



STATE OF ARKANSAS

Office of the Attorney General

Winston Bryant
Attorney General

Telephone:
(501) 682-2007

Opinion No. 94-129

April 29, 1994

Mr. Mike Wilson
Committee to Promote Arkansas
1 Park, Box 96
Wilson, Arkansas 72395

Dear Mr. Wilson:

This is in response to your request, pursuant to A.C.A. § 7-9-107 (Repl. 1993), for certification of the following proposed popular name and ballot title for a proposed constitutional amendment:

(Popular Name)

LIMITED CASINO GAMING, COMMUNITY LAW
ENFORCEMENT AND CRIME PREVENTION
FINANCING AMENDMENT OF 1994.

(Ballot Title)

A PROPOSED AMENDMENT TO THE ARKANSAS
CONSTITUTION ESTABLISHING THE ARKANSAS
CASINO GAMING COMMISSION, CREATING A
COMMUNITY CRIME PREVENTION AND LAW
ENFORCEMENT FUND, AND PERMITTING THE
ESTABLISHMENT OF ONE CASINO AT A
DESIGNATED SITE IN CRITTENDEN COUNTY.

THIS AMENDMENT WILL IMPOSE AN EIGHT (8)
PERCENT TAX ON THE GROSS REVENUES OF
CASINO GAMING, AND THE ENTIRE REVENUE
GENERATED FROM THIS TAX SHALL BE
DEDICATED TO THE COMMUNITY CRIME
PREVENTION AND LAW ENFORCEMENT FUND.
MONIES FROM THIS FUND WILL BE
DISTRIBUTED TO THE LOCAL COMMUNITY CRIME
PREVENTION COUNCILS TO BE ESTABLISHED IN

EACH COUNTY OF THE STATE. EACH COUNTY SHALL BE REQUIRED TO PUBLISH AN AUDITED REPORT EVERY YEAR INFORMING THE TAXPAYERS HOW THE GAMING REVENUES ARE BEING SPENT. AN ADDITIONAL QUARTERLY TAX OF ONE (1) PERCENT WILL BE IMPOSED ON CASINO GAMING TO SUPPORT INFRASTRUCTURE IMPROVEMENTS IN THE AREA SURROUNDING THE FACILITY.

ALL INDIVIDUALS OR ENTITIES OPERATING, EMPLOYED IN, OR FURNISHING SERVICES OR SUPPLIES TO THE CASINO SHALL BE SUBJECT TO STRICT LICENSING REQUIREMENTS, BACKGROUND INVESTIGATIONS AND OVERSIGHT BY THE STATE POLICE. ARKANSAS RESIDENTS WILL RECEIVE PREFERENCE IN HIRING BY THE CASINO, ARKANSAS GOODS WILL BE GIVEN PREFERENTIAL TREATMENT IN PURCHASES BY THE CASINO AND MANDATORY TRAINING PROGRAMS WILL BE PROVIDED TO ARKANSAS RESIDENTS SO THAT THEY MAY BECOME QUALIFIED APPLICANTS FOR POSITIONS IN THE CASINO OPENED PURSUANT TO THIS AMENDMENT. INDIVIDUALS UNDER THE AGE OF TWENTY-ONE (21) SHALL BE PROHIBITED FROM GAMING OR FROM BEING PRESENT IN GAMING ROOMS. LICENSES SHALL BE GRANTED TO PERMIT THE CASINO TO OPERATE FOR ANY PORTION OF A 24-HOUR DAY THAT THE LICENSEE DETERMINES.

THE COMMISSION SHALL REGULATE AND SUPERVISE THE LICENSING AND OPERATION OF ALL CASINO GAMING ACTIVITIES AND CONSIST OF FIVE (5) MEMBERS APPOINTED BY THE GOVERNOR. ONLY PERSONS WHO ARE RESIDENTS OF THE STATE OF ARKANSAS AND CITIZENS OF THE UNITED STATES SHALL BE ELIGIBLE FOR APPOINTMENT TO THE COMMISSION. NO MEMBER OF THE GENERAL ASSEMBLY, NO PERSON HOLDING ELECTIVE OFFICE IN THE STATE GOVERNMENT, OR ANY OFFICER OR OFFICIAL OF ANY POLITICAL PARTY SHALL BE ELIGIBLE FOR APPOINTMENT TO THE COMMISSION. MEMBERS OF THE COMMISSION CAN BE REMOVED BY THE GOVERNOR AND A MAJORITY VOTE OF THE GENERAL ASSEMBLY. ALL ADMINISTRATIVE, OPERATIONAL AND OTHER COSTS OF THE COMMISSION SHALL BE BORNE BY THOSE SEEKING LICENSES TO OPERATE, SUPPLY OR

Ark. 734, 233 S.W.2d 72 (1950). It need not contain detailed information or include exceptions which 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 its sufficiency. Id.

Applying these precepts, it is my opinion that a more suitable popular name should be substituted for the one proposed. The submitted popular name is therefore rejected, and the following substituted in its place:

(Popular Name)

AN AMENDMENT TO AUTHORIZE ONE CASINO IN
CRITTENDEN COUNTY, TO CREATE THE ARKANSAS
CASINO GAMING COMMISSION, AND TO LEVY CASINO
TAXES TO FUND CRIME PREVENTION AND
LAW ENFORCEMENT

In addition, in my opinion a more complete ballot title should be substituted for the one proposed, in order to give the voter a better understanding of the issues presented. The proposed ballot title is therefore rejected, and the following substituted therefor:

(Ballot Title)

AN AMENDMENT TO THE ARKANSAS
CONSTITUTION AUTHORIZING THE
ESTABLISHMENT OF ONE CASINO AT A
DESIGNATED SITE IN CRITTENDEN COUNTY, TO
BE OPERATED UNDER A RENEWABLE THREE YEAR
LICENSE BY A QUALIFIED, BONDED CASINO
GAMING LICENSEE WHO CAN DEMONSTRATE
OWNERSHIP OF THE DESIGNATED LAND;
CREATING THE ARKANSAS CASINO GAMING
COMMISSION WHICH SHALL CONSIST OF FIVE
(5) MEMBERS TO BE APPOINTED BY THE
GOVERNOR, TO SERVE FIVE (5) YEAR TERMS;
PROVIDING FOR REAPPOINTMENT OF THE
COMMISSIONERS ONLY ONCE; PROVIDING FOR
REMOVAL OF COMMISSIONERS DURING THEIR
TERM BY THE GOVERNOR WITH A CONCURRENCE
OF THE GENERAL ASSEMBLY; PROVIDING FOR
STATE POLICE BACKGROUND CHECKS ON
PROSPECTIVE COMMISSIONERS AND OTHERWISE
ESTABLISHING QUALIFICATIONS FOR THE
OFFICE; PROVIDING THAT THE COMMISSION
SHALL BE FUNDED INITIALLY BY A LOAN OF

