



## Has Legal Gambling Plateaued in Wisconsin?

### Evidence From the State Lottery and Tribal Gaming

*Beginning in 1965, voters in Wisconsin have approved five constitutional amendments allowing certain forms of gambling in Wisconsin. Today, the state lottery and tribal gaming generate the most revenue. Since 2001, the state lottery has relieved, on average, about 2% of residential property tax levies. While amounts fluctuate, tribes pay the state about \$50 million annually to operate casinos in the state.*

Thanks to the 1848 constitution, legal gambling has a fairly brief history in Wisconsin. The state's founders, largely Protestants and Yankees prohibited the legislature from "authorizing any lottery." The provision was broadly interpreted to ban all forms of gambling, including contests, promotions, and raffles.

In 1965, voters approved a constitutional amendment legalizing promotional contests. Over the ensuing decades, voters ratified additional amendments permitting bingo (1973), raffles (1977), pari-mutuel on-track betting (1987), and a state lottery (1987). A 1993 amendment clarified that all other types of gambling would remain illegal.

At the time the lottery amendment passed, tribal gaming was a small industry nationally. However, that year the U.S. Supreme Court ruled that states regulating certain forms of gambling could not prevent tribes from also offering them. Instead, governments would have to negotiate compacts with tribes, detailing how gaming would function in the state. Thus, when Wisconsin voters authorized a state lottery, they opened the door to tribal casinos.

Years later, gaming remains controversial here. The lottery provides millions of dollars each year in property tax relief, and tribal revenues help pay for state general fund programs. However, compared to other states, our lottery is played

relatively less, and the amount of property tax relief it generates is modest. It remains an inefficient and regressive way to generate state revenues.

#### REGULATION

Three state agencies regulate gaming in Wisconsin. The Lottery Division of the Department of Revenue (DOR) specifies the lottery games played and regulates the retailers selling tickets.

The Department of Administration (DOA) oversees other gaming. In addition to coordinating the state's

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role in tribal gaming, DOA's Division of Gaming regulates bingo, raffles, and pari-mutuel wagering.

Once laws are passed and rules are in place, a third agency comes into play. Through its Gaming Enforcement Bureau, the Department of Justice ensures that these provisions are followed.

## WISCONSIN LOTTERY

The constitutional amendment permitting the state lottery passed in 1987, and the first drawing occurred in September 1988.

### Overview

The lottery offers a combination of instant and lotto (on-line) games, some exclusive to the state and some multistate. Instant games include "scratch" ticket games and pull-tab games. New instant games are introduced as old ones expire. Currently, 63 instant games are offered, with prices ranging from \$1 to \$30.

Lotto games include five daily draw games (SuperCash, Daily Pick 3, Daily Pick 4, Badger 5, and 5 Card Cash) and four jackpot games (Powerball, Wisconsin's Megabucks, MegaMillions, and Monopoly Millionaires' Club). Powerball, MegaMillions, and Monopoly Millionaires' Club are multi-state games, while the others are played only in state. Prices range from 50¢ (Daily Pick 3 and 4) to \$2.00 (5 Card Cash and Powerball).

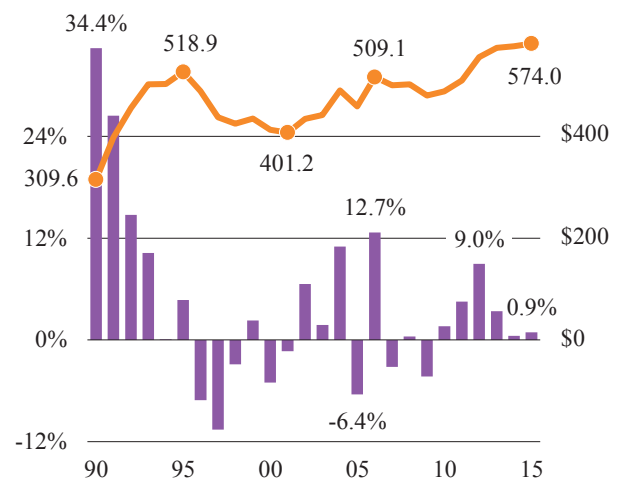
### Sales

In 2015, Wisconsin state lottery sales totaled \$574.0 million, with instant games comprising the largest share (see Table 1). In 2014 (the latest year with detailed sales figures), instant games raised \$339.0 million, nearly 60% of total sales. Powerball accounted for the second largest portion (\$86.9 million, or 15.3%). Remaining games contributed just over 25% of sales.

