

AGENDA
COLORADO LIMITED GAMING CONTROL COMMISSION
SPECIAL MEETING

Special Meeting of August 3, 2022
Beginning at 9:00 a.m.
Via Cisco Webex

Division of Gaming
1707 Cole Blvd., Ste. 300
Lakewood, CO 80401

In addition to other matters that may properly be considered by the Colorado Limited Gaming Control Commission, the following items are scheduled for consideration and adoption at a Special Meeting being called pursuant to section 44-30-301(1)(h), C.R.S., to be held virtually via Webex on August 3, 2022. Times contained in the agenda are approximate.

PUBLIC SESSION

I. Call to Order

PUBLIC SESSION

- II. Consideration of Limited Gaming Emergency Rule 24
Presentation by Paul Hogan and Senior Assistant Attorney General Bradford Jones
Executive session to receive legal advice, if necessary
- III. Opportunity for Public to Address the Commission
- IV. Adjournment

At the discretion of the Commission, any or all of the above matters may be continued for consideration or adoption at a different time, may be considered out of order, or may be considered at the next meeting of the Commission.



Memo

To: Colorado Limited Gaming Commission
From:
CC: Dan Hartman & Kenya Collins
Date: July 28, 2022
Re: Proposed Emergency Rule 24 Changes - Summary

Due to an error on the agenda for the July 21, 2022, Commission meeting, the changes to Rule 24 could not be adopted at the July 21, 2022 meeting. As a result, a special meeting and emergency rulemaking hearing for these Rule changes will take place on August 3, 2022, where these Rule changes will be presented as an emergency Rule to conform with provisions in SB22-216. These changes will then be presented for permanent adoption at the regularly scheduled Commission meeting on August 25, 2022. The emergency Rule changes will be effective as of August 3, 2022 to ensure the changes are in place in advance of the Commission's annual Limited and Extended Gaming Fund Distribution for fiscal year 2021-2022.

In SB22-216, the Legislation modified 44-30-701 C.R.S. and 44-30-702 C.R.S. as a result of the pandemic, and rapid recovery of Limited Gaming revenues, post-pandemic. The proposed changes to Rule 24 include: (a) 30-2401 (9) - Adding a new definition for Fiscal Year with a significant decrease in Limited Gaming Tax Revenue; (b) 30-2403 - Amending how tax revenues for Limited Gaming and Extended Limited Gaming are determined; (c) 30-2405 & 30-2406 - Removing sections that reference Fiscal Year 2010.

BASIS AND PURPOSE FOR RULE 24

The purpose of Rule 24 is to establish the methods for the collection and distribution of Limited Gaming Fund revenues. The statutory basis for amendments to Rule 24 is found in sections 44-30-201, C.R.S., 44-30-203, C.R.S., 44-30-302, C.R.S., 44-30-701, C.R.S., ~~and 44-30-702, C.R.S.~~ AND 44-30-702.5.

RULE 24 LIMITED GAMING FUND

30-2401 Definitions.

(9) "FISCAL YEAR WITH A SIGNIFICANT DECREASE IN TOTAL LIMITED GAMING TAX REVENUE" MEANS A FISCAL YEAR IN WHICH THE TOTAL LIMITED GAMING TAX REVENUE COLLECTIONS HAVE DECLINED BY FIVE PERCENT OR MORE FROM THE IMMEDIATELY PRECEDING FISCAL YEAR; OR THE SECOND OF TWO CONSECUTIVE FISCAL YEARS WITH A CUMULATIVE DECLINE OF TOTAL LIMITED GAMING TAX REVENUE COLLECTIONS THAT IS SIX PERCENT OR MORE FROM THE FISCAL YEAR IMMEDIATELY PRECEDING THE FIRST OF THE TWO CONSECUTIVE FISCAL YEARS.

