

COLORADO OFFICE OF THE STATE AUDITOR



DEPARTMENT OF REVENUE

COLORADO LOTTERY



AUGUST 2018

PERFORMANCE AUDIT

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August 30, 2018

DIANNE E. RAY, CPA
—
STATE AUDITOR

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the Colorado Lottery. The audit was conducted pursuant to Section 24-35-218(1)(b), C.R.S., which requires the State Auditor to conduct an analysis and evaluation of the performance of the Lottery at least once every 5 years, and Section 2-7-204(5), C.R.S., which requires the State Auditor to annually conduct performance audits of one or more specific programs or services in at least two departments for purposes of the SMART Government Act. The report presents our findings, conclusions, and recommendations, and the responses of the Colorado Lottery.

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REPORT HIGHLIGHTS



COLORADO LOTTERY
PERFORMANCE AUDIT, AUGUST 2018

COLORADO LOTTERY
DEPARTMENT OF REVENUE

CONCERN

The Colorado Lottery (Lottery) has not instituted sufficient processes to ensure that it identifies and investigates unusual winning patterns and prevents restricted players from claiming prizes. In addition, the Lottery does not have the statutory authority to intercept winning claims to pay off debts, other than victim's restitution, that is owed to the Judicial Branch.

KEY FINDINGS

- There have been some individuals, including one licensed lottery retailer, who have won high-dollar prizes an unusually high number of times given the odds of winning the games, and the Lottery had not looked into these wins to ensure that they were legitimate and not related to illegal or questionable activity. For example:
 - ▶ One individual won \$600 or more from the Pick 3 game 47 times over a 3-year period.
 - ▶ One individual won \$600 or more from the Pick 3 game 20 times over a 9-month period.
 - ▶ One individual won \$600 or more from the Pick 3 game 24 times over a 3-year period, and purchased all of those tickets from the store they owned.
 - ▶ One individual won the top prize for the Cash 5 game 12 times in the same drawing.
- The Lottery's restricted player database is not an effective tool for ensuring that players prohibited from playing the lottery, such as Lottery and contractor employees, do not claim prizes. Specifically:
 - ▶ 6 of the Lottery's 120 employees and two of the Lottery's five Commissioners were not included in the database.
 - ▶ 2 vendors that provide scratch tickets did not have any employees included in the database.
 - ▶ On average, it took the Lottery 135 days from the date of hire to enter employees into the database.
- Although the Lottery effectively intercepted winning claims for victim's restitution, it does not currently have the authority to intercept other fines, fees, and costs owed to the courts. If it had this authority, between January 2015 and December 2017, the Lottery could have intercepted an additional \$123,000 from prizewinners to help pay off their court debts.

BACKGROUND

- The Lottery was created as a division within the Department of Revenue following an amendment to the Colorado Constitution in 1980.
- The Lottery is governed by a five member Commission and is headquartered in Pueblo, with claims offices in Denver, Fort Collins, and Grand Junction.
- The Lottery's purpose is to sell tickets to generate proceeds for its beneficiaries, which include Great Outdoors Colorado, the Conservation Trust Fund, the Division of Parks and Wildlife, and the Public School Capital Construction Assistance Fund.
- The Lottery offers scratch games, which account for 68 percent of Lottery sales, as well as three multi-state and three in-state jackpot games, which account for 32 percent of sales.
- In Fiscal Year 2017, the Lottery generated \$555.3 million in ticket sales, which after prizes and other costs resulted in \$133.5 million for its beneficiary agencies.

KEY RECOMMENDATIONS

- The Lottery should develop and implement policies for routinely analyzing winning claims data for unusual winning patterns and setting thresholds that trigger investigations into questionable winners.
- The Lottery should improve the effectiveness of its restricted player database by developing policies for obtaining information from Lottery employees, Commissioners, contractors, and their immediate family members; entering the information into the database timely; and revising Lottery contracts and rules as necessary.
- The Judicial Branch should work with the General Assembly to determine if Lottery intercepts should include not only victim's restitution, but also other court assessed fines, fees, and costs, and seek statutory change as needed.



CHAPTER 1

OVERVIEW OF LOTTERY

The Colorado Lottery (Lottery) is a state agency that was created after voters passed a 1980 referendum to revise the Colorado Constitution and allow for the establishment of state-supervised lottery games. Senate Bill 82-119 created the Lottery as a division within the Department of Revenue (Department) and established the Lottery Commission (Commission). The Commission works with Lottery management to protect the public interest and trust in the Lottery and to maximize the sales revenue generated from lottery games. The Lottery is a cash-funded enterprise for budget and Taxpayer's Bill of Rights (TABOR) purposes, meaning that it is self-sustaining and does not receive state general funds.

LOTTERY GAMES

In Fiscal Year 2017, the Lottery generated \$555.3 million in lottery ticket sales. It was the third highest sales year in the Lottery's history. The Lottery's revenue is generated primarily by selling tickets for a variety of lottery games of chance, each of which offers players the possibility of winning monetary prizes. Depending on the game, ticket prices range from \$0.50 to \$50 per play, and potential prizes range from \$1 to millions of dollars. The Lottery offers two categories of games:

- **SCRATCH TICKET GAMES.** Currently, the Lottery offers about 40-50 new scratch ticket games for sale each year that account for about 68 percent (\$380.2 million in Fiscal Year 2017) of the Lottery's annual sales. Paper scratch tickets are sold at retailer store counters, Lottery offices, and in vending machines. Scratch games are introduced and retired continuously to ensure prize availability and maintain player interest.
- **JACKPOT GAMES.** Currently, the Lottery offers six jackpot games that account for about 32 percent (\$175.1 million in Fiscal Year 2017) of the Lottery's annual sales. Three of the jackpot games that the Lottery offers are multistate games administered by a national lottery association, the Multi-State Lottery Association, of which Colorado is a member state. Those games include:
 - ▶ **POWERBALL**, which is offered in 42 states, the District of Columbia, and the U.S. Virgin Islands. Powerball was introduced in Colorado in 2001 and offers a rolling jackpot with a minimum \$40 million prize that increases with each drawing until someone wins the jackpot. In Fiscal Year 2017, Powerball generated \$73 million in sales in Colorado.
 - ▶ **MEGA MILLIONS**, which is offered in 44 states, the District of Columbia, and the U.S. Virgin Islands. Mega Millions was introduced in Colorado in 2010 and offers a rolling jackpot with a minimum \$40 million prize that increases with each drawing

until someone wins the jackpot. In Fiscal Year 2017, Mega Millions generated \$26 million in sales in Colorado.

- ▶ **LUCKY FOR LIFE**, which is offered in 20 states. Lucky for Life is a new jackpot game introduced in 2016 and offers a top prize of \$1,000 a day for life. In Fiscal Year 2017, Lucky for Life generated \$16 million in sales in Colorado.

In addition to the three multistate jackpot games administered by the Multi-State Lottery Association that Colorado participates in, the Lottery administers three of its own jackpot games:

- ▶ **LOTTO**, which is Colorado's original jackpot game and offers a rolling jackpot with a minimum \$1 million prize. In Fiscal Year 2017, Lotto generated \$31 million in sales.
- ▶ **CASH 5**, which is a fixed-jackpot game that offers a \$20,000 jackpot prize for each drawing. In May 2017, a new add-on game known as Cash 5 EZ Match was introduced giving players the opportunity to pay an extra \$1 per Cash 5 ticket for a chance to win a randomly assigned instant prize. In Fiscal Year 2017, Cash 5 and Cash 5 EZ Match generated \$19 million in sales.
- ▶ **PICK 3**, which is a matrix game that offers a top prize of \$2,500. In Fiscal Year 2017, Pick 3 generated \$11 million in sales.

