

COLORADO DEPARTMENT OF REGULATORY AGENCIES
OFFICE OF POLICY AND RESEARCH

COLORADO DIVISION OF GAMING

2002 SUNSET REVIEW



STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES
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Bill Owens
Governor

October 15, 2002

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 Department of Regulatory Agencies has completed the evaluation of the Division of Gaming. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2003 legislative committee of reference. The report is submitted pursuant to section 24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

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

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

The report discusses the question of whether there is a need for the regulation provided under Article 47.1 (Part 2) of Title 12, C.R.S. The report also discusses the effectiveness of the Division of Gaming in carrying out the intent of the statutes and makes recommendations for statutory and administrative changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

A handwritten signature in cursive script that reads "M. Michael Cooke".

M. Michael Cooke
Executive Director

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Background

The Sunset Process

The regulatory functions of the Division of Gaming (Part 2 of the Limited Gaming Act of 1991) in accordance with section 12-47.1-206 of the Colorado Revised Statutes (C.R.S.) shall terminate on July 1, 2003 unless continued by the General Assembly. During the year prior to this date, it is the duty of the Department of Regulatory Agencies (DORA) to conduct an analysis and evaluation of the Division pursuant to section 24-34-104 (9)(b), C.R.S.

The purpose of this review is to determine whether the Division of Gaming (Division) within the Department of Revenue should be continued for the protection of the public and to evaluate the functions of regulation, licensing, and oversight of the conduct of limited gaming in this state as authorized by Section 9 of Article XVIII of the Colorado Constitution. During this review, the Division must demonstrate that there is still a need for the licensing program and that the regulation is the least restrictive regulation consistent with the public interest. DORA's findings and recommendations are submitted via this report to the Colorado General Assembly. Statutory criteria used in sunset reviews may be found in Appendix A on page 25.

Methodology

As part of this review, DORA staff interviewed Division staff and stakeholders, reviewed literature and Internet sites, contacted professional associations, reviewed Colorado statutes and rules, canvassed other state laws, and went on site visits to view limited gaming operations.

History of Regulation

On November 6, 1990, the voters of Colorado approved a Constitutional amendment (Section 9 of Article XVIII) to allow limited stakes gaming in the mountain towns of Black Hawk, Central City, and Cripple Creek. "Limited stakes gaming" is defined as a maximum single bet of \$5 on slot machines, live blackjack, and poker games. When gaming started in Colorado on October 1, 1991, a total of 11 casinos were operating. These were full-fledged casinos, not the small operations in tourist

shops. By September 1992, there were 75 casinos in Colorado. With the increase in the number of casinos and devices, came increased competition. The casinos found that the seasonal tourist cycle of large numbers during the summer and a dramatic drop-off of numbers during the winter continued in the gaming towns. By January 1993, only 63 casinos remained in business. Currently, there are 42 operating casinos in Colorado.

To change or establish a new gaming location, to increase betting limits, or to change the types of games allowed in Colorado would require a change in the Colorado Constitution through a statewide vote of the people. Six initiatives to expand gaming to other locales have appeared on the ballots since 1992. Each of these initiatives failed.

Legal Framework

The only federal law that directly impacts limited stakes gaming in Colorado is the Gambling Transportation Act, also known as the Johnson Act (15 U.S.C. 1175). This law requires the registration of gaming equipment that is transported across state lines.

With the exception of tribal gaming, and Nevada's long standing experience with gaming, no western state has comparable gaming to Colorado's \$5 limited stakes gaming. The closest comparison may be made with South Dakota, which has a system of limited gaming up to \$100. In that state, as is the case in Colorado, no applicant for a license has a right to a license. Any license granted pursuant to South Dakota law is a revocable privilege, and no holder acquires any vested right. Deadwood, South Dakota, located approximately 60 miles from Mt. Rushmore, is the main non-tribal gaming location.

During 1995 the State of Colorado renegotiated with the two Indian Tribes in Southern Colorado: The Ute Mountain Ute Tribe and the Southern Ute Indian Tribe. Under the existing compacts both tribes agreed to \$5 limits and offer only blackjack, poker, slot machines and keno. In addition, tribal casinos can operate on a 24-hour schedule. The tribal casinos are self-regulated and do not pay any gaming taxes to the state. Counties in the vicinity of tribal areas have representation on the Local Government Limited Gaming Impact Fund Advisory Board.

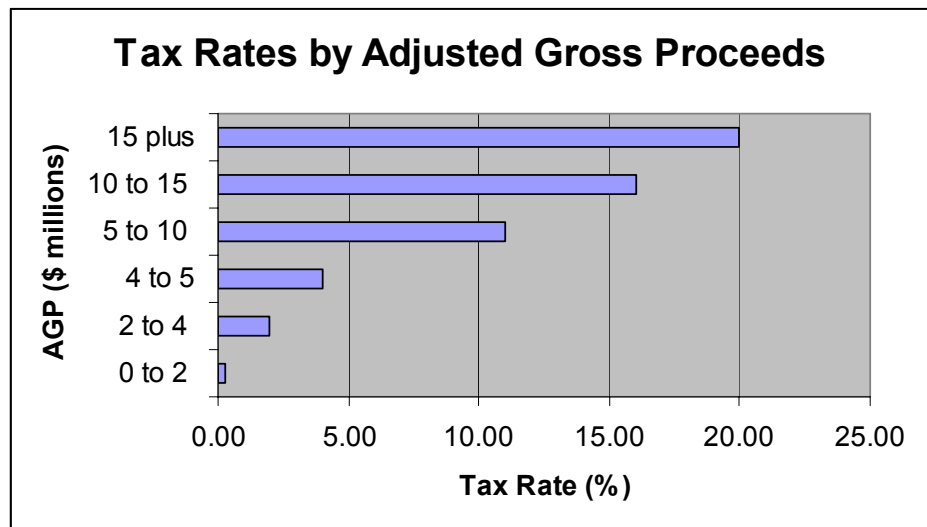
In Colorado, the towns of Black Hawk, Central City, and Cripple Creek are authorized by Section 9 of Article XVIII of the Colorado Constitution to host gaming establishments within their commercial districts. The respective municipal bodies may determine which structures conform to World War I era architectural styles to which limited gaming must be confined. In addition, local jurisdictions may impose a fee on gaming devices used in limited gaming.

The Limited Gaming Act of 1991 is implemented by the five-member Colorado Limited Gaming Control Commission and the Division of Gaming (Division).

Colorado Limited Gaming Control Commission

The Colorado Limited Gaming Control Commission (Commission) was established by Section 9 of Article XVIII of the Colorado Constitution. The Commission is not subject to sunset review. The Commission is the policy setting agency with regard to limited gaming in Colorado. The Commission has final authority over all expenses concerning the regulation of gaming in Colorado and submits the budget of the Division of Gaming for approval by the General Assembly. The Commission also has authority to promulgate rules and to make final decisions concerning licenses.

The Commission establishes a gaming tax rate structure annually based on Adjusted Gross Proceeds (AGP). Gaming taxes are paid only by retail licensees (casinos). The following tax structure has been in effect since the gaming year July 1, 1999 - June 30, 2000. The Commission retained the same structure at its June 20, 2002 meeting:



In addition to the tax on AGP, the Commission may require casinos to pay a device fee on each gaming device (slot machine or gaming table). The annual device fee was \$75 for a number of years, but beginning in gaming year 1999-2000, the device fee was eliminated.

Before any monies are distributed, the expenses of running the Commission and the Division of Gaming must be paid, and two months of operating expenses for the Division must be placed in escrow. After these obligations are met, the remaining money is distributed according to the following:

- 28 percent to the Colorado Historical Society for distribution as historical preservation grants (twenty percent of the 28 percent is distributed respectively by the State Historical Society to the governing bodies of Cripple Creek, Central City and Black Hawk in proportion to revenues. Eighty percent of the 28 percent is used for historic preservation and restoration throughout the state).
- 12 percent to Gilpin and Teller County governments, in proportion to the gaming revenues generated in the respective counties.
- 10 percent to the city governments of Black Hawk, Central City, and Cripple Creek, in proportion to the gaming revenues generated in the respective cities.
- 0.2 percent to the Colorado Travel and Tourism Promotion Fund.
- 49.8 percent to the state General Fund; at least 13 percent to the Local Government Limited Gaming Impact Fund; and an amount to be determined annually to the Colorado Department of Transportation).

The counties of Gilpin, Teller, Boulder, Clear Creek, Grand, Jefferson, El Paso, Fremont, Park, Douglas, LaPlata, Montezuma and Archuleta, and any municipality in those counties other than Black Hawk, Central City and Cripple Creek, and any special district providing emergency services in those counties may receive funds from the Local Government Limited Gaming Impact Fund, which help offset financial impacts associated with increased highway traffic, greater need for law enforcement resources, and increased demands on other social services caused by gaming. The governmental agencies eligible to receive impact funding must apply for such funds, detailing gaming impacts and their needs for impact funding. The money is awarded by the Colorado Department of Local Affairs.

Division of Gaming

The Division of Gaming (Division) is the administrative arm of the Colorado Limited Gaming Control Commission.

Section 12-47.1-201, Colorado Revised Statutes (C.R.S.), establishes the Division within the Department of Revenue headed by the Director of the Division of Gaming (Director). The Director is appointed by the Executive Director of the Department of Revenue. The function of the Division is to license, implement, regulate, and supervise the conduct of limited gaming in this state as authorized by Section 9 of Article XVIII of the Colorado Constitution. "Limited Gaming" is defined in the Colorado Constitution as "the use of slot machines and the card games of blackjack and poker, each game having a maximum single bet of five dollars."¹ The Colorado Constitution authorizes limited gaming in Central City, the City of Black Hawk, and the City of Cripple Creek.

Powers and Duties of the Director. The Director of the Division of Gaming has several duties that relate to his responsibilities with regard to the Limited Gaming Control Commission established by Section 9 of Article XVIII of the Colorado Constitution.

More specifically, section 12-47.1-203, C.R.S., stipulates that the Director must be qualified by training and experience to direct the work of the Division. In addition, the Director is authorized by this section to supervise the administrative and technical activities of the Division. Other functions include:

- The attendance of meetings of the Commission, or attendance by his or her designee
- The hiring and supervision of such personnel as may be necessary to carry out the purposes of the article
- To advise the Commission and recommend to the Commission such rules and other procedures as the Director deems necessary and advisable to improve the operation of the Division and the conduct of limited gaming
- To engage in continuous study and investigation of the operation and the administration of similar laws which may be in effect in other states or countries.

¹ Article XVIII, § 9 (4) (b) of the Colorado Constitution.

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- Furnish to the Commission a monthly report which contains a full and complete statement of the Division's revenue and expenses for each month.
 - Prepare and submit to the Commission annually a proposed budget for the succeeding fiscal year, which must set forth a complete financial plan for all proposed expenditures and anticipated revenues of the Division.

Section 12-47.1-204, C.R.S., grants all investigators of the Division of Gaming, and their supervisors, including the Director and the Executive Director all the powers of any peace officer. More specifically, Division investigators can inspect, examine, investigate, hold, or impound any premises where limited gaming is conducted, any devices or equipment designed for or used in limited gaming, and any books and records in any way connected with any limited gaming activity.

Section 12-47.1-401, C.R.S., declares that employees of the Division (as well as Commission members) are in positions of public trust. In order to ensure the integrity of the Division, the employees, and Commission members (and their family members) are restricted from engaging in several activities:

1. They may not have any interest, direct or indirect, in any licensee, licensed premises, establishment, or business involved in or with limited gaming.
2. They may not have any interest of any kind in licenses issued pursuant to this statute.
3. They may not own or have any interest in property in any county where limited gaming is permitted, except those Division employees assigned to work regularly in Gilpin or Teller County may own private residential property.
4. They may not accept gifts or anything of value from persons, corporations, associations, or firms that contracts with or offers services, supplies, materials, or equipment which is licensed by the Division.
5. They may not participate in limited gaming.
6. They may not have been convicted of a felony or any gambling-related offense.

In addition, section 12-47.1-804, C.R.S., prohibits a variety of persons from having any direct or indirect interest in limited gaming. Examples include employees of any law enforcement agency or correctional facility in Teller or Gilpin counties, and elected municipal officials or county commissioners of the counties of Teller and Gilpin and the cities of Central City, Black Hawk, and Cripple Creek.

There are a total of 21 Rules that the Commission has promulgated. Eight of the most important are summarized in Appendix D on page 58.

Program Description and Administration

The purpose of the Division of Gaming (Division), which is a constituent part of the Department of Revenue, is to license, implement, regulate, and supervise the conduct of limited gaming in Colorado. The Division is cash-funded, meaning no general fund tax dollars are used for its operation or expenses. The Division is funded by revenue generated from the gaming tax, license and application fees, fines, and miscellaneous revenues.

The Division is organized as depicted in the organization chart reproduced in Appendix B on page 26. The five main functions are Administration, Auditing, Criminal Enforcement and Investigations, Accounting, and Licensing and Communications.

The *Administration Section* furnishes administrative services to the Colorado Limited Gaming Control Commission, budget management services for the Division, performance measurement, training, gaming device/equipment approval, and oversight for all non-investigatory sections within the Division. The Administration Section also coordinates all legislative activities, and monitors the compacts between the State of Colorado and the Ute Mountain Ute and Southern Ute Indian Tribes.

The Administration Section currently has six full-time equivalent (FTE) employees and a budget of \$1,495,616.

The *Audit Section's* essential functions, broadly stated, are to ensure the accurate reporting of gaming revenues and to promote the integrity of the gaming industry through reasonable regulation. Main functions include:

- Routine, ongoing compliance inspections. In a joint endeavor between the Audit Section and the Investigations Section, thorough and comprehensive inspections of the internal control policies and procedures of each of the 42 licensed casinos in Colorado are performed annually. Each gaming area of the licensed entity is reviewed by auditors and investigators. This inspection, which typically takes about a week, ensures that policies and procedures exist, are in effect, and are effective in meeting the minimum internal control requirements established by the Division of Gaming. When a licensee's internal control environment is

deficient, the Audit Section and Investigations assist the licensee in implementing a corrective action plan to bring the licensee into compliance with requirements.

- Revenue audits. The Audit Section performs detailed audits of licensees' gaming transactions. Audit selection is based upon several factors, including an assessment of risk, compliance record, and the materiality of Adjusted Gross Proceeds (AGP). These audits, which typically take about three months each, allow the Audit Section to make a determination regarding the fairness of regulation and gaming operations.
- Systems audits. The majority of the 42 licensed casinos in Colorado utilize some type of automated slot monitoring system to capture and record required information about gaming transactions. This includes information about wagers placed by patrons, gaming revenues reported by individual slot machines, payouts to patrons, and a wide variety of statistical data. Before any type of automated system is allowed to be utilized in Colorado, it must be submitted to an independent testing lab for what is referred to as "Phase I" testing and approval. The lab performs specified testing procedures to (1) ascertain the system meets the Division of Gaming's minimum requirements, and (2) verify that the system functions as intended by the vendor. Upon the lab's successful completion of testing and a quality assurance review, the lab issues Phase I approval. At that time, the system is approved for use in Colorado and may be installed in a licensed casino. However, prior to relying upon any data generated by these systems, Phase II testing must occur. This detailed testing is performed by the licensee, and is based upon testing procedures developed by the Audit Section and is performed over a specific period of time. Upon completion of Phase II testing, the licensee submits the results to the Division of Gaming for audit and approval. The Audit Section audits the test results, assesses the impact of the system utilization on the licensee's internal control environment, and ensures that the automated system is accurately capturing and reporting all information required by the Division of Gaming. Phase II approval is considered by the Audit Section when the audit is completed.

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- Industry training and Internal Compliance Officer (ICO) meetings. The Audit Section periodically and routinely provides training to the industry as part of the concept of reasonable regulation. This training is typically on internal control requirements and accounting procedures. When results of compliance, revenue, and/or systems audits indicate a need for training, the Audit Section will provide it. The Audit Section also provides training upon request by a licensee, and when the Division's minimum internal control procedures are revised. The Audit Section also sponsors semi-annual ICO meetings and newsletters to further the concept of reasonable regulation.

