

**DEPARTMENT OF REVENUE
FY 2016-17 JOINT BUDGET COMMITTEE HEARING AGENDA**

**Tuesday, December 15, 2015
1:30 pm – 4:30 pm**

1:30-1:50 INTRODUCTIONS AND OPENING COMMENTS

1:50-2:15 INFORMATION TECHNOLOGY PROJECTS IN THE DEPARTMENT

Provide updates to the Committee on each of the following projects the Department is implementing, please include information on whether the Department is experiencing any operational or financial issues with projects:

1. Wait Less, queuing and management information system for drivers license offices.

A: The Wait Less Expansion project is on track to meet the June 30, 2016 completion date. All procurement requirements were recently completed and a kick-off meeting with vendors was scheduled for December 10th, 2015. The deployment schedule will be finalized shortly thereafter. Currently, the Governor's Office of Information Technology (OIT) is in the process of reviewing and approving the vendor hosting environment and questions related to system security. The Wait Less system provides offices with a queuing and management information system. New equipment will be installed to refresh 15 offices, and the system will be expanded to 16 additional offices. In addition, the software associated with the system will be updated. There are no operational or financial issues.

2. DRIVES, the Colorado Driver License, Record, Identification and Vehicle Enterprise Solution, the system to update the DMV-side of the drivers license system and increase system reliability.

A: The DRIVES project began on August 31, 2015 and is on schedule. The first phase; the replacement of the Drivers License System (DLS), is scheduled to be completed on February 21, 2017. The second phase to replace the Colorado State Titling and Registration System (CSTARS) is scheduled from March 1, 2017 to August 6, 2018. There are no operational or financial issues. Currently, there is a focus on hiring the remaining project staff. Data extraction from OIT and data conversion from the vendor are underway. Configuration and deployment of vendor workstations are ongoing as new FTE are on-boarded.

3. Tax Pipeline, system for the scanning and processing of tax forms and tax processing tasks performed by Department of Personnel.

A: DOR has transferred the incoming mail pickup operation associated with the project to DPA. All tax forms for tax years 2014 and prior are in the system and are currently being processed. Over 5.6 million documents have been processed using the system and all Sales and Use tax returns have been processed using this system since July 2014.

The last DOR phase of the project is in process and the project is scheduled for completion in January 2016 prior to the 2015 tax filing season. All Income tax returns will be processed using this system in the upcoming filing season

4. Colorado Operational Resource Engine (CORE).

A: The Department has participated in the implementation of the CORE system. The Department's feedback regarding this implementation is included in the response to question 3 of the Addendum section of this document.

5. Any other projects the Department is implementing at this time.

A: The replacement of the drivers license identification (DL/ID) vendor is scheduled to be completed in early 2016.

MyLO (My Licensing Office): Emissions and Auto Industry Division (AID) successfully migrated on 6/30/2015 and 9/24/2015, respectively.

2:15-2:45 R1 DMV Funding Deficit

6. Has the Division of Motor Vehicles received Highway User Tax Fund appropriations in the past? If yes, were these off-the-top?

Yes, the Division of Motor Vehicles has received off-the-top HUTF appropriations in the past. Since FY 2006-07, the appropriations have ranged from \$206,498 to \$4,602,508.

7. Do any of the Department's SMART Act metrics reflect increased efficiencies in the Division of Motor Vehicles since reclassifying 226 examiners to technicians and providing an additional 52.0 FTE for customer service improvements?

A: There are measureable increased efficiencies in the performance of operations at the 15 driver license offices equipped with Wait Less technology. The improved service is the direct result of the funding of 52.0 additional FTE, reclassification of 226 Driver License Examiners to Technicians, and implementation of Division of Motor Vehicle (DMV) Strategic Plan objectives. The additional staff combined with better management, procedures, and use of technologies has resulted in a reduction of overall average wait

times. Since FY 2012-13, the percentage of customers served at Wait Less equipped offices within 15 minutes of taking a kiosk ticket has improved from 36.8% to 52.5% – an increase of nearly 16%. Further, during the same time period, average duration times have decreased from 52 minutes, 2 seconds to 37 minutes, 19 seconds – a reduction of 28%.

8. Provide a flow chart for all sources of income to the Licensing Services Cash Fund and any diversions that are made under current law.

A: The Licensing Services Cash Fund receives funding from document fees, special plate fees, and interest income. A detailed listing of all funding sources and statute references is attached in Appendix A.

9. Does the request to terminate the Licensing Services Cash Fund end-of-year sweep to the Highway User Tax Fund modify the compromise made between the General Assembly and the Division of Motor Vehicles?

A: No, the request to terminate the Licensing Services Cash Fund end-of-year sweep of reserves in excess of 16.5 percent of spending authority does not dilute the accountability mechanisms in place to ensure that the Department does not raise fees excessively. Pursuant to C.R.S. § 42-2-114.5(3), the Department’s authority to raise driver license fees is capped at 5% over the fee from the prior year beginning July 1, 2016. In addition, when the Department increases fees, it does so judiciously and takes into account the impact on the customer. If anything, the request to eliminate the sweep helps to lessen the need for future fee increases by enabling the Department to mitigate cyclical revenue downturns with a spend down of reserves.

10. Provide an explanation behind the rule requiring drivers over the age of 65 to renew their license in person.

A: Colorado Revised Statute requires drivers over the age of 65 to renew their driver license in person or by mail every other renewal cycle. The following are applicable:

Driver licenses for individuals over the age of 65:

- *May not renew their driver license online (C.R.S. § 42-2-118(1.5)(a)(I))*
- *May renew by mail every other renewal cycle—licenses or ID cards that were valid for 10 years are not eligible to renew by mail (C.R.S. § 42-2-118(1.3)(a)).*
- *This statute applies to all individuals over the age of 21.*

11. Please provide the number of drivers licenses that were denied due to the applicant failing the vision test over the past ten fiscal years.

Information regarding eye examinations:

- ***Data is not collected on the number of applicants denied because of an eye test. If an applicant fails the eye exam, they are not issued a license and are required to provide proof of an eye exam.***
- ***Per C.R.S. § 42-2-118(1.3)(a)(III), a person who is less than sixty-six years of age renewing by mail shall attest under penalty of law that he or she has had an eye examination by an optometrist or ophthalmologist within three years before the renewal. A person who is sixty-six years of age or older renewing by mail shall obtain, on a form as required by the department, a signed statement from an optometrist or ophthalmologist attesting that he or she has had an eye examination within the last six months and attesting to the results of the applicant's eye examination.***

12. Provide information that can be distributed to legislators that explains the process for obtaining and renewing General Assembly license plates.

A: Effective January 1, 2015, legislative license plates issued to members of the General Assembly must be specifically registered to a passenger car or a truck not over sixteen thousand pounds empty weight for which you are the owner. Registration of the legislative license plates to your vehicle will replace your current registration on the vehicle that you are registering the legislative license plates to. Please note that only one set of legislative license plates will be issued.

A material fee of \$5.92 payable by cash or check is required for the license plate and validation tabs pursuant to C.R.S. § 42-3-301(1)(a).

County Clerk and Recorder will assess vehicle taxes and fees pursuant to Title 42 for your renewal next year. The vehicle that the legislative license plates are registered to must meet all insurance and emissions (if applicable) verification requirements at the time of the registration transaction. Failure to meet these requirements will result in the County Clerk and Recorder being unable to complete the registration. Legislative license plates replacement after this year's session will require completion of the replacement transaction at the County Motor Vehicle Office.

2:45-3:00 R2 Earned Income Tax Credit

13. What is the cost to the Department to execute a TABOR refund including all refund mechanisms? How does the Department request for funding to administer the Earned Income Tax Credit fit into the entire TABOR refund picture? How much do each of the other two TABOR refund mechanisms cost to execute? If possible, calculate down to the cost per each refund.

A: The Department does not have data to calculate the per check cost for the state to issue various types of taxpayer refunds. However, the per check cost of issuing a refund increases as the risk and refund amount increases. This results because the Department applies greater levels of scrutiny to certain types of refunds and state income tax credits due to a higher risk of identity theft and fraud.

Table 1 below compares refund types to various cost drivers and provides a proxy for illustrating the magnitude of costs for the Department to issue various types of tax refunds.

Table 1: Factors Affecting the Costs Related to Issuing State Tax Refunds

Refund Type FY 2014-15	\$ Refund Claims (in millions)	Risk-Level	Average Refund or Credit to Taxpayer	Level of Documentation and Verification
EITC TABOR Refund	\$85.7	High	Up to \$624	Significant
Six-Tier TABOR Refund	\$67.9	Low	Up to \$41	Minimal
Temporary Income Tax Rate Reduction	\$0	Low	Between \$8 and \$486	Standard
Refundable Income Tax Credits	Unknown	High	Unknown	Standard
Non-Refundable Income Tax Credits	Unknown	Low	Unknown	Standard
Income Tax Deductions	Unknown	Low	Unknown	Standard
Income Tax Withholdings	Unknown	Low	Unknown	Minimal
Old Age Property Tax and Heat Credits	\$6.1 million	Low	\$314	Minimal

Notes: The Department receives nearly 2.5 million individual income tax returns each year. Approximately two-thirds of these returns result in a refund due to the taxpayer. Each year, the average refund is over \$400 and annually totals more than \$600 million. For FY 2013-14, for individual income taxes, 1.6 million refunds were issued totaling \$790.5 million.

14. How does the Internal Revenue Service's experience support the Department's request to provide additional front- and back-end staff to ensure compliance with the Earned Income Tax Credit. Provide any lessons-learned from the federal program. Explain why, with the additional resources, the Department will be more successful at detecting fraud than the IRS.

A: While it is not currently feasible for the Department to predict how the federal improper payment rate will compare to improper refunds made out to filers, funding included in the request would allow the Department to perform increased manual reviews to verify authenticity. It will also allow the Department's Discovery Section to compare all returns filed to an updated federal file that contains the IRS federal return and any subsequent adjustments the IRS made to the federal return.

The annualized EITC funding request totals \$1.6 million and 23.4 FTE in FY 2017-18. The resources provided by this request would bolster the front-end audit and verification processes, reducing the number of refunds made in error. If these resources reduced the number of refunds made in error by only 1.9 percent, the benefit to General Fund revenue would fully offset the cost of the Department's request.

15. Provide an update on the Conservation Easement Tax Credit.

A: The Colorado Department of Revenue reviews all income tax returns claiming Conservation Easement (CE) tax credits.

- *No tax credits are disallowed for non-tax compliance issues without external input on the issues.*
- *As required by H.B. 11-1300, every CE donation with disallowed tax credit was reviewed by both the Conservation Easement Oversight Commission (CEOC) and the Division of Real Estate (DRE).*
- *Beginning with donations made in 2014 (tax returns filed in 2015 for tax year 2014), the CEOC and DRE review the appraisal and deed prior to the issuance of a tax credit certificate.*
 - *The Department will not review the real estate transaction for validity or value for these donations.*
 - *However, the Department will continue to review these tax credits for tax compliance.*
- *For donations made prior to 2014, the Department remains responsible for the review of the entire transaction and will continue to use the CEOC and DRE consultation process to assist with that review.*
 - *The statute of limitations allows 4 years from the filing of a return for the Departmental review.*
 - *Thus, a 2013 return filed April 15, 2014 cannot be reviewed after April 15, 2018.*
- *The annual CE tax credit cap is currently set at \$45 million with an individual cap per donation of \$1.5 million.*

- *Assuming the entire cap is met each year with the maximum amount of tax credits claimed per donation, an average of 30 new CE donations per year are expected to claim tax credits.*
- *Since the beginning of the CE program (in 2000) 4,295 conservation easements have been donated for which tax credits were claimed.*
- *In May of 2011, the General Assembly enacted H.B. 11-1300 to assist with a “backlog” of 543 CE donations with disallowed tax credits.*
- *As of December 7, 2015, tax credits were disallowed in 16.5% of the CE donations (or a total of 710 CE donations).*
- *Below is a breakdown of the status of these 710 disallowed CE donations showing 12.4% (or 88 CE donations) actively under protest.*

Conservation Easement Donations w/Disallowed Tax Credits				
	Original Filings	Resolved	Settled in Principle	Remaining Active
Elected District Court	478	469	0	9
Elected Expedited Hearing	30	30	0	0
Made No Election	35	27	0	8
Total Donations Subject to HB11-1300	543	526	0	17
Donations Not Subject to HB11-1300	167	95	1	71
TOTAL DONATIONS W/DISALLOWED CREDITS	710	621	1	88

3:00-3:15 BREAK

3:15-4:00 COSTS OF ADMINISTERING THE LIMITED GAMING PROGRAM

16. Provide an estimate of the amount that the transfer to the General Fund will be for FY 2015-16.

A: The Department estimates that the total FY 2015-16 distribution amount will be approximately \$101 million.

17. For the last ten years, the number of gaming establishments has remained relatively flat, yet administrative costs are raising, what is the reason for the continued increase in the cost of administering the Limited Gaming Program?

A: Explanation pertaining to the informational Long Bill adjustment:

Included on Pages 50 and 51 of the schedule 3 in the Department's Budget Submission is an informational adjustment titled "Gaming Commission Adjustment". This adjustment changes the figures in the long bill for informational purposes only to include the following:

- 1. Increases FTE in the long bill by 6.6 FTE,*
- 2. Decreases the operating line by \$299,144, and*
- 3. Increases the Payments to Other State Agencies line item by \$643,422.*

This adjustment serves the purpose of aligning the information contained in the Long Bill to reflect the budget approved by the Gaming Commission. Pursuant to Section 9 (5)(b)(I) of Article XVIII of the State Constitution and C.R.S. § 12-41.1-701(1)(b)(I), the ongoing expenses of the Limited Gaming Commission related to administration of Limited Gaming shall not be conditioned on any appropriation by the General Assembly.

The FY 2016-17 JBC Staff Budget Briefing document (reference page 51, 84.4 to 91.0 FTE) erroneously identifies this adjustment as a decision item. The Division of Gaming has not requested a decision item from the Colorado Limited Gaming Control Commission since FY 2008-09.

The FY 2008-09 appropriated FTE approved by the Gaming Commission was 92.0, which included an increase over the prior year due to the passage of Amendment 50 authorizing increased betting limits, 24-hour gaming and the addition of craps and roulette.

Additional errors exist in the JBC Staff Budget Briefing document including page 52 which erroneously shows that the Division operating expenses have gone from \$0 in FY 2013-14 to \$1.3 million in FY 2015-16. In addition, the Department submitted expenditure data (included as appendix F of the briefing document) which contains errors. Appendix C includes an updated schedule which reflects actual expenditures included in the Gaming audited financial statements and is intended to replace appendix F in the briefing document.

Increasing costs in the Gaming Division:

Over the past five years, the administrative costs of limited gaming have increased approximately 2.5 percent each year on average. The majority of these increases are related to increases in costs determined by statewide common policy such as salary survey, merit pay, increases in PERA contributions, worker's compensation, risk management, and payments to OIT.

This also includes an average 3.6 percent year over year increase in Payments to Other State Agencies including the Colorado Bureau of Investigations, Colorado State Patrol, and DOLA.

18. Discuss, or provide a written summary, of the tasks undertaken by FTE in the Division of Limited Gaming. Provide detail on hours spent on the activities the FTE are responsible for or any other specific data of the like, that would help clarify the rising costs of administration.

A: The Division is responsible for processing licensing applications, implementing and enforcing gaming statutes and the gaming regulations established by the Gaming Commission, and supervising the conduct of casinos in the state. The Division's main office is located in Golden with field offices in the gaming cities of Cripple Creek and Central City, which also covers Black Hawk. In fiscal year 2015, the Division had a total of 91 full-time-equivalent staff divided among seven sections, as shown in the following table.

Division of Gaming Sections		
Section	Staffing	Duties and Responsibilities
Accounting	4	Provides accounting and financial services to the Division and the Gaming Commission. Prepares and distributes monthly financial statements reviewed and approved by the Gaming Commission.
Administration	7	Performs various administrative duties to carry out the Division's day-to-day operations. This section includes Division management.
Audit	13	Conducts casino reviews to ensure compliance with state regulations, statutes, and required minimum internal controls related to accounting and revenue reporting, and conducts revenue audits to ensure casinos accurately report gaming revenue and pay gaming taxes to the State. The Division also requires casinos making \$10 million or more in revenue to undergo annual independent external financial audits, which are reviewed by the Audit Section. In Fiscal Year 2015, this section conducted 17 revenue audits and about 2,300 compliance reviews at casinos.
Field Operations	8	Approves electronic gaming machines and component parts for use in Colorado casinos; monitors revoked, upgraded, and obsolete gaming software; inspects gaming machines to ensure compliance with state regulations and statutes; and oversees forensic evaluations of gaming machines. In Fiscal Year 2015, this section inspected about 5,900 gaming machines and completed about 1,800 compliance reviews.
Technical Systems	7	Approves gaming systems and information technology, such as slot machine monitoring systems, for use in Colorado casinos, and oversees the installation, upgrade, and testing of these gaming systems to ensure compliance with state regulations and statutes. In Fiscal Year 2015, this section conducted 19 system reviews.
Enforcement and Investigations	45	Conducts personal and financial background investigations on businesses and individuals who apply for gaming licenses; performs regular reviews and investigations at casinos to ensure patron and casino compliance with state regulations, statutes, required minimum internal controls related to areas such as surveillance, required casino signage, and underage gaming; and carries out law enforcement duties and criminal investigations at casinos. In Fiscal Year 2015, this section conducted about 1,700 compliance reviews, 1,700 criminal investigations, 1,800 non-criminal cases and 340 background investigations.
Licensing	7	Processes licensing applications and renewals from businesses that request to offer gaming services or products in Colorado and individuals who request to work in Colorado casinos. In Fiscal Year 2015, this section processed about 3,600 new and renewal licenses.

19. Discuss the possibility of using the limited gaming revenue available to the Limited Gaming Commission to fund a comparative analysis of the Limited Gaming Program with other state programs.

A: The authority and purview of such a decision rests solely with the Colorado Limited Gaming Control Commission pursuant to the Colorado Limited Gaming Act and the Colorado State Constitution.

20. Please provide any performance audit reports that have been done over the past few years.

A: The October 2011 Performance Audit conducted by the Office of the State Auditor is attached as appendix B. Pursuant to the Colorado Limited Gaming Act, the Division of Gaming is subject to an annual financial audit. Dating back to FY 1995-96, the Division has received a clean audit opinion with no management comments.

21. Provide a cost estimate to undertaking a comparative analysis to determine whether the administrative expenses of the Limited Gaming Program are reasonable.

A: The Department would need to seek expenditure estimates via a formal Request for Proposal for a third party cost study, as no comparable data exists for cost estimation purposes.

22. If a study was undertaken by special legislation, what would the Limited Gaming Commission do with the final report?

A: The authority and purview of such a decision rests solely with the Colorado Limited Gaming Control Commission pursuant to the Colorado Limited Gaming Act and the Colorado State Constitution.

4:00-4:25 DRIVERS LICENSES FOR INDIVIDUALS UNABLE TO PROVE LAWFUL PRESENCE

23. What is the Division of Motor Vehicles standard operating procedure when someone shows up at a drivers license office with no identity documents of any kind?

- A: If a customer arrives at their appointment and has “no identity documents of any kind”, they will not be able to receive a Colorado driver license or ID. All applicants are required to establish their identity, full legal name, age, date of birth, lawful presence and Colorado residency. While a valid passport is able to establish all elements above (minus residency), the Department accepts documents that can be used in lieu of a passport.***
- Customers without required documentation are provided with several resources to help them understand document requirements. The DMV provides and reviews the identification matrix. If the customer believes they cannot produce documents on***

this list, the DMV also will provide the Exception Processing Document List. If the documents on the identification matrixes are not available, the Department offers Exceptions Processing. Customers are provided an alternative list of acceptable documents to establish each element of identity. Examples include: school, employment and medical records, government issued documents, affidavit of identity for minors, tax returns, tribal documents, birth or death certificates, religious records, and others.

- *Refugees seeking documents from the driver license offices may or may not have a passport. The Department provides options for refugees to establish elements of identity in both cases:*
 - *Foreign Passport with an I94; OR*
 - *I94 with USCIS Stamp and photo less than 20 years old; OR*
 - *I94, USCIS Stamp (no photo) and Employment Authorization Card.*
- *The above documents are verified via Systematic Alien Verification of Entitlements (S.A.V.E.).*
- *Exception processing is available for refugees who may need to establish their identity using Department of State Travel Documents.*
- *Please find attached Appendix C: “SB 251Flow Chart” and Appendix D: “SB 251 Fact Sheet” that address the SB 251 processes for individuals able to prove temporary lawful presence and individuals unable to prove lawful presence.*

24. Has the Department provided services to any recent Syrian refugees? Can Syrian refugees qualify for a S.B. 13-251 document?

