

An Audit

Division of Gaming

Department of Administration

2005-2006 Joint Legislative Audit Committee Members

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State Auditor - Janice Mueller

Audit Prepared by

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STATE OF WISCONSIN

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Janice Mueller
State Auditor

June 22, 2005

Senator Carol A. Roessler and
Representative Suzanne Jeskewitz, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Roessler and Representative Jeskewitz:

We have examined the Indian Gaming, Racing, and Charitable Gaming programs administered by the Division of Gaming in the Department of Administration, as required by s. 13.94(1)(eg), Wis. Stats. We have issued an unqualified opinion on the Division's budgetary financial schedules for the three-year period from fiscal year (FY) 2001-02 through FY 2003-04.

Under the terms of the tribal-state gaming compacts, this office and the Department of Administration receive copies of independent financial audits of all Class III gaming operations for the 11 tribes that operate gaming facilities in Wisconsin. Based on these audited statements, total tribal revenue increased from \$889.5 million in 2000 to almost \$1.2 billion in 2004, or by 34.1 percent. Tribal expenditures increased from \$470.8 million in 2000 to \$676.2 million in 2004, or by 43.6 percent. Gaming profits, which are used by the tribes for payments to tribal members or for other purposes, increased from \$418.7 million to \$516.3 million, or by 23.3 percent.

Payments to the State increased under the 2003 compact amendments that were signed by 10 of the 11 tribes. The State received tribal payments of nearly \$24.9 million in FY 2002-03 and \$69.6 million in FY 2003-04. However, projecting future tribal payments is difficult pending the outcome of negotiations in response to a 2004 Wisconsin Supreme Court decision that invalidated certain compact provisions. In addition, because future payments to the State will be based on a percentage of net revenues, rather than on the lump-sum amounts most tribes paid in the past, it will be important for the Department of Administration to ensure that payments are correctly calculated and received in a timely manner. We note a number of potential concerns in these areas.

From FY 2001-02 through FY 2003-04, pari-mutuel tax revenue generated from greyhound racing and bingo tax revenue has declined. Nevertheless, during the three-year period we examined, the Racing and Charitable Gaming programs provided nearly \$4.0 million to the Lottery Fund for property tax relief.

We appreciate the courtesy and cooperation extended to us by the Department of Administration and the 11 tribal nations located in Wisconsin. A response from the Department of Administration follows the appendix.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Janice Mueller'.

Janice Mueller
State Auditor

JM/JG/ss

Introduction ■

Wisconsin's Indian Gaming, Racing, and Charitable Gaming programs are managed by the Division of Gaming within the Department of Administration. The Division's Office of Indian Gaming is responsible for monitoring and regulating tribal gaming operations. The Division also regulates all activities related to on-track pari-mutuel wagering and to charitable gaming, which includes bingo, raffles, and crane games. For fiscal year (FY) 2004-05, the Division had an operating budget of nearly \$3.8 million and 36.85 authorized full-time equivalent positions.

We provided an unqualified opinion on the Division of Gaming's financial schedules for FY 2001-02 through FY 2003-04.

Under s. 13.94(1)(eg), Wis. Stats., we examined the Division's schedules of revenues, expenditures, and changes in the program balances—budgetary basis for the Indian Gaming, Racing, and Charitable Gaming programs for FY 2001-02 through FY 2003-04. We have issued an unqualified opinion on those schedules.

Indian Gaming

Indian gaming was authorized with the passage of the federal Indian Gaming Regulatory Act in 1988. Three classes of gaming, which are subject to different levels of regulation, are defined by that act:

- Class I gaming is defined as “social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a

part of, or in connection with, tribal ceremonies or celebrations.” Class I gaming conducted on Indian lands is not subject to federal or state regulation.

- Class II gaming is defined as the game of chance commonly known as bingo and includes, if played at the same location, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo. Class II gaming conducted on Indian lands is subject to federal regulation.
- Class III gaming is defined as all forms of gaming that are not defined as Class I or Class II gaming. Class III gaming may be conducted on Indian lands if gaming activities are approved by a tribal ordinance or resolution, approved by the National Indian Gaming Commission, located in a state that permits such gaming for any purpose, and conducted in conformance with a compact entered into by the tribe and state.

In Wisconsin, 11 tribes operate 17 casinos and 7 ancillary gaming sites.

Under s. 14.035, Wis. Stats., the Governor is authorized to establish, on behalf of the State, gaming compacts with Wisconsin tribal governments that are recognized as sovereign nations. These compacts permit tribal gaming as a means of promoting tribal economic development and self-sufficiency. Provisions of the compacts set out the types of gaming permitted and regulations for operating those games, and ensure effective tribal regulation and oversight of gaming activities. The Office of Indian Gaming is authorized 16.0 full-time equivalent positions, including one unclassified director position, and regulates the gaming activity of the 11 tribes that have entered into compacts with the State. These 11 tribes operate 17 casinos and 7 ancillary sites that are limited to electronic gaming, as shown in the appendix.

According to the tribal-state compacts, an independent financial audit of each tribe’s gaming operations must be performed by a certified public accountant at the close of each tribal fiscal year, and copies must be forwarded to the Legislative Audit Bureau and the Department of Administration. A 1996 Wisconsin Attorney General’s informal opinion indicated the Audit Bureau may release reported financial information related to casino operations in aggregate form, provided that nothing in the disclosure could lead to the identification of a tribe, its members, employers, or operations. Consequently, the information we have included in this report is presented in the aggregate.

Class III net gaming revenue increased 29.1 percent from 2000 to 2004.

Total tribal revenue has increased from \$889.5 million to nearly \$1.2 billion, or by 34.1 percent, in the five-year period shown in Table 1. The largest share of this increase is from Class III gaming revenue, which is the amount wagered reduced by the amount paid in winnings. Class III gaming revenue increased \$246.0 million, or 29.1 percent, from 2000 to 2004.

