SB319

212370-3

By Senators McClendon, Gudger and Marsh (Constitutional Amendment)

RFD: Tourism

First Read: 09-MAR-21
SB319

ENGROSSED

A BILL

TO BE ENTITLED

AN ACT

Proposing an amendment to Section 65 of the Constitution of Alabama of 1901, to authorize the Alabama Education Lottery; to authorize, limit, and regulate casino-style games at sites in Jefferson County, Mobile County, Macon County, Greene County, Houston County, and Jackson or DeKalb County; to provide for the award of licenses pursuant to a competitive bidding process established by the commission; to create the Alabama Education Lottery Corporation to operate the lottery and the Alabama Gaming Commission to supervise and regulate bingo, charitable bingo and raffles and casino-style games authorized by the amendment; to authorize sports wagering and to allow the commission to adopt rules governing the licensing, administration, and conduct of sports wagering; and to require the Governor to negotiate a compact with the Poarch Band of Creek Indians.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended:

PROPOSED AMENDMENT

"Section 65.

"Part I.

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

"Part II.

"Section 1. Declarations. The People of Alabama find that: Lotteries have been enacted in many states and the revenues generated from the lotteries benefit those states; many Alabamians participate in lotteries in other states; an official state lottery would benefit Alabama if fairly and honestly administered and if the proceeds improve quality of life in the state; gaming facilities and resorts are allowed
in many states and generate revenues that benefit economic
development and increased tourism in those states; many
Alabamians already visit gaming facilities and resorts in
nearby states; and Alabamians support gaming in Alabama if it
is effectively and honestly regulated to protect consumers and
to promote integrity within the gaming industry, if it is
effectively taxed to produce revenues that improve quality of
life in the state, and if it is effectively limited to
designated locations to preserve the aesthetic character of
the state. Therefore, the purposes of this amendment are: (1)
to establish and provide for a fair and honest Alabama
Education Lottery to generate revenue for postsecondary
education scholarships, including a loan forgiveness component
for scholarship participants who work in in-demand fields in
this state for a specified time frame; (2) to limit and
regulate gaming to designated locations and to subject all
gaming to regulation; (3) to levy taxes on gaming at those
locations to generate revenue for the benefit of the state;
(4) to support the state's tourism industry and economic
development; (5) to require the Governor to negotiate a
compact for gaming with the Poarch Band of Creek Indians; and
(6) to establish the Alabama Education Lottery Corporation and
the Alabama Gaming Commission to regulate gaming in the state.

"Section 2. Definitions.

"For the purposes of this part and Part III, the
following terms shall have the following meanings:
"(1) ALABAMA EDUCATION LOTTERY. Any large-scale intrastate, multistate, or multi-sovereign lottery approved by the commission for operation by the Alabama Education Lottery Corporation such as Pick-3, Pick-4, Mega Millions, or Powerball. The term includes instant tickets. The term does not include a video lottery or video lottery terminal.

"(2) BINGO. The game commonly or traditionally known as bingo and defined by the following characteristics, when players provide something of value to play and receive something of value for winning:

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

"b. Alphanumeric or similar designations are randomly drawn and announced one by one.

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

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

"e. A player must recognize that the player's card has a predetermined pattern of matching values, and in turn announce to the other players and the announcer that this is the case before any other player does so.
"f. The game of bingo contemplates a group activity in which multiple players compete against each other to be the first to properly mark a card with the predetermined winning pattern and announce that fact.

g. The game of bingo is played with actual physical cards made of cardboard, paper, or some functionally similar material that is flat and is preprinted with the grid and the designations referenced in this subdivision. The game of bingo may not be played with an electronic, computer, or other technologic aid.

The term does not include electronic bingo.

The term does not apply to any game operated on Poarch Band of Creek Indians trust lands and at covered locations.

(3) CASINO-STYLE GAME. Any casino game, activity, or device approved by the commission that is accessed for play by physical presence at the location site of the game, activity, or device, including, but not limited to: Slot machines; a video lottery; video lottery terminals; electronic representations of pari-mutuel wagering games, including, but not limited to, historical horse racing machines, historical sporting event machines, machines of any kind that are based on historic events, and other technological aids and electronic facsimiles of these games; banking or banked card games, including, but not limited to, poker, baccarat, chemin de fer, and blackjack; all dice games; roulette; all table games and electronic representations of such games; all
electronic sweepstakes games, terminals, or devices; and any
electronic gaming device used to play these games. The term
includes electronic bingo. The term does not include the
Alabama Education Lottery or pari-mutuel wagering on simulcast
and live racing events.

