

Opinion No. 2012-054

April 25, 2012

Peter G. Kumpe, Esq.  
Williams & Anderson PLC  
111 Center Street, 22<sup>nd</sup> Floor  
Little Rock, Arkansas 72201

Dear Mr. Kumpe:

This is in response to your request for certification, pursuant to A.C.A. § 7-9-107 (Repl. 2007), of the popular name and ballot title for a proposed constitutional amendment. You have previously submitted similar measures, which this office rejected due to ambiguities in the texts of the proposals. *See* Op. Att’y Gen. No. 2012-042 and 2012-032. You have made changes in the text of your proposal since your last submission and have now submitted the following proposed popular name and ballot title for my certification:

Popular Name

AN AMENDMENT TO ALLOW NANCY TODD’S POKER PALACE AND ENTERTAINMENT VENUES, LLC TO OWN AND OPERATE FOUR CASINO GAMING ESTABLISHMENTS, ONE EACH IN PULASKI, MILLER, FRANKLIN AND CRITTENDEN COUNTIES

Ballot Title

AN AMENDMENT TO THE ARKANSAS CONSTITUTION AUTHORIZING FOUR CASINO GAMING ESTABLISHMENTS, TO BE OWNED AND OPERATED BY “NANCY TODD’S POKER PALACE AND ENTERTAINMENT VENUES, LLC” (A PRIVATE LIMITED LIABILITY COMPANY), ONE EACH TO BE LOCATED IN PULASKI, MILLER, FRANKLIN AND CRITTENDEN COUNTIES; PROHIBITING THE GENERAL

ASSEMBLY AND ANY POLITICAL SUBDIVISION OF THE STATE FROM ENACTING ANY LEGISLATION, RULES OR REGULATIONS REGARDING CASINO GAMING; PROHIBITING CASINO GAMING AT ANY OTHER THAN THE LOCATIONS OPERATED BY NANCY TODD'S POKER PALACE AND ENTERTAINMENT VENUES, LLC; PROHIBITING PERSONS UNDER THE AGE OF 21 FROM PARTICIPATING IN CASINO GAMING; REQUIRING THAT THE NET GAMING REVENUE (AS DEFINED) OF EACH CASINO SHALL BE SUBJECT TO THE TAXES LEVIED BY ALL OF THE TAXING JURISDICTIONS WHERE A CASINO IS LOCATED AT THE SAME RATE AS FOR BUSINESSES GENERALLY, WITH THE TAX TO BE PAID TO THE STATE'S GENERAL REVENUE FUND ACCOUNT OF THE STATE APPORTIONMENT FUND; FURTHER REQUIRING THAT THE NET GAMING REVENUE (AS DEFINED) OF EACH CASINO SHALL BE SUBJECT TO AN ADDITIONAL TAX AT THE RATE OF TWELVE AND ONE-HALF PERCENT (12.5%). MANDATING THAT THE PROCEEDS OF THIS ADDITIONAL TAX SHALL NOT BE SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY AND DECLARING SUCH PROCEEDS TO BE CASH FUNDS HELD SEPARATE AND APART FROM THE STATE TREASURY WITH THE ADDITIONAL PROCEEDS DISTRIBUTED: (I) THIRTY PERCENT (30%) TO FUND PUBLIC SCHOOLS IN ARKANSAS; (II) TEN PERCENT (10%) TO THE ARKANSAS DEPARTMENT OF VETERAN AFFAIRS; (III) EIGHT PERCENT (8%) TO THE MEDICAID PROGRAM TRUST FUND; (V) EIGHT PERCENT (8%) TO A SENIOR CARE PRESCRIPTION DRUG BENEFIT PROGRAM; (VI) SIX PERCENT (6%) TO THE REGISTERED ARKANSAS STATE APPRENTICESHIP PROGRAMS GOVERNED BY THE ARKANSAS APPRENTICESHIP COORDINATION STEERING COMMITTEE; (VII) TWELVE PERCENT (12%) TO THE COUNTY IN WHICH A CASINO OPERATES, BASED ON NET GAMING REVENUE FROM OPERATIONS IN THAT COUNTY; AND (VIII) EIGHTEEN PERCENT (18%) TO ALL COUNTIES WITH NO CASINO GAMING, BASED ON THEIR

