



**Dora**  
Department of Regulatory Agencies

**Office of Policy, Research and Regulatory Reform**

# **2012 Sunset Review: Colorado Division of Gaming**

October 15, 2012





## Executive Director's Office

Barbara J. Kelley  
Executive Director

John W. Hickenlooper  
Governor

October 15, 2012

Members of the Colorado General Assembly  
c/o the Office of Legislative Legal Services  
State Capitol Building  
Denver, Colorado 80203

Dear Members of the General Assembly:

The mission of the Department of Regulatory Agencies (DORA) is consumer protection. As a part of the Executive Director's Office within DORA, the Office of Policy, Research and Regulatory Reform seeks to fulfill its statutorily mandated responsibility to conduct sunset reviews with a focus on protecting the health, safety and welfare of all Coloradans.

DORA has completed the evaluation of the Colorado Division of Gaming (Division). I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2013 legislative committee of reference. The report is submitted pursuant to section 24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section...

The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination....

The report discusses the question of whether there is a need for the regulation provided under Article 47.1 of Title 12, C.R.S. The report also discusses the effectiveness of the Division and staff in carrying out the intent of the statutes and makes recommendations for statutory changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Barbara J. Kelley  
Executive Director





John W. Hickenlooper.  
Governor

Barbara J. Kelley  
Executive Director

## **2012 Sunset Review: Colorado Division of Gaming**

### **Summary**

#### ***What Is Regulated?***

The state's constitution and the Limited Gaming Act of 1991 (Act) authorize gaming in the form of slot machines, blackjack, craps, poker and roulette. All of these games, and any variations thereof, must be approved by the Limited Gaming Control Commission (Commission) and the Colorado Department of Revenue, Division of Gaming (Division) prior to use in the state. Additionally, the Act requires many organizations and individuals to be licensed: slot machine manufacturers and distributors, casino operators, retail casinos, support personnel (typically, employees involved in gaming) and key personnel (typically, management level employees).

#### ***Why Is It Regulated?***

As a cash-based business, gaming is inherently susceptible to cheating, theft and money laundering. Regulation serves to prevent such criminal acts and to preserve the public's confidence that gaming is conducted in a fair manner. Additionally, casinos' adjusted gross proceeds (AGP) are subject to a gaming tax, which is paid into the Limited Gaming Fund (Gaming Fund). On an annual basis, distributions are made from the Gaming Fund to a wide variety of constitutionally and statutorily mandated organizations. Regulation serves to ensure that AGP is appropriately calculated, gaming taxes are appropriately paid and Gaming Fund distributions are appropriately made.

#### ***Who Is Regulated?***

As of July 2012, the Division licensed 25 slot machine manufacturers and distributors, 18 operators, 14 gaming retailers, 638 key personnel and 6,980 support personnel.

#### ***How Is It Regulated?***

The Division licenses slot machine manufacturers and distributors, casino operators, retail casinos, key personnel and support personnel. Background investigations are key to the licensing process. The scope of such investigations is dictated by the license sought. Those for support personnel are relatively superficial compared to those of key personnel and the owners of the various types of businesses that are licensed.

Regulation also consists of constant monitoring to ensure licensee compliance with the many legal and technical requirements that have been implemented. This includes ensuring that only approved games are offered in casinos, that technical systems are operating properly and patrolling gaming areas to ensure there is no cheating or underage gaming.

#### ***What Does It Cost?***

In fiscal year 10-11, the Division spent approximately \$12.1 million on enforcement activities, and employed 92 full-time equivalent employees at its offices in Central City, Cripple Creek and Golden.

#### ***What Disciplinary Activity Is There?***

In fiscal year 10-11, the Division conducted 1,626 criminal investigations, took 734 disciplinary actions and imposed 63 fines totaling almost \$57,000.

## Key Recommendations

### **Continue the Division for nine years, until 2022.**

The Division enforces the Commission's rules, most of which are designed to protect players from unscrupulous casinos or to require accounting and reporting systems that help to ensure that gaming taxes are properly paid and calculated.

### **Amend the definition of gaming device to accommodate advances in technology.**

The Act defines gaming device by providing a list of physical objects, such as dice, cards, poker tables and the like. However, technology continues to advance and electronic versions of table games and cards, for example, are now available but cannot be used in Colorado because of the limits imposed by the definition of gaming device.

### **Define "associated equipment" and create an Associated Supplier license type to regulate those who develop, manufacture or sell it.**

Modern gaming is heavily dependent upon technology. Historically, most of that technology was developed and sold by slot machine manufacturers and distributors, which must be licensed to operate in this state. Increasingly, however, non-licensed vendors are marketing products to the industry. While the Division can approve a particular product for use at a particular casino, it lacks the authority to take disciplinary action, if warranted, against the suppliers of such products. Licensing, therefore, will increase public protection and also afford licensed casinos a certain level of comfort that the vendors with which they interact have been approved and are subject to certain regulatory requirements.

## Major Contacts Made During This Review

Citizen Link  
City of Black Hawk  
City of Central  
City of Cripple Creek  
Colorado Bureau of Investigation  
Colorado Community College System  
Colorado Department of Local Affairs  
Colorado Department of Human Services  
Colorado Division of Gaming  
Colorado Gaming Association

Colorado Interactive, LLC  
Colorado Judicial Department  
Limited Gaming Control Commission  
Gaming Laboratories International  
Gilpin County  
History Colorado  
Office of the Attorney General  
Problem Gambling Coalition of Colorado  
Problem Gambling Treatment & Research Center  
Southern Ute Division of Gaming

## What is a Sunset Review?

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether or not they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.

Sunset Reviews are Prepared by:  
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## Table of Contents

Background.....	1
Introduction.....	1
Types of Regulation.....	2
Sunset Process.....	4
Methodology.....	4
Profile of the Industry.....	4
Legal Framework.....	6
History of Regulation.....	6
Federal Law.....	9
Colorado Law.....	10
Program Description and Administration.....	22
Audit Section.....	23
Field Operations Section.....	25
Technical Systems Group.....	28
Enforcement and Investigations Section.....	29
Disciplinary Actions.....	36
Games Approval.....	37
Gaming Taxes and Gaming Fund Distributions.....	38
Gambling Payment Intercept Act.....	42
Analysis and Recommendations.....	44
Recommendation 1 – Continue the Colorado Division of Gaming for nine years, until 2022. ....	44
Recommendation 2 – Amend the definition of gaming device to accommodate advances in technology. ....	45
Recommendation 3 – Define “associated equipment” and create an Associated Supplier license type to regulate those who develop, manufacture or sell it. ....	46

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*Recommendation 4 – Clarify which licensees can own and possess slot machines, allow retail gaming license applicants to own and possess slot machines prior to final license approval, and direct the Commission to promulgate rules outlining the circumstances under which this can occur....48*

*Recommendation 5 – Authorize the Commission to promulgate rules governing dealers' accumulation of gratuities.....49*

*Recommendation 6 – Clarify the definition of vintage slot machine.....50*

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## Background

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### Introduction

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria<sup>1</sup> and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are based on the following statutory criteria:

- Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;
- Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

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<sup>1</sup> Criteria may be found at § 24-34-104, C.R.S.

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## **Types of Regulation**

Consistent, flexible, and fair regulatory oversight assures consumers, professionals and businesses an equitable playing field. All Coloradans share a long-term, common interest in a fair marketplace where consumers are protected. Regulation, if done appropriately, should protect consumers. If consumers are not better protected and competition is hindered, then regulation may not be the answer.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation.

### Licensure

Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection – only those individuals who are properly licensed may use a particular title(s) – and practice exclusivity – only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

### Certification

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.



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While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

### Registration

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements – typically non-practice related items, such as insurance or the use of a disclosure form – and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

### Title Protection

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency – depending upon the prescribed preconditions for use of the protected title(s) – and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

### Regulation of Businesses

Regulatory programs involving businesses are typically in place to enhance public safety, as with a salon or pharmacy. These programs also help to ensure financial solvency and reliability of continued service for consumers, such as with a public utility, a bank or an insurance company.

Activities can involve auditing of certain capital, bookkeeping and other recordkeeping requirements, such as filing quarterly financial statements with the regulator. Other programs may require onsite examinations of financial records, safety features or service records.

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Although these programs are intended to enhance public protection and reliability of service for consumers, costs of compliance are a factor. These administrative costs, if too burdensome, may be passed on to consumers.

### **Sunset Process**

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review via DORA's website at: [www.askdora.colorado.gov](http://www.askdora.colorado.gov).

The regulatory functions of the Division of Gaming (Division), within the Colorado Department of Revenue, as enumerated in Article 47.1 of Title 12, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2013, unless continued by the General Assembly. During the year prior to this date, it is the duty of DORA to conduct an analysis and evaluation of the administration of the Division pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed regulation of gaming should be continued for the protection of the public and to evaluate the performance of the Division. During this review, the Division must demonstrate that the regulation serves to protect the public health, safety or welfare, and that the regulation is the least restrictive regulation consistent with protecting the public. DORA's findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

### **Methodology**

As part of this review, DORA staff attended meetings of the Colorado Limited Gaming Control Commission (Commission); interviewed Division staff, Commission members, representatives of state industry associations, representatives of Limited Gaming Fund recipients, and representatives of individual casinos; reviewed Division records and Commission minutes including complaint and disciplinary actions; and reviewed Colorado statutes, Commission rules and the laws of other states.

### **Profile of the Industry**

On November 6, 1990, the voters of Colorado approved an amendment to the state's constitution authorizing gaming. Gaming began on October 1, 1991, with a total of 11 casinos statewide. By September 1992, there were 75 casinos, but on gaming's 20<sup>th</sup> anniversary, October 1, 2011, only 40 casinos remained.

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During those first 20 years, Colorado's casinos generated more than \$11.8 billion in adjusted gross proceeds<sup>2</sup> and paid almost \$1.6 billion in gaming taxes.<sup>3</sup> Gaming tax revenue has been used to fund state historical restoration projects, mitigate the impacts of gaming to state and local governments, and finance the regulation of the gaming industry.

Gaming in Colorado is constitutionally restricted to Central City, Black Hawk and Cripple Creek. One impetus behind the authorization of gaming was to preserve these historic mining towns. This goal has been most clearly realized in Cripple Creek, where the casinos tend to be smaller and where casino facades tend to reflect early 20<sup>th</sup> century architectural styles.

Colorado's casinos can offer the following games for play:

- Blackjack;
- Craps;
- Poker;
- Roulette; and
- Slot machines.

Blackjack is a card game in which each player at a table plays against the dealer. Each player is dealt two cards, face down, and may add to his or her hand, with the goal being to bring the total value of the hand to 21, without going over. A player who has a hand value that does not go over 21, but is higher than the dealer's, wins. There are many variations of blackjack.

Craps is a dice game in which the players place wagers on the outcome of the roll of a pair of dice.

Poker is actually a family of card games in which the winner is determined by the ranks and combinations of cards in the players' hands. Like blackjack, there are many variations of poker.

Roulette is a game in which a wheel is spun in one direction and a ball is spun in the opposite direction. The wheel has 38 alternating red and black pockets that are numbered. Players place wagers based on which pocket they think the spinning ball will stop.

Modern slot machines are almost entirely computerized and come in various themes. After the player places a wager, by inserting currency into the machine and pushing a button, the machine pays off winning outcomes based on a random number generator.

Colorado regulates virtually every aspect of gaming, from the companies that manufacture slot machines, to the people working on the casino floor.

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<sup>2</sup> Very simply, adjusted gross proceeds represent the amount wagered less the amount paid out in prizes.

<sup>3</sup> 2011 Annual Report: Colorado Division of Gaming and the Limited Gaming Control Commission, p. 2.

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## Legal Framework

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### *History of Regulation*

On November 6, 1990, the people of Colorado voted to amend the state's constitution to allow limited stakes gaming in defined geographical areas within the cities of Black Hawk, Central City and Cripple Creek. The amendment defined "limited gaming" as a maximum single bet of \$5 on slot machines (including video poker, blackjack and keno) and live blackjack and poker games.

