

Report 12-15
September 2012

Division of Gaming

Department of Administration

STATE OF WISCONSIN



Legislative Audit Bureau ■

Division of Gaming

Department of Administration

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Joe Chrisman
State Auditor

September 27, 2012

Senator Kathleen Vinehout and
Representative Samantha Kerkman, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Vinehout and Representative Kerkman:

We have completed our review of the Department of Administration's (DOA's) Division of Gaming, as required by s. 13.94(1)(eg), Wis. Stats. The Division oversees Indian gaming, charitable gaming activities, and pari-mutuel racing in Wisconsin. However, the last operating greyhound racetrack in Wisconsin closed in December 2009. Statutes continue to authorize pari-mutuel racing in the State, but the Division has not received applications from businesses seeking to operate racing venues.

In fiscal year (FY) 2011-12, the Division's expenditures to regulate gaming activities totaled \$2.3 million in program revenue. We analyzed a judgment sample of its expenditures over a three-year period and found that reimbursements were sufficiently documented and appear to be reasonable.

Indian gaming represents the most significant gaming activity in Wisconsin. In June 2012, 11 tribes operated 25 casinos. In 2011, tribal gaming revenue was \$1.3 billion, tribal gaming expenses were \$742.1 million, and tribal gaming profits were \$566.7 million. In FY 2011-12, the State received \$52.1 million from tribes under the revenue-sharing provisions of the negotiated gaming compacts.

The Division conducts on-site financial and compliance audits to independently verify the amounts wagered on Class III gaming and to ensure that casino operations are consistent with standards established in the gaming compacts. From January 2010 through July 2012, the Division conducted 66 financial audits and 55 compliance audits. We analyzed a random selection of working papers associated with audits completed in 2011 and 2012. The documents we reviewed were sufficient to show that the Division followed its audit procedures.

We appreciate the courtesy and cooperation extended to us by the Division. The Division's response follows the appendix.

Respectfully submitted,

Joe Chrisman
State Auditor

JC/PS/ss

Report Highlights ■

The Division was authorized 23.5 FTE positions in FY 2011-12.

The State's revenue from all gaming sources totaled approximately \$52 million each year from FY 2009-10 through FY 2011-12.

Tribal gaming revenue was approximately \$1.3 billion in each year from 2009 through 2011.

From January 2010 through July 2012, the Division conducted 66 financial audits and 55 compliance audits of casinos.

From FY 2009-10 through FY 2011-12, the State's revenue from bingo activities totaled \$1.3 million.

The Division of Gaming in the Department of Administration (DOA) oversees the gaming operations of 11 tribes that have negotiated compacts with the State. The compacts permit Indian gaming in Wisconsin and define regulations for tribal gaming operations. The Division also regulates charitable bingo and raffles, and other games that are subject to regulation by the State. While the Division is authorized to regulate pari-mutuel racing, the last remaining greyhound racetrack in Wisconsin closed in December 2009.

Under s. 13.94(1)(eg), Wis. Stats., the Legislative Audit Bureau is required to conduct an annual financial audit and a biennial performance evaluation. In completing our work, we reviewed:

- internal controls and the State's revenue and expenditures related to the regulation of Indian gaming and charitable gaming;
- tribal revenue and expenses related to gaming activities;
- oversight activities of the Division's Office of Indian Gaming, including its use of electronic data systems to monitor tribal gaming operations and its financial and compliance audits; and
- trends in charitable gaming and crane games, which are a form of entertainment in which a player maneuvers a crane or claw to obtain toys or novelties worth \$5 or less.

Division Staffing

The number of authorized positions for the Division decreased from 34.35 full-time equivalent (FTE) positions in fiscal year (FY) 2010-11 to 23.5 FTE positions in FY 2011-12. 2011 Wisconsin Act 32, the 2011-13 Biennial Budget Act, eliminated all 11.5 FTE positions dedicated to pari-mutuel racing oversight. These positions had not been filled since January 2010 because of the closure of the State's last greyhound racetrack. The Act also authorized an additional 0.25 FTE position in the Indian gaming program and a 0.40 FTE position in the charitable gaming program. In addition to its authorized permanent positions, the Division had four limited-term employees in FY 2011-12 to assist in completing bingo and raffle financial reviews and inspecting bingo premises.

State Gaming Revenue

Compacts require each tribe to pay the State a percentage of its net revenue from Class III gaming at tribal casinos, including slot machines and table games such as blackjack. These payments constitute the source of most of the State's gaming revenue. Revenue from all gaming sources was stable at approximately \$52 million each year from FY 2009-10 through FY 2011-12.

State gaming revenue funds the staffing and operations of the Division of Gaming. In FY 2011-12, the Division's expenditures were \$2.3 million, approximately three-quarters of which were for the salaries and fringe benefits of staff. After deducting the Division's FY 2011-12 expenditures, \$50.3 million in tribal gaming revenue remained, of which:

- \$25.2 million was lapsed to the General Fund;
- \$24.9 million was distributed to 16 state agencies and boards for programs that benefit Native Americans or a broader range of citizens; and
- \$161,700 was distributed to the Department of Justice (DOJ) for gaming enforcement.

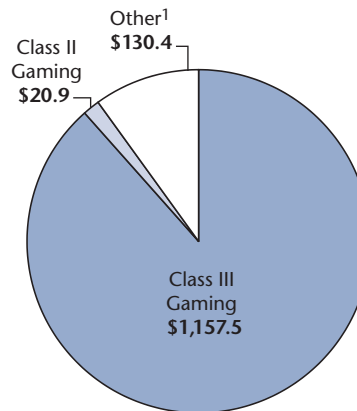
Tribal Revenue from Gaming

Compacts require each tribe to contract for an annual independent audit of its gaming operations and to submit the audit report to the Division and our office. We may release financial information only in aggregated form.

Tribal gaming revenue from all sources was approximately \$1.3 billion in each year from 2009 through 2011. As shown in Figure 1, in 2011 most of this revenue was generated through Class III gaming. Tribal revenue from Class III gaming, which excludes amounts paid out in winnings, decreased by 2.6 percent from 2009 through 2011.

Figure 1

Sources of Tribal Gaming Revenue
2011
(in millions)



¹ Includes revenue from hotels, entertainment and convention facilities, gift shops, food and beverage sales, and investment earnings.

