



State Lottery and Charitable Gaming

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State Lottery and Charitable Gaming

Introduction

Prior to 1965, Article IV, Section 24 of the Wisconsin Constitution stipulated that "the legislature shall never authorize any lottery..." This provision was broadly interpreted to exclude all forms of gambling in Wisconsin.

Five separate amendments have since modified this strict gambling prohibition. The first, ratified in 1965, allowed the Legislature to create an exception to permit state residents to participate in various promotional contests. In 1973 and 1977, amendments were passed authorizing the Legislature to allow charitable bingo games and raffles, respectively. Finally, in 1987, two amendments were adopted authorizing: (a) the creation of a state-operated lottery, with proceeds to be used for property tax relief; and (b) privately operated pari-mutuel on-track betting as provided by law. Following these constitutional amendments, 1987 Act 329 established regulatory requirements for crane games.

In addition to these amendments, which expanded legal gambling in the state, Wisconsin voters ratified a constitutional amendment on April 6, 1993, that clarified that all forms of gambling are prohibited except bingo, raffles, pari-mutuel on-track betting and the current state-run lottery. The amendment also specifically bars the state from conducting prohibited forms of gambling as part of the state-run lottery. The amendment limited non-tribal gambling in the state to those forms permitted in April, 1993.

In a parallel development, Indian tribes in Wisconsin and other states were provided the right, as a result of federal court rulings, to negotiate gaming compacts authorizing a wide variety of gambling activities on reservation and federal trust lands. As a result, 11 Wisconsin Indian

tribes and bands currently operate gaming facilities in 24 locations, including both gambling casinos and satellite sites offering electronic gaming devices.

Prior to October 1, 1992, three agencies performed gambling-related functions: (a) the Department of Regulation and Licensing regulated charitable bingo and raffle activities; (b) the Lottery Board operated the state lottery; and (c) the Racing Board regulated pari-mutuel betting and racing. Effective October 1, 1992, the Wisconsin Gaming Commission, comprised of three full-time members, was created (under 1991 Wisconsin Act 269) to coordinate and regulate all activities relating to legal gambling. This action: (a) eliminated the Lottery and the Racing Boards and transferred their functions to the Commission; (b) transferred the regulatory responsibilities for charitable bingo and raffles from the Department of Regulation and Licensing to the Commission; and (c) made the Commission responsible for the state's regulatory responsibilities under the state-tribal gaming compacts.

Under 1995 Wisconsin Act 27, the Gaming Commission was eliminated and replaced by a Gaming Board, effective July 1, 1996. Also, on that date, the administration of the state lottery was transferred to the Department of Revenue (DOR). All other Gaming Commission responsibilities were transferred to the Gaming Board. Finally, under 1997 Wisconsin Act 27, the Gaming Board was eliminated and its functions were transferred to a Division of Gaming in the Department of Administration (DOA), effective October 14, 1997.

This paper describes legal gambling in Wisconsin exclusive of tribal gaming activities. This focus includes: (a) a description of the state's cur-

rent administrative structure relating to legal gambling in Wisconsin, including the Lottery Division in DOR, the Division of Gaming in DOA, and the Division of Criminal Investigation in the Department of Justice (DOJ); (b) the history and operation of the state lottery; and (c) the history and regulation of charitable bingo and raffles, and crane-game amusement devices. Further, while racing and pari-mutuel wagering are authorized under current law and Wisconsin has had racing and pari-mutuel wagering, no such activities are currently operating.

A separate paper describes the development and current operation of tribal gaming [see the Legislative Fiscal Bureau's informational paper entitled, "Tribal Gaming in Wisconsin"].

The Structure of State Gaming Administration

The Lottery Division under the Department of Revenue

Under 1995 Wisconsin Act 27, the operation of the state lottery was transferred to the Department of Revenue as a separate division within the agency. The state lottery is the one form of legal gambling in Wisconsin that is operated by the state, utilizing both state employees and contracted services, including private sector retailer outlets for lottery ticket sales.

The Lottery Division is authorized 81.95 full-time equivalent (FTE) positions in 2016-17, including one unclassified division administrator. The lottery is funded from the segregated (SEG) lottery fund. Currently, 34.8 positions are allocated for retailer relations and sales, 12.0 positions for product development and marketing, and the remaining 35.15 positions for other administrative and operational functions. All lottery employees are subject to background investigations and criminal record restrictions. The Divi-

sion's funding in 2016-17 totals \$77,605,500, including \$21,915,100 for general program operations, \$40,810,700 for retailer compensation, and \$14,879,700 for vendor fees.

The Division of Gaming under the Department of Administration

The Department of Administration, through its Division of Gaming, regulates activities and promulgates rules relating to charitable gaming (bingo and raffles). The Division also coordinates the state's regulatory activities under the state-tribal gaming compacts relating to Indian casino gaming.

There are 22.5 FTE positions authorized for the Division in 2016-17, including an unclassified division administrator and an unclassified attorney. Currently, 16.4 positions are allocated to Indian gaming, 2.9 positions for raffles, and 3.2 positions for bingo, funded from program revenue (PR) associated with each type of gaming. These employees are subject to background investigations and criminal record restrictions. The Division's funding in 2016-17 totals \$2,604,500 PR. The program revenue funds Indian gaming regulation (\$1,986,600 PR), raffle regulation (\$280,700 PR), and bingo regulation (\$337,200 PR).

As of December, 31, 2009, no racetracks remain in operation in Wisconsin and the authorized funding and positions allocated for this function were eliminated in the 2011-13 biennial budget deliberations. Detailed historical information regarding the regulation of racing and pari-mutuel wagering in Wisconsin is included in the Appendix of the Legislative Fiscal Bureau's 2015 informational paper entitled "State Lottery and Charitable Gaming (Pari-Mutuel Wagering and Racing)."

The Office of Indian Gaming: (a) coordinates state regulation of Indian gaming; (b) functions as a gaming liaison between Indians, the general

public and the state; (c) functions as a clearing-house for information on Indian gaming; and (d) assists the Governor in determining the types of gaming that may be conducted on Indian lands, and in entering into Indian gaming compacts.

The Office of Charitable Gaming administers the regulation of charitable games (bingo and raffles).

The Department is authorized to audit these various gaming operations, investigate suspected violations of gaming law, and report suspected gaming-related criminal activity to DOJ's Division of Criminal Investigation (DCI). If DCI chooses not to investigate the report, DOA may coordinate an investigation of the suspected criminal activity with local law enforcement officials and district attorneys.

Gaming Enforcement under the Department of Justice

In addition to the state gaming administrative and regulatory functions in DOR and DOA, the Special Operations Bureau in DOJ's Division of Criminal Investigation provides law enforcement oversight of gambling activities in Wisconsin. Investigations are conducted by the regional office of the area in which the complaint originated. These investigations are conducted through the Western or Eastern Field Operations Bureaus, depending on the location of the associated regional office. In 2016-17, funding for gaming enforcement totals \$533,000 (\$388,200 SEG from the lottery fund and \$144,800 PR from Indian gaming revenue). A total of 4.0 classified positions carry out the Department's responsibilities for the enforcement of the state's gambling statutes. Of these 4.0 positions, 1.25 are responsible for cases involved with gaming on tribal lands and 2.75 are responsible for all other gaming investigations undertaken by the Special Operations Bureau.