In addition to legalizing gaming in the three towns, the 1990 amendment also:

- Created the Limited Gaming Control Commission (Commission), to be created under such department of government as the General Assembly should provide;
- Restricted gaming to structures that conform to the architectural styles and designs that were common to the areas prior to World War I, as determined by the respective municipal governments;
- Limited gaming to the hours between 8:00 a.m. and 2:00 a.m.;
- Provided for the taxing of gaming revenues, not to exceed 40 percent of adjusted gross proceeds, as determined by the Commission on an annual basis;
- Provided for the distribution of gaming taxes collected; and
- Defined the key terms of "adjusted gross proceeds," "limited gaming," and "slot machine."

Senate Bill 91-149, the Limited Gaming Act of 1991 (Act), implemented the 1990 amendment. The Act provided a comprehensive regulatory framework for gaming in the state, by, among other things:

- Creating the Division of Gaming (Division) within the Colorado Department of Revenue;
- Specifying that the Commission comprise five members: one peace officer; one attorney with experience in regulatory law; one accountant with knowledge of the principles and practices of corporate finance; one member with management-level experience in business; and one registered elector;
- Providing for the licensing of casinos and their employees, as well as slot machine manufacturers and distributors;

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- Providing for the collection of gaming tax, as well as the factors the Commission should consider in establishing the gaming tax rate, such as encouraging growth and investment in the gaming industry, the financial burdens associated with gaming on local governments, the profit levels of other “for profit” gaming in the state, and allowing casinos a reasonable profit;
  - Creating the Limited Gaming Fund (Gaming Fund) into which gaming tax is deposited and from which the expenses of the Division are paid, as well as from which annual distributions are made to certain, enumerated entities, including the State’s General Fund;
  - Creating the Contiguous Counties Limited Gaming Impact Fund for the purpose of reimbursing those counties contiguous to Gilpin and Teller Counties (the counties in which gaming is authorized) for various expenses incurred in response to gaming;
  - Authorizing the Governor to enter into gaming compacts with any Indian tribe seeking to conduct gaming in the state, as envisioned under the Federal Indian Gaming Regulations; and
  - Creating new criminal offenses related to gaming.

The Act has been amended many times since 1991. Some of the more notable changes include:

**Senate Bill 93-110** expanded those counties eligible for reimbursement from the Contiguous Counties Limited Gaming Impact Fund to include those counties contiguous to Indian lands on which gaming is conducted.

**Senate Bill 94-060** directed that the General Assembly appropriate to the State Highway Fund, from the annual Gaming Fund distribution to the State’s General Fund, funds to be used for transportation needs attributed to gaming, including gaming on Indian tribal lands.

**Senate Bill 94-079** created the Municipal Limited Gaming Impact Fund to compensate the municipalities located in Gilpin and Teller Counties, excluding the three towns in which gaming is authorized, for various expenses incurred in response to gaming in those two counties. Two percent of the funds distributed to the State’s General Fund from the Gaming Fund were to be transferred, annually, to the Municipal Limited Gaming Impact Fund.

**Senate Bill 96-033** authorized the Commission to promulgate rules for variations of poker and clarified some of the conflict of interest provisions surrounding institutional investors of casinos.

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**House Bill 96-1067** continued the Division following its first sunset review, and implemented several sunset recommendations, including: exempting retail gaming licensees from the need to also possess an operator license; extending the license period for individuals from one to two years; and exempting from regulation non-gaming employees of casinos.

**Senate Bill 97-027** consolidated the Municipal Limited Gaming Impact Fund and the Contiguous County Limited Gaming Impact Fund, into a new Local Government Limited Gaming Impact Fund (Local Government Fund).

**Senate Bill 03-113** continued the Division following its second sunset review, and implemented several sunset recommendations, including repealing the requirement that manufacturers have their own distributors and that such distributors be located in Colorado.

**House Bill 07-1349**, as part of a larger attempt to recover unpaid child support obligations, created the Gambling Payment Intercept Act (Intercept Act), which created a registry of individuals with outstanding child support debt and required casinos to check this registry prior to paying out any single jackpot large enough to trigger the casino to have to issue a U.S. Internal Revenue Service Form W-2G (Form W-2G). The Intercept Act requires casinos to withhold any moneys owed and to transmit them to the Colorado Department of Human Services.

**Senate Bill 08-027** extended the license renewal periods for retail gaming, operator, and slot machine manufacturer and distributor licenses from one year to two years, and authorized the transfer of slot machines between licensed casinos that are directly and completely owned by the same person.

**House Bill 08-1314** directed that two percent of the funds distributed to the Local Government Fund be transferred to the Colorado Department of Human Services for the provision of gambling addiction services. This provision was given its own sunset date of July 1, 2013, with no independent provision that a sunset review be conducted.

In November 2008, the people of the state voted to again amend the state's constitution relative to gaming. Among other things, the 2008 amendment authorized the voters of Black Hawk, Central City and Cripple Creek to authorize, through local elections:

- The hours during which gaming operations may be conducted in their respective towns;<sup>4</sup>
- The playing of the games roulette and craps in their respective towns; and
- The placement of single bets up to \$100 in their respective towns.

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<sup>4</sup> In essence, voters could authorize gaming 24 hours a day.

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If the towns approved these new limits:

- Any gaming tax revenues realized from these new limits became subject to a new, second set of distribution provisions; and
- The Commission would be prohibited from raising the gaming tax above the levels imposed as of July 1, 2008.

The voters in all three towns approved the changes for the casinos in their communities, and those changes went into effect July 2, 2009.

The Act was amended following the 2008 constitutional amendment. Some of the more notable changes include:

**House Bill 09-1272** implemented the 2008 constitutional amendment.

**House Bill 09-1137** expanded the type of debt obligations to which the Intercept Act applies to include restitution that a person has been ordered to pay pursuant to certain provisions of the criminal code.

**Senate Bill 11-051** expanded the type of debt obligations to which the Intercept Act applies to include debts owed to the State that are referred to the State Controller or the Central Collection Services Section in the Colorado Department of Personnel and Administration.

**Senate Bill 12-115** directed the Commission to consider the impact on Gaming Fund recipients when establishing the gaming tax rate.

In addition to the bills highlighted above, many more bills have been passed since 1991 that impact the manner in which Gaming Fund dollars are distributed.

## **Federal Law**

In general, gaming devices may only be transported to those states that have legalized gaming and even then, only to licensed or exempted gaming establishments within such states.<sup>5</sup> Additionally, anyone who manufactures, repairs, reconditions, buys, sells, leases, uses or makes available for use any gaming device must register with the U.S. Attorney General.<sup>6</sup> Every gaming device must clearly display its serial number, manufacturer and date of manufacture.<sup>7</sup>

Interstate and international gambling using the nation's wired communications systems, including telephone lines and internet connections, is generally prohibited.<sup>8</sup>

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<sup>5</sup> 15 U.S.C. § 1172(a).

<sup>6</sup> 15 U.S.C. § 1173(a).

<sup>7</sup> 15 U.S.C. § 1173(b).

<sup>8</sup> 18 U.S.C. § 1084(a) and 31 U.S.C. § 5363.

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The federal Indian Gaming Regulatory Act establishes a National Indian Gaming Commission and seeks to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments.<sup>9</sup> In short, Indian tribes may engage in, license or regulate gaming on Indian lands provided the gaming is located within a state that permits such gaming<sup>10</sup> and the Indian tribe enters into a tribal-state compact with the host state.<sup>11</sup> The compact may include provisions relating to, among other things:<sup>12</sup>

- The application of the criminal and civil laws and regulations of the Indian tribe or the state that are directly related to, and necessary for, the licensing and regulation of such activity;
- The allocation of criminal and civil jurisdiction between the state and the Indian tribe necessary for the enforcement of such laws and regulations; and
- Standards for the operation of such activity and maintenance of the gaming facility, including licensing.

### **Colorado Law**

The Colorado Constitution authorizes gaming in Black Hawk, Central City and Cripple Creek as of October 1, 1991.<sup>13</sup> The constitution provides the general framework for gaming in the state by, among other things:

- Creating the Commission;<sup>14</sup>
- Specifying geographical and architectural restrictions on where gaming may occur;<sup>15</sup>
- Specifying the types of games that may be played;<sup>16</sup>
- Placing limitations on the amount of money that may be wagered on any single bet;<sup>17</sup>
- Providing definitions of key terms;<sup>18</sup> and
- Providing for the taxation of gaming revenues and the distribution of those funds.<sup>19</sup>

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<sup>9</sup> 25 U.S.C. § 2702.

<sup>10</sup> 25 U.S.C. § 2710(b).

<sup>11</sup> 25 U.S.C. § 2710(d)(1)(C).

<sup>12</sup> 25 U.S.C. §2710(d)(3)(C).

<sup>13</sup> Colo. Const. Art. XVIII, §9(1).

<sup>14</sup> Colo. Const. Art. XVIII, § 9(2).

<sup>15</sup> Colo. Const. Art. XVIII, § 9(3).

<sup>16</sup> Colo. Const. Art. XVIII, §§ 9(4)(b) and 9(7)(a)(II).

<sup>17</sup> Colo. Const. Art. XVIII, §§ 9(4)(b) and 9(7)(a)(III).

<sup>18</sup> Colo. Const. Art. XVIII, § 9(4).

<sup>19</sup> Colo. Const. Art. XVIII, § 9(5).



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To implement the constitution, the General Assembly enacted the Act, which can be found at section 12-47.1-101, *et seq.*, Colorado Revised Statutes. It comprises 14 parts:<sup>20</sup>

- Part 1: General Provisions
- Part 2: Division of Gaming
- Part 3: Colorado Limited Gaming Control Commission
- Part 4: Conflict of Interest
- Part 5: Licensing
- Part 6: Gaming Tax
- Part 7: Limited Gaming Fund
- Part 8: Unlawful Acts
- Part 9: Charitable Gaming
- Part 10: Excluded Persons
- Part 11: Gaming Devices
- Part 12: State Historical Society
- Part 16: Local Government Limited Gaming Impact Fund
- Part 17: Independent Restoration and Preservation Commission

The scope of this sunset report is limited to the Division and the powers, duties and functions of the Director of the Division (Director).<sup>21</sup> Therefore, this sunset report will focus more on those constitutional and statutory provisions over which the Division has regulatory or administrative control.

## Gaming

Gaming is geographically restricted to the commercial districts of three historic mining towns, and only as those commercial districts existed on the following dates:<sup>22</sup>

- Black Hawk on May 4, 1978;
- Central City on October 7, 1981; and
- Cripple Creek on December 3, 1973.

Within these three towns, gaming can only be conducted in structures that conform to the architectural styles that were common to those towns prior to World War I.<sup>23</sup> No more than 35 percent of the square footage of any building, and no more than 50 percent of any single floor may be used for gaming.<sup>24</sup>

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<sup>20</sup> Parts 13 – 15 of Article 47.1, Title 12, C.R.S., have been repealed.

<sup>21</sup> § 12-47.1-206, C.R.S.

<sup>22</sup> Colo. Const. Art. XVIII, § 9(3)(a) and § 12-47.1-105, C.R.S.

<sup>23</sup> Colo. Const. Art. XVIII, § 9(3)(b).

<sup>24</sup> Colo. Const. Art. XVIII, § 9(3)(c).

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Gaming in Colorado is limited to blackjack, craps, poker, roulette and slot machines, with each game having a maximum single bet of \$100.<sup>25</sup> Gaming is further limited to being conducted only on licensed premises, and only the above enumerated games may be played on such premises.<sup>26</sup>

All variations of blackjack, craps, poker and roulette must be field tested for no more than 180 days before they can be approved by the Commission.<sup>27</sup> The Commission has promulgated rules for several variations of these games.

Similarly, the Division must approve all slot machines, their component parts, and other equipment prior to use in the state.<sup>28</sup> Only licensees may legally possess slot machines.<sup>29</sup>

A person must be at least 21 years old to participate in gaming, linger in the gaming area of a casino, or sit on a chair or be present at a gaming table, slot machine or other area in which gaming is conducted.<sup>30</sup>

Cheating at gaming is prohibited, by both players and licensees.<sup>31</sup>

It is a Class 1 misdemeanor for a licensee to refuse to pay the winner of any limited gaming game.<sup>32</sup> However, before making a payment of cash gaming winnings for which Form W-2G must be issued,<sup>33</sup> a licensed casino must comply with the Intercept Act.<sup>34</sup>

The Intercept Act requires the Colorado Department of Revenue (Department), or a private entity with which the Department contracts, to create and maintain a registry (Registry) of individuals who owe a combined total of \$300 or more in:<sup>35</sup>

- Unpaid child support;
- Restitution that a person has been ordered to pay by a court; and
- Any unpaid debt due to the State that is referred to the State Controller or the Central Collection Services Section of the Colorado Department of Personnel and Administration's Division of Finance and Procurement.

