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Arizona House of Representatives House Majority Research MEMORANDUM

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To: JOINT LEGISLATIVE AUDIT COMMITTEE

Representative Judy Burges, Co-Chair
Senator Thayer Verschoor, Co-Chair

Re: Arizona Department of Gaming

Date: January 6, 2010

Attached is the final report of the sunset review of the Arizona Department of Gaming, which was conducted by the House of Representatives Judiciary and the Senate Judiciary Committee of Reference. This report has been distributed to the following individuals and agencies:

Governor of the State of Arizona

The Honorable Janice K Brewer

President of the Senate

Senator Bob Burns

Senate Members

Senator John Huppenthal, Co-Chair
Senator Ken Chevront
Senator Chuck Gray
Senator Richard Miranda
Senator Russell Pearce

Speaker of the House of Representatives

Representative Kirk Adams

House Members

Representative Cecil Ash, Co-Chair
Representative Adam Driggs
Representative Ben Miranda
Representative Steve Montenegro
Representative Anna Tovar

Miscellaneous

Arizona Department of Gaming
Office of the Auditor General
Department of Library, Archives & Public Records
Office of the Chief Clerk and Secretary of the Senate

Senate Democratic Staff
Senate Republican Staff
Senate Research Staff

House Democratic Staff
House Majority Research Staff

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COMMITTEE OF REFERENCE REPORT

*House of Representatives Committee on Judiciary and
Senate Committee on Judiciary*

ARIZONA DEPARTMENT OF GAMING

To: JOINT LEGISLATIVE AUDIT COMMITTEE

Representative Judy Burges, Co-Chair

Senator Thayer Verschoor, Co-Chair

Date: January 6, 2010

Pursuant to Title 41, Chapter 27, Arizona Revised Statutes, the Committee of Reference, after performing a sunset review and conducting a public hearing, recommends the following:

The Arizona Department of Gaming be continued for ten years.

COMMITTEE OF REFERENCE

Representative Cecil Ash, Co-Chair

Senator John Huppenthal, Co-Chair

Representative Adam Driggs

Senator Ken Chevront

Representative Ben Miranda

Senator Chuck Gray

Representative Steve Montenegro

Senator Richard Miranda

Representative Anna Tovar

Senator Russell Pearce

COMMITTEE OF REFERENCE

*House of Representatives Committee on Judiciary and
Senate Committee on Judiciary*

Arizona Department of Gaming

Final Report

I. Background

Pursuant to §41-2953, Arizona Revised Statutes, the Joint Legislative Audit Committee (JLAC) assigned the sunset review of the Arizona Department of Gaming to the House of Representatives Judiciary and the Senate Judiciary *Committee of Reference* (COR). [Attachment A]

II. Committee of Reference Sunset Review Procedure

The Committee of Reference held one public hearing on Tuesday, November 10, 2009, to review the performance audit of the Arizona Department of Gaming and to receive public testimony. [Attachment B]

At the public hearing, the Committee heard testimony from the following:

- Mr. Mark Brnovich, Director, Arizona Department of Gaming

Director Brnovich provided a presentation outlining information regarding the Arizona Department of Gaming, including the department's statutory responsibilities. In addition, Mr. Brnovich summarized the function of the department and how it serves the public interest.

The mission of the Arizona Department of Gaming is to protect the public, ensure compliance with the Gaming compact and regulate the gaming industry. The last sunset hearing of the Department of Gaming was held in 1999, and the legislature passed a bill the following session to continue the department for ten years. The department is set to terminate on July 1, 2010.

III. Committee Recommendations

The Committee of Reference recommends that the Arizona Department of Gaming be continued ten years.

IV. Statutory Report Pursuant to Section 41-2954, Arizona Revised Statutes

[Attachment C]

V. Attachments

- A. Meeting Notice
- B. Minutes of Committee of Reference Hearing
- C. Report by Arizona Department of Gaming

Attachment A

REVISED - 11/05/09

REVISED - 11/05/09

REVISED - 11/05/09

ARIZONA STATE LEGISLATURE

INTERIM MEETING NOTICE OPEN TO THE PUBLIC

SENATE JUDICIARY AND HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE OF REFERENCE FOR THE SUNSET HEARING OF THE ARIZONA DEPARTMENT OF GAMING

Date: Tuesday, November 10, 2009

Time: 10:00 A.M.

Place: HHR 5 (Note Room Change) ←
HHR-4

AGENDA

1. Call to Order - Opening Remarks
2. Arizona Department of Gaming
 - Presentation by Legislative Staff
 - Response by the Department of Gaming
 - Public Testimony
 - Discussion and Recommendations by the Committee of Reference
3. Adjourn

Members:

Senator John Huppenthal, Co-Chair
Senator Ken Chevront
Senator Chuck Gray
Senator Richard Miranda
Senator Russell Pearce

Representative Cecil Ash, Co-Chair
Representative Adam Driggs
Representative Ben Miranda
Representative Steve Montenegro
Representative Anna Tovar

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People with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. If you require accommodations, please contact the Chief Clerk's Office at (602) 9263032, TDD (602) 926-3241.

Attachment B

ARIZONA STATE LEGISLATURE
Forty-ninth Legislature – First Regular Session

SENATE JUDICIARY AND HOUSE OF REPRESENTATIVES JUDICIARY
COMMITTEE OF REFERENCE
FOR THE SUNSET HEARING OF THE ARIZONA DEPARTMENT OF GAMING

Minutes of Interim Meeting
Tuesday, November 10, 2009
House Hearing Room 5 -- 10:00 a.m.

Co-Chairman Ash called the meeting to order at 10:08 a.m. and attendance was noted by the secretary.

Members Present

Senator John Huppenthal, Co-Chairman
Senator Chuck Gray

Representative Cecil Ash, Co-Chairman
Representative Adam Driggs
Representative Steve Montenegro
Representative Anna Tovar

Members Absent

Senator Ken Chevront
Senator Richard Miranda
Senator Russell Pearce

Representative Ben Miranda

Opening Remarks

Stacy Weltsch, House Judiciary Analyst, explained that the mission of the Department of Gaming is to protect the public, ensure compliance with the Gaming Compact and regulate the gaming industry.

The last Sunset hearing for this agency was held in 1999 and the Legislature passed a bill to continue the Department for 10 years. The termination date of the Department of Gaming is July 1, 2010.

Arizona Department of Gaming

Mark Brnovich, Director, Arizona Department of Gaming (Department), thanked the Co-Chairmen and Members for the opportunity to present information on gambling and gaming in Arizona. He opined that the Department is not a proponent of the gambling or casino industry and explained that the Department's function is to ensure that the Tribal State Gaming Compacts (Compacts) are

complied with and well regulated in Arizona. He presented a power point on The History of Gaming and explained that history has shown that when gaming and gambling are not well regulated, serious social costs and criminal activity occur. The Department enforces fair and honest gaming activity, maintains the integrity of these operations and protects the public's health, safety and welfare.

Co-Chairman Huppenthal commented that the public's changed perception of gambling could be a sign of an unhealthy infection of the popular culture.

Mr. Brnovich emphasized that the purpose of this presentation was to put into context society's current relationship with gambling compared to where it was in its early days. The Department's primary focus is that gambling be well regulated. He reviewed the history of gambling and its place in present day.

Co-Chairman Huppenthal stated that humanity is partial to games of chance. Games in popular culture like football and basketball are games of chance in that no matter how skilled a team is there is always a chance that another team can win. What makes a game exciting is the combination of skill and chance. He continued that hunting is like a game of chance – you can fail over and over again, but in the end it is profitable. Gambling is designed to be unprofitable. It is destructive and takes advantage of man's human nature. In no way should society create a positive moral foundation for gambling.

Co-Chairman Ash concurred with Co-Chairman Huppenthal and informed the Committee that Mr. Brnovich was asked to present a study of history of gambling and how it arrived at its popularity today.

Senator Gray suggested that the presented history might be one-sided. There has been no mention of states or cities that have abolished gambling for society's benefit. He asked for an accurate history. Co-Chairman Ash reiterated the purpose of the background that was being presented.

Mr. Brnovich continued with the presentation, stating that as its popularity grew, gambling, a cash-intensive industry, attracted more and more corruption which produced a public backlash. An example of this occurred in 1823 when a federal lottery found its organizers taking all the money and cheating all the people out of their winnings. The Supreme Court ordered Congress to pay the winners of that lottery. With the influx of criminals, communities took the law into their own hands which caused such chaos that by the late 1870's Louisiana was the only state that had a lottery. Ultimately two Supreme Court cases resulted in the prohibition of lotteries by the federal government. By the 1930's gambling was illegal in most states and was largely frowned upon by the public due to its negative influences, including political corruption.

Representative Montenegro asked a question regarding a Supreme Court ruling in California about state regulation. Mr. Brnovich explained that a state can regulate an activity but cannot prohibit a tribe from doing that same activity. For example if a state allows Class 3 gambling like lotteries, it cannot prohibit tribes from running other Class 3 gambling activities. He continued that most Indian law is controlled by the Federal government and the Indian Regulatory Act states that if a state authorizes forms of Class 3 gaming it must negotiate with tribes to allow them to do the same types

of gaming. In response to a follow-up question, Mr. Brnovich confirmed that a state can prohibit gambling if it passed legislation. Discussion ensued on the passing of Proposition 202 in 2002 that set in state statute by voter initiative the authorization of the Tribal Compacts for the next 20 years.

Mr. Brnovich explained that the Indian Regulatory Act was designed to promote tribal economic development, self sufficiency and support tribal government. It also provides that revenue can only be used for certain purposes like the support of tribal operations and the promotion of tribal economic development. It does not allow states to tax tribal gaming. He submitted that the money is designed to promote tribal welfare. He reminded the committee that Proposition 202 was designed to enhance the regulatory structure in Arizona and money would be allocated to address problem gambling. Mr. Brnovich summarized the role of the Compacts which includes the fair and honest operation of gaming activities, maintaining the integrity of gaming and protecting the health, safety and welfare of the community.

Mr. Brnovich reviewed various duties within the Department which all emphasize the safety and welfare of the industry and community. He added that the Office of Problem Gambling provides effective support for the prevention, treatment and education of problem gambling.

