to read as follows:

22 Section 709. A. The Oklahoma Lottery Commission shall have any  
23 and all powers necessary or convenient to its usefulness in carrying  
24 out and effectuating the purposes and provisions of the Oklahoma  
25

1 Education Lottery Act which are not in conflict with the Oklahoma  
2 Constitution and laws of this state including, but not limited to,  
3 the following:

4 1. To sue and be sued in contract, equity, mandamus, and  
5 similar actions in its own name and to complain and defend in all  
6 courts;

7 2. To adopt and alter a seal;

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

10 4. To acquire or lease real property and make improvements  
11 thereon and acquire by lease or by purchase personal property,  
12 including, but not limited to, computers and intangible property,  
13 including, but not limited to, computer programs, systems, and  
14 software;

15 5. To enter into contracts to incur debt in its own name and  
16 enter into financing agreements with the state, agencies or  
17 instrumentalities of the state, or with any commercial financial  
18 institution or credit provider as provided in Section 732 of this  
19 title;

20 6. To select and contract with vendors and retailers;

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

1 8. To administer oaths, take depositions, issue subpoenas, and  
2 compel the attendance of witnesses and the production of books,  
3 papers, documents, and other evidence relative to any investigation  
4 or proceeding conducted by the Commission;

5 9. To enter into contracts of any and all types on such terms  
6 and conditions as the Commission may determine;

7 10. To advertise and promote the lottery and lottery games.  
8 None of the advertisement and promotion for games and products  
9 offered by the Oklahoma Lottery allowed by this paragraph shall  
10 involve children under the age of eighteen (18) in any manner;

11 11. To inform the public about Oklahoma Lottery Commission  
12 contributions to Oklahoma education programs; and

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

17 B. The board of trustees of the Oklahoma Lottery Commission  
18 shall have any and all powers necessary or convenient to its  
19 usefulness in carrying out and effectuating the purposes and  
20 provisions of the Oklahoma Education Lottery Act which are not in  
21 conflict with the Oklahoma Constitution and laws of this state  
22 including, but not limited to, the following:

23 1. To adopt, amend, and repeal policies and procedures and to  
24 promulgate rules for the regulation of its affairs and the conduct

1 of its business, to prescribe the duties of officers of the board,  
2 and to perform such other duties as may be required by law. In the  
3 promulgation of rules, the board shall be subject to the  
4 Administrative Procedures Act;

5 2. To procure insurance;

6 3. To initiate, supervise, and administer the operation of the  
7 lottery in accordance with the provisions of the Oklahoma Education  
8 Lottery Act and rules, policies, and procedures adopted pursuant  
9 thereto;

10 4. To enter into written agreements with one or more other  
11 states or sovereigns for the operation, participation in marketing,  
12 and promotion of a joint lottery or joint lottery games. Such an  
13 agreement may be entered into with a federally recognized Indian  
14 tribe only if a cooperative agreement authorizing the Commission to  
15 do so has been entered into by the Governor and such a tribe and has  
16 been further approved by the Joint Committee on State-Tribal  
17 Relations pursuant to the provisions of Section 1221 et seq. of  
18 Title 74 of the Oklahoma Statutes;

19 5. To direct the executive director to conduct or have  
20 conducted such market research as is necessary or appropriate, which  
21 may include an analysis of the demographic characteristics of the  
22 players of each lottery game and an analysis of advertising,  
23 promotion, public relations, incentives, and other aspects of  
24 communication; ~~and~~

1           6. To adopt and amend such rules, policies, and procedures as  
2 necessary to implement its powers and duties, organize and operate  
3 the Commission, regulate the conduct of lottery games in general,  
4 and any other matters necessary or desirable for the efficient and  
5 effective operation of the lottery or the convenience of the public;

6           7. To enter into written agreements with one or more other  
7 states or sovereigns for the operation, participation in marketing,  
8 and promotion of sports pools. Such an agreement may be entered  
9 into with a federally recognized Indian tribe for in-person sports  
10 pool games only if a cooperative agreement authorizing the  
11 Commission to do so has been entered into by the Governor and such a  
12 tribe and has been further approved by the Joint Committee on State-  
13 Tribal Relations pursuant to the provisions of Section 1221 et seq.  
14 of Title 74 of the Oklahoma Statutes; and

15           8. To adopt and amend such rules, policies, and procedures as  
16 necessary to implement its powers and duties, organize and operate  
17 the Commission, regulate the conduct of sports pools in general, and  
18 any other matters necessary or desirable for the efficient and  
19 effective operation of the sports pools or the convenience of the  
20 public.

21           C. The powers enumerated in subsections A and B of this section  
22 are cumulative of and in addition to those powers enumerated  
23 elsewhere in the Oklahoma Education Lottery Act, and no such powers  
24

1 limit or restrict any other powers of the Oklahoma Lottery  
2 Commission or the board of trustees.