POPULATION ACCORDING TO THE MOST RECENT CENSUS; PROHIBITING ANY OTHER STATE OR LOCAL TAXES, FEES OR ASSESSMENTS OF ANY NATURE ON NANCY TODD'S POKER PALACE AND ENTERTAINMENT VENUES, LLC, INCLUDING ON ITS FURNITURE, FIXTURES, EQUIPMENT, PROPERTY, BUSINESS OPERATIONS, GROSS REVENUES, NET GAMING REVENUES, OR INCOME DERIVED FROM OR USED IN CASINO GAMING EXCEPT AS LEVIED AGAINST BUSINESSES GENERALLY; ALLOWING A CASINO TO OPERATE ANY DAY FOR ANY PORTION OF THE DAY; ALLOWING THE SELLING OR FREE FURNISHING OF ALCOHOLIC BEVERAGES IN CASINOS DURING ALL HOURS THEY OPERATE BUT OTHERWISE REQUIRING ADHERENCE TO ALL ALCOHOLIC BEVERAGE CONTROL BOARD REGULATIONS; PERMITTING THE SHIPMENT OF GAMBLING DEVICES INTO AUTHORIZED COUNTIES FOR PURPOSES OF FEDERAL LAW; RENDERING THE PROVISIONS OF THE AMENDMENT SEVERABLE; DECLARING INAPPLICABLE ALL CONSTITUTIONAL PROVISIONS AND LAWS TO THE EXTENT THEY CONFLICT WITH THIS AMENDMENT BUT NOT OTHERWISE REPEALING, SUPERSEDING, AMENDING OR OTHERWISE AFFECTING AMENDMENTS 84 (BINGO) AND 87 (STATEWIDE LOTTERY) TO THE ARKANSAS CONSTITUTION.

The Attorney General is required, pursuant to A.C.A. § 7-9-107, to certify the popular name and ballot title of all proposed initiative and referendum acts or amendments before the petitions are circulated for signature. The law provides that the Attorney General may substitute and certify a more suitable and correct popular name and ballot title, if he can do so, or if the proposed popular name and ballot title are sufficiently misleading, may reject the entire petition. **Neither certification nor rejection of a popular name and ballot title reflects my view of the merits of the proposal. This Office has been given no authority to consider the merits of any measure.**

In this regard, A.C.A. § 7-9-107 neither requires nor authorizes this office to make legal determinations concerning the merits of the act or amendment, or concerning the likelihood that it will accomplish its stated objective. In addition, following Arkansas Supreme Court precedent, this office will not address the constitutionality of proposed measures in the context of a ballot title review unless the measure is “clearly contrary to law.” *Kurrus v. Priest*, 342 Ark. 434, 29 S.W.3d 669 (2000); *Donovan v. Priest*, 326 Ark. 353, 931 S.W.2d (1996); *Plugge v. McCuen*, 310 Ark. 654, 841 S.W.2d 139 (1992). Consequently, this review has been limited to a determination, pursuant to the guidelines that have been set forth by the Arkansas Supreme Court, discussed below, of whether the proposed popular name and ballot title accurately and impartially summarize the provisions of your proposed amendment or act.

**The purpose of my review and certification is to ensure that the popular name and ballot title honestly, intelligibly, and fairly set forth the purpose of the proposed amendment or act.** See *Arkansas Women’s Political Caucus v. Riviere*, 283 Ark. 463, 466, 677 S.W.2d 846 (1984).