STATE FUNDS TO BE REPAID WITHIN TWO (2) YEARS OF THE LOAN, AND THEREAFTER EXCLUSIVELY BY A ONE PERCENT ASSESSMENT ON GROSS REVENUES OF THE CASINO AND FEES PAID BY PROSPECTIVE LICENSEES; EMPOWERING THE COMMISSION TO SUPERVISE THE CASINO GAMING AUTHORIZED BY THIS AMENDMENT, INCLUDING THE POWER TO REQUIRE LICENSES AND STATE POLICE BACKGROUND CHECKS ON PERSONS SEEKING TO CONDUCT CASINO GAMING, SUPPLY EQUIPMENT TO AN ARKANSAS CASINO, OR BE EMPLOYED BY SUCH SUPPLIERS, OR AT THE CASINO IN CASINO GAMING ACTIVITY, AND THE POWER TO SUBJECT LICENSED GAMING EMPLOYEES TO ALCOHOL AND DRUG TESTING; EMPOWERING THE COMMISSION TO AUDIT ALL BOOKS AND FISCAL RECORDS OF THE CASINO; REQUIRING THE CASINO TO GIVE HIRING PREFERENCE TO QUALIFIED ARKANSAS CITIZENS AND PURCHASING PREFERENCE TO ARKANSAS FIRMS SELLING COMPETITIVELY PRICED GOODS AND SERVICES, EACH AS DETERMINED BY THE CASINO LICENSEE; REQUIRING THE CASINO LICENSEE TO PROVIDE TRAINING PROGRAMS TO ARKANSAS RESIDENTS THROUGH CURRENTLY EXISTING POST-SECONDARY VOCATIONAL SCHOOLS, COLLEGES, OR UNIVERSITIES; PROVIDING FOR JUDICIAL REVIEW OF COMMISSION DECISIONS; PERMITTING THE CASINO TO OPERATE FOR ANY PORTION OF A TWENTY-FOUR (24) HOUR DAY AND TO SELL OR PROVIDE ALCOHOLIC BEVERAGES DURING ALL HOURS THE CASINO IS PERMITTED TO OPERATE; PROHIBITING ANYONE UNDER THE AGE OF TWENTY-ONE FROM MAKING ANY WAGER OR BEING PRESENT IN ANY ROOM WHERE GAMING IS BEING CONDUCTED; LEVYING AN EIGHT (8) PERCENT TAX ON THE GROSS REVENUE (AS DEFINED) OF THE CASINO WHICH WILL BE DISTRIBUTED TO THE "COMMUNITY CRIME PREVENTION AND LAW ENFORCEMENT TRUST FUND" CREATED BY THE AMENDMENT, WHICH FUNDS WILL BE DISTRIBUTED TO THE COUNTIES ON THE BASIS OF POPULATION; CREATING THE "COUNTY COMMUNITY CRIME PREVENTION COUNCILS" TO CONSIST OF THE COUNTY JUDGE, SHERIFF, PROSECUTING ATTORNEY, ONE CITIZEN WITH CRIME PREVENTION EXPERIENCE CHOSEN BY THE QUORUM COURT, AND THE CHIEFS OF POLICE

OF ALL CITIES AND TOWNS OF EACH COUNTY;
AUTHORIZING THE COUNCILS TO DETERMINE
THE EXPENDITURE OF THE MONIES
DISTRIBUTED TO THE COUNTIES HEREUNDER;
PROVIDING THAT THE FUNDS DISTRIBUTED
SHALL ONLY BE USED FOR CRIME PREVENTION,
SCHOOL SAFETY AND LAW ENFORCEMENT (BUT
NOT SALARY INCREASES) AS EVIDENCED BY AN
ANNUAL REPORT PREPARED BY THE COUNTY;
LEVYING A TAX OF ONE PERCENT OF THE
GROSS REVENUES OF THE CASINO TO BE
DISTRIBUTED TO THE MUNICIPALITY IN WHICH
THE CASINO IS LOCATED; PROHIBITING THE
LEVY OF ANY OTHER SPECIAL TAXES ON THE
CASINO AND EXCLUDING ITS REVENUES FROM
APPLICATION OF GROSS RECEIPTS, SALES, OR
EXCISE TAXES; DEFINING TERMS USED IN THE
AMENDMENT; PROVIDING THAT NOTHING IN
THIS AMENDMENT SHALL BE CONSTRUED TO
IMPOSE ANY RESTRICTIONS ON ANY OTHER
MEASURES PASSED BY THE VOTERS ON
NOVEMBER 8, 1994; SETTING PENALTIES FOR
VIOLATIONS OF THE AMENDMENT, MAKING ITS
PROVISIONS SEVERABLE, MAKING OTHER
INCONSISTENT LAWS INAPPLICABLE TO CASINO
ESTABLISHMENTS OPERATING PURSUANT TO
THIS AMENDMENT; MAKING THE AMENDMENT
EFFECTIVE UPON ADOPTION; AND FOR OTHER
PURPOSES.

Pursuant to A.C.A. § 7-9-108(c), instructions to canvassers
and signers are enclosed herewith.

Sincerely,



WINSTON BRYANT
Attorney General

WB:cyh

Enclosure

INSTRUCTIONS TO CANVASSERS AND SIGNERS

1. Amendment No. 7 to the Arkansas Constitution gives to the people of the State of Arkansas the power to propose legislation or constitutional amendments by initiative petition, and to order the referendum against any general act or any item of an appropriation bill, or measure passed by the General Assembly. The petition must be signed by eight percent (8%) of the legal voters in the case of proposed legislation, ten percent (10%) in the case of proposed constitutional amendments, and six percent (6%) in the case of a referendum. The proposed legislation or constitutional amendment must be submitted to the legal voters of the State at a regular election; referendum petitions may be referred to the people at special elections when fifteen percent (15%) of the legal voters petition for such special election. Any measure submitted to the people shall take effect and become a law when approved by a majority of the votes cast upon such measure.

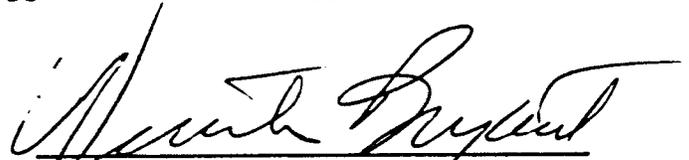
2. Only legal voters may sign. Printed names, dates of birth, residences, and cities or towns of residence must be given as an aid to verification. The petition should contain only the signatures of voters residing in a single county.

3. All signatures must be affixed in ink or indelible pencil by the signers in their own handwriting in the presence of the persons circulating the petition.

4. Do not attach additional sheets to this petition unless such sheets contain the full language of the petition. Place as many names as possible on each petition.

5. TO SIGN ANY NAME OTHER THAN YOUR OWN, TO KNOWINGLY SIGN YOUR NAME MORE THAN ONCE TO ANY PETITION, TO KNOWINGLY SIGN YOUR NAME WHEN YOU ARE NOT LEGALLY ENTITLED TO SIGN IT, TO KNOWINGLY AND FALSELY MISREPRESENT THE PURPOSE AND EFFECT OF THIS PETITION FOR THE PURPOSE OF CAUSING ANYONE TO SIGN IT, OR TO KNOWINGLY MAKE A FALSE STATEMENT ON A PETITION VERIFICATION FORM SHALL CONSTITUTE A CLASS "A" MISDEMEANOR AND SUBJECT THE OFFENDER TO A FINE OF UP TO \$1,000.00 AND IMPRISONMENT FOR UP TO ONE (1) YEAR.

The Attorney General is by law required to certify the sufficiency of the popular name and ballot title of all initiative or referendum petitions. This certification does not necessarily indicate the approval or disapproval of the contents thereof.


Winston Bryant
ATTORNEY GENERAL OF THE STATE
OF ARKANSAS

INITIATIVE PETITION

TO: The Honorable Bill McCuen, Secretary of State of the State
of Arkansas.

WE, the undersigned legal voters of the State of Arkansas,
respectfully propose the following Amendment to the
Constitution of the State of Arkansas, to wit:

APR 28 1994
ATTORNEY GENERAL
OF
ARKANSAS

Popular Name

Limited Casino Gaming, Community Law Enforcement
and Crime Prevention Financing Amendment of 1994

Ballot Title

A proposed Amendment to the Arkansas Constitution establishing The Arkansas Casino Gaming Commission, creating a Community Crime Prevention and Law Enforcement Fund, and permitting the establishment of one casino at a designated site in Crittenden County.

This Amendment will impose an eight (8) percent tax on the gross revenues of casino gaming, and the entire revenue generated from this tax shall be dedicated to the Community Crime Prevention and Law Enforcement Fund. Monies from this fund will be distributed to the local Community Crime Prevention Councils to be established in each county of the State. Each county shall be required to publish an audited report every year informing the taxpayers how the gaming revenues are being spent. An additional quarterly tax of one (1) percent will be imposed on casino gaming to support infrastructure improvements in the area surrounding the facility.

