

1 SB59  
2 171364-2  
3 By Senator Livingston (Constitutional Amendment)  
4 RFD: Tourism and Marketing  
5 First Read: 11-AUG-15

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8 SYNOPSIS: This bill would propose a constitutional  
9 amendment to establish an Alabama Education Lottery  
10 and the Alabama Education Lottery Corporation and  
11 provide for the proceeds to go to the Education  
12 Trust Fund and postsecondary education  
13 scholarships. The amendment would also authorize  
14 and regulate Class II gaming, as defined in the  
15 Indian Gaming Control Act, at Greenetrack in Greene  
16 County, the Alabama Center Stage Bingo Facility in  
17 Houston County operated by the Houston County  
18 Economic Development Association, and at  
19 VictoryLand in Macon County, upon payment of an  
20 initial license fee of \$25,000,000 for the first 25  
21 years and a 25 percent tax on gaming profits, and  
22 authorize and regulate Class III gaming, as defined  
23 in the Indian Gaming Control Act, at a site in the  
24 downtown city center of the City of Birmingham to  
25 be selected on a request for proposal basis, and a  
26 site in DeKalb, Jackson, or Marshall County to be  
27 operated by the Poarch Band of Creek Indians, each

1 with a minimum license fee of \$250,000,000 for  
2 gaming rights at the location for 25 years, a  
3 minimum capital investment of \$250,000,000 to  
4 create a destination resort in the city center of  
5 Birmingham and DeKalb, Jackson, or Marshall County,  
6 respectively, and a tax of 25 percent of the gaming  
7 profits.

8 The proposed amendment would provide for the  
9 payment of the license fees into the General Fund  
10 and the division of the taxes on Class II and Class  
11 III gaming between the Education Trust Fund, the  
12 General Fund, the Alabama Education Lottery and  
13 Gaming Commission, and the respective local  
14 governments.

15 The amendment would also create the Alabama  
16 Education Lottery and Gaming Commission to  
17 supervise the Alabama Education Lottery and Alabama  
18 Education Lottery Corporation and to license and  
19 regulate the Class II and Class III gaming  
20 authorized by the amendment. The amendment would  
21 require the Governor to negotiate a compact with  
22 the Poarch Band of Creek Indians and would repeal  
23 Amendments 743 and 744 to the Constitution of  
24 Alabama of 1901, authorizing charitable bingo in  
25 Greene and Macon Counties, respectively.

26  
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3  
4 Proposing an amendment to Section 65 of the  
5 Constitution of Alabama of 1901, to provide for the Alabama  
6 Education Lottery and authorize and regulate Class II and  
7 Class III gaming, as defined by the Indian Gaming Regulatory  
8 Act, at specified locations; to require one-time license fees  
9 for a 25-year license to go the General Fund, and an annual  
10 tax of 25 percent of gaming profits, with the proceeds to go  
11 to the Education Trust Fund, the state General Fund, the  
12 Alabama Education Lottery and Gaming Commission, and  
13 respective local governments; to require minimum capital  
14 investment at Class III gaming sites; to create the Alabama  
15 Education Lottery Corporation; to create the Alabama Education  
16 Lottery and Gaming Commission to implement, regulate, and  
17 administer the lottery and gaming; to authorize the Governor  
18 to negotiate a compact for gaming with the Poarch Band of  
19 Creek Indians; to require the Legislature to pass general laws  
20 to implement the amendment; to require the commission to  
21 promulgate rules to effect legislation so enacted; and to  
22 repeal Amendments 743 and 744 to the Constitution of Alabama  
23 of 1901.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. The following amendment to the  
26 Constitution of Alabama of 1901, as amended, is proposed and  
27 shall become valid as a part thereof when approved by a

1 majority of the qualified electors voting thereon and in  
2 accordance with Sections 284, 285, and 287 of the Constitution  
3 of Alabama of 1901, as amended:

4 PROPOSED AMENDMENT

5 "Part I.

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

16 "Part II.