Table 1

Net Tribal Revenue
(In Millions)

	2000	2001	2002	2003	2004
Class III Gaming	\$845.3	\$904.1	\$ 980.7	\$ 991.5	\$1,091.3
Class II Gaming ¹	4.6	13.9	20.0	22.3	22.2
Nongaming ²	39.6	52.9	58.0	57.5	79.0
Total	\$889.5	\$970.9	\$1,058.7	\$1,071.3	\$1,192.5

¹ May exclude some Class II activity because the compacts do not require tribes to provide this information to the State.

² Includes other activities associated with the casinos, such as hotels, restaurants, and gift shops.

Total net profits from tribal gaming have increased from \$418.7 million in 2000 to \$516.3 million in 2004.

Gaming revenue is used to pay tribal gaming expenditures, such as employee salaries and fringe benefits, supplies, and payments to the State in accordance with gaming compacts. After considering these expenditures, each tribe's net profit can be distributed to tribal members or carried over to future years. Although individual tribes' experiences varied, tribal gaming profits in the aggregate increased \$97.6 million, or 23.3 percent, from 2000 through 2004, as shown in Table 2.

Table 2

Tribal Profits
(In Millions)

	2000	2001	2002	2003	2004
Net Revenue	\$889.5	\$970.9	\$1,058.7	\$1,071.3	\$1,192.5
Expenditures	(470.8)	(542.6)	(565.8)	(566.4)	(676.2)
Profits	\$418.7	\$428.3	\$ 492.9	\$ 504.9	\$ 516.3

Beginning with the original compacts in 1991 and 1992, and continuing with various compact amendments, the tribes have agreed to pay the State a total of \$350,000 annually to fund oversight and regulatory activities. Each tribe pays a percentage of the \$350,000, based on its share of the amount wagered on Class III gaming statewide during the previous year. However, the Division of Gaming's actual oversight and regulatory costs for Indian gaming were nearly \$1.6 million for FY 2003-04. The amount in excess of \$350,000 is covered by additional payments made by tribes according to the compacts.

The Lac du Flambeau tribe currently operates under a compact amendment signed in 1998. All other tribes negotiated compact amendments in 2003, under which they agreed to make additional payments that are currently either lump-sum payments or a percentage of net revenue from Class III gaming. Starting in FY 2006-07, these additional payments all will be based on a percentage of net revenue.

Tribal payments to the State totaled \$69.6 million in FY 2003-04.

Total tribal payments for FY 2003-04 were initially estimated to be \$101.3 million; however, only \$69.6 million was actually collected by the State from the tribes. The difference is largely due to the Ho-Chunk Nation withholding its entire \$30.0 million lump-sum payment in response to the Wisconsin Supreme Court's May 2004 decision in *Panzer v. Doyle*. The Supreme Court ruled that in the compact with the Forest County Potawatomi, the Governor exceeded his authority by agreeing to certain compact provisions related to the types of games offered, the duration of the compacts, and the State's waiver of its sovereign immunity. Because many tribes have similar compact provisions, the Department of Administration is currently renegotiating various aspects of the compacts with all tribes.

In May 2005, the Legislative Fiscal Bureau projected that the State would collect a total of \$105.3 million from all Indian gaming activities in FY 2005-06 and \$114.6 million in FY 2006-07, as shown in Table 3. This projection assumes that payment provisions will not change under renegotiated compacts, that the Ho-Chunk Nation will pay the \$60.0 million anticipated in the 2003-05 biennium, and that all tribes will continue to make the payments provided for in the 2003 compact amendments. After considering the State's regulatory costs and allocations to various state agencies and programs, \$74.1 million was initially projected to be available for legislative appropriation from the General Fund in FY 2005-06, and \$85.3 million was projected for FY 2006-07. However, subsequent action by the Joint Committee on Finance reduced overall agency allocations, thereby allowing nearly \$74.6 million to be appropriated from the General Fund in FY 2005-06, and \$85.9 million in FY 2006-07.

Table 3
Estimated Tribal Gaming General Fund Summary

	FY 2005-06	FY 2006-07
Revenues:		
Original compacts	350,000	350,000
Amended compacts	72,799,900	82,264,900
Past-due amounts	30,000,000	30,000,000
Tribal investigation fees and other	2,129,100	2,020,300
Total Revenues	105,279,000	114,635,200
Total Expenditures ¹	(30,725,400)	(28,736,100)
Available General Fund Revenue	\$74,553,600	\$85,899,100

¹ Includes regulation expenditures of the Division of Gaming and the Department of Justice, as well as allocations to various state agencies and programs.

Concerns with the accuracy and timeliness of payments to the State are noted with 9 compact amendments.

Although language varies regarding payments to the State, we identified potential concerns with nine of the ten compact amendments for 2003:

- Compact amendments with five tribes do not provide any time period to which the percentage of net revenue should be applied. While some have assumed the percentage would be applied to the last completed fiscal year, the compacts do not delineate this.
- Compact amendments with two tribes allow nine months for the tribes to submit their payments to the State. Since audited financial statements are required within four months, the justification for this delay in payments is unclear.
- Compact amendments with two tribes indicate that a percentage of net revenue should be paid to the State annually for a specified time period. However, neither tribe's fiscal year correlates with the identified time period. As a result, audited financial statements to verify these tribes' net revenue amounts will likely not be available.

For the two instances in which the tribal fiscal years do not correlate with the period identified in the compacts, Division of Gaming officials indicate they have established two means of determining net revenue and ensuring that tribal payments are correctly calculated:

- The Division has worked with tribes to develop and install an electronic data collection system that provides information on transactions and various operations of electronic gaming devices. In addition, the tribes provide a variety of daily revenue information for table games. Division of Gaming staff have indicated this information will allow them to verify the correct calculation of tribal payments.
- Division of Gaming staff also conduct on-site reviews, including financial and compliance audits of the casinos and ancillary sites, which should further ensure that net revenue and, therefore, tribal payments are correct.

The Division of Gaming's data collection system receives data directly from the casinos' accounting systems for electronic slot machines and, by its nature, limits the potential for data manipulation. However, financial data related to the table games are manually entered and submitted by casino staff. As a result, this information is inherently less reliable. Inaccurate table game revenue could significantly alter the calculated payments.

