

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB133)

Received: **04/22/99**

Received By: **isagerro**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Zimmerman**

This file may be shown to any legislator: **NO**

Drafter: **isagerro**

May Contact:

Alt. Drafters:

Subject: **Gambling - lottery**

Extra Copies:

Pre Topic:

LFB:.....Zimmerman -

Topic:

Require DOR to provide JFC with a retailer performance program plan

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	isagerro 04/26/99	gilfokm 04/26/99	martykr 04/28/99	_____	lrb_docadmin 04/28/99		
/1	isagerro 06/4/99	gilfokm 06/4/99	jfrantze 06/6/99	_____	lrb_docadmin 06/7/99		
/2	isagerro 06/14/99	gilfokm 06/14/99	jfrantze 06/14/99	_____	lrb_docadmin 06/14/99		

FE Sent For:

<END>

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/1	isagerro 06/4/99	gilfokm 06/4/99	jfrantze 06/6/99	_____	lrb_docadmin 06/7/99		

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12-6-14-99

RSN 6-14-99

<END>

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Received: **04/22/99**

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Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Art Zimmerman**

This file may be shown to any legislator: **NO**

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1-6-4-99
KMG *Jo l/b* *Jo/Km*
6/6
<END>

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1?	isagerro	Pl-4-26-99 img	dm/27	Hlt 4/ dm/27	Submit per ISR		

FE Sent For:

<END>

please submit

Champagne, Rick

From: Zimmerman, Art
Sent: Thursday, April 22, 1999 2:49 PM
To: Champagne, Rick
Subject: Drafting instructions - lottery

Rick,

RE: Issue paper # 840 - retailer performance program

The Committee adopted alternatives 1 and 3. Alternative 3 will require a non-stat for a 14-day passive review of the program plan.

You initials were on the original draft (LRB-0578/2), but maybe Ivy will do this now.

Let me know; give me a call

Art



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

April 22, 1999

Joint Committee on Finance

Paper #840

Retailer Performance Program (DOR -- Lottery Administration)

[LFB 1999-01 Budget Summary: Page 538, #3]

CURRENT LAW

Lottery retailers receive sales compensation of 5.5% of on-line ticket sales and 6.25% of instant ticket sales. This basic compensation is set in statute and paid from a sum sufficient appropriation with segregated lottery fund revenues.

-20,566
(8)(r)

GOVERNOR

Provide \$2,113,000 in 1999-00 and \$4,308,500 in 2000-01 for a retailer performance program funded from the lottery's sum sufficient retailer compensation appropriation. Authorize the Department of Revenue (DOR) to establish a program, under rules promulgated by DOR, for additional compensation to be paid to retailers who meet certain performance goals identified by DOR. Provide that compensation under the program could not exceed 1.0% of gross lottery sales revenue. The effective date of the provision would be January 1, 2000.

-20,566
(8)(r)

DISCUSSION POINTS

1. From the inception of the lottery in 1988 until 1995-96, basic retailer compensation was 5.0% of ticket sales. Under 1995 Act 27, compensation for all games types was increased to 5.5% in 1995-96. Effective January 1, 1998, retailer compensation for instant ticket sales was increased to 6.25% (with on-line compensation remaining at 5.5%). Wisconsin does not provide for additional compensation relating to sales performance or the sale of winning tickets.

2. Retailer compensation is estimated at \$25.4 million in 1998-99, based on projected sales of \$411.0 million. As of December, 1998, 3,731 retailers were licensed to sell one or more types of lottery games. Of this total, 3,069 retailers sell on-line lottery tickets. This represents a

decline in retailers over the last two years. In December, 1996, there were 4,167 retailers, 3,123 of whom sold on-line tickets.

3. The retailer performance program under the bill was requested by DOR in its 1999-01 budget request. According to lottery officials, additional tools are needed to motivate retailers to sell more lottery tickets. A performance-based incentive program is viewed by the Department as providing the basis for an improved partnership relationship with retailers and the motivational factor necessary to increase sales.

4. The Department also argues that the goal of the retailer performance program, which is to increase lottery sales, will help to maximize the amount of lottery proceeds available for property tax relief. If the performance program is approved, the Department projected, in its budget request, sales of \$426.8 million in 1999-00 and \$435.1 million in 2000-01. These sales totals would result in projected property tax relief credits totaling \$110.4 million in 1999-00 and \$111.8 million in 2000-01. The Department's sales and property tax projections were adopted by the Governor and these amounts are contained in the bill.

