

# Year in Review

## OVERVIEW OF WAGERING ACTIVITY

The total dollar amount wagered on charitable gaming activities again declined during 2004-05. Overall, \$251,889,510 were wagered on bingo, pickle cards, lottery and raffle, and county/city lottery for the annual period ending June 30, 2005, as compared to \$259,931,190 in 2003-04. This represents a 3.1 percent decrease from the previous fiscal year.

**Bingo** gross receipts for the year were \$14,268,212, which is 7.2 percent less than the prior fiscal year when \$15,370,116 were wagered on bingo. There was an even greater reduction in the reported number of bingo players on an annual basis, from 626,305 for 2003-04 to 567,890 for the most recent fiscal year. This is more than a 9.3 percent decrease in players.

**Pickle card** gross proceeds for the year were \$50,819,571, which represents an overall decrease of 11.6 percent as compared to the previous fiscal year when pickle card gross proceeds were \$57,510,542. The total number of pickle card units sold decreased from 28,073 to 24,984. The decline in the number of nonprofit organizations licensed to conduct a lottery by the sale of pickle cards (21) was a contributing factor.

**Lottery and raffle** gross proceeds for the year were \$5,545,781, which is a 14 percent increase in gross wagering from the prior fiscal year when \$4,860,299 were wagered. There was also an increase in the number of lotteries and raffles licensed for 2004-05 (22).

**County/city lottery (keno)** gross proceeds for 2004-05 were \$181,255,946, which is a .5 percent decrease from the previous year when \$182,190,233 were wagered.

## LEGISLATION

At the request of the Department of Revenue, the General Affairs Committee introduced two bills affecting charitable gaming. LB209 was a technical bill which would repeal obsolete language relating to annual licensing of charitable gaming activities. LB 1086, enacted in 2000, authorized biennial licensing for all charitable gaming activities. Implementation was staggered over several years, but is now complete. Since all charitable gaming licenses are now issued on a biennial basis, the annual licensing references in the bingo, pickle card, and lottery/raffle statutes should be repealed to minimize confusion. LB209 was placed on General File by the General Affairs Committee and will carry over to the 2006 Legislative Session. LB210 would amend the Nebraska County and City Lottery Act and establish the fiscal year of the county, city, or village as the time period to be evaluated to determine compliance with the minimum prize payout percentage, audit and legal expense limitation, and allowable expense limitation for keno. Currently, Nebraska law provides a July 1 to June 30 fiscal year as the time period that should be considered when determining whether there has been compliance with the minimum prize payout percentage and audit and legal expense limitations. There is no time period for determining allowable expense limitation compliance in statute. The bill was subsequently indefinitely postponed at the request of the Department of Revenue.

Senator Patrick Bourne introduced LB733, which would permit the Department of Revenue to authorize the use of electronic pickle card devices. The function of such devices would be identical to the traditional paper pickle card game, but the pickle card would be opened by moving a finger over an electronically displayed card. The device would not dispense cash, coins, or tokens and would not accumulate credits. LB733 was indefinitely postponed by the General Affairs Committee.

## Year in Review (Cont.)

### ADMINISTRATION AND ENFORCEMENT

The Division continues to receive numerous inquiries from nonprofit organizations and bar owners regarding the legality of Texas Hold'em Poker Tournaments. The Division's policy has been to refer all such inquiries to local prosecutorial authorities for a determination as to their legality. Generally speaking, the tournaments do not require the payment of an entry fee or admission fee by the player and, therefore, the activity lacks consideration, one of the requisite elements for an activity to be considered gambling.

The use of illegal gambling devices in Nebraska continues to impact other forms of legal gambling. Occasionally, Division inspectors encounter the use of possible illegal gambling devices while performing routine on-site inspections of charitable gaming licensees. Since the Division does not have any jurisdiction with respect to illegal gambling devices, all such instances are referred to the Nebraska State Patrol for appropriate enforcement follow-up. In addition, a letter regarding the suspected illegal device is sent to the applicable County Attorney.

**During the 2004-05 reporting period, 161 possible illegal gambling devices were detected in the following counties:**

|          |   |           |    |            |    |
|----------|---|-----------|----|------------|----|
| Adams    | 5 | Hall      | 4  | Nuckolls   | 15 |
| Chase    | 6 | Hamilton  | 4  | Phelps     | 7  |
| Cheyenne | 1 | Harlan    | 3  | Red Willow | 64 |
| Clay     | 4 | Hitchcock | 6  | Saline     | 5  |
| Custer   | 2 | Howard    | 19 | Saunders   | 1  |
| Furnas   | 5 | Kearney   | 3  |            |    |
| Greeley  | 5 | Merrick   | 2  |            |    |

The Charitable Gaming Division consists of four (4) functional areas: Licensing, Policy, Audit, and Inspections.

- ◆ **Licensing** is responsible for the licensing of individuals, businesses, nonprofit organizations, counties, cities, and villages to conduct charitable gaming activities in Nebraska. The number of licenses issued by type is reflected on page 13 of this report which includes a comparison to the prior reporting period. Bingo licensees decreased by 10 in 2004-05 and nonprofit organizations licensed to conduct a lottery by the sale of pickle cards decreased by 21. There was a small increase in the number of retail establishments (pickle card operators) which sell pickle cards on behalf of nonprofit organizations (13).
- ◆ **Policy** is responsible for the implementation of legislation enacted by the Nebraska Legislature relative to charitable gaming activities, identification of needed legislative changes in the charitable gaming areas which it regulates, recommendation and drafting of proposed legislation relative to charitable gaming, promulgation of administrative regulations and revenue rulings to clarify and supplement statutory provisions, development and publication of information guides and a periodic newsletter for gaming licensees, and for the rendering of day-to-day opinions and interpretations of charitable gaming laws.