The Department's primary responsibilities related to gaming are as follows:

Lottery. The Department of Justice may investigate activities of Lottery Division employees in the Department of Revenue and lottery vendors that affect the administration or operation of the state lottery or multi-jurisdictional lotteries. In addition, DOJ is required to perform the background investigations relating to major procurement contract vendors. The Department must report suspected violations of state or federal law to the appropriate prosecuting authority. As part of its investigation, the Department may issue a subpoena to compel the production of evidence. The Department and district attorneys have concurrent jurisdiction to prosecute violations of state lottery statutes. The Department also investigates crimes that are committed against the Lottery. These crimes generally involve attempts to defraud the Lottery.

Indian Gaming. The Department is authorized, under the state-tribal compacts, to: (a) monitor each tribe's casino gaming to ensure compliance with the compacts; (b) investigate the activities of tribal officers, employees, contractors or gaming participants who may affect the operation or administration of the tribal gaming; and (c) to commence prosecutions relating to casino gaming for violations of any applicable state civil or criminal law or provision of a compact.

The Wisconsin State Lottery

Constitutional Provision

Authorization of the Wisconsin lottery required the adoption of a constitutional amendment creating an exception to the gambling prohibition in effect at that time. This amendment received voter approval on April 7, 1987, by a vote of 739,181 (65%) to 391,942 (35%).

This amendment allowed the Legislature to create a state lottery, the net proceeds of which must be used for property tax relief. The amendment prohibits the expenditure of any public funds or lottery proceeds for promotional advertising of the lottery and stipulates that "any advertising of the state lottery shall indicate the odds of a specific ticket to be selected as the winning ticket for each prize amount offered." This language appears to allow the state to engage in advertising only to inform potential participants of the lottery's existence, but precludes the state from conducting advertising that is promotional in nature. Advertising by private businesses acting as lottery ticket retailers or suppliers must also disclose a ticket's odds of winning; however, the prohibition of promotional advertising does not apply to these businesses.

Lottery Definitions in State Law

A "lottery" is defined under s. 945.01(5)(a) of the Wisconsin Statutes as "...an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance, even though accompanied by some skill." This definition contains three elements which are essential in any lottery:

1. **Consideration.** Either the promoters must receive some commercial or financial advantage or the participants must be disadvantaged in some way. An example of a consideration is the price paid for a lottery ticket.

2. **Chance.** The determination of prize winners must be through some random selection process.

3. **Prize.** Selected participants must be awarded some sort of prize. In a lottery, prizes may range from \$1 to large cash amounts.

Chapter 945 of the statutes, which prohibits anyone from conducting or participating in a "lottery," also specifies that a lottery does not include bingo and raffles, pari-mutuel wagering or the

state lottery or any multijurisdictional lottery conducted under Wisconsin law. (A "multijurisdictional" lottery pertains to games in which Wisconsin participates in conjunction with another state of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico or any territory or possession of the United States of America or the government of Canada or any Canadian province.)

The types of games that may be offered to players of the state lottery are restricted under s. 565.01(6m) of the statutes. The state lottery is defined as an enterprise, including a multijurisdictional lottery in which the state participates, where the player, by purchasing a ticket, is entitled to participate in a game of chance in which any of the following applies:

1. The winning tickets are randomly predetermined and the player reveals preprinted numbers or symbols from which it can be immediately determined whether the ticket is a winning ticket entitling the player to win a prize, including an opportunity to win a prize in a secondary or subsequent chance drawing or game.

2. The ticket is evidence of the numbers or symbols selected by the player or, at the player's option, selected by a computer, and the player becomes entitled to a prize, including an opportunity to win a prize in a secondary or subsequent chance drawing or game. The player wins if some or all of the player's symbols or numbers are selected in a chance drawing or game, if the player's ticket is randomly selected by the computer at the time of purchase or if the ticket is selected in a chance drawing.

This definition is consistent with the types of lottery games that have been conducted by the Wisconsin state lottery since its inception. The state lottery cannot include any of the following games or games simulating any of the following games:

1. Any game in which winners are selected based on the results of a race or sporting event.

2. Any banking card game, including blackjack, baccarat or chemin de fer.

3. Poker, roulette, craps or other dice games, keno, bingo 21, bingo jack, bingolet or bingo craps.

4. Any game of chance played on a slot machine or any mechanical, electromechanical or electronic device that is generally available at a gambling casino.

5. Any game or device that is commonly known as a video game of chance, a video gaming machine or a video gambling machine, except a video device authorized by the Department to permit the sale of tickets for an authorized game if the device does not determine or indicate whether the player has won a prize.

6. Any game that is similar to a game identified above.

7. Any other game that is commonly considered to be a form of gambling and is not substantially similar to a game that the Department has the authority to conduct under state law.

Finally, state law specifies that the definition of the state lottery does not affect the provisions of any Indian gaming compact entered into by the state before January 1, 1993.

Wisconsin Lottery Games

The state lottery offers two types of instant games: "scratch" ticket games and pull-tab games. In the scratch games, participants purchase a card with a latex covering, which is scratched off to reveal the prize, if any, that is won. Depending on the game, tickets cost \$1, \$2, \$3, \$5, \$10, \$15, \$20, or \$30. In 2015-16, scratch game sales amounted to \$378.8 million and ac-

counted for 60.4% of total lottery sales.

Pull-tab games are played with "break-open" tickets that are made of laminated paper partially perforated to permit strips to be torn from one side to reveal the underlying play symbols, from which it can be immediately determined whether the ticket is a winner. Pull-tab tickets may only be redeemed at the place the ticket is purchased. In 2015-16, pull-tab game sales amounted to \$1.1 million and accounted for 0.2% of total lottery sales.

The state lottery also offers on-line games, commonly referred to as "lotto" games. In these games, tickets are distributed from terminals linked to the state lottery's central office computer (in October, 2016, some 3,681 retailers had lotto ticket terminals). Participants select a combination of numbers (or have a computer randomly select the numbers) from a larger field. Periodic drawings are held to determine the winning combinations. There are two basic types of lotto games. In most daily draw games, prizes are awarded to winners with no carryover to subsequent drawings. In "jackpot" games, the odds against selecting the correct combination of numbers are higher, so there may be no winner among the participants in a given drawing. When this occurs, the prize money is added to the amounts from subsequent drawings until a winner emerges.

The state currently offers five daily draw games (SuperCash, Daily Pick 3, Daily Pick 4, Badger 5, and 5 Card Cash) and three jackpot games (Powerball, Wisconsin's Megabucks, and MegaMillions). The Powerball and MegaMillions games are multi-state games, while the others are Wisconsin-only games. The minimum price to play ranges between \$0.50 (Daily Pick 3 and 4) and \$2.00 (5 Card Cash and Powerball). Raffle-style lotto games, which are offered less frequently, may have higher minimum ticket prices. In 2015-16, lotto game sales amounted to \$247.2 million and accounted for 39.4% of total

lottery sales.