**Table 1: Instant Game Sales Soar**  
Ticket Sales by Game, \$ Millions, 2001 vs. 2009 vs. 2014

Game	2001	2009	2014	01-09	09-14	% Total
				% Chg.	% Chg.	
Instant	\$238.0	\$276.8	\$339.0	16.3%	22.5%	59.6%
Powerball	67.1	85.4	86.9	27.3%	1.8%	15.3%
Pick 3/4	35.4	38.3	37.0	8.2%	-3.4%	6.5%
SuperCash	29.2	27.4	24.5	-6.2%	-10.6%	4.3%
Megabucks	22.9	20.7	18.0	-9.6%	-13.0%	3.2%
Badger 5	0.0	24.8	23.8	na	-4.0%	4.2%
Mega Mill.	0.0	0.0	33.9	na	na	6.0%
Others	8.6	0.0	5.7	-100.0%	na	1.0%
Total	401.2	473.4	568.8	18.0%	20.2%	

**Figure 1: Wisconsin Lottery Growth Modest**  
Lottery Sales, \$ Millions and % Chg., 1990-2015



**Trends.** Though annual increases are at times small, lottery sales have increased for six consecutive years, the longest stretch since the early 1990s when the lottery was in its infancy. After reaching \$518.9 million in 1995, sales declined in five of the next six years (see Figure 1). During 1995-2001, sales fell 22.7% to \$401.2 million, and then fluctuated in ensuing years. A 6.4% decline in 2005 was followed

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by a 12.7% increase in 2006, before sales dropped again the next year, a pattern that continued until 2010. Sales have increased each year since, peaking at \$574.0 million in 2015.

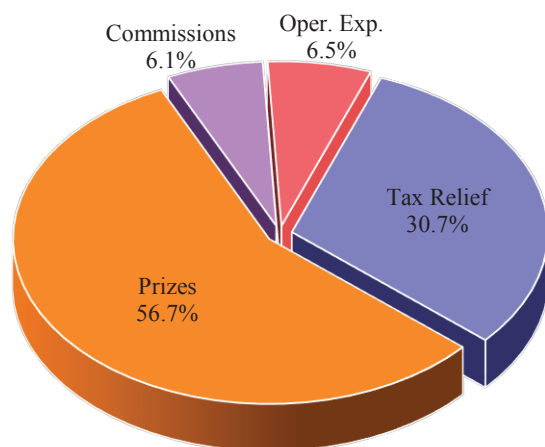
The majority of the recent increase can be attributed to sales of instant lottery tickets. Between 2009 and 2014, instant ticket sales rose \$65.2 million, two-thirds of the total increase (\$95.4 million). Addition of new games, most notably Mega Millions, generated most of the remaining growth.

Sales of Powerball, possibly the most well known game, are volatile, as they are driven by large jackpots. For example, they rose 45.5% in 2013, only to drop 23.6% in 2014. Despite a price increase from \$1 to \$2 in 2012, sales grew modestly (1.8%, or \$1.5 million) during 2009-15.

## Proceeds

From inception through June 2015, the state sold \$12.47 billion in lottery tickets. As required by law, over half (56.7%) of these proceeds were returned to players in the form of payouts (see Figure 2): The state has distributed \$7.1 billion in prize winnings since 1988. Another 12.6%, or \$1.6 billion, went to retailer commissions and operational expenses. The remaining 30.7% (\$3.8 billion) was used by the state for tax relief.