A: The DMV does not have record of providing services to any recent Syrian refugees. Syrian refugees could qualify for a S.B. 13-251 document providing that they meet all of the requirements.

25. What does the federal government provide to Syrian refugees once they are welcomed into the United States?

A: The Department cannot speak to what the federal government provides to Syrian or other refugees.

26. Is the Division of Motor Vehicles being impacted by the arrival of Syrian refugees in Colorado?

A: The DMV does not have record of providing services to any recent Syrian refugees. The Division tracks driver license document issuance to individuals immigrating to Colorado—both from other states and other countries. Based on this data, the Division has issued only one driver license document to an individual with Syrian identification documents since January 2005—this document was issued in 2007.

27. Provide the wait times for S.B. 13-251 document applicants. Describe the differences between wait times for individuals who are lawfully present and those unable to prove they are lawfully present. How does the Division track wait times for individuals with appointments?

A: DRAFT: DMV has 15 different appointment types and the wait time to obtain an appointment for each service varies. The following are the 15 offered services. The average number of days of wait time for an available appointment is in parentheses.

1. **CO-RCSA 251 (90+ days to obtain appointment):**
No average wait time for an appointment can be established as all 93 available appointments are booked shortly after they become available. Appointments are released daily at 8 am, noon, 4 pm and 8 pm.
2. **Drive Test (16 days to obtain appointment)**
3. **New DL (8 days to obtain appointment)**
4. **Renew (7 days to obtain appointment)**
5. **SAVE (7 days to obtain appointment)**
6. **New Permit (3 days to obtain appointment)**
7. **EP (1 days to obtain appointment)**
8. **Written Test (1 days to obtain appointment)**
9. **CDL Written (1 days to obtain appointment)**
10. **CDL Other (1 days to obtain appointment)**
11. **Reinstate (1 days to obtain appointment)**
12. **New ID (1 days to obtain appointment)**
13. **Name Change (1 days to obtain appointment)**
14. **M/C Endorsement (1 days to obtain appointment)**
15. **Replacement (1 days to obtain appointment)**

28. Provide a justification for scheduling appointments 90 days in advance. Why not 30 days? Why not 180 days?

A: Online appointments are currently available for scheduling up to 90 days out for all services. When online appointment scheduling was launched in 2012, appointments could be scheduled for 180 days in advance. The DMV experienced a high no-show rate for all services. When 90 days was implemented the no-show rate dropped significantly (although this number is at 48.1 percent in FY 16). For Colorado Road and Community Safety Act appointments, the no-show rate is 17.1 percent.

29. What is the Division of Motor Vehicles doing to prevent fraud in the scheduling system for appointments to obtain a S.B. 13-251 document?

A: The scheduling system offers 93 appointments each day in the 90 day period. Customers are required to provide their name and date of birth when scheduling the appointment. When an individual arrives for their appointment, they are asked to provide their name and date of birth. This information must match the information on file for the appointment.

In addition, the Division of Motor Vehicles has provided substantial community outreach from April 2014 to October 2014 to educate impacted communities about the process, including emphasizing that these appointments can be scheduled free of charge. The DMV will be hosting additional outreach in January.

30. Is the Division of Motor Vehicles tracking the demand for S.B. 13-251 appointments that are unable to obtain an appointment? What information is provided to people who call to schedule an appointment when none are available? Provide data on the number of appointments booked online versus on the phone.

A:

Unmet Demand:

No, the DMV does not track the unmet demand for S.B. 13-251 appointments. It is important to note that it is difficult to predict the number of people who can qualify and will attempt to receive these ID's and licenses. At the time of the bill, the Department and Legislative council did not agree on the demand for this service. The Department's projection of 112,682 customers was based on a 56.5 percent participation which was based on the average of the participation rates in Utah (33 percent) and New Mexico (80 percent) at the time. Legislative Council adopted the Utah participation rate of 33 percent which resulted in an estimate of approximately 65,819.

The Department has served approximately 29,000 customers. If one assumes the higher participation rate is true, then there are approximately 83,000 customers who have not been served. If one assumes the lower participation rate is true, there are approximately 37,000 customers who have not been served.

At 93 available appointments per day, assuming the lower number of customers waiting to be served, it will take until sometime between April and November of 2017 to serve all of these customers. Assuming the higher number of customers waiting to be served, it will take significantly longer to meet the unmet demand.

In addition, these documents expire after 3 years, so in August of 2017, previously served customers will begin returning to apply for new documents while at the same time serving the backlogged customers. This makes it likely that the Department will continue to fall further behind in meeting customer demand.

Information provided to customers when no appointment is available:

Customers are told that no appointments are available. They are encouraged to try at the next time appointments are "dropped" into the schedule. This occurs at 8 a.m. noon, 4 p.m. and 8 p.m. They are also encouraged to make appointments online.

Appointments booked online versus on the phone:

For the period Dec. 10, 2015 – Jan. 31, 2016 (34 business days) 27.9 percent of appointments were made on the phone. For the remainder of the appointments, 72.1% were scheduled online.

31. Is the Division of Motor Vehicles observing people other than the document applicant taking the written portion of the drivers test for S.B. 13-251 document applicants? How does this compare to the regular drivers licensing programs? What is the Division's standard operating procedure when it detects fraud on the written portion of the drivers test? Is law enforcement involved?

A: The DMV has currently defined protocol to reduce chances of identity fraud occurring during testing:

- ✓ ***The DMV verifies each person's identity and eligibility before administering written or driving tests.***
 - ✓ ***Staff members control the test environment by instructing customers exactly how to proceed and limiting access to the testing area.***
 - ✓ ***Staff members inform customers which machine contains the test specified for their use only and then monitors the customer's use of that machine.***
 - ✓ ***Customers verify their legal name, cued by the staff, is present on the top of the specified testing machine before beginning the written test.***
 - ✓ ***The use of cell phones and written materials in the testing area is prohibited.***
 - ✓ ***Technicians monitor all testing for unauthorized persons and suspicious behavior.***
 - ✓ ***Staff members have electronic access to monitor customer progress during the test in the event unusual delays or suspicious activity warrant additional attention.***
 - ✓ ***Knowledge tests are provided in written and audio in both English and Spanish. For Customers unable to comprehend the tests are allowed the use of an interpreter. Strict instructions are given to interpreters to reduce the chances of cheating.***
 - ✓ ***Interpreters must present a valid Colorado Driver License before testing begins.***
 - ✓ ***Technicians enter interpreter information in the notes section of the driver license system (DLS).***
 - ✓ ***Technicians inform the interpreter that they must not touch the screen under any circumstances nor coach the customer in any fashion.***
 - ✓ ***Tests are halted and recorded as a fail if the customer is caught cheating.***
 - ✓ ***If caught cheating, a request for investigation is initiated, a note is entered into DLS and the customer is not allowed additional testing until cleared by the Motor Vehicle Investigations Unit.***
32. Has the Division of Motor Vehicles encountered any fraud similar to the state of Vermont, which saw a number of individuals from outside the state enter it and falsify address information to obtain a drivers license?

A: DMV has not experienced an increase in address fraud as reported by the media in Vermont in recent months. The DMV requires that all customers provide proof of residency to obtain a drivers license or ID.

4:25-4:30 “Sin” Taxes

33. What are the revenue sources for the:

- a. Liquor Enforcement Division and State Licensing Cash Fund;
- b. The Tobacco Education Programs Fund; and
- c. The Reduced Cigarette Ignition Propensity Standards and Firefight Protection Act Enforcement Fund?

A:

a. Revenue to the Liquor Enforcement Division and State Licensing Cash Fund comes from liquor license application fees and a portion of state license fees (C.R.S. § 12-47-502(1)(a)). All state license fees and taxes provided for by this article and all fees provided for by C.R.S. § 12-47-501(2) and (3) for processing applications, reports, and notices shall be paid to the department of revenue, which shall transmit the fees and taxes to the state treasurer. The state treasurer shall credit eighty-five percent of the fees and taxes to the old age pension fund and the balance to the general fund.

(1)(b) An amount equal to the revenues attributable to fifty dollars of each state license fee provided for by this article and the processing fees provided for by C.R.S. § 12-47-501(2) and (3) for processing applications, reports, and notices shall be transferred out of the general fund to the liquor enforcement division and state licensing authority cash fund.

b. The Tobacco Education Programs Fund provides \$350,000 annually to the Division in the form of a non-fee based cash fund. The Tobacco Education Program Fund created in C.R.S. § 24-22-117 (2)(c)(I), consists of revenues from additional state cigarette and tobacco taxes imposed pursuant to Section 21(4) of Article X of the State Constitution.

c. The Reduced Cigarette Ignition Propensity Standards and Firefighter Protection Act Enforcement Fund allocates spending authority funded by cash collected from other agencies. However, this fund has been restricted since its inception due to no cash collections.

34. Provide totals for revenue derived from liquor taxes and fees, and tobacco taxes and fees for 10 years, broken out by the type of revenue.

A: A schedule including the 10 year history of revenue from liquor taxes and fees and tobacco taxes is included in Appendix F. Tobacco retailers in Colorado are not regulated; therefore no tobacco fees are paid.

35. How much do we cross subsidize “sins” in the “sin” taxes? To put the question another way, how much do the taxes from liquor support activities of tobacco enforcement and vice versa?

A: The liquor and tobacco division is funded by the General Fund and two cash funds: the Tobacco Education Programs Fund and the Liquor Law Enforcement Division and State Licensing Authority Fund.

The General Fund appropriation allocated to liquor and tobacco enforcement activities cannot be traced back to a single general fund revenue source.

- 1. Liquor Taxes supporting tobacco enforcement: the Liquor and Tobacco division does not receive revenue from liquor taxes.***
- 2. Tobacco taxes supporting liquor enforcement: The Liquor and Tobacco division receives revenue from tobacco taxes in the Tobacco Education Programs Fund which is used only for activities related to tobacco enforcement.***

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

1. Provide a list of any legislation that the Department has: (a) not implemented or (b) partially implemented. Explain why the Department has not implemented or has only partially implemented the legislation on this list.

A: All 2015 legislation or portions of legislation with an implementation date of 12/31/15 or prior has been implemented. The Department continues its work to implement all other bills within the statutorily required implementation time frames.

2. Please provide a detailed description of all program hotlines administered by the Department, including:
 - a. The purpose of the hotline;
 - b. Number of FTE allocated to the hotline;
 - c. The line item through which the hotline is funded; and
 - d. All outcome data used to determine the effectiveness of the hotline.

A:

Lottery and Gaming:

1. Hotline Description: Gamblers Hotline

- *The purpose of the hotline:*
 - *A resource to help players cope with gambling problems or addiction.*
- *Number of FTE allocated to the hotline:*
 - *There are no FTE assigned to this, as it is a service provided by a vendor (Kansas Health Solutions) and is paid out of operating budgets from Lottery and Gaming.*
- *The line item through which the hotline is funded:*
 - *(6) State Lottery Division, Operating Expenses*
 - *(5) Enforcement Business Group (B)Limited Gaming Division, Operating Expenses*
- *All outcome data used to determine the effectiveness of the hotline:*
 - *The Lottery receives monthly usage reports. However, it is difficult to measure the effectiveness of the service due to confidentiality rules.*

Taxation:

1. Hotline Description: Taxpayer Services Call Center

- *The purpose of the hotline:*
 - *Taxpayer/customer support, preparer assistance for tax preparers, fraud reporting and assistance, and marijuana tax assistance.*
- *Number of FTE allocated to the hotline:*

- *The TPS section has allocated 26.0 FTE to respond to calls and inquiries. TPS supplements the call center by adding an additional 10 temporary FTE as workload requires throughout the year.*
- *The line item through which the hotline is funded:*
 - *(3) Taxation Business Group, (C) Taxpayer Service Division, Personal Services and Operating Expenses*
- *All outcome data used to determine the effectiveness of the hotline:*
 - *The call center effectiveness and success measures are addressed below in Tables 2 and 3. Every inquiry is resolved to completion. Table 2 identifies Call Center average wait times to taxpayer inquiries from FY 2012-13 through FY 2014-15. Table 3 identifies Call Center blockage rates for the same time period. Blocked calls are calls that do not enter the Call Center queue and require the taxpayer to call back to enter the queue.*

Table 2: TPS Call Center Average Wait Times for Taxpayer Inquiries			
	FY 2012-13	FY 2013-14	FY 2014-15*
Objective	0:10:00	0:09:30	0:09:30
Actual	0:09:34	0:09:08	0:12:18
Difference	0:00:26	0:00:22	0:02:48

Table 3: TPS Call Center Blockage Rates			
	FY 2012-13	FY 2013-14	FY 2014-15*
Objective	25.00%	24.00%	23.00%
Actual	23.75%	23.24%	40.01%
Difference	1.25%	0.76%	17.01%

*The Department did not achieve its performance goals for either call center objective in FY 2014-15. In February 2015, in response to an increase in fraudulent tax filing activity, the Department stopped issuing refunds for several weeks in February 2015 and early March 2015. As a result, 167,000 taxpayers contacted the call center while over the same period in 2014 approximately 106,000 taxpayers contacted the call center. The nearly 58 percent jump in call volume is attributable to the delay in refund issuance while the Department updated its fraud detection capabilities in its accounting system.

Division of Motor Vehicles:

All DMV call centers utilize call performance management software known as Contact Center to capture call data. This includes:

- **Number of phone calls presented;**
- **Number of calls answered;**
- **Number of calls abandoned;**
- **Number of calls blocked;**
- **Average caller wait time;**
- **Average call time.**

1. Hotline description: Driver License customer support

- **The purpose of the hotline:**
 - **To answer general information and provide answers to FAQ. Will redirect inquiries that require more in depth answers.**
- **Number of FTE allocated to the hotline:**
 - **14.0 FTE. Call center is staffed by Colorado Corrections offenders**
- **The line item through which the hotline is funded:**
 - **(4) Division of Motor Vehicles (B) Driver Services, Personal Services**

2. Hotline description: Driver License drive test appointment line

- **The purpose of the hotline: To schedule appointments focusing on drive test appointments at state driver license offices.**
- **Number of FTE allocated to the hotline:**
 - **2.0 FTE**
- **The line item through which the hotline is funded:**
 - **(4) Division of Motor Vehicles (B) Driver Services, Personal Services**

3. Hotline description: Driver License Colorado Road and Community Safety Act customer support

- **The purpose of the hotline:**
 - **To answer questions and schedule appointments specific to the CO-RCSA (SB251) program.**
- **Number of FTE allocated to the hotline:**
 - **2.0 FTE**
- **The line item through which the hotline is funded:**
 - **(4) Division of Motor Vehicles (B) Driver Services, Personal Services**

4. Hotline description: Driver License central issuance line

- **The purpose of the hotline:**
 - **To answer inquiries on the disposition of returned driver licenses and identification cards.**
- **Number of FTE allocated to the hotline:**
 - **1.0 FTE. This employee also performs other administrative functions.**

- *The line item through which the hotline is funded:*
 - *(4) Division of Motor Vehicles (B) Driver Services, Personal Services*
5. ***Hotline description: DMV public contact number for driver license record information***
- *The purpose of the hotline:*
 - *This hotline is the DMV's primary public-facing contact number for all questions regarding Colorado driver's license and identification records. This hotline provides customers with driving privilege status, reinstatement information, interlock program information, DUI suspension and revocation information, citation and ticket information, accident report information, and other information.*
 - *Number of FTE allocated to the hotline:*
 - *15.5 FTE*
 - *The line item through which the hotline is funded:*
 - *(4) Division of Motor Vehicles (B) Driver Services, Personal Services*
6. ***Hotline description: DMV public contact number for citations information***
- *The purpose of the hotline:*
 - *This DMV hotline is for customers calling about traffic ticket information on driver's license records when those tickets have been passed along to the appropriate traffic court for adjudication.*
 - *Number of FTE allocated to the hotline:*
 - *0.5 FTE*
 - *The line item through which the hotline is funded:*
 - *(4) Division of Motor Vehicles (B) Driver Services, Personal Services*
7. ***Hotline description: DMV public contact number for penalty assessment information***
- *The purpose of the hotline:*
 - *This DMV hotline is for customers calling about traffic ticket information on driver's license records when those tickets have not been passed along to the appropriate traffic court for adjudication.*
 - *Number of FTE allocated to the hotline:*
 - *0.5 FTE*
 - *The line item through which the hotline is funded:*
 - *Division of Motor Vehicles – Driver Services – Personal Services*
8. ***Hotline description: Motor Vehicle Investigations customer support***
- *The purpose of the hotline:*
 - *The purpose of the line is for DOR staff, county offices both drivers license and Titles, law enforcement, customers, attorneys, victims of identity theft and perpetrators of fraud to call a general number for questions or to make appointments with investigators.*
 - *Number of FTE allocated to the hotline:*

- *1.0 FTE*
- *The line item through which the hotline is funded:*
 - *(4) Division of Motor Vehicles (B) Driver Services, Personal Services*

9. Hotline description: DMV contact number for vehicle title and registration data

- *The purpose of the hotline:*
 - *For customers calling with questions about titling and registering motor vehicles.*
 - *For customers calling with questions about registering commercial Tax Class A vehicles.*
 - *A county call-in line for technical, statutory and regulatory support in performing titling and registration of vehicles as the Department's authorized agents.*
- *Number of FTE allocated to the hotline:*
 - *9.0 FTE. These employees are responsible for providing customer support on three titles and registrations support lines.*
- *The line item through which the hotline is funded:*
 - *(4) Division of Motor Vehicles (B) Driver Services, Personal Services*

10. Hotline description: Motor Vehicle Emissions customer support

- *The purpose of the hotline:*
 - *Pursuant to C.R.S. § 42-5-305 (9) "The executive director shall be responsible for the issuance of certifications of emissions waiver as prescribed by section 42-4-310 and shall be responsible for the resolution of all formal public complaints concerning test results or test requirements in the most convenient and cost-effective manner possible." Therefore the purpose of the DOR Emissions Section hotline is:*
 - *Field vehicle owner emissions waiver requests;*
 - *Field vehicle owner complaints;*
 - *Provide phone support to county clerks located with the Emissions Program boundaries;*
 - *Provide phone support to industry stakeholders and testing facilities;*
 - *Field and respond to emissions related questions from the general public.*
- *Number of FTE allocated to the hotline:*
 - *There are 3.0 FTE that share administrative support for the Emissions program including answering calls described above. These three also perform other duties.*
- *The line item through which the hotline is funded:*
 - *(4) Division of Motor Vehicles (C) Vehicle Services, Emissions Program*

- *In addition to phone statistics, the DOR Emissions Section monitors phone call content and website heat mapping to ensure common questions are easily available online.*

Enforcement:

1. Hotline Description: Liquor and tobacco reporting:

- *The purpose of the hotline:*
 - *To provide members of the public and industry an avenue with which to report liquor law violations and compliance concerns.*
- *Number of FTE allocated to the hotline:*
 - *The Division does not have specific FTE allocated to the hotline.*
- *The line item through which the hotline is funded:*
 - *(6) Enforcement Business Group (C) Liquor and Tobacco Enforcement Division, Operating Expenses*
- *All outcome data used to determine the effectiveness of the hotline:*
 - *The LED investigates complaints about liquor violations, some of which are anonymous.*

2. Hotline Description: Marijuana Compliance:

- *The purpose of the hotline:*
 - *To provide members of the public and industry an avenue with which to report compliance concerns. The MED also has a web based information submission process that allows individuals to provide this information.*
- *Number of FTE allocated to the hotline:*
 - *The Division does not have specific FTE allocated to the hotline.*
- *The line item through which the hotline is funded:*
 - *(6) Enforcement Business Group (G) Marijuana Enforcement, Operating Expenses*
- *All outcome data used to determine the effectiveness of the hotline:*
 - *The MED investigates licensee compliance concerns. However, the source of the information (whether from a site visit, metric inventory reporting, the tip line or another source) is not maintained in a data field that allows for collection and analysis.*

3. Describe the Department's experience with the implementation of the new CORE accounting system.

How has the implementation improved business processes in the Department?

A: *The implementation of the new system has improved business processes in the Department in the following ways:*

Requires segregation of duties by not allowing the same user to enter and approve a transaction. While this has been state policy, the former system did not enforce it by user ID.

The new ability to attach backup documentation has allowed staff to more efficiently research the “why” of an entry that hit their budget lines. CORE allows increased visibility of activity in other agencies, which enables a Department the ability to research all activity impacting their funding sources.

Transactions that have attachments do not have to be retained in paper format because CORE now retains the workflow history within the transaction.