The state lottery began selling tickets September 14, 1988. Instant, lotto, and total lottery ticket sales for the years 1988-89 through 2015-16 are summarized in Table 1.

Table 1: Wisconsin Lottery Ticket Sales

Fiscal Year	Instant Games	Lotto Games	Totals
1988-89	\$230,365,300	\$0	\$230,365,300
1989-90	182,674,800	126,923,100	309,597,900
1990-91	230,724,800	160,672,200	391,397,000
1991-92	289,685,900	159,370,500	449,056,400
1992-93	310,951,800	184,180,100	495,131,900
1993-94	285,317,800	210,203,500	495,521,300
1994-95	320,356,100	198,558,900	518,915,000
1995-96	310,401,700	171,722,300	482,124,000
1996-97	273,413,600	157,677,500	431,091,100
1997-98	252,915,500	165,724,800	418,640,300
1998-99	230,817,600	197,378,500	428,196,100
1999-00	241,040,900	165,629,300	406,670,200
2000-01	237,944,200	163,244,400	401,188,600
2001-02	238,214,000	189,336,300	427,550,300
2002-03	249,467,400	185,570,400	435,037,800
2003-04	270,286,700	212,633,600	482,920,300
2004-05	269,904,800	181,967,200	451,872,000
2005-06	285,757,700	223,299,700	509,057,400
2006-07	284,131,800	208,646,800	492,778,600
2007-08	287,429,300	207,297,800	494,727,100
2008-09	276,797,700	196,616,600	473,414,300
2009-10	273,271,700	207,670,300	480,942,000
2010-11	302,521,100	200,130,700	502,651,800
2011-12	322,482,000	225,158,700	547,640,700
2012-13	326,725,700	239,377,000	566,102,700
2013-14	338,960,800	229,876,600	568,837,400
2014-15	357,463,500	217,167,900	574,631,400
2015-16	379,931,000	247,234,000	627,165,000

Statutory Provisions and Current Operations

Although the constitutional amendment authorized a lottery, legislation was needed to create the lottery and specify the details of its operation. The following sections briefly outline the major provisions of the current state lottery statutes and describe lottery operations.

Administration by the Department of Revenue. The Department of Revenue has the responsibility for operating the state lottery and has certain oversight responsibilities under current law. The Department, prior to appointing an unclassified administrator of the lottery division, is required to conduct a nationwide search to find the most qualified appointee. The search must consider the business management experience, marketing experience, computer experience and lottery management experience of the applicants. No person may serve as the administrator who has been convicted of, or entered a plea of guilty or no contest to, any of the following: (a) a felony during the immediately preceding 10 years (unless the person has been pardoned); (b) a gambling-related offense; (c) fraud or any type of misrepresentation; or (d) a violation of lottery law or administrative rules.

The Department has broad authority to promulgate rules relating to implementing the lottery statutes. The Department is required to adopt rules governing specific aspects of the lottery's management and operations, including rules for: (a) establishing a plan of organizational structure for lottery division employees; (b) selecting retailers; (c) establishing requirements for information to be submitted with a bid or proposal by a person proposing to contract with the state lottery; (d) determining the types of lottery games to be offered; (e) defining the terms "advertising" and "lottery shares;" (f) establishing the circumstances and procedures under which a retailer may not be reimbursed if he or she accepts and directly pays a prize on an altered or forged lottery ticket or lottery share; (g) providing for terms of lottery retailer contracts for periods that are shorter than three years; and (h) establishing goals to increase the total amount of expenditures for advertising, public relations and other procurements that are directed to minority businesses, the number of retailers that are minority businesses and the number of employees of the lottery division who are minority group members. Additional rules relating to the operation of the

state lottery may be promulgated by DOR, including rules regarding the establishment of a retailer performance program.

The Department is also authorized to: (a) approve whether lottery functions are to be performed by DOR employees or provided under contract; (b) approve a major procurement contract, if the Department of Administration delegates responsibility for the procurement process to DOR; (c) approve the features and procedures for each lottery game; and (d) conduct hearings and render final decisions relating to the suspension or termination of a lottery retailer contract.

Lottery Procurements. Subject to approval by the Secretary of DOR, the lottery division administrator may determine whether lottery functions will be performed by DOR employees or be provided under contract with private businesses or individuals. However, no contract may provide for the entire management or operation of the lottery by any private person.

Major procurements for the lottery are made by DOA, unless DOA delegates this authority to DOR. "Major procurements" are defined as materials, supplies, equipment or services which are unique to the operation of the lottery and not common to the ordinary operations of other state agencies. Other goods and services used by the state lottery are subject to s. 565.25 of the statutes and normal state purchasing procedures.

The Department of Administration must solicit separate bids or proposals for management consultation services. Major procurement contracts must be awarded using a formula based on: (a) cost; (b) the proposed vendor's technical capability and expertise; (c) the integrity, reliability and expertise of the proposed vendor; (d) security considerations; and (e) the vendor's financial stability.

Like lottery employees, major procurement vendors are subject to background investigations and criminal record restrictions. Major procure-

ment vendors are also required to establish an office in Wisconsin.

Conflict of interest provisions prohibit a vendor selected to provide management consultation services from submitting a bid or proposal to provide other supplies, goods or services under a major procurement contract or to have an ownership interest in any vendor under such a contract or submitting a bid for such items. In addition, conflict of interest provisions apply to the employees in the lottery division in DOR, the Department's Secretary, Deputy Secretary, and Assistant Deputy Secretary, as well as former division employees for two years following service, with regard to having a direct or indirect interest in, being employed by, or accepting money or other things of value from any vendor or retailer while serving as an employee in that capacity.

Under 2015 Act 55, however, a former division employee may be employed by a vendor at any time following the termination of employment with the division if DOR has entered into a contract with the vendor to perform services previously performed by the division. Discussions of future employment with a vendor, while negotiating a major procurement contract with DOR relating to the lottery, are allowed only with prior written consent of the Administrator. This exception does not apply to the Administrator, Deputy Administrator, or any Bureau Director in the division.

Lottery Retailers. Under state lottery administrative rules, retailers enter into contracts with the state lottery for the sale of lottery tickets to the public. These rules authorize an initial retailer application fee and an additional fee for a three-year certificate of authority. Currently, the initial contract application fee is \$75. The certificate of authority fee of \$25 per sales location is imposed when a contract is awarded or renewed. Retailer contracts typically run for three years, although other time periods can be used to stagger contract expiration dates.

Retailer selection must provide for the convenient availability of lottery tickets to prospective buyers. Rules relating to retailer selection must be based on objective criteria and may not limit the number of retailers in a municipality solely based on its population. The rules must also establish requirements for: (a) financial responsibility; (b) security; (c) accessibility; (d) the sufficiency of existing retailers to serve the public; (e) expected sales volume; (f) ensuring that there will not be an undue concentration of retailers in any geographic area of the state; and (g) additional qualifications (determined by rule).