Tribes incur gaming expenses for general operations, including employee salaries and fringe benefits, promotion and marketing, and depreciation. Tribal gaming expenses decreased 4.9 percent, from \$780.2 million in 2009 to \$742.1 million in 2011. Tribal gaming profits, or revenue in excess of expenses, increased 4.3 percent, from \$543.4 million in 2009 to \$566.7 million in 2011.

Oversight of Indian Gaming

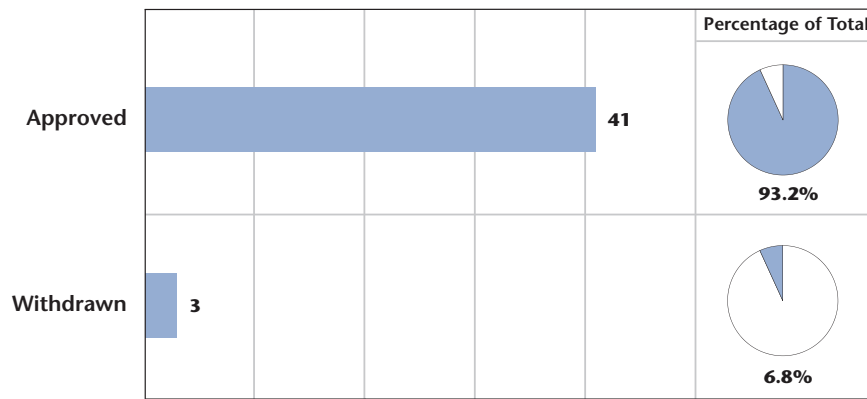
The State's regulation of Indian gaming protects the interests of casino patrons, who expect the games to be fair, as well as both the tribes and the State, which depend on accurate accounting of revenue from Class III gaming activities to determine payments required under the compacts.

The Division conducts financial and compliance audits to verify tribal compliance with provisions of their compacts. From January 2010 through July 2012, it conducted 66 financial audits and 55 compliance audits. We analyzed the Division’s working papers and other documentation associated with its 2011 and 2012 on-site financial and compliance audits of five casinos. The documents we reviewed were sufficient to show that the Division followed its audit procedures.

The compacts and statutes require DOA to certify the vendors that provide casinos with gaming-related products and services. From FY 2009-10 through FY 2011-12, the Division approved 41 of the 44 applications it received, as shown in Figure 2, and typically completed casino vendor certifications within six months. During the same period, the Division collected \$469,100 in certification fees. These fees are used to support general program operations.

Figure 2

Disposition of Applications from Casino Vendors
FY 2009-10 through FY 2011-12



Other Gaming Activities

Any organizations for which contributions are deductible for state and federal income tax purposes may be licensed by the Division to conduct bingo or raffles. The maximum prize value allowable for a single bingo game is \$500, and the total prize value for any playing session may not exceed \$2,500. From FY 2009-10 through FY 2011-12, the State’s revenue from bingo activities totaled \$1.3 million.

The Division issues two types of raffle licenses. Class A raffle licenses limit the ticket price to a maximum of \$100 and Class B raffle licenses limit the ticket price to no more than \$10. From FY 2009-10 through FY 2011-12, the State's revenue from raffle license fees totaled \$699,400.

The Division also registers crane games. Revenue from one-time crane game registration fees totaled \$69,120.

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Introduction ■

DOA's Division of Gaming oversees and regulates the gaming activities of 11 tribes.

The Governor is authorized by statutes to negotiate and approve the compacts that permit Indian gaming in Wisconsin and to establish the types of games permitted, regulations for their operation, and standards for the oversight of Indian gaming activities. The first tribal-state compacts were negotiated with 11 tribes in 1991 and 1992, and amendments to those compacts were negotiated with each of the tribes in the following years.

DOA's Division of Gaming provides regulation and oversight of:

- Indian gaming, by conducting on-site financial and compliance audits to determine whether casino finances and operations are conducted in accordance with the compacts and by certifying the vendors that provide gaming-related services and equipment to casinos; and
- charitable gaming, by licensing bingo and raffle organizations, conducting financial reviews of bingo and raffle gaming operations, inspecting bingo premises, and registering crane games.

In conducting our evaluation, we examined the documentation for a sample of the Division's financial and compliance audit reports, reports used by the Division to monitor gaming activity, and staffing levels. We also interviewed managers and staff in the Division, as well as DOJ staff responsible for prosecuting violations of gambling laws in Wisconsin. In addition, we conducted a financial review that examined the Division's internal controls and

analyzed a judgment sample of expenditures to ensure they were appropriate and in compliance with the State’s accounting policies.

Division Staffing

The Division was authorized 23.5 FTE positions in FY 2011-12.

As shown in Table 1, the number of authorized positions for the Division decreased from 34.35 FTE positions in FY 2010-11 to 23.5 FTE positions in FY 2011-12. 2011 Wisconsin Act 32, the 2011-13 Biennial Budget Act, eliminated all 11.5 FTE positions dedicated to pari-mutuel racing oversight. These positions had not been filled since January 2010 because of the closure of the State’s last greyhound racetrack. Act 32 also authorized an additional 0.25 FTE position in the Indian gaming program and a 0.40 FTE position in the charitable gaming program. In addition to its authorized permanent positions, the Division had four limited-term employees in FY 2011-12 to assist in completing bingo and raffle financial reviews and inspecting bingo premises.

Table 1

Authorized FTE Positions in the Division of Gaming

	FY 2009-10	FY 2010-11	FY 2011-12
Indian Gaming	17.15	17.15	17.4
Pari-Mutuel Racing ¹	11.5	11.5	–
Charitable Gaming ²	5.7	5.7	6.1
Total	34.35	34.35	23.5

¹ All pari-mutuel racing staff ended their employment with the Division by January 2010.

² Includes authorized staff positions for the regulation of bingo, raffles, and crane games.

Division Revenue and Expenditures

From FY 2009-10 through FY 2011-12, the State received revenue from:

- Indian gaming, which includes payments tribes make under the terms of their compacts with the State;
- pari-mutuel racing, which includes a pari-mutuel tax on amounts wagered at racetracks, racing fees and fines, and unclaimed racetrack winnings; and

- charitable gaming, which includes taxes on the revenue of bingo organizations and suppliers of bingo cards and materials, and licenses and permit fees for bingo, raffles, and crane games.