LOTTERY BENEFICIARIES

The Lottery's primary goal is to maximize proceeds from lottery game sales in order to support its beneficiary agencies. The Lottery's net proceeds (i.e., total revenue minus operating expenses and prize payouts) are distributed to beneficiary agencies under a distribution formula established in the Colorado Constitution. Since it began selling tickets in 1983, the Lottery has distributed about \$3 billion to its beneficiaries. In Fiscal Year 2017, the Lottery generated \$133.5 million for its beneficiaries, which include:

- **THE GREAT OUTDOORS COLORADO TRUST FUND (GOCO)**, which receives 50 percent of the Lottery's proceeds, up to a cap of \$35 million annually adjusted for inflation from the 1992 Consumer Price Index of Denver. In Fiscal Year 2017, the Lottery distributed \$64.5 million in proceeds to GOCO, the maximum amount allowable under the cap that fiscal year.
- **THE CONSERVATION TRUST FUND (Trust Fund)**, which receives 40 percent of the Lottery's proceeds. Administered within the Department of Local Affairs, Trust Fund dollars are distributed to eligible local governments, including counties, cities, towns, and Title 32 special districts (i.e., districts that are created to provide services residents may desire as a result of not residing within a municipality, such as park and recreation services). These funds support projects such as the creation of parks, facility enhancement and development, playground upgrades, and trail maintenance. In Fiscal Year 2017, the Lottery distributed \$53.4 million in proceeds to the Trust Fund.
- **THE DIVISION OF PARKS AND WILDLIFE**, which receives 10 percent of the Lottery's proceeds. Administered within the Department of Natural Resources, the Division of Parks and Wildlife uses lottery proceeds for a variety of projects throughout the 42 state parks, including maintenance and enhancement of park facilities, trail construction, visitor education, and wildlife habitat protection. In Fiscal Year 2017, the Lottery distributed \$13.3 million in proceeds to the Division of Parks and Wildlife.
- **THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND (Capital Construction Fund)**, for the Building Excellent Schools Today (BEST) Program, which receives any proceeds generated by lottery sales in excess of the GOCO cap. The BEST Program is administered by the Department of Education and was established to assist in school construction and renovation projects. In Fiscal Year 2017, the Lottery distributed nearly \$2.3 million in proceeds to the Capital Construction Fund.

LOTTERY ORGANIZATION

The Lottery is headquartered in Pueblo, as required by statute. Lottery also has satellite offices in Denver, Fort Collins, and Grand Junction. In Fiscal Year 2018, the Lottery employed 116 full-time equivalent (FTE) staff, organized into the following units:

- Administration (5 FTE)
- Sales and Marketing (51 FTE)
- Security (10 FTE)
- Fiscal (10 FTE)
- Operations (22 FTE)
- Information Technology (18 FTE)

Lottery is overseen by the Commission, which is composed of five members appointed by the Governor, with the consent and approval of the Senate. All members must be residents of Colorado, not have any felony convictions for a gambling-related offense, and no more than three members can be of the same political party. Additionally, at least one member of the Commission must have been a law enforcement officer for at least 5 years; at least one member must have been a Colorado practicing attorney for at least 5 years; and at least one member must be a certified public accountant who practiced accountancy in Colorado for at least 5 years. Statute [Section 24-35-208, C.R.S.] authorizes the Commission to provide oversight and governance of the Lottery, including:

- Promulgating rules regarding the operation of the Lottery.
- Reporting the need for statutory changes in order to prevent abuses with the administration or operation of the Lottery.
- Conducting hearings on complaints received regarding violations of Lottery rules.
- Investigating and participating in multistate Lottery games.

FISCAL OVERVIEW

The Lottery generated approximately \$2.8 billion in revenue from Fiscal Years 2013 through 2017. Lottery’s expenses can be separated into “game” and “non-game” costs.

- **GAME COSTS** include prize payouts to winners, ticket costs, vendor fees, and retailer commissions and bonuses.
- **NON-GAME COSTS** include marketing and communications costs; wages and benefits; and other operating expenses, such as travel and motor pool leasing.

Prizes account for the largest portion of Lottery costs, as statute requires that at least 50 percent of total revenue from ticket sales be returned to winners as prizes [Section 24-35-210(9), C.R.S.].

EXHIBIT 1.1 shows Lottery’s revenue, expenses, and net proceeds paid out to beneficiaries from Fiscal Years 2013 through 2017.

EXHIBIT 1.1. COLORADO LOTTERY REVENUE AND EXPENSES FISCAL YEARS 2013 THROUGH 2017 IN MILLIONS OF DOLLARS AND FULL-TIME EQUIVALENT EMPLOYEES					
	2013	2014	2015	2016	2017
TOTAL REVENUE¹	\$566.7	\$546.0	\$538.7	\$596.1	\$555.8
Expenses					
Game Expenses	\$ 403.7	\$ 387.5	\$ 382.1	\$ 426.5	\$ 394.5
Non-Game Expenses	\$ 28.6	\$ 29.1	\$ 28.9	\$ 25.9	\$ 28.2
TOTAL EXPENSES	\$ 432.3	\$ 416.6	\$ 411.0	\$ 452.4	\$ 422.7
Net Proceeds to Beneficiaries ²	\$135.6	\$130.1	\$128.0	\$143.6	\$133.5
FTE	120.5	120.0	120.0	112.5	114.5

SOURCE: Lottery’s annual financial audits for Fiscal Years 2013–2017.

¹ Total revenue includes revenue from the sale of lottery products; liquidated damages charged to contractors; and interest made on investments. The chart above does not display breakouts of these categories, as liquidated damages and interest, combined, typically make up less than 1 percent of total revenue in any given year.

² Statute [24-35-210(4.1)(a), C.R.S.] requires the Lottery to hold funds for operating reserves each year. Therefore, Total Revenue less Total Expenses does not translate into the amount of Net Proceeds.

AUDIT PURPOSE, SCOPE, AND METHODOLOGY

We conducted this performance audit pursuant to Section 24-35-218(1)(b), C.R.S., which requires the State Auditor to conduct an analysis and evaluation of the performance of the Lottery at least once every 5 years, and Section 2-7-204(5), C.R.S., the State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act. Audit work was performed from October 2017 through August 2018. We appreciate the cooperation and assistance provided by the management and staff of the Lottery, the Judicial Branch, and the Departments of Revenue, Human Services, and Personnel & Administration during this audit.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The key objectives of the audit were to evaluate: (1) the effectiveness of the Lottery in ensuring the integrity of its games and operations by reviewing controls over winning claims and payouts made to individuals claiming prizes and (2) the effectiveness of the Lottery's contract management practices.

In developing these objectives, the audit considered each of the factors specifically outlined in Section 24-35-218, C.R.S. For a complete list of the factors see the APPENDIX.