"(4) CHARITABLE BINGO AND RAFFLES. Bingo, as defined
in subdivision (2), conducted by or for the benefit of a bona
fide religious, educational, youth, service, senior citizens',
fraternal, veterans', or other eleemosynary organization that
operates without profit to its members and that either has
been in existence continuously as such an organization for a
period of three years or is exempt from taxation by virtue of
having been classified as a tax exempt nonprofit organization
by the Internal Revenue Service, United States Government. The
term includes charitable raffles and draw downs. The term does
not include electronic bingo.

"(5) COMMISSION. The Alabama Gaming Commission
created by this amendment.

"(6) COVERED LOCATION. The existing Greene County
location, the existing Houston County location, the Jefferson
County location, the existing Macon County location, the
existing Mobile County location, and a location in Dekalb
County or Jackson County owned by the Poarch Band of Creek
Indians.

"(7) COVERED OPERATOR. The owner of a casino license
won through a competitive bid process or the wholly owned
subsidiary of the owner of such a license. A covered operator must operate the casino at a covered location.

"(8) ELECTRONIC BINGO. Any game approved by the commission and referred to as bingo if played with an electronic, computer, or other technologic aid.

"(9) EXISTING GREENE COUNTY LOCATION. The operator of the currently existing location in Greene County, Alabama, which is commonly known as Greenetrack, and any contiguous land that is later added to the existing location.

"(10) EXISTING HOUSTON COUNTY LOCATION. The currently existing location in Houston County, Alabama, which is commonly known as the Crossing at Big Creek, and any contiguous land that is later added to the existing location.

"(11) EXISTING JEFFERSON COUNTY LOCATION. The currently existing location in Jefferson County, Alabama, which is commonly known as the Birmingham Race Course, and any contiguous land that is later added to the existing location.

"(12) EXISTING MACON COUNTY LOCATION. The currently existing location in Macon County, Alabama, which is commonly known as VictoryLand, and any contiguous land that is later added to the existing location.

"(13) EXISTING MOBILE COUNTY LOCATION. The currently existing location in Mobile County, Alabama, which is commonly known as the Mobile Greyhound Racing facility, and any contiguous land that is later added to the existing location.
"(14) HISTORICAL HORSE RACING. A form of horse racing that creates pari-mutuel pools from wagers placed on previously conducted horse races.

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

"(16) NET GAMING REVENUE. The total amount of money or value in any form received by a covered operator with respect to the playing of a casino-style game less the total money or value in any form paid as prizes or winnings as a result of the play, free play, or promotional play.

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

"(18) POARCH BAND OF CREEK INDIANS TRUST LAND. Lands held in trust by the Secretary of the Department of the Interior for the benefit of the Poarch Band of Creek Indians.

"(19) SPORTING EVENT. Any amateur sport or athletic event, professional sport or athletic event, any collegiate sport or athletic event, motor race event, electronic sports event, competitive video game event, or any other event authorized by the commission under this amendment. The term does not include any amateur youth sport or athletic event.

"(20) SPORTS WAGERING. The acceptance of wagers on sporting events or portions of sporting events, the individual performance statistics of athletes in a sporting event, or a
combination of any of the same by any system or method of
wagering approved by the commission including, but not
limited to, in person at a covered location or through an
Internet sports wagering platform, which may include mobile
applications and other digital platforms that use
communications technology to accept wagers. The term may
include single-game bets, teaser bets, parlays, over-under,
moneyline, pools, exchange wagering, in-game wagering, in-play
bets, proposition bets, straight bets, and any other bet
authorized by the commission. The term does not include wagers
on fantasy sports contests authorized under Chapter 19F of
Title 8, Code of Alabama 1975.

"(21) VIDEO LOTTERY or VIDEO LOTTERY TERMINAL. Any
electronic interactive game, machine, or device equipped with
a video screen and buttons, keys, a keyboard, touchscreen or
other input method allowing input by an individual player and
into which the player inserts coins, tokens, currency, or
other representation of value, including, but not limited to,
an electronic card, ticket, or other thing on which value is
electronically recorded, as consideration in order for play of
a game to be available, and through which, as a result of play
of a game to be available, and through which, as a result of
the play of the game, the player may receive free games,
credits, redeemable for cash or a noncash prize, or some other
thing of value, whether received directly from the device or
otherwise, determined wholly or predominantly by chance. The
term does not include electronic bingo."
"Section 3. Establishment of an Alabama Education Lottery.

