

1 SB381
2 117579-1
3 By Senator Keahey (Constitutional Amendment)
4 RFD: Tourism and Marketing
5 First Read: 04-FEB-10

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8 SYNOPSIS: This bill proposes an amendment to the
9 Alabama Constitution of 1901 that will limit gaming
10 in Alabama, establish the Alabama Gaming Commission
11 to regulate commercial bingo operations, assure
12 that the proceeds from these operations are
13 legitimately accounted for in an open manner, and
14 provide for a tax on bingo operators and bingo
15 vendors to support local governments and to fund
16 the General Fund for the benefit of the state
17 Medicaid program and the Education Trust Fund for
18 the benefit of the public schools.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 To amend the Constitution of Alabama of 1901, (i) to
25 limit gaming in Alabama, (ii) to establish the Alabama Gaming
26 Commission to regulate commercial bingo operations, (iii) to
27 assure that the proceeds from these operations are

1 legitimately accounted for in an open manner, and (iv) to
2 provide for a tax on bingo operators and bingo vendors to
3 support local governments and to fund the General Fund for the
4 benefit of the state Medicaid program and the Education Trust
5 Fund for the benefit of the public schools.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. The following amendment to the
8 Constitution of Alabama of 1901, as amended, is proposed and
9 shall become valid as a part thereof when approved by a
10 majority of the qualified electors voting thereon and in
11 accordance with Sections 284, 285, and 287 of the Constitution
12 of Alabama of 1901, as amended:

13 PROPOSED AMENDMENT

14 Section 1. Declarations.

15 Because Alabama has experienced a proliferation of
16 bingo gaming throughout the state, it is of paramount
17 importance for such bingo operations to be taxed, limited, and
18 regulated. The taxes imposed upon bingo operations and bingo
19 vendors in this amendment raise additional revenues for the
20 local municipalities and counties where the bingo operations
21 are located and fund the state General Fund for the benefit of
22 the state Medicaid program and the Education Trust Fund for
23 the benefit of the public schools. To prohibit the
24 proliferation of illegal and unregulated gaming in the state,
25 this amendment limits Bingo to eight (8) points of destination
26 in the State of Alabama, which must meet a minimum investment
27 requirement in non-gaming amenities to assure that Bingo

1 revenues are serving as a catalyst to create jobs and develop
2 an entertainment and tourism industry. This amendment further
3 creates the Alabama Gaming Commission for the regulation of
4 Bingo in the state.

5 Section 2. Definitions.

6 As used in this amendment, the following words and
7 phrases shall have the following respective meanings:

8 (1) "BINGO OPERATOR" means any Person conducting any
9 form of Bingo in the State of Alabama.

10 (2) "BINGO FACILITY" means any building in which
11 Bingo is conducted, or in which the business records,
12 receipts, or other funds of the Bingo Operation are maintained
13 (but excluding offsite facilities primarily dedicated to
14 storage of those records, and financial institutions), and all
15 rooms, buildings, and areas, including parking lots and
16 walkways, a principal purpose of which is to serve the
17 activities of the Bingo Operation.

18 (3) "COMMISSION" means the Alabama Gaming
19 Commission, the entity established by this amendment to
20 regulate the operation, conduct and playing of all forms of
21 Bingo.

22 (4) "BINGO" means the game of Bingo which is the
23 game of chance (whether or not electronic, computer, or other
24 technologic aids are used in connection therewith) that is
25 played for prizes, including monetary prizes, with cards
26 bearing numbers or other designations, in which the holder of
27 the card covers such numbers or designations when objects,

1 similarly numbered or designated, are drawn or electronically
2 determined, and in which the game is won by the first person
3 covering a previously designated arrangement of numbers or
4 designations on such cards.

5 (5) "BINGO TECHNOLOGIC AID" means any mechanical,
6 electromechanical, electronic, or video machine or device, or
7 component thereof, that, for consideration, assists or allows
8 a player to play a game of Bingo.

9 (6) "BINGO VENDORS" means any Person who, directly
10 or indirectly, manufactures, distributes, supplies, vends,
11 leases, or otherwise purveys Bingo Technological Aids or other
12 supplies necessary to conduct Bingo to the Bingo Operator or
13 Bingo Facility.

14 (7) "GROSS BINGO REVENUE" means the total amount of
15 money or value in any form received by a Bingo Operator with
16 respect to the playing of Bingo in a Bingo Facility, less the
17 total amount of money or value in any form paid as winnings to
18 the players of Bingo, but before deduction of any expenses
19 incurred in operating the Bingo Facility, including without
20 limitation thereto, depreciation or leasing costs of physical
21 facilities and equipment, wages and other employment costs,
22 utilities, interest, and taxes; provided that the Gross Bingo
23 Revenue shall not include all or any part of the amounts
24 wagered in pari-mutuel pools on racing and, further, shall not
25 be construed as constituting any amount wagered in such
26 pari-mutuel pools for the purpose of determining any tax
27 levied on pari-mutuel wagering or for any other purpose.

1 (8) "NON-PROFIT ORGANIZATION" means a tax exempt
2 entity under Section 501(c)(3) of the Internal Revenue Code.