The State's total gaming revenue totaled \$52.8 million in FY 2011-12.

As shown in Table 2, the State's total gaming revenue was stable from FY 2009-10 through FY 2011-12, and totaled \$52.8 million in FY 2011-12.

Table 2
State Gaming Revenue

Program Area	FY 2009-10	FY 2010-11	FY 2011-12	Percentage Change
Indian Gaming	\$51,588,900	\$50,774,800	\$52,117,700	1.0%
Pari-Mutuel Racing	468,600	–	–	–
Charitable Gaming	725,700	677,000	664,800	(8.4)
Total	\$52,783,200	\$51,451,800	\$52,782,500	(<0.1)

Compacts require each tribe to pay the State a percentage of its net revenue from Class III gaming. The percentage a tribe owes the State typically varies by the total amount of net revenue from Class III gaming earned by the tribe during a fiscal year. In addition, separate agreements between the State and the Lac du Flambeau in April 2009 and the Potawatomi in April 2010 further define how net revenue from Class III gaming is calculated and allow those tribes to exclude from their net Class III gaming revenue the dollar value of credits a casino gives players to be used in electronic gaming devices. The exclusion of these promotional expenses reduces the State's revenue from the two tribes.

The State's gaming revenue is distributed through the budget process to various state agencies and the General Fund.

After deductions for the Division's regulatory expenditures, the State's gaming revenue is distributed through the budget process to various state agencies and the General Fund. As shown in Table 3, the Division's expenditures decreased from \$2.5 million in FY 2009-10 to \$2.3 million in FY 2011-12, largely due to the elimination of positions that oversaw pari-mutuel racing. Approximately three-quarters of the Division's expenditures are for the salaries and fringe benefits of the staff who oversee gaming operations.

Table 3

Division of Gaming Expenditures

Program Area	FY 2009-10	FY 2010-11	FY 2011-12	Percentage Change
Indian Gaming	\$1,741,100	\$1,745,300	\$1,796,600	3.2%
Pari-Mutuel Racing	313,200	–	–	–
Charitable Gaming	485,000	530,000	536,400	10.6
Total	\$2,539,300	\$2,275,300	\$2,333,000	(8.1)

In FY 2011-12, after deducting the Division's Indian Gaming expenditures, \$50.3 million in tribal gaming revenue remained, of which:

- \$25.2 million was lapsed to the General Fund;
- \$24.9 million was distributed to 16 state agencies and boards for programs that benefit Native Americans or a broader range of citizens; and
- \$161,700 was distributed to DOJ for gaming enforcement.

As required by a 1999 amendment to the Wisconsin Constitution, the Division must also transfer any unencumbered balances remaining in the general program operations appropriations for pari-mutuel racing and bingo to the Lottery Fund for property tax relief at the end of each fiscal year. From FY 2009-10 through FY 2011-12, the Division transferred a total of \$420,484 to the Lottery Fund for property tax relief. In addition, both Article X, Section 2 of the Wisconsin Constitution and statutes require the Division to transfer 50.0 percent of all fines and forfeitures collected by the pari-mutuel racing program to the Common School Fund. In FY 2009-10, the last year during which pari-mutuel racing was conducted, \$308 was transferred to the Common School Fund.

In our August 2010 audit (report 10-11), we noted that since at least 2003 the Division had reimbursed its full-time legal counsel for mileage between his home in Chicago and the Division's office in Madison, as well as for food and lodging while he stayed in Madison to work. Although we found that reimbursements were

sufficiently documented, reasonable, and within limits authorized by the Legislature, we noted that the arrangement warranted close monitoring to ensure that these expenditures continued to be reasonable and necessary. In August 2010, the Division discontinued its practice of reimbursing the travel expenses of the staff member who lived outside Wisconsin.

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Indian Gaming Revenue and Expenses ■

Compacts require each tribe to contract for an annual independent financial audit of its gaming operations and to submit the audit report to the Division and to our office. An informal opinion issued by the Attorney General in 1996 indicated the Audit Bureau may release audited financial information in aggregate form, provided that nothing in the disclosure could lead to the identification of a tribe, its members, employers, or operations. Consequently, as we have done in prior years, this report presents aggregated information related to the tribes' gaming revenue, expenses, and profits from gaming activities.

Tribes generate gaming revenue through:

- Class III gaming, which includes electronic gaming devices and table games, such as blackjack;
- Class II gaming, which includes bingo; and
- other activities associated with gaming, such as the operation of hotels, restaurants, and gift shops.

