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IN THE SUPREME COURT OF FLORIDA

CASE NUMBERS SC16-778 and SC16-871

ADVISORY OPINION TO THE ATTORNEY GENERAL
RE: VOTER CONTROL OF GAMBLING IN FLORIDA

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ANSWER BRIEF OF INTERESTED PARTY
FLORIDIANS FOR CLARITY IN GAMING CONTROL

MARC W. DUNBAR
Florida Bar Number 8397
DANIEL R. RUSSELL
Florida Bar Number 63445
DANIEL J. McGINN
Florida Bar Number 121596
Jones Walker LLP
215 South Monroe Street, Suite 130 (32301)
Post Office Box 351
Tallahassee, Florida 32302
Telephone: 850.425.7800
Facsimile: 850.425.7818

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SUMMARY OF THE ARGUMENT

The proposed "Voter Control of Gambling in Florida" amendment ("Voter Control Amendment," "proposed amendment," or the "Amendment") does not comply with either the ballot title and summary requirements of section 101.161(1), Florida Statutes, or the single subject provision found in article XI, section 3 of the Florida Constitution.

The Voter Control Amendment misleads voters by failing to disclose the chief purpose of the proposal, omits necessary material facts, does not reflect the true legal effects of the proposed amendment on citizens, businesses and the branches of Florida government and contains ambiguities that will, in all probability, confuse voters. The combined effect of these errors is to create a scenario where voters are unaware of what past, present and future rights and privileges are being given up for what amounts to illusory "voter control" of what the drafters of the proposed amendment define as "casino gambling" in Florida.

Furthermore, the Voter Control Amendment lacks a natural and logical oneness of purpose. It encompasses numerous disparate subjects and forces voters into an "all or nothing" voting scenario in a classic example of logrolling. The proposal also alters or substantially performs the functions of multiple branches of state government, affects the Legislature's ability to comply with directives present in the Florida Constitution and has a distinct and substantial effect on the power of

Florida's executive branch, all in violation of article XI, section 3 of the Florida Constitution.

ARGUMENT

1. THE VOTER CONTROL AMENDMENT DOES NOT COMPLY WITH THE BALLOT TITLE AND SUMMARY REQUIREMENTS OF SECTION 101.161, FLORIDA STATUTES, BECAUSE IT IS MISLEADING AND FAILS TO DISCLOSE THE TRUE EFFECTS OF THE PROPOSED AMENDMENT.

A. PRIOR PRECEDENT.

"The voters of Florida deserve nothing less than clarity when faced with the decision of whether to amend our state constitution, for it is the foundational document that embodies the fundamental principles through which organized government functions." *Florida Dept. of State v. Slough*, 992 So. 142, 149 (Fla. 2008). Despite the proponent's claim that there is nothing either express or implicit in the ballot summary that would mislead a voter,[1] the Voter Control Amendment's title and summary fail to deliver the level of clarity necessary to protect the people of Florida. "A court may declare a proposed constitutional amendment invalid only if the record shows that the proposal is clearly and conclusively defective; the standard of review in such cases is de novo." *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010) (citing *Armstrong v. Harris*, 773 So. 2d 7, 11 (Fla. 2000)).

[1]Sponsor's Initial Brief, p. 12.

A ballot title and summary must be clear and unambiguous and must fairly inform the voters of the chief purpose of the amendment and must not mislead the public. *Advisory Opinion to the Attorney General re Prohibiting State Spending for Experimentation that Involves the Destruction of a Live Human* Embryo, 959 So. 2d 210, 213-4 (Fla. 2007). The Voter Control Amendment's proponents support their argument that the proposed amendment meets the requirements of section 101.161, Florida Statutes, by adopting a minimalistic reading of this Court's prior precedent. The proponents cite to those cases where this Court has recognized that due to the statutory word limit, ballot summaries and titles need not be hyper-detailed.[2] In doing so, the proponents fail to recognize that by neglecting to provide enough information to allow the voters to understand the true purpose and effect of the Voter Control Amendment, the proposed amendment, despite its brevity, runs afoul of the statutory requirements.

The statutory word limit does not give drafters leave to ignore the importance of the ballot summary and to provide an abbreviated, ambiguous statement. *Advisory Opinion to Atty. Gen. ex rel. Amendment to Bar Government From Treating People Differently Based on Race in Public Education,* 778 So. 2d 888, 899 (Mem) (Fla. 2000) (quoting *Smith v. American Airlines, Inc.*, 606 So. 2d 618, 621 (Fla. 1992)). Nor does it allow proponents to circumvent the

[2]Sponsor's Initial Brief, p. 11.

requirements of section 101.161, Florida Statutes, by contending that the summary need not be exhaustive. *Treating People Differently*, 778 So. 2d at 899. On the contrary, this Court has repeatedly held that ballot summaries that do not adequately define terms, use inconsistent terminology and do not adequately describe the operation of the proposed amendment require invalidation. *Id.* In doing so, this Court has recognized that often the problem with a ballot summary "lies not in what the summary says, but, rather, with what it does not say." *Askew v. Firestone*, 421 So. 2d 151, 156 (Fla. 1982).

Accordingly, a ballot summary can be defective when it omits material facts necessary to prevent the summary from being misleading. *Limited Political Terms*, 592 So. 2d 225, 228 (Fla. 1998). Furthermore, language that does not reflect the true legal effect of the proposed amendment is also misleading to voters. *See Advisory Opinion to the Attorney General re Tax Limitation*, 644 So. 2d 486, 490 (Fla. 1994). Voters "must be able to comprehend the sweep of each proposal from a fair notification in the proposition itself that is neither less nor more extensive than it appears to be." *Smathers v. Smith*, 338 So. 2d 825, 829 (Fla. 1976).

Significantly, this Court has held that ballot titles and summaries that fail to disclose clearly and unambiguously the significant and distinct effects and impacts of a proposed amendment are misleading to voters. *Slough*, 992 So. 142 at 149.

B. MISLEADING.

i. THE BALLOT TITLE AND SUMMARY DISCLOSE NEITHER THE SPONSOR'S DESIRE FOR RETROACTIVE APPLICATION NOR THE POTENTIAL EFFECTS OF RETROACTIVITY TO THE VOTER.

The Voter Control Amendment and the brief filed by its proponents fail to meet the level of clarity and candor required by section 101.161, Florida Statutes. The most open and notorious example of this lack of clarity is demonstrated by the confusion as to whether the Voter Control Amendment operates retroactively. The ballot summary of the Voter Control Amendment reads "that in order for casino gambling to be authorized under Florida law, it must be approved by Florida voters pursuant to article XI, section 3 of the Florida Constitution."[3] This phrase raises the question of whether the proposed amendment will apply retroactively to currently authorized gambling which will fall under the proposed amendment's definition of "casino gambling." The lack of clarity is evidenced by the Financial Impact Estimating Conference's ("FIEC") Financial Impact Statement, as the FIEC was unable to determine the impact of the proposed amendment on state and local government revenues and costs specifically because of the unknown impact of the amendment on current gambling operations.[4]

[3]Sponsor's Initial Brief, p. 3.
[4]Appendix Exhibit B, p. 678.

The Voter Control Amendment fails to address the issue of retroactivity in either its ballot title, summary or the full text of the amendment, and its proponents fail to discuss their desire in this regard in their initial brief. However in presentations to the FIEC, Voters In Charge, the proposed amendment's sponsor, stated that the intent of the proposed amendment is to "clarify the original intent of the Constitution."[5] Before the FIEC, Voters In Charge stated that the proposed amendment would "impact" the slots facility in Hialeah (resulting in a de-authorization of the machines because Hialeah's machines are authorized by statute), acknowledging their intent that the amendment apply retroactively.[6] Furthermore, Voters In Charge, when specifically asked about the retroactive application of the amendment, provided the following exchange:

> Q: The conference asked about the retroactive application of our amendment.
> A: As stated in our response to the conference, the intent of our amendment is to clarify an existing constitutional standard for what forms of gambling are and are not legal to operate within the state. Like any other constitutional provision and any other constitutional amendment, **it is applied to *existing and proposed policies***. This information is provided as background to the conference, since it does not pertain to a fiscal matter.[7]

[5]Appendix Exhibit B, .p. 684.
[6]*Id.*
[7]Appendix Exhibit B, p. 676. (emphasis added).

Regarding the proposed amendment's impact on designated player or player banked games, Voters In Charge responded that these currently legal games "***might be disallowed under the proposed amendment***."[8]

Voters In Charge also stated that a purpose of the amendment was to affect otherwise currently legal games and:

> "…to **close loopholes** that are otherwise exploited by those who purvey devices that look and feel like Class III gambling, but for which some technological or procedural trait becomes **a legal distinction allowing it to be described as something other than Class III gambling**."[9]

Subsection (b) of the proposed amendment makes a distinction between a slot machine and a "casino-style" game in hopes of differentiating electronic table games (those slot machines that simulate table games like blackjack and roulette) that are currently recognized as legal slot machines in Florida. In doing so, the drafters made clear to the FIEC their desire to retroactively ban these machines,[10] without any mention of this effect in the either the ballot title or summary or in their initial brief. In fact, as discussed later relative to the impact on the legislative and executive branches, it is likely that only those with a nuanced understanding of the gaming industry, its history in the state and the rules and statutes that govern gaming in Florida, would even recognize this distinction if provided with the full

[8]Appendix Exhibit B, p. 675. (emphasis added).
[9]Appendix Exhibit B, p. 675 (emphasis added).
[10]Appendix Exhibit B, p. 691.

text of the proposed amendment. These games are among the most popular slot machines available, and the voters, particularly those who support the current slot machine offerings in the state's casinos, deserve nothing less than full clarity about how the proposed amendment will impact these games. Its advocacy before the FIEC reveal that Voters In Charge is fully aware of the potential effect of the Voter Control Amendment on legal games in Florida. However, despite this knowledge and intent, the Voter Control Amendment's ballot summary and title fail to acknowledge the intended effect on games currently authorized by statute.

This information would be most germane to voters in areas directly affected by the retroactive application of this amendment. For example, this proposal would mislead voters in Miami-Dade County and its most populous city, Hialeah, by failing to tell these voters that their local slot machine facility will be closed as a result of the amendment. In addition, voters in Palm Beach, Brevard, Lee, Washington, Hamilton, and Gadsden Counties are not informed that their successful votes on prior slot machine referenda will be rendered meaningless by the retroactive impact of the proposed amendment.[11] This practice of leaving the voters in the dark is a classic example of the "hide the ball" tactics that section 101.161, Florida Statues, was intended to prevent. It is of curious note that the

[11]The potential for slot machines in these areas are the result of legislative enactments in 2009. *See Gretna Racing v. Fla. Dept. of Business & Professional Regulation,* SC 15-1929 and *Florida Gaming Centers, Inc. v. Florida Dept. of Business and Professional Regulation*, 71 So. 3d 22 (Fla. 1st DCA 2011).

amendment speaks to its protection of tribal gambling compacts but fails to advise the voters of the negative impact on other legal gambling in Florida. This Court has held that ballot titles and summaries that are devoid of any mention of consequences and fail to inform voters of how the proposed amendment would operate are considered to be misleading. *Tax Limitation*, 644 So. 2d 486 at 496.

Moreover, the Voter Control Amendment's ballot title and summary fail to state the chief purpose of the amendment in clear and unambiguous language. The proponents purport that the chief purpose of the amendment is as follows: "In order for a form of casino gambling to be legal in the State, it must be authorized by initiative pursuant to article XI, section 3." However, this characterization is flawed in multiple ways. Primarily, the public comment from the sponsors as made to the FIEC clearly includes a "chief purpose" contrary to the one espoused in the Sponsor's initial brief. In presentations made to the FIEC, Voters In Charge "stated that the intent of the proposed amendment is **to clarify the original intent of the Constitution.**" (emphasis added). Nowhere within the plain language of the ballot title and summary is there a mention of clarifying the Constitution. Furthermore, the chief purpose, as stated by the sponsor to the FIEC, would be redundant to the language of the Constitution itself if the chief purpose is simply to clarify the language already present within the Constitution. Additionally, if the Voter Control Amendment is being put forth simply to clarify, its title is

misleading in its effect, as voters arguably already have control of the expansion of slot machines and other gaming expansion. Lastly, if the purpose is to clarify only and not to substantially alter the structure of gambling regulation in Florida, the proposed amendment is misleading as it fails to inform voters that most, if not all games considered casino gambling by the general public, are already prohibited in Florida. See *Advisory Opinion to the Attorney General re Casino Authorization, Taxation and Regulation*, 656 So. 2d 466, 469 (Fla. 1995) (holding that the ballot summary in that case created the false impression that casinos were now allowed in Florida and failed to inform the voter that most types of casino gaming are currently prohibited by statute.)

The failure of the Amendment's title and summary to fully inform the voters of Florida of the Amendment's desired retroactive effects and the chief purpose of the Amendment creates a situation whereby it fails to meet statutory requirements.

ii. THE PLAIN LANGUAGE OF THE BALLOT TITLE AND SUMMARY FAILS TO INFORM THE VOTER THAT THE FEDERAL GOVERNMENT, NOT THE VOTERS OF FLORIDA, WILL DECIDE WHAT QUALIFIES AS "CASINO GAMBLING."

In contrast to the proponent's arguments, neither the ballot title or summary accurately describes who will actually determine what types of games can be authorized in Florida. The ballot summary claims that the proposed amendment "ensures that Florida voters shall have the exclusive right to decide whether to

authorize casino gambling."[12] The summary states that the proposed amendment "[d]efines casino gambling and clarifies that this amendment does not conflict with federal law regarding state/tribal compacts."[13] Once again, what the drafters failed to say prevents the level of clarity to which Florida's voters are entitled.

Within the full text of the Voter Control Amendment, casino gambling is defined. Section (b) of the proposed amendment states that "casino gambling," a term of art within the industry, means:

> "any of the types of games typically found in casinos and that are within the definition of Class III gaming in the Federal Indian Gaming Regulatory Act…and in 25 C.F.R. § 502.4, upon adoption of this amendment, and any that are added to such definition of Class III gaming in the future."[14]

The proposed amendment further alters the definition by including:

> "any house banking game, including but not limited to card games such as baccarat, chemin de fer, blackjack (21) and pai gow (if played as house banking games; any player-banked game that simulates a house banking game, such as California black jack; casino games such as roulette, craps and keno; any slot machines as defined in 15 U.S.C. 1171(a)(1); and any other game not authorized by Article X, section 15, whether or not defined as a slot machine, in which outcomes are determined by random number generator or are similarly assigned randomly, such as instant or historical racing. As used herein, "casino gambling" includes any electronic gambling devices, simulated gambling devices,

[12]Sponsor's Initial Brief, p. 3.
[13]*Id.*
[14]Sponsor's Initial Brief, p. 2.

> video lottery devices, internet sweepstakes devices, and any other form of electronic or electromechanical facsimiles of any game of chance, slot machine, or casino style game, regardless of how such devices are defined under IGRA. As used herein, casino gambling" does not include pari-mutuel wagering on horse racing, dog racing, or jai alai exhibitions. For purpose of this section, "gambling" and "gaming" are synonymous."[15]

First and foremost, neither the ballot title nor the summary acknowledges that the ultimate arbiter as to what will be "casino gambling" in Florida will be the Federal Government. The definition of "casino gambling" espoused by the drafters of the proposed amendment grants the Federal Government the ability to set the Florida standard by tying the new Florida standard to those games classified as Class III gaming by Congress within IGRA and the rules promulgated by the National Indian Gaming Commission. Currently, the classifications in IGRA apply only to tribal gaming within Florida, but if the voters approve the proposed amendment, both the Legislature and the citizens of Florida will lose the ability to tailor gambling in Florida, as the boundaries of "voter control" is limited to those established in the definitions of "Class III gambling" set in Washington, D.C. Also, the amendment further ties the hands of Florida's voters by listing types of gaming outside of IGRA's Class III definition that would be considered "casino gambling" regardless of any other classification. Included within this expansive definition of what would be illegal in Florida without referendum are currently

[15] *Id.*

legal forms of gaming such as penny ante games legalized by s. 849.085, poker and dominoes legalized by s. 849.086, bingo games legalized by s. 849.0931, as well as arcade machines legalized by s. 546.10, and multi-state lotteries legalized by s. 24.105(18), Florida Statutes.[16]

The Voter Control Amendment fails to inform Florida's voters of the consequences of the proposed amendment and mischaracterizes the amount of control Florida will truly have regarding its future in gambling if this amendment were to pass. Ballot titles and summaries will be all the voters have available when they cast their vote, and the burden of informing the public of the consequences and trade-offs inherent in the amendment does not fall on the opposition and the press, it instead falls on the drafters of the ballot title and summary. *Askew*, 421 So. 2d 151 at 156. The drafters of the Voter Control Amendment failed to meet this burden, and therefore the ballot title and summary are fatally misleading.

iii. THE BALLOT TITLE AND SUMMARY MISLEAD THE VOTER BY FAILING TO EXPLAIN THE POTENTIAL EFFECT ON THE FLORIDA LOTTERY.

The drafters of the ballot title and summary of the proposed amendment fail to explain the scope of the potential interaction between the Voter Control

[16]A detailed discussion on arcade machines and multi-state lottery authorization is provided *infra.*

Amendment and multi-state offerings currently available from the Florida Lottery. The full text of the proposed amendment provides that "casino gambling" includes "any other game not authorized by Article X, section 15, whether or not defined as a slot machine, in which outcomes are determined by random number generator or are similarly assigned randomly, such as instant or historical racing." Article X, section 15 of the Constitution for the State of Florida, which was proposed by Initiative Petition filed with the Secretary of State June 10, 1985 and adopted in 1986, provides in its entirety:

> Section 15. State operated lotteries.—
> (a) Lotteries may be operated by the state.
> (b) If any subsection or subsections of the amendment to the Florida Constitution are held unconstitutional for containing more than one subject, this amendment shall be limited to subsection (a) above.
> (c) This amendment shall be implemented as follows:
> (1) Schedule—On the effective date of this amendment, the lotteries shall be known as the Florida Education Lotteries. Net proceeds derived from the lotteries shall be deposited to a state trust fund, to be designated The State Education Lotteries Trust Fund, to be appropriated by the Legislature. The schedule may be amended by general law.

Of particular consequence is section 15, paragraph (a), which provides that "[l]otteries may be operated by the state." Chapter 24, Florida Statutes, is the section which implements Article X, section 15 of the state Constitution.

According to Auditor General Report No. 2015-092, the State of Florida, Department of the Lottery sold approximately $5.37 billion worth of lottery tickets

in State Fiscal Year 2013-2014.[17] The types of games made available for sale in Florida by the Florida Lottery can be broken down into two distinct varieties. The first variety is the "instant ticket" or "scratch-off" style game, which represents approximately 64% of total sales.[18] The second variety is the "terminal game" style where a customer buys a ticket for a drawing which occurs at a later time. Terminal game sales represented the remaining 36% of total Florida Lottery sales.[19]

There are a number of different terminal games sold by the Florida Lottery which are exclusively available in this state, including Florida Lotto, Cash 3, Play 4 and others.[20] There are two games available to customers in Florida which are intertwined with sales from other states, commonly referred to as multi-state games. These games, known as Powerball and Mega Millions, contributed to approximately $640 million in gross annual sales. Approximately $470 million worth of Powerball tickets and $170 million worth of Mega Millions tickets were sold in Florida during the 2013-2014 state fiscal year.[21]

[17]Appendix Exhibit A, p. 4.
[18]*Id.*
[19]*Id.*
[20]*Id.* at 7.
[21]*Id.* at 9.

Powerball drawings are conducted in Tallahassee, Florida, by officials with the Department of the Lottery. Mega Millions drawings are conducted in Atlanta, Georgia, by officials with the Georgia Lottery.

Article X, section 15 of the Florida Constitution provides that "[l]otteries may by operated by the state." Clearly, Mega Millions is not "operated by the state" as the drawings, which determine which customer, as of the time of this writing, will win $363 million, occurs in another state. The authority for the Florida Lottery to participate in Mega Millions was derived not from the State Constitution, but from the State Legislature, which provides that the Florida Lottery shall "[h]ave the authority to enter into agreements with other states for the operation and promotion of a multistate lottery if such agreements are in the best interest of the state lottery. The authority conferred by this subsection is not effective until 1 year after the first day of lottery ticket sales." *See* § 24.105(18), Fla. Stat. (2016).

This raises an important question not addressed by the proponents of the Voter Control Amendment; Since "casino gambling" includes any game not authorized by Article X, section 15 of the Florida Constitution, would the Florida Lottery be required to discontinue sales of Mega Millions if the proposed amendment were to pass?

Furthermore, the Florida Legislature has authorized the Florida Lottery to sell tickets to customers via electronic machines. Section 24.112(15), Florida Statutes, provides that a "vending machine may be used to dispense online lottery tickets, instant lottery tickets, or both online and instant lottery tickets." Again, this authority is not derived from Article X, section 15 and meets the definition of "casino gambling" contained in the proposed amendment as such machines because "casino gambling" is defined so as to include "…any electronic gambling devices, simulated gambling devices, video lottery devices, internet sweepstakes devices, and any other form of electronic or electromechanical facsimiles of any game of chance, slot machine, or casino-style game, regardless of how such devices are defined under IGRA."[22] These machines are both prevalent and valuable to the State of Florida. Currently, there are five hundred (500) Full Service Vending Machines and one thousand five hundred (1500) Instant Ticket Vending Machines present throughout the state.[23] The Full Service Vending Machines generated total sales of $248.32 million during the fiscal year ending in June 2014, while sales from the Instant Ticket Vending Machines accounted for $289.69 million of Scratch-Off sales.[24] Furthermore, many, if not all, lottery terminals include the ability to assign lottery numbers to a ticket at random, at the

[22]Sponsor's Initial Brief, p. 2.
[23]Appendix Exhibit A, pp. 7-8.
[24]*Id.*

behest of the purchaser, in what is known as a "quick pick" ("QP"). Upon choosing to mark the QP box on a lottery ticket, the terminal itself will randomly pick some or all of the numbers assigned to the lottery ticket through the use of a random number generator.[25] Pursuant to the definition of "casino gambling" found in the Voter Control Amendment, it is likely that these machines would be unlawful in the State of Florida.[26] Nowhere within the ballot title or summary offering voter control of "casino gambling" is there any mention of voter removal of familiar lottery games, vending machines, terminals and popular playing options that each generate a significant source of revenue for the State of Florida.

As a result, the ballot summary is misleading because the usage of the phrase "casino gambling" is not consistent with the common-sense definition of such phrase. "Casino gambling" is gambling that takes place inside of a casino, and most would agree that "casino gambling" should not include purchasing lottery tickets from a vending machine at a grocery store. In contrast to this common-sense approach, supporters of the proposed amendment have included certain aspects of the Florida Lottery into the definition of "casino gambling" and have failed to properly disclose such to voters.

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[25] *See* "How to Play", Florida Lottery.com. http://www.flalottery.com/lotto-howToPlay. Last accessed June 29, 2016.

[26] A more in depth discussion of the random number generator issue is discussed in subsection vi, *infra.*

iv. THE BALLOT TITLE AND SUMMARY ARE MISLEADING BECAUSE THEY FAIL TO INFORM THE VOTERS OF THE EFFECT THE PROPOSED AMENDMENT COULD HAVE ON THE ARCADE INDUSTRY.

The proposed amendment fails to inform the voters as to the potential impact on thousands of arcade machines throughout the state and the businesses which operate them. Beginning with the title, "Voter Control of Gambling in Florida," the proponents mislead to the public as to the proposed amendment's impact on amusement machines, given that the vast majority of Floridians are not aware that current arcade games operate under a statutory exemption from Florida's gambling laws. The misleading nature is exacerbated by the ballot summary which speaks only to "**casino** gambling" without advising the public that the incredibly broad definition of "casino gambling" impacts current arcade games in use across Florida far from the neon lights, table games and plush hotel amenities that most voters see when they envision a "casino."

The proposed definition of "casino gambling" extends its reach to devices meeting the federal definitions of slot machines; "any other game not authorized by Article X, section 15, **whether or not defined[27] as a slot machine**, in which the

[27]It is assumed that the "defining" of slot machine refers to the Florida Legislature via § 849.16; however, in the event this assumption is not correct and "not defined" refers to the federal definition of a slot machine found in 15 U.S.C. 1171(a)(1) from the preceding clause, the analysis above does not change as the federal definition and federal case law mirror Florida on this issue. *See* 15 U.S.C.

outcomes are determined by a random number generator or are similarly assigned randomly such as instant or historic racing;"[28] or "any electronic gambling devices, simulated gambling devices, video lottery devices, internet sweepstakes devices, and any other form of electronic or electromechanical facsimiles of any game of chance, slot machine, or casino style game, regardless of how such devices are defined under IGRA."[29] As discussed below, this expansive definition goes well beyond what most Floridians would view as "gambling" or more particularly "casino gambling."

Florida courts, as well as state and federal courts across the country, have nearly 100 years of precedent analyzing machine gaming and have applied slot machine statutes to a vast array of devices well beyond the "one armed bandits" most people think of when imagining a slot machine. The resultant statutory and case law test that "defines" the elements of a slot machine include three basic elements: (1) consideration from the player, (2) unpredictability in the machine, and (3) some type of direct or indirect reward. §§ 849.15 and 849.16, Fla. Stat.;

1171(a)(1) defining a slot machine as a: "machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and (A) which when operated may deliver, as the result of the application of an element of chance, any money or property, or (B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property" and *United States v. Korpan*, 354 U.S. 271, 77 S. Ct. 1099, 1 L. Ed. 2d 1337 (1957) (Pinball machines which awarded free games deemed slot machines under federal law).

[28]Sponsor's Initial Brief, p. 2 (emphasis added).

[29]*Id.*

See also Hernandez v. Graves, 4 So. 2d 113 (Fla. 1941) (applying this test to a trivia machine). As seen in the Florida case law discussed *supra*, Florida courts have deemed a reward to include the ability to play the game again and receiving entertainment from such play as sufficient to meet the requisite element of a slot machine and thusly statutory prohibitions against the same.

The particular concern of the arcade industry stems from this Court's opinions in *Sinclair v. Benton*, 10 So. 2d 917 (Fla. 1942) and *Deeb v. Stoutamire*, 53 So. 2d 873 (Fla. 1951) . In *Sinclair*, this court found the machine in question to be a prohibited "slot machine" under section 849.16, Fla. Stat., because it allowed the player to receive free plays as a reward from the game. The court, citing to a host of precedent from across the country, stated that "it has been generally held that the amusement obtained in playing a machine is a thing of value and that when a player receives slugs or other counters or makers which he is entitled to play in the machine without further cost, he receives a thing of value." *Sinclair* at 918. The court extended this logic to machines that maintained an internal record of free plays awarded the player. In *Deeb*, the court found that an arcade machine was not a prohibited slot machine provided the outcome of the game was not dependent on "chance or other result unpredictable by the player, except such chance or unpredictability as is traceable to his own skill." *Deeb*, 53 So. 2d at 874.

These rulings, along with the aforementioned *Hernandez* case, served as the basis for a host of Attorney General Opinions which prohibited a myriad of arcade machines such as trivia games, pinball machines and "kicker and catcher" arcade machines which operate with some element of chance and reward players with either some form of tangible reward or free replays of the games. *See e.g.* Op. Att'y Gen. Fla. 051-162 and 052-85. In 1967 with the passage of chapter 67-203, Laws of Florida, the Florida Legislature created a safe harbor for "arcade amusement centers" to operate otherwise prohibited slot machines legally. These machines required some level of skill in their operation in order for the player to be rewarded with points or coupons that could be exchanged for merchandise or a prize. In 1977, the Florida Legislature further amended section 849.16 exempting similar devices which awarded players not more than 15 replays. *See* Ch. 77-275, § 1, Laws of Florida. Over the years, these safe harbors expanded to include truck stops and allowed operation of otherwise prohibited "reverse vending machines." *See* Ch. 89-176, § 3, Laws of Florida. Most recently, the Florida Legislature transferred the safe harbor from gambling code, chapter 849, to section 546.10, Florida Statutes, and expanded it to include additional machine types and also expanded the type of businesses which may operate these machines to now include hotels, bars, restaurants, veteran services organizations, bowling centers, time share facilities and retailers. *See* Ch. 2015-93, Laws of Florida.

Florida's arcade industry rests upon the evolution of these slot machine exemptions.[30] The proposed amendment is so broad capturing "any slot machine," "any other game… whether or not defined as a slot machine" with an outcome determined "randomly," or "any other form of electronic or electromechanical facsimiles of any game of chance" that it captures machines that are not commonly considered casino gambling machines. The ballot title and summary fail to disclose to the voters that the amendment potentially impacts the Florida Legislature and its ability to create statutory safe harbors for Florida's arcade industry. The net impact, which is not explained to the voters in the title or the ballot summary, is that the proposed amendment will essentially return Florida's slot machine laws to 1942 when arcade games that award prizes or free replays were prohibited.

By using the word "gambling" in the title and "casino gambling" in the summary, the amendment presents a misleading picture to voters as to the reach of the proposed amendment. The failure in not explaining that state and federal definitions of slot machines include arcade games currently being used across Florida is precisely the type of "false colors" prohibited by prior court opinions.[31]

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[30] *See* "Stargel Bill Addresses Arcades' Issues," Lakeland Ledger, Jan. 16, 2014 http://www.theledger.com/article/20140116/NEWS/140119317, last accessed June 28, 2016.

[31] *See Askew* at 156 (mislead voters by appearing to strengthen, not effectively remove, ban on lobbying by former legislators) *Armstrong* at 17-8 (implied

As a result, the amendment must be rejected for its failure to meet the standards under Article XI, section 5 and section 101.161, Florida Statutes.

v. THE BALLOT TITLE AND SUMMARY ARE MISLEADING BECAUSE THEY FAIL TO INFORM THE VOTER OF HOW THE AMENDMENT CHANGES THE POWERS OF AFFECTED GOVERNMENT BODIES.

Contrary to the initial brief of the proponents and as touched on in the previous section related to arcade machinery, the Voter Control Amendment's ballot title and summary does impact other government functions and are misleading in that they fail to "inform the voters how the amendment changes power of affected bodies." *Advisory Opinion to Atty. Gen. re Term Limits Pledge*, 718 So. 2d 798, 803-4 (Fla. 1998). Each of the three branches of government will be substantially affected and their powers substantially altered, if the Voter Control Amendment passes. However, the Florida voters are not informed of how the amendment will operate on each branch. Initially, it is unclear what the Legislature's role in gaming will be. Will the Legislature have to enact special laws if and when the voters decide to authorize one or more games classified as casino gambling? If so, how will they operate in light of Article X, section 11(20), which prohibits special laws pertaining to the regulation of occupations which are

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protecting rights, where the proposed amendment would instead nullify rights), *Treating People Differently* at 905-6 (ballot title and summary gave illusory impression of shielding rights).

regulated by a state agency, as gaming employees are? The ballot and title summary don't offer any insight into the process, and it is likely that voters would be similarly confused.

Furthermore, the role of the Legislature is equally blurred when it comes to the designation of games as "casino gaming." As discussed in the prior section, the Legislature has previously been authorized to remove games from the classification of gambling pursuant to Chapter 849.[32] However, the Voter Control Amendment purports to provide voters with the exclusive right to authorize casino gaming. What is the result if the Legislature determines that a game is outside of the boundaries of the proposed amendment's definition of casino gaming? Is the Legislature even able to make such a determination and pass a law stating as much? The ballot title and summary fail to explain if this process is still valid and if so, how it will function. To add further confusion section (c) of the amendment reads that:

> "Nothing herein shall be deemed to limit the right of the Legislature to exercise its authority through general law to restrict, regulate or tax any gaming or gambling activities."[33]

Contrast this provision with section (d) of the amendment that provides:

> This section is effective upon approval by the voters, is self-executing, and no legislative implementation is required.

[32]*See* discussion of the evolution of arcade machine law *supra.*
[33]Sponsor's Initial Brief, p. 3.

It would appear that the Legislature's ability to "regulate" pursuant to the amendment would be in conflict with the ballot title and summary's "exclusive right" language. Further, the provision stating that "no legislative implementation is required" seems at odds with the undefined terms of the amendment and the authority of the Legislature to "regulate" the state's "gambling activities." This conflict is not addressed or resolved by the ballot's drafters, and as such is misleading to the voter.

Also, the proposed amendment lacks clarity as to how the courts and state regulators would function if it were adopted. Can courts determine that a game is or is not "casino gaming," either in affirmation of the Legislature or through other avenues? How should regulators act when presented with a game that may or may not be considered "casino gambling?" What if that game was approved by the Legislature but not pursuant to the proposed amendment, do regulators or law enforcement defer to the Legislature or sanction a licensee based on the proposed amendment? How does an agency and its rulemaking impact the boundaries of what is or is not "casino gambling?" None of these concerns are addressed, or even mentioned, by the drafters of the Voter Control Amendment.

A practical example of this conflict is evidenced by a review of the summary final order by Administrative Law Judge Robert Meale which was *per curiam* affirmed by the First District Court of Appeal in *Department of Business and*

Professional Regulation v. Interblock USA, LLC, 77 So. 3d 1258 (Table) (Fla. 1st DCA 2012). In DOAH Case No. 11-001075RX[34], Judge Meale considered a rule challenge brought by electronic table game manufacturers, Interblock USA and Shuffle Master, Inc. These companies challenged the requirement found in a DBPR administrative rule that the "random number generator" (RNG) of a slot machine be physically located within the slot machine cabinet. The practical effect of this rule was to prevent the sale of the electronic table game products manufactured by these companies in Florida because of their use of a common cabinet and RNG. In his final order, Judge Meale ordered that the word, "internal," in Fla. Admin. Code R. 61D-14.041(1) to be "stricken as an invalid exercise of delegated legislative authority because of a lack of rulemaking authority to adopt a rule imposing this requirement and because the word, 'internal' in this rule enlarges, modifies, and contravenes the law implemented." *Id.* at 26. The result of this final order was to allow electronic table games (discussed *infra)* into the Florida marketplace. When asked by the FIEC about the impact of the proposed amendment on these products, the proponents stated as follows:

> "It was asked how the amendment might impact the operation of 'electronic table games' marketed by certain south Florida pari-mutuels as 'blackjack, roulette, craps and baccarat.' Authorization for these games is the result

[34]*Interblock USA, LLC and Shuffle Master, Inc. v. Dep't of Business and Professional Regulation, Division of Pari-Mutuel Wagering*, Case No. 11-001075RX (Fla. DOAH April 7, 2011).

> of an Administrative Law Judge's decision that the Department of Business and Professional Regulation lacked the rulemaking authority to require these games to have an internal random number generator. The judge held that these games, based on their electronic characteristics, fall under the legal definition of a slot machine. The operation of these games are at the heart of the Seminole Tribe of Florida's federal lawsuit against the state. The Tribe considers their existence a violation of the compact. They are therefore a threat to state revenue derived from the tribe. **Under this amendment, such games that imitate Class III games that are not authorized in the Constitution would not be allowed."**[35]

Nothing in the ballot title or summary informs the voters of the desire of the proponents to undo decisions by Florida's administrative law judges or its appellate courts, nor does it discuss the boundaries of the rulemaking authority of the state's gaming regulatory agencies. The amendment is extremely misleading in how the legislature, the executive branch and the courts can function moving forward on implementing and interpreting the various provisions of this proposed amendment.

It is fair to ask how the case before Judge Meale would proceed if the Proposed Amendment were to be adopted? If the ballot title and summary cannot clearly explain this to the voters, how can they intelligently cast their votes as the basic governmental functions of the three branches of government are blurred by

[35] *See* Appendix Exhibit B, p. 676.

this false concept of "voter control," which in and of itself demonstrates the misleading nature of this proposal.

vi. THE BALLOT TITLE AND SUMMARY ARE MISLEADING AS TO THE EFFECT ON CURRENTLY OPERATING PARI-MUTUEL BUSINESSES.

Penn Sanford, LLC[36], holds the greyhound permit at the Sanford-Orlando Kennel Club in Seminole County, Florida (hereinafter referred to as "SOKC"). Under the authority of current Florida Statutes and regulations, SOKC has the authority to conduct live greyhound racing and simulcasting and to allow pari-mutuel wagering thereon. The proposed amendment states that the definition of "casino gambling" specifically does not include "pari-mutuel wagering on horse racing, dog racing, or jai alai exhibitions."[37] On the other hand, "casino gambling" does include machines "in which outcomes are determined by random number generator or are similarly assigned randomly, such as instant or historical racing."[38]

Instant racing, generally speaking, is a pari-mutuel wagering platform whereby customers wager on horse or greyhound races which have occurred in the past. In 2008, the Division of Pari-Mutuel Wagering considered a petition for

[36]Penn Sanford, LLC, is a member of the Floridians for Clarity in Gaming Control association.
[37]Sponsor's Initial Brief, p. 2.
[38] *Id.*

declaratory statement relative to the legality of instant racing in Florida.[39] The Division, in determining that Chapter 550 did not authorize instant racing systems, declared that it had the authority to simultaneously provide such a declaratory statement and initiate rulemaking regarding instant racing, but that the proposed instant racing platform was not authorized because the races being wagered upon were not conducted "live," a prerequisite under Chapter 550, F.S.

Were the proposed amendment to pass, this executive branch agency would lose its ability to regulate pari-mutuel wagering machines such as instant racing absent a follow-up **constitutional amendment** removing the "live" requirement currently found in the pari-mutuel **statutes**. This is an illogical consequence that no voter could anticipate under the guise of voter control of "casino gambling," and as a result, the amendment misleads the public in an improper manner.

Furthermore, SOKC currently allows its patrons to make wagers at its facility via in-person interactions with a mutuels teller, and also via self-service terminals (similar to an automated teller machine, referred to herein as an "SST"). An SST simply allows patrons to make pari-mutuel wagers on horse races, dog races, or jai alai exhibitions without interacting with another person. SST's also

[39] *In re: Petition for Declaratory Statement, Richmond Entertainment Inc., d/b/a Hamilton Jai Alai, and Amtote International, Inc., and Investment Corp. of Palm Beach ,d/b/a Palm Beach Kennel Club, St. Petersburg Kennel Club Inc., d/b/a Derby Lane, Jacksonville Kennel Club, Inc., Orange Park Kennel Club, Inc., and Bayard Raceways, Inc., d/b/a St. Johns Greyhound Park,* DS 2008-046, DBPR Case No. 2008038736 (DPBR Feb. 26, 2009).

offer patrons the option to make a "quick pick" style wager, which randomly makes selections for the patron on selected race via a random number generator contained within the **agency regulated** SST system.

The ballot summary does not address the proposed amendment's impact on the pari-mutuel industry whatsoever and the full text states that "casino gambling" does not include "pari-mutuel wagering on horse racing, dog racing, or jai alai exhibitions." However, the proposed amendment's definition of "casino gambling," would certainly include the SSTs currently in operation at SOKC's facility. Does this mean that, if the proposed amendment were to pass, a subsequent constitutional amendment would be required to reactivate the quick-pick function in SSTs?

The language of the ballot summary is misleading as it relates to SOKC's operation in Seminole County, Florida, for several reasons. Without mentioning anything in the ballot summary about current pari-mutuel operations, the proposed amendment would negatively impact the Division of Pari-Mutuel Wagering's ability to interpret the current provisions of Chapter 550 in relation to instant racing machines as well as SOKC's ability to utilize self-service wagering terminals. Other similarly situated pari-mutuel facilities would face the same uncertainty, yet the proposed amendment fails to make any mention of these particular issues, despite the drafter's claim that it will not impact pari-mutuel

wagering. This omission further muddles the voter's ability to cast a vote with a clear and certain idea of the impact of the proposed amendment.

vii. THE CUMULATIVE EFFECT OF EACH EXAMPLE OF MISLEADING LANGUAGE REQUIRES THAT THE PROPOSED AMENDMENT BE STRICKEN FROM THE BALLOT.

Each of these failures standing alone would mislead voters, but their cumulative effect within one ballot proposal creates a staggering amount of confusion for the voters as to what the significant and distinct effects of the proposed amendment. When a ballot summary and title are bereft of any mention of the important consequences and fail to inform the voter of how the amendment will operate if approved, the proposed amendment should be stricken from the ballot. *See In re Advisory Opinion to the Atty. Gen. re Fairness Initiative Requiring Legislative Determination that Sales Tax Exemptions and Exclusions Serve a Public Purpose*, 880 So. 2d 630, 636 (mem) (Fla. 2004)(concluding that the ballot summary was deficient because it failed to inform the voters that the amendment could operate in a way to create a tax), *Tax Limitation*, 644 So. 2d 486 at 495 (concluding that a proposed amendment was not accurate and informative because it failed to mention any of the substantial fiscal impacts of the amendment's operation).

2. THE VOTER CONTROL AMENDMENT VIOLATES THE SINGLE-SUBJECT REQUIREMENT BECAUSE IT ENGAGES IN IMPERMISSIBLE LOGROLLING AND PERFORMS OR ALTERS THE FUNCTIONS OF MULTIPLE BRANCHES OF GOVERNMENT.

A. PRIOR PRECEDENT.

This Court has held that constitutional amendments proposed through the initiative process must have "a logical and natural oneness of purpose." *Fine v. Firestone*, 448 So. 2d 984, 990 (Fla. 1984). This standard is met when the sections of a proposed amendment have "a natural relation and connection as component parts or aspects of a single dominant plan or scheme. Unity of object and plan is the universal test." *Advisory Op. to Att'y Gen. re Independent Nonpartisan Comm'n to Apportion Legislative and Congressional Districts Which Replaces Apportionment by Legislature*, 926 So. 2d 1218, 1225 (Fla. 2006), quoting *Fine*, 448 So. 2d at 990 (quoting *City of Coral Gables v. Gray*, 19 So. 2d 318, 320 (Fla. 1944)). Despite the sponsor's assertion, the Voter Control Amendment clearly fails to meet this standard.

B. THE PROPONENTS OF THE AMENDMENT ARE INCORRECT THAT THE AMENDMENT COMPLIES WITH THE SINGLE SUBJECT REQUIREMENT.

Although the sponsors characterize the proposed amendment as presenting a single unified question, the proposed amendment asks the voters to make choices on at least three distinct subjects and to cast an "all or nothing" ballot. The first

question appears to be whether the voter wants direct ballot box control of gambling in Florida. Second, the proposed amendment asks the voter whether it desires to surrender to Congress and the National Indian Gaming Commission to set the definitional boundaries of this control. Finally, the amendment asks the voters to defer this control in the area of Indian Gaming to the Legislature and Governor while prohibiting these bodies from the same oversight of commercial non-tribal gambling activities.

Despite the sponsor's assertions, the proposed amendment contains disparate elements that are so distinct as to constitute "logrolling," a term which describes the practice of linking an unpopular issue with a popular one to aid in its passing. *Advisory Opinion to the Attorney Gen. re the Med. Liab. Claimant's Comp. Amendment*, 880 So. 2d 675, 677 (Fla. 2004) (quoting *Advisory Opinion to the Attorney Gen. re Fla. Transp. Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation Sys.,* 769 So. 2d 367, 369 (Fla. 2000)). The proposed amendment requires a voter to accept four distinct outcomes:

1. The Florida Legislative and Executive branches lose their current policy making control over the boundaries of all aspects of Florida gambling other than in the area of Class III tribal gambling.

2. The State of Florida will defer to the federal government to define the boundaries of gambling policy making on which its state agencies and its Legislature may act and over which the voters may exercise "voter control".

3. The current activities conducted by the Florida Lottery, Florida's pari-mutuel facilities, Florida's arcade industry are not properly regulated and must now be subject to re-evaluation by the voters of this state, but the gambling operations of the Seminole Tribe of Florida do not warrant such a re-evaluation.

4. The current gaming activities conducted by the Miccosukee Tribe of Florida and potential Class II gaming operations by the Poarch Band of Creek Indians are now subject to potential "voter control" despite their clear entitlement under federal law.

Additionally, the voter must consider two other impacts of the amendment that are separate and distinct from the proposed purpose of voter control of "casino gambling." The first, as discussed previously, is the potential retroactive effect of the amendment.[40] A voter who supports voter control of future gambling expansions in Florida, but who does not wish to lose the myriad of current gambling options at risk if the amendment operates as Voters In Charge envisions, is forced to decide between one or the other at the ballot box. The second, more subtle choice that the voter must make, which he or she may not even be aware

[40]The sponsor's desired retroactivity and its effects are discussed in section I, subsection B, item i, *supra.*

they are making, is whether the voter supports an incidental benefit being passed on to the Seminole Tribe in Florida. Section (c) of the Voter Control Amendment describes the proposed amendment's lack of interaction with any gaming compacts allowing casino gambling on tribal lands. As a result, the effect of this amendment would likely be to give the Seminole Tribe (and any other compact-eligible tribe that the state negotiates with in the future) a virtual monopoly over casino gambling in Florida. As a result, tribal gaming could expand indefinitely, in spite of the notion of "voter control" and regardless of whether the voters of Florida support this expansion or its economic effects. As a result, when faced with the proposition of "voter control of casino gambling," voters must decide if they are willing to allow compact-eligible Native American tribes to have a virtual monopoly on casino gaming in the state in exchange for the specter of voter control over non-tribal gaming. The acceptance of this incidental benefit to compact-eligible tribes is a separate and distinct question from any other presented by the Voter Control Amendment.

The voter must cast a single yes or no vote on the proposed amendment at the ballot box. Therefore, if the voter supports one or more of the potential outcomes, but not all, then they must either vote yes and accept everything inherent in the amendment, or vote no against the outcomes they support. Essentially, voters would have "to accept part of a proposal which they opposed in order to

obtain a change which they support." *Fine*, 448 So. 2d at 993. The simple fact that each of these questions share an overarching topic does not make them component parts of a unified plan, because a voter who advocates citizen control of gambling may or may not agree with the boundaries of the definition of "casino gambling" as proposed, the boundary of Legislative power, the retroactive effect of the amendment or the undisclosed, incidental benefit to the Seminole Tribe (and any tribe the state negotiates a compact with in the future). *See Independent Nonpartisan Comm'n*, 926 So. 2d 1218 at 1226 (holding that the standards for drawing new legislative and congressional districts created was separate and distinct from the creation of a redistricting commission, and a voter who approves the change in standards may not want a change in the apportionment process would face an unacceptable all or nothing choice.) Were the Voter Control Amendment to only ask the voters of Florida whether they wanted control of casino gambling and to describe the workings of the referendum process already in place, the proposed amendment may not have constituted logrolling. However, the proposed amendment also requires the voter to accept the sponsor's definition of "casino gambling," which has undisclosed impacts into areas beyond the conventional meaning of that term. If the Legislature had previously defined casino gambling, and all the amendment asked was whether the voters of Florida wanted control of approving gaming under that definition, then perhaps logrolling could have been

avoided. However, a new definition and standard as to what "casino gambling" would be in Florida merges multiple subjects and concepts within the proposed amendment.

This is best highlighted by the fact that the Florida Legislature has chosen to separate these various activities and industries into separate statutory chapters. *See e.g.* Lottery – Ch. 24, Tribal Gaming – Ch. 285, Arcades – Ch. 546, Pari-mutuels – Ch. 550, Slot Machine Gaming – Ch. 551, General Gambling – Ch. 849.

These distinctions are fine, but important. And, Florida voters are forced by this proposed amendment to group all together as opposed to being able to pick and choose the areas over which they feel the current statutory and regulatory oversight is lacking and in need of greater "voter control." This Court has recognized this sort of choice to be in violation of the single-subject rule in the past, and should do so again in this instance. *See Advisory Opinion to the Atty. Gen. re Rights of Citizens to Choose Health Care Providers*, 705 So. 2d 563 (Fla. 1998) (banning limits on health care provider choices imposed by law and prohibiting private parties from entering into contracts that would limit health care provider choice in the same amendment created an unacceptable all or nothing choice).

CONCLUSION

The Voter Control Amendment improperly misleads voters by failing to candidly disclose either the chief purpose or the true effect of the proposed amendment, failing to inform voters of the intention that the amendment operate retroactively and the effect of retroactive operation, failing to inform voters that the proposed amendment will tie Florida's definition of "casino gambling" to a federally imposed standard and failing to describe the likely impact of the proposed amendment on the Florida Lottery, arcade businesses and pari-mutuel establishments. Furthermore, the proposed amendment also impermissibly uses the terms "gambling" and "casino gambling" as synonyms despite their irreconcilable meanings and contains language that creates a false impression that voters will actually have control of "casino gambling" in Florida, or that such control could result in an expansion of gaming within the state. In addition, the proposed amendment fails to meet the requirements of article XI, section 3 of the Florida Constitution by engaging in impermissible logrolling and performing or altering the functions of multiple government branches or bodies.

Therefore, this Court should direct that the proposed "Voter Control of Gambling in Florida" amendment not be placed on Florida's ballot as the proposed amendment's ballot title, summary and contents are clearly and conclusively defective.

Respectfully submitted,

/s/

MARC W. DUNBAR
Florida Bar Number 8397
DANIEL R. RUSSELL
Florida Bar Number 63445
DANIEL J. McGINN
Florida Bar Number 121596
Jones Walker LLP
215 South Monroe Street, Suite 130 (32301)
Post Office Box 351
Tallahassee, Florida 32302
Telephone: 850.425.7800
Facsimile: 850.425.7818

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by Electronic Mail on the following counsel this 29th day of June, 2016:

Dan Gelber (dan@gsgpa.com)
Adam M. Schachter
aschachter@gsgpa.com
Freddy Funes (ffunes@gsgpa.com)
Gelber Schachter & Greenberg, P.A.
efilings@gsgpa.com
1221 Brickell Avenue, Suite 2010
Miami, Florida 33131
Telephone: 305-728-0950
Facsimile: 305-728-0951
Attorneys for Voters in Charge

William N. Spicola
william.spicola@eog.myflorida.com
Executive Office of the Governor
The Capitol
400 South Monroe Street
Tallahassee, Florida 32399-0001
Telephone: 850-717-9310
Facsimile: 850-488-9810
General Counsel to Governor Rick Scott

Matthew Carson
matthew.carson@myfloridahouse.gov
General Counsel
Florida House of Representative
The Capitol, Room 420
402 South Monroe Street
Tallahassee, Florida 32399-1300
Telephone: 850-717-5500
General Counsel for the House Speaker Steve Crisafulli

Adam S. Tanenbaum
adam.tanenbaum@dos.myflorida.com
General Counsel
Florida Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250
Telephone: 850-245-6536
General Counsel to Florida Secretary of State Kenneth J. Detzner

George T. Levesque
levesque.george@flsenate.gov
General Counsel
The Florida Senate
409 The Capitol
404 South Monroe Street
Tallahassee, Florida 32399-1100
Telephone: 850-487-5237
General Counsel to Senate President Andy Gardiner

Rachel E. Nordby
Rachel.nordby@myfloridalegal.com
Office of the Attorney General
Department of Legal Affairs
The Capitol, PL-01
Tallahassee, Florida 32399-1050
Telephone: 850-414-3300
Facsimile: 850-401-1630
General Counsel for Attorney General Pam Jo Bondi

Alfred Lagran Saunders
alsmac@comcast.net
Office of Attorney General
The Capitol, PL-01
400 South Monroe Street
Tallahassee, Florida 32399-6536
Telephone: 850- 245-0158

Director, Division of Elections
DivElections@dos.state.fl.us
Florida Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250
Telephone: 850-245-6200
Facsimile: 850-245-6217

Amy J. Baker, Coordinator
Baker.amy@leg.state.fl.us
Financial Impact Estimating Conference
Office of Economic and Demographic Research
111 West Madison Street, Suite 574
Tallahassee, Florida 32399-6588
Telephone: 850-487-1402
Facsimile: 850-922-6436

/s/
Marc W. Dunbar

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the foregoing brief complies with the font requirements of Florida Rule of Appellate Procedure 9.210(a)(2) and is submitted in Times New Roman 14-point font.

/s/
Marc W. Dunbar

EXHIBIT A

REPORT NO. 2015-092
JANUARY 2015

DEPARTMENT OF THE LOTTERY

Financial Audit

For the Fiscal Years Ended
June 30, 2014, and 2013

STATE OF FLORIDA
AUDITOR GENERAL
DAVID W. MARTIN, CPA

SECRETARY OF THE DEPARTMENT OF THE LOTTERY

The State of Florida, Department of the Lottery (Lottery) was established as a State agency with the enactment of the Florida Public Education Lottery Act, Chapter 24, Florida Statutes, in 1987. The head of the Lottery is the Secretary, who, pursuant to Section 20.317, Florida Statutes, is appointed by the Governor subject to the confirmation of the Senate. Cynthia F. O'Connell served as Secretary during the audit period.

The Auditor General conducts audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

The audit team leader was Jon M. Bardin, CPA, and the audit was supervised by Allen G. Weiner, CPA. Please address inquiries regarding this report to Kathryn D. Walker, CPA, Audit Manager, by e-mail at kathrynwalker@aud.state.fl.us or by telephone at (850) 412-2781. For the information technology portion of this audit, the audit team leader was Robert McKee, CISA, and the supervisor was Tina Greene, CPA, CISA. Please address inquiries regarding the information technology portions of this report to Arthur Hart, CPA, Audit Manager, by e-mail at arthart@aud.state.fl.us or by telephone at (850) 412-2941.

This report and other reports prepared by the Auditor General can be obtained on our Web site at www.myflorida.com/audgen; by telephone at (850) 412-2722; or by mail at G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.

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EXECUTIVE SUMMARY

Summary of Report on Financial Statements

Our audit disclosed that the basic financial statements prepared by the Department of Lottery (Lottery) present fairly, in all material respects, the net position of the Lottery as of June 30, 2014, and 2013, and the changes in the financial position and cash flows thereof for the years then ended in conformity with accounting principles generally accepted in the United States of America.

Summary of Report on Internal Control and Compliance

In our opinion, Lottery management maintained, in all material respects, effective internal control over financial reporting.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* issued by the Comptroller General of the United States; however, we noted certain additional matters as summarized below.

Additional Matters

INFORMATION TECHNOLOGY CONTROLS

Finding No. 1: **During our audit, we identified the need for enhancements to the Lottery's information technology (IT) control practices. Specific details of these issues are not disclosed in this report to avoid the possibility of compromising Lottery information. However, the appropriate Lottery personnel have been notified of these issues.**

MINORITY RETAILER PARTICIPATION

Finding No. 2: **Section 24.113, Florida Statutes, requires that 15 percent of the Lottery's retailers be minority business enterprises, as defined in Section 288.703(3), Florida Statutes; however, no more than 35 percent of such retailers shall be owned by the same type of minority person, as defined by Section 288.703(4), Florida Statutes. Our audit disclosed that as of July 1, 2014, retailers comprising one minority type totaled 66 percent of the total number of minority retailers. A similar finding has been included in prior reports.**

Audit Objectives and Scope

Our audit objectives were to determine whether the Lottery had:

- **Presented the Lottery's basic financial statements in accordance with generally accepted accounting principles;**
- **Established and implemented internal control over financial reporting and compliance with requirements that could have a direct and material effect on the financial statements;**
- **Complied with the various provisions of laws, rules, regulations, and contracts that are material to the financial statements; and**
- **Taken corrective actions for findings included in our report No. 2014-095.**

The scope of this audit included an examination of the Lottery's basic financial statements as of and for the fiscal years ended June 30, 2014, and 2013, and an examination of the effectiveness of the Lottery's internal control over financial reporting. With respect to internal control over financial reporting, our examination included obtaining an understanding of the internal control over financial reporting, testing and evaluating the design and operating effectiveness of the internal control, and performing such other procedures as we considered necessary in the circumstances. We also examined various transactions to determine whether they were executed, both in manner and in substance, in accordance with governing provisions of laws, rules, regulations, and contracts.

Audit Methodology

The methodology used to develop the findings in this report included the examination of pertinent Lottery records in connection with the application of procedures required by auditing standards generally accepted in the United States of America, and applicable standards contained in *Government Auditing Standards* issued by the Comptroller General of the United States.

AUDITOR GENERAL
STATE OF FLORIDA

G74 Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

DAVID W. MARTIN, CPA
AUDITOR GENERAL

PHONE: 850-412-2722
FAX: 850-488-6975

The President of the Senate, the Speaker of the
House of Representatives, and the
Legislative Auditing Committee

INDEPENDENT AUDITOR'S REPORT

Report on the Financial Statements

We have audited the accompanying financial statements of the Department of the Lottery (Lottery), an enterprise fund of the State of Florida, as of and for the fiscal years ended June 30, 2014, and 2013, and the related notes to the financial statements which collectively comprise the Lottery's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Opinions

In our opinion, the financial statements referred to above, present fairly, in all material respects, the respective financial position of the Lottery as of June 30, 2014, and 2013, and the respective changes in financial position and cash flows, for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matter

As discussed in Note 1, the financial statements of the Lottery are intended to present the financial position, the changes in financial position, and cash flows of only that portion of the business-type activities and major funds of the State that is attributable to the transactions of the Lottery. They do not purport to, and do not, present fairly the operations of the State of Florida as of June 30, 2014, and 2013, and the changes in its financial position and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

Other Matter

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the **MANAGEMENT'S DISCUSSION AND ANALYSIS** (pages 4 through 11) be presented to supplement the basic financial statements. Such information, although not part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Reporting Required by *Governmental Auditing Standards*

In accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements in *Government Auditing Standards*, we have also issued a report on our examination of the Lottery's internal control over financial reporting, and on our tests of the Lottery's compliance with certain provisions of laws, rules, regulations, contracts, and other matters included under the heading **INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***. As noted by that report dated January 28, 2015, we have examined, in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements in *Government Auditing Standards*, the Lottery's internal control over financial reporting as of June 30, 2014, based on criteria established in *Internal Control – Integrated Framework* issued by the Committee of

Sponsoring Organizations of the Treadway Commission (COSO), and expressed an unqualified opinion. With respect to compliance, the purpose of that report is not to provide an opinion on compliance, but rather to describe the scope of our testing of compliance and the results of that testing. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Lottery's internal control over financial reporting and compliance.

Respectfully submitted,

David W. Martin, CPA
January 28, 2015

MANAGEMENT'S DISCUSSION AND ANALYSIS

YEARS ENDED JUNE 30, 2014, AND JUNE 30, 2013

The information presented in the Management's Discussion and Analysis (MD&A) introduces the Florida Lottery's (Lottery) financial statements and provides readers an analytical overview of the Lottery's financial activities and performance for the fiscal years ended June 30, 2014, and 2013. We encourage readers to consider the information presented here in conjunction with the financial statements and notes to the financial statements, which begin on page 12.

FINANCIAL HIGHLIGHTS

The Lottery has as its mission the maximization of revenues for the benefit of education in a manner consistent with the dignity of the State of Florida and the welfare of its citizens. The Lottery is considered a mature lottery and offers its players a full range of both Scratch-Off and Terminal products. The Lottery has been successful in sustaining ticket sales in excess of $2 billion for the twenty-fifth consecutive fiscal year, with the past two fiscal years exceeding $5 billion. During the same twenty-five year period the transfer to the Educational Enhancement Trust Fund (EETF) has been a minimum of $800 million annually, with the fiscal year 2014 transfer exceeding $1 billion for the twelfth consecutive year.

For the fiscal year ended June 30, 2014:

- Transfers to the EETF increased to approximately $1.50 billion compared to $1.42 billion in the prior fiscal year.
- The Lottery's ticket sales increased by 7.09 percent over the prior fiscal year from approximately $5.01 billion to $5.37 billion.
- Approximately 63.65 percent of total sales were provided by the Scratch-Off product line. This shift in product mix from the higher profit-margin Terminal product to the lower profit-margin Scratch-Off product directly impacts the amount transferred to the EETF.
- Prize expense increased $268.20 million, which represents an 8.48 percent increase during fiscal year 2014. The Lottery has the authority to vary the prize expense in order to maximize transfers. This expense typically increases or decreases in proportion to ticket sales and represented approximately 63.91 percent of ticket sales.
- The gaming vendors' fees and retailer commissions are based on sales and therefore fluctuate in direct correlation with sales revenue. Fiscal year 2014 expenses for these items increased 6.22 percent over the prior fiscal year expenses in conjunction with the increase in sales.
- Administrative operating expenses, which include advertising, salaries and benefits, rent, utilities and maintenance, professional fees, depreciation, and other administrative expenses, experienced an increase of $1.88 million. Administrative operating expenses for fiscal years 2014 and 2013 were $74.53 million and $72.65 million, respectively.
- Nonoperating income increased $32.20 million over the prior fiscal year. Unrealized appreciation on investments accounted for $27.47 million of the increase due to higher market values of investments of similar securities in fiscal year 2014 compared to fiscal year 2013.
- EETF transfers from unclaimed prize money decreased $2.75 million over the prior fiscal year. Unclaimed generation from Terminal games experienced a $507,000 increase over last year. Unclaimed generation from Scratch-Off games decreased by $3.3 million compared to fiscal year 2013. This decrease can be attributed to the fact that during fiscal year 2014 the Lottery closed 46 games compared to 61 games closed during fiscal year 2013.

OVERVIEW OF THE FINANCIAL STATEMENTS

The Lottery is accounted for as an enterprise fund, reporting transactions using the accrual basis of accounting similar to the method used by business entities. This MD&A is intended to serve as an introduction to the Lottery's basic financial statements, including the notes to the financial statements. The Statements of Net Position on page 12, the Statements of Revenues, Expenses, and Changes in Net Position on page 13, and the Statements of Cash Flows on page 14 report the Lottery's net position and changes therein. The notes to the financial statements provide additional information that is essential to a reader's understanding of the data provided in the financial statements.

The Lottery transfers its net profits each fiscal year to the EETF. As a result, the Lottery's net position consists of funds invested in capital assets and restricted assets. The restricted net position consists of the investments being held by the Lottery to fund deferred prize payouts, 20 percent of unclaimed prizes designated for future prize payouts or promotions, and the Multi-State Lottery Association (MUSL) deposit amounts. The financial statements do include the cumulative effect of periodic adjustments to recognize the fair value of the grand prize investments despite the fact that the Lottery purchased the investments with the intention of holding the investments until maturity in order to meet the future obligations and, therefore, would not realize any gains or losses related to these investments for distribution as net proceeds.

SUMMARY OF NET POSITION

Table 1 presents a comparative summary of the Lottery's Statements of Net Position for fiscal years 2014, 2013, and 2012.

Table 1
Condensed Statements of Net Position
As of June 30, 2014, 2013, and 2012
(In Thousands)

	2014	2013	2012
Assets			
Current Assets	$ 175,627	$ 195,874	$ 165,785
Restricted Assets	841,406	1,053,576	1,291,004
Capital Assets, Net of Depreciation	4,243	3,215	1,356
Total Assets	1,021,276	1,252,665	1,458,145
Liabilities			
Current Liabilities	167,804	190,498	158,871
Current Liabilities Payable from Restricted Assets	450,147	607,554	735,382
Noncurrent Liabilities	305,664	349,312	427,291
Total Liabilities	923,615	1,147,364	1,321,544
Net Position			
Net Investment in Capital Assets	4,243	3,215	1,356
Restricted Net Position	93,418	102,086	135,245
Total Net Position	$ 97,661	$ 105,301	$ 136,601

Assets

Total assets at the end of fiscal year 2014 decreased $231.39 million from $1.25 billion at June 30, 2013, to $1.02 billion at June 30, 2014. At the end of fiscal year 2013, total assets were $205.48 million less than the $1.46 billion at the end of fiscal year 2012.

- Current assets decreased from $195.87 million in 2013 to $175.63 million in 2014, representing a decrease of $20.25 million. This net decrease was primarily due to a decrease of $21.51 million in cash and cash equivalents mostly on deposit with the State Treasury and an increase of $441,000 in accounts receivable.

The increase in accounts receivable for fiscal year 2014 was due to timing in the weekly sweeps at June 30, 2014.

- Restricted assets decreased $212.17 million from $1.05 billion in 2013 to $841.41 million in 2014. This decrease was predominately due to the continued decrease in the deferred payment investment portfolio as the preference in payout options for jackpot prizewinners progressively shifted toward the cash option instead of the alternative annuity option. There were $112.60 million in payouts of annuities and $18.12 million in purchases of new investments in fiscal year 2014 in comparison to fiscal year 2013, which had annuity payouts of $134.95 million, and purchases of new investments of $9.05 million. The amount of invested collateral and time deposits from the lending of those securities also continues to decline. The Lottery held $363.98 million in invested collateral and time deposits at June 30, 2014, $494.32 million at June 30, 2013, and $603.81 million at June 30, 2012.

Liabilities

Total liabilities at June 30, 2014, were $923.62 million, which was approximately $223.75 million lower than the total liabilities of $1.15 billion at June 30, 2013. The total liabilities at June 30, 2013, were $174.18 million lower than the June 30, 2012, amount of $1.32 billion.

- Current liabilities decreased from $190.50 million on June 30, 2013, to $167.80 million on June 30, 2014. This decrease can be attributed to the decrease in the amount due to EETF at June 30, 2014. As expected, current liabilities payable from restricted assets decreased $157.40 million from $607.55 million at June 30, 2013, to $450.15 million at June 30, 2014. The amount of grand prizes payable due within one year and the obligations under securities lending, which are the two primary components of this liability class, are associated with the amounts payable to jackpot winners who have chosen the deferred payment option. The obligations under securities lending decreased by $130.80 million and the current portion of grand prizes payable decreased by $26.60 million. At June 30, 2013, current liabilities payable from restricted assets balance of $607.55 million was $127.83 million less than the balance of $735.38 million at June 30, 2012.
- Noncurrent liabilities principally consist of the long-term portion of grand prizes payable, which represents the amount to be paid to grand prizewinners in future years. Correlative to current grand prizes payable, the long-term grand prizes payable decreased $44.98 million from fiscal year-end 2013 to 2014 and decreased $78.86 million from fiscal year-end 2012 to 2013.

Net Position

Net position decreased $7.64 million from June 30, 2013, to June 30, 2014. Net position at June 30, 2014, 2013, and 2012 were $97.66 million, $105.30 million, and $136.60 million, respectively. The decrease in net position for the 2014 fiscal year was primarily due to the $9.19 million decrease in the amount restricted for undistributed appreciation on restricted investments.

The Lottery joined MUSL five years ago in order to participate in the Powerball® with Powerplay® game and on May 15, 2013, the Lottery began participating in Mega Millions® with Megaplier®. In accordance with MUSL's rules, the Lottery must contribute to various prize reserve funds maintained by MUSL for unforeseen prize payouts related to the Powerball with Power Play and Mega Millions with Megaplier games. The Lottery's deposits in reserve funds with MUSL totaled $19.82 million and $19.04 million as of June 30, 2014, and June 30, 2013, respectively. Refer to Note 6, Multi-State Lottery Association for further detail.

SUMMARY OF REVENUES, EXPENSES, AND CHANGES IN NET POSITION

The most important element demonstrated with the Lottery's financial statements is the transfer to the EETF. Accordingly, the primary focus of these financial statements is determining net income available for transfer, rather than the change in net position of the Lottery, which primarily reflects the changes in fair value of restricted investments.

Table 2 presents a condensed Summary of Revenues, Expenses, and Changes in Net Position for the fiscal year ended June 30, 2014, and the prior fiscal years ended June 30, 2013, and June 30, 2012, as derived from the Lottery's Statements of Revenues, Expenses, and Changes in Net Position.

Table 2
Condensed Statements of Revenues, Expenses, and Changes in Net Position
As of June 30, 2014, 2013, and 2012
(In Thousands)

	2014	2013	2012
Operating Revenues			
Ticket Sales	$ 5,368,230	$ 5,012,996	$ 4,449,896
Bad Debt Expense	(1,337)	(912)	(1,360)
Terminal & Retailer Fees and Miscellaneous	7,817	7,979	7,658
Total Operating Revenues	5,374,710	5,020,063	4,456,194
Operating Expenses			
Prizes	3,431,092	3,162,889	2,766,119
Retailer Commissions	298,651	278,493	247,690
Vendor Commissions	77,052	75,205	66,528
Other Expenses	74,528	72,653	70,304
Total Operating Expenses	3,881,323	3,589,240	3,150,641
Income from Operations	1,493,387	1,430,823	1,305,553
Nonoperating Revenue, Net of Expenses	(5,618)	(37,816)	30,682
Income Before Operating Transfers	1,487,769	1,393,007	1,336,235
Transfers to EETF from Revenue & Reserves	(1,447,521)	(1,373,668)	(1,286,001)
Transfers to EETF from Unclaimed Prizes	(47,888)	(50,639)	(35,603)
Total Transfers to EETF	(1,495,409)	(1,424,307)	(1,321,604)
Change in Net Position	(7,640)	(31,300)	14,631
Net Position, Beginning of Year	105,301	136,601	121,970
Net Position, End of Year	$ 97,661	$ 105,301	$ 136,601

Sales

For the fiscal year ended June 30, 2014, ticket sales increased by $355.23 million over fiscal year 2013, which experienced a sales increase of $563.10 million. The Terminal game sales decreased 1.68 percent from the prior year. To offset the impact of the slow economic recovery on sales, the Lottery not only continued to utilize proven techniques, but also created new promotions for players.

- The daily games, CASH 3™, Play 4™ and FANTASY 5® with EZmatch™ reflect increases over the prior year. The total sales from these three games reached $885.62 million making up 45.39 percent of total Terminal sales.
- Mega Millions with Megaplier was introduced into the Terminal line of games on May 15, 2013. Mega Millions contributed $167.57 million to Terminal sales. The March 18, 2014 draw offered a jackpot of $414 million. One of the winning tickets was sold in Florida making it the first jackpot winning ticket in Florida.
- Full Service Vending Machines (FSVMs), were distributed during fiscal year 2013. There were a total of 500 FSVMs that were installed at our top Instant Ticket Vending Machine (ITVM) locations. The FSVM allows players to purchase both Terminal and Scratch-Off tickets. Total sales for FSVMs reached $248.32 million.

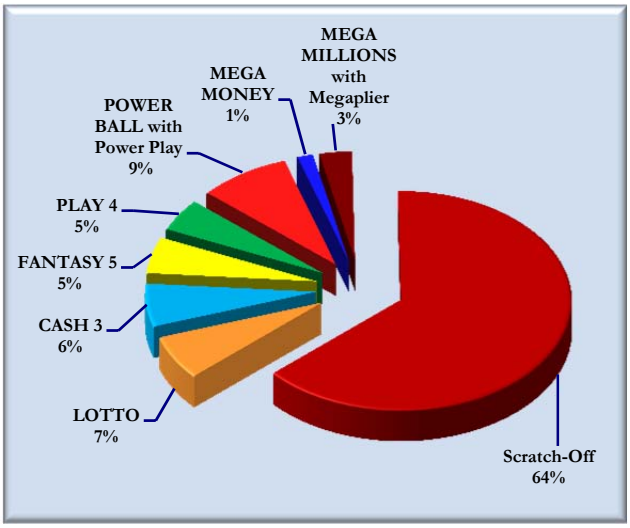
Sales of Scratch-Off tickets increased from $3.03 billion or 60.41 percent of total sales in fiscal year 2013 to $3.42 billion, or 63.65 percent of total sales in fiscal year 2014.

- Scratch-Off ticket sales experienced an increase of 12.83 percent over prior year sales with increases being reflected in most price points. The largest increases were seen in the $20 and $25 price points. The $20 price point was dominated by the GOLD RUSH TRIPLER ticket with sales totaling $431.96 million.
- On September 17, 2013, the Lottery introduced 100X THE CASH which is the second ticket launched in the $25 price point. This ticket contributed $537.07 million in sales.
- ITVMs, which function similar to other vending machines, have continued to have a notable impact on Scratch-Off ticket sales. They have proven successful in increasing the visibility of Scratch-Off ticket products and offering a convenience to players. There were 1,500 machines in use during the year. Total sales from the ITVMs accounted for $289.69 million of the Scratch-Off sales.

Bad debt expense is reported as a reduction in gross revenue in accordance with Governmental Accounting Standards Board requirements. The amount of bad debt expense for the fiscal years ended June 30, 2014, and 2013, was $1.34 million and $912,000, respectively.

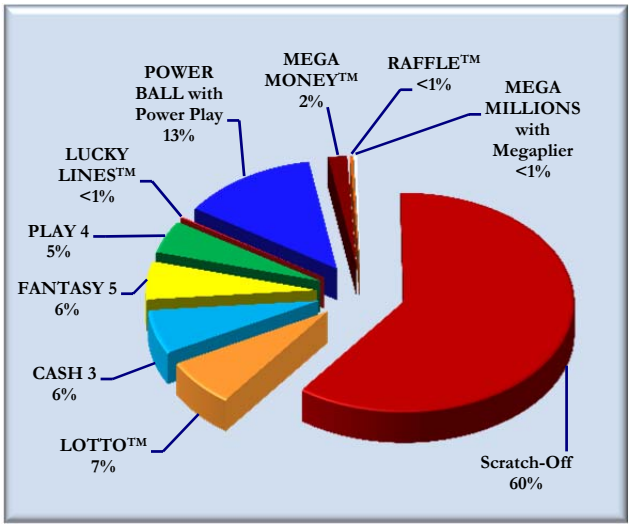
The following charts show sales by product for the various Lottery games during the fiscal years 2014 and 2013:

Sales by Product for Fiscal Year 2013-14*



* Did not conduct a Raffle.

Sales by Product for Fiscal Year 2012-13**



** Lucky Lines was discontinued in May 2013. Mega Millions was introduced in May 2013.

The following chart and table show sales by game for the last ten fiscal years:

Department of the Lottery
Historical Lottery Sales by Game
(In Thousands)

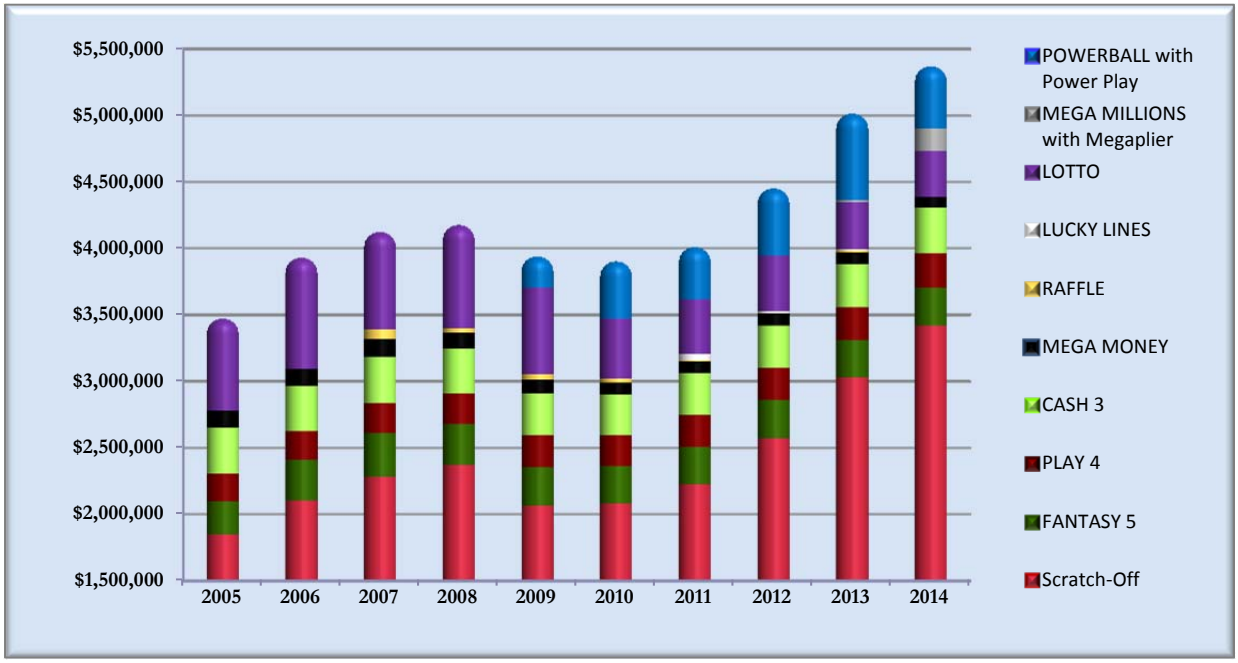


Table 3
Department of the Lottery
Historical Lottery Sales by Game
Last Ten Fiscal Years
(In Thousands)

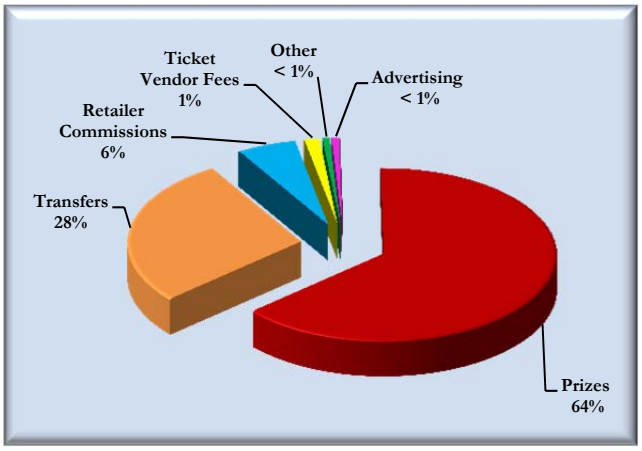
Fiscal Year Ended June 30	LOTTO	FANTASY 5	PLAY 4	CASH 3	MEGA MONEY	RAFFLE	LUCKY LINES	POWERBALL with Power Play	MEGA MILLIONS with Megaplier	Scratch-Off	Combined Sales
2005	$ 689,820	$ 252,467	$ 206,982	$ 345,598	$ 131,248					$ 1,844,619	$ 3,470,734
2006	835,028	306,679	215,529	343,174	128,502					2,100,118	3,929,030
2007	735,585	326,241	225,285	348,694	130,142	$ 72,549				2,283,620	4,122,116
2008	778,954	309,445	227,940	336,096	122,742	30,818				2,368,781	4,174,776
2009	650,603	287,285	238,957	320,157	102,190	41,314		$ 233,396		2,064,135	3,938,037
2010	445,881	281,963	235,027	304,039	92,060	29,334		434,062		2,078,133	3,900,499
2011	411,389	282,777	235,692	313,270	88,971	12,603	$ 45,369	392,969		2,225,676	4,008,716
2012	419,040	290,672	244,711	314,747	92,346	-	17,692	503,697		2,566,991	4,449,896
2013	352,375	281,492	244,141	324,539	89,500	12,879	8,582	654,263	$ 16,698	3,028,527	5,012,996
2014	349,114	288,237	257,752	339,636	79,483	-	-	469,292	167,573	3,417,143	5,368,230

Expenses

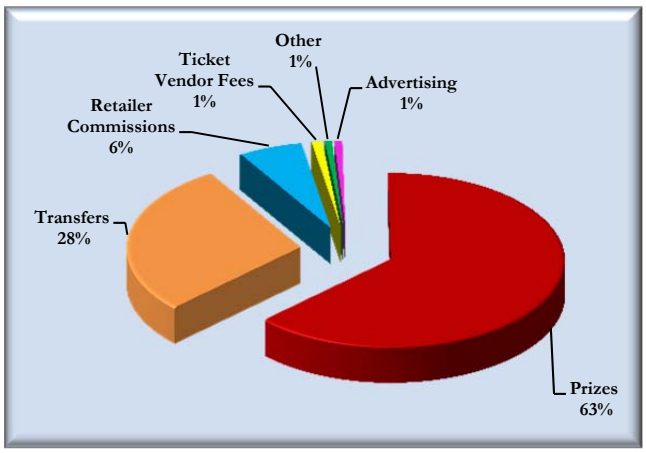
Section 24.121, Florida Statutes, stipulates that funds remaining in the Operating Trust Fund after the transfer to the EETF shall be used for the payment of administrative expenses of the Lottery. These expenses include Terminal game expenses, Scratch-Off ticket expenses, advertising, and other expenses required for the day-to-day operations of the Lottery.

The following charts show the major components of Lottery operating expenses and transfers as a percentage of ticket sales for the 2014 and 2013 fiscal years:

Operating Expenses and Transfers
Fiscal Year 2013-14



Operating Expenses and Transfers
Fiscal Year 2012-13



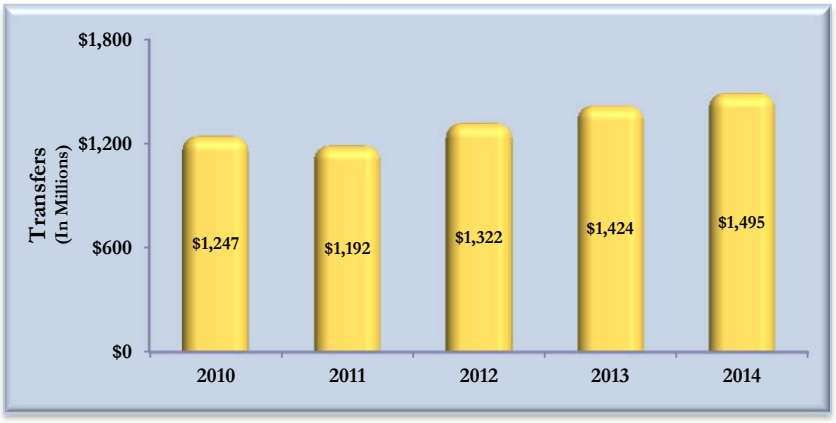
Prizes, commissions, and gaming vendor fees are directly related to sales and fluctuate accordingly. In fiscal year 2014, these expenses changed proportionally; yet as a percentage of total expenses they remained constant. The other expenses, which consisted of advertising, salary and benefits, professional fees, rent, maintenance, and depreciation, increased slightly. Fiscal year 2014 and 2013 administrative expenses were $74.53 million and $72.65 million, respectively.

Transfers

Since its inception, the Lottery has transferred $26.94 billion to the EETF. The Lottery's contribution of $1.50 billion to the EETF for the fiscal year ended June 30, 2014, exceeded the prior fiscal year's contribution of $1.42 billion. The Lottery contributed over $1 billion for the twelfth consecutive year. With the exception of the 2010 and 2011 fiscal years, the Lottery has shown increases in transfers since fiscal year 2001.

The following chart shows the total transfers to the EETF for the past five years:

Department of the Lottery
Transfers to the EETF
(In Millions)



ECONOMIC FACTORS AND FUTURE IMPACTS

The main economic factors affecting lottery sales are population growth, personal income changes, tourism, and competition for discretionary consumer spending. Florida's unemployment rate dropped from 7.1 percent in fiscal year 2013 to 6.2 percent during fiscal year 2014. In fiscal year 2014, Lottery sales exceeded $5.36 billion, setting new sales records for Scratch-Off and total game sales. The Lottery's strategies have revolved around enhancing Terminal and Scratch-Off games, increasing retailer penetration in the State, and refreshing the Lottery's brand.

FINANCIAL CONTACT

The Lottery's financial statements and this Management's Discussion and Analysis are designed to give a general overview to the reader. If you have any questions regarding this report or require additional information, please contact the State of Florida, Department of the Lottery, Chief Financial Officer, 250 Marriott Drive, Capitol Complex, Tallahassee, Florida 32399.

BASIC FINANCIAL STATEMENTS

DEPARTMENT OF THE LOTTERY
STATEMENTS OF NET POSITION
AS OF JUNE 30, 2014, AND JUNE 30, 2013
(IN THOUSANDS)

	June 30, 2014	June 30, 2013
Assets		
Current Assets:		
Cash and cash equivalents	$ 124,629	$ 146,137
Interest receivable	35	165
Accounts receivable, net	47,003	46,562
Due from other departments	-	1
Prepaid expenses	8	4
Inventories	1,735	863
Security deposits	2,217	2,142
Total Current Assets	175,627	195,874
Noncurrent Assets:		
Restricted Assets		
Cash and cash equivalents	30,609	77,063
Securities lending income receivable	496	373
Deposit with MUSL	19,817	19,037
Investments, grand prize	441,503	523,992
Investments, security lending collateral	348,981	433,111
Total Restricted Assets	841,406	1,053,576
Capital assets, net	4,243	3,215
Total Noncurrent Assets	845,649	1,056,791
Total Assets	$ 1,021,276	$ 1,252,665
Liabilities		
Current Liabilities:		
Accounts payable and accrued liabilities	$ 5,513	$ 7,196
Prizes payable	104,078	104,279
Due to Educational Enhancement Trust Fund	55,409	76,111
Deposits payable	2,219	2,143
Compensated absences payable	585	769
Total Current Liabilities	167,804	190,498
Current Liabilities Payable from Restricted Assets:		
Securities lending fees payable	40	46
Obligations under securities lending	363,953	494,757
Grand prizes payable	86,154	112,751
Total Current Liabilities Payable from Restricted Assets	450,147	607,554
Noncurrent Liabilities:		
Grand prizes payable from restricted assets	298,466	343,442
Compensated absences payable	3,189	2,908
Other long-term liabilities	4,009	2,962
Total Noncurrent Liabilities	305,664	349,312
Total Liabilities	923,615	1,147,364
Net Position		
Invested in capital assets	4,243	3,215
Restricted for undistributed appreciation on restricted investments	58,009	67,195
Restricted for MUSL	19,817	19,037
Restricted for future prizes or special prize promotions	15,592	15,854
Total Net Position	97,661	105,301
Total Liabilities and Net Position	$ 1,021,276	$ 1,252,665

The notes to the financial statements are an integral part of these statements.

DEPARTMENT OF THE LOTTERY
STATEMENTS OF REVENUES, EXPENSES, AND CHANGES IN NET POSITION
YEARS ENDED JUNE 30, 2014, AND JUNE 30, 2013
(IN THOUSANDS)

	June 30, 2014	June 30, 2013
Operating Revenues:		
Ticket sales	$ 5,368,230	$ 5,012,996
Bad debt expense	(1,337)	(912)
Terminal fees and miscellaneous	7,611	7,773
Retailer fees	206	206
Total Operating Revenues	5,374,710	5,020,063
Operating Expenses:		
Prizes	3,431,092	3,162,889
Retailer commissions	298,651	278,493
Scratch-Off tickets	48,157	44,193
Terminal games	28,895	31,012
Advertising	37,486	37,696
Personal services	27,614	25,730
Other contractual services	7,656	6,801
Materials and supplies	1,057	2,156
Depreciation	715	270
Total Operating Expenses	3,881,323	3,589,240
Operating Income	1,493,387	1,430,823
Nonoperating Revenues (Expenses):		
Interest	2,776	3,984
Securities lending income	1,534	2,543
Securities lending fees	(327)	(1,090)
Investment management fees	(532)	(376)
Net appreciation (depreciation) in fair value of investments	13,718	(13,749)
Property disposition (loss)	124	(60)
Amortization of grand prizes payable	(22,911)	(29,068)
Total Nonoperating Revenues (Expenses), Net	(5,618)	(37,816)
Income Before Operating Transfers	1,487,769	1,393,007
Transfers to Educational Enhancement Trust Fund:		
Transfers from revenue and reserves	(1,447,521)	(1,373,668)
Transfers from unclaimed prizes	(47,888)	(50,639)
Total Transfers to Educational Enhancement Trust Fund	(1,495,409)	(1,424,307)
Change in Net Position	(7,640)	(31,300)
Net Position, Beginning of Year	105,301	136,601
Net Position, End of Year	$ 97,661	$ 105,301

The notes to the financial statements are an integral part of these statements.

DEPARTMENT OF THE LOTTERY
STATEMENTS OF CASH FLOWS
YEARS ENDED JUNE 30, 2014, AND JUNE 30, 2013
(IN THOUSANDS)

	June 30, 2014	June 30, 2013
Operating Activities:		
Ticket sales	$ 5,366,452	$ 5,002,817
Prizes paid to winners	(3,432,073)	(3,154,136)
Commissions paid and payments to retailers	(298,651)	(278,493)
Paid to vendors for goods and services	(125,973)	(122,478)
Paid to employees	(26,307)	(24,700)
Other operating revenue	7,817	7,979
Net Cash Provided by Operating Activities	1,491,265	1,430,989
Noncapital Financing Activities:		
Payments to Educational Enhancement Trust Fund	(1,516,111)	(1,399,800)
Net Cash Used in Noncapital Financing Activities	(1,516,111)	(1,399,800)
Capital and Related Financing Activities:		
Purchase of capital assets	(1,619)	(2,189)
Net Cash Used in Capital and Related Financing Activities	(1,619)	(2,189)
Investing Activities:		
Cash received from maturity of grand prize investments	112,603	134,951
Cash paid to grand prizewinners upon maturity of grand prize investments	(112,603)	(134,951)
Security lending	(46,209)	61,209
Investment income, net of fees	4,712	2,825
Net Cash Provided by Investing Activities	(41,497)	64,034
Net Increase (Decrease) in Cash and Cash Equivalents	(67,962)	93,034
Cash and Cash Equivalents, Beginning of Year	223,200	130,166
Cash and Cash Equivalents, End of Year	$ 155,238	$ 223,200
Reconciliation of Income from Operations to Net Cash Provided by Operating Activities:		
Income from operations	$ 1,493,387	$ 1,430,823
Adjustments to reconcile income from operations to net cash provided by operating activities:		
Depreciation	715	270
Changes in assets and liabilities		
(Increase) decrease in:		
Accounts receivable	(762)	(8,747)
Inventories	(872)	280
Prepaid expenses	(4)	64
Increase (decrease) in:		
Allowance for uncollectible accounts	(535)	301
Accounts payable and accrued liabilities	(1,607)	(658)
Prizes payable	(201)	7,796
Compensated absences payable	97	93
Postemployment healthcare benefits payable	1,047	767
Net Cash Provided by Operating Activities	$ 1,491,265	$ 1,430,989
Noncash Investing, Capital and Financing Activities:		
Increase/(decrease) in fair value of investments	$ (57,946)	$ (99,563)

The notes to the financial statements are an integral part of these statements.

NOTES TO FINANCIAL STATEMENTS

DEPARTMENT OF THE LOTTERY
YEARS ENDED JUNE 30, 2014, AND JUNE 30, 2013

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

a. Reporting Entity

The State of Florida, Department of the Lottery (the Lottery) was established as a State agency with the enactment of the Florida Public Education Lottery Act (the Act) in 1987. The purpose of the Act is "to implement Section 15, Article X of the State Constitution in a manner that enables the people of the State to benefit from significant additional moneys for education and also enables the people of the State to play the best lottery games available."

In evaluating the Lottery as a reporting entity, management has addressed all potential component units for which the Lottery may be financially accountable and, as such, be includable in the Lottery's financial statements. The Lottery is financially accountable if it appoints a voting majority of the organization's governing board and (1) it is able to impose its will on the organization or (2) there is a potential for the organization to provide specific financial benefit to or impose specific financial burden on the Lottery. Additionally, the primary government is required to consider other organizations for which the nature and significance of their relationship with the primary government is such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete. Management's analysis has disclosed no component units that should be included in the Lottery's financial statements.

b. Basis of Presentation

The Lottery is accounted for as a proprietary type enterprise fund. Enterprise funds are used to account for activities that are financed and operated in a manner similar to private business enterprises: (1) where the costs of providing goods and services to the general public on a continuing basis are to be financed through user charges; or (2) where the periodic determination of net income is considered appropriate. The Lottery is reported as an enterprise fund within the State of Florida's Comprehensive Annual Financial Report.

c. Basis of Accounting

Basis of accounting refers to when the recognition of revenues and expenses and the related assets and liabilities are recognized in the accounts and reported in the financial statements. The financial statements are prepared on the accrual basis of accounting in accordance with generally accepted accounting principles. Under this method, revenues are recognized when they are earned and expenses are recognized when they are incurred.

The measurement focus of proprietary fund types is on a flow of economic resources method, which emphasizes the determination of net income, financial position, and cash flows. All fund assets and liabilities, current and noncurrent, are accounted for on the Statements of Net Position.

The Lottery's operating revenues and expenses generally result from the sale and marketing of lottery tickets and the payment of related prizes. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

d. Cash and Cash Equivalents

The Lottery considers all highly liquid investments with an original maturity of three months or less when purchased to be cash equivalents. This includes cash in banks, repurchase agreements with financial institutions, petty cash, balances held by the State Board of Administration (SBA), and pooled investments in the State Treasury.

e. Investments

Florida Statutes authorize the Lottery to invest in certain instruments. The Lottery reports investments at fair value. Investments that are not publicly quoted are priced by a third party through a discounted cash flow method. Details of investments are included in Note 2.

f. Allowance for Doubtful Accounts

The allowance for doubtful accounts is based on an analysis of collectability of accounts receivable, which considers the age of the accounts.

g. Inventories

Supply inventory and promotional items are valued at cost, using the first-in, first-out method. Supply inventory comprised game merchandise, prepaid postage, and prepaid tolls.

h. Prepaid Expenses

Prepaid expenses represent warranty agreements paid for during the current year but which will not be consumed or used up until a future period.

i. Capital Assets

Capital assets are stated at cost less accumulated depreciation. As required by Chapter 273, Florida Statutes, a capitalization threshold of $1,000 and useful life extending beyond one year are employed for tangible personal property. The Lottery's capitalization threshold for intangible assets is $100,000. Depreciation on all capital assets is computed using the straight-line method over the following estimated useful lives:

Data processing equipment	3 to 5 years
Office furniture and fixtures	3 to 15 years
Vehicles and other equipment	3 to 20 years
Software	3 to 15 years

When capital assets are retired or otherwise disposed of, the costs and related accumulated depreciation are removed from the accounts and any resulting gain or loss is reflected in the Statements of Revenues, Expenses, and Changes in Net Position in the period of disposal. See Note 5 for more detailed information on Capital Assets.

j. Net Position

Net position includes categories for invested in capital assets, restricted for undistributed appreciation on restricted investments, restricted for future prizes or special prize promotions, and restricted for the Multi-State Lottery Association (MUSL). See Note 6 for more information on MUSL.

The invested in capital assets category represents the investment in capital assets, recorded at cost less accumulated depreciation.

The restricted for undistributed appreciation on restricted investments category represents the undistributed appreciation for all restricted asset accounts.

The restricted for future prizes or special prize promotions category represents the portion of unclaimed prize obligations legally reverted back to the Lottery and restricted for use in the payment of future prize pools or special prize promotions in accordance with Section 24.115(2), Florida Statutes.

The restricted for MUSL category represents the amount placed into reserve for the Florida Lottery by the MUSL in accordance with Rule 53ER12-6, Florida Administrative Code.

k. Revenue Recognition

Lottery games are sold to the public by contracted retailers. Revenue is recognized when Terminal game tickets are sold to players and when books of Scratch-Off tickets are settled. Certain games include tickets that entitle the holder to exchange one ticket for another (free tickets). Such tickets are deemed to be replacements and, therefore, are not included in ticket sales.

l. Commissions

Retailers receive a commission of 5 percent on ticket sales. The commission on ticket sales for games is based upon total tickets distributed to the players (including free tickets) which, when compared to revenue, causes the percentage to be slightly higher or lower than 5 percent at any given time. Additionally, retailers are paid commissions through a 1 percent cashing bonus on redemption of tickets (including free tickets).

m. Prizes

In accordance with the Act, variable percentages of the gross revenue from the sale of Terminal and Scratch-Off lottery tickets shall be returned to the public in the form of prizes paid by the Lottery or retailers as authorized.

Prize expense for Terminal games is recorded based on prizes won by the players, as revenue is recognized. Any prize that remains unclaimed at the end of a 180-day period following a draw is considered unclaimed.

Prize expense for Scratch-Off games is recorded based on the predetermined prize structure for each game, as revenue is recognized. Any prize that remains unclaimed 60 days after a Scratch-Off game is closed is considered unclaimed.

Effective July 1, 2005, 80 percent of all unclaimed prize money is deposited in the Educational Enhancement Trust Fund (EETF). The remaining 20 percent of unclaimed prize money is added to the pool from which future prizes are to be awarded or used for special prize promotions and is reported as restricted for future prizes or special prize promotions.

All prizes are recorded at the actual amount except for the annuity-funded prizes, which are paid out on a deferred basis. The actual prize expense for these types of prizes is based on the present value of an annuity using the interest yield on the investments acquired to fund the annuity.

n. Compensated Absences

Employees earn the right to be compensated during absences for vacation, illness, and unused special compensatory leave earned for hours worked on legal holidays. Compensated absences for annual leave are recorded as a liability when the benefits are earned. Compensated absences for sick leave are calculated based on the vesting method. Within the limits established by law or rule, unused leave benefits

are paid to employees upon separation from State service. The cost of vacation and calculated sick leave benefits is accrued in the period in which earned. The compensated absences amounts are based on current fiscal year-end salary rates and include employer social security and pension contributions at current rates.

o. Self-Insurance

The Lottery participates in the various self-insurance programs established by the State of Florida for property and casualty losses and employee health insurance. Coverage includes property, general liability, automobile liability, workers' compensation, court-awarded attorney fees, and Federal civil rights actions. The property insurance program self-insures the first $2 million per occurrence for all perils except named windstorm and flood. For named windstorm and flood, the property insurance program self-insures the first $2 million per occurrence but with an annual aggregate retention of $40 million. Commercial excess insurance is purchased for losses over the self-insured retention up to $54 million per occurrence for named windstorm and flood losses and $200 million per occurrence for all other perils. Workers' compensation is provided to comply with the applicable law. The employee health and dental insurance program provides for payment of medical claims of employees and covered dependents.

p. Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, restricted net position, revenues, and expenses, and disclosures of contingent assets and liabilities. Actual results could differ from those estimates.

q. Bad Debt Expense

Bad debt expense is reported as a reduction in gross revenue. Bad debt expense is recognized when a Lottery retailer's uncollected revenue is past due. The amount of expense is based on an accounts receivable age analysis. The bad debt expense for the fiscal years ended June 30, 2014, and June 30, 2013, was $1,337,000 and $912,000, respectively.

2. CASH AND INVESTMENTS

a. Cash and Cash Equivalents

Cash is held in demand deposits at various financial institutions. These deposits, with a book value of approximately $370,000 at June 30, 2014, and $396,000 at June 30, 2013, were insured by either the State's collateral for public deposits in accordance with Section 280.04, Florida Statutes, or Federal depository insurance. Cash held in time deposits for the security lending program with a book value of $15,000,000 were exposed to custodial credit risk as these balances were uncollateralized and uninsured.

Chapter 280, Florida Statutes, generally requires public funds to be deposited in a Qualified Public Depository, which is a bank or savings association that is designated by the State of Florida Chief Financial Officer (State CFO) as authorized to receive deposits in the State and that meets the collateral requirements. The State CFO determines the collateral requirements and collateral pledging level for each Qualified Public Depository following guidelines outlined in Section 280.04, Florida Statutes, and Chapter 69C-2, Florida Administrative Code. Collateral pledging levels include 25, 50, 125, and 200 percent of a Qualified Public Depository's average daily deposit balance or, if needed, an amount as prescribed by the State CFO. Collateral may be held by another custodian with approval of the State CFO if conditions are met that protect the State's interest. Eligible collateral includes federal,

federally-guaranteed, state and local government obligations, corporate bonds, and other securities designated allowable under conditions set by the State CFO.

Florida Statutes provides that if a loss to public depositors is not covered by deposit insurance and the proceeds from the sale of securities pledged by the defaulting depository, the difference will be provided by an assessment levied against other Qualified Public Depositories of the same type as the depository in default.

Due to the investing policy of the Lottery, book overdrafts were approximately $3,178,000 at June 30, 2014, and $2,372,000 at June 30, 2013, representing outstanding prize payment checks and retailer payment checks. These outstanding checks are included as a component of prizes payable and accounts payable. The Lottery has an agreement with a financial institution to honor prize payments and retailer payments, as they are presented to the bank, up to $75 million.

Surplus cash is maintained in the State Treasury's general pool of investments. The State CFO pools funds from all State agencies. Included in the pool are primarily time deposits, U.S. Government securities, federal agency securities, commercial paper, corporate bonds and notes, and repurchase agreements. The Lottery's share of this investment pool was approximately $139,868,000 and $161,595,000 at June 30, 2014, and 2013, respectively. No allocation will be made as to the Lottery's share of the types of investments or their risk categories. The Lottery's share of the assets and liabilities arising from the securities lending agreements administered by the State Treasury will likewise not be carried on the Statements of Net Position since the State Treasury operates on a pooled basis and to do so may give the misleading impression that the Lottery itself has entered into such agreements. For further information, refer to the State of Florida's Comprehensive Annual Financial Report or publications of the State of Florida Department of Financial Services, Office of the Chief Financial Officer.

b. Investments, Grand Prize

The grand prize investments primarily consist of U.S. Government obligations held on the Lottery's behalf by the SBA. Grand prize investments and related grand prizes payable are not presented in current assets or liabilities. They are not part of current operations but instead are restricted assets and liabilities that are held by the Lottery for grand prize winnings to be paid on a deferred basis if the cash payment option is not selected.

Grand prize investments are shown at fair value, and the related grand prizes payable are adjusted to the net present value using the yield on the investments. The difference between the fair value of the investments and the net present value of the grand prizes payable is reflected as restricted for undistributed appreciation on restricted investments in net position. This represents the unrealized gains on the investments. Because these investments are held restrictively for grand prizewinners, this balance is not available for transfer to the EETF.

Interest accreted on grand prize investments during the year is reflected as an increase in the carrying value of grand prizes payable on the Statements of Net Position, and as a nonoperating revenue (expense) on the Statements of Revenues, Expenses, and Changes in Net Position. Net appreciation (depreciation) in fair value of investments is reflected as a nonoperating revenue (expense) on the Statements of Revenues, Expenses, and Changes in Net Position, and takes into account all changes in fair value that occurred during the year, including purchases, maturities, and sales.

c. *Investments, Security Lending Collateral*

These investments consist of the fair value of investments made with cash collateral held by the SBA on the Lottery's behalf as part of a securities lending program.

The SBA, authorized by Section 215.47, Florida Statutes, participates in a security lending program involving grand prize investments. The Lottery, through the SBA, loans various securities to borrowers for collateral with a simultaneous agreement to return collateral for the same securities in the future. Collateral received from borrowers may be cash or U.S. Government securities. The SBA is contractually limited from pledging or selling collateral except in the event of borrower default. The contract with the lending agent requires it to indemnify the SBA if the borrowers fail to return the underlying securities or fail to pay income distributions on them. No significant violations of legal or contractual provisions occurred, and no losses resulted from borrower or lending agent defaults.

The Bank of New York Mellon (Mellon) is the agent for lending U.S. Treasury securities to various authorized brokers for cash or U.S. Government securities. Initially, collateral received shall be in the form of cash at 100 percent, or other securities valued at 102 percent, of the fair value of the securities loaned as required by the lending agreement. Borrowers must be approved for lending by Mellon's credit department. Mellon monitors the fair value of collateral provided and the securities on loan on a daily basis. Additional collateral is required if the fair value of the collateral for any loan is less than 100 percent of the fair value of the securities provided for such loan. The SBA had no credit risk exposure to borrowers at year-end.

The SBA had received $363,953,000 of cash collateral for the lending program as of June 30, 2014, and $494,757,000 as of June 30, 2013. At June 30, 2014, and June 30, 2013, the collateral that was held for the securities lending transactions exceeded the fair value of the securities underlying the agreements (including accrued interest). The cash was invested in securities authorized by the lending agreement. Authorized securities include primarily certificates of deposit, corporate and medium term notes, asset-backed securities, and repurchase agreements. The invested cash collateral generally has a shorter maturity than the securities on loan.

A risk factor associated with this lending agreement is the potential for declines in the value of the invested holdings purchased with the cash collateral. If these investments must be liquidated, any shortfall between the value of the investments and the securities lending obligation becomes the responsibility of the Lottery. As of June 30, 2014 the Lottery did not experience a shortfall. The unrealized shortfall for June 30, 2013 was $199,000.

Other risk factors associated with security lending include counterparty default and failure of the custodial bank to indemnify the Lottery.

Securities lending income and expenses for the year ended June 30, 2014, and 2013, consisted of (in thousands):

	2014	2013
Securities lending income	$ 1,534	$ 2,543
Less broker rebates	(313)	(955)
Less bank fees	(14)	(135)
Net securities lending revenue	$ 1,207	$ 1,453

d. Investment Credit Risk

Lottery grand prizewinner investments have been limited to U.S. Government guaranteed securities.

The State Treasury Investment Pool's current rating by Standard and Poor's is A+f as of June 30, 2014.

Listed below are the Standard and Poor's credit ratings for the lending program's invested cash collateral (in thousands):

As of June 30, 2014

	Standard and Poor's Credit Rating					
Investment Type	**AAA**	**AA**	**A**	**A-1**	**NR**	**Totals**
Certificates of Deposit	$ -	$ 11,212	$ 5,406	$ -	$ 97,734	$ 114,352
Commercial Paper	-	-	-	25,803	8,802	34,605
Domestic Corporate Bonds & Notes	9,044	52,241	26,219	-	8,101	95,605
Domestic Non-government Asset-backed Securities	16,346	-	-	-	5,129	21,475
International Corporate Bonds & Notes	-	24,112	8,912	-	-	33,024
International Non-government Asset-backed Securities	-	-	-	-	1,222	1,222
Repurchase Agreements	-	-	-	-	48,698	48,698
Grand Total	$ 25,390	$ 87,565	$ 40,537	$ 25,803	$ 169,686	$ 348,981

As of June 30, 2013

	Standard and Poor's Credit Rating						
Investment Type	**AAA**	**AA**	**A**	**CCC**	**A-1**	**NR**	**Totals**
Certificates of Deposit	$ -	$ 13,105	$ 3,606	$ -	$ -	$ 83,987	$ 100,698
Commercial Paper	-	-	-	-	81,270	-	81,270
Domestic Corporate Bonds & Notes	-	49,062	45,932	-	-	-	94,994
Domestic Non-government Asset-backed Securities	44,496	-	-	174	-	6,094	50,764
International Corporate Bonds & Notes	-	32,257	5,497	-	-	5,074	42,828
International Non-government Asset-backed Securities	7,104	-	-	-	-	9,940	17,044
International Non-government Backed CMOs	-	-	11,628	-	-	-	11,628
Repurchase Agreements	-	-	-	-	-	33,885	33,885
Grand Total	$ 51,600	$ 94,424	$ 66,663	$ 174	$ 81,270	$ 138,980	$ 433,111

e. Investment Interest Rate Risk

The investment policy objective is to match maturities of investments with the maturities of the Lottery winner annuities. Therefore, investments are held to maturity after they are purchased thereby eliminating interest rate risk. Listed below are the Lottery's investments in U.S. Treasury Strips (in thousands):

As of June 30, 2014	
Time to Maturity	**Fair Value**
< 1 year	$ 86,115
> 1 year to 3 years	109,955
> 3 years to 5 years	42,903
> 5 years to 10 years	85,612
> 10 years to 15 years	70,014
> 15 years to 20 years	32,927
> 20 years to 25 years	8,618
> 25 years	5,359
Total	$ 441,503

As of June 30, 2013	
Time to Maturity	**Fair Value**
< 1 year	$ 112,508
> 1 year to 3 years	149,135
> 3 years to 5 years	65,510
> 5 years to 10 years	79,059
> 10 years to 15 years	69,170
> 15 years to 20 years	37,240
> 20 years to 25 years	7,879
> 25 years	3,491
Total	$ 523,992

The Lottery contracts with the SBA to execute the securities lending program. The securities lending authorization agreement between Mellon and the SBA requires that the maximum weighted average portfolio maturity not exceed 90 days. The lending program invests a significant amount of its assets in floating rate securities and limits the maximum reset period for interest rate changes to six months. Next reset dates are used in the calculation of weighted average maturity. Listed below are the weighted average maturities for the lending program's invested cash collateral:

	June 30, 2014		June 30, 2013	
Investment Type	**Fair Value (Thousands)**	**Weighted Average Maturity (Days)**	**Fair Value (Thousands)**	**Weighted Average Maturity (Days)**
Certificates of Deposit	$ 114,352	55	$ 100,698	56
Commercial Paper	34,605	73	81,270	77
Domestic Corporate Bonds & Notes	95,605	48	94,994	47
Domestic Non-government Asset-backed Securities	21,475	23	50,764	16
International Corporate Bonds & Notes	33,024	57	42,828	46
International Non-government Asset-backed Securities	1,222	14	17,044	15
International Non-government Backed CMOs	-		11,628	22
Repurchase Agreements	48,698	1	33,885	1
Total Fair Value	$ 348,981		$ 433,111	
Portfolio weighted average maturity		**45**		**45**

The effective duration of the State Treasury Investment Pool at June 30, 2014, and June 30, 2013, was approximately 2.57 years and 2.65 years, respectively.

f. Investment Concentration of Credit Risk

Since all long-term investments (other than in the securities lending program) are in U.S. Government-guaranteed securities, the Lottery has not adopted a policy regarding concentration of credit risk. The securities lending program has established investment concentration of credit risk policies that limit the aggregate exposure to any one issuer or guarantor that is not the U.S. Government or guaranteed by the U.S. Government to 10 percent of the book value of the lending program's invested cash collateral. No invested cash collateral exceeded the 10 percent limitation.

g. Investment Custodial Credit Risk

Custodial credit risk is defined as the risk that an entity may not recover securities held by another party. The Lottery does not have a formal policy regarding custodial credit risk. The custodian for the SBA-administered lending program is also the counterparty to the investment transactions. Therefore, the amount of investments subject to investment custodial credit risk at June 30, 2014, and June 30, 2013, was $348,981,000 and $433,111,000 respectively.

At June 30, 2014, and June 30, 2013, all non-lending investments held were either insured or registered and held by the Lottery or its agents in the Lottery's name and thus were not subject to custodial credit risk.

h. Foreign Currency Risk

The Lottery had no exposure to foreign currency risk as of June 30, 2014, and June 30, 2013.

i. Investment Summary

The following schedule summarizes all investments and investments loaned under securities lending agreements at June 30 (in thousands):

Investment Type	June 30, 2014 Carrying Value	June 30, 2013 Carrying Value
Commercial Paper	$ 34,605	$ 81,270
Certificates of Deposit	114,352	100,698
Repurchase Agreements	48,698	33,885
U.S. Government Obligations & Federally Guaranteed Obligations	84,598	38,871
Domestic Corporate Bonds & Notes	95,605	94,994
Domestic Non-government Asset-backed Securities	21,475	50,764
International Corporate Bonds & Notes	33,024	42,828
International Non-government Asset-backed Securities	1,222	17,044
Domestic Non-government Backed CMO's		-
International Non-government Backed CMOs	-	11,628
Investments Held by Others Under Securities Lending Agreements - U.S. Obligations	356,905	485,121
Pooled Investments with State Treasury	139,868	161,595
Total Investments	$ 930,352	$ 1,118,698

The following schedules reconcile cash and investments to the Statements of Net Position at June 30 (in thousands):

	June 30, 2014			
	Investments	Cash at Financial Institutions	Cash at State Treasury	Total
Cash and cash equivalents	$ 124,276	$ 326	$ 27	$ 124,629
Restricted cash and cash equivalents	15,592	15,017	-	30,609
Investments, grand prize	441,503	-	-	441,503
Investments, security lending collateral	348,981	-	-	348,981
Total	$ 930,352	$ 15,343	$ 27	$ 945,722

	June 30, 2013			
	Investments	Cash at Financial Institutions	Cash at State Treasury	Total
Cash and cash equivalents	$ 145,741	$ 361	$ 35	$ 146,137
Restricted cash and cash equivalents	15,854	61,209	-	77,063
Investments, grand prize	523,992	-	-	523,992
Investments, security lending collateral	433,111	-	-	433,111
Total	$ 1,118,698	$ 61,570	$ 35	$ 1,180,303

3. ACCOUNTS RECEIVABLE

Accounts receivable as of June 30, consisted of (in thousands):

	2014	2013
Ticket sales receivable	$ 48,972	$ 49,138
Other receivables	125	52
Total receivables	49,097	49,190
Less allowance for doubtful accounts	(2,094)	(2,628)
Accounts receivable, net	$ 47,003	$ 46,562

4. SECURITY DEPOSITS AND DEPOSITS PAYABLE

The Lottery receives certificates of deposit and cashier's checks from certain vendors and retailers in order to secure contract performance. Certificates of deposit are held in trust by the State with any interest earnings being credited to the vendor or retailer. Cashier's checks are held as cash by the Lottery. These deposits are established to reduce the potential financial risk to the Lottery in the event of a breach of contract. The certificates appear on the Statements of Net Position, in assets as security deposits, and in liabilities, as deposits payable. The checks appear on the Statements of Net Position, in assets as cash, and in liabilities, as deposits payable.

5. CAPITAL ASSETS

Capital assets at June 30 consisted of (in thousands):

		2012-13			2013-14		
	Balance 30-Jun-12	Increase	Decrease	Balance 30-Jun-13	Increase	Decrease	Balance 30-Jun-14
Data processing equipment	$ 3,693	$ 5	$ (291)	$ 3,407	$ 494	$ (95)	$ 3,806
Office equipment and fixtures	5,799	412	(372)	5,839	36	(1,570)	4,305
Vehicles and other equipment	3,201	413	(73)	3,541	325	(245)	3,621
Software and other intangibles	763	1,360	-	2,123	1,652	(920)	2,855
	13,456	2,190	(736)	14,910	2,507	(2,830)	14,587
Less accumulated depreciation	12,100	333	(738)	11,695	747	(2,098)	10,344
Total capital assets, net	$ 1,356	$ 1,857	$ 2	$ 3,215	$ 1,760	$ (732)	$ 4,243

6. MULTI-STATE LOTTERY ASSOCIATION

MUSL is an unincorporated government-benefit voluntary association created for the purpose of administering joint lottery games. MUSL included 34 state lottery entities, the District of Columbia, Puerto

Rico, and the Virgin Islands during fiscal year 2014. This association offers the Powerball with Powerplay, Mega Millions with Megaplier, and several other Terminal games in participating states. The chief executive officer of each member lottery serves on the MUSL board of directors.

As a member of MUSL, the Lottery is required to contribute to various prize reserve funds maintained by MUSL. The prize reserve funds serve as a contingency reserve to protect MUSL from unforeseen prize payments. MUSL periodically reallocates the prize reserve funds among the states based on relative Powerball with Powerplay and Mega Millions with Megaplier sales levels. All remaining funds remitted, and the related interest earnings (net of administrative costs), will be returned to the Lottery upon leaving MUSL, less any portion of unanticipated prize claims that may have been paid from the fund.

As of June 30, 2014, and June 30, 2013, the Lottery had deposits with MUSL of $19,817,102, and $19,037,144, respectively, representing the Lottery's deposits of reserve funds.

A copy of the MUSL financial statements may be obtained by submitting a written request to MUSL, 4400 N.W. Urbandale Drive, Urbandale, Iowa 50322.

7. LONG-TERM LIABILITIES

a. Grand Prizes Payable

Grand prizes payable at June 30 consisted of (in thousands):

	2014	2013
FLORIDA LOTTO grand prizes (face value)	$ 424,857	$ 530,605
MEGA MONEY grand prizes (face value)	8,058	8,677
Win for Life grand prizes (face value)	11,202	11,566
Flamingo Fortune Game Show grand prizes (face value)	400	500
Win a Million grand prizes (face value)	200	250
Lucky for Life grand prizes (face value)	20,050	20,900
Set for Life grand prizes (face value)	1,740	1,920
Cash Spectacular grand prizes (face value)	450	500
Cash for Life grand prizes (face value)	190	200
Loaded for Life grand prizes (face value)	2,650	2,750
Billion Dollar Blockbuster grand prizes (face value)	7,900	8,450
Gas for Life grand prizes (face value)	174	180
2 Million Dollar Casino Action grand prizes (face value)	1,600	1,700
Million Dollar Holiday grand prizes (face value)	850	900
Week for Life grand prizes (face value)	38,818	22,724
Monopoly grand prizes (face value)	3,510	2,700
Million Wishes grand prizes (face value)	900	950
X's The Cash grand prizes (face value)	3,770	950
$3 Million Flamingo grand prizes (face value)	2,850	-
Gold Rush grand prizes (face value)	2,850	-
Less imputed interest	(148,399)	(160,229)
Net present value of grand prizes payable	$ 384,620	$ 456,193
Current prizes payable from restricted assets	$ 86,154	$ 112,751
Noncurrent prizes payable from restricted assets	298,466	343,442
Total grand prizes payable	$ 384,620	$ 456,193

The following depicts by fiscal year the value (in thousands) of the grand prize annuities to pay prizewinners:

Year Ended June 30	Amount
2015	$ 86,154
2016	66,249
2017	44,687
2018	25,516
2019	19,611
2020-2024	102,185
2025-2029	100,910
2030-2034	55,630
2035-2039	18,289
2040-2044	13,788
Grand prizes (face value)	533,019
Less imputed interest	(148,399)
Net present value of grand prizes payable	$ 384,620

b. Compensated Absences Payable

Compensated absences payable at June 30 consisted of (in thousands):

	2014	2013
Current compensated absences	$ 585	$ 769
Noncurrent compensated absences	3,189	2,908
Total	$ 3,774	$ 3,677

c. Changes in Long-Term Liabilities

Changes in long-term liabilities are summarized as follows (in thousands):

	2013-14				
	Balance June 30, 2013	Additions	Reductions	Balance June 30, 2014	Amount Due Within One Year
Grand prizes payable	$ 456,193	$ 41,030	$ (112,603)	$ 384,620	$ 86,154
Compensated absences payable	3,677	1,010	(913)	3,774	585
Postemployment healthcare benefits payable	2,962	1,047	-	4,009	-
Total long-term liabilities	$ 462,832	$ 43,087	$ (113,516)	$ 392,403	$ 86,739

	2012-13				
	Balance June 30, 2012	Additions	Reductions	Balance June 30, 2013	Amount Due Within One Year
Grand prizes payable	$ 553,025	$ 38,119	$ (134,951)	$ 456,193	$ 112,751
Compensated absences payable	3,583	1,223	(1,129)	3,677	769
Postemployment healthcare benefits payable	2,196	766	-	2,962	-
Total long-term liabilities	$ 558,804	$ 40,108	$ (136,080)	$ 462,832	$ 113,520

See Note 9 for additional information regarding the postemployment healthcare benefits payable.

8. DUE TO EDUCATIONAL ENHANCEMENT TRUST FUND

In accordance with the Act, effective July 1, 2005, variable percentages of the gross revenue from the sale of Terminal games and Scratch-Off lottery tickets as determined by the Lottery, and other earned revenue, excluding application processing fees, shall be deposited in the EETF as provided in Section 24.121, Florida Statutes, as amended. The amount transferred for the fiscal year ended June 30, 2014, was $1,495,409,000 (27.8 percent of revenues), and for the fiscal year ended June 30, 2013, the transferred amount was $1,424,307,000 (28.4 percent of revenues).

Because the net appreciation in fair value of investments and amortization of grand prizes payable, included in nonoperating revenue and expenses, relate to valuations of the restricted grand prize investments and grand prizes payable, they are excluded from the determination of transfers to the EETF.

Effective July 1, 2005, provisions of the Act relating to the allocation of revenues for public education were revised. The changes in the provisions were designed to maximize the transfers of moneys to the EETF. These revisions resulted in changes in the methodology used to calculate the transfer based on a business model of revenue minus expenses rather than a percent of revenue.

The amount due to the EETF at June 30, 2014, and June 30, 2013, was as follows (in thousands):

	June 30, 2014	June 30, 2013
Terminal ticket sales	$ 1,951,087	$ 1,984,469
Average percent transferred	38%	38%
Transfer of Terminal ticket sales [1]	744,066	754,846
Unclaimed Terminal ticket prizes	28,848	28,214
Percent transferred	80%	80%
Transfer of unclaimed Terminal ticket prizes	23,078	22,571
Scratch-Off ticket sales	3,417,143	3,028,527
Average percent transferred	20%	20%
Transfer of Scratch-Off ticket sales [1]	692,063	605,842
Unclaimed Scratch-Off ticket prizes	31,012	35,084
Percent transferred	80%	80%
Transfer of unclaimed Scratch-Off ticket prizes	24,810	28,068
Nonoperating revenues (expenses), net	(5,618)	(37,816)
Add:		
Net (appreciation) depreciation in fair value of investments	(13,718)	13,749
Amortization of grand prizes payable	22,911	29,068
Total Nonoperating revenues, net	3,575	5,001
Terminal fees and miscellaneous revenue	7,817	7,979
Due for the year	1,495,409	1,424,307
Balance due, beginning of year	76,111	51,604
Paid during the year	(1,516,111)	(1,399,800)
Due to Educational Enhancement Trust Fund, June 30	$ 55,409	$ 76,111

[1] Amounts do not foot due to rounding of average percent transferred.

9. PENSIONS AND OTHER POSTEMPLOYMENT BENEFITS

a. Retirement Programs

Florida Retirement System. The Florida Retirement System (FRS) is a State-administered cost-sharing multiple-employer retirement plan that offers members an initial choice between participating in a defined benefit plan (FRS Pension Plan) or a defined contribution plan (FRS Investment Plan) and one additional choice to change plans before retirement. FRS provisions are established by Chapters 121, 122, and 238, Florida Statutes; Chapter 112, Part IV, Florida Statutes; and Florida Retirement System Rules, Chapter 60S, Florida Administrative Code; wherein eligibility, required employer and employee contributions, and benefits are defined and described in detail. Essentially, all employees of participating employers in regularly established positions must be enrolled as members of the FRS or other non-integrated defined contribution plans in lieu of FRS membership.

Benefits in the FRS Pension Plan vest at six years of service for members initially enrolled before July 1, 2011, and at eight years for members initially enrolled on or after July 1, 2011. Special Risk Class members are eligible for normal retirement benefits at age 55 and vested or after 25 years of service at any age. All other members are eligible for normal retirement benefits at age 62 and vested or at any age after 30 years of service. For members initially enrolled on or after July 1, 2011, Special Risk Class members are eligible for normal retirement benefits at age 60 and vested or after 30 years of service at any age. All other members are eligible for normal retirement benefits at age 65 and vested or at any age after 33 years of service.

Early retirement is available but imposes a penalty for each year a member retires before his or her normal retirement age. Retirement, disability, and death benefits are provided. Retirees with service prior to July 1, 2011, receive annual cost-of-living adjustments. Retirees only with service accrued on or after July 1, 2011, do not receive annual cost-of-living adjustments. Benefits are calculated at retirement based on the age, years of service, accrual value by membership class, and average final compensation (average of highest five fiscal years' salaries if initially enrolled before July 1, 2011, or the average of highest eight fiscal years' if initially enrolled on or after July 1, 2011).

Members of the FRS Pension Plan who reach normal retirement may participate in the Deferred Retirement Option Program (DROP), subject to provisions of Section 121.091(13), Florida Statutes. DROP participants are technically retired, deferring termination and receipt of monthly retirement benefits for up to 60 months. During the period of DROP participation, deferred monthly benefits are held in the FRS Trust Fund and accrue interest.

FRS Investment Plan benefits are established in Part II, Chapter 121, Florida Statutes, and participation is available to all FRS members in lieu of the FRS Pension Plan. Members vest after one year of creditable service for Investment Plan contributions. If an accumulated benefit obligation for service credit originally earned under the FRS Pension Plan is transferred to the FRS Investment Plan, six years of service (including the service credit represented by the transferred funds) is required to be vested for these funds and the earnings on the funds. Benefits under the FRS Investment Plan are based on the account balance at retirement composed of contributions plus investment gains less investment losses and fees. Employer and employee contributions are a percentage of salary based on membership class (Regular class, Special Risk class, etc.). Contributions are directed to individual member accounts and the individual members allocate contributions and account balances among various approved investment choices offered under the plan.

The Florida Legislature established uniform contribution rates for participating FRS employees. FRS employers pay the same contribution rate by membership class regardless of whether the members participate in the FRS Pension Plan or FRS Investment Plan. Contribution rates as a percentage of gross salary are as follows:

Class or Plan	Employee Rate Fiscal Year Ended June 30, 2014	Employer Rate Fiscal Year Ended June 30, 2014	Employee Rate Fiscal Year Ended June 30, 2013	Employer Rate Fiscal Year Ended June 30, 2013
Senior Management Service	3.00 percent	17.11 percent	3.00 percent	6.30 percent
Regular	3.00 percent	6.95 percent	3.00 percent	5.18 percent
Special Risk	3.00 percent	19.06 percent	3.00 percent	14.90 percent
DROP - Applicable to members from all of the above classes	0.00 percent	12.84 percent	0.00 percent	5.51 percent

Total employer contribution rates above include 1.20 percent and 1.11 percent for the fiscal years ended June 30, 2014, and June 30, 2013, respectively, for the postemployment insurance subsidy. Also, employer rates, other than for DROP participants, include 0.03 percent for fiscal year ended June 30, 2013 and June 30, 2014, for administrative costs of the financial education program and the Investment Plan. Required employee contributions are deducted on a pre-tax basis.

FRS Contributions. The Lottery's liability for participation in the FRS plans defined above is limited to the payment of the required contribution at the rates and frequencies established by law on future payrolls of the Lottery. The Lottery's employer contributions for the fiscal years ended June 30, 2014, June 30, 2013, and June 30, 2012, totaled $1,432,983, $851,755, and $957,759, respectively, which were equal to 100 percent of the required contributions for each fiscal year. These contributions represented 8.9 percent, 5.4 percent, and 5.7 percent of covered payroll, for the fiscal years ended June 30, 2014, June 30, 2013, and June 30, 2012, respectively.

Senior Management Service Optional Annuity Program. Some Lottery employees also participate in the Senior Management Service Optional Annuity Program (SMSOAP). Offered in lieu of FRS participation, the SMSOAP is a defined contribution plan that provides retirement and death benefits to the participant pursuant to Section 121.055, Florida Statutes. Participants have full and immediate vesting of all contributions paid on their behalf to the participating provider companies to invest as directed by the participants. Employees in eligible State positions may make an irrevocable election to participate in the SMSOAP in lieu of the Senior Management Service Class. Employers contributed 6.27 percent of covered payroll for July 2012 through June 2014 and 9.49 percent for July 2011 through June 2012. This contribution rate includes a contribution that would otherwise be paid to the Retiree Health Insurance Subsidy Program (HIS) described below so the SMSOAP retiree is not eligible to receive monthly HIS benefits. A participant may contribute by salary reduction an amount not to exceed the percentage contributed by the employer. The Lottery's contributions for the fiscal years ended June 30, 2014, June 30, 2013, and June 30, 2012, totaled $33,575, $13,103, and $24,509 respectively.

Retiree Health Insurance Subsidy Program. The Retiree Health Insurance Subsidy Program (HIS) was created by the Florida Legislature in 1987 to assist FRS retirees in paying health insurance costs. HIS is a non-qualified, cost-sharing multiple-employer defined benefit pension plan established under Section 112.363, Florida Statutes. For the fiscal years ended June 30, 2014, 2013, and 2012, eligible retirees or beneficiaries received a monthly HIS payment equal to the number of years of creditable service completed at the time of retirement multiplied by $5. The payments to individual retirees or beneficiaries were at least $30 but not more than $150 per month. To be eligible to receive HIS, an FRS retiree must

apply for the benefit, provide proof of health insurance coverage, which can include Medicare or TRICARE, and be approved.

HIS is funded by required contributions from FRS participating employers. For the years ended June 30, 2014, 2013, and 2012, the Lottery contributed 1.20 percent, 1.11 percent, and 1.11 percent, respectively, of payroll for all active employees covered by the FRS, pursuant to Section 112.363, Florida Statutes. For the years ended June 30, 2014, 2013, and 2012, the Lottery contributed $190,599, $173,089, and $182,359, respectively, in employer contributions to the HIS Program. HIS contributions are deposited in a separate trust fund from which HIS payments are authorized. HIS benefits are not guaranteed and are subject to legislative appropriation. If these contributions or appropriation fail to provide full subsidy benefits to all participants, the legislature may reduce or cancel the subsidy payments.

Additional Information. Financial statements and other supplementary information for the FRS and the HIS are included in the Florida Department of Management Service's State-Administered Retirement Funds Comprehensive Annual Financial Report, which may be obtained from the Florida Department of Management Services.

Deferred Compensation Plan. The Lottery, through the State of Florida, offers its employees a deferred compensation plan created in accordance with Section 457 of the Internal Revenue Code. The plan (refer to Section 112.215, Florida Statutes), available to all regular payroll State employees, permits them to defer a portion of their salaries until future years. The deferred compensation is not available to employees until termination, retirement, death, or an unforeseen emergency.

All amounts of compensation deferred under the plan, all property and rights purchased with those amounts, and all income attributable to those amounts, property, or rights are held in trust for the exclusive benefit of participants and their beneficiaries as mandated by 26 USC 457(g)(1).

The Lottery does not contribute to the plan. Participation under the plan is solely at the discretion of the employee.

The State has no liability for losses under the plan but does have the duty of due care that would be required of an ordinary and prudent investor. Pursuant to Section 112.215, Florida Statutes, the Deferred Compensation Trust Fund is created in the State Treasury.

b. Postemployment Healthcare Benefits

The Lottery participates in the State Employees' Health Insurance Program, a cost-sharing multiple-employer defined benefit postemployment healthcare plan administered by the State of Florida, Department of Management Services, Division of State Group Insurance, to provide group health benefits. Section 110.123, Florida Statutes, provides that retirees may participate in the State's group health insurance programs and assigns the authority to establish and amend benefit provisions to the Department of Management Services. Although premiums are paid by the retiree, the premium cost to the retiree is implicitly subsidized by the commingling of claims experience in a single risk pool with a single premium determination. An actuarial valuation has been performed for the plan and the Lottery's employees were included in the actuarial analysis. For more information on the plan regarding the funding policy and actuarial methods and assumptions, see the State of Florida's Comprehensive Annual Financial Report, which is available from the Department of Financial Services.

In accordance with GASB Statement 45, the Lottery is required to record its portion of the implicit postemployment health benefit liability beginning in the fiscal year ended June 30, 2008. Postemployment

health benefits payable at June 30, 2014, June 30, 2013, and June 30, 2012, was $4,009,000, $2,962,000, and $2,196,000, respectively.

10. OPERATING LEASES

The Lottery has entered into operating leases for the rental of office and warehouse space for the headquarters and district offices as well as the rental of computer equipment. Certain leases are renewable at the option of the Lottery.

Future minimum rental payments as of June 30, 2014, are scheduled as follows (in thousands):

Year Ending June 30	Headquarters	Districts	Computer Equipment	Total
2015	$ 2,717	$ 1,037	$ 256	$ 4,010
2016	2,744	1,077	-	3,821
2017	2,772	1,115	-	3,887
2018	2,801	1,149	-	3,950
2019	234	1,187	-	1,421
2020-2024	-	4,306	-	4,306
2025-2029	-	4,204	-	4,204
2030-2034	-	3,098	-	3,098
Total	$ 11,268	$ 17,173	$ 256	$ 28,697

Rental expense under all operating leases totaled approximately $4,075,000 and $4,072,000 for the fiscal years ended June 30, 2014, and 2013, respectively.

11. VENDOR SUPPORT FUNDS

Each of the gaming vendor contracts requires the vendors to provide a fund for marketing support activities as directed by the Lottery. The vendors are required to make deposits into the designated accounts either weekly or monthly and distribute the funds as directed by the Lottery. The funds are used for market research and other expenses directly linked to product sales. Vendor balances committed for marketing research vary as result of timing of marketing initiatives, industry developments, and changes in technology. Actual cash balances for these activities as of June 30, 2006 through June 30, 2014, ranged from approximately $1,058,000 to $3,874,000. Each contract requires that any funds remaining in the accounts at the end of each contract's term will be returned to the Lottery for transfer to the Educational Enhancement Trust Fund. Historically, no balances have reverted to the Lottery. The contracts were last renewed for GTech and Scientific Games in March 2011 and September 2013, respectively.

Vendor support fund activities are summarized as follows (in thousands):

	2013-14 Vendor Support Funds			
	Balance June 30, 2013	Additions	Deletions	Balance June 30, 2014
GTech	$ 340	$ 360	$ (545)	$ 155
Scientific Games	2,155	4,290	(5,542)	903
Total Vendor Support	$ 2,495	$ 4,650	$ (6,087)	$ 1,058

	2012-13 Vendor Support Funds			
	Balance June 30, 2012	Additions	Deletions	Balance June 30, 2013
GTech	$ 286	$ 360	$ (306)	$ 340
Scientific Games	2,847	3,380	(4,072)	2,155
Total Vendor Support	$ 3,133	$ 3,740	$ (4,378)	$ 2,495

12. OTHER COMMITMENTS

The Lottery has contractual agreements under which Terminal and Scratch-Off lottery game vendors provide gaming systems, tickets, and related services. The Lottery's Terminal gaming vendor is compensated at a rate of 1.0699 percent of net Terminal game ticket sales. The vendor's compensation for Terminal games and for the provision of full service vending machines for the fiscal years ended June 30, 2014, and 2013, was $28,895,000 and $31,012,000, respectively.

The Lottery's Scratch-Off ticket vendor is compensated at rates that range from 0.9467 percent to 2.24 percent based on ticket price points and total annual sales. Compensation under this agreement and the agreement for the provision of instant ticket vending machines amounted to $48,157,000 for the fiscal year ended June 30, 2014, and $44,193,000 for the fiscal year ended June 30, 2013.

13. LITIGATION

The Lottery is involved in litigation and other claims incidental to the ordinary course of its operations. In the opinion of Lottery management, based on the advice of legal counsel, the ultimate disposition of these lawsuits and claims will not have a material adverse effect on the financial position of the Lottery.

AUDITOR GENERAL
STATE OF FLORIDA
G74 Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

DAVID W. MARTIN, CPA
AUDITOR GENERAL

PHONE: 850-412-2722
FAX: 850-488-6975

The President of the Senate, the Speaker of the
House of Representatives, and the
Legislative Auditing Committee

INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

Report on the Financial Statements

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the Florida Department of Lottery (Lottery), as of and for the fiscal year ended June 30, 2014, and the related notes to the financial statements, which collectively comprise Florida Lottery's basic financial statements, and have issued our report thereon dated January 28, 2015, included under the heading **INDEPENDENT AUDITOR'S REPORT**.

Internal Control over Financial Reporting

We have examined the effectiveness of the Lottery's internal control over financial reporting as of June 30, 2014, based on criteria established in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Lottery's management is responsible for maintaining effective internal control over financial reporting and for its assertion of the effectiveness of internal control, included in the accompanying **MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING**. Our responsibility is to express an opinion on the effectiveness of internal control over financial reporting based on our examination.

We conducted our examination in accordance with attestation standards established by the American Institute of Certified Public Accountants, and the standards applicable to attestation engagements contained in Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our examination included obtaining an understanding of the internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our examination also included performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

An entity's internal control over financial reporting is a process effected by those charged with governance, management, and other personnel, designed to provide reasonable assurance regarding the preparation of reliable

financial statements in accordance with accounting principles generally accepted in the United States of America. An entity's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the entity; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with accounting principles generally accepted in the United States of America, and that receipts and expenditures of the entity are being made only in accordance with authorizations of management and those charged with governance; and (3) provide reasonable assurance regarding prevention, or timely detection and correction of unauthorized acquisition, use, or disposition of the entity's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control may not prevent, or detect and correct misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that the internal control may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Lottery maintained, in all material respects, effective internal control over financial reporting as of June 30, 2014, based on the criteria established in *Internal Control – Integrated Framework* issued by COSO. We did note additional matters involving the internal control over financial reporting, which are discussed in the **SCHEDULE OF FINDINGS**.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Lottery's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, rules, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we noted certain additional matters, which are discussed in the accompanying **SCHEDULE OF FINDINGS**.

The Lottery's response to the findings described in the **SCHEDULE OF FINDINGS** section of this report is included as Exhibit A. We did not audit the Lottery's response, and accordingly, we express no opinion on it.

Purpose of the Report

The purpose of the **INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON THE AUDIT OF THE FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*** is solely to describe the scope of our testing of internal control and on compliance and the result of that testing, and to provide an opinion on the effectiveness of the Lottery's internal control. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Lottery's internal control and compliance. Accordingly, this report is not suitable for any other purpose.

Respectfully submitted,

David W. Martin, CPA
January 28, 2015

MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

RICK SCOTT
Governor

FLORIDA Lottery®

CYNTHIA F. O'CONNELL
Secretary

Management's Report on Internal Control Over Financial Reporting

The Florida Lottery's internal control over financial reporting is a process effected by those charged with governance, management, and other personnel, designed to provide reasonable assurance regarding the preparation of reliable financial statements in accordance with accounting principles generally accepted in the United States of America. An entity's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the entity; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with accounting principles generally accepted in the United States of America, and that receipts and expenditures of the entity are being made only in accordance with authorizations of management and those charged with governance; and (3) provide reasonable assurance regarding prevention, or timely detection and correction of unauthorized acquisition, use, or disposition of the entity's assets that could have a material effect on the financial statements.

Management is responsible for establishing and maintaining effective internal control over financial reporting. Management assessed the effectiveness of the Florida Lottery's internal control over financial reporting as of June 30, 2014, based on the framework set forth by the Committee of Sponsoring Organizations of the Treadway Commission in *Internal Control – Integrated Framework (2013).* Based on that assessment, management concluded that, as of June 30, 2014, the Florida Lottery's internal control over financial reporting is effective based on the criteria established in *Internal Control – Integrated Framework (2013*).

The Florida Lottery

January 28, 2015

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STATE OF FLORIDA
DEPARTMENT OF THE LOTTERY
SCHEDULE OF FINDINGS
FOR THE FISCAL YEAR ENDED JUNE 30, 2014

ADDITIONAL MATTERS

Finding No. 1: Information Technology Controls

Information technology (IT) controls are intended to protect the confidentiality, integrity, and availability of data and IT resources. During our audit, we identified the need for enhancements to the Lottery's IT control practices in six separate areas, five of which were also identified in the prior audit. To avoid the possibility of compromising Lottery information, specific details of these issues are not disclosed in this report. However, the appropriate Lottery personnel have been notified of these issues.

Recommendation: We recommend that Lottery management make the necessary IT control enhancements to address the issues identified.

Finding No. 2: Minority Retailer Participation

Section 24.113, Florida Statutes, requires that 15 percent of the Lottery's retailers be minority business enterprises, as defined in Section 288.703(3), Florida Statutes; however, no more than 35 percent of such retailers shall be owned by the same type of minority person, as defined by Section 288.703(4), Florida Statutes.

Our audit disclosed that as of July 1, 2014, retailers comprising one minority type totaled approximately 66 percent of the total number of minority retailers. A similar finding has been included in previous Auditor General reports.

The Lottery has developed an outreach program to increase retailer participation in under-represented minority groups; however, despite these efforts, the level of participation from these groups decreased slightly over the past fiscal year.

Recommendation: We recommend that the Lottery continue its efforts to increase retailer participation in under-represented minority groups.

EXHIBIT A
MANAGEMENT'S RESPONSE

RICK SCOTT
Governor

FLORIDA Lottery®

CYNTHIA F. O'CONNELL
Secretary

January 28, 2015

David W. Martin, CPA
Florida Auditor General
G74 Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Mr. Martin:

The Lottery has received your January 16, 2015 list of preliminary and tentative audit findings and recommendations resulting from your audit of the Lottery's Financial Statements for the fiscal year ended June 30, 2014. The staff has discussed your recommendations and responds as follows:

1. Finding No. 1: Information Technology Controls

   Recommendation: We recommend that Lottery management make the necessary IT control enhancements to address the issues identified.

   Response: The Lottery has made the necessary enhancements presented by this audit or is in the process of implementing the enhancements. The Lottery has an ongoing process to improve IT controls and will continue to reengineer where necessary to tighten controls.

2. Finding No. 2: Minority Retailer Participation

   Recommendation: We recommend that the Lottery continue its efforts to increase retailer participation in under-represented minority groups.

   Response: The Lottery continues its efforts to increase retailer participation in under-represented minority groups with strategic initiatives including attending minority trade shows to recruit retailers, working with Florida's Petroleum Marketers Association to identify and recruit new retailers including minority operators, advertising in minority business journals by featuring minority retailers currently selling Lottery products, exploring non-traditional trade style retailer prospects, and providing access to inquire how to become a retailer through the Lottery's website.

   Despite these efforts, the level of participation from these groups has decreased slightly over the past fiscal year. A number of factors could contribute to this decline including the challenges presented by current economic conditions as well as the aggressive

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EXHIBIT A (CONTINUED)
MANAGEMENT'S RESPONSE

corporate convenience store expansion taking place in Florida, often purchasing units from struggling independent operators including minority retailers.

However, we agree with the recommendation and will continue to aggressively pursue retailer participation in under-represented minority groups.

I would like to thank your staff for their efforts on behalf of the Lottery and look forward to receiving your final report.

Sincerely,

Cynthia F. O'Connell
Secretary

cc: J. Bruce Hoffmann, Chief of Staff
Ellyn Hutson, Chief Financial Officer
Tom Delacenserie, Deputy Secretary
Layne Smith, General Counsel
Andy Mompeller, Inspector General

EXHIBIT B

FIEC

Voter Control of Gambling 15-22

Financial Impact Estimating Conference

Voter Control of Gambling in Florida
Serial Number 15-22

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Tab 1

Authorization

FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

April 5, 2016

Financial Impact Estimating Conference
c/o Ms. Amy Baker, Coordinator
Office of Economic and Demographic Research
111 West Madison Street, Ste. 574
Tallahassee, Florida 32399-6588

Dear Ms. Baker:

Section 15.21, Florida Statutes, provides that the Secretary of State shall submit an initiative petition to the Financial Impact Estimating Conference when a sponsoring political committee has met the registration, petition form submission and signature criteria set forth in that section.

The criteria in section 15.21, Florida Statutes, has now been met for the initiative petition titled *Voter Control of Gambling in Florida*, Serial Number 15-22. Therefore, I am submitting the proposed constitutional amendment petition form, along with a status update for the initiative petition, and a chart that provides a statewide signature count and count by congressional districts.

Sincerely,

Ken Detzner
Secretary of State

RECEIVED 4/7/16 9:45a.m.
C. Coleman

KD/am

pc: John Sowinski, Chairperson
Voters in Charge

Enclosures

CONSTITUTIONAL AMENDMENT PETITION FORM

Note:

- *All information on this form, including your signature, becomes a public record upon receipt by the Supervisor of Elections.*
- *Under Florida law, it is a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.08, Florida Statutes, to knowingly sign more than one petition for an issue. [Section 104.185, Florida Statutes]*
- *If all requested information on this form is not completed, the form will not be valid.*

Your name: _____

Please Print Name ***as it appears on your Voter Information Card***

Your address: _____

City _____ **Zip** _____ **County** _____

☐ Please change my legal residence address on my voter registration record to the above residence address (check box, if applicable).

Voter Registration Number _____ **or Date of Birth** _____

I am a registered voter of Florida and hereby petition the Secretary of State to place the following proposed amendment to the Florida Constitution on the ballot in the general election:

BALLOT TITLE: Voter Control of Gambling in Florida

BALLOT SUMMARY: This amendment ensures that Florida voters shall have the exclusive right to decide whether to authorize casino gambling by requiring that in order for casino gambling to be authorized under Florida law, it must be approved by Florida voters pursuant to Article XI, Section 3 of the Florida Constitution. Affects articles X and XI. Defines casino gambling and clarifies that this amendment does not conflict with federal law regarding state/tribal compacts.

ARTICLE AND SECTION BEING CREATED OR AMENDED: Add new Section 29 to Article X

FULL TEXT OF THE PROPOSED CONSTITUTIONAL AMENDMENT:

ARTICLE X, FLORIDA CONSTITUTION, is amended to include the following new section:

Voter Control of Gambling in Florida.

(a) This amendment ensures that Florida voters shall have the exclusive right to decide whether to authorize casino gambling in the State of Florida. This amendment requires a vote by citizens' initiative pursuant to Article XI, section 3, in order for casino gambling to be authorized under Florida law. This section amends this Article; and also affects Article XI, by making citizens' initiatives the exclusive method of authorizing casino gambling.

(b) As used in this section, "casino gambling" means any of the types of games typically found in casinos and that are within the definition of Class III gaming in the Federal Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq. ("IGRA"), and in 25 C.F.R. §502.4, upon adoption of this amendment, and any that are added to such definition of Class III gaming in the future. This includes, but is not limited to, any house banking game, including but not limited to card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games); any player-banked game that simulates a house banking game, such as California black jack; casino games such as roulette, craps, and keno; any slot machines as defined in 15 U.S.C. 1171(a)(1); and any other game not authorized by Article X, section 15, whether or not defined as a slot machine, in which outcomes are determined by random number generator or are similarly assigned randomly, such as instant or historical racing. As used herein, "casino gambling" includes any electronic gambling devices, simulated gambling devices, video lottery devices, internet sweepstakes devices, and any other form of electronic or electromechanical facsimiles of any game of chance, slot machine, or casino-style game, regardless of how such devices are defined under IGRA. As used herein, "casino gambling" does not include pari-mutuel wagering on horse racing, dog racing, or jai alai exhibitions. For purposes of this section, "gambling" and "gaming" are synonymous.

(c) Nothing herein shall be deemed to limit the right of the Legislature to exercise its authority through general law to restrict, regulate, or tax any gaming or gambling activities. In addition, nothing herein shall be construed to limit the ability of the state or Native American tribes to negotiate gaming compacts pursuant to the Federal Indian Gaming Regulatory Act for the conduct of casino gambling on tribal lands, or to affect any existing gambling on tribal lands pursuant to compacts executed by the state and Native American tribes pursuant to IGRA.

(d) This section is effective upon approval by the voters, is self-executing, and no Legislative implementation is required.

(e) If any part of this section is held invalid for any reason, the remaining portion or portions shall be severed from the invalid portion and given the fullest possible force and effect.

_____ X _____

DATE OF SIGNATURE **SIGNATURE OF REGISTERED VOTER**

Initiative petition sponsored by Voters In Charge, 2640-A Mitcham Drive, Tallahassee, FL 32308

If paid petition circulator is used:

Circulator's name _____

Circulator's address _____

_____

For Official Use Only:

Serial Number: 15-22

Date Approved: 10/26/2015

Attachment for Initiative Petition
Voter Control of Gambling in Florida
Serial Number 15-22

1. **Name and address of the sponsor of the initiative petition:**
   John Sowinski, Chairperson
   Voters in Charge
   2640-A Mitcham Drive
   Tallahassee, Florida 32308
2. **Name and address of the sponsor's attorney, if the sponsor is represented:** Unknown

3. **A statement as to whether the sponsor has obtained the requisite number of signatures on the initiative petition to have the proposed amendment put on the ballot:** As of April 5, 2016, the sponsor has not obtained the requisite number of signatures to have the proposed amendment placed on the ballot. A total of 683,149 valid signatures were required for placement on the 2016 general election ballot. The total number of signatures required to have an item placed on the 2018 general election ballot will not be known until after the 2016 general election

4. **If the sponsor has not obtained the requisite number of signatures on the initiative petition to have the proposed amendment put on the ballot, the current status of the signature-collection process:** As of March 28, 2016, the Supervisors of Elections have certified a total of 73,760 valid petition signatures to the Division of Elections for this initiative petition. This number represents more than 10% of the total number of valid signatures needed from electors statewide and in at least one-fourth of the congressional districts in order to have the initiative placed on the 2016 general election ballot.

5. **The date of the election during which the sponsor is planning to submit the proposed amendment to the voters:** Unknown. The earliest date of election that this proposed amendment can be placed on the ballot is November 6, 2018, provided the sponsor successfully obtains the requisite number of valid signatures by February 1, 2018.

6. **The last possible date that the ballot for the target election can be printed in order to be ready for the election:** Unknown

7. **A statement identifying the date by which the Financial Impact Statement will be filed, if the Financial Impact Statement is not filed concurrently with the request:** The Secretary of State forwarded a letter to the Financial Impact Estimating Conference in the care of the coordinator on April 5, 2016.

8. **The names and complete mailing addresses of all of the parties who are to be served:** This information is unknown at this time.

FLORIDA DEPARTMENT OF STATE
DIVISION OF ELECTIONS

SUMMARY OF PETITION SIGNATURES

Political Committee: **Voters In Charge**

Amendment Title: **Voter Control of Gambling in Florida**

Congressional District	Voting Electors in 2012 Presidential Election	For Review 10% of 8% Required By Section 15 21 Florida Statutes	For Ballot 8% Required By Article XI, Section 3 Florida Constitution	Signatures Certified	
FIRST	356,435	2,851	28,515	85	
SECOND	343,558	2,748	27,485	179	
THIRD	329,165	2,633	26,333	3,052	***
FOURTH	351,564	2,813	28,125	3,472	***
FIFTH	279,598	2,237	22,368	7,489	***
SIXTH	363,402	2,907	29,072	3,776	***
SEVENTH	333,990	2,672	26,719	4,412	***
EIGHTH	365,738	2,926	29,259	1,339	
NINTH	277,101	2,217	22,168	5,703	***
TENTH	329,366	2,635	26,349	5,359	***
ELEVENTH	359,004	2,872	28,720	4,924	***
TWELFTH	345,407	2,763	27,633	2,848	***
THIRTEENTH	344,500	2,756	27,560	4,817	***
FOURTEENTH	295,917	2,367	23,673	7,465	***
FIFTEENTH	304,932	2,439	24,395	4,253	***
SIXTEENTH	360,734	2,886	28,859	1,626	
SEVENTEENTH	299,464	2,396	23,957	1,408	
EIGHTEENTH	345,399	2,763	27,632	2,129	
NINETEENTH	323,317	2,587	25,865	799	
TWENTIETH	264,721	2,118	21,178	2,199	***
TWENTY-FIRST	326,392	2,611	26,111	1,031	
TWENTY-SECOND	329,816	2,639	26,385	1,627	
TWENTY-THIRD	290,042	2,320	23,203	1,006	
TWENTY-FOURTH	263,367	2,107	21,069	1,502	
TWENTY-FIFTH	240,521	1,924	19,242	388	
TWENTY-SIXTH	268,898	2,151	21,512	473	
TWENTY-SEVENTH	247,023	1,976	19,762	399	
TOTAL:	**8,539,371**	**68,314**	**683,149**	**73,760**	

Date: 4/1/2016 10:16:37 AM

Select Year: 2014 Go

The 2014 Florida Statutes

Title IX	Chapter 100	View Entire Chapter
ELECTORS AND ELECTIONS	GENERAL, PRIMARY, SPECIAL, BOND, AND REFERENDUM ELECTIONS	

100.371 Initiatives; procedure for placement on ballot.—

(1) Constitutional amendments proposed by initiative shall be placed on the ballot for the general election, provided the initiative petition has been filed with the Secretary of State no later than February 1 of the year the general election is held. A petition shall be deemed to be filed with the Secretary of State upon the date the secretary determines that valid and verified petition forms have been signed by the constitutionally required number and distribution of electors under this code.

(2) The sponsor of an initiative amendment shall, prior to obtaining any signatures, register as a political committee pursuant to s. 106.03 and submit the text of the proposed amendment to the Secretary of State, with the form on which the signatures will be affixed, and shall obtain the approval of the Secretary of State of such form. The Secretary of State shall adopt rules pursuant to s. 120.54 prescribing the style and requirements of such form. Upon filing with the Secretary of State, the text of the proposed amendment and all forms filed in connection with this section must, upon request, be made available in alternative formats.

(3) An initiative petition form circulated for signature may not be bundled with or attached to any other petition. Each signature shall be dated when made and shall be valid for a period of 2 years following such date, provided all other requirements of law are met. The sponsor shall submit signed and dated forms to the supervisor of elections for the county of residence listed by the person signing the form for verification of the number of valid signatures obtained. If a signature on a petition is from a registered voter in another county, the supervisor shall notify the petition sponsor of the misfiled petition. The supervisor shall promptly verify the signatures within 30 days after receipt of the petition forms and payment of the fee required by s. 99.097. The supervisor shall promptly record, in the manner prescribed by the Secretary of State, the date each form is received by the supervisor, and the date the signature on the form is verified as valid. The supervisor may verify that the signature on a form is valid only if:

(a) The form contains the original signature of the purported elector.

(b) The purported elector has accurately recorded on the form the date on which he or she signed the form.

(c) The form sets forth the purported elector's name, address, city, county, and voter registration number or date of birth.

(d) The purported elector is, at the time he or she signs the form and at the time the form is verified, a duly qualified and registered elector in the state.

The supervisor shall retain the signature forms for at least 1 year following the election in which the issue appeared on the ballot or until the Division of Elections notifies the supervisors of elections that the committee that circulated the petition is no longer seeking to obtain ballot position.

(4) The Secretary of State shall determine from the signatures verified by the supervisors of elections the total number of verified valid signatures and the distribution of such signatures by congressional districts. Upon a determination that the requisite number and distribution of valid signatures have been obtained, the secretary shall issue a certificate of ballot position for that proposed amendment and shall assign a designating number pursuant to s. 101.161.

(5)(a) Within 45 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State, the Financial Impact Estimating Conference shall complete an analysis and financial impact statement to be placed on the ballot of the estimated increase or decrease in any revenues or costs to state or local governments resulting from the proposed initiative. The Financial Impact Estimating Conference shall submit the financial impact statement to the Attorney General and Secretary of State.

(b) The Financial Impact Estimating Conference shall provide an opportunity for any proponents or opponents of the initiative to submit information and may solicit information or analysis from any other entities or agencies, including the Office of Economic and Demographic Research.

(c) All meetings of the Financial Impact Estimating Conference shall be open to the public. The President of the Senate and the Speaker of the House of Representatives, jointly, shall be the sole judge for the interpretation, implementation, and enforcement of this subsection.

1. The Financial Impact Estimating Conference is established to review, analyze, and estimate the financial impact of amendments to or revisions of the State Constitution proposed by initiative. The Financial Impact Estimating Conference shall consist of four principals: one person from the Executive Office of the Governor; the coordinator of the Office of Economic and Demographic Research, or his or her designee; one person from the professional staff of the Senate; and one person from the professional staff of the House of Representatives. Each principal shall have appropriate fiscal expertise in the subject matter of the initiative. A Financial Impact Estimating Conference may be appointed for each initiative.

2. Principals of the Financial Impact Estimating Conference shall reach a consensus or majority concurrence on a clear and unambiguous financial impact statement, no more than 75 words in length, and immediately submit the statement to the Attorney General. Nothing in this subsection prohibits the Financial Impact Estimating Conference from setting forth a range of potential impacts in the financial impact statement. Any financial impact statement that a court finds not to be in accordance with this section shall be remanded solely to the Financial Impact Estimating Conference for redrafting. The Financial Impact Estimating Conference shall redraft the financial impact statement within 15 days.

3. If the members of the Financial Impact Estimating Conference are unable to agree on the statement required by this subsection, or if the Supreme Court has rejected the initial submission by the Financial Impact Estimating Conference and no redraft has been approved by the Supreme Court by 5 p.m. on the 75th day before the election, the following statement shall appear on the ballot pursuant to s. 101.161(1): “The financial impact of this measure, if any, cannot be reasonably determined at this time.”

(d) The financial impact statement must be separately contained and be set forth after the ballot summary as required in s. 101.161(1).

(e)1. Any financial impact statement that the Supreme Court finds not to be in accordance with this subsection shall be remanded solely to the Financial Impact Estimating Conference for redrafting,

provided the court's advisory opinion is rendered at least 75 days before the election at which the question of ratifying the amendment will be presented. The Financial Impact Estimating Conference shall prepare and adopt a revised financial impact statement no later than 5 p.m. on the 15th day after the date of the court's opinion.

2. If, by 5 p.m. on the 75th day before the election, the Supreme Court has not issued an advisory opinion on the initial financial impact statement prepared by the Financial Impact Estimating Conference for an initiative amendment that otherwise meets the legal requirements for ballot placement, the financial impact statement shall be deemed approved for placement on the ballot.

3. In addition to the financial impact statement required by this subsection, the Financial Impact Estimating Conference shall draft an initiative financial information statement. The initiative financial information statement should describe in greater detail than the financial impact statement any projected increase or decrease in revenues or costs that the state or local governments would likely experience if the ballot measure were approved. If appropriate, the initiative financial information statement may include both estimated dollar amounts and a description placing the estimated dollar amounts into context. The initiative financial information statement must include both a summary of not more than 500 words and additional detailed information that includes the assumptions that were made to develop the financial impacts, workpapers, and any other information deemed relevant by the Financial Impact Estimating Conference.

4. The Department of State shall have printed, and shall furnish to each supervisor of elections, a copy of the summary from the initiative financial information statements. The supervisors shall have the summary from the initiative financial information statements available at each polling place and at the main office of the supervisor of elections upon request.

5. The Secretary of State and the Office of Economic and Demographic Research shall make available on the Internet each initiative financial information statement in its entirety. In addition, each supervisor of elections whose office has a website shall post the summary from each initiative financial information statement on the website. Each supervisor shall include the Internet addresses for the information statements on the Secretary of State's and the Office of Economic and Demographic Research's websites in the publication or mailing required by s. 101.20.

(6) The Department of State may adopt rules in accordance with s. 120.54 to carry out the provisions of subsections (1)-(5).

(7) No provision of this code shall be deemed to prohibit a private person exercising lawful control over privately owned property, including property held open to the public for the purposes of a commercial enterprise, from excluding from such property persons seeking to engage in activity supporting or opposing initiative amendments.

History.—s. 15, ch. 79-365; s. 12, ch. 83-251; s. 30, ch. 84-302; s. 22, ch. 97-13; s. 9, ch. 2002-281; s. 3, ch. 2002-390; s. 3, ch. 2004-33; s. 28, ch. 2005-278; s. 4, ch. 2006-119; s. 25, ch. 2007-30; s. 1, ch. 2007-231; s. 14, ch. 2008-95; s. 23, ch. 2011-40.

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Tab 2

Current Law

Article X, Section 23, State of Florida Constitution

[1]SECTION 23. Slot machines.—

(a) After voter approval of this constitutional amendment, the governing bodies of Miami-Dade and Broward Counties each may hold a county-wide referendum in their respective counties on whether to authorize slot machines within existing, licensed parimutuel facilities (thoroughbred and harness racing, greyhound racing, and jai-alai) that have conducted live racing or games in that county during each of the last two calendar years before the effective date of this amendment. If the voters of such county approve the referendum question by majority vote, slot machines shall be authorized in such parimutuel facilities. If the voters of such county by majority vote disapprove the referendum question, slot machines shall not be so authorized, and the question shall not be presented in another referendum in that county for at least two years.

(b) In the next regular Legislative session occurring after voter approval of this constitutional amendment, the Legislature shall adopt legislation implementing this section and having an effective date no later than July 1 of the year following voter approval of this amendment. Such legislation shall authorize agency rules for implementation, and may include provisions for the licensure and regulation of slot machines. The Legislature may tax slot machine revenues, and any such taxes must supplement public education funding statewide.

(c) If any part of this section is held invalid for any reason, the remaining portion or portions shall be severed from the invalid portion and given the fullest possible force and effect.

(d) This amendment shall become effective when approved by vote of the electors of the state.

History.—Proposed by Initiative Petition filed with the Secretary of State May 28, 2002; adopted 2004.

[1]Note.—This section, originally designated section 19 by Amendment No. 4, 2004, proposed by Initiative Petition filed with the Secretary of State May 28, 2002, adopted 2004, was redesignated section 23 by the editors in order to avoid confusion with already existing section 19, relating to the high speed ground transportation system.

ARTICLE XI

AMENDMENTS

SECTION 1. Proposal by legislature.

SECTION 2. Revision commission.

SECTION 3. Initiative.

SECTION 4. Constitutional convention.

SECTION 5. Amendment or revision election.

SECTION 6. Taxation and budget reform commission.

SECTION 7. Tax or fee limitation.

SECTION 1. **Proposal by legislature.**—Amendment of a section or revision of one or more articles, or the whole, of this constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the legislature. The full text of the joint resolution and the vote of each member voting shall be entered on the journal of each house.

SECTION 2. **Revision commission.**—

(a) Within thirty days before the convening of the 2017 regular session of the legislature, and each twentieth year thereafter, there shall be established a constitution revision commission composed of the following thirty-seven members:

(1) the attorney general of the state;

(2) fifteen members selected by the governor;

(3) nine members selected by the speaker of the house of representatives and nine members selected by the president of the senate; and

(4) three members selected by the chief justice of the supreme court of Florida with the advice of the justices.

(b) The governor shall designate one member of the commission as its chair. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments.

(c) Each constitution revision commission shall convene at the call of its chair, adopt its rules of procedure, examine the constitution of the state, hold public hearings, and, not later than one hundred eighty days prior to the next general election, file with the custodian of state records its proposal, if any, of a revision of this constitution or any part of it.

History.—Am. H.J.R. 1616, 1988; adopted 1988; Am. S.J.R. 210, 1996; adopted 1996; Ams. proposed by Constitution Revision Commission, Revision Nos. 8 and 13, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

SECTION 3. **Initiative.**—The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith. It may be invoked by filing with the custodian of state records a petition containing a copy of the proposed revision or amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen.

History.—Am. H.J.R. 2835, 1972; adopted 1972; Am. by Initiative Petition filed with the Secretary of State August 3, 1993; adopted 1994; Am. proposed by Constitution Revision Commission, Revision No. 8, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

SECTION 4. **Constitutional convention.—**

(a) The power to call a convention to consider a revision of the entire constitution is reserved to the people. It may be invoked by filing with the custodian of state records a petition, containing a declaration that a constitutional convention is desired, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to fifteen per cent of the votes cast in each such district respectively and in the state as a whole in the last preceding election of presidential electors.

(b) At the next general election held more than ninety days after the filing of such petition there shall be submitted to the electors of the state the question: "Shall a constitutional convention be held?" If a majority voting on the question votes in the affirmative, at the next succeeding general election there shall be elected from each representative district a member of a constitutional convention. On the twenty-first day following that election, the convention shall sit at the capital, elect officers, adopt rules of procedure, judge the election of its membership, and fix a time and place for its future meetings. Not later than ninety days before the next succeeding general election, the convention shall cause to be filed with the custodian of state records any revision of this constitution proposed by it.

History.—Am. proposed by Constitution Revision Commission, Revision No. 8, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

SECTION 5. **Amendment or revision election.—**

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution or report of revision commission, constitutional convention or taxation and budget reform commission proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.

(b) A proposed amendment or revision of this constitution, or any part of it, by initiative shall be submitted to the electors at the general election provided the initiative petition is filed with the custodian of state records no later than February 1 of the year in which the general election is held.

(c) The legislature shall provide by general law, prior to the holding of an election pursuant to this section, for the provision of a statement to the public regarding the probable financial impact of any amendment proposed by initiative pursuant to section 3.

(d) Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, shall be published in one newspaper of general circulation in each county in which a newspaper is published.

(e) Unless otherwise specifically provided for elsewhere in this constitution, if the proposed amendment or revision is approved by vote of at least sixty percent of the electors voting on the measure, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

History.—Am. H.J.R. 1616, 1988; adopted 1988; Am. proposed by Constitution Revision Commission, Revision No. 8, 1998, filed with the Secretary of State May 5, 1998; adopted 1998; Am. H.J.R. 571, 2001; adopted 2002; Am. S.J.R. 2394, 2004; adopted 2004; Am. H.J.R. 1723, 2005; adopted 2006.

SECTION 6. **Taxation and budget reform commission.—**

(a) Beginning in 2007 and each twentieth year thereafter, there shall be established a taxation and budget

reform commission composed of the following members:

(1) eleven members selected by the governor, none of whom shall be a member of the legislature at the time of appointment.

(2) seven members selected by the speaker of the house of representatives and seven members selected by the president of the senate, none of whom shall be a member of the legislature at the time of appointment.

(3) four non-voting ex officio members, all of whom shall be members of the legislature at the time of appointment. Two of these members, one of whom shall be a member of the minority party in the house of representatives, shall be selected by the speaker of the house of representatives, and two of these members, one of whom shall be a member of the minority party in the senate, shall be selected by the president of the senate.

(b) Vacancies in the membership of the commission shall be filled in the same manner as the original appointments.

(c) At its initial meeting, the members of the commission shall elect a member who is not a member of the legislature to serve as chair and the commission shall adopt its rules of procedure. Thereafter, the commission shall convene at the call of the chair. An affirmative vote of two thirds of the full commission shall be necessary for any revision of this constitution or any part of it to be proposed by the commission.

(d) The commission shall examine the state budgetary process, the revenue needs and expenditure processes of the state, the appropriateness of the tax structure of the state, and governmental productivity and efficiency; review policy as it relates to the ability of state and local government to tax and adequately fund governmental operations and capital facilities required to meet the state's needs during the next twenty year period; determine methods favored by the citizens of the state to fund the needs of the state, including alternative methods for raising sufficient revenues for the needs of the state; determine measures that could be instituted to effectively gather funds from existing tax sources; examine constitutional limitations on taxation and expenditures at the state and local level; and review the state's comprehensive planning, budgeting and needs assessment processes to determine whether the resulting information adequately supports a strategic decisionmaking process.

(e) The commission shall hold public hearings as it deems necessary to carry out its responsibilities under this section. The commission shall issue a report of the results of the review carried out, and propose to the legislature any recommended statutory changes related to the taxation or budgetary laws of the state. Not later than one hundred eighty days prior to the general election in the second year following the year in which the commission is established, the commission shall file with the custodian of state records its proposal, if any, of a revision of this constitution or any part of it dealing with taxation or the state budgetary process.

History.—Added, H.J.R. 1616, 1988; adopted 1988; Ams. proposed by Constitution Revision Commission, Revision Nos. 8 and 13, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

SECTION 7. **Tax or fee limitation.**—Notwithstanding Article X, Section 12(d) of this constitution, no new State tax or fee shall be imposed on or after November 8, 1994 by any amendment to this constitution unless the proposed amendment is approved by not fewer than two-thirds of the voters voting in the election in which such proposed amendment is considered. For purposes of this section, the phrase "new State tax or fee" shall mean any tax or fee which would produce revenue subject to lump sum or other appropriation by the Legislature, either for the State general revenue fund or any trust fund, which tax or fee is not in effect on November 7, 1994 including without limitation such taxes and fees as are the subject of proposed constitutional amendments appearing on the ballot on November 8, 1994. This section shall apply to proposed constitutional amendments relating to State taxes or fees which appear on the November 8, 1994 ballot, or later ballots, and any such proposed amendment which fails to gain the two-thirds vote required hereby shall be null, void and without effect.

History.—Proposed by Initiative Petition filed with the Secretary of State March 11, 1994; adopted 1996.

GAMING COMPACT BETWEEN THE SEMINOLE TRIBE OF FLORIDA AND THE STATE OF FLORIDA

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Gaming Compact Between the Seminole Tribe of Florida and the State of Florida

This Compact is made and entered into by and between the Seminole Tribe of Florida, a federally-recognized Indian Tribe, and the State of Florida, with respect to the operation of Covered Games, as defined herein, on the Tribe's Indian lands as defined by the Indian Gaming Regulatory Act 25; U.S.C. ss. 2701 *et seq*.

Part I. TITLE

This document shall be referred to as the "Gaming Compact Between the Seminole Tribe of Florida and the State of Florida."

Part II. RECITALS

A. The Seminole Tribe of Florida is a federally-recognized tribal government possessing sovereign powers and rights of self-government.

B. The State of Florida is a state of the United States of America possessing the sovereign powers and rights of a state.

C. The State of Florida and the Seminole Tribe of Florida maintain a government-to-government relationship.

D. The United States Supreme Court has long recognized the right of an Indian Tribe to regulate activity on lands within its jurisdiction, but the United States Congress, through the Indian Gaming Regulatory Act, has given states a role in the conduct of tribal gaming in accordance with negotiated tribal-state compacts.

E. Pursuant to the Seminole Tribe Amended Gaming Ordinance, adopted by Resolution No. C-195-06, and approved by the Chairman of the National Indian Gaming

Commission on July 10, 2006, hereafter referred to as the Seminole Tribal Gaming Code, the Seminole Tribe of Florida desires to offer the play of Covered Games, as defined in Part III of this Compact, as a means of generating revenues for purposes authorized by the Indian Gaming Regulatory Act, including without limitation the support of tribal governmental programs, such as health care, housing, sewer and water projects, police, fire suppression, general assistance for tribal elders, day care for children, economic development, educational opportunities, per capita payments to tribal members, and other typical and valuable governmental services and programs for tribal members.

F. This Compact is the only gaming compact between the Tribe and the State.

G. It is in the best interests of the Seminole Tribe of Florida and the State of Florida for the State to enter into a compact with the Tribe that recognizes the Tribe's right to offer certain Class III gaming and provides substantial exclusivity of such activities in conjunction with a reasonable revenue sharing arrangement between the Tribe and the State that will entitle the State to significant revenue participation.

Part III. DEFINITIONS

As used in this Compact:

A. "Annual Oversight Assessment" means the amount for reimbursement to the State for the actual and reasonable costs of the State Compliance Agency to perform its monitoring functions set forth under the Compact.

B. "Class II video bingo terminals (or their equivalents)" means any electronic aid to a Class II bingo game that includes a video spinning reel and/or mechanical spinning reel display.

C. "Class III gaming" means the forms of Class III gaming defined in 25 U.S.C. s. 2703(8) and by the regulations of the National Indian Gaming Commission.

