

1 SB282
2 204315-2
3 By Senator Albritton (Constitutional Amendment)
4 RFD: Tourism
5 First Read: 05-MAR-20

8 SYNOPSIS: Under existing law, lotteries and gift
9 enterprises are prohibited by Section 65 of the
10 Constitution of Alabama of 1901.

11 This bill proposes an amendment to Section
12 65 of the Constitution of Alabama of 1901, to
13 establish the Alabama Education Lottery and the
14 Alabama Education Lottery Corporation and require
15 the Legislature to enact one or more general laws
16 to provide for the duties, powers, authority, and
17 composition of the corporation.

18 The proposed amendment would also create the
19 Alabama Gaming Commission to supervise the conduct
20 of bingo, charitable bingo, pari-mutuel wagering,
21 and casino-style games in the state.

22 The proposed amendment would provide that
23 casino-style games may be operated only pursuant to
24 a compact between the state and the Poarch Band of
25 Creek Indians on lands held in trust for the Poarch
26 Band of Creek Indians and, for an initial period of
27 25 years, at two additional sites, one in Jefferson

1 County and one in Marshall, Jackson, or DeKalb
2 County operated by the Poarch Band of Creek
3 Indians. The proposed amendment would require an
4 initial license fee of \$250 million and a capital
5 investment of at least \$250 million for the
6 additional sites. Upon expiration of the original
7 license for the additional sites, two other sites
8 would be authorized to conduct casino-style games
9 pursuant to competitive bids with a minimum bid of
10 \$100 million for the license and a minimum bid of
11 \$250 million in capital improvements. The amendment
12 would also impose a license fee determined by the
13 commission on each operator of bingo or pari-mutuel
14 wagering.

15 The amendment would also impose a tax of
16 twenty-five percent on the net gaming revenues of
17 the gaming operations in the state except
18 operations on lands held in trust for the Poarch
19 Band of Creek Indians.

20 The proposed amendment would require the
21 Governor to negotiate in good faith a compact with
22 the Poarch Band of Creek Indians to authorize
23 casino-style games on lands held in trust for the
24 Poarch Band of Creek Indians and require the
25 Legislature to meet in a special session within 30
26 days of the ratification of the amendment to enact
27 implementing legislation.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT

5
6 Proposing an amendment to Section 65 of the
7 Constitution of Alabama of 1901, to establish an Alabama
8 Education Lottery and the Alabama Education Lottery
9 Corporation; establish the Alabama Gaming Commission to
10 regulate the conduct of bingo, charitable bingo, pari-mutuel
11 wagering, and casino-style games; authorize the Poarch Band of
12 Creek Indians to conduct casino-style games at two sites;
13 authorize two future sites for casino-style games; impose
14 license fees and capital investment requirements and a tax on
15 certain gaming proceeds; provide for the operation of
16 casino-style games by the Poarch Band of Creek Indians on
17 trust lands pursuant to a compact; require the Governor to
18 negotiate a compact with the Poarch Band of Creek Indians; and
19 require the Legislature to meet in special session to pass
20 implementing legislation.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. The following amendment to the
23 Constitution of Alabama of 1901, as amended, is proposed and
24 shall become valid as a part thereof when approved by a
25 majority of the qualified electors voting thereon and in
26 accordance with Sections 284, 285, and 287 of the Constitution
27 of Alabama of 1901, as amended:

1 PROPOSED AMENDMENT

2 "Part I.

3 ~~"The legislature~~ Except as provided in Part II and
4 Part III, the Legislature shall have no power to authorize
5 lotteries or gift enterprises for any purposes, and shall pass
6 laws to prohibit the sale in this state of lottery or gift
7 enterprise tickets, or tickets in any scheme in the nature of
8 a lottery; and, except as provided in Part II and Part III,
9 all acts, or parts of acts heretofore passed by the
10 ~~legislature~~ Legislature of this state, authorizing a lottery
11 or lotteries, and all acts amendatory thereof, or supplemental
12 thereto, are hereby avoided.