The popular name is primarily a useful legislative device. *Pafford v. Hall*, 217 Ark. 734, 233 S.W.2d 72 (1950). It need not contain detailed information or include exceptions that might be required of a ballot title, but it must not be misleading or give partisan coloring to the merit of the proposal. *Chaney v. Bryant*, 259 Ark. 294, 532 S.W.2d 741 (1976); *Moore v. Hall*, 229 Ark. 411, 316 S.W.2d 207 (1958). The popular name is to be considered together with the ballot title in determining the ballot title’s sufficiency. *Id.*

The ballot title must include an impartial summary of the proposed amendment or act that will give the voter a fair understanding of the issues presented. *Hoban v. Hall*, 229 Ark. 416, 417, 316 S.W.2d 185 (1958); *Becker v. Riviere*, 270 Ark. 219, 223, 226, 604 S.W.2d 555 (1980). According to the court, if information omitted from the ballot title is an “essential fact which would give the voter serious ground for reflection, it must be disclosed.” *Bailey v. McCuen*, 318 Ark. 277, 285, 884 S.W.2d 938 (1994), citing *Finn v. McCuen*, 303 Ark. 418, 798 S.W.2d 34 (1990); *Gaines v. McCuen*, 296 Ark. 513, 758 S.W.2d 403 (1988); *Hoban v. Hall*, *supra*; and *Walton v. McDonald*, 192 Ark. 1155, 97 S.W.2d 81 (1936). At the same time, however, a ballot title must be brief and concise (*see* A.C.A. § 7-9-107(b)); otherwise voters could run afoul of A.C.A. § 7-5-522’s five minute limit in voting

booths when other voters are waiting in line. *Bailey v. McCuen, supra*. The ballot title is not required to be perfect, nor is it reasonable to expect the title to cover or anticipate every possible legal argument the proposed measure might evoke. *Plugge v. McCuen, supra*. The title, however, must be free from any misleading tendency, whether by amplification, omission, or fallacy; it must not be tinged with partisan coloring. *Id.* A ballot title must convey an intelligible idea of the scope and significance of a proposed change in the law. *Christian Civic Action Committee v. McCuen*, 318 Ark. 241, 884 S.W.2d 605 (1994). It has been stated that the ballot title must be: 1) intelligible, 2) honest, and 3) impartial. *Becker v. McCuen*, 303 Ark. 482, 798 S.W.2d 71 (1990), citing *Leigh v. Hall*, 232 Ark. 558, 339 S.W.2d 104 (1960).

Applying the above precepts, it is my conclusion that your proposed popular name is acceptable and is therefore approved as submitted. In my judgment, however, minor changes in your ballot title are necessary both to accord with this office's formal requirements and to fully inform the voters of the effect of your measure. In the latter regard, I have slightly reworded your ballot title in the interest of clarity. Given these changes, the following ballot title is hereby substituted and certified:

Ballot Title

AN AMENDMENT TO THE ARKANSAS CONSTITUTION AUTHORIZING FOUR CASINO GAMING ESTABLISHMENTS, TO BE OWNED AND OPERATED BY "NANCY TODD'S POKER PALACE AND ENTERTAINMENT VENUES, LLC" (A PRIVATE LIMITED LIABILITY COMPANY), ONE EACH TO BE LOCATED IN PULASKI, MILLER, FRANKLIN AND CRITTENDEN COUNTIES; PROHIBITING THE GENERAL ASSEMBLY AND ANY POLITICAL SUBDIVISION OF THE STATE FROM ENACTING ANY LEGISLATION, RULES OR REGULATIONS REGARDING CASINO GAMING; PROHIBITING CASINO GAMING AT ANY OTHER THAN THE LOCATIONS OPERATED BY NANCY TODD'S POKER PALACE AND ENTERTAINMENT VENUES, LLC; PROHIBITING PERSONS UNDER THE AGE OF 21 FROM PARTICIPATING IN CASINO GAMING; REQUIRING THAT