To accomplish our audit objectives, we performed the following audit work:

- Reviewed applicable statutes, rules, contracts, policies, and lottery practices in other states.
- Interviewed staff at the Lottery; the Departments of Revenue, Human Services, and Personnel & Administration; and the Judicial Branch.
- Compared records in the Lottery's restricted player database to (1) Commission members, and Lottery employee and contractor rosters for Calendar Year 2017; and (2) winning claims data for Calendar Years 2015 through 2017.
- Compared Lottery winning claims data, Department of Revenue data for intercepted winnings, and Judicial Branch, Department of Human Services, and Department of Personnel & Administration records of intercepts occurring during Calendar Years 2015 through 2017.
- Analyzed winner data, as provided on the Lottery website, for January 2015 through March 2018.
- Completed a probability analysis of the odds of winning under various ticket-purchasing scenarios for the Pick 3 lottery game.
- Compared a sample of contractor payment records and liquidated damages reports to Lottery payment records, and Colorado Operations Resource Engine (CORE) and InfoAdvantage records.
- Reviewed Lottery's contract monitoring procedures and files for the marketing and gaming system contracts.
- Examined the system downtime and liquidated damages reports for the gaming system and compared them with the contract provisions that allow the Lottery to assess liquidated damages for failing to meet contract requirements.

We relied on sampling techniques to support our audit work as follows:

- We selected 1 month of product and service invoices for the marketing contract to determine if the contractor provided detailed documentation to explain the overall monthly invoice charge. We selected the first full month of documentation available after the contract effective date.

- We selected monthly invoices and liquidated damages reports for the marketing and gaming systems contracts for all 7 months that were available during our testing phase for Fiscal Year 2018 to determine if payments made to the contractor were accurately reflected in CORE/InfoAdvantage.

The results of our nonstatistical samples cannot be projected to the population. However, the sample results are valid for confirming that Lottery monitors contract payments to assess the adequacy of contractors' supporting documentation and the accuracy of charges; and to account for liquidated damages. These samples, along with the other audit work performed, provide sufficient, reliable evidence as the basis for our conclusions related to contract monitoring.

We planned our audit work to assess the effectiveness of those internal controls that were significant to our audit objectives. Our conclusions on the effectiveness of those controls, as well as specific details about the audit work supporting our findings, conclusions, and recommendations, are described in the remainder of this report.

A draft of this report was reviewed by the Lottery and the Judicial Branch. We have incorporated the Lottery's and Judicial Branch's comments into the report where relevant. The written responses to the recommendations and the related implementation dates are the sole responsibility of the Lottery and the Judicial Branch.



CHAPTER 2

PROCESSING WINNING CLAIMS

The Colorado Lottery's (Lottery's) mission is to "create and sell Lottery games of chance that are held to the highest standards of integrity, entertainment and efficiency in order to maximize proceeds for the people of Colorado." It is the responsibility of the Lottery Commission members and Lottery employees, who hold positions of public trust, to maintain the public's confidence in the integrity of the Lottery [Section 24-35-209, C.R.S.]. Earning and maintaining that trust will result in more people playing lottery games and generating proceeds for beneficiary agencies.

Lottery works to maintain the public's trust in the integrity of the Lottery, at least in part, through its controls over paying winning claims. When a Lottery player wins a prize between \$1 and \$599, they can claim their winnings from a Lottery retailer or at one of the Lottery's four claims desks, or by mailing their ticket to the Lottery's Pueblo office. Players do not need to provide any personal information, outside of providing a return address if they mail-in a ticket. The Lottery requires that anyone who makes a claim for a prize of \$600 or more either submit their winning ticket in person at one of the four Lottery claims desks (Pueblo, Denver, Fort Collins, or Grand Junction) or mail their ticket to the Lottery's claims desk in Pueblo. In accordance with requirements from the Internal Revenue Service, winners claiming prizes of \$600 or more must also submit a claim form that provides personally identifying information including name, address, and social security number. Lottery uses this information for a variety of reasons, including:

- Ensuring the claimant is not a Lottery Commission member, employee, contractor, or family member of the aforementioned, as they are prohibited from claiming prizes.
- Checking to determine if the claimant owes child support, victim's restitution, or state debt.
- Ensuring that all information for reporting winnings for tax purposes is provided to the winner or taxes are taken from the winnings prior to payment.
- Providing data to the general public about who is winning and where winning tickets are sold for marketing purposes.

Our audit work did not identify any findings or recommendations related to the Lottery's contract management practices. However, we did identify findings related to the Lottery's review of prize winners to identify any unusual winning patterns, the restricted player database, and intercepts of prize winnings for debts owed.

QUESTIONABLE WINS

The Lottery provides a variety of games that are all based on a random chance of winning. Individuals buying lottery products believe that everyone who plays has an equal chance of winning the prizes based on the odds. The odds of winning the scratch game products vary based upon the game design, but the odds of winning prizes in the jackpot games remain constant for each game from one drawing to the next. In total, players won more than \$180.7 million from Lottery games during Calendar Year 2017, as shown in EXHIBIT 2.1.

EXHIBIT 2.1. TOTAL PRIZES WON FOR LOTTERY GAMES CALENDAR YEAR 2017	
GAME	PRIZES WON
Jackpot games	
Powerball	\$ 138,404,000
Lotto	11,278,650
Cash 5	1,700,000
Lucky for Life	1,055,000
Pick 3	543,170
Mega Millions	531,500
Scratch ticket games	27,199,900
TOTAL	\$ 180,712,220

SOURCE: Office of the State Auditor created from information on the Lottery's website.

WHAT AUDIT WORK WAS PERFORMED, WHAT WAS THE PURPOSE, AND HOW WERE THE RESULTS MEASURED?

We reviewed Lottery winning claims data for January 2015 through February 2018 for all of the jackpot and scratch ticket games offered by the Lottery during this time period. In total, there were 6,704 winning claims of \$600 or more for Lottery games. Our analysis was limited to those individuals who won \$600 or more because the Lottery only collects personally identifying information on individuals who win prizes at that level, as mandated by the Internal Revenue Service. We reviewed these 6,704 winning claims to identify any trends in the number of times people

won, the games they won on, or the retailers where the winning tickets were purchased. In addition, we compared the list of individuals with winning claims with the Lottery’s retailer database to see how frequently retailers won prizes of \$600 or more.

The purpose of our audit work was to determine if there have been individuals, including licensed lottery retailers, who have won high-dollar prizes from lottery games with a greater frequency than the odds of winning each game would suggest is likely, and whether the Lottery had looked into these individuals to ensure the legitimacy of the wins.

Statute gives the Lottery Director the authority “[t]o take such action as may be necessary to protect the security and integrity of the lottery games,” [Section 24-35-204(3)(m), C.R.S.] and “[t]o make a continuous study and investigation of the operation and administration of similar laws which may be in effect in other states” [Section 24-35-204(3)(j), C.R.S.].

EXHIBIT 2.2 shows the odds of winning the top prize for each of the six random jackpot games offered by the Lottery as of April 2018.

EXHIBIT 2.2. ODDS OF WINNING THE TOP PRIZE FOR LOTTERY’S SIX JACKPOT GAMES		
GAME	ODDS	TOP PRIZE
Mega Millions	1 : 302,575,350	\$ 40,000,000 ¹
Powerball	1 : 292,201,338	40,000,000 ¹
Lucky for Life	1 : 30,821,472	1,000/day for life
Lotto	1 : 5,245,786	1,000,000 ¹
Cash 5	1 : 201,376	20,000
Pick 3	1 : 1,000	\$ 2,500

SOURCE: Office of the State Auditor created from information on the Lottery’s website.
¹ Mega Millions, Powerball, and Lotto top prizes vary depending on the number of tickets sold. \$40 million is the starting jackpot for Mega Millions and Powerball and \$1 million is the starting jackpot for Lotto.

