

## **Casino Background Info**

### **Colorado Limited Gaming:**

Casino-style gambling that is "limited" to:

- \$100 maximum wager
- Slot machines, blackjack, poker, craps and roulette
- Historical districts in the towns of Black Hawk, Central City and Cripple Creek
- Tribal reservation lands in Southwest Colorado
- 35% of a building's total space or 50% of a building floor

Any changes to these limits would require statewide voter approval. [Amendment 50](#) was approved by Colorado voters on Nov. 4, 2008, raising the maximum wager limit to \$100, adding the games of craps and/or roulette, and allowing 24-hour gaming effective July 2, 2009. Prior to that time, the wager limit was \$5; only the games of slots, blackjack and poker were allowed; and casinos were required to be closed from 2 a.m. to 8 a.m.

### **2 types of casino in Colorado:**

- 39 State licensed casinos
- 2 Indian casinos (on reservation ground)

## **State Licensed Casino:**

State licensed Casinos in Colorado are all located in the historic gold mining towns of Black Hawk (18 casinos), Cripple Creek (15 casinos) and Central City (6 casinos).

### **State Licensed casino taxation:**

The following tax structure has been in effect since July 1, 2008:

- 0.25% tax on \$0 - \$2 million in adjusted gross proceeds (AGP)
- 2% tax on \$2 - \$5 million in AGP
- 9% tax on \$5 - \$8 million in AGP
- 11% tax on \$8 - \$10 million in AGP
- 16% tax on \$10 - \$13 million in AGP
- 20% tax on AGP above \$13 million in AGP

The tax rate is on the cumulative AGP produced by casinos each fiscal year, starting July 1.<sup>1</sup>

### **Use of state-licensed casino tax revenue:**

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<sup>1</sup> Source: [www.colorado.gov](http://www.colorado.gov), 4/12/2010

The Division of Gaming (which is a division of the Dept. of Revenue) is a cash-funded organization, meaning no general tax dollars are used for its operation or expenses. The Division operates on the revenues generated from the gaming tax, application and license fees, any fines levied by the Division and other miscellaneous revenues.

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

- 28% to the State Historical Society
- 12% to Gilpin and Teller counties
- 10% to Black Hawk, Central City and Cripple Creek
- 50% to the State General Fund

The allocation of the 50% State General Fund share is controlled by statute.

Starting at the end of State fiscal year 2010, any additional tax revenues generated by the implementation of Amendment 50 will be distributed according to the following Constitutional formula:

- 78% to the Colorado Community College System
- 12% to Gilpin and Teller counties
- 10% to Black Hawk, Central City and Cripple Creek

### **Indian Casino:**

The State of Colorado has entered into compacts with two Indian tribes in southwest Colorado to conduct casino-style gaming on their reservation land. The two tribes, the Ute Mountain Ute Tribe (Ute Mountain Casino, Towaoc, Sept. 1992) and the Southern Ute Indian Tribe (Sky Ute Casino & Lodge, Ignacio, early 2000), are not subject to taxation and are not required to report their revenues to the State. The tribes have agreed to conduct limited gaming with the same \$100 bet limits that other state-licensed casinos in Colorado adhere to, but a provision in the compacts allows the tribes to litigate possible higher stakes and increased scope of games. The tribal casinos may offer live keno in addition to slot machines, poker, blackjack, craps and roulette.

### **Indian Casino Taxation:**

Indian Gaming Regulatory Act (IGRA) of 1988 specifies that states may not tax tribal gaming revenues. Tribes can agree to share a limited portion of their gaming proceeds with state and local governments, however, subject to approval by the secretary of the Interior.<sup>2</sup>

### **Use of Indian Casino Tax Revenue:**

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<sup>2</sup> Source: <http://www.ncsl.org/default.aspx?tabid=12662>, 06/01/2010

Tribes use their revenues for the same purposes that other governments do—to provide education, roads, health, public safety and care for elders and the poor.

## **Recent approval/denials state licensed casinos in Colorado**

Outside the towns of Cripple Creek, Blackhawk and Central City, no new casino has opened recently. Within these towns, new casinos open their doors or existing casinos go out of business on a regular basis.