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<sup>25</sup> Colo. Const. Art. XVIII, §§ 9(4)(b) and 9(7)(a), and § 12-47.1-103(19), C.R.S.

<sup>26</sup> Commission Rule 47.1-105(1).

<sup>27</sup> Commission Rule 47.1-325.

<sup>28</sup> Commission Rule 47.1-1201, *et seq.*

<sup>29</sup> § 12-47.1-1103, C.R.S.

<sup>30</sup> § 12-47.1-809(1)(a), C.R.S.

<sup>31</sup> §§ 12-47.1-822, 12-47.1-823, 12-47.1-824, 12-47.1-825, and 12-47.1-826, C.R.S.

<sup>32</sup> § 12-47.1-817, C.R.S.

<sup>33</sup> For 2012, a Form W-2G is required for slot machine payouts of \$1,200 or more, and for table game winnings of \$600 or more that are at least 300 times the amount of the wager.

<sup>34</sup> § 12-47.1-531(1), C.R.S.

<sup>35</sup> §§ 24-35-603(2) and 24-35-604(1), C.R.S.

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Before making a payment to a winner for which a Form W-2G must be issued, a licensed casino must check the Registry.<sup>36</sup> If the winner owes a listed debt, the casino must withhold the amount owed from the winnings and send that amount to the Registry operator within 24 hours. The Registry operator must then send the money to the organization that reported the debt to the Registry.<sup>37</sup>

A licensed casino that violates the Intercept Act is subject to sanctions by the Commission.<sup>38</sup>

The Commission may provide for a list of people who are to be excluded or ejected from any licensed gaming establishment.<sup>39</sup> In developing this list, the Commission may consider a variety of factors, most of which pertain to criminal or dishonest activity.<sup>40</sup> It is a Class 5 felony for any person on this list to enter a licensed casino or to have any pecuniary interest in any licensee.<sup>41</sup>

Certain organizations can sponsor gaming events at licensed casinos, provided, among other things:<sup>42</sup>

- The organization is a charitable organization;
- The organization and the licensed casino have a written agreement; and
- All sponsored events take place on licensed retail gaming premises.

## Commission

The Commission comprises five members who are appointed by the Governor with the consent of the Senate.<sup>43</sup>

- One member must have at least five years of experience in law enforcement as a peace officer;
- One member must have been a Colorado-licensed attorney for at least five years and with experience in regulatory law;
- One member must be an accountant who has practiced in Colorado for at least five years and who has comprehensive knowledge of the principles and practices of corporate finance;
- One member must be an individual who has been engaged in business in a management-level capacity for at least five years; and
- One member must be a Colorado-registered voter who is not employed in law enforcement or the practices of law or accounting.

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<sup>36</sup> § 24-35-605(1)(b), C.R.S.

<sup>37</sup> § 24-35-605(2), C.R.S.

<sup>38</sup> § 24-35-606, C.R.S.

<sup>39</sup> § 12-47.1-1001(2), C.R.S.

<sup>40</sup> § 12-47.1-1001(2), C.R.S.

<sup>41</sup> § 12-47.1-828, C.R.S.

<sup>42</sup> § 12-47.1-901, C.R.S.

<sup>43</sup> § 12-47.1-301(1), C.R.S.

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All members must be U.S. citizens and have been residents of Colorado for at least five years. No more than three members may belong to the same political party and no more than one member may live in any one Congressional district. No member may have been convicted of a felony or gambling-related offense.<sup>44</sup>

Commission members may serve no more than two consecutive, four-year terms,<sup>45</sup> and they may be paid \$100 for each day spent in the conduct of Commission business and reimbursed for necessary travel.<sup>46</sup> The Governor may remove any member of the Commission at any time.<sup>47</sup>

The Commission members elect a chair and vice chair each year,<sup>48</sup> and the Commission must meet at least monthly.<sup>49</sup>

The Commission is a Type 2 commission<sup>50</sup> and is empowered to, among other things:

- Promulgate rules governing the licensing, conducting and operating of gaming;<sup>51</sup>
- Conduct hearings upon complaints charging violations of the Act or Commission rules;<sup>52</sup>
- Issue licenses to those involved in the ownership, participation or conduct of gaming;<sup>53</sup>
- Levy fines and suspend or revoke licenses;<sup>54</sup>
- Establish and collect fees and taxes upon persons, licenses, and gaming devices used in gaming;<sup>55</sup>
- Establish internal control procedures for licensees, including accounting procedures, reporting procedures and personnel policies;<sup>56</sup>
- Establish and collect fees for performing background checks on applicants for licenses;<sup>57</sup>
- Establish and collect fees for performing tests on equipment and devices to be used in gaming;<sup>58</sup> and
- Establish a field office in Black Hawk, Central City or Cripple Creek.<sup>59</sup>

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<sup>44</sup> § 12-47.1-301(1), C.R.S.

<sup>45</sup> § 12-47.1-301(1)(b), C.R.S.

<sup>46</sup> § 12-47.1-301(1)(f), C.R.S.

<sup>47</sup> § 12-47.1-301(1)(d), C.R.S.

<sup>48</sup> § 12-47.1-301(1), C.R.S.

<sup>49</sup> § 12-47.1-301(1)(h), C.R.S.

<sup>50</sup> § 12-47.1-302(1), C.R.S.

<sup>51</sup> § 12-47.1-302(1)(a), C.R.S.

<sup>52</sup> § 12-47.1-302(1)(b), C.R.S.

<sup>53</sup> § 12-47.1-302(1)(h), C.R.S.

<sup>54</sup> § 12-47.1-302(1)(i), C.R.S.

<sup>55</sup> § 12-47.1-302(1)(j), C.R.S.

<sup>56</sup> § 12-47.1-302(1)(q), C.R.S.

<sup>57</sup> § 12-47.1-302(1)(r), C.R.S.

<sup>58</sup> § 12-47.1-302(1)(s), C.R.S.

<sup>59</sup> § 12-47.1-302(1)(t), C.R.S.

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Members of the Commission are in positions of public trust, and as such, they, as well as their immediate family members, must not:<sup>60</sup>

- Have any interest of any kind in a license issued under the Act;
- Own or have any interest in real estate in Gilpin or Teller Counties or in Black Hawk, Central City or Cripple Creek;
- Receive any gift, gratuity, employment or other thing of value from any person or organization that contracts with the Division or Commission, or from any licensee; or
- Participate in gaming in Colorado.

Additionally, Commission members must not have been convicted of a felony or any gambling-related offense.<sup>61</sup>

### Division

The Division is administratively housed in the Department as a Type 2 agency.<sup>62</sup> Its function is to license, implement, regulate and supervise the conduct of gaming in the state.<sup>63</sup>

The Director must not have been convicted of any felony or gambling-related offense<sup>64</sup> and must not be engaged in any other profession or occupation that could present a conflict of interest.<sup>65</sup>

Some of the Director's statutory responsibilities include:<sup>66</sup>

- Supervising and administering the operation of the Division;
- Attending Commission meetings;
- Employing such personnel as may be necessary to carry out the purposes of the Act, but no person so employed can have been convicted of a felony or gambling-related offense;
- Advising and recommending to the Commission such rules and other procedures the Director deems necessary;
- Furnishing to the State Treasurer and the Commission a monthly report of the Division's revenue and expenses for each month; and
- Annually preparing and submitting to the Commission, for its approval, a proposed budget for the succeeding fiscal year.

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<sup>60</sup> § 12-47.1-401(1), C.R.S.

<sup>61</sup> § 12-47.1-401(1)(e), C.R.S.

<sup>62</sup> § 12-47.1-201, C.R.S.

<sup>63</sup> § 12-47.1-202, C.R.S.

<sup>64</sup> § 12-47.1-203(1)(b), C.R.S.

<sup>65</sup> § 12-47.1-203(1)(c), C.R.S.

<sup>66</sup> § 12-47.1-203(2), C.R.S.

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All investigators of the Division, including their supervisors and the Director, are peace officers.<sup>67</sup>

Employees of the Division are in positions of public trust, and as such, they, as well as their immediate family members, must not:<sup>68</sup>

- Have any interest of any kind in a license issued under the Act;
- Own or have any interest in real estate in Gilpin or Teller Counties or in Black Hawk, Central City or Cripple Creek, except that those employees regularly assigned to work in Gilpin or Teller Counties may live in and own residential property in those counties with Commission approval;
- Receive any gift, gratuity, employment or other thing of value from any person or organization that contracts with the Division or Commission, or from any licensee; or
- Participate in gaming in Colorado.

Additionally, employees of the Division must not have been convicted of a felony or any gambling-related offense.<sup>69</sup>

### Licensing

The Commission may issue five types of licenses:<sup>70</sup>

- Slot Machine Manufacturer or Distributor;
- Operator;
- Retail Gaming;
- Support; and
- Key.

A slot machine manufacturer or distributor license is required for anyone who imports, manufactures or distributes slot machines in the state. These licenses are valid for two years from the date of issue. License fees are established by the Commission by rule.<sup>71</sup>

An operator license is required for anyone who permits slot machines on his or her premises or who engages in the business of placing and operating slot machines on the premises of a retail gaming licensee. A licensed operator may obtain slot machines only from, and may return them only to, a licensed slot machine manufacturer or distributor. These licenses are valid for two years from the date of issue. License fees are established by the Commission by rule.<sup>72</sup>

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<sup>67</sup> § 12-47.1-204(3), C.R.S.

<sup>68</sup> § 12-47.1-401(1), C.R.S.

<sup>69</sup> § 12-47.1-401(1)(e), C.R.S.

<sup>70</sup> § 12-47.1-501(1), C.R.S.

<sup>71</sup> § 12-47.1-501(1)(a), C.R.S.

<sup>72</sup> § 12-47.1-501(1)(b), C.R.S.

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Slot machine manufacturers or distributors are generally prohibited from having any interest in any operator without first notifying the Division.<sup>73</sup>

A retail gaming license is required for anyone who permits or conducts gaming on his or her premises. A person holding a retail gaming license may obtain slot machines only from, and may return them only to, a licensed slot machine manufacturer or distributor, except that transfers between retail gaming licensees that are directly and completely owned by the same person are permissible. These licenses are valid for two years from the date of issue. License fees are established by the Commission by rule.<sup>74</sup> No person may hold an ownership interest in more than three retail gaming licenses.<sup>75</sup>

A support license is required for all people employed in the field of gaming. These licenses are valid for two years from the date of issue. License fees are established by the Commission by rule.<sup>76</sup>

A key license is required for any executive, employee or agent of a retail or operator licensee having the power to exercise significant influence over decisions concerning any part of the operation of the retail gaming licensee or operator. Every retail gaming licensee must have a key licensee available at all times when gaming is being conducted. These licenses are valid for two years from the date of issue. License fees are established by the Commission by rule.<sup>77</sup>

Holders of a support license or a key license must be at least 21 years old,<sup>78</sup> and such licensees are generally prohibited from participating in gaming at the establishments at which they are employed.<sup>79</sup> These individuals must display their license badges while working.<sup>80</sup>

All licensees must be of good moral character and submit to a background investigation.<sup>81</sup>

The Division may examine the backgrounds, personal history, financial associations, character, record, and reputation of applicants, and people associated with applicants to the extent necessary to determine the suitability of applicants.<sup>82</sup>

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<sup>73</sup> § 12-47.1-835, C.R.S.

<sup>74</sup> § 12-47.1-501(1)(c), C.R.S.

<sup>75</sup> § 12-47.1-808, C.R.S.

<sup>76</sup> § 12-47.1-501(1)(d), C.R.S.

<sup>77</sup> §§ 12-47.1-103(14) and 12-47.1-501(1)(e), C.R.S.

<sup>78</sup> § 12-47.1-811, C.R.S.