17 "Section 1. Declarations. The Legislature finds that  
18 lotteries have been enacted in many states and the revenues  
19 generated from the lotteries have contributed to the benefit  
20 of these states. Many Alabamians participate in lotteries in  
21 other states. The Legislature also finds that gaming  
22 facilities and resorts at which Class II and Class III games  
23 are played are allowed in many states and the revenues  
24 generated from gaming benefit economic development and  
25 increased tourism in those states. Many Alabamians already  
26 visit gaming facilities and resorts in nearby states.  
27 Alabamians support the limitation, regulation, and taxation of

1 gaming in Alabama. Therefore, the purposes of this amendment  
2 are: (1) to establish and provide for a fair and honest  
3 lottery to generate revenue for the Education Trust Fund and  
4 postsecondary education scholarships; (2) to limit and  
5 regulate gaming at five designated locations; (3) to levy  
6 taxes on gaming at those five locations to generate revenue  
7 for the benefit of the state, including the Education Trust  
8 Fund and the General Fund; (4) to support the state's tourism  
9 industry and economic development; and (5) to authorize and  
10 direct the Governor to negotiate a compact for gaming with the  
11 Poarch Band of Creek Indians.

12 "Section 2. Establishment of an Alabama Education  
13 Lottery.

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

18 "(b) The proceeds from the Alabama Education Lottery  
19 shall be applied first to the payment of the expenses of  
20 administering and operating the Alabama Education Lottery,  
21 including, without limitation, the payment of all prizes,  
22 without any further appropriation required by law, and the  
23 balance of the proceeds remaining after the payments shall be  
24 deposited in the Education Trust Fund. A minimum of fifty  
25 million dollars (\$50,000,000) of the proceeds deposited in the  
26 Education Trust Fund pursuant to this amendment each year is  
27 appropriated to a separate account for the purpose of funding

1 a scholarship program for postsecondary education pursuant to  
2 a program for that purpose enacted by general law.

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

10 "Part III.

11 "Section 1. Definitions. As used in this amendment,  
12 the following words and phrases shall have the following  
13 respective meanings:

14 "(1) CAPITAL INVESTMENT. All costs and expenses  
15 incurred by a licensed gaming operator in connection with the  
16 acquisition, construction, installation, and equipping of  
17 actual capital improvements at a covered location, if such  
18 costs are required to be capitalized for purposes of the  
19 federal income tax, determined without regard to any rule that  
20 permits expenditures properly chargeable to a capital account  
21 to be treated as current expenditures.

22 "(2) COMMISSION. The Alabama Education Lottery and  
23 Gaming Commission created by this amendment.

24 "(3) COVERED GAME. Except as otherwise provided in  
25 this subdivision, any game or device included within the  
26 definition of Class III gaming, as that term is defined in the  
27 Indian Gaming Regulatory Act, Section 2703(8) of Title 25 of

1 the United States Code, including, but not limited to, slot  
2 machines, video lottery terminals, banking or banked card  
3 games, including, but not limited to, baccarat, chemin de fer,  
4 and blackjack and any and all table games and electronic  
5 representations of such games, and any electronic gaming  
6 device, which is in operation at a covered location. The term  
7 does not include pari-mutuel wagering.

8 "(4) COVERED LOCATION. The Birmingham location, a  
9 gaming facility and resort located in the downtown city center  
10 of the City of Birmingham, Alabama, for which the operator  
11 shall be selected by a request for proposals; and the  
12 Northeast county location, a gaming facility and resort  
13 located in DeKalb, Jackson, or Marshall County, Alabama, to be  
14 operated by the Poarch Band of Creek Indians.

15 "(5) COVERED MACHINES. Games or devices as described  
16 and included within the definition of Class II gaming, as that  
17 term is defined in the Indian Gaming Regulatory Act, Section  
18 2703(7) of Title 25 of the United States Code, including the  
19 game of chance commonly known as bingo, whether or not  
20 electronic, which may be operated at the Greenetrack, Houston  
21 County, and VictoryLand locations.

22 "(6) GAMING PROFIT. The total amount of money or  
23 value in any form received by a covered location, or by the  
24 Greenetrack, Houston County, or VictoryLand location, with  
25 respect to the playing of any form of covered game or covered  
26 machine, less the total money or value in any form paid as  
27 prizes or winnings to the players of the covered game or the



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

8 "(7) GREENETRACK LOCATION. The currently existing  
9 gaming complex in Greene County, Alabama, within the municipal  
10 jurisdiction of Eutaw, Alabama, which is commonly known as  
11 Greenetrack.

12 "(8) HOUSTON COUNTY LOCATION. The currently existing  
13 gaming complex in Houston County operated by the Houston  
14 County Economic Development Association.