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

"(b)(1) The proceeds from the Alabama Education Lottery shall be applied first to the payment of the expenses of administering, operating, and regulating the Alabama Education Lottery, including, without limitation, the payment of all prizes and the funding of programs that aid compulsive gambling to be administered through grants or other means by the commission subject to any limitations provided by general law, without any further appropriation required by law, and the balance of the proceeds after the payments shall be deposited in a special, separate account in the State Treasury hereby created and designated the Lottery Trust Fund. Proceeds in the Lottery Trust Fund shall be appropriated by and through an independent supplemental appropriation bill for education purposes and needs and a postsecondary scholarship program based on a combination of need, merit, and workforce needs in the state, which may include scholarships to four-year institutions of higher education for in-demand fields, as provided in general law.

"(2) The first fifteen million dollars ($15,000,000) of any lottery prize money that remains unclaimed annually shall be used for agricultural grant programs as established
by general law. Any remaining unclaimed prize money shall be used for scholarships as provided in subdivision (1).

"(c) The administration and operation of the Alabama Education Lottery shall be vested in a corporation hereby created and designated the Alabama Education Lottery Corporation. The duties, powers, authority, and composition of the Alabama Education Lottery Corporation shall be enumerated in one or more general laws enacted by the Legislature.

"Part III.

"Section 1. Limitation on Gaming in Alabama.

"(a) Casino-style games may be operated only through in-person, on-premises play at covered locations and shall be regulated by the commission. Casino-style games may be operated only on Poarch Band of Creek Indians trust land pursuant to a compact negotiated under Section 7 and regulated in a manner consistent with the terms of a negotiated compact. Electronic bingo on Poarch Creek Trust Land is not subject to approval or regulation of the commission.

"(b) Sports wagering may be operated at covered locations as provided in general law and only pursuant to rules adopted by the commission.

"(c) Bingo and charitable bingo and raffles may be conducted only pursuant to rules adopted by the commission. Any definition of bingo in state or local law that varies from the definition of bingo in Section 2 of Part II is hereby superseded by the definition of bingo in Section 2 of Part II, and all previously ratified constitutional amendments relating
to bingo or charitable bingo and raffles, including, but not limited to, Amendments 386, 387, 413, 440, 506, 508, 549, 550, 565, 569, 599, 600, 612, 674, 692, 732, 743, and 744, are repealed.

"Section 2. Award of Licenses to Covered Operators.

"(a) In the interim between the ratification of this amendment and the issuance of licenses as provided in this section, the electronic bingo and historical horse racing, including electronic facsimiles of these games, may be played at each covered location.

"(b)(1) The commission, by rule, shall establish a competitive bidding process for the award of licenses at covered locations, considering market conditions, financial fitness of the bidders, and other factors deemed relevant by the commission. The commission shall set the minimum bid as follows, but may increase the required minimum bid based on market conditions and other factors deemed relevant by the commission:

a. For the sites in Jefferson County and in DeKalb or Jackson County, thirty-five million dollars ($35,000,000).

b. For the site in Macon County, twenty million dollars ($20,000,000).

c. For the sites in Greene, Houston, and Mobile Counties, five million dollars ($5,000,000).

"(2) The owners of the covered locations in Greene, Houston, Jefferson, Macon, and Mobile Counties shall have the right to make a final bid exceeding the highest bidder in the
competitive bidding process for their respective covered locations.

"(3) The Poarch Band of Creek Indians shall have a right to make a final bid exceeding the highest bidder in the competitive bidding process for the covered location in Jackson or DeKalb County.

"(c) Upon selection for the award of a license, each covered operator shall pay the applicable license fee upon receipt of an invoice from the commission and as provided by rule of the commission to the Gaming Trust Fund. Once the appropriate license fee is paid, the commission shall issue a license to the covered operator to conduct and operate casino-style games and sports wagering at the covered location for a 10-year term.