In addition, 6.0 of the 16.0 full-time equivalent positions within the Office of Indian Gaming conduct audits of the casinos and ancillary gaming sites. In prior audit reports (reports 99-19 and 02-20), we noted that not all tribal gaming sites had been routinely reviewed. Because these audits by the Division of Gaming will be the only mechanism to verify total net revenue for two tribes, the Division will need to ensure timely and complete audits are conducted.

Further compact amendments to change or clarify the provisions related to payments to the State could resolve these issues. As the compacts are renegotiated, the Department of Administration may wish to ensure that the Division of Gaming is able to verify that payments are correctly calculated and received in a timely manner.

Pari-mutuel Racing

Two of the original five racetracks continue to operate in Wisconsin.

Regulated on-track pari-mutuel betting was authorized under 1987 Wisconsin Act 354, and the first pari-mutuel greyhound race in Wisconsin was conducted in 1990. Five greyhound racetracks were operating at the peak of pari-mutuel activity in the State. However, three tracks have since closed—one in 1993, one in 1996, and one in 2001—leaving two in operation: Dairyland Greyhound Park in Kenosha and Geneva Lakes Greyhound Track in Delavan. The Division of Gaming’s responsibilities related to greyhound racetracks include:

- licensing all track owners, managers, and individuals in racing-related occupations, such as dog trainers, track association employees, and kennel operators;
- determining the types of racing and wagering permitted at licensed tracks;
- protecting the public from unfair or illegal gaming activity; and
- ensuring humane treatment of greyhounds on and off the racetrack.

The Division’s expenditures for racetrack regulation, which totaled approximately \$1.6 million in FY 2003-04, are funded by racing revenues from wagers that are made by track patrons. From 1.0 percent to 8.67 percent of a day’s wagers collected by a racetrack are remitted to the State as pari-mutuel tax revenue, depending on the types of races held and the total amount wagered at the track on all previous race days in that year. Portions ranging from 17.0 to 25.0 percent are retained by track owners and must be used, in part, to pay dog owners and to pay the pari-mutuel tax. The remaining 75.0 to 83.0 percent must be paid to winning ticket holders. State revenue from pari-mutuel racing also includes various taxes, license and other fees, and unclaimed prizes.

Pari-mutuel tax revenue has declined by 15.7 percent since FY 2001-02.

Pari-mutuel tax revenue has declined from nearly \$1.3 million in FY 2001-02 to \$1.1 million in FY 2003-04, or by 15.7 percent. Division of Gaming staff attribute this decline to three factors:

- the closure of the St. Croix Meadows Greyhound Park in Hudson in 2001;
- declining consumer interest, resulting in fewer patrons and fewer wagers; and

- a trend toward live dog races being replaced with simulcast horse races, which are taxed at a lower rate.

A 1999 amendment to the Wisconsin Constitution required that net revenues from pari-mutuel wagering activities, including interest earnings, be used for property tax relief. Available pari-mutuel proceeds, after considering costs associated with regulating the Racing program, transfer to the Lottery Fund at year-end for distribution. From FY 2001-02 through FY 2003-04, the Racing program provided a total of \$3.0 million to the Lottery Fund.

Charitable Gaming

Charitable gaming includes bingo; raffles; and crane games, which are amusement devices that reward a player's skill with toys or novelties worth \$5 or less. The Division of Gaming licenses charitable organizations to hold bingo games and to conduct raffles, and it registers crane games. License and tax revenues received for these activities totaled \$756,400 in FY 2003-04, which is relatively consistent with the FY 2001-02 in charitable gaming revenue of \$761,900.

Bingo tax revenue has declined by 6.0 percent since FY 2001-02.

The largest portion of charitable gaming revenue is the bingo tax. Like pari-mutuel tax revenue, bingo tax revenue has declined, from nearly \$384,800 in FY 2001-02 to \$361,600 in FY 2003-04, or by 6.0 percent. This decline may be attributed to increased competition with casinos that offer bingo activities. Because tribal bingo games are Class II activities that are not regulated by the State, their prize amounts are not limited; in contrast, charitable organizations with bingo licenses are limited to \$1,000 in prizes per bingo occasion.

Like racing proceeds, net bingo proceeds are constitutionally required to transfer to the Lottery Fund for property tax relief. However, under state statutes the Charitable Gaming program is allowed to retain program balances related to raffles and crane games. Net bingo proceeds totaling nearly \$1.0 million transferred to the Lottery Fund from FY 2001-02 through FY 2003-04.

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Opinion ■

Independent Accountant's Report on the Financial Schedules of the Department of Administration—Division of Gaming

We have examined the accompanying schedules of revenues, expenditures, and changes in program balances of the Department of Administration's Division of Gaming—Indian Gaming, Racing, and Charitable Gaming programs for the years ended June 30, 2002, 2003, and 2004. These schedules, which are prepared on a budgetary basis, are the responsibility of management of the Department of Administration—Division of Gaming. Our responsibility is to express an opinion based on our examination.

We conducted our examination in accordance with attestation standards established by the American Institute of Certified Public Accountants and standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Accordingly, we examined, on a test basis, evidence supporting the schedules of revenues, expenditures, and changes in program balances and performed such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the financial schedules referred to in the first paragraph present, in all material respects, the revenues, expenditures, and changes in program balances of the Division of Gaming—Indian Gaming, Racing, and Charitable Gaming programs for the years ended June 30, 2002, 2003, and 2004, on the budgetary basis of accounting set forth in Note 2.

Our examination was conducted for the purpose of forming an opinion on the financial schedules of the Department of Administration—Division of Gaming. The supplementary information included as management’s discussion and analysis is presented for purposes of additional analysis. For management’s discussion and analysis, we have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the information. However, we did not perform an audit or examination of this information and express no opinion on it.