All individuals or entities operating, employed in, or furnishing services or supplies to the casino shall be subject to strict licensing requirements, background investigations and oversight by the State Police. Arkansas residents will receive preference in hiring by the casino, Arkansas goods will be given preferential treatment in purchases by the casino and mandatory training programs will be provided to Arkansas residents so that they may become qualified applicants for positions in the casino opened pursuant to this Amendment. Individuals under the age of twenty-one (21) shall be prohibited from gaming or from being present in gaming rooms. Licenses shall be granted to permit the casino to operate for any portion of a 24-hour day that the licensee determines.

The Commission shall regulate and supervise the licensing and operation of all casino gaming activities and consist of five (5) members appointed by the Governor. Only persons who are residents of the State of Arkansas and citizens of the United States shall be eligible for appointment to the Commission. No member of the General Assembly, no person holding

elective office in the State government, nor any officer or official of any political party shall be eligible for appointment to the Commission. Members of the Commission can be removed by the Governor and a majority vote of the General Assembly. All administrative, operational and other costs of the Commission shall be borne by those seeking licenses to operate, supply or be employed in casino gaming, and the casino licensed pursuant to this Amendment. No funds from the State's general treasury shall be used to pay for the Commission after the initial two (2) years of operation, and any State funds used during this two (2) year start-up period shall be fully reimbursed by the Commission.

This Amendment will establish mandates on the executive branch ensuring the timely implementation of the provisions of this Amendment, a process for judicial review of any disputes arising from the implementation of these provisions, and penalties for violations of the Amendment. This Amendment defines certain terms used in the Amendment; provides that all constitutional provisions and laws in conflict with this Amendment are expressly declared not to apply to any of the activities described in this Amendment to the extent of the conflict; provides that the Amendment shall become operative upon approval by the voters; and for other purposes.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARKANSAS:

Section 1: Limited Casino Gaming Permitted

Casino gaming is hereby permitted at a single site in the State of Arkansas as specified in Section 12. All of the games specified herein under the definition of "gaming" are permitted regardless of other provisions of the Arkansas Constitution or laws of this State and shall not be classified as a lottery under Article 19, Section 14 of the Arkansas Constitution.

Section 2: Definitions

A. "Casino Gaming Commission" Defined

"Casino Gaming Commission" means the Arkansas Casino Gaming Commission.

B. "Division" Defined

"Division" means the "Arkansas State Police, Criminal Investigation Division".

C. "Casino gaming establishment" Defined

"Casino gaming establishment" or "casino" means the facility operating at the site described in Section 12.

D. "Gaming" Defined

"Gaming" means any game located exclusively within a casino played with cards, dice, equipment or any mechanical, electromechanical or electronic device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, blackjack, poker, baccarat, roulette, craps, slot machine, video poker or any other banking or percentage game or any other game or device tested by the casino licensee under the supervision of the Casino Gaming Commission. Sports pool shall be prohibited.

E. "Gaming device" or "gaming equipment" Defined

"Gaming device" or "gaming equipment" means any electronic, electrical, or mechanical contrivance or machine used in connection with gaming as determined by the Arkansas Casino Gaming Commission.

F. "Gaming employee" Defined

"Gaming employee" means any person connected directly with the operation of the gaming establishment licensed to conduct any game. The term "gaming employee" also includes employees of manufacturers or distributors of gaming equipment within this State whose duties are directly involved with the sale of gaming equipment to be used in the casino gaming establishment within this State. "Gaming employee" does not include bartenders, cocktail waitresses or other persons engaged in preparing or serving food or beverages unless acting in some other capacity.

G. "Gross revenue" Defined

"Gross revenue" means the total of cash received as winnings, cash received in payment for credit extended by the casino gaming licensee to a patron for purposes of gaming, and compensation received for conducting any game in which the licensee is not a party to the wager, less the total of all cash paid out as losses to patrons and those amounts paid to purchase annuities to fund losses paid to patrons over several years by independent financial institutions.

1. For the purposes of this definition, cash or the value of non-cash prizes awarded to patrons in a contest or tournament are not losses.
2. Gross revenue does not include counterfeit money or tokens, coins of other countries which

are received in gaming devices, cash taken in fraudulent acts perpetrated against the licensee for which the licensee is not reimbursed, or cash received as entry fees for contests or tournaments in which the patrons compete for prizes.

3. In calculating gross revenue, any prizes, premiums, drawings, benefits or tickets which are redeemable for money or merchandise or other promotional allowance, except money or tokens paid at face value directly to a patron as the result of a specific wager and the amount of cash paid to purchase an annuity to fund winnings paid to that patron over several years by an independent financial institution, must not be deducted as losses from winnings at any game except a slot machine.

4. In calculating gross revenue from slot machines, the actual cost to the licensee of any personal property distributed to a patron as the result of a legitimate wager may be deducted as a loss, but not travel expenses, food, refreshments, lodging or services.

5. The Casino Gaming Commission shall adopt regulations which prescribe the manner in which gross revenue must be computed and reported by the licensee.

H. "Holding company" Defined

"Holding company" means any corporation, association, firm, partnership, trust or other form of business organization not a natural person which, directly or indirectly, owns, has the power or right to control, or has the power to vote any significant part of the outstanding voting securities of a corporation which holds or applies for a casino gaming license. For the purpose of this Amendment, in addition to any other reasonable meaning of the words used, a "holding company" indirectly has, holds or owns any such power, right or security if it does so through any interest in a subsidiary or successive subsidiaries; however, many such subsidiaries may intervene between the holding company and the corporate licensee or applicant.

I. "Intermediary company" Defined

"Intermediary company" means any corporation, association, firm, partnership, trust or any other form of business organization other than a natural person which:

1. Is a holding company with respect to a corporation which holds or applies for a casino gaming license; and
2. Is a subsidiary with respect to any holding company.

J. "Licensee" Defined

"Licensee" means an individual or entity meeting the qualifications of this Amendment to hold a "casino gaming license".

K. "Slot Machine" Defined

A mechanical, electrical, or other device, contrivance, or machine which, upon insertion of a coin, token, or similar object, or upon payment of consideration, shall be available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens, or a thing of value, whether the payoff shall be made automatically from the machine or in another manner.

L. "Skimming" Defined

"Skimming" is defined as the intentional excluding, or the taking of any action in an attempt to exclude, any thing or its value from the deposit, count, collection, or computation of gross revenues or net gaming proceeds from casino gaming authorized by this Amendment.

M. "Sports Pool" Defined

"Sports pool" means the business of accepting wagers on sporting events by any system or method of wagering. "Sports pool" shall not include the system known as the pari-mutuel method of wagering as currently conducted at existing locations in Garland County and Crittenden County in the State of Arkansas.

N. Words and Terms: Tense, Number and Gender

In construing the provisions of this Amendment, save when otherwise plainly declared or clearly apparent from the context:

1. Words in the present tense shall include the future tense.
2. Words in the masculine shall include the feminine and neuter genders.
3. Words in the singular shall include the plural and the plural shall include the singular.

Section 3: Restrictions on Casino Gaming

(A) Gaming may only be conducted by the licensed owner of a casino or a manager designated by the licensed owner and approved by the Casino Gaming Commission.

(B) Gaming equipment and supplies customarily used in conducting gaming operations may be purchased or leased only from suppliers licensed under this Amendment.

(C) All gaming employees of the casino gaming establishment, including those managing a casino gaming operation, must be licensed by the Casino Gaming Commission as set forth in this Amendment.

(D) A person who is less than twenty-one (21) years of age may not make a wager under this Amendment. A person who is less than twenty-one (21) years of age may not be present in any room of the casino where gaming is being conducted. Anyone violating this provision shall be subject to the penalties set forth in Section 17 of this Amendment.

(E) It shall be illegal to skim any gaming proceeds from the casino. A violation will constitute a felony under the laws of this State.

(F) Any person who, by trick or sleight of hand performance or by a fraud or fraudulent scheme, cards, dice, or device, for himself or for another, wins or attempts to win money or property or a combination thereof, or reduces a losing wager or attempts to reduce a losing wager in connection with casino gaming, shall be subject to the criminal laws of the State. The licensee shall establish a comprehensive program to monitor and prevent such activity.