"(d) A license awarded pursuant to this section may be serially renewed, modified, extended, suspended, revoked, transferred, or forfeited by a covered operator as provided by general law and rules adopted by the commission. Suspension and revocation of a license shall be for cause.

"(e) Notwithstanding Section 284 of this constitution, any future grants of covered locations or the addition or expansion of any type of gaming shall require a two-thirds vote of each house for passage.

"(f)(1) The commission may establish a deadline in which the licensee must open its business to the public. If a licensee fails to open its facility by that deadline, the license shall be deemed forfeited.
"(2) A covered operator, or its wholly-owned or majority-owned subsidiary, may not own a controlling interest in more than two covered locations.

"(3) The commission may collect a prorated transfer fee from a covered operator prior to the transfer of any license issued under this section as provided in general law.

"(g)(1) Notwithstanding Section 284 of this constitution, any future grants of covered locations or the addition or expansion of any type of gaming shall require a two-thirds vote of each house for passage.

"(h) Any other form of gambling that is not a game of chance or otherwise allowed by this amendment may not be authorized by general law for a period of 10 years from the date this amendment is ratified.

"(i) The commission shall extend the initial license term to 30 years upon request of a covered operator and upon demonstration to the commission of a completed capital investment in the covered location that is 10 or more times greater than the initial license fee.

"(j) Renewal fees for licenses awarded under this section to covered operators shall be set by the commission as provided in general law, considering market conditions and other factors deemed relevant by the commission in its determination of the renewal fee.

(a) Within 20 days after the end of each calendar month, a covered operator shall pay the commission a tax of 20 percent of the net gaming revenues for the location for the immediately preceding calendar month. The commission shall timely remit the proceeds to the Gaming Trust Fund, created in Section 4, the county commission of a county in which a covered operator is located, and the governing body of a municipality in which a covered operator is located, including its police jurisdiction, as provided by general law.

(b) Within 20 days after the end of each calendar month, the covered operator and any management services provider shall pay the commission a tax of 20 percent of the net gaming revenues for sports wagering, as defined by general law, for the location for the immediately preceding calendar month. The commission shall timely remit all of the proceeds for deposit as provided by general law.

(c) The tax rates under subsections (a) and (b) may be amended by the Legislature in general law, upon recommendation of the commission, every five years after the ratification of this amendment and every five years thereafter; provided, however, any amendment to the tax rate shall not be more than 2 percent each time it is considered, and the tax rate shall never exceed 30 percent.

(d) The tax on net gaming revenue and net gaming revenue on sports wagering shall be in lieu of all other state or local taxes, license fees, or franchise fees levied with respect to the conduct of any casino-style games or the
operation of any machines used to conduct casino-style games or sport wagering. The license fee payable to the state shall be in lieu of all other state or local license fees or franchise fees levied with respect to a licensee providing hotel services, dining, other facilities, or services ancillary to its gaming activities, if the activities are conducted in conjunction with this act at covered locations, but such providers of hotel services, dining, other facilities, or ancillary services must meet the environmental, fire, health, and safety requirements of other similarly situated license holders in the county and municipality in which the facility is located. Notwithstanding the foregoing, all covered locations are liable for all state and local property taxes, lodging taxes, and sales and use taxes on merchandise sold in gift shops or retail stores, food, and beverages generally applicable at uniform rates to all similarly situated businesses operating in the county and municipality in which the covered location is located, and except with respect to those taxes, fees, or expenses expressly addressed in this act, all other state or local taxes which are generally imposed by the state or a local taxing entity if the taxes are generally applied at rates uniformly applied within reasonable classifications among all businesses operating in the county or municipality, or both.

"Section 4. Establishment of the Gaming Trust Fund.

"(a)(1) The Gaming Trust Fund shall be created within the State Treasury. Proceeds received by the Alabama
Gaming Commission from license fees pursuant to Section 2, fees from a compact negotiated under Section 7, fines and penalties collected by the commission pursuant to Section 6, and a portion of the proceeds of the tax on net gaming revenue pursuant to Section 3(a) shall be deposited in the fund as provided by general law. Proceeds in the fund shall be appropriated by general law for the following purposes as further provided in general law:

"a. For information technology infrastructure, with the first seven hundred fifty million ($750,000,000) appropriated in general law for the development and expansion of broadband.

"b. For the provision of health care services, including rural health care services.

"c. For the provision of mental health services.