D. "Commission" means the Seminole Tribal Gaming Commission, which is the tribal governmental agency that has the authority to carry out the Tribe's regulatory and oversight responsibilities under this Compact.

E. "Compact" means this Gaming Compact between the Seminole Tribe of Florida and the State of Florida.

F. "Covered Game" or "Covered Gaming Activity" means the following Class III gaming activities:

1. (a) Slot machines, meaning any mechanical or electrical contrivance, terminal that may or may not be capable of downloading slot games from a central server system, machine, or other device that, upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any consideration whatsoever, including the use of any electronic payment system, except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic

credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot machines may use spinning reels, video displays, or both.

(b) If at any time, Florida law authorizes the use of electronic payments systems utilizing credit or debit card payment for the play or operation of slot machines for any person, the Tribe shall be authorized to use such payment systems.

2. Banking or banked card games, including baccarat, chemin de fer, and blackjack (21); provided, that the Tribe shall not offer such games at its Brighton or Big Cypress Facilities unless and until the State of Florida permits any other person, organization or entity to offer such games.

3. Raffles and drawings.

4. Any new game authorized by Florida law for any person for any purpose, except for banked card games authorized for any other federally recognized tribe pursuant to Indian Gaming Regulatory Act, provided that the tribe has land in federal trust in the State as of February 1, 2010.

G. "Covered Game Employee" or "Covered Employee" means any individual employed and licensed by the Tribe whose responsibilities include the rendering of services with respect to the operation, maintenance or management of Covered Games, including, but not limited to, the following: managers and assistant managers; accounting

personnel; Commission officers; surveillance and security personnel; cashiers, supervisors, and floor personnel; cage personnel; and any other employee whose employment duties require or authorize access to areas of the Facility related to the conduct of Covered Games or the technical support or storage of Covered Game components. This definition does not include the Tribe's elected officials provided that such individuals are not directly involved in the operation, maintenance, or management of Covered Games or Covered Games components.

H. "Documents" means books, records, electronic, magnetic and computer media documents and other writings and materials, copies thereof, and information contained therein.

I. "Effective Date" means the date on which the Compact becomes effective pursuant to Part XVI, Section A of this Compact.

J. "Electronic Bingo Machine" means a card minding device, which may only be used in connection with a bingo game, as defined in section 849.0931(1)(a), Florida Statutes, which is certified in advance by an independent testing laboratory approved by the Division of Pari-Mutuel Wagering as a bingo aid device that meets all of the following requirements:

1. The device must aid a bingo game player by (1) storing in the memory of the device not more than three (3) bingo faces of tangible bingo cards, as defined by section 849.0931(1)(b), Florida Statutes, purchased by a player; (2) comparing the numbers drawn and then individually entered into the device by the player to the bingo faces previously stored in the memory of the device and (3) identifying

preannounced winning bingo patterns marked or covered on the stored bingo faces.

2. The device must not be capable of accepting or dispensing any coins, currency, or tokens.

3. The device must not be capable of monitoring any bingo card face other than the faces of the tangible bingo card or cards purchased by the player for that game.

4. The device must not be capable of displaying or representing the game result through any means other than highlighting the winning numbers marked or covered on the bingo card face or giving an audio alert that the player's card has a prize-winning pattern. No casino game graphics, themes or titles, including but not limited to depictions of slot machine-style symbols, cards, craps, roulette, or lotto may be used.

5. The device must not be capable of determining the outcome of any game.

6. Progressive prizes in excess of two thousand five hundred dollars ($2,500) are prohibited.

7. Other than progressive prizes not to exceed two thousand five hundred dollars ($2,500), no prize exceeding one thousand dollars ($1,000) may be awarded.

8. No Electronic Bingo Machine may contain more than one player position for playing bingo.

9. No Electronic Bingo Machine may contain or be linked to more than one video display.

10. Prizes must be awarded based solely on the results of the bingo game. No additional element of chance may be used.

K. "Facility" means a building or buildings of the Tribe in which the Covered Games authorized by this Compact are conducted.

L. "Guaranteed Minimum Compact Term Payment" means a minimum total payment for the first five (5) years of this Compact of One Billion Dollars ($1,000,000,000) which shall include all Revenue Share Payments for the first five (5) years of this Compact.

M. "Guaranteed Minimum Revenue Sharing Cycle Payment" means a payment of One Hundred Fifty Million Dollars ($150,000,000) in each of the two (2) years in the Initial Period and a minimum payment of Two Hundred Thirty-Three Million Dollars ($233,000,000) for each of the first (1st) and second (2nd) Revenue Sharing Cycles and Two Hundred Thirty-Four Million Dollars ($234,000,000) for the third (3rd) Revenue Sharing Cycle that the Tribe agrees to make to the State as provided by Part XI of the Compact.

N. "Historic Racing Machine" mean an individual historic race terminal linked to a central server as part of a network-based video game, where the terminals allow pari-mutuel wagering by players on the results of previously conducted horse or greyhound races, but only if the game is certified in advance by an independent testing laboratory approved by the Division of Pari-Mutuel Wagering as complying with all of the following requirements:

1. All data on previously conducted horse or greyhound races must be stored in a secure format on the central server, which is located at the pari-mutuel facility.

2. Only horse or greyhound races that were recorded at licensed pari-mutuel facilities in the United States after January 1, 2000, may be used.

3. One (1) or more of the following three (3) bet types must be offered on all Historic Racing Machines: Win-Place-Show, Quinella, or Tri-Fecta.

4. All Historic Racing Machines must offer one (1) or more of the following racing types: Thoroughbreds, Harness, or Greyhounds.

5. Progressive prizes in excess of two thousand five hundred dollars ($2,500) are prohibited.

6. Other than progressive prizes not to exceed two thousand five hundred dollars ($2,500), no prize exceeding one thousand dollars $1,000 may be awarded.

7. After each wager is placed, the Historic Racing Machine must display a video of at least the final eight (8) seconds of the horse or greyhound race before any prize is awarded or indicated on the Historic Racing Machine.

8. The display of the video of the horse or greyhound race must occupy at least seventy percent (70%) of the Historic Racing Machine's video screen and no Historic Racing Machine may contain or be linked to more than one video display.

9. No casino game graphics, themes or titles, including but not limited to depictions of slot machine-style symbols, cards, craps, roulette, lotto, or bingo may be used.

10. No video or mechanical reel displays are permitted.

11. No Historic Racing Machine may contain more than one player position for placing wagers.

12. No coins, currency or tokens may be dispensed from a Historic Racing Machine.

13. Prizes must be awarded based solely on the results of a previously conducted horse or greyhound race. No additional element of chance may be used. However, a random number generator must be used to select the race from the central server to be displayed to the player(s) and to select numbers or other designations of race entrants that will be used in the various bet types for any "Quick Pick" bets. To prevent an astute player from recognizing the race based on the entrants and thus knowing the results before placing a wager, the entrants of the race may not be identified until after all wagers for that race have been placed.

O. "Indian Gaming Regulatory Act" or "IGRA" means the Indian Gaming Regulatory Act, Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, codified at 25 U.S.C. ss. 2701 *et seq.* and 18 U.S.C. ss. 1166 to 1168.

P. "Indian Lands" means the lands defined in 25 U.S.C. s. 2703(4).

Q. "Initial Period" means the first twenty-four (24) calendar months of the Compact commencing on the Effective Date.

R. "Lottery Vending Machine" means any of the following three (3) types of machines:

1. A machine to dispense pre-printed paper instant lottery tickets, but that does not read or reveal the results of the ticket, or allow a player to redeem any ticket. The machine, or any machine or device linked to the machine, may not include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. This does not preclude the use of casino game themes or titles on such tickets or signage or advertising displays on the machines;

2. A machine to dispense pre-determined electronic instant lottery tickets that displays an image of the ticket on a video screen on the machine and the player must touch the image of the ticket on the video screen to reveal the outcome of the ticket, provided the machine does not permit a player to redeem winnings, does not make use of video reels or mechanical reels or simulate the play of any casino game, and the lottery retailer is paid the same amount as would be paid for the sale of paper instant lottery tickets; or

3. A machine to dispense a paper lottery ticket with numbers selected by the player or randomly by the machine. The machine does not reveal the winning numbers and the winning numbers are selected at a subsequent time and different location through a drawing by the Florida Lottery. The machine, or any machine or device linked to the machine, may not include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. The machine may not be used to redeem a winning ticket.

This does not preclude the use of casino game themes or titles for signage or advertising displays on the machine.

S. "Monthly Payment" means the monthly Revenue Share Payment which the Tribe remits to the State on the fifteenth (15^{th}) day of the month following each month of the Initial Period or Revenue Sharing Cycle.

T. "Net Revenue Base" means the Net Win for the twelve (12) month period immediately preceding the offering of, for public or private use, Class III or other casino-style gaming at any of the licensed pari-mutuel facilities in Broward and Miami-Dade Counties, except that if the commencement of such new gaming is made during the Initial Period, "Net Revenue Base" means Net Win for the twelve (12) month period immediately preceding this Compact.

U. "Net Win" means the total receipts from the play of all Covered Games less all prize payouts and free play or promotional credits issued by the Tribe.

V. "Pari-Mutuel Wagering Activities" means those activities presently authorized by Chapter 550, Florida Statutes, which do not include any casino-style game or game or device that includes video reels or mechanical reels or other slot machine or casino game themes or titles.

W. "Patron" means any person who is on the premises of a Facility, or who is entering the Tribe's Indian lands for the purpose of playing Covered Games authorized by this Compact.

X. "Revenue Share Payment" means the periodic payment by the Tribe to the State provided for in Part XI of this Compact.

Y. "Revenue Sharing Cycle" means the annual (12-month) period of the Tribe's operation of Covered Games in its Facilities and whose first annual Cycle shall commence on the first day of the twenty-fifth (25th) month after the Effective Date.

Z. "Rules and regulations" means the rules and regulations promulgated by the Commission for implementation of this Compact.

AA. "State" means the State of Florida.

BB. "State Compliance Agency" or "SCA" means the state agency designated by the Florida Legislature that has the authority to carry out the State's oversight responsibilities under this Compact.

CC. "Tribe" means the Seminole Tribe of Florida or any affiliate thereof conducting activities pursuant to this Compact under the authority of the Seminole Tribe of Florida.

Part IV. AUTHORIZATION AND LOCATION OF COVERED GAMES

A. The Tribe and State agree that the Tribe is authorized to operate Covered Games on its Indian lands, as defined in the Indian Gaming Regulatory Act, in accordance with the provisions of this Compact. Except as otherwise provided in this Compact, nothing gives the Tribe the right to conduct roulette, craps, roulette-styled games, or craps-styled games; however, nothing herein is intended to prohibit the Tribe from operating slot machines that employ video and/or mechanical displays of roulette, wheels or other table game themes. Except for the provisions in Part XI, Section A, nothing in this Compact shall limit the Tribe's right to operate any game that is Class II under the Indian Gaming Regulatory Act.

B. The Tribe is authorized to conduct Covered Games under this Compact at only the following seven (7) existing Facilities, which may be expanded or replaced as provided for in Part IV, Section C below, on Indian Lands:

Seminole Indian Casino - Brighton
Okeechobee, FL

Seminole Indian Casino - Coconut Creek
Coconut Creek, FL

Seminole Indian Casino - Hollywood
Hollywood, FL

Seminole Indian Casino - Immokalee
Immokalee, FL

Seminole Indian Casino - Big Cypress
Clewiston, FL

Seminole Hard Rock Hotel & Casino - Hollywood
Hollywood, FL

Seminole Hard Rock Hotel & Casino - Tampa
Tampa, FL

C. Any of the Facilities existing on Indian Lands identified in Part IV, Section B may be expanded or replaced by another Facility on the same Indian Lands with advance notice to the State of sixty (60) calendar days.

Part V. RULES AND REGULATIONS; MINIMUM REQUIREMENTS FOR OPERATIONS

A. At all times during the term of this Compact, the Tribe shall be responsible for all duties which are assigned to it and the Commission under this Compact. The Tribe shall promulgate any rules and regulations necessary to implement this Compact, which at a minimum shall expressly include or incorporate by reference all provisions of

Part V, VI, VII and VIII of this Compact. Nothing in this Compact shall be construed to affect the Tribe's right to amend its rules and regulations, provided that any such amendment shall be in conformity with this Compact. The SCA may propose additional rules and regulations consistent with and related to the implementation of this Compact to the Commission at any time, and the Commission shall give good faith consideration to such suggestions and shall notify the SCA of its response or action with respect thereto.

B. All Facilities shall comply with, and all Covered Games approved under this Compact shall be operated in accordance with the requirements set forth in this Compact, including but not limited to, those set forth in Sections C and D of this Part and the Tribe's Internal Control Policies and Procedures. In addition, all Facilities and all Covered Games shall be operated in strict compliance with tribal internal control standards that provide a level of control that equals or exceeds those set forth in the National Indian Gaming Commission's Minimum Internal Control Standards, 25 C.F.R. Part 542 (2009), even if the 2009 regulations are determined to be invalid or are subsequently withdrawn by the NIGC. The Tribe may amend or supplement its internal control standards from time to time, provided that such changes continue to provide a level of control that equals or exceeds those set forth in 25 C.F.R. Part 542 (2009).

C. The Tribe and the Commission shall retain all Documents in compliance with the requirements set forth in the Tribe's Record Retention Policies and Procedures.

D. Compulsive Gambling.

The Tribe will continue and maintain its program to combat problem gambling and curtail compulsive gambling and work with the Florida Council on Compulsive

Gambling or other organizations dedicated to assisting problem gamblers. The Tribe will continue to maintain the following safeguards against problem gambling.

1. The Tribe will provide a comprehensive training and education program designed in cooperation with the Florida Council on Compulsive Gambling or other organization dedicated to assisting problem gamblers to every new gaming employee.

2. The Tribe will make printed materials available to Patrons, which include contact information for the Florida Council on Compulsive Gambling 24-Hour Helpline or other hotline dedicated to assisting problem gamblers, and will work with the Florida Council on Compulsive Gambling or other organization dedicated to assisting problem gamblers to provide contact information for the Florida Council on Compulsive Gambling or other organization dedicated to assisting problem gamblers, and to provide such information on the Facilities' internet website. The Tribe will continue to display all literature from the Florida Council on Compulsive Gambling or other organization dedicated to assisting problem gamblers within the Facilities.

3. The Commission shall establish a list of the Patrons voluntarily excluded from the Tribe's Facilities, pursuant to subsection 5.

4. The Tribe shall employ its best efforts to exclude Patrons on such list from entry into its Facilities; provided that nothing in this Compact shall create for Patrons who are excluded but gain access to the Facilities, or any other person, a cause of action or claim against the State, the Tribe or the Commission or any other person, entity, or agency for failing to enforce such exclusion.

5. Patrons who believe they may be playing Covered Games on a compulsive basis may request that their names be placed on the list of Patrons voluntarily excluded from the Tribe's Facilities.

6. All Covered Game employees shall receive training on identifying players who have a problem with compulsive gambling and shall be instructed to ask them to leave. Signs bearing a toll-free help-line number and educational and informational materials shall be made available at conspicuous locations and automated teller machines in each Facility, which aim at the prevention of problem gaming and which specify where Patrons may receive counseling or assistance for gambling problems. All Covered Games employees shall also be screened by the Tribe for compulsive gambling habits. Nothing in this Section shall create for Patrons, or any other person, a cause of action or claim against the State, the Tribe or the Commission or any other person, entity, or agency for failing to identify a Patron or person who is a compulsive gambler and/or ask that person to leave.

7. The Tribe shall follow the rules for exclusion of Patrons set forth in the Seminole Tribal Gaming Code.

8. The Tribe shall make diligent efforts to prevent underage individuals from loitering in the area of each Facility where the Covered Games take place.

9. The Tribe shall assure that advertising and marketing of the Covered Games at the Facilities contain a responsible gambling message and a toll-free help-line number for problem gamblers, where practical, and that such advertising and marketing make no false or misleading claims.

E. The State may secure an annual independent audit of the conduct of Covered Games subject to this Compact, as set forth in Part VIII.

F. Summaries of the rules for playing Covered Games and promotional contests shall be visibly displayed in the Facilities. Complete sets of rules shall be available in the Facilities upon request. Copies of all such rules shall be provided to the SCA within thirty (30) calendar days of their issuance or their amendment.

G. The Tribe shall provide the Commission and SCA with a chart of the supervisory lines of authority with respect to those directly responsible for the conduct of Covered Games, and shall promptly notify those agencies of any material changes thereto.

H. The Tribe engages in and shall continue to maintain proactive approaches to prevent improper alcohol sales, drunk driving, underage drinking, and underage gambling. These approaches involve intensive staff training, screening and certification, Patron education, and the use of security personnel and surveillance equipment in order to enhance Patrons' enjoyment of the Facilities and provide for Patron safety. Staff training includes specialized employee training in nonviolent crisis intervention, driver's license verification and the detection of intoxication. Patron education is carried out through notices transmitted on valet parking stubs, posted signs in the Facilities, and in brochures. Roving and fixed security officers, along with surveillance cameras, assist in the detection of intoxicated Patrons, investigate problems, and engage with Patrons to de-escalate volatile situations. To help prevent alcohol-related crashes, the Tribe will continue to operate the "Safe Ride Home Program," a free taxi service. The Tribe shall maintain these programs and policies in its Alcohol Beverage Control Act for the

duration of the Compact but may replace such programs and policies with either stricter or more extensive programs and policies. The Tribe shall provide the State with written notice of any changes to the Tribe's Alcohol Beverage Control Act, which notice shall include a copy of such changes and shall be sent on or before the effective date of the change. Nothing in this Section shall create for Patrons, or any other person, a cause of action or claim against the State, the Tribe or the Commission or any other person, entity, or agency for failing to fulfill the requirements of this Section.

I. No person under the age of twenty-one (21) shall be allowed to play Covered Games, unless otherwise permitted by State law.

J. The Tribe may establish and operate Facilities that operate Covered Games only on its Indian Lands as defined by the Indian Gaming Regulatory Act and as specified in Part IV.

K. The Commission shall keep a record of, and shall report at least quarterly to the SCA, the number of Covered Games in each Facility, by the name or type of each and its identifying number.

L. The Tribe and the Commission shall make available a copy of the following documents to any member of the public upon request within ten (10) business days: the minimum internal control standards of the National Indian Gaming Commission (25 C.F.R. Part 542 (2009)); the Seminole Tribal Gaming Code; this Compact; the rules of each Covered Game operated by the Tribe; and the administrative procedures for addressing Patron tort claims under Part VI.

Part VI. PATRON DISPUTES, WORKERS COMPENSATION, TORT CLAIMS; PRIZE CLAIMS; LIMITED CONSENT TO SUIT

A. All Patron disputes involving gaming will be resolved in accordance with the procedures established in thc Seminole Tribal Gaming Code.

B. Tort claims by employees of the Tribe's Facilities will be handled pursuant to the provisions of the Tribe's Workers' Compensation Ordinance, which shall provide workers the same or better protections as set forth in the State of Florida's workers' compensation laws.

C. Disputes by employees of the Tribe's Facilities will be handled pursuant to the provisions of the Tribe's policy for gaming employees, as set forth in the Employee Fair Treatment and Dispute Resolution Policy.

D. Tort remedics for Patrons.

1. A Patron who claims to have been injured after the Effective Date at one of the Tribe's Facilities where Covered Games are played is required to provide written notice to the Tribe's Risk Management Department or the Facility, in a reasonable and timely manner, but in no event later than three (3) years after the date of the incident giving rise to the claimed injury occurs, or the claim shall be forever barred.

2. The Tribe shall have thirty (30) days to respond to a claim made by a Patron. If the Tribe fails to respond within thirty (30) days, the Patron may file suit against the Tribe. When the Tribe responds to an incident alleged to have caused a Patron's injury or illness, the Tribe shall provide a claim form to the Patron. The form must include the address for the Tribe's Risk Management

Department and provide notice of the Tribe's administrative procedures for addressing Patron tort claims, including notice of the relevant deadlines that may bar such claims if the Tribe's administrative procedures are not followed. It is the Patron's responsibility to complete the form and forward the form to the Tribe's Risk Management Department within a reasonable period of time, and in a reasonable and timely manner. Nothing herein shall interfere with any claim a Patron might have arising under the Federal Tort Claim Act.

3. Upon receiving written notification of the claim, the Tribe's Risk Management Department shall forward the notification to the Tribe's insurance carrier. The Tribe will use its best efforts to assure that the insurance carrier contacts the Patron within a reasonable period of time following receipt of the claim.

4. The insurance carrier will handle the claim to conclusion. If the Patron and the Tribe and the insurance carrier are not able to resolve the claim in good faith within one (1) year after the Patron provided written notice to the Tribe's Risk Management Department or the Facility, the Patron may bring a tort claim against the Tribe in any court of competent jurisdiction in the county in which the incident alleged to have caused injury occurred, as provided in this Compact, and subject to a four (4) year statute of limitations, which shall begin to run from the date of the incident of the alleged claimed injury. A Patron's notice of injury to the Tribe pursuant to Section D.1. of this Part and the fulfillment of the good faith

attempt at resolution pursuant to Sections D.2. and 4. of this Part are conditions precedent to filing suit.

5. For tort claims of Patrons made pursuant to Section D. of this Part, the Tribe agrees to waive its tribal sovereign immunity to the same extent as the State of Florida waives its sovereign immunity, as specified in sections 768.28(1) and (5), Florida Statutes, as such provision may be amended from time-to-time by the Florida Legislature. In no event shall the Tribe be deemed to have waived its tribal immunity from suit beyond the limits set forth in section 768.28(5), Florida Statutes. These limitations are intended to include liability for compensatory damages, costs, pre-judgment interest, and attorney fees if otherwise allowable under Florida law arising out of any claim brought or asserted against the Tribe, its subordinate governmental and economic units, any Tribal officials, employees, servants, or agents in their official capacities and any entity which is owned, directly or indirectly by the Tribe. All Patron tort claims brought pursuant to this provision shall be brought solely against the Tribe, as the sole party in interest.

6. Notices explaining the procedures and time limitations with respect to making a tort claim shall be prominently displayed in the Facilities, posted on the Tribe's website, and provided to any Patron for whom the Tribe has notice of the injury or property damage giving rise to the tort claim. Such notices shall explain the method and places for making a tort claim, including where the Patron must submit the form, that the process is the exclusive method for asserting a tort claim arising under this section against the Tribe, that the Tribe and its insurance carrier

have one (1) year from the date the Patron gives notice of the claim to resolve the matter and after that time the Patron may file suit in a court of competent jurisdiction, that the exhaustion of the process is a pre-requisite to filing a claim in state court, and that claims which fail to follow this process shall be forever barred.

7. The Tribe shall maintain an insurance policy which shall:

(a) Prohibit the insurer or the Tribe from invoking tribal sovereign immunity for claims up to the limits to which the State of Florida has waived sovereign immunity as set forth in section 768.28(5), Florida Statutes, or its successor statute.

(b) Include covered claims made by a Patron or invitee for personal injury or property damage.

(c) Permit the insurer or the Tribe to assert any statutory or common law defense other than sovereign immunity.

(d) Provide that any award or judgment rendered in favor of a Patron or invitee shall be satisfied solely from insurance proceeds.

8. The Tribal Council of the Seminole Tribe of Florida may, in its discretion, consider claims for compensation in excess of the limits of the Tribe's waiver of its sovereign immunity.

Part VII. ENFORCEMENT OF COMPACT PROVISIONS

A. The Tribe, the Commission and the SCA, to the extent authorized by the Compact, shall be responsible for regulating activities pursuant to this Compact. As part of its responsibilities, the Tribe has adopted or issued standards designed to ensure that the Facilities are constructed, operated and maintained in a manner that adequately protects the environment and public health and safety. Additionally, the Tribe and the Commission shall ensure that:

1. Operation of the conduct of Covered Games is in strict compliance with:

(a) The Seminole Tribal Gaming Code;

(b) All rules, regulations, procedures, specifications, and standards lawfully adopted by the National Indian Gaming Commission and the Commission; and

(c) The provisions of this Compact, including, but not limited to, the standards and the Tribe's rules and regulations; and

2. Reasonable measures are taken to:

(a) Assure the physical safety of Facility Patrons, employees, and any other person while in the Facility;

(b) Prevent illegal activity at the Facilities or with regard to the operation of Covered Games, including, but not limited to, the maintenance of employee procedures and a surveillance system;

(c) Ensure prompt notification is given to appropriate law enforcement authorities of persons who may be involved in illegal acts in accordance with applicable law;

(d) Ensure that the construction and maintenance of the Facilities comply with the standards of the Florida Building Code, the provisions of which the Tribe has adopted as the Seminole Tribal Building Code; and

(e) Ensure adequate emergency access plans have been prepared to ensure the health and safety of all Covered Game Patrons.

B. All licenses for members and employees of the Commission shall be issued according to the same standards and terms applicable to Facility employees. The Commission's officers shall be independent of the Tribal gaming operations, and shall be supervised by and accountable only to the Commission. A Commission officer shall be available to the Facility during all hours of operation upon reasonable notice, and shall have immediate access to any and all areas of the Facility for the purpose of ensuring compliance with the provisions of this Compact. The Commission shall investigate any suspected or reported violation of this Part and shall officially enter into its files timely written reports of investigations and any action taken thereon, and shall forward copies of such investigative reports to the SCA within thirty (30) calendar days of such filing. The scope of such reporting shall be determined by a Memorandum of Understanding between the Commission and the SCA as soon as practicable after the Effective Date of this Compact. Any such violations shall be reported immediately to the Commission, and the Commission shall immediately forward the same to the SCA. In addition, the Commission shall promptly report to the SCA any such violations which it independently discovers.

C. In order to develop and foster a positive and effective relationship in the enforcement of the provisions of this Compact, representatives of the Commission and

the SCA shall meet, not less than on an annual basis, to review past practices and examine methods to improve the regulatory scheme created by this Compact. The meetings shall take place at a location mutually agreed to by the Commission and the SCA. The SCA, prior to or during such meetings, shall disclose to the Commission any concerns, suspected activities, or pending matters reasonably believed to possibly constitute violations of this Compact by any person, organization or entity, if such disclosure will not compromise the interest sought to be protected.

Part VIII. STATE MONITORING OF COMPACT

A. It is the express intent of the Tribe and the State for the Tribe to regulate its own gaming activities, but that the State is entitled to conduct random inspections as provided for in this Part to assure that the Tribe is operating in accordance with the terms of the Compact. The State may secure, and the Tribe will be required to provide all necessary cooperation, an annual independent audit of the conduct of Covered Games subject to this Compact. The audit shall:

1. examine the Covered Games operated by the Tribe to assure compliance with the Tribe's Internal Control Policies and Procedures and any other standards, policies or procedures adopted by the Tribe, the Commission or the National Indian Gaming Commission which govern the play of Covered Games; and

2. examine revenues in connection with the conduct of Covered Games and shall include only those matters necessary to verify the determination of Net Win and the basis and amount of the Payments the Tribe is required to make to the State pursuant to Part XI of this Compact and as defined by this Compact.

B. A copy of the audit report for the conduct of Covered Games shall be submitted to the Commission and the SCA within thirty (30) calendar days of completion. Representatives of the SCA may, upon request, meet with the Tribe and its auditors to discuss the audit or any matters in connection therewith; provided, such discussions are limited to Covered Games information. The annual independent audit shall be performed by an independent firm, with experience in auditing casino operations, selected by the State, subject to the consent of the Tribe, which shall not be unreasonably withheld. The Tribe shall pay the auditing firm for the costs of the annual independent audit.

C. As provided herein, the SCA may monitor the conduct of Covered Games to ensure that the Covered Games are conducted in compliance with the provisions of this Compact. In order to properly monitor the conduct of Covered Games, agents of the SCA without prior notice shall have reasonable access to all public areas of the Facilities related to the conduct of Covered Games as provided herein.

1. While the Commission will act as the regulator of the Facilities, the SCA may review whether the Tribe's Facilities are in compliance with the provisions of this Compact and the Tribe's rules and regulations applicable to Covered Games and may advise on such issues as it deems appropriate. In the event of a dispute or disagreement between Tribal and SCA regulators, the dispute or disagreement shall be resolved in accordance with the dispute resolution provisions of Part XIII of this Compact.

2. In order to fulfill its oversight responsibilities, the State has identified specific oversight testing procedures, set forth below in subsection 3., paragraphs (a), (b), and (c), which the SCA may perform on a routine basis.

3. (a) The SCA may inspect any Covered Games in operation at the Facilities on a random basis. Such inspections shall not exceed one (1) inspection per Facility per calendar month and each inspection shall be limited to not more than ten (10) hours spread over two (2) consecutive days. The SCA may conduct inspections of more than ten (10) hours spread over those two (2) consecutive days, if the SCA determines that additional inspection hours are needed to address the issues of substantial non-compliance, provided that the SCA provides the Tribe with written notification of the need for additional inspection hours and provides the Tribe with a written summary of the substantial non-compliance issues that need to be addressed during the additional inspection hours. There is an annual limit of One Thousand Two Hundred (1,200) hours for all random inspections and audit reviews. Inspection hours shall be calculated on the basis of the actual amount of time spent by the SCA conducting the inspections at a Facility without a multiple for the number of SCA inspectors or agents engaged in the inspection activities. The purpose of the random inspections is to confirm that the Covered Games operate and play properly pursuant to the manufacturer's technical standards and are conducted in compliance with the Tribe's Internal Control Policies and Procedures and any other standards, policies or

procedures adopted by the Tribe, the Commission or the National Indian Gaming Commission which govern the play of Covered Games. The SCA shall provide notice to the Commission of such inspection at or prior to the commencement of the random inspections, and a Commission agent may accompany the inspection.

(b) For each Facility, the SCA may perform one annual review of the Tribe's slot machine compliance audit.

(c) At least on an annual basis, the SCA may meet with the Tribe's Internal Audit Department for Gaming to review internal controls and the record of violations of same for each Facility.

4. The SCA will seek to work with and obtain the assistance of the Commission in the resolution of any conflicts with the management of the Facilities, and the State and the Tribe shall make their best efforts to resolve disputes through negotiation whenever possible. Therefore, in order to foster a spirit of cooperation and efficiency, the parties hereby agree that when disputes arise between the SCA staff and Commission regulators from the day-to-day regulation of the Facilities, they should generally be resolved first through meeting and conferring in good faith. This voluntary process does not proscribe the right of either party to seek other relief that may be available when circumstances require such relief. In the event of a dispute or disagreement between Tribal and SCA regulators, the dispute or disagreement shall be resolved in accordance with the dispute resolution provisions of Part XIII of this Compact.

5. Access to each Facility by the SCA shall be during the Facility's operating hours only. No advance notice is required when the SCA inspection is limited to public areas of the Facility; however, representatives of the SCA shall provide notice and photographic identification to the Commission of their presence before beginning any such inspections.

6. Before the SCA agents enter any nonpublic area of a Facility, they shall provide one (1) hour notice and photographic identification to the Commission. The SCA agents shall be accompanied in nonpublic areas of the Facility by a Commission officer. Notice of at least one (1) hour by the SCA to the Commission is required to assure that a Commission officer is available to accompany the SCA agents at all times.

7. Any suspected or claimed violations of this Compact or law shall be directed in writing to the Commission; the SCA agents, in conducting the functions assigned them under this Compact, shall not unreasonably interfere with the functioning of any Facility.

D. Subject to the provisions herein, agents of the SCA shall have the right to review and request copies of Documents of the Facility related to its conduct of Covered Games. The review and copying of such Documents shall be during normal business hours unless otherwise allowed by the Tribe at the Tribe's discretion. The Tribe cannot refuse said inspection and copying of such Documents, provided that the inspectors cannot require copies of Documents in such volume that it unreasonably interferes with the normal functioning of the Facilities or Covered Games. To the extent that the Tribe provides the State with information which the Tribe claims to be confidential and

proprietary, or a trade secret, the Tribe shall clearly mark such information with the following designation: "Trade Secret, Confidential and Proprietary." If the State receives a request under Chapter 119, Florida Statutes that would include such designated information, the State shall promptly notify the Tribe of such a request and the Tribe shall promptly notify the State about its intent to seek judicial protection from disclosure. Upon such notice from the Tribe, the State shall not release the requested information until a judicial determination is made. This designation and notification procedure does not excuse the State from complying with the requirements of the State's public records law, but is intended to provide the Tribe the opportunity to seek whatever judicial remedy it deems appropriate. Notwithstanding the foregoing procedure, the SCA may provide copies of tribal Documents to federal law enforcement and other State agencies or State consultants that the State deems reasonably necessary in order to conduct or complete any investigation of suspected criminal activity in connection with the Tribe's Covered Games or the operation of the Facilities or in order to assure the Tribe's compliance with this Compact.

E. At the completion of any SCA inspection or investigation, the SCA shall forward any written report thereof to the Commission, containing all pertinent, non-confidential, non-proprietary information regarding any violation of applicable laws or this Compact which was discovered during the inspection or investigation unless disclosure thereof would adversely impact an investigation of suspected criminal activity. Nothing herein prevents the SCA from contacting tribal or federal law enforcement authorities for suspected criminal wrongdoing involving the Commission.

F. Except as expressly provided in this Compact, nothing in this Compact shall be deemed to authorize the State to regulate the Tribe's government, including the Commission, or to interfere in any way with the Tribe's selection of its governmental officers, including members of the Commission.

Part IX. JURISDICTION

The obligations and rights of the State and the Tribe under this Compact are contractual in nature, and are to be construed in accordance with the laws of the State of Florida. This Compact shall not alter tribal, federal or state civil adjudicatory or criminal jurisdiction in any way.

Part X. LICENSING

The Tribe and the Commission shall comply with the licensing and hearing requirements set forth in 25 C.F.R. Parts 556 and 558, as well as the applicable licensing and hearing requirements set forth in Articles IV-VI of the Seminole Tribal Gaming Code. The Commission shall notify the SCA of any disciplinary hearings or revocation or suspension of licenses.

Part XI. PAYMENTS TO THE STATE OF FLORIDA

A. The parties acknowledge and recognize that this Compact provides the Tribe with partial but substantial exclusivity and other valuable consideration consistent with the goals of the Indian Gaming Regulatory Act, including special opportunities for tribal economic development through gaming within the external boundaries of Florida

with respect to the play of Covered Games. In consideration thereof, the Tribe covenants and agrees, subject to the conditions agreed upon in Part XII of this Compact, to make payments to the State derived from Net Win as set forth in Sections B. and D. ("Payments"). The Tribe further agrees to convert eighty percent (80%) of its Class II video bingo terminals (or their equivalents) to Class III slot machines within forty-eight (48) months from January 1, 2008. Within sixty (60) months from January 1, 2008, all Class II video bingo terminals (or their equivalents) shall be converted to Class III slot machines, or the Revenue Share Payment to the State shall include an additional revenue share on its operation of Covered Games to be calculated as if the conversion has been completed, whether or not the Tribe has fully executed its conversion. The Tribe further agrees that it will not purchase or lease any new Class II video bingo terminals (or their equivalents) for use at its Facilities after the Effective Date of this Compact.

B. Payments pursuant to Section A. above shall be made to the State via electronic funds transfer in a manner directed by the Florida Legislature. Of the amounts paid by the Tribe to the State, three (3) percent shall be distributed, as provided for by the Legislature, to those local governments (including both counties and municipalities) in Florida affected by the Tribe's operation of Covered Games. Payments will be due in accordance with the Payment Schedule set forth below.

1. Revenue Share amounts paid by the Tribe to the State shall be calculated as follows:

(a) During the Initial Period, the Tribe agrees to pay the State a Revenue Share Payment in the amount of Twelve Million Five Hundred

Thousand Dollars ($12,500,000) per month through the end of Initial Period.

(b) Commencing with the first (1st) Revenue Sharing Cycle after the Initial Period, the Tribe agrees to pay for each Revenue Sharing Cycle a Revenue Share Payment to the State equal to the amount calculated in accordance with subsections (i) through (vi) below (the "Percentage Revenue Share Amount"). For the first (1st), second (2nd) and third (3rd) Revenue Sharing Cycles, the Tribe agrees to pay the greater of the (1) Percentage Revenue Share Amount or (2) the Guaranteed Minimum Revenue Sharing Cycle Payment for each such Revenue Sharing Cycle.

(i) Twelve percent (12%) of all amounts up to Two Billion Dollars ($2,000,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(ii) Fifteen percent (15%) of all amounts greater than Two Billion Dollars ($2,000,000,000) up to and including Three Billion Dollars ($3,00,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(iii) Seventeen and one half percent (17.5%) of all amounts greater than Three Billion Dollars ($3,000,000,000) up to and including Three Billion Five Hundred Million Dollars ($3,500,000,000) of Net Win received by the Tribe from the

operation and play of Covered Games during each Revenue Sharing Cycle;

(iv) Twenty percent (20%) of all amounts greater than Three Billion Five Hundred Million Dollars ($3,500,000,000) up to and including Four Billion Dollars ($4,000,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(v) Twenty-two and one half percent (22.5%) of all amounts greater than Four Billion Dollars ($4,000,000,000) up to and including Four Billion Five Hundred Million Dollars ($4,500,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(vi) Twenty-five percent (25%) of all amounts greater than Four Billion Five Hundred Million Dollars ($4,500,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(c) Monthly Payment

(i) On or before the fifteenth (15^{th}) day of the month following each month of the Initial Period or a Revenue Sharing Cycle, the Tribe will remit to the State or its assignee the Monthly Payment. For purposes of this Section, the Monthly Payment shall be eight and one-third percent (8.3%) of the estimated Revenue Share

Payment to be paid by the Tribe during such Revenue Sharing Cycle.

(ii) The Tribe will make available to the State at the time of the Monthly Payment the basis for the calculation of the payment.

(iii) The Tribe will, on a monthly basis, internally "true up" the calculation of the estimated Revenue Share Payment based on the Tribe's un-audited financial statements related to Covered Games.

(d) Payment Verification after the Initial Period

(i) On or before the forty-fifth (45^{th}) day after the third (3^{rd}) month, sixth (6^{th}) month, ninth (9^{th}) month, and twelfth (12^{th}) month of each Revenue Sharing Cycle, provided that the twelve (12) month period does not coincide with the Tribe's fiscal year end date as indicated in subsection (iii) below after the Initial Period, the Tribe will provide the State with an audit report by its independent auditors as to the annual Revenue Share calculation.

(ii) For each quarter within any Revenue Sharing Cycle, after the Initial Period, the Tribe agrees to engage its independent auditors to conduct a review of the un-audited net revenue from Covered Games. On or before the one hundred twentieth (120^{th}) day after the end of the Tribe's fiscal year, the Tribe agrees to require its independent auditors to provide an audit report with respect to Net Win for Covered Games and the related payment of the annual Revenue Share to the SCA for State review. During the

Initial Period the Tribe will provide the State with annual audited revenue figures.

(iii) If the twelfth (12^{th}) month of the Revenue Sharing Cycle does not coincide with the Tribe's fiscal year, the Tribe agrees to require its independent auditors to deduct Net Win from Covered Games for any of the months that are outside of the Revenue Sharing Cycle and to include Net Win from Covered Games for those months which fall outside of the Tribe's audit period but fall within the Revenue Sharing Cycle, prior to issuing the audit report.

(iv) No later than thirty (30) calendar days after the day the audit report is issued, the Tribe will remit to the State any underpayment of the annual Revenue Share, and the State will either reimburse to the Tribe any overpayment of the annual Revenue Share or authorize the overpayment to be deducted from the next successive monthly payment or payments.

2. Guaranteed Minimum Compact Term Payment. If, at the conclusion of each Revenue Sharing Cycle, the independent audit reports provided for in subsection B.I. (d) of this Part show that the total amount paid by the Tribe to the State is less than the Guaranteed Minimum Revenue Sharing Cycle Payment, then the Tribe shall, within forty-five (45) days after receipt of the independent audit report, remit to the State the difference between the amount paid for that Revenue Sharing Cycle and the Guaranteed Minimum Revenue Sharing Cycle Payment.

3. If, after any change in State law to affirmatively allow internet/on-line gaming (or any functionally equivalent remote gaming system that permits a person to game from home or any other location that is remote from a casino or other commercial gaming facility), the Tribe's Net Win from the operation of Covered Games at all of its Facilities combined drops more than five percent (5%) below its Net Win from the previous twelve (12) month period (Revenue Level A), the Tribe shall no longer be required to make payments to the State based on the Guaranteed Minimum Revenue Sharing Cycle and shall not be required to make the Guaranteed Minimum Compact Term Payment. However, the Tribe shall continue to make payments based on the Percentage Revenue Share Amount. The Tribe shall resume making the Guaranteed Minimum Revenue Sharing Cycle Payment for any subsequent Revenue Sharing Cycle in which its Net Win rises above Revenue Level A. This Subsection does not apply if:
(a) the decline in Net Win is due to acts of God, war, terrorism, fires, floods, or accidents causing damage to or destruction of one or more of its Facilities or property necessary to operate the Facility of Facilities; or
(b) the Tribe offers internet/on-line gaming (or any functionally equivalent remote gaming system that permits a person to game from home or any other location that is remote from any of the Tribe's Facilities), as authorized by law.

C. The Annual Oversight Assessment, which shall not exceed Two Hundred Fifty Thousand Dollars ($250,000) per year, indexed for inflation as determined by the Consumer Price Index, shall be determined and paid in quarterly installments within thirty (30) calendar days of receipt by the Tribe of an invoice from the SCA. The Tribe reserves the right to audit the invoices on an annual basis, a copy of which will be provided to the SCA, and any discrepancies found therein shall be reconciled within forty-five (45) calendar days of receipt of the audit by the SCA.

D. The Tribe shall make an annual donation to the Florida Council on Compulsive Gaming as an assignee of the State in an amount not less than Two-Hundred Fifty Thousand Dollars ($250,000.00) per Facility.

E. In recognition of the fact that the Tribe has been and is currently conducting Class III gaming with substantial exclusivity prior to the Effective Date of this Compact, the Tribe agrees to continue to pay the State Twelve Million Five Hundred Thousand Dollars ($12,500,000) on or before the fifteenth (15^{th}) day of the month following each month that the Tribe conducts Class III gaming prior to the Effective Date of this Compact.

F. On the Effective Date of this Compact, any moneys remitted by the Tribe before the Effective Date of this Compact shall be released to the State without further obligation or encumbrance.

G. Except as expressly provided in this Part, nothing in this Compact shall be deemed to require the Tribe to make payments of any kind to the State or any of its agencies.

Part XII. REDUCTION OF TRIBAL PAYMENTS BECAUSE OF LOSS OF EXCLUSIVITY OR OTHER CHANGES IN FLORIDA LAW

The intent of this section is to provide the Tribe with the right to operate Covered Games on an exclusive basis throughout the State, subject to the exceptions and provisions set forth below.

A. If, after February 1, 2010, Florida law is amended by action of the Florida Legislature or an amendment to the Florida Constitution to allow (1) the operation of Class III gaming or other casino-style gaming at any location under the jurisdiction of the State that was not in operation as of February 1, 2010, or (2) new forms of Class III gaming or other casino-style gaming that were not in operation as of February 1, 2010, the Payments due to the State pursuant to Part XI, Sections B. and D. of this Compact shall cease when the newly authorized gaming begins to be offered for public or private use. The cessation of payments due to the State pursuant to Part XI, Sections B. and D. of this Compact shall continue until such gaming is no longer operated, in which event the Payments shall resume. If the expansion of new Class III gaming or other casino-style gaming is implemented as a result of a court decision or administrative ruling or decision without specific authorization by the Florida Legislature after February 1, 2010, and the newly authorized gaming begins to be offered for public or private use as a result of such decision, then the Tribe shall make its Payments due to the State pursuant to Part XI, Sections B. and D. of this Compact into an escrow account to provide the Florida Legislature with the opportunity to pass legislation to reverse such decision or ruling. However, if the Florida Legislature fails to act or if such expanded gaming is not illegal after action by the Florida Legislature within twelve (12) months after the

commencement of such expanded gaming or by the end of the next session of the Florida Legislature, whichever is earlier, then all funds in the escrow account shall be returned to the Tribe and all further Payments due to the State pursuant to Part XI, Sections B. and D. of this Compact shall cease or be reduced as provided in Part XII, Section B. until such gaming is no longer operated, in which event the Payments shall resume.

For purposes of this provision, Class III gaming or other casino-style gaming includes, but is not limited to, the following: slot machines, electronically-assisted bingo or electronically-assisted pull-tab games, table games, and video lottery terminals (VLTs) or any similar games, whether or not such games are determined through the use of a random number generator.

B. Exceptions: The following are exceptions to the exclusivity provisions of Section A. above.

1. Any Class III gaming authorized by a compact between the State and any other federally recognized tribe pursuant to Indian Gaming Regulatory Act, provided that the tribe has land in federal trust in the State as of February 1, 2010.

2. The operation of slot machines, which does not include any game played with tangible playing cards, at each of the four (4) currently operating licensed pari-mutuel facilities in Broward County and the four (4) currently operating licensed pari-mutuel facilities in Miami-Dade County, whether or not currently operating slot machines, provided that such licenses are not transferred or otherwise used to move or operate such slot machines at any other location.

3. (a) If at any time, by action of the Florida Legislature or an amendment to the Florida Constitution, Florida law allows for the play of any

additional type of Class III or other casino-style gaming at any of the presently operating licensed pari-mutuel facilities in Broward and Miami-Dade Counties, the Tribe may be entitled to a reduction in the Revenue Sharing Payment as described in Part XII, Section B. 3.(b).

(b) If the Tribe's annual Net Win from its Facilities located in Broward County for the twelve (12) month period after the gaming specified in Part XII, subsection 3.(a) begins to be offered for public or private use is less than the Net Revenue Base, the Revenue Share Payments due to the State, pursuant to Part XI, Section B. 1.(b) of this Compact, for the next Revenue Sharing Cycle and future Revenue Sharing Cycles shall be calculated by reducing the Tribe's payment on revenue generated from its Facilities in Broward County by fifty percent (50%) of that reduction in annual Net Win from its facilities in Broward County. This paragraph does not apply if the decline in Net Win is due to acts of God, war, terrorism, fires, floods, or accidents causing damage to or destruction of one or more of its Facilities or property necessary to operate the Facility or Facilities.

(c) If the Tribe's annual Net Win from its Facilities located in Broward County subsequently equals or exceeds the Net Revenue Base, then the Tribe's payments due to the State, pursuant to Part XI, Section B.1.(b) of this Compact shall again be calculated without any reduction, but may be reduced again under the provisions set forth above.

4. If at any time Florida law is amended by action of the Florida Legislature or an amendment to the Florida Constitution to allow the play of Class III gaming or other casino-style gaming, as defined in Part XII, Section A., at any location in

Miami-Dade County or Broward County under the jurisdiction of the State that is not presently licensed for the play of such games at such locations, other than those facilities set forth in Part XII, Sections B.2. and B.3., and such games were not in play as of February 1, 2010, and such gaming begins to be offered for public or private use, the Payments due the State pursuant to Part XI, Section B.1.(b) of this Compact, shall be calculated by excluding the Net Win from the Tribe's Facilities in Broward County.

5. The operation of a combined total of not more than Three Hundred Fifty (350) Historic Racing Machines, connected to a central server at that facility, and Electronic Bingo Machines, both as defined in Part III, at each pari-mutuel facility licensed as of February 1, 2010, and not located in either Broward County or Miami-Dade County.

6. The operation of Pari-Mutuel Wagering Activities at pari-mutuel facilities licensed by the State of Florida.

7. The operation of poker, including no-limit poker, at card rooms licensed by the State of Florida.

8. The operation by the Florida Department of Lottery of those types of lottery games authorized under chapter 24, Florida Statutes, on February 1, 2010, but not including (i) any player-activated or operated machine or device other than a Lottery Vending Machine or (ii) any banked or banking card or table game. However, not more than ten (10) Lottery Vending Machines may be installed at any facility or location and no Lottery Vending Machine that dispenses electronic instant tickets may be installed at any licensed pari-mutuel facility.

9. The operation of games authorized by chapter 849, Florida Statutes, on February 1, 2010.

Except for gaming activities covered by Part XII, Sections B.1., 2., 5., 6., 7., 8., and 9., any operation of expanded gaming as provided in Part XII, Section A. authorized by the State shall relieve the Tribe of its obligations to make both the Guaranteed Minimum Compact Term Payment and the Guaranteed Minimum Revenue Sharing Cycle Payment.

C. To the extent that the exclusivity provisions of this Part are breached or otherwise violated and the Tribe's ongoing payment obligations to the State pursuant to Part XI, Sections B. and D. of this Compact cease, any outstanding payments that would have been due the State from the Tribe's Facilities prior to the breach/violation shall be made within thirty (30) business days after the breach/violation.

D. The breach of this Part's exclusivity provisions and the cessation of Payments pursuant to Part XI, Sections B. and D. of this Compact shall not excuse the Tribe from continuing to comply with all other provisions of this Compact, including continuing to pay the State the Annual Oversight Assessment as set forth in Part XI, Section C. of this Compact.

Part XIII. DISPUTE RESOLUTION

In the event that either party to this Compact believes that the other party bas failed to comply with any requirements of this Compact, or in the event of any dispute hereunder, including, but not limited to, a dispute over the proper interpretation of the terms and conditions of this Compact, the goal of the Parties is to resolve all disputes

amicably and voluntarily whenever possible. In pursuit of this goal, the following procedures may be invoked:

A. A party asserting noncompliance or seeking an interpretation of this Compact first shall serve written notice on the other party. The notice shall identify the specific Compact provision alleged to have been violated or in dispute and shall specify in detail the asserting party's contention and any factual basis for the claim. Representatives of the Tribe and State shall meet within thirty (30) calendar days of receipt of notice in an effort to resolve the dispute, unless they mutually agree to extend this period;

B. A party asserting noncompliance or seeking an interpretation of this Compact under this Part shall be deemed to have certified that to the best of the party's knowledge, information, and belief formed after reasonable inquiry, the claim of noncompliance or the request for interpretation of this Compact is warranted and made in good faith and not for any improper purpose, such as to harass or to cause unnecessary delay or the needless incurring of the cost of resolving the dispute;

C. If the parties are unable to resolve a dispute through the process specified in Sections A. and B. of this Part, either party can call for mediation under the Commercial Mediation Procedures of the American Arbitration Association (AAA) or any such successor procedures, provided that such mediation does not last more than sixty (60) calendar days, unless an extension to this time limit is negotiated by the parties. The disputes available for resolution through mediation are limited to matters arising under the terms of this Compact; If the parties are unable to resolve a dispute through the process specified in Sections A., B., and C. of this Part, notwithstanding any other

provision of law, either party may bring an action in a United States District Court ("federal court") having venue regarding any dispute arising under this Compact. If the federal court declines to exercise jurisdiction, or federal precedent exists that holds that the federal court would not have jurisdiction over such a dispute, either party may bring the action in the appropriate court of the Seventeenth Judicial Circuit in Broward County, Florida. The parties are entitled to all rights of appeal permitted by law in the court system in which the action is brought.

D. For purposes of actions based on disputes between the State and the Tribe that arise under this Compact and the enforcement of any judgment resulting therefrom, the Tribe and the State each expressly waives its right to assert sovereign immunity from suit and from enforcement of any ensuing judgment, and further consents to be sued in federal or state court, including the rights of appeal specified above, as the case may be, provided that:

(1) the dispute is limited solely to issues arising under this Compact;

(2) there is no claim for monetary damages, except that payment of any money required by the terms of this Compact, as well as injunctive relief or specific performance enforcing a provision of this Compact requiring the payment of money to the State may be sought; and

(3) nothing herein shall be construed to constitute a waiver of the sovereign immunity of the Tribe with respect to any third party that is made a party or intervenes as a party to the action.

In the event that intervention, joinder, or other participation by any additional party in any action between the State and the Tribe would result in the waiver of the Tribe's sovereign immunity as to that additional party, the waiver of the Tribe provided herein may be revoked.

E. The State may not be precluded from pursuing any mediation or judicial remedy against the Tribe on the grounds that the State has failed to exhaust its Tribal administrative remedies.

F. Notwithstanding anything to the contrary in this Part, any failure of the Tribe to remit the Payments pursuant to the terms of Part XI will entitle the State to seek injunctive relief in federal or state court, at the State's election, to compel the Payments after exhausting the dispute resolution process in Sections A. and B. of this Part.

Part XIV. CONSTRUCTION OF COMPACT; SEVERANCE; FEDERAL APPROVAL

A. Each provision, section, and subsection of this Compact shall stand separate and independent of every other provision, section, or subsection. In the event that a federal district court in Florida or other court of competent jurisdiction shall find any provision, section, or subsection of this Compact to be invalid, the remaining provisions, sections, and subsections of this Compact shall remain in full force and effect, provided that severing the invalidated provision, section or subsection does not undermine the overall intent of the parties in entering into this Compact. However, if either Part III, Section F., Part XI or Part XII is held by a court of competent jurisdiction to be invalid, this Compact will become null and void.

B. It is understood that Part XII of this Compact, which provides for a cessation of the Payments to the State under Part XI, does not create any duty on the State of Florida but only a remedy for the Tribe if gaming under state jurisdiction is expanded.

C. This Compact is intended to meet the requirements of the Indian Gaming Regulatory Act as it reads on the Effective Date of this Compact, and where reference is made to the Indian Gaming Regulatory Act, or to an implementing regulation thereof, the reference is deemed to have been incorporated into this document as if set in full. Subsequent changes to the Indian Gaming Regulatory Act that diminish the rights of the State or Tribe may not be applied retroactively to alter the terms of this Compact, except to the extent that Federal law validly mandates that retroactive application without the respective consent of the State or Tribe.

In the event that a subsequent change in the Indian Gaming Regulatory Act, or to an implementing regulation thereof, mandates retroactive application without the respective consent of the State or Tribe, the parties agree that this Compact is voidable by either party if the subsequent change materially alters the provisions in the Compact relating to the play of Covered Games, revenue sharing payments, suspension or reduction of payments, or exclusivity.

D. Neither the presence in another state-tribal compact of language that is not included in this Compact, nor the absence in this Compact of language that is present in another state-tribal compact shall be a factor in construing the terms of this Compact.

E. Each party hereto agrees to defend the validity of this Compact.

F. The parties shall cooperate in seeking approval of this Compact from the Secretary of the Interior and the parties further agree that, upon execution and ratification by the Florida Legislature, the Tribe shall submit the Compact to the Seeretary forthwith.

Part XV. NOTICES

All notices required under this Compaet shall be given by certified mail, return receipt requested, commereial overnight courier service, or personal delivery, to the following persons:

The Governor
The Capitol
Tallahassee, Florida 32301

General Counsel to the Governor
The Capitol
Tallahassee, Florida 32301

Chairman
Seminole Tribe of Florida
6300 Stirling Road
Hollywood, Florida 33024

General Counsel
Seminole Tribe of Florida
6300 Stirling Road
Hollywood, Florida 33024

President of the Florida Senate
409 The Capitol
404 South Monroe Street
Tallahassee, Florida 32399-1100

Speaker of the Florida House of Representatives
420 The Capitol
402 South Monroe Street
Tallahassee, Florida 32399-1300

Part XVI. EFFECTIVE DATE AND TERM

A. This Compact, if approved by the Florida Legislature, shall become effective upon its approval as a tribal-state compact within the meaning of the Indian Gaming Regulatory Act either by action of the Secretary of the Interior or by operation of law under 25 U.S.C. s. 2710(d)(8) upon publication of a notice of approval in the Federal Register under 25 U.S.C. s. 2710(d)(8)(D).

B. This Compact shall have a term of twenty (20) years (240 months) beginning on the first day of the month following the month in which the Compact becomes effective under Section A of this Part; provided, however, that the authorization for the Tribe to conduct banking or banked card games as defined in Part III, Section F(2) shall terminate on the last day of the sixtieth (60^{th}) month after this Compact becomes effective unless the authorization to conduct such games is renewed by the parties or the State permits any other person, organization or entity, except for any other federally recognized tribe pursuant to Indian Gaming Regulatory Act, provided that the tribe has land in federal trust in the State as of February 1, 2010, to conduct such games. In the event that the Tribe's authorization to conduct banking or banked card games terminates, the Payments due the State pursuant to Part XI, Sections B.1.(b) and D of this Compact shall be calculated by excluding the Net Win from the Tribe's Facilities in Broward County. Such Payments remain subject to the provisions of Part XII.

C. The Tribe's authorization to offer banked or banking card games shall automatically terminate five (5) years from the Effective Date unless renewed by affirmative act of the Florida Legislature. In the event that the authorization to offer banked and banking card games is terminated, the Tribe shall have ninety (90) days to

close such games after which the State shall be entitled to seek immediate injunctive relief in any court of competent jurisdiction. The Tribe expressly waives its right to assert sovereign immunity in such action for immediate injunctive relief.

Part XVII. AMENDMENT OF COMPACT AND REFERENCES

A. Amendment of this Compact may only be made by written agreement of the parties, subject to approval by the Secretary either by publication of the notice of approval in the Federal Register or by operation of law under 25 U.S.C. s. 2710(d)(8).

B. Legislative ratification is required for any amendment to the Compact that alters the provisions relating to Covered Games, the amount of revenue sharing payments, suspension or reduction in payments, or exclusivity.

C. Changes in the provisions of tribal ordinances, regulations and procedures referenced in this Compact may be made by the Tribe with thirty (30) calendar days advance notice to the State. If the State has an objection to any change to the tribal ordinance, regulation or procedure which is the subject of the notice on the ground that its adoption would be a violation of the Tribe's obligations under this Compact, the State may invoke the dispute resolution provisions provided in Part XIII of this Compact.

Part XVIII. MISCELLANEOUS

A. Except to the extent expressly provided in this Compact, this Compact is not intended to, and shall not be construed to, create any right on the part of a third party to bring an action to enforce any of its terms.

B. If, after the Effective Date of this Compact, the State enters into a Compact with any other Tribe that contains more favorable terms with respect to the provisions of this Compact and the U.S. Secretary of the Interior approves such compact, either by publication of the notice of approval in the Federal Register or by operation of law under 25 U.S.C. s. 2710(d)(8), upon tribal notice to the State and the Secretary, this Compact shall be deemed amended to contain the more favorable terms, unless the State objects to the change and can demonstrate, in a proceeding commenced under Part XIII, that the terms in question are not more favorable.

C. Upon the occurrence of certain events beyond the Tribe's control, including acts of God, war, terrorism, fires, floods, or accidents causing damage to or destruction of one or more of its Facilities or property necessary to operate the Facility or Facilities, the Tribe's obligation to pay the Guaranteed Minimum Revenue Share Cycle Payment described in Part XI shall be reduced pro rata to reflect the percentage of the total Net Win lost to the Tribe from the impacted Facility or Facilities and the Net Win specified under Part XII, Section B, for purposes of determining whether the Tribe's Payments described in Part XI shall cease, shall be reduced pro rata to reflect the percentage of the total Net Win lost to the Tribe from the impacted Facility or Facilities. The foregoing shall not excuse any obligations of the Tribe to make Payments to the State as and when required hereunder or in any related document or agreement.

D. Smoking

The Tribe and the State recognize that opportunities to engage in gaming in smoke-free or reduced-smoke environments provides both health and other benefits to Patrons, and the Tribe has already instituted a non-smoking section at its Seminole Hard

Rock Hotel & Casino – Hollywood Facility. As part of its continuing commitment to this issue, the Tribe will:

1. Install and utilize a ventilation system at all new construction at its Facilities, which system exhausts tobacco smoke to the extent reasonably feasible under existing state-of-the-art tecbnology;

2. Designate a smoke-free area for slot machines at all new construction at its Facilities;

3. Install non-smoking, vented tables for table games installed in its Facilities sufficient to reasonably respond to demand for such tables; and

4. Designate a non-smoking area for gaming within all of its Facilities within five (5) years after the Effective Date of the Compact.

E. The annual average minimum pay-out of all slot machines in each Facility shall not be less than eighty-five percent (85%).

F. Nothing in this Compact shall alter any of the existing memoranda of understanding, contracts, or other agreements entered into between the Tribe and any other federal, state, or local governmental entity.

G. The Tribe currently has as set forth in its Employee Fair Treatment and Dispute Resolution Policy, and agrees to maintain, standards that are comparable to the standards provided in federal laws and State laws forbidding employers from discrimination in connection with the employment of persons working at the Facilities on the basis of race, color, religion, national origin, gender, age, disability/handicap, or marital status. Nothing herein shall preclude the Tribe from giving preference in

employment, promotion, seniority, lay-offs, or retention to members of the Tribe and other federally recognized tribes.

H. The Tribe shall, with respect to any Facility where Covered Games are played, adopt and comply with tribal requirements that meet the same minimum state requirements applicable to Florida businesses with respect to environmental and building standards.

Part XIX. EXECUTION

The Governor of the State of Florida affirms that he has authority to act for the State in this matter and that after approval by the Florida Legislature, no further action by the State or any State official is necessary for this Compact to take effect upon federal approval by action of the Secretary of the Interior or by operation of law under 25 U.S.C. s. 2710(d)(8) by publication of the notice of approval in the Federal Register. The Governor also affirms that he will take all appropriate steps to effectuate its purposes and intent. The undersigned Chairman of the Tribal Council of the Seminole Tribe of Florida affirms that he is duly authorized and has the authority to execute this Compact on behalf of the Tribe. The Chairman also affirms that he will take all appropriate steps to effectuate its purposes and intent.

APPROVED:

State of Florida

Charlie Crist Date: 4/7, 2010
Charlie Crist
Governor

Seminole Tribe of Florida

Mitchell Cypress Date: 4/7/, 2010
Mitchell Cypress
Chairman of the Tribal Council

The Florida Senate

2015 Florida Statutes

Title XIX	Chapter 285	**SECTION 710**
PUBLIC BUSINESS	INDIAN RESERVATIONS AND AFFAIRS **Entire Chapter**	**Compact authorization.**

285.710 Compact authorization.—

(1) As used in this section, the term:

(a) "Compact" means the Gaming Compact between the Seminole Tribe of Florida and the State of Florida, executed on April 7, 2010.

(b) "Covered games" means the games authorized for the Seminole Tribe of Florida under the compact.

(c) "Documents" means books, records, electronic, magnetic and computer media documents, and other writings and materials, copies thereof, and information contained therein.

(d) "Indian Gaming Regulatory Act" or "IGRA" means the Indian Gaming Regulatory Act, Pub. L. No. 100-497, Oct. 17, 1988, 102 Stat. 2467, codified at 25 U.S.C. ss. 2701 et seq., and 18 U.S.C. ss. 1166-1168.

(e) "State" means the State of Florida.

(f) "State compliance agency" means the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation which is designated as the state agency having the authority to carry out the state's oversight responsibilities under the compact.

(g) "Tribe" means the Seminole Tribe of Florida or any affiliate thereof conducting activities pursuant to the compact under the authority of the Seminole Tribe of Florida.

(2)(a) The agreement executed by the Governor and the Tribe on November 14, 2007, published in the Federal Register on January 7, 2008, and subsequently invalidated by the Florida Supreme Court in the case of *Florida House of Representatives, et al. v. The Honorable Charles J. Crist*, No. SC07-2154, (2008), is not ratified or approved by the Legislature, is void, and is not in effect.

(b) The agreement executed by the Governor and the Tribe on August 28, 2009, and August 31, 2009, respectively, and transmitted to the President of the Senate and the Speaker of the House of Representatives, is not ratified or approved by the Legislature, is void, and is not in effect.

(3) The Gaming Compact between the Seminole Tribe of Florida and the State of Florida, executed by the Governor and the Tribe on April 7, 2010, is ratified and approved. The Governor shall cooperate with the Tribe in seeking approval of the compact from the United States Secretary of the Interior.

(4) The Governor shall preserve all documents, if any, which relate to the intent or interpretation of the compact and maintain such documents for at least the term of the compact.

(5) If any provision of the compact relating to covered games, revenue-sharing payments, suspension or reduction in payments, or exclusivity is held by a court of competent jurisdiction or by the Department of the Interior to be invalid, the compact is void.

(6) If a subsequent change to the Indian Gaming Regulatory Act, or to an implementing regulation thereof, mandates the retroactive application of such change without the respective consent of the state or Tribe, the compact is void if the change materially alters any provision in the compact relating to covered games, revenue-sharing payments, suspension or reduction of payments, or exclusivity.

(7) The Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation is designated as the state compliance agency having the authority to carry out the state's oversight responsibilities under the compact authorized by this section.

(8)(a) The Governor is authorized to execute an agreement on behalf of the state with the Indian tribes in this state, acting on a government-to-government basis, to develop and implement a fair and workable arrangement to apply state taxes on persons and transactions on Indian lands. Such agreements shall address the imposition of specific taxes, including sales taxes and exemptions from those taxes.

(b) The agreement shall address the Tribe's collection and remittance of sales taxes imposed by chapter 212 to the Department of Revenue. The sales taxes collected and remitted by the Tribe shall be based on all sales to non-tribal members, except those non-tribal members who hold valid exemption certificates issued by the Department of Revenue, exempting the sales from taxes imposed by chapter 212.

(c) The agreement shall require the Tribe to register with the Department of Revenue and remit to the Department of Revenue the taxes collected.

(d) The agreement shall require the Tribe to retain for at least a period of 5 years records of all sales to non-tribal members which are subject to taxation under chapter 212. The agreement shall permit the Department of Revenue to conduct an audit not more often than annually in order to verify such collections. The agreement shall require the Tribe to provide reasonable access during normal operating hours to records of transactions subject to the taxes collected.

(e) The agreement shall provide a procedure for the resolution of any disputes about the amounts collected pursuant to the agreement. For purposes of the agreement for the collection and remittance of sales taxes, the agreement must provide that the Tribe agrees to waive its immunity, except that the state may seek monetary damages limited to the amount of taxes owed.

(f) An agreement executed by the Governor pursuant to the authority granted in this section shall not take effect unless ratified by the Legislature.

(9) The moneys paid by the Tribe to the state for the benefit of exclusivity under the compact ratified by this section shall be deposited into the General Revenue Fund. Three percent of the amount paid by the Tribe to the state shall be designated as the local government share and shall be distributed as provided in subsections (10) and (11).

(10) The calculations necessary to determine the local government share distributions shall be made by the state compliance agency based upon the net win per facility as provided by the Tribe. The local government share attributable to each casino shall be distributed as follows:

(a) Broward County shall receive 22.5 percent, the City of Coconut Creek shall receive 55 percent, the City of Coral Springs shall receive 12 percent, the City of Margate shall receive 8.5 percent, and the City of Parkland shall receive 2 percent of the local government share derived from the Seminole Indian Casino-Coconut Creek.

(b) Broward County shall receive 25 percent, the City of Hollywood shall receive 55 percent, the Town of Davie shall receive 10 percent, and the City of Dania Beach shall receive 10 percent of the local government share derived from the Seminole Indian Casino-Hollywood.

(c) Broward County shall receive 25 percent, the City of Hollywood shall receive 55 percent, the Town of Davie shall receive 10 percent, and the City of Dania Beach shall receive 10 percent of the local government share derived from the Seminole Hard Rock Hotel & Casino-Hollywood.

(d) Collier County shall receive 100 percent of the local government share derived from the Seminole Indian Casino-Immokalee.

(e) Glades County shall receive 100 percent of the local government share derived from the Seminole Indian Casino-Brighton.

(f) Hendry County shall receive 100 percent of the local government share derived from the Seminole Indian Casino-Big Cypress.

(g) Hillsborough County shall receive 100 percent of the local government share derived from the Seminole Hard Rock Hotel & Casino-Tampa.

(11) Upon receipt of the annual audited revenue figures from the Tribe and completion of the calculations as provided in subsection (10), the state compliance agency shall certify the results to the Chief Financial Officer and shall

request the distributions to be paid from the General Revenue Fund within 30 days after authorization of nonoperating budget authority pursuant to s. 216.181(12).

(12) Any moneys remitted by the Tribe before the effective date of the compact shall be deposited into the General Revenue Fund and are released to the state without further obligation or encumbrance. The Legislature further finds that acceptance and appropriation of such funds does not legitimize, validate, or otherwise ratify any previously proposed compact or the operation of class III games by the Tribe for any period prior to the effective date of the compact.

(13) For the purpose of satisfying the requirement in 25 U.S.C. s. 2710(d)(1)(B) that the gaming activities authorized under an Indian gaming compact must be permitted in the state for any purpose by any person, organization, or entity, the following class III games or other games specified in this section are hereby authorized to be conducted by the Tribe pursuant to the compact:

(a) Slot machines, as defined in s. 551.102(8).

(b) Banking or banked card games, including baccarat, chemin de fer, and blackjack or 21 at the tribal facilities in Broward County, Collier County, and Hillsborough County.

(c) Raffles and drawings.

(14) Notwithstanding any other provision of state law, it is not a crime for a person to participate in the games specified in subsection (13) at a tribal facility operating under the compact entered into pursuant to this section.

History.—s. 1, ch. 2009-170; s. 1, ch. 2010-29; s. 12, ch. 2011-4.

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Title XIX	Chapter 285	SECTION 712
PUBLIC BUSINESS	INDIAN RESERVATIONS AND AFFAIRS Entire Chapter	**Tribal-state gaming compacts.**

285.712 Tribal-state gaming compacts.—

(1) The Governor is the designated state officer responsible for negotiating and executing, on behalf of the state, tribal-state gaming compacts with federally recognized Indian tribes located within the state pursuant to the federal Indian Gaming Regulatory Act of 1988, 18 U.S.C. ss. 1166-1168 and 25 U.S.C. ss. 2701 et seq., for the purpose of authorizing class III gaming, as defined in that act, on Indian lands within the state.

(2) Any tribal-state compact relating to gaming activities which is entered into by an Indian tribe in this state and the Governor pursuant to subsection (1) must be conditioned upon ratification by the Legislature.

(3) Following completion of negotiations and execution of a compact, the Governor shall submit a copy of the executed tribal-state compact to the President of the Senate and the Speaker of the House of Representatives as soon as it is executed. To be effective, the compact must be ratified by both houses of the Legislature by a majority vote of the members present. The Governor shall file the executed compact with the Secretary of State pursuant to s. 15.01.

(4) Upon receipt of an act ratifying a tribal-state compact, the Secretary of State shall forward a copy of the executed compact and the ratifying act to the United States Secretary of the Interior for his or her review and approval, in accordance with 25 U.S.C. s. 2710(8)(d).

History.—s. 3, ch. 2010-29.

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Title XXXIII REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND SOLICITATIONS	**Chapter 550** **PARI-MUTUEL WAGERING**

CHAPTER 550
PARI-MUTUEL WAGERING

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550.001 Short title.— This chapter may be cited as the "Florida Pari-mutuel Wagering Act."

History.—s. 2, ch. 92-348.

550.002 Definitions.— As used in this chapter, the term:

(1) "Breaks" means the portion of a pari-mutuel pool which is computed by rounding down to the nearest multiple of 10 cents and is not distributed to the contributors or withheld by the permitholder as takeout.

(2) "Breeders' and stallions' awards" means financial incentives paid to encourage the agricultural industry of breeding racehorses in this state.

(3) "Broadcast" means the broadcast, transmission, simulcast, or exhibition in any medium or manner by means that may include, but are not limited to, community antenna systems that receive and retransmit television or radio signals by wire, cable, or otherwise to television or radio sets, and cable origination networks or programmers that transmit programming to community antenna televisions or closed-circuit systems by wire, cable, satellite, or otherwise.

(4) "Contributor" means a person who contributes to a pari-mutuel pool by engaging in any pari-mutuel wager pursuant to this chapter.

(5) "Current meet" or "current race meet" means the conduct of racing or games pursuant to a current year's operating license issued by the division.

(6) "Department" means the Department of Business and Professional Regulation.

(7) "Division" means the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation.

(8) "Event" means a single contest, race, or game within a performance.

(9) "Exotic pools" means wagering pools, other than the traditional win, place, or show (1st, 2nd, or 3rd place) pools, into which a contributor can place a wager on more than one entry or on more than one race or game in the same bet and which includes, but is not limited to, daily doubles, perfectas, quinielas, quiniela daily doubles, exactas, trifectas, and Big Q pools.

(10) "Fronton" means a building or enclosure that contains a playing court with three walls designed and constructed for playing the sport of jai alai or pelota.

(11) "Full schedule of live racing or games" means, for a greyhound or jai alai permitholder, the conduct of a combination of at least 100 live evening or matinee performances during the preceding year; for a permitholder who has a converted permit or filed an application on or before June 1, 1990, for a converted permit, the conduct of a combination of at least 100 live evening and matinee wagering performances during either of the 2 preceding years; for a jai alai permitholder who does not operate slot machines in its pari-mutuel facility, who has conducted at least 100 live performances per year for at least 10 years after December 31, 1992, and whose handle on live jai alai games conducted at its pari-mutuel facility has been less than $4 million per state fiscal year for at least 2 consecutive years after June 30, 1992, the conduct of a combination of at least 40 live evening or matinee performances during the preceding year; for a jai alai permitholder who operates slot machines in its pari-mutuel facility, the conduct of a combination of at least 150 performances during the preceding year; for a harness permitholder, the conduct of at least 100 live regular wagering performances during the preceding year; for a quarter horse permitholder at its facility unless an alternative schedule of at least 20 live regular wagering performances is agreed upon by the permitholder and either the Florida Quarter Horse Racing Association or the horsemen's association representing the majority of the quarter horse owners and trainers at the facility and filed with the division along with its annual date application, in the 2010-2011 fiscal year, the conduct of at least 20 regular wagering performances, in the 2011-2012 and 2012-2013 fiscal years, the conduct of at least 30 live regular wagering performances, and for every fiscal year after the 2012-2013 fiscal year, the conduct of at least 40 live regular wagering performances; for a quarter horse permitholder leasing another licensed racetrack, the conduct of 160 events at the leased facility; and for a thoroughbred permitholder, the conduct of at least 40 live regular wagering performances during the preceding year. For a permitholder which is restricted by statute to certain operating periods within the year when other members of its same class of permit are authorized to operate throughout the year, the specified number of live performances which constitute a full schedule of live racing or games shall be adjusted pro rata in accordance with the relationship between its authorized operating period and the full calendar year and the resulting specified number of live performances shall constitute the full schedule of live games for such permitholder and all other permitholders of the same class within 100 air miles of such

permitholder. A live performance must consist of no fewer than eight races or games conducted live for each of a minimum of three performances each week at the permitholder's licensed facility under a single admission charge.

(12) "Guest track" means a track or fronton receiving or accepting an intertrack wager.

(13) "Handle" means the aggregate contributions to pari-mutuel pools.

(14) "Harness racing" means a type of horseracing which is limited to standardbred horses using a pacing or trotting gait in which each horse pulls a two-wheeled cart called a sulky guided by a driver.

(15) "Horserace permitholder" means any thoroughbred entity permitted under the provisions of this chapter to conduct pari-mutuel wagering meets of thoroughbred racing; any harness entity permitted under this chapter to conduct pari-mutuel wagering meets of harness racing; or any quarter horse entity permitted under this chapter to conduct pari-mutuel wagering meets of quarter horse racing.

(16) "Host track" means a track or fronton conducting a live or simulcast race or game that is the subject of an intertrack wager.

(17) "Intertrack wager" means a particular form of pari-mutuel wagering in which wagers are accepted at a permitted, in-state track, fronton, or pari-mutuel facility on a race or game transmitted from and performed live at, or simulcast signal rebroadcast from, another in-state pari-mutuel facility.

(18) "Jai alai" or "pelota" means a ball game of Spanish origin played on a court with three walls.

(19) "Market area" means an area within 25 miles of a permitholder's track or fronton.

(20) "Meet" or "meeting" means the conduct of live racing or jai alai for any stake, purse, prize, or premium.

(21) "Operating day" means a continuous period of 24 hours starting with the beginning of the first performance of a race or game, even though the operating day may start during one calendar day and extend past midnight except that no greyhound race or jai alai game may commence after 1:30 a.m.

(22) "Pari-mutuel" means a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes.

(23) "Pari-mutuel facility" means a racetrack, fronton, or other facility used by a permitholder for the conduct of pari-mutuel wagering.

(24) "Pari-mutuel wagering pool" means the total amount wagered on a race or game for a single possible result.

(25) "Performance" means a series of events, races, or games performed consecutively under a single admission charge.

(26) "Post time" means the time set for the arrival at the starting point of the horses or greyhounds in a race or the beginning of a game in jai alai.

(27) "Purse" means the cash portion of the prize for which a race or game is contested.

(28) "Quarter horse" means a breed of horse developed in the western United States which is capable of high speed for a short distance and used in quarter horse racing registered with the American Quarter Horse Association.

(29) "Racing greyhound" means a greyhound that is or was used, or is being bred, raised, or trained to be used, in racing at a pari-mutuel facility and is registered with the National Greyhound Association.

(30) "Regular wagering" means contributions to pari-mutuel pools involving wagering on a single entry in a single race, or a single jai alai player or team in a single game, such as the win pool, the place pool, or the show pool.

(31) "Same class of races, games, or permit" means, with respect to a jai alai permitholder, jai alai games or other jai alai permitholders; with respect to a greyhound permitholder, greyhound races or other greyhound permitholders; with respect to a thoroughbred permitholder, thoroughbred races or other thoroughbred permitholders; with respect to a harness permitholder, harness races or other harness permitholders; with respect to a quarter horse permitholder, quarter horse races or other quarter horse permitholders.

(32) "Simulcasting" means broadcasting events occurring live at an in-state location to an out-of-state location, or receiving at an in-state location events occurring live at an out-of-state location, by the transmittal, retransmittal, reception, and rebroadcast of television or radio signals by wire, cable, satellite, microwave, or other electrical or electronic means for receiving or rebroadcasting the events.

(33) "Standardbred horse" means a pacing or trotting horse that is used in harness racing and that has been registered as a standardbred by the United States Trotting Association or by a foreign registry whose stud book is recognized by the United States Trotting Association.

(34) "Takeout" means the percentage of the pari-mutuel pools deducted by the permitholder prior to the distribution of the pool.

(35) "Thoroughbred" means a purebred horse whose ancestry can be traced back to one of three foundation sires and whose pedigree is registered in the American Stud Book or in a foreign stud book that is recognized by the Jockey Club and the International Stud Book Committee.

(36) "Totalisator" means the computer system used to accumulate wagers, record sales, calculate payoffs, and display wagering data on a display device that is located at a pari-mutuel facility.

(37) "Ultimate equitable owner" means a natural person who, directly or indirectly, owns or controls 5 percent or more of an ownership interest in a corporation, foreign corporation, or alien business organization, regardless of whether such person owns or controls such ownership through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.

(38) "Year," for purposes of determining a full schedule of live racing, means the state fiscal year.

(39) "Net pool pricing" means a method of calculating prices awarded to winning wagers relative to the contribution, net of takeouts, to a pool by each participating jurisdiction or, as applicable, site.

History.—s. 3, ch. 92-348; s. 206, ch. 94-218; s. 1, ch. 94-328; s. 1, ch. 95-390; s. 1, ch. 96-364; s. 21, ch. 2000-354; s. 1, ch. 2005-288; s. 4, ch. 2009-170; ss. 4, 5, ch. 2010-29.

550.0115 Permitholder license.— After a permit has been issued by the division, and after the permit has been approved by election, the division shall issue to the permitholder an annual license to conduct pari-mutuel operations at the location specified in the permit pursuant to the provisions of this chapter.

History.—s. 4, ch. 92-348.

550.01215 License application; periods of operation; bond, conversion of permit.—

(1) Each permitholder shall annually, during the period between December 15 and January 4, file in writing with the division its application for a license to conduct performances during the next state fiscal year. Each application shall specify the number, dates, and starting times of all performances which the permitholder intends to conduct. It shall also specify which performances will be conducted as charity or scholarship performances. In addition, each application for a license shall include, for each permitholder which elects to operate a cardroom, the dates and periods of operation the permitholder intends to operate the cardroom or, for each thoroughbred permitholder which elects to receive or rebroadcast out-of-state races after 7 p.m., the dates for all performances which the permitholder intends to conduct. Permitholders shall be entitled to amend their applications through February 28.

(2) After the first license has been issued to a permitholder, all subsequent annual applications for a license shall be accompanied by proof, in such form as the division may by rule require, that the permitholder continues to possess the qualifications prescribed by this chapter, and that the permit has not been disapproved at a later election.

(3) The division shall issue each license no later than March 15. Each permitholder shall operate all performances at the date and time specified on its license. The division shall have the authority to approve minor changes in racing dates after a license has been issued. The division may approve changes in racing dates after a license has been issued when there is no objection from any operating permitholder located within 50 miles of the permitholder requesting the changes in operating dates. In the event of an objection, the division shall approve or disapprove the change in operating dates based upon the impact on operating permitholders located within 50 miles of the permitholder requesting the change in operating dates. In making the determination to change racing dates, the division shall take into consideration the impact of such changes on state revenues.

(4) In the event that a permitholder fails to operate all performances specified on its license at the date and time specified, the division shall hold a hearing to determine whether to fine or suspend the permitholder's license, unless

such failure was the direct result of fire, strike, war, or other disaster or event beyond the ability of the permitholder to control. Financial hardship to the permitholder shall not, in and of itself, constitute just cause for failure to operate all performances on the dates and at the times specified.

(5) In the event that performances licensed to be operated by a permitholder are vacated, abandoned, or will not be used for any reason, any permitholder shall be entitled, pursuant to rules adopted by the division, to apply to conduct performances on the dates for which the performances have been abandoned. The division shall issue an amended license for all such replacement performances which have been requested in compliance with the provisions of this chapter and division rules.

(6) Any permit which was converted from a jai alai permit to a greyhound permit may be converted to a jai alai permit at any time if the permitholder never conducted greyhound racing or if the permitholder has not conducted greyhound racing for a period of 12 consecutive months.

History.—s. 5, ch. 92-348; s. 2, ch. 95-390; ss. 2, 16, ch. 96-364; s. 27, ch. 97-94; s. 1, ch. 98-190; s. 1, ch. 98-401; s. 73, ch. 2000-158; s. 4, ch. 2000-354; s. 5, ch. 2009-170; ss. 4, 5, ch. 2010-29.

550.0235 Limitation of civil liability.—No permittee conducting a racing meet pursuant to the provisions of this chapter; no division director or employee of the division; and no steward, judge, or other person appointed to act pursuant to this chapter shall be held liable to any person, partnership, association, corporation, or other business entity for any cause whatsoever arising out of, or from, the performance by such permittee, director, employee, steward, judge, or other person of her or his duties and the exercise of her or his discretion with respect to the implementation and enforcement of the statutes and rules governing the conduct of pari-mutuel wagering, so long as she or he acted in good faith. This section shall not limit liability in any situation in which the negligent maintenance of the premises or the negligent conduct of a race contributed to an accident; nor shall it limit any contractual liability.

History.—s. 8, ch. 92-348; s. 782, ch. 97-103.

550.0251 The powers and duties of the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation.—The division shall administer this chapter and regulate the pari-mutuel industry under this chapter and the rules adopted pursuant thereto, and:

(1) The division shall make an annual report to the Governor showing its own actions, receipts derived under the provisions of this chapter, the practical effects of the application of this chapter, and any suggestions it may approve for the more effectual accomplishments of the purposes of this chapter.

(2) The division shall require an oath on application documents as required by rule, which oath must state that the information contained in the document is true and complete.

(3) The division shall adopt reasonable rules for the control, supervision, and direction of all applicants, permittees, and licensees and for the holding, conducting, and operating of all racetracks, race meets, and races held in this state. Such rules must be uniform in their application and effect, and the duty of exercising this control and power is made mandatory upon the division.

(4) The division may take testimony concerning any matter within its jurisdiction and issue summons and subpoenas for any witness and subpoenas duces tecum in connection with any matter within the jurisdiction of the division under its seal and signed by the director.

(5) The division may adopt rules establishing procedures for testing occupational licenseholders officiating at or participating in any race or game at any pari-mutuel facility under the jurisdiction of the division for a controlled substance or alcohol and may prescribe procedural matters not in conflict with s. 120.80(4)(a).

(6) In addition to the power to exclude certain persons from any pari-mutuel facility in this state, the division may exclude any person from any and all pari-mutuel facilities in this state for conduct that would constitute, if the person were a licensee, a violation of this chapter or the rules of the division. The division may exclude from any pari-mutuel facility within this state any person who has been ejected from a pari-mutuel facility in this state or who has been excluded from any pari-mutuel facility in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over pari-mutuel facilities in such other state. The division may authorize

any person who has been ejected or excluded from pari-mutuel facilities in this state or another state to attend the pari-mutuel facilities in this state upon a finding that the attendance of such person at pari-mutuel facilities would not be adverse to the public interest or to the integrity of the sport or industry; however, this subsection shall not be construed to abrogate the common-law right of a pari-mutuel permitholder to exclude absolutely a patron in this state.

(7) The division may oversee the making of, and distribution from, all pari-mutuel pools.

(8) The department may collect taxes and require compliance with reporting requirements for financial information as authorized by this chapter. In addition, the secretary of the department may require permitholders conducting pari-mutuel operations within the state to remit taxes, including fees, by electronic funds transfer if the taxes and fees amounted to $50,000 or more in the prior reporting year.

(9) The division may conduct investigations in enforcing this chapter, except that all information obtained pursuant to an investigation by the division for an alleged violation of this chapter or rules of the division is exempt from s. 119.07(1) and from s. 24(a), Art. I of the State Constitution until an administrative complaint is issued or the investigation is closed or ceases to be active. This subsection does not prohibit the division from providing such information to any law enforcement agency or to any other regulatory agency. For the purposes of this subsection, an investigation is considered to be active while it is being conducted with reasonable dispatch and with a reasonable, good faith belief that it could lead to an administrative, civil, or criminal action by the division or another administrative or law enforcement agency. Except for active criminal intelligence or criminal investigative information, as defined in s. 119.011, and any other information that, if disclosed, would jeopardize the safety of an individual, all information, records, and transcriptions become public when the investigation is closed or ceases to be active.

(10) The division may impose an administrative fine for a violation under this chapter of not more than $1,000 for each count or separate offense, except as otherwise provided in this chapter, and may suspend or revoke a permit, a pari-mutuel license, or an occupational license for a violation under this chapter. All fines imposed and collected under this subsection must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

(11) The division shall supervise and regulate the welfare of racing animals at pari-mutuel facilities.

(12) The division shall have full authority and power to make, adopt, amend, or repeal rules relating to cardroom operations, to enforce and to carry out the provisions of s. 849.086, and to regulate the authorized cardroom activities in the state.

(13) The division shall have the authority to suspend a permitholder's permit or license, if such permitholder is operating a cardroom facility and such permitholder's cardroom license has been suspended or revoked pursuant to s. 849.086.

History.—s. 7, ch. 92-348; s. 207, ch. 94-218; s. 1, ch. 95-204; s. 3, ch. 95-390; s. 21, ch. 96-364; s. 343, ch. 96-406; s. 248, ch. 96-410; s. 652, ch. 2003-261; s. 105, ch. 2005-2.

550.0351 Charity racing days.—

(1) The division shall, upon the request of a permitholder, authorize each horseracing permitholder, dogracing permitholder, and jai alai permitholder up to five charity or scholarship days in addition to the regular racing days authorized by law.

(2) The proceeds of charity performances shall be paid to qualified beneficiaries selected by the permitholders from an authorized list of charities on file with the division. Eligible charities include any charity that provides evidence of compliance with the provisions of chapter 496 and evidence of possession of a valid exemption from federal taxation issued by the Internal Revenue Service. In addition, the authorized list must include the Racing Scholarship Trust Fund, the Historical Resources Operating Trust Fund, major state and private institutions of higher learning, and Florida community colleges.

(3) The permitholder shall, within 120 days after the conclusion of its fiscal year, pay to the authorized charities the total of all profits derived from the operation of the charity day performances conducted. If charity days are

operated on behalf of another permitholder pursuant to law, the permitholder entitled to distribute the proceeds shall distribute the proceeds to charity within 30 days after the actual receipt of the proceeds.

(4) The total of all profits derived from the conduct of a charity day performance must include all revenues derived from the conduct of that racing performance, including all state taxes that would otherwise be due to the state, except that the daily license fee as provided in s. 550.0951(1) and the breaks for the promotional trust funds as provided in s. 550.2625(3), (4), (5), (7), and (8) shall be paid to the division. All other revenues from the charity racing performance, including the commissions, breaks, and admissions and the revenues from parking, programs, and concessions, shall be included in the total of all profits.

(5) In determining profit, the permitholder may elect to distribute as proceeds only the amount equal to the state tax that would otherwise be paid to the state if the charity day were conducted as a regular or matinee performance.

(6)(a) The division shall authorize one additional scholarship day for horseracing in addition to the regular racing days authorized by law and any additional days authorized by this section, to be conducted at all horse racetracks located in Hillsborough County. The permitholder shall conduct a full schedule of racing on the scholarship day.

(b) The funds derived from the operation of the additional scholarship day shall be allocated as provided in this section and paid to Pasco-Hernando Community College.

(c) When a charity or scholarship performance is conducted as a matinee performance, the division may authorize the permitholder to conduct the evening performances of that operation day as a regular performance in addition to the regular operating days authorized by law.

(7) In addition to the charity days authorized by this section, any dogracing permitholder may allow its facility to be used for conducting "hound dog derbies" or "mutt derbies" on any day during each racing season by any charitable, civic, or nonprofit organization for the purpose of conducting "hound dog derbies" or "mutt derbies" if only dogs other than those usually used in dogracing (greyhounds) are permitted to race and if adults and minors are allowed to participate as dog owners or spectators. During these racing events, betting, gambling, and the sale or use of alcoholic beverages is prohibited.

(8) In addition to the eligible charities that meet the criteria set forth in this section, a jai alai permitholder is authorized to conduct two additional charity performances each fiscal year for a fund to benefit retired jai alai players. This performance shall be known as the "Retired Jai Alai Players Charity Day." The administration of this fund shall be determined by rule by the division.

History.—s. 9, ch. 92-348; s. 3, ch. 96-364; s. 12, ch. 96-418; s. 24, ch. 2000-157; s. 22, ch. 2000-354; s. 21, ch. 2006-79.

550.0425 Minors attendance at pari-mutuel performances; restrictions.—

(1) A minor, when accompanied by one or both parents or by her or his legal guardian, may attend pari-mutuel performances, under the conditions and at the times specified by each permitholder conducting the pari-mutuel performance.

(2) A person under the age of 18 may not place a wager at any pari-mutuel performance.

(3) Notwithstanding subsections (1) and (2), minors may be employed at a pari-mutuel facility except in positions directly involving wagering or alcoholic beverages or except as otherwise prohibited by law.

(4) Minor children of licensed greyhound trainers, kennel operators, or other licensed persons employed in the kennel compound areas may be granted access to kennel compound areas without being licensed, provided they are in no way employed unless properly licensed, and only when under the direct supervision of one of their parents or legal guardian.

History.—s. 10, ch. 92-348; s. 783, ch. 97-103.

550.054 Application for permit to conduct pari-mutuel wagering.—

(1) Any person who possesses the qualifications prescribed in this chapter may apply to the division for a permit to conduct pari-mutuel operations under this chapter. Applications for a pari-mutuel permit are exempt from the 90-day licensing requirement of s. 120.60. Within 120 days after receipt of a complete application, the division shall grant

or deny the permit. A completed application that is not acted upon within 120 days after receipt is deemed approved, and the division shall grant the permit.

(2) Upon each application filed and approved, a permit shall be issued to the applicant setting forth the name of the permitholder, the location of the pari-mutuel facility, the type of pari-mutuel activity desired to be conducted, and a statement showing qualifications of the applicant to conduct pari-mutuel performances under this chapter; however, a permit is ineffectual to authorize any pari-mutuel performances until approved by a majority of the electors participating in a ratification election in the county in which the applicant proposes to conduct pari-mutuel wagering activities. In addition, an application may not be considered, nor may a permit be issued by the division or be voted upon in any county, to conduct horseraces, harness horse races, or dograces at a location within 100 miles of an existing pari-mutuel facility, or for jai alai within 50 miles of an existing pari-mutuel facility; this distance shall be measured on a straight line from the nearest property line of one pari-mutuel facility to the nearest property line of the other facility.

(3) The division shall require that each applicant submit an application setting forth:

(a) The full name of the applicant.

(b) If a corporation, the name of the state in which incorporated and the names and addresses of the officers, directors, and shareholders holding 5 percent or more equity or, if a business entity other than a corporation, the names and addresses of the principals, partners, or shareholders holding 5 percent or more equity.

(c) The names and addresses of the ultimate equitable owners for a corporation or other business entity, if different from those provided under paragraph (b), unless the securities of the corporation or entity are registered pursuant to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk; and if such corporation or entity files with the United States Securities and Exchange Commission the reports required by s. 13 of that act or if the securities of the corporation or entity are regularly traded on an established securities market in the United States.

(d) The exact location where the applicant will conduct pari-mutuel performances.

(e) Whether the pari-mutuel facility is owned or leased and, if leased, the name and residence of the fee owner or, if a corporation, the names and addresses of the directors and stockholders thereof. However, this chapter does not prevent a person from applying to the division for a permit to conduct pari-mutuel operations, regardless of whether the pari-mutuel facility has been constructed or not, and having an election held in any county at the same time that elections are held for the ratification of any permit in that county.

(f) A statement of the assets and liabilities of the applicant.

(g) The names and addresses of any mortgagee of any pari-mutuel facility and any financial agreement between the parties. The division may require the names and addresses of the officers and directors of the mortgagee, and of those stockholders who hold more than 10 percent of the stock of the mortgagee.

(h) A business plan for the first year of operation.

(i) For each individual listed in the application as an owner, partner, officer, or director, a complete set of fingerprints that has been taken by an authorized law enforcement officer. These sets of fingerprints must be submitted to the Federal Bureau of Investigation for processing. Applicants who are foreign nationals shall submit such documents as necessary to allow the division to conduct criminal history records checks in the applicant's home country. The applicant must pay the cost of processing. The division may charge a $2 handling fee for each set of fingerprint records.

(j) The type of pari-mutuel activity to be conducted and the desired period of operation.

(k) Other information the division requires.

(4) The division shall require each applicant to deposit with the board of county commissioners of the county in which the election is to be held, a sufficient sum, in currency or by check certified by a bank licensed to do business in the state to pay the expenses of holding the election provided in s. 550.0651.

(5) Upon receiving an application and any amendments properly made thereto, the division shall further investigate the matters contained in the application. If the applicant meets all requirements, conditions, and qualifications set forth in this chapter and the rules of the division, the division shall grant the permit.

(6) After initial approval of the permit and the source of financing, the terms and parties of any subsequent refinancing must be disclosed by the applicant or the permitholder to the division.

(7) If the division refuses to grant the permit, the money deposited with the board of county commissioners for holding the election must be refunded to the applicant. If the division grants the permit applied for, the board of county commissioners shall order an election in the county to decide whether the permit will be approved, as provided in s. 550.0651.

(8)(a) The division may charge the applicant for reasonable, anticipated costs incurred by the division in determining the eligibility of any person or entity specified in s. 550.1815(1)(a) to hold any pari-mutuel permit, against such person or entity.

(b) The division may, by rule, determine the manner of paying its anticipated costs associated with determination of eligibility and the procedure for filing applications for determination of eligibility.

(c) The division shall furnish to the applicant an itemized statement of actual costs incurred during the investigation to determine eligibility.

(d) If unused funds remain at the conclusion of such investigation, they must be returned to the applicant within 60 days after the determination of eligibility has been made.

(e) If the actual costs of investigation exceed anticipated costs, the division shall assess the applicant the amount necessary to recover all actual costs.

(9)(a) After a permit has been granted by the division and has been ratified and approved by the majority of the electors participating in the election in the county designated in the permit, the division shall grant to the lawful permitholder, subject to the conditions of this chapter, a license to conduct pari-mutuel operations under this chapter, and, except as provided in s. 550.5251, the division shall fix annually the time, place, and number of days during which pari-mutuel operations may be conducted by the permitholder at the location fixed in the permit and ratified in the election. After the first license has been issued to the holder of a ratified permit for racing in any county, all subsequent annual applications for a license by that permitholder must be accompanied by proof, in such form as the division requires, that the ratified permitholder still possesses all the qualifications prescribed by this chapter and that the permit has not been recalled at a later election held in the county.

(b) The division may revoke or suspend any permit or license issued under this chapter upon the willful violation by the permitholder or licensee of any provision of this chapter or of any rule adopted under this chapter. In lieu of suspending or revoking a permit or license, the division may impose a civil penalty against the permitholder or licensee for a violation of this chapter or any rule adopted by the division. The penalty so imposed may not exceed $1,000 for each count or separate offense. All penalties imposed and collected must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

(10) If a permitholder has failed to complete construction of at least 50 percent of the facilities necessary to conduct pari-mutuel operations within 12 months after approval by the voters of the permit, the division shall revoke the permit upon adequate notice to the permitholder. However, the division, upon good cause shown by the permitholder, may grant one extension of up to 12 months.

(11)(a) A permit granted under this chapter may not be transferred or assigned except upon written approval by the division pursuant to s. 550.1815, except that the holder of any permit that has been converted to a jai alai permit may lease or build anywhere within the county in which its permit is located.

(b) If a permit to conduct pari-mutuel wagering is held by a corporation or business entity other than an individual, the transfer of 10 percent or more of the stock or other evidence of ownership or equity in the permitholder may not be made without the prior approval of the transferee by the division pursuant to s. 550.1815.

(12) Changes in ownership or interest of a pari-mutuel permit of 5 percent or more of the stock or other evidence of ownership or equity in the permitholder shall be approved by the division prior to such change, unless the owner is an existing owner of that permit who was previously approved by the division. Changes in ownership or interest of a pari-mutuel permit of less than 5 percent shall be reported to the division within 20 days of the change. The division

may then conduct an investigation to ensure that the permit is properly updated to show the change in ownership or interest.

(13)(a) Notwithstanding any provisions of this chapter, no thoroughbred horse racing permit or license issued under this chapter shall be transferred, or reissued when such reissuance is in the nature of a transfer so as to permit or authorize a licensee to change the location of a thoroughbred horse racetrack except upon proof in such form as the division may prescribe that a referendum election has been held:

1. If the proposed new location is within the same county as the already licensed location, in the county where the licensee desires to conduct the race meeting and that a majority of the electors voting on that question in such election voted in favor of the transfer of such license.

2. If the proposed new location is not within the same county as the already licensed location, in the county where the licensee desires to conduct the race meeting and in the county where the licensee is already licensed to conduct the race meeting and that a majority of the electors voting on that question in each such election voted in favor of the transfer of such license.

(b) Each referendum held under the provisions of this subsection shall be held in accordance with the electoral procedures for ratification of permits, as provided in s. 550.0651. The expense of each such referendum shall be borne by the licensee requesting the transfer.

(14)(a) Any holder of a permit to conduct jai alai may apply to the division to convert such permit to a permit to conduct greyhound racing in lieu of jai alai if:

1. Such permit is located in a county in which the division has issued only two pari-mutuel permits pursuant to this section;

2. Such permit was not previously converted from any other class of permit; and

3. The holder of the permit has not conducted jai alai games during a period of 10 years immediately preceding his or her application for conversion under this subsection.

(b) The division, upon application from the holder of a jai alai permit meeting all conditions of this section, shall convert the permit and shall issue to the permitholder a permit to conduct greyhound racing. A permitholder of a permit converted under this section shall be required to apply for and conduct a full schedule of live racing each fiscal year to be eligible for any tax credit provided by this chapter. The holder of a permit converted pursuant to this subsection or any holder of a permit to conduct greyhound racing located in a county in which it is the only permit issued pursuant to this section who operates at a leased facility pursuant to s. 550.475 may move the location for which the permit has been issued to another location within a 30-mile radius of the location fixed in the permit issued in that county, provided the move does not cross the county boundary and such location is approved under the zoning regulations of the county or municipality in which the permit is located, and upon such relocation may use the permit for the conduct of pari-mutuel wagering and the operation of a cardroom. The provisions of s. 550.6305(9)(d) and (f) shall apply to any permit converted under this subsection and shall continue to apply to any permit which was previously included under and subject to such provisions before a conversion pursuant to this section occurred.

History.—s. 11, ch. 92-348; s. 4, ch. 95-390; s. 27, ch. 97-98; s. 653, ch. 2003-261; s. 6, ch. 2009-170; ss. 4, 5, ch. 2010-29.

550.0555 Greyhound dogracing permits; relocation within a county; conditions.—

(1) It is the finding of the Legislature that pari-mutuel wagering on greyhound dogracing provides substantial revenues to the state. It is the further finding that, in some cases, this revenue-producing ability is hindered due to the lack of provisions allowing the relocation of existing dogracing operations. It is therefore declared that state revenues derived from greyhound dogracing will continue to be jeopardized if provisions allowing the relocation of such greyhound racing permits are not implemented. This enactment is made pursuant to, and for the purpose of, implementing such provisions.

(2) Any holder of a valid outstanding permit for greyhound dogracing in a county in which there is only one dogracing permit issued, as well as any holder of a valid outstanding permit for jai alai in a county where only one jai alai permit is issued, is authorized, without the necessity of an additional county referendum required under s.

550.0651, to move the location for which the permit has been issued to another location within a 30-mile radius of the location fixed in the permit issued in that county, provided the move does not cross the county boundary, that such relocation is approved under the zoning regulations of the county or municipality in which the permit is to be located as a planned development use, consistent with the comprehensive plan, and that such move is approved by the department after it is determined at a proceeding pursuant to chapter 120 in the county affected that the move is necessary to ensure the revenue-producing capability of the permittee without deteriorating the revenue-producing capability of any other pari-mutuel permittee within 50 miles; the distance shall be measured on a straight line from the nearest property line of one racing plant or jai alai fronton to the nearest property line of the other.

History.—s. 12, ch. 92-348; s. 14, ch. 2000-354.

550.0651 Elections for ratification of permits.—

(1) The holder of any permit may have submitted to the electors of the county designated therein the question whether or not such permit will be ratified or rejected. Such questions shall be submitted to the electors for approval or rejection at a special election to be called for that purpose only. The board of county commissioners of the county designated, upon the presentation to such board at a regular or special meeting of a written application, accompanied by a certified copy of the permit granted by the division, and asking for an election in the county in which the application was made, shall order a special election in the county for the particular purpose of deciding whether such permit shall be approved and license issued and race meetings permitted in such county by such permittee and shall cause the clerk of such board to give notice of the special election by publishing the same once each week for 2 consecutive weeks in one or more newspapers of general circulation in the county. Each permit covering each track must be voted upon separately and in separate elections, and an election may not be called more often than once every 2 years for the ratification of any permit covering the same track.

(2) All elections ordered under this chapter must be held within 90 days and not less than 21 days after the time of presenting such application to the board of county commissioners, and the inspectors of election shall be appointed and qualified as in cases of general elections, and they shall count the votes cast and make due returns of same to the board of county commissioners without delay. The board of county commissioners shall canvass the returns, declare the results, and cause the same to be recorded as provided in the general law concerning elections so far as applicable.

(3) When a permit has been granted by the division and no application to the board of county commissioners has been made by the permittee within 6 months after the granting of the permit, the permit becomes void. The division shall cancel the permit without notice to the permitholder, and the board of county commissioners holding the deposit for the election shall refund the deposit to the permitholder upon being notified by the division that the permit has become void and has been canceled.

(4) All electors duly registered and qualified to vote at the last preceding general election held in such county are qualified electors for such election, and in addition thereto the registration books for such county shall be opened on the 10th day (if the 10th day is a Sunday or a holiday, then on the next day not a Sunday or holiday) after such election is ordered and called and must remain open for a period of 10 days for additional registrations of persons qualified for registration but not already registered. Electors for such special election have the same qualifications for and prerequisites to voting in elections as under the general election laws.

(5) If at any such special election the majority of the electors voting on the question of ratification or rejection of any permit vote against such ratification, such permit is void. If a majority of the electors voting on the question of ratification or rejection of any permit vote for such ratification, such permit becomes effectual and the holder thereof may conduct racing upon complying with the other provisions of this chapter. The board of county commissioners shall immediately certify the results of the election to the division.

History.—s. 13, ch. 92-348.

550.0745 Conversion of pari-mutuel permit to summer jai alai permit.—

(1) The owner or operator of a pari-mutuel permit who is authorized by the division to conduct pari-mutuel pools on exhibition sports in any county having five or more such pari-mutuel permits and whose mutuel play from the

operation of such pari-mutuel pools for the 2 consecutive years next prior to filing an application under this section has had the smallest play or total pool within the county may apply to the division to convert its permit to a permit to conduct a summer jai alai fronton in such county during the summer season commencing on May 1 and ending on November 30 of each year on such dates as may be selected by such permittee for the same number of days and performances as are allowed and granted to winter jai alai frontons within such county. If a permittee who is eligible under this section to convert a permit declines to convert, a new permit is hereby made available in that permittee's county to conduct summer jai alai games as provided by this section, notwithstanding mileage and permit ratification requirements. If a permittee converts a quarter horse permit pursuant to this section, nothing in this section prohibits the permittee from obtaining another quarter horse permit. Such permittee shall pay the same taxes as are fixed and required to be paid from the pari-mutuel pools of winter jai alai permittees and is bound by all of the rules and provisions of this chapter which apply to the operation of winter jai alai frontons. Such permittee shall only be permitted to operate a jai alai fronton after its application has been submitted to the division and its license has been issued pursuant to the application. The license is renewable from year to year as provided by law.

(2) Such permittee is entitled to the issuance of a license for the operation of a jai alai fronton during the summer season as fixed in this section. A permittee granted a license under this section may not conduct pari-mutuel pools during the summer season except at a jai alai fronton as provided in this section. Such license authorizes the permittee to operate at any jai alai permittee's plant it may lease or build within such county.

(3) Such license for the operation of a jai alai fronton shall never be permitted to be operated during the jai alai winter season; and neither the jai alai winter licensee or the jai alai summer licensee shall be permitted to operate on the same days or in competition with each other. This section does not prevent the summer jai alai permittee from leasing the facilities of the winter jai alai permittee for the operation of the summer meet.

(4) The provisions of this chapter which prohibit the location and operation of jai alai frontons within a specified distance from the location of another jai alai fronton or other permittee and which prohibit the division from granting any permit at a location within a certain designated area do not apply to the provisions of this section and do not prevent the issuance of a license under this section.

History.—s. 14, ch. 92-348.

550.0951 Payment of daily license fee and taxes; penalties.—

(1)(a) DAILY LICENSE FEE.—Each person engaged in the business of conducting race meetings or jai alai games under this chapter, hereinafter referred to as the "permitholder," "licensee," or "permittee," shall pay to the division, for the use of the division, a daily license fee on each live or simulcast pari-mutuel event of $100 for each horserace and $80 for each dograce and $40 for each jai alai game conducted at a racetrack or fronton licensed under this chapter. In addition to the tax exemption specified in s. 550.09514(1) of $360,000 or $500,000 per greyhound permitholder per state fiscal year, each greyhound permitholder shall receive in the current state fiscal year a tax credit equal to the number of live greyhound races conducted in the previous state fiscal year times the daily license fee specified for each dograce in this subsection applicable for the previous state fiscal year. This tax credit and the exemption in s. 550.09514(1) shall be applicable to any tax imposed by this chapter or the daily license fees imposed by this chapter except during any charity or scholarship performances conducted pursuant to s. 550.0351. Each permitholder shall pay daily license fees not to exceed $500 per day on any simulcast races or games on which such permitholder accepts wagers regardless of the number of out-of-state events taken or the number of out-of-state locations from which such events are taken. This license fee shall be deposited with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund.

(b) Each permitholder that cannot utilize the full amount of the exemption of $360,000 or $500,000 provided in s. 550.09514(1) or the daily license fee credit provided in this section may, after notifying the division in writing, elect once per state fiscal year on a form provided by the division to transfer such exemption or credit or any portion thereof to any greyhound permitholder which acts as a host track to such permitholder for the purpose of intertrack wagering. Once an election to transfer such exemption or credit is filed with the division, it shall not be rescinded. The

division shall disapprove the transfer when the amount of the exemption or credit or portion thereof is unavailable to the transferring permitholder or when the permitholder who is entitled to transfer the exemption or credit or who is entitled to receive the exemption or credit owes taxes to the state pursuant to a deficiency letter or administrative complaint issued by the division. Upon approval of the transfer by the division, the transferred tax exemption or credit shall be effective for the first performance of the next payment period as specified in subsection (5). The exemption or credit transferred to such host track may be applied by such host track against any taxes imposed by this chapter or daily license fees imposed by this chapter. The greyhound permitholder host track to which such exemption or credit is transferred shall reimburse such permitholder the exact monetary value of such transferred exemption or credit as actually applied against the taxes and daily license fees of the host track. The division shall ensure that all transfers of exemption or credit are made in accordance with this subsection and shall have the authority to adopt rules to ensure the implementation of this section.

(2) ADMISSION TAX.—

(a) An admission tax equal to 15 percent of the admission charge for entrance to the permitholder's facility and grandstand area, or 10 cents, whichever is greater, is imposed on each person attending a horserace, dograce, or jai alai game. The permitholder shall be responsible for collecting the admission tax.

(b) No admission tax under this chapter or chapter 212 shall be imposed on any free passes or complimentary cards issued to persons for which there is no cost to the person for admission to pari-mutuel events.

(c) A permitholder may issue tax-free passes to its officers, officials, and employees or other persons actually engaged in working at the racetrack, including accredited press representatives such as reporters and editors, and may also issue tax-free passes to other permitholders for the use of their officers and officials. The permitholder shall file with the division a list of all persons to whom tax-free passes are issued under this paragraph.

(3) TAX ON HANDLE.—Each permitholder shall pay a tax on contributions to pari-mutuel pools, the aggregate of which is hereinafter referred to as "handle," on races or games conducted by the permitholder. The tax is imposed daily and is based on the total contributions to all pari-mutuel pools conducted during the daily performance. If a permitholder conducts more than one performance daily, the tax is imposed on each performance separately.

(a) The tax on handle for quarter horse racing is 1.0 percent of the handle.

(b)1. The tax on handle for dogracing is 5.5 percent of the handle, except that for live charity performances held pursuant to s. 550.0351, and for intertrack wagering on such charity performances at a guest greyhound track within the market area of the host, the tax is 7.6 percent of the handle.

2. The tax on handle for jai alai is 7.1 percent of the handle.

(c)1. The tax on handle for intertrack wagering is 2.0 percent of the handle if the host track is a horse track, 3.3 percent if the host track is a harness track, 5.5 percent if the host track is a dog track, and 7.1 percent if the host track is a jai alai fronton. The tax on handle for intertrack wagering is 0.5 percent if the host track and the guest track are thoroughbred permitholders or if the guest track is located outside the market area of the host track and within the market area of a thoroughbred permitholder currently conducting a live race meet. The tax on handle for intertrack wagering on rebroadcasts of simulcast thoroughbred horseraces is 2.4 percent of the handle and 1.5 percent of the handle for intertrack wagering on rebroadcasts of simulcast harness horseraces. The tax shall be deposited into the Pari-mutuel Wagering Trust Fund.

2. The tax on handle for intertrack wagers accepted by any dog track located in an area of the state in which there are only three permitholders, all of which are greyhound permitholders, located in three contiguous counties, from any greyhound permitholder also located within such area or any dog track or jai alai fronton located as specified in s. 550.615(6) or (9), on races or games received from the same class of permitholder located within the same market area is 3.9 percent if the host facility is a greyhound permitholder and, if the host facility is a jai alai permitholder, the rate shall be 6.1 percent except that it shall be 2.3 percent on handle at such time as the total tax on intertrack handle paid to the division by the permitholder during the current state fiscal year exceeds the total tax on intertrack handle paid to the division by the permitholder during the 1992-1993 state fiscal year.

(d) Notwithstanding any other provision of this chapter, in order to protect the Florida jai alai industry, effective July 1, 2000, a jai alai permitholder may not be taxed on live handle at a rate higher than 2 percent.

(4) BREAKS TAX.—Effective October 1, 1996, each permitholder conducting jai alai performances shall pay a tax equal to the breaks. The "breaks" represents that portion of each pari-mutuel pool which is not redistributed to the contributors or withheld by the permitholder as commission.

(5) PAYMENT AND DISPOSITION OF FEES AND TAXES.—Payments imposed by this section shall be paid to the division. The division shall deposit these sums with the Chief Financial Officer, to the credit of the Pari-mutuel Wagering Trust Fund, hereby established. The permitholder shall remit to the division payment for the daily license fee, the admission tax, the tax on handle, and the breaks tax. Such payments shall be remitted by 3 p.m. Wednesday of each week for taxes imposed and collected for the preceding week ending on Sunday. Beginning on July 1, 2012, such payments shall be remitted by 3 p.m. on the 5th day of each calendar month for taxes imposed and collected for the preceding calendar month. If the 5th day of the calendar month falls on a weekend, payments shall be remitted by 3 p.m. the first Monday following the weekend. Permitholders shall file a report under oath by the 5th day of each calendar month for all taxes remitted during the preceding calendar month. Such payments shall be accompanied by a report under oath showing the total of all admissions, the pari-mutuel wagering activities for the preceding calendar month, and such other information as may be prescribed by the division.

(6) PENALTIES.—

(a) The failure of any permitholder to make payments as prescribed in subsection (5) is a violation of this section, and the permitholder may be subjected by the division to a civil penalty of up to $1,000 for each day the tax payment is not remitted. All penalties imposed and collected shall be deposited in the General Revenue Fund. If a permitholder fails to pay penalties imposed by order of the division under this subsection, the division may suspend or revoke the license of the permitholder, cancel the permit of the permitholder, or deny issuance of any further license or permit to the permitholder.

(b) In addition to the civil penalty prescribed in paragraph (a), any willful or wanton failure by any permitholder to make payments of the daily license fee, admission tax, tax on handle, or breaks tax constitutes sufficient grounds for the division to suspend or revoke the license of the permitholder, to cancel the permit of the permitholder, or to deny issuance of any further license or permit to the permitholder.

History.—s. 15, ch. 92-348; s. 2, ch. 94-328; ss. 4, 26, ch. 96-364; s. 2, ch. 98-190; ss. 5, 6, ch. 98-217; s. 6, ch. 2000-354; s. 654, ch. 2003-261; s. 7, ch. 2009-170; ss. 4, 5, ch. 2010-29.

550.09511 Jai alai taxes; abandoned interest in a permit for nonpayment of taxes.—

(1)(a) Pari-mutuel wagering at jai alai frontons in this state is an important business enterprise, and taxes derived therefrom constitute a part of the tax structure which funds operations of the state. Jai alai permitholders should pay their fair share of these taxes to the state. As further prescribed in paragraph (b), this business interest should not be taxed to such an extent as to cause any fronton which is operated under sound business principles to be forced out of business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for the jai alai industry to be highly regulated and taxed. The state recognizes that there exist identifiable differences between jai alai permitholders based upon their ability to operate under such regulation and tax system.

(b) Under the taxation system set forth in this section, which is based upon revenues instead of profits, a jai alai permitholder should pay its fair share of taxes to the state, but it should not be subjected to taxes that might cause it to operate at a loss, impair its ability to service debt or to maintain its fixed assets, or otherwise jeopardize its existence and the jobs of its employees. Any jai alai permitholder that has incurred state taxes on handle and admissions in an amount that exceeds its operating earnings in a fiscal year that ends during or after the 1997-1998 state fiscal year is entitled to credit the excess amount of the taxes against state pari-mutuel taxes due and payable after June 30, 1998, during its next ensuing meets. As used in this paragraph, the term "operating earnings" means total revenues from pari-mutuel operations net of state taxes and fees less total expenses but excluding from expenses any deductions for interest, depreciation and amortization, payments to affiliated entities other than for reimbursement of expenses

related to pari-mutuel operations, and any increase in an officer's or director's annual compensation above the amount paid during calendar year 1997.

(2) Notwithstanding the provisions of s. 550.0951(3)(b), wagering on live jai alai performances shall be subject to the following taxes:

(a)1. The tax on handle per performance for live jai alai performances is 4.25 percent of handle per performance. However, when the live handle of a permitholder during the preceding state fiscal year was less than $15 million, the tax shall be paid on the handle in excess of $30,000 per performance per day.

2. The tax rate shall be applicable only until the requirements of paragraph (b) are met.

(b) At such time as the total of admissions tax, daily license fee, and tax on handle for live jai alai performances paid to the division by a permitholder during the current state fiscal year exceeds the total state tax revenues from wagering on live jai alai performances paid or due by the permitholder in fiscal year 1991-1992, the permitholder shall pay tax on handle for live jai alai performances at a rate of 2.55 percent of the handle per performance for the remainder of the current state fiscal year. For purposes of this section, total state tax revenues on live jai alai wagering in fiscal year 1991-1992 shall include any admissions tax, tax on handle, surtaxes on handle, and daily license fees.

(c) If no tax on handle for live jai alai performances were paid to the division by a jai alai permitholder during the 1991-1992 state fiscal year, then at such time as the total of admissions tax, daily license fee, and tax on handle for live jai alai performances paid to the division by a permitholder during the current state fiscal year exceeds the total state tax revenues from wagering on live jai alai performances paid or due by the permitholder in the last state fiscal year in which the permitholder conducted a full schedule of live games, the permitholder shall pay tax on handle for live jai alai performances at a rate of 3.3 percent of the handle per performance for the remainder of the current state fiscal year. For purposes of this section, total state tax revenues on live jai alai wagering shall include any admissions tax, tax on handle, surtaxes on handle, and daily license fees. This paragraph shall take effect July 1, 1993.

(d) A permitholder who obtains a new permit issued by the division subsequent to the 1991-1992 state fiscal year and a permitholder whose permit has been converted to a jai alai permit under the provisions of this chapter, shall, at such time as the total of admissions tax, daily license fee, and tax on handle for live jai alai performances paid to the division by the permitholder during the current state fiscal year exceeds the average total state tax revenues from wagering on live jai alai performances for the first 3 consecutive jai alai seasons paid to or due the division by the permitholder and during which the permitholder conducted a full schedule of live games, pay tax on handle for live jai alai performances at a rate of 3.3 percent of the handle per performance for the remainder of the current state fiscal year.

(e) The payment of taxes pursuant to paragraphs (b), (c), and (d) shall be calculated and commence beginning the day in which the permitholder is first entitled to the reduced rate specified in this section and the report of taxes required by s. 550.0951(5) is submitted to the division.

(f) A jai alai permitholder paying taxes under this section shall retain the breaks and pay an amount equal to the breaks as special prize awards which shall be in addition to the regular contracted prize money paid to jai alai players at the permitholder's facility. Payment of the special prize money shall be made during the permitholder's current meet.

(g) For purposes of this section, "handle" shall have the same meaning as in s. 550.0951, and shall not include handle from intertrack wagering.

(3)(a) Notwithstanding the provisions of subsection (2) and s. 550.0951(3)(c)1., any jai alai permitholder which is restricted under Florida law from operating live performances on a year-round basis is entitled to conduct wagering on live performances at a tax rate of 3.85 percent of live handle. Such permitholder is also entitled to conduct intertrack wagering as a host permitholder on live jai alai games at its fronton at a tax rate of 3.3 percent of handle at such time as the total tax on intertrack handle paid to the division by the permitholder during the current state fiscal year exceeds the total tax on intertrack handle paid to the division by the permitholder during the 1992-1993 state fiscal year.

(b) The payment of taxes pursuant to paragraph (a) shall be calculated and commence beginning the day in which the permitholder is first entitled to the reduced rate specified in this subsection.

(4) A jai alai permitholder conducting fewer than 100 live performances in any calendar year shall pay to the state the same aggregate amount of daily license fees on live jai alai games, admissions tax, and tax on live handle as that permitholder paid to the state during the most recent prior calendar year in which the jai alai permitholder conducted at least 100 live performances.

(5) In the event that a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be null and void and that the provisions of s. 550.0951 shall apply to all jai alai permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.

History.—s. 1, ch. 93-287; s. 3, ch. 94-328; ss. 5, 16, ch. 95-390; ss. 5, 26, ch. 96-364; s. 6, ch. 98-217; s. 2, ch. 98-401; s. 22, ch. 99-4; s. 2, ch. 2005-288; s. 8, ch. 2009-170; ss. 4, 5, ch. 2010-29.

550.09512 Harness horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(1) Pari-mutuel wagering at harness horse racetracks in this state is an important business enterprise, and taxes derived therefrom constitute a part of the tax structure which funds operation of the state. Harness horse permitholders should pay their fair share of these taxes to the state. This business interest should not be taxed to such an extent as to cause any racetrack which is operated under sound business principles to be forced out of business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for the harness horse industry to be highly regulated and taxed. The state recognizes that there exist identifiable differences between harness horse permitholders based upon their ability to operate under such regulation and tax system.

(2)(a) The tax on handle for live harness horse performances is 0.5 percent of handle per performance.

(b) For purposes of this section, the term "handle" shall have the same meaning as in s. 550.0951, and shall not include handle from intertrack wagering.

(3)(a) The permit of a harness horse permitholder who does not pay tax on handle for live harness horse performances for a full schedule of live races during any 2 consecutive state fiscal years shall be void and shall escheat to and become the property of the state unless such failure to operate and pay tax on handle was the direct result of fire, strike, war, or other disaster or event beyond the ability of the permitholder to control. Financial hardship to the permitholder shall not, in and of itself, constitute just cause for failure to operate and pay tax on handle.

(b) In order to maximize the tax revenues to the state, the division shall reissue an escheated harness horse permit to a qualified applicant pursuant to the provisions of this chapter as for the issuance of an initial permit. However, the provisions of this chapter relating to referendum requirements for a pari-mutuel permit shall not apply to the reissuance of an escheated harness horse permit. As specified in the application and upon approval by the division of an application for the permit, the new permitholder shall be authorized to operate a harness horse facility anywhere in the same county in which the escheated permit was authorized to be operated, notwithstanding the provisions of s. 550.054(2) relating to mileage limitations.

(4) In the event that a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be null and void and that the provisions of s. 550.0951 shall apply to all harness horse permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.

History.—s. 1, ch. 93-288; s. 2, ch. 98-217; s. 15, ch. 2000-354.

550.09514 Greyhound dogracing taxes; purse requirements.—

(1) Wagering on greyhound racing is subject to a tax on handle for live greyhound racing as specified in s. 550.0951(3). However, each permitholder shall pay no tax on handle until such time as this subsection has resulted in a tax savings per state fiscal year of $360,000. Thereafter, each permitholder shall pay the tax as specified in s. 550.0951

(3) on all handle for the remainder of the permitholder's current race meet. For the three permitholders that conducted a full schedule of live racing in 1995, and are closest to another state that authorizes greyhound pari-mutuel wagering, the maximum tax savings per state fiscal year shall be $500,000. The provisions of this subsection relating to tax exemptions shall not apply to any charity or scholarship performances conducted pursuant to s. 550.0351.

(2)(a) The division shall determine for each greyhound permitholder the annual purse percentage rate of live handle for the state fiscal year 1993-1994 by dividing total purses paid on live handle by the permitholder, exclusive of payments made from outside sources, during the 1993-1994 state fiscal year by the permitholder's live handle for the 1993-1994 state fiscal year. Each permitholder shall pay as purses for live races conducted during its current race meet a percentage of its live handle not less than the percentage determined under this paragraph, exclusive of payments made by outside sources, for its 1993-1994 state fiscal year.

(b) Except as otherwise set forth herein, in addition to the minimum purse percentage required by paragraph (a), each permitholder shall pay as purses an annual amount equal to 75 percent of the daily license fees paid by each permitholder for the 1994-1995 fiscal year. This purse supplement shall be disbursed weekly during the permitholder's race meet in an amount determined by dividing the annual purse supplement by the number of performances approved for the permitholder pursuant to its annual license and multiplying that amount by the number of performances conducted each week. For the greyhound permitholders in the county where there are two greyhound permitholders located as specified in s. 550.615(6), such permitholders shall pay in the aggregate an amount equal to 75 percent of the daily license fees paid by such permitholders for the 1994-1995 fiscal year. These permitholders shall be jointly and severally liable for such purse payments. The additional purses provided by this paragraph must be used exclusively for purses other than stakes. The division shall conduct audits necessary to ensure compliance with this section.

(c)1. Each greyhound permitholder when conducting at least three live performances during any week shall pay purses in that week on wagers it accepts as a guest track on intertrack and simulcast greyhound races at the same rate as it pays on live races. Each greyhound permitholder when conducting at least three live performances during any week shall pay purses in that week, at the same rate as it pays on live races, on wagers accepted on greyhound races at a guest track which is not conducting live racing and is located within the same market area as the greyhound permitholder conducting at least three live performances during any week.

2. Each host greyhound permitholder shall pay purses on its simulcast and intertrack broadcasts of greyhound races to guest facilities that are located outside its market area in an amount equal to one quarter of an amount determined by subtracting the transmission costs of sending the simulcast or intertrack broadcasts from an amount determined by adding the fees received for greyhound simulcast races plus 3 percent of the greyhound intertrack handle at guest facilities that are located outside the market area of the host and that paid contractual fees to the host for such broadcasts of greyhound races.

(d) The division shall require sufficient documentation from each greyhound permitholder regarding purses paid on live racing to assure that the annual purse percentage rates paid by each permitholder on the live races are not reduced below those paid during the 1993-1994 state fiscal year. The division shall require sufficient documentation from each greyhound permitholder to assure that the purses paid by each permitholder on the greyhound intertrack and simulcast broadcasts are in compliance with the requirements of paragraph (c).

(e) In addition to the purse requirements of paragraphs (a)-(c), each greyhound permitholder shall pay as purses an amount equal to one-third of the amount of the tax reduction on live and simulcast handle applicable to such permitholder as a result of the reductions in tax rates provided by this act through the amendments to s. 550.0951(3). With respect to intertrack wagering when the host and guest tracks are greyhound permitholders not within the same market area, an amount equal to the tax reduction applicable to the guest track handle as a result of the reduction in tax rate provided by this act through the amendment to s. 550.0951(3) shall be distributed to the guest track, one-third of which amount shall be paid as purses at the guest track. However, if the guest track is a greyhound permitholder within the market area of the host or if the guest track is not a greyhound permitholder, an amount equal to such tax reduction applicable to the guest track handle shall be retained by the host track, one-third of which amount shall be

paid as purses at the host track. These purse funds shall be disbursed in the week received if the permitholder conducts at least one live performance during that week. If the permitholder does not conduct at least one live performance during the week in which the purse funds are received, the purse funds shall be disbursed weekly during the permitholder's next race meet in an amount determined by dividing the purse amount by the number of performances approved for the permitholder pursuant to its annual license, and multiplying that amount by the number of performances conducted each week. The division shall conduct audits necessary to ensure compliance with this paragraph.

(f) Each greyhound permitholder shall, during the permitholder's race meet, supply kennel operators and the Division of Pari-Mutuel Wagering with a weekly report showing purses paid on live greyhound races and all greyhound intertrack and simulcast broadcasts, including both as a guest and a host together with the handle or commission calculations on which such purses were paid and the transmission costs of sending the simulcast or intertrack broadcasts, so that the kennel operators may determine statutory and contractual compliance.

(g) Each greyhound permitholder shall make direct payment of purses to the greyhound owners who have filed with such permitholder appropriate federal taxpayer identification information based on the percentage amount agreed upon between the kennel operator and the greyhound owner.

(h) At the request of a majority of kennel operators under contract with a greyhound permitholder, the permitholder shall make deductions from purses paid to each kennel operator electing such deduction and shall make a direct payment of such deductions to the local association of greyhound kennel operators formed by a majority of kennel operators under contract with the permitholder. The amount of the deduction shall be at least 1 percent of purses, as determined by the local association of greyhound kennel operators. No deductions may be taken pursuant to this paragraph without a kennel operator's specific approval before or after the effective date of this act.

(3) For the purpose of this section, the term "live handle" means the handle from wagers placed at the permitholder's establishment on the live greyhound races conducted at the permitholder's establishment.

History.—s. 6, ch. 96-364; s. 3, ch. 98-217; s. 60, ch. 99-5; s. 74, ch. 2000-158; s. 8, ch. 2000-354; s. 9, ch. 2009-170; ss. 4, 5, ch. 2010-29.

550.09515 Thoroughbred horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(1) Pari-mutuel wagering at thoroughbred horse racetracks in this state is an important business enterprise, and taxes derived therefrom constitute a part of the tax structure which funds operation of the state. Thoroughbred horse permitholders should pay their fair share of these taxes to the state. This business interest should not be taxed to such an extent as to cause any racetrack which is operated under sound business principles to be forced out of business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for the thoroughbred horse industry to be highly regulated and taxed. The state recognizes that there exist identifiable differences between thoroughbred horse permitholders based upon their ability to operate under such regulation and tax system and at different periods during the year.

(2)(a) The tax on handle for live thoroughbred horserace performances shall be 0.5 percent.

(b) For purposes of this section, the term "handle" shall have the same meaning as in s. 550.0951, and shall not include handle from intertrack wagering.

(3)(a) The permit of a thoroughbred horse permitholder who does not pay tax on handle for live thoroughbred horse performances for a full schedule of live races during any 2 consecutive state fiscal years shall be void and shall escheat to and become the property of the state unless such failure to operate and pay tax on handle was the direct result of fire, strike, war, or other disaster or event beyond the ability of the permitholder to control. Financial hardship to the permitholder shall not, in and of itself, constitute just cause for failure to operate and pay tax on handle.

(b) In order to maximize the tax revenues to the state, the division shall reissue an escheated thoroughbred horse permit to a qualified applicant pursuant to the provisions of this chapter as for the issuance of an initial permit. However, the provisions of this chapter relating to referendum requirements for a pari-mutuel permit shall not apply to the reissuance of an escheated thoroughbred horse permit. As specified in the application and upon approval by the

division of an application for the permit, the new permitholder shall be authorized to operate a thoroughbred horse facility anywhere in the same county in which the escheated permit was authorized to be operated, notwithstanding the provisions of s. 550.054(2) relating to mileage limitations.

(4) In the event that a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be null and void and that the provisions of s. 550.0951 shall apply to all thoroughbred horse permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.

(5) Notwithstanding the provisions of s. 550.0951(3)(c), the tax on handle for intertrack wagering on rebroadcasts of simulcast horseraces is 2.4 percent of the handle; provided however, that if the guest track is a thoroughbred track located more than 35 miles from the host track, the host track shall pay a tax of .5 percent of the handle, and additionally the host track shall pay to the guest track 1.9 percent of the handle to be used by the guest track solely for purses. The tax shall be deposited into the Pari-mutuel Wagering Trust Fund.

(6) A credit equal to the amount of contributions made by a thoroughbred permitholder during the taxable year directly to the Jockeys' Guild or its health and welfare fund to be used to provide health and welfare benefits for active, disabled, and retired Florida jockeys and their dependents pursuant to reasonable rules of eligibility established by the Jockeys' Guild is allowed against taxes on live handle due for a taxable year under this section. A thoroughbred permitholder may not receive a credit greater than an amount equal to 1 percent of its paid taxes for the previous taxable year.

(7) If a thoroughbred permitholder fails to operate all performances on its 2001-2002 license, failure to pay tax on handle for a full schedule of live races for those performances in the 2001-2002 fiscal year does not constitute failure to pay taxes on handle for a full schedule of live races in a fiscal year for the purposes of subsection (3). This subsection may not be construed as forgiving a thoroughbred permitholder from paying taxes on performances conducted at its facility pursuant to its 2001-2002 license other than for failure to operate all performances on its 2001-2002 license. This subsection expires July 1, 2003.

History.—s. 1, ch. 93-123; ss. 7, 26, ch. 96-364; ss. 3, 4, ch. 98-190; s. 75, ch. 2000-158; ss. 9, 10, ch. 2000-354; s. 12, ch. 2002-2; s. 38, ch. 2002-402.

550.105 Occupational licenses of racetrack employees; fees; denial, suspension, and revocation of license; penalties and fines.—

(1) Each person connected with a racetrack or jai alai fronton, as specified in paragraph (2)(a), shall purchase from the division an occupational license. All moneys collected pursuant to this section each fiscal year shall be deposited into the Pari-mutuel Wagering Trust Fund. Pursuant to the rules adopted by the division, an occupational license may be valid for a period of up to 3 years for a fee that does not exceed the full occupational license fee for each of the years for which the license is purchased. The occupational license shall be valid during its specified term at any pari-mutuel facility.

(2)(a) The following licenses shall be issued to persons or entities with access to the backside, racing animals, jai alai players' room, jockeys' room, drivers' room, totalisator room, the mutuels, or money room, or to persons who, by virtue of the position they hold, might be granted access to these areas or to any other person or entity in one of the following categories and with fees not to exceed the following amounts for any 12-month period:

1. Business licenses: any business such as a vendor, contractual concessionaire, contract kennel, business owning racing animals, trust or estate, totalisator company, stable name, or other fictitious name: $50.

2. Professional occupational licenses: professional persons with access to the backside of a racetrack or players' quarters in jai alai such as trainers, officials, veterinarians, doctors, nurses, EMT's, jockeys and apprentices, drivers, jai alai players, owners, trustees, or any management or officer or director or shareholder or any other professional-level person who might have access to the jockeys' room, the drivers' room, the backside, racing animals, kennel compound, or managers or supervisors requiring access to mutuels machines, the money room, or totalisator equipment: $40.

3. General occupational licenses: general employees with access to the jockeys' room, the drivers' room, racing animals, the backside of a racetrack or players' quarters in jai alai, such as grooms, kennel helpers, leadouts, pelota makers, cesta makers, or ball boys, or a practitioner of any other occupation who would have access to the animals, the backside, or the kennel compound, or who would provide the security or maintenance of these areas, or mutuel employees, totalisator employees, money-room employees, or any employee with access to mutuels machines, the money room, or totalisator equipment or who would provide the security or maintenance of these areas: $10.

The individuals and entities that are licensed under this paragraph require heightened state scrutiny, including the submission by the individual licensees or persons associated with the entities described in this chapter of fingerprints for a Federal Bureau of Investigation criminal records check.

(b) The division shall adopt rules pertaining to pari-mutuel occupational licenses, licensing periods, and renewal cycles.

(3) Certified public accountants and attorneys licensed to practice in this state shall not be required to hold an occupational license under this section while providing accounting or legal services to a permitholder if the certified public accountant's or attorney's primary place of employment is not on the permitholder premises.

(4) It is unlawful to take part in or officiate in any way at any pari-mutuel facility without first having secured a license and paid the occupational license fee.

(5)(a) The division may:

1. Deny a license to or revoke, suspend, or place conditions upon or restrictions on a license of any person who has been refused a license by any other state racing commission or racing authority;

2. Deny, suspend, or place conditions on a license of any person who is under suspension or has unpaid fines in another jurisdiction;

if the state racing commission or racing authority of such other state or jurisdiction extends to the division reciprocal courtesy to maintain the disciplinary control.

(b) The division may deny, suspend, revoke, or declare ineligible any occupational license if the applicant for or holder thereof has violated the provisions of this chapter or the rules of the division governing the conduct of persons connected with racetracks and frontons. In addition, the division may deny, suspend, revoke, or declare ineligible any occupational license if the applicant for such license has been convicted in this state, in any other state, or under the laws of the United States of a capital felony, a felony, or an offense in any other state which would be a felony under the laws of this state involving arson; trafficking in, conspiracy to traffic in, smuggling, importing, conspiracy to smuggle or import, or delivery, sale, or distribution of a controlled substance; or a crime involving a lack of good moral character, or has had a pari-mutuel license revoked by this state or any other jurisdiction for an offense related to pari-mutuel wagering.

(c) The division may deny, declare ineligible, or revoke any occupational license if the applicant for such license has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States, if such felony or misdemeanor is related to gambling or bookmaking, as contemplated in s. 849.25, or involves cruelty to animals. If the applicant establishes that she or he is of good moral character, that she or he has been rehabilitated, and that the crime she or he was convicted of is not related to pari-mutuel wagering and is not a capital offense, the restrictions excluding offenders may be waived by the director of the division.

(d) For purposes of this subsection, the term "convicted" means having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere. However, the term "conviction" shall not be applied to a crime committed prior to the effective date of this subsection in a manner that would invalidate any occupational license issued prior to the effective date of this subsection or subsequent renewal for any person holding such a license.

(e) If an occupational license will expire by division rule during the period of a suspension the division intends to impose, or if a license would have expired but for pending administrative charges and the occupational licensee is found to be in violation of any of the charges, the license may be revoked and a time period of license ineligibility may be declared. The division may bring administrative charges against any person not holding a current license for violations of statutes or rules which occurred while such person held an occupational license, and the division may declare such person ineligible to hold a license for a period of time. The division may impose a civil fine of up to $1,000 for each violation of the rules of the division in addition to or in lieu of any other penalty provided for in this section. In addition to any other penalty provided by law, the division may exclude from all pari-mutuel facilities in this state, for a period not to exceed the period of suspension, revocation, or ineligibility, any person whose occupational license application has been denied by the division, who has been declared ineligible to hold an occupational license, or whose occupational license has been suspended or revoked by the division.

(f) The division may cancel any occupational license that has been voluntarily relinquished by the licensee.

(6) In order to promote the orderly presentation of pari-mutuel meets authorized in this chapter, the division may issue a temporary occupational license. The division shall adopt rules to implement this subsection. However, no temporary occupational license shall be valid for more than 90 days, and no more than one temporary license may be issued for any person in any year.

(7) The division may deny, revoke, or suspend any occupational license if the applicant therefor or holder thereof accumulates unpaid obligations or defaults in obligations, or issues drafts or checks that are dishonored or for which payment is refused without reasonable cause, if such unpaid obligations, defaults, or dishonored or refused drafts or checks directly relate to the sport of jai alai or racing being conducted at a pari-mutuel facility within this state.

(8) The division may fine, or suspend or revoke, or place conditions upon, the license of any licensee who under oath knowingly provides false information regarding an investigation by the division.

(9) The tax imposed by this section is in lieu of all license, excise, or occupational taxes to the state or any county, municipality, or other political subdivision, except that, if a race meeting or game is held or conducted in a municipality, the municipality may assess and collect an additional tax against any person conducting live racing or games within its corporate limits, which tax may not exceed $150 per day for horseracing or $50 per day for dogracing or jai alai. Except as provided in this chapter, a municipality may not assess or collect any additional excise or revenue tax against any person conducting race meetings within the corporate limits of the municipality or against any patron of any such person.

(10)(a) Upon application for an occupational license, the division may require the applicant's full legal name; any nickname, alias, or maiden name for the applicant; name of the applicant's spouse; the applicant's date of birth, residence address, mailing address, residence address and business phone number, and social security number; disclosure of any felony or any conviction involving bookmaking, illegal gambling, or cruelty to animals; disclosure of any past or present enforcement or actions by any racing or gaming agency against the applicant; and any information the division determines is necessary to establish the identity of the applicant or to establish that the applicant is of good moral character. Fingerprints shall be taken in a manner approved by the division and then shall be submitted to the Federal Bureau of Investigation, or to the association of state officials regulating pari-mutuel wagering pursuant to the Federal Pari-mutuel Licensing Simplification Act of 1988. The cost of processing fingerprints shall be borne by the applicant and paid to the association of state officials regulating pari-mutuel wagering from the trust fund to which the processing fees are deposited. The division, by rule, may require additional information from licensees which is reasonably necessary to regulate the industry. The division may, by rule, exempt certain occupations or groups of persons from the fingerprinting requirements.

(b) All fingerprints required by this section that are submitted to the Department of Law Enforcement shall be retained by the Department of Law Enforcement and entered into the statewide automated biometric identification system as authorized by s. 943.05(2)(b) and shall be available for all purposes and uses authorized for arrest fingerprints entered into the statewide automated biometric identification system pursuant to s. 943.051.

(c) The Department of Law Enforcement shall search all arrest fingerprints received pursuant to s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under paragraph (b). Any arrest record that is identified with the retained fingerprints of a person subject to the criminal history screening requirements of this section shall be reported to the division. Each licensee shall pay a fee to the division for the cost of retention of the fingerprints and the ongoing searches under this paragraph. The division shall forward the payment to the Department of Law Enforcement. The amount of the fee to be imposed for performing these searches and the procedures for the retention of licensee fingerprints shall be as established by rule of the Department of Law Enforcement. The division shall inform the Department of Law Enforcement of any change in the license status of licensees whose fingerprints are retained under paragraph (b).

(d) The division shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for a national criminal history records check at least once every 5 years following issuance of a license. If the fingerprints of a person who is licensed have not been retained by the Department of Law Enforcement, the person must file a complete set of fingerprints as provided in paragraph (a). The division shall collect the fees for the cost of the national criminal history records check under this paragraph and forward the payment to the Department of Law Enforcement. The cost of processing fingerprints and conducting a criminal history records check under this paragraph for a general occupational license shall be borne by the applicant. The cost of processing fingerprints and conducting a criminal history records check under this paragraph for a business or professional occupational license shall be borne by the person being checked. The Department of Law Enforcement may invoice the division for the fingerprints submitted each month. Under penalty of perjury, each person who is licensed or who is fingerprinted as required by this section must agree to inform the division within 48 hours if he or she is convicted of or has entered a plea of guilty or nolo contendere to any disqualifying offense, regardless of adjudication.

History.—s. 16, ch. 92-348; s. 6, ch. 95-390; s. 28, ch. 97-98; s. 784, ch. 97-103; s. 23, ch. 2000-354; s. 10, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 52, ch. 2013-116.

550.1155 Authority of stewards, judges, panel of judges, or player's manager to impose penalties against occupational licensees; disposition of funds collected.—

(1) The stewards at a horse racetrack; the judges at a dog track; or the judges, a panel of judges, or a player's manager at a jai alai fronton may impose a civil penalty against any occupational licensee for violation of the pari-mutuel laws or any rule adopted by the division. The penalty may not exceed $1,000 for each count or separate offense or exceed 60 days of suspension for each count or separate offense.

(2) All penalties imposed and collected pursuant to this section at each horse or dog racetrack or jai alai fronton shall be deposited into a board of relief fund established by the pari-mutuel permitholder. Each association shall name a board of relief composed of three of its officers, with the general manager of the permitholder being the ex officio treasurer of such board. Moneys deposited into the board of relief fund shall be disbursed by the board for the specific purpose of aiding occupational licenseholders and their immediate family members at each pari-mutuel facility.

History.—s. 17, ch. 92-348; s. 7, ch. 95-390.

550.125 Uniform reporting system; bond requirement.—

(1) The Legislature finds that a uniform reporting system should be developed to provide acceptable uniform financial data and statistics.

(2)(a) Each permitholder that conducts race meetings or jai alai exhibitions under this chapter shall keep records that clearly show the total number of admissions and the total amount of money contributed to each pari-mutuel pool on each race or exhibition separately and the amount of money received daily from admission fees and, within 120 days after the end of its fiscal year, shall submit to the division a complete annual report of its accounts, audited by a certified public accountant licensed to practice in the state.

(b) The division shall adopt rules specifying the form and content of such reports, including, but not limited to, requirements for a statement of assets and liabilities, operating revenues and expenses, and net worth, which statement must be audited by a certified public accountant licensed to practice in this state, and any supporting

informational schedule found necessary by the division to verify the foregoing financial statement, which informational schedule must be attested to under oath by the permitholder or an officer of record, to permit the division to:

1. Assess the profitability and financial soundness of permitholders, both individually and as an industry;
2. Plan and recommend measures necessary to preserve and protect the pari-mutuel revenues of the state; and
3. Completely identify the holdings, transactions, and investments of permitholders with other business entities.

(c) The Auditor General and the Office of Program Policy Analysis and Government Accountability may, pursuant to their own authority or at the direction of the Legislative Auditing Committee, audit, examine, and check the books and records of any permitholder. These audit reports shall become part of, and be maintained in, the division files.

(d) The division shall annually review the books and records of each permitholder and verify that the breaks and unclaimed ticket payments made by each permitholder are true and correct.

(3)(a) Each permitholder to which a license is granted under this chapter, at its own cost and expense, must, before the license is delivered, give a bond in the penal sum of $50,000 payable to the Governor of the state and her or his successors in office, with a surety or sureties to be approved by the division and the Chief Financial Officer, conditioned to faithfully make the payments to the Chief Financial Officer in her or his capacity as treasurer of the division; to keep its books and records and make reports as provided; and to conduct its racing in conformity with this chapter. When the greatest amount of tax owed during any month in the prior state fiscal year, in which a full schedule of live racing was conducted, is less than $50,000, the division may assess a bond in a sum less than $50,000. The division may review the bond for adequacy and require adjustments each fiscal year. The division has the authority to adopt rules to implement this paragraph and establish guidelines for such bonds.

(b) The provisions of this chapter concerning bonding do not apply to nonwagering licenses issued pursuant to s. 550.505.

History.—s. 18, ch. 92-348; s. 785, ch. 97-103; s. 122, ch. 2001-266; s. 655, ch. 2003-261.

550.135 Division of moneys derived under this law.— All moneys that are deposited with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund shall be distributed as follows:

(1) The daily license fee revenues collected pursuant to s. 550.0951(1) shall be used to fund the operating cost of the division and to provide a proportionate share of the operation of the office of the secretary and the Division of Administration of the Department of Business and Professional Regulation; however, other collections in the Pari-mutuel Wagering Trust Fund may also be used to fund the operation of the division in accordance with authorized appropriations.

(2) All unappropriated funds in excess of $1.5 million in the Pari-mutuel Wagering Trust Fund, collected pursuant to this chapter, shall be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

(3) The slot machine license fee, the slot machine occupational license fee, and the compulsive or addictive gambling prevention program fee collected pursuant to ss. 551.106, 551.107(2)(a)1., and 551.118 shall be used to fund the direct and indirect operating expenses of the division's slot machine regulation operations and to provide funding for relevant enforcement activities in accordance with authorized appropriations. Funds deposited into the Pari-mutuel Wagering Trust Fund pursuant to ss. 551.106, 551.107(2)(a)1., and 551.118 shall be reserved in the trust fund for slot machine regulation operations. On June 30, any unappropriated funds in excess of those necessary for incurred obligations and subsequent year cash flow for slot machine regulation operations shall be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

History.—s. 19, ch. 92-348; s. 208, ch. 94-218; s. 8, ch. 96-364; s. 5, ch. 2000-354; s. 656, ch. 2003-261; s. 1, ch. 2004-281; s. 1, ch. 2007-83.

550.155 Pari-mutuel pool within track enclosure; takeouts; breaks; penalty for purchasing part of a pari-mutuel pool for or through another in specified circumstances.—

(1) Wagering on the results of a horserace, dograce, or on the scores or points of a jai alai game and the sale of tickets or other evidences showing an interest in or a contribution to a pari-mutuel pool are allowed within the

enclosure of any pari-mutuel facility licensed and conducted under this chapter but are not allowed elsewhere in this state, must be supervised by the division, and are subject to such reasonable rules that the division prescribes.

(2) The permitholder's share of the takeout is that portion of the takeout that remains after the pari-mutuel tax imposed upon the contributions to the pari-mutuel pool is deducted from the takeout and paid by the permitholder. The takeout is deducted from all pari-mutuel pools but may be different depending on the type of pari-mutuel pool. The permitholder shall inform the patrons, either through the official program or via the posting of signs at conspicuous locations, as to the takeout currently being applied to handle at the facility. A capital improvement proposed by a permitholder licensed under this chapter to a pari-mutuel facility existing on June 23, 1981, which capital improvement requires, pursuant to any municipal or county ordinance, resolution, or regulation, the qualification or approval of the municipality or county wherein the permitholder conducts its business operations, shall receive approval unless the municipality or county is able to show that the proposed improvement presents a justifiable and immediate hazard to the health and safety of municipal or county residents, provided the permitholder pays to the municipality or county the cost of a building permit and provided the capital improvement meets the following criteria:

(a) The improvement does not qualify as a development of regional impact as defined in s. 380.06; and

(b) The improvement is contiguous to or within the existing pari-mutuel facility site. To be contiguous, the site of the improvement must share a sufficient common boundary with the present pari-mutuel facility to allow full and free access without crossing a public roadway, public waterway, or similar barrier.

(3) After deducting the takeout and the "breaks," a pari-mutuel pool must be redistributed to the contributors.

(4) Redistribution of funds otherwise distributable to the contributors of a pari-mutuel pool must be a sum equal to the next lowest multiple of 10 on all races and games.

(5) A distribution of a pari-mutuel pool may not be made of the odd cents of any sum otherwise distributable, which odd cents constitute the "breaks."

(6) A person or corporation may not directly or indirectly purchase pari-mutuel tickets or participate in the purchase of any part of a pari-mutuel pool for another for hire or for any gratuity. A person may not purchase any part of a pari-mutuel pool through another wherein she or he gives or pays directly or indirectly such other person anything of value. Any person who violates this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 20, ch. 92-348; s. 8, ch. 95-390; s. 786, ch. 97-103; s. 18, ch. 2000-354.

550.1625 Dogracing; taxes.—

(1) The operation of a dog track and legalized pari-mutuel betting at dog tracks in this state is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state. Pari-mutuel wagering at dog tracks in this state is a substantial business, and taxes derived therefrom constitute part of the tax structures of the state and the counties. The operators of dog tracks should pay their fair share of taxes to the state; at the same time, this substantial business interest should not be taxed to such an extent as to cause a track that is operated under sound business principles to be forced out of business.

(2) A permitholder that conducts a dograce meet under this chapter must pay the daily license fee, the admission tax, the breaks tax, and the tax on pari-mutuel handle as provided in s. 550.0951 and is subject to all penalties and sanctions provided in s. 550.0951(6).

History.—s. 21, ch. 92-348; s. 54, ch. 2000-154.

550.1645 Escheat to state of abandoned interest in or contribution to pari-mutuel pools.—

(1) It is the public policy of the state, while protecting the interest of the owners, to possess all unclaimed and abandoned interest in or contribution to certain pari-mutuel pools conducted in this state under this chapter, for the benefit of all the people of the state; and this law shall be liberally construed to accomplish such purpose.

(2) Except as otherwise provided in this chapter, all money or other property represented by any unclaimed, uncashed, or abandoned pari-mutuel ticket which has remained in the custody of or under the control of any licensee

authorized to conduct pari-mutuel pools in this state for a period of 1 year after the date the pari-mutuel ticket was issued, if the rightful owner or owners thereof have made no claim or demand for such money or other property within the aforesaid period of time, is hereby declared to have escheated to or to escheat to, and to have become the property of, the state.

(3) All money or other property that has escheated to and become the property of the state as provided herein, and which is held by such licensee authorized to conduct pari-mutuel pools in this state, shall be paid by such licensee to the Chief Financial Officer annually within 60 days after the close of the race meeting of the licensee. Such moneys so paid by the licensee to the Chief Financial Officer shall be deposited in the State School Fund to be used for the support and maintenance of public free schools as required by s. 6, Art. IX of the State Constitution.

History.—s. 22, ch. 92-348; s. 11, ch. 2000-354; s. 657, ch. 2003-261.

550.1646 Credit for unclaimed property remitted to state.— All money or other property represented by any unclaimed, uncashed, or abandoned pari-mutuel ticket that has remained in the custody of or under the control of any permitholder authorized to conduct jai alai pari-mutuel pools in this state for a period of 1 year after the date the pari-mutuel ticket was issued, if the rightful owners thereof have made no claim or demand for such money or other property within that period of time, shall, with respect to live games conducted by the permitholder, be remitted to the state pursuant to s. 550.1645; however, such permitholder shall be entitled to a credit in each state fiscal year in an amount equal to 25 percent of the actual amount remitted in the prior state fiscal year which may be applied against any taxes imposed under this chapter. Funds equal to such credit from any live jai alai games shall be paid by the permitholder to the National Association of Jai Alai Frontons, to be used for the general promotion of the sport of jai alai in the state, including professional tournaments and amateur jai alai youth programs. These youth programs shall focus on benefiting children in after-school and anti-drug programs with special attention to inner-city areas.

History.—s. 45, ch. 2000-354.

550.1647 Greyhound permitholders; unclaimed tickets; breaks.— All money or other property represented by any unclaimed, uncashed, or abandoned pari-mutuel ticket which has remained in the custody of or under the control of any permitholder authorized to conduct greyhound racing pari-mutuel pools in this state for a period of 1 year after the date the pari-mutuel ticket was issued, if the rightful owner or owners thereof have made no claim or demand for such money or other property within that period of time, shall, with respect to live races conducted by the permitholder, be remitted to the state pursuant to s. 550.1645; however, such permitholder shall be entitled to a credit in each state fiscal year in an amount equal to the actual amount remitted in the prior state fiscal year which may be applied against any taxes imposed pursuant to this chapter. In addition, each permitholder shall pay, from any source, including the proceeds from performances conducted pursuant to s. 550.0351, an amount not less than 10 percent of the amount of the credit provided by this section to any bona fide organization that promotes or encourages the adoption of greyhounds. As used in this chapter, the term "bona fide organization that promotes or encourages the adoption of greyhounds" means any organization that provides evidence of compliance with chapter 496 and possesses a valid exemption from federal taxation issued by the Internal Revenue Service. Such bona fide organization, as a condition of adoption, must provide sterilization of greyhounds by a licensed veterinarian before relinquishing custody of the greyhound to the adopter. The fee for sterilization may be included in the cost of adoption.

History.—s. 12, ch. 2000-354; s. 2, ch. 2004-23.

550.1648 Greyhound adoptions.—

(1) Each dogracing permitholder operating a dogracing facility in this state shall provide for a greyhound adoption booth to be located at the facility. The greyhound adoption booth must be operated on weekends by personnel or volunteers from a bona fide organization that promotes or encourages the adoption of greyhounds pursuant to s. 550.1647. As used in this section, the term "weekend" includes the hours during which live greyhound racing is conducted on Friday, Saturday, or Sunday. Information pamphlets and application forms shall be provided

to the public upon request. In addition, the kennel operator or owner shall notify the permitholder that a greyhound is available for adoption and the permitholder shall provide information concerning the adoption of a greyhound in each race program and shall post adoption information at conspicuous locations throughout the dogracing facility. Any greyhound that is participating in a race and that will be available for future adoption must be noted in the race program. The permitholder shall allow greyhounds to be walked through the track facility to publicize the greyhound adoption program.

(2) In addition to the charity days authorized under s. 550.0351, a greyhound permitholder may fund the greyhound adoption program by holding a charity racing day designated as "Greyhound Adopt-A-Pet Day." All profits derived from the operation of the charity day must be placed into a fund used to support activities at the racing facility which promote the adoption of greyhounds. The division may adopt rules for administering the fund. Proceeds from the charity day authorized in this subsection may not be used as a source of funds for the purposes set forth in s. 550.1647.

(3)(a) Upon a violation of this section by a permitholder or licensee, the division may impose a penalty as provided in s. 550.0251(10) and require the permitholder to take corrective action.

(b) A penalty imposed under s. 550.0251(10) does not exclude a prosecution for cruelty to animals or for any other criminal act.

History.—s. 1, ch. 2004-23.

550.175 Petition for election to revoke permit.— Upon petition of 20 percent of the qualified electors of any county wherein any racing has been licensed and conducted under this chapter, the county commissioners of such county shall provide for the submission to the electors of such county at the then next succeeding general election the question of whether any permit or permits theretofore granted shall be continued or revoked, and if a majority of the electors voting on such question in such election vote to cancel or recall the permit theretofore given, the division may not thereafter grant any license on the permit so recalled. Every signature upon every recall petition must be signed in the presence of the clerk of the board of county commissioners at the office of the clerk of the circuit court of the county, and the petitioner must present at the time of such signing her or his registration receipt showing the petitioner's qualification as an elector of the county at the time of the signing of the petition. Not more than one permit may be included in any one petition; and, in all elections in which the recall of more than one permit is voted on, the voters shall be given an opportunity to vote for or against the recall of each permit separately. Nothing in this chapter shall be construed to prevent the holding of later referendum or recall elections.

History.—s. 23, ch. 92-348; s. 787, ch. 97-103.

550.1815 Certain persons prohibited from holding racing or jai alai permits; suspension and revocation.—

(1) A corporation, general or limited partnership, sole proprietorship, business trust, joint venture, or unincorporated association, or other business entity may not hold any horseracing or dogracing permit or jai alai fronton permit in this state if any one of the persons or entities specified in paragraph (a) has been determined by the division not to be of good moral character or has been convicted of any offense specified in paragraph (b).

(a)1. The permitholder;

2. An employee of the permitholder;

3. The sole proprietor of the permitholder;

4. A corporate officer or director of the permitholder;

5. A general partner of the permitholder;

6. A trustee of the permitholder;

7. A member of an unincorporated association permitholder;

8. A joint venturer of the permitholder;

9. The owner of more than 5 percent of any equity interest in the permitholder, whether as a common shareholder, general or limited partner, voting trustee, or trust beneficiary; or

10. An owner of any interest in the permit or permitholder, including any immediate family member of the owner, or holder of any debt, mortgage, contract, or concession from the permitholder, who by virtue thereof is able to control the business of the permitholder.

(b)1. A felony in this state;

2. Any felony in any other state which would be a felony if committed in this state under the laws of this state;

3. Any felony under the laws of the United States;

4. A felony under the laws of another state if related to gambling which would be a felony under the laws of this state if committed in this state; or

5. Bookmaking as defined in s. 849.25.

(2)(a) If the applicant for permit as specified under subsection (1) or a permitholder as specified in paragraph (1)(a) has received a full pardon or a restoration of civil rights with respect to the conviction specified in paragraph (1)(b), the conviction does not constitute an absolute bar to the issuance or renewal of a permit or a ground for the revocation or suspension of a permit.

(b) A corporation that has been convicted of a felony is entitled to apply for and receive a restoration of its civil rights in the same manner and on the same grounds as an individual.

(3) After notice and hearing, the division shall refuse to issue or renew or shall suspend, as appropriate, any permit found in violation of subsection (1). The order shall become effective 120 days after service of the order upon the permitholder and shall be amended to constitute a final order of revocation unless the permitholder has, within that period of time, either caused the divestiture, or agreed with the convicted person upon a complete immediate divestiture, of her or his holding, or has petitioned the circuit court as provided in subsection (4) or, in the case of corporate officers or directors of the holder or employees of the holder, has terminated the relationship between the permitholder and those persons mentioned. The division may, by order, extend the 120-day period for divestiture, upon good cause shown, to avoid interruption of any jai alai or race meeting or to otherwise effectuate this section. If no action has been taken by the permitholder within the 120-day period following the issuance of the order of suspension, the division shall, without further notice or hearing, enter a final order of revocation of the permit. When any permitholder or sole proprietor of a permitholder is convicted of an offense specified in paragraph (1)(b), the department may approve a transfer of the permit to a qualified applicant, upon a finding that revocation of the permit would impair the state's revenue from the operation of the permit or otherwise be detrimental to the interests of the state in the regulation of the industry of pari-mutuel wagering. In such approval, no public referendum is required, notwithstanding any other provision of law. A petition for transfer after conviction must be filed with the department within 30 days after service upon the permitholder of the final order of revocation. The timely filing of such a petition automatically stays any revocation order until further order of the department.

(4) The circuit courts have jurisdiction to decide a petition brought by a holder of a pari-mutuel permit that shows that its permit is in jeopardy of suspension or revocation under subsection (3) and that it is unable to agree upon the terms of divestiture of interest with the person specified in subparagraphs (1)(a)3.-9. who has been convicted of an offense specified in paragraph (1)(b). The court shall determine the reasonable value of the interest of the convicted person and order a divestiture upon such terms and conditions as it finds just. In determining the value of the interest of the convicted person, the court may consider, among other matters, the value of the assets of the permitholder, its good will and value as a going concern, recent and expected future earnings, and other criteria usual and customary in the sale of like enterprises.

(5) The division shall make such rules for the photographing, fingerprinting, and obtaining of personal data of individuals described in paragraph (1)(a) and the obtaining of such data regarding the business entities described in paragraph (1)(a) as is necessary to effectuate the provisions of this section.

History.—s. 24, ch. 92-348; s. 29, ch. 97-98; s. 788, ch. 97-103.

550.235 Conniving to prearrange result of race or jai alai game; using medication or drugs on horse or dog; penalty.—

(1) Any person who influences, or has any understanding or connivance with, any owner, jockey, groom, or other person associated with or interested in any stable, kennel, horserace, dograce, or jai alai game, in which any horse, dog, or jai alai player participates, to prearrange or predetermine the results of any such race or game, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who attempts to affect the outcome of a horserace or dograce through administration of medication or drugs to a race animal as prohibited by law; who administers any medication or drugs prohibited by law to a race animal for the purpose of affecting the outcome of a horserace or dograce; or who conspires to administer or to attempt to administer such medication or drugs is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 25, ch. 92-348; s. 30, ch. 97-98.

550.24055 Use of controlled substances or alcohol prohibited; testing of certain occupational licensees; penalty; evidence of test or action taken and admissibility for criminal prosecution limited.—

(1) The use of a controlled substance as defined in chapter 893 or of alcohol by any occupational licensees officiating at or participating in a race or jai alai game is prohibited.

(2) The occupational licensees, by applying for and holding such licenses, are deemed to have given their consents to submit to an approved chemical test of their breath for the purpose of determining the alcoholic content of their blood and to a urine or blood test for the purpose of detecting the presence of controlled substances. Such tests shall only be conducted upon reasonable cause that a violation has occurred as shall be determined solely by the stewards at a horseracing meeting or the judges or board of judges at a dogtrack or jai alai meet. The failure to submit to such test may result in a suspension of the person's occupational license for a period of 10 days or until this section has been complied with, whichever is longer.

(a) If there was at the time of the test 0.05 percent or less by weight of alcohol in the person's blood, the person is presumed not to have been under the influence of alcoholic beverages to the extent that the person's normal faculties were impaired, and no action of any sort may be taken by the stewards, judges, or board of judges or the division.

(b) If there was at the time of the test an excess of 0.05 percent but less than 0.08 percent by weight of alcohol in the person's blood, that fact does not give rise to any presumption that the person was or was not under the influence of alcoholic beverages to the extent that the person's faculties were impaired, but the stewards, judges, or board of judges may consider that fact in determining whether or not the person will be allowed to officiate or participate in any given race or jai alai game.

(c) If there was at the time of the test 0.08 percent or more by weight of alcohol in the person's blood, that fact is prima facie evidence that the person was under the influence of alcoholic beverages to the extent that the person's normal faculties were impaired, and the stewards or judges may take action as set forth in this section, but the person may not officiate at or participate in any race or jai alai game on the day of such test.

All tests relating to alcohol must be performed in a manner substantially similar, or identical, to the provisions of s. 316.1934 and rules adopted pursuant to that section. Following a test of the urine or blood to determine the presence of a controlled substance as defined in chapter 893, if a controlled substance is found to exist, the stewards, judges, or board of judges may take such action as is permitted in this section.

(3) A violation of subsection (2) is subject to the following penalties:

(a) For the first violation, the stewards, judges, or board of judges may suspend a licensee for up to 10 days or in the alternative may impose a civil fine of up to $500 in lieu of a suspension.

(b) For a second violation within 1 year after the first violation the stewards, judges, or board of judges may suspend a licensee for up to 30 days and in addition to or in lieu of suspension may impose a civil fine of up to $2,000.

In lieu of or in addition to the foregoing penalties, the stewards, judges, or board of judges may require the licensee to participate in a drug or alcohol rehabilitation program and to be retested.

(c) If the second violation occurred within 1 year after the first violation, then upon the finding of a third violation of this section within 1 year after the second violation, the stewards, judges, or board of judges may suspend the licensee for up to 120 days; and the stewards, judges, or board of judges shall forward the results of the tests under paragraphs (a) and (b) and this violation to the division. In addition to the action taken by the stewards, judges, or board of judges, the division, after a hearing, may deny, suspend, or revoke the occupational license of the licensee and may impose a civil penalty of up to $5,000 in addition to, or in lieu of, a suspension or revocation, it being the intent of the Legislature that the division shall have no authority over the enforcement of this section until a licensee has committed the third violation within 2 years after the first violation.

(4) The provisions of s. 120.80(4)(a) apply to all actions taken by the stewards, judges, or board of judges pursuant to this section without regard to the limitation contained therein.

(5) This section does not apply to the possession and use of controlled or chemical substances that are prescribed as part of the care and treatment of a disease or injury by a practitioner licensed under chapter 458, chapter 459, part I of chapter 464, or chapter 466.

(6) Evidence of any test or actions taken by the stewards, judges, or board of judges or the division under this section is inadmissible for any purpose in any court for criminal prosecution, it being the intent of the Legislature to provide a method and means by which the health, safety, and welfare of those officiating at or participating in a race meet or a jai alai game are sufficiently protected. However, this subsection does not prohibit any person so authorized from pursuing an independent investigation as a result of a ruling made by the stewards, judges, or board of judges, or the division.

History.—s. 26, ch. 92-348; s. 26, ch. 96-330; s. 249, ch. 96-410; s. 138, ch. 2000-318; s. 24, ch. 2000-354.

550.2415 Racing of animals under certain conditions prohibited; penalties; exceptions.—

(1)(a) The racing of an animal that has been impermissibly medicated or determined to have a prohibited substance present is prohibited. It is a violation of this section for a person to impermissibly medicate an animal or for an animal to have a prohibited substance present resulting in a positive test for such medications or substances based on samples taken from the animal before or immediately after the racing of that animal. Test results and the identities of the animals being tested and of their trainers and owners of record are confidential and exempt from s. 119.07(1) and from s. 24(a), Art. I of the State Constitution for 10 days after testing of all samples collected on a particular day has been completed and any positive test results derived from such samples have been reported to the director of the division or administrative action has been commenced.

(b) It is a violation of this section for a race-day specimen to contain a level of a naturally occurring substance which exceeds normal physiological concentrations. The division may solicit input from the Department of Agriculture and Consumer Services and adopt rules that specify normal physiological concentrations of naturally occurring substances in the natural untreated animal and rules that specify acceptable levels of environmental contaminants and trace levels of substances in test samples.

(c) The finding of a prohibited substance in a race-day specimen constitutes prima facie evidence that the substance was administered and was carried in the body of the animal while participating in the race.

(2) Administrative action may be taken by the division against an occupational licensee responsible pursuant to rule of the division for the condition of an animal that has been impermissibly medicated or drugged in violation of this section.

(3)(a) Upon the finding of a violation of this section, the division may revoke or suspend the license or permit of the violator or deny a license or permit to the violator; impose a fine against the violator in an amount not exceeding the purse or sweepstakes earned by the animal in the race at issue or $10,000, whichever is greater; require the full or partial return of the purse, sweepstakes, and trophy of the race at issue; or impose against the violator any combination of such penalties. The finding of a violation of this section does not prohibit a prosecution for criminal acts committed.

(b) The division, notwithstanding chapter 120, may summarily suspend the license of an occupational licensee responsible under this section or division rule for the condition of a race animal if the division laboratory reports the presence of a prohibited substance in the animal or its blood, urine, saliva, or any other bodily fluid, either before a race in which the animal is entered or after a race the animal has run.

(c) If an occupational licensee is summarily suspended under this section, the division shall offer the licensee a prompt postsuspension hearing within 72 hours, at which the division shall produce the laboratory report and documentation which, on its face, establishes the responsibility of the occupational licensee. Upon production of the documentation, the occupational licensee has the burden of proving his or her lack of responsibility.

(d) Any proceeding for administrative action against a licensee or permittee, other than a proceeding under paragraph (c), shall be conducted in compliance with chapter 120.

(4) A prosecution pursuant to this section for a violation of this section must begin within 90 days after the violation was committed. Service of an administrative complaint marks the commencement of administrative action.

(5) The division shall implement a split-sample procedure for testing animals under this section.

(a) The division shall notify the owner or trainer, the stewards, and the appropriate horsemen's association of all drug test results. If a drug test result is positive, and upon request by the affected trainer or owner of the animal from which the sample was obtained, the division shall send the split sample to an approved independent laboratory for analysis. The division shall establish standards and rules for uniform enforcement and shall maintain a list of at least five approved independent laboratories for an owner or trainer to select from if a drug test result is positive.

(b) If the division laboratory's findings are not confirmed by the independent laboratory, no further administrative or disciplinary action under this section may be pursued.

(c) If the independent laboratory confirms the division laboratory's positive result, the division may commence administrative proceedings as prescribed in this chapter and consistent with chapter 120. For purposes of this subsection, the department shall in good faith attempt to obtain a sufficient quantity of the test fluid to allow both a primary test and a secondary test to be made.

(d) For the testing of a racing greyhound, if there is an insufficient quantity of the secondary (split) sample for confirmation of the division laboratory's positive result, the division may commence administrative proceedings as prescribed in this chapter and consistent with chapter 120.

(e) For the testing of a racehorse, if there is an insufficient quantity of the secondary (split) sample for confirmation of the division laboratory's positive result, the division may not take further action on the matter against the owner or trainer, and any resulting license suspension must be immediately lifted.

(f) The division shall require its laboratory and the independent laboratories to annually participate in an externally administered quality assurance program designed to assess testing proficiency in the detection and appropriate quantification of medications, drugs, and naturally occurring substances that may be administered to racing animals. The administrator of the quality assurance program shall report its results and findings to the division and the Department of Agriculture and Consumer Services.