<sup>79</sup> § 12-47.1-814(2), C.R.S.

<sup>80</sup> Commission Rule 47.1-409.

<sup>81</sup> § 12-47.1-505, C.R.S.

<sup>82</sup> Commission Rule 47.1-306.

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The Commission must deny a license to any applicant who has been convicted of any:<sup>83</sup>

- Felony;
- Misdemeanor gambling-related offense or misdemeanor theft by deception;
- Misdemeanor involving fraud or misrepresentation;
- Gambling-related felony or felony theft by deception; or
- Felony involving fraud or misrepresentation.

None of the following may have any interest in any license issued by the Commission:<sup>84</sup>

- Officers, reserve officers or employees of any law enforcement agency of the State of Colorado with the authority to investigate or prosecute crimes in Gilpin or Teller Counties, or any local law enforcement agency or detention or correctional facility within either county;
- District, county or municipal judges whose jurisdiction includes any part of Gilpin or Teller Counties; and
- Elected municipal officials or county commissioners of Gilpin or Teller Counties, and of Black Hawk, Central City or Cripple Creek.

### Enforcement

Any license issued under the Act may be summarily suspended, suspended or revoked by the Commission for any reason which would have prevented its issuance, including:<sup>85</sup>

- Violation of any provision of the Act;
- Violation of any of the Commission's rules;
- Violation any of the rules promulgated by the Executive Director of the Department; or
- Conviction of a crime.

In addition to revocation or suspension, or in lieu thereof, the Commission may fine the following license types in amounts not to exceed the following:<sup>86</sup>

- Slot Machine Manufacturer or Distributor - \$100,000
- Operator - \$25,000
- Retailer - \$25,000
- Key - \$5,000
- Support - \$2,500

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<sup>83</sup> § 12-47.1-510(1)(c), C.R.S.

<sup>84</sup> § 12-47.1-804(1), C.R.S.

<sup>85</sup> §§ 12-47.1-524 and 12-47.1-525(1), C.R.S.

<sup>86</sup> § 12-47.1-525(1)(b), C.R.S.



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All fines collected by the Commission are deposited into the Gaming Fund.<sup>87</sup>

Any sheriff or police officer in the state may enforce any provision of the Act or Commission rules.<sup>88</sup>

The state's district attorneys must prosecute all violations of the Act in the same manner as provided for other crimes and misdemeanors.<sup>89</sup>

The Colorado Bureau of Investigation is authorized to: conduct criminal investigations and provide law enforcement oversight relating to violations of the Colorado Organized Crime Control Act as they relate to gaming; develop and collect information with regard to organized crime relating to gaming; prepare reports concerning any activities of organized crime related to gaming; and inspect premises, equipment, books, records or other written material maintained by a licensee.<sup>90</sup>

### Gaming Tax and Gaming Fund Distributions

A gaming tax is assessed on a casino's adjusted gross proceeds (AGP),<sup>91</sup> which are defined as,

the total amount of all wagers made by players on limited gaming less all payments to players; and payment to players shall include all payments of cash premiums, merchandise, tokens, redeemable game credits, or any other thing of value. With respect to games of poker, "adjusted gross proceeds" means any sum wagered in a poker hand which may be retained by the licensee as compensation which must be consistent with the minimum and maximum amounts established by the [Commission].<sup>92</sup>

The tax is established by the Commission on an annual basis.<sup>93</sup> Originally, the tax could not exceed 40 percent of AGP. However, following an amendment to the state's constitution in 2008, the tax rate was capped at the rate in place as of July 1, 2008.<sup>94</sup> The graduated rates in place as of that date ranged from 0.25 percent to 20 percent.

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<sup>87</sup> § 12-47.1-525(2), C.R.S.

<sup>88</sup> § 12-47.1-703, C.R.S.

<sup>89</sup> § 12-47.1-703, C.R.S.

<sup>90</sup> § 12-47.1-831(2), C.R.S.

<sup>91</sup> Colo. Const. Art. XVIII, §9(5)(a) and § 12-47.1-601(1), C.R.S.

<sup>92</sup> § 12-47.1-103(1), C.R.S.

<sup>93</sup> Colo. Const. Art. XVIII, § 9(5)(a).

<sup>94</sup> Colo. Const. Art. XVIII, §§ 9(5)(a) and 9(7)(e) and § 12-47.1-601(1)(g)(l), C.R.S.

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In establishing the tax rate, the Commission must consider, among other things:<sup>95</sup>

- The need to provide money to Black Hawk, Central City and Cripple Creek for historic preservation;
- Gaming's impact on the communities and any state agency regarding infrastructure, law enforcement, environment, public health and safety, education requirements, and human services;
- The impact of the tax on licensees and the profitability of their operations;
- The profitability of other "for-profit" forms of gambling in this state;
- The profitability of similar forms of gambling in other states;
- The expenses of the Commission and Division; and
- The impact on recipients of Gaming Fund distributions.

Gaming tax returns must be filed, and the tax paid, to the Division by the 15<sup>th</sup> of each month, for the previous month.<sup>96</sup> Various criminal and monetary penalties attach for failing to file a return, filing a false or fraudulent return, or failing to pay the required tax.<sup>97</sup>

All gaming taxes, and other revenues of the Division, are paid into the Gaming Fund, and all expenses of the Commission and Division are paid from the Gaming Fund.<sup>98</sup>

At the end of each fiscal year, the moneys in the Gaming Fund, less an amount equal to the Commission's and Division's expenses for the preceding two months, are distributed as follows:<sup>99</sup>

- 50 percent (State Share) to such funds as the General Assembly may designate;
- 28 percent to the State Historical Fund;<sup>100</sup>
- 12 percent to Gilpin and Teller Counties, in proportion to the gaming revenues generated in each county; and
- 10 percent to Black Hawk, Central City and Cripple Creek in proportion to the gaming revenues generated in each city.

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<sup>95</sup> §§ 12-47.1-601(1) and 12-47.1-601(1.5), C.R.S.

<sup>96</sup> § 12-47.1-602, C.R.S.

<sup>97</sup> §§ 12-47.1-603 and 12-47.1-604, C.R.S.

<sup>98</sup> § 12-47.1-701(1), C.R.S.

<sup>99</sup> Colo. Const. Art. XVIII, § 9(5)(b) and § 12-47.1-701(1)(d), C.R.S.

<sup>100</sup> Distributions from the State Historical fund are further governed by § 12-47.1-1201, *et seq.*, C.R.S.

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The first \$19.2 million of the State Share is distributed to the General Fund.<sup>101</sup> Any amounts greater than \$19.2 million, but less than \$48.5 million are distributed as follows.<sup>102</sup>

- 50 percent to the Colorado Travel and Tourism Promotion Fund;
- 18 percent to the Bioscience Discovery Evaluation Cash Fund;
- 15 percent to the Local Government Limited Gaming Impact Fund;<sup>103</sup>
- 7 percent to the Innovative Higher Education Research Fund;
- 5 percent to the New Jobs Incentives Cash Fund; and
- 5 percent to the Creative Industries Cash Fund.

Any amount of the State Share greater than \$48.5 million is distributed to the General Fund.<sup>104</sup>

The Commission is further tasked with implementing a rather complex formula to determine the amount of gaming tax realized as a result of extended gaming.<sup>105</sup> Extended gaming is, in short, the gaming authorized under the 2008 amendment, which comprises extended casino hours, the games of craps and roulette and single maximum bets up to \$100.

Extended gaming tax revenues are deposited into the Extended Limited Gaming Fund, and are distributed as follows:<sup>106</sup>

- 78 percent to the state's public community colleges, junior colleges and local district colleges to supplement state funded financial aid programs and classroom instruction;
- 10 percent to Black Hawk, Central City and Cripple Creek based on the proportion of extended gaming tax revenues paid by the licensees in each city; and
- 12 percent to Gilpin and Teller Counties based on the proportion of extended gaming tax revenues paid by the licensees in each county.

The State Auditor audits the Gaming Fund each year.<sup>107</sup>

By March 1 each year, the Commission and the Division must submit to the Governor, the Executive Director of the Department, the General Assembly and the Legislative Audit Committee, a report that includes a summary of the Division's activities for the previous year and a statement of the Division's revenues and expenditures.<sup>108</sup>

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<sup>101</sup> § 12-47.1-701(2)(a), C.R.S.

<sup>102</sup> § 12-47.1-701(2)(a)(II), C.R.S.

<sup>103</sup> Distributions from the Local Government Limited Gaming Impact Fund are further governed by § 12-47.1-1601, *et seq.*, C.R.S.

<sup>104</sup> § 12-47.1-701(2)(a)(III), C.R.S.

<sup>105</sup> §§ 12-47.1-701.5(1) – (3), C.R.S.

<sup>106</sup> Colo. Const. Art. XVIII, § 9(7)(c)(III) and § 12-47.1-701.5(3)(c), C.R.S.

<sup>107</sup> § 12-47.1-702(1), C.R.S.

<sup>108</sup> § 12-47.1-702(2), C.R.S.

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## Program Description and Administration

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The Colorado Limited Gaming Control Commission (Commission) is tasked with regulating gaming in the state. The Colorado Department of Revenue, Division of Gaming (Division) is tasked with administering and enforcing the rules promulgated by the Commission and the provisions of the Limited Gaming Control Act of 1991 (Act).

The Commission comprises five members, one each:

- Law enforcement official;
- Attorney with experience in administrative law;
- Accountant with experience in corporate finance;
- Business person with management-level experience; and
- Registered voter.

No more than three Commission members may belong to the same political party and no more than one Commission member may be from any one Congressional district.

The Commission meets monthly, and members of the public typically attend. Most meetings are held at the Division's offices in Golden, but the Commission attempts to hold at least one meeting each year at each of the Division's regional offices in Central City and Cripple Creek.

The Division is tasked with enforcing the Act and the Commission's rules, and for providing administrative support to the Commission. Table 1 illustrates, for the years indicated, the number of full-time equivalent (FTE) employees employed by the Division and the Division's expenditures.

**Table 1**  
**Division Staff and Expenditures**

<b>Fiscal Year</b>	<b>FTE</b>	<b>Expenditures</b>
06-07	72	\$9,012,970
07-08	72	\$10,318,448
08-09	76	\$11,251,725
09-10	92	\$12,372,541
10-11	92	\$12,097,097

The increases in expenditures and FTE in fiscal year 09-10 are attributable to the passage and implementation of the constitutional amendment passed in 2008, which became effective on July 2, 2009, and added to the Division's responsibilities and workload.

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As of the end of fiscal year 11-12, the Division employed 92 FTE in six organizational sections:

- Accounting;
- Administration;
- Audit;
- Field Operations;
- Technical Systems; and
- Enforcement and Investigations.

The Division employed 23.0 FTE in Central City and 24.0 FTE in Cripple Creek, with the remaining 45.0 FTE working out of the Division's headquarters in Golden.

The Accounting and Administration Sections provide general administrative support to the Division and the Commission. Comprising 5.0 FTE, the Accounting Section provides accounting and financial services to the Division and Commission. Comprising 4.0 FTE, the Administration Section performs those functions necessary to conduct the Division's and Commission's day-to-day operations.

### **Audit Section**

The Audit Section comprises 14.0 FTE, with 5.0 FTE assigned to Cripple Creek and the remaining 9.0 FTE working out of Golden. It is tasked with ensuring that gaming revenue is properly reported and taxed.

The Audit Section performs five general types of compliance reviews, often referred to as Compliance Observation Reviews (CORs), to assess the adequacy of the casino's internal control environment:

- Accounting;
- Drop/Count;
- Cage;
- Key Control; and
- Gambling Payment Intercept Act (Intercept Act).

A COR generally focuses on relevant data for the previous month. Within these general CORs are more specific CORs that focus on specific aspects of a casino's operations.

The Accounting CORs tend to focus primarily on those areas of a casino's operations that directly impact adjusted gross proceeds (AGP), the sum upon which gaming taxes are assessed and paid.

The Drop/Count<sup>109</sup> CORs focus on a casino’s revenue and how it is retrieved from the floor, counted, receipted and ultimately sent to the cage. The cage is where a casino’s bankroll, or inventory of currency, is held and from which cashiers pay winnings to players.