June 14, 2005

LEGISLATIVE AUDIT BUREAU



by

Julie Gordon
Audit Director

Management's Discussion and Analysis ■

Prepared by Management of the Department of Administration's Division of Gaming

This section of the financial report of the Wisconsin Department of Administration's Division of Gaming presents management's discussion and analysis of the financial performance of the Division of Gaming during FY 2001-02, FY 2002-03, and FY 2003-04, which ended on June 30, 2002, 2003, and 2004, respectively. This discussion should be read in conjunction with the accompanying financial schedules and notes. The financial schedules, notes, and this discussion are the responsibility of the Department of Administration's Division of Gaming.

Financial Highlights

The financial highlights that follow reflect changes between FY 2001-02, FY 2002-03, and FY 2003-04, in three program areas: Indian Gaming, Racing (pari-mutuel racing and wagering), and Charitable Gaming (raffles, bingo, and crane games).

Chapters 562, 563, 564, and 569 of Wisconsin Statutes govern the operation of the Division of Gaming. After mandatory transfers and deductions for operational expenses, remaining revenue from the racing and bingo appropriations is lapsed to the Lottery Fund for property tax relief. The statutes also require that the balance that remains in the raffle appropriation serve as a beginning balance for operation of the program in the following fiscal year. The Indian Gaming funds, following deductions for operational expenses and legislatively directed revenue distributions, are lapsed to the General Fund.

Indian Gaming

- There are 11 tribal nations that currently operate 24 casino-style gaming locations in Wisconsin.
- The original compacts negotiated between the tribal nations and the State of Wisconsin stipulate that \$350,000 is to be paid from tribal casino revenues to the State of Wisconsin for regulation. Tribes agreed to submit additional revenue to the State in the 1998/1999 amendments. In 2003, 10 of the 11 tribes signed compact amendments that included an increase in revenue from the 1998/1999 agreements. The State's biennial budgets designate the allocation of revenue to various state agencies to provide specific services. As shown in Table A, state agencies were originally designated nearly \$24.2 million in FY 2001-02, \$27.4 million in FY 2002-03, and \$22.6 million in FY 2003-04.

Table A

Allocated Indian Gaming Revenue Distributions

	FY 2001-02	FY 2002-03	FY 2003-04
Administration	\$2,050,000	\$2,050,000	\$ 1,700,000
Agriculture, Trade and Consumer Protection	0	1,900,000	1,900,000
Arts Board	25,200	25,200	0
Commerce	3,541,900	4,595,900	3,553,900
Health and Family Services	3,511,600	3,511,600	3,411,600
Higher Educational Aids Board	1,179,800	1,191,600	1,191,600
Historical Society	229,800	189,800	189,800
Justice	772,000	772,000	778,000
Natural Resources	5,862,900	6,070,900	5,299,600
Public Instruction	320,000	270,000	0
Tourism	4,127,300	4,127,300	4,130,500
Transportation	1,250,000	1,250,000	0
University of Wisconsin System	0	250,000	100,000
Veterans Affairs	300,100	248,300	0
Workforce Development	1,000,000	950,000	350,000
Total	\$24,170,600	\$27,402,600	\$22,605,000

- The amounts displayed in Table A differed from the actual distributions. Distributions are reduced for any unencumbered cash that remains from the previous distributions. The actual distributions were as follows: \$19.3 million in FY 2001-02, \$27.0 million in FY 2002-03, and \$21.1 million in FY 2003-04.
- The financial schedules report total revenue to the State of nearly \$24.6 million in FY 2001-02, \$25.1 million in FY 2002-03, and \$69.8 million in FY 2003-04. The increase in FY 2003-04 revenue, \$44.7 million, is primarily the result of the 2003/2004 compact amendments. Indian gaming revenue not appropriated to a specific state program or appropriated for gaming regulation or law enforcement lapses to the General Fund.

Racing

- Two greyhound racetracks continue to operate in Wisconsin: Dairyland Greyhound Park in Kenosha and Geneva Lakes Greyhound Track in Delavan.
- The entire cost of racing regulation in Wisconsin is paid for by racetrack owners and through licenses, fees, and taxes collected by the Division of Gaming.
- The August 2001 closure of the St. Croix Meadows Greyhound Park in Hudson led to a decline in overall racing revenues, from \$4.0 million in FY 2000-01 to \$3.3 million in FY 2001-02.
- Racing revenues continued to decline in FY 2002-03 but remained relatively stable in FY 2003-04; revenues of approximately \$2.7 million were reported in each of these years.
- More than \$95 million was wagered on live greyhound racing and on greyhound and horse simulcasts in Wisconsin during FY 2003-04.
- From FY 2001-02 through FY 2003-04, the Racing program transferred \$3.0 million to the Lottery Fund for property tax relief to Wisconsin residents.
- In FY 2003-04, 50 percent of the admission fees from the racetracks, or \$268,000, was provided to city and county governments in Wisconsin.

Charitable Gaming

- Currently, more than 7,000 raffle licenses and more than 600 bingo licenses are issued to qualified organizations.
- Charitable organizations, through licenses and fees, pay for the regulation of charitable gaming.
- The Charitable Gaming program and the revenue generated have remained relatively stable for several years.
- Approximately \$80 million in revenue is generated annually by and for charitable organizations in Wisconsin through the operation of raffles, crane games, and bingo.
- From FY 2001-02 through FY 2003-04, the Charitable Gaming program transferred nearly \$1.0 million to the Lottery Fund for property tax relief for Wisconsin residents and lapsed \$300,000 to the State's General Fund.

Financial Schedules

The Division of Gaming is funded through program revenue appropriations. The Division of Gaming must receive enough revenue in payments from gaming establishments to pay for the costs of regulation in accordance with statutory requirements. The financial schedules are completed on a budgetary basis of accounting.

At the close of the fiscal year, the Department of Administration's Division of Administrative Services prepares a financial schedule that outlines the revenues, expenditures, and transfers for each of the three programs in the Division of Gaming.