WHAT PROBLEM DID THE AUDIT WORK IDENTIFY?

Overall, we found that there have been some individuals, including one licensed lottery retailer, who have won high-dollar prizes from specific lottery games an unusually high number of times given the odds of winning the games, and the Lottery had not looked into these wins to ensure their legitimacy.

Specifically, we identified 10 individuals who each won 15 or more times from the Pick 3 game during our review period. In total, these 10 individuals won 230 of the 1,276 high-dollar prizes (18 percent) and claimed almost \$326,000 of the \$1.6 million (20 percent) paid out in prizes from the Pick 3 game during this period. Since the Lottery does not gather information on individuals claiming prizes under \$600, it is unknown how many of the lower-dollar prizes these individuals may have also won. EXHIBIT 2.3 shows the 10 individuals and the number of times they won \$600 or more from a single drawing for Pick 3.

EXHIBIT 2.3. INDIVIDUALS WINNING 10 OR MORE TIMES JANUARY 2015 THROUGH FEBRUARY 2018		
WINNER #	NUMBER OF PICK 3 HIGH-DOLLAR WINS ¹	TOTAL AMOUNT WON
1	47	\$ 35,370
2	26	46,210
3	23	27,530
4	24	39,750
5	21	21,000
6	20	20,000
7	19	19,480
8	18	36,670
9	17	57,310
10	15	22,500
TOTAL	230	\$ 325,820

SOURCE: Office of the State Auditor created from Lottery data.
¹ A high-dollar win is defined as \$600 or more from a single drawing.

To put some perspective on the likelihood of someone winning high-dollar prizes in the Pick 3 game this often, for two of the winners, we calculated the probability of some of their wins based on the specific

dollar amounts won and the estimated amount they would have had to spend on tickets compared to the amount won. For purposes of our analysis, we determined that Pick 3 has two drawings every day of the year except for Christmas Day.

- **WINNER #1** won \$660 from the Pick 3 game 42 times on 38 separate drawings over the 37 month review period from January 2015 through January 2018 for a total of \$27,720. Based on the rules of the game, to win the \$660 prize, this individual would have had to pay \$2 per ticket. For purposes of our analysis, we assumed that Winner #1 purchased tickets for each of the 2,246 Pick 3 drawings that occurred during our review period. EXHIBIT 2.4 shows the probability of Winner #1 winning on at least 38 separate drawings applying different assumptions on the number of tickets purchased per drawing and compares the total amount actually won with the cost of tickets under the four different scenarios.

EXHIBIT 2.4. PICK 3 WINNER #1 PROBABILITY OF WINNING AND AMOUNT SPENT ON TICKETS				
	SCENARIO A	SCENARIO B	SCENARIO C	SCENARIO D
Total Number of Winning Tickets	42	42	42	42
Total Number of Winning Drawings	38	38	38	38
Amount Won Per Winning Ticket	\$660	\$660	\$660	\$660
Total Number of Drawings	2,246	2,246	2,246	2,246
Total Number of Tickets Purchased Per Drawing	1	6	7	10
Total Number of Tickets Purchased	2,246	13,476	15,722	22,460
Probability of Winning on at least 38 Drawings	3.7 x 10 ⁻³¹ %	3.0 x 10 ⁻⁶ %	0.00012%	0.16%
Odds of Winning on at least 38 Drawings	1 : 2.7 x 10 ³²	1 : 33,416,062	1 : 807,726	1 : 612
Total Actual Gross Winnings	\$27,720	\$27,720	\$27,720	\$27,720
Total Amount Paid for Tickets	\$4,492	\$26,952	\$31,444	\$44,920
Total Net Winnings	\$23,228	\$768	-\$3,724	-\$17,200

SOURCE: Office of the State Auditor analysis of Lottery data.

As the exhibit shows, Winner #1 would have had to purchase no more than six tickets per drawing, or a total of 13,476 tickets, for their expected winnings to exceed their costs. However, the odds of winning on at least 38 drawings when purchasing no more than six tickets per drawing is 1 in about 33 million, which is about the same odds as winning the Lucky for Life jackpot.

For Winner #1 to have had a 0.16 percent chance of winning on at least 38 drawings, they would have had to purchase 22,460 tickets at a total cost of \$44,920. This individual's other five Pick 3 wins were for different amounts; they won \$1,450 three separate times and \$1,650 two separate times. If these wins are included, the odds of winning 47 times in this time period would be even lower.

Winner #1 purchased 46 of their 47 total winning tickets (98 percent) from one retailer location. Based on Lottery data, this individual was the only person to win \$600 or more from a single Pick 3 drawing at this store during the review period.

- **WINNER #6** won \$1,000 from the Pick 3 game 20 times on 18 separate drawings over a 9-month period, for a total of \$20,000. Based on the rules of the game, to win the \$1,000 prize this individual would have had to pay \$2 per ticket. For purposes of our analysis, we assumed that Winner #6 purchased tickets for each of the drawings during that 9-month period, for a total of 474 drawings. EXHIBIT 2.5 shows the probability of Winner #6 winning on at least 18 separate drawings applying different assumptions on the number of tickets purchased per drawing compared to the total amount actually won with the cost of tickets under the four different scenarios.

EXHIBIT 2.5. PICK 3 WINNER #6 PROBABILITY OF WINNING AND AMOUNT SPENT ON TICKETS				
	SCENARIO A	SCENARIO B	SCENARIO C	SCENARIO D
Total Number of Winning Tickets	20	20	20	20
Total Number of Winning Drawings	18	18	18	18
Amount Won Per Winning Ticket	\$1,000	\$1,000	\$1,000	\$1,000
Total Number of Drawings	474	474	474	474
Total Number of Tickets Purchased Per Drawing	1	10	21	22
Total Number of Tickets Purchased	474	4,740	9,954	10,428
Probability of Winning on at least 18 Drawings	$1.1 \times 10^{-20}\%$	0.0002%	1.28%	1.94%
Odds of Winning on at least 18 Drawings	1 : 9.4×10^{21}	1 : 4.5×10^5	1 : 78	1 : 52
Total Actual Gross Winnings	\$20,000	\$20,000	\$20,000	\$20,000
Total Amount Paid for Tickets	\$948	\$9,480	\$19,908	\$20,856
Total Net Winnings	\$19,052	\$10,520	\$92	-\$856

SOURCE: Office of the State Auditor analysis of Lottery data.

As the exhibit shows, Winner #6 would have had to purchase no more than 21 tickets per drawing for the 474 drawings for their expected winnings to exceed their costs. The probability of winning on 18 separate drawings when purchasing 21 tickets per drawing is 1.28 percent, or 1 in 78.

Winner #6 purchased all of the winning tickets from two retailer locations. Based on Lottery data, this individual was the only person to win \$600 or more from a single Pick 3 drawing at these two stores during the review period.