**Figure 2: Majority of Lottery Proceeds Go To Prizes**  
Wisconsin Lottery Proceeds, 1989-2015, \$12.5 Billion Total



## Tax Relief

The lottery was “pitched” to voters as property tax relief. Since 1989, the state provided relief in six ways. Today, only one remains due largely to a 1992 state Supreme Court decision holding that programs funded with lottery money must explicitly reduce property taxes.

**Table 2:**  
**Lottery Tax Relief**  
By Category, \$ Millions, 1989-2015

Program	Lottery Proceeds
District Attorney Salaries	\$13.4
School Levy Credit	\$44.6
General Fund	\$54.1
School Equalization Aids	\$136.1
Farmland Tax Credit	\$294.3
Lottery Credits	\$3,285.9
Total	\$3,828.4

*Payments to School Districts.* During the lottery’s first two years (1989-1990), the majority the proceeds went to equalization school aids, freeing up state tax dollars for other programs. The state distributed \$136.1 million in lottery revenues to schools during those years.

*District Attorneys.* Formerly county employees, district attorneys, their deputies, and assistants became state employees in 1990. A small amount (\$13.4 million) of the proceeds went to pay their salaries in 1990 and 1991.

*General Fund Transfer.* In 1991, the governor ordered the transfer of lottery money to the state general fund to increase that year’s school aid appropriation. However, a circuit court ruled that the transfer would not meet the property tax relief requirement. When the court announced its decision, \$54.1 million had already been transferred to the general fund. The Court’s decision prevented transfer of the remaining \$29.1 million.

*Farmland Tax Credit.* Beginning in 1990, some proceeds were used to help fund the state’s farmland tax credit. Between 1990 and 2015, \$294.3 million were used for this purpose. Farm owners were reimbursed for a percentage of the first \$10,000 they paid in property taxes. The percentage was determined by DOR so that all allotted funds were spent. The credit was ended in the 2009-11 state budget, but expenditures continued until 2014-15 due to amended prior tax year claims.

*School Levy Credit.* The 2009-11 state budget also allocated \$14.9 million annually in lottery and gaming funds to school levy tax credit payments. The credits are paid to all local property taxpayers, including nonresidents. However, the state’s constitution limits use of net lottery and gaming funds to property tax relief for state residents (see below).

Thus, DOR was required to ensure that payments went exclusively to state residents. Lottery funding for the school levy tax credit ended in 2013 after a total of \$44.6 million was disbursed.

*Lottery Property Tax Credit.* By far the largest use of lottery revenues has been for lottery property tax credits. Since 1992, \$3.83 billion has been distributed through this program.

**Table 3: Lottery Property Tax Credits**  
Total Credits Distributed, 1992-2016, \$ Millions

Yr.	Total Credits	Yr.	Total Credits	Yr.	Total Credits	Yr.	Total Credits
92	\$173.4	99	\$142.7	05	\$131.9	11	\$129.2
93	203.7	00	216.2	06	119.9	12	134.8
94	128.7	01	90.6	07	144.7	13	141.5
95	136.0	02	105.0	08	129.6	14	171.4
96	155.6	03	105.1	09	118.1	15	166.5
97	0.0	04	\$118.2	10	113.2	16	155.6
98	205.8						

The lottery credit appears on December property tax bills for all primary residences in the state. The amount is determined by a formula that multiplies the local school district property tax rate by the lesser of a base value (\$11,000 in 2015) or the property's value.

The credit has not always applied only to primary residences. Although it was originally so structured, a 1996 court ruled that differing treatment of various classes of property violated the "uniformity clause" of the Wisconsin constitution.

Because of the ruling, no credits were distributed in fiscal 1997, and when payments resumed the following year, money was distributed to all taxable properties. This new formula was used in fiscal years 1998 and 1999, at which point voters amended the constitution to restore the original system.

Total lottery credits fluctuate with lottery sales. With the exception of 1997, the total credit was never less than \$128 million in the first nine years (see Table 3). In 2001, however, the credit dropped to \$90.6 million, and did not reach \$128 million again until 2005 (\$131.9 million). Total credits exceeded \$130 million in each of the last five years, reaching \$171.4 million in 2014.

