



## Concise Explanatory Statement

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### Notice of Permanent Rule Changes Related to Wager Limits at House-Banked Card Rooms

**This explanatory statement concerns the Washington State Gambling Commission's amendment to WAC 230-15-140 Wagering limits for house-banked card games.**

The Administrative Procedure Act ([RCW 34.05.325\(6\)](#)) requires agencies to complete a concise explanatory statement before filing amended rules with the Office of the Code Reviser. This statement must be sent to anyone who provided comments about the proposed rulemaking.

Once persons who gave comment during this rule-making process have had an opportunity to receive this document, the Washington State Gambling Commission will file the amended rules with the Office of the Code Reviser. These changes will become effective on or after September 25, 2023.

The Washington State Gambling Commission appreciates your involvement in the rule-making process. If you have any questions, please contact the WSGC Rules Coordinator at [rules.coordinator@wsgc.wa.gov](mailto:rules.coordinator@wsgc.wa.gov) or at (360) 486-3454.

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### What are the agency's reasons for adopting these rules?

The WSGC received a petition from a licensee in July 2022 proposing to amend rules to increase the maximum single wagering limit from \$300 to \$500 for all house-banked gaming tables. Wagering limits have not increased since 2009, while operating costs have increased significantly. Some customers have the means and interest in placing wagers greater than \$300, and increasing the wager limit has the effect of stimulating card room businesses. Commissioners did not agree to increase the maximum single wagering limit to a full \$500 but did agree to a wagering limit increase to \$400 per single wager.

### The Rule Development Process

The Commission initiated rule making on this petition at its August 2022 meeting and filed the CR-101 with the code reviser on August 16, 2022. According to the Commission's routine rulemaking process, a stakeholder meeting and a Tribal partner meeting were held at the end of September 2022. The rulemaking was a topic for public discussion at the January 2023 meeting when Commissioners agreed to file draft language for further discussion. The CR-102 with the proposed rule to increase the maximum single-wager limit to \$500 was filed on January 11, 2023. Commissioners continued discussion in February and March and held a public hearing at their April 2023 meeting. Commissioners concluded at their April 2023 meeting that staff should re-file the CR-102 to lower the increase of the maximum single-wager limit to \$400 only. A new CR-

102 with a \$400 wager limit was filed on April 19, 2023. The Commission held a second public hearing on the matter at the July 2023 Commission meeting and subsequently voted to take final action to approve the increase of the maximum single-wager limit to \$400 on July 20, 2023. As is its practice, the Commission also welcomed public comments via email and through a webform on the Commission's website throughout the entire rule-making process.

**If there are variances from the proposed rule and final adopted rule, state the reasons for the differences (RCW 34.05.325(6)(a)(ii)).**

There are no variances from the proposed rule filed with the CR-102 on April 19, 2023 and the final adopted rule.

**Summary of all public comments received on this rule proposal and Commission response to the categories of comments on how the final rule reflects consideration of the comments or why it fails to do so.**

The Commission has categorized the comments received into four categories: 1) comments in support of the \$500 wager limit increase; 2) comments in opposition to the \$500 wager limit increase; 3) comments in support of the \$400 wager limit increase; and 4) comments in opposition to the \$400 wager limit increase. The Commission has provided a response to each category.

**COMMENTS IN SUPPORT OF THE PETITION BASED ON THE \$500 WAGER LIMIT DRAFT LANGUAGE.**

**August 10, 2022 letter**

- Tony Johns, General Manager of Chips/Palace Casino in Lakewood, WA, sent a letter to the Commission on behalf of Evergreen Gaming in support of the petition to raise wagering limits.

**September 28, 2022 Stakeholder Meeting**

- There were 14 participants from the gaming industry. The consensus was support for the petition to raise wagering limits for house-banked card games. No participant in the meeting was against raising wagering limits.

**January 11, 2023 Commission Meeting**

- Vicki Christopherson, on behalf of Maverick Gaming, spoke in favor of her petition. Wager limits at card rooms have not increased in 14 years. Thus, the request to raise it from \$300 to \$500 seems fairly routine. The rising costs of workers, benefits, supplies and equipment, and food is contributing to a consolidation in the industry; and, the increase is needed to prevent further consolidation. Maverick is not going to oppose a fee increase, but it hopes for due consideration of the burdens that card rooms are facing by moving forward on this wager limit increase.

**January 27, 2023 email**

- Jerry Howe, owner of Wild Goose Casino in Ellensburg, sent an email in favor of the petition.