THE NET GAMING REVENUE OF EACH CASINO SHALL BE SUBJECT TO THE TAXES LEVIED BY ALL OF THE TAXING JURISDICTIONS WHERE A CASINO IS LOCATED AT THE SAME RATE AS FOR BUSINESSES GENERALLY, WITH THE TAX TO BE PAID TO THE STATE'S GENERAL REVENUE FUND ACCOUNT OF THE STATE APPORTIONMENT FUND; DEFINING "NET GAMING REVENUE" AS TOTAL ANNUAL GAMING REVENUES, INCLUDING COMPENSATION FOR CONDUCTING ANY GAME IN WHICH NANCY TODD'S POKER PALACE AND ENTERTAINMENT VENUES, LLC IS NOT A PARTY TO THE WAGER, MINUS AMOUNTS PAID TO COVER THE WINNINGS OF PATRONS; FURTHER REQUIRING THAT THE NET GAMING REVENUE OF EACH CASINO BE SUBJECT TO AN ADDITIONAL TAX AT THE RATE OF TWELVE AND ONE-HALF PERCENT (12.5%); MANDATING THAT THE PROCEEDS OF THIS ADDITIONAL TAX SHALL NOT BE SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY AND DECLARING SUCH PROCEEDS TO BE CASH FUNDS HELD SEPARATE AND APART FROM THE STATE TREASURY WITH THE ADDITIONAL PROCEEDS DISTRIBUTED: (I) THIRTY PERCENT (30%) TO FUND PUBLIC SCHOOLS IN ARKANSAS; (II) TEN PERCENT (10%) TO THE ARKANSAS DEPARTMENT OF VETERAN AFFAIRS; (III) EIGHT PERCENT (8%) TO THE MEDICAID PROGRAM TRUST FUND; (V) EIGHT PERCENT (8%) TO A SENIOR CARE PRESCRIPTION DRUG BENEFIT PROGRAM; (VI) SIX PERCENT (6%) TO THE REGISTERED ARKANSAS STATE APPRENTICESHIP PROGRAMS GOVERNED BY THE ARKANSAS APPRENTICESHIP COORDINATION STEERING COMMITTEE; (VII) TWELVE PERCENT (12%) TO THE COUNTY IN WHICH A CASINO OPERATES, BASED ON NET GAMING REVENUE FROM OPERATIONS IN THAT COUNTY; AND (VIII) EIGHTEEN PERCENT (18%) TO ALL COUNTIES WITH NO CASINO GAMING, BASED ON THEIR POPULATION ACCORDING TO THE MOST RECENT CENSUS; PROHIBITING ANY OTHER STATE OR LOCAL TAXES, FEES OR ASSESSMENTS OF ANY NATURE ON

NANCY TODD'S POKER PALACE AND ENTERTAINMENT VENUES, LLC, INCLUDING ON ITS FURNITURE, FIXTURES, EQUIPMENT, PROPERTY, BUSINESS OPERATIONS, GROSS REVENUES, NET GAMING REVENUES, OR INCOME DERIVED FROM OR USED IN CASINO GAMING EXCEPT AS LEVIED AGAINST BUSINESSES GENERALLY; ALLOWING A CASINO TO OPERATE ANY DAY FOR ANY PORTION OF THE DAY; ALLOWING THE SELLING OR FREE FURNISHING OF ALCOHOLIC BEVERAGES IN CASINOS DURING ALL HOURS THEY OPERATE BUT OTHERWISE REQUIRING ADHERENCE TO ALL ALCOHOLIC BEVERAGE CONTROL BOARD REGULATIONS; PERMITTING THE SHIPMENT INTO AUTHORIZED COUNTIES OF GAMBLING DEVICES DULY REGISTERED, RECORDED AND LABELED PURSUANT TO FEDERAL LAW; RENDERING THE PROVISIONS OF THE AMENDMENT SEVERABLE; DECLARING INAPPLICABLE ALL CONSTITUTIONAL PROVISIONS AND LAWS TO THE EXTENT THEY CONFLICT WITH THIS AMENDMENT BUT NOT OTHERWISE REPEALING, SUPERSEDING, AMENDING OR OTHERWISE AFFECTING AMENDMENTS 84 (BINGO) AND 87 (STATEWIDE LOTTERY) TO THE ARKANSAS CONSTITUTION.