(G) To protect the honesty and integrity of casino gaming in the State, the Casino Gaming Commission shall create and maintain a list of persons who must be excluded or ejected from the casino if the Casino Gaming Commission determines that the individual poses a threat to the interest of the State or to casino gaming, or both. Service of such individuals and a method of appeal shall be set forth in regulations promulgated by the Casino Gaming Commission.

Section 4: Establishment of Community Crime Prevention and Law Enforcement Trust Fund

A. Creation

There is hereby created a Community Crime Prevention and Law Enforcement Trust Fund.

This Fund is established to receive the taxes assessed on the licensed casino gaming establishment and to distribute these revenues to the Community Crime Prevention Councils to be established in each county of the State pursuant to Section 5 herein.

B. Dedication of Revenue

All funds raised from the revenues of casino gaming as determined herein shall be dedicated to crime prevention and law enforcement programs as administered by local law enforcement agencies, local services agencies, school districts or local non-profit organizations in the municipalities, cities and counties of the State. The funds shall be distributed directly to the counties, which shall be responsible for distributing the funds as determined by the Councils created in Section 5.

Section 5: Community Crime Prevention Councils Established

A. Creation of Councils

Pursuant to this Amendment, there shall be established in each county in the State a Community Crime Prevention Council.

B. Purpose of Councils

The Councils shall determine how the funds distributed to the county pursuant to Section 4B shall be used in that county, provided that:

1. The funds must be used on crime prevention and law enforcement programs;

2. The funds cannot be used to provide salary increases for any public employees;
3. The funds cannot be used for the administrative expenses or the operations of the Council;
and,
4. A portion of the funds must be distributed to school districts located within the county to improve safety in and around schools.

C. Membership of the Councils

1. The Members of each county's Council shall be: the County Judge, who shall act as chairman; the County Sheriff; the Prosecuting Attorney or Deputy Prosecuting Attorney of each county; a citizen of the county who has experience and training with crime prevention in the community who shall be selected by each county's Quorum Court; and the Chiefs of Police or chief law enforcement officers of all incorporated cities and towns located within the county.
2. Roberts Rules of Order shall govern the meetings of the Councils, except that all meetings shall be open to the public without restriction.

Section 6: Dedication of Tax on Casino Gaming Revenues

(A) A casino gaming revenue tax is hereby imposed on the gross revenue, as defined in Section 2, received from the casino gaming establishment authorized pursuant to this Amendment in the following manner:

- (1) Eight (8) percent of the gross revenue of the casino gaming establishment authorized under this Amendment shall be distributed to the Community Crime Prevention and Law Enforcement Trust Fund; and
- (2) One (1) percent of the gross revenue of the casino gaming establishment authorized under

this Amendment shall be distributed to the municipality in which the single casino gaming site is located to cover additional costs to the taxpayers caused by casino gaming at the site.

(3) No portion of the tax created herein shall be used for the operation, administration or other costs of the Casino Gaming Commission, established in Section 11, which shall be funded in its entirety by those seeking licenses from the Casino Gaming Commission pursuant to Section 13 and the assessments paid by the casino gaming establishment pursuant to Section 11D.3.

(B) The taxes imposed by this Section shall be paid by the casino gaming licensee to the Crime Prevention and Law Enforcement Trust Fund described in Subsection 4A herein within ten (10) days after the close of the month when the wagers were made. The revenues raised under subsection (A)(1) shall be distributed by the Fund on a quarterly basis to the counties. The revenues raised under subsection (A)(2) shall be paid to the localities specified on a quarterly basis.

(C) Monies from the Fund shall be distributed to the counties according to the total population of the counties as determined by the latest official statewide census. Each county shall receive for distribution an amount proportional to its population compared to the other counties in the State.

(D) Except as specified in this Amendment, there shall be no taxes, fees or assessments of whatever nature levied by the State or any county, city, incorporated town or any other political subdivision on casino gaming or the receipts or revenues associated therewith; provided, however, the foregoing provisions of this subsection 6(D) shall not apply to those taxes, fees or assessments which are also lawfully levied and collected by the State, county, city, incorporated town or any other political subdivision on taxpayers generally which are not a casino gaming licensee, except that in no event shall any receipts or revenues associated with

casino gaming be subject to any gross receipts, sales, excise or other similar tax, since the tax imposed pursuant to this Amendment is in lieu of any such tax.

Section 7: Annual Report By Counties.

Each county that is distributed funds deriving from casino gaming proceeds shall prepare and make available to the public an annual report for the period ending December 31 of each year. Included in the report shall be a specific accounting of how each locality in the county is spending such funds, the identification of crime prevention and law enforcement programs benefiting from such funds, and any other information deemed necessary by the Casino Gaming Commission to inform the residents of each county about the manner in which casino gaming proceeds are being disbursed. Each county receiving funds shall cause this report to be published in the daily or weekly newspaper with the largest circulation in each locality of the county that is receiving funds and shall make the report available to all members of the public upon request.

Section 8: Preference in Employment to Arkansas Residents

(A) In order to improve the economy of the State and the well-being of its People, the Casino Gaming Commission shall require that the casino gaming licensee which has been licensed pursuant to this Amendment give preference in its hiring to applicants who are citizens of this State and qualified for employment as determined by the casino gaming licensee.

(B) The Casino Gaming Commission shall require that the casino gaming licensee which has been licensed pursuant to this Amendment pay its employees an amount equal to at least one-hundred and twenty-five (125) percent of the federal minimum wage.

Section 9: Mandatory Training Programs for Arkansas Residents

The Casino Gaming Commission shall require the casino gaming licensee to work with the Casino Gaming Commission to provide training programs for Arkansas residents so that they

may become qualified applicants for positions within the casino gaming establishment opened pursuant to this Amendment. These training programs may be operated through post-secondary vocational schools, colleges and universities currently existing in the State.

Section 10: Preference in Purchasing and Procurement to Arkansas Businesses

(A) The casino gaming licensee which has been licensed pursuant to this Amendment shall develop programs and policies to give preferential treatment in purchasing and procuring goods and services to sole proprietorships and companies based in the State that offer goods and services that are of competitive quality and price as determined by the casino gaming licensee.

(B) The Casino Gaming Commission shall require that the casino gaming licensee which has been licensed pursuant to this Amendment give preferential treatment in the awarding of contracts for services and entertainment to sole proprietorships and companies based in the State that offer services and entertainment that are of competitive quality and price as determined by the casino gaming licensee.

(C) The Casino Gaming Commission shall require that the casino gaming licensee which has been licensed pursuant to this Amendment reserve a section of its gaming area for the promotion and sale of arts, crafts and gifts which were manufactured or produced in the State.

Section 11: Arkansas Casino Gaming Commission

A. Creation

1. The Arkansas Casino Gaming Commission, consisting of five (5) members, is hereby created.

2. The Governor shall appoint the members of the Casino Gaming Commission within ninety (90) days of the passage of this Amendment. Prior to appointing an individual, the Governor shall request the Arkansas State Police, Criminal Investigation Division, to conduct an inquiry into the individual's background, with particular regard to the individual's financial stability, integrity, responsibility and reputation for good character. The investigation shall also establish that the individual has no interest in any other gaming or pari-mutuel operations in this or any other State.

3. Pursuant to Section 13 herein, the Division shall conduct the background inquiry concerning Casino Gaming Commission members as well as the investigations that may be ordered by the Casino Gaming Commission into the backgrounds of all applicants for a casino gaming license, all those individuals whom the Casino Gaming Commission finds have significant influence over the gaming operations of the licensee, including suppliers to the casino gaming establishment and key casino employees.

B. Members

1. Each member of the Casino Gaming Commission shall be a citizen of the United States and a resident of this State. No member of the General Assembly, no person holding elective office in the State government, nor any officer or official of any political party shall be eligible for appointment to the Casino Gaming Commission.