Contacting the Department of Administration

The financial report is designed to provide a general overview of the finances of the Department of Administration's Division of Gaming. Questions regarding the financial schedules should be directed to:

Linda Wald, Financial Manager
Accounting Section
Department of Administration
9th Floor
101 E. Wilson St.
Madison, WI 53702

Questions regarding program information provided in this report or requests for additional information should be addressed to:

Richard Pedersen, Director of Racing and Support Services
Wisconsin Division of Gaming
Department of Administration
2005 W. Beltline Highway, Suite 201
Madison, WI 53713

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Financial Schedules ■

**Schedule of Revenues, Expenditures, and Changes in Program Balances—
Budgetary Basis, for the Year Ended June 30, 2004**

	Indian Gaming	Racing	Charitable Gaming	Totals (Memorandum Only)
REVENUES				
Tribal Revenues	\$ 69,570,881			\$ 69,570,881
Tribal Vendor Investigation Fees	264,921			264,921
Pari-mutuel Tax		\$ 1,085,945		1,085,945
Special Program Tax		717,674		717,674
Unclaimed Prizes		265,200		265,200
Licensing Fees		324,960		324,960
Racing Supervision Fees		263,205		263,205
Fines and Forfeitures		5,082		5,082
Bingo Tax			\$ 361,631	361,631
Bingo Licensing Fees			182,437	182,437
Raffle Licensing Fees			192,784	192,784
Crane Game Licensing Fees			19,560	19,560
Miscellaneous Revenue	300	30		330
Total Revenues	69,836,102	2,662,096	756,412	73,254,610
EXPENDITURES				
Salaries and Fringe Benefits	807,541	1,107,705	278,167	2,193,413
Supplies and Services	758,838	501,156	101,074	1,361,068
Total Expenditures	1,566,379	1,608,861	379,241	3,554,481
TRANSFERS				
Appropriations to the General Fund	(48,012,280)			(48,012,280)
Transfer of Tribal Payments to:				
Department of Administration	(1,627,499)			(1,627,499)
Department of Agriculture, Trade and Consumer Protection	(1,900,000)			(1,900,000)
Department of Commerce	(3,016,436)			(3,016,436)
Department of Health and Family Services	(2,917,489)			(2,917,489)
Higher Educational Aids Board	(1,169,985)			(1,169,985)
Wisconsin Historical Society	(182,249)			(182,249)
Department of Justice	(778,000)			(778,000)
Department of Natural Resources	(5,078,672)			(5,078,672)
Department of Public Instruction	5,804			5,804
Department of Tourism	(4,081,483)			(4,081,483)
University of Wisconsin System	(99,999)			(99,999)
Department of Veterans Affairs	50,725			50,725
Department of Workforce Development	(330,593)			(330,593)
Transfer to the Lottery Fund		(916,003)	(348,159)	(1,264,162)
Transfer to the Common School Fund		(2,541)		(2,541)
Transfer to the Department of Justice—				
Gaming Law Enforcement	(119,300)	(134,691)		(253,991)
Lapse to the General Fund	(2,700)		(50,000)	(52,700)
Total Transfers	(69,260,156)	(1,053,235)	(398,159)	(70,711,550)
INCREASE (DECREASE) IN PROGRAM BALANCE	(990,433)	0	(20,988)	(1,011,421)
PROGRAM BALANCE				
Program Balance, Beginning of Year	1,372,488	0	141,953	1,514,441
PROGRAM BALANCE, END OF YEAR	\$ 382,055	\$ 0	\$ 120,965	\$ 503,020

The accompanying notes are an integral part of this schedule.

**Schedule of Revenues, Expenditures, and Changes in Program Balances—
Budgetary Basis, for the Year Ended June 30, 2003**

	Indian Gaming	Racing	Charitable Gaming	Totals (Memorandum Only)
REVENUES				
Tribal Revenues	\$ 24,855,978			\$ 24,855,978
Tribal Vendor Investigation Fees	196,568			196,568
Pari-mutuel Tax		\$ 1,172,100		1,172,100
Special Program Tax		743,453		743,453
Unclaimed Prizes		273,399		273,399
Licensing Fees		290,318		290,318
Racing Supervision Fees		219,180		219,180
Fines and Forfeitures		16,667		16,667
Bingo Tax			\$ 348,866	348,866
Bingo Licensing Fees			176,715	176,715
Raffle Licensing Fees			185,790	185,790
Crane Game Licensing Fees			17,040	17,040
Miscellaneous Revenue	1,679	1,415	945	4,039
Total Revenues	25,054,225	2,716,532	729,356	28,500,113
EXPENDITURES				
Salaries and Fringe Benefits	747,210	1,132,312	280,460	2,159,982
Supplies and Services	658,816	510,200	110,225	1,279,241
Total Expenditures	1,406,026	1,642,512	390,685	3,439,223
TRANSFERS				
Transfer of Tribal Payments to:				
Department of Administration	(1,941,006)			(1,941,006)
Department of Agriculture, Trade and Consumer Protection	(1,900,000)			(1,900,000)
Arts Board	(25,200)			(25,200)
Department of Commerce	(4,492,661)			(4,492,661)
Department of Health and Family Services	(3,467,120)			(3,467,120)
Higher Educational Aids Board	(1,191,600)			(1,191,600)
Wisconsin Historical Society	(163,278)			(163,278)
Department of Justice	(783,500)			(783,500)
Department of Natural Resources	(5,978,586)			(5,978,586)
Department of Public Instruction	(270,000)			(270,000)
Department of Tourism	(4,120,864)			(4,120,864)
Department of Transportation	(1,250,000)			(1,250,000)
University of Wisconsin System	(250,000)			(250,000)
Department of Veterans Affairs	(234,018)			(234,018)
Department of Workforce Development	(889,448)			(889,448)
Transfer to the Lottery Fund		(876,517)	(291,634)	(1,168,151)
Transfer to the Common School Fund		(8,334)		(8,334)
Transfer to the Department of Justice—				
Gaming Law Enforcement	(114,055)	(125,400)		(239,455)
Lapse to the General Fund	(11,400)	(2,100)	(125,000)	(138,500)
Total Transfers	(27,082,736)	(1,012,351)	(416,634)	(28,511,721)
INCREASE (DECREASE) IN PROGRAM BALANCE	(3,434,537)	61,669	(77,963)	(3,450,831)
PROGRAM BALANCE				
Program Balance, Beginning of Year	4,717,161	0	248,111	4,965,272
Adjustments to Beginning Program Balances (Note 4)	89,864	(61,669)	(28,195)	0
Program Balance, Beginning of Year Adjusted	4,807,025	(61,669)	219,916	4,965,272
PROGRAM BALANCE, END OF YEAR	\$ 1,372,488	\$ 0	\$ 141,953	\$ 1,514,441

The accompanying notes are an integral part of this schedule.