We also found one individual (Winner #4) who won Pick 3 for various amounts 24 times on 16 separate drawings during our review period. This individual is the principal owner of the store where all of the tickets were purchased and is a licensed lottery retailer. Based on Lottery data, this individual was the only person to win \$600 or more from a single Pick 3 drawing at this store during the review period. EXHIBIT 2.6 shows the dates

and amounts won for each of the drawings on which the individual won.

EXHIBIT 2.6. PICK 3 WINNER #4 WINNING DRAWS AND AMOUNTS WON	
DATE OF DRAWING	AMOUNT WON
01/08/2015	\$ 800
01/26/2015	2,500
03/04/2015	1,650
03/12/2015	1,650
03/20/2015	1,450
04/25/2015	1,450
07/20/2015	2,500
11/29/2015	1,450
11/29/2015	1,450
01/08/2016	2,500
01/08/2016	2,500
04/15/2016	1,650
11/13/2016	1,450
11/13/2016	1,450
04/18/2017	1,450
04/18/2017	1,450
04/27/2017	1,650
04/27/2017	1,650
08/22/2017	1,450
08/22/2017	1,450
09/13/2017	1,450
09/13/2017	1,450
10/28/2017	1,650
10/28/2017	1,650
TOTAL AMOUNT WON	\$ 39,750

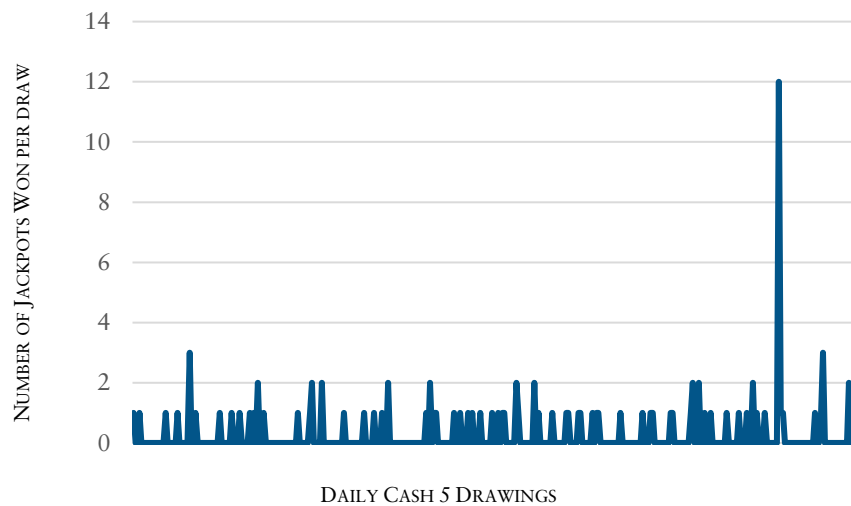
SOURCE: Office of the State Auditor analysis of Lottery data.

Finally, we identified one individual who won the jackpot for the Cash 5 game 12 separate times for a single drawing. That is, this individual purchased 12 tickets with the same winning numbers from six different retailers, all for the same drawing, and won \$16,666 for each of the 12 tickets, for a total of \$200,000. The Cash 5 jackpot is typically \$20,000 for each drawing. If someone purchases one ticket with the winning numbers, they would win \$20,000. However, the total jackpot amount that can be paid out for any one drawing is capped at \$200,000. If there are more than 10 jackpot winners for a single drawing, Lottery will split the \$200,000 among the winners, and they will receive a reduced prize amount. Since this individual purchased 12 winning tickets, the

\$200,000 was split up evenly among the 12 tickets, which resulted in a prize of \$16,666 per winning ticket.

EXHIBIT 2.7 shows the number of jackpots won for the 364 Cash 5 drawings that occurred between April 1, 2017, and March 31, 2018. As shown, with the exception of the drawing won by this individual, the most number of winning Cash 5 jackpot tickets from a single drawing was three.

EXHIBIT 2.7.
NUMBER OF JACKPOTS WON FOR EACH CASH 5 DRAW
APRIL 1, 2017, THROUGH MARCH 31, 2018



SOURCE: Office of the State Auditor created from data on the Lottery's website.

Although all of the individuals we identified through our analysis may have just been lucky and/or they purchased a lot of tickets, the unusually high number of wins for each of them, and the fact that one of them is a lottery retailer, raises a question as to the legitimacy of the wins. The Lottery had not looked into any of these individuals to verify the legitimacy of their wins.

WHY DID THIS PROBLEM OCCUR?

The Lottery does not routinely review prize winner data to identify

unusual trends in winners. There is no Lottery policy requiring staff to proactively examine prize winner data to identify unusual patterns among winners, the amounts won, or the retailers where winning tickets were purchased. According to Lottery policies, staff would only investigate specific lottery players and review appropriate databases if there was reasonable suspicion that a criminal offense had occurred. The Lottery reported that the unusual winning patterns we identified do not rise to a level of reasonable suspicion that a criminal offense has occurred and are, therefore, not investigated. The Lottery reports that its investigative practices are generally limited to determining the authenticity of tickets, investigating instances where tickets reported as stolen are redeemed, and the practices of retailers in redeeming tickets to ensure that retailers are not telling customers that a ticket is not a winner and then redeeming it themselves.

In addition, Lottery policies related to winning claims only require that Lottery security staff be notified of a claim if there is a discrepancy when verifying the identity of a claimant, a ticket appears to be inauthentic or altered, or the prize is over a certain threshold and was won from one of four specific jackpot games (Powerball, Mega Millions, Lucky for Life, or Colorado Lotto). The Lottery developed the prize amount thresholds for the multi-state games to align with requirements established by the games' sponsoring organizations. For example, the Multi-State Lottery Association requires security involvement for any Powerball claim of \$50,000 or higher or any Mega Millions claim of \$1 million or higher. None of the winners identified during the audit would have met the criteria for security notification.

WHY DOES THIS PROBLEM MATTER?

When the Lottery does not identify and look into unusual patterns in winning claims, there is a risk that some individuals, including licensed lottery retailers, may be fraudulently claiming prizes or acting in a way that portrays the Lottery and the integrity of its games in a negative light. One scenario that might be occurring is a practice known as "discounting." Discounting is when someone, often a retailer who sells lottery tickets or

one of their employees, agrees to buy a winning ticket from a customer for less than the face value of the ticket. The retailer will then redeem the winning ticket for the full prize amount. A customer might do this to avoid having to pay taxes on the winnings or to avoid having some or all of their prize intercepted by the Lottery to offset any child support, victim's restitution, or state debt that the customer owes. When a customer sells a winning ticket to avoid having their prize intercepted to pay a debt that they owe, it means that the child, victim, or State are not able to recoup, at least part of, what is legally owed to them.

Individuals have also been known to use the lottery to conceal the source of illegally gotten money. By practicing the discounting scheme mentioned above, someone could use funds obtained illegally to purchase winning lottery tickets from the original winner and then claim the lottery winnings for themselves as "legitimate." These individuals could also purchase large numbers of tickets with better odds of winning in order to claim some of the illegitimate money as legitimate through lottery winnings. Whether this is occurring or not cannot be known without additional analysis of the data and inquiry into the winners.

