

1 SB319
2 212370-3
3 By Senators McClendon, Gudger and Marsh (Constitutional
4 Amendment)
5 RFD: Tourism
6 First Read: 09-MAR-21

1 SB319

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Proposing an amendment to Section 65 of the
12 Constitution of Alabama of 1901, to authorize the Alabama
13 Education Lottery; to authorize, limit, and regulate
14 casino-style games at sites in Jefferson County, Mobile
15 County, Macon County, Greene County, Houston County, and
16 Jackson or DeKalb County; to provide for the award of licenses
17 pursuant to a competitive bidding process established by the
18 commission; to create the Alabama Education Lottery
19 Corporation to operate the lottery and the Alabama Gaming
20 Commission to supervise and regulate bingo, charitable bingo
21 and raffles and casino-style games authorized by the
22 amendment; to authorize sports wagering and to allow the
23 commission to adopt rules governing the licensing,
24 administration, and conduct of sports wagering; and to require
25 the Governor to negotiate a compact with the Poarch Band of
26 Creek Indians.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. The following amendment to the
2 Constitution of Alabama of 1901, as amended, is proposed and
3 shall become valid as a part thereof when approved by a
4 majority of the qualified electors voting thereon and in
5 accordance with Sections 284, 285, and 287 of the Constitution
6 of Alabama of 1901, as amended:

7 PROPOSED AMENDMENT

8 "Section 65.

9 "Part I.

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

20 "Part II.

21 "Section 1. Declarations. The People of Alabama find
22 that: Lotteries have been enacted in many states and the
23 revenues generated from the lotteries benefit those states;
24 many Alabamians participate in lotteries in other states; an
25 official state lottery would benefit Alabama if fairly and
26 honestly administered and if the proceeds improve quality of
27 life in the state; gaming facilities and resorts are allowed

1 in many states and generate revenues that benefit economic
2 development and increased tourism in those states; many
3 Alabamians already visit gaming facilities and resorts in
4 nearby states; and Alabamians support gaming in Alabama if it
5 is effectively and honestly regulated to protect consumers and
6 to promote integrity within the gaming industry, if it is
7 effectively taxed to produce revenues that improve quality of
8 life in the state, and if it is effectively limited to
9 designated locations to preserve the aesthetic character of
10 the state. Therefore, the purposes of this amendment are: (1)
11 to establish and provide for a fair and honest Alabama
12 Education Lottery to generate revenue for postsecondary
13 education scholarships, including a loan forgiveness component
14 for scholarship participants who work in in-demand fields in
15 this state for a specified time frame; (2) to limit and
16 regulate gaming to designated locations and to subject all
17 gaming to regulation; (3) to levy taxes on gaming at those
18 locations to generate revenue for the benefit of the state;
19 (4) to support the state's tourism industry and economic
20 development; (5) to require the Governor to negotiate a
21 compact for gaming with the Poarch Band of Creek Indians; and
22 (6) to establish the Alabama Education Lottery Corporation and
23 the Alabama Gaming Commission to regulate gaming in the state.

24 "Section 2. Definitions.

25 "For the purposes of this part and Part III, the
26 following terms shall have the following meanings:

1 "(1) ALABAMA EDUCATION LOTTERY. Any large-scale
2 intrastate, multistate, or multi-sovereign lottery approved by
3 the commission for operation by the Alabama Education Lottery
4 Corporation such as Pick-3, Pick-4, Mega Millions, or
5 Powerball. The term includes instant tickets. The term does
6 not include a video lottery or video lottery terminal.

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

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

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

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

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

23 "e. A player must recognize that the player's card
24 has a predetermined pattern of matching values, and in turn
25 announce to the other players and the announcer that this is
26 the case before any other player does so.

1 "f. The game of bingo contemplates a group activity
2 in which multiple players compete against each other to be the
3 first to properly mark a card with the predetermined winning
4 pattern and announce that fact.

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

11 "The term does not include electronic bingo.