Cage CORs tend to focus more on a casino’s cash management operations. In a Cage COR, the casino’s security measures, documentation requirements and actual operations are reviewed.

Many of the functions of casino employees are highly segregated such that no single person, for example, holds the key to a slot machine cabinet (thereby allowing that employee access to the internal components of the machine) and the drop box (thereby allowing that employee access to the coins wagered on that machine). This helps to reduce the likelihood of tampering and theft. The Key Control CORs tend to focus on the security measures in place for these keys and how the casino segregates the various functions of key holders.

Beginning in fiscal year 11-12, the Audit Section began conducting CORs to ensure compliance with the Intercept Act, which is discussed in greater detail below, beginning on page 42. In short, the Intercept Act requires casinos to determine whether winners of jackpots over a specified dollar amount owe certain, enumerated debts, such as child support. If such a debt is owed, winnings are withheld accordingly. The Intercept Act CORs seek to ensure that casinos are complying with these requirements.

Table 2 illustrates, for the years indicated, the number of each type of general COR conducted, as well as the rates of compliance (shown in parentheses) for each.

**Table 2  
CORs Conducted by the Audit Section**

<b>Fiscal Year</b>	<b>Accounting CORs</b>	<b>Drop/Count CORs</b>	<b>Cage CORs</b>	<b>Key Control CORs</b>
06-07	99 (41.4%)	8 (37.5%)	66 (75.8%)	108 (58.3%)
07-08	105 (79.1%)	24 (66.7%)	81 (97.5%)	56 (66.1%)
08-09	257 (83.7%)	232 (77.2%)	408 (95.3%)	274 (82.5%)
09-10	338 (76.9%)	578 (93.8%)	471 (97.2%)	501 (95.4%)
10-11	423 (79.2%)	628 (92.2%)	395 (96.0%)	392 (91.1%)

No statistics are provided for the Intercept Act CORs because they did not begin until fiscal year 11-12.

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<sup>109</sup> A “drop” refers to the removal of currency wagered from a slot machine or table game. It may include items such as cash, promotional credits, and coupons.

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Between fiscal years 07-08 and 08-09, the Audit Section added four new auditor positions, which partially explains the increase in the number of CORs conducted between those two years. Additionally, the 2008 constitutional amendment necessitated increased diligence.

Division staff speculates that the improvements in compliance are a result of the increasing maturity and sophistication of the industry. Additionally, Audit Section staff uses CORs as an education opportunity, as well, so that casino staff has become more aware of what Division staff is looking for in a particular COR and why.

In addition to the CORs, the Audit Section also conducts Revenue Reviews, which, very simply, encompass the Accounting CORs but with a larger sample size. Whereas the CORs focus on a single month's worth of data, Revenue Reviews analyze several months' worth of data.

On average, the Audit Section conducts 8.8 Revenue Reviews each year.

On March 15 each year, all casinos are required to submit Standardized Financial Statements. Audit Section staff review these statements, primarily seeking to ensure that revenues and expenses are reported consistently from one year to the next.

Finally, the Division's Tax Examiner is a member of the Audit Section. This individual is responsible for ensuring that each casino files the required tax return and pays the required tax each month. Returns and taxes are due on the 15<sup>th</sup> of each month, for the previous month's activity.

### **Field Operations Section**

The Field Operations Section comprises 8.0 FTE with 3.0 FTE assigned to Cripple Creek, 4.0 FTE assigned to Central City and 1.0 FTE assigned to Golden. It is tasked with:

- Approving slot machines and their component parts, including software;
- Monitoring revoked, upgraded and obsolete gaming software;
- Inspecting slot machines to ensure compliance with the Act and Commission Rules; and
- Overseeing forensic evaluations of slot machines.

Rather than approving slot machines and software itself, the Division contracts with Gaming Laboratories International (GLI) to conduct the testing necessary to ensure that a machine's operational design and specifications satisfy Colorado's regulatory requirements.

As of August 2012, there were 14,544 slot machines operating in Colorado.

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For routine hardware and software upgrades, GLI is able to perform this function with minimal assistance from Field Operations Section staff. However, whenever a manufacturer requests approval for something relatively unique or unusual, such as a new game platform, GLI will request that the manufacturer present it at a monthly System and Machine Approval Committee (SMAC) meeting. These presentations are made, on average, 15 times each year.

The SMAC is hosted by GLI and is composed of staff from the Field Operations Section and the Technical Systems Group. These meetings allow Division staff to interact with GLI employees and manufacturer representatives to determine whether a machine should be approved, field tested or returned to the manufacturer for modification.

Modern slot machines are computers. The individual slot machine games are little more than sophisticated software applications. Those software applications are approved for use in Colorado by GLI, and over time, software anomalies may occur. When this occurs, GLI may revoke a particular game's approval. Such revocations may require the casino to immediately remove the game from play. More common, however, are revocations that result in software upgrades that must be installed over a period of time. The type of revocation is dictated by the severity of the problem leading to the revocation.

Table 3 illustrates the number of each type of revocation for the years indicated.

**Table 3**  
**Slot Machine Software Revocations**

<b>Fiscal Year</b>	<b>Number of Immediate Revocations</b>	<b>Number of Delayed Revocations</b>
06-07	2	111
07-08	10	213
08-09	3	178
09-10	12	162
10-11	20	152
<b>Total</b>	<b>47</b>	<b>816</b>

The data in Table 3 indicate that most revocations are for reasons sufficiently minor that casinos are afforded time to install new or revised software, rather than having to remove games from play immediately.

The Field Operations Section is tasked with ensuring that casinos are offering only approved games for play in their establishments. This means that the hardware, its component parts, and all of the software that runs that machine have been approved for use in Colorado and not been revoked.

To accomplish this task, the Field Operations Section conducts two types of inspections: COR and Auxiliary.



The Field Operations Section conducts two COR inspections of each casino each year. The goal is to inspect between 10 and 15 percent of the slot machines on the casino's floor. These inspections can span several days, so Field Operations Section staff attempts to perform them in a manner that minimizes disruption at the casino. This can include conducting the inspections early in the morning during mid-week, when casinos tend to be less busy.

Auxiliary inspections are based on a random sampling of machines and casinos, and also on newly approved machines or software. They can also target machines known to have been running revoked software, or that contained revoked component parts, to ensure compliance. A subset of these auxiliary inspections is the inspection of all new games within 90 days of being placed on a casino's floor.

Table 4 illustrates, for the years indicated, the number of each type of inspection conducted, as well as the total number of devices inspected.

**Table 4  
Inspections Conducted**

<b>Fiscal Year</b>	<b>Number of COR Inspections</b>	<b>Number of Auxiliary Inspections</b>	<b>Number of Devices Inspected</b>
06-07	74	209	5,172
07-08	92	173	6,707
08-09	169	245	6,458
09-10	76	184	6,124
10-11	88	205	5,901
<b>Total</b>	<b>499</b>	<b>1,016</b>	<b>30,362</b>

The Field Operations Section inspects an average of 6,072 slot machines per year, which is just over a third of all slot machines.

Finally, the Field Operations Staff may be called upon to aid the Enforcement and Investigations Section in forensic investigations of particular machines involved in a case. These types of investigations typically result from a player dispute (i.e., the player claims a jackpot is owed), but can also involve cases of employee theft.

Table 5 illustrates the number of forensic investigations conducted by Field Operations staff.

**Table 5  
Forensic Investigations**

<b>Fiscal Year</b>	<b>Number of Investigations</b>
06-07	0
07-08	3
08-09	0
09-10	2
10-11	2
<b>Total</b>	<b>7</b>

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As Table 5 illustrates, there have been remarkably few forensic evaluations.

### **Technical Systems Group**

The Technical Systems Group comprises 6.0 FTE, with 5.0 FTE based in Golden and 1.0 FTE based in Cripple Creek. This section is tasked with approving gaming systems and information technology with its primary focus on technology that is new to Colorado. In other words, this section approves the systems that communicate with the individual slot machines, collect all gaming transaction data and generate the databases from which various accounting and other statistical reports are generated, also known as the slot monitoring system.

It is, perhaps, easiest to describe what this section does by describing its duties relative to some of the Division's other sections. The Field Operations Section's area of responsibility is the slot machine itself, including all hardware and software. Slot machines continuously upload data (i.e., coin in, coin out, drop and payouts) to the slot monitoring system wherein that data populates various databases. This is the realm of the Technical Systems Group. From these databases, the casino is able to generate reports upon which AGP and gaming taxes are calculated – the realm of the Audit Section. Casinos may not rely upon a system for AGP and tax reporting purposes until it has been reviewed and approved by the Technical Systems Group.

Table 6 illustrates the total number of systems reviewed by the Technical Systems Group.

**Table 6  
Systems Reviewed**

<b>Fiscal Year</b>	<b>Slot Monitoring Systems Reviewed</b>	<b>Slot Monitoring Systems Upgrades Reviewed</b>	<b>Other Types of Systems Reviewed</b>
06-07	9	3	2
07-08	3	1	4
08-09	1	0	3
09-10	3	6	4
10-11	5	7	1
<b>Total</b>	<b>21</b>	<b>17</b>	<b>14</b>

The column entitled "Slot Monitoring Systems Reviewed" includes slot monitoring systems that are new to Colorado, as well as those instances in which a casino migrates to a different, previously-approved system. In other words, the slot monitoring systems themselves must be approved, and the use of those systems in individual casinos must be reviewed and approved to ensure they are working properly.

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Slot monitoring systems are comprehensive software packages, and as such, are subject to upgrades. This explains the “Slot Monitoring Systems Upgrades Reviewed” column.

Finally, the Technical Systems Group reviews other types of systems that connect to the slot monitoring system. Examples include bonusing systems, progressive systems and electronic promotional credit systems.

To ensure that their slot monitoring systems continue to work properly, each casino is required to conduct an annual test. Staff from the Technical Systems Group reviews these tests with an eye toward the following:

- Who has access to the system (i.e., segregation of duties)?
- Are games metering and communicating to the slot monitoring system correctly?
- Are there any vulnerabilities in the system’s backup and recovery capabilities?

Each year, the Technical Systems Group reviews an average of six casinos’ annual tests.

The focus of the Technical Systems Group is to ensure data integrity because, ultimately, these data are relied upon to calculate AGP and, thus, any gaming tax that must be paid.

### ***Enforcement and Investigations Section***

The Enforcement and Investigations Section comprises 55.0 FTE, most of which are peace officers. The section includes 21.0 FTE in Golden, 19.0 FTE in Central City and 15.0 FTE in Cripple Creek.

This section performs two distinct functions: 1) licensing, and 2) enforcement and investigations.

The Act authorizes five distinct license types:

- Support License;
- Key License;
- Operator License;
- Retail Gaming License; and
- Slot Machine Manufacturer or Distributor License.

Support and key licenses are issued to individuals. The remaining license types are issued to businesses.

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Only those personnel involved in gaming must be licensed. So, for example, food and beverage employees, or janitorial staff need not be licensed, though some casinos voluntarily opt to have all of their employees licensed.

The primary determinant as to whether someone qualifies for licensure is the result of a background investigation. The depth of the background investigation depends on the type of license sought.

All support and key licensees receive a Division-issued photo identification badge indicating the license type held. This badge must be worn and clearly displayed at all times that the licensee is working.

A support license is required for non-managerial gaming personnel, such as slot machine technicians, cashiers and card dealers. Support license applications can generally be processed in approximately one hour, so applicants typically visit one of the Division's offices to obtain their initial and renewal licenses.

To obtain a support license, an applicant must pay the initial license fee of \$100 (\$60 for renewals). The background investigation for a support license involves the following:

- Colorado Bureau of Investigation (CBI) name-based criminal history background check;
- Credit check;
- Verification that the applicant is in good standing with respect to state and federal income taxes; and
- Fingerprint-based criminal history background check.

Since it can take several weeks for the Division to receive the results of the fingerprint-based criminal history background check, a temporary license is issued at the time of application, assuming all other elements are satisfactory.

Once the license is issued, it is valid for two years.

Table 7 illustrates, for the years indicated, the number of initial and renewed support licenses that were issued.