5. These sales projections represent increases of \$8.3 million in 1999-00 and 16.6 million in 2000-01, 2% and 4% increases, respectively, compared to the DOR's projected 1998-99 sales of \$418.5 million. (The increase is based on total sales, minus pull-tab lottery sales conducted by nonprofit organizations, which constitute about 1% of total sales.) The increased sales are entirely attributed to the retailer performance program and, if the program is not approved, the Department would project a continuation of lottery sales at current levels.

6. In October, 1998, the Department of Administration (DOA) and the Joint Committee on Finance reestimated lottery sales in 1998-99 at \$411.0 million, for the purpose of certifying the lottery property tax credit in 1998-99. Lottery sales peaked in 1994-95, at \$518.9 million and have declined each year since then, as shown in the following table:

<u>Fiscal Year</u>	<u>Instant Games</u>	<u>On-Line Games</u>	<u>Totals</u>
1994-95	\$320,356,100	\$198,558,900	\$518,915,000
1995-96	310,401,700	171,722,300	482,124,000
1996-97	273,413,600	157,677,500	431,091,100
1997-98	252,787,600	165,725,800	418,513,400
1998-99*	241,000,000	170,000,000	411,000,000

* Estimated.

7. The projected sales increases of 2% and 4% associated with the retailer performance program appear reasonable. While some states have experienced more dramatic increases following the implementation of a retailer incentive program, the conservative estimate made under the bill is appropriate given sales trends in recent years and the declining number of retailers noted above. If the retailer performance program is not approved by the Committee, it also appears reasonable to project that sales will remain at the current level of \$411.0 million.

8. Under the bill, the retailer performance program structure, policy and procedures

would not be statutorily defined; rather this program structure would be developed under administrative rules by the Department. In its budget request, DOR argued that this approach would provide the flexibility needed to adjust the program as business needs change.

9. The Department has developed materials that describe its intent for the program to some extent. These materials describe a program with two components:

a. A retail sales development component would utilize approximately 0.5% of ticket sales for distribution to retailers who meet pre-defined sales goals; and

b. A retailer winning ticket component would utilize approximately 0.5% of ticket sales for distribution to retailers selling winning tickets.

Under the DOR plan, if the awards under the retailer winning ticket component totaled less than 0.5% of the available funds in a given year, the remaining funds could be expended under the sales performance component.

10. The Department indicates that, under both components, administrative controls would be implemented to assure that expenditure totals would be controlled. Any retailer that successfully earns bonus compensation under either component would be limited to certain maximum amounts: (a) for the sales development component, up to the amount of sales increases generated by the retailer; and (b) for the winning ticket component, up to \$100,000. Award payments would be made quarterly in order to sustain retailer interest in the program throughout the year. According to lottery officials, the program concept is based on successful incentive programs in other states (most lottery states have some form of bonus compensation) and on discussions with Wisconsin retailers.

11. The sales development component would allocate bonus compensation based on earned "shares," with each share reflecting a \$500 increase in sales from the previous year. Shares would only be provided to retailers meeting a minimum percentage sales increase; for example, at least 3% more than the prior year. The total funding for the year would then be allocated to successful retailers in proportion to their shares.

12. Under the Department's approach, the total 0.5% funding (or more, if the winning ticket component does not fully expend its share) would be provided to those retailers achieving the minimum sales goal. If fewer retailers achieve the sales goals, each would receive a larger share of the funding (up to the maximum specified above), as compared to the situation where a greater number of retailers achieve their goals. That is, all the funds would be distributed, up to the maximum, regardless of the number of retailers achieving the sales goals. Thus, the program's success depends, to a great extent, on involving a large number of retailers in the program. In the event relatively few retailers participate and achieve sales goals, these retailers would be awarded relatively large bonus payments, up to the prescribed maximums. On the other hand, it is precisely this opportunity to achieve a share of the bonus compensation that may ensure significant retailer participation.

13. Under the proposed winning ticket component of the program, retailers would be provided with an award of 1% of the value of the winning tickets they sell, excluding winning tickets of \$599 or less. This would provide the seller of a winning \$8,000,000 Powerball ticket, for example, with bonus compensation of \$80,000 (as compared to \$0.055 under current law). Far more typically, however, prizes would fall in the \$600-\$2,000 range, providing bonuses of \$6 to \$20.