3 SECTION 3. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 717.1 of Title 3A, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. The board of trustees of the Oklahoma Lottery Commission  
7 shall develop a list of objective criteria upon which the  
8 qualification of a licensed sports pools retailer shall be based.  
9 In developing these criteria, the board shall consider such factors  
10 as the financial responsibility of the applicant, security of the  
11 place of business or activity of the applicant, accessibility to the  
12 public, integrity, and reputation. The board shall not consider  
13 political affiliation, activities, or contributions to political  
14 committees or candidates for any public office. The criteria shall  
15 include, but not be limited to, the following:

16 1. The applicant shall be current in filing all applicable tax  
17 returns and in payment of all taxes, interest, and penalties owed on  
18 state or federal taxes, excluding items under formal appeal pursuant  
19 to applicable statutes;

20 2. No person, partnership, unincorporated association,  
21 corporation, or other business entity or principal, officer, or  
22 director of a corporation or other business entity shall be selected  
23 as a licensed sports pools retailer who:

- 1 a. has been convicted of or is awaiting sentencing on a  
2 plea of guilty or nolo contendere to a criminal  
3 offense related to the security or integrity of the  
4 lottery in this or any other jurisdiction,
- 5 b. has been convicted of or is awaiting sentencing on a  
6 plea of guilty or nolo contendere to any illegal  
7 gambling activity, false statements, false swearing,  
8 or perjury in this or any other jurisdiction or  
9 convicted of or is awaiting sentencing on a plea of  
10 guilty or nolo contendere to any crime punishable by  
11 more than one (1) year of imprisonment or a fine of  
12 more than One Thousand Dollars (\$1,000.00) or both,  
13 unless the civil rights of the person have been  
14 restored and at least five (5) years have elapsed from  
15 the date of the completion of the sentence without a  
16 subsequent conviction of a crime described in this  
17 subparagraph,
- 18 c. has been found to have violated the provisions of the  
19 Oklahoma Education Lottery Act or any rule, policy, or  
20 procedure of the Commission unless either ten (10)  
21 years have passed since the violation or the board  
22 finds the violation both minor and unintentional in  
23 nature,
- 24

- d. is a vendor or any employee or agent of any vendor doing business with the Commission,
- e. resides in the same household as the executive director, any board member, or any employee of the Commission, or
- f. has made a statement of material fact to the Commission knowing such statement to be false;

3. Any sports pools retailer contract executed pursuant to this section may, for good cause, be suspended, revoked, or terminated by the executive director or designee if the retailer is found to have violated any provisions of the Oklahoma Education Lottery Act or objective criteria established by the board. Review of such activities shall be in accordance with the procedures outlined in the Oklahoma Education Lottery Act and shall not be subject to the Administrative Procedures Act; and

4. All sports pools retailer contracts may be renewable annually in the discretion of the Commission unless sooner canceled or terminated.

B. Licenses issued by the Oklahoma Lottery Commission for sports pools retailers shall be as follows:

1. For in-person wagering, fifteen percent (15%) of the adjusted gross revenues received in a calendar year from the play of sports pools; and

2. For wagering conducted on a mobile device, the following:

- 1           a.    an initial fee of Five Hundred Thousand Dollars  
2                   (\$500,000.00) with an annual fee of One Hundred  
3                   Thousand Dollars (\$100,000.00), and  
4           b.    twenty percent (20%) of the adjusted gross revenues  
5                   received in a calendar year from the play of sports  
6                   pools.

7           C.    To ensure the financial integrity of sports pools, the  
8 Oklahoma Lottery Commission through its board of trustees shall:

9           1.    Electronically submit annual reports to the Governor, State  
10 Auditor and Inspector, Oklahoma State Bureau of Investigation, and  
11 Attorney General, disclosing the total sports pools revenues, prize  
12 disbursements, operating expenses, and administrative expenses of  
13 the Commission. The annual report shall additionally describe the  
14 organizational structure of the Commission and summarize the  
15 functions performed by each organizational division within the  
16 Commission;

17           2.    Adopt a system of internal audits; and

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

22           D.    Notwithstanding the provisions of Sections 941 through 988  
23 of Title 21 of the Oklahoma Statutes, the conducting of and  
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1 participation in any game authorized pursuant to this section is  
2 lawful when played pursuant to this section.

3 E. The board of trustees of the Oklahoma Lottery Commission  
4 shall promulgate any rules necessary for the implementation of  
5 sports pool wagering in this state.

6 SECTION 4. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 713.1A of Title 3A, unless there  
8 is created a duplication in numbering, reads as follows:

9 There is hereby created in the State Treasury a fund for the  
10 Oklahoma Lottery Commission to be designated the "Sports Pools  
11 Fund". The fund shall be a continuing fund, not subject to fiscal  
12 year limitations, and shall consist of all monies received by the  
13 Commission from net revenue received from sports pools wagering and  
14 license fees collected pursuant to Section 3 of this act. All  
15 monies accruing to the credit of the fund shall be appropriated at  
16 the discretion of the Legislature for the purpose of funding  
17 gambling addiction programs, common education, and administrative  
18 costs associated with implementing this act; provided, an  
19 appropriation from the fund of no less than One Million Dollars  
20 (\$1,000,000.00) shall be made to the Department of Mental Health and  
21 Substance Abuse Services for the purpose of treating individuals who  
22 may struggle with gambling addiction.

23 SECTION 5. REPEALER 3A O.S. 2021, Section 735, is hereby  
24 repealed.

1 SECTION 6. This act shall become effective November 1, 2024.

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