(6)(a) It is the intent of the Legislature that animals that participate in races in this state on which pari-mutuel wagering is conducted and animals that are bred and trained in this state for racing be treated humanely, both on and off racetracks, throughout the lives of the animals.

(b) The division shall, by rule, establish the procedures for euthanizing greyhounds. However, a greyhound may not be put to death by any means other than by lethal injection of the drug sodium pentobarbital. A greyhound may not be removed from this state for the purpose of being destroyed.

(c) It is a violation of this chapter for an occupational licensee to train a greyhound using live or dead animals. A greyhound may not be taken from this state for the purpose of being trained through the use of live or dead animals.

(d) Any act committed by any licensee that would constitute cruelty to animals as defined in s. 828.02 involving any animal constitutes a violation of this chapter. Imposition of any penalty by the division for violation of this chapter or any rule adopted by the division pursuant to this chapter shall not prohibit a criminal prosecution for cruelty to animals.

(e) The division may inspect any area at a pari-mutuel facility where racing animals are raced, trained, housed, or maintained, including any areas where food, medications, or other supplies are kept, to ensure the humane treatment of racing animals and compliance with this chapter and the rules of the division.

(7)(a) In order to protect the safety and welfare of racing animals and the integrity of the races in which the animals participate, the division shall adopt rules establishing the conditions of use and maximum concentrations of medications, drugs, and naturally occurring substances identified in the Controlled Therapeutic Medication Schedule, Version 2.1, revised April 17, 2014, adopted by the Association of Racing Commissioners International, Inc. Controlled therapeutic medications include only the specific medications and concentrations allowed in biological samples which have been approved by the Association of Racing Commissioners International, Inc., as controlled therapeutic medications.

(b) The division rules must designate the appropriate biological specimens by which the administration of medications, drugs, and naturally occurring substances is monitored and must determine the testing methodologies, including measurement uncertainties, for screening such specimens to confirm the presence of medications, drugs, and naturally occurring substances.

(c) The division rules must include a classification system for drugs and substances and a corresponding penalty schedule for violations which incorporates the Uniform Classification Guidelines for Foreign Substances, Version 8.0, revised December 2014, by the Association of Racing Commissioners International, Inc. The division shall adopt laboratory screening limits approved by the Association of Racing Commissioners International, Inc., for drugs and medications that are not included as controlled therapeutic medications, the presence of which in a sample may result in a violation of this section.

(d) The division rules must include conditions for the use of furosemide to treat exercise-induced pulmonary hemorrhage.

(e) The division may solicit input from the Department of Agriculture and Consumer Services in adopting the rules required under this subsection. Such rules must be adopted before January 1, 2016.

(f) This section does not prohibit the use of vitamins, minerals, or naturally occurring substances so long as none exceeds the normal physiological concentration in a race-day specimen.

(8) Furosemide is the only medication that may be administered within 24 hours before the officially scheduled post time of a race, but it may not be administered within 4 hours before the officially scheduled post time of a race.

(9)(a) The division may conduct a postmortem examination of any animal that is injured at a permitted racetrack while in training or in competition and that subsequently expires or is destroyed. The division may conduct a postmortem examination of any animal that expires while housed at a permitted racetrack, association compound, or licensed kennel or farm. Trainers and owners shall be requested to comply with this paragraph as a condition of licensure.

(b) The division may take possession of the animal upon death for postmortem examination. The division may submit blood, urine, other bodily fluid specimens, or other tissue specimens collected during a postmortem examination for testing by the division laboratory or its designee. Upon completion of the postmortem examination, the carcass must be returned to the owner or disposed of at the owner's option.

(10) The presence of a prohibited substance in an animal, found by the division laboratory in a bodily fluid specimen collected after the race or during the postmortem examination of the animal, which breaks down during a race constitutes a violation of this section.

(11) The cost of postmortem examinations, testing, and disposal must be borne by the division.

(12) The division shall adopt rules to implement this section.

(13) The division may implement by rule medication levels for racing greyhounds recommended by the University of Florida College of Veterinary Medicine developed pursuant to an agreement between the Division of Pari-mutuel Wagering and the University of Florida College of Veterinary Medicine. The University of Florida College of Veterinary Medicine may provide written notification to the division that it has completed research or review on a

particular drug pursuant to the agreement and when the College of Veterinary Medicine has completed a final report of its findings, conclusions, and recommendations to the division.

History.—s. 27, ch. 92-348; s. 28, ch. 93-120; s. 5, ch. 93-123; s. 1, ch. 95-205; s. 9, ch. 96-364; s. 344, ch. 96-406; s. 1174, ch. 97-103; s. 2, ch. 2002-51; s. 5, ch. 2009-69; s. 11, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 1, ch. 2015-88.

550.255 Penalty for conducting unauthorized race meeting.— Every race meeting at which racing is conducted for any stake, purse, prize, or premium, except as allowed by this chapter, is prohibited and declared to be a public nuisance, and every person acting or aiding therein or conducting, or attempting to conduct, racing in this state not in conformity with this chapter is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 29, ch. 92-348.

550.2614 Distribution of certain funds to a horsemen's association.—

(1) Each licensee that holds a permit for thoroughbred horse racing in this state shall deduct from the purses required by s. 550.2625, an amount of money equal to 1 percent of the total purse pool and shall pay that amount to a horsemen's association representing the majority of the thoroughbred racehorse owners and trainers for its use in accordance with the stated goals of its articles of association filed with the Department of State.

(2) The funds are payable to the horsemen's association only upon presentation of a sworn statement by the officers of the association that the horsemen's association represents a majority of the owners and trainers of thoroughbred horses stabled in the state.

(3) Upon receiving a state license, each thoroughbred owner and trainer shall receive automatic membership in the horsemen's association as defined in subsection (1) and be counted on the membership rolls of that association, unless, within 30 calendar days after receipt of license from the state, the individual declines membership in writing, to the association as defined in subsection (1).

(4) The division shall adopt rules to facilitate the orderly transfer of funds in accordance with this section. The division shall also monitor the membership rolls of the horsemen's association to ensure that complete, accurate, and timely listings are maintained for the purposes specified in this section.

History.—s. 30, ch. 92-348; s. 9, ch. 95-390; s. 31, ch. 97-98.

550.26165 Breeders' awards.—

(1) The purpose of this section is to encourage the agricultural activity of breeding and training racehorses in this state. Moneys dedicated in this chapter for use as breeders' awards and stallion awards are to be used for awards to breeders of registered Florida-bred horses winning horseraces and for similar awards to the owners of stallions who sired Florida-bred horses winning stakes races, if the stallions are registered as Florida stallions standing in this state. Such awards shall be given at a uniform rate to all winners of the awards, shall not be greater than 20 percent of the announced gross purse, and shall not be less than 15 percent of the announced gross purse if funds are available. In addition, no less than 17 percent nor more than 40 percent, as determined by the Florida Thoroughbred Breeders' Association, of the moneys dedicated in this chapter for use as breeders' awards and stallion awards for thoroughbreds shall be returned pro rata to the permitholders that generated the moneys for special racing awards to be distributed by the permitholders to owners of thoroughbred horses participating in prescribed thoroughbred stakes races, nonstakes races, or both, all in accordance with a written agreement establishing the rate, procedure, and eligibility requirements for such awards entered into by the permitholder, the Florida Thoroughbred Breeders' Association, and the Florida Horsemen's Benevolent and Protective Association, Inc., except that the plan for the distribution by any permitholder located in the area described in s. 550.615(9) shall be agreed upon by that permitholder, the Florida Thoroughbred Breeders' Association, and the association representing a majority of the thoroughbred racehorse owners and trainers at that location. Awards for thoroughbred races are to be paid through the Florida Thoroughbred Breeders' Association, and awards for standardbred races are to be paid through the Florida Standardbred Breeders and Owners Association. Among other sources specified in this chapter, moneys for

thoroughbred breeders' awards will come from the 0.955 percent of handle for thoroughbred races conducted, received, broadcast, or simulcast under this chapter as provided in s. 550.2625(3). The moneys for quarter horse and harness breeders' awards will come from the breaks and uncashed tickets on live quarter horse and harness racing performances and 1 percent of handle on intertrack wagering. The funds for these breeders' awards shall be paid to the respective breeders' associations by the permitholders conducting the races.

(2) Each breeders' association shall develop a plan each year that will provide for a uniform rate of payment and procedure for breeders' and stallion awards. The plan for payment of breeders' and stallion awards may set a cap on winnings and may limit, exclude, or defer payments on certain classes of races, such as the Florida stallion stakes races, in order to assure that there are adequate revenues to meet the proposed uniform rate. Priority shall be placed on imposing such restrictions in lieu of allowing the uniform rate for breeders' and stallion awards to be less than 15 percent of the total purse payment. The plan must provide for the maximum possible payments within revenues.

(3) Breeders' associations shall submit their plans to the division at least 60 days before the beginning of the payment year. The payment year may be a calendar year or any 12-month period, but once established, the yearly base may not be changed except for compelling reasons. Once a plan is approved, the division may not allow the plan to be amended during the year, except for the most compelling reasons.

(4) It is not intended that the funds in the breeders' association special payment account be allowed to grow excessively, although there is no intent to require that payment each year equal receipts each year. The rate each year shall be adjusted to compensate for changing revenues from year to year.

(5)(a) The awards programs in this chapter, which are intended to encourage thoroughbred breeding and training operations to locate in this state, must be responsive to rapidly changing incentive programs in other states. To attract such operations, it is appropriate to provide greater flexibility to thoroughbred industry participants in this state so that they may design competitive awards programs.

(b) Notwithstanding any other provision of law to the contrary, the Florida Thoroughbred Breeders' Association, as part of its annual plan, may:

1. Pay breeders' awards on horses finishing in first, second, or third place in thoroughbred horse races; pay breeders' awards that are greater than 20 percent and less than 15 percent of the announced gross purse; and vary the rates for breeders' awards, based upon the place of finish, class of race, state or country in which the race took place, and the state in which the stallion siring the horse was standing when the horse was conceived;

2. Pay stallion awards on horses finishing in first, second, or third place in thoroughbred horse races; pay stallion awards that are greater than 20 percent and less than 15 percent of the announced gross purse; reduce or eliminate stallion awards to enhance breeders' awards or awards under subparagraph 3.; and vary the rates for stallion awards, based upon the place of finish, class of race, and state or country in which the race took place; and

3. Pay awards from the funds dedicated for breeders' awards and stallion awards to owners of registered Florida-bred horses finishing in first, second, or third place in thoroughbred horse races in this state, without regard to any awards paid pursuant to s. 550.2625(6).

(c) Breeders' awards or stallion awards under this chapter may not be paid on thoroughbred horse races taking place in other states or countries unless agreed to in writing by all thoroughbred permitholders in this state, the Florida Thoroughbred Breeders' Association, and the Florida Horsemen's Benevolent and Protective Association, Inc.

History.—s. 31, ch. 92-348; s. 25, ch. 2000-354; s. 1, ch. 2003-295; s. 12, ch. 2009-170; ss. 4, 5, ch. 2010-29.

550.2625 Horseracing; minimum purse requirement, Florida breeders' and owners' awards.—

(1) The purse structure and the availability of breeder awards are important factors in attracting the entry of well-bred horses in racing meets in this state which in turn helps to produce maximum racing revenues for the state and the counties.

(2) Each permitholder conducting a horserace meet is required to pay from the takeout withheld on pari-mutuel pools a sum for purses in accordance with the type of race performed.

(a) A permitholder conducting a thoroughbred horse race meet under this chapter must pay from the takeout withheld a sum not less than 7.75 percent of all contributions to pari-mutuel pools conducted during the race meet as purses. In addition to the 7.75 percent minimum purse payment, permitholders conducting live thoroughbred performances shall be required to pay as additional purses .625 percent of live handle for performances conducted during the period beginning on January 3 and ending March 16; .225 percent for performances conducted during the period beginning March 17 and ending May 22; and .85 percent for performances conducted during the period beginning May 23 and ending January 2. Except that any thoroughbred permitholder whose total handle on live performances during the 1991-1992 state fiscal year was not greater than $34 million is not subject to this additional purse payment. A permitholder authorized to conduct thoroughbred racing may withhold from the handle an additional amount equal to 1 percent on exotic wagering for use as owners' awards, and may withhold from the handle an amount equal to 2 percent on exotic wagering for use as overnight purses. No permitholder may withhold in excess of 20 percent from the handle without withholding the amounts set forth in this subsection.

(b)1. A permitholder conducting a harness horse race meet under this chapter must pay to the purse pool from the takeout withheld a purse requirement that totals an amount not less than 8.25 percent of all contributions to pari-mutuel pools conducted during the race meet. An amount not less than 7.75 percent of the total handle shall be paid from this purse pool as purses.

2. An amount not to exceed 0.5 percent of the total handle on all harness horse races that are subject to the purse requirement of subparagraph 1., must be available for use to provide medical, dental, surgical, life, funeral, or disability insurance benefits for occupational licensees who work at tracks in this state at which harness horse races are conducted. Such insurance benefits must be paid from the purse pool specified in subparagraph 1. An annual plan for payment of insurance benefits from the purse pool, including qualifications for eligibility, must be submitted by the Florida Standardbred Breeders and Owners Association for approval to the division. An annual report of the implemented plan shall be submitted to the division. All records of the Florida Standardbred Breeders and Owners Association concerning the administration of the plan must be available for audit at the discretion of the division to determine that the plan has been implemented and administered as authorized. If the division finds that the Florida Standardbred Breeders and Owners Association has not complied with the provisions of this section, the division may order the association to cease and desist from administering the plan and shall appoint the division as temporary administrator of the plan until the division reestablishes administration of the plan with the association.

(c) A permitholder conducting a quarter horse race meet under this chapter shall pay from the takeout withheld a sum not less than 6 percent of all contributions to pari-mutuel pools conducted during the race meet as purses.

(d) The division shall adopt reasonable rules to ensure the timely and accurate payment of all amounts withheld by horserace permitholders regarding the distribution of purses, owners' awards, and other amounts collected for payment to owners and breeders. Each permitholder that fails to pay out all moneys collected for payment to owners and breeders shall, within 10 days after the end of the meet during which the permitholder underpaid purses, deposit an amount equal to the underpayment into a separate interest-bearing account to be distributed to owners and breeders in accordance with division rules.

(e) An amount equal to 8.5 percent of the purse account generated through intertrack wagering and interstate simulcasting will be used for Florida Owners' Awards as set forth in subsection (3). Any thoroughbred permitholder with an average blended takeout which does not exceed 20 percent and with an average daily purse distribution excluding sponsorship, entry fees, and nominations exceeding $225,000 is exempt from the provisions of this paragraph.

(3) Each horseracing permitholder conducting any thoroughbred race under this chapter, including any intertrack race taken pursuant to ss. 550.615-550.6305 or any interstate simulcast taken pursuant to s. 550.3551(3) shall pay a sum equal to 0.955 percent on all pari-mutuel pools conducted during any such race for the payment of breeders', stallion, or special racing awards as authorized in this chapter. This subsection also applies to all Breeder's Cup races conducted outside this state taken pursuant to s. 550.3551(3). On any race originating live in this state which is broadcast out-of-state to any location at which wagers are accepted pursuant to s. 550.3551(2), the host track is

required to pay 3.475 percent of the gross revenue derived from such out-of-state broadcasts as breeders', stallion, or special racing awards. The Florida Thoroughbred Breeders' Association is authorized to receive these payments from the permitholders and make payments of awards earned. The Florida Thoroughbred Breeders' Association has the right to withhold up to 10 percent of the permitholder's payments under this section as a fee for administering the payments of awards and for general promotion of the industry. The permitholder shall remit these payments to the Florida Thoroughbred Breeders' Association by the 5th day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the division as prescribed by the division. With the exception of the 10-percent fee, the moneys paid by the permitholders shall be maintained in a separate, interest-bearing account, and such payments together with any interest earned shall be used exclusively for the payment of breeders', stallion, or special racing awards in accordance with the following provisions:

(a) The breeder of each Florida-bred thoroughbred horse winning a thoroughbred horse race is entitled to an award of up to, but not exceeding, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(b) The owner or owners of the sire of a Florida-bred thoroughbred horse that wins a stakes race is entitled to a stallion award of up to, but not exceeding, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(c) The owners of thoroughbred horses participating in thoroughbred stakes races, nonstakes races, or both may receive a special racing award in accordance with the agreement established pursuant to s. 550.26165(1).

(d) In order for a breeder of a Florida-bred thoroughbred horse to be eligible to receive a breeder's award, the horse must have been registered as a Florida-bred horse with the Florida Thoroughbred Breeders' Association, and the Jockey Club certificate for the horse must show that it has been duly registered as a Florida-bred horse as evidenced by the seal and proper serial number of the Florida Thoroughbred Breeders' Association registry. The Florida Thoroughbred Breeders' Association shall be permitted to charge the registrant a reasonable fee for this verification and registration.

(e) In order for an owner of the sire of a thoroughbred horse winning a stakes race to be eligible to receive a stallion award, the stallion must have been registered with the Florida Thoroughbred Breeders' Association, and the breeding of the registered Florida-bred horse must have occurred in this state. The stallion must be standing permanently in this state during the period of time between February 1 and June 15 of each year or, if the stallion is dead, must have stood permanently in this state for a period of not less than 1 year immediately prior to its death. The removal of a stallion from this state during the period of time between February 1 and June 15 of any year for any reason, other than exclusively for prescribed medical treatment, as approved by the Florida Thoroughbred Breeders' Association, renders the owner or owners of the stallion ineligible to receive a stallion award under any circumstances for offspring sired prior to removal; however, if a removed stallion is returned to this state, all offspring sired subsequent to the return make the owner or owners of the stallion eligible for the stallion award but only for those offspring sired subsequent to such return to this state. The Florida Thoroughbred Breeders' Association shall maintain complete records showing the date the stallion arrived in this state for the first time, whether or not the stallion remained in the state permanently, the location of the stallion, and whether the stallion is still standing in this state and complete records showing awards earned, received, and distributed. The association may charge the owner, owners, or breeder a reasonable fee for this service.

(f) A permitholder conducting a thoroughbred horse race under the provisions of this chapter shall, within 30 days after the end of the race meet during which the race is conducted, certify to the Florida Thoroughbred Breeders' Association such information relating to the thoroughbred horses winning a stakes or other horserace at the meet as may be required to determine the eligibility for payment of breeders', stallion, and special racing awards.

(g) The Florida Thoroughbred Breeders' Association shall maintain complete records showing the starters and winners in all races conducted at thoroughbred tracks in this state; shall maintain complete records showing awards earned, received, and distributed; and may charge the owner, owners, or breeder a reasonable fee for this service.

(h) The Florida Thoroughbred Breeders' Association shall annually establish a uniform rate and procedure for the payment of breeders' and stallion awards and shall make breeders' and stallion award payments in strict compliance with the established uniform rate and procedure plan. The plan may set a cap on winnings and may limit, exclude, or defer payments to certain classes of races, such as the Florida stallion stakes races, in order to assure that there are adequate revenues to meet the proposed uniform rate. Such plan must include proposals for the general promotion of the industry. Priority shall be placed upon imposing such restrictions in lieu of allowing the uniform rate to be less than 15 percent of the total purse payment. The uniform rate and procedure plan must be approved by the division before implementation. In the absence of an approved plan and procedure, the authorized rate for breeders' and stallion awards is 15 percent of the announced gross purse for each race. Such purse must include nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race. If the funds in the account for payment of breeders' and stallion awards are not sufficient to meet all earned breeders' and stallion awards, those breeders and stallion owners not receiving payments have first call on any subsequent receipts in that or any subsequent year.

(i) The Florida Thoroughbred Breeders' Association shall keep accurate records showing receipts and disbursements of such payments and shall annually file a full and complete report to the division showing such receipts and disbursements and the sums withheld for administration. The division may audit the records and accounts of the Florida Thoroughbred Breeders' Association to determine that payments have been made to eligible breeders and stallion owners in accordance with this section.

(j) If the division finds that the Florida Thoroughbred Breeders' Association has not complied with any provision of this section, the division may order the association to cease and desist from receiving funds and administering funds received under this section. If the division enters such an order, the permitholder shall make the payments authorized in this section to the division for deposit into the Pari-mutuel Wagering Trust Fund; and any funds in the Florida Thoroughbred Breeders' Association account shall be immediately paid to the Division of Pari-mutuel Wagering for deposit to the Pari-mutuel Wagering Trust Fund. The division shall authorize payment from these funds to any breeder or stallion owner entitled to an award that has not been previously paid by the Florida Thoroughbred Breeders' Association in accordance with the applicable rate.

(4) Each permitholder conducting a harness horse race under this chapter shall pay a sum equal to the breaks on all pari-mutuel pools conducted during that race for the payment of breeders' awards, stallion awards, and stallion stakes and for additional expenditures as authorized in this section. The Florida Standardbred Breeders and Owners Association is authorized to receive these payments from the permitholders and make payments as authorized in this subsection. The Florida Standardbred Breeders and Owners Association has the right to withhold up to 10 percent of the permitholder's payments under this section and under s. 550.2633 as a fee for administering these payments. The permitholder shall remit these payments to the Florida Standardbred Breeders and Owners Association by the 5th day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the division as prescribed by the division. With the exception of the 10-percent fee for administering the payments and the use of the moneys authorized by paragraph (j), the moneys paid by the permitholders shall be maintained in a separate, interest-bearing account; and such payments together with any interest earned shall be allocated for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and the general promotion of owning and breeding of, Florida-bred standardbred horses. Payment of breeders' awards and stallion awards shall be made in accordance with the following provisions:

(a) The breeder of each Florida-bred standardbred horse winning a harness horse race is entitled to an award of up to, but not exceeding, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(b) The owner or owners of the sire of a Florida-bred standardbred horse that wins a stakes race is entitled to a stallion award of up to, but not exceeding, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(c) In order for a breeder of a Florida-bred standardbred horse to be eligible to receive a breeder's award, the horse winning the race must have been registered as a Florida-bred horse with the Florida Standardbred Breeders and Owners Association and a registration certificate under seal for the winning horse must show that the winner has been duly registered as a Florida-bred horse as evidenced by the seal and proper serial number of the United States Trotting Association registry. The Florida Standardbred Breeders and Owners Association shall be permitted to charge the registrant a reasonable fee for this verification and registration.

(d) In order for an owner of the sire of a standardbred horse winning a stakes race to be eligible to receive a stallion award, the stallion must have been registered with the Florida Standardbred Breeders and Owners Association, and the breeding of the registered Florida-bred horse must have occurred in this state. The stallion must be standing permanently in this state or, if the stallion is dead, must have stood permanently in this state for a period of not less than 1 year immediately prior to its death. The removal of a stallion from this state for any reason, other than exclusively for prescribed medical treatment, renders the owner or the owners of the stallion ineligible to receive a stallion award under any circumstances for offspring sired prior to removal; however, if a removed stallion is returned to this state, all offspring sired subsequent to the return make the owner or owners of the stallion eligible for the stallion award but only for those offspring sired subsequent to such return to this state. The Florida Standardbred Breeders and Owners Association shall maintain complete records showing the date the stallion arrived in this state for the first time, whether or not the stallion remained in the state permanently, the location of the stallion, and whether the stallion is still standing in this state and complete records showing awards earned, received, and distributed. The association may charge the owner, owners, or breeder a reasonable fee for this service.

(e) A permitholder conducting a harness horse race under this chapter shall, within 30 days after the end of the race meet during which the race is conducted, certify to the Florida Standardbred Breeders and Owners Association such information relating to the horse winning a stakes or other horserace at the meet as may be required to determine the eligibility for payment of breeders' awards and stallion awards.

(f) The Florida Standardbred Breeders and Owners Association shall maintain complete records showing the starters and winners in all races conducted at harness horse racetracks in this state; shall maintain complete records showing awards earned, received, and distributed; and may charge the owner, owners, or breeder a reasonable fee for this service.

(g) The Florida Standardbred Breeders and Owners Association shall annually establish a uniform rate and procedure for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and for the general promotion of owning and breeding of, Florida-bred standardbred horses and shall make award payments and allocations in strict compliance with the established uniform rate and procedure. The plan may set a cap on winnings, and may limit, exclude, or defer payments to certain classes of races, such as the Florida Breeders' stakes races, in order to assure that there are adequate revenues to meet the proposed uniform rate. Priority shall be placed on imposing such restrictions in lieu of allowing the uniform rate allocated to payment of breeder and stallion awards to be less than 10 percent of the total purse payment. The uniform rate and procedure must be approved by the division before implementation. In the absence of an approved plan and procedure, the authorized rate for breeders' and stallion awards is 10 percent of the announced gross purse for each race. Such purse must include nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race. If the funds in the account for payment of breeders' and stallion awards are not sufficient to meet all earned breeders' and stallion awards, those breeders and stallion owners not receiving payments have first call on any subsequent receipts in that or any subsequent year.

(h) The Florida Standardbred Breeders and Owners Association shall keep accurate records showing receipts and disbursements of such payments and shall annually file a full and complete report to the division showing such receipts and disbursements and the sums withheld for administration. The division may audit the records and accounts of the Florida Standardbred Breeders and Owners Association to determine that payments have been made to eligible breeders, stallion owners, and owners of Florida-bred standardbred horses in accordance with this section.

(i) If the division finds that the Florida Standardbred Breeders and Owners Association has not complied with any provision of this section, the division may order the association to cease and desist from receiving funds and administering funds received under this section and under s. 550.2633. If the division enters such an order, the permitholder shall make the payments authorized in this section and s. 550.2633 to the division for deposit into the Pari-mutuel Wagering Trust Fund; and any funds in the Florida Standardbred Breeders and Owners Association account shall be immediately paid to the division for deposit to the Pari-mutuel Wagering Trust Fund. The division shall authorize payment from these funds to any breeder, stallion owner, or owner of a Florida-bred standardbred horse entitled to an award that has not been previously paid by the Florida Standardbred Breeders and Owners Association in accordance with the applicable rate.

(j) The board of directors of the Florida Standardbred Breeders and Owners Association may authorize the release of up to 25 percent of the funds available for breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and for the general promotion of owning and breeding of, Florida-bred standardbred horses to be used for purses for, and promotion of, Florida-bred standardbred horses at race meetings at which there is no pari-mutuel wagering unless, and to the extent that, such release would render the funds available for such awards insufficient to pay the breeders' and stallion awards earned pursuant to the annual plan of the association. Any such funds so released and used for purses are not considered to be an "announced gross purse" as that term is used in paragraphs (a) and (b), and no breeders' or stallion awards, stallion stakes, or owner awards are required to be paid for standardbred horses winning races in meetings at which there is no pari-mutuel wagering. The amount of purses to be paid from funds so released and the meets eligible to receive such funds for purses must be approved by the board of directors of the Florida Standardbred Breeders and Owners Association.

(5)(a) Except as provided in subsections (7) and (8), each permitholder conducting a quarter horse race meet under this chapter shall pay a sum equal to the breaks plus a sum equal to 1 percent of all pari-mutuel pools conducted during that race for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing quarter horses in this state as authorized in this section. The Florida Quarter Horse Breeders and Owners Association is authorized to receive these payments from the permitholders and make payments as authorized in this subsection. The Florida Quarter Horse Breeders and Owners Association, Inc., referred to in this chapter as the Florida Quarter Horse Breeders and Owners Association, has the right to withhold up to 10 percent of the permitholder's payments under this section and under s. 550.2633 as a fee for administering these payments. The permitholder shall remit these payments to the Florida Quarter Horse Breeders and Owners Association by the 5th day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the division as prescribed by the division. With the exception of the 5-percent fee for administering the payments, the moneys paid by the permitholders shall be maintained in a separate, interest-bearing account.

(b) The Florida Quarter Horse Breeders and Owners Association shall use these funds solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing quarter horses in this state and for general administration of the Florida Quarter Horse Breeders and Owners Association, Inc., in this state.

(c) In order for an owner or breeder of a Florida-bred quarter horse to be eligible to receive an award, the horse winning a race must have been registered as a Florida-bred horse with the Florida Quarter Horse Breeders and Owners Association and a registration certificate under seal for the winning horse must show that the winning horse has been duly registered prior to the race as a Florida-bred horse as evidenced by the seal and proper serial number of the Florida Quarter Horse Breeders and Owners Association registry. The Department of Agriculture and Consumer Services is authorized to assist the association in maintaining this registry. The Florida Quarter Horse Breeders and Owners Association may charge the registrant a reasonable fee for this verification and registration. Any person who registers unqualified horses or misrepresents information in any way shall be denied any future participation in breeders' awards, and all horses misrepresented will no longer be deemed to be Florida-bred.

(d) A permitholder conducting a quarter horse race under a quarter horse permit under this chapter shall, within 30 days after the end of the race meet during which the race is conducted, certify to the Florida Quarter Horse

Breeders and Owners Association such information relating to the horse winning a stakes or other horserace at the meet as may be required to determine the eligibility for payment of breeders' awards under this section.

(e) The Florida Quarter Horse Breeders and Owners Association shall maintain complete records showing the starters and winners in all quarter horse races conducted under quarter horse permits in this state; shall maintain complete records showing awards earned, received, and distributed; and may charge the owner, owners, or breeder a reasonable fee for this service.

(f) The Florida Quarter Horse Breeders and Owners Association shall keep accurate records showing receipts and disbursements of payments made under this section and shall annually file a full and complete report to the division showing such receipts and disbursements and the sums withheld for administration. The division may audit the records and accounts of the Florida Quarter Horse Breeders and Owners Association to determine that payments have been made in accordance with this section.

(g) The Florida Quarter Horse Breeders and Owners Association shall annually establish a plan for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding Florida-bred racing quarter horses and shall make award payments and allocations in strict compliance with the annual plan. The annual plan must be approved by the division before implementation. If the funds in the account for payment of purses and prizes are not sufficient to meet all purses and prizes to be awarded, those breeders and owners not receiving payments have first call on any subsequent receipts in that or any subsequent year.

(h) If the division finds that the Florida Quarter Horse Breeders and Owners Association has not complied with any provision of this section, the division may order the association to cease and desist from receiving funds and administering funds received under this section and s. 550.2633. If the division enters such an order, the permitholder shall make the payments authorized in this section and s. 550.2633 to the division for deposit into the Pari-mutuel Wagering Trust Fund, and any funds in the Florida Quarter Horse Breeders and Owners Association account shall be immediately paid to the division for deposit to the Pari-mutuel Wagering Trust Fund. The division shall authorize payment from these funds to any breeder or owner of a quarter horse entitled to an award that has not been previously paid by the Florida Quarter Horse Breeders and Owners Association in accordance with this section.

(6)(a) The takeout may be used for the payment of awards to owners of registered Florida-bred horses placing first in a claiming race, an allowance race, a maiden special race, or a stakes race in which the announced purse, exclusive of entry and starting fees and added moneys, does not exceed $40,000.

(b) The permitholder shall determine for each qualified race the amount of the owners' award for which a registered Florida-bred horse will be eligible. The amount of the available owners' award shall be established in the same manner in which purses are established and shall be published in the condition book for the period during which the race is to be conducted. No single award may exceed 50 percent of the gross purse for the race won.

(c) If the moneys generated under paragraph (a) during the meet exceed the owners' awards earned during the meet, the excess funds shall be held in a separate interest-bearing account, and the total interest and principal shall be used to increase the owners' awards during the permitholder's next meet.

(d) Breeders' awards authorized by subsections (3) and (4) may not be paid on owners' awards.

(e) This subsection governs owners' awards paid on thoroughbred horse races only in this state, unless a written agreement is filed with the division establishing the rate, procedures, and eligibility requirements for owners' awards, including place of finish, class of race, maximum purse, and maximum award, and the agreement is entered into by the permitholder, the Florida Thoroughbred Breeders' Association, and the association representing a majority of the racehorse owners and trainers at the permitholder's location.

(7)(a) Each permitholder that conducts race meets under this chapter and runs Appaloosa races shall pay to the division a sum equal to the breaks plus a sum equal to 1 percent of the total contributions to each pari-mutuel pool conducted on each Appaloosa race. The payments shall be remitted to the division by the 5th day of each calendar month for sums accruing during the preceding calendar month.

(b) The division shall deposit these collections to the credit of the General Inspection Trust Fund in a special account to be known as the "Florida Appaloosa Racing Promotion Account." The Department of Agriculture and

Consumer Services shall administer the funds and adopt suitable and reasonable rules for the administration thereof. The moneys in the Florida Appaloosa Racing Promotion Account shall be allocated solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing Appaloosas in this state; and the moneys may not be used to defray any expense of the Department of Agriculture and Consumer Services in the administration of this chapter.

(8) Each permitholder that conducts race meets under this chapter and runs Arabian horse races shall pay to the division a sum equal to the breaks plus a sum equal to 1 percent of the total contributions to each pari-mutuel pool conducted on each Arabian horse race. The payments shall be remitted to the division by the 5th day of each calendar month for sums accruing during the preceding calendar month.

History.—s. 32, ch. 92-348; s. 4, ch. 93-123; s. 10, ch. 95-390; ss. 10, 26, ch. 96-364; ss. 5, 6, ch. 98-190; ss. 1, 6, ch. 98-217; s. 55, ch. 2000-154; s. 26, ch. 2000-354; s. 20, ch. 2001-279; s. 83, ch. 2002-1; s. 2, ch. 2003-295; s. 5, ch. 2006-79; s. 13, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 43, ch. 2013-226.

550.2633 Horseracing; distribution of abandoned interest in or contributions to pari-mutuel pools.—

(1) All moneys or other property represented by any unclaimed, uncashed, or abandoned pari-mutuel ticket which has remained in the custody of or under the control of any horseracing permitholder authorized to conduct pari-mutuel pools in this state for a period of 1 year after the date the pari-mutuel ticket was issued, when the rightful owner or owners thereof have made no claim or demand for such money or other property within that period, is hereby declared to have escheated to or to escheat to, and to have become the property of, the state.

(2) All moneys or other property which has escheated to and become the property of the state as provided herein and which is held by a permitholder authorized to conduct pari-mutuel pools in this state shall be paid annually by the permitholder to the recipient designated in this subsection within 60 days after the close of the race meeting of the permitholder. Section 550.1645 notwithstanding, the moneys shall be paid by the permitholder as follows:

(a) Funds from any harness horse races shall be paid to the Florida Standardbred Breeders and Owners Association and shall be used for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and for the general promotion of owning and breeding of, Florida-bred standardbred horses, as provided for in s. 550.2625.

(b) Funds from quarter horse races shall be paid to the Florida Quarter Horse Breeders and Owners Association and shall be allocated solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing quarter horses in this state, as provided for in s. 550.2625.

(3) Uncashed tickets and breaks on live racing conducted by thoroughbred permitholders shall be retained by the permitholder conducting the live race.

History.—s. 33, ch. 92-348; s. 26, ch. 2001-63; s. 21, ch. 2001-279; s. 84, ch. 2002-1; s. 6, ch. 2006-79; s. 44, ch. 2013-226.

550.26352 Breeders' Cup Meet; pools authorized; conflicts; taxes; credits; transmission of races; rules; application.—

(1) Notwithstanding any provision of this chapter to the contrary, there is hereby created a special thoroughbred race meet which shall be designated as the "Breeders' Cup Meet." The Breeders' Cup Meet shall be conducted at the facility of the Florida permitholder selected by Breeders' Cup Limited to conduct the Breeders' Cup Meet. The Breeders' Cup Meet shall consist of 3 days: the day on which the Breeders' Cup races are conducted, the preceding day, and the subsequent day. Upon the selection of the Florida permitholder as host for the Breeders' Cup Meet and application by the selected permitholder, the division shall issue a license to the selected permitholder to operate the Breeders' Cup Meet. Notwithstanding s. 550.09515(2)(a), the Breeders' Cup Meet may be conducted on dates which the selected permitholder is not otherwise authorized to conduct a race meet.

(2) The permitholder conducting the Breeders' Cup Meet is specifically authorized to create pari-mutuel pools during the Breeders' Cup Meet by accepting pari-mutuel wagers on the thoroughbred horse races run during said meet.

(3) If the permitholder conducting the Breeders' Cup Meet is located within 35 miles of one or more permitholders scheduled to conduct a thoroughbred race meet on any of the 3 days of the Breeders' Cup Meet, then operation on any

of those 3 days by the other permitholders is prohibited. As compensation for the loss of racing days caused thereby, such operating permitholders shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515. This credit shall be in an amount equal to the operating loss determined to have been suffered by the operating permitholders as a result of not operating on the prohibited racing days, but shall not exceed a total of $950,000. The determination of the amount to be credited shall be made by the division upon application by the operating permitholder. The tax credits provided in this subsection shall not be available unless an operating permitholder is required to close a bona fide meet consisting in part of no fewer than 10 scheduled performances in the 15 days immediately preceding or 10 scheduled performances in the 15 days immediately following the Breeders' Cup Meet. Such tax credit shall be in lieu of any other compensation or consideration for the loss of racing days. There shall be no replacement or makeup of any lost racing days.

(4) Notwithstanding any provision of ss. 550.0951 and 550.09515, the permitholder conducting the Breeders' Cup Meet shall pay no taxes on the handle included within the pari-mutuel pools of said permitholder during the Breeders' Cup Meet.

(5) The permitholder conducting the Breeders' Cup Meet shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515 generated during said permitholder's next ensuing regular thoroughbred race meet. This credit shall be in an amount not to exceed $950,000 and shall be utilized by the permitholder to pay the purses offered by the permitholder during the Breeders' Cup Meet in excess of the purses which the permitholder is otherwise required by law to pay. The amount to be credited shall be determined by the division upon application of the permitholder which is subject to audit by the division.

(6) The permitholder conducting the Breeders' Cup Meet shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515 generated during said permitholder's next ensuing regular thoroughbred race meet. This credit shall be in an amount not to exceed $950,000 and shall be utilized by the permitholder for such capital improvements and extraordinary expenses as may be necessary for operation of the Breeders' Cup Meet. The amount to be credited shall be determined by the division upon application of the permitholder which is subject to audit by the division.

(7) The permitholder conducting the Breeders' Cup Meet shall be exempt from the payment of purses and other payments to horsemen on all on-track, intertrack, interstate, and international wagers or rights fees or payments arising therefrom for all races for which the purse is paid or supplied by Breeders' Cup Limited. The permitholder conducting the Breeders' Cup Meet shall not, however, be exempt from breeders' awards payments for on-track and intertrack wagers as provided in ss. 550.2625(3) and 550.625(2)(a) for races in which the purse is paid or supplied by Breeders' Cup Limited.

(8)(a) Pursuant to s. 550.3551(2), the permitholder conducting the Breeders' Cup Meet is authorized to transmit broadcasts of the races conducted during the Breeders' Cup Meet to locations outside of this state for wagering purposes. The division may approve broadcasts to pari-mutuel permitholders and other betting systems authorized under the laws of any other state or country. Wagers accepted by any out-of-state pari-mutuel permitholder or betting system on any races broadcast under this section may be, but are not required to be, commingled with the pari-mutuel pools of the permitholder conducting the Breeders' Cup Meet. The calculation of any payoff on national pari-mutuel pools with commingled wagers may be performed by the permitholder's totalisator contractor at a location outside of this state. Pool amounts from wagers placed at pari-mutuel facilities or other betting systems in foreign countries before being commingled with the pari-mutuel pool of the Florida permitholder conducting the Breeders' Cup Meet shall be calculated by the totalisator contractor and transferred to the commingled pool in United States currency in cycles customarily used by the permitholder. Pool amounts from wagers placed at any foreign pari-mutuel facility or other betting system shall not be commingled with a Florida pool until a determination is made by the division that the technology utilized by the totalisator contractor is adequate to assure commingled pools will result in the calculation of accurate payoffs to Florida bettors. Any totalisator contractor at a location outside of this state shall comply with the provisions of s. 550.495 relating to totalisator licensing.

(b) The permitholder conducting the Breeders' Cup Meet is authorized to transmit broadcasts of the races conducted during the Breeders' Cup Meet to other pari-mutuel facilities located in this state for wagering purposes; however, the permitholder conducting the Breeders' Cup Meet shall not be required to transmit broadcasts to any pari-mutuel facility located within 25 miles of the facility at which the Breeders' Cup Meet is conducted.

(9) The exemption from the tax credits provided in subsections (5) and (6) shall not be granted and shall not be claimed by the permitholder until an audit is completed by the division. The division is required to complete the audit within 30 days of receipt of the necessary documentation from the permitholder to verify the permitholder's claim for tax credits. If the documentation submitted by the permitholder is incomplete or is insufficient to document the permitholder's claim for tax credits, the division may request such additional documentation as is necessary to complete the audit. Upon receipt of the division's written request for additional documentation, the 30-day time limitation will commence anew.

(10) The division is authorized to adopt such rules as are necessary to facilitate the conduct of the Breeders' Cup Meet as authorized in this section. Included within this grant of authority shall be the adoption or waiver of rules regarding the overall conduct of racing during the Breeders' Cup Meet so as to ensure the integrity of the races, licensing for all participants, special stabling and training requirements for foreign horses, commingling of pari-mutuel pools, and audit requirements for tax credits and other benefits.

(11) Any dispute between the division and any permitholder regarding the tax credits authorized under subsection (3), subsection (5), or subsection (6) shall be determined by a hearing officer of the Division of Administrative Hearings under the provisions of s. 120.57(1).

(12) The provisions of this section shall prevail over any conflicting provisions of this chapter.

History.—s. 3, ch. 93-123; s. 11, ch. 96-364; s. 19, ch. 2000-354.

550.2704 Jai Alai Tournament of Champions Meet.—

(1) Notwithstanding any provision of this chapter, there is hereby created a special jai alai meet which shall be designated as the "Jai Alai Tournament of Champions Meet" and which shall be hosted by the Florida jai alai permitholders selected by the National Association of Jai Alai Frontons, Inc., to conduct such meet. The meet shall consist of three qualifying performances and a final performance, each of which is to be conducted on different days. Upon the selection of the Florida permitholders for the meet, and upon application by the selected permitholders, the Division of Pari-mutuel Wagering shall issue a license to each of the selected permitholders to operate the meet. The meet may be conducted during a season in which the permitholders selected to conduct the meet are not otherwise authorized to conduct a meet. Notwithstanding anything herein to the contrary, any Florida permitholder who is to conduct a performance which is a part of the Jai Alai Tournament of Champions Meet shall not be required to apply for the license for said meet if it is to be run during the regular season for which such permitholder has a license.

(2) Qualifying performances and the final performance of the tournament shall be held at different locations throughout the state, and the permitholders selected shall be under different ownership to the extent possible.

(3) Notwithstanding any provision of this chapter, each of the permitholders licensed to conduct performances comprising the Jai Alai Tournament of Champions Meet shall pay no taxes on handle under s. 550.0951 or s. 550.09511 for any performance conducted by such permitholder as part of the Jai Alai Tournament of Champions Meet. The provisions of this subsection shall apply to a maximum of four performances.

(4) The Jai Alai Tournament of Champions Meet permitholders shall also receive a credit against the taxes, otherwise due and payable under s. 550.0951 or s. 550.09511, generated during said permitholders' current regular meet. This credit shall be in the aggregate amount of $150,000, shall be prorated equally between the permitholders, and shall be utilized by the permitholders solely to supplement awards for the performance conducted during the Jai Alai Tournament of Champions Meet. All awards shall be paid to the tournament's participating players no later than 30 days following the conclusion of said Jai Alai Tournament of Champions Meet.

(5) In addition to the credit authorized in subsection (4), the Jai Alai Tournament of Champions Meet permitholders shall receive a credit against the taxes, otherwise due and payable under s. 550.0951 or s. 550.09511,

generated during said permitholders' current regular meet, in an amount not to exceed the aggregate amount of $150,000, which shall be prorated equally between the permitholders, and shall be utilized by the permitholders for such capital improvements and extraordinary expenses, including marketing expenses, as may be necessary for the operation of the meet. The determination of the amount to be credited shall be made by the division upon application of said permitholders.

(6) The permitholder shall be entitled to said permitholder's pro rata share of the $150,000 tax credit provided in subsection (5) without having to make application, so long as appropriate documentation to substantiate said expenditures thereunder is provided to the division within 30 days following said Jai Alai Tournament of Champions Meet.

(7) No Jai Alai Tournament of Champions Meet shall exceed 4 days in any state fiscal year, and no more than one performance shall be conducted on any one day of the meet. There shall be only one Jai Alai Tournament of Champions Meet in any state fiscal year.

(8) The division is authorized to adopt such rules as are necessary to facilitate the conduct of the Jai Alai Tournament of Champions Meet as authorized in this section. Included within this grant of authority shall be the adoption of rules regarding the overall conduct of the tournament so as to ensure the integrity of the event, licensing for participants, commingling of pari-mutuel pools, and audit requirements for tax credits and exemptions.

(9) The provisions of this section shall prevail over any conflicting provisions of this chapter.

History.—s. 4, ch. 94-328.

550.285 Obtaining feed or other supplies for racehorses or greyhound racing dogs with intent to defraud.—

(1) Any owner, trainer, or custodian of any horse or dog that is being used, or is being bred, raised, or trained to be used in racing at a pari-mutuel facility who obtains food, drugs, transportation, veterinary services, or supplies for the use or benefit of the horse or dog, with intent to defraud the person from whom the food, drugs, transportation, veterinary services, or supplies are obtained, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) In prosecutions under this section, proof that the food, drugs, transportation, veterinary services, or supplies had been furnished and not paid for, and that the owner, trainer, or custodian of the horse or dog was removing or attempting to remove any horse or dog out of the state and beyond the jurisdiction of the courts of this state, is prima facie evidence of intent to defraud under this section.

History.—s. 36, ch. 92-348.

550.334 Quarter horse racing; substitutions.—

(1) The operator of any licensed racetrack is authorized to lease such track to any quarter horse racing permitholder located within 35 miles of such track for the conduct of quarter horse racing under this chapter. However, a quarter horse facility located in a county where a referendum was conducted to authorize slot machines pursuant to s. 23, Art. X of the State Constitution is not subject to the mileage restriction if they lease from a licensed racetrack located within a county where a referendum was conducted to authorize slot machines pursuant to s. 23, Art. X of the State Constitution.

(2) All other provisions of this chapter, including s. 550.054, apply to, govern, and control such racing, and the same must be conducted in compliance therewith.

(3) Quarter horses participating in such races must be duly registered by the American Quarter Horse Association, and before each race such horses must be examined and declared in fit condition by a qualified person designated by the division.

(4) Any quarter horse racing days permitted under this chapter are in addition to any other racing permitted under the license issued the track where such quarter horse racing is conducted.

(5) Any quarter horse racing permitholder operating under a valid permit issued by the division is authorized to substitute races of other breeds of horses which are, respectively, registered with the American Paint Horse Association, Appaloosa Horse Club, Arabian Horse Registry of America, Palomino Horse Breeders of America, United

States Trotting Association, Florida Cracker Horse Association, or Jockey Club for no more than 50 percent of the quarter horse races during its meet.

(6) Except as provided in s. 550.3345, a quarter horse permit issued pursuant to this section is not eligible for transfer or conversion to another type of pari-mutuel operation.

(7) Any nonprofit corporation, including, but not limited to, an agricultural cooperative marketing association, organized and incorporated under the laws of this state may apply for a quarter horse racing permit and operate racing meets under such permit, provided all pari-mutuel taxes and fees applicable to such racing are paid by the corporation. However, insofar as its pari-mutuel operations are concerned, the corporation shall be considered to be a corporation for profit and is subject to taxation on all property used and profits earned in connection with its pari-mutuel operations.

(8) To be eligible to conduct intertrack wagering, a quarter horse racing permitholder must have conducted a full schedule of live racing in the preceding year.

History.—s. 37, ch. 92-348; s. 11, ch. 95-390; s. 789, ch. 97-103; s. 3, ch. 2005-288; s. 14, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 41, ch. 2011-4.

550.3345 Conversion of quarter horse permit to a limited thoroughbred permit.—

(1) In recognition of the important and long-standing economic contribution of the thoroughbred horse breeding industry to this state and the state's vested interest in promoting the continued viability of this agricultural activity, the state intends to provide a limited opportunity for the conduct of live thoroughbred horse racing with the net revenues from such racing dedicated to the enhancement of thoroughbred purses and breeders', stallion, and special racing awards under this chapter; the general promotion of the thoroughbred horse breeding industry; and the care in this state of thoroughbred horses retired from racing.

(2) Notwithstanding any other provision of law, the holder of a quarter horse racing permit issued under s. 550.334 may, within 1 year after the effective date of this section, apply to the division for a transfer of the quarter horse racing permit to a not-for-profit corporation formed under state law to serve the purposes of the state as provided in subsection (1). The board of directors of the not-for-profit corporation must be comprised of 11 members, 4 of whom shall be designated by the applicant, 4 of whom shall be designated by the Florida Thoroughbred Breeders' Association, and 3 of whom shall be designated by the other 8 directors, with at least 1 of these 3 members being an authorized representative of another thoroughbred permitholder in this state. The not-for-profit corporation shall submit an application to the division for review and approval of the transfer in accordance with s. 550.054. Upon approval of the transfer by the division, and notwithstanding any other provision of law to the contrary, the not-for-profit corporation may, within 1 year after its receipt of the permit, request that the division convert the quarter horse racing permit to a permit authorizing the holder to conduct pari-mutuel wagering meets of thoroughbred racing. Neither the transfer of the quarter horse racing permit nor its conversion to a limited thoroughbred permit shall be subject to the mileage limitation or the ratification election as set forth under s. 550.054(2) or s. 550.0651. Upon receipt of the request for such conversion, the division shall timely issue a converted permit. The converted permit and the not-for-profit corporation shall be subject to the following requirements:

(a) All net revenues derived by the not-for-profit corporation under the thoroughbred horse racing permit, after the funding of operating expenses and capital improvements, shall be dedicated to the enhancement of thoroughbred purses and breeders', stallion, and special racing awards under this chapter; the general promotion of the thoroughbred horse breeding industry; and the care in this state of thoroughbred horses retired from racing.

(b) From December 1 through April 30, no live thoroughbred racing may be conducted under the permit on any day during which another thoroughbred permitholder is conducting live thoroughbred racing within 125 air miles of the not-for-profit corporation's pari-mutuel facility unless the other thoroughbred permitholder gives its written consent.

(c) After the conversion of the quarter horse racing permit and the issuance of its initial license to conduct pari-mutuel wagering meets of thoroughbred racing, the not-for-profit corporation shall annually apply to the division for a license pursuant to s. 550.5251.

(d) Racing under the permit may take place only at the location for which the original quarter horse racing permit was issued, which may be leased by the not-for-profit corporation for that purpose; however, the not-for-profit corporation may, without the conduct of any ratification election pursuant to s. 550.054(13) or s. 550.0651, move the location of the permit to another location in the same county provided that such relocation is approved under the zoning and land use regulations of the applicable county or municipality.

(e) No permit converted under this section is eligible for transfer to another person or entity.

(3) Unless otherwise provided in this section, after conversion, the permit and the not-for-profit corporation shall be treated under the laws of this state as a thoroughbred permit and as a thoroughbred permitholder, respectively, with the exception of s. 550.09515(3).

History.—s. 15, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 42, ch. 2011-4.

550.3355 Harness track licenses for summer quarter horse racing.— Any harness track licensed to operate under the provisions of s. 550.375 may make application for, and shall be issued by the division, a license to operate not more than 50 quarter horse racing days during the summer season, which shall extend from July 1 until October 1 of each year. However, this license to operate quarter horse racing for 50 days is in addition to the racing days and dates provided in s. 550.375 for harness racing during the winter seasons; and, it does not affect the right of such licensee to operate harness racing at the track as provided in s. 550.375 during the winter season. All provisions of this chapter governing quarter horse racing not in conflict herewith apply to the operation of quarter horse meetings authorized hereunder, except that all quarter horse racing permitted hereunder shall be conducted at night.

History.—s. 38, ch. 92-348; s. 16, ch. 2009-170; ss. 4, 5, ch. 2010-29.

550.3551 Transmission of racing and jai alai information; commingling of pari-mutuel pools.—

(1)(a) It is unlawful for any person to transmit, by any means, racing information to any person or to relay the same to any person by word of mouth, by signal, or by use of telephone, telegraph, radio, or any other means when the information is knowingly used or intended to be used for illegal gambling purposes or in furtherance of illegal gambling.

(b) Paragraph (a) shall be deemed an exercise of the police power of the state for the protection of the public welfare, health, peace, safety, and morals of the people of the state, and this section shall be liberally construed for the accomplishment of this purpose.

(c) A person who violates paragraph (a) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any horse track, dog track, or fronton licensed under this chapter may transmit broadcasts of races or games conducted at the enclosure of the licensee to locations outside this state.

(a) All broadcasts of horseraces transmitted to locations outside this state must comply with the provisions of the Interstate Horseracing Act of 1978, 92 Stat. 1811, 15 U.S.C. ss. 3001 et seq.

(b) Wagers accepted by any out-of-state pari-mutuel permitholder or licensed betting system on a race broadcasted under this subsection may be, but are not required to be, included in the pari-mutuel pools of the horse track in this state that broadcasts the race upon which wagers are accepted. The handle, as referred to in s. 550.0951(3), does not include any wagers accepted by an out-of-state pari-mutuel permitholder or licensed betting system, irrespective of whether such wagers are included in the pari-mutuel pools of the Florida permitholder as authorized by this subsection.

(3) Any horse track licensed under this chapter may receive broadcasts of horseraces conducted at other horse racetracks located outside this state at the racetrack enclosure of the licensee during its racing meet.

(a) All broadcasts of horseraces received from locations outside this state must comply with the provisions of the Interstate Horseracing Act of 1978, 92 Stat. 1811, 15 U.S.C. ss. 3001 et seq.

(b) Wagers accepted at the horse track in this state may be, but are not required to be, included in the pari-mutuel pools of the out-of-state horse track that broadcasts the race. Notwithstanding any contrary provisions of this chapter, if the horse track in this state elects to include wagers accepted on such races in the pari-mutuel pools of the out-of-

state horse track that broadcasts the race, from the amount wagered by patrons at the horse track in this state and included in the pari-mutuel pools of the out-of-state horse track, the horse track in this state shall deduct as the takeout from the amount wagered by patrons at the horse track in this state and included in the pari-mutuel pools of the out-of-state horse track a percentage equal to the percentage deducted from the amount wagered at the out-of-state racetrack as is authorized by the laws of the jurisdiction exercising regulatory authority over the out-of-state horse track.

(c) All forms of pari-mutuel wagering are allowed on races broadcast under this section, and all money wagered by patrons on such races shall be computed as part of the total amount of money wagered at each racing performance for purposes of taxation under ss. 550.0951, 550.09512, and 550.09515. Section 550.2625(2)(a), (b), and (c) does not apply to any money wagered on races broadcast under this section. Similarly, the takeout shall be increased by breaks and uncashed tickets for wagers on races broadcast under this section, notwithstanding any contrary provision of this chapter.

(4) Any dog track or fronton licensed under this chapter may receive broadcasts of dograces or jai alai games conducted at other tracks or frontons located outside the state at the track enclosure of the licensee during its operational meeting. All forms of pari-mutuel wagering are allowed on dograces or jai alai games broadcast under this subsection. All money wagered by patrons on dograces broadcast under this subsection shall be computed in the amount of money wagered each performance for purposes of taxation under ss. 550.0951 and 550.09511.

(5) A pari-mutuel permitholder licensed under this chapter may not receive broadcasts of races or games from outside this state except from an out-of-state pari-mutuel permitholder who holds the same type or class of pari-mutuel permit as the pari-mutuel permitholder licensed under this chapter who intends to receive the broadcast.

(6)(a) A maximum of 20 percent of the total number of races on which wagers are accepted by a greyhound permitholder not located as specified in s. 550.615(6) may be received from locations outside this state. A permitholder may not conduct fewer than eight live races or games on any authorized race day except as provided in this subsection. A thoroughbred permitholder may not conduct fewer than eight live races on any race day without the written approval of the Florida Thoroughbred Breeders' Association and the Florida Horsemen's Benevolent and Protective Association, Inc., unless it is determined by the department that another entity represents a majority of the thoroughbred racehorse owners and trainers in the state. A harness permitholder may conduct fewer than eight live races on any authorized race day, except that such permitholder must conduct a full schedule of live racing during its race meet consisting of at least eight live races per authorized race day for at least 100 days. Any harness horse permitholder that during the preceding racing season conducted a full schedule of live racing may, at any time during its current race meet, receive full-card broadcasts of harness horse races conducted at harness racetracks outside this state at the harness track of the permitholder and accept wagers on such harness races. With specific authorization from the division for special racing events, a permitholder may conduct fewer than eight live races or games when the permitholder also broadcasts out-of-state races or games. The division may not grant more than two such exceptions a year for a permitholder in any 12-month period, and those two exceptions may not be consecutive.

(b) Notwithstanding any other provision of this chapter, any harness horse permitholder accepting broadcasts of out-of-state harness horse races when such permitholder is not conducting live races must make the out-of-state signal available to all permitholders eligible to conduct intertrack wagering and shall pay to guest tracks located as specified in ss. 550.615(6) and 550.6305(9)(d) 50 percent of the net proceeds after taxes and fees to the out-of-state host track on harness race wagers which they accept. A harness horse permitholder shall be required to pay into its purse account 50 percent of the net income retained by the permitholder on account of wagering on the out-of-state broadcasts received pursuant to this subsection. Nine-tenths of a percent of all harness wagering proceeds on the broadcasts received pursuant to this subsection shall be paid to the Florida Standardbred Breeders and Owners Association under the provisions of s. 550.2625(4) for the purposes provided therein.

(7) A racetrack or fronton may not pay any patron for any pari-mutuel ticket purchased on any race or game transmitted pursuant to this section until the stewards, judges, or panel of judges or other similarly constituted body at the racetrack or fronton where the race or game originates has confirmed the race or game as official.

(8) The entry and participation for a purse or any other prize of any racing animal by the owner of the animal and the jockey or driver is tantamount to acceptance of such purse or prize as full and complete remuneration and payment for such entry and participation, including the broadcast of such event, except as otherwise provided in this section.

(9) To the extent that any rights, privileges, or immunities granted to pari-mutuel permitholders under this section conflict with any other law or affect any order or rule of the Florida Public Service Commission relating to the regulation of public utilities and the furnishing to others of any communication, wire service, or other similar service or equipment, the rights, privileges, or immunities granted under this section prevail over such conflicting provisions.

(10) The division may adopt rules necessary to facilitate commingling of pari-mutuel pools, to ensure the proper calculation of payoffs in circumstances in which different commission percentages are applicable and to regulate the distribution of net proceeds between the horse track and, in this state, the horsemen's associations.

(11) Greyhound tracks and jai alai frontons have the same privileges as provided in this section to horse tracks, as applicable, subject to rules adopted under subsection (10).

(12) All permitholders licensed under this chapter have standing to enforce the provisions of subsections (2) and (3) in the courts of this state.

(13) This section does not prohibit the commingling of national pari-mutuel pools by a totalisator company that is licensed under this chapter. Such commingling of national pools is subject to division review and approval and must be performed in accordance with rules adopted by the division to ensure accurate calculation and distribution of the pools.

(14) Notwithstanding the provisions of paragraph (3)(b) pertaining to takeout, takeouts different from those of the host track may be used when the totalisator is programmed for net pool pricing and the host track elects to use net pool pricing in the calculation of its pools. This provision shall also apply to greyhound intertrack and simulcast wagers.

History.—s. 39, ch. 92-348; s. 12, ch. 95-390; s. 12, ch. 96-364; s. 27, ch. 2000-354.

550.3615 Bookmaking on the grounds of a permitholder; penalties; reinstatement; duties of track employees; penalty; exceptions.—

(1) Any person who engages in bookmaking, as defined in s. 849.25, on the grounds or property of a permitholder of a horse or dog track or jai alai fronton is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding the provisions of s. 948.01, any person convicted under the provisions of this subsection shall not have adjudication of guilt suspended, deferred, or withheld.

(2) Any person who, having been convicted of violating subsection (1), thereafter commits the same crime is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding the provisions of s. 948.01, any person convicted under the provisions of this subsection shall not have adjudication of guilt suspended, deferred, or withheld.

(3) Any person who has been convicted of bookmaking in this state or any other state of the United States or any foreign country shall be denied admittance to and shall not attend any racetrack or fronton in this state during its racing seasons or operating dates, including any practice or preparational days, for a period of 2 years after the date of conviction or the date of final appeal. Following the conclusion of the period of ineligibility, the director of the division may authorize the reinstatement of an individual following a hearing on readmittance. Any such person who knowingly violates this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) If the activities of a person show that this law is being violated, and such activities are either witnessed or are common knowledge by any track or fronton employee, it is the duty of that employee to bring the matter to the immediate attention of the permitholder, manager, or her or his designee, who shall notify a law enforcement agency having jurisdiction. Willful failure on the part of any track or fronton employee to comply with the provisions of this subsection is a ground for the division to suspend or revoke that employee's license for track or fronton employment.

(5) Each permittee shall display, in conspicuous places at a track or fronton and in all race and jai alai daily programs, a warning to all patrons concerning the prohibition and penalties of bookmaking contained in this section and s. 849.25. The division shall adopt rules concerning the uniform size of all warnings and the number of placements throughout a track or fronton. Failure on the part of the permittee to display such warnings may result in the imposition of a $500 fine by the division for each offense.

(6) This section does not apply to any person attending a track or fronton or employed by a track or fronton who places a bet through the legalized pari-mutuel pool for another person, provided such service is rendered gratuitously and without fee or other reward.

(7) This section does not apply to any prosecutions filed and pending at the time of passage hereof, but all such cases shall be disposed of under existing law at the time of institution of such prosecutions.

History.—s. 41, ch. 92-348; s. 791, ch. 97-103.

550.375 Operation of certain harness tracks.—

(1) The Legislature finds that the operation of harness tracks and legalized pari-mutuel and mutuel betting at harness tracks in this state will become a substantial business compatible with the best interests of the state, and the taxes derived therefrom will constitute an important and integral part of the tax structure of the state and counties. The Legislature further finds that the operation of harness tracks within the state will establish and encourage the acquisition and maintenance of breeding farms for the breeding of standardbred horses used in harness races, and that this exhibition sport will attract a large tourist business to the state.

(2) Any permittee or licensee authorized under this section to transfer the location of its permit may conduct harness racing only between the hours of 7 p.m. and 2 a.m. A permit so transferred applies only to the locations provided in this section. The provisions of this chapter which prohibit the location and operation of a licensed harness track permittee and licensee within 100 air miles of the location of a racetrack authorized to conduct racing under this chapter and which prohibit the division from granting any permit to a harness track at a location in the area in which there are three horse tracks located within 100 air miles thereof do not apply to a licensed harness track that is required by the terms of this section to race between the hours of 7 p.m. and 2 a.m.

(3) A permit may not be issued by the division for the operation of a harness track within 75 air miles of a location of a harness track licensed and operating under this chapter.

(4) The permitholder conducting a harness horse race meet must pay the daily license fee, the admission tax, the tax on breaks, and the tax on pari-mutuel handle provided in s. 550.0951 and is subject to all penalties and sanctions provided in s. 550.0951(6).

(5) Each licensed harness track in the state must schedule an average of one race per racing day in which horses bred in this state and duly registered as standardbred harness horses have preference as entries over non-Florida-bred horses. All licensed harness tracks must write the conditions for such races in which Florida-bred horses are preferred so as to assure that all Florida-bred horses available for racing at such tracks are given full opportunity to perform in the class races for which they are qualified, and the opportunity of performing must be afforded to each class of horses in the proportion that the number of horses in this class bears to the total number of Florida-bred horses available. However, a track is not required to write conditions for a race to accommodate a class of horses for which a race would otherwise not be scheduled at such track during its meeting.

(6) If a permit has been transferred from a county under this section, no other transfer is permitted from such county.

History.—s. 42, ch. 92-348; s. 56, ch. 2000-154.

550.475 Lease of pari-mutuel facilities by pari-mutuel permitholders.—Holders of valid pari-mutuel permits for the conduct of any jai alai games, dogracing, or thoroughbred and standardbred horse racing in this state are entitled to lease any and all of their facilities to any other holder of a same class valid pari-mutuel permit for jai alai games, dogracing, or thoroughbred or standardbred horse racing, when located within a 35-mile radius of each other; and such lessee is entitled to a permit and license to operate its race meet or jai alai games at the leased premises.

History.—s. 43, ch. 92-348; s. 13, ch. 96-364; s. 16, ch. 2000-354.

550.495 Totalisator licensing.—

(1) A totalisator may not be operated at a pari-mutuel facility in this state, or at a facility located in or out of this state which is used as the primary totalisator for a race or game conducted in this state, unless the totalisator company possesses a business license issued by the division.

(2)(a) Each totalisator company must apply to the division for an annual business license. The application must include such information as the division by rule requires.

(b) As a part of its license application, each totalisator company must agree in writing to pay to the division an amount equal to the loss of any state revenues from missed or canceled races, games, or performances due to acts of the totalisator company or its agents or employees or failures of the totalisator system, except for circumstances beyond the control of the totalisator company or agent or employee, as determined by the division.

(c) Each totalisator company must file with the division a performance bond, acceptable to the division, in the sum of $250,000 issued by a surety approved by the division or must file proof of insurance, acceptable to the division, against financial loss in the amount of $250,000, insuring the state against such a revenue loss.

(d) In the event of a loss of state tax revenues, the division shall determine:

1. The estimated revenue lost as a result of missed or canceled races, games, or performances;

2. The number of races, games, or performances which is practicable for the permitholder to conduct in an attempt to mitigate the revenue loss; and

3. The amount of the revenue loss which the makeup races, games, or performances will not recover and for which the totalisator company is liable.

(e) Upon the making of such determinations, the division shall issue to the totalisator company and to the affected permitholder an order setting forth the determinations of the division.

(f) If the order is contested by either the totalisator company or any affected permitholder, the provisions of chapter 120 apply. If the totalisator company contests the order on the grounds that the revenue loss was due to circumstances beyond its control, the totalisator company has the burden of proving that circumstances vary in fact beyond its control. For purposes of this paragraph, strikes and acts of God are beyond the control of the totalisator company.

(g) Upon the failure of the totalisator company to make the payment found to be due the state, the division may cause the forfeiture of the bond or may proceed against the insurance contract, and the proceeds of the bond or contract shall be deposited into the Pari-mutuel Wagering Trust Fund. If that bond was not posted or insurance obtained, the division may proceed against any assets of the totalisator company to collect the amounts due under this subsection.

(3) If the applicant meets the requirements of this section and division rules and pays the license fee, the division shall issue the license.

(4) Each totalisator company shall conduct operations in accordance with rules adopted by the division, in such form, content, and frequency as the division by rule determines.

(5) The division and its representatives may enter and inspect any area of the premises of a licensed totalisator company, and may examine totalisator records, during the licensee's regular business or operating hours.

History.—s. 44, ch. 92-348; s. 13, ch. 95-390.

550.505 Nonwagering permits.—

(1)(a) Except as provided in this section, permits and licenses issued by the division are intended to be used for pari-mutuel wagering operations in conjunction with horseraces, dograces, or jai alai performances.

(b) Subject to the requirements of this section, the division is authorized to issue permits for the conduct of horseracing meets without pari-mutuel wagering or any other form of wagering being conducted in conjunction therewith. Such permits shall be known as nonwagering permits and may be issued only for horseracing meets. A horseracing permitholder need not obtain an additional permit from the division for conducting nonwagering racing

under this section, but must apply to the division for the issuance of a license under this section. The holder of a nonwagering permit is prohibited from conducting pari-mutuel wagering or any other form of wagering in conjunction with racing conducted under the permit. Nothing in this subsection prohibits horseracing for any stake, purse, prize, or premium.

(c) The holder of a nonwagering permit is exempt from the provisions of s. 550.105 and is exempt from the imposition of daily license fees and admission tax.

(2)(a) Any person not prohibited from holding any type of pari-mutuel permit under s. 550.1815 shall be allowed to apply to the division for a nonwagering permit. The applicant must demonstrate that the location or locations where the nonwagering permit will be used are available for such use and that the applicant has the financial ability to satisfy the reasonably anticipated operational expenses of the first racing year following final issuance of the nonwagering permit. If the racing facility is already built, the application must contain a statement, with reasonable supporting evidence, that the nonwagering permit will be used for horseracing within 1 year after the date on which it is granted. If the facility is not already built, the application must contain a statement, with reasonable supporting evidence, that substantial construction will be started within 1 year after the issuance of the nonwagering permit.

(b) The division may conduct an eligibility investigation to determine if the applicant meets the requirements of paragraph (a).

(3)(a) Upon receipt of a nonwagering permit, the permitholder must apply to the division before June 1 of each year for an annual nonwagering license for the next succeeding calendar year. Such application must set forth the days and locations at which the permitholder will conduct nonwagering horseracing and must indicate any changes in ownership or management of the permitholder occurring since the date of application for the prior license.

(b) On or before August 1 of each year, the division shall issue a license authorizing the nonwagering permitholder to conduct nonwagering horseracing during the succeeding calendar year during the period and for the number of days set forth in the application, subject to all other provisions of this section.

(c) The division may conduct an eligibility investigation to determine the qualifications of any new ownership or management interest in the permit.

(4) Upon the approval of racing dates by the division, the division shall issue an annual nonwagering license to the nonwagering permitholder.

(5) Only horses registered with an established breed registration organization, which organization shall be approved by the division, shall be raced at any race meeting authorized by this section.

(6) The division may order any person participating in a nonwagering meet to cease and desist from participating in such meet if the division determines the person to be not of good moral character in accordance with s. 550.1815. The division may order the operators of a nonwagering meet to cease and desist from operating the meet if the division determines the meet is being operated for any illegal purpose.

History.—s. 45, ch. 92-348; s. 14, ch. 95-390.

550.5251 Florida thoroughbred racing; certain permits; operating days.—

(1) Each thoroughbred permitholder shall annually, during the period commencing December 15 of each year and ending January 4 of the following year, file in writing with the division its application to conduct one or more thoroughbred racing meetings during the thoroughbred racing season commencing on the following July 1. Each application shall specify the number and dates of all performances that the permitholder intends to conduct during that thoroughbred racing season. On or before March 15 of each year, the division shall issue a license authorizing each permitholder to conduct performances on the dates specified in its application. Up to February 28 of each year, each permitholder may request and shall be granted changes in its authorized performances; but thereafter, as a condition precedent to the validity of its license and its right to retain its permit, each permitholder must operate the full number of days authorized on each of the dates set forth in its license.

(2) A thoroughbred racing permitholder may not begin any race later than 7 p.m. Any thoroughbred permitholder in a county in which the authority for cardrooms has been approved by the board of county commissioners may

operate a cardroom and, when conducting live races during its current race meet, may receive and rebroadcast out-of-state races after the hour of 7 p.m. on any day during which the permitholder conducts live races.

(3)(a) Each licensed thoroughbred permitholder in this state must run an average of one race per racing day in which horses bred in this state and duly registered with the Florida Thoroughbred Breeders' Association have preference as entries over non-Florida-bred horses, unless otherwise agreed to in writing by the permitholder, the Florida Thoroughbred Breeders' Association, and the association representing a majority of the thoroughbred racehorse owners and trainers at that location. All licensed thoroughbred racetracks shall write the conditions for such races in which Florida-bred horses are preferred so as to assure that all Florida-bred horses available for racing at such tracks are given full opportunity to run in the class of races for which they are qualified. The opportunity of running must be afforded to each class of horses in the proportion that the number of horses in this class bears to the total number of Florida-bred horses available. A track is not required to write conditions for a race to accommodate a class of horses for which a race would otherwise not be run at the track during its meet.

(b) Each licensed thoroughbred permitholder in this state may run one additional race per racing day composed exclusively of Arabian horses registered with the Arabian Horse Registry of America. Any licensed thoroughbred permitholder that elects to run one additional race per racing day composed exclusively of Arabian horses registered with the Arabian Horse Registry of America is not required to provide stables for the Arabian horses racing under this paragraph.

(c) Each licensed thoroughbred permitholder in this state may run up to three additional races per racing day composed exclusively of quarter horses registered with the American Quarter Horse Association.

History.—s. 46, ch. 92-348; s. 6, ch. 93-123; s. 14, ch. 96-364; s. 7, ch. 98-190; s. 39, ch. 2002-402; s. 3, ch. 2003-295; s. 18, ch. 2009-170; ss. 4, 5, ch. 2010-29.

550.615 Intertrack wagering.—

(1) Any horserace permitholder licensed under this chapter which has conducted a full schedule of live racing may, at any time, receive broadcasts of horseraces and accept wagers on horseraces conducted by horserace permitholders licensed under this chapter at its facility.

(2) Any track or fronton licensed under this chapter which in the preceding year conducted a full schedule of live racing is qualified to, at any time, receive broadcasts of any class of pari-mutuel race or game and accept wagers on such races or games conducted by any class of permitholders licensed under this chapter.

(3) If a permitholder elects to broadcast its signal to any permitholder in this state, any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345 is entitled to receive the broadcast and conduct intertrack wagering under this section; provided, however, that the host track may require a guest track within 25 miles of another permitholder to receive in any week at least 60 percent of the live races that the host track is making available on the days that the guest track is otherwise operating live races or games. A host track may require a guest track not operating live races or games and within 25 miles of another permitholder to accept within any week at least 60 percent of the live races that the host track is making available. A person may not restrain or attempt to restrain any permitholder that is otherwise authorized to conduct intertrack wagering from receiving the signal of any other permitholder or sending its signal to any permitholder.

(4) In no event shall any intertrack wager be accepted on the same class of live races or games of any permitholder without the written consent of such operating permitholders conducting the same class of live races or games if the guest track is within the market area of such operating permitholder.

(5) No permitholder within the market area of the host track shall take an intertrack wager on the host track without the consent of the host track.

(6) Notwithstanding the provisions of subsection (3), in any area of the state where there are three or more horserace permitholders within 25 miles of each other, intertrack wagering between permitholders in said area of the state shall only be authorized under the following conditions: Any permitholder, other than a thoroughbred permitholder, may accept intertrack wagers on races or games conducted live by a permitholder of the same class or

any harness permitholder located within such area and any harness permitholder may accept wagers on games conducted live by any jai alai permitholder located within its market area and from a jai alai permitholder located within the area specified in this subsection when no jai alai permitholder located within its market area is conducting live jai alai performances; any greyhound or jai alai permitholder may receive broadcasts of and accept wagers on any permitholder of the other class provided that a permitholder, other than the host track, of such other class is not operating a contemporaneous live performance within the market area.

(7) In any county of the state where there are only two permits, one for dogracing and one for jai alai, no intertrack wager may be taken during the period of time when a permitholder is not licensed to conduct live races or games without the written consent of the other permitholder that is conducting live races or games. However, if neither permitholder is conducting live races or games, either permitholder may accept intertrack wagers on horseraces or on the same class of races or games, or on both horseraces and the same class of races or games as is authorized by its permit.

(8) In any three contiguous counties of the state where there are only three permitholders, all of which are greyhound permitholders, if any permitholder leases the facility of another permitholder for all or any portion of the conduct of its live race meet pursuant to s. 550.475, such lessee may conduct intertrack wagering at its pre-lease permitted facility throughout the entire year, including while its live meet is being conducted at the leased facility, if such permitholder has conducted a full schedule of live racing during the preceding fiscal year at its pre-lease permitted facility or at a leased facility, or combination thereof.

(9) In any two contiguous counties of the state in which there are located only four active permits, one for thoroughbred horse racing, two for greyhound dogracing, and one for jai alai games, no intertrack wager may be accepted on the same class of live races or games of any permitholder without the written consent of such operating permitholders conducting the same class of live races or games if the guest track is within the market area of such operating permitholder.

(10) All costs of receiving the transmission of the broadcasts shall be borne by the guest track; and all costs of sending the broadcasts shall be borne by the host track.

History.—s. 47, ch. 92-348; s. 2, ch. 93-123; s. 17, ch. 95-390; s. 15, ch. 96-364; ss. 8, 9, ch. 98-190; ss. 13, 44, ch. 2000-354; s. 13, ch. 2002-2.

550.625 Intertrack wagering; purses; breeders' awards.—If a host track is a horse track:

(1) A host track racing under either a thoroughbred or quarter horse permit shall pay an amount equal to 7.0 percent of all wagers placed pursuant to the provisions of s. 550.615, as purses during its current race meet. However, up to 0.50 percent of all wagers placed pursuant to s. 550.615 may, at the option of the host track, be deducted from the amount retained by the host track for purses to supplement the awards program for owners of Florida-bred horses as set forth in s. 550.2625(6). A host track racing under a harness permit shall pay an amount equal to 7 percent of all wagers placed pursuant to the provisions of s. 550.615, as purses during its current race meet. If a host track underpays or overpays purses required by this section and s. 550.2625, the provisions of s. 550.2625 apply to the overpayment or underpayment.

(2) Of all wagers placed pursuant to the provisions of s. 550.615:

(a) If the host track is a thoroughbred track, an amount equal to 0.75 percent shall be paid to the Florida Thoroughbred Breeders' Association, Inc., for the payment of breeders' awards;

(b) If the host track is a harness track, an amount equal to 1 percent shall be paid to the Florida Standardbred Breeders and Owners Association, Inc., for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and the general promotion of owning and breeding, Florida-bred standardbred horses; or

(c) If the host track is a quarter horse track, an amount equal to 1 percent shall be paid to the Florida Quarter Horse Breeders and Owners Association, Inc., for the payment of breeders' awards and general promotion.

(3) The payment to a breeders' organization shall be combined with any other amounts received by the respective breeders' and owners' associations as so designated. Each breeders' and owners' association receiving these funds

shall be allowed to withhold the same percentage as set forth in s. 550.2625 to be used for administering the payment of awards and for the general promotion of their respective industries. If the total combined amount received for thoroughbred breeders' awards exceeds 15 percent of the purse required to be paid under subsection (1), the breeders' and owners' association, as so designated, notwithstanding any other provision of law, shall submit a plan to the division for approval which would use the excess funds in promoting the breeding industry by increasing the purse structure for Florida-breds. Preference shall be given to the track generating such excess.

History.—s. 48, ch. 92-348; s. 17, ch. 2000-354.

550.6305 Intertrack wagering; guest track payments; accounting rules.—

(1) All guest tracks which are eligible to receive broadcasts and accept wagers on horseraces from a host track racing under either a thoroughbred or quarter horse permit shall be entitled to payment of 7 percent of the total contributions to the pari-mutuel pool on wagers accepted at the guest track. All guest tracks that are eligible to receive broadcasts and accept wagers on greyhound races or jai alai games from a host track other than a thoroughbred or harness permitholder shall be entitled to payments of not less than 5 percent of the total contributions to the daily pari-mutuel pool on wagers accepted at the guest track. All guest tracks that are eligible to receive broadcasts and accept wagers on horseraces from a host track racing under a harness horse permit shall be entitled to a payment of 5 percent of the total contributions to the daily pari-mutuel pool on wagers accepted at the guest track. However, if a guest track is a horserace permitholder that accepts intertrack wagers during its current race meet, one-half of the payment provided in this subsection and s. 550.6345 shall be paid as purses during its current race meet.

(a) However, if the host track is a thoroughbred permitholder, and the guest track is also a thoroughbred permitholder and accepts intertrack wagers on thoroughbred races during its current race meet, one-third of the payment provided in this subsection shall be paid as purses during its current race meet. In addition, an amount equal to 2 percent of the intertrack handle at the thoroughbred guest track shall be remitted by the host track to the guest thoroughbred track, which amount shall be deducted from the purses required to be paid by the host track. Such amount shall be paid by the guest thoroughbred track as purses during its current race meet.

(b) If thoroughbred intertrack wagering is taken at any guest track, including a thoroughbred guest track, which is located within 25 miles of any thoroughbred permitholder that is not conducting live racing, the host track shall pay to such thoroughbred permitholder an amount equal to 2 percent of the intertrack handle at all such guest tracks, including the guest thoroughbred track, which amount shall be deducted from the purses otherwise required to be paid by the host track. This amount shall be used by the thoroughbred permitholder to pay purses during its next race meet.

(2) For the purposes of calculation of odds and payoffs and distribution of the pari-mutuel pools, all intertrack wagers shall be combined with the pari-mutuel pools at the host track. Notwithstanding this subsection or subsection (4), a greyhound pari-mutuel permitholder may conduct intertrack wagering without combining pari-mutuel pools on not more than three races in any week, not to exceed 20 races in a year. All other provisions concerning pari-mutuel takeout and payments, including state tax payments, apply as if the pool had been combined.

(3) All forms of pari-mutuel wagering shall be allowed on all wagering authorized under s. 550.615 and this section.

(4) The takeout on all intertrack wagering shall be the same as the takeout on similar pari-mutuel pools conducted at the host track.

(5) The division shall adopt rules providing an expedient accounting procedure for the transfer of the pari-mutuel pool in order to properly account for payment of state taxes, payment to the guest track, payment to the host track, payment of purses, payment to breeders' associations, payment to horsemen's associations, and payment to the public.

(6) Each host track or guest track conducting intertrack wagering shall annually file an audit identifying the intertrack wagering conducted, from wagering conducted live, which audit shall be in compliance with s. 550.125.

(7) No guest track shall make any payment to any patron on any pari-mutuel ticket purchased on any race broadcast until the stewards, judges, or panel of judges at the host track where the race or game originates has confirmed the race or game as official.

(8) The entry and participation for a purse or other prize of any racing animal by the owner of the animal and the jockey or driver is tantamount to the acceptance of such purse or prize as full and complete remuneration and payment for such entry and participation, including the broadcast of such event.

(9) A host track that has contracted with an out-of-state horse track to broadcast live races conducted at such out-of-state horse track pursuant to s. 550.3551(5) may broadcast such out-of-state races to any guest track and accept wagers thereon in the same manner as is provided in s. 550.3551.

(a) For purposes of this section, "net proceeds" means the amount of takeout remaining after the payment of state taxes, purses required pursuant to s. 550.0951(3)(c)1., the cost to the permitholder required to be paid to the out-of-state horse track, and breeders' awards paid to the Florida Thoroughbred Breeders' Association and the Florida Standardbred Breeders and Owners Association, to be used as set forth in s. 550.625(2)(a) and (b).

(b) Notwithstanding the provisions of subsection (1) and s. 550.625(1) and (2)(a), the distribution of the net proceeds that are retained by a thoroughbred host track from the takeout on an out-of-state race rebroadcast under this subsection shall be as follows:

1. One-third of the remainder of such proceeds shall be paid to the guest track;
2. One-third of the remainder of such proceeds shall be retained by the host track; and
3. One-third of the remainder of such proceeds shall be paid by the host track as purses at the host track.

(c) All guest tracks other than thoroughbred permitholders that are eligible to receive wagers on out-of-state horseraces rebroadcast from a host track racing under a thoroughbred horse permit shall be subject to the distribution of the net proceeds as specified in paragraph (a) unless the host and guest permitholders and the recognized horseman's group agree to a different distribution of their respective portions of the proceeds by contract.

(d) Any permitholder located in any area of the state where there are only two permits, one for dogracing and one for jai alai, may accept wagers on rebroadcasts of out-of-state thoroughbred horse races from an in-state thoroughbred horse racing permitholder and shall not be subject to the provisions of paragraph (b) if such thoroughbred horse racing permitholder located within the area specified in this paragraph is both conducting live races and accepting wagers on out-of-state horseraces. In such case, the guest permitholder shall be entitled to 45 percent of the net proceeds on wagers accepted at the guest facility. The remaining proceeds shall be distributed as follows: one-half shall be retained by the host facility and one-half shall be paid by the host facility as purses at the host facility.

(e) Notwithstanding the provisions of subsection (1) and s. 550.625(1) and (2)(b), the proceeds that are retained by a harness host facility from the takeout on a race broadcast under this subsection shall be distributed as follows:

1. Of the total intertrack handle on the broadcast, 1 percent shall be deducted from the proceeds and paid to the Florida Standardbred Breeders and Owners Association, Inc., to be used as set forth in s. 550.625(2)(b);
2. One-third of the remainder of such proceeds shall be paid to the guest facility;
3. One-third of the remainder of such proceeds shall be retained by the host facility; and
4. One-third of the remainder of said proceeds shall be paid by the host facility as purses at the host facility.

(f) Any permitholder located in any area of the state where there are only two permits, one for dogracing and one for jai alai, may accept wagers on rebroadcasts of out-of-state harness horse races from an in-state harness horse racing permitholder and shall not be subject to the provisions of paragraph (b) if such harness horse racing permitholder located within the area specified in this paragraph is conducting live races. In such case, the guest permitholder shall be entitled to 45 percent of the net proceeds on wagers accepted at the guest facility. The remaining proceeds shall be distributed as follows: one-half shall be retained by the host facility and one-half shall be paid by the host facility as purses at the host facility.

(g)1. Any thoroughbred permitholder which accepts wagers on a simulcast signal must make the signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345.

2. Any thoroughbred permitholder which accepts wagers on a simulcast signal received after 6 p.m. must make such signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345, including any permitholder located as specified in s. 550.615(6). Such guest permitholders are authorized to accept wagers on such simulcast signal, notwithstanding any other provision of this chapter to the contrary.

3. Any thoroughbred permitholder which accepts wagers on a simulcast signal received after 6 p.m. must make such signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345, including any permitholder located as specified in [1]s. 550.615(9). Such guest permitholders are authorized to accept wagers on such simulcast signals for a number of performances not to exceed that which constitutes a full schedule of live races for a quarter horse permitholder pursuant to s. 550.002(11), notwithstanding any other provision of this chapter to the contrary, except that the restrictions provided in [1]s. 550.615(9)(a) apply to wagers on such simulcast signals.

No thoroughbred permitholder shall be required to continue to rebroadcast a simulcast signal to any in-state permitholder if the average per performance gross receipts returned to the host permitholder over the preceding 30-day period were less than $100. Subject to the provisions of s. 550.615(4), as a condition of receiving rebroadcasts of thoroughbred simulcast signals under this paragraph, a guest permitholder must accept intertrack wagers on all live races conducted by all then-operating thoroughbred permitholders.

(10) All races or games conducted at a permitholder's facility, all broadcasts of such races or games, and all broadcast rights relating thereto are owned by the permitholder at whose facility such races or games are conducted and constitute the permitholder's property as defined in s. 812.012(4). Transmission, reception of a transmission, exhibition, use, or other appropriation of such races or games, broadcasts of such races or games, or broadcast rights relating thereto without the written consent of the permitholder constitutes a theft of such property under s. 812.014; and in addition to the penal sanctions contained in s. 812.014, the permitholder has the right to avail itself of the civil remedies specified in ss. 772.104, 772.11, and 812.035 in addition to any other remedies available under applicable state or federal law.

(11) To the extent that any rights, privileges, or immunities granted to pari-mutuel permitholders in this section conflict with any provision of any other law or affect any order or rule of the Florida Public Service Commission relating to the regulation of public utilities and the furnishing to others of any communication, wire service, or other similar service or equipment, the rights, privileges, and immunities granted under this section prevail over such conflicting provision.

History.—s. 49, ch. 92-348; s. 17, ch. 96-364; s. 10, ch. 98-190; s. 20, ch. 2000-354; s. 27, ch. 2001-63; s. 85, ch. 2002-1; s. 14, ch. 2002-2.

[1]**Note.**—Repealed by s. 44, ch. 2000-354.

550.6308 Limited intertrack wagering license.—In recognition of the economic importance of the thoroughbred breeding industry to this state, its positive impact on tourism, and of the importance of a permanent thoroughbred sales facility as a key focal point for the activities of the industry, a limited license to conduct intertrack wagering is established to ensure the continued viability and public interest in thoroughbred breeding in Florida.

(1) Upon application to the division on or before January 31 of each year, any person that is licensed to conduct public sales of thoroughbred horses pursuant to s. 535.01, that has conducted at least 15 days of thoroughbred horse sales at a permanent sales facility in this state for at least 3 consecutive years, and that has conducted at least 1 day of nonwagering thoroughbred racing in this state, with a purse structure of at least $250,000 per year for 2 consecutive years before such application, shall be issued a license, subject to the conditions set forth in this section, to conduct intertrack wagering at such a permanent sales facility during the following periods:

(a) Up to 21 days in connection with thoroughbred sales;

(b) Between November 1 and May 8;

(c) Between May 9 and October 31 at such times and on such days as any thoroughbred, jai alai, or a greyhound permitholder in the same county is not conducting live performances; provided that any such permitholder may waive this requirement, in whole or in part, and allow the licensee under this section to conduct intertrack wagering during one or more of the permitholder's live performances; and

(d) During the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeders' Cup Meet that is conducted before November 1 and after May 8.

No more than one such license may be issued, and no such license may be issued for a facility located within 50 miles of any thoroughbred permitholder's track.

(2) If more than one application is submitted for such license, the division shall determine which applicant shall be granted the license. In making its determination, the division shall grant the license to the applicant demonstrating superior capabilities, as measured by the length of time the applicant has been conducting thoroughbred sales within this state or elsewhere, the applicant's total volume of thoroughbred horse sales, within this state or elsewhere, the length of time the applicant has maintained a permanent thoroughbred sales facility in this state, and the quality of the facility.

(3) The applicant must comply with the provisions of ss. 550.125 and 550.1815.

(4) Intertrack wagering under this section may be conducted only on thoroughbred horse racing, except that intertrack wagering may be conducted on any class of pari-mutuel race or game conducted by any class of permitholders licensed under this chapter if all thoroughbred, jai alai, and greyhound permitholders in the same county as the licensee under this section give their consent.

(5) The licensee shall be considered a guest track under this chapter. The licensee shall pay 2.5 percent of the total contributions to the daily pari-mutuel pool on wagers accepted at the licensee's facility on greyhound races or jai alai games to the thoroughbred permitholder that is conducting live races for purses to be paid during its current racing meet. If more than one thoroughbred permitholder is conducting live races on a day during which the licensee is conducting intertrack wagering on greyhound races or jai alai games, the licensee shall allocate these funds between the operating thoroughbred permitholders on a pro rata basis based on the total live handle at the operating permitholders' facilities.

History.—s. 11, ch. 98-190; s. 4, ch. 98-217; s. 28, ch. 2000-354.

550.6315 Applicability of s. 565.02(5) to guest tracks.— The provisions of s. 565.02(5) apply to any guest track.

History.—s. 50, ch. 92-348.

550.6325 Uncashed tickets and breakage tax.— Uncashed tickets and breakage tax on intertrack wagers shall be retained by the permitholder conducting the live racing or games.

History.—s. 51, ch. 92-348.

550.6335 Surcharge.—

(1) Any guest track that accepts intertrack wagers may collect and retain a surcharge on any intertrack pool in an amount not to exceed 3 percent of each winning pari-mutuel ticket cashed.

(2) A thoroughbred horse permitholder that accepts wagers on out-of-state races may impose a surcharge on each winning ticket, or interstate pool, on such out-of-state race in an amount not to exceed 5 percent of each winning pari-mutuel winning ticket cashed. If a permitholder rebroadcasts such signal and elects to impose a surcharge, the surcharge shall be imposed on any winning ticket at any guest facility at the same rate as the surcharge on wagers accepted at its own facility. The proceeds from the surcharge shall be distributed as follows: if the wager is made at the host facility, then one-half of the proceeds shall be retained by the host permitholder and one-half shall be paid as purses at the host facility; if the wager is made at a guest facility, then one-half shall be retained by the guest permitholder, one-quarter shall be paid to the host permitholder, and one-quarter shall be paid as purses at the host facility.

Any surcharge taken under this section must be calculated after breakage is deducted from the wagering pool.

History.—s. 52, ch. 92-348; s. 18, ch. 96-364.

550.6345 Intertrack wagering; purses when host track is harness racetrack.— A harness race permitholder host track may pay any guest track that receives broadcasts and accepts wagers on races from the host track an additional percentage of the total contribution to the pari-mutuel pool on wagers accepted at that guest track as a supplement to the payment authorized in s. 550.6305. A harness race permitholder host track that supplements payments to a guest track may reduce the account available for payment of purses during its current race meet by 50 percent of the supplemental amount paid to the guest track, but the total reduction may not exceed an amount which is more than 1 percent of the intertrack wagers placed on races that are part of the regular ontrack program of the host track during its current race meet pursuant to s. 550.615.

History.—s. 53, ch. 92-348.

550.70 Jai alai general provisions; chief court judges required; extension of time to construct fronton; amateur jai alai contests permitted under certain conditions; playing days' limitations; locking of pari-mutuel machines.—

(1) A chief court judge must be present for each jai alai game at which pari-mutuel wagering is authorized. Chief court judges must be able to demonstrate extensive knowledge of the rules and game of jai alai and be able to meet the physical requirements of the position. The decisions of a chief court judge are final as to any incident relating to the playing of a jai alai game.

(2) The time within which the holder of a ratified permit for jai alai or pelota has to construct and complete a fronton may be extended by the division for a period of 24 months after the date of the issuance of the permit, anything to the contrary in any statute notwithstanding.

(3) This chapter does not prohibit any fronton, jai alai plant, or facility from being used to conduct amateur jai alai or pelota contests or games during each fronton season by any charitable, civic, or nonprofit organization for the purpose of conducting jai alai contests or games if only players other than those usually used in jai alai contests or games are permitted to play and if adults and minors may participate as players or spectators. However, during such jai alai games or contests, betting and gambling and the sale or use of alcoholic beverages are prohibited.

(4) A jai alai player shall not be required to perform on more than 6 consecutive calendar days.

(5) The provisions of s. 550.155(1) allow wagering on points during a game; however, the pari-mutuel machines must be locked upon the start of the serving motion of each serve for wagers on that game.

History.—s. 55, ch. 92-348; s. 1, ch. 95-396; s. 19, ch. 96-364.

550.71 Operation of ch. 96-364.— If the provisions of any section of this act are held to be invalid or inoperative for any reason, the remaining provisions of this act shall be deemed to be void and of no effect, it being the legislative intent that this act as a whole would not have been adopted had any provision of the act not been included.

History.—s. 25, ch. 96-364.

550.901 Interstate Compact on Licensure of Participants in Pari-mutuel Wagering.— There is created the Interstate Compact on Licensure of Participants in Pari-mutuel Wagering.

History.—s. 31, ch. 2000-354.

550.902 Purposes.— The purposes of this compact are to:

(1) Establish uniform requirements among the party states for the licensing of participants with pari-mutuel wagering, and ensure that all licensed participants meet a uniform minimum standard of honesty and integrity.

(2) Facilitate the growth of the pari-mutuel wagering industry in each party state and nationwide by simplifying the process for licensing participants in pari-mutuel wagering, and reduce the duplicative and costly process of separate licensing by the regulatory agency in each state that conducts pari-mutuel wagering.

(3) Authorize the Department of Business and Professional Regulation to participate in this compact.

(4) Provide for participation in this compact by officials of the party states, and permit those officials, through the compact committee established by this compact, to enter into contracts with governmental agencies and nongovernmental persons to carry out the purposes of this compact.

(5) Establish the compact committee created by this compact as an interstate governmental entity duly authorized to request and receive criminal history record information from the Federal Bureau of Investigation and other state and local law enforcement agencies.

History.—s. 32, ch. 2000-354.

550.903 Definitions; Interstate Compact on Licensure of Participants in Pari-mutuel Wagering.— As used in this compact, the term:

(1) "Compact committee" means the organization of officials from the party states which is authorized and empowered to carry out the purposes of this compact.

(2) "Official" means the appointed, elected, designated, or otherwise duly selected member of a racing commission, or the equivalent thereof, in a party state who represents that party state as a member of the compact committee.

(3) "Participants in pari-mutuel wagering" means participants in horseracing, greyhound racing, and jai alai games with pari-mutuel wagering in the party states.

(4) "Party state" means each state that has enacted this compact.

(5) "State" means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory or possession of the United States.

History.—s. 33, ch. 2000-354.

550.904 Entry into force.— This compact shall come into force when enacted by any four states. Thereafter, this compact shall become effective in any other state upon that state's enactment of this compact and upon the affirmative vote of a majority of the officials on the compact committee as provided in s. 550.909.

History.—s. 34, ch. 2000-354; s. 28, ch. 2001-63.

550.905 States eligible to join compact.— Any state that has adopted or authorized pari-mutuel wagering shall be eligible to become a party to this compact.

History.—s. 35, ch. 2000-354.

550.906 Withdrawal from compact; impact on force and effect.—

(1) Any party state may withdraw from this compact by enacting a statute repealing this compact, but such a withdrawal becomes effective only when the head of the executive branch of the withdrawing party state has given written notice of the withdrawal to the heads of the executive branch of all other party states.

(2) If, as a result of withdrawals, participation in this compact decreases to fewer than three party states, this compact shall no longer be in force and effect until participation in this compact increases to three or more party states.

History.—s. 36, ch. 2000-354.

550.907 Compact committee.—

(1) There is created an interstate governmental entity to be known as the "compact committee," which shall be composed of one official from the racing commission, or the equivalent thereof, in each party state who shall be appointed, serve, and be subject to removal in accordance with the laws of the party state that she or he represents. The official from Florida shall be appointed by the Secretary of Business and Professional Regulation. Pursuant to the laws of her or his party state, each official shall have the assistance of her or his state's racing commission, or the equivalent thereof, in considering issues related to licensing of participants in pari-mutuel wagering and in fulfilling her or his responsibilities as the representative from her or his state to the compact committee.

(2) If an official is unable to perform any of her or his duties as a member of the compact committee, the racing commission, or the equivalent thereof, from her or his state shall designate another of its members as an alternate who shall serve in her or his place and represent the party state as its official on the compact committee, until that racing commission, or the equivalent thereof, determines that the original representative official is once again able to perform her or his duties as that party state's representative official on the compact committee. The designation of an alternate shall be communicated by the affected state's racing commission, or the equivalent thereof, to the compact committee as the committee's bylaws provide.

History.—s. 37, ch. 2000-354.

550.908 Powers and duties of compact committee.—In order to carry out the purposes of this compact, the compact committee has the power and duty to:

(1)(a) Determine which categories of participants in pari-mutuel wagering, including, but not limited to, owners, trainers, jockeys, jai alai players, drivers, grooms, mutuel clerks, racing officials, veterinarians, and farriers, should be licensed by the committee, and to establish the requirements for the initial licensure of applicants in each category, the term of the license for each category, and the requirements for renewal of licenses in each category.

(b) With regard to requests for criminal history record information on each applicant for a license, and with regard to the effect of a criminal record on the issuance or renewal of a license, determine for each category of participants in pari-mutuel wagering which licensure requirements for that category are, in its judgment, the most restrictive licensure requirements of any party state for that category and to adopt licensure requirements for that category which are, in its judgment, comparable to those most restrictive requirements.

(2) Investigate applicants for licensure by the compact committee and, as permitted by federal and state law, gather information on such applicants, including criminal history record information from the Federal Bureau of Investigation and relevant state and local law enforcement agencies, and, where appropriate, from the Royal Canadian Mounted Police and law enforcement agencies of other countries, which is necessary to determine whether a license should be issued under the licensure requirements established by the committee under subsection (1). The fingerprints of each applicant for licensure by the compact committee shall be taken by the compact committee, its employees, or its designee, and, pursuant to Pub. L. No. 92-544 or Pub. L. No. 100-413, shall be forwarded to a state identification bureau or to the Association of Racing Commissioners International, Inc., for submission to the Federal Bureau of Investigation for a criminal history record check. Such fingerprints may be submitted by electronic or other means authorized by the Federal Bureau of Investigation or other receiving law enforcement agency.

(3) Issue licenses to, and renew the licenses of, participants in pari-mutuel wagering who are found by the committee to have met the licensure and renewal requirements established by the committee under subsection (1). The compact committee shall not have the power or authority to deny a license. If the compact committee determines that an applicant is not eligible for the issuance or renewal of a compact committee license, the compact committee shall notify the applicant that her or his application will not be processed further. Such notification does not constitute and shall not be considered to be the denial of a license. Any such applicant shall have the right to present additional evidence to, and be heard by, the compact committee, but the final decision on issuance or renewal of the license shall be made by the compact committee using the requirements established under subsection (1).

(4) Enter into contracts or agreements with governmental agencies and nongovernmental persons to provide personal services for its activities and such other services as are necessary to effectuate the purposes of this compact.

(5) Create, appoint, and abolish those offices, employments, and positions, including that of executive director, that it considers necessary for the purposes of this compact; prescribe the powers, duties, and qualifications of, and hire persons to fill, such offices, employments, and positions; and provide for the removal, term, tenure, compensation, fringe benefits, retirement benefits, and other conditions of employment of persons filling such offices, employments, and positions.

(6) Borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, corporation, or other entity.

(7) Acquire, hold, and dispose of real and personal property by gift, purchase, lease, or license, or in other similar manner, in furtherance of the purposes of this compact.

(8) Charge a fee to each applicant for an initial license or renewal of a license.

(9) Receive other funds through gifts, grants, and appropriations.

History.—s. 38, ch. 2000-354; s. 53, ch. 2013-116.

550.909 Voting requirements.—

(1) Each member of the compact committee is entitled to one vote.

(2) All action taken by the compact committee with regard to the addition of party states, the licensure of participants in pari-mutuel wagering, and the receipt and disbursement of funds requires a majority vote of the members of the compact committee or their alternates. All other action by the compact committee requires a majority vote of the members present or their alternates.

(3) The compact committee may not take any action unless a quorum is present. A majority of the members of the compact committee or their alternates constitutes a quorum.

History.—s. 39, ch. 2000-354.

550.910 Administration and management.—

(1) The compact committee shall elect annually from among its members a chairperson, a vice chairperson, and a secretary/treasurer.

(2) The compact committee shall adopt bylaws for the conduct of its business by a two-thirds vote of the members of the committee or their alternates and may, by the same vote, amend and rescind these bylaws. The compact committee shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendments thereto with the Secretary of State or equivalent agency of each of the party states.

(3) The compact committee may delegate the day-to-day management and administration of its duties and responsibilities to an executive director and her or his support staff.

(4) Employees of the compact committee shall be considered governmental employees.

History.—s. 40, ch. 2000-354.

550.911 Immunity from liability for performance of official responsibilities and duties.— A member or employee of the compact committee may not be held personally liable for any good faith act or omission that occurs during the performance and within the scope of her or his responsibilities and duties under this compact.

History.—s. 41, ch. 2000-354.

550.912 Rights and responsibilities of each party state.—

(1) By enacting this compact, each party state:

(a) Agrees to:

1. Accept the decisions of the compact committee regarding the issuance of compact committee licenses to participants in pari-mutuel wagering pursuant to the committee's licensure requirements.

2. Reimburse or otherwise pay the expenses of its official representative on the compact committee or her or his alternate.

(b) Agrees not to treat a notification to an applicant by the compact committee described in s. 550.908 as the denial of a license, or to penalize such an applicant in any other way based solely on such a decision by the compact committee.

(c) Reserves the right to:

1. Apply its own standards in determining whether, on the facts of a particular case, a compact committee license should be suspended or revoked. Any party state that suspends or revokes a compact committee license shall, through its racing commission or the equivalent thereof, or otherwise, promptly notify the compact committee of that suspension or revocation.

2. Apply its own standards in determining licensure eligibility, under the laws of that party state, for categories of participants in pari-mutuel wagering which the compact committee decides not to license and for individual participants in pari-mutuel wagering who do not meet the licensure requirements of the compact committee.

3. Establish its own licensure standards for those who are not covered by the compact committee license.

(2) A party state may not be held liable for the debts or other financial obligations incurred by the compact committee.

History.—s. 42, ch. 2000-354; s. 29, ch. 2001-63.

550.913 Construction and severability.—

(1) This compact shall be liberally construed so as to effectuate its purposes. The provisions of this compact shall be severable, and, if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution of the United States or of any party state, or if the applicability of this compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby.

(2) If all or some portion of this compact is held to be contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

History.—s. 43, ch. 2000-354.

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The Florida Senate

2015 Florida Statutes

Title XXXIII REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND SOLICITATIONS	**Chapter 551** **SLOT MACHINES**

CHAPTER 551
SLOT MACHINES

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551.101 Slot machine gaming authorized.— Any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 may possess slot machines and conduct slot machine gaming at the location where the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to such permitholder's valid pari-mutuel permit provided that a majority of voters in a countywide referendum have approved slot machines at such facility in the respective county. Notwithstanding any other provision of law, it is not a crime for a person to participate in slot machine gaming at a pari-mutuel facility licensed to possess slot machines and conduct slot machine gaming or to participate in slot machine gaming described in this chapter.

History.—s. 1, ch. 2005-362; s. 129, ch. 2007-5.

551.102 Definitions.— As used in this chapter, the term:

(1) "Distributor" means any person who sells, leases, or offers or otherwise provides, distributes, or services any slot machine or associated equipment for use or play of slot machines in this state. A manufacturer may be a distributor within the state.

(2) "Designated slot machine gaming area" means the area or areas of a facility of a slot machine licensee in which slot machine gaming may be conducted in accordance with the provisions of this chapter.

(3) "Division" means the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation.

(4) "Eligible facility" means any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 and has been approved by a majority of voters in a countywide referendum to have slot machines at such facility in the respective county; any licensed pari-mutuel facility located within a county as defined in s. 125.011, provided such facility has conducted live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter; or any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section in the respective county, provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required licensed fee, and meets the other requirements of this chapter.

(5) "Manufacturer" means any person who manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs, or otherwise makes modifications to any slot machine or associated equipment for use or play of slot machines in this state for gaming purposes. A manufacturer may be a distributor within the state.

(6) "Nonredeemable credits" means slot machine operating credits that cannot be redeemed for cash or any other thing of value by a slot machine, kiosk, or the slot machine licensee and that are provided free of charge to patrons. Such credits do not constitute "nonredeemable credits" until such time as they are metered as credit into a slot machine and recorded in the facility-based monitoring system.

(7) "Progressive system" means a computerized system linking slot machines in one or more licensed facilities within this state or other jurisdictions and offering one or more common progressive payouts based on the amounts wagered.

(8) "Slot machine" means any mechanical or electrical contrivance, terminal that may or may not be capable of downloading slot games from a central server system, machine, or other device that, upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any consideration whatsoever, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot machines may use spinning reels, video displays, or both. A slot machine is not a "coin-operated amusement machine" as defined in s. 212.02(24) or an amusement game or machine as described in s. 546.10, and slot machines are not subject to the tax imposed by s. 212.05(1)(h).

(9) "Slot machine facility" means a facility at which slot machines as defined in this chapter are lawfully offered for play.

(10) "Slot machine license" means a license issued by the division authorizing a pari-mutuel permitholder to place and operate slot machines as provided by s. 23, Art. X of the State Constitution, the provisions of this chapter, and division rules.

(11) "Slot machine licensee" means a pari-mutuel permitholder who holds a license issued by the division pursuant to this chapter that authorizes such person to possess a slot machine within facilities specified in s. 23, Art. X of the State Constitution and allows slot machine gaming.

(12) "Slot machine operator" means a person employed or contracted by the owner of a licensed facility to conduct slot machine gaming at that licensed facility.

(13) "Slot machine revenues" means the total of all cash and property, except nonredeemable credits, received by the slot machine licensee from the operation of slot machines less the amount of cash, cash equivalents, credits, and prizes paid to winners of slot machine gaming.

History.—s. 1, ch. 2005-362; s. 1, ch. 2007-252; s. 19, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 2, ch. 2015-93.

551.103 Powers and duties of the division and law enforcement.—

(1) The division shall adopt, pursuant to the provisions of ss. 120.536(1) and 120.54, all rules necessary to implement, administer, and regulate slot machine gaming as authorized in this chapter. Such rules must include:

(a) Procedures for applying for a slot machine license and renewal of a slot machine license.

(b) Technical requirements and the qualifications contained in this chapter that are necessary to receive a slot machine license or slot machine occupational license.

(c) Procedures to scientifically test and technically evaluate slot machines for compliance with this chapter. The division may contract with an independent testing laboratory to conduct any necessary testing under this section. The independent testing laboratory must have a national reputation which is demonstrably competent and qualified to scientifically test and evaluate slot machines for compliance with this chapter and to otherwise perform the functions assigned to it in this chapter. An independent testing laboratory shall not be owned or controlled by a licensee. The use of an independent testing laboratory for any purpose related to the conduct of slot machine gaming by a licensee under this chapter shall be made from a list of one or more laboratories approved by the division.

(d) Procedures relating to slot machine revenues, including verifying and accounting for such revenues, auditing, and collecting taxes and fees consistent with this chapter.

(e) Procedures for regulating, managing, and auditing the operation, financial data, and program information relating to slot machine gaming that allow the division and the Department of Law Enforcement to audit the operation, financial data, and program information of a slot machine licensee, as required by the division or the Department of Law Enforcement, and provide the division and the Department of Law Enforcement with the ability to monitor, at any time on a real-time basis, wagering patterns, payouts, tax collection, and compliance with any rules adopted by the division for the regulation and control of slot machines operated under this chapter. Such continuous and complete access, at any time on a real-time basis, shall include the ability of either the division or the Department of Law Enforcement to suspend play immediately on particular slot machines if monitoring of the facilities-based computer system indicates possible tampering or manipulation of those slot machines or the ability to suspend play immediately of the entire operation if the tampering or manipulation is of the computer system itself. The division shall notify the Department of Law Enforcement or the Department of Law Enforcement shall notify the division, as appropriate, whenever there is a suspension of play under this paragraph. The division and the Department of Law Enforcement shall exchange such information necessary for and cooperate in the investigation of the circumstances requiring suspension of play under this paragraph.

(f) Procedures for requiring each licensee at his or her own cost and expense to supply the division with a bond having the penal sum of $2 million payable to the Governor and his or her successors in office for each year of the licensee's slot machine operations. Any bond shall be issued by a surety or sureties approved by the division and the Chief Financial Officer, conditioned to faithfully make the payments to the Chief Financial Officer in his or her capacity as treasurer of the division. The licensee shall be required to keep its books and records and make reports as provided in this chapter and to conduct its slot machine operations in conformity with this chapter and all other provisions of law. Such bond shall be separate and distinct from the bond required in s. 550.125.

(g) Procedures for requiring licensees to maintain specified records and submit any data, information, record, or report, including financial and income records, required by this chapter or determined by the division to be necessary to the proper implementation and enforcement of this chapter.

(h) A requirement that the payout percentage of a slot machine be no less than 85 percent.

(i) Minimum standards for security of the facilities, including floor plans, security cameras, and other security equipment.

(j) Procedures for requiring slot machine licensees to implement and establish drug-testing programs for all slot machine occupational licensees.

(2) The division shall conduct such investigations necessary to fulfill its responsibilities under the provisions of this chapter.

(3) The Department of Law Enforcement and local law enforcement agencies shall have concurrent jurisdiction to investigate criminal violations of this chapter and may investigate any other criminal violation of law occurring at the facilities of a slot machine licensee, and such investigations may be conducted in conjunction with the appropriate state attorney.

(4)(a) The division, the Department of Law Enforcement, and local law enforcement agencies shall have unrestricted access to the slot machine licensee's facility at all times and shall require of each slot machine licensee strict compliance with the laws of this state relating to the transaction of such business. The division, the Department of Law Enforcement, and local law enforcement agencies may:

1. Inspect and examine premises where slot machines are offered for play.

2. Inspect slot machines and related equipment and supplies.

(b) In addition, the division may:

1. Collect taxes, assessments, fees, and penalties.

2. Deny, revoke, suspend, or place conditions on the license of a person who violates any provision of this chapter or rule adopted pursuant thereto.

(5) The division shall revoke or suspend the license of any person who is no longer qualified or who is found, after receiving a license, to have been unqualified at the time of application for the license.

(6) This section does not:

(a) Prohibit the Department of Law Enforcement or any law enforcement authority whose jurisdiction includes a licensed facility from conducting investigations of criminal activities occurring at the facility of the slot machine licensee;

(b) Restrict access to the slot machine licensee's facility by the Department of Law Enforcement or any local law enforcement authority whose jurisdiction includes the slot machine licensee's facility; or

(c) Restrict access by the Department of Law Enforcement or local law enforcement authorities to information and records necessary to the investigation of criminal activity that are contained within the slot machine licensee's facility.

History.—s. 1, ch. 2005-362; s. 2, ch. 2007-252.

551.104 License to conduct slot machine gaming.—

(1) Upon application and a finding by the division after investigation that the application is complete and the applicant is qualified and payment of the initial license fee, the division may issue a license to conduct slot machine gaming in the designated slot machine gaming area of the eligible facility. Once licensed, slot machine gaming may be conducted subject to the requirements of this chapter and rules adopted pursuant thereto.

(2) An application may be approved by the division only after the voters of the county where the applicant's facility is located have authorized by referendum slot machines within pari-mutuel facilities in that county as specified in s. 23, Art. X of the State Constitution.

(3) A slot machine license may be issued only to a licensed pari-mutuel permitholder, and slot machine gaming may be conducted only at the eligible facility at which the permitholder is authorized under its valid pari-mutuel wagering permit to conduct pari-mutuel wagering activities.

(4) As a condition of licensure and to maintain continued authority for the conduct of slot machine gaming, the slot machine licensee shall:

(a) Continue to be in compliance with this chapter.

(b) Continue to be in compliance with chapter 550, where applicable, and maintain the pari-mutuel permit and license in good standing pursuant to the provisions of chapter 550. Notwithstanding any contrary provision of law and in order to expedite the operation of slot machines at eligible facilities, any eligible facility shall be entitled within

60 days after the effective date of this act to amend its 2006-2007 pari-mutuel wagering operating license issued by the division under ss. 550.0115 and 550.01215. The division shall issue a new license to the eligible facility to effectuate any approved change.

(c) Conduct no fewer than a full schedule of live racing or games as defined in s. 550.002(11). A permitholder's responsibility to conduct such number of live races or games shall be reduced by the number of races or games that could not be conducted due to the direct result of fire, war, hurricane, or other disaster or event beyond the control of the permitholder.

(d) Upon approval of any changes relating to the pari-mutuel permit by the division, be responsible for providing appropriate current and accurate documentation on a timely basis to the division in order to continue the slot machine license in good standing. Changes in ownership or interest of a slot machine license of 5 percent or more of the stock or other evidence of ownership or equity in the slot machine license or any parent corporation or other business entity that in any way owns or controls the slot machine license shall be approved by the division prior to such change, unless the owner is an existing holder of that license who was previously approved by the division. Changes in ownership or interest of a slot machine license of less than 5 percent, unless such change results in a cumulative total of 5 percent or more, shall be reported to the division within 20 days after the change. The division may then conduct an investigation to ensure that the license is properly updated to show the change in ownership or interest. No reporting is required if the person is holding 5 percent or less equity or securities of a corporate owner of the slot machine licensee that has its securities registered pursuant to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk, and if such corporation or entity files with the United States Securities and Exchange Commission the reports required by s. 13 of that act or if the securities of the corporation or entity are regularly traded on an established securities market in the United States. A change in ownership or interest of less than 5 percent which results in a cumulative ownership or interest of 5 percent or more shall be approved by the division prior to such change unless the owner is an existing holder of the license who was previously approved by the division.

(e) Allow the division and the Department of Law Enforcement unrestricted access to and right of inspection of facilities of a slot machine licensee in which any activity relative to the conduct of slot machine gaming is conducted.

(f) Ensure that the facilities-based computer system that the licensee will use for operational and accounting functions of the slot machine facility is specifically structured to facilitate regulatory oversight. The facilities-based computer system shall be designed to provide the division and the Department of Law Enforcement with the ability to monitor, at any time on a real-time basis, the wagering patterns, payouts, tax collection, and such other operations as necessary to determine whether the facility is in compliance with statutory provisions and rules adopted by the division for the regulation and control of slot machine gaming. The division and the Department of Law Enforcement shall have complete and continuous access to this system. Such access shall include the ability of either the division or the Department of Law Enforcement to suspend play immediately on particular slot machines if monitoring of the system indicates possible tampering or manipulation of those slot machines or the ability to suspend play immediately of the entire operation if the tampering or manipulation is of the computer system itself. The computer system shall be reviewed and approved by the division to ensure necessary access, security, and functionality. The division may adopt rules to provide for the approval process.

(g) Ensure that each slot machine is protected from manipulation or tampering to affect the random probabilities of winning plays. The division or the Department of Law Enforcement shall have the authority to suspend play upon reasonable suspicion of any manipulation or tampering. When play has been suspended on any slot machine, the division or the Department of Law Enforcement may examine any slot machine to determine whether the machine has been tampered with or manipulated and whether the machine should be returned to operation.

(h) Submit a security plan, including the facilities' floor plan, the locations of security cameras, and a listing of all security equipment that is capable of observing and electronically recording activities being conducted in the facilities of the slot machine licensee. The security plan must meet the minimum security requirements as determined by the division under s. 551.103(1)(i) and be implemented prior to operation of slot machine gaming. The slot machine licensee's facilities must adhere to the security plan at all times. Any changes to the security plan must be submitted

by the licensee to the division prior to implementation. The division shall furnish copies of the security plan and changes in the plan to the Department of Law Enforcement.

(i) Create and file with the division a written policy for:

1. Creating opportunities to purchase from vendors in this state, including minority vendors.
2. Creating opportunities for employment of residents of this state, including minority residents.
3. Ensuring opportunities for construction services from minority contractors.
4. Ensuring that opportunities for employment are offered on an equal, nondiscriminatory basis.
5. Training for employees on responsible gaming and working with a compulsive or addictive gambling prevention program to further its purposes as provided for in s. 551.118.
6. The implementation of a drug-testing program that includes, but is not limited to, requiring each employee to sign an agreement that he or she understands that the slot machine facility is a drug-free workplace.

The slot machine licensee shall use the Internet-based job-listing system of the Department of Economic Opportunity in advertising employment opportunities. Beginning in June 2007, each slot machine licensee shall provide an annual report to the division containing information indicating compliance with this paragraph in regard to minority persons.

(j) Ensure that the payout percentage of a slot machine gaming facility is at least 85 percent.

(5) A slot machine license is not transferable.

(6) A slot machine licensee shall keep and maintain permanent daily records of its slot machine operation and shall maintain such records for a period of not less than 5 years. These records must include all financial transactions and contain sufficient detail to determine compliance with the requirements of this chapter. All records shall be available for audit and inspection by the division, the Department of Law Enforcement, or other law enforcement agencies during the licensee's regular business hours.

(7) A slot machine licensee shall file with the division a monthly report containing the required records of such slot machine operation. The required reports shall be submitted on forms prescribed by the division and shall be due at the same time as the monthly pari-mutuel reports are due to the division, and the reports shall be deemed public records once filed.

(8) A slot machine licensee shall file with the division an audit of the receipt and distribution of all slot machine revenues provided by an independent certified public accountant verifying compliance with all financial and auditing provisions of this chapter and the associated rules adopted under this chapter. The audit must include verification of compliance with all statutes and rules regarding all required records of slot machine operations. Such audit shall be filed within 60 days after the completion of the permitholder's pari-mutuel meet.

(9) The division may share any information with the Department of Law Enforcement, any other law enforcement agency having jurisdiction over slot machine gaming or pari-mutuel activities, or any other state or federal law enforcement agency the division or the Department of Law Enforcement deems appropriate. Any law enforcement agency having jurisdiction over slot machine gaming or pari-mutuel activities may share any information obtained or developed by it with the division.

(10)(a)1. No slot machine license or renewal thereof shall be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of thoroughbred racing unless the applicant has on file with the division a binding written agreement between the applicant and the Florida Horsemen's Benevolent and Protective Association, Inc., governing the payment of purses on live thoroughbred races conducted at the licensee's pari-mutuel facility. In addition, no slot machine license or renewal thereof shall be issued to such an applicant unless the applicant has on file with the division a binding written agreement between the applicant and the Florida Thoroughbred Breeders' Association, Inc., governing the payment of breeders', stallion, and special racing awards on live thoroughbred races conducted at the licensee's pari-mutuel facility. The agreement governing purses and the agreement governing awards may direct the payment of such purses and awards from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses and awards shall be subject to the terms of chapter

550. All sums for breeders', stallion, and special racing awards shall be remitted monthly to the Florida Thoroughbred Breeders' Association, Inc., for the payment of awards subject to the administrative fee authorized in s. 550.2625(3).

2. No slot machine license or renewal thereof shall be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of quarter horse racing unless the applicant has on file with the division a binding written agreement between the applicant and the Florida Quarter Horse Racing Association or the association representing a majority of the horse owners and trainers at the applicant's eligible facility, governing the payment of purses on live quarter horse races conducted at the licensee's pari-mutuel facility. The agreement governing purses may direct the payment of such purses from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses shall be subject to the terms of chapter 550.

(b) The division shall suspend a slot machine license if one or more of the agreements required under paragraph (a) are terminated or otherwise cease to operate or if the division determines that the licensee is materially failing to comply with the terms of such an agreement. Any such suspension shall take place in accordance with chapter 120.

(c)1. If an agreement required under paragraph (a) cannot be reached prior to the initial issuance of the slot machine license, either party may request arbitration or, in the case of a renewal, if an agreement required under paragraph (a) is not in place 120 days prior to the scheduled expiration date of the slot machine license, the applicant shall immediately ask the American Arbitration Association to furnish a list of 11 arbitrators, each of whom shall have at least 5 years of commercial arbitration experience and no financial interest in or prior relationship with any of the parties or their affiliated or related entities or principals. Each required party to the agreement shall select a single arbitrator from the list provided by the American Arbitration Association within 10 days of receipt, and the individuals so selected shall choose one additional arbitrator from the list within the next 10 days.

2. If an agreement required under paragraph (a) is not in place 60 days after the request under subparagraph 1. in the case of an initial slot machine license or, in the case of a renewal, 60 days prior to the scheduled expiration date of the slot machine license, the matter shall be immediately submitted to mandatory binding arbitration to resolve the disagreement between the parties. The three arbitrators selected pursuant to subparagraph 1. shall constitute the panel that shall arbitrate the dispute between the parties pursuant to the American Arbitration Association Commercial Arbitration Rules and chapter 682.

3. At the conclusion of the proceedings, which shall be no later than 90 days after the request under subparagraph 1. in the case of an initial slot machine license or, in the case of a renewal, 30 days prior to the scheduled expiration date of the slot machine license, the arbitration panel shall present to the parties a proposed agreement that the majority of the panel believes equitably balances the rights, interests, obligations, and reasonable expectations of the parties. The parties shall immediately enter into such agreement, which shall satisfy the requirements of paragraph (a) and permit issuance of the pending annual slot machine license or renewal. The agreement produced by the arbitration panel under this subparagraph shall be effective until the last day of the license or renewal period or until the parties enter into a different agreement. Each party shall pay its respective costs of arbitration and shall pay one-half of the costs of the arbitration panel, unless the parties otherwise agree. If the agreement produced by the arbitration panel under this subparagraph remains in place 120 days prior to the scheduled issuance of the next annual license renewal, then the arbitration process established in this paragraph will begin again.

4. In the event that neither of the agreements required under subparagraph (a)1. or the agreement required under subparagraph (a)2. are in place by the deadlines established in this paragraph, arbitration regarding each agreement will proceed independently, with separate lists of arbitrators, arbitration panels, arbitration proceedings, and resulting agreements.

5. With respect to the agreements required under paragraph (a) governing the payment of purses, the arbitration and resulting agreement called for under this paragraph shall be limited to the payment of purses from slot machine revenues only.

(d) If any provision of this subsection or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this subsection or chapter which can be given effect without the invalid provision or application, and to this end the provisions of this subsection are severable.

History.—s. 1, ch. 2005-362; s. 3, ch. 2007-252; s. 20, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 409, ch. 2011-142.

551.1045 Temporary licenses.—

(1) Notwithstanding any provision of s. 120.60 to the contrary, the division may issue a temporary occupational license upon the receipt of a complete application from the applicant and a determination that the applicant has not been convicted of or had adjudication withheld on any disqualifying criminal offense. The temporary occupational license remains valid until such time as the division grants an occupational license or notifies the applicant of its intended decision to deny the applicant a license pursuant to the provisions of s. 120.60. The division shall adopt rules to administer this subsection. However, not more than one temporary license may be issued for any person in any year.

(2) A temporary license issued under this section is nontransferable.

History.—s. 1, ch. 2005-362; s. 4, ch. 2007-252.

551.105 Slot machine license renewal.—

(1) Slot machine licenses shall be effective for 1 year after issuance and shall be renewed annually. The application for renewal must contain all revisions to the information submitted in the prior year's application that are necessary to maintain such information as both accurate and current.

(2) The applicant for renewal shall attest that any information changes do not affect the applicant's qualifications for license renewal.

(3) Upon determination by the division that the application for renewal is complete and qualifications have been met, including payment of the renewal fee, the slot machine license shall be renewed annually.

History.—s. 1, ch. 2005-362.

551.106 License fee; tax rate; penalties.—

(1) LICENSE FEE.—

(a) Upon submission of the initial application for a slot machine license and annually thereafter, on the anniversary date of the issuance of the initial license, the licensee must pay to the division a nonrefundable license fee of $3 million for the succeeding 12 months of licensure. In the 2010-2011 fiscal year, the licensee must pay the division a nonrefundable license fee of $2.5 million for the succeeding 12 months of licensure. In the 2011-2012 fiscal year and for every fiscal year thereafter, the licensee must pay the division a nonrefundable license fee of $2 million for the succeeding 12 months of licensure. The license fee shall be deposited into the Pari-mutuel Wagering Trust Fund of the Department of Business and Professional Regulation to be used by the division and the Department of Law Enforcement for investigations, regulation of slot machine gaming, and enforcement of slot machine gaming provisions under this chapter. These payments shall be accounted for separately from taxes or fees paid pursuant to the provisions of chapter 550.

(b) Prior to January 1, 2007, the division shall evaluate the license fee and shall make recommendations to the President of the Senate and the Speaker of the House of Representatives regarding the optimum level of slot machine license fees in order to adequately support the slot machine regulatory program.

(2) TAX ON SLOT MACHINE REVENUES.—

(a) The tax rate on slot machine revenues at each facility shall be 35 percent. If, during any state fiscal year, the aggregate amount of tax paid to the state by all slot machine licensees in Broward and Miami-Dade Counties is less than the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year, each slot machine licensee shall pay to the state within 45 days after the end of the state fiscal year a surcharge equal to its pro rata share of an amount equal to the difference between the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year and the amount of tax paid during the fiscal year. Each licensee's pro rata share shall be an amount determined by dividing the number 1 by the number of facilities licensed to operate slot machines during the applicable fiscal year, regardless of whether the facility is operating such machines.

(b) The slot machine revenue tax imposed by this section shall be paid to the division for deposit into the Pari-mutuel Wagering Trust Fund for immediate transfer by the Chief Financial Officer for deposit into the Educational Enhancement Trust Fund of the Department of Education. Any interest earnings on the tax revenues shall also be transferred to the Educational Enhancement Trust Fund.

(c)1. Funds transferred to the Educational Enhancement Trust Fund under paragraph (b) shall be used to supplement public education funding statewide.

2. If necessary to comply with any covenant established pursuant to s. 1013.68(4), s. 1013.70(1), or s. 1013.737(3), funds transferred to the Educational Enhancement Trust Fund under paragraph (b) shall first be available to pay debt service on lottery bonds issued to fund school construction in the event lottery revenues are insufficient for such purpose or to satisfy debt service reserve requirements established in connection with lottery bonds. Moneys available pursuant to this subparagraph are subject to annual appropriation by the Legislature.

(3) PAYMENT AND DISPOSITION OF TAXES.—Payment for the tax on slot machine revenues imposed by this section shall be paid to the division. The division shall deposit these sums with the Chief Financial Officer, to the credit of the Pari-mutuel Wagering Trust Fund. The slot machine licensee shall remit to the division payment for the tax on slot machine revenues. Such payments shall be remitted by 3 p.m. Wednesday of each week for taxes imposed and collected for the preceding week ending on Sunday. Beginning on July 1, 2012, the slot machine licensee shall remit to the division payment for the tax on slot machine revenues by 3 p.m. on the 5th day of each calendar month for taxes imposed and collected for the preceding calendar month. If the 5th day of the calendar month falls on a weekend, payments shall be remitted by 3 p.m. the first Monday following the weekend. The slot machine licensee shall file a report under oath by the 5th day of each calendar month for all taxes remitted during the preceding calendar month. Such payments shall be accompanied by a report under oath showing all slot machine gaming activities for the preceding calendar month and such other information as may be prescribed by the division.

(4) TO PAY TAX; PENALTIES.—A slot machine licensee who fails to make tax payments as required under this section is subject to an administrative penalty of up to $10,000 for each day the tax payment is not remitted. All administrative penalties imposed and collected shall be deposited into the Pari-mutuel Wagering Trust Fund of the Department of Business and Professional Regulation. If any slot machine licensee fails to pay penalties imposed by order of the division under this subsection, the division may suspend, revoke, or refuse to renew the license of the slot machine licensee.

(5) SUBMISSION OF FUNDS.—The division may require slot machine licensees to remit taxes, fees, fines, and assessments by electronic funds transfer.

History.—s. 1, ch. 2005-362; s. 1, ch. 2006-27; s. 1, ch. 2007-59; s. 5, ch. 2007-252; s. 21, ch. 2009-170; ss. 4, 5, ch. 2010-29.

551.107 Slot machine occupational license; findings; application; fee.—

(1) The Legislature finds that individuals and entities that are licensed under this section require heightened state scrutiny, including the submission by the individual licensees or persons associated with the entities described in this chapter of fingerprints for a criminal history record check.

(2)(a) The following slot machine occupational licenses shall be issued to persons or entities that, by virtue of the positions they hold, might be granted access to slot machine gaming areas or to any other person or entity in one of the following categories:

1. General occupational licenses for general employees, including food service, maintenance, and other similar service and support employees having access to the slot machine gaming area.

2. Professional occupational licenses for any person, proprietorship, partnership, corporation, or other entity that is authorized by a slot machine licensee to manage, oversee, or otherwise control daily operations as a slot machine manager, a floor supervisor, security personnel, or any other similar position of oversight of gaming operations, or any person who is not an employee of the slot machine licensee and who provides maintenance, repair, or upgrades or otherwise services a slot machine or other slot machine equipment.

3. Business occupational licenses for any slot machine management company or company associated with slot machine gaming, any person who manufactures, distributes, or sells slot machines, slot machine paraphernalia, or other associated equipment to slot machine licensees, or any company that sells or provides goods or services associated with slot machine gaming to slot machine licensees.

(b) The division may issue one license to combine licenses under this section with pari-mutuel occupational licenses and cardroom licenses pursuant to s. 550.105(2)(b). The division shall adopt rules pertaining to occupational licenses under this subsection. Such rules may specify, but need not be limited to, requirements and restrictions for licensed occupations and categories, procedures to apply for any license or combination of licenses, disqualifying criminal offenses for a licensed occupation or categories of occupations, and which types of occupational licenses may be combined into a single license under this section. The fingerprinting requirements of subsection (7) apply to any combination license that includes slot machine license privileges under this section. The division may not adopt a rule allowing the issuance of an occupational license to any person who does not meet the minimum background qualifications under this section.

(c) Slot machine occupational licenses are not transferable.

(3) A slot machine licensee may not employ or otherwise allow a person to work at a licensed facility unless such person holds the appropriate valid occupational license. A slot machine licensee may not contract or otherwise do business with a business required to hold a slot machine occupational license unless the business holds such a license. A slot machine licensee may not employ or otherwise allow a person to work in a supervisory or management professional level at a licensed facility unless such person holds a valid slot machine occupational license. All slot machine occupational licensees, while present in slot machine gaming areas, shall display on their persons their occupational license identification cards.

(4)(a) A person seeking a slot machine occupational license or renewal thereof shall make application on forms prescribed by the division and include payment of the appropriate application fee. Initial and renewal applications for slot machine occupational licenses must contain all information that the division, by rule, determines is required to ensure eligibility.

(b) A slot machine license or combination license is valid for the same term as a pari-mutuel occupational license issued pursuant to s. 550.105(1).

(c) Pursuant to rules adopted by the division, any person may apply for and, if qualified, be issued a slot machine occupational license valid for a period of 3 years upon payment of the full occupational license fee for each of the 3 years for which the license is issued. The slot machine occupational license is valid during its specified term at any licensed facility where slot machine gaming is authorized to be conducted.

(d) The slot machine occupational license fee for initial application and annual renewal shall be determined by rule of the division but may not exceed $50 for a general or professional occupational license for an employee of the slot machine licensee or $1,000 for a business occupational license for nonemployees of the licensee providing goods or services to the slot machine licensee. License fees for general occupational licensees shall be paid by the slot machine licensee. Failure to pay the required fee constitutes grounds for disciplinary action by the division against the slot machine licensee, but it is not a violation of this chapter or rules of the division by the general occupational licensee and does not prohibit the initial issuance or the renewal of the general occupational license.

(5) The division may:

(a) Deny an application for, or revoke, suspend, or place conditions or restrictions on, a license of a person or entity that has been refused a license by any other state gaming commission, governmental department, agency, or other authority exercising regulatory jurisdiction over the gaming of another state or jurisdiction; or

(b) Deny an application for, or suspend or place conditions on, a license of any person or entity that is under suspension or has unpaid fines in another state or jurisdiction.

(6)(a) The division may deny, suspend, revoke, or refuse to renew any slot machine occupational license if the applicant for such license or the licensee has violated the provisions of this chapter or the rules of the division governing the conduct of persons connected with slot machine gaming. In addition, the division may deny, suspend,

revoke, or refuse to renew any slot machine occupational license if the applicant for such license or the licensee has been convicted in this state, in any other state, or under the laws of the United States of a capital felony, a felony, or an offense in any other state that would be a felony under the laws of this state involving arson; trafficking in, conspiracy to traffic in, smuggling, importing, conspiracy to smuggle or import, or delivery, sale, or distribution of a controlled substance; racketeering; or a crime involving a lack of good moral character, or has had a gaming license revoked by this state or any other jurisdiction for any gaming-related offense.

(b) The division may deny, revoke, or refuse to renew any slot machine occupational license if the applicant for such license or the licensee has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States if such felony or misdemeanor is related to gambling or bookmaking as described in s. 849.25.

(c) For purposes of this subsection, the term "convicted" means having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

(7) Fingerprints for all slot machine occupational license applications shall be taken in a manner approved by the division and shall be submitted electronically to the Department of Law Enforcement for state processing and the Federal Bureau of Investigation for national processing for a criminal history record check. All persons as specified in s. 550.1815(1)(a) employed by or working within a licensed premises shall submit fingerprints for a criminal history record check and may not have been convicted of any disqualifying criminal offenses specified in subsection (6). Division employees and law enforcement officers assigned by their employing agencies to work within the premises as part of their official duties are excluded from the criminal history record check requirements under this subsection. For purposes of this subsection, the term "convicted" means having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

(a) Fingerprints shall be taken in a manner approved by the division upon initial application, or as required thereafter by rule of the division, and shall be submitted electronically to the Department of Law Enforcement for state processing. The Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing. The results of the criminal history record check shall be returned to the division for purposes of screening. Licensees shall provide necessary equipment approved by the Department of Law Enforcement to facilitate such electronic submission. The division requirements under this subsection shall be instituted in consultation with the Department of Law Enforcement.

(b) The cost of processing fingerprints and conducting a criminal history record check for a general occupational license shall be borne by the slot machine licensee. The cost of processing fingerprints and conducting a criminal history record check for a business or professional occupational license shall be borne by the person being checked. The Department of Law Enforcement may invoice the division for the fingerprints submitted each month.

(c) All fingerprints submitted to the Department of Law Enforcement and required by this section shall be retained by the Department of Law Enforcement and entered into the statewide automated biometric identification system as authorized by s. 943.05(2)(b) and shall be available for all purposes and uses authorized for arrest fingerprints entered into the statewide automated biometric identification system pursuant to s. 943.051.

(d) The Department of Law Enforcement shall search all arrest fingerprints received pursuant to s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under paragraph (c). Any arrest record that is identified with the retained fingerprints of a person subject to the criminal history screening requirements of this section shall be reported to the division. Each licensed facility shall pay a fee to the division for the cost of retention of the fingerprints and the ongoing searches under this paragraph. The division shall forward the payment to the Department of Law Enforcement. The amount of the fee to be imposed for performing these searches and the procedures for the retention of licensee fingerprints shall be as established by rule of the Department of Law Enforcement. The division shall inform the Department of Law Enforcement of any change in the license status of licensees whose fingerprints are retained under paragraph (c).

(e) The division shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for a national criminal history records check every 3 years following issuance of a license. If

the fingerprints of a person who is licensed have not been retained by the Department of Law Enforcement, the person must file a complete set of fingerprints as provided for in paragraph (a). The division shall collect the fees for the cost of the national criminal history record check under this paragraph and shall forward the payment to the Department of Law Enforcement. The cost of processing fingerprints and conducting a criminal history record check under this paragraph for a general occupational license shall be borne by the slot machine licensee. The cost of processing fingerprints and conducting a criminal history record check under this paragraph for a business or professional occupational license shall be borne by the person being checked. The Department of Law Enforcement may invoice the division for the fingerprints submitted each month. Under penalty of perjury, each person who is licensed or who is fingerprinted as required by this section must agree to inform the division within 48 hours if he or she is convicted of or has entered a plea of guilty or nolo contendere to any disqualifying offense, regardless of adjudication.

(8) All moneys collected pursuant to this section shall be deposited into the Pari-mutuel Wagering Trust Fund.

(9) The division may deny, revoke, or suspend any occupational license if the applicant or holder of the license accumulates unpaid obligations, defaults in obligations, or issues drafts or checks that are dishonored or for which payment is refused without reasonable cause.

(10) The division may fine or suspend, revoke, or place conditions upon the license of any licensee who provides false information under oath regarding an application for a license or an investigation by the division.

(11) The division may impose a civil fine of up to $5,000 for each violation of this chapter or the rules of the division in addition to or in lieu of any other penalty provided for in this section. The division may adopt a penalty schedule for violations of this chapter or any rule adopted pursuant to this chapter for which it would impose a fine in lieu of a suspension and adopt rules allowing for the issuance of citations, including procedures to address such citations, to persons who violate such rules. In addition to any other penalty provided by law, the division may exclude from all licensed slot machine facilities in this state, for a period not to exceed the period of suspension, revocation, or ineligibility, any person whose occupational license application has been declared ineligible to hold an occupational license or whose occupational license has been suspended or revoked by the division.

History.—s. 1, ch. 2005-362; s. 6, ch. 2007-252; s. 54, ch. 2013-116.

551.108 Prohibited relationships.—

(1) A person employed by or performing any function on behalf of the division may not:

(a) Be an officer, director, owner, or employee of any person or entity licensed by the division.

(b) Have or hold any interest, direct or indirect, in or engage in any commerce or business relationship with any person licensed by the division.

(2) A manufacturer or distributor of slot machines may not enter into any contract with a slot machine licensee that provides for any revenue sharing of any kind or nature that is directly or indirectly calculated on the basis of a percentage of slot machine revenues. Any maneuver, shift, or device whereby this subsection is violated is a violation of this chapter and renders any such agreement void.

(3) A manufacturer or distributor of slot machines or any equipment necessary for the operation of slot machines or an officer, director, or employee of any such manufacturer or distributor may not have any ownership or financial interest in a slot machine license or in any business owned by the slot machine licensee.

(4) An employee of the division or relative living in the same household as such employee of the division may not wager at any time on a slot machine located at a facility licensed by the division.

(5) An occupational licensee or relative living in the same household as such occupational licensee may not wager at any time on a slot machine located at a facility where that person is employed.

History.—s. 1, ch. 2005-362.

551.109 Prohibited acts; penalties.—

(1) Except as otherwise provided by law and in addition to any other penalty, any person who knowingly makes or causes to be made, or aids, assists, or procures another to make, a false statement in any report, disclosure,

application, or any other document required under this chapter or any rule adopted under this chapter is subject to an administrative fine or civil penalty of up to $10,000.

(2) Except as otherwise provided by law and in addition to any other penalty, any person who possesses a slot machine without the license required by this chapter or who possesses a slot machine at any location other than at the slot machine licensee's facility is subject to an administrative fine or civil penalty of up to $10,000 per machine. The prohibition in this subsection does not apply to:

(a) Slot machine manufacturers or slot machine distributors that hold appropriate licenses issued by the division who are authorized to maintain a slot machine storage and maintenance facility at any location in a county in which slot machine gaming is authorized by this chapter. The division may adopt rules regarding security and access to the storage facility and inspections by the division.

(b) Certified educational facilities that are authorized to maintain slot machines for the sole purpose of education and licensure, if any, of slot machine technicians, inspectors, or investigators. The division and the Department of Law Enforcement may possess slot machines for training and testing purposes. The division may adopt rules regarding the regulation of any such slot machines used for educational, training, or testing purposes.

(3) Any person who knowingly excludes, or takes any action in an attempt to exclude, anything of value from the deposit, counting, collection, or computation of revenues from slot machine activity, or any person who by trick, sleight-of-hand performance, a fraud or fraudulent scheme, or device wins or attempts to win, for himself or herself or for another, money or property or a combination thereof or reduces or attempts to reduce a losing wager in connection with slot machine gaming commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Any person who manipulates or attempts to manipulate the outcome, payoff, or operation of a slot machine by physical tampering or by use of any object, instrument, or device, whether mechanical, electrical, magnetic, or involving other means, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Theft of any slot machine proceeds or of property belonging to the slot machine operator or licensed facility by an employee of the operator or facility or by an employee of a person, firm, or entity that has contracted to provide services to the operator or facility constitutes a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(6)(a) Any law enforcement officer or slot machine operator who has probable cause to believe that a violation of subsection (3), subsection (4), or subsection (5) has been committed by a person and that the officer or operator can recover the lost proceeds from such activity by taking the person into custody may, for the purpose of attempting to effect such recovery or for prosecution, take the person into custody on the premises and detain the person in a reasonable manner and for a reasonable period of time. If the operator takes the person into custody, a law enforcement officer shall be called to the scene immediately. The taking into custody and detention by a law enforcement officer or slot machine operator, if done in compliance with this subsection, does not render such law enforcement officer, or the officer's agency, or the slot machine operator criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

(b) Any law enforcement officer may arrest, either on or off the premises and without warrant, any person if there is probable cause to believe that person has violated subsection (3), subsection (4), or subsection (5).

(c) Any person who resists the reasonable effort of a law enforcement officer or slot machine operator to recover the lost slot machine proceeds that the law enforcement officer or slot machine operator had probable cause to believe had been stolen from the licensed facility and who is subsequently found to be guilty of violating subsection (3), subsection (4), or subsection (5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, unless such person did not know or did not have reason to know that the person seeking to recover the lost proceeds was a law enforcement officer or slot machine operator.

(7) All penalties imposed and collected under this section must be deposited into the Pari-mutuel Wagering Trust Fund of the Department of Business and Professional Regulation.

History.—s. 1, ch. 2005-362; s. 7, ch. 2007-252.

551.111 Legal devices.—Notwithstanding any provision of law to the contrary, a slot machine manufactured, sold, distributed, possessed, or operated according to the provisions of this chapter is not unlawful.

History.—s. 1, ch. 2005-362.

551.112 Exclusions of certain persons.—In addition to the power to exclude certain persons from any facility of a slot machine licensee in this state, the division may exclude any person from any facility of a slot machine licensee in this state for conduct that would constitute, if the person were a licensee, a violation of this chapter or the rules of the division. The division may exclude from any facility of a slot machine licensee any person who has been ejected from a facility of a slot machine licensee in this state or who has been excluded from any facility of a slot machine licensee or gaming facility in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over the gaming in such other state. This section does not abrogate the common law right of a slot machine licensee to exclude a patron absolutely in this state.

History.—s. 1, ch. 2005-362.

551.113 Persons prohibited from playing slot machines.—

(1) A person who has not attained 21 years of age may not play or operate a slot machine or have access to the designated slot machine gaming area of a facility of a slot machine licensee.

(2) A slot machine licensee or agent or employee of a slot machine licensee may not knowingly allow a person who has not attained 21 years of age:

(a) To play or operate any slot machine.

(b) To be employed in any position allowing or requiring access to the designated slot machine gaming area of a facility of a slot machine licensee.

(c) To have access to the designated slot machine gaming area of a facility of a slot machine licensee.

(3) The licensed facility shall post clear and conspicuous signage within the designated slot machine gaming areas that states the following:

THE PLAYING OF SLOT MACHINES BY PERSONS UNDER THE AGE OF 21 IS AGAINST FLORIDA LAW (SECTION 551.113, FLORIDA STATUTES). PROOF OF AGE MAY BE REQUIRED AT ANY TIME.

History.—s. 1, ch. 2005-362.

551.114 Slot machine gaming areas.—

(1) A slot machine licensee may make available for play up to 2,000 slot machines within the property of the facilities of the slot machine licensee.

(2) The slot machine licensee shall display pari-mutuel races or games within the designated slot machine gaming areas and offer patrons within the designated slot machine gaming areas the ability to engage in pari-mutuel wagering on live, intertrack, and simulcast races conducted or offered to patrons of the licensed facility.

(3) The division shall require the posting of signs warning of the risks and dangers of gambling, showing the odds of winning, and informing patrons of the toll-free telephone number available to provide information and referral services regarding compulsive or problem gambling.

(4) Designated slot machine gaming areas may be located within the current live gaming facility or in an existing building that must be contiguous and connected to the live gaming facility. If a designated slot machine gaming area is to be located in a building that is to be constructed, that new building must be contiguous and connected to the live gaming facility.

(5) The permitholder shall provide adequate office space at no cost to the division and the Department of Law Enforcement for the oversight of slot machine operations. The division shall adopt rules establishing the criteria for

adequate space, configuration, and location and needed electronic and technological requirements for office space required by this subsection.

History.—s. 1, ch. 2005-362; s. 8, ch. 2007-252.

551.116 Days and hours of operation.— Slot machine gaming areas may be open daily throughout the year. The slot machine gaming areas may be open a cumulative amount of 18 hours per day on Monday through Friday and 24 hours per day on Saturday and Sunday and on those holidays specified in s. 110.117(1).

History.—s. 1, ch. 2005-362; s. 9, ch. 2007-252.

551.117 Penalties.— The division may revoke or suspend any slot machine license issued under this chapter upon the willful violation by the slot machine licensee of any provision of this chapter or of any rule adopted under this chapter. In lieu of suspending or revoking a slot machine license, the division may impose a civil penalty against the slot machine licensee for a violation of this chapter or any rule adopted by the division. Except as otherwise provided in this chapter, the penalty so imposed may not exceed $100,000 for each count or separate offense. All penalties imposed and collected must be deposited into the Pari-mutuel Wagering Trust Fund of the Department of Business and Professional Regulation.

History.—s. 1, ch. 2005-362.

551.118 Compulsive or addictive gambling prevention program.—

(1) The slot machine licensee shall offer training to employees on responsible gaming and shall work with a compulsive or addictive gambling prevention program to recognize problem gaming situations and to implement responsible gaming programs and practices.

(2) The division shall, subject to competitive bidding, contract for provision of services related to the prevention of compulsive and addictive gambling. The contract shall provide for an advertising program to encourage responsible gaming practices and to publicize a gambling telephone help line. Such advertisements must be made both publicly and inside the designated slot machine gaming areas of the licensee's facilities. The terms of any contract for the provision of such services shall include accountability standards that must be met by any private provider. The failure of any private provider to meet any material terms of the contract, including the accountability standards, shall constitute a breach of contract or grounds for nonrenewal. The division may consult with the Department of the Lottery in the development of the program and the development and analysis of any procurement for contractual services for the compulsive or addictive gambling prevention program.

(3) The compulsive or addictive gambling prevention program shall be funded from an annual nonrefundable regulatory fee of $250,000 paid by the licensee to the division.

History.—s. 1, ch. 2005-362.

551.119 Caterer's license.— A slot machine licensee is entitled to a caterer's license pursuant to s. 565.02 on days on which the pari-mutuel facility is open to the public for slot machine game play as authorized by this chapter.

History.—s. 1, ch. 2005-362.

551.121 Prohibited activities and devices; exceptions.—

(1) Complimentary or reduced-cost alcoholic beverages may not be served to persons playing a slot machine. Alcoholic beverages served to persons playing a slot machine shall cost at least the same amount as alcoholic beverages served to the general public at a bar within the facility.

(2) A slot machine licensee may not make any loan, provide credit, or advance cash in order to enable a person to play a slot machine. This subsection shall not prohibit automated ticket redemption machines that dispense cash resulting from the redemption of tickets from being located in the designated slot machine gaming area of the slot machine licensee.

(3) A slot machine licensee may not allow any automated teller machine or similar device designed to provide credit or dispense cash to be located within the designated slot machine gaming areas of a facility of a slot machine licensee.

(4)(a) A slot machine licensee may not accept or cash any check from any person within the designated slot machine gaming areas of a facility of a slot machine licensee.

(b) Except as provided in paragraph (c) for employees of the facility, a slot machine licensee or operator shall not accept or cash for any person within the property of the facility any government-issued check, third-party check, or payroll check made payable to an individual.

(c) Outside the designated slot machine gaming areas, a slot machine licensee or operator may accept or cash a check for an employee of the facility who is prohibited from wagering on a slot machine under s. 551.108(5), a check made directly payable to a person licensed by the division, or a check made directly payable to the slot machine licensee or operator from:

1. A pari-mutuel patron; or

2. A pari-mutuel facility in this state or in another state.

(d) Unless accepting or cashing a check is prohibited by this subsection, nothing shall prohibit a slot machine licensee or operator from accepting and depositing in its accounts checks received in the normal course of business.

(5) A slot machine, or the computer operating system linking the slot machine, may be linked by any means to any other slot machine or computer operating system within the facility of a slot machine licensee. A progressive system may be used in conjunction with slot machines between licensed facilities in Florida or in other jurisdictions.

(6) A slot machine located within a licensed facility shall accept only tickets or paper currency or an electronic payment system for wagering and return or deliver payouts to the player in the form of tickets that may be exchanged for cash, merchandise, or other items of value. The use of coins, credit or debit cards, tokens, or similar objects is specifically prohibited. However, an electronic credit system may be used for receiving wagers and making payouts.

History.—s. 1, ch. 2005-362; s. 10, ch. 2007-252; s. 22, ch. 2009-170; ss. 4, 5, ch. 2010-29.

551.122 Rulemaking.— The division may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer the provisions of this chapter.

History.—s. 1, ch. 2005-362.

551.123 Legislative authority; administration of chapter.— The Legislature finds and declares that it has exclusive authority over the conduct of all wagering occurring at a slot machine facility in this state. As provided by law, only the Division of Pari-mutuel Wagering and other authorized state agencies shall administer this chapter and regulate the slot machine gaming industry, including operation of slot machine facilities, games, slot machines, and facilities-based computer systems authorized in this chapter and the rules adopted by the division.

History.—s. 4, ch. 2005-362.

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The Florida Senate

2015 Florida Statutes

Title XLVI	Chapter 849	SECTION 086
CRIMES	GAMBLING Entire Chapter	**Cardrooms authorized.**

849.086 Cardrooms authorized.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature to provide additional entertainment choices for the residents of and visitors to the state, promote tourism in the state, and provide additional state revenues through the authorization of the playing of certain games in the state at facilities known as cardrooms which are to be located at licensed pari-mutuel facilities. To ensure the public confidence in the integrity of authorized cardroom operations, this act is designed to strictly regulate the facilities, persons, and procedures related to cardroom operations. Furthermore, the Legislature finds that authorized games as herein defined are considered to be pari-mutuel style games and not casino gaming because the participants play against each other instead of against the house.

(2) DEFINITIONS.—As used in this section:

(a) "Authorized game" means a game or series of games of poker or dominoes which are played in a nonbanking manner.

(b) "Banking game" means a game in which the house is a participant in the game, taking on players, paying winners, and collecting from losers or in which the cardroom establishes a bank against which participants play.

(c) "Cardroom" means a facility where authorized games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility. Authorized games and cardrooms do not constitute casino gaming operations.

(d) "Cardroom management company" means any individual not an employee of the cardroom operator, any proprietorship, partnership, corporation, or other entity that enters into an agreement with a cardroom operator to manage, operate, or otherwise control the daily operation of a cardroom.

(e) "Cardroom distributor" means any business that distributes cardroom paraphernalia such as card tables, betting chips, chip holders, dominoes, dominoes tables, drop boxes, banking supplies, playing cards, card shufflers, and other associated equipment to authorized cardrooms.

(f) "Cardroom operator" means a licensed pari-mutuel permitholder which holds a valid permit and license issued by the division pursuant to chapter 550 and which also holds a valid cardroom license issued by the division pursuant to this section which authorizes such person to operate a cardroom and to conduct authorized games in such cardroom.

(g) "Division" means the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation.

(h) "Dominoes" means a game of dominoes typically played with a set of 28 flat rectangular blocks, called "bones," which are marked on one side and divided into two equal parts, with zero to six dots, called "pips," in each part. The term also includes larger sets of blocks that contain a correspondingly higher number of pips. The term also means the set of blocks used to play the game.

(i) "Gross receipts" means the total amount of money received by a cardroom from any person for participation in authorized games.

(j) "House" means the cardroom operator and all employees of the cardroom operator.

(k) "Net proceeds" means the total amount of gross receipts received by a cardroom operator from cardroom operations less direct operating expenses related to cardroom operations, including labor costs, admission taxes only if a separate admission fee is charged for entry to the cardroom facility, gross receipts taxes imposed on cardroom operators by this section, the annual cardroom license fees imposed by this section on each table operated at a

cardroom, and reasonable promotional costs excluding officer and director compensation, interest on capital debt, legal fees, real estate taxes, bad debts, contributions or donations, or overhead and depreciation expenses not directly related to the operation of the cardrooms.

(l) "Rake" means a set fee or percentage of the pot assessed by a cardroom operator for providing the services of a dealer, table, or location for playing the authorized game.

(m) "Tournament" means a series of games that have more than one betting round involving one or more tables and where the winners or others receive a prize or cash award.

(3) CARDROOM AUTHORIZED.—Notwithstanding any other provision of law, it is not a crime for a person to participate in an authorized game at a licensed cardroom or to operate a cardroom described in this section if such game and cardroom operation are conducted strictly in accordance with the provisions of this section.

(4) AUTHORITY OF DIVISION.—The Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation shall administer this section and regulate the operation of cardrooms under this section and the rules adopted pursuant thereto, and is hereby authorized to:

(a) Adopt rules, including, but not limited to: the issuance of cardroom and employee licenses for cardroom operations; the operation of a cardroom; recordkeeping and reporting requirements; and the collection of all fees and taxes imposed by this section.

(b) Conduct investigations and monitor the operation of cardrooms and the playing of authorized games therein.

(c) Review the books, accounts, and records of any current or former cardroom operator.

(d) Suspend or revoke any license or permit, after hearing, for any violation of the provisions of this section or the administrative rules adopted pursuant thereto.

(e) Take testimony, issue summons and subpoenas for any witness, and issue subpoenas duces tecum in connection with any matter within its jurisdiction.

(f) Monitor and ensure the proper collection of taxes and fees imposed by this section. Permitholder internal controls are mandated to ensure no compromise of state funds. To that end, a roaming division auditor will monitor and verify the cash flow and accounting of cardroom revenue for any given operating day.

(5) LICENSE REQUIRED; APPLICATION; FEES.—No person may operate a cardroom in this state unless such person holds a valid cardroom license issued pursuant to this section.

(a) Only those persons holding a valid cardroom license issued by the division may operate a cardroom. A cardroom license may only be issued to a licensed pari-mutuel permitholder and an authorized cardroom may only be operated at the same facility at which the permitholder is authorized under its valid pari-mutuel wagering permit to conduct pari-mutuel wagering activities. An initial cardroom license shall be issued to a pari-mutuel permitholder only after its facilities are in place and after it conducts its first day of live racing or games.

(b) After the initial cardroom license is granted, the application for the annual license renewal shall be made in conjunction with the applicant's annual application for its pari-mutuel license. If a permitholder has operated a cardroom during any of the 3 previous fiscal years and fails to include a renewal request for the operation of the cardroom in its annual application for license renewal, the permitholder may amend its annual application to include operation of the cardroom. In order for a cardroom license to be renewed the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto if the permitholder ran at least a full schedule of live racing or games in the prior year. If the application is for a harness permitholder cardroom, the applicant must have requested authorization to conduct a minimum of 140 live performances during the state fiscal year immediately prior thereto. If more than one permitholder is operating at a facility, each permitholder must have applied for a license to conduct a full schedule of live racing.

(c) Persons seeking a license or a renewal thereof to operate a cardroom shall make application on forms prescribed by the division. Applications for cardroom licenses shall contain all of the information the division, by rule, may determine is required to ensure eligibility.

(d) The annual cardroom license fee for each facility shall be $1,000 for each table to be operated at the cardroom. The license fee shall be deposited by the division with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund.

(6) BUSINESS AND EMPLOYEE OCCUPATIONAL LICENSE REQUIRED; APPLICATION; FEES.—

(a) A person employed or otherwise working in a cardroom as a cardroom manager, floor supervisor, pit boss, dealer, or any other activity related to cardroom operations while the facility is conducting card playing or games of dominoes must hold a valid cardroom employee occupational license issued by the division. Food service, maintenance, and security employees with a current pari-mutuel occupational license and a current background check will not be required to have a cardroom employee occupational license.

(b) Any cardroom management company or cardroom distributor associated with cardroom operations must hold a valid cardroom business occupational license issued by the division.

(c) No licensed cardroom operator may employ or allow to work in a cardroom any person unless such person holds a valid occupational license. No licensed cardroom operator may contract, or otherwise do business with, a business required to hold a valid cardroom business occupational license, unless the business holds such a valid license.

(d) The division shall establish, by rule, a schedule for the renewal of cardroom occupational licenses. Cardroom occupational licenses are not transferable.

(e) Persons seeking cardroom occupational licenses, or renewal thereof, shall make application on forms prescribed by the division. Applications for cardroom occupational licenses shall contain all of the information the division, by rule, may determine is required to ensure eligibility.

(f) The division shall adopt rules regarding cardroom occupational licenses. The provisions specified in s. 550.105 (4), (5), (6), (7), (8), and (10) relating to licensure shall be applicable to cardroom occupational licenses.

(g) The division may deny, declare ineligible, or revoke any cardroom occupational license if the applicant or holder thereof has been found guilty or had adjudication withheld in this state or any other state, or under the laws of the United States of a felony or misdemeanor involving forgery, larceny, extortion, conspiracy to defraud, or filing false reports to a government agency, racing or gaming commission or authority.

(h) Fingerprints for all cardroom occupational license applications shall be taken in a manner approved by the division and then shall be submitted to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for a criminal records check upon initial application and at least every 5 years thereafter. The division may by rule require an annual record check of all renewal applications for a cardroom occupational license. The cost of processing fingerprints and conducting a record check shall be borne by the applicant.

(i) The cardroom employee occupational license fee shall not exceed $50 for any 12-month period. The cardroom business occupational license fee shall not exceed $250 for any 12-month period.

(7) CONDITIONS FOR OPERATING A CARDROOM.—

(a) A cardroom may be operated only at the location specified on the cardroom license issued by the division, and such location may only be the location at which the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to such permitholder's valid pari-mutuel permit or as otherwise authorized by law. Cardroom operations may not be allowed beyond the hours provided in paragraph (b) regardless of the number of cardroom licenses issued for permitholders operating at the pari-mutuel facility.

(b) Any cardroom operator may operate a cardroom at the pari-mutuel facility daily throughout the year, if the permitholder meets the requirements under paragraph (5)(b). The cardroom may be open a cumulative amount of 18 hours per day on Monday through Friday and 24 hours per day on Saturday and Sunday and on the holidays specified in s. 110.117(1).

(c) A cardroom operator must at all times employ and provide a nonplaying dealer for each table on which authorized card games which traditionally use a dealer are conducted at the cardroom. Such dealers may not have a participatory interest in any game other than the dealing of cards and may not have an interest in the outcome of the

game. The providing of such dealers by a licensee does not constitute the conducting of a banking game by the cardroom operator.

(d) A cardroom operator may award giveaways, jackpots, and prizes to a player who holds certain combinations of cards specified by the cardroom operator.

(e) Each cardroom operator shall conspicuously post upon the premises of the cardroom a notice which contains a copy of the cardroom license; a list of authorized games offered by the cardroom; the wagering limits imposed by the house, if any; any additional house rules regarding operation of the cardroom or the playing of any game; and all costs to players to participate, including any rake by the house. In addition, each cardroom operator shall post at each table a notice of the minimum and maximum bets authorized at such table and the fee for participation in the game conducted.

(f) The cardroom facility is subject to inspection by the division or any law enforcement agency during the licensee's regular business hours. The inspection must specifically include the permitholder internal control procedures approved by the division.

(g) A cardroom operator may refuse entry to or refuse to allow any person who is objectionable, undesirable, or disruptive to play, but such refusal may not be on the basis of race, creed, color, religion, gender, national origin, marital status, physical handicap, or age, except as provided in this section.

(8) METHOD OF WAGERS; LIMITATION.—

(a) No wagering may be conducted using money or other negotiable currency. Games may only be played utilizing a wagering system whereby all players' money is first converted by the house to tokens or chips which shall be used for wagering only at that specific cardroom.

(b) The cardroom operator may limit the amount wagered in any game or series of games.

(c) A tournament shall consist of a series of games. The entry fee for a tournament may be set by the cardroom operator. Tournaments may be played only with tournament chips that are provided to all participants in exchange for an entry fee and any subsequent re-buys. All players must receive an equal number of tournament chips for their entry fee. Tournament chips have no cash value and represent tournament points only. There is no limitation on the number of tournament chips that may be used for a bet except as otherwise determined by the cardroom operator. Tournament chips may never be redeemed for cash or for any other thing of value. The distribution of prizes and cash awards must be determined by the cardroom operator before entry fees are accepted. For purposes of tournament play only, the term "gross receipts" means the total amount received by the cardroom operator for all entry fees, player re-buys, and fees for participating in the tournament less the total amount paid to the winners or others as prizes.

(9) BOND REQUIRED.—The holder of a cardroom license shall be financially and otherwise responsible for the operation of the cardroom and for the conduct of any manager, dealer, or other employee involved in the operation of the cardroom. Prior to the issuance of a cardroom license, each applicant for such license shall provide evidence of a surety bond in the amount of $50,000, payable to the state, furnished by a corporate surety authorized to do business in the state or evidence that the licensee's pari-mutuel bond required by s. 550.125 has been expanded to include the applicant's cardroom operation. The bond shall guarantee that the cardroom operator will redeem, for cash, all tokens or chips used in games. Such bond shall be kept in full force and effect by the operator during the term of the license.

(10) FEE FOR PARTICIPATION.—The cardroom operator may charge a fee for the right to participate in games conducted at the cardroom. Such fee may be either a flat fee or hourly rate for the use of a seat at a table or a rake subject to the posted maximum amount but may not be based on the amount won by players. The rake-off, if any, must be made in an obvious manner and placed in a designated rake area which is clearly visible to all players. Notice of the amount of the participation fee charged shall be posted in a conspicuous place in the cardroom and at each table at all times.

(11) RECORDS AND REPORTS.—

(a) Each licensee operating a cardroom shall keep and maintain permanent daily records of its cardroom operation and shall maintain such records for a period of not less than 3 years. These records shall include all financial transactions and contain sufficient detail to determine compliance with the requirements of this section. All records

shall be available for audit and inspection by the division or other law enforcement agencies during the licensee's regular business hours. The information required in such records shall be determined by division rule.

(b) Each licensee operating a cardroom shall file with the division a report containing the required records of such cardroom operation. Such report shall be filed monthly by licensees. The required reports shall be submitted on forms prescribed by the division and shall be due at the same time as the monthly pari-mutuel reports are due to the division, and such reports shall contain any additional information deemed necessary by the division, and the reports shall be deemed public records once filed.

(12) PROHIBITED ACTIVITIES.—

(a) No person licensed to operate a cardroom may conduct any banking game or any game not specifically authorized by this section.

(b) No person under 18 years of age may be permitted to hold a cardroom or employee license, or engage in any game conducted therein.

(c) No electronic or mechanical devices, except mechanical card shufflers, may be used to conduct any authorized game in a cardroom.

(d) No cards, game components, or game implements may be used in playing an authorized game unless such has been furnished or provided to the players by the cardroom operator.

(13) TAXES AND OTHER PAYMENTS.—

(a) Each cardroom operator shall pay a tax to the state of 10 percent of the cardroom operation's monthly gross receipts.

(b) An admission tax equal to 15 percent of the admission charge for entrance to the licensee's cardroom facility, or 10 cents, whichever is greater, is imposed on each person entering the cardroom. This admission tax shall apply only if a separate admission fee is charged for entry to the cardroom facility. If a single admission fee is charged which authorizes entry to both or either the pari-mutuel facility and the cardroom facility, the admission tax shall be payable only once and shall be payable pursuant to chapter 550. The cardroom licensee shall be responsible for collecting the admission tax. An admission tax is imposed on any free passes or complimentary cards issued to guests by licensees in an amount equal to the tax imposed on the regular and usual admission charge for entrance to the licensee's cardroom facility. A cardroom licensee may issue tax-free passes to its officers, officials, and employees or other persons actually engaged in working at the cardroom, including accredited press representatives such as reporters and editors, and may also issue tax-free passes to other cardroom licensees for the use of their officers and officials. The licensee shall file with the division a list of all persons to whom tax-free passes are issued.

(c) Payment of the admission tax and gross receipts tax imposed by this section shall be paid to the division. The division shall deposit these sums with the Chief Financial Officer, one-half being credited to the Pari-mutuel Wagering Trust Fund and one-half being credited to the General Revenue Fund. The cardroom licensee shall remit to the division payment for the admission tax, the gross receipts tax, and the licensee fees. Such payments shall be remitted to the division on the fifth day of each calendar month for taxes and fees imposed for the preceding month's cardroom activities. Licensees shall file a report under oath by the fifth day of each calendar month for all taxes remitted during the preceding calendar month. Such report shall, under oath, indicate the total of all admissions, the cardroom activities for the preceding calendar month, and such other information as may be prescribed by the division.

(d)1. Each greyhound and jai alai permitholder that operates a cardroom facility shall use at least 4 percent of such permitholder's cardroom monthly gross receipts to supplement greyhound purses or jai alai prize money, respectively, during the permitholder's next ensuing pari-mutuel meet.

2. Each thoroughbred and harness horse racing permitholder that operates a cardroom facility shall use at least 50 percent of such permitholder's cardroom monthly net proceeds as follows: 47 percent to supplement purses and 3 percent to supplement breeders' awards during the permitholder's next ensuing racing meet.

3. No cardroom license or renewal thereof shall be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of quarter horse racing unless the applicant has on file with the division a binding written agreement between the applicant and the Florida Quarter Horse Racing Association or the association

representing a majority of the horse owners and trainers at the applicant's eligible facility, governing the payment of purses on live quarter horse races conducted at the licensee's pari-mutuel facility. The agreement governing purses may direct the payment of such purses from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses shall be subject to the terms of chapter 550.

(e) The failure of any licensee to make payments as prescribed in paragraph (c) is a violation of this section, and the licensee may be subjected by the division to a civil penalty of up to $1,000 for each day the tax payment is not remitted. All penalties imposed and collected shall be deposited in the General Revenue Fund. If a licensee fails to pay penalties imposed by order of the division under this subsection, the division may suspend or revoke the license of the cardroom operator or deny issuance of any further license to the cardroom operator.

(f) The cardroom shall be deemed an accessory use to a licensed pari-mutuel operation and, except as provided in chapter 550, a municipality, county, or political subdivision may not assess or collect any additional license tax, sales tax, or excise tax on such cardroom operation.

(g) All of the moneys deposited in the Pari-mutuel Wagering Trust Fund, except as set forth in paragraph (h), shall be utilized and distributed in the manner specified in s. 550.135(1) and (2). However, cardroom tax revenues shall be kept separate from pari-mutuel tax revenues and shall not be used for making the disbursement to counties provided in former s. 550.135(1).

(h) One-quarter of the moneys deposited into the Pari-mutuel Wagering Trust Fund pursuant to paragraph (g) shall, by October 1 of each year, be distributed to the local government that approved the cardroom under subsection (16); however, if two or more pari-mutuel racetracks are located within the same incorporated municipality, the cardroom funds shall be distributed to the municipality. If a pari-mutuel facility is situated in such a manner that it is located in more than one county, the site of the cardroom facility shall determine the location for purposes of disbursement of tax revenues under this paragraph. The division shall, by September 1 of each year, determine: the amount of taxes deposited into the Pari-mutuel Wagering Trust Fund pursuant to this section from each cardroom licensee; the location by county of each cardroom; whether the cardroom is located in the unincorporated area of the county or within an incorporated municipality; and, the total amount to be distributed to each eligible county and municipality.

(14) SUSPENSION, REVOCATION, OR DENIAL OF LICENSE; FINE.—

(a) The division may deny a license or the renewal thereof, or may suspend or revoke any license, when the applicant has: violated or failed to comply with the provisions of this section or any rules adopted pursuant thereto; knowingly caused, aided, abetted, or conspired with another to cause any person to violate this section or any rules adopted pursuant thereto; or obtained a license or permit by fraud, misrepresentation, or concealment; or if the holder of such license or permit is no longer eligible under this section.