Further, while it is not against the law or Lottery rules to buy a winning ticket and claim prizes, when a retailer, who is responsible for activating and selling lottery tickets, claims a high number of prizes it raises questions about how the tickets are generated and sold, which can cause the public to question the integrity and fairness of lottery games. In 2014, an investigation in Florida revealed a high number of winning claims by retailers in that state. Investigators found some of the claims to be fraudulent, while others appeared to be the retailers claiming prizes on behalf of other individuals, which although not illegal in Colorado, is a misdemeanor in Florida. Conducting regular analysis of data and inquiring about unusual activity can help the Lottery identify these instances earlier and provide assurance that nothing questionable is occurring. If the public questions the integrity of the Lottery's games, this can result in fewer tickets sold and less revenue for Lottery beneficiaries.

RECOMMENDATION 1

The Colorado Lottery should ensure that it is aware of and appropriately reviews instances where there are unusual winning patterns by:

- A Developing and implementing policies for routinely analyzing the data collected on winning claims of \$600 or more to identify unusual winning patterns and establish thresholds to trigger inquiries into those instances where someone has won more frequently than the odds of winning each game would suggest is possible to verify the validity of those wins.
- B Investigating the instances identified in this report to determine if there was any illegal or unethical conduct and reporting the results of those investigations to the Legislative Audit Committee.

RESPONSE

COLORADO LOTTERY

- A AGREE. IMPLEMENTATION DATE: JANUARY 2019.

The Lottery agrees with the recommendation. By January 1, 2019 the Lottery will work with their gaming system vendor to generate a report to capture data at a frequency determined by the Lottery. The report will include, at a minimum, the following filters:

Winners with multiple wins greater than a minimum threshold amount over a period of time. Jackpot tickets created using a manual selection of numbers.

The Lottery will develop and implement policies by September 24th, 2018, to require routine analysis of the data in the report to identify

unusual winning patterns and establish thresholds to trigger further investigation into those instances where someone has won more frequently than the odds of winning each game would suggest is possible to verify the validity of those wins.

B AGREE. IMPLEMENTATION DATE: SEPTEMBER 2018.

The Lottery agrees with the recommendation. The Lottery will Investigate the instances identified in this report to determine if there was any illegal or unethical conduct and report the results of those investigations to the Legislative Audit Committee by September 24, 2018.

RESTRICTED PLAYER DATABASE

One of the ways that the Lottery maintains the public's trust and protects the integrity of its games is by restricting Lottery Commissioners, Lottery employees, employees of some Lottery vendors, and the immediate family members of these individuals from purchasing lottery tickets and claiming prizes. If these individuals were to win large prizes, it could create the perception for the public that the Lottery's games are not fair and that these individuals are able to use inside information to manipulate the games.

Although the Lottery does not have a way to prevent restricted individuals from purchasing lottery tickets, it can prevent these individuals from claiming higher dollar prizes. The Lottery maintains a restricted player database that includes the names of the individuals restricted from purchasing lottery tickets and claiming prizes. Although a restricted player could claim winnings of less than \$600, as no personally identifying information is required to make a claim, when an individual submits a claim for prizes of \$600 or more, they must submit personally identifying information. The Lottery's claims system automatically checks the winner's specific information against the restricted player database to verify that the individual is not included in the database prior to paying out the prize. If the winner's name is in the database, they will not receive the prize payout.

WHAT AUDIT WORK WAS PERFORMED, WHAT WAS THE PURPOSE, AND HOW WERE THE RESULTS MEASURED?

We compared the Lottery's restricted player database as of January 2018 to the Lottery Commissioners, Lottery staff, and contractor employees for Calendar Year 2017 to determine if all of the restricted players were included in the database. We also compared the list of

Lottery Commissioners, Lottery staff, contractor employees, and the restricted player database with the data provided by the Lottery for all winning claims of prizes \$600 or more from Calendar Years 2015 through 2017 to determine if any of these individuals claimed a prize.

The purpose of our audit work was to evaluate the effectiveness of the Lottery’s restricted player database in ensuring that restricted players do not claim prizes, in accordance with the following statutory, regulatory, and contractual requirements.

Statute [Section 24-35-209, C.R.S.] and Lottery rules [1 CCR 206-1] state that no member of the Lottery Commission or employee of the Lottery, including the Director, and no member of their immediate families shall purchase any ticket from the Colorado Lottery or claim any prizes. Additionally, Lottery rules [1 CCR 206-1] and contracts prohibit employees of any contractor or subcontractor that supplies the Lottery’s scratch tickets or jackpot ticket materials or equipment, and members of their immediate families, from purchasing lottery tickets or claiming any prizes. The Lottery’s contract with its marketing vendor also includes the same prohibition for the vendor’s employees and their immediate family members. In total, there are four Lottery contracts (gaming system, two scratch ticket production, and marketing) that include this prohibition language.

WHAT PROBLEM DID THE AUDIT WORK IDENTIFY?

Overall, we found that the Lottery’s restricted player database is not an effective tool for ensuring that restricted players do not claim lottery prizes. Specifically, we identified the following issues:

RESTRICTED PLAYER DATABASE WAS INCOMPLETE. The database did not include all of the individuals restricted by statute, rule, or contract from claiming lottery prizes. We found:

- 6 of the 120 Lottery employees in Calendar Year 2017 (5 percent), including the Lottery Director, were not included in the database. The Lottery Director had been with the Lottery since 2014 and one employee had been with the Lottery since 2016. The other four employees were hired in 2017, and had been with the Lottery between 4 and 11 months at the time of our review.
- 2 of the 5 Lottery Commissioners (40 percent) were not included in the database. One Commissioner was appointed in 2016 and one was appointed in 2017, 8 months prior to our review.
- 11 of the 71 marketing and gaming system vendor employees (15 percent) were not included in the database.
- 2 vendors that produce scratch tickets did not have any employees included in the database. The Lottery was unable to provide information on how many of these vendors' employees should have been included in the database, but staff indicated that the vendors have hundreds of employees that work on products that the Lottery may eventually sell.
- No subcontractor employees were included in the database, even though at least two of the Lottery's contractors use subcontractors.

In addition, although the restricted player database included family members for Lottery employees and Commissioners, and the gaming system vendor employees, we were unable to determine if the database was complete for these individuals. The database did not include any family members for the marketing vendor or the two scratch ticket production vendors.

RESTRICTED PLAYER DATABASE IS NOT UPDATED IN A TIMELY MANNER.

We found that for the 22 Lottery employees hired between January 2015 and January 2018, the Lottery took, on average, 135 days from the date of hire to add the employees to the restricted player database. As can be seen in EXHIBIT 2.8, while two employees were entered into

the database within a month of hire, two others had been with the Lottery for more than a year before being entered into the database.

EXHIBIT 2.8. TIME TO ADD LOTTERY EMPLOYEES HIRED BETWEEN JANUARY 2015 AND JANUARY 2018 TO RESTRICTED PLAYER DATABASE	
TIME TO ADD FROM DATE OF HIRE	NUMBER OF EMPLOYEES
< 1 month	2
1 to 3 months	10
3 to 6 months	4
6 months to 1 year	4
More than 1 year	2
TOTAL	22
SOURCE: Office of the State Auditor analysis of Lottery data.	

In addition, we found the effective date for Lottery’s gaming system vendor contract was January 2014; however, the vendor’s employees were not added to the database until March 2016 and there have been no updates to the database for this vendor since that time. Although there are no time requirements for when a new Lottery Commissioner, Lottery employee, or vendor employee should be added to the restricted player database, it is reasonable to assume that Lottery employees and Lottery Commissioners should be added to the database at the time of employment or appointment and vendor employees should be added by the contract’s effective date, or at the time they are assigned to the Lottery’s account.