In discussing the current dip in casino revenues, Senator Gray suggested that with the proliferation of casinos a point of saturation has been reached and casinos are now taking business from each other. Mr. Brnovich concurred and added that the current economic status is also a factor.

In response to Representative Montenegro's question, Mr. Brnovich cited Exodus as the first mention of gambling in the Bible and added that he is not suggesting that it is a positive reference there or anywhere else in the Bible. His point is to show the struggle with gambling by mankind.

Mr. Brnovich explained to Senator Gray and the Members that the Department's primary function relates to the Compacts and has limited authority over other gambling entities like horse tracks and the lottery, which have their own regulatory commission.

Senator Gray asked if Mr. Brnovich has an opinion on consolidating the different commissions in these budgetary times and if there might be any loopholes in the hiring process of the Department that might allow criminals to infiltrate the system. Mr. Brnovich stated that his primary concern is that the Department maintain its role as an individual regulator of Gaming. He does not want the background checks and certification of vendors to be compromised and stated that the Department would not assume a role in promoting or encouraging gambling. He continued that he would like to work with legislators on the issues. The Department is also working on proposals with the Governor's Office to ensure checks and balances. Discussion ensued regarding the standards set in the Compacts for hiring employees.

Representative Montenegro asked about a tribe in the West Valley that is proposing to build a casino on land purchased initially for business use in the middle of a community. Mr. Brnovich replied that the Department is a regulatory agency and does not have jurisdiction over this development. There are several tribes opposed to this plan as well as the City of Glendale but it is a federal issue and it will be up to the Department of Interior to decide the allowance of the Tohono O'odham Nation to

use that land for gambling. He explained that the Compacts' provisions must be complied with by the tribes, but if the Federal government grants them the land there is nothing the Department can do.

In response to Senator Gray's question, Mr. Brnovich stated that the Department will have full regulatory authority over the casino if it is built and the Compacts would apply.

Discussion ensued regarding gaming revenue, the National Indian Gaming Commission and the inspection of slot machines. Mr. Brnovich submitted that random inspections of these devices are enough of a deterrent to possible manipulations of the machines. This is a proactive function.

In response to a question from Co-Chairman Ash, referring to page 8 of the Arizona Department of Gaming Annual Report 2009 (Attachment 1), Mr. Brnovich explained that gaming devices pay out 80 percent of the profits and the house keeps 20 percent. In response to another question, Mr. Brnovich stated that two percent of casino winnings are used to fund the help line for problem gamblers and treatment providers. Co-Chairman Ash asked if there is organized crime in Arizona gaming. Mr. Brnovich opined that as a result of the vigorous regulatory structure of the Department there is not organized crime in Arizona but acknowledged that criminals are attracted to cash-intensive industries.

Mr. Brnovich explained to Co-Chairman Ash that the Department's budget is determined by the Legislature and is subject to Legislative oversight. The funds come from travel revenue and are consistent with salaries in other state agencies.

Senator Gray asked about background checks for employees other than the certified police officers and if a system is in place to ensure conformity. Mr. Brnovich confirmed that all employees submit to fingerprinting and background investigations, including past employment, criminal records, present and past associates and references. Discussion ensued on the process of internal audits and the accountability of the auditing teams.

Co-Chairman Huppenthal moved that the Committee of Reference recommend that the Department of Gaming be continued for ten years. The motion carried by a roll call vote of 6-0-0-4 (Attachment 2).

Without objection, the meeting adjourned at 11:31 a.m.

Sarah Griffith, Committee Secretary
December 2, 2009

(Original minutes, attachments and audio on file in the Chief Clerk's Office; video archives available at <http://www.azleg.gov>)

Attachment C



Arizona Department of Gaming

Janice K. Brewer
Governor

Mark Brnovich
Director

202 East Earll Drive, Suite 200
Phoenix, Arizona 85012
Tel 602.604.1801
Fax 602.255.3883
www.azgaming.gov

August 31, 2009

VIA HAND DELIVERY AND INTEROFFICE MAIL

Ms. Stacey Weltsch
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Subject: Responses of the Arizona Department of Gaming to the Sunset Factors
and additional inquiries.

Dear Ms. Weltsch:

Attached are the written responses of the Arizona Department of Gaming ("the Department") to the Sunset Factors and additional inquiries as requested in correspondence dated July 27, 2009, from Cecil Ash, the Chair of the House Judiciary Committee of Reference. As requested, I have also attached a copy of the Department's most recent annual report. I have not attached any meeting minutes because the Department has not held any public meetings over the last year.

Please let me know if you require any other information. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Mark Brnovich".

Mark Brnovich
Director
Arizona Department of Gaming

ARIZONA DEPARTMENT OF GAMING 2009 RESPONSES TO SUNSET FACTORS AND ADDITIONAL INQUIRIES

RESPONSES TO SUNSET FACTORS

1. THE OBJECTIVE AND PURPOSE IN ESTABLISHING THE AGENCY.

Background

To understand the objective and purpose in establishing the Arizona Department of Gaming (“the Department”), we must first explain the history that led to the legislation creating it. The United States Congress enacted the Indian Gaming Regulatory Act (“IGRA”) of 1988, 25 U.S.C. 2000 et seq., which established basic federal regulations and enforcement responsibilities for Indian gaming on reservations. The legislative history of IGRA indicates that Congress adopted this legislation in an attempt to promote Tribal economic development while providing a framework for legitimate federal and state regulatory concerns.

Pursuant to IGRA, there are three basic forms of gaming. Class I gaming pertains to traditional forms of Indian gaming engaged in by individuals as part of, or in connection with, Tribal ceremonies or celebrations or social games played solely for prizes of minimal value. IGRA grants exclusive regulation of these games to the individual Indian Tribes.

Class II gaming includes the game of chance commonly known as bingo (whether or not electronic, computer, or other technological aids are used in connection therewith):

- (1) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
- (2) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
- (3) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto punch boards, tip jars, instant bingo, and other games similar to bingo.

Class II gaming also includes card games that are explicitly authorized by the laws of the State or are not explicitly prohibited by the laws of the State and are played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such games. Class II gaming does not include any banking card games, including baccarat, chemin de fer, or blackjack (21), or electronic or electromechanical facsimiles of any game of chance or slot machines of any kind. This classification of gaming is also reserved for Tribal regulation with federal oversight.

Class III gaming includes all other forms of gaming not covered by Class I or Class II. These include video casino games (e.g., video slots, video blackjack, and video poker), keno, slot machines, banked table games (e.g., blackjack, craps, and roulette) and other gaming (e.g., poker, sports betting, lotteries, and pari-mutuel wagering). Class III gaming is only permitted on Indian land under certain specific conditions which include that the activity is conducted in

compliance with the terms of a written Tribal-State Compact entered into between the Indian Tribe and the state in which the gaming is located and which has been approved by the Secretary of the Interior. Laws 1992, Ch. 286, § 4 (effective July 1, 1992), A.R.S. § 5-601, established the Arizona State Gaming Agency within the Arizona Department of Racing to carry out the responsibilities of the State resulting from the execution of Tribal Gaming Compacts by the Governor pursuant to IGRA. During the period of 1992-1994, the State successfully negotiated the State's initial Tribal-State Gaming Compacts with 16 Indian Tribes. Those Tribal-State Compacts provided for State regulation of approved Class III gaming activities on Tribal lands in Arizona.

Recognizing the growth of Indian gaming in the State and the need for an independent regulatory body with expertise in gaming, the Arizona Legislature passed Laws 1995, Chapter 76, which created the Arizona Department of Gaming ("the Department") effective July 13, 1995.

In 2001 through 2002, the Governor, with assistance from the Department, successfully negotiated the terms of new Compacts with 21 Arizona Tribes for State regulation of approved Class III gaming activities on Tribal lands in Arizona.

The current Compact was passed by the Arizona voters as Proposition 202 in the November 2002 General Election and took effect on November 25, 2002. (The current Compact is part of State law in A.R.S. § 5-601.02.) In addition to replacing the previous Compacts and establishing updated regulatory parameters for Class III gaming activities, the new Compacts require that the Tribes make monetary contributions to the State based on the net revenues received from gaming operations. The Proposition authorized the State to enter into and maintain Tribal Compacts for up to 23 years.

At present, there are 15 Arizona Tribes that operate 23 Class III casinos in the State. Another 6 Tribes do not have casinos but have slot machine rights that they may lease to Tribes with casinos. (Such arrangements are known as "transfer agreements.") One Tribe does not have a Compact.

Arizona casinos had gaming revenue of \$1.98 billion in State Fiscal Year 2008-09. Tribes contribute 1 to 8 percent of their gaming revenue to the State and local governments.

The Current Gaming Compacts

The Arizona Tribal-State Gaming Compacts and their appendices authorize the State to monitor casino operations, limit the number and type of permitted games, establish technical standards for gaming machines, permit the State to audit casinos, give the State access to casino property, and mandate background investigations and certification of casino employees and vendors.

The Compacts last for ten years, and can be renewed for one term of ten years and one additional term of three years. Most of the current Compacts took effect in late 2002, with the remainder taking effect during 2003. They replaced the first set of Compacts. The current Compacts and appendices require:

- A minimum theoretical percentage payout of 80 percent for slot machines during the expected life of the game.
- A minimum theoretical percentage payout of 83 percent for video poker games, and 75 percent for keno during the expected life of the games.

- A maximum of 18,158 slot machines in the State, including transfer agreements. Currently, there are about 14,645 slot machines.
- A maximum of 1,301 slot machines in any one casino. A slot machine wage limit of \$29 applies to most Tribes.
- A maximum of 3,318 blackjack and poker tables in the State.
- A combined maximum of 119 blackjack and poker tables in any one casino and bet limits for poker and blackjack.
- A maximum of 43 casinos in the State. That includes a combined maximum of 29 casinos for gaming Tribes that had casinos at the time the Compact took effect in 2003. It also includes a combined maximum of 14 casinos for non-gaming Tribes that didn't have casinos in 2002. If a Tribe leases its slot machine rights to another Tribe, which many have done, then the number of casinos the leasing Tribe can operate is reduced.