(b) If a pari-mutuel permitholder's pari-mutuel permit or license is suspended or revoked by the division pursuant to chapter 550, the division may, but is not required to, suspend or revoke such permitholder's cardroom license. If a cardroom operator's license is suspended or revoked pursuant to this section, the division may, but is not required to, suspend or revoke such licensee's pari-mutuel permit or license.

(c) Notwithstanding any other provision of this section, the division may impose an administrative fine not to exceed $1,000 for each violation against any person who has violated or failed to comply with the provisions of this section or any rules adopted pursuant thereto.

(15) CRIMINAL PENALTY; INJUNCTION.—

(a)1. Any person who operates a cardroom without a valid license issued as provided in this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Any licensee or permitholder who violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any licensee or permitholder who commits a second or subsequent violation of the same paragraph or subsection within a period of 3 years from the date of a prior conviction for a violation of such paragraph or subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) The division, any state attorney, the statewide prosecutor, or the Attorney General may apply for a temporary or permanent injunction restraining further violation of this section, and such injunction shall issue without bond.

(16) LOCAL GOVERNMENT APPROVAL.—The Division of Pari-mutuel Wagering shall not issue any initial license under this section except upon proof in such form as the division may prescribe that the local government where the applicant for such license desires to conduct cardroom gaming has voted to approve such activity by a majority vote of the governing body of the municipality or the governing body of the county if the facility is not located in a municipality.

(17) CHANGE OF LOCATION; REFERENDUM.—

(a) Notwithstanding any provisions of this section, no cardroom gaming license issued under this section shall be transferred, or reissued when such reissuance is in the nature of a transfer, so as to permit or authorize a licensee to change the location of the cardroom except upon proof in such form as the division may prescribe that a referendum election has been held:

1. If the proposed new location is within the same county as the already licensed location, in the county where the licensee desires to conduct cardroom gaming and that a majority of the electors voting on the question in such election voted in favor of the transfer of such license. However, the division shall transfer, without requirement of a referendum election, the cardroom license of any permitholder that relocated its permit pursuant to s. 550.0555.

2. If the proposed new location is not within the same county as the already licensed location, in the county where the licensee desires to conduct cardroom gaming and that a majority of the electors voting on that question in each such election voted in favor of the transfer of such license.

(b) The expense of each referendum held under the provisions of this subsection shall be borne by the licensee requesting the transfer.

History.—s. 20, ch. 96-364; s. 26, ch. 2001-64; s. 1913, ch. 2003-261; s. 4, ch. 2003-295; s. 4, ch. 2005-288; s. 1, ch. 2007-130; s. 1, ch. 2007-163; s. 24, ch. 2009-170; ss. 4, 5, ch. 2010-29.

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes.

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To read the Federal Law - Indian Gaming Regulatory Act (IGRA) pdf, please follow this link:

https://www.gpo.gov/fdsys/pkg/USCODE-2014-title25/pdf/USCODE-2014-title25-chap29.pdf

Tab 3

Proposed Law

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Regulatory Affairs Committee

Representative Moskowitz offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

That the following creation of Section 29 of Article X of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE X

MISCELLANEOUS

SECTION 29. Voter control of gambling expansion or reduction.—

(a) PUBLIC POLICY.—The power to authorize the expansion or reduction of gambling in this state is reserved to the people.

No expansion or reduction of gambling is authorized except by a constitutional amendment proposed by initiative petition pursuant to Section 3 of Article XI and approved by the electors pursuant to Section 5 of Article XI.

(b) DEFINITIONS.—As used in this section, the term:

(1) "Expansion of gambling" means the introduction of gambling at a facility or location other than a facility or location that lawfully conducts gambling as of January 1, 2016, or is expressly authorized to conduct gambling by legislation enacted during the 2016 regular session of the legislature. The term "expansion of gambling" includes the introduction of additional types or categories of gambling at any such facility or location.

(2) "Gambling" means any of the types of games that are within the definition of class III gaming in the federal Indian Gaming Regulatory Act, 25 U.S.C. ss. 2701 et seq., and in 25 C.F.R. s. 502.4, as of the effective date of this section. The term "gambling" includes, but is not limited to, any banking game, including, but not limited to, card games such as baccarat, chemin de fer, blackjack or 21, and pai gow; casino games such as roulette, craps, and keno; slot machines as defined in 15 U.S.C. s. 1171(a)(1); electronic or electromechanical facsimiles of any game of chance; sports betting and pari-mutuel wagering, including, but not limited to, wagering on horseracing, dog racing, or jai alai exhibitions; and lotteries other than state-operated lotteries. The term

"gambling" also includes the use of any electronic gambling device, Internet sweepstakes device, or video lottery terminal other than a state-operated video lottery terminal, regardless of how those devices are defined under the federal Indian Gaming Regulatory Act.

(3) "Reduction of gambling" means the removal of gambling at a facility or location that lawfully conducts gambling as of January 1, 2016, or is expressly authorized to conduct gambling by legislation enacted during the 2016 regular session of the legislature. The term "reduction of gambling" includes the removal of additional types or categories of gambling at any such facility or location.

(c) LEGISLATIVE AUTHORITY RETAINED.—This section does not limit the right of the legislature to exercise its authority through general law to restrict, regulate, or tax any gambling activity.

(d) TRIBAL-STATE COMPACTING AUTHORITY UNAFFECTED.—This section does not limit the authority of the state to negotiate a tribal-state compact under the federal Indian Gaming Regulatory Act or affect any existing tribal-state compact.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE X, SECTION 29

VOTER CONTROL OF GAMBLING EXPANSION OR REDUCTION IN FLORIDA.—Proposing an amendment to the State Constitution to

provide that the power to authorize the expansion or reduction of gambling in Florida is reserved to the people; prohibit the expansion or reduction of gambling unless proposed and approved as a constitutional amendment by initiative petition; define "expansion of gambling," "gambling," and reduction of gambling;" and clarify that this amendment does not affect the right of the Legislature to exercise its authority through general law or the state's authority regarding tribal-state compacts.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot if a court declares the preceding statement defective and the decision of the court is not reversed:

CONSTITUTIONAL AMENDMENT

ARTICLE X, SECTION 29

VOTER CONTROL OF GAMBLING EXPANSION OR REDUCTION IN FLORIDA.—This proposed amendment to the State Constitution provides that the power to authorize the expansion or reduction of gambling in Florida is reserved to the people. The proposed amendment prohibits the expansion or reduction of gambling unless proposed and approved as a constitutional amendment by initiative petition. By providing that an initiative petition is the exclusive means of amending the State Constitution to authorize the expansion or reduction of gambling, the proposed amendment affects Article XI of the State Constitution.

For purposes of the proposed amendment, the term "gambling" means any of the types of games that are defined as class III gaming under the federal Indian Gaming Regulatory Act, including

banking games, casino games, sports betting and pari-mutuel wagering, and non-state-operated lotteries. The term "gambling" also includes the use of any electronic gambling device, Internet sweepstakes device, or video lottery terminal other than a state-operated video lottery terminal, regardless of how those devices are defined under the federal Indian Gaming Regulatory Act.

For purposes of the proposed amendment, the term "expansion of gambling" means the introduction of gambling at a facility or location other than those facilities and locations: (1) lawfully conducting gambling as of January 1, 2016; or (2) expressly authorized to conduct gambling by legislation adopted during the 2016 regular session of the Legislature. The term "expansion of gambling" also includes the introduction of additional types or categories of gambling at any such facility or location.

For purposes of the proposed amendment, the term "reduction of gambling" means the removal of gambling at a facility or location that lawfully conducts gambling as of January 1, 2016, or is expressly authorized to conduct gambling by legislation enacted during the 2016 regular session of the legislature. The term "reduction of gambling" includes the removal of additional types or categories of gambling at any such facility or location.

The proposed amendment does not affect the right of the Legislature to exercise its authority through general law to restrict, regulate, or tax any gambling activity. The proposed

amendment does not affect or limit the authority of the State of Florida to negotiate a tribal-state compact under the federal Indian Gaming Regulatory Act or affect any existing tribal-state compact.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot if a court declares the preceding statements defective and the decision of the court is not reversed:

CONSTITUTIONAL AMENDMENT

ARTICLE X, SECTION 29

VOTER CONTROL OF GAMBLING EXPANSION OR REDUCTION IN FLORIDA.—Proposing the following amendment to the State Constitution:

ARTICLE X

MISCELLANEOUS

SECTION 29. Voter control of gambling expansion or reduction.—

(a) PUBLIC POLICY.—The power to authorize the expansion or reduction of gambling in this state is reserved to the people. No expansion or reduction of gambling is authorized except by a constitutional amendment proposed by initiative petition pursuant to Section 3 of Article XI and approved by the electors pursuant to Section 5 of Article XI.

(b) DEFINITIONS.—As used in this section, the term:

(1) "Expansion of gambling" means the introduction of gambling at a facility or location other than a facility or

location that lawfully conducts gambling as of January 1, 2016, or is expressly authorized to conduct gambling by legislation enacted during the 2016 regular session of the legislature. The term "expansion of gambling" includes the introduction of additional types or categories of gambling at any such facility or location.

(2) "Gambling" means any of the types of games that are within the definition of class III gaming in the federal Indian Gaming Regulatory Act, 25 U.S.C. ss. 2701 et seq., and in 25 C.F.R. s. 502.4, as of the effective date of this section. The term "gambling" includes, but is not limited to, any banking game, including, but not limited to, card games such as baccarat, chemin de fer, blackjack or 21, and pai gow; casino games such as roulette, craps, and keno; slot machines as defined in 15 U.S.C. s. 1171(a)(1); electronic or electromechanical facsimiles of any game of chance; sports betting and pari-mutuel wagering, including, but not limited to, wagering on horseracing, dog racing, or jai alai exhibitions; and lotteries other than state-operated lotteries. The term "gambling" also includes the use of any electronic gambling device, Internet sweepstakes device, or video lottery terminal other than a state-operated video lottery terminal, regardless of how those devices are defined under the federal Indian Gaming Regulatory Act.

(3) "Reduction of gambling" means the removal of gambling at a facility or location that lawfully conducts gambling as of

January 1, 2016, or is expressly authorized to conduct gambling by legislation enacted during the 2016 regular session of the legislature. The term "reduction of gambling" includes the removal of additional types or categories of gambling at any such facility or location.

(c) LEGISLATIVE AUTHORITY RETAINED.—This section does not limit the right of the legislature to exercise its authority through general law to restrict, regulate, or tax any gambling activity.

(d) TRIBAL-STATE COMPACTING AUTHORITY UNAFFECTED.—This section does not limit the authority of the state to negotiate a tribal-state compact under the federal Indian Gaming Regulatory Act or affect any existing tribal-state compact.

T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:

House Joint Resolution

A joint resolution proposing the creation of Section 29 of Article X of the State Constitution to require that any expansion or reduction of gambling be authorized by a constitutional amendment proposed by initiative petition and approved by Florida voters and providing construction.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB RAC 16-03 Voter Control of Gambling Expansion in Florida
SPONSOR(S): Regulatory Affairs Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Regulatory Affairs Committee	15 Y, 2 N	Anderson	Hamon

SUMMARY ANALYSIS

This joint resolution proposes to create article X, section 29 of the Florida Constitution, relating to voter control of gambling expansion. The joint resolution requires a constitutional amendment proposed by initiative petition to expand gambling in any fashion in the state.

Expansion of gambling is defined to include the introduction of any additional types of games or the introduction of gambling at any facility not conducting gambling as of January 1, 2016, or expressly authorized by statute during the current legislative session. Gambling is defined consistent with federal law, with certain exceptions.

The resolution does not alter the Legislature's ability to restrict, regulate, or tax gambling activity in Florida.

The resolution does not limit the State of Florida's ability to negotiate a state-tribal compact under the federal Indian Gaming Regulation Act or to enforce any current compact.

The joint resolution requires publication prior to the election. The required publication of the amendment would have an effect on expenditures. The Division of Elections within the Department of State estimated the full publication costs for advertising the proposed constitutional amendment to be approximately $157,589.23.

For the proposed constitutional amendment to be placed on the ballot, the Legislature must approve the joint resolution by a three-fifths vote of the membership of each house of the Legislature.

If the joint resolution is passed by a three-fifths vote of both houses of the Legislature, it will be submitted to the voters in the general election in November of 2016.

The Constitution requires 60 percent voter approval for passage of a proposed constitutional amendment. If approved by the voters, the proposed constitutional amendment would be effective January 3, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Article X, section 7 of the Florida Constitution prohibits lotteries, other than pari-mutuel pools authorized by law on the effective date of the Florida Constitution, from being conducted in Florida by private citizens.

The Florida Supreme Court has found that "The Constitution of Florida is a limitation of power, and, while the Legislature cannot legalize any gambling device that would in effect amount to a lottery, it has inherent power to regulate or to prohibit any and all other forms of gambling; such distinction being well defined in the law."[1] The Court went on to limit the applicability of the constitutional provision to such legalized lotteries, "the primary test of which was whether or not the vice of it infected the whole community or country, rather than individual units of it. Any gambling device reaching such proportions would amount to a violation of the Constitution."[2] Thus, the Legislature may regulate keno,[3] bingo,[4] and slot machines.[5]

Pari-mutuel wagering on horseracing and greyhound racing was authorized by statute in 1931 and on jai alai in 1935.[6] Such activities are regulated by ch. 550, F.S., and overseen by the Division of Pari-mutuel Wagering (DMPW) within the Department of Business and Professional Regulation.

Article X, section 15 of the Florida Constitution authorizes the state to operate lotteries. The Legislature has implemented this provision through ch. 24, F.S., which establishes the Florida Lottery.

Article X, section 23 of the Florida Constitution authorizes slot machines at seven pari-mutuel facilities in Miami-Dade and Broward Counties that conducted pari-mutuel wagering on live events in 2002 and 2003, subject to local approval by countywide referendum. The Legislature has implemented this provision through ch. 551, F.S. The DPMW oversees such activities.

In 2010, the Legislature authorized slot machines at pari-mutuel wagering facilities in counties that meet the definition of s. 125.011, F.S., (currently Miami-Dade County), provided that such facilities have conducted pari-mutuel wagering on live racing for two years and meet other criteria.[7] Hialeah Park is the only facility that operates slot machines under this provision.

The Legislature also provided that pari-mutuel wagering facilities in other counties could gain eligibility to conduct slot machines if located a county that has approved slot machines by a referendum which was held pursuant to a statutory or legislative grant of authority granted after July 1, 2010, provided that such facility had conducted live racing for two calendar years preceding its application and complies with other requirements for slot machine licensure.[8]

[1] *Lee v. City of Miami*, 121 Fla. 93, 102 (1935).
[2] *Id.*
[3] *Overby v. State*, 18 Fla. 178, 183 (1881).
[4] *Greater Loretta Imp. Ass'n v. State ex rel. Boone*, 234 So.2d 665 (Fla. 1970).
[5] *See Lee v City of Miami*, 121 Fla. 93 (1935), and *Florida Gaming Centers v. Florida Dept. of Business and Professional Regulation*, 71 So.3d 226 (Fla. 1st DCA 2011).
[6] *Deregulation of Intertrack and Simulcast Wagering at Florida's Pari-Mutuel Facilities*, Interim Report No. 2006-145, Florida Senate Committee on Regulated Industries, September 2005.
[7] *See* Ch. 2010-29, Laws of Fla., and s. 551.102(4), F.S.
[8] *See* 2012-01 Fla. Op. Att'y Gen. (interpreting the slot machine eligibility provision as requiring additional statutory or constitutional authorization "to bring a referendum within the framework set out in the third clause of s. 551.102(4)").

Gambling on Indian lands is regulated by federal law, which requires the state negotiate in good faith for compacts governing the operation of certain types of games, if authorized for any person in the state.[9] Florida has negotiated such a compact with the Seminole Tribe of Florida.

Proposed Changes

The joint resolution proposes creation of article X, section 29 of the Florida Constitution relating to voter control of gambling expansion. The joint resolution amends the Florida Constitution to require a constitutional amendment proposed by initiative petition to expand gambling in the state.

Expansion of gambling is defined in the joint resolution as the introduction of gambling at any facility or location in the state other than those facilities lawfully conducting gambling as of January 1, 2016, or expressly authorized by statute enacted during the 2016 regular session of the Legislature. The term includes the introduction of additional types or categories of gambling at any such location.

The joint resolution does not limit the Legislature's authority to restrict, regulate, or tax any gambling activity by general law.

With certain exceptions, gambling is defined consistent with federal law governing gambling on Indian lands.[10] The resolution cites the federal definition of class III gaming. Such games include:

- House banked or banking games such as baccarat, chemin de fer, blackjack (21), and pai gow;
- Casino games such as roulette, craps, and keno;
- Slot machines as defined in 15 U.S.C. s. 1171(a)(1);
- Electronic or electromechanical facsimiles of any game of chance;
- Sports betting and pari-mutuel wagering, including, but not limited to, wagering on horse racing, dog racing, or jai alai; and
- Lotteries, other than state-operated lotteries.

The resolution specifically includes the following in the definition of gambling, regardless of how those devices are defined under the federal law:

- Electronic gambling device,
- Internet sweepstakes device, and
- Video lottery terminal, other than a state-operated video lottery terminal.

The joint resolution does not limit the authority of the state to negotiate a tribal-state compact under the federal Indian Gaming Regulation Act or to enforce any existing tribal-state compact.

If the joint resolution is passed by a three-fifths vote of both houses of the Legislature, it will be submitted to the voters in the general election in November of 2016.

B. SECTION DIRECTORY:

This is a joint resolution, which is not divided by sections.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The joint resolution does not appear to have an impact on state government revenues.

2. Expenditures:

[9] *See* Indian Gaming Regulatory Act, 25 U.S.C. ss. 2701 et seq.
[10] Indian Gaming Regulatory Act, 25 U.S.C. ss. 2701 et seq.

Article XI, section 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated the average cost per word to advertise a proposed amendment to the Florida Constitution to be approximately $135.97 per word. The estimated total publishing cost for advertising the joint resolution would be approximately $157,589.23.[11]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The joint resolution does not appear to have an impact on local government revenues.

2. Expenditures:

The joint resolution does not appear to have an impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This joint resolution does not appear to have an economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This is not a general bill and is therefore not subject to the municipality/county mandates provision of article VII, section 18 of the Florida Constitution.

2. Other:

The Legislature may propose amendments to the Florida Constitution by joint resolution approved by three-fifths of the membership of each house.[12] The amendment must be submitted to the electors at the next general election more than 90 days after the proposal has been filed with the Secretary of State's office, unless pursuant to law enacted by the a three-fourths vote of the membership of each house, and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.[13]

Article XI, section 5(e) of the Florida Constitution, requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose. Without an effective date, the amendment becomes effective on the first Tuesday after the first Monday in the January following the election, which will be January 3, 2017.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

[11] Department of State, Agency Analysis 2015 Bill HJR 1239 (Mar. 12, 2015).
[12] FLA. CONST. art. XI, s. 1.
[13] FLA. CONST. art. XI, s. 5.

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

RICK SCOTT
GOVERNOR

December 7, 2015

The Honorable Andy Gardiner
President, The Florida Senate
Room 409, The Capitol
Tallahassee, Florida 32399

The Honorable Steve Crisafulli
Speaker, The Florida House of Representatives
Room 420, The Capitol
Tallahassee, Florida 32399

Dear President Gardiner and Speaker Crisafulli:

Thank you for your steadfast support and assistance in negotiating a compact with the Seminole Tribe of Florida. While we are now pleased to submit to you the attached Tribal-State Gaming Compact negotiated with the Seminole Tribe of Florida pursuant to section 285.712, F.S.,[1] this agreement would not have been possible without the leadership of Senator Rob Bradley and Representative Jose Felix Diaz in the state's negotiation.

I have executed this compact after months of collaboration, negotiation and discussion and now respectfully submit it to you for consideration and ratification by your respective chambers. This compact represents an unprecedented level of cooperation between the State of Florida and the Seminole Tribe of Florida, including the largest revenue share guarantee in history at $3 billion, which is three times the prior compact guarantee of $1 billion.

This compact will also result in an over $1.8 billion capital investment by the Seminole Tribe and over 4,800 new direct and indirect jobs with an additional 14,500 direct and indirect construction jobs. In addition to the historic $3 billion in guaranteed revenue to the state, nearly $2 billion capital investment and the creation of over 4,800 jobs, this compact also:

- Creates a cap on the amount of gaming that can be offered by the Seminole Tribe;
- Provides certainty and stability for the gaming environment of the state;

[1] (1) The Governor is the designated state officer responsible for negotiating and executing, on behalf of the state, tribal-state gaming compacts with federally recognized Indian tribes located within the state pursuant to the federal Indian Gaming Regulatory Act of 1988, 18 U.S.C. ss. 1166-1168 and 25 U.S.C. ss. 2701 et seq., for the purpose of authorizing class III gaming, as defined in that act, on Indian lands within the state. (2) Any tribal-state compact relating to gaming activities which is entered into by an Indian tribe in this state and the Governor pursuant to subsection (1) must be conditioned upon ratification by the Legislature. (3) Following completion of negotiations and execution of a compact, the Governor shall submit a copy of the executed tribal-state compact to the President of the Senate and the Speaker of the House of Representatives as soon as it is executed. To be effective, the compact must be ratified by both houses of the Legislature by a majority vote of the members present. The Governor shall file the executed compact with the Secretary of State pursuant to s.15.01.

THE CAPITOL
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- Allows flexibility for future policy decisions by the Florida Legislature, while limiting the expansion of gaming in the state; and
- Provides increased revenue share percentages to the state over the previous compact.

With a $3 billion guarantee along with a cap on the Tribe's gaming, it is my hope that this compact can be the foundation of a stable and predictable gaming environment for the state of Florida. My execution of this compact is the first step in the process outlined in law and I look forward to continuing to work with you and your respective chambers this session in order to ratify this $3 billion historic agreement.

I am sure there will be several other issues that the legislature may wish to debate and discuss in addition to the details within this compact itself. While many of these issues may be part of legislation you choose to consider outside this compact, my office and I will continue to work with you and Senator Bradley and Representative Diaz in the weeks and months ahead to reach a positive outcome for our state. The compact itself is a good deal for the State of Florida and it is my hope that you will consider giving it a vote in the Florida Senate and the Florida House during the regular 2016 session or at the time you believe is most appropriate.

Sincerely,

Rick Scott
Governor

	NEW COMPACT	2010 COMPACT
Guarantee Money to State	7-year guarantee worth 3 billion dollars (Starts 7/1/17) 1- $325 million 2- $350 million 3- $375 million 4- $425 million 5- $475 million 6- $500 million 7- $550 million Total: $3 Billion guaranteed (true-up at end of year 7) → 7-year 3 billion dollar minimum guarantee is largest guarantee ever by an Indian Tribe. 2010 Compact revenue share percentages for year 1	5-year guarantee worth 1 billion dollars 1- $150 million 2- $150 million 3- $233 million 4- $233 million 5- $234 million Total: $1 Billion guaranteed
Term	20 years; 7-year minimum guarantee. → Creates long-term revenue certainty and stability	20 years; 5-year minimum guarantee; Banked Card Games exclusivity expires after 5 years.
Jobs/Capital Investment	4,800 new direct and indirect jobs, 14,500 direct and indirect construction jobs, and $1.8 billion in capital investment	N/A
Revenue Share to State	Revenue Share to State from Tribe's Gaming Revenue $0-2B: 13% (1% increase) $2-3B: 17.5% (2.5% increase) $3-3.5B: 17.5% $3.5-4B: 20% $4-4.5B: 22.5% $4.5B+: 25% → Revenue Share increased	Revenue Share to State from Tribe's Gaming Revenue $0-2B: 12% $2-3B: 15% $3-3.5B: 17.5% $3.5-4B: 20% $4-4.5B: 22.5% $4.5B+: 25%
Recession	Because of the significant Guarantee if there is a recession during the Guarantee Period the Tribe may pay based on percentages vs Guarantee plus 50% of difference between the percentage payment and Guarantee. The other 50% would be due the next year in addition to the payment owed during that year. (May only use once during guarantee period)	N/A
Games	1. Slot Machines 2. Banked Card Games 3. Raffles and Drawings 4. Any new game authorized for any person except Banked Card Games authorized for another Indian Tribe 5. Live Table Games	1. Slot Machines (all Facilities) 2. Banked Card Games (all Facilities except Big Cypress & Brighton) 3. Raffles and Drawings 4. Any new game authorized for any person except Banked Card Games authorized for another Indian Tribe
Exclusivity Received for Payments	Statewide: Banked & Banking Card Games; Live Table Games Outside Miami-Dade/Broward: Slot Machines	Statewide: Banked Card Games Outside Miami-Dade/Broward: Slot Machines

Facilities	1. Seminole Indian Casino-Brighton 2. Seminole Indian Casino-Coconut Creek 3. Seminole Indian Casino-Hollywood 4. Seminole Indian Casino-Immokalee 5. Seminole Indian Casino-Big Cypress 6. Seminole Hard Rock Hotel & Casino-Hollywood 7. Seminole Hard Rock Hotel & Casino-Tampa	1. Seminole Indian Casino-Brighton 2. Seminole Indian Casino-Coconut Creek 3. Seminole Indian Casino-Hollywood 4. Seminole Indian Casino-Immokalee 5. Seminole Indian Casino-Big Cypress 6. Seminole Hard Rock Hotel & Casino-Hollywood 7. Seminole Hard Rock Hotel & Casino-Tampa
Change in Facilities	• Tribe may expand or replace existing Facilities; • Express limits on additional gaming positions at Tribe's Facilities on its Reservations → Hard caps on gaming in Florida	• Tribe may expand or replace existing Facilities; • No limit on additional gaming positions at Tribe's Facilities on its Reservations
State Oversight	State Compliance Agency allowed 16 hours of inspection over course of two days per facility, per month, capped at 1,600 hours annually. Tribe pays annual oversight payment of $400,000, increased for inflation. → Increased funding and hours for oversight	State Compliance Agency allowed 10 hours of inspection over course of two days per facility, per month, capped at 1,200 hours annually. Tribe pays annual oversight payment of $250,000, increased for inflation.
Exclusivity (Banked & Banking Card Games authorized at existing Miami-Dade/Broward pari-mutuels)	If Banked & Banking Card Games authorized: • Revenue Share Payments Cease until gaming activities are no longer authorized; except • Legislature can exercise its power to add blackjack at the Pari-mutuels in Miami-Dade and Broward subject to some limitations without an impact on the compact. If the market shifts to slot machines with banked card game themes instead of traditional tables the Tribe has the option to waive its exclusivity in Broward and Miami-Dade Counties after fiscal year 2024 if the Tribe's Net Win from all table games in Broward County is less than its Net Win from Banked Card Games in Broward County during this fiscal year. If the Tribe waives its exclusivity the Legislature could exercise its power and limitlessly expand gaming in Broward and Miami-Dade Counties with no effect on the Compact. Revenue Share Payments calculated by excluding Net Win from Broward Facilities.	If Banked Card Games offered; AND Tribe's annual Net Win from Broward Facilities for next 12 mos is less than Net Win from preceding 12 mos; THEN • Guaranteed Minimum Payments cease; and • Revenue Share Payments calculated by reducing Net Win from Broward Facilities by 50% of the Net Win reduction. • If Net Win increases later above point of offering Banked Card Games, then Revenue Share Payments calculated without any reduction.
Exclusivity Violation (Class III Gaming authorization at locations in Miami-Dade/Broward other than existing pari-mutuels)	If Class III Gaming at non-PMW locations in Miami-Dade/Broward authorized THEN: • Guaranteed Minimum Payments cease; and • All Revenue Share Payments cease; except • Legislature may add 1 location in Miami-Dade with 750 Slot machines and 750 Instant Racing Terminals at a $5 bet limit over three year period with no effect on the Compact.	If Class III Gaming at non-PMW locations in Miami-Dade/Broward offered THEN: • Guaranteed Minimum Payments cease; and • Revenue Share Payments calculated by excluding Net Win from Broward Facilities.
Violation Exclusivity (Class III Gaming authorized outside of Miami-Dade/Broward)	If Class III Gaming authorized outside of Miami-Dade/Broward THEN: • All exclusivity payments under the Compact cease; except • Legislature may add 1 location in Palm Beach with 750 Slot machines and 750 Instant Racing Terminals at a $5 bet limit over a three year period with no effect on the Compact.	If Class III Gaming offered outside of Miami-Dade/Broward THEN: • All exclusivity payments under the Compact cease.

Pari-Mutuel Policy Choices for Legislature	Explicitly states that the following do not violate exclusivity: • Lower taxes for pari-mutuels as low as 25% on Slot Machine Revenue • Decoupling for pari-mutuels • Additional Slot Licenses in Miami Dade and Palm Beach Counties. • Blackjack for Pari-mutuels in Broward and Miami Dade with some limitations • Expansion of hours • Placement of ATMs on slot floor • Non-slot operating Pari-mutuels offering Designated Player Games with some restrictions → Maintains Legislature's prerogatives on gaming in the State of Florida	
Internet Gaming	Tribe recognizes that internet gaming is illegal in Florida. If State authorizes internet gaming, THEN→ • Guaranteed Minimum Payments cease; but • Revenue Share Payments continue. If Tribe offers internet gaming to players in Florida then Guaranteed Minimum Payments continue. Affirmative recognition by Tribe that internet gaming is illegal in Florida.	If State authorizes internet gaming and Tribe's Net Win from all Facilities drops more than 5% below Net Win from previous year THEN → • Guaranteed Minimum Payments cease; but • Revenue Share Payments continue If Tribe offers internet gaming then Guaranteed Minimum Payments continue.
Florida Lottery	Maintains consumer and employee protections. → New point-of sale system for Florida Lottery for sales at gas pumps	
Smoking	Tribe will make efforts to promote smoke free environment at Facilities	Tribe will make efforts to promote smoke free environment at Facilities
Compulsive Gambling	Tribe will make annual $1,750,000 donation to the Florida Council on Compulsive Gambling and maintain a voluntary exclusion list. → Maintains support for compulsive gaming resources regardless of Tribe's decisions to open or close facilities.	Tribe will make annual $250,000 donation per Facility to the Florida Council on Compulsive Gambling and maintain a voluntary exclusion list.
Alcohol Abuse	Tribe will maintain proactive approaches to prevent improper alcohol sales, drunk driving, and underage drinking.	Tribe will maintain proactive approaches to prevent improper alcohol sales, drunk driving, and underage drinking.
Compact with another federally-recognized Indian Tribe in Florida	Florida may enter into a Compact with another federally-recognized Tribe that has land in trust in the State as of March 31, 2014.	Florida may enter into a Compact with another federally-recognized Tribe that has land in trust in the State as of February 1, 2010.

2015 GAMING COMPACT BETWEEN THE SEMINOLE TRIBE OF FLORIDA AND THE STATE OF FLORIDA

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2015 Gaming Compact Between the Seminole Tribe of Florida and the State of Florida

This Compact is made and entered into by and between the Seminole Tribe of Florida, a federally-recognized Indian Tribe, and the State of Florida, with respect to the operation of Covered Games, as defined herein, on the Tribe's Indian Lands as defined by the Indian Gaming Regulatory Act, P.L. 100-497, 102 Stat. 2467, 25 U.S.C. ss. 2701 *et seq*.

Part I. TITLE

This document shall be referred to as the "2015 Gaming Compact Between the Seminole Tribe of Florida and the State of Florida."

Part II. RECITALS

A. The Seminole Tribe of Florida is a federally-recognized tribal government possessing sovereign powers and rights of self-government.

B. The State of Florida is a state of the United States of America possessing the sovereign powers and rights of a state.

C. The State and the Tribe maintain a government-to-government relationship.

D. The United States Supreme Court has long recognized the right of an Indian Tribe to regulate activity on lands within its jurisdiction, but the United States Congress, through the Indian Gaming Regulatory Act, has given states a role in the conduct of tribal gaming in accordance with negotiated tribal-state compacts.

E. Pursuant to the Seminole Tribe Amended Gaming Ordinance, adopted by Resolution No. C-195-06, and approved by the Chairman of the National Indian Gaming Commission on July 10, 2006, as the same may be amended from time-to-time, hereafter referred to as the Seminole Tribal Gaming Code, the Seminole Tribe of Florida desires to offer the play of Covered Games, as defined in Part III of this Compact, as a means of generating revenues for purposes authorized by the Indian Gaming Regulatory Act, including without limitation the support of tribal governmental programs, such as health care, housing, sewer and water projects, police, fire suppression, general assistance for tribal elders, day care for children, economic development, educational opportunities, per capita payments to tribal members, and other typical and valuable governmental services and programs for tribal members.

F. The Tribe and the State entered into a tribal-state compact pursuant to the Indian Gaming Regulatory Act on April 7, 2010, which became effective on July 6, 2010, 75 Fed. Reg. 38,833, ("2010 Compact"). This Compact supersedes the 2010 Compact, unless this Compact is not approved by the Florida Legislature and the U.S. Secretary of the Interior or is invalidated by court action or change in federal law. In the event that this Compact is not approved by the Florida Legislature and the U.S. Secretary of the Interior or is invalidated by court action or change in federal law, then the 2010 Compact shall remain in effect.

G. The Tribe and the State affirm that it is in the best interests of the Tribe and the State to enter into this Compact. The Compact recognizes the Tribe's right to offer certain forms of Class III Gaming and provides significant additional substantial exclusivity for such activities in return for a reasonable revenue sharing arrangement

between the Tribe and the State that will entitle the State to significant additional revenue participation.

H. Through this Compact, the Tribe intends to make significant new investments in its Facilities and its related infrastructure on its Indian Lands, including $1.8 billion in capital expenditures by the Tribe, resulting in 4,800 new direct and indirect jobs from expanded operations at the Facilities, and over 14,500 direct and indirect construction jobs, as well as enhanced revenue for the Tribe and the State.

I. This Compact embodies an unprecedented level of cooperation between a state and a sovereign tribal government, which benefits the long-term economic and social well-being of the State and the Tribe.

Part III. DEFINITIONS

As used in this Compact:

A. "Annual Oversight Assessment" means the amount for reimbursement to the State for the actual and reasonable costs of the State Compliance Agency to perform its monitoring functions set forth under this Compact.

B. "Banking or Banked Card Game(s)" means any banked card game, including but not limited to those games listed in 25 C.F.R. s. 502.4(a)(1), as in effect on July 1, 2015.

C. "Bingo Game", for the purpose of non-Indian gaming under State law, means and refers to the activity, commonly known as "bingo," in which participants pay a sum of money for the use of one or more bingo cards. When the game commences, numbers are drawn by chance, one by one, and announced. The players cover or mark

those numbers on the bingo cards which they have purchased until a player receives a given order of numbers in sequence that has been preannounced for that particular game. This player calls out "bingo" and is declared the winner of a predetermined prize. More than one game may be played upon a bingo card, and numbers called for one game may be used for a succeeding game or games.

D. "Class III Gaming" means those games included in 25 C.F.R. s. 502.4, as in effect on July 1, 2015.

E. "Commission" means the Seminole Tribal Gaming Commission, which is the tribal governmental agency that has the authority to carry out the Tribe's regulatory and oversight responsibilities under this Compact.

F. "Compact" means this 2015 Gaming Compact Between the Seminole Tribe of Florida and the State of Florida, as the same may be amended or supplemented in accordance with its terms.

G. "Covered Game(s)" means the following Class III Gaming activities:

1. Slot Machine(s).

2. Banking or Banked Card Game(s).

3. Raffle(s) and Drawing(s).

4. Live Table Game(s).

5. Any new game authorized by State law for any person for any purpose.

H. "Covered Game Employee(s)" or "Covered Employee(s)" means any individual employed and licensed by the Tribe whose responsibilities include the rendering of services with respect to the operation, maintenance or management of Covered Games, including, but not limited to, the following: managers and assistant

managers; accounting personnel; Commission officers; surveillance and security personnel; cashiers, supervisors, and floor personnel; cage personnel; and any other employee whose employment duties require or authorize access to areas of the Facility related to the conduct of Covered Games or the technical support or storage of Covered Game components. This definition does not include the Tribe's elected officials provided that such individuals are not directly involved in the operation, maintenance, or management of Covered Games or Covered Games components.

I. "Designated Player" means the player identified by a button as the player in the dealer position, seated at any traditional player position in a Designated Player Game, who is not required to cover all wagers.

J. "Designated Player Game(s)" means games consisting of at least three (3) cards in which players compare their cards only to those cards of the player in the dealer position, who also pays winners and collects from losers. The ranking of poker hands in such game(s) shall be consistent with the definition of traditional poker hand rankings provided in Hoyle's Modern Encyclopedia of Card Games, 1974 Ed.

K. "Documents" means books, records, electronic, magnetic and computer media documents and other writings and materials, copies thereof, and information contained therein.

L. "Effective Date" means the date on which this Compact becomes effective pursuant to Part XVI, Section A.

M. "Electronic Bingo Machine" means a card minding device, which may only be used in connection with a Bingo Game, which is certified in advance by an

independent testing laboratory licensed or contracted by the Division of Pari-Mutuel Wagering as a bingo aid device that meets all of the following requirements:

1. The device must aid a Bingo Game player by (a) storing in the memory of the device not more than three (3) bingo faces of tangible bingo cards, as defined by section 849.0931(1)(b), Florida Statutes, as of July 1, 2015, purchased by a player; (b) comparing the numbers drawn and then individually entered into the device by the player to the bingo faces previously stored in the memory of the device and (c) identifying preannounced winning bingo patterns marked or covered on the stored bingo faces.

2. The device must not be capable of accepting or dispensing any coins, currency, or tokens.

3. The device must not be capable of monitoring any bingo card face other than the faces of the tangible bingo card or cards purchased by the player for that game.

4. The device must not be capable of displaying or representing the game result through any means other than highlighting the winning numbers marked or covered on the bingo card face or giving an audio alert that the player's card has a prize-winning pattern. No casino game graphics, themes or titles, including but not limited to depictions of slot machine-style symbols, cards, craps, roulette, or lotto may be used.

5. The device must not be capable of determining the outcome of any game.

6. Progressive prizes in excess of two thousand five hundred dollars ($2,500) are prohibited.

7. Other than progressive prizes not to exceed two thousand five hundred dollars ($2,500), no prize exceeding one thousand dollars ($1,000) may be awarded.

8. No Electronic Bingo Machine may contain more than one player position for playing bingo.

9. No Electronic Bingo Machine may contain or be linked to more than one video display.

10. Prizes must be awarded based solely on the results of the Bingo Game. No additional element of chance may be used.

N. "Facility" means a building or buildings of the Tribe in which the Covered Games authorized by this Compact are conducted.

O. "Guaranteed Minimum Compact Term Payment" means a minimum total payment for the Guarantee Payment Period of Three Billion Dollars ($3,000,000,000), which shall include all Revenue Share Payments during the Guarantee Payment Period.

P. "Guarantee Payment Period" means the seven (7) year period beginning on July 1, 2017, and ending on June 30, 2024.

Q. "Guaranteed Revenue Sharing Cycle Payment" means the payments as provided in Part XI of the Compact.

R. "Historic Racing Machine(s)" means an individual historic race terminal linked to a central server as part of a network-based video game, where the terminals allow pari-mutuel wagering by players on the results of previously conducted horse races, but only if the game is certified in advance by an independent testing laboratory licensed

or contracted by the Division of Pari-Mutuel Wagering as complying with all of the following requirements:

1. All data on previously conducted horse races must be stored in a secure format on the central server, which is located at the pari-mutuel facility.

2. Only horse races that were recorded at licensed pari-mutuel facilities in the United States after January 1, 2005, may be used.

3. One (1) or more of the following three (3) bet types must be offered on all Historic Racing Machines: Win-Place-Show, Quinella, or Tri-Fecta.

4. All Historic Racing Machines must offer one (1) or both of the following racing types: Thoroughbreds or Harness.

5. Progressive prizes in excess of two thousand five hundred dollars ($2,500) are prohibited.

6. Other than progressive prizes not to exceed two thousand five hundred dollars ($2,500), no prize exceeding one thousand dollars ($1,000) may be awarded.

7. After each wager is placed, the Historic Racing Machine must display a video of at least the final eight (8) seconds of the horse race before any prize is awarded or indicated on the Historic Racing Machine.

8. The display of the video of the horse race must occupy at least seventy percent (70%) of the Historic Racing Machine's video screen and no Historic Racing Machine may contain or be linked to more than one video display.

9. No casino game graphics, themes or titles, including but not limited to depictions of slot machine-style symbols, cards, craps, roulette, lotto, or bingo may be used.

10. No video reel or mechanical reel displays are permitted.

11. No Historic Racing Machine may contain more than one player position for placing wagers.

12. No coins, currency or tokens may be dispensed from a Historic Racing Machine.

13. Prizes must be awarded based solely on the results of a previously conducted horse race. No additional element of chance may be used. However, a random number generator must be used to select the race from the central server to be displayed to the player(s) and to select numbers or other designations of race entrants that will be used in the various bet types for any "Quick Pick" bets. To prevent an astute player from recognizing the race based on the entrants and thus knowing the results before placing a wager, the entrants of the race may not be identified until after all wagers for that race have been placed.

S. "Indian Gaming Regulatory Act" or "IGRA" means the Indian Gaming Regulatory Act, Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, codified at 25 U.S.C. ss. 2701 *et seq*. and 18 U.S.C. ss. 1166 to 1168.

T. "Indian Lands" means the lands defined as such in the IGRA, 25 U.S.C. s. 2703(4).

U. "Initial Payment Period" means the period beginning on the Effective Date and ending on June 30, 2017.

V. "Live Table Game(s)" means (1) dice games such as craps and sic-bo and any similar variations thereof, and (2) wheel games such as roulette, big six, and any similar variations thereof, but not including any game that is otherwise authorized as a Slot Machine, Banking or Banked Card Game, Raffle, or Drawing.

W. "Lottery Vending Machine(s)" means any of the following four (4) types of machines:

1. A machine to dispense pre-printed paper instant lottery tickets, but that does not read or reveal the results of the ticket, or allow a player to redeem any ticket. The machine, or any machine or device linked to the machine, may not include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. This does not preclude the use of casino game themes or titles on such tickets or signage or advertising displays on the machines;

2. A machine to dispense pre-determined electronic instant lottery tickets that displays an image of the ticket on a video screen on the machine and the player must touch the image of the ticket on the video screen to reveal the outcome of the ticket, provided the machine does not permit a player to redeem winnings, does not make use of video reels or mechanical reels or simulate the play of any casino game, and the lottery retailer is paid the same amount as would be paid for the sale of paper instant lottery tickets;

3. A machine to dispense a paper lottery ticket with numbers selected by the player or randomly by the machine. The machine does not reveal the winning numbers and the winning numbers are selected at a subsequent time and different

location through a drawing by the Florida Lottery. The machine, or any machine or device linked to the machine, may not include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. The machine may not be used to redeem a winning ticket. This does not preclude the use of casino game themes or titles for signage or advertising displays on the machine; or

4. A point-of-sale system to sell tickets for draw lottery games at gasoline pumps at retail fuel stations, provided that the system must: dispense a paper lottery receipt after the purchaser uses a credit card or debit card to purchase the ticket; process transactions through a platform that is certified or otherwise approved by the Florida Lottery; not directly dispense money or permit payment of winnings at the point-of-sale terminal; and not include or make use of video reels or mechanical reels or other Slot Machine or casino game themes or titles.

X. "Monthly Payment" means the monthly Revenue Share Payment which the Tribe remits to the State on the fifteenth (15^{th}) day of the month following each month of the Revenue Sharing Cycle.

Y. "Net Win" means the total receipts from the play of all Covered Games less all prize payouts and free play or promotional credits issued by the Tribe.

Z. "Other Casino-Style Game(s)" means the following games, to the extent not otherwise included as Class III Gaming: Slot Machines, table games including any player-banked card game, electronically-assisted Bingo Games, electronically-assisted pull-tab games, video lottery terminals (VLTs), and any similar games, whether or not such games are determined through the use of a random number generator.

AA. "Pari-Mutuel Wagering Activity(ies)" means those pari-mutuel gaming activities authorized by Chapter 550, Florida Statutes, as of July 1, 2015, and which does not include any Other Casino-Style Game or any game or device that includes video reels or mechanical reels or other Slot Machine or casino game themes or titles.

BB. "Patron(s)" means any person who is on the premises of a Facility, or who is entering the Tribe's Indian Lands for the purpose of playing Covered Games authorized by this Compact.

CC. "Regular Payment Period" means the period beginning on July 1, 2024, and terminating at the end of the term of this Compact.

DD. "Revenue Share Payment(s)" means the periodic payment(s) by the Tribe to the State provided for in Part XI of this Compact.

EE. "Revenue Sharing Cycle" means the annual (12-month) period of the Tribe's operation of Covered Games at its Facilities beginning on July 1st of each fiscal year. However, during the Initial Payment Period the first Revenue Sharing Cycle shall begin on July 1st of the previous year, and the Tribe shall receive a credit for any amount paid to the State under the 2010 Compact for that Revenue Sharing Cycle.

FF. "Rules and Regulations" means the rules and regulations promulgated by the Commission for implementation of this Compact.

GG. "Slot Machine(s)" means any mechanical or electrical contrivance, terminal that may or may not be capable of downloading slot games from a central server system, machine, or other device that, upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any consideration whatsoever including the use of any electronic payment system, except a credit card or debit card, is available to play or

operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, token, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot Machines may use spinning reels, video display, or both. If at any time State law authorizes the use of electronic payments systems utilizing credit or debit card payment for the play or operation of Slot Machines for any person, then the Tribe shall be authorized to use such payment systems.

HH. "State" means the State of Florida.

II. "State Compliance Agency" or "SCA" means the state agency designated by the Florida Legislature that has the authority to carry out the State's oversight responsibilities under this Compact.

JJ. "Tribe" means the Seminole Tribe of Florida or any division, section, agency, or instrumentality thereof, whether or not legally organized or separate from the Tribe's government. With respect to the authorization to conduct Covered Games, "Tribe" also means any legal entity wholly owned and controlled by the Seminole Tribe of Florida or any of the foregoing, as well as any management contractor approved under the IGRA, 25 U.S.C. s. 2711, or any licensee of the Commission consistent with 25 C.F.R. s. 522.10, conducting Covered Games pursuant to this Compact under the authority of the Seminole Tribe of Florida. All such entities shall be subject to and under

the control of the Seminole Tribe of Florida as required by the IGRA and all Net Win from such Covered Games conducted by such entities shall be subject to the Revenue Share Payments provided for in Part XI of this Compact.

KK. "Video Race Terminal" means an individual race terminal linked to a central server as part of a network-based video game, where the terminals allow pari-mutuel wagering by players on the results of previously conducted horse races, but only if the game is certified in advance by an independent testing laboratory licensed or contracted by the Division of Pari-Mutuel Wagering as complying with all of the following requirements:

1. All data on previously conducted horse races must be stored in a secure format on the central server, which is located at the pari-mutuel facility.

2. Only horse races that were recorded at licensed pari-mutuel facilities in the United States after January 1, 2005, may be used.

3. After each wager is placed, the Video Race Terminal must display a video of at least the final seconds of the horse race before any prize is awarded or indicated on the Video Race Terminal.

4. The display of the video of the horse race must be shown on the Video Race Terminal's video screen.

5. No mechanical reel displays are permitted.

6. No Video Race Terminal may contain more than one player position for placing wagers.

7. No coins, currency or tokens may be dispensed from a Video Race Terminal.

8. Prizes must be awarded based solely on the results of a previously conducted horse race. No additional element of chance may be used. However, a random number generator must be used to select the race from the central server to be displayed to the player(s) and to select numbers or other designations of race entrants that will be used in the various bet types for any "Quick Pick" bets. To prevent an astute player from recognizing the race based on the entrants and thus knowing the results before placing a wager, the entrants of the race may not be identified until after all wagers for that race have been placed.

Part IV. AUTHORIZATION AND LOCATION OF COVERED GAMES

A. The Tribe and State agree that the Tribe is authorized to operate Covered Games on its Indian Lands, as defined in the IGRA, in accordance with the provisions of this Compact. Nothing herein is intended to prohibit the Tribe from operating Slot Machines that employ video and/or mechanical displays of roulette, wheels or other table game themes. Nothing in this Compact shall in any way limit, restrict or regulate the Tribe's right to operate any game that is Class II gaming under the IGRA.

B. The Tribe is authorized to conduct Covered Games under this Compact at only the following seven (7) existing Facilities, on its Indian Lands, except as provided in Section C of this Part:

Seminole Indian Casino - Brighton
Okeechobee, FL

Seminole Indian Casino - Coconut Creek
Coconut Creek, FL

Seminole Indian Casino - Hollywood
Hollywood, FL

Seminole Indian Casino - Immokalee
Immokalee, FL

Seminole Indian Casino - Big Cypress
Clewiston, FL

Seminole Hard Rock Hotel & Casino - Hollywood
Hollywood, FL

Seminole Hard Rock Hotel & Casino - Tampa
Tampa, FL

C. Any of the Facilities existing on Indian Lands identified in Section B. of this Part may be relocated, expanded, or replaced by another Facility on the same Indian Lands with advance notice to the State of sixty (60) calendar days.

D. There shall be a cap on the number of Slot Machines, Banking or Banked Card Games, and Live Table Games that may be offered by the Tribe, as follows:

1. The cap on the total number of Slot Machines shall be the average of three thousand five hundred (3,500) Slot Machines for each of the seven (7) authorized Facilities (whether or not all such Facilities are in operation), with a per Facility cap of six thousand (6,000) Slot Machines; and

2. The cap on the total number of Banking or Banked Card Games and Live Table Games offered by the Tribe shall be an average of one hundred and fifty (150) tables for each of the seven (7) authorized Facilities (whether or not all such Facilities are in operation), with a per Facility cap of three hundred (300) tables; and

3. These caps shall not apply to any electronic tablets or mobile devices used by Patrons to play Covered Games while at the Tribe's Facilities.

Part V. RULES AND REGULATIONS; MINIMUM REQUIREMENTS FOR OPERATIONS

A. At all times during the term of this Compact, the Tribe shall be responsible for all duties which are assigned to it and the Commission under this Compact. However, for purposes of 25 C.F.R. s. 522.10, the Commission may license persons or entities to operate Covered Games unless it determines that the person or entity fails to meet the requirements set forth in sections 551.107(5)-(6), Florida Statutes, as of July 1, 2015, for the issuance of a slot machine occupational license. The Commission shall promulgate any rules and regulations necessary to implement this Compact. Nothing in this Compact shall be construed to affect the Commission's right to amend its rules and regulations, provided that any such amendment shall be in conformity with this Compact. The SCA may propose additional rules and regulations consistent with and related to the implementation of this Compact to the Commission at any time, and the Commission shall give good faith consideration to such suggestions and shall notify the SCA of its response or action with respect thereto.

B. All Facilities shall comply with, and all Covered Games authorized under this Compact shall be operated in accordance with the requirements set forth in this Compact, including but not limited to, those set forth in Sections C. and D. of this Part and the Tribe's Internal Control Policies and Procedures. In addition, all Facilities and all Covered Games shall be operated in strict compliance with tribal internal control

standards that provide a level of control that equals or exceeds those set forth in the National Indian Gaming Commission's ("NIGC") Minimum Internal Control Standards, 25 C.F.R. Part 542 (2009), or at the option of the Tribe, any new internal control standards issued by the NIGC. The Tribe may amend or supplement its internal control standards from time-to-time, provided that such changes continue to provide a level of control that equals or exceeds those set forth above.

C. The Tribe and the Commission shall retain all Documents in compliance with the requirements set forth in the Tribe's Record Retention Policies and Procedures.

D. Compulsive Gambling.

The Tribe will continue and maintain its program to combat problem gambling and curtail compulsive gambling and work with the Florida Council on Compulsive Gambling or other organizations dedicated to assisting problem gamblers. The Tribe will continue to maintain the following safeguards against problem gambling.

1. The Tribe will provide a comprehensive training and education program designed in cooperation with the Florida Council on Compulsive Gambling or other organization dedicated to assisting problem gamblers to every new Covered Game Employee who interacts with Patrons.

2. The Tribe will make printed and electronic materials available to Patrons, which include contact information for the Florida Council on Compulsive Gambling 24-Hour Helpline or other hotline dedicated to assisting problem gamblers, and will work with the Florida Council on Compulsive Gambling or other organization dedicated to assisting problem gamblers to provide contact information for the Florida Council on Compulsive Gambling or other

organization dedicated to assisting problem gamblers, and to provide such information on the Facilities' internet website. The Tribe will continue to display all literature from the Florida Council on Compulsive Gambling or other organization dedicated to assisting problem gamblers within the Facilities.

3. The Commission shall establish a list of the Patrons voluntarily excluded from the Tribe's Facilities, pursuant to subsection 5 of this Section.

4. The Tribe shall employ its best efforts to exclude Patrons on such list from entry into its Facilities; provided that nothing in this Compact shall create for Patrons who are excluded but gain access to the Facilities, or any other person, a cause of action or claim against the State, the Tribe or the Commission or any other person, entity, or agency for failing to enforce such exclusion.

5. Patrons who believe they may be playing Covered Games on a compulsive basis may request that their names be placed on the list of Patrons voluntarily excluded from the Tribe's Facilities.

6. All Covered Game Employees shall receive training on identifying players who have a problem with compulsive gambling and shall be instructed to ask them to leave. Signs bearing a toll-free help-line number and educational and informational materials shall be made available at conspicuous locations and automated teller machines in each Facility, which aim at the prevention of problem gaming and which specify where Patrons may receive counseling or assistance for gambling problems. All Covered Game Employees shall also be screened by the Tribe for compulsive gambling habits. Nothing in this Section shall create for Patrons, or any other person, a cause of action or claim against the

State, the Tribe or the Commission or any other person, entity, or agency for failing to identify a Patron or person who is a compulsive gambler and/or ask that person to leave.

7. The Tribe shall follow the rules for exclusion of Patrons set forth in the Seminole Tribal Gaming Code.

8. The Tribe shall make diligent efforts to prevent underage individuals from loitering in the area of each Facility where the Covered Games take place.

9. The Tribe shall assure that advertising and marketing of the Covered Games at the Facilities contain a responsible gambling message and a toll-free help-line number for problem gamblers, where practical, and that such advertising and marketing make no false or misleading claims.

E. The State may secure an annual independent audit of the conduct of Covered Games subject to this Compact, as set forth in Part VIII.

F. Summaries of the rules for playing Covered Games and promotional contests shall be visibly displayed in the Facilities. Complete sets of rules shall be available in the Facilities upon request. Copies of all such Covered Game rules shall be provided to the SCA upon request.

G. The Tribe shall provide the Commission and SCA with a chart of the supervisory lines of authority with respect to those directly responsible for the conduct of Covered Games, and shall promptly notify those agencies of any material changes thereto.

H. The Tribe engages in and shall continue to maintain proactive approaches to prevent improper alcohol sales, drunk driving, underage drinking, and underage

gambling. These approaches involve intensive staff training, screening and certification, Patron education, and the use of security personnel and surveillance equipment in order to enhance Patrons' enjoyment of the Facilities and provide for Patron safety. Staff training includes specialized employee training in nonviolent crisis intervention, driver's license verification and the detection of intoxication. Patron education is carried out through notices transmitted on valet parking stubs, posted signs in the Facilities, and in brochures. Roving and fixed security officers, along with surveillance cameras, assist in the detection of intoxicated Patrons, investigate problems, and engage with Patrons to de-escalate volatile situations. To help prevent alcohol-related crashes, the Tribe will continue to operate the "Safe Ride Home Program," a free taxi service at all Facilities where alcohol is served. The Tribe shall maintain these programs and policies in its Alcohol Beverage Control Act for the duration of the Compact but may replace such programs and policies with either stricter or more extensive programs and policies. The Tribe shall provide the State with written notice of any changes to the Tribe's Alcohol Beverage Control Act, which notice shall include a copy of such changes and shall be sent on or before the effective date of the change. Nothing in this Section shall create for Patrons, or any other person, a cause of action or claim against the State, the Tribe or the Commission or any other person, entity, or agency for failing to fulfill the requirements of this Section.

I. No person under the age of twenty-one (21) shall be allowed to play Covered Games, unless otherwise permitted by State law.

J. The Tribe may establish and operate Facilities that operate Covered Games only on its Indian Lands as defined by the IGRA and as specified in Part IV.

K. The Commission shall keep a record of, and shall report at least quarterly to the SCA, the number of Covered Games in each Facility, by the name or type of each and any identifying number.

L. The Tribe and the Commission shall make available a copy of the following documents to any member of the public upon request within ten (10) business days: the minimum internal control standards of the NIGC, 25 C.F.R. Part 542 (2009), or any new internal control standards issued by the NIGC and accepted by the Tribe; the Seminole Tribal Gaming Code; this Compact; the rules of each Covered Game operated by the Tribe; and the administrative procedures for addressing Patron tort claims under Part VI.

Part VI. PATRON DISPUTES; WORKERS COMPENSATION; TORT CLAIMS; PRIZE CLAIMS; LIMITED CONSENT TO SUIT

A. All Patron disputes involving Covered Games will be resolved in accordance with the procedures established in the Seminole Tribal Gaming Code.

B. Tort claims by employees of the Tribe's Facilities will be handled pursuant to the provisions of the Tribe's Workers' Compensation Ordinance, which shall provide workers the same or better protections as set forth in the State's workers' compensation laws.

C. Disputes by employees of the Tribe's Facilities will be handled pursuant to the provisions of the Tribe's policy for gaming employees, as set forth in the Tribe's Employee Fair Treatment and Dispute Resolution Policy.

D. Tort remedies for Patrons.

1. A Patron who claims to have suffered personal injury after the Effective Date at one of the Tribe's Facilities where Covered Games are played is required to provide written notice in the form of the Notice of Gaming Patron Tort Form to the Tribe's Risk Management Department, in a reasonable and timely manner, but in no event later than three (3) years after the date of the incident giving rise to the claimed injury occurs, or the claim shall be forever barred.

2. The Tribe shall make the Notice of Gaming Patron Tort Form available to the Patron at the time in which the Tribe responds to an incident alleged to have caused a Patron's injury. The Patron may also obtain the Notice of Gaming Patron Tort Form from the Tribe's website or upon written request to the Tribe's Risk Management Department. The Notice of Gaming Patron Tort Form must include the address for the Tribe's Risk Management Department and provide notice of the Tribe's administrative procedures for addressing Patron tort claims, including notice of the relevant deadlines that may bar such claims if the Tribe's administrative procedures are not followed. It is the Patron's responsibility to complete the Notice of Gaming Patron Tort Form and forward the Notice of Gaming Patron Tort Form to the Tribe's Risk Management Department within the time period set forth herein. Nothing herein shall interfere with any tort claim a Patron might have arising under the Federal Tort Claim Act.

3. The Tribe, or its insurance carrier, shall have thirty (30) business days from the date the Tribe's Risk Management Department receives the Notice of Gaming Patron Tort Form to respond to the Patron. If the Tribe, or its insurance

carrier, fails to respond within thirty business (30) days, the Patron may bring a tort claim against the Tribe as set forth in Section D.5. of this Part.

4. Upon receiving the Notice of Gaming Patron Tort Form from the Patron, the Tribe's Risk Management Department shall forward the notification to the Tribe's insurance carrier. The Tribe will use its best efforts to assure that its insurance carrier contacts the Patron within thirty (30) business days following receipt of the Notice of Gaming Patron Tort Form from the Patron if the insurance carrier and not the Tribe is to respond to the Patron.

5. If the Tribe's insurance carrier contacts the Patron, it will handle the tort claim to conclusion. If the Patron and the Tribe and the insurance carrier are not able to resolve the claim in good faith within one (1) year after the Patron provided the Notice of Gaming Patron Tort Form to the Tribe's Risk Management Department, the Patron may bring a tort claim action against the Tribe in any State court of competent jurisdiction in the Florida county in which the incident alleged to have caused injury occurred, as provided in this Compact, and subject to a four (4) year statute of limitations, which shall begin to run from the date of the incident of the alleged claimed injury. A Patron's submission of a notice of injury to the Tribe in the Notice of Gaming Patron Tort Form pursuant to this Section and the fulfillment of the good faith attempt at resolution pursuant to this subsection are conditions precedent to filing a tort claim action in State court, and claims that fail to follow this process shall be forever barred.

6. For tort claims of Patrons made and tort claim actions brought in State court pursuant to this Section, the Tribe agrees to waive its Tribal sovereign immunity to the same extent as the State waives its sovereign immunity, as specified in sections 768.28(1) and (5), Florida Statutes, as such provision may be amended from time-to-time by the Florida Legislature. The Tribe and its insurance carrier are prohibited from invoking Tribal sovereign immunity for tort claims up to the limits to which the State has waived sovereign immunity as set forth in section 768.28(5), Florida Statutes, as such provision may be amended from time-to-time by the Florida Legislature, provided that the provision remains the same for State agencies as for the Tribe, but the Tribe and its insurance carrier are permitted to assert any available statutory or common law defense for tort claims of Patrons made pursuant to this Section.

7. In no event, however, shall the Tribe be deemed to have waived its Tribal immunity from suit beyond the limits set forth in section 768.28(5), Florida Statutes. These limitations are intended to include liability for compensatory damages, costs, pre-judgment interest, punitive damages, and attorney fees if otherwise allowable under State law arising out of any tort claim brought or asserted against the Tribe, its subordinate governmental and economic units, any Tribal officials, employees, servants, or agents in their official capacities and any entity which is owned, directly or indirectly by the Tribe.

8. All Patron tort claims brought pursuant to this provision shall be brought solely against the Seminole Tribe of Florida, a federally-recognized Indian tribe, as the sole party in interest.

9. In tort claim actions brought in State court pursuant to this Section, process shall be served on the Office of the General Counsel of the Seminole Tribe of Florida, and the Seminole Tribe of Florida shall have thirty (30) business days within which to plead thereto, consistent with section 768.28(7), Florida Statutes, as such provision may be amended from time-to-time by the Florida Legislature, provided that the provision remains the same for State agencies as for the Tribe.

10. The provisions of section 768.28(8), Florida Statutes, as such provision may be amended from time-to-time by the Florida Legislature, applies to all tort claims of patrons made pursuant to this Section, provided that the provision remains the same for State agencies as for the Tribe.

11. Notices explaining the procedures and time limitations with respect to making a tort claim shall be prominently displayed in the Tribe's Facilities, posted on the Tribe's website, and provided to any Patron for whom the Tribe has notice of the injury giving rise to the tort claim. Such notices shall explain the method and places for making a tort claim, including where the Patron must submit the form, the address for the Tribe's Risk Management Department and that the process is the exclusive method for asserting a tort claim arising under this Section against the Tribe, that the Tribe and its insurance carrier have one (1) year from the date the Patron gives notice of the tort claim by the Notice of Gaming Patron Tort Form to resolve the matter and after that time the Patron may bring a tort claim action against the Tribe in any State court of competent jurisdiction in

the Florida county in which the incident alleged to have caused injury occurred, that the exhaustion of the process is a pre-requisite to filing a tort claim action in State court, and that tort claims which fail to follow this process shall be forever barred.

12. The Tribe shall maintain an insurance policy which shall include coverage for tort claims made by a Patron or invitee for personal injuries alleged to have occurred at one of the Tribe's Facilities.

13. The Tribal Council of the Seminole Tribe of Florida may, in its discretion, consider Patron tort claims for compensation in excess of the limits of the Tribe's limited waiver of its Tribal sovereign immunity.

Part VII. ENFORCEMENT OF COMPACT PROVISIONS

A. The Tribe, the Commission and the SCA, to the extent authorized by this Compact, shall be responsible for regulating gaming activities conducted under this Compact. As part of its responsibilities, the Tribe has adopted or issued standards designed to ensure that the Tribe's Facilities are constructed, operated and maintained in a manner that adequately protects the environment and public health and safety. Additionally, the Tribe and the Commission shall ensure that:

1. Operation of the conduct of Covered Games is in strict compliance with:

(a) The Seminole Tribal Gaming Code;

(b) All applicable rules, regulations, procedures, specifications, and standards lawfully adopted by the NIGC; and

(c) The provisions of this Compact, including, but not limited to, the Tribe's standards and the Tribe's Rules and Regulations; and

2. Reasonable measures are taken to:

(a) Assure the physical safety of Patrons, employees, and any other person while in the Tribe's Facilities;

(b) Prevent illegal activity at the Tribe's Facilities or with regard to the operation of Covered Games, including, but not limited to, the maintenance of employee procedures and a surveillance system;

(c) Ensure prompt notification is given to appropriate law enforcement authorities of persons who may be involved in illegal acts in accordance with applicable law;

(d) Ensure that the construction and maintenance of the Tribe's Facilities comply with the standards of the Florida Building Code, the provisions of which the Tribe has adopted as the Seminole Tribal Building Code; and

(e) Ensure adequate emergency access plans have been prepared to ensure the health and safety of all Patrons at the Tribe's Facilities.

B. All licenses for members and employees of the Commission shall be issued according to the same standards and terms applicable to Covered Game Employees. The Commission's officers shall be independent of the Tribal gaming operations, and shall be supervised by and accountable only to the Commission. A Commission officer shall be available at each Facility during all hours of operation upon reasonable notice, and shall have immediate access to any and all areas of any Facility for

the purpose of ensuring compliance with this Compact. The Commission shall investigate any suspected or reported violation of this Part and shall officially enter into its files timely written reports of investigations and any action taken thereon, and shall forward copies of such investigative reports to the SCA within thirty (30) calendar days of such filing. The scope of such reporting shall be determined by the existing memorandum of understanding between the Commission and the SCA, which may be amended by the Commission and the SCA from time-to-time. Any such violations shall be reported immediately to the Commission by Facility management, and the Commission shall notify the SCA as provided in a memorandum of understanding between the Commission and the SCA. In addition, the Commission shall promptly report to the SCA any such violations which it independently discovers.

C. In order to develop and foster a positive and effective relationship in the enforcement of this Compact, representatives of the Commission and the SCA shall meet, not less than on an annual basis, to review past practices and examine methods to improve the regulatory scheme created by this Compact. The meetings shall take place at a location mutually agreed to by the Commission and the SCA. The SCA, prior to or during such meetings, shall disclose to the Commission any concerns, suspected activities, or pending matters reasonably believed to possibly constitute violations of this Compact by any person, organization or entity, if such disclosure will not compromise the interest sought to be protected.

Part VIII. STATE MONITORING OF COMPACT

A. It is the express intent of the Tribe and the State for the Tribe to regulate its own gaming activities, but that the State is entitled to conduct random inspections as provided for in this Part to assure that the Tribe's gaming activities authorized by this Compact are operated in accordance with the terms of this Compact. The State may secure, and the Tribe will be required to provide all necessary cooperation, an annual independent audit of the conduct of Covered Games subject to this Compact. The audit shall:

1. Examine the Covered Games operated by the Tribe to assure compliance with the Tribe's Internal Control Policies and Procedures and any other standards, policies or procedures adopted by the Tribe, the Commission or the NIGC, which govern the play of Covered Games; and

2. Examine revenues in connection with the conduct of Covered Games and shall include only those matters necessary to verify the determination of Net Win and the basis and amount of the payments the Tribe is required to make to the State pursuant to Part XI, Sections B. and D. of this Compact and as defined by this Compact.

B. A copy of the audit report for the conduct of Covered Games shall be submitted to the Commission and the SCA within thirty (30) calendar days of completion. Representatives of the SCA may, upon request, meet with the Tribe and its auditors to discuss the audit or any matters in connection therewith; provided, such discussions are limited to Covered Games information. The annual independent audit shall be performed by an independent firm, with experience in auditing casino operations,

selected by the State, subject to the consent of the Tribe, which shall not be unreasonably withheld. The Tribe shall pay the auditing firm for the costs of the annual independent audit.

C. As provided herein, the SCA may monitor the conduct of Covered Games to ensure that the Covered Games are conducted in compliance with this Compact. In order to properly monitor the conduct of Covered Games, personnel of the SCA without prior notice shall have reasonable access to all public areas of the Facilities related to the conduct of Covered Games as provided herein.

1. While the Commission will act as the regulator of the Facilities, the SCA may review whether the Tribe's Facilities are in compliance with this Compact and the Tribe's Rules and Regulations applicable to Covered Games and may advise on such issues as it deems appropriate. In the event of a dispute or disagreement between Tribal and SCA regulators, the dispute or disagreement shall be resolved in accordance with the dispute resolution provisions of Part XIII of this Compact.

2. In order to fulfill its oversight responsibilities, the State has identified specific oversight testing procedures, set forth below in subsection 3, paragraphs (a), (b), and (c), which the SCA may perform on a routine basis.

3. (a) The SCA may inspect any Covered Games in operation at the Facilities on a random basis. Such inspections shall not exceed one (1) inspection per Facility per calendar month and each inspection shall be limited to not more than sixteen (16) hours spread over two (2) consecutive days. The SCA may conduct inspections of more than sixteen

(16) hours spread over those two (2) consecutive days, if the SCA determines that additional inspection hours are needed to address the issues of substantial non-compliance, provided that the SCA provides the Tribe with written notification of the need for additional inspection hours and provides the Tribe with a written summary of the substantial non-compliance issues that need to be addressed during the additional inspection hours. There is an annual limit of One Thousand Six Hundred (1,600) hours for all random inspections and audit reviews. Inspection hours shall be calculated on the basis of the actual amount of time spent by the SCA conducting the inspections at a Facility without a multiple for the number of SCA personnel engaged in the inspection activities. The purpose of the random inspections is to confirm that the Covered Games operate and play properly pursuant to the manufacturer's technical standards and are conducted in compliance with the Tribe's Internal Control Policies and Procedures and any other standards, policies or procedures adopted by the Tribe, the Commission or the NIGC which govern the play of Covered Games. The SCA shall provide notice to the Commission of such inspection at or prior to the commencement of the random inspections, and a Commission agent may accompany the inspection. The Tribe shall provide the SCA with a dedicated computer terminal at a Facility agreed to by the Tribe and the SCA by which the SCA will be able to access relevant electronic records.

(b) For each Facility, the SCA may perform one annual review of the Tribe's Slot Machine compliance audit.

(c) At least on an annual basis, the SCA may meet with the Tribe's Internal Audit Department for Gaming to review internal controls and the record of violations of same for each Facility.

4. The SCA will seek to work with and obtain the assistance of the Commission in the resolution of any conflicts with the management of the Facilities, and the State and the Tribe shall make their best efforts to resolve disputes through negotiation whenever possible. Therefore, in order to foster a spirit of cooperation and efficiency, the parties hereby agree that when disputes arise between the SCA staff and Commission regulators from the day-to-day regulation of the Facilities, they should generally be resolved first through meeting and conferring in good faith. This voluntary process does not proscribe the right of either party to seek other relief that may be available when circumstances require such relief. In the event of a dispute or disagreement between Tribal and SCA regulators, the dispute or disagreement shall be resolved in accordance with the dispute resolution provisions of Part XIII of this Compact.

5. Access to each Facility by the SCA shall be during the Facility's operating hours only. No advance notice is required when the SCA inspection is limited to public areas of the Facility; however, representatives of the SCA shall provide notice and photographic identification to the Commission of their presence before beginning any such inspections.

6. Before the SCA personnel enter any nonpublic area of a Facility, they shall provide one (1) hour notice and photographic identification to the Commission. The SCA personnel shall be accompanied in nonpublic areas of the Facility by a Commission officer. Notice of at least one (1) hour by the SCA to the Commission is required to assure that a Commission officer is available to accompany the SCA personnel at all times. This notice shall not count against the total number of inspection hours.

7. Any suspected or claimed violations of this Compact or law shall be directed in writing to the Commission; the SCA personnel, in conducting the functions assigned to them under this Compact, shall not unreasonably interfere with the functioning of any Facility.

D. Subject to the provisions herein, personnel of the SCA shall have the right to review and request copies of Documents of the Facility related to its conduct of Covered Games. The review and copying of such Documents shall be during normal business hours unless otherwise allowed by the Tribe at the Tribe's discretion. The Tribe cannot refuse said inspection and copying of such Documents, provided that the SCA personnel cannot require copies of Documents in such volume that it unreasonably interferes with the normal functioning of the Facilities or Covered Games. To the extent that the Tribe provides the State with information which the Tribe claims to be confidential and proprietary, or a trade secret, the Tribe shall clearly mark such information with the following designation: "Trade Secret, Confidential and Proprietary." If the State receives a request under chapter 119, Florida Statutes that would include such designated information, the State shall promptly notify the Tribe of such a

request and the Tribe shall promptly notify the State about its intent to seek judicial protection from disclosure. Upon such notice from the Tribe, the State shall not release the requested information until a judicial determination is made. This designation and notification procedure does not excuse the State from complying with the requirements of the State's public records law, but is intended to provide the Tribe the opportunity to seek whatever judicial remedy it deems appropriate. Notwithstanding the foregoing procedure, the SCA may provide copies of tribal Documents to federal law enforcement and other State agencies or State consultants that the State deems reasonably necessary in order to conduct or complete any investigation of suspected criminal activity in connection with the Tribe's Covered Games or the operation of the Facilities or in order to assure the Tribe's compliance with this Compact.

E. At the completion of any SCA inspection or investigation, the SCA shall forward any written report thereof to the Commission, containing all pertinent, non-confidential, non-proprietary information regarding any violation of applicable laws or this Compact which was discovered during the inspection or investigation unless disclosure thereof would adversely impact an investigation of suspected criminal activity. Nothing herein prevents the SCA from contacting tribal or federal law enforcement authorities for suspected criminal wrongdoing involving the Commission.

F. Except as expressly provided in this Compact, nothing in this Compact shall be deemed to authorize the State to regulate the Tribe's government, including the Commission, or to interfere in any way with the Tribe's selection of its governmental officers, including members of the Commission.

Part IX. JURISDICTION

The obligations and rights of the State and the Tribe under this Compact are contractual in nature, and are to be construed in accordance with the laws of the State. This Compact shall not alter tribal, federal or state civil adjudicatory or criminal jurisdiction in any way.

Part X. LICENSING

The Tribe and the Commission shall comply with the licensing and hearing requirements set forth in 25 C.F.R. Parts 556 and 558, as well as the applicable licensing and hearing requirements set forth in the Seminole Tribal Gaming Code, as such may be amended from time-to-time. The Commission shall notify the SCA of any disciplinary hearings or revocation or suspension of licenses.

Part XI. PAYMENTS TO THE STATE OF FLORIDA

A. The parties acknowledge and recognize that this Compact provides the Tribe with partial but significant additional substantial exclusivity and other valuable consideration consistent with the goals of the IGRA, including special opportunities for tribal economic development through the Tribe's offering of gaming activities within the external boundaries of the State. In consideration thereof, the Tribe covenants and agrees, subject to the conditions agreed upon in Part XII of this Compact, to make the payments to the State derived from Net Win as set forth in Sections B. and D.

B. The Tribe shall make periodic Revenue Share Payments to the State derived from Net Win as set forth below, and any such payments shall be made to the

State via electronic funds transfer in a manner directed by the Florida Legislature. Of the amounts paid by the Tribe to the State pursuant to this Section, three (3) percent shall be distributed, as provided for by the Florida Legislature, to those local governments (including both counties and municipalities) in the State affected by the Tribe's operation of Covered Games. Revenue Share Payments will be due in accordance with the Payment Schedule set forth below.

1. Revenue Share Payments by the Tribe to the State shall be calculated as follows:

(a) During the Initial Payment Period, the Tribe agrees to pay the State a Revenue Share Payment in the amount equal to the amount calculated in accordance with subsections (i) through (vi) below.

(i) Twelve percent (12%) of all amounts up to Two Billion Dollars ($2,000,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(ii) Fifteen percent (15%) of all amounts greater than Two Billion Dollars ($2,000,000,000) up to and including Three Billion Dollars ($3,000,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(iii) Seventeen and one half percent (17.5%) of all amounts greater than Three Billion Dollars ($3,000,000,000) up to and including Three Billion Five Hundred Million Dollars

($3,500,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(iv) Twenty percent (20%) of all amounts greater than Three Billion Five Hundred Million Dollars ($3,500,000,000) up to and including Four Billion Dollars ($4,000,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(v) Twenty-two and one half percent (22.5%) of all amounts greater than Four Billion Dollars ($4,000,000,000) up to and including Four Billion Five Hundred Million Dollars ($4,500,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(vi) Twenty-five percent (25%) of all amounts greater than Four Billion Five Hundred Million Dollars ($4,500,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle.

(b) During the Guarantee Payment Period, the Tribe agrees to pay the following fixed payments. In addition, within ninety (90) days after the end of the Guarantee Payment Period, the Tribe shall make an additional payment to the State equal to the amount above three billion dollars ($3,000,000,000), if any, that would have been

owed by the Tribe to the State had the percentages set forth in Section B.1.(c) of this Part been applicable during the Guarantee Payment Period.

(i) A payment of Three Hundred Twenty-Five Million Dollars ($325,000,000) during the first (1st) Revenue Sharing Cycle;

(ii) A payment of Three Hundred Fifty Million Dollars ($350,000,000) during the second (2nd) Revenue Sharing Cycle;

(iii) A payment of Three Hundred Seventy-Five Million Dollars ($375,000,000) during the third (3rd) Revenue Sharing Cycle;

(iv) A payment of Four Hundred Twenty-Five Million Dollars ($425,000,000) during the fourth (4th) Revenue Sharing Cycle;

(v) A payment of Four Hundred Seventy-Five Million Dollars ($475,000,000) during the fifth (5th) Revenue Sharing Cycle;

(vi) A payment of Five Hundred Million Dollars ($500,000,000) during the sixth (6th) Revenue Sharing Cycle;

(vii) A payment of Five Hundred Fifty Million Dollars ($550,000,000) during the seventh (7th) Revenue Sharing Cycle;

(c) During the Regular Payment Period, the Tribe agrees to pay for each Revenue Sharing Cycle a Revenue Share Payment to the State equal to the amount calculated in accordance with subsections (i) through (v) below.

(i) Thirteen percent (13%) of all amounts up to Two Billion Dollars ($2,000,000,000) of Net Win received by the Tribe from

the operation and play of Covered Games during each Revenue Sharing Cycle;

(ii) Seventeen and one half percent (17.5%) of all amounts greater than Two Billion Dollars ($2,000,000,000) up to and including Three Billion Five Hundred Million Dollars ($3,500,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(iii) Twenty percent (20%) of all amounts greater than Three Billion Five Hundred Million Dollars ($3,500,000,000) up to and including Four Billion Dollars ($4,000,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(iv) Twenty-two and one half percent (22.5%) of all amounts greater than Four Billion Dollars ($4,000,000,000) up to and including Four Billion Five Hundred Million Dollars ($4,500,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle; and

(v) Twenty-five percent (25%) of all amounts greater than Four Billion Five Hundred Million Dollars ($4,500,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle.

(d) Monthly Payment

(i) On or before the fifteenth (15th) day of the month following each month of a Revenue Sharing Cycle during the Initial Payment Period, the Guarantee Payment Period, and the Regular Payment Period, the Tribe will remit to the State or its assignee the Monthly Payment. For purposes of this Section, the Monthly Payment shall be eight and one-third percent (8 1/3%) of the estimated or fixed Revenue Share Payment to be paid by the Tribe during such Revenue Sharing Cycle.

(ii) The Tribe will make available to the State at the time of the Monthly Payment the basis for the calculation of the payment.

(iii) During the Initial Payment Period and the Regular Payment Period, the Tribe will, on a monthly basis, internally "true up" the calculation of the estimated Revenue Share Payment based on the Tribe's un-audited financial statements related to Covered Games.

(e) Payment Verification during the Initial Payment Period, Guarantee Payment Period, and Regular Payment Period

(i) On or before the forty-fifth (45th) day after the third (3rd) month, sixth (6th) month, ninth (9th) month, and twelfth (12th) month of each Revenue Sharing Cycle during the Initial Payment Period, Guarantee Payment Period, and Regular Payment Period, provided that the twelve (12) month period does not coincide with the Tribe's fiscal year end date as indicated in subsection (iii)

below, the Tribe will provide the State with an audit report by its independent auditors as to the annual Revenue Share Payment calculation for each Revenue Sharing Cycle.

(ii) For each quarter within any Revenue Sharing Cycle, during the Initial Payment Period, Guarantee Payment Period, and Regular Payment Period, the Tribe agrees to engage its independent auditors to conduct a review of the un-audited net revenue from Covered Games. On or before the one hundred twentieth (120^{th}) day after the end of the Tribe's fiscal year, the Tribe agrees to require its independent auditors to provide an audit report with respect to Net Win for Covered Games and the related payment of the Revenue Share Payment for each Revenue Sharing Cycle to the SCA for State review.

(iii) If the twelfth (12^{th}) month of the Revenue Sharing Cycle does not coincide with the Tribe's fiscal year, the Tribe agrees to require its independent auditors to deduct Net Win from Covered Games for any of the months that are outside of the Revenue Sharing Cycle and to include Net Win from Covered Games for those months which fall outside of the Tribe's audit period but fall within the Revenue Sharing Cycle, prior to issuing the audit report.

(iv) No later than thirty (30) calendar days after the day the audit report is issued, the Tribe will remit to the State any underpayment of the annual Revenue Share Payment for each

Revenue Sharing Cycle during the Initial Payment Period and Regular Payment Period, and the State will either reimburse to the Tribe any overpayment of the Revenue Share Payment for each Revenue Sharing Cycle or authorize the overpayment to be deducted from the next successive Monthly Payments.

C. The Annual Oversight Assessment, which shall not exceed Four Hundred Thousand Dollars ($400,000) per year, indexed for inflation as determined by the Consumer Price Index, shall be determined and paid in quarterly installments within thirty (30) calendar days of receipt by the Tribe of an invoice from the SCA. The Tribe reserves the right to audit the invoices on an annual basis, a copy of which will be provided to the SCA, and any discrepancies found therein shall be reconciled within forty-five (45) calendar days of receipt of the audit by the SCA.

D. The Tribe shall make an annual donation to the Florida Council on Compulsive Gaming as an assignee of the State in an amount not less than One Million Seven-Hundred Fifty Thousand Dollars ($1,750,000.00).

E. Except as expressly provided in this Part, nothing in this Compact shall be deemed to require the Tribe to make payments of any kind to the State or any of its agencies.

Part XII. GRANT OF EXCLUSIVITY; REDUCTION OF TRIBAL PAYMENTS BECAUSE OF LOSS OF EXCLUSIVITY OR OTHER CHANGES IN STATE LAW

The intent of this Part is to provide the Tribe with the right to operate Covered Games on an exclusive basis throughout the State without competition from other

persons, organizations, or entities offering Covered Games or Other Casino-Style Games, subject to the exceptions and provisions set forth below.

A. If, after July 1, 2015, State law is amended by action of the Florida Legislature or an amendment to the Florida Constitution to authorize:

1. The operation of Class III Gaming or Other Casino-Style Games at any location under the jurisdiction of the State where such games were not in operation as of July 1, 2015; or

2. New forms of Class III Gaming or Other Casino-Style Gaming that were not in operation as of July 1, 2015, then the payments due to the State pursuant to Part XI, Sections B. and D. of this Compact shall cease, except as provided below in this Part, provided the Tribe gives written notice to the State of the violation of its exclusivity. For purpose of this Section, "authorize" or "authorized" means upon the Governor's approval and signature of an act passed by the Florida Legislature or upon the filing of an act in the Office of the Secretary of State without the Governor's signature; or for a constitutional amendment, upon certification by the Secretary of State of the approved amendment. The cessation of payments due to the State pursuant to Part XI, Sections B. and D. of this Compact shall continue until such gaming activities are no longer authorized, in which event the payments shall resume.

B. If the expansion of new Class III Gaming or Other Casino-Style Games beyond what was in operation as of July 1, 2015, is permitted and begins to be offered as a result of a court decision or administrative ruling or decision without being specifically authorized pursuant to Section A. of this Part, then the Tribe may assert a violation of its

exclusivity by providing written notice of such violation to the State. If the Tribe provides such notice, then the Tribe has the option to make its payments due to the State pursuant to Part XI, Sections B. and D. of this Compact into an escrow account to provide the Florida Legislature with the opportunity to pass legislation to reverse such decision or ruling. However, if the Florida Legislature fails to act or if such expanded gaming activities are not illegal after action by the Florida Legislature or subsequent court decision or administrative ruling or decision within twelve (12) months after the notice provided by the Tribe or by the end of the next regular session of the Florida Legislature following the Tribe's written notice, whichever is earlier, then all funds in the escrow account shall be returned to the Tribe and all further payments due to the State pursuant to Part XI, Sections B. and D. of this Compact shall cease until such gaming activities are no longer permitted, in which event the Payments to the State pursuant to Part XI, Section B. and D. of this Compact shall resume.

C. Exceptions: The following are exceptions to the exclusivity provided to the Tribe pursuant to the provisions of this Part.

1. Any Class III Gaming activity authorized by a tribal-state compact between the State and any other federally recognized tribe pursuant to IGRA, provided that the tribe has land in federal trust in the State as of July 1, 2015.

2. The operation of not more than the number of Slot Machines authorized by State law as of July 1, 2015, at each of the locations of the four (4) permitted pari-mutuel facilities in Broward County and at the locations of the four (4) permitted pari-mutuel facilities in Miami-Dade County, where an operating dates license has been issued for that location during the 2015-2016 fiscal year, whether

or not currently operating Slot Machines; provided that the location of such eight (8) pari-mutuel permits are not relocated or moved to any other location. If more than the number of Slot Machines authorized by State law as of July 1, 2015, are offered at any such location, then the Tribe shall be relieved of its obligations to make both the Guaranteed Minimum Compact Term Payment and any further Guaranteed Revenue Sharing Cycle Payment, but instead shall make payments to the State for all future Revenue Sharing Cycles based on the percentage payments set forth in Part XI, Section B.1.(c), but shall be permitted to exclude all revenue generated by Slot Machines at its Facilities in Broward County. Slot Machines may not offer games using tangible playing cards (e.g. paper or plastic), but may offer games using electronic or virtual cards.

3. The operation of not more than fifteen (15) blackjack (21) card game tables only at the locations of the four (4) permitted pari-mutuel facilities in Broward County and only at the locations of the four (4) permitted pari-mutuel facilities in Miami-Dade County, where an operating dates license has been issued for that location during the 2015-2016 fiscal year; provided that: (a) the maximum bet allowed for such games shall not exceed fifteen dollars ($15.00) for each initial two card wager; (b) all wagers on splits and/or double downs shall not exceed the initial two card wager; (c) with the exception of a single side bet of not more than one dollar ($1.00), no bonus or progressive components are permitted; (d) each blackjack (21) card game table shall have a maximum of seven (7) betting spots; (e) such licenses are not transferred or otherwise used to move or operate blackjack (21) card game tables at any other location; and (f) the

operation of such blackjack (21) card tables is approved by a county-wide referendum held after the Effective Date of this Compact. In addition to the above limited exception to the Tribe's exclusivity, the above referenced eight (8) locations may be permitted by State law to add not more than ten (10) additional blackjack (21) card game tables at each such facility, subject to all of the limitations listed above, except that the maximum bet allowed for the additional blackjack (21) card game tables shall not exceed twenty-five dollars ($25.00) for each initial two card wager. However, these ten (10) additional blackjack (21) card game tables shall not be available until the fiscal year after the combined total of all annual revenue generated by the Tribe from its Banking or Banked Card Games at its Facilities in Broward County and all blackjack (21) card game tables operated by the pari-mutuel facilities in Broward and Miami-Dade Counties has increased by at least forty percent (40%) above the revenue generated by such Banking or Banked Card Games and blackjack (21) card tables during the "base fiscal year." For purposes of this provision, the "base fiscal year" means the first fiscal year after both of the following conditions have been satisfied: (a) the above referenced eight (8) locations have each offered fifteen (15) blackjack (21) card tables for a full fiscal year, and (b) and the Tribe's expansion projects at the Seminole Hard Rock Hotel & Casino - Tampa and Seminole Hard Rock Hotel & Casino - Hollywood have been fully completed and are open to the public.

4. The operation of Video Race Terminals and Slot Machines, both as defined in Part III, at not more than one additional pari-mutuel facility in Miami-Dade County and one pari-mutuel facility in Palm Beach County, if the operation

of such Video Race Terminals and Slot Machines is approved by a county-wide referendum held after the Effective Date of this Compact. However, this exception only applies if the following conditions are satisfied: (a) each pari-mutuel facility is limited to offering not more than five hundred (500) Slot Machines and two hundred and fifty (250) Video Race Terminals prior to October 1, 2018; (b) after October 1, 2018, each pari-mutuel facility, pursuant to State law, may add not more than an additional five hundred (500) Video Race Terminals and two hundred and fifty (250) Slot Machines; (c) no wager on a Video Race Terminal or Slot Machine may exceed $5.00 per game or race; (d) only one game or race on a Video Race Terminal or Slot Machine may be played at a time and a player is not permitted to wager on a new game or race until the previous game or race has been completed; and (e) Slot Machines and Video Race Terminals may not offer games using tangible playing cards (e.g. paper or plastic), but may offer games using electronic or virtual cards.

5. The operation of a combined total of not more than Three Hundred Fifty (350) Historic Racing Machines, connected to a central server at that facility, and Electronic Bingo Machines, both as defined in Part III, at each permitted pari-mutuel facility with an operating dates license as of July 1, 2015, and located outside of Broward County, Miami-Dade County, or Palm Beach County.

6. The operation of Pari-Mutuel Wagering Activities at pari-mutuel facilities licensed by the State.

7. The operation of poker, as provided in State law, but not including any game that involves banking by the house or any player, other than Designated

Player Games at cardrooms licensed by the State, subject to the following conditions: (a) the maximum wager in any such Designated Player Game shall not exceed twenty-five dollars ($25); (b) any player participating as a Designated Player occupies a playing position at the table; (c) each player participating in a Designated Player Game is offered in a clockwise rotation, the opportunity to be the Designated Player after each hand; (d) any player participating as a Designated Player for thirty (30) consecutive hands must subsequently play as a non-Designated Player for at least two (2) consecutive hands before resuming as a Designated Player; (e) Designated Players are not required to cover more than ten (10) times the minimum posted bet for players seated during any one game; (f) permitted pari-mutuel locations that offer Slot Machines and/or Video Race Terminals may not offer Designated Player Games; (g) permitted pari-mutuel cardroom locations offering Designated Player Games do not have Designated Player Game tables in excess of twenty-five percent (25%) of the total poker tables authorized at that cardroom.

8. The operation by the Florida Department of Lottery ("Lottery") of those types of lottery games authorized under State law, but not including (a) any player-activated or operated machine or device other than a Lottery Vending Machine or (b) any Banking or Banked Card Game or any game of skill and/or chance that is played or has been played in a casino by one or more players at a gaming table. However, not more than ten (10) Lottery Vending Machines may be installed at any facility or location and no Lottery Vending Machine that

dispenses electronic instant tickets may be installed at any licensed pari-mutuel facility.

9. The operation of games permitted by Chapters 546 and 849, Florida Statutes, as of July 1, 2015.

10. State law currently does not permit internet gaming involving wagering. However, after any change in State law to affirmatively allow internet/on-line gaming (or any functionally equivalent remote gaming system that permits a person to game from home or any other location that is remote from a casino or other commercial gaming facility), the Tribe shall no longer be required to make payments to the State based on the Guaranteed Revenue Sharing Cycle Payment and shall not be required to make the Guaranteed Minimum Compact Term Payment. Instead, if after the Initial Payment Period, the Tribe shall make payments based on the percentage amounts in Part XI, Section B.1.(c). This subsection does not apply if the Tribe offers, to players in the State, internet gaming involving wagering (or any functionally equivalent remote gaming system that permits a person to game from home or any other location that is remote from any of the Tribe's Facilities), as a Covered Game or as authorized by State law. Nothing herein limits the Tribe's right to offer internet gaming involving wagering under any applicable federal law.

Except as provided in this Part, any expanded gaming activities consistent with Part XII, Sections A. or B. authorized or permitted by the State shall relieve the Tribe of its obligations to make both the Guaranteed Minimum Compact Term Payment and any further Guaranteed Revenue Sharing Cycle Payment.

D. To the extent that the exclusivity provisions of this Part are not complied with and the Tribe's ongoing payment obligations to the State pursuant to Part XI, Sections B. and D. of this Compact cease, any outstanding payments that would have been due to the State from the Tribe prior to the end of the Tribe's ongoing payment obligations shall be made within thirty (30) business days after the end of the Tribe's ongoing payment obligations.

E. Any noncompliance with this Part's exclusivity provisions and the cessation of payments to be made pursuant to Part XI, Sections B. and D. of this Compact shall not excuse the Tribe from continuing to comply with all other provisions of this Compact, including continuing to pay the State the Annual Oversight Assessment as set forth in Part XI, Section C. of this Compact.

F. The Tribe acknowledges that the following events shall not trigger any remedy under this Compact and do not affect the exclusivity provisions of this Compact:

1. Any change to the tax rate paid to the State by licensed pari-mutuel permit holders for the operation of Slot Machines and/or blackjack (21) as authorized by Section C.3 of this Part, provided that the effective tax rate is not less than twenty-five percent (25%). If the effective tax rate on the operation of Slot Machines and/or blackjack (21) is less than twenty-five percent (25%), then the Tribe shall be relieved of its obligations to make both the Guaranteed Minimum Compact Term Payment and any further Guaranteed Revenue Sharing Cycle Payment, but instead shall make payments to the State for all future Revenue Sharing Cycles based on the percentage payments set forth in Part XI, Section

B.1.(c), but shall be permitted to exclude all revenue generated by Slot Machines at its Facilities in Broward County.

2. Any change in State law that expands the hours of operation for pari-mutuel facilities;

3. Any change in State law that allows for the placement of automatic teller machines on the gaming floor of a pari-mutuel facility that offers Slot Machines;

4. Any change in State law that allows a pari-mutuel permitholder to convert or modify its pari-mutuel permit to allow for the operation of a different type of Pari-Mutuel Wagering Activity;

5. Any change in State law that removes the requirement for pari-mutuel permitholders to conduct performances of live races or games in order to operate other authorized gaming activities; and

6. The use of a portion of the amounts paid by the Tribe to the State pursuant to Part XI of this Compact to fund a purse pool to be allocated to pari-mutuel permitholders located within the State, as provided for by the Florida Legislature.

G. If at any time after the Guarantee Payment Period the Tribe's Net Win from Banking or Banking Card Games and Live Table Games conducted at its Facilities in Broward County, for a Revenue Sharing Cycle during the Regular Payment Period, is less than the Tribe's Net Win from the operation of Banking or Banked Card Games in Broward County for the Fifth Revenue Sharing Cycle of the 2010 Compact, then after ninety (90) days written notice to the State, the Tribe may give up its exclusivity rights in Broward County and Miami-Dade County, which include any restrictions on the following in those counties: Class III Games or Other Casino-Style Games; numbers of

positions; tables or Slot Machines; tax rates; relocation; additional gaming facilities or locations; wager amounts; Lottery Vending Machines; Video Race Terminals or Historic Racing Machines. If the Tribe elects to relinquish its exclusivity rights in Broward and Miami-Dade Counties, then the Revenue Share payments due to the State pursuant to Part XI, Section B.1.(c) of this Compact for the next Revenue Sharing Cycle and future Revenue Sharing Cycles shall be calculated by excluding the Tribe's Net Win from its Facilities in Broward County. Further, if the Tribe elects to relinquish its exclusivity rights in Broward and Miami-Dade Counties, then the Tribe will no longer be permitted to offer Banking or Banked Card Games at its Facilities in Broward County unless the State permits others in the State to offer such games.

Part XIII. DISPUTE RESOLUTION

The Tribe and the State (for purposes of this Part, each a "Party" and collectively the "Parties") each agree to deal in good faith and to use their reasonable best efforts with respect to the terms and conditions contained in this Compact. In the event that either Party to this Compact believes that the other Party has failed to comply with any requirements of this Compact, or in the event of any dispute hereunder, including, but not limited to, a dispute over the proper interpretation of the terms and conditions of this Compact, the goal of the Parties is to resolve all disputes amicably and voluntarily whenever possible. In pursuit of this goal, the following procedures shall be invoked:

A. A Party asserting noncompliance or seeking an interpretation of this Compact first shall serve written notice on the other Party. The notice shall identify the specific Compact provision alleged to have been violated or in dispute and shall specify

in detail the asserting Party's contention and any factual basis for the claim. Representatives of the Parties shall meet within thirty (30) calendar days of receipt of notice in an effort to resolve the dispute, unless they mutually agree to extend this period;

B. A Party asserting noncompliance or seeking an interpretation of this Compact under this Part shall be deemed to have certified that to the best of the Party's knowledge, information, and belief formed after reasonable inquiry, the claim of noncompliance or the request for interpretation of this Compact is warranted and made in good faith and not for any improper purpose, such as to harass or to cause unnecessary delay or the needless incurring of the cost of resolving the dispute;

C. If the Parties are unable to resolve a dispute through the process specified in Sections A. and B. of this Part, either Party can call for mediation under the Commercial Mediation Procedures of the American Arbitration Association (AAA) or any such successor procedures, provided that such mediation does not last more than sixty (60) calendar days, such time shall begin the day the mediator is appointed, unless an extension to this time limit is agreed to by the Parties. The disputes available for resolution through mediation are limited to matters arising under the terms of this Compact. If the Parties are unable to resolve a dispute through the process specified in Sections A., B., and C. of this Part, notwithstanding any other provision of law, either Party may bring an action in a United States District Court ("federal court") having venue regarding any dispute arising under this Compact. If the federal court declines to exercise jurisdiction, or federal precedent exists that holds that the federal court would not have jurisdiction over such a dispute, either Party may bring the action in the appropriate court of the Seventeenth Judicial Circuit in Broward County, Florida. The

Parties are entitled to all rights of appeal permitted by law in the court system in which the action is brought.

D. For purposes of actions based on disputes between the State and the Tribe that arise under this Compact and the enforcement of any judgment resulting therefrom, the Parties each expressly waives its right to assert sovereign immunity from suit and from enforcement of any ensuing judgment, and further consents to be sued in federal or state court, including the rights of appeal specified above, as the case may be, provided that:

1. The dispute is limited solely to issues arising under this Compact;

2. There is no claim for monetary damages, except that payment of any money required by the terms of this Compact, as well as injunctive relief or specific performance enforcing a provision of this Compact requiring the payment of money to the State may be sought; and

3. Nothing herein shall be construed to constitute a waiver of the sovereign immunity of the Tribe with respect to any third party that is made a party or intervenes as a party to the action.

In the event that intervention, joinder, or other participation by any additional party in any action between the State and the Tribe would result in the waiver of the Tribe's sovereign immunity as to that additional party, the waiver of the Tribe provided herein may be revoked.

E. The State shall not be precluded from pursuing any mediation or judicial remedy against the Tribe on the grounds that the State has failed to exhaust its Tribal administrative remedies.

F. Notwithstanding anything to the contrary in this Part, any failure of the Tribe to remit the payments pursuant to the terms of Part XI, Sections B. and D., will entitle the State to seek injunctive relief in federal or state court, at the State's election, to compel the payments after exhausting the dispute resolution process in Sections A. and B. of this Part.

Part XIV. CONSTRUCTION OF COMPACT; SEVERANCE; FEDERAL APPROVAL

A. Each section, subsection, and provision of this Compact shall stand separate and independent of every other section, subsection, or provision. In the event that the U.S. Department of Interior, a federal district court in Florida, or other court of competent jurisdiction shall find any section, subsection, or provision of this Compact to be invalid, the remaining sections, subsections, and provisions of this Compact shall remain in full force and effect, provided that severing the invalidated section, subsection, or provision does not undermine the overall intent of the Parties in entering into this Compact. However, if any part of Part XI or Part XII is held by a court of competent jurisdiction to be invalid, this Compact will become null and void.

B. It is understood that Part XII of this Compact, which provides for a cessation of the payments due to the State under Part XI, Sections B. and D. does not create any duty on the State, which could result in noncompliance or a violation of this Compact by the State, but only a remedy for the Tribe if certain gaming activities under State jurisdiction are expanded, authorized, or permitted.

C. This Compact, together with all addenda and approved amendments, sets forth the full and complete agreement of the Parties and subject to the terms hereof

supersedes any prior written or oral agreements or understandings with respect to the subject matter hereof.

D. This Compact is intended to meet the requirements of the IGRA as it reads on the Effective Date of this Compact, and where reference is made to the IGRA, or to an implementing regulation thereof, the reference is deemed to have been incorporated into this document as if set in full. Subsequent changes to the Indian Gaming Regulatory Act that diminish the rights of the State or Tribe may not be applied retroactively to alter the terms of this Compact, except to the extent that Federal law validly mandates that retroactive application without the respective consent of the State or Tribe.

In the event that a subsequent change in the IGRA, or to an implementing regulation thereof, mandates retroactive application without the respective consent of the State or the Tribe, the parties agree that this Compact is voidable by either the State or the Tribe if the subsequent change materially alters the provisions in the Compact relating to the play of Covered Games, Revenue Share Payments, cessation, reinstatement, or reduction of payments, or exclusivity.

E. Neither the presence in another tribal-state compact of language that is not included in this Compact, nor the absence in this Compact of language that is present in another tribal-state compact shall be a factor in construing the terms of this Compact.

F. The State and the Tribe hereto agree to defend the validity of this Compact.

G. The State and the Tribe shall cooperate in seeking approval of this Compact from the U.S. Secretary of the Interior and the State and the Tribe further agree

that, upon execution and ratification by the Florida Legislature, the Tribe shall submit the Compact to the Secretary forthwith.

Part XV. NOTICES

All notices required under this Compact shall be given by certified mail, return receipt requested, commercial overnight courier service, or personal delivery, to the following persons:

The Governor
400 South Monroe Street
PL-05, The Capitol
Tallahassee, Florida 32399

General Counsel to the Governor
400 South Monroe Street
Room 209, The Capitol
Tallahassee, Florida 32399

Chairman
Seminole Tribe of Florida
6300 Stirling Road
Hollywood, Florida 33024

General Counsel
Seminole Tribe of Florida
6300 Stirling Road
Hollywood, Florida 33024

President of the Florida Senate
409 The Capitol
404 South Monroe Street
Tallahassee, Florida 32399-1100

Speaker of the Florida House of Representatives
420 The Capitol
402 South Monroe Street
Tallahassee, Florida 32399-1300

The State Compliance Agency
(As Designated by State Law)

Part XVI. EFFECTIVE DATE AND TERM

A. This Compact, if approved by the Florida Legislature, and approved as a tribal-state compact within the meaning of the IGRA by action of the U.S. Secretary of the Interior or by operation of law under 25 U.S.C. s. 2710(d)(8), shall become effective upon publication of a notice of approval in the Federal Register under 25 U.S.C. s. 2710(d)(8)(D).

B. This Compact shall have a term beginning on the Effective Date and ending on June 30, 2036.

C. The Tribe's 2010 Compact shall remain in effect until this Compact becomes effective under Section A. of this Part.

Part XVII. AMENDMENT OF COMPACT AND REFERENCES

A. Amendment of this Compact may only be made by written agreement of the State and the Tribe, subject to approval either by action of the U.S. Secretary of the Interior or by operation of law under 25 U.S.C. s. 2710(d)(8) and shall become effective upon publication of the notice of approval in the Federal Register.

B. Legislative ratification is required for any amendment to the Compact that alters the provisions relating to Covered Games, the amount of Revenue Share Payments, cessation, reinstatement, or reduction in payments, or exclusivity.

C. Changes in the provisions of tribal ordinances, regulations and procedures referenced in this Compact may be made by the Tribe, which shall be provided to the SCA within fourteen (14) calendar days of becoming effective. If the State has an objection to any change to the tribal ordinance, regulation or procedure which is the subject of the notice on the ground that its adoption is a violation of the Tribe's obligations under this Compact, the State may invoke the dispute resolution provisions provided in Part XIII of this Compact.

Part XVIII. MISCELLANEOUS

A. Except to the extent expressly provided in this Compact, this Compact is not intended to, and shall not be construed to, create any right on the part of a third party to bring an action to enforce any of its terms.

B. If, after the Effective Date of this Compact, the State enters into a Compact with any other Tribe that contains more favorable terms with respect to the provisions of this Compact and the U.S. Secretary of the Interior approves such compact, either by publication of the notice of approval in the Federal Register or by operation of law under 25 U.S.C. s. 2710(d)(8), upon tribal notice to the State and the U.S. Secretary of the Interior, this Compact shall be deemed amended to contain the more favorable terms, unless the State objects to the change and can demonstrate, in a proceeding commenced under Part XIII, that the terms in question are not more favorable.

C. Upon the occurrence of certain events beyond the Tribe's control, including acts of God, war, terrorism, fires, floods, or accidents causing damage to or destruction of one or more of its Facilities or property necessary to operate the Facility or

Facilities, the Tribe's obligation to pay the Guaranteed Revenue Share Cycle Payment and the Guaranteed Minimum Compact Term Payment described in Part XI shall be reduced pro rata to reflect the percentage of the total Net Win lost to the Tribe from the impacted Facility or Facilities. Further, if an economic recession, defined as two consecutive quarters of negative economic growth either nationwide within the United States or state-wide in Florida, occurs during any Revenue Sharing Cycle during the Guarantee Payment Period, and the Tribe fails to generate sufficient Net Win to produce the fixed payments set forth in Part XI, Section B.1.(b) based on the percentages set forth in Part XI, Section B.1.(c), then not more than one (1) time during the Guarantee Payment Period, the Tribe shall be relieved of its obligation to make the fixed Guaranteed Revenue Sharing Cycle Payment for that Revenue Sharing Cycle, but will be required to make payments to the State for that Revenue Sharing Cycle based on the percentage payments set forth in Part XI, Section B.1.(c). In addition, the Tribe shall be required to pay the State before the end of that Revenue Sharing Cycle fifty percent (50%) of the difference between the amount generated by the percentages in Part XI, Section B.1.(c) and the Guaranteed Revenue Share Cycle Payment amount. The Tribe shall pay the remaining fifty percent (50%) of the difference during the following Revenue Sharing Cycle.

D. Smoking

The Tribe and the State recognize that opportunities to engage in gaming in smoke-free or reduced-smoke environments provides both health and other benefits to Patrons, and the Tribe has already instituted a non-smoking section at all of its Facilities. As part of its continuing commitment to this issue, the Tribe will:

1. Install and utilize a ventilation system at all new construction at its Facilities, which system exhausts tobacco smoke to the extent reasonably feasible under existing state-of-the-art technology;

2. Designate a smoke-free area for Slot Machines at all new construction at its Facilities;

3. Install non-smoking, vented tables for table games installed in its Facilities sufficient to reasonably respond to demand for such tables; and

4. Designate a non-smoking area for gaming within all of its Facilities.

E. The annual average minimum pay-out of all Slot Machines in each Facility shall not be less than eighty-five percent (85%).

F. Nothing in this Compact shall alter any of the existing memoranda of understanding, contracts, or other agreements entered into between the Tribe and any other federal, state, or local governmental entity.

G. The Tribe currently has as set forth in its Employee Fair Treatment and Dispute Resolution Policy, and agrees to maintain, standards that are comparable to the standards provided in federal laws and State laws forbidding employers from discrimination in connection with the employment of persons working at the Facilities on the basis of race, color, religion, national origin, gender, age, disability/handicap, or marital status. Nothing herein shall preclude the Tribe from giving preference in employment, promotion, seniority, lay-offs, or retention to members of the Tribe and other federally recognized tribes.

H. The Tribe shall, with respect to any Facility where Covered Games are played, adopt and comply with tribal requirements that meet the same minimum state

requirements applicable to Florida businesses with respect to environmental and building standards, except for any standards concerning smoking addressed in Section D. of this Part.

Part XIX. EXECUTION

The Governor of the State of Florida affirms that he has authority to act for the State in this matter and that, after approval by the Florida Legislature, no further action by the State or any State official is necessary for this Compact to take effect upon federal approval by action of the U.S. Secretary of the Interior or by operation of law under 25 U.S.C. s. 2710(d)(8) and upon publication of the notice of approval in the Federal Register. The Governor also affirms that he will take all appropriate steps to effectuate its purposes and intent. The undersigned Chairman of the Tribal Council of the Seminole Tribe of Florida affirms that he is duly authorized and has the authority to execute this Compact on behalf of the Tribe. The Chairman also affirms that he will take all appropriate steps to effectuate its purposes and intent.

APPROVED:

State of Florida

Date: 12-7-, 2015

Rick Scott
Governor

Seminole Tribe of Florida

Date: 12-7-15, 2015

James Billie
Chairman of the Tribal Council

Tab 4

State Reports

Florida Department of Business and Professional Regulation

Division of Pari-Mutuel Wagering

84th Annual Report

Fiscal Year 2014-2015

Rick Scott
Governor

Ken Lawson
Secretary

Jonathan Zachem
Director

1940 North Monroe Street
Tallahassee, Florida 32399
Ph: 850.488.9130

www.myfloridalicense.com/dbpr/pmw

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING
COMPREHENSIVE ANNUAL REPORT
FISCAL YEAR ENDING JUNE 30, 2015
www.myfloridalicense.com/dbpr/pmw

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INTRODUCTION

OVERVIEW

This annual report encompasses the fiscal year which began July 1, 2014, and ended June 30, 2015. This is the 84th annual report in the series. The first annual report was issued for Fiscal Year 1931/1932, the initial year of legalized pari-mutuel wagering. In Florida, pari-mutuel wagering is authorized for horse racing, harness horse racing, quarter horse racing, greyhound racing, jai alai games, and cardroom poker games. Additionally, slot machine gaming at pari-mutuel facilities is authorized in Broward and Miami-Dade counties. Florida is one of the primary pari-mutuel states in the nation, and is the leading state in greyhound racing, as well as a major horse racing state. Florida is also the only state in the United States where live jai alai games are conducted. As of June 30, 2015, there were 30 pari-mutuel facilities located throughout the state, with one of the facilities holding both limited intertrack wagering and pari-mutuel wagering. This annual report, which is required by Florida law, is intended to inform the Governor, the Legislature, the industry, and other interested parties of wagering activities at authorized pari-mutuel facilities. The report is organized into five primary sections:

1. **Introductory Section** - An overview of the Division of Pari-Mutuel Wagering and a report of events that occurred impacting the division's oversight of permits or events that affected the operation of facilities.
2. **Statistical Section** – Details various cardroom, pari-mutuel, and slot statistical data by individual racing association or fronton.
3. **Data by Association/Facility** – Includes a map showing location of each association/permit that operated during the 2014/2015 Fiscal Year, contact and operating information by association/permit, promotional programs for Florida-bred horses and impermissible substance positives statistical data.
4. **Financial Section** - Official financial statements of the Division of Pari-Mutuel Wagering.
5. **Statute Matrix** - A table that summarizes the statutes regarding the taxes and fees applicable to pari-mutuel wagering and cardroom activity. It also includes a summary of the statutes regarding the taxes, fees, fines, and penalties with respect to slot machine gaming.

EXPLANATION OF REPORT TERMINOLOGY

Florida law requires intertrack wagers to be combined with the wagering pools of the host or the broadcasting Florida track or fronton. The law also requires that the host take-out on intertrack wagers be the same as for on-track wagers; however, the distribution of the take-out may be different. The tax structure for on-track and intertrack wagering is explained in more detail in the statute matrix section.

Pursuant to Section 550.002(13), Florida Statutes, handle is defined as the aggregate contributions to pari-mutuel pools. For purposes of this report, the four types of handle detailed in this report are as follows:

- Live Ontrack: Handle from live races/games at the track/fronton.
- Simulcast: Handle from races/games originating from out-of-state and broadcast to a Florida track/fronton.
- Intertrack: Handle from where a Florida track/fronton (acting as host) broadcast live races/games to other Florida tracks/frontons.
- Intertrack Simulcast: Handle from rebroadcasting of simulcast signals received by a Florida track/fronton to other Florida tracks/frontons.

All intertrack and intertrack simulcast handle is detailed by the host permitholder in this report. These schedules reflect combined wagering statistics for all guest facilities that received broadcasts and conducted wagering and included in the wagering pools of the host. For host permitholders, a summary of intertrack handle components for each guest is shown in the statistical section of this report. The schedules of intertrack wagering handle by guest include data on wagers from intertrack handle and intertrack simulcast handle. Any paid attendance, admission tax, purses paid, or players' awards paid are detailed in the data by association/permit section of the report.

THE DIVISION OF PARI-MUTUEL WAGERING

The Division of Pari-Mutuel Wagering is a program area of the Department of Business and Professional Regulation within the Executive Branch of Florida's government. The division is charged with regulating Florida's pari-mutuel, cardroom and slot machine gaming industries, as authorized by Chapters 550, 551, and Section 849.086, Florida Statutes, as well as collecting and safeguarding associated revenues due to the state. Authorized pari-mutuel events include harness racing, quarter horse racing, thoroughbred racing, greyhound racing, and jai alai. Pari-Mutuel Wagering was originally authorized by the Legislature in 1931. Since that time, the division has evolved from a racing commission into a professional regulatory organization overseeing a complex and dynamic industry located throughout the state. Additionally, the Division of Pari-Mutuel Wagering was designated by the Florida Legislature as the State Compliance Agency with the authority to carry out the state's oversight responsibilities in accordance with the provisions outlined in the Compact between the State of Florida and the Seminole Tribe of Florida.

OFFICE OF THE DIRECTOR

The Office of the Director provides leadership, oversight, and administration of the six functional areas within the division. Specific responsibilities include budget planning, rule promulgation, policy development, legislative analysis of proposed legislation, strategic planning, fleet management, staff development and enforcement of administrative actions. Additionally, the Office of the Director ensures that all areas of the division operate in a cooperative effort to ensure efficient regulatory oversight of the industry.

The division's structure includes six functional areas which act under the management of the Office of the Director. These functional areas include Revenue and Financial Analysis, Auditing, Operations, Investigations, Slot Operations, and State Compliance Agency. Each area focuses on a different aspect of regulation within the cardroom, pari-mutuel and slot machine gaming industry, as well as the state's Compact with the Seminole Tribe of Florida, in an effort to protect state revenues and maintain the public's confidence in the integrity of the wagering activity.

OFFICE OF OPERATIONS

All individuals and businesses who work or conduct business at a racetrack, fronton, cardroom, or slot machine facility and who have access to wagers, restricted areas, and/or racing animals, must obtain an occupational license issued by the division. Every racing and cardroom occupational licensee is fingerprinted upon initial licensure and every three years thereafter; and every slot machine occupational licensee is fingerprinted upon initial licensure and every three years thereafter. Each set of fingerprints is submitted electronically to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for processing. During Fiscal Year 2014/2015, Operations' Licensing Section processed 23,940 occupational license applications for businesses and individuals, of which 3,008 were related to cardroom operations; 16,786 were related to racing operations; and 4,146 were related to slot machine operations. Additionally, the Office of Operations processes applications for the issuance of all pari-mutuel permitholder Annual Operating Dates Licenses, Cardroom Operator Licenses, and Slot Machine Licenses to authorized facilities.

The Office of Operations is also responsible for ensuring that the day-to-day operation of races and games is conducted in accordance with Florida's pari-mutuel statutes and rules. The State Stewards monitor each horserace and conduct inquiries and hearings for alleged violations of the state's pari-mutuel statutes and rules. The Stewards and Hearing Officers issued 75 rulings and 224 consent orders; assessed fines totaling $92,400; and imposed 12 license suspensions for violations during Fiscal Year 2014/2015.

Operations' staff collects urine and blood samples from racing animals which are sent to the University of Florida, College of Medicine Racing Laboratory for analysis. The Racing Laboratory performs its services under an annual contract with the division. State veterinarians and veterinary assistants collected 67,570 samples that included 51,233 greyhound urine samples and 16,337 horse urine and blood samples. Additionally, division investigators submitted 17 investigative samples during Fiscal Year 2014/2015. There were 172 positive findings of impermissible substances in the samples collected.

OFFICE OF AUDITING

The Office of Auditing is responsible for conducting various audits to ensure the integrity of wagering activity and protect the wagering public by ensuring that cardroom, pari-mutuel and slot machine wagering is conducted in compliance with the Florida Statutes and Florida Administrative Code. Such compliance issues include pari-mutuel broadcast exchanges; verification that takeout/commissions are consistent with notification requirements; interstate wagering restrictions; identification of fraudulent activity; verification that statutory accounting procedures are utilized; oversight of the commingling of wagering pools; transmission of pari-mutuel information; proper payments to winning pari-mutuel patrons; approval of totalisator security plans and software upgrades. Additionally, the auditing staff maintains primary oversight for cardroom operations, which includes: auditing internal control procedures; auditing jackpot accounts; monitoring daily operations; coordinating inspections; and auditing for compliance. The auditing team is responsible for communicating with the licensed totalisator companies and for the input of pari-mutuel handle and wagering information into the division's Central Monitoring System (CMS).

During Fiscal Year 2014/2015, the auditing team conducted 19 greyhound purse audits, 19 greyhound adoption proceeds audits, 30 mutuels audits, 31 escheat audits, 24 cardroom audits, 24 surveillance tape audits, 22 jackpot audits, eight slot audits, eight players' club audits, three breeders' awards audits and 35 totalisator system malfunction reports. Auditing's cardroom coordinators processed 226 internal control revisions.

OFFICE OF INVESTIGATIONS

The Office of Investigations examines statutory and rule violations that occur at pari-mutuel facilities, cardrooms, and slot machine gaming locations. Investigative staff is responsible for investigating Class I drug positives analyzed and identified by the University of Florida, College of Medicine Racing Laboratory and deaths of racing animals that occur at pari-mutuel facilities. The investigations vary from patron complaints, and complaints of animal cruelty to the use of performance altering medications and/or illegal substances during races. A case may result in issuance of a warning letter, consent order, administrative fine, license suspension, license revocation, hearing before a designated hearing officer or referral to either regulatory or law enforcement agencies for criminal prosecution. During Fiscal Year 2014/2015, there were 545 investigations conducted.

The investigation staff also conducts background examinations of potential permitholders which involves an in-depth review of the applicant's financial records in order to ensure compliance with Sections 550.054, 550.1815, and 849.086, Florida Statutes. Additionally, investigators perform background reviews of Pari-Mutuel Wagering Occupational License requests from applicants with criminal records requesting a waiver from the Division Director in accordance with Section 550.105, Florida Statutes.

The investigation staff also conducted 5,262 in-depth inspections of pari-mutuel and slot machine facilities, including cardrooms, greyhound kennels and horse stables; both prior to opening as well as throughout the operating year.

OFFICE OF SLOT OPERATIONS

The Slot Operations' staff is responsible for overseeing state personnel located at each of the four pari-mutuel facilities in Broward County and each of the four pari-mutuel facilities in Miami-Dade County that have slot machine gaming. To ensure the integrity of slot machine gaming activity, the Slot Operations' staff oversees the day-to-day operations at the slot machine facilities, performs daily revenue reconciliations, verifies that every slot machine has been certified by an independent testing laboratory, issues slot machine occupational licenses to individuals, and ensures slot machine gaming activity is in compliance with the requirements of Chapter 551, Florida Statutes, Chapter 61D-14, Florida Administrative Code, as well as the internal controls of the individual facilities.

During Fiscal Year 2014/2015, the Slot Operations' staff completed 5,834 inspections. Of those, 127 items were found to be non-compliant, of which nine were turned over to Investigations and to the Department's Office of the General Counsel for formal proceedings. Slot machine facilities were notified of 127 observations so that appropriate internal action, including employee disciplinary action, advanced training and/or re-training of facility personnel could occur. There were 17 individual and facility Consent Orders issued at the regional level totaling $10,150 in fines or final warning notices.

There were 905 shipments of authorized slot machines and components, which required the verification of 1,846 slot machines and 12,564 parts. The Slot Operations' staff authorized and monitored 11,403 slot machine conversions, denomination and/or game theme changes, slot machine relocations and other related slot machine changes.

OFFICE OF REVENUE AND FINANCIAL ANALYSIS

The Revenue and Financial Analysis staff is responsible for safeguarding and accounting for state revenues in accordance with Florida Statutes and the Florida Administrative Code, as it relates to cardroom, pari-mutuel and slot gaming activities. The staff develops revenue projections for the Revenue Estimating Conferences, maintains cash flow statements for timely transfer to the State's General Revenue Fund and to the Education Enhancement Trust Fund, provides oversight of the division's budget, develops the annual report, and determines fiscal impacts on proposed legislation impacting the industry.

During Fiscal Year 2014/2015, $225,775,826 in state revenues pertaining to cardroom, pari-mutuel and slot machine gaming were collected. The Revenue and Financial Analysis staff also reconciled 706 permitholder monthly remittance reports, conducted 15 charity day audits and 34 uniform annual report audits. The Revenue and Financial Analysis staff compiles statistical information for cardroom, pari-mutuel and slot machine gaming, and performs analyses requested by the department, the Executive Office of the Governor, the Legislature and the industry.

STATE COMPLIANCE AGENCY

The Gaming Compact between the Seminole Tribe of Florida and the State of Florida, 75 FR 38833, was executed by the Governor on April 7, 2010, and ratified by the United States Department of the Interior on July 7, 2010. Pursuant to § 285.710, Florida Statutes, the Division of Pari-Mutuel Wagering was designated by the Florida Legislature as the State Compliance Agency with the authority to carry out the State's oversight responsibilities in accordance with the provisions outlined in the Compact. The Seminole Tribe of Florida operates seven casinos located in Broward, Hillsborough, Collier, Glades and Hendry counties.

During Fiscal Year 2014/2015, the State Compliance Agency completed 76 inspections of tribal gaming facilities spanning over 736 man hours. Additionally, $255,610,619 in revenue sharing with the Tribe was collected. Of this, $7,119,369 was distributed to local governments, including both counties and municipalities, as required by § 285.710, Florida Statutes.

A similar Compact does not exist with the Miccosukee Tribe, and therefore they continue to operate exclusively under Federal jurisdiction. For additional information on the Miccosukee's gaming operations, contact the National Indian Gaming Commission, www.nigc.gov, or the United States Department of Interior, 1441 L Street N.W., Suite 9100, Washington, D.C. 20005-3584, Telephone 202.632.7003.

Events Shaping the 2014/2015 Racing/Gaming Season in Florida

- During the 2015 Legislative Session, revisions were made to Section 550.2415, Florida Statutes. Changes include: the addition of the Association of Racing Commissioners International (ARCI) Controlled Therapeutic Medications Schedule (CTMS) Version 2.1 (4/17/2014); the elimination of the use of prednisolone sodium succinate on race day; the elimination of the requirement for thin-layer chromatography (TLC) screening by the division's primary laboratory; the inclusion of the Department of Agriculture and Consumer Services participation in rulemaking and study review for recommending threshold levels; and conditions for the use of furosemide (Salix).

- September 2014, the division issued a Consent Order for case numbers 2014011900 and 2014012798. In resolution of this matter, Jefferson County Kennel Club retains their pari-mutuel wagering permit in accordance with Section 550, Florida Statutes, but agrees to suspension (9/23/2014 through 6/30/2017) of that permit for the purpose of applying for performance dates and a cardroom license until the 2017/2018 license year.

- Dania Entertainment Center closed December 2014, for major renovations.

- Calder Race Course, Inc., closed/voluntarily relinquished their cardroom license on June 27, 2014, and entered into a lease agreement with Gulfstream Park to run their live meet during 2014/2015.

- Tropical Park, LLC, entered into a lease agreement with Gulfstream Park and ran their live meet at that location.

STATISTICAL SECTION

FISCAL YEARS COMPARATIVE DATA

Beginning with the 1931/1932 Fiscal Year, the state began collecting taxes on pari-mutuel wagering. In most recent years, pari-mutuel handle has steadily declined. During that initial year, the pari-mutuel industry operated 462 racing days in Florida, which resulted in state revenue of $737,301; total paid attendance of 1,157,161; and total pari-mutuel handle of $17,365,424.

Since Fiscal Year 1931/1932, approximately $74.8 billion in pari-mutuel handle wagered resulted in $4.37 billion in state revenue. This fiscal year, the pari-mutuel industry operated 3,441 racing days, which resulted in state revenue of $12,589,460; total paid attendance of 377,660; and total pari-mutuel handle of $779,336,136.

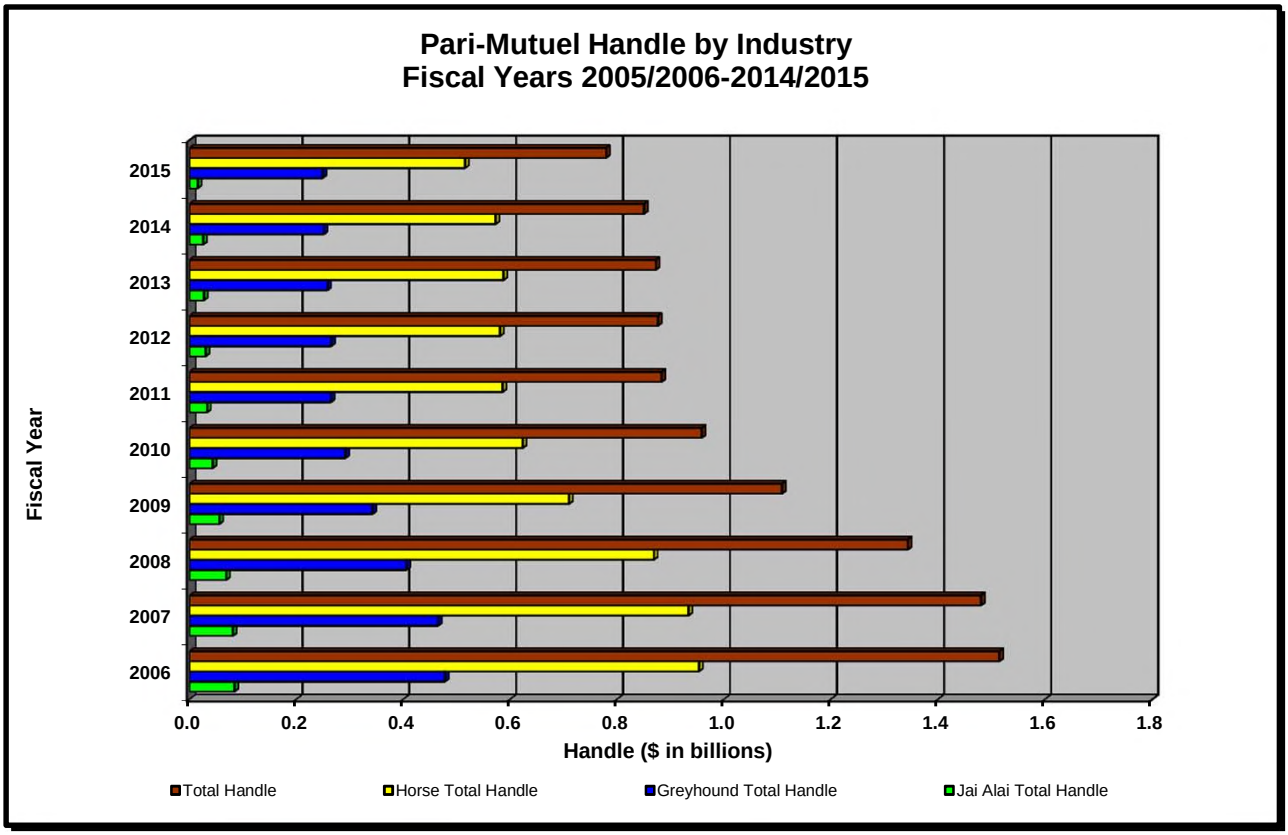
Over the last 10 years, pari-mutuel wagering has experienced a 48.6 percent decline in handle, and total state revenue has decreased 64.2 percent, along with a 31.1 percent decrease in the number of racing days. Shown below is a summary of pari-mutuel handle and state revenue for Fiscal Years 2005/2006 through 2014/2015.

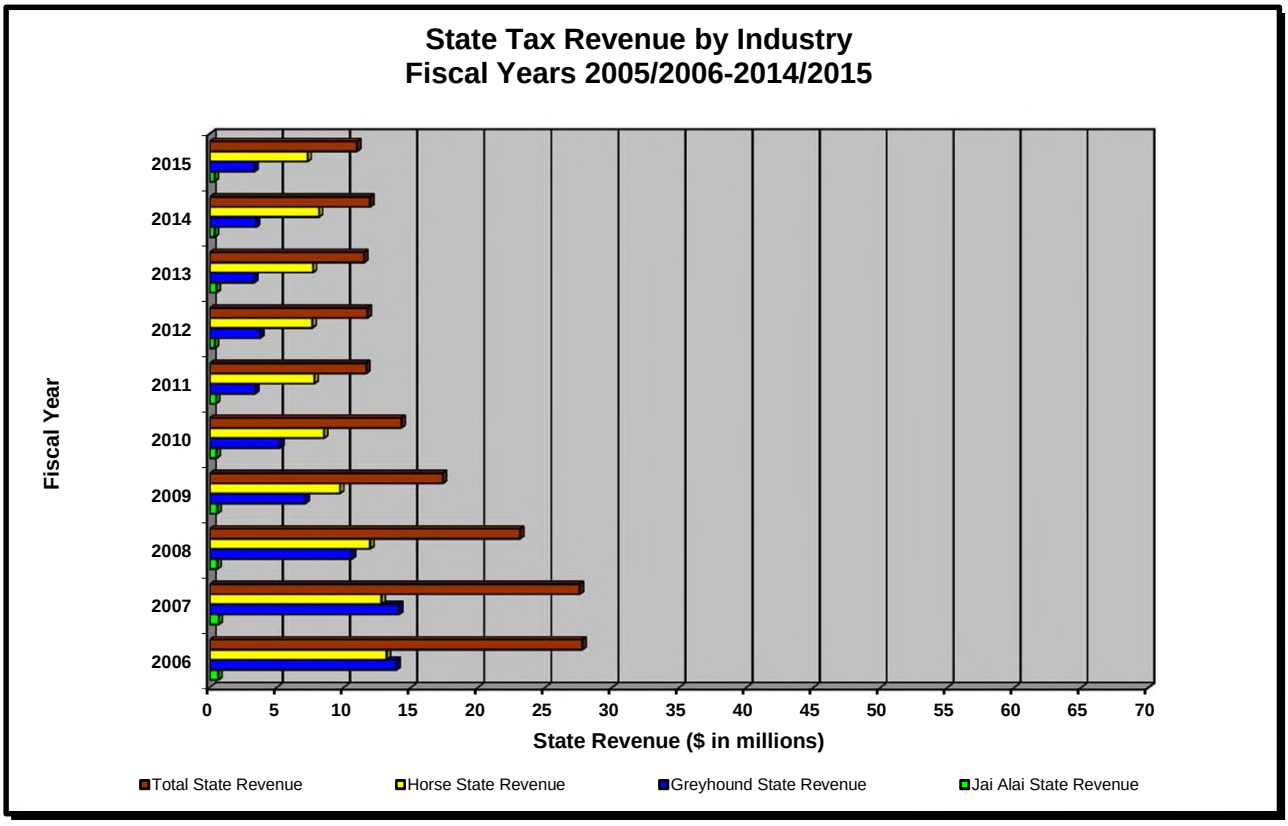
PARI-MUTUEL HANDLE AND STATE REVENUE SUMMARY

Fiscal Year	*Number of Racing Days*	*Total Paid Attendance*	*Total Pari-Mutuel Handle*	*Total State Revenue* [1]	*State Revenue as a Percent of Handle*
2005/2006	4,993	2,066,192	$1,514,758,761	$35,178,969	2.32%
2006/2007	5,592	2,351,126	$1,480,427,370	$30,214,151	2.04%
2007/2008	4,857	1,419,748	$1,343,912,504	$25,657,727	1.91%
2008/2009	4,364	722,699	$1,108,401,006	$19,814,027	1.79%
2009/2010	4,167	614,889	$ 958,537,395	$16,706,611	1.74%
2010/2011	3,633	507,804	$ 883,381,429	$13,640,020	1.54%
2011/2012	3,602	469,497	$ 876,146,485	$13,802,723	1.58%
2012/2013	3,628	430,707	$ 872,272,660	$13,200,709	1.51%
2013/2014	3,582	383,864	$ 850,136,735	$13,785,681	1.62%
2014/2015	3,441	377,660	$ 779,336,136	$12,589,460	1.62%

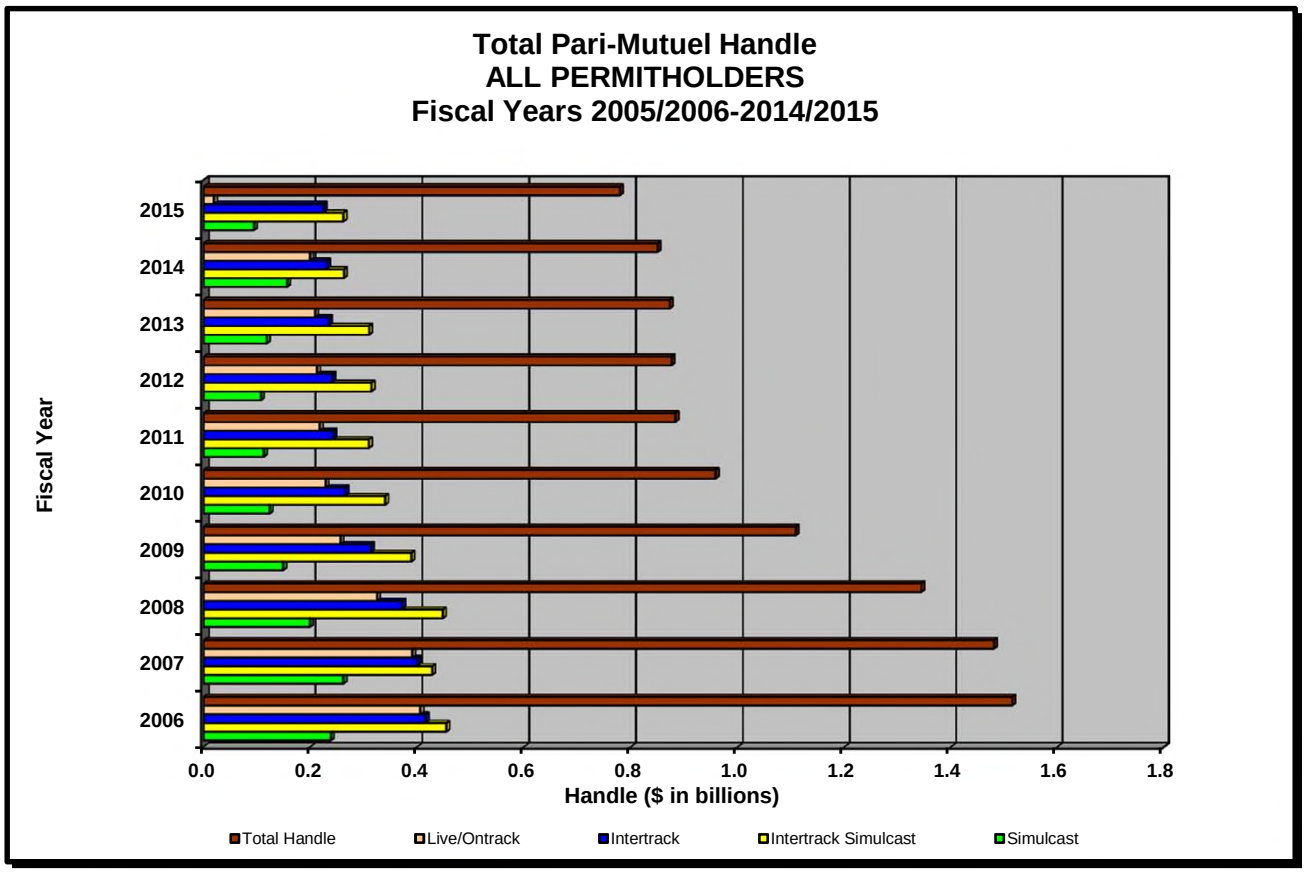
(1) Beginning 2006/2007, this figure includes state revenue from pari-mutuel performances and other state revenue, and does not include state revenue from cardroom and slot operations.

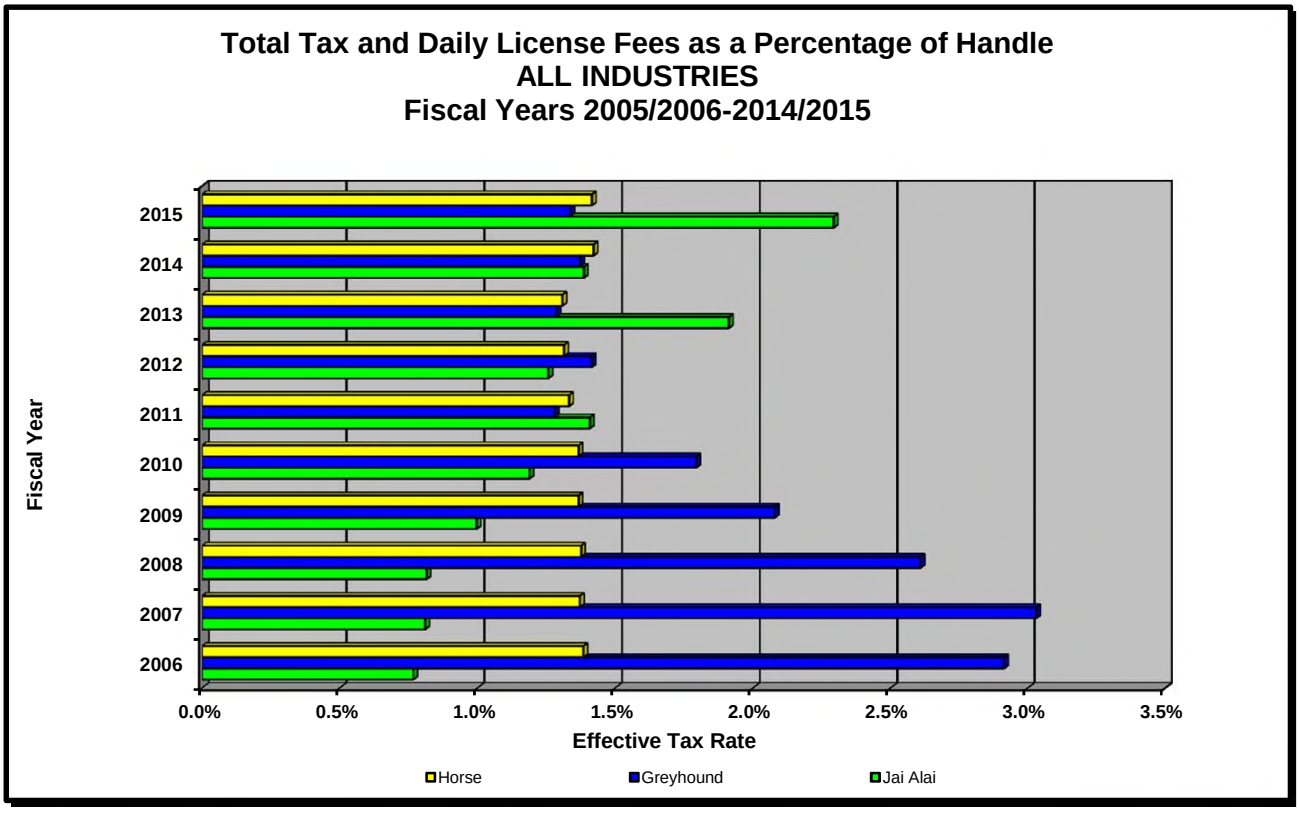
HISTORICAL PARI-MUTUEL WAGERING ACTIVITY



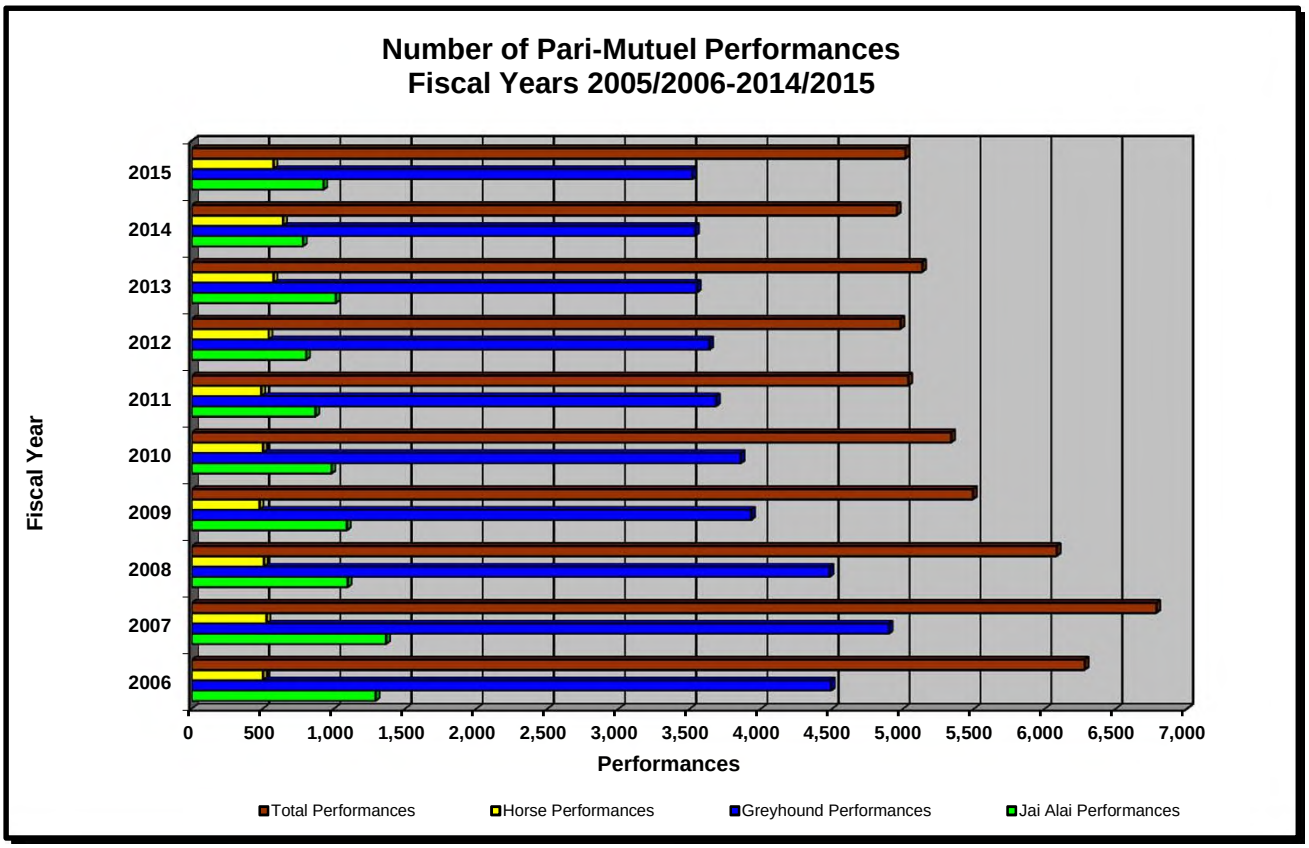


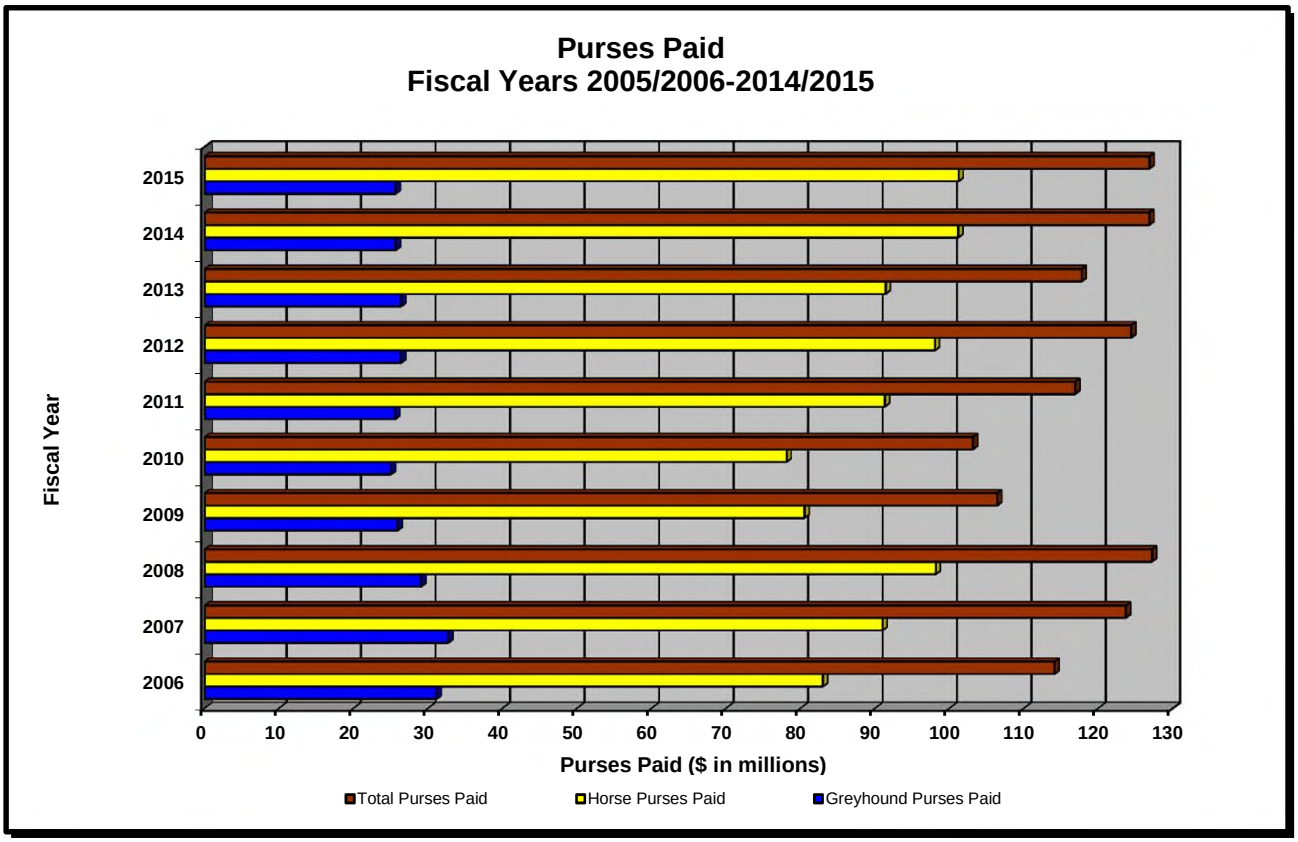
HISTORICAL PARI-MUTUEL WAGERING ACTIVITY





HISTORICAL PARI-MUTUEL WAGERING ACTIVITY





COMPONENTS OF PARI-MUTUEL HANDLE FROM PERFORMANCES

Fiscal Year 2014/2015	Daily License Fee	Tax on Handle	Total Paid To Charities	Permitholder Revenues From Pari-Mutuel Handle	Public Pool	Total Handle
Greyhound Racing Permitholders						
Daytona Beach Kennel Club, Inc.	$41,860	$27,918	$34,689	$2,476,233	$6,810,996	$9,391,696
Derby Lane (St. Petersburg Kennel Club, Inc.)	120,000	466,058	131,202	4,802,255	17,654,017	23,173,532
Ebro Greyhound Park	19,127	13,555	1,638	479,170	1,091,489	1,604,979
Flagler Dog Track	116,160	462,594	65,415	3,796,114	15,426,402	19,866,685
H&T Gaming, Inc., d/b/a Mardi Gras Racetrack	39,786	214,765	37,140	2,356,433	9,155,873	11,803,997
Jacksonville Kennel Club, Inc.	16,800	9,975	91,786	2,552,628	8,582,510	11,253,699
License Acquistions, LLC,d/b/a Palm Beach Greyhound Racing	36,000	80,036	68,758	3,062,175	10,464,529	13,711,498
Mardi Gras Racetrack and Gaming Center	16,020	22,329	43,629	1,784,986	6,407,023	8,273,987
Melbourne Greyhound Park, LLC	18,455	2,708	0	48,113	156,951	226,227
Naples-Ft. Myers Greyhound Track	104,320	226,005	47,039	3,648,257	13,420,355	17,445,976
Orange Park Kennel Club, Inc.	14,400	0	89,388	3,310,699	10,962,529	14,377,016
Palm Beach Kennel Club	154,240	625,301	105,299	8,828,679	35,547,082	45,260,601
Penn Sanford, LLC, d/b/a Sanford-Orlando Kennel Club	14,560	13,158	15,123	1,718,967	6,231,279	7,993,087
Pensacola Greyhound Racing, LLP	23,281	9,728	0	231,509	785,922	1,050,440
SOKC, LLC, d/b/a Sanford-Orlando Kennel Club	38,800	74,952	17,047	2,241,280	8,354,860	10,726,939
Sarasota Kennel Club, Inc.	16,880	14,029	33,965	1,789,458	5,713,340	7,567,672
St. Johns Greyhound Park	25,200	42,385	83,833	3,943,291	13,143,155	17,237,864
Tampa Greyhound Track	45,600	131,680	99,659	4,575,828	15,458,103	20,310,870
West Volusia Racing, Inc.	17,240	0	27,720	2,006,288	5,479,953	7,531,201
Total Greyhound Permitholders	$878,729	$2,437,176	$993,330	$53,652,363	$190,846,368	$248,807,966
Jai Alai Permitholders						
Dania Jai Alai	$57,600	$0	$783	$715,530	$2,341,642	$3,115,555
Dania Summer Jai Alai	41,040	0	767	660,115	2,122,697	2,824,619
Ft. Pierce Jai Alai	13,120	0	0	18,781	92,385	124,286
Hamilton Jai Alai and Poker [A]	72,960	0	0	(72,956)	14	18
Miami Jai Alai	73,440	0	6,427	1,220,032	3,713,589	5,013,488
Ocala Poker and Jai Alai	13,120	0	0	(13,111)	35	44
Orlando Jai Alai	13,760	0	0	(13,095)	43	708
Summer Jai Alai	62,400	0	7,152	987,624	3,020,351	4,077,527
Total Jai Alai Permitholders	$347,440	$0	$15,129	$3,502,920	$11,290,756	$15,156,245
Thoroughbred Racing Permitholders						
Calder Race Course, Inc.[B]	$47,000	$125,812	$115,709	$4,084,337	$16,309,003	$20,681,861
Gulfstream Park Thoroughbred After Racing Program, Inc.	42,600	130,616	130,398	4,289,825	17,464,900	22,058,339
Gulfstream Park Racing Association, Inc. [B]	297,200	4,072,917	196,831	60,234,881	245,531,985	310,333,814
Tampa Bay Downs, Inc.	265,600	1,203,805	72,514	18,999,172	77,534,717	98,075,808
Tropical Park, LLC. [B]	40,200	123,415	74,103	3,299,868	13,424,384	16,961,970
Total Thoroughbred Permitholders	$692,600	$5,656,565	$589,555	$90,908,083	$370,264,989	$468,111,792
Harness Racing Permitholders						
Isle Casino and Racing at Pompano Park	$302,000	$502,631	$11,865	$9,273,018	$35,385,884	$45,475,398
Quarter Horse Racing Permitholders						
Gretna Racing, LLC	$30,400	$508	$0	($23,043)	$42,951	$50,816
Hamilton Downs Horsetrack, LLC	16,000	0	0	($15,999)	5	6
Ocala Breeders' Sales Company, Inc.	200	139	0	$4,088	16,785	21,212
South Florida Racing Association, LLC (Hialeah Park)	33,900	19,316	0	$296,156	1,362,091	1,711,463
South Marion Real Estate Holdings, LLC	16,000	12	0	($15,813)	1,039	1,238
Total Quarter Horse Permitholders	$96,500	$19,975	$0	$245,389	$1,422,871	$1,784,735
TOTAL FOR ALL PERMITHOLDERS	$2,317,269	$8,616,347	$1,609,879	$157,581,773	$609,210,868	$779,336,136

(A) Daily license fees and taxes were not collected. Permitholder relinquished jai alai permit.

(B) Daily license fees and taxes reported above are amounts due from performances held and do not equal amounts collected/paid.

TOTAL STATE REVENUE FROM PERFORMANCES

Fiscal Year 2014/2015	LIVE			SIMULCAST			ITW	ITW SIM	CHARITY PERFORMANCES	TOTAL TAXES AND FEES COLLECTED [A]
	Tax on Handle	Daily License Fee	Total Live Taxes and Fees Collected	Tax on Handle	Daily License Fee	Total Simulcast Taxes and Fees Collected	Tax on Handle	Tax on Handle	Daily License Fee	
Greyhound Racing Permitholders										
Daytona Beach Kennel Club, Inc.	$11,979	$18,480	$30,459	$3,808	$6,500	$10,308	$12,131	$0	$16,880	$69,778
Derby Lane (St. Petersburg Kennel Club, Inc.)	216,139	105,600	321,739	0	0	0	249,919	0	14,400	586,058
Ebro Greyhound Park	13,555	17,207	30,762	0	0	0	0	0	1,920	32,682
Flagler Dog Track	29,327	55,600	84,927	38,555	47,000	85,555	73,144	321,568	13,560	578,754
H&T Gaming, Inc., d/b/a Mardi Gras Racetrack	7,606	9,280	16,886	56,031	20,806	76,837	10,378	140,750	9,700	254,551
Jacksonville Kennel Club, Inc.	4,285	2,400	6,685	0	0	0	5,690	0	14,400	26,775
License Acquistions, LLC,d/b/a Palm Beach Greyhound Racing	30,663	21,600	52,263	0	0	0	49,373	0	14,400	116,036
Mardi Gras Racetrack and Gaming Center	4,838	4,320	9,158	3,951	2,000	5,951	5,048	8,492	9,700	38,349
Melbourne Greyhound Park, LLC	2,708	18,455	21,163	0	0	0	0	0	0	21,163
Naples-Ft. Myers Greyhound Track	145,073	94,400	239,473	0	0	0	80,932	0	9,920	330,325
Orange Park Kennel Club, Inc.	0	0	0	0	0	0	0	0	14,400	14,400
Palm Beach Kennel Club	261,698	139,840	401,538	0	0	0	363,603	0	14,400	779,541
Penn Sanford, LLC, d/b/a Sanford-Orlando Kennel Club	7,895	7,200	15,095	0	0	0	5,263	0	7,360	27,718
Pensacola Greyhound Racing, LLP	9,728	23,281	33,009	0	0	0	0	0	0	33,009
SOKC, LLC, d/b/a Sanford-Orlando Kennel Club	42,941	31,600	74,541	0	0	0	32,011	0	7,200	113,752
Sarasota Kennel Club, Inc.	11,049	8,560	19,609	0	0	0	2,980	0	8,320	30,909
St. Johns Greyhound Park	17,897	10,800	28,697	0	0	0	24,488	0	14,400	67,585
Tampa Greyhound Track	65,803	31,200	97,003	0	0	0	65,877	0	14,400	177,280
West Volusia Racing, Inc.	0	0	0	0	0	0	0	0	17,240	17,240
Total Greyhound Permitholders	$883,184	$599,823	$1,483,007	$102,345	$76,306	$178,651	$980,837	$470,810	$202,600	$3,315,905
Jai Alai Permitholders										
Dania Jai Alai	$0	$56,960	$56,960	$0	$0	$0	$0	$0	$640	$57,600
Dania Summer Jai Alai	0	40,400	40,400	0	0	0	0	0	640	41,040
Ft. Pierce Jai Alai	0	12,800	12,800	0	0	0	0	0	320	13,120
Hamilton Jai Alai and Poker [B]	0	72,960	72,960	0	0	0	0	0	0	72,960
Miami Jai Alai	0	70,560	70,560	0	0	0	0	0	2,880	73,440
Ocala Poker and Jai Alai	0	13,120	13,120	0	0	0	0	0	0	13,120
Orlando Jai Alai	0	12,160	12,160	0	0	0	0	0	1,600	13,760
Summer Jai Alai	0	60,000	60,000	0	0	0	0	0	2,400	62,400
Total Jai Alai Permitholders	$0	$338,960	$338,960	$0	$0	$0	$0	$0	$8,480	$347,440
Thoroughbred Racing Permitholders										
Calder Race Course, Inc. [C]	$18,897	$40,000	$58,897	$3	$1,000	$1,003	$106,855	$57	$6,000	$172,812
Gulfstream Park Thoroughbred After Racing Program, Inc.	35,478	34,600	70,078	0	0	0	95,138	0	8,000	173,216
Gulfstream Park Racing Association, Inc. [C]	227,247	115,200	342,447	317,057	173,500	490,557	596,688	2,931,925	8,500	4,370,117
Tampa Bay Downs, Inc.	72,707	83,500	156,207	23,159	174,000	197,159	330,124	777,815	8,100	1,469,405
Tropical Park, LLC. [C]	28,567	32,800	61,367	0	0	0	94,848	0	7,400	163,615
Total Thoroughbred Permitholders	$382,896	$306,100	$688,996	$340,219	$348,500	$688,719	$1,223,653	$3,709,797	$38,000	$6,349,165
Harness Racing Permitholders										
Isle Casino and Racing at Pompano Park	$16,888	$115,600	$132,488	$60,933	$179,000	$239,933	$49,710	$375,100	$7,400	$804,631
Quarter Horse Racing Permitholders										
Gretna Racing, LLC	$508	$30,400	$30,908	$0	$0	$0	$0	$0	$0	$30,908
Hamilton Downs Horsetrack, LLC	0	16,000	16,000	0	0	0	0	0	0	16,000
Ocala Breeders' Sales Company, Inc.	139	200	339	0	0	0	0	0	0	339
South Florida Racing Association, LLC (Hialeah Park)	14,076	33,900	47,976	0	0	0	5,240	0	0	53,216
South Marion Real Estate Holdings, LLC	12	16,000	16,012	0	0	0	0	0	0	16,012
Total Quarter Horse Permitholders	$14,735	$96,500	$111,235	$0	$0	$0	$5,240	$0	$0	$116,475
TOTAL FOR ALL PERMITHOLDERS	$1,297,703	$1,456,983	$2,754,686	$503,497	$603,806	$1,107,303	$2,259,440	$4,555,707	$256,480	$10,933,616

(A) The amounts shown are taxes and fees collected after the application of any applicable tax credits, and do not include admissions tax.

(B) Daily license fees and taxes were not collected. Permitholder relinquished jai alai permit.

(C) Daily license fees and taxes reported above are amounts due from performances held and do not equal amounts collected/paid.

TOTAL REGULAR AND CHARITY/SCHOLARSHIP HANDLE

Fiscal Year 2014/2015	ON-TRACK		INTERTRACK		TOTAL REGULAR HANDLE	ON-TRACK		INTERTRACK		TOTAL CHARITY SCHOLARSHIP HANDLE	TOTAL HANDLE
	Live	Simulcast	ITW	ITWS		Live	Simulcast	ITW	ITWS		
Greyhound Racing Permitholders											
Daytona Beach Kennel Club, Inc.	$3,523,371	$868,918	$4,427,490	$0	$8,819,779	$297,699	$42,626	$231,592	$0	$571,917	$9,391,696
Derby Lane (St. Petersburg Kennel Club, Inc.)	9,533,807	0	11,638,810	0	21,172,617	1,059,192	0	941,723	0	2,000,915	23,173,532
Ebro Greyhound Park	1,583,425	0	0	0	1,583,425	21,554	0	0	0	21,554	1,604,979
Flagler Dog Track	1,403,931	1,356,247	3,970,170	11,921,720	18,652,068	133,346	74,775	325,616	680,880	1,214,617	19,866,685
H&T Gaming, Inc., d/b/a Mardi Gras Racetrack	1,314,178	2,268,887	1,825,420	5,740,184	11,148,669	125,328	116,342	144,473	269,185	655,328	11,803,997
Jacksonville Kennel Club, Inc.	3,301,767	0	6,314,736	0	9,616,503	606,191	0	1,031,005	0	1,637,196	11,253,699
License Acquistions, LLC,d/b/a Palm Beach Greyhound Racing	3,670,413	0	8,609,171	0	12,279,584	444,347	0	987,567	0	1,431,914	13,711,498
Mardi Gras Racetrack and Gaming Center	1,191,095	1,367,504	1,692,222	3,217,762	7,468,583	152,555	157,931	158,399	336,519	805,404	8,273,987
Melbourne Greyhound Park, LLC	226,227	0	0	0	226,227	0	0	0	0	0	226,227
Naples-Ft. Myers Greyhound Track	9,175,441	0	7,474,514	0	16,649,955	489,142	0	306,879	0	796,021	17,445,976
Orange Park Kennel Club, Inc.	4,494,472	0	8,341,268	0	12,835,740	658,105	0	883,171	0	1,541,276	14,377,016
Palm Beach Kennel Club	14,584,456	809	28,703,171	0	43,288,436	807,857	0	1,164,308	0	1,972,165	45,260,601
Penn Sanford, LLC, d/b/a Sanford-Orlando Kennel Club	3,700,210	0	4,006,735		7,706,945	121,092	0	165,050	0	286,142	7,993,087
Pensacola Greyhound Racing, LLP	1,050,440	0	0	0	1,050,440	0	0	0	0	0	1,050,440
SOKC, LLC, d/b/a Sanford-Orlando Kennel Club	5,373,679	0	5,043,177		10,416,856	138,849	0	171,234	0	310,083	10,726,939
Sarasota Kennel Club, Inc.	4,807,906	0	2,255,502		7,063,408	397,063	0	107,201	0	504,264	7,567,672
St. Johns Greyhound Park	5,569,600	0	10,211,580	0	15,781,180	603,425	0	853,259	0	1,456,684	17,237,864
Tampa Greyhound Track	7,914,731	0	10,838,847		18,753,578	705,749	0	851,543	0	1,557,292	20,310,870
West Volusia Racing, Inc.	2,510,139	1,001,830	3,551,843	0	7,063,812	208,727	67,637	191,025	0	467,389	7,531,201
Total Greyhound Permitholders	$84,929,288	$6,864,195	$118,904,656	$20,879,666	$231,577,805	$6,970,221	$459,311	$8,514,045	$1,286,584	$17,230,161	$248,807,966
Jai Alai Permitholders											
Dania Jai Alai	$571,897	$0	$2,508,977	$0	$3,080,874	$6,959	$0	$27,722	$0	$34,681	$3,115,555
Dania Summer Jai Alai	587,303	0	2,205,463	0	2,792,766	4,325	0	27,528	0	31,853	2,824,619
Ft. Pierce Jai Alai	122,082	0	0	0	122,082	2,204	0	0	0	2,204	124,286
Hamilton Jai Alai and Poker	18	0	0	0	18	0	0	0	0	0	18
Miami Jai Alai	2,123,034	0	2,650,181	0	4,773,215	132,045	0	108,228	0	240,273	5,013,488
Ocala Poker and Jai Alai	44	0	0	0	44	0	0	0	0	0	44
Orlando Jai Alai	530	0	0	0	530	178	0	0	0	178	708
Summer Jai Alai	1,634,190	0	2,213,369	0	3,847,559	108,949	0	121,019	0	229,968	4,077,527
Total Jai Alai Permitholders	$5,039,098	$0	$9,577,990	$0	$14,617,088	$254,660	$0	$284,497	$0	$539,157	$15,156,245
Thoroughbred Racing Permitholders											
Calder Race Course, Inc.	$3,779,406	$643	$7,653,369	$3,388	$11,436,806	$542,358	$586,922	$1,230,769	$6,885,006	$9,245,055	$20,681,861
Gulfstream Park Thoroughbred After Racing Program, Inc.	7,095,663	0	5,448,365	0	12,544,028	1,547,278	2,330,484	1,080,818	4,555,731	9,514,311	22,058,339
Gulfstream Park Racing Association, Inc.	45,449,497	63,411,323	34,882,808	147,246,936	290,990,564	9,304,122	2,587,158	4,009,765	3,442,205	19,343,250	310,333,814
Tampa Bay Downs, Inc.	18,334,591	4,631,854	22,749,018	45,949,688	91,665,151	2,079,980	215,739	2,133,899	1,981,039	6,410,657	98,075,808
Tropical Park, LLC.	5,713,383	0	5,377,935	0	11,091,318	1,542,846	1,138,461	1,252,356	1,936,989	5,870,652	16,961,970
Total Thoroughbred Permitholders	$80,372,540	$68,043,820	$76,111,495	$193,200,012	$417,727,867	$15,016,584	$6,858,764	$9,707,607	$18,800,970	$50,383,925	$468,111,792
Harness Racing Permitholders											
Isle Casino and Racing at Pompano Park	$3,377,614	$12,186,640	$1,654,272	$27,270,383	$44,488,909	$175,674	$204,682	$108,546	$497,587	$986,489	$45,475,398
Quarter Horse Racing Permitholders											
Gretna Racing, LLC	$50,816	$0	$0	$0	$50,816	$0	$0	$0	$0	$0	$50,816
Hamilton Downs Horsetrack, LLC	6	0	0	0	6	0	0	0	0	0	6
Ocala Breeders' Sales Company, Inc.	21,212	0	0	0	21,212	0	0	0	0	0	21,212
South Florida Racing Association, LLC (Hialeah Park)	1,407,629	0	303,834	0	1,711,463	0	0	0	0	0	1,711,463
South Marion Real Estate Holdings, LLC	1,238	0	0	0	1,238	0	0	0	0	0	1,238
Total Quarter Horse Permitholders	$1,480,901	$0	$303,834	$0	$1,784,735	$0	$0	$0	$0	$0	$1,784,735
TOTAL FOR ALL PERMITHOLDERS	$175,199,441	$87,094,655	$206,552,247	$241,350,061	$710,196,404	$22,417,139	$7,522,757	$18,614,695	$20,585,141	$69,139,732	$779,336,136

TOTAL INTERTRACK WAGERING HANDLE BY GUEST

Fiscal Year 2014/2015

GUEST PERMITHOLDER	HOST PERMITHOLDER: DAYTONA	DERBY LANE	FLAGLER	H&T GAMING	JACKSONVILLE	LICENSE ACQUISITIONS	MARDI GRAS	NAPLES-FT. MYERS	ORANGE PARK	PALM BEACH
Greyhound Permitholders										
Daytona Beach Kennel Club, Inc.	$0	$565,458	$39,559	$427,410	$0	$0	$104,468	$206,685	$277,512	$1,151,228
Derby Lane (St. Petersburg Kennel Club, Inc.)	400,403	0	1,264,104	734,615	539,353	1,001,528	607,941	629,560	647,548	2,849,276
Ebro Greyhound Park	0	477,061	0	0	120,937	224,118	0	0	235,451	680,012
Flagler Dog Track	151,770	523,863	0	963,972	289,348	735,708	675,977	1,065,094	387,667	1,879,977
H&T Gaming, Inc., d/b/a Mardi Gras Racetrack	401,713	613,199	4,774,145	0	360,241	639,971	0	546,941	452,471	1,395,239
Jacksonville Kennel Club, Inc.	358,833	765,165	1,719,031	1,141,912	954,413	612,233	737,600	486,962	1,190,813	1,951,322
License Acquisitions, LLC, d/b/a Palm Beach Greyhound Racing	0	0	173,584	0	615,703	0	0	0	5,943	0
Mardi Gras Racetrack and Gaming Center	166,597	176,181	0	0	0	0	0	261,184	0	524,811
Melbourne Greyhound Park, LLC	143,910	309,211	425,960	276,671	156,745	329,341	166,263	181,638	215,933	1,166,738
Naples-Ft. Myers Greyhound Track	127,563	463,029	876,748	373,230	137,187	418,511	213,848	0	172,869	1,245,367
Orange Park Kennel Club, Inc.	582,020	1,330,147	2,466,171	1,446,962	0	947,689	962,835	629,249	0	2,923,035
Palm Beach Kennel Club	383,702	974,646	89,373	168,222	0	0	173,650	638,791	757,417	0
Penn Sanford, LLC,d/b/a Sanford-Orlando Kennel Club	27,473	0	1,914,324	0	609,935	845,170	375,525	197,288	358,897	829,361
Pensacola Greyhound Racing, LLP	307,729	0	163,376	0	989,261	218,085	0	244,201	1,314,092	1,085,806
SOKC, LLC, d/b/a Sanford-Orlando Kennel Club	381,947	1,161,172	403,656	1,399,880	0	0	548,963	609,278	402,546	1,853,594
Sarasota Kennel Club, Inc.	169,028	1,095,005	947,929	518,427	331,449	638,994	303,878	301,445	316,793	1,735,277
Tampa Greyhound Track	327,772	2,272,374	299,586	200,196	500,562	783,090	202,989	667,209	623,047	2,372,865
West Volusia Racing, Inc.	0	0	213,735	0	483,096	446,746	32,249	42,607	261,731	386,957
Total Greyhound Permitholders	$3,930,460	$10,726,511	$15,771,281	$7,651,497	$6,088,230	$7,841,184	$5,106,186	$6,708,132	$7,620,730	$24,030,865
Jai Alai Permitholders										
Dania Jai Alai	$0	$0	$22,129	$0	$0	$0	$673	$0	$3,379	$5,198
Dania Summer Jai Alai	0	0	418,231	0	63,162	132,771	0	0	5,428	6,946
Ft. Pierce Jai Alai	124,646	219,015	131,580	81,696	150,940	344,760	57,705	234,438	159,800	1,089,127
Miami Jai Alai	0	0	0	0	0	0	0	0	0	0
Ocala Poker and Jai Alai	151,375	347,426	92,457	58,560	185,742	156,611	62,039	187,718	241,574	480,339
Orlando Jai Alai	0	0	0	0	0	0	0	0	0	0
Summer Jai Alai	0	0	0	0	0	0	0	0	0	0
Total Jai Alai Permitholders	$276,021	$566,441	$664,397	$140,256	$399,844	$634,142	$120,417	$422,156	$410,181	$1,581,610
Thoroughbred Permitholders										
Calder Race Course, Inc.	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Gulfstream Park Racing Association, Inc.	0	0	0	0	0	0	0	0	0	0
Tampa Bay Downs, Inc.	0	1,125,416	0	0	174,740	252,125	0	0	231,926	1,037,492
Total Thoroughbred Permitholders	$0	$1,125,416	$0	$0	$174,740	$252,125	$0	$0	$231,926	$1,037,492
Harness Permitholders										
Isle Casino and Racing at Pompano Park	$0	$0	$237,740	$187,509	$252,530	$494,248	$178,299	$295,037	$399,234	$1,942,130
Quarter Horse Permitholders										
Gretna Racing, LLC	$324,950	$0	$224,968	$0	$430,397	$227,477	$0	$356,068	$562,368	$829,223
Hamilton Downs Horsetrack, LLC	0	0	0	0	0	0	0	0	0	0
Ocala Breeders' Sales Company Inc.	127,651	162,165	0	0	0	147,562	0	0	0	446,159
South Florida Racing Association, LLC (Hialeah Park)	0	0	0	0	0	0	0	0	0	0
Total Quarter Horse Permitholders	$452,601	$162,165	$224,968	$0	$430,397	$375,039	$0	$356,068	$562,368	$1,275,382
TOTAL FOR ALL PERMITHOLDERS	$4,659,082	$12,580,533	$16,898,386	$7,979,262	$7,345,741	$9,596,738	$5,404,902	$7,781,393	$9,224,439	$29,867,479

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Note: Figures above include handle from charity/scholarship performances.

