

**WASHINGTON STATE  
GAMBLING COMMISSION MEETING  
THURSDAY, JANUARY 12, 2012  
APPROVED MINUTES**

**Chair John Ellis** called the Gambling Commission meeting to order at 1:30 p.m. at the Tumwater Comfort Inn Conference Center and introduced the members present. He announced that Senator Prentice would not be running for another term in the Legislature, but she will continue as an ex-officio member of the Commission for the remainder of this year. With her many years of experience, Senator Prentice has provided a lot of guidance to the Commission over the years.

**MEMBERS PRESENT:**     **Commissioner Chair John Ellis**, Seattle  
                                  **Commissioner Vice-Chair Mike Amos**, Selah  
                                  **Commissioner Keven Rojecki**, Tacoma  
                                  **Senator Margarita Prentice**, Renton

**STAFF:**                     **Rick Day**, Director  
                                  **David Trujillo**, Deputy Director  
                                  **Mark Harris**, Assistant Director – Field Operations  
                                  **Amy Hunter**, Administrator – Communications & Legal  
                                  **Jerry Ackerman**, Senior Counsel, Attorney General’s Office  
                                  **Gail Grate**, Executive Assistant

**1.     Agenda Review/Director’s Report**

**Director Rick Day** briefly reviewed the agendas, indicating there were no staff requested changes. He pointed out some last minute inclusions to the agenda packets, which included a net receipts comparison pie chart, a news article about Senator Prentice leaving the Senate, an example of last year’s support letter on House Bill 2232, and a replacement pay table slide for the PowerPoint Assistant Director Harris will be presenting on Friday. Director Day indicated the next Commission meeting was currently planned for February 9 and 10 at the Great Wolf Lodge. Depending on the number of topics, that meeting may be reduced to one day. He suggested checking the agency website where any changes would be posted.

**Director Day** explained that the pie comparison charts for the net gambling receipts shows the past three years on one side and just the 2011 net gambling receipts on the other side. The Commission has issued this chart since about 1998. In 1973 when the Commission was created, that pie chart incorporated \$33 million and the total has increased to about \$2.5 billion. Over the past few years, most of the increase has been in the tribal gaming area, which grew to \$1.953 billion – an increase of about \$200 million or 78 percent of the total receipts. State licensed gambling, which is about 12 percent of the pie chart, declined

about \$7 million. Raffles actually showed a small increase, as did the lottery, which showed an increase of about \$16 million from the preceding year.

## 2. Legislative Update

**Ms. Amy Hunter, Legislative Liaison**, reviewed her legislative update memorandum, noting that the Appropriations Bill that passed during the Special Session did not impact the Gambling Commission. Ms. Hunter briefly reviewed the process for legislative bills to make sure staff was doing what the Commissioners wanted. Ms. Hunter explained that gambling issues now go to the House State Government and Tribal Affairs Committee, which began hearing gambling issues during the 2011 session. Ms. Hunter thought the legislators appreciated hearing from the Commission if it has a position on a bill, whether for or against. Staff checks the introduction sheets every day and track many bills, many that do not come before the Commission. The ones that are typically brought before the Commission would be those with direct gambling impacts or significant enough impacts that the Commission may want to take a position on. Because the Commission meets monthly, sometimes staff will end up testifying about a bill before they have had an opportunity to check with the Commission on its position. When there is that timing issue, staff basically give technical considerations about the bill, as opposed to a position that will only be taken after the Commission has had a chance to talk about and take a vote on it. At that point, Ms. Hunter would put together the position letter a position statement. If staff feels the Commission should be neutral on the bill, they will look to the Commission to acknowledge whether they want a different position. Ms. Hunter explained that when they do not recommend the Commission support or not support a bill it means staff think the Commission should be neutral for it and will just assume the Commission is in agreement unless someone says staff should take a more active approach with it. Ms. Hunter asked if the Commissioners agreed with the process, which is the one that has been used for many years.

**Chair Ellis** asked if any of the other Commissioners had any problems with that approach or any questions about the process. There were none, so Chair Ellis directed Ms. Hunter to proceed as described.

**Ms. Hunter** reported the agency request legislation dealing with the Business Licensing Services (BLS) is definitely a non-controversial bill that has received a lot of support from legislators. The bill would allow the Commission to issue licenses for up to 18 months. The bill was introduced in both the Senate and in the House. Ms. Hunter thanked Senator Prentice for being the prime sponsor of the bill in the Senate. Senate Bill 6046 had a hearing on Tuesday, and was scheduled for executive action today. The House is planning on hearing the bill, House Bill 2219, on Monday.

Unfortunately staff was not successful in having a request bill introduced dealing with the periodic salary increases and endorsement pay for 27 of the Commission's 71 special agents. Director Day had asked the Department of Personnel (DOP) and the Office of Financial Management (OFM) for an exemption. After they denied his request, Director

Day requested reconsideration, which was also denied. Then not surprisingly, our request for legislation was also denied.

House Bill 2232 deals with how agencies should be working with the federally recognized tribes. The bill is almost identical to last year's bill except the words "Federally" and "Recognized" were added in the title – Federally Recognized Indian Tribes. Basically the bill requires training, which Commission staff already takes through the Office of Indian Affairs. Commission staff is actually required to take more training than what the bill requires. The bill talks about setting up a collaborative process when working with the tribes, which is something Commission staff have done for many years. The bill also requires an annual report about an agency's work with the tribes, which Commission staff already have done as they have participated in many of the Centennial Accords. Staff would recommend the Commission support House Bill 2232, which had not yet been scheduled for a hearing. If the Commission does choose to support the bill, Ms. Hunter will draft a letter similar to the one we did last year.

**Chair Ellis** asked if there any questions concerning House Bill 2232. There were none.

**Commissioner Amos** made a motion seconded by **Commissioner Rojecki** that Ms. Hunter prepare the Commission support letter under Chair Ellis' signature and send it to Sam Hunt, the Chairman of the Committee. *Vote taken; the motion passed with three aye votes.*

**Ms. Hunter** reported that staff has not seen a bill introduced that would authorize gambling machines in non-tribal casinos, although there had been different discussions in the news in December about such a bill. Because this is year two of the two-year legislative process, there are two companion bills out there for possible consideration that were introduced last year. They have not been scheduled for any type of a hearing. A fiscal note was prepared last year on the House version of the bill.

A bill was introduced that deals with a process for calling special meetings, which the Commission, on occasion, has called. The bill makes that process easier and includes making sure a notice of the special meeting is posted on the agency website and requires putting up a sign so that people know when they enter the building that it is a special meeting.

House Bill 2172 deals with regulatory agencies, and applies to the Gambling Commission, Labor & Industries, and any other agency that does inspections and finds violations. Previous bills have required that a copy is provided of the rule or law the licensee has violated, and to give them time to correct the violation. Another bill that has been introduced this year talks about requiring more of a comprehensive statement of all of the violations that are found in the business. It also adds a new customer service piece. A branch of the Governor's Office called the Office of Regulatory Assistance would be required to create a survey for a licensee to say how the visit went and if they were told about the violation and given time to correct the violation. The bill is not at the point of

needing to have the Commission take a position on, but it could impact staff's regulatory work.

**Chair Ellis** asked if there were any questions; there were none.

**3. Public Opinion Survey (PowerPoint presentation)**

**Director Day** explained that about seven years ago, the Commission authorized a public opinion survey for the first time. The idea was to broaden the information the Commission had available as it made various policy decisions throughout the year. The last survey was completed in 2005 and presented to the Commission in 2006. In August 2010, the Commission authorized a follow-up survey, which was paid with seizure dollars not gambling revolving funds. In 2006, representatives of the Washington State University (WSU) completed the work and presented the survey results. This year, Candiya Mann from the Washington State University will present the results of the survey. Ms. Mann is a Senior Research Manager and has been with the Research Center at WSU for ten years. She specializes in education and workforce issues, and has previously conducted evaluations for the U.S. Department of Labor, the Washington State Office of the Superintendent of Public Instruction, United Way, school districts, community-based organizations, and workforce development agencies. She also serves on the advisory group for the National Science Foundation on Advanced Technology Education Evaluation Community of Practice.

**Chair Ellis** said that was a very impressive resume and the Commission appreciated Ms. Mann being present today to explain to the Commission about the results of the survey.