13 "Part II.

14 "Section 1. Declarations. The Legislature finds
15 that: Lotteries have been enacted in many states and the
16 revenues generated from the lotteries have contributed to the
17 benefit of those states; many Alabamians participate in
18 lotteries in other states; gaming facilities and resorts are
19 allowed in many states and generate revenues that benefit
20 economic development and increased tourism in those states;
21 many Alabamians already visit gaming facilities and resorts in
22 nearby states; and Alabamians support the limitation,
23 regulation, and taxation of gaming in Alabama. Therefore, the
24 purposes of this part are: (1) to establish and provide for a
25 fair and honest Alabama Education Lottery to generate revenue
26 for the Education Trust Fund; (2) to regulate and limit gaming
27 to designated locations; (3) to levy taxes on gaming at those

1 locations to generate revenue for the benefit of the state
2 General Fund; (4) to support the state's tourism industry and
3 economic development; (5) to require the Governor to negotiate
4 a compact for gaming with the Poarch Band of Creek Indians;
5 and (6) to establish the Alabama Gaming Commission to regulate
6 gaming in the state.

7 "Section 2. Establishment of an Alabama Education
8 Lottery.

9 "(a) The Legislature, by general law, shall provide
10 for the establishment, administration, operation, and
11 regulation of an Alabama Education Lottery consistent with
12 this part and Part III.

13 "(b) The proceeds from the Alabama Education Lottery
14 shall be applied first to the payment of the expenses of
15 administering, operating, and regulating the Alabama Education
16 Lottery, including, without limitation, the payment of all
17 prizes, without any further appropriation required by law, and
18 the balance of the proceeds remaining after the payments shall
19 be deposited in the Education Trust Fund.

20 "(c) The administration, operation, and regulation
21 of the Alabama Education Lottery shall be vested in a
22 corporation hereby created and designated the Alabama
23 Education Lottery Corporation. The duties, powers, authority,
24 and composition of the Alabama Education Lottery Corporation
25 shall be enumerated in one or more general laws enacted by the
26 Legislature subsequent to and supplemental to this amendment.

1 The authority of the corporation may not exceed the authority
2 granted in this amendment.

3 "Section 3. Establishment of the Gaming Trust Fund.

4 "(a) The Gaming Trust Fund is created. Moneys
5 received by the Alabama Gaming Commission from license fees
6 pursuant to Section 4 of Part III, fees from a compact
7 negotiated under Section 9 of Part III, and the proceeds of
8 the tax on net gaming revenue pursuant to Section 6 of Part
9 III shall be deposited in the fund.

10 "(b) Annually, monies in the fund shall be applied
11 first to the payment of the reasonable expenses of the
12 commission.

13 "(c) Annually, a percentage of the monies remaining
14 in the fund determined by the Legislature shall be divided
15 equally among the counties of the state on a per capita basis.

16 "Part III.

17 "Section 1. Definitions. As used in this amendment,
18 the following words and phrases shall have the following
19 respective meanings:

20 "(1) ADDITIONAL SITE. A site operated by the Poarch
21 Band of Creek Indians offering casino-style games located in
22 Jefferson County and a site operated by the Poarch Band of
23 Creek Indians offering casino-style games located in Marshall,
24 Jackson, or DeKalb County.

25 "(2) a. BINGO. Notwithstanding any other provision of
26 this constitution or a general or local law, the game commonly

1 or traditionally known as bingo as defined by the following
2 characteristics:

3 "1. Each player uses one or more cards with spaces
4 arranged in five columns and five rows, with an alphanumeric
5 or similar designation assigned to each space.

6 "2. Alphanumeric or similar designations are
7 randomly drawn and announced one by one.

8 "3. In order to play, each player must pay attention
9 to the value announced; if one of the values matches a value
10 on one or more of the player's cards, the player must
11 physically act by marking his or her card accordingly.

12 "4. A player can fail to pay proper attention or to
13 properly mark his or her card, and thereby miss an opportunity
14 to be declared winner.