**Table 7**  
**Support Licenses Issued**

<b>Fiscal Year</b>	<b>New</b>	<b>Renewal</b>
06-07	1,253	1,987
07-08	1,359	1,786
08-09	2,148	1,886
09-10	1,888	1,655
10-11	1,455	2,289

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The increase in new licenses issued in fiscal year 08-09, and then renewed in fiscal year 10-11 is attributable to the 2008 constitutional amendment. Casinos hired additional staff to accommodate expanded hours of operation and new table games.

The Division is unable to provide historical data as to the total number of active licensees. However, as of July 20, 2012, there were 6,980 active support licensees.

A key license is required for those gaming employees in more managerial-type positions. These employees would include those who are authorized to make gaming decisions, such as determining the proper protocol to follow in the event of a misdeal in a card game or instituting an override on a slot machine, as well as those who are tasked with making employment decisions, such as whether to hire or terminate an employee.

To obtain a key license, an applicant must pay the initial fee of \$250 (\$200 for renewals), plus a deposit of \$1,000 to cover the cost of the background investigation.

Division staff bills \$65 per hour against the background deposit. If the deposit is insufficient to cover the costs, the applicant is required to pay an additional sum. If the deposit exceeds the actual costs of the investigation, the balance is refunded to the applicant.

The background investigation for a key license involves the following:

- CBI name-based criminal history background check;
- Credit check;
- A review of banking records for the previous year;
- A review of state and federal income taxes for the previous three years; and
- Fingerprint-based criminal history background check.

Additionally, Division staff will contact law enforcement in every jurisdiction where the applicant has lived to determine whether everything has been properly disclosed, conduct personal reference checks and interview the applicant.

Once the license is issued, it is valid for two years.

Under the terms of the compacts the State has entered into with the Southern Ute and Ute Mountain tribes, the Division also conducts key license background investigations for those key employees working in tribal casinos.

Additionally, certain individuals associated with business licensees, such as officers, directors and those with ownership interests, are subject to background investigations, as discussed in greater detail below. When these individuals, referred to as “associated persons” desire to work at the casino, they are issued key associated licenses.

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Table 8 illustrates, for the years indicated, the number of key-type licenses issued and renewed.

**Table 8**  
**Key Licenses Issued**

<b>Fiscal Year</b>	<b>New</b>	<b>Renewals</b>
06-07	62	313
07-08	71	235
08-09	71	268
09-10	65	240
10-11	76	286

The Division is unable to provide historical data as to the total number of active licensees. However, as of July 20, 2012, there were 638 active key licensees.

There are three types of business licenses: slot machine manufacturer or distributor, retailer and operator. Within each of these general types, are Type 1 licenses and Type 2 licenses. The distinction between the two lies primarily in the number of owners of an applicant and where they reside. A Type 1 license applicant consists of either a single person, or an organization where the total number of all officers, directors, general partners and five percent or more of stockholders total six or fewer and all reside in Colorado.<sup>110</sup> A Type 2 license applicant is any license applicant that is not a Type 1 applicant.<sup>111</sup>

A retail gaming license is unique to the address of the particular casino. As such, along with the required background investigations (discussed below), a license applicant must also submit floor plans of the casino so that the Division may verify compliance with statutorily mandated floor space requirements.

An operator license is required of those businesses that will receive a percentage of the retail gaming licensee's gaming revenues. These could include businesses that operate the casino on behalf of the retail gaming licensee. Additionally, an operator license is required of manufacturers that operate wide area progressive slot machine games, where multiple machines and multiple casinos are networked together to play a game with progressively increasing jackpots.

Finally, a slot machine manufacturer or distributor license is required of any manufacturer or distributor selling slot machines in the state.

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<sup>110</sup> Commission Rule 47.1-305(2)(a).

<sup>111</sup> Commission Rule 47.1-305(2)(b).

Table 9 provides detail on the license fees required of business licensees. Initial and renewal fees are the same for business licenses.

**Table 9  
Business License Fees**

<b>License Type</b>	<b>Fee</b>
Type 1 Slot Machine Manufacturer or Distributor License	\$3,000
Type 2 Slot Machine Manufacturer or Distributor License	\$6,000
Type 1 Operator License	\$3,000
Type 2 Operator License	\$6,000
Type 1 Retail Gaming License	\$4,500
Type 2 Retail Gaming License	\$6,500

The background deposit for a Type 1 license applicant is \$5,000, and it is \$10,000 for a Type 2 license applicant.

Put simply, background investigations similar to those conducted on key license applicants are conducted on all of a business applicant's officers, directors and investors.<sup>112</sup> These types of background investigations are referred to as suitability checks. Their ultimate cost and the amount of time it takes to complete them is entirely dependent, therefore, on the complexity of the corporate structure. The fewer the number of individuals to investigate, the quicker the process can be completed. It is not uncommon for these types of background investigations to take up to a year to complete. On average, approximately 68 such background investigations are conducted each year.

Table 10 illustrates, for the years indicated, the number of new and renewal business licenses issued.

**Table 10  
Business Licenses**

<b>Fiscal Year</b>	<b>Retail New</b>	<b>Retail Renewal</b>	<b>Operator New</b>	<b>Operator Renewal</b>	<b>Mfg/Dist New</b>	<b>Mfg/Dist Renewal</b>
06-07	2	43	2	19	4	18
07-08	4	41	2	20	2	22
08-09	0	41	2	20	4	22
09-10	2	15	2	15	3	15
10-11	6	29	1	9	2	11

<sup>112</sup> For privately held companies, a suitability check is conducted on owners of five percent or more of the company. These are known as "associated persons." For those investors owning less than five percent, a background investigation similar to that required of support license applicants is conducted. These are referred to as "limited owners." If the applicant is a publicly traded company, the Division may perform a suitability check on investors owning five percent or more of the company's shares, but must conduct a suitability check on those investors owning 10 percent or more. The officers, directors and investors of institutional investors owning 15 percent or more of the license applicant must also undergo suitability checks.

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The Division is unable to provide historical data as to the total number of active licensees. However, as of July 20, 2012, there were 41 active retail gaming licensees, 18 active operator licensees and 25 active slot machine manufacturer or distributor licensees.

Additionally, any time there is a change in ownership or business structure of a business licensee, new suitability investigations must be conducted of the individuals involved.

All individuals, including licensees and those subject to suitability checks, are required to report any arrests or convictions to the Division within 10 days of the occurrence.

In addition to its licensing functions, the Enforcement and Investigations Section is also responsible for investigating patron complaints, gaming irregularities and any crime that occurs inside a casino.

The Enforcement and Investigations Section proactively patrols casinos in an effort to verify casino compliance and to identify any cheating or underage gambling. Additionally, staff conducts CORs of various aspects of a casino, including surveillance, table games, signage and floor plans. Table 11 illustrates, for the years indicated, the number of casino areas reviewed as part of the COR process.

**Table 11  
Casino Areas Reviewed**

<b>Fiscal Year</b>	<b>Casino Areas Reviewed</b>
06-07	3,550
07-08	5,175
08-09	3,905
09-10	6,173
10-11	5,166

Table 12 illustrates, for the years indicated, the number of patron complaints filed against licensees and investigated by the Enforcement and Investigations Section.

**Table 12  
Patron Complaints**

<b>Fiscal Year</b>	<b>Number of Patron Complaints</b>
06-07	622
07-08	471
08-09	447
09-10	464
10-11	448



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Patron complaints include those in which a player alleges that he or she was not paid the jackpot to which the player felt entitled, as well as complaints regarding irregularities in table games or slot machines.

The Enforcement and Investigations Section is also responsible for enforcing the criminal provisions of the Act. Table 13 illustrates, for the fiscal years indicated, the number and types of criminal investigations conducted by this section.

**Table 13  
Criminal Investigations**

<b>Nature of Case</b>	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>
Underage Gaming/Lingering	314	204	257	308	407
Fraudulent Acts	1,009	1,024	1,003	1,104	1,065
Forged Instruments	175	114	130	134	64
Warrant Arrest	70	40	42	47	50
Other	57	58	49	68	40
<b>Total</b>	<b>1,625</b>	<b>1,440</b>	<b>1,481</b>	<b>1,661</b>	<b>1,626</b>

The total number of criminal investigations, as well as the number of the individual types of cases, has remained remarkably consistent over the five years reported here.

Fraudulent acts include activities such as cheating and theft. Forged instruments include items such as fake identification cards.

Importantly, the Division's peace officers confine their focus to activities that occur in licensed casinos. Gaming-related crimes that occur outside of the casinos are generally investigated by CBI.

Like the Division's other sections, the Enforcement and Investigations Section also conducts CORs. These CORs tend to focus primarily on table games and casino security surveillance. On average, the Enforcement and Investigations Section conducts 1,773 CORs each year.

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## **Disciplinary Actions**

When a violation of the Act or the Commission's rules has occurred, the Commission can take disciplinary action. Table 14 illustrates, for the years indicated, the number and types of disciplinary actions taken against licensees.

**Table 14  
Disciplinary Actions by Fiscal Year**

<b>Disciplinary Action</b>	<b>06-07</b>	<b>07-08</b>	<b>08-09</b>	<b>09-10</b>	<b>10-11</b>
License Denial	24	16	19	27	40
Revocation	36	9	11	13	28
Surrender	42	47	43	53	59
Warning – Verbal	409	374	358	505	442
Warning – Written	83	65	92	86	87
Assurance of Voluntary Compliance	65	72	73	108	55
Stipulation	24	9	4	7	8
Summary Suspension	11	4	2	6	15

Most of the actions listed in Table 14 are simply warnings, indicating the Division's emphasis on securing compliance, as opposed to strict enforcement.

For the most part, disciplinary action is taken against individual licensees, as opposed to business licensees.

Most suspensions, revocations and surrenders occur when licensees are arrested or convicted of crimes, thereby rendering them ineligible for licensure.

The assurances of voluntary compliance typically involve licensees who have been arrested and have failed to notify the Division, as they are required to do. When this occurs, the Division charges licensees a fee to recover the cost of the investigator's time in resolving the matter.

Stipulations are typically accompanied by a fine.

Table 15 illustrates, for the years indicated, the number and value of fines and fees assessed.

**Table 15  
Fines and Fees**

<b>Fiscal Year</b>	<b>Number of Fines &amp; Fees Imposed</b>	<b>Value of Fines &amp; Fees Assessed</b>
06-07	89	\$255,477
07-08	81	\$23,501
08-09	77	\$10,944
09-10	115	\$58,055
10-11	63	\$56,910

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In fiscal year 06-07, a single casino in Central City was fined approximately \$100,000 for issues surrounding the use of slot machines that had not been approved for use in Colorado.

The bulk of the remaining fines for all years can be attributed to issues surrounding the use of revoked software in slot machines at various casinos.

As Tables 14 and 15 demonstrate, there were an unusually high number of assurances of voluntary compliance and associated fees imposed in fiscal year 09-10. Division staff attributes this to an inexplicable increase in licensee arrests that year.

### **Games Approval**

All slot machine hardware, as well as slot machine software (including various themes) and table games must be approved for use in Colorado. The Division contracts with GLI to verify that slot machine games satisfy Colorado's rules.

Slot machine game manufacturers must submit their games to GLI for approval. GLI then tests the games to ensure compliance with Colorado's rules. Table 16 illustrates the number of slot machine games, including software and hardware, that GLI has approved for use in Colorado during the indicated years.

**Table 16  
Slot Machine Games Approved**

<b>Fiscal Year</b>	<b>Number of Games Approved</b>
06-07	829
07-08	885
08-09	881
09-10	732
10-11	945
<b>Total</b>	<b>4,272</b>

Games are rarely rejected. Rather, GLI and the manufacturer typically work together so that the manufacturer can correct any problems identified by GLI, thereby resulting in ultimate approval.

Because of this, the amount of time it takes to approve games varies considerably. Important factors include the uniqueness of the game, the level of preparation the manufacturer put into developing the game and taking into account Colorado's requirements, and the timeliness with which the manufacturer responds to GLI concerns. GLI attempts to complete its first round of tests within 30 days of submittal.

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Depending on how unique a particular game is, the Division may require field trials in no more than one casino in each gaming town before final approval is granted.

Variations of table games must also be approved by the Division. The Division's Table Games Committee reviews proposed new variations and grants approvals for field trials if the Commission's requirements are satisfied. Table 17 illustrates the number of variations for each type of table game submitted for approval, and ultimately approved.