**Ms. Mann** reported the public opinion survey reviewed three main categories of topics. Washington State residents were asked about their current gambling activities, their knowledge of gambling regulation, and their opinions on a range of current policy issues. This was a random digit dial telephone survey that included a cell phone sample drawn from 1,000 cell phone numbers. The calls took place August 3 through September 19, 2011. As is typical of many telephone surveys, it was found that males and adults under the age of 55 were not represented in the respondents to the extent they are in the population, so the results were weighted to represent the population of Washington State. The results were analyzed by different demographic factors like gender, household income, and education level. The 2005 and 2011 surveys were very similar, but six questions were added to the 2011 survey:

- ♦ How concerned are you that internet gambling may expose people to credit card theft or identity theft?
- ♦ How concerned are you that there is no way to ensure that internet gambling winnings are paid?
- ♦ To the best of your knowledge, is gambling on the internet illegal?
- ♦ Do you know someone with a gambling problem?
- ♦ If yes, has that person ever committed a crime as a result of their gambling problems?
- ♦ To the best of your knowledge, is there a treatment program for people with gambling problems in Washington State?

Starting with participation in gambling activities, three main questions were asked:

- ♦ Have you ever played or spent money on each gambling activity in Washington State?
- ♦ Have you played or spent money on that activity in the past year?
- ♦ Estimate the amount you spent on that activity in a typical month. If they could not answer a typical month, they were asked to estimate it over an entire year. If they spent at least \$25 a month or \$300 a year, additional detailed questions about 14 different gambling activities were asked:
  - if they played alone or with others
  - how many hours they spent playing that game in a typical 24 hour period
  - at what age they started playing the game.

Close to two-thirds of the 91 percent of Washington residents that stated they have gambled at some point in their life stated they had gambled in the prior 12 months – a decline of 7 percent from the 2005 survey where it was 71 percent. Overall, in 2011 the people who gambled in the past year were significantly more likely to earn annual household incomes above \$50,000. Their propensity to gamble increased as their income increased, which was true in both 2005 and 2011. The people who gambled in the last year were more likely to be in the labor force and have a two-year or a four-year degree.

Of the 14 different gambling activities, the top three that Washington residents said they have ever participated in were: 71 percent had played the lottery; 48 percent had played in tribal casinos; and 54 percent had gambled out of state. Of those that people participated in the prior year, the top three activities were the lottery, tribal casinos, and raffles. Compared to the category that ever participated in that type of gambling, the biggest difference was in out of state gambling, which is not that uncommon – a lot of people will have gone out of state at some point in their lives to gamble. Participants in the survey were asked what their favorite type of gambling was, which was the same top four activities: the lottery; tribal casinos; non-tribal card games; and raffles.

Compared between the 2005 and 2011 surveys, participation in gambling in the prior year showed a very similar pattern, although participation declined in almost every activity. The activities with the biggest drops in participation were raffles, out-of-state gambling, and pull-tabs that dropped from 18 percent to 7 percent. The only activity that had an increase was betting on sports, which went from 8 percent to 10 percent.

The percentage of Washington residents who spent an average of over \$25 a month, or \$300 a year, on each activity was very low. Only 10 percent of Washington State residents, as a whole, spent at least \$25 a month, or \$300 a year, on tribal casinos; 5 percent spent that amount on non-tribal card games; and 5 percent spent that on out-of-state gambling. Close to half of the people who went to tribal casinos said they averaged over \$300 a year. Among the tribal bingo players and people who bet on animal races, about half spent that amount. Fewer than 4 percent of Washington State residents spent that amount non-tribal bingo.

Ms. Mann reviewed in more detail the four most common types of gambling:

- ♦ Lottery – the most popular form of gambling with 71 percent of the Washington State residents having participated or purchased a lottery ticket at some point in their lives and 44 percent played in the last year. Men were significantly more likely to purchase a lottery ticket than women were. Lottery was played fairly frequently with 22 percent of Washington State residents purchasing a lottery ticket every week, but it is a fairly low expenditure game with only 9 percent of last year’s players averaging over \$25 a month.
- ♦ Tribal Casinos – close to half of Washington State residents have ever played in a tribal casino and close to a quarter played last year. It is fairly high expenditure with 44 percent of last year’s players spending more than \$25 a month. However, it is fairly low frequency with only 2 percent of last year’s players playing weekly. The top three games played in the tribal casinos were slot machines, card games, and roulette. Men preferred card games, dice games, and roulette. Keno was more popular among casino players over the age of 55, but roulette was more popular with the 18 to 24 year olds. Minority respondents were more likely to engage in card games and keno than the white respondents were. Of those who spent more than \$300 a year, only 10 percent of them went alone, 56 percent stayed at a casino for one to two hours, and a third stayed for three to five hours. Only 6 percent stayed for six to twelve hours at a time. The age at which people started gambling at tribal casinos was split. Most either started between the ages of 18 to 24 or after the age of 45.
- ♦ Raffles – 18 percent of the residents have every played raffles and it is a fairly low expenditure with only 7 percent spending over \$25 a month. It is also fairly low frequency with only 2 percent of last year’s players playing weekly. Raffles are often used as fund raisers for church groups, schools, and other nonprofit organizations. Females, people between the ages of 45 to 54, households with above average total incomes (\$75,000 or above), and those with higher levels of education were more likely to buy a raffle ticket in the prior year
- ♦ Non-tribal card games – last year, 14 percent of the residents said they have ever played in a non-tribal card game. This was more popular among men, minority adults, and younger age groups. It is fairly high frequency with 17 percent playing weekly, and is a fairly high expenditure game with over a third of last year’s players averaging more than \$25 a month, or \$300 a year. This is an interesting gambling activity because 90 percent said they started under the age of 26, with close to two-thirds starting earlier than age 18. Most said they play in private homes (82%), about a third playing in mini-casinos, and 30 percent play in card rooms.

There were a couple questions about the resident’s knowledge of gambling regulation. They were asked to the best of their knowledge if each type of gambling was regulated. If they said yes, they were asked who regulates it. This was an open-ended question; they were not given categories. The questions were asked about five different types of gambling; lottery, tribal casinos, pull-tabs and other non-tribal gaming, internet gambling, and gambling on horse races. Three quarters of Washington State residents knew that the state lottery was regulated; they were least likely to know that the internet was not

regulated. While 41 percent thought the internet was not regulated, roughly 60 percent thought it was regulated. When asked if internet gambling was legal, 47 percent thought it was not. So there is a cross section of people who thought it was not legal but it was regulated. Compared to 2005, there were similar percentages answering correctly for each of these topics. Those most likely to answer correctly were males, adults with higher household incomes, and those with a BA or graduate degree. Only 14 percent knew the answers to all five. Three quarters of adults knew that the lottery was regulated, but only 8 percent could name the Lottery Commission as the organization that regulates it. For pull-tabs and other non-tribal gaming, over half of the adults knew that non-tribal card rooms, pull-tabs, and bingo are regulated, but only 14 percent specifically named the Gambling Commission. When asked who regulates horse racing, 54 percent of adults knew that it was regulated, but only 2 percent specifically named the Horse Racing Commission. When asked about tribal casinos, 51 percent knew that tribal casinos are regulated, but nobody answered completely correct.

When asked whether gambling should be more or less available than it currently is, respondents were split between wanting the same amount of availability and wanting it to be less available. Only 12 percent said gambling should be more available; however, males were more likely to express an interest in expanding gambling. The results were fairly similar between 2005 and 2011.

When asked to what extent they support gambling activities for charities and nonprofit organizations, there were much more positive opinions about gambling. There were 79 percent who somewhat or strongly agreed that gambling activities that support charities and nonprofit organizations were a good idea. White respondents were more likely to agree with this statement than minorities. Most agreed that the laws should be strengthened.

When asked to what degree gambling in Washington State was honest and fair, 78 percent thought that it was very or mostly honest and fair in 2011, which was a two percentage point gain from 2005. In both 2011 and 2005, white respondents were more likely to think that gambling was honest and fair than minority respondents.

A series of concerns regarding gambling were read to the respondents and they were asked to what extent they were concerned. Their concerns with internet gambling were: that it may expose people to credit card or identity theft, underage gambling, no ability to ensure the internet gambling winnings were paid, individuals spending money for gambling might commit crimes, internet gambling was not regulated, unregulated betting on sports events, and the possible influence of organized crime. Females, minorities, and those over age 65 were most likely to be concerned about most of those issues.

When asked about problem gambling, 28 percent said they knew somebody with a gambling problem and 22 percent of those thought the person had committed a crime because of their gambling. There were 59 percent of respondents who had some level of concern that individuals seeking gambling money might commit crimes. Knowledge about

gambling treatment programs was widespread with 92 percent who knew that gambling treatment programs existed.

When asked how concerned they were about the amount of money or time they had spent on gambling in the past year, there were 6 percent in 2011 who were very or somewhat concerned compared to 7 percent in 2005. The people most likely to be very or somewhat concerned were minority respondents, people earning less than \$50,000 a year, those not in the labor force, and people who live alone.