The average individual credit paid to homeowners has also fallen since the early 1990s, when it peaked at \$167. It ranged from \$105 to \$167 until 1997 (tax bills issued in December 1996, payable in 1997), when the circuit court ruling went into effect. Since more

taxpayers had to be compensated, the average credit fell from \$125 to \$77, even though total distributions were more than ever that year (\$205.8 million). The following year, the average credit fell again to an all-time low of \$52.

With a new constitutional amendment in effect and an additional \$76 million made available from the state's general fund, the average credit increased to \$166 in 2000. The following year, it fell to \$67. Since then, the average credit has ranged from \$74 (2010) to \$113 (2014 and 2015).

Another view of the lottery's impact compares the size of the credit to property tax levies. Even if the credit increases, its impact is smaller if property taxes increase more.

In the early days of the tax credit, it averaged between 3.7% and 6.2% of residential levies (see Figure 3). However, with lottery sales failing to keep pace with property taxes, the credit dropped to 2.0% of residential levies in 2001. Since then, it has reached 2.3% of levies in four years: 2005, 2007, 2014, and 2015. The credit was just 1.6% of levies in 2010.

## LOTTERY HERE VS. ELSEWHERE

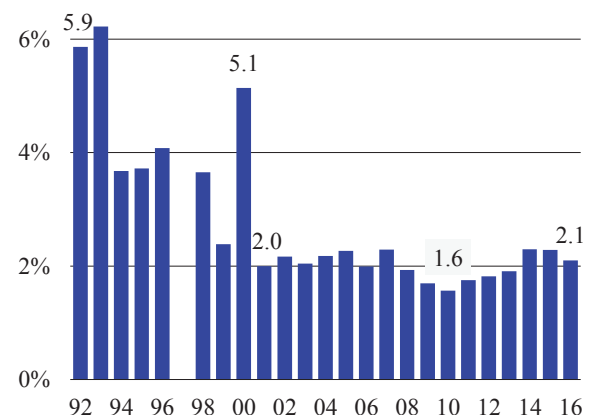
Despite recent growth, lottery sales here are low relative to other states. An overview of lottery sales nationally puts this in perspective.

## Per Capita Sales

On a per capita basis, lottery revenues in Wisconsin are among the lowest nationally. Of 41 lottery states in 2013, Wisconsin ranked 32nd (see Figure 4, page 5). Sales here were about half the national average.

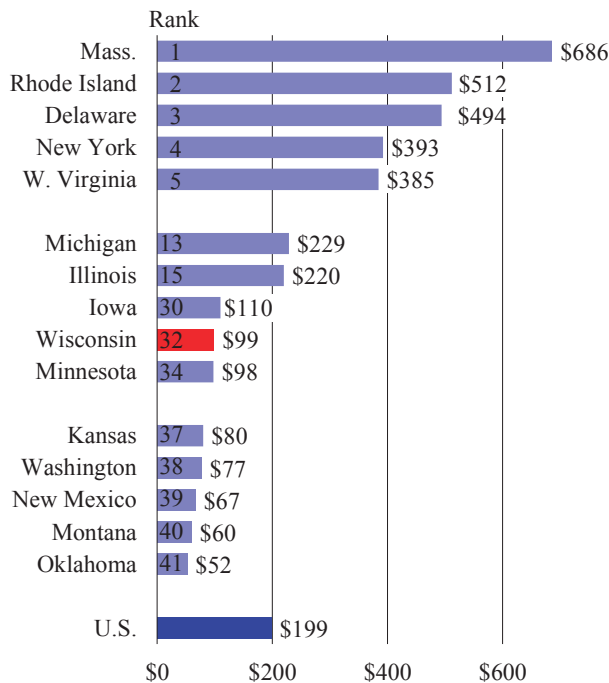
Several factors play a role in Wisconsin's low per capita sales. One may be history and culture.