TOTAL INTERTRACK WAGERING HANDLE BY GUEST

Fiscal Year 2014/2015

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GUEST PERMITHOLDER	HOST PERMITHOLDER								
	Penn Sanford	SOKC, LLC	SARASOTA	ST. JOHNS	TAMPA GREYHOUND	WEST VOLUSIA RACING	DANIA	DANIA SUMMER	MIAMI
Greyhound Permitholders									
Daytona Beach Kennel Club, Inc.	$18,870	$257,246	$116,307	$591,617	$48,726	$0	$16,797	$0	$135,979
Derby Lane (St. Petersburg Kennel Club, Inc.)	244,840	323,299	211,898	733,632	0	315,558	145,588	120,889	262,575
Ebro Greyhound Park	0	0	154,402	305,588	505,515	0	11,237	21,454	0
Flagler Dog Track	184,541	161,709	115,095	408,522	525,808	135,468	0	0	0
H&T Gaming, Inc., d/b/a Mardi Gras Racetrack	372,309	444,629	213,355	279,547	591,483	360,858	63,450	84,419	0
Jacksonville Kennel Club, Inc.	380,130	450,051	203,278	1,536,495	640,841	277,140	70,729	65,346	119,792
License Acquisitions, LLC, d/b/a Palm Beach Greyhound Racing	271,011	0	0	0	392,517	159,925	0	130,997	0
Mardi Gras Racetrack and Gaming Center	62,081	129,318	166,952	234,641	105,405	32,149	37,148	0	0
Melbourne Greyhound Park, LLC	148,544	193,925	93,457	262,838	249,891	107,382	185,619	164,531	391,831
Naples-Ft. Myers Greyhound Track	141,893	169,446	160,594	196,425	418,451	102,874	0	0	0
Orange Park Kennel Club, Inc.	555,341	638,718	265,721	0	1,391,013	424,735	63,635	69,014	129,251
Palm Beach Kennel Club	198,344	599,208	204,508	896,607	412,510	138,616	177,706	11,871	287,759
Penn Sanford, LLC,d/b/a Sanford-Orlando Kennel Club	0	0	0	161,508	1,046,276	347,597	0	0	0
Pensacola Greyhound Racing, LLP	228,664	382,523	118,421	1,504,719	0	290,896	27,110	22,780	17,476
SOKC, LLC, d/b/a Sanford-Orlando Kennel Club	0	0	0	738,955	0	0	0	0	0
Sarasota Kennel Club, Inc.	231,313	279,471	0	330,631	991,541	132,114	0	0	0
Tampa Greyhound Track	484,967	598,340	306,260	756,514	2,180,833	282,630	138,561	114,061	253,939
West Volusia Racing, Inc.	214,824	0	32,455	57,766	496,418	0	65,497	84,753	27,124
Total Greyhound Permitholders	$3,737,672	$4,627,883	$2,362,703	$8,996,005	$9,997,228	$3,107,942	$1,003,077	$890,115	$1,625,726
Jai Alai Permitholders									
Dania Jai Alai	$0	$0	$0	$0	$2,299	$2,692	$0	$0	$0
Dania Summer Jai Alai	0	0	0	0	29,804	49,090	0	0	0
Ft. Pierce Jai Alai	0	0	0	179,888	201,424	102,370	107,270	104,762	190,181
Miami Jai Alai	0	0	0	0	0	0	336,971	0	0
Ocala Poker and Jai Alai	133,089	155,744	0	276,687	307,065	120,440	94,506	87,624	162,237
Orlando Jai Alai	0	0	0	0	0	0	319,107	302,794	463,545
Summer Jai Alai	0	0	0	0	0	0	146,985	437,220	0
Total Jai Alai Permitholders	$133,089	$155,744	$0	$456,575	$540,592	$274,592	$1,004,839	$932,400	$815,963
Thoroughbred Permitholders									
Calder Race Course, Inc.	$0	$0	$0	$0	$0	$0	$0	$0	$0
Gulfstream Park Racing Association, Inc.	0	0	0	0	0	0	0	0	0
Tampa Bay Downs, Inc.	138,924	223,395	0	320,826	957,241	0	140,508	98,725	212,392
Total Thoroughbred Permitholders	$138,924	$223,395	$0	$320,826	$957,241	$0	$140,508	$98,725	$212,392
Harness Permitholders									
Isle Casino and Racing at Pompano Park	$0	$0	$0	$531,898	$0	$0	$291,606	$228,569	$0
Quarter Horse Permitholders									
Gretna Racing, LLC	$162,100	$207,389	$0	$759,525	$0	$268,608	$50,389	$40,675	$30,238
Hamilton Downs Horsetrack, LLC	0	0	0	0	0	0	0	0	0
Ocala Breeders' Sales Company Inc.	0	0	0	10	195,329	91,726	46,280	42,507	74,090
South Florida Racing Association, LLC (Hialeah Park)	0	0	0	0	0	0	0	0	0
Total Quarter Horse Permitholders	$162,100	$207,389	$0	$759,535	$195,329	$360,334	$96,669	$83,182	$104,328
TOTAL FOR ALL PERMITHOLDERS	$4,171,785	$5,214,411	$2,362,703	$11,064,839	$11,690,390	$3,742,868	$2,536,699	$2,232,991	$2,758,409

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Note: Figures above include handle from charity/scholarship performances.

TOTAL INTERTRACK WAGERING HANDLE BY GUEST

Fiscal Year 2014/2015

GUEST PERMITHOLDER	HOST PERMITHOLDER: SUMMER	CALDER	GULFSTREAM PARK	GULFSTREAM PARK AFTER RACING PROGRAM	TAMPA BAY DOWNS	TROPICAL PARK	POMPANO PARK	HIALEAH PARK	TOTAL
Greyhound Permitholders									
Daytona Beach Kennel Club, Inc.	$53,007	$0	$4,394,280	$0	$1,476,441	$117,487	$1,138,029	$22,035	$11,159,141
Derby Lane (St. Petersburg Kennel Club, Inc.)	213,225	497,213	8,857,607	542,476	4,133,961	366,551	1,959,757	26,435	27,629,832
Ebro Greyhound Park	0	116,480	1,562,818	161,288	260,802	114,923	0	0	4,952,086
Flagler Dog Track	0	287,071	3,156,089	272,859	670,865	263,766	1,122,245	0	13,977,414
H&T Gaming, Inc., d/b/a Mardi Gras Racetrack	0	210,101	4,032,179	172,283	1,484,388	219,831	2,236,984	0	19,949,736
Jacksonville Kennel Club, Inc.	95,467	267,101	4,863,232	293,128	2,176,257	221,594	1,215,372	0	22,794,237
License Acquisitions, LLC, d/b/a Palm Beach Greyhound Racing	87,410	0	6,310,814	1,851,847	1,227,106	367,368	1,079,858	0	12,674,083
Mardi Gras Racetrack and Gaming Center	0	0	955,126	0	468,294	0	654,418	0	3,974,305
Melbourne Greyhound Park, LLC	315,963	440,792	8,386,263	459,438	2,668,101	428,725	946,785	32,164	18,848,659
Naples-Ft. Myers Greyhound Track	0	864,344	14,200,067	569,074	4,613,599	449,181	1,532,461	0	27,446,761
Orange Park Kennel Club, Inc.	101,784	360,156	5,454,909	388,232	2,387,482	274,760	157,891	0	23,950,750
Palm Beach Kennel Club	149,648	1,692,796	24,376,464	0	7,830,831	907,585	3,970,398	0	45,040,652
Penn Sanford, LLC,d/b/a Sanford-Orlando Kennel Club	0	532,327	3,566,240	530,629	1,551,508	207,266	766,171	0	13,867,495
Pensacola Greyhound Racing, LLP	17,607	220,622	880,090	172,838	316,696	194,588	0	0	8,717,580
SOKC, LLC, d/b/a Sanford-Orlando Kennel Club	0	0	5,944,433	0	2,394,218	232,342	980,184	0	17,051,168
Sarasota Kennel Club, Inc.	0	485,502	8,684,536	505,658	2,842,415	373,288	991,954	0	22,206,648
Tampa Greyhound Track	212,998	345,399	6,640,469	398,407	3,164,914	313,614	1,697,987	29,343	26,168,926
West Volusia Racing, Inc.	66,977	356,109	2,511,429	356,010	689,451	126,603	877,406	0	7,829,943
Total Greyhound Permitholders	$1,314,086	$6,676,013	$114,777,045	$6,674,167	$40,357,329	$5,179,472	$21,327,900	$109,977	$328,239,416
Jai Alai Permitholders									
Dania Jai Alai	$7,816	$1,073	$29,419	$0	$3,923	$0	$10,231	$0	$88,832
Dania Summer Jai Alai	124,090	0	161,662	42,577	89,633	18,742	233,220	0	1,375,356
Ft. Pierce Jai Alai	157,060	270,013	4,432,026	273,167	1,516,075	207,588	0	0	10,335,531
Miami Jai Alai	0	0	0	0	0	0	0	0	336,971
Ocala Poker and Jai Alai	131,081	95,278	1,614,932	106,956	595,813	87,669	268,246	0	6,201,208
Orlando Jai Alai	373,221	418,079	7,584,218	444,757	2,452,702	385,292	1,969,600	0	14,713,315
Summer Jai Alai	0	0	0	0	0	0	0	0	584,205
Total Jai Alai Permitholders	$793,268	$784,443	$13,822,257	$867,457	$4,658,146	$699,291	$2,481,297	$0	$33,635,418
Thoroughbred Permitholders									
Calder Race Course, Inc.	$0	$0	$3,217,039	$0	$415,881	$0	$2,455	$0	$3,635,375
Gulfstream Park Racing Association, Inc.	0	5,206,534	0	0	18,093,894	0	3,451,638	92,216	26,844,282
Tampa Bay Downs, Inc.	157,904	1,066,035	21,198,004	1,068,777	0	782,536	1,780,453	0	30,967,419
Total Thoroughbred Permitholders	$157,904	$6,272,569	$24,415,043	$1,068,777	$18,509,775	$782,536	$5,234,546	$92,216	$61,447,076
Harness Permitholders									
Isle Casino and Racing at Pompano Park	$0	$934,500	$17,934,679	$1,096,365	$3,441,041	$838,251	$0	$90,950	$29,374,586
Quarter Horse Permitholders									
Gretna Racing, LLC	$13,917	$67,841	$1,235,162	$84,246	$540,350	$66,398	$0	$10,691	$6,492,980
Hamilton Downs Horsetrack, LLC	0	0	0	0	3,966	0	0	0	3,966
Ocala Breeders' Sales Company Inc.	55,213	534,643	8,185,796	613,595	2,840,424	502,564	338,935	0	14,404,649
South Florida Racing Association, LLC (Hialeah Park)	0	502,523	9,211,732	680,307	2,462,613	498,768	148,110	0	13,504,053
Total Quarter Horse Permitholders	$69,130	$1,105,007	$18,632,690	$1,378,148	$5,847,353	$1,067,730	$487,045	$10,691	$34,405,648
TOTAL FOR ALL PERMITHOLDERS	$2,334,388	$15,772,532	$189,581,714	$11,084,914	$72,813,644	$8,567,280	$29,530,788	$303,834	$487,102,144

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Note: Figures above include handle from charity/scholarship performances.

CHARITY AND SCHOLARSHIP PERFORMANCES

Each permitholder may operate up to five additional days designated as charity or scholarship days during their regular meet. Proceeds from these additional days are paid to approved charities, major state and private institutions of higher learning, community colleges, the Historical Resources Operating Trust Fund, and the Racing Scholarship Trust Fund (Board of Governors' Operations and Maintenance Trust Fund). A list of proposed recipients is submitted annually by the permitholder to the division. Typically, the amount contributed to charitable organizations is determined by calculating the amount of taxes due to the state had it been a regular performance. A minimum of $1,618,467 was paid to charitable organizations during Fiscal Year 2014/2015, bringing the total proceeds disbursed since 1985 to $78,134,281.

RACING SCHOLARSHIP TRUST FUND

The Board of Governors, within the Department of Education, oversees the Board of Governors' Operations and Maintenance Trust Fund and ensures that the referenced contributions are used to provide scholarships to deserving students attending Florida's colleges and universities. A total of $16,885,110 has been paid to this fund since the program began in 1949.

ABANDONED WINNING TICKETS

Abandoned pari-mutuel tickets are winning tickets that remain uncashed for a period of one year. The value of greyhound and jai alai abandoned tickets for live on-track races or games escheat to the state. These funds are deposited into the Department of Education's State School Trust Fund for the support and maintenance of Florida's public schools. Since 1957, the total paid into this fund is $95,578,484. The amount collected from abandoned winning tickets for the State School Trust Fund for this fiscal year is detailed below.

Abandoned Winning Tickets	
Greyhound Permitholders	$744,478
Jai Alai Permitholders	50,750
Total For 2014/2015 Fiscal Year	**$795,228**

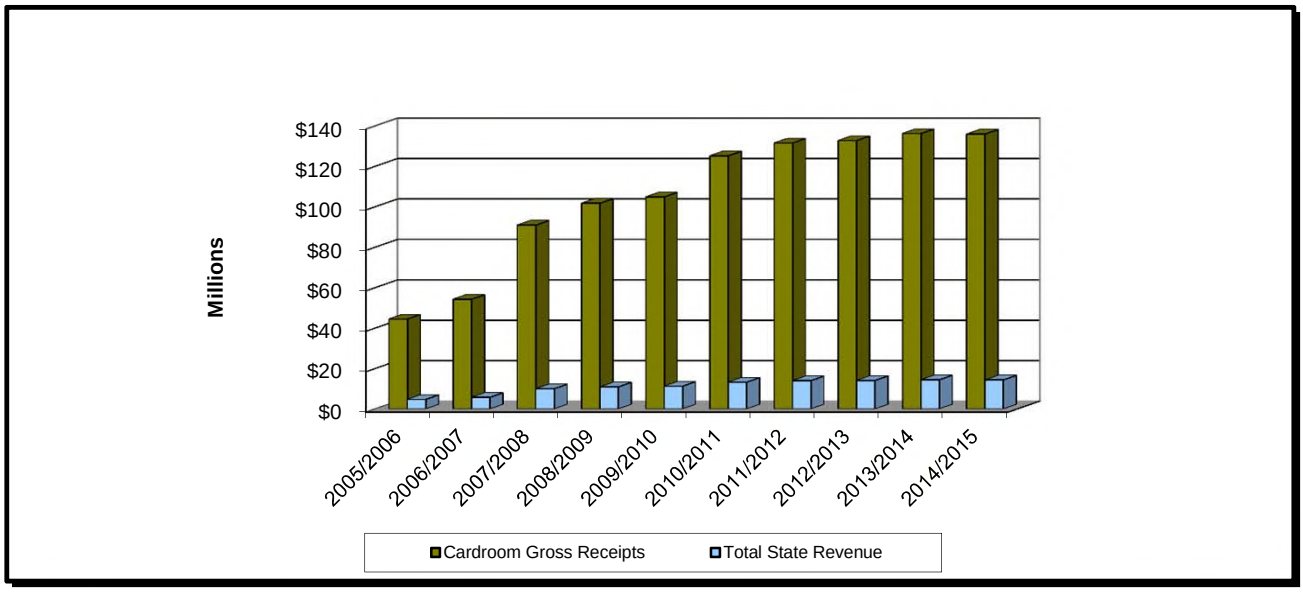
In harness and quarter horse racing, abandoned winning tickets are paid to the respective breeders' associations. Abandoned winning tickets from thoroughbred horse racing are retained by the permitholder.

CARDROOM COMPARATIVE DATA

During Fiscal Year 2014/2015, there were 25 permitholders that obtained a cardroom license. Two did not operate, the other 23 operated at 23 pari-mutuel facilities located throughout the state. The number of cardroom tables decreased from 788 in Fiscal Year 2013/2014, to 755 in Fiscal Year 2014/2015. Cardroom gross receipts decreased from $136,163,616 to $135,888,902 and the gross receipts tax decreased from $13,615,464 to $13,589,789 this fiscal year. Table fees decreased from $788,000 to $755,000 this fiscal year. The overall result was a decrease in total state revenue from $14,403,464 to $14,344,789 this fiscal year.

Cardroom tax revenue is distributed 50 percent between the Pari-Mutuel Wagering Trust Fund and the General Revenue Fund. In accordance with Section 849.086(13)(h), Florida Statutes, one quarter of the moneys deposited into the Pari-Mutuel Wagering Trust Fund must be distributed to counties and municipalities that approved the cardroom. In October 2015, the division distributed approximately $1,698,723 to the counties/municipalities from cardroom gross receipts.

CARDROOM GROSS RECEIPTS AND TOTAL STATE REVENUE FISCAL YEARS 2005/2006 THROUGH 2014/2015



CARDROOM GROSS RECEIPTS AND STATE REVENUE SUMMARY

Fiscal Year	Total Cardroom Gross Receipts	Gross Receipts Tax	Table Fees Collected [A]	Total State Revenue (Gross Receipts Tax plus Table Fees)	Total State Revenue as a Percent of Gross Receipts
2005/2006	$44,433,359	$4,443,337	$264,000	$4,707,337	10.59%
2006/2007	$54,208,544	$5,420,855	$325,500	$5,746,355	10.60%
2007/2008	$90,863,855	$9,086,385	$875,000	$9,961,385	10.96%
2008/2009	$101,700,243	$10,170,024	$698,000	$10,868,024	10.69%
2009/2010	$104,799,448	$10,479,945	$749,000	$11,228,945	10.71%
2010/2011	$125,141,080	$12,514,108	$718,000	$13,232,108	10.57%
2011/2012	$131,447,663	$13,144,767	$834,000	$13,978,767	10.63%
2012/2013	$132,690,415	$13,269,045	$810,000	$14,079,045	10.61%
2013/2014	$136,163,616	$13,615,464	$788,000	$14,403,464	10.58%
2014/2015	$135,888,902	$13,589,789 [B]	$755,000	$14,344,789	10.56%

(A) Amount agrees with the number of approved cardroom tables per annual cardroom licenses, and reflects the number of tables in operation each fiscal year.

(B) Includes additional payment of $897.50 for October 2013, recevied in August 2014, due to revised monthly report.

COMPONENTS OF CARDROOM REVENUE BY ASSOCIATION

Fiscal Year 2014/2015	County / Municipality	Gross Receipts	Tournament Gross Receipts	Total Gross Receipts	Gross Receipts Tax [A]	Table Fees Collected [B]	Total Taxes and Fees
Greyhound Racing Permitholders							
Daytona Beach Kennel Club, Inc./West Volusia Racing, Inc.	Volusia	$10,260,442	$805,384	$11,065,826	$1,106,583	$55,000	$1,161,583
Derby Lane (St. Petersburg Kennel Club, Inc.)	Pinellas	7,766,643	809,669	8,576,312	857,631	45,000	902,631
Ebro Greyhound Park	Washington	2,728,129	326,879	3,055,008	305,500	20,000	325,500
Flagler Dog Track	Dade	6,912,438	27,325	6,939,763	694,874 [C]	23,000	717,874
Jacksonville Kennel Club, Inc.	Duval	14,725,776	939,280	15,665,056	1,566,506	71,000	1,637,506
Mardi Gras Racetrack and Gaming Center/H &T Gaming, Inc.	Hallandale	5,654,584	282,119	5,936,703	593,670	30,000	623,670
Melbourne Greyhound Park, LLC	Brevard	4,223,440	136,195	4,359,635	435,963	34,000	469,963
Naples-Ft. Myers Greyhound Track	Lee	6,405,597	505,015	6,910,612	691,063	32,000	723,063
Orange Park Kennel Club, Inc.	Town of Orange Park	7,439,673	66,615	7,506,288	750,629	39,000	789,629
Palm Beach Kennel Club/License Acquisitions, LLC	Palm Beach	11,544,820	1,065,075	12,609,895	1,260,990	75,000	1,335,990
Pensacola Greyhound Racing, LLP	Escambia	3,153,303	616,385	3,769,688	376,969	20,000	396,969
Sarasota Kennel Club, Inc.	Sarasota	4,894,259	772,380	5,666,639	566,664	35,000	601,664
St. Johns Greyhound Park [D]	St. Johns	0	0	0	0	1,000	1,000
Tampa Greyhound Track	Hillsborough	2,040,726	74,567	2,115,293	211,529	1,000	212,529
Total Greyhound Permitholders		$87,749,830	$6,426,888	$94,176,718	$9,418,571	$481,000	$9,899,571
Jai Alai Permitholders							
Dania Jai Alai/Summersport Enterprises, LLC	Hallandale	$5,976	$84,872	$90,848	$9,085	$1,000	$10,085
Ft. Pierce Jai Alai	St. Lucie	2,353,923	152,587	2,506,510	250,651	25,000	275,651
Hamilton Jai Alai and Poker	Hamilton	411,259	165	411,424	41,142	3,000	44,142
Miami/Summer Jai Alai	Dade	2,285,247	54,267	2,339,514	233,951	16,000	249,951
Ocala Poker and Jai Alai	Marion	3,316,536	172,445	3,488,981	348,898	21,000	369,898
Total Jai Alai Permitholders		$8,372,941	$464,336	$8,837,277	$883,727	$66,000	$949,727
Thoroughbred Racing Permitholders							
Gulfstream Park Racing Association, Inc.	Broward	5,374,421	142,163	5,516,584	551,658	21,000	572,658
Tampa Bay Downs, Inc.	Hillsborough	3,514,313	743,283	$4,257,596	425,760	23,000	448,760
Total Thoroughbred Permitholders		$8,888,734	$885,446	$9,774,180	$977,418	$44,000	$1,021,418
Harness Racing Permitholders							
Isle Casino and Racing at Pompano Park	Broward	$11,234,738	$1,660,226	$12,894,964	$1,289,496	$45,000	$1,334,496
Quarter Horse Racing Permitholders							
Gretna Racing, LLC	Gadsden	$1,649,021	$197,375	$1,846,396	$184,640	$15,000	$199,640
South Florida Racing Association, LLC (Hialeah Park)	City of Hialeah	7,695,032	664,335	$8,359,367	835,937	44,000	879,937
Total Quarter Horse Permitholders		$9,344,053	$861,710	$10,205,763	$1,020,577	$59,000	$1,079,577
TOTAL FOR ALL PERMITHOLDERS		$125,590,296	$10,298,606	$135,888,902	$13,589,789	$695,000	$14,284,789

(A) 1/8th of total gross receipts tax is distributed to counties or municipalities by October 1, of the following year.

(B) Amounts shown are table fees collected during fiscal year 2014/2015.

(C) Includes additional payment of $ 897.50 for October 2013, received in August 2014, due to revised monthly report.

(D) Permitholder paid table fees and received cardroom license for 2014/2015, but did not conduct cardroom operations during 2014/2015.

SLOT COMPARATIVE DATA

During Fiscal Year 2014/2015, the total amount wagered by patrons was $7,979,515,007. Average daily revenue per slot machine was $188. Total net slot revenue was $521,670,975. As a result the total taxes paid to the state was $182,584,841, an increase of five percent in total paid slot taxes from the previous fiscal year. A total of $15,750,000 was collected in annual fees, including the Compulsive or Addictive Gambling Prevention Program Fee, per Section 551.118(3), Florida Statutes. For further details, see the Summary of State Revenue From Pari-Mutuel, Cardroom, Slot Activity, and Indian Gaming Compact (page 36) of this report. On October 12, 2014, Dania Jai-Alai closed the slot portion of the facility due to remodeling.

HISTORICAL SLOT FACILITY ACTIVITY		
Fiscal Year	**Total Amount Wagered**	**Total State Revenue**
2006/2007	$1,114,108,466	$49,620,582
2007/2008	$3,023,981,126	$120,560,317
2008/2009	$2,701,341,778	$103,895,351
2009/2010	$3,840,468,455	$138,125,105
2010/2011	$5,054,297,731	$125,063,886
2011/2012	$6,045,432,393	$143,962,346
2012/2013	$6,690,513,855	$152,532,223
2013/2014	$7,953,652,039	$174,024,068
2014/2015	$7,979,515,007	$182,584,841

FISCAL YEAR 2014/2015									
	Gulfstream Operations Began 11/15/2006	**Mardi Gras** Operations Began 12/28/2006	**Pompano Park** Operations Began 4/14/2007	**West Flagler** Operations Began 10/15/2009	**Calder** Operations Began 1/22/2010	**Miami Jai Alai** Operations Began 1/23/2012	**Hialeah Park** Operations Began 8/14/2013	**Dania Jai Alai** [2] Operations Began 2/20/2014	**TOTAL**
Average Number of Machines	847	965	1,456	801	1,113	1,029	850	522	7,583
Number of Operating Days	365	365	365	365	365	365	365	104	365
Average Daily Revenue per Machine	$159	$136	$274	$276	$182	$153	$207	$54	$188
Amount Wagered	$794,329,039	$701,055,610	$2,005,415,129	$1,358,574,237	$981,098,699	$1,038,431,327	$1,045,072,386	$55,538,580	$7,979,515,007
Amount Won By Patrons	$734,280,878	$644,290,707	$1,836,310,191	$1,275,489,711	$891,381,301	$970,450,887	$974,876,557	$51,446,310	$7,378,526,542
Promotional Credits	$11,040,693	$8,819,486	$23,693,184	$2,408,311	$16,024,799	$10,662,818	$6,084,879	$1,173,239	$79,907,409
30-Day Unclaimed Tickets	$96,186	$36,565	$198,873	$39,305	$37,224	$108,049	$36,100	$2,999	$555,301
Net Slot Machine Revenue	**$49,103,653**	**$47,986,792**	**$145,610,627**	**$80,720,091**	**$73,755,061**	**$57,425,670**	**$64,147,050**	**$2,922,031**	**$521,670,975**
State Tax Revenue [1]	**$17,186,279**	**$16,795,377**	**$50,963,719**	**$28,252,032**	**$25,814,271**	**$20,098,984**	**$22,451,468**	**$1,022,711**	**$182,584,841**
Permitholder Revenue	**$31,917,374**	**$31,191,415**	**$94,646,908**	**$52,468,059**	**$47,940,790**	**$37,326,686**	**$41,695,582**	**$1,899,320**	**$339,086,134**
Total State Revenue as a Percent of Amount Wagered	**2.16%**	**2.40%**	**2.54%**	**2.08%**	**2.63%**	**1.94%**	**2.15%**	**1.84%**	**2.29%**

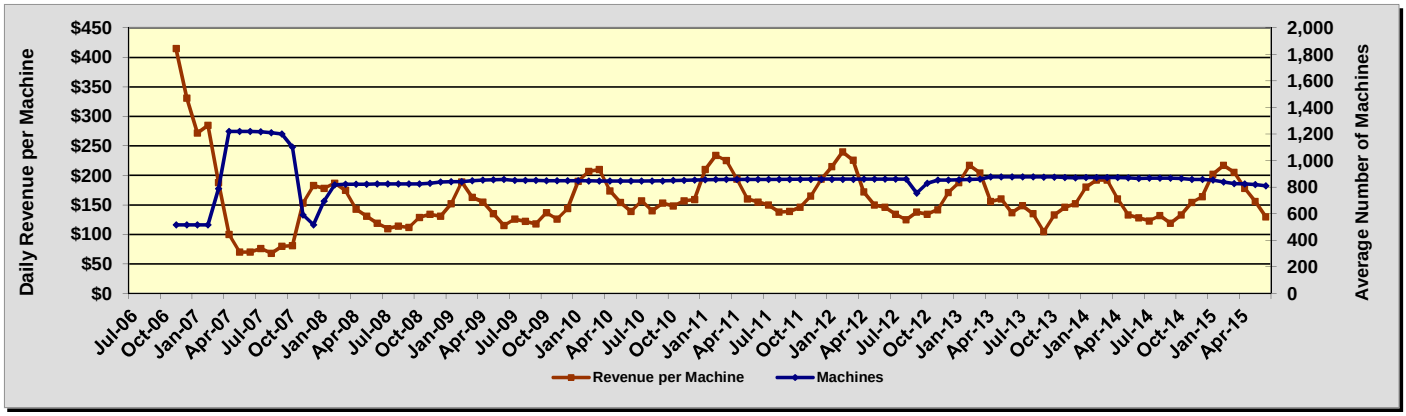
Note: Changes to figures for Fiscal Year 2011/2012 and 2012/2013 are due to refunds to Miami Jai Alai for overpayment of slot taxes.

(1) [1] Taxes paid on net slot machine revenue were accounted for by the division, then immediately transferred to the Department of Education's Educational Enhancement Trust Fund.

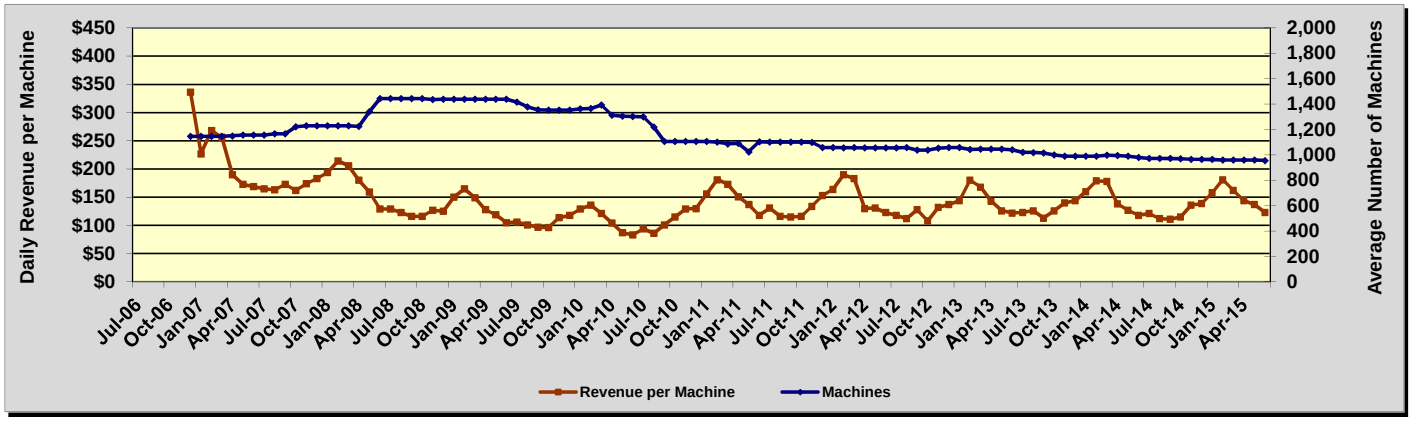
(2) Dania's Casino was open February 20, 2014, through October 12, 2014.

Daily Revenue per Machine Compared to Average Number of Machines
For Fiscal Years 2006/2007 - 2014/2015

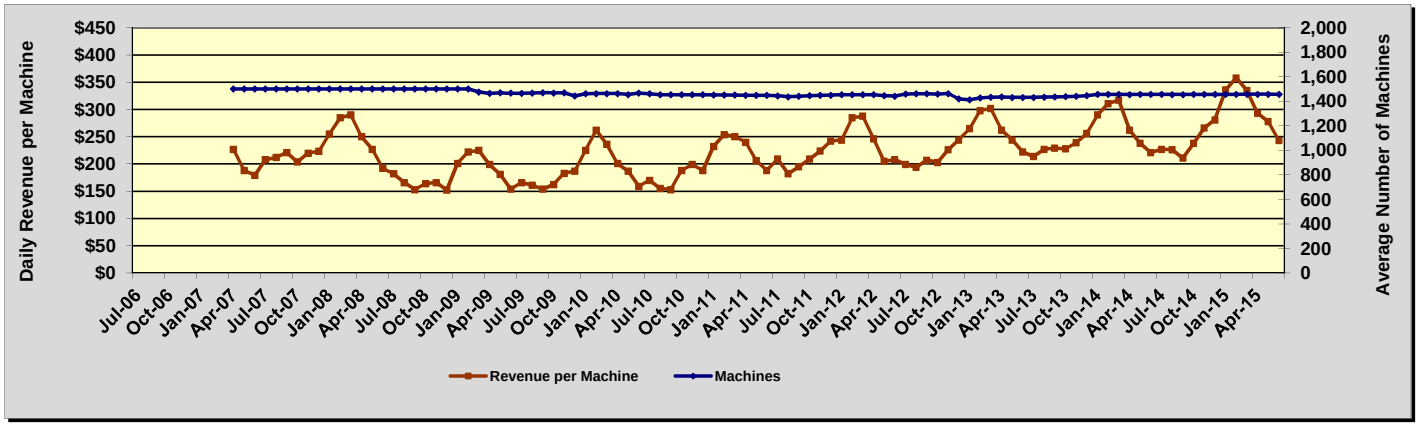
GULFSTREAM PARK RACING AND CASINO



MARDI GRAS RACETRACK AND GAMING CENTER

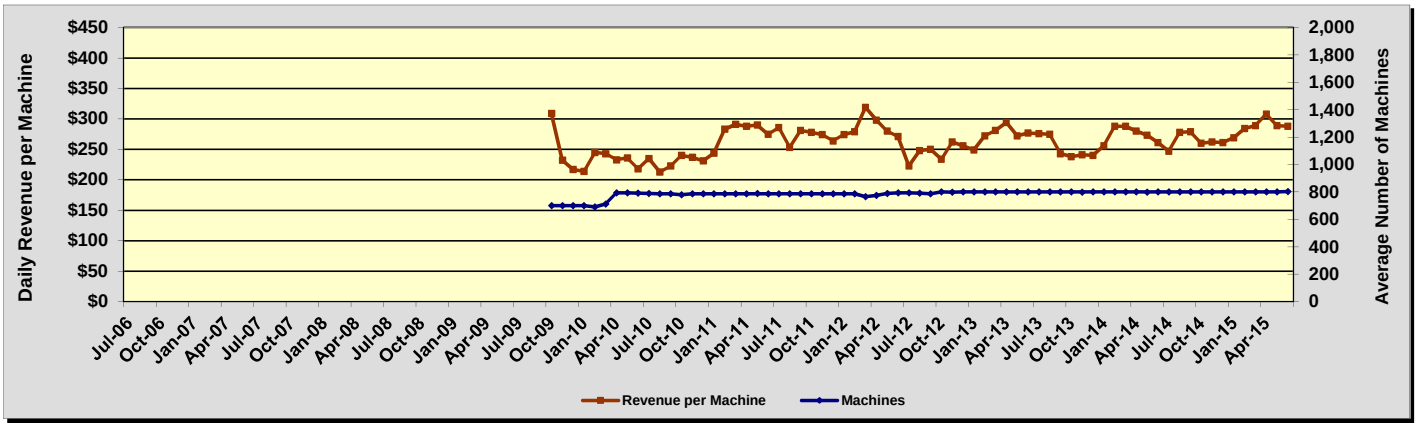


ISLE CASINO AND RACING AT POMPANO PARK

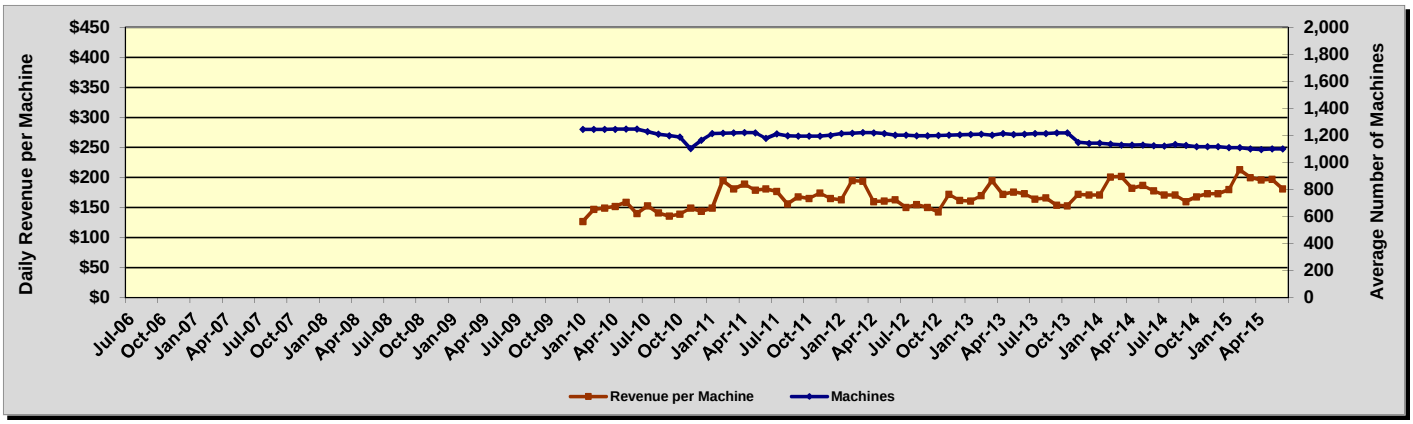


Daily Revenue per Machine Compared to Average Number of Machines
For Fiscal Years 2006/2007 - 2014/2015

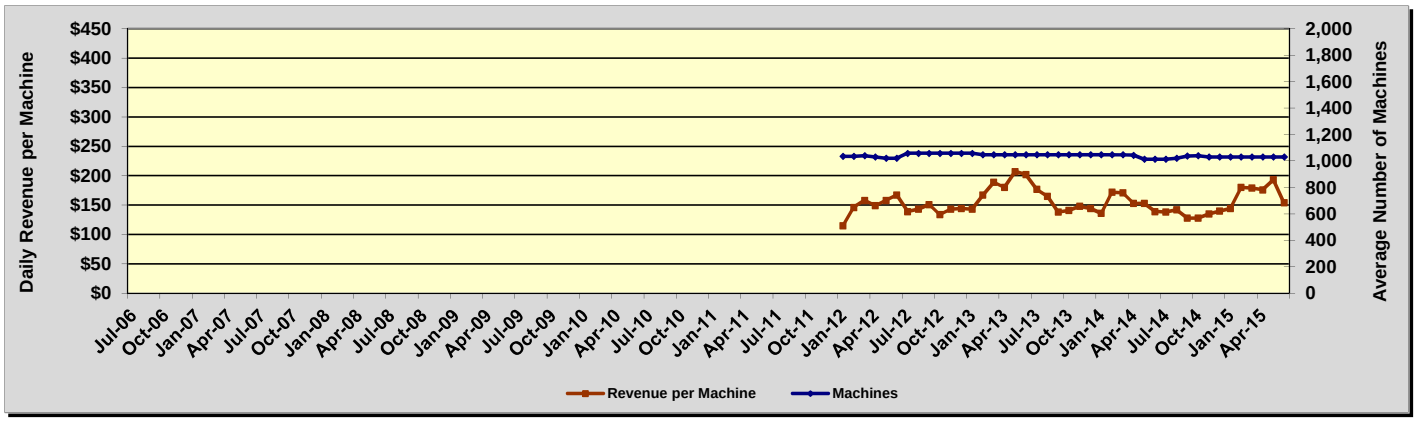
FLAGLER DOG TRACK AND MAGIC CITY CASINO



CALDER CASINO AND RACE COURSE

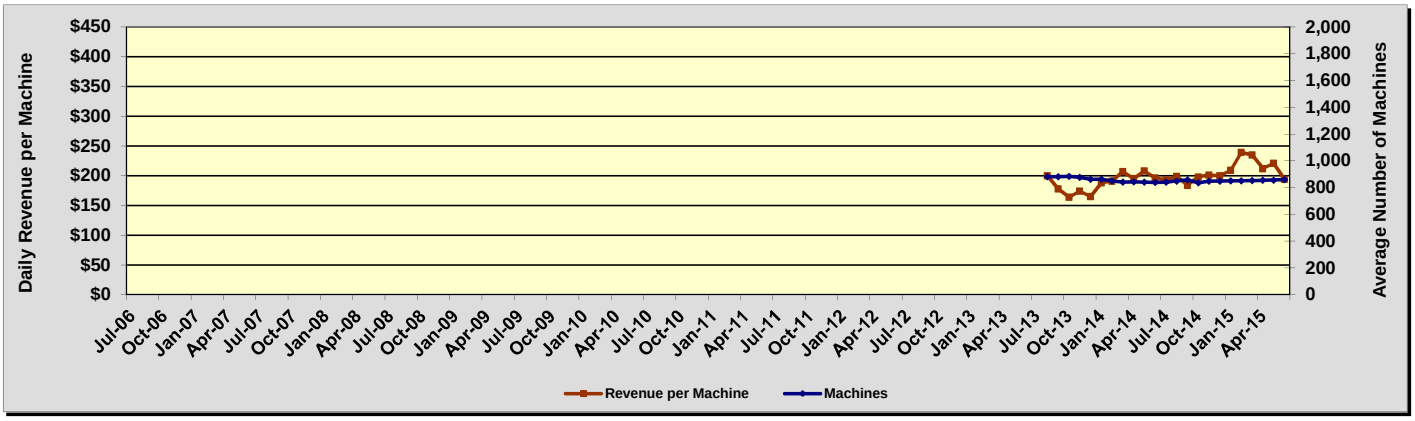


MIAMI JAI ALAI

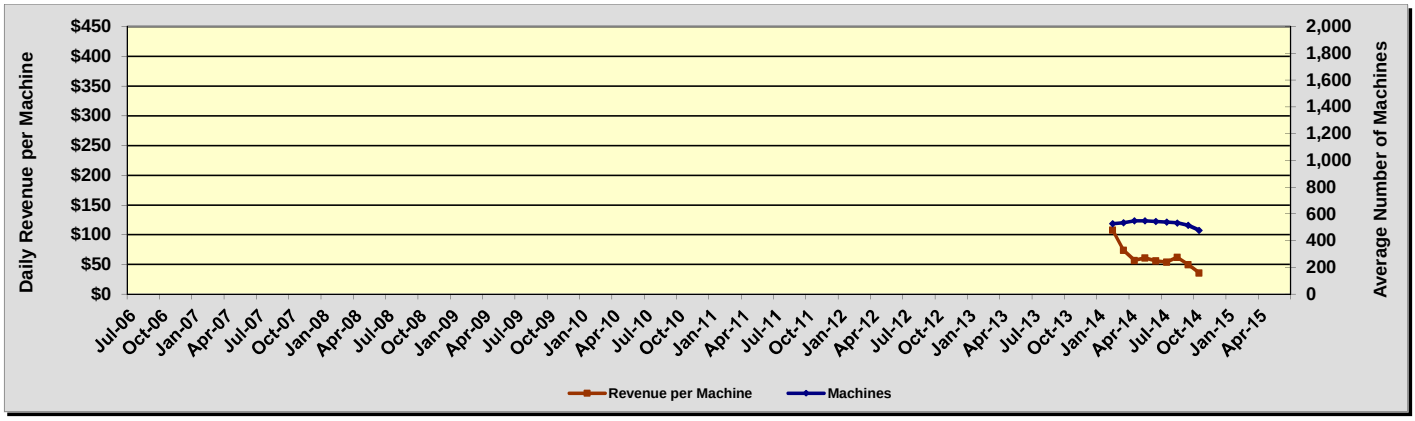


Daily Revenue per Machine Compared to Average Number of Machines
For Fiscal Years 2006/2007 - 2014/2015

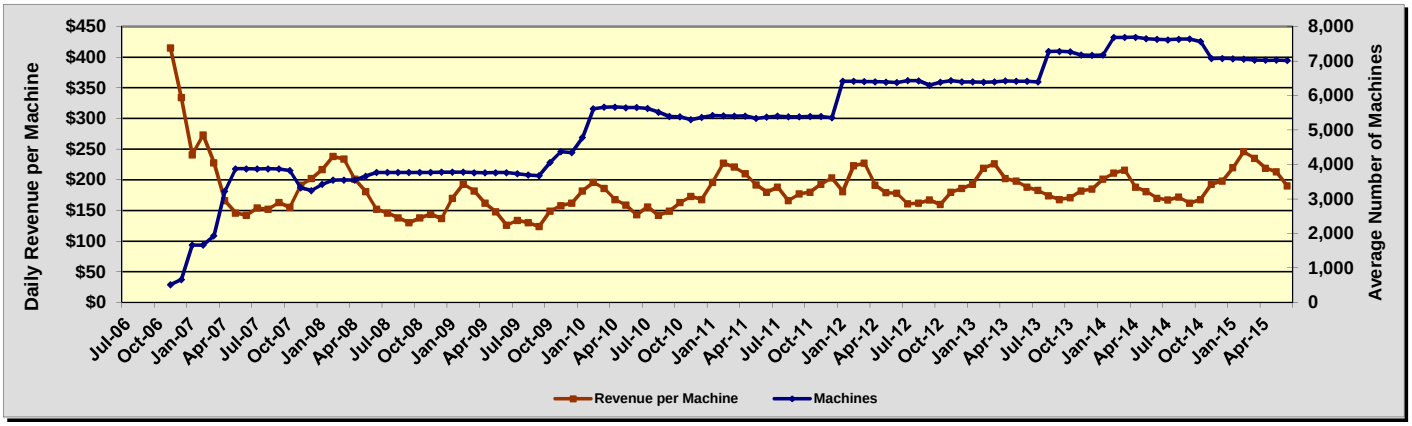
HIALEAH PARK



DANIA JAI ALAI [1]



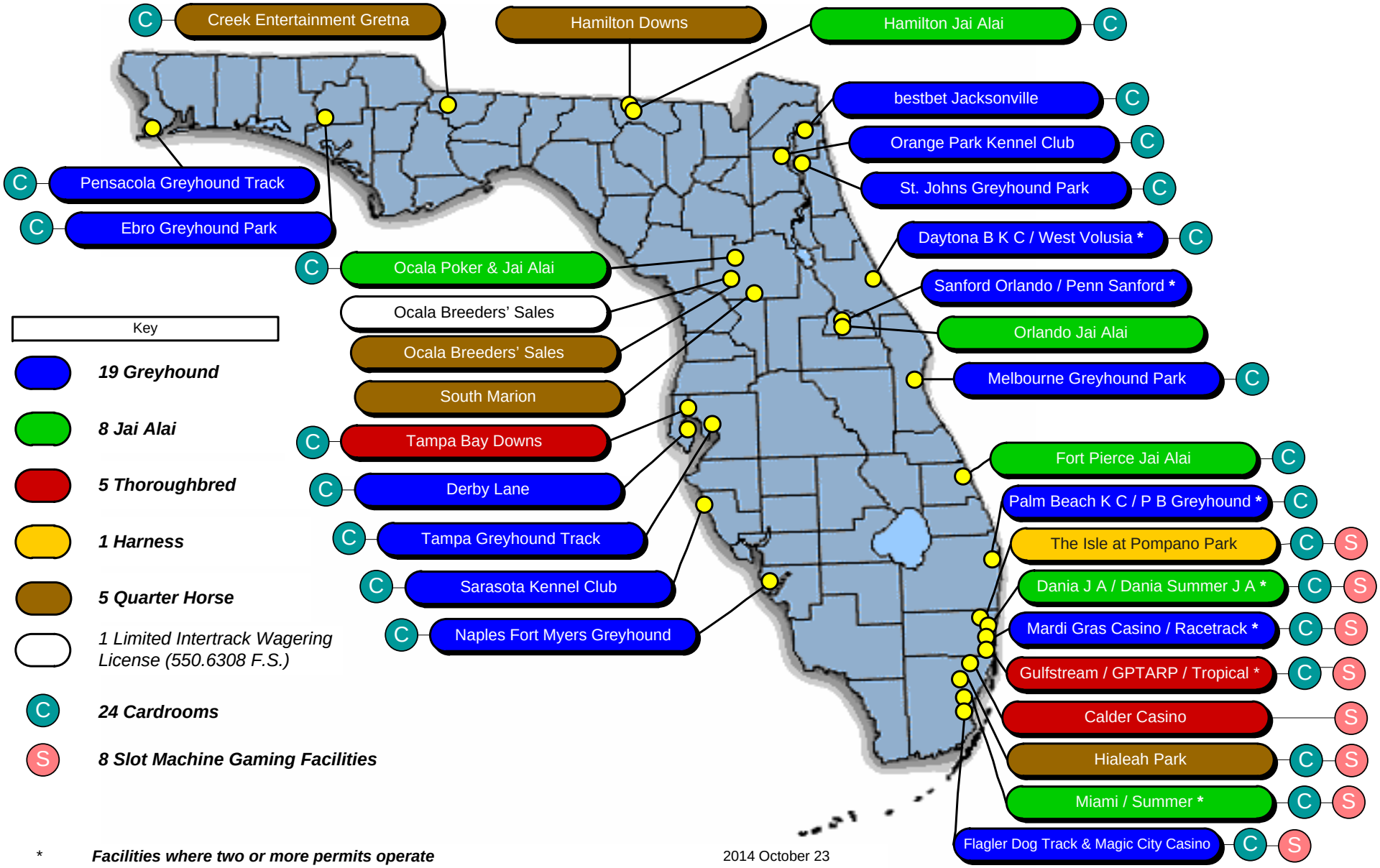
ALL FACLITIES COMBINED



(1) Dania's Casino was open February 20, 2014, through October 12, 2014.

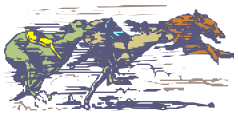
DATA BY PERMITHOLDER/FACILITY

Pari-Mutuel Permitholders with 2014-2015 Operating Licenses

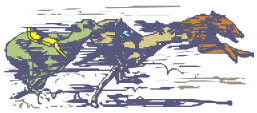


* ***Facilities where two or more permits operate***

2014 October 23



GREYHOUND PERMITHOLDERS



Florida remains the leader in greyhound racing in the United States with 19 permitholders operating at 12 tracks throughout the state. A total of 3,515 completed performances, including charity and scholarship performances, were conducted during this past fiscal year, a minimal change from the previous year.

During Fiscal Year 2014/2015, handle wagered on live greyhound performances decreased by approximately two percent. Intertrack handle wagered on broadcasts of live Florida greyhound performances decreased by approximately three percent. Simulcast handle wagered on broadcasts of performances from outside the state increased by approximately two percent. Intertrack simulcast handle wagered on broadcast of performances from outside the state increased by approximately 15 percent. Overall, there was a decrease in total handle by approximately one percent for the Florida greyhound industry.

Total paid attendance decreased by approximately three percent from the prior year. The division reports only paid attendance and does not include free admissions or complimentary passes in its data. Total greyhound revenue to the state decreased by approximately four percent during Fiscal Year 2014/2015. The greyhound industry accounted for approximately 30.3 percent of Florida's total revenue and 31.9 percent of total handle from pari-mutuel performances.

Greyhound permitholders reported paying a total of $25,631,721 in purses during Fiscal Year 2014/2015. For more detail on purses paid, please refer to the following information by permitholder. The division was able to confirm reported purse amounts from the weekly purse reports submitted in accordance with Section 61D-8.006, Florida Administrative Code.

All of Florida's greyhound permitholders actively sponsor greyhound adoption programs. Many of the state's greyhound tracks provide for on-site adoption booths, animal welfare, funding, advertising, special events and public information. Section 550.1647, Florida Statutes, provides a greyhound permitholder with credits in an amount equal to the uncashed pari-mutuel tickets remitted in the prior state fiscal year to the state, which is applied against any taxes imposed the next fiscal year. Additionally, Section 550.1647, Florida Statutes, requires each permitholder to pay an amount not less than 10 percent of the credit provided by this section to any bona fide organization that promotes or encourages the adoption of greyhounds. During Fiscal Year 2014/2015, total contributions provided to greyhound adoption units amounted to $136,466 which exceeded the minimum statutory requirement.

Total Live Performances (Completed) [1]	3,515	Total Paid Attendance	276,495
(1) Performances where eight or more races were held.			
Total Live Performances (Actual)	3,530	Total Admission Tax	$11,585
Total Racing Days	2,392		

Daytona Beach Kennel Club, Inc.

Volusia County

Website www.daytonagreyhound.com **Telephone** 386.252.6484
Mailing/Street Address 960 South Williamson Boulevard, Daytona Beach, Florida 32114-7247 **Fax** 386.252.4808
Meet Period 12/15/2014 to 06/30/2015

Racing Results

Live Performances (Completed)	248	Purses Paid	$1,002,456
Live Performances (Actual)	250		
Racing Days	168	Paid Attendance	0
		Total Admission Tax	$0

Derby Lane

St. Petersburg Kennel Club, Inc.
Pinellas County

Website www.derbylane.com
Mailing/Street Address 10490 Gandy Boulevard, St. Petersburg, Florida 33702-2395 **Telephone** 727.812.3339
Fax 727.812.3305

Meet Period 01/01/2015 to 06/30/2015

Racing Results

Live Performances (Completed)	207	Purses Paid	$2,197,236
Live Performances (Actual)	207		
Racing Days	155	Paid Attendance	0
		Total Admission Tax	$0

Ebro Greyhound Park

Washington County Kennel Club, Inc.
Washington County

Website	www.goebro.com	**Telephone**	850.234.3943
Mailing/Street Address	6558 Dog Track Road, Ebro, Florida 32437-1142	**Fax**	850.535.4442
Meet Period	07/01/2014 to 09/20/2014 and 05/02/2015 to 06/30/2015		

Racing Results

Live Performances (Completed)	184	Purses Paid	$463,061
Live Performances (Actual)	184		
Racing Days	92	Paid Attendance	8,844
		Total Admission Tax	$323

Flagler Dog Track

West Flagler Associates, Ltd.
Dade County

Website	www.magiccitycasino.com		
Mailing Address	Post Office Box 350940, Miami, Florida 33135-0940	**Telephone**	305.649.3000
Street Address	401 N.W. 38th Court, Miami, Florida 33126-5638	**Fax**	305.631.4529
Meet Period	07/01/2014 to 10/25/2014 and 06/02/2015 to 06/30/2015		

Racing Results

Live Performances (Completed)	153	Purses Paid	$3,396,362
Live Performances (Actual)	163		
Racing Days	103	Paid Attendance	0
		Total Admission Tax	$0

H&T Gaming, Inc.

Dade County

See Mardi Gras Racetrack and Gaming Center's contact information for detail.

Meet Period	02/15/2015 to 04/30/2015 at Mardis Gras

Racing Results

Live Performances (Completed)	106	Purses Paid	$1,055,684
Live Performances (Actual)	106		
Racing Days	53	Paid Attendance	0
		Total Admission Tax	$0

Jacksonville Kennel Club, Inc.

Jacksonville Greyhound Racing, Inc.
Duval County

Website	www.bestbetjax.com		
Mailing Address	Post Office Box 959, Orange Park, Florida 32067-0959	**Telephone**	904.646.0001
Street Address	201 Monument Road, Jacksonville, Florida 32225-8106	**Fax**	904.646.0420
Meet Period	07/02/2014 to 09/28/2014 at Orange Park		

Racing Results

Live Performances (Completed)	104	Purses Paid	$931,749
Live Performances (Actual)	104		
Racing Days	77	Paid Attendance	0
		Total Admission Tax	$0

Jefferson County Kennel Club, Inc.

Jefferson County

Mailing Address	Post Office Box 400, Monticello, Florida 32345-0400	**Telephone**	850.997.2561
Street Address	3079 North Jefferson Street, Monticello, Florida 32344-5685	**Fax**	850.997.3871
Meet Period	Jefferson County license was suspended during the 2014/2015 year; therefore no live performances were conducted.		

Racing Results

Live Performances (Completed)	0	Purses Paid	$0
Live Performances (Actual)	0		
Racing Days	0	Paid Attendance	0
		Total Admission Tax	$0

License Acquisitions, LLC (Palm Beach Greyhound Racing)

Palm Beach County

See Palm Beach Kennel Club's contact information for detail.

Meet Period	07/01/2014 to 09/30/2014 at Palm Beach Kennel Club

Racing Results

Live Performances (Completed)	118	Purses Paid	$986,937
Live Performances (Actual)	118		
Racing Days	92	Paid Attendance	6,777
		Total Admission Tax	$91

Mardi Gras Racetrack and Gaming Center

Hartman and Tyner, Inc.
Broward County

Website www.mgfla.com **Telephone** 954-924-3200
Mailing/Street Address 831 North Federal Highway, Hallandale Beach, Florida 33009-2410 **Fax** 954.924.3143

Meet Period 12/01/2014 to 02/14/2015

Racing Results

Live Performances (Completed)	105	Purses Paid	$1,027,511
Live Performances (Actual)	106		
Racing Days	53	Paid Attendance	0
		Total Admission Tax	$0

Melbourne Greyhound Park, LLC

Brevard County

Website www.mgpark.com **Telephone** 321.259.9800
Mailing/Street Address 1100 North Wickham Road, Melbourne, Florida 32935-8941 **Fax** 321.259.3437

Meet Period 01/02/2015 to 04/18/2015

Racing Results

Live Performances (Completed)	108	Purses Paid	$371,026
Live Performances (Actual)	108		
Racing Days	92	Paid Attendance	0
		Total Admission Tax	$0

Naples-Ft. Myers Greyhound Track

Southwest Florida Enterprises, Inc.
Lee County

Website www.naplesfortmyersdogs.com
Mailing Address Post Office Box 2567, Bonita Springs, Florida 34133-2567 **Telephone** 239.992.2411
Street Address 10601 Bonita Beach Road, S.W., Bonita Springs, Florida 34135-5620 **Fax** 239.947.9244

Meet Period 10/31/2014 to 05/25/2015

Racing Results

Live Performances (Completed)	398	Purses Paid	$1,701,827
Live Performances (Actual)	399		
Racing Days	191	Paid Attendance	159,675
		Total Admission Tax	$10,158

Orange Park Kennel Club, Inc.

Jacksonville Greyhound Racing, Inc.
Clay County

Website www.bestbetjax.com
Mailing Address Post Office Box 959, Orange Park, Florida 32067-0959 **Telephone** 904.646.0001
Street Address 455 Park Avenue, Orange Park, Florida 32073-3101 **Fax** 904.646.0420

Meet Period 09/29/2014 to 11/30/2014 and 04/27/2015 to 06/29/2015

Racing Results

Live Performances (Completed)	145	Purses Paid	$1,339,454
Live Performances (Actual)	145		
Racing Days	108	Paid Attendance	0
		Total Admission Tax	$0

Palm Beach Kennel Club

Investment Corporation of Palm Beach
Palm Beach County

Website www.pbkennelclub.com **Telephone** 561.683.2222
Mailing/Street Address 1111 North Congress Avenue, West Palm Beach, Florida 33409-6317 **Fax** 561.471.9114

Meet Period 10/01/2014 to 06/30/2015

Racing Results

Live Performances (Completed)	349	Purses Paid	$3,313,872
Live Performances (Actual)	350		
Racing Days	271	Paid Attendance	25,373
		Total Admission Tax	$815

Penn Sanford, LLC, d/b/a Sanford-Orlando Kennel Club

Seminole County

See SOKC, LLC's contact information for detail.

Meet Period 07/02/2014 to 12/31/2014

Racing Results

Live Performances (Completed)	146	Purses Paid	$799,409
Live Performances (Actual)	146		
Racing Days	115	Paid Attendance	0
		Total Admission Tax	0

Pensacola Greyhound Racing, LLP

Escambia County

Website	www.pensacolagreyhoundtrack.com		
Mailing Address	Post Office Box 12824, Pensacola, Florida 32591-2824	**Telephone**	850.455.8595
Street Address	951 Dog Track Road, Pensacola, Florida 32506-8236	**Fax**	850.453.8883
Meet Period	07/02/2014 to 10/4/2014 and 01/23/2015 to 06/28/2015		

Racing Results

Live Performances (Completed)	160	Purses Paid	$827,398
Live Performances (Actual)	160		
Racing Days	128	Paid Attendance	0
		Total Admission Tax	$0

SOKC, LLC, d/b/a Sanford-Orlando Kennel Club

Seminole County

Website	www.sanfordorlandokc.com		
Mailing/Street Address	301 Dog Track Road, Longwood, Florida 32750-6558	**Telephone**	407.831.1600
Meet Period	01/01/2015 to 06/29/2015	**Fax**	407.831.3997

Racing Results

Live Performances (Completed)	181	Purses Paid	$915,315
Live Performances (Actual)	181		
Racing Days	129	Paid Attendance	0
		Total Admission Tax	$0

Sarasota Kennel Club, Inc.

Sarasota County

Website	www.sarasotakennelclub.com	**Telephone**	941.355.7744
Mailing/Street Address	5400 Bradenton Road, Sarasota, Florida 34234-2999	**Fax**	941.351.2207
Meet Period	11/07/2014 to 04/25/2015		

Racing Results

Live Performances (Completed)	193	Purses Paid	$791,149
Live Performances (Actual)	193		
Racing Days	143	Paid Attendance	75,826
		Total Admission Tax	$198

St. Johns Greyhound Park (Bayard Raceways, Inc.)

Jacksonville Greyhound Racing, Inc.
St. Johns County

Website	www.bestbetjax.com		
Mailing Address	Post Office Box 959, Orange Park, Florida 32067-0959	**Telephone**	904.646.0001
Street Address	6322 Racetrack Road, Jacksonville, Florida 32259-2107	**Fax**	904.646.0420
Meet Period	12/01/2014 to 04/26/2015 at Orange Park		

Racing Results

Live Performances (Completed)	166	Purses Paid	$1,652,523
Live Performances (Actual)	166		
Racing Days	124	Paid Attendance	0
		Total Admission Tax	$0

Tampa Greyhound Track

TBDG Acquisition, LLC
Hillsborough County

Website	www.tgtpoker.com		
Mailing Address	Post Office Box 8096, Tampa, Florida 33674-8096	**Telephone**	813.932.4313
Street Address	8300 North Nebraska Ave., Tampa, Florida 33604-3107	**Fax**	813.932.5048
Meet Period	07/01/2014 to 12/31/2014 at Derby Lane		

Racing Results

Live Performances (Completed)	209	Purses Paid	$2,113,033
Live Performances (Actual)	209		
Racing Days	156	Paid Attendance	0
Paid Attendance	0	Total Admission Tax	$0
Total Admission Tax	$0		

West Volusia Racing, Inc.

Volusia County

See Daytona Beach Kennel Club's contact information for detail.

Meet Period 07/01/2014 to 12/13/2014 at Daytona Beach Kennel Club

Racing Results

Live Performances (Completed)	235	Purses Paid	$745,719
Live Performances (Actual)	235		
Racing Days	142	Paid Attendance	0
		Total Admission Tax	$0

JAI ALAI PERMITHOLDERS

Florida was the first state in the nation to conduct jai alai performances, with the first fronton being built in 1926. There are eight jai alai permitholders operating at six frontons throughout Florida. In fact, Florida is now the only state where pari-mutuel wagering on live jai alai games is conducted. A total of 925 completed performances, including charity and scholarship performances, were conducted during this past fiscal year, an increase of approximately 19 percent from the previous fiscal year.

During Fiscal Year 2014/2015, handle wagered on live jai alai performances decreased by approximately 39 percent. Intertrack handle wagered on broadcasts of live Florida jai alai performances decreased by approximately 43 percent. There are no longer any other states that conduct jai alai; therefore, there was no simulcast or intertrack simulcast handle. Total handle declined by approximately 41 percent for the Florida jai alai industry.

Total jai alai revenue to the state decreased by approximately three percent during Fiscal Year 2014/2015. The jai alai industry accounted for approximately 3.2 percent of Florida's total revenue and 1.9 percent of total handle from pari-mutuel performances.

Permitholders reported paying a total of $4,745,469 in players' awards. For more detail on players' awards paid, please refer to the following information by permitholder.

Total paid attendance decreased by 100 percent from the prior year. The division reports only paid attendance and does not include free admissions or complimentary passes in its data.

Total Performances (Completed) [(1)]	925	Total Paid Attendance	0
(1) Performances where eight or more games were held.			
Total Performances (Actual)	925		
Total Gaming Days	522	Total Admission Tax	$0

Dania Jai Alai

Dania Entertainment Center, LLC
Broward County

Website www.casinodaniabeach.com **Telephone** 954.927.2841
Mailing/Street Address 301 East Dania Beach Boulevard, Dania Beach, Florida 33004-3016 **Fax** 954.925.7529
Meet Period 10/07/2014 to 12/30/2014

Gaming Results

Live Performances (Completed)	180	Paid Attendance	0
Live Performances (Actual)	180	Total Admission Tax	$0
Live Operating Days	70		
Players' Awards Paid	$939,484		

Dania Summer Jai Alai

Dania Entertainment Center, LLC
Broward County

See Dania Jai Alai's contact information for detail.

Meet Period 07/01/2014 to 10/06/2014 at Dania Jai Alai

Gaming Results

Live Performances (Completed)	109	Paid Attendance	0
Live Performances (Actual)	109	Total Admission Tax	$0
Live Operating Days	55		
Players' Awards Paid	$622,035		

Ft. Pierce Jai Alai

Fronton Holdings, LLC
St. Lucie County

Website www.casinomiamijaiali.com **Telephone** 772.464.7500
Mailing/Street Address 1750 South Kings Highway, Ft. Pierce, Florida 34945-3099 **Fax** 772.464.0099
Meet Period 02/27/2015 to 03/27/2015
Miscellaneous Revenue to State $34,538 (See Section 550.09511(4), Florida Statutes, for detail.)

Gaming Results

Live Performances (Completed)	41	Paid Attendance	0
Live Performances (Actual)	41	Total Admission Tax	$0
Live Operating Days	21		
Players' Awards Paid	$152,543		

Hamilton Jai Alai and Poker

Richmond Entertainment, Inc.
Hamilton County

Mailing/Street Address 6968 US Highway 129 South, Jasper, Florida 32052-6774 **Telephone** 386.638.0011
Fax 386.638.0033

Meet Period 05/17/2015 to 06/24/2015

Gaming Results

Live Performances (Completed)	228	Paid Attendance	0
Live Performances (Actual)	228	Total Admission Tax	$0
Live Operating Days	38		
Players' Awards Paid	$17,000		

Miami Jai Alai

Fronton Holdings, LLC
Dade County

Website www.casinomiamijaiali.com **Telephone** 305.633.6400
Mailing/Street Address 3500 N.W. 37th Avenue, Miami, Florida 33142-4923 **Fax** 305.634.7013

Meet Period 11/02/2014 to 04/30/2015

Gaming Results

Live Performances (Completed)	153	Paid Attendance	0
Live Performances (Actual)	153	Total Admission Tax	$0
Live Operating Days	153		
Players' Awards Paid	$1,461,314		

Ocala Poker and Jai Alai

Second Chance Jai Alai, LLC
Marion County

Website www.ocalapokerroom.com
Mailing Address Post Office Box 580, Orange Lake, Florida 32681-0580 **Telephone** 352.591.2345
Street Address 4601 N.W. Highway 318, Reddick, Florida 32686 **Fax** 352.591.3402

Meet Period 02/02/2015 to 03/02/2015
Miscellaneous Revenue to State $22,000 (See Section 550.09511(4), Florida Statutes, for detail.)
Gaming Results

Live Performances (Completed)	41	Paid Attendance	0
Live Performances (Actual)	41	Total Admission Tax	$0
Live Operating Days	21		
Players' Awards Paid	$147,480		

Orlando Jai Alai

RB Jai Alai, LLC
Seminole County

Website www.orlandoliveevents.com **Telephone** 407.339.6221
Mailing/Street Address 6405 South Highway 17-92, Fern Park, Florida 32730-2057 **Fax** 407.831.4689

Meet Period 04/03/2015 to 05/30/2015
Miscellaneous Revenue to State $15,200 (See Section 550.09511(4), Florida Statutes, for detail.)
Gaming Results

Live Performances (Completed)	43	Paid Attendance	0
Live Performances (Actual)	43	Total Admission Tax	$0
Live Operating Days	34		
Players' Awards Paid	$0		

Summer Jai Alai Partnership

Dade County

See Miami Jai Alai's contact information for detail.

Meet Period 08/03/2014 to 10/31/2014 and 05/01/2015 to 06/29/2015 at Miami Jai Alai

Gaming Results

Live Performances (Completed)	130	Paid Attendance	0
Live Performances (Actual)	130	Total Admission Tax	$0
Live Operating Days	130		
Players' Awards Paid	$1,405,613		

THOROUGHBRED PERMITHOLDERS

Florida continues to be a premier thoroughbred racing state with five permitholders operating at three tracks located in Central and South Florida. A total of 330 completed performances, including charity and scholarship performances, were conducted during this past fiscal year, a decrease of approximately 21 percent from the previous fiscal year.

During Fiscal Year 2014/2015, handle on live thoroughbred performances increased by approximately four percent. Handle from intertrack wagering increased approximately six percent. Simulcast handle wagered on broadcasts of performances from outside the state decreased by approximately 46 percent. Intertrack simulcast handle decreased by approximately two percent. Overall, total handle decreased by approximately 11 percent for the Florida thoroughbred industry.

Total thoroughbred revenue to the state during Fiscal Year 2014/2015, decreased by approximately 12 percent from the prior year. The thoroughbred industry accounted for approximately 58.1 percent of Florida's total revenue and 60.1 percent of total handle from pari-mutuel performances.

Permitholders reported paying a total of $86,208,744 in purses. For more detail on purses paid, please refer to the following information by permitholder. The Florida Thoroughbred Breeders' and Owners' Association did not dispute the amount of purses paid reported by the permitholders.

Total paid attendance increased by eight percent from the prior year. The division reports only paid attendance and does not include free admissions or complimentary passes in its data.

Total Performances (Completed) [(1)]	330	Total Paid Attendance	101,165
(1) Performances where eight or more races were held.			
Total Performances (Actual)	391		
Total Racing Days	335	Total Admission Tax	$20,675

Calder Race Course, Inc.

Churchill Downs, Inc.
Dade County

Website	www.caldercasino.com	**Telephone**	305.625.1311
Mailing/Street Address	21001 N.W. 27th Avenue, Miami Gardens, Florida 33056-1461	**Fax**	305.625.2505

Meet Period 10/08/2014 to 11/30/2014

Racing Results

Live Performances (Completed)	40	Purses Paid	$7,375,507
Live Performances (Actual)	100		
Racing Days	44	Paid Attendance	0
		Total Admission Tax	$0

Gulfstream Park Racing Association, Inc.

Stronach Group
Broward County

Website	www.gulfstreampark.com	**Telephone**	954.454.7000
Mailing/Street Address	901 South Federal Highway, Hallandale Beach, Florida 33009-7124	**Fax**	954.457.6291

Meet Period 07/01/2014 and 12/06/2014 to 05/22/2015 and 06/30/2015

Racing Results

Live Performances (Completed)	120	Purses Paid	$62,094,688
Live Performances (Actual)	121		
Racing Days	121	Paid Attendance	0
		Total Admission Tax	$0

Gulfstream Park Thoroughbred After Racing Program, Inc.

Stronach Group
Broward County

See Gulfstream Park Racing Association, Inc.'s contact information for detail.

Meet Period 07/04/2014 to 9/07/2014 and 12/10/2014

Racing Results

Live Performances (Completed)	39	Purses Paid	$1,493,679
Live Performances (Actual)	39		
Racing Days	39	Paid Attendance	0
		Total Admission Tax	$0

Tampa Bay Downs, Inc.

Hillsborough County

Website	www.tampabaydowns.com		
Mailing Address	Post Office Box 2007, Oldsmar, Florida 34677-7007	**Telephone**	813.855.4401
Street Address	11225 Race Track Road, Tampa, Florida 33626-3122	**Fax**	813.854.3539

Meet Period 07/01/2014, 11/29/2014 to 05/03/2015 and 06/30/2015

Racing Results

Live Performances (Completed)	91	Purses Paid	$15,244,870
Live Performances (Actual)	91		
Racing Days	91	Paid Attendance	101,165
		Total Admission Tax	$20,675

Tropical Park, LLC

Churchill Downs, Inc.

Dade County

See Calder's contact information for detail.

Meet Period 09/11/2014 to 10/04/2014 and 05/23/2015 to 06/28/2015 at Gulfstream Park

Racing Results

Live Performances (Completed)	40	Purses Paid	$0
Live Performances (Actual)	40		
Racing Days	40	Paid Attendance	0
		Total Admission Tax	$0

QUARTER HORSE PERMITHOLDERS

There are five permitholders conducting quarter horse racing performances at five tracks located in the State of Florida. In Fiscal Year 2014/2015, a total of 117 completed performances were conducted, an increase of approximately 17 percent from the previous fiscal year.

During Fiscal Year 2014/2015, handle wagered on live quarter horse performances decreased by approximately five percent. Intertrack handle wagered on broadcasts of performances increased by approximately 68 percent. Simulcast handle wagered on broadcasts of performances from outside the state had no changes, along with intertrack simulcast handle. Overall, total handle increased by approximately two percent for the Florida quarter horse industry.

Total quarter horse revenue to the state during Fiscal Year 2014/2015, increased by approximately 16 percent. The quarter horse industry accounted for approximately 1.1 percent of Florida's total revenue and 0.3 percent of total handle from pari-mutuel performances.

Permitholders reported paying a total of $6,391,000 in purses. For more detail on purses paid, please refer to the following information by permitholder. The Florida Quarter Horse Breeders' and Owners' Association was able to confirm the amount of purses paid reported by Hialeah Park.

The division reports only paid attendance and does not include free admissions or complimentary passes in its data.

Total Performances (Completed) [(1)]	117	Total Paid Attendance	0
(1) Performances where eight or more races were held.			
Total Performances (Actual)	119		
Total Racing Days	66	Total Admission Tax	$0

Gretna Racing, LLC

Gadsden County

Website www.creekentertainment.com
Mailing Address Post office Box 70, Grenta, Florida 32332 **Telephone** 850.875.6920
Street Address 501 Racetrack Drive, Gretna, Florida 32332
Meet Period 07/05/2014 to 10/05/2014

Racing Results

Live Performances (Completed)	38	Purses Paid	$167,000
Live Performances (Actual)	38		
Racing Days	10	Paid Attendance	0
		Total Admission Tax	$0

Hamilton Downs Horsetrack, LLC

Hamilton County

Mailing Address 6968 US Highway 129, Jasper, Florida 32052-6774 **Telephone** 386.638.0011
Street Address 2220 Northwest County Road 143, Jennings, Florida 32053 **Fax** 386.638.0033
Meet Period 06/14/2015 to 06/18/2015

Racing Results

Live Performances (Completed)	20	Purses Paid	$22,000
Live Performances (Actual)	20		
Racing Days	5	Paid Attendance	0
		Total Admission Tax	$0

Hialeah Park

South Florida Racing Association, LLC
Dade County

Website www.hialeahparkcasino.com **Telephone** 305.885.8000
Mailing Address Post Office Box 158, Hialeah, Florida 33011 **Fax** 305.887.8006
Street Address 2200 East 4th Avenue, Hialeah, Florida 33010
Meet Period 12/26/2014 to 03/03/2015

Racing Results

Live Performances (Completed)	39	Purses Paid	$5,852,000
Live Performances (Actual)	40		
Racing Days	40	Paid Attendance	0
		Total Admission Tax	$0

Ocala Breeder's Sales Company, Inc.

Marion County

Website	www.obssales.com	**Telephone**	352.237.2154
Mailing Address	Post Office Box 99, Ocala, Florida 34478-0099	**Fax**	352.237.2357
Street Address	1701 Southwest 60th Avenue, Ocala, Florida 34474-1800		
Meet Period	1/27/2015		

Racing Results

Live Performances (Completed)	0	Purses Paid	$310,000
Live Performances (Actual)	1		
Racing Days	1	Paid Attendance	0
		Total Admission Tax	$0

South Marion Real Estate Holdings, LLC

Central Florida Gaming, LLC

Marion County

Mailing Address	Post Office Box 6331, Ocala, Florida, 34478	**Telephone**	352.817.7522
Street Address	6390 S.E. 177th Place, Summerfield, Florida 34491	**Fax**	None Listed
Meet Period	07/01/2014 to 07/10/2014		

Racing Results

Live Performances (Completed)	20	Purses Paid	$40,000
Live Performances (Actual)	20		
Racing Days	10	Paid Attendance	0
		Total Admission Tax	$0

HARNESS PERMITHOLDERS

Pompano Park is the only permitholder conducting harness horse racing performances in the State of Florida. A total of 126 completed performances, including charity and scholarship performances, were conducted during this past fiscal year, which is the same as the previous year.

During Fiscal Year 2014/2015, handle wagered on live harness performances increased by approximately three percent. Intertrack handle wagered on broadcasts of live Florida harness performances increased by approximately 33 percent. Simulcast handle wagered on broadcasts of performances from outside the state increased by approximately seven percent while intertrack simulcast handle increased by approximately six percent. Overall, total handle increased by approximately seven percent for the Florida harness industry.

Total revenue to the state during Fiscal Year 2014/2015, increased by approximately four percent from the prior fiscal year. The harness industry accounted for approximately 7.3 percent of Florida's total revenue and 5.8 percent of total handle from pari-mutuel performances.

Pompano Park reported paying $8,614,066 in purses. For more detail on purses paid, please refer to the information below. The Florida Standardbred Breeders' and Owners' Association was able to confirm the amount of purses paid reported by Pompano Park.

The division reports only paid attendance and does not include free admissions or complimentary passes in its data.

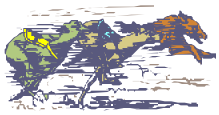
Total Performances (Completed) [(1)]	126	Total Paid Attendance	0
(1) Performances where eight or more races were held.			
Total Performances (Actual)	126		
Total Racing Days	126	Total Admission Tax	$0

Isle Casino and Racing at Pompano Park
PPI, Inc.
Broward County

Website	pompano-park.isleofcapricasinos.com	**Telephone**	954.972.2000
Mailing/Street Address	777 Isle of Capri Circle Pompano Beach, Florida 33069-3104	**Fax**	954.970.0882
Meet Period	10/04/2014 to 06/27/2015		

Racing Results

Live Performances (Completed)	126	Purses Paid	$8,614,066
Live Performances (Actual)	126		
Racing Days	126	Paid Attendance	0
		Total Admission Tax	$0



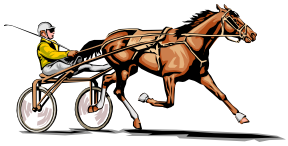
SUMMARY

PARI-MUTUEL INDUSTRY

During Fiscal Year 2014/2015, the total handle wagered for all industries exceeded $779 million, a decrease of approximately eight percent from the prior fiscal year. Total pari-mutuel completed performances, including charity and scholarship performances, conducted during Fiscal Year 2014/2015 increased by approximately one percent from the previous fiscal year.

The state realized revenue from performances of approximately $10.9 million, a decrease of roughly eight percent from the prior fiscal year. Of the $10.9 million collected, greyhound permitholders accounted for 30.3 percent, thoroughbreds for 58.1 percent, harness for 7.3 percent, jai alai for 3.2 percent, and quarter horse for 1.1 percent.

Total paid attendance decreased approximately two percent from the prior year. The division reports only paid attendance and does not include free admission or complimentary passes in its data.



HORSE RACING

Promotional Programs for Florida-Bred Horses *

Florida breeder promotions and award programs are administered by private breeders' and owners' associations organized to promote ownership and breeding of race horses in the State of Florida. Each association conducts its own campaign to enhance the horse breeding industry in the state and provides breeders' and owners' awards of up to 20 percent of announced gross purses. The Florida Standardbred Breeders' and Owners' Association is funded by the breaks and uncashed tickets from live performances and one percent of the intertrack handle. The Quarter Horse Breeders' Association is funded by the breaks and the uncashed tickets from live races and one percent of the live and intertrack handle. The Florida Thoroughbred Breeders' and Owners' Association awards program is funded by 0.955 percent of the live, simulcast and intertrack handle, as well as 3.475 percent of the gross revenue from out-of-state wagers on Florida races.

To date, the Florida thoroughbred breeding industry has produced 50 national champions. Florida also produced "Affirmed," the eleventh horse to have swept the Triple Crown (1978). Ocala/Marion County, Florida, is home to some of the leading breeding farms in the country. The industry boasts 19 classic wins (Kentucky Derby, Preakness Stakes and Belmont Stakes), 26 Breeders' Cup Day champions and six horses of the year.

The Florida Thoroughbred Breeders' and Owners' Association (FTBOA) funds the Florida-bred Stakes Program, which is implemented at Florida's Thoroughbred racetracks. Through a percentage of pari-mutuel handle, Florida Thoroughbred permitholders contributed $7,685,619 to the FTBOA during Fiscal Year 2014/2015. The FTBOA paid out $4,988,595 in Breeders' Awards and $1,294,250 through the Florida-bred Stakes Program. The Florida-bred Stakes Program includes "Florida Sire Stakes" at Gulfstream Park, "Sunshine Millions Preview" at Gulfstream Park West, "Florida Cup Day" at Tampa Bay Downs and additional funds for supplements to Florida-bred Preferred Stakes Races during the Gulfstream and Tampa Bay Downs' meets.

The Florida Standardbred Breeders' and Owners' Association, a non-profit organization and the only organized representative of Standardbred horsemen in the State of Florida, is the designated association for the allocation and distribution of funds for Florida-bred racing. Promotional activities include providing breeder and stallion awards for eligible Florida-bred horses during Pompano Park's 2014/2015 meet as well as awards for Florida Breeders' Stake races. The FSBOA also inaugurated a Breeder Incentive program in 2014 with the goal of offering Standardbred breeders a financial reward for the production of Florida-bred foals. This program will continue in future years. A series of races and awards were also provided for two and three-year-old Standardbreds to prepare for the winter meet at Pompano Park. The total amount of funds collected and distributed to the Florida Standardbred horsemen throughout the year exceeded $1,013,697.

Section 550.2625(5)(a), Florida Statutes, designates the Florida Quarter Horse Breeders' and Owners' Association (FQHBOA) as the authorized organization to receive breeders and awards payments from the permitholders and make payments in accordance with Florida Statutes.

By agreement, Hialeah Park pays 2 percent of the total purse to FQHBOA for breeders' and owners' awards. This is in excess of statutory requirements. Other tracks pay a sum equal to the breaks plus one percent of all pari-mutuel pools conducted during their meets for supplementing purses and prizes for the general promotion of owning and breeding quarter horses in Florida as authorized in Florida Statutes.

During 2014/2015, $115,000 was paid out to 63 owners' and breeders' in awards. Each fiscal year total awards have increased since it's first awards in 2009/2010.

** Note: This promotional program information is provided by respective Breeders' and Owners' Associations.*

UNIVERSITY OF FLORIDA
COLLEGE OF VETERINARY MEDICINE RACING LABORATORY

The Florida Racing Laboratory in the College of Medicine at the University of Florida is an International Organization for Standardization ISO 17025 accredited laboratory that employs various procedures to detect and identify prohibited drugs, medications, stimulants, depressants, hypnotics, local anesthetics, and drug-masking agents in the blood, urine or other bodily fluids of racing horses and greyhounds.

During Fiscal Year 2014/2015, the Laboratory received and processed 67,587 samples and performed 254,238 analyses. The vigilant monitoring of samples by the Laboratory serves to deter the use of prohibited drugs in racing animals in Florida.

	Horse Urine/Blood	Greyhound Urine [1]	Investigative
Samples Received	16,337	51,233	17
Samples Analyzed	16,280	30,340	17
Number of Analyses	76,382	177,815	41
Positives	163	9	N/A

[1] Volume Not Sufficient For Testing 21,711 (42.4% of total number of samples received). Note: From January 31, 2015, through June 14, 2015, there were 14,509 greyhound samples collected. Of this total, 5,296 were testable samples and 9,213 were quantity not sufficient for analysis. During this timeframe, there were 2,398 attempts to collect samples from greyhounds that did not urinate.

DRUG POSITIVES FOR FISCAL YEAR 2014/2015

Types of Positives (ARCI Drug Class)	*Horse*	*Greyhound*
Acepromazine metabolite (3)	5	0
Acepromazine metabolite (3), Methocarbamol (4), Phenylbutazone (n/a)	1	0
Benzoylecgonine (1)	0	3
Boldenone (3)	4	0
Carprofen (4)	0	1
Clenbuterol (3)	51	0
Clenbuterol (3), Flunixin (4)	1	0
Dimethylsuloxide (DMSO) (5)	15	0
Flunixin (4)	5	2
Glycopyrrolate (3)	1	0
Ibuprofen (4), Methocarbamol (4)	1	0
Isoxsuprine (4)	1	0
Methocarbamol (4)	5	0
Naproxen (4)	1	0
Naproxen (4), Phenylbutazone (n/a)	1	0
Phenylbutazone (N/A)	56	0
Procaine (3)	2	2
Testosterone (3)	5	0
Testosterone (3), Boldenone (3)	1	0
Testosterone (3), Nandrolone (3), Dimethylsuloxide (DMSO) (5)	3	0
Theobromine (4)	0	1
Zipaterol (2)	4	0
TOTALS	**163**	**9**

Class (1): Stimulant and depressant drugs that have the highest potential to affect performance and that have no generally accepted meidcal use in the racing horse.

Class (2): Drugs that have a high potential to affect performance, but less of a potential than drugs in Class I.

Class (3): Drugs that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2.

Class (4): This class includes therapeutic medications that would be expected to have less potential to affect performance than those in Class 3.

Class (5): This class includes therapeutic medications for which concentration limits have been established by the racing jurisdictions as well as certain miscellaneous agents such as dimethylsulfoxide (DMSO) and other medications as determined by the regulatory bodies.

FINANCIAL STATEMENTS

DIVISION OF PARI-MUTUEL WAGERING
SUMMARY OF STATE REVENUE FROM PARI-MUTUEL, CARDROOM, SLOT ACTIVITIES, AND INDIAN GAMING COMPACT
FISCAL YEAR 2014/2015

State Revenue From Regular Performances		
Tax on Attendance	$	32,258
Daily License Fees		2,317,268
Tax on Handle		8,543,609
State Revenue From Pari-Mutuel Performances [(1)]	$	10,893,135
Other State Revenue		
Occupational Licenses	$	525,302
Fingerprint Fees		235,539
Escheated Tickets [(2)]		795,228
Racing Scholarship Funds [(2)]		0
PMW Trust Fund - Drug Fines		87,650
Miscellaneous Revenue		32,581
General Revenue Fund - Other Fines		20,025
Other State Revenue	$	1,696,325
Total Pari-Mutuel State Revenue	$	12,589,460
State Revenue From Cardrooms		
Table Fees	$	693,000
Gross Receipts[(3)]		13,589,789
Occupational Licenses		184,502
Total State Revenue From Cardrooms	$	14,467,291
State Revenue From Slots		
Compulsive/Addictive Gambling Fee [(4)]	$	1,750,000
Facility License Fee [(4)]		14,000,000
Slot Taxes[(5)]		182,584,841
Fingerprint Fees		30,028
Occupational Licenses		337,334
Miscellaneous Revenue		5,572
Miscellaneous Fines		11,300
Total State Revenue From Slots	$	198,719,075
Total State Revenue Generated From Pari-Mutuel, Cardroom, and Slots	$	225,775,826
State Revenue From Indian Gaming Compact		
Indian Gaming Compact [(6)]	$	255,610,619
Indian Gaming Compact Reimbursements		253,772
Total State Revenue From Indian Gaming Compact	$	255,864,391
TOTAL STATE REVENUE GENERATED	**$**	**481,640,217**

(1) Daily license fees and taxes reported above reported above are amounts collected, and not reflect amounts due.

(2) Escheated tickets and Racing Scholarship Funds are distributed to the Department of Education.

(3) One-half of cardroom gross receipts is deposited into the General Revenue Fund.

(4) Both amounts include payments from: Calder Casio and Race Course, Gulfstream Park Racing and Casino, Mardi Gras Racetrack and Gaming Center, Isle Casino and Racing at Pompano Park, Flagler Dog Track and Magic City Casino, Miami Jai Alai, and South Florida Racing Association (Hialeah Park).

(5) Slot taxes are distributed to the Department of Education.

(6) Indian Gaming Compact payments are deposited into the General Revenue Fund.

DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING
BALANCE SHEET
SPECIAL REVENUE FUND
FOR FISCAL YEAR ENDED JUNE 30, 2015

	2015	2014
ASSETS		
Cash with State Treasurer	$ 753,311	$ 656,790
Investments at cost	3,254,344	6,731,219
Accounts receivable	368,284	348,128
Taxes receivable	15,699,389	15,266,142
Allowance for uncollectibles	(36,217)	(32,884)
Interest receivable	5,066	11,371
Due from state funds	286,564	175,988
TOTAL ASSETS	$ 20,330,741	$ 23,156,753
LIABILITIES & FUND EQUITY		
Liabilities:		
Accounts payable	$ 98,554	$ 131,567
Accrued salaries	282,993	245,289
Due to other funds	15,432	4,325
Due to other state agencies	14,092,160	13,612,023
Due to general revenue	685,418	665,939
Compensated absences	-	9,313
Total Liabilities	15,174,556	14,668,455
Fund Equity		
Unreserved	5,156,185	8,488,298
Total Fund Equity	5,156,185	8,488,298
TOTAL LIABILITIES & FUND EQUITY	$ 20,330,741	$ 23,156,753

The financial statements and notes are for informational purposes only.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING
STATEMENT OF REVENUES, EXPENDITURES & CHANGES IN FUND BALANCE - BUDGET & ACTUAL
SPECIAL REVENUE FUND
FOR FISCAL YEAR ENDED JUNE 30, 2015

	FINAL BUDGET	2015 ACTUAL	VARIANCE	2014 ACTUAL
REVENUES:				
Fees, Charges, Commissions and Sales	$ 19,552,155	$ 19,301,397	$ (250,758)	$ 19,569,151
Licenses and Permits	552,304	712,058	159,754	502,696
Taxes	197,324,441	198,093,473	769,032	190,162,520
Fines, Forfeits, Judgments and Settlements	212,335	95,112	(117,223)	116,787
Interest and Dividends, Net	29,537	122,153	92,616	84,893
Refunds	250,000	254,983	4,983	270,769
Miscellaneous Receipts	211,412	31,106	(180,306)	213,872
Total Revenues	218,132,184	218,610,282	478,098	210,920,688
EXPENDITURES				
CURRENT OPERATING				
Salaries	7,104,979	6,494,226	610,753	6,429,448
Other Personal Services	1,677,615	1,465,527	212,087	1,237,420
Other Operating Expenditures	976,075	842,849	133,226	736,549
Operation of Motor Vehicles	81,743	61,944	19,799	78,141
Risk Management	169,792	169,792	-	105,689
State Attorney-Slots	222,971	222,971	-	208,651
PMW Lab Services	2,266,000	2,266,000	-	2,266,000
PMW Compliance System	296,476	246,396	50,080	246,415
Tr/DMS/HR SVCS/STW Contract	58,635	58,635	-	57,114
Cardroom Tax Distribution	1,800,000	1,701,933	98,067	1,658,542
Other Contracted Services	141,731	29,530	112,201	31,082
Compulsive Gambling Prevention	930,000	930,000	0	600,000
Racing Animal Med Research	100,000	93,633	6,367	100,000
OPERATING CAPITAL OUTLAY	23,895	12,523	11,372	32,240
Acquisition of Motor Vehicles	24,802	20,385	4,417	54,798
Assessment for Fingerprinting	460,400	374,197	86,203	320,769
Service Charge to General Revenue	3,150,000	2,859,023	290,977	2,937,007
Refunds	164,650	13,173	151,477	132,397
Transfer to FDLE Slots Investigation	-	-	-	-
Transfers to Other Funds	188,594,212	184,079,657	4,514,555	175,530,395
Transfers to General Revenue	27,000,000	20,000,000	7,000,000	18,500,000
Total Expenditures	235,243,976	221,942,395	13,301,581	211,262,657
Excess (Deficiency) of Revenues Over (Under) Expenditures	**(17,111,792)**	(3,332,113)	(12,823,484)	(341,969)
FUND BALANCE JULY 1, 2014	8,488,298	8,488,298	-	8,830,267
FUND BALANCE JUNE 30, 2015	$ (8,623,494)	$ 5,156,185	$ (12,823,484)	$ 8,488,298
	(1)	(1)		

(1) Does not include budget of $37,000,000 for category 190000 Investments. Actual expenditures for category 190000 were closed into the investment account.

The financial statements and notes are for informational purposes only.

CARDROOM, PARI-MUTUEL, AND SLOT STATUTE MATRIX

STATUTE TOPIC	GREYHOUND	JAI ALAI	THOROUGHBRED	HARNESS	QUARTER HORSE
FEES					
Daily License Fees On Live / On-track Handle	$80 per race. **550.0951(1)(a), F.S.**	$40 per game. **550.0951(1)(a), F.S.**	$100 per race. **550.0951(1)(a), F.S.**	$100 per race. **550.0951(1)(a), F.S.**	$100 per race. **550.0951(1)(a), F.S.**
Daily License Fees On Simulcast Handle	$80 per race, but not to exceed $500 per day. **550.0951(1)(a), F.S.**	$40 per game, but not to exceed $500 per day. **550.0951(1)(a), F.S.**	$100 per race, but not to exceed $500 per day. **550.0951(1)(a), F.S.**	$100 race, but not to exceed $500 per day. **550.0951(1)(a), F.S.**	$100 per race, but not to exceed $500 per day. **550.0951(1)(a), F.S.**
OUTS (ESCHEATS)					
Live / On-track Handle	Paid to the state of Florida. **550.1645(2), F.S.**	Paid to the state of Florida. **550.1645(2), F.S.**	Retained by permitholder. **550.2633(3), F.S.**	Paid to Florida Standardbred Breeders' and Owners' Association (FSBOA). **550.26165(1) and 550.2633(2)(a), F.S.**	Paid to Florida Quarter Horse Breeders' and Owners Association (FQHBOA). **550.26165(1) and 550.2633(2)(b), F.S.** Escheats from Arabian races are paid to Florida Arabian Horse Racing Promotion Account. **550.2633(2)(c), F.S.**
TAXES					
Tax On Admissions	15% of admission charge, or 10 cents, whichever is greater, for entrance to facility and grandstand. **550.0951(2)(a), F.S.** No tax is imposed on free passes or complimentary cards. **550.0951(2)(b) and (c), F.S.**	15% of admission charge, or 10 cents, whichever is greater, for entrance to facility and grandstand. **550.0951(2)(a), F.S.** No tax is imposed on free passes or complimentary cards. **550.0951(2)(b) and (c), F.S.**	15% of admission charge, or 10 cents, whichever is greater, for entrance to facility and grandstand. **550.0951(2)(a), F.S.** No tax is imposed on free passes or complimentary cards. **550.0951(2)(b) and (c), F.S.**	15% of admission charge, or 10 cents, whichever is greater, for entrance to facility and grandstand. **550.0951(2)(a), F.S.** No tax is imposed on free passes or complimentary cards. **550.0951(2)(b) and (c), F.S.**	15% of admission charge, or 10 cents, whichever is greater, for entrance to facility and grandstand. **550.0951(2)(a), F.S.** No tax is imposed on free passes or complimentary cards. **550.0951(2)(b) and (c), F.S.**
Tax On Live / On-track Handle	5.5% of handle, except for charity perfomances which is 7.6% of handle. **550.0951(3)(b)1., F.S.**	Effective July 1, 2000, a permitholder may not be taxed at a higher rate than 2%. **550.0951(3)(d), F.S.**	0.5% of handle. **550.09515(2)(a), F.S.**	0.5% of handle. **550.09512(2)(a), F.S.**	1% of handle. **550.0951(3)(a), F.S.**
Tax On Simulcast Handle	Allows permitholders to receive greyhound races from out-of-state, and are subject to taxation under 550.0951 and 550.09511. **550.3551(4), F.S.**	Allows permitholders to receive jai alai games from out-of-state, and are subject to taxation under 550.0951 and 550.09511. **550.3551(4), F.S.**	Allows permitholders to receive horse races from out-of-state, and are subject to taxation under 550.0951, 550.09512, and 550.09515. **550.3551(3) through 550.3551(3)(c), F.S.**	Allows permitholders to receive horse races from out-of-state, and are subject to taxation under 550.0951, 550.09512, and 550.09515. **550.3551(3) through 550.3551(3)(c), F.S.**	Allows permitholders to receive horse races from out-of-state, and are subject to taxation under 550.0951, 550.09512, and 550.09515. **550.3551(3) through 550.3551(3)(c), F.S.**

This matrix represents a summary of 2014 Statutes. Please refer to the cite noted by statutory topic for specific language governing pari-mutuel wagering.

STATUTE TOPIC	GREYHOUND	JAI ALAI	THOROUGHBRED	HARNESS	QUARTER HORSE
Tax On Intertrack and Intertrack Simulcast Handle	5.5% of intertack and intertrack simulcast handle; except for the intertrack handle from charity performances at a guest track within the market area of the host, the tax is 7.6%. **550.0951(3)(b)1 and 550.0951(3)(c)1, F.S.**	7.1% of intertrack and intertrack simulcast handle. **550.0951(3)(b)2. and 550.0951(3)(c)1. , F.S.**	2% of intertrack handle. **550.0951(3)(c)1., F.S.**	3.3% of intertrack handle. **550.0951(3)(c)1., F.S.**	2% of intertrack handle. **550.0951(3)(c)1., F.S.**
	0.5% of intertrack and intertrack simulcast handle, if the guest is located outside market area of host and within market area of thoroughbred track conducting a live meet. **550.0951(3)(c)1., F.S.**	0.5% of intertrack and intertrack simulcast handle, if the guest is located outside market area of host and within market area of thoroughbred track conducting a live meet. **550.0951(3)(c)1., F.S.**	2.4% of intertrack simulcast handle. **550.0951(3)(c)1. and 550.09515(5), F.S.**	1.5% of intertrack simulcast handle. **550.0951(3)(c)1., F.S.**	2.4% of intertrack simulcast handle. **550.0951(3)(c)1. and 550.09515(5), F.S.**
	3.9% of intertrack and intertrack simuclast handle, for permitholders located in an area of the state where there are only 3 greyhound permitholders, located in 3 contiguous counties. **550.0951(3)(c)2., F.S.**	3.3% of intertrack and intertrack simulcast handle, if permitholder restricted from operating live on a year-round basis, and tax paid on intertrack handle exceeds that paid during 92/93 State Fiscal Year. **550.09511(3)(a), F.S.**	0.5% of intertrack and intertrack simulcast handle, if host and guest are thoroughbred permitholders, or if the guest is located outside market area of host and within market area of thoroughbred track conducting a live meet. **550.0951(3)(c)1., F.S.**	0.5% of intertrack and intertrack simulcast handle, if the guest is located outside market area of host and within market area of thoroughbred track conducting a live meet. **550.0951(3)(c)1. , F.S.**	0.5% of intertrack and intertrack simulcast handle, if the guest is located outside market area of host and within market area of thoroughbred track conducting a live meet. **550.0951(3)(c)1., F.S.**
	3.9% of intertrack and intertrack simulcast handle, for greyhound permitholders located in the same market area specified in 550.615(9). **550.0951(3)(c)2., F.S.**	6.1% of intertrack and intertrack simulcast handle, for jai alai permitholders located in the market area as specified in 550.615(6) or (9), until the tax paid on intertrack handle in the current state fiscal year exceeds that paid during 92/93 State Fiscal Year, then tax on handle is 2.3%. **550.0951(3)(c)2., F.S.**	0.5% of intertrack simulcast handle, if guest track is a thoroughbred track located more than 35 miles from host track. **550.09515(5), F.S.**		
CHARITY PERFORMANCES					
	Maximum of five days. **550.0351(1), F.S.**	Maximum of five days. **550.0351(1), F.S.**	Maximum of five days. **550.0351(1), F.S.**	Maximum of five days. **550.0351(1), F.S.**	Maximum of five days. **550.0351(1), F.S.**
	Permitholders are allowed to conduct one additional day to be designated as “Greyhound Adopt-A-Pet Day." Proceeds are paid to "bona fide organizations" that promote the adoption of greyhounds. **550.1648(2), F.S.**	Permitholders are allowed to conduct two additional performances known as “Retired Jai Alai Players’ Charity Day” for a fund to benefit retired jai alai players. **550.0351(8), F.S.**	One additional scholarship day to tracks located in Hillsborough County for the benefit of Pasco-Hernando Community College. **550.0351(6)(a) and 550.0351(6)(b), F.S.**		
	Permitholders shall pay from any source, including charity performances, not less than 10% of tax credit from escheated tickets to a bona fide greyhound adoption program. **550.1647, F.S.**				

This matrix represents a summary of 2014 Statutes. Please refer to the cite noted by statutory topic for specific language governing pari-mutuel wagering.

STATUTE TOPIC	GREYHOUND	JAI ALAI	THOROUGHBRED	HARNESS	QUARTER HORSE
TAX CREDITS & EXEMPTIONS					
(excluding charity performances, unless otherwise noted)	Tax exemption of $360,000 per state fiscal year, or $500,000 for three permitholders that held a full live schedule in 1995, and closest to another state authorizing greyhound racing. **550.09514(1), F.S.** Tax credit each state fiscal year equal to daily license fee on live races in previous state fiscal year. **550.0951(1)(a), F.S.** Allows each permitholder that cannot utilize the full amount of the tax exemption or daily license fee tax credit,elect once per state fiscal year to transfer the unused portion to a greyhound permitholder acting as a host track for intertrack wagering. **550.0951(1)(b), F.S.** Tax credit each state fiscal year in an amount equal to the amount remitted in escheated tickets in prior state fiscal year. **550.1647, F.S.**	A permitholder that has incurred tax on handle and admissions that exceeds its operating earnings is entitiled to credit the excess amount of taxes against its next ensuing meets. **550.09511(1)(b), F.S.** Tax credit each state fiscal year equal to 25% of amount remitted in escheated tickets in prior state fiscal year. Funds equal to the tax credit shall be paid by the permitholder to the National Association of Jai Alai Frontons. **550.1646, F.S.** $30,000 per performance exemption if live handle during the preceding state fiscal year was less than $15 million. This exemption applies to charity performances. **550.09511(2)(a)1., F.S.** A permitholder conducting fewer than 100 performances in any calendar year shall pay to the state the same aggregate amount of daily license fees on live games, admissions tax, and tax on live handle as that paid during the most recent prior calendar year in which at least 100 live performances were conducted. **550.09511(4), F.S.**	Permitholders are allowed a credit of up to 1% of the paid taxes for the previous taxable year. The credit, if taken, is applied against taxes on live handle due for a taxable year under this section, and is paid directly to the Jockeys' Guild by the permitholders. **550.09515(6), F.S.**		

This matrix represents a summary of 2014 Statutes. Please refer to the cite noted by statutory topic for specific language governing pari-mutuel wagering.

STATUTE TOPIC	STATUTE REFERENCE	SUMMARY
FEES		
Cardroom Table Fees	849.086(5)(d), F.S.	Annual fee for each facility is $1,000 for each table to be operated at the cardroom.
TAXES		
Tax On Cardroom Gross Receipts	849.086(13)(a), F.S.	Each cardroom operator shall pay a tax to the state of 10% of the cardroom operation's monthly gross receipts. Pursuant to Section 849.086(13)(c), F.S., one-half credited to Pari-Mutuel Wagering Trust Fund and one-half being credited to the General Revenue Fund.
Tax On Admissions	849.086(13)(b), F.S.	15% of admission charge, or 10 cents, whichever is greater, for entrance to the cardroom. This tax only applies if a separate admission fee is charged for entry into the cardroom facility. If a single admission fee is charged allowing entry to both or either the pari-mutuel facility and the cardroom facility, the tax is payable only once and shall be payable pursuant to Chapter 550.
FINES		
Administrative Fine	849.086(14)(c), F.S.	An administrative fine up to $1,000 for each violation may be imposed on any person who has violated or failed to comply with the provisions of Section 849.086, F.S.
ANNUAL DISBURSEMENT TO COUNTIES AND MUNICIPALITIES		
Annual Disbursement To Counties and Municipalities	849.086(13)(h), F.S.	One-quarter of moneys deposited into the Pari-Mutuel Wagering Trust Fund shall, by October 1 of each year, be distributed to the local counties or municipalities where the approved cardrooms are located.

This matrix represents a summary of 2014 Statutes. Please refer to the cite noted by statutory topic for specific language governing operation of cardooms.

STATUTE TOPIC	STATUTE REFERENCE	SUMMARY
FEES		
Slot License Fee	551.106(1)(a), F.S.	Annual fee for each slot machine facility is $2 million paid with the initial license application and annual thereafter on the anniversary date of the issuance of the initial license.
Compulsive or Addictive Gambling Prevention Program Fee	551.118(3), F.S.	Annual fee for each slot machine facility is $250,000 paid at the same time the annual license fee is due, and annual thereafter.
TAXES		
Tax on Slot Revenue	551.106(2)(a) and 551.106(3), F.S.	The tax rate on slot machine revenues is 35%. Payment for the tax on slot machine revenues shall be remitted by 3 p.m. on the 5th day of each calendar month for taxes imposed and collected for the preceding calendar month. If the 5th day of the calendar month falls on a weekend, payments shall be remitted by 3 p.m. the first Monday following the weekend.
FINES		
Failure to Pay Slot Tax Fine	551.106(4), F.S.	Up to $10,000 for each day tax payment is not remitted timely.
Civil Fine	551.107(11), F.S.	The division may impose a civil fine of up to $5,000 for each violation of this chapter or the rules of the division.
False Statement Fine	551.109(1), F.S.	Up to a $10,000 fine or civil penalty for any person who knowingly makes or causes to be made, or aids, assists, or procures another to make a false statement in any report, disclosure, application, or any document required under Chapter 551, or any rule adopted under Chapter 551.
Unauthorized Possession of Slot Machines Fine	551.109(2), F.S.	Up to a $10,000 administrative fine or civil penalty for any person who possesses a slot machine without the license required by Chapter 551, or who possesses a slot machine at any location other than at the slot machines licensee's facility.
PENALTIES		
Slot Machine Licensee Civil Penalties	551.117, F.S.	Up to a $100,000 civil penalty for each count or separate offense against the slot machine licensee for violation of Chapter 551, or any rule adopted by the division.

This matrix represents a summary of 2014 Statutes. Please refer to the cite noted by statutory topic for specific language governing slot operations.

Revenue Estimating Conference
Slot Machine Revenues
December 2, 2015
Executive Summary

The Revenue Estimating Conference reviewed slot machine revenues on December 2, 2015, and increased projections from the July 2015 conference by $4.6 million in Fiscal Year 2015-16 and between $1.4 and $0.6 million each fiscal year thereafter. The details of the forecast and changes are shown in the following table.

Slot Machines Tax Collections			
Millions of $			
	July 2015	December 2015	Difference
2006-07	48.2	48.2	0.0
2007-08	122.3	122.3	0.0
2008-09	104.1	104.1	0.0
2009-10	136.4	136.4	0.0
2010-11	127.7	127.7	0.0
2011-12	142.7	142.7	0.0
2012-13	142.2	142.2	0.0
2013-14	173.1	173.1	0.0
2014-15	182.2	182.2	0.0
2015-16	186.5	191.0	4.6
2016-17	194.0	195.4	1.4
2017-18	197.5	198.7	1.2
2018-19	200.4	201.5	1.1
2019-20	203.8	204.4	0.7
2020-21	206.6	207.2	0.6

Slot machine tax revenues were $1.7 million over estimate for July through November 2015. All seven active facilities showed positive performance year-over-year, resulting in the Conference increasing the forecast for all facilities, before building in an impact for the re-opening of the Dania facility. Dania originally opened on February 20, 2014, but closed shortly thereafter on October 12, 2014. The facility was closed for over a year while renovations were completed. The facility has now paid application and license fees to the department and is expected to reopen sometime in January. The Conference included revenues from Dania in this forecast beginning in February of 2016, assuming that the facility reopens in late January 2016. This forecast assumes that 90% of the revenues generated from Dania will be redirected from neighboring facilities and that 10% of the revenues will be from new gaming activity.

NOTE: The Fiscal Year 2012-13 revenue of $142.2 million is based on actual collections received during Fiscal Year 2012-13. Because the state switched from weekly to monthly collections at the end of Fiscal Year 2011-12, the July 2013 collections are made up of only one week of June 2013 revenue. This resulted in a one time impact lowering the Fiscal Year 2012-13 revenues by approximately three weeks of collections.

Revenue Estimating Conference
Slot Machines Tax
December 2015

TOTAL ALL FACILITIES						
	Tax		Number of Machines		Income Per Machine per Day	
	Jul-15	Dec-15	Jul-15	Dec-15	Jul-15	Dec-15
2006-07	$ 48.2	$ 48.2	1,424	1,424	$ 190.88	$ 190.88
2007-08	$ 122.3	$ 122.3	3,626	3,626	$ 182.19	$ 182.19
2008-09	$ 104.1	$ 104.1	3,748	3,748	$ 151.89	$ 151.89
2009-10	$ 136.4	$ 136.4	4,729	4,729	$ 160.04	$ 160.04
2010-11	$ 127.7	$ 127.7	5,382	5,382	$ 181.88	$ 181.88
2011-12	$ 142.7	$ 142.7	5,826	5,826	$ 191.17	$ 191.17
2012-13*	$ 142.2	$ 142.2	6,398	6,398	$ 186.10	$ 186.10
2013-14	$ 173.1	$ 173.1	7,166	7,166	$ 188.61	$ 188.61
2014-15	$ 182.2	$ 182.2	7,736	7,250	$ 186.66	$ 196.15
2015-16	$ 186.1	$ 191.0	7,019	7,234	$ 206.97	$ 206.16
2016-17	$ 189.8	$ 195.4	7,019	7,782	$ 211.72	$ 196.55
2017-18	$ 193.4	$ 198.7	7,019	7,782	$ 215.64	$ 199.89
2018-19	$ 196.3	$ 201.5	7,019	7,782	$ 218.96	$ 202.73
2019-20	$ 199.7	$ 204.4	7,019	7,782	$ 222.09	$ 205.08
2020-21	$ 202.6	$ 207.2	7,019	7,782	$ 225.93	$ 208.42

% CHANGE						
	Tax		Number of Machines		Income Per Machine per Day	
	Jul-15	Dec-15	Jul-15	Dec-15	Jul-15	Dec-15
2007-08	153.7%	153.7%	154.6%	154.6%	-4.6%	-4.6%
2008-09	-14.9%	-14.9%	3.4%	3.4%	-16.6%	-16.6%
2009-10	31.0%	31.0%	26.2%	26.2%	5.4%	5.4%
2010-11	-6.4%	-6.4%	13.8%	13.8%	13.6%	13.6%
2011-12	11.7%	11.7%	8.2%	8.2%	5.1%	5.1%
2012-13*	-0.3%	-0.3%	9.8%	9.8%	-2.7%	-2.7%
2013-14	21.8%	21.8%	12.0%	12.0%	1.3%	1.3%
2014-15	5.2%	5.2%	8.0%	1.2%	-1.0%	4.0%
2015-16	2.2%	4.9%	-9.3%	-0.2%	10.9%	5.1%
2016-17	2.0%	2.3%	0.0%	7.6%	2.3%	-4.7%
2017-18	1.9%	1.7%	0.0%	0.0%	1.9%	1.7%
2018-19	1.5%	1.4%	0.0%	0.0%	1.5%	1.4%
2019-20	1.7%	1.4%	0.0%	0.0%	1.4%	1.2%
2020-21	1.4%	1.3%	0.0%	0.0%	1.7%	1.6%

* The FY2012-13 revenue of $142.2 million is based on actual collections received during FY2012-13. Because the state switched from weekly to monthly collections at the end of FY2011-12, the July 2013 collections are made up of only one week of June 2013 revenue. This is expected to have a one time impact lowering the FY2012-13 revenues by approximately three weeks of collections. The income per machine per day is based on actual DBPR activity data for FY2012-13.

Slot Machines Tax
December 2015

2006-07	Tax		Number of Machines		Income Per Machine per Day	
	July 15	Dec 15	July 15	Dec 15	July 15	Dec 15
Gulf Stream	$ 15.4	$ 15.4	834	834	$ 161.5	$ 161.5
Mardi Gras	$ 23.0	$ 23.0	1,150	1,150	$ 215.9	$ 215.9
Pompano	$ 11.3	$ 11.3	1,500	1,500	$ 193.2	$ 193.2
TOTAL	$ 48.2	$ 48.2	1,424	1,424	$ 190.9	$ 190.9

2007-08	Tax		Number of Machines		Income Per Machine per Day	
	July 15	Dec 15	July 15	Dec 15	July 15	Dec 15
Gulf Stream	$ 19.6	$ 19.6	887	887	$ 120.9	$ 120.9
Mardi Gras	$ 39.6	$ 39.6	1,239	1,239	$ 174.4	$ 174.4
Pompano	$ 61.4	$ 61.4	1,500	1,500	$ 223.6	$ 223.6
TOTAL	$ 122.3	$ 122.3	3,626	3,626	$ 182.2	$ 182.2

2008-09	Tax		Number of Machines		Income Per Machine per Day	
	July 15	Dec 15	July 15	Dec 15	July 15	Dec 15
Gulf Stream	$ 20.9	$ 20.9	834	834	$ 137.6	$ 137.6
Mardi Gras	$ 33.9	$ 33.9	1,440	1,440	$ 129.0	$ 129.0
Pompano	$ 49.0	$ 49.0	1,474	1,474	$ 182.3	$ 182.3
TOTAL	$ 104.4	$ 104.4	3,748	3,748	$ 151.9	$ 151.9

2009-10	Tax		Number of Machines		Income Per Machine per Day	
	July 15	Dec 15	July 15	Dec 15	July 15	Dec 15
Gulf Stream	$ 23.8	$ 23.8	849	849	$ 153.6	$ 153.6
Mardi Gras	$ 26.6	$ 26.6	1,350	1,350	$ 108.0	$ 108.0
Pompano	$ 50.7	$ 50.7	1,463	1,463	$ 189.8	$ 189.8
Magic City/Flagler *	$ 22.3	$ 22.3	734	734	$ 234.5	$ 234.5
Calder *	$ 14.8	$ 14.8	1,246	1,246	$ 148.0	$ 148.0
TOTAL	$ 136.5	$ 136.5	4,729	4,729	$ 160.0	$ 160.0

* Open for part of fiscal year 2009-10

2010-11	Tax		Number of Machines		Income Per Machine per Day	
	July 15	Dec 15	July 15	Dec 15	July 15	Dec 15
Gulf Stream	$ 19.0	$ 19.0	853	853	$ 174.1	$ 174.1
Mardi Gras	$ 18.5	$ 18.5	1,128	1,128	$ 128.5	$ 128.5
Pompano	$ 37.4	$ 37.4	1,452	1,452	$ 201.5	$ 201.5
Magic City/Flagler	$ 25.5	$ 25.5	787	787	$ 254.0	$ 254.0
Calder	$ 24.7	$ 24.7	1,177	1,177	$ 164.0	$ 164.0
TOTAL	$ 127.7	$ 127.7	5,382	5,382	$ 181.9	$ 181.9

2011-12	Tax		Number of Machines		Income Per Machine per Day	
	July 15	Dec 15	July 15	Dec 15	July 15	Dec 15
Gulf Stream	$ 19.1	$ 19.1	872	872	$ 151.4	$ 151.4
Mardi Gras	$ 19.3	$ 19.3	1,075	1,075	$ 140.0	$ 140.0
Pompano	$ 42.3	$ 42.3	1,448	1,448	$ 228.1	$ 228.1
Magic City/Flagler	$ 28.2	$ 28.2	786	786	$ 279.7	$ 279.7
Calder	$ 26.3	$ 26.3	1,207	1,207	$ 170.0	$ 170.0
Miami Jai-Alai *	$ 8.8	$ 8.8	1,029	1,029	$ 153.4	$ 153.4
TOTAL	$ 142.7	$ 142.7	5,826	5,826	$ 191.2	$ 191.2

* Open for part of fiscal year 2011-12, opening date was Jan. 23, 2012

2012-13	Tax		Number of Machines		Income Per Machine per Day	
	July 15	Dec 15	July 15	Dec 15	July 15	Dec 15
Gulf Stream	$ 17.0	$ 17.0	862	862	$ 157.7	$ 157.7
Mardi Gras	$ 18.0	$ 18.0	1,048	1,048	$ 134.5	$ 134.5
Pompano	$ 43.9	$ 43.9	1,441	1,441	$ 238.2	$ 238.2
Magic City/Flagler	$ 26.5	$ 26.5	799	799	$ 259.5	$ 259.5
Calder	$ 25.4	$ 25.4	1,211	1,211	$ 164.0	$ 164.0
Miami Jai-Alai	$ 21.8	$ 21.8	1,054	1,054	$ 161.7	$ 161.7
TOTAL	$ 142.2	$ 142.2	6,398	6,398	$ 186.1	$ 186.1

Effective July 1, 2012, slot taxes are collected monthly instead of weekly, resulting in a 3.5 week slowdown in collections.

2013-14	Tax		Number of Machines		Income Per Machine per Day	
	July 15	Dec 15	July 15	Dec 15	July 15	Dec 15
Gulf Stream	$ 16.9	$ 16.9	872	872	$ 151.4	$ 151.4
Mardi Gras	$ 17.9	$ 17.9	1,000	1,000	$ 139.7	$ 139.7
Pompano	$ 46.6	$ 46.6	1,445	1,445	$ 252.6	$ 252.6
Magic City/Flagler	$ 27.0	$ 27.0	800	800	$ 264.3	$ 264.3
Calder	$ 26.0	$ 26.0	1,167	1,167	$ 174.4	$ 174.4
Miami Jai-Alai	$ 21.1	$ 21.1	1,045	1,045	$ 158.2	$ 158.2
Hialeah*	$ 16.3	$ 16.3	861	861	$ 186.3	$ 186.3
Dania**	$ 1.3	$ 1.3	543	543	$ 68.0	$ 68.0
TOTAL	$ 173.1	$ 173.1	7,166	7,166	$ 188.6	$ 188.61

* Hialeah opened August 14, 2013, with collections beginning September 2013.
** Dania opened February 20, 2014, with collections beginning March 2014.

2014-15	Tax		Number of Machines		Income Per Machine per Day	
	July 15	Dec 15	July 15	Dec 15	July 15	Dec 15
Gulf Stream	$ 17.2	$ 17.2	852	852	$ 158.5	$ 158.5
Mardi Gras	$ 16.8	$ 16.8	967	967	$ 135.8	$ 135.8
Pompano	$ 50.6	$ 50.6	1,456	1,456	$ 272.1	$ 272.1
Magic City/Flagler	$ 28.0	$ 28.0	801	801	$ 273.7	$ 273.7
Calder	$ 25.8	$ 25.8	1,103	1,103	$ 183.4	$ 183.4
Miami Jai-Alai	$ 19.9	$ 19.9	1,028	1,028	$ 151.6	$ 151.6
Hialeah	$ 22.4	$ 22.4	849	849	$ 206.9	$ 206.9
Dania**	$ 1.3	$ 1.3	528	528	$ 54.0	$ 54.0
TOTAL	$ 182.2	$ 182.2	7,736	7,250	$ 186.7	$ 196.1

** Dania closed on October 12, 2014.

2015-16	Tax		Number of Machines		Income Per Machine per Day	
	July 15	Dec 15	July 15	Dec 15	July 15	Dec 15
Gulf Stream	$ 17.5	$ 16.4	810	789	$ 169.0	$ 162.3
Mardi Gras	$ 17.0	$ 16.0	956	904	$ 139.0	$ 138.5
Pompano	$ 53.7	$ 53.2	1,456	1,452	$ 287.8	$ 286.0
Magic City/Flagler	$ 28.5	$ 29.8	801	802	$ 278.0	$ 290.0
Calder	$ 26.1	$ 25.6	1,116	1,095	$ 182.5	$ 182.5
Miami Jai-Alai	$ 20.1	$ 21.4	1,030	1,030	$ 152.4	$ 162.0
Hialeah	$ 23.1	$ 23.8	850	860	$ 212.4	$ 216.0
Dania**	$ -	$ 4.8	-	850	$ -	$ 125.0
TOTAL	$ 186.1	$ 191.0	7,019	7,234	$ 207.0	$ 206.2

** Dania is expected to re-open in January 2016, with collections beginning February 2016.

2016-17	Tax		Number of Machines		Income Per Machine per Day	
	July 15	Dec 15	July 15	Dec 15	July 15	Dec 15
Gulf Stream	$ 17.8	$ 14.1	810	789	$ 172.0	$ 139.9
Mardi Gras	$ 17.2	$ 13.2	956	904	$ 141.0	$ 114.3
Pompano	$ 55.7	$ 53.8	1,456	1,452	$ 299.4	$ 290.0
Magic City/Flagler	$ 28.8	$ 30.2	801	802	$ 281.9	$ 295.0
Calder	$ 26.4	$ 24.2	1,116	1,095	$ 185.5	$ 173.0
Miami Jai-Alai	$ 20.3	$ 21.6	1,030	1,030	$ 154.3	$ 164.0
Hialeah	$ 23.5	$ 24.4	850	860	$ 216.8	$ 222.2
Dania	$ -	$ 13.9	-	850	$ -	$ 127.8
TOTAL	$ 189.8	$ 195.4	7,019	7,782	$ 211.7	$ 196.5

2017-18	Tax		Number of Machines		Income Per Machine per Day	
	July 15	Dec 15	July 15	Dec 15	July 15	Dec 15
Gulf Stream	$ 18.0	$ 14.3	810	789	$ 174.0	$ 141.6
Mardi Gras	$ 17.4	$ 13.3	956	904	$ 142.4	$ 115.4
Pompano	$ 57.4	$ 55.3	1,456	1,452	$ 308.5	$ 297.9
Magic City/Flagler	$ 29.3	$ 30.6	801	802	$ 285.9	$ 299.0
Calder	$ 26.8	$ 24.5	1,116	1,095	$ 188.1	$ 175.4
Miami Jai-Alai	$ 20.5	$ 21.8	1,030	1,030	$ 155.8	$ 165.6
Hialeah	$ 24.0	$ 24.8	850	860	$ 221.2	$ 226.0
Dania	$ -	$ 14.1	-	850	$ -	$ 129.6
TOTAL	$ 193.4	$ 198.7	7,019	7,782	$ 215.6	$ 199.9

2018-19	Tax		Number of Machines		Income Per Machine per Day	
	July 15	Dec 15	July 15	Dec 15	July 15	Dec 15
Gulf Stream	$ 18.2	$ 14.4	810	789	$ 175.7	$ 143.0
Mardi Gras	$ 17.6	$ 13.5	956	904	$ 143.8	$ 116.6
Pompano	$ 58.6	$ 56.4	1,456	1,452	$ 314.8	$ 303.8
Magic City/Flagler	$ 29.7	$ 30.9	801	802	$ 289.8	$ 302.0
Calder	$ 27.2	$ 24.9	1,116	1,095	$ 190.7	$ 177.9
Miami Jai-Alai	$ 20.7	$ 22.0	1,030	1,030	$ 157.3	$ 167.3
Hialeah	$ 24.5	$ 25.2	850	860	$ 225.6	$ 229.4
Dania	$ -	$ 14.3	-	850	$ -	$ 131.4
TOTAL	$ 196.3	$ 201.5	7,019	7,782	$ 219.0	$ 202.7

2019-20	Tax		Number of Machines		Income Per Machine per Day	
	July 15	Dec 15	July 15	Dec 15	July 15	Dec 15
Gulf Stream	$ 18.4	$ 14.6	810	789	$ 156.5	$ 144.0
Mardi Gras	$ 17.7	$ 13.6	956	904	$ 148.5	$ 117.4
Pompano	$ 59.9	$ 57.5	1,456	1,452	$ 294.0	$ 309.4
Magic City/Flagler	$ 30.2	$ 31.3	801	802	$ 287.0	$ 304.2
Calder	$ 27.6	$ 25.2	1,116	1,095	$ 195.5	$ 179.9
Miami Jai-Alai	$ 20.9	$ 22.2	1,030	1,030	$ 168.0	$ 168.5
Hialeah	$ 25.1	$ 25.6	850	860	$ 210.0	$ 232.0
Dania	$ -	$ 14.5	-	850	$ -	$ 132.9
TOTAL	$ 199.7	$ 204.4	7,019	7,782	$ 222.1	$ 205.1

2020-21	Tax		Number of Machines		Income Per Machine per Day	
	July 15	Dec 15	July 15	Dec 15	July 15	Dec 15
Gulf Stream	$ 18.5	$ 14.7	810	789	$ 179.2	$ 145.9
Mardi Gras	$ 17.9	$ 13.7	956	904	$ 146.7	$ 118.9
Pompano	$ 61.0	$ 58.6	1,456	1,452	$ 328.0	$ 315.8
Magic City/Flagler	$ 30.5	$ 31.6	801	802	$ 298.0	$ 308.0
Calder	$ 27.9	$ 25.6	1,116	1,095	$ 196.0	$ 182.9
Miami Jai-Alai	$ 21.1	$ 22.4	1,030	1,030	$ 160.5	$ 170.6
Hialeah	$ 25.6	$ 25.9	850	860	$ 235.4	$ 236.0
Dania	$ -	$ 14.7	-	850	$ -	$ 135.1
TOTAL	$ 202.6	$ 207.2	7,019	7,782	$ 225.9	$ 208.4

GULFSTREAM

	Machines	Income per machine per day	% change	Days of operation	Tax rate	Tax	% change
2006-07	834	$161.48		228	50%	$15.35	
2007-08	887	$120.86	-25.2%	366	50%	$19.62	27.8%
2008-09	834	$137.60	13.8%	365	50%	$20.94	6.8%
2009-10	849	$153.62	11.6%	365	50%	$23.80	13.7%
2010-11	853	$174.11	13.3%	365	35%	$18.97	-20.3%
2011-12	860	$173.31	-0.5%	366	35%	$19.09	0.6%
2012-13	862	$157.70	-9.0%	358	35%	$17.03	-10.8%
2013-14	872	$151.38	-4.0%	365	35%	$16.87	-1.0%
2014-15	852	$158.46	4.7%	365	35%	$17.24	2.2%
2015-16							
July 2015	810	169.00	6.7%	366	35%	$17.54	1.7%
Dec 2015	789	162.26	2.4%	366	35%	$16.40	-4.9%
2016-17							
July 2015	810	172.00	1.8%	365	35%	$17.80	1.5%
Dec 2015	789	139.89	-13.8%	365	35%	$14.10	-14.0%
2017-18							
July 2015	810	174.00	1.2%	365	35%	$18.01	1.2%
Dec 2015	789	141.57	1.2%	365	35%	$14.27	1.2%
2018-19							
July 2015	810	175.70	1.0%	365	35%	$18.18	1.0%
Dec 2015	789	142.98	1.0%	365	35%	$14.41	1.0%
2019-20							
July 2015	810	177.00	0.7%	366	35%	$18.37	1.0%
Dec 2015	789	144.02	0.7%	366	35%	$14.56	1.0%
2020-21							
July 2015	810	179.20	1.2%	365	35%	$18.54	1.0%
Dec 2015	789	145.86	1.3%	365	35%	$14.70	1.0%

MARDI GRAS

	Machines	Income per machine per day	% change	Days of operation	Tax rate	Tax	% change
2006-07	1150	$215.88		185	50%	$22.96	
2007-08	1239	$174.43	-19.2%	366	50%	$39.55	72.2%
2008-09	1440	$129.04	-26.0%	365	50%	$33.91	-14.3%
2009-10	1350	$108.02	-16.3%	365	50%	$26.61	-21.5%
2010-11	1128	$128.54	19.0%	365	35%	$18.52	-30.4%
2011-12	1075	$139.99	8.9%	366	35%	$19.28	4.1%
2012-13	1048	$134.54	-3.9%	365	35%	$18.01	-6.6%
2013-14	1000	$139.67	3.8%	365	35%	$17.85	-0.9%
2014-15	967	$135.83	-2.7%	365	35%	$16.77	-6.0%
2015-16							
July 2015	956	$139.00	2.3%	366	35%	$17.02	1.5%
Dec 2015	904	$138.51	2.0%	366	35%	$16.04	-4.4%
2016-17							
July 2015	956	$141.00	1.4%	365	35%	$17.22	1.2%
Dec 2015	904	$114.30	-17.5%	365	35%	$13.20	-17.7%
2017-18							
July 2015	956	142.40	1.0%	365	35%	$ 17.39	1.0%
Dec 2015	904	115.44	1.0%	365	35%	$ 13.33	1.0%
2018-19							
July 2015	956	143.80	1.0%	365	35%	$ 17.56	1.0%
Dec 2015	904	116.60	1.0%	365	35%	$ 13.47	1.0%
2019-20							
July 2015	956	144.80	0.7%	366	35%	$ 17.73	1.0%
Dec 2015	904	117.44	0.7%	366	35%	$ 13.60	1.0%
2020-21							
July 2015	956	146.70	1.3%	365	35%	$ 17.92	1.0%
Dec 2015	904	118.94	1.3%	365	35%	$ 13.74	1.0%

POMPANO

	Machines	Income per machine per day	% change	Days of operation	Tax rate	Tax	% change
2006-07	1500	$193.22		78	50%	$11.30	
2007-08	1500	$223.65	15.7%	366	50%	$61.39	443.1%
2008-09	1474	$182.30	-18.5%	365	50%	$49.04	-20.1%
2009-10	1463	$189.76	4.1%	365	50%	$50.67	3.3%
2010-11	1452	$201.46	6.2%	365	35%	$37.37	-26.2%
2011-12	1448	$228.06	13.2%	366	35%	$42.30	13.2%
2012-13	1441	$238.24	4.5%	365	35%	$43.86	3.7%
2013-14	1445	$252.56	6.0%	365	35%	$46.62	6.3%
2014-15	1456	$272.10	7.7%	365	35%	$50.62	8.6%
2015-16							
July 2015	1456	$287.83	5.8%	366	35%	$53.68	6.1%
Dec 2015	1452	$286.02	5.1%	366	35%	$53.20	5.1%
2016-17							
July 2015	1456	$299.40	4.0%	365	35%	$55.69	3.7%
Dec 2015	1452	$290.04	1.4%	365	35%	$53.80	1.1%
2017-18							
July 2015	1456	$308.50	3.0%	365	35%	$57.38	3.0%
Dec 2015	1452	$297.87	2.7%	365	35%	$55.25	2.7%
2018-19							
July 2015	1456	$314.80	2.0%	365	35%	$58.55	2.0%
Dec 2015	1452	$303.83	2.0%	365	35%	$56.36	2.0%
2019-20							
July 2015	1456	$321.20	2.0%	366	35%	$59.91	2.3%
Dec 2015	1452	$309.36	1.8%	366	35%	$57.54	2.1%
2020-21							
July 2015	1456	$328.00	2.1%	365	35%	$61.01	1.8%
Dec 2015	1452	$315.79	2.1%	365	35%	$58.58	1.8%

MAGIC CITY/FLAGLER

	Machines	Income per machine per day	% change	Days of operation	Tax rate	Tax	% change
2006-07							
2007-08							
2008-09							
2009-10	734	$234.47		259	50%	$22.29	
2010-11	787	$254.05	8.3%	365	35%	$25.54	14.6%
2011-12	786	$279.70	10.1%	366	35%	$28.16	10.3%
2012-13	799	$259.50	-7.2%	365	35%	$26.49	-5.9%
2013-14	800	$264.32	1.9%	365	35%	$27.03	2.0%
2014-15	801	$273.72	3.6%	365	35%	$28.02	3.7%
2015-16							
July 2015	801	$278.00	1.6%	366	35%	$28.53	1.8%
Dec 2015	802	$290.00	5.9%	366	35%	$29.79	6.3%
2016-17							
July 2015	801	$281.90	1.4%	365	35%	$28.85	1.1%
Dec 2015	802	$295.00	1.7%	365	35%	$30.22	1.4%
2017-18							
July 2015	801	$285.85	1.4%	365	35%	$29.25	1.4%
Dec 2015	802	$299.00	1.4%	365	35%	$30.63	1.4%
2018-19							
July 2015	801	$289.84	1.4%	365	35%	$29.66	1.4%
Dec 2015	802	$302.00	1.0%	365	35%	$30.94	1.0%
2019-20							
July 2015	801	$293.90	1.4%	366	35%	$30.16	1.7%
Dec 2015	802	$304.20	0.7%	366	35%	$31.25	1.0%
2020-21							
July 2015	801	$298.00	1.4%	365	35%	$30.49	1.1%
Dec 2015	802	$308.00	1.2%	365	35%	$31.56	1.0%

CALDER

	Machines	Income per machine per day	% change	Days of operation	Tax rate	Tax	% change
2006-07							
2007-08							
2008-09							
2009-10	1246	$148.04		160	50%	$14.76	
2010-11	1177	$163.96	10.8%	365	35%	$24.65	67.1%
2011-12	1207	$170.02	3.7%	366	35%	$26.29	6.6%
2012-13	1211	$163.99	-3.6%	365	35%	$25.37	-3.5%
2013-14	1167	$174.42	6.4%	365	35%	$26.00	2.5%
2014-15	1103	$183.37	5.1%	365	35%	$25.83	-0.7%
2015-16							
July 2015	1116	$182.50	-0.5%	366	35%	$26.09	1.0%
Dec 2015	1095	$182.51	-0.5%	366	35%	$25.60	-0.9%
2016-17							
July 2015	1116	$185.50	1.6%	365	35%	$26.45	1.4%
Dec 2015	1095	$173.00	-5.2%	365	35%	$24.20	-5.5%
2017-18							
July 2015	1116	$188.10	1.4%	365	35%	$26.82	1.4%
Dec 2015	1095	$175.42	1.4%	365	35%	$24.54	1.4%
2018-19							
July 2015	1116	$190.70	1.4%	365	35%	$27.19	1.4%
Dec 2015	1095	$177.88	1.4%	365	35%	$24.88	1.4%
2019-20							
July 2015	1116	$192.80	1.1%	366	35%	$27.56	1.4%
Dec 2015	1095	$179.87	1.1%	366	35%	$25.23	1.4%
2020-21							
July 2015	1116	$196.00	1.7%	365	35%	$27.94	1.4%
Dec 2015	1095	$182.89	1.7%	365	35%	$25.58	1.4%

MIAMI JAI-ALAI

	Machines	Income per machine per day	% change	Days of operation	Tax rate	Tax	% change
2006-07							
2007-08							
2008-09							
2009-10							
2010-11							
2011-12	1029	$153.42		160	35%	$8.84	
2012-13	1054	$161.71	5.4%	365	35%	$21.77	146.3%
2013-14	1045	$158.19	-2.2%	365	35%	$21.11	-3.0%
2014-15	1028	$151.59	-4.2%	365	35%	$19.91	-5.7%
2015-16							
July 2015	1030	$152.40	0.5%	366	35%	$20.11	1.0%
Dec 2015	1030	$162.00	6.9%	366	35%	$21.37	7.4%
2016-17							
July 2015	1030	$154.30	1.2%	365	35%	$20.30	1.0%
Dec 2015	1030	$164.00	1.2%	365	35%	$21.58	1.0%
2017-18							
July 2015	1030	$155.80	1.0%	365	35%	$20.50	1.0%
Dec 2015	1030	$165.60	1.0%	365	35%	$21.79	1.0%
2018-19							
July 2015	1030	$157.30	1.0%	365	35%	$20.70	1.0%
Dec 2015	1030	$167.30	1.0%	365	35%	$22.01	1.0%
2019-20							
July 2015	1030	$158.50	0.8%	366	35%	$20.91	1.0%
Dec 2015	1030	$168.50	0.7%	366	35%	$22.23	1.0%
2020-21							
July 2015	1030	$160.50	1.3%	365	35%	$21.12	1.0%
Dec 2015	1030	$170.60	1.2%	365	35%	$22.45	1.0%

HIALEAH

	Machines	Income per machine per day	% change	Days of operation	Tax rate	Tax	% change
2006-07							
2007-08							
2008-09							
2009-10							
2010-11							
2011-12							
2012-13							
2013-14	861	$ 186.25		291	35%	$ 16.34	
2014-15	849	$ 206.90	11.1%	365	35%	$ 22.43	37.3%
2015-16							
July 2015	850	$212.37	2.6%	366	35%	$23.12	3.1%
Dec 2015	860	$216.00	4.4%	366	35%	$23.80	6.1%
2016-17							
July 2015	850	$216.83	2.1%	365	35%	$23.54	1.8%
Dec 2015	860	$222.20	2.9%	365	35%	$24.41	2.6%
2017-18							
July 2015	850	$221.16	2.0%	365	35%	$24.02	2.0%
Dec 2015	860	$226.00	1.7%	365	35%	$24.83	1.7%
2018-19							
July 2015	850	$225.59	2.0%	365	35%	$24.50	2.0%
Dec 2015	860	$229.40	1.5%	365	35%	$25.20	1.5%
2019-20							
July 2015	850	$230.10	2.0%	366	35%	$25.05	2.3%
Dec 2015	860	$232.00	1.1%	366	35%	$25.56	1.4%
2020-21							
July 2015	850	$235.40	2.3%	365	35%	$25.56	2.0%
Dec 2015	860	$236.00	1.7%	365	35%	$25.93	1.4%

DANIA

	Machines	Income per machine per day	% change	Days of operation	Tax rate	Tax	% change
2006-07							
2007-08							
2008-09							
2009-10							
2010-11							
2011-12							
2012-13							
2013-14	543	$68.00		101	35%	$ 1.30	
2014-15	528	$54.00	-20.6%	134	35%	$ 1.34	2.8%

2015-16

July 2015							
Dec 2015	850	$125.00	131.5%	130	35%	$4.83	260.2%

2016-17

July 2015							
Dec 2015	850	$127.82	2.3%	365	35%	$13.88	187.1%

2017-18

July 2015							
Dec 2015	850	$129.60	1.4%	365	35%	$14.07	1.4%

2018-19

July 2015							
Dec 2015	850	$131.40	1.4%	365	35%	$14.27	1.4%

2019-20

July 2015							
Dec 2015	850	$132.90	1.1%	366	35%	$14.47	1.4%

2020-21

July 2015							
Dec 2015	850	$135.10	1.7%	365	35%	$14.67	1.4%

NOTE: Dania opened on February 20, 2014 and closed October 12, 2014. This forecast assumes that Dania re-opens in January of 2016 with collections beginning in February 2016.

TOTAL ALL FACILITIES

	Weighted Number of Machines	Income per machine per day	% change	Tax rate	Calculated Tax	% change	Comptroller Tax
2006-07	1,424	$190.88		50%	$49.62		$ 48.20
2007-08	3,626	$182.19	-4.6%	50%	$120.56	143.0%	$ 122.26
2008-09	3,748	$151.89	-16.6%	50%	$103.90	-13.8%	$ 104.44
2009-10	4,729	$160.04	5.4%	50%	$138.13	32.9%	$ 136.49
2010-11	5,382	$181.88	13.6%	35%	$125.06	-9.5%	$ 127.67
2011-12	5,826	$191.17	5.1%	35%	$143.96	15.1%	$ 142.67
2012-13*	6,398	$186.10	-2.7%	35%	$152.53	6.0%	$ 142.21
2013-14	7,166	$188.61	1.3%	35%	$173.13	13.5%	$ 173.14
2014-15	7,250	$196.15	4.0%	35%	$182.16	5.2%	$ 182.15
2015-16							
July 2015	7,019	$206.97	5.5%	35%	$186.09	2.2%	
Dec 2015	7,234	$206.16	5.1%	35%	$191.04	4.9%	
2016-17							
July 2015	7,019	$211.72	2.3%	35%	$189.85	2.0%	
Dec 2015	7,782	$196.55	-4.7%	35%	$195.40	2.3%	
2017-18							
July 2015	7,019	$215.64	1.9%	35%	$193.36	1.9%	
Dec 2015	7,782	$199.89	1.7%	35%	$198.72	1.7%	
2018-19							
July 2015	7,019	$218.96	1.5%	35%	$196.34	1.5%	
Dec 2015	7,782	$202.73	1.4%	35%	$201.54	1.4%	
2019-20							
July 2015	7,019	$222.09	1.4%	35%	$199.69	1.7%	
Dec 2015	7,782	$205.08	1.2%	35%	$204.44	1.4%	
2020-21							
July 2015	7,019	$225.93	1.7%	35%	$202.59	1.4%	
Dec 2015	7,782	$208.42	1.6%	35%	$207.20	1.3%	

* The FY2012-13 revenue of $142.2 million is based on actual collections received during FY2012-13. Because the state switched from weekly to monthly collections at the end of FY2011-12, the July 2013 collections are made up of only one week of June 2013 revenue. This is expected to have a one time impact lowering the FY2012-13 revenues by approximately three weeks of collections. The income per machine per day is based on actual DBPR activity data for FY2012-13.

SLOT MACHINE TAX

FLORIDA STATUTES: Chapter 551

ADMINISTERED BY: Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering

SUMMARY:
Taxes are imposed at a rate of 35 percent on slot machine revenues at each pari-mutuel facility that has slot machines. Each facility must also pay an annual license fee of $2.0 million and a fee of $250,000 to fund programs for the prevention of compulsive gambling. A series of occupational license fees for employees of the facilities and associated businesses is also imposed.

REVENUE:

Fiscal Year	Total Collections	Annual Change %	Slot Machine Tax Collections	Facility License Fee Collections	Occupational License Fee Collections	Addictive Gambling Program Fee Collections	Distribution to General Revenue
2016-17*	205,871,617	1.82%	189,848,619	14,000,000	272,998	1,750,000	9,749,461
2015-16*	202,185,950	1.98%	186,089,864	14,000,000	346,086	1,750,000	9,822,549
2014-15	198,268,118	4.77%	182,150,756	14,000,000	367,362	1,750,000	13,000,000
2013-14	189,248,984	17.89%	173,136,791	14,000,000	362,193	1,750,000	10,500,000
2012-13	160,529,430	2.56%	142,204,054	16,000,000	325,376	2,000,000	10,800,000
2011-12	156,521,484	4.75%	142,666,706	12,000,000	354,779	1,500,000	12,000,000
2010-11	149,420,449	-2.36%	127,670,133	19,500,000	250,316	2,000,000	18,500,000

* Estimate

HISTORY:
Casino gambling (including slot machines) required an amendment to the Florida Constitution. Florida voters rejected casino gambling proposals in 1979 and 1986. In November 1994, Florida voters defeated a proposed constitutional amendment which would have authorized up to 47 casinos, including five riverboat casinos and 30 casinos at existing pari-mutuel facilities. In November of 2004, voters approved an amendment to the Florida Constitution which resulted in the creation of Section 23, Article X, which allows the authorization of slot machines in pari-mutuel facilities in Miami-Dade and/or Broward Counties, subject to voter approval. In 2005, the voters of Broward County approved slot machines by referendum, while Miami-Dade voters did not. Chapter 2005-362, L.O.F. (HB 1-B), provided for the regulation of slot machines. A tax rate of 50 percent was assessed on slot machine revenues, and facility license fees, occupational license fees, and a fee to fund an addictive gambling prevention program were established. Slot machines began operating in Broward County in late 2006. Chapter 2007-252, L.O.F. (HB 1047), increased the maximum number of machines in a facility from 1,500 to 2,000 and provided for increased operating hours.

In 2008, Miami-Dade voters approved slot machines in the pari-mutuel facilities in their county. Chapter 2010-29, L.O.F. (SB 622), provided for the following changes: (1) reduced the facility license fee from $3.0 million to $2.5 million in Fiscal Year 2010-11 and to $2.0 million beginning in Fiscal Year 2011-12; (2) changed the payment frequency for taxes due from weekly to monthly beginning July 1, 2012; (3) authorized slot machines at Hialeah Park; (4) reduced the tax rate from 50 percent to 35 percent, with a floor on tax collections equal to 2008-09 collections; (5) allowed for progressive games; (6) changed the required prize payout percentage; and (7) reduced the minimum age for players from 21 to 18.

SLOT MACHINE TAX

BASE AND RATE:
Slot Machine Tax: 35 percent of slot machine revenues.

Facility License Fee: $2.0 million annually.

Occupational Licenses: Determined by rule. Up to $50 annually for a general or professional occupational license for an employee of the slot machine licensee; up to $1,000 annually for a business occupational license for nonemployees of the licensee providing goods or services to the slot machine licensee.

Addictive Gambling Program Fee: $250,000 annually for each facility which has slot machines.

DISPOSITION:
Slot Machine Tax: All proceeds are distributed to the Educational Enhancement Trust Fund.

Facility License Fee: Of total collections, 8 percent are deducted as service charges to the General Revenue Fund, with the remainder going to the Pari-Mutuel Wagering Trust Fund.

Occupational Licenses: Of total collections, 8 percent are deducted as service charges to the General Revenue Fund, with the remainder going to the Pari-Mutuel Wagering Trust Fund.

Addictive Gambling Program Fee: Of total collections, 8 percent are deducted as service charges to the General Revenue Fund, with the remainder going to the Pari-Mutuel Wagering Trust Fund to contract for services related to the prevention of compulsive and addictive gambling.

OTHER STATES:
Currently, many states offer slot machines or video lottery terminals in some venue. Tax rates and venue restrictions vary widely by state.

	2016-17 (millions)
VALUE OF RATE CHANGE:	
1 percent increase in Slot Machines Tax Rate (s.551.106 (2) (a))	$5.4

PROPOSED LEGISLATION REPEATED MULTIPLE YEARS:
There has been no proposed legislation repeated multiple years regarding this revenue source.

Revenue Estimating Conference
Indian Gaming Revenues
Executive Summary

December 2, 2015

The Revenue Estimating Conference met on December 2, 2015, to adopt new estimates for Indian Gaming revenues. During the first five years of the Indian Gaming Compact, the Seminole Tribe was required to make a minimum guaranteed payment for each year unless 12 percent of Net Win produced a larger amount. Net Win in Fiscal Year 2013-14 was above the minimum guarantee threshold, generating a true-up payment of $21.7 million that was received in August 2014. A final true-up payment of $38.8 million was received in August 2015 for Fiscal Year 2014-15 activity. The forecast has now been updated to include that final true-up payment, the actual Net Win for Fiscal Year 2014-15, and other information from the most recent quarterly financial reports available from the Tribe. Growth rates for Net Win for all fiscal years were kept the same as the August 2015 forecast.

The Compact provides that if the authorization for banked card games expires, revenue share payments from all banked card games and all Broward activity shall cease. It also provides that the Tribe has 90 days to cease operation of banked card games. The banked card games authorization expired on July 31, 2015, and the grace period ended October 31, 2015. Since then, the Tribe has continued to operate banked card games and make revenue share payments to the state that assume the prohibited activity continues. However, the official forecast does not include any funds related to the continuation of banked card games beyond the grace period.

The $3.7 million increase in Fiscal Year 2015-16 is primarily due to a higher-than-expected final true-up payment; it generated $2.4 million more than projected at the last Conference. The remainder of the increases throughout the forecast are mostly due to the slightly higher starting point because actual Net Win in Fiscal Year 2014-15 was greater than projected.

The following table compares the December 2015 and August 2015 forecasts, showing increases in projected revenues each year.

Indian Gaming Revenues									
Millions of $									
	Receipts			Local Distribution			Net General Revenue		
	Aug 2015	Dec 2015	Difference	Aug 2015	Dec 2015	Difference	Aug 2015	Dec 2015	Difference
2011-12	150.0	150.0	0.0	3.8	3.8	0.0	146.2	146.2	0.0
2012-13	226.1	226.1	0.0	4.5	4.5	0.0	221.6	221.6	0.0
2013-14	237.3	237.3	0.0	7.0	7.0	0.0	230.3	230.3	0.0
2014-15	255.6	255.6	0.0	7.1	7.1	0.0	248.5	248.5	0.0
2015-16	211.8	215.4	3.7	7.7	7.7	0.0	204.1	207.7	3.6
2016-17	125.2	126.2	1.1	6.2	6.3	0.1	119.0	119.9	0.9
2017-18	123.3	124.4	1.1	3.6	3.7	0.0	119.7	120.7	1.0
2018-19	125.3	126.4	1.1	3.7	3.7	0.0	121.6	122.6	1.0
2019-20	127.2	128.3	1.1	3.8	3.8	0.0	123.5	124.5	1.0
2020-21	129.2	130.3	1.1	3.8	3.9	0.0	125.4	126.5	1.1

Distributions may not sum to the totals due to rounding.
FY15-16 includes revenues from banked card games during the 90-day grace period.

Indian Gaming Revenues									
Millions of $									
	Receipts			Local Distribution			Net General Revenue		
	Aug 2015	Dec 2015	Difference	Aug 2015	Dec 2015	Difference	Aug 2015	Dec 2015	Difference
2011-12	150.0	150.0	0.0	3.8	3.8	0.0	146.2	146.2	0.0
2012-13	226.1	226.1	0.0	4.5	4.5	0.0	221.6	221.6	0.0
2013-14	237.3	237.3	0.0	7.0	7.0	0.0	230.3	230.3	0.0
2014-15	255.6	255.6	0.0	7.1	7.1	0.0	248.5	248.5	0.0
2015-16	211.8	215.4	3.7	7.7	7.7	0.0	204.1	207.7	3.6
2016-17	125.2	126.2	1.1	6.2	6.3	0.1	119.0	119.9	0.9
2017-18	123.3	124.4	1.1	3.6	3.7	0.0	119.7	120.7	1.0
2018-19	125.3	126.4	1.1	3.7	3.7	0.0	121.6	122.6	1.0
2019-20	127.2	128.3	1.1	3.8	3.8	0.0	123.5	124.5	1.0
2020-21	129.2	130.3	1.1	3.8	3.9	0.0	125.4	126.5	1.1

Distributions may not sum to the totals due to rounding.
FY15-16 includes revenues from banked card games during the 90-day grace period.

Indian Gaming Revenue Estimating Conference
December 2015 Forecast

2010-11	Aug 15		Dec 15	
	Receipts	Local Distribution	Receipts	Local Distribution
Jul-10	0.00		0.00	
Aug-10	12.50		12.50	
Sep-10	12.50		12.50	
Oct-10	12.50		12.50	
Nov-10	12.50		12.50	
Dec-10	15.42		15.42	
Jan-11	12.50		12.50	
Feb-11	12.50		12.50	
Mar-11	12.50	0.8	12.50	0.8
Apr-11	12.50		12.50	
May-11	12.50		12.50	
Jun-11	12.50		12.50	
2010-11	140.42	0.8	140.42	0.8
Net GR		139.7		139.7

December 2010 includes a $2.917m payment due from pre-compact activity

2011-12	Aug 15		Dec 15	
	Receipts	Local Distribution	Receipts	Local Distribution
Jul-11	12.50		12.50	
Aug-11	12.50		12.50	
Sep-11	12.50		12.50	
Oct-11	12.50		12.50	
Nov-11	12.50		12.50	
Dec-11	12.50		12.50	
Jan-12	12.50		12.50	
Feb-12	12.50		12.50	
Mar-12	12.50	3.8	12.50	3.8
Apr-12	12.50		12.50	
May-12	12.50		12.50	
Jun-12	12.50		12.50	
2011-12	150.00	3.8	150.00	3.8
Net GR		146.2		146.2

2012-13	Aug 15		Dec 15	
	Receipts	Local Distribution	Receipts	Local Distribution
Jul-12	12.50		12.50	
Aug-12	19.42		19.42	
Sep-12	19.42		19.42	
Oct-12	19.42		19.42	
Nov-12	19.42		19.42	
Dec-12	19.42		19.42	
Jan-13	19.42		19.42	
Feb-13	19.42		19.42	
Mar-13	19.42	4.5	19.42	4.5
Apr-13	19.42		19.42	
May-13	19.42		19.42	
Jun-13	19.42		19.42	
2012-13	226.08	4.5	226.08	4.5
Total Receipts				
Net GR		221.6		221.6

2013-14	Aug 15			Dec 15		
	Receipts	Local Distribution	True-up Payment	Receipts	Local Distribution	True-up Payment
Jul-13	19.42			19.42		
Aug-13	19.42		4.3	19.42		4.3
Sep-13	19.42			19.42		
Oct-13	19.42			19.42		
Nov-13	19.42			19.42		
Dec-13	19.42			19.42		
Jan-14	19.42			19.42		
Feb-14	19.42			19.42		
Mar-14	19.42	7.0		19.42	7.0	
Apr-14	19.42			19.42		
May-14	19.42			19.42		
Jun-14	19.42			19.42		
2013-14	233.00	7.0	4.3	233.00	7.0	4.3
Total Receipts	237.3			237.3		
Net GR		230.3			230.3	

2014-15	Aug 15			Dec 15		
	Receipts	Local Distribution	True-up Payment	Receipts	Local Distribution	True-up Payment
Jul-14	19.42			19.42		
Aug-14	19.50		21.7	19.50		21.7
Sep-14	19.50			19.50		
Oct-14	19.50			19.50		
Nov-14	19.50			19.50		
Dec-14	19.50	7.1		19.50	7.1	
Jan-15	19.50			19.50		
Feb-15	19.50			19.50		
Mar-15	19.50			19.50		
Apr-15	19.50			19.50		
May-15	19.50			19.50		
Jun-15	19.50			19.50		
2014-15	233.92	7.1	21.7	233.92	7.1	21.7
Total Reciepts	255.61			255.61		
Net GR		248.5			248.5	

2015-16	Aug 15			Dec 15		
	Receipts	Local Distribution	True-up Payment	Receipts	Local Distribution	True-up Payment
Jul-15	19.50			19.50		
Aug-15	14.17		36.4	14.28		38.8
Sep-15	14.17			14.28		
Oct-15	14.17			14.28		
Nov-15	14.17			14.28	7.7	
Dec-15	14.17			14.28		
Jan-16	14.17			14.28		
Feb-16	14.17			14.28		
Mar-16	14.17	7.7		14.28		
Apr-16	14.17			14.28		
May-16	14.17			14.28		
Jun-16	14.17			14.28		
2015-16	175.34	7.7	36.4	176.58	7.7	38.8
Total Reciepts	211.77			215.42		
Net GR		204.1			207.7	

2016-17	Aug 15		Dec 15	
	Receipts	Local Distribution	Receipts	Local Distribution
Jul-16	14.17		14.28	
Aug-16	10.09		10.18	
Sep-16	10.09		10.18	
Oct-16	10.09		10.18	
Nov-16	10.09		10.18	
Dec-16	10.09		10.18	
Jan-17	10.09		10.18	
Feb-17	10.09		10.18	
Mar-17	10.09	6.2	10.18	6.3
Apr-17	10.09		10.18	
May-17	10.09		10.18	
Jun-17	10.09		10.18	
2016-17	125.16	6.2	126.24	6.3
Total Reciepts	125.16		126.24	
Net GR		119.0		119.9

2017-18	Aug 15		Dec 15	
	Receipts	Local Distribution	Receipts	Local Distribution
Jul-17	10.09		10.18	
Aug-17	10.29		10.38	
Sep-17	10.29		10.38	
Oct-17	10.29		10.38	
Nov-17	10.29		10.38	
Dec-17	10.29		10.38	
Jan-18	10.29		10.38	
Feb-18	10.29		10.38	
Mar-18	10.29	3.6	10.38	3.7
Apr-18	10.29		10.38	
May-18	10.29		10.38	
Jun-18	10.29		10.38	
2017-18	123.30	3.6	124.38	3.7
Total Reciepts	123.30		124.38	
Net GR		119.7		120.7

2018-19	Aug 15		Dec 15	
	Receipts	Local Distribution	Receipts	Local Distribution
Jul-18	10.29		10.38	
Aug-18	10.45		10.54	
Sep-18	10.45		10.54	
Oct-18	10.45		10.54	
Nov-18	10.45		10.54	
Dec-18	10.45		10.54	
Jan-19	10.45		10.54	
Feb-19	10.45		10.54	
Mar-19	10.45	3.7	10.54	3.7
Apr-19	10.45		10.54	
May-19	10.45		10.54	
Jun-19	10.45		10.54	
2018-19	125.27	3.7	126.36	3.7
Total Reciepts	125.27		126.36	
Net GR		121.6		122.6

2019-20	Aug 15		Dec 15	
	Receipts	Local Distribution	Receipts	Local Distribution
Jul-19	10.45		10.54	
Aug-19	10.62		10.71	
Sep-19	10.62		10.71	
Oct-19	10.62		10.71	
Nov-19	10.62		10.71	
Dec-19	10.62		10.71	
Jan-20	10.62		10.71	
Feb-20	10.62		10.71	
Mar-20	10.62	3.8	10.71	3.8
Apr-20	10.62		10.71	
May-20	10.62		10.71	
Jun-20	10.62		10.71	
2019-20	127.22	3.8	128.33	3.8
Total Reciepts	127.22		128.33	
Net GR		123.5		124.5

2020-21	Aug 15		Dec 15	
	Receipts	Local Distribution	Receipts	Local Distribution
Jul-20	10.62		10.71	
Aug-20	10.78		10.88	
Sep-20	10.78		10.88	
Oct-20	10.78		10.88	
Nov-20	10.78		10.88	
Dec-20	10.78		10.88	
Jan-21	10.78		10.88	
Feb-21	10.78		10.88	
Mar-21	10.78	3.8	10.88	3.9
Apr-21	10.78		10.88	
May-21	10.78		10.88	
Jun-21	10.78		10.88	
2020-21	129.21	3.8	130.33	3.9
Total Reciepts	129.21		130.33	
Net GR		125.4		126.5

2021-22	Aug 15		Dec 15	
	Receipts	Local Distribution	Receipts	Local Distribution
Jul-21	10.78		10.88	
Aug-21	10.95		11.04	
Sep-21	10.95		11.04	
Oct-21	10.95		11.04	
Nov-21	10.95		11.04	
Dec-21	10.95		11.04	
Jan-22	10.95		11.04	
Feb-22	10.95		11.04	
Mar-22	10.95	3.9	11.04	3.9
Apr-22	10.95		11.04	
May-22	10.95		11.04	
Jun-22	10.95		11.04	
2021-22	131.22	3.9	132.37	3.9
Total Reciepts	131.22		132.37	
Net GR		127.3		128.5

2022-23	Aug 15		Dec 15	
	Receipts	Local Distribution	Receipts	Local Distribution
Jul-22	10.95		11.04	
Aug-22	11.12		11.22	
Sep-22	11.12		11.22	
Oct-22	11.12		11.22	
Nov-22	11.12		11.22	
Dec-22	11.12		11.22	
Jan-23	11.12		11.22	
Feb-23	11.12		11.22	
Mar-23	11.12	3.9	11.22	4.0
Apr-23	11.12		11.22	
May-23	11.12		11.22	
Jun-23	11.12		11.22	
2022-23	133.27	3.9	134.43	4.0
Total Reciepts	133.27		134.43	
Net GR		129.3		130.5

2023-24	Aug 15		Dec 15	
	Receipts	Local Distribution	Receipts	Local Distribution
Jul-22	11.12		11.22	
Aug-22	11.29		11.39	
Sep-22	11.29		11.39	
Oct-22	11.29		11.39	
Nov-22	11.29		11.39	
Dec-22	11.29		11.39	
Jan-23	11.29		11.39	
Feb-23	11.29		11.39	
Mar-23	11.29	4.1	11.39	4.1
Apr-23	11.29		11.39	
May-23	11.29		11.39	
Jun-23	11.29		11.39	
2022-23	135.35	4.1	136.53	4.1
Total Reciepts	135.35		136.53	
Net GR		131.3		132.4

NOTE: True-up payments are based on prior year's activity.

Indian Gaming Revenues									
Fiscal Year	Net Win	% change	Loss From Broward 48.53%	Loss from other table games 8.65%	Remaining Net Win	Net Revenues	Revenues Collected	Minimum Payment	True-up Payment
2010-11									
2011-12									
2012-13	1,977.6				1,977.6	237.3	226.1	233.0	4.3
2013-14	2,098.0	6.09%			2,098.0	254.7	237.3	233.0	21.7
2014-15	2,218.9	5.77%			2,218.9	272.8	255.6	234.0	38.8
2015-16	2,307.7	4.00%	(746.6)	(133.1)	1,428.0	171.4	215.4		
2016-17	2,376.9	3.00%	(1,153.5)	(205.6)	1,017.8	122.1	126.2		
2017-18	2,424.5	2.00%	(1,176.6)	(209.7)	1,038.2	124.6	124.4		
2018-19	2,462.3	1.56%	(1,194.9)	(213.0)	1,054.4	126.5	126.4		
2019-20	2,500.7	1.56%	(1,213.6)	(216.3)	1,070.8	128.5	128.3		
2020-21	2,539.7	1.56%	(1,232.5)	(219.7)	1,087.5	130.5	130.3		
2021-22	2,579.3	1.56%	(1,251.7)	(223.1)	1,104.5	132.5	132.4		
2022-23	2,619.6	1.56%	(1,271.3)	(226.6)	1,121.7	134.6	134.4		
2023-24	2,660.4	1.56%	(1,291.1)	(230.1)	1,139.2	136.7	136.5		

NOTE: Revenues collected are lagged by one month

Assumptions: Beginning in November of 2015-16, table games are no longer active
Lose all of Broward County Revenues (48.53% of net win, source: financial reports for the quarter ending June 30, 2015)
Lose table game revenues for non-Broward facilties (8.65% of net win, source: financial reports for the quarter ending June 30, 2015)
True-up payments generated from activity in any Fiscal Year are received in the following Fiscal Year.

Revenue Sharing Percentages
12% of net win up to $2 billion
15% of net win between $2 billion and $3 billion
17.5% of net win between $3 billion and $3.5 billion
20% of net win between $3.5 billion and $4 billion
22.5% of net win between $4 billion and $4.5 billion
25% of net win over $4.5 billion

INDIAN GAMING REVENUES

FLORIDA STATUTES: Chapter 285

ADMINISTERED BY: Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering

SUMMARY:
The compact with the Seminole Tribe of Florida allows the play of covered games in seven Seminole tribal facilities. The Tribe makes payments to the state for the privilege of being allowed to conduct those games in its tribal facilities.

REVENUE:

Fiscal Year	Total Collections	Annual Change %	Distributions to General Revenue	Distributions to Local Governments
2016-17*	125,158,275	-40.90%	118,965,162	6,193,113
2015-16*	211,769,733	-17.15%	204,098,914	7,670,819
2014-15	255,610,619	7.71%	248,491,250	7,119,369
2013-14	237,312,301	4.97%	230,322,301	6,990,000
2012-13	226,083,337	50.72%	221,583,337	4,500,000
2011-12	150,000,000	6.82%	146,250,000	3,750,000
2010-11	140,416,667	-6.39%	139,666,667	750,000

* Estimate

HISTORY:
On November 14, 2007, the Governor and the Seminole Tribe of Florida executed a gaming agreement which was subsequently invalidated by the Florida Supreme Court. On August 28, 2009, and August 31, 2009, the Governor and the Tribe executed another agreement which was sent to the President of the Senate and the Speaker of the House of Representatives but not ratified or approved by the Legislature. On April 7, 2010, the Governor and the Tribe executed another agreement, which was subsequently ratified by the Legislature Chapter 2010-29, L.O.F. (SB 622), and approved by the United States Secretary of the Interior. The compact allows play of covered games in seven Seminole tribal gaming facilities. Covered games include slot machines at all seven facilities and banked card games at five of the seven facilities. Expressly excluded are roulette, craps, roulette-style games, and craps-style games. The Tribe is granted exclusive rights to offer the covered games. The compact has a term of 20 years, with the exception that the authorization to offer banked card games lasts only five years. When banked card game authorization ceases in Fiscal Year 2015-16, the state will no longer receive revenue from the Tribe's facilities in Broward County.

BASE AND RATE:
During the initial period (the first 24 months of the agreement), the Tribe agreed to pay the State $12.5 million per month. Beginning with the 25th month, Revenue Share calculation is as follows: 12 percent of the first $2.0 billion in Net Win, 15 percent of Net Win between $2.0 billion and $3.0 billion, 17.5 percent of Net Win between $3.0 billion and $3.5 billion, 20 percent of Net Win between $3.5 billion and $4.0 billion, 22.5 percent of Net Win between $4.0 billion and $4.5 billion, and 25 percent of Net Win in excess of $4.5 billion. There are guaranteed minimum payments of $233 million for the 25th through 36th months and the 37th through 48th months, and $234 million for the 49th through 60th months. The Tribe also pays an annual oversight payment of no more than $250,000, indexed for inflation.

DISPOSITION:
The General Revenue Fund receives 97 percent, and 3 percent is distributed to the affected local governments.

OTHER STATES:
In addition to Florida, there are Indian casinos in 27 other states.

PROPOSED LEGISLATION REPEATED MULTIPLE YEARS:
There has been no proposed legislation repeated multiple years regarding this revenue source.

TABLE 21
PARI-MUTUEL TAXES ($ Millions)

Includes taxes on handle, attendance, license fees, cardrooms, intertrack wagering, and slot machine licenses.

		Total Collections	% chg	General Revenue	% chg
1995-96		89.6	-5.3	46.0	-12.6
1996-97		73.8	-17.7	31.8	-30.8
1997-98		69.1	-6.3	25.6	-19.5
1998-99		59.7	-13.6	14.0	-45.3
1999-00		57.5	-3.7	13.0	-7.1
2000-01		34.7	-39.7	16.6	27.7
2001-02		35.1	1.2	18.6	12.0
2002-03		32.4	-7.7	17.1	-7.9
2003-04		32.0	-1.2	23.7	38.5
2004-05		33.6	5.0	18.4	-22.5
2005-06		31.4	-6.5	16.0	-13.0
2006-07		33.9	8.0	32.0	100.0
2007-08		33.8	-0.3	26.9	-15.9
2008-09		29.2	-13.6	20.0	-25.7
2009-10		26.6	-8.9	27.7	38.5
2010-11		26.0	-2.3	30.8	11.2
2011-12		26.9	3.5	24.5	-20.5
2012-13		25.1	-6.7	23.4	-4.5
2013-14		27.1	8.0	25.3	8.1
2014-15		26.1	-3.7	26.8	5.9
2015-16	OLD	25.0	-4.2	20.7	-22.8
2015-16	EDR	25.2	-3.4	22.9	-14.6
2015-16	EOG	25.2	-3.4	22.9	-14.6
2015-16	DPT	#N/A	#N/A	#N/A	#N/A
2015-16	NEW	25.2	-3.4	22.9	-14.6
2016-17	OLD	24.5	-2.0	20.2	-2.4
2016-17	EDR	24.7	-2.0	22.4	-2.2
2016-17	EOG	24.7	-2.0	22.4	-2.2
2016-17	DPT	#N/A	#N/A	#N/A	#N/A
2016-17	NEW	24.7	-2.0	22.4	-2.2
2017-18	OLD	24.3	-0.8	20.0	-1.0
2017-18	EDR	24.5	-0.8	22.2	-0.9
2017-18	EOG	24.5	-0.8	22.2	-0.9
2017-18	DPT	#N/A	#N/A	#N/A	#N/A
2017-18	NEW	24.5	-0.8	22.2	-0.9
2018-19	OLD	23.9	-1.6	19.6	-2.0
2018-19	EDR	24.1	-1.6	21.8	-1.8
2018-19	EOG	24.1	-1.6	21.8	-1.8
2018-19	DPT	#N/A	#N/A	#N/A	#N/A
2018-19	NEW	24.1	-1.6	21.8	-1.8
2019-20	OLD	23.7	-0.8	19.4	-1.0
2019-20	EDR	23.9	-0.8	21.6	-0.9
2019-20	EOG	23.9	-0.8	21.6	-0.9
2019-20	DPT	#N/A	#N/A	#N/A	#N/A
2019-20	NEW	23.9	-0.8	21.6	-0.9
2020-21	OLD	23.7	0.0	19.4	0.0
2020-21	EDR	23.9	0.0	21.6	0.0
2020-21	EOG	23.9	0.0	21.6	0.0
2020-21	DPT	#N/A	#N/A	#N/A	#N/A
2020-21	NEW	23.9	0.0	21.6	0.0

P A R I – M U T U E L T A X

FLORIDA STATUTES: Sections 550.0951(1)(a); 550.0951(2)(a); 550.0951(2)(b) and (c); 550.0951(3)(b)1; 550.0951(3)(d); 550.09515(2)(a); 550.0951(3)(a); 550.3551(4); 550.3551(3) through 550.3551(3)(c); 550.0951(3)(b)1; 550.0951(3)(c)2; 550.0951(3)(b)2; 550.09511(3)(a); 550.09515(5); 550.1645(2); 550.09514(1); 550.0951(1)(a) and (b); 550.1647; 550.09511(1)(b); 550.1646; 550.09511(2)(a)1; 550.09511(4); 550.09515(6); 550.0351(1), (5), and (6); 849.086(5)(d); and 849.086(13)(a) through (c)

ADMINISTERED BY: Department of Business and Professional Regulation; Division of Pari-Mutuel Wagering

SUMMARY:
Taxes and fees are imposed on pari-mutuel facilities in Florida that conduct greyhound, harness, thoroughbred, and quarter horse races, and jai alai games. Taxes are imposed at each pari-mutuel facility that operates a cardroom at 10 percent of the total cardroom gross receipts. Also imposed is an annual cardroom license fee of $1,000 for each table operated at the cardroom facility. A series of occupational license fees for employees and associated businesses is also imposed.

REVENUE:

Fiscal Year	Total Collections	Annual Change %	General Revenue	Trust Funds
2016-17*	24,527,787	-1.71%	10,450,539	14,077,248
2015-16*	24,954,700	-4.61%	10,877,451	14,077,249
2014-15	26,159,532	-3.65%	13,779,345	12,380,186
2013-14	27,149,429	8.02%	14,825,922	12,323,507
2012-13	25,134,334	-6.59%	12,644,172	12,490,162
2011-12	26,906,160	3.51%	12,532,053	14,374,107
2010-11	25,994,558	-2.32%	12,277,475	13,717,083

* Estimate

HISTORY:
Pari-mutuel betting was first authorized in 1931 with the handle taxed at 3 percent plus an admissions tax. Jai alai frontons were authorized in 1935 with the same tax provisions. In 1941, a tax on "breaks" was enacted. Daily license fees were authorized in 1963. Legislation in 1971 placed a ceiling of $446,500 on the amount of racing revenues distributed annually to each county. The pari-mutuel laws were substantially revised during the 1980 legislative session.

In 1984, all permitholders were authorized to withhold an additional 1 percent commission from exotic wagers to be used for capital improvements, with a 50 percent surtax on the additional commission. In 1987, the Legislature authorized the Florida Pari-mutuel Commission to make recommendations annually to the Legislature for additional operating days. Additional taxes on handle for additional racing days were provided. Jai alai and dog racing permitholders were authorized to withhold in Fiscal Year 1989-90, up to an additional 2 percent from exotic wagers. The additional 2 percent was subject to a 17.5 percent surtax per percentage point. In 1990, intertrack wagering was authorized, with a 3 percent tax rate on handle for horses and a 6 percent tax rate on handle for greyhound racing and jai alai. The additional 2 percent takeout on exotic wagering authorized for Fiscal Year 1989-90 to greyhound and jai alai permitholders was allowed to continue. The Legislature adopted a provision that any increase in future years over the amount of taxes paid from all types of pari-mutuel wagering in Fiscal Year 1989-90 will be redistributed as tax credits to greyhound and jai alai permitholders.

PARI–MUTUEL TAX

The 1991 Legislature passed CS/SB 1342, which repealed effective July 1, 1992, most of the pari-mutuel statutes, including tax credits and exemptions. Basic provisions relating to taxes and wagering were not repealed. The lower tax rate for intertrack wagering (ITW) was repealed, subjecting ITW to the higher tax rates.

The 1992 Legislature failed to reenact the pari-mutuel statutes. During Special Session A, the 1993 Legislature reenacted the regulatory authority of the Division of Pari-mutuel Wagering and the former permitting and licensing provisions, with some modifications. Tax credits and exemptions and the lower ITW tax rate were not reenacted. In 1993, new tax structures for jai alai games, live harness races, and thoroughbred races were established. Another statutory change adopted in 1993 provided that if a jai alai or horseracing permitholder does not pay state taxes for two consecutive years and incurs no tax liability for failure to operate a full schedule of live races, the permit escheats to the state. The state may reissue the permit to a qualified applicant. Also, the Breeders' Cup Meet was reestablished, but without tax credits. In 1994, the daily license fee for jai alai was reduced from $80 to $40 per game, and the tax on handle for live jai alai performances was reduced from 7.1 percent to 5 percent of handle. However, when the live handle during the preceding state fiscal year is less than $15 million, the tax shall be paid on handle in excess of $30,000 per performance per day. Chapter 94-328, L.O.F. (HB 2813), created s. 550.2704, F.S., and authorized the licensing of one special Jai Alai Tournament of Champions Meet. The meet consists of four performances at different locations each year. During the 1995 legislative session, no legislation was passed that impacted fees or taxes. The only major legislation that was enacted was in reference to various technical matters in Chapter 550, F.S.

The 1996 Legislature enacted major pari-mutuel tax law changes. The significant changes were as follows: capped daily license fees on simulcast racing at $500 per day; reduced tax rate on horse racing intertrack simulcast handle from 3.3 percent to 2.4 percent; reduced tax rate on greyhound intertrack handle from 7.6 percent to 6 percent; reduced the tax rate on jai alai intertrack handle from 7.1 percent to 6.1 percent; reduced the tax rate on live jai alai handle from 5 percent to 4.25 percent; eliminated the breaks on live greyhound handle, permitting such breaks to be retained by the permitholder instead of the state; greyhound permitholders were entitled to a tax exemption on their first $100,000 of live handle with a total tax credit of either $500,000 or $360,000 per fiscal year and an $80 per race tax credit multiplied by the number of live races conducted in the previous fiscal year; and full-card simulcasting was permitted for all thoroughbred, harness, and jai alai permitholders.

In addition, the 1996 Legislature permitted the operation of card rooms at pari-mutuel facilities if such activity is approved by ordinance by the county commission where the pari-mutuel facility is located. The fee to operate a card room is $1,000 for the first card table and $500 for each additional card table. A card room can only be operated in conjunction with live pari-mutuel wagering. The gross receipts of a card room are taxed at a rate of 10 percent. One-quarter of the revenues deposited into the Pari-Mutuel Trust Fund from card room operations is to be distributed to the counties where the card rooms are located.

The 1997 Legislature transferred the daily operation of the PMW Laboratory to the University of Florida, College of Veterinary Medicine, for Fiscal Year 1997-98, during which time a feasibility study of the operations of the laboratory was conducted. Greyhound racing purse requirements became effective October 1, 1996, and during the 1996-97 fiscal year; the division completed its comprehensive review of greyhound purse payments and established the minimum purse percentages to be used for compliance purposes. The 1998 Legislature passed into law three bills. Two of the bills, CS/SB 440 and HB 1747, became effective on May 24 and contained continued tax breaks for the pari-mutuel industry by repealing the sunset language enacted in 1996. CS/SB 440 provided for the removal of the admission tax on free passes and complimentary cards issued by all permitholders. The bill allowed simulcasting beyond 10:00 P.M., reduced various tax rates on all wager types, and provided for a feasibility study of the Hialeah

Race Track to be performed to address state or municipal ownership. The 1999 Legislature allotted an additional $700,000 to facilitate the relocation of the PMW Racing Laboratory from Tallahassee to Gainesville.

In 2000, the Legislature passed a 76-page amendment affecting pari-mutuel wagering, which included $20 million in tax reductions for permitholders and an assortment of other revisions to Chapter 550, F.S. The following is a brief synopsis of what is contained in the amendment, which became effective, July 1, 2000:

- Reduced taxes for greyhound permitholders to an estimated amount of $14.4 million annually
- Reduced taxes for thoroughbred permitholders to an estimated amount of $4.5 million annually
- Reduced taxes for jai alai permitholders to an estimated amount of $430,000 annually
- Reduced taxes for harness permitholders to an estimated amount of $600,000 annually
- Designated the $29.9 million paid annually to the counties be disbursed directly from the General Revenue Fund rather than the Pari-Mutuel Wagering Trust Fund
- Increased tax credits associated with the Breeders' Cup Championship Meet for certain eligible permitholders
- Reduced the frequency of tax and fee payments made by the permitholder to the division from twice a week to once a week
- Provided jai alai permitholders the option of conducting one additional Charity Day performance
- Provided the authority for the department to enter into an Interstate Compact that will reduce the administrative burden of issuing duplicative licenses to applicants from states that choose to participate
- Eliminated the licensing requirement for all restricted licensees

Section 10 of Chapter 2000-354, L.O.F. (SB 770/286), reenacted and amended paragraph (2) (a) of s. 550.09515, F.S., as amended by s. 4, Chapter 98-190, L.O.F. (SB 440). Effective July 1, 2001, the tax on live handle for thoroughbred horseracing was set at 0.5 percent. In 2003, s. 849.086, F.S., was amended to allow permitholders who operate a cardroom to raise the pot limits from a $10 pot to a bet limit of $2 for up to three raises per round of play. Additionally, horseracing permitholders would be permitted to conduct simulcast racing after 7:00 PM and simultaneously operate a cardroom. Sections 550.26165 and 550.2625, F.S., modified the criteria for breeders' awards and the payment of special racing awards to owners of winning Florida-bred thoroughbred horses.

Chapter 2005-288, L.O.F. (HB 181), reduced the number of live performances constituting a full schedule from 100 to 40 for certain jai alai permitholders. Permitholders taking advantage of this reduction are required to pay the same amount of tax as they paid during the last year in which they conducted at least 100 live performances. Additionally, any quarter horse permitholder wanting to substitute thoroughbred races or take intertrack wagering signals would have to have approval from other permitholders in its proximity. Finally, transfer of cardroom licenses was permitted, with no referendum required if the permitholder relocates its permit within the same county as its existing pari-mutuel facility.

Chapter 2007-163, L.O.F. (SB 134), increased the wagering limits from $2 to $5 and authorized new wagering options such as dominoes and games of Texas Hold-em without betting limits as long as the buy-in did not exceed $100; and poker tournaments as long as the entry fee does not exceed the maximum amount that could be wagered in 10-likekind non-tournament games. Additionally, the per table fee paid by each cardroom operator was increased from $1,000 for the first table and $500 for each additional table to $1,000 for all tables. Finally, the requirement to conduct live performances in conjunction with operating a cardroom was amended, authorizing cardroom operators to operate a cardroom year round

without having to conduct a live performance. These amendments to s. 849.086, F.S., had a positive impact on tax revenue to the state.

Chapter 2010-29, L.O.F. (SB 622), gave an effective date for the pari-mutuel provision in Chapter 2009-170, which extended cardroom hours from 12 hours per day to 18 hours per day and 24 hours on the weekends and holidays. Additionally, all wagering limits for cardrooms were removed. Quarter horse permit application requirements were amended, subjecting them to the same mileage restrictions that are applicable to other permit applications. Live performances consisting of a full schedule for quarter horse permitholders were reduced from 40 to 20 in 2010-11, increased to 30 in 2011-12 and 2012-13, and then to 40 every fiscal year thereafter. A quarter horse permitholder may have an agreement with either the Florida Quarter Horse Racing Association or the horsemen's association representing the majority of the quarter horse owner and trainers at their facility authorizing them to run an alternative schedule of at least 20 live performances. Additionally, quarter horse permitholders may substitute 50 percent of their races with thoroughbred races, and were no longer required to have approval from other permitholders within their proximity. Finally, a jai alai permitholder that meets certain conditions may apply to have the permit converted to a greyhound permit.

In 1996, the Legislature passed Chapter 1996-364, L.O.F. (HB 337), as a general act covering the entire state. In September 2007, the Florida Supreme Court ruled s. 550.615(6), F.S., to be unconstitutional because of the way it was adopted. The justices found the act should have been a local bill because it only affects South Florida tracks. The high court upheld two lower court decisions that also found the law unconstitutionally restricted the tracks. Section 550.615(6), F.S., limited the ability of South Florida horse racing tracks to simulcast events from other pari-mutuel facilities. As a result of the ruling, effective September 21, 2007, all pari-mutuel facilities in Miami-Dade and Broward counties, were permitted to enter into contractual agreements that allow the host facility to send its live and import simulcast signals to other facilities in the two counties; the tax rate for simulcast handle for the two affected Broward County greyhound facilities increased from 3.9 percent to 5.5 percent.

BASE AND RATE:

	Thoroughbreds	Harness	Quarter Horse	Greyhounds	Jai Alai
Daily License Fee					
Live Simulcast	$100 per race $500 per day	$100 per race $500 per day	$100 per race $500 per day	$80 per race $500 per day	$40 per game $500 per day
Admissions Tax	15% or 10 cents, whichever is greater No tax applies to free or complimentary passes	15% or 10 cents, whichever is greater No tax applies to free or complimentary passes	15% or 10 cents, whichever is greater No tax applies to free or complimentary passes	15% or 10 cents, whichever is greater No tax applies to free or complimentary passes	15% or 10 cents, whichever is greater No tax applies to free or complimentary passes
Tax on Handle					
Live	0.5% of handle	0.5% of handle	1.0% of handle	5.5% of handle 7.6% of handle for charity performances	2.0% of handle
ITW	2.0% of handle 0.5% of handle (I)	3.3% of handle 0.5% of handle (I)	2.0% of handle 0.5% of handle (I)	5.5% of handle 3.9% of handle on regular performances, and 7.6% on charity performances (II)	7.1% of handle 6.1% of handle (III) 3.3% of handle (IV) 2.3% of handle (III)

PARI–MUTUEL TAX

	Thoroughbreds	Harness	Quarter Horse	Greyhounds	Jai Alai
				0.5% of handle (I)	0.5% of handle (I)
Simulcast	0.5% of handle	0.5% of handle	1.0% of handle	5.5% of handle	2.0% of handle
ITW of Simulcast	2.4% of handle 0.5% of handle (I and V)	1.5% of handle 0.5% of handle (I)	2.4% of handle 0.5% of handle (I)	5.5% of handle 3.9% of handle (II) 0.5% of handle (I)	Same as intertrack 0.5% of handle (I)
Tax on Cardroom	10% of gross receipts	10% of gross receipts	10% of gross receipts	10% of gross receipts	10% of gross receipts
Cardroom License Fee	$1,000 per table	$1,000 per table	$1,000 per table	$1,000 per table	$1,000 per table

DISPOSITION:

Pari-Mutuel Taxes and Fees

Of the total collections, 8 percent are deducted as service charges to the General Revenue Fund, with the remainder being deposited into the Pari-Mutuel Wagering Trust Fund.

Cardroom Taxes

One-half of total collections are distributed to the General Revenue Fund. The other half of the collections is deposited into the Pari-Mutuel Wagering Trust Fund. Of the one-half deposited into the Pari-Mutuel Wagering Trust Fund, 8 percent is deducted as service charges to the General Revenue Fund. One-fourth of the collections deposited into the Pari-Mutuel Wagering Trust Fund is distributed the following October to the counties or municipalities where the cardroom was approved.

Cardroom Table Fees

The General Revenue Fund deducts 8 percent as service charges with the remainder being deposited into the Pari-Mutuel Wagering Trust Fund.

Pari-Mutuel, and Cardroom, Occupational Licenses

The General Revenue Fund deducts 8 percent as service charges with the remainder being deposited into the Pari-Mutuel Wagering Trust Fund.

OTHER STATES:

There are many other states that permit some type of pari-mutuel and/or cardroom operations. Those operations are sometimes regulated by the state, commissions, or boards. Historically, pari-mutuel and cardroom statutes relating to taxes and fees are very complex and vary greatly from state to state. Most states have some sort of pari-mutuel wagering, except Alaska, Georgia, Hawaii, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Utah, Vermont, and Washington, DC.

	2016-17 (millions)
VALUE OF RATE CHANGE:	
Value of 1 percent levy on pari-mutuel handle (Assuming no additional track allowance)	
Greyhound (live and simulcast)	$1.00
Jai Alai (live and simulcast)	$0.05

PARI–MUTUEL TAX

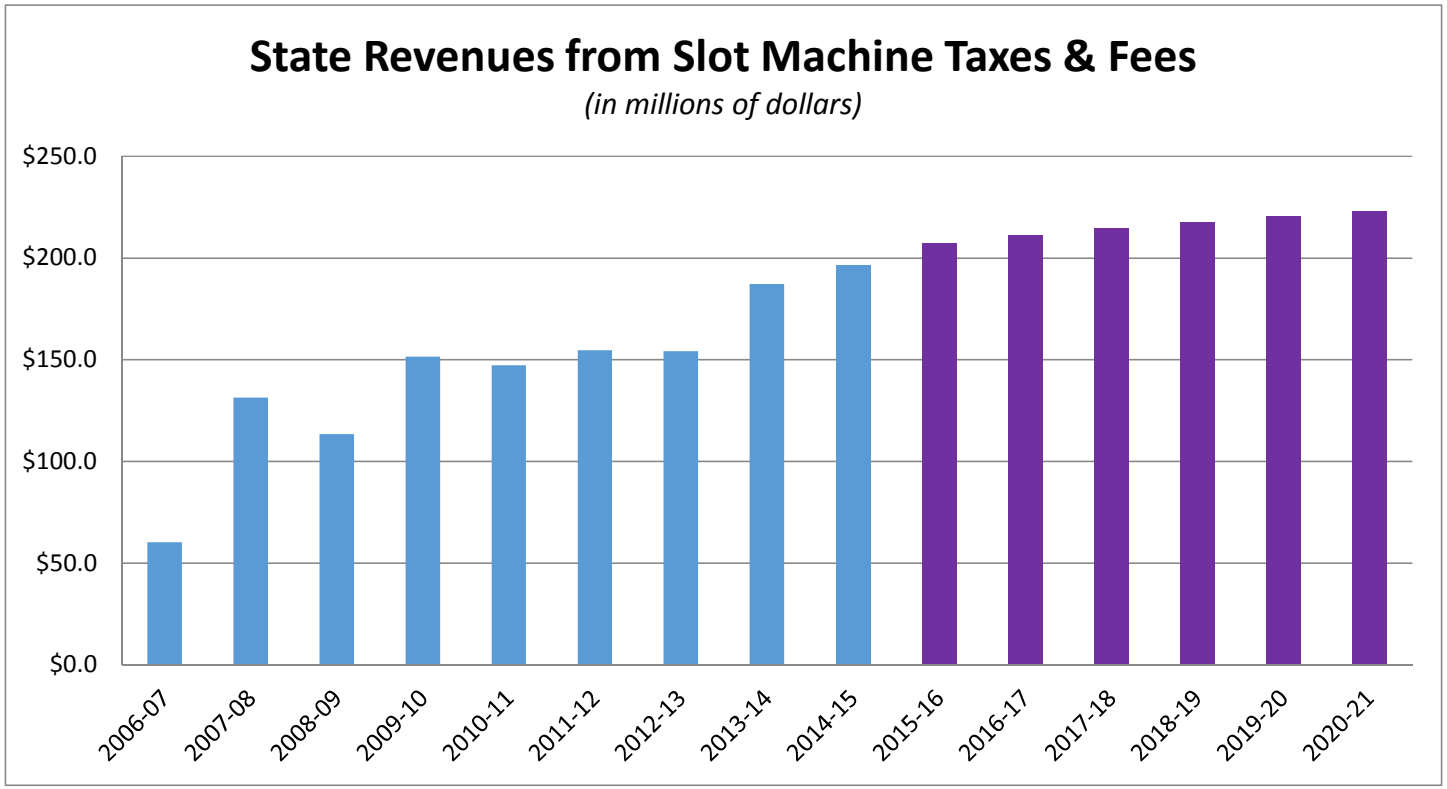
Harness (live and simulcast)	$0.16
Thoroughbred (live and simulcast)	$1.10
Quarter Horse (live and simulcast)	$0.01
Intertrack Wagering (ITW and ITWS)	$4.69
Total	$7.01

Value of 1 percent levy on cardroom gross receipts

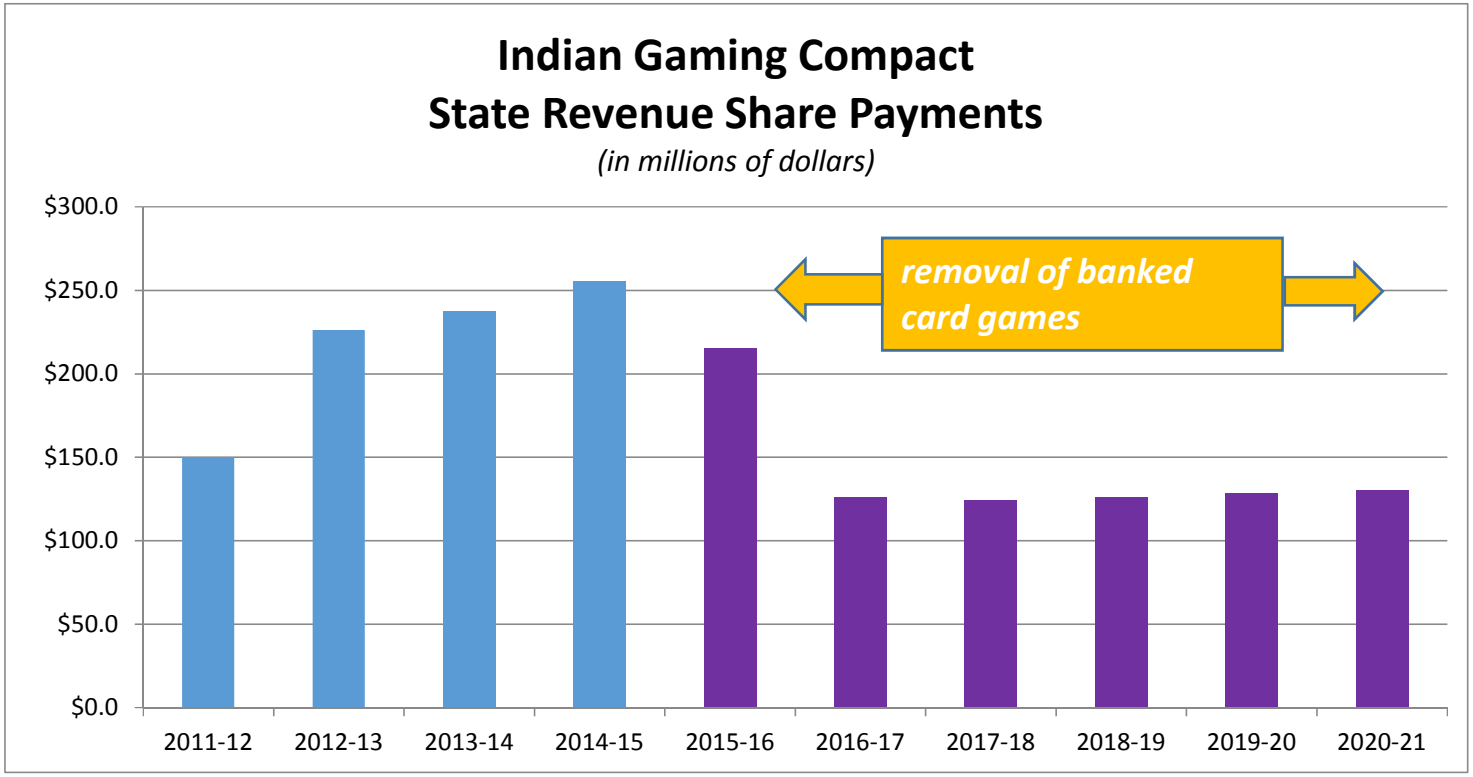
Cardroom	$1.3

PROPOSED LEGISLATION REPEATED MULTIPLE YEARS:

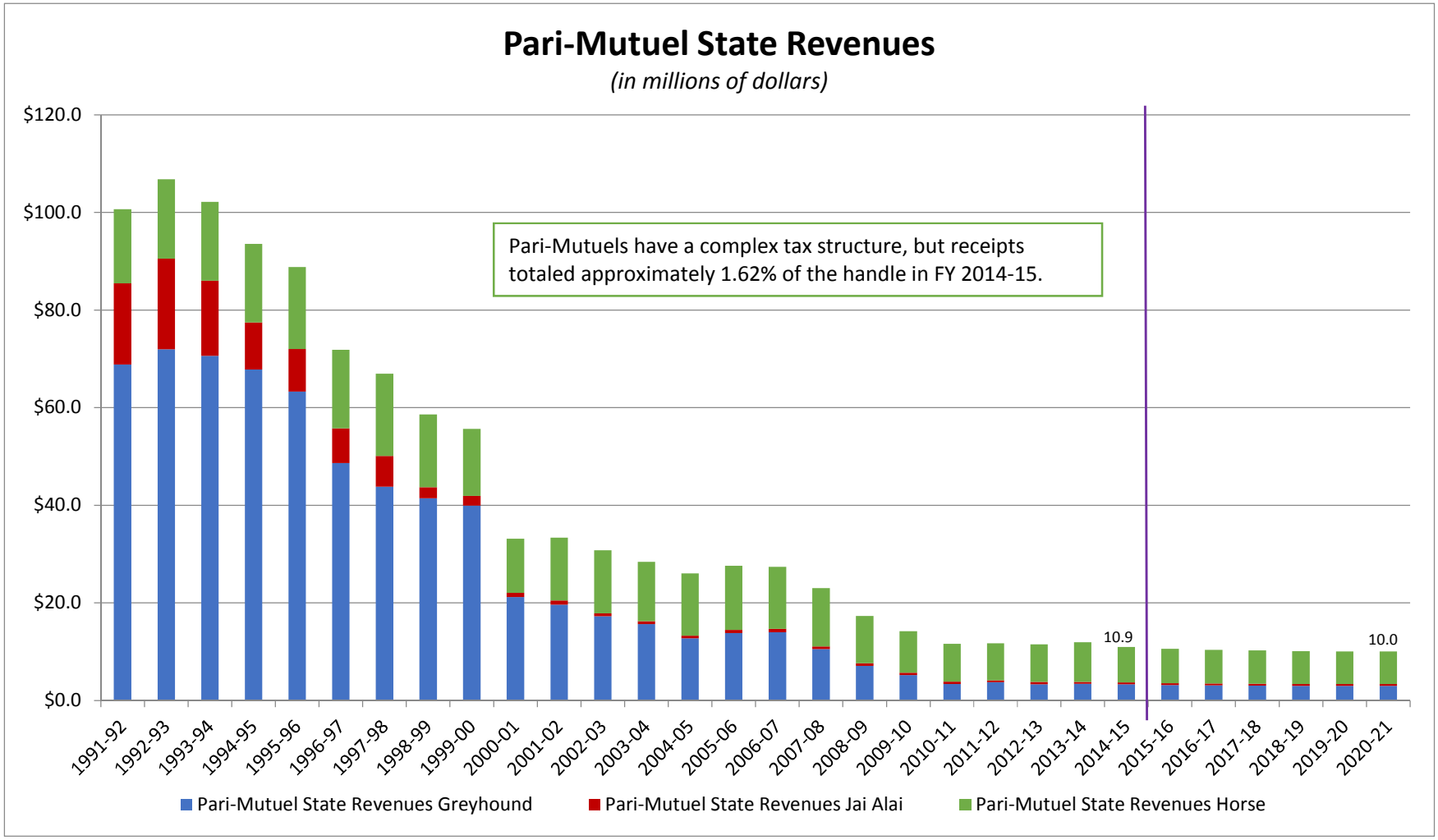
Description	Bill Number/Year
Amends the tax rate on Jai Alai permitholders conducting intertrack wagering from 3.3 percent of handle to 2 percent of handle.	H433/2002, S2830/2003
Several proposed bills alter handle amounts and tax rates and would have an effect on pari-mutuel tax revenue.	S1630/2000 sm S1936 and H945, S2022/2000 sm H1463 and S1532, S2324/2000, H725/2000 sm S1600, S2474/2004, H1013/2008, H1233/2015 comp H1183
Removes the requirement that a pari-mutuel facility run a minimum number of greyhound races/performances in order to operate slot machines or card rooms.	S1594/2011, S382/2012 sm H641, H1233/2015 comp H1183



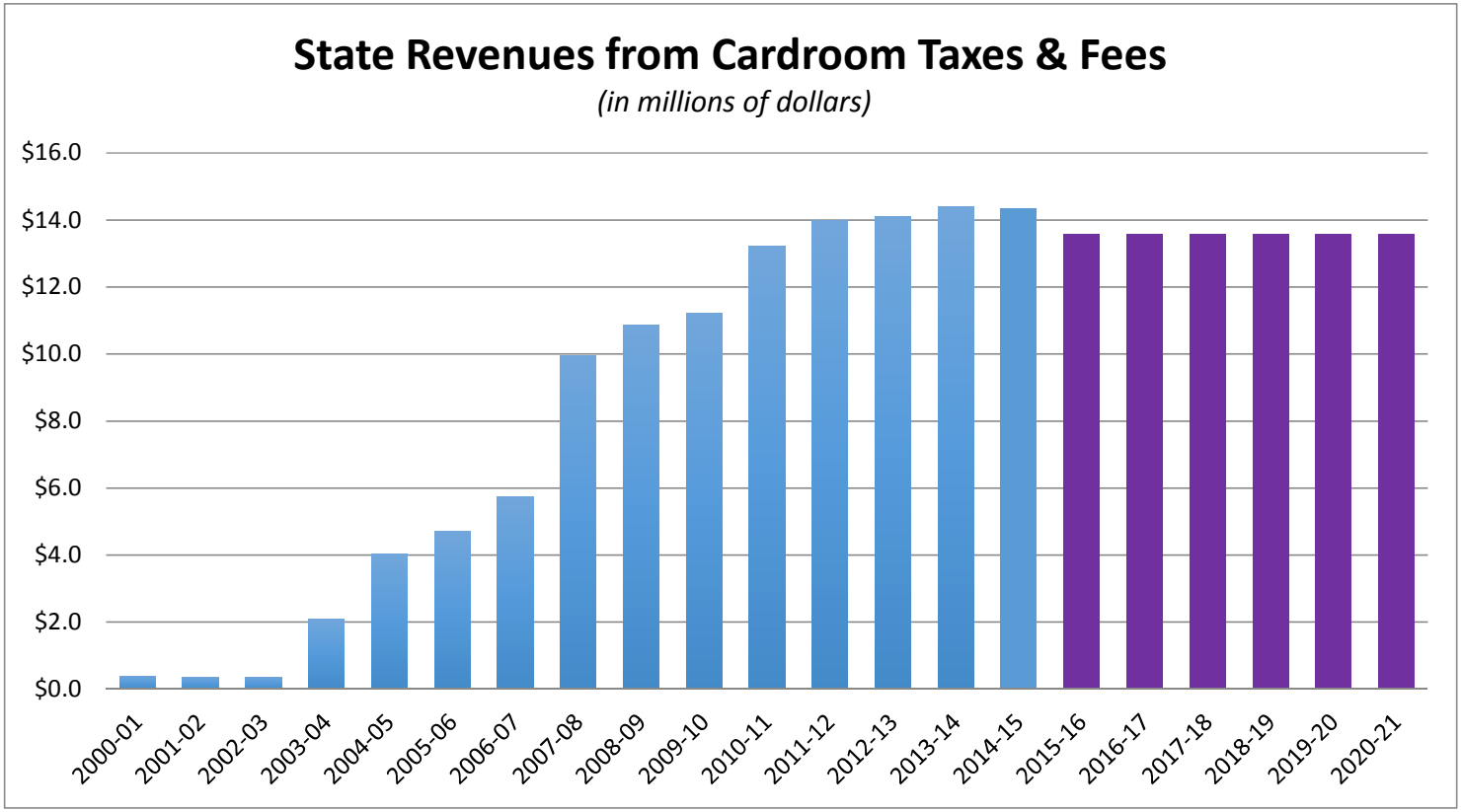
Source: DBPR PMW Annual Reports and Slot Machine Tax REC



Source: Seminole Tribe Financial Reports and Indian Gaming REC



Source: DBPR PMW Annual Reports



Source: DBPR PMW Annual Reports

ESCAMBIA
SANTA ROSA
OKALOOSA
WALTON
HOLMES
WASHINGTON
JACKSON
CALHOUN
BAY
GULF
FRANKLIN
GADSDEN
LIBERTY
WAKULLA
LEON
JEFFERSON
TAYLOR
MADISON
HAMILTON
SUWANNEE
LAFAYETTE
COLUMBIA
BAKER
UNION
BRADFORD
GILCHRIST
DIXIE
LEVY
ALACHUA
NASSAU
DUVAL
CLAY
ST. JOHNS
PUTNAM
FLAGLER
VOLUSIA
MARION
CITRUS
LAKE
SUMTER
HERNANDO
PASCO
SEMINOLE
ORANGE
BREVARD
HILLSBOROUGH
POLK
OSCEOLA
PINELLAS
INDIAN RIVER
MANATEE
HARDEE
OKEECHOBEE
ST. LUCIE
HIGHLANDS
SARASOTA
DESOTO
MARTIN
CHARLOTTE
GLADES
PALM BEACH
LEE
HENDRY
COLLIER
BROWARD
MIAMI-DADE
MONROE
Pensacola Greyhound Track - C
Ebro Dog Track - C
Greek Entertainment Gretna
Hamilton Downs
Hamilton Jai Alai and Poker - C
Bestbet Jacksonville - C
Orange Park Kennel Club - C
St. Johns Greyhound Park - C
Daytona Beach Kennel Club - C
Ocala Jai Alai - C
Ocala Breeders Sales
South Marion
SOKC-Sanford-Orlando Kennel Club
Orlando-Seminole Jai Alai
Melbourne Greyhound Park - C
Tampa Bay Downs - C
Tampa Greyhound Track - C
Derby Lane - C
Seminole Hard Rock Hotel & Casino - S - B - C
Ft. Pierce Jai Alai - C
Sarasota Kennel Club - C
Seminole Casino Brighton - C - S - Bg
Palm Beach Kennel Club - C
Big Cypress Casino
Video Bingo
Seminole Casino Immokalee - C - S - B
Naples-Ft. Myers Greyhound Track - C
Seminole Casino Coconut Creek - C - S
Isle Casino and Racing at Pompano Park - C- S
Dania Jai Alai - C - S
Gulfstream Park Racing Assoc. - C - S
Mardi Gras Racetrack & Gaming Center - C- S
Calder Race Course - C - S
Hialeah Horse Racing Track - C - S
Miami Jai Alai - C - S
Flagler Greyhound Track - C - S
Seminole Casino Hollywood - C - S - Bg
Seminole Hard Rock Hotel & Casino - C - S - B
Miccosukee Resort & Gaming - C - V - Bg

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

WEST FLAGLER ASSOCIATES, LTD.,

Petitioner,

v. DOAH Case No.:15-7016RP

THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, DIVISION OF PARI-MUTUEL WAGERING

Respondent.
_____/

AMENDED PETITION CHALLENGING THE VALIDITY OF PROPOSED RULES 61D-11.001 AND 61D-11.002 FLORIDA ADMINISTRATIVE CODE

West Flagler Associates, Ltd., (the "Petitioner"), by and through undersigned counsel and pursuant to sections 120.56(1) and (2), Florida Statutes, hereby petitions for a final order determining the invalidity of proposed rules 61D-11.001 and 61D-11.002 Florida Administrative Code (the "Proposed Rules"), and in support thereof states as follows:

Parties

1. The affected state agency is the State of Florida, Department of Business of Professional Regulation, Division of Pari-Mutuel Wagering (the "Division"), 1940 North Monroe Street, Tallahassee, Florida 32399. The Division is the state agency authorized to administer section 849.086, Florida Statutes, and regulate the operation of cardrooms authorized under the section. *See* §849.086(4), Fla. Stat. (2015).[1]

2. The Petitioner is a Florida limited partnership and operates the Magic City Casino, a premier entertainment complex that offers live greyhound racing, intertrack wagering, cardroom games and slot machines. The Petitioner holds a permit under chapter 550, Florida

[1] All references herein to a "chapter" or a "section" are to the applicable chapter or section of the official 2015 version of the Florida Statutes unless expressly noted otherwise.

Filed February 4, 2016 4:08 PM Division of Administrative Hearings

Statutes, to conduct pari-mutuel wagering and a license under section 849.086, Florida Statutes, to conduct cardroom operations. For purposes of this proceeding, the Petitioner's address is that of the undersigned.

3. The Petitioner is represented by John M. Lockwood, Esq., Kala Shankle, Esq., and Thomas J. Morton, Esq. of the Lockwood Law Firm, 106 East College Avenue, Suite 810, Tallahassee, Florida 32301. Counsels' telephone number is (850) 727-5009 and facsimile number is (850) 270-2610.

4. The Petitioner has standing to participate in this proceeding because it will be substantially affected by the Division's Proposed Rules. The Petitioner holds a cardroom license, currently operates a cardroom, and is required to comply with the administrative rules relating to cardrooms promulgated by the Division.

Background

5. As early as January 2011, various cardrooms throughout the state began offering designated player poker games[2] ("DPGs") to their patrons. Initially, the Division was unsure whether such games were authorized under section 849.086, Florida Statutes, and in an effort to determine the legality of the games, the Division conducted an extensive review of the games which included on-site inspections by high-ranking Department officials. Ultimately, the Division determined that DPGs are authorized forms of poker under section 849.086, Florida Statutes.

6. In furtherance of its acknowledgement that DPGs are authorized forms of poker, the Division published a Notice of Proposed Rule on December 16, 2013, seeking to include, among other things, language clarifying that DPGs are authorized under section 849.086, Florida

[2] A designated player poker game is a form of pari-mutuel poker in which patrons compete independently against each other. The player with the higher ranking hand collects from the player with the lower ranking hand.

Statutes. The Division accepted oral and written comments at hearings on January 13, 2014, March 13, 2014, and May 8, 2014, concerning the legality of DPGs.

7. On July 21, 2014, after multiple public hearings and workshops and several changes to the December 16, 2013, proposal, the Division adopted the current version of the rules, the relevant portions of which state:

> 61D-11.001 Definitions
>
> *****
>
> (17) "Designated player" means the player identified by the button as the player in the dealer position.
>
> 61D-11.002 Cardroom Play
>
> *****
>
> (5) Card games that utilize a designated player that covers other players' wagers shall be governed by the cardroom operator's house rules. The house rules shall:
>
> (a) Establish uniform requirements to be a designated player;
>
> (b) Ensure that the dealer button rotates around the card table in a clockwise fashion on a hand by hand basis to provide each player desiring to be the designated player an equal opportunity to participate as the designated player; and
>
> (c) Not require the designated player to cover all potential wagers.

8. Since adopting the current rules, the Division has explicitly approved DPGs as being authorized by the statute. This approval process requires that cardroom operators submit to the Division's Chief Attorney a description of the game, the rules of play and the wagering rules. After a thorough review, which typically included a request for additional information and surveillance video of the game being played, the Division either approved or rejected the game. Through this very process, the Division has approved numerous DPGs offered at cardrooms

throughout the State and acknowledged the legality of such games. In fact, as recently as July 7, 2015, the Division once again acknowledged that DPGs are authorized by section 849.086, Florida Statutes, by approving additional DPGs. *See* Exhibit "A" attached hereto. Further, the Division has continuously approved facilities to commence DPG operations and expand DPG operations through the filing of this Petition.

9. In reliance of the Division's explicit approval of DPGs, cardroom operators across Florida hired additional employees and made significant capital contributions to expand their facilities to accommodate the increased demand for these games.

10. Nevertheless, despite no changes to Florida law or any judicial or administrative decisions questioning the legality of the games, the Division has completely reversed course and now seeks to prohibit DPGs through the Proposed Rules and its changed policy.

11. The Petitioner contests the Division's Proposed Rules. As will be discussed in detail below, the Division's Proposed Rules are an attempt by the Division to prohibit authorized cardroom games that have been previously approved and regulated by the Division.[3] The Division's approval and regulation was based upon an existing rule the Division now intends to repeal. This is a seismic change from the Division's past practice and interpretation of section 849.086, Florida Statutes, and will have significant negative impacts upon the Petitioner and other licensed facilities within Florida's cardroom industry.

Statement of Facts – The Rulemaking Process

12. On September 23, 2014, the Division issued its first Notice of Development of Rulemaking ("First Notice"). A copy of the First Notice is attached hereto as Exhibit "B." The First Notice included rules 61D-11.001 and 61D-11.002, Florida Administrative Code, as rules to

[3] The Division's Notice of Change no longer contains the prohibition of "player-banked" poker games. However, the Division has clearly articulated its current desire to delete the current rulemaking framework for designated player games and no longer allow the games to be played.

be addressed by the proposed rulemaking.

13. On December 9, 2014, the Division issued its second Notice of Development of Rulemaking ("Second Notice"). A copy of the Second Notice is attached hereto as Exhibit "C." The Second Notice also included rules 61D-11.001 and 61D-11.002, Florida Administrative Code, as rules to be addressed by the proposed rulemaking.

14. On August 18, 2015, the Division issued its third Notice of Development of Rulemaking ("Third Notice"). A copy of the Third Notice is attached hereto as Exhibit "D." The Third Notice included rules 61D-11.001, 61D-11.002 and 61D-11.005 as rules to be addressed by the proposed rulemaking.

15. On October 29, 2015, the Division published its proposed rules 61D-11.001, 61D-11.002 and 61D-11.005(9), Florida Administrative Code (the "Initial Proposed Rules.") A true and correct copy of the Initial Proposed Rules is attached hereto as Exhibit "E." Proposed rule 61D-11.001, Florida Administrative Code, seeks to, among other things, delete the following language from the current rule:

> (17) "Designated player" means the player identified by the button as the player in the dealer position.

Proposed rule 61D-11.002, Florida Administrative Code seeks to, among other things, delete the following language from the current rule:

> (5) Card games that utilize a designated player that covers other players' wagers shall be governed by the cardroom operator's house rules. The house rules shall:
>
> (a) Establish uniform requirements to be a designated player;
>
> (b) Ensure that the dealer button rotates around the card table in a clockwise fashion on a hand by hand basis to provide each player desiring to be the designated player an equal opportunity to participate as the designated player; and

(c) Not require the designated player to cover all potential wagers.

Proposed rule 61D-11.005, F.A.C., sought to, among other things, add the following language to the current rule:

(9) Player banked games, established by the house, are prohibited.[4]

16. On November 19, 2015, the Petitioner timely submitted to the Division a good faith proposal for a lower cost regulatory alternative to the Initial Proposed Rules ("LCRA").[5] The Petitioner's LCRA illustrated that the Division's Initial Proposed Rules would have an adverse impact on economic growth, private sector job creation and employment, and private sector investment in excess of $80,000,000 over 5 years. A copy of the Petitioner's LCRA is attached hereto as Exhibit "F."

17. The LCRA also concluded that the Initial Proposed Rules will impose regulatory costs which could be reduced by the adoption of a less costly alternative that substantially accomplishes the statutory objectives. Specfically, the LCRA explained that the alternative of not adopting the Initial Proposed Rules would reduce the reguatlory costs and accomplish the statutory objectives. The Division has not responded to the LCRA or issued a Statement of Estimated Regulatory Costs as required by section 120.541, Florida Statutes.

18. On December 2, 2015, the Division held a public hearing on the Initial Proposed Rules. The Petitioner provided testimony at the hearing in opposition to the Initial Proposed Rules. During the public hearing, the Petitioner submitted written comments reitering its opposition to the Initial Proposed Rules.[6] The tesimony and written comments outlined the adverse conomic impact that will result from the Intial Proposed Rules, notified the Division it

[4] The Petitioner is not in any way suggesting that DPGs involve the establishment of a bank by the house, or conceding such games constitute a "player bank." DPGs involve players competing against one another in the manner expressly contemplated by section 849.086(1), Florida Statutes.
[5] The Petitioner is one of ten cardroom operators who joined in the submission of the LCRA.
[6] The Petitioner is one of ten cardroom operators who joined in the submission of the written comments.

cannot implement the Intial Proposed Rules without legislative ratification, and challenged the Division's authority to adopt the Intial Proposed Rules. A true and correct copy of the Petitioner's written comments is attached hereto as "G."

19. During the public hearing, the Division's Director provided detailed comments regarding the Division's intent in promulgating the Intial Proposed Rules. The Director made clear that the intent of the rules is to change the Division's long-standing policy of allowing DPGs and to now prohibit DPGs:

> "The rules pertaining to designated player games are now going to be correlated with the statute that is the prohibition against designated player games. The statute does not allow designated player games. There has to be a specific authorization for a type of game in statute, and there is none in 849.086 pertaining to designated player games. Additionally, there is conversation pertaining to prohibitions against these styled games. So I hear what the industry is saying and I understand many of you might be upset about some of these things, but the reality is something very important that Mr. Lockwood said and echoing what he said is the area to correct this is adjusting the statute. That is the area that prohibits the designated player games. **When some of these definitions in other areas were created, I don't think that the concept of what these games could even become was fathomed by the division**."

A copy of the relevant portion of the transcript from the December 2, 2015, public hearing is attached hereto as Exhibit "H."

20. Also during the public hearing, the Division requested the undersigned counsel to provide additional legal analysis concerning the legality of DPGs under section 849.086, Florida Statutes. This analysis was provided to the Division on December 3, 2015. A true and correct copy of the Petitioner's supplemental legal analysis is attached hereto as Exhibit "I."

21. Section 120.541(1)(a), Florida Stautes, provides that "[u]pon the submission of the lower cost regulatory alternative, the agency shall prepare a statement of estimated regulatory costs…." (Emphasis added). Despite this clear directive, as of the date of filing this Petition, the Division has not prepared a statement of estimated regulatory costs, nor has it informed the

Petitioner that it intends to do so. Given the Division's monthly receipt of cardroom revenue and the Petitioner's prior objections, it is unclear why a statement of estimated regulatory costs has not been prepared.

22. On December 11, 2015, Petitioner and 12 other cardroom operators filed petitions with the Division of Administrative Hearings ("DOAH") challenging the validity of the Initial Proposed Rules.

23. The cases were consolidated and ultimately placed into abeyance pending the Division's decision whether to issue a notice of change regarding the Initial Proposed Rules.

24. On January 15, 2016, the Division published a Notice of Change/Withdrawal of proposed rules. Through the issuance of this notice, the Division withdrew proposed rule 61D-11.005(9). The notice did not change the substance of the Proposed Rules. Despite withdrawing proposed rule 61D-11.005(9), the Division's statements and actions indicate that the Division still intends to prohibit DPGs under the Proposed Rules. In fact, as recently as February 1, 2016, the Division has served Administrative Complaints on various cardroom operators, including Petitioner, for offering DPGs, despite the Division's explicit authorization and approval of the exact games which the Administrative Complaints seek to prohibit. A true and correct copy of the Notice of Change/Withdrawal is attached hereto as Exhibit "J."

25. It appears the Division recognizes that it does not have authority to promulgate a rule explictly prohibiting DPGs, as was the Division's intention in drafting proposed rule 61D-11.005(9). This is because DPGs are allowed under section 849.086, Florida Statutes. Nevertheless, as unequivocally stated by the Division's Director at the December 2, 2015, public hearing, the Division's intends to utilize the Proposed Rules to sanction its change of policy and prohibit DPGs. Just as the Division does not have authority to adopt a rule explictly prohibiting

DPGs, the Division does not have authority to adopt rules which the Division will rely upon to support an official policy which contravenes section 849.086, Florida Statutes.

26. The Divion's statements and actions during the rulemaking process show that the Division's interprets the Proposed Rules as authorizing its new policy of prohibiting DPGs. "To be legal and enforceable, a policy which operates as law must be formally adopted in public, through the transparent process of the rulemaking procedure set forth in section 120.54." *Fla. Quarter Horse Track Ass'n, Inc. v. Dep't of Bus. & Prof'l Reg.,* 133 So. 3d 1118, 1119-1120 (Fla. 1st DCA 2014). The Division is using the rulemaking process to attempt to formally adopt its new (albeit unlawful) policy of prohibiting DPGs. Accordingly, this policy, although not explictly stated in the Proposed Rules, may be challenged as an invalid exercise of delegated legislative authority and such policy is governed by the express statutory requirements of section 120.541, Florida Statutes.

27. The Proposed Rules cannot take effect unless and until ratified by the Legislature. Section 120.541(3), Florida Statutes, provides that if proposed rules are likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of $1 million in the aggregate within 5 years after the implementation of the rule, then the rules may not take effect until ratified by the Legislature. The LCRA[7] unequivocally shows that the adoption of the Proposed Rules (given the Division's new policy of prohibiting DPGs) will have an adverse impact far exceeding the $1 million threshold.

28. Section 120.541, Florida Statutes, is applicable to any rulemaking proposal that seeks to adopt, amend, or repeal any administrative rule. *See* § 120.541(1), Fla. Stat. (2015) (linking the LCRA and SERC requirements to the notice publication set forth in section

[7] Although the LCRA was filed in response to the Initial Proposed Rules, it applies will equal force to the Proposed Rules as the Division intends to use the Proposed Rules to prohibit DPGs.

120.54(3)(a), Florida Statutes); *see also* § 120.54(3)(a), Fla. Stat. (2015) (requiring notice "[p]rior to the adoption, amendment, or repeal of any rule …"). Thus, the Proposed Rules – even though they propose to repeal the existing DPG regulations – are subject to the requirements of section 120.541, Florida Statutes, and may not take effect until ratified by the Florida Legislature.

The Petitioner's Substantial Interests

29. The Petitioner was approved to offer DPGs by the Division and commenced operation on May 19, 2015. The Petitioner currently has 6 tables dedicated to DPGs and generated approximately $80,000 in revenue from DPGs in January 2016.

30. Throughout this process, the Petitioner has continuously voiced its opposition to the Division's attempt to change its policy and implement the Proposed Rules without obtaining legislative ratification. Nevertheless, it appears that the Division intends to move forward with implementation of its new policy and the Proposed Rules without obtaining the required legislative approval in violation of Florida law.

31. The Proposed Rules are an invalid exercise of delegated legislative authority under section 120.52(8), Florida Stautes, because (1) the Division has materially failed to follow the applicable rulemaking procuedures or requirements set forth in chapter 120, Florida Statues; (2) the Division has exceeded its grant of rulmaking authority; (3) the Proposed Rules, as interpreted by the Division, enlarge, modify or contravene the specific provisions of the law implemented; (4) the Proposed Rules, as interpreted by the Division, impose regulatory costs which could be reduced by the adoption of less costslly alternatives that substantailly accomplish the statutory objectives, and (5) the Proposed Rules, as interpreted by the Division, are unconstitutional.

32. This Petition is timely as it is filed within 20 days of the publication of the Notice of Change/Withdrawal. *See* §120.56(2)(a), Fla. Stat. (2015).

Disputed Issues of Material Fact

33. The disputed issues of material fact include, but are not limited to:

(i) whether the Proposed Rules constitute an invalid exercise of delegated legislative authority; and

(ii) whether the Proposed Rules will have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of $1 million in the aggregate within 5 years after the implementation of the rules.

Ultimate Facts and Law on which the Petitioner Relies

The Proposed Rules are an Invalid Exercise of Delegated Legislative Authority

34. Section 120.56(1)(a), Florida Statutes provides that any person substantially affected by a proposed rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of delegated legislative authority.

35. Section 120.52(8), Florida Statutes, defines "invalid exercise of delegated legislative authority," as follows:

> Invalid exercise of delegated legislative authority" means action that goes beyond the powers, functions, and duties delegated by the Legislature. A proposed or existing rule is an invalid exercise of delegated legislative authority if any one of the following applies:
>
> (a) The agency has materially failed to follow the applicable rulemaking procedures or requirements set forth in this chapter;
>
> (b) The agency has exceeded its grant of rulemaking authority, citation to which is required by s. 120.54(3)(a)1.;
>
> (c) The rule enlarges, modifies, or contravenes the specific provisions of law implemented, citation to which is required by s. 120.54(3)(a)1.;

> (d) The rule is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency;
>
> (e) The rule is arbitrary or capricious. A rule is arbitrary if it is not supported by logic or the necessary facts; a rule is capricious if it is not adopted without thought or reason or is irrational; or
>
> (f) The rule imposes regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.
>
> A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute. No agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation and is not arbitrary and capricious or is within the agency's class of powers and duties, nor shall an agency have the authority to implement statutory provisions setting forth general legislative intent or policy. Statutory language granting rulemaking authority or generally describing the powers and functions of an agency shall be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the enabling statute.

36. The Proposed Rules are an invalid exercise of delegated legislative authority because the Division has materially failed to follow the applicable rulemaking procedures and requirements. Section 120.541(1)(a), Florida Stautes, requires that the Division prepare a statement of estimate regulatory costs in repsonse to the submission of a lower cost regulatory alternative. Pursuant to section 120.541(1)(e), Florida Statutes, "the failure of the agency to prepare a statement of estimated regulatory costs or to respond to a written lower cost regulatory alternative…is a material failure to follow the applicable rulemaking procedures or requirements…." The Petitioner timely submitted its LCRA to the Division. Nevertheless, the Division has failed to prepare a statement of estimated regulatory costs. The Division's failure to

prepare a statement of estimated regulatory costs is a material failure to follow the applicable rulemaking procedures and requirements.

37. The Proposed Rules, as interpreted by the Division, are an invalid exercise of delegated legislative authority because the Division has exceeded its grant of rulemaking authority. The Proposed Rules cite section 550.0251(12), Florida Statutes, as rulemaking authority. Section 550.0251(12), Florida Statutes, is the Division's general grant of rulemaking authority to "make, adopt, amend, or repeal rules relating to cardroom operations, to enforce and to carry out the provisions of s. 849.086, and to regulate the authorized cardroom activities in the state." A general grant of rulemaking authority is necessary but not sufficient to adopt the Proposed Rules. *See* § 120.52(8), Fla. Stat. (2015).

38. The Proposed Rules also cite section 849.086(4), Florida Statutes, as rulemaking authority. The only rulemaking granted by section 849.086(4), Florida Statutes, authorizes the Division to "[a]dopt rules, including, but not limited to: the issuance of cardroom and employee licenses for cardroom operations; the operation of a cardroom; recordkeeping and reporting requirements; and the collection of all fees and taxes imposed by this section." The Proposed Rules, as interpreted by the Division, will be used to sanction the Division's new policy of prohibiting DPGs. The prohibition of DPGs – akin to a reverse definition of "poker" – is not authorized by this provision. Thus, section 849.086(4), Florida Statutes, does not provide specific rulemaking for the Proposed Rules.

39. Section 849.086, Florida Statutes, provides the Division's scope of authority. This authority includes the issuance of cardroom and employee licenses for cardroom operations; the operation of a cardroom; recordkeeping and reporting requirements; and the collection of all fees and taxes imposed by this section. *See* § 849.086(4)(a), Fla. Stat. (2015). The Division may

conduct investigations and monitor the operations of cardrooms and the playing of authorized games therein, review the books and records, as well as suspend or revoke any applicable license or permit. *See* § 849.086(4)(b)-(d), Fla. Stat. (2015). This statute does not convey specific rulemaking authority for the Proposed Rules in terms of excluding permissible pari-mutuel poker games, i.e. DPGs.

40. The Proposed Rules, as interpreted by the Division, are an invalid exercise of delegated legislative authority because the Division seeks to enlarge, modify or contravene section 849.086, Florida Statutes. The Proposed Rules reduce the number and type of games available to the Petitioner by prohibiting DPGs. Section 849.086(1), Florida Statutes, authorizes the Petitioner and other licensed cardrooms to conduct pari-mutuel style poker games whereby individuals play against themselves and not the Petitioner.

41. However, section 849.086(12) only prohibits the Petitioner from conducting a banking game, which is defined as a game in which the Petitioner is a participant or in which the Petitioner establishes a bank against which participants play. *See* § 849.086(2)(b), Fla. Stat. (2015). DPGs are games whereby individuals play against themselves and not the Petitioner. Furthermore, DPGs in no way involve the establishment of a bank by the Petitioner. Accordingly, the Proposed Rules, as interpreted by the Division, expressly contravene section 849.086, Florida Statutes, by prohibiting poker games authorized – not prohibited – by section 849.086, Florida Statutes.

42. The Proposed Rules, as interpreted by the Division, are an invalid exercise of delegated legislative authority because they modify section 849.086, Florida Statutes, by imposing additional criteria that are not set forth in Florida law. Nothing in section 849.086, Florida Statutes, authorizes the Division to prohibit poker games other than those in which the

Petitioner is a participant or in which the Petitioner establishes a bank. The Proposed Rules, as interpreted by the Division, modify section 849.086, Florida Statutes, by limiting the types of pari-mutuel style poker games available for play.

43. The Division intends to use the Proposed Rules to support its new policy of prohibiting certain pari-mutuel style poker games authorized by section 849.086, Florida Statutes. The Second District previously held that the Division's promulgation of a rule defining the game of "poker" was an invalid exercise of delegated legislative authority. *See St. Petersburg Kennel Club v. Dep't of Bus. & Prof'l Regulation, Div. of Pari-Mutuel Wagering*, 719 So.2d 1210 (Fla. 2d DCA 1998). In this case, the Division is attempting to re-define poker by prohibiting the play of certain poker games. In other words, the Division is attempting to define poker by reference to what it is not. This is beyond the Division's power and scope of authority and renders the Proposed Rules, as interpreted by the Division, invalid.

44. The Proposed Rules, as interpreted by the Division, are an invalid exercise of delegated legislative authority because they impose regulatory costs on the industry which could be reduced by the adoption of a less costly alternative that substantially accomplishes the statutory objectives. The Petitioner's LCRA, which calls for not adopting the Proposed Rules[8], ensures lower regulatory costs for the industry while accomplishing the objectives of section 849.086, Florida Statutes, the law implemented.

45. Section 849.086(1), Florida Statutes, provides the objectives of the statute authorizing cardrooms are "to provide additional entertainment choices for the residents of and visitors to the state, promote tourism in the state, and provide additional state revenues." By not adopting the Proposed Rules and changing its policy, the Division will continue to allow

[8] Section 120.541(1)(a), Florida Statutes, provides that the proposal for a lower cost regulatory alternative may include the alternative of not adopting the proposed rules. The Division's existing administrative rules regulated DPGs and should not be repealed.

cardroom operators to provide DPGs. DPGs are wildly popular poker games that promote the tourism of the State and maximize revenues for the State. By eliminating DPGs, which are authorized forms of poker under section 849.086, Florida Statutes, the Division will be acting contrary to the objectives of section 849.086(1), Florida Statutes, by failing to maintain as many entertainment choices as possible and failing to maximize the revenues for the statue. The Petitioner's LCRA accomplishes the statutory objectives of section 849.086, Florida Statutes, by maintaining as many entertainment choices as possible, promoting the tourism of the state, and ensuring maximum revenues for the state.

The Division Cannot Adopt the Proposed Rules without Legislative Ratification

46. The Proposed Rules may not take effect unless and until they are ratified by the Legislature. Section 120.541(3), Florida Statutes, provides if the Proposed Rules are likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of $1 million in the aggregate within 5 years after the implementation of the rule, then the rules may not take effect until ratified by the Legislature. The Petitioner's LCRA indicates that the Proposed Rules, as interpreted by the Division, will have an adverse economic impact far exceeding the $1 million threshold. As such, the Division cannot adopt the Proposed Rules without legislative ratification.

The Proposed Rules are Unconstitutional[9]

47. The Proposed Rules and the Division's new policy are unconstitutional on several grounds.

[9] The Petitioner alleges the Proposed Rules and the Division's action in promulgating the Proposed Rules are unconstitutional on an as applied basis. These claims are brought in this proceeding in order to exhaust the Petitioner's administrative remedies and ensure the Division "has had a full opportunity to reach a sensitive, mature, and considered decision upon a complete record appropriate to the issue." *Key Haven Associated Enterprises, Inc. v. Board of Trustees of Internal Imp. Trust Fund*, 427 So. 2d 153, 158 (Fla. 1982) (quoting *Key Haven Associated Enterprises, Inc. v. Board of Trustees of Internal Imp. Trust Fund*, 400 So. 2d 66, 69 (Fla. 1st DCA 1981).

48. The Division is depriving the Petitioner of vested property interests due to the previous express and specific authorization to conduct DPGs. The Petitioner has substantially relied upon the Division's previous approvals, including the Division's existing rules, in making capital improvements to its existing facility, hiring additional employees, advertising, and offering to its patrons. The Petitioner will suffer irreparable harm if the Proposed Rules are adopted.

49. The Division's retroactive application of the Proposed Rules, and its new policy, to previously approved DPGs will impair vested property rights, create new obligations, impose new penalties, violate due process, and take private property for an improper purpose and without just compensation.

50. The Division's decision to prohibit previously approved games, in the absence of any statutory change or judicial decision mandating such prohibition, is unconstitutionally arbitrary and capricious and constitutes an unlawful exercise of authority under the Florida Constitution.

51. Finally, if the Division has the power to prohibit a previously authorized game, the Division is exercising unlawfully delegated legislative authority.

WHEREFORE, the Petitioner respectfully requests the Division of Administrative Hearings accept jurisdiction of this matter, determine the Proposed Rules constitute an invalid exercise of delegated legislative authority, determine the Division may not adopt the Proposed Rules without legislative ratification, award the Petitioner its attorneys' fees pursuant to Section 120.595(2), Florida Statutes, and grant such further relief as may be deemed appropriate.

Respectfully submitted on this 4th day of February 2016.

/s/ Thomas J. Morton
John M. Lockwood, Esq.
Florida Bar No. 28056
Thomas J. Morton, Esq.
Florida Bar No. 13771
Kala Shankle, Esq.
Florida Bar No.112042
THE LOCKWOOD LAW FIRM
106 East College Avenue, Suite 810
Tallahassee, Florida 32301
Tel: 850.727.5009
Fax: 850.270.2610
john@lockwoodlawfirm.com
tj@lockwoodlawfirm.com
kala@lockwoodlawfirm.com

CERTIFICATE OF SERVICE

I certify that on this 4th day of February 2016, I have served a true and correct copy of this document via electronic mail on the following:

Michael J. Barry, Esq.
Rutledge Ecenia, P.A.
Post Office Box 551 (32302-0551)
119 South Monroe Street, Suite 202
Tallahassee, Florida 32301
Tel: (850) 681-6788
Fax: (850) 681-6515
mbarry@rutledge-ecenia.com (primary)
teri@rutledge-ecenia.com (secondary)

William D. Hall, III, Esq.
Chief Attorney
Department of Business and Professional Regulation, Division Pari-Mutuel Wagering
1940 North Monroe Street
Tallahassee, Florida 32399
Tel: (850) 717-1768
william.hall@myfloridalicense.com

Christopher M. Kise, Esq.
Joshua M. Hawkes, Esq.
FOLEY & LARDNER LLP
106 East College Avenue, Suite 900
Tallahassee, Florida 32301
Tel: (850) 222-6100
Fax: (850) 561-6475
ckise@foley.com
jhawkes@foley.com

Robert W. Clark, Esq.
CLARK MUELLER BIERLEY, PLLC
Suite 302
102 West Whiting Street
Tampa, Florida 33602
Tel: (813) 261-1879
Fax: (813) 226-1879
rclark@clarkmueller.com

/s/ Thomas J. Morton

From: Maine, Jason Jason.Maine@myfloridalicense.com
Subject: RE: Pai Gow Poker
Date: July 7, 2015 at 4:35 PM
To: John Lockwood john@lockwoodlawfirm.com
Cc: Trombetta, Louis Louis.Trombetta@myfloridalicense.com, Helms, Lisa Lisa.Helms@myfloridalicense.com, Scott, Cassandra Cassandra.Scott@myfloridalicense.com

Mr. Lockwood,

I have had the opportunity to review your submission of rules of game play for "Pai Gow Poker." The game, as described, appears to be in compliance with present law from section 849.086, Florida Statutes, and Chapter 61D-11, Florida Administrative Code.

"Pai Gow Poker" may be played only in a licensed cardroom, operated by a pari-mutuel permitholder, pursuant to section 849.086, Florida Statutes. If a licensed cardroom operator elects to offer your cardroom game, the Division will need notification of such through the cardroom operator's internal control procedures, in accordance with Chapter 61D-11, Florida Administrative Code.

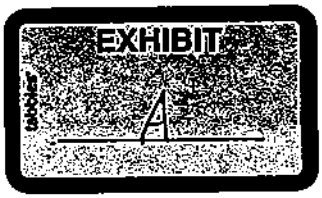
If you have any questions, please feel free to contact me.

Jason L. Maine
Chief Attorney, Pari-Mutuel Wagering
Department of Business and Professional Regulation
1940 N. Monroe Street, Suite #40
Tallahassee, Florida 32399-2202
(850) 717-1243 Voice
(850) 921-9186 Fax

-----Original Message-----
From: John Lockwood [mailto:john@lockwoodlawfirm.com]
Sent: Tuesday, June 23, 2015 10:24 PM
To: Maine, Jason
Cc: Trombetta, Louis
Subject: Re: Pai Gow Poker

Jason,
I have revised the game rules and attached and updated version for your consideration.

Thanks,
John



From: Maine, Jason Jason.Maine@myfloridalicense.com
Subject: RE: Game Submission for Review
Date: July 7, 2015 at 5:03 PM
To: John Lockwood john@lockwoodlawfirm.com
Cc: Trombetta, Louis Louis.Trombetta@myfloridalicense.com, Helms, Lisa Lisa.Helms@myfloridalicense.com, Scott, Cassandra Cassandra.Scott@myfloridalicense.com

Mr. Lockwood,

I have had the opportunity to review your submission of rules of game play for "Florida Hold' Em." The game, as described, appears to be in compliance with present law from section 849.086, Florida Statutes, and Chapter 61D-11, Florida Administrative Code.

"Florida Hold'Em" may be played only in a licensed cardroom, operated by a pari-mutuel permitholder, pursuant to section 849.086, Florida Statutes. If a licensed cardroom operator elects to offer your cardroom game, the Division will need notification of such through the cardroom operator's internal control procedures, in accordance with Chapter 61D-11, Florida Administrative Code.

If you have any questions, please feel free to contact me.

Jason L. Maine
Chief Attorney, Pari-Mutuel Wagering
Department of Business and Professional Regulation
1940 N. Monroe Street, Suite #40
Tallahassee, Florida 32399-2202
(850) 717-1243 Voice
(850) 921-9186 Fax

-----Original Message-----
From: John Lockwood [mailto:john@lockwoodlawfirm.com]
Sent: Tuesday, June 23, 2015 10:33 PM
To: Maine, Jason
Cc: Trombetta, Louis
Subject: Re: Game Submission for Review

Jason,
I made some minor revisions. Ultimately, I don't think we need the sentence referencing "in action." It is duplicative based upon the existing rules governing qualification and the player's hand exceeding the designated player's hand.

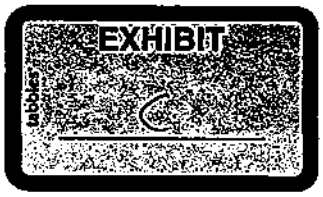
Thanks,
John

Notice of Development of Rulemaking

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
Division of Pari-Mutuel Wagering
RULE NOS.:RULE TITLES:
61D-11.001 Definitions
61D-11.002 Cardroom Games
61D-11.004 Dealer Responsibilities
61D-11.007 Cardroom Operator License
61D-11.012 Duties of Cardroom Operators
61D-11.014 Cards
61D-11.015 Chips and Tokens
61D-11.016 Card and Domino Tables
61D-11.0175 Cardroom Drop, Count Rooms, and Count Procedures
61D-11.019 Internal Controls
61D-11.021 Tip Box Procedures
61D-11.022 Cardroom Imprest Tray
61D-11.025 Cardroom Electronic Surveillance
61D-11.0275 Tournaments
61D-11.0279 Jackpots, Prizes, and Giveaways
PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking will be to address issues discovered in the implementation and practical application of cardroom rules adopted on July 21, 2014.
SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed are the operational aspects of cardrooms affected by cardroom rules adopted on July 21, 2014.
RULEMAKING AUTHORITY: 550.0251(12), 849.086(4), (5), (11) FS.
LAW IMPLEMENTED: 550.0251(6), 849.086 FS.
IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:
DATE AND TIME: November 18, 2014, 9:00 a.m. – 5:00 p.m.
PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399
Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Mary Polombo at (850)717-1098. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

Notice of Development of Rulemaking

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
Division of Pari-Mutuel Wagering
RULE NOS.:RULE TITLES:
61D-11.001 Definitions
61D-11.002 Cardroom Games
61D-11.004 Dealer Responsibilities
61D-11.007 Cardroom Operator License
61D-11.012 Duties of Cardroom Operators
61O-11.014 Cards
61D-11.015 Chips and Tokens
61D-11.016 Card and Oomino Tables
61D-11.0175 Cardroom Orop, Count Rooms, and Count Procedures
61D-11.019 Internal Controls
61D-11.021 Tip Box Procedures
61D-11.022 Cardroom Imprest Tray
61O-11.025 Cardroom Electronic Surveillance
61D-11.0275 Tournaments
61D-11.0279 Jackpots, Prizes, and Giveaways
PURPOSE ANO EFFECT: The purpose and effect of the proposed rulemaking will be to address issues discovered in the implementation and practical application of cardroom rules adopted on July 21, 2014.
SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed are the operational aspects of cardrooms affected by cardroom rules adopted on July 21, 2014.
RULEMAKING AUTHORITY: 550.0251(12), 849.086(4), (5), (11) FS.
LAW IMPLEMENTED: 550.0251(6), 849.086 FS.
IF REQUESTED IN WRITING AND NOT DEEMEO UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:
DATE AND TIME: January 28, 2015, 9:00 a.m. – 5:00 p.m.
PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399
Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Patti Kight at (850)717-1096. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Patti Kight, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.



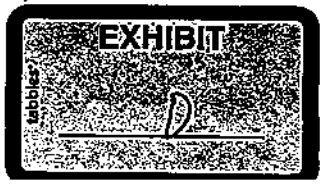
Notice of Development of Rulemaking

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE NOS.:	RULE TITLES:
61D-11.001	Definitions
61D-11.002	Cardroom Games
61D-11.0025	Notification in Writing
61D-11.003	Card-Play Hands
61D-11.004	Dealer Responsibilities
61D-11.005	Prohibitions
61D-11.006	Inspection of Premises, Records
61D-11.007	Cardroom Operator License
61D-11.008	Cardroom Business Occupational License
61D-11.009	Cardroom Employee Occupational License and Pari-Mutuel/Cardroom Combination License
61D-11.010	Temporary Cardroom Employee Occupational License
61D-11.011	Notification of Criminal Conviction or Charge
61D-11.012	Duties of Cardroom Operators
61D-11.013	Display of Identification and Possession of Occupational Licenses
61D-11.014	Cards
61D-11.0145	Dominoes
61D-11.0149	Dominoes Supervisors
61D-11.015	Chips and Tokens
61D-11.016	Card and Domino Tables
61D-11.017	Admissions Requirements
61D-11.0175	Cardroom Drop, Count Rooms, and Count Procedures
61D-11.018	Reporting Requirements to Determine Net Proceeds or Gross Revenues
61D-11.019	Internal Controls
61D-11.020	Drop Box and Key Control Procedures
61D-11.021	Tip Box Procedures
61D-11.022	Cardroom Imprest Tray
61D-11.023	Accounting for Transactions Between Card Table Imprest Tray and Cardroom Imprest Bank
61D-11.024	Rake Procedures
61D-11.025	Cardroom Electronic Surveillance
61D-11.0251	Security Plans
61D-11.026	Definition of Poker
61D-11.027	Tournaments
61D-11.0275	Tournaments
61D-11.0279	Jackpots, Prizes, and Giveaways
61D-11.031	Cashiers' Cage

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to update the definitions related to pari-mutuel cardroom operations. In addition, the rules related to cardroom games, notification in writing, card-play hands, dealer responsibilities, prohibitions, inspection of premises, records, cardroom operator licenses, cardroom business occupational licenses, cardroom employee occupational licenses and pari-mutuel/cardroom combination licenses, temporary cardroom employee occupational licenses, notification of criminal conviction or charge, duties of cardroom operators, display of identification and possession of occupational licenses, cards, dominoes, dominoes supervisors, chips and tokens, card and domino tables, admissions requirements, cardroom drop, count rooms, count procedures, reporting requirements to determine net proceeds or gross revenues, internal controls, drop box and key control procedures, tip box procedures, cardroom imprest tray, accounting for transactions between card table imprest tray and cardroom imprest bank, rake procedures, cardroom electronic surveillance, security plans, definition of poker, tournaments, jackpots, prizes, giveaways, and cashiers' cages.

SUBJECT AREA TO BE ADDRESSED: This will be an update to the rules for pari-mutuel cardroom operations.



RULEMAKING AUTHORITY: 550.0251(12), 849.086(4),(5) (11), 550.0251(12, 550.105(2)(b), 849.086(4)(a), (6)(d),(f) FS.

LAW IMPLEMENTED: 849.086, 550.0251(6), 849.086(4) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Bryan Barber, Rules Coordinator for the Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Suite 50, Tallahassee, Florida 32399, (850)717-1761

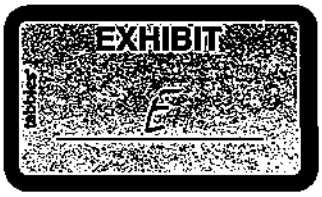
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT http://www.myfloridalicense.com/dbpr/pmw/PMW-Rulemaking-Pari-Mutuel_Wagering.html.

Notice of Proposed Rule

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
Division of Pari-Mutuel Wagering
RULE NOS.:RULE TITLES:
61D-11.001 Definitions
61D-11.002 Cardroom Games
61D-11.0021 Cardroom Game Submissions
61D-11.0025 Notification in Writing
61D-11.003 Card-Play Hands
61D-11.004 Oealer Responsibilities
61D-11.005 Prohibitions
61D-11.006 Inspection of Premises, Records
61D-11.007 Cardroom Operator License
61D-11.009 Cardroom Employee Occupational License and Pari-Mutuel/Cardroom Combination License
61D-11.012 Duties of Cardroom Operators
61D-11.013 Display of Identification and Possession of Occupational Licenses
61D-11.014 Cards
61D-11.0175 Cardroom Drop, Count Rooms, and Count Procedures
61D-11.018 Reporting Requirements to Determine Net Proceeds or Gross Revenues
61O-11.019 Internal Controls
61O-11.025 Cardroom Electronic Surveillance
61D-11.0275 Tournaments
61D-11.0279 Jackpots, Prizes, and Giveaways
PURPOSE AND EFFECT: The purposes and effects of the proposed rules are to update the guidelines that govern cardrooms in the state of Florida. Each of the above listed rules has been updated for clarity, efficiency, and congruency with statute.
SUMMARY: The rules in Chapter 61D-11, F.A.C. cover cardroom operations for the state of Florida. The amendments to this rule chapter will bring those operations into better congruency with the Florida Statutes, clarify rule language, and increase the efficiency of operations carried out by the Division. The games themselves, facilities, security, and proper procedures for securing monies will all be addressed.
SUMMARY OF STATEMENT OF ESTIMATEO REGULATORY COSTS: The agency has determined that this rule will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of $200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency. The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: the economic review conducted by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
RULEMAKING AUTHORITY: 550.0251(12), 550.105(2)(b), 849.086(4), (5), (6), (11) FS.
LAW IMPLEMENTED: 550.0251(6), 849.086(4), 849.086 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:
DATE ANO TIME: December 2, 2015, 9:00 a.m.
PLACE: Northwood Centre Board Room, 1940 North Monroe Street, Tallahassee, FL 32399
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bryan Barber, Rules Coordinator for the Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Suite 50, Tallahassee, Florida 32399, (850)717-1761

THE FULL TEXT OF THE PROPOSED RULE IS:

61O-11.001 Definitions.
(1) "Activity related to cardroom operations" or "cardroom activity":



(a) Includes any and all activities related to the operation of the cardroom, including activities that require a person to come in contact with or work within the cardroom gaming area, all aspects of management, all aspects of record keeping, all aspects of administration, all aspects of supervision, all aspects of cardroom play, and all activities that support the cardroom operation in any way, unless such activity is specifically excluded from this definition.

(b) No change.

(2) "Add-on" means any additional chips purchased in a tournament which is not considered a buy-in or re-buy.

(3)~~(2)~~ "All-in" means when a player commits all of his or her chips or tokens into a pot.

(4)~~(3)~~ "Ante" means a predetermined wager that each player is required to make in some poker games prior to any cards being dealt in order to participate in the round of play.

(5)~~(4)~~ "Bet" means to wager an amount signified by the number of chips or tokens contributed to a pot on any betting round.

(6)~~(5)~~ "Betting round" means a complete wagering cycle in a hand of poker after all players have called, folded, checked, or gone all-in.

(7)~~(6)~~ "Blind" means a predetermined bet a player or players must place on the table before the cards are dealt.

(8)~~(7)~~ "Business Entity" means a sole proprietorship, general or limited partnership, corporation, business trust, joint venture, or unincorporated association.

(9)~~(8)~~ "Button" means a circular object moved clockwise around a poker table to denote the assigned dealer for each hand.

(10)~~(9)~~ "Buy-in" means the amount of money required by the cardroom operator to enter and participate in a game.

(11)~~(10)~~ "Cardroom gaming area" means any area of a licensed facility designated by the cardroom operator in its floor plan in which authorized games are played or where any type of cardroom operations may occur, such as handling of cash, chips, tokens, dominoes, or cards. The cardroom gaming area shall include entrances and exits.

(12)~~(11)~~ "Cardroom surveillance" means the employees and systems with capability to observe and electronically record activities being conducted in a cardroom and its supporting areas.

~~(12) "Cashiers' Cage" means a physical structure that houses cashiers and serves as the central location for the exchange of currency and chips.~~

(13) No change.

~~(14) "Clearing hands" means displaying the front and back of both hands, with fingers spread over the table in sufficient distance from all other players and objects for surveillance recording.~~

(14)~~(15)~~ "Cross-cash chips" means cashing chips from one licensed cardroom operator's facility at a different licensed cardroom operator's facility.

(15)~~(16)~~ "Dedicated camera" means a color video camera that continuously records a specific activity.

~~(17) "Designated player" means the player identified by the button as the player in the dealer position.~~

(16)~~(18)~~ "Drop" means the procedure to remove drop boxes before counting the total amount of money, chips, and tokens removed from the drop box.

(17)~~(19)~~ "Drop Box" means a locked container permanently marked with the number corresponding to a permanent number on the card or domino table.

(18)~~(20)~~ "Facility" means the cardroom, any storage area for card or domino tables, cards, chips, tokens, dominoes, drop boxes, tip boxes, records relating to cardroom activity, and other cardroom supplies, the count room, and imprest vault.

~~(21) "Fanning" means spreading a deck of cards in front of the imprest tray so that each card can be identified by surveillance cameras.~~

(19)~~(22)~~ "Game" means the completion of all betting rounds and final determination of a winner based upon the comparison of all cards dealt and held by players at the end of all betting at a table.

(20)~~(23)~~ "Hand" means the group of cards dealt to a player in a game.

(21)~~(24)~~ "Imprest tray" means any tray in which a predetermined dollar amount of chips, tokens, or U.S. currency is kept.

(22)~~(25)~~ "Jackpot pool" means an accumulation ~~a cumulative pool~~ of money collected from card games to be ~~that is~~ awarded to a player or players in accordance with section 849.086(7)(d), F.S. ~~who hold a certain combination of cards specified by a cardroom operator.~~

(23)~~(26)~~ "Licensee" means a person or entity holding any license issued by the division for purposes of cardroom operations.

(24)~~(27)~~ "Operate" means to conduct authorized games pursuant to Section 849.086, F.S.

~~(28) "Playing light" means drawing chips or tokens from the pot to show how much a player owes when the player is out of chips or tokens in an effort to allow a player to continue without chips or tokens, until more chips or tokens are earned.~~

(25)~~(29)~~ "Pot" means the total amount wagered in a game ~~or series~~ of games of poker or dominoes.

(26)~~(30)~~ "Proposition player" means a player who is employed by a cardroom operator, but who uses his own money to initiate or play in games.

(27)~~(31)~~ "PTZ Camera" means a light-sensitive color video camera that has pan, tilt, and zoom capabilities.

(28)~~(32)~~ "Raise" means to increase the size of the preceding bet.

(29)~~(33)~~ "Re-buy" means the additional tournament chips ~~or tokens~~ purchased by players according to the schedule of re-buys prominently displayed in the cardroom during tournament play.

(30)~~(34)~~ "Round of play" means, for any game of poker, the process by which cards are dealt, bets are placed and the winner is determined and paid in accordance with the rules of Chapter 61D-11, F.A.C.

~~(35) "Shift" means a period of time designated by the employer during which an employee works when a licensed cardroom is open to conduct business pursuant to Rule 61D-11.012, F.A.C.~~

(31)~~(36)~~ "Shill" means a player in a game provided by or employed by a cardroom operator who only bets with money provided by the cardroom operator.

(32)~~(37)~~ "Showdown" means the point in a poker game in which all hands are fully revealed to all other players and the hand with the best combination becomes the winner.

~~(38) "Shuffle" means the process of mixing or rearranging a deck of cards to remove the probability that a predetermined series of cards may be drawn from the deck after it is mixed or rearranged.~~

(33)~~(39)~~ "Side bets" means additional wagers made between two or more persons on the outcome or any portion of an authorized game ~~other than wagers authorized pursuant to Chapter 849, F.S.~~

(34)~~(40)~~ "Supporting areas" means those areas supporting the operation of the cardroom including, but not limited to, surveillance, cashiers' cages, podiums, vaults, and count rooms.

(35)~~(41)~~ "Surveillance room" means a secure location in a pari-mutuel facility used for cardroom surveillance.

(36)~~(42)~~ "Surveillance system" means a system of video cameras, monitors, recorders, and other ancillary equipment used for cardroom surveillance.

(37)~~(43)~~ "Tip box" means a locked container into which all dealer tips must be inserted.

(38)~~(44)~~ "Tournament chips" means chips that have no cash value that are used in tournament play.

(39)~~(45)~~ "Vault" means a secure location where chips and currency are maintained.

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 5-9-04, 9-7-08, 7-21-14,__.

61D-11.002 Cardroom Games.

(1) No change.

(2) The cardroom operator shall prominently display a list of all games available for play in the cardroom that have been reviewed by the division for compliance with Chapter 849, F.S., and are included within the cardroom's internal controls. ~~are authorized pursuant to Chapter 849, F.S.~~

(3) The cardroom operator shall maintain a copy of the rules of play ~~including wagering requirements~~. The rules of play shall be made available to the division or to players upon request.

~~(4) A cardroom operator who has reasonable cause to believe that a player in an authorized game has acted or is acting in one of the following manners may require the player to leave the game or facility.~~

~~(a) If a player is not playing the game solely to improve his or her chance of winning;~~

~~(b) If a player is taking or attempting to take action to improve another player's chance of winning;~~

~~(c) If a player communicates any information to another player which could assist the other player in any manner respecting the outcome of a game.~~

~~(5) Card games that utilize a designated player that covers other players' wagers shall be governed by the cardroom operator's house rules. The house rules shall:~~

~~(a) Establish uniform requirements to be a designated player;~~

~~(b) Ensure that the dealer button rotates around the card table in a clockwise fashion on a hand by hand basis to provide each player desiring to be the designated player an equal opportunity to participate as the designated player; and~~

~~(c) Not require the designated player to cover all potential wagers.~~

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 550.0251(6), 849.086(4) FS. History–New 1-7-97, Amended 5-9-04, 4-12-06, 9-7-08, 7-21-14,_____.

61D-11.0021 Cardroom Game Submissions

(1) A cardroom operator or business occupational licensee shall submit to the division, office of auditing, a complete cardroom game submission for review and evaluation of compliance with the provisions of Section 849.086, F.S., and Chapter 61D-11, F.A.C., prior to the game being included in any cardrooms' internal controls. The game submissions shall include all of the following:

(a) The name and a description of the game;

(b) A description of the type of table utilized in the game which includes, the shape, and any markings or writing to be made on the table felt;

(c) The number of possible players participating in the game;

(d) Type of card deck(s) used;

(e) A ranking of cards and hands. The rankings shall be supported by documentation establishing it as a poker ranking;

(f) Betting scheme and all possible rules for wagers;

(g) Dealing procedures;

(h) Round of play procedures;

(i) Rake amounts and procedures;

(j) Glossary of Terms

(2) A game submission will not be considered reviewed until the division has posted the game submission to www.myfloridalicense.com/dbpr/pmw.

(3) A cardroom operator may include in their internal controls a game submission from www.myfloridalicense.com/dbpr/pmw by referencing the game by its hyperlink.

Rulemaking Authority 550.0251(12), 849.086(4),(11)FS. Law Implemented 849.086 FS. History – New __.

61D-11.0025 Notification in Writing.

Rulemaking Authority 849.086(4) FS. Law Implemented 849.086 FS. History–New 9-7-08, Repealed ___.

61D-11.003 Card-Play Hands.

~~(1) The ranking of cards in a poker hand shall be:~~

~~(a) Consistent with the rules of Hoyle's Modern Encyclopedia of Card Games, 1974 Edition, adopted and incorporated herein by reference, or:~~

~~(b) Included within the rules of play for that game if the ranking of the cards is different from paragraph (a) of this rule.~~

~~(2) If the joker card is to be used in certain games, the house must prominently display within the cardroom area in which games the joker card will be used and how the joker card will be ranked in a showdown.~~

(1)~~(3)~~ Before a card game may be played, the dealer must shuffle the cards.

(2)~~(4)~~ Cards, once completely shuffled, must be dealt out of the hand of the dealer.

(3) If a "button" is used, the button shall designate which player does receive the advantage of playing and betting last.

~~(5) Each player shall have the option to accept the "button" to:~~

~~(a) Receive the advantage of playing and betting last; and~~

(4)~~(b)~~ The cardroom operator shall ensure ~~Ensure~~ that the button is ~~may be~~ moved around the card table in a clockwise fashion to provide each player equal opportunity.

Rulemaking Authority 550.0251(12), 849.086(4) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 9-7-08, 7-21-14, __.

61D-11.004 Dealer Responsibilities.

~~(1) A dealer shall not allow a player to enter a card game at his or her table, except as provided for in the cardroom operator's rules of play.~~

(1)~~(2)~~ Dealers shall be rotated to a different table at least every three hours.

(2)~~(3)~~ A dealer who receives currency from a player at a card table in exchange for chips or tokens must perform the following:

(a) through (d) No change.

(3)~~(4)~~ Dealers shall take breaks only in areas the cardroom operator has designated on the approved cardroom floor plan, submitted pursuant to subsection 61D-11.012(6), F.A.C. ~~61D-11.012(7), F.A.C.~~

(4)~~(5)~~ Dealers shall accept tips either ~~only~~ while dealing at an assigned table or through a system included within the internal controls. If tips are accepted while dealing at an assigned table, the tip ~~. Tips~~ shall be accepted by:

(a) Tapping the tip on the imprest tray; and

(b) Dropping the tip in the tip box.

(5)~~(6)~~ The tip box shall ~~will then~~ be counted with all other earned tips for the card dealer's assigned shift.

(6)~~(7)~~ Other than tips, dealers shall not accept any items of value or gifts from card players or any patrons of the facility.

(7)~~(8)~~ Dealers shall not allow cash or other personal items that may inhibit play to be placed on a table during the play of any hand.

(8)~~(9)~~ Dealers shall:

(a) Clear their hands when cash, chips, or tokens are exchanged with or provided to a player;

(b) Inspect decks of cards at their assigned cardroom tables prior to the ~~beginning of each gaming day or~~ opening of a new table ~~during the gaming day~~;

(c) Inspect decks of cards when a new deck of cards is replaced for use at their assigned table; and

(d) Inspect both sides of each card by spreading the deck of cards in front of the imprest tray so that each card can be identified by surveillance ~~cameras fanning them~~.

Rulemaking Authority 550.0251(12), 849.086(4) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 5-9-04, 9-7-08, 7-21-14,__.

61D-11.005 Prohibitions.

(1) No change.

(2) No change.

(3) Side ~~Playing light and side~~ bets are prohibited.

(4) through (8) No change.

(9) Player banked games, established by the house, are prohibited.

(10) A cardroom operator shall not award a giveaway, jackpot, or prize from the jackpot pool in combination with any other eligibility requirements or outcome other than a specified combination of cards pursuant to section 849.086(7)(d), F.S.

(11) If the division has reasonable cause to believe that any person at a licensed facility has acted or is acting in one of the following manners it may exclude the person from any facility:

(a) Any person not playing the game solely to improve his or her chance of winning;

(b) Any person taking or attempting to take action to improve another player's chance of winning;

(c) Any person communicating information to another player which could assist the other player in any manner influencing the outcome of the game.

Rulemaking Authority 550.0251(12), 849.086(4) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 5-9-04, 9-7-08, 7-21-14,___.

61D-11.006 Inspection of Premises, Records.

(1) The cardroom operator shall contact the division, office of auditing, for an inspection for compliance with the provisions of Section 849.086, F.S., and Chapter 61D-11, F.A.C., no less than ten business days prior to opening a new cardroom or amending an existing cardroom area. Amending an existing cardroom area includes changing the number, location or dimensions of tables, surveillance system, internal controls, or floor plan.

(a) through (c) No change.

~~(2) The division shall conduct a re-inspection after receiving the cardroom operator's notification of corrections provided in writing pursuant to Rule 61D-11.0025, F.A.C.;~~

(2)~~(3)~~ Subsequent inspections shall be performed according to this rule until identified deficiencies are corrected;

(3)~~(4)~~ Upon satisfactory completion of corrective action, the division shall acknowledge in writing that all deficiencies are resolved and that the cardroom operator may proceed with using the designated facility space. The division shall deliver its written acknowledgement and authorization to proceed by e-mail facsimile, mail or hand delivery, to the specific address retained in the division's record of licensure. ~~in writing pursuant to Rule 61D-11.0025, F.A.C~~.

Rulemaking Authority 550.0251(12), 849.086(4) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 5-9-04, 9-7-08, 7-21-14,___.

61D-11.007 Cardroom Operator License.

(1) No change.

(2) An applicant for an annual cardroom license shall complete Form DBPR PMW-3160, Permitholder Application for Annual License to Operate a Cardroom, effective 7-21-14, incoporated ~~adopted~~ herein by reference, https://www.flrules.org/gateway/reference.asp?No=Ref-04395, which can be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035, and submit a

fee of $1,000.00 for each table to be operated during the license period. For cardroom facilities at which more than one pari-mutuel permit is operated during a year, table fees for the facility may be paid by one or all of the permitholders. License fees are non-refundable. For the initial ~~and annual~~ cardroom license application, in addition to the application and fees submitted, the applicant shall submit its written internal controls, required by Rule 61D-11.019, F.A.C., for approval by the division, and proof of authorization by a local government pursuant to Section 849.086(16), F.S.

(3) No change.

(4) No change.

Rulemaking Authority 550.0251(12), 849.086(4), (5), (11) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 5-9-04, 4-12-06, 9-7-08, 7-21-14,___.

61D-11.009 Cardroom Employee Occupational License and Pari-Mutuel/Cardroom Combination License.

(1) through (6) No change.

(7) All cardroom employee occupational licensees shall wear their photo identification, issued purusant to subsection 61D-11.012(9), F.A.C., while on duty. A cardroom employee shall not attempt to hide his or her photo identification from any patron or from surveillance cameras.

(8) Cardroom occupational licensees may have the option to only wear a factility issued photo identification card if the employee has the cardroom employee occupational license on their preson at all times.

Rulemaking Authority 550.0251(12), 550.105(2)(b), 849.086(4)(a), (6)(d), (f) FS. Law Implemented 849.086(6) FS. History–New 1-7-97, Amended 5-9-04, 3-4-07, 9-7-08, 7-21-14,___.

61D-11.012 Duties of Cardroom Operators.

~~(1) All cardroom operators must conspicuously display a notice of the rake amounts, time limitations, or other rake procedures, and any bet limits imposed at each card and domino table.~~

(1)~~(2)~~ Cardroom operators shall maintain a roster of all persons a cardroom operator employs. A cardroom operator shall also maintain a weekly listing of all cardroom employees who worked during each week. The list of persons shall include for each employee:

(a) through (c) No change.

(2)~~(3)~~ Cardroom operators shall maintain a log for three years of persons whose employment with the cardroom operator has been terminated, or the employee resigned, or abandoned his or her position, that includes:

(a) through (c) No change.

(3)~~(4)~~ The cardroom operator shall notify the division, office of operations, of any change in companies providing services that require licensure within 10 days of such change on Form DBPR PMW-3220, List of Cardroom Business Occupational Licensees Providing Products and Services to a Cardroom, effective 7-21-14, incorporated ~~adopted~~ herein by reference, https://www.flrules.org/gateway/reference.asp?No=Ref-04402, which can be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035.

(4)~~(5)~~ Days and hours of cardroom operation shall be those set forth in the application or renewal of the cardroom operator's license, or in the notice of change in the cardroom operator's hours of operation as required in subsection (6) below.

(5)~~(6)~~ A cardroom operator shall submit proposed changes to the days and hours of cardroom operation to the division in writing prior to proposed implementation;

(6)~~(7)~~ Cardroom operators shall maintain a cardroom floor plan that shall:

(a) through (d) No change.

(7)~~(8)~~ A cardroom operator must display separate signage throughout the designated cardroom gaming area providing notice of the following:

(a) The minimum age to play required by Section 849.086(12)(b), F.S.

(b) The hours of operation;

(c) No side betting is ~~beting or playing light are~~ permitted; and

(d) No credit is extended by the house.

(8)~~(9)~~ Cardroom operators shall establish, and list in their internal controls, security controls that limit access into the cashiers' cage(s), count room, vault, and surveillance room. This list ~~which~~ shall include a:

~~(a) A~~ current list of employees, including full names and license numbers, authorized to enter each secure area and shall ~~to~~ be posted on the inside door of the entrance to each specific area, in the security office, and in the surveillance room at all times~~; and~~

~~(b) Full names and license numbers as listed on the occupational licenses issued by the division and shall be provided to the division upon request.~~

(9)~~(10)~~ Cardroom operators are required to issue a photo identification to all cardroom employees. The photo identification shall include, at a minimum, the name of the cardroom facility, cardroom employee occupational license number, and the employee's name.

(10)~~(11)~~ The cardroom operator must provide the division, office of auditing, written notice within 20 days of a change in any management company contract.

(11)~~(12)~~ Cardroom operators shall establish a system for using imprest trays, cashiers' cage, and vaults for cardroom operations that is included in the internal controls, and provides for:

(a) through (c) No change.

(12)~~(13)~~ At the close of each shift, the chips, tokens, and currency in the imprest tray at each table shall be reconciled to the beginning balances pursuant to the approved cardroom internal controls.

~~(14) Cardroom operators shall remove all drop boxes, other than those used on tables designated as tournament only tables, at the same time each day as indicated in the internal controls and lock them in a secure location until the count takes place.~~

(13)~~(15)~~ No gaming may be conducted at a card table during the absence of the licensed dealer.

(14)~~(16)~~ No gaming may be conducted within the licensed cardroom facility during the absence of the designated manager or supervisor.

(15)~~(13)~~ When a cardroom operator is offering games of dominoes, the cardroom operator shall designate and assign at least one licensed cardroom employee as the supervisor of games of dominoes. A dominoes supervisor may not supervise more than eight dominoes tables.

(16)~~(18)~~ A cardroom operator shall notify the division, office of investigations, ~~provide a list~~ of each person it refuses entry into its cardroom for a period of 30 days or longer pursuant to Section 849.086(7)(g), F.S., which shall include the:

(a) through (d) No change.

(17)~~(19)~~ Each cardroom operator providing dominoes for play shall provide internal controls for the interaction between the vault and the dominoes supervisor.

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 5-9-04, 4-12-06, 9-7-08, 7-21-14, ___.

61D-11.013 Display of Identification and Possession of Occupational Licenses.

Rulemaking Authority 550.0251(12), 849.086(4), (6) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 9-7-08, 7-21-14: Repealed, ___.

61D-11.014 Cards.

(1) The cardroom operator shall only use cards designed to eliminate the ability of any person to place concealed markings on any part ~~the back~~ of all cards in a deck.

~~(2) Cards that are taped, cut, shaved, marked, defaced, bent, crimped, or deformed shall not be used.~~

(2)~~(3)~~ All cards shall be plastic.

(3)~~(4)~~ Decks of playing cards intended for use in a cardroom licensed facility shall be locked in a secure location when not in use.

(4)~~(5)~~ Each dealer assigned to a card table shall inspect each deck of playing cards intended for use at that table. ~~Inspection of the deck of playing cards shall commence no earlier than the start of the designated cumulative hours of operation for that cardroom license.~~ The assigned dealer must ensure that cards are not taped, cut, shaved, marked, defaced, bent, crimped, or deformed in any fashion that may permit covert identification of the card by players.

(a) Any card that is taped, cut, shaved, marked ~~with any description~~, defaced, bent, crimped or deformed in any fashion that may permit covert identification of the card ~~by players~~ during the course of play ~~must be withdrawn from play and marked as a complete deck of 52 cards or 54 cards when the joker cards are included, and identified as damaged cards~~. Each time a card is determined to be damaged as described in this section, the entire deck shall be withdrawn from play and replaced with a new deck after that new deck is thoroughly inspected under the requirements of this rule.

(b) No change.

(c) Cards which have been removed from play shall be permanently altered so that the cards cannot ~~can not~~ be put back into play.

(d) No change.

(5)~~(6)~~ Internal controls shall be established for the issuance of all cards to the shift supervisor and the floor supervisors.

Rulemaking Authority 550.0251(12), 849.086(4) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 9-7-08, 7-21-14,____.

61D-11.0175 Cardroom Drop, Count Rooms, and Count Procedures.

(1) Not ~~At the close of each shift, but not~~ less than once daily, the cardroom operator shall:

(a) Count and record the amount of chips or tokens and currency for each imprest tray;

(b) Make fills or replenish the imprest trays to bring them back to their beginning balances;

(c) Document beginning and ending inventories in the fill or credit report reflecting the value of chips or tokens and currency whether final fills are or are not made;

(d) Confirm that the designated supervisor has verified the replenishment of each imprest tray; and

(e) Ensure that drop boxes are removed from tables and immediately ~~and~~ transported to the count room or other secure area by two or more employees. At least one of the transporting employees shall be a security employee.

(2) Cardroom operators shall remove all drop boxes, other than those used on tables designated as tournament only tables, at the same time each day, as indicated in the internal controls and lock them in a secure location until the count takes place.

(3)~~(2)~~ The cardroom operator shall have a count room within its facility used for counting of chips, tokens, and funds. Cardroom operations counts shall be performed at separate times and independent of pari-mutuel or slot operations counts.

(4)~~(3)~~ The count room shall include:

(a) Reinforced doors equipped with locks and a device that audibly signals the surveillance monitoring room and the security department whenever a door is opened.~~;~~ All count room doors must remain locked except to allow entrance by authorized individuals as listed on the inside of the count room door pursuant to subsection 11.012(8), F.A.C.

(b) Tables for counting chips, tokens, or currency;

(c) Clear trash bags, if trash containers are present;

(d)~~(c)~~ Surveillance equipment as referenced in paragraph 61D-11.025(5)(b), F.A.C.; and

(e)~~(d)~~ The controlling requirements in Rule 61D-14.063, F.A.C., for count rooms that are also used for slot machine gaming counts.

(5)~~(4)~~ Count Room ~~The internal controls shall include the following~~ procedures shall ~~to~~ be as follows ~~followed before any count process~~:

(a) Chips ~~A procedure for securing chips~~, tokens, or currency from any previous count~~,~~ shall be secured before another count begins;

(b) Count teams shall include ~~Procedures providing for a count team, including~~ a designated supervisor and at least two other team members, with the designated supervisor being the count recorder. Count team members ~~members' rotation~~ shall be rotated in such a way so that the team does ~~is~~ not consist exclusively of the same team members ~~three individuals~~ more than any three days per week;

(c) All ~~A procedure ensuring that all~~ persons present in the count room during the counting process shall wear outer garments that must be a full-length, short sleeved, one-piece, pocket-less garment with openings for the arms, feet, and neck only, which are in good condition and completely closed, fastened, or zipped at all times while in the count room;

(d) The ~~A procedure ensuring that the~~ cardroom manager and/or ~~or~~ cardroom supervisors are ~~supervisor is~~ prohibited from participating in the count activities;

(e) No ~~A procedure ensuring that no~~ person shall carry any personal items into the count room, other than those items needed for medical necessity; and

(f) The ~~A procedure ensuring that the~~ designated count team supervisor shall record, in writing, the name and license number of each member of the count team, and record the same information on any personnel entering or exiting the count room during the count process.

~~(5) The internal controls shall include the following procedures for the count process:~~

~~(a) A procedure for dual count and reconciliation of all chips, tokens, or currency which shall ensure presentation of all chips, tokens, or currency in the count room to an employee who verifies the count;~~

~~(b) A procedure to resolve any discrepancies which arise at any time during the count or in the transfer of the drop to the vault;~~

(6) Security employees shall inspect the entire count room, including all trash containers and counting equipment to verify that no chips, tokens, or currency remain in the room.

(7) The count process shall be as follows:

(a)~~(c)~~ All ~~A procedure to require that all~~ count team members enter the count room as a group;

(b) Each drop box is counted separately;

(c) All content keys remain visible to surveillance through the count process;

(d) Count team members empty the contents of each drop box on the count table. No other box is opened while another box, or its contents are on the count table;

(e) Once empty, the drop box number and the inside of the drop box is held up to the full view of a surveillance camera with the drop box number called out verbally;

(f) After each drop box has been viewed and counted, the drop box shall be locked and placed in a storage area exclusively for drop boxes;

(g) During the count, the designated supervisor shall ensure that if

~~(d) A procedure for the designated supervisor to ensure that:~~

~~1. If~~ a count team member has to leave the count room, all count team members:

1.~~a.~~ Cease the count;

2.~~b.~~ Secure all chips in the count room;

3.~~c.~~ Leave the count room together;

4.~~d.~~ Are inspected by security before leaving the count room; and

5.~~e.~~ Do not re-enter the count room until all count team members are present.

(h) All chips, tokens, or currency shall be dually counted and verified by a third employee;

(i) Any discrepancies which arise at any time during the count or in the transfer of the drop to the vault shall be resolved and documented.

~~2. Count team members empty the contents of each drop box on the count table;~~

~~3. Each drop box is counted separately;~~

~~4. No other box is opened while a box is on the count table;~~

~~5. All content keys remain visible to surveillance until the end of the count;~~

~~6. Once empty, the drop box number and the inside of the drop box is held up to the full view of a surveillance camera with drop box number called out verbally;~~

~~7. After each drop box has been viewed and counted, the drop box shall be locked and placed in a storage area exclusively for drop boxes; and~~

(8) Count reporting shall be completed as follows:

(a)~~8.~~ The following information shall be ~~is~~ recorded on each count report:

1.~~a.~~ The table number to which each drop box contents corresponds;

2.~~b.~~ The value of each denomination of chips, tokens, or currency counted;

3.~~c.~~ The total value of all denominations of chips, tokens, or currency counted;

4.~~d.~~ The gaming date of the count and shift if more than one count is conducted daily; and

5.~~e.~~ The total number of all drop boxes opened and counted.

6. The employee name and license number of each member of the count team participating in that count.

~~(e) A procedure to require the signed documents to be transported to the accounting or finance department immediately after the count and for that department reconcile the daily count records to the totals on the Monthly Remittance Reports required in subsection 61D-11.018(2), F.A.C.;~~

~~(f) A procedure to ensure that the doors to the count room remain locked except to allow authorized entrance to individuals as listed on the inside of the count room door pursuant to subsection 61D-11.012(9), F.A.C.~~

~~(g) A procedure ensuring that each count report is signed by the count team members and the count team supervisor;~~

~~(h) A procedure requiring that in the event of an emergency drop at a card or domino table, play ceases at that table during the drop;~~

~~(i) A procedure requiring security employees to inspect:~~

~~1. The entire room and all counting equipment to verify that no chips, tokens, or currency remain in the room; and~~

~~2. Any trash containers prior to removal from the count room and to ensure only clear bags are used in the count room.~~

(b)~~(j)~~ Any correction made to any count documentation shall be made ~~A procedure to make corrections to any count documentation~~ by crossing out the error, entering the correct figure, and entering the initials of at least two count team members who verified the change.~~; and~~

~~(k) A procedure to reconcile cardroom drop revenue to an increase in the vault cash balance.~~

(c) Each count report shall be signed by the count team members and the count team supervisor.

(d) Signed count reports shall be transported to the accounting or finance department immediately after the count.

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 9-7-08. Amended 7-21-14,____.

61D-11.018 Reporting Requirements to Determine Net Proceeds or Gross Revenues.

(1) Each cardroom operator shall maintain a copy of monthly records related to the cardroom activities on the premises. The cardroom operator must maintain documentation supporting all amounts reported in the records including:~~.~~

(a) Count reports, pursuant to rule 61D-11.0175, F.A.C.;

(b) Vault reconciliation reports, pursuant to subsection 61D-11.019(4)(e), F.A.C.;

(c) Tournament reports, pursuant to rule 61D-11.0275, F.A.C.;

(d) Jackpot pool reports, pursuant to rule 61D-11.0279, F.A.C.;

(e)~~(a)~~ For greyhound and jai alai permitholders, each record shall clearly show totals of gross revenues.

(f)~~(b)~~ For harness or thoroughbred permitholders, each record shall clearly show totals of operating revenues, expenses, and net proceeds.

(2) For each license operated, cardroom operators shall file a separate Form DBPR PMW-3640, Cardroom Monthly Remittance Report, incorporated herein by reference, https://www.flrules.org/gateway/reference.asp?no=Ref_____, which can be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035 ~~adopted and incorporated by Rule 61D-12.001, F.A.C.,~~ with the division by the fifth day of each month for the preceding month's cardroom activity.

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 4-12-06, 9-7-08,____.

61D-11.019 Internal Controls.

(1) No change.

(2) No change.

(3) No change.

(4) The cardroom manager or general manager shall sign and submit the internal controls to the division. The internal controls shall at a minimum contain the following:

(a) through (h) No change.

(i) A list of all ~~authorized~~ games offered for play and a link to each game's description as posted by the division at www.myfloridalicense.com ~~of the rules of play and wagering requirements for each game~~;

(j) through (o) No change.

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 9-7-08, 7-21-14,____.

61D-11.025 Cardroom Electronic Surveillance.

(1) No change.

(2) The surveillance system must be capable of:

(a) Covert monitoring of:

1. The conduct and operation of card and domino tables, with coverage to view and identify wager amounts, card or domino values, and card suits accurately;

2. The conduct and operation of the location(s) where tournament buy-ins, registrations, re-entries, and prize payouts occur;

3. The conduct and operation of the cashiers' ~~cashier's~~ cage(s) and/or vault;

4. The collection and count of the cardroom's gaming revenue and jackpot pool drop;

5. No change.

(b) No change.

(3) No change.

(4) No change.

(5) Different capability levels of cameras shall be:

(a) Dedicated cameras that record at a rate of 30 frames per second for viewing:

1. No change.

2. No change.

3. The cashiers' ~~cashier's~~ cage(s), cashiers' ~~cashier's~~ drawers, and/or vault, including windows, cabinets, and shelving; and

4. No change.

(b) No change.

(6) through (21) No change.

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 10-21-97, Amended 9-7-08, 7-21-14,_____.

61D-11.0275 Tournaments.

(1) Each cardroom operator who conducts tournaments shall maintain, and make available, written procedures for the conduct of each tournament that shall provide:

(a) A detailed breakdown ~~The method~~ for charging house and tournament fees, re-buys, or add-ons for participation in a tournament of poker or dominoes including at a minimum;~~:~~

1. The dollar amount of each house and tournament fee, re-buy, or add-on;

~~(b) The point values of chips or tokens;~~

2.~~(c)~~ The number of chips ~~or tokens~~ each participant will receive for each house and tournament free, re-buy, or add-on ~~upon buy-in or registration~~;

3.~~(d)~~ A description of the blind, bring-in, and/or ante structure; and ~~Tournament chips or tokens that are visually distinct from those used in regular play;~~

~~(e) The allowance and use of blinds;~~

~~(f) The allowance and use of re-buys;~~

~~(g) The charge for the purchase of additional chips;~~

4.~~(h)~~ The estimated distribution of winnings.~~; and~~

~~(i) The process to ensure that chips or tokens will not be redeemed for cash or any other thing of value.~~

~~(2) The written procedures must be available to all interested participants upon request and displayed within the cardroom.~~

(2)~~(3)~~ Cash received for entry fees, re-buys and add-ons, shall be separate from all other cash received by the cardroom operator for regular cardroom gaming until such time as all cash is counted.

(3)~~(4)~~ The monthly remittance report filed with the division as required by subsection 61D-11.018(2), F.A.C., shall include an aggregate accounting of the:

(a) Amount ~~The amount~~ collected for games played in a tournament per player;

(b) Total ~~The total~~ amount of participation fees collected;

(c) Total ~~The total~~ number of participants;

(d) Total ~~The total~~ amount distributed to winning participants;

(e) Taxable ~~The taxable~~ gross receipts amount; and

(f) Calculation ~~The calculation~~ of total tax due for tournaments.

(4)~~(5)~~ The cardroom operator shall~~:~~

~~(a)~~ maintain ~~Maintain~~ supporting documentation for all tournaments played which ~~with a separate entry for each type of daily tournament that~~ reconciles to the aggregated columns provided in the monthly remittance report in subsection (3),~~(4)~~; and, at a minimum includes the following:

(a)~~(b)~~ Detailed source documentation for each tournament which includes all information compiled into ~~Maintain a record of the winner's address, in addition to~~ the monthly remittance report; ~~applicable IRS records for any tournament payouts that meet the IRS threshold.~~

(b) A detailed summary of the source documentation for each tournament which is signed by a tournament director and a cashiers' cage or vault employee to attest to the accuracy of the receipts and disbursements;

(c) The names of all tournament prize winners. Additionally, if a player's tournament winnings meet applicable IRS reporting thresholds, the cardroom operator shall maintain all informaition required by the IRS for that player; and

(d) The total amount of chips issued and returned for the tournament.

(5)~~(6)~~ A gratuity, tip, or similar charge paid during a tournament is not considered gross receipts if:

(a) through (d) No change.

(6)~~(7)~~ If a cardroom operator offers tournament registration to patrons through licensed vendors, the cardroom operator shall notify the division of the vendor(s), prior to conducting registrations.

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 9-7-08, Amended 7-21-14,_____.

61D-11.0279 Jackpots, Prizes, and Giveaways.

(1) All ~~The following requirements apply to all~~ cardroom and dominoes operators offering ~~tables participating in~~ jackpots, prizes and giveaways from the jackpot pool shall:

(a) Conspicuously post in the ~~The~~ cardroom ~~operator shall post~~ the rules of the jackpots, prizes and giveaways offered, including which specific combination of cards is a winner, the amount to be awarded ~~hands constitute a winner or winners~~, and all details regarding seeding the jackpot pool ~~fund~~;

(b) Conspicuously display, for the players to see, ~~Post~~ the jackpot pool rake limits and a description of how the jackpot pool rake is collected at ~~for~~ each ~~authorized game in the~~ cardroom table;

(c) Ensure that jackpot pool drop boxes:

1. Are ~~For jackpot proceeds, an additional drop box is~~ installed on an ~~the left hand side of tables or another~~ area of the table as specified in the cardroom's system of internal controls;

~~2. The internal controls require that the dealer drop the jackpot rake into the jackpot drop box;~~

2.~~3.~~ Have ~~Jackpot drop boxes have a~~ permanently affixed number(s) or letter(s) that are of sufficient size to be verified through surveillance coverage and correspond to the table to which the drop box is assigned;

3.~~4.~~ Are ~~Jackpot drop boxes are~~ marked or colored to distinguish them from the regular drop box and tip box;

4.~~5.~~ Are ~~All jackpot drop boxes are~~ dropped and counted daily using drop procedures set forth in Rule 61D-11.0175, F.A.C.;

(d) Ensure that jackpot pool revenue is:

1.~~6.~~ Not ~~Jackpot revenues are not~~ commingled with other monies;

~~7. All revenue from the jackpot drop is:~~

2.~~a.~~ Deposited daily into a separate non-interest bearing bank account; or

3.~~b.~~ Held as cash on hand in the cashiers' cage or vault.

~~8. The daily balance for each jackpot is displayed prominently within the cardroom gaming area facility;~~

(e)~~9.~~ Ensure that all ~~All~~ jackpot pool accounting records include~~:~~

~~a. Include~~ a detailed ledger with all credits, debits, and any jackpot pool amount carried forward to the jackpot pool from the prior playing day~~;~~ and are

~~b. Are~~ maintained to account for each different jackpot offered.

(2)~~10.~~ All jackpot pool payouts shall be ~~are~~ made in accordance with the internal controls.~~;~~ ~~and~~

~~11. The internal controls will state whether a maximum jackpot threshold limit is established. The internal controls shall state if a threshold is selected, when the designated threshold is achieved, the series of cards comprising the hand winning the jackpot shall be changed to a series of cards that has a higher probability of occurring.~~

~~(2) Each jackpot amount shall be equal to the ending total balance of that specific jackpot fund at the end of the previous day's count;~~

(3) The cardroom operator shall:

(a) Maintain a separate Form DBPR PMW-3605, Daily Tracking of Cardroom Jackpot, effective 7-21-14, incorporated ~~adopted~~ herein by reference, https://www.flrules.org/gateway/reference.asp?No=Ref-04403, which can be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035, for each day of cardroom activity, and each different jackpot;

(b) Maintain a record of all award recipients name's. Additionally, if the amount of a player's award meets ~~the winner's address, in addition to the~~ applicable IRS reporting thresholds, the cardroom operator shall maintain all information required by the IRS for the player ~~records for any jackpot payouts that meet the IRS threshold~~.

(4) A jackpot, prize, or giveaway from the jackpot pool shall only be awarded to player(s) holding a combination of cards specified by the cardroom operator prior to play and in accordance with internal controls.

(5) The transaction for a giveaway or prize must be a separate transaction from any buy-in or re-buy. Jackpot pool contributions may be a part of a buy-in or re-buy, but the jackpot pool portion of the buy-in or re-buy must be fully disclosed and accounted for separately.

(6) A cardroom operator may not withhold a percentage of the jackpot pool for the cost of administering the jackpot pool. One hundred percent of any jackpot pool shall be applied to the payment of jackpots.

(7) Cardroom operators shall retain all receipts and invoices for any items purchased to be awarded as jackpot prizes and giveaway payouts.

(8) If jackpot pools from multiple cardroom permitholders are combined to make one collective jackpot pool, the internal controls for each participating cardroom must include procedures to:

(a) through (d) No change.

(e) Notify cardroom patrons of a jackpot claim, which shall include:

1. The announcement at each participating cardroom when a jackpot claim is confirmed; and

2. The display, by each participating cardroom, of the jackpot pool balance(s) as required in subsection (1) of this rule.

(f) Ensure that the accounting and tracking of the jackpot pool shall be made only on Form DBPR PMW-3605, Daily Tracking of Cardroom Jackpot Pool, adopted by reference in paragraph (3)(a) above, which shall be:

1. Completed separately for each location; and

2. Combined for all locations.

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 9-7-08, Amended 7-21-14,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jonathan Zachem, Director, Division of Pari-mutuel Wagering

NAME OF AGENCY HEAD WHO APPROVED THE PROPDSED RULE: Ken Lawson, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 28, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: August 18, 2015 & October 19, 2015

THE

LOCKWOOD

LAW FIRM

November 19, 2015

By Electronic Mail (bryan.barber@myfloridalicense.com)

Mr. Bryan Barber
Division of Pari-Mutuel Wagering
Northwood Centre
1940 North Monroe Street
Tallahassee, Florida 32399-1035

Re: Proposal for Lower Cost Regulatory Alternative to Proposed Rules 61D-11.001- .002 and 61D-11.005

Dear Mr. Barber:

This correspondence is provided on behalf of bestbet-Jacksonville, bestbet-Orange Park, Dania Casino and Jai Alai, Daytona Beach Kennel Club, Ocala Jai Alai, Magic City Casino, Melbourne Greyhound, Naples-Fort Myers Greyhound Track, Oxford Downs, and the Palm Beach Kennel Club ("Cardroom Operators") and serves as a good faith written proposal for a Lower Cost Regulatory Alternative ("LCRA") to Proposed Rules 61D-11.001 – .002 and 61D-11.005 (the "Proposed Rules"). The specific proposed rules are 61D-11.001(33) and 61D-11.005(9), including the proposed repeal of existing rule 61D-11.002(5)(a)-(c).

This LCRA is submitted pursuant to section 120.541(1)(a), Florida Statutes, and the Notice of Proposed Rules published by the Division on October 29, 2015. We believe the regulatory impact of the Proposed Rules requires the Division to prepare a Statement of Estimated Regulatory Costs ("SERC") in conformance with section 120.541, Florida Statutes. At this time, however, the Division has not done so. The submission of this LCRA requires the Division to prepare a SERC. See section 120.541(1)(a), Florida Statutes ("Upon the submission of the lower cost regulatory alternative, the agency shall prepare a statement of estimate regulatory costs...").

I. Overview of Cardroom Operators

The Cardroom Operators are licensed pari-mutuel permitholders who also hold valid cardroom licenses issued by the Division pursuant to section 849.086, Florida Statutes. The Cardroom Operators provide facilities where authorized games of poker are played for money by members of the public. The Cardroom Operators offer designated player games in conformity with the Division's current rules. Specifically, the Division has approved in writing Three Card Poker, Two Card Poker, One Card Poker, Ultimate Texas Hold 'Em, Pai Gow Poker, and other games utilizing the designated player rules. Designated player games have been played in Florida

TEL 850.727.5009 | FAX 850.270.2610
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EXHIBIT

for several years and have grown exponentially since the Division passed rules regulating the games in July 2014.

II. Regulatory Costs Imposed by the Proposed Rules and the Substantial Adverse Impact on the Cardroom Operators

In reliance of the Division's existing rules, the Cardroom Operators spent significant amounts of money expanding their facilities to offer the games. These investments have proven worthwhile for both the Cardroom Operators and the State of Florida as designated player games generate considerably more revenue than do traditional poker games. Nevertheless, the Division seeks to repeal those provisions of its current rules that explicitly regulate the games and adopting rules expressly prohibiting such games.

This Firm has engaged the services of The Innovation Group to determine the economic impact of the Proposed Rules. The Innovation Group is the premier provider of consulting services for the gaming industry and is among the most trusted and reliable providers of economic impact analyses in the industry. The Innovation Group's Designated Player Games Impact Analysis is attached hereto as Exhibit A. As you can see, the Proposed Rules – prohibiting designated player games – will have a total adverse impact in excess of $87,000,000 over 5 years. The industry-wide adverse impact is much larger given that Exhibit A only includes data from a limited segment of Florida's cardroom industry. There are many other operators currently conducting designated player games in conformance with Rule 61D-11.002, Florida Administrative Code.

We believe that the attached analysis requires the Division to prepare a SERC in conformance with section 120.541, Florida Statutes. Two provisions of section 120.541 trigger the obligation to prepare a SERC. First, section 120.541(1)(a) requires the Division to prepare a SERC "upon the submission of a lower cost regulatory alternative." The submission of this LCRA triggers the Division's obligation under 120.541(1)(a) to prepare a SERC. Second, Section 120.541(1)(b), Florida Statutes, requires the Division to prepare a SERC if the proposed rule is likely to directly or indirectly increase regulatory costs in excess of $200,000 in the aggregate within one year after the implementation of the rule. As shown, eliminating the designated player games will have a direct or indirect regulatory impact far exceeding the $200,000 threshold. This regulatory impact triggers the Division's obligation under 120.541(1)(b) to perform a SERC.

We also believe that the attached analysis requires that the Division obtain legislative approval prior to implementing the Proposed Rules. Section 120.541(3), Florida Statutes, provides that if the proposed rule is likely to increase regulatory costs, or have an adverse impact on economic growth, private sector job creation or employment, or private sector investment, in excess of $1 million in the aggregate within five years of implementation, then the Division may not implement the rule until it is ratified by the Legislature. As shown, eliminating the designated player games will have an adverse impact far exceeding the $1 million threshold. Therefore, the Division cannot implement the Proposed Rules without legislative ratification.

III. Statutory Objectives of Section 849.086, Florida Statutes

Section 849.086(1), Florida Statutes, provides that the objectives of the statute authorizing cardrooms are "to provide additional entertainment choices for the residents of and visitors to the state, promote tourism in the state, and provide additional state revenues." As shown below, this LCRA accomplishes the statutory objectives of section 849.086, Florida Statutes, by maintaining as many entertainment choices as possible, promoting the tourism of the state, and ensuring maximum revenues for the state.

IV. The Cardroom Operators LCRA

Section 120.541(1)(a), Florida Statutes, authorizes any substantially affected person to submit a good faith written proposed for a lower cost regulatory alternative to a proposed rule. The proposal may include the alternative of not adopting any rue if the proposal explains how the lower costs and objectives of the law will be achieved by not adopting any rule. See § 120.541(1)(a), Fla. Stat.

The Cardroom Operators propose that the Division maintain the existing language relating to designated player games. This will provide certainty regarding the legality of the games and protect the significant investments made by the Cardroom Operators in reliance of the existing rules. More importantly, maintaining the existing language will not result in any increased regulatory costs or adverse economic impacts to the industry. In fact, the current trends indicate that maintaining the existing language will lead to significant economic growth that will benefit the State of Florida as a whole.

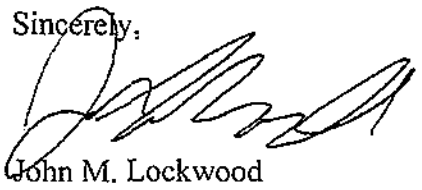
The Cardroom Operators submit that this LCRA substantially achieves the objectives of the law implemented, section 849.086, Florida Statutes. There is nothing in section 849.086 that prohibits designated player games. Additionally, there is nothing in section 849.086 indicating that the Legislature intended to prohibit designated player games. By keeping the existing language, the Division will further the objectives of section 849.086 by maintaining as many entertainment choices as possible, promoting tourism, and maximizing revenues.

This good-faith proposal complies with section 120.541(1)(a) by ensuring lower costs for the industry while accomplishing the objectives of the law being implemented. Therefore, the Division is required by section 120.541(1)(a) to prepare a SERC.

V. Conclusion

The Cardroom Operators are committed to working with the Division to ensure that the objectives of section 849.086, Florida Statutes, are attained while minimizing regulatory costs and adverse impacts. The Cardroom Operators believe this LCRA accomplishes each of these goals, however we are open to further discussion on any other proposals you may have. Thank you for your time and consideration and please do not hesitate to contact me should you have any questions.

Sincerely,



John M. Lockwood

cc: Jonathan Zachem (via email)
William D. Hall, III (via email)

Memorandum

To: John Lockwood

From: The Innovation Group – Michael Soll, Joe Dimino, Stephanie Adkison, and Chris Irwin

Date: November 19, 2015

Re: Designated Player Games Impact Analysis

Introduction

The following document contains The Innovation Group's Designated Player Games Impact Analysis for Florida's pari-mutuel operators offering such games. The goal of this memorandum is to quantify the impact of the Designated Player Games industry within the State of Florida. Based on the relevant state statute, a statement of regulatory costs shall include "An economic analysis showing whether the rule directly or indirectly…is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of $1 million in the aggregate within 5 years after the implementation of the rule." Based on this, The Innovation Group created a summary which provides the forecasted five year aggregate impact of DPGs being removed from the Florida Market at the conclusion of the memorandum.

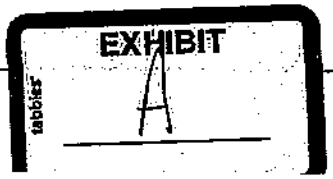
Cardrooms are not new to the Florida Gaming Landscape. Generally accompanying kennel clubs, greyhound tracks, jai alai frontons and horse tracks, numerous cardrooms are spread throughout the state. Based on information collected from management of many respective properties, the following table provides total cardroom drop (revenue) by property from 2012 to 2014.

Florida Cardroom Summary - Total Cardroom Drop ($000)

	2013	2014	Growth
Naples Fort Myers Greyhound Track	$6,928	$6,838	-1.3%
Sarasota Kennel Club	$5,040	$5,351	6.2%
Casino at Dania Beach	$0	$0	N/A
Magic City	$7,077	$6,770	-4.3%
Melbourne Greyhound Park	$4,054	$4,434	9.4%
Palm Beach Kennel Club	$12,744	$12,408	-2.6%
Jacksonville Kennel Club	$14,921	$15,097	1.2%
Daytona Beach Kennel Club	$10,680	$10,992	2.9%
Tampa Bay Downs	$4,460	$4,322	-3.1%
Tampa Greyhound	$1,965	$2,187	11.3%
Total/Average	$67,868	$68,400	0.8%

Source: Management from respective facilities, The Innovation Group

In 2014, the Division of Pari-Mutuel Wagering approved a new administrative rule regulating designated player games. Florida cardrooms may not lawfully offer house-banked card games pursuant to Section 849.086, Florida Statutes. Designated player games (DPGs) are non-house



banked and involve players competing against each other in a heads-up fashion in poker games such as Three Card Poker and Ultimate Texas Hold'em.

The following table provides an overview of when each property installed these DPGs, the number of DPG tables, and the number of jobs created by the addition of DPGs.

Florida Cardroom Summary – Designated Player Table Games - FY2015

	Initial Date of Installation	DPG Tables Currently in Market	Current DPG FTEs	Est. Annual Salary
Naples Fort Myers Greyhound Track	2/10/2015	6	16.4	$274,602
Sarasota Kennel Club	4/14/2015	5	13.9	$233,411
Casino at Dania Beach	5/19/2015	8	0.0	$0
Magic City	5/19/2015	6	6.6	$109,841
Melbourne Greyhound Park	6/1/2015	6	4.9	$82,380
Palm Beach Kennel Club	3/16/2012	4	16.4	$274,602
Jacksonville Kennel Club	9/17/2015	18	57.4	$961,106
Daytona Beach Kennel Club	8/25/2015	6	22.5	$376,740
Tampa Bay Downs	2/25/2015	4	4.9	$82,380
Tampa Greyhound	7/27/2015	3	3.3	$54,920
Total Market		66	146.3	$2,449,982

Source: Management from respective facilities, The Innovation Group

DPGs' Revenue Contribution

The first step in measuring the total revenue that could be generated by DPGs is to look at actual data compiled during 2015 to measure total revenue generated by these games year to date ("YTD"). This number is then annualized to project what total revenue would be with a full 12 months of operation.

Florida Cardroom Summary - Designated Player Table Games ($000)

	Total YTD 2015	Annualized revenue
Naples Fort Myers Greyhound Track	$508	$717
Sarasota Kennel Club	$313	$576
Casino at Dania Beach	$0	$0
Magic City	$435	$931
Melbourne Greyhound Park	$304	$730
Palm Beach Kennel Club	$700	$840
Jacksonville Kennel Club	$487	$3,699
Daytona Beach Kennel Club	$140	$840
Tampa Bay Downs	$263	$392
Tampa Greyhound	$59	$228
Total Market	$3,209	$8,953

Source: Management from respective facilities, The Innovation Group

Typically, when a new gaming product enters a market, there is a ramp-up period in which the new addition experiences high growth rates in the early years of operation before stabilizing and

reaching a growth rate more comparable to inflation. Applying this experience, alongside the level of competition surrounding each property, the following table provides The Innovation Group's forecasted revenue providing a 5-year aggregate estimate of gaming revenue generated by DPGs.

Florida Cardroom Projection - Designated Player Table Games Revenue ($000)

	FY2015	FY2016	FY2017	FY2018	FY2019	5-Year Aggregate
Naples Fort Myers Greyhound Track	$717	$775	$821	$854	$871	$4,038
Sarasota Kennel Club	$576	$591	$603	$615	$628	$3,014
Casino at Dania Beach	$0	$1,416	$1,473	$1,517	$1,548	$5,955
Magic City	$931	$968	$997	$1,017	$1,037	$4,949
Melbourne Greyhound Park	$730	$759	$782	$798	$814	$3,883
Palm Beach Kennel Club	$840	$857	$874	$891	$909	$4,371
Jacksonville Kennel Club	$3,699	$3,995	$4,235	$4,404	$4,492	$20,824
Daytona Beach Kennel Club	$840	$874	$900	$918	$936	$4,467
Tampa Bay Downs	$392	$402	$410	$419	$427	$2,050
Tampa Greyhound	$228	$234	$239	$243	$248	$1,192
Total Market	$8,953	$10,871	$11,334	$11,676	$11,910	$54,744

Source: Management from respective facilities, The Innovation Group

DPGs' Tax Revenue Contribution

According to Florida law, poker games are taxed at 10 percent of gross receipts. In addition, greyhound and jai alai facilities must contribute 4 percent of gross receipts to supplement greyhound purses and jai alai prizes, respectively. Horserace permit holders, such as harness, thoroughbred and quarter horse, must contribute 50 percent of such cardroom's monthly net proceeds to supplement horserace purses. The following table provides The Innovation Group's forecasted gaming tax revenue generated by DPGs through 2019.

Florida Cardroom Projection - Designated Player Table Games GGR Tax ($000)

	FY2015	FY2016	FY2017	FY2018	FY2019	5-Year Aggregate
Naples Fort Myers Greyhound Track	$72	$77	$82	$85	$87	$404
Sarasota Kennel Club	$58	$59	$60	$62	$63	$301
Casino at Dania Beach	$0	$142	$147	$152	$155	$595
Magic City	$93	$97	$100	$102	$104	$495
Melbourne Greyhound Park	$73	$76	$78	$80	$81	$388
Palm Beach Kennel Club	$84	$86	$87	$89	$91	$437
Jacksonville Kennel Club	$370	$399	$423	$440	$449	$2,082
Daytona Beach Kennel Club	$84	$87	$90	$92	$94	$447
Tampa Bay Downs	$39	$40	$41	$42	$43	$205
Tampa Greyhound	$23	$23	$24	$24	$25	$119
Total Market	$895	$1,087	$1,133	$1,168	$1,191	$5,474

Source: Management from respective facilities, The Innovation Group

In addition to the gaming tax provided above, The Innovation Group also measured the total tax revenue generated by the contributions provided for race purses. It is important to note that we cannot directly calculate the purse proceeds paid by horserace permit holders. The determination of "net proceeds" is largely calculated by the permit holder and remitted to the Division.

Florida Cardroom Projection - Designated Player Table Games Purse Tax ($000)

	FY2015	FY2016	FY2017	FY2018	FY2019	5-Year Aggregate
Naples Fort Myers Greyhound Track	$29	$31	$33	$34	$35	$162
Sarasota Kennel Club	$23	$24	$24	$25	$25	$121
Casino at Dania Beach	$0	$57	$59	$61	$62	$238
Magic City	$37	$39	$40	$41	$41	$198
Melbourne Greyhound Park	$29	$30	$31	$32	$33	$155
Palm Beach Kennel Club	$34	$34	$35	$36	$36	$175
Jacksonville Kennel Club	$148	$160	$169	$176	$180	$833
Daytona Beach Kennel Club	$34	$35	$36	$37	$37	$179
Tampa Bay Downs*	N/A	N/A	N/A	N/A	N/A	N/A
Tampa Greyhound	$9	$9	$10	$10	$10	$48
Total Market	$342	$419	$437	$450	$459	$2,108

Source: Management from respective facilities, The Innovation Group
*As mentioned, due to the nature of the purse proceeds paid by horse race permit holders, we cannot directly calculate this figure

In addition to the tax revenue levied on total gaming revenue, the state also charges a licensing fee on table games, equal to $1,000 per table. Since there is no limit to the number of games being offered within the cardrooms, and the heavy ramp up of offerings over the next 12 months, these licensing fees are considered incremental as they are not simply replacing existing poker tables. The following table provides tax projections based on this fee, with table counts provided by management of the respective facilities.

Florida Cardroom Projection - Designated Player Games Table Licensing Fee

	Current DPG Tables	Projected DPG Tables Additions (Next 12 Months)	Total DPG Tables	Licensing Fee	DPG Total Licensing Fee	5-Year Aggregate
Naples Fort Myers Greyhound Track	6	2	8		$8,000	$40,000
Sarasota Kennel Club	5	3	8		$8,000	$40,000
Casino at Dania Beach	8	4	12		$12,000	$60,000
Magic City	6	4	10		$10,000	$50,000
Melbourne Greyhound Park	6	6	12		$12,000	$60,000
Palm Beach Kennel Club	4	6	10		$10,000	$50,000
Jacksonville Kennel Club	18	0	18		$18,000	$90,000
Daytona Beach Kennel Club	6	6	12		$12,000	$60,000
Tampa Bay Downs	4	4	8		$8,000	$40,000
Tampa Greyhound	3	3	6		$6,000	$30,000
Total Market	66	38	104	$1,000	$104,000	$520,000

Source: Management from respective facilities, The Innovation Group

Job Creation and Capital Spend Generated by DPGs

While current employee estimates are not available with regards to the existing offering, management representatives from each property provided total current and expected future (within next 12 month) employee counts directly involved in the DPGs being implemented. These employee counts were then converted to Full-Time Equivalents (FTEs) for the purposes of calculating total salary based on the provided hourly wage information.

It is important to note that all projections regarding "future employees" are reflective of management-provided forecasts of the growth anticipated over the next 12 months.

Florida Cardroom Projection - Designated Player Games Employment Impact

	Current DPG Employees	Projected Additions (Next 12 Months)	Total DPG Employees	FTE Conversion	Total FTEs
Naples Fort Myers Greyhound Track	20	6	26		21.3
Sarasota Kennel Club	17	10	27		22.1
Casino at Dania Beach	0	24	24		19.7
Magic City	8	12	20		16.4
Melbourne Greyhound Park	6	12	18		14.8
Palm Beach Kennel Club	20	30	50		41.0
Jacksonville Kennel Club	70	N/A	70		57.4
Daytona Beach Kennel Club	27	23	50		41.3
Tampa Bay Downs	6	12	18		14.8
Tampa Greyhound	4	9	13		10.7
Total Market	178	138	316	0.82	259.4

Source: Management from respective facilities, The Innovation Group

Based on an average hourly rate of $8.05 The Innovation Group estimated the total annual salary collected by employees of these cardrooms.

Florida Cardroom Projection - Designated Player Games Additional Salaries Paid ($000)

	Total Projected FTEs	Average Hourly Wage	Est. Annual Salary	Est. Annual Wage Increase	5-Year Aggregate
Naples Fort Myers Greyhound Track	21.3		$357		$1,821
Sarasota Kennel Club	22.1		$371		$1,891
Casino at Dania Beach	19.7		$330		$1,681
Magic City	16.4		$275		$1,401
Melbourne Greyhound Park	14.8		$247		$1,261
Palm Beach Kennel Club	41.0		$687		$3,502
Jacksonville Kennel Club	57.4		$961		$4,903
Daytona Beach Kennel Club	41.3		$691		$3,523
Tampa Bay Downs	14.8		$247		$1,261
Tampa Greyhound	10.7		$178		$910
Total Market	259.4	$8.05	$4,343	1.0%	$22,153

Source: Management from respective facilities, The Innovation Group

In addition to creating jobs, stimulating an ongoing effect on the overall economy, these properties have also invested significant capital into these games, with plans of continued investment over the next 12 months. While these are one-time investments (as opposed to monthly or annual contributions), they provide a boost to the economy has funds are invested in the property

Florida Cardroom Projection - Designated Player Games Capital Investment ($000)

	Current	Projected (next 12 months)	Total
Naples Fort Myers Greyhound Track	$125	$25	$150
Sarasota Kennel Club	$225	$50	$275
Casino at Dania Beach	$830	N/A	$830
Magic City	$131	N/A	$131
Melbourne Greyhound Park	$53	$50	$103
Palm Beach Kennel Club	$120	$250	$370
Jacksonville Kennel Club	$305	N/A	$305
Daytona Beach Kennel Club	$33	$27	$60
Tampa Bay Downs	$40	$140	$180
Tampa Greyhound	$30	$30	$60
Total Market	$1,892	$572	$2,464

Source: Management from respective facilities, The Innovation Group

Summary

Based on the analysis provided above, the following tables summarize our findings. Below, you will see the total impact generated by the introduction of DPGs on revenue, taxes, jobs, compensation, and capital spend, including that which has been forecasted over the next 12 months.

Florida Cardroom Projection - Designated Player Games Total Summary FY2015-FY2019 ($000)

Total Gaming Revenue from DPGs	$54,744
Gaming Tax (10%)	$5,474
Purse Tax (4%)	$2,108
Table Licensing Fee ($1,000/Table)	$104
Total Tax Revenue from DPGs	$7,686
Total Jobs Created	316
Total Salary Paid	$22,153
Total Capital Spend	$2,464

Source: Management from respective facilities, The Innovation Group

THE
LOCKWOOD
LAW FIRM

December 2, 2015

By Hand Delivery

Mr. Bryan Barber
Division of Pari-Mutuel Wagering
Northwood Centre
1940 North Monroe Street
Tallahassee, Florida 32399-1035

Re: December 2, 2015 Rule Hearing

Dear Mr. Barber:

This correspondence is provided on behalf of bestbet-Jacksonville, bestbet-Orange Park, Dania Casino and Jai Alai, Daytona Beach Kennel Club, Magic City Casino, Melbourne Greyhound Track, Naples-Fort Myers Greyhound Track, Ocala Jai Alai, Oxford Downs, and the Palm Beach Kennel Club. The comments set forth herein concern the cardroom rule hearing held by the Division of Pari-Mutuel (the "Division") on December 2, 2015. These comments are intended to supplement the oral comments provided during the rule hearing. On behalf of these clients, I look forward to continuing to work with the Division on these important rules.

Procedural Issues

As a procedural matter, we believe the Division must re-notice its published rules as some of the rules are not properly published in accordance with section 120.54(3)(a), Florida Statutes. Pursuant to section 120.54(3)(a)1., Florida Statutes, the Division is required to give notice of the intended action as well as "the full text of the proposed rule or amendment and a summary thereof." This notice must be published in the Florida Administrative Register not less than 28 days prior to the intended action. Under proposed rule 61D-11.004(8)(d), Florida Administrative Code, the word "camera" under the new text of the rule should be underlined, not stricken through. Additionally, under proposed rule 61D-11.012(16), Florida Administrative Code, the new language "notify the division" is not underlined. We request the Division republish these rules to reflect the appropriate changes and comply with the notice requirements in section 120.54(3)(a), Florida Statutes.

It also appears that proposed rules 61D-11.001(33), 61D-11.005(9), 61D-11.0279, Florida Administrative Code, and the proposed repeal of existing rule 61D-11.002(5)(a)-(c), Florida Administrative Code, cannot be adopted without ratification by the Florida Legislature. On November 19, 2015, we provided the Division with timely lower cost regulatory alternatives for these proposed rules advocating for maintenance of the status quo.[1] A true and correct copy

[1] We also provided the Division with a lower cost regulatory alternative for proposed rule 61D-11.025, Florida Administrative Code. It is our understanding the Division will not move forward with adoption of this proposed rule concerning surveillance requirements.

TEL 850.727.5009 - FAX 850.270.2610
106 EAST COLLEGE AVENUE, SUITE 810 - TALLAHASSEE, FLORI

EXHIBIT

of the regulatory alternatives is provided hereto as Exhibit A. Section 120.541(3), Florida Statutes, provides that if the proposed rule is likely to increase regulatory costs, *or* have an adverse impact on economic growth, private sector job creation or employment, or private sector investment, in excess of $1 million in the aggregate within five years of implementation, then the Division may not implement the rule until it is ratified by the Florida Legislature.

The documents attached in Exhibit A demonstrate various scenarios in which the $1 million threshold will be affected. The Division's proposed elimination of designated player games and prohibition of "player banked games" will result in a negative economic impact of $54,740,000 for 10 licensed cardroom operators during the 5 years immediately following the proposed rules' implementation. In addition, the State of Florida will lose approximately $5,470,000 in cardroom tax revenue and the pari-mutuel industry will lose approximately $2,100,000 in purse and prize supplements over the course of these five years.

Finally, approximately 316 jobs were created based upon the Division's 2014 approval of designated player games. The Innovation Group concluded these positions would be paid $22.15 million in salary for the 2015-2019 fiscal years. This figure was based upon an industry average hourly rate of $8.05 which does not include gratuities. The average hourly rate including gratuities is approximately $40. Thus, the total loss to private sector employment will exceed $100,000,000 during the 2015-2019 fiscal years if the Division's proposed rules are adopted. We note that these figures are limited to data from only 10 of Florida's licensed cardrooms and do not include any projections from licensed cardrooms such as Derby Lane, Isle of Capri and Gulfstream Park.

The documents attached in Exhibit A overwhelmingly demonstrate the proposed rules will greatly exceed the $1 million threshold, including provisions related to impact on economic growth and private sector employment. As such, the Division cannot implement such rules without legislative ratification.

Constitutional Issues

The proposed rules also raise several constitutional issues we believe should be brought to the Division's attention. The Division's attempt to prohibit designated player games, which it has previously explicitly authorized through the passage of its rules and its approval of various designated player games, may impair vested property rights, violate due process, and constitute a taking without just compensation. If the proposed rules are adopted, the Division's decision to prohibit previously approved games, in the absence of any statutory change or judicial decision mandating such prohibition, may be unconstitutionally arbitrary and capricious. Finally, if the Division believes it bas the power to authorize a game and then prohibit the very same game, the Division may be exercising unlawfully delegated legislative authority.

The aforementioned issues are not necessarily an exhaustive list of our concerns relating to the constitutionality of the proposed rules and we reserve the right to raise other constitutional concerns throughout the rulemaking process.

61D-11.001 Definitions

We recommend the Division delete the definitions for "all-in," "raise," and "round of play." These terms do not appear within the existing cardroom rules or statutes. They appear to be terms that were only previously necessary due to statutory wagering limitations.

The draft language deletes subsection 17, whicb defines a "designated player" as "the player identified by the button as the player in the dealer position." Presumably, this definition is deleted from the draft text as the Division has expressed an interest in moving away from designated player games. This definition should be kept in the proposed rule as designated player games are a legitimate form of cardroom activity that may be offered by licensed cardroom facilities. Further, the current rules regulate games that have been played in Florida for several years. The Division's proposed elimination of these designated player games will have a significant regulatory and financial impact on licensed cardrooms and the corresponding gross receipts tax remitted to the Division. Specifically, the regulatory impact will exceed the $1 million threshold in section 120.541(2)(a), Florida Statutes, and require ratification by the Florida Legislature.

Additionally, the draft language deletes subsection 28, which defines "playing light" as "drawing chips or tokens from the pot to show how much a player owes when the player is out of chips or tokens in an effort to allow a player to continue without chips or tokens, until more chips or tokens are earned." We believe the definition of playing light is important in situations when a chip runner is running chips across the floor – a practice currently employed by numerous facilities and approved within existing internal controls.

Finally, the proposed rule deletes language from the definition of "side bets." We believe this will inadvertently disallow games that have previously been approved by the Division. For example, the Division recently allowed cardroom operators to accept "last longer" wagers during their poker tournaments. Players have historically made "last longer" bets among themselves and outside the Division's regulation. It is important to allow cardroom operators to continue allowing these type of wagers under surveillance. Otherwise, these side bets will continue to occur among the players but without regulation, supervision, or taxation.

61D-11.002 Cardroom Games

(4) – We recommend the Division maintain existing language that allows a cardroom operator to eject a player for acting outside the rules of an authorized game. We believe the cardroom operator, not the Division, is in the best position to determine whether a player should be ejected from the facility. Deleting this entire provision renders the cardroom operator and the facility unable to proactively protect the quality and integrity of its games. We also believe the proposed deletion may violate section 550.0251(6), Florida Statutes, which recognizes the pari-mutuel permitholder's absolute right to exclude patrons.

(5) – We recommend the Division maintain the existing language regulating designated player games. The current rules regulate games that have been played in Florida for several years. The Division's proposed elimination of these designated player games will have a significant regulatory impact on licensed cardrooms and the corresponding gross receipts tax remitted to the Division. Specifically, the regulatory impact will significantly exceed the $1

million threshold in section 120.541(2)(a), Florida Statutes, and require ratification by the Florida Legislature as noted above and addressed within the associated lower cost regulatory alternative.

The Division is aware that the majority of Florida cardrooms are currently operating, or proposing to operate, designated player games. The Division has approved Three Card Poker, Two Card Poker, One Card Poker, Ultimate Texas Hold 'Em, Pai Gow Poker and other games utilizing the designated player rules established in Paragraph (5).

Further, we recommend the Division adopt language under paragraph 5 that would require the designated player to pay out wagers only when the designated player loses its hand.

61D-11.0021 Cardroom Game Submissions

(1)(b) – We believe the approval of felt used for each table in a variation of different games is burdensome and duplicative. Once the felt has been approved for one game, we do not believe we should have to submit it to the Division for approval for another game. The felt does not change from game to game. This is a significant change from current Division policy and will impair the cardroom operators ability to quickly adapt to player demands.

(1)(f) – We believe the requirement to include "all possible rules for wagers" is burdensome and unnecessary as there are many permutations of rules in certain games, and this would require the cardroom operator to submit an outstanding amount of information to the Division. Instead, we believe submission of the betting rules is sufficient for the Division to review and evaluate game submissions.

61D-11.0003 Card-Play Hands

(4) – We recommend the Division delete the language requiring the button to be moved around the card table in a clockwise direction, otherwise there will be a direct conflict with the rules of certain approved card game. For example, the Division has approved the game of Pai Gow Poker, which play involves dealing cards in a counter clockwise direction.

61D-11.004 Dealer Responsibilities

(9)(a) – We recommend the Division adopt language to clarify when it is necessary for a dealer to clear their hands. We suggest clearing should only occur when the dealer is performing a cash transaction, such as exchanging for chips, or a bank fill transaction. This clarification is usual and customary within other gaming jurisdictions.

61D-11.005 Prohibitions

(9) – This draft text prohibits player banked games established by the house. This prohibition is vague and ambiguous. There are currently no definitions for "player banked games." While we are aware the Division intends this language to prohibit currently approved designated player games, we believe the proposed language may also prohibit other poker games. As the Division is aware, heads up poker tournaments are very popular and often featured on numerous television shows. The proposed language would appear to prohibit those games. It is also possible the language may prohibit other currently approved games. However, the terms "player banked games" are not defined so the entire scope is unclear at this time.

(10) – This draft text prevents an operator from awarding a jackpot, etc. in combination with any other eligibility requirements other than through the specific combination of cards. We believe this restriction exceeds the Division's rulemaking authority by providing an additional restriction not delegated by the Florida Legislature. Many cardroom operators currently offer a variety of jackpot promotions in order to generate patron enthusiasm and participation. We believe the Division's proposed rule will significantly curtail player participation and will result in a reduction in cardroom gross receipts. Thus, we recommend the Division delete this proposed rule provision.

61D-11.012 Duties of Cardroom Operators

(8) – We recommend the Division clarify this language as it is unclear whether the list of current employees (including full names and license numbers, authorized to enter each secure area to be posted on the inside door of the entrance to each specific area, etc.) needs to be enumerated in the internal controls or if the list should only be mentioned in the internal controls and instead allowing these lists of employees to be posted on the inside door of each of specified areas. As a practical matter, it is burdensome to the cardroom operator to include a complete list of employees in its internal controls because employee lists are updated frequently. Requiring these lists to be in the internal controls would render a facility out of compliance each time there is a change in staffing. Instead, many cardroom operators merely post the relevant list of employees on the inside of the door of each specified area. We recommend the Division allow this practice to continue.

(16) – This provision requires the cardroom operator to notify the Division each time it refuses entry to a patron. Currently, cardroom operators are required keep this type of list but are not required to submit it to the Division. Instead, the Division may request copies of the list at any time. The requirement to report this list adds an extra level of red tape that is unnecessary and time consuming for cardroom operators. The Division should streamline this process by only requesting this information when necessary. Finally, we believe that notification should only occur for exclusions more than 90 days, not the 30 days stated in the proposed rule.

61D-11.014 – Cards

(2) - The requirement that cards be plastic is arbitrary, capricious, and will require facilities to expend money when it is unnecessary. The use of paper cards versus plastic cards does not render the game more or less desirable to a patron. Therefore, we request the Division delete this provision as it has no bearing on the operation of games and will save money for cardroom operators.

(4) – We request the Division retain the language that requires the inspection of the deck commence at the designated cumulative hours of operation for the cardroom license. This is a customary practice in the industry and clarifies specific procedure to be followed. Otherwise, under the current text of the proposed rule, the inspection of the deck could be required at the reset of every deck.

(4)(d) – The requirement for an automated card-shuffling device to have two decks of cards contradicts how certain card games operate. Some games vary in the amount of card decks

used. Instead, the Division should allow the amount of decks to be specified in the internal controls of each facility. This will allow for games to be played more efficiently.

61D-11.016 Card and Domino Tables

(2) – We do not believe there is any statutory authority to require dominoes to be played on a four-corner table. We believe cardroom operators should be free to use poker tables – that are not currently being used – instead of acquiring tables specifically for dominos. Certain cardroom operators have considered offering domino games on a limited basis. However, the four-corner table requirement is an impediment. The cardroom operator is forced to either acquire new tables and replace existing poker tables, or pay an addition license fee to have a table specifically for dominoes. We believe cardroom operators would offer domino games if given the ability to do so on a standard poker table.

61D-11.0175 Cardroom Drop, Count Rooms, and Count Procedures

(7)(h) – We request the Division eliminate the requirement of a third count team member. We are unaware of any necessity to increase the existing number of count team staff. This proposed requirement will provide no discernible benefit to the cardroom operators or the Division. We also believe this level of specificity may exceed the Division's rulemaking authority. As such, we recommend the Division delete this proposed rule provision.

61D-11.019 Internal Controls

(1) - With regards to the initial applications for a cardroom license, we recommend the Division add back to the rule the requirement for 30 days to approve or disapprove the internal control amendments. This timing requirement ensures the Division's timely response to internal control amendments.

61D-11.025 Cardroom Electronic Surveillance

(2)(a) – It is impossible for electronic surveillance systems to be able to view and identify wager amounts or domino values and card suits. This is because the nature of No Limit games do not always have wager amounts present. Additionally, the stack of chips does not always properly show proper wager amounts. We are aware of no facility in Florida that has surveillance capable of identifying these wager amounts, etc. Overall, the cost of compliance across the state to conform to the specificity in this draft rule will be in the millions of dollars and ultimately, compliance may still be impossible. It is our understanding that the Division intends to withdraw this proposed rule and we support that decision.

61D-11.0275 Tournaments

(1) – We request the Division clarify to whom must the written procedures be available.

61D-11.0279 Jackpots, Prizes, and Giveaways

(1)(a) – The Division's proposed requirement of a "specific combination of cards. . ." contrasts with the legislative language in the enacting statute. Section 849.086(7)(d), Florida Statutes, states "[a] cardroom operator may award giveaways, jackpots, and prizes to a player who holds *certain* combinations of cards specified by the cardroom operator." The proposed rule requires a "specific" combination of card and the implementing legislation only requires a "certain." The dictionary definition of "certain" is specific but not explicitly named or stated.

The Legislature's use of the term "certain" more appropriately codifies the current practice of high-band jackpots. These jackpots are typically flat fee amounts that are awarded to patrons that have the highest hand during a certain time period. For example, a cardroom operator may promote or offer a $500 "high hand" jackpot on weekdays between 10 am and 12 pm. This promotion is utilized to draw additional patrons to the facility during off-peak hours. IN the event the proposed rules are adopted, this marketing tool will be prohibited and the operators' revenues will suffer significantly.

In addition, we provided the Division with a timely lower regulatory cost alternative advocating for maintenance of the status quo. The proposed rule appears to prohibit "high hand" promotions that have been authorized and ongoing for many years. Based upon information from our clients, it appears the proposed rule will result in a 10-15 percent annual reduction in gross receipts. Thus, the negative economic impact to cardroom gross receipts will exceed $50,000,000 in the aggregate within five years after implementation.

(1)(b) – We request the Division clarify whether the amount in the jackpot pool must also be consciously displayed.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

John M. Lockwood

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING

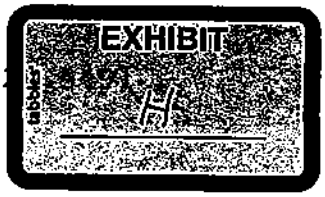
IN RE: PROPOSED RULES:
61D-11.001 - 61D-11.0279
_____/

DBPR HEARING

DATE: December 2, 2015
TIME:9:00 a.m. - 12:04 p.m.
LOCATION:Professions Board Room
1940 North Monroe Street
Tallahassee, Florida 32399

Reported by:

JESSICA RENCHEN, Court Reporter
For the Record Reporting, Inc.
1500 Mahan Drive, Suite 140
Tallahassee, Florida 32308



APPEARANCES:

JONATHAN R. ZACHEM
WILL HALL
CAITLIN NAWN

should very much consider what they're going to do before they move forward with these propose rules.

MR. ZACHEM: I have a question or two before you get there, and I guess we're getting to a designated player element of it since it's so entwined in several parts of the statute. I thought we were going to get there with prohibitions, but clearly it is addressed in this section too.

Some of the things that you've brought forward, of course, are legal elements. That's why I wanted to ask the questions of you before someone who might have the expertise in the industry but perhaps not the legal knowledge. That's why they hired you. So I wanted to ask the questions of you and make sure that there's a clarification.

The rules pertaining to designated player are now going to be correlated with the statute that is the prohibition against designated player games. The statute does not allow designated player games. There has to be a specific authorization for a type of game in statute, and there is none in 849.086 pertaining to designated player games. Additionally, there is conversation pertaining to prohibitions against these styled games. So I hear what the industry is saying, and I understand many of you might be upset about some

of these things, but the reality is something very important that Mr. Lockwood said, and echoing what he said is the area to correct this is adjusting the statute. That is the area that prohibits the designated player game. When some of these definitions in other areas were created, I don't think that the concept of what these games could even become was fathomed by the division. They've gone to a different area. So, Mr. Lockwood, I'm glad that you agree with me that the solution to this is at the legislature, because as you stated earlier, for the division to go beyond what we would be able to do is a legislative element. Well, additionally, for us to authorize something that's not allowed under statute, we wouldn't have the authority to do so.

MR. LOCKWOOD: May I respond?

MR. ZACHEM: Please do.

MR. LOCKWOOD: These games are -- I would disagree that this is something the division could not have envisioned would have happened, because this is not something as though, you know, showed up overnight. We started with a game called double-hand poker in EBRO that was played. That initially, the division had problems with the game. They sat down, they talked about it. Ultimately, it was an attorney's position in

the division preceding y'all's tenure that those games were okay and they continue to be played. Subsequent to that in March 2012, the Palm Beach Kennel Cub, another one of my clients, open three-card poker. They were playing three-card poker in a much more aggressive form than three-card poker is played right now. That game opened up, and I would readily admit we did not ask the division for permission, we did not ask for approval. It was opened up. The division then contacted me and said, "Look, we should consider shutting this game down." I asked, "We'd like to litigate this issue. Go ahead, serve us with an emergency suspension order. We'll take this issue to court." That game played for two years. There was never an administrative complaint that was served over the operation of that game.

Subsequent to that, last year, the division then proposed another rule that would have significantly regulated these games. We didn't like the ultimate terminology of the rule, we challenged it, it went to DOAH, ultimately a settlement agreement was reached. Now we have the existing rule.

MR. ZACHEM: I understand.

MR. LOCKWOOD: And beyond that --

MR. ZACHEM: I don't mean to cut you off, but I

THE
LOCKWOOD
LAW FIRM

December 3, 2015

Via Electronic Mail (bryan.barber@myfloridalicense.com)

Bryan Barber
Division of Pari-Mutuel Wagering
1940 North Monroe Street
Tallahassee, Florida 32399

Re: Authorization of Card Games Pursuant to Section 849.086, Florida Statutes

Dear Mr. Barber:

On December 2, 2015, the Division of Pari-Mutuel Wagering (the "Division") held an administrative rule hearing concerning various proposed revisions to chapter 61D-11, Florida Administrative Code. One of the proposed revisions included a repeal of the current authorization for designated player games and a prohibition on "player-banked games." During the hearing, the Division Director stated the purpose of the proposed rule was to mirror existing statutory provisions in section 849.086, Florida Statutes. We disagree with the Division's strained interpretation of section 849.086, Florida Statutes, and offer this analysis in support of rule 61D-11.002(5), Florida Administrative Code, and the Division's continuous interpretation of Florida law in approving multiple designated player games and cardroom facilities to operate such designated player games.

In passing section 849.086, Florida Statutes, the Legislature explicitly stated it "finds that authorized games as herein defined are considered to be pari-mutuel style games and not casino gaming because the participants play against each other instead of against the house." § 849.086(1), Fla. Stat. (emphasis applied). Legislative intent is the polestar that guides statutory interpretation. Borden v. East-European Ins. Co., 921 So. 2d 587, 595 (Fla. 2006). Therefore, section 849.086, Florida Statutes, must be interpreted in a manner consistent with the Legislature's explicit intent.

Section 849.086(3), Florida Statutes, authorizes cardrooms to provide authorized games conducted in accordance with the section. "Authorized game" is defined as "a game or series of games of poker or dominoes which are played in a nonbanking manner." § 849.086(2)(a), Fla. Stat. (2015). It is important to note "nonbanking manner" is not defined by any statutory provision.

Instead, section 849.086(12)(a), Florida Statutes, prohibits cardrooms from conducting "any banking game or any game not specifically authorized by this section." Only two types of games are authorized by section 849.086, Florida Statutes – poker and dominoes. To be clear,

TEL 850.727.5009 - FAX 850.270.2610
106 EAST COLLEGE AVENUE, SUITE 810 - TALLAHASSEE, FLORI

EXHIBIT
Exhibit A, Item 7

not all variations of poker and dominoes are authorized; only those variations played in a nonbanking manner. "Banking game" is defined as "a game in which the house is a participant in the game, taking on players, paying winners, and collecting money from losers or in which the cardroom establishes a bank against which participants play." § 849.086(2)(b), Fla. Stat. (2015).

Although "nonbanking manner" is not defined, the legislative intent and the prohibitions in section 849.086, Florida Statutes, provide guidance as to the meaning of the phrase. A game is played in a banking manner if the house is a participant or if the cardroom establishes a bank against which participants play. Thus, if designated player games are poker games played in a nonbanking manner, i.e. the house is not a participant and the cardroom does not establish a bank against which participants play, then the games are authorized by the statute. In designated player games, the participants clearly do not play against the house. This satisfies the first clause of the "authorized game" language found in section 849.086(2)(a), Florida Statutes. Instead, the only issue is whether in designated player games the cardroom establishes a bank against which participants play. This appears to be the language the Division is relying upon in attempting to prohibit designated player games. However, the Division's reading of the statutory prohibition is incorrect.

Proposed rule 61D-11.005(9), Florida Administrative Code, provides that "player banked games, established by the house, are prohibited." The Division through this rule seeks to prohibit games which are established by the house. However, the statute does not prohibit cardrooms from establishing games in which players compete against each other. Instead, it prohibits cardrooms from establishing "a bank against which participants play." § 849.086(2)(b), Fla. Stat. (2015). The players play against each other in designated player games, not against a bank the house creates or maintains.

It is helpful to understand that the current definition of "banking game" was adopted in 1996 during a time in which the country was experiencing rapid growth in the tribal gaming industry. Many states were experiencing concerns over whether certain card games constituted "banking games" and thus required an Indian gaming compact pursuant to the Indian Gaming Regulatory Act of 1988. In states that were unlikely to enter into such gaming compacts – such as Florida – tribal operators attempted to conduct card games in a non-house banking fashion in order to operate as Class II games without the necessity of a compact.

One such game involves the facility loaning or giving money to start a bank or similar fund. The fund is maintained by the facility and utilized to pay winners and collect from losers. The fund allows the facility to provide the appearance of a house banked card game but technically the facility is not directly involved with the bank or fund. Instead, the facility collects an administrative fee in order to maintain the bank or fund for the players' benefit. These types of banks would be prohibited under the language found in section 849.086(2)(b), Florida Statutes. In contrast, designated player games do not involve the cardroom funding the bank which is used to pay winners and collect from losers. Additionally, the cardrooms do not maintain control of the bank or replenish the bank when it is depleted because they have no affiliation or connection to the designated players. In short, the cardroom operators are in no way involved in the creation, funding, or maintaining of the bank because the only parties to the designated player games are the cardroom players.

The Division raised the argument at the rule hearing that because designated player games are not specifically authorized under section 849.086, Florida Statutes, the games may be prohibited. This is an unreasonable interpretation of the statute that is at odds with the Division's past practice. The only games specifically identified in section 849.086, Florida Statutes, are poker and dominoes. Nevertheless, the Division routinely approves games (which are variations of poker) that are not specifically identified in section 849.086, Florida Statutes. For example, the Division has approved No Limit Hold'em, Omaha, Five Card Draw, Hold'em, Badugi and other relevant poker games. These games are not specifically identified within section 849.086, Florida Statutes. If the Division were to pursue this argument, it would have to take the position that it has previously and unlawfully approved numerous other poker games and allowed such games to operate for several years. This, of course, is a nonsensical reading of the relevant statutory provisions.

Furthermore, to the extent the Division is attempting to define poker, the Division has no such authority. See St. Petersburg Kennel Club v. Dept. of Business and Professional Reg., 719 So. 2d 1210 (Fla. 2d DCA 1998) (holding that the Division does not have specific rule making authority to promulgate rules defining poker). It is logical to conclude that the Division's lack of authority to define what is poker also applies to the Division's attempt to define what is not poker. The term "player-banked" is not found within the Florida Statutes. While the cardrooms acknowledge they may not play banked card games, that limitation only extends as far as the definition of "banking game" set forth in section 849.086(2)(a), Florida Statutes.

The Division's "interpretation" that Florida law does not authorize designated player games is skeptical at best. The Division has approved and authorized designated player games under three separate Division Directors, including the current. In addition, the designated player games have been operated under the watch of at least four different Division Chief Attorneys. As recently as July 7, 2015, the Division's Chief Attorney concluded that new designated player games "appear to be in compliance with present law from Section 849.086, Florida Statutes, and Chapter 61D-11, Florida Administrative Code." A true and correct copy of the Division's approval email for Pai Gow Poker is attached hereto as Exhibit A.

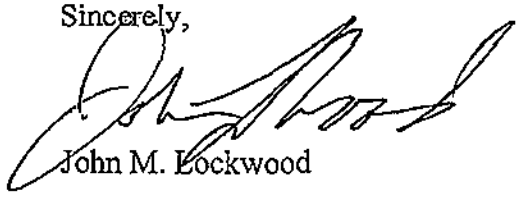
The Division has approved each and every designated player game pursuant to a rigorous process. Initially, the Division's Chief Attorney reviewed each game and even suggested changes to conform to Florida law. Once approved, the next step involved each facility submitting internal controls with specific game rules for each game offered. The facility was then required to submit a floor plan and undergo a physical inspection by the Division's investigators. This process typically lasted for many months and the cardroom operator was only authorized to offer designated player games after successfully completing each phase of the Division's approval process.

The Division's Director, Chief Attorney, and other executive staff, including Secretary and Deputy Secretary, have also conducted numerous on-site inspections of facility's offering designated player games. These visits have often included game-play demonstrations and answering questions relative to the game rules. In addition, the cardroom facilities have provided camera and video footage to the Division for its use in evaluating these games. Most importantly,

a significant portion of the Division's evaluation and investigation occurred prior to the Division's promulgation of the current administrative rule regulating designated player game play.

On behalf of this firm's clients, we are concerned with the Division's sudden reversal of opinion concerning designated player games. We have provided an economic analysis from the country's premier gaming consulting firm – The Innovation Group – explaining the significant economic harm that will occur based upon the Division's proposed action. We implore the Division to reconsider its proposed action and the impact it will have upon these cardroom facilities, their employees, and their employees' families.

Sincerely,



John M. Lockwood

cc: Jonathan Zachem (via email)
William Hall (via email)

From: Maine, Jason Jason.Maine@myfloridalicense.com
Subject: RE: Pai Gow Poker
Date: July 7, 2015 at 4:35 PM
To: John Lockwood john@lockwoodlawfirm.com
Cc: Trombetta, Louis Louis.Trombetta@myfloridalicense.com, Helms, Lisa Lisa.Helms@myfloridalicense.com, Scott, Cassandra Cassandra.Scott@myfloridalicense.com

Mr. Lockwood,

I have had the opportunity to review your submission of rules of game play for "Pai Gow Poker." The game, as described, appears to be in compliance with present law from section 849.086, Florida Statutes, and Chapter 61D-11, Florida Administrative Code.

"Pai Gow Poker" may be played only in a licensed cardroom, operated by a pari-mutuel permitholder, pursuant to section 849.086, Florida Statutes. If a licensed cardroom operator elects to offer your cardroom game, the Division will need notification of such through the cardroom operator's internal control procedures, in accordance with Chapter 61D-11, Florida Administrative Code.

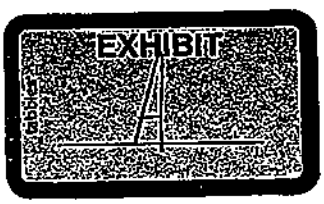
If you have any questions, please feel free to contact me.

Jason L. Maine
Chief Attorney, Pari-Mutuel Wagering
Department of Business and Professional Regulation
1940 N. Monroe Street, Suite #40
Tallahassee, Florida 32399-2202
(850) 717-1243 Voice
(850) 921-9186 Fax

-----Original Message-----
From: John Lockwood [mailto:john@lockwoodlawfirm.com]
Sent: Tuesday, June 23, 2015 10:24 PM
To: Maine, Jason
Cc: Trombetta, Louis
Subject: Re: Pai Gow Poker

Jason,
I have revised the game rules and attached and updated version for your consideration.

Thanks,
John



Notice of Change/Withdrawal

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
Division of Pari-Mutuel Wagering
RULE NOS.:RULE TITLES:
61D-11.001 Definitions
61D-11.002 Cardroom Games
61D-11.0021 Cardroom Game Submissions
61D-11.0025 Notification in Writing
61D-11.003 Card-Play Hands
61D-11.004 Dealer Responsibilities
61D-11.005 Prohibitions
61D-11.006 Inspection of Premises, Records
61D-11.007 Cardroom Operator License
61D-11.009 Cardroom Employee Occupational License and Pari-Mutuel/Cardroom Combination License
61D-11.012 Duties of Cardroom Operators
61D-11.013 Display of Identification and Possession of Occupational Licenses
61D-11.014 Cards
61D-11.0175 Cardroom Drop, Count Rooms, and Count Procedures
61D-11.018 Reporting Requirements to Determine Net Proceeds or Gross Revenues
61D-11.019 Internal Controls
61D-11.025 Cardroom Electronic Surveillance
61D-11.0275 Tournaments
61D-11.0279 Jackpots, Prizes, and Giveaways

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 41 No. 211, October 29, 2015 issue of the Florida Administrative Register.

Pursuant to section 849.086(13), F.S., the reports filed in subsection 61D-11.018(2), F.A.C. must be made under oath. Therefore the statement at the bottom of Form DBPR PMW-3640 will be updated to the following oath:

> I swear or affirm that the information provided in this report is true and complete. I understand that knowingly providing false information on this report could subject the signatory to criminal penalties relating to perjury or other offenses.

Pursuant to section 92.50, F.S., an oath must be signed before an officer authorized to administer oaths. An area for notarization has been added to the form.

Updated Text of Proposed Rule:

61D-11.001 Definitions.
No change.
Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 5-9-04, 9-7-08, 7-21-14,_.

61D-11.002 Cardroom Games.
No change.
Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 550.0251(6), 849.086(4) FS. History–New 1-7-97, Amended 5-9-04, 4-12-06, 9-7-08, 7-21-14,_____.

61D-11.0021 Cardroom Game Submissions
(1) No change.

(a) No change.

(b) A description of the type of table utilized in the game which includes, the shape, and any markings or writing pertaining to the playing of the game ~~to be~~ made on the table felt;

(c) through (e) No change.

(f) Betting scheme and all ~~possible~~ rules for wagers;

(g) through (j) No change.

(2) through (3) No change.

Rulemaking Authority 550.0251(12), 849.086(4),(11)FS. Law Implemented 849.086 FS. History – New___.

61D-11.0025 Notification in Writing.

Rulemaking Authority 849.086(4) FS. Law Implemented 849.086 FS. History–New 9-7-08, Repealed___.

61D-11.003 Card-Play Hands.

(1) Before a card game may be played, the dealer must ensure ~~shuffle~~ the cards have been shuffled.

(2) through (4) No change.

Rulemaking Authority 550.0251(12), 849.086(4) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 9-7-08, 7-21-14,___.

61D-11.004 Dealer Responsibilities.

(1) through (8)(c) No change.

(d) Inspect both sides of each card by spreading the deck of cards in front of the imprest tray so that each card can be identified ~~by surveillance~~.

Rulemaking Authority 550.0251(12), 849.086(4) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 5-9-04, 9-7-08, 7-21-14,___.

61D-11.005 Prohibitions.

(1) through (8) No change.

~~(9) Player-banked games, established by the house, are prohibited.~~

(9)~~(10)~~ A cardroom operator shall not award a giveaway, jackpot, or prize from the jackpot pool in combination with any other eligibility requirements or outcome other than a specified combination of cards pursuant to section 849.086(7)(d), F.S.

(10)~~(11)~~ If the division has reasonable cause to believe that any person at a licensed facility has acted or is acting in one of the following manners it may exclude the person from any facility:

(a) through (c) No change.

Rulemaking Authority 550.0251(12), 849.086(4) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 5-9-04, 9-7-08, 7-21-14,____.

61D-11.006 Inspection of Premises, Records.

No change.

Rulemaking Authority 550.0251(12), 849.086(4) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 5-9-04, 9-7-08, 7-21-14,___.

61D-11.007 Cardroom Operator License.

(1) No change.

(2) An applicant for an annual cardroom license shall complete Form DBPR PMW-3160, Permitholder Application for Annual License to Operate a Cardroom, effective 7-21-14, incorporated ~~incoporated~~ ~~adopted~~ herein by reference, https://www.flrules.org/gateway/reference.asp?No=Ref-04395, which can be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035, and submit a fee of $1,000.00 for each table to be operated during the license period. For cardroom facilities at which more than one pari-mutuel permit is operated during a year, table fees for the facility may be paid by one or all of the permitholders. License fees are non-refundable. For the initial cardroom license application, in addition to the application and fees submitted, the applicant shall submit its written internal controls, required by Rule 61D-11.019, F.A.C., for approval by the division, and proof of authorization by a local government pursuant to Section 849.086(16), F.S.

(3) through (4) No change.

Rulemaking Authority 550.0251(12), 849.086(4), (5), (11) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 5-9-04, 4-12-06, 9-7-08, 7-21-14,____.

61D-11.009 Cardroom Employee Occupational License and Pari-Mutuel/Cardroom Combination License.

(1) through (6) No change.

(7) All cardroom employee occupational licensees shall wear their photo identification, issued pursuant ~~purusant~~ to subsection 61D-11.012(9), F.A.C., while on duty. A cardroom employee shall not attempt to hide his or her photo identification from any patron or from surveillance cameras.

(8) Cardroom occupational licensees may have the option to only wear a facility ~~factility~~ issued photo identification card if the employee has the cardroom employee occupational license on their person ~~preson~~ at all times.

Rulemaking Authority 550.0251(12), 550.105(2)(b), 849.086(4)(a), (6)(d), (f) FS. Law Implemented 849.086(6) FS. History–New 1-7-97, Amended 5-9-04, 3-4-07, 9-7-08, 7-21-14,___.

61D-11.012 Duties of Cardroom Operators.

(1) Cardroom operators shall maintain a roster of all ~~persons a~~ cardroom employees ~~operator employs~~. A cardroom operator shall also maintain a weekly listing of all cardroom employees who worked during each week. The list of persons shall include for each employee:

(a) through (c) No change.

(2) through(7) No change.

(8) Cardroom operators shall establish, and list in their internal controls, security controls that limit access into the cashiers' cage(s), count room, vault, and surveillance room. This list shall include a the position titles of all employees who have access to these areas. A current list of employees, including full names and license numbers, authorized to enter each secure area ~~and~~ shall be posted on the inside door of the entrance to each specific area, in the security office, and in the surveillance room at all times.

(9) through (15) No change.

(16) A cardroom operator shall notify the division, office of investigations, of each person it refuses entry into its cardroom for a period of 30 days, other than self exclusions, or longer pursuant to Section 849.086(7)(g), F.S., which shall include the:

(a) through (d) No change.

(17) No change.

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 5-9-04, 4-12-06, 9-7-08, 7-21-14,___.

61D-11.013 Display of Identification and Possession of Occupational Licenses.

Rulemaking Authority 550.0251(12), 849.086(4), (6) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 9-7-08, 7-21-14; Repealed,___.

61D-11.014 Cards.

(1) through (3) No change.

(4) No change.

(a) Any card that is taped, cut, shaved, marked, defaced, bent, crimped or deformed in any fashion that may permit covert identification of the card during the course of play must be withdrawn from play. Each time a card is determined to be damaged as described in this section, the entire deck shall be withdrawn from play and replaced with a new deck after that new deck is thoroughly inspected under the requirements of this rule.

(b) through (d) No change.

(5) No change.

Rulemaking Authority 550.0251(12), 849.086(4) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 9-7-08, 7-21-14,____.

61D-11.0175 Cardroom Drop, Count Rooms, and Count Procedures.

(1) through (3) No change.

(4) No change.

(a) Reinforced doors equipped with locks and a device that audibly signals the surveillance monitoring room and the security department whenever a door is opened. All count room doors must remain locked except to allow entrance by authorized individuals as listed on the inside of the count room door pursuant to subsection 61D-11.012(8) ~~11.012(8)~~, F.A.C.

(b) through (e) No change.

(5) through (8) No change.

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 9-7-08, Amended 7-21-14,____.

61D-11.018 Reporting Requirements to Determine Net Proceeds or Gross Revenues.

(1) No change.

(2) For each license operated, cardroom operators shall file a separate Form DBPR PMW-3640, Cardroom Monthly Remittance Report, effective _____ and incorporated herein by reference, which can be obtained at https://www.flrules.org/gateway/reference.asp?no=Ref____. ~~which can be obtained at~~ www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035 ~~adopted and incorporated by Rule 61D-12.001, F.A.C.,~~ with the division by the fifth day of each month for the preceding month's cardroom activity.

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 4-12-06, 9-7-08,_____.

61D-11.019 Internal Controls.

No change.

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 1-7-97, Amended 9-7-08, 7-21-14,_____.

61D-11.025 Cardroom Electronic Surveillance.

(1) No change.

(2) No change.

(a) No change.

1. The conduct and operation of card and domino tables~~, with coverage to view and identify wager amounts, card or domino values, and card suits accurately~~;

2. through 5. No change.

(b) No change.

(3) through (21) No change.

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 10-21-97, Amended 9-7-08, 7-21-14,_____.

61D-11.0275 Tournaments.

(1) through (3) No change.

(4)No change.

(a) through (b) No change.

(c) The names of all tournament prize winners. Additionally, if a player's tournament winnings meet applicable IRS reporting thresholds, the cardroom operator shall maintain all information ~~information~~ required by the IRS for that player; and

(d) No change.

(5) through (6) No change.

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 9-7-08, Amended 7-21-14,_____.

61D-11.0279 Jackpots, Prizes, and Giveaways.

(1) No change.

(a) Conspicuously post in the cardroom the rules of the jackpots, prizes and giveaways offered, including which specified ~~specific~~ combination of cards is a winner, the amount to be awarded, and all details regarding seeding the jackpot pool;

(b) through (e) No change.

(2) No change.

(3) No change.

(a) No change.

(b) Maintain a record of all award recipients' names ~~recipients name's~~. Additionally, if the amount of a player's award meets applicable IRS reporting thresholds, the cardroom operator shall maintain all information required by the IRS for the player.

(4) through (8) No change.

Rulemaking Authority 550.0251(12), 849.086(4), (11) FS. Law Implemented 849.086 FS. History–New 9-7-08, Amended 7-21-14,_____.

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DANIA ENTERTAINMENT CENTER, LLC,

Petitioner,

v. Case No. 15-7010RP

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL WAGERING,

Respondent.
_____/

DAYTONA BEACH KENNEL CLUB, INC.,

Petitioner,

v. Case No. 15-7011RP

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL WAGERING,

Respondent.
_____/

JACKSONVILLE KENNEL CLUB, INC.,

Petitioner,

v. Case No. 15-7012RP

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL WAGERING,

Respondent.
_____/

Filed February 12, 2016 2:58 PM Division of Administrative Hearings

MELBOURNE GREYHOUND PARK, LLC,

Petitioner,

v. Case No. 15-7013RP

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL WAGERING,

Respondent.
_____/

BONITA-FORT MYERS CORPORATION,

Petitioner,

v. Case No. 15-7014RP

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL WAGERING,

Respondent.
_____/

INVESTMENT CORPORATION OF PALM BEACH,

Petitioner,

v. Case No. 15-7015RP

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL WAGERING,

Respondent.
_____/

WEST FLAGLER ASSOCIATES, LTD,

Petitioner,

v. Case No. 15-7016RP

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL WAGERING,

Respondent.
_____/

TAMPA BAY DOWNS, INC.; and
TBDG ACQUISITION, LLC d/b/a
TGT POKER AND RACEBOOK,

Petitioner,

v. Case No. 15-7022RP

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL WAGERING,

Respondent.
_____/

ST. PETERSBURG KENNEL CLUB, INC.;
SARASOTA KENNEL CLUB, INC.;
WASHINGTON COUNTY KENNEL CLUB, INC.;
and FRONTON HOLDINGS, LLC,

Petitioner,

v. Case No. 15-7055RP

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL WAGERING,

Respondent.
_____/

NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE

Petitioners, ST. PETERSBURG KENNEL CLUB, INC., SARASOTA KENNEL CLUB, INC., WASHINGTON COUNTY KENNEL CLUB, INC., and FRONTON HOLDINGS, LLC, hereby file their Notice of Voluntary Dismissal Without Prejudice dismissing their Petition in DOAH Case No. 15-7055RP.

Respectively submitted this 12th day of February, 2016.

Michael J. Barry
Florida Bar No. 646911
RUTLEDGE ECENIA, P.A.
Post Office Box 551
Tallahassee, Florida 32302
(850) 681-6788
mbarry@rutledge-ecenia.com

ATTORNEYS FOR PETITIONERS ST. PETERSBURG KENNEL CLUB, INC., SARASOTA KENNEL CLUB, INC., WASHINGTON COUNTY KENNEL CLUB, INC., and FRONTON HOLDINGS, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished this 12th day of February, 2016, by electronic mail to:

John M. Lockwood, Esquire
Thomas J. Morton, Esquire
Kala Kelly Shankle, Esquire
The Lockwood Law Firm
106 East College Avenue, Suite 810
Tallahassee, FL 32301
john@lockwoodlawfirm.com
tj@lockwoodlawfirm.com
kala@lockwoodlawfirm.com

Christopher M. Kise, Esquire
Joshua M. Hawkes, Esquire
Foley & Lardner LLP
106 East College Avenue, Suite 900
Tallahassee, FL 32301
ckise@foley.com
jhawkes@foley.com

William D. Hall, III, Esquire
Caitlin Mawn, Esquire
Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering
1940 North Monroe Street
Tallahassee, FL 32399
William.hall@myfloridalicense.com
caitlin.mawn@myfloridalicense.com

Robert W. Clark, Esquire
Clark Mueller Bierley, PLLC
102 West Whiting Street, Suite 302
Tampa, FL 33602
rclark@clarkmueller.com

Attorney

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Slot Machines in Florida? Wait a Minute

by David G. Shields

Casino gambling, including its predominant activity — slot machines — has been the subject of considerable debate in the Florida Legislature. But does the legislature have the constitutional authority to permit slot machines throughout Florida? There would seem to be a direct answer to this question from a 1970 Florida Supreme Court case that explicitly confirmed Fla. Const. art. X, §7 (1968) bans slot machines:

> Obviously, the makers of our 1968 Constitution recognized horse racing as a type of lottery and a "pari-mutuel pool" but also intended to include in its sanction those other lotteries then legally functioning; namely, dog racing, jai alai and bingo. *All other lotteries including bolito, cuba, slot machines, etc., were prohibited*.[1]

Greater Loretta Imp. Ass'n v. State ex rel Boone, 234 So. 2d 665 (Fla. 1970), holds slot machines constitute lotteries and they are prohibited under the 1968 Constitution. A 2004 constitutional amendment, art. X, §23, allows for some slot machines, but only in Broward and Miami-Dade counties and only under certain conditions.

On October 6, 2011, the First District Court of Appeal, without addressing either art. X, §7 or *Greater Loretta*, ruled in *Florida Gaming Ctrs., Inc. v. Florida Dept. of Bus. & Prof'l Reg.*, 71 So. 3d 226 (Fla. 1st DCA 2011), that the legislature has the authority to expand slot machine gambling beyond the facilities in Broward and Miami-Dade counties meeting the criteria of art. X, §23. There would appear to be a serious conflict between *Greater Loretta* and *Florida Gaming*, which this article aims to address.

Two Constitutions, Two Different Anti-lottery Provisions

Florida's constitutions have prohibited lotteries since shortly after the Civil War, but the anti-lottery provision of the 1968 Constitution is significantly different from its predecessors. This difference is crucial to the discussion that follows and, thus, it is important to place these provisions side-by-side. Fla. Const. art. III, §23 (1885) reads: "Lotteries are hereby prohibited in this [s]tate."[2] Fla. Const. art. X, §7 (1968) reads: "Lotteries. — Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state."

According to *Greater Loretta*, the 1885 provision prohibited lotteries without providing any definition of a lottery, allowing the legislature leeway in applying the term statutorily.[3] In contrast, the 1968 Constitution 1) provides lotteries are inclusive

of pari-mutuel pools; 2) grandfathers lawfully existing pari-mutuel pools in 1968; and 3) bans pari-mutuel pools, including slot machines, which were not lawfully existing in 1968.[4]

The new phrase in the 1968 Constitution concerning pari-mutuel pools necessarily expanded the constitutional definition of lotteries to include pari-mutuel pools. Otherwise, the new phrase would be superfluous; the phrase would exclude something already excluded in the term "lotteries." As explained in*Unrah v. State*, 669 So. 2d 242, 245 (Fla. 1996), courts should avoid readings that would render part of a statute meaningless and related provisions of a statute must be construed in harmony with one another.

Greater Loretta defines "pari-mutuel pool" as a system of betting in which those who bet on the winner share the total stakes minus a small percent for the management.[5] Under this definition, slot machines operate as pari-mutuel pools. Patrons insert their coins or pay for other means to access the machines, management keeps its percentage of the take, and the balance is paid to the winning patrons.

The legislative history for art. X, §7 confirms legislative intent to ban the introduction of new types of pari-mutuel pools after 1968. A 1940 amendment to the Florida Constitution providing for the distribution of tax collections from pari-mutuel pools had authorized the pari-mutuel pools that existed in 1968.[6]To resolve the apparent disparity between the anti-lottery provision and the tax distribution provision consistently with the status quo, the anti-lottery provision as originally drafted by the Constitutional Revision Commission and introduced in the Florida Senate on January 9, 1967, provided: "All lotteries are prohibited other than pari-mutuel pools regulated by law."[7] This language would have allowed the legislature continued blanket authority to legalize any new type of pari-mutuel it wanted by statute, but this provision did not make it into the 1968 Constitution. The source of most of the new anti-lottery language in the 1968 Constitution was a floor amendment adopted in the Florida Senate on August 31, 1967.[8] On this same day, the Florida Senate rejected another amendment that would have provided: "Lotteries, other than pari-mutuel pools regulated by law, are hereby prohibited in this state."[9] The Florida Senate specifically rejected language that would have continued to allow the legislature to authorize new types of pari-mutuel pools after 1968 and deliberately chose language that had the opposite effect.

The significant differences between the two constitutional anti-lottery provisions mean that cases interpreting the 1885 provision should be used with great caution when interpreting the 1968 provision. One cannot reasonably apply a pre-1968 lottery case today without giving serious consideration to the possibility that the old case is distinguishable or even overruled by the new provision. An examination of these pre-1968 cases follows.

Slot Machines and Lotteries Under the 1885 Florida Constitution

The constitutional story of slot machines in Florida began with a statute authorizing these machines in 1935.[10] Shortly after passage, the city of Miami brought a constitutional challenge to the slot machine statute under the anti-lottery provision of the 1885 Florida Constitution. The trial court ruled in favor of the city and the named defendant, J.M. Lee as comptroller of Florida, appealed.[11]

Twice prior to 1935, the Florida Supreme Court held that a lottery consists of three elements: prize, chance, and consideration. As early as 1898, the Florida Supreme Court viewed lotteries as limited to these three elements, as reflected in the jury instruction the court approved in *Bueno v. State,* 23 So. 862, 863 (Fla. 1898). The Florida Supreme Court also approved *Bueno*'s definition of a lottery and the three elements in *D'Alessandro v. State,* 153 So. 95 (Fla. 1934).

In *Lee*, the Florida Supreme Court deviated from the three-element test for a lottery and added a fourth element: The

lottery must have a widespread and not an isolated effect on the community where it is located.[12] According to *Lee*, if the purported lottery lacked a widespread operation in the community, then it lacked the fourth element and was not a lottery.[13]

Lee's widespread operation test is loosely based on *Phalen v. Virginia*, 49 U.S. 163 (1850).[14] The issue in *Phalen* was whether legislative changes concerning the administration of a Virginia lottery statute violated the federal constitutional prohibition against impairment of contracts.[15] *Phalen*discussed the supposed widespread effect of the lottery to confirm Virginia's public policy reason to modify and ultimately repeal its lottery statute and avoid the impairment of contract challenge.[16] There is no indication that *Phalen* was attempting to make it more difficult for states to prohibit lotteries or to create a safe harbor for non-widespread lotteries. *Lee* did not apply the legal analysis of *Phalen* to the operation of Florida's constitutional anti-lottery prohibition, but superimposed *Phalen*'s factual description of Virginia's lottery into a collective state of mind of what Floridians supposedly meant in adopting the anti-lottery provision. *Lee*'s mind reading exercise is an example of a legal fiction, that is, assuming an unsubstantiated fact to extend*Phalen* beyond its original meaning. To justify this legal fiction, *Lee* mentioned various Florida historical statutes that categorized types of gambling,[17]but neither these statutes, nor anything else in *Lee*, provided direct historical evidence to support this legal fiction.

Even though *Lee* added the fourth element of widespread operation, the case did not hold that slot machines per se are not lotteries. Instead, near the end of the opinion, *Lee* concluded:

> What section 23 of article 3 [of the 1885 Florida Constitution] actually did was to suppress such legalized lotteries as are referred to in the forepart of this opinion, the primary test of which was whether or not the vice of it infected the whole community or country, rather than individual units of it. Any gambling device reaching such proportions would amount to a violation of the [c]onstitution, but it is not alleged or shown that the devices legalized by Chapter 17257 [the 1935 slot machine statute] come in this class.
>
> Chapter 17257 on its face does not clearly offend against organic law, nor do the coin-operating vending machines described in section 2, the use of which is restrained, constitute lotteries per se. *It may be that some of them, or possibly all of them in their operation, will become such; but we leave that question to be determined when a specific case arises.*[18]

Under *Lee*, it expressly remained an issue of fact whether any particular slot machines would have a widespread operation and, thus, constitute a lottery. Any specific slot machines having a widespread operation would satisfy the fourth element and be constitutionally prohibited.

In *Hardison v. Coleman*, 164 So. 520 (Fla. 1935), decided three months after *Lee*, a person named L.B. Hardison brought a habeas proceeding against a sheriff who had charged that Mr. Hardison's slot machine constituted a lottery. The Florida Supreme Court followed *Lee* and discharged Mr. Hardison, concluding his one device did not meet the widespread operation test. However, *Hardison* reiterated *Lee*'s declaration that lack of widespread operation is an evidentiary test and not an inherent aspect of slot machines: "The [*Lee*] court said: 'It may be that some of them, or possibly all of them in their operation, will become' lotteries, 'but we leave that question to be determined when a specific case arises.'"[19]

When the Florida Supreme Court decided *Lee* and *Hardison* in 1935, it must have viewed slot machines as novelties and standalone devices, like Mr. Hardison's slot machine, as opposed to paper lottery tickets, which could be sold and distributed all over a community. Things did not unfold in the next two years in the way the Florida Supreme Court apparently expected in 1935. In 1937, the Florida comptroller, the same J.M. Lee who had prevailed in*Lee*, prepared a document for Florida Governor Fred Cone estimating there to be 10,000 slot machines with total yearly play of $52 million

in Florida.[20]Even children were allowed to gamble on these machines.[21] Slot machines in their actual operation had collectively turned out to be widespread and lotteries under *Lee*'s criteria, but the Florida Supreme Court did not have a case to revisit the issue directly. Instead, the legislature and Governor Cone took matters into their own hands by repealing the 1935 slot machine statute in 1937.[22] The vote for repeal in the legislature was overwhelming. This repeal statute, which also banned slot machines, was authored and vigorously championed by a young representative and future Florida governor named LeRoy Collins, who called the two-year experience with slot machines "a dose of moral poison."[23]

The year 1935 represents the high-water mark for slot machines in Florida for the decade of the 1930s. In the remaining years of this decade, several case developments called *Lee* and *Hardison* seriously into question. Shortly after the repeal, in a concurrence to a case involving repeal issues, *Bechtol v. Lee*, 176 So. 265 (Fla. 1937), Justice Buford, who had dissented from *Lee*,[24] made the following observation to which the majority in *Bechtol* did not take exception:

> Experience throughout the state during the past two years has abundantly justified what I said in that opinion [referring to *Lee*].
>
> It is now generally conceded that no more generally damning influence has been applied to the honesty, integrity, and frugality of the boys and girls and men and women of this state than that which was foisted upon them by the provisions of chapter 17257 [the 1935 slot machine statute]. It is also generally conceded that to hold the operation of these devices to be merely a lottery is being charitable.[25]

The next year, Justice Buford elaborated on slot machines as a very bad form of lottery when he wrote for a unanimous panel in explaining why the slot machine statute was repealed:

> It is a matter of common knowledge, of which we must take judicial cognizance, that the lure to play the slot machine had become so great as to undermine the morals of many and to lead to the commission of or the indulgence in vices and crime to procure the coins with which to play the machines.[26]

The Florida Supreme Court is, therefore, on record in concluding that slot machines lead to compulsive and criminal behavior, a far different result than in*Lee* and *Hardison*. *Eccles* also seems to imply that the 1930s era slot machines satisfied the widespread operation test.

Finally, in *Little River Theatre Corp. v. State ex rel Hodge*, 185 So. 855, 861 (Fla. 1939), the Florida Supreme Court decisively held: "The authorities are in accord that a lottery has three elements: first, a prize; second, an award by chance; and, third, a consideration." *Little River Theatre* omitted the fourth element of widespread operation and seemed to abandon the core principle of *Lee* and *Hardison*. *Little River Theatre* involved a "bank night" drawing at a single theatre location in the Miami suburbs.[27] The lack of widespread operation would seem to have been a very viable defense for the theatre, but it is nowhere to be found in the case.

Justice Buford's strongly worded and unchallenged concurrence in *Bechtol*, the opinions in *Eccles* and *Little River Theatre*, thousands of machines, and $52 million in annual betting by adults and children all seem to point to one conclusion: The Florida Supreme Court in the late 1930s might have overruled or receded from *Lee* and *Hardison* if the 1937 repeal of the slot machine statute had not rendered these cases moot. This possibility will never be confirmed or refuted with certainty because slot machines were never legalized again in Florida while the 1885 Constitution was in effect.

The 1968 Florida Constitution and *Greater Loretta*

A year prior to the adoption of the 1968 Florida Constitution, the legislature legalized bingo.[28] The Greater Loretta Improvement Association, Inc., was a nonprofit association operating in Duval County. Following the adoption of the bingo

law in 1967, the association began to offer bingo at its clubhouse. Arthur T. Boone was a private citizen who opposed the association's use of its building for bingo. Mr. Boone obtained an injunction against the association in Duval County Circuit Court on the grounds that bingo was a lottery and the bingo statute was, therefore, unconstitutional under Fla. Const. art. III, §23 (1885).[29]

The Florida Supreme Court overturned the circuit court in the 1970 case of *Greater Loretta*.[30] The case analyzed the constitutionality of bingo during the time of transition from the 1885 Florida Constitution to the 1968 Florida Constitution and it took into account the anti-lottery provisions of both documents.[31]

According to *Greater Loretta*'s analysis under the 1885 Constitution, the 1967 legislature was justified to rely on *Lee* to conclude that bingo in 1967, like slot machines in 1935, could be permissible under the 1885 Constitution.[32] Therefore, according to *Greater Loretta*, the 1967 legislature had the authority under *Lee* to adopt a bingo statute under the 1885 Constitution. *Greater Loretta* reaffirmed *Lee* in the context of the 1885 Constitution.[33]

Greater Loretta applied *Lee* superficially to bingo as *Greater Loretta* did not analyze bingo under *Lee*'s widespread operation test. Nevertheless, *Greater Loretta's* conclusion to grandfather bingo was consistent with the wording and intent of art. X, §7. As discussed above, pari-mutuel pools were constitutionally legitimized by the 1940 constitutional amendment providing for the distribution of taxes on these pools, not *Lee*. Bingo, like horse racing, was a lawfully existent pari-mutuel pool in 1968 regardless of *Lee*. The same 1967 legislature that authorized bingo could not have reasonably intended to undo this authorization by the 1968 Constitution, which they approved in the same legislative session, nor according to *Greater Loretta* would it make sense to allow horse racing but not bingo to continue.[34]

Lee did not play a role in *Greater Loretta*'s analysis of bingo under the 1968 Constitution and *Lee* is not mentioned in this section of the majority opinion.[35] According to *Greater Loretta*, making lotteries inclusive of pari-mutuel pools significantly expanded the term "lotteries" under the 1968 Constitution to include specifically horse racing, dog racing, jai alai, bingo and most significantly for today, slot machines. *Greater Loretta* concluded bingo is a permitted lottery under the 1968 Constitution because it was permitted by the 1885 Constitution; it was lawfully functioning in 1968; and it was, therefore, grandfathered in. On the other hand, slot machines were illegal in 1968 under F.S. §§849.15 and 849.16 (1967); they were, therefore, not grandfathered in and they remained prohibited under the new constitution. Therefore, as quoted in the introduction of this article, *Greater Loretta*concluded slot machines are lotteries and are prohibited under Fla. Const. art. X, §7 (1968). The very clear meaning of *Greater Loretta* is that art. X, §7 legislatively overruled *Lee* and *Hardison* on whether slot machines constitute lotteries going forward under the 1968 Constitution.

Lee itself shows that the addition of pari-mutuel pools to the constitutional definition of lotteries was a significant change in the 1968 Constitution. *Lee*explicitly viewed horse racing as a pari-mutuel and something different from a lottery under the 1885 Constitution. In contrast, *Greater Loretta* viewed horse racing as a pari-mutuel and a lottery under the 1968 Constitution.[36]

Greater Loretta was initiated over bingo, not slot machines. It is a reasonable question whether *Greater Loretta*'s word on slot machines is dicta or true controlling authority. It was clearly part of *Greater Loretta*'s holding that bingo was not unconstitutional under the 1968 Constitution because it was grandfathered under art. X, §7. It was also clearly part of *Greater Loretta*'s holding that "only those lotteries then legally functioning" in 1968 would be grandfathered, that is horse racing, dog racing, jai alai, and bingo. Slot machines were not legally functioning in 1968. Therefore, *Greater Loretta*'s holding that upheld the constitutionality of bingo necessarily banned slot machines under art. X, §7.

Slot Machines Come to South Florida in 2004

In 2004, the voters approved Fla. Const. art. X, §23, which permits slot machines at certain pari-mutuel facilities in Broward County and Miami-Dade County. Under the amendment, only facilities that conducted live racing or games in the two years prior to the adoption of the amendment are eligible to have slot machines. The amendment further requires a local voter referendum before the slot machines may be authorized.

Prior to the 2004 referendum on art. X, §23, the ballot initiative was submitted to the Florida Supreme Court for review. As stated in *In re Advisory Opinion to Atty. Gen. re Authorizes Miami-Dade and Broward County Voters to Approve Slot Machines in Parimutuel Facilities*, 880 So. 2d 522, 523 (Fla. 2004), the purpose of this review was limited to two issues: 1) whether the proposed amendment satisfied the single-subject limitation of Fla. Const. art. XI, §3; and 2) whether the ballot title and summary satisfied the requirements of F.S. §101.161(1) (2003). Unfortunately, the Florida Supreme Court included the following in its discussion of why the amendment did not violate the single-subject requirement:

> We have long since settled the question of whether slot machines constitute lotteries. In *Lee v. City of Miami,* 121 Fla. 93, 163 So. 486, 490 (1935), we addressed the question of whether certain legislatively described gambling machines, such as slot machines, constituted lotteries prohibited by the state constitution. We concluded they did not. We noted that the "Legislature recognized the distinction between lotteries and other species of gambling" and had never defined "lottery" "to include other forms of gambling." *Id.* We then concluded the "primary test" for a lottery prohibited by the constitution "was whether or not the vice of it infected the whole community or country, rather than individual units of it." *Id.* We reaffirmed *Lee* in a case in which the defendant, who kept a slot machine in his business, was charged with the crime of conducting a lottery. *See Hardison v. Coleman,* 121 Fla. 892, 164 So. 520, 521-22 (1935). Reiterating that a slot machine is not a lottery, we stressed that "[i]t may be true that every lottery is a game or gambling device, but it does not follow that every game or gambling device is a lottery within the meaning of" the constitutional prohibition of lotteries. *Id.* at 522. Further, the Florida Statutes continue to differentiate the two. *See* §849.09, Fla. Stat. (2003) (prohibiting "persons" from conducting or promoting lotteries); *id.* §849.15 (prohibiting ownership or use of slot machines); *id.* §849.16(1) (defining "slot machine"). Accordingly, the proposed amendment does not amend the lottery provisions of the state's constitution.[37]

From this article thus far, it should be obvious this passage from the *Advisory Opinion* is problematic on multiple levels. *Lee* and *Hardison* did not categorically state that slot machines are not lotteries. Instead, these cases, as the *Advisory Opinion*'s own quotes from them show, created an evidentiary test of widespread operation and found in these particular cases that it had not been proven this test had been met. Construing *Lee* and*Hardison* as concluding slot machines inherently lack widespread operation is to construe them as having assumed a factual matter that has not been proven in an evidentiary hearing. Mr. Hardison's one single device was held not to be a lottery, due to a lack of evidence in his case, but that holding does not necessarily extend to the collective operation of thousands of slot machines. The difference between one slot machine and thousands of them is called widespread operation.

After the 1935 slot machine statute was repealed, *Eccles* seemed to imply that the slot machines under this statute had collectively met the widespread operation test. *Little River Theatre* seemed to abandon the widespread operation test altogether. Even if the widespread operation test survived *Little River Theatre*, Fla. Const. art. X, §7 (1968) legislatively overruled *Lee* and *Hardison* and erased the distinction these two cases made between lotteries and pari-mutuel pools as explained in the preceding section of this article on *Greater Loretta*, a case which the *Advisory Opinion* apparently overlooked.

Even the *Advisory Opinion*'s discussion about the Florida Statutes is problematic. At the time of the *Advisory Opinion*, F.S. §849.16(1) (2003) defined slot machines according to the three common law elements of a lottery, with consideration and chance denoted in subsection (1) and prize in subsections (1)(a) and (b). In 2013, the statutory definition was broadened to include skill as an alternative to the element of chance.[38] Nevertheless, this statutory definition, which derives directly from the 1937 repeal statute, makes no reference to widespread operation either before or after the 2013 change.

The *Advisory Opinion* indicates the statutory treatment of lotteries and slot machines matters to the constitutional interpretation of these terms, but F.S. §849.16(1) omits the core principle of *Lee* and *Hardison*.

Resolving the Conflict between *Greater Loretta* and the *Advisory Opinion*

Greater Loretta and the *Advisory Opinion* stand in stark contradiction to each other with no apparent middle ground between them. There are several reasons why *Greater Loretta* should control over the *Advisory Opinion*. The *Advisory Opinion* is an advisory opinion and, as such, it is not binding judicial precedent, especially as to issues not properly before the Florida Supreme Court.[39] In contrast, *Greater Loretta* involved a real case and controversy between a pro-gambling faction, the Greater Loretta Improvement Association, and an anti-gambling faction, Mr. Boone. The case was fully litigated at the trial and appellate level as discussed above.

The *Advisory Opinion* is a vivid example of why advisory opinions do not and should not have a high precedential value. If the issues discussed in the*Advisory Opinion* had been fully vetted in the trial and lower appellate courts, there would have been a better chance that *Greater Loretta* would not have been overlooked. Moreover, the case leading to the *Advisory Opinion* did not provide a fair forum or due process for those opposed to the expansion of gambling statewide since the amendment under review only proposed slot machines in two South Florida counties.

The discussion about art. X, §7 in the *Advisory Opinion* was in sub silentio conflict with the Florida Supreme Court's prior controlling precedent in *Greater Loretta*. According to *Puryear v. State*, 810 So. 2d 901, 905 (Fla. 2002), the Florida Supreme Court does not intentionally overrule itself sub silentio.*Greater Loretta* and the *Advisory Opinion* must be expressly evaluated against each other before it can be determined which one must yield. Therefore, even though the *Advisory Opinion* was later in time, it did not overrule *Greater Loretta*.

Ray v. Mortham, 742 So. 2d 1276, 1285-86 (Fla. 1999), presents a potential argument not to revisit the *Advisory Opinion*. According to *Ray*, relitigating how an advisory opinion addresses compliance with the single-subject requirement is strongly disfavored. Under *Greater Loretta*'s interpretation of art. X, §7, however, amending this section was integral to authorizing a local option for slot machines. The 1986 amendment for the state lottery, art. X, §15, literally modified art. X, §7, but the Florida Supreme Court found no single subject problem with this 1986 amendment in *Carroll v. Firestone*, 497 So. 2d 1204 (Fla. 1986). This aspect of the 2004 amendment, thus, did not create a single-subject problem under the actual controlling law. Since the amendment would still comply with the single subject requirement, revisiting the *Advisory Opinion*'s discussion about art. X, §7 is acceptable under *Ray*, which also provides an exception for extraordinary circumstances when an advisory opinion does not address a vital issue. That exception beckons emphatically here.

As a corollary to the single subject requirement, *Fine v. Firestone*, 448 So. 2d 984, 989 (Fla. 1984), requires a ballot initiative to notify the voters of any affected sections of the constitution. The ballot initiative for art. X, §23 failed to notify the voters that art. X, §7 would be impacted and the purpose of the*Advisory Opinion*'s discussion about art. X, §7 was to excuse this failure.[40] The failure to provide this notice may have changed the voting outcome and perhaps it was insignificant to how the voters made their decision. Regardless of these questions, however, this failure should not effectively amend art. X, §7 to allow slot machines everywhere in Florida when the initiative itself proposed only a limited availability of slot machines. The *Advisory Opinion* is not a valid substitute for an actual constitutional amendment.

The most important reasons to conclude that *Greater Loretta* controls over the *Advisory Opinion* are that only *Greater Loretta* is faithful to the text of Fla. Const. art. X, §7 (1968), and only *Greater Loretta* confirms the apparent express will of the 1968 voters to adopt an expanded constitutional definition of lotteries that includes slot machines and all other types of pari-mutuel pools.[41] The *Advisory Opinion* would nullify the decision of the voters in 1968 without even taking that decision

under due consideration.

The 2009 Slot Machine Statute

In 2009, the legislature adopted Ch. 2009-170, Laws of Florida, which amended F.S. §551.102 (2012), and which ostensibly expands the possibility of slot machines to all pari-mutuels in South Florida and the rest of the state, not merely the specific facilities in South Florida described in Fla. Const. art. X, §23 (1968).

In *Florida Gaming*,[42] some of the facilities explicitly granted slot machine privileges under art. X, §23 sued the Florida Department of Business and Professional Regulation and other apparent gambling interests. The suit aimed to have Ch. 2009-170 declared unconstitutional based on art. X, §23 implicitly banning any slot machines not covered by the section.[43] The First District Court of Appeal rendered its opinion in *Florida Gaming* on October 6, 2011, and upheld the constitutionality of Ch. 2009-170 based on a case holding that the legislature has the constitutional authority to ban horse racing on Sunday.[44] *Lee, Hardison, Eccles, Little River Theatre*, most importantly art. X, §7 and *Greater Loretta*, and even the 2004 *Advisory Opinion* were all no shows in the opinion. Of course, the legislature has the authority to regulate constitutionally permitted types of lotteries and pari-mutuel pools, such as horse racing, but that is far different from authorizing new types of pari-mutuel pools that Fla. Const. art. X, §7 (1968) expressly forbids.

On April 27, 2012, the Florida Supreme Court declined to accept jurisdiction in *Florida Gaming*.[45] The conflict discussed in this article remains. On the authority of *Greater Loretta*, legislation authorizing new slot machine venues, including Ch. 2009-170, remains vulnerable to constitutional challenge.

Conclusion

The discussion about Fla. Const. art. X, §7 (1968) in the 2004 *Advisory Opinion* was a mistake that has had the serious consequence of unleashing a wide array of gambling interests on the people of Florida. The language of this constitutional provision as newly adopted in 1968 should have prevented this result.

Both the voters of Florida and the legislature approved and adopted Fla. Const. art. X, §7 (1968), reaching a common understanding about lotteries and pari-mutuel wagering in Florida. All doubts about this matter would be resolved by grandfathering the lotteries and pari-mutuel pools lawfully existent in 1968. Integral to this understanding, however, was the condition that all types of lotteries and pari-mutuel wagering that were illegal in 1968, including but not limited to slot machines, would remain constitutionally prohibited. The voters, through the constitutional amendment process, and not the legislature, would retain final authority on whether to allow new types of lotteries and pari-mutuel wagering in the Sunshine State. The legislature should honor this understanding that they made with the voters in 1968 and the courts should enforce this understanding. More venues for slot machines should not be permitted in Florida without an amendment to the Florida Constitution.

[1] *Greater Loretta Imp. Ass'n v. State ex rel Boone*, 234 So. 2d 665, 671-672 (Fla. 1970) (emphasis added).

[2] Fla. Const. art. IV, §20 (1868) is identical to the anti-lottery provision in the 1885 Constitution. Florida's earlier constitutions did not have a lottery provision.

[3] *Greater Loretta*, 234 So. 2d at 667-69.

[4] *Id.* at 670-72.

[5] *Id.* at 671.

[6] *Volusia County Kennel Club v. Haggard*, 73 So. 2d 884, 886 (Fla. 1954) (all doubt regarding the legality of pari-mutuel pools was removed by the adoption of Fla. Const. art. IX, §15 (1885)). The tax distribution provision is currently in Fla.

Const. art. VII, §7 (1968).

[7] Fla. S. J. 15 (Spec. Sess. Jan. 9, 1967). The anti-lottery provision appeared at Fla. Const. art. X, §6 (1968) in early drafts.

[8] Fla. S. J. 51 (Spec. Sess. Aug. 31, 1967). This floor amendment read: "Lotteries, other than pari-mutuel pools authorized by law as of the effective date of this [c]onstitution, are hereby prohibited in this state." The only difference between the floor amendment and the final adopted version was the addition of the words "the types of" before "pari-mutuel pools."

[9] *Id.* at 49.

[10] Ch. 17257, 1935 Fla. Laws 1085.

[11] *Lee v. City of Miami*, 163 So. 486, 487 (Fla. 1935).

[12] *Id*. at 489.

[13] *Id.* at 489-90.

[14] *See id.*

[15] *Phalen*, 49 U.S. at 164.

[16] *Id.* at 168.

[17] *Lee*, 163 So. at 489-90.

[18] *Id.* at 490 (emphasis added).

[19] *Hardison*, 164 So. at 523.

[20] *See* Florida State Archives, Series 368, Carton 18, File Folder 10, file folder maintained by Governor Cone titled "Comptroller."

[21] Mary Ellen Klas, *Gambling's Long History in Florida*, Tampa Bay Times, Nov. 29, 2009, *available at*http://www.tampabay.com/news/perspective/gamblings-long-history-in-florida/1054214.

[22] Ch. 18143, 1937 Fla. Laws 909.

[23] Martin Dyckman, Floridian of His Century: The Courage of Governor LeRoy Collins 31 (2006); *LeRoy Collins to Address Women's Club*, St. Petersburg Times, Feb. 7, 1954, at 14-E.

[24] *Lee*, 163 So. at 491 (Buford, J., dissenting).

[25] *Bechtol*, 176 So. at 268 (Buford, J., concurring).

[26] *Eccles v. Stone*, 183 So. 628, 631 (Fla. 1938).

[27] *Little River Theatre*, 185 So. at 856.

[28] Ch. 67-178, §1, 1967 Fla. Laws 353 (adopting Fla. Stat. §849.093 (1967)).

[29] *Greater Loretta,* 234 So. 2d at 673-74 (Carlton, J., dissenting; the procedural history of the case appears in the dissent, but the majority opinion did not take exception to this history).

[30] *Id.* at 672.

[31] *Id.* at 667-72.

[32] *Id.* at 668.

[33] *See id.*

[34] *Id.* at 671.

[35] *See id.* at 670-72.

[36] *Compare Lee*, 163 So. at 490, *with Greater Loretta*, 234 So. 2d at 671-72, as quoted in the introduction of this article.

[37] *Advisory Opinion*, 880 So. 2d at 525.

[38] Ch. 2013-2, §4, 2013 Fla. Laws ____ (amending Fla. Stat. §849.16 (2013)).

[39] *Florida League of Cities v. Smith*, 607 So. 2d 397, 399 n.3 (Fla. 1992).

[40] *See Advisory Opinion*, 880 So. 2d at 525.

[41] *See Greater Loretta*, 234 So. 2d at 670-72.

[42] *Florida Gaming*, 71 So. 3d 226 (Fla. 1st DCA 2011).

[43] *Id.* at 228.

[44] *Id.* at 229 (citing *Div. of Pari-Mutuel Wagering Dep't of Bus. Reg. v. Fla. Horse Council, Inc.*, 464 So. 2d 128, 130 (Fla. 1985)).
[45] *Florida Gaming*, *rev. den.,* 90 So. 3d 271 (Fla. 2012).

***David G. Shields**, an assistant county attorney for Seminole County, is a fifth generation Floridian originally from Ocala who graduated from the College of Arts and Sciences of Vanderbilt University and the University of Florida College of Law.*

The views expressed in this article are his and not necessarily that of Seminole County Government.

Journal HOME

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IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF FILED

CASE NO. 1D14-3484
CORRECTED PAGES: pgs 23, 38
CORRECTION IS UNDERLINED IN RED
MAILED: June 16, 2015
BY: NMS

GRETNA RACING, LLC,

Appellant,

v.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, DIVISION OF PARI-MUTUEL WAGERING,

Appellee.

_____/

Opinion filed May 29, 2015.

An appeal from a Final Order of the Department of Business and Professional Regulation.

Marc W. Dunbar, Tallahassee and David S. Romanik of David S. Romanik, P.A., Oxford, for Appellant.

David J. Weiss of Ausley & McMullen, P.A., Tallahassee, for Amicus Curiae Gadsden County, Florida in support of Appellant.

Pamela Jo Bondi, Attorney General, Allen Winsor, Solicitor General, Adam S. Tanenbaum, Chief Deputy Solicitor General, and Jonathan A. Glogau, Chief, Complex Litigation, Tallahassee, for Appellee.

BENTON, J.

Gretna Racing, LLC (Gretna Racing) appeals the Final Order of the Department of Business and Professional Regulation, Division of Pari-Mutuel

Wagering (Department) denying Gretna Racing's application for a license to conduct slot machine gaming at its horsetrack facility in Gadsden County. Because the Department's denial rests on grounds that cannot be reconciled with the controlling statute, we reverse.

On November 1, 2011, Gadsden County Commissioners voted to put a referendum regarding slot machine gaming on a January 31, 2012 ballot. At the January 31, 2012 election, a majority of those voting in the countywide referendum voted "yes" on the question, "Shall slot machines be approved for use at the pari-mutuel horsetrack facility in Gretna, FL?" Nearly two years later, on December 11, 2013, Gretna Racing made application to the Department for a license to conduct slot machine gaming at its horsetrack facility in Gretna.

The Department notified Gretna Racing on December 23, 2013, that it had denied the application. The Department did not base denial of the license on any error, omission, or deficiency in Gretna Racing's application or on any defect in submissions accompanying the application. One stated basis for denial invoked an opinion of the Attorney General,[1] and the only other stated ground for denial was

[1] After Gretna Racing filed its application, the Department posed the following question to the Attorney General: "Does the third clause of section 551.102(4), Florida Statutes, . . . permit the Department to grant a slot machine license to a pari-mutuel facility in a county which holds a countywide referendum to approve such machines, absent a statutory or constitutional provision enacted after July 1, 2010, authorizing such referendum?" Op. Att'y Gen. Fla. 2012-01 (2012). On January 12, 2012, the Attorney General opined the Department was

that, in article X, section 23 of the Florida Constitution, "only two counties are listed, 'Miami-Dade and Broward,' see Art. X, § 23(a)." As Gretna Racing's "pari-mutuel facility is located in Gadsden County," the Department's letter continued, "which is not a 'county as specified in s. 23, Art. X of the State Constitution,' see § 551.104(2), Fla. Stat., [Gretna Racing's] application to conduct slot machine gaming in Gadsden County must, as a matter of law, be denied for this reason as well." Likewise relying on Florida Attorney General Opinion 2012-01, the Final Order states "the January 31, 2012 referendum in Gadsden County was not held pursuant to a statute or constitutional provision: (1) specifically authorizing a referendum to approve slot machines; and (2) enacted after 551.102(4) of the Florida Statutes became effective on July 1, 2010." Gretna Racing now appeals the Final Order.

In deciding whether denial for these reasons was lawful, historical context is important. On November 2, 2004, Florida voters approved a ballot initiative, adding article X, section 23 to the Florida Constitution, which provides, in part:

> (a) After voter approval of this constitutional amendment, the governing bodies of Miami-Dade and Broward Counties each may hold a county-wide referendum in their respective counties on whether to

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not authorized to issue a slot machine license pursuant to the third clause of section 551.102(4) "absent a statutory or constitutional provision enacted after July 1, 2010" because the governing clause "contemplates the necessity of additional statutory or constitutional authorization before such a referendum may be held." Id.

> authorize slot machines within existing, licensed parimutuel facilities (thoroughbred and harness racing, greyhound racing, and jai-alai) that have conducted live racing or games in that county during each of the last two calendar years before the effective date of this amendment. If the voters of such county approve the referendum question by majority vote, slot machines shall be authorized in such parimutuel facilities. . . .
>
> (b) In the next regular Legislative session occurring after voter approval of this constitutional amendment, the Legislature shall adopt legislation implementing this section and having an effective date no later than July 1 of the year following voter approval of this amendment. Such legislation shall authorize agency rules for implementation, and may include provisions for the licensure and regulation of slot machines. The Legislature may tax slot machine revenues, and any such taxes must supplement public education funding statewide.

(Emphasis supplied.) In 2005, the Legislature enacted Chapter 551, Florida Statutes. See Ch. 2005-362, § 1, at 66-86, Laws of Fla. Section 551.102(4), Florida Statutes (2006), defined an "[e]ligible facility" as

> any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 and has been approved by a majority of voters in a countywide referendum to have slot machines at such facility in the respective county.

(Emphasis supplied.) While the sequence of events and its legislative history make clear that section 551.102 was enacted to implement article X, section 23, the

Legislature's constitutional prerogative to authorize slot machines (as opposed to lotteries) is broader than article X, section 23.

Indeed, the Legislature has plenary authority over slot machines, authority the parties do not question here.[2] "The Constitution of Florida is a limitation of power, and, while the Legislature cannot legalize any gambling device that would in effect amount to a lottery [other than state operated lotteries authorized by article X, section 15 of the Florida Constitution], it has inherent power to regulate [or not] or to prohibit [or not] any and all other forms of gambling." Lee v. City of Miami, 163 So. 486, 490 (Fla. 1935) (alterations in original). Accord, Hialeah Race Course, Inc. v. Gulfstream Park Racing Ass'n, 37 So. 2d 692, 694 (Fla. 1948) ("Authorized gambling is a matter over which the state may . . . exercise its police

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[2] In contrast with the parties, the dissenting opinion goes on at some length about our supreme court's jurisprudence in this area, making much of dicta in Greater Loretta Improvement Association v. State ex rel. Boone, 234 So. 2d 665, 671-72 (Fla. 1970), but acknowledging that the last word from the Florida Supreme Court came in Advisory Opinion to the Attorney General Re: Authorizes Miami-Dade and Broward County Voters to Approve Slot Machines in Parimutuel Facilities, 880 So. 2d 522, 525 (Fla. 2004), where the court actually held:

> We have long since settled the question of whether slot machines constitute lotteries. In Lee v. City of Miami, 121 Fla. 93, 163 So. 486, 490 (1935), we addressed the question of whether certain legislatively described gambling machines, such as slot machines, constituted lotteries prohibited by the state constitution. We concluded they did not.

At oral argument, the assistant attorney general representing appellee conceded that the Florida Constitution does not restrict the Legislature's authority to allow slot machines in any way pertinent to the present case.

power . . . ."); Pasternack v. Bennett, 190 So. 56, 57 (Fla. 1939) ("[I]t is . . . settled in this jurisdiction that those devices commonly known as slot machines are gambling devices . . . subject to the police power of the State to regulate, control, prohibit or destroy them."); Eccles v. Stone, 183 So. 628, 631-32 (Fla. 1938) (recounting that the Legislature legalized the operation of slot machines in 1935, then prohibited the operation of coin-operated gambling devices in 1937, and that the "state policy has for many years been against all forms of gambling, with the exception of the legislative enactment legalizing parimutuel wagers on horse racing and the 1935 Act legalizing the operation of slot machines"); Fla. Gaming Ctrs., Inc. v. Fla. Dep't of Bus. & Prof'l Regulation, 71 So. 3d 226, 229 (Fla. 1st DCA 2011) ("The Legislature has broad discretion in regulating and controlling pari-mutuel wagering and gambling . . . .").

The broad reach of legislative authority over slot machines and pari-mutuel wagering notwithstanding, the Legislature is subject, in this area, too, to constitutional restrictions on special laws and general laws of local application. Compare, e.g., Dep't of Bus. Regulation v. Classic Mile, Inc., 541 So. 2d 1155, 1158-59 (Fla. 1989) (holding statute regarding thoroughbred horse racing was unconstitutional as a special law in the guise of a general law because Marion County was the sole county that would ever fall within the statutorily designated class of counties eligible for licensure; rejecting argument that "the regulatory

responsibilities given to the state under the statute [were] part of the overall statewide regulatory scheme for the parimutuel industry, thereby rendering the statute a general law"; and rejecting argument that the statewide impact of revenue that might be generated as a result of the statute rendered the statute a general law),[3] with, e.g., License Acquisitions, LLC v. Debary Real Estate Holdings, LLC, 155 So. 3d 1137, 1142, 1147 (Fla. 2014) (holding a statute that authorized a jai alai facility to convert to a dog track under certain circumstances was a valid general law "because there is a reasonable possibility that it could apply to ten of the eleven jai alai permits in the state" and rejecting an interpretation of the statute that would render it an unconstitutional special law).[4] Constitutional restrictions on

[3] See also Fla. Dep't of Bus. & Prof'l Regulation v. Gulfstream Park Racing Ass'n, 967 So. 2d 802, 809 (Fla. 2007) (holding a statute regulating live broadcasts of horse races was unconstitutional as a special law, albeit enacted in the guise of a general law, without compliance with the requirements for the enactment of special laws because the conditions making the provision applicable "existed only in the area where Gulfstream was located, and there was no reasonable possibility that they would ever exist in another part of the state"); Ocala Breeders' Sales Co. v. Fla. Gaming Ctrs., Inc., 731 So. 2d 21, 24-25 (Fla. 1st DCA 1999) (holding statute that enabled one thoroughbred horse breeder operating within the state to obtain an exclusive license to conduct pari-mutuel wagering at its sales facility was an unconstitutional special law enacted in the guise of a general law (affirmed, 793 So. 2d 899 (Fla. 2001))).

[4] See also Dep't of Legal Affairs v. Sanford-Orlando Kennel Club, Inc., 434 So. 2d 879, 882-83 (Fla. 1983) (concluding that legislation that, once passed, benefited only a track in Seminole County, was a valid general law because the statute could be applied to tracks that might be built in the future); Biscayne Kennel Club, Inc. v. Fla. State Racing Comm'n, 165 So. 2d 762, 763-64 (Fla. 1964) (holding statute regulating privilege of conducting harness racing was valid general act of uniform operation because "all of the classifications effected by th[e]

special laws and general laws of local application may help explain resort to the ballot initiative that resulted in article X, section 23.

In 2009, the Legislature amended section 551.102(4), originally enacted to implement article X, section 23, in order to authorize slot machines in pari-mutuel facilities not covered by article X, section 23. The amendment expanded the definition of "eligible facility" in two steps, first with this language:

> any licensed pari-mutuel facility located within a county as defined in s. 125.011, provided such facility has conducted live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter.

Ch. 2009-170, § 19, at 1792, Laws of Fla. (emphasis supplied). As our supreme court explained in Golden Nugget Group v. Metropolitan Dade County, 464 So. 2d 535, 536 (Fla. 1985), county, as defined in s. 125.011(1) refers to Miami-Dade County and to no other county.[5] But the 2009 statutory amendment further expanded the definition of "eligible facilities" with this additional language:

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act are made on the basis of factors which are potentially applicable to others" because "a number of Florida counties may by future referendum acquire racing establishments . . . within the class covered").

[5] The supreme court conceded that "county" as defined in section 125.011 potentially refers to Dade, Hillsborough, and Monroe Counties, but held that only Dade County had adopted a home-rule charter "'pursuant to ss. 10, 11 and 24 of Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968.' See § 125.011(1), Fla. Stat. (1983)." Golden Nugget Grp. v. Metro. Dade Cnty., 464 So. 2d 535, 536 (Fla. 1985). Broward County is not a "county as defined in s. 125.011."

> any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section in the respective county, provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required licensed fee, and meets the other requirements of this chapter.

Ch. 2009-170, § 19, at 1792, Laws of Fla. (emphasis supplied). By making the amendment to section 551.102(4) applicable statewide, the drafters minimized the possibility that the amendment would be deemed a general law of local application (or a special law for the benefit of the Hialeah Race Track).

In response to this statutory amendment, perhaps (in whole or in part) to prevent competition from the Hialeah Race Track,[6] holders of pari-mutuel wagering permits in Miami-Dade County who were already licensed to install slot machines sought a declaratory judgment that the 2009 amendment to section 551.102(4) was unconstitutional. See Fla. Gaming Ctrs., 71 So. 3d at 228. They

[6] Subsequent to the decision in Florida Gaming Centers, Inc. v. Florida Department of Business & Professional Regulation, 71 So. 3d 226 (Fla. 1st DCA 2011), South Florida Racing Association, LLC, owner of Hialeah Race Track, filed an application for a license to conduct slot machine gaming at the Hialeah Race Track in Miami-Dade County. Before the 2009 amendment to section 551.102(4), Hialeah Race Track was ineligible for such a license. It was not among the seven facilities authorized by the 2004 constitutional amendment to be licensed to conduct slot machine gaming because "live racing or games" did not take place at Hialeah Race Track "during each of the last two calendar years before the effective date of t[he] amendment." Art. X, § 23, Fla. Const.

argued that article X, section 23 of the Florida Constitution limited legislative power to authorize slot machine gaming, by implication, to licensed pari-mutuel facilities in Miami-Dade and Broward Counties that had conducted live racing or games during calendar years 2002 and 2003. Id. The Hialeah Race Track conducted racing during the two years before it applied for a slot machine license, but not in 2002 and 2003, i.e., not "during each of the last two calendar years before the effective date of" article X, section 23.

The incumbent licensees' argument was rejected by each court that considered it. We affirmed summary judgment upholding the constitutionality of section 19 of chapter 2009-170, Laws of Florida, the 2009 amendment to section 551.102, and said: "[T]he only thing that Article X, section 23 limited was the Legislature's authority to prohibit slot machine gaming in certain facilities in the two counties. Contrary to Appellants' position, Article X, section 23 provides no indication that Florida voters intended to forever prohibit the Legislature from exercising its authority to expand slot machine gaming beyond those facilities in Miami-Dade and Broward Counties meeting the specified criteria. Nor is there any indication that Florida voters intended to grant the seven entities who met the criteria a constitutionally-protected monopoly over slot machine gaming in the state." Id. at 229 (citation omitted). The Supreme Court of Florida denied review. Fla. Gaming Ctrs., Inc. v. Fla. Dep't of Bus. & Prof'l Regulation, 90 So. 3d 271

(Fla. 2012).

We now turn directly to the question of statutory interpretation before us. The language in contention does not invoke any "special agency expertise," and the Department does not maintain that any special agency expertise it may have in the area of pari-mutuel wagering or gaming supports its construction. See State, Dep't of Ins. v. Ins. Servs. Office, 434 So. 2d 908, 912 n.6 (Fla. 1st DCA 1983) ("[B]y urging a construction of these terms based upon their common, ordinary meanings, the Department disavows the utilization of any special 'agency expertise' in its interpretation of the statute. This mitigates, if it does not entirely eliminate, the rule calling upon the court to accord 'great deference' to the agency's interpretation of the statute."). See also Schoettle v. State, Dep't of Admin., Div. of Ret., 513 So. 2d 1299, 1301 (Fla. 1st DCA 1987) (same). The Department explicitly relies, not on any purported agency expertise, but on an Attorney General's Opinion.[7]

[7] "Attorney General opinions do not, of course, have binding effect in court. See Abreau v. Cobb, 670 So. 2d 1010, 1012 (Fla. 3d DCA 1996); Johnson v. Lincoln Square Props., Inc., 571 So. 2d 541, 543 (Fla. 2d DCA 1990); Causeway Lumber Co. v. Lewis, 410 So. 2d 511, 515 (Fla. 4th DCA 1981)." Edney v. State, 3 So. 3d 1281, 1284 (Fla. 1st DCA 2009). See also Bunkley v. State, 882 So. 2d 890, 897 (Fla. 2004) (recognizing that "opinions of the Attorney General are not statements of law"); State v. Family Bank of Hallandale, 623 So. 2d 474, 478 (Fla. 1993) ("The official opinions of the Attorney General, the chief law officer of the state, are guides for state executive and administrative officers in performing their official duties until superseded by judicial decision."); Comm'n on Ethics v. Sullivan, 489 So. 2d 10, 13 (Fla. 1986) (noting that although the attorney general

Our review of the Department's construction of the statute is de novo. See Fla. Dep't of Children & Family Servs. v. P.E., 14 So. 3d 228, 234 (Fla. 2009). "Legislative intent guides statutory analysis, and to discern that intent we must look first to the language of the statute and its plain meaning." Id. The "'statute's text is the most reliable and authoritative expression of the Legislature's intent.' Courts are 'without power to construe an unambiguous statute in a way which would extend, modify, or limit, its express terms or its reasonable and obvious implications.'" Hooks v. Quaintance, 71 So. 3d 908, 910-11 (Fla. 1st DCA 2011) (citations omitted).

The Department argues it properly denied Gretna Racing a license because it "is not authorized to issue a slot machine license to a pari-mutuel facility in a county which . . . holds a countywide referendum to approve such machines, absent a statutory or constitutional provision enacted after July 1, 2010, authorizing such referendum." (emphasis added). But section 551.102(4) does not contain the word "enacted." "'Usually, the courts in construing a statute may not insert words

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has the ability pursuant to section 16.01(3), Florida Statutes, to issue advisory opinions, "such power alone, and without any other constitutional demand, would not make the attorney general a part of the judicial branch"); Browning v. Fla. Prosecuting Attorneys Ass'n., 56 So. 3d 873, 876 n.2 (Fla. 1st DCA 2011) ("Attorney General opinions are not binding on Florida courts and can be rejected."); Ocala Breeder Sales Co. v. Div. of Pari-Mutuel Wagering, Dep't of Bus. Regulation, 464 So. 2d 1272, 1274 (Fla. 1st DCA 1985) ("Our holding is contrary to the cited opinion of the attorney general, but that opinion is not binding upon the court.").

or phrases in that statute or supply an omission that to all appearances was not in the minds of the legislators when the law was enacted. When there is doubt as to the legislative intent, the doubt should be resolved against the power of the court to supply missing words.'" Special Disability Trust Fund, Dep't of Labor & Emp't Sec. v. Motor & Compressor Co., 446 So. 2d 224, 226 (Fla. 1st DCA 1984) (quoting Rebich v. Burdine's, 417 So. 2d 284 (Fla. 1st DCA 1982) (internal citation omitted)).

Attorney General Opinion 2012-01, on which the Department relied, given in response to a letter in which Department Secretary Lawson requested the Attorney General's views, states in part:

> Section 551.104(1), Florida Statutes, provides in pertinent part that the Division "may issue a license to conduct slot machine gaming in the designated slot machine gaming area of the eligible facility." (e.s.) The term "eligible facility" is defined for purposes of your inquiry to mean:
>
> > "any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section in the respective county, provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required licensed fee, and meets the other requirements of this chapter."
>
> . . . .

> In light of the amendment to section 551.102(4), Florida Statutes, a question has arisen as to whether the statute's third clause contemplates that a county may now hold a referendum to authorize slot machines, or, alternatively, whether the statute contemplates the necessity of additional statutory or constitutional authorization before such a referendum may be held. Based on my review of the statute, I conclude that additional statutory or constitutional authorization is required to bring a referendum within the framework set out in the third clause of section 551.102(4).
>
> . . . .
>
> . . . I am of the opinion that the Department of Business and Professional Regulation is not authorized to issue a slot machine license to a pari-mutuel facility in a county which, pursuant to the third clause in section 551.102(4), Florida Statutes, holds a countywide referendum to approve such machines, absent a statute or constitutional provision enacted after July 1, 2010, authorizing such referendum.

(Footnote omitted.) Attorney General Opinion 2012-01 relied heavily on the location of the phrase "after the effective date of this section" within what the Opinion called "the third clause of section 551.102(4)."[8]

But the Department's construction would render superfluous the entire third clause, the clause that begins "any licensed pari-mutuel facility in any other

[8] In addition, Attorney General Opinion 2012-01 relies on a mistaken reading of the second clause, and, under the heading of legislative intent, the remarks of a single legislator made during the session in the year following the session in which Chapter 2009-170, section 19, Laws of Florida, was enacted.

county." On one point, we are in full agreement[9] with Attorney General Opinion 2012-01, viz.:

> It is a maxim of statutory construction that a statute is to be construed to give meaning to all words and phrases contained within the statute and that statutory language is not to be assumed to be mere surplusage.[11]
>
> [11] See, e.g., Terrinoni v. Westward Ho!, 418 So. 2d 1143 (Fla. 1st DCA 1982); Unruh v. State, 669 So. 2d 242 (Fla. 1996) (as a fundamental rule of statutory interpretation, courts should avoid readings that would render part of a statute meaningless); Op. Att'y Gen. Fla. 91-16 (1991) (operative language in a statute may not be regarded as surplusage).

"'When the Legislature makes a substantial and material change in the language of a statute, it is presumed to have intended some specific objective or alteration of law, unless a contrary indication is clear.'" Altman Contractors v. Gibson, 63 So.

[9] We do not agree, however, with Attorney General Opinion 2012-01's claim that "there were no pre-effective date referenda to be excluded from the ambit of" the third clause. The first clause covers pari-mutuel licensees in Miami-Dade and Broward Counties that had conducted live racing or games in 2002 and 2003. The second clause covers pari-mutuel licensees in Miami-Dade County that had conducted live racing for two consecutive calendar years immediately preceding applying for a slot machine license. The third clause applies to pari-mutuel licensees that conduct live racing for two consecutive calendar years immediately preceding applying for a slot machine license in any other county in which a referendum succeeds after July 1, 2010, including any such Broward County facilities that do not already have slot machine licenses. This is so even though Broward County did conduct a "pre-effective date referend[um]." In any event, since the effective date was contingent and uncertain, see infra n.7, "pre-effective date referenda" were entirely possible and were appropriately addressed with the language "after the effective date of this section."

3d 802, 803 (Fla. 1st DCA 2011) (quoting Mangold v. Rainforest Golf Sports Ctr., 675 So. 2d 639, 642 (Fla. 1st DCA 1996)).[10]

Under the Department's construction of the third clause of section 551.102(4), a referendum could only occur if another statute (or a constitutional amendment) was enacted (or adopted) authorizing a referendum. But that was the status quo before section 551.102(4) was amended (or, indeed, enacted). It goes without saying that the Legislature could enact or amend a statute, or that the people could adopt a constitutional amendment, authorizing a referendum. That was true before chapter 2009-170, section 19, was enacted, and remains true after the enactment. There was no need or purpose in enacting a statutory provision to state the obvious. "We have recognized that 'the Legislature does not intend to

[10] Contrary to the Department's assertion, our interpretation does not render superfluous the language "after the effective date of this section." See Ch. 2009-170, § 26, at 1803, Laws of Fla. (providing in part that "[s]ections 4 through 25 [of this act] shall take effect only if the Governor and an authorized representative of the Seminole Tribe of Florida execute an Indian Gaming Compact . . ., only if the compact is ratified by the Legislature, and only if the compact is approved or deemed approved, and not voided pursuant to the terms of this act, by the Department of the Interior, and such sections take effect on the date that the approved compact is published in the Federal Register"); see also Ch. 2010-29, §§ 4-5, at 295, Laws of Fla. (amending ch. 2009-170, § 26, Laws of Fla. and providing that "[s]ections 4 through 25 of chapter 2009-170, Laws of Florida, shall take effect July 1, 2010"). The effective date of the statute was uncertain at the time of its enactment. Nor does our interpretation render superfluous the phrase "pursuant to a statutory or constitutional authorization." Section 125.01(1)(y), Florida Statutes (2012) requires "a majority vote of the total membership of the legislative and governing body," here the Gadsden County Commission, to place a question or proposition on the ballot.

enact useless provisions, and courts should avoid readings that would render [any] part of a statute meaningless.' State v. Goode, 830 So. 2d 817, 824 (Fla. 2002); see also Martinez v. State, 981 So. 2d 449, 452 (Fla. 2008) (repeating this quote). '[W]ords in a statute are not to be construed as superfluous if a reasonable construction exists that gives effect to all words.' State v. Bodden, 877 So. 2d 680, 686 (Fla. 2004)." Metro. Cas. Ins. Co. v. Tepper, 2 So. 3d 209, 215 (Fla. 2009).[11] We decline the invitation to interpret the third clause in a way that would render the clause perfectly meaningless, nugatory and without any legal effect.

Nor is the Department's reliance on sections 551.101 and 551.104(2)[12] persuasive. "When reconciling statutes that may appear to conflict, the rules of

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[11] See also Butler v. State, 838 So. 2d 554, 555-56 (Fla. 2003) ("Because the Legislature does not intend to enact purposeless or useless laws, the primary rule of statutory interpretation is to harmonize related statutes so that each is given effect." (citation omitted)); Sharer v. Hotel Corp. of America, 144 So. 2d 813, 817 (Fla. 1962) ("It should never be presumed that the legislature intended to enact purposeless and therefore useless, legislation. Legislators are not children who build block playhouses for the purpose, and with the gleeful anticipation, of knocking them down. It would be the heighth [sic] of absurdity to assume that the legislature intentionally prescribed a formula which creates the need for a Special Disability Fund, and in the next breath deviously destroyed its own handiwork – thus making a mockery of the intended beneficent purpose of the Special Disability Fund itself. . . . We cannot be persuaded that a majority of the legislators designedly used an indirect, unusual and abnormal procedure. It suggests either inadvertence or cabal." (footnote omitted)).

[12] Enacted after article X, section 23 of the Florida Constitution was adopted, but before section 551.102 was amended, section 551.101 provides:

> Any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution

statutory construction provide that a . . . more recently enacted statute will control over older statutes. See Palm Bch. Cnty. Canvassing Bd. v. Harris, 772 So.2d 1273, 1287 (Fla. 2000); see also ConArt, Inc. v. Hellmuth, Obata + Kassabaum, Inc., 504 F.3d 1208, 1210 (11th Cir. 2007). With regard to th[is] . . . rule, th[e Florida Supreme] Court has explained '[t]he more recently enacted provision may be viewed as the clearest and most recent expression of legislative intent.' Harris, 772 So.2d at 1287." Fla. Virtual Sch. v. K12, Inc., 148 So. 3d 97, 102 (Fla. 2014). The Department's reliance on this provision (together with it the maxim inclusio

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> that has conducted live racing or games during calendar years 2002 and 2003 may possess slot machines and conduct slot machine gaming at the location where the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to such permitholder's valid pari-mutuel permit provided that a majority of voters in a countywide referendum have approved slot machines at such facility in the respective county. Notwithstanding any other provision of law, it is not a crime for a person to participate in slot machine gaming at a pari-mutuel facility licensed to possess slot machines and conduct slot machine gaming or to participate in slot machine gaming described in this chapter.

Section 551.104(2) provides:

> An application may be approved by the division only after the voters of the county where the applicant's facility is located have authorized by referendum slot machines within pari-mutuel facilities in that county as specified in s. 23, Art. X of the State Constitution.

unius est exclusio alterius) is, moreover, at odds with its issuance of a license for slot machines at Hialeah Race Track.

The Department argues it is precluded from issuing a slot machine license to Gretna Racing because section 551.104(2) "currently allows the Division to approve applications for slot machine permits only from pari-mutuel facilities in [Miami-Dade and Broward C]ounties as specified by article X, section 23, of the Florida Constitution." The actual text of section 551.104(2) provides, however, that an "application may be approved by the division only after the voters of the county where the applicant's facility is located have authorized by referendum slot machines within pari-mutuel facilities in that county as specified in s. 23, Art. X of the State Constitution." (Emphasis supplied.) Article X, section 23 authorized Miami-Dade and Broward Counties to hold county-wide referenda "on whether to authorize slot machines within existing, licensed parimutuel facilities . . . that have conducted live racing or games . . . during each of the last two calendar years before the effective date of this amendment." (Emphasis supplied.)

Hialeah Race Track does not and cannot qualify for licensure pursuant to section 551.104(2) (or the first clause of section 551.102(4)) because live racing or games did not occur there in "each of the last two calendar years before" article X, section 23 was adopted. The parties stipulated in the proceedings below that "Hialeah's application was submitted under the second (2nd) clause of §

551.102(4), F.S., enacted effective 7/1/10," not under section 551.104(2). The second clause, like the third clause, expands the universe of eligible facilities[13] beyond the initial seven addressed in article X, section 23 and section 551.104(2). Hialeah Race Track, like Gretna Racing's horsetrack facility, was not among the initial seven facilities.

Gadsden County complied with all requirements for placing the question on the ballot, and a majority of Gadsden County voters approved slot machines at Gretna Racing's pari-mutuel horsetrack facility. Gadsden County held its referendum after July 1, 2010, the date the legislation amending section 551.102(4) took effect. The Gadsden County Commission had clear, statutory authority to place the question on the ballot. See § 125.01(1)(y), Fla. Stat. (2012). See also Watt v. Firestone, 491 So. 2d 592, 593 (Fla. 1st DCA 1986) (stating non-charter counties have authority to conduct referenda[14] on casino gambling under article

[13] Summarizing the 2009 amendment to section 551.102(4), the title to Chapter 2009-170 described its effect as: "amending s. 551.102, F.S.; redefining the terms 'eligible facility' and 'progressive system' to include licensed facilities in other jurisdictions," not just in Miami-Dade or Broward. Ch. 2009-170, at 1749, Laws of Fla. This description of the amendment makes clear its purpose to redefine eligible facilities, not merely to lay the (wholly unnecessary) groundwork for a subsequent statute or constitutional amendment to redefine terms.

[14] "[T]he referendum power 'can be exercised whenever the people through their legislative bodies decide that it should be used.' Florida Land Co. v. City of Winter Springs, 427 So. 2d 170, 173 (Fla. 1983)." Holzendorf v. Bell, 606 So. 2d 645, 648 (Fla. 1st DCA 1992). Black's Law Dictionary 1285 (7th ed. 1999) defines "referendum" as: "1. The process of referring . . . an important public issue to the people for final approval by popular vote. 2. A vote taken by this

VIII, section 1(f) of the Florida Constitution and section 125.01, Florida Statutes); Crescent Miami Ctr., LLC v. Fla. Dep't of Revenue, 903 So. 2d 913, 918 (Fla. 2005) ("Florida's well-settled rule of statutory construction [is] that the legislature is presumed to know the existing law when a statute is enacted, including judicial decisions on the subject concerning which it subsequently enacts a statute." (internal quotation marks and citations omitted)). Because the countywide referendum was held "after the effective date of" the amendment to section

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method." Unlike a referendum required for approval of a special law (see article III, section 10, Florida Constitution, which provides: "No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the area affected."), voter approval of slot machines does not automatically result in issuance of a license. Private parties, situated as described in Chapter 551, must then take the initiative and make application for a license. Since issues may arise regarding whether an applicant satisfies other statutory requirements for licensure, the grant of a license is not automatic.

The Department asserts, for the first time on appeal, that the favorable response of Gadsden County voters to a "sentiment" question about slot machines was not the specifically authorized referendum required by section 551.102(4). See generally D.R. Horton, Inc.- Jacksonville v. Peyton, 959 So. 2d 390, 397 (Fla. 1st DCA 2007) ("When the trial court reaches the right result, but for the wrong reasons, that decision will be upheld on appeal if there is any basis which would support the judgment in the record." (citing Dade Cnty. Sch. Bd. v. Radio Station WQBA, 731 So. 2d 638, 644-45 (Fla. 1999))). The Department's argument that section 125.01(1)(y), Florida Statutes, does not authorize Gadsden County to hold a legally binding referendum regarding slot machines and that obtaining "an expression of voter sentiment" is "notably different from referring a legislative act to the people for 'final approval by popular vote'" cannot be reconciled with Watt v. Firestone, 491 So. 2d 592, 593 (Fla. 1st DCA 1986).

551.102(4), Gretna Racing is an "eligible facility," as defined in section 551.102(4).

We certify the following as a question of great public importance:

> WHETHER THE THIRD CLAUSE OF SECTION 551.102(4), FLORIDA STATUTES (2010) AUTHORIZES THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, DIVISION OF PARI-MUTUEL WAGERING TO LICENSE SLOT MACHINES AT QUALIFYING LICENSED PARI-MUTUEL FACILITIES IN ANY COUNTY, OTHER THAN MIAMI-DADE COUNTY, IN WHICH VOTERS APPROVE SUCH LICENSURE BY A COUNTYWIDE REFERENDUM, IN THE ABSENCE OF ADDITIONAL STATUTORY OR CONSTITUTIONAL AUTHORIZATION ENACTED OR ADOPTED AFTER JULY 1, 2010?

Reversed and remanded with directions to grant Gretna Racing's application for licensure.

CLARK, J., CONCURS; MAKAR, J. DISSENTS WITH OPINION.

MAKAR, J., dissenting.

Gadsden County, where the pari-mutuel facilities of Gretna Racing, LLC, are located, held a countywide non-binding vote in January 2012, the result of which showed that the sentiments of a majority of its electorate favor slot machines at those facilities. Based upon that vote, Gretna Racing now seeks a license for slot machines. Via local referenda authorized by a 2004 state constitutional amendment, however, slot machines were approved and are currently permitted in only two Florida counties: Miami-Dade and Broward. Art. X, § 23, Fla. Const. The question in this statutory interpretation case is whether the Legislature intended to allow expansion of slot machines via local referendum into all other Florida counties in like manner through a 2009 enactment. Ch. 2009-170, Laws of Florida, § 19 (amending section 551.102(4), Fla. Stat.). Because the Gadsden County vote was not an authorized "referendum," amounting to only a non-binding vote of the electorate, it has no binding legal effect. Moreover, nothing in the language, structure, or history of slot machine legislation, including section 551.102(4), Florida Statutes, provides authorization for the holding of slot machine referenda in counties other than Miami-Dade and Broward counties. The administrative order denying issuance of a slot machine license to Gretna Racing should be upheld.

I.

A. The 1885 Constitution

Florida has no history or tradition of allowing slot machines within its borders. To the contrary, other than a very brief period in the State's history—a depression era lacuna from about 1935 to 1937 when the state legislature and the state supreme court were briefly in synch over their legality in highly limited circumstances—slot machines have been prohibited as unlawful lotteries from statehood until the recent passage of a constitutional amendment in 2004 authorizing referenda in Miami-Dade and Broward Counties to permit their usage (more on that later).

The 1885 Constitution prohibited lotteries. Art. III, § 23 (1885) ("Lotteries are hereby prohibited in this State.") As mechanical slot machines developed shortly before the turn of the century, they were generally considered within this prohibition. Because the 1885 Constitution did not define the scope of what constituted a lottery, the Legislature had a degree of flexibility in determining its definitional parameters, which it exercised by enacting the State's first slot machine statute in 1935, allowing for their use. By doing so, the Florida Supreme Court was put in the position of deciding whether slot machines were impermissible under the state constitution's anti-lottery provision, resulting in a judicial decision that altered the three-part lottery test that had prevailed since

shortly after the 1885 Constitution was enacted (a lottery = prize + chance + consideration). In an adroit ruling, the supreme court added a fourth part to the test—widespread operation—which allowed the use of slot machines unless they became too prevalent. That decision, Lee v. City of Miami, 163 So. 486 (Fla. 1935), upheld the facial validity of a statute allowing the use of specified slot machine-like devices, but held that their widespread use might amount to an impermissible lottery under the constitutional prohibition. Id. at 490 ("It may be that some of [the coin-operating vending machines], or possibly all of them in their operation, will become [illegal lotteries]; but we leave that question to be determined when a specific case arises."); see also Hardison v. Coleman, 164 So. 520, 524 (Fla. 1935) (lotteries include "such gambling devices or methods which because of their wide or extensive operation a whole community or country comes within its contaminating influence"). Thus, as of 1935, a limited class of slot machines were deemed permissible, and were authorized by legislative act, so long as their use was not widespread or extensive across a community.

Slot machines, like the proverbial camel's nose under the tent, rapidly proliferated but soon fell in disfavor due to their widespread use and deleterious effects.[15] As one commentator has noted:

[15] See generally Stephen C. Bousquet, The Gangster in Our Midst: Al Capone in South Florida 1930-1947, 76 Fla. Hist. Q. 297, 307 (1998) (history of gangster Al Capone in Miami, noting that "wide-open gambling rackets in South Florida

> When the Florida Supreme Court decided *Lee* and *Hardison* in 1935, it must have viewed slot machines as novelties and standalone devices, like Mr. Hardison's slot machine, as opposed to paper lottery tickets, which could be sold and distributed all over a community. Things did not unfold in the next two years in the way the Florida Supreme Court apparently expected in 1935. In 1937, the Florida comptroller, the same J.M. Lee who had prevailed in *Lee*, prepared a document for Florida Governor Fred Cone estimating there to be 10,000 slot machines with total yearly play of $52 million in Florida. Even children were allowed to gamble on these machines. Slot machines in their actual operation had collectively turned out to be widespread and lotteries under *Lee*'s criteria, but the Florida Supreme Court did not have a case to revisit the issue directly. Instead, the legislature and Governor Cone took matters into their own hands by repealing the 1935 slot machine statute in 1937. The vote for repeal in the legislature was overwhelming. This repeal statute, which also banned slot machines, was authored and vigorously championed by a young representative and future Florida governor named LeRoy Collins, who called the two-year experience with slot machines "a dose of moral poison."

David G. Shields, Slot Machines in Florida? Wait A Minute, Fla. B.J., Sept./Oct. 2013, at 12 (footnotes omitted). In two years, a complete turn of the wheel had occurred; slot machines were prohibited once again. By 1939, the three-part test was back in force; the "widespread operation" part that the court temporarily relied upon to legitimize slot machines was now absent. See Little River Theatre Corp. v. State ex rel. Hodge, 185 So. 855, 861 (Fla. 1939) ("The authorities are in accord that a lottery has three elements; first, a prize; second, an award by chance; and, third, a consideration."). And slot machines were again relegated to nothing more

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stretched from Coral Gables north to Fort Lauderdale" and that the "legalization of racetrack betting in 1931, and of slot machines four years later, made South Florida a mecca for gamblers.").

than a societal menace. Pasternack v. Bennett, 190 So. 56, 57 (Fla. 1939) ("[I]t is definitely settled in this jurisdiction that those devices commonly known as slot machines are gambling devices; that the use and operation of them has a baneful influence on the persons who indulge in playing them and that they constitute such a menace to public welfare and public morals as to be subject to the police power of the State to regulate, control, prohibit or destroy them.").

B. The 1968 Constitution

Over three decades passed before the issue of lotteries arose again. In adopting a new state constitution, the people of the State of Florida included an anti-lottery provision that drew upon the 1885 constitution's ban of all lotteries with the limitation that certain existing types of pari-mutuel pools would be allowed to continue. The new anti-lottery provision stated: "Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state." Art. X, § 7, Fla. Const. (1968). In essence, the 1968 constitutional revision cemented in place the statewide ban on all types of lotteries (which would include slot machines used on a widespread basis), allowing only the limited types of gaming that then existed by law.

This point was made in a case out of Jacksonville, Florida, in which the legality of bingo was questioned under the new constitution. By close vote, the Florida Supreme Court held that because bingo was legislatively authorized at the

time of article X, section 7's enactment, it was grandfathered in as a permissible lottery.

> Obviously, the makers of our 1968 Constitution recognized horse racing as a type of lottery and a 'pari-mutuel pool' but also intended to include in its sanction those other lotteries then legally functioning; namely, dog racing, jai alai and bingo. *All other lotteries including bolito, cuba, slot machines, etc., were prohibited.*

Greater Loretta Imp. Ass'n v. State ex rel. Boone, 234 So. 2d 665, 671-72 (Fla. 1970) (emphasis added). As the highlighted language makes evident, the supreme court—consistent with article X, section 7's clear language—drew a bright line: existing "lotteries" such as pari-mutuel pools for dog racing, jai alai and bingo survived; all other "lotteries" including "slot machines" were impermissible. Whatever authority the Legislature may have previously had to allow these types of gaming was gone. A broad definition of lottery now prevailed, one that included slot machines, but which excluded gaming then-sanctioned by legislation. A new era was ushered in, one in which a constitutional amendment was necessary to allow any type of activity broadly understood as a lottery under article X, section 7 other than those grandfathered in. This understanding of the constitutional language, as interpreted in Greater Loretta was put into doubt in 2004, as the next section explains.

C. The 2004 Slots Amendment and Chapter 551

After the decision in Greater Loretta, interest in expanding gaming in

Florida via constitutional amendment increased. Various failed proposals were attempted.[16] In the 1986 general election, however, the state constitution was amended to authorize a state-run lottery whose net proceeds would be put in a state education trust fund. Art. X, § 15(a), Fla. Const. ("Lotteries may be operated by the state.").

Starting in 2002, an effort was made to amend the constitution to allow slot machines in all counties by local referenda. Proposed section 19(a) of the amendment stated:

> (a) Slot machines are hereby permitted in those counties where the electorate has authorized slot machines pursuant to referendum, and then only within licensed pari-mutuel facilities (*i.e.*, thoroughbred horse racing tracks, harness racing tracks, jai-alai frontons, and greyhound dog racing tracks) authorized by law as of the effective date of this section, which facilities have conducted live pari-mutuel wagering events in each of the two immediately preceding twelve month periods.

Advisory Op. to the Att'y. Gen. re Authorization for Cnty. Voters to Approve or Disapprove Slot Machines Within Existing Pari-Mutuel Facilities, 813 So. 2d 98, 99 (Fla. 2002). The proposal was held to violate the single subject requirement and was thereby removed from the ballot.

In 2004, a more limited constitutional amendment was proposed "that would

[16] See, e.g., Floridians Against Casino Takeover v. Let's Help Florida, 363 So. 2d 337 (Fla. 1978) (proposed amendment to authorize state-regulated, privately operated casino gambling in Dade and Broward Counties with tax revenues to be used for education and local law enforcement purposes) (allowed on ballot, but failed).

permit two Florida counties to hold referenda on whether to permit slot machines in certain parimutuel facilities." Advisory Op. to the Att'y. Gen. re Authorizes Miami-Dade & Broward Cnty. Voters To Approve Slot Machines In Parimutuel Facilities, 880 So. 2d 522 (Fla. 2004) ("Advisory Op. re: Slot Machines").[17] Those

[17] The proposal was as follows:

> Article X, Florida Constitution, is hereby amended to add the following as section 19:
> SECTION 19. **SLOT MACHINES**-
> (a) After voter approval of this constitutional amendment, the governing bodies of Miami-Dade and Broward Counties each may hold a county-wide referendum in their respective counties on whether to authorize slot machines within existing, licensed parimutuel facilities (thoroughbred and harness racing, greyhound racing, and jai-alai) that have conducted live racing or games in that county during each of the last two calendar years before the effective date of this amendment. If the voters of such county approve the referendum question by majority vote, slot machines shall be authorized in such parimutuel facilities. If the voters of such county by majority vote disapprove the referendum question, slot machines shall not be so authorized, and the question shall not be presented in another referendum in that county for at least two years.
> (b) In the next regular Legislative session occurring after voter approval of this constitutional amendment, the Legislature shall adopt legislation implementing this section and having an effective date no later than July 1 of the year following voter approval of this amendment. Such legislation shall authorize agency rules for implementation, and may include provisions for the licensure and regulation of slot machines. The Legislature may tax slot machine revenues, and any such taxes must supplement public education funding statewide.
> (c) If any part of this section is held invalid for any reason, the remaining portion or portions shall be severed from the invalid portion and given the fullest possible force and effect.
> (d) This amendment shall become effective when approved by vote

opposing the so-called Slots Amendment argued in their briefs that the amendment, if passed, would allow a form of lottery and thereby amend the anti-lottery provision of the constitution without saying so in the ballot summary. No party cited Greater Loretta, nor did the Florida Supreme Court in its advisory opinion, which said—contrary to both Greater Loretta's statement that slot machines are an impermissible type of lottery under the 1968 constitution, and the holdings in Lee and Hardison that slot machines would be impermissible lotteries if in widespread use—that slot machines are *not* a form of lottery. Id. at 525. In doing so, the supreme court relied only on its 1930s decisions in Lee and Hardison, citing them for the proposition that the court had "long since settled the question of whether slot machines constitute lotteries." Id. at 525. On its face, the supreme court's advisory opinion overlooked its precedent in Greater Loretta and misapprehended the limited scope of Lee and Hardison, which during their fleeting shelf lives in the 1930s never authorized slot machines on a widespread basis.

To effectuate the Slots Amendment, the Legislature in 2005 enacted Chapter 551, Florida Statutes, entitled "Slot Machines", which laid out the authority for slot machines in Miami-Dade and Broward Counties and the manner in which they would be regulated. As to authority, the statute in section 551.101, entitled "**Slot**

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of the electors of the state.

Advisory Op. re: Slot Machines, 880 So. 2d at 522-23. After passage, it was placed in section 23 of article X rather than section 19.

machine gaming authorized," stated—and still states today—as follows:

> Any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 may possess slot machines and conduct slot machine gaming at the location where the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to such permitholder's valid pari-mutuel permit provided that a majority of voters in a countywide referendum have approved slot machines at such facility in the respective county. Notwithstanding any other provision of law, it is not a crime for a person to participate in slot machine gaming at a pari-mutuel facility licensed to possess [slot machines] and conduct slot machine gaming or to participate in slot machine gaming described in this chapter.

§ 551.101, Fla. Stat.; Ch. 2005-362, § 1, Laws of Fla. The bracketed phrase was added in 2007. Ch. 2007-5, § 129, Laws of Fla. No other change has been made to this section, which specifies the breadth of the counties for whom authorization is explicitly authorized: Miami-Dade and Broward only.

This point was emphasized in an inter-branch dispute over the State's gaming compact with the Seminole Tribe. See Fla. House of Reps. v. Crist, 999 So. 2d 601, 614 (Fla. 2008) ("The state's constitution authorizes the state lottery, which offers various Class III games, *and now permits slot machines in Miami–Dade and Broward Counties*.") (emphasis added). Indeed, in holding that Governor Crist exceeded his authority in signing a compact with the Seminole Tribe that allowed for gaming that was illegal under Florida law, the Florida Supreme Court said "[i]t is . . . undisputed . . . that the State prohibits all other

types of Class III gaming, including lotteries not sponsored by the State *and slot machines outside Miami–Dade and Broward Counties*." Id. (emphasis added). In other words, as of 2008, the supreme court recognized that slot machines continued to be illegal other than in Miami-Dade and Broward Counties, seemingly in conflict with the supreme court's 2004 statement in Advisory Opinion re: Slot Machines.

D. The 2009 Amendments to Chapter 551

Because the gaming compact with the Seminole Tribe had just been deemed illegal, during its next general session in 2009 the Florida Legislature was consumed with enacting legislation to ensure a legal compact was achieved, which resulted in last minute legislative ping-pong between the Senate and House to finalize what ultimately was chapter 2009-170, Laws of Florida. What began and progressed through the session as a bill devoted entirely to the Seminole Tribe gaming compact issue, Senate Bill 788 ultimately morphed into a final bill that also included the amendment to section 551.102(4) at issue here.

During the conference committee process, the following amendment to section 551.102 was added and approved:

> 551.102. Definitions.
> As used in this chapter, the term:
>
> (4) "Eligible facility" means any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted

> live racing or games during calendar years 2002 and 2003 and has been approved by a majority of voters in a countywide referendum to have slot machines at such facility in the respective county; any licensed pari-mutuel facility located within a county as defined in s. 125.011, provided such facility has conducted live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter; or any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section in the respective county, provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required licensed fee, and meets the other requirements of this chapter.

Ch. 2009-170, § 19, Laws of Fla. Sections 4 through 25 of the act would not take effect by their enactment; instead, they would only take effect if specified events in the process of establishing the Seminole Gaming Compact were achieved.[18] These conditions precedent were removed during the next legislative session. Ch. 2010-29, § 4, Laws of Fla.

The 2009 amendment to "eligible facilities" has two clauses, referred to as the "second clause" and "third clause." The former, which was designed to expand

[18] The contingencies were met "if the Governor and an authorized representative of the Seminole Tribe of Florida execute an Indian Gaming Compact pursuant to the Indian Gaming Regulatory Act of 1988 and requirements of this act, only if the compact is ratified by the Legislature, and only if the compact is approved or deemed approved, and not voided pursuant to the terms of this act, by the Department of the Interior, and such sections take effect on the date that the approved compact is published in the Federal Register." Ch. 2009-170, § 26, Laws of Fla.

the number of facilities in Miami-Dade County beyond those existing at the time, was upheld in Florida Gaming Centers, Inc. v. Florida Department. of Business & Professional Regulation, 71 So. 3d 226 (Fla. 1st DCA 2011) (statute allowing holders of pari-mutuel wagering permits in Miami-Dade County to obtain approval for slot machines in that county did not violate constitutional provision authorizing slot machine gaming in Miami–Dade County; legislature may expand slot machine gaming beyond the existing facilities provided they meet the specified criteria). The third clause, the one at issue in this litigation, is claimed by Gretna Racing to be the Legislature's expression of authority to allow slot machine referenda in any of the other sixty-five counties; the Department reads its differently, siding with the hearing officer and the Attorney General, who read it to say that the authorization for slot machine referenda does not exist other than in Miami-Dade and Broward Counties.

II.

A.

This case has been presented as a statutory interpretation case, but, as an initial matter, it is not at all clear that the Legislature has the constitutional authority to expand the use of slot machines outside of the geographic areas of Broward and Miami-Dade Counties as permitted by article X, section 23. The Florida Supreme Court's decision in Greater Loretta, which has not been

overturned, explicitly held that article X, section 7, of the 1968 Constitution, prohibited—as a form of lottery—the use of slot machines anywhere in the State. It is worth repeating: "All other lotteries including bolito, cuba, *slot machines*, etc., were *prohibited*." 234 So. 2d at 672 (emphasis added). Yet the supreme court in Advisory Opinion re: Slot Machines in 2004 stated its belief that its 1930s decisions involving slot machines had settled the question of whether slot machines are lotteries, but it did so without so much as mentioning its directly contrary decision in Greater Loretta; the supreme court is not in the habit of silently overruling its precedents. Puryear v. State, 810 So. 2d 901, 905-06 (Fla. 2002) ("We take this opportunity to expressly state that this Court does not intentionally overrule itself sub silentio."). So which is it? Are slot machines a form of lottery that only the people may approve via constitutional amendment? Or are slot machines not prohibited as lotteries under article X, section 7, which may be legislatively authorized statewide without constitutional authority?

Despite the uncertainty that exists, counsel for Gretna Racing and the Department at oral argument disagreed with the notion that any constitutional limitation exists on the Legislature's authority to expand slot machines statewide; they disagreed only on whether the statute at issue was intended to do so without additional statutory or constitutional authority. Similarly, some argue that this Court has already implicitly held in Florida Gaming Centers that the Legislature is

not limited by the anti-lottery provision in article X, section 7, and may expand slot machines statewide if it chose to do so. That case, of course, did not make such a holding, didn't even mention Greater Loretta, and was limited to only whether a facility *in Miami-Dade County* could be legislatively included as an eligible facility for slot machines in that already-approved jurisdiction. 71 So. 3d at 227-29. That the Legislature allowed additional facilities in a county already authorized by article X, section 23, to have slot machines is a far different question than whether the Legislature may allow expansion into the other sixty-five counties that have not been given constitutional authority to hold slot machine referenda. As such, it appears that a serious unresolved question exists, one upon which this Court need not pass to resolve the specific dispute this case, but one for which a clear resolution is needed. See generally Shields, supra (discussing the need to address the conflict between Greater Loretta and Advisory Opinion re: Slot Machines).

B.

Bearing in mind the history of the illegality of slot machines in Florida, and keeping the Florida Supreme Court's uncertain jurisprudence about slot machines as lotteries as a backdrop, we turn to the statutory interpretation question at issue: Did the Legislature intend its 2009 amendment to the definition of "eligible facility" in section 551.102(4) to authorize the sixty-five counties other than Miami-Dade and Broward to hold slot machine referenda in their jurisdictions

without the passage of additional authority for such referenda?

The key portion to be interpreted is whether "a majority of voters have approved slot machines at such facilities in a countywide referendum *held pursuant to a statutory or constitutional authorization after the effective date of this section* in the respective county." § 551.102(4), Fla. Stat. (emphasis added). The question is which of two differing interpretations of the italicized phrase should prevail.

Gretna Racing operates a pari-mutuel facility in Gadsden County, which held a "voter's sentiments" election on January 31, 2012, on the topic pursuant to section 125.01(1)(y), Florida Statutes. Gretna Racing reads this phrase as two separate and independent provisions: "*held [1] pursuant to a statutory or constitutional authorization [2] after the effective date of this section.*" It reads the latter portion—[2]—to mean that a county is authorized to hold a local vote on slot machine approval "after the effective date" of the statute. Rather than modifying the immediately adjacent word "authorization," it views [2] as modifying the word "held" only, which appears eight words earlier. It reads the former portion—[1]—as meaning that slot machine approval need only be "pursuant to a statutory or constitutional authorization" on the books at the time of the vote. It rejects reading [1] and [2] together as requiring specific or additional statutory or constitutional authorization for county referenda to approve slot machines, such as the

authorization given to Miami-Dade and Broward under article X, section 23; instead, a county may hold a slot machine vote under whatever existing general authority it has to submit a vote to the public.

The Department offers a different view, one that is consistent with a plain reading of the statute, the rules of statutory construction, and the history of slot machine legislation in Florida. The Department views the phrase "pursuant to a statutory or constitutional authorization after the effective date of this section" as one continuous, connected union of words that collectively state the authority to which a slot machine referendum must be held. The phrase, in total, directly follows and modifies the words "referendum held" to explain that the "statutory or constitutional authorization" for a referendum on slot machines must be "after the effective date of this section." In other words, the legal "authorization" for such a vote is not already on the books; the authorization must be "after" the section's effective date.

This reading is superior to that posited by Gretna Racing in many ways. First, under a plain reading approach the language at issue is essentially one long adjective modifying "referendum," explaining what authorization is necessary for future county referenda on slot machines. It does not require that the two components of the phrase, [1] and [2], be separated and moved about like refrigerator magnets to restructure and thereby change the meaning of the statute.

Under Gretna Racing's reading, the statute would read: "referendum held [2] after the effective date of this section and [1] pursuant to an existing general statutory or constitutional authorization of referenda ~~after the effective date of this section~~." Separating and re-positioning the phrase "after the effective date of this section" to an earlier point changes the statute markedly; detaching the two neighboring words "authorization after" from one another removes the direct temporal connection between them. Read as written by the Legislature, the "statutory or constitutional authorization" for the referenda must have arisen "after the effective date of this section." Moreover, the phrase "referendum held pursuant to *a* statutory or constitutional authorization after the effective date of this section" envisions a separate and distinct *new* basis of authority; if existing referenda powers were enough, the statute need only say "held pursuant to ~~a~~ statutory or constitutional authorization," making the "a" redundant. It is plain that this statute alone does not provide the authorization for statewide slot machine referenda.

This perspective is consistent with the Attorney General's view of the third clause, upon which the hearing officer heavily relied:

> Applying standard rules of statutory and grammatical construction, it is clear that the phrase "after the effective date of this section" modifies the words immediately preceding it, *i.e.*, "a statutory or constitutional authorization." Specifically, under the last antecedent doctrine of statutory interpretation, qualifying words, phrases, and clauses are to be applied to the words or phrase immediately preceding, and are not to be construed as extending to others more remote, unless a contrary intention appears. Here, all pertinent

> considerations confirm that the Legislature intended that any statutory or constitutional authorization for a slots-approving referendum must occur after July 1, 2010, the effective date of the relevant portion of section 551.102(4), Florida Statutes.

Op. Att'y Gen. 12-01 (2012) (internal citations and footnotes omitted); see also State v. Family Bank of Hallandale, 623 So. 2d 474, 478 (Fla. 1993) ("Although an opinion of the Attorney General is not binding on a court, it is entitled to careful consideration and generally should be regarded as highly persuasive."); Beverly v. Div. of Beverage of Dep't. of Bus. Reg., 282 So. 2d 657, 660 (Fla. 1st DCA 1973) (official opinions of the Attorney General, though not binding, are "entitled to great weight in construing the law of this State."). The Attorney General continued, saying:

> Similarly, if a county's existing powers were sufficient to authorize a slots-approving referendum, there would be no need to include the phrase "pursuant to a statutory or constitutional authorization." Had the Legislature simply been referring to a county's existing statutory or constitutional authority, the following stricken language could have been omitted without causing any change in the meaning of the statute:
>
> > "any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held after the effective date of this section in the respective county, provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required licensed fee, and meets the other requirements of this chapter."
>
> Instead, the Legislature chose to mandate that the referendum be held

> "pursuant to a statutory or constitutional authorization"—an explicit qualifier that appears to be unique in the Florida Statutes. Indeed, no other referendum provision in the Florida Statutes employs similar language. Thus, I cannot conclude that the language "statutory or constitutional authorization" merely recognizes a county's authority in existence as of the effective date of the act. Rather, the Legislature's chosen language requires the adoption of a statute or constitutional amendment specifically authorizing a referendum to approve slot machines.

Op. Att'y Gen. Fla. 12-01 (2012) (footnotes omitted). Her opinion, though not binding, and merely persuasive, is spot on.

The statute need not be rewritten to achieve the Department's view by inserting the word "enacted" between "authorization" and "after" (i.e., "pursuant to statutory or constitutional authorization enacted after the effective date of this section."). While insertion of the word "enacted" may provide a degree of clarity, it is unnecessary. And from a grammatical viewpoint, the statute would need to say "pursuant to a statute ~~statutory~~ or constitutional amendment ~~authorization~~ enacted after the effective date of this section" to be intelligible. Statutes and constitutions can be "enacted"; saying an "authorization" was "enacted" is exceptionally awkward.

Second, the Department's reading is more faithful to the statute's structure and answers the question of what legal authorization is necessary for local slot referenda. Keep in mind that no statutes exist, other than those passed to effectuate referenda in Miami-Dade and Broward as constitutionally authorized, see, e.g.,

§§ 551.101 (slot machines in Miami-Dade and Broward authorized "provided that a majority of voters in a countywide referendum have approved slot machines at such facility in the respective county.") and .104(2) ("An application may be approved by the division only after the voters of the county where the applicant's facility is located have authorized by referendum slot machines within pari-mutuel facilities in that county as specified in s. 23, Art. X of the State Constitution."), that provides authorization for slot machine approval via county referenda. Gretna Racing cannot point to any such authorization; all it relies upon is a generalized "voter sentiment" statute (discussed later) that provides no authorization for approval of any substantive matter of county concern. § 125.01(y), Fla. Stat. Gretna Racing's reading of section 551.102(4) would transform an exceedingly limited authority for county straw polls into a broad authority to expand slot machines statewide, which cannot possibly be what the Legislature intended.

Third, if the Legislature truly intended to immediately expand the authority of counties to hold referenda on slot machines, without future "statutory or constitutional authorization" for such referenda, it assuredly would have amended a critical portion of the slot machine statute, which is the authorization section, entitled "Slot machine gaming authorized." § 551.101, Fla. Stat. That statute, which limits authorized slot machine gaming to Miami-Dade and Broward Counties, was not amended to include any other possibilities.

Fourth, it takes little imagination to envision, particularly in the heat of an internal debate over legislation about the Seminole Tribe gaming compact, that the potential proliferation of slot machines statewide in competition with the Tribe's gaming operations would merit some legislative statement about how local expansion beyond Miami-Dade and Broward might occur. On this point, the Attorney General, recognizing the context in which section 551.102(4) was amended, said:

> [T]he conclusion that additional legislative authorization is required for a slots-approving referendum gives due recognition to the context in which the Legislature adopted the relevant portion of section 551.102(4), Florida Statutes. The language in question took effect as part of legislation ratifying a gaming compact between the State and the Seminole Tribe of Florida, which contained provisions mandating a reduction or loss of revenue to the State in response to an expansion of slot machine gambling beyond that which existed at the time of the compact's adoption. To read the pertinent language in section 551.102(4) as allowing counties other than Miami-Dade and Broward by referendum to authorize slot machines, absent specific legislative or constitutional authority, would be at odds with the legislation as a whole. Specifically, that interpretation of the statute would eliminate the State's control over its continued entitlement to a substantial amount of revenue from the Seminole Tribe. In light of the intense consideration and debate that went into the Legislature's approval of the Seminole compact, it is virtually unthinkable that the Legislature would have intended to both undermine and ratify the compact in the same enactment. The basic canons of statutory interpretation require me to reject a reading of section 551.102(4) that would lead to such an absurd result.

Op. Att'y Gen. Fla. 12-01 (2012). In this context, the third clause is easily seen as a statement that set the parameters for possible future expansion via county

referendum, which would require "statutory or constitutional authorization after the effective date of this section." This view of the statute does not render it meaningless or inconsequential. It reflects that the authority to expand slot machines beyond Miami-Dade County must be pursuant to a statutory or constitutional authorization that currently does not exist, which makes sense given the first clause's limitation to Miami-Dade County as well as the doubt that surrounds whether the Legislature has authority to expand slot machines into counties other than Miami-Dade and Broward without a constitutional amendment like article X, section 23. Nothing prohibits legislation that has a contingency that makes a statute effective only upon some triggering event (such as possible future authorization of slot machines on a local basis via referendum). And nothing prohibits the Legislature from enacting a statute that operates as a restraint on society with a stated understanding about how that restraint might be eliminated in the future. Not all statutes are blossoms; some are only seeds. One need look no further than our state constitution, which has a provision allowing for the legislature to pass a special law without notice to an affected community that "is *conditioned to become effective only upon approval by vote of the electors of the area affected*." Art. III, § 10, Fla. Const. (emphasis added). By analogy, the enactment of the third clause in 551.102 was the legislature acting in anticipation of a contingency.

Fifth, to the extent one sees an ambiguity in the statute, the legislative history, exceptionally limited as it is (nothing written, only comments by legislators during a floor debate), is helpful. The Attorney General's opinion is again persuasive on this point:

> Legislative intent, the cornerstone of all statutory interpretation, may be illuminated by the comments of the sponsor or proponents of a bill or amendment. The Senate bill sponsor, Senator Dennis Jones, gave the following explanation on second reading of the 2010 legislation in response to a question about the local referendum process for a county that wants to add slot machine gaming and how that process would work:
>
> > "Should we want to expand in the future, a Legislature would come back and . . . let's just say we wanted to go to Class III slots, we could not do that as a local bill but we could come up here and file it as a general bill and should that bill pass to allow [a county] to have a referendum of the people and then the people vote on it, if it was passed, we could get Class III slots but it [would] also break the compact with the Indians."
>
> In further clarification, Senator Jones stated:
>
> > "If they have a referendum in a county outside of Miami-Dade and Broward for the purpose of Class III gaming *and the Legislature passes the legislation to allow that county to have the referendum*, the county has the referendum and that referendum passes, then that would effectively break the payments of the compact." (e.s.)
>
> The above explanation by a sponsor of the legislation clearly indicates that, under the pertinent language in section 551.102(4), Florida Statutes, a county referendum to approve slots must be specifically authorized by a statute or constitutional amendment enacted after July 1, 2010. Such an explanation is contrary to any assertion that the Legislature intended the provisions of section 551.102(4), in

> conjunction with a county's already-existing powers, to constitute authority for a county to hold a referendum on slot machine gaming.

Op. Att'y Gen. Fla. 12-01 (2012) (footnotes omitted). In sum, little commends the reading that Gretna Racing places on section 551.104(2), and essentially every meaningful means of statutory interpretation favor the Department's view, which is itself accorded great weight. Orange Park Kennel Club, Inc. v. State, Dept. of Bus. & Prof'l Reg., 644 So. 2d 574, 576 (Fla. 1st DCA 1994) ("An agency's construction of a statute which it administers is entitled to great weight and will not be overturned unless the agency's interpretation is clearly erroneous; the agency's interpretation need not be the sole possible interpretation or even the most desirable one; it need only be within the range of possible interpretations."). What's more, Gretna Racing seeks an exception to the long-standing prohibition against slot machines, the possession and use of which are criminal acts absent clear authorization, which is why the statute at issue is strictly construed as opposed to expansively interpreted. PPI, Inc. v. Dep't of Bus. & Prof'l Reg., Div. of Pari-Mutuel Wagering, 698 So. 2d 306, 308 (Fla. 3d DCA 1997) ("The penny-ante statute is an exception to long-standing Florida law that prohibits all such forms of gambling; as such, it is to be strictly construed."); State v. Nourse, 340 So. 2d 966, 969 (Fla. 3d DCA 1976) ("Being an exception to a general prohibition, any such statutory provision is normally construed strictly against the one who attempts to take advantage of the exception.").

C.

Finally, even if the statute could be read as Gretna Racing suggests, the Gadsden County vote was neither a "referendum" nor did it provide voter approval as section 551.104(2) requires, which states that a "majority of voters have *approved* slot machines at such facilities in a countywide *referendum*" to be eligible. (Emphasis added). The state constitution provides that "Special elections and referenda shall be held as provided by law." Art. VI, § 5, Fla. Const. The phrase "as provided by law" means an act passed by the Legislature. Holzendorf v. Bell, 606 So. 2d 645, 648 (Fla. 1st DCA 1992).

The sole statutory authorization the County relied upon for holding a "referenda" on slot machines, section 125.01(1)(y), Florida Statutes, neither provides for a "referendum" nor does it permit voter approval of any substantive matters. It states in relevant part:

> (1) The legislative and governing body of a county shall have the power to carry on county government. To the extent not inconsistent with general or special law, this power includes, but is not restricted to, the power to:
> . . .
>
> (y) *Place questions or propositions on the ballot* at any primary election, general election, or otherwise called special election, when agreed to by a majority vote of the total membership of the legislative and governing body, *so as to obtain an expression of elector sentiment with respect to matters of substantial concern within the county*. No special election may be called for the purpose of conducting a straw ballot.

§ 125.01(1)(y), Fla. Stat. (emphasis added). Rather than allowing for voter *approval* on a substantive matter, which is the essence of a referendum, see 5 McQuillin Mun. Corp. § 16:51 (3d ed.) ("Referendum is the right of people to have an act passed by the legislative body submitted for their approval or rejection.") (footnote omitted), section 125.01(1)(y) merely allows for voters to express their *sentiments* on a matter. Voter sentiment falls short of voter approval; sentiment is mere opinion akin to a straw vote that is non-binding; approval is authorization, which is binding. City of Miami v. Staats, 919 So. 2d 485, 487 (Fla. 3d DCA 2005) (non-binding straw ballot defective because "it fails to adequately inform the voting public that their response has no official effect, i.e., that the ballot question is simply a nonbinding opinion poll."); 5 McQuillin Mun. Corp. § 16:51 (3d ed.) ("Ordinarily, 'referendum' does not include nonbinding public questions.") (footnote omitted). At most, the County could only have put to the voters the non-binding question of whether they are supportive of slot machines in the Gretna Racing facility. City of Hialeah v. Delgado, 963 So. 2d 754, 757 (Fla. 3d DCA 2007). And to the extent the County's vote under section 125.01(1)(y) is portrayed as a binding "referendum," it was not; it could not have been absent statutory or constitutional authorization giving the County referendum powers. As we said in Holzendorf, "Since the constitution expressly provides that the power of referendum can be granted only by the legislature, it is beyond the power of the

electorate to say what shall or shall not be done by referendum." Id. The administrative order, even if incorrect in its construction of section 551.102(4) is nevertheless legally correct. Dade Cnty Sch. Bd. v. Radio Station WQBA, 731 So. 2d 638, 645 (Fla. 1999) (appellate court not limited to "reasons given by the trial court but rather must affirm the judgment if it is legally correct regardless of those reasons").

III.

The Department's interpretation of the third clause in section 551.102(4) is an entirely reasonable one. The alternative view, which would restructure the statute and change its meaning to allow slot machines to be deployed on a statewide basis without any clear authority to do so, is inconsistent with principles of statutory and constitutional construction, legislative intent, and the history of laws prohibiting slot machines in the State of Florida. Because the issue presented is one of great public importance statewide, the following certified question is appropriate:

> Whether the Legislature intended that the third clause of section 551.102(4) , Florida Statutes, enacted in 2009, authorize expansion of slot machines beyond Miami-Dade and Broward Counties via local referendum in all other Florida counties without additional statutory or constitutional authorization after the effective date of the act?

Should our supreme court choose to review this question, consideration should also be given to resolution of the Legislature's authority under the 1968 Constitution to

authorize slot machines at pari-mutuel facilities in counties other than Miami-Dade or Broward, whose authority arises from article X, section 23. Leisure Resorts, Inc. v. Frank J. Rooney, Inc., 654 So. 2d 911, 912 (Fla. 1995) ("Having accepted jurisdiction, we may review the district court's decision for any error."); Puryear v. State, 810 So. 2d 901, 905-06 (Fla. 2002) ("Where this Court's decisions create this type of disharmony within the case law, the district courts may utilize their authority to certify a question of great public importance to grant this Court jurisdiction to settle the law.").

IN THE DISTRICT COURT OF APPEAL

FIRST DISTRICT, STATE OF FLORIDA

GRETNA RACING, LLC,

Appellant,

v.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, DIVISION OF PARI-MUTUEL WAGERING,

Appellee.

_____/

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF FILED

CASE NO. 1D14-3484

CORRECTED PAGES: pgs 3, 6, 15, 17

CORRECTION IS UNDERLINED IN RED

MAILED: October 5, 2015

BY: NMS

Opinion filed October 2, 2015.

An appeal from a Final Order of the Department of Business and Professional Regulation.

Marc W. Dunbar, Tallahassee and David S. Romanik of David S. Romanik, P.A., Oxford, for Appellant.

David J. Weiss of Ausley & McMullen, P.A., Tallahassee, for Amicus Curiae Gadsden County, Florida in support of Appellant.

Pamela Jo Bondi, Attorney General, Allen Winsor, Solicitor General, Adam S. Tanenbaum, Chief Deputy Solicitor General, and Jonathan A. Glogau, Chief, Complex Litigation, Tallahassee, for Appellee.

ON MOTION FOR REHEARING

MAKAR, J.

Gadsden County, where the pari-mutuel facilities of Gretna Racing, LLC., are located, held a countywide non-binding vote in January 2012, the result of which showed that the sentiments of a majority of its electorate favor slot machines at those facilities. Based upon that vote, Gretna Racing now seeks a license for slot machines. Via local referenda authorized by a 2004 state constitutional amendment, however, slot machines were approved and are currently permitted in only two Florida counties: Miami-Dade and Broward. Art. X, § 23, Fla. Const. The question in this statutory interpretation case is whether the Legislature intended to allow expansion of slot machines via local referendum into all other Florida counties in like manner through a 2009 enactment. See Ch. 2009-170, Laws of Florida, § 19 (amending section 551.102(4), Fla. Stat.). Because the Gadsden County vote was not an authorized "referendum," amounting to only a non-binding vote of the electorate, it has no binding legal effect. Moreover, nothing in the language, structure, or history of slot machine legislation, including section 551.102(4), Florida Statutes, provides authorization for the holding of slot machine referenda in counties other than Miami-Dade and Broward counties. The

administrative order denying issuance of a slot machine license to Gretna Racing is upheld. [1]

I.

A. The 1885 Constitution

Florida has no history or tradition of allowing slot machines within its borders. To the contrary, other than a very brief period in the State's history—a depression era lacuna from about 1935 to 1937 when the state legislature and the state supreme court were briefly in synch over their legality in highly limited circumstances—slot machines have been prohibited as unlawful lotteries from statehood until the recent passage of a constitutional amendment in 2004 authorizing referenda in Miami-Dade and Broward Counties to permit their usage (more on that later).

The 1885 Constitution prohibited lotteries. Art. III, § 23 (1885) ("Lotteries are hereby prohibited in this State."). As mechanical slot machines developed shortly before the turn of the century, they were generally considered within this

[1] Due to the retirement of a panel member soon after the issuance of our original opinions, three things happened. First, a motion for rehearing and rehearing en banc was filed upon which the Court's members began voting as to the latter. Second, via random assignment, a replacement for the retired panel member was done administratively. Third, in light of the reconstitution of the panel, the en banc Court all but unanimously voted to abate its vote on the pending motion for en banc review to allow the panel to consider the case anew, which we have done, granting the motion for rehearing and substituting this opinion.

prohibition. Because the 1885 Constitution did not define the scope of what constituted a lottery, the Legislature had a degree of flexibility in determining its definitional parameters, which it exercised by enacting the State's first slot machine statute in 1935, allowing for their use. By doing so, the Florida Supreme Court was put in the position of deciding whether slot machines were impermissible under the state constitution's anti-lottery provision, resulting in a judicial decision that altered the three-part lottery test that had prevailed since shortly after the 1885 Constitution was enacted (a lottery = prize + chance + consideration). In an adroit ruling, the supreme court added a fourth part to the test—widespread operation—which allowed the use of slot machines unless they became too prevalent. That decision, Lee v. City of Miami, 163 So. 486 (Fla. 1935), upheld the facial validity of a statute allowing the use of specified slot machine-like devices, but held that their widespread use might amount to an impermissible lottery under the constitutional prohibition. Id. at 490 ("It may be that some of [the coin-operating vending machines], or possibly all of them in their operation, will become [illegal lotteries]; but we leave that question to be determined when a specific case arises."); see also Hardison v. Coleman, 164 So. 520, 524 (Fla. 1935) (lotteries include "such gambling devices or methods which because of their wide or extensive operation a whole community or country comes within its contaminating influence"). Thus, as of 1935, a limited class of slot

machines were deemed permissible, and were authorized by legislative act, so long as their use was not widespread or extensive across a community. Slot machines, like the proverbial camel's nose under the tent, rapidly proliferated but soon fell in disfavor due to their widespread use and deleterious effects.[2] As one commentator has noted:

> When the Florida Supreme Court decided *Lee* and *Hardison* in 1935, it must have viewed slot machines as novelties and standalone devices, like Mr. Hardison's slot machine, as opposed to paper lottery tickets, which could be sold and distributed all over a community. Things did not unfold in the next two years in the way the Florida Supreme Court apparently expected in 1935. In 1937, the Florida comptroller, the same J.M. Lee who had prevailed in *Lee*, prepared a document for Florida Governor Fred Cone estimating there to be 10,000 slot machines with total yearly play of $52 million in Florida. Even children were allowed to gamble on these machines. Slot machines in their actual operation had collectively turned out to be widespread and lotteries under *Lee*'s criteria, but the Florida Supreme Court did not have a case to revisit the issue directly. Instead, the legislature and Governor Cone took matters into their own hands by repealing the 1935 slot machine statute in 1937. The vote for repeal in the legislature was overwhelming. This repeal statute, which also banned slot machines, was authored and vigorously championed by a young representative and future Florida governor named LeRoy Collins, who called the two-year experience with slot machines "a dose of moral poison."

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[2] See generally Stephen C. Bousquet, The Gangster in Our Midst: Al Capone in South Florida 1930-1947, 76 Fla. Hist. Q. 297, 307 (1998) (history of gangster Al Capone in Miami, noting that "wide-open gambling rackets in South Florida stretched from Coral Gables north to Fort Lauderdale" and that the "legalization of racetrack betting in 1931, and of slot machines four years later, made South Florida a mecca for gamblers.").

David G. Shields, Slot Machines in Florida? Wait A Minute, Fla. B.J., Sept./Oct. 2013, at 12 (footnotes omitted). In two years, a complete turn of the wheel had occurred; slot machines were prohibited once again. By 1939, the three-part test was back in force; the "widespread operation" part that the court temporarily relied upon to legitimize slot machines was now absent. See Little River Theatre Corp. v. State ex rel. Hodge, 185 So. 855, 861 (Fla. 1939) ("The authorities are in accord that a lottery has three elements; first, a prize; second, an award by chance; and, third, a consideration."). And slot machines were again relegated to nothing more than a societal menace. Pasternack v. Bennett, 190 So. 56, 57 (Fla. 1939) ("[I]t is definitely settled in this jurisdiction that those devices commonly known as slot machines are gambling devices; that the use and operation of them has a baneful influence on the persons who indulge in playing them and that they constitute such a menace to public welfare and public morals as to be subject to the police power of the State to regulate, control, prohibit or destroy them.").

B. The 1968 Constitution

Over three decades passed before the issue of lotteries arose again. In adopting a new state constitution, the people of the State of Florida included an anti-lottery provision that drew upon the 1885 Constitution's ban of all lotteries with the limitation that certain existing types of pari-mutuel pools would be allowed to continue. The new anti-lottery provision stated: "Lotteries, other than

the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state." Art. X, § 7, Fla. Const. (1968). In essence, the 1968 constitutional revision cemented in place the statewide ban on all types of lotteries (which would include slot machines used on a widespread basis), allowing only the limited types of gaming that then existed by law.

This point was made in a case out of Jacksonville, Florida, in which the legality of bingo was questioned under the new constitution. By close vote, the Florida Supreme Court held that because bingo was legislatively authorized at the time of article X, section 7's enactment, it was grandfathered in as a permissible lottery.

> Obviously, the makers of our 1968 Constitution recognized horse racing as a type of lottery and a 'pari-mutuel pool' but also intended to include in its sanction those other lotteries then legally functioning; namely, dog racing, jai alai and bingo. *All other lotteries including bolito, cuba, slot machines, etc., were prohibited.*

Greater Loretta Imp. Ass'n v. State ex rel. Boone, 234 So. 2d 665, 671-72 (Fla. 1970) (emphasis added). As the highlighted language makes evident, the supreme court—consistent with article X, section 7's clear language—drew a bright line: existing "lotteries" such as pari-mutuel pools for dog racing, jai alai and bingo survived; all other "lotteries" including "slot machines" were impermissible. Whatever authority the Legislature may have previously had to allow these types of gaming was gone. A broad definition of lottery now prevailed, one that included

slot machines, but which excluded gaming then-sanctioned by legislation. A new era was ushered in, one in which a constitutional amendment was necessary to allow any type of activity broadly understood as a lottery under article X, section 7 other than those grandfathered in. This understanding of the constitutional language, as interpreted in Greater Loretta was put into doubt in 2004, as the next section explains.

C. The 2004 Slots Amendment and Chapter 551

After the decision in Greater Loretta, interest in expanding gaming in Florida via constitutional amendment increased. Various failed proposals were attempted.[3] In the 1986 general election, however, the state constitution was amended to authorize a state-run lottery whose net proceeds would be put in a state education trust fund. Art. X, § 15(a), Fla. Const. ("Lotteries may be operated by the state.").

Starting in 2002, an effort was made to amend the constitution to allow slot machines in all counties by local referenda. Proposed section 19(a) of the amendment stated:

[3] See, e.g., Floridians Against Casino Takeover v. Let's Help Florida, 363 So. 2d 337 (Fla. 1978) (proposed amendment to authorize state-regulated, privately operated casino gambling in Dade and Broward Counties with tax revenues to be used for education and local law enforcement purposes) (allowed on ballot, but failed).

> (a) Slot machines are hereby permitted in those counties where the electorate has authorized slot machines pursuant to referendum, and then only within licensed pari-mutuel facilities (*i.e.*, thoroughbred horse racing tracks, harness racing tracks, jai-alai frontons, and greyhound dog racing tracks) authorized by law as of the effective date of this section, which facilities have conducted live pari-mutuel wagering events in each of the two immediately preceding twelve month periods.

Advisory Op. to the Att'y. Gen. re Authorization for Cnty. Voters to Approve or Disapprove Slot Machines Within Existing Pari-Mutuel Facilities, 813 So. 2d 98, 99 (Fla. 2002). The proposal was held to violate the single subject requirement and was thereby removed from the ballot.

In 2004, a more limited constitutional amendment was proposed "that would permit two Florida counties to hold referenda on whether to permit slot machines in certain parimutuel facilities." Advisory Op. to the Att'y. Gen. re Authorizes Miami-Dade & Broward Cnty. Voters To Approve Slot Machines In Parimutuel Facilities, 880 So. 2d 522 (Fla. 2004) ("Advisory Op. re: Slot Machines").[4] Those

[4] The proposal was as follows:

> Article X, Florida Constitution, is hereby amended to add the following as section 19:
>
> SECTION 19. **SLOT MACHINES**-
>
> (a) After voter approval of this constitutional amendment, the governing bodies of Miami-Dade and Broward Counties each may hold a county-wide referendum in their respective counties on whether to authorize slot machines within existing, licensed

opposing the so-called Slots Amendment argued in their briefs that the amendment, if passed, would allow a form of lottery and thereby amend the anti-lottery provision of the constitution without saying so in the ballot summary. No party cited Greater Loretta, nor did the Florida Supreme Court in its advisory opinion, which said—contrary to both Greater Loretta's statement that slot

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> parimutuel facilities (thoroughbred and harness racing, greyhound racing, and jai-alai) that have conducted live racing or games in that county during each of the last two calendar years before the effective date of this amendment. If the voters of such county approve the referendum question by majority vote, slot machines shall be authorized in such parimutuel facilities. If the voters of such county by majority vote disapprove the referendum question, slot machines shall not be so authorized, and the question shall not be presented in another referendum in that county for at least two years.
>
> (b) In the next regular Legislative session occurring after voter approval of this constitutional amendment, the Legislature shall adopt legislation implementing this section and having an effective date no later than July 1 of the year following voter approval of this amendment. Such legislation shall authorize agency rules for implementation, and may include provisions for the licensure and regulation of slot machines. The Legislature may tax slot machine revenues, and any such taxes must supplement public education funding statewide.
>
> (c) If any part of this section is held invalid for any reason, the remaining portion or portions shall be severed from the invalid portion and given the fullest possible force and effect.
>
> (d) This amendment shall become effective when approved by vote of the electors of the state.

Advisory Op. re: Slot Machines, 880 So. 2d at 522-23. After passage, it was placed in section 23 of article X rather than section 19.

machines are an impermissible type of lottery under the 1968 constitution, and the holdings in Lee and Hardison that slot machines would be impermissible lotteries if in widespread use—that slot machines are *not* a form of lottery. Id. at 525. In doing so, the supreme court relied only on its 1930s decisions in Lee and Hardison, citing them for the proposition that the court had "long since settled the question of whether slot machines constitute lotteries." Id. at 525. On its face, the supreme court's advisory opinion overlooked its precedent in Greater Loretta and misapprehended the limited scope of Lee and Hardison, which during their fleeting shelf lives in the 1930s never authorized slot machines on a widespread basis.

To effectuate the Slots Amendment, the Legislature in 2005 enacted Chapter 551, Florida Statutes, entitled "Slot Machines", which laid out the authority for slot machines in Miami-Dade and Broward Counties and the manner in which they would be regulated. As to authority, the statute in section 551.101, entitled "**Slot machine gaming authorized**," stated—and still states today—as follows:

> Any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 may possess slot machines and conduct slot machine gaming at the location where the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to such permitholder's valid pari-mutuel permit provided that a majority of voters in a countywide referendum have approved slot machines at such facility in the respective county. Notwithstanding any other provision of law, it is not a crime for a person to participate

> in slot machine gaming at a pari-mutuel facility licensed to possess [slot machines] and conduct slot machine gaming or to participate in slot machine gaming described in this chapter.

§ 551.101, Fla. Stat.; Ch. 2005-362, § 1, Laws of Fla. The bracketed phrase was added in 2007. Ch. 2007-5, § 129, Laws of Fla. No other change has been made to this section, which specifies the breadth of the counties for whom authorization is explicitly authorized: Miami-Dade and Broward only.

This point was emphasized in an inter-branch dispute over the State's gaming compact with the Seminole Tribe. See Fla. House of Reps. v. Crist, 999 So. 2d 601, 614 (Fla. 2008) ("The state's constitution authorizes the state lottery, which offers various Class III games, *and now permits slot machines in Miami–Dade and Broward Counties*.") (emphasis added). Indeed, in holding that Governor Crist exceeded his authority in signing a compact with the Seminole Tribe that allowed for gaming that was illegal under Florida law, the Florida Supreme Court said "[i]t is . . . undisputed . . . that the State prohibits all other types of Class III gaming, including lotteries not sponsored by the State *and slot machines outside Miami–Dade and Broward Counties*." Id. (emphasis added). In other words, as of 2008, the supreme court recognized that slot machines continued to be illegal other than in Miami-Dade and Broward Counties, seemingly in conflict with the supreme court's 2004 statement in Advisory Opinion re: Slot Machines.

D. The 2009 Amendments to Chapter 551

Because the gaming compact with the Seminole Tribe had just been deemed illegal, during its next general session in 2009 the Florida Legislature was consumed with enacting legislation to ensure a legal compact was achieved, which resulted in last minute legislative ping-pong between the Senate and House to finalize what ultimately was chapter 2009-170, Laws of Florida. What began and progressed through the session as a bill devoted entirely to the Seminole Tribe gaming compact issue, Senate Bill 788 ultimately morphed into a final bill that also included the amendment to section 551.102(4) at issue here.

During the conference committee process, the following amendment to section 551.102 was added and approved:

> 551.102. Definitions.
> As used in this chapter, the term:
>
> (4) "Eligible facility" means any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 and has been approved by a majority of voters in a countywide referendum to have slot machines at such facility in the respective county; any licensed pari-mutuel facility located within a county as defined in s. 125.011, provided such facility has conducted live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter; or any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or

> constitutional authorization after the effective date of this section in the respective county, provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required licensed fee, and meets the other requirements of this chapter.

Ch. 2009-170, § 19, Laws of Fla. Sections 4 through 25 of the act would not take effect by their enactment; instead, they would only take effect if specified events in the process of establishing the Seminole Gaming Compact were achieved.[5] These conditions precedent were removed during the next legislative session. Ch. 2010-29, § 4, Laws of Fla.

The 2009 amendment to "eligible facilities" has two clauses, referred to as the "second clause" and "third clause." The former, which was designed to expand the number of facilities in Miami-Dade County beyond those existing at the time, was upheld in Florida Gaming Centers, Inc. v. Florida Department of Business & Professional Regulation, 71 So. 3d 226 (Fla. 1st DCA 2011) (statute allowing holders of pari-mutuel wagering permits in Miami-Dade County to obtain approval

[5] The contingencies were met "if the Governor and an authorized representative of the Seminole Tribe of Florida execute an Indian Gaming Compact pursuant to the Indian Gaming Regulatory Act of 1988 and requirements of this act, only if the compact is ratified by the Legislature, and only if the compact is approved or deemed approved, and not voided pursuant to the terms of this act, by the Department of the Interior, and such sections take effect on the date that the approved compact is published in the Federal Register." Ch. 2009-170, § 26, Laws of Fla.

for slot machines in that county did not violate constitutional provision authorizing slot machine gaming in Miami–Dade County; Legislature may expand slot machine gaming beyond the existing facilities provided they meet the specified criteria). The third clause, the one at issue in this litigation, is claimed by Gretna Racing to be the Legislature's expression of authority to allow slot machine referenda in any of the other sixty-five counties where pari-mutuel facilities are currently located;[6] the Department reads its differently, siding with the hearing officer and the Attorney General, who read it to say that the authorization for slot machine referenda does not exist other than in Miami-Dade and Broward Counties.

[6] Gretna Racing correctly notes that other than Miami-Dade and Broward Counties, seventeen other counties currently have pari-mutuel facilities thereby making them the only ones eligible for slot machines because statutory locational restrictions prevent new facilities absent legislative action. § 550.054(2), Fla. Stat. (2015). Even so, this potential geographic expansion of slot machines is eyebrow-raising. Using population data (which does not account for tourists), Miami-Dade and Broward currently have about 4,532,109 residents (about 22.8% of the State's overall population). If slot machines were permitted in facilities in these seventeen additional counties, whose populations total 8,590,612 (or about 43.2% of the State's overall population), a tripling of direct access to slot machines (66.0%) would occur; if indirect access is taken into account, by including adjacent counties, the percentage jumps to 96.6%, leaving only ten counties (all rural, totaling only about 3.4% of the State's population) that neither have, nor have a neighboring county with, a pari-mutuel facility. See U.S. Census Bureau, State & County QuickFacts, quickfacts.census.gov/qfd/states/12000.html (last visited July 2, 2015); Pari-Mutual Permitholders with 2014-2015 Operating Licenses (Nov. 24, 2014), http://www.myfloridalicense.com/dbpr/pmw/documents/MAP-Permitholders--WITH--2014-2015-OperatingLicenses--2014-11-24.pdf.

II.

A.

This case has been presented as a statutory interpretation case, but, as an initial matter, it is not at all clear that the Legislature has the constitutional authority to expand the use of slot machines outside of the geographic areas of Broward and Miami-Dade Counties as permitted by article X, section 23. The Florida Supreme Court's decision in Greater Loretta, which has not been overturned, explicitly held that article X, section 7, of the 1968 Constitution, prohibited—as a form of lottery—the use of slot machines anywhere in the State. It is worth repeating: "All other lotteries including bolito, cuba, *slot machines*, etc., were *prohibited*." 234 So. 2d at 672 (emphasis added). Yet the supreme court in Advisory Opinion re: Slot Machines in 2004 stated its belief that its 1930s decisions involving slot machines had settled the question of whether slot machines are lotteries, but it did so without so much as mentioning its directly contrary decision in Greater Loretta; the supreme court is not in the habit of silently overruling its precedents. Puryear v. State, 810 So. 2d 901, 905-06 (Fla. 2002) ("We take this opportunity to expressly state that this Court does not intentionally overrule itself sub silentio."). So which is it? Are slot machines a form of lottery that only the people may approve via constitutional amendment? Or

are slot machines not prohibited as lotteries under article X, section 7, which may be legislatively authorized statewide without constitutional authority?

Despite the uncertainty that exists, counsel for Gretna Racing and the Department at oral argument disagreed with the notion that any constitutional limitation exists on the Legislature's authority to expand slot machines statewide; they disagreed only on whether the statute at issue was intended to do so without additional statutory or constitutional authority. Similarly, some argue that this Court has already implicitly held in Florida Gaming Centers that the Legislature is not limited by the anti-lottery provision in article X, section 7, and may expand slot machines statewide if it chose to do so. That case, of course, did not make such a holding, didn't even mention Greater Loretta, and was limited to only whether a facility *in Miami-Dade County* could be legislatively included as an eligible facility for slot machines in that already-approved jurisdiction. 71 So. 3d at 227-29. That the Legislature allowed additional facilities in a county already authorized by article X, section 23, to have slot machines is a far different question than whether the Legislature may allow expansion into any other counties that have not been given constitutional authority to hold slot machine referenda. As such, it appears that a serious unresolved question exists, one upon which this Court need not pass to resolve the specific dispute this case, but one for which a clear resolution is

needed. See generally Shields, supra (discussing the need to address the conflict between Greater Loretta and Advisory Opinion re: Slot Machines).

B.

Bearing in mind the history of the illegality of slot machines in Florida, and keeping the Florida Supreme Court's uncertain jurisprudence about slot machines as lotteries as a backdrop, we turn to the statutory interpretation question at issue: Did the Legislature intend its 2009 amendment to the definition of "eligible facility" in section 551.102(4) to authorize the counties other than Miami-Dade and Broward to hold slot machine referenda in their jurisdictions without the passage of additional authority for such referenda?

The key portion to be interpreted is whether "a majority of voters have approved slot machines at such facilities in a countywide referendum *held pursuant to a statutory or constitutional authorization after the effective date of this section* in the respective county." § 551.102(4), Fla. Stat. (emphasis added). The question is which of two differing interpretations of the italicized phrase should prevail.

Gretna Racing operates a pari-mutuel facility in Gadsden County, which held a "voter's sentiments" election on January 31, 2012, on the topic pursuant to section 125.01(1)(y), Florida Statutes. Gretna Racing reads this phrase as two separate and independent provisions: "*held [1] pursuant to a statutory or*

constitutional authorization [2] after the effective date of this section." It reads the latter portion—[2]—to mean that a county is authorized to hold a local vote on slot machine approval "after the effective date" of the statute. Rather than modifying the immediately adjacent word "authorization," it views [2] as modifying the word "held" only, which appears eight words earlier. It reads the former portion—[1]—as meaning that slot machine approval need only be "pursuant to a statutory or constitutional authorization" on the books at the time of the vote. It rejects reading [1] and [2] together as requiring specific or additional statutory or constitutional authorization for county referenda to approve slot machines, such as the authorization given to Miami-Dade and Broward under article X, section 23; instead, a county may hold a slot machine vote under whatever existing general authority it has to submit a votes to the public.

The Department offers a different view, one that is consistent with a plain reading of the statute, the rules of statutory construction, and the history of slot machine legislation in Florida. The Department views the phrase "pursuant to a statutory or constitutional authorization after the effective date of this section" as one continuous, connected union of words that collectively state the authority to which a slot machine referendum must be held. The phrase, in total, directly follows and modifies the words "referendum held" to explain that the "statutory or constitutional authorization" for a referendum on slot machines must be "after the

effective date of this section." In other words, the legal "authorization" for such a vote is not already on the books; the authorization must be "after" the section's effective date.

This reading is superior to that posited by Gretna Racing in many ways. First, under a plain reading approach the language at issue is essentially one long adjective modifying "referendum," explaining what authorization is necessary for future county referenda on slot machines. It does not require that the two components of the phrase, [1] and [2], be separated and moved about like refrigerator magnets to restructure and thereby change the meaning of the statute. Under Gretna Racing's reading, the statute would read: "referendum held [2] after the effective date of this section and [1] pursuant to an existing general statutory or constitutional authorization of referenda ~~after the effective date of this section~~." Separating and re-positioning the phrase "after the effective date of this section" to an earlier point changes the statute markedly; detaching the two neighboring words "authorization after" from one another removes the direct temporal connection between them. Read as written by the Legislature, the "statutory or constitutional authorization" for the referenda must have arisen "after the effective date of this section." Moreover, the phrase "referendum held pursuant to *a* statutory or constitutional authorization after the effective date of this section" envisions a separate and distinct *new* basis of authority; if existing referenda powers were

enough, the statute need only say "held pursuant to ~~a~~ statutory or constitutional authorization," making the "a" redundant. It is plain that this statute alone does not provide the authorization for statewide slot machine referenda.

This perspective is consistent with the Attorney General's view of the third clause, upon which the hearing officer heavily relied:

> Applying standard rules of statutory and grammatical construction, it is clear that the phrase "after the effective date of this section" modifies the words immediately preceding it, *i.e.*, "a statutory or constitutional authorization." Specifically, under the last antecedent doctrine of statutory interpretation, qualifying words, phrases, and clauses are to be applied to the words or phrase immediately preceding, and are not to be construed as extending to others more remote, unless a contrary intention appears. Here, all pertinent considerations confirm that the Legislature intended that any statutory or constitutional authorization for a slots-approving referendum must occur after July 1, 2010, the effective date of the relevant portion of section 551.102(4), Florida Statutes.

Op. Att'y Gen. 12-01 (2012) (internal citations and footnotes omitted); see also State v. Fam. Bank of Hallandale, 623 So. 2d 474, 478 (Fla. 1993) ("Although an opinion of the Attorney General is not binding on a court, it is entitled to careful consideration and generally should be regarded as highly persuasive."); Beverly v. Div. of Beverage of Dep't of Bus. Reg., 282 So. 2d 657, 660 (Fla. 1st DCA 1973) (official opinions of the Attorney General, though not binding, are "entitled to great weight in construing the law of this State."). The Attorney General continued, saying:

> Similarly, if a county's existing powers were sufficient to authorize a slots-approving referendum, there would be no need to include the phrase "pursuant to a statutory or constitutional authorization." Had the Legislature simply been referring to a county's existing statutory or constitutional authority, the following stricken language could have been omitted without causing any change in the meaning of the statute:
>
> > "any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held after the effective date of this section in the respective county, provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required licensed fee, and meets the other requirements of this chapter."
>
> Instead, the Legislature chose to mandate that the referendum be held "pursuant to a statutory or constitutional authorization"—an explicit qualifier that appears to be unique in the Florida Statutes. Indeed, no other referendum provision in the Florida Statutes employs similar language. Thus, I cannot conclude that the language "statutory or constitutional authorization" merely recognizes a county's authority in existence as of the effective date of the act. Rather, the Legislature's chosen language requires the adoption of a statute or constitutional amendment specifically authorizing a referendum to approve slot machines.

Op. Att'y Gen. Fla. 12-01 (2012) (footnotes omitted). Her opinion, though not binding, and merely persuasive, is spot on.

The statute need not be rewritten to achieve the Department's view by inserting the word "enacted" between "authorization" and "after" (i.e., "pursuant to

statutory or constitutional authorization enacted after the effective date of this section."). While insertion of the word "enacted" may provide a degree of clarity, it is unnecessary. And from a grammatical viewpoint, the statute would need to say "pursuant to a statute ~~statutory~~ or constitutional amendment ~~authorization~~ enacted after the effective date of this section" to be intelligible. Statutes and constitutions can be "enacted"; saying an "authorization" was "enacted" is exceptionally awkward.

Second, the Department's reading is more faithful to the statute's structure and answers the question of what legal authorization is necessary for local slot referenda. Keep in mind that no statutes exist that provide authorization for slot machine approval via county referenda other than those passed to effectuate referenda in Miami-Dade and Broward as constitutionally authorized, see, e.g., §§ 551.101 (slot machines in Miami-Dade and Broward authorized "provided that a majority of voters in a countywide referendum have approved slot machines at such facility in the respective county.") and .104(2) ("An application may be approved by the division only after the voters of the county where the applicant's facility is located have authorized by referendum slot machines within pari-mutuel facilities in that county as specified in s. 23, Art. X of the State Constitution."). Gretna Racing cannot point to any such authorization; all it relies upon is a generalized "voter sentiment" statute (discussed later) that provides no

authorization for approval of any substantive matter of county concern. § 125.01(y), Fla. Stat. Gretna Racing's reading of section 551.102(4) would transform an exceedingly limited authority for county straw polls into a broad authority to expand slot machines statewide, which cannot possibly be what the Legislature intended.

Third, if the Legislature truly intended to immediately expand the authority of counties to hold referenda on slot machines, without future "statutory or constitutional authorization" for such referenda, it assuredly would have amended a critical portion of the slot machine statute, which is the authorization section, entitled "Slot machine gaming authorized." § 551.101, Fla. Stat. That statute, which limits authorized slot machine gaming to Miami-Dade and Broward Counties, was not amended to include any other possibilities.

Fourth, it takes little imagination to envision, particularly in the heat of an internal debate over legislation about the Seminole Tribe gaming compact, that the potential proliferation of slot machines statewide in competition with the Tribe's gaming operations would merit some legislative statement about how local expansion beyond Miami-Dade and Broward might occur. On this point, the Attorney General, recognizing the context in which section 551.102(4) was amended, said:

> [T]he conclusion that additional legislative authorization is required for a slots-approving referendum gives due recognition to the context in which the Legislature adopted the relevant portion of section 551.102(4), Florida Statutes. The language in question took effect as part of legislation ratifying a gaming compact between the State and the Seminole Tribe of Florida, which contained provisions mandating a reduction or loss of revenue to the State in response to an expansion of slot machine gambling beyond that which existed at the time of the compact's adoption. To read the pertinent language in section 551.102(4) as allowing counties other than Miami-Dade and Broward by referendum to authorize slot machines, absent specific legislative or constitutional authority, would be at odds with the legislation as a whole. Specifically, that interpretation of the statute would eliminate the State's control over its continued entitlement to a substantial amount of revenue from the Seminole Tribe. In light of the intense consideration and debate that went into the Legislature's approval of the Seminole compact, it is virtually unthinkable that the Legislature would have intended to both undermine and ratify the compact in the same enactment. The basic canons of statutory interpretation require me to reject a reading of section 551.102(4) that would lead to such an absurd result. [7]

Op. Att'y Gen. Fla. 12-01 (2012). In this context, the third clause is easily seen as a statement that set the parameters for possible future expansion via county

[7] Nine thousand, six hundred voters (33.5% of the 28,684 then-registered in Gadsden County), weighed in on the question, 6,042 favorably. That the sentiments of these 6,042 voters in one of Florida's smaller counties, representing just 0.085% of registered voters statewide at the time, could unilaterally jeopardize the State's receipt annually of hundreds of millions of revenues under the Seminole Tribe compact punctuates how unfathomable such a result would be. See Fla. Dep't of State, Div. of Elections, Voter Registration Year to Date Report: January 2012, available at http://dos.myflorida.com/elections/data-statistics/voter-registration-statistics/voter-registration-monthly-reports/.

referendum, which would require "statutory or constitutional authorization after the effective date of this section." This view of the statute does not render it meaningless or inconsequential. It reflects that the authority to expand slot machines beyond Miami-Dade County must be pursuant to a statutory or constitutional authorization that currently does not exist, which makes sense given the first clause's limitation to Miami-Dade County as well as the doubt that surrounds whether the Legislature has authority to expand slot machines into counties other than Miami-Dade and Broward without a constitutional amendment like article X, section 23. Nothing prohibits legislation that has a contingency that makes a statute effective only upon some triggering event (such as possible future authorization of slot machines on a local basis via referendum). And nothing prohibits the Legislature from enacting a statute that operates as a restraint on society with a stated understanding about how that restraint might be eliminated in the future. Not all statutes are blossoms; some are only seeds. One need look no further than our state constitution, which has a provision allowing for the legislature to pass a special law without notice to an affected community that "is *conditioned to become effective only upon approval by vote of the electors of the area affected*." Art. III, § 10, Fla. Const. (emphasis added). By analogy, the enactment of the third clause in 551.102 was the legislature acting in anticipation of a contingency.

Fifth, to the extent one sees an ambiguity in the statute, the legislative history, exceptionally limited as it is (nothing written, only comments by legislators during a floor debate), is helpful. The Attorney General's opinion is again persuasive on this point:

> Legislative intent, the cornerstone of all statutory interpretation, may be illuminated by the comments of the sponsor or proponents of a bill or amendment. The Senate bill sponsor, Senator Dennis Jones, gave the following explanation on second reading of the 2010 legislation in response to a question about the local referendum process for a county that wants to add slot machine gaming and how that process would work:
>
> > "Should we want to expand in the future, a Legislature would come back and . . . let's just say we wanted to go to Class III slots, we could not do that as a local bill but we could come up here and file it as a general bill and should that bill pass to allow [a county] to have a referendum of the people and then the people vote on it, if it was passed, we could get Class III slots but it [would] also break the compact with the Indians."
>
> In further clarification, Senator Jones stated:
>
> > "If they have a referendum in a county outside of Miami-Dade and Broward for the purpose of Class III gaming *and the Legislature passes the legislation to allow that county to have the referendum*, the county has the referendum and that referendum passes, then that would effectively break the payments of the compact." (e.s.)
>
> The above explanation by a sponsor of the legislation clearly indicates that, under the pertinent language in section 551.102(4), Florida Statutes, a county referendum to approve slots must be specifically

> authorized by a statute or constitutional amendment enacted after July 1, 2010. Such an explanation is contrary to any assertion that the Legislature intended the provisions of section 551.102(4), in conjunction with a county's already-existing powers, to constitute authority for a county to hold a referendum on slot machine gaming.

Op. Att'y Gen. Fla. 12-01 (2012) (footnotes omitted). What's more, Gretna Racing seeks an exception to the long-standing prohibition against slot machines, the possession and use of which are criminal acts absent clear authorization, which is why the statute at issue is strictly construed as opposed to expansively interpreted. PPI, Inc. v. Dep't of Bus. & Prof'l Reg., Div. of Pari-Mutuel Wagering, 698 So. 2d 306, 308 (Fla. 3d DCA 1997) ("The penny-ante statute is an exception to long-standing Florida law that prohibits all such forms of gambling; as such, it is to be strictly construed."); State v. Nourse, 340 So. 2d 966, 969 (Fla. 3d DCA 1976) ("Being an exception to a general prohibition, any such statutory provision is normally construed strictly against the one who attempts to take advantage of the exception.").

In sum, little commends the reading that Gretna Racing places on section 551.104(2), and essentially every meaningful means of statutory interpretation favor the Department's view, which is itself accorded great weight. Orange Park Kennel Club, Inc. v. State, Dep't of Bus. & Prof'l Reg., 644 So. 2d 574, 576 (Fla. 1st DCA 1994) ("An agency's construction of a statute which it administers is entitled to great weight and will not be overturned unless the agency's

interpretation is clearly erroneous; the agency's interpretation need not be the sole possible interpretation or even the most desirable one; it need only be within the range of possible interpretations."). For these reasons, the denial of Gretna Racing's request for a slot machine license was proper.

C.

Finally, even if the statute could be read as Gretna Racing suggests, the Gadsden County vote was neither a "referendum" nor did it provide voter approval as section 551.104(2) requires, which states that a "majority of voters have *approved* slot machines at such facilities in a countywide *referendum*" to be eligible. (Emphasis added). The state constitution provides that "Special elections and referenda shall be held as provided by law." Art. VI, § 5, Fla. Const. The phrase "as provided by law" means an act passed by the Legislature. Holzendorf v. Bell, 606 So. 2d 645, 648 (Fla. 1st DCA 1992).

The sole statutory authorization the County relied upon for holding a "referenda" on slot machines, section 125.01(1)(y), Florida Statutes, neither provides for a "referendum" nor does it permit voter approval of any substantive matters. It states in relevant part:

> (1) The legislative and governing body of a county shall have the power to carry on county government. To the extent not inconsistent with general or special law, this power includes, but is not restricted to, the power to:
> . . .

> (y) *Place questions or propositions on the ballot* at any primary election, general election, or otherwise called special election, when agreed to by a majority vote of the total membership of the legislative and governing body, *so as to obtain an expression of elector sentiment with respect to matters of substantial concern within the county*. No special election may be called for the purpose of conducting a straw ballot.

§ 125.01(1)(y), Fla. Stat. (emphasis added). Rather than allowing for voter *approval* on a substantive matter, which is the essence of a referendum, see 5 McQuillin Mun. Corp. § 16:51 (3d ed.) ("Referendum is the right of people to have an act passed by the legislative body submitted for their approval or rejection.") (footnote omitted), section 125.01(1)(y) merely allows for voters to express their *sentiments* on a matter. Voter sentiment falls short of voter approval; sentiment is mere opinion akin to a straw vote that is non-binding; approval is authorization, which is binding. City of Miami v. Staats, 919 So. 2d 485, 487 (Fla. 3d DCA 2005) (non-binding straw ballot defective because "it fails to adequately inform the voting public that their response has no official effect, i.e., that the ballot question is simply a nonbinding opinion poll."); 5 McQuillin Mun. Corp. § 16:51 (3d ed.) ("Ordinarily, 'referendum' does not include nonbinding public questions.") (footnote omitted). At most, the County could only have put to the voters the non-binding question of whether they are supportive of slot machines in the Gretna Racing facility. City of Hialeah v. Delgado, 963 So. 2d 754, 757 (Fla. 3d DCA

2007). And to the extent the County's vote under section 125.01(1)(y) is portrayed as a binding "referendum," it was not; it could not have been absent statutory or constitutional authorization giving the County referendum powers. As we said in Holzendorf, "Since the constitution expressly provides that the power of referendum can be granted only by the legislature, it is beyond the power of the electorate to say what shall or shall not be done by referendum." Id. The administrative order, even if incorrect in its construction of section 551.102(4) is nevertheless legally correct. Dade Cnty. Sch. Bd. v. Radio Station WQBA, 731 So. 2d 638, 645 (Fla. 1999) (appellate court not limited to "reasons given by the trial court but rather must affirm the judgment if it is legally correct regardless of those reasons").

III.

The Department's interpretation of the third clause in section 551.102(4) is an entirely reasonable one. The alternative view, which would restructure the statute and change its meaning to allow slot machines to be deployed on a statewide basis without any clear authority to do so, is inconsistent with principles of statutory and constitutional construction, legislative intent, and the history of laws prohibiting slot machines in the State of Florida. Because the issue presented is one of great public importance statewide, the following certified question is appropriate:

> Whether the Legislature intended that the third clause of section 551.102(4), Florida Statutes, enacted in 2009, authorize expansion of slot machines beyond Miami-Dade and Broward Counties via local referendum in all other eligible Florida counties without additional statutory or constitutional authorization after the effective date of the act?

Should our supreme court choose to review this question, consideration should also be given to resolution of the Legislature's authority under the 1968 Constitution to authorize slot machines at pari-mutuel facilities in counties other than Miami-Dade or Broward, whose authority arises from article X, section 23. Puryear v. State, 810 So. 2d 901, 905-06 (Fla. 2002) ("Where this Court's decisions create this type of disharmony within the case law, the district courts may utilize their authority to certify a question of great public importance to grant this Court jurisdiction to settle the law."); Leisure Resorts, Inc. v. Frank J. Rooney, Inc., 654 So. 2d 911, 912 (Fla. 1995) ("Having accepted jurisdiction, we may review the district court's decision for any error.").

AFFIRMED.

BILBREY, J., CONCURRING IN PART and IN RESULT WITH OPINION; BENTON, J., DISSENTING WITH OPINION.

BILBREY, J., concurring in part and in result.

Following the retirement of the Honorable Nikki Clark from this Court the "luck of the draw"[8] has placed me on the three judge panel assigned to consider the motion for rehearing. While there is no clear guidance on the appropriate standard the successor judge is to apply when passing on a motion for rehearing, my decision to grant rehearing is based on the following considerations.

Certainly, the judgment of a retired colleague is entitled to some deference. In considering the authority of a successor trial judge, the Florida Supreme Court has stated:

> While a judge should hesitate to undo his own work, and should hesitate still more to undo the work of another judge, he does have, until final judgment, the power to do so and may therefore vacate or modify the Interlocutory rulings or orders of his predecessor in the case. This 'code' of restraint is not based solely on the law of the case but is founded upon considerations of comity and courtesy.

Tingle v. Dade County Bd. of County Com'rs, 245 So. 2d 76, 78 (Fla. 1971).[9] I believe such a code of restraint applies to an appellate judge as well. Nevertheless, only deference is required, and a successor judge is not required to always vote identically to the predecessor on rehearing. "Nor is the Court, to borrow a famous

[8] See In re Doe 13-A, 136 So. 3d 748, 756 (Fla. 1st DCA 2014) (Swanson, J., dissenting on denial of rehearing en banc).

[9] At the appellate level a case is not final until the mandate issues. Washington v. State, 637 So. 2d 296 (Fla. 1994). The mandate has not issued here, and the motion for rehearing was timely filed.

phrase, a potted plant." United States v. HSBC Bank USA, N.A., 2013 WL 3306161, *5 (E.D. N.Y. 2013) (citation omitted). After all, it is not uncommon for any judge to change his or her mind when faced with a motion for rehearing.[10]

Given that I believe that a successor judge has some discretion in considering a motion for rehearing, but should be hesitant to do so, the next issue is the appropriate standard any judge should apply to such a motion. Rule 9.330(a), Florida Rules of Appellate Procedure, provides in part, "[a] motion for rehearing shall state with particularity the points of law or fact that, in the opinion of the movant, the court has overlooked or misapprehended in its decision." Furthermore, "[a] motion for rehearing must address some error or omission in the resolution of an issue previously presented in the main argument." Phillip J. Padovano, Florida Appellate Practice § 21:2 (2015).

It is clear that the original panel decision did not overlook any points of law or fact. Judge Benton's detailed, original majority decision squarely addressed all

[10]I have been in the position of successor judge on a motion for rehearing on many occasions in my brief time on this Court, and although I may have decided some of those cases differently had I been on the original panel, until today I only thought that rehearing was appropriate in one case. See Morales v. State, -- So. 3d --, 40 Fla. Law Weekly D1219 (Fla. 1st DCA May 22, 2015) (Bilbrey, J., concurring). I believe consideration can be given to whether the original decision was a substantial departure from established law and how important the issue was which the original panel decided. I also think that the decision of a supermajority of this Court to abate the vote on whether to grant en banc review pending a decision on the motion for rehearing, shows that my colleagues believe I have some level of autonomy in considering the motion.

of the issues which the parties raised. The other basis then to grant rehearing would be if the original decision misapprehended some point of law or fact.[11] This provision of rule 9.330(a) gives me greater leeway and greater comfort in agreeing that it is appropriate to grant rehearing.

I respectfully disagree with Judge's Benton's reading of section 551.102(4), Florida Statutes. More particularly, I conclude that he has misapprehended the third clause of the statute which defines an eligible facility. I find Judge Makar's discussion of the plain reading approach and the last antecedent doctrine in section II. B. particularly persuasive. "In construing a statute, we look first to the statute's plain meaning." Moonlit Waters Apts., Inc. v. Cauley, 666 So. 2d 898, 900 (Fla. 1996). "[R]elative and qualifying words, phrases and clauses are to be applied to the words or phrase immediately preceding, and are not to be construed as extending to, or including, others more remote." City of St. Petersburg v. Nasworthy, 751 So. 2d 772, 774 (Fla. 1st DCA 2000).[12] Plainly, the "after the

[11] "Misapprehend" or "misapprehended" is not defined the Florida Rules of Appellate Procedure or in *Black's Law Dictionary.* "Misapprehend" is defined by the *Oxford English Dictionary* (2nd ed. 1989) as "to apprehend wrongly; not to understand rightly; to attach a wrong meaning to." The Merriam-Webster Online Dictionary defines misapprehend as "to apprehend wrongly: misunderstand." Merriam-Webster, http://www.merriam-webster.com (last visited August 13, 2015).

[12] The best argument for Judge Benton's reading of the statute is his observation that the third clause of section of section 551.102(4) is rendered meaningless if read in the manner suggested by the Department. Perhaps, however, the

effective date of this section" language in section 551.102(4) modifies the immediately preceding "a statutory or constitutional authorization" phrase, and not the more remote "referendum held" phrase.

The misapprehension in the original decision as what qualifies as an "eligible facility" is very significant. As noted in footnote 6 of Judge Makar's opinion, if the original decision were to stand, seventeen Florida Counties would be eligible to conduct referenda on slot machine expansion and potentially allow slot machines in contravention of the will of the Florida Legislature as expressed by the Seminole Compact. Rehearing is therefore necessary to address this misapprehension.

Legislature included the third clause in order to prevent the statute being deemed a special law, which is prohibited by article III, section 10 of the Florida Constitution. See Dep't of Bus. & Prof'l Regulation v. Gulfstream Park Racing Ass'n., Inc., 967 So. 2d 802 (Fla. 2007) (explaining a statute is unconstitutional, as a special law, if it is a law which relates to or operates upon particular persons or things); Dep't of Bus. Regulation v. Classic Mile, Inc., 541 So. 2d 1155 (Fla. 1989). When the third clause was enacted, the second clause was also enacted. Ch. 2009-170, §19, Laws of Fla. Without the third clause, section 551.102(4) would have no potential state-wide application beyond Miami-Dade and Broward counties. Furthermore, Judge Benton's reading of the third clause is inconsistent with entire Seminole Compact authorization also contained in Chapter 2009-170, Laws of Florida, which offered to grant the Seminole Tribe of Florida exclusivity over all slot machines outside of Miami-Dade and Broward Counties. Why would the Legislature offer the Seminole Tribe exclusivity over slot machines while at the same time authorizing up to seventeen Florida Counties the ability to intrude on this exclusivity? By my reading of section 551.104(4), it did not.

I therefore fully concur in those parts of Judge Makar's opinion regarding the interpretation of section 551.102(4), Florida Statutes. Specifically, I join in sections I. D., II. B., II. C., and III. I also concur in the result which Judge Makar reaches, and with the certified question.

While I agree that the *dicta* in Greater Loretta Improvement Ass'n. v. State ex rel. Boone, 234 So. 2d 665, 671-72 (Fla. 1970), unnecessarily calls into question the ability of the Legislature to regulate slot machines, I also agree with Judge Benton that the settled state of the law in Florida is that slot machines are not lotteries and therefore may be regulated (and legalized) by the Legislature without running afoul of article X, section 7 of the Florida Constitution. See Advisory Op. to the Att'y Gen. re Authorizes Miami-Dade and Broward County Voters to Approve Slot Machines in Parimutuel Facilities, 880 So. 2d 522 (Fla. 2004) (citing Lee v. City of Miami, 121 Fla. 93, 163 So. 486, 490 (1935)); see also Florida Gaming Centers, Inc. v. Florida Dept. of Bus. and Prof'l. Regulation, 71 So. 3d 226 (Fla. 1st DCA 2011). Because I read Judge Makar's decision as not being predicated on this constitutional issue, I find it unnecessary to dissent in part.

BENTON, J., dissenting.

I would reverse the Department's order denying the application Gretna Racing, LLC (Gretna Racing) filed—after a majority in Gadsden County had voted "Yes" in a referendum on the question "Shall slot machines be approved for use at the pari-mutuel horsetrack facility in Gretna, FL?"—for a license to conduct slot machine gaming at its horsetrack facility in Gretna.

The Gadsden County Commission is but one of a half dozen county commissions who voted to put slot machine referenda on ballots in reliance on statutory language they read to render eligible for slot machine licenses

> any licensed pari-mutuel facility in any other [than Miami-Dade or Broward] county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section . . . .

Ch. 2009–170, § 19, at 1792, Laws of Fla. (2009). At issue is whether the local officials' reading of the statutory language—which is also Gretna Racing's—is correct. This question of statutory interpretation—not any constitutional or policy issue—lies at the heart of the present case.

The Department maintains that it "'is not authorized to issue a slot machine license to a pari-mutuel facility in a county which . . . holds a countywide

referendum to approve such machines, absent a statutory or constitutional provision enacted after July 1, 2010, authorizing such referendum.'" Answer Brief at pp. 4-5 (emphasis added; citation omitted). But section 551.102(4), Florida Statutes (2006), does not contain the word "enacted." "'Usually, the courts in construing a statute may not insert words or phrases in that statute or supply an omission that to all appearances was not in the minds of the legislators when the law was enacted. When there is doubt as to the legislative intent, the doubt should be resolved against the power of the court to supply missing words.'" Special Disability Trust Fund, Dep't of Labor & Emp't Sec. v. Motor & Compressor Co., 446 So. 2d 224, 226 (Fla. 1st DCA 1984) (quoting Rebich v. Burdine's, 417 So. 2d 284, 285 (Fla. 1st DCA 1982) (internal citation omitted)). Inserting the word "enacted" also strips the quoted statutory language of any legal effect.[13]

[13] See Butler v. State, 838 So. 2d 554, 555-56 (Fla. 2003) ("Because the Legislature does not intend to enact purposeless or useless laws, the primary rule of statutory interpretation is to harmonize related statutes so that each is given effect." (citation omitted)); Sharer v. Hotel Corp. of Am., 144 So. 2d 813, 817 (Fla. 1962) ("It should never be presumed that the legislature intended to enact purposeless and therefore useless, legislation. Legislators are not children who build block playhouses for the purpose, and with the gleeful anticipation, of knocking them down. It would be the heighth [sic] of absurdity to assume that the legislature intentionally prescribed a formula which creates the need for a Special Disability Fund, and in the next breath deviously destroyed its own handiwork—thus making a mockery of the intended beneficent purpose of the Special Disability Fund itself. . . . We cannot be persuaded that a majority of the legislators designedly used an indirect, unusual and abnormal procedure. It suggests either inadvertence or cabal." (footnote omitted)).

Under the Department's construction of the third clause of section 551.102(4), a referendum could only occur if another statute (or a constitutional amendment) was enacted (or adopted) authorizing a referendum. But that was the status quo before section 551.102(4) was amended (or, indeed, enacted). It goes without saying that the Legislature could enact or amend a statute, or that the people could adopt a constitutional amendment, authorizing a referendum. That was true before chapter 2009-170, section 19, was enacted, and remains true after the enactment. There was no need or purpose in enacting a statutory provision to state the obvious. "We have recognized that 'the Legislature does not intend to enact useless provisions, and courts should avoid readings that would render [any] part of a statute meaningless.' State v. Goode, 830 So. 2d 817, 824 (Fla. 2002); see also Martinez v. State, 981 So. 2d 449, 452 (Fla. 2008) (repeating this quote). '[W]ords in a statute are not to be construed as superfluous if a reasonable construction exists that gives effect to all words.' State v. Bodden, 877 So. 2d 680, 686 (Fla.2004)." Metro. Cas. Ins. Co. v. Tepper, 2 So. 3d 209, 215 (Fla. 2009). We should decline the invitation to interpret the third clause in a way that would render the clause perfectly meaningless, nugatory and without any legal effect.

The Legislature has plenary authority over slot machines, authority the parties themselves do not question here. At oral argument, the assistant attorney general representing the Department conceded that the Florida Constitution does

not restrict the Legislature's authority to allow slot machines (as opposed to lotteries). While Judge Makar's opinion goes on at some length about our supreme court's jurisprudence in this area, making much of dicta in Greater Loretta Improvement Association v. State ex rel. Boone, 234 So. 2d 665, 671–72 (Fla. 1970), it acknowledges that the last word from the Florida Supreme Court came in Advisory Opinion to the Attorney General Re: Authorizes Miami–Dade and Broward County Voters to Approve Slot Machines in Parimutuel Facilities, 880 So. 2d 522, 525 (Fla. 2004), where the court actually held:

> We have long since settled the question of whether slot machines constitute lotteries. In Lee v. City of Miami, 121 Fla. 93, 163 So. 486, 490 (1935), we addressed the question of whether certain legislatively described gambling machines, such as slot machines, constituted lotteries prohibited by the state constitution. We concluded they did not.

"The Constitution of Florida is a limitation of power, and, while the Legislature cannot legalize any gambling device that would in effect amount to a lottery [other than state operated lotteries authorized by article X, section 15 of the Florida Constitution], it has inherent power to regulate [or not] or to prohibit [or not] any and all other forms of gambling." Lee, 163 So. at 490. Accord Hialeah Race Course, Inc. v. Gulfstream Park Racing Ass'n, 37 So. 2d 692, 694 (Fla. 1948) ("Authorized gambling is a matter over which the state may . . . exercise its police

power . . . .”). Any implication that a constitutional amendment was or is necessary to allow slot machines by general law is unwarranted.[14]

But, the broad reach of legislative authority over slot machines and pari-mutuel wagering notwithstanding, the Legislature is subject, in this area, too, to constitutional restrictions on special laws and general laws of local application.[15]

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[14] See Pasternack v. Bennett, 190 So. 56, 57 (Fla. 1939) (“[I]t is . . . settled in this jurisdiction that those devices commonly known as slot machines are gambling devices . . . subject to the police power of the State to regulate, control, prohibit or destroy them.”); Eccles v. Stone, 183 So. 628, 631-32 (Fla. 1938) (recounting that the Legislature legalized the operation of slot machines in 1935, then prohibited the operation of coin-operated gambling devices in 1937, and that the “state policy has for many years been against all forms of gambling, with the exception of the legislative enactment legalizing parimutuel wagers on horse racing and the 1935 Act legalizing the operation of slot machines”); Fla. Gaming Ctrs., Inc. v. Fla. Dep’t of Bus. & Prof’l Regulation, 71 So. 3d 226, 229 (Fla. 1st DCA 2011) (“The Legislature has broad discretion in regulating and controlling pari-mutuel wagering and gambling . . . .”).

[15] Compare, e.g., Fla. Dep’t of Bus. & Prof’l Regulation v. Gulfstream Park Racing Ass’n, 967 So. 2d 802, 809 (Fla. 2007) (holding a statute regulating live broadcasts of horse races was unconstitutional as a special law, albeit enacted in the guise of a general law, without compliance with the requirements for the enactment of special laws because the conditions making the provision applicable “existed only in the area where Gulfstream was located, and there was no reasonable possibility that they would ever exist in another part of the state”); Dep’t of Bus. Regulation v. Classic Mile, Inc., 541 So. 2d 1155, 1158–59 (Fla. 1989) (holding statute regarding thoroughbred horse racing was unconstitutional as a special law in the guise of a general law because Marion County was the sole county that would ever fall within the statutorily designated class of counties eligible for licensure; rejecting argument that “the regulatory responsibilities given to the state under the statute [were] part of the overall statewide regulatory scheme

Constitutional restrictions on special laws and general laws of local application may help explain resort to the ballot initiative that resulted in article X, section 23, authorizing slot machines at certain (not all) pari-mutuel facilities in Miami-Dade and Broward Counties, but not elsewhere.

Article X, section 23 does not apply to Hialeah Race Track. Even though located in Miami-Dade County, Hialeah Race Track does not and could not qualify

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for the parimutuel industry, thereby rendering the statute a general law"; and rejecting argument that the statewide impact of revenue that might be generated as a result of the statute rendered the statute a general law); Ocala Breeders' Sales Co. v. Fla. Gaming Ctrs., Inc., 731 So. 2d 21, 24–25 (Fla. 1st DCA 1999) (holding statute that enabled one thoroughbred horse breeder operating within the state to obtain an exclusive license to conduct pari-mutuel wagering at its sales facility was an unconstitutional special law enacted in the guise of a general law), aff'd, 793 So. 2d 899 (Fla. 2001), with, e.g., License Acquisitions, LLC v. Debary Real Estate Holdings, LLC, 155 So. 3d 1137, 1142, 1147 (Fla. 2014) (holding a statute that authorized a jai alai facility to convert to a dog track under certain circumstances was a valid general law "because there is a reasonable possibility that it could apply to ten of the eleven jai alai permits in the state" and rejecting an interpretation of the statute that would render it an unconstitutional special law). See also Dep't of Legal Affairs v. Sanford-Orlando Kennel Club, Inc., 434 So. 2d 879, 882–83 (Fla. 1983) (concluding that legislation that, once passed, benefited only a track in Seminole County, was a valid general law because the statute could be applied to tracks that might be built in the future); Biscayne Kennel Club, Inc. v. Fla. State Racing Comm'n, 165 So. 2d 762, 763–64 (Fla. 1964) (holding statute regulating privilege of conducting harness racing was valid general act of uniform operation because "all of the classifications effected by th[e] act are made on the basis of factors which are potentially applicable to others" because "a number of Florida counties may by future referendum acquire racing establishments . . . within the class covered").

for licensure pursuant to section 551.104(2) (or the first clause of section 551.102(4)) because live racing or games did not occur there in "each of the last two calendar years before" article X, section 23 was adopted. The parties stipulated in the proceedings below that "Hialeah's application [which the Department granted after the statutory amendment at issue here] was submitted under the second (2nd) clause of § 551.102(4), F.S., enacted effective 7/1/10," not under section 551.104(2). Properly read, the second clause, like the third clause on which Gretna Racing relies, expands the universe of eligible facilities beyond the initial seven addressed in article X, section 23 and section 551.104(2). Hialeah Race Track, like Gretna Racing's horsetrack facility, was not among the initial seven facilities.

Summarizing the 2009 amendment to section 551.102(4), the title to Chapter 2009-170 described its effect as: "amending s. 551.102, F.S.; redefining the terms 'eligible facility' and 'progressive system' to include licensed facilities in other jurisdictions," not just in Miami-Dade or Broward. Ch. 2009-170, at 1749, Laws of Fla. This description of the amendment makes clear its purpose to redefine eligible facilities, not merely to lay the (wholly unnecessary) groundwork for a subsequent statute or constitutional amendment to redefine terms.

By making the amendment to section 551.102(4) applicable, not to Hialeah

Race Track only, but statewide ("in any other county") the drafters minimized—or greatly reduced—the possibility that the amendment would be deemed unconstitutional as a general law of local application (or a special law for the benefit of the Hialeah Race Track). This was understandably a matter of concern: Experience has taught that Hialeah Race Track's competitors are a litigious lot.

In response to enactment of this statutory amendment, indeed, perhaps to prevent slot machine competition from the Hialeah Race Track,[16] holders of pari-mutuel wagering permits in Miami–Dade County who were already licensed to install slot machines sought a declaratory judgment that the 2009 amendment to section 551.102(4) at issue here was unconstitutional in its entirety. See Fla. Gaming Ctrs., Inc. v. Fla. Dep't of Bus. & Prof'l Regulation, 71 So. 3d 226, 228 (Fla. 1st DCA 2011). They argued that article X, section 23 of the Florida Constitution limited legislative power to authorize slot machine gaming, by implication, to licensed pari-mutuel facilities in Miami–Dade and Broward

[16] Subsequent to the decision in Florida Gaming Centers, Inc. v. Florida Department of Business & Professional Regulation, 71 So. 3d 226 (Fla. 1st DCA 2011), South Florida Racing Association, LLC, owner of Hialeah Race Track, filed an application for a license to conduct slot machine gaming at the Hialeah Race Track in Miami-Dade County. Before the 2009 amendment to section 551.102(4), Hialeah Race Track was ineligible for such a license. It was not among the seven facilities authorized by the 2004 constitutional amendment to be licensed to conduct slot machine gaming because "live racing or games" did not take place at Hialeah Race Track "during each of the last two calendar years before the effective date of t[he] amendment." Art. X, § 23, Fla. Const.

Counties that had conducted live racing or games during calendar years 2002 and 2003. Id. (The Hialeah Race Track conducted racing during the two years before it applied for a slot machine license, but not in 2002 and 2003, i.e., not "during each of the last two calendar years before the effective date of" article X, section 23.)

The incumbent licensees' argument was rejected by each court that considered it. We affirmed summary judgment upholding the constitutionality of section 19 of chapter 2009-170, Laws of Florida, the 2009 amendment to section 551.102, and said: "[T]he only thing that Article X, section 23 limited was the Legislature's authority to prohibit slot machine gaming in certain facilities in the two counties. Contrary to Appellants' position, Article X, section 23 provides no indication that Florida voters intended to forever prohibit the Legislature from exercising its authority to expand slot machine gaming beyond those facilities in Miami–Dade and Broward Counties meeting the specified criteria. Nor is there any indication that Florida voters intended to grant the seven entities who met the criteria a constitutionally-protected monopoly over slot machine gaming in the state." Id. at 229 (citation omitted). The Supreme Court of Florida denied review. Fla. Gaming Ctrs., Inc. v. Fla. Dep't of Bus. & Prof'l Regulation, 90 So. 3d 271 (Fla. 2012).

Against this background,[17] the question before us remains a question of statutory interpretation, and depends ultimately on the amendment's wording.[18]

[17] The Legislature, which was negotiating a (now expired) gaming compact with the Seminole Tribe of Florida during the 2009 session, provided that the statutory amendment before us in the present case would "take effect on the date the approved compact is published in the Federal Register," Ch. 2009-170, § 26, at 1803, Laws of Fla., if at all. Uncertainty about the gaming compact and the prospect of a possibly prolonged period before the provision would take effect fully explain why the Legislature required that authorizing referenda occur only after the effective date of the amendment.

The argument that a proliferation of slot machines "would be at odds with the legislation as a whole," Op. Atty. Gen. Fla. 2012-01 (2012), because it could diminish revenue for the Seminole Tribe of Florida applies with equal force to the immediately preceding clause authorizing slot machines at Hialeah Race Track. The bill that became Chapter 2009-170 was apparently "the only train moving" in the 2009 legislative session.

[18] Given the language of the statute, there is no occasion for any extratextual quest for legislative intent. In any event, the majority's resort to a single legislator's views expressed after the legislation was enacted is inappropriate and unpersuasive. It amounts to "oxymoronic 'subsequent legislative history'" that can "add nothing." Walsh v. Brady, 927 F.2d 1229, 1233 n.2 (D.C. Cir. 1991). "[E]fforts by individual members of Congress or congressional committees to state retrospectively the earlier intention of the Congress as a legislative body do not suffice to interpret the meaning of a statute formally enacted by an earlier Congress." U.S. v. City of Miami, Fla., 664 F.2d 435, 437 n.1 (5th Cir. 1981).

The rule in Florida state courts to the same effect is also clear. See Sec. Feed & Seed Co. v. Lee, 189 So. 869, 870 (Fla. 1939) ("We do not overlook the support given appellants' contention by affidavits of members of the Senate as to what they intended to accomplish by the act brought in question. The law appears settled that such testimony is of doubtful verity if at all admissible to show what was intended by the Act."); State v. Patterson, 694 So. 2d 55, 58 n.3 (Fla. 5th DCA 1997) ("The State correctly concedes that the testimony provided by former Representative Glickman did not shed meaningful light on the legislature's intent

The language in contention does not reflect any "special agency expertise," and the

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in amending section 415.512. As stated in Security Feed & Seed Co. v. Lee, 138 Fla. 592, 189 So. 869 (1939), the testimony of individual members of the legislature as to what they intended to accomplish is of doubtful worth in determining legislative intent and may not even be admissible."); McLellan v. State Farm Mut. Auto. Ins. Co., 366 So. 2d 811, 813 (Fla. 4th DCA 1979) (stating affidavit of legislator stating his view of legislative intent is "generally not accepted as admissible evidence to demonstrate legislative intent"), disapproved on other grounds, S.C. Ins. Co. v. Kokay, 398 So. 2d 1355 (Fla. 1981).

As the court did in Michigan United Conservation Clubs v. Lujan, 949 F.2d 202, 209 (6th Cir. 1991), we should "decline to give significance to sponsors' private thoughts expressed subsequent to the enactment of a bill or an amendment." See also Am. Constitutional Party v. Munro, 650 F.2d 184, 188 (9th Cir.1981) ("As a member of the Conference Committee which drafted the legislation, Representative Nelson's statement might be entitled to some weight if it had been made contemporaneously with the passage of the legislation. Coming one year later, it is entitled to no weight and cannot be relied on as indicative of legislative motivation or intent."); Rogers v. Frito-Lay, Inc., 611 F.2d 1074, 1080 (5th Cir. 1980) ("The retroactive wisdom provided by the subsequent speech of a member of Congress stating that yesterday we meant something that we did not say is an ephemeral guide to history. Though even God cannot alter the past, historians can, Compare Samuel Butler, Creation Revisited, c. 14, and other mortals are not free from the temptation to endow yesterday with the wisdom found today. What happened after a statute was enacted may be history and it may come from members of the Congress, but it is not part of the legislative history of the original enactment."); 2A Norman Singer & Shambie Singer, Sutherland Statutes & Statutory Construction § 48.16 (7th ed. 2007) ("A corollary to the general rule against the use of statements by individual legislators made during debate on a bill directs courts not to consider testimony about legislative intent by members of the legislature which enacted a statute. Courts probably want to avoid issues relating to the credibility of legislators and ex-legislators, in addition to the reasons to avoid an individual legislator's statements about legislative intent. Postenactment statements made by a legislator about legislative intent, including affidavits, are not part of the original enactment's legislative history."(footnotes omitted)).

Department does not maintain that any special agency expertise it may have in the area of pari-mutuel wagering or gaming supports its construction. See State, Dep't of Ins. v. Ins. Servs. Office, 434 So. 2d 908, 912 n.6 (Fla. 1st DCA 1983) ("[B]y urging a construction of these terms based upon their common, ordinary meanings, the Department disavows the utilization of any special 'agency expertise' in its interpretation of the statute. This mitigates, if it does not entirely eliminate, the rule calling upon the court to accord 'great deference' to the agency's interpretation of the statute."). See also Schoettle v. State, Dep't of Admin., Div. of Ret., 513 So. 2d 1299, 1301 (Fla. 1st DCA 1987) (same). The Department explicitly relies, not on any purported agency expertise, but on an Attorney General's Opinion.[19]

[19] "Attorney General opinions do not, of course, have binding effect in court. See Abreau v. Cobb, 670 So. 2d 1010, 1012 (Fla. 3d DCA 1996); Johnson v. Lincoln Square Props., Inc., 571 So. 2d 541, 543 (Fla. 2d DCA 1990); Causeway Lumber Co. v. Lewis, 410 So. 2d 511, 515 (Fla. 4th DCA 1981)." Edney v. State, 3 So. 3d 1281, 1284 (Fla. 1st DCA 2009). See also Bunkley v. State, 882 So. 2d 890, 897 (Fla. 2004) (recognizing that "opinions of the Attorney General are not statements of law"); State v. Family Bank of Hallandale, 623 So. 2d 474, 478 (Fla. 1993) ("The official opinions of the Attorney General, the chief law officer of the state, are guides for state executive and administrative officers in performing their official duties until superseded by judicial decision."); Comm'n on Ethics v. Sullivan, 489 So. 2d 10, 13 (Fla. 1986) (noting that although the attorney general has the ability pursuant to section 16.01(3), Florida Statutes, to issue advisory opinions, "such power alone, and without any other constitutional demand, would not make the attorney general a part of the judicial branch"); Browning v. Fla. Prosecuting Attorneys Ass'n., 56 So. 3d 873, 876 n.2 (Fla. 1st DCA 2011)

("Attorney General opinions are not binding on Florida courts and can be rejected."); Ocala Breeder Sales Co. v. Div. of Pari–Mutuel Wagering, Dep't of Bus. Regulation, 464 So. 2d 1272, 1274 (Fla. 1st DCA 1985) ("Our holding is contrary to the cited opinion of the attorney general, but that opinion is not binding upon the court.").

In anticipation of applications like Gretna Racing's, the Department posed the following question to the Attorney General: "Does the third clause of section 551.102(4), Florida Statutes, . . . permit the Department to grant a slot machine license to a pari-mutuel facility in a county which holds a countywide referendum to approve such machines, absent a statutory or constitutional provision enacted after July 1, 2010, authorizing such referendum?" Op. Att'y Gen. Fla. 2012–01 (2012). On January 12, 2012, the Attorney General opined the Department was not authorized to issue a slot machine license pursuant to the third clause of section 551.102(4) "absent a statutory or constitutional provision enacted after July 1, 2010" because the governing clause "contemplates the necessity of additional statutory or constitutional authorization before such a referendum may be held." Id.

Attorney General Opinion 2012–01, on which the Department relied, given in response to a letter in which Department Secretary Lawson requested the Attorney General's views, states in part:

> Section 551.104(1), Florida Statutes, provides in pertinent part that the Division "may issue a license to conduct slot machine gaming in the designated slot machine gaming area of the eligible facility." (e.s.) The term "eligible facility" is defined for purposes of your inquiry to mean:
>
> > "any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section in the respective county, provided such facility has conducted a full schedule

> of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required licensed fee, and meets the other requirements of this chapter."
>
> . . . .
>
> In light of the amendment to section 551.102(4), Florida Statutes, a question has arisen as to whether the statute's third clause contemplates that a county may now hold a referendum to authorize slot machines, or, alternatively, whether the statute contemplates the necessity of additional statutory or constitutional authorization before such a referendum may be held. Based on my review of the statute, I conclude that additional statutory or constitutional authorization is required to bring a referendum within the framework set out in the third clause of section 551.102(4).
>
> . . . I am of the opinion that the Department of Business and Professional Regulation is not authorized to issue a slot machine license to a pari-mutuel facility in a county which, pursuant to the third clause in section 551.102(4), Florida Statutes, holds a countywide referendum to approve such machines, absent a statute or constitutional provision enacted after July 1, 2010, authorizing such referendum.

(Footnote omitted.) Attorney General Opinion 2012–01 relied heavily on the location of the phrase "after the effective date of this section" within what the Opinion called "the third clause of section 551.102(4)."

Attorney General Opinion 2012-01 also relies on a mistaken reading of the second clause of the amendment; and, under the heading of legislative intent, the remarks of a single legislator made during the session in the year following the session in which Chapter 2009-170, section 19, Laws of Florida, was enacted.

General Opinion 2012-01) of the statute is de novo. See Fla. Dep't of Children & Family Servs. v. P.E., 14 So. 3d 228, 234 (Fla. 2009). "Legislative intent guides statutory analysis, and to discern that intent we must look first to the language of the statute and its plain meaning." Id. The "'statute's text is the most reliable and authoritative expression of the Legislature's intent.' Courts are 'without power to construe an unambiguous statute in a way which would extend, modify, or limit, its express terms or its reasonable and obvious implications.'" Hooks v. Quaintance, 71 So. 3d 908, 910–11 (Fla. 1st DCA 2011) (citations omitted).

The Department's construction would render superfluous the entire third clause, the clause that begins "any licensed pari-mutuel facility in any other county," on which Gretna Racing relies. In this connection, it must be said that Attorney General Opinion 2012–01 is correct on one point,[20] viz.:

[20] Attorney General Opinion 2012-01's claim that "there were no pre-effective date referenda to be excluded from the ambit of" the third clause is plainly incorrect, however. The first clause covers pari-mutuel licensees in Miami-Dade and Broward Counties that had conducted live racing or games in 2002 and 2003. The second clause covers pari-mutuel licensees in Miami-Dade County that had conducted live racing for two consecutive calendar years immediately preceding applying for a slot machine license. The third clause applies to pari-mutuel licensees that conduct live racing for two consecutive calendar years immediately preceding applying for a slot machine license in any other county in which a referendum succeeds after July 1, 2010, including any such Broward County facilities that did not already have slot machine licenses, even though Broward County can be said to have conducted a "pre-effective date referend[um]."

> It is a maxim of statutory construction that a statute is to be construed to give meaning to all words and phrases contained within the statute and that statutory language is not to be assumed to be mere surplusage.[11]
>
> [11] See, e.g., Terrinoni v. Westward Ho!, 418 So.2d 1143 (Fla. 1st DCA 1982); Unruh v. State, 669 So.2d 242 (Fla. 1996) (as a fundamental rule of statutory interpretation, courts should avoid readings that would render part of a statute meaningless); Op. Att'y Gen. Fla. 91–16 (1991) (operative language in a statute may not be regarded as surplusage).

"'When the Legislature makes a substantial and material change in the language of a statute, it is presumed to have intended some specific objective or alteration of the law, unless a contrary indication is clear.'" Altman Contractors v. Gibson, 63 So. 3d 802, 803 (Fla. 1st DCA 2011) (quoting Mangold v. Rainforest Golf Sports Ctr., 675 So. 2d 639, 642 (Fla. 1st DCA 1996)).

The Department's quibbles do not address this basic point. Contrary to the Department's assertion, Gretna Racing's interpretation does not render superfluous the phrase "pursuant to a statutory or constitutional authorization." The referendum that made Gretna Racing's horsetrack eligible for slot machine gaming licensure took place pursuant to statutory authorization. Section 125.01(1)(y),

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Since the effective date of the statutory amendment was contingent and uncertain, see infra n.6, "pre-effective date referenda" were entirely possible and were appropriately addressed with the language "after the effective date of this section."

Florida Statutes (2012) requires "a majority vote of the total membership of the legislative and governing body," here the Gadsden County Commission, to place a question or proposition on the ballot. The Gadsden County Commissioners' vote supplied statutory authorization for the referendum.

Nor does Gretna Racing's interpretation render meaningless the routine language "after the effective date of this section." See Ch. 2009-170, § 26, at 1803, Laws of Fla. (providing in part that "[s]ections 4 through 25 [of this act] shall take effect only if the Governor and an authorized representative of the Seminole Tribe of Florida execute an Indian Gaming Compact . . ., only if the compact is ratified by the Legislature, and only if the compact is approved or deemed approved, and not voided pursuant to the terms of this act, by the Department of the Interior, and such sections take effect on the date that the approved compact is published in the Federal Register"); see also Ch. 2010-29, §§ 4-5, at 295, Laws of Fla. (amending ch. 2009-170, § 26, Laws of Fla. and providing that "[s]ections 4 through 25 of chapter 2009-170, Laws of Florida, shall take effect July 1, 2010"). The effective date of the statute was highly uncertain at the time of its enactment, and the Legislature provided that referenda "in any other county" should await the events on which the effective date depended.

The Department argues it is precluded from issuing a slot machine license to

Gretna Racing because section 551.104(2) "currently allows the Division to approve applications for slot machine permits only from pari-mutuel facilities in [Miami–Dade and Broward C]ounties as specified by article X, section 23, of the Florida Constitution." The actual text of section 551.104(2) provides, however, that an "application may be approved by the division only after the voters of the county where the applicant's facility is located have authorized by referendum slot machines within pari-mutuel facilities in that county as specified in s. 23, Art. X of the State Constitution." (Emphasis added.) Hialeah Race Track does not fall within this class. Like Gretna Racing, its eligibility depends on the statutory amendment, not the constitutional amendment. The Department granted Hialeah Race Track's application without a murmur, and it should have treated Gretna Racing's application in like fashion.

The Department's reliance on sections 551.101 and 551.104(2) to deny Gretna Racing's application is as unjustified under familiar rules of statutory construction as it is inconsistent. "When reconciling statutes that may appear to conflict, the rules of statutory construction provide that a . . . more recently enacted statute will control over older statutes. See Palm Bch. Cnty. Canvassing Bd. v. Harris, 772 So. 2d 1273, 1287 (Fla. 2000); see also ConArt, Inc. v. Hellmuth, Obata + Kassabaum, Inc., 504 F.3d 1208, 1210 (11th Cir. 2007). With regard to th[is] . . . rule, th[e Florida Supreme] Court has explained '[t]he more recently

enacted provision may be viewed as the clearest and most recent expression of legislative intent.' Harris, 772 So. 2d at 1287." Fla. Virtual Sch. v. K12, Inc., 148 So. 3d 97, 102 (Fla. 2014). The Department's reliance on this preamendment language (and the maxim inclusio unius est exclusio alterius) is, moreover, irreconcilably at odds with its issuance of a license for slot machines at Hialeah Race Track.

In sum, after Gadsden County complied with all requirements for placing the question on the ballot, a majority of Gadsden County voters approved slot machines at Gretna Racing's pari-mutuel horsetrack facility. Gadsden County held its referendum after July 1, 2010, the date the legislation amending section 551.102(4) finally took effect. The Gadsden County Commission had clear, statutory authority to place the question on the ballot. See § 125.01(1)(y), Fla. Stat. (2012); see also Crescent Miami Ctr., LLC v. Fla. Dep't of Revenue, 903 So. 2d 913, 918 (Fla. 2005) ("Florida's well-settled rule of statutory construction [is] that the legislature is presumed to know the existing law when a statute is enacted, including judicial decisions on the subject concerning which it subsequently enacts a statute." (internal quotation marks and citations omitted)); Watt v. Firestone, 491 So. 2d 592, 593 (Fla. 1st DCA 1986) (stating non-charter counties have authority

to conduct referenda[21] on casino gambling under article VIII, section 1(f) of the Florida Constitution and section 125.01, Florida Statutes). Because the countywide referendum was held "after the effective date of" the amendment to section 551.102(4), Gretna Racing is an "eligible facility," as defined in section

[21] "[T]he referendum power 'can be exercised whenever the people through their legislative bodies decide that it should be used.' Florida Land Co. v. City of Winter Springs, 427 So. 2d 170, 173 (Fla. 1983)." Holzendorf v. Bell, 606 So. 2d 645, 648 (Fla. 1st DCA 1992). Black's Law Dictionary 1285 (7th ed. 1999) defines "referendum" as: "1. The process of referring . . . an important public issue to the people for final approval by popular vote. 2. A vote taken by this method." Unlike a referendum required for approval of a special law (see article III, section 10, Florida Constitution, which provides: "No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the area affected."), voter approval of slot machines does not automatically result in issuance of a license. Private parties, situated as described in Chapter 551, must then take the initiative and make application for a license. Since issues may arise regarding whether an applicant satisfies other statutory requirements for licensure, the grant of a license is not automatic.

The Department asserts, for the first time on appeal, that the favorable response of Gadsden County voters to a "sentiment" question about slot machines was not the specifically authorized referendum required by section 551.102(4). See generally D.R. Horton, Inc.- Jacksonville v. Peyton, 959 So. 2d 390, 397 (Fla. 1st DCA 2007) ("When the trial court reaches the right result, but for the wrong reasons, that decision will be upheld on appeal if there is any basis which would support the judgment in the record." (citing Dade Cnty. Sch. Bd. v. Radio Station WQBA, 731 So. 2d 638, 644-45 (Fla. 1999))). The Department's argument that section 125.01(1)(y), Florida Statutes, does not authorize Gadsden County to hold a legally binding referendum regarding slot machines and that obtaining "an expression of voter sentiment" is "notably different from referring a legislative act to the people for 'final approval by popular vote'" cannot be reconciled with Watt v. Firestone, 491 So. 2d 592, 593 (Fla. 1st DCA 1986).

551.102(4).

I respectfully dissent.

Florida Attorney General
Advisory Legal Opinion

Number: AGO 91-03
Date: January 8, 1991
Subject: Gambling / Fantasy Sports League

The Honorable Lawson Lamar
State Attorney

RE: GAMBLING—participation in fantasy sports league violation of state gambling laws. s. 849.14, F.S.

QUESTION:

Does participation in a fantasy sports league whereby contestants pay a fee for the opportunity to select actual professional sports players to make up a fantasy team whose actual performance statistics result in cash payments to the contestants with the best fantasy team violate Florida's gambling laws?

SUMMARY:

Section 849.14, F.S., prohibits the operation of and participation in a fantasy sports league whereby contestants pay an entry fee for the opportunity to select actual professional sports players to make up a fantasy team whose actual performance statistics result in cash payments from the contestants' entry fees to the contestant with the best fantasy team.

You ask whether the formation of a fantasy football league by a group of football fans in which contestants

pay $100 for the right to "manage" one of eight teams violates the state's gambling laws. You state that these teams are created by contestants by "drafting" players from all current eligible National Football League (NFL) members. Thus, these fantasy teams consist of members of various NFL teams.

According to your letter, each week the performance statistics of the players in actual NFL games are evaluated and combined with the statistics of the other players on the fantasy team to determine the winner of the fantasy game and their ranking or standing in the fantasy league. No games are actually played by the fantasy teams; however, all results depend upon performance in actual NFL games. Following completion of the season, the proceeds are distributed according to the performance of the fantasy team.[1]

You state that fantasy baseball leagues, in which professional baseball players and their performance statistics are used in similar contests, are conducted in a similar manner.

Florida's gambling laws, generally codified in Ch. 849, F.S., primarily concern games of chance rather than contests of skill. For example, lotteries, consisting of a prize awarded by chance for consideration,[2] are generally prohibited by s. 849.09, F.S.

Contests in which the skill of the contestant predominates over the element of chance, such as in certain sports contests, do not constitute prohibited lotteries.[3] This office has previously recognized that golf or bowling tournaments are predominately contests of skill.[4] Similarly, football and baseball games would appear to be predominately contests of skill even though

an element of chance may also be involved. It might well be argued that skill is involved in the selection of a successful fantasy team by requiring knowledge of the varying abilities and skills of the professional football players who will be selected to make up the fantasy team.

Section 849.14, F.S., however, provides in part:

"Whoever stakes, bets or wagers any money or other thing of value upon the result of any trial or contest of skill, speed or power or endurance of man or beast . . . or whoever knowingly becomes the custodian or depositary of any money or other thing of value so staked, bet, or wagered upon any such result . . . shall be guilty of a misdemeanor."

The statute thus prohibits stakes, bets or wagers on the results of any contests of skill. In an early decision on the state's gambling laws, The Supreme Court of Florida found a violation of law in both games of chance and contests of skill where wages, bets or money were at stake, regardless of "whether the parties betting be the actors in the event upon which their wager is laid or not . . . ."[5]

The courts, however, have distinguished between a "purse, prize or premium" and a "stake, bet or wager." In Pompano Horse Club v. State,[6] The Supreme Court of Florida stated:

"[I]n the former the donor or person offering the [prize or purse] has no chance of gaining back the thing offered but, if he abides by his offer, he must lose it, whereas in the latter each party interested therein has a chance of gain and suffers a risk of loss."

This distinction was reaffirmed by the Court in Creash v. State,[7] which stated:

"In gamblers' lingo, 'stake, bet or wager' are synonymous and refer to the money or other thing of value put up by the parties thereto with the understanding that one or the other gets the whole for nothing but on the turn of a card, the result of a race, or some trick of magic. A 'purse, prize, or premium' has a broader significance. *If offered by one (who in no way competes for it) to the successful contestant in a fete [sic] of mental or physical skill, it is not generally condemned as gambling*, while if contested for in a game of. . . . chance, it is so considered. . . *It is* also *banned as gambling if created* . . .*by* . . . *contributing to a fund from which the 'purse, prize, or premium' contested for is paid*, and wherein the winner gains, and the other contestants lose all." (e.s.)

According to your letter, the contestants pay $100 for the right to participate in the fantasy games by managing one of eight teams. The $800 in proceeds from the entry fees are used to make up the prizes. Such moneys, therefore, clearly appear to qualify as a "stake, bet or wager" as defined by the courts.[8] Moreover, such moneys have been staked, wagered or bet on the result of a contest of skill. While the skill of the individual contestant picking the members of the fantasy team is involved, the prizes are paid to the contestants based upon the performance of the individual professional football players in actual games.

Accordingly, I am of the opinion that the operation of a fantasy sports league such as described in your letter would violate s. 849.14, F.S.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tjw

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[1] According to your letter, the entry fees are distributed as follows:

"Regular season games (64 games at $9 per win) $576
Second round play-off games (4 games at $10 per win) 40
Conference champions (2 at $25 per win) 50
Super Bowl champion 50
Super Bowl runner-up 24
Leading individual scorer 10
Leading scoring team 10
Longest touchdown run 10
Longest touchdown pass thrown 10
Longest touchdown pass reception 10
Longest field goal 10"

[2] *See* Little River Theater Corporation v. State ex rel. Hodge, 185 So. 855 (Fla. 1939), discussing the elements of a lottery.

[3] *See, e.g.*, AGO's 90-35 and 55-189.

[4] *See* AGO 66-41.

[5] McBride v. State, 22 So. 711, 713 (Fla. 1897).

[6] 111 So. 801, 813 (Fla. 1927).

[7] 179 So. 149, 152 (Fla. 1938).

[8] *Compare* AGO 90-58 in which this office concluded that a contest of skill where the contestant pays an entry fee, *which does not make up the prize*, for the opportunity to win a valuable prize by the exercise of skill, does not violate the gambling laws of this state.

KeyCite Yellow Flag - Negative Treatment
Limitation of Holding Recognized by Gretna Racing, LLC v. Department of Business and Professional Regulation, Fla.App. 1 Dist., October 2, 2015

71 So.3d 226
District Court of Appeal of Florida,
First District.

FLORIDA GAMING CENTERS, INC., a Florida Corporation; and West Flagler Associates, Ltd., a Florida Limited Partnership, Appellants,
v.
FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, an agency of the State of Florida, and South Florida Racing Association, LLC, a Florida Limited Liability Company, and Florida Pinball and Amusement, Inc., Appellees.
Calder Race Course Inc., a Florida Corporation, Appellant,
v.
Florida Department of Business and Professional Regulation, Division of Pari–Mutuel Wagering, an agency of the State of Florida; and South Florida Racing Association, LLC, a Florida Limited Liability Company, and Florida Pinball and Amusement, Inc., Appellees.

Nos. 1D10–6780, 1D11–0130.
|
Oct. 6, 2011.

Synopsis
Background: Holders of pari-mutuel wagering permits brought action against the Department of Business and Professional Regulation, challenging constitutionality of statute expanding the scope of the entities authorized to conduct slot machine gaming. The Circuit Court, Leon County, James O. Shelfer, J., entered summary judgment, upholding constitutionality of statute. Permit holders appealed.

[Holding:] The District Court of Appeal, Davis, J., held that constitutional provision authorizing slot machine gaming in Miami–Dade and Broward Counties if approved by county-wide referendum did not prohibit Legislature from expanding slot machine gaming beyond those facilities in Miami–Dade and Broward Counties meeting the specified criteria.

Affirmed.

West Headnotes (6)

[1] Appeal and Error
Cases Triable in Appellate Court
The constitutionality of a statute is a question of law subject to de novo review.
Cases that cite this headnote

[2] Constitutional Law
Presumptions and Construction as to Constitutionality
All statutes are presumed to be constitutional.
Cases that cite this headnote

[3] Constitutional Law
Burden of Proof
The party challenging the constitutionality of a statute bears the burden of demonstrating that it is invalid.
Cases that cite this headnote

[4] Constitutional Law
Intent in general
State constitutional provision approved by ballot initiative must be construed in such a manner so as to fulfill the intent of the people.
Cases that cite this headnote

[5] Gaming and Lotteries
Licenses and Regulation
The Legislature has broad discretion in regulating and controlling pari-mutuel wagering and gambling under its police powers.

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1 Cases that cite this headnote

[6] Gaming and Lotteries
Slot and pinball machines

Constitutional provision authorizing slot machine gaming in Miami–Dade and Broward Counties if approved by county-wide referendum does not limit slot machine gaming in Florida to certain facilities in Miami–Dade and Broward Counties, and would not prohibit the Legislature from exercising its authority to expand slot machine gaming beyond those facilities in Miami–Dade and Broward Counties meeting the specified criteria. West's F.S.A. Const. Art. 10, § 23.

1 Cases that cite this headnote

Attorneys and Law Firms

***227** John M. Lockwood of Gunster, Yoakley & Stewart, P.A., Tallahassee, Michael S. Olin of Michael S. Olin, P.A., Miami, and Joel S. Perwin of Joel S. Perwin, P.A., Miami, for Appellants Florida Gaming Centers and West Flagler Associates in Case No. 1D10–6780.

Wilbur E. Brewton of Brewton Plante, P.A., Tallahassee, and Bruce S. Rogow and Cynthia E. Gunther of Bruce S. Rogow, P.A., Fort Lauderdale, for Appellant Calder Race Course, Inc. in Case No. 1D11–0130.

Garnett W. Chisenhall, Chief Appellate Counsel, Department of Business & Professional Regulation, Tallahassee, for Appellee The Department of Business and Professional Regulation.

Andrew T. Lavin of Navon & Lavin, P.A., Ft. Lauderdale, and Raoul G. Cantero, Rachel Wagner Furst, and John–Paul Rodriguez of White & Case LLP, Miami, for Appellee South Florida Racing Association, LLC.

David S. Romanik of David S. Romanik, P. A., Oxford, and Marc W. Dunbar and Daniel R. Russell of Pennington, Moore, Wilkinson, Bell & Dunbar, P.A., Tallahassee, for Appellee Florida Pinball and Amusement, Inc., in Case No. 10–6780.

Opinion

DAVIS, J.

Appellants, Florida Gaming Centers, Inc. ("Florida Gaming"), West Flagler Associates, Ltd. ("West Flagler"), and Calder Race Course Inc. ("Calder"), appeal final judgments entered in favor of Appellees, the Florida Department of Business and Professional Regulation ("Department") and South Florida Racing Association, LLC ("South Florida Racing"). Appellants contend that the trial court erred in concluding that the Legislature's 2009 amendment to section 551.102(4), Florida Statutes, which expanded the scope of the entities authorized to conduct slot machine gaming in Florida, is constitutional because, they contend, it conflicts with Article X, section 23 of the Florida Constitution, which authorized slot machine gaming in Miami–Dade and Broward Counties if approved by county-wide referendum. Because we agree with the trial court that the statutory amendment is constitutional, we affirm.

On November 2, 2004, Florida voters approved a ballot initiative, adding Article X, section 23 to the Florida Constitution. It provides in part:

> (a) After voter approval of this constitutional amendment, the governing bodies of Miami–Dade and Broward Counties each may hold a county-wide referendum in their respective counties on whether to authorize slot machines within existing, licensed pari-mutuel facilities (thoroughbred and harness racing, greyhound racing, and jai-alai) that have conducted live racing or games in that county during each of the last two calendar years before the effective date of this amendment. If the voters of such county approve the referendum question by majority vote, slot machines shall be authorized in such pari-mutuel facilities. If the voters of such county by majority vote disapprove the referendum question, slot machines shall not be so authorized, and the question shall not be presented in another referendum in that county for at least two years.
>
> (b) In the next regular Legislative session occurring after voter approval of this constitutional amendment, the Legislature shall adopt legislation implementing this section and having an effective date no later than July 1 of the year following voter approval of this amendment. Such legislation shall authorize agency rules for implementation, and may include provisions for the licensure and regulation of slot machines. The ***228** Legislature may tax slot

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machine revenues, and any such taxes must supplement public education funding statewide.

In 2005, voters in Broward County approved slot machines pursuant to a county-wide referendum. That same year, the Legislature enacted chapter 551, Florida Statutes. Section 551.101, entitled "Slot machine gaming authorized," mirrored the language of Article X, section 23. The Legislature defined "eligible facility" as:

> any licensed pari-mutuel facility located in Miami–Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 and has been approved by a majority of voters in a countywide referendum to have slot machines at such facility in the respective county.

§ 551.102(4), Fla. Stat. (2005). In 2008, voters in Miami–Dade County approved slot machines pursuant to a county-wide referendum.

In 2009, the Legislature amended the definition of "eligible facility" to include not only the facilities included in the original statute but also:

> any licensed pari-mutuel facility located within a county as defined in s. 125.011, provided such facility has conducted live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter; or any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section in the respective county, provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required licensed fee, and meets the other requirements of this chapter.

Ch. 09–170, § 19, Laws of Fla. This amendment became effective on July 1, 2010.

In June 2010, Appellants, holders of pari-mutuel wagering permits in Miami–Dade County, filed suit against Appellees, seeking a declaratory judgment that the statutory amendment was unconstitutional because it conflicted with Article X, section 23, which, according to Appellants, served as a limitation on permissible slot machine gaming in the state. The trial court subsequently consolidated Appellants' cases and granted Appellee Florida Pinball and Amusement Association's motion to intervene. Appellants moved for summary judgment, and Appellee South Florida Racing filed a cross-motion for summary judgment. Deciding that the statutory amendment was constitutional, the trial court denied Appellants' motion and granted South Florida Racing's motion. The court reasoned that nothing in Article X, section 23 impinged upon the Legislature's ability to regulate gambling in Florida. These appeals followed.

[1] [2] [3] [4] The constitutionality of a statute is a question of law subject to de novo review. *Crist v. Ervin*, 56 So.3d 745, 747 (Fla.2010). All statutes are presumed to be constitutional, and the party challenging the constitutionality of a statute bears the burden of demonstrating that it is invalid. *Chicago Title Ins. Co. v. Butler*, 770 So.2d 1210, 1214 (Fla.2000). In analyzing the issue before us, Article X, section 23 must be construed in such a manner so as to fulfill the intent of the people. *Caribbean Conservation Corp. v. Fla. Fish & Wildlife Conservation Comm'n*, 838 So.2d 492, 501 (Fla.2003).

[5] [6] As the trial court did, we reject Appellants' contention that the purpose of ***229** Article X, section 23 was to limit slot machine gaming in Florida to certain facilities in Miami–Dade and Broward Counties. The Legislature has broad discretion in regulating and controlling pari-mutuel wagering and gambling under its police powers. *See Div. of Pari–Mutuel Wagering Dep't of Bus. Regulation v. Fla. Horse Council, Inc.*, 464 So.2d 128, 130 (Fla.1985). In fact, chapter 849, Florida Statutes, prohibits many forms of gambling, including slot machines. *See* § 849.15(1)(a), Fla. Stat. (providing in part that it is unlawful to permit the operation of any slot machine in the state). As such, the only thing that Article X, section 23 limited was the Legislature's authority to prohibit slot machine gaming in

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certain facilities in the two counties. *See Browning v. Fla. Hometown Democracy, Inc., PAC,* 29 So.3d 1053, 1079 (Fla.2010) (" 'The legislative branch looks to the [Florida] Constitution not for sources of power but for limitations upon power.' ") (Citation omitted). Contrary to Appellants' position, Article X, section 23 provides no indication that Florida voters intended to forever prohibit the Legislature from exercising its authority to expand slot machine gaming beyond those facilities in Miami–Dade and Broward Counties meeting the specified criteria. Nor is there any indication that Florida voters intended to grant the seven entities who met the criteria a constitutionally-protected monopoly over slot machine gaming in the state. The trial court was, therefore, correct in concluding that the statutory amendment does not conflict with Article X, section 23 and is constitutional.

Accordingly, we AFFIRM.

VAN NORTWICK and CLARK, JJ., concur.

All Citations

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STATE OF FLORIDA

PAM BONDI
ATTORNEY GENERAL

January 12, 2012

12-01

Mr. Ken Lawson
Secretary, Florida Department of Business
and Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-1000

Dear Mr. Lawson:

As Secretary of the Florida Department of Business and Professional Regulation (Department) and in light of the responsibilities of the Department's Division of Pari-mutuel Wagering (Division) to license and regulate slot machine gaming in Florida, you ask substantially the following question:

> Does the third clause of section 551.102(4), Florida Statutes, referring to the ability of voters to approve slot machines "at a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section," permit the Department to grant a slot machine license to a pari-mutuel facility in a county which holds a countywide referendum to approve such machines, absent a statutory or constitutional provision enacted after July 1, 2010,[1] authorizing such referendum?[2]

In sum:

> The Department is not authorized to issue a slot machine license to a pari-mutuel facility in a county which, pursuant to the third clause of section 551.102(4), Florida Statutes, holds a countywide referendum to approve

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[1] The effective date of the amended statute is July 1, 2010. *See* ss. 4 and 5, Ch. 2010-29, Laws of Fla., amending s. 26, Ch. 2009-170, Laws of Fla.

[2] Section 551.102(4), Fla. Stat., defining "Eligible facility," contains three independent clauses: one relating to counties addressed in Art. X, s. 23, Fla. Const.; one relating to counties defined in s. 125.011, Fla. Stat.; and the one which is the subject of the instant inquiry. This opinion is limited to a consideration of the third clause in section 551.102(4); no comment is expressed regarding the interpretation of the first and second clauses.

> such machines, absent a statutory or constitutional provision enacted after July 1, 2010, authorizing such referendum. This conclusion is compelled by the plain language of the statute, canons of statutory construction, the statute's legislative history, and consideration of the statute in relation to the Legislature's contemporaneous ratification of the Seminole gaming compact.[3]

Section 551.104(1), Florida Statutes, provides in pertinent part that the Division "may issue a license to conduct slot machine gaming in the designated slot machine gaming area of the *eligible facility*." (e.s.) The term "eligible facility" is defined for purposes of your inquiry to mean:

> any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities *in a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section in the respective county,* provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required licensed fee, and meets the other requirements of this chapter.[4] (e.s.)

The italicized language quoted above was added to the statute in 2009 by section 19, Chapter 2009-170, Laws of Florida.[5] The amendment, however, was contingent upon ratification of the proposed gaming compact between the State and the Seminole Tribe of Florida and its approval by the U.S. Department of the Interior and was to take effect upon publication of the compact in the Federal Register.[6] In Chapter 2010-29, Laws of Florida, the Legislature refused to ratify the compact considered in Chapter 2009-170. Instead, the Legislature approved a new compact and amended Chapter 2009-170 to make all of the pari-mutuel provisions in that chapter effective July 1, 2010.[7]

In light of the amendment to section 551.102(4), Florida Statutes, a question has arisen as to whether the statute's third clause contemplates that a

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[3] In light of this conclusion, I need not address the other questions posed in your letter.
[4] Section 551.102(4), Fla. Stat.
[5] The language in question was proposed by a conference committee which stated in pertinent part that the language "[a]uthorizes Class III slot machines in a county that has had a referendum approving slots or has had a *referendum approving slots that was approved by law or the Constitution* provided that such facility has conducted 2 years of racing and complies with other requirements for slot licensure." (e.s.) Summary of Conference Committee Report on CS/CS/SB 788, dated May 6, 2009.
[6] Section 26, Ch. 2009-170, Laws of Fla.
[7] Sections 1 and 5, Ch. 2010-29, Laws of Fla.

county may now hold a referendum to authorize slot machines, or, alternatively, whether the statute contemplates the necessity of additional statutory or constitutional authorization before such a referendum may be held. Based on my review of the statute, I conclude that additional statutory or constitutional authorization is required to bring a referendum within the framework set out in the third clause of section 551.102(4).

It is important to note that at the time the Legislature considered the 2009 amendments to the definition of "eligible facility," no constitutional or statutory provision of Florida law provided for a referendum to approve slots in any county other than Miami-Dade and Broward. Those counties — and only those counties — gained the authority to hold slots-approval referenda when the voters in 2004 adopted what is now Article X, section 23 of the Florida Constitution. Indeed, subject to certain limited exceptions not relevant here, slot machines are generally prohibited by law.[8] It is against this backdrop that the Legislature adopted the statutory language at issue here: "a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section in the respective county."

A critical issue in construing the above-quoted statutory text is whether the phrase "after the effective date of this section" modifies the words "constitutional or statutory authorization." Applying standard rules of statutory and grammatical construction, it is clear that the phrase "after the effective date of this section" modifies the words immediately preceding it, *i.e.*, "a statutory or constitutional authorization."[9] Specifically, under the last antecedent doctrine of statutory interpretation, qualifying words, phrases, and clauses are to be applied to the words or phrase immediately preceding, and are not to be construed as extending to others more remote, unless a contrary intention appears.[10] Here, all pertinent considerations confirm that the Legislature intended that any statutory or constitutional authorization for a slots-approving referendum must occur after July 1, 2010, the effective date of the relevant portion of section 551.102(4), Florida Statutes.

---

[8] Section 849.15, Fla. Stat. *And see* s. 849.16, Fla. Stat., defining slot machine.

[9] If the phrase "after the effective date of this section" does not modify the words "constitutional or statutory authorization," a question would still arise whether the Legislature intended to require a specific statutory or constitutional authorization, or whether a county's generic home rule power to hold a referendum would constitute sufficient "statutory authorization" for purposes of s. 551.102(4), Fla. Stat. *See* n. 14 *infra*. In light of the conclusion reached in this opinion, it is not necessary to address this issue.

[10] *See Kasischke v. State*, 991 So. 2d 803 (Fla. 2008); *Jacques v. Dep't of Bus. & Prof. Reg.*, 15 So. 3d 793, 795–96 (Fla. 1st DCA 2009); *City of St. Petersburg v. Nasworthy*, 751 So. 2d 772 (Fla. 1st DCA 2000). *And see Mendelsohn v. State, Dept. of Health*, 68 So. 3d 965 (Fla.1st DCA 2011) (a qualifying phrase will be read as modifying all items listed in a series unless there is no comma between the last of the series and the qualifying phrase).

It is a maxim of statutory construction that a statute is to be construed to give meaning to all words and phrases contained within the statute and that statutory language is not to be assumed to be mere surplusage.[11] If the Legislature in section 551.102(4), Florida Statutes, had intended the phrase "after the effective date of this section" to qualify the time at which a slots-approving referendum would be held, such language would be superfluous. At the time it was considering the pertinent amendment to section 551.102(4), no provision of Florida law authorized a slots-approving referendum outside of Miami-Dade or Broward counties. Since the first clause of section 551.102(4) expressly references pari-mutuel facilities in Miami-Dade and Broward counties and the language under consideration in the instant inquiry refers to pari-mutuel facilities "in any other county," clearly the Legislature did not consider Miami-Dade and Broward counties to be included within the scope of the provision under consideration. Thus, there were no pre-effective date referenda to be excluded from the ambit of this clause of the statute. To read the language as qualifying the time at which a slots-approving referendum would be held would render the language superfluous.

Similarly, if a county's existing powers were sufficient to authorize a slots-approving referendum, there would be no need to include the phrase "pursuant to a statutory or constitutional authorization."[12] Had the Legislature simply been referring to a county's existing statutory or constitutional authority, the following stricken language could have been omitted without causing any change in the meaning of the statute:

> any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held ~~pursuant to a statutory or constitutional authorization~~ after the effective date of this section in the respective county, provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine

---

[11] *See, e.g., Terrinoni v. Westward Ho!*, 418 So. 2d 1143 (Fla. 1st DCA 1982); *Unruh v. State*, 669 So. 2d 242 (Fla. 1996) (as a fundamental rule of statutory interpretation, courts should avoid readings that would render part of a statute meaningless); Op. Att'y Gen. Fla. 91-16 (1991) (operative language in a statute may not be regarded as surplusage).

[12] *See* s. 125.01, Fla. Stat., and *Speer v. Olson*, 367 So. 2d 207 (Fla. 1978), recognizing the home rule powers of a county. *But see* Art. VI, s. 5, Fla. Const. ("referenda shall be held as provided by law"); and *Holzendorf v. Bell*, 606 So. 2d 645 (Fla. 1st DCA 1992) ("Under the Constitution, the phrase 'as provided by law' means as passed 'by an act of the legislature'"). *Cf.* s. 125.01(1)(y), Fla. Stat., authorizing a county to place questions or propositions on the ballot "to obtain an expression of elector sentiment with respect to matters of substantial concern within the county."

> license, pays the required licensed fee, and meets the other requirements of this chapter.

Instead, the Legislature chose to mandate that the referendum be held "pursuant to a statutory or constitutional authorization"—an explicit qualifier that appears to be unique in the Florida Statutes. Indeed, no other referendum provision in the Florida Statutes employs similar language.[13] Thus, I cannot conclude that the language "statutory or constitutional authorization" merely recognizes a county's authority in existence as of the effective date of the act. Rather, the Legislature's chosen language requires the adoption of a statute or constitutional amendment specifically authorizing a referendum to approve slot machines.

Legislative intent, the cornerstone of all statutory interpretation, may be illuminated by the comments of the sponsor or proponents of a bill or amendment.[14] The Senate bill sponsor, Senator Dennis Jones, gave the following explanation on second reading of the 2010 legislation in response to a question about the local referendum process for a county that wants to add slot machine gaming and how that process would work:

> Should we want to expand in the future, a Legislature would come back and . . . let's just say we wanted to go to Class III slots, we could not do that as a local bill but we could come up here and file it as a general bill and should that bill pass to allow [a county] to have a referendum of the people and then the people vote on it, if it was passed, we could get Class III slots but it [would] also break the compact with the Indians.[15]

In further clarification, Senator Jones stated:

> If they have a referendum in a county outside of Miami-Dade and Broward for the purpose of Class III gaming *and the Legislature passes the legislation to allow that county to have the referendum*, the county has the referendum and that referendum passes, then that would effectively break the payments of the compact.[16] (e.s.)

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[13] *See, e.g.*, ss. 100.041, 100.201, 125.0104, 125.0108, 125.64, 125.901, and 153.53, Fla. Stat.
[14] *See, e.g., Ellis v. N.G.N. of Tampa*, 561 So. 2d 1209 (Fla. 2d DCA 1990), *quashed on other grounds*, 586 So. 2d 1042 (Fla. 1991) (legislative intent may be illuminated by consideration of comments made by proponents of bill or amendment); Ops. Att'y Gen. Fla. 11-24 (2011), 11-16 (2011), 06-16 (2006), 05-42 (2005), 99-61 (1999), relying on sponsor's explanation of a bill or amendment to determine legislative intent.
[15] April 8, 2010, Senate Floor Debate on CS/SB 622, 2010 Regular Session.
[16] *Id.*

The above explanation by a sponsor of the legislation clearly indicates that, under the pertinent language in section 551.102(4), Florida Statutes, a county referendum to approve slots must be specifically authorized by a statute or constitutional amendment enacted after July 1, 2010. Such an explanation is contrary to any assertion that the Legislature intended the provisions of section 551.102(4), in conjunction with a county's already-existing powers, to constitute authority for a county to hold a referendum on slot machine gaming.

Finally, the conclusion that additional legislative authorization is required for a slots-approving referendum gives due recognition to the context in which the Legislature adopted the relevant portion of section 551.102(4), Florida Statutes. The language in question took effect as part of legislation ratifying a gaming compact between the State and the Seminole Tribe of Florida, which contained provisions mandating a reduction or loss of revenue to the State in response to an expansion of slot machine gambling beyond that which existed at the time of the compact's adoption.[17] To read the pertinent language in section 551.102(4) as allowing counties other than Miami-Dade and Broward by referendum to authorize slot machines, absent specific legislative or constitutional authority, would be at odds with the legislation as a whole. Specifically, that interpretation of the statute would eliminate the State's control over its continued entitlement to a substantial amount of revenue from the Seminole Tribe.[18] In light of the intense consideration and debate that went into the Legislature's approval of the Seminole compact, it is virtually unthinkable that the Legislature would have intended to both undermine and ratify the compact in the same enactment. The basic canons of statutory interpretation require me to reject a reading of section 551.102(4) that would lead to such an absurd result.[19]

Based upon the foregoing analysis, I am of the opinion that the Department of Business and Professional Regulation is not authorized to issue a slot machine license to a pari-mutuel facility in a county which, pursuant to the third clause in section 551.102(4), Florida Statutes, holds a countywide referendum to approve such

---

[17] *See* s. 2, Part XII, Ch. 2009-170, Laws of Fla., and Part XII of the compact entered into by the State and the Tribe on April 7, 2010, and ratified by the Legislature by Ch. 2010-29, Laws of Fla.

[18] *See* statement of Senator Jones, April 15, 2010, Senate Floor Debate on CS/SB 622, 2010 Regular Session, recognizing that "[t]he tribe has exclusivity for class III gaming throughout the state" and that "[i]f new games are authorized and gaming is expanded, the tribe stops making payments or pays a reduced amount depending on the type of game and location."

[19] *See State v. Iacovone,* 660 So. 2d 1371, 1373 (Fla.1995), quoting *Williams v. State*, 492 So. 2d 1051, 1054 (Fla.1986), to the effect that "[s]tatutes, as a rule, 'will not be interpreted so as to yield an absurd result.'"

machines, absent a statute or constitutional provision enacted after July 1, 2010, authorizing such referendum.

Sincerely,

Pam Bondi
Attorney General

PJB/cm

Tab 5

Reports

THE NELSON A.
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THE BLINKEN REPORT

State Revenues From Gambling

Short-Term Relief, Long-Term Disappointment

Lucy Dadayan

April 2016

The Nelson A. Rockefeller Institute of Government, the public policy research arm of the State University of New York, was established in 1982 to bring the resources of the 64-campus SUNY system to bear on public policy issues. The Institute is active nationally in research and special projects on the role of state governments in American federalism and the management and finances of both state and local governments in major areas of domestic public affairs.

ACKNOWLEDGMENTS

First and foremost, we would like to thank Ambassador Donald Blinken for his support for this report and for the Institute more generally.

This report benefited from the insights and expertise of two external reviewers: Jonathan Griffin, senior policy specialist at the National Conference of State Legislatures, and Douglas Walker, professor of economics at the College of Charleston in South Carolina. Both provided valuable feedback on the report. They bear no responsibility for any errors that may remain, and neither they nor their organizations necessarily endorse its findings or conclusions.

The report also benefited from the feedback and guidance provided at various stages by Donald Boyd, director of the Fiscal Studies Program at the Rockefeller Institute of Government and Thomas Gais, director of the Rockefeller Institute of Government.

Fangning Li, graduate research assistant, supported with data collection and analysis. Other Rockefeller Institute staff contributing to the publication, dissemination, and communication of the report include Institute Deputy Director for Operations Robert Bullock, Director of Publications Michael Cooper, Assistant Director for Research Management Heather Trela, and Director of Information Systems Joe Chamberlin.

Finally, we thank the many state officials and other experts in the field who were so generous with their time and help in providing data and useful information.

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State Revenues From Gambling

Short-Term Relief, Long-Term Disappointment

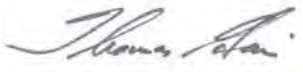
April 2016

Preface

Readers of the Rockefeller Institute's fiscal reports know that recovery in state and local revenues has been slow since the deep drops in 2009. And though the national economy has shown fairly consistent rates of growth in jobs, economic output, and home prices in recent years, the strength of the recovery has varied greatly across localities.

In light of these facts, it is not surprising that states are looking for new ways to raise revenues and promote economic development in struggling regions — and many are turning to gambling activities and facilities as solutions. However, as Dr. Lucy Dadayan shows in this new *Blinken Report,* state authorizations and promotions of gambling offer little long-run relief to state revenue problems. New gambling activities may generate short-run increases in public revenues, but these increases are getting smaller and their duration shorter, perhaps as more and more states compete for a limited pool of gambling dollars.

This report is the Rockefeller Institute's third *Blinken Report* — an annual assessment of critical issues in state and local finances. The report honors one of the Institute's founders, Ambassador Donald Blinken. Over three decades ago, the Board of Trustees of the State University of New York — then chaired by Don Blinken — approved the proposal by SUNY Chancellor Clifton Wharton to establish a policy institute attached to the largest comprehensive university system in the U.S. Since then, Ambassador Blinken has been one of the Institute's most thoughtful advisers and continues to support its work as a member of our Board of Overseers. We at the Rockefeller Institute thank Donald and Vera Blinken for their enduring support for the Institute.



Thomas L. Gais
Director,
Rockefeller Institute of Government
State University of New York

Executive Summary

States expanded allowable gambling options significantly in the past two decades, particularly in the wake of the Great Recession when more than a dozen states authorized new options in an effort to generate more revenues. Despite these expansions, gambling revenue plays a small role in state budgets, ranging between 2.0 and 2.5 percent of state own-source general revenues in the typical state. Only a few states, including Nevada, Rhode Island, and West Virginia, have much higher reliance on gambling revenue.

State and local government gambling revenues have softened significantly in recent years. States and localities derive the bulk of gambling-related revenues from three major sources — lotteries, accounting for about two-thirds of gambling revenue; commercial casinos; and racinos. Lottery revenue declined by 0.7 percent in real (inflation-adjusted) terms in fiscal year 2015, with twenty-seven states reporting declines. This was the second consecutive decline. Casinos experienced dramatic growth during the 1990s, but that growth slowed over the past decade. In recent years, much of the growth has shifted to racinos — hybrids of casinos and racetracks — as more states have approved such facilities. Revenues from casinos and racinos combined increased by 1.1 percent in real terms in 2015, but that growth is mostly attributable to two states, Maryland and Ohio, which legalized casino/racino operations after the Great Recession and opened more facilities in fiscal year 2015.

The recent geographic expansion of gambling created stiff competition as facilities vie for the same pool of consumers, particularly in the northeastern region of the nation, where weakening growth has been partly attributable to market saturation and industry cannibalization. Between 2008 and 2015, inflation-adjusted tax and fee revenues from commercial casinos grew by more than $1.3 billion in states with newly authorized casinos, but declined by $1.4 billion in states with established casinos, for a net decline of 1.5 percent nationally.

State officials considering expansion of existing gambling activities or legalization of new activities should weigh the pros and cons carefully. History shows that in the long run growth in state revenues from gambling activities slows or even reverses and declines, so it's important to take into consideration market competition within the state and among neighboring states. Officials also should consider social and economic costs associated with gambling, which are hard to measure. Gambling expansion is understandably appealing to officials wishing to raise revenue without raising taxes, but the long-term revenue is uncertain and potential economic and social costs require careful consideration.

THE NELSON A. ROCKEFELLER INSTITUTE OF GOVERNMENT

State University of New York
411 State Street
Albany, New York 12203
(518) 443-5522
www.rockinst.org

Carl Hayden
Chair, Board of Overseers

Thomas Gais
Director

Robert Bullock
Deputy Director for Operations

Patricia Strach
Deputy Director for Research

Michael Cooper
Director of Publications

Michele Charbonneau
Staff Assistant for Publications

SUNY The State University of New York

Nancy L. Zimpher
Chancellor

State Revenues From Gambling

Short-Term Relief, Long-Term Disappointment

Introduction

Gambling has become very popular as a way for states to raise revenue. Many states have been authorizing and expanding additional forms of gambling and finding ways to raise revenues from those activities. States are particularly likely to expand gambling in the aftermath of recessions and subsequent economic downturns in the hopes of raising more revenues.

In the short-run, states indeed do raise additional revenues due to expansion of gambling activities and facilities. However, history shows that in the long-run the growth in state revenues from gambling activities slows or even reverses and declines. In short, the revenue returns deteriorate—and often quickly. This pattern of deterioration may be due to competition with other states for a limited market (saturation), competition between different forms of gambling (substitution), or other factors. Despite the deterioration, the dynamic often continues, as states find new forms of gambling to authorize, open new facilities, and impose higher taxes on gambling. The results are short-run yields and longer-run deterioration.

In addition to the weak long-run growth of gambling revenues, the expansion of highly taxed gambling activities also raises equity issues, since the revenues come largely from low and moderate income households, whose incomes have declined (or not grown) in real terms along with their spending. A related equity issue may be the effects of expansion of state-sanctioned commercial casinos[1] on Native American casinos, which have been around since 1988. These are low-income communities that found a source of income in casinos, but the expansions of state-sanctioned commercial casinos may reduce their yields.

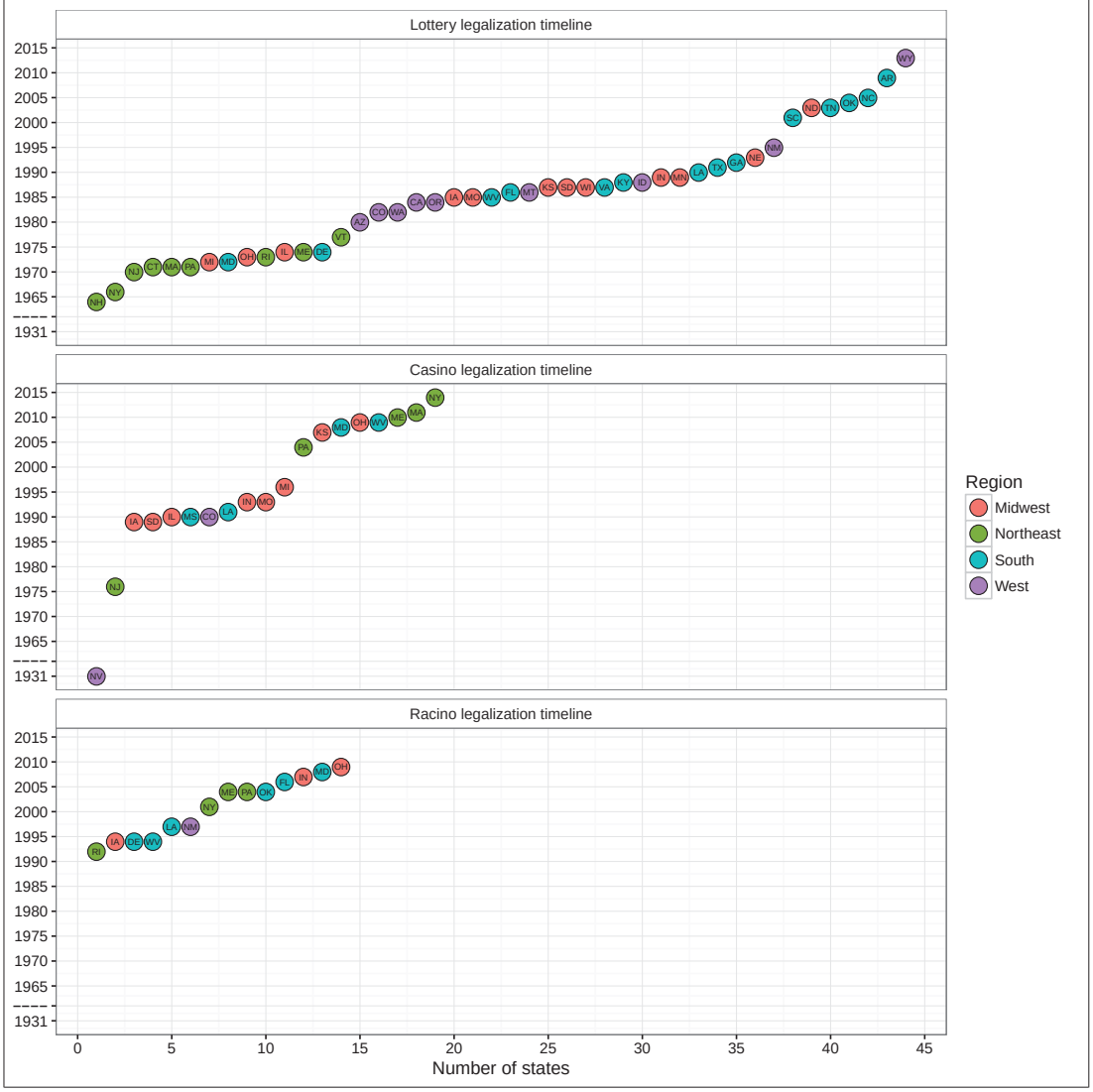
Finally, the research literature suggests that expansion of gambling activities has social and economic costs, although the findings are mixed on these points, and it's unclear whether the economic development impacts are strong enough to counter the costs and other weaknesses of these policies.

Availability of State-Sanctioned Gambling Activities in the United States

State-sanctioned legalized gambling has expanded gradually and continuously over the last four decades. All states except Hawaii and Utah collect revenue from one or more forms of gambling, such as lotteries, commercial casinos, racinos, pari-mutuel wagering, Native American casinos, and some less common types of gambling activities. Currently, forty-four states operate lotteries, nineteen have legalized commercial casino operations, thirteen have racinos, and over forty states allow pari-mutuel wagering. In addition, Native American casinos are legal in twenty-nine states.

Figure 1 shows gambling expansion over time for three major types: lotteries, commercial casinos, and racinos. The dates indicated on Figure 1 are for legalization rather than operations. In general, it takes months or even years of debate before any type of gambling activity is legalized. In addition, it takes months or even years before the legalized gambling activity becomes fully operational.

Figure 1. Gambling Expansion: Legalization Dates



As shown on Figure 1, lottery operations expanded before the 1990s and mostly in response to the 1973 recession and the 1980 double-dip recessions. Casino and racino operations became operational since the 1990s, mostly in response to the last three recessions. In addition, the IGRA of 1988 and legalization of tribal gambling encouraged some state governments to consider the legalization of commercial casinos.[2]

New Hampshire was the first state, in 1964, followed by New York in 1967 to legalize modern-day lottery operations. Overall, the Northeastern states were the early adopters of lottery operations, while the states in the South are the late adopters. By 1990, thirty-two states had legalized lotteries. Another five states legalized lottery operations between 1990 and 2000 and seven more states did so since 2001. Arkansas and Wyoming were the latest states to legalize a lottery in 2008 and 2013, respectively.

Commercial casino and racino gambling are now operating in nearly half of the United States. As of fiscal year 2015, nineteen states had legalized casino operations and fourteen states racino operations. Most of the states with casino and racino operations are located in the Midwest and Northeast regions.

Nevada was the first state to legalize casino operations in 1931, followed by New Jersey in 1976. South Dakota and Iowa were the next two states to legalize casinos in 1989. Another nine states legalized casinos between 1990 and 2007. Finally, six more states legalized casino operations since 2008, mostly in response to fiscal stress caused by the Great Recession.

The expansion of lotteries and casinos contributed to declines in revenues from pari-mutuel betting. Therefore, many racetracks were converted into so-called racinos: a hybrid of a casino and a racetrack. In other words, racinos are racetracks that host electronic gaming devices such as slot machines or VLTs. In the most recent years, racinos in some states started operating table games in the hopes of generating more revenues. Rhode Island was the first state to legalize racino operations in 1992, followed by eleven other states between 1994 and 2007. Finally, two more states legalized and opened racinos since 2008.

Overall, casino and racino operations are more common in the Northeastern and Midwestern states and far less common in the Western region. Only three Western states — Colorado, Nevada, and New Mexico — have casino or racino operations. Seven states have operations of both types of facilities: Indiana, Iowa, Louisiana, Maryland, Ohio, Pennsylvania, and West Virginia. Maine legalized racino operations in 2004 and casino operations in 2010 but in 2012 converted its only racino facility into a casino.

GLOSSARY

Lottery: Lotteries allow patrons to guess winning numbers, or otherwise draw "lots" (such as those on scratch-off tickets) for cash prizes. New Hampshire was the first state to legalize modern-day lottery operations in the last 100 years, in 1964. (Several southern states authorized lotteries in the late 1800s to finance Reconstruction, but they were subsequently ended.) Six states enacted legislation that allows sale of lottery tickets over the internet.

Commercial Casino: A private gambling facility that is land-based, riverboat, or dockside and hosts the following types of activities: slot machines, video games, card games, or other games of chance such as keno, craps, and bingo. Nevada was the first state to legalize operations of commercial casinos, in 1931.

Native American/ Indian Casinos: These casinos comprise gambling businesses that are run by tribes and operate on Indian reservations. In 1987, the U.S. Supreme Court recognized that Native American tribal entities could operate gaming facilities free of state regulation. A year later, in 1988, the Congress enacted the Indian Gaming Regulatory Act (IGRA) to provide terms and conditions for gambling on Indian reservations. States usually do not have authority to regulate or profit from these Indian casinos. However, some states have negotiated special revenue sharing agreements with the tribes.

Racino: Racino is a hybrid of casinos and racetracks. In addition to racing, racinos also host other gambling activities such as slot machines, video lottery terminals, and table games. The first racino emerged in 1992, when Rhode Island legalized placement of video lottery terminals at racetracks.

Video Gaming Devices / Video Lottery Terminals (VLTs): These are special gaming machines that can be programmed to carry a variety of games, such as video poker. Some states count revenues generated from VLTs as lottery revenue, while other states count it as part of racino or casino revenues.

Pari-mutuel Wagering: Pari-mutuel wagering usually refers to gambling on an event such as horse racing, dog racing, jai-alai, or other sporting event with a relatively short duration in which participants finish in a ranked order.

iGaming (Internet Gambling): In general, iGaming or internet gambling refers to online casino gambling (including online poker). Nevada was the first state to legalize casino-style online gambling in 2013, followed by Delaware and New Jersey.

Fantasy Sports: Fantasy sport is a type of online game where participants assemble fantasy/virtual teams and compete against each other based on actual professional players' or teams' statistics.

Why Do States Legalize and Expand Gambling?

Desperate fiscal times often lead to desperate legislative measures, including legalization and expansion of gambling. However, fiscal stress is not the only motivation for gambling adoption.

Many researchers have examined factors leading to the legalization and adoption of gambling activities. The factors that have the strongest impact on gambling legalization are efforts to raise revenue in response to poor state fiscal conditions, efforts to stimulate economic development, an alignment of political interests in support of gambling, and efforts to counteract interstate competition for gambling revenue.

States often legalize and expand gambling activities during or after fiscal crises to generate new streams of tax revenues without increasing tax rates on income or sales. When state finances are depressed, legislators turn to gambling to attract tourism and keep gambling residents in-state.[3]

State voters and legislators may also turn to casinos and racinos in the hope of stimulating economic development and revitalizing distressed economies. However, there is no consensus on whether the operation of casinos and racinos leads to economic development.[4] Some studies have concluded that casinos and racinos create jobs and improve the regional economies in which they operate.[5] Other studies, on the other hand, found that casinos and racinos simply alter the mix of employment and income among industries and do not lead to real economic growth.[6]

Politics and interest group lobbying are also contributing factors to gambling adoption and expansion. Some researchers argued that the interests of the casino industry, state politicians, and legislators are often aligned.[7] The gambling industry is a significant contributor to politicians and political parties and plays a crucial role in the political process. However, according to Pierce and Miller, states with a large fundamentalist population are less likely to sanction gambling: "… legalized gambling offers a wonderfully varied set of political forces. From religious fundamentalists on the grassroots level to casino corporations and the horse-racing industry, legalized gambling spurs both mass politics and interest group politics."[8]

The rapid expansion and geographic proliferation of gambling activities have led to increased interstate competition for the gambling market.[9] State politicians and legislators often legalize gambling activities in response to interstate competition and in the hopes of keeping residents and gambling taxes within the state. Interstate competition is particularly relevant in the case of casino and racino legalization, and particularly for the states that are late adopters. Etzel classified states into four major categories:

- **Category I:** states without gambling, with low losses to neighbor states and with low economic cost;
- **Category II:** states without gambling, with high losses to neighbor states and with high economic cost;

- **Category III:** states with gambling, with a high percentage of tourist gamblers and with high economic gain;
- **Category IV:** states with gambling, with low percentage of tourist gamblers, and with volatile economic gain.[10]

According to Etzel, "Many early gambling states were in Category III, and new gambling states aspire to be the same. As legal casinos spread, however, more states will end up in Category IV, and the overall economic impact of casinos is less likely to be positive."[11] In other words, states expand gambling in the hope that they'll mimic the successes of early adopting states, but the more gambling expands, the more likely it is that economic and revenue gains will be eroded due to competition.

State and local government tax revenues declined significantly during the Great Recession. As a result, many states considered expanding gambling operations to help balance budgets. Since the Great Recession, more than a dozen states have expanded gambling. For example, states introduced new forms of gambling such as video games, sports betting, card rooms, iGaming, and fantasy sports betting. Four states — Maine, Maryland, Ohio, and West Virginia — legalized casino operations. Several states, including Delaware, Maine, Maryland, Pennsylvania, and Rhode Island, legalized poker and other table game operations at their casinos and racinos in the hopes of generating more revenues. New York and nine other states entered into an agreement to create a new multi-state lottery. Online lottery (i.e., sale of lottery tickets over the internet), iGaming, and fantasy sports betting appear to be the next targets for many states. At the end of fiscal year 2015, iGaming was legal only in three states — Delaware, Nevada, and New Jersey.

In addition to enacted proposals, gambling expansion proposals failed in a few states. For example, in Hawaii, one of two states with no state-sanctioned gambling, the governor gave serious consideration to a legalized gambling initiative but the measure has not been enacted.

The Impact of Gambling on State and Local Finances

State and local governments raised $27.7 billion in 2015 from major types of gambling. Two-thirds of gambling revenues came from lottery operations. Revenues from casinos and racinos accounted for 19.3 and 12 percent of the total gambling revenues. Revenues from video games and pari-mutuel wagering represented 2.4 and 0.5 percent of the total, respectively (see Table 1). States also raise revenue from Indian casinos. However, states cannot tax Indian casinos directly, and only raise revenue pursuant to negotiated revenue-sharing agreements. Revenues from Indian casinos are not reported comprehensively, and is considerably less than revenue from commercial casinos. Appendix Table 12 provides available data on state revenue from Indian casinos. This report focuses on commercial casinos and,

Table 1. Overview of Gambling Revenue				
Timeline	Gambling revenue ($ millions) FY 2015	Percent of total	Gambling revenue per resident age 18 & above	Growth in inflation-adjusted gambling revenue, 2008 to 2015
Lottery	$18,218	65.7%	$74.3	0.2%
Commercial casinos	$5,361	19.3%	$21.9	-1.5%
Racinos	$3,326	12.0%	$13.6	18.6%
Video gaming	$672	2.4%	$2.7	25.1%
Pari-mutuel	$135	0.5%	$0.5	-44.5%
Total Gambling	**$27,714**	**100.0%**	**$113.0**	**1.8%**
Sources: Rockefeller Institute analysis of gambling revenue data from state gaming regulatory agencies; Census Bureau (population), Bureau of Economic Analysis (GDP index).				

except where noted otherwise, references to casinos are to commercial casinos.

Gambling revenue plays a relatively small role in state budgets. In most states, gambling revenue represents between 2.0 and 2.5 percent of state own-source general revenues. Only a few states, including Nevada, Rhode Island, and West Virginia, have much higher reliance on gambling revenue.

We analyzed three related measures of gambling tax and fee revenue in each state, including the state's share of the nationwide total, revenue per resident age eighteen and above, and revenue per $1,000 of personal income in the state (see Appendix Table 1).

States vary widely in terms of shares of nationwide gambling revenue. New York and Pennsylvania collect the largest shares of such revenue, at 11.5 and 8.8 percent of the national total, respectively.

State revenue from gambling also varies widely when adjusted for population. Nationwide, gambling revenue amounted to $113 per adult resident in 2015.[12] In Rhode Island and Nevada, such revenue amounted to over $400 per adult resident. In twenty-four states, gambling revenue was $100 or less per resident aged eighteen or above, and in another fifteen states it was $200 or less. Differences across states reflect differing degrees of gambling tourism, different tax regimes, different preferences for gambling, and other factors.

Nationwide, gambling revenue per $1,000 of personal income is $1.8. West Virginia and Nevada report the highest levels of gambling revenue by this measure, at $8.3 and $7.7, respectively.

Gambling revenues in five states — California, Florida, Illinois, New York, and Pennsylvania — have relatively high proportions of the national total, at 5.0 percent or above, but those figures are mostly driven by the states' comparatively high populations and economic activity. In fact, gambling revenue per resident is below the national averages in California and Florida. On the other hand, four smaller states — Delaware, Rhode Island, South Dakota, and West Virginia — have relatively low shares of the national total but rank well above national averages in gambling revenue per resident and per $1,000 of personal income.

The Rockefeller Institute of Government collected and analyzed revenue data from major types of gambling. In this report,

we define gambling revenues as revenues from various taxes and fees transferred to state and local governments. We provide detailed data for the following types of gambling: lotteries, casinos, racinos, and pari-mutuel wagering. In addition, we provide revenue statistics for video gaming for five states that allow video gambling operations and report such data separately. Finally, we also provide some statistics for revenues from Native American casinos for seven of twenty-nine states that have Native American casinos.[13]

States derive the bulk of gambling-related revenues from three major sources — lotteries, casinos, and racinos. Casinos experienced dramatic growth during the 1990s. In the most recent years, much of the growth has shifted to racinos — hybrids of casinos and racetracks — as more states have approved such facilities.[14] Pari-mutuel betting, once the major source of gambling revenue for states, now represents less than one percent of overall gambling revenue for the nation.

Appendix Table 2 shows state-by-state revenue collections from major gambling revenue sources for fiscal years 2014 and 2015 and Appendix Table 3 shows the percent change in gambling revenues from fiscal year 2014 to 2015.

In fiscal year 2015 states' revenues from the major types of gambling grew by 1.5 percent compared to fiscal 2014. After adjusting for inflation,[15] revenues from major sources of gambling grew by 0.2 percent. Revenues from lottery operations, the most significant source of all gambling revenue, grew by 0.6 percent nationally in fiscal 2015. Revenues from commercial casino operations, the second largest source of all gambling revenue, grew by 1.3 percent. Revenue collections from racino operations and pari-mutuel wagering increased by 4.2 and 2.7 percent, respectively. We also provide revenue data collected from video gaming activities in the following five states: Delaware, Illinois, Louisiana, Montana, and West Virginia. These five states report revenues from video gaming separately, while some other states report revenues from VLTs as part of lottery, racino, or casino operations, as already discussed. The video gaming machines in these five states are not necessarily located at casino or racino locations, but at places such as bars, restaurants, clubs, hotels, etc. For example, West Virginia operates VLTs at racino locations and other video gaming devices (called limited video lottery) in other locations.[16] Similarly, revenues from video gaming machines in Delaware (called charitable video lottery) are reported separately as they are not necessarily located at the racinos.[17] In fiscal 2015, revenues from video gaming grew by 15.4 percent. The rapid growth in video gaming revenues is mostly attributable to Illinois, where video gaming operations were legalized only recently, in July of 2009.

The growth in overall gambling revenues is not distributed evenly among the regions. In fiscal year 2015, Mid-Atlantic states had the weakest growth in overall gambling revenues at 0.1

percent, while Far West and New England states had the strongest growth at 2.5 and 2.4 percent, respectively.

Of the forty-seven states with gambling revenue, eighteen states reported declines over the year, while twenty-nine states reported growth.

Lotteries

While casinos and racinos are the focus in many states, lotteries remain the primary source of gambling revenue to governments and represent about two-thirds of all gambling revenues. Currently, forty-four states have legalized state lotteries to raise revenues.[18]

Lotteries are regulated or operated by state governments. The gross revenue from lotteries is usually allocated among lottery administration, lottery prizes, and state funds. Most states transfer between 20 to 30 percent of the gross lottery revenues to the state funds. South Dakota and Oregon stand out as having the largest share of gross lottery revenues dedicated to state funds (see Appendix Table 4).

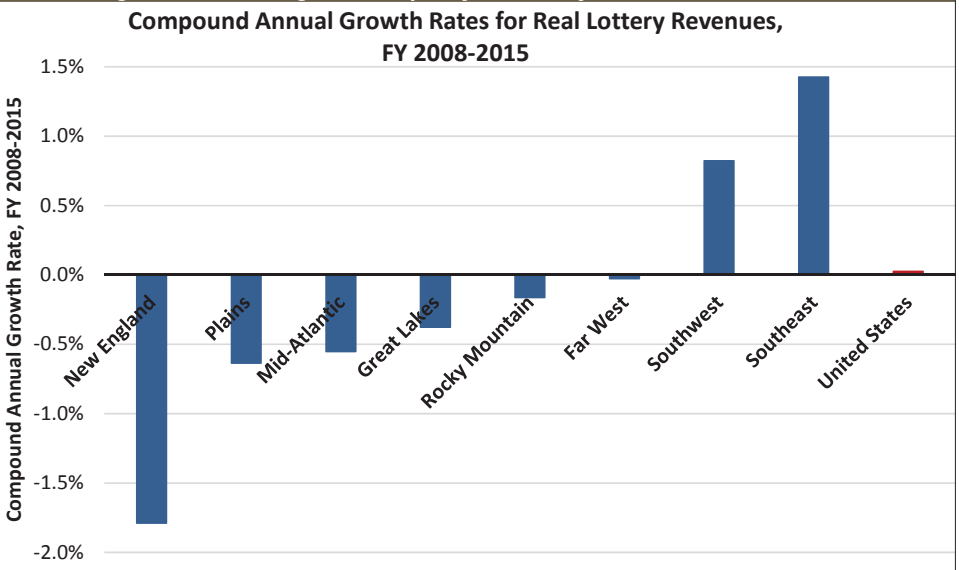
Lottery proceeds are often earmarked by law. States normally put revenues generated from the lottery in the general fund or in a dedicated fund targeted toward particular program areas, such as education, veterans' programs, environmental protection, and natural resources (see Appendix Table 4).

Appendix Table 5 shows state-by-state inflation-adjusted revenue collections from lottery operations for fiscal years 2008-15, percent change in lottery revenues between 2014 and 2015, compound annual growth rates[19] between 2008 and 2015, and percent and dollar change in lottery revenues between 2008 and 2015. Wyoming is excluded since the Wyoming Lottery Corporation has not transferred any revenues to the state yet. The Wyoming Lottery Corporation is a quasi-governmental agency and there were no state funds provided to the Lottery Corporation to begin operations; it secured a private loan to begin operations. Once the Lottery Corporation pays off the loan, they will start transferring revenues to the state, most likely in mid-2016.[20]

Inflation-adjusted lottery revenue collections declined by $31 million or 0.7 percent from fiscal 2014 to 2015. Twenty-seven states saw declines in real lottery revenues, with four states seeing double-digit declines. Sixteen states reported growth in real lottery revenues, with Louisiana reporting the largest growth at 6.9 percent, followed by Oregon at 6.3 percent. Michigan reported the largest dollar value increase of $43 million or 5.7 percent in fiscal year 2015.

Compound annual growth rates varied widely across the states and regions. New England states reported the largest declines while the states in the Southeast region reported the largest growth (see Figure 2). For the nation as a whole, the compound annual growth rate between fiscal 2008 and 2015 was 1.6 percent in nominal terms and less than 0.1 percent in real terms.

Figure 2. Wide Regional Disparity in Lottery Revenue Growth Rates



Sources: Rockefeller Institute analysis of lottery revenue from state lottery financial reports.

Inflation-adjusted compound annual growth rates were negative in twenty-one states.

State revenues from lotteries (excluding revenues from VLTs in Delaware, Maryland, New York, Ohio, Rhode Island, and West Virginia) grew by $1.9 billion or 11.4 percent between fiscal 2008 and 2015 in nominal terms. However, after adjusting for inflation, revenues from lotteries increased by 0.2 percent or $36.1 million for the same period.

Casinos and Racinos

Commercial casinos and racinos have been on the rise in the last decade. For this report, we have tracked the opening dates of each casino in fifteen of the seventeen states with commercial casinos[21] and for each racino that is operational in thirteen states. At the end of fiscal year 2015, there were 160 commercial casinos in fifteen states and fifty-five racinos in thirteen states (see Table 2). Nearly one-third of all 160 casinos and around 56 percent of all fifty-five racinos were opened in the last decade. As shown in Table 2, before fiscal year 1991, there were very few casinos around the nation outside of Nevada. About 50 percent of all casinos and racinos outside of Nevada and South Dakota were opened since 2001.

Table 2. Casino and Racino Opening Dates

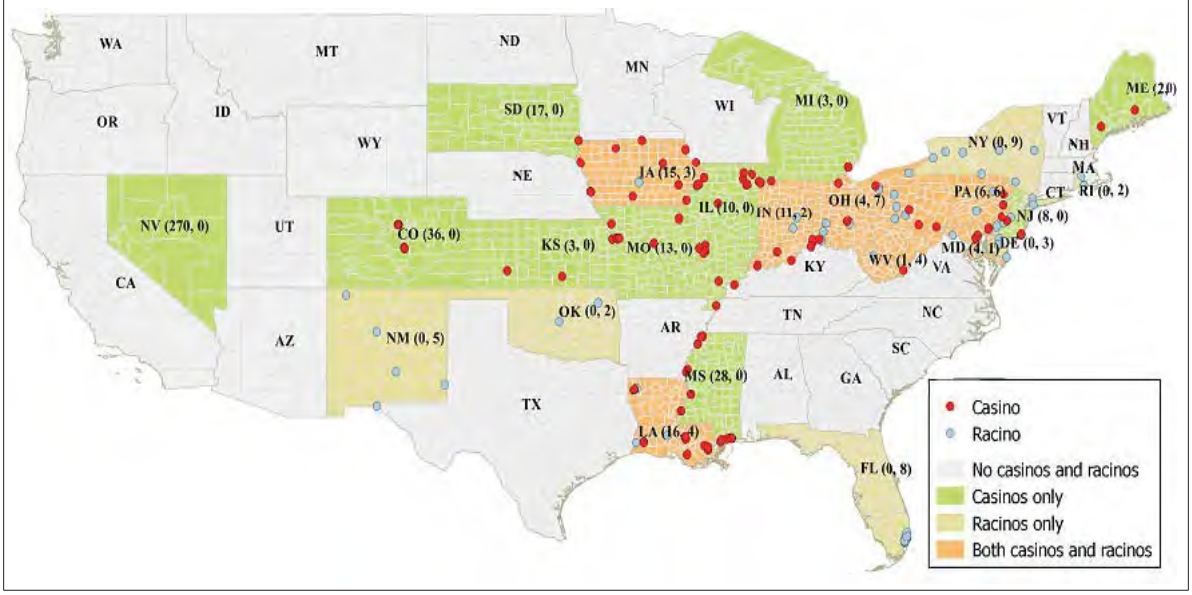
Timeline	Casinos	Racinos	Casinos & racinos	Casinos & racinos, % of total /1
FY 1978 - FY 1990	7	0	7	3%
FY 1991 - FY 1995	50	7	57	27%
FY 1996 - FY 2000	34	9	43	20%
FY 2001 - FY 2005	19	8	27	13%
FY 2006 - FY 2010	20	20	40	19%
FY 2011 - FY 2015	30	11	41	19%
Total	**160**	**55**	**215**	**100%**

Sources: Rockefeller Institute analysis of data retrieved from state gaming regulatory agencies.
1/ The total excludes previously opened facilities in Nevada and South Dakota.

Commercial casinos are more prevalent in eastern states and less prevalent in western states. Figure 3 shows the geographical location of commercial casinos and racinos by state. Most states usually open casino and/or racino facilities near their borders with other states to take advantage of border state-consumers. In addition, Figure 3 shows that quite a few casinos are located along the Mississippi river.

Figure 4 shows cumulative percent change since the Great Recession in inflation-adjusted tax and fee revenues for all commercial casinos and racinos by region.[22] Tax and fee revenues from

Figure 3. Location of Commercial Casinos and Racinos as of FY 2015



casinos and racinos are still below the prerecession levels in the Midwest and West regions and only slightly above the prerecession level in the South. The modest growth in the South is mostly attributable to a single state, Maryland, which legalized casino and racino operations only in 2008. The Northeast experienced steep growth in revenues from casinos and racinos since the start of the Great Recession, although the growth has softened in the last two fiscal years. The large growth in casino and racino revenues in the Northeast is almost exclusively attributable to a single state, Pennsylvania, and to a single racino located in New York City. Pennsylvania legalized casino and racino operations in 2004 and opened five racinos in fiscal year 2007. In addition, Pennsylvania opened an additional racino and six casinos since fiscal year 2008. While racinos in New York were operational since fiscal year 2004, the facility located in New York City was opened only recently, in fiscal year 2012.

Figure 4. Wide Regional Disparity in Tax and Fee Revenues from Casinos and Racinos

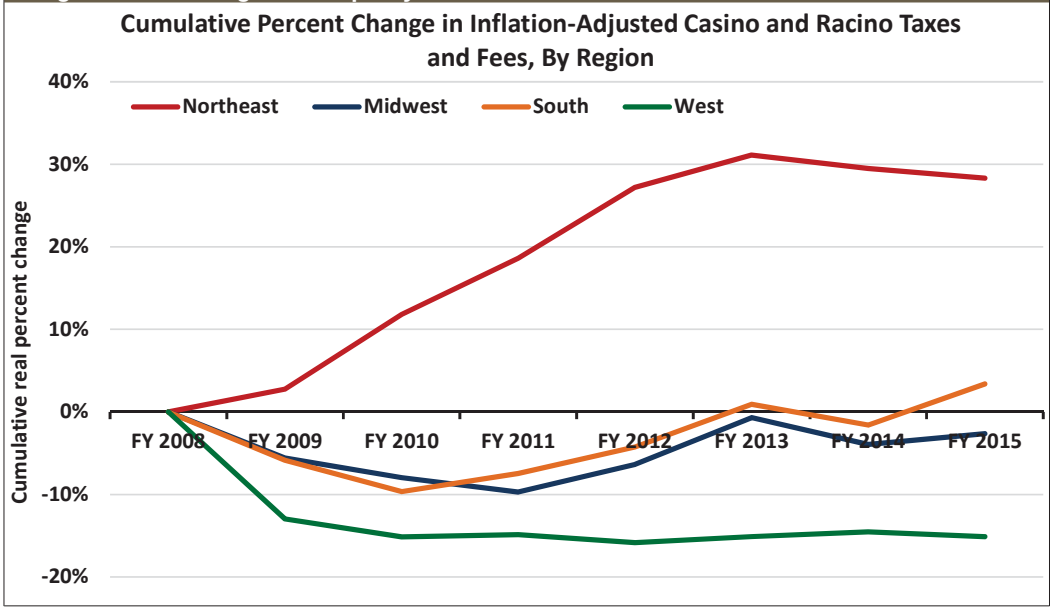
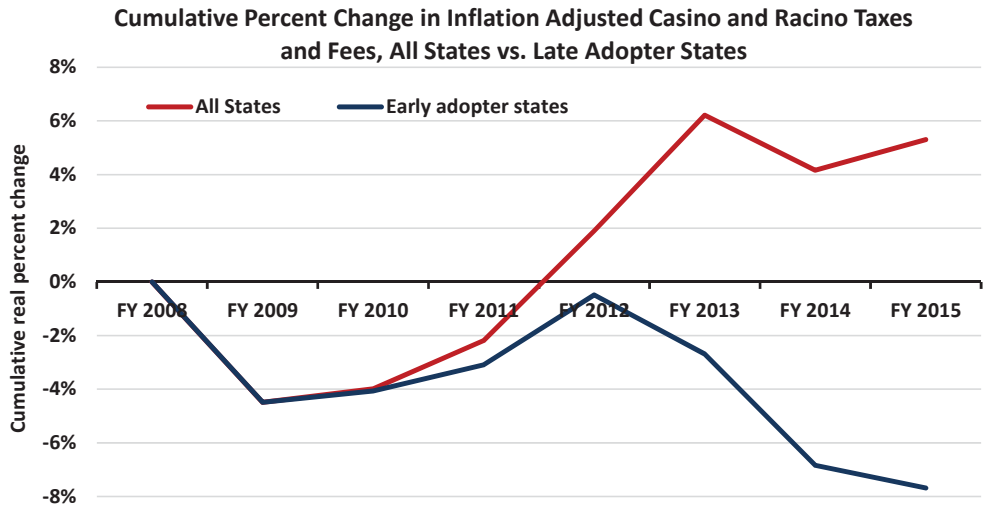


Figure 5 shows cumulative percent change in inflation-adjusted casino and racino tax and fee revenues for all states versus late

Figure 5. Steep Declines in Casino and Racino Tax & Fee Revenues in Early Adopter States



Sources: Rockefeller Institute analysis of data retrieved from state gaming regulatory agencies.
Note: The following three states - Kansas, Maryland and Ohio, are identified as late adopter states since all three states started casino/racino operations after FY 2008.

adopter states. The blue line excludes Kansas, Maryland, and Ohio as all three states started the operations of casinos and racinos after fiscal year 2008. As shown on Figure 5, after excluding tax and fee revenues for Kansas, Maryland, and Ohio, revenues for the rest of the nation declined steeply, particularly in the last three years. At the end of fiscal year 2015, casino and racino tax and fee revenues were 7.7 percent below the prerecession levels.

It is clear that the expansion of casino and racino operations leads to some growth in total revenues, but that much of the growth in expansion states appears to come at the expense of already-established operations. We see this clearly in data for casinos in Appendix Table 8. However, the growth is not sustainable and the evidence indicates that Americans are spending much less on gambling than they used to.[23] The Great Recession and its anemic recovery had a big impact on consumer discretionary spending behavior, including spending on gambling activities. Moreover, baby boomers have far less retirement savings after the 2008 stock market crash and Millennials and Generation Xers simply don't gamble as much as the baby boomers do.[24]

Commercial Casinos

Commercial casinos are operated by businesses and taxed by the states. Currently, nineteen states have legalized commercial casinos and as of the writing of this report, they are operational in eighteen states (see Appendix Table 6). Six of those nineteen states legalized commercial casino operations during or after the Great Recession. Maine, Maryland, Ohio, and West Virginia have all legalized casino operations since the start of the Great Recession. In addition, casino operations were legalized in Massachusetts and New York. Massachusetts had legalized casino operations in 2011 and opened the first casino in June 2015. New York had legalized casino operations in 2014 and expects to open four destination casino resorts.

At the end of FY 2015, there were about 450 casinos operating in seventeen states. Twenty of those casinos were located in the states that are new to the casino world and started casino operations during or after the Great Recession. Moreover, some states

introduced table games at their casino facilities in the hopes of raising more revenues. Despite geographic expansion of casino operations and despite efforts to make casinos more attractive, tax revenues from casino operations did not pick up the growth that many state officials were hoping for. Three states — Colorado, Mississippi, and New Jersey — had closed the doors of some casinos in fiscal year 2015, mostly due to declining revenues and competition from neighboring states.

One state, Nevada, is home to 60 percent of U.S. casino facilities and in fiscal 2015 collected about 17 percent of all state revenue from commercial casinos nationwide, despite a tax on casino activity that is relatively low. Pennsylvania and Indiana also collected relatively large shares of overall casino revenue, at 11 and 9.5 percent, respectively, in fiscal 2015.

Casino tax rates vary widely across the states from as low as 0.25 percent in Colorado to as high as 67 percent in Maryland (see Appendix Table 7). The early adopters of commercial casinos, such as Nevada and New Jersey, have much lower tax rates compared to late adopters of commercial casinos such as Pennsylvania or Maryland. In fact, the states that legalized commercial casinos post-2000 have much higher tax rates at or above 27 percent. Among the rest of the states, nine states have much lower tax rates, at or below 22 percent. Illinois and Indiana are the only two early adopter states with higher commercial casino tax rates. In Illinois, the top tax rate is 50 percent for casinos with over $200 million adjusted gross revenues, while in Indiana the top tax rate is 40 percent for casinos with over $600 million adjusted gross revenues.

Illinois has a long history of legislated tax changes for casinos. Casino tax rates in Illinois were flat at 20 percent until 1997. In 1998, the Illinois legislature implemented a graduated tax rate ranging from 15 percent to 35 percent for five brackets. In 2002, the Illinois legislature revised the commercial casino tax structure, added two more brackets with a top rate at 50 percent to address revenue shortfalls caused by the 2001 recession. In 2003, casino tax rates were revised once again and the legislature added a top rate at 70 percent. The legislature reduced top rate from 70 percent to 50 percent in 2005.[25]

Casino tax structures went through legislated changes in Indiana as well. Before 2002, the casinos in Indiana were taxed at a 20 percent flat rate. In 2002, the legislature in Indiana introduced a graduated tax rate for casinos ranging from 22.5 percent to 35 percent for five brackets. The legislature once again revised casino tax structures in 2007 and added an additional bracket with a 40 percent tax rate.[26]

In addition to tax rates charged on adjusted gross revenues, some states also charge admission fees or gaming device fees or some other local fees. Moreover, most states adopted different tax rates for table games that are usually at a lower rate.

States use tax revenues collected from casinos for various purposes ranging from addressing issues created by problem gambling to education (see Appendix Table 7).

Appendix Table 8 shows state-by-state inflation-adjusted revenue collections from commercial casinos for fiscal years 2008-15, percent change in casino revenues between 2014 and 2015, compound annual growth rates between 2008 and 2015, and percent and dollar change in casino revenues between 2008 and 2015. The states are divided into two groups: the "older" casino states and the "new" casino states. The "older" casino states include those states that had casino operations in place before fiscal year 2008, while the "new" casino states include states that opened casinos in fiscal year 2008 or beyond.

In fiscal 2015, states took in just less than $5.4 billion from commercial casinos, nearly as much as in fiscal year 2014. Revenues declined in nine of seventeen states with commercial casinos in fiscal year 2015. West Virginia and Indiana reported the largest declines at 18.1 and 7.8 percent, respectively. The large declines in both states are mostly attributable to the opening of casinos and racinos in the neighboring state, Ohio, in fiscal year 2012. One of Ohio's four casinos is located in Cincinnati, which is in close proximity to three of Indiana's eleven casinos, ranging only from twenty-five to fifty miles away. The largest growth was reported in Maryland, where collections grew by 17.1 percent. The strong growth in Maryland is mostly attributable to the opening of a new casino in fiscal 2015. If we exclude Maryland, collections for the remaining sixteen states show a decline of 1.2 percent in real terms.

For the nation as a whole, the compound annual growth rate was negative 0.2 percent between fiscal years 2008 and 2015. Moreover, the compound annual growth rate was negative 4.4 in the "older" casino states. Pennsylvania opened its first casinos in fiscal year 2008 and the growth is mostly attributable to the opening of new casinos during the period between 2008 and 2015.

Inflation-adjusted tax and fee revenues from casinos declined by $83 million or 1.5 percent for the nation between 2008 and 2015. The "older" casino states saw much deeper declines at 26.9 percent. Declines were reported in all "older" casino states, indicating that casinos in those states either reached saturation or have been cannibalized by "new" casino states.

The regional competition for casino tax dollars is at its height, particularly for the northeastern region of the nation. When Pennsylvania legalized and opened the doors to casino and racino operations in mid-2000s, casino revenues in New Jersey saw declines and officials in New Jersey put the blame on the new competition in neighboring Pennsylvania. Pennsylvania enjoyed the boom of tax revenue growth from casino and racino operations for the next few years, until the neighboring states, Ohio and Maryland, legalized and opened their own casinos and racinos. Officials in Indiana blamed Ohio for the declines in casino tax revenues.

While the Great Recession had a big impact on state tax revenues in general, we believe that the softening of revenues from casino operations is mostly attributable to market saturation.

Racetrack Casinos or Racinos

Tax and fee revenue from racinos represents the fastest-growing element in states' gambling portfolio. At the end of fiscal year 2015 there were fifty-five racino facilities in thirteen states, with nine operating in New York and six in Pennsylvania (see Appendix Table 9). Six of thirteen racino states—Delaware, Maryland, New York, Ohio, Rhode Island, and West Virginia — host VLTs.

The format of racinos evolved over time. Many racinos now offer table games. In addition, some racinos no longer offer much or any live racing events. For example, the two racinos in Rhode Island were the forerunner of the racinos but they no longer offer any live racing events.

Racino tax rates, just like casino tax rates, vary widely across the states from as low as 10 percent in Oklahoma to as high as 70 percent in New York (see Appendix Table 10). However, unlike casino states, the high tax rates in racino states are not tied to the late legalization dates. Nine of thirteen racino states have a flat tax rate, while the remaining four states — Indiana, Iowa, New York, and Oklahoma – have graduated tax rates. In some states, such as New York and Rhode Island, the tax rate varies from one facility to another. The tax revenues collected from racino operations are earmarked for various purposes including education, infrastructure, property tax relief, tourism, and other state and local government services.

Appendix Table 11 shows state-by-state inflation-adjusted revenue collections from racinos for fiscal years 2008-15, percent change in racino revenues between 2014 and 2015, compound annual growth rates between 2008 and 2015, and percent and dollar change in racino revenues between 2008 and 2015. The states are again divided into two groups: the "older" racino states that had operations in place before fiscal year 2008 and the "new" racino states that opened racinos in fiscal 2008 or beyond.

In fiscal year 2015, states took in $3.3 billion from racinos. State and local government inflation-adjusted revenues from racinos increased by 2.9 percent in fiscal 2015 compared to fiscal 2014. Revenues declined in seven states. Delaware reported the largest declines at 9.1 percent, followed by Iowa and Louisiana at 3.5 and 3.0 percent, respectively. Ohio reported the highest growth at 74.4 percent, primarily attributable to the opening of two new racinos during fiscal 2015. If we exclude Ohio, inflation-adjusted tax revenues from racino operations show a 0.5 percent decline nationwide from fiscal 2014 to 2015.

For the nation as a whole, the compound annual growth rate was 2.5 percent between fiscal years 2008 and 2015. However, the compound annual growth rate was only 0.6 percent in the "older"

racino states. The compound annual growth rate was negative in six of the ten "older" racino states. Indiana opened its first racinos in fiscal 2008 and the growth is mostly attributable to the opening of new racinos between 2008 and 2015.

Inflation-adjusted tax and fee revenues grew by $0.5 billion or 18.6 percent for the nation and 4.6 percent for the "older" racino states between 2008 and 2015. Declines were reported in six "older" racino states. New York had the largest growth in terms of dollar amount between 2008 and 2015, mostly attributable to the opening of the racino in New York City.

In fiscal 2015, about 28 percent of nationwide racino revenues were collected in a single state, New York, and another 23 percent were collected in Pennsylvania. Racino revenues in New York nearly doubled between fiscal 2008 and 2015, mostly due to opening of a new racino in New York City in October of 2011. The revenue collections in the New York City racino represent 40 percent of all racino revenues in the state of New York. The opening of the new racino in New York City certainly created competition for racinos in the neighboring state Pennsylvania, particularly for those racinos that are located in the eastern part of the state. Revenues from racino operations in Pennsylvania showed steady declines since 2011.

While revenues from racinos increased significantly between 2008 and 2015, particularly compared to the growth rates in lotteries and casinos, such growth is mostly attributable to legalization of racino operations in three states — Indiana, Maryland, and Ohio — as well as opening of new racino facilities in other states.

Native American Casinos

Native American casinos are run by tribes and operated on Indian reservations. In 1987, the U.S. Supreme Court recognized that Native American tribal entities could operate gaming facilities free of state regulation. A year later, in 1988, Congress enacted the IGRA to provide terms and conditions for gambling on Indian reservations. States usually do not have authority to regulate or profit from these Indian casinos. However, some states have negotiated special revenue sharing agreements with the tribes. Currently, there are around 400 Native American casinos operated by over 200 tribes in twenty-eight states.

Comprehensive data on state revenue from Native American casinos are not available. However, we provide data for seven states that have the largest share of the Native American casino revenue collections. We estimate that total state collections from Native American casinos are under $2 billion for the nation.

Appendix Table 12 shows inflation-adjusted revenue collections from Native American casinos for seven states for fiscal years 2008-15, percent change in Native American casino revenues between 2014 and 2015, compound annual growth rates between 2008 and 2015, and percent and dollar change in Native American casino revenues between 2008 and 2015.

The seven states for which we provide data comprise at least half of the nationwide revenue collections from the Native American casinos. The state of Florida signed an agreement with the Seminole Tribe of Florida in late 2010 and as part of the agreement the Tribe shares revenues with the state.[27]

Inflation-adjusted revenues from Native American casinos declined by 4.6 percent in fiscal year 2015 compared to 2014 in the seven states for which we have data. Three out of seven states reported declines.

The compound annual growth rate between fiscal 2008 and 2015 was a 0.6 percent decline in real terms for the subtotal of seven states with Native American casinos. Inflation-adjusted compound annual growth rates were negative in five states. We do not report compound annual growth rates for Florida since the Tribe in Florida started sharing revenues only starting fiscal year 2010.

Inflation-adjusted revenues for the subtotal of seven states declined by $42.5 million or 4.0 percent between 2008 and 2015. Declines were reported in five of the seven states.

Overall Trends in Tax and Fee Revenues From Major Types of Gambling

The overall trends over the past eight fiscal years indicate that the growth in tax and fee revenues from major types of gambling have not kept the pace with the growth in state and local government tax collections and overall economy. Moreover, the trends indicate that the growth in gambling revenues is mostly driven by the expansion of gambling activities.

Appendix Table 13 shows state-by-state inflation-adjusted tax and fee revenues for fiscal years 2008 through 2015 for major types of gambling — lotteries, commercial casinos, racinos, pari-mutuel wagering, and video gaming machines. Appendix Table 13 also shows the inflation-adjusted percent change in gambling revenues between 2014 and 2015, compound annual growth rates between 2008 and 2015, and percent and dollar change in gambling revenues between 2008 and 2015.

Compound annual growth rates varied widely across the states, with nearly half of the states reporting growth and the other half reporting declines. For the nation as a whole, the compound annual growth rate was 0.3 percent between 2008 and 2015.

Inflation-adjusted tax and fee revenues from gambling grew by 1.8 percent or $0.5 billion for the nation as a whole. Twenty-three states saw declines in overall inflation-adjusted gambling revenues between 2008 and 2015. The growth in the remainder of the states was mostly driven by the legalization or expansion of one or another kind of gambling activity. For example, the largest growth in terms of dollar amount was in Ohio and Pennsylvania where inflation-adjusted gambling revenues increased by $0.5 billion each. The strong growth in both states is primarily due to

legalization and operation of commercial casinos and racinos in the recent years. If we exclude Ohio and Pennsylvania, inflation-adjusted gambling revenues show a decline of 2.1 percent for the rest of the nation between 2008 and 2015.

The trends speak for themselves: Gambling is not a reliable and sustainable source of revenue for the states. Moreover, there are various tangible and intangible costs associated with the gambling, which is the topic of the next section.

Costs of Gambling

Gambling is not just any other kind of entertainment. It creates costs that are paid by all taxpayers and not just by gamblers. Therefore, gambling is a rather controversial public policy topic. Supporters of gambling argue that it promotes local economic development. Opponents of gambling argue that gambling, particularly existence of casinos and racinos, leads to a higher crime and bankruptcy rates in the local community. Supporters of gambling argue that it creates employment. Opponents argue that gambling does not provide competitive or useful workforce skills. Supporters of gambling argue that it is a voluntary type of entertainment that is socially engaging. Opponents argue that a proportion of gamblers develop addiction problems, which results in tangible and nontangible costs.

If the benefits of gambling are not clear, and if the costs of gambling are too high, why do state legislators legalize gambling? As Earl Grinols pointed out twenty years ago, "The answer is partly that the costs do not appear instantaneously, partly that those who make money from gambling do not bear the costs they impose on others, and partly that gambling creates a classic regional Prisoner's Dilemma problem: Everyone is best off if no one has gambling, but one region can sometimes gain at another's expense if it deviates from the agreement to prohibit gambling everywhere."[28]

Expansion of gambling leads to potential social costs, which in turn leads to economic costs. Some researchers have developed classifications of problems associated with gambling such as problem or pathological gambling, bankruptcy, crime, mental illness, suicide, regulatory costs, family costs, arrests, job loss, divorce, poor health, etc.[29]

The purpose of this report is not to study social costs associated with gambling, but to provide a brief review of social costs that are salient. More specifically, we will briefly review the social costs related to problem and pathological gambling, bankruptcy, and crime.

Problem and Pathological Gambling

The social and economic costs related to problem and pathological gambling are reportedly substantial but hard to measure. There is a growing body of research studying the costs associated with problem and pathological gambling. Researchers usually

attempt to study and measure social and economic costs that have "negative externalities" such as bankruptcy, crime, job loss, suicide, arrest, etc. The results of these studies are divergent and the findings remain inconclusive. Moreover, the estimates of costs vary widely. The differences in findings are often attributable to the differences in measurement criteria and the challenge of measuring certain intangible costs such as depression, the differences in the methodology, etc.[30]

Mallach distinguishes three different categories of costs associated with problem gambling: (1) costs borne by the problem gamblers themselves, (2) costs borne by the family and friends of the problem gamblers, and (3) costs borne by society.[31] The first category of the cost is not classified as a social cost since the gambler voluntarily and knowingly exhibits gambling behavior. The second category of costs is external, but is hard to quantify or measure. Researchers usually study the third category of costs: Costs that impose medical, police, legal and other social costs on society.[32]

Based on criteria developed by the American Psychiatric Association, the authors of a report to the National Gambling Impact Study Commission reported that there are approximately 2.5 million adults in the United States that are pathological gamblers and another three million that are problem gamblers. Moreover, another fifteen million adults are at risk for problem gambling. "Costs that could be measured on an annualized, present-value basis (poor physical and mental health, job losses/unemployment) sum to about $1,200 and $700 for each pathological and problem gambler, respectively."[33] According to Goodman, "The minimum estimated average cost to the combined public and private sector economies of a state is about $13,200 per problem gambler, per year."[34]

Despite the differences in research findings, one cannot deny that there are substantial social and economic costs related to problem and pathological gambling.

Gambling and Bankruptcy

The economics literature supports the argument that gambling activities, particularly lottery activities, are regressive in nature and attract poorer population. Therefore, gambling often leads to reduction of disposable income for low-income households, particularly at a time when their income is not growing and is even declining in real terms.

Several studies examined the possible impact of gambling on bankruptcy rates. The literature is divided on the relationship between casino/racino operations and bankruptcy rates. Some empirical studies found no significant relationship between casino operations and bankruptcy rates.[35] Study results conducted by Grote and Matheson reveal more mixed results. They used panel data from 1983 to 2010 and examined the relationship between legalized gambling and two types of bankruptcies: business versus

personal. The authors find no correlation between legalized gambling and business bankruptcies. According to the authors, "States that adopted lotteries and casinos prior to 1995 experienced significantly higher personal bankruptcy rates while the effect of lottery and casino adoption on personal bankruptcies has disappeared since that time."[36] A study conducted by Nichols, Stitt, and Giacopassialso reveal mixed results. The authors examined per capita personal bankruptcy filings in eight jurisdictions that had adopted gambling compared to a set of matching control jurisdictions. Their study results revealed mixed results: Per capita bankruptcy filings increased in seven of eight jurisdictions with casino operations (in five of the seven, the increase was statistical significant) and decreased significantly in one jurisdiction.[37]

Other studies, however, reveal a statistically significant relationship between casino and other gambling operations and bankruptcies. For example, Goss, Morse, and Deskins utilize county-level data for 1990-2005 and reveal that there is a correlation between the presence of casinos and the bankruptcy rates. However, "the effect of a casino on bankruptcy may differ over the casino's lifespan. Results confirm this possibility, indicating that the impact of casinos on bankruptcy follows a 'U-shaped' curve over the life of the casino."[38] More specifically, study results by Goss, Morse, and Deskins indicate that the existence of a casino in a county substantially increases the bankruptcy rate in the first year of operation, followed by lower and declining bankruptcy rates during the second through seventh years after opening, and increasing once again in the eighth year and thereafter.[39]

Economists Garrett and Nichols from the Federal Reserve Bank of St. Louis raised the question of whether casinos export bankruptcy. While most previous studies examined the impact of local casinos on local bankruptcies, the study by Garrett and Nichols took a different approach and examined trends in bankruptcy rates in the gamblers' home county. The authors found "strong evidence that states having more residents who visit out-of-state casino resorts have higher bankruptcy filings."[40]

Gambling and Crime

There is a growing body of research examining the relationship between casino/racino operations and crime associated with casinos and racinos. The results are varied. Opponents often argue that the introduction of casinos and racinos leads to increased crime rates in the host communities, while proponents argue that legalization of casinos and racinos actually reduces the crime rates as it reduces illegal gambling activities.

In 1999 the National Council of Legislators from Gaming States established an eleven-member Public Sector Gaming Study Commission (PSGSC) that was comprised of state and local government leaders. The goal of the PSGSC was to objectively study issues related to the growth and expansion of gambling. In its final report, the PSGSC, among other issues, discussed the

relationship between gambling and crime. According to the PSGSC final report, "Though much of the evidence that is available is anecdotal, the majority of the information collected during the past decade indicates that there is no link between gambling, particularly casino-style gambling, and crime."[41] The authors of the report argue that it is not the existence of casinos and gambling related activities that generates crime, but the mere fact that casinos bring in more visitors into the local community and the increased volume of people might lead to more crime.

Basham and White examined aspects of legalized gambling, including social and economic costs, in the following four countries: Australia, Canada, the United Kingdom, and the United States. According to the authors, the social benefits of gambling are underappreciated, the social costs are overstated, and the economic benefits outweigh the economic costs. "A common misconception about gambling is the perceived association between gambling facilities and the incidence of crime."[42] Based on the literature review, the authors argue that the crime rates dropped in all four countries, despite the proliferation of casinos.

Grinols and Mustard used county level data between 1977 and 1996 to examine the relationship between casinos and associated crime. The authors discussed the theoretical connections between casinos and crime as well as discussed factors through which casinos reduce crime as well as increase crime. They focused on the intertemporal effect of casinos and concluded that the effect of casinos on crime is low in the early years of casino operations but grows over time. The authors conclude that between 5.5 and 30 percent of the different crimes in casino counties is associated with the presence of casinos, which in turn translates into social crime costs. More specifically, "8.6% of property crime and 12.6% of violent crime in counties with casinos was due to the presence of the casino."[43]

Since gambling is a rather controversial public policy issue, so are the research results. An example is Walker's criticism of Grinols and Mustard article. Walker does not reject the fact that there is a link between casinos and crime. He states, "Overall, my research leads me to believe that there is some evidence that casinos may have a positive economic effect in the short-term, but the long-term effects are less certain."[44] However, Walker argues that the crime rates associated with casinos are likely overstated by Grinols and Mustard. Walker argued that the most significant problem with Grinols and Mustard paper is the measurement of the crime rate that does not count tourists, who often are popular targets for criminals. According to Walker, "… if one is considering a very small area, such as a county that has a large tourist attraction, then for the crime rate to represent accurately the risk of being victimized, it must be adjusted to account for the crimes committed by visitors and for the increase in the population at risk of being victimized by crime."[45]

In a follow-up study, Walker argues that differences in research findings associated with the costs related to casino operations is mostly due to differences in measurement criteria. Moreover, most of the research on gambling is done by researchers with a wide range of backgrounds encompassing psychology, sociology, law, public policy, public administration, political science, economics, etc. According to Walker, "…based on an overview of the literature, there is no conclusive evidence on the relationship between casinos and crime. More careful econometric analyses are needed."[46]

To make things more complicated, Mallach argues that the salience of accounting for visitor population for studying the relationship between casinos and crime depends on the measurement criteria. If the criteria is the incidence of crime, than certainly the visitor population should be considered. However, if the criteria "is the cost incurred by the public sector to deal with crime within the jurisdiction, it may be less relevant."[47] Moreover, the social costs of crime could go up even if the incidence of crime goes down. In other words, the perception that there is a correlation between casinos and crime, leads to a perception of increased frequency of criminal acts and results in unnecessary social and economic costs, such as decline in property values in the vicinity of casinos, outmigration, etc.

In summary, the social and economic costs associated with gambling are often hard to measure. However, the benefits of gambling should be viewed along with the costs of gambling both at state and local levels.[48] Even if it is hard or often impossible to precisely measure the social costs associated with gambling, neglect of such costs is not an option. Moreover, due to the changing nature of gambling activities and expansion of gambling, researchers should revisit and revise the measurement criteria, conceptual frameworks and models for estimating the social and economic costs and benefits associated with different forms of gambling.

The Future of Gambling: Saturation? Substitution?

Discussions surrounding gambling expansion policy often raise the issues of saturation and substitution. In general, *saturation* refers to the peak or flattening of all types of gambling activities while *substitution* refers to the shift in spending on one type of activity to another type. The substitution effect is also often referred as cannibalization. We can separate three different types of substitution: (1) substitution of spending on one type of gambling activity with another type (for example, the shift of spending on lottery to casinos); (2) the substitution of spending on any discretionary spending activity with gambling activity (for example, the shift of spending on cinemas to casinos or lotteries); and (3) the substitution of spending on the same gambling activity within different geographic locations (for example, the shifting of consumer spending on casinos in New Jersey to casinos in Pennsylvania).

Several scholars argued that the gambling market in the United States has either saturated or is fast reaching saturation,[49] while others argued that the expansion of gambling leads to a substitution effect. Over two decades ago, Cook and Yale warned that the casino gambling might follow the experience of lotteries and face problems of saturation and even decline. "Tax revenues may be diluted due to saturation resulting from the proliferation of locations and cross-border cannibalization of a finite pool of gaming participants."[50]

There is a growing body of literature examining the substitution effect in the context of gambling. For example, Elliott and Navin used pooled cross-section data for the period from 1989 to 1995 to examine the impact of casinos and pari-mutuel betting on lotteries. Their findings suggest that there is a significant cannibalization of lottery revenues by casinos and pari-mutuel betting. The authors argued that states still benefit from having both casinos and lotteries. However, states lose revenues from the substitution of lottery revenues by pari-mutuel betting.[51]

Kearney investigated the impact of the introduction of state lottery on household spending. Her empirical analysis is based on micro-level expenditure data from 1982 to 1988, during which time twenty-one states had implemented lotteries. According to Kearney's study results, spending on lotteries substitutes for other forms of discretionary spending, and not for alternative types of gambling. "The introduction of a state lottery is associated with a decline in household expenditures on non-gambling items of $137 per quarter.... The response is most pronounced for low-income households, which on average reduce non-gambling expenditures by approximately 2.5 percent. The impact of a state lottery is found to be more pronounced if no bordering state previously implemented a lottery and if instant games are offered. In addition, the decline in non-gambling consumption is sustained in the long run."[52]

The expansion of casinos in recent years spurred concerns among policy makers about the "cannibalization effects" within the casino industry itself. Several studies examined the cannibalization effect of casinos within certain geographic regions, including Illinois, Missouri, and Pennsylvania.

Gallagher examined the cannibalization effects within the casino industry in Illinois region, using panel data covering every commercial casino in or around Illinois between 1994 and 2006. His research findings show strong evidence of cannibalization effects between competitors. "Evidence suggests cannibalization effects do indeed exist and are largely a function of new casino development, not the expansion of pre-existing casinos. These effects also attenuate rather quickly with distance."[53]

Walker and Nesbit conducted a similar study for the casinos in Missouri region. The authors used quarterly data for all Missouri casinos for the time period spanning from 1997 to 2010 with the purpose of examining how competing casinos affect the revenues of a particular casino. Their study results indicate that "

casinos are competitive in nature (i.e., are substitutes), as there is no evidence to suggest that there is any positive agglomeration effect from casinos being clustered."[54]

Condliffe conducted a study examining Pennsylvania casinos' cannibalization of regional gambling revenues, particularly for neighboring states Delaware and New Jersey. The purpose of the study was to examine the growth in the total casino gambling in the three states as well as whether casinos in those states cannibalize each other's gambling revenues. The study results indicate that "in the area of arguably the greatest competition (the Southeastern Pennsylvania-Atlantic City-Delaware Park market) the impact of Pennsylvania gambling may have reduced overall revenue."[55]

Conclusions

Revenue from legally sanctioned gambling plays a small, but politically important, role in states' budgets. States are most likely to expand gambling operations when tax revenues are depressed by a weak economy, or to pay for new spending programs. Many states expanded and encouraged gambling during and after the Great Recession in response to historic declines in tax revenues. Still, the growth in revenue collections from gambling is not nearly as strong as it once used to be.

The softening in the growth in gambling revenues is partially due to the impact of the Great Recession and due to changing consumer behavior in most recent years. In the wake of the Great Recession, many consumers became more conservative in their spending behavior, particularly when it comes to discretionary spending.[56] Since spending money on gambling activities is discretionary, consumers are less likely to spend significantly more on gambling despite the expansion of gambling activities.

The recent geographic expansion of gambling created stiff competition, particularly in certain regions of the nation where states and facilities are competing for the same pool of consumers. Therefore, the weakening of the growth in gambling revenues is also attributable to market saturation and industry cannibalization. For example, Pennsylvania enjoyed strong growth in revenues from casino and racino operations until the opening of new casinos and racinos in neighboring Maryland, New York City, and Ohio.

If history is any lesson, gambling is only a short-term solution to state budget gaps. Gambling legalization and expansion leads to some revenue gains. However, such gains are short-lived and create longer-term fiscal challenges for the states as revenue growth slows or declines. In addition, gambling is associated with social and economic costs that often are hard to quantify and measure.

Appendix: Data Tables

Appendix Table 1. Gambling Revenue: Ranking the States

State	State share of gambling revenue, FY 2015		Gambling revenue per resident age 18 & above		Gambling revenue per $1000 personal income	
	Percent	Rank	Dollars	Rank	Dollars	Rank
United States	**100.0%**		**$113.0**		**$1.8**	
West Virginia	2.0	17	383.6	3	8.3	1
Nevada	3.3	13	418.2	2	7.7	2
Rhode Island	1.4	21	457.2	1	7.4	3
Louisiana	3.3	14	256.6	5	4.6	4
Delaware	0.7	29	265.7	4	4.4	5
Pennsylvania	8.8	2	241.0	6	3.9	6
South Dakota	0.5	35	200.0	9	3.3	7
Oregon	2.0	18	176.3	11	3.3	8
Indiana	3.1	15	172.1	13	3.2	9
Maryland	3.5	11	210.4	7	2.9	10
New York	11.5	1	205.1	8	2.8	11
Missouri	2.6	16	152.5	15	2.8	12
Iowa	1.4	22	161.0	14	2.7	13
Michigan	3.9	9	140.1	18	2.6	14
Ohio	4.6	6	142.2	17	2.6	15
Georgia	3.5	10	128.9	19	2.4	16
Mississippi	0.9	26	110.6	21	2.4	17
Massachusetts	3.5	12	179.3	10	2.4	18
Illinois	5.2	4	145.2	16	2.3	19
New Jersey	4.3	8	173.4	12	2.3	20
Maine	0.4	37	100.5	23	2.0	21
Florida	6.1	3	107.0	22	1.9	22
South Carolina	1.2	24	91.7	24	1.9	23
Montana	0.3	41	90.3	25	1.7	24
New Mexico	0.4	36	71.1	29	1.4	25
Kentucky	0.9	28	70.3	30	1.4	26
Connecticut	1.2	25	115.8	20	1.4	27
North Carolina	1.9	20	68.8	32	1.3	28
Kansas	0.6	31	79.6	27	1.3	29
Tennessee	1.3	23	68.8	31	1.3	30
Virginia	1.9	19	82.7	26	1.2	31
New Hampshire	0.3	39	72.7	28	1.1	32
Texas	4.5	7	63.0	33	1.0	33
Colorado	0.9	27	58.2	34	0.9	34
Idaho	0.2	42	40.4	37	0.8	35
Vermont	0.1	44	45.1	36	0.8	36
California	5.1	5	47.4	35	0.7	37
Arizona	0.6	30	34.5	39	0.7	38
Arkansas	0.3	40	33.5	40	0.7	39
Wisconsin	0.6	32	37.6	38	0.6	40
Minnesota	0.5	34	32.6	41	0.5	41
Oklahoma	0.3	38	28.2	42	0.5	42
Nebraska	0.1	43	26.3	43	0.4	43
Washington	0.5	33	26.1	44	0.4	44
North Dakota	0.0	45	14.2	45	0.2	45
Wyoming	0.0	46	5.7	46	0.1	46
Alabama	0.0	47	0.4	47	0.0	47

Sources: Rockefeller Institute analysis of gambling revenue data from state gaming regulatory agencies; Census Bureau (population), Bureau of Economic Analysis (personal income).
Notes: Gambling revenue is based on the sum of revenues from lottery, casinos, racinos, pari-mutuels, and video gaming machines for FY 2015.
Population numbers are based on July 1, 2014 estimates.
Personal income data is based on quarterly averages between July 2014 and June 2015.

Appendix Table 2. Government Tax & Fee Revenues from Major Types of Gambling, FY 2014 & FY 2015												
State	Fiscal Year 2014 ($ millions)						Fiscal Year 2015 ($ millions)					
	Lottery	Casino	Racino	Video gaming	Pari-mutuel	Total	Lottery	Casino	Racino	Video gaming	Pari-mutuel	Total
United States	**$18,107**	**$5,294**	**$3,190**	**$582**	**$131**	**$27,304**	**$18,218**	**$5,361**	**$3,326**	**$672**	**$135**	**$27,711**
New England	**1,454.3**	**50.8**	**320.3**		**10.2**	**1,835.7**	**1,486.7**	**51.7**	**327.2**		**13.8**	**1,879.4**
Connecticut	319.5				6.1	325.6	319.7				6.9	326.6
Maine	51.9	50.8			1.8	104.6	54.0	51.7			1.9	107.6
Massachusetts	929.8				0.3	930.1	959.0				1.2	960.2
New Hampshire	72.4				0.8	73.2	74.3				2.7	77.0
Rhode Island	58.1		320.3		1.2	379.6	56.9		327.2		1.1	385.1
Vermont	22.6					22.6	22.8					22.8
Mid-Atlantic	**4,847.0**	**1,187.1**	**1,897.5**	**1.4**	**37.2**	**7,970.3**	**4,809.3**	**1,251.7**	**1,888.9**	**1.3**	**29.6**	**7,980.9**
Delaware	44.4		163.9	1.4	0.1	209.8	41.9		151.0	1.3	0.1	194.3
Maryland	521.1	353.8	25.1		3.1	903.1	526.5	419.6	26.0		1.1	973.2
New Jersey	965.0	257.7				1,222.7	960.0	241.2				1,201.2
New York	2,235.0		937.7		22.3	3,195.0	2,220.0		943.7		18.1	3,181.8
Pennsylvania	1,081.5	575.7	770.8		11.8	2,439.8	1,060.9	591.0	768.2		10.3	2,430.3
Great Lakes	**2,709.7**	**1,596.6**	**259.3**	**145.6**	**18.1**	**4,729.4**	**2,639.7**	**1,544.7**	**372.6**	**241.4**	**18.4**	**4,816.9**
Illinois	777.4	516.6		145.6	6.5	1,446.2	690.3	498.3		241.4	6.4	1,436.4
Indiana	251.1	542.7	111.3		2.3	907.4	242.7	506.8	111.1		2.3	862.9
Michigan	746.8	264.0			4.3	1,015.1	799.4	273.5			4.0	1,076.9
Ohio	764.9	273.4	148.0		5.0	1,191.4	739.9	266.0	261.5		5.8	1,273.2
Wisconsin	169.3					169.3	167.5					167.5
Plains	**704.9**	**749.2**	**100.8**		**6.3**	**1,561.1**	**712.2**	**762.0**	**98.5**		**6.3**	**1,579.1**
Iowa	74.0	198.6	100.8		3.9	377.3	74.5	206.5	98.5		3.9	383.4
Kansas	74.3	95.6				169.9	75.0	98.6				173.6
Minnesota	127.0				0.6	127.6	135.5				0.5	136.1
Missouri	277.5	438.8				716.3	271.3	440.9				712.2
Nebraska	38.0				0.1	38.1	37.1				0.1	37.3
North Dakota	7.8				1.2	9.0	6.7				1.4	8.1
South Dakota	106.2	16.2			0.5	122.9	112.1	16.1			0.4	128.5
Southeast	**4,688.8**	**692.6**	**524.7**	**377.9**	**31.8**	**6,315.8**	**4,783.1**	**730.6**	**547.2**	**369.3**	**33.7**	**6,464.0**
Alabama					1.6	1.6					1.5	1.5
Arkansas	81.7				3.1	84.8	72.8				2.8	75.6
Florida	1,495.4		174.0		16.3	1,685.7	1,496.4		182.6		15.5	1,694.5
Georgia	945.1					945.1	980.5					980.5
Kentucky	226.1				2.4	228.5	236.1				3.0	239.1
Louisiana	170.7	441.0	58.7	175.9	6.2	852.3	184.8	477.3	57.7	178.9	8.6	907.2
Mississippi		247.8				247.8		250.2				250.2
North Carolina	503.1					503.1	526.4					526.4
South Carolina	326.6					326.6	343.5					343.5
Tennessee	337.3					337.3	347.8					347.8
Virginia	538.6					538.6	533.8					533.8
West Virginia	64.2	3.8	292.0	202.1	2.3	564.4	61.1	3.2	307.0	190.3	2.3	563.9
Southwest	**1,504.6**		**87.6**		**9.2**	**1,601.4**	**1,520.5**		**91.2**		**9.5**	**1,621.2**
Arizona	175.6				0.2	175.9	176.0				0.2	176.2
New Mexico	40.9		67.0		0.6	108.5	41.1		70.6		0.9	112.6
Oklahoma	67.4		20.6		1.1	89.1	60.6		20.6		1.2	82.4
Texas	1,220.7				7.3	1,228.0	1,242.7				7.2	1,249.9
Rocky Mountain	**191.4**	**104.9**		**56.9**	**2.2**	**355.4**	**185.4**	**110.1**		**59.7**	**7.4**	**362.6**
Colorado	130.1	104.9			0.6	235.6	128.0	110.1			1.3	239.3
Idaho	49.1				1.2	50.3	45.1				3.5	48.6
Montana	12.2			56.9	0.0	69.2	12.4			59.7	0.0	72.1
Wyoming					0.4	0.4					2.5	2.5
Far West	**2,006.2**	**912.4**			**16.1**	**2,934.7**	**2,080.8**	**909.9**			**16.1**	**3,006.8**
California	1,349.6				13.8	1,363.4	1,391.7				13.9	1,405.6
Nevada		912.4				912.4		909.9				909.9
Oregon	508.9				0.7	509.7	547.8				0.7	548.5
Washington	147.7				1.5	149.2	141.3				1.5	142.7

Sources: Rockefeller Institute review of state lottery and gaming regulatory agencies' financial reports for lottery, casino, racino, and video gaming revenues; U.S. Census Bureau (pari-mutuels).

Notes: VLT revenues for the following six states are included in racino revenues: Delaware, Maryland, New York, Ohio, Rhode Island and West Virginia. Video gaming revenues for Oregon are included in lottery revenues.

Appendix Table 3. Percent Change in Gambling Tax & Fee Revenues, FY 2014 to FY 2015						
State	Lottery	Casino	Racino	Video gaming	Pari-mutuel	Total
United States	**0.6%**	**1.3%**	**4.2%**	**15.4%**	**2.7%**	**1.5%**
New England	**2.2**	**1.8**	**2.1**		**34.5**	**2.4**
Connecticut	0.1				13.0	0.3
Maine	4.1	1.8			3.7	2.9
Massachusetts	3.1				257.0	3.2
New Hampshire	2.7				228.2	5.2
Rhode Island	(2.2)		2.1		(6.5)	1.5
Vermont	0.9					0.9
Mid-Atlantic	**(0.8)**	**5.4**	**(0.5)**	**(8.3)**	**(20.4)**	**0.1**
Delaware	(5.5)		(7.9)	(8.3)	(13.4)	(7.4)
Maryland	1.0	18.6	3.5		(62.9)	7.8
New Jersey	(0.5)	(6.4)				(1.8)
New York	(0.7)		0.6		(18.8)	(0.4)
Pennsylvania	(1.9)	2.7	(0.3)		(12.5)	(0.4)
Great Lakes	**(2.6)**	**(3.3)**	**43.7**	**65.8**	**1.2**	**1.8**
Illinois	(11.2)	(3.5)		65.8	(2.7)	(0.7)
Indiana	(3.4)	(6.6)	(0.2)		0.0	(4.9)
Michigan	7.0	3.6			(7.7)	6.1
Ohio	(3.3)	(2.7)	76.6		14.6	6.9
Wisconsin	(1.1)					(1.1)
Plains	**1.0**	**1.7**	**(2.3)**		**0.4**	**1.1**
Iowa	0.7	4.0	(2.3)		(0.5)	1.6
Kansas	1.0	3.1				2.2
Minnesota	6.7				(16.2)	6.6
Missouri	(2.3)	0.5				(0.6)
Nebraska	(2.4)				4.2	(2.3)
North Dakota	(14.1)				17.7	(10.0)
South Dakota	5.5	(0.8)			(13.9)	4.6
Southeast	**2.0**	**5.5**	**4.3**	**(2.3)**	**5.9**	**2.3**
Alabama					(2.6)	(2.6)
Arkansas	(10.9)				(9.7)	(10.8)
Florida	0.1		4.9		(4.8)	0.5
Georgia	3.7					3.7
Kentucky	4.4				22.5	4.6
Louisiana	8.3	8.2	(1.7)	1.7	40.0	6.4
Mississippi		0.9				0.9
North Carolina	4.6					4.6
South Carolina	5.2					5.2
Tennessee	3.1					3.1
Virginia	(0.9)					(0.9)
West Virginia	(4.9)	(17.0)	5.1	(5.8)	0.0	(0.1)
Southwest	**1.1**		**4.2**		**2.9**	**1.2**
Arizona	0.2				(2.2)	0.2
New Mexico	0.4		5.5		46.8	3.8
Oklahoma	(10.0)		0.1		3.8	(7.5)
Texas	1.8				(0.7)	1.8
Rocky Mountain	**(3.1)**	**5.0**		**4.9**	**231.1**	**2.0**
Colorado	(1.6)	5.0			111.2	1.6
Idaho	(8.2)				190.4	(3.4)
Montana	1.3			4.9	95.0	4.3
Wyoming					553.9	553.9
Far West	**3.7**	**(0.3)**			**0.1**	**2.5**
California	3.1				0.5	3.1
Nevada		(0.3)				(0.3)
Oregon	7.6				(0.6)	7.6
Washington	(4.3)				(3.5)	(4.3)

Sources: Rockefeller Institute review of state lottery and gaming regulatory agencies' financial reports for lottery, casino, racino, and video gaming revenues; U.S. Census Bureau (pari-mutuels).

Notes: VLT revenues for the following six states are included in racino revenues: Delaware, Maryland, New York, Ohio, Rhode Island and West Virginia.

Video gaming revenues for Oregon are included in lottery revenues.

Appendix Table 4. States Vary in Lottery Contributions to the State Funds, FY 2015			
States are sorted based on lottery contributions to the state			
State	**Lottery start date**	**% transferred to the state**	**Where does the money go to?**
South Dakota	1987	74%	General Fund (K-12 education, state universities, technical institutes); Capital Construction Fund (water & environment; ethanol fuel; state highway)
Oregon	1985	49%	Economic Development Fund (education; job creation & economic development; state parks; watershed enhancement); General Obligation Bond Fund
Louisiana	1991	41%	Minimum Foundation Program (K-12 public education); Department of Health & Hospitals, Office of Behavioral Health (problem gambling)
Oklahoma	2005	35%	Education
West Virginia	1986	34%	Education; Senior Citizens; Tourism & State Parks
New Jersey	1970	31%	Education; Higher Education; Human Services; Military and Veteran's Affairs; Agriculture
New York	1967	31%	Education
New Mexico	1996	30%	Lottery Tuition Fund
Kansas	1987	30%	Economic Development Initiatives Fund; General Fund; Correctional Institutions Building Fund; Juvenile Detention Facilities Fund; Problem Gambling Grant Fund
Maine	1974	30%	General Fund (local schools, higher education, health services, other programs)
Maryland	1973	30%	General Fund (pre-K-12 & higher education, public health, public safety, environment); Maryland Stadium Authority; Veterans Trust Fund
Wisconsin	1988	29%	Funding for Property Tax Credits
Virginia	1988	29%	Education
Michigan	1972	29%	School Aid Fund; General Fund; Commmunity Health (gambling addiction programs)
Connecticut	1972	28%	General Fund (public health, libraries, public safety, education)
Delaware	1975	28%	General Fund (Education; Health & Social Services; Natureal Resources & Environmental Control; Public Safety, Judicial & Corrections; Various Children, Youth & Family Organizations)
Pennsylvania	1972	28%	Local Services, Senior Centers & Meals; Low-Cost Prescription Assistance; Free & Reduced-Fare Transportation; Property Tax & Rent Rebates; Care Services
Texas	1992	27%	Foundation School Fund; Fund for Veterans' Assistance & Other State Programs
Florida	1988	27%	Educational Enhancement Trust Fund
North Carolina	2006	27%	Education
Kentucky	1989	27%	General Fund (college scholarship and grant programs)
Minnesota	1990	27%	General Fund (education, local gov. assistance, public safety, environmental protection); Game & Fish Fund; Natural Resources Fund; Environment & Natural Resources Trust Fund
New Hampshire	1964	26%	Education Trust Fund
Ohio	1974	26%	Education
Tennessee	2004	25%	Education
California	1985	25%	Education Fund
Georgia	1993	25%	Education Account
North Dakota	2004	25%	General Fund, Multi-Jurisdictional Drug Task Force Fund, Compulsive Gambling Fund
South Carolina	2002	24%	Education
Missouri	1986	24%	Education
Illinois	1974	24%	Common School Fund; Capital Projects Fund; Other State Funds
Colorado	1983	24%	Great Outdoors Colorado (GOCO); Conservation Trust Fund; Colorado Parks and Wildlife; Public School Capital Construction - Building Excellent Schools Today (BEST) program
Washington	1982	24%	Washington Opportunities Pathways Account; Education Legacy Trust Fund; Stadium and Exhibition Center Account; Economic Development; Problem Gambling
Arizona	1981	23%	General Fund; Healthy Arizona; Mass Transit; University Bond Fund; Heritage Fund; Commerce Authority Arizona Competes Fund; Court-appointed Special Advocate Fund; Economic Security Homeless Services; Department of Gaming
Rhode Island	1974	23%	General Fund (for human services, education, public safety, general government, debt services, natural resources)
Indiana	1989	23%	Build Indiana Fund (for reducing motor vehicle excise tax & funding parks, roads & local infrastructure projects); Local Police & Firefighters' Pensions; Teachers' Retirement Fund
Nebraska	1993	23%	Education Innovation Fund; Environmental Trust Fund; Opportunity Grant Fund; State Fair; Compulsive Gamblers Assistance Fund
Montana	1987	23%	General Fund
Iowa	1985	23%	General Fund (education, natural resources, health & family services, public safety); Iowa Plan; CLEAN Fund; Veterans Trust Fund; Gambling Treatment Fund; Special Appropriations
Idaho	1989	21%	State Permanent Building Fund; Public School Building Fund; Bond Equalization Fund
Vermont	1978	20%	Education
Massachusetts	1972	19%	Lottery funds are not earmarked for specific programs. Lottery revenues are distributed to the cities & towns, allowing them to choose how they would like to spend the funds
Arkansas	2009	18%	Education Trust Account
Wyoming /1	2014	0%	
Sources: Rockefeller Institute review of state lottery agencies' reports.			
1/ Wyoming Lottery Corporation has not transferred any revenues to the state yet.			

Appendix Table 5. State Lottery Net Revenue, FYs 2008-15												
State	$ millions, adjusted for inflation								% change	CAGR	% change	$ change
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2014-15	FY 2008-15	FY 2008-15	FY 2008-15
United States	**$18,182**	**$17,539**	**$17,854**	**$17,410**	**$18,376**	**$18,557**	**$18,337**	**$18,218**	**-0.7%**	**0.0%**	**0.2%**	**$36.1**
Arizona	160.7	141.2	154.4	156.3	172.6	183.0	177.9	176.0	(1.0)	1.3	9.5	15.3
Arkansas	N/A	N/A	90.3	79.5	102.4	93.1	82.7	72.8	(12.0)	NM	NM	NM
California	1,217.5	1,147.3	1,185.7	1,205.7	1,383.6	1,322.2	1,366.8	1,391.7	1.8	1.9	14.3	174.2
Colorado	136.0	130.9	122.9	121.1	129.1	139.6	131.8	128.0	(2.9)	(0.9)	(5.9)	(8.0)
Connecticut	314.7	309.6	310.6	309.1	324.8	321.3	323.6	319.7	(1.2)	0.2	1.6	5.0
Delaware	43.9	40.9	40.1	40.8	42.1	44.6	44.9	41.9	(6.7)	(0.6)	(4.4)	(1.9)
Florida	1,427.1	1,409.0	1,356.6	1,273.2	1,384.5	1,466.2	1,514.5	1,496.4	(1.2)	0.7	4.9	69.3
Georgia	964.8	954.1	961.7	903.9	944.2	954.8	957.1	980.5	2.4	0.2	1.6	15.7
Idaho	39.3	38.6	39.9	39.6	43.6	49.7	49.7	45.1	(9.3)	2.0	14.7	5.8
Illinois	721.1	694.4	709.6	714.1	794.3	843.5	787.3	690.3	(12.3)	(0.6)	(4.3)	(30.7)
Indiana	241.4	195.8	206.4	201.1	215.0	231.7	254.3	242.7	(4.6)	0.1	0.5	1.3
Iowa	62.9	66.2	63.0	72.6	82.5	87.4	74.9	74.5	(0.5)	2.5	18.5	11.6
Kansas	77.9	74.6	75.1	74.8	75.4	76.7	75.2	75.0	(0.3)	(0.5)	(3.7)	(2.9)
Kentucky	213.6	223.6	233.1	226.8	226.7	230.4	229.0	236.1	3.1	1.4	10.5	22.5
Louisiana	146.6	148.7	145.5	145.7	164.4	164.9	172.8	184.8	6.9	3.4	26.0	38.1
Maine	55.0	54.5	56.8	52.9	56.3	54.5	52.6	54.0	2.8	(0.3)	(1.9)	(1.0)
Maryland	588.7	539.6	555.6	554.9	582.7	561.3	527.7	526.5	(0.2)	(1.6)	(10.6)	(62.2)
Massachusetts	1,141.9	988.1	1,032.3	948.6	1,030.6	983.9	941.7	959.0	1.8	(2.5)	(16.0)	(182.9)
Michigan	836.6	806.6	776.5	788.1	824.4	761.6	756.3	799.4	5.7	(0.6)	(4.5)	(37.2)
Minnesota	129.3	129.4	133.0	130.2	129.7	139.1	128.6	135.5	5.4	0.7	4.8	6.3
Missouri	296.5	280.4	282.5	273.3	286.6	288.2	281.1	271.3	(3.5)	(1.3)	(8.5)	(25.3)
Montana	12.3	11.1	11.5	11.6	13.7	13.6	12.4	12.4	0.1	0.1	0.8	0.1
Nebraska	34.5	33.1	34.8	34.2	37.8	41.2	38.5	37.1	(3.6)	1.1	7.6	2.6
New Hampshire	84.1	74.8	72.1	66.5	69.9	76.5	73.3	74.3	1.4	(1.7)	(11.6)	(9.8)
New Jersey	980.8	970.7	1,005.4	993.5	995.3	1,116.9	977.3	960.0	(1.8)	(0.3)	(2.1)	(20.8)
New Mexico	45.4	44.7	47.4	44.1	43.3	45.0	41.5	41.1	(0.8)	(1.4)	(9.4)	(4.3)
New York	2,354.0	2,277.5	2,410.3	2,252.3	2,249.5	2,267.9	2,263.5	2,220.0	(1.9)	(0.8)	(5.7)	(134.0)
North Carolina	387.3	452.9	470.3	466.0	481.3	492.6	509.5	526.4	3.3	4.5	35.9	139.1
North Dakota	6.6	7.0	6.2	6.3	8.0	8.2	7.9	6.7	(15.1)	0.3	2.1	0.1
Ohio	747.4	768.4	792.8	789.3	807.7	774.6	774.6	739.9	(4.5)	(0.1)	(1.0)	(7.5)
Oklahoma	78.9	75.6	76.2	74.3	73.5	72.3	68.2	60.6	(11.1)	(3.7)	(23.2)	(18.3)
Oregon	722.5	650.2	588.7	585.9	550.1	564.6	515.4	547.8	6.3	(3.9)	(24.2)	(174.6)
Pennsylvania	1,032.0	996.1	996.4	1,026.2	1,111.4	1,098.8	1,095.3	1,060.9	(3.1)	0.4	2.8	28.9
Rhode Island	66.1	64.8	60.4	57.5	59.7	65.3	58.9	56.9	(3.4)	(2.1)	(13.9)	(9.2)
South Carolina	295.0	286.1	296.5	289.9	314.4	314.2	330.7	343.5	3.9	2.2	16.4	48.5
South Dakota	137.1	131.2	130.3	115.4	108.6	110.9	107.6	112.1	4.2	(2.8)	(18.3)	(25.0)
Tennessee	318.2	306.5	314.3	313.5	338.8	349.7	341.6	347.8	1.8	1.3	9.3	29.6
Texas	1,150.8	1,162.1	1,156.7	1,093.7	1,210.5	1,249.8	1,236.3	1,242.7	0.5	1.1	8.0	91.9
Vermont	25.3	23.1	23.5	22.9	23.4	23.6	22.8	22.8	(0.4)	(1.5)	(9.9)	(2.5)
Virginia	506.2	480.4	468.1	474.6	510.2	500.8	545.4	533.8	(2.1)	0.8	5.4	27.5
Washington	144.9	131.7	155.0	160.4	144.6	143.3	149.6	141.3	(5.6)	(0.4)	(2.5)	(3.6)
West Virginia	73.0	71.7	66.4	63.9	70.3	68.3	65.1	61.1	(6.1)	(2.5)	(16.3)	(11.9)
Wisconsin	164.0	145.9	139.4	155.4	158.1	161.4	171.5	167.5	(2.4)	0.3	2.1	3.4

Source: Rockefeller Institute review of state lottery financial reports.

Notes: VLT revenues are excluded for Delaware, Maryland, New York, Ohio, Rhode Island & West Virginia. Those revenues are reported under racinos or casinos. N/A = Not applicable. NM = not meaningful.

Appendix Table 6. Commercial Casino Legalization & Opening Dates, Distribution & Format

States are sorted based on casino legalization date

State	Legalization date	First casino opening date	# of operating casinos, FY 2014	# of pperating casinos, FY 2015	Casino format
Nevada	1931	1931	270	271	Land-based
New Jersey	1976	1978	11	8	Land-based
South Dakota	1989	November 1989	17	17	Land-based
Iowa	1989	September 1991	15	15	Riverboat, Land-based
Illinois	1990	September 1991	10	10	Riverboat
Colorado	1990	October 1991	39	36	Land-based
Mississippi	1990	August 1992	29	28	Dockside, Land-based
Louisiana	1991	October 1993	15	16	Riverboat, Land-based
Missouri	1993	May 1994	13	13	Riverboat
Indiana	1993	December 1995	11	11	Riverboat, Land-based
Michigan	1996	July 1999	3	3	Land-based
Pennsylvania	2004	October 2007	6	6	Land-based
Kansas	2007	December 2009	3	3	Land-based
Maryland	2008	September 2010	3	4	Land-based
West Virginia	2009	July 2010	1	1	Land-based
Ohio	2009	May 2012	4	4	Land-based
Maine	2010	June 2012	2	2	Land-based
Massachusetts /1	2011	June 2015	0	0	Land-based
New York /2	2014				

Source: Rockefeller Institute review of state gaming regulatory agency information.

Notes: 1/ Massachusetts legalized casino operations in 2011 and opened the first casino on June 24, 2015.

2/ New York legalized casino operations in 2014 and expects to open four destinations casinos.

Appendix Table 7. Commercial Casino Tax Rates & Tax Uses, By State

States are sorted based on casino legalization date

State	Legalization date	Tax type	Tax rates and fees	Tax rate details	Tax uses
Nevada	1931	Graduated	3.5% to 6.75% annual & quarterly fees	3.5% of the first $50,000 during the month + 4.5% of the next $84,000 + 6.75% of revenue exceeding $134,000	Education, local governments, general fund, problem gambling programs
New Jersey	1976	Flat	9.25%	8% gross revenue tax 1.25% Casino Reinvestment Dev. Authority	Senior citizens, disabled, economic revitalization programs
Iowa	1989	Graduated	5% to 22%	5.0% tax on $0 to $1 million 10.0% tax on $1 to $3 million 22.0% tax on over $3 million	Infrastructure, education, environmental causes, tourism projects, cultural initiatives, general fund
South Dakota	1989	Flat	9% $2,000 device fee		Department of Tourism, Lawrence County, Commission Fund
Colorado	1990	Graduated	0.25% to 20%	0.25% tax on $0 - $2 million 2.0% tax on $2 - $5 million 9.0% tax on $5 - $8 million 11.0% tax on $8 - $10 million 16.0% tax on $10 - $13 million 20.0% tax on above $13 million	Local communities, historic preservation, community colleges, general fund, state tourism promotion, among other things
Illinois	1990	Graduated	15% to 50% $2 or $3 admission fee	15.0% tax on $0 to $25 million 22.5% tax on $25 to $50 million 27.5% tax on $50 to $75 million 32.5% tax on $75 to $100 million 37.5% tax on $100 to $150 million 45.0% tax on $150 to $200 million 50.0% tax on over $200 million	Educational assistance and local government needs
Mississippi	1990	Graduated	4% to 8% Municipalities can impose an additional 4% tax	4.0% tax on $50,000 6.0% tax on $50,000 to $134,000 8.0% tax on over $134,000	Housing, education, transportation, health care services, youth counseling programs, local public safety programs
Lousiana	1991	Flat	21.5% some local fees		Education, City of New Orleans, compulsive & problem gambling fund, public retirement systems, state capital improvements, rainy day funds, etc.
Indiana	1993	Graduated	15% to 40% $3 admission fee	15.0% tax on $0 to $25 million 20.0% tax on $25 to $50 million 25.0% tax on $50 to $75 million 30.0% tax on $75 to $150 million 35.0% tax on $150 to $600 million 40.0% tax on over $600 million	Economic development and local government needs
Missouri	1993	Flat	21% $2 admission fee		Education, local public safety, compulsive gambling treatment, veterans' programs, early childhood
Michigan	1996	Flat	20%	8.1% state share 10.9% local share 1.0% daily fee to the city	State school aid fund, city (Detroit) general fund
Pennsylvania	2004	Flat	55%	34% state tax 4% local share assessment 5% Economic Development & Tourism Fund 12% Race Horse Development Fund	Property tax relief, economic development, tourism, horse racing and host local government
Kansas	2007	Flat	27%	22% state share 3% local share	Debt reduction, problem gambling, infrastructure, property tax relief
Maryland	2008	Flat	50% to 67% on slots depending on the casino facility	50% for Rocky Gap Casino and Resort 61% for Horseshoe Casino Baltimore 67% for Maryland Live! Casino & Hollywood	Education trust fund, local impact grants, small, minority and women-owned businesses
Ohio	2009	Flat	33%		Local governments, education, casino control & racing commissions, law enforcement training, problem gambling
West Virginia	2009	Flat	35%		64% General Revenue Fund; 19% State Debt Reduction Fund; 3% Tourism Promotion Fund; 14% counties and municipalities
Maine	2010	Flat	40% or 46%	46% for Oxford casino 40% for Hollywood casino	Education, health care, agriculture, gambling control board administration, city of Bangor, among other things

Sources: (1) Rockefeller Institute review of state gaming regulatory agency information and (2) 2013 Casino Tax and Expenditures, NCSL available at: http://www.ncsl.org/research/financial-services-and-commerce/casino-tax-and-expenditures-2013.aspx

Appendix Table 8. Commercial Casino Tax & Fee Revenues to State-Local Governments, FYs 2008-15												
State	$ millions, adjusted for inflation								% change	CAGR	% change	$ change
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2014-15	FY 2008-15	FY 2008-15	FY 2008-15
United States	**$5,444**	**$4,923**	**$4,907**	**$4,993**	**$5,168**	**$5,524**	**$5,361**	**$5,361**	**0.0%**	**-0.2%**	**-1.5%**	**($82.9)**
"Older" casino states	***$5,376***	***$4,797***	***$4,552***	***$4,427***	***$4,409***	***$4,231***	***$3,991***	***$3,931***	***-1.5%***	***-4.4%***	***-26.9%***	***($1,445.3)***
Indiana	903.4	840.2	818.7	784.6	744.9	665.4	549.6	506.8	(7.8)	(7.9)	(43.9)	(396.6)
New Jersey	523.5	440.9	373.1	330.0	292.4	258.0	260.9	241.2	(7.6)	(10.5)	(53.9)	(282.3)
Illinois	776.4	582.3	525.6	488.6	574.4	574.4	523.2	498.3	(4.8)	(6.1)	(35.8)	(278.1)
Nevada	1,089.8	938.7	902.3	911.8	905.8	918.3	924.0	909.9	(1.5)	(2.5)	(16.5)	(179.9)
Mississippi	383.2	341.5	312.3	293.3	294.9	271.5	251.0	250.2	(0.3)	(5.9)	(34.7)	(133.0)
Michigan	332.2	307.9	287.7	300.8	299.4	281.3	267.3	273.5	2.3	(2.7)	(17.7)	(58.6)
Louisiana	531.6	504.7	463.6	459.4	449.5	444.9	446.6	477.3	6.9	(1.5)	(10.2)	(54.4)
Missouri	476.6	499.7	516.5	521.2	503.3	477.8	444.4	440.9	(0.8)	(1.1)	(7.5)	(35.7)
Iowa	221.3	219.6	216.3	207.9	219.7	214.1	201.2	206.5	2.7	(1.0)	(6.7)	(14.8)
Colorado	120.3	103.8	117.1	112.0	107.0	107.2	106.2	110.1	3.6	(1.3)	(8.5)	(10.2)
South Dakota	17.7	17.4	18.5	17.7	17.9	17.6	16.4	16.1	(2.0)	(1.4)	(9.3)	(1.6)
"New" casino states	***$68***	***$127***	***$355***	***$566***	***$759***	***$1,294***	***$1,370***	***$1,430***	***4.4%***	***54.6%***	***2014.3%***	***$1,362.4***
West Virginia			0.9	3.6	3.8	4.3	3.9	3.2	(18.1)			3.2
Maine					12.3	52.0	51.5	51.7	0.5			51.7
Kansas			6.1	11.6	55.8	100.3	96.8	98.6	1.8			98.6
Ohio					20.7	232.1	276.9	266.0	(3.9)			266.0
Maryland				50.8	88.3	314.4	358.3	419.6	17.1			419.6
Pennsylvania	67.6	126.7	347.7	500.0	577.9	590.6	583.0	591.0	1.4	36.3	773.7	523.3

Source: Rockefeller Institute review of state gaming regulatory agencies' financial reports.

Note: Michigan's state fiscal year is from October 1st to September 30th.

Appendix Table 9. Racino Legalization & Opening Dates, Distribution & Format

States are sorted based on racino legalization date

State	Legalization date	First racino opening date	# of operating racinos, FY 2014	# of operating racinos, FY 2015	Racino format
Rhode Island /1	1992	1992	2	2	VLTs / Table games
Delaware	1994	1995	3	3	VLTs / Table games
Iowa	1994	1995	3	3	Slot machines / Table games
West Virginia	1994	1994	4	4	VLTs / Table games
Louisiana	1997	2002	4	4	Slot machines / Table games
New Mexico	1997	1999	5	5	Slot machines
New York	2001	2004	9	9	VLTs
Maine /2	2004	2005	0	0	Slot machines
Oklahoma	2004	2005	2	2	Slot machines
Pennsylvania	2004	2006	6	6	Slot machines / Table games
Florida /3	2006	2006	8	7	Slot machines
Indiana	2007	2008	2	2	Slot machines / Table games
Maryland	2008	2011	1	1	VLTs
Ohio	2009	2012	5	7	VLTs

Source: Rockefeller Institute review of state gaming regulatory agency information.

Notes: 1/ Rhode Island was the first state to introduce racinos. However, the two racinos in Rhode Island have evolved over the years. Currently they don't offer any kind of live racing and operate more like casinos.

2/ Maine converted Hollywoods Slots racino into casino in March of 2012.

3/ Florida closed one of its racino facilities on October 12, 2014 due to remodeling.

Appendix Table 10. Racino Tax Rates & Tax Uses, By State					
States are sorted based on racino legalization date					
State	**Legalization date**	**Tax type**	**Tax rates and fees**	**Tax rate details**	**Tax uses**
Rhode Island	1992	Flat	VLTs 61.03% at Twin River 59.17% at Newport Grand Table games 16.0%		General Fund, Lottery Commission, marketing programs
West Virginia	1994	Flat	42% VLTs 35% table games		Senior citizens, education, tourism and state parks
Delaware	1995	Flat	43.33%		State General Fund to help pay for state services
Iowa	1995	Graduated	22% or 24%	22.0% tax on $0 to $100 mln 24.0% tax on over $100 mln	Infrastructure, schools & universities, the environment, tourism projects, cultural initiatives, general fund
New Mexico	1999	Flat	26% gaming tax 20% tax for racing purses 0.25% tax for problem gambling		General fund, problem gambling treatment
Louisiana	2002	Flat	18.5% state taxes 4% local parish		General fund, city of New Orleans, public retirement systems, state capital improvements, rainy day fund
New York	2004	Graduated	Varies between 55% to 70% depending on the facility	Graduated for each facility at different rates Resorts World Casino NYC is the only exception where the effective tax rate is flat at 70%	Education, Commission administrative costs and racing support payments
Oklahoma	2005	Graduated	10% to 30%	10.0% tax on $0 to $30 mln 15.0% tax on $30 to $40 mln 20.0% tax on $40 to $50 mln 25.0% tax on $50 to $70 mln 30.0% tax on over $70 mln	12% to the General Revenue Fund, 88% to the Education Reform Revolving Fund
Florida	2006	Flat	35%		Educational Enhancement Trust Fund
Pennsylvania	2006	Flat	55%	34% state tax 4% local share assessment 5% Economic Dev. & Tourism 12% Race Horse Dev. Fund	Property tax relief, economic development, tourism, horse racing and host local government
Indiana	2008	Graduated	State wagering tax between 25% to 35% County wagering tax at 3% Addition wagering tax at 1% Initial license fee at $250 mln Annual license fee after the first 5 years of operation at $100 mln	State wagering tax 25.0% tax on $0 to $100 mln 30.0% tax on $100 to $200 mln 35.0% tax on over $200 mln County wagering tax at 3%, with the annual tax liability for each facility limited to $8 mln Additional 1% wagering tax	Property tax relief Hosting local governments
Maryland	2011	Flat	67%		Education trust fund, local impact grants, small, minority and women-owned businesses
Ohio	2012	Flat	33.50%		Local governments, education, casino control commission, law enforcement training, racing commission, problem gambling & addictions
Sources: (1) Rockefeller Institute review of state gaming regulatory agency information and (2) 2013 Casino Tax and Expenditures, NCSL available at: http://www.ncsl.org/research/financial-services-and-commerce/casino-tax-and-expenditures-2013.aspx					

Appendix Table 11. Racino Revenues to State-Local Governments, FYs 2008-15												
State	$ millions, adjusted for inflation								% change	CAGR	% change	$ change
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2014-15	FY 2008-15	FY 2008-15	FY 2008-15
United States	**$2,805**	**$2,955**	**$3,013**	**$3,075**	**$3,238**	**$3,237**	**$3,231**	**$3,326**	**2.9%**	**2.5%**	**18.6%**	**$520.9**
"Older" racino states	***$2,798***	***$2,837***	***$2,882***	***$2,924***	***$3,082***	***$3,040***	***$2,943***	***$2,927***	***-0.5%***	***0.6%***	***4.6%***	***$129.6***
West Virginia	470.2	452.2	391.8	397.6	417.8	348.4	295.7	307.0	3.8	(5.9)	(34.7)	(163.2)
Delaware	236.9	230.5	258.0	263.5	237.5	194.8	166.0	151.0	(9.1)	(6.2)	(36.3)	(85.9)
Pennsylvania	791.5	928.8	947.7	958.6	943.8	862.5	780.7	768.2	(1.6)	(0.4)	(2.9)	(23.3)
Iowa	118.0	108.5	105.7	105.0	107.7	104.6	102.1	98.5	(3.5)	(2.6)	(16.6)	(19.5)
Louisiana	64.8	68.0	63.9	63.2	63.9	62.8	59.4	57.7	(3.0)	(1.7)	(11.1)	(7.2)
New Mexico	74.6	75.7	70.8	69.8	68.5	65.2	67.8	70.6	4.1	(0.8)	(5.4)	(4.0)
Rhode Island	327.0	309.7	312.4	321.9	338.2	327.3	324.4	327.2	0.9	0.0	0.1	0.2
Oklahoma	12.0	15.3	15.1	18.6	19.9	21.3	20.9	20.6	(1.2)	8.1	72.3	8.7
Florida	134.1	113.7	150.3	133.6	150.8	157.0	176.2	182.6	3.6	4.5	36.2	48.5
New York /1	545.7	505.8	535.8	562.6	714.2	896.6	949.6	943.7	(0.6)	8.1	72.9	398.0
Maine /2	22.7	28.9	30.7	29.5	19.4							
"New" racino states	***$7***	***$118***	***$131***	***$151***	***$156***	***$196***	***$288***	***$399***	***38.4%***	***77.1%***	***5374.4%***	***$391.3***
Maryland				12.5	28.9	30.1	25.4	26.0	2.2			26.0
Indiana	7.3	117.9	130.9	138.9	123.6	109.1	112.7	111.1	(1.4)	47.6	1,426.0	103.8
Ohio					3.9	57.1	149.9	261.5	74.4			261.5

Sources: Rockefeller Institute review of state gaming regulatory agencies' financial reports.

1/ New York's state fiscal year is from April 1st to March 31st.

2/ Maine converted Hollywoods Slots racino into casino in March of 2012.

Appendix Table 12. Native American Casino Revenues to State-Local Governments, FYs 2008-15												
State	$ millions, adjusted for inflation								% change	CAGR	% change	$ change
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2014-15	FY 2008-15	FY 2008-15	FY 2008-15
Subtotal of 7 states	**$1,066**	**$1,104**	**$1,282**	**$1,122**	**$1,118**	**$1,105**	**$1,072**	**$1,023**	**-4.6%**	**-0.6%**	**-4.0%**	**($42.5)**
Connecticut	457.5	413.3	390.9	384.1	360.7	305.1	283.4	268.0	(5.5)	(7.4)	(41.4)	(189.5)
Oklahoma	79.7	101.6	15.5	15.3	15.5	15.8	14.9	15.4	3.4	(20.9)	(80.7)	(64.3)
Michigan /1	60.0	61.8	67.1	85.1	95.2	95.8	87.1	32.6	(62.6)	(8.4)	(45.7)	(27.5)
Arizona	123.6	106.7	96.9	96.7	102.0	100.5	99.1	99.5	0.4	(3.1)	(19.5)	(24.1)
New Mexico	72.8	69.7	68.2	69.3	70.2	70.8	68.0	66.6	(2.1)	(1.3)	(8.6)	(6.2)
California	272.1	351.3	331.1	321.8	321.3	288.6	286.3	292.7	2.2	1.0	7.6	20.6
Florida			312.8	149.2	153.3	228.1	233.2	248.5	6.5			

Source: Rockefeller Institute review of state gaming regulatory agencies' financial reports.
Note: 1/ Numbers for Michigan are on calendar year basis.

Table 13. Government Tax & Fee Revenues from Major Types of Gambling, FY 2008-15												
State	$ millions, adjusted for inflation								% change	CAGR	% change	$ change
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2014-15	FY 2008-15	FY 2008-15	FY 2008-15
United States	**$27,210**	**$26,144**	**$26,419**	**$26,098**	**$27,462**	**$27,955**	**$27,652**	**$27,711**	**0.2%**	**0.3%**	**1.8%**	**$500.9**
Alabama	3.0	2.7	2.3	2.1	1.9	1.6	1.6	1.5	(3.9)	(9.1)	(48.8)	(1.4)
Arizona	161.2	141.5	154.7	156.7	172.8	183.3	178.1	176.2	(1.0)	1.3	9.4	15.1
Arkansas	5.9	5.8	95.5	83.9	106.1	96.3	85.9	75.6	(11.9)	44.1	1,187.3	69.7
California	1,256.4	1,181.0	1,202.6	1,220.1	1,400.2	1,336.7	1,380.8	1,405.6	1.8	1.6	11.9	149.2
Colorado	259.3	235.4	240.6	233.7	236.7	247.4	238.6	239.3	0.3	(1.1)	(7.7)	(20.0)
Connecticut	323.9	317.9	318.3	316.8	332.0	328.4	329.7	326.6	(1.0)	0.1	0.8	2.6
Delaware	280.9	271.5	298.2	304.4	279.7	240.0	212.5	194.3	(8.6)	(5.1)	(30.8)	(86.6)
Florida	1,582.6	1,538.1	1,519.4	1,416.9	1,545.1	1,632.6	1,707.2	1,694.5	(0.7)	1.0	7.1	111.9
Georgia	964.8	954.1	961.7	903.9	944.2	954.8	957.1	980.5	2.4	0.2	1.6	15.7
Idaho	41.1	40.0	40.8	40.5	44.9	50.9	50.9	48.6	(4.6)	2.4	18.1	7.5
Illinois	1,506.8	1,284.2	1,242.8	1,209.9	1,376.2	1,461.3	1,464.7	1,436.4	(1.9)	(0.7)	(4.7)	(70.3)
Indiana	1,156.7	1,158.2	1,160.8	1,128.3	1,086.7	1,008.9	918.9	862.9	(6.1)	(4.1)	(25.4)	(293.9)
Iowa	406.8	398.5	389.2	389.7	414.1	410.2	382.1	383.4	0.3	(0.8)	(5.8)	(23.4)
Kansas	80.1	74.9	81.2	86.4	131.3	177.0	172.0	173.6	0.9	11.7	116.8	93.5
Kentucky	219.5	228.4	233.0	231.7	230.5	235.4	231.5	239.1	3.3	1.2	8.9	19.5
Louisiana	971.8	946.8	874.9	869.0	872.8	864.8	863.2	907.2	5.1	(1.0)	(6.6)	(64.6)
Maine	81.1	86.7	90.1	84.9	90.5	108.7	105.9	107.6	1.6	4.1	32.8	26.6
Maryland	590.7	541.4	557.3	619.4	701.2	907.0	914.6	973.2	6.4	7.4	64.8	382.5
Massachusetts	1,145.8	991.1	1,034.5	950.1	1,032.3	985.8	942.0	960.2	1.9	(2.5)	(16.2)	(185.6)
Michigan	1,177.9	1,122.6	1,071.0	1,094.4	1,129.0	1,047.8	1,028.0	1,076.9	4.8	(1.3)	(8.6)	(101.0)
Minnesota	130.4	130.1	133.7	130.8	130.3	139.6	129.2	136.1	5.3	0.6	4.4	5.7
Mississippi	383.2	341.5	312.3	293.3	294.9	271.5	251.0	250.2	(0.3)	(5.9)	(34.7)	(133.0)
Missouri	773.2	780.1	799.1	794.5	789.9	766.1	725.5	712.2	(1.8)	(1.2)	(7.9)	(61.0)
Montana	82.9	79.1	68.6	64.4	70.0	72.3	70.0	72.1	3.0	(2.0)	(13.0)	(10.7)
Nebraska	34.7	33.3	35.0	34.4	38.1	41.4	38.6	37.3	(3.6)	1.0	7.2	2.5
Nevada	1,089.8	938.7	902.3	911.8	905.8	918.3	924.0	909.9	(1.5)	(2.5)	(16.5)	(179.9)
New Hampshire	87.3	76.9	73.8	67.8	70.5	77.2	74.1	77.0	3.9	(1.8)	(11.8)	(10.3)
New Jersey	1,504.3	1,411.6	1,378.5	1,323.5	1,287.7	1,374.9	1,238.2	1,201.2	(3.0)	(3.2)	(20.2)	(303.1)
New Mexico	120.7	121.0	118.9	114.3	112.7	111.2	109.9	112.6	2.5	(1.0)	(6.7)	(8.1)
New York	2,934.0	2,813.9	2,970.6	2,837.8	2,987.2	3,187.4	3,235.7	3,181.8	(1.7)	1.2	8.4	247.8
North Carolina	387.3	452.9	470.3	466.0	481.3	492.6	509.5	526.4	3.3	4.5	35.9	139.1
North Dakota	7.2	7.3	6.5	7.0	8.6	8.9	9.1	8.1	(11.1)	1.7	12.4	0.9
Ohio	759.4	778.8	801.9	797.4	839.8	1,070.2	1,206.5	1,273.2	5.5	7.7	67.7	513.8
Oklahoma	92.9	92.7	92.7	94.1	94.9	94.9	90.2	82.4	(8.7)	(1.7)	(11.3)	(10.5)
Oregon	726.6	652.6	592.0	587.2	551.3	566.8	516.2	548.5	6.3	(3.9)	(24.5)	(178.0)
Pennsylvania	1,916.9	2,066.8	2,310.8	2,500.7	2,648.6	2,565.4	2,470.8	2,430.3	(1.6)	3.4	26.8	513.4
Rhode Island	396.2	377.3	374.4	380.8	399.5	393.8	384.5	385.1	0.2	(0.4)	(2.8)	(11.0)
South Carolina	295.0	286.1	296.5	289.9	314.4	314.2	330.7	343.5	3.9	2.2	16.4	48.5
South Dakota	155.2	148.8	149.1	133.7	127.2	129.1	124.4	128.5	3.3	(2.7)	(17.2)	(26.6)
Tennessee	318.2	306.5	314.3	313.5	338.8	349.7	341.6	347.8	1.8	1.3	9.3	29.6
Texas	1,164.0	1,173.7	1,167.9	1,102.0	1,218.0	1,257.2	1,243.7	1,249.9	0.5	1.0	7.4	85.9
Vermont	25.3	23.1	23.5	22.9	23.4	23.6	22.8	22.8	(0.4)	(1.5)	(9.9)	(2.5)
Virginia	506.2	480.4	468.1	474.6	510.2	500.8	545.4	533.8	(2.1)	0.8	5.4	27.5
Washington	148.5	134.8	157.3	162.3	146.4	145.0	151.1	142.7	(5.5)	(0.6)	(3.9)	(5.7)
West Virginia	789.0	768.4	691.9	694.7	786.2	642.7	571.6	563.9	(1.3)	(4.7)	(28.5)	(225.1)
Wisconsin	165.0	146.7	139.8	155.4	158.1	161.4	171.5	167.5	(2.4)	0.2	1.5	2.4
Wyoming	0.2	0.2	0.2	0.1	0.1	0.1	0.4	2.5	545.7	44.0	NM	2.3

Sources: Rockefeller Institute review of state lottery and gaming regulatory agencies' financial reports for lottery, casino, racino, and video gaming revenues; U.S. Census Bureau (pari-mutuels).

Notes: Total gambling revenues includes tax and fee revenues for lotteries, commercial casinos, racinos, pari-mutuels, and video gaming machines. Revenues from Native American casinos are excluded. NM = not meaningful.

Endnotes

1 In this report, we use the terms "casinos" and "commercial casinos" interchangeably. Unless otherwise specified, all mentions of casinos refer to commercial casinos.

2 Peter T. Calcagno, Douglas M. Walker, and John D. Jackson, "Determinants of the Probability and Timing of Commercial Casino Legalization in the United States." *Public Choice* 142 (2010): 69–90, http://walkerd.people.cofc.edu/pubs/CasinoAdoptionPC.pdf.

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10 Etzel, "The House of Cards Is Falling."

11 Ibid, 218.

12 In most states the legal gambling age is either eighteen or twenty-one years. Hence, we adjust the gambling revenue to state population that represents age eighteen or above.

13 We obtained lottery revenue data from individual state lottery agencies. For casinos, racinos, video gaming, and Native American casinos we collected revenue data from individual state gaming regulatory agencies or other state agencies. Pari-mutuel wagering data were obtained from the U.S. Census Bureau.

14 Several states with racino operations host VLTs. In this report, we present revenues from VLTs as part of racinos for the following six states: Delaware, Maryland, New York, Ohio, Rhode Island, and West Virginia. In addition, lottery revenues for Oregon include revenues from video gaming machines.

15 In this report all the inflation adjustments are based on the Bureau of Economic Analysis's price index for Gross Domestic Product (NIPA Table 1.1.4). We used quarterly averages of the GDP indexes that is corresponding to most states' fiscal year periods, running between July and June. Collections are adjusted to 2015 dollars

16 For more information see "Limited Video