For most people who gambled in the prior year (91%), gambling is a social event – a form of recreation. A quarter gambled because friends or coworkers liked to gamble and they wanted to spend time with them. The percentage of respondents who were gambling as a way to make money more than doubled from 7 percent to 15 percent. Those gambling for money were more likely to be younger respondents (ages 18 to 24) and minority respondents. The percentage that had seen gambling on TV doubled from 4 percent to 9 percent.

**Chair Ellis** asked if there were any questions; there were not. He thanked Ms. Mann for her presentation, noting it was very illuminating and very interesting to see the stability – the continuation of numbers between the 2005 survey and the 2010 survey. Obviously there were some differences, as Ms. Mann noted, but at the same time, the consistency of the numbers tended to corroborate the accuracy of the results. He thought it gave the Commission the confidence that these were very dependable.

#### 4. **Petition for Review** – Jet Bar & Grill

**Assistant Attorney General Stephanie Happold** was present for the State, as well as **Petitioner Stephen Dorn** representing himself.

**AAG Happold and Mr. Dorn** provided their arguments in the Petition for Review. A recording and transcript of the hearing is available upon request.

At the conclusion of the arguments, **Chair Ellis** asked if there were any questions and called for an executive session at 2:35 p.m. to deliberate the matter; he recalled the public meeting at 2:40 p.m.

**Commissioner Rojecki made a motion seconded by Commissioner Amos that the Commission affirm the Findings and Conclusions and the Initial Order of the Administrative Law Judge to revoke Jet Bar & Grill's license to conduct gambling activities. Vote was taken; the motion passed with three aye votes.**

**Chair Ellis** explained the Commission did not find any basis for overturning the determination of the Administrative Law Judge.

**Mr. Dorn** asked if there was anything he could do in the future. **Chair Ellis** replied that Mr. Dorn could discuss that with Commission staff. **Deputy Director David Trujillo** said

he would meet with Mr. Dorn for a few minutes after Chair Ellis moved on to another topic.

**5. G2E Conference Update (PowerPoint presentation)**

**Mr. Paul Dasaro**, Administrator of the Electronic Gambling Lab, presented his report on the Global Gaming Expo in Las Vegas which he and other members of his staff attended. Staff who attended the conference included Paul Dasaro, Kristin Morris, and Jamie Aldridge from the Electronic Gambling Lab; Cathy Harvey of the Tribal Gaming Unit; and Karen Rea of Field Operations. Global Gaming Expo, commonly known as G2E, is an annual conference that was held in Las Vegas from October 3 to October 6. It is the largest gambling industry trade show in the world. It provides training sessions on many subjects relating to the gambling industry and provides the opportunity to meet and discuss current and future gambling equipment submissions and other business. Staff had the opportunity to meet with various gambling equipment companies interested in coming into the Washington State market and explain the licensing and submission process. It also allowed staff to meet and share information of common interest with various other technical state gambling regulators. During the conference, staff attended about 30 training sessions, held meetings with Washington State licensees and other stakeholders, and also had an opportunity to tour the expo floor and look at various types of gambling technology.

Some of the major subjects discussed were internet gambling, tribal gaming issues, both casino technology on the casino floor and mobile gaming which is a new concept, various types of casino scams and cheating methods, and some discussion of social media techniques. The predominate subject this year was, by far, internet gambling legalization in the United States. The majority of the training sessions focused on internet gambling. With government budgets in crisis and potentially billions of dollars at stake, legalization efforts have been intensifying at the federal and state level. To prepare for federal legalization, Nevada has passed laws allowing internet gambling and has even begun processing licenses. Large commercial gaming operators, manufacturers, tribes, and state lotteries are all in competition with each other for a share of the pie. The industry generally sees legalization in the United States as inevitable, but there is no agreement on when or how such legalization might occur. Back in December, the Department of Justice passed an opinion relating to the Federal Wire Act that creates the possibility of some type of intra-state internet gambling within the year, but it is not clear whether that is going to happen, or even how or where. There were multiple internet gambling legalization scenarios discussed, each with different beneficiaries, regulatory schemes, and implementation timelines. Some of the ideas that were discussed included a federal level legalization of internet gambling that would involve a federal agency, or multiple agencies, that would conduct the regulation without direct state involvement. Some of the proposals would specifically preempt state and tribal laws relating to the regulation of internet gambling. There were also some proposals put forward on a state-by-state basis where traditional gaming regulation is done at the state level, which would recognize that some of the methods put forth would limit the ability of some states, including Washington, from regulating the gambling. There was a lot of discussion on internet gambling from tribal

members and various folks representing the tribes. Many of them expressed the opinion that if legalization occurs, the tribes should have an equal standing with states in providing and regulating internet gambling.

One bill currently before Congress would specifically exempt tribal internet gambling from the provisions of the Indian Gaming Regulatory Act, so it would not be subject to Compact rules. With so many possibilities, it is difficult to tell how any type of internet gambling would affect Washington State. Some scenarios have the potential to create significant regulatory confusion in the industry and set up future conflicts between the states, tribes, and federal government. Some have the potential to alter what has traditionally been state authority over gambling and redistribute it to the federal government, other states, or other tribal governments. Functionally, this would prevent Washington State from actively regulating gambling activity that is occurring within its own borders. There are also concerns that legalization in other states without appropriate safeguards could increase the ease with which Washington State residents could gamble on the internet and unknowingly risk violating state law. It was interesting to note at the conference the noticeable lack of discussion regarding the technical aspects of internet gambling regulation. Most of the sessions were focused on taxation and revenue. Legal and licensing issues, concerns about gambling addiction, underage gambling, the physical location of where the gambling is originating from, collusion between players, automatic play software, and network security were given relatively little attention during the conference.

There was a lot of discussion about the use of private testing labs. Traditionally, the large commercial gaming jurisdictions such as Nevada and New Jersey have done their own testing because they have their own government lab. But recent legislation in both those jurisdictions has limited their ability and forced them to use private testing labs. The technical regulators present were concerned about how that process would work: what kind of information they could get from the private testing labs, what kind of documentation they could get from them, how could they hold those testing labs accountable if they made errors, and what type of performance audits could be done to verify they are doing what they were supposed to do. At the time of the conference, Nevada was in the process of drafting technical regulations in anticipation of future internet gambling legalization. In keeping with their new, less active role, the Nevada Lab stated they do not intend to perform testing of the internet gambling software and equipment, but believed that testing would be performed by private testing labs, with the state lab in an oversight and approval role.

Subsequent to the conference, Mr. Dasaro said he had an opportunity to review some of the technical standards from several legal internet gambling operations in Europe and elsewhere. He found that regulation of the technical issues was outsourced to private entities, such as private testing labs, or were left entirely up to the discretion of the manufacturers and operators. Potential legalization of internet gambling was part of the training sessions relating to tribal gambling. Most of the tribal members who spoke at these sessions, although not all, expressed a view that internet gambling was potentially a good thing and that the tribes should demand equal status with commercial gaming operations. There was also general agreement that any implementation of internet

gambling should not involve modification of the Indian Gaming Regulatory Act, and that it should not be subject to Tribal/State Compacts, similar to how Class II gaming is currently regulated.

Other subjects included the desire to fix and clarify the process for taking tribal land into trust for the purpose of gaming, often referred to as the Carcieri issue. There were presentations by the National Indian Gaming Commission about various initiatives they have in progress to improve their processes and their tribal consultations, and also some discussions on Class II regulation. For years the commercial gaming industry has been talking about server-based gaming, which is similar to what Washington State has had since 1999, but this year internet gaming was the main topic of discussion. Other emerging trends related to general casino technology included skill-based side games where a player would have the ability to play a gambling game and also have the opportunity to play a regular video game, such as Space Invaders, as a way of entertainment, which was integrated into the gambling game itself. Many games were designed to integrate with social media and mobile gaming devices. There were advanced interactive machine displays. Some were similar to an "Xbox Kinect" which responded to a player's movement and eye position, and several were new electronic table games. Mobile gaming is a catch-all phrase used to describe gambling technology that resides in a proprietary handheld device or in player's mobile phone. Mobile gaming was approved by Nevada and is currently in play in some of their facilities. The technology allows players to gamble from locations on the property, but not necessarily on the casino floor. Nevada has not approved mobile gaming for areas that are not at the facility.