**Table 17**  
**Table Game Variations Submitted for Approval**

Fiscal Year	Number of Blackjack Variations Submitted for Approval	Number of Blackjack Variations Approved	Number of Poker Variations Submitted for Approval	Number of Poker Variations Approved
06-07	2	0	1	1
07-08	2	0	1	1
08-09	4	0	0	0
09-10	2	0	0	0
10-11	1	1	6	6

Variations of craps and roulette did not become legal until March 2012, so no data is reported for them in Table 17.

Interestingly, in fiscal year 10-11, the first blackjack/poker combination game was submitted and approved.

In general, proposed games have been denied because they did not satisfy the statutory definition of the game upon which the variation was based.

### **Gaming Taxes and Gaming Fund Distributions**

On an annual basis, the Commission is required to establish the gaming tax for the year. This tax is assessed on a casino's AGP, which very simply, is the amount wagered less the amount paid out in prizes.

Since gaming began in 1991, the Commission has utilized a progressive or tiered tax rate. While the tax rate remained relatively constant between fiscal years 98-99 and 10-11, the tiers themselves fluctuated.

**Table 18  
Gaming Tax Rates for Fiscal Years 06-07 through 10-11**

Tier	Fiscal Years 06-07 through 07-08		Fiscal Years 08-09 through 10-11	
	Tax Rate	AGP	Tax Rate	AGP
1	0.25%	\$0 - \$2 million	0.25%	\$0 - \$2 million
2	2%	\$2 million - \$4 million	2%	\$2 million - \$5 million
3	4%	\$4 million - \$5 million	9%	\$5 million - \$8 million
4	11%	\$5 million - \$10 million	11%	\$8 million - \$10 million
5	16%	\$10 million - \$15 million	16%	\$10 million - \$13 million
6	20%	Above \$15 million	20%	Above \$13 million

The Commission reduced the gaming tax rate in fiscal year 11-12. For fiscal year 12-13, it restored the rate to what it had been in fiscal year 10-11.

The gaming tax year coincides with the State’s fiscal year, and taxes are paid as an individual casino progresses through the tiers from month to month. For example, if a casino has AGP of \$1 million in July, that casino is in Tier 1 (0.25 percent tax rate). If the same casino has AGP of \$1 million in August, that casino remains in Tier 1. If the casino has AGP of \$1 million in September, that casino moves to Tier 2 (two percent tax rate).

Each casino must file a gaming tax return with, and pay the applicable gaming tax to, the Division by the 15<sup>th</sup> day of the next month. For example, the Division must receive July’s gaming tax return and gaming tax payment by August 15. These sums are deposited in the Limited Gaming Fund (Gaming Fund).

At the end of each fiscal year, the monies in the Gaming Fund, less an amount equal to the Commission’s and Division’s expenses for the preceding two months, are distributed as follows:<sup>113</sup>

- 50 percent (State Share) to such funds as the General Assembly may designate;
- 28 percent to the State Historical Fund;<sup>114</sup>
- 12 percent to Gilpin and Teller Counties, in proportion to the gaming revenues generated in each county; and
- 10 percent to Black Hawk, Central City and Cripple Creek in proportion to the gaming revenues generated in each city.

<sup>113</sup> Colo. Const. Art. XVIII, § 9(5)(b) and § 12-47.1-701(1)(d), C.R.S.

<sup>114</sup> Distributions from the State Historical fund are further governed by § 12-47.1-1201, *et seq.*, C.R.S.

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The first \$19.2 million of the State Share is distributed to the General Fund.<sup>115</sup> Any amounts greater than \$19.2 million, but less than \$48.5 million are distributed as follows.<sup>116</sup>

- 50 percent to the Colorado Travel and Tourism Promotion Fund;
- 18 percent to the Bioscience Discovery Evaluation Cash Fund;
- 15 percent to the Local Government Limited Gaming Impact Fund;<sup>117</sup>
- 7 percent to the Innovative Higher Education Research Fund;
- 5 percent to the New Jobs Incentives Cash Fund; and
- 5 percent to the Creative Industries Cash Fund.

Any amount of the State Share greater than \$48.5 million is distributed to the General Fund.<sup>118</sup>

The Commission is further tasked with implementing a rather complex formula to determine the amount of gaming tax realized as a result of extended gaming.<sup>119</sup> Extended gaming is, in short, the gaming authorized under the 2008 constitutional amendment, which comprises extended casino hours, the games of craps and roulette and single maximum bets up to \$100.

Extended gaming tax revenues are deposited into the Extended Limited Gaming Fund, and are distributed as follows:<sup>120</sup>

- 78 percent to the state's public community colleges, junior colleges and local district colleges to supplement state funded financial aid programs and classroom instruction;
- 10 percent to Black Hawk, Central City and Cripple Creek based on the proportion of extended gaming tax revenues paid by the licensees in each city; and
- 12 percent to Gilpin and Teller Counties based on the proportion of extended gaming tax revenues paid by the licensees in each county.

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<sup>115</sup> § 12-47.1-701(2)(a), C.R.S.

<sup>116</sup> § 12-47.1-701(2)(a)(II), C.R.S.

<sup>117</sup> Distributions from the Local Government Limited Gaming Impact Fund are further governed by § 12-47.1-1601, *et seq.*, C.R.S.

<sup>118</sup> § 12-47.1-701(2)(a)(III), C.R.S.

<sup>119</sup> §§ 12-47.1-701.5(1) – (3), C.R.S.

<sup>120</sup> Colo. Const. Art. XVIII, § 9(7)(c)(III) and § 12-47.1-701.5(3)(c), C.R.S.

Table 19 provides detail as to the actual distributions of the various Gaming Fund and Extended Gaming Fund dollars.

**Table 19  
Gaming Fund and Extended Gaming Fund Distributions**

<b>Recipient</b>	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>
<b>Gaming Fund</b>					
Colorado Historical Society	\$29,779,880	\$28,165,675	\$23,878,704	\$24,867,360	\$24,195,009
Colorado Department of Transportation	\$5,259,411	\$14,292,757	\$10,127,274	\$0	\$0
Council on the Arts Cash Fund	\$1,553,432	\$1,587,447	\$1,200,026	\$1,121,726	\$0
Creative Industries Cash Fund <sup>121</sup>	\$621,373	\$634,979	\$180,011	\$407,997	\$240,054
Creative Industries Cash Fund	\$0	\$0	\$0	\$0	\$960,215
New Jobs Incentives Cash Fund	\$3,106,863	\$3,174,894	\$1,400,052	\$1,291,231	\$0
Bioscience Discovery Evaluation Grant Program	\$2,500,000	\$0	\$4,500,000	\$5,500,000	\$4,320,967
Office of Economic Development <sup>122</sup>	\$0	\$0	\$300,000	\$0	\$0
Innovative Higher Education Research Fund	\$0	\$0	\$1,000,000	\$1,904,251	\$1,680,376
Clean Energy Fund	\$7,000,000	\$3,959,650	\$0	\$0	\$0
Colorado Tourism Promotion Fund	\$19,676,799	\$20,107,662	\$15,578,699	\$14,208,015	\$12,002,687
Local Government Limited Gaming Impact Fund	\$6,913,186	\$6,538,460	\$5,543,271	\$3,772,780	\$3,600,806
Black Hawk	\$7,530,055	\$7,172,188	\$6,056,663	\$6,515,136	\$6,352,054
Central City	\$1,067,821	\$972,722	\$773,499	\$751,350	\$768,192
Cripple Creek	\$2,037,795	\$1,914,260	\$1,697,946	\$1,613,714	\$1,520,829
Gilpin County	\$10,317,452	\$9,773,892	\$8,196,195	\$8,720,983	\$8,544,295
Teller County	\$2,445,354	\$2,297,112	\$2,037,536	\$1,936,456	\$1,824,995
General Fund	\$6,547,294	\$0	\$2,811,210	\$16,200,000	\$20,400,269
<b>Extended Gaming Fund</b>					
Community College System	\$0	\$0	\$0	\$6,185,713	\$6,954,952
Black Hawk	\$0	\$0	\$0	\$664,092	\$760,141
Central City	\$0	\$0	\$0	\$54,878	\$44,494
Cripple Creek	\$0	\$0	\$0	\$74,070	\$87,026
Gilpin County	\$0	\$0	\$0	\$862,764	\$965,561
Teller County	\$0	\$0	\$0	\$88,884	\$104,431
<b>Total Distributions</b>	<b>\$106,356,714</b>	<b>\$100,591,698</b>	<b>\$85,281,086</b>	<b>\$96,742,402</b>	<b>\$95,327,351</b>

Due to rounding, the various columns may not equal the sums expressed as “total distributions.”

<sup>121</sup> These funds are to be used for the operation of the Colorado Office of Film, Television and Media.

<sup>122</sup> These funds are to be used for the operation of the Film Commission.

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The General Assembly has discretion as to how to appropriate the State Share, and it has clearly done so over the years by funding certain programs for limited periods of time.

For several of the Gaming Fund recipients, such as the Local Government Limited Gaming Impact Fund, the General Assembly has further specified how such funds should be distributed. However, since this sunset review focuses on the Division and its functions, those additional distributions are not discussed here.

### **Gambling Payment Intercept Act**

Though not technically part of the Act, the Intercept Act is discussed here because the Division is responsible for ensuring that casinos comply with its requirements.

The Intercept Act creates a registry (Registry) of individuals who owe a combined total of \$300 or more in:<sup>123</sup>

- Unpaid child support;
- Restitution that a person has been ordered to pay by a court; and
- Any unpaid debt due to the State that is referred to the State Controller or the Central Collection Services Section of the Colorado Department of Personnel and Administration's Division of Finance and Procurement.

Before making a payment to a winner for which a U.S. Internal Revenue Service Form W-2G (Form W-2G) must be issued,<sup>124</sup> a licensed casino must determine whether the individual is listed in the Registry.<sup>125</sup> If the winner owes a listed debt, the casino must withhold the amount owed from the winnings and send that amount to the Registry operator within 24 hours. The Registry operator must then send the money to the organization that reported the debt to the Registry.<sup>126</sup>

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<sup>123</sup> §§ 24-35-603(2) and 24-35-604(1), C.R.S.

<sup>124</sup> For 2012, a Form W-2G is required for slot machine payouts of \$1,200 or more, and for table game winnings of \$600 or more that are at least 300 times the amount of the wager.

<sup>125</sup> § 24-35-605(1)(b), C.R.S.

<sup>126</sup> § 24-35-605(2), C.R.S.



Table 20 illustrates, for the years indicated, the number of Registry queries, gambling payments intercepted, the nature of the debts owed, and the total value of the debts recovered as a result of the Intercept Act.

**Table 20  
Gambling Payment Intercept Act**

<b>Fiscal Year</b>	<b>Number of Queries to Registry</b>	<b>Number of Queries Resulting in Registry Match</b>	<b>Money Intercepted For Child Support</b>	<b>Money Intercepted for Restitution</b>	<b>Total Money Intercepted</b>
08-09	90,182	208	\$523,595	Not Applicable	\$523,595
09-10	113,481	361	\$341,212	Not Applicable	\$341,212
10-11	106,628	235	\$339,829	Not Applicable	\$339,829
11-12	117,974	183	\$373,191	\$322,163	\$695,354
<b>Total</b>	<b>428,265</b>	<b>987</b>	<b>\$1,577,827</b>	<b>\$322,163</b>	<b>\$1,899,990</b>

Figures may not add up due to rounding.

The Intercept Act was expanded to include restitution obligations in fiscal year 11-12, so data prior to that time does not exist.

The Intercept Act was further expanded, effective January 2012, to include certain debts owed to the State. However, as of this writing, these debts and debtors have not yet been added to the Registry.

The figures in Table 20 include those relevant to casinos as well as to the state's single racetrack and 12 off-track betting facilities, which are regulated by the Division of Racing, but which are also subject to the requirements of the Intercept Act.

In just four years, the Intercept Act has been responsible for the recovery of almost \$2 million from almost 1,000 debtors.