A retailer contract may be terminated or suspended if a retailer has done any of the following: (a) violated lottery statutes or rules; (b) failed to meet retailer qualifications; (c) endangered lottery security; (d) engaged in fraud, deceit, misrepresentation or other conduct prejudicial to public confidence in the lottery; (e) failed to accurately account for lottery tickets, revenues or prizes; (f) is delinquent in making payment of lottery ticket revenues; or (g) violated contractual provisions in a manner that constitutes grounds for termination or suspension. In addition, the lottery administrator can suspend or terminate a contract, without prior notice or hearing, if he or she determines that such action is necessary to protect the public interest or the security, integrity or fiscal responsibility of the state lottery. In this circumstance, the retailer can have such a suspension or termination reconsidered by the lottery administrator and, if necessary, reviewed by DOR through a hearing process.

No retailer contract may be entered into with a person who is less than 18 years of age or is finally adjudged to be delinquent in the payment of state taxes, unemployment compensation, or certain other required state payments; also, criminal record restrictions apply. There is also a prohibition against entering into a retailer contract with a person engaged in business exclusively as a lottery retailer, unless the contract is on a temporary basis or is with a person with a disability,

a group of individuals with disabilities or a non-profit organization providing services to such persons.

The state lottery may operate retail sales outlets or enter into retailer contracts with state and local governmental agencies. However, under these circumstances, the lottery division administrator must minimize the competitive effect of such sales on sales by private retailers. Retailer contracts with private persons operating activities on state or local government property are also allowed but, in awarding these contracts, the state lottery must give preference to individuals with disabilities and nonprofit organizations providing services to such persons.

Early in its history, the lottery distributed tickets to retailers through five regional sales and distribution routes, centered in Eau Claire, Green Bay, Madison, Milwaukee, and Rhinelander. In the mid-1990's the lottery began using a centralized distribution model. However, it is still helpful to view the number of retailers by region. Table 2 indicates, for each region of the state, the number of for-profit retailers and nonprofit organizations. Virtually all for-profit retailers have lotto ticket terminals, although historically a small number of retailers have sold pull-tab tickets only. Nonprofit organizations are permitted to only sell pull-tab tickets.

Table 2: Lottery Retailers by Region (as of September, 2016)

Region	For-Profit Retailers	Pull-Tab Only Nonprofit Organizations
Eau Claire	646	75
Green Bay	660	25
Madison	728	62
Milwaukee	1,395	117
Rhinelander	<u>252</u>	<u>23</u>
Total	3,681	302

Retailer Compensation. Basic retailer compensation is established by statute at 5.5% of the retail price of lotto lottery tickets and 6.25% of

the retail price of instant tickets sold by the retailer. A higher rate of basic compensation, which varies by game, is permitted to nonprofit organizations selling pull-tab lottery tickets at special events. In 2015-16, the overall rate of compensation for nonprofit retailers was 26.97%.

Retailer Performance Program. Under 1999 Wisconsin Act 9, DOR was authorized, effective January 1, 2000, to establish by rule a program to pay additional compensation to retailers who meet certain performance goals identified by the Department. The additional compensation paid to retailers under the program may not exceed 1% of gross lottery sales revenue in a fiscal year.

The retailer performance program is composed of three components: (a) a winning ticket bonus component; (b) a sales goal incentive component; and (c) a short-term incentive component. The winning ticket and sales goal components are viewed by DOR as the major components of the program, while the short-term incentives are characterized as a lesser component of the program designed to support certain lottery products or to strengthen sales during certain periods of the year.

The rules for the program require the lottery administrator to document and report, within 90 days of the completion of a fiscal year, the total payments made to retailers under the program. The report must detail the incentives paid under the winning ticket incentive, the sales goal incentive, and the short-term incentive.

Winning Ticket Component. The winning ticket component provides a payment to the retailer selling a winning ticket equal to 2% of the winning ticket value, if the winning ticket value is at least \$600. The maximum payment authorized under the winning ticket incentive component is \$100,000 per winning ticket. [In the event that retailers would collectively earn more than \$300,000 from any one prize level in any one drawing, then the lottery is required under rule to

divide \$300,000 equally among all retailers who earned an incentive from that prize level.] Under the winning ticket component of the program, retailers received \$1,145,700 in 2015-16.

Sales Goal Incentive Component. The sales goal incentive component pays bonuses of 10% of sales increases (unless adjusted to a lower payment percentage by the lottery administrator) in three categories of lottery products: (a) instant ticket games; (b) non-jackpot lotto games; and (c) jackpot lotto games. Each lottery product category is treated separately. The flexibility to adjust the sales goals incentive payments to less than 10% of sales increases is designed to ensure that total payments will not exceed the 1% of total sales funding limit in a fiscal year. Any adjustment must consider historical sales and incentive information and must be applied equally to all retailers receiving payment. Sales goal incentive payments to retailers totaled \$4,402,500 in 2015-16.

Short-Term Incentive Component. The short-term incentive component of the program provides bonus payments to retailers who satisfy a specific, short-term performance expectation. The intent of providing short-term incentives is to support certain lottery products or strengthen sales during certain periods of the year through a flexible incentive mechanism that has a limited life cycle. For example, short-term incentives may be used to help reduce the ticket inventory for certain games or to support seasonal lottery products.

Under rules governing the program, the lottery administrator may offer multiple short-term incentives in a fiscal year. A short-term incentive may not continue from one fiscal year to the next. Each short-term incentive is limited to a maximum of \$300,000 in total incentive payments. In 2015-16, seven short-term incentive programs resulted in payments of \$440,900.

In summary, 2015-16 retailer performance

payments totaled \$5,989,100 (\$1,145,700 for the winning ticket component, \$4,402,500 for sales goal incentives, and \$440,900 for short-term incentives).

Lottery Games and Prizes. The Department must promulgate rules governing the types of games offered by the state lottery. Subject to these rules and the approval of the Secretary of DOR, the lottery administrator must determine the particular features of and procedures for each lottery game offered. The criteria must be in writing, accessible to the public and must include: (a) the theme and name of the game; (b) the price of the lottery tickets; (c) the prize structure, including the number and value of prizes; (d) the frequency of drawings or other winner selections; (e) the method of selecting winners; and (f) the method of making payment to winners.

Lottery tickets cannot be sold to anyone under 18 years of age. However, an adult may give a ticket to a minor. In addition, no employee in the Lottery Division or the Secretary, Deputy Secretary, or Assistant Deputy Secretary of Revenue and no member of such a person's immediate family may purchase a lottery ticket.

By statute, total annual lottery prizes must equal at least 50% of gross sales. (In 2015-16, prizes totaled approximately 59.4% of gross sales.) Prizes under \$600 may be redeemed by lottery retailers. Larger prizes must be paid by the state lottery. Lottery winners have 180 days from the date of the drawing in which to claim prizes. For instant scratch or pull-tab games, winners have 180 days from the end date of the game to claim prizes.