CORE has allowed documentation of business, budget and OIT approvals within the system via electronic requisition.

CORE has eliminated the delay in generation of purchase orders (POs). While the former system generated purchase orders overnight, CORE allows the creation and issuance of POs as soon as they are approved.

What challenges has the Department experienced since implementation and how have they been resolved (i.e. training, processes, reports, payroll)?

A: Reporting: many of the reports needed for budget and accounting needed to be revised to accommodate new data sets from CORE. While reports are available centrally, DOR has created several reports for its own use and will continue to develop and revise reports to meet our specific needs.

Training continues to be an issue as there are no classes available centrally. This leaves departments to teach their own staff using the tools available on the CORE website. This creates confusion and inconsistency across and within agencies. The Department is implementing a series of informal CORE workshops to allow users to train as well as share best practices.

The delay in payroll postings has significantly delayed month end closings. As of December 9, 2015, only period one (July) of 2015 has closed. Because payroll is such a significant portion of the Department’s costs, managers, commissions, and committees do not have reliable expenditures to date which makes planning for future spending difficult. The Department uses the payroll information available to approximate future payrolls, but continues to face difficulties in planning due to this delay.

The Department has found that the CORE helpdesk is not adequately resourced to respond to the volume of calls they receive, nor do they have the expertise to resolve many problems. The Department therefore reaches out to other users throughout the Department and the state. Bi-weekly interagency conference calls facilitate knowledge sharing and problem solving across agencies.

What impact have these challenges had on the Department's access to funding streams?

A: CORE did not impact the Department's access to funding streams.

How has the implementation of CORE affected staff workload?

A: Initially, CORE increased staff workload. However, this increase has been eliminated as the Department updated reports and procedures.

Procurement staff workload has significantly increased since the implementation of CORE. Procurement staff must conduct continual CORE trainings and there is increased workload due to adjustments to existing CORE encumbrance and pre-encumbrance documents on a continual basis.

Do you anticipate that CORE implementation will result in the need for a permanent increase in staff? If so, indicate whether the Department is requesting additional funding for FY 2016-17 to address it.

A: No, DOR does not anticipate a permanent increase in staff based on the implementation of CORE, but will continue to distribute additional workload to current staff by working additional hours when needed.

4. If the Department receives federal funds of any type, please provide a detailed description of any federal sanctions for state activities of which the Department is already aware. In addition, please provide a detailed description of any sanctions that MAY be issued against the Department by the federal government during FFY 2015-16.

A: The Department is not aware of any federal sanctions for current state activities nor is it aware of any possible sanctions in FFY 2015-16.

5. Does the Department have any outstanding high priority recommendations as identified in the "Annual Report of Audit Recommendations Not Fully Implemented" that was published by the State Auditor's Office and dated October 2015 (link below)? What is the department doing to resolve the outstanding high priority recommendations?

[http://www.leg.state.co.us/OSA/coauditor1.nsf/All/4735187E6B48EDF087257ED0007FE8CA/\\$FILE/1542S%20Annual%20Report.%20Status%20of%20Outstanding%20Audit%20Recommendations.%20As%20of%20June%2030,%202015.%20Informational%20Report.%20October%202015.pdf](http://www.leg.state.co.us/OSA/coauditor1.nsf/All/4735187E6B48EDF087257ED0007FE8CA/$FILE/1542S%20Annual%20Report.%20Status%20of%20Outstanding%20Audit%20Recommendations.%20As%20of%20June%2030,%202015.%20Informational%20Report.%20October%202015.pdf)

A:

Financial

The Department has one financial recommendation related to the 2010 Statewide Single Audit Rec No. 38 part c;

Recommendation:

The Department of Revenue should work with the Governor's Office of Information Technology to improve GenTax's general computer controls by documenting a disaster recovery plan that incorporates all components listed in State Cyber Security Policies and testing the plan on a regular basis.

A disaster recovery plan was developed and approved by both the Governor's Office of Information Technology and the Department of Revenue in January 2015. This recommendation was listed as partially implemented during the Office of the State Auditor's review while awaiting testing of the plan. The Governor's Office of Information Technology successfully tested the plan in August 2015, and the finding is now considered to be fully implemented.

Performance

The Department has one performance recommendation related to the 2011 Tax Processing Performance Audit Rec No. 2;

Recommendation

The Department of Revenue should maximize its use of Central Services for outgoing mail processing and warrant printing, and reallocate or eliminate staff who are currently performing this work.

This recommendation is documented as phase 4 of the Department of Personnel and Administration and the Department of Revenue Pipeline Lean project. To-date, the agencies have evaluated the cost benefit calculations and business requirements. The evaluation continues with rates, timing, and resource considerations being discussed and scheduled to be completed by January 31, 2016. After evaluation, if the direction is to move forward, implementation would be October 31, 2016.

6. Is the department spending money on public awareness campaigns related to marijuana? How is the department working with other state departments to coordinate the campaigns?

Public awareness campaigns are not coordinated by the Department of Revenue. The Marijuana Enforcement Division communicates directly with licensees and other stakeholders regarding the development and implementation of rules. Often times this includes collaborative activities between multiple state agencies. Public awareness campaigns are usually coordinated through the Governor's office and its marijuana policy group.

7. Based on the Department's most recent available record, what is the FTE vacancy rate by department and by division? What is the date of the report?

A: The schedule 3 and schedule 14 documents provided in the Department's annual November budget submission to the JBC contains specific information at the line-item level

regarding FTE usage. In addition, the Department of Personnel and Administration has provided to JBC staff a detailed assessment of FTE usage by all departments in FY 2014-15. These schedules and reports are the Department's most recent available record. The Department is pleased to provide any additional specific information that the Committee requests regarding these reports.

8. For FY 2014-15, do any line items in your Department have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2015-16? If yes, in which programs and line items do you anticipate this reversions occurring? How much and in which fund sources do you anticipate the reversion being?

A: The schedule 3 and schedule 14 documents provided in the Department's annual November budget submission to the JBC contains specific information at the line-item level regarding all appropriation reversions.

Should the Committee have additional questions about specific reversions not mentioned above occurring in FY 2014-15, the Department is pleased to provide the requested information.

The Department does not currently anticipate any reversions occurring in FY 2015-16.

9. Are you expecting an increase in federal funding with the passage of the FFY 2015-16 federal budget? If yes, in which programs and what is the match requirement for each of the programs?

A: The Department does not anticipate an increase in federal funding with the passage of the FFY 2015-16 federal budget.

10. For FY 2014-15, did your department exercise a transfer between lines that is allowable under state statute? If yes, between which line items and programs did this transfer occur? What is the amount of each transfer by fund source between programs and/or line items? Do you anticipate transfers between line items and programs for FY 2015-16? If yes, between which line items/programs and for how much (by fund source)?

A: No. The Department did not exercise a transfer between lines for FY 2014-15 and doesn't anticipate transfers between line items and programs for FY 2015-16.

Appendix A: Licensing Services Cash Fund Funding Sources

Statute Reference	Fee Name	Current Fee (December 2015)	Fee Split		Comments
42-2-114(4)(a); 42-2-114 (2)(b); 42-1-220	DL Fee (State Issued)	\$25.00	LSCF	\$25.00	
42-2-114(4)(a); 42-2-114 (2)(c); 42-1-220	DL Fee (County Issued)	\$25.00	LSCF	\$17.00	Counties with a population of less than 100,000 retain a total of \$13.60. The remaining \$7.40 is credited to the LSCF (HB 14-1066)
			Counties	\$8.00	
42-2-114.5(2)(g)	DL Extension Fee	\$3.60	LSCF	\$3.60	
42-2-114.5(2)(h)	Returned DL Fee	\$6.00	LSCF	\$6.00	
42-2-114.5(2)(i); 42-1-220	Replacement DL Fee	\$6.00	LSCF	\$6.00	
42-2-114.5(2)(f); 42-1-220	1st Duplicate Permit or Minor DL Fee	\$9.00	LSCF	\$9.00	
42-2-114.5(2)(f); 42-1-220	2nd Duplicate Permit or Minor DL Fee	\$16.00	LSCF	\$16.00	
42-2-114(2)(e)	Exam Retake Fee	\$11.15	LSCF	\$11.15	
42-2-107(1)(a)(1) and 42-1-220	Instruction Permit	\$16.80	LSCF	\$16.80	
42-2-114.5(2)(l); 42-2-406; 42-1- 220	CDL License Fee (State)	\$15.50	LSCF	\$15.50	
42-2-114.5(2)(l); 42-2-406; 42-1- 220	CDL License Fee (County)	\$15.50	LSCF	\$7.50	
			Counties	\$8.00	
42-2-114.5(2)(m); 42-2-406(3)(a)(II)(b)	CDL Driving Test Fee	\$100.00	LSCF	\$100.00	\$40 for non-profit organizations meeting certain criteria--see 42-2- 406(3) for details
42-2-114.5(2)(n); 42-2-406(4)	CDL Testing Unit License Fee (Initial Registration)	\$300.00	LSCF	\$300.00	
42-2-114.5(2)(n); 42-2-406(4)	CDL Testing Unit License Fee (Annual Renewal)	\$100.00	LSCF	\$100.00	
42-2-114.5(2)(o); 42-2-406(5)	CDL Tester License Fee (Initial Registration)	\$100.00	LSCF	\$100.00	
42-2-114.5(2)(o); 42-2-406(5)	CDL Tester License Fee (Annual Renewal)	\$50.00	LSCF	\$50.00	
42-2-114.5(2)(j); 42-1-220; 42-2-306(a)(III.5)(A)	ID Issuance or Renewal Fee	\$11.50	LSCF	\$11.50	Free for individuals sixty years or older
42-2-114.5(2)(k); 42-2- 306(V)(B)(b); 42-1-220	ID Reissuance Fee	\$20.00	LSCF	\$20.00	
42-1-206 (2)(a)(I)	Copy Fees Accident Reports	\$2.60	LSCF	\$2.50	
			CSTARS	\$0.10	
42-2-114.5(2)(b)	Copy Fee for Certified Driving Records	\$3.20	LSCF	\$3.10	
			CSTARS	\$0.10	
42-3-312	Special License Plate Fee (LSCF Portion)	\$25.00	LSCF	\$3.10	

Fund Abbreviations

Abbreviations	Fund Name
HUTF	Highway Users Tax Fund
LSCF	Licensing Services Cash Fund
1st DD	First Time Drunk Driving Offendor Account
CSTARS	Colorado State Titling and Registration Account
DLAR	Driver's License Administrative Revocation Account

Division of Gaming
Department of Revenue

Performance Audit
October 2011



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STATE AUDITOR**

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The mission of the Office of the State Auditor is to improve the efficiency, effectiveness, and transparency of government for the people of Colorado by providing objective information, quality services, and solution-based recommendations.



October 14, 2011

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the Division of Gaming. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. The report presents our findings, conclusions, and recommendations, and the responses of the Division of Gaming and the Limited Gaming Control Commission.



We Set the Standard for Good Government

Glossary of Terms and Abbreviations

ACL – Audit Command Language

Department – Department of Revenue

Division – Division of Gaming

Gaming Act – Colorado Limited Gaming Act of 1991

Gaming Commission – Limited Gaming Control Commission

Payment Intercept Act – Gambling Payment Intercept Act

W-2G – W-2G tax form



DIVISION OF GAMING

Performance Audit, October 2011

Report Highlights



Dianne E. Ray, CPA
State Auditor

Division of Gaming
Department of Revenue

PURPOSE

Evaluate whether the Limited Gaming Control Commission's (the Gaming Commission) process for issuing multiple casino licenses meets legislative intent, and the effectiveness and efficiency of the regulatory activities performed by the Division of Gaming's (the Division) Audit, Investigations, and Field Operations Sections.

BACKGROUND

- Colorado voters approved constitutional amendments in 1990 and 2008 authorizing limited and extended casino gaming, respectively.
- The Gaming Commission is responsible for administering and regulating gaming in Colorado, including promulgating gaming rules and regulations; establishing the gaming tax; licensing gaming owners, manufacturers, and employees; and imposing enforcement and corrective actions against licensees.
- The Division is responsible for processing license applications, implementing and enforcing gaming statutes and regulations, and supervising the conduct of casinos.
- The Gaming Commission has established a graduated gaming tax on individual casinos' adjusted gross proceeds. Over the last 5 fiscal years, gaming tax revenue paid to the State averaged about \$106 million per year.

OUR RECOMMENDATIONS

The Gaming Commission should:

- Eliminate the tax advantage gained by ownership groups with multiple physically attached casinos.

The Gaming Commission partially agreed with this recommendation.

The Division of Gaming should:

- Determine the purpose and need for each of its data systems and eliminate unnecessary and duplicative systems.
- Implement a process to ensure it meets its goals for completing regulatory reviews and utilizes staff efficiently.

The Division agreed with these recommendations.

AUDIT CONCERN

The Gaming Commission should make regulatory changes to ensure that casino owners pay gaming taxes in an equitable manner, and the Division should improve its operations and regulatory activities to strengthen oversight of Colorado's casinos.

KEY FACTS AND FINDINGS

- The Gaming Commission's current tax and licensing structures allow owners of multiple attached casinos to gain a competitive advantage over owners of other casinos.
- The Division's data systems for tracking casino oversight activities contain inaccurate, incomplete, and overlapping data. Specifically, we found problems with completeness and accuracy in three of the Division's five data systems. As a result, the Division's ability to utilize its data and produce accurate reports of its regulatory activities for the Gaming Commission is limited.
- The Division did not conduct oversight activities at some casinos to gain assurance that all casinos were reporting revenue accurately for gaming tax purposes. Specifically, none of the 41 casinos operating in Fiscal Year 2010 received all applicable regulatory reviews. Additionally, 10 (24 percent) of the 41 casinos did not receive audits or reviews of the highest risk accounting areas.
- The Division's method for determining casino compliance with the Gambling Payment Intercept Act—which requires casinos to search a database of persons owing child support before paying a certain level of winnings to patrons—does not provide consistent and reliable results or ensure timely compliance. As a result, the Division cannot reliably identify the casinos that do not adequately perform searches, determine the precise reasons why casinos do not perform adequate searches, or take appropriate enforcement action to ensure compliance.

FINANCIAL BENEFITS

The State could have collected about \$4.9 million more in gaming taxes in Fiscal Year 2010 if casino owners had operated their attached casinos under one casino retail license or if their attached casinos had been taxed under one license.

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Casino Gaming Regulation

Colorado voters approved a constitutional amendment (Colorado Const., art. XVIII, sec. 9) in 1990 authorizing limited casino gaming in the commercial districts of the Colorado mountain towns of Central City, Black Hawk, and Cripple Creek. Implemented in October 1991, limited stakes gaming allowed casinos to operate in Colorado but restricted the amount of space they could dedicate to gaming, the architecture of their gaming structures, their hours of operation, the types of games they could offer, and the maximum single bet allowed by players. The constitutional amendment (Colorado Const., art. XVIII, sec. 9) also created the Limited Gaming Control Commission (the Gaming Commission) to administer and regulate gaming in Colorado, including, but not limited to, licensing casinos to operate and assessing gaming taxes on casino revenue.

To change casino gaming in Colorado, including the location, types of games allowed, and betting limits, or to increase gaming taxes above the levels that were in effect on July 1, 2008, requires a statewide vote of the people and an amendment to the State Constitution. In 2008, Colorado voters approved Amendment 50, which allowed voters in the three gaming towns to vote to revise the original limits on casino operations within their districts by extending gaming hours, the maximum bet allowed, and the types of games in operation. Voters in all three cities subsequently approved changes in these areas, known as extended gaming, which became effective in July 2009. The following table outlines the provisions of the limited gaming and the extended gaming laws.

Colorado's Limited and Extended Gaming Requirements		
	Limited Gaming	Extended Gaming
Citation	Article XVIII, Section 9 of the Colorado Constitution and The Limited Gaming Act of 1991	Amendment 50
Effective Date	October 1, 1991	July 2, 2009
Casino Gaming Requirements	<ul style="list-style-type: none"> • Authorized casino gaming in the commercial districts of Central City, Black Hawk, and Cripple Creek • Set player maximum single bet at \$5 • Limited casino games to slot machines and live blackjack and poker card games • Limited casino gaming operating hours to 8:00 a.m. to 2:00 a.m. • Restricted the amount of floor space a casino can devote to gaming • Required casino buildings to conform to pre-World War I architectural styles 	<p>Expanded gaming in the following three areas after the changes were approved by voters in the gaming towns of Central City, Black Hawk, and Cripple Creek:</p> <ul style="list-style-type: none"> • Raised the player maximum single bet to \$100 • Expanded gaming options to craps and roulette table games • Extended casino operating hours to 24 hours per day
Other Provisions	<ul style="list-style-type: none"> • Created the Limited Gaming Fund • Created the Gaming Commission to administer and regulate gaming • Authorized the Gaming Commission to assess gaming taxes and fees • Specified the distribution of limited gaming tax revenue 	<ul style="list-style-type: none"> • Specified that the Gaming Commission could not raise the gaming tax rate above the levels set as of July 1, 2008, without statewide voter approval • Specified how the additional tax revenue generated by extended gaming should be distributed
Source: Office of the State Auditor's analysis of the Colorado Constitution and Colorado Revised Statutes.		

As of the end of Fiscal Year 2011, there were 37 casinos operating in Central City, Black Hawk, and Cripple Creek, with about 14,100 slot machines and 300 table games in play. According to the Division of Gaming (the Division), during Fiscal Year 2011, Colorado's casinos netted about \$754 million in gaming proceeds after paying winning patrons, paid about \$105 million in gaming taxes to the State, and employed approximately 9,600 people in Colorado.

Oversight of Casino Gaming in Colorado

In accordance with the State Constitution, the General Assembly created the Gaming Commission and the Division, within the Department of Revenue (the Department), to enforce gaming regulations; ensure casinos operate honestly, competitively, and free from criminal and corruptive elements; and promote public confidence and trust in Colorado's gaming industry. The Limited Gaming Act of 1991 (the Gaming Act) (Section 12-47.1-101, et seq., C.R.S.) designated specific responsibilities related to overseeing and regulating Colorado's casino

gaming industry to the Gaming Commission and Division. We describe the Gaming Commission and Division below.

Limited Gaming Control Commission

In accordance with Article XVIII, Section 9 of the Colorado Constitution, the General Assembly created the Gaming Commission to administer and regulate limited and extended gaming. The Gaming Act (Section 12-47.1-101, et seq., C.R.S.) designated the Gaming Commission as a Type 2 entity with responsibilities and authority in specific areas, including, but not limited to:

- Promulgating rules, regulations, and internal control procedures governing the licensing, conduct, and operations of gaming in Colorado.
- Establishing and collecting the gaming tax as well as gaming license, gaming equipment, and background check fees.
- Issuing gaming licenses to owners, manufacturers, and employees of limited gaming.
- Inspecting, monitoring, and auditing premises wherein gaming is conducted or gaming equipment is located.
- Imposing enforcement and corrective actions against gaming licensees, including levying fines and suspending or revoking gaming licenses.
- Conducting hearings related to violations of gaming rules, regulations, or the Gaming Act.
- Reviewing and approving the Division's budget each year. The Division's budget is not subject to appropriation by the General Assembly and is provided to the Joint Budget Committee for informational purposes only.
- Continuously studying gaming throughout the state to identify violations of or defects in gaming rules, gaming regulations, or the Gaming Act and recommending changes the Gaming Commission deems appropriate to state officials.

The Gaming Commission is composed of five members appointed by the Governor and confirmed by the Colorado Senate. Gaming Commission members serve 4-year terms and cannot serve more than two consecutive terms. Statute (Section 12-47.1-301, C.R.S.) requires the five members to come from different backgrounds, areas of the state, and political parties. Gaming Commission members must include an attorney with experience in regulatory law, a certified public accountant with knowledge of corporate finance, a law enforcement official, a corporate manager with 5 years of business experience, and a registered voter. Additionally, no two Gaming Commission members can be from the same congressional district, and no more than three can be from the same political party.

Division of Gaming

The Division is responsible for processing licensing applications, implementing and enforcing gaming statutes and the gaming regulations established by the Gaming Commission, and supervising the conduct of casinos in the state. The Division's main office is located in Golden with field offices in the gaming cities of Cripple Creek and Central City, which also covers Black Hawk. In Fiscal Year 2011, the Division had a total of 92 full-time-equivalent staff divided among seven sections, as shown in the table below.