There were training sessions covering gambling scams and cheating techniques. There were false jackpots where a slot attendant or manager would take advantage of a machine malfunction to report that a jackpot had occurred on the machine and then pocket the money. There was a lot of discussions on player tracking systems, which tend to not be regulated as closely as regular gambling systems and the types of scams that might be available on those systems. During the conference, staff had the opportunity to meet with several of Washington licensees and future potential licensees. Information about licensing submission and testing procedures was shared with a manufacturer interested in coming into Washington State. Staff also spoke with technical staff from International Gaming Technology (IGT), a tribal lottery system (TLS) manufacturer who has a significantly large internet gambling operation based in Europe, to get an idea of how they are implementing and regulating it in Europe. Staff also had a chance to meet with a private testing lab, Gaming Labs International (GLI), and discuss training opportunities they would like to provide and ways to improve communication to reduce the likelihood of interpretive conflicts in the future. Mr. Dasaro explained the Nevada Gaming Commission hosts a meeting once a year as an opportunity to share information and discuss items of mutual interest. There were representatives from six states, the National Indian Gaming Commission, and the Canadian Province of Ontario. Staff also had the opportunity to meet with other state technical regulators from across the country. Other topics included security issues of remote access into server-based systems, bonus and progressive games, Class II regulation, hardware technology, and testing procedures. Also discussed was the

possibility of communicating as a group and perhaps meeting more frequently to discuss additional items.

**Chair Ellis** asked if, given all of those potential or actual electronic developments in other areas and developments related to electronics, there was one particular type of innovation that Mr. Dasara thought the Commission may be seeing in Washington State or that he thought the Commission's testing lab needed to adopt in order to stay abreast of technological developments. **Mr. Dasaro** responded that even if there is no change in Washington State's law, internet gambling has a potential to create problems. Washington State is one of the few states that currently prohibits internet gambling by Statute, so if there is a change externally in other states, the Commission and the Lab need to keep abreast of what is going on. As far as casino technology, most previous conferences have focused on things like server-based gaming, but this year there really was not a lot of focus on newer technologies coming out in the casinos. Most of the focus seemed to be on interface enhancements that make it more enjoyable for the player but is not anything that is a major change in the technology that has been previously approved.

**Chair Ellis** said Mr. Dasaro had gotten his attention when he mentioned internet gambling operations in Europe where the testing to ensure that the games were run properly was done privately or not at all, and the point he had just reiterated that down the road, Washington residents might be unknowingly subject to unlawful internet gaming. It sounds like there are some potentially major challenges for regulators, both here and elsewhere, to ensure that any internet gaming that is going on is tightly regulated technically as well as traditionally. **Mr. Dasaro** agreed that was definitely a challenge. The proponents of internet gambling were saying that Americans and Washington State residents are already able to gamble online – illegally – so “let's make it legal, let's provide a regulatory framework that allows them to do it in such a way that they are protected, and that there is regulation of it, and that governments can gain revenue from it as well.” It will require a lot of communication between different jurisdictions and a lot of education among regulators because everything in gambling regulation is focused on the casino, which is a closed environment. Washington State has a lot of technology in the tribal casinos and is pretty on top of that technology, but when talking about the internet, they are talking about public open networks with a lot of additional risks that a closed casino environment does not have. That is going to be a challenge, but it is just going to require education and communication on the part of regulators.

**Senator Prentice** said there were a couple of things that came to her mind. Earlier the Commission was shown the public's attitude toward gambling, and she thought it was pretty clear the public does not care to go into internet gambling. But something else struck her – at the time the federal government busted three of the groups that were doing internet gambling a couple years ago, she recalled the reaction of the internet industry was “oh well, then they will have to legalize it.” So they are in about the worst case of denial that Senator Prentice has seen. She had the argument thrown at her not only about this, but a lot of other things, things that do not come to pass. She thought the public was pretty clear that this was one area they really did not trust. But on the other hand, she recalled one case the Commission had when it went to the Supreme Court when Justice Alexander

asked where it was regulated; oh, the Isle of Man. And Senator Prentice thought that was one of the clinching arguments, and also the brilliant work that Jerry Ackerman did. But they talk as if this is honest, and Senator Prentice was saying but Washington State has been saying no. It has not shut down everybody else, but it will keep looking; times are changing out there, but she did not see the momentum for it among the public. It is only the people who will be getting rich, who will say they are going to give all this tax money. So she has not heard anything that is really new. Senator Prentice said that was where she sees Washington State.

**Commissioner Amos** noted that Mr. Dasaro had mentioned Casino Tech with their mobile gaming and cell phones, and asked if any of that was currently in play. **Mr. Dasaro** replied it depended on the platform. There was the slide showing an iPhone with a free internet poker game on it, but there was no gambling involved. Nowhere in the United States is just internet gambling using a phone allowed; although, it is definitely possible. He thought that it might exist in Europe and other jurisdictions, possibly in Asia, but at this point in the United States, it is completely unregulated. **Director Day** thought Nevada law had mobile gaming. **Mr. Dasaro** explained that Nevada law allows mobile gaming, but there are significant restrictions to it. It cannot be on just an open device like a cell phone, but actually has to be on a pre-approved handheld device that was submitted by a manufacturer to the state for approval. Once approved, and under very strict circumstances, they can utilize it at or around a gambling facility. **Director Day** asked if these could be taken back to the hotel room to continue gambling. **Mr. Dasaro** affirmed they had recently been expanded. They used to have to be near the casino floor or near the casino property, but now they can be taken up to the hotel room and played. **Commissioner Amos** asked if keno and blackjack could be played at the same time. **Mr. Dasaro** affirmed.

**Chair Ellis** said he was thinking through the concerns about Washington residents unknowingly violating state law by gambling on the internet. He assumed it would be quite feasible to set up electronic surveillance if there was an agent, a computer, and a list of the well-known internet gambling operations going on in other states that are not suppose to be accepting bets from Washington residents. Then the agent could just go onto those websites and see whether or not that agent is able to bet in Washington. He asked if Mr. Dasaro was currently seeing anything like that. **Mr. Dasaro** explained he was on the regulatory side, not the enforcement side, but he knew a lot of jurisdictions, even Nevada who is currently developing regulations for it, specifically limit the gambling and say it can only occur within the borders of that state. So, theoretically, if Nevada implements the regulations they are currently proposing, they would have technology that would limit or prevent residents of other states from actually gambling in theirs. The devil is always in the details however, and there are definitely ways to get around those controls without very much difficulty, depending on how strongly those requirements are created and how strongly they are implemented. **Chair Ellis** said that was the point at which he became concerned about Mr. Dasaro's comment that in some of the European internet operations, the regulations were either not enforced or the technology was being done by private firms.

**Senator Prentice** asked, with Congressman Barney Frank leaving Congress, who Mr. Dasaro believed was going to be the person carrying that legislation. **Mr. Dasaro** replied that there were at least three bills that have been proposed within the last year or so. One was by Senator Reid, one by Representative Barton, and another one by Representative Carter, and each of those bills had a lot of co-sponsors attached. He did not know if there was one single standard bearer for internet gambling, other than perhaps Senator Reid who represents Nevada.

**Chair Ellis** asked if there were any other questions; there were none. He thanked Mr. Dasaro commenting that he worked in a challenging area and he must be very nervous about taking a day off for fear that his entire world would change when he got back to the office. **Mr. Dasaro** agreed it was changing quickly.

*[Items 6, 7, and 8 were inadvertently not recorded and were compiled from information provided at the meeting and notes taken during the presentations.]*

**6. New Licenses and Class III Certifications**

**Deputy Director Trujillo** pointed out the house-banked card room pre-licensing investigation report for Macau Casino in Tukwila. There were no new or unusual items and staff recommends approval of all new licenses and Class III certifications listed on pages 1 through 29.

**Commissioner Rojecki** made a motion seconded by **Commissioner Amos** to approve all new licenses and Class III certifications listed on pages 1 through 29. *Vote was taken; the motion passed with three aye votes.*

**7. Approval of Minutes – November 17-18, 2011, Commission Meeting**

**Commissioner Amos** made a motion seconded by **Commissioner Rojecki** to approve the minutes from the November 17-18, 2011, Commission meeting as submitted. *Vote was taken; the motion passed with three aye votes.*

**8. Defaults:**

a. *Ha T. Nguyen, Card Room Employee, Revocation*

**Amy Hunter**, Administrator, reported that Mr. Nguyen, while working at Wizards Casino as a poker floor supervisor, took approximately \$1,000 in chips without paying for them and approximately \$2,750 in cash to play Pai Gow. Mr. Nguyen received a loan of \$1,500 from Wizards Casino to help reconcile the chips and money he took. Mr. Nguyen admitted he knew his actions were wrong. Administrative charges were issued by certified and regular mail. By not responding to the charges, Mr. Nguyen waived his right to a hearing. He is no longer working and staff recommends revoking Ha T. Nguyen's license.