3 (i) "PERSON" means any natural person, corporation,
4 or limited liability company, whether or not operated for
5 profit, partnership, association, or other legal entity
6 capable of being sued or made subject to a criminal
7 prosecution.

8 (j) "POINT OF DESTINATION" means an existing or
9 planned development with a Bingo Facility and non-gaming
10 areas, such as a restaurant, gift shop, or hotel, regardless
11 of whether such non-gaming areas are within the exterior walls
12 of any Bingo Facility or located on the same parcel of land as
13 a Bingo Facility.

14 (9) "RACETRACK" means a facility at which
15 pari-mutuel wagering on live or telecast racing events is
16 authorized by law when this amendment shall become effective
17 or a successor or assign of such authorized facility.

18 Section 3. Repeal of Previous Bingo Amendments.

19 Any and all previous provisions in amendments to the
20 Constitution of Alabama of 1901 which authorized bingo to be
21 played in a particular county or municipality and which was
22 adopted by the affirmative vote of the entire electorate of
23 the state pursuant to Section 284 of the Constitution of
24 Alabama of 1091 or by the affirmative vote of the electorate
25 of a single county pursuant to Amendment 425 or Amendment 555
26 of the Constitution of Alabama of 1901 are hereby repealed.
27 This shall not affect the authorization for dog or horse

1 racing or pari-mutuel wagering by any of the previous
2 amendments.

3 Section 4. Scope of Amendment.

4 (a) The provisions of this amendment shall apply to
5 all Bingo Operators, except those in Section 6(a), and Bingo
6 Vendors.

7 (b) The provisions of this amendment shall not be
8 construed to legalize any form of gambling other than Bingo.

9 (c) Nothing in this amendment shall be construed to
10 authorize lotteries or gift enterprises for any purpose in
11 contravention of Section 65 of the Alabama Constitution.

12 Section 5. Exemptions from Conflicting Laws;
13 Compliance with Federal Law.

14 (a) The conduct of Bingo and any manufacture, sale,
15 transportation, installation, possession, ownership, leasing,
16 or use of a Bingo Technologic Aid or other materials,
17 supplies, or paraphernalia used in conducting Bingo that are
18 authorized under and done in accordance with this amendment,
19 shall be exempt from laws that prohibit or limit activities of
20 the kind authorized by this amendment, including the
21 provisions of Title 13A, Chapter 12, Article 2 and Title 8,
22 Chapter 1, Article 8, Code of Alabama 1975.

23 (b) The State of Alabama, acting by and through
24 adoption of this amendment, and in accordance with the
25 provisions of 15 U.S.C. Section 1172, does hereby declare that
26 any and all Bingo Technologic Aids and other equipment,
27 materials, paraphernalia, and supplies used in conducting

1 Bingo may be transported in interstate commerce into or out of
2 the state without violating Section 1172, or any other
3 applicable federal law, if all such Bingo Technologic Aids and
4 other equipment, materials, paraphernalia, and supplies used
5 in conducting Bingo are so used, or are to be used, or have
6 been so used.

7 Section 6. Bingo Authorized; Authorized Locations.

8 (a) Bingo may be conducted by any Non-Profit
9 Organization provided that:

10 (i) any and all proceeds derived from such Bingo
11 accrues to the Non-Profit Organization for the furtherance of
12 its purpose;

13 (ii) no expenses may be paid to any person or entity
14 to operate said Bingo;

15 (iii) the Non-Profit Organization shall operate only
16 a four (4) hour session one time per week; and

17 (iv) the Non-Profit Organization shall not enter
18 into any contract with any Person to have said Person operate
19 Bingo on behalf of the Non-Profit Organization nor shall the
20 Non-Profit Organization pay consulting fees to any Person for
21 services performed in relation to the operation or conduct of
22 Bingo.

23 (b) Bingo is authorized to be conducted at the
24 following locations, provided that (i) the location meets the
25 definition in Section 2. of Point of Destination; (ii) an
26 independent cost analysis determines that the development cost
27 of any existing or planned Bingo Facility, including all

1 non-Bingo equipment and fixtures functioning as a part of the
2 Bingo Facility but excluding any Bingo Technologic Aids, is
3 less than half of the total development cost of the entire
4 physical plant, land, outbuildings, infrastructure, fixtures,
5 and equipment owned by a Bingo Operator; (iii) an independent
6 cost analysis determines that the total development cost of
7 any existing or planned Point of Destination exceeds one
8 hundred million dollars (\$100,000,000); and (iv) the
9 construction of any planned Point of Destination receives a
10 certificate of substantial completion no later than three
11 years from the effective date of this amendment for locations
12 in subsections (1)-(3) below and no later than three years
13 from the date of the Legislature's resolution for locations in
14 subsection (4) below:

15 (1) any Racetrack;

16 (2) the City of Whitehall in Lowndes County;

17 (3) the City of Cottonwood in Houston County;

18 (4) up to two (2) locations which shall be
19 determined by resolution of the Legislature provided that the
20 additional locations can be expected to result in a net
21 increase of taxes and other payments remitted to the state by
22 the Bingo Operator as determined by the Alabama Department of
23 Revenue.