15 "(9) LOTTERY or LOTTERY GAMES. Any procedure  
16 authorized by the Alabama Education Lottery whereby prizes are  
17 distributed among persons who have paid, or who have  
18 unconditionally agreed to pay, for tickets or shares which  
19 provide the opportunity to win those prizes; provided that  
20 lottery games do not include casino gambling or games of  
21 chance associated with casinos including, but not limited to,  
22 games utilizing the themes of roulette, dice, baccarat,  
23 blackjack, Lucky 7s, draw poker, slot machines, or dog racing.

24 "(10) POARCH BAND OF CREEK INDIANS. A federally  
25 recognized Indian tribe operating Class II gaming facilities  
26 on lands held in trust by the United States for the tribe. The  
27 term includes a wholly owned subsidiary of the tribe.

1           "(11) VICTORYLAND LOCATION. The currently existing  
2 gaming complex in Macon County, Alabama, within the municipal  
3 jurisdiction of Shorter, Alabama, which is commonly known as  
4 VictoryLand.

5           "Section 2. Limitation on Gaming in Alabama.

6           "(a) Following the effective date of this amendment,  
7 covered games may be operated or conducted only at a covered  
8 location, and covered machines may be operated or conducted  
9 only at the Greenetrack, Houston County, and VictoryLand  
10 locations.

11           "(b) The conduct of covered games at a covered  
12 location, or the conduct of covered machines at the  
13 Greenetrack, Houston County, and VictoryLand locations, is not  
14 subject to or prohibited, limited, or impaired by:

15           "(1) Any otherwise applicable provisions of Article  
16 8 (commencing with Section 8-1-150) of Chapter 1 of Title 8 of  
17 or Article 2 (commencing with Section 13A-12-20) of Chapter 12  
18 of Title 13A of the Code of Alabama 1975.

19           "(2) Any judicial order, decision, or opinion issued  
20 prior to the operative date of this amendment that would  
21 otherwise have the effect of prohibiting, limiting, or  
22 impairing the conduct of covered games or covered machines.

23           "(c) No provision of this amendment may be construed  
24 to allow the operation or conduct of covered games or covered  
25 machines except as permitted pursuant to this amendment.

26           "Section 3. Selection Process for Covered Locations.

1           "(a) With respect to the Birmingham location, the  
2           commission shall request proposals, separately or jointly, to  
3           grant license rights to conduct covered games from a proposed  
4           operator who agrees to pay, at a minimum, the consideration  
5           required in Section 4 and to abide by the rules promulgated by  
6           the commission. In evaluating proposals from potential  
7           operators, the commission shall give weight to proposals based  
8           on the following criteria:

9           "(1) Applicants with a history and successful track  
10          record of operating gaming facilities.

11          "(2) Applicants who have demonstrated good will to  
12          the communities in which they operate including, but not  
13          limited to, community support and charitable donations.

14          "(3) Applicants who have a viable business plan for  
15          the successful operation of a gaming facility based on  
16          reasonable assumptions.

17          "(4) Applicants who:

18          "a. Have an equity ownership comprised of a majority  
19          of residents of the State of Alabama.

20          "b. Are domiciled in the State of Alabama which, for  
21          purposes of this amendment only, shall include the Poarch Band  
22          of Creek Indians.

23          "c. Have demonstrable business operations in the  
24          State of Alabama.

25          "(b) With respect to the Northeast county location,  
26          the commission shall grant the Poarch Band of Creek Indians a  
27          license to conduct covered games at that location, upon

1 agreement by the Poarch Band of Creek Indians to pay the  
2 consideration set forth in Section 4, pay the tax imposed by  
3 Section 6, and to abide by the rules of the commission.

4 "(c) With respect to the Greenetrack, Houston  
5 County, and VictoryLand locations, the commission shall grant  
6 licenses to the operators of those locations, respectively, to  
7 operate covered machines, provided that each operator agrees  
8 to pay the consideration set forth in Section 4, pay the tax  
9 imposed by Section 6, and to abide by the rules of the  
10 commission.

11 "(d) The commission shall determine the applicant  
12 selected to operate the Birmingham location. The award of a  
13 license under this amendment shall not be reviewable by the  
14 Contract Review Permanent Legislative Oversight Committee or  
15 any other legislative committee.

16 "Section 4. Payments and Capital Investments.