**Chair Ellis** asked if Ha T. Nguyen, or a representative, was present; no one stepped forward.

**Commissioner Amos** made a motion seconded by **Commissioner Rojecki** that the Commission revoke Ha T. Nguyen's card room employee license. *Vote was taken, the motion passed with three aye votes.*

b. *Troy Swinton, Class III Employee, Revocation*

**Ms. Hunter** reported that Troy Swinton, while working as an employee of the Tulalip Tribe, committed a theft of over \$1,000. The Tulalip Gaming Commission suspended Mr. Swinton's tribal gaming license pending revocation. Mr. Swinton did not file an appeal and his tribal license was revoked. The Director issued administrative charges by certified and regular mail. Mr. Swinton did not respond to the charges and, therefore, waived his right to a hearing. Staff recommends revoking Troy Swinton's Class III employee certification.

**Chair Ellis** asked if Troy Swinton, or a representative, was present; no one stepped forward.

**Commissioner Amos** made a motion seconded by **Commissioner Rojecki** that the Commission revoke Troy Swinton's Class III Certification. *Vote taken, the motion passed with three aye votes.*

**9. Other Business/General Discussion/Comments from the Public**

**Chair Ellis** opened the meeting to other business, general discussion, and comments from the public.

**Mr. Steve Michels**, Michels Development, said that, in listening to Mr. Dasaro's presentation, he thought there were some things the Commission should be informed of. The Justice Department actually had rules changed that said they were not going to oppose internet gaming anymore, except for in sports betting. That kind of opens up a whole new problem for everybody – they say that internet gambling is no longer illegal, that you can have it. On the Smartphone devices, there are a lot of different apps available. Apple says that with a gaming app, or a device that can be used for gaming, it cannot have an internet connection back to a server because it is supposed to be a game of fun. But now that the rule is changing, Mr. Michels was sure Apple would re-look at that. But an Android telephone does not care if it has that or not. Mr. Michels was sure the Commission would probably see a lot of companies that come up. When a search is done in Apple, a lot of the big name companies that he has worked with, not only have made games for entertainment but also have a device for business. So, when asking about Smartphone devices being able to gamble over it, Mr. Michels thought the Commission would very soon see the rules change.

**Chair Ellis** thanked Mr. Michels and asked if there was anyone else in the audience who would like to address the Commission; no one stepped forward.

10. **Executive Session to Discuss Pending Investigations, Tribal Negotiations, and Litigation**

**Chair Ellis** called for an Executive Session at 3:20 p.m. to discuss pending investigations, tribal negotiations, and litigation. He announced that at the end of the executive session, the public meeting would be resumed solely for the purposes of adjourning.

**Adjourn**

**Chair Ellis** called the meeting back to order at 4:45 p.m. and immediately adjourned.

**WASHINGTON STATE  
GAMBLING COMMISSION MEETING  
FRIDAY, JANUARY 13, 2012  
APPROVED MINUTES**

**Chair John Ellis** called the Gambling Commission meeting to order at 9:30 a.m. at the Tumwater Comfort Inn Conference Center and introduced the members present.

**MEMBERS PRESENT:**     **Commissioner Chair John Ellis**, Seattle  
                                  **Commissioner Vice-Chair Mike Amos**, Selah  
                                  **Commissioner Keven Rojecki**, Tacoma

**STAFF:**                   **Rick Day**, Director  
                                  **David Trujillo**, Deputy Director  
                                  **Mark Harris**, Assistant Director – Field Operations  
                                  **Amy Hunter**, Administrator – Communications & Legal  
                                  **Jerry Ackerman**, Senior Counsel, Attorney General’s Office  
                                  **Gail Grate**, Executive Assistant

**11. Staff Presentation – Requirements for Card Games and Proposed Changes (*PowerPoint Presentation*)**

**Assistant Director Mark Harris** reported his presentation would explain adding envy bets over multiple tables and over multiple games. The envy bonus feature is when a player makes a qualifying wager and somebody else’s hand at the table meets a triggering event. Currently there is only one envy or share the wealth feature allowed on a game and it cannot be connected over multiple tables. As a brief overview, Pai Gow is a poker-based game where the players get seven cards to make a two card low hand and a five card high hand. In order to win, the players have to beat the dealer on both hands. If they win one hand but lose the other hand, it is a push. The player can place a \$300 wager and a \$300 fortune bonus wager. The Pai Gow wager pays even money. In most places, a 5 percent commission can be charged, but most of the operators do not charge any commission. The fortune bonus wager is an odds-based wager, which is basically the players betting they get a specific hand. An example would be a seven card straight flush with no joker would get 5000 to 1 payout. If players place a \$5 wager on the fortune bonus feature, that would qualify them for the envy portion of the payout. The dealer would place a lammer on that spot that says envy on it to signify the player had a qualifying wager.

**Chair Ellis** asked if it was correct that the basic bet and the fortune bonus bet are not considered separate games. **Assistant Director Harris** clarified that the Pai Gow standard bet would be considered one game and the fortune bonus would be a second game. But if a \$5 wager is placed, it qualifies the player for the envy payout, which would not be a separate game because there is no separate wager required to qualify for that payout. **Chair Ellis** clarified that there could be a basic Pai Gow bet of \$300 and another \$300 bet

on the fortune bonus. **Assistant Director Harris** affirmed that was correct. **Chair Ellis** thought the regulations specify that no more than four separate games can be played within a single hand and that no more than three of the separate games may offer a wager that exceeds \$5 each. He asked how there could be two \$300 wagers on those two separate games. **Assistant Director Harris** explained that WAC allows up to three of the four games to have a wager up to \$300; the fourth one is limited to \$5. **Director Day** clarified that the reversing answer was that each of those are separate games. **Chair Ellis** agreed, indicating that the WAC states that no more than three of the separate games may offer a wager that exceeds \$5. He thought it was saying that three of those games had to be \$5, but it is actually saying that one of them has to be \$5. **Director Day** affirmed.

**Assistant Director Harris** explained if a player placed at least a \$5 wager, it could go all the way up to \$300 and would qualify for the envy payout option. If somebody at the table had a four-of-a-kind and another player had placed the \$5 wager, the other player would get an extra \$5. If somebody else at the table had a seven card straight flush with no joker, that other player would get an extra \$1,000 payout. So each player that had the qualifying \$5 wager would get the \$1,000; they would not share that prize. Because it is not an odds-based wager payout, but is a flat payout, the aggregate rule does not apply. That rule just applies to odds-based payouts. The difference between envy and the share the wealth feature on the Emperor's Challenge game, which is also a Pai Gow-based game, is the player who has the qualifying hand can also get paid. It does not have to be another player's qualifying hand. That is the only basic difference.

**Director Day** clarified the aggregate does not apply to the envy wagers, so in theory if there is more than one table connected and they have a number of envy wagers on both tables, the operator would have to pay out potentially \$1,000 to each of those who placed an envy wager. **Assistant Director Harris** affirmed, because the aggregate rule only applies to odds-based wagers. AD Harris had checked around and did not think there was ever going to be an odds-based payout on one of the envy or share the wealth features because it changes the odds so much. So, for a manufacturer to have a mathematician try to calculate the payouts for these additional wagers based on odds when the wager could be anywhere from \$5 up to \$300, it makes it very complicated. That is why there are no envy wagers or share the wealth type features out there that are odds-based; they are all basically straight even money – \$1,000; \$5.

On the next game, which is also Pai Gow-based, there is an extra feature called the Emperor's Treasure and Pai Gow insurance. The player can place a \$300 wager on any of the three locations. With the Pai Gow insurance, the players are wagering that of their seven cards, they get anything that is less than a pair. So basically they are betting they have a very, very bad hand. On Emperor's Treasure, the player is betting they get a predetermined hand that is paid out, like a full house or four-of-a-kind. AD Harris explained the pay tables used in these games. With the share the wealth feature on the Emperor's Treasure wager, players wagering at least \$5 on the hand, which qualifies them for the share the wealth feature. If somebody at the table, including themselves, happens to have five aces anyone else who had a \$5 wager would receive the extra \$50 share the wealth payout.

**Commissioner Amos** asked if Pai Gow was played with a double deck of cards. **Assistant Director Harris** replied it was played with a single deck. **Commissioner Amos** asked how a player could get five aces. **Assistant Director Harris** explained there is a joker that could be used as an ace.

**Assistant Director Harris** explained a color bonus is an example of another feature where the players do not have to place a separate wager. They just have to place a qualifying wager on a different feature of the game, which then it qualifies them for the payout. There is another option on the Emperor's Treasure feature where players can place at least a \$5 wager on the Emperor's Treasure bet, which qualifies them for the color bonus. With the color bonus, players are basically betting that they get all seven of their cards in the same suit. So if players bet at least \$5 on the Emperor's Treasure, it qualifies them for an additional payout.