24 (c) In no event shall the number of locations
25 authorized to play commercial Bingo be more than eight (8). If
26 three years after the effective date of this amendment for
27 locations in subsections (b) (1)-(3) above, or three years from

1 the date of the Legislature's resolution for locations in
2 subsection (b) (4) above, a location does not meet the
3 requirements in subsection (b) (i)-(iv) above, then the
4 Legislature by resolution may authorize another location to
5 conduct Bingo if (i) the location can be expected to result in
6 a net increase of taxes and other payments remitted to the
7 state by the Bingo Operator as determined by the Alabama
8 Department of Revenue and (ii) the location meets the
9 requirements in subsection (b) (i)-(iv), except that the
10 location has until three years from the date of the
11 Legislature's resolution to satisfy subsection (b) (iv).

12 Section 7. Alabama Department of Revenue to Exercise
13 Powers and Duties of the Alabama Gaming Commission
14 Temporarily.

15 The Alabama Department of Revenue shall exercise all
16 powers and perform all duties assigned to the Alabama Gaming
17 Commission through this amendment. This subsection shall stand
18 repealed on June 1, 2011.

19 Section 8. Establishment of the Alabama Gaming
20 Commission; Members of Commission; Qualifications; Meetings;
21 Funding.

22 (a) From and after June 1, 2011, the Alabama Gaming
23 Commission, consisting of three (3) members, is hereby
24 created.

25 (b) Members of the Commission and its employees
26 shall be subject to the Ethics law, Section 36-25-1, et seq.,
27 Code of Alabama 1975, and the Commission shall be subject to

1 the Administrative Procedure Act, with the exception of the
2 appeal provision in Section 15.

3 (c) To be eligible for membership on the Commission,
4 a person must:

5 (i) Be a citizen of the United States;

6 (ii) Be a resident of the State of Alabama;

7 (iii) Not have been convicted of a felony,
8 embezzlement, theft, or any other money-related or
9 honesty-related crime (such as fraud);

10 (iv) Not be the executive director of or another
11 employee of the Commission;

12 (v) Not hold any elected office, nor be an officer
13 of or occupy an official position in any political party;

14 (vi) Not be actively engaged in or have a direct
15 pecuniary interest in a Bingo Facility or a Bingo Operator;
16 and

17 (vii) Not have any direct or indirect interest in an
18 undertaking that puts his personal interest in conflict with
19 that of the Commission.

20 (d) Not more than two members of the Commission
21 shall be of the same political party.

22 (e) Regular and special meetings of the Commission
23 may be held, at the discretion of the Commission, at such
24 times and places as it may deem convenient, but at least one
25 regular meeting shall be held each month. All meetings shall
26 be subject to the provisions of the Open Meetings Law.

1 (f) The Commission shall be funded through the
2 collection of license fees, fines and penalties. If the
3 Commission determines that more funding is necessary, it shall
4 seek additional funding from the Legislature but in no event
5 shall the additional funding exceed one percent of the state's
6 portion of the gross receipts tax collected from the Bingo
7 Operators.

8 Section 9. Appointment of Members of the Commission;
9 Terms; Chairman; Vacancies.

10 (a) This section shall take effect from and after
11 June 1, 2011.

12 (b) Initial appointments to the Commission shall be
13 for terms as follows:

14 (i) One (1) member for two (2) years;

15 (ii) One (1) member for three (3) years; and

16 (iii) One (1) member for four (4) years.

17 (c) After the initial appointments, all members
18 shall be appointed for terms of four (4) years from the
19 expiration date of the previous term; provided, however, that
20 no member shall serve more than two (2) terms of four (4)
21 years each.

22 (d) Appointments to the Commission and designation
23 of the chairman shall be made by the Governor with the advice
24 and consent of the Senate. Members appointed when the
25 Legislature is not in regular session may serve until or
26 unless the Senate rejects the appointment at the next regular
27 or special session of the Legislature.

1 (e) The member designated by the Governor to serve
2 as chairman shall serve in such capacity throughout such
3 member's entire term and until his successor shall have been
4 duly appointed and qualified. No such member, however, shall
5 serve in such capacity for more than ten (10) years.

6 (f) Appointments to fill vacancies on the Commission
7 shall be for the unexpired term of the member to be replaced.

8 (g) Each member of the Commission shall serve for
9 the duration of his term and until his successor shall be duly
10 appointed and qualified; provided, however, that in the event
11 that a successor is not duly appointed and qualified within
12 one hundred twenty (120) days after the expiration of the
13 member's term, a vacancy shall be deemed to exist.

14 (h) If the Governor determines that any member of
15 the Commission has taken any such action that results in a
16 failure to fulfill the eligibility requirements in Section
17 8(c), the Governor shall remove that member and replace that
18 member pursuant to subsection (d) above.

19 Section 10. Temporary Director of Commission.

20 (a) The Commissioner of the Alabama Department of
21 Revenue shall appoint a director who shall exercise all powers
22 and perform all duties assigned to the executive director
23 under this amendment. This subsection shall stand repealed on
24 June 1, 2011.