(2) When the amount distributed under paragraph (1)a. cumulatively reaches seven hundred fifty million ($750,000,000) for the development and expansion of broadband, the proceeds shall be appropriated as provided by general law for capital or other nonrecurring expenses, the provision of health care services, including rural health care services, information technology, infrastructure, mental health care services, and grant programs awarded to municipalities and counties that do not have a gaming facility within their corporate limits or police jurisdiction.

"(b) Proceeds from other sources shall be appropriated for purposes established in the general laws
enacted by the Legislature subsequent to and supplemental to this amendment.

"Section 4A. Withholdings Tax on Winnings.

"(a)(1) In lieu of any state income tax owed on the winnings, a withholdings tax of 5 percent on all winnings exceeding one thousand dollars ($1,000) from the lottery, bingo, charitable bingo and raffles, casino-style games, and sports wagering shall be withheld and paid to the state by the Alabama Education Lottery Corporation, a licensee, or a covered operator, as applicable.

"(2) The withholdings from winnings as provided in subdivision (1) shall be credited to the Education Trust Fund to be used for dual enrollment programs, including the integration of high school career technical training programs with the community college system.

"(b)(1) In addition to the tax in subsection (a), a withholdings tax of 2 percent on all winnings exceeding one thousand dollars ($1,000) from the lottery, bingo, charitable bingo and raffles, casino-style games, and sports wagering shall be withheld and be paid to the state by the Alabama Education Lottery Corporation, a licensee, or a covered operator, as applicable.

"(2) The withholdings from winnings as provided in subdivision (1) shall deposited into a special fund as provided by general law to be administered by the Alabama Transportation Rehabilitation and Improvement Program-II Committee to be used as follows:
"a. 50 percent for grants for maintenance, repair, or construction of bridges in the state. Priority for grants shall be given to bridges designated for one-lane traffic as of January 1, 2021, are over 80 years of age, and are located along a major highway traversing a river in the state.

"b. 50 percent for grants for maintenance, repair, or construction of county bridges.

"(3) The committee may adopt rules to develop metrics for grants including, but not limited to, the age of the bridge, traffic count, structural integrity, and accident rate.

"Section 5. Creation of the Alabama Gaming Commission.

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

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

"(1) Two by the Governor.

"(2) One by the Speaker of the House of Representatives.

"(3) One by the Minority Leader of the House of Representatives.

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

"(5) One by the Minority Leader of the Senate.

"(6) One by the Lieutenant Governor.

"(c) All members shall be appointed with the advice and consent of the Senate. Members shall not participate in any function or deliberation of the commission until confirmed
by the Senate. Initial appointments shall be made within 60
days after ratification of this amendment. The appointing
authorities of the commission shall coordinate their
appointments to assure the commission membership is inclusive
and reflects the racial, gender, geographic, urban/rural, and
economic diversity of the state.

"(1) The commission may not take official action
until all members have been appointed. At its initial meeting,
the commission shall elect a chair from its membership.

"(2) Members of the commission shall satisfy
qualifications provided by general law.

"(3) The term of office of members of the commission
shall be provided by general law.

"(4) The appointing authority may at any time remove
his or her appointee to the commission for cause, which shall
include neglect of duty, malfeasance, misfeasance, or
nonfeasance in office.

"(d) The Legislature, by general law, shall provide
for the personnel of the commission and may create an advisory
board to the commission to assist the commission in the
performance of its duties.

"(5) The commission and its members and employees
shall be subject to the Ethics Law, Section 36-25-1, et seq.,
Code of Alabama 1975; the Alabama Open Records Act, as
amended; the Alabama Open Meetings Act, as amended; and the
Alabama Administrative Procedure Act, as amended, provided,
however, that the appeal of any contested case shall be as
provided in general law.

"(6) The compensation of the members of the
commission shall be provided by general law.

"Section 6. Powers and Duties of the Commission.

"(a) The commission may adopt rules necessary to
implement this amendment and related legislation. All rules
relative to hearings and licenses shall include due process
for those involved, including for covered operators. The
commission shall adopt, amend, or repeal rules in accordance
with the Alabama Administrative Procedure Act, and shall have
all of the following powers and duties:

"(1) In addition to other enforcement powers granted
by general law, and subject to Rule 45 of the Alabama Rules of
Civil Procedure, for which purpose the commission shall be in
the place of a court, as to matters within the commission's
jurisdiction, the commission may establish an enforcement
division and may issue subpoenas and compel the production of
documents or items and the attendance of witnesses, to
administer oaths, to require testimony under oath, and to
enforce its orders. Any person making a false oath in any
matter before the commission is subject to a criminal perjury
charge. The Legislature, by general law, may require law
enforcement agencies to assist the commission in the
enforcement of gaming laws and regulations.