**February 9, 2023 Commission Meeting**

- Victor Mena, President of Last Frontier and New Phoenix in La Center, Washington, spoke in favor of the rule. With minimum wage increases, implementation of the ACA, other regulatory requirements in the state, and inflation, there is a significant burden on card room operators.
- Barry Murray, representing Imperial Palace, rose to echo Mr. Mena's statements and speak in favor of raising the limit. All expenses are up so Murray supports whatever can be done to try to mitigate this across-the-board increase in expenses.

**February 13, 2023 Stakeholder Meeting**

- There were 48 participants from the gaming industry, as well as the nonprofit sector. The consensus was support for the petition to raise wagering limits for house-banked card games. No participant in the meeting was against raising wagering limits.
- Vicki Christopherson, representing Maverick Gaming, noted that increasing wager limits is well within the current authority of the commission. No rules or statutes have changed that would affect consideration of this increase differently than the consideration of the last increase in 2008.
- Barry Murray, representing Imperial Palace, noted that offering increased wager limits was one of the things that card rooms could do to help mitigate the exploding operating costs. Costs have increased about 10 percent, and being able to offer higher wager limits is needed not only to be successful, but just to be able to survive.
- Victor Mena, President of Last Frontier and New Phoenix in La Center, Washington, commented that the proposed fee increase was the largest rate increase that he had seen in 15 years – and consequently, asked for the Commission's support on wager limits.
- Ms. Christopherson agreed with Mr. Mena, adding that she believed there was a disconnect between the justified need to increase license fees and the declining number of licensees. The card rooms need to do something to make their businesses cost-efficient so there should be better integration of the discussion of fee increases and approval of petitions focused on creating efficiencies to maximize cost effectiveness.

### **February 17, 2023 email**

- Kris O. Murray of unknown affiliation sent an email in support of the petition as a long-time player and resident of the state.

### **February 24, 2023 letter**

- Michael D. McKay of K&L Gates, on behalf of Maverick Washington LLC, sent a letter explaining how the petition aligned with the legislative intent of RCW 9.46 and urging the Commission to increase wager limits to account for changed economic conditions since the last increase in 2008. The letter noted that RCW 9.46.010 authorizes the conduct of card games and other social pastimes based on the provisions of the law and adopted rules; that RCW 9.46.0282 authorizes house-banked card games based on rules adopted by the Commission that includes wager limits; and, that RCW 9.46.070(11) gives the Commission the authority to regulate and establish the extent of wager, money or other things of value, which may be wagered. The letter also noted that the Legislature created a class of “commercial stimulant” operators, amending the definition of commercial stimulant to broaden its meaning in 1994, well before the last wager increase in 2008. The bill report on the amended definition noted that the intention was to establish a clear understanding that a commercial stimulant need no longer be an incidental activity or primarily there to increase food and beverage sales. Finally, the letter noted a cumulative inflation rate of 39 percent, as well as an 84 percent increase in the minimum wage under Washington law, since the last increase in 2008.

### **April 11, 2023 Commission Meeting**

- Victor Mena, President of Last Frontier and New Phoenix in La Center, Washington, spoke in favor of the rule change, emphasizing that operators see the need for a wager limit increase due to cost increases. He noted that the industry is highly regulated, which creates costs that threaten the survival of many card rooms.
- Vicki Christopherson, representing Maverick Gaming, noted that, when the Commission raised wager limits in 2008, the Legislature did not react. In fact, if you look at the history of gaming legislation, every time the Legislature takes up house-banked card rooms, it is to give them more, not to restrict them. Card rooms make positive contributions to our communities. They provide good jobs, and they conduct business responsibly, all while dealing with two increases: inflation and the rising minimum wage. The house-banked card rooms provide a safe and amusing activity for the community.

### **RESPONSE TO COMMENTS IN SUPPORT OF THE \$500 WAGER LIMIT DRAFT LANGUAGE.**

The Commission thanks the industry and constituents for their comments in support of the proposed \$500 wager limit increase. The Commission recognizes that the costs of the established food and drink businesses have increased since 2009 based on inflation and other

factors and that increased wager limits will help to stimulate the sales of food and drink. However, the Commission is also balancing the need to stimulate the sales of food and drink with the social nature of card games. Based on this, the Commission re-filed the draft rule language with a \$400 wager limit increase.

#### **COMMENTS OPPOSED TO THE PETITION BASED ON THE \$500 WAGER LIMIT DRAFT LANGUAGE.**

##### **September 28, 2022 Tribal Partner Meeting**

- Tribal partners expressed concerns that raising wager limits could be considered an expansion of gambling, was outside the intent of the Legislature, and could be a challenge for problem gambling.