15 "5. A player must recognize that his or her card has
16 a predetermined pattern of matching values, and in turn
17 announce to the other players and the announcer that this is
18 the case before any other player does so.

19 "6. The game of bingo contemplates a group activity
20 in which multiple players compete against each other to be the
21 first to properly mark a card with the predetermined winning
22 pattern and announce that fact.

23 "b. The term does not include bingo operated on
24 lands held in trust for the Poarch Band of Creek Indians.

25 "(3) CAPITAL INVESTMENT. All costs and expenses
26 incurred by a licensed gaming operator in connection with
27 acquiring, constructing, installing, and equipping of actual

1 capital improvements at a licensed facility, if such costs are
2 required to be capitalized for purposes of the federal income
3 tax, determined without regard to any rule that permits
4 expenditures properly chargeable to a capital account to be
5 treated as current expenditures.

6 "(4) CASINO-STYLE GAME. Any traditional casino game,
7 activity, or device, including, but not limited to, slot
8 machines, video lottery, video lottery terminals, sports
9 wagering, banking or banked card games, including, but not
10 limited to, baccarat, chemin de fer, and blackjack, all table
11 games, electronic representations of such games, and any
12 electronic gaming device used to play such games, but
13 excluding a lottery and lottery games and all games of the
14 type currently operated on lands held in trust for the Poarch
15 Band of Creek Indians.

16 "(5) CHARITABLE BINGO. Bingo conducted by or for the
17 benefit of a bona fide religious, educational, youth, service,
18 senior citizen, fraternal, veteran, or other organization that
19 operates without profit to its members and that either has
20 been in existence continuously as such an organization for a
21 period of three years or is exempt from taxation by virtue of
22 having been classified as a tax exempt nonprofit organization
23 by the Internal Revenue Service. The term includes bingo
24 operated by a volunteer fire department and a volunteer rescue
25 squad. The term does not include bingo played on a machine
26 with a technological aid.

1 "(6) COMMISSION. The Alabama Gaming Commission
2 created by this amendment.

3 "(7) COVERED LOCATION. All places within the state
4 where casino-style games, bingo, or pari-mutuel wagering is
5 conducted, including places where bingo or pari-mutuel
6 wagering is authorized by local law at the time this amendment
7 is ratified. The term does not include places where charitable
8 bingo is conducted or places where casino-style games, bingo,
9 or pari-mutuel wagering is conducted on lands held in trust
10 for the Poarch Band of Creek Indians.

11 "(8) FUTURE SITE. A site that may be licensed by the
12 commission to conduct casino-style games when the original
13 license of the Poarch Band of Creek Indians to conduct
14 casino-style games on additional sites has expired.

15 "(9) INSTANT TICKET. A lottery game in which a
16 player manipulates a paper ticket to determine if the player
17 has won.

18 "(10) LOTTERY or LOTTERY GAME. Paper tickets for
19 various intrastate and multistate or multisoovereign lottery
20 games, including, but not limited to, instant tickets, Pick-3,
21 Pick-4, Mega Millions, and Powerball. The term does not
22 include a video lottery or video lottery terminals.

23 "(11) NET GAMING REVENUE. The total amount of money
24 in any form received by a covered location with respect to the
25 playing of any form of casino-style game, pari-mutuel
26 wagering, or bingo game, less the total money or value in any
27 form paid as prizes or winnings as a result of the play, free

1 play or promotional play, and the amortized cost of any
2 license fee paid pursuant to this amendment, but before
3 deduction of any expenses incurred in operating the
4 establishment, including, but not limited to, depreciation or
5 leasing costs of physical facilities and equipment, wages and
6 other employment costs, utilities, interest, and taxes.

7 "(12)a. PARI-MUTUEL WAGERING. Notwithstanding any
8 provision of this Constitution or a general or local law, a
9 form of betting that requires the bettor to exercise a
10 significant degree of skill to place a bet on a live horse or
11 greyground race where the race must be viewed in its entirety
12 prior to the determination of the winner. The race may be
13 simulcast, broadcast, or televised and provide for race-time
14 wagering at a licensed location other than the location where
15 the race occurs.