Notwithstanding my approval of your ballot title as amended, I believe a cautionary note is warranted due to the significance of the subject matter addressed – i.e., taxation and legalized gaming – and the complexity and far reaching effects of this amendment. As noted above, you have twice before submitted, and I have twice rejected as ambiguous, measures in which you attempted to impose a regulatory scheme monitoring casino gaming. In your latest submission, you have responded by submitting a proposal of stark simplicity, which, tracking a proposal approved by this office in Op. Att'y Gen. No. 2011-141, simply dispenses with regulation of casino gaming altogether, proposing by the extraordinary avenue of *constitutional amendment* to afford a named entity totally unregulated monopoly control over a broadly defined category of “casino gaming.”

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In this regard, I feel obliged to underscore the limited scope of my approval, which represents no more than an acknowledgment that the amended ballot title accurately summarizes the substance of your measure, whose merits or legal adequacy I have not yet addressed. You should be aware that this office might be called upon at a later point to advise the Secretary of State regarding the constitutional and other legal implications of your measure. Pursuant to Ark. Const. art. 5, § 1 (“Amendment 7”), the General Assembly has enacted a statute requiring the Secretary of State, “after consultation with the Attorney General,” to decide, upon the submission of a petition, whether a proposed measure, “if subsequently adopted by the electorate, would violate any state constitutional provision or any federal constitutional, statutory, or regulatory provision or would be invalid for any other reason.” Ark. Code Ann. § 7-9-503(b) (Repl. 2007). *See* Op. Att’y Gen. No. 2010-033 (addressing the scope of this provision). My amendment of your proposed ballot title, which is designed solely to ensure that it accurately and impartially summarizes your proposal, bears in no way on what might be the outcome of any such review. Moreover, my approval of your amended ballot title should not be interpreted as bearing in any way on what might be the merits of any legal challenge to your measure eventually filed by concerned private parties, including corporate entities operating under currently applicable law. I will simply note that applicable case law suggests a direct correlation between the complex effects of proposed initiated amendments and their susceptibility to successful challenge.

Pursuant to A.C.A. § 7-9-108, instructions to canvassers and signers must precede every petition, informing them of the privileges granted by the Constitution and of the penalties imposed for violations of this act. Enclosed herewith, over the signature of the Attorney General, are instructions that should be incorporated in your petition prior to circulation.

Sincerely,

DUSTIN MCDANIEL  
Attorney General

Enclosures

1            CONSTITUTIONAL AMENDMENT PROPOSED BY PETITION OF THE PEOPLE

2    Be it enacted by the people of the State of Arkansas:

3    **Section 1:     Authorizing Casino Gaming**

4            1.1     Casino gaming is hereby authorized to be conducted by Nancy Todd's Poker  
5    Palace and Entertainment Venues, LLC, an Arkansas limited liability company, and shall be  
6    lawful and shall be considered an appropriate land use in the following counties: Pulaski County,  
7    Miller County, Franklin County and Crittenden County.

8            1.2     The term "casino gaming" means any game played with cards, dice, equipment,  
9    or any mechanical, electromechanical, or electronic device, or machine for money, property,  
10   checks, credit or any representative value, including, without limiting the generality of the  
11   foregoing, blackjack, poker, keno, baccarat, roulette, craps, slot machines, video poker or any  
12   other gaming, percentage game or any other game or device.

13           1.3     The term "casino" means any facility owned and operated by Nancy Todd's Poker  
14   Palace and Entertainment Venues, LLC where casino gaming is conducted which is authorized  
15   by this Amendment to conduct casino gaming.