The following initiatives have been proposed in Colorado and all have been rejected by a state vote:

- Amendment 3: Limited Gaming – Selected Western and Southern Cities and Counties. *Summary:* The proposed amendment to the Colorado Constitution would: Legalize, on and after August 1, 1993, limited gambling in the cities and towns of Trinidad, Walsenburg, Leadville, Naturita, Silver Cliff, Lake City, Silverton, Oak Creek, Grand Lake, Walden, and Dinosaur, and in the counties of Las Animas, Huerfano, and Hinsdale, subject to an affirmative local vote; **Result:** failed, yes votes 29%.
- Amendment 4: Limited Gaming – Selected Eastern and Southern Cities and Counties. *Summary:* The proposed amendment to the Colorado Constitution would: Legalize, no later than October 1, 1993, limited gambling in the cities and towns of Burlington, Evans, Lamar, Las Animas, Sterling, Antonito, Garden City, Granada, Holly, Julesburg, Ovid, Milliken, Peetz, and Sedgwick, and in the counties of Logan, Prowers, and Sedgwick, subject to an affirmative local vote; **Result:** failed, yes votes 27%
- Amendment 5: Limited Gaming Parachute. *Summary:* The proposed amendment to the Colorado constitution would: Legalize limited gambling in the commercial districts of the town of Parachute, in Garfield County, as of June 1, 1993; **Result:** failed, yes votes 28%
- Amendment 9: Limited Gaming - Selected Area in Lower Downtown Denver. *Summary:* The proposed amendment to the Colorado Constitution would: Legalize limited gambling in areas of lower downtown Denver located in the Central Platte Valley in the City and County of Denver; **Result:** failed, yes votes 20%
- Amendment 13: Limited Gaming in Manitou Springs and Public Airports, 1994. *Summary:* The proposed amendment to the Colorado Constitution would permit certain forms of limited gaming at public airports, in the City of Manitou Springs, by certain charitable organizations, and by amending some of the existing constitutional provisions pertaining to gaming in Colorado, legalize the operation of slot machines in public airports. **Result:** failed, yes votes 8%
- Amendment 18: Limited Gaming in Trinidad, 1996. *Summary:* The proposed amendment to the Colorado Constitution would:
  - Legalizes limited gaming in Trinidad, as it exists in Black Haw, Central City, and Cripple Creek, if approved in a local vote conducted within 150 days of the statewide election;

- Restricts gaming to commercial buildings or replicas of commercial buildings that had existed prior to 1914 in the Corazon de Trinidad National Historic District;
  - Includes Trinidad's limited gaming revenue in the distribution formula in the Colorado Constitution for proceeds from the present gaming communities;
  - Directs the Limited Gaming Control Commission to administer limited gaming in Trinidad; and
  - Requires that the General Assembly act to implement provisions of this amendment within 30 days after voter approval at the local election.
- Result:** failed, yes votes 32%

## **Recent approval/denials Indian casino in Colorado**

### ***500-Acre Casino Project near Denver Int. Airport:***

A 500-acre casino project by the Cheyenne and Arapaho tribes from Oklahoma in 2004, that would have been located near Denver International Airport:

- Tribes claims 27 million acres of land in Colorado. Approval of this casino project would settle that claim
- Project needed approval from Governor Bill Owens (anti-casino in general) and the Secretary of the Interior, but got rejected by both parties
- The project would have been privately funded
- Casino revenue taxes were proposed to be 1% higher than the tax rates for state-licensed casinos
- At least 1700 direct jobs would have been created
- Generation of approximately \$1 billion in state revenue in 10 years
- the Interior Department's top lawyer for Indian matters, Matt McKeown, told the developers/tribe that the tribe's claim was already re-opened and settled in 1965

### ***Indian reservation casino on the Riverwalk in Pueblo:***

- After denial of the 500-acre casino near DIA, the Cheyenne and Arapahoe tribes of Oklahoma (working together with Council Tree Communications, Inc. Out of Denver) announced their hopes of building a one-hundred million dollar, 5-acre hotel and casino (50,000 sf casino, 1000 gaming machines/tables, 200 hotel rooms) along the Historic Arkansas Riverwalk in Pueblo, CO (2005)
- Reservation status of the land in Pueblo was needed first to be able to establish the Indian reservation casino
- Both Senators Ken Salazar (D) and Wayne Allard (R) and Governor Bill Owens opposed the plan
- the Cheyenne and Arapahoe Tribes of Oklahoma dropped plans for the casino in favor of a more aggressive pursuit of land and water claims in the state