16 "b. The term does not include pari-mutuel wagering
17 operated on lands held in trust for the Poarch Band of Creek
18 Indians.

19 "(13) POARCH BAND OF CREEK INDIANS. The federally
20 recognized Indian tribe within the State of Alabama known as
21 the Poarch Band of Creek Indians. The term includes a wholly
22 owned subsidiary of the tribe.

23 "(14) VIDEO LOTTERY or VIDEO LOTTERY TERMINAL. Any
24 electronic interactive game, machine, or device equipped with
25 a video screen and buttons, keys, a keyboard, touchscreen, or
26 other input method allowing input by an individual player and
27 into which the player inserts coins, tokens, currency, or

1 other representation of value, including, but not limited to,
2 an electronic card, ticket, or other thing on which value is
3 electronically recorded, as consideration in order for play of
4 a game to be available, and through which, as a result of the
5 play of the game, the player may receive free games, credits
6 redeemable for cash or a noncash prize, or some other thing of
7 value, whether received directly from the device or otherwise,
8 determined wholly or predominantly by chance. The term does
9 not include automated player self-service vending machines
10 that sell tickets at retail outlets as provided for by general
11 law or rule. Video lottery and video lottery terminals are
12 casino-style games and do not include games of the type
13 currently being operated on lands held in trust for the Poarch
14 Band of Creek Indians.

15 "Section 2. Limitation on Gaming in Alabama.

16 "(a) Casino-style games may be operated only at
17 additional sites and future sites and, pursuant to a
18 negotiated compact, by the Poarch Band of Creek Indians on
19 lands held in trust by the United States for the benefit of
20 the Poarch Band of Creek Indians. All casino-style games at
21 additional sites and future sites are subject to regulation by
22 the commission. Casino-style games on lands held in trust for
23 the Poarch Band of Creek Indians shall be regulated in a
24 manner consistent with the terms of the compact.

25 "(b) Bingo authorized by a local constitutional
26 amendment, including, but not limited to, Amendments 386, 387,
27 413, 440, 506, 508, 542, 549, 550, 565, 569, 599, 600, 612,

1 674, 692, 732, 743, and 744, is subject to regulation by the
2 commission and may be operated or conducted only if it
3 complies with the definition in subdivision (2) of Section 1.
4 Notwithstanding the foregoing, bingo that complies with the
5 definition in subdivision (2) of Section 1 may continue to
6 operate and be regulated under those existing provisions for
7 two calendar years after ratification of this amendment or
8 until a license is issued by the commission, whichever occurs
9 first. After two years from the ratification of this amendment
10 or the granting of a license by the commission, whichever
11 occurs first, the amendments shall continue to authorize bingo
12 in the respective localities, but all bingo in the state shall
13 be under the jurisdiction, regulation, and control of the
14 commission, except for all forms of bingo currently being
15 operated on lands held in trust for the Poarch Band of Creek
16 Indians.

17 "(c) Pari-mutuel wagering, including, but not
18 limited to, pari-mutuel wagering authorized and regulated by
19 Sections 11-64-1 through 11-64-47, Sections 45-44-150 through
20 45-44-151.05, and Sections 45-49-151 through 45-49-151.41,
21 Code of Alabama 1975, is subject to regulation by the
22 commission. Notwithstanding the foregoing, pari-mutuel
23 wagering may continue operating under those existing
24 provisions for two calendars years after the ratification of
25 this amendment or until a license is operated by the
26 commission, whichever occurs first. Pari-mutuel wagering on
27 lands held in trust for the Poarch Band of Creek Indians shall

1 be regulated in a manner consistent with the terms of a
2 negotiated compact.

3 "Section 3. Selection Process for Additional and
4 Future Sites.

5 "(a) The Poarch Band of Creek Indians shall request
6 proposals from any county in which an additional site may be
7 located.

