



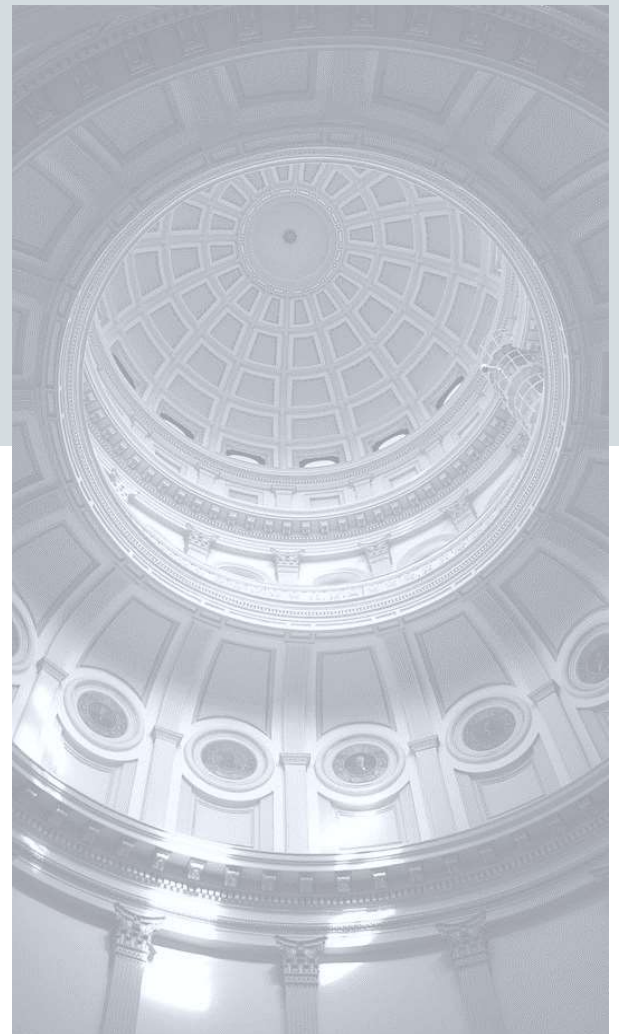
COLORADO

**Department of
Regulatory Agencies**

Colorado Office of Policy, Research &
Regulatory Reform

2021 Sunset Review

Division of Gaming



October 15, 2021



COLORADO

**Department of
Regulatory Agencies**

Executive Director's Office

October 15, 2021

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 Colorado General Assembly established the sunset review process in 1976 as a way to analyze and evaluate regulatory programs and determine the least restrictive regulation consistent with the public interest. Pursuant to section 24-34-104(5)(a), Colorado Revised Statutes (C.R.S.), the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) at the Department of Regulatory Agencies (DORA) undertakes a robust review process culminating in the release of multiple reports each year on October 15.

A national leader in regulatory reform, COPRRR takes the vision of their office, DORA and more broadly of our state government seriously. Specifically, COPRRR contributes to the strong economic landscape in Colorado by ensuring that we have thoughtful, efficient and inclusive regulations that reduce barriers to entry into various professions and that open doors of opportunity for all Coloradans.

As part of this year's review, COPRRR has completed an evaluation of the Department of Revenue's Division of Gaming. I am pleased to submit this written report, which will be the basis for COPRRR's oral testimony before the 2022 legislative committee of reference.

The report discusses the question of whether there is a need for the regulation provided under Title 44, C.R.S. The report also discusses the effectiveness of the Division in carrying out the intent of the statutes and makes recommendations for statutory changes for the review and discussion of the General Assembly.

To learn more about the sunset review process, among COPRRR's other functions, visit coprrr.colorado.gov.

Sincerely,

Patty Salazar
Executive Director





Sunset Review: Division of Gaming

Background

What is regulated?

The Department of Revenue's (DOR's) Colorado Limited Gaming Control Commission (Commission) and the Division of Gaming (Division) regulate gaming, or casino gambling, in three historic Colorado mountain towns: Central City, Black Hawk, and Cripple Creek. Regulated sports betting is allowed in Colorado-licensed casinos and on the internet if the internet platform contracts with a Colorado-licensed casino. The Division Director also regulates fantasy sports contests.

Why is it regulated?

Gaming is mostly a cash-based business. Therefore, it creates special considerations regarding who is employed and how revenues are accounted for. Those employed in the industry undergo thorough background examinations to ensure suitability to work in the industry. Additionally, the Division constantly examines, inspects, and audits gaming operations to ensure that accountability processes and procedures are in place and working. Regulation in this manner helps to prevent criminal actions from occurring, provides confidence that gaming is conducted fairly, and ensures that operations pay the taxes that Colorado citizens expect.

Who is regulated?

The Commission issues six different types of casino-related licenses. At the end of fiscal year 19-20, there were 6,051 licenses issued to casino-related businesses or individuals.

The Commission issues six different sports betting-related licenses and two fantasy sports-related credentials. At the end of fiscal year 20-21, there were 597 sports betting-related licenses, two large contest fantasy sports licenses, and 26 small contest registrations.

How is it regulated?

The Division is split into six sections to regulate various aspects of the industry:

- Administration,
- Accounting,

- Audit,
- Field Operations,
- Technical Systems, and
- Licensing and Investigations.

What does it cost?

In fiscal year 19-20, the Division expended \$12,439,435 and allotted 101.6 full-time equivalent employees.

Key Recommendations

- Continue the regulation of sports betting by the Division of Gaming for 5 years, until 2027 and continue the Division of Gaming for 11 years until 2033.
- Allow the Commission to delegate the licensing tasks it believes necessary to the Division.
- Establish 18-years-old as the age a person may work in a Colorado casino.
- Amend the Fantasy Contests Act to use the DOR's Hearings Division to conduct hearings.
- Repeal the mandatory fingerprint criminal history record checks for internationally-based internet sports betting personnel.
- Make sports betting payoffs subject to the Gambling Payment Intercept Act.

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Background

Sunset Criteria

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 Colorado Office of Policy, Research and Regulatory Reform (COPRRR) within the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria¹ and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are guided by statutory criteria and sunset reports are organized so that a reader may consider these criteria while reading. While not all criteria are applicable to all sunset reviews, the various sections of a sunset report generally call attention to the relevant criteria. For example,

- In order to address the first criterion and determine whether a particular regulatory program is necessary to protect the public, it is necessary to understand the details of the profession or industry at issue. The Profile section of a sunset report typically describes the profession or industry at issue and addresses the current environment, which may include economic data, to aid in this analysis.
- To ascertain a second aspect of the first sunset criterion--whether conditions that led to initial regulation have changed--the History of Regulation section of a sunset report explores any relevant changes that have occurred over time in the regulatory environment. The remainder of the Legal Framework section addresses the third sunset criterion by summarizing the organic statute and rules of the program, as well as relevant federal, state and local laws to aid in the exploration of whether the program's operations are impeded or enhanced by existing statutes or rules.
- The Program Description section of a sunset report addresses several of the sunset criteria, including those inquiring whether the agency operates in the public interest and whether its operations are impeded or enhanced by existing statutes, rules, procedures and practices; whether the agency performs efficiently and effectively and whether the board, if applicable, represents the public interest.
- The Analysis and Recommendations section of a sunset report, while generally applying multiple criteria, is specifically designed in response to the tenth criterion, which asks whether administrative or statutory changes are necessary to improve agency operations to enhance the public interest.

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

These are but a few examples of how the various sections of a sunset report provide the information and, where appropriate, analysis required by the sunset criteria. Just as not all criteria are applicable to every sunset review, not all criteria are specifically highlighted as they are applied throughout a sunset review. While not necessarily exhaustive, the table below indicates where these criteria are applied in this sunset report.

Sunset Criteria	Where Applied
(I) Whether regulation by the agency is necessary to protect the public health, safety, and welfare; whether the conditions that led to the initial regulation have changed; and whether other conditions have arisen that would warrant more, less, or the same degree of regulation;	<ul style="list-style-type: none"> • Profile. • History. • Legal Framework. • Program Administration. • Recommendations 1, 2, 3, 5, and 6.
(II) 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;	<ul style="list-style-type: none"> • Profile. • History. • Legal Framework. • Program Administration. • Recommendations 1, 5, and 6.
(III) 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;	<ul style="list-style-type: none"> • Profile. • History. • Legal Framework. • Program Administration. • Recommendations 1, 2, 4, and 5.
(IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;	<ul style="list-style-type: none"> • History. • Legal Framework. • Program Administration. • Recommendations 1, 2, 4, and 5.
(V) 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;	<ul style="list-style-type: none"> • History. • Legal Framework. • Program Administration. • Recommendation 1.
(VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;	<ul style="list-style-type: none"> • Profile. • History. • Legal Framework. • Program Administration. • Recommendations 1, 2, and 5.
(VII) 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;	<ul style="list-style-type: none"> • Legal Framework. • Program Administration. • Recommendations 1, 2, 3, 4, 5, and 6.

Sunset Criteria	Where Applied
(VIII) Whether the scope of practice of the regulated occupation contributes to the optimum use of personnel and whether entry requirements encourage affirmative action;	<ul style="list-style-type: none"> • Profile. • Legal Framework. • Program Administration. • Recommendations 1, 2, 3, and 5.
(IX) Whether the agency through its licensing or certification process imposes any sanctions or disqualifications on applicants based on past criminal history and, if so, whether the sanctions or disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subsection (5)(a) of this section must include data on the number of licenses or certifications that the agency denied based on the applicant's criminal history, the number of conditional licenses or certifications issued based upon the applicant's criminal history, and the number of licenses or certifications revoked or suspended based on an individual's criminal conduct. For each set of data, the analysis must include the criminal offenses that led to the sanction or disqualification.	<ul style="list-style-type: none"> • Profile. • Legal Framework. • Program Administration. • Recommendations 1, 3, and 5.
(X) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.	<ul style="list-style-type: none"> • Recommendations 1 - 6.

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 on COPRRR's website at coprrr.colorado.gov.

The functions of the Department of Revenue's Division of Gaming (Division), as enumerated in Title 44, Colorado Revised Statutes (C.R.S.), shall terminate on September 1, 2022, unless continued by the General Assembly. During the year prior to this date, it is the duty of COPRRR to conduct an analysis and evaluation 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 should be continued and to evaluate the performance of the Division. During this review, the staff must demonstrate that the program serves the public interest. COPRRR's findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

Methodology

As part of this review, COPRRR staff attended Colorado Limited Gaming Control Commission (Commission) meetings and interviewed Commission members; interviewed representatives from the Office of the Colorado Attorney General; interviewed a wide

array of industry stakeholders; interviewed international stakeholders; reviewed Division records; interviewed officials with state associations; reviewed the Colorado Constitution, reviewed Colorado statutes and rules and reviewed the laws of other states.

The major organizational contacts made during this review include, but are not limited to:

- Division of Gaming
- Colorado Limited Gaming Control Commission
- American Gaming Association
- Colorado Gaming Association
- Office of the Colorado Attorney General
- SportsInsider.com
- Bally MARDI GRAS Casino
- Independent Gaming Operations Manager
- Smarkets
- theScore
- Black Hawk Police Department

In the spring of 2021, COPRRR staff conducted a survey of 614 gaming licensees; 56 emails were returned as undeliverable. The survey received 71 responses, which is an 11.50 percent response rate. Survey results may be found in Appendix A.

Profile of the Industry

In a sunset review, COPRRR is guided by the sunset criteria located in section 24-34-104(6)(b), C.R.S. The first criterion asks 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.

In order to understand the need for regulation, it is first necessary to understand what the profession does, where they work, who they serve and any necessary qualifications.