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

"(3) The commission may demand access to and inspect, examine, photostamp, and audit all papers, books, and records respecting net gaming revenues and net gaming revenues for sports wagering and any other matters necessary to carry out its duties.

"(4) The commission may impose reasonable civil fines and penalties on any individual or entity for violations of this amendment, violations of general law enacted pursuant to this amendment, or violations of rules adopted by the commission.

"(5) The commission shall regulate the Alabama Education Lottery Corporation in the operation and conduct of the Alabama Education Lottery as provided in Section 3 of Part II.

"(6) The commission shall regulate and supervise the conduct and operation of casino-style games at covered locations and charitable bingo and raffles. The commission shall regulate sports wagering.

"(7) The commission shall approve all casino-style games and Alabama Education Lottery games.

"(8) The commission shall adopt rules and procedures to address the failure of an operator to timely remit applicable state tax on net gaming revenues, net gaming revenues on sports wagering, license fees, and fines and penalties assessed by the commission. The rules shall clearly
state the actions that can be taken against the operator and
the operator's license, including, but not limited to,
suspension or revocation of the license.

"(9) The commission shall have authority to enforce
the provisions of this amendment and general laws authorized
by this amendment and shall cooperate with the Attorney
General and the local district attorneys in enforcing all laws
related to legal gaming and illegal gaming. Nothing in this
amendment shall be construed to diminish the supreme executive
power of the Governor or the power of either the Governor or
the Attorney General with respect to litigation affecting the
state.

"(10) The commission shall adopt rules related to
the reasonable operation level for each covered location.

"(11) The commission shall adopt rules limiting
access to casino-style games and sports wagering by minors and
other susceptible individuals.

"(b) Appeal of decisions of the commission shall be
as prescribed by general law.

"(c) In addition to the powers granted in this
section, additional powers of the commission with respect to
regulation and supervision of covered locations and charitable
bingo and raffles shall be enumerated in one or more general
laws enacted by the Legislature and supplemental to this
amendment to further its purposes and provide for its
implementation.
"(d) The number of casino-style games in operation at a covered location may not be restricted by the commission.

"(e) The commission may coordinate with local communities and covered locations to develop educational programs and other social programs to enhance public awareness of gaming-related issues.

"(f) The existing local racing commissions at each of the covered locations shall not interfere with the issuance of licenses under this amendment or operation of casino-style games or sports wagering at the covered locations. The existing local racing commission at each covered location shall continue to have jurisdiction over pari-mutuel wagering and racing at such covered location, but the regulatory and supervisory power of each local racing commission over pari-mutuel wagering and racing at the covered location shall be subordinate to the regulatory and supervisory power of the commission, with any enforcement action of the commission to control and prevail.

"Section 7. Compact with the Poarch Band of Creek Indians.

"(a) The Governor, or the Governor's designee, shall negotiate in good faith and conclude a compact for the operation and regulation of casino-style games and sports wagering with the Poarch Band of Creek Indians on Poarch Band of Creek Indians trust land. The compact may include provisions providing for revenue-sharing payments to the state in exchange for meaningful concessions that provide
substantial economic benefits to the Poarch Band of Creek Indians. Meaningful concessions may include the grant of licenses to operate casino-style games at an additional site pursuant to Section 2(c).

"(b) Following execution of a compact, the Governor, or the Governor's designee, shall file the executed compact with the Secretary of State and the commission. The Secretary of State shall immediately forward an executed copy of the compact to the Secretary of the Interior for that person's review and approval in accordance with 25 U.S.C. § 2710 (d)(8).

"(c) In addition to any and all other powers of the office which may exist now or hereafter, the Governor, or the Governor's designee, may negotiate, execute, and deliver any and all documents on behalf of the state, and enter into any agreement or compact, or both, on behalf of the state, with the Poarch Band of Creek Indians. If negotiated in good faith by the state, any consideration received or to be received by the state pursuant to this amendment, whether monetary or otherwise, shall be adequate and no action shall be had for private inurement or other unlawful waste, use, or misappropriation of public funds.