16   **Section 2:     Tax on Casino Net Gaming Revenue**

17           2.1     The term "net gaming revenue" means that total, measured on an annual basis, of  
18   cash received as winnings, cash received in payment for credit extended by Nancy Todd's Poker  
19   Palace and Entertainment Venues, LLC to a patron for purposes of gaming, and compensation  
20   received for conducting any game in which Nancy Todd's Poker Palace and Entertainment  
21   Venues, LLC is not a party to the wager, less the total of all cash paid out as losses to patrons  
22   and those amounts paid to purchase annuities to fund losses paid to patrons over several years.

1           2.2     The net gaming revenue of each casino shall be subject to the taxes levied by all  
2 of the taxing jurisdictions where a casino is located at the same rate as for businesses generally.  
3 The total amount of said tax paid to the State shall be paid to the State's General Revenue Fund  
4 Account of the State Apportionment Fund.

5           2.3     Except as specified in this Amendment, there shall be no taxes, fees, or  
6 assessment of any nature levied by the state or any county, city, incorporated town,  
7 administrative body, or any other political subdivision of the State on Nancy Todd's Poker  
8 Palace and Entertainment Venues, LLC included but not limited to, its furniture, fixtures,  
9 equipment, property, business operations, gross revenues, or net gaming revenues or income  
10 derived from, or used in, casino gaming which are not levied against businesses generally in the  
11 state of Arkansas.

12           2.4     The net gaming revenue of casinos shall be subject to an additional tax at the rate  
13 of twelve and one-half percent (12.5%). Proceeds from this additional tax shall not be subject to  
14 appropriation by the General Assembly and are specifically declared to be cash funds separate  
15 and apart from the State Treasury and shall be distributed as follows:

- 16           (i)     Thirty percent (30%) to fund all public schools in Arkansas;
- 17           (ii)    Ten percent (10%) to the Arkansas Department of Veteran Affairs;
- 18           (iii)   Eight percent (8%) to the Arkansas Children's Hospital;
- 19           (iv)    Eight percent (8%) to the Medicaid Program Trust Fund;
- 20           (v)     Eight percent (8%) to a senior care prescription drug benefit program;
- 21           (vi)    Six percent (6%) to the Registered Arkansas State Apprenticeship  
22 Programs governed by the Arkansas Apprenticeship Coordination Steering Committee;

1 (vii) Twelve percent (12%) to the counties in which a casino is located and  
2 operating, with each county's share based on net gaming revenue arising from operations in that  
3 county;

4 (viii) Eighteen percent (18%) to all counties with no casino gaming, with each  
5 county's share determined by the percentage that its population bears to the total population of  
6 all such counties, as reported in the most recent United States Census.

7 **Section 3: Casino Gaming Restrictions**

8 3.1 Unless otherwise specifically provided herein, neither the General Assembly nor  
9 any political subdivision of this State shall enact any legislation, rule or regulation regarding the  
10 operation of casino gaming as defined in this Amendment.

11 3.2 Casino gaming may only be conducted by Nancy Todd's Poker Palace and  
12 Entertainment Venues, LLC and its employees.

13 3.3 All of the games specified herein under the definition of "casino gaming" are  
14 permitted only at authorized locations operated by Nancy Todd's Poker Palace and  
15 Entertainment Venues, LLC and shall not be classified as a lottery or subject to any regulations  
16 under Article 19, Section 14 as amended by Amendment 87 to the Arkansas Constitution.

17 3.4 Nancy Todd's Poker Palace and Entertainment Venues, LLC shall abide by the  
18 rules and regulations of The Alcohol Beverage Control Board in the sale of alcoholic beverages,  
19 beer, and wine in casinos. Notwithstanding any law, rule, or regulation to the contrary, all  
20 casinos shall be permitted to sell or to provide complimentary alcoholic beverages during all  
21 hours they operate.

22 3.5 Casinos shall be permitted to operate any day and for any portion of a twenty-four  
23 (24) hour day.