The Audit Section currently has 14 FTE and a budget of \$885,317.

The Criminal Enforcement and Investigations Section functions to ensure that gaming is free from criminal and corruptive elements by conducting investigations into the character, record, and reputation of all applicants for limited gaming licenses, by enforcing the Limited Gaming Act, by enforcing the Colorado Criminal Code and other statutes of the State of Colorado as allowed by the Act, and by providing regulatory enforcement of the Colorado Gaming Regulations and Internal Control Minimum Procedures (ICMP).

This section also furnishes information to the Colorado Bureau of Investigation (CBI) regarding potential criminal cases, and also provides case reports to the Liquor/Racing Division regarding violations, or potential violations of the liquor laws by casinos that hold liquor licenses.

There are currently 42 FTE in the Criminal Enforcement and Investigations Section and its budget is \$4,383,552.

The *Accounting Section* furnishes monthly financial reports to the Governor, State Treasurer, Speaker of the House, President of the Senate, and others. This section ensures that fiscal guidelines, including internal controls and accrual reporting are followed. In addition, the Accounting Section collects monies due, issues background deposit refunds, purchases goods and services, designs and installs computer system upgrades, and implements Generally Accepted Accounting Principles (GAAP) and audit recommendations.

The current budget for the Accounting Section is \$239,812 and it has 4 FTEs

The purpose of the *Communications and Licensing Section* is to process and issue statutorily-mandated gaming licenses; establish licensing procedures; maintain license files; monitor gaming devices and casino employees; and to furnish receptionist services. In addition this section performs public outreach functions to promote, support, and communicate the Division's mission of ensuring honesty and integrity in the Colorado gaming industry.

More specifically, the Communications and Licensing Section issues Support gaming licenses after determining the suitability of applicants. The Limited Gaming Act provides for five types of gaming licenses. The majority of the licenses issued by the Division are support employee licenses. The Licensing section processes those licenses, performs the background checks and determines the suitability of support license applicants, as well as key employee renewal applicants. The applications for all other license types are first received and processed by Licensing staff to ensure they are adequately recorded in the Division's licensing database. The Licensing Section maintains all licensing documents and records once they are established, including tracking the employment of licensed gaming employees. This section also maintains a slot machine tracking system.

The Licensing and Communications Section currently has 6 FTEs and a budget of \$605,864.

Gaming Licenses

The Division of Gaming investigates the background of all gaming license applicants. These investigations include scrutinizing personal and financial histories and the sources of all investment money. The Division continues to monitor license holders for such problems as hidden ownership interests and organized crime involvement. Division auditors conduct revenue audits of casinos to ensure that they follow the required accounting and compliance procedures. They also work with Division investigators to conduct compliance inspections to determine whether casinos are following proper procedures in handling money.

There are five categories of licenses as outlined below. Manufacturer/distributor, retail, and operator licenses require annual renewal. All others have a two-year renewal cycle. A license issued under this statute is a revocable privilege. No vested interest or property right in a license is acquired. All licenses are revocable and nontransferable. An application for renewal of a license must be filed with the Commission no later than 120 days prior to the expiration of the current license. Renewal of a license may be denied for any violation of the statute, any violation of the rules and regulations, any reason which would have prevented its original issuance, or for any good cause shown.

The Division of Gaming issues five types of licenses as follows:

- *Manufacturer/Distributor License.* This license is issued to companies that manufacture or distribute approved slot or video machines.
- *Retail License.* This license is issued to persons who conduct or allow limited gaming on their premises. A retailer licensee must maintain sole and exclusive legal possession of the premises for which the retail license is issued.
- *Operator License.* This type of license is issued to entities that allow slot machines on their premises, or to a person who places and operates slot machines on a retailer's premises.
- *Key Employee License.* This is issued to a person who has management or decision making authority in a gaming establishment. Examples include casino general managers and casino floor managers.
- *Support Employee License.* This license is issued to persons who work directly with gaming operations, such as dealers, cashiers, and so on.

Some casino employees who do not work in gaming activities may not be required to hold a support license. Depending upon individual circumstances, such employees may include food and beverage servers, porters or other maintenance personnel, and parking valets. The identity of these unlicensed employees must still be reported to the Division of Gaming on the required periodic employment reports.

Licensure Disqualifications

According to Section 12-47.1-510, C.R.S., the Commission must deny a license to any applicant that:

1. Fails to prove by clear and convincing evidence that the applicant is qualified under the requirements of the statute.
2. Fails to provide information, documentation, and assurances required by the statute or by the Commission.
3. Fails to reveal any fact material to qualification or to supply information that is untrue or misleading as to a material fact pertaining to qualification.
4. Fails the following conditions: if the applicant, or any of its officers or directors, or any of its general partners, or any stockholders, limited partners, or other persons having a financial or equity interest of 5 percent or greater has been convicted of:
 - A felony within 10 years prior to the date of application.
 - A misdemeanor gambling-related offense or misdemeanor theft by deception within 10 years prior to the date of application.
 - A misdemeanor involving fraud or misrepresentation within 10 years prior to the date of the application.
 - Any gambling-related felony or felony involving theft by deception.
 - Any felony involving fraud or misrepresentation.
5. Has charges or prosecution currently pending in any jurisdiction. The applicant may request that the Commission defer its decision until the charges are resolved.

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6. Belongs to a career offender cartel, or are career offenders, or are an associate of a career offender or cartel in such a manner which creates a reasonable belief that the association is of such a nature as to be harmful to gaming operations.
 7. Refuses to cooperate with any legislative investigatory body or other official investigatory of any state or of the United States when such body is engaged in the investigation of crimes relating to gaming, official corruption, or organized crime activity.
 8. Has been a professional gambler as defined in the statute.

License Application Procedures and Fees

All applicants and licensees must provide relevant information prior to licensure or renewal. Applicants for licensure and all licensees have to provide fingerprints for the purpose of conducting a national fingerprint-based criminal history record check. In addition, handwriting samples and pictures taken prior to licensure or renewal must be submitted upon request by the Commission. At the formal request by, or upon issuance of a subpoena, all applicants and licensees must produce information, evidence, or testimony before the Commission. Licenses may be suspended or revoked, and applications may be denied if applicants, licensees, any employees, or persons interested, directly or indirectly, in the applicant or license refuses or fails to comply with a Commission request or subpoena.

Any person, or anyone who has an ownership interest of five percent or more in the person, may not reapply for licensure for at least one year from the date of denial. If applicants have been denied licensure twice, they may not reapply for at least three years.

There are two types of applicants based on the number of persons with interests in the license, and their residency. A Type I applicant has six or fewer persons with a five percent or more interest in the license, all of whom live in Colorado. A Type II applicant is any applicant that does not meet the criteria of Type I. There are no application fees for Key or Support employees.

<u>Type I</u>		<u>Type II</u>	
Mfg./Distributor	\$ 500	Mfg./Distributor	\$1,000
Operator	\$ 500	Operator	\$1,000
Retail	\$1,000	Retail	\$2,000

Background Investigation Procedures and Deposit

Application fees and fees to pay for background investigations are established by the Commission. These fees may vary depending on the type of application, the complexity of the investigation, or the costs of the commission in reviewing the matters involved.

Applicants waive any rights of confidentiality including confidentiality of any financial or personnel records. The application forms also contain a provision which allows the information contained in the application to be accessible to law enforcement agents, the federal government, any foreign country, or any Indian tribe.

A background deposit is used to cover the costs of conducting a background check of all employees except Support employees and limited owners. The Division bills against the deposit as well as for any travel or out-of-pocket expenses. If there is money remaining at the end of the background check, it is refunded to the applicant. If the Division determines that investigation related expenses will exceed the initial deposit, an additional deposit is required.

The amount of the deposits by type are as follows:

- Type I applicants \$ 5,000
- Type II applicants \$10,000
- Key Employee \$ 1,000
- Change of more than 5 percent ownership \$ 2,500
- Associated Person (unless a new business) \$ 1,000

Performance Measures

Table 1 depicts performance measures for fiscal year 96-97 through fiscal year 00-01. For each of the last fiscal years, the Division conducted its business with an overhead of less than 10 percent. Further, the Division generally performed the required background investigations of licensees within established fiscal parameters. This would seem to indicate that background deposits are set at adequate levels. Required refunds were also issued in a timely fashion for the period under consideration.

The majority of the revenue reflected in the "Dollar Amount of Fine/Fees Levied" in Table 1 is derived from penalties approved by the Gaming Commission within a Stipulation and Agreement between the Commission and licensees. Fines are levied according to section 12-47.1-525, C.R.S., which sets limits on the amount of a monetary penalty. Fees are realized as a result of an Assurance of Voluntary Compliance based on Gaming Rule 47.1-506, which allows for the voluntary payment of costs to cover an investigation. These fees do not include application or license fees.

Table 1 depicts performance measures for each of the four sections of the Division of Gaming for the period FY 96 through the third quarter of FY 01-02.

**Table 1
Division of Gaming Performance Measures**

DIVISION OF GAMING - OBJECTIVE REPORT						
	FY 96-97	FY 97-98	FY 98-99	FY 99-00	FY 00-01	YTD 01-02
Measure	Actual	Actual	Actual	Actual	Actual	through 3rd qtr
Admin						
% of Div Admin Costs to Rev Generated	9.40%	8.30%	7.56%	8.43%	6.46%	7.43%
% of Background Accounts Not Overdrawn		98%	96%	99%	97%	98%
% Bkgnd Accounts Refunded Within Statutory Limits		100%	100%	100%	100%	100%
\$ Amount of Fines/Fees Levied	\$404,322	\$595,858	\$335,322	\$242,678	\$148,729	\$471,855
Audit						
# Revenue Audits Completed	4	6	4	9	9	6
# of Automated System Audits	18	12	16	18	20	21
# Compliance Reviews and/or Observations	77	71	55	61	43	23
# Surprise Reviews			41	43	53	23
Industry average compliance rate				89%	91%	90%
% of Industry Audited	39%	33%	41%	58%	66%	Y/E
Licensing						
# of Bus. Apps Processed (new & renewal)	83	103	85	86	91	55
# of Ind. Apps Processed (new & renewal)	5690	1835	4298	2718	4296	2725
# of Off-Year Checks Conducted		4848	1930	1610	336	295
% of Off-Year Checks with Problems		18%	15%	11%	22%	31%
% Temp Lic Issued & Subsequently Denied	1.00%	1.90%	0.71%	0.39%	0.03%	0.31%
Enforcement/Investigations						
# of Enforcement Investigations	1,600	1,848	2,405	3,225	4,100	3,375
Gaming Disputes/Compliants Investigated*	239	285	338	499	655	
Other Agency Assists*	168	220	353	519	444	
# of Bkgnd Inv Completed (non-Support)	235	211	222	239	184	242
Avg # of Days to Complete Key Bkgnd Inv.	76	69	65	51	59	59
% of Individual Bkgnd Completed in 90 days or less	75%	81%	83%			
% of Individual Bkgnd Completed in 65 days or less				77%	82%	81%
# of Slot Machines Examined and Certified	16,912	21,793	25,959	19,550	13,409	11,483
*Calendar Year Statistics						

The Audit Section maintained a fairly consistent work load across the period under review. As the January 2000 performance audit of the State Auditor noted, however, this section has not met its own auditing targets. The report states: "The Division's goal is to audit 80 percent of adjusted gross proceeds over a three-year cycle. In Fiscal Year 1999 the audit section completed about half its planned audits" (p. 5). The work load of the Licensing and Communications Section is more directly affected than any other section of the Division by the volume of applicants and licensees in any given year. One year after a Support or Key license is issued, the Division conducts a background check of all persons identified as having had problem applications. If the number of problem applicants is less than 10 percent of all applications filed during the month to be checked, a random number of non-problem applicants is checked so that the total of problem plus non-problem applicants is equal to 10 percent of the population. It is also worth noting that processing problematic applications

uses more licensing staff resources than simply approving non-problem applicants. As Table 1 shows, however, there is considerable unexplained variability in one work performance measure across years. The number of off-year checks conducted in FY 98-99 (1,930) dropped by 60 percent as compared to FY 97-98 (4,848). Similarly, there was 79 percent drop from FY 99-00 (1,610) to FY 00-01 (336). Consistency across years should be a performance objective of this section.

In response to this section of the report the Division provided the following explanation:

FY 98-99 (1,930) dropped by 60% as compared to FY 97-98 (4,848): During those two years, we conducted off-year checks on 100% of licenses approved the previous fiscal year. In FY 97-98 we checked all licenses issued in FY 96-97, the first year of the two-year license along with all the renewals from FY 95-96. In FY 98-99, we checked all licenses issued in FY 97-98, the year in which we had no renewals because all licenses issued in FY 96-97 were for two years for the first time.

79% drop from FY 99-00 (1,610) to FY 00-01 (336): In November 1999, we changed our policy from 100% checks to 10% checks. In FY 99-00 we had four months of 100% checks with eight months of 10% checks. In 00-01 we had the entire 12 months of 10% checks.

The Enforcement and Investigations Section maintained a reasonable consistent work load across the period under review. "Gaming disputes/complaints" refers to customer complaints lodged with casinos. Most of these are resolved on the spot between casino officials and customer with enforcement staff serving as mediators.

In summary, the Division of Gaming performs its primary functions effectively. The consistency of work load and work methods across years, however, may be one area for improvement. Consistency is important because it sets the tone and expectations for all parties concerned. It is also worth noting that the Division is generally proactive, and several stakeholders commented that it is a much improved agency in recent years. The Division is particularly proud of its industry training initiatives.

Analysis and Recommendations

Recommendation 1 - Continue the Division of Gaming until 2012.

The General Assembly has made it clear that it wants strict regulatory oversight of the limited gaming industry. It has declared, “[t]he 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; [p]ublic 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.” §12-47.1-102(1)(a),(b), C.R.S.

Furthermore, the Division of Gaming is in essence the operational arm of the Colorado Limited Gaming Control Commission which is not subject to sunset review. Not continuing the Division would have an adverse impact on the operational capabilities of the Commission. This would not be in keeping with the policy of exempting the Commission from sunset review and the strong regulatory oversight that is sought by the General Assembly over Colorado’s gaming industry.

In conclusion, the Division of Gaming should be continued by the General Assembly until 2012. The Division is an agency that has been reviewed repeatedly in the last few years. Most notably, the State Auditor’s Office conducts annual financial reviews of the Division of Gaming. In addition, the Division underwent performance reviews by the State Auditor in 2000 and by the Department of Regulatory Agencies in 1995. This 2002 sunset review did not find major shortcomings in the Division of Gaming’s operations, except as noted below. Consequently, it is appropriate to only again review the Division of Gaming in 2012.

Recommendation 2 – Account for labor market forces. Amend section 12-47.1-837, C.R.S., as follows:

REVOCAION OR EXPIRATION OF LICENSE— REQUIREMENT OF NOTIFICATION. ~~A licensee shall, within twenty-four hours of receipt of written notice thereof, terminate the appointment or employment of any person whose license has been revoked or has expired.~~ A licensee whose license has been revoked or has expired shall notify such licensee’s employer within twenty-four hours after such revocation or expiration.

The limited gaming industry in Colorado has a high worker turnover, and the fingerprint-based criminal history record checks that are required of most employees work against the free flow of labor. Section 12-47.1-837, C.R.S., requires casinos to terminate the employment of persons who have become ineligible to maintain a license. However, some limited gaming establishments may wish to employ persons who are no longer licensed in “non-licensed” capacities. This would be beneficial for both employers and employees, and would mitigate against some unfavorable labor market conditions.

Recommendation 3 – Repeal section 12-47.1-836, C.R.S., on the grounds that it serves no public protection function, and is unduly restrictive.

Section 12-47.1-836, C.R.S., states “Any manufacturer shall have its own distributorship or a separate distributor for the sale of gaming equipment, which distributorship or distributor shall be a resident of Colorado or shall be located in Colorado.”