**Schedule of Revenues, Expenditures, and Changes in Program Balances—
 Budgetary Basis, for the Year Ended June 30, 2002**

	Indian Gaming	Racing	Charitable Gaming	Totals (Memorandum Only)
REVENUES				
Tribal Revenues	\$ 24,334,978			\$ 24,334,978
Tribal Vendor Investigation Fees	225,318			225,318
Pari-mutuel Tax		\$ 1,288,733		1,288,733
Special Program Tax		815,056		815,056
Unclaimed Prizes		614,411		614,411
Licensing Fees		318,357		318,357
Racing Supervision Fees		255,640		255,640
Fines and Forfeitures		29,895		29,895
Bingo Tax			\$ 384,795	384,795
Bingo Licensing Fees			180,865	180,865
Raffle Licensing Fees			182,550	182,550
Crane Game Licensing Fees			13,680	13,680
Miscellaneous Revenue	28	1,216	36	1,280
Total Revenues	24,560,324	3,323,308	761,926	28,645,558
EXPENDITURES				
Salaries and Fringe Benefits	827,191	1,263,446	308,652	2,399,289
Supplies and Services	650,390	659,660	108,077	1,418,127
Total Expenditures	1,477,581	1,923,106	416,729	3,817,416
TRANSFERS				
Transfer of Tribal Payments to:				
Department of Administration	(1,059,189)			(1,059,189)
Arts Board	(25,200)			(25,200)
Department of Commerce	(380,583)			(380,583)
Department of Health and Family Services	(3,351,221)			(3,351,221)
Higher Educational Aids Board	(1,155,144)			(1,155,144)
Wisconsin Historical Society	(227,749)			(227,749)
Department of Justice	(775,700)			(775,700)
Department of Natural Resources	(5,600,031)			(5,600,031)
Department of Public Instruction	(320,000)			(320,000)
Department of Tourism	(3,958,238)			(3,958,238)
Department of Transportation	(1,250,000)			(1,250,000)
Department of Veterans Affairs	(229,082)			(229,082)
Department of Workforce Development	(1,000,000)			(1,000,000)
Transfer to the Lottery Fund		(1,249,961)	(310,698)	(1,560,659)
Transfer to the Common School Fund		(14,948)		(14,948)
Transfer to the Department of Justice—				
Gaming Law Enforcement	(110,200)	(134,200)		(244,400)
Lapse to the General Fund	(11,400)	(2,100)	(125,000)	(138,500)
Total Transfers	(19,453,737)	(1,401,209)	(435,698)	(21,290,644)
INCREASE (DECREASE) IN PROGRAM BALANCE	3,629,006	(1,007)	(90,501)	3,537,498
PROGRAM BALANCE				
Program Balance, Beginning of Year	1,088,155	1,007	338,612	1,427,774
PROGRAM BALANCE, END OF YEAR	\$ 4,717,161	\$ 0	\$ 248,111	\$ 4,965,272

The accompanying notes are an integral part of this schedule.

Notes to the Financial Schedules ■

1. DESCRIPTION OF THE DEPARTMENT OF ADMINISTRATION—DIVISION OF GAMING'S INDIAN GAMING, RACING, AND CHARITABLE GAMING PROGRAMS

The Division of Gaming within the Department of Administration was created at the beginning of FY 1997-98 by 1997 Wisconsin Act 27, the 1997-99 Biennial Budget Act. The Division of Gaming administers three programs: Indian Gaming, Racing, and Charitable Gaming. Prior to the creation of the Division of Gaming, these programs were managed by various state agencies, including the Racing Board and the Department of Regulation and Licensing until October 1992; a three-member Gaming Commission until July 1, 1996; and a five-member Gaming Board until July 1, 1997. All but the Department of Regulation and Licensing have been dissolved.

The activities of the Division of Gaming's three programs are presented in the accompanying financial schedules. In FY 2001-02, FY 2002-03, and FY 2003-04, Indian Gaming, Racing, and Charitable Gaming were budgeted and accounted for as program revenue in the State's General Fund. All three programs are part of the State of Wisconsin financial reporting entity.

The State and each of 11 tribal governments in Wisconsin recognized as sovereign nations have previously entered into tribal-state compacts allowing tribally operated casino-style games. As provided in the compacts, 24 Indian gaming locations were in operation during FY 2001-02, FY 2002-03, and FY 2003-04. The Division of Gaming is responsible for the coordination of the State's oversight activities regarding Indian gaming, along with other provisions of ch. 569, Wis. Stats.

Pari-mutuel greyhound racing was authorized by 1987 Wisconsin Act 354. In August 2001, St. Croix Meadows Greyhound Park closed, leaving two race-tracks in Wisconsin in operation: Geneva Lakes Greyhound Track in Delavan and Dairyland Greyhound Park in Kenosha. The Division of Gaming's regulatory responsibilities in reference to pari-mutuel wagering and racing are set forth in ch. 562, Wis. Stats.