8 "(b) Once an additional site is selected, the
9 commission shall grant the Poarch Band of Creek Indians a
10 license to conduct casino-style games at the location for 25
11 years pursuant to subsection (d) of Section 4.

12 "(c) When the Poarch Band of Creek Indians is
13 granted a license for an additional site, when the original
14 license expires, the commission, by competitive bid, may
15 license two future sites to conduct casino-style games.

16 "Section 4. Payments and Capital Investments.

17 "(a) With respect to a covered location operating
18 bingo, the operator shall pay the commission a license fee
19 established by the Legislature for a term of 25 years. A
20 capital investment is not required. At the end of the original
21 license term, the license may be renewed serially for a fee
22 established by the Legislature for a term of 10 years.

23 "(b) With respect to a charitable bingo operation,
24 the operator shall pay a nominal licensee fee established by
25 the Legislature for a term of 25 years. A capital investment
26 is not required. At the end of the original term, the license

1 may be renewed serially for a fee established by the
2 Legislature for a term of 10 years.

3 "(c) With respect to a covered location operating
4 pari-mutuel wagering, the operator shall pay the commission a
5 license fee established by the Legislature for a term of 25
6 years. A capital investment is not required. At the end of the
7 original license term, the license may be renewed serially for
8 a fee established by the Legislature for a term of 10 years.

9 "(d) With respect to the additional site in
10 Jefferson County, the Poarch Band of Creek Indians shall pay
11 the commission a license fee of two hundred fifty million
12 dollars (\$250,000,000) payable to the Gaming Trust Fund within
13 30 days after the ratification of this amendment. The term of
14 the license shall commence upon issuance of a certificate of
15 substantial completion signifying that development
16 construction activities are complete or three years after the
17 ratification of this amendment, whichever shall occur first. A
18 capital investment of at least two hundred fifty million
19 dollars (\$250,000,000) is required. At the end of the original
20 license term, the license for the additional site in Jefferson
21 County may be renewed serially for ten million dollars
22 (\$10,000,000) for a 10-year term.

23 "(e) With respect to the additional site in
24 Marshall, Jackson, or DeKalb County selected by the Poarch
25 Band of Creek Indians, the Poarch Band of Creek Indians shall
26 pay the commission a license of two hundred fifty million
27 dollars (\$250,000,000), payable to the Gaming Trust Fund

1 within 30 days after the ratification of this amendment. The
2 term of the license shall commence upon issuance of a
3 certificate of substantial completion signifying that
4 development construction activities are complete or three
5 years after an additional site is selected by the Poarch Band
6 of Creek Indians, whichever shall occur first. A capital
7 investment of at least two hundred fifty million dollars
8 (\$250,000,000) is required. At the end of the original license
9 term, the license for the additional site in Marshall,
10 Jackson, or DeKalb County may be renewed serially for ten
11 million dollars (\$10,000,000) for a 10-year term.

12 "(f) With respect to a future site, when the
13 original licenses for the additional sites expire, the
14 commission may license two future sites pursuant to
15 competitive bids. The minimum bid for the license shall be one
16 hundred million dollars (\$100,000,000) for 25 years and shall
17 contain a minimum capital investment of two hundred fifty
18 million dollars (\$250,000,000) which shall be completed within
19 three years of the date on which the license is granted. At
20 the end of the original license term and each subsequent
21 renewal term, the license for the future sites may be renewed
22 for ten million dollars (\$10,000,000) for a 10-year term. The
23 failure of the commission to license future sites does not
24 affect the continued operation of the additional sites by the
25 Poarch Band of Creek Indians.

26 "Section 5. Compliance with Federal Laws.