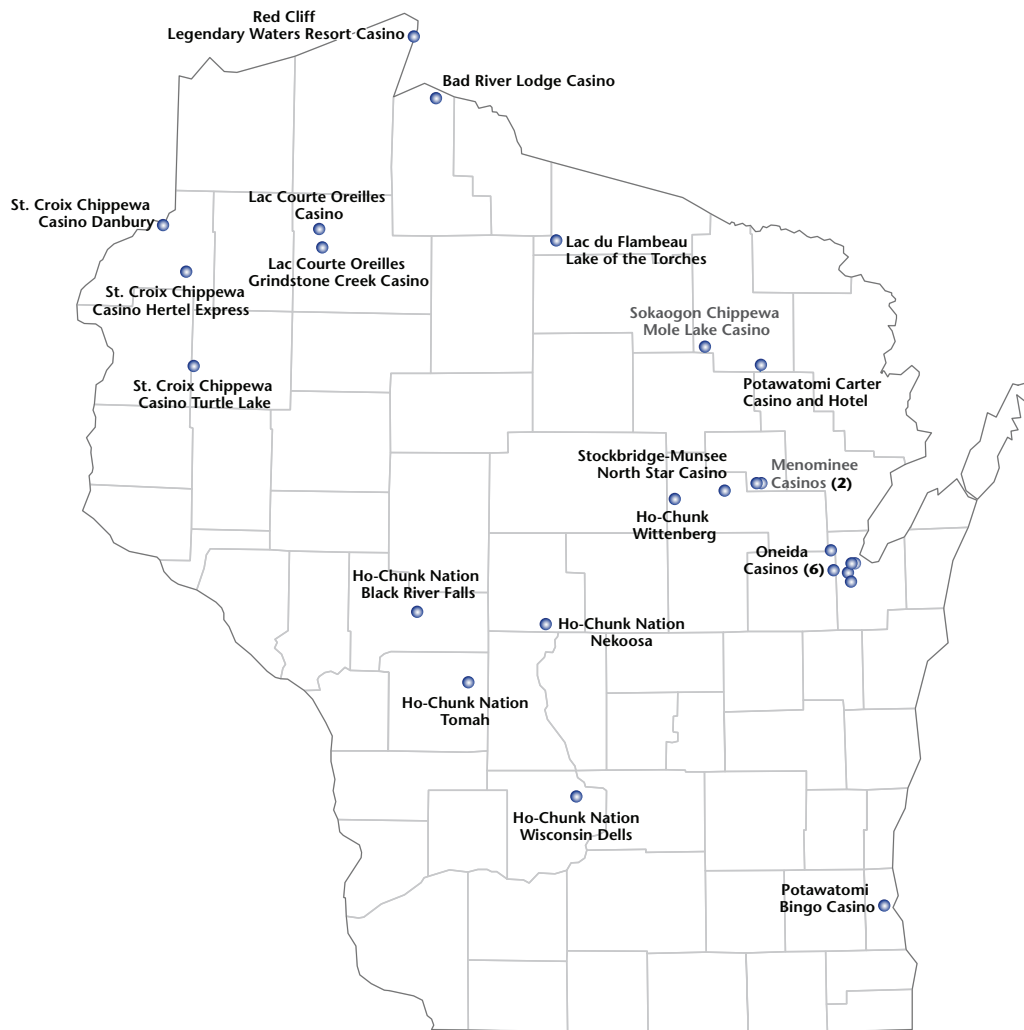
Class I gaming, which includes social and traditional games related to Indian ceremonies and celebrations, is within the exclusive jurisdiction of the tribes and is not subject to regulation by the State.

In June 2012, 11 tribes operated 25 casinos in Wisconsin.

As shown in Figure 3, 11 tribes operated a total of 25 casinos in June 2012, including 16 casinos that offer electronic gaming devices and table games, and 9 casinos that offer only electronic gaming devices. The appendix provides additional information on the locations and the type and number of games at these casinos. The compacts do not require tribes to report Class II gaming activities to the State. However, independent financial audits of the casinos, which are required under the compacts, show that 8 of the 11 tribes operated bingo games in 2011.

Figure 3

**Tribal Casinos in Wisconsin
June 2012**



The Ho-Chunk Nation operates a Class II gaming facility in Madison, which primarily offers bingo games and is not regulated by the State under a state-tribal compact. Since November 2010, the tribe has also offered electronic poker at the facility. The tribe believes that electronic poker is a Class II game and therefore not subject to regulation by the State. The State, however, believes that electronic poker is a Class III game and can only be offered if both the State and the tribe agree to enter into a gaming compact. In May 2012, an independent arbitrator selected by the State and the tribe to resolve the disagreement ruled that electronic poker is a Class III game. The Ho-Chunk Nation disagreed with the decision and continued to offer the game. As a result, the State filed a lawsuit in federal court seeking an order requiring the tribe to stop offering electronic poker. The court had not issued its ruling prior to the printing of our report.

Total tribal gaming revenue decreased 1.1 percent from 2009 through 2011.

As shown in Table 4, total tribal gaming revenue decreased 1.1 percent from 2009 through 2011. After winnings are deducted, net revenue from Class III gaming during that period decreased 2.6 percent. Electronic gaming devices continue to be the source of the majority of net revenue from Class III gaming.

Table 4

Tribal Gaming Revenue¹
(in millions)

Type	2009	2010	2011	Percentage Change
Class III Gaming	\$1,188.0	\$1,146.3	\$1,157.5	(2.6)%
Class II Gaming	19.7	21.0	20.9	6.1
Other ²	115.9	110.2	130.4	12.5
Total	\$1,323.6	\$1,277.5	\$1,308.8	(1.1)

¹ Based on the most recent independent financial audits of the casinos.

² Includes revenue from hotels, entertainment and convention facilities, gift shops, food and beverage sales, and investment earnings.

As shown in Table 5, tribal gaming expenses decreased 4.9 percent, from \$780.2 million in 2009 to \$742.1 million in 2011. In each year, general operations costs, such as employee salaries and fringe benefits, rent, equipment, maintenance, and supplies, were approximately 70 percent of total expenses. Other expenses included interest expenses and nonoperating expenses such as intra-tribal charges.

Table 5

Tribal Gaming Expenses¹
(in millions)

Type	2009	2010	2011	Percentage Change
General Operations	\$547.3	\$499.7	\$515.4	(5.8)%
Promotion and Marketing	118.8	110.0	109.5	(7.8)
Depreciation	87.3	85.6	83.2	(4.7)
Other	26.8	26.4	34.0	26.9
Total	\$780.2	\$721.7	\$742.1	(4.9)

¹ Based on the most recent independent financial audits of the casinos.

As shown in Table 6, tribal profits from gaming, or revenue in excess of expenses, increased from \$543.4 million in 2009 to \$566.7 million in 2011. While overall tribal profits increased during the three-year period, not all tribes increased their profits.

Table 6

Tribal Gaming Profits
(in millions)

	2009	2010	2011	Percentage Change
Revenue	\$1,323.6	\$1,277.5	\$1,308.8	(1.1)%
Expenses	(780.2)	(721.7)	(742.1)	(4.9)
Profits	\$ 543.4	\$ 555.8	\$ 566.7	4.3



Indian Gaming Oversight ■

Regulating Indian gaming protects the interests of casino patrons, who expect the games to be fair, as well as both the State and the tribes, which depend on accurate accounting of revenue from Class III gaming activities to determine the payments that are required under the compacts. We reviewed the Division's efforts to oversee gaming activities, including its:

- conduct of on-site audits of casinos;
- use of electronic data systems to monitor casino operations and independently verify tribal gaming revenue; and
- certification of businesses that provide casinos with gaming-related products and services.