##### **January 11, 2023 Commission Meeting**

- Luke Esser spoke on behalf of the Kalispel Tribe to challenge the contention that the wager limit was needed to keep wager limits fair and consistent with competitors, such as casinos. Tribal gaming is fundamentally different in terms of its regulatory framework. Esser asked that staff go back and take a look at the legal foundation for house-banked card rooms as businesses primarily engaged in selling of food and beverages. Finally, Esser noted that, over the years, the Commission had authorized increases in wager limits, but this petition is the first time that the argument for an increase is based on the rate of inflation; and, if that is the argument, then the current limit of \$300 is significantly above an inflation-based wager limit of \$25 in 1997.

##### **February 13, 2023 Meeting with Tribal Partners**

- Discussants felt \$500 was an excessive limit that did not correspond to the definition of “commercial stimulant” in RCW 9.46.

#### **RESPONSE TO COMMENTS OPPOSED TO THE \$500 WAGER LIMIT DRAFT LANGUAGE.**

The Commission thanks its tribal partners for their comments on the proposed \$500 wager limit increase. The Commission recognizes that higher wager limits helps card rooms attract a more diverse clientele, which increases the sales of food and drink. This increase in sales helps the established food and drink businesses associated with the card rooms manage their rising costs and is consistent with the statutory intent that the card rooms stimulate the volume of sales of food or drink. The Commission also recognizes that raising wager limits to stimulate the established restaurant businesses of the card rooms needs to be balanced with the possible impact on the social nature of the card games. Based on this, the Commission re-filed the draft rule language with a \$400 wager limit increase.

The Commission also thanks its tribal partners for their comments on the Commission’s statutory authority to enact a wager limit increase for card rooms. The Commission respectfully disagrees, as a plain reading of the Gambling Act demonstrates a clear authority

to set wager limits by rule pursuant to RCW 9.46.070(2) and (11), RCW 9.46.0217, and RCW 9.46.0282. The Commission agrees that the regulatory framework for the card rooms is distinct and separate from the tribal casinos and that there is no regulatory overlap or parity between them. Similarly, expansion of gambling is a term of art related to the Legislature's supermajority needed to expand gambling activities under the Washington Constitution. The issues associated with a legislative expansion of gambling do not apply to the Commission's enactment of a rule that is within its statutory authority.

## **COMMENTS IN SUPPORT OF THE PETITION BASED ON THE \$400 WAGER LIMIT DRAFT LANGUAGE.**

### **July 20, 2023 Public Hearing**

- Victor Mena of MTM Gaming commented that he has been in the industry since 2001 and has always understood that use of the term *primarily engaged* means that one must be involved in a food and beverage-providing business in order to gain the advantage of a card room license. He also wanted to emphasize to Commissioners the benefits that businesses like his in La Center brings to the local community in terms of taxes and employment. He further commented that he does not see this petition as a way to level the playing field with Tribes. He noted that they have the Tribal Lottery System from which they derive their income.
- Frank from Skyway noted that he had been in the industry for 20 years and that his job at Roman Casino was really important to him. It has given him the flexibility to spend time with his family and allow his wife to stay home with the children. He also pointed out the work that Maverick does to help the community with things like the community lunch program. A wager limit increase for him meant that the business will remain open.
- Richard Rivera of Goldie's Casino in Shoreline explained that, through his work with Maverick, he has been able to buy a home. The continued survival of the house-banked card rooms will mean payments to the cities and employees and contributions to the community, including investments in problem gambling.
- Hai – a shift manager from Lakewood, noted how much career growth he has been able to take advantage of in the industry and without any special education. All the prices have gone up, which has had an impact on lots of families. An increase in the maximum wager limit would mean that the company makes more money, and then perhaps he could get a raise.
- Mark Hawkinson of Mountlake Terrace explained that he had been a dealer since 2001. He has seen players come and go, while wager limits have not increased in 14 years. Players want it. He makes minimum wage plus tips; with higher wager limits, he would

make more money. The wager increase will not affect the majority of his clients, only the high rollers.