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## Analysis and Recommendations

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### ***Recommendation 1 – Continue the Colorado Division of Gaming for nine years, until 2022.***

The same constitutional provision that authorizes gaming in the state also creates the Limited Gaming Control Commission (Commission) and directs that the Commission be created under an official or department of state government.<sup>127</sup> Thus, the General Assembly created the Division of Gaming (Division) in the Colorado Department of Revenue as the administrative home of the Commission.

Although the Division is not specifically named in the constitution, its existence is, at the very least, implied. If the Division were to sunset, the Commission would, necessarily, have to be placed under some other department of state government. Continuation of the Division, therefore, is, at least arguably, justified on these grounds alone.

However, in creating the Division and the statutory framework for gaming in Colorado, the General Assembly determined that a sunset review be conducted. Thus, it is legitimate to analyze the Division under the sunset criteria and to ask whether the Division serves to protect the public and whether it does so in the least restrictive manner consistent with the goal of public protection.

In conducting such an analysis, it is reasonable to first discern what aspects of gaming could harm the public. Obviously, gaming is susceptible to manipulation and cheating. Therefore, individual players could be financially harmed.

Additionally, gaming in Colorado is subject to a gaming tax, the proceeds of which are subject to an elaborate distribution scheme. Since most of these recipients are public entities, the recipients and those who benefit from the services provided by them, could be harmed if gaming taxes are not properly calculated and paid.

In short, the Division enforces the Commission's rules. Most Commission rules are designed to either protect players from unscrupulous casinos or to require accounting and reporting systems that help to ensure that gaming taxes are properly calculated and paid.

The Division is widely credited with keeping gaming in Colorado "clean." Gaming is largely a cash business. As such, it is susceptible to criminal activities – whether through theft or money laundering. The Division's extensive background investigations seek to ensure that the individuals in Colorado's gaming industry – both owners and employees – are honest and trustworthy.

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<sup>127</sup> Colo. Const. Art. XVIII, § 9(2).

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The games themselves are policed by the Division to ensure that players receive the payouts they are due. The success of the gaming industry depends, in large part, on the public's confidence that it is not being cheated, and the Division plays a key role in maintaining that confidence.

Finally, the Division conducts compliance observation reviews, many of which center on ensuring that gaming revenues are properly recorded and accounted for so that gaming taxes are properly calculated and paid.

Therefore, it is reasonable to conclude that the Division serves to protect the public.

For all these reasons, the General Assembly should continue the Division for nine years, until 2022.

***Recommendation 2 – Amend the definition of gaming device to accommodate advances in technology.***

The Limited Gaming Act of 1991 (Act) defines a gaming device as including, “a slot machine, poker table, blackjack table, craps table, roulette table, dice, and the cards used to play poker and blackjack.”<sup>128</sup>

Although this definition was amended in 2009 to include the tables upon which table games are played, and to include cards, technology has advanced. Today, electronic versions of table games and cards are available but cannot be used in Colorado because of the definition of gaming device.

Because the definition includes dice and cards, electronic versions of craps, poker and blackjack are not possible. However, if electronic representations of these devices were included in the definition, then electronic versions of these games could be offered for play in the state.

It is reasonable to question the security of such games. Intuitively, such games should be easier to manipulate, thereby increasing the opportunities for cheating.

However, because they are electronic and would be subject to all of the Division's approval processes for electronic games, as well as all of the logging, reporting and accounting requirements, electronic versions of these games are likely to be more secure, not less.

Therefore, the General Assembly should amend the definition of gaming device to accommodate advances in technology.

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<sup>128</sup> § 12-47.1-103(10), C.R.S.

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**Recommendation 3 – Define “associated equipment” and create an Associated Supplier license type to regulate those who develop, manufacture or sell it.**

The Act grants to the Commission broad rulemaking authority by empowering the Commission:

To promulgate such rules and regulations governing the licensing, conducting, and operating of limited gaming as it deems necessary to carry out the purposes of [the Act].<sup>129</sup>

The Commission relied on this broad grant of authority in promulgating rules that generally govern the process for approving gaming devices, but specifically provide for the approval of slot monitoring systems. Specifically,

No computerized system that affects the reporting of adjusted gross proceeds or of statistical data required to be generated and maintained by a licensee pursuant to regulations or internal control minimum procedures, no computerized system for monitoring slot machines or other games, nor any other computerized associated hardware or software may be used to support gaming operations by any licensee without prior written approval of the Director.<sup>130</sup>

Historically, slot machine manufacturers, which are required to be licensed under the Act,<sup>131</sup> have been the only manufacturers of slot monitoring systems. Thus, the Commission and Division have had clear regulatory authority over slot monitoring systems and the manufacturers thereof.

As a result, the Commission and Division have had the necessary tools to determine how the various slot monitoring systems work to ensure that adjusted gross proceeds (AGP) are properly calculated and reported, and to conduct background investigations of those who manufacture them. This means that if, for example, a slot monitoring system were fraudulently misreporting AGP so that money could be diverted or stolen, the Division would be able to withdraw its approval (thereby preventing its use) and discipline the manufacturer.

Increasingly, however, slot monitoring systems, which are software packages, and other types of systems that interact with the slot monitoring system or that calculate AGP, are being developed and sold by entities that are not slot machine manufacturers and do not otherwise fall under the regulatory jurisdiction of the Commission and Division.

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<sup>129</sup> § 12-47.1-302(1)(a), C.R.S.

<sup>130</sup> Commission Rule 47.1-1202(2)(a).

<sup>131</sup> § 12-47.1-501(1)(a), C.R.S.

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This means that, although the Division retains the authority to approve such systems, it lacks regulatory authority over those who develop and manufacture them.

Under various provisions of the Act,<sup>132</sup> the Division has broad authority to conduct background investigations of the developers of slot monitoring systems. However, it lacks the clear authority to license such developers, thus denying the Division the ability to discipline, if warranted.

This creates a regulatory gap with respect to slot monitoring systems, as well as other types of systems that interact with them.

Defining the term “associated equipment” to mean any device or equipment that does not meet the definition of gaming device or gaming equipment and that has the ability to impact gaming transactions data and the reporting of AGP, and requiring the suppliers of such equipment to be licensed, would help to solve this problem.

The Act defines gaming device and gaming equipment as:

any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine used remotely or directly in connection with gaming or any game. The term includes a system for processing information which can alter the normal criteria of random selection which affects the operation of any game, or which determines the outcome of a game. The term includes a slot machine, poker table, blackjack table, craps table, roulette table, dice, and the cards used to play poker and blackjack.<sup>133</sup>

Slot monitoring systems and other systems that calculate AGP do not fall within this definition, so creating the new definition of “associated equipment” is a clear way to give the Commission and Division regulatory authority over gaming technology and devices that may not even exist today, but that could easily be on the market within a few years.

This will also benefit casinos because they will have the assurance that the suppliers with which they contract have been approved by the Division.

Therefore, the General Assembly should define “associated equipment” and create an Associated Supplier license type to regulate those who develop, manufacture or sell it.

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<sup>132</sup> §§ 12-47.1-302(1)(a), 12-47.1-302(2)(m) and 12-47.1-801(1)(h), C.R.S.

<sup>133</sup> § 12-47.1-103(10), C.R.S.

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***Recommendation 4 – Clarify which licensees can own and possess slot machines, allow retail gaming license applicants to own and possess slot machines prior to final license approval, and direct the Commission to promulgate rules outlining the circumstances under which this can occur.***

Section 12-47.1-1103, Colorado Revised Statutes (C.R.S.), specifies that only licensed slot machine manufacturers or distributors and licensed operators, can legally possess slot machines.

However, there are two problems with this. First, it seems to preclude retail gaming licensees from possessing slot machines. Although section 12-47.1-501(1)(c), C.R.S., which defines retail gaming license, seems to imply that such licensees obtain slot machines and specifies from whom and to whom they can sell slot machines, it is not clear that such licensees may actually own and possess slot machines.

This omission is likely the result of an oversight in implementing a 1995 sunset recommendation to exempt retail gaming licensees from also having to hold operator licenses. Since this is no longer the case, section 12-47.1-1103, C.R.S., should be amended to clarify that retail gaming licensees can legally possess slot machines.

The second problem occurs when a new casino is going to open or when an existing casino changes hands. Before they are licensed, owners of casinos undergo extensive background investigations that can take many months to complete. Since a retail gaming license is unique to the address of the casino, even those who already have a retail gaming license must submit to such an investigation before opening an additional casino.

As a practical matter, license applicants begin the lengthy process of designing, constructing and equipping the casino long before the gaming license is issued so that once the license is issued, the casino can open as soon as possible. This serves the licensees' profit motive, but also serves the State's interest as well. The sooner the casino starts generating revenue, the sooner it will begin to pay gaming taxes.

Because of the current restriction on the possession of slot machines, a retail gaming license applicant can purchase slot machines prior to license approval, but cannot take delivery of the machines until the license is approved.

As a result, the applicant is forced to pay manufacturers or distributors additional fees to store the slot machines until the license is issued. Once the license is issued, it may take some time for the slot machines to be delivered to the casino.

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Once the slot machines are delivered, the casino floor must be set up, all of the machines networked into the casino's slot monitoring system, and final approval obtained from the Division. This can delay the casino's opening by several weeks.

This delay could be mitigated, if not completely eliminated, if the applicant could take possession prior to the time when the license is issued. The Commission should be authorized to promulgate rules outlining the point in the license approval process at which it is relatively clear the license will be approved, so that the applicant can take possession of the slot machines and, ideally, open as soon as the license is issued. Such a measure would also serve to preserve the security of the system by retaining some restrictions on who can possess slot machines.

Finally, the Act is silent on who can legally own slot machines. Although this has not been a problem, for the sake of clarity, the Act should be amended so that it is clear that only licensed slot machine manufacturers or distributors, licensed operators, retail gaming licensees and the retail gaming license applicants discussed above can legally own slot machines.

The General Assembly should clarify which licensees can own slot machines, allow retail gaming license applicants to own and possess slot machines prior to final license approval, and authorize the Commission to promulgate rules outlining the circumstances under which this can occur.

***Recommendation 5 – Authorize the Commission to promulgate rules governing dealers' accumulation of gratuities.***

Dealers may accept gratuities from players at the table at which the dealer is conducting play. However, the Act stipulates that any such gratuity must be immediately deposited in a lockbox reserved for that purpose.<sup>134</sup>

Most of these gratuities are offered in the form of chips, and they are often in relatively small denominations, such as one dollar.

The purpose of this provision is to clearly segregate the chips in the bank (the tray of chips from which the dealer pays winning hands) from the players' chips and from the dealer's chips/gratuities.

This is reasonable, from a security perspective. As a practical matter, this provision requires casinos to possess a large number of small denomination chips and requires more frequent restocking of the dealers' trays.

Additionally, the prevalence of small denomination chips adds to the workload of accounting and other back office staff at casinos.

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<sup>134</sup> § 12-47.1-820, C.R.S.

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There are other means to attain the same level of security, while reducing the burden on the casinos. For example, the dealer could have an unlocked box or bucket into which gratuities are deposited until such time as the dealer has, for example \$20 in chips. The dealer could then exchange the 20 one-dollar chips for a single \$20-chip and deposit the \$20-chip in the lockbox.

Other scenarios could also be envisioned. Therefore, the Commission should address this subject in rule. Additionally, individual casinos should have some discretion as to how this issue is addressed.

The General Assembly should authorize the Commission to promulgate rules governing dealers' accumulation of gratuities.

***Recommendation 6 – Clarify the definition of vintage slot machine.***

The state's constitution and the Act contain detailed definitions of slot machine. The Act, however, exempts from this definition,

vintage slot machine models which were introduced on the market prior to 1984 and are not used for gambling purposes or in connection with limited gaming[.]<sup>135</sup>

The purpose of this exemption is to accommodate casinos that give away old slot machines as prizes. The year 1984 is generally recognized as the year in which slot machines evolved from mechanical to computerized internal components.

However, the age of a slot machine is generally determined by the serial number on its cabinet. According to a strict reading of the Act, the internal components could be replaced with post-1984 parts and still be considered vintage.

Since this is beyond the intent of the Act, the General Assembly should clarify that in order to be considered a vintage slot machine, the entire machine, including internal components, but excluding nongaming-related parts like fuses and wires, must have been in use prior to 1984.

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<sup>135</sup> § 12-47.1-103(26)(b)(I), C.R.S.