"(d) The state's immunity to suit in federal court under the Eleventh Amendment of the United States Constitution is expressly waived for the sole and limited purpose of resolving disputes arising under the terms of any compact negotiated pursuant to this section. The waiver of the state's
immunity under this subsection is contingent upon an

equivalent submission in the compact by the Poarch Band of
Creek Indians to the jurisdiction of federal court.

"(e) Disputes between the state and the Poarch Band
of Creek Indians relating to compliance with compact
provisions may also be resolved through arbitration procedures
as set forth in the compact.

"Section 8. Criminal laws related to gambling.

"In order to further the regulation of gaming as
imposed by this amendment, the Legislature shall amend Article
2 of Chapter 12 of Title 13A of the Code of Alabama 1975,
specifically, Sections 13A-12-22 through 13A-12-25 and
13A-12-27, in order to provide felony penalties for the crimes
specified in those sections.

"Section 9. Campaign Contribution Prohibition.

"(a) The Legislature:

"(1) Shall, by general law, enact as strict a
prohibition as may be enacted consistent with federal law on
the making of political contributions by any natural person or
legal entity, including but not limited to a federally
recognized Indian tribe, that has a financial interest in any
gaming license or compact authorized by this amendment to a
principal campaign committee or a political action committee
that contributes to any candidate for state or local office in
Alabama.

"(2) Shall, by general law, establish criminal and
civil penalties for any person who violates the prohibitions
authorized by this amendment or any subsequent gaming legislation enacted by the Legislature, including but not limited to, the revocation of a gaming license or compact authorized by this amendment or any subsequent gaming legislation enacted by the Legislature.

"(3) May enact by general law additional, supplemental prohibitions or restrictions as permitted by federal law on any natural person or legal entity, including but not limited to a federally recognized Indian tribe, that has a financial interest in any gaming license or compact authorized by this amendment.

"(b) Any gaming license and any compact authorized by this amendment shall expressly include and incorporate by reference the prohibitions and restrictions authorized by this section.

"(c) The anticorruption prohibitions authorized by this section are necessary conditions of the gaming and compact authorizations contained in this amendment. Should any anticorruption prohibitions authorized by this section be held unconstitutional or unenforceable, the Legislature, by general law, shall enact a new prohibition or restriction that is as strict as may be enacted consistent with federal law.

"Section 10. Special Session.

"For the exclusive purpose of enacting general laws to implement this amendment, the Governor shall call the Legislature into a special session. If the Governor does not call the Legislature into a special session, the Legislature
shall convene in special session beginning on the fourth
Tuesday after the ratification of this amendment. This section
does not apply if the Legislature enacts general laws to
implement this amendment contingent upon, and prior to, the
ratification of this amendment.


"The operation of this amendment is not subject to, or prohibited, limited, or impaired by, any constitutional provision, statute, regulation, court decision, ordinance, resolution, or other law that is inconsistent with this amendment. Specifically, this amendment, and its implementing legislation, does not violate the ban on irrevocable or exclusive grants of special privileges or immunities in Section 22 of the constitution, and the licenses authorized pursuant to this amendment do not violate the prohibition on grants or franchises, privileges, or immunities in Section 22."

Section 2. At the November 2022 general election, the election upon the proposed amendment shall be held in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, now appearing as Sections 284 and 285 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, and the election laws of this state.

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

"Proposing an amendment to the Constitution of
Alabama of 1901, to authorize the Alabama Education Lottery;
to authorize, limit, and regulate casino-style games at sites
in Jefferson County, Mobile County, Macon County, Greene
County, Houston County, and Jackson or DeKalb County; to
provide for the award of licenses pursuant to a competitive
bidding process established by the commission; to create the
Alabama Education Lottery Corporation to operate the lottery
and the Alabama Gaming Commission to supervise and regulate
bingo, charitable bingo and raffles and casino-style games
authorized by the amendment; to authorize sports wagering and
to allow the commission to adopt rules governing the
licensing, administration, and conduct of sports wagering; and
to require the Governor to negotiate a compact with the Poarch
Band of Creek Indians.

"Proposed by Act ________."
Senate

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

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

Read for the third time and passed as amended .... 13-APR-21

Yeas 23
Nays 9

Patrick Harris,
Secretary.