**Chair Ellis** asked what the four separate columns on the slide depicted. **Assistant Director Harris** explained the multiple columns are different pay tables that the manufacturer has put together, which allows the operator to choose which pay table they would like to offer on the game at their casino. **AAG Ackerman** asked if the "same color" really meant "same suit"; not red or black. **Assistant Director Harris** replied it could be diamonds and hearts mixed or clubs and spades mixed.

**Assistant Director Harris** explained that with progressive jackpots, players place a wager that accrues to a progressively increasing jackpot. In Caribbean Stud, which is a poker-based game, the players place an ante wager and get five cards dealt out. The players can either fold or call. If they elect to call, then they place a bet that is two times what the ante wager is. The dealer must have at least an ace and king to qualify or the player would automatically win the ante bet. The maximum that can be placed on the ante bet would be \$150 because the bet has to be two times and then the wager limit is \$300 - so two times \$150 is \$300. The progressive jackpot wager can also be up to \$300, but usually it is about \$1. The ante wager would pay 1 to 1, and the bet is an odds-based payout. The progressive jackpots on the same game can be connected over multiple tables. If the operator had two Caribbean Stud poker games in their card room, and the players were placing the progressive jackpot wagers, the portion of those wagers would all accrue to one common jackpot that was available to be won on both tables. Keep in mind, though, that not 100 percent of what the player wagers goes to the jackpot. A portion goes to the house for administration and is part of their gross receipts, plus usually a percentage also goes to a back-up jackpot. So when the main jackpot goes, there is a larger amount of money that will be available for the second jackpot so the players will still continue to place that wager.

**Assistant Director Harris** explained what the proposed changes in the rule petition would allow. In the game Emperor's Challenge, an envy and share the wealth wager could be done on the same game. It includes a Pai Gow wager, an Emperor's Treasurer wager, and a bonus jackpot wager, which could be up to \$300 each. The rule petition would allow these envy or bonus features to be connected over multiple tables of the same game, which

the current rule would not allow. It would also allow connecting the features over two tables of different games, for example an Emperor's Challenge game and a Lucky Ladies blackjack game. So if a person had a qualifying wager on the Pai Gow-based game, that would qualify all the players at the tables to be eligible to get the additional payout.

**Chair Ellis** asked if there would be an effort by the operator, or by the company that was selling the game, to ensure the relative odds between the two different card games were about the same, that the difficulty of achieving the predetermined hand was about the same. **Assistant Director Harris** responded that, if this petition gets passed, he would assume there would then be some submissions of modified pay tables to try to bring things into alignment.

The rule change would allow a progressive jackpot to be tied to the envy or share the wealth, or some other type of bonus feature. On the Emperor's Challenge game, the progressive jackpot is called mega share. So if the players' bonus jackpot wager was at least \$2, they would qualify for the mega share progressive jackpot envy feature. This would not qualify for an aggregate payout because it is a progressive jackpot with a flat payout and is not odds based. Each qualifying player at this table or the other table would receive a portion of the progressive jackpot. If players at two different tables had a qualifying wager, and somebody received a seven-card royal flush without a joker in diamonds, they would be entitled to be paid 100 percent of whatever the posted jackpot was. If there were eight players that had qualifying wagers, they would all share evenly the total of the posted jackpot amount.

**Chair Ellis** asked if that meant if one player at one of the two tables got a seven-card royal flush without a joker in diamonds, then every player at the two linked tables that had an envy bet would receive the envy payout. **Assistant Director Harris** affirmed that each of the players that had the qualifying envy wager would share a portion of the jackpot. So if there were five people and it was a million dollars, they would each get \$200,000. **Chair Ellis** asked if AD Harris had any idea how the operators would be able to manage the time factor if there were two different games involved. He asked if the hand had ended on one table and the envy lammers had been taken away and at that exact point somebody hit that royal flush on the other table, at what point the players with envy bets on the first table would lose. **Assistant Director Harris** explained that under the current proposal the petitioner has a system that has sensors on the table that will light up so they can determine at a certain point in time who had a qualifying wager that would be entitled to the pay out. That is specifically one system. If an operator was choosing to do this without a specific system, they would have to develop controls and submit them to Commission staff to review first.

In the agenda packet there is a table that compares the current rules to the proposed changes. The first item on the chart shows the number of separate games allowed, which is currently four. Under the petitioner's proposal and staff's amended proposal, it is still based on four separate games. Only one envy or share the wealth bonus feature is allowed under the current WAC. The current WAC does not define what a separate game or bonus feature is, and there are no rules for how to operate envy or share the wealth features. The

current rule does not allow progressive jackpots to be used with envy or share the wealth features. Although not in WAC, jackpots have been allowed to be connected over multiple tables. WAC does not clarify that baccarat must be played by the Commission rules approved and listed on the agency web page, or that only one player may place a wager on a betting spot.

Under the current WAC, the maximum amount of potential wager is \$905. Under the petitioner's proposal and staff's alternative proposal, that dollar amount does not change. AD Harris asked if there were any questions or any information the Commission would like him to follow-up on.

**Chair Ellis** asked if the other Commissioners had any more questions. There were none. **Commissioner Amos** commented he was lost.

**Mr. Robert Tull** attorney for Galaxy Gaming and Rockland Ridge, explained that the rules for card games are intended to be outlines; they define the playing field. A manufacturer or an inventor of a game has to bring in the entirety of that system, that game, and how it is going to be played; how the safeguards will be designed, implemented, and carried out with audit functions – up and down the whole system. As AD Harris was just alluding on some of the questions that the Commission has, individual manufacturers will answer those questions differently. They will bring in a proposed game system with or without lots of technology; that will be their choice. That will be reviewed at their own expense by the Commission technical staff to make sure that it plays the way they claim it does. It is pretty easy for those who are not professional game players to be a little bit confused, particularly when the rules that are being talked about are very general. The implementation through the games themselves is much more specific. Mr. Tull said they would try at next month's meeting to bring back some of the basic concepts in a way that the Commission will keep absorbing. As long as Commission technical staff – and Mark has a good understanding of all these things and be able to keep clear where the line is between regulatory concern and some other type of issue. The questions talked about today will have to be addressed by each and every manufacturer. They have to satisfy in the staff review process that the game can be played. The notification between tables will be effective, it can be monitored. Of course they have cameras and everything to back that up. Some people will solve those with more technology; some will solve it with less technology. But these rules have to be general in nature. The manufacturers have to be specific when they bring their particular game in because the agents in the field for this agency have to make sure that they are being played according to the rules. Not just the Commission rules, but the game rules that are being carefully reviewed on a technical laboratory basis. Someone checks a lot of these numbers; someone checks the system. And it is up to the operators to follow the manufacturer's rules, as well as the Commission rules. So yes, it is complicated.

**Chair Ellis** thanked Mr. Tull, adding he had assumed the Commission would be hearing from Mr. Tull in connection with the next item on the agenda – the petition from Rockland and Galaxy. **Mr. Tull** said he thought the Commission was ready for public comments.

**Chair Ellis** replied that was fine. The Commission does not dwell on formality, particularly in a session such as this when it is essentially a working session.

## **RULES UP FOR DISCUSSION**

### **12. Petition From the Public: Rockland Ridge Corporation and Galaxy Gaming, Inc. – Linking Envy Wagers Between Different Card Games at a Single Card Room**

a) Amendatory Section: **WAC 230-15-040** – Requirements for authorized card games

***Staff's Amendments Up for Discussion at the January 2012 Meeting***

b) Amendatory Section **WAC 230-15-040** – Requirements for authorized card games

c) Amendatory Section **WAC 230-15-685** – Restrictions on progressive jackpots

**Assistant Director Harris** reported the petitioner is requesting to allow players in card rooms to place a qualifying envy wager to be connected over multiple tables. It adds a definition of envy or share the wealth as a bonus feature, and allows other game features that do not require a separate wager to be considered a bonus feature. It also allows bonus features to be connected to a progressive jackpot. The petitioner has worked with staff to clarify items in the current rules like defining what envy and share the wealth wagers are and what a separate game is. Staff has proposed amendments to the petitioner's rule change that address regulatory concerns, include some necessary definitions, and provide some clarification on how games should be played. Amendments to WAC 230-15-040 include clarifying that card games and bonus features must be approved by the Director or the Director's designee and that a prize in a bonus feature is based on achieving a predetermined or a specific hand. The amendment includes some housekeeping changes on changing a wager to bonus feature, clarifying that approved card games must be operated as documented on the agency web page, and clarifying that only one player may place a wager per wagering area in the game of baccarat.

