

# STATE OF COLORADO

## DEPARTMENT OF REVENUE

Division of Gaming

17301 W. Colfax Ave., Suite 135  
Golden, Colorado 80401  
Phone (303) 205-1355  
FAX (303) 205-1342



John Hickenlooper  
Governor

Barbara J. Brohl  
Executive Director

Ron Kammerzell  
Director

August 1, 2012

Dianne E. Ray, CPA  
State Auditor  
Colorado Office of the State Auditor  
200 East 14<sup>th</sup> Avenue, 2<sup>nd</sup> Floor  
Denver, CO 80203

Dear Ms. Ray:

In response to your request, we have prepared an updated status report regarding the implementation of audit recommendations contained in the October 2011 Division of Gaming Performance Audit. The attached report provides a brief explanation of the actions taken by the Division of Gaming and Gaming Commission to implement each recommendation.

We appreciate the opportunity to update the Legislative Audit Committee and the Office of the State Auditor on our progress in implementing the audit recommendations of the performance audit of the Division.

If you have any questions, please do not hesitate to contact me at 303-205-1314 or by email at [rkammerzell@dor.state.co.us](mailto:rkammerzell@dor.state.co.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Kammerzell".

Ron Kammerzell  
Division Director

cc: Barbara J. Brohl, Executive Director, Colorado Department of Revenue  
George B. Thomson, Senior Director of Enforcement, Colorado Department of Revenue  
Georgine Zalesky, Chief of Internal Audit, Colorado Department of Revenue

## AUDIT RECOMMENDATION STATUS REPORT

**AUDIT NAME:** Division of Gaming Performance Audit

**AUDIT NUMBER:** 2149

**DEPARTMENT/AGENCY/ENTITY:** The Department of Revenue's Division of Gaming and Limited Gaming Control Commission

**DATE:** October 2011

### SUMMARY INFORMATION

*Please complete the highlighted section of the table below with summary information for all audit recommendations. **For multi-part recommendations, list each part of the recommendation separately.** (For example, if Rec. No. 1 has three parts, list each part separately)*

<b>Recommendation Number</b> <i>(e.g., 1a, 1b, 2, etc.)</i>	<b>Agency's Response</b> <i>(i.e., agree, partially agree, disagree)</i>	<b>Original Implementation Date</b> <i>(as listed in the audit report)</i>	<b>Implementation Status</b> <i>(Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable)</i> <i>Please refer to the attached definitions of each implementation status option.</i>	<b>Revised Implementation Date</b> <i>(Complete only if agency is revising the original implementation date.)</i>
1	Partially agree	July 2012	Implemented	
2. a.	Agree	September 2012	Partially implemented	December 31, 2012
2. b.	Agree	September 2012	Partially implemented	December 31, 2012
2. c.	Agree	September 2012	Implemented	
3. a.	Agree	July 2011	Implemented	
3. b.	Agree	October 2011	Implemented	
3. c.	Agree	July 2012	Implemented	
4. a.	Partially agree	July 2012	Implemented	
4. b.	Partially agree	July 2012	Implemented	
4. c.	Partially agree	July 2012	Implemented	
5. a.	Agree	July 2012	Implemented	
5. b.	Agree	July 2012	Implemented	
5. c.	Agree	July 2012	Implemented	

## DETAIL OF IMPLEMENTATION STATUS

**Recommendation #:** 1

**Agency Addressed:** Colorado Limited Gaming Control Commission

**Recommendation Text in Audit Report:**

The Colorado Limited Gaming Control Commission (the Gaming Commission) should evaluate the options to eliminate the financial tax advantages gained by ownership groups with multiple physically attached casinos and implement the most feasible option for ensuring a fair and competitive environment for the gaming industry in Colorado.

**Agency's Response** (*i.e., Agree, Partially Agree, or Disagree*): Partially agree.

**Agency's Written Response in Audit Report:**

Implementation date: July 2012

The Gaming Commission agrees that this issue warrants further examination. However, the Gaming Commission has not yet examined this matter or reached any conclusions as to whether any changes are warranted. As is reflected in this report, the Gaming Commission has scheduled a rulemaking hearing to fully examine this issue. If the Gaming Commission determines that any changes need to be made, it will consider options to address this matter. Options may include promulgating changes to Colorado Gaming Regulations, recommending statutory changes, a combination of the two, or no changes at all. This is a complex issue that will require the Gaming Commission to consider many factors and testimony from all interested parties. Should the Gaming Commission find any laws that it determines require immediate amendment, it will report such findings to the appropriate parties, pursuant to Section 12-47.1-302(1)(f), C.R.S.

**Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable):**

Implemented.

**Agency's Current Comments on Implementation Status of Recommendation:**

The Gaming Commission conducted rule making hearings on October 20, 2011 and November 17, 2011 to fully examine this issue and consider testimony from all impacted parties. After receiving exhaustive testimony from the public and affected stakeholders and thoughtfully considering the merits of all of the information provided, on February 16, 2012, the Gaming Commission determined that no changes were warranted.

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**Recommendation #: 2**

**Agency Addressed:** Division of Gaming

**Original Recommendation in Audit Report:**

The Division of Gaming (the Division) should implement an efficient method that ensures accurate and complete data in order to track its regulatory activities and uses Division staff time efficiently by:

- a. Determining the purpose and need for each of its data systems and eliminating unnecessary and duplicative systems.
- b. Standardizing procedures for data entry and training all staff and supervisors on the data entry procedures.
- c. Requiring that supervisors conduct regular reviews of data to ensure that cases are coded correctly and case information is complete.

**Agency's Response** (*i.e., agree, partially agree, disagree*): Agree to all recommendation parts

**Agency's Written Response in Audit Report:**

Implementation date: September 2012

- a. The Division will examine each of our data systems and their purposes. Based on the Division's operational needs, a determination will be made as to what changes in both procedures and data systems are necessary to ensure the most efficient and accurate means of collecting information. The Division plans to upgrade its licensing system software by the end of the fiscal year. However, the timing of this software upgrade is dependent upon external factors outside of the Division's control. A

preliminary study of the new software has revealed potential components that the Division believes may assist in the consolidation of data systems and the elimination of duplication.

- b. The Division will revise existing procedures and develop new procedures in concert with our analysis of data systems, as discussed in part a. Additionally, the Division will incorporate such changes into a training program for all employees who utilize these data systems.
- c. The Division will implement this requirement immediately for the case reporting system. All reports generated in the case reporting system will require review and approval by the assigned supervisor. A monthly management report has been developed to ensure that all case reports have been approved by a supervisor. This report will be reviewed by Division management and disseminated to supervisors. We will incorporate these same requirements into our procedures developed following an analysis of our data systems, as discussed in parts a and b. Ultimately, the software upgrade to the Division's Licensing System will be evaluated to determine if data systems can be consolidated and supervisory reviews documented in this system.

**Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable):**

**Agency's Current Comments on Implementation Status of Recommendation:**

- a. Partially implemented. The Division installed and implemented a new licensing software (MyLicense Office) on July 2, 2012. In the coming months, the Division expects to explore components of this new system that may assist in the consolidation of data systems and the elimination of duplication.
- b. Partially implemented. The Division established a committee to develop a training program for the Division's case reporting system (PSR). The training program was implemented and all Division employees received training for this system by June 30, 2012. The training was designed to ensure standardized procedures for data entry for all staff and supervisors. This training program has been incorporated into the Division's new employee training curriculum. The Division expects to explore similar training programs for its other data systems in the near future.
- c. Implemented. All supervisors have been directed to immediately review and approve PSR cases created by their assigned staff. This mandate was emphasized in the PSR Supervisor training that has been provided to all Division supervisors. Additionally, beginning with the new fiscal year, the Division will run a monthly report, by section, to ensure that cases have been appropriately closed by the employee and approved by the supervisor.

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**Recommendation #: 3**

**Agency Addressed:** Division of Gaming

**Original Recommendation in Audit Report:**

The Division of Gaming (the Division) should ensure that casinos are accurately reporting their adjusted gross proceeds, are paying gaming taxes, and have the required minimum internal controls in place by:

- a. Ensuring goals for completing revenue audits and compliance reviews are communicated to all staff.
- b. Implementing a process for ensuring the Audit Section accomplishes its goals, utilizes its resources efficiently, and completes either a revenue audit or the four highest-risk accounting compliance reviews at all casinos each year.
- c. Implementing a risk-based process for completing compliance reviews based on established goals.