Oversight of Casino Operations

Section 569.03, Wis. Stats., authorizes DOA to oversee tribes' compliance with the compacts, and each tribe's compact grants DOA and DOJ access to casinos and the authority to review casino operations. This authority provides a mechanism to help ensure both the integrity of gaming and proper financial reporting by the tribes. The compacts allow the State to initiate dispute resolution processes if it believes a tribe has failed to comply with its compact, but the Division does not have authority to require tribes to correct areas of noncompliance.

In order to comply with statutory oversight requirements and the regulatory language in the compacts, the Division's 8.0 FTE staff who are responsible for supervising and conducting on-site audits of casinos conduct both:

- financial audits, which verify the accuracy of tribes' payments to the State through a review of the tribes' financial statements, and which determine whether accounting standards used at casinos are consistent with the compacts; and
- compliance audits, which determine whether casino operations are conducted in accordance with the compacts.

The Division always provides the tribes with advance notice of its regulatory visits.

Each audit is typically completed within five days. The Division always provides the tribes with advance notice, which enables them to gather necessary documents and schedule the appropriate personnel for interviews. The Division believes this practice of advance notice is an effective use of staff resources and encourages greater tribal cooperation.

To better monitor casino operations and independently verify revenue from Class III gaming, the Division uses two electronic systems: the Data Collection System and the Gaming Device Inventory System.

The Data Collection System stores transactions and operations information sent by each casino's electronic accounting system and accounting staff, such as:

- the amount contained in the drop box of each electronic gaming device, which is both recorded electronically by a meter inside each device and counted manually by casino staff;
- the payout rates for each electronic gaming device, which the compacts require to be set at a minimum of 80.0 percent for games not affected by player skill and at a minimum of 83.0 percent for games that are affected by player skill;
- the status of each electronic gaming device, including whether it has been opened and the computer chip that controls play has been removed, which could identify games that have been tampered with or that may malfunction; and
- information on table games, such as the opening and closing inventory of chips at each table.

The Division conducts daily checks to ensure that each tribe has submitted data and that the data have been recorded by the system.

The Gaming Device Inventory System allows casinos and gaming vendors to electronically submit and update information such as:

- the date an electronic gaming device was installed or removed by the tribe;
- the device type and its serial number;
- the manufacturer of the device and the name of the vendor that sold it to the casino; and
- the identification number of the computer chip that controls play.

Division staff determine whether casinos are operating machines that have not been reported.

During its on-site compliance audits, the Division compares information on the gaming devices in its system with the devices that are operating in the casino to determine whether a casino is operating machines not included in the inventory or whether invalid computer chips are present within a casino's electronic gaming devices.

Financial Audits

Each month, the Division calculates the total and net Class III gaming revenue for each tribe.

Since 2005, the Division has independently verified for each tribe the total amount wagered on Class III gaming, which ensures that a tribe has paid the State the correct amount. Each month, the Division uses information in the Data Collection System to calculate the total and net Class III gaming revenue for each tribe. These calculations are shared monthly with the tribes for their review, and the tribes may submit additional information to support suggested changes to the Division's calculation. The Division indicates that sharing revenue calculations with the tribes each month has made its on-site financial audits more efficient because issues of concern are typically resolved before its on-site work.

The Division conducted 66 financial audits from January 2010 through June 2012.

The Division also oversees the tribes' compliance with the accounting standards that each tribe develops as required by the compacts to determine whether amounts wagered on Class III gaming have been accounted for accurately. From January 2010 through June 2012, the Division conducted at least two financial audits at all casinos operating in Wisconsin, for a total of 66 financial audits. On average, the casinos received a financial audit every 10.6 months between January 2010 and June 2012. The Division identified 14 instances in which tribes underpaid or overpaid the

State because of inaccurate calculations of net revenue from Class III gaming:

- annual net gaming revenue for seven tribes was over-reported in eight instances, resulting in overpayments to the State totaling \$67,300; and
- annual net gaming revenue for five tribes was under-reported in six instances, resulting in underpayments to the State totaling \$2,200.

When the Division identifies an overpayment or an underpayment to the State, it issues an invoice or payment to the tribe. Tribes typically pay the State once they receive an invoice.

Some tribes have not consistently followed all accounting standards.

The Division has also found that some tribes have not consistently followed all accounting standards. For example, seven tribes did not retain or had inaccurate gaming-related financial records, and four tribes did not appropriately account for the value of unredeemed winnings.

We analyzed the Division's working papers and other documentation associated with a judgment sample of financial audits of five casinos completed in 2011 and 2012 and determined the extent to which its own audit procedures had been followed. The working papers and documentation we reviewed were sufficient to show that the Division followed its audit procedures.

Compliance Audits

The Division verifies the tribes' compliance with a variety of standards for casino operations, such as:

- counting all electronic gaming devices and table games on the casino floor;
- testing a random sample of electronic gaming devices and the computer chips controlling their play to determine whether the chips are approved and functioning properly;
- observing table game play to determine whether proper procedures are followed by dealers and players;
- determining whether all employees have undergone the necessary criminal background checks;

- observing the security measures followed during the collection of money from electronic gaming devices and the counting of collected money, which typically occurs daily; and
- reviewing the casino's surveillance capabilities.

The Division conducted 55 compliance audits from January 2010 through June 2012.

We reviewed compliance audits conducted from January 2010 through June 2012. During this period, the Division conducted 55 compliance audits, and all but three casinos were audited at least twice. On average, each casino received a compliance audit every 17.4 months.

Typical findings from the Division's compliance audits for the period were:

- electronic gaming devices had computer chips that were no longer approved for play;
- blackjack and poker dealers did not follow proper dealing procedures;
- internal audits had not been conducted or were incomplete; and
- casino staff did not have complete background checks and were employed for more than 60 days before the National Indian Gaming Commission, which is the federal regulatory agency responsible for overseeing Indian gaming, was notified.

We analyzed the Division's working papers and other documentation associated with a judgment sample of compliance audits of five casinos completed in 2011 and 2012 and determined the extent to which its own audit procedures had been followed. The working papers and documentation we reviewed were sufficient to show that the Division followed its audit procedures.

Vendor Certification

DOA is statutorily required to certify vendors that provide gaming-related services and equipment to casinos.

The compacts and s. 569.04, Wis. Stats., require DOA to certify vendors that provide casinos with gaming-related services and equipment, such as management consulting services and electronic gaming devices. A vendor must be certified before conducting business with a tribe. Under the original compacts negotiated in 1991 and 1992, vendors were required to be certified before conducting more than \$10,000 in business with a tribe annually.