14. This proposed program structure continues to evolve. Lottery officials recently indicated that they now plan to exclude sales of on-line jackpot games (Powerball and Megabucks) in the prior year from the calculation to establish the percentage sales goal in the subsequent year. The reasoning for this is that sales for these games are unpredictable and fluctuate according to the jackpot; thus, basing a sales goal, in part, on these sales could hurt retailers if jackpots stayed low in the subsequent year. However, the sales in the subsequent year for jackpot games would count toward the sales performance totals for retailers. Lottery officials believe this is necessary to encourage retailers to sell these jackpot games. Questions could be raised about this procedure, which appears to benefit retailers on both the goal setting and the sales performance sides of the process. This practice could make it easier for retailers to achieve the sales goal each year.

15. The proposed performance program may have genuine potential to provide incentives for retailers and to enhance sales. It is also possible to raise some concerns about the impact of the program, particularly if fewer retailers participate. Further, some of the Department's plans for the program, at this point in time, are evolving as a result of further consideration and consultation with retailers. It could be argued that proposed administrative rules for the performance program should be drafted before funding is allocated. The proposed funding could be placed in unallotted reserve with a directive to DOA to not release the funds until the Committee, under a 14-day passive review process, reviews the Department's plan based on proposed administrative rules. This would provide the Committee with the opportunity to approve the program's structure in a more developed form and to meet, if necessary, to discuss the program's structure.

16. Apart from the performance program's structure, some additional issues can be raised, including the potential effects on the lottery property tax credit, possible modifications to basic retailer compensation and the importance of field support of retailers by the state lottery.

17. As noted above, the retailer incentive program is intended to enhance the funds available for the lottery property tax relief credit. The Department takes the position that, without the program, sales would not increase from current levels. The sales increases projected under the bill are 2% and 4% of 1998-99 sales, which the Department estimated at \$418.5 million (for total sales of \$426.8 million in 1999-00 and \$435.1 million in 2000-01). These 2% and 4% increases should be corrected to reflect updated 1998-99 sales estimates. Under the reestimated sales estimate of \$411.0 million in 1998-99, the 2% and 4% increases associated with the performance program would result in sales of \$419.1 million in 1999-00 and \$427.3 million in 2000-01.

18. The following table shows the effect on the amount available for the lottery tax

credit, with sales estimates corrected to 1998-99 sales of \$411.0 million, under current law and under the Governor's retailer performance provision.

Lottery Credit Amounts

	<u>1999-00</u>	<u>2000-01</u>
Maintain Current Law		
No retailer program or increase in sales	\$108,119,900	\$108,501,200
Governor -- Reestimated		
Retailer program and sales increase 2% and 4%	\$108,907,500	\$110,149,600
Change to current law	\$787,600	\$1,648,400

19. This table illustrates that an increase in the lottery tax credit amount would be realized if sales actually increase by the projected 2% and 4%. However, if relatively marginal increases in sales result from the performance program, credit amounts would not appreciatively increase, or would decline, because the cost of the program itself (\$2.1 million in 1999-00 and \$4.2 million in 2000-01, under the bill as reestimated) needs to be paid from lottery sales. While precise estimates are difficult, it may require sales increases of approximately 1.5% in 1999-00 and 3.0% in 2000-01 (from the \$411.0 million base) for the retailer performance program to pay for itself. However, if adequate sales increases can be realized and sustained as a result of the program, tax credits would be enhanced.

20. Some lottery retailer representatives have indicated that retailers support an increase in the basic compensation rate instead of a performance program, arguing that current compensation rates do not cover their actual costs of selling lottery tickets. However, lottery officials indicate that data regarding these costs have not been made available. In making the argument for a performance-based incentive bonus, lottery officials indicate that increases in the basic compensation rate have had little impact on increasing lottery sales. For example, in spite of increases to basic compensation made in 1995-96 and 1997-98, lottery sales have continued to decline each year since 1994-95. Based on current lottery sales trends, an increase in basic compensation is not likely to have a positive effect on sales and, in this event, would decrease the amount available for property tax credits. If sales remained constant at \$411.0 million annually and retailer compensation was increased to 7%, the lottery credit amounts would decline to \$105.9 million 1999-00 and \$104.1 million in 2000-01.