Annually, no later than March 1, DOR must submit a report to the Joint Committee on Finance that estimates all of the following for the current and subsequent fiscal years: (a) gross revenue from lottery ticket sales; (b) the total amount to be paid as prizes; (c) the prize payout ratio for each type of lottery game offered; and (d) an evaluation of the effect prize payout ratios

have on lottery sales, lottery operating costs and on maximizing the revenue available for the lottery property tax credit. If, within 14 days of the receipt of the report, the Co-chairs of the Committee notify DOR that a meeting of the Committee has been scheduled to review the proposed prize payouts, DOR may proceed with the payout plans for the next fiscal year only upon approval by the Committee. If no meeting is scheduled within 14 days, the payout plans for the following year are considered approved by the Committee.

Additional Options for Prizewinners. Under 1999 Wisconsin Act 9, additional options for prizewinners were provided. These provisions allow lottery prizes to be used as security for a loan or assigned to another person.

A lottery prize winner may use a lottery prize or part of a lottery prize as security for a loan if authorized by a court order. Any prize winner who intends to use part or all of a lottery prize as security for a loan must petition the circuit court of the county in which the prize winner resides or the circuit court of Dane County for a court order confirming the use of a lottery prize as security for a loan.

The court is required to issue an order confirming the use of a lottery prize as security for a loan if certain conditions are met. For example, the prize winner must be represented by independent legal counsel, a copy of the contract that provides for using any part of the lottery prize as security for the loan must be attached to the petition and the contract executed by the prize winner must provide that the prize winner has the right to cancel the contract until midnight of the third business day after the date on which the prize winner entered into the contract. Additional conditions relate to ensuring the payment of claims to, or judgments, liens, security interests, garnishments, assignments or attachments against, all or any part of the lottery prize payments. Finally, requirements are also specified for the contents of the court order, the

organization making the loan and the administrator of the lottery.

A second option is that a lottery prize winner, acting as an "assignor," may make a voluntary assignment of a lottery prize or part of a lottery prize if authorized by a court order. Larger lottery prizes associated with the lotto games of Powerball, Megabucks and MegaMillions, may be paid out in annual installments, usually over a 30-year period, or as a smaller, one-time payment, depending on the option chosen by the purchaser. Assignment authorizes the transfer to another of any property, in whole or in part, and may be executed for a variety of reasons. Assignment, in the context of lottery prizes, involves the ability of a prize winner to "sell" or assign his or her right to collect all or part of future lottery prize payments to a third party in exchange for a more immediate payment or other return made by the third party to the prize winner. Examples of such third parties could include investors, banks or loan companies. Any assignor who intends to voluntarily assign part or all of a lottery prize to any individual or organization is required to petition the circuit court of the county in which the assignor resides or the circuit court of Dane County for a court order confirming the assignment.

As with using a lottery prize as security for a loan, the court is required to issue an order confirming the assignment if a variety of conditions are met. Again, the assignor must be represented by independent legal counsel and the assignor has the right to cancel the contract until midnight of the third business day after the date on which the assignor entered into the contract. Additional requirements are also specified for obtaining the court order, the contents of the court order, the individual or organization to whom the lottery prize is assigned and the administrator of the lottery.

Advertising. The Wisconsin Constitution prohibits spending public funds or lottery revenues to engage in promotional advertising of the

lottery. Article IV, Section 24(6)(a) of the Constitution states, "The expenditure of public funds or of revenues derived from lottery operations to engage in promotional advertising of the Wisconsin state lottery is prohibited." Statutory provisions repeat this prohibition and define promotional advertising as "advertising which is for the purpose of inducing persons to purchase lottery tickets or lottery shares." This prohibition does not include advertising designed to provide the public with the following information: (a) the fact that the state has a lottery or participates in a multijurisdictional lottery; (b) the locations where lottery tickets are sold; (c) the price of lottery tickets; (d) the prizes or prize structure of the lottery; (e) the type of lottery game and an explanation of how it works; (f) the time, date, and place of conducting the lottery; (g) the winning tickets or ticket numbers or the identity of winners and the amounts won; and (h) how the lottery is operated or how the net proceeds of the lottery are to be used.

Retailers and vendors can engage in promotional advertising of the state lottery; however, such promotional advertising must indicate that it is paid for by the retailer or vendor.

The Wisconsin Constitution also specifies that, "Any advertising of the state lottery shall indicate the odds of a specific lottery ticket being selected as a winning ticket for each prize amount offered." By statute, any lottery advertising describing a specific game must include: (a) for games in which the prizes and odds of winning are predetermined, the prize structure, prize amounts and the odds of a specific ticket being selected as a winner; and (b) for games in which the prizes and odds of winning are determined by the number of participants in the game, an explanation that the prize amounts and odds of winning are determined by the number of participants in the game, an explanation of the prize structure and estimates of prize amounts and the odds of winning each prize amount. This information must also be disclosed on lottery tickets.

Finally, any lottery informational material must state whether prize amounts are paid in installments and the number of years over which such payments will be made.

The lottery's annual advertising budget totals \$7.5 million. In 2015-16, advertising expenditures totaled \$7,484,200.

Taxes and Other Withholdings. Lottery ticket sales are exempt from state and county sales taxes; however, lottery winnings may be taxable as income at both the state and federal levels. The lottery is statutorily required to withhold state income taxes from lottery prizes of \$2,000 or more. Currently, the Lottery deducts 7.65% of any winnings of \$2,000 or more for state income tax withholding and 25% of any winnings of more than \$5,000 for federal tax withholding purposes. Statutory provisions also provide for withholding from certain lottery winnings delinquent state taxes, child support, spousal support, maintenance, family support or other debts owed the state, and DOR's administrative expenses associated with withholding and remitting a debt to a state agency.

Lottery Fund. The lottery fund is a segregated fund, the net proceeds of which are constitutionally required to be used for property tax relief. Under current law, property tax relief is provided through a lottery and gaming credit distributed to owners of primary residences.

Revenues accruing to the lottery fund include: (a) lottery ticket sales and other miscellaneous lottery revenue; (b) the net state revenue relating to charitable bingo; and (c) the interest earnings of the fund. Lottery fund appropriations are made for the following purposes: (a) prize payments; (b) retailer compensation; (c) vendor payments for major lottery equipment and data processing; (d) general program operations of the lottery; (e) gaming law enforcement costs of the Department of Justice; (f) lottery credit administration costs of the Department of Revenue; and (g) property

tax relief, including appropriations for the lottery and gaming credit, lottery and gaming credit payments relating to late applications, the farmland tax relief credit (distributed for tax years ending on or before December 31, 2009) and the school levy tax credit (from 2010-11 through 2012-13). Further, a lottery fund reserve is statutorily required. Under current law, the Legislature may not enact any bill directly or indirectly affecting the lottery fund if the bill would cause the estimated lottery fund balance on June 30 of any fiscal year to be less than 2% of the estimated gross lottery revenues for that year. This 2% reserve helps to ensure that adequate funds are available for property tax relief in the event that lottery sales decline from anticipated levels.