**Agency's Response** (*i.e., agree, partially agree, disagree*): Agree to all recommendation parts

**Agency's Written Response in Audit Report:**

- a. Implementation date: July 2011

In July 2011, the Division's Audit Section established an audit plan for Fiscal Year 2012 that included a schedule and established goals for performing either a revenue audit or the four highest-risk accounting compliance reviews at each casino. This plan has been clearly communicated to the Audit Section staff by management. The audit plan will be reviewed on a quarterly basis by each Audit Manager with the Chief Auditor, beginning in October 2011, to ensure the section stays on track to achieve its goals. The audit plan may be modified during these quarterly reviews to address resource issues and to achieve the highest level of coverage possible with available resources.

- b. Implementation date: October 2011

In July 2011, the Division's Audit Section established an audit plan for Fiscal Year 2012 that included a schedule and established goals for performing either a revenue audit or the four highest-risk accounting compliance reviews at each casino. This plan has been clearly communicated to the Audit Section staff by management. The audit plan will be reviewed on a quarterly basis by each Audit

Manager with the Chief Auditor, beginning in October 2011, to ensure the section stays on track to achieve its goals. The audit plan may be modified during these quarterly reviews to address resource issues and to achieve the highest level of coverage possible with available resources. Although these goals are similar to past goals, staff turnover, prolonged vacancies, and training needs had a significant, negative impact on the section's ability to meet past goals. Adequate staffing levels and fully trained staff will facilitate achievement of the section's current audit plan and goals.

c. Implementation date: July 2012

The Division's Audit Section currently uses a risk-based model for revenue audit selection. The Audit Section is currently in the process of developing a similar model for completing compliance reviews. This model will be aligned with Division goals for the completion of compliance reviews and revenue audits performed by the Audit Section. The selection of compliance reviews to be performed will be reviewed and updated throughout the year based on the Audit Section's risk assessments.

**Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable):**

**Agency's Current Comments on Implementation Status of Recommendation:**

- a. Implemented. In July 2011, the Division's Audit Section established an audit plan for FY2012 that included a schedule and established goals for performing either a revenue review or compliance observation reviews on the four highest-risk accounting areas at each casino which include variance investigations, adjustments, secondary level of review and overrides (VASO CORs). Management clearly communicated this plan to the Audit Section staff prior to the beginning of FY 2012. Quarterly reviews of the audit plan are conducted within 5 days following the end of each quarter.
- b. Implemented. In July 2011, the Audit Section established an audit plan for FY2012 that included a schedule and established goals for performing either a revenue review or the VASO CORs at each casino. This plan has been clearly communicated to the Audit Section staff by management. Quarterly reviews of the audit plan are conducted. The results reflect the Section is on target to achieve the plan for FY2012 with the exception of two Cripple Creek casinos. Because of the change of ownership in May 2012 of one of these casinos, the Audit Section proposed and received approval from the Director of Administration to forego either type of review and to instead focus on the pre-opening requirements so that the casino could open as planned on May 25, 2012. The revenue review of the other casino was delayed due to staff being impacted by the Waldo Canyon Fire. This review will be completed by the end of July 2012. Going forward, the annual goal will continue to be to conduct either a revenue review or VASO CORs at each casino. However, with the development of each annual audit plan, existing staffing levels will be taken into account in order to create a realistic and attainable plan. It will be clearly communicated to staff and quarterly reviews will be conducted to assess status. Achievement of the plan may be impacted by staff turnover, unanticipated projects or other unplanned events.

- c. Implemented. The goal of the Audit Section is to complete a revenue review or the VASO CORs at each casino annually. However, each annual audit plan will be developed based upon existing staffing levels. If the Audit Section is fully staffed, the annual audit plan will anticipate the completion of a revenue review or the VASO CORs at each casino. The remaining COR areas will be assessed for any potential impact on adjusted gross proceeds (AGP). Those with potential impact on AGP will be assigned a higher risk than those that do not. Each year, the results of the revenue reviews and the VASO CORs will be used to assess risk on the COR areas that have been identified as impacting AGP. All other COR areas that do not impact AGP will be assigned the lowest priority. To implement this risk-based approach, each COR has been assigned a risk rating between one and five. A five rating reflects those reviews that directly impact AGP or should be completed on an annual basis (e.g., Gambling Payment Intercept or GPI). Each annual audit plan will anticipate the completion of a revenue review (as determined by the risk assessment matrix) and the completion of each COR area identified with a risk rating of five. Deviations from the schedule will be reviewed by the Chief Auditor. Deviations may occur due to staff turnover and training, prolonged staff vacancies, unanticipated projects or other unplanned events, identification of a specific control environment weakness that warrants further attention, or other unplanned events.