21. If implemented, the success of the retailer performance program in increasing sales will depend largely on the lottery's ability to engage retailers in actively participating in the program. DOR indicates that its marketing and retailer relations staff will play a central role in the retailer performance program and will assist in the development of business plans for key retailers throughout the state. Lottery officials indicate that the success of incentive programs in other states have depended on a strong field presence among retailers.

22. Under the 1997-99 biennial budget act, the lottery was provided with 18.0 additional positions for retailer field support and customer telemarketing services. In addition, 12 existing

positions were converted to customer services specialist positions. With the position increase and reclassification provisions, the lottery's marketing and retailer relations unit is now allocated a total of 49.0 positions. This staffing should provide the basis for strong retailer support. It should be noted, however, that a recent personnel management report indicates that 15.5 of these 49.0 positions (32%) are currently vacant. However, lottery officials now indicate that one person has been hired and will start in June, offers have been extended for three other positions and recruitment is in progress on other vacancies.

23. Given the importance of strong retailer field support for the performance program under the bill, and the lottery's current vacancy levels in the area of marketing and retailer support, the increased sales projected under the bill may be questioned, at least initially. Positive sales results from the program may be delayed until operational staff are hired, trained and experienced.

24. Under the bill, the funding for the performance program would be provided from the sum sufficient appropriation for retailer compensation. Under current law, this appropriation funds the basic compensation provided to retailers, based on statutory rates for the sale of tickets, and compensation established under rules provided to nonprofit organizations selling pull-tab tickets. These payments are authorized under a sum sufficient appropriation because the payments to retailers are contractually required and cannot be precisely determined when the appropriation amounts are established in the biennial budget. Under the bill, the performance program would be funded from this appropriation and would be authorized to expend up to 1% of gross lottery sales revenue.

25. Setting the program limit at 1% of whatever sales total is achieved in the year is an important incentive feature of the lottery's plan in that retailers would receive greater compensation as sales increase. Alternatively, a sum certain amount could be provided and the retailer program could be viewed as a programmatic function funded from the lottery's general program operations appropriation, rather than the sum sufficient appropriation. Under this alternative, expenditure authority in the lottery's general program operations appropriation would be set at 1% of the estimated base year sales. Thus, the program could be funded at \$2,035,000 in 1999-00 and \$4,070,000 in 2000-01, based on 1% of 1998-99 estimated sales of \$411.0 million. (Funding in 1999-00 is half the annual amount because the program would become effective on January 1, 2000.) The Legislature, then, could review the program every two years and appropriate funding during each biennial budget process.

26. Lottery officials argue that this would cap bonus compensation and thereby remove a major incentive for retailers to push sales as high as possible. Under the Department's plan, the actual amount available as bonus compensation would continue to increase as sales rise. Retailers, who would receive quarterly bonuses, would continue to experience this growth throughout the year and would be motivated to continue to promote sales.

27. The sum certain bonus approach would limit to some extent the incentive aspect of the program. However, if sales increase in each base year, the bonus amount could increase for the following biennium. It can also be argued that it should be possible to structure an effective

program based on an incentive package in excess of \$4 million annually. This approach would require the lottery, however, to revise some of its program plans.

ALTERNATIVES

1. Approve the Governor's recommendation for a retailer performance program, with compensation not to exceed 1% of gross lottery sales revenues, funded from the lottery's sum sufficient retailer compensation appropriation. Delete \$37,400 in 1999-00 and \$76,200 in 2000-01 to reflect reestimated amounts for a retailer performance program of \$2,075,600 in 1999-00 and \$4,232,300 in 2000-01. [Under this alternative, sales would be estimated at \$419.2 million in 1999-00 and \$427.4 million in 2000-01. Lottery credit amounts would be projected at \$108.9 million in 1999-00 and \$110.1 million in 2000-01.]

Alternative 1	SEG
1999-01 FUNDING (Change to Bill)	- \$113,600

2. Modify the Governor's recommendation by: (a) deleting \$78,000 in 1999-00 and \$238,500 in 2000-01 to provide that funding for the retailer performance program (\$2,035,000 in 1999-00 and \$4,070,000 in 2000-01) be based on 1% of estimated 1998-99 sales of \$411.0 million; and (b) providing the funding to the general program operations appropriation of the lottery, rather than the sum sufficient retailer compensation appropriation. [Under this alternative, sales would be estimated at \$419.2 million in 1999-00 and \$427.4 million in 2000-01. Lottery credit amounts would be projected at \$108.9 million in 1999-00 and \$110.3 million in 2000-01.]