“Gaming,” in the year 2021, has multiple meanings. If a person uses an internet search engine to search “gaming in the U.S.,” the results yield links to websites with statistics regarding the number of people who enjoy online video games or links to online video games. The overwhelming majority of those activities do not involve wagers or games of chance. Gambling is accepting, recording, or registering bets, or carrying on a policy, game, or any other lottery, or playing any game of chance, for money or other thing of value.² For the purpose of this sunset review, gaming means gambling.

² U.S. Legal. *Gambling Law and Legal Definition*. Retrieved December 10, 2020, from <https://definitions.uslegal.com/g/gambling/>

The voters of Colorado approved multiple amendments to the state's constitution authorizing gaming. The constitution; Article 30 of Title 44, C.R.S., the Limited Gaming Act of 1991 (Act); the Colorado Limited Gaming Control Commission (Commission), and the Division all play a role in regulating gaming. However, it is the Division, which acts as the administrative arm of the Commission, that is the subject of this sunset review.

Gaming is big business. The projected 2018 worldwide gross player losses for gaming was \$448 billion. The numbers include wagers from:³

- Racing,
- Sports betting,
- Casino tables,
- Gaming machines,
- Bingo, and
- Lotteries.

Though all these activities are legal in Colorado, not all are regulated by the Division. The Division oversees sports betting, casino tables, and gaming machines. Colorado allows only limited gaming in its regulated facilities. The Commission originally authorized blackjack, poker, slot machines, craps, and roulette in Colorado casinos.⁴ In 2019, Colorado voters legalized sports betting, which is regulated by the Division, and the regulation of fantasy contests was transferred to the Division in 2020.

Colorado allows gambling in three mountain towns: Central City and Black Hawk, which are located within a mile of each other, 34 miles west of Denver; and Cripple Creek which is located 48 miles west of Colorado Springs. Sports betting is allowed in Colorado-licensed casinos as well as on the internet as long as there is a contract between the internet platform and a licensed casino. There are two American Indian tribe-operated casino-resorts run by the Southern Ute Indian Tribe and Ute Mountain Ute Tribe in Ignacio and Towaoc. The Division has only an advisory role in those operations. There are close to 40 casinos within the state, and some are open 24 hours a day.⁵

The sixth sunset criterion requires COPRRR to evaluate the economic impact of regulation. One way this may be accomplished is to review the expected salary of the profession.

The Division regulates the companies that operate the facilities, the games that are played in the facilities, and the people that work in the facilities. The U.S. Bureau of Labor Statistics reports that in 2020, the median annual wage for gaming services

³ World Casino Directory. *Global Gaming Revenues 2019*. Retrieved December 21, 2020, from <https://www.worldcasinodirectory.com/statistics>

⁴ 1 CCR 207-1 § 30-104, Gaming Regulations.

⁵ Colorado.com. *Casinos and Gaming*. Retrieved December 31, 2020, from <https://www.colorado.com/activities/casinos-gaming>

workers was \$23,520. The median wage for gaming services workers were:⁶

- Gambling managers \$75,470
- First-line supervisors \$50,440
- Other Gambling service workers \$29,360
- Gambling and sports book writers and runners \$25,220
- Gambling dealers \$23,740

During the next decade, employment in the industry is projected to grow 24 percent, which is much faster than the average for all occupations.⁷

During 2019, the last pre-COVID 19 full year of receipts, the total adjusted gross proceeds for Colorado gaming was approximately \$833.7 million. The taxes generated from those adjusted gross proceeds were approximately \$123.3 million.⁸

⁶ U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook, Gaming Service Workers*. Retrieved September 16, 2021, from <https://www.bls.gov/ooh/personal-care-and-service/gaming-services-occupations.htm#tab-5>

⁷ U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook, Gaming Service Workers*. Retrieved September 16, 2021, from <https://www.bls.gov/ooh/personal-care-and-service/gaming-services-occupations.htm#tab-6>

⁸ *Fact Book & Abstract: Specialized Business Group*, Gaming Division, Colorado Department of Revenue, (2020) p. 13. Retrieved October 7, 2021, from <https://spl.cde.state.co.us/artemis/revserials/rev1011internet/rev10112020internet.pdf>

Legal Framework

History of Regulation

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by the sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The first sunset criterion questions 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 that would warrant more, less or the same degree of regulation.

One way that COPRRR addresses this is by examining why the program was established and how it has evolved over time.

In 1990, Colorado voters amended the Colorado Constitution to allow limited stakes gaming in 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. The amendment also provided for taxing of gaming revenue and created the Limited Gaming Control Commission (Commission) in the Department of Revenue (DOR) to oversee activities.

Article 30 of Title 44, C.R.S., the Limited Gaming Act of 1991 (Act), was adopted to regulate gaming activities in the state and created the DOR’s Division of Gaming (Division) to implement daily regulatory activities. The Act also created the Limited Gaming Fund into which gaming tax is deposited and from which the Commission distributes monies according to statute.

Regulation has been modified many times since 1991. The majority of pertinent bills passed since 1991 impact the manner in which Limited Gaming Fund dollars are distributed.

Some of the other notable changes include:

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 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 (GPI), 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 GPI 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. It also authorized the transfer of slot machines between licensed casinos that are directly and completely owned by the same person.

In 2008, Colorado voters again amended the constitution. Among other things, the amendment authorized the voters in Black Hawk, Central City and Cripple Creek to vote on expanding hours during which gaming operations may be conducted in their respective towns; added certain additional games of chance; and allowed bets up to \$100. The changes were approved in all three jurisdictions.

House Bill 09-1137 and Senate Bill 11-051 expanded the type of debt obligations to which the GPI applies.

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

In November 2019, Colorado voters approved a referred measure authorizing sports betting in Colorado, under the regulatory supervision of the Division. Regulated sports betting went into effect on May 1, 2020.

In 2020, following a recommendation in a sunset review, the regulation of fantasy contests was transferred to the Division.

On November 3, 2020, the voters approved Amendment 77 to the Colorado Constitution allowing for local voter approval of new bet limits and additional games for wagers.

House Bill 21-1296 codified executive orders that allowed for social distancing to prevent the spread of COVID-19. Senate Bill 21-155 directed that, notwithstanding other requirements, the Governor should appoint to the Commission, one member from Teller County and one member from Gilpin County when possible.

Legal Summary

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.⁹ 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.¹⁰ Every gaming device must clearly display its serial number, manufacturer and date of manufacture.¹¹

Interstate and international gambling using the nation's wired communications systems, including telephone lines and internet connections, is generally prohibited.¹²

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.¹³ 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 gaming¹⁴ and the Indian tribe enters into a compact with the host state.¹⁵

The compact may include provisions relating to, among other things:¹⁶

- 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 second and third sunset criteria question

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; and

⁹ 15 U.S.C. § 1172(a).

¹⁰ 15 U.S.C. § 1173(a).

¹¹ 15 U.S.C. § 1173(b).

¹² 18 U.S.C. § 1084(a) and 31 U.S.C. § 5363.

¹³ 25 U.S.C. § 2702.

¹⁴ 25 U.S.C. § 2710(b).

¹⁵ 25 U.S.C. § 2710(d)(1)(C).

¹⁶ 25 U.S.C. § 2710(d)(3)(C).

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.

A summary of the current law is necessary to understand whether regulation is set at the appropriate level and whether the laws are impeding or enhancing the agency's ability to operate in the public interest.

Colorado Constitution Article XVIII, Section 9 (Section 9) creates the framework for the regulation of gaming in Colorado.

Article 30 of Title 44, C.R.S., is the Limited Gaming Act of 1991 (Act). The Act creates and directs the functions of the Department of Revenue's Division of Gaming (Division) and the Director of the Division (Director) to implement regulation.¹⁷

Colorado Constitution

Section 9 allows limited gaming in Blackhawk, Cripple Creek, and Central City and it authorizes the Commission to administer and regulate activities. Section 9 also empowers the Commission to promulgate rules and regulations necessary to issue licenses.¹⁸

Section 9 limits where gaming activities take place, the gaming activities that are allowed to take place, the wagers that are allowed, and the hours that gaming activities may occur.¹⁹ Additionally, Section 9 limits gaming activities to structures where, "the architectural styles and designs that were common to the areas prior to World War I" and limits activities to 35 percent of the square footage of those structures.²⁰

Subsection 4.b., of Section 9, outlines limited gaming as, "[T]he use of slot machines and the card games of blackjack and poker, each game having a single bet."

The Limited Gaming Fund is also created in Section 9. The Commission is charged with setting license fees and a sum payable by a licensee, of up to 40 percent of an establishment's adjusted gross proceeds, for the privilege of conducting gaming activities in Colorado.²¹ Section 9 states that the Limited Gaming Fund is to be used for the administration of Section 9, outside of General Assembly appropriations, and the remainder to be distributed among multiple named local jurisdictions and state funds.²²

Together the Director and the Commission regulate gaming, sports betting,²³ and fantasy contests in Colorado.²⁴

¹⁷ § 44-30-201, C.R.S.

¹⁸ Colo. Const. Art. XVIII, § 9(1),(2) and (4)(a)

¹⁹ Colo. Const. Art. XVIII, § 9(1) and (2)

²⁰ Colo. Const. Art. XVIII, § 9(3)

²¹ Colo. Const. Art. XVIII, § 9(5)(a)

²² Colo. Const. Art. XVIII, § 9(5)(b)

²³ § 44-30-104, C.R.S.

²⁴ § 44-30-1602, C.R.S.

Commission

The Commission is a type 2 board within the Division, consisting of five, five-year Colorado residents who are U.S. citizens. Commissioners are appointed by the Governor, with the consent and approval of the Senate.

One member must have five years' law enforcement experience; one must be an attorney with five years' experience in regulatory law; one member must be a certified public accountant or public accountant with five years' experience and knowledge of the principles and practices of corporate finance; one member must have five years' business management experience; and one member must be a registered elector not employed in any profession or industry mentioned above.

No more than three of the five commissioners can be affiliated with the same political party and no more than one member may reside in any one congressional district unless the member fills a statutorily enumerated role as an elector from Teller or Gilpin County. A person convicted of a felony or gambling-related offense is not eligible.²⁵ Commissioners are limited to two consecutive four-year terms.²⁶ At the beginning of each fiscal year, the commissioners must choose a chair and vice-chair from the membership by a majority vote.²⁷ Any final determination of the Commission must be decided through a concurrence of a majority of the members.²⁸

It is a conflict of interest for a commissioner, or any family member of a commissioner, to have an interest in a licensed gaming or sports betting operation.²⁹

The Commission has many of the powers and duties typical of regulatory boards and commissions such as:

- Promulgating rules, with the guidance of the Director, regarding licensing, conducting, and operating limited gaming and sports betting;³⁰
- Issuing licenses;³¹
- Conducting hearings on complaints and imposing discipline with fines, suspensions, or revocations when necessary;³²
- Requesting injunctive relief to enforce the Act;³³ and
- Conducting inspections of licensed facilities and determining fees for such inspections.³⁴

²⁵ § 44-30-301(1), C.R.S.

²⁶ § 44-30-301(1)(b), C.R.S.

²⁷ § 44-30-301, C.R.S.

²⁸ § 44-30-301(1)(i), C.R.S.

²⁹ § 44-30-401(1)(a), C.R.S.

³⁰ § 44-30-302(1)(a), C.R.S.

³¹ §§ 44-30-302(1)(h) and 302(2), C.R.S.

³² §§ 44-30-302(1)(b) and 302(1)(i), C.R.S.

³³ § 44-30-302(1)(m), C.R.S.

³⁴ §§ 44-30-302(1)(n), C.R.S.