In practice, smaller manufacturers and distributors simply employ an attorney to be their agent in Colorado for mailing and other purposes. Other manufacturers and distributors merely ship component parts from out-of-state. These businesses are governed by the federal Gambling Transportation Act. Consequently, this section of the Limited Gaming Act of 1991 is unduly restrictive, and serves no demonstrable public protection function.

Recommendation 4 – Amend sections 12-47.1-525(1) (b) and 12-47.1-519(1)(c), C.R.S., to make them consistent with legislative intent as follows:

12-47.1-525(1)(b) If the licensee is an operator, the amount of ~~twenty-five thousand~~ TWELVE THOUSAND FIVE HUNDRED dollars;

12-47.1-519 (1) Subject to the power of the commission to deny, revoke, or suspend licenses, any license in force shall be renewed by the commission for the next succeeding license period upon proper application for renewal and payment of license fees and taxes as required by law and the regulations of the commission. ~~The license period for a renewed license shall be one year.~~ In addition, the commission shall reopen licensing hearings at any time at the request of the director, Colorado bureau of investigation, or any law enforcement authority. The commission shall act upon any such application prior to the date of expiration of the current license.

12-47.1-519(1)(c) If the licensee is a retailer, the amount of ~~twelve thousand five hundred~~ TWENTY-FIVE THOUSAND dollars;

The original enabling legislation establishing the Division of Gaming required a casino to have both a retailer and operator license. This was duplicative and a change to correct this inefficiency was effected by means of the 1995 Sunset Review of the Division. The specific change in question was the addition of section 12-47.4-501 (1) (b) (II), C.R.S. Upon enactment, this language meant that Colorado casinos were only required to obtain and maintain a retailer license.

Section 12-47.1-525(1)(b), C.R.S., outlines the monetary penalties that the Colorado Limited Gaming Commission can impose. A \$25,000 fining amount is consistent with the original intent of the law, that is, as an enforcement tool applicable to casinos.

In addition, section 12-47.1-519(1), C.R.S., states in pertinent part: “The license period for a renewed license shall be one year.” To be consistent with the two-year licenses for support and key employees, the quoted sentence should be repealed.

Administrative Recommendation – Establish requirements for testing facilities similar to manufacturer/distributor licensees in the next Request for Proposal.

Among the duties of the Division of Gaming is the certification that all gaming devices, equipment, related software, and computerized systems used in Colorado casinos meet statutory requirements specified in Colorado law, as well as the regulations promulgated by the Colorado Limited Gaming Control Commission and the Division's Internal Control Minimum Procedures. The Division contracts with a private vendor for the initial testing services. The current contract with *Gaming Laboratories International, Inc.*, a New Jersey corporation, has been in effect since July 1, 1999 and expires on June 30, 2003. This company has offices and a testing lab in Golden, Colorado.

The Machine Approval Committee (the committee) of the Division was established to approve all gaming equipment. The committee reviews all gaming equipment test results for compliance. The reviews take place about twice a month and include, but are not limited to a demonstration of the equipment by the manufacturer, an explanation of the test results by the test engineer, and a physical review of the equipment. When *Gaming Laboratories International, Inc.* completes its procedures, the committee reviews the test results and approves the equipment if it is in compliance.

By way of comparison, the states of New Jersey, Mississippi, Michigan, and Nevada operate their own in-house testing facilities for gaming equipment. Effective management of this aspect of gaming is critical because testing facilities, whether public or private, function as central controls akin to independent auditors in the accounting industry.

In Colorado, testing services are governed by the provisions of the contract between the Division of Gaming and *Gaming Laboratories International, Inc.* The contract in question, which by reference incorporates the State's Request For Proposal (RFP), holds in part that:

The apparent successful offeror shall meet the same standards for licensure in Colorado as those firms applying for a manufacturer/distributor license.²

² RFP No. TGA 99004/Testing, p. 11.

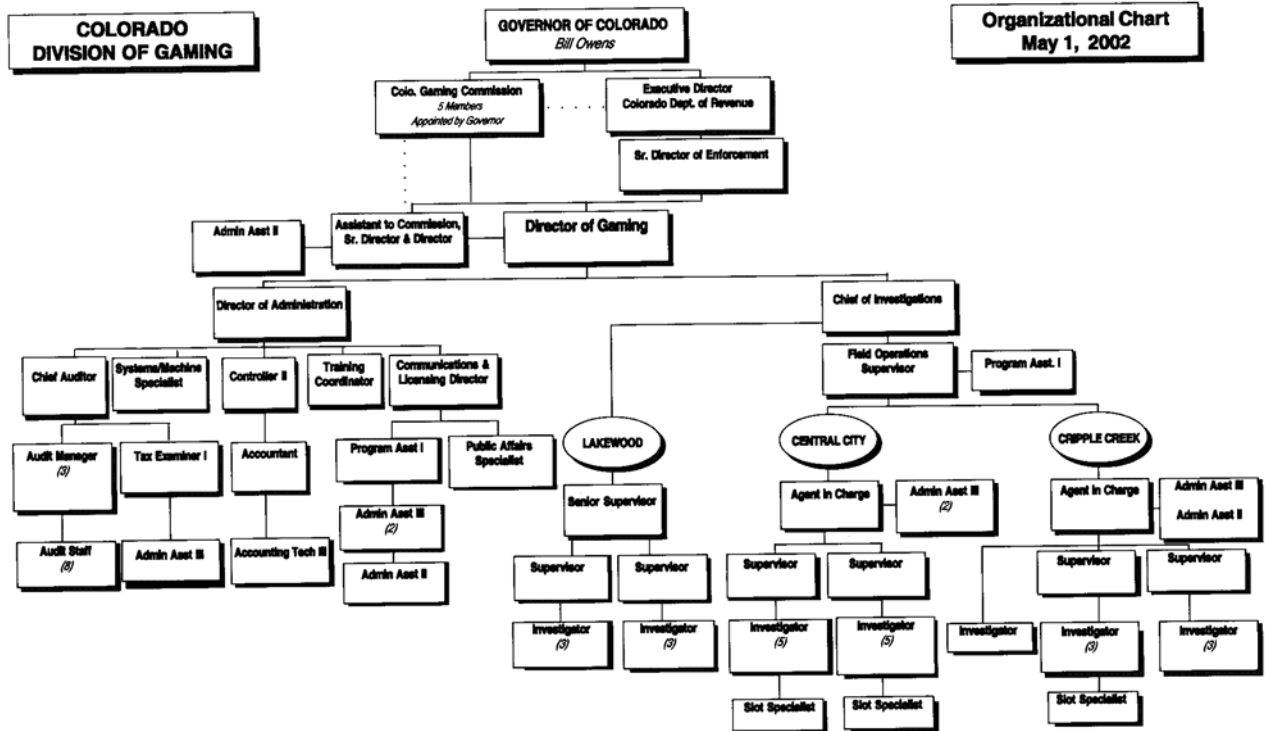
In addition, the State's Request For Proposal makes it grounds for disqualification if any of the conditions of section 12-47.1-510, C.R.S. (license-disqualification-criteria) are present. In other words, the need for appropriate controls is recognized in these documents. The only question that remains is whether contractual obligations are the best means of achieving the requisite controls and oversight.

In conclusion, private testing facilities are the only entities directly involved in limited stakes gaming that are not currently regulated in Colorado. This set of circumstances exists despite the strategic importance of testing facilities, as compared to, say, the licensing provisions for support employees. This recommendation will close the existing gap in Colorado's regulatory scheme.

Appendix A – Statutory Evaluation Criteria

- (I) 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;
- (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;
- (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;
- (IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- (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;
- (VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- (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;
- (VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action; and
- (IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

Appendix B – Division of Gaming Organizational Chart



Appendix C – Division of Gaming Statutes

12-47.1-101. Short title.

This article shall be known and may be cited as the "Limited Gaming Act of 1991".

12-47.1-102. Legislative declaration.

(1) The general assembly hereby finds, determines, and declares it to be the public policy of this state that:

(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;

(d) No applicant for a license or other affirmative commission approval has any right to a license or to the granting of the approval sought. Any license issued or other commission approval granted pursuant to the provisions of this article is a revocable privilege, and no holder acquires any vested right therein or thereunder.

(2) It is the intent of the general assembly that, to achieve the goals set forth in subsection (1) of this section, the commission should place great weight upon the policies expressed in said subsection (1) in construing the provisions of this article.

12-47.1-103. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Adjusted gross proceeds", except with respect to games of poker, means the total amount of all wagers made by players on limited gaming less all payments to players; and payment to players shall include all payments of cash premiums, merchandise, tokens, redeemable game credits, or any other thing of value. With respect to games of poker, "adjusted gross proceeds" means any sums wagered in a poker hand which may be retained by the licensee as compensation which must be consistent with the minimum and maximum amounts established by the Colorado limited gaming control commission.

(2) "Applicant" means any person who has applied for a license or registration under this article or who has applied for permission to engage in any act or activity which is regulated by this article.

(3) "Bet" means an amount placed as a wager in a game of chance.

(4) "Blackjack" means a banking card game commonly known as "21" or "blackjack" played by a maximum of seven players in which each player bets against the dealer. The object is to draw cards whose value will equal or approach twenty-one without exceeding that amount and win amounts bet, payable by the dealer, if the player holds cards more valuable than the dealer's cards.

(5) "Commission" means the Colorado limited gaming control commission.

(5.5) "Crane game" means an amusement machine that, upon insertion of a coin, bill, token, or similar object, allows the player to use one or more buttons, joysticks, or other controls to maneuver a crane or claw over a nonmonetary prize, toy, or novelty, none of which shall have a cost of more than twenty-five dollars, and then, using the crane or claw, to attempt to retrieve the prize, toy, or novelty for the player.

(6) "Department" means the Colorado department of revenue.

(7) "Director" means the Director of the division of gaming.

(8) "Division" means the division of gaming.

(9) "Executive Director" means the executive Director of the department of revenue.

(10) "Gaming device" or "gaming equipment" means any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine used remotely or directly in connection with gaming or any game. The term includes a system for processing information which can alter the normal criteria of random selection which affects the operation of any game, or which determines the outcome of a game. The term includes a slot machine, poker table, blackjack table, and the cards used to play poker and blackjack.

(11) "Gaming employee" means any person employed by an operator or retailer hosting gaming to work directly with the gaming portion of such operator's or retailer's business, which person shall be twenty-one years of age or older and hold a support license. Persons deemed to be gaming employees shall include, but shall not be limited to, the following: Dealers; change and counting room personnel; cashiers; floormen; cage personnel; slot machine repairmen or mechanics; persons who accept or transport revenue from a slot, blackjack, or poker table drop or dropbox; security personnel; shift or pit bosses; floor managers; supervisors; slot machine and slot booth personnel; any person involved in the handling, counting, collecting, or exchanging of money, property, checks, credit or any representative of value, including any coin, token, chip, cash premium, merchandise, redeemable game credits, or any other thing of value or payoff from any game, any gaming, or any gaming device; and such other persons as the commission shall by rule or regulation determine.

(12) "Gaming license" means any license issued by the commission pursuant to this article which authorizes any person to engage in gaming within the cities of Central, Black Hawk, or Cripple Creek.

(13) "Immediate family" means a person's spouse and any children actually living with the person.

(14) "Key employee" means any executive, employee, or agent of a gaming licensee having the power to exercise a significant influence over decisions concerning any part of the operation of a gaming licensee.

(15) "Licensed gaming establishment" means any premises licensed pursuant to this article for the conduct of gaming.

(16) "Licensed premises" means that portion of any premises licensed for the conduct of limited gaming. Nothing pursuant to this subsection (16) shall be construed to prohibit the affected local governing authority from otherwise determining the size of any building. In no event shall the licensed premises exceed thirty-five percent of the square footage of any building and no more than fifty percent of any one floor of such building.

(17) "Licensee" means any person licensed under this article.

(18) "Licensing authority" means the Colorado limited gaming control commission.

(19) "Limited card games and slot machines", "limited gaming", or "gaming" means slot machines and the card games of poker and blackjack, which are authorized by this article and defined and regulated by the commission, each game having a maximum single bet of five dollars.

(20) "Operator" means any person who places slot machines upon such person's business premises or any person who, individually or jointly, pursuant to an agreement whereby consideration is paid for the right to place slot machines on another's business premises, engages in the business of placing and operating slot machines on retail premises within the cities of Central, Black Hawk, or Cripple Creek.

(21) "Person" means an individual, partnership, business trust, government or governmental subdivision or agency, estate, association, trust, for profit corporation, nonprofit corporation, organization, or any other legal entity or a manager, agent, servant, officer, or employee thereof.

(22) (a) "Poker" means a card game played by a player or players who are dealt cards by a dealer. The object of the game is:

(I) For each player to bet the superiority of such player's hand and win the other players' bets by either making a bet no other player is willing to match or proving to hold the most valuable cards after all the betting is over; or

(II) For each player, whether by reason of the skill of the player or application of the element of chance, or both, to hold a poker hand entitled to a monetary or premium return based upon a publicly available pay schedule.

(b) In a variation of poker in which there can be more than one winning hand and the dealer's participation is necessary or desirable to improve the game for players other than the dealer, the dealer may play, but under no circumstances may the dealer place a wager in any game in which he or she is dealing. A game in which the player holding the highest-scoring hand splits his or her winnings with the player holding the lowest-scoring hand does not qualify as a "variation of poker in which there can be more than one winning hand" for purposes of this paragraph (b).

(23) "Repeating gambling offender" shall have the same meaning as set forth in section 18-10-102 (9), C.R.S.

(24) "Retailer" means any licensee who maintains gaming at his place of business within the cities of Central, Black Hawk, or Cripple Creek for use and operation by the public.

(25) "Retail space" means the area where a retailer's business is principally conducted.

(26) (a) "Slot machine" means any mechanical, electrical, video, electronic, or other device, contrivance, or machine which, after insertion of a coin, token, or similar object, or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive cash premiums, merchandise, tokens, or redeemable game credits, or any other thing of value other than unredeemable free games, whether the payoff is made automatically from the machines or in any other manner.

(b) "Slot machine" does not include:

(I) Vintage slot machine models which were introduced on the market prior to 1984 and are not used for gambling purposes or in connection with limited gaming; or

(II) Crane games.

(27) "Slot machine distributor" means any person who imports into this state, or first receives in this state, slot machines, or who sells, leases, for a fixed or flat fee, or distributes slot machines in this state; except that "slot machine distributor" does not include operators licensed in this state.

(28) "Slot machine manufacturer" means any person who designs, assembles, fabricates, produces, constructs, or otherwise prepares a complete or component part of a slot machine, other than tables or cabinetry; except that "slot machine manufacturer" does not include licensed operators performing incidental repairs on their own slot machines or slot machines leased or distributed by them. A licensed slot machine manufacturer may sell slot machines, or components of slot machines, of its own manufacture to licensed slot machine distributors or operators. A licensed manufacturer may also import those slot machine parts or components necessary for its manufacturing operations.

(29) "Suitability" or "suitable" means, in relation to a person, the ability to be licensed by the commission and, in relation to acts or practices, lawful acts or practices.

(30) "Unsuitability or unsuitable" means, in relation to a person, the inability to be licensed by the commission because of prior acts, associations, or financial conditions, and, in relation to acts or practices, those which violate or would violate the statutes or rules or are or would be contrary to the declared legislative purposes of this article.

(31) "Within the cities of Central, Black Hawk, or Cripple Creek" means within the commercial district of any of those cities as specified in section 12-47.1-105.

12-47.1-104. Limited gaming - authorization - regulation.

Limited gaming is hereby authorized and may be operated and maintained subject to the provisions of this article. All limited gaming authorized by this article shall be regulated by the Colorado limited gaming control commission.

12-47.1-105. Limited gaming - cities - commercial districts.