25 (b) The director appointed by the Commissioner of
26 the Alabama Department of Revenue pursuant to subsection (a)
27 who is serving on May 31, 2011, shall serve as the Executive

1 Director of the Commission until the executive director
2 appointed by the Commission pursuant to this amendment is
3 confirmed by the Senate.

4 Section 11. Executive Director of Commission;
5 Qualifications; Duties. (a) From and after June 1, 2011, the
6 position of Executive Director of the Commission is hereby
7 created.

8 (b) The Commission shall appoint the executive
9 director, with the advice and consent of the Senate, and the
10 executive director shall serve at the will and pleasure of the
11 Commission.

12 (c) To be eligible for the position of executive
13 director of the Commission, a person must:

14 (i) Be a citizen of the United States;

15 (ii) Be a resident of the State of Alabama;

16 (iii) Not have been convicted of a felony,
17 embezzlement, theft, or any other money-related or
18 honesty-related crime (such as fraud);

19 (iv) Not hold any elected office nor any officer or
20 official position of any political party;

21 (v) Not be actively engaged or have a direct
22 pecuniary interest in a Bingo Facility or a Bingo Operator;
23 and

24 (vi) Not have any direct or indirect interest in an
25 undertaking that puts his personal interest in conflict with
26 that of the Commission.

1 (d) The executive director shall devote his entire
2 time and attention to his duties under this amendment and the
3 business of the Commission and shall not pursue any other
4 business or occupation or hold any other office of profit.

5 (e) The executive director of the Commission shall
6 be responsible for the conduct of administrative affairs of
7 the Commission. Furthermore, the executive director may employ
8 the services of such persons as he or she considers necessary
9 for the purposes of consultation or investigation and fix the
10 salaries of or contract for services of such legal,
11 professional, technical, and operational personnel and
12 consultants, subject to applicable provisions of the State
13 Personnel Board. Additional legal assistance may be retained
14 only with the approval of the Attorney General.

15 (f) The executive director is entitled to an annual
16 salary in the amount specified by the Commission that shall
17 not exceed that established by the State Personnel Board.

18 (g) The executive director and individuals hired
19 thereby pursuant to subsection (e) above shall be entitled to
20 any and all employee benefits to which other state employees,
21 officers or officials on active duty status are entitled,
22 including, but not limited to, group hospital, medical and
23 surgical insurance, except that the executive director and the
24 employees thereof shall not be subject to the Merit System
25 Act, Section 36-26-1, et seq. of the Code of Alabama 1975.

26 Section 12. Enforcement Division and Investigation
27 Division Created; Additional Divisions; Division Directors.

1 (a) From and after June 1, 2011, there are hereby
2 created, for supervision by the executive director, two (2)
3 divisions which are entitled the Enforcement Division and the
4 Investigation Division. The executive director shall be
5 authorized to create such other divisions as he deems
6 necessary to implement the provisions of this amendment.

7 (b) The executive director shall employ division
8 directors that possess training and experience in the fields
9 of investigation, law enforcement, law or gaming.

10 Section 13. Powers and Duties of Commission.

11 The Commission shall have the authority and
12 responsibility to:

13 (a) Enforce and administer all provisions of this
14 amendment.

15 (b) Ensure that all Bingo is conducted at an
16 authorized location.

17 (c) Ensure that any Person involved with the conduct
18 of Bingo is a Person of good character, honesty, and integrity
19 and whose prior activities, criminal record, if any, and
20 reputation, habits and associations do not pose a threat to
21 the public interest or to the effective regulation of Bingo.

22 (d) Deny, issue, renew, revoke, restrict, suspend,
23 or condition licenses and establish the term for all licenses
24 required under this amendment.

25 (e) Conduct or cause to be conducted background
26 investigations on all Persons applying for a license and all
27 licensees requesting renewal of a license.

1 (f) Investigate, for the purpose of prosecution, any
2 suspicion of corruption, theft, or fund misappropriation, or
3 other suspected violation of the provisions of this amendment.
4 For the purpose of the administration and enforcement of this
5 amendment, the executive director and enforcement employees
6 have the powers of a peace officer of this state.

7 (g) Demand access to and inspect, examine, photocopy
8 and audit all papers, books and records, including, but not
9 limited to, all financial data, records, and accounts, of any
10 Bingo Facility, Bingo Operator, or Bingo Vendor.

11 (h) Audit or cause to be audited the expenditures,
12 receipts and reports of any Bingo Facility or Bingo Operator
13 as the Commission deems necessary and any employee of a Bingo
14 Facility or Bingo Operator when reasonable suspicion of theft
15 or corruption exists.

16 (i) Require at its discretion any Bingo Facility or
17 Bingo Operator to allow a Person of the Commission's choosing
18 in any room of any Bingo Facility or Bingo Operator who shall
19 have a full opportunity to monitor operations at all times the
20 Bingo Facility or Bingo Operator is in operation.

21 (j) Certify that all Bingo Technologic Aids
22 purchased, leased or otherwise acquired by any Bingo Facility
23 or Bingo Operator meet the technical equipment standards set
24 forth by the Commission.