It also has charges that are unique to the gaming and sport betting industries:

- Working with law enforcement to conduct background investigations and criminal records checks on applicants applying for licensure and facility employees, including the ability to issue subpoenas;³⁵
- Analyzing limited gaming and sports betting in Colorado to determine the need to amend regulation;³⁶
- Instituting and collecting fees and taxes from parties involved in limited gaming and sports betting;³⁷
- Contracting with any governmental entity and in doing so, not having to comply with the Colorado Procurement Code;³⁸ and
- Establishing accounting, reporting, and personnel policies for licensees and obtaining access to papers, books, and records pertaining to gross income, including the ability to seize the books, papers, and records for inspection, without a hearing.³⁹

Director and Division

The Division is designated as the entity to license, implement, regulate, and supervise limited gaming and sports betting in Colorado.⁴⁰ The Division and its functions are scheduled to sunset September 1, 2022, unless continued by the General Assembly.⁴¹ It is the subject of this sunset review.

The Director is appointed by the Executive Director of the Department of Revenue (Executive Director and DOR, respectively)⁴² and is tasked with supervising the activities of the Division. The Act requires that the Director be of good moral character, not be involved in any business that might present a conflict of interest or have been convicted of a felony or gambling-related offense.⁴³ The Director, Division employees, and members of their immediate families are prohibited from participating in limited gaming or sports betting.⁴⁴ Among the duties assigned to the Director are:⁴⁵

- Employ and direct qualified staff;
- Confer with the Commission at least once per month;
- Make all books, records, files, documents, and other information available to the Commission when requested;
- Suggest necessary rule changes to the Commission;

³⁵ §§ 44-30-302(1)(c) and 302(1)(l), C.R.S.

³⁶ §§ 44-30-302(1)(d), 302(1)(e), 302(1)(f), and 302(1)(k), C.R.S.

³⁷ § 44-30-302(1)(j), C.R.S.

³⁸ § 44-30-302(1)(o), C.R.S.

³⁹ §§ 44-30-302(1)(q) and 302(1)(u), C.R.S.

⁴⁰ § 44-30-202, C.R.S.

⁴¹ § 44-30-206, C.R.S.

⁴² § 44-30-201, C.R.S.

⁴³ § 44-30-203(1), C.R.S.

⁴⁴ § 44-30-401(1)(d), C.R.S.

⁴⁵ § 44-30-203(2), C.R.S.

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- Enter into contracts for Division provisions pursuant to Commission requirements and protocols;
 - Monitor laws from other jurisdictions that may relate to the charges of the Division and Commission;
 - Report monthly revenues and expenses to the Commission;
 - Prepare and submit a proposed annual budget to the Commission; and
 - Take actions necessary to implement the Act or protect the integrity of limited gaming and sports betting.

Division investigators, their supervisors, the Director, and the Executive Director have the same authority as a peace officer to investigate or impound at locations where limited gaming or sports betting is conducted. This authority extends to devices or equipment designed for, or used in, limited gaming or sports betting.⁴⁶ Additionally they have the ability to:

- Serve warrants;⁴⁷
- Make arrests;⁴⁸
- Inspect and test locations, books and records, and equipment and devices connected with limited gaming and sports betting;⁴⁹
- Investigate license applicants and alleged violations;⁵⁰ and
- Assist peace officers from other jurisdictions.

The Act does not prohibit local sheriffs, police departments, and other local law enforcement agencies from enforcing the provisions of the Act or associated laws, or from performing their other duties. Additionally, all sheriffs, police officers, district attorneys, and other local law enforcement agencies have all the powers established for Division investigators.⁵¹ Every licensee must keep records of operations that are required to be made available to the Division for inspection during business hours.⁵²

The Division is directed to refer all criminal violations of the Act to the appropriate district attorney.⁵³

Licensing

GAMING LICENSING

The Commission issues several different types of gaming licenses to either gaming businesses or individuals employed in the gaming industry.

⁴⁶ §§ 44-30-204(1)(b) and (3), C.R.S.

⁴⁷ §§ 44-30-204(1)(d) and (1)(e), C.R.S.

⁴⁸ § 44-30-204(1)(a), C.R.S.

⁴⁹ § 44-30-204(1)(c), C.R.S.

⁵⁰ §§ 44-30-204(1)(f) and (1)(g), C.R.S.

⁵¹ § 44-30-204(4), C.R.S.

⁵² § 44-30-528, C.R.S.

⁵³ § 44-30-204(2), C.R.S.

A **Slot Machine Manufacturer or Distributor License** is needed for any person that imports, manufactures, or distributes slot machines.⁵⁴

An **Associate Equipment Supplier License** is necessary for those who import, manufacture, or distribute gaming equipment. Licensed slot machine manufacturers and distributors are exempt from this requirement.⁵⁵

A **Retail Gaming License** is necessary for any person who allows or conducts limited gaming on their premises. The licensee must have sole legal possession of the entire premises and buy or sell slot machines from a licensed manufacturer or distributor.⁵⁶

An **Operator License** is required for anyone who allows slot machines on their property or places and operates a slot machine on another's property, unless the person holds a Retail Gaming License.⁵⁷

A **Support License** is required of those who work in the gaming industry as an employee.⁵⁸

A **Key Employee License** is required for the person(s) who are in charge of all gaming activities taking place in a facility.⁵⁹

As a condition of licensing, every applicant must prove to the Commission that he or she is qualified and of good moral character by submitting to and paying for any background investigation deemed necessary.⁶⁰ The act of submitting an application authorizes the Commission to investigate the applicant.⁶¹ The Commission is also authorized to issue temporary and conditional licenses.⁶²

Among the reasons to exclude a person from receiving a license are failing to prove that the applicant meets qualifications; having convictions of various criminal charges or pending charges; being identified as a career criminal; refusing to cooperate with an investigation; and having a history as a professional gambler.⁶³ If a license application is denied, the applicant may not reapply for one year. If an application is denied a second time the applicant may not reapply for three years.⁶⁴

Final actions taken by the Commission may be appealed in the Court of Appeals.⁶⁵

⁵⁴ § 44-30-501(1)(a), C.R.S.

⁵⁵ § 44-30-501(1)(f), C.R.S.

⁵⁶ § 44-30-501(1)(c), C.R.S.

⁵⁷ § 44-30-501(1)(b), C.R.S.

⁵⁸ § 44-30-501(1)(d), C.R.S.

⁵⁹ § 44-30-501(1)(e), C.R.S.

⁶⁰ § 44-30-504, C.R.S.

⁶¹ § 44-30-513, C.R.S.

⁶² § 44-30-506, C.R.S.

⁶³ § 44-30-509, C.R.S.

⁶⁴ § 44-30-519, C.R.S.

⁶⁵ § 44-30-520, C.R.S.

SPORTS BETTING LICENSING

A “Sports Betting Operation” is a licensed business where bets on sports events may be placed in several ways.⁶⁶ The Commission is empowered to issue licenses to individuals, firms, associations, corporations, and nonprofits who desire to conduct sports betting operations.⁶⁷ As with a gaming license, there are several exclusions from licensure based on criminal activity and conflicts of interest, all of which are scrutinized with the application and background investigations conducted by the Division.⁶⁸

The Commission issues five different sports betting license types.

A **Master License** may be held by a land-based casino and allows the licensee to conduct sports betting and internet sports betting or contract with a licensed sports betting operator or a licensed internet sports betting operator for those undertakings.

A **Sports Betting Operator License** allows the licensee to manage a sports betting business where customers may bet in person at a designated physical location.⁶⁹

An **Internet Sports Betting Operator License** allows the licensee to operate an internet sport betting business in Colorado.⁷⁰ The business may operate only one individually branded website, cannot be open to the public, and cannot conduct business until it has a Commission-approved contract with a master licensee.⁷¹

A **Vendor Major License** manages the bets, administers the games, maintains the technology on a sports betting system, and operates sports betting in establishments for a percentage of revenue.⁷²

A **Vendor Minor License** provides services for a licensed sports betting operation but is not a Vendor Major Licensee.⁷³

A master licensee is not allowed to contract with more than one sports betting operator or internet sports betting operator simultaneously. However, a master licensee may contract with the same entity to provide land-based and internet sports betting.⁷⁴ All non-internet sports betting must be conducted in a designated area inside a casino.⁷⁵

⁶⁶ § 44-30-1502(1), C.R.S.

⁶⁷ § 44-30-1503(3), C.R.S.

⁶⁸ §§ 44-30-1502, 1503, and 1504, C.R.S.

⁶⁹ § 44-30-1501(11), C.R.S.

⁷⁰ § 44-30-1501(5), C.R.S.

⁷¹ § 44-30-1505(2)(b)(II), C.R.S.

⁷² 1 CCR 207-2 § 3.1(1), Sports Betting Regulations.

⁷³ 1 CCR 207-2 § 3.1(3), Sports Betting Regulations.

⁷⁴ § 44-30-1505(2)(b)(I), C.R.S.

⁷⁵ § 44-30-1505(5)(a), C.R.S.

FANTASY CONTEST LICENSING

A “fantasy contest” is an imaginary or simulated game or contest among players. Winner outcomes are decided by accumulated statistical results of athletes participating in actual sporting events.⁷⁶

The Division licenses Large Fantasy Contest operators which have more than 7,500 customers⁷⁷ and it registers those with less than 7,500 customers as Small Fantasy Contest Operators.⁷⁸

Taxation and Disbursement

Along with issuing licenses, the Division is tasked with collecting the taxes that the Commission imposes and disperses. Division operations are cash-funded from the revenues collected from those taxes.⁷⁹

GAMING TAX AND LIMITED GAMING FUNDS

A gaming tax is set by rule by the Commission. The Commission can tax up to 40 percent of the adjusted gross proceeds. In establishing the tax, the Commission is directed to consider the needs of the cities of Central, Black Hawk, and Cripple Creek for historic restoration and preservation, the impact on the communities, and the impacts on state agencies.⁸⁰

The moneys collected by the Division, except those concerning sports betting, are deposited into the Limited Gaming Fund.⁸¹ The dollars paid into the Limited Gaming Fund are immediately available to the Commission, the Department, the Division, and any other state agency for expenses related to administering the Act. The money is not appropriated through the General Assembly. However, no other state revenues may be used to pay Division or Commission expenses.⁸² After expenses are paid, the Act directs that funds be dispersed in various ways: \$15 million goes into the Colorado Travel and Tourism Promotion Fund; \$5.5 million goes into the Advanced Industries Acceleration Cash Fund; \$5 million, adjusted by formula from fiscal year 2017-2018, goes into the Local Government Limited Gaming Impact Fund; \$2.1 million goes to the Innovation Higher Education Research Fund; \$2 million goes to the Creative Industries Cash Fund; and \$500,000 goes to the Colorado Office of Film, Television, and Media Operational Cash Fund.⁸³ The remaining revenue is dispersed as follows:⁸⁴

⁷⁶ § 44-30-1603(4)(b), C.R.S.

⁷⁷ 1 CCR 207-3 § 1.5, Rules of Fantasy Contest Operator Licensing and Registration.

⁷⁸ 1 CCR 207-3 § 1.4, Rules of Fantasy Contest Operator Licensing and Registration.

⁷⁹ §§ 44-30-701(1)(b)(III), and 1509(1)(a), C.R.S.

⁸⁰ § 44-30-601(1), C.R.S.

⁸¹ § 44-30-701(1)(a), C.R.S.

⁸² § 44-30-701(1)(b), C.R.S.

⁸³ § 44-30-701(2)(d), C.R.S.

⁸⁴ § 44-30-701(1)(d), C.R.S.

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- 50 percent to the General Fund;
 - 28 percent to the State Historical Fund;
 - 12 percent to Gilpin and Teller Counties based on the proportion of gaming revenue generated there; and
 - 10 percent to the cities of Central, Black Hawk, and Cripple Creek proportional the gaming revenues generated in each.