In addition, the current Compacts specify that:

- Any Tribe may transfer its slot machine rights to other Tribes. These transfer agreements allow remote Tribes to receive gaming money.
- Tribes must have a law enforcement plan to address criminal and undesirable activity at the casinos and provide for sufficient law enforcement resources to protect public health, safety, and welfare.
- Tribes must have an on-line electronic monitoring system that will speed the flow of slot machine data to the Department. In urban casinos, the Department will have remote access to real-time information on casino games.

Tribal Contributions

Under the current Compacts, Tribes with casinos contribute 1 to 8 percent of their gaming revenue each year to the State, and to cities, towns, and counties. The money is used for programs that benefit Arizona residents. Tribal contributions fund the following programs:

- Education - instructional improvement for schools;
- Trauma and emergency care;
- Wildlife conservation;
- Arizona tourism;
- Department of Gaming operating costs;
- Problem gambling prevention, treatment, and education; and
- Community services and public safety programs for local governments.

A Tribe's contribution is determined on a sliding scale based on the amount of the Tribe's gaming revenue that year. The Department verifies that each Tribe pays the correct amount to the State, cities, towns, and counties. During Fiscal Year 2008-09 (as of May 6, 2009) Arizona's Tribes contributed \$97,238,413.96 to the State and local governments. Since the Compacts went into effect in 2003, Arizona's Tribes have contributed a cumulative amount of \$506,261,268.59 to the State and its cities, towns and counties (an average of about \$84 Million a year).

What the Department Does

Since its inception, the role of the Department has evolved from an entity that primarily assisted the Tribes in opening their casinos to one that is proactively involved in the monitoring of the

gaming operations. Initially, the Department had only a handful of employees and limited resources with which to carry out the State's responsibilities under the Tribal-State Gaming Compacts. Consequently, the Department was significantly constrained in its enforcement role under the Compacts. Over time, however, the Department has grown and acquired the resources and personnel necessary to carry out the State's full responsibilities under the Tribal-State Gaming Compacts.

The Department's stated mission is to protect the public welfare and safety by ensuring the integrity of the Indian gaming industry and seeking to prevent corrupt influences from infiltrating Indian gaming. To that end, the Department monitors and enforces compliance by the Tribal gaming operations of all Compact requirements, including those governing the nature, extent, and conduct of gaming activities; public health, safety, and welfare; and other operational requirements. The Department's personnel conduct regular inspections of the gaming operations, including the inspection and testing of gaming devices and related equipment; conduct investigations on alleged Compact violations by gaming employees; and perform Compact compliance reviews to monitor the Tribe's compliance with all the provisions of the Compact, and perform compliance testing of the gaming operations for standard minimum internal controls unique to the gaming industry.

The Department accomplishes its mission to protect the public in part through its Office of Problem Gambling ("OPG"). The OPG is charged with funding and supporting problem gambling prevention, education and treatment programs throughout Arizona. It works with other state agencies and private organizations to promote the message that help and hope are available for people with or affected by problem gambling.

Under the Tribal-State Compacts, the Department is responsible for issuing State certification for non-Tribal individuals seeking employment with an Indian casino and companies seeking to provide gaming services to Indian casinos in an amount greater than \$10,000 in any given month. The Department also makes recommendations with respect to individuals and Tribal members seeking employment in Indian casinos. As part of the certification process, the Department is authorized to conduct background investigations in order to ensure that unsuitable individuals or companies are not involved in Arizona's Indian gaming industry.

2. THE EFFECTIVENESS WITH WHICH THE AGENCY HAS MET IT OBJECTIVE AND PURPOSE AND THE EFFICIENCY WITH WHICH IT HAS OPERATED.

The Department has effectively and efficiently met its objectives and purposes. Consistent with the Compacts, the Department has implemented policies and procedures to fulfill the State's responsibilities under the Compacts. The Department is funded entirely by the gaming industry. No taxpayer funds (i.e. State General Fund money) are used. The Department had an appropriated budget of approximately \$16.56 million for Fiscal Year 2009.

The Department has 110 full-time employees, including:

- 37 AZPOST-certified peace officers;
- 18 financial investigators and auditors with various specialties, including Certified Fraud Examiners; and
- 8 gaming device technicians.

The Department is divided into four divisions: Casino Operations, Audit and Certification, Administration, and Problem Gambling, each of which has differing responsibilities for monitoring and enforcing compliance with specific areas of the Compacts. The primary functions of each division are described below:

Casino Operations:

Inspection of Gaming Devices (Slot Machines)

The Department inspects the gaming devices, software, on-line accounting systems and reviews casino records to ensure the gaming devices in play at the Tribal casinos are operating properly and meet or exceed the required payout percentages.

The Department conducts unannounced gaming device inspections and tests up to 50 randomly selected gaming devices at 10 to 12 casinos each month. Every calendar quarter, the Department randomly inspects more than 1000 gaming devices.

The Department will inspect and certify a gaming device every time a casino installs a new gaming device, upgrades software on the device, changes the percentage payout, or converts the device to a new game theme. The Department inspects and certifies several hundred new or modified gaming devices each month.

The Department ensures that gaming devices and on-line accounting systems accurately record the amount of money won or lost for each gaming device that is in play at each casino.

The Department ensures that all gaming device software and the on-line accounting systems are tested by independent testing laboratories before they are shipped to Arizona. The independent laboratories ensure that gaming devices and on-line accounting systems are uncorrupted and meet Arizona's strict gaming standards.

Tribal Investigations & Inspections

The Department:

- Performs on-site inspections of casinos and monitors gaming operations;
- Assures public safety through continual oversight of gaming facilities to ensure use of appropriate security and surveillance procedures; and
- Investigates suspected Compact violations and criminal or suspicious activities.

Intelligence

The Department gathers and disseminates information about threats to gaming operations and facilities. The Department maintains and disseminates a self-exclusion list of about 2,000 compulsive gamblers who have agreed not to enter any Arizona casino for 1, 5, or 10 years.

Audit and Certification:

Certification of Gaming Employees

In Fiscal Year 2008-09, the Department certified 848 non-Tribal members and issued Tribal licensing recommendations to 338 Tribal members, for a total of 1,186 new employee investigations. Additionally, the Department issued 6,065 non-Tribal member certification

renewals and 1,737 Tribal member licensing renewal recommendations, for a total of 7,802 renewal investigations.

After an investigation of an applicant or gaming employee is completed and a determination is made to deny, revoke, or suspend State certification, the Audit and Certification Division provides timely formal notification of the decision and coordinates any requests for appeal hearings with the Office of Administrative Hearings. In Fiscal Year 2008-09, there were 49 denials, suspensions, and revocations of employee certifications; of those, 5 appeal hearings were requested, 3 hearings were conducted, and, in 100% of those hearings, the Administrative Law Judge upheld the Department's action.

Certification of Gaming Vendors

The Department conducted detailed background investigations on 115 new applicants and 181 renewal applicants for vendor certification in Fiscal Year 2008-09. Vendors must complete a detailed recertification process every two years.

After the Department concludes an investigation of a vendor or proposed vendor, and decides to deny, revoke, or suspend State certification, the Audit and Certification Division provides timely formal notification of the determination and coordinates any requests for appeal hearings with the Office of Administrative Hearings. In Fiscal Year 2008-09, there were 2 denials, suspensions, and revocations of vendor certifications; of those, one appeal hearing was requested and is still pending.

Approval of Tournaments, Drawings, etc.

Casinos must seek prior approval before they can conduct tournaments, drawings, promotions, new games, and cash or prize giveaways. The Department approved 1,203 drawings, promotions, tournaments, and new games in Fiscal Year 2008-09.

Audits

The Department conducts annual on-site audits of each casino to review compliance with the Compact and its appendices. A Compact Compliance Review team typically includes 10 to 12 Department employees. A review lasts from one to two weeks.

The Department checks hundreds of items ranging from cash handling procedures to video surveillance to casino giveaways of free meals; evaluates casino minimum internal control standards and procedures; and audits casino books and records, and electronic slot accounting and monitoring systems.

Administrative Services

The Department's Administrative Services division:

- Determines whether the various Tribes have appropriate insurance and personal injury procedures that comply with Compact requirements;
- Reviews and assesses Tribal transfer agreements (under which Tribes may transfer gaming machine rights to other Tribes) for compliance with Compact requirements;
- Budgets, plans, and performs accounting functions for the Department;
- Manages the Department's facilities, purchasing, travel, vehicle fleet, etc.;
- Coordinates and manages the Department's Human Resources requirements;

- Maintains and updates the Department's and OPG's Web sites; and
- Performs all of the Department's information technology requirements, including computer and technology functions, and maintains the Department's certification and OPG's database systems. The Department's computer systems and programs have enabled the Department to effectively and efficiently perform its responsibilities under the Compact by streamlining the work and tracking its performance. For example, the Department has integrated into its operations configurable, off-the-shelf software programs that enable the Department to record and track investigations, inspections, and Compact violations; track the number of gaming devices in service and the inspection and testing thereof; perform internal controls testing; intake, process, and track applications for, and renewals of, State certification; and track requests for appeal hearings. The Department continuously strives to improve its information technology to enhance its performance.

Office of Problem Gambling

As noted above, in 2002 the people of Arizona passed Proposition 202 which included a provision requiring the establishment and maintenance of programs directed at ameliorating problem gambling. Pursuant to A.R.S. § 5-601.02(H)(3)(a)(ii), two percent of the monies deposited by the Tribes into the Arizona Benefits Fund are to be used by the Department to fund State and local programs for the prevention and treatment of, and education concerning, problem gambling. Accordingly, in September 2003, the Department created the Office of Problem Gambling. OPG's duties and responsibilities include:

- Providing and supporting problem gambling programs that include prevention, treatment, and education;
- Overseeing a 24/7 crisis and referral helpline: 1.800 NEXT STEP;
- Contracting with behavioral health treatment professionals to provide programs for treating and educating individuals with gambling problems, and preventing further gambling problems;
- Contracting with behavioral health treatment professionals skilled in problem gambling program training to provide training and education to other behavioral health treatment professionals to enable them to provide quality counseling and training to those needing help with gambling problems;
- Monitoring all behavioral health treatment providers and trainers to ensure that they meet the requirements outlined in their respective contracts. (With respect to monitoring, OPG regularly conducts audits of the treatment providers.);
- Representing the state in conferences and symposia in order to educate the public that help and hope are available to problem gamblers and those affected by problem gambling;
- Supporting the efforts of casinos, race tracks, and the Lottery to implement and carry out responsible gaming policies and programs; and
- Working with state and private agencies to build awareness of problem gambling and to promote prevention programs.