25 (k) Inspect and examine locations where Bingo
26 Technologic Aids are manufactured, sold or distributed in the
27 state.

1 (1) Summarily seize and remove from a Bingo Facility
2 and impound any Bingo Technologic Aids for the purpose of
3 examination and inspection.

4 (m) Impose fines and penalties on Bingo Facilities,
5 Bingo Operators, Bingo Vendors, licensees and other violators
6 of this amendment.

7 (n) Conduct hearings in accordance with the
8 Administrative Procedure Act.

9 (o) Issue subpoenas and compel the attendance of
10 witnesses at any place within this state, to administer oaths,
11 and to require testimony under oath.

12 (p) Submit to the Alabama Legislature an annual
13 report on the Gross Bingo Revenue reported by licensees,
14 contributions to Non-Profit Organizations reported by
15 licensees, and taxes collected from licensees.

16 (q) Promulgate, amend or repeal such regulations, as
17 it may deem necessary in carrying out the policy and
18 provisions of this amendment. These regulations shall, without
19 limiting the general powers herein conferred, include the
20 following:

21 (i) Prescribing the form of the application and the
22 information to be furnished by any applicant or licensee,
23 including information concerning his antecedents, habits,
24 character, associates, criminal record, business activities
25 and financial affairs, past or present.

1 (ii) Prescribing which principals and employees of
2 Bingo Vendors must be licensed and the information to be
3 furnished.

4 (iii) Prescribing the procedure for issuing licenses
5 to Bingo Vendors and employees of the Bingo Facilities and
6 Bingo Operators.

7 (iv) Defining who is a key employee for Bingo
8 Facilities and Bingo Operators.

9 (v) Prescribing which applicants and licensees must
10 be fingerprinted and requiring the forwarding of all
11 fingerprints taken pursuant to regulation to the Federal
12 Bureau of Investigation.

13 (vi) Prescribing when and which employees of the
14 Bingo Facility and Bingo Operator and owners of the Bingo
15 Operator must provide bonds to the Commission.

16 (vii) Prescribing the manner and procedure of all
17 hearings conducted by the Commission in accordance with the
18 Administrative Procedure Act.

19 (viii) Establishing a list of persons to be excluded
20 or ejected from Bingo Facilities and prescribing the reasons
21 and procedures for exclusion or ejection and penalties for
22 failure to exclude or eject such persons.

23 (ix) Requiring any applicant to pay all or any part
24 of the fees and costs of investigation of such applicant as
25 may be determined by the Commission, except that no applicant
26 for an initial license shall be required to pay any part of

1 the fees or costs of the investigation of the applicant with
2 regard to the initial license.

3 (x) Establishing the amount of license fees within
4 the limits set by the Legislature and collection and payment
5 of fees, penalties, and fines.

6 (xi) Prescribing under what conditions a license may
7 be suspended or revoked.

8 (xii) Prescribing a uniform code of accounts and
9 accounting classifications to assure consistency,
10 comparability and effective disclosure of financial
11 information.

12 (xiii) Prescribing the manner, method, and forms for
13 reporting winnings, compensation from Bingo Technologic Aids,
14 and Gross Bingo Revenue.

15 (xiv) Establishing the method of operation and
16 standards for Bingo and Bingo Technologic Aids.

17 (xv) Prescribing and updating as necessary
18 communication standards for transmission and storage of data
19 necessary for operation of Bingo Technologic Aids.

20 (xvi) Restricting access to confidential information
21 obtained under this amendment and ensuring that the
22 confidentiality of such information is maintained and
23 protected.

24 (xvii) Establishing a schedule of penalties and
25 fines and procedures for the issuance of any penalties and
26 fines.

1 (r) Maintain the following records and information
2 at the principal office for the Commission:

3 (i) Applications, financial statements,
4 fingerprints, contracts, licenses, suspension and revocation
5 notices, and all correspondence related to all Bingo
6 Facilities, Bingo Operators, Bingo Vendors, licensees and
7 applicants for licenses;

8 (ii) Meeting minutes and resolutions from all
9 Commission meetings;

10 (iii) All regulations promulgated, amended, and
11 repealed by the Commission;

12 (iv) A list of certified Bingo Technologic Aids
13 located at any Bingo Facility whether or not such Bingo
14 Technologic Aids are in operation; and

15 (v) Any other records or documents the Commission
16 deems necessary or appropriate.

17 Section 14. Licensing.

18 (a) Any license issued or other commission approval
19 granted pursuant to the provisions of this chapter is a
20 revocable privilege, and no holder acquires any vested right
21 therein or thereunder. A license may not be assigned or
22 transferred to another Person.

23 (b) The following Persons shall have a license
24 issued by the Commission:

25 (i) All Bingo Facilities;

26 (ii) All employees of a Bingo Facility or Bingo
27 Operator; and

1 (iii) All Bingo Vendors.

2 (c) The Commission may designate that other Persons
3 must have a license in order to effectively regulate Bingo
4 Facilities, Bingo Operators, and Bingo Vendors.