In 2008, Colorado voters extended limited gaming when they raised the maximum wager limit, added craps and roulette, and allowed 24-hour gaming.⁸⁵ The change necessitated the creation of the Extended Limited Gaming Fund (Extended Fund). The Extended Fund is comprised of revenues generated by extended limited gaming. Like the Limited Gaming Fund, expenses of implementation are paid first, followed by adjustments to Limited Gaming Fund recipients. The remaining funds are distributed as follows:⁸⁶

- 78 percent to Colorado’s public community colleges, junior colleges, and local district colleges;
- 10 percent to the cities of Central, Black Hawk, and Cripple Creek to address local gaming impacts; and
- 12 percent to Gilpin and Teller counties to address local gaming impacts.

SPORTS BETTING TAX AND SPORTS BETTING FUND

The Act also directs the Commission to collect a Sports Betting Tax of 10 percent on net sports betting proceeds.⁸⁷ The money collected from the tax as well as license fees, fines, and penalties are deposited into the Sports Betting Fund (SB Fund). All Division-related expenses derived from sports betting regulation are paid through the SB Fund.⁸⁸ However, this occurs only after any General Fund dollars used by the Commission and Division for initial sports betting licensing and rulemaking are repaid.⁸⁹ The intention is that sports betting regulation be self-sustaining and that no other state moneys are used for its regulation.⁹⁰

If there is money remaining in the SB fund after the expenses are paid, the Act directs where remaining funds go:

- Six percent of the full fiscal year sports betting tax revenues into the Wagering Revenue Recipients Hold-Harmless Fund. The Commission is instructed to use

⁸⁵ Colorado Department of Revenue. *What is Limited Gaming?* Retrieved January 27, 2021, from <https://www.colorado.gov/pacific/enforcement/what-limited-gaming#:~:text=In%20Colorado%2C%20Limited%20Gaming%20means,blackjack%2C%20poker%2C%20craps%20and%20roulette>

⁸⁶ § 44-30-702(3), C.R.S.

⁸⁷ § 44-30-1508, C.R.S.

⁸⁸ § 44-30-1509(1), C.R.S.

⁸⁹ § 44-30-1509(2)(a), C.R.S.

⁹⁰ §§ 44-30-1510(6) and 1510(7), C.R.S.

this fund to proportionally compensate entities for sports betting-related revenue losses, including:

- The State Historical Fund;
- Colleges that were operating on and after January 1, 2008;
- Central City, Black Hawk, and Cripple Creek; and
- Gilpin and Teller counties.⁹¹
- \$130,000 each year, to the Department of Human Services to be distributed as follows:
 - \$30,000 to the Rocky Mountain Crisis Partners gambler crisis hotline or its successor; and
 - \$100,000 for prevention, education, treatment of gambling disorders including workforce development and the salaries of counselors certified to treat gambling disorders.⁹²
- All remaining, unencumbered moneys go to the Water Plan Implementation Cash Fund.⁹³

Tribal-State Gaming Compact

The federal Indian Gaming Regulatory Act establishes that Indian tribes may allow gaming on Indian lands provided the gaming is located within a state that permits gaming.⁹⁴ If so, the Indian tribe must enter into a compact with the state.⁹⁵ Article 31 of Title 44, C.R.S., authorizes the Governor and the Commission to enter into such a compact.⁹⁶

In authorizing the Governor, the General Assembly is explicit in its intent that gaming on tribal lands must follow the gaming restrictions established in the Colorado Constitution.⁹⁷ Among the provisions the General Assembly suggests the compact include are the licensing, taxing, and the legal jurisdiction of both tribe and state.⁹⁸

Gambling Payment Intercept Act

The Gambling Payment Intercept (GPI) Act requires the DOR or a private entity with which the DOR contracts, to create and maintain a registry of individuals who owe unpaid child support, criminal restitution, and/or an unpaid debt to the State.⁹⁹

⁹¹ § 44-30-1509(c)(l), C.R.S.

⁹² § 44-30-1510(2)(d), C.R.S.

⁹³ § 44-30-1510(2)(e), C.R.S.

⁹⁴ 25 U.S.C. § 2710(b).

⁹⁵ 25 U.S.C. § 2710(d)(1)(C).

⁹⁶ § 44-31-101, C.R.S.

⁹⁷ § 44-31-103(2), C.R.S.

⁹⁸ § 44-31-103(1), C.R.S.

⁹⁹ §§ 44-33-101, 104, and 108, C.R.S.

Prior to paying a winner, licensees must contact the registry operator to ascertain if the winner is listed. If listed, the casino must withhold what is owed, after the proceeds reach a threshold, and send it to the registry operator within 24 hours and refer the winner to the State agency(s) reporting the debt. Once received, the registry operator must then send the money to the appropriate State agency(s).¹⁰⁰

If a licensee violates the provisions of the GPI, it may be disciplined by the Commission.¹⁰¹

¹⁰⁰ § 44-33-105(2), C.R.S.

¹⁰¹ § 44-33-107(1), C.R.S.

Program Description and Administration

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The third, fourth and fifth sunset criteria question:

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures 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; and

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.

In part, COPRRR utilizes this section of the report to evaluate the agency according to these criteria.

The Colorado Constitution and Colorado Revised Statutes limit who can gamble, where gambling may take place, the games that are allowed, and, until recently, the amount that could be wagered.

The Colorado Limited Gaming Control Commission (Commission) regulates gaming through its administrative arm, the Colorado Department of Revenue's Division of Gaming (Division). The Commission is a type 2 board within the Division, consisting of five, five-year Colorado residents who are U.S. citizens. Commissioners are appointed by the Governor, with the consent and approval of the Senate. It is a conflict of interest for a commissioner, or any family member of a commissioner, to have an interest in a licensed gaming or sports betting operation. The Commission meets monthly to conduct business related to the regulation of gaming. Together the Commission and the Division regulate gaming in casinos and sports betting. The Division is the subject of this review.

Rather than the Division being organized based on activity or type of contest, it is organized based on regulatory function. The Division has six sections that are managed by the Division Director:

- Administration,
- Accounting,
- Audit,
- Field Operations,
- Technical Systems, and
- Licensing and Investigations.

Regulation and any other expenses related to administering the Act are funded through licensing fees and gaming taxes. The money is not appropriated through the General Assembly; the Commission has fiduciary responsibility and appropriates funds as needed.

Table 1 shows the Division’s monetary expenditures and full-time equivalent (FTE) employees during the period examined for this sunset review, fiscal year 15-16 through fiscal year 19-20.

**Table 1
Agency Fiscal Information**

Fiscal Year	Total Program Expenditure	Commission Approved FTE
15-16	\$11,059,287	91.0
16-17	\$11,474,387	91.0
17-18	\$10,973,771	91.0
18-19	\$11,610,388	89.0
19-20	\$12,439,435	101.6

Table 1 shows the number of FTE approved by the Commission; however, that number does not necessarily equate to actual working employees. For example, in 2019, sports betting was authorized in Colorado. The addition created more work for the Division and the extra staff FTE were approved but not all positions were filled immediately. At the end of fiscal year 19-20, the Division had 88.0 FTE on staff. This is one major reason that monetary expenditures did not increase as much as one would expect given the increase in personnel.

Administration and Accounting

The Accounting and Administration Sections support the Division and Commission providing the assistance necessary to regulate gaming. The Administration Section employs 6.0 FTE who provide managerial, analytical, and clerical input to regulatory activities. This section includes the Division Director who oversees all Division operations:

Gaming Division Director	1.0
Program Management III	1.0
Analyst IV	2.0
Administrator III	1.0
Program Assistant II	1.0

Accounting employs 6.0 FTE, who provide both accounting and financial services to the Division. The FTE are allotted as follows:

Gaming Division Controller	1.0
Deputy Gaming Division Controller	1.0
Accountant III	1.0
Accountant II	1.0
Accounting Technician III	2.0

Audit

The seventh sunset criterion requires COPRRR to examine 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.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

The Audit Section employs 14.0 FTE, including the Chief Auditor, 9.0 FTE in a Lakewood field office, and 4.0 FTE in a Cripple Creek field office.

The Audit Section conducts revenue and compliance audits to ensure establishments are following stringent accounting and compliance procedures that support proper reporting and payment of taxes. The Audit Section is also responsible for publishing the annual Fact Book and Abstract which is an overview of the Division.

The Audit Section performs audits and Compliance Observation Reviews (CORs), on several aspects of casino operations. The CORs ensure each operation follows the Internal Control Minimum Procedures (ICMP) developed for implementation by the gaming operations. The ICMPs attempt to control the environment and keep close scrutiny on gaming businesses to prevent dishonest practices from occurring and hurting players or Colorado citizens. The beneficiaries of gaming include state and local governments and their constituencies. This section works with individual casino compliance officers to ensure the standards are upheld and revenue is properly reported. In addition to the CORs, the section reviews suggested variances to the ICMP, reporting and resolving noncompliance issues, and develops internal control testing processes.

The multiple types of CORs include:

- *Accounting CORs* concentrate on an operation's taxable earnings.
- The *Drop/Count CORs* audit the procedures in which revenue is retrieved from the casino floor, counted, and recorded.

- The cage is where casinos hold money and pay winners. *Cage CORs* examine how an operation manages cash flow, security, documentation.
- *Key Control CORs* focus on the processes that keep slot machine access keys secure and diminish the prospect of machine tampering or fund embezzlement.
- The *Gambling Payment Intercept CORs* examine the processes in place to ensure that a casino complies with the provisions of the Gambling Payment Intercept Act which is explained on pages 18-19 of this report.

The audits performed by the section are more in-depth examinations that scrutinize accounting and revenues, rather than ensuring compliance with processes. Who gets audited is determined by several factors including the risk an operation presents, revenue generated, COR results, time since the last audit, and any other variables that suggest greater scrutiny is needed.

Table 2 enumerates the CORs conducted by the Division and includes the compliance percentage for each type.

**Table 2
CORs and Compliance Percentages**

Fiscal Year	Audits	Accounting CORs	Drop/Count CORs	Cage CORs	Key Control CORs	Gambling Payment Intercept CORs
15 -16	6	322 (94.7%)	716 (94.1%)	614 (97.6%)	424 (87.5%)	237 (92.4%)
16 -17	3	309 (81.2%)	759 (93.8%)	447 (99.1%)	362 (92.3%)	180 (90.6%)
17 -18	8	170 (95.9%)	567 (99.1%)	308 (97.4%)	284 (98.2%)	201 (94.5%)
18 -19	11	168 (85.1%)	477 (97.1%)	212 (92.5%)	236 (89.41%)	113 (88.5%)
19 -20	5	124 (87.9%)	502 (96.0%)	231 (97.4%)	191 (87.4%)	147 (93.9%)

In fiscal years 16-17 and 19-20, the audit numbers did not reach the goals of seven audits established by the Division. In fiscal year 16-17, staff turnover and workload created issues, and in fiscal year 19-20, COVID-19-related closures affected not only the ability to perform those five audits enumerated in Table 2 in a timely manner, but the Division was unable to complete all audits that were previously scheduled.

Field Operations and Technical Systems

The seventh sunset criterion requires COPRRR to examine 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.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

The Field Operations Unit and Technical Systems Unit both monitor technology in casinos. The Technical Systems Section’s reach of influence involves all casino technology other than “slot machines” while the Field Operations Unit scope is all gaming machinery.

The old-fashioned, coin-operated, gear-driven slot machines have generally been replaced industry-wide with computerized, software-driven apparatuses. The Field Operations Unit monitors the approximately 12,500 electronic gaming devices in Colorado’s casinos. It ensures that all devices are permitted in Colorado and otherwise comport with appropriate regulation. Reviewing new games and platforms is an important element of this section’s functions.

Along with the unit Administrator, Field Operations employs 4.0 Compliance Investigator FTE in Central City and 3.0 Compliance Investigator FTE in Cripple Creek.

The Technical Systems Unit must grasp the effect of old and new technology to establish strategies, procedures, regulations, and internal controls. The section then monitors installation and upgrades to ensure they harmonize with gaming laws. Technologies such as cashless wagering, wireless technology, network security and architecture, and wide-area progressives¹⁰² are examples of what fall under the purview of this section.