1 "The State of Alabama, acting by and through the
2 adoption of this amendment, and in accordance with Section
3 1172 of Title 15 of the United States Code, does hereby
4 declare that any and all casino-style game, pari-mutuel
5 wagering, bingo, lottery, and lottery game equipment,
6 materials, paraphernalia, and supplies may be transported in
7 interstate commerce into or out of the state, including lands
8 held in trust for the Poarch Band of Creek Indians, without
9 violating that section, or any other applicable federal law,
10 if the equipment, materials, paraphernalia, and supplies are
11 used, to be used, or have been used in the conduct of the
12 Alabama Education Lottery, charitable bingo, casino-style
13 games, bingo, or pari-mutuel wagering at covered locations or
14 on lands held in trust for the Poarch Band of Creek Indians.

15 "Section 6. State Tax on Net Gaming Revenue and Use
16 of Tax Proceeds.

17 "(a) Each operator of a covered location shall pay
18 the commission a tax of 25 percent of the net gaming revenue
19 for the immediate preceding fiscal year on or before December
20 31. The commission shall retain eight percent of the tax and
21 timely remit the following percentages of the remaining
22 proceeds of the tax as follows:

23 "(1) Ten percent to the Gaming Trust Fund.

24 "(2) Eighty percent to the state General Fund.

25 "(3) Ten percent to the county commission of the
26 county in which the operator is licensed.

1 "(b) The tax on net gaming revenue shall be in lieu
2 of all other state or local taxes, license fees, or franchise
3 fees levied with respect to the conduct of any games or the
4 operation of any machines. The license fee payable to the
5 state shall be in lieu of all other state or license fees or
6 franchise fees levied with respect to a licensee providing
7 hotel services, dining or other facilities, or services
8 ancillary to its gaming activities, if the activities are
9 conducted in conjunction with this amendment at covered
10 locations, but the provisions of hotel services, dining and
11 other facilities, or ancillary services must meet the
12 requirements of other similarly situated license holders in
13 the community. Notwithstanding the foregoing, unless the taxes
14 are otherwise abated pursuant to this amendment, all operators
15 are liable for all property taxes, sales and use taxes on
16 merchandise sold in gift shops or retail stores, food, and
17 beverages generally applicable at uniform rates to all
18 similarly situated businesses operating in the county and
19 municipality in which the operator is located and, except with
20 respect to those taxes, fees, or expenses expressly addressed
21 in this amendment, all other state or local taxes which are
22 generally imposed by the state or a local taxing entity if the
23 taxes are generally applied at rates uniformly applied within
24 reasonable classifications among all businesses operating in
25 the county or municipality, or both.

26 "(c) The commission may grant state and local tax
27 abatements, to the extent otherwise allowed by Chapter 9B of

1 Title 40 of the Code of Alabama 1975, as amended, to be
2 granted by cities, counties, and public industrial
3 authorities, to the additional sites and future sites to be
4 constructed in connection with any agreement, contract, or
5 compact authorized pursuant to this amendment without regard
6 to whether the proposed gaming operation fits within the list
7 of the prescribed North American Industrial Classification
8 System codes eligible for abatement under Chapter 9B of Title
9 40 of the Code of Alabama 1975. Any proposal for an additional
10 or future site to be constructed in connection with this
11 amendment shall be eligible for any other state or local
12 incentives available under the laws of the state or its
13 political subdivisions.

14 "Section 7. Creation of the Alabama Gaming
15 Commission.

16 "(a) There is created the Alabama Gaming Commission.

17 "(b) The commission shall consist of seven members,
18 appointed as follows:

19 "(1) One by the Governor.

20 "(2) One by the Lieutenant Governor.

21 "(3) One by the Speaker of the House of
22 Representatives.

23 "(4) One by the President Pro Tempore of the Senate.

24 "(5) One by the Minority Leader of the House of
25 Representatives.

26 "(6) One by the Chief Justice of the Supreme Court
27 of Alabama.

1 "(7) One by the Attorney General.

2 "(c) All members shall be appointed with the advice
3 and consent of the Senate. Initial appointments shall be made
4 within 60 days after the ratification of this amendment. The
5 members, where possible, shall represent the gender and racial
6 diversity of the state.