DIFFICULTIES

Difficulties that adversely affect the Department's efficiency are primarily outside forces over which the Department has little control. For instance, the Department may be delayed in performing an inspection/testing of gaming devices because designated individuals at the gaming facility are unavailable at the time. A certification process may be delayed due to the applicant's failure to provide necessary documentation or additional information.

3. THE EXTENT TO WHICH THE AGENCY HAS OPERATED WITHIN THE PUBLIC INTEREST.

The general public, the Tribes, and Tribal gaming operations benefit from the Department's operations. The public benefits from the Department's monitoring of the public health, safety, and welfare in the gaming facilities. In addition, the Department protects the public by ensuring the integrity of the gaming activities and provides oversight for problem gaming treatment programs. The Tribes benefit from the State's oversight of the gaming operations, including internal controls, which is essential to protect Tribal assets. The gaming operations benefit from the Department's monitoring of the gaming devices, surveillance, internal controls, and investigations of alleged Compact violations by gaming employees.

The Department's major accomplishments are as follows:

- Institution of Compact Compliance Reviews as a means of measuring compliance with the Tribal-State Compacts and minimum internal controls;
- An effective and efficient certification/recommendation process;
- National recognition for setting standards in the regulation of Indian gaming (provide guidance and training to gaming agencies in other states);
- Quality, experience, and skill of the Department's employees to effectively regulate gaming; and
- Establishment and maintenance of OPG which has provided an effective resource for people seeking information concerning and treatment for problem gambling.

4. THE EXTENT TO WHICH RULES ADOPTED BY THE AGENCY ARE CONSISTENT WITH THE LEGISLATIVE MANDATE.

Pursuant to A.R.S. § 5-601(E), in carrying out its duties under the Tribal-State Compacts, the Department is exempted from the rulemaking requirements of A.R.S. Title 41, Chapter 6. The reason for this is that the Department is controlled exclusively by, and must adhere to, the specific provisions of the Tribal-State Gaming Compacts. Nevertheless, the Department has authority to adopt rules consistent with the Compacts. However, the Department has not needed to do so because of the breadth and specificity of the Compacts.

5. THE EXTENT TO WHICH THE AGENCY HAS ENCOURAGED INPUT FROM THE PUBLIC BEFORE ADOPTING ITS RULES AND THE EXTENT TO WHICH IT HAS INFORMED THE PUBLIC AS TO ITS ACTIONS AND THEIR EXPECTED IMPACT ON THE PUBLIC.

As noted above, pursuant to A.R.S. § 5-601(E), the Department is exempt from the rulemaking requirements of A.R.S. Title 41, Chapter 6 and has not adopted rules. The Department informs

the public of its activities through its Web site, news releases, and published articles, and by speaking to community service groups and other organizations. In addition, the Department disseminates information consistent with public records laws.

6. THE EXTENT TO WHICH THE AGENCY HAS BEEN ABLE TO INVESTIGATE AND RESOLVE COMPLAINTS THAT ARE WITHIN ITS JURISDICTION.

The Department plays a fundamental role in investigating and resolving patron complaints as prescribed by the Arizona Tribal-State Gaming Compact. With respect to the nature of a complaint, the Department responds in one or more of the following capacities:

Regulatory Agent:

The Department investigates patron complaints concerning Tribal compliance with the Compact to discern if any violations are, or have been, taking place. An example would be a patron who suspects that a slot machine is not functioning properly. The Department machine compliance technicians respond to ensure the integrity of the electronic gaming device and, if necessary, facilitate correction.

Informational Resource:

Because each Tribe constitutes a sovereign nation, patrons with disputes may find the process is complicated when trying to navigate their way to complaint resolution. In these cases, the Department acts as a resource to help provide information on a variety of topics from Tribal tort claim procedures to appropriate contact information for Tribal gaming offices and investigators.

Investigative Operation:

The Department maintains an experienced team of AZPOST-certified investigators to assist in responding to certain complaints that may involve criminal activity. These investigators work together with Tribal authorities to ensure that any criminal activity that may be taking place at gaming facilities is detected and prosecuted.

Diplomatic Support:

Once again, because each Tribe constitutes a sovereign nation, an array of cultural and traditional values and practices exist that vary between gaming facilities. Patrons involved in disputes often call upon the Department to provide assistance in facilitating a resolution to their complaint. While Tribes retain the jurisdiction to investigate and resolve incidents alleged to have occurred on Tribal lands, the Department provides a valuable combination of experience, an established network, and a respectful working relationship with Tribal authorities that can significantly contribute to the satisfaction ultimately attained by patrons.

7. THE EXTENT TO WHICH THE ATTORNEY GENERAL OR ANY OTHER APPLICABLE AGENCY OF STATE GOVERNMENT HAS THE AUTHORITY TO PROSECUTE ACTIONS UNDER THE ENABLING LEGISLATION.

A.R.S. § 5-602.01 authorizes the Department to impose upon certificate holders civil penalties:

- not to exceed \$5,000 per day and not to exceed a total of \$25,000 in lieu of or in addition to revocation of the certificate; or

- in an amount not to exceed \$500 for a violation of the Department's rules if the violation does not constitute grounds for revocation of the certificate.

In addition, A.R.S. § 5-602.01 provides that all civil penalties collected by the Department under the statute will be transferred to the State Treasurer for deposit in the State general fund. Finally, the statute authorizes the Department to engage the services of the Attorney General to file an action in the Superior Court to collect civil penalties imposed by the Department pursuant to this section.

Under A.R.S. §§ 5-602(I) and 11-952, the Department has authority to enter into intergovernmental agreements with other public agencies, including the Attorney General's office, for legal services. Pursuant to such an agreement, the Attorney General's office, on behalf of the Department/State, has authority to take action against the Tribes for Compact violations and to represent the Department in administrative hearings regarding State certification. The Tribal-State Gaming Compacts set forth the criteria for compliance. Neither the Tribal-State Compacts nor the Department's enabling legislation provides authority to impose fines or civil penalties against the Tribes for Compact violations. Consequently, the remedies available to the Department under the Compacts are limited to arbitration or to filing suit in federal district court to enjoin impermissible gaming activity.

8. THE EXTENT TO WHICH THE AGENCY HAS ADDRESSED DEFICIENCIES IN ITS ENABLING STATUTES THAT PREVENT IT FROM FULFILLING ITS STATUTORY MANDATE.

The Department has addressed some deficiencies in its enabling statutes by proposing the following, all of which have been enacted:

- Laws 1995, Chapter 76 established the Department of Gaming as a separate state agency from the Department of Racing.
- Laws 1996, Chapter 203 exempted the Department from the rulemaking requirements of A.R.S. Title 41, Chapter 6 in carrying out its duties under Tribal-State Gaming Compacts.
- Laws 2000, Chapter 113 authorized the Department to employ the services of the Office of Administrative Hearings to conduct hearings on disputes referred by the Department.
- Laws 2002, Chapter 111 accomplished several things. First, the Act expanded the scope of persons over whom the Department has certification authority to include not only prospective gaming employees, management contractors, providers of gaming services, and manufacturers and distributors of gaming devices, but also facility support employees, Tribal gaming office employees, and financiers. Second, the legislation authorized the Department to (a) impose civil penalties not to exceed \$5,000 per day and not to exceed a total of \$25,000 against a certificate holder in lieu of, or in addition to, revocation of the certificate; and (b) impose a civil penalty against a certificate holder in an amount not to exceed \$500 for a violation of the Department's rules if the violation does not constitute grounds for revocation of the certificate. All civil penalties collected by the Department under the statute are transferred to the State treasurer for deposit in the State general fund. Finally, the act authorized the Department to engage the services of the Attorney General to collect civil penalties imposed by the Department.

9. THE EXTENT TO WHICH CHANGES ARE NECESSARY IN THE LAWS OF THE AGENCY TO ADEQUATELY COMPLY WITH THESE FACTORS.

No new proposals are planned at this time.

10. THE EXTENT TO WHICH THE TERMINATION OF THE AGENCY WOULD SIGNIFICANTLY HARM THE PUBLIC HEALTH, SAFETY OR WELFARE.

The agency is needed to protect the public health, safety, and welfare, as well as to ensure the fair and honest operation of Class III gaming and to protect the integrity of all activities conducted in regard thereto. The Tribal-State Compacts provide for dual regulation of Class III Indian gaming by the Department on behalf of the State and the Tribal regulators on behalf of the respective Tribes. The Tribal-State Compacts and the Department's enabling legislation set out the Department's regulatory responsibilities over Class III gaming activities, which include certification, monitoring, and enforcement. The Department has the sole responsibility for State certification of non-Tribal individuals and vendors involved in Class III Indian gaming. The purpose for the certification process is to ensure that unsuitable individuals and companies are not involved in Class III gaming activities.

The Department regulates by monitoring Tribal gaming operations to ensure that they are conducted in compliance with the provisions of the Compact. For example, the Compacts require the gaming facility operators to adopt reasonable procedures designed to provide for the physical safety of their employees and their casino patrons and to protect the patrons' and the gaming operation's property from illegal activity. The Department monitors to ensure that these provisions are adhered to by the gaming operation. The Department also monitors the gaming devices, surveillance, and internal controls to ensure the fair and honest operation of Class III gaming and to protect the integrity thereof.

The Department's enforcement responsibilities include investigating reported violations of the Compact provisions. If a violation is committed by a non-Tribal employee or a vendor certified by the State, the Department may assess civil fines and/or suspend or revoke State certification. Investigations conducted by the Department are extremely useful in identifying and deterring illegal activities, such as theft, embezzlement, money laundering, loan sharking, and organized crime influences in the industry.