Charitable gaming includes bingo; raffles; and crane games, which are amusement devices that reward a player's skill with prizes of toys or novelties worth \$5 or less. As provided by chs. 563 and 564, Wis. Stats., the Division of Gaming is responsible for making policies and rules relating to charitable gaming, as well as regulating and licensing these games.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The financial schedules of the Indian Gaming, Racing, and Charitable Gaming programs have been prepared using a budgetary basis of accounting, which demonstrates compliance with Wisconsin statutes for budgetary purposes. Statutes require that revenues and expenditures be recognized in the fiscal year in which they are received or paid. The State's accounting records remain open until July 31 to permit state departments to record revenues and expenditures applicable to the fiscal year ended June 30. However, the recording of charges and encumbrances applicable to the prior year is limited by the available appropriation balances of that year and cut-off dates established by the Department of Administration.

3. TRANSFERS AND APPROPRIATIONS

A. Appropriations to the General Fund

The Division of Gaming collects tribal regulation revenue under the current tribal-state gaming compacts. The Division of Gaming has no statutory authority to encumber or expend Indian gaming revenue that is not allocated to a specific state program or agency; this revenue is deposited in the State's General Fund as miscellaneous receipts available for legislative appropriation.

B. Transfer of Tribal Payments to Various State Agencies

In accordance with s. 20.505(8)(hm), Wis. Stats., a portion of the Indian gaming revenue is transferred to state agencies for a variety of specific purposes.

C. Transfer to the Lottery Fund

On April 6, 1999, Wisconsin voters approved a constitutional amendment that requires net proceeds received by the State from bingo games and pari-mutuel on-track betting to be used for property tax relief for Wisconsin residents. 1999 Wisconsin Act 5, which was enacted on July 28, 1999, requires that any unencumbered balances remaining

in general program operations appropriations for bingo and racing be transferred to the Lottery Fund at the end of each fiscal year.

D. Transfer to the Common School Fund

As required by Article X, Section 2 of the Wisconsin Constitution, 50 percent of all fines and forfeitures collected by the Racing program must be deposited into the Common School Fund.

E. Transfer to the Department of Justice—Gaming Law Enforcement

According to ss. 20.455(2)(g) and 20.455(2)(gc), Wis. Stats., the Division of Gaming is required to transfer revenue to the Department of Justice for the performance of gaming law enforcement responsibilities.

F. Lapse to the General Fund

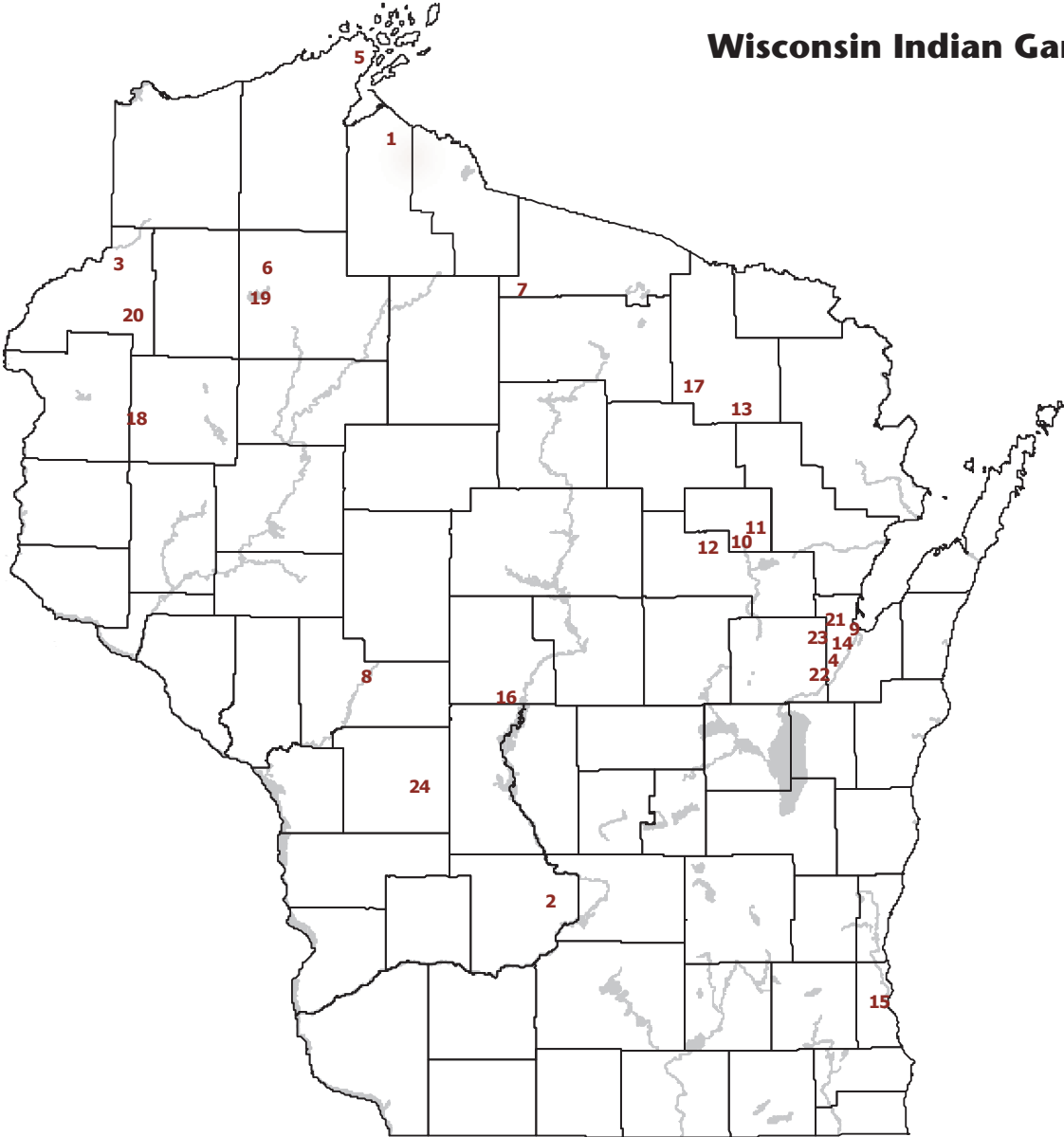
To address the State's deficit, program revenue lapses to the State's General Fund were required in 2001 Wisconsin Acts 16 and 109 and in 2003 Wisconsin Act 33.