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

15 "(3) CASINO-STYLE GAME. Any casino game, activity,
16 or device approved by the commission that is accessed for play
17 by physical presence at the location site of the game,
18 activity, or device, including, but not limited to: Slot
19 machines; a video lottery; video lottery terminals; electronic
20 representations of pari-mutuel wagering games, including, but
21 not limited to, historical horse racing machines, historical
22 sporting event machines, machines of any kind that are based
23 on historic events, and other technological aids and
24 electronic facsimiles of these games; banking or banked card
25 games, including, but not limited to, poker, baccarat, chemin
26 de fer, and blackjack; all dice games; roulette; all table
27 games and electronic representations of such games; all

1 electronic sweepstakes games, terminals, or devices; and any
2 electronic gaming device used to play these games. The term
3 includes electronic bingo. The term does not include the
4 Alabama Education Lottery or pari-mutuel wagering on simulcast
5 and live racing events.

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

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

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

25 "(7) COVERED OPERATOR. The owner of a casino license
26 won through a competitive bid process or the wholly owned

1 subsidiary of the owner of such a license. A covered operator
2 must operate the casino at a covered location.

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

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

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

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

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

22 "(13) EXISTING MOBILE COUNTY LOCATION. The currently
23 existing location in Mobile County, Alabama, which is commonly
24 known as the Mobile Greyhound Racing facility, and any
25 contiguous land that is later added to the existing location.

1 "(14) HISTORICAL HORSE RACING. A form of horse
2 racing that creates pari-mutuel pools from wagers placed on
3 previously conducted horse races.

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

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

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

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

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

25 "(20) SPORTS WAGERING. The acceptance of wagers on
26 sporting events or portions of sporting events, the individual
27 performance statistics of athletes in a sporting event, or a

1 combination of any of the same by any system or method of
2 wagering approved by the commission including, but not
3 limited to, in person at a covered location or through an
4 Internet sports wagering platform, which may include mobile
5 applications and other digital platforms that use
6 communications technology to accept wagers. The term may
7 include single-game bets, teaser bets, parlays, over-under,
8 moneyline, pools, exchange wagering, in-game wagering, in-play
9 bets, proposition bets, straight bets, and any other bet
10 authorized by the commission. The term does not include wagers
11 on fantasy sports contests authorized under Chapter 19F of
12 Title 8, Code of Alabama 1975.

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

1 "Section 3. Establishment of an Alabama Education
2 Lottery.

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

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

25 "(2) The first fifteen million dollars (\$15,000,000)
26 of any lottery prize money that remains unclaimed annually
27 shall be used for agricultural grant programs as established

1 by general law. Any remaining unclaimed prize money shall be
2 used for scholarships as provided in subdivision (1).

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

9 "Part III.

10 "Section 1. Limitation on Gaming in Alabama.

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

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

22 "(c) Bingo and charitable bingo and raffles may be
23 conducted only pursuant to rules adopted by the commission.
24 Any definition of bingo in state or local law that varies from
25 the definition of bingo in Section 2 of Part II is hereby
26 superseded by the definition of bingo in Section 2 of Part II,
27 and all previously ratified constitutional amendments relating

1 to bingo or charitable bingo and raffles, including, but not
2 limited to, Amendments 386, 387, 413, 440, 506, 508, 549, 550,
3 565, 569, 599, 600, 612, 674, 692, 732, 743, and 744, are
4 repealed.

5 "Section 2. Award of Licenses to Covered Operators.

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

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

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

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

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

25 "(2) The owners of the covered locations in Greene,
26 Houston, Jefferson, Macon, and Mobile Counties shall have the
27 right to make a final bid exceeding the highest bidder in the

1 competitive bidding process for their respective covered
2 locations.

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

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

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

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

24 "(f) (1) The commission may establish a deadline in
25 which the licensee must open its business to the public. If a
26 licensee fails to open its facility by that deadline, the
27 license shall be deemed forfeited.

1 "(2) A covered operator, or its wholly-owned or
2 majority-owned subsidiary, may not own a controlling interest
3 in more than two covered locations.

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

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

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

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

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

25 "Section 3. State Tax on Net Gaming Revenues and Use
26 of Tax Proceeds.