30-2403 Determination of tax revenues attributable to extended and limited gaming. *Amended 11/14/20*

(1) ~~After the end of fiscal year ending June 30, 2021, and continuing in each subsequent State Fiscal Year until the fiscal year immediately following the fiscal year in which total limited gaming tax revenue collections equal or exceed the amount of Total Limited Gaming Tax Revenues collected in fiscal year 2018-19, the Commission shall determine limited gaming tax and extended limited gaming revenues by:~~ REVENUES SHALL BE EQUAL TO ONE HUNDRED THIRTEEN MILLION NINE HUNDRED SEVENTY-THREE THOUSAND TWELVE DOLLARS, WHICH IS EQUAL TO THE ADJUSTED BASE FOR STATE FISCAL YEAR 2018-19 INCREASED BY TWO AND ONE-HALF PERCENT, WITH THAT SUM INCREASED BY THREE PERCENT, WITH THAT SUM INCREASED BY THREE PERCENT. ALL LIMITED GAMING TAX REVENUES FOR THE FISCAL YEAR ENDING JUNE 30, 2022 IN EXCESS OF THIS ADJUSTED BASE ARE LIMITED GAMING TAX REVENUES ATTRIBUTABLE TO EXTENDED LIMITED GAMING FOR THE FISCAL YEAR ENDING JUNE 30, 2022.

~~(a) Calculating the total Net Gaming Distribution.~~

~~(b) Calculating the annual growth/decline in total Net Gaming Distribution.~~

~~(c) Allocating the annual growth/decline in total Net Gaming Distribution based on the relative percentages in which each group of recipients shared in the decrease in Total Net Gaming Tax Distributions from State Fiscal Year 2018-19 to State Fiscal Year 2019-20.~~

~~(d) At the end of each fiscal year ending June 30, the Commission shall transfer the amount of the Current Fiscal Year total Net Gaming Distribution attributable to Extended Limited Gaming to the "extended limited gaming fund" established in Section 44-30-702 (1)(a).~~

(2) ~~Beginning in the fiscal year immediately following the fiscal year in which Total Limited Gaming Tax Revenues collected equal or exceed the amount of Total Limited Gaming Tax Revenues collected in state fiscal year 2018-19, the Commission shall determine limited gaming revenues by multiplying the amount of limited gaming tax revenues collected during the previous fiscal year, by a factor of three percent and adding that amount to the amount of limited gaming tax revenues collected during the previous fiscal year.~~ After the end of each subsequent fiscal year ending June 30, the Commission shall determine limited gaming revenues by multiplying the amount of limited gaming revenues collected during the previous fiscal year by a factor of three percent and adding that amount to the amount of limited gaming tax revenues collected during the previous fiscal year. If the annual increase in total gaming tax revenues is less than three percent, limited gaming revenues shall be the amount of limited gaming revenues collected during the previous fiscal year multiplied by a factor of the actual percentage of annual growth in

total gaming tax revenues. For any year in which limited gaming revenues decrease, limited gaming revenues shall be the amount of limited gaming revenues collected during the previous fiscal year multiplied by a factor of the actual percentage of annual decline in total gaming tax revenues. That amount shall be added or subtracted from the amount of limited gaming tax revenues collected during the previous fiscal year. *Amended temp. 7/16/20*

Note: the text that was formally paragraph (3) has been moved into paragraph (2) above.

- (3) **IF THERE IS A FISCAL YEAR WITH A SIGNIFICANT DECREASE IN TOTAL LIMITED GAMING TAX REVENUES, THEN SECTION 44-30-702(7)(A) – 44-30-702(7)(D)(II)(B) SHALL TAKE EFFECT.**
- (4) After the end of each fiscal year ending June 30, the Commission shall determine extended revenues by subtracting the amount of limited revenues from the amount of total gaming tax revenues collected during the fiscal year.

30-2405 Determination of amount of Limited Gaming Funds distributed to limited gaming recipients.

- ~~(2) After the end of the fiscal year ending June 30, 2010, an amount equal to the expenses incurred by the Commission to administer extended gaming during the fiscal year ending June 30, 2009, shall be added to the Limited Gaming Fund and distributed to limited gaming recipients in compliance with Section 44-30-701(1)(b)(II).~~
- ~~(23)~~ The determined amount shall be distributed in accordance with Section 44-30-701.

30-2406 Determination of amount of Extended Gaming Funds distributed to extended gaming recipients.