## Approval process for state-licensed casino

According to Referendum C (1992, passed with yes vote of 76%) a local vote is required on gaming after a statewide vote. *Summary:*

The proposed amendment to the Colorado Constitution would:

- Require the approval of the voters of a city, town, or unincorporated portion of a county before limited gambling, as approved by a statewide vote on a constitutional amendment, shall be lawful in that locality;
- Provide that, if voters do not approve limited gambling in a local election, a period of four years shall elapse before the question may be submitted again; and
- Provide that the effective date for this proposal shall be on or after the November 3, 1992 general election, thus including gambling proposals on the 1992 ballot.

## Approval process for Indian casino

- TAKE LAND IN TRUST FOR OFF-RESERVATION CASINO, if casino is to be proposed outside reservation
  - The IGRA requires that Indian gaming occur on Indian lands. Indian lands include land within the boundaries of a reservation as well as land held in trust or restricted status by the United States on behalf of a tribe or individual, over which a tribe has jurisdiction and exercises governmental power. Tribes operating gaming facilities off the reservation on non-Indian lands are subject to the laws of the state where the facility is located.
- OBTAIN APPROVAL FROM **STATE** (Governor), **BIA** (BUREAU OF INDIAN AFFAIRS) AND **NIGC** (NAT. INDIAN GAMING COMMISSION) TO ESTABLISH AND OPERATE A CLASS III GAMING FACILITY (i.e. a casino). IGRA REQUIRES THAT TRIBE AND STATE NEGOTIATE A TRIBAL-STATE COMPACT. COMPACT TO BE APPROVED BY BIA (THROUGH THE **SECRETARY OF THE INTERIOR**, which is currently Ken Salazar). The tribal-state compact is an agreement that may include provisions concerning standards for the operation and maintenance of the gaming facility, the application of laws and regulations of the tribe or the state that are related to the licensing and regulation of the gaming activity, and the assessment by the state of amounts necessary to defray the costs of regulating the gaming activity

## Specific issues for a Hayden Casino

- PROVE HISTORIC TIES BETWEEN THE UTE INDIAN TRIBE AND THE HAYDEN/YAMPA VALLEY AREA!
- MAKE A TRIBAL-STATE COMPACT; Tribal-State compacts are agreements that establish the rules to govern the conduct of Class III gaming activities. Although a compact is negotiated between a tribe and a state, the Secretary of the Interior (Ken Salazar) must also approve the compact.

- WHAT'S IN IT FOR THE STATE? *TAXES??*
- HOW WILL LOCAL GOVERNMENT BE COMPENSATED FOR EXTRA EXPENSES BECAUSE OF CASINO (FIRE DEPT/POLICE DEPT/SCHOOL DISTRICT/UTILITY INFRASTRUCTURE) *TAXES??*
- TAKE LAND IN TRUST FOR OFF-RESERVATION CASINO, as part of the tribal-state compact
  - Indian gaming must occur on “Indian lands,” as defined by IGRA. Indian lands include land within the boundaries of a reservation as well as land held in trust or restricted status by the United States on behalf of a tribe or an individual Indian, over which a tribe has jurisdiction and exercises governmental power. IGRA generally prohibits Indian gaming on lands acquired after October 17, 1988. However, there are certain exceptions to this prohibition, according to 25 U.S.C. § 2719:
    - **(a) Prohibition of gaming on lands acquired in trust by Secretary after October 17, 1988**
    - **(b) Exceptions:**
      - (1)** Subsection (a) of this section will not apply when—
        - (A)** the Secretary, after consultation with the Indian tribe and appropriate State and local officials, including officials of other nearby Indian tribes, determines that a gaming establishment on newly acquired lands would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary’s determination; or
        - (B)** lands are taken into trust as part of—
          - (i)** a settlement of a land claim,
          - (ii)** the initial reservation of an Indian tribe acknowledged by the Secretary under the Federal acknowledgment process, or
          - (iii)** the restoration of lands for an Indian tribe that is restored to Federal recognition<sup>3</sup>
- If a tribe is uncertain as to whether the land on which they intend to game qualifies as “Indian lands,” it should seek an advisory opinion from the NIGC prior to initiating gaming. Furthermore, tribes should notify the NIGC whenever they plans to open a new facility so that the NIGC may assure that the operation will be located on Indian lands.