WHY DID THIS PROBLEM OCCUR?

The Lottery has not developed and implemented a written process for maintaining and updating the restricted player database. According to the Lottery, at the time of hire or appointment, Lottery employees and Commissioners are required to complete and submit a form to the security division that lists all household members who should be restricted from purchasing lottery tickets and claiming prizes. However, the Lottery reports that there is no established timeframe for when this information should be entered into the restricted player database.

In order to keep the database updated, the Lottery stated that each employee is provided a disclosure form on his or her birthday, which the employee is supposed to submit whether or not their information needs updating. It is up to the employee's supervisor to track whether or not the employee submitted the form. Employees are also instructed to notify security if there are any changes in their household as they occur throughout the year. However, there is no written policy in place that directs when the form should be submitted or when updated information should be entered into the restricted player database.

In addition, the Lottery's contracts do not require its vendors to submit information on their employees and immediate family members who should be restricted from purchasing lottery tickets and claiming prizes, either at the time the contracts go into effect, or any time thereafter. According to the Lottery, when a vendor submits a request for the Lottery to conduct a background check for one of its employees that has been assigned to the Lottery, the Lottery enters the employee's information into the database from that request. However, the information required for the background check would not include members of the employee's household or subcontractors. Further, the Lottery stated that collecting information for the two scratch ticket vendors and maintaining household information for vendor employees would be burdensome and impractical, even though required by Lottery rules and contracts.

WHY DOES THIS PROBLEM MATTER?

When the Lottery does not ensure that the restricted player database is complete and updated in a timely manner, there is a risk that restricted players will purchase lottery tickets and claim prizes, which could negatively impact the public's perception of the Lottery. The mission of the Lottery is to sell lottery games that are held to high standards of integrity in order to generate proceeds that support Colorado's parks, wildlife, and public schools. In Fiscal Year 2017, players spent over \$555 million on lottery games in Colorado. Although we did not find that any restricted players had claimed prizes between January 2015

and December 2017, if the Lottery does not maintain the restricted player database, there is a risk that Lottery Commissioners and employees, vendor employees, and family members could claim high-dollar prizes without the system identifying them. Should that happen, the public could lose trust in the Lottery. If the public loses trust in the Lottery and does not have confidence in the integrity and fairness of the games, this could cause them to stop buying lottery tickets, which would reduce the amount of revenue available for beneficiary agencies.

RECOMMENDATION 2

The Colorado Lottery (Lottery) should improve the effectiveness of its restricted player database to ensure that restricted players do not claim lottery prizes by:

- A Developing and implementing a written process for obtaining information for Lottery Commissioners and employees, and their immediate family members, and establishing timelines for entering the information into the database. This process should include procedures requiring these individuals to routinely submit updated information on any immediate family members who should be included in or removed from the database.
- B Revising applicable Lottery contracts to include requirements for vendors to submit employee and immediate family member information when the contract becomes effective and provide updates routinely throughout the duration of the contract. Until the contract revisions go into effect, the Lottery should specifically request updated employee information from each applicable vendor. If the Lottery determines that it is not feasible to collect this information for all employees from certain vendors and subcontractors it should identify any key employees whose duties pose a risk to the Lottery and revise Lottery rules and contracts to only include the requirement for these individuals.
- C Updating the database to include all of the current Lottery Commissioners, employees, and contractors as well as their immediate family members, as required by statute, rules, and contracts.

RESPONSE

COLORADO LOTTERY

A AGREE. IMPLEMENTATION DATE: SEPTEMBER 2018.

The Lottery agrees with the recommendation. The Lottery will develop and implement a written process for obtaining information from Lottery Commissioners and employees, and their immediate family members by September 24, 2018. The process will require new Lottery Commissioners and employees to complete the Restricted Player Form within 30 days of their hire date and further require that the Lottery enter the information into the Restricted Player Database within 60 days of receipt. This process will require these individuals to submit a form with updated information on immediate family members who should be included in or removed from the database on an annual basis.

B AGREE. IMPLEMENTATION DATE: JANUARY 2019.

The Lottery agrees with the recommendation. In the future, the Lottery will ensure that all new applicable Lottery contracts with vendors include a provision that requires the vendor to execute signed restricted player agreements with key employees whose duties pose a risk to the Lottery, including a restriction on their immediate family members, and provide verification of the same to the Lottery within 30 days of signing the contract. By January 1, 2019, the Lottery will work to amend applicable Lottery contracts with vendors to include a provision that requires the vendor to execute signed restricted player agreements with key employees whose duties pose a risk to the Lottery, including a restriction on their immediate family members, and provide verification of the same to the Lottery within 30 days of amending the contract.

The updated contract provisions will also require that applicable vendors to annually update the restricted player agreements with key employees, including their immediate family members, and provide verification of the same to the Lottery. By January 1, 2019, the Lottery will revise the Lottery rules to be consistent with these new contract provisions for applicable Lottery contracts with vendors.

C AGREE. IMPLEMENTATION DATE: JANUARY 2019.

The Lottery agrees with the recommendation. By September 24, 2018, the Lottery will ensure the Restricted Player Database includes all of the current Lottery Commissioners and employees and their immediate family members as required by statute. By January 1, 2019, the Lottery will work to ensure that current applicable vendors have provided verification that they have executed signed restricted player agreements with key employees whose duties pose a risk to the Lottery, including a restriction on their immediate family members consistent with the response to subsection (B) of this section.

PRIZE INTERCEPTS

Prior to the Lottery paying out higher-dollar prizes, the Department of Revenue is required to determine if lottery winners owe any child support, victim's restitution, or state debt such as overpaid public assistance, higher education obligations, and other state agency debts certified by the State Controller. If the prize winner owes any of these debts, the Lottery intercepts some, or all, of the prizes won to offset the amount owed. To fulfill this responsibility, the Department of Revenue created the Master Intercept Repository (Repository), which stores information on individuals who owe these debts.

When an individual claims a prize of \$600 or more, the Lottery's gaming system checks the Repository to determine if the winner owes a debt. If the gaming system finds a match, then it will automatically subtract the amount owed by the individual from their prize winnings. The Lottery informs the winner that some, or all, of their prize was intercepted because of money owed, and the remaining balance, if any, is paid to the winner. The winner is provided a letter from the intercepting agency and is instructed to appeal to the agency directly if they believe that their winnings were intercepted incorrectly.

Each night, the Repository sends a file to the appropriate agency that includes the amount of winnings intercepted for that agency that day. The Lottery then sends a payment file through the State's financial system (CORE) to the agency for the amount intercepted. The agency must accept the payment, which should then update the amount owed by the individual, as reported in the Repository.

WHAT AUDIT WORK WAS PERFORMED, WHAT WAS THE PURPOSE, AND HOW WERE THE RESULTS OF OUR AUDIT WORK MEASURED?

We reviewed Repository data as of January 2018 and compared it to Lottery data for all individuals who won \$600 or more between January 2015 and December 2017. In addition, we reviewed payment and debt balance data from the Departments of Human Services and Personnel & Administration, and the Judicial Branch to verify that the debt owed matched the amounts in the Repository and that the amount reported as intercepted by the Lottery had been forwarded to the appropriate agency. We also interviewed staff from the Lottery; Departments of Revenue, Human Services, and Personnel & Administration; and the Judicial Branch to determine when and how data on individuals who owe child support, victim's restitution, and state debts is transferred to and from the Repository, records are updated, and intercept payments are sent and received.