17 "(a) With respect to the Birmingham location, the  
18 operator shall pay a license fee of at least two hundred fifty  
19 million dollars (\$250,000,000) to the commission.

20 "(b) With respect to the Northeast county location,  
21 the Poarch Band of Creek Indians shall pay a license fee of  
22 two hundred fifty million dollars (\$250,000,000) to the  
23 commission.

24 "(c) With respect to the Greenetrack, Houston  
25 County, and VictoryLand locations, their respective operators  
26 shall each pay a license fee of twenty-five million dollars  
27 (\$25,000,000) to the commission.

1           "(d) All payments required in this section by the  
2 operators of covered locations and the Greenetrack, Houston  
3 County, and VictoryLand locations shall be paid in full within  
4 60 days of having been granted a license to operate and shall  
5 be deposited in the state General Fund.

6           "(e) In addition to the payments required from the  
7 operators of the Birmingham and Northeast county locations,  
8 each of the operators shall invest at least two hundred fifty  
9 million dollars (\$250,000,000) in capital investment in their  
10 respective location. Each operator must complete the required  
11 capital investment within three years of the date on which the  
12 license is granted for that operator's location.

13           "Section 5. Compliance with Federal Law.

14           "The State of Alabama, acting by and through the  
15 adoption of this amendment, and in accordance with the  
16 provisions of 15 U.S.C. §1172, does hereby declare that any  
17 and all covered game, covered machine, and lottery equipment,  
18 materials, paraphernalia, and supplies may be transported in  
19 interstate commerce into or out of the state without violating  
20 that section, or any other applicable federal law, if the  
21 equipment, materials, paraphernalia, and supplies are used, to  
22 be used, or have been used in the conduct of the Alabama  
23 Education Lottery, covered games at covered locations, and  
24 covered machines at the Greenetrack, Houston County, and  
25 VictoryLand locations.

26           "Section 6. State Tax on Gaming Profits and Use of  
27 Tax Proceeds.

1           "(a) Each operator granted a license pursuant to  
2 this amendment shall pay the commission on or before December  
3 31 of each year, for the preceding fiscal year ending  
4 September 30, an amount equal to 25 percent of gaming profits  
5 for the immediately preceding fiscal year. The commission  
6 shall retain eight percent of the proceeds of the gaming tax  
7 and timely remit the following percentages of the total  
8 proceeds of the gaming tax as follows:

9           "(1) 40 percent to the Education Trust Fund.

10          "(2) 40 percent to the state General Fund.

11          "(3) 12 percent to the county commission of the  
12 county in which the operator is licensed.

13           "(b) The tax on gaming profits shall be in lieu of  
14 all other state or local taxes, license fees, or franchise  
15 fees levied with respect to the conduct of covered games or  
16 the operation of covered machines. The license fee payable to  
17 the state shall be in lieu of all other state or local license  
18 or franchise fees levied with respect to a licensee providing  
19 hotel services, dining, or other facilities or services  
20 ancillary to its gaming activities, if the activities are  
21 conducted in conjunction with gaming approved by this  
22 amendment at the same covered location. Notwithstanding the  
23 foregoing, unless the taxes are otherwise abated pursuant to  
24 this amendment, the covered locations and the Greenetrack,  
25 Houston County, and VictoryLand locations are liable for all  
26 property taxes, lodging taxes, sales and use taxes on  
27 merchandise sold in gift shops or retail stores, food, and

1 beverages generally applicable at uniform rates to all  
2 businesses operating in the county and municipality in which  
3 the covered location, or the Greenetrack, Houston County, or  
4 VictoryLand location is located, and, except with respect to  
5 those taxes, fees, or expenses expressly addressed in this  
6 amendment, all other state or local taxes which are generally  
7 imposed by the state or a local taxing entity if the taxes are  
8 generally applied at rates uniformly applied within reasonable  
9 classifications among all businesses operating in the county  
10 or municipality, or both.

11 "(c) The commission may grant state and local tax  
12 abatements, to the extent otherwise allowed by Chapter 9B of  
13 Title 40 of the Code of Alabama 1975, as amended, to be  
14 granted by cities, counties, and public industrial  
15 authorities, to any proposed gaming project to be constructed  
16 in connection with any agreement, contract, or compact  
17 authorized to be operated pursuant to this amendment without  
18 regard to whether the proposed gaming operations fit within  
19 the list of the prescribed North American Industrial  
20 Classification System (NAICS) codes eligible for abatement  
21 under Chapter 9B of Title 40 of the Code of Alabama 1975. Any  
22 proposed gaming project to be constructed in connection with  
23 this amendment shall be eligible for any other state or local  
24 incentives available under the laws of the state or its  
25 political subdivisions.