The Technical Systems section employs a Chief Technology Officer, plus 6.0 auditor FTE.

Table 3 shows the inspections conducted by the sections during the time cohort examined for this sunset review.

**Table 3
Systems Inspections**

Fiscal Year	Number of COR Inspections	Number of Auxiliary Inspections	Number of Devices Inspected
16-17	99	176	5,476
17-18	99	277	5,945
18-19	97	249	5,687
19-20	62	155	5,826
20-21	22	70	4,043
Total	379	927	26,977

¹⁰² A progressive jackpot is one that increases every time the game is played but the jackpot is not won. A wide-area progressive encompasses several machines that may be in several locations.

The number of these routine inspections was very steady until fiscal year 19-20, when the COVID-19 pandemic closed facilities and operations changed.

Based on industry-wide alerts and the results of the inspections, the Field Operations Unit required certain machines, or the software in the machines, to be taken out of service. Table 4 enumerates how often this occurred during the period examined.

Table 4
Software or Machines
Removed from Service

Fiscal Year	Number of Immediate Revocations	Number of Delayed Revocations
16-17	1	158
17-18	3	133
18-19	2	105
19-20	2	129
20-21	0	18

Given that the Unit monitors more than 12,500 machines, the number of revocations is quite small, a total of 548 times during the entire time cohort. It is extremely rare that an issue causes a machine to be taken immediately out of use. It happened three times in fiscal year 17-18, which is the highest of the years examined, and not at all during fiscal year 20-21.

When necessary, the Field Operations Unit will perform forensic investigations on the machine software. However, this occurred only one time during the review time cohort, during fiscal year 17-18.

Licensing and Investigations

The seventh sunset criterion requires COPRRR to examine 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.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

The Commission exercises extreme caution regarding the businesses and individuals it licenses. Depending on the type of license, investigators from the Division's Licensing and Investigations Section look deep into each applicant's background. Lower-level employees undergo criminal history checks by the Division and the Colorado Bureau of Investigation. Key personnel and businesses undergo extensive criminal, personal, and

financial investigations to determine fitness to be involved in the industry. The more intensive investigations can take over a year and, at times, the Commission will issue a temporary license when it believes one is warranted.

This section conducts the most labor-intensive tasks in the Division. It employs 15.0 FTE in Golden, including the Chief of Investigations, 14.0 FTE in Cripple Creek, and 17.0 FTE in Central City. There is also an Agent in Charge in both the Cripple Creek and Central City offices.

The Licensing and Investigations Section is also charged with investigating complaints that come to the Commission and working with local law enforcement, district attorneys, and the Office of the Attorney General to pursue criminal investigations and prosecutions when necessary.

Table 5 shows the actions taken by the Commission regarding license and compliance investigations for the fiscal years listed.

**Table 5
Commission Actions**

Type of Action	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20
Summary Suspension	21	15	6	7	3
Surrender	48	53	31	33	28
Warning - Verbal	554	505	577	618	551
Warning- Written	113	114	138	117	65
Assurance of Voluntary Compliance	30	35	76	33	44
Stipulation and Agreement	4	2	0	1	0
License Denied	51	13	15	41	16
Withdrawal of application	39	45	66	26	44

The “Summary Suspensions” were issued to those individuals who were convicted of crimes that preclude them from holding a license under the Act. The “Licenses Denied” were because of issues discovered during the background checks not related to criminal activity but due to other statutory licensing disqualifiers. An “Assurance of Voluntary Compliance” is mainly used when an applicant fails to notify the Division of an arrest or a licensee fails to disclose an arrest, but the offenses are not deemed egregious enough to suspend or deny a license. The largest number of actions taken, by far, were warnings by the Division to a licensee to stop a particular behavior or it could result in a more severe action. In those cases, the Commission considers public safety as well as the ability to continue working.

Licensure

The eighth sunset criterion questions whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

The Commission issues several types of credentials that are valid for two years. The casinos are the center of gaming activities in that they have in-person gambling and all sports betting must be conducted through a casino. Casino gaming licenses, aside from sports betting, include:

- **Slot Machine Manufacturer or Distributor License** for persons that import, manufacture, or distribute slot machines;
- **Associate Equipment Supplier License** for those who import, manufacture, or distribute gaming equipment except slot machines;
- **Retail Gaming License** for those who allow or conduct limited gaming on their premises;
- **Operator License** for people who operate slot machines;
- **Support License** for gaming industry employees;
- **Key Employee License** for those in charge of casino gaming activities; and
- **Associated Person Approval** for those who are not licensed but a background examination is required, similar to a casino Key License.

Excepting Support and the Key Employee licenses, the Commission issues a Type 1 or Type 2 license. A Type 1 license is issued to an individual or organization with six or fewer people who are officers, directors, general partners, five percent or more stockholders or equity owners, and the principals reside in Colorado. Type 2 licensees are all other licensees. The fees for licenses are:

- Slot machine manufacturer or distributor license;
 - Original and renewal Type 1: \$3,700
 - Original and renewal Type 2: \$7,400
- Associated equipment supplier license;
 - Original and renewal Type 1: \$3,700
 - Original and renewal Type 2: \$7,400

- Operator license;
 - Original and renewal Type 1: \$3,700
 - Original and renewal Type 2: \$7,400
- Retail gaming license;
 - Original and renewal Type 1: \$5,500
 - Original and renewal Type 2: \$8,000
- Original key employee license;
 - Fingerprinted by the Division: \$275
 - Fingerprinted by outside vendor: \$235
- Renewal key employee license: \$215
- Original support employee license
 - Fingerprinted by the Division: \$115
 - Fingerprinted by outside vendor: \$75
- Renewal support employee license: \$70.

Table 6 shows the number of active casino and casino-associated licenses, aside from sports betting, at the end of the fiscal year.

**Table 6
Casino Licenses**

License Type	FY 16-17	FY 17-18	FY 18-19	FY 19-20
Support	5,788	5,758	5,610	5,483
Key Employee	493	502	486	486
Retailer	33	33	33	33
Slot Manufacturer/Distributor	27	27	24	29
Associate Equipment Supplier	1	1	2	3
Operator	15	16	16	17

As one might expect, the number of credentials issued in each category is fairly static from year to year. The category that has the most variation is the Support License, which is issued to rank and file casino employees.

Sports bets may be made at casino-housed sports books or through an online service that must be tethered to a land-based licensed casino that holds a master license. The credentials issued to sports betting operations include:

- **Master License** - Issued to a land-based licensed casino and may host retail or internet operators.
- **Retail Operator License** - Provides sports betting in a casino.

- **Internet Operator License** - Provides sports betting via an online platform.
- **Vendor Major License** - Manages the bets made on a sports betting system; Administers the games on a sports betting gaming system; Maintains or operates the technology of a sports betting gaming system; Provides products, services, information or assets licensed establishments; and receives a percentage of revenue.
- **Vendor Minor License** - Provides services for a licensed sports betting operation but is not a Vendor Major Licensee.
- **Associated Person Approval** - An associated person is not licensed but a background examination is required of those connected with an operation. Similar to a casino Key License.

The fees for sports betting licenses are:

- Master license original is \$2,000 and renewal is \$250
- Sports betting operator original and renewal: \$1,200
- Internet sports betting original and renewal: \$1,200
- Vendor Major original and renewal: \$1,200
- Vendor Minor original and renewal: \$350

Table 7 lists the number of licenses issued that are associated with sports betting during the first year of operations.

Table 7
Sports Betting Licenses Issued
May 2020-May 2021

License type	Total
Master	33
Retail	13
Internet Operator	23
Vendor Major	29
Vendor Minor	195
Associated Person	304

Though sports betting in Colorado is new, only having been legal less than one and one-half years as this report is published, the number of licenses will likely not change too much. This is due to each operator having to be tethered to a casino and there are only so many casinos that Colorado can support.

Fantasy contest regulation moved to the Division from the Department of Regulatory Agencies' Division of Professions and Occupations as the result of a recommendation in a 2019 sunset review. This activity is now regulated under the sports betting umbrella.

If an operator serves more than 7,500 customers, it must be licensed as a Large Fantasy Contest Operator. If an operator serves less than 7,500 customers, then there is a Small Fantasy Contest Operator Registration requirement. As of the end of fiscal year 20-21, there were 26 small contest registrants and 2 large contest licensees. There is no fee for the small contest registration, and the fee is \$7,500 for a large contest license.

Financing Activity

The seventh sunset criterion requires COPRRR to examine 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.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

The Commission has the authority to impose fines for violations of the Act or associated rules.¹⁰³ The Act specifies that fines per violation are limited to no more than:¹⁰⁴

- \$100,000 for a Slot Machine Manufacturer or Distributor,
- \$25,000 for an Associated Equipment Supplier,
- \$25,000 for an Operator,
- \$25,000 for a Retailer,
- \$5,000 for a Key Employee, and
- \$2,500 for Support persons.

Division staff explained that fines are rare and typically are issued in conjunction with a stipulation. Table 8 lists the Commission’s fining activity for the fiscal years listed.

Table 8
Fines

Fiscal Year	Fines Imposed	Fines Collected	Value of Assessed Fines	Dollars Collected
15-16	35	35	\$300,297	\$300,362
16-17	47	40	\$158,390	\$158,180
17-18	70	67	\$172,356	\$170,428
18-19	48	55	\$179,259	\$181,328
19-20	59	60	\$13,818	\$13,664
Total	259	257	\$824,120	\$823,962

¹⁰³ § 44-30-302(2)(p), C.R.S.

¹⁰⁴ § 44-30-524(1)(b), C.R.S.

Because most fines are issued in conjunction with a stipulation some of the dollars may be stayed unless the licensee violates the terms of the stipulation or the Act. If a licensee does not pay a fine, it may be subject to additional discipline. In fiscal year 15-16, the Commission issued a large fine against a Manufacturer/Distributor licensee for operating without a license, which is why that fiscal year appears to be an outlier. Likewise, because the industry was shut down for a portion of the year due to the COVID-19 pandemic, fiscal year 19-20 is an extreme outlier in terms of the value of fines assessed.

Collateral Consequences - Criminal Convictions

The ninth sunset criterion requires COPRRR to examine whether the agency under review, through its licensing processes, imposes any sanctions or disqualifications based on past criminal history, and if so, whether the disqualifications serve public safety or commercial or consumer protection interests.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

Businesses and individuals undergo extensive background investigations in connection with licensing applications. The investigations include criminal history checks with both the Colorado Bureau of Investigation and the Federal Bureau of Investigation. Table 9 shows the consequences of an issue appearing during those investigations.

**Table 9
Collateral Consequences
In Licensing**

Sanction or Disqualification	Fiscal Year 15-16	Fiscal Year 16-17	Fiscal Year 17-18	Fiscal Year 18-19	Fiscal Year 19-20
License Surrendered	13	29	27	50	28
Application Withdrawal	21	23	18	7	44
License Denial	25	16	12	4	16
License Revocation	21	15	6	7	3
Total	80	83	63	68	91

A license is considered temporary until the entire background investigation has been completed. Each applicant must agree to a *Statement of Understanding* (SOU). Among the provisions in the SOU are that an initial license is subject to denial pending the results of the background investigation.

Note that there are several revocations listed in Table 9. Most of the criminal history concerns are related to *Driving Under the Influence* (DUI) convictions. However, being

convicted of a DUI is not automatically a disqualifying event or one that inevitably results in a revocation or denial. Nonetheless, not disclosing an arrest or conviction on the application or not reporting an arrest to the Division within 10 days may result in disciplinary action such as a verbal warning, written warning, or an Assurance of Voluntary Compliance.

Table 10 enumerates the penalties levied against those licensed who are arrested or convicted of a criminal offense or other legal issue post-licensing.

