

An Evaluation:

Division of Gaming

Department of Administration

September 2007

Report Highlights ■

The State's revenue from gaming totaled \$121.3 million in FY 2005-06.

Tribal gaming revenue increased from \$1.0 billion in 2002 to \$1.3 billion in 2006.

The Division has not routinely reviewed all information that could identify potential theft or fraud at casinos.

Wagers at racetracks and the State's revenue from pari-mutuel racing have declined in recent years.

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 pari-mutuel racing at one remaining dog track in Wisconsin, charitable bingo and raffles, and other games that are subject to regulation by the State. In fiscal year (FY) 2005-06, it was authorized 35.35 full-time equivalent (FTE) positions and spent \$3.3 million to regulate all types of gaming activities.

Under s. 13.94(1)(eg), Wis. Stats., the Legislative Audit Bureau is required to conduct a biennial performance evaluation of the Division. As part of this evaluation, we reviewed:

- the State's revenue and expenditures related to the regulation of Indian gaming, pari-mutuel wagering, and charitable gaming, as well as funding allocations for staff positions in the Division;
- tribal revenue and expenses related to gaming activities;
- oversight activities of the Division's Office of Indian Gaming, including the timeliness of its efforts to certify the vendors that provide gaming-related services or equipment to casinos;
- pari-mutuel racing, including racetrack attendance and amounts wagered, the Division's oversight at the racetrack, and its greyhound adoption program; and
- trends in charitable gaming and crane games, which are amusement devices in which a player maneuvers a crane or claw to obtain toys or novelties worth \$5 or less.

Key Facts and Findings

In 2006, 11 tribes operated 25 casinos in Wisconsin.

Statutes authorize DOA to oversee tribes' compliance with gaming compacts.

The State is negotiating new compact durations with several tribes.

In FY 2005-06, \$88.9 million of the \$118.7 million the State received from Indian gaming was lapsed to the General Fund.

The Division was unaware of numerous differences in amounts recorded by electronic meters and amounts counted by casino staff.

Attendance and wagering at Dairyland Greyhound Track continues to decline.

State Gaming Revenue

State revenue from all gaming activities regulated by the Division—including Class III gaming at tribal casinos, pari-mutuel racing, and charitable and crane games—increased from \$28.5 million in FY 2002-03 to \$121.3 million in FY 2005-06, largely because of changes to tribal-state gaming compacts that were negotiated in 2003. The renegotiated compacts significantly increased annual payments due from tribes to the State.

Class III gaming is the State's largest source of gaming revenue. In FY 2005-06, 10 of 11 tribes that operate casinos made payments to the State totaling \$118.7 million.

However, a duration provision in seven tribal-state compacts that were signed in 2003 was invalidated by the Wisconsin Supreme Court in 2004. As a result, two tribes stopped making payments to the State.

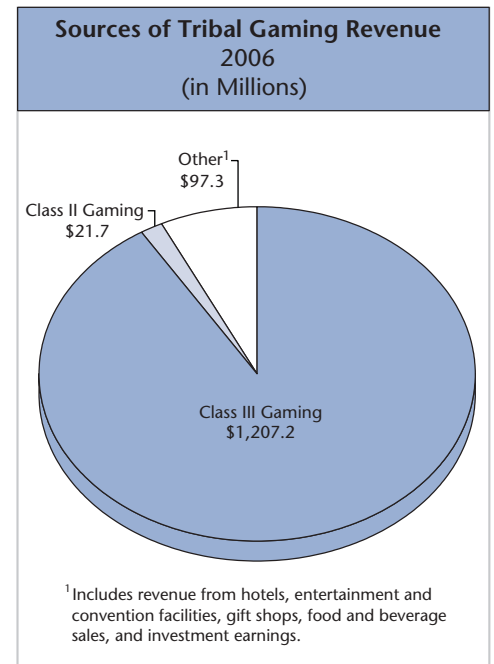
The Potawatomi withheld \$43.6 million that was due in 2005 until October 2006, when that tribe and the State agreed to a compact duration of 25 years. The Ho-Chunk continue to withhold \$30.0 million that was due in June 2005, as well as payments based on their share of net tribal revenue from Class III gaming that were due in June 2006 and June 2007. The State and the Ho-Chunk are in litigation to resolve the matter.

A third tribe, the Lac du Flambeau, has not made any payments since

2004 because payments are not required under an extension of that tribe's compact with the State.

Tribal Gaming Revenue

Tribes generate gaming revenue primarily through Class III gaming, which includes electronic gaming devices such as slot machines and table games such as blackjack. 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.



In aggregate, tribal gaming revenue from all sources increased from \$1.0 billion in 2002 to \$1.3 billion in 2006. It should be noted, however, that while most tribes' gaming-related revenue increased, some tribes' did not.

In aggregate, net tribal revenue from Class III gaming, which excludes amounts paid out in winnings, increased 24.4 percent over the five-year period we reviewed. It totaled \$1.2 billion in 2006.