Without State regulation, the public interests, as well as the integrity of Indian gaming, would not be adequately protected. Due to the cash-intensive nature of the Indian gaming industry and the organized crime and other corruption historically associated with gambling, it is imperative that the Department, as a truly independent and non-interested regulatory body, continues to regulate Class III gaming. Other states, such as Nevada and New Jersey, recognize that casinos cannot effectively regulate themselves, and that oversight by an independent regulatory body is critical. Because the Department's counterpart, the Tribal regulator, is usually employed by a gaming commission that reports directly to the Tribal council, the Tribal regulator often lacks the independence necessary to effectively regulate. Without State regulation, not only would there be more potential for illegal activities, corruption, and organized crime in the industry and, in essence, the State, but public confidence in the integrity of the industry would be affected. This could negatively affect patronage at the Tribal casinos and ultimately the prosperity of the Tribal communities.

The Department is also responsible for maintaining the OPG. As discussed above, the OPG is the State's only resource focused on providing treatment for, and prevention of, problem gambling.

11. THE EXTENT TO WHICH THE LEVEL OF REGULATION EXERCISED BY THE AGENCY IS APPROPRIATE AND WHETHER LESS OR MORE STRINGENT LEVELS OF REGULATION WOULD BE APPROPRIATE.

The scope of the Department's regulatory responsibilities cannot be reduced. The Tribal-State Gaming Compacts mandate the Department's duties and responsibilities. The provisions of the Compact were passed by the Arizona voters as Proposition 202 in the November 2002 General Election. Accordingly, the Department's regulatory role has been determined by a voter-protected ballot measure.

With respect to State certification, the Department has worked and continues to work with the Tribal gaming regulators to streamline, where appropriate, the certification process. For example, the Department has established categories for vendors that indicate the scope of the investigation necessary to determine whether a vendor is suitable for certification. The categories are helpful in simplifying the certification process and reducing the cost for many vendors. Similarly, the Department has streamlined the certification process for certain categories of gaming employees that are not directly involved with Class III gaming.

12. THE EXTENT TO WHICH THE AGENCY HAS USED PRIVATE CONTRACTORS IN THE PERFORMANCE OF ITS DUTIES AND HOW EFFECTIVE USE OF PRIVATE CONTRACTORS COULD BE ACCOMPLISHED.

When necessary and appropriate, the Department has used the services of private contractors, such as counselors, consultants, and attorneys. The OPG engages the services of psychologists and professional counselors to treat individuals who seek treatment for problem gambling. The OPG also contracts with private contractors to provide help line services and to educate the public concerning problem gambling. In addition, where it is more cost effective, the Department uses consultants to provide in-house training for its employees. The Department continues to use the services of outside attorneys to assist in and advise on negotiations and handle arbitration and litigation matters with which the Attorney General's Office is unable to assist. Given the sensitive and confidential nature of some information obtained by this Department as a criminal justice agency, it cannot contract out its investigative work, nor is it more cost effective to do so.

RESPONSES TO ADDITIONAL INQUIRIES

1. IDENTIFY THE PROBLEM OR THE NEEDS THAT THE AGENCY IS INTENDED TO ADDRESS.

The Department's mission is to protect the public welfare and safety by ensuring the integrity of the Indian gaming industry and seeking to prevent corrupt influences from infiltrating Indian gaming. Gaming is a cash-intensive industry. Consequently, organized crime and other corruption have historically been associated with gambling. For that reason, it is imperative that the Department, as a truly independent and non-interested regulatory body, continues to regulate Class III gaming. Other states recognize that casinos cannot effectively regulate themselves and that oversight by an independent governmental regulatory body is critical. Without State

regulation and enforcement, there would be greater potential for illegal activities, corruption, and organized crime in the industry. Of course, this would subject the public to the effects and dangers of criminal activity. As an additional consequence, public confidence in the integrity of the gaming industry would be diminished. In turn, this would negatively affect patronage at the Tribal casinos and the economic prosperity of Arizona's Tribal communities.

The Department is also responsible for maintaining the OPG. The OPG is the State's only resource focused on mitigating problem gambling and the societal ills associated with that problem.

2. STATE, TO THE EXTENT PRACTICABLE, IN QUANTITATIVE AND QUALITATIVE TERMS, THE OBJECTIVES OF THE AGENCY AND ITS ANTICIPATED ACCOMPLISHMENTS.

Qualitative Goals

The Department focuses on maintaining the integrity of gaming operations, vendors, and employees. As noted above, the Department has the sole responsibility for State certification of non-Tribal individuals and vendors involved in Class III Indian gaming. The Department also monitors Tribal gaming operations to ensure that they are conducted in compliance with the provisions of the Compact. The purpose for the certification process and the monitoring is to ensure that unsuitable individuals and companies are not involved in Class III gaming activities and that the requirements of the State and Tribal Compacts are satisfied.

The Department works to maintain strong and positive relations with the Tribal communities in Arizona. The Department shares with the Tribes an interest in ensuring that the gaming industry in Arizona maintains its integrity and is free from corrupt influences. To that end, the Department works with Arizona's Native American communities to assure that Gaming employees are properly certified, that gaming devices meet legal standards, and that gaming operations and accounting comply with the Compact. The low number of Compact violations suggests that the Department is accomplishing this goal.

The Department also endeavors to maintain good relations with governmental agencies that regulate gaming in other jurisdictions. It is important that the State be able to share information and seek assistance and cooperation from regulatory agencies in other States and countries in connection with certification inspections. Likewise, the Department cooperates with other States and nations to the extent possible in connection with their investigatory activities.

The Department seeks to attract qualified employees to enable it to effectively and efficiently perform its regulatory and administrative functions. To that end, the Department is careful in its hiring process to select the most qualified and capable employees. Further the Department provides proper and comprehensive training for its employees to promote development and expertise.

The Department looks to protect the public from the effects of illegal gambling and corruption relating to those activities and, through the OPG, to provide resources to treat and reduce the incidence of problem gambling. The Department anticipates that by the OPG's sixth anniversary (September 2009), problem gambling treatment counselors under contract with the Department will have served over 2000 clients.

Quantitative goals

The Department has established several quantitative performance goals for specific activities that are critical to the Department's mission and include activities of most of the divisions of the Department. Those goals include targets for timeliness, stakeholder satisfaction, and field work. The performance goals and how they relate to the Department's mission are discussed below.

Timeliness.

Pursuant to the Compact, the Department is required to meet certain deadlines for certification of gaming employees and casino vendors. Employees and vendors must be certified before they can be employed or utilized by a casino.

Time to issue Temporary Certifications for Completed Applications with no Apparent Criminal History or Other Disqualifications.

The Compact requires the Department to issue temporary certifications within 20 calendar days, for completed applications where the initial background investigation undertaken by the Department does not disclose that the Applicant has a criminal history or where other grounds sufficient to disqualify the Applicant pursuant to subsection 5(f) of the Compact are not apparent on the face of the Application. Recent amendments to the Tribal-State Compact require the Department to issue a temporary state certification for an employee by the close of the next business day after an application has been received. The Department issues temporary State certification within this 24-hour time period for employees of Tribes who have signed onto the amendments, and within the original 20-day time period for employees of Tribes who have not signed onto the amendments. The Department has been meeting this requirement and anticipates that it will continue to do so.

Average Time to Pay Department Vendors.

The Department also has responsibilities to pay its bills in a timely manner, and strives to process and pay invoices in as timely a manner as possible. A.R.S. § 35-342 requires agencies to pay for their purchases within 30 days of the date the goods or services are received. The Department has adopted a target of 15 calendar days for processing invoices. This ensures that the Department promptly pays its vendors and that the Department is not unnecessarily holding money that properly is owed to others. The Department has consistently met this target and plans to continue doing so.

Gaming Vendor Satisfaction.

An important group of stake holders of the Department are the gaming vendors that the Department certifies. Those vendors are persons or companies wishing to do business with Tribal casinos. After working with a gaming vendor, the Department requests feedback in the form of a survey card. The Department's target is that 85% of gaming vendors are satisfied with their experience with the Department. The Department has been meeting and plans to continue to achieve this objective.

Field Work.

Number of Quarterly, Random, Unannounced Inspections of Gaming Devices.

A significant part of the Department's responsibilities includes being present and performing field work at Tribal casinos and other locations. It is the responsibility of the Department's Machine Compliance Unit to both certify all gaming devices before they are put into play at casinos and approve all upgrades and modifications. In addition, the Machine Compliance Unit performs random, unannounced inspections of gaming devices at Tribal casinos. The Department's target is to conduct random inspections of 1,000 gaming devices per quarter. The Department regularly meets this goal and intends to continue doing so.

Number of Visits by Special Agents to Casinos per Quarter.

Special Agents of the Department's Investigations and Inspections Unit must be present in casinos in order to perform their job duties, which include performing on-site inspections of the casinos and their operations to ensure they are in compliance with the Compact; interacting with Tribal regulators, performing investigations, and reviewing surveillance and security; assisting with Compact Compliance Reviews; and performing myriad other tasks. The Department's target is 350 visits to casinos per quarter by Special Agents of the Investigations and Inspections Unit. Many of these casino visits occur outside of the Department's normal business hours, including some visits between 12 midnight and 6:00 a.m. The Department consistently reaches this goal each quarter and plans to continue to doing so.

Number of On-Site Audits per Quarter.

The Department also conducts numerous on-site (i.e., at casinos) audits. The Department is authorized to perform annual Compact Compliance Reviews ("CCR") for each Tribe. These CCRs require significant amounts of field work at casinos. The Tribal Contributions Review ("TCR"), which is performed once for each Tribe as part of the CCR and once each year as a separate review, requires field work both at the casino and at the offices of the casino's outside auditors. The Department's Vendor Certification Unit also performs vendor reviews, both as part of the CCR and as separate reviews during the year, with a goal of two reviews per Tribe each year in addition to those conducted as part of the CCR. These vendor reviews require a review of records at the casino. The Department's target is 12 on-site audits per quarter. This number includes the field work portion only of these audits and includes CCRs, TCRs, and vendor reviews conducted separately from the CCRs. The Department has met, and anticipates it will continue to meet this target each quarter.