## Year in Review (Cont.)

A public hearing on regulation revisions to bingo (electronic bingo card monitoring devices) and county/city lottery (keno) record keeping and reporting requirements, game conduct, and compliance review was held on May 18, 2005. The revised bingo regulations were formally adopted on September 5, 2005. The revised county/city lottery regulations were formally adopted on November 13, 2005.

- ◆ **Audit** is responsible for the financial compliance review of nonprofit organizations conducting bingo, pickle card, and lottery and raffle activities as well as counties, cities, and villages conducting a county/city lottery (keno). Activities include field audits of gaming operations, the review of annual reports submitted by bingo, pickle card, and lottery and raffle licensees, the review of quarterly tax returns submitted by licensees, and the review of keno audit reports submitted by independent certified public accountants on behalf of counties, cities, and villages.

### Activities for the reporting period were as follows:

- 566 Pickle card annual reports reviewed
- 178 Bingo annual reports reviewed
- 335 Lottery and raffle annual reports reviewed
  - 51 County/city lottery (keno) annual reports reviewed
- 161 Organizations which did not file timely annual reports identified and referred to Legal Services, Inspections and/or Investigative Services
  - 15 Annual report shortages or audited losses (field visits) identified and referred to Inspections and/or Investigative Services
  - 19 Other annual report violations identified and referred to Inspections and/or Investigative Services
  - 11 Other annual report violations identified and referred to Policy and/or Legal Services
- 2 Field audits of bingo operations
- 11 Field audits of pickle card operations
- 11 Field audits of keno operations (county/city lottery)
- 12 Organizations remitting additional tax of \$2,787.15 as a result of the annual report review

- ◆ **Inspections** is responsible for the performance of on-site inspections of charitable gaming licensees. In addition to the main office in Lincoln, the inspectors work out of regional offices located in Scottsbluff, Norfolk, Omaha, and Grand Island. In addition to performing routine inspections of bingo, pickle card, and lottery and raffle activities, the inspectors review county/city lottery (keno) operations verifying the license status of lottery workers, performing unannounced keno writer drawer audits, reviewing the sponsoring community's oversight, and various compliance issues relating to game conduct.

## Year in Review (Cont.)

### Activities for the reporting period were as follows:

- 94 Bingo game inspections
- 150 Organization pickle card inspections
- 36 Organization lottery and raffle inspections
- 850 Pickle card operator inspections
- 205 Keno compliance inspections
- 17 Formal presentations to gaming licensees or potential licensees
- 1,394 Mechanical Amusement Device (MAD) inspections
- 38 Annual report reviews and filing follow-ups
- 676 Administrative contacts and inquiries
- 2,035 Nebraska retailer tobacco inspections

**Investigative Services** is responsible for investigative and enforcement functions involving charitable gaming activities, as well as numerous other responsibilities within the Department. Investigative Services staff members are located at various locations throughout the state and have responsibility for general investigations and license applicant background investigations.

Investigative Services continues to work closely with the Charitable Gaming Division on gaming related matters in an effort to keep gaming activities as well enforced as possible, and yet flexible enough to accommodate the public. The investigations conducted by the service area are both civil and criminal in nature and, following completion, a large number of those investigations are forwarded to local prosecuting attorneys for potential criminal prosecution. Investigative Services continues to enjoy an excellent working relationship with various law enforcement agencies and prosecuting attorneys throughout the state.

### Activities for the reporting period were as follows:

- 2 Manufacturer background investigations
- 93 Investigations resulting from alleged violations and/or complaints (all gaming activities combined)

## ADMINISTRATIVE ACTIONS

During the reporting period, the Charitable Gaming Division initiated and/or resolved several administrative actions involving charitable gaming license applicants and licensees.

### Activities for the reporting period were as follows:

#### Administrative Orders Issued:

- License application denial 4

#### Administrative Actions Initiated and Pending:

- License application denial 2

## Year in Review (Cont.)

### Administrative Actions Initiated and Resolved Without an Order:

#### License Application Denial and License Suspension, Cancellation, and Revocation

|  |    |
|--|----|
| Rescinded*   | 15 |
| Resolved by operation of law**                     | 22 |
| Resolved by stipulation, suspension and/or fine*** | 1  |
| Dismissed  | 16 |

#### Administrative Fine

|  |   |
|--|---|
| Waiver of hearing and payment of fine*** | 2 |
|--|---|

- \* License application denials were rescinded for a number of reasons, including the applicant withdrew the application and the payment of delinquent taxes in instances when the license application denial was based upon nonpayment of taxes.
- \*\* Resolution by operation of law occurs when a license application denial becomes final because a license applicant does not respond to a Notice of Intent to Deny within the 30-day time period allowed to request an administrative hearing.
- \*\*\* Total amount collected \$956.00. Monies collected from the administrative fines levied are deposited by the State Treasurer into the permanent school fund.