1           3.6    No person under the age of twenty-one (21) shall be allowed to participate in  
2 casino gaming.

3           3.7    No more than one casino shall be operated by Nancy Todd’s Poker Palace and  
4 Entertainment Venues, LLC in any one county.

5   **Section 4:    Legal Shipment of Gambling Devices Into State**

6           All shipments of gambling devices, including slot machines, into any county of this State  
7 within which casino gaming is authorized, the registering, recording, and labeling of which has  
8 been duly performed by the manufacturer or dealer thereof in accordance with Section 3 and 4 of  
9 that certain Act of Congress of the United States entitled “An act to prohibit transportation of  
10 gambling devices in interstate and foreign commerce,” approved January 2, 1951, being ch.  
11 1194, 64 Stat. 1134, and also designated as 15 U.S.C. Sections 1171-1178, shall be deemed legal  
12 shipments thereof into any such county of this State within which casino gaming is authorized.

13   **Section 5:    Severability**

14           If any provision of this Amendment, or the application of any such provision to any  
15 person or circumstance is held invalid, the validity of any other provision of this Amendment, or  
16 the application of such provision to other persons and circumstances, shall not be affected  
17 thereby, and to this end the provisions of this Amendment are declared to be severable.

18   **Section 6:    Inconsistent Provisions Inapplicable**

19           All provisions of the Constitution of this State and statutes of the State, including but not  
20 limited to laws forbidding the judicial enforcement of gambling debts and statutes declaring  
21 gambling to be crimes, to the extent inconsistent or in conflict with any provision of this  
22 Amendment are expressly declared null and void and do not to apply to any provision of this  
23 Amendment. However, this Agreement does not repeal, supersede, amend or otherwise affect

- 1 Amendments 84 and 87 to the Arkansas Constitution or games of bingo, raffles, or the state
  - 2 lottery permitted therein.
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(POPULAR NAME)

AN AMENDMENT TO ALLOW NANCY TODD’S POKER PALACE AND ENTERTAINMENT VENUES, LLC TO OWN AND OPERATE FOUR CASINO GAMING ESTABLISHMENTS, ONE EACH IN PULASKI, MILLER, FRANKLIN AND CRITTENDEN COUNTIES.

(BALLOT TITLE)

AN AMENDMENT TO THE ARKANSAS CONSTITUTION AUTHORIZING FOUR CASINO GAMING ESTABLISHMENTS, TO BE OWNED AND OPERATED BY “NANCY TODD’S POKER PALACE AND ENTERTAINMENT VENUES, LLC” (A PRIVATE LIMITED LIABILITY COMPANY), ONE EACH TO BE LOCATED IN PULASKI, MILLER, FRANKLIN AND CRITTENDEN COUNTIES; PROHIBITING THE GENERAL ASSEMBLY AND ANY POLITICAL SUBDIVISION OF THE STATE FROM ENACTING ANY LEGISLATION, RULES OR REGULATIONS REGARDING CASINO GAMING; PROHIBITING CASINO GAMING AT ANY OTHER THAN THE LOCATIONS OPERATED BY NANCY TODD’S POKER PALACE AND ENTERTAINMENT VENUES, LLC; PROHIBITING PERSONS UNDER THE AGE OF 21 FROM PARTICIPATING IN CASINO GAMING; REQUIRING THAT THE NET GAMING REVENUE (AS DEFINED) OF EACH CASINO SHALL BE SUBJECT TO THE TAXES LEVIED BY ALL OF THE TAXING JURISDICTIONS WHERE A CASINO IS LOCATED AT THE SAME RATE AS FOR BUSINESSES GENERALLY, WITH THE TAX TO BE PAID TO THE STATE’S GENERAL REVENUE FUND ACCOUNT OF THE STATE APPORTIONMENT FUND; FURTHER REQUIRING THAT THE NET GAMING REVENUE (AS