26 "Section 7. Alabama Education Lottery and Gaming  
27 Commission; creation; powers.

1           "(a) There is created the Alabama Education Lottery  
2 Corporation and the Alabama Education Lottery and Gaming  
3 Commission. The commission shall regulate and supervise the  
4 Alabama Education Lottery and the Alabama Education Lottery  
5 Corporation and implement, regulate, administer, supervise,  
6 and enforce all laws and rules related to the operation and  
7 conduct of covered games at the covered locations, and to the  
8 operation and conduct of covered machines at the Greenetrack,  
9 Houston County, and VictoryLand locations; and cooperate with  
10 the Attorney General and local district attorneys in enforcing  
11 all laws related to illegal gambling.

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

14           "(1) One by the Governor.

15           "(2) One by the Lieutenant Governor.

16           "(3) One by the Speaker of the House of  
17 Representatives.

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

19           "(5) One by the Secretary of State.

20           "(6) One by the Chief Justice of the Supreme Court  
21 of Alabama.

22           "(7) One by the Attorney General.

23           "(c) All members shall be appointed with the advice  
24 and consent of the Senate. Initial appointments shall be made  
25 within 60 days after the effective date of this amendment. The  
26 members, where possible, shall represent the gender and racial  
27 diversity of the state.



1           "(1) Members of the commission shall be residents of  
2 the State of Alabama, United States citizens, and prominent  
3 persons in their businesses or profession, may not have been  
4 convicted of a felony, and may not be the executive director  
5 of the commission or an employee of the commission, an officer  
6 of a political party or the occupant of an official position  
7 in a political party, an elected official, or actively engaged  
8 in the business of, or have a pecuniary interest in a covered  
9 location or the Greenetrack, Houston County, or VictoryLand  
10 location.

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

25           "(d) The commission and its members and employees  
26 shall be subject to the Ethics Law, Section 36-25-1, et seq.,  
27 Code of Alabama 1975; the Open Records Act, Section 36-12-40,

1 Code of Alabama 1975; the Open Meetings Act, Section 36-25A-1  
2 et seq., Code of Alabama 1975; and the Administrative  
3 Procedure Act, Section 41-22-1, et seq., Code of Alabama 1975.

4 "(e) In addition to other enforcement powers granted  
5 by general law, and subject to Rule 45 of the Alabama Rules of  
6 Civil Procedure, for which purpose the commission shall be in  
7 the place of a court, as to matters within the commission's  
8 jurisdiction, the commission may issue subpoenas and compel  
9 the production of documents or items and the attendance of  
10 witnesses, to administer oaths, to require testimony under  
11 oath, and enforce its orders. Any person making a false oath  
12 in any matter before the commission is guilty of perjury. The  
13 commission may appoint impartial hearing examiners who may  
14 administer oaths and receive evidence and testimony under oath  
15 and make recommendations to the commission.

16 "(f) The commission may promulgate rules necessary  
17 to implement this amendment and related legislation. The  
18 commission may add to, alter, or delete its rules in  
19 accordance with the Alabama Administrative Procedure Act.  
20 Statutes and rules enacted or promulgated in furtherance of  
21 this amendment shall be consistent with and not more stringent  
22 than standards for the conduct of gaming operations published  
23 by the National Gaming Commission.

24 "(g) The commission shall regulate and supervise the  
25 conduct and operation of covered games and covered machines,  
26 and shall issue an initial license to each location to operate  
27 and conduct covered games or covered machines, as appropriate,

1 for a period of 25 years. Thereafter, the license shall renew  
2 automatically for a period of five years subject to and in  
3 accordance with regulation by the commission and subject to  
4 any and all rules adopted by the commission.

5 "(h) In addition to the powers granted in subsection  
6 (e), additional powers, procedures, and operations of the  
7 commission with respect to regulation and supervision of  
8 covered games and covered machines shall be enumerated in one  
9 or more general laws enacted by the Legislature subsequent to  
10 and supplemental to this amendment to further its purposes and  
11 provide for its implementation. The general laws enacted to  
12 implement this amendment shall provide the commission with the  
13 power to renew or refuse to renew a license as authorized  
14 herein, and the commission may adopt rules outlining the terms  
15 on which a license may be revoked or suspended.