**Table 10
Collateral Consequence
Discipline**

Sanction or Disqualification	Fiscal Year 15-16	Fiscal Year 16-17	Fiscal Year 17-18	Fiscal Year 18-19	Fiscal Year 19-20
Verbal Warning	15	7	13	16	11
Written Warning	3	7	5	9	10
Assurance of Voluntary Compliance	19	15	27	30	31
Stipulation	2	0	0	0	0
Total	39	29	45	55	52

Tables 9 and 10 show that most of the criminal activity is not disqualifying and most discipline occurs as a result of not disclosing an issue. Notwithstanding, the disciplinary actions typically assessed are verbal or written warnings and Assurances of Voluntary Compliance.

Gambling Payment Intercept Act

The Division ensures that casinos comply with the Gambling Payment Intercept Act (GPI). The GPI provides that gambling payments, of \$300 or more, may be intercepted to pay off certain debts. Prior to paying a winner, licensees must contact the registry to establish if the winner is listed as owing an applicable debt. The debts included in the GPI include child support that is in arrears, court-ordered restitution, and any unpaid debt due to the State.¹⁰⁵

The Department of Revenue has contracted with Colorado Interactive to operate the registry. The Audit Section of the Division performs CORs to verify GPI compliance.

Table 11 illustrates the success of the GPI at collecting debts.

¹⁰⁵ § 44-33-103(2), C.R.S.

**Table 11
GPI Data**

Fiscal Year	Inquiries to Registry	Inquiries Resulting in Match	Money Intercepted			Total Intercepted
			Child Support	Restitution	State Debt	
15 -16	115,703	864	\$498,044	\$272,258	\$398,707	\$1,169,010
16 -17	120,087	798	\$528,055	\$237,483	\$416,676	\$1,182,214
17 -18	126,887	867	\$547,146	\$335,789	\$416,413	\$1,299,348
18 -19	128,489	836	\$435,111	\$336,731	\$303,784	\$1,075,627
19 -20	94,605	596	\$328,538	\$349,723	\$81,558	\$759,819
Total	585,771	3,961	\$2,336,894	\$1,531,985	\$1,617,139	\$5,486,018

Table 11 shows that even though the number of inquiries made to the registry resulted in a match only 0.7 percent of the time, those matches resulted in approximately \$5.5 million dollars in debt recovered.

COVID-19 Response

The COVID-19 pandemic placed extraordinary pressures on the citizens of Colorado, the Colorado economy and Colorado state government. As a result, COPRRR asked the Division to summarize any measures the agency may have implemented in response to the COVID-19 pandemic, the results of those efforts and any lessons learned. This section of the report is intended to provide a high-level summary of those responses.

COVID-19 had a large effect on the gaming industry in Colorado as casinos were completely shut down March 17, through June 17, 2020. The Commission allowed licensees to postpone renewals during the time of closure of the casinos.

Analysis and Recommendations

The final sunset criterion questions whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest. The recommendations that follow are offered in consideration of this criterion, in general, and any criteria specifically referenced in those recommendations.

Recommendation 1 - Continue the regulation of sports betting by the Division of Gaming for 5 years, until 2027, and continue the Division of Gaming for 11 years, until 2033.

Colorado is unique in the gambling universe. The industry is created by a combination of Colorado Constitutional fiat and Colorado statute. In-person gaming is limited to casinos located in historic settings; state laws restrict the games that may be played and, until very recently, they limited the amounts that could be wagered; no sports betting was allowed in Colorado, in-person or online, until just over one year ago, in 2020; and, until very recently, fantasy contests were regulated as a separate industry in a different department of state government.

Regulation of the industry is overseen by the Colorado Limited Gaming Control Commission (Commission), which is a type 2, constitutionally created entity in the Department of Revenue (DOR). The DOR's Division of Gaming (Division), which is a creation of the General Assembly, executes the day-to-day tasks of regulation on behalf of the Commission. When adopting the Colorado Limited Gaming Act of 1991 (Act), the General Assembly determined:¹⁰⁶

- (a) The success of limited gaming is dependent upon public confidence and trust that licensed limited gaming is conducted honestly and competitively; that the rights of the creditors of licensees are protected; and that gaming is free from criminal and corruptive elements;
- (b) Public confidence and trust can be maintained only by strict regulation of all persons, locations, practices, associations, and activities related to the operation of licensed gaming establishments and the manufacture or distribution of gaming devices and equipment;
- (c) All establishments where limited gaming is conducted and where gambling devices are operated and all manufacturers, sellers, and distributors of certain gambling devices and equipment must therefore be licensed, controlled, and assisted to protect the public health, safety, good order, and the general welfare of the inhabitants of the state to foster the stability and success of limited gaming and to preserve the economy and policies of free competition of the state of Colorado;

¹⁰⁶ § 44-30-102(1), C.R.S.

The chief purpose of a sunset review is to determine if regulation is necessary to protect the public and if conditions have changed that would require change in regulation. Given that gambling and the Commission are both authorized in the Colorado Constitution, and the Division implements the provisions of the Constitution, statute, as well as Commission policies and directives, existence of the Division is absolutely necessary.

As one stakeholder stated, “The Commission and Division are charged with making an illegal activity legal and honest.” There are many elements and constituencies to keep track of when regulating. The Division performs extensive background investigations on every industry business and most employees to ensure that the people working in the industry are honest and trustworthy. It also audits finances, machines, and processes to ensure consistency and lessen the likelihood that illegal or illicit influences will cheat gamblers, operators, or Colorado citizens who are the ultimate beneficiaries of gambling activities.

The Division has been administering the casino gaming portion of its scope for many years and has the systems and procedures in place such that most issues that arise are handled by experienced staff. The data produced and enumerated in the Program Description section of this report show that it is reasonable to conclude that regulation is necessary, sufficient, and successful at protecting the public.

However, there are no longitudinal data to make any conclusions concerning the regulation of sports betting. In November 2019, Colorado voters authorized sports betting in Colorado. Regulated sports betting went into effect on May 1, 2020, and this report is published October 2021. It is impossible to analyze much more than one year’s worth of sports betting data. A typical review of this type examines five fiscal years’ worth of data, as is the case in this report concerning casino gaming activities.

The analysis conducted for a sunset review is not totally data driven. The Colorado Office of Policy, Research, and Regulatory Reform (COPRRR) interviews industry stakeholders, performs other types of literature-based research, completes primary research, and explores whatever subject-specific investigation may be necessary when performing a review.

Still, data analysis is an important component of the examination both for COPRRR to make recommendations and to give the General Assembly an idea of the scope and purpose of regulation. Sports betting in Colorado began a scant few months after it won voter approval, which is no small accomplishment, and the Division should be commended for that achievement. Nonetheless, regulation began less than six months before this review started and 18 months prior to publishing. Sports betting is a major new function of the Commission and Division, and it needs to be better scrutinized after regulation has been in place for a longer period. Therefore, the General Assembly should continue regulation of sports betting by the Division for only five years, until 2027.

Because there are no pressing issues with the entire Division to warrant sooner examination, the General Assembly should extend regulation of casino gaming by the Division for 11 years, until 2033.

Recommendation 2 - Allow the Commission to delegate the licensing tasks it believes necessary to the Division.

During the fiscal years examined for this sunset review, the Commission issued more than a dozen types of credentials to nearly 6,700 businesses or individuals. Prior to becoming regulated, each person or entity must undergo some level of vetting investigation. Investigations are conducted by the Division, and it makes recommendations to the Commission regarding the fitness of an applicant seeking licensure. Since the Commission meets monthly, and its volunteer members are otherwise employed, the workload of reviewing the cases has become excessive. For that reason, in 2018, the Act was amended to allow the Commission to delegate to the Division the authority to issue two specifically enumerated licenses. Though the workload lessened somewhat, the addition of sports betting and fantasy contests compounded the workload issue that was never totally eased.

The third sunset criterion asks if program operations are impeded by statutes, procedures, and practices. The fourth sunset criterion asks to consider if the agency performs duties efficiently.

The Commission has the typical duties of many state licensing boards in that it issues licenses, convenes hearings, issues discipline, and makes rules. However, the Commission also must hold meetings at least monthly, make policy decisions concerning industry operations, approve contracts, enter into agreements with other agencies for services, collect fees and taxes, make budgetary decisions, allot monies based on several provisions of law, and any other activities determined necessary to the oversight of Colorado's gambling industry. This is more responsibility than the typical regulatory board or commission has.

The General Assembly should alleviate some of the workload by expanding the ability of the Commission to delegate licensing to the Division. The Commission should be able to decide which license types it needs to scrutinize more closely and which the Division should be able to approve on its behalf. Such a revision to the Act would allow commissioners to spend time and resources more efficiently and on other priorities. It would also speed up the licensing process and help alleviate labor shortages.

This is not to suggest that the Commission completely abrogate its licensing authority. If there is ever an issue with a license application, the final decision should be made by the Commission. A change of this type is similar to the manner in which other state agencies operate. Allowing the Division to issue a license to a clean applicant, one whose vetting does not reveal any problems, will streamline operations and create efficiencies. Additionally, the Commission has the statutory duty to:

[C]onduct a continuous study and investigation of limited gaming and sports betting throughout the state for the purpose of ascertaining any defects in this [Act] or in the rules promulgated pursuant to this [Act] in order to discover any abuses in the administration and operation of the Division or any violation of this [Act] or any rule promulgated pursuant to this [Act].¹⁰⁷

Because it is important that there be flexibility in operations, the Commission must be able to review individual cases, disciplinary trends, and licensing trends that it believes is necessary to fulfill its obligations.

Therefore, to create operational efficiencies and speed up the licensing process, the General Assembly should amend the Act to allow the Commission to delegate the licensing tasks it believes necessary to the Division.

Recommendation 3 - Establish 18 as the age a person may work in a Colorado casino.

According to stakeholders interviewed for this sunset review, including representatives of the gaming industry, Colorado casinos are suffering from a dearth of available labor. This was an issue for the casinos prior to the COVID-19 pandemic and has only been exacerbated since. Data provided by the Division for this sunset review showed that the number of licenses issued to casino support personnel had already declined by 5.3 percent pre-pandemic. That decline reflects active licenses but not active employees. The decline in the number of those actually working is likely higher.

The reasons for the decline, according to the stakeholders, are mainly due to the location of the casinos compared to the labor population base and the pre-pandemic, strong economy. People did not want to drive to work in a mountain town when they could work much closer to home.

A valid solution is to allow 18 to work in casinos. The Act currently prohibits persons under 21 from working in a casino.¹⁰⁸ The change would provide a larger labor pool from which casinos could draw.

Colorado has determined that the age of majority is 18. The age of majority is when young people are considered adults for most legal matters.¹⁰⁹ Regardless, one must be 21 to be employed in a casino.

A change in the minimum worker age would not change the minimum age to gamble. This solution is similar to the model employed in the restaurant industry. A restaurant

¹⁰⁷ § 44-30-302(1)(d), C.R.S.

¹⁰⁸ § 44-30-103(14) and 811, C.R.S.

¹⁰⁹ Colorado Judicial Branch. *List of Laws, Age of Majority*. Retrieved July 28, 2021, from <https://www.courts.state.co.us/Courts/Education/Youth/Laws.cfm>

service employee who is under 21-years-old may not consume alcohol but may serve alcohol in a restaurant that sells and serves alcohol.

Several sunset criteria address the concerns raised by stakeholders:

- The second criterion asks whether existing law establishes the least restrictive environment consistent with public protection,
- The sixth criterion asks if regulation stimulates or restricts competition,
- The eighth criterion asks whether the scope of practice adds to the ideal use of personnel, and
- The tenth criterion asks if changes are necessary to enhance the public interest.