2. The Governor shall appoint from among the five (5) commissioners a Chairman, with the advice and consent of the General Assembly. After the initial term, a Member of the Casino Gaming Commission shall serve for five (5) years and may only be removed before that

time by the Governor with the concurrence of a majority of the General Assembly. The Chairman and Members of the Casino Gaming Commission shall be eligible to be reappointed only once.

3. The Members of the Casino Gaming Commission shall serve staggered terms. The initial appointments shall be: Chairman for five (5) years, with Member A serving four (4) years, Member B serving three (3) years, Member C serving two (2) years and Member D serving one (1) year.

4. The Casino Gaming Commission members shall devote such time to the business of the Casino Gaming Commission as may be necessary to the discharge of their duties. A member may pursue or engage in another business, occupation, or gainful employment that is not in conflict with the duties of the Casino Gaming Commission. The Chairman of the Casino Gaming Commission shall be entitled to a per diem of sixty dollars (\$60) plus actual expenses. The other members of the Casino Gaming Commission shall be entitled to a per diem of fifty dollars (\$50) plus actual expenses.

5. Before entering upon the duties of his or her office, each member shall subscribe to the constitutional oath of office and, in addition, swear that he or she is not actively engaged in and does not hold a direct pecuniary interest in gaming or pari-mutuel activities.

C. General Powers of the Casino Gaming Commission

The Casino Gaming Commission shall have full jurisdiction over and shall supervise all casino gaming authorized by this Amendment. The Casino Gaming Commission shall:

1. Grant a license to those meeting the criteria of Sections 12 and 13 and any other licenses deemed necessary to conduct casino gaming in the State.
2. Order the Division to conduct the investigations described herein concerning the

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qualifications of each applicant for any license required pursuant to this Amendment. The Casino Gaming Commission shall review the results of the investigation before any license is issued or any registration, finding of suitability, or approval of acts or transactions required by this Amendment is granted.

3. Establish a fee structure to cover the costs of such investigations and licensing, which shall be paid directly to the Casino Gaming Commission by all those applying to the Casino Gaming Commission for licenses as the casino gaming operator, suppliers or employees, and deposited in a special account of the general fund of the State. The fees paid shall be great enough to cover the cost of the investigation and licensing.

4. Establish a system by which the casino gaming establishment is assessed a pro rata share of the costs of operating the Casino Gaming Commission based on the casino's gross revenues.

5. Have the authority to observe the conduct of the casino gaming licensee and other persons having a material involvement directly with the licensed gaming operation to ensure that a license is not held by or issued to, nor is there any material involvement, directly or indirectly, with the licensed casino gaming operation, by "unsuitable" persons. The Casino Gaming Commission shall promulgate regulations defining "unsuitable" persons.

6. Revoke the license of any person granted a license pursuant to Section 13 of this Amendment who is subsequently found to be a disqualified person.

7. Have the authority to instruct the Division to inspect, examine and monitor the premises where gaming is being conducted; to inspect all equipment and supplies in, upon or about such premises; and to obtain access to and inspect, examine, photocopy and audit all papers, books and records of applicants and the licensee, on their premises, or elsewhere as

practicable, and in the presence of the licensee or his agent, respecting the gross income produced by any casino gaming business, and require verification of income and expenses, and all other matters affecting the enforcement of any applicable laws of this State or any of the policies or provisions of this Amendment.

8. Have the authority to issue subpoenas and compel the attendance of witnesses for its meetings and investigations, to hold hearings, to administer oaths and to require testimony under oath.

9. Require the casino gaming licensee to file an annual balance sheet and profit and loss statement pertaining to the licensee's gaming activities in the State, together with a list of stockholders or other persons having any beneficial interest in the casino gaming activities of the licensee.

10. Require the casino gaming establishment to utilize a wagering system whereby all gaming must be conducted with coins, tokens, chips or other instrumentalities approved by the Casino Gaming Commission.

11. Establish procedures for the adequate videotaping of casino gaming activities.

12. Devise a system for licensing all gaming devices used in the State, the cost of which shall be paid by the license applicant in an amount equal to the cost of processing that application.

13. Establish rules and regulations for licensing casino employees, the costs of which shall be borne by the employee license applicant but may be paid for by the licensed casino gaming establishment.

14. Adopt rules and regulations necessary to regulate all schools or training institutions that teach or train gaming employees. The gaming activities of schools or training

institutions regulated by the Casino Gaming Commission shall be deemed to be legal under the laws of the State of Arkansas. Any person desiring to operate a school or training institution must be licensed by the Casino Gaming Commission.

15. Prescribe minimum procedures for adoption by the casino gaming licensee to exercise control over the internal fiscal affairs of the licensee. These procedures shall include, but are not limited to, procedures for the safeguarding of assets and revenues, especially the recording of cash and evidences of indebtedness, and for the provision of reliable records, accounts and reports of transactions, operations and events.

16. Have the authority to make any investigation necessary to determine whether there has been any violation of this Amendment or of any regulations adopted thereunder.

17. Establish procedures for disciplinary action against any person found to be in violation of this Amendment or of any regulations adopted thereunder.

18. Have the authority to request that the Attorney General institute a civil action in any court of this State against any person subject to this Amendment to restrain a violation of this Amendment.

19. Have the authority to initiate proceedings or actions appropriate to enforce the provisions of this Amendment and to recommend that a district attorney or the Attorney General prosecute any public offense committed in violation of any provision of this Amendment or State law.

20. Have the authority to sue and be sued in any court of competent jurisdiction.

21. Have the authority to acquire real property and make improvements thereon.

22. Have the authority to make, execute and effectuate any and all agreements or contracts, including contracts for the purchase of goods and services, as are necessary.

23. Employ such staff as may be necessary to carry out the provisions of this Amendment and

the regulations adopted pursuant thereto, including the hiring of a full-time executive director.

24. Employ the services of such persons as the Casino Gaming Commission considers necessary for the purposes of consultation or investigation and to fix the salaries of or contract for the services of legal, professional, technical and operational personnel and consultants.

25. Have the authority to acquire such furnishings, equipment, supplies, stationery, books and all other things as the Casino Gaming Commission may deem necessary or desirable in carrying out its functions.

26. Require periodic financial reports from the licensee and specify standard forms for reporting financial condition, results of operations and other relevant information; formulate a uniform code of accounts and accounting classifications to assure consistency, comparability and effective disclosure of financial information; and prescribe the intervals at which such information shall be furnished.

27. Require audits of the financial statements of the licensee. Any audit, compilation or review required by the Casino Gaming Commission must be made by independent accountants holding permits to practice public accounting in the State of Arkansas and the licensee shall be responsible for the payment of costs or fees generated by any such audit, compilation or review. Failure to pay such costs and fees may result in the revocation of the casino gaming license.

28. Adopt regulations which prescribe the manner in which winnings and compensation from games and gaming devices must be computed and reported by the licensee.

29. Perform such other duties which the Casino Gaming Commission may deem necessary to effectuate the purposes of this Amendment.

D. Funding of the Casino Gaming Commission

1. No funds from the State's General Treasury shall be used to pay for any costs associated with the Casino Gaming Commission and its operations, except that the Chief Fiscal Officer of the State shall be required to loan funds for the establishment and initial operation of the Casino Gaming Commission for a period not to exceed two (2) years after the effective date of this Amendment. The Chief Fiscal Officer of the State shall be required to make such loan available upon the effective date of this Amendment and such loan shall be made from the Budget Stabilization Trust Fund or any other fund determined by the Chief Fiscal Officer. Notwithstanding Sections 15-5-501 and 15-5-502 of the Arkansas Code of 1987, the loaning of funds for the establishment and initial operation of the Casino Gaming Commission shall be considered a valid and permitted use of funds from the Budget Stabilization Trust Fund or any other fund selected by the Chief Fiscal Officer. The Casino Gaming Commission shall repay any funds loaned for the establishment and initial operation of the Casino Gaming Commission within two (2) years of the date of the loan.

2. The cost of operating the Casino Gaming Commission two (2) years after passage of this Amendment may not exceed one (1) percent of the gross revenues of the casino gaming establishment operating in the State at that time. The costs of licensing and investigations shall not be included in the costs of operating the Casino Gaming Commission.