**Figure 3: Property Tax Relief Plateaus**  
Lottery Credit % of Residential Levies, 1992-2016





**Figure 4: Wisconsin Sales Low vs. Elsewhere**  
Per Capita Lottery Sales, 2013



Like Wisconsin, neighboring Iowa and Minnesota also have relatively low per capita sales. However, sales are higher in Illinois and Michigan. A second factor may be Wisconsin's prohibition of "promotional" advertising; only informational ads for the lottery are permitted. To the extent that promotional advertising promotes sales, Wisconsin is at a disadvantage compared with other states.

Finally, some observers note that extensive tribal gaming competes with the lottery for entertainment dollars. During 1992-2008, tribal gaming revenues increased more than 700%, while lottery sales rose just 8%.

### Sales Trends

During the 1990s, while lottery sales declined in Wisconsin, they surged nationally. From 1992 to 2001, total lottery sales in the U.S. grew at an average annual rate of 6.9%, rising a total of 81.9% from \$19.7 billion to \$35.9 billion. Over the same period, Wisconsin sales fell 11.9%, or an average of 1.4% per year.

The gap between Wisconsin and other states then narrowed. Between 2001 and 2013, total sales nationally increased another 70.2%, or 4.5% per year, to \$61.1 billion. Lottery sales here rose 50.8% (3.5% annually) but remained below the national average. During 2009-13, however, Wisconsin sales outpaced the nation, growing 19.6% (4.6% annually) versus 19.1%, or 4.5% per year, elsewhere.

The large increases nationally are partly explained by the addition of new state lotteries over the years. In 1992, just 33 states had legal lotteries. Texas added one the following year, followed by Georgia and Nebraska (1994), New Mexico (1997), South Carolina (2002), North Carolina and Oklahoma (2006), and finally Arkansas (2010). All told, 41 states now have lotteries.

*Per capita.* Accounting for population and the addition of new lotteries clarifies Wisconsin's position compared to the rest of the nation. Figure 5 shows per capita lottery sales both nationally and in Wisconsin. Between 1992 and 2001, per capita sales growth nationally averaged 4.0% per year, rising from \$106 to \$151 per resident. Sales here declined an average of 2.3% per year, from \$86 to \$70. Of 33 states with a lottery in each of those years, only Louisiana (-4.0% per year) and Arizona (-2.5% per year) performed worse.

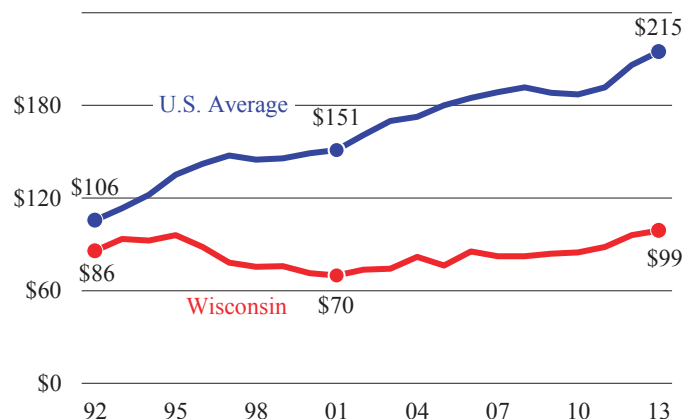
Growth nationally has slowed since, increasing an average of 3.0% annually during 2001-13, reaching \$215 per person in 2015. Average annual increases here (2.9%) were similar to the U.S. average. Wisconsin's growth rate ranked 20th among the 37 states with lotteries during all these years.

### EFFICIENCY

Many property owners appreciate the revenues generated by the lottery. However, a lottery is an inefficient way to generate government revenues.

In 2014, Wisconsin's lottery generated about \$241 million to pay for property tax credits and administrative costs, including payments to retailers. The remainder was paid to winners, simply a transfer of wealth from players to winners. Administrative

**Figure 5: National Lottery Sales On The Rise**  
Per Capita Lottery Sales, Wisconsin vs. U.S., 1992-2013



costs totaled \$73 million. In other words, 30% (\$73 ÷ \$241) of the revenues kept by government went toward “administration.”