Alternative 2	SEG
1999-01 FUNDING (Change to Bill)	- \$316,500

3. In addition to alternative 1 or 2, require the Department to provide the Committee with a performance program plan based on proposed administrative rules. Place the approved funding in unallotted reserve for release by DOA following approval of the proposed plan by the Committee under a 14-day passive review process.

4. Maintain current law. [Under this alternative, sales would be estimated at \$411.0 million annually. Lottery credit amounts would be projected at \$108.1 million in 1999-00 and \$108.5 million in 2000-01.]

Alternative 4	SEG
1999-01 FUNDING (Change to Bill)	- \$6,421,500

Prepared by: Art Zimmerman



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0178/P1

ISR:.....
Kmg

50557

LFB:..... Art Zimmerman - Require DOA to provide JFC with a retailer performance program plan

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 1421, line 4: after that line insert:

3 “(1) RELEASE OF CERTAIN LOTTERY RETAILER COMPENSATION APPROPRIATIONS. (a)

4 The department of revenue may not expend moneys appropriated to it under section
5 20.566 (8) (r) of the statutes for the purpose of providing additional compensation to
6 lottery retailers under the retailer performance program until the department of
7 revenue submits a retailer performance program plan based upon administrative
8 rules proposed under section 565.02 (4) (g) *of the statutes*, as created by this act, to the joint
9 committee on finance.

10 (b) If the cochairpersons of the committee do not notify the department of
11 revenue within 14 working days after the date of the department’s submittal that the

(A)

paragraph

under (a)

[Handwritten scribbles]

paragraph

1 committee has scheduled a meeting for the purpose of reviewing the retailer
2 performance program plan submitted under ~~law~~ (a), the secretary of administration
3 shall direct that the moneys be encumbered. If, within 14 working days after the date
4 of the department's submittal, the cochairpersons of the committee notify the
5 department that the committee has scheduled a meeting for the purpose of reviewing
6 the proposed plan, the moneys may be encumbered only upon approval of the plan
7 by the committee." •

8

(END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0178/PT
ISR:kmg:km

RMR

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5 section 20.566 (8) (r) of the statutes for the purpose of providing additional
6 compensation to lottery retailers under the retailer performance program until the
7 department of revenue submits a retailer performance program plan based upon
8 administrative rules proposed under section 565.02 (4) (g) of the statutes, as created
9 by this act, to the joint committee on finance.

10 (b) If the cochairpersons of the committee do not notify the department of
11 revenue within 14 working days after the date of the department's submittal under

1 paragraph (a) that the committee has scheduled a meeting for the purpose of
2 reviewing the retailer performance program plan submitted under paragraph (a),
3 the secretary of administration shall direct that the moneys be encumbered. If, ^{or expended}
4 within 14 working days after the date of the department's submittal, the
5 cochairpersons of the committee notify the department that the committee has
6 scheduled a meeting for the purpose of reviewing the proposed plan, the moneys may
7 be encumbered ^{or expended} only upon approval of the plan by the committee.”

8 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0178/1²

ISR:kmg:jf

RMR

LFB:.....Zimmerman - Require DOR to provide JFC with a retailer performance program plan

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(END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0178/2
ISR:kmg:ksh

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6 providing additional compensation to lottery retailers under the retailer
7 performance program until the department of revenue submits a retailer
8 performance program plan based upon administrative rules proposed under section
9 565.02 (4) (g) of the statutes, as created by this act, to the joint committee on finance.

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1 paragraph (a) that the committee has scheduled a meeting for the purpose of
2 reviewing the retailer performance program plan submitted under paragraph (a),
3 the secretary of administration shall direct that the moneys may be encumbered or
4 expended. If, within 14 working days after the date of the department's submittal,
5 the cochairpersons of the committee notify the department that the committee has
6 scheduled a meeting for the purpose of reviewing the proposed plan, the moneys may
7 be encumbered or expended only upon approval of the plan by the committee.”

8

(END)