3. All costs of the Casino Gaming Commission, including the costs of all investigations called for in this Amendment, the costs of all licensing procedures called for in this Amendment, and any other costs associated with the Casino Gaming Commission and its operations, shall be paid for in the following manner:

(a) The costs of operating the Casino Gaming Commission, pursuant to subsection 2 of this Section, shall be paid for by the casino gaming establishment operating in the State, which

shall be required to pay one (1) percent of its gross revenues to the Casino Gaming Commission on a monthly basis. These funds shall be used exclusively for the operation of the Casino Gaming Commission, excluding the costs of licensing and investigations.

(b) The costs of the licensing called for in this Amendment shall be set by the Casino Gaming Commission and shall cover the costs of the licensing so that no other funds are used. Each entity applying for a license to conduct casino gaming shall pay the cost of that licensing procedure. The costs of licensing all gaming devices used in the State shall be determined by the Casino Gaming Commission and those costs shall be borne by those seeking the licenses. The costs of licensing all casino employees in the State and suppliers of casino gaming operations in the State shall be determined by the Casino Gaming Commission and those costs shall be borne by the individual or entity seeking those licenses, except that the costs thereof may be paid for by the casino gaming establishment for whom the employee shall be employed.

(c) Pursuant to this Amendment, all applicants for a license for casino gaming, to sell or manufacture gaming devices, or equipment, or to be an employee in the casino gaming establishment shall be investigated by the Division, which is charged with carrying out such investigations upon notification by the Casino Gaming Commission. The costs of these investigations shall be borne in their entirety by the applicant and shall be included in the fees paid by the applicant directly to the Casino Gaming Commission for deposit into a special account of the general fund of the State pursuant to subsection C.3 of this Section, except that the casino gaming establishment may pay for the cost of the investigation of its employees. The Casino Gaming Commission shall reimburse the Division from the special account of the general fund of the State for the costs incurred by the Division in carrying out its investigatory

functions under this Amendment.

4. No portion of the tax created in Section 6 to be dedicated to the Community Crime Prevention and Law Enforcement Trust shall be used for the operation, administration, licensing or investigatory functions of the Casino Gaming Commission or the Division.

E. Regulations of the Casino Gaming Commission

1. The Casino Gaming Commission shall have the power to promulgate regulations and rules consistent with this Amendment in order to carry out its duties, including but not limited to: the conduct of its meetings and proceedings; the hiring of necessary staff, including an executive director; licensing procedures, including information required from applicants; enforcement matters; the sale, distribution and manufacturing of gaming equipment; the licensing of casino gaming employees; the licensing of gaming equipment suppliers; the exclusion or ejection of certain persons from the casino gaming establishment; the requirement of on-site wagering; and the audit, internal and accounting control procedures and monitoring of the financial practices of the licensee.

2. The Casino Gaming Commission shall adopt, amend and repeal its regulations in accordance with the Arkansas Administrative Procedure Act and the other laws of this State.

Section 12: Casino Gaming Limited to Crittenden County

(A) Casino gaming shall be lawful and casino/resort development shall be considered appropriate land use in Crittenden County at a location described as: that part of Section 3, Township 6 North, Range 9 East that lies North of the Burlington-Northern Railroad right-of-way and West of the St. Francis Levee District levee right-of-way; and that part of Section 34, Township 7 North, Range 9 East lying South and East of the drainage canal known as

Drainage Ditch No. 2 and West of the St. Francis Levee District levee right-of-way, all of which is situated in Crittenden County, Arkansas.

(B) The casino gaming establishment may only be operated by an individual or entity that is licensed by the Casino Gaming Commission pursuant to this Amendment and regulations to be promulgated by the Casino Gaming Commission.

(C) No more than one (1) casino gaming establishment shall be permitted to operate at the location described in Section 12(A).

(D) Nothing in this Amendment shall be construed to regulate or impose any restrictions on any other initiatives or referenda passed by the voters at the November 8, 1994 election.

Section 13: Licensing Requirements

A. General Provisions

1. Those individuals or entities meeting the requirements of this Section may apply for the license to conduct casino gaming as set forth in this Section. The securing of a license as required by this Section shall be a prerequisite for conducting, operating or performing casino gaming. A license shall be granted to permit a casino gaming establishment to operate for any portion of a twenty-four (24) hour day that the licensee determines.

2. Any applicant, licensee or any other person who must be qualified pursuant to this Amendment shall provide all information required by this Amendment and satisfy all requests for information pertaining to qualification and in the form specified by the Casino Gaming Commission.

3. All applicants, the licensee, any intermediary companies and holding companies shall

consent to inspections, searches and seizures and the supplying of handwriting exemplars as authorized by this Amendment and regulations promulgated hereunder.

4. No applicant, licensee or any other person who must be licensed pursuant to this Amendment shall give or provide, offer to give or provide, directly or indirectly, any compensation or reward or any percentage or share of the money or property paid or received through gaming activities, except as authorized by this Amendment, in consideration for obtaining any license, authorization, permission or privilege to participate in any way in casino gaming.

5. All applicants for any licenses required by this Amendment shall publicly file on a form to be provided by the Casino Gaming Commission the name(s) and address(es) of any individual or entity who is compensated in any manner whatsoever or receives any benefit whatsoever for assisting the applicant obtain a license.

B. Licensing Applications and Investigations

1. Every individual or entity desiring to obtain any license under this Amendment shall make application to the Casino Gaming Commission on a form and in a manner as the Casino Gaming Commission prescribes. No application shall be accepted unless the Casino Gaming Commission determines that all relevant requirements of this Amendment have been met. Upon receipt of such an application, the Casino Gaming Commission shall, within seven (7) days of receipt, make an initial determination whether or not the application is complete and shall notify the applicant in writing of the determination. If the initial examination determines the application to be incomplete, the notice to the applicant shall set forth the reasons therefore.

2. Upon receipt of an application that the initial examination shows to be complete, the Casino Gaming Commission shall forward that application within ten (10) days to the Arkansas

State Police, Division of Criminal Investigation, which shall be charged with carrying out all such investigations as required by this Amendment. The applicant shall be assessed the cost to the Division of the investigation, as set forth in Section 11D.

3. Notwithstanding the other provisions of this Amendment, no casino gaming shall take place unless all necessary licenses and approvals therefore have been obtained in accordance with this Amendment. The granting of such necessary licenses and approvals shall not be unreasonably withheld.

C. Background Checks

1. As a prerequisite to obtaining a license as required by Sections 3(A), (B) and (C) of this Amendment, all license applications must be filed with the Casino Gaming Commission. Within ten (10) days after filing a completed application, the Casino Gaming Commission shall furnish the application to the Division who shall conduct a full investigation of the applicant.

2. The Division shall have the sole power to investigate the background and qualifications of each applicant. The Division shall conduct its investigations in accordance with applicable regulations as it may deem necessary. The Division shall have one-hundred and eighty (180) days to conduct the investigation of a casino gaming license applicant, ninety (90) days to conduct the investigation of a supplier's license applicant and sixty (60) days to conduct the investigation of an employee license applicant.

3. Upon completion of the investigation period described in this Amendment, the Division shall furnish to the Casino Gaming Commission the results of its investigation, including but not limited to all data, documents, written records and other materials which the Division reviewed or discovered during the investigation period.

D. Standard for Approval

1. The Casino Gaming Commission shall only award the casino gaming license to an applicant who demonstrates:

(a) By clear and convincing evidence that they have the financial stability, integrity and responsibility to operate a casino gaming establishment. All applicants shall produce such information, documentation and assurances concerning financial background and resources as may be required.

(b) By clear and convincing evidence the integrity of all financial backers, investors, mortgagees, bond holders, and holders of indentures, notes or other evidences of indebtedness, either in effect or proposed, which bear any relation to the casino proposal submitted by the applicant or applicants by producing such information, documentation and assurances as may be necessary. The integrity of financial sources shall be judged upon the same standards as the applicant. In addition, the applicant shall produce whatever information, documentation or assurances as may be required to establish by clear and convincing evidence the adequacy of financial resources both as to the completion of the casino proposal and the operation of the casino.