This is rather inefficient. Wisconsin’s individual income, corporate income, and state sales tax generated \$12.7 billion in 2014. But DOR spent just under \$50 million, or 0.4% of the total, to collect those taxes.

## TRIBAL GAMING

Since the U.S. Supreme Court opened the door to tribal gaming, the industry has grown significantly. In Wisconsin, it has expanded from a few bingo properties into a billion-dollar industry.

### History of State-Tribal Negotiations

As gaming has become vital to tribal economies, its appeal as a source of revenue for cash-strapped state budgets has also increased. As a result, negotiating revenue-sharing arrangements with tribes has often been tricky.

*1991-1992.* In Wisconsin, the first tribal compacts were negotiated in 1991, and 11 tribal agreements were signed in 1991 and 1992. These required tribes to pay the state a collective \$350,000 per year for seven years to cover administrative costs.

*1998-1999.* A second set of compacts were signed in 1998 and 1999, with the tribes agreeing to pay an average of \$23.7 million per year, in addition to the administrative payments, for four years.

*2003.* In 2003, amendments to tribal gaming compacts significantly increased payments for those tribes with large casino operations. Initially, the combined annual payments from all tribes were expected to exceed \$100 million, due to significant lump-sum payments by certain tribes scheduled to be made in 2003-04 through 2005-06. During this period, set payments were to be phased out and replaced with payments equal to a percentage of gaming revenues.

The Potawatomi and Ho-Chunk tribes, which operate the largest casinos in Wisconsin, agreed to pay the state 6% to 8% of their gross revenues. Tribes with smaller casinos agreed to pay a lesser percentage that grew with revenues. The percentages ranged from 1.5% to 6.0%.

The 2003 compacts included provisions the tribes wanted in exchange for increased payments. First, the new compacts had no fixed end date. Instead they remained in effect until terminated by mutual

agreement. Negotiation on most compact issues could occur every 25 years.

Second, the new compacts gave tribes the right to offer games—such as poker, craps, and roulette—that were illegal elsewhere in the state. Until 2003, the casinos could offer only blackjack, slot machines, and electronic games. The 2003 compacts permitted them to add poker, roulette, and craps, in exchange for higher payments to the state.

*2006.* A Wisconsin Supreme Court ruling invalidated portions of those compacts, including those allowing tribes to offer new games. However, in its 2006 *Dairyland vs. Doyle* decision, the court withdrew its decision, ruling that amendments to the original compacts, even those that expanded the scope of games, were constitutionally protected under state and federal constitutions.

Further amendments in 2009 specified that a tribe may allow tournament play that permits players to compete against other players in an authorized game.

Today, Wisconsin tribes operate 25 gaming establishments. Seventeen are full casinos, while eight offer only electronic games.

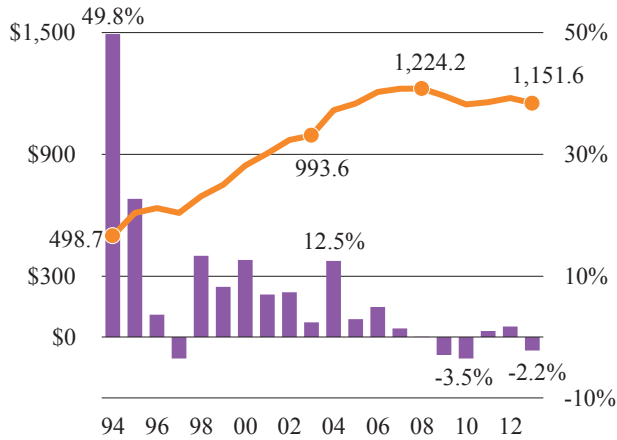
### Tribal Finances

In 1992, when the first compacts were signed, tribal casinos in Wisconsin collectively realized \$142.7 million in net revenue (revenue after paying winnings), and paid \$350,000 to the state. Today, casinos collect eight times what they did in 1992, and pay 150 times as much. In the past few years, however, tribal revenues have declined and—due to tension between the state and tribes—payments to the state have fluctuated.