Aggregate tribal gaming revenue increased in part because the 2003 compacts authorized new types of table games, such as baccarat, craps, poker, and roulette. However, electronic gaming devices are the source of most tribal revenue from Class III gaming.

Tribes incur gaming expenses for general operations, including employee salaries and fringe benefits; promotion and marketing; and depreciation. In aggregate, tribal gaming expenses increased 37.9 percent during the period we reviewed, from \$558.7 million in 2002 to \$770.3 million in 2006. Tribal gaming profits, or revenue in excess of expenses, increased 13.3 percent, from \$490.8 million in 2002 to \$555.9 million in 2006.

Enforcement Efforts

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 ensure that the tribes comply with provisions of their compacts. Compacts require tribes to identify instances in which

amounts recorded by a meter in an electronic gaming device differ by at least 3.0 percent and more than \$25 from amounts counted by casino staff. When tribes identify such differences, compacts require them to investigate and document the cause, because differences may identify potential theft or fraudulent activity at casinos.

We examined 2006 daily revenue recorded in the State's Data Collection System, which stores information on the transactions of electronic gaming devices, and found differences between amounts recorded by electronic meters and amounts counted by casino staff for every day of the year. In discussing this issue with the Division, we found that it was unaware of almost all of the differences we identified. The Division asserts that most of the differences we identified were caused by programming errors in the Data Collection System and the casinos' electronic accounting systems.

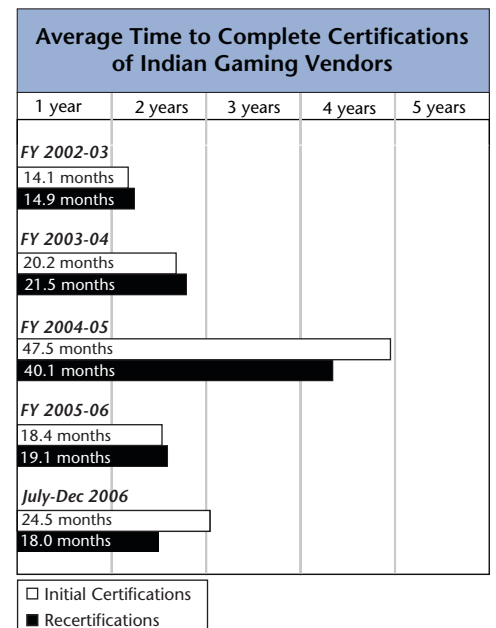
Although the Division reviews many important financial controls implemented by casinos, it has not routinely used the Data Collection System to identify differences between amounts recorded by electronic meters in the gaming devices and amounts collected and counted by casino staff. These data are important in identifying potential irregularities in gaming operations and financial reporting that cannot be identified from other controls the Division reviews.

Moreover, we found that from March 2006 through April 2007,

the Division did not review data maintained by casinos to determine whether the tribes had identified, investigated, and documented differences between amounts recorded by electronic meters and amounts counted by casino staff. In May 2007, as we were conducting our fieldwork, the Division began conducting these reviews again.

The compacts and statutes require DOA to certify the vendors that provide casinos with gaming-related products and services. The Division requires vendor recertification every two years. The average time required by the Division to complete initial certifications increased from 14.1 months in FY 2002-03 to nearly a full four years in FY 2004-05, then decreased to 24.5 months in the first half of FY 2006-07.

During the period shown, the Division issued decisions on 117 applications, 93 of which were approved, and collected \$1.1 million in vendor certification fees.



Other Gaming Activities

Dairyland Greyhound Park, Wisconsin's one remaining racetrack, conducts live greyhound races and broadcasts horse and greyhound races from racetracks in other states. The amounts wagered at Dairyland decreased from \$69.5 million in FY 2002-03 to \$58.5 million in FY 2005-06.

It is unlikely Dairyland will be able to remain in operation if wagering continues to decline. Declines are expected because the market for pari-mutuel racing continues to diminish. State revenue from pari-mutuel racing decreased from \$2.7 million in FY 2002-03 to \$1.9 million in FY 2005-06.

The Division also licenses charitable organizations that conduct bingo and raffles and registers crane games. The State's revenue from bingo activities totaled \$2.0 million from FY 2002-03 through FY 2005-06. During the same period, its revenue from raffle license fees totaled \$772,400, and its revenue from crane games totaled \$77,600.

Recommendations

Our report includes recommendations for the Division to report to the Joint Legislative Audit Committee by January 31, 2008, on steps it has taken to:

- ☑ ensure the State's Data Collection System and the casinos' electronic accounting systems are recording and calculating gaming revenue correctly (*p. 27*); and
- ☑ continue to improve the timeliness of vendor certifications (*p. 32*).

We also include a recommendation for the Division, in every casino audit, to:

- ☑ incorporate procedures for determining whether tribes are appropriately identifying, investigating, and documenting differences between amounts recorded by electronic meters and amounts counted by casino staff (*p. 27*).

Additional Information

For a copy of report 07-12, which includes a response from DOA's Division of Gaming, call **(608) 266-2818** or visit our Web site:



www.legis.wisconsin.gov/lab

Address questions regarding this report to:

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