5 (d) The Commission shall issue a license to a Bingo
6 Facility if:

7 (i) the Bingo Facility is conducting Bingo at an
8 authorized location;

9 (ii) the Bingo Facility is in compliance with all of
10 the provisions of this amendment and the Commission's
11 regulations.

12 (e) The Commission may not issue a license to any
13 applicant who is an employee of a Bingo Facility or Bingo
14 Operator who, based on reliable information, the Commission
15 determines in its sole discretion:

16 (i) Has provided materially false or misleading
17 statements to the Commission or has intentionally omitted
18 material information from his or her application, or has
19 refused to respond to all requests of the Commission for
20 information concerning the applicant's background and
21 activities;

22 (ii) Has been convicted (either by plea or by
23 verdict) or has entered a plea of nolo contendere to any
24 felony, any gaming offense, or any misdemeanor involving theft
25 or conversion of property, where such conviction or plea, in
26 the sole discretion of the Commission, poses a threat to the
27 public interest and the effective regulation of Bingo;

1 (iii) Is a Person who is not of good character,
2 honesty, and integrity and whose prior activities, criminal
3 record, if any, and reputation, habits and associations pose a
4 threat to the public interest or to the effective regulation
5 of Bingo; or

6 (iv) Has attempted to interfere or to influence,
7 and/or has interfered and/or influenced, unduly for gain or
8 advantage, any decision or process of the Commission.

9 (f) Any owner of five percent (5%) or more of a
10 Bingo Operator shall meet the requirements of subsection (e)
11 and not have a direct or indirect financial interest in any
12 Bingo Vendor, other than any revenue received from any Bingo
13 Technologic Aid which is leased for operation in a Bingo
14 Facility.

15 (g) To ensure that a license is not issued to such a
16 Person who does not meet the requirements in subsections (e)
17 and (f), the Commission staff shall investigate the
18 qualifications of each applicant before any license is issued.
19 The Commission staff shall continue to observe the conduct of
20 all licensees and other persons having a material involvement
21 directly or indirectly with a licensee to ensure that licenses
22 are not issued or held by any Person who is not of good
23 character, honesty, and integrity and whose reputation, habits
24 and associations pose a threat to the public interest or to
25 the effective regulation of Bingo.

26 (h) Applicants and licensees shall have a continuing
27 duty to provide any materials, assistance or other information

1 required by the Commission and to fully cooperate in any
2 background investigation conducted by or on behalf of the
3 Commission. If any information provided on the application
4 changes or becomes inaccurate in any way, the applicant or
5 licensee shall promptly notify the Commission of such changes
6 or inaccuracies.

7 (i) Acceptance of a license by the licensee
8 constitutes an agreement on the part of the licensee to be
9 bound by the provisions of this amendment and applicable
10 regulations and to cooperate fully with the Commission.

11 (j) Any annual license fees established by the
12 Commission shall not exceed the following amounts:

13 (i) \$500,000 for a Bingo Facility;

14 (ii) \$200 for a key employee of a Bingo Facility or
15 Bingo Operator;

16 (iii) \$25 for an employee of a Bingo Facility or
17 Bingo Operator; and

18 (iv) \$10,000 for a Bingo Vendor.

19 The Legislature is hereby authorized to modify these
20 limits every five (5) years, beginning five (5) years from the
21 effective date of this amendment.

22 Section 15. Appeal of Commission Decisions.

23 Any Person or licensee aggrieved by the refusal of
24 the Commission to issue any license, or the suspension or
25 revocation of a license, the imposition of a fine or penalty,
26 the disapproval of a contract, or any other action or failure
27 of action by the Commission, may, within thirty (30) days of

1 such action or failure of action, appeal to the circuit court
2 of the county where the Bingo Facility is located or in the
3 circuit court of Montgomery County. If such court finds that
4 the action of such Commission, or its failure to take action,
5 was arbitrary, unreasonable, or contrary to the provisions of
6 this amendment, the court shall order the issuance or
7 reinstatement of such license, the abatement of such fine or
8 penalty, the approval of such contract, or such other remedial
9 action as the court deems appropriate in the circumstances.
10 The decision of such court shall be subject to appeal as in
11 other cases at law.

12 Section 16. Minimum Procedures for Bingo Operators.

13 (a) To exercise effective control over the internal
14 fiscal affairs of the Bingo Operator, the Commission shall
15 prescribe minimum procedures for the adoption by each Bingo
16 Operator, which shall include, but are not limited to,
17 provisions for:

18 (i) the safeguarding of assets and revenues,
19 especially the recording of cash and evidences of
20 indebtedness; and

21 (ii) the provision of reliable records, accounts and
22 reports of transactions, operations and events, including
23 reports to the Commission and Executive Director to verify
24 Bingo Gross Revenue.

25 (b) The Commission by regulation shall require
26 audits and periodic reports from each Bingo Operator
27 concerning the Bingo Gross Revenue for each Bingo Facility.

1 (c) The audits, compilations and reviews provided
2 for in subsection (b) shall be made by independent accountants
3 holding permits to practice public accounting in the State of
4 Alabama.