- Tony Johns of Chips Casino in Lakewood has been in the industry since 1998. In all that time, he does not recall that the issues being discussed in the petition have ever been brought up. When he hears “we want the industry to get back to how it was when it was first authorized,” he really hears that people want to accept layoffs and accept a reduction in the size of the industry. It is scary to him given inflation and the increases in the minimum wage. Every time the minimum wage is increased, those who earn more than minimum wage ask for a raise. But he can’t afford to give them raises. He added that he has been in the industry so long that he was identified as someone with a problem gambling problem. He knows that, if you see it, you address it head on; and Maverick provides extensive training on problem gambling. Johns also emphasized that 100 percent of his customers take advantage of the food and beverage menu, demonstrating that they are as much a restaurant as they are a casino. The menu prices have skyrocketed, meaning that the wager limit increase is necessary just to stay viable.
- Eric from Lynnwood has been a dealer for 20 years and works at Goldie’s in Shoreline. He noted that he and his colleagues serve the local community. None of the patrons drives more than 30 minutes; everyone knows each other. They have had to close a number of tables because of increased prices and the inability to raise wager limits.
- Vicki Christopherson, representing Maverick, emphasized that Maverick takes very seriously its role in the community and feels that the petition represents a modest increase that is entirely appropriate within the statute. People who visit the card rooms come from within three miles of the establishment. Each card room employs about 100 people. They are heavily regulated by WSGC, L&I, and LCB. They support local governments with a 10 percent or more tax. They pay B&O taxes and all other taxes. Since the wager limits were last increased in 2009, minimum wage has gone from \$8.00 to \$19.00 in Tukwila; the cost of a Big Mac has increased 62 percent; a gallon of gas has gone from \$2.50 to more than \$5.00. Like everyone else, Maverick competes for workers. The restaurant and card room businesses stimulate each other. Some argue that the petition runs afoul of the spirit of the law, but Maverick believes it simply reflects a difference in economic conditions.
- Barry Murray of the Imperial Palace in Auburn (and soon to open in Tukwila) rose to echo the comments that Ms. Christopherson made and to emphasize that the petition is a community issue. The Imperial Palace supports 180 jobs locally, and Mayor Nancy Backus is thankful. When they open in Tukwila, they’ll be employing 200 individuals.

## **RESPONSE TO COMMENTS IN SUPPORT OF THE \$400 WAGER LIMIT DRAFT LANGUAGE.**

The Commission thanks the industry and constituents for their comments in support of the proposed \$400 wager limit increase. The Commission recognizes that the food and drink businesses and card rooms are intertwined and that, by increasing the wager limit, the sales of food and drink will be stimulated. Based on this, the Commission adopted the \$400 wager limit increase.

## **COMMENTS OPPOSED TO THE PETITION BASED ON THE \$400 WAGER LIMIT DRAFT LANGUAGE.**

### **June 29, 2023 Letter**

- The Washington Indian Gaming Association (WIGA) expressed opposition to the petition on the grounds that it is not in line with the legislative intent of the Gambling Act. The letter contends that the Legislature allowed limited gambling to promote the social welfare of citizens through strict regulation and control. It notes that social card games have only ever been authorized as a “commercial stimulant” for bars and restaurants. The 1994 amendment that removed “incidental” from the statute was not undertaken to level the playing field with the tribes; and despite the amendment, the law continues to require that social card games be conducted for the purpose of increasing the volume of sales of food or drink. Finally, the letter maintains that the proposed increase in wager limits is outside the legislative intent and far outpaces inflation if you consider that, in 1997, the wager limit was \$25.00.

### **July 5, 2023 Email**

- Cory Thompson, formerly working in the industry, sent an email opposing the petition on the grounds of the harm that can be done to families due to problem gambling.

### **July 17, 2023 Letter**

- Curt Holmes, Vice Chairman of the Kalispel Tribe, sent a letter to Commissioners laying out Kalispel’s arguments against the petition, which primarily focused on how a wager increase would ignore RCW 9.46.070(2) that gives the Commission power to issue licenses to businesses primarily engaged in the selling of items of food or drink.

### **July 20, 2023 Public Hearing**

- Luke Esser, representing the Kalispel Indians, restated comments made in the letter from Vice Chairman Curt Holmes. He drew Commissioners attention to the enabling statute RCW 9.46.070(2), which he noted is the foundation for the Commission’s actions. He noted that, just because this issue has not been raised in the past, it should not be considered irrelevant. He also noted that to consider the ‘primarily engaged in’ language as requiring just an initial test was preposterous, using the example of a hot dog stand that might open up, get a license, open a casino, and then close the stand but continue to operate the



casino. He felt that adopting the petition would mean that the commission had exceeded its authority.

#### **RESPONSE TO COMMENTS OPPOSED TO THE \$400 WAGER LIMIT DRAFT LANGUAGE**

The Commission again thanks its tribal partners for their comments on the proposed \$400 wager limit increase. However, the Commission recognizes that the restaurants and card rooms are intertwined and that, by increasing the wager limit, the sales of food and drink will be stimulated. All card rooms are also engaged in the selling of food and drink, as required by statute and rule. Based on this, the Commission adopted the \$400 wager limit increase.

The Commission also thanks its tribal partners for their comments on the Commission's statutory authority to enact a wager limit increase for card rooms. The Commission respectfully disagrees, as a plain reading of the Gambling Act demonstrates a clear authority to set wager limits.

The Commission also thanks Cory Thompson for the comment regarding problem gambling. The Commission takes the issue of problem gambling very seriously but does not believe that the increase of the wager limit in house-banked card rooms from \$300 to \$400 will result in an increased risk to Washington citizens.