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**Recommendation #: 4**

**Agency Addressed:** Division of Gaming

**Original Recommendation in Audit Report:**

The Division of Gaming (the Division) should improve its regulation of casino compliance with the Gambling Payment Intercept Act (Payment Intercept Act) by:

- a. Implementing a method for accurately calculating casino compliance and identifying the reasons for casino noncompliance. This should include performing detailed electronic matches between casino W-2G tax form (W-2G) data and the Gambling Payment Intercept system search data for a set period of time based on risk, a random sample, or both to gain more precision.
- b. Incorporating the detailed electronic matches into the Division's standard ongoing compliance reviews to provide more timely feedback to casinos.
- c. Developing internal control guidance for casinos to follow on implementing the Payment Intercept Act.

**Agency's Response** (i.e., agree, partially agree, disagree): Partially agree to all recommendation parts

**Agency's Written Response in Audit Report:**

Implementation date: July 2012

- a. The Division is committed to exploring ways to improve our current compliance procedures related to the Payment Intercept Act. After evaluation of the current processes and identification of potential improvements, the Division will update the procedures as warranted. The availability of electronic W-2G data for performing such matches is limited. Further, detailed reviews of compliance will be time consuming and resource intensive. The Division believes that while our current process for determining compliance does not provide for absolute assurance, it does provide for reasonable assurance and is the most efficient use of our limited resources. However, the Division will evaluate the feasibility of requiring casinos to compile electronic W- 2G data to provide to the Division. If this is deemed feasible, it could allow the Division to perform compliance reviews using random sampling for a set period of time. When this legislation was passed, the Division did not receive any additional resources for implementation or enforcement of this program.
- b. The Division is in the process of implementing more frequent compliance reviews in this area that will provide more timely feedback to casinos on their compliance with the Payment Intercept Act. However, as stated in part a above, the availability of electronic W-2G data is limited. Further, performing detailed electronic matches is time-consuming and resource intensive. The Division is committed to continuing to explore new ways to improve the timely feedback to casinos on their compliance with the Payment Intercept Act based on information and resources available to do so. Improvements identified in regard to the timely feedback to the casinos will be communicated to staff and included in the compliance process.
- c. The Division believes that 1 C.C.R., 210-1, adopted by the Colorado Department of Revenue, provides clear guidance for casinos to follow in implementing the requirements of the Payment Intercept Act. Further, the Division believes that developing internal controls would be duplicative of Department rules and an inefficient use of Division resources. However, if the Division determines that casinos should be required to compile and produce electronic W-2G data, as referred to in the Division's response to Recommendation No. 4, part a, it will develop internal controls to address that requirement. Colorado Interactive, the developer and operator of this system, has provided training to the casino industry on numerous occasions for use of the system. Colorado Interactive will continue to provide training as new phases of the intercept program are implemented.

**Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable):**

**Agency's Current Comments on Implementation Status of Recommendation:**

- a. Implemented. The Division's Audit Section drafted internal control minimum procedures (ICMP) to address and improve the Gambling Payment Intercept (GPI) regulation and casino compliance. In February 2012, six casinos of various sizes were randomly chosen for a GPI compliance review. These reviews were used as a springboard to ensure casinos had the resources necessary to comply with our COR draft, to identify areas of risk, to revise our drafts as necessary and to evaluate compliance. In April 2012, seven casinos of various sizes were randomly chosen for a GPI compliance review. Casinos compiled data electronically pulling information directly from their slot monitoring system or, if unable to generate reports electronically, prepared them manually. Additionally, the Division now requires casinos to include a number in the GPI reference number field that has a common element in one of their system reports (i.e., jackpot slip number or W-2G number) allowing a search of both the W-2G report and the Colorado Interactive report by a common element, verifying all jackpots resulting in a W2-G event were searched. These compliance reviews and the feedback from the casinos proved beneficial in the Audit Section's development of the COR process and the ICMP. The Section incorporated the following requirements into the ICMP: procedures to ensure absolute compliance with the Gambling Payment Intercept Act and Regulations, the ability to support and/or explain missed or excessive searches, the requirement to merge the GPI usage report and the W-2G report into one document, a daily audit, specific documentation and review requirements for the Outage/Exception logs. The Section's ICMP were finalized and became effective on July 1, 2012.
- b. Implemented. A GPI compliance review (COR) was developed by July 1, 2012. For FY12, the Section completed 17 GPI compliance reviews (43% of casinos). For those casinos that did not receive a compliance review, the audit staff communicated the requirements. The Audit Section has an annual goal to conduct a GPI COR at each casino and to provide timely feedback to casinos. Achievement of this goal is subject to adequate staffing levels.
- c. Implemented. ICMP requirements were drafted, tested by the Audit Section, and submitted to the Industry for review in May 2012. Feedback and comments were incorporated and final ICMP were effective on July 1, 2012.

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**Recommendation #: 5**

**Agency Addressed:** Division of Gaming

**Original Recommendation in Audit Report:**

The Division of Gaming (the Division) should develop a progressive, consistent, and equitable system for addressing violations identified in compliance reviews and ensuring casino compliance with gaming laws, regulations, and required minimum internal controls by:

- a. Implementing written policies and procedures for issuing administrative actions, including providing clear guidance on when the Division will issue an action and when the action will be progressive.
- b. Conducting training for Division staff on administrative action policies and procedures that provides clear guidance on when an administrative action is warranted and the type of action required to encourage casino compliance
- c. Expanding the supervisory review to include administrative actions to ensure the actions are progressive, consistent, and equitable, in accordance with the policies and procedures implemented in part a, and including the supervisory review process in written policies and procedures.

**Agency's Response** (*i.e., agree, partially agree, disagree*): Agree to all recommendation parts

**Agency's Written Response in Audit Report:**

Implementation date: July 2012

- a. The Division is committed to ensuring that administrative actions are consistent, equitable, and reasonable. The overriding purpose of administrative action is to gain compliance with applicable internal controls and gaming regulations and laws. The progressive nature of administrative actions plays an important role in achieving compliance. However, consideration of the unique circumstances and mitigating factors involved in every case is an important component to ensuring that regulation is reasonably administered. While the Division recognizes that general procedures for issuing administrative actions would be beneficial, such procedures must allow for discretion on the part of the Division. The Division will review our existing procedures and make necessary modifications to underscore the importance of progressive, consistent, and equitable administrative actions

while addressing the need for discretion. Supervisory review of verbal warnings will be addressed in our revision of these procedures.

- b. In conjunction with our implementation of part a above, the Division will conduct training of affected staff to reinforce the importance of progressive, consistent, and equitable administrative actions and to address any changes in procedures resulting from this process.
- c. In conjunction with the implementation of parts a and b above, the Division will incorporate the appropriate procedures to ensure adequate supervisory review of all administrative actions. Currently, all administrative actions, with the exception of verbal warnings, require supervisory review. Supervisory review of verbal warnings will be addressed in our revision of these procedures.

**Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable):**

**Agency's Current Comments on Implementation Status of Recommendation:**

- a. Implemented. Effective July 1, 2012, the Division revised its policies and procedures regarding administrative and disciplinary actions to ensure that employees have a clear understanding of when to take an action and when the action should be progressive in nature.
- b. Implemented. Effective July 1, 2012, the Division updated its policies and procedures concerning administrative and disciplinary actions and communicated them to staff. Additionally, all staff received guidance concerning this topic during the PSR training. The Division expects to conduct further training in this area in the coming months to reinforce the importance of this issue.
- c. Implemented. Effective July 1, 2012, the Division revised its policies and procedures regarding administrative and disciplinary actions, which includes clearly detailing the supervisors' role in this process, including the issuance of verbal warnings. Additionally, all supervisors received guidance concerning this topic during the PSR supervisor training.