7 "(1) Members of the commission shall be residents of
8 the State of Alabama, United States citizens, and prominent
9 persons in their businesses or professions, and may not be the
10 executive director of the commission or an employee of the
11 commission, an officer of a political party of the occupant of
12 an official position in a political party, an elected
13 official, or actively engaged in the business of, or have a
14 pecuniary interest in a covered location or an operation owned
15 by the Poarch Band of Creek Indians.

16 "(2) The initial term of office shall be four years
17 for members in positions 1 through 3, three years for members
18 in positions 4 and 5, and two years for members in positions 6
19 and 7. Thereafter, members shall serve a term of four years.
20 Members may serve two complete terms and any portion of an
21 initial term of less than four years or any portion of an
22 unexpired term to which appointed. Any vacancy occurring on
23 the commission shall be filled for the unexpired term by the
24 appointing authority as described in this section, or as
25 otherwise provided by act of the Legislature. Each member of
26 the commission shall serve for the duration of the member's

1 term and until the member's successor is duly appointed and
2 confirmed by the Senate.

3 "(3) The Governor may remove a member of the
4 commission at any time for neglect of duty or malfeasance or
5 nonfeasance in office.

6 "Section 8. Powers and Duties of the Commission.

7 "(a) The commission may adopt rules necessary to
8 implement this amendment and related legislation.

9 "(b) The commission may issue subpoenas and compel
10 the production of documents or items and the attendance of
11 witnesses, administer oaths, require testimony under oath, and
12 enforce its orders. Any person making a false oath in any
13 matter before the commission is subject to a criminal perjury
14 charge.

15 "(c) The commission may appoint impartial hearing
16 examiners who may administer oaths and receive evidence and
17 testimony under oath and make recommendations to the
18 commission.

19 "(d) The commission shall regulate and supervise the
20 conduct and operation of casino-style games, bingo, and
21 pari-mutuel wagering at covered locations and charitable
22 bingo. The commission shall issue licenses subject to and in
23 accordance with rules adopted by the commission.

24 "(e) In addition to the powers granted in this
25 section, additional powers, procedures, and operations of the
26 commission with respect to regulation and supervision of
27 covered locations and charitable bingo shall be enumerated in

1 one or more general laws enacted by the Legislature subsequent
2 to and supplemental to this amendment to further its purposes
3 and provide for its implementation. The general laws enacted
4 to implement this amendment shall provide the commission with
5 the power to renew a license as authorized herein, and the
6 commission may adopt rules establishing the terms on which a
7 license may be revoked or suspended.

8 "(f) The number of casino-style games in operation
9 at additional and future sites may not be restricted or
10 limited by the commission or any general or local law.

11 "Section 9. Compact with the Poarch Band of Creek
12 Indians.

13 "(a) The Governor or the Governor's designee shall
14 negotiate in good faith and conclude a compact for the
15 operation and regulation of casino-style games and pari-mutuel
16 wagering with the Poarch Band of Creek Indians on lands held
17 in trust by the United States for the benefit of the Poarch
18 Band of Creek Indians.

19 "(b) Following execution of a compact, the Governor
20 or the Governor's designee shall file the executed compact
21 with the Secretary of State. The Secretary of State shall
22 forthwith forward an executed copy of the compact to the
23 Secretary of the Interior for review and approval in
24 accordance with 25 U.S.C. § 2710(d)(8).

25 "(c) Gaming pursuant to a compact as described in
26 this section is permitted to be conducted and operated by the
27 Poarch Band of Creek Indians for a term of at least 25 years

1 on those lands held in trust by the United States for the
2 benefit of the Poarch Band of Creek Indians in return for
3 consideration under terms to be established in the compact.
4 The consideration may include the grant of the licenses to
5 operate casino-style games as the two additional sites.