The amendment to WAC 230-15-685 clarifies that licensees may collect progressive jackpots over multiple tables of the same game, which is what the current practice is but that was not specifically addressed in WAC rule. Card room impacts include having to develop internal controls to explain procedures on how they would identify who has a winning hand, notify the other tables offering envy wagers that the jackpot had been won, identify which pay table would be used to pay out the envy bonus on a prize on a different game, and verify that winners of the envy bonus prize throughout the card room are legitimate winners. The petitioner is developing some suggested procedures and controls that may assist licensees in developing necessary internal controls, which the proposed rule change requires licensees to submit to Commission staff for approval. Currently, under tribal gaming in Washington State, the tribes can offer envy bonus wagers on card games, but only players at the same table are eligible to win those. If the Commission were to approve the envy bonus wagers that connect between different games, the tribes would also be authorized to do this based on the terms of their Compact. Recently Galaxy Gaming was approved for their mega share equipment and scheme to be operated in Nevada, which allows players at multiple tables to be paid out, so it basically connects the tables. Currently New Jersey only allows the envy feature on defined games like Pai Gow poker.

Some regulatory concerns would basically be the four items previously discussed on the impacts to card rooms. There would also be some new rules requiring licensees to develop the internal controls, which would have to be reviewed. As a game becomes more complex, there could be additional complaints from the players that they had a bonus wager but did not get paid, or with the timing/qualification portion.

Staff time would be required to approve the changes and/or additions to internal controls, and possibly to develop some internal control guidelines to help operators follow. Staff may also receive additional or increased amounts of requests to approve equipment to monitor and facilitate these new types of features. Staff may receive more requests to change card game rules to allow adjusting the pay tables or putting envy and share the wealth or other bonus type features on games that currently do not have them.

Historically, the Commission has limited the number of games played within a hand of cards and has not allowed different card games to be connected. This proposal would allow more bonus features and allow bonus features to be tied to a progressive jackpot. The Commission may wish to consider whether the proposal is consistent with the legislative intent expressed in RCW 9.46.010.

**Chair Ellis** asked if staff had any specific thought in mind as to what the issue would be under that statutory section. **Assistant Director Harris** responded that if it would be considered an expansion of gambling to be able to connect card game features or allow additional features that were above and beyond four standard card games. The issue could be that there is no wager connected to it. If the Commission were to adopt the rule change, the rule would allow multiple tables to be connected, multiple games for some of the envy or bonus features, increase the number of bonus features and exceptions allowed in card games, and tie the bonus features to a progressive jackpot. Staff recommends filing staff's amendments to the petitioner's petition.

**Chair Ellis** asked if there were any questions; there were none. He called for public comment.

**Mr. Robert Tull**, attorney for Galaxy Gaming and Rockland Ridge, explained he was nearly through his evaluation of the staff's recommendations. He did not see any significant issues, but have a couple questions that he will address by memorandum in the coming weeks. Mr. Tull could not think of any reason why the Commission would not take their recommendation to take these revisions forward for consideration at next month's meeting for final action. He understood what staff was trying to do, but had a couple clarifications they would like to get. Mr. Tull said they would try to address some of the questions that AD Harris' review raised in terms of the overall matter, but would not get into that today. He knew it was a brief agenda and would let that go forward, but he could not think of any reason the Commission would not carry staff's recommendations forward for their revisions. He thanked the Commission, adding he will try to get some other highlights next month to try to clarify put the perspective – it is clear that these proposals, as AD Harris very accurately pointed out, are not designed to increase the amount that can be bet at any particular time. It is to generate excitement, to make people

want to play under these conditions; it is marketing, and it is highly regulated. Mr. Tull thought these revisions were just intended to flesh out the system even more.

**Chair Ellis** asked whether it would make the operators a little nervous to be increasing the payouts but not increasing the bets. **Mr. Tull** replied that was a business decision the operators get to make. They have to be convinced by Mr. Saul or his counterparts that it is attractive.

**Mr. Gary Saul**, president of Rockland Ridge, stated he had not planned to say anything, but it looked like he better say something because looking at the faces watching this, he was seeing mass confusion. Assistant Director Harris did a very good job of explaining it, but Pai Gow can get kind of complicated for those who have not played the game. Obviously, if the Commissioners were around the game in a casino and were watching it, and Mr. Saul was pointing out what was going on, it would probably only take about 10 to 15 minutes before someone would say “okay, that’s pretty easy; now I understand.” But trying to watch a demo and trying to see all the different wagers, it can get very complicated, which it is not. But everything is, until a person has played the game. Until they have been at the table and actually played it themselves and saw it, then they would say “wow, this is completely different than I thought.” As far as the amount of the wagers, the rule allows three wagers – three separate games with a \$300 wager and one wager of up to \$5. So in the demo, watching it himself, he would have said if he did not know the game, he would be confused as heck trying to figure out what AD Harris was saying. So with the bonus jackpot wager, there are the regular three bets: the primary Pai Gow poker wager, which is where the players get their seven cards and make two-card hands. They make a two-card hand and a five card hand, and the object is to win both hands. They have to win the five-card hand and the two-card hand to get paid on their primary Pai Gow poker wager. Then there are the two optional proposition wagers; the Emperor’s Treasure wager and the Pai Gow insurance wager, which can be up to \$300. Then there is the bonus jackpot wager, or progressive wager, which is a \$1 wager. That is it, the player is betting \$1. What the proposal adds is a qualifying wager of \$2; so one more additional dollar to qualify for a separate meter. There are going to be two meters; There is going to be a main jackpot meter – let’s say for argument sake it is \$50,000 – and then there is going to be a secondary backup that is \$25,000, which is mega share or share the wealth. If it is mega share – what the petitioners want to do is mega share – to qualify for the mega share it takes one extra dollar. That is it; one extra dollar. So the bonus jackpot would be \$1. If the players want to qualify for the mega share, they would have to add one more dollar, so it is a \$2 wager. Mr. Saul said that if the Commissioners saw it, if they were watching the game, it would be a lot easier than trying to understand all the complexities of the different bets and qualifying wagers and what is involved with an envy. To play envy is just a separate wager. If players make a \$5 wager or more on an odds-based payout, they automatically qualify for a separate prize. That is it. It is not a separate wager; it is one wager for \$5 or more and they get a specific pay amount, whether it is \$5,000, \$1,000, or whatever it is. Mr. Saul said he did not know if that was helping the Commissioners understand it without actually showing them on a game and watching the game as it is played, which would be much easier.

**Mr. Tull** clarified the Chairman's question, which Mr. Saul partially answered – at least the way he construed Chair Ellis' question – was how do the operator's come to understand whether there is – that they are going to still make money with higher features. Since the bets are not increasing with these different prizes, how do the operators evaluate that? How do they help them with that?

**Mr. Saul** replied the wager will increase one extra dollar; that is it, one extra dollar. There is a dollar bonus jackpot wager, or \$1 progressive wager, and if the players make a one more dollar wager, they add one dollar, they qualify for the mega share. So yes, they are adding that one dollar wager. Now is Chair Ellis asking if that one dollar wager is enough?

**Chair Ellis** affirmed, and then asked, assuming that the operator is tying two tables to keep it fairly simple, what happens to the odds of somebody hitting a qualifying hand for the envy wager? Do the odds just simply double? It would depend on the number of players too, of course. **Mr. Saul** Everybody that's playing to qualify has to make that additional wager. It is not just one person. Everybody playing on each game to qualify for the share the wealth or the mega share has to add a \$1 wager. **Chair Ellis** asked what the maximum number of people playing at one of those tables was now; if it was nine. **Mr. Saul** replied it could be a nine-spot game. Obviously in a Pai Gow game it is always six players. So it could be up to nine. **Chair Ellis** asked if, theoretically, there could be 18 players making that additional \$1 bet. **Mr. Saul** affirmed that, theoretically, there could be 15 tables with nine spots. **Chair Ellis** agreed that was true also, but he was trying to keep it simple. **Mr. Saul** responded that he was talking about 135 players, based on theory. **Mr. Tull** added it involves the accumulation of funds over time based on the relatively low frequency of certain events taking place, which is the closest he could come. **Chair Ellis** said he appreciated the information.

**Assistant Director Harris** offered clarification on that if the Commissioners would like a little bit more explanation on it. **Chair Ellis** told AD Harris to go ahead. **Assistant Director Harris** On the basic bonus Pai Gow, there is a straight wager and then there is the bonus wager. To get the payout of the \$1,000 on that for the bonus portion, a player could put a \$1 wager out there. But to qualify for the envy, the players need to place at least a \$5 wager out there. So, basically, what they are doing is enticing the players to place a little higher wager. And then, based on the percentages, the higher the wager for that extra payout, it is still in the house's favor. So they are just enticing a higher wager to qualify for this additional payout, but the odds are still going to be in the house's favor. That is how they are planning on making the difference.