16 "(i) The number of covered games in operation by the  
17 covered locations, and the percentage payout to a patron of a  
18 covered game or a covered machine, may not be restricted or  
19 limited by any general or local law or the commission, except  
20 that the Greenetrack, Houston County, and VictoryLand  
21 locations are limited to operation of no more than 1,000  
22 covered machines at each location.

23 "(j) The covered locations and the Greenetrack,  
24 Houston County, and VictoryLand locations may not operate  
25 covered games or covered machines without timely remitting to  
26 the state the applicable state tax on gaming profits.

1           "(k) A person under the age of 21 years may not play  
2 any covered game or covered machine, be employed to operate  
3 any covered game or covered machine, facilitate the playing of  
4 any covered game or covered machine, or serve any persons  
5 playing any covered game or covered machine. This subsection  
6 does not prohibit persons under the age of 21 years from being  
7 allowed on the premises of a facility where covered games or  
8 covered machines are being played in areas of the facility in  
9 which covered games or covered machines are not being  
10 conducted.

11           "(l) An owner or officer, director, shareholder,  
12 member, or other owner of either a covered location or the  
13 Greenetrack, Houston County, or VictoryLand location may not  
14 make a campaign contribution, whether monetary or in kind, to  
15 any of the following or a political action committee or  
16 principal campaign committee of any of the following:

17           "(1) An elected public official authorized to make  
18 an appointment to the commission.

19           "(2) A candidate for the office of an elected public  
20 official authorized to make an appointment to the commission.

21           "(m) The commission shall coordinate with local  
22 communities and covered locations and the Greenetrack, Houston  
23 County, and VictoryLand locations to develop educational  
24 programs and other social programs to enhance public awareness  
25 of gaming-related issues.

26           "Section 8. Special Session for Enabling  
27 Legislation.

1           "For the exclusive purpose of enacting general laws  
2 to implement this amendment, the Legislature shall meet in  
3 special session within 30 calendar days after the effective  
4 date of this amendment on a day determined by the Governor.  
5 If, within a week after passage of the amendment, the Governor  
6 fails to set a timely date for a special session, then the  
7 Speaker of the House and the President Pro Tempore of the  
8 Senate shall set a timely date for the special session. The  
9 Legislature may meet for no more than 12 legislative days and  
10 there shall be no legislation other than provided in this  
11 amendment during the special session except by a vote of  
12 two-thirds of each house.

13           "Section 9. Compact Negotiations.

14           "(a) The Governor or the Governor's designee is  
15 hereby authorized and instructed to negotiate in good faith  
16 and conclude a compact for the operation of Class III gaming  
17 as defined in the Indian Gaming Regulatory Act, and which  
18 includes, but is not limited to: (1) slot machines, (2) video  
19 lottery terminals, (3) banking or banked card games,  
20 including, but not limited to, baccarat, chemin de fer, and  
21 blackjack, and (4) table games, including, but not limited to,  
22 roulette and craps, with the Poarch Band of Creek Indians on  
23 lands held in trust by the United States for the benefit of  
24 the Poarch Band of Creek Indians pursuant to Section 5 of the  
25 Indian Reorganization Act of 1934.

26           "(b) Gaming pursuant to a compact as described in  
27 this section is permitted to be conducted and operated by the

1 Poarch Band of Creek Indians for a term of more than 25 years  
2 on those lands held in trust by the United States for the  
3 benefit of the Poarch Band of Creek Indians pursuant to  
4 Section 5 of the Indian Reorganization Act of 1934 in return  
5 for consideration under terms to be established in the  
6 compact.