3. IDENTIFY ANY OTHER AGENCIES HAVING SIMILAR, CONFLICTING OR DUPLICATE OBJECTIVES, AND AN EXPLANATION OF THE MANNER IN WHICH THE AGENCY AVOIDS DUPLICATION OR CONFLICT WITH OTHER SUCH AGENCIES.

There are no State agencies that have similar, conflicting, or duplicate objectives.

4. ASSESS THE CONSEQUENCES OF ELIMINATING THE AGENCY OR OF CONSOLIDATING IT WITH ANOTHER AGENCY.

As noted in the response to additional inquiry number 1, elimination of the Department would leave Tribal gaming in Arizona unregulated. That situation would expose the public and the gaming industry to greater potential for illegal activities, corruption, and organized crime. Public confidence in the integrity of the gaming industry would be diminished and would likely adversely affect patronage at the Tribal casinos and, ultimately, the economic prosperity of Arizona's Tribal communities. Moreover, the elimination of the OPG would remove an important public resource aimed at alleviating problem gambling and its effect on both those people with gambling problems and those people directly and indirectly affected by a person's gambling problem.

Furthermore, consolidation with another State agency is neither practical nor feasible. As noted above, the Department performs a unique function within State government – regulation of gaming. Its functions are neither redundant nor complimentary to functions being performed by other State agencies. Moreover, the Department is uniquely funded. Its funding comes entirely from the gaming industry. No taxpayer funds (i.e., State General fund) are used.



ARIZONA
DEPARTMENT OF GAMING

ANNUAL REPORT 2008

Director's Message

On behalf of the Arizona Department of Gaming, I am pleased to submit the Department's Annual Report for State Fiscal Year 2008.

The Arizona Department of Gaming partners with Arizona's Indian Tribes to oversee Indian casinos in the State. The mission of the Department is to protect the public, ensure compliance with the Gaming Compact and regulate the gaming industry.

Gaming in Arizona is governed by the Tribal-State Gaming Compact between the State of Arizona and 21 Tribes. The Compact and its appendices outline the types of permitted games, establish technical standards for gaming machines, require minimum internal control standards for casino operations, authorize the State to inspect casinos, and mandate background investigations and certification of casino employees and vendors. The Tribes agreed to contribute a portion of their gaming revenue to the State, cities, towns, and counties, and to pay for a portion of the State's expenses for regulating casinos.

In addition to State monitoring, every Tribal casino is regulated by a Tribal Gaming Office (TGO), which is independent of the Tribal casino operation. The TGO is responsible for on-site regulation of all gaming activities. In addition, the Department's Office of Problem Gambling provides treatment, prevention, and education programs for problem gambling.

The Arizona Department of Gaming has 123 full-time positions, including 34 AZPOST (Arizona Peace Officer Standards and Training) certified peace officers. Department employees include former and retired police officers and law enforcement agents, accountants, auditors, slot machine technicians, administrative staff, and others.

The Department is funded entirely by the gaming industry. No taxpayer funds (State General Fund revenue) are used by the Department. The Department had a budget of \$15.6 million in State Fiscal Year 2008, including \$2.7 million allocated for problem gambling.

In State Fiscal Year 2008, the aggregate gross gaming revenue of Arizona casinos increased 1.9 percent from the previous year to \$1.98 billion. Gross gaming revenue (also called net win) is the difference between gaming wins and losses, before the deduction of casino operating costs and expenses. In State Fiscal Year 2008, the Tribes made combined Tribal contributions of \$96.0 million to the State's Arizona Benefits Fund, which finances education, health care, wildlife conservation, tourism, problem gambling programs, and the Department's operating budget. In Fiscal Year 2008, Tribes contributed another \$15.2 million directly to cities, towns, and counties of the Tribes' choosing.

Partnerships

During Fiscal Year 2008, the Department continued to forge partnerships and broaden its outreach to strengthen oversight of casinos and promote best industry practices. The Department's main partners in regulation are the TGOs, which are the Tribal on-site regulators and have primary day-to-day authority for regulating casinos. The Department interacts with TGOs on a daily basis, sharing information and providing support. The ongoing interaction between the Department and Tribal regulators helps ensure that issues are remedied quickly and potential issues are averted.

The Department reaches out to constituencies that share its mission to protect the integrity of gaming. The Department attends meetings of the Arizona Tribal Gaming Regulators Alliance to report on the Department's activities and objectives. The Department also meets regularly with representatives of the Arizona Indian Gaming Association, whose membership includes 19 of Arizona's 22 Tribes. The Department is a member of the Indian Gaming Working

and funds training for tribal gaming regulators. The agreement, signed in September 2005, created the first and only full-time federal casino crimes prosecutor position in the country.

The U.S. Attorney's Office for Arizona secured several felony convictions in State Fiscal Year 2008. Two former casino slot machine technicians pleaded guilty to colluding to falsify jackpot tickets totaling \$9,400 in 2006. In a separate case, a former cashier at another casino pleaded guilty to stealing almost \$10,000 from her employer in 2006. Additionally, the prosecutor won the convictions of all four people who conspired to rob a Phoenix area casino, with the three of the convictions carrying prison sentences of 17 years and 7 months; 6-1/2 years; 2 years; and one conviction carrying a sentence of 3 years of probation. The Department expects that its sponsorship of the nation's only casino crimes prosecutor will deter unscrupulous individuals from seeking to commit gaming crimes in Arizona.

National Model for Tribal-State Cooperation

According to the *Arizona Republic*, industry analysts call Arizona's Tribal gaming regulation "a model plan" for the country. The Arizona Department of Gaming fields queries from other states seeking advice and input on what methods and approaches have succeeded in Arizona. Arizona's Gaming Compact standards are stringent and are stronger than those in most states, according to the U.S. National Indian Gaming Commission. The NIGC is the federal regulator of Indian casinos.

"The Arizona regulatory model works because of the mutual respect and cooperation between State and Tribal regulators," Delia Carlyle, chairman of the Arizona Indian Gaming Association, testified in April 2008 before the U.S. Senate Committee on Indian Affairs. "In Arizona, the Tribes and State have developed a collaborative partnership for effective regulation of Indian gaming," Carlyle stated. The chairman also said that "the relationship between the Tribes and the State has become a successful partnership."

The Arizona Department of Gaming is proud of its partnership with Arizona's Tribes, an alliance that sets the highest standard for gaming regulation.



Paul A. Bullis
Director

The Arizona Tribal-State Gaming Compacts gave Tribes exclusive rights to operate slot machines and casino-style gaming, limited the number of slot machines and casinos, established comprehensive rules governing gaming, and set minimum internal control standards for casino operations. The Compacts authorized the State of Arizona to ensure compliance with the Tribal-State Gaming Compacts and to work with Tribal regulators to protect the integrity of Class III gaming on Tribal lands.

In the November 2002 general election, Arizona voters approved Proposition 202, which authorized the continuation of Indian gaming. From December 2002 to January 2003, Governor Hull signed new Tribal-State Gaming Compacts with 16 Tribes. In 2003, Governor Janet Napolitano signed Compacts with an additional five Tribes. The Compact with each of the 21 Tribes is identical and took effect in 2003. It lasts for 10 years, and can be renewed for another decade. The Compact is part of State law in *Arizona Revised Statutes Section 5-601.02*.

Currently, there are 15 Tribes operating 22 Class III casinos in the State. Another 6 Tribes don't have casinos but have slot machine rights they lease to other Tribes. One of Arizona's 22 Tribes doesn't have a Gaming Compact.

Class III gaming in Arizona includes slot machines (also called gaming devices), jackpot poker, blackjack, keno, and off-track pari-mutuel betting. There were 14,001 Class III slot machines in operation in Arizona at the end of Fiscal Year 2008. There were 211 jackpot poker tables and 275 blackjack tables; both games have betting limits. Some Tribes also offer live keno, or Class II bingo gaming.

Games and Systems Compliance Unit

The Games and Systems Compliance Unit reviews hundreds of casino promotions; slot, blackjack, and poker tournaments; new table games and variations of jackpot poker and blackjack; and other new games to ensure that they comply with the Tribal-State Gaming Compact. Tribes must seek prior approval from the Department of Gaming before they can conduct promotions and cash or prize giveaways. The Unit performs its reviews in seven business days or less. In Fiscal Year 2008, the Unit approved 745 promotions and lotteries, 16 blackjack variation games, 246 jackpot poker tournaments, 43 slot tournaments, 43 blackjack tournaments, 19 jackpot poker variation games, and 13 keno tournaments.

The Games and Systems Compliance Unit keeps up with the latest technology and innovations in the fast-changing gaming industry. Every week, new types of casino games, promotions, and technology are being introduced in the marketplace. In consultation with the Tribes and Tribal Gaming Offices, the Unit analyzes new gaming industry technology to determine if the technology is permitted in Arizona under the Compact. The Unit seeks out training and educational opportunities to stay abreast of emerging trends in gaming and gaming regulation.