Limited gaming shall take place only in the following existing Colorado cities: The city of Central, county of Gilpin; the city of Black Hawk, county of Gilpin; and the city of Cripple Creek, county of Teller. Limited gaming shall be further confined to the commercial districts of said cities as said districts are respectively defined in the city ordinances adopted by the city of Central on October 7, 1981; the city of Black Hawk on May 4, 1978; and the city of Cripple Creek on December 3, 1973.

12-47.1-106. Exceptions.

(1) Nothing in this article shall be construed in any way to affect or interfere with the regulation of bingo and raffles by the office of the secretary of state.

(2) Nothing contained in this article shall be construed to modify, amend, or otherwise affect the validity of any provisions contained in article 10 of title 18, C.R.S.

12-47.1-201. Division of gaming - creation.

There is hereby created, within the department of revenue, the division of gaming, the head of which shall be the Director of the division of gaming. The Director shall be appointed by, and shall be subject to removal by, the executive Director of the department of revenue. The division of gaming, the Colorado limited gaming control commission created in section 12-47.1-301, and the Director of the division of gaming shall exercise their respective powers and perform their respective duties and functions as specified in this article under the department of revenue as if the same were transferred to the department by a type 2 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.; except that the commission shall have full and exclusive authority to promulgate rules and regulations related to limited gaming without any approval by, or delegation of authority from, the department.

12-47.1-202. Function of division.

The function of the division is to license, implement, regulate, and supervise the conduct of limited gaming in this state as authorized by section 9 of article XVIII of the Colorado Constitution.

12-47.1-203. Director - qualification - powers and duties.

(1) The Director shall:

- (a) Be qualified by training and experience to direct the work of the division;
- (b) Be of good character and shall not have been convicted of any felony or gambling-related offense, notwithstanding the provisions of section 24-5-101, C.R.S.;
- (c) Not be engaged in any other profession or occupation that could present a conflict of interest to the Director's duties as Director of the division; and
- (d) Direct and supervise the administrative and technical activities of the division.

(2) In addition to the duties imposed upon the Director elsewhere in this part 2, the Director shall:

- (a) Supervise and administer the operation of the division and limited gaming in accordance with the provisions of this article and the rules of the commission;
- (b) Attend meetings of the commission or appoint a designee to attend in the Director's place;
- (c) (I) Employ and direct such personnel as may be necessary to carry out the purposes of this article, but no person shall be employed who has been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101, C.R.S.

(II) The Director, with the approval of the commission, may enter into agreements with any department, agency, or unit of state government to secure services which the Director deems necessary and to provide for the payment for such services and may employ and compensate such consultants and technical assistants as may be required and as otherwise permitted by law.

(d) Confer with the commission as necessary or desirable, but not less than once each month, with regard to the operation of the division;

(e) Make available for inspection by the commission or any member of the commission, upon request, all books, records, files, and other information and documents in the Director's office;

(f) Advise the commission and recommend to the commission such rules and other procedures as the Director deems necessary and advisable to improve the operation of the division and the conduct of limited gaming;

(g) With the concurrence of the commission or pursuant to commission requirements and procedures, enter into contracts for materials, equipment, and supplies to be used in the operation of the division;

(h) Make a continuous study and investigation of the operation and the administration of similar laws which may be in effect in other states or countries; of any literature on gaming which from time to time may be published or available; and of any federal laws which may affect the operation of the division, the conduction of limited gaming, or the reaction of Colorado citizens to limited gaming with a view to recommending or effecting changes that would serve the purposes of this article;

(i) (I) Furnish to the commission a monthly report which contains a full and complete statement of the division's revenue and expenses for each month.

(II) All reports required by this paragraph (i) shall be public, and copies of all such reports shall be sent to the governor, the speaker of the house of representatives, the president of the senate, the minority leaders of both houses, and the executive Director of the department of revenue.

(j) Annually prepare and submit to the commission, for its approval, a proposed budget for the succeeding fiscal year, which budget shall set forth a complete financial plan for all proposed expenditures and anticipated revenues of the division;

(k) Take such action as may be determined by the commission to be necessary to protect the security and integrity of limited gaming;

(l) Perform any other lawful acts which the commission may consider necessary or desirable in order to carry out the purposes and provisions of this article; and

(m) Annually prepare and submit to the commission, for its approval, a proposed budget for the ensuing fiscal year, which budget shall present a complete financial plan setting forth all proposed expenditures and anticipated revenues of the division.

12-47.1-204. Investigator - peace officers.

(1) All investigators of the division of gaming, and their supervisors, including the Director and the executive Director, shall have all the powers of any peace officer to:

(a) Make arrests, with or without warrant, for any violation of the provisions of this article, article 20 of title 18, C.R.S., or the rules and regulations promulgated pursuant to this article, any other laws or regulations pertaining to the conducting of limited gaming in this state, or any criminal law of this state, if, during an officer's exercise of powers or performance of duties under this section, probable cause is established that a violation of any said law or rule or regulation has occurred;

(b) Inspect, examine, investigate, hold, or impound any premises where limited gaming is conducted, any devices or equipment designed for or used in limited gaming, and any books and records in any way connected with any limited gaming activity;

(c) Require any person licensed pursuant to this article, upon demand, to permit an inspection of such person's licensed premises, gaming equipment and devices, or books or records; and to permit the testing and the seizure for testing or examination purposes of all such devices, equipment, and books and records;

(d) Serve all warrants, notices, summonses, or other processes relating to the enforcement of laws regulating limited gaming;

(e) Serve distraint warrants issued by the department of revenue pertaining to limited gaming;

(f) Conduct investigations into the character, record, and reputation of all applicants for limited gaming licenses, all licensees, and such other persons as the commission may determine pertaining to limited gaming;

(g) Investigate violations of all the laws pertaining to limited gaming and limited gaming activities;

(h) Assist or aid any sheriff or other peace officer in the performance of his duties upon such sheriff's or peace officer's request or the request of other local officials having jurisdiction.

(2) Criminal violations of this article discovered during an authorized investigation or discovered by the commission shall be referred to the appropriate district attorney.

(3) The investigators of the division and their supervisors, including the Director of the division and the executive Director of the department of revenue, shall be considered a peace officer, level II as defined in section 18-1-901 (3) (I) (III), C.R.S.

(4) Nothing in this section shall be construed to prohibit local sheriffs, police departments, and other local law enforcement agencies from enforcing the provisions of this article, and the rules and regulations promulgated pursuant to this article, or from performing their other duties to the full extent permitted by law. All such sheriffs, police officers, district attorneys, and other local law enforcement agencies shall have all the powers set forth in subsection (1) of this section.

12-47.1-205. Division of gaming - access to records.

The division of gaming, for purposes of this article, shall have full authority to procure, at the expense of the division, any records furnished to or maintained by any law enforcement agency in the United States, including state and local law enforcement agencies in Colorado and other states for the purposes of carrying out its responsibilities pursuant to this article. Upon request from the Colorado bureau of investigation, the division shall provide copies of any and all information obtained pursuant to this article.

12-47.1-206. Repeal of division - review of functions.

Unless continued by the general assembly, this part 2 is repealed, effective July 1, 2003, and those powers, duties, and functions of the Director specified in this part 2 are abolished. The provisions of section 24-34-104 (5) to (12), C.R.S., concerning a wind-up period, an analysis and evaluation, public hearings, and claims by or against an agency shall apply to the powers, duties, and functions of the Director of said division.

12-47.1-301. Colorado limited gaming control commission - creation.

(1) There is hereby created, within the division of gaming, the Colorado limited gaming control commission. The commission shall consist of five members, all of whom shall be citizens of the United States and residents of this state who have been residents of the state for the past five years. The members shall be appointed by the governor, with the consent and approval of the senate. No member shall have been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101, C.R.S. No more than three of the five members shall be members of the same political party and no more than one member shall be from any one congressional district. At the first meeting of each fiscal year, a chairman and vice-chairman of the commission shall be chosen from the membership by a majority of the members. Membership and operation of the commission shall additionally meet the following requirements:

(a) One member of the commission shall have had at least five years' law enforcement experience as a peace officer certified pursuant to section 24-31-305, C.R.S.; one member shall be an attorney admitted to the practice of law in Colorado for not less than five years and who has experience in regulatory law; one member shall be a certified public accountant or public accountant who has been practicing in Colorado for at least five years and who has a comprehensive knowledge of the principles and practices of corporate finance; one member shall have been engaged in business in a management-level capacity for at least five years; and one member shall be a registered elector of the state who is not employed in any profession or industry otherwise described in this paragraph (a).

(b) Initial members shall be appointed to the commission by the governor as follows: One member to serve until July 1, 1992, one member to serve until July 1, 1993, one member to serve until July 1, 1994, and two members to serve until July 1, 1995. All subsequent appointments shall be for terms of four years. No member of the commission shall be eligible to serve more than two consecutive terms.

(c) Any vacancy on the commission shall be filled for the unexpired term in the same manner as the original appointment. The member appointed to fill such vacancy shall be from the same category described in paragraph (a) of this subsection (1) as the member vacating the position.

(d) Any member of the commission may be removed by the governor at any time.

(e) The term of any member of the commission who misses more than two consecutive regular commission meetings without good cause shall be terminated and such member's successor shall be appointed in the manner provided for appointments under this section.

(f) Commission members shall receive as compensation for their services one hundred dollars for each day spent in the conduct of commission business and shall be reimbursed for necessary travel and other reasonable expenses incurred in the performance of their official duties. The maximum annual compensation for each member of the commission, including reimbursement for necessary travel and other reasonable expenses incurred in the performance of their official duties, shall not exceed ten thousand dollars per year.

(g) Prior to confirmation by the senate, each member shall file with the secretary of state a financial disclosure statement in the form required and prescribed by the executive director. Such statement shall be renewed as of each January 1 during the member's term of office.

(h) The commission shall hold at least one meeting each month and such additional meetings as may be prescribed by rules of the commission. In addition, special meetings may be called by the chairman, any two commission members, or the director, if written notification of such meeting is delivered to each member at least seventy-two hours prior to such meeting. Notwithstanding the provisions of section 24-6-402, C.R.S., in emergency situations in which a majority of the commission certifies that exigencies of time require that the commission meet without delay, the requirements of public notice and of seventy-two hours' actual advance written notice to members may be dispensed with, and commission members as well as the public shall receive such notice as is reasonable under the circumstances.

(i) A majority of the commission shall constitute a quorum, but the concurrence of a majority of the members appointed to the commission shall be required for any final determination by the commission.

(j) The commission shall keep a complete and accurate record of all its meetings.

12-47.1-302. Commission - powers and duties.

(1) In addition to any other powers and duties set forth in this part 3, and notwithstanding the designation of the Colorado limited gaming control commission under section 12-47.1-201 as a type 2 transfer, the commission shall nonetheless have the following powers and duties:

(a) To promulgate such rules and regulations governing the licensing, conducting, and operating of limited gaming as it deems necessary to carry out the purposes of this article. The director shall prepare and submit to the commission written recommendations concerning proposed rules and regulations for this purpose.

(b) To conduct hearings upon complaints charging violations of this article or rules and regulations promulgated pursuant to this article, and to conduct such other hearings as may be required by rules of the commission;

(c) To enter into agreements with the Colorado bureau of investigation and state and local law enforcement agencies for the conduct of investigation, identification, or registration, or any combination thereof, of licensed operators and employees in licensed premises or in premises containing licensed premises in accordance with the provisions of this article, which conduct shall include, but not be limited to, performing background investigations and criminal records checks on an applicant applying for licensure pursuant to the provisions of this article and investigating violations of any provision of this article or of any rule or regulation promulgated by the commission pursuant to paragraph (a) of this subsection (1) discovered as a result of such investigatory process or discovered by the department of revenue or the commission in the course of conducting its business. Nothing in this section shall prevent or impair the Colorado bureau of investigation or state or local law enforcement agencies from engaging in the activities set forth in this paragraph (c) on their own initiative.

(d) To conduct a continuous study and investigation of limited gaming throughout the state for the purpose of ascertaining any defects in this article or in the rules and regulations promulgated pursuant to this article in order to discover any abuses in the administration and operation of the division or any violation of this article or any rule or regulation promulgated pursuant to this article;

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- (e) To formulate and recommend changes to this article or any rule or regulation promulgated pursuant to this article for the purpose of preventing abuses and violations of this article or any of the rules or regulations promulgated pursuant to this article; to guard against the use of this article and such rules and regulations as a cloak for the conducting of illegal activities; and to ensure that this article and such rules and regulations shall be in such form and be so administered as to serve the true purpose and intent of this article;
- (f) To report immediately to the governor, the attorney general, the speaker of the house of representatives, the president of the senate, the minority leaders of both houses, and such other state officers as the commission deems appropriate concerning any laws which it determines require immediate amendment to prevent abuses and violations of this article or any rule or regulation promulgated pursuant to this article or to remedy undesirable conditions in connection with the administration or the operation of the division or limited gaming;
- (g) To require such special reports from the director as it considers necessary;
- (h) To issue temporary or permanent licenses to those involved in the ownership, participation, or conduct of limited gaming;
- (i) Upon complaint, or upon its own motion, to levy fines and to suspend or revoke, licenses which the commission has issued;
- (j) To establish and collect fees and taxes upon persons, licenses, and gaming devices used in, or participating in, limited gaming;
- (k) To obtain all information from licensees and other persons and agencies which the commission deems necessary or desirable in the conduct of its business;
- (l) To issue subpoenas for the appearance or production of persons, records, and things in connection with applications before the commission or in connection with disciplinary or contested cases considered by the commission;
- (m) To apply for injunctive or declaratory relief to enforce the provisions of this article and any rules and regulations promulgated pursuant to this article;
- (n) To inspect and examine without notice all premises wherein limited gaming is conducted or devices or equipment used in limited gaming are located, manufactured, sold, or distributed, and to summarily seize, remove, and impound, without notice or hearing from such premises any equipment, devices, supplies, books, or records for the purpose of examination or inspection;
- (o) To enter into contracts with any governmental entity to carry out its duties without compliance with the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S. Such contracts or formal agreements, or both, are to be based on preestablished commission criteria specifying minimum levels of cooperation and conditions for payment.
- (p) To exercise such other incidental powers as may be necessary to ensure the safe and orderly regulation of limited gaming and the secure collection of all revenues, taxes, and license fees;
- (q) To establish internal control procedures for licensees, including accounting procedures, reporting procedures, and personnel policies;
- (r) To establish and collect fees for performing background checks on all applicants for licenses and on all persons with whom the commission or division may agree with or contract with for the providing of goods or services, as the commission deems appropriate;
- (s) To establish and collect fees for performing, or having performed, tests on equipment and devices to be used in limited gaming;
- (t) To establish a field office in Black Hawk, Central City, or Cripple Creek, as deemed necessary by the commission;
- (u) To demand, at any time when business is being conducted, access to and inspection, examination, photocopying, and auditing of all papers, books, and records of applicants and licensees, on their premises or elsewhere as practicable and in the presence of the licensee or his agent, pertaining to the gross income produced by any licensed gaming establishment and to require verification of income, and all other matters affecting the enforcement of the policies of the commission or any provision of this article; and to impound or remove all papers, books, and records of applicants and licensees, without hearing, for inspection or examination; and
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(v) To prescribe voluntary alternative methods for the making, filing, signing, subscribing, verifying, transmitting, receiving, or storing of returns or other documents.