The prohibition on individuals working in casinos prior to age 21 is overly restrictive and the restriction does not add to public protection; the prohibition restricts competition by unduly limiting the labor force; the statutorily shrunken labor pool has resulted in an inefficient use of personnel; and removing the prohibition makes the gambling industry more sustainable, therefore, it is in the public interest.

Consequently, the General Assembly should establish 18-years-old as the age a person may work in a Colorado casino.

Recommendation 4 - Amend the Fantasy Contests Act to use the DOR's Hearings Division to conduct hearings.

During the 2020 legislative session, following a sunset recommendation, implementation of the Fantasy Contests Act¹¹⁰ was transferred from the Department of Regulatory Agencies' Division of Professions and Occupations (DPO) to the Division Director and included in the Act. When transferred, the bill contained a reference to section 44-30-1602, C.R.S., which is commonly referred to as a "common provision" because it applies to multiple statutes. Those common provisions indicate that the Commission will hold hearings on licensing and other regulatory matters. However, the Commission is not the regulator of fantasy contests. The Division Director is the regulator, and the Director does not hold hearings.

The DOR has a separate independent division devoted to hearings, the Hearings Division. The Hearings Division should conduct any hearings on those cases involving fantasy contests. The Hearings Division will be able to satisfy any due process that is necessary under the Administrative Procedure Act.¹¹¹ This is similar to the manner in which hearings are assigned in other regulatory programs, such as DPO. In those cases, hearings are assigned to independent administrative law judges employed at the Department of Personnel and Administration's Office of Administrative Courts.

¹¹⁰ § 44-30-1601, *et seq*, C.R.S.

¹¹¹ § 24-4-101, *et seq*, C.R.S.

The third sunset criterion asks if agency operations are impeded or enhanced by existing statutes. In this case statute impedes implementation and should be changed.

To ensure due process and promote regulatory efficiency, the General Assembly should amend the Fantasy Contests Act to use the DOR's Hearings Division to conduct hearings.

Recommendation 5 - Repeal the mandatory fingerprint criminal history record checks for internationally based internet sports betting personnel.

Section 44-30-1504(7)(a), C.R.S., requires all applicants for a sports betting license to submit a set of fingerprints to the Division. The fingerprints are then sent to the Colorado Bureau of Investigation and the Federal Bureau of Investigation so they may conduct criminal history record checks.

However, since some of the internet sports betting businesses licensed in Colorado are based outside of the United States, there are problems transmitting and obtaining fingerprints. Furthermore, the utility of the record check is questionable for a company whose principals and employees are based on a different continent. This is not to say there should be no vetting of international applicants, only that the fingerprint mandate is impractical in many of these circumstances.

The vetting process will remain rigorous. Recall from the "Legal Framework" section of this sunset report, that every Internet Sports Betting Operator must contract with a Colorado land-based casino Master Licensee to obtain a license.¹¹² The contract must also be approved by the Division.¹¹³ This presents an extra layer of rigor to the vetting process that is not in place for other types of licensees. Additionally, if an investigator perceives a need in a specific case to acquire fingerprints, it can be done.

The second sunset criterion asks analysis to consider, in part,

...if existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms.

In this case, the fingerprint directive for all applicants is overly restrictive and the required contract with a Master License provides another mechanism for accountability.

The third sunset criterion asks analysis to consider, in part, "... whether [Division] operation is impeded or enhanced by existing statutes, rules, procedures, and practices..." In this case, Division operations are inefficient because of the fingerprint provision.

For these reasons, the General Assembly should repeal the mandatory fingerprint criminal history record checks for internationally based, internet sports betting personnel.

¹¹² § 44-30-1505(2)(b)(II), C.R.S.

¹¹³ § 44-30-1505(3), C.R.S.

Recommendation 6 - Make sports betting payoffs subject to the Gambling Payment Intercept Act.

The Gambling Payment Intercept Act (GPI) was adopted because the General Assembly found:¹¹⁴

- Parents should provide financial support to their minor children who cannot care for themselves;
- The state should intervene when parents fail to meet their support obligations;
- Children are adversely affected when parents divert their financial support to limited gaming and pari-mutuel wagering;
- A parent's winnings from money diverted from a child's support should be applied to the parent's outstanding support obligations;
- Section 44-30-102(1)(c), C.R.S., of the Act recognizes that the limited gaming industry must be assisted in protecting the general welfare of the people of the state;
- Victims of crime and all the people of the state are adversely affected when criminal offenders divert restitution to limited gaming and pari-mutuel wagering;
- A criminal offender's winnings from money diverted from restitution should be applied to the offender's outstanding criminal court obligations; and
- An uncollected debt to the State should be deducted from a person's winnings.

The GPI establishes a registry of individuals who owe unpaid child support, criminal restitution, and an unpaid debt to the State.¹¹⁵ Prior to paying a gambling winner, licensees must contact the registry operator to discover if the winner is listed. If listed, gambling payoffs are sent to the appropriate place. Table 11, page 33, enumerates that millions of dollars have been intercepted on behalf of the people of Colorado during the time examined for this sunset review. However, sports betting has not been included in the GPI.

In part, the third sunset criterion asks:

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,

The exclusion of sport betting under the GPI is clearly not in the public interest and the General Assembly should be explicit that sport betting payoffs are subject to the GPI.

¹¹⁴ § 44-33-102, C.R.S.

¹¹⁵ §§ 44-33-101, 104, and 108, C.R.S.

Appendix A - Customer Service Survey

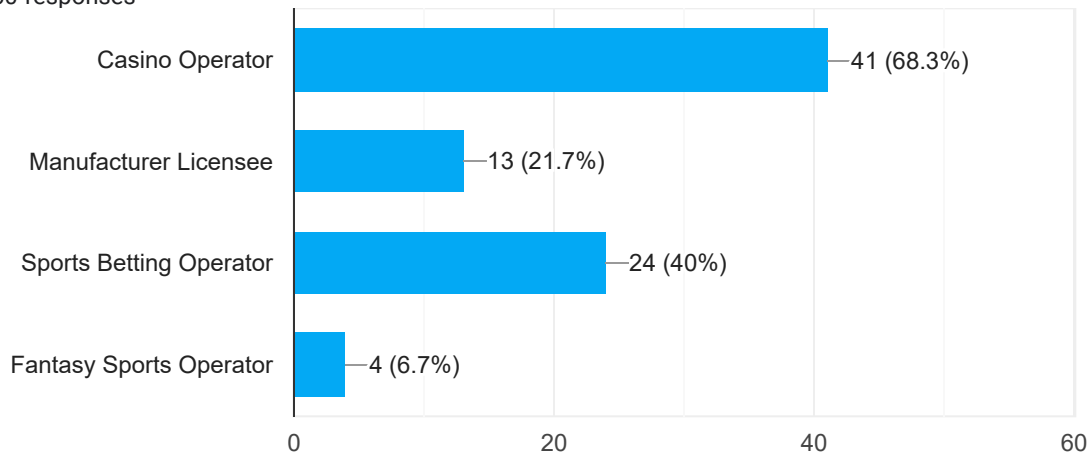
In the spring of 2021, COPRRR staff conducted a survey of 614 gaming licensees; 56 emails were returned as undeliverable. The survey received 71 responses, which is an 11.50 percent response rate. Survey results may be found on the pages that follow.

Customer Service Survey for the Colorado Division of Gaming

71 responses

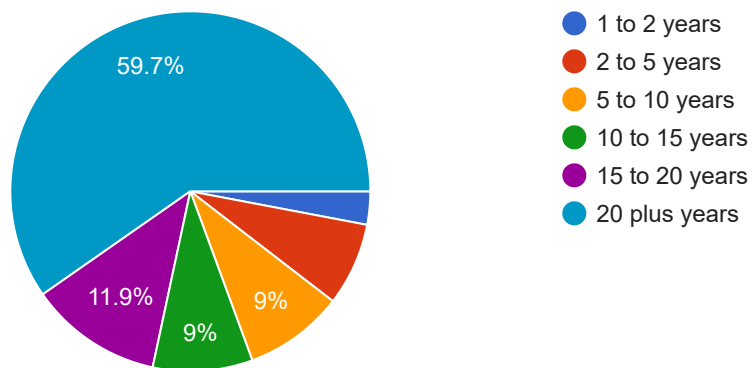
What is your relationship to the Division of Gaming? check all that apply

60 responses



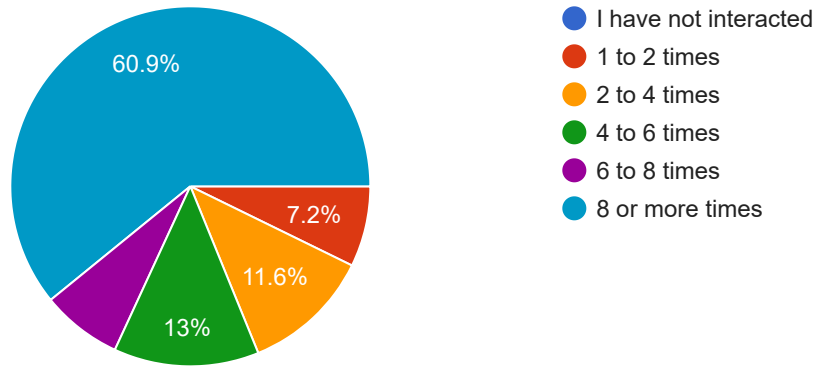
If you are a member of the profession or occupation that is regulated by the Division of Gaming, please indicate your years of experience.

67 responses



In the past year, how many times have you interacted with the Division of Gaming. Please count all forms of interaction (telephone, email, internet or website, regular mail, in person).

69 responses



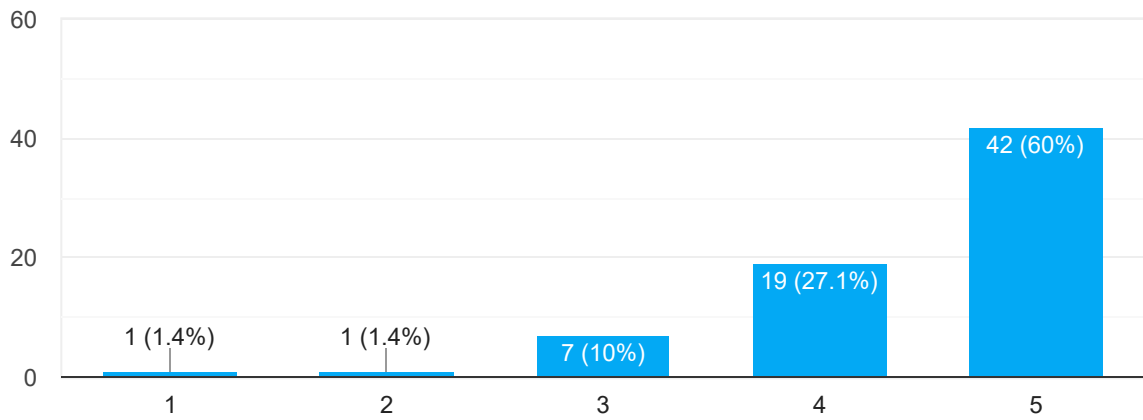
What was your primary purpose in interacting with the agency?