1 DEFINED) OF EACH CASINO SHALL BE SUBJECT TO AN ADDITIONAL TAX  
2 AT THE RATE OF TWELVE AND ONE-HALF PERCENT (12.5%). MANDATING  
3 THAT THE PROCEEDS OF THIS ADDITIONAL TAX SHALL NOT BE SUBJECT  
4 TO APPROPRIATION BY THE GENERAL ASSEMBLY AND DECLARING SUCH  
5 PROCEEDS TO BE CASH FUNDS HELD SEPARATE AND APART FROM THE  
6 STATE TREASURY WITH THE ADDITIONAL PROCEEDS DISTRIBUTED: (i)  
7 THIRTY PERCENT (30%) TO FUND PUBLIC SCHOOLS IN ARKANSAS; (ii) TEN  
8 PERCENT (10%) TO THE ARKANSAS DEPARTMENT OF VETERAN AFFAIRS;  
9 (iii) EIGHT PERCENT (8%) TO THE ARKANSAS CHILDREN'S HOSPITAL; (iv)  
10 EIGHT PERCENT (8%) TO THE MEDICAID PROGRAM TRUST FUND; (v) EIGHT  
11 PERCENT (8%) TO A SENIOR CARE PRESCRIPTION DRUG BENEFIT  
12 PROGRAM; (vi) SIX PERCENT (6%) TO THE REGISTERED ARKANSAS STATE  
13 APPRENTICESHIP PROGRAMS GOVERNED BY THE ARKANSAS  
14 APPRENTICESHIP COORDINATION STEERING COMMITTEE; (vii) TWELVE  
15 PERCENT (12%) TO THE COUNTY IN WHICH A CASINO OPERATES, BASED  
16 ON NET GAMING REVENUE FROM OPERATIONS IN THAT COUNTY; and (viii)  
17 EIGHTEEN PERCENT (18%) TO ALL COUNTIES WITH NO CASINO GAMING,  
18 BASED ON THEIR POPULATION ACCORDING TO THE MOST RECENT  
19 CENSUS; PROHIBITING ANY OTHER STATE OR LOCAL TAXES, FEES OR  
20 ASSESSMENTS OF ANY NATURE ON NANCY TODD'S POKER PALACE AND  
21 ENTERTAINMENT VENUES, LLC, INCLUDING ON ITS FURNITURE, FIXTURES,  
22 EQUIPMENT, PROPERTY, BUSINESS OPERATIONS, GROSS REVENUES, NET  
23 GAMING REVENUES, OR INCOME DERIVED FROM OR USED IN CASINO

1 GAMING EXCEPT AS LEVIED AGAINST BUSINESSES GENERALLY;  
2 ALLOWING A CASINO TO OPERATE ANY DAY FOR ANY PORTION OF THE  
3 DAY; ALLOWING THE SELLING OR FREE FURNISHING OF ALCOHOLIC  
4 BEVERAGES IN CASINOS DURING ALL HOURS THEY OPERATE BUT  
5 OTHERWISE REQUIRING ADHERENCE TO ALL ALCOHOLIC BEVERAGE  
6 CONTROL BOARD REGULATIONS; PERMITTING THE SHIPMENT OF  
7 GAMBLING DEVICES INTO AUTHORIZED COUNTIES FOR PURPOSES OF  
8 FEDERAL LAW; RENDERING THE PROVISIONS OF THE AMENDMENT  
9 SEVERABLE; DECLARING INAPPLICABLE ALL CONSTITUTIONAL  
10 PROVISIONS AND LAWS TO THE EXTENT THEY CONFLICT WITH THIS  
11 AMENDMENT BUT NOT OTHERWISE REPEALING, SUPERSEDING,  
12 AMENDING OR OTHERWISE AFFECTING AMENDMENTS 84 (BINGO) AND 87  
13 (STATEWIDE LOTTERY) TO THE ARKANSAS CONSTITUTION.