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<sup>3</sup> Source: [http://www.nigc.gov/Laws\\_Regulations/Indian\\_Gaming\\_Regulatory\\_Act.aspx#2719](http://www.nigc.gov/Laws_Regulations/Indian_Gaming_Regulatory_Act.aspx#2719)

- How do tribes apply to have lands taken into trust? - Land into trust is a real estate transaction that converts land from private or individual (fee) title into federal title. Trust status can only be conferred by an Act of Congress, a court decision or settlement, or, most commonly, through an application through the U.S. Department of Interior.
- HAYDEN CASINO SHOULD VERY CLEARLY CATER TO ALREADY EXISTING TOURISTS AND ADDITIONALLY ATTRACT NEW TOURISTS → MAKE CUSTOMER PREDICTIONS AND PROJECTIONS
- WHAT PERCENTAGE WILL BE OUT OF STATE GAMBLERS IN HAYDEN? →MAKE CUSTOMER PREDICTIONS AND PROJECTIONS!
- COMBINE CASINO WITH A HOTEL AND POSSIBLY AMENITIES SUCH AS A SWIMMING POOL, BOWLING ALLEY, CONFERENCE CENTER, ETC. THIS WILL MAKE IT A DESTINATION RESORT AND THEREFORE ACCOMODATE MORE TO TOURISTS INSTEAD OF LOCALS. INCLUDE DEMAND FOR HOTEL IN HAYDEN (HOTEL FEASIBILITY STUDY) AND UNDERLINE THE IMPORTANCE OF A REGIONAL AIRPORT (AND THEREFORE INCOMING TOURISTS) NEXT DOOR. MAKE CONNECTION WITH STEAMBOAT SPRINGS
- WHAT SIZE CASINO IS NEEDED? SQUARE FOOTAGE, AMOUNT OF POKER, BLACKJACK, ROULETTE TABLES, SLOT MACHINES, ETCETERA. HOW MANY HOTEL ROOMS?
- EXPECTED REVENUES FROM GAMBLING/ HOTEL/ OTHER AMENITIES?
- WILL HAYDEN DRAW CUSTOMERS/GAMBLERS FROM EXISTING CASINOS IN CRIPPLE CREEK, CENTRAL CITY AND BLACKHAWK?? RESEARCH INFLUENCE OF A NEW HAYDEN CASINO ON ALREADY EXISTING INDIAN AND STATE-OWNED CASINOS
- MAKE EMPLOYMENT CASE! HOW MANY JOBS WILL BE GENERATED TEMPORARILY BY THE CONSTRUCTION AND HOW MANY JOBS WILL BE CREATED ON THE LONG TERM (direct and indirect jobs).
- MAKE A REVENUE ALLOCATION PLAN IF PER CAPITA PAYMENTS WILL BE MADE AMONG TRIBE MEMBERS; HOW WILL THE TRIBE ALLOCATE ITS NET REVENUES FROM THE CASINO/HOTEL/RESORT AMONG THE TRIBE MEMBERS?<sup>4</sup> IF NO PER CAPITA PAYMENTS WILL BE MADE, A REVENUE ALLOCATION PLAN IS NOT NECESSARY. IF THIS IS THE CASE, NET GAMING REVENUES SHOULD BE USED FOR ANY OF THE FOLLOWING CATEGORIES:
  - To fund tribal government operations or programs;
  - To provide for the general welfare of the tribe and its members;
  - To promote tribal economic development;

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<sup>4</sup> See guidelines for Revenue Allocation Plan:  
<http://www.bia.gov/idc/groups/public/documents/text/idc-002001.pdf>

- To donate to charitable organizations; or
- To help fund operations of local government agencies.