5 (d) For every audit required pursuant to this
6 section:

7 (i) The independent accountants shall submit an
8 audit report which must express an unqualified or qualified
9 opinion or, if appropriate, disclaim an opinion on the
10 statements taken as a whole in accordance with standards for
11 the accounting profession established by rules and regulations
12 of the Alabama Board of Public Accountancy, but the
13 preparation of statement without audit does not constitute
14 compliance.

15 (ii) The examination and audit must disclose whether
16 the accounts, records and control procedures maintained by the
17 licensee are as required by the regulations promulgated by the
18 Commission.

19 (iii) If the license of a Bingo Operation is
20 terminated within three (3) months after the end of a period
21 covered by an audit, the licensee may submit compiled
22 statements in lieu of an additional audited statement for the
23 licensee's final period of business.

24 (e) A Bingo Operator shall be responsible for the
25 payment of costs or fees generated by any audit required by
26 the Commission. Failure to pay such costs and fees for such

1 audit may result in the suspension or revocation of its
2 license.

3 Section 17. Prohibited Acts.

4 (a) In addition to those actions or omissions
5 prohibited elsewhere within this amendment, the following
6 actions or omissions are unlawful:

7 (i) No person shall be a Bingo Operator without
8 having first procured and thereafter maintaining a license.

9 (ii) No Person shall receive, directly or
10 indirectly, any compensation or reward or any percentage or
11 share of the money or property played, for keeping, running or
12 carrying on as a Bingo Operator without having first procured
13 and thereafter maintaining in effect a license.

14 (iii) No Person shall knowingly permit any Bingo to
15 be conducted, operated, dealt or carried on in any house or
16 building or other premises owned by him, in whole or in part,
17 by a person who is not licensed pursuant to this amendment.

18 (iv) No Person shall fail to pay the operating tax
19 imposed by this amendment.

20 (v) No Person shall provide false information in
21 connection with any document or proceeding under this
22 amendment.

23 (vi) No Person shall fail to account fully for all
24 monies received, collected, or paid in connection with Bingo.

25 (vii) No person under the age of nineteen (19) years
26 shall be permitted to participate in Bingo.

1 (viii) No person under the age of nineteen (19)
2 years shall be permitted to work in any Bingo Facility.

3 (ix) No Person shall participate, either directly
4 or indirectly, in any activity that would be considered
5 cheating.

6 (b) The Commission shall have the authority to
7 subject any Person committing an act or omission as prohibited
8 here or elsewhere within this amendment to a penalty deemed
9 appropriate by the Commission and in accordance with the
10 Commission's regulations.

11 Section 18. Existing Racing Commissions.

12 In addition to the powers that each racing
13 commission has under existing law over the Racetracks, the
14 racing commissions may exercise the same powers to regulate
15 and supervise the conduct of Bingo as each has to regulate and
16 supervise racing activities and pari-mutuel wagering, with
17 such modification of such powers as is necessary or
18 appropriate to adapt them to the purposes of regulating and
19 supervising Bingo; provided, however, that:

20 (i) any regulation by the racing commissions shall
21 not be inconsistent with the provisions of this amendment or
22 any Commission regulations;

23 (ii) the regulatory and supervisory power of each
24 racing commission over Bingo at the racetrack shall be
25 subordinate to and not duplicative of the regulatory and
26 supervisory power of the Commission over the conduct of Bingo

1 at the racetrack, with any enforcement action of the
2 Commission to control and prevail; and

3 (iii) any additional operating expenses incurred by
4 the racing commissions to regulate Bingo must be approved and
5 funded by the Commission.

6 Section 19. Gross Receipts Tax; Use of Proceeds.

7 (a) A gross receipts tax is hereby levied on each
8 operator of a licensed Bingo Facility in an amount equal to 25
9 percent of the Gross Bingo Revenue.

10 (b) In addition to any civil and criminal penalties
11 that may exist, a gross receipts tax is also levied on each
12 operator of an unlicensed Bingo Facility in an amount equal to
13 50 percent of the gross revenue before any deduction of any
14 disbursement of winnings to patrons from such unlicensed Bingo
15 Facility.

16 (c) All Bingo Operators with licensed Bingo
17 Facilities shall receive a tax credit equal to the amount
18 contributed to Non-Profit Organizations not to exceed five
19 percent (5%) of the Bingo Operator's Gross Bingo Revenue for
20 contributions made to Non-Profit Organizations.

21 (d) The gross receipts tax shall be distributed as
22 follows:

23 (i) 80 percent to the State of Alabama to be
24 distributed in accordance with this section;

25 (ii) 8 percent to the municipality where a Bingo
26 Facility may be located or; and

1 (iii) 12 percent to the county where a Bingo
2 Facility is located or, if such Bingo Facility is not located
3 in a municipality, 20 percent to the county where a Bingo
4 Facility is located.