Division of Gaming Sections		
Section	Staffing	Duties and Responsibilities
Accounting	5	Provides accounting and financial services to the Division and the Gaming Commission.
Administration	6	Performs various administrative duties to carry out the Division's day-to-day operations. This section includes Division management.
Audit	14	Conducts casino reviews to ensure compliance with state regulations, statutes, and required minimum internal controls related to accounting and revenue reporting, and conducts revenue audits to ensure casinos accurately report gaming revenue and pay gaming taxes to the State. The Division also requires casinos making \$10 million or more in revenue to undergo annual independent external financial audits, which are reviewed by the Audit Section. According to the Division, in Fiscal Year 2011, this section conducted 10 revenue audits and about 2,200 compliance reviews at casinos.
Field Operations	9	Approves electronic gaming machines and component parts for use in Colorado casinos; monitors revoked, upgraded, and obsolete gaming software; inspects gaming machines to ensure compliance with state regulations and statutes; and oversees forensic evaluations of gaming machines. According to the Division, in Fiscal Year 2011, this section inspected about 5,900 gaming machines and completed about 1,200 compliance reviews.
Technical Systems	5	Approves gaming systems and information technology, such as slot machine monitoring systems, for use in Colorado casinos, and oversees the installation, upgrade, and testing of these gaming systems to ensure compliance with state regulations and statutes. According to the Division, in Fiscal Year 2011, this section conducted 20 system reviews.
Enforcement and Investigations	48	Conducts personal and financial background investigations on businesses and individuals who apply for gaming licenses; performs regular reviews and investigations at casinos to ensure patron and casino compliance with state regulations, statutes, required minimum internal controls related to areas such as surveillance, required casino signage, and underage gaming; and carries out law enforcement duties and criminal investigations at casinos. According to the Division, in Fiscal Year 2011, this section conducted about 1,800 compliance reviews, 1,600 criminal investigations, and 200 background investigations.
Licensing	5	Processes licensing applications and renewals from businesses that request to offer gaming services or products in Colorado and individuals who request to work in Colorado casinos. According to the Division, in Fiscal Year 2011, this section processed about 4,100 new and renewal licenses.

Source: Office of the State Auditor's analysis of information from the Colorado Division of Gaming.

In addition to their other duties, Division staff provide training in a variety of areas, including internal controls related to table games, cashiers and accounting, and slot machines. Casinos may also request training in other areas. In Fiscal Year 2011, the Division provided 86 training sessions to casinos.

State Gaming Tax

According to the State Constitution, the Gaming Commission is responsible for setting the gaming tax rate within the limitation that “up to a maximum of 40 percent of the adjusted gross proceeds of limited gaming shall be paid by each licensee.” As of January 8, 2009, Amendment 50 to the Colorado Constitution requires statewide voter approval for any increases in the gaming tax rates above the July 1, 2008, levels. Statute (Section 12-47.1-601, C.R.S.) specifies the factors that the Gaming Commission shall consider in setting the tax rate, including the impact of gaming on the communities where casinos are located and on state agencies, the profitability of other forms of gambling, and the intent of the Gaming Act in encouraging growth and investment in the gaming industry. Statutes do not include the impact of the gaming tax rate on the General Fund as a factor the Gaming Commission must consider.

The Gaming Commission has established a graduated gaming tax schedule, in which casinos pay an increasing percentage tax rate as their annual adjusted gross proceeds from limited and extended gaming exceeds various thresholds. Annual adjusted gross proceeds is the total amount of all wagers made by casino patrons minus the total amount the casino pays patrons in winnings. As the following table shows, each casino paid 0.25 percent in taxes on the first \$2 million in adjusted gross proceeds earned in Fiscal Year 2011, plus 2 percent in taxes on the next \$3 million in adjusted gross proceeds earned, and so forth. The gaming tax rates as of June 2011, which were in effect for the period reviewed during this audit, are shown in the following table.

Colorado Gaming Tax Rates As of June 2011	
Tax Rate Percentage	Casino Annual Adjusted Gross Proceeds
0.25%	Up to and including \$2 million
2.00	More than \$2 million to \$5 million
9.00	More than \$5 million to \$8 million
11.00	More than \$8 million to \$10 million
16.00	More than \$10 million to \$13 million
20.00%	More than \$13 million
Source: Office of the State Auditor’s analysis of the Colorado Gaming Regulations.	

Effective July 2011, the Gaming Commission reduced the gaming tax rates to between 0.2375 percent and 19 percent of casino annual adjusted gross proceeds.

Gaming Revenue, Distributions, and Expenditures

Since 1992, casinos have paid more than \$1.5 billion in gaming taxes to the State on \$11.4 billion in adjusted gross proceeds. Gaming tax revenue declined about 6 percent between Fiscal Years 2007 and 2011, but averaged about \$106 million per year over this period. Gaming tax revenue is used to help cover the costs of Gaming Commission and Division operations as well as provide funding to other state programs and entities, as stipulated in the Colorado Constitution and statutes. The Colorado Constitution requires the State to distribute gaming tax revenue to various state and local entities after Gaming Commission and Division expenses have been paid and 2 months of administrative expenses have been reserved. The Colorado Constitution also requires the Division to distinguish between gaming tax revenue collected from limited gaming and revenue collected from extended gaming and to distribute the proceeds from the two types of gaming differently. Statute (Section 12-47.1-701.5, C.R.S.) provides the allocation formula used to determine the portion of gaming tax revenue attributed to limited gaming and the portion attributed to extended gaming. The following table highlights the limited and extended gaming tax revenue distributions required by the State Constitution.

Limited and Extended Gaming Tax Distribution Requirements As of June 2011		
	Limited Gaming	Extended Gaming
Description	Revenue is derived from gaming taxes on casinos' annual adjusted gross proceeds resulting from limited gaming.	Revenue is derived from gaming taxes on casinos' annual adjusted gross proceeds resulting from extended gaming.
Tax Distributions	<ul style="list-style-type: none"> • 50 percent to the State's General Fund, which is distributed to other specified funds and programs, as directed by statute • 28 percent to the Colorado State Historical Fund • 12 percent to Gilpin and Teller Counties in proportion to the gaming revenue generated within each county • 10 percent to Cripple Creek, Black Hawk, and Central City in proportion to gaming revenue generated within each city 	<ul style="list-style-type: none"> • 78 percent to public community colleges, junior colleges, and local district colleges in proportion to their respective full-time-equivalent student enrollments • 12 percent to Gilpin and Teller Counties in proportion to the tax revenue paid by casinos within each county • 10 percent to Cripple Creek, Black Hawk, and Central City in proportion to the tax revenue paid by casinos within each city
Source: Office of the State Auditor's analysis of gaming tax distribution requirements in the Colorado Constitution.		

Per the Colorado Constitution, most of the gaming tax revenue is distributed in accordance with the previous table. In Fiscal Years 2007 through 2011, an average of about 89 percent of annual gaming tax revenue, or about \$97 million per year, was distributed to beneficiaries. Gaming tax dollars have been used to fund state historical restoration projects, higher education, regulation of the gaming industry, and the impacts to state and local governments caused by gaming. Fiscal Year 2010 was the first year the State collected and distributed gaming tax revenue attributable to extended gaming. The following table shows the limited and extended gaming tax revenue distributions made to beneficiaries for Fiscal Years 2007 through 2011.

Limited and Extended Gaming Distributions Fiscal Years 2007 Through 2011					
	2007	2008	2009	2010¹	2011¹
General Fund ²	\$53,178,000	\$50,296,000	\$42,641,000	\$44,406,000	\$43,205,000
State Historical Fund	29,780,000	28,166,000	23,879,000	24,867,000	24,195,000
Gaming Counties ³	12,763,000	12,071,000	10,234,000	11,609,000	11,439,000
Gaming Cities ⁴	10,636,000	10,059,000	8,528,000	9,674,000	9,533,000
Community College System	NA	NA	NA	6,186,000	6,955,000
Total	\$106,357,000	\$100,592,000	\$85,282,000	\$96,742,000	\$95,327,000

Source: Colorado Division of Gaming financial audits, Fiscal Years 2007 through 2010, and unaudited financial statements for Fiscal Year 2011.

¹ Distributions for Fiscal Years 2010 and 2011 include limited and extended gaming tax revenue. Fiscal Year 2010 was the first year the State collected and distributed extended gaming tax revenue.

² Recipients of General Fund monies from gaming taxes include the Department of Transportation; Travel and Tourism Promotion Fund; Local Government Limited Gaming Impact Fund; Colorado Council on the Arts Cash Fund; Colorado Film Commission; Office of Film, Television, and Media Cash Fund; New Jobs Initiative Cash Fund; Bioscience Discovery Evaluation Cash Fund; Innovative Higher Education Research Fund; and Creative Industries Cash Fund.

³ Gaming counties include Gilpin and Teller.

⁴ Gaming cities include Black Hawk, Central City, and Cripple Creek.

The Division also collects revenue each year from licensing and background investigation fees, fines levied by the Gaming Commission and Division for gaming licensee noncompliance, and investment income, which is used to cover administrative costs, making the Division fully cash funded. In Fiscal Years 2007 through 2011, Division revenue from sources other than the gaming tax averaged about \$3 million annually, and the Division's operating expenditures averaged about \$7 million a year. In addition, the Division transfers an average of about \$3.8 million each year to other state agencies to address the impact of casino gaming on the State. State agencies that receive gaming funds include the Department of Local Affairs for historical grants, Department of Transportation

for highway maintenance near gaming cities, Colorado Bureau of Investigation for gaming criminal investigations, Colorado Division of Fire Safety for fire safety inspections of casinos, and Colorado State Patrol for patrolling highways near gaming cities.

Audit Purpose and Scope

This report provides the results of our performance audit of the Gaming Commission and the Division. The purpose of our audit was to evaluate the effectiveness of the Gaming Commission's and Division's regulatory and oversight activities. Specifically, the audit objectives were to determine whether:

- The Gaming Commission and the Division have adequate monitoring and oversight procedures to ensure casinos comply with regulatory standards intended to promote honesty, integrity, fairness, and competition in Colorado's gaming industry.
- The Division's revenue audits, compliance reviews, and enforcement actions are sufficient to gain assurance that controls are in place to ensure casinos properly report gaming revenue and accurately file gaming taxes.
- The Division has appropriate and reliable procedures to ensure that casinos comply with the Gambling Payment Intercept Act (Payment Intercept Act).

To accomplish our audit objectives, we reviewed the following areas: (1) Division and Gaming Commission processes for granting multiple retail licenses to casino ownership groups; (2) Division compliance reviews and revenue audits of casinos; (3) Division enforcement and administrative actions, which are corrective measures taken against licensees for noncompliance; and (4) Division processes for ensuring casinos comply with the Payment Intercept Act. The audit did not review the Division's regulation of gaming licenses for casino employees and equipment, the gaming tax structure, or Gaming Commission governance.

As part of our audit work, we collected and analyzed Division licensing, compliance, audit, and enforcement data and documentation. Audit work included a review of the licensing documentation, revenue, and gaming tax obligation for each of the 41 casinos operating in Colorado in Fiscal Year 2010; data maintained in five of the Division's data systems and tracking spreadsheets from July 2007 through December 2010; the results of the Fiscal Year 2010 compliance reviews and casino revenue audits conducted by the Division's Audit Section; and the results of each Payment Intercept Act compliance review conducted by the Division in Calendar Year 2010. Audit work also included a review of the following samples:

- Gambling Payment Intercept system search data and patron prize data for Calendar Year 2010 for a nonstatistical sample of three casinos in order to test the Division's controls related to the Payment Intercept Act. The three sampled casinos conducted about 1.5 percent of the searches of prize-winning patrons in the Gambling Payment Intercept system required by the Payment Intercept Act in Calendar Year 2010.
- Division records of administrative actions issued to a sample of 14 casinos by the Division from July 2007 through December 2010 to determine whether the Division had progressively taken action against casinos for noncompliance with gaming regulations and standards. We selected a nonstatistical sample to provide adequate coverage of both Division field offices. For five of the sampled casinos, we analyzed Division records for Calendar Years 2008 through 2010 to determine whether the Division had included the casinos' administrative actions in its casino background investigation reports and accurately reported the actions to the Gaming Commission for use in licensing renewal decisions. We selected the five casinos because some of their administrative actions were not accurately recorded in the Division's data systems.

We selected our samples to provide sufficient coverage of Division processes and controls for (1) implementing and enforcing the Payment Intercept Act, (2) issuing administrative actions progressively, and (3) documenting and reporting administrative actions taken against casinos, all of which were significant to the objectives of this audit. The results of these samples cannot be projected to the entire population of casinos. Our conclusions on the sufficiency of Division processes and controls are reflected in our findings.

In addition, we visited and interviewed staff and management at each of the Division's three offices in Golden, Central City, and Cripple Creek; observed Gaming Commission meetings and Division processes; and interviewed gaming officials in Louisiana, Michigan, Missouri, Nevada, and South Dakota to identify best practices in the gaming industry. According to the Division, these states have casino gaming oversight structures similar to Colorado.

We conducted this performance audit pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. The audit work was performed from February through July 2011 and was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings, conclusions, and recommendations based on our audit objectives. We thank the Gaming

Commission, the Division, and the Department for their assistance and cooperation during the audit.

Summary of Findings

Overall, we found the Gaming Commission and Division have implemented a variety of policies and procedures to carry out their constitutional and statutory responsibilities to enforce gaming regulations, ensure casinos operate honestly and free from criminal and corruptive elements, and promote public confidence and trust in Colorado's gaming industry. At the same time, we identified several areas in which the Gaming Commission and Division can make improvements to strengthen their oversight of Colorado's casinos. Specifically, we found:

- The Gaming Commission's current tax and licensing structures allow owners of multiple attached casinos to gain a competitive advantage over owners of other casinos.
- The efficiency of the Division's methods for tracking casino oversight activities can be improved. The Division's data systems contain inaccurate, incomplete, and overlapping data that can limit the Division's ability to utilize its data and produce accurate reports of its regulatory activities for the Gaming Commission and Division management.
- The Division's Audit Section did not conduct the compliance reviews and audits of some casinos necessary to ensure coverage of all internal control areas or gain assurance that all casinos were reporting revenue accurately.
- The Division's method for determining casino compliance with the Payment Intercept Act does not provide consistent and reliable results or ensure timely compliance with the Payment Intercept Act.
- The Division has not consistently applied progressive administrative actions for casinos that do not comply with required minimum internal controls as a means to motivate casinos to improve compliance.

We discuss these issues and our recommendations in the remainder of this report.

Issuing Multiple Licenses to Casino Owners

According to the Gaming Act (Section 12-47.1-501, C.R.S.), a retail casino gaming license is required for all individuals who conduct gaming on their premises. To obtain a retail license to operate a casino, applicants must apply to the Division and provide their licensing history; details of their business, such as the articles of incorporation, annual reports, owners, and officers; the scale and location of their building; and a floor plan of each floor on which gaming will be conducted. The Division conducts background and financial investigations of each retail license applicant and presents the results of the investigations to the Gaming Commission for license approval or denial. The Gaming Commission licenses each casino separately, although some casinos are operated by the same owner; share resources, such as staff and a single surveillance room; and are physically attached, meaning a patron may walk from one casino to the other without leaving the building structure. The Gaming Act (Section 12-47.1-808, C.R.S.) prohibits individuals from holding “an ownership interest in more than three [gaming] retail licenses,” or casinos. According to our review of the Gaming Act and interviews with gaming industry officials, the original intent of the statute was to limit the number of licenses that an owner could hold in order to prevent a single owner from dominating the industry or having a significant advantage over other owners.

As discussed previously, the Gaming Act (Section 12-47.1-601, C.R.S.) requires the State to tax casinos on their adjusted gross proceeds, which is the total amount of all wagers made by casino patrons minus the total amount the casino pays patrons in winnings. The Gaming Commission has established a graduated gaming tax structure, which ranged from 0.25 percent to 20 percent for the time period we tested, based on a casino’s annual adjusted gross proceeds for limited and extended gaming. Casinos pay a higher percentage rate as their annual adjusted gross proceeds exceeds various thresholds.

In Fiscal Year 2010, there were 26 different ownership groups that operated 41 casinos in Colorado. Eleven of the ownership groups in the state operated multiple casinos. Of those 11 ownership groups with multiple casinos, five ownership groups owned multiple casinos that were physically attached, as shown in the following table.

Comparison of Casino Owners and Casinos in Operation Fiscal Year 2010			
Number of ownership groups with multiple licenses for attached casinos	5	Number of attached casinos	11
		Number of unattached casinos	2
Number of ownership groups with multiple licenses without attached casinos	6	Number of unattached casinos	13
Number of ownership groups with single licenses	15	Number of unattached casinos	15
Totals	26		41
Source: Office of the State Auditor's analysis of Division of Gaming information.			

What audit work was performed and what was the purpose?

We reviewed the adjusted gross proceeds and tax payment data for each of the 41 casinos operating in Fiscal Year 2010, as well as licensing documentation for each of the five ownership groups that held multiple licenses for casinos that were physically attached in Fiscal Year 2010. We compared the tax liability of the five ownership groups operating multiple physically attached casinos with the tax liability of ownership groups that operate casinos that are not attached to determine whether owning multiple attached casinos provides a tax advantage. We also performed this comparison to determine whether the current gaming tax structure and practice of issuing separate licenses for physically attached casinos owned by a single ownership group provide an equitable taxation structure among different types and sizes of casinos. We also interviewed industry stakeholders, former Division staff, and Division management to analyze the graduated gaming tax structure and determine the reasons that ownership groups obtain and the Gaming Commission issues multiple licenses.

How were the results of the audit work measured?

According to statute (Section 12-47.1-102, C.R.S.), one of the reasons for regulating and licensing the gaming industry is "to preserve the economy and policies of free competition" among casinos in Colorado. Establishing a tax structure and tax rates that are equitable and fair for different types and sizes of casinos is an important part of ensuring that casinos can compete freely. According to the former Executive Director of the Department of Revenue, who administered the Department at the time the gaming tax structure was first implemented, the Gaming Commission established a graduated tax structure to

lower the tax burden on smaller-revenue casinos and foster competition with the higher-revenue-generating casinos.

The provisions of the Gaming Act indicate that the Gaming Commission has a responsibility to represent the State's interests while balancing the interests of the gaming industry. Specifically, statute (Section 12-47.1-601, C.R.S.) requires that, in setting the gaming tax, the Gaming Commission consider the impact of gaming on the communities where gaming is located and affected state agencies as well as the impact on the profitability of the gaming industry. Statute (Section 12-47.1-302, C.R.S.) also requires the Gaming Commission to report to elected officials "any laws which it determines require immediate amendment to prevent abuses and violations of [the Gaming Act] or any rule or regulation promulgated pursuant to [the Gaming Act] or to remedy undesirable conditions in connection with the administration or operation of the Division or [Colorado] gaming."

What problem did the audit work identify and why does this problem matter?

As noted previously, the Gaming Act (Section 12-47.1-808, C.R.S.) prohibits individuals from holding "an ownership interest in more than three [casino gaming] retail licenses." We found that the Gaming Commission has issued up to three retail licenses to some casino owners. We also found that permitting owners to obtain up to three licenses for adjoined casinos, combined with the current graduated gaming tax structure, provides a tax advantage for some casinos that may be counter to the statutory requirement that gaming be conducted competitively [Section 12-47.1-102(1)(a), C.R.S.]. Specifically, ownership groups that have obtained multiple licenses to operate physically attached casinos—meaning patrons can walk from one casino to the other without leaving the building—have realized a gaming tax advantage over other ownership groups. Because Colorado's gaming tax is assessed on the adjusted gross proceeds collected under each retail license, obtaining multiple licenses for physically attached casinos results in the casino owner paying a lower amount of gaming taxes than if the owner held a single retail license for the entire adjoined gaming space. Obtaining multiple licenses in order to pay a lower gaming tax is not specifically prohibited by statute. In addition, these owners are not prohibited by gaming rules or policies from sharing resources, such as staff and surveillance facilities, which could reduce the operating costs of the attached casinos in addition to minimizing the tax burden, and further encourage owners to seek multiple licenses for adjoined casinos. Under required minimum internal controls, each licensed casino must have a cashier cage and manager.

We found the practice of holding multiple licenses for attached casinos has occurred most frequently in the gaming town of Cripple Creek, where nine out of the 11 multiple licensed attached casinos operate. The other two are located in

Black Hawk. We estimate that the five owners with multiple licenses and attached casinos in Colorado paid about \$4.9 million less in gaming taxes to the State in Fiscal Year 2010 than they would have if they had operated the attached casinos under one casino retail license or if their attached casinos had been taxed under one license. For Fiscal Years 2008 through 2010, we estimated that the five owners paid a combined total of about \$14.1 million less in gaming taxes to the State.