(c) By clear and convincing evidence their good character, honesty and integrity. All applicants shall produce such information, documentation and assurances as may be required. Such information shall include, without limitation, information pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the ten (10)-year period immediately preceding the filing of the application. If the applicant has conducted gaming operations in a jurisdiction which permits such activity, the applicant shall produce letters of reference from the gaming or casino enforcement or control agency which shall

specify the experiences of such agency with the applicant, his associates, and his gaming operation.

(d) By clear and convincing evidence that the applicant currently owns land at the single site that has been approved for casino gaming by this Amendment, as set forth in Section 12.

2. The standard for approval and qualification criteria for all other types of licenses shall be determined by the Casino Gaming Commission.

E. Casino Gaming License Disqualification Criteria

The Casino Gaming Commission shall deny a casino gaming license to any applicant who is disqualified on the basis of any of the following criteria:

1. Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this Amendment.

2. Failure of the applicant to provide information, documentation and assurances required by the Amendment or requested by the Casino Gaming Commission, failure of the applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria.

3. The conviction of the applicant, or of any person required to be qualified under this Amendment as a condition of a casino gaming license, of any offense in any jurisdiction which would be:

(a) A felony offense under the laws of this State, as determined by the Casino Gaming Commission;

(b) Any other offense under current State or federal law which indicates that licensure of the applicant would be inimical to the policy of this Amendment and to casino

gaming.

4. Current prosecution, or pending charges in any jurisdiction, of the applicant or of any person who is required to be qualified under this Amendment as a condition of a casino gaming license, for any of the offenses enumerated in subsection 3 of this Section; provided, however, that at the request of the applicant or the person charged, the Casino Gaming Commission shall defer decision upon such application during the pendency of such charge.

5. The pursuit, by the applicant or any person who is required to be qualified under this Amendment as a condition of a casino gaming license, of economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this State, if such pursuit creates a reasonable belief that the participation of such person in casino gaming would be inimical to the policies of this Amendment or to legalized gaming in this State. For purposes of this Section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.

6. The identification of the applicant or any person who is required to be qualified under this Amendment as a condition of a casino gaming license as a career offender, a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates a reasonable belief that the association is of such a nature as to be inimical to the policy of this Amendment and to casino gaming operations. For purposes of this Section, "career offender" shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policies of this State. A "career offender cartel" shall be defined as any group of persons who operate together as career offenders.

7. A determination by the Casino Gaming Commission that the applicant, or any

person who is required to be qualified under this Amendment as a condition of a casino gaming license, has committed any acts which would constitute any offense under subsection 5 of this Section, even if such conduct has not or may not be prosecuted under the criminal laws of this State.

8. Contumacious defiance, by the applicant or any person who is required to be qualified under this Amendment, of any legislative investigatory body or other official investigatory body of any state or of the United States when such body is engaged in the investigation of crimes relating to gaming, official corruption or organized crime activity.

9. The failure to demonstrate ownership of the land designated for casino gaming in Section 12 herein.

F. Order Approving or Denying Any License

1. When an application for any license required by this Amendment is denied, the Casino Gaming Commission shall prepare and file an order denying such application with the general reasons therefore, and if requested by the applicant, shall further prepare and file a statement of the reasons for the denial, including the specific findings of facts. An applicant whose application is denied shall have a right of immediate appeal to the Chancery Court of Pulaski County.

2. After an application for any license required by this Amendment is submitted to the Casino Gaming Commission, final action of the Casino Gaming Commission shall be taken within: two-hundred and forty (240) days of receipt of a completed casino gaming license application, one-hundred and fifty (150) days of receipt of a completed supplier's license application, one-hundred and twenty (120) days of receipt of a completed employee license application, or ninety (90) days after completion of all hearings and investigations and the

receipt of all information required by the Casino Gaming Commission for any of the licenses, whichever is sooner. Review of the Casino Gaming Commission's decision may be made pursuant to Section 16. A completed application that is not acted upon within the appropriate time period is deemed approved, and the Casino Gaming Commission shall grant the license.

3. If satisfied that an applicant is qualified to receive the casino gaming license, and upon tender of all license fees and taxes as required by law and regulations of the Casino Gaming Commission, and such bonds as the Casino Gaming Commission may require for the faithful performance of all requirements imposed by law or regulations, the Casino Gaming Commission shall issue the casino license for the term of three (3) years. The terms of all other licenses required by this Amendment shall be determined by the Casino Gaming Commission.

4. The Casino Gaming Commission shall fix the amount of the bond or bonds to be required under this Section in such amounts as it may deem appropriate, by rules of uniform application. The bonds so furnished may be applied by the Casino Gaming Commission to the payment of any unpaid liability of the casino gaming licensee under this Amendment. The bond shall be furnished in cash or negotiable securities, by a surety bond guaranteed by a satisfactory guarantor, or by an irrevocable letter of credit issued by a banking institution of this State acceptable to the Casino Gaming Commission. If furnished in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the Casino Gaming Commission, but any income shall inure to the benefit of the casino gaming licensee.

G. Renewal of Licenses

1. Subject to the power of the Casino Gaming Commission to deny, revoke or suspend licenses, the casino gaming license in force shall be renewed by the Casino Gaming

Commission for the next succeeding three (3)-year license period upon proper application for renewal and payment of license fees and taxes as required by the regulations of the Casino Gaming Commission. The Casino Gaming Commission shall act upon any such application prior to the date of expiration of the current license and may reopen licensing hearings at any time for good cause shown. The renewal process for other licenses required by this Amendment shall be determined by the Casino Gaming Commission.

2. Application for renewal shall be filed with the Casino Gaming Commission no later than one-hundred and twenty (120) days prior to the expiration of the current license, and all license fees and taxes as required by law shall be paid to the Casino Gaming Commission on or before the date of expiration of the current license.

3. Upon renewal of the casino gaming license, the Casino Gaming Commission shall issue an appropriate renewal certificate, validating device or sticker which shall be attached to the casino gaming license.

H. Files and Records to be Maintained by Casino Gaming Commission; Confidentiality

1. The Casino Gaming Commission shall maintain a file of all applications for licenses under this Amendment, together with a record of all action taken with respect to those applications. The file and record shall be open to public inspection. The Casino Gaming Commission may maintain such other files and records as it deems desirable.

2. All information and data furnished to, or obtained by, the Casino Gaming Commission from any source during the licensing process described in this Amendment are confidential and may be revealed in whole or in part only in the course of necessary administration of this Amendment or upon the lawful order of a court of competent jurisdiction, except that the

Casino Gaming Commission may reveal such information and data to an authorized agent of any agency of the United States Government, any state, or any political subdivision of this State pursuant to regulations adopted by the Casino Gaming Commission. Notice of the content of any information or data furnished or released pursuant to this subsection may be given to any applicant, the casino gaming licensee or any other holder of any license pursuant to this Amendment in a manner prescribed by regulations adopted by the Casino Gaming Commission.

Section 14: Alcoholic Beverage Control In Gaming Establishments

Notwithstanding any law, rule or regulation to the contrary, the casino gaming establishment shall be permitted to sell or provide complimentary alcoholic beverages, beer and wine during all hours that the casino gaming establishment is permitted to operate. The State Alcoholic Beverage Control Board shall have exclusive control over licensing for the use of alcoholic beverages, beer and wine as part of the casino gaming establishment. The State Alcoholic Beverage Control Board shall grant to the casino gaming establishment in operation pursuant to the action of the Casino Gaming Commission a license to sell and serve alcoholic beverages, beer and wine during all hours that the casino gaming establishment is permitted to operate. Nothing in this Section or Amendment shall be construed to prohibit the casino gaming establishment from petitioning the State Alcoholic Beverage Control Board for other conditions concerning its license and nothing in this Section or Amendment shall be construed to bar the State Alcoholic Beverage Control Board from granting such conditions.