6 "(d) In addition to any and all other powers which
7 may exist now or hereafter, the Governor or the Governor's
8 designee may negotiate, execute, and deliver any and all
9 documents on behalf of the state, and enter into any agreement
10 or compact, or both, on behalf of the state, with the Poarch
11 Band of Creek Indians. In furtherance of the powers set forth
12 therein, and in addition to any and all other powers which may
13 exist now or hereafter, the state may provide contractual,
14 license or licensure rights to any one or more parties,
15 without regard to any type of request for proposal process,
16 without limitation as to any other rights or interest which it
17 is authorized to provide under relevant law, and without
18 regard to whether the contractual or licensure rights are
19 granted on an exclusive or non-exclusive basis or whether in
20 perpetuity or shorter period of time, so long as the provision
21 or granting of rights or interest or other thing of value by
22 the state to the Poarch Band of Creek Indians has been
23 negotiated in good faith. If negotiated in good faith by the
24 state, any consideration received or to be received by the
25 state pursuant to this amendment, whether monetary or
26 otherwise, shall be adequate and no action shall be had for

1 private inurement or other unlawful waste, use, or
2 misappropriation of public funds.

3 "(e) Disputes between the state and the Poarch Band
4 of Creek Indians relating to or arising from the compact or
5 compact negotiations may be resolved in the courts of the
6 United States, which shall have jurisdiction over the state.
7 The state's immunity under the Eleventh Amendment of the
8 United States Constitution is expressly waived for the limited
9 purpose of dispute resolution in federal court, contingent
10 upon an equivalent submission by the Poarch Band of Creek
11 Indians to the jurisdiction of federal court.

12 "Section 10. Special Session.

13 "For the exclusive purpose of enacting general laws
14 to implement this amendment, the Legislature shall meet in
15 special session within 30 days after the ratification of this
16 amendment on a day determined by the Governor. If, within a
17 week after the ratification of the amendment, the Governor
18 fails to set a timely date for a special session, the Speaker
19 of the House of Representatives and the President Pro Tempore
20 of the Senate shall set a timely date for the special session.

21 "Section 11. Conflicting Provisions.

22 "The operation of this amendment is not subject to,
23 or prohibited, limited, or impaired by, any other
24 constitutional provision or statute that is inconsistent with
25 this amendment. Specifically, this amendment, and its
26 implementing legislation, does not violate the ban on
27 irrevocable or exclusive grants of special privileges or

1 immunities in Section 22, and the licenses authorized pursuant
2 to this amendment do not violate the prohibition on grants or
3 franchises, privileges, or immunities in Section 22."

4 END OF PROPOSED AMENDMENT

5 Section 2. An election upon the proposed amendment
6 shall be held in accordance with Sections 284 and 285 of the
7 Constitution of Alabama of 1901, now appearing as Sections 284
8 and 285 of the Official Recompilation of the Constitution of
9 Alabama of 1901, as amended, and the election laws of this
10 state.

11 Section 3. The appropriate election official shall
12 assign a ballot number for the proposed constitutional
13 amendment on the election ballot and shall set forth the
14 following description of the substance or subject matter of
15 the proposed constitutional amendment:

16 "Proposing an amendment to the Constitution of
17 Alabama of 1901, to require the Legislature to provide for the
18 establishment, administration, operation, and regulation of
19 the Alabama Education Lottery, create the Alabama Education
20 Lottery Corporation to administer the lottery, and provide for
21 the duties, powers, authority, and composition of the
22 corporation; to create the Alabama Gaming Commission to
23 provide for powers of the commission to regulate and supervise
24 casino-style games, bingo, charitable bingo, and pari-mutuel
25 wagering; authorize the Poarch Band of Creek Indians to
26 operate casino-style games at two locations and require the
27 negotiation of a compact with the Poarch Band of Creek Indians

1 to provide for casino-style games on lands held in trust for
2 the tribe; and provide for license fees for gaming operations,
3 capital investment requirements for operators of casino-style
4 games, and a gaming tax of 25 percent of the net gaming
5 revenues of gaming operators, except for charitable bingo and
6 operations on lands held in trust for the Poarch Band of Creek
7 Indians.

8 "Proposed by Act _____."

9 This description shall be followed by the following
10 language:

11 "Yes () No ()."