Because individual casinos' adjusted gross proceeds and gaming tax payments are proprietary business information, we provide a hypothetical example, rather than identifying actual casinos, to demonstrate the inequity created by the current licensing policy and graduated gaming tax structure. In the following table, Casino A is a licensed casino owned by Owner #1. Casinos B and C are owned by Owner #2 and are physically attached. The following table shows the annual adjusted gross proceeds collected for each owner, the associated gaming tax rate, and the annual gaming taxes each owner owes the State.

Example Comparison of Gaming Taxes For Casino Owners With One License Versus Multiple Licenses			
	Annual Adjusted Gross Proceeds	Tax Rate¹	Annual Gaming Taxes
Owner #1			
Casino A			
\$0 to \$2 million	\$ 2,000,000	0.25%	\$ 5,000
\$2 to \$5 million	3,000,000	2.00	60,000
\$5 to \$8 million	3,000,000	9.00	270,000
\$8 to \$10 million	2,000,000	11.00	220,000
\$10 to \$13 million	3,000,000	16.00	480,000
\$13 million and up	1,000,000	20.00	200,000
Total for Owner #1	\$14,000,000	-	\$1,235,000
Owner #2			
Casino B (attached to Casino C)			
\$0 to \$2 million	\$ 2,000,000	0.25%	\$ 5,000
\$2 to \$5 million	3,000,000	2.00	60,000
\$5 to \$8 million	2,000,000	9.00	180,000
Casino B Total	\$ 7,000,000	-	\$ 245,000
Casino C (attached to Casino B)			
\$0 to \$2 million	\$ 2,000,000	0.25%	\$ 5,000
\$2 to \$5 million	3,000,000	2.00	60,000
\$5 to \$8 million	2,000,000	9.00	180,000
Casino C Total	\$ 7,000,000	-	\$ 245,000
Total for Owner #2	\$14,000,000	-	\$ 490,000
Tax Advantage for Owner #2 Over Owner #1	-	-	\$ 745,000
Source: Office of the State Auditor's analysis of the differences in tax liability for casinos in a hypothetical situation.			
¹ Taxes were calculated based on the rates in effect as of June 30, 2011.			

In the example above, the difference of \$745,000 in tax liability creates a competitive advantage for Owner #2 compared to Owner #1. This tax advantage is unfair if the operating costs for the attached Casinos B and C are equivalent to or less than the operating costs for Casino A. If the total adjusted gross proceeds for Owner #2's attached casinos were taxed collectively, the owner would have fallen into the higher tax bracket. The current licensing policy and gaming tax on each licensee's adjusted gross proceeds favor owners with multiple casino licenses by reducing the amount of taxes they pay to the State. As a result, Gaming Commission policies and practices have not ensured the application of

the gaming tax provides a fair and competitive environment in the gaming industry.

Additionally, one of the purposes of establishing both limited and extended gaming in Colorado was to generate revenue for the State Historical Fund, the gaming cities and counties, and public community colleges. Therefore, the tax savings casino owners gain by operating multiple attached casinos also negatively impact gaming tax revenue that is used to help fund these beneficiaries.

Why did the problem occur?

We found that a combination of two factors, the Gaming Commission's licensing policy and the gaming tax structure, have led to a gaming tax advantage for some casino owners. First, the Gaming Commission has not prohibited ownership groups from obtaining multiple casino licenses that will result in reducing the owners' gaming tax obligation to the State. For example, the Gaming Commission has not implemented requirements for each licensed casino to operate independently within its own building and does not consider factors, such as whether the license is for a building attached to an existing casino or is part of an existing casino, when it issues an additional casino license to an owner. In fact, the Gaming Commission's current policies and rules would not prevent the owner of one large casino from seeking up to three licenses on that casino to reduce the tax liability. According to the Division, statute (Section 12-47.1-808, C.R.S.) permits owners to obtain three casino licenses without restrictions. However, we believe the Gaming Commission has the authority to implement gaming rules, policies, and procedures prohibiting casino owners from obtaining additional casino licenses that will result in a tax advantage over other owners. Specifically, Section 12-47.1-302, C.R.S., states that the rules and regulations promulgated by the Gaming Commission shall include "the requirements, qualifications, and grounds for the issuance...of all types of...licenses required for the conduct of limited gaming," "restrictions upon the times, places, and structures where limited gaming shall be authorized," and "procedures for determining the suitability or unsuitability of persons, acts, or practices [for gaming]." In accordance with the statutes, the Gaming Commission has established regulations relating to the safety, accessibility, floor plans, and lease agreements for the buildings where gaming is to take place. Nonetheless, the Gaming Commission has not developed policies or rules to prevent owners with multiple licenses for attached casinos from receiving a gaming tax advantage over other owners. Requiring that each licensed casino be physically separate from any other casino (i.e., meaning it is not possible to walk from one casino to another without leaving the building) would prevent owners from obtaining multiple licenses for attached casinos. Requiring that each licensed casino operate with separate staff, surveillance systems, and gaming equipment would reduce the financial incentive for owners to seek multiple licenses for attached casinos in order to reduce their tax liability.

In addition, the Gaming Commission has not modified the gaming tax structure to ensure the graduated gaming tax is applied equitably and in a manner that does not provide particular ownership groups, such as those operating multiple attached casinos, a tax advantage compared to other ownership groups. According to Division management, on two separate occasions past Gaming Commissions reviewed casino owners reducing their gaming tax by obtaining multiple licenses. On both occasions, past Gaming Commissions concluded that no rule clarification or statutory change was needed. However, we believe the Gaming Commission has the responsibility to clarify statute through rules and regulations when practices render the gaming tax structure inequitable and reduce competition among casinos. Implementing a rule to modify the gaming tax structure, such as implementing a flat gaming tax or applying the graduated gaming tax to the total or aggregated adjusted gross proceeds of an owner's adjoined casinos rather than applying the tax to the adjusted gross proceeds of each licensed casino, would eliminate the gaming tax advantage for some casino owners.

The Gaming Commission is in a unique position to address the inequity in the application of the gaming tax created by the licensing policy and gaming tax structure. Options the Gaming Commission should consider to address this problem include, but are not limited to, the following:

- Expanding the current requirements for licensed casino facilities, including requiring each licensed casino to operate independently of and physically separate from (i.e., meaning it is not possible to walk from one casino to another without leaving the building) adjoining casinos.
- Implementing a policy to prevent ownership groups from obtaining additional licenses in order to divide or expand an existing casino's operations.
- Aggregating the total adjusted gross proceeds of commonly owned adjoined licensed casinos for the purpose of applying the gaming tax, instead of taxing the adjusted gross proceeds of each licensed casino separately.
- Implementing a rule to revise the gaming tax structure in other ways, such as by implementing a flat gaming tax in place of a graduated tax.

According to the Division and Gaming Commission, the Gaming Commission intends to hold public hearings to discuss this issue. When weighing its options, the Gaming Commission should assess the impact that implementing each option will have on the gaming industry, gaming communities, and the State. The Gaming Commission should also ensure it implements the approach that best

fulfills legislative intent to provide fairness and preserve free competition while balancing the State's interests with the interests of the gaming industry.

Recommendation No. 1:

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.

Limited Gaming Control Commission Response:

Partially agree. 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.

Data Systems and Management

The Division's Licensing, Investigations, Audit, and Field Operations Sections conduct a range of regulatory activities, including processing license applications for casinos, employees, and equipment manufacturers; conducting compliance reviews and audits to ensure casinos comply with statutes, regulations, and required minimum internal controls; and issuing administrative actions against the casinos for noncompliance. The Division reports its activities and findings to the Gaming Commission. In order to record its regulatory activities and track casino compliance with state laws and regulations, the Division maintains the following data systems and spreadsheets:

- **Case Reporting System.** This is the primary system used to store each Division section's compliance review case reports and related administrative actions. The case reports contain the work completed by staff when conducting each compliance review. The Division uses the system on a regular basis to create informational reports for Division management and the Gaming Commission about the Division's regulatory activities and for gaming license renewal purposes.
- **Compliance Review Tracker Spreadsheets.** The Division tracks each section's compliance reviews and associated findings in tracking spreadsheets separate from the Case Reporting System. The Division has created an individual tracking spreadsheet for each casino. The Division uses the information to schedule compliance reviews, assess Division staff activity, verify the reviews completed by staff, and track noncompliance identified during the reviews.
- **Licensing System.** The Division uses this system to record and monitor licensing activities, administrative actions issued to licensees by each of the Division's sections, and license expiration dates. The Division also uses this information, along with information from the Case Reporting System, to prepare gaming license renewal reports for the Gaming Commission.
- **Field Operations Administrative Action Tracker.** The Division's Field Operations Section maintains a spreadsheet separately from the Division's Case Reporting and Licensing Systems to track the administrative actions the Field Operations Section issues against licensees for noncompliance.
- **Gaming Commission Administrative Action Tracker.** The Division maintains a spreadsheet of administrative actions issued by the Gaming Commission and the Division separately from the Case Reporting and Licensing Systems to track the actions taken against licensees.

What audit work was performed and what was the purpose?

We reviewed the Division's data systems, spreadsheets, and data management processes and interviewed Division management and staff to determine the purpose of each system and spreadsheet, whether the data contained in each were appropriate and sufficient for the purpose identified, and whether the Division's practice of maintaining multiple systems with overlapping data was efficient and effective. Specifically, we reviewed data tracked from July 2007 through December 2010 in each of the five data systems and spreadsheets listed above and interviewed staff from the Division's Licensing, Audit, Investigations, and Field

Operations Sections. We compared administrative action and compliance review data from each of the above systems and spreadsheets to determine whether the systems or spreadsheets contained complete and accurate information. We also examined the accuracy of each system and spreadsheet by reviewing the formulas contained in the system or spreadsheet.

How were the results of the audit work measured?

The Division is responsible for regulating and supervising limited gaming in Colorado (Section 12-47.1-202, C.R.S.) and is required to report the results of its reviews, audits, and investigations to the Gaming Commission [Section 47.1-1608(2), 1 C.C.R., 207-1]. To carry out its responsibilities, the Division needs complete, accurate, and consistently recorded data to monitor licensees and report the effectiveness of its regulatory activities. For example, the Division needs reliable data on license renewals and expirations, casino compliance with revenue reporting and internal control requirements, and administrative actions. The U.S. Government Accountability Office defines data completeness as the extent to which relevant records are present and the fields in each record are populated appropriately based on the intended purpose of the data and system.

What problem did the audit work identify?

Overall, we found problems with the completeness and accuracy of the Division's data in three of the Division's five data systems used to monitor the gaming industry and track and report on compliance with Division regulations. These issues are described below.

Incomplete Data. We found the Division did not consistently maintain complete records of its administrative actions and the results of its compliance reviews of casinos. Specifically:

- We found that 45 percent (37 out of 82) of the administrative actions issued from July 2009 through December 2010 for noncompliance were not recorded as administrative actions in the Division's Case Reporting System. We also identified four administrative actions that were not entered in the Case Reporting System. Both of these problems resulted in an incomplete list of administrative actions in the Case Reporting System. Incomplete data in the Case Reporting System can result in the misreporting of information to the Gaming Commission and Division management.
- We identified 47 administrative actions issued between July 2009 and December 2010 for casino noncompliance with required minimum internal controls that were not entered in the Field Operations Section's

Administrative Action Tracker, resulting in an incomplete list of administrative actions. Tracking incomplete data in the Field Operations Section's spreadsheet is inefficient and can result in staff not considering past administrative actions when performing compliance reviews.

- We identified 28 compliance reviews completed in Fiscal Year 2010 that were not documented in nine of the 41 casinos' Compliance Review Tracker Spreadsheets, resulting in an incomplete list of completed compliance reviews. Incomplete information in the Compliance Review Tracker Spreadsheets hinders staff's ability to efficiently use the spreadsheets as intended.

Inaccurate Data. We found Division staff did not always record or classify their regulatory activities accurately into the Compliance Review Tracker Spreadsheets. Specifically:

- We identified formula errors in 10 percent (four out of 41) of the Fiscal Year 2010 Compliance Review Tracker Spreadsheets, resulting in overstated percentages for the number of Division compliance reviews completed at some casinos and understated percentages for others.
- We identified extraneous data that had been incorrectly counted by the automated spreadsheet as completed compliance reviews in 46 percent (19 out of 41) of the Fiscal Year 2010 Compliance Review Tracker Spreadsheets, resulting in an overstatement of the number of compliance reviews the Division had completed. For example, when Division staff entered their initials into cells that should have remained blank, the initials were incorrectly counted by the Division's spreadsheet formula as completed compliance reviews.

Inaccurate data in the Compliance Review Tracker Spreadsheets may result in the Division's mistakenly believing compliance reviews have been completed when they have not, scheduling repetitive or unnecessary compliance reviews, and inaccurately assessing the activities performed by staff.

Why did the problem occur?

The Division has not consistently maintained complete or accurate data for the following reasons:

- The Division has not developed written policies and procedures that define and communicate to staff (1) the purpose of each data system, (2) what data should be entered in each system, (3) which staff are responsible for entering data into each system, and (4) the proper method for entering

data. Without a clear purpose and guidelines for data entry, staff reported to us that they are uncertain what data should be entered into the systems, which results in staff not entering data completely or consistently. For example, Division staff in different sections and field offices are inconsistent in how they record findings in the Compliance Review Tracker Spreadsheets. Specifically, staff at one field office signify findings using red text, while staff in the other field office use a character sign to indicate findings. Additionally, some staff do not record findings in the Compliance Review Tracker Spreadsheets.

- The Division has implemented these various systems over time without evaluating the potential for duplication and the risk of inaccuracy. For example, various administrative actions are recorded in four different systems: the Case Reporting System, the Licensing System, the Field Operations Administrative Action Tracker, and the Gaming Commission Administrative Action Tracker. Staff must therefore enter the same data into multiple systems, increasing the risk of data being entered inaccurately or not being entered in all systems.
- While some supervisors review the content of cases entered in the Case Reporting System, the Division has not established policies or procedures for supervisors to conduct consistent reviews of key data in order to verify their accuracy and completeness. Because it does not require supervisory review, the Division may not identify and correct instances of inaccurate and incomplete data.

Why does this problem matter?

Incomplete and inaccurate data prevent the Division from properly analyzing compliance reviews and administrative actions to identify problem areas and casinos, ensure consistent regulation, monitor staff, and allocate resources efficiently for its regulatory activities. For example, as discussed previously, errors in the Compliance Review Tracker Spreadsheets may result in the Division's mistakenly believing compliance reviews have been completed when they have not, which could result in missed opportunities to correct casino noncompliance with required minimum internal controls. In addition, maintaining unreliable data in the Case Reporting System can result in staff reporting unreliable information to the Gaming Commission, Division management, and other stakeholders. For example, administrative actions tracked in the Case Reporting System are reported to and considered by the Gaming Commission as part of the casinos' licensing renewal process. Incorrect coding in the Case Reporting System has resulted in Division management not reporting some administrative actions to the Gaming Commission. During our review of data entered in Calendar Years 2008 through 2010, we identified five administrative

actions that were warning letters issued to casinos for noncompliance that the Division had omitted from four licensee background investigation reports provided to the Gaming Commission when it made the decision to renew the casinos' licenses. According to the Division, the omitted administrative actions would not have impacted the Gaming Commission's decision to renew the casinos' licenses. Nonetheless, the Gaming Commission should be fully informed of the casinos' regulatory history when making renewal decisions. Additionally, we found that in Fiscal Year 2010, the Division slightly overstated the number of compliance reviews it completed when it reported its regulatory activities to the Gaming Commission because of inaccurate and incomplete data we identified in the Case Reporting System. Providing accurate information on the Division's regulatory activities to the Gaming Commission is important because the Gaming Commission uses the information to hold the Division accountable and ensure it is meeting its oversight responsibilities.

Finally, due to the existence of multiple, overlapping databases and spreadsheets, Division staff must compare and verify information across the various systems, as well as enter the same information into multiple systems. For example, staff must check three systems to ensure that all administrative actions are reported to the Gaming Commission. Entering and searching for the same data in several databases is an inefficient use of staff time.

Recommendation No. 2:

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.

Division of Gaming Response:

Agree. 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.

Casino Monitoring and Enforcement

The Gaming Commission and Division are responsible for regulating the gaming industry in Colorado to ensure that gaming is conducted honestly, competitively, and in a manner that maintains public trust. To ensure the integrity of gaming in the state, according to statute (Section 12-47.1-302, C.R.S.), one of the Gaming Commission's duties is to establish internal control procedures for casinos, including accounting and reporting procedures and personnel policies. The Gaming Commission has delegated this duty to the Division, which has implemented a set of required minimum internal controls for casinos. In order to ensure that casinos have these controls in place, the Division conducts regular compliance reviews of the casinos. The Division also conducts revenue audits and external audit reviews to ensure that casinos are reporting their adjusted gross proceeds properly and paying their gaming taxes accurately. The Division's compliance reviews and audits are discussed further in Recommendation No. 3. The Division also conducts an annual review of casinos' compliance with the

requirements of the Payment Intercept Act, which is discussed in Recommendation No. 4. When the Division identifies problems during the reviews or audits, the Division and the Gaming Commission can sanction casinos based on the severity and frequency of the problem identified. The Division's sanctions, known as disciplinary and administrative actions, are discussed further in the final section of this report, Recommendation No. 5.

Compliance Review and Revenue Audit Coverage

The Division's Audit Section conducts compliance reviews periodically to ensure casinos have required minimum internal controls in place. Altogether, there are 60 different types of compliance reviews, grouped into nine review areas, that the Audit Section can conduct for casinos, as shown in the following table.

Division of Gaming Audit Section Compliance Reviews		
Review Area	Number of Review Types	Descriptions of Reviews
Accounting	16	Review a variety of accounting activities, forms, documentation, and controls related to revenue reporting and ensure adequate funds are on hand.
Automated Key Control System	8	Review controls at casinos that have an automated, electronic system to safeguard keys to restricted areas and ensure employee access to keys is appropriate.
Cage	7	Review the operation of the cage, which is where assets are collected, counted, and stored, to ensure proper counting of funds, validation of tickets, safeguarding of assets, and recordkeeping.
Kiosk Ticket Machines	6	Review the collection, handling, and counting of funds and tickets used in place of cash to play gaming machines from kiosks, which are machines that allow patrons to convert tickets to cash or vice-versa, and the transfer of those funds to the cashier.
Manual Key Control System	6	Review controls for casinos that have a manual, nonelectronic system to safeguard keys in restricted areas and ensure employee access to keys is appropriate.
Slot Machines	3	Review whether jackpots are processed correctly and variances between the amount of assets reported and the actual amount in the machine are properly investigated.
Slot Machine Drop and Count	7	Review the collection, handling, counting, and recording of revenue collected from slot machines and the transfer of those funds to the cashier.
Table Games	6	Review the collection, handling, and counting of revenue from table games, such as blackjack and poker, and the transfer of those funds to the cashier.
Miscellaneous	1	Ensure that any casino internal controls that vary from the minimum internal control requirements are necessary, have been approved by the Division, and have been properly implemented.
Total Number of Review Types	60	
Source: Office of the State Auditor's analysis of Division of Gaming policies and data on compliance reviews.		

Not all of the above compliance reviews are applicable at every casino. For example, the Audit Section does not perform reviews related to table games at casinos that do not have table games. In addition, certain compliance reviews related to casino accounting are considered higher risk than others. Specifically, the Division considers four of the 16 accounting compliance reviews to be particularly high risk. These four highest-risk accounting compliance reviews can take the place of a revenue audit, discussed below, if the Division does not have the resources available to perform a revenue audit. In Fiscal Year 2010, the Audit

Section's two field offices in Cripple Creek and Central City completed a total of 2,358 compliance reviews. Of these 2,358 reviews, 201 reviews (9 percent) identified problems with casino internal controls.

Revenue audits of casinos are conducted periodically by the Audit Section to determine whether the casinos have accurately reported revenue to the Division. During a revenue audit, Division staff review and analyze casino records and reports on adjusted gross proceeds to identify anomalies or inconsistencies that would indicate an error in reporting. Gaming taxes are calculated as a percentage of a casino's adjusted gross proceeds, so accurate reporting is critical to ensure casinos pay the appropriate amount in taxes to the State. During Fiscal Year 2010, the Audit Section completed 11 revenue audits—one each at 11 of the 41 casinos in operation during that year. The Audit Section also reviews the external audits of casinos—which are required for casinos with \$10 million or more in annual adjusted gross proceeds, although some casinos with less adjusted gross proceeds have them done as well—to determine whether the external auditors identified any issues or inaccuracies in the revenue casinos reported. In Fiscal Year 2010, the Division reviewed external audits for 27 casinos. This review of the external audits is intended to provide the Division with added assurance that the highest-grossing casinos are accurately reporting their revenue and proceeds; these reviews are not intended to take the place of the Division's revenue audits or compliance reviews of the four high-risk accounting areas, both of which include detailed procedures to verify a casino's accounting and recording of revenue.