Tribal Gaming Status as of June 30, 2008

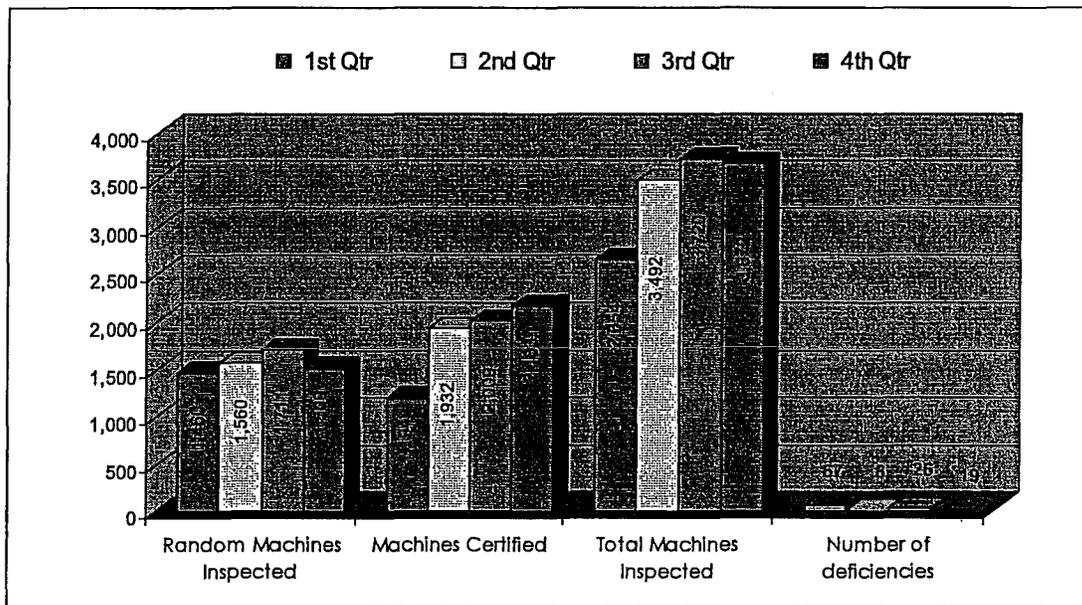
Tribes in Arizona	22
Tribes with Current Compacts	21
Tribes with Casinos	15
Number of Casino Sites	22
Number of Slot Machines	14,000
Number of Poker Tables	211
Number of Blackjack Tables	275
Number of Casinos with Live Keno	8
Number of Casinos with Off-track Pari-mutuel Betting	0

Note: For the tribal gaming status listing figures for individual tribes, please refer to the Department Web site: www.azgaming.gov

with an independent testing laboratory to keep up with the latest developments. The Unit also alerts the testing laboratory about defects that could be present in similar machines used in other casinos and in other states. The Unit receives briefings from manufacturers of gaming devices before companies seek to introduce new types of machines in Arizona so that any technical problems can be averted before the machines are installed.

Industry peers commend the Gaming Device Compliance technicians' rigorous inspections, as well as their smooth working relationship with Tribal Gaming Offices. The Unit's work has been recognized by *Casino Enterprise Management*, the leading magazine for casino owners and executives. The magazine said the Arizona Department of Gaming's regulatory system demonstrated "the very best in regulation," and, about the Department's Gaming Device Compliance technicians: "The field inspections we observed were models of regulatory efficiency that reflected meticulous planning and careful coordination. The inspectors arrived on time and met briefly with their tribal counterparts. Everyone involved knew their precise task. The inspection itself proceeded as a well-choreographed ballet. The machines to be inspected were quickly identified, media pulled and tested, and the games powered up and back online before any patrons even missed them...The state regulators and the tribal regulators work together for the best interest of gaming and to assure compliant and effective enforcement."

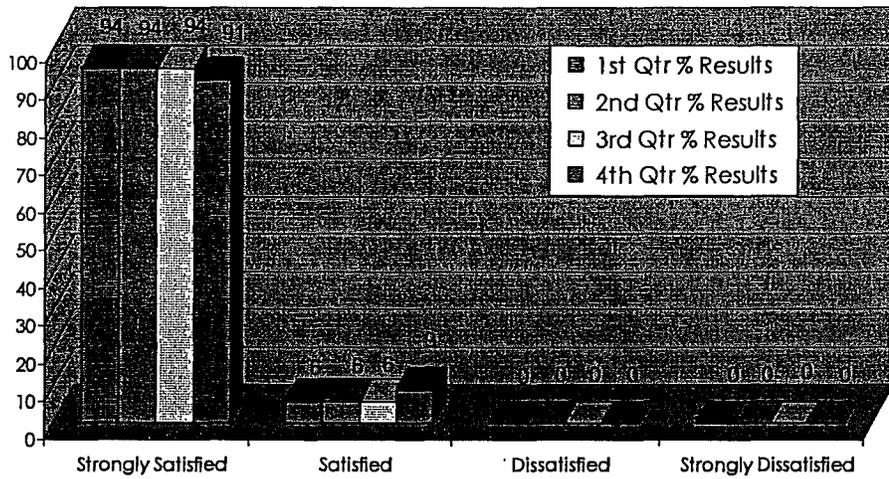
FY 2008 Machine Inspection Statistics



The Unit meets with the TGOs and casino operators to make the Department's vendor certification process and procedures transparent to casino staff and Tribal gaming regulators.

The Unit also conducts investigations and takes enforcement action against vendors found to be unsuitable for the gaming industry. The Unit assists with investigations conducted by other law enforcement agencies and by TGOs.

FY 2008 Customer Satisfaction Survey Results



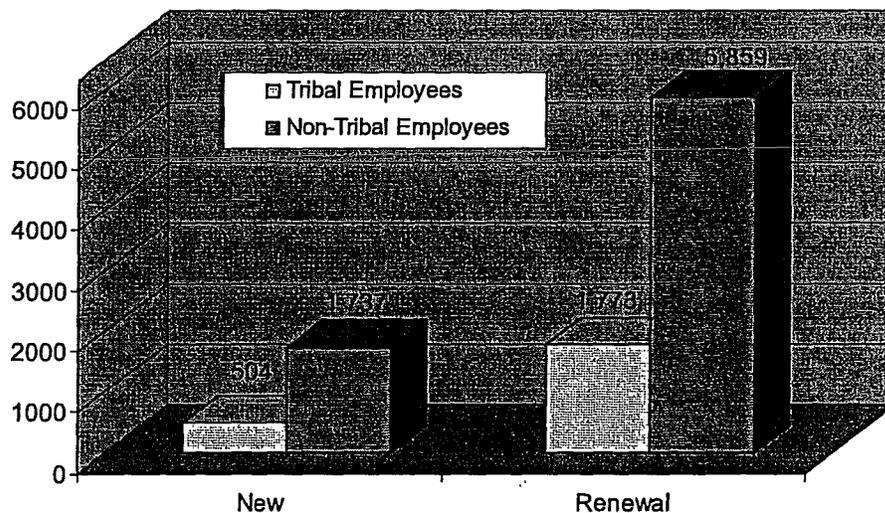
The Employee Certification Unit visits with TGOs to strengthen cooperation, review past practices, and examine ways to improve the regulatory process. It reviews casino incident reports relating to gaming employee actions or violations of the Compact or casino internal controls. In Fiscal Year 2008, the Unit made 55 visits to TGOs to further this collaborative effort.

In Fiscal Year 2008, the Unit processed 1,139 fingerprints for waitresses, cooks, housekeeping personnel, landscapers, and other support employees whose jobs are ancillary to the gaming operations. These individuals are not required to have State certification, but they are required to be licensed by the Tribe. This service helps the Department when it conducts its annual Compact Compliance Reviews relating to TGOs' obligations to conduct background investigations on Tribal employees and properly issue Tribal gaming employee licenses.

In addition, the Unit conducts investigations and takes enforcement action against individuals found to be unsuitable for the gaming industry. The Unit has cooperated with, and assisted in, criminal enforcement investigations concerning casino employees.

In doing its day-to-day work, the Unit uses IDPoint, an electronic gaming regulatory software system that includes a complete chronology and details of an applicant's certification and renewals. Records technicians electronically scan all applications, correspondence, and other paper documents into IDPoint, where they are stored for instant reference. The system can also receive electronic copies of an applicant's credit history information from the credit reporting agencies. Department employees can enter notes of key events, such as applicant interview dates, into the IDPoint system. Automating the process speeds the certification process and reduces human errors.

FY 2008 Completed Background Investigations



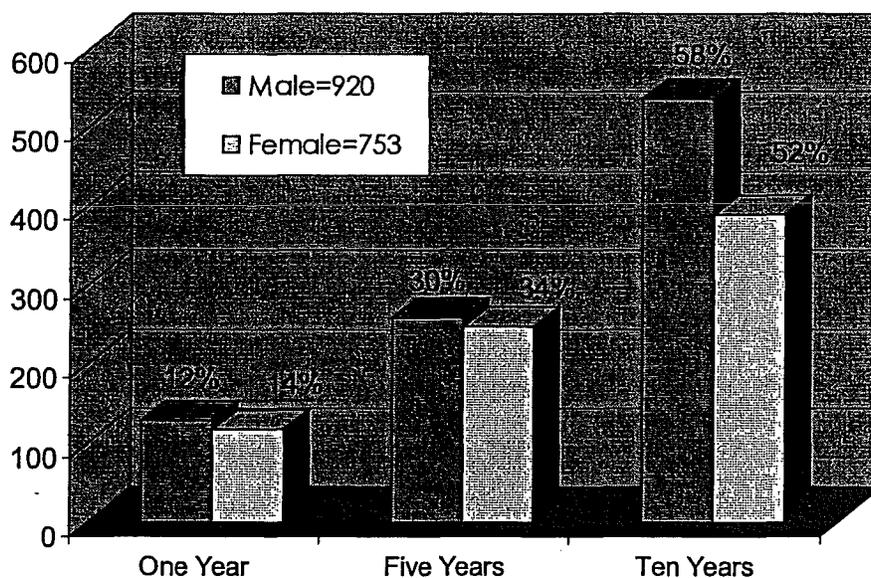
W-2G Jackpot Tracking

The Intelligence Unit receives annual reports from each Tribe on individual patrons' taxable casino winnings. These "W-2G Patron Payout" statements list the names of patrons who have won \$1,200 or more on slot machines or \$600 or more on card games. Patrons must pay income taxes on the amounts shown on W-2Gs. Tribes send this information in different formats that vary with each Tribe. The Intelligence Unit converts these multiple formats into a common format that can be maintained in a centralized, searchable database. The Department uses the database for tracking and investigative purposes.