**Chair Ellis** thanked AD Harris, adding he thought it must be something like that. He asked if there was anyone in the audience who would like to address this petition and the staff amendments; no one stepped forward.

**Commissioner Amos** made a motion seconded by **Commissioner Rojecki** that the Commission file the staff amendments to WACs 230-15-040 and 230-15-685 for further discussion. *Vote taken; the motion passed with three aye votes.*

13. **Petition From the Public: 50/50 Central Ltd. – Electronic Raffle Systems and Removing the \$80,000 Raffle Prize Limit**

**Petitioner’s Amendments Filed for Discussion at the November 2011 Meeting**

- a) New Section: **WAC 230-11-200** – Defining “electronic raffle system”
- b) New Section: **WAC 230-11-205** – Operating requirements for electronic raffle systems
- c) New Section: **WAC 230-11-210** – Leasing electronic raffle systems
- d) New Section: **WAC 230-16-152** – Remote access of electronic raffle systems
- e) Amendatory Section: **WAC 230-11-065** – Raffle prizes
- f) Amendatory Section: **WAC 230-11-067** – Requesting approval to offer raffle prizes exceeding forty thousand dollars per prize ((~~or eighty thousand dollars annually~~))

**Staff’s Amendments Up for Discussion at the January 2012 Meeting**

- g) Amendatory Section: **WAC 230-11-065** – Raffle prizes
- h) Amendatory Section: **WAC 230-11-067** – Requesting approval to offer raffle prizes exceeding forty thousand dollars per prize or ((~~eighty~~)) three hundred thousand dollars annually

**Assistant Director Harris** reported that the petitioner, 50/50 Central Limited, a previously licensed manufacturer, is requesting to add rules to address selling raffle tickets using an electronic raffle system, including selling tickets at a discount. They are also asking to increase the number of discount plans from one to four, and removing the requirement that raffle licensees must get approval from the Commission to exceed \$80,000 in total prizes annually. The licensees would still be required to get approval before offering a single prize that exceeds \$40,000.

An electronic raffle system referred to as the “50/50” system was approved by Commission staff in June 2011 and is the only approved system in Washington. It is basically software that is installed on a Point of Sale (POS) system and is used as an accounting system for raffles. In 50/50 raffles, 50 percent of the raffle ticket sales are paid out as prizes and the other 50 percent is kept by the organization. Potentially, the electronic raffle system could be used for all types of raffles. The system provides the participant with a raffle number printed on a receipt, and then provides the operator with a receipt that prints the individual ticket numbers out for the drawing. The raffle tickets could be sold through the POS system at a cashier station, or it could be sold by a person walking through the audience with basically a PDA that would print out the tickets for the purchaser. There is software that tracks all the ticket sales. Traditionally, raffles have been conducted by organizations that use a manual system with preprinted tickets. Although the 50/50 raffle system complies with current WAC rules, there are no current rules that specifically address this type of technology. For example, staff has never had to look at an electronic raffle system, so there is no rule about leasing equipment or accessing equipment remotely to do repairs and maintenance. The proposed new rules would add a

definition of electronic raffle systems, put additional requirements that licensees must follow if they use this approved raffle system to sell tickets, adds requirements for leasing the electronic raffle system from a manufacturer and for remote access for electronic raffle systems to do repairs and maintenance.

The petitioner also wanted an additional feature for bundling tickets for discount, but because the system printed out the numbers on one receipt, it did not meet the definition of bundle. The rule would have to be changed to address that, which is what the petition does. The petitioner has also requested to put four separate discount schemes together because the system can do it electronically. Currently, the WAC rules only allow one discount scheme because it was complicated for hard tickets to be bundled together, packaged, sold by individuals as a set, and also with the tracking. Through an electronic system it is pretty simple.

Based on the discussion at the November 2011 Commission meeting, staff is recommending an amendment to increase the yearly prize limit from \$80,000 to \$300,000 instead of completely removing the limit. The Commission would continue to be required to approve prize payouts that exceed that yearly total. Staff's amendment also includes the requirement that licensees who plan to exceed \$300,000 get approval from the Commissioners. The electronic raffle system would actually make it easier for staff to audit raffle records because it would produce reports that would facilitate staff's to oversee the raffles. In the petitioner's proposal, staff would no longer have to review documentation from raffle licensees who exceed \$80,000 in prizes, and the Commissioners would no longer have to review and approve raffle licensees exceeding \$80,000 in prizes. Staff will have to develop a regulatory process to monitor and test the operation of these new systems. Under the elimination of the requirement for staff to review and approve the prizes that exceed \$80,000 annually, it would actually save resources and staff time.

**Commissioner Rojecki** asked if this would be for one raffle. If the licensee had two \$40,000 raffles, would they have to go through this process twice? **Assistant Director Harris** replied they would have to come before the Commission for any individual prize to be offered over \$40,000. **Commissioner Rojecki** said that clarified that question. He assumed that, under WAC 230-11-067 that talks about submitting a plan, there may be some other WAC that requires the licensee to submit that plan prior to implementation of the raffle. He asked if it needed to be further clarified that their plan must be submitted prior to getting approval for the raffle. He was just trying to clarify that and asked if his question made sense. **Director Day** pointed out that the title of the rule is "Requesting Commission Approval Prior to Offering the Raffle Prize." **Commissioner Rojecki** admitted he had not looked at that. He said that was a good answer and thanked Director Day. **Director Day** commented he got to show off his new education because he was just informed last week by Ms. Hunter that because it is an administrative rule, the title actually applies to the enforcement of the rule.

**Commissioner Rojecki** said it was a good thing the Commission has attorneys on the staff. **Director Day** agreed.

**Chair Ellis** asked for clarification that before the Commission today is the petitioner's original petition and the staff's proposed amendments which are up for discussion and up for potential adoption as amendments to the original petition. **Assistant Director Harris** affirmed that was correct.

**Chair Ellis** said he did not recall specifically seeing anything in the materials where 50/50 Limited indicated they had no difficulty with staff's proposed amendments. He assumed that was the case, and asked if, since 50/50 was not present today because it was not feasible for them to come from Prince Edward Island to incur that cost to address the Commission, AD Harris knew specifically that they do approve staff's proposed amendments; that they do not object to them. **Director Day** explained the normal process was to check with the petitioner. The petitioner, in this case, lives in Eastern Canada. AD Harris could not say for positive that staff has heard a reply from them on this issue, but he will recheck with that before next month's Commission meeting. **Chair Ellis** thought the only issue might be that the original petition simply eliminated the \$80,000 annual limit, but the staff amendments would allow an annual raffle limit of \$300,000 instead of having it set at no upper limit requiring approval. **Assistant Director Harris** affirmed. He believed that currently only one licensee at this point was exceeding that \$300,000. **Chair Ellis** thought it was elk hunters. **Assistant Director Harris** responded it was actually the Ducks Unlimited. **Director Day** pointed out there was a chart in the file that shows those amounts and he recalled that, unless they had just recently exceeded it, they were all under that limit. **Assistant Director Harris** affirmed that was correct; the license year for Ducks Unlimited ends in February and they just recently exceeded the \$300,000.

**Chair Ellis** called for public comment; there was none.

**Commissioner Rojecki** made a motion seconded by **Commissioner Amos** to file for further consideration staff amendments to WACs 230-11-065 and 230-11-067. *Vote taken; the motion passed with three aye votes.*

**Director Day** asked for clarification that the Commission's acceptance of staff amendments for further consideration implies that the Commission wants staff to try to do a separate filing with the Secretary of State or whether it was just to move them for consideration at the next meeting. **Chair Ellis** asked if AAG Ackerman thought the changes were significant enough in the amendment to require a separate filing. **AAG Ackerman** replied he did not believe so.

**Chair Ellis** asked if Commissioner Rojecki, who made the motion, understood it could simply be an amendment to the petition without filing. **Commissioner Rojecki** affirmed he understood and agreed. **Chair Ellis** asked if Commissioner Amos, who seconded the motion, understood. **Commissioner Amos** affirmed. **Chair Ellis** said that was certainly his understanding as well.

**14. Other Business/General Discussion/Comments From the Public**

**Chair Ellis** opened the meeting to other business, general discussion, and comments from the public; there was none. He reminded everyone to watch the agency website for whether February will be a one or two day meeting in Grand Mound.

**Adjourn**

**Chair Ellis** adjourned the meeting at 10:35 a.m.

Minutes prepared by:

Gail Grate, Executive Assistant