Limit on Administrative Expenditures. The amount paid annually for state lottery administrative expenses (including general program operations and vendor payments for equipment and data processing) may not exceed 10% of yearly gross lottery revenues, unless additional expenditures are approved by the Joint Committee on Finance. Capital expenditures may be amortized over an extended period for purposes of complying with the 10% annual limit. Retailer compensation, and monies appropriated from the lottery fund to the Department of Justice (for criminal enforcement) are not included as lottery expenses under the limitation.

Before January 1 of every even-numbered year, DOR is required to submit a report to the Legislature on the effects on the operation of the lottery of the 10% expense limitation. Administrative expenses, as reported in the Legislative Audit Bureau's July, 2016, report, totaled 6.0% of gross revenues in 2013-14 and 5.9% in 2014-15.

Miscellaneous Provisions. State statutes also include provisions relating to the enforcement authority and subpoena power of the Department of Justice, criminal penalties for violation of lottery laws and rules, required financial audits by

the Legislative Audit Bureau and other required audits and financial reports regarding the lottery.

Property Tax Relief

The Wisconsin Constitution requires that "the net proceeds of the state lottery shall be deposited in the treasury of the state, to be used for property tax relief for residents of this state as provided by law." A particular method to accomplish this directive is not specified. Since the creation of the lottery, the Legislature has appropriated lot-

tery funds for four property tax relief programs. In addition, a gubernatorial veto resulted in the transfer of lottery funds to the general fund in 1991-92. One program, the lottery property tax credit, was restructured under 1997 Wisconsin Act 27 to address a state Supreme Court ruling described below. The credit was restructured again in the 1999 legislative session to address an April, 1999, constitutional amendment, also discussed below. These uses of lottery proceeds from 1988-89 through 2016-17 are shown in Table 3 and are described below.

Table 3: Lottery Property Tax Relief Payments

Fiscal Year	General Equalization School Aids	Farmland Tax Relief Credit	District Attorney Salaries	Transfer to General Fund	Lottery Property Tax Credit	School Levy Tax Credit	Totals
1988-89	\$69,358,500	\$0	\$0	\$0	\$0	\$0	\$69,358,500
1989-90	66,748,300	17,997,600	3,156,900	0	0	0	87,902,800
1990-91	0	14,745,300	10,276,200	0	0	0	25,021,500
1991-92	0	14,717,800	0	54,054,800	167,890,500	0	236,663,100
1992-93	0	15,410,300	0	0	185,021,400	0	200,431,700
1993-94	0	15,865,900	0	0	153,916,600	0	169,782,500
1994-95	0	15,547,600	0	0	136,881,800	0	152,429,400
1995-96	0	15,141,300	0	0	156,778,000	0	171,919,300
1996-97	0	12,939,200	0	0	975,700	0	13,914,900
1997-98	0	11,118,700	0	0	205,777,200	0	216,895,900
1998-99	0	11,218,200	0	0	142,682,300	0	153,900,500
1999-00	0	0	0	0	216,255,200	0	216,255,200
2000-01	0	11,748,000	0	0	90,009,300	0	101,757,300
2001-02	0	13,744,600	0	0	105,248,700	0	118,993,300
2002-03	0	23,516,900	0	0	106,048,100	0	129,565,000
2003-04	0	13,252,400	0	0	118,351,000	0	131,603,400
2004-05	0	11,694,600	0	0	131,703,000	0	143,397,600
2005-06	0	13,469,000	0	0	119,827,100	0	133,296,100
2006-07	0	15,391,000	0	0	144,591,700	0	159,982,700
2007-08	0	16,900,000	0	0	129,601,600	0	146,501,600
2008-09	0	14,570,800	0	0	117,796,900	0	132,367,700
2009-10	0	14,330,700	0	0	112,785,800	0	127,116,500
2010-11	0	885,400	0	0	129,129,600	14,850,000	144,865,000
2011-12	0	89,900	0	0	135,009,400	14,850,000	149,949,300
2012-13	0	28,600	0	0	141,021,700	14,850,000	155,900,300
2013-14	0	6,700	0	0	168,365,800	0	168,372,500
2014-15	0	0	0	0	166,433,300	0	166,433,300
2015-16	0	900	0	0	158,086,800	0	158,087,700
2016-17*	0	0	0	0	185,568,800	0	185,568,800
Totals	\$136,106,800	\$294,331,400	\$13,433,100	\$54,054,800	\$3,625,757,300	\$44,550,000	\$4,168,233,400

*Estimated

Lottery Property Tax Credit. Although there have been other uses of lottery proceeds, this credit has been the most significant use of these funds. By October 1 of each year, current law requires DOA to provide the Joint Committee on Finance with an estimate of total funds available for distribution under the lottery and gaming credit for property taxes levied in that calendar year and paid in the following year. If the Committee chooses to accept the DOA estimate, no Committee action is required. If the Committee chooses to revise the DOA estimate, it must do so at a meeting that takes place prior to October 16. The Department of Revenue must be notified of the total amount available for distribution under the lottery and gaming credit by October 16 of each year. This estimate provides DOR with the basis for calculating the fair market value, termed the credit base, necessary to distribute the lottery and gaming credit.

For the years 1991-92 through 1995-96, the lottery credit provided direct property tax relief in the form of a state credit on property tax bills for primary home owners. However, on October 29, 1996, a Dane County Circuit Court ruled (*Wisconsin Out-of-State Landowners Association, Inc., et al. v. Wisconsin Department of Revenue, et al.*) that the state's lottery tax credit provisions were unconstitutional because they violated the uniformity clause of the state Constitution, which requires that all classes of property be taxed in a uniform manner. The lottery tax credit benefited only the owners of principal residential dwellings. (The credit was determined by multiplying the local school tax rate by the estimated fair market value, but not exceeding a credit base established under law, of every parcel of taxable property on which a principal dwelling was located and for which a claim for the credit was made by its owner.)

The lottery tax credit was not applied to 1996 tax bills and the funds available for 1996(97) lottery property tax relief (\$125.2 million plus a 2% reserve) remained in the lottery fund. (The

\$975,700 in property tax relief expenditures made in 1996-97, related to prior year adjustments and credit administration costs.) Under 1997 Wisconsin Act 27, a new lottery credit distribution mechanism was provided that extended lottery credits to all taxable properties (by multiplying the local school tax rate by the estimated fair market value of the property, but not exceeding a credit base established under law). Under this distribution mechanism, lottery property tax credits totaled \$205.8 million in 1997-98 and \$142.7 million in 1998-99.

On April 6, 1999, state voters approved (648,903 to 105,976) an amendment to the Wisconsin Constitution relating to the use and distribution of gaming proceeds. The amendment required that state revenues from the lottery, pari-mutuel wagering activities and charitable bingo, including interest earnings, be used for property tax relief, with the exception of funds used for lottery operations and the regulation and enforcement of these gambling activities. The amendment also specified that the distribution of monies for property tax relief may not be based on the recipient's age or income and is not subject to the rules of uniform taxation required under Article VIII, Section 1, of the Wisconsin Constitution.