Although the amount has not changed for the Ho-Chunk and Potawatomi, subsequent amendments to the compacts with nine tribes have increased this amount to:

- \$25,000 annually for the Bad River, Lac Courte Oreilles, Lac du Flambeau, Menominee, Red Cliff, Sokaogon, and Stockbridge-Munsee; and
- \$50,000 annually for the Oneida and St. Croix.

Vendor certification requires a financial review and background checks.

As part of the certification process, the Division performs a financial review of the vendor and conducts personal background checks of the owners, partners, and other personnel who will have significant contact with gaming operations. DOJ conducts criminal background checks for relevant vendor personnel and provides the Division with the results, typically within five days. The compacts prohibit the certification of a business if its owners, partners, or other personnel have been convicted of felonies or gambling-related offenses, or if their prior activities and associations pose a threat to the public interest or the effective regulation of gaming.

The Division summarizes the findings of the financial review and the personal and criminal background checks and creates a final report. The Director of Indian Gaming reviews the final report and issues a recommendation to approve or deny an application, and the Division Administrator makes the final decision. The Division's policies do not require the Division Administrator to take action on a recommendation within a specified number of days, nor do statutes or compacts. The compacts require each vendor's certification to be reviewed periodically, and the Division's policies require recertifications to be conducted every three years. The Division contacts vendors eight months before the expiration of their certifications to initiate the recertification process.

The compacts permit the Division to temporarily certify a vendor that has completed a full application; obtained a letter from a tribe requesting the vendor's temporary certification; and obtained a license from another state, such as Nevada, that the Division has determined to perform adequate background investigations of vendors. A vendor with temporary certification may continue to provide services and equipment to the tribe until the Division issues its decision on an application. Vendors must receive separate temporary certificates for each tribe with which they intend to do business.

Vendor Certification Revenue

Vendors are charged fees to cover the costs of certification.

Vendors pay the State a fee of \$4,000 for both initial certifications and recertifications. If investigation costs exceed the fee, vendors are charged for any additional costs at a rate of \$50 per hour. The Division

uses these fees to cover the costs of conducting investigations. As shown in Table 7, the Division collected \$469,100 in vendor certification fees from FY 2009-10 through FY 2011-12. Additional charges accounted for more than one-half of amounts collected.

Table 7

Vendor Certification Fees Collected

	Initial Certification Fees ¹	Recertification Fees	Additional Charges	Total
FY 2009-10	\$20,000	\$ 4,000	\$102,200	\$126,200
FY 2010-11	24,000	64,000	91,800	179,800
FY 2011-12	12,000	36,000	115,100	163,100
Total	\$56,000	\$104,000	\$309,100	\$469,100

¹ Includes fees for temporary certifications.

Vendor Certification Processing

From FY 2009-10 through FY 2011-12, the Division approved 41 of 44 vendor certification applications.

From FY 2009-10 through FY 2011-12, the Division issued decisions on 44 applications, including 21 initial certification requests and 23 recertification requests. As shown in Table 8, 41 of the 44 applications were approved. Three vendors withdrew their applications because the Division notified them that certification would be denied.

Table 8

Disposition of Applications FY 2009-10 through FY 2011-12

Outcome	Initial	Recertification	Total	Percentage of Total
Approved	20 ¹	21	41	93.2%
Withdrawn	1	2	3	6.8
Total	21	23	44	100.0%

¹ Includes eight applications for temporary certification.

From FY 2009-10 through FY 2011-12, 42 of the 44 vendor certifications were completed within six months while 2 certifications took longer to complete. One initial certification took 15 months because the Division completed a more thorough review after it determined an employee of the applicant was being investigated by the Federal Bureau of Investigation. One recertification took approximately 8 months because the Division spent additional time completing its review due to concerns about the finances of an employee of the applicant.

To complete our analyses, we obtained internal management reports and electronic data from the Division to analyze the disposition of vendor applications and the length of time taken to complete the reviews of application materials. We identified minor differences between the reports and the electronic data. We worked with the Division to identify the cause of the differences and the Division has indicated that it will make improvements to its processes for documenting and analyzing vendor application data.

Department of Justice Gaming Enforcement Activities

***DOJ is responsible for
law enforcement of
gaming activities.***

A total of 3.0 FTE special agents assigned to DOJ's Special Operations Bureau perform gaming enforcement functions. 2011 Wisconsin Act 32 provided DOJ with \$524,500 for gaming enforcement in FY 2011-12, including \$151,400 in tribal gaming funds and \$373,100 from the Lottery Fund. Act 32 also eliminated the need for DOJ to maintain a separate Gaming Enforcement Bureau. In the same fiscal year, DOA provided DOJ with an additional \$10,300 in tribal gaming funds to support its enforcement activities.

DOJ's gaming enforcement responsibilities include:

- investigating the activities of all individuals who may affect the operation or administration of Indian gaming, and prosecuting violations of the compacts and civil or criminal law;
- investigating the activities of DOA and its employees and contractors, as well as violations by vendors and their employees and contractors;
- conducting criminal background investigations of Indian gaming vendors;

- investigating allegations of the embezzlement of bingo and raffle funds, and initiating civil or criminal action in circuit court for violations of bingo or raffle law when necessary; and
- investigating written complaints related to crane games, investigating and prosecuting violations of crane game law, and seizing crane games owned by individuals convicted of violations.

In FY 2011-12, DOJ opened 17 cases related to gaming activities.

In FY 2011-12, DOJ opened 17 cases related to complaints of illegal gambling made by citizens, law enforcement officials, and Division of Gaming officials when gaming issues fell outside of their purview. Cases are opened for investigation only if DOJ believes criminal activity has taken place. Most complaints and cases have been related to raffles or to illegal electronic gaming devices operated by businesses other than tribal casinos.

■ ■ ■ ■

Charitable Gaming and Crane Games ■

Charitable bingo and raffle games were made legal in Wisconsin in the 1970s.

Amendments to the Wisconsin Constitution made charitable bingo games legal in 1973 and raffles legal in 1977. The Division's Office of Charitable Gaming is responsible for developing administrative rules and policies related to bingo, raffles, and crane games and for administering the legal requirements for conducting these games. Organizations must be licensed to conduct bingo or raffles, and all crane games must be registered with the Division. We reviewed the Division's regulation of these activities and the revenue they generated.