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

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

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

24 "(d) The tax on net gaming revenue and net gaming
25 revenue on sports wagering shall be in lieu of all other state
26 or local taxes, license fees, or franchise fees levied with
27 respect to the conduct of any casino-style games or the

1 operation of any machines used to conduct casino-style games
2 or sport wagering. The license fee payable to the state shall
3 be in lieu of all other state or local license fees or
4 franchise fees levied with respect to a licensee providing
5 hotel services, dining, other facilities, or services
6 ancillary to its gaming activities, if the activities are
7 conducted in conjunction with this act at covered locations,
8 but such providers of hotel services, dining, other
9 facilities, or ancillary services must meet the environmental,
10 fire, health, and safety requirements of other similarly
11 situated license holders in the county and municipality in
12 which the facility is located. Notwithstanding the foregoing,
13 all covered locations are liable for all state and local
14 property taxes, lodging taxes, and sales and use taxes on
15 merchandise sold in gift shops or retail stores, food, and
16 beverages generally applicable at uniform rates to all
17 similarly situated businesses operating in the county and
18 municipality in which the covered location is located, and
19 except with respect to those taxes, fees, or expenses
20 expressly addressed in this act, all other state or local
21 taxes which are generally imposed by the state or a local
22 taxing entity if the taxes are generally applied at rates
23 uniformly applied within reasonable classifications among all
24 businesses operating in the county or municipality, or both.

25 "Section 4. Establishment of the Gaming Trust Fund.

26 "(a) (1) The Gaming Trust Fund shall be created
27 within the State Treasury. Proceeds received by the Alabama

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

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

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

15 "c. For the provision of mental health services.

16 "(2) When the amount distributed under paragraph
17 (1)a. cumulatively reaches seven hundred fifty million
18 (\$750,000,000) for the development and expansion of broadband,
19 the proceeds shall be appropriated as provided by general law
20 for capital or other nonrecurring expenses, the provision of
21 health care services, including rural health care services,
22 information technology, infrastructure, mental health care
23 services, and grant programs awarded to municipalities and
24 counties that do not have a gaming facility within their
25 corporate limits or police jurisdiction.

26 "(b) Proceeds from other sources shall be
27 appropriated for purposes established in the general laws

1 enacted by the Legislature subsequent to and supplemental to
2 this amendment.

3 "Section 4A. Withholdings Tax on Winnings.

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

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

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

23 "(2) The withholdings from winnings as provided in
24 subdivision (1) shall deposited into a special fund as
25 provided by general law to be administered by the Alabama
26 Transportation Rehabilitation and Improvement Program-II
27 Committee to be used as follows:

1 "a. 50 percent for grants for maintenance, repair,
2 or construction of bridges in the state. Priority for grants
3 shall be given to bridges designated for one-lane traffic as
4 of January 1, 2021, are over 80 years of age, and are located
5 along a major highway traversing a river in the state.

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

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

12 "Section 5. Creation of the Alabama Gaming
13 Commission.

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

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

17 "(1) Two by the Governor.

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

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

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

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

24 "(6) One by the Lieutenant Governor.

25 "(c) All members shall be appointed with the advice
26 and consent of the Senate. Members shall not participate in
27 any function or deliberation of the commission until confirmed

1 by the Senate. Initial appointments shall be made within 60
2 days after ratification of this amendment. The appointing
3 authorities of the commission shall coordinate their
4 appointments to assure the commission membership is inclusive
5 and reflects the racial, gender, geographic, urban/rural, and
6 economic diversity of the state.

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

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

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

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

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

22 "(5) The commission and its members and employees
23 shall be subject to the Ethics Law, Section 36-25-1, et seq.,
24 Code of Alabama 1975; the Alabama Open Records Act, as
25 amended; the Alabama Open Meetings Act, as amended; and the
26 Alabama Administrative Procedure Act, as amended, provided,

1 however, that the appeal of any contested case shall be as
2 provided in general law.

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

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

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

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

26 "(2) The commission may appoint impartial hearing
27 examiners who may administer oaths and receive evidence and

1 testimony under oath and make recommendations to the
2 commission.