When the Audit Section identifies a problem during a compliance review, revenue audit, or review of an external audit, the Division requires the casino to correct the problem and may issue the casino an administrative action, which is a corrective action issued for noncompliance, depending upon the cause and severity of the problem identified. Administrative actions are discussed further in Recommendation No. 5.

What audit work was performed and what was the purpose?

We reviewed the Audit Section's compliance review, revenue audit, and external audit review coverage by examining compliance review data for Fiscal Year 2010 from the Compliance Review Tracker Spreadsheets, discussed in Recommendation No. 2; reviewing the number of revenue audits conducted and the casinos at which they were conducted; and interviewing Division staff. Specifically, we compared the number of compliance reviews completed and the review areas covered at each casino with Division coverage goals and expectations. In addition, we reviewed data to determine the number of casinos that received either a revenue audit or the four highest-risk accounting compliance reviews in Fiscal Year 2010. Finally, we interviewed Division staff regarding the

Audit Section's process for scheduling and conducting compliance reviews and revenue audits. The purpose of our audit work was to determine whether the Division ensures adequate oversight and coverage of casinos through its compliance reviews and revenue audits.

How were the results of the audit work measured?

The Division is responsible for regulating casinos to ensure the integrity of gaming in Colorado. The Code of Colorado Regulations [Section 47.1-1608(1)(g), 1 C.C.R., 207-1], which codifies Gaming Commission rules, requires the Division to investigate casino compliance with minimum internal controls, as directed by the Division Director. The Division Director has delegated responsibility for conducting compliance reviews and revenue audits to the Audit Section. According to Division staff, the Audit Section's goals for Fiscal Year 2010 were to complete a total of 1,275 compliance reviews at casinos, as well as to complete either a revenue audit or the four highest-risk accounting compliance reviews at each casino annually. We measured the Audit Section's activities against the Audit Section's goals.

The Audit Section's strategic plan states that the section will "evaluate [the] results of compliance [reviews]...to determine the level of compliance and risk associated with the casino." Additionally, the plan specifies that the Audit Section will work with the other Division sections to ensure no duplication of efforts and that all high-risk review areas are adequately addressed. As a best practice, the Audit Section should utilize the results of its reviews to implement more frequent reviews at the casinos with recurring or significant noncompliance, such as noncompliance in the highest risk areas.

What problem did the audit work identify?

Overall, we found the Audit Section did not conduct compliance reviews and audits of some casinos necessary to ensure coverage of all internal control areas or gain assurance that all casinos were reporting revenue accurately. Specifically, we found:

- There were no casinos at which the Audit Section completed all applicable compliance reviews. In Fiscal Year 2010, the Audit Section completed more than 2,300 compliance reviews, exceeding the Audit Section goal of 1,275 reviews by about 85 percent, but did so without a centralized plan or schedule. We found that the Audit Section repeated compliance reviews of the same area at some casinos, without regard for risk, rather than performing each of the applicable compliance reviews at each casino. For example, the Audit Section performed 18 manual key control system compliance reviews at one casino in Fiscal Year 2010, repeating each of

the six compliance reviews three times. However, at the same casino, the Audit Section did not conduct 10 of the 15 applicable accounting compliance reviews in Fiscal Year 2010. According to the Division, some compliance reviews were repeated in order to train new staff. However, staff time may have been used more effectively by completing a full set of accounting compliance reviews before repeating the manual key control system compliance reviews.

- The Audit Section did not meet its goal of completing either a revenue audit or the four highest-risk accounting compliance reviews at every casino in Fiscal Year 2010. Specifically, 10 (24 percent) of the 41 casinos operating during Fiscal Year 2010 did not receive a revenue audit *or* compliance review of the highest-risk accounting areas by the Audit Section. According to the Division, five of these 10 casinos underwent an external audit of their financial statements, which may provide some additional assurance but does not take the place of a revenue audit *or* compliance review of the highest-risk accounting areas conducted by the Division.

Why did the problem occur?

The Audit Section did not schedule compliance reviews and revenue audits in a manner that would provide coverage. As a result, the Audit Section did not conduct compliance reviews and revenue audits necessary to ensure coverage of all internal control areas, including the high-risk areas, at some casinos. Additionally, the Audit Section did not meet its goal of completing a revenue audit or the four highest-risk accounting compliance reviews at each casino because it does not have a process to ensure it completes specific compliance review areas, revenue audits, and the highest-risk compliance reviews.

The Division should ensure the Audit Section is using its resources efficiently and completing the reviews and audits needed to meet its regulatory oversight duties. Based on our evaluation, we believe the Audit Section currently has the ability to complete all applicable compliance reviews, including the high-risk reviews, at each casino annually. The Audit Section was able to complete 2,358 compliance reviews in Fiscal Year 2010, almost double its goal of 1,275 compliance reviews, and 528 more compliance reviews than if it had completed one of each compliance review at each casino. However, if the Division Director and Audit Section determine that staff resources are not sufficient to complete all applicable compliance reviews at each casino in addition to a revenue audit or the four highest-risk accounting compliance reviews, the Audit Section should develop a risk-based approach to completing its compliance reviews. The Audit Section should also develop a risk-based approach if staff are available to repeat compliance reviews that have already been completed.

One factor that the Audit Section could consider in a risk-based approach is the number of past problems identified in each compliance review area. The table below shows our analysis of the Audit Section's Fiscal Year 2010 compliance reviews and the problems identified.

Division of Gaming Audit Section Compliance Reviews Completed and Problems Identified by Review Area Fiscal Year 2010				
Review Area	Number of Reviews Completed	Percentage of Total Reviews Completed	Number of Reviews With Identified Problems	Percentage of Total Reviews With Identified Problems
Accounting	357	15%	83	41%
Slot Machine Drop and Count	333	14	30	15
Cage	600	25	28	14
Automated Key Control System	255	11	20	10
Manual Key Control System	347	15	15	7
Table Games	206	9	13	6
Kiosk Ticket Machines	210	9	11	6
Slot Machines	22	1	1	1
Miscellaneous	28	1	0	0
Total	2,358	100%	201	100%

Source: Office of the State Auditor's analysis of Division of Gaming compliance review data.

Based on the numbers above, in Fiscal Year 2010 the Audit Section conducted proportionately too few reviews in the accounting area based on the number of problems it had identified. About 41 percent of the total problems the Audit Section identified were in the accounting area, but only 15 percent of the compliance reviews completed by the section were in the accounting area. If the Audit Section implemented a risk-based approach to conducting compliance reviews that accounted for the number of past problems identified, the Audit Section would need to increase the number of accounting compliance reviews it conducts for the next year.

Why does this problem matter?

It is important that the Division implement a process for planning, scheduling, and conducting compliance reviews and revenue audits that ensures casinos have adequate internal controls in place to accurately report revenue and pay gaming taxes and utilizes Division resources efficiently. According to the Division, in

July 2011 the Audit Section established goals for reviewing high-risk areas and conducting revenue audits in Fiscal Year 2012. The Audit Section should communicate its goals to Audit Section staff and incorporate the goals into the Audit Section's annual workplans. If the Division is able to complete a revenue audit or the four highest-risk accounting compliance reviews annually at each casino, it will gain further assurance that casinos are accurately reporting their adjusted gross proceeds and paying gaming taxes. We found that seven of the 11 revenue audits that the Audit Section completed in Fiscal Year 2010 had findings related to casinos' recording of adjusted gross proceeds. These types of problems can result in casinos paying the incorrect amount of gaming taxes to the State. In fact, one of the 11 revenue audits completed in Fiscal Year 2010 resulted in a gaming tax adjustment. Therefore, there is a risk that casinos that did not receive a revenue audit could have similar problems that have not been identified and corrected.

Further, if the Division determines that it cannot complete all applicable compliance reviews at each casino, a risk-based method is important in ensuring that the areas with the most problems are corrected. Our analysis of the Fiscal Year 2010 compliance reviews demonstrates that it is likely that more problems would have been corrected if the Audit Section had completed more accounting compliance reviews, because the rate of problems found in the accounting compliance reviews was higher than the other compliance review areas. A risk-based approach is also the most effective use of limited staff resources, because it allows staff to focus on the areas in which the most problems are likely to be found.

Recommendation No. 3:

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.

Division of Gaming Response:

- a. Agree. 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. Agree. 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. Agree. 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.

Enforcement of the Gambling Payment Intercept Act

In accordance with statute (Section 26-13-114, C.R.S.), the Department of Human Services maintains a database of Colorado residents who are delinquent in paying child support and the amount they owe. On July 1, 2008, the Payment Intercept Act (Section 24-35-601, et seq., C.R.S.) began requiring casinos to search the database of persons owing child support payments in Colorado prior to issuing a W-2G tax form (W-2G) to casino patrons. A W-2G is an Internal Revenue Service tax form that is issued to casino patrons who win slot machine jackpots of \$1,200 or more, certain poker jackpots of \$600 or more, or poker tournament prizes above \$5,000. The casinos must attempt to search the database before paying such jackpots or prizes to the winner. If the winner is listed in the child support database, the casino is required to withhold from the prize or jackpot the amount of child support owed and transfer it to the Department of Human Services so the funds can be applied toward the individual's outstanding child support balance. If the amount intercepted by the casino is less than the cash prize, the remainder is paid to the winner. According to our analysis, in Calendar Year 2010 casinos completed searches on about 111,000 W-2G recipients, which resulted in about \$312,000 intercepted from 194 individuals who were delinquent in paying child support.

The Payment Intercept Act grants the Department of Revenue, which oversees the Division of Gaming, with rulemaking authority for implementing the Payment Intercept Act. The Payment Intercept Act also requires the Department to create and maintain the automated system that casinos use to search the child support database, or contract with another entity to do so. The Department has contracted with a private entity to serve as the system operator for the Gambling Payment Intercept system. For each W-2G issued, casinos must either search the Gambling Payment Intercept system or document the reason that a search could not be performed, such as a system outage. The Department has established a rule (1 C.C.R., 210-1-05) requiring casinos to maintain a log of W-2Gs issued when the casinos cannot access the Gambling Payment Intercept system due to no fault of their own. We refer to these logs as "outage logs."

The Division of Gaming, as the licensing authority for casinos, has statutory authority to sanction casinos that do not comply with the Payment Intercept Act. As a result, the Division has developed a process to annually monitor casino compliance with the requirements set forth in the Payment Intercept Act. Specifically, at the end of each calendar year the Division determines the number of W-2Gs issued to prize winners by each casino, including the W-2Gs issued during a system outage, to calculate the number of searches a casino should have performed. The Division then compares the aggregate number of W-2Gs issued

by each casino against the aggregate number of searches of the child support database the casino performed, obtained from data reports from the Gambling Payment Intercept system that casinos use to query the child support database. Using the aggregate W-2G and search data, the Division calculates the percentage of prize winners each casino searched in the child support database to generate a compliance rate for each casino. In general, the percentage of searches completed by a casino is the compliance rate. In Calendar Year 2010, the Division-calculated compliance rates for casinos ranged from 88 percent to 103 percent. As discussed later, under the Division's calculation method, compliance rates can exceed 100 percent because casinos may search an individual more than once or casino employees may use incorrect system logins. The Division has the authority to issue disciplinary or administrative actions based on casino noncompliance with the Payment Intercept Act.

What audit work was performed and what was the purpose?

We evaluated the Division's procedures for monitoring casino compliance with the Payment Intercept Act by evaluating the Division's benchmark for the acceptable level of noncompliance and method for calculating the compliance rates of casinos. Specifically, we selected a nonstatistical sample of three of the seven casinos that had voluntarily submitted electronic W-2G records to the Department of Revenue; the Department does not have electronic W-2G records for the other 34 casinos because those casinos either submitted hard copy W-2G records or did not submit W-2G records. Casinos are not required to provide these records to the Department. We reviewed the W-2G records for Calendar Year 2010 for the three casinos and compared them to data on searches of the Gambling Payment Intercept system, which we obtained from the system operator, to identify the W-2Gs that the casinos had successfully searched and those that had not been searched. From this comparison, we calculated a compliance rate for each of the three sampled casinos. We compared the results of our analysis to the results of the Payment Intercept Act reviews conducted by the Division for the three sampled casinos for Calendar Year 2010 to determine the reliability and accuracy of the Division's method for assessing casino compliance. Finally, we interviewed Division staff and reviewed Division guidance provided to casinos through rules, required minimum internal controls, and casino compliance review letters to determine whether the Division provided sufficient guidance on how to implement the Payment Intercept Act.

How were the results of the audit work measured?

- **Statutory Compliance Benchmark.** As discussed previously, statute (Section 24-35-605, C.R.S.) requires casinos to attempt to search the child support database every time they issue a winning patron a W-2G.

However, due to system outages, the casinos are not always able to successfully search the child support database. In instances in which the casino is unable to receive information from the child support database after attempting to search the Gambling Payment Intercept system, the Payment Intercept Act [Section 24-35-605(2)(a), C.R.S.] permits casinos to pay the patron his or her winnings. Although statute allows a casino to pay winners when the casino is unable to obtain information from the Gambling Payment Intercept system, statute does not allow casinos to pay winners for simply failing to attempt a search.

- **Method for Assessing Casino Compliance.** According to statute [Section 24-35-606(1), C.R.S.], “a licensee that fails to comply with the provisions of [the Payment Intercept Act] shall be subject to sanctions by [the Division].” Therefore, the Division is responsible for developing adequate procedures for monitoring casino compliance with the Payment Intercept Act and sanctioning casinos for noncompliance.

What problem did the audit work identify?

Overall, we found that the Division’s method for assessing casino compliance with the Payment Intercept Act is unreliable and does not provide casinos timely feedback on identified noncompliance issues. These problems are discussed below.

- **Inaccurate Determination of Casino Compliance.** Overall, we found that the Division had overestimated the rate of casino compliance for each of the three sampled casinos. For example, for one casino the Division calculated a compliance rate of 102 percent, while our analysis showed a compliance rate of 98 percent. This difference means the Division believed the casinos were in compliance with the Payment Intercept Act slightly more often than the casinos actually were. We also found that two of the sampled casinos had not searched 18 winning patrons in the Gambling Payment Intercept system in Calendar Year 2010. We searched the Gambling Payment Intercept system for these 18 patrons and found that none were in the database, meaning that none of these individuals owed child support. For Calendar Year 2010, the Division calculated an overall compliance rate for all casinos of about 99 percent; however, based on the results of our match for the three sampled casinos and the deficiencies we identified in the Division’s method for determining compliance, this figure appears to be overstated. The overestimate may be a result of the Division’s method of comparing aggregate data and combining compliance rates for casinos that share employees, which we discuss later.

- **Untimely Review.** We found that the Division's current review to determine casino compliance with the Payment Intercept Act is time-consuming and does not provide timely feedback to casinos. Division staff collect electronic W-2G data and Gambling Payment Intercept system search data for all casinos for the entire previous year, which are large data sets for Division staff to analyze. Additionally, Division staff conduct the review and provide feedback to the casinos about their compliance after the end of each calendar year, so problems may not be addressed until well after the noncompliance has occurred.

Why did the problem occur?

- **Unreliable Method for Assessing Casino Compliance.** We found that the aggregation method used by the Division to determine casino compliance is not precise and does not render accurate results. As discussed previously, the Division determines compliance by comparing the aggregated number of W-2Gs issued by a casino to the aggregated number of searches performed by that casino. This aggregated matching method does not provide the Division an accurate compliance rate, nor does it allow the Division to determine the precise reasons why casinos do not conduct searches of the Gambling Payment Intercept system. For example, the Division's method can result in inflated casino compliance rates because the method does not account for instances when casinos perform multiple searches for the same patron, either by mistake or because the patron has a hyphenated name. For example, if a casino conducts two Gambling Payment Intercept system searches of one patron and chooses not to search the database for a second patron, the Division would still count the two searches as having been conducted for different patrons and calculate the casino's compliance rate at 100 percent. Likewise, if the Division reviewed a casino that issued 15 W-2Gs and conducted 15 system searches, under the Division's current method it would conclude that the casino performed all of the required Payment Intercept Act searches; however, the casino could have performed 15 searches on the same patron and the Division would not identify the casino's noncompliance.

In addition, the Division's method does not accurately account for casino employees who use the incorrect casino login when searching the Gambling Payment Intercept system. According to the Division, an employee who works at two casinos has two different logins to conduct searches and can accidentally use the wrong login when performing searches. An incorrect login results in one casino's compliance rate being overstated by one search and another casino's compliance rate being understated by one search. The Division currently accounts for casino

employees who use incorrect logins by aggregating all W-2Gs and system searches for the casinos that share employees and calculating a combined compliance rate for these casinos. However, this method does not allow the Division to determine a compliance rate for each casino individually. During the Division's Calendar Year 2010 review, 13 casinos had a compliance rate greater than 100 percent, which appears to be partly the result of casinos conducting multiple searches for a single patron or casino employees using incorrect logins.

Lastly, the Division's compliance calculation does not account for instances in which the Gambling Payment Intercept system is inaccessible due to a system outage. As a result, the Division can calculate compliance rates for some casinos lower than they actually are. For example, a casino that issued 100 W-2Gs to 100 winners should search the Gambling Payment Intercept system 100 times, unless there was a system outage at the time the casino performed a search. If the casino did not search five winners because of system outages, which is allowable under statute, the casino's compliance rate is still 100 percent. Under the Division's compliance review method, the Division would calculate an incorrect compliance rate of 95 percent for the casino.

The most reliable and precise method for determining casino compliance with the Payment Intercept Act is performing a detailed electronic match of all W-2Gs issued to winners with the names of the individuals who were searched by casinos for a set period of time. Currently, only some casinos have electronic W-2G data. The Division should implement this type of detailed electronic match of casinos with electronic data on a risk basis, through random sampling, or both if it has the resources available. The Division should also explore ways to obtain electronic data from casinos that do not currently provide it. Audit Command Language (ACL) software is one tool that can be used to perform the electronic match quickly and efficiently. The Division should utilize ACL or comparable software to perform the detailed electronic matches of W-2G and search data. The Division should also incorporate its Payment Intercept Act review into its standard compliance reviews. If the Division has limited staff resources, it should perform the reviews on a periodic basis, looking at shorter periods of time and smaller amounts of data. Incorporating the Payment Intercept Act review into ongoing compliance reviews would allow the Division to use its resources more efficiently by reducing the amount of data necessary for staff to review; provide the casinos with more regular, timely feedback on compliance with the Payment Intercept Act; and still provide the Division a more reliable method for determining casino compliance than is currently in place.

- **Untimely Review.** The Division's current review schedule does not provide timely feedback to casinos because the Division reviews compliance with the Payment Intercept Act at the end of each year, not periodically throughout the year as it does with other compliance reviews. The Division's review method is also time-consuming for staff who perform the review because the staff assess compliance for each casino using a full year of W-2G and search data. According to the Division, it began conducting its review of casino compliance with the Payment Intercept Act for Calendar Year 2009 when the Gaming Commission expressed interest in the amount of funds that casinos had intercepted through searches of the Gambling Payment Intercept system. However, the Division did not initially consider itself responsible for reviewing casino compliance of the Payment Intercept Act because it did not believe it was an area of Division responsibility. As a result, the Division has not yet developed a timely or efficient process for assessing casino compliance with the Payment Intercept Act.
- **Insufficient Guidance.** The Division has not provided adequate guidance to casinos on how they should implement the Payment Intercept Act. Instead, the Division has provided guidance on an ad hoc basis as part of its annual review, such as directing casinos to establish internal review procedures to verify that all W-2Gs were searched. We also found that the rules promulgated by the Department (1 C.C.R., 210) are broad and do not provide casinos specific guidance for implementing the internal controls needed to comply with the Gambling Payment Intercept Act. Although the Division is responsible for ensuring casinos comply with the Payment Intercept Act, it has not formalized its expectations for how casinos should implement the Payment Intercept Act's requirements through required minimum internal controls, such as requiring casinos to have procedures in place to ensure casino employees use the correct login. Additionally, the Division has not developed policies and procedures for issuing administrative actions when casinos do not comply with the Payment Intercept Act. Although the operator of the Gambling Payment Intercept system has provided casinos training on the Payment Intercept Act, casinos reported that written guidance and clear minimum internal controls outlining the requirements of the Payment Intercept Act would be useful.

Why does this problem matter?