(2) Rules and regulations promulgated pursuant to subsection (1) of this section shall include, but shall not be limited to, the following:

(a) The types of limited gaming activities to be conducted and the rules for those activities;

(b) The requirements, qualifications, and grounds for the issuance, revocation, suspension, and summary suspension of all types of permanent and temporary licenses required for the conduct of limited gaming;

(c) Qualifications of persons to hold limited gaming licenses;

(d) Restrictions upon the times, places, and structures where limited gaming shall be authorized;

(e) The ongoing operation of limited gaming activities;

(f) The scope and conditions for investigations and inspections into the conduct of limited gaming, the background of licensees and applicants for licenses, the premises where limited gaming is authorized, all premises where gaming devices are located, the books and records of licensees, and the sources and maintenance of limited gaming devices and equipment;

(g) Activities which constitute fraud, cheating, or illegal or criminal activities;

(h) The percentage of the adjusted gross proceeds to be paid by each licensee to the commission, in addition to license fees and taxes;

(i) The seizure without notice or hearing of gaming equipment, supplies, or books and records for the purpose of examination and inspection;

(j) The disclosure of the complete financial interests of applicants for licenses or of licensees;

(k) The issuance or denial of support licenses by the director;

(l) The granting of certain licenses with special conditions or for limited periods, or both;

(m) The establishment of procedures for determining suitability or unsuitability of persons, acts, or practices;

(n) The payment of costs incurred in the operation and administration of the division, and the costs resulting from any contract entered into for consulting or operational services;

(o) The payment of costs incurred by the Colorado bureau of investigation and any other agencies for investigations or background checks, which shall be paid by applicants for licenses or by licensees;

(p) The levying of fines for violations of this article or any rule or regulation promulgated pursuant to this article;

(q) The amount of license fees for all types of licenses issued by the commission and the division;

(r) The conditions and circumstances which constitute suitability of persons, locations, and equipment for gaming;

(s) The types and specifications of all equipment and devices used in or with limited gaming; and

(t) All other provisions necessary to accomplish the purposes of this article.

12-47.1-401. Conflict of interest.

(1) Members of the commission and employees of the division are declared to be in positions of public trust. In order to ensure the confidence of the people of the state in the integrity of the division, its employees, and the commission, the following restrictions shall apply:

(a) No member of the commission, an ancestor or descendant of a member, including a natural child, child by adoption, or stepchild, or a brother or sister of the whole or half blood of a member, or an uncle, aunt, nephew, or niece of the whole blood of a member, shall have any interest of any kind in a license issued pursuant to this article or own or have any interest in property in any county where limited gaming is permitted. The provisions of this paragraph (a) shall apply to spouses of commission members in like fashion as to members.

(b) No member of the commission or employee of the division, including the director, and no member of the immediate family of a member or employee of the division, shall have any interest, direct or indirect, in any licensee, licensed premises, establishment, or business involved in or with limited gaming. Further, no such person shall own, in whole or in part, property in the cities of Central, Black Hawk, or Cripple Creek; except that employees of the division assigned to work regularly in Gilpin or Teller county may live with their families in those counties, and may own private property therein for residential purposes, with commission approval.

(c) No member of the commission or employee of the division, including the director, and no member of the immediate family of a member of the commission or employee of the division, shall receive any gift, gratuity, employment, or other thing of value from any person, corporation, association, or firm that contracts with or that offers services, supplies, materials, or equipment used by the division in the normal course of its operations, or which is licensed by the division or the commission; except that such persons may accept on an infrequent basis in the normal course of business such nonpecuniary items of insignificant value as shall be allowed by the director and as shall be specified by the commission by rule and regulation.

(d) No member of the commission or employee of the division, including the director, and no member of their immediate families, shall participate in limited gaming.

(e) No member of the commission or employee of the division, including the director, shall have been convicted of a felony or any gambling-related offense, notwithstanding the provisions of section 24-5-101, C.R.S.

(1.5) Notwithstanding the provisions of subsection (1) of this section, the commission may, by rule, determine that an ownership interest of no more than five percent held by or through an institutional investor fund does not constitute an interest under paragraphs (a) and (b) of subsection (1) of this section.

(2) For purposes of investigating violations of this article, the provisions of paragraphs (c) and (d) of subsection (1) of this section shall not apply to an employee of the division acting in his official capacity while on duty.

12-47.1-501. Licenses - types.

(1) The commission may issue five types of licenses as follows:

(a) Slot machine manufacturer or distributor. A slot machine manufacturer or distributor license is required for all persons who import, manufacture, or distribute slot machines in this state, or who otherwise act as a slot machine manufacturer or distributor. Each license issued pursuant to this paragraph (a) shall expire one year from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule and regulation.

(b) Operator license. (I) An operator license is required for all persons who permit slot machines on their premises or who engage in the business of placing and operating slot machines on the premises of a retailer. Each license issued pursuant to this paragraph (b) shall expire one year from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule. A licensed operator shall obtain slot machines only from a licensed manufacturer or distributor.

(II) This paragraph (b) shall not apply to persons holding retail gaming licenses issued pursuant to paragraph (c) of this subsection (1).

(c) Retail gaming license. A retail gaming license is required for all persons permitting or conducting limited gaming on their premises. A retail gaming license may only be granted to a retailer. Each person licensed as a retailer shall have and maintain sole and exclusive legal possession of the entire premises for which the retail license is issued. Each license issued pursuant to this paragraph (c) shall expire one year from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule and regulation.

(d) Support license. A support license is required for all persons employed in the field of limited gaming and by all gaming employees. No person required to hold a support license shall be an employee of, or assist, any licensee until such person obtains a valid support license. Persons licensed as key employees need not obtain support licenses. The commission may deny a support license to any person discharged for cause from employment by any licensed gaming establishment in this or any other country. Each license issued pursuant to this paragraph (d) shall expire two years from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule.

(e) Key employee license. Every retail gaming licensee shall have a person in charge of all limited gaming activities available at all times when limited gaming is being conducted. Such person in charge shall hold a key employee license. Each license issued pursuant to this paragraph (e) shall expire two years from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule.

12-47.1-502. Registration of employees. (Repealed)

12-47.1-503. Key employee - determination of status.

If, in the determination of the commission, an employee of a licensee for limited gaming is a key employee and as such is subject to licensure, the commission shall serve notice of such determination upon the licensee who employed such key employee. In determining whether or not an employee is a key employee, the commission is not restricted by the title of the job performed by such employee but may consider the functions and responsibilities of such employee in making its decision. The licensee shall, within thirty days following receipt of the notice of the commission's determination, present the application for licensing of such employee to the commission or provide documentary evidence that such employee is no longer employed by the licensee. Failure of the licensee to respond as required by this section is grounds for disciplinary action. A person subject to application for licensing as a key employee may make written request to the commission to review its determination of such person's status within the gaming organization. If the commission determines that the person is not a key employee, such person shall be allowed to withdraw his application and continue in his employment. The request by an employee for review of his employment status does not stay the obligation of the licensee to present such employee's application to the commission within the thirty-day period prescribed by this section.

12-47.1-504. Licenses - revocable - nontransferable.

Every license issued pursuant to this article is revocable and nontransferable. No licensee acquires any vested interest or property right in a license. The gaming licenses issued pursuant to this article are only for the particular location initially authorized. The revocable privilege for any license issued or other approval granted is conditioned upon the proper and continuing qualification of the licensee or registrant and upon the discharge of the affirmative responsibility of each such licensee or registrant to provide to the regulatory, investigatory, and law enforcement authorities any assistance and information necessary to assure that the policies and requirements of this article are achieved.

12-47.1-505. Operator, slot machine manufacturer or distributor, key employee, support licensee, or retailer - qualifications for licensure.

Prior to a person's licensure as an operator, slot machine manufacturer or distributor, key employee, support licensee, or retailer, such person shall, in addition to meeting any other requirements imposed by this article, the commission, or any rule or regulation promulgated pursuant to this article, show that he is of good moral character. Such person has the burden of proving his qualifications to the satisfaction of the commission. Such person shall submit to and pay for any background investigations as may be ordered by the commission. All such payments shall be deposited into the limited gaming fund.

12-47.1-506. Considerations for licensure.

In considering whether a person is of good moral character for purposes of issuing any license pursuant to this article, or for any other purposes, the commission may, in addition to all other information, consider whether that person has been denied a gaming license by this or any other jurisdiction, city, state, or country, or whether the person has ever had a gaming license in this or any other jurisdiction, city, state, or country suspended or revoked. The commission may also consider whether a person has ever withdrawn an application for any type of gaming license anywhere and the reasons for such withdrawal.

12-47.1-507. Temporary or conditional licenses.

The commission may issue temporary or conditional licenses for up to a maximum of six months, or shorter periods, with respect to all licenses authorized under this article.

12-47.1-508. Delegation of authority to issue certain licenses.

The commission may delegate to the division the authority to issue permanent and temporary support and key employee licenses, but the commission shall review and approve the issuance of all other licenses issued pursuant to this article.

12-47.1-509. Licensed premises - retail floor plan.

For purposes of this section, "retail floor plan" means a physical layout of the inside of the building in which limited gaming will take place, which shall show the location of the licensed premises within the building. The retail floor plan shall be submitted to the commission with an applicant's application for a retail gaming license. Approval of the retail floor plan is subject to commission rules and those rules pertaining to the public health, safety, good order, and general welfare of the cities of Central, Black Hawk, and Cripple Creek. All gaming devices shall be located within the licensed premises of a business. A licensed retailer may change the physical location of the licensed premises with commission or director approval, however, in no event shall the licensed premises as modified violate any provision of this article or consist of more than two noncontiguous areas on one floor. Failure of the commission or the director to deny an application to relocate the licensed premises in a building, within thirty days of such application, shall be deemed an approval thereof.

12-47.1-510. License - disqualification - criteria.

(1) The commission shall deny a license to any applicant who is disqualified for licensure on the basis of any of the following criteria:

(a) Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this article;

(b) Failure of the applicant to provide information, documentation, and assurances required by this article or requested by the commission, failure of the applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria;

(c) Conviction of the applicant, or any of its officers or directors, or any of its general partners, or any stockholders, limited partners, or other persons having a financial or equity interest of five percent or greater in the applicant, of any of the following:

(I) Service of a sentence upon conviction of a felony in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department within ten years prior to the date of the application, notwithstanding the provisions of section 24-5-101, C.R.S.;

(II) Service of a sentence upon conviction of any misdemeanor gambling-related offense or misdemeanor theft by deception in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department within ten years prior to the date of the application;

(III) Service of a sentence upon conviction of any misdemeanor involving fraud or misrepresentation in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department within ten years prior to the date of the application, notwithstanding the provisions of section 24-5-101, C.R.S.;

(IV) Service of a sentence upon conviction of any gambling-related felony or felony involving theft by deception in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department, notwithstanding the provisions of section 24-5-101, C.R.S.;

(V) Service of a sentence upon conviction of any felony involving fraud or misrepresentation in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department, notwithstanding the provisions of section 24-5-101, C.R.S.;

(d) Current prosecution or pending charges in any jurisdiction against the applicant, or against any person listed in paragraph (c) of this subsection (1), for any of the offenses enumerated in paragraph (c) of this subsection (1); except that, at the request of the applicant or the person charged, the commission shall defer decision upon such application during the pendency of such charge;

(e) The identification of the applicant or any person listed in paragraph (c) of this subsection (1) as a career offender or a member of a career offender cartel or an associate of a career offender or a career offender cartel in such a manner which creates a reasonable belief that the association is of such a nature as to be inimical to the policy of this article and to gaming operations. For purposes of this section, "career offender" means any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this state. For purposes of this section, "career offender cartel" means any group of persons who operate together as career offenders.

(f) Refusal to cooperate by the applicant or any person who is required to be qualified under this article with any legislative investigatory body or other official investigatory body of any state or of the United States when such body is engaged in the investigation of crimes relating to gaming, official corruption, or organized crime activity;

(g) The applicant, or any of its officers or directors, or any of its general partners, or any stockholders, limited partners, or other persons having a financial or equity interest of five percent or greater in the applicant is or has been a professional gambler as that term is defined in article 10 of title 18, C.R.S.

12-47.1-511. Applicants and licensees - providing information.

(1) All applicants for licenses issued by the commission, and all persons holding such licenses, including all persons interested, directly or indirectly, in the gaming business or license held by an applicant or licensee, shall upon request by the commission or division provide handwriting exemplars, and each such person shall allow himself or herself to be photographed in accordance with procedures established by the commission.

(2) Upon issuance of a formal request or subpoena by the commission to answer or produce information, evidence, or testimony, each applicant and licensee shall comply with the request or subpoena. Where an applicant or licensee, or any employee or person interested, directly or indirectly, in either refuses or fails to comply with a commission request or subpoena, then that person's license or application may be suspended, revoked, or denied, based solely upon such failure or refusal.

(3) With the submission of an application for a license or an application for a finding of suitability pursuant to this article, each applicant shall submit a set of fingerprints to the commission. The commission shall forward such fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. Nothing in this subsection (3) shall preclude the commission from making further inquiries into the background of the applicant.

12-47.1-512. Application - fee - waiver of confidentiality.

(1) The commission may establish investigation and application fees for the purpose of paying for the administrative costs of the commission and for paying for any background investigations of applicants and others. These fees may vary depending on the type of application, the complexity of the investigation, or the costs of the commission in reviewing the matters involved.

(2) The application form created by the commission shall include a waiver of any right of confidentiality and a provision which allows the information contained in the application to be accessible to law enforcement agents of this or any other state, the government of the United States, any foreign country, or any Indian tribe. The waiver of confidentiality shall extend to any financial or personnel record, wherever maintained.

12-47.1-513. Supplier of licensee - licensure requirements.

(1) Except as otherwise provided in subsection (2) of this section, any person supplying goods, equipment, devices, or services to any licensee in return for payment of a percentage, or calculated upon a percentage, of limited gaming activity or income must obtain an operator license or must be listed on the retailer's license where such limited gaming will take place.

(2) A licensed slot machine manufacturer or distributor need not obtain an operator's license or be listed on a retailer's license for purposes of establishing and administering a fund associated with a multiple-property, linked, progressive slot machine system as defined by the commission, so long as all of the following conditions are met:

(a) The manufacturer or distributor shall deposit in the fund and shall account, subject to supervision by the commission, for those moneys derived from wagering in machines linked to the system which are due to the manufacturer or distributor pursuant to its agreement with the retail licensee.

(b) The manufacturer or distributor shall maintain a separate account for the fund associated with each progressive system.

(c) The manufacturer or distributor shall retain as compensation only a flat, predetermined fee per machine. Operating costs of the system, including payment of prizes, may be disbursed from the fund.

(d) Machines linked to the system shall be placed only in premises controlled by a licensed operator or retailer.

12-47.1-514. Application - authorization for background investigations.

By signing and filing an application for a license, which is hereby made subject to the perjury laws of this state, the applicant authorizes the commission to obtain information from any source, public or private, in this or any other country, regarding the background or conduct of the applicant and, if the applicant is a partnership or corporation, any of its shareholders, officers, directors, partners, agents, or employees.

12-47.1-515. License - grounds for approval or denial.

The commission may approve or deny any application for a license, in addition to all other conditions and requirements set forth in this article and the rules and regulations promulgated pursuant thereto, on the basis of whether it deems the applicant a suitable person to hold the license applied for and whether it considers the proposed location, retail floor plan, or any other conditions suitable. Refusal of an applicant to provide all information requested by the commission or to allow investigation into the applicant's background is grounds for denial of a license. Information requested from the applicant by the commission shall include the applicant's date of birth in addition to other information necessary to identify and investigate fully the record and relevant history of the applicant.

12-47.1-516. Licensed premises - safety conditions - fire and electrical.

(1) (a) The building in which limited gaming will be conducted and the areas where limited gaming will occur shall meet safety standards and conditions for the protection of life and property as determined by the local fire official and the local building official. In making such determinations, the following codes are hereby adopted by the Colorado division of fire safety as minimum safety standards for limited gaming structures:

- (I) The uniform code for building conservation, 1987 edition;
- (II) The uniform building code, 1988 edition; and
- (III) The uniform fire code, 1988 edition.

(b) The local building official and the local historical preservation commission shall work together to ensure that neither historical preservation of existing buildings nor the safety of life are compromised.

(2) A certificate of compliance shall be issued to an applicant for a premises license by the local fire and building officials, and approved by the division of fire safety. A copy of the local inspection report shall be filed with the state division of fire safety. Once the division has deemed that the minimum requirements for fire safety have been met, the division shall approve the certificate of compliance within five working days from receipt of the inspection report. If not acted upon within five days, the certificate of compliance shall be considered approved. Such certificate shall be current and valid and shall cover the entire building where limited gaming is conducted.