Under 1999 Wisconsin Act 5, a number of provisions relating to the administration and use of gambling revenues, including provisions relating to the lottery property tax credit, were enacted to reflect these new Constitutional requirements. The lottery credit was renamed the lottery and gaming credit and now applies only to property used as the owner's principal dwelling. Act 5 also provided for lottery gaming and credit certification payments to reimburse counties and cities in 1999-00 for certifying principal dwellings (at a rate of \$0.70 for each certification) that would qualify an owner for the lottery and gaming credit. These reimbursements totaled \$889,900 in 1999-00. The certification reimbursement was authorized to be made in 1999-00

and every fifth year thereafter. (However, the reimbursement provision was repealed under 2003 Wisconsin Act 33, the 2003-05 biennial budget act.) In addition, Act 5 created and amended appropriations to effectuate the new constitutional requirements for state gaming revenue to be used for property tax relief. These provisions direct that available pari-mutuel- and bingo-related revenue, including interest earnings, be transferred to the lottery fund.

In addition to these Act 5 provisions relating to the lottery and gaming credit, 1999 Wisconsin Act 9 appropriated general fund revenue for various lottery operating expenses and for the farmland tax relief credit to effectuate a larger distribution under the lottery and gaming credit. Under these provisions, the credit in 1999-00 increased to \$216.3 million. In 2000-01, lottery expenses were once again funded from the segregated lottery fund. This change, along with a significantly lower opening balance and smaller net proceeds in 2000-01 than in 1999-00, resulted in a smaller lottery and gaming credit (totaling \$90.0 million).

From 2000-01 to 2015-16, the amount available for lottery property tax credits has generally increased over time, reflecting lottery sales growth in most years. Lottery sales increased from \$401.2 million in 2000-01 to \$509.1 million in 2005-06. Beginning in 2006-07, lottery sales decreased and sales growth was stagnant through 2010-11, reflecting the national economic downturn. As a result, amounts available for the lottery and gaming credit were reduced. In 2011-12, lottery sales recovered and were higher in each successive year, through 2015-16.

The lottery and gaming credit is affected by many factors including lottery sale trends and the opening balance. With total lottery sales of \$568.8 million in 2013-14, the amount available for distribution in 2014-15 for the lottery and gaming credit totaled \$168.4 million. Sales continued to grow, with year-end sales of \$574.6 million in 2014-15 and \$627.2 million in 2015-

16. The amount distributed for the lottery and gaming credit in 2015-16 was based on the previous year's estimate, determined through the annual October certification of the lottery and gaming credit, and totaled \$166.4 million. Due to greater than anticipated ticket sales in 2015-16, surplus lottery funds will carry over to 2016-17 and be distributed through the lottery and gaming credit in that year.

[For additional information, including a discussion of the calculation of the lottery and gaming credit, see the Legislative Fiscal Bureau's informational paper entitled "State Property Tax Credits."]

Farmland Tax Relief Credit. The farmland tax relief credit was created in the 1989-91 budget and was ended under 2009 Wisconsin Act 28, effective with tax year 2010. Expenditures continue to occur due to amended prior tax year claims. These amended claims can continue to be filed for up to four years from the date on which the tax return was originally supposed to be claimed. Amended return refund claims for tax year 2009, the final year of the credit, must be filed by April 15, 2014. However, claims filed by April, 2014, continue to be audited, resulting in a few late payments of the credit.

School Levy Tax Credit. Under 2009 Act 28, beginning in 2010-11, \$14,850,000 annually in lottery and gaming funds was provided to make school levy tax credit payments. Prior to Act 28, this funding was used to make farmland tax relief credit payments to eligible landowners. The state's Constitution limits the use of net lottery and gaming funds to property tax relief for state residents. However, since school levy credits were paid to all local property taxpayers, including nonresidents, Act 28 required DOR to promulgate administrative rules to make certain that payments from the lottery and gaming fund appropriation would be used exclusively for school levy tax credits granted to state residents. [For additional information and a more detailed dis-

cussion of the school levy tax credit, see the Legislative Fiscal Bureau's informational paper entitled "State Property Tax Credits."]

Under 2013 Act 20, the statutory provision providing lottery funding for the school levy tax credit was eliminated. The school levy tax credit is now funded only from the general fund. Total funding for the school levy credit in 2016-17 is \$853,000,000, funded from a sum sufficient, general fund appropriation.

General Equalization School Aids. The first use of lottery proceeds was to offset general purpose revenue (GPR) funding for general equalization school aids. The lottery fund expenditures were part of the state aid payments made to local school districts. Funds were expended for this purpose in both 1988-89 and 1989-90.

District Attorney Salaries. District attorneys, and their deputies and assistants, who had formerly been county employees, became state employees on January 1, 1990. During 1989-90 and 1990-91, lottery proceeds were used to fund the salaries and fringe benefits of these employees.

Transfer to the General Fund. As partially vetoed, 1991 Wisconsin Act 39 would have transferred \$83.2 million from the lottery fund to the general fund in 1991-92. In his veto message, the Governor directed the Secretary of DOA to use these revenues to partially fund an increase in the 1991-92 school aids appropriation. No mechanism existed, however, by which these monies could be specifically earmarked within the general fund for school aids. In a May 4, 1992, Dane County Circuit Court ruling (*Branshaw, et al. v. Wisconsin Department of Administration*), the Court determined that the use of lottery proceeds for general equalization school aids violates the constitutional requirement that lottery revenues be used for property tax relief. (The Court found that using lottery funds for school aids, which the court viewed as a traditional state program, did not provide property tax relief that was "separate,

different and extra" as intended by the voters in approving the lottery constitutional amendment.) Prior to the decision, \$54.1 million of the \$83.2 million had already been transferred from the lottery fund to the general fund. The Court's decision prevented the transfer of the remaining \$29.1 million.

Current Fund Condition

Table 4 shows the lottery fund condition for the years 2015-16 (actual) and 2016-17 (estimated), including revenues, expenditures and the appropriations from the lottery fund for property tax relief.

Charitable Gaming

Background

In 1973 and 1977, constitutional amendments were passed that authorized the Legislature to provide for the conduct of charitable bingo and raffles, respectively. Prior to October 1, 1992, the statutes related to these forms of gambling were administered by the Bingo Control Board, attached to the Department of Regulation and Licensing (now the Department of Safety and Professional Services). At that time, this responsibility was transferred to the Gaming Commission. On July 1, 1996, these functions were transferred to the Gaming Board and, on October 14, 1997, were transferred to the Division of Gaming in DOA.

Within the Division of Gaming, these functions are performed by the Office of Charitable Gaming. This Office advises DOA on policy and rule making related to bingo and raffles and administers the legal requirements for the conduct of these games.