7 "(c) Notwithstanding Section 22 of Article I or  
8 Section 93 of Article IV of the Official ReCompilation of the  
9 Constitution of Alabama of 1901, as amended, the Governor, or  
10 the Governor's designee, in addition to any and all other  
11 powers of the office which may exist now or hereafter, may  
12 negotiate, execute, and deliver any and all documents on  
13 behalf of the state, and enter into any agreement or compact,  
14 or both, on behalf of the state, with any potential gaming  
15 operator in furtherance of any gaming and resort project if  
16 the gaming and resort project is likely to provide or maintain  
17 job opportunities to individuals, including citizens and  
18 residents of the state, even if the project is to be located  
19 on property owned by or held in trust by the United States for  
20 the benefit of the Poarch Band of Creek Indians. In  
21 furtherance of the powers set forth herein, and in addition to  
22 any and all other powers which may exist now or hereafter, the  
23 state may provide, without limitation as to any other rights  
24 or interests which it is authorized to provide under relevant  
25 law, contractual, license, or licensure rights to any one or  
26 more parties, without regard to any type of request for  
27 proposal process and without regard to whether the contractual

1 or licensure rights are granted on an exclusive or  
2 non-exclusive basis or whether in perpetuity or shorter period  
3 of time, so long as the provision or granting of rights or  
4 interest or other thing of value by the state to any potential  
5 gaming operator has been negotiated in good faith. If  
6 negotiated in good faith by the state, any consideration  
7 received or to be received by the state pursuant to this  
8 amendment, whether monetary or otherwise, shall be adequate  
9 and no action shall be had for private inurement or other  
10 unlawful waste, use, or misappropriation of public funds.

11 "(d) Following completion of negotiations and  
12 execution of a compact, the Governor or the Governor's  
13 designee shall submit a copy of the executed compact to the  
14 President Pro Tempore of the Senate and the Speaker of the  
15 House of Representatives as soon as it is executed. The  
16 Governor or the Governor's designee shall file the executed  
17 compact with the Secretary of State.

18 "(e) The Secretary of State shall forward a copy of  
19 any executed compact to the United States Secretary of the  
20 Interior for his or her review and approval, in accordance  
21 with 25 U.S.C. § 2710(8)(d).

22 "(f) Disputes between the state and the Poarch Band  
23 of Creek Indians relating to or arising from the compact or  
24 compact negotiations may be resolved in the courts of the  
25 United States, which shall have jurisdiction over the state.  
26 The state's immunity under the Eleventh Amendment of the  
27 United States Constitution is expressly waived for the limited

1 purpose of dispute resolution in federal court, contingent  
2 upon an equivalent submission by the Poarch Band of Creek  
3 Indians to the jurisdiction of the federal court.

4 "Section 10. Conflicting Provisions.

5 "The operation of this amendment is not subject to,  
6 prohibited, limited, or impaired by any other constitutional  
7 provision or statute, whenever enacted, that is inconsistent  
8 with the provisions of this amendment.

9 "Section 11. Repeal of Amendments 743 and 744.

10 "Amendments 743 and 744 are repealed."

11 END OF PROPOSED AMENDMENT

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

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

23 "Proposing an amendment to the Constitution of  
24 Alabama of 1901, to authorize the Alabama Education Lottery;  
25 to authorize and regulate Class II gaming, as defined in the  
26 Indian Gaming Control Act, at Greenetrack in Greene County, at  
27 the Alabama Center Stage Bingo Facility in Houston County, and



1 at VictoryLand in Macon County, and Class III gaming, as  
2 defined in the Indian Gaming Control Act, at a site in the  
3 downtown city center of the City of Birmingham, to be selected  
4 on a request for proposal basis, and a site in DeKalb,  
5 Jackson, or Marshall County to be operated by the Poarch Band  
6 of Creek Indians; to require minimum license fees, a minimum  
7 capital investment to create a destination resort in the city  
8 center of Birmingham and in DeKalb, Jackson, or Marshall  
9 County, respectively, and a tax of 25 percent of the gaming  
10 profits; to provide for payment of the license fees to the  
11 state General Fund and the division of the taxes between the  
12 Education Trust Fund, the General Fund, the Alabama Education  
13 Lottery and Gaming Commission, and the respective local  
14 governments; to create the Alabama Education Lottery  
15 Corporation to operate the lottery and the Alabama Education  
16 Lottery and Gaming Commission to supervise the Alabama  
17 Education Lottery and Alabama Education Lottery Corporation  
18 and to license and regulate the Class II and Class III gaming  
19 authorized by the amendment; to require the Governor to  
20 negotiate a compact with the Poarch Band of Creek Indians; and  
21 to repeal Amendments 743 and 744 to the Constitution  
22 authorizing charitable bingo in Greene and Macon Counties,  
23 respectively.

24 "Proposed by Act \_\_\_\_\_."

25 This description shall be followed by the following  
26 language:

27 "Yes ( ) No ( )."