(3) From October 1, 1991, to October 1, 1994, any owner may file a written hardship notice and a letter of intent to meet fire safety standards with the commission for its approval. The time period for compliance shall not exceed thirty-six months. The letter of intent shall include temporary life safety measures and time frames for the installation of permanent life safety measures. Upon receipt and approval of the notice by the commission, the local fire officials, local building officials, and the division of fire safety shall issue a temporary certificate of compliance once they have deemed that the building has adequate life safety provisions to temporarily operate with limited gaming.

(4) In advance of any structural or significant change to the building or areas where limited gaming is conducted, the plans for such a change shall be submitted by the licensee holding a premises license to the local fire official and the local building official for their review. No changes may be made to the building or areas where limited gaming is conducted until the plans are approved by the local fire official and the local building official.

(5) The state division of fire safety and the state historical society shall provide technical assistance to the local building officials, the local fire officials, the local historical preservation commissions, and the commission upon request.

(6) The commission shall act as an appeals board for any owner, fire official, building official, or the division of fire safety who feels aggrieved by fire and life safety requirements or the lack of fire and life safety standards in buildings in which limited gaming will be conducted. If the commission fails to act upon an appeal within fourteen days after its receipt by the commission, the certificate of compliance shall be considered approved.

12-47.1-517. Buildings - accessible to persons with disabilities.

(1) All premises where limited gaming is conducted shall be accessible to and functional for persons with physical disabilities.

(2) An exception to the requirement of subsection (1) of this section may be granted in cases where the local historical preservation commission determines that compliance would result in degradation of the historical significance of the building where limited gaming is conducted.

12-47.1-518. Waiver from liability - state of Colorado - disclosures or publications.

All applicants, registrants, and licensees shall waive liability as to the state of Colorado and its instrumentalities and agents for any damages resulting from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any material or information acquired during inquiries, investigations, or hearings.

12-47.1-519. Renewal of licenses.

(1) Subject to the power of the commission to deny, revoke, or suspend licenses, any license in force shall be renewed by the commission for the next succeeding license period upon proper application for renewal and payment of license fees and taxes as required by law and the regulations of the commission. The license period for a renewed license shall be one year. In addition, the commission shall reopen licensing hearings at any time at the request of the director, Colorado bureau of investigation, or any law enforcement authority. The commission shall act upon any such application prior to the date of expiration of the current license.

(2) An application for renewal of a license may be filed with the commission up to one hundred twenty days prior to the expiration of the current license, and all license fees and taxes as required by law shall be paid to the commission on or before the date of expiration of the current license. The commission shall set the manner, time, and place at which an application is made.

(3) Upon renewal of any license, the commission shall issue an appropriate renewal certificate or validating device or sticker which shall be attached to each license.

(4) Renewal of a license may be denied by the commission for any violation of this article or article 20 of title 18, C.R.S., or the rules and regulations promulgated pursuant thereto, for any reason which would or could have prevented its original issuance, or for any good cause shown.

12-47.1-520. Denial of application.

(1) Any person, or anyone who has an ownership interest of five percent or more in the person:

(a) Whose application has been denied by the commission may not reapply for licensure until at least one year has elapsed from the date of denial;

(b) Who has been denied a license for a second time may not reapply until at least three years have passed since the date of the second denial.

12-47.1-521. Appeal of final action of commission.

Any person aggrieved by a final action of the commission may appeal the final action to the court of appeals pursuant to section 24-4-106, C.R.S.

12-47.1-522. Executive and closed meetings.

(1) The commission may hold executive or closed meetings for any of the following purposes:

(a) Considering applications for licensing when discussing background investigations or personal information;

(b) Meeting with gaming officials of other jurisdictions, the attorney general, the district attorney for either Teller or Gilpin county, or law enforcement officials in connection with possible criminal violations;

(c) Consulting with the executive director, director, employees, or agents of the commission concerning possible criminal violations or any security issues;

(d) Deliberations after hearing evidence in an informal consultation or in a contested case.

12-47.1-523. Communications - privileged and confidential.

Communications among the commission, executive director, and the director relating to licensing, disciplining of licensees, or violations by licensees are privileged and confidential if made lawfully and in the course of or in furtherance of the business of the commission, except pursuant to court order after an in-camera review. The executive director, director, the commission, or any member of the commission may claim this privilege.

12-47.1-524. Summary suspension.

Every license granted pursuant to this article may be summarily suspended by the commission, pending a hearing before the commission, upon such terms and conditions as the commission shall by rule and regulation mandate.

12-47.1-525. Suspension or revocation of license - grounds - penalties.

(1) Any license granted pursuant to this article may be suspended for up to six months or revoked for any cause which would have prevented its issuance, or for any violation by the licensee or any officer, director, agent, member, or employee of a licensee of this article or any rule or regulation promulgated by the commission, or for conviction of a crime involving moral turpitude or a felony, after notice to the licensee and a hearing upon proof by a preponderance of the evidence as determined by the commission. In addition to revocation or suspension, or in lieu of revocation or suspension, the commission may impose a reprimand or a monetary penalty not to exceed the following amounts:

(a) If the licensee is a slot machine manufacturer or distributor, the amount of one hundred thousand dollars;

(b) If the licensee is an operator, the amount of twenty-five thousand dollars;

(c) If the licensee is a retailer, the amount of twelve thousand five hundred dollars;

(d) If the licensee is a key employee, the amount of five thousand dollars;

(e) If the licensee holds a support license, the sum of two thousand five hundred dollars.

(2) Any monetary penalty received by the commission pursuant to this section shall be deposited in the limited gaming fund established in section 12-47.1-701.

(3) The civil penalties set forth in this section shall not be a bar to any criminal prosecution or to any civil or administrative prosecution.

12-47.1-526. Commission hearings - testimony.

In any hearing held by the commission pursuant to this article, the commission may apply to the district attorney having jurisdiction to prosecute the underlying criminal matter for orders pursuant to section 13-90-118, C.R.S., to compel testimony.

12-47.1-527. Records - confidentiality - exceptions.

(1) Information and records of the commission enumerated by this section are confidential and may not be disclosed except pursuant to a court order. No person may by subpoena, discovery, or statutory authority obtain such information or records. Information and records considered confidential include:

(a) Tax returns of individual licensees;

(b) Credit reports and security reports and procedures of applicants for licenses and other persons seeking or doing business with the commission;

(c) Audit work papers, worksheets, and auditing procedures used by the commission, its agents, or employees; and

(d) Investigative reports concerning violations of law or concerning the backgrounds of licensees, applicants, or other persons prepared by division investigators or investigators from other agencies working with the commission and any work papers related to such reports; except that the commission may in its sole discretion disclose so much of said reports or work papers as it deems necessary and prudent.

(2) This section does not apply to requests for such information or records from the governor, attorney general, state auditor, any of the respective district attorneys of this state, or any federal or state law enforcement agency, or for the use of such information or records by the executive director, director, or commission for official purposes, or by employees of the division of gaming or the department of revenue in the performance of their authorized and official duties.

(3) This section may not be construed to make confidential the aggregate tax collections during any reporting period, the names and businesses of licensees, or figures showing the aggregate amount of money bet during any reporting period.

(4) (a) Any person who discloses confidential records or information in violation of the provisions of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. Any criminal prosecution pursuant to the provisions of this section must be brought within five years from the date the violation occurred.

(b) If the person who violates this section is an officer or employee of the state, in addition to any other penalties or sanctions, such person shall be subject to dismissal if the procedures in section 24-50-125, C.R.S., are followed.

(c) If the person violating such provisions is a present employee or officer of the state who obtained the confidential records or information during such employment, then in any civil action, the subject of which includes the release of such confidential records or information, such person shall be liable for treble damages to any injured party.

(d) If the person violating such provisions is a former employee or officer of the state who obtained the confidential records or information during such employment, and if such person executed a written statement with the state agreeing to be held to the confidentiality standards expressed in this subsection (4), then in any civil action, the subject of which includes the release of such records or information after leaving state employment, the former employee or officer shall be liable for treble damages to any injured party.

12-47.1-528. Executive director and director have access to files and records.

The executive director and the director shall have access both physically and electronically to all files and records kept, or required to be maintained, and may contribute to those records.

12-47.1-529. Licensees - duty to maintain records.

Each licensee shall keep a complete set of books of account, correspondence, and all other records necessary to show fully the gaming transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination of the division or its duly authorized representatives. The division may require any licensee to furnish such information as the division considers necessary for the proper administration of this article and may require an audit to be made of such books of account and records on such occasions as the division considers necessary by an auditor, selected by the commission or the director, who shall likewise have access to all such books and records of the licensee, and the licensee may be required to pay the expense thereof.

12-47.1-530. Businesses operating in compliance with section 18-10-105 (1.5), C.R.S.

Nothing in this article shall be construed to affect a manufacturer who, prior to June 4, 1991, was operating a business in compliance with section 18-10-105 (1.5), C.R.S.

12-47.1-601. Gaming tax.

(1) There is hereby imposed a gaming tax on the adjusted gross proceeds of gaming allowed by this article. The tax shall be set by rule promulgated by the commission. In no event shall the tax exceed forty percent of the adjusted gross proceeds. In setting the tax rate the commission shall consider the need to provide moneys to the cities of Central, Black Hawk, and Cripple Creek for historic restoration and preservation; the impact on the communities and any state agency including, but not limited to, infrastructure, law enforcement, environment, public health and safety, education requirements, human services, and other components due to limited gaming; the impact on licensees and the profitability of their operations; the profitability of the other "for profit" forms of gambling in this state; the profitability or similar forms of gambling in other states; and the expenses of the commission and the division for their administration and operation. The commission shall also consider the following:

(a) The amount shall never exceed the percentage provided in paragraph (a) of subsection (5) of section 9 of article XVIII of the state constitution;

(b) The amount shall be established in conformity with the spirit and interest of this article so as to encourage business growth and investment in the gaming industry and to permit licensed operations, under normal business conditions and operation procedures, to realize a fair and just profit;

(c) The amount shall take into account unreimbursed local financial burdens associated with limited gaming-related operations;

(d) The amount shall take into account profit levels after expenses of other "for profit" gaming in Colorado and similar forms of gaming in other states;

(e) The amount shall take into account capital costs required to comply with local, state, or federal requirements; financial reserves required by the commission for payments to winners; and investments necessitated by regulatory requirements of the commission; and

(f) The amount shall permit the licensed operator a reasonable profit after expenses, including:

(I) Capital costs associated with the licensed premises;

(II) Capital costs associated with limited gaming equipment;

(III) Capital costs required to comply with local or state requirements;

(IV) Extraordinary operating costs, including the provision of housing or transportation, or both, for employees;

(V) Initial costs associated with commencement of limited gaming;

(VI) Financial reserves required by the commission for payments to winners; and

(VII) Investments necessitated by regulatory requirements of the commission.

(2) (a) The department of revenue shall collect the amount of gaming tax on adjusted gross proceeds determined pursuant to subsection (1) of this section from the licensed retailer and shall have all of the powers, rights, and duties provided in articles 20, 21, and 26 of title 39, C.R.S., to carry out such collection. The commission shall authorize reimbursement to the department of revenue of the costs associated with collection of gaming tax on adjusted gross proceeds from licensed operators pursuant to subsection (1) of this section, upon documentation of such costs satisfactory to the commission.

(b) All moneys collected pursuant to this section shall be deposited in the limited gaming fund created by subsection (5) (a) of section 9 of article XVIII of the state constitution.

12-47.1-602. Return and remittance.

Not later than fifteen days following the end of each retail month, each gaming licensee shall make a return and remittance to the director on forms prescribed and furnished by the director. The director may grant an extension of not more than five days for filing a return and remittance; except that the director shall not grant more than two extensions during any one-year period. Unless an extension is granted, a penalty or interest under section 12-47.1-604 shall be paid if a return or remittance is not made on time.

12-47.1-801. Slot machine manufacturers or distributors, operators, retailers, key employees, support licensees, persons contracting with the commission or division - criteria.

(1) This section applies to the following persons:

(a) All persons licensed pursuant to this article;

(b) With respect to privately held corporations licensed pursuant to this article, the officers, directors, and stockholders of such corporations;

(c) With respect to publicly traded corporations licensed pursuant to this article, all officers, directors, and stockholders holding either five percent or greater interest or a controlling interest;

(d) With respect to partnerships licensed pursuant to this article, all general partners and all limited partners;

(e) With respect to any other organization licensed pursuant to this article, all those persons connected with the organization having a relationship to it similar to that of an officer, director, or stockholder of a corporation;

(f) All persons contracting with or supplying any goods or service to the commission or the division;

(g) All persons supplying financing or loaning money to any licensee, when such financing or loan is connected with the establishment or operation of limited gaming;

(h) All persons having a contract, lease, or other ongoing financial or business arrangement with any licensee, where such contract, lease, or arrangement relates to limited gaming operations, equipment, devices, or premises.

(2) Each of the persons described in subsection (1) of this section shall be:

(a) A person of good moral character, honesty, and integrity notwithstanding the provisions of section 24-5-101, C.R.S.;

(b) A person whose prior activities, criminal record, reputation, habits, and associations do not pose a threat to the public interests of this state or to the control of gaming or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying-on of the business or financial arrangements incidental to the conduct of gaming;

(c) A person who has not served a sentence upon conviction of a felony in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department within ten years prior to the date of applying for a license pursuant to this article, notwithstanding the provisions of section 24-5-101, C.R.S.;

(d) A person who has not been found to have seriously or repeatedly violated the provisions of this article or any rule or regulation promulgated pursuant to this article; and has not knowingly made a false statement of material facts to the commission, its legal counsel, or any employee of the division.

12-47.1-802. False statement on application - violations of rules or provisions of article as felony.

Any person who knowingly makes a false statement in any application for a license or in any statement attached to the application, or who provides any false or misleading information to the commission or the division, or who fails to keep books and records to substantiate the receipts, expenses, or uses resulting from limited gaming conducted under this article as prescribed in rules or regulations promulgated by the commission, or who falsifies any books or records which relate to any transaction connected with the holding, operating, and conducting of any limited card games or slot machines, or who knowingly violates any of the provisions of this article or any rule or regulation adopted by the commission or any terms of any license granted under this article, commits a class 5 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

12-47.1-803. Slot machines - shipping notices.

(1) (a) (I) Any slot machine manufacturer or distributor shipping or importing a slot machine into the state of Colorado shall provide to the commission at the time of shipment a copy of the shipping invoice which shall include, at a minimum, the destination, the serial number of each machine, and a description of each machine.

(II) Any person within the state of Colorado receiving a slot machine shall, upon receipt of the machine, provide to the commission upon a form available from the commission information showing at a minimum the location of each machine, its serial number, and description. Such report shall be provided regardless of whether the machine is received from a manufacturer or any other person.

(III) Any machine licensed pursuant to this section shall be licensed for a specific location, and movement of the machine from that location shall be reported to the commission in accordance with rules adopted by the commission.

(b) Any person violating any provision of this section commits a class 5 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

(c) Any slot machine that is not in compliance with this article is declared contraband and may be summarily seized and destroyed after notice and hearing.

(d) The commission shall promulgate rules setting the time and manner for reporting the movement of any slot machine.

(2) Slot machines which because of age and condition bear no manufacturer serial number shall be assigned a serial number by a remanufacturer of slot machines. Such new serial number shall be duly recorded as required by federal regulations.

(3) The director may approve a change to the registration of a slot machine under circumstances constituting an emergency. If the director approves such an emergency change, the registration of the slot machine shall not be suspended pending the filing of a supplemental application.

12-47.1-804. Persons prohibited from interest in limited gaming.

(1) None of the following persons shall have any interest, direct or indirect, in any license involved in or with limited gaming:

(a) Officers, reserve police officers, agents, or employees of any law enforcement agency of the state of Colorado with the authority to investigate or prosecute crime in Teller or Gilpin counties or of any local law enforcement agency or detention or correctional facility within Teller or Gilpin counties;

(b) District, county, or municipal court judges whose jurisdiction includes all or any portion of Teller or Gilpin counties;

(c) Elected municipal officials or county commissioners of the counties of Teller and Gilpin and of the cities of Central, Black Hawk, and Cripple Creek;

(d) Central, Black Hawk, or Cripple Creek city manager or planning commission member.