*Declining Revenue.* Between 1994 and 2007, net tribal gaming revenue increased 145.4%, or an average of 7.2% per year (see Figure 6, page 7). Casinos have seen unprecedented stagnation and decline since. Revenues stalled at \$1.22 billion in 2008 before falling in three of the next five years. Since 2008, revenues declined 5.9% (1.2% annually) to \$1.15 billion in 2013.

*National Trends.* By contrast, tribal gaming nationally has expanded considerably in the past decade. In 1997, gaming revenue nationally totaled \$7.5 billion; by 2014, it reached \$28.5 billion, a nearly four-fold increase. Wisconsin’s increase was less than half that.

**Figure 6: Net Tribal Gaming Revenue Falls**  
Tribal Revenue in Wisconsin, \$ Millions, 1994-2013



In 2014, tribes across the nation operated 459 casinos, a 6.4% increase from 422 in 2010. Wisconsin has added one casino in the last ten years.

As tribal gaming grew nationally, Wisconsin's share dwindled. In 2013, Wisconsin's tribal gaming revenues accounted for 4.1% of the U.S. total, down from 4.6% in 2008.

*Payment Fluctuations.* Negotiating difficulties have made tribal revenues a somewhat unreliable source of state revenue. The state's general fund has been particularly affected by delays in tribal payments.

For example, under the 2003 amendments, the Ho-Chunk agreed to make annual payments of \$30.0 million in 2003-04, 2004-05, and 2005-06, before shifting to percentage-of-revenue payments in 2006-07. When the state Supreme Court invalidated the compact amendments, the tribe refused to pay, making one \$30 million payment in 2006. After the dispute was resolved and the 2003 amendment reinstated, the Ho-Chunk paid the remaining \$60 million in December 2008 (fiscal 2009).

Because state officials believed this conflict would be resolved quickly, the Ho-Chunk payments were included in revenue estimates for the state budget. The delayed payments led to state revenue shortfalls in each year during 2004-08. The \$60 million payment in 2009 generated tribal revenues that exceeded estimates. Figure 7 shows payment volatility during these years.

A similar situation played out in 2014, when the Potawatomi withheld a payment to the state in anticipation of approval of a Kenosha casino operated by the Menominees. The payment was made

the following year, after the casino proposal was denied, but the delay caused a shortfall of \$25 million in for 2013-14. In 2013-14 revenues received by the state totaled \$25.0 million, less than half of what was received the previous year (\$52.6 million).

## OTHER GAMING REVENUE

Although the state lottery and tribal gaming are the largest sources of gambling revenue, they are not the only ones that have generated revenue for the state.

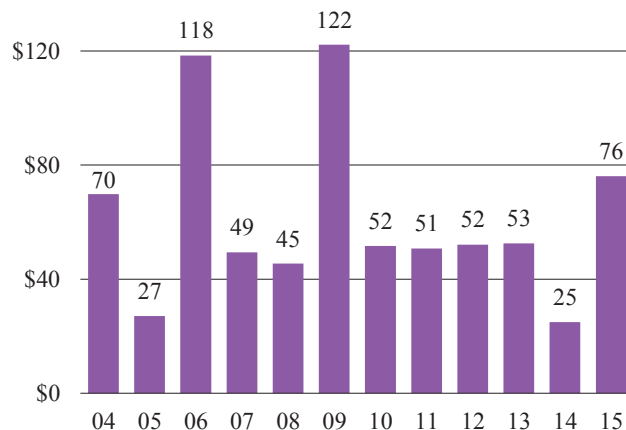
### Pari-mutuel

In 1990, five Greyhound tracks opened, where individuals bet on live greyhound dog races and on televised dog and horse racing. All five are now closed. The last to close, Dairyland Greyhound Park, shut its doors in 2009. All told, pari-mutuel wagering generated \$110.63 million for the state government between 1990 and 2009.