Because the Division does not have an accurate and precise method for determining casinos' compliance with the Payment Intercept Act, it cannot reliably identify the casinos that do not adequately perform the statutorily required child support database searches, determine the precise reasons why

casinos do not perform adequate searches, or take appropriate enforcement action to ensure compliance. As noted above, we searched the Gambling Payment Intercept system for the 18 patrons we identified through our review of searches at two casinos. Although we did not find that any of these patrons were in the Gambling Payment Intercept system, there is a risk that casinos are not identifying winning patrons who owe outstanding child support and that their child support debts will not be collected, as required by statute.

Finally, additional debts beyond unpaid child support have been recently added to the Payment Intercept Act. Effective July 1, 2011, unpaid criminal restitution debt is part of the Gambling Payment Intercept system. In addition, during the 2011 Legislative Session, the General Assembly passed and the Governor signed Senate Bill 11-051, adding any unpaid debt due to the State to the Payment Intercept Act. Therefore, if the Division does not implement procedures to ensure casinos fully comply with the new requirements in the Payment Intercept Act, the State and individuals may not receive money owed to them.

Recommendation No. 4:

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.

Division of Gaming Response:

Partially agree. 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.
-

Progressive Enforcement with Administrative Actions

The Division and Gaming Commission have developed a system of corrective actions to enforce the Gaming Act, gaming regulations, and required minimum internal controls. The Division’s corrective actions are progressive, meaning that the severity of action increases with repetitive and ongoing violations. The Division has two levels of corrective actions, administrative and disciplinary. Administrative actions are imposed for less serious violations of gaming laws and regulations, including violations identified during compliance reviews. Disciplinary actions are imposed for more serious instances of licensee noncompliance, such as having revoked software on slot machines, and carry the possibility of license suspension or revocation. This section focuses specifically on the Division’s process for issuing administrative actions resulting from compliance reviews, because those reviews and actions are the primary method used by the Division to identify and address casino noncompliance with gaming rules and regulations. The types of administrative actions imposed by the Division are explained in the table below in order of severity.

Division of Gaming Administrative Actions		
Administrative Action	Explanations of Actions	Level of Division Approval Required
Verbal Warning	Verbal notice given to the licensee for minor violations	Staff issue without approval
Warning Letter	Written notice of violations given to the licensee and requires the licensee’s response	Manager
Assurance of Voluntary Compliance	Licensee must sign a written pledge that it will not commit future violations	Division Director
Source: Office of the State Auditor’s summary of the Limited Gaming Act of 1991, Division of Gaming policies, and staff interviews.		

What audit work was performed and what was the purpose?

Audit work focused on Division compliance reviews and resulting administrative actions because they are the primary means used by the Division to assess and enforce casino compliance with gaming rules, regulations, and minimum internal controls. We reviewed the Division’s compliance review and administrative action data and selected a judgmental sample of 14 casinos for which the Division

had identified issues of noncompliance during a total of 26 compliance reviews conducted between July 2007 and December 2010. We selected 13 of the casinos to provide adequate coverage of both Division field offices in Cripple Creek and Central City, and selected one casino that the Division had reported as having a history of noncompliance and administrative actions. We sought to determine whether the Division had progressively issued administrative actions against the sampled casinos for repeated noncompliance violations identified by Division compliance reviews. Additionally, we reviewed the compliance reviews on file for each of the sampled casinos for which the Division identified casino noncompliance, but had not issued an administrative action to determine whether an administrative action would have been appropriate. Because disciplinary actions typically do not arise from compliance reviews, our audit work did not review disciplinary actions issued by the Division.

How were the results of the audit work measured?

According to the Gaming Act (Section 12-47.1-202, C.R.S.), the function of the Division is to license, implement, regulate, and supervise the conduct of gaming in Colorado. According to Division staff and management, the Division's enforcement process typically begins with a verbal warning, followed by a warning letter, and then an assurance of voluntary compliance, if the same violation is identified at a subsequent compliance review. However, because there are no written rules or policies on the Division's progressive enforcement process, we looked broadly at the Division's responsibility for overseeing licensees to ensure compliance with statute and regulations, with enforcement actions being a fundamental component of the Division's oversight duties.

What problem did the audit work identify?

We found that the Division has not consistently issued administrative actions in a progressive manner. Specifically, for the 14 sampled casinos, we identified eight (31 percent) out of the 26 compliance reviews from July 2007 through December 2010 in which either the Division had not issued an administrative action when it identified a violation, or the administrative action issued was not progressive. Specifically, we found:

- **Lack of Any Administrative Action.** In four (15 percent) out of the 26 compliance reviews, the Division identified four casinos with noncompliance in multiple areas of required minimum internal controls and recurring violations but did not issue an administrative action. For example, in one compliance review, Division staff documented violations in all five areas of a casino's surveillance system but did not issue the casino an administrative action. According to the Division's progressive

system, staff should have issued an administrative action for these multiple violations.

- **Lack of Progressive Administrative Action.** In four (15 percent) out of the 26 compliance reviews, the Division documented repeated and ongoing violations of the required minimum internal controls at four casinos, yet the Division issued repeated verbal warnings, the lowest level of administrative action. For example, in one compliance review, Division staff documented a violation involving storage of supplies related to table games, a violation that had been noted during two previous compliance reviews and for which two verbal warnings had been issued. Based on the Division's progressive system, staff should have issued an escalated administrative action such as a warning letter.

Why did the problem occur?

We found that the Division does not always issue administrative actions progressively, or in some cases at all, because it has not provided adequate guidance to staff on the circumstances under which an administrative action should be issued, nor has it established written policies or procedures to guide staff on the application of progressive administrative actions. The Division's existing enforcement policies are limited to procedures concerning how staff should draft and issue administrative actions to casinos and which managers should review the administrative actions. With the lack of written policies, procedures, and guidance, the Division relies on staff discretion to determine whether an administrative action is warranted, resulting in inconsistencies. Although the Division has a supervisory review process in place to examine the results of the compliance review, the process is not designed to determine whether the administrative actions are issued progressively or consistently.

With the Division identifying some kind of violation in about 340 compliance reviews among the 41 casinos in Fiscal Year 2010, a system of enforcement that is progressive and applied consistently should improve casino compliance with the State's gaming laws, regulations, and required minimum internal controls.

Why does this problem matter?

By not consistently issuing administrative actions in a progressive manner or issuing actions at all, the Division has allowed some casinos to repeat violations and not fully implement required minimum controls. For example, two casinos were issued three consecutive verbal warnings for the same violations of the required minimum internal controls when the Division should have issued the casinos at least a warning letter. Specifically, both casinos had repeated violations related to the inventory of items, such as decks of cards and dice, kept in the

gaming area, which can increase the risk of unfair or fraudulent play. Additionally, when the Division does not issue administrative actions consistently when it identifies violations of the gaming rules and required minimum internal controls, inconsistent enforcement could result in casinos' not adequately addressing noncompliance issues identified and the Division's treating casinos inequitably.

Recommendation No. 5:

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.

Division of Gaming Response:

Agree. 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.
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The electronic version of this report is available on the website of the
Office of the State Auditor
www.state.co.us/auditor

A bound report may be obtained by calling the
Office of the State Auditor
303.869.2800

Please refer to the Report Control Number below when requesting this report.

Report Control Number 2149

Report Control Number 2149

Appendix C

Colorado Limited Gaming Historical Expenditures

Expenditures:	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
Salaries and Benefits	\$ 4,553,534	\$ 4,709,659	\$ 5,410,664	\$ 6,363,941	\$ 6,595,537	\$ 6,637,933	\$ 6,691,729	\$ 6,955,606	\$ 7,274,588	\$ 7,420,875
Annual and Sick Leave Payouts	-	-	-	-	-	-	-	-	-	68,820
Professional Services	99,230	67,504	65,713	70,867	46,782	57,583	127,273	102,362	168,294	174,209
Travel	-	-	-	-	-	-	-	-	-	50,966
Automobiles	-	-	-	-	-	-	-	-	-	171,755
Travel and Automobiles	163,058	177,813	198,977	218,866	164,466	169,717	223,141	223,927	242,871	-
Printing	-	-	-	-	-	-	-	-	-	20,022
Police Supplies	-	-	-	-	-	-	-	-	-	22,119
Computer Services & Name Services	91,491	111,959	106,446	136,022	129,776	112,194	114,991	120,952	114,711	81,292
Materials, Supplies, and Services	340,719	243,225	298,246	327,313	286,606	414,321	257,948	359,953	375,087	240,075
Postage	-	-	-	-	-	-	-	-	-	7,519
Telephone	37,686	54,529	60,561	70,241	73,205	110,994	92,767	106,670	123,234	44,602
Utilities	-	-	-	-	-	-	-	-	-	25,235
Other Operating Expenditures	50,540	66,509	46,186	57,528	48,449	104,866	67,423	102,549	536,580	473,210
Leased Space	54,384	144,646	147,896	158,074	150,478	194,512	268,380	265,087	283,345	289,366
Capital Outlay	-	18,880	58,318	41,385	836,179	25,449	82,135	23,205	-	141,920
Expenditures Sub Total	5,390,642	5,594,724	6,393,007	7,444,237	8,331,478	7,827,569	7,925,787	8,260,311	9,118,710	9,231,985
State Agency Services										
Colorado Bureau of Investigations	709,446	689,447	708,104	691,464	755,373	694,656	804,838	838,268	795,159	752,072
Fire Prevention and Control	152,579	154,445	170,987	148,302	181,797	167,421	175,044	177,247	189,373	193,276
Colorado State Patrol	1,530,104	1,528,892	2,120,652	2,039,646	2,105,317	2,326,121	2,319,762	2,400,400	2,731,841	2,696,126
State Auditors	30,510	31,431	32,220	32,550	31,775	31,698	32,860	32,773	32,676	33,498
Indirect Costs - Department of Revenue	722,708	818,034	553,509	579,221	610,868	711,203	685,832	814,123	665,654	687,852
Local Affairs	121,411	126,764	134,444	147,678	158,094	151,516	158,103	153,939	156,633	165,789
Colorado Department of Law	-	-	141,349	139,915	132,878	147,873	167,795	149,508	164,607	192,586
Colorado Department of Regulatory Agencies	-	-	-	-	-	-	6,517	4,914	-	-
State Agency Services Sub Total	3,266,758	3,349,013	3,861,265	3,778,776	3,976,102	4,230,488	4,350,751	4,571,172	4,735,943	4,721,199
Background Expenditures	44,033	69,233	64,177	28,712	64,961	39,040	28,524	41,235	22,532	28,541
Total Expenditures	8,701,433	9,012,970	10,318,449	11,251,725	12,372,541	12,097,097	12,305,062	12,872,718	13,877,185	13,981,725

*Source: Audited Financial Statement for Colorado Gaming.

FY 2014-15 are unaudited totals as the audit has not yet been completed.

Colorado Road and Community Safety Act (CO-RCSA SB251)

C.R.S. 42-2-501-510

Driver's License & Identification Cards for Colorado residents who cannot demonstrate lawful presence in the U.S. and individuals who can demonstrate temporary lawful presence in the U.S.

Are you able to demonstrate lawful presence in the U.S.?



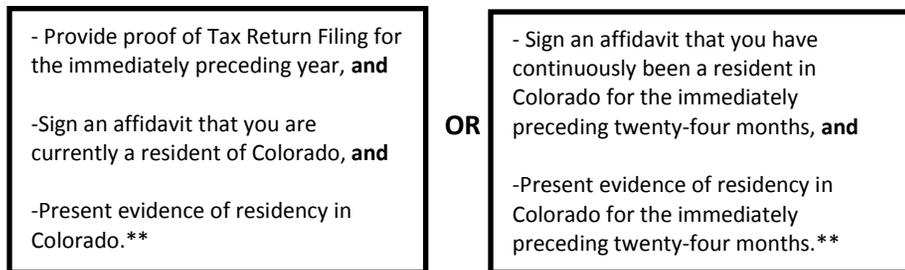
Applications will be accepted by appointment only at the following driver license offices:

- Denver Central – 1865 W. Mississippi Ave., #C, Denver
- Grand Junction - 222 S. 6th St., #111, Grand Junction
- Colorado Springs - 2447 N. Union Blvd., Colorado Springs

To make an appointment, go to www.colorado.gov/dmv or call 303-205-2335.

All applicants must demonstrate Colorado residency in one of the following two ways:

C.R.S 42-2-505



All applicants must also:

- Provide documents that prove Name, Age, and Identity.**
- Provide documentation of an Individual Taxpayer Identification Number (ITIN) issued by the United States Internal Revenue Service assigned to applicant.
- Sign an affidavit that the applicant has applied or will apply as soon as the applicant is eligible for lawful presence within the U.S.
- Present one of the following documents from the applicant's country of origin:
 - Passport
 - Consular ID Card
 - Military Identification Document

Are you able to demonstrate temporary lawful presence?



All applicants must demonstrate the following (C.R.S. 42-2-506):

1. Provide documents that demonstrate the applicant's temporary lawful presence.*
For a list of applicable documents: C.R.S 42-2-503(3)
2. Applicant's status will be verified by the DMV through the Systematic Alien Verification for Entitlements (SAVE).
3. Present evidence of residency in Colorado.**
4. Provide documents that prove Name, Age, and Identity.**
5. An appointment is not required for a renewal, written test, application and review of documents, ID card or instruction permit. However, you will need to make an appointment for a driving test. You can make an appointment (use blue boxes) at colorado.gov/dmv at the offices that have scheduling capabilities or call 303-205-5901 to schedule a driving test.

* www.epic.org/privacy/id_cards/real_id_act.pdf

Public Law 109-13, Division B, Title II, Sec. 202 (c)(2)(C)

** <https://www.colorado.gov/pacific/dmv/general-information-1>

Colorado Residency, Name, Age & Identity Information

Questions: Go to Colorado.gov/dmv or call 303-205-2335.



COLORADO
Department of Revenue

Appendix E



Colorado Road and Community Safety Act (CO-RCSA SB251)

C.R.S 42-2-501-510

Driver License and Identification Cards for residents who cannot demonstrate lawful presence in the U.S. and individuals who can demonstrate temporary lawful presence in the U.S.

General Information

- The Act was signed into law in June 2013.
- The law authorizes the issuance of a Colorado driver license, instruction permit, or identification card to those individuals who either cannot demonstrate lawful presence in the U.S. or can only demonstrate temporary lawful presence in the U.S.

Requirements of the Law

For Applicants who can demonstrate temporary lawful presence:

- Must provide documents that demonstrate temporary lawful presence.
- Must have temporary lawful presence verified through the Systematic Alien Verification for Entitlements (SAVE).
- Must prove Name, Age, Identity and Colorado Residency.

For Applicants who cannot demonstrate lawful presence:

- Must sign an affidavit that the applicant is currently a resident of Colorado **AND** provide proof of a Colorado Tax Return Filing for the immediately preceding year **AND** present evidence of residency in Colorado.
OR
Must sign an affidavit that the applicant has been continuously a resident of Colorado for the immediately preceding twenty four months **AND** present evidence of residency in Colorado for the immediately preceding twenty-four months.
- Must provide an Individual Taxpayer Identification Number (ITIN) that is issued by the United States Internal Revenue Service (IRS).
- Must sign an affidavit that the applicant has applied or will apply as soon as the applicant is eligible for lawful presence within the U.S.
- Must show, from their country of origin, a valid:
 - Passport **or**
 - Consular identification card **or**
 - Military identification document.
- All documents must have the applicant's:
 - Full name
 - Date of birth
 - Date of issuance
 - Country of issuance
 - Applicant's photograph
- All documents presented must be in English or translated into English at the cost of the applicant.
- The translation must be done by a translator who has an unexpired driver license or identification card and affirms their translation

Offices & Appointments

For those unable to demonstrate lawful presence:

Applications will be accepted by **appointment only** at the following driver license offices:

- Denver Central – 1865 W. Mississippi Ave., #C, Denver
- Grand Junction - 222 S. 6th St., #111, Grand Junction
- Colorado Springs - 2447 N. Union Blvd., Colorado Springs

To make an appointment, go to www.colorado.gov/dmv or call 303-205-2335.

For those able to demonstrate temporary lawful presence:

Applications will be accepted at any state driver license office. No appointment is necessary for a renewal, written test, application and review of documents or instruction permit. However, you will need to make an appointment for a driving test. You can make an appointment (use blue boxes) via our appointment scheduling website at the offices that have scheduling capabilities or call 303-205-5901 to schedule a driving test.

Period of Validity

- Document is valid for three (3) years.

Implementation Date

- August 1, 2014

Questions

- Please go to www.colorado.gov/dmv.

Appendix F: Colorado Liquor Taxes and Fees, and Tobacco Taxes and Fees 10 Year History

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Alcohol										
State License Fees	\$2,859,654	\$3,202,963	\$3,092,183	\$2,946,077	\$2,990,074	\$3,107,054	\$3,204,467	\$3,611,266	\$3,945,792	\$3,615,371
Total Net Alcoholic Beverage Excise Taxes	\$34,109,583	\$34,368,746	\$34,901,833	\$36,829,874	\$36,349,026	\$37,132,462	\$38,862,600	\$40,137,973	\$40,868,763	\$41,836,922
Tobacco										
Tobacco Tax Collections, State Share Collections	\$32,843,373	\$32,449,749	\$30,915,717	\$29,933,807	\$27,900,232	\$26,739,550	\$27,573,656	\$26,086,660	\$25,487,357	\$25,497,022
Tobacco Products Net Tax Collections	\$23,075,379	\$25,573,503	\$24,831,455	\$27,971,310	\$28,200,649	\$29,165,873	\$30,591,878	\$31,558,236	\$33,663,977	\$35,451,135

Colorado Department of Revenue Joint Budget Committee Hearing 2016 - 2017

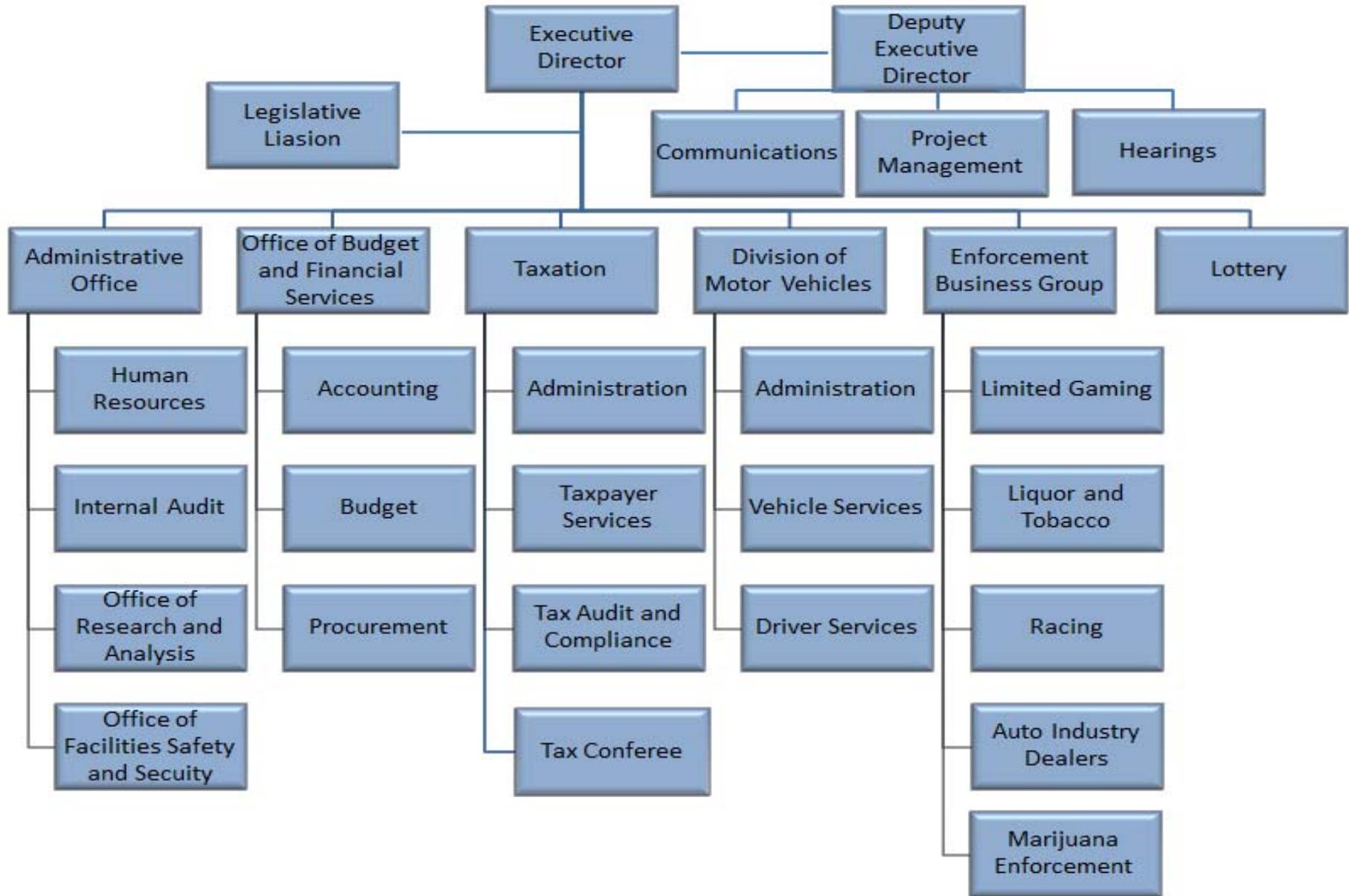
December 15, 2015



Agenda

- ▶ Introduction and Opening Comments
 - Discussion of Department's most significant budget priorities
 - Topics of Interest and Project Updates
 - Long-term Budgetary Issues
- ▶ Address Questions from JBC

DOR Organization Chart



Discussion of Most Significant Budget Priorities

- ▶ R-1 Division of Motor Vehicles (DMV) Funding Deficit
- ▶ R-2 Tax Fraud Prevention of Earned Income Tax Credit (EITC)
- ▶ R-3 Postage Fund-Mix Adjustment
Budget Neutral
- ▶ R-4 Long Bill Alignment
Budget Neutral

R-1 DMV Funding Deficit

Financial Components

- \$3.2 million Off-the-Top HUTF spending authority for DMV Personal Services
 - With an offsetting reduction of \$3.2 million in Personal Services spending authority in the LSCF; and
 - An increase in spending authority of \$836,501 to the Driver's License Document line item in the LSCF
- Recommended by the Governor's Office of State Planning and Budgeting in support of their statewide fiscal balancing strategy

R-1 DMV Funding Deficit

Legislative Components

- Allows for an off-the-top HUTF appropriation for the Department of Revenue (DOR)
- Specifies that the DOR off-the-top appropriation be included in the 6 percent year-over-year growth calculation in HUTF
- Eliminates the annual year-end sweep of fund balance that is in excess of 16.5 percent from the LSCF to the HUTF
- Seeks an exemption of the 16.5 percent cash fund balance to allow DMV to mitigate the impact of annual revenue fluctuations while maintaining consistent levels of service

R-1 DMV Funding Deficit

- FY 2015–16 DMV Fee Increases as authorized by S.B. 14–194
- Fees increased by an average of 16.5 percent
 - Fee increases capped by the lower of:
 - 20% increase or
 - Cost to provide the service
- Fee increases limited to 5 percent in future years
- Projected revenue increase ~\$2.3 million
- Fee revenue remains inadequate to fully support the Long Bill appropriation



R-1 DMV Funding Deficit

Current fees do not fully recover the cost to provide the services.