Section 15: Alcohol and Drug Testing of Licensed Gaming

Employees.

The Casino Gaming Commission shall establish procedures for the alcohol and drug testing of licensed gaming employees.

Section 16: Judicial Review

A. Expedited Judicial Review: Petition; Intervention; Stay of Enforcement.

1. Any person aggrieved by a final decision or order of the Casino Gaming Commission made after a hearing or rehearing by the Casino Gaming Commission pursuant to this Amendment, and whether or not a petition for rehearing was filed, may obtain a judicial review thereof in the Chancery Court of Pulaski County.

2. The judicial review must be instituted by filing a petition within twenty (20) days after the effective date of the final decision or order. A petition may not be filed while a petition for rehearing or a rehearing is pending before the Casino Gaming Commission. The petition must set forth the order or decision appealed from and the grounds or reasons why petitioner contends a reversal or modification should be ordered.

3. Copies of the petition must be served upon the Casino Gaming Commission and all other parties of record, or their counsel of record, either personally or by certified mail.

4. The Chancery Court, upon a proper showing, may permit other interested persons to intervene as parties to the appeal or as friends of the court.

5. The filing of the petition does not stay enforcement of the decision or order of the Casino Gaming Commission, but the Casino Gaming Commission itself may grant a stay upon such terms and conditions as it deems proper.

6. The Chancery Court shall give priority over other civil actions to an action brought pursuant to this Section.

7. Anyone denied a license under this Amendment may use this Section to appeal the Casino Gaming Commission's decision.

8. Appeal under this Section may be made from any Casino Gaming Commission actions, decisions, or orders. In addition, any failures on the part of the Casino Gaming Commission or the Executive Branch to act within any time period mandated by this Amendment may be appealed under this Section.

B. Record on Review.

1. Upon written request of petitioner and upon payment of such reasonable costs and fees as the Casino Gaming Commission may prescribe, the complete record on review, or such parts thereof as are designated by the petitioner, must be prepared by the Casino Gaming Commission.

2. The record on review must be filed with the reviewing court within thirty (30) days after service of the petition for review, but the court may allow the Casino Gaming Commission additional time to prepare and transmit the record on review.

C. Additional Evidence Taken by Casino Gaming Commission; Review Confined to Record; Court May Affirm, Remand or Reverse.

1. The Chancery Court of Pulaski County may, upon motion therefore, order that additional evidence in the case be taken by the Casino Gaming Commission upon such terms and conditions as the court may deem just and proper. The motion must not be granted except upon a showing that the additional evidence is material and necessary and that sufficient reason existed for failure to present the evidence at the hearing of the Casino Gaming Commission. The motion must be supported by an affidavit of the moving party or his counsel showing with particularity the materiality and necessity of the additional evidence and the reason why it was

not introduced in the administrative hearing. Rebuttal evidence to the additional evidence must be permitted. In cases in which additional evidence is presented to the Casino Gaming Commission, the Casino Gaming Commission may modify its decisions and orders as the additional evidence may warrant and shall submit to the reviewing court a transcript of the additional evidence together with any modifications of the decision and order, all of which become a part of the record on review.

2. The review must be conducted by the Chancery Court of Pulaski County sitting without a jury and must not be a trial de novo but is confined to the record in review.

3. The reviewing Chancery Court may affirm the decision and order of the Casino Gaming Commission, or it may remand the case for further proceedings or reverse the decision if the substantial rights of the petitioner have been prejudiced because the decision is:

- (a) In violation of constitutional provisions;
- (b) In excess of the statutory authority or jurisdiction of the Casino Gaming Commission;
- (c) Made upon unlawful procedure;
- (d) Unsupported by any evidence; or
- (e) Arbitrary or capricious or otherwise not in accordance with law.

**Section 17: Gaming or Employment in Gaming Prohibited for
Persons
Under Twenty-One (21).**

(A) A person under the age of twenty-one (21) years shall not:

(1) Play, be allowed to play, place wagers on, or collect winnings from, whether personally or through an agent, any casino gaming.

(2) Loiter, or be permitted to loiter, in any room wherein any licensed casino gaming is operated or conducted.

(B) The casino gaming licensee or any employee, dealer or other person who violates or permits the violation of any of the provisions of this Section and any person under twenty-one (21) years of age who violates any of the provisions of this Section is guilty of a misdemeanor.

(C) In any prosecution or other proceeding for the violation of any of the provisions of this Section, it cannot be used as a defense by the licensee, employee, dealer or other person to plead that he believed the person to be twenty-one (21) years old or over unless the licensee, employee, dealer or other person reasonably relied upon a false drivers license or other officially issued identification which shows the person's age and his or her signature and photograph.

Section 18: Mandates on Executive Branch Activity.

(A) Appointments to the Casino Gaming Commission must be made within ninety (90) days of the approval of the initiative. All subsequent appointments must be made within ninety (90) days of the position being vacant. Should the Governor fail to make such appointments within that time period, any member of the Casino Gaming Commission may petition the Casino Gaming Commission to fill the vacancy. Should no members of the Casino Gaming Commission have been appointed, the Supreme Court of the State must appoint a member of the Casino Gaming Commission within sixty (60) days of there being a vacancy.

(B) Background checks for Casino Gaming Commission members must be completed within sixty (60) days of their appointment. If a background check is not completed within sixty (60) days, the appointee may serve on the Casino Gaming Commission on a provisional basis until the background check has been completed.

Section 19: Severability

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

Section 20: Inconsistent Provisions Inapplicable

All other provisions of the Constitution of this State, and all other laws and parts of laws of this State, inconsistent or in conflict with or otherwise imposing additional requirements to any of the provisions of this Amendment, are expressly declared not to apply to any person, partnership, group, association, trust, or corporation engaged or participating in casino gaming as provided for by this Amendment.

Section 21: Legal Shipments of Gambling Devices into State

All shipments of gambling devices, including slot machines, into any county of the State within which casino gaming is authorized, the registering, recording, and labeling of which has been duly had by the manufacturer or dealer thereof in accordance with Sections 3 and 4 of that certain Chapter of the Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce", approved January 2, 1951, being c. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. §§ 1171-1177, shall be deemed legal shipments thereof into any such county of this State within which casino gaming is authorized. Notwithstanding any provisions of the Constitution and laws to the contrary, it shall not be illegal to possess, offer, or play any authorized game or gaming device in accordance with the provisions of this Amendment and any such game or gaming device shall not constitute a lottery or game of chance.

Section 22: Penalties

(A) Conviction by a court of competent jurisdiction of a person for violation of, an attempt to violate or a conspiracy to violate any of the provisions of this Amendment shall act as an immediate revocation of all licenses which have been issued to the violator, and in addition, the court may, upon application of the district attorney of the county or of the Casino Gaming Commission, order that no new additional license under this Amendment be issued to the violator, or be issued to any person for the room or premises in which the violation occurred, for one (1)-year after the date of the revocation.

(B) Any person who willfully fails to report, pay or truthfully account for and pay over any license fee or tax imposed by the provisions of this Amendment, or willfully attempts in any manner to evade or defeat any such license fee, tax or payment thereof, shall be punished by imprisonment for not less than one (1)-year nor more than six (6) years, or by fine of not more than five-thousand dollars (\$5,000.00), or both imprisonment and fine.

(C) The violation of any of the provisions of this Amendment, the penalty for which is not specifically fixed in this Amendment, is a Class A misdemeanor.

Section 23: Effective Date

This Amendment shall be self-executing and shall take effect and become law on the date approved by a majority of the votes cast thereon and shall become operative on such date.

And by this, our petition, order that the same be submitted to the people of said State, to the end that the same may be adopted, enacted, or rejected by the vote of legal voters of said State at the regular general election to be held in said State on the 8th day of November, 1994, and each of us for himself or herself says: I have personally signed this petition; I am a

legal voter of the State of Arkansas; and my printed name, date of birth, residence, and city or town of residence are correctly written after my signature.