(2) No licensee may employ any person in any capacity while that person is in the employment of the commission or is in the employment of, or has a reserve police officer position with, a law enforcement agency of the state of Colorado with the authority to investigate or prosecute crime in Teller or Gilpin counties, any local law enforcement agency or detention or correctional facility within Teller or Gilpin counties, or any other county that may later be an authorized gaming location under section 12-47.1-105.

12-47.1-805. Responsibilities of operator.

Every licensed operator and retailer having slot machines on his premises shall provide audit and security measures relating to slot machines, as prescribed by this article and by rules of the commission. Every licensed operator and retailer having slot machines on his premises shall ensure that the slot machines in his establishment comply with the specifications set forth in this article and the rules and regulations promulgated pursuant to this article.

12-47.1-806. Slot machine - security and audit specifications.

All slot machines and all other equipment and devices used in limited gaming allowed by this article shall have the features, security provisions, and audit specifications established in rules or regulations adopted by the commission.

12-47.1-807. Gaming equipment - not subject to exclusive agreements.

It is the public policy of this state that gaming equipment authorized and approved by the commission may not be subject to any exclusive agreement entered into prior to October 1, 1991.

12-47.1-808. Restriction upon persons having financial interest in retail licenses.

No person may have an ownership interest in more than three retail licenses. The interest of a licensed operator leasing or routing slot machines in return for a percentage of the income from limited gaming shall not by itself be considered an interest in a retail license under this section.

12-47.1-809. Age of participants - violation as misdemeanor - applicability.

(1) (a) It is unlawful for any person under twenty-one years of age to:

(I) Linger in the gaming area of a casino;

(II) Sit on a chair or be present at a gaming table, slot machine, or other area in which gaming is conducted; or

(III) Participate, play, be allowed to play, place wagers, or collect winnings, whether personally or through an agent, in or from any limited gaming game or slot machines.

(b) Subparagraphs (I) and (II) of paragraph (a) of this subsection (1) shall not apply to a person employed by the casino in which the person is present.

(c) Nothing in paragraph (a) of this subsection (1) shall prevent any person under twenty-one years of age from passing through a casino to nongaming areas.

(2) It is unlawful for any person to engage in limited gaming with, or to share proceeds from limited gaming with, any person under twenty-one years of age.

(3) (a) It is unlawful for any licensee to permit any person who is less than twenty-one years of age to:

(I) Linger in the gaming area of a casino;

(II) Sit on a chair or be present at a gaming table, slot machine, or other area in which gaming is conducted; or

(III) Participate, play, place wagers, or collect winnings, whether personally or through an agent, in or from any limited gaming game or slot machine.

(b) Subparagraphs (I) and (II) of paragraph (a) of this subsection (3) shall not apply to a person employed by the casino in which the person is present.

(c) Nothing in paragraph (a) of this subsection (3) shall prevent any person under twenty-one years of age from passing through a casino to nongaming areas.

(4) Any person violating any of the provisions of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

(5) Any person violating any of the provisions of this section with a person under eighteen years of age may also be proceeded against pursuant to section 18-6-701, C.R.S., for contributing to the delinquency of a minor.

12-47.1-810. Employee twenty-one years or older required on premises.

A retail licensee shall have one employee who is at least twenty-one years of age on the premises during the hours limited gaming is conducted and within full view and control of any limited card games or slot machines operated on the premises pursuant to the license obtained.

12-47.1-811. Persons conducting limited gaming.

No person under the age of twenty-one years shall be employed as a gaming employee, conduct, or assist in conducting, any limited gaming activity, and no such person shall manage or handle any of the proceeds from limited gaming.

12-47.1-812. Employee of licensed person - good moral character.

No person licensed under this article shall employ or be assisted by any person who is not of good moral character.

12-47.1-813. Minimum payback - limit to a slot machine.

The minimum theoretical payback value on a slot machine shall be at least eighty but not more than one hundred percent of the value of any credit played. However, this section shall not be construed to prohibit tournament slot machines with theoretical payback values greater than one hundred percent where such machines do not accept nor pay out coins or tokens.

12-47.1-814. Key employee - support license.

(1) A licensee shall not employ any person to work in the field of limited gaming, or to handle any of the proceeds of limited gaming, unless such person holds a valid key employee or support license issued by the commission.

(2) It is unlawful for any person holding a key employee or support license to participate in limited gaming in the gaming establishment where such licensee is employed; except that such licensee may participate in limited gaming if such participation is performed as part of such licensee's employment responsibilities.

12-47.1-815. Extension of credit prohibited.

No person licensed under this article may extend credit to another person for participation in limited card games and slot machines.

12-47.1-816. Maximum amount of bets.

The amount of a bet made pursuant to this article shall not be more than five dollars on the initial bet or subsequent bet, subject to rules promulgated by the commission.

12-47.1-817. Failure to pay winners.

(1) It is unlawful for any licensee to willfully refuse to pay the winner of any limited gaming game.

(2) Any person violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

12-47.1-818. Approval of rules for certain games.

(1) Specific rules for blackjack and poker shall be approved by the commission and clearly posted within plain view of any applicable card table.

(2) No licensee shall offer poker or any variation game thereof without prior approval of the game by the commission.

(3) No licensee shall employ skills.

12-47.1-819. Exchange - redemption of chips - unlawful acts.

It is unlawful for any person to exchange or redeem chips for anything whatsoever, except currency, negotiable personal checks, negotiable counter checks, or other chips. A licensee shall, upon the request of any person, redeem that licensee's gaming chips surrendered by that person in any amount over twenty-five dollars with a check drawn upon the licensee's account at any banking institution in this state and made payable to that person.

12-47.1-820. Persons in supervisory positions - unlawful acts.

It is unlawful for any dealer, floorman, or any other employee who serves in a supervisory position, to solicit or accept any tip or gratuity from any player or patron at the premises where he is employed. A dealer may, however, accept tips or gratuities from a patron at the table at which such dealer is conducting play, subject to the provisions of this section. All such tips or gratuities shall be immediately deposited in a lockbox reserved for that purpose, accounted for, and placed in a pool for distribution based upon criteria established in advance by the licensed retailer.

12-47.1-821. Limited gaming - limited hours.

It shall be unlawful for any person to conduct or participate in limited gaming between the hours of 2:00 a.m. and 8:00 a.m.

12-47.1-822. Cheating.

(1) It is unlawful for any person, whether he is an owner or employee of, or a player in, an establishment, to cheat at any limited gaming activity.

(2) For purposes of this article, "cheating" means to alter the selection of criteria which determine:

(a) The result of a game; or

(b) The amount or frequency of payment in a game.

(3) Any person issued a license pursuant to this article violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S., and any other person violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. If the person is a repeating gambling offender the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

12-47.1-823. Fraudulent acts.

(1) It is unlawful for any person:

(a) To alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;

(b) To place, increase, or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing, or decreasing a bet or determining the course of play contingent upon that event or outcome;

(c) To claim, collect, or take, or attempt to claim, collect, or take, money or anything of value in or from a limited gaming activity with intent to defraud and without having made a wager contingent thereon, or to claim, collect, or take an amount greater than the amount won;

(d) Knowingly to entice or induce another to go to any place where limited gaming is being conducted or operated in violation of the provisions of this article, with the intent that the other person play or participate in that limited gaming activity;

(e) To place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including past-posting and pressing bets;

(f) To reduce the amount wagered or to cancel a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching bets;

(g) To manipulate, with the intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to, varying the pull of the handle of a slot machine, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game;

(h) To, by any trick or slight of hand performance, or by fraud or fraudulent scheme, cards, or device, for himself or another, win or attempt to win money or property or a representative of either or reduce a losing wager or attempt to reduce a losing wager in connection with limited gaming;

(i) To conduct any limited gaming operation without a valid license;

(j) To conduct any limited gaming operation on an unlicensed premises;

(k) To permit any limited gaming game or slot machine to be conducted, operated, dealt, or carried on in any limited gaming premises by a person other than a person licensed for such premises pursuant to this article;

(l) To place any limited gaming games or slot machines into play or display such games or slot machines without the authorization of the commission;

(m) To employ or continue to employ any person in a limited gaming operation who is not duly licensed or registered in a position whose duties require a license or registration pursuant to this article; or

(n) To, without first obtaining the requisite license or registration pursuant to this article, be employed, work, or otherwise act in a position whose duties would require licensing or registration pursuant to this article.

(2) Any person issued a license pursuant to this article violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S., and any other person violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

12-47.1-824. Use of device for calculating probabilities.

(1) It is unlawful for any person at a licensed gaming establishment to use, or possess with the intent to use, any device to assist:

(a) In projecting the outcome of the game;

(b) In keeping track of the cards played;

(c) In analyzing the probability of the occurrence of an event relating to the game; or

(d) In analyzing the strategy for playing or betting to be used in the game, except as permitted by the commission.

(2) Any person issued a license pursuant to this article violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S., and any other person violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

12-47.1-825. Use of counterfeit or unapproved chips or tokens or unlawful coins or devices - possession of certain unlawful devices, equipment, products, or materials.

(1) It is unlawful for any licensee, employee, or other person to use counterfeit chips in any limited gaming activity.

(2) It is unlawful for any person, in playing or using any limited gaming activity designed to be played with, to receive, or to be operated by chips or tokens approved by the commission or by lawful coin of the United States of America:

(a) Knowingly to use anything other than chips or tokens approved by the commission or lawful coin, legal tender of the United States of America, or to use coin not of the same denomination as the coin intended to be used in that limited gaming activity; or

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- (b) To use any device or means to violate the provisions of this article.
- (3) It is unlawful for any person to possess any device, equipment, or material which he knows has been manufactured, distributed, sold, tampered with, or serviced in violation of the provisions of this article.
- (4) It is unlawful for any person, not a duly authorized employee of a licensee acting in furtherance of his or her employment within an establishment, to have on his or her person or in his or her possession any device intended to be used to violate the provisions of this article.
- (5) It is unlawful for any person, not a duly authorized employee of a licensee acting in furtherance of his or her employment within an establishment, to have on his or her person or in his or her possession while on the premises of any licensed gaming establishment any key or device known to have been designed for the purpose of and suitable for opening, entering, or affecting the operation of any limited gaming activity, drop box, or electronic or mechanical device connected thereto, or for removing money or other contents therefrom.
- (6) Possession of more than one of the devices, equipment, products, or materials described in this section shall give rise to a rebuttable presumption that the possessor intended to use them for cheating.
- (7) It is unlawful for any person to use or possess while on the premises any cheating or thieving device, including but not limited to, tools, drills, wires, coins, or tokens attached to strings or wires or electronic or magnetic devices, to facilitate the alignment of any winning combination or to facilitate removing from any slot machine any money or contents thereof, unless the person is a duly authorized gaming employee acting in the furtherance of his or her employment.
- (8) Any person violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.; except that, if the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

12-47.1-826. Cheating game and devices.

- (1) It is unlawful for any person playing any licensed game in licensed gaming premises to:
- (a) Knowingly conduct, carry on, operate, or deal or allow to be conducted, carried on, operated, or dealt any cheating or thieving game or device; or
- (b) Knowingly deal, conduct, carry on, operate, or expose for play any game or games played with cards or any mechanical device, or any combination of games or devices, which have in any manner been marked or tampered with or placed in a condition or operated in a manner the result of which tends to deceive the public or tends to alter the normal random selection of characteristics or the normal chance of the game which could determine or alter the result of the game.
- (2) Any person violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.; except that, if the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

12-47.1-827. Unlawful manufacture, sale, distribution, marking, altering, or modification of equipment and devices associated with limited gaming - unlawful instruction.

- (1) It is unlawful to manufacture, sell, or distribute any cards, chips, dice, game, or device which is intended to be used to violate any provision of this article.
- (2) It is unlawful to mark, alter, or otherwise modify any associated equipment or limited gaming device in a manner that:
- (a) Affects the result of a wager by determining win or loss; or
- (b) Alters the normal criteria of random selection, which affects the operation of a game or which determines the outcome of a game.
- (3) It is unlawful for any person to instruct another in cheating or in the use of any device for that purpose, with the knowledge or intent that the information or use so conveyed may be employed to violate any provision of this article.
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(4) Any person issued a license pursuant to this article violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S., and any other person violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

12-47.1-828. Unlawful entry by excluded and ejected persons.

(1) It is unlawful for any person whose name is on the list promulgated by the commission pursuant to section 12-47.1-1001 or 12-47.1-1002 to enter the licensed premises of a limited gaming licensee.

(2) It is unlawful for any person whose name is on the list promulgated by the commission pursuant to section 12-47.1-1001 or 12-47.1-1002 to have any personal pecuniary interest, direct or indirect, in any limited gaming licensee, licensed premises, establishment, or business involved in or with limited gaming or in the shares in any corporation, association, or firm licensed pursuant to this article.

(3) Any person violating the provisions of this section commits a class 5 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

12-47.1-829. Detention and questioning of person suspected of violating article - limitations on liability - posting of notice.

(1) Any licensee or an officer, employee, or agent thereof may question any person in the licensee's establishment suspected of violating any of the provisions of this article. A licensee or any officer, employee, or agent thereof is not criminally or civilly liable:

(a) On account of any such questioning; or

(b) For reporting to the division, commission, or law enforcement authorities the person suspected of the violation.

(2) Any licensee or any officer, employee, or agent thereof who has probable cause to believe that there has been a violation of this article in the licensee's establishment by any person may take that person into custody and detain him in the establishment in a reasonable manner and for a reasonable length of time. Such a taking into custody and detention does not render the licensee or the officer, employee, or agent thereof criminally or civilly liable unless it is established by clear and convincing evidence that the taking into custody or detention is unreasonable under all the circumstances.

(3) A licensee or any officer, employee, or agent thereof is not entitled to the immunity from liability provided for in subsection (2) of this section unless there is displayed in a conspicuous place in the licensee's establishment a notice in bold-face type clearly legible and in substantially this form:

"Any gaming licensee, or any officer, employee, or agent thereof who has probable cause to believe that any person has violated any provision prohibiting cheating in limited gaming may detain that person in the establishment."

12-47.1-830. Failure to display operator and premises licenses.

(1) It is unlawful for any person to fail to permanently display in a conspicuous manner:

(a) Operator and premises licenses granted by the commission;

(b) A notice in bold face type which is clearly legible and in substantially the following form:

"IT IS UNLAWFUL FOR ANY PERSON UNDER THE AGE OF TWENTY-ONE TO ENGAGE IN LIMITED GAMING".

(2) Any person violating this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

12-47.1-831. Authority, duties, and powers - department of revenue and department of public safety.

(1) The gaming commission, the department of revenue, and the division shall regulate the gaming industry and enforce the gaming laws. Nothing in this section shall be construed to prohibit or limit the authority of local sheriffs or police officers to enforce all the provisions of this article or the rules and regulations promulgated pursuant to this article.

(2) The Colorado bureau of investigation shall have authority for the following:

(a) Conduct criminal investigations and law enforcement oversight relating to violations of the "Colorado Organized Crime Control Act" article 17 of title 18, C.R.S., as these violations are reported by law enforcement officials, the gaming commission, the governor, or as discovered by the Colorado bureau of investigation.

(b) In cooperation with local law enforcement officials and the commission, the Colorado bureau of investigation shall develop and collect information with regard to organized crime in an effort to identify criminal elements or enterprises which might infiltrate and influence limited gaming and report such information to appropriate law enforcement organizations and the limited gaming commission.

(c) Prepare reports concerning any activities in, or movements into, this state of organized crime for use by the commission or the governor in their efforts to prevent and thwart criminal elements or enterprises from infiltrating or influencing limited gaming as defined in this article.

(d) Inspect or examine, during normal business hours, premises, equipment, books, records, or other written material maintained at gaming establishments as required by this article, in the course of performing the activities of the Colorado bureau of investigation as set forth in this section.