The purpose of our audit work was to determine if:

- The Lottery intercepted funds from prize winners for money owed in child support, victim's restitution, or state debt.
- The amount intercepted was the maximum amount that could have been intercepted to be applied towards the debt owed by the prize winners.

According to statute, prior to paying out cash prizes of \$600 or more, the Department of Revenue must check the winner's social security number, and other specific information as required by each intercepting agency, against data provided by the Departments of Human Services and Personnel & Administration, and the Judicial Branch to determine if the winner has any outstanding child support, victim's restitution, or state debt [Sections 24-35-212(5)(a) and 24-35-212.5(1) C.R.S.]. If the

Repository indicates that the winner owes one of these debts, “then the [D]epartment of [R]evenue shall withhold from the amount of [winnings] paid to the lottery winner an amount equal to the amount of [debt] which is due or, if the amount of the [winnings] is less than or equal to the amount of [debt] due, shall withhold the entire amount of the lottery [winnings]” [Sections 24-35-212(5)(a) and 24-35-212.5(2), C.R.S.].

WHAT PROBLEM DID THE AUDIT WORK IDENTIFY AND WHY DID THIS PROBLEM OCCUR?

Overall, we found that the Lottery appropriately intercepted funds from prize winners for money owed in child support, victim’s restitution, and state debt, in accordance with its statutory authority. Specifically, we reviewed the 309 instances during our review period where prize winners won \$600 or more from a lottery game and owed one of these debts. For all of these instances, the Lottery intercepted the maximum amount of winnings that could be intercepted to pay off the debts, for a total of \$403,000.

However, we identified an additional 119 instances where the prize winners had been convicted of a crime and the courts had assessed fines, fees, or costs in accordance with statute, but the Lottery was not able to intercept any of the prize winnings for these debts. Specifically, for these 119 instances, the prize winners won a total of \$2 million and owed about \$220,000 to the State for court-assessed debts related to a crime, other than victim’s restitution. These debts can be used to cover court costs, but also to provide funding for programs that work on crime-related issues, such as victim’s assistance, substance abuse, and persistent drunk driving. Some of these programs are administered by other state agencies or within the counties.

The Lottery was not able to intercept any of the prize winnings to help pay off these debts because, according to Lottery statutes, the Department of Revenue can only intercept prize winnings for the amount of victim's restitution owed. The statutes do not explicitly authorize the Department to intercept prize winnings for other crime-related fines, fees, and costs assessed by the courts that are owed to the State. In many cases, these additional financial obligations were imposed by the courts at the same time that the victim's restitution was ordered and they are associated with the crime that was committed.

In 2007, the General Assembly introduced House Bill 07-1071 to allow for intercepts of victim's restitution, as well as other court-assessed fines, fees, and costs. However, the bill was postponed indefinitely. In 2009 the General Assembly again introduced a similar bill—HB 09-1137 which passed and became law. However, the section of the bill authorizing intercepts for court-assessed fines, fees, and costs was amended out of the bill, leaving only the authority to intercept for victim's restitution.

In contrast, the statute authorizing the Department of Revenue to intercept tax refunds to offset any victim's restitution owed by the taxpayer states that any tax refunds that exceed a restitution obligation “may be applied to other financial obligations the defendant owes the court or the judicial department” [Section 16-18.5-106.8(2), C.R.S.].

Given the specific amounts of the prizes won by each of the individuals and the specific amount of debt owed by each of them, if the Lottery was authorized to intercept prize winnings for these other court-assessed debts owed to the State, it could have collected an additional \$123,000 to be applied toward the debts, or 56 percent of the \$220,000 owed by these individuals.

WHY DOES THIS PROBLEM MATTER?

When the Lottery is not able to intercept prize winnings to help offset financial obligations assessed by the courts and owed to the State, it

limits the Judicial Branch's ability to recoup costs, have convicted criminals pay the fines they owe, and fund programs intended to help with crime-related issues. The Judicial Branch reports that, as of May 2018, defendants owed a total of \$564 million to the State for fines, fees, and costs that had been assessed by the courts in accordance with statute, in addition to any amounts owed for victim's restitution. The Judicial Branch could recoup a portion of this amount if the Lottery had the authority to intercept prize winnings for this purpose. The Lottery does not have this issue when it comes to intercepting prize winnings for child support or state debt because there are no other fines, fees, or costs associated with these debts.

RECOMMENDATION 3

The Judicial Branch should work with the General Assembly to determine if intercepts of lottery prize winnings should be made for all debts assessed by the courts that are owed to the State, not just victim's restitution, and seek statutory change as needed based on this determination.

RESPONSE

JUDICIAL BRANCH

AGREE. IMPLEMENTATION DATE: SEPTEMBER 2019.

The Judicial Branch will work with all interested stakeholders to include lottery prize winnings for all debts assessed by the courts in the master intercept process and seek legislative change as needed. The current intercept process is working well and has been streamlined since the original structure was put in place in 2009.

The Branch believes that the programming time and costs necessary to accomplish should be minimal.



APPENDIX



STATUTORY CONSIDERATIONS

Statute [Section 24-35-218(1)(b), C.R.S.] requires the State Auditor to analyze the performance of the Lottery at least once every 5 years. That analysis shall consider a number of factors. We list those factors below, as well as their disposition based on the audit work conducted.

STATUTORY FACTORS SECTION 24-35-218, C.R.S.	DISPOSITION
The amount of revenue generated by the Lottery for its beneficiaries as specified in Article XXVII of the Colorado Constitution.	We provide this information in CHAPTER 1.
The administrative and other expense of lottery dollar collections as compared to revenue derived.	We provide this information in CHAPTER 1.
An evaluation of the contracts, and compliance with such contracts, of lottery equipment contractors and licensed sales agents.	On the basis of the work we performed in this area, nothing came to our attention to indicate lack of compliance with state laws or other concerns.
Whether there has been an increase in organized crime related to gambling within the state.	On the basis of the work we performed in this area, nothing came to our attention to indicate lack of compliance with state laws or other concerns.
A report on the results of the analysis prepared by the Lottery on the socioeconomic profile of persons who play the lottery, including information comparing the results of past analyses to assess the movement of persons from various categories.	On the basis of the work we performed in this area, nothing came to our attention to indicate lack of compliance with state laws or other concerns.
Whether the Lottery Commission encourages public participation in its decisions rather than participation only by the people whom it regulates.	On the basis of the work we performed in this area, nothing came to our attention to indicate lack of compliance with state laws or other concerns.
An evaluation of the effectiveness and efficiency of the Lottery's complaint, investigation, and disciplinary procedures.	We discuss our findings in this area in CHAPTER 2.
Whether the Lottery performs its statutory duties efficiently and effectively.	We discuss our findings in this area in CHAPTER 2.
Whether administrative or statutory changes are necessary to improve the operation of the Lottery in the best interests of the State's citizens.	We discuss our findings in this area in CHAPTER 2.
Any other matters of concern about the operation and functioning of the Lottery.	We discuss our findings in this area in CHAPTER 2.
A report on any gifts and gratuities received by Lottery Commission members and Lottery employees.	On the basis of the work we performed in this area, nothing came to our attention to indicate lack of compliance with state laws or other concerns.