5 (e) For administrative purposes, the Alabama
6 Department of Revenue shall establish separate accounts for
7 each Bingo Operator in the State Treasury for the State of
8 Alabama's portion of the gross receipts tax, and the state's
9 portion of the gross receipts tax collected from each Bingo
10 Operator shall be credited as received to the related account.
11 For the fiscal year of the state in which this amendment shall
12 become effective, and for each fiscal year thereafter while
13 the levy and collection of the gross receipts tax shall remain
14 in effect, there shall be appropriated by the Legislature, as
15 a first charge against the state's portion of the gross
16 receipts tax, such amount of the actual expenses of the
17 Alabama Department of Revenue as shall be necessary to
18 administer the levy, collection, and enforcement of the gross
19 receipts tax. Amounts equal in aggregate to the annual
20 appropriation for the administration of the gross receipts tax
21 shall be charged to and withdrawn from the separate accounts
22 in proportion to the gross collections of gross receipts tax
23 respectively credited each account; however, no such
24 collection amount shall exceed one percent of the state's
25 portion of all gross receipts tax proceeds.

26 (f) If the Commission seeks additional funding from
27 the Legislature in accordance with Section 8(f), any amount

1 appropriated by the Legislature shall be charged against the
2 state's portion of the gross receipts tax which remains after
3 the appropriation pursuant to subsection (e). Amounts equal in
4 aggregate to the appropriation for the Commission shall be
5 charged to and withdrawn from the separate accounts in
6 proportion to the gross collections of gross receipts tax
7 respectively credited each account; however, no such
8 collection amount shall exceed one percent of the state's
9 portion of all gross receipts tax proceeds.

10 (g) All proceeds of the state's portion of gross
11 receipts tax not required to satisfy the prior appropriations
12 pursuant to subsections (e) and (f) of this section are hereby
13 dedicated and appropriated to the Education Trust Fund for the
14 benefit of public schools in the state and to the state
15 General Fund for the benefit of the state Medicaid program.
16 The Education Trust Fund shall receive 80 percent of the
17 remaining gross receipts tax proceeds and the General Fund
18 shall receive 20 percent of the remaining gross receipts tax
19 proceeds for the benefit of the state Medicaid program.

20 Section 20. Third Party Gaming Tax; Use of Proceeds.

21 (a) A state third party gaming tax in the amount of
22 10%, to be levied on all Bingo Vendors conducting business in
23 the State of Alabama, shall be assessed on that portion of
24 gross revenue from sales, leases, or the provision of services
25 attributable to conducting business in the State of Alabama.

26 (b) There shall be appropriated by the Legislature,
27 as a first charge against the third party gaming tax, such

1 amount of the actual expenses of the Alabama Department of
2 Revenue as shall be necessary to administer the levy,
3 collection, and enforcement of such tax. All proceeds not
4 required to satisfy the administrative expenses of such tax
5 are hereby dedicated and appropriated to the Education Trust
6 Fund for the benefit of public schools in the state and to the
7 state General Fund for the benefit of the state Medicaid
8 program. The Education Trust Fund shall receive 80 percent of
9 the remaining gross receipts tax proceeds and the General Fund
10 shall receive 20 percent of the remaining gross receipts tax
11 proceeds for the benefit of the state Medicaid program.

12 Section 21. Administration and Use of Gaming Taxes
13 Levied in this Amendment.

14 (a) The taxes levied in Sections 19 and 20 shall be
15 paid to the Alabama Department of Revenue by the Bingo
16 Operators and the Bingo Vendors on or before the twentieth day
17 of the next succeeding calendar month.

18 (b) The Alabama Department of Revenue shall have the
19 same power to make rules respecting the reporting, collection,
20 and enforcement of the taxes levied in Sections 19 and 20 as
21 it has with respect to the pari-mutuel pool tax levied by
22 Title 40, Chapter 26A, Code of Alabama 1975, with necessary
23 and appropriate changes to reflect the different nature of
24 such taxes. The levy, collection, and enforcement of the taxes
25 shall be administered by the Alabama Department of Revenue in
26 accordance with the Taxpayers Bill of Rights and Uniform

1 Revenue Procedures Act, as codified in Chapter 2A of Title 40
2 of the Code of Alabama 1975, or amendatory or successor law.

3 Section 22. Amendment to be Self-Executing.

4 This amendment shall be self-executing, but the
5 Legislature shall have the right and power to enact general or
6 local laws supplemental to this amendment to further its
7 purposes or provide for its implementation; provided, however,
8 that such laws shall not be inconsistent with the express
9 provisions of this amendment.

10 Section 23. Effective Date.

11 This amendment shall take effect as part of the
12 Constitution of Alabama of 1901, upon its adoption by the
13 electors of the state.

14 Section 2. An election upon the proposed amendment
15 shall be held in accordance with Sections 284 and 285 of the
16 Constitution of Alabama of 1901, now appearing as Sections 284
17 and 285 of the Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, and the election laws of this
19 state.

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

25 "Proposing an amendment to the Constitution of
26 Alabama of 1901, (i) to limit gaming in Alabama, (ii) to
27 establish the Alabama Gaming Commission to regulate commercial

1 bingo operations, (iii) to assure that the proceeds from these
2 operations are legitimately accounted for in an open manner,
3 and (iv) to provide for a tax on bingo operators and bingo
4 vendors to support local governments and to fund the General
5 Fund for the benefit of the state Medicaid program and the
6 Education Trust Fund for the benefit of the public schools.

7 "Proposed by Act _____."

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

10 "Yes () No ()."