Bingo

Religious, charitable, service, fraternal, and veterans' organizations, as well as any organizations for which contributions are deductible for state and federal income tax purposes, may be licensed to operate bingo-playing sessions in Wisconsin. With the exception of community-based residential facilities, community centers for senior citizens, and adult family homes, eligible organizations must have been in existence for at least three years, have established funding sources, and have at least 15 members.

Bingo licenses are granted for one-year periods. A regular license allows an organization to hold an unlimited number of bingo sessions in the licensed year and requires that the combined cost of admission and any playing card not exceed \$1.00. A limited-period license allows bingo sessions to be conducted during no more than

four of five consecutive days in a year. Organizations obtaining limited-period licenses may not charge admission but may charge up to \$1.00 per bingo card.

The maximum prize value allowable for a single bingo game is \$500, and the total prize value for any playing session is \$2,500.

The maximum prize value allowable for a single bingo game is \$500, and the total prize value for any playing session may not exceed \$2,500. In addition, organizations may conduct progressive jackpot bingo, in which the prize is carried over to a succeeding game if no player wins. The starting prize must be either a specified amount that does not exceed \$500 or 50.0 percent of the card sales for the first game.

As shown in Table 9, the number of bingo licenses issued and bingo sessions conducted increased slightly from FY 2009-10 to FY 2010-11, and then decreased in FY 2011-12.

Table 9

Licenses Issued to Conduct Bingo Sessions¹

Fiscal Year	Bingo Licenses Issued	Percentage Change	Bingo Sessions	Percentage Change
FY 2009-10	460	–	14,030	–
FY 2010-11	486	5.7%	14,106	0.5%
FY 2011-12	476	(2.1)	13,643	(3.3)

¹ Excludes Indian gaming bingo, which is not regulated by the State.

Bingo license fees are \$10 for each proposed bingo session and \$5 annually for each member responsible for handling gross bingo receipts, except for community-based residential facilities, senior citizen centers, and adult family homes, which pay only a \$5 license fee. Licensed organizations must also pay a 1.0 percent tax on the first \$30,000 in gross receipts, and 2.0 percent on all gross receipts that exceed \$30,000. Suppliers of bingo equipment are also required to be licensed. They pay the State an annual fee of \$25 and a supplementary fee ranging from \$10 to \$1,000, based on gross annual bingo supply sales.

As shown in Table 10, the State’s revenue from bingo activities totaled \$1.3 million from FY 2009-10 through FY 2011-12. Approximately two-thirds of these funds were from the bingo gross receipts tax. Licensed organizations reported \$12.7 million in gross receipts from bingo in FY 2011-12.

Table 10

State Revenue from Bingo Activities

Fiscal Year	Revenue	Percentage Change
FY 2009-10	\$ 479,800	-
FY 2010-11	424,700	(11.5)%
FY 2011-12	394,500	(7.1)
Total	\$1,299,000	

Licensed organizations must allow their bingo records to be open for inspection by the Division or local law enforcement at any time. The Division conducted financial reviews of the receipts and expenditures of 35 licensed organizations in FY 2011-12, and it attempts to review licensed organizations that have gross revenues of more than \$5,000 at least once every four years and to annually review organizations with gross receipts exceeding \$1.0 million.

The Division has the authority to suspend or revoke bingo licenses.

The Division has the authority to suspend or revoke bingo licenses for offenses such as participation of minors without a relative or legal guardian, workers participating in a game, failure to clearly announce and show chosen letters and numbers, and failure to post a list of prizes before the game. It can report suspected criminal activity, such as embezzlement of bingo funds, to local law enforcement or DOJ for investigation and further action. If a bingo organization is found to have violated statutes related to the conduct of bingo sessions, a circuit court can impose a fine of up to \$10,000, a sentence of up to nine months in prison, or both. Other violations may generate fines up to \$5,000 and a jail sentence of up to 90 days.

We analyzed the Division’s working papers and other documentation associated with a random sample of five bingo audits completed in FY 2011-12 and determined the extent to which its own audit procedures had been followed. The working papers and documentation we reviewed were sufficient to show that the Division followed its audit procedures. We also reviewed audit summary reports and found that the most common bingo license violations were related to errors in tracking bingo card inventory and not providing the membership of bingo organizations with a report on bingo-related finances.

Raffles

Raffle licenses may be obtained by the same types of organizations eligible to obtain bingo licenses, but the organizations are required to have been in operation for only one year. A \$25 annual license fee allows an organization to conduct up to 200 raffles and one calendar raffle, which is a raffle in which multiple drawings are made on specified dates.

The Division issues two types of raffle licenses:

- Class A raffle licenses limit the ticket price to a maximum of \$100 and allow tickets to be sold before the day of the drawing. Winners need not be in attendance at the drawing.
- Class B raffle licenses limit the ticket price to no more than \$10, and tickets must be sold on the same day as the drawing. Winners are required to be in attendance at the drawing.

As shown in Table 11, the number of raffle licenses issued increased slightly from FY 2009-10 to FY 2010-11, and then decreased in FY 2011-12.

Table 11

Licenses Issued to Conduct Raffles

Fiscal Year	Raffle Licenses	Percentage Change
FY 2009-10	8,923	–
FY 2010-11	9,425	5.6%
FY 2011-12	8,840	(6.2)

From FY 2009-10 through FY 2011-12, the State received \$699,400 in revenue from raffle license fees.

As shown in Table 12, the State received \$699,400 in revenue from raffle license fees from FY 2009-10 through FY 2011-12, and annual revenue increased over the three-year period.

Table 12

State Revenue from Raffle License Fees

Fiscal Year	Revenue	Percentage Change
FY 2009-10	\$228,100	–
FY 2010-11	234,600	2.8%
FY 2011-12	236,700	0.9
Total	\$699,400	

Gross receipts reported by raffle organizations totaled \$60.4 million in FY 2011-12. While the State receives \$25 annually for each license to conduct raffles, it does not impose additional fees.

Statutes do not require unencumbered balances from the raffle and crane game operations appropriation to be transferred to the State Lottery Fund. Revenue from raffle license fees is deposited in an appropriation that jointly funds the Division’s general operations related to raffles and crane games.