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

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

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

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

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

23 "(8) The commission shall adopt rules and procedures
24 to address the failure of an operator to timely remit
25 applicable state tax on net gaming revenues, net gaming
26 revenues on sports wagering, license fees, and fines and
27 penalties assessed by the commission. The rules shall clearly

1 state the actions that can be taken against the operator and
2 the operator's license, including, but not limited to,
3 suspension or revocation of the license.

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

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

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

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

20 "(c) In addition to the powers granted in this
21 section, additional powers of the commission with respect to
22 regulation and supervision of covered locations and charitable
23 bingo and raffles shall be enumerated in one or more general
24 laws enacted by the Legislature and supplemental to this
25 amendment to further its purposes and provide for its
26 implementation.

1 "(d) The number of casino-style games in operation
2 at a covered location may not be restricted by the commission.

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

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

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

21 "(a) The Governor, or the Governor's designee, shall
22 negotiate in good faith and conclude a compact for the
23 operation and regulation of casino-style games and sports
24 wagering with the Poarch Band of Creek Indians on Poarch Band
25 of Creek Indians trust land. The compact may include
26 provisions providing for revenue-sharing payments to the state
27 in exchange for meaningful concessions that provide

1 substantial economic benefits to the Poarch Band of Creek
2 Indians. Meaningful concessions may include the grant of
3 licenses to operate casino-style games at an additional site
4 pursuant to Section 2(c).

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

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

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

1 immunity under this subsection is contingent upon an
2 equivalent submission in the compact by the Poarch Band of
3 Creek Indians to the jurisdiction of federal court.

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

8 "Section 8. Criminal laws related to gambling.

9 "In order to further the regulation of gaming as
10 imposed by this amendment, the Legislature shall amend Article
11 2 of Chapter 12 of Title 13A of the Code of Alabama 1975,
12 specifically, Sections 13A-12-22 through 13A-12-25 and
13 13A-12-27, in order to provide felony penalties for the crimes
14 specified in those sections.

15 "Section 9. Campaign Contribution Prohibition.

16 "(a) The Legislature:

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

26 "(2) Shall, by general law, establish criminal and
27 civil penalties for any person who violates the prohibitions

1 authorized by this amendment or any subsequent gaming
2 legislation enacted by the Legislature, including but not
3 limited to, the revocation of a gaming license or compact
4 authorized by this amendment or any subsequent gaming
5 legislation enacted by the Legislature.

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

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

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

23 "Section 10. Special Session.

24 "For the exclusive purpose of enacting general laws
25 to implement this amendment, the Governor shall call the
26 Legislature into a special session. If the Governor does not
27 call the Legislature into a special session, the Legislature

1 shall convene in special session beginning on the fourth
2 Tuesday after the ratification of this amendment. This section
3 does not apply if the Legislature enacts general laws to
4 implement this amendment contingent upon, and prior to, the
5 ratification of this amendment.

6 "Section 11. Conflicting Provisions.

7 "The operation of this amendment is not subject to,
8 or prohibited, limited, or impaired by, any constitutional
9 provision, statute, regulation, court decision, ordinance,
10 resolution, or other law that is inconsistent with this
11 amendment. Specifically, this amendment, and its implementing
12 legislation, does not violate the ban on irrevocable or
13 exclusive grants of special privileges or immunities in
14 Section 22 of the constitution, and the licenses authorized
15 pursuant to this amendment do not violate the prohibition on
16 grants or franchises, privileges, or immunities in Section
17 22."

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

24 Section 3. The appropriate election official shall
25 assign a ballot number for the proposed constitutional
26 amendment on the election ballot and shall set forth the

1 following description of the substance or subject matter of
2 the proposed constitutional amendment:

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

18 "Proposed by Act _____."

19 This description shall be followed by the following
20 language:

21 "Yes () No ()."

1
2
3 Senate
4 Read for the first time and referred to the Senate
5 committee on Tourism..... 09-MAR-21
6
7 Reported from Tourism as Favorable with 1 substi-
8 tute..... 18-MAR-21
9
10 Read for the third time and passed as amended 13-APR-21

11 Yeas 23
12 Nays 9

13
14
15 Patrick Harris,
16 Secretary.
17