Fee Description	Cost to Provide	Current Fee
Driver's License	\$ 27.88	\$ 25.00
Identification Card	\$ 11.52	\$ 11.50
Driving Permit	\$ 26.95	\$ 16.80
Duplicate License or Permit	\$ 12.33	\$ 9.00
Driver's License Extension	\$ 6.51	\$ 3.60
Commercial Driving Permit	\$101.72	\$ 16.80
Driving Record	\$ 17.37	\$ 2.60
Certified Driving Record	\$ 21.72	\$ 3.20
Road Test – Retest ¹	\$ 60.21	\$ 15.00
Written Test – Retest ¹	\$ 11.16	\$ 11.15
Return of Driver's License	\$ 12.33	\$ 6.00
Surrendered License Replacement	\$ 12.33	\$ 6.00
Commercial Driver's License	\$ 15.51	\$ 15.50
CDL Drive Test	\$ 353.50	\$ 120.00
CDL Testing Unit License (Initial)	\$ 3,093.17	\$ 360.00
CDL Testing Unit License (Renewal)	\$ 1,051.49	\$ 120.00
CDL Tester License (Initial)	\$ 147.29	\$ 120.00
CDL Tester License (Renewal)	\$ 139.11	\$ 60.00

¹Per statute, retest fee is not to exceed \$15.00

The SB 14-194 fee increase in 2015 was capped at cost to provide or 20%. The average fee increase was 16.5%.

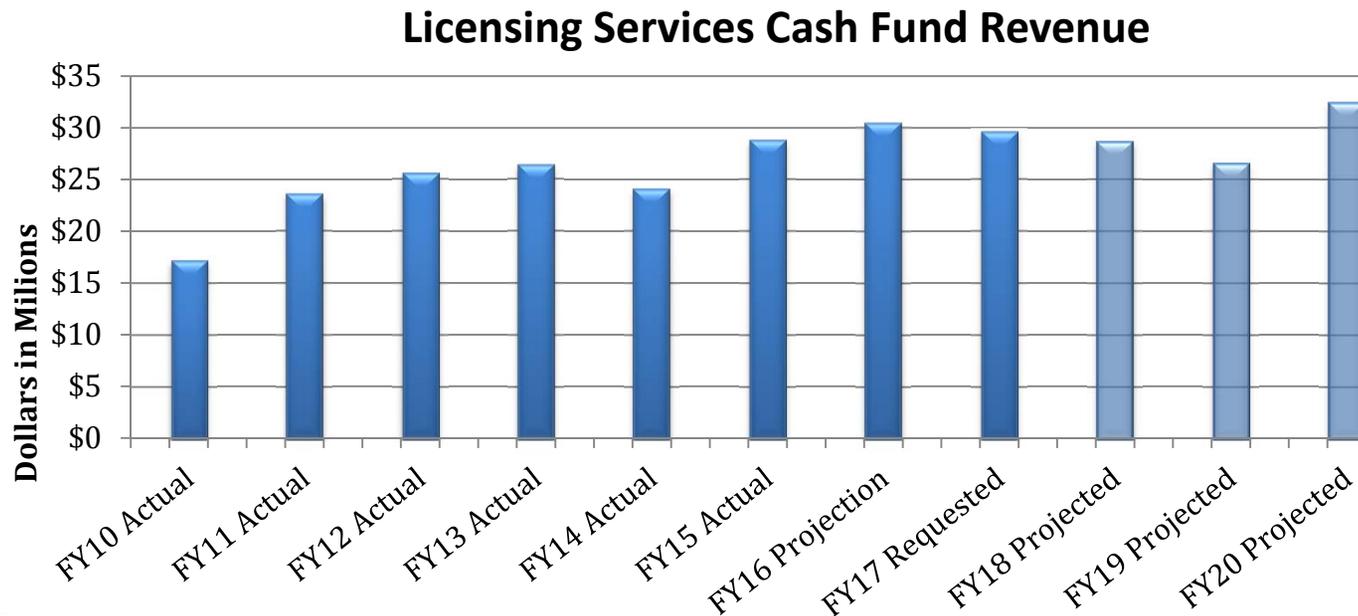
Fees are capped at 5% in future years. New fees were effective July 1, 2015.

R-1 DMV Funding Deficit

Licensing Services Cash Fund

Approximately 78 percent of expenditures related to Driver's Services operations are funded with the LSCF

Highly volatile revenue stream dependent on population changes in addition to renewal cycles



R-2 Tax Fraud Prevention of Earned Income Tax Credit (EITC)

The Department requests \$1.3 million General Fund and 16.7 FTE in FY 2016–17, and \$1.6 million and 23.4 FTE ongoing to administer the program.

Personal Services	New Positions	FTE	
		FY 16/17	FY 17/18
Taxpayer Service	Manually review 15% of claims (estimated 60K returns reviewed) in order to verify income and dependent information. The Department will receive a weekly file from the IRS of specifically identified taxpayers whose claims for EITC require further analysis prior to issuance of a refund	7.1	7.1
Taxpayer Service Call Center	Provide direct taxpayer phone support for taxpayer inquiries regarding program eligibility and taxpayer inquiries regarding return processing adjustments made by the Department to taxpayer returns (estimated 60K phone calls received).	4.6	4.6
Taxation and Compliance	Systematically compare CO state return to IRS federal return including any adjustments made to the federal return that may impact the state return. The Department receives the federal return file from the IRS 1-year in arrears. Generate assessments based on data comparison, and work assessments (estimated 85K assessments).	3.3	7.9
Taxation and Compliance Call Center	Provide direct taxpayer phone support for taxpayer inquiries regarding compliance assessments and recovery of erroneous refunds.	1.7	3.8
Total		16.7	23.4

R-3 Postage Fund-Mix Adjustment

Budget Neutral

- Department requests a fund mix adjustment in the amount of \$23,813 from the General Fund to cash funds to align the Postage appropriation with utilization

R-4 Long Bill Alignment

Budget Neutral

- Department requests alignment of the Long Bill to accurately reflect the Department's organizational structure
- The alignment changes are implemented over two years, FY 2016-17 and FY 2017-18



Topics of Interest and Project Updates

- ▶ DRIVES
- ▶ Tax Pipeline Lean Project
- ▶ Marijuana Enforcement

Colorado DRIVES

- ▶ The Colorado Department of Revenue and Governor's Office of Information Technology received funding during the 2014 and 2015 legislative sessions to replace the outdated Driver's License System (DLS installed in 1995) and Colorado State Titling and Registration System (CSTARS - installed between 1983 and 1988)
- ▶ This project is called the Colorado Driver License, Record, Identification and Vehicle Enterprise Solution (Colorado DRIVES)
- ▶ The Department of Revenue was appropriated \$93,372,000 for the project
 - Capital construction of \$41,021,167 for FY 2014-15
 - Capital construction of \$52,350,833 for FY 2015-16

Colorado DRIVES

- ▶ This project is the cornerstone of the DMV Strategic Plan initiative to improve customer service and meet the Governor's goal of reducing wait times in state driver license offices to an average of 15 minutes

- ▶ When implemented, Colorado DRIVES will provide:
 - State and county DMV employees a modern and user-friendly system that reduces customer service time
 - Increased system reliability that significantly reduces outages and downtime in driver license offices across the State
 - Citizens access to information to better prepare them for their office visit as well as improved online services

- ▶ The Colorado DRIVES project will be completed in two 18-month periods, with the Driver License System being replaced first followed by Colorado State Title and Registration System
 - Phase I - DLS replacement began in August 2015
 - Phase II - CSTARS replacement is expected to begin in March 2017

DMV – DRIVES Project Post Implementation Operation

- Annual cost for hosting, maintenance and support
 - \$6.2 million beginning fiscal year 2019 after complete implementation
 - Subject to an inflationary increase equal to CPI each year and is contingent upon annual appropriation



Tax – Pipeline Lean Project

- DOR has transferred the incoming mail pickup operation associated with the project to DPA
- All tax forms for tax years 2014 and prior are in the system and are currently being processed
- Last DOR phase of the project is in process for 2015 income tax filing
- Scheduled for completion in January 2016 prior to the 2015 tax filing season



Marijuana Enforcement

Retail Marijuana

License Type	Active Licenses as of Sept. 30, 2015
Cultivation	511
Retail Store	394
Product Manufacturer	147
Testing Facility	17

Revenue Type	Revenue Remitted Jan 1, 2014–Sept. 30, 2015
Excise Tax – 15%	\$33.3 M
Sales Tax – 2.9%	\$16.5 M
Special Sales Tax – 10%	\$58.1 M
Fees	\$6.3 M*

* Retail Marijuana fee revenue was remitted from October 1, 2013 – December 31, 2013 in the amount of \$1.7M and is not included in the above table.

Marijuana Enforcement

Medical Marijuana

License Type	Active Licenses as of Sept. 30, 2015
Cultivation	763
Retail Store	515
Product Manufacturer	194
Testing Facility	0
Occupational*	24,092

*Includes both Medical and Retail

Revenue Type	Revenue Remitted Jan 1, 2014–Sept. 30, 2015
Sales Tax - 2.9%	\$19.5 M
Fees	\$16.3 M

Long-term Budgetary Issues

- Marijuana Enforcement
 - Increased volume of applications for business licenses is leading to extended wait times for processing
- Leased Space
 - Critical need for additional space to accommodate FTE and adequately serve the citizens of Colorado
- Infrastructure
 - Phone system replacement (currently deferred to the “wish list” identified in the Governor’s Budget Request)

Questions?

**DEPARTMENT OF REVENUE
FY 2016-17 JOINT BUDGET COMMITTEE HEARING AGENDA**

**Tuesday, December 15, 2015
1:30 pm – 4:30 pm**

1:30-1:50 INTRODUCTIONS AND OPENING COMMENTS

1:50-2:15 INFORMATION TECHNOLOGY PROJECTS IN THE DEPARTMENT

Provide updates to the Committee on each of the following projects the Department is implementing, please include information on whether the Department is experiencing any operational or financial issues with projects:

1. Waitless, queuing and management information system for drivers license offices.
2. DRIVES, the Colorado Driver License, Record, Identification and Vehicle Enterprise Solution, the system to update the DMV-side of the drivers license system and increase system reliability.
3. Tax Pipeline, system for the scanning and processing of tax forms and tax processing tasks performed by Department of Personnel.
4. CORE, the Colorado Operational Resource Engine.
5. Any other projects the Department is implementing at this time.

2:15-2:45 R1 DMV Funding Deficit

6. Has the Division of Motor Vehicles received Highway User Tax Fund appropriations in the past? If yes, were these off-the-top?
7. Do any of the Department's SMART Act metrics reflect increased efficiencies in the Division of Motor Vehicles since reclassifying 226 examiners to technicians and providing and additional 52.0 FTE for customer service improvements.
8. Provide a flow chart for all sources of income to the Licensing Services Cash Fund and any diversions that are made under current law.
9. Does the request to terminate the Licensing Services Cash Fund end-of-year sweep to the Highway User Tax Fund modify the compromise made between the General Assembly and the Division of Motor Vehicles?

10. Provide an explanation behind the rule requiring drivers over the age of 65 to renew their license in person.
11. Provide information that can be distributed to legislators that explains the process for obtaining and renewing General Assembly license plates.

2:45-3:00 R2 Earned Income Tax Credit

12. What is the cost to the Department to execute a TABOR refund including all refund mechanisms? How does the Department request for funding to administer the Earned Income Tax Credit fit into the entire TABOR refund picture? How much do each of the other two TABOR refund mechanisms cost to execute? If possible, calculate down to the cost per each refund.
13. How does the Internal Revenue Service's experience support the Department's request to provide additional front- and back-end staff to ensure compliance with the Earned Income Tax Credit. Provide any lessons-learned from the federal program. Explain why, with the additional resources, the Department will be more successful at detecting fraud than the IRS.
14. Provide an update on the Conservation Easement Tax Credit.

3:00-3:15 BREAK

3:15-4:00 COSTS OF ADMINISTERING THE LIMITED GAMING PROGRAM

15. For the last ten years, the number of gaming establishments has remained relatively flat, yet administrative costs are raising, what is the reason for the continued increase in the cost of administering the Limited Gaming Program?
16. Discuss, or provide a written summary, of the tasks undertaken by FTE in the Division of Limited Gaming. Provide detail on hours spent on the activities the FTE are responsible for or any other specific data of the like, that would help clarify the rising costs of administration.
17. Discuss the possibility of using the limited gaming revenue available to the Limited Gaming Commission to fund a comparative analysis of the Limited Gaming Program with other state programs.
18. Provide a cost estimate to undertaking a comparative analysis to determine whether the administrative expenses of the Limited Gaming Program are reasonable.
19. If a study was undertaken by special legislation, what would the Limited Gaming Commission do with the final report?

4:00-4:25 DRIVERS LICENSES FOR INDIVIDUALS UNABLE TO PROVE LAWFUL PRESENCE

20. What is the Division of Motor Vehicles standard operating procedure when someone shows up at a drivers license office with no identity documents of any kind?
21. Has the Department provided services to any recent Syrian refugees? Can Syrian refugees qualify for a S.B. 13-251 document?
22. What does the federal government provide to Syrian refugees once they are welcomed into the United States?
23. Is the Division of Motor Vehicles being impacted by the arrival of Syrian refugees in Colorado?
24. Provide the wait times for S.B. 13-251 document applicants. Describe the differences between wait times for individuals who are lawfully present and those unable to prove they are lawfully present. How does the Division track wait times for individuals with appointments?
25. Provide a justification for scheduling appointments 90 days in advance. Why not 30 days? Why not 180 days?
26. What is the Division of Motor Vehicles doing to prevent fraud in the scheduling system for appointments to obtain a S.B. 13-251 document?
27. Is the Division of Motor Vehicles tracking the demand for S.B. 13-251 appointments that are unable to obtain an appointment. What information is provided to people who call to schedule an appointment when none are available. Provide data on the number of appointments booked online versus on the phone.
28. Is the Division of Motor Vehicles observing people other than the document applicant taking the written portion of the drivers test for S.B. 13-251 document applicants? How does this compare to the regular drivers licensing programs? What is the Division's standard operating procedure when it detects fraud on the written portion of the drivers test? Is law enforcement involved?
29. Has the Division of Motor Vehicles encountered any fraud similar to the state of Vermont, which saw a number of individuals from outside the state enter it and falsify address information to obtain a drivers license?

4:25-4:30 “Sin” Taxes

30. What are the revenue sources for the:
 - a. Liquor Enforcement Division and State Licensing Cash Fund;
 - b. The Tobacco Education Programs Fund; and
 - c. The Reduced Cigarette Ignition Propensity Standards and Firefight Protection Act Enforcement Fund?
31. Provide totals for revenue derived from liquor taxes and fees, and tobacco taxes and fees for 10 years, broken out by the type of revenue.
32. How much do we cross subsidize “sins” in the “sin” taxes? To put the question another way, how much do the taxes from liquor support activities of tobacco enforcement and vice versa?

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

1. Provide a list of any legislation that the Department has: (a) not implemented or (b) partially implemented. Explain why the Department has not implemented or has only partially implemented the legislation on this list.
2. Please provide a detailed description of all program hotlines administered by the Department, including:
 - a. The purpose of the hotline;
 - b. Number of FTE allocated to the hotline;
 - c. The line item through which the hotline is funded; and
 - d. All outcome data used to determine the effectiveness of the hotline.
3. Describe the Department's experience with the implementation of the new CORE accounting system.
 - a. How has the implementation improved business processes in the Department?
 - b. What challenges has the Department experienced since implementation and how have they been resolved (i.e. training, processes, reports, payroll)?
 - c. What impact have these challenges had on the Department’s access to funding streams?
 - d. How has the implementation of CORE affected staff workload?
 - e. Do you anticipate that CORE implementation will result in the need for a permanent increase in staff? If so, indicate whether the Department is requesting additional funding for FY 2016-17 to address it.
4. If the Department receives federal funds of any type, please provide a detailed description of any federal sanctions for state activities of which the Department is already aware. In addition, please provide a detailed description of any sanctions that MAY be issued against the Department by the federal government during FFY 2015-16.

5. Does the Department have any outstanding high priority recommendations as identified in the "Annual Report of Audit Recommendations Not Fully Implemented" that was published by the State Auditor's Office and dated October 2015 (link below)? What is the department doing to resolve the outstanding high priority recommendations?

[http://www.leg.state.co.us/OSA/coauditor1.nsf/All/4735187E6B48EDF087257ED0007FE8CA/\\$FILE/1542S%20Annual%20Report.%20Status%20of%20Outstanding%20Audit%20Recommendations,%20As%20of%20June%2030,%202015.%20Informational%20Report.%20October%202015.pdf](http://www.leg.state.co.us/OSA/coauditor1.nsf/All/4735187E6B48EDF087257ED0007FE8CA/$FILE/1542S%20Annual%20Report.%20Status%20of%20Outstanding%20Audit%20Recommendations,%20As%20of%20June%2030,%202015.%20Informational%20Report.%20October%202015.pdf)

6. Is the department spending money on public awareness campaigns related to marijuana? How is the department working with other state departments to coordinate the campaigns?
7. Based on the Department's most recent available record, what is the FTE vacancy rate by department and by division? What is the date of the report?
8. For FY 2014-15, do any line items in your Department have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2015-16? If yes, in which programs and line items do you anticipate this reversions occurring? How much and in which fund sources do you anticipate the reversion being?
9. Are you expecting an increase in federal funding with the passage of the FFY 2015-16 federal budget? If yes, in which programs and what is the match requirement for each of the programs?
10. For FY 2014-15, did your department exercise a transfer between lines that is allowable under state statute? If yes, between which line items and programs did this transfer occur? What is the amount of each transfer by fund source between programs and/or line items? Do you anticipate transfers between line items and programs for FY 2015-16? If yes, between which line items/programs and for how much (by fund source)?
11. Please provide the number of drivers licenses that were denied due to the applicant failing the vision test over the past ten fiscal years.