The Office of Charitable Gaming is provided the following funding and position authority in

Table 4: Lottery Fund Condition

	2015-16	2016-17
Fiscal Year Opening Balance	\$18,744,900	\$32,588,000
Operating Revenues		
Ticket Sales	\$627,164,900	\$617,431,200
Retailer Fees and Miscellaneous	<u>123,000</u>	<u>83,200</u>
Gross Revenues	\$627,287,900	\$617,514,400
Expenditures		
Prizes	\$372,558,700	\$372,915,700
Retailer Compensation	46,695,500	43,224,200
Vendor Payments	14,462,300	13,932,800
General Program Operations	21,524,900	21,915,100
Appropriation to DOJ	354,200	389,500
Appropriation to DOR	190,100	285,800
Program Reserves	0	29,200
Miscellaneous Expenditures	<u>100</u>	<u>0</u>
Total Expenditures	\$455,785,800	\$452,692,300
Net Proceeds	\$171,502,100	\$164,822,100
Interest Earnings	\$225,500	\$509,000
Gaming-Related Revenue	\$0	\$0
Total Available for Tax Relief *	\$190,472,500	\$197,919,100
Appropriations for Tax Relief		
Lottery and Gaming Credit	\$157,829,200	\$185,311,200
Late Lottery and Gaming Credit Applications	257,600	257,600
Farmland Tax Relief Credit (Late Payments)	<u>900</u>	<u>0</u>
Total Appropriations for Tax Relief	\$158,087,700	\$185,568,800
Gross Closing Balance	\$32,384,800	\$12,350,300
Reserve (2% of Gross Revenues)	\$12,545,800	\$12,350,300
Change in Encumbrance Balance	-\$203,200	\$0
Net Closing Balance	\$20,042,200	\$0

*Opening balance, net proceeds, interest earnings, and gaming-related revenue.

2016-17: (a) \$337,200 and 3.2 positions for bingo regulation; and (b) \$280,700 and 2.9 positions for raffle regulation.

The Wisconsin Constitution now requires that state revenues from the lottery and charitable bingo, including interest earnings, be used for property tax relief, with the exception of funds used for lottery operations and the regulation and enforcement of charitable bingo activities. In 2015-16, a nominal sum (\$36) in available bingo

revenue, including interest earnings, was transferred to the lottery fund.

General Provisions of Charitable Gaming

Bingo and raffle licenses may be granted to any bona fide local religious, charitable, service, fraternal or veteran's organization and to any organization to which contributions are deductible for state and federal income tax purposes. License fees are deposited in separate DOA general

operations appropriations for regulation of bingo and raffles.

A bingo license may only be granted to an organization that has been in existence for the three years preceding its license application. A \$10 fee is required for each bingo occasion (a bingo playing session) and a \$5 annual fee is required to register the designated member of an organization responsible for the proper utilization of gross receipts. A bingo suppliers license fee is \$25; in addition, a supplementary suppliers fee ranging from \$10 to \$1,000 is charged on a sliding scale basis, depending upon annual gross sales of bingo supplies during the preceding year. In 2015-16, there were 381 licenses issued to organizations and bingo license fees generated \$117,000.

In addition, an occupational tax is imposed on the annual gross receipts of licensed bingo organizations. The tax rate is 1% on the first \$30,000 in gross receipts and 2% on gross receipts in excess of \$30,000. In 2015-16, the bingo gross receipts tax totaled \$200,600. These revenues are deposited in the general operations appropriation for bingo regulation.

Progressive jackpot bingo games are authorized under Wisconsin law. Progressive jackpot bingo is a series of bingo games in which the prize is carried over to the succeeding game if no player wins a game within a specified number of calls. The starting prize for progressive jackpot bingo must be either 50% of the card sales for the first game or an amount specified before the start of play, not to exceed \$500. For each succeeding game of progressive jackpot bingo, the prize must be 50% of the card sales for that game plus the prize amount from the preceding game.

For regular bingo (that is, non-progressive jackpot games), the maximum prize in a single bingo game is \$500 and the maximum aggregate value of prizes for any bingo occasion is \$2,500.

To qualify for a raffle license, an organization must have been in existence for one year immediately preceding its license application or show that it is chartered by a national organization that has existed for at least three years. The annual raffle license fee is \$25, which allows an organization to conduct a maximum of 365 raffles and one calendar raffle annually. (A calendar raffle involves drawing and awarding a prize on each date specified in a calendar.) Two license types are available, a Class A raffle license for the conduct of raffles in which at least some tickets are sold on days other than the day of the drawing and a Class B raffle license for the conduct of raffles in which all tickets are sold on the same day as the drawing. In 2015-16, there were 10,680 raffle licenses issued to organizations and raffle license fees generated \$269,500 (used by the Office of Charitable Gaming for the regulation of raffles).

The Office's responsibilities regarding charitable gaming include: (a) rule-making relating to the conduct of bingo and raffles; (b) licensing of bingo organizations and persons distributing supplies or equipment to a licensed bingo organization; (c) licensing raffle organizations; (d) administering proceedings relating to the suspension and revocation of licenses; and (e) receiving required semi-annual reports from bingo licensees and required annual financial reports from raffle licensees.

Regulation of Crane Games

Prior to 2013 Act 20, crane games were regulated by the state. Under state statute, a crane game was defined as an amusement device involving skill that may reward a player exclusively with merchandise contained within the device. This merchandise was limited to prizes, toys and novelties, each having a wholesale value not more than seven times the cost charged to play the device once or \$5, whichever is less. A crane game could not be operated unless an owner reg-

istered with the state. In addition, an identification number was required to be affixed to each registered game.

Although crane games are not operated by charitable organizations, this form of gaming was overseen by the Office of Charitable Gaming. The Office registered owners and issued the required identification numbers. The registration fee was \$120 per machine. The registration remained in effect until canceled by DOA, with the advice and consent of the Department of Justice, or withdrawn by the registered owner. Revenues from these fees in the final year of crane game regulation totaled \$6,000 in 2012-13 (used by the Division of Gaming for the regulation of crane games) and 50 new registration permits were issued. Beginning in 2013-14, crane games are no longer regulated by the state.

Regulation of Pari-Mutuel Wagering and Racing

The term "pari-mutuel" does not refer specifically to racetrack betting or to any particular game or event upon which a bet is made. Rather, it describes a method by which the payout of a wager is determined. Under a pari-mutuel betting system, bettors wager against each other rather than against "the house" as in casino betting. For example, in pari-mutuel greyhound race wagering, the individual bets are pooled and payouts

are determined based on the proportion of wagers placed on individual dogs. A winning dog on which very little was bet would pay out at more favorable odds than a dog that was heavily bet upon.

Because bettors wager among themselves in a pari-mutuel gambling system, the racetrack organization has no wagering interest in the outcome of any race. Rather than earning gambling revenue, as do casinos, racetracks retain a fixed percentage of each bet, and also earn admission and concession income. The state receives revenue from pari-mutuel wagering primarily through taxes on bets, unclaimed prizes and various fees.

Greyhound racing in Wisconsin operated over a 20-year period, from 1990 through 2009. Four racetracks opened in 1990, and a fifth track in 1991. The first of these racetracks closed in 1993 and, over time, the remaining tracks ceased operation, the last in 2009. While no tracks currently operate in Wisconsin, pari-mutuel wagering and racing could, in the future, be authorized utilizing current statutory provisions.

Detailed historical information regarding the regulation of racing and pari-mutuel wagering in Wisconsin is included in the Appendix of the Legislative Fiscal Bureau's 2015 informational paper entitled "State Lottery and Charitable Gaming (Pari-Mutuel Wagering and Racing)."