- ~~(3) At the end of the fiscal year ending June 30, 2010, an amount equal to the expenses incurred by the Commission and the Division to administer extended gaming in the fiscal year ending June 30, 2009, shall be subtracted from the Extended Gaming Fund.~~
- ~~(34)~~ The remaining amount at the end of each fiscal year shall be distributed in accordance with Section 44-30-702.

**RESOLUTION CONCERNING ADOPTION OF EMERGENCY
AMENDMENTS TO GAMING RULE 24,
1 C.C.R. 207-1**

WHEREAS, on May 10, 2022, the Colorado General Assembly passed Senate Bill (SB) 22-216, *Reallocation of Limited Gaming Revenues*, concerning the reallocation of the limited gaming tax revenues for fiscal years following a significant decrease in the revenues;

WHEREAS, on June 7, 2022, Governor Jared S. Polis signed SB 22-216;

WHEREAS, Section 2 of SB 22-216 resets the base portion of the state's share of the limited gaming tax revenues deposited in the local government limited gaming impact fund for the fiscal year 2021-2022;

WHEREAS, Section 3 of SB 22-216 modifies the manner in which limited gaming tax revenues are allocated between the limited gaming fund and the extended limited gaming fund to more equitably address recovery in the years immediately following a significant decrease in the revenue;

WHEREAS, Section 4 of SB 22-216 provides supplemental payments in total of \$1.25 million to the local government limited gaming recipients;

WHEREAS, Section 6 of SB 22-216 specifies that immediate implementation of the provisions in SB 22-216 is necessary for the preservation of the public peace, health or safety;

WHEREAS, the Division of Gaming is currently in the process of preparing its report for the Colorado Limited Gaming Control Commission in preparation for the Commission's limited gaming fund distribution and extended limited gaming fund distribution for fiscal year 2021-2022;

WHEREAS, the Colorado Limited Gaming Control Commission will distribute the limited gaming fund and the extended limited gaming fund for fiscal year 2021-2022 at its August 2022 monthly meeting;

WHEREAS, a temporary or emergency rule may be adopted if an agency finds that immediate adoption of a rule is imperatively necessary and that compliance with the requirements of § 24-4-103, C.R.S., would be contrary to the public interest;

WHEREAS, the immediate adoption of the emergency amendment to Regulation 30-2401 *Definitions* under Rule 24 is imperatively necessary to add the new definition for "Fiscal year with a significant decrease in Limited Gaming Tax

Revenue” to conform with the definition listed in SB 22-216 and compliance with the requirements of § 24-4-103, C.R.S., would be contrary to public interest;

WHEREAS, the immediate adoption of the emergency amendments to Regulation 30-2403 *Determination of tax revenues attributable to extended and limited gaming* under Rule 24 are imperatively necessary to amend how tax revenues for limited gaming and extended limited gaming are determined based on the provisions of SB 22-216 and compliance with the requirements of § 24-4-103, C.R.S., would be contrary to public interest;

WHEREAS, the immediate adoption of the emergency amendments to Regulation 30-2405 *Determination of amount of Limited Gaming Funds distributed to limited gaming recipients* and Regulation 30-2406 *Determination of amount of Extended Gaming Funds distributed to extended gaming recipients* under Rule 24 are imperatively necessary to remove references to fiscal year 2009-2010 and compliance with the requirements of § 24-4-103, C.R.S., would be contrary to public interest;

WHEREAS, a permanent change could be achieved no sooner than September 2022, given the process for notice and promulgation of the rules pursuant to the provisions of § 24-4-103, C.R.S.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Colorado Limited Gaming Control Commission, based on the facts recited above, as follows:

The immediate adoption of the emergency rule amendments for Gaming Rule 24 under 1 C.C.R. 207-1 is imperatively necessary for the Colorado Limited Gaming Control Commission to properly distribute the limited gaming funds and the extended limited gaming funds in accordance with the provisions in SB 22-216, and the delay resulting from strict compliance with the requirements of § 24-4-103, C.R.S., would be contrary to the public interest.

RESOLVED AND ENTERED this ____ day of August, 2022.

COLORADO LIMITED GAMING
CONTROL COMMISSION

By: _____
Richard Nathan, Chair