In FY 2011-12, the Division conducted financial reviews of the receipts and expenditures of 86 raffle organizations.

In FY 2011-12, the Division conducted financial reviews of the receipts and expenditures of 86 raffle organizations. These organizations are required to report annually on the number of raffles conducted and prizes awarded, to provide detailed revenue and expenditure information relating to raffles, and to submit a list of all winners of prizes valued at more than \$100 when raffle revenue exceeded \$50,000.

The raffle licenses of organizations that fail to accurately report information may be suspended or revoked. Violations of raffle regulations, which are imposed by circuit courts, can result in a maximum fine of \$1,000 and 30 days in jail. The Division deals with small infractions and refers serious violations to DOJ for investigation and prosecution.

We analyzed the Division’s working papers and other documentation associated with a random sample of five raffle audits completed in FY 2011-12 and determined the extent to which its own audit procedures had been followed. The working papers and documentation we reviewed were sufficient to show that the Division followed its audit procedures. We also reviewed audit summary reports and found that the most common raffle license violations were related to not having the licensed organization’s

name and address or the date, time, and location of the raffle drawing printed on the ticket. Another common violation was failing to keep a list of the names and addresses of winners of prizes valued at more than \$100.

Crane Games

Crane games are a form of entertainment in which a player maneuvers a metal crane or claw to obtain toys or novelties worth \$5 or less. To operate a crane game, an owner must pay a one-time registration fee of \$120 per device and attach a Division-issued identification number to the game. The registration is valid until the Division cancels it with the advice and consent of DOJ, or the registered owner withdraws the game because, for example, it no longer works correctly or has been moved out of state. The Division must be notified of any movement of a game within Wisconsin.

From FY 2009-10 through FY 2011-12, the Division registered 576 crane games to operate in Wisconsin and generated \$69,120 in revenue from licensing fees.

The Division is responsible for monitoring crane game owners' compliance with statutes, reviewing crane game operations, investigating suspected violations of law, and reporting suspected gaming-related criminal activity to DOJ for investigation. Violations of crane game regulations can result in fines of up to \$5,000, which are imposed by circuit courts, and may result in games being seized by DOJ. However, the Division does not conduct regular checks of registered crane games or seek out unregistered games. Instead, all staff are encouraged to check for game registration when they see crane games and to notify the Office of Charitable Gaming if unregistered games are found. After an owner is notified that a game must be registered, noncompliance will result in seizure by DOJ if the game is not subsequently registered. No crane games were seized during our audit period.

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Appendix

Indian Gaming Casinos

Indian Tribe or Band/ Facility	Location	Electronic Gaming Devices	Table Games ¹
Bad River Band of Lake Superior Chippewa			
Bad River Lodge Casino	Ashland	446	9
Forest County Potawatomi Community			
Potawatomi Bingo Casino	Milwaukee	3,104	109
Potawatomi Carter Casino and Hotel	Carter	500	9
Ho-Chunk Nation			
Ho-Chunk Casino—Wisconsin Dells	Baraboo	2,075	68
Ho-Chunk Casino—Nekoosa	Nekoosa	646	18
Ho-Chunk Casino—Black River Falls	Black River Falls	630	10
Ho-Chunk Casino—Wittenberg	Wittenberg	502	0
Ho-Chunk Casino—Tomah	Tomah	98	0
Lac Courte Oreilles Band of Lake Superior Chippewa			
Lac Courte Oreilles Casino	Hayward	622	16
Grindstone Creek Casino	Hayward	88	0
Lac du Flambeau Band of Lake Superior Chippewa			
Lake of the Torches Casino	Lac du Flambeau	813	13
Menominee Nation			
Menominee Nation Casino	Keshena	774	19
The Thunderbird	Keshena	29	0
Oneida Nation of Wisconsin			
Oneida Bingo and Casino	Ashwaubenon	849	25
Mason Street Casino	Green Bay	664	8
Irene Moore Activity Center	Ashwaubenon	494	0
Highway 54 Convenience Store	Hobart	115	0
Oneida Travel Center	Oneida	112	0
Packerland Convenience Store	Green Bay	81	0

Indian Tribe or Band/ Facility	Location	Electronic Gaming Devices	Table Games¹
Red Cliff Band of Lake Superior Chippewa			
Legendary Waters Resort Casino	Bayfield	261	7
Sokaogon Chippewa Community			
Mole Lake Casino	Mole Lake	400	5
St. Croix Chippewa Community			
St. Croix Casino—Turtle Lake	Turtle Lake	1,120	42
St. Croix Casino—Danbury	Danbury	503	16
St. Croix Casino Hertel Express	Hertel	148	0
Stockbridge-Munsee Band of Mohican Indians			
North Star Casino	Bowler	1,194	26
Total		16,268	400

¹ Includes table games such as blackjack and roulette. Compacts do not limit the number of tables, and the tribes are not required to inform the Division when they change the number in operation.



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

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September 17, 2012

State Auditor Joe Chrisman
Legislative Audit Bureau
22 East Mifflin Street, Suite 500
Madison, WI 53703

Dear Mr. Chrisman:

Thank you for the opportunity to respond to the Legislative Audit Bureau's performance evaluation of the Department of Administration, Division of Gaming. We recognize and appreciate the substantial time and effort of the members of the audit team throughout the evaluation. Your review of our operations is an important part of the regulation of gaming in Wisconsin.

The Division of Gaming (Division) reviewed the audit and believes that the performance evaluation for racing, charitable gaming and Indian gaming reflects the status of each of the programs. The audit report also accurately reflects the continued efforts of the Division to improve performance.

The Division takes very seriously its responsibility to oversee gaming and works diligently to ensure compliance. The Division's focus is on strict internal controls that safeguard assets, prevent diversion of revenue, preserve reliable records and accounts of transactions and protect the fairness of the games. These measures serve to both restrict and monitor physical access to sensitive areas and materials. They also ensure that oversight and audit trails are created by multiple, independent departments when access is allowed.

The Division will continue to diligently perform its duties in a fiscally responsible manner to ensure all expenses are reasonable and necessary.

I appreciate the opportunity to respond to the audit and for the careful examination of the Division of Gaming by the Legislative Audit Bureau.

Sincerely,

Steve Knudson
Administrator