(3) The commission shall, in cooperation with the Colorado bureau of investigation, conduct background investigations of gaming license applicants, licensees, owners or tenants of property or premises upon which gaming is permitted or conducted, and key employees of such gaming establishments as defined in this article or by commission rule or regulation.

(4) Criminal violations of this article discovered during an authorized investigation or discovered by the limited gaming commission shall be referred to the appropriate district attorney.

(5) The director of the Colorado bureau of investigation shall employ such personnel as may be necessary to carry out the duties and responsibilities set forth in this article. The commission shall authorize payment to the Colorado bureau of investigation for the cost involved. Costs for activities relating to limited gaming shall be paid from the limited gaming fund pursuant to preestablished contracts or formal agreements, or both, including contracts or formal agreements on specific activities the department of public safety will complete for the commission and conditions for payment, the manner in which the commission and the department of public safety will review budgets and project resource needs in the future, and the level of cooperation established between the division, the Colorado bureau of investigation for conducting background investigations, and the Colorado state patrol for contracted services.

12-47.1-832. Violations of article as misdemeanors.

Any person violating any of the provisions of this article, or any of the rules and regulations promulgated pursuant thereto, commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., except as may otherwise be specifically provided in this article.

12-47.1-1101. Exemption from federal law.

Pursuant to section 2 of an act of congress of the United States entitled "An Act to prohibit transportation of gambling devices in interstate and foreign commerce", approved January 2, 1951, designated 15 U.S.C. secs. 1171 to 1177, inclusive, and in effect January 1, 1989, the state of Colorado acting by and through its elected and qualified members of its general assembly, does hereby, and in accordance with and in compliance with the provisions of section 2 of the act of congress, declare and proclaim that it is exempt from the provisions of section 2 of that act of congress of the United States, as regards gaming devices operated and used within the cities of Central, Black Hawk, and Cripple Creek, Colorado.

12-47.1-1102. Shipments of devices and machines deemed legal.

All shipments of gaming devices, including slot machines, into this state, the registering, recording, and labeling of which has been duly made by the manufacturer or dealer thereof in accordance with sections 3 and 4 of an act of congress of the United States entitled "An Act to prohibit transportation of gambling devices in interstate and foreign commerce", approved January 2, 1951, designated as 15 U.S.C. secs. 1171 to 1177, inclusive, and in effect on January 1, 1989, shall be deemed legal shipments thereof, for use only within the cities of Central, Black Hawk, and Cripple Creek, Colorado.

12-47.1-1103. Possession of slot machines.

Notwithstanding any other laws of this state to the contrary, the possession of slot machines in this state by licensed manufacturers, distributors, and operators is legal if all the requirements, conditions, and provisions of this article and the rules and regulations promulgated pursuant to this article are met and complied with. However, nothing in this section shall be deemed to authorize or permit any use of slot machines for any purpose, except as specifically authorized and provided for in this article and the rules and regulations promulgated pursuant to this article.

12-47.1-1201. State historical fund - administration.

(1) The state treasurer shall make annual distributions, from the state historical fund created by subsection (5) (b) (II) of section 9 of article XVIII of the state constitution, in accordance with the provisions of subsection (5) (b) (III) of said section 9. As specified in said subsection (5) (b) (III), twenty percent of the moneys in the state historical fund shall be used for the preservation and restoration of the cities of Central, Black Hawk, and Cripple Creek. The remaining eighty percent of the fund shall be administered by the state historical society. Expenditures from the fund shall be subject to the provisions of section 12-47.1-1202. The society shall make grants from the eighty percent portion of said fund administered by the society for the following historic preservation purposes:

(a) The identification, evaluation, documentation, study, and marking of buildings, structures, objects, sites, or areas important in the history, architecture, archaeology, or culture of this state, and the official designation of such properties;

(b) The excavation, stabilization, restoration, rehabilitation, reconstruction, or acquisition of such designated properties;

(c) Education and training for governmental entities, organizations, and private citizens on how to plan for and accommodate the preservation of historic structures, buildings, and districts as well as archaeological sites;

(d) Preparation, production, distribution, and presentation of educational, informational, and technical documents, guidance, and aids on historic preservation practices, standards, guidelines, techniques, economic incentives, protective mechanisms, and historic preservation planning.

(2) The society shall make grants primarily to public entities; except that the society may make grants to persons in the private sector so long as the person requesting the grant makes application through a municipality or a county. The selection of recipients and the amount granted to a recipient shall be determined by the society, which determination shall be based on the information provided in the applications submitted to the society.

(3) The society may expend a portion of the state historical fund administered by the society to cover such reasonable costs as may be incurred in the selection, monitoring, and administration of grants for historic preservation purposes. The society may employ such personnel in accordance with section 13 of article XII of the state constitution as may be necessary to fulfill its duties in accordance with this section.

(4) The society shall promulgate rules for the purpose of administering the state historical fund, which rules may include criteria for consideration in awarding grants from such fund and standards for preservation which are acceptable to the society and which shall be employed by grant recipients.

12-47.1-1202. Expenditures from the state historical fund - legislative declaration.

(1) The general assembly hereby finds and declares that when the voters approved the conduct of limited gaming in the cities of Central, Black Hawk, and Cripple Creek they believed that all moneys expended from the state historical fund would be used to restore and preserve the historic nature of those cities and other sites and municipalities throughout the state. Together with the limitations contained in section 12-47.1-1201 on the expenditure of moneys in the fund that are subject to administration by the state historical society, this section is intended to assure that expenditures from the fund by the society and by the cities of Central, Black Hawk, and Cripple Creek are used for historic restoration and preservation.

(2) The state historical society shall not expend moneys from the eighty percent portion of the state historical fund administered by the society unless they have adopted standards for distribution of grants from that portion of the fund. At a minimum, such standards shall include requirements that assure compliance with the secretary of the interior's standards for treatment of historic properties.

(3) The governing bodies of the cities of Central, Black Hawk, and Cripple Creek shall not expend moneys from their twenty percent portion of the state historical fund unless they have adopted standards for distribution of grants from that portion of the fund. At a minimum, such standards shall include the following:

(a) Requirements that assure compliance with the secretary of the interior's standards for treatment of historic properties;

(b) A provision that prohibits a private individual from receiving more than one grant for the restoration or preservation of the same property within any one-year period;

(c) A provision that limits grants to property that is located within a national historic landmark district or within an area listed on the national register of historic places;

(d) A provision that limits grants for restoration or preservation to structures that have historical significance because they were originally constructed more than fifty years prior to the date of the application;

(e) A provision that prohibits grants that exceed one hundred thousand dollars for a single residential property;

(f) A provision that prohibits issuing a grant to a private individual who does not own the residential property that is to be restored or preserved;

(g) A provision that prohibits using a grant for payment of any tax liability that may be incurred by the person who receives the grant;

(h) A provision that prohibits making grants for more than one year at a time; and

(i) A provision that requires a member of the governing body to disclose any personal interest in a grant before voting on the application.

(4) The provision contained in paragraph (c) of subsection (3) of this section that requires that the governing bodies of the specified cities not expend moneys from the state historical fund unless they adopt standards that include a provision that limits grants to property that is located within a national historic landmark district or within an area listed on the national register of historic places is not intended to affect the status of the cities as approved sites for limited gaming under section 9 of article XVIII of the state constitution in the event that the status as a historical landmark district or listing on the national register of historic places is not maintained.

12-47.1-1301. Loan from general fund - time frame for repayment - distributions from limited gaming fund. (Repealed)

12-47.1-1401 to 12-47.1-1403. (Repealed)

12-47.1-1501 to 12-47.1-1502. (Repealed)

12-47.1-1601. Local government limited gaming impact fund.

(1) (a) There is hereby created in the office of the state treasurer the local government limited gaming impact fund, referred to in this part 16 as the "fund", for the purpose of providing financial assistance to designated local governments for documented gaming impacts. For the purposes of this part 16, "documented gaming impacts" means the documented expenses, costs, and other impacts incurred directly as a result of limited gaming permitted in the counties of Gilpin and Teller and on Indian lands.

(b) Following the final distribution of moneys from the contiguous county limited gaming impact fund made pursuant to section 12-47.1-1401, but in no event later than June 30, 1998, any unencumbered moneys remaining in the contiguous county limited gaming impact fund shall be transferred to the fund created by paragraph (a) of this subsection (1).

(c) Following the final distribution of moneys from the municipal gaming impact fund made pursuant to section 12-47.1-1501, but in no event later than August 31, 2002, any moneys remaining in the municipal gaming impact fund shall be transferred to the fund created by paragraph (a) of this subsection (1).

(2) Out of the fifty percent share to be transferred to the general fund pursuant to section 9 (5) (b) (II) of article XVIII of the state constitution, a percentage thereof, which shall be determined by the commission in consultation with the local government limited gaming impact advisory committee created in section 12-47.1-1602, shall be transferred annually to the fund.

(3) Except as otherwise provided in this subsection (3), in no event shall less than an aggregate total of eleven percent of the fifty percent share of the limited gaming fund to be transferred to the general fund pursuant to section 9 (5) (b) (II) of article XVIII of the state constitution be transferred annually to the fund. Commencing July 1, 2002, in no event shall less than an aggregate total of thirteen percent of the fifty percent share of the limited gaming fund to be transferred annually to the general fund pursuant to section 9 (5) (b) (II) of article XVIII of the state constitution be transferred to the fund. The local government limited gaming impact advisory committee shall request that the commission and the general assembly approve funding for all documented gaming impacts upon local governments eligible for funding pursuant to subsection (4) of this section from the general fund share of gaming revenues if the committee determines that the documented gaming impacts upon eligible local governments exceed:

(a) The amount of state gaming funds provided by the state constitution to affected counties;

(b) The amount of locally derived revenues from gaming; and

(c) The amount of revenue distributed pursuant to this section.

(4) (a) After considering the recommendations of the local government limited gaming impact advisory committee created in section 12-47.1-1602, the moneys from the local government limited gaming impact fund shall be distributed at the authority of the executive director of the department of local affairs to eligible local governmental entities upon their application for grants to finance planning, construction, and maintenance of public facilities and the provision of public services related to the documented gaming impacts. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain available for expenditure in any subsequent fiscal year without further appropriation by the general assembly.

(b) For the purposes of this part 16, the term "eligible local governmental entity" means the following local governmental entities:

(I) The counties of Boulder, Clear Creek, Grand, Jefferson, El Paso, Fremont, Park, Douglas, Gilpin, Teller, La Plata, Montezuma, and Archuleta;

(II) Any municipality located within the boundaries of any county set forth in subparagraph (I) of this paragraph (b), except the City of Central, the City of Black Hawk, and the City of Cripple Creek; and

(III) Any special district providing emergency services within the boundaries of any county set forth in subparagraph (I) of this paragraph (b).

(5) Notwithstanding the provisions of subparagraph (II) of paragraph (b) of subsection (4) of this section, neither the City of Woodland Park nor the City of Victor shall be eligible local governmental entities prior to July 1, 2002.

12-47.1-1602. Local government limited gaming impact advisory committee - creation - duties.

(1) There is hereby created within the department of local affairs a local government limited gaming impact advisory committee, referred to in this section as the "committee". The committee shall be composed of the following thirteen members:

(a) The executive director of the department of local affairs;

(b) Two members, one of whom shall be appointed by and serve at the pleasure of the executive director of the department of public safety and one who shall be appointed by and serve at the pleasure of the executive director of the department of revenue;

(c) Three members representing the counties eligible to receive moneys from the fund pursuant to section 12-47.1-1601 (4) who shall serve at the pleasure of the boards and who shall be appointed as follows:

(I) One member shall be appointed by the chairs of the boards of county commissioners from the counties impacted by gaming in the City of Cripple Creek who shall serve a term of four years, except the initial appointee who shall serve a term of two years;

(II) One member shall be appointed by the chairs of the boards of county commissioners from the counties impacted by gaming in the City of Central and the City of Black Hawk who shall serve a term of four years; and

(III) One member shall be appointed by the chairs of the boards of county commissioners from the counties impacted by tribal gaming who shall serve a term of four years.

(d) Two members representing the municipalities eligible to receive moneys from the fund pursuant to section 12-47.1-1601 (4) to be appointed by the mayors of the municipalities and who shall serve at the pleasure of the mayors for terms of four years; except that one of the initial appointees shall serve a term of two years. Not more than one member shall be selected pursuant to this paragraph (d) from each of the groups of counties described in subparagraphs (I) to (III) of paragraph (c) of this subsection (1).

(e) One member representing the special districts providing emergency services that are eligible to receive moneys from the fund pursuant to section 12-47.1-1601 (4) to be appointed by and who shall serve at the pleasure of the director of the emergency medical services and prevention division of the department of public health and environment;

(f) One member of the Colorado house of representatives to be appointed by the speaker of the house of representatives and who shall serve at the pleasure of the speaker;

(g) One member of the Colorado senate to be appointed by the president of the senate and who shall serve at the pleasure of the president; and

(h) Two members representing the governor, to be appointed by the governor and who shall serve at the pleasure of the governor.

(2) The executive director of the department of local affairs shall convene the first meeting of the committee. The committee shall select a chair of the committee, from among the committee members, who shall convene the committee from time to time as the committee deems necessary.

(3) The committee shall have the following duties:

(a) To establish a standardized methodology and criteria for documenting, measuring, assessing, and reporting the documented gaming impacts upon eligible local governmental entities;

(b) To review the documented gaming impacts upon eligible local governmental entities on a continuing basis;

(c) To review grant applications from eligible local governmental entities, individually or in cooperation with other eligible local governmental entities, based upon the needs of the entities and the documented gaming impacts on the entities;

(d) To make funding recommendations on a continuing basis to be considered by the executive director in making funding decisions for grant applications submitted by eligible local governmental entities pursuant to section 12-47.1-1601 (4) (a);

(e) To make requests as required by section 12-47.1-1601 (3) that the Colorado limited gaming control commission and the general assembly approve funding for all documented gaming impacts upon local governments eligible for funding pursuant to section 12-47.1-1601 (3).

Appendix D – Summary of Rules and Regulations

Rule 2: Powers & Duties of Commission & Director

The purpose of this rule is to delegate certain authority to the Director or other Division agent; provide for the review of any action taken pursuant to such authority; and to establish procedures for Commission actions and hearings.

Rule 3: Applications, Investigations & Licensure

The purpose of this rule is to establish and provide the specific information required on license applications; to establish license fees for each type of license; to establish procedures for conducting background checks on applicants and other interested persons and assessing the costs of such background checks; and to provide for the issuance of conditional, temporary, and duplicate licenses.

Rule 4: Rights and Duties of Licensees

The purpose of this rule is to specify the rights, responsibilities, and duties of licensees; specify certain duties of licensees related to permitting access to the Division of information, records, and premises controlled by the licensee; require licensees to maintain sufficient financial reserves; require that certain information be publicly posted; direct licensee to prohibit certain conduct; and establish procedures for patron disputes, transfers of interests and terminations of licensee employment or licensure.

Rule 4 also prohibits any false or misleading advertising concerning limited gaming.

Rule 5: Disciplinary Actions

The purpose of this rule is to establish procedures and articulate grounds for disciplinary actions and informal resolution of allegations of violations of the gaming statute or any rules and regulations, to provide procedures to impose sanctions for violations and to provide for certain conditions to be met for reissuance of licenses to persons who formerly held a license.

Rule 6: Declaratory Orders

The purpose of this rule is to establish procedures to allow persons to obtain declaratory orders from the Gaming Commission.

Rule 12: Slots

The purpose of this rule is to establish a procedure for the testing and approval by the Commission of gaming devices and equipment, to establish requirements for the gaming devices and equipment to be used in limited gaming in Colorado.

Rule 14: Gaming Tax

The purpose of this rule is to establish the rate of the gaming tax on adjusted gross proceeds and to provide for security for the payment of gaming taxes.

Rule 16: Accounting

The purpose of this rule is to establish accounting and internal control procedures for licensees.