4. ADJUSTMENTS TO BEGINNING PROGRAM BALANCES

The FY 2002-03 program balances were adjusted to properly allocate prior-year salary and fringe benefit expenditures between the Indian Gaming, Racing, and Charitable Gaming programs. As a result of this correction, the program balances changed as follows: Indian Gaming increased by \$89,864; Racing decreased by \$61,669; and Charitable Gaming decreased by \$28,195.

■ ■ ■ ■

Wisconsin Indian Gaming Locations



- 1** **Bad River Casino**
(Bad River Band of Lake Superior Tribe of Chippewa Indians)
- 2** **Ho-Chunk Casino** *(Ho-Chunk Nation)*
- 3** **Hole in the Wall Casino and Hotel**
(St. Croix Chippewa Indians of Wisconsin)
- 4** **IMAC (Irene Moore Activity Center)**
(Oneida Tribe of Indians of Wisconsin)
- 5** **Isle Vista Casino** *(Red Cliff Band of Lake Superior Chippewa)*
- 6** **Lac Courte Oreilles Casino, Lodge and Convention Center**
(Lac Courte Oreilles Band of Lake Superior Chippewa Indians)
- 7** **Lake of the Torches Casino**
(Lac du Flambeau Band of Lake Superior Chippewa Indians)
- 8** **Majestic Pines Casino**
(Ho-Chunk Nation)
- 9** **Mason Street Casino**
(Oneida Tribe of Indians of Wisconsin)
- 10** **Menominee Bingo Crystal Palace**
(Menominee Indian Tribe of Wisconsin)
- 11** **Menominee Nation Casino, Bingo and Hotel**
(Menominee Indian Tribe of Wisconsin)
- 12** **Mohican North Star Casino**
(Mohican Nation, Stockbridge-Munsee Band)
- 13** **Northern Lights Casino**
(Forest County Potawatomi of Wisconsin)
- 14** **Oneida Bingo and Casino**
(Oneida Tribe of Indians of Wisconsin)
- 15** **Potawatomi Bingo**
(Forest County Potawatomi of Wisconsin)
- 16** **Rainbow Bingo Casino** *(Ho-Chunk Nation)*
- 17** **Regency Resort Casino**
(Sokaogon Chippewa Community Mole Lake Band)
- 18** **St. Croix Casino and Hotel**
(St. Croix Chippewa Indians of Wisconsin)
- 19** **Grindstone Creek Casino**
(Lac Courte Oreilles Band of Lake Superior Chippewa Indians)
- 20** **Little Turtle Hertel Express Casino**
(St. Croix Chippewa Indians of Wisconsin)
- 21** **Oneida Lucky U**
(Oneida Tribe of Indians of Wisconsin)
- 22** **Oneida One-Stop**
(Oneida Tribe of Indians of Wisconsin)
- 23** **Oneida One-Stop**
(Oneida Tribe of Indians of Wisconsin)
- 24** **Whitetail Crossing**
(Ho-Chunk Nation)

Source: Wisconsin Division of Gaming



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

JIM DOYLE
GOVERNOR

MARC J. MAROTTA
SECRETARY

DIVISION OF GAMING
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June 16, 2005

Janice Mueller, State Auditor
Legislative Audit Bureau
22 East Mifflin St., Suite 500
Madison, WI 53703

Dear Ms. Mueller:

The Wisconsin Department of Administration (Department) appreciates the opportunity to respond to the Legislative Audit Bureau's financial audit for fiscal years 02, 03, and 04, as required by s. 13.94(1) (eg).

The Department reviewed the audit and believes that the financial audit of racing, charitable gaming and Indian gaming reflect the status of each of the program areas. The Department is addressing two areas that involve Indian gaming; projected revenue from tribal gaming and tribal audits to verify the integrity of the revenue calculations.

With respect to projected revenue from tribal gaming, the Department used a different set of assumptions than the Legislative Audit Bureau (LAB) in the financial audit. We believe the revenue projections used by the LAB fail to take into account the growth in gaming revenues that can reasonably be expected to occur once the elements of uncertainty occasioned by pending litigation and renegotiation of the duration provisions of the Compacts are resolved. A study conducted by Dr. Michael Evans, who has been utilized by the State as an expert witness in gaming related litigation, predicted if tribes gain access to longer term capital markets permitting investments in their gaming facilities, there will be a ten percent increase in gaming revenue each year over the next 5 years. However, due to the uncertainty caused by the Panzer and Dairyland litigation, the Tribes are currently not able to make these investments. Additionally, if a favorable result in the Dairyland litigation is obtained, the Forest County Potawatomi Tribe announced their intention to expand their casino. This expansion will approximately double the number of electronic games of chance in operation.

The LAB stated in previous audits that the Office of Indian Gaming and Regulatory Compliance (OIGRC) has not reviewed all tribal gaming sites on a routine basis. In the Audit 02-20, the LAB recommended that the level of tribal gaming oversight be increased to include a complete audit of each tribal gaming operation at least every three years.

During the past 12 months, the OIGRC has conducted inventory, compliance and financial (including revenue) audits at all Wisconsin tribal gaming operations; 17 primary gaming locations and 7 ancillary sites. The revenue is verified through the Data Collection

Janice Mueller, State Auditor

June 16, 2005

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System, Independent Auditor's report and on-site audits. Through using these measures, the Department is confident that the payments will be correctly calculated and received within the established date. Additionally, the suggestions contained in the audit regarding compact payment language will likely be implemented in the current negotiations.

In closing, we want to again thank the Legislative Audit Bureau for their professionalism in performing this audit. The Department is pleased with the results of the audit and will strive to continue to protect the integrity of gaming conducted in the State of Wisconsin.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina Frank-Reece". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gina Frank-Reece
Acting Division Administrator

cc: Linda Minash
Martha Kerner
Julie Gordon
Rich Pedersen
Rachel Meek