69 responses

- licensing or registration - 29%
- inspection, audit, or examination - 20%
- to obtain help with an issue - 17.4%
- comment on or learn about existing/proposed rules or legislation - 14.5%
- participate in a board, committee, commission, taskforce, or working group for the agency - 5.8%
- respond to a request made to me - 4.3%
- other - 6.1%

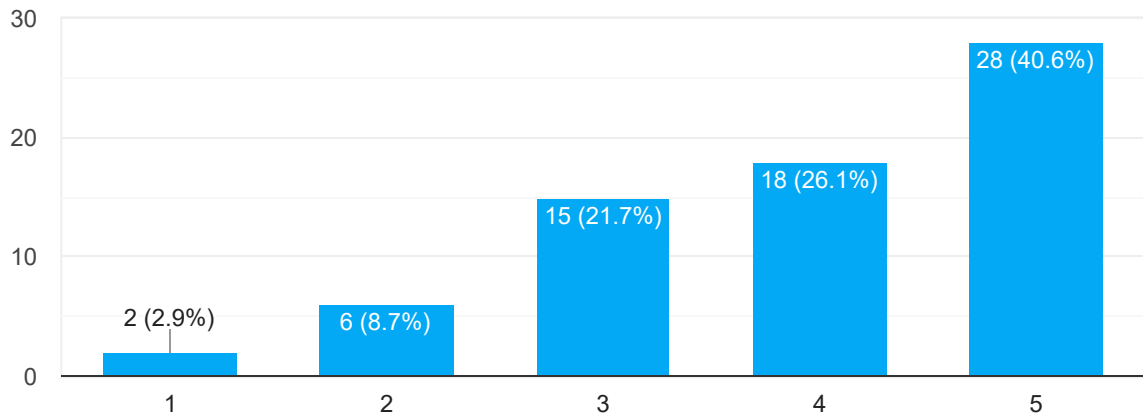
Overall please rate the service provided by the Division of Gaming on a scale of 1 to 5 with 1 being unacceptable and 5 being very acceptable.

70 responses



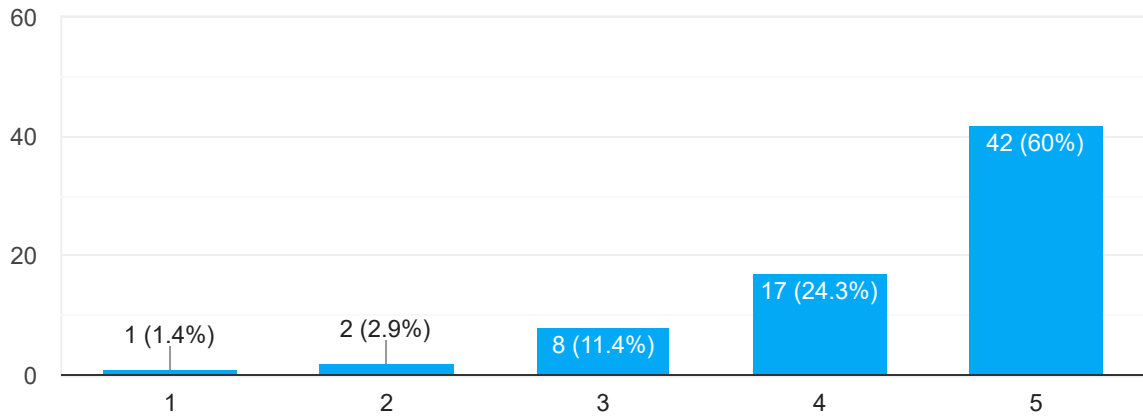
Please rate the the usefulness of the Division of Gaming's website in answering your questions or providing needed information on a scale of 1 to 5 with 1 being not very useful and 5 being very useful.

69 responses



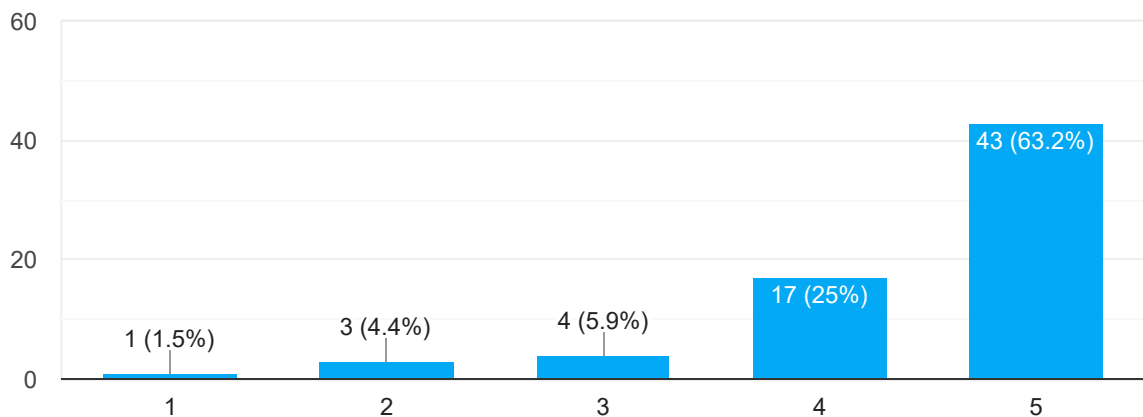
Please rate the the usefulness of the Division of Gaming's communications in answering your questions or providing needed information on a scale of 1 to 5 with 1 being not very useful and 5 being very useful.

70 responses



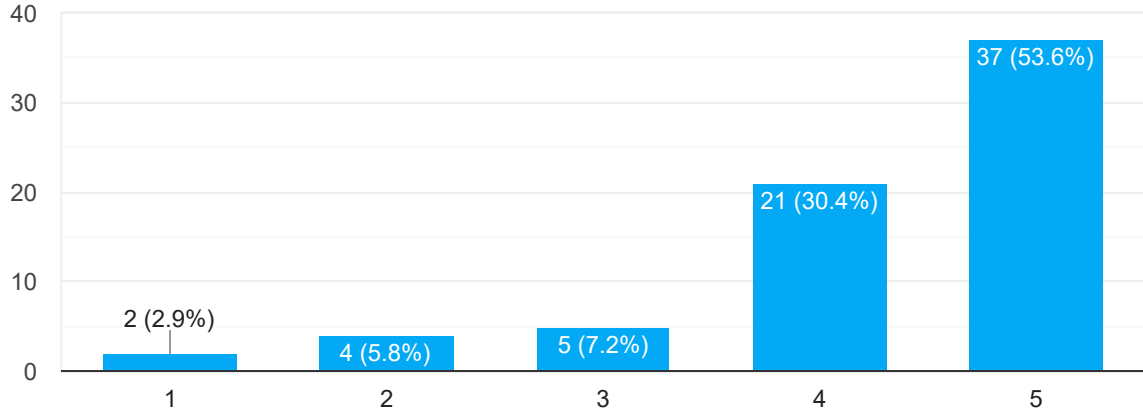
Regardless of the outcome of your most recent issue, do you feel the Division of Gaming listened to your concerns? Please use a scale of 1 to 5, with 1 being none of my concerns were heard and 5 being all of my concerns were heard.

68 responses

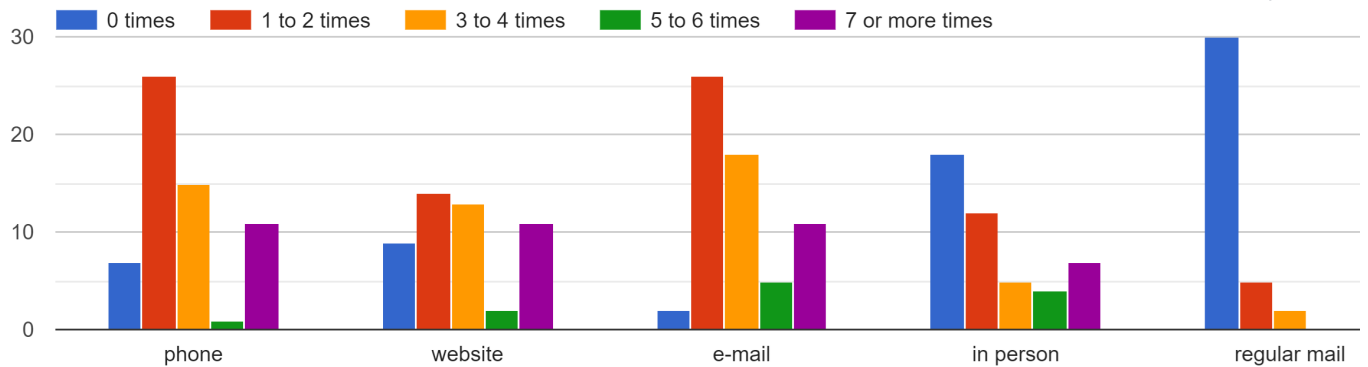


Please rate the timeliness of the Division of Gaming in responding to your issues on a scale of 1 to 5 with 1 being very untimely and 5 being very timely.

69 responses

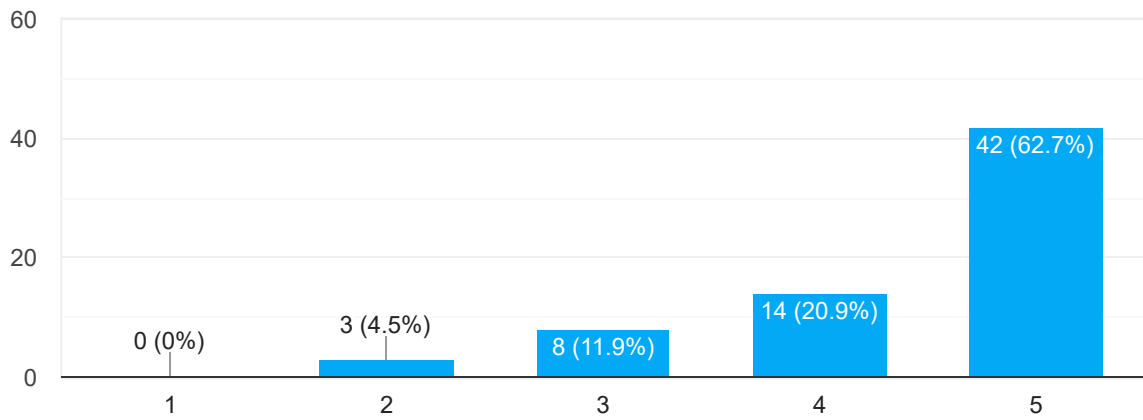


Please provide the number and types of interactions that were required to resolve or address your most recent issue. (Please select all applicable types of interactions used AND the number times for each type interaction selected.)



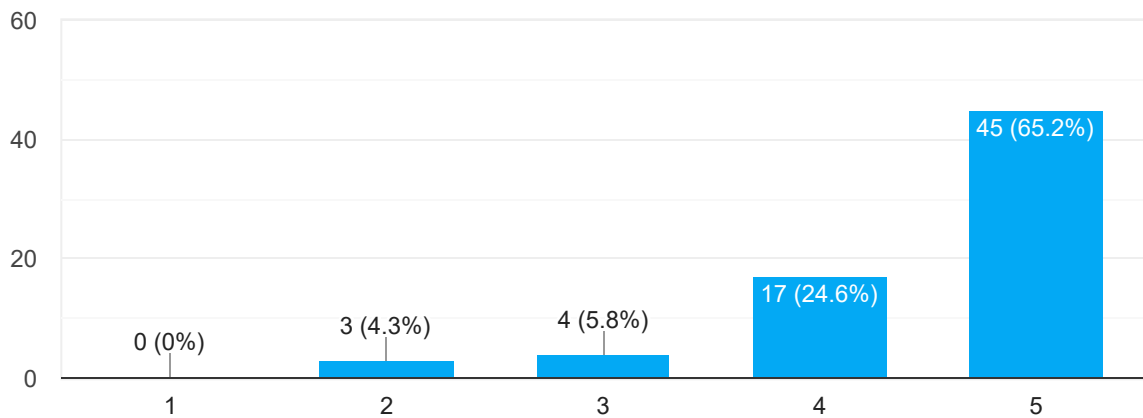
Please rate the helpfulness of the Division of Gaming in resolving your issue or need with 1 being not very helpful and 5 being very helpful.

67 responses



Please rate the professionalism of the program's staff on a scale of 1 to 5 with 1 being very unprofessional and 5 being very professional.

69 responses



On a scale of 1 to 5 please rate the accuracy of information provided by the agency with 1 being not very accurate and 5 being very accurate.

70 responses