Patron Self-Exclusion Process

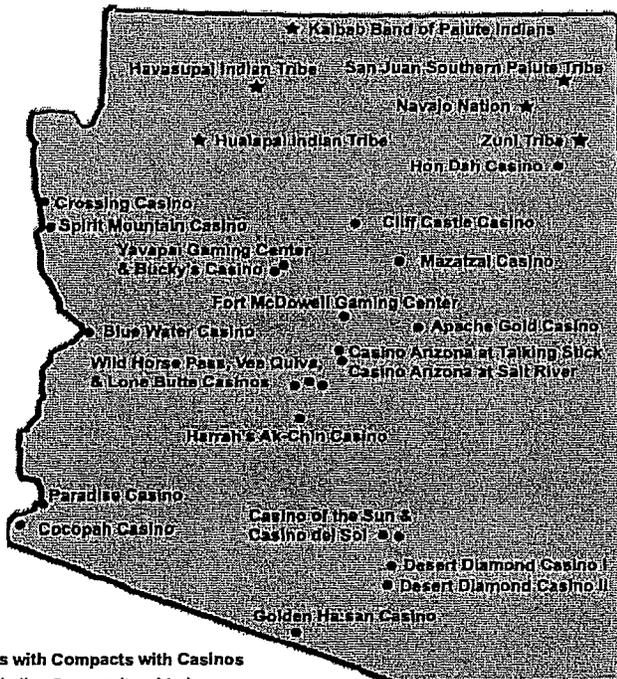
The Intelligence Unit plays a crucial role in helping problem gamblers help themselves. The Unit administers a problem gambler self-exclusion program. It compiles and sends to the Tribal Gaming Offices a list of people who have voluntarily chosen to exclude themselves from Arizona casinos. The number of people in the self-exclusion program increased 23% percent to 2,069 people in Fiscal Year 2008 from the previous Fiscal Year. Individuals can choose to be self-excluded for one, five, or ten years. The list is updated several times a week so that casino officials have the most current information and photos on self-excluded patrons. A patron who is self-excluded cannot collect any winnings or jackpots from a casino. The Unit works closely with the Department's Office of Problem Gambling to direct patrons to further assistance.

Self-Exclude Duration Chosen by Gender
as of June 30, 2008



gross gaming revenue, which is the difference between gaming wins and losses, before deducting costs and expenses. Class III games authorized in Arizona include slot machines, jackpot poker, blackjack, keno, and off-track pari-mutuel wagering. Tribal contributions fund education, trauma care, wildlife conservation, tourism promotion, problem gambling services, and the Department's regulatory expenses.

A Tribe's contribution is calculated on a sliding scale based on the amount of the Tribe's Class III net win. A Tribe pays 1% in contributions for its first \$25 million in Class III net win, 3% of the next \$50 million, 6% of the next \$25 million, and 8% of the Class III net win in excess of \$100 million.



● Tribes with Compacts with Casinos

- | | |
|--|--|
| Ak-Chin Indian Community – Maricopa
Harrah's Ak-Chin Casino | Salt River Pima-Maricopa Indian Community – Scottsdale
Casino Arizona/Salt River & Casino Arizona/Indian Bend |
| Cocopah Indian Tribe – Somerton
Cocopah Casino | San Carlos Apache Tribe – San Carlos
Apache Gold Casino |
| Colorado River Indian Tribes – Parker
Blue Water Casino | Tohono O'odham Nation – Sells
Golden Ha:san & Desert Diamond Casinos I & II |
| Fort McDowell Yavapai Nation – Fountain Hills
Fort McDowell Gaming Center | Tonto Apache Tribe – Payson
Mazatzal Casino |
| Fort Mojave Indian Tribe – Highway 95
Spirit Mountain Casino & Crossing Casino | White Mountain Apache Tribe – Whiteriver
Hon Dah Casino |
| Gila River Indian Community – Sacaton
Wild Horse Pass, Vee Quilva, & Lone Butte Casinos | Yavapai-Apache Nation – Camp Verde
Cliff Castle Casino |
| Pascua Yaqui Tribe of Arizona – Tucson
Casino of the Sun & Casino del Sol | Yavapai-Prescott Indian Tribe – Prescott
Yavapai Gaming Center & Bucky's Casino |
| Quechan Indian Tribe – Yuma
Paradise Casino | |

★ Tribes with Compacts without Casinos

- Havasupai Indian Tribe – Supai (Grand Canyon)
- Hualapa Indian Tribe – Peach Springs
- Kalbab Band of Palute Indians – Fredonia
- Navajo Nation – Window Rock
- San Juan Southern Palute Tribe
- Zuni Tribe – Highway 180

Tribal Contributions Payments Timeline

Tribes must send their quarterly payment to the State by the 25th day after the close of the Tribe's fiscal quarter. The State received the first quarterly payment under the current Tribal-State Gaming Compact on July 25, 2003 (State Fiscal Year 2004).

The Department reports the aggregate quarterly and annual Tribal contribution amounts after the Audit Unit's Tribal Contributions Section verifies their accuracy. The Audit Unit conducts on-site audits of each Tribal gaming operation every year, evaluating internal controls to gain reasonable assurance that the casino is properly accounting for revenue. These audits, called Tribal Contributions Reviews, are in addition to the annual Compact Compliance Reviews. During the Tribal Contributions Reviews, the Audit Unit reviews each casino's operation to ensure accurate financial reporting for each type of gaming activity.

FY 2008 Distribution of Tribal Contributions

Distribution	Fiscal Year Total
Department of Gaming for administrative and regulatory expenses	\$8,642,304.17
Department of Gaming for treatment, education, and prevention of problem gambling	\$1,920,512.03
Instructional Improvement Fund	\$47,859,159.96
Trauma and Emergency Services Fund	\$23,929,579.98
Tourism Fund	\$6,837,022.85
Arizona Wildlife Conservation Fund	\$6,837,022.85
Total Contributions to Arizona Benefits Fund	\$92,224,129.39
Tribal Contributions to cities, towns, counties	\$15,152,219.30
Total FY 2008 Tribal Contributions	\$111,177,821.14

To view a chart showing the cumulative Tribal Contributions from FY 2003 to present, go to www.azgaming.gov

Revenue & Expenditures

Department of Gaming FY 2008 Revenue and Expenditures

Fiscal Year 2008 Revenue	Enforcement/ Problem Gambling	Certification
Total Revenue	¹ 10,870,541.82	1,961,186.71
Fiscal Year 2007 Expenditures		
Personal Services	4,801,221.75	1,326,748.61
Employee Related Services	1,718,166.34	421,913.33
Professional & Outside Services	2,037,246.44	311,022.44
In-State Travel	286,858.82	6,270.48
Out-of-State Travel	70,226.89	56,013.60
Other Operating Expenses	1,385,872.85	45,204.77
Equipment	273,220.50	0.00
² Transfers	5,292.94	0.00
Total Expenditures	10,578,106.53	1,887,173.23

¹ Includes \$300,000 from the Lottery Fund

² To the Office of Administrative Hearings

Human Resources Unit

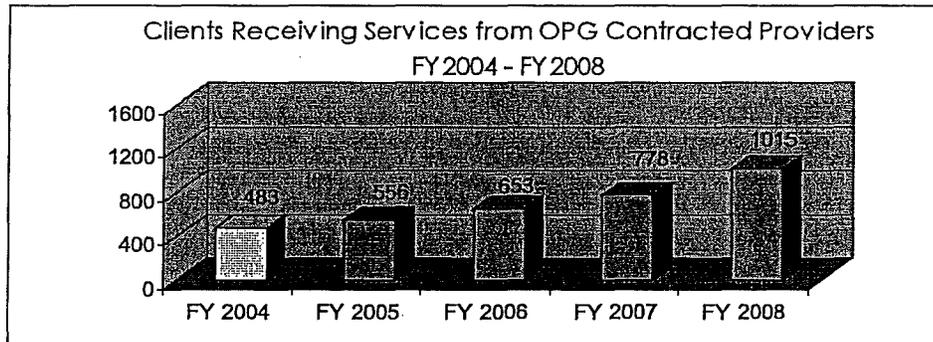
The Human Resources Unit is responsible for:

- State benefits training and assistance to Department employees
- Administration of Personnel Action Requests
- HRIS input/updates
- New Employee Orientation
- Agency Wellness Coordination
- Agency Employee Training
- EEOC Reporting
- Diversity Programs/Training
- Agency Recruitments

In an effort to encourage health and fitness for agency employees in Fiscal Year 2008, the Unit arranged for the Department to host several health programs, including mini health screenings; mobile on-site mammography; administration of flu shots; and United Blood Services blood drives. Also, the Unit developed and implemented "Walk on the Wild Side," an employee walking program where combined agency units competed against each other to see which group could walk the most miles within a certain timeframe. The goal of the program was to promote better health and fitness for Department employees. In addition, the Unit participated in the Women's Health Expo, an event designed to promote health awareness for women.

Treatment

During the 2008 Fiscal Year, 1,015 clients received treatment from counselors under contract with the Department of Gaming. This represents a 30% increase from the previous Fiscal Year and is a continuation of steep growth in the program as shown in the chart below:



In addition, during Fiscal Year 2008, 12 new providers entered into contracts to treat problem gamblers— seven in Tucson, two in Prescott, one in Globe, one in Casa Grande and one serving Show Low. At the close of Fiscal Year 2008, the Department of Gaming had contracts with 28 agencies and individual counselors statewide.

Training

The Office provided 132 hours of basic and advanced training to behavioral health counselors and other interested participants during Fiscal Year 2008. Trainings were offered in Phoenix and Tucson—and, for the first time, in Yuma and Show Low. Attendance remained high and, despite original intentions of offering only 12 hours of training in Yuma, the Office increased this amount to provide the entire Phase I series (30 hours) there in response to the demand from clinicians in the area for more problem gambling training. All trainings continue to receive very high praise from participants, with over 92% of attendees reporting being either "Very Satisfied" or "Satisfied" with the sessions.

The Office sent direct mailings to all licensed behavioral health counselors in the State inviting them to attend each of the trainings. The Office of Problem Gambling also sponsored or participated in professional conferences for social workers, substance abuse counselors, and marriage and family therapists.

Partnerships

The Office of Problem Gambling held its second symposium, "Emerging Issues: Community and Individual Implications of Problem Gambling," to kick off National and Arizona Problem Gambling Awareness Week the first week in March 2008. The Arizona Lottery and Harrah's Ak-Chin Casino co-sponsored the event, which featured internationally acclaimed presenters. The symposium was attended by 72 people from throughout Arizona, representing professional mental health and substance abuse counselors, recovering problem gamblers, problem gambling counselors, Arizona Lottery and tribal gaming representatives, the Arizona Council on Compulsive Gambling, and the Arizona Department of Health Services. Of the participants, 98% reported being satisfied (25%) or very satisfied (73%) with the Symposium.

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