All other gaming-related revenue comes from "charitable gaming." Licenses are required to run bingo games and raffles. The Division of Gaming collects small fees and taxes from organizations to regulate these games: In fiscal 2014, it collected \$349,500 in fees and taxes on bingo and \$250,200 from raffles. Any money beyond what is needed for administration goes to property tax relief.

Prior to the 2013-15 state budget, crane games were also regulated by the state and required a license. Beginning in 2013-14, these games are no longer regulated by the state. □

**Figure 7: Payments to State Fluctuate**  
Annual Tribal Payments, \$ Millions, 2004-15



**DATA SOURCES:** National Indian Gaming Commission; Wisconsin Departments of Administration and Revenue; Wisconsin Legislative Audit Bureau; Wisconsin Legislative Fiscal Bureau; Wisconsin Lottery; U.S. Census Bureau.



## Wisconsin Taxpayers Alliance

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### WISTAX NOTES

■ **County Sales Tax Collections Up.** Total revenues from Wisconsin's optional 0.5% county sales tax rose 3.4% in 2015, though changes varied by county. Collections rose the most in Forest (12.3%), Door (9.2%), Kenosha (8.9%), Sawyer (8.8%), and Vilas (7.9%) counties. Collections declined in six counties.

Sixty-two of the 72 counties impose the optional tax. In eight, 2015 collections were more than \$100 per capita: Dane, Door, Eau Claire, La Crosse, Oneida, Sauk, Sawyer, and Vilas (see map, right). In three (Lafayette, Oconto, and Pierce), they were less than \$50 per capita.

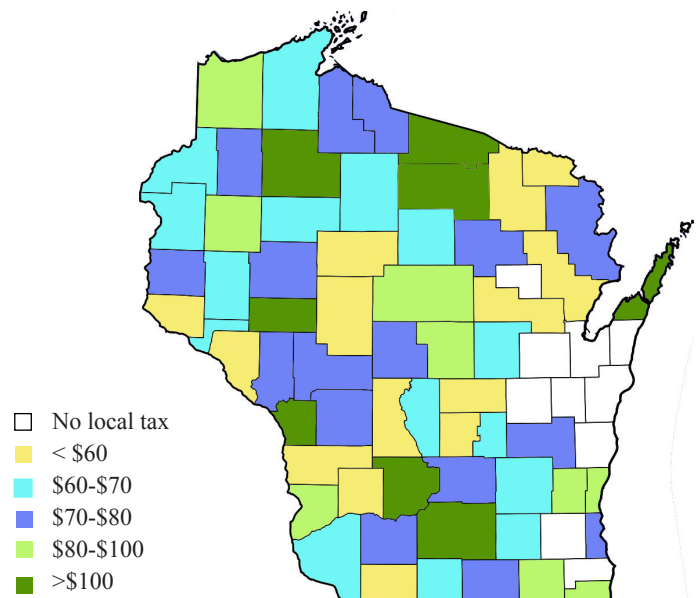
The first counties to impose a sales tax were Barron and Dunn in 1986. State law allows counties to adopt the tax only for the purpose of directly reducing property taxes. A 2002 WISTAX study found that, on average, less than 30% of the tax was used for that purpose.

■ **High School Graduation.** Wisconsin's four-year high school graduation rate was 88.4% in 2015, down 0.2 percentage points from 2014 but significantly above the national rate (82.3%). Graduation rates had increased each year during 2011-14.

Due to unforeseen circumstances, some students take additional time to graduate. In 2015, the state's five-year graduation rate was 91.6% and its six-year rate was 92.1%, according to new figures from the Department of Public Instruction.

Graduation rates varied by student characteristics. Females were more likely to graduate in four years than males (90.6% vs. 86.4%). Economically disadvantaged students graduated at lower rates than others (77.3% vs.

**County Sales Tax Collections Vary**  
Collections Per Capita, 2015



93.7%). Only two-thirds of disabled students (67.5%) graduated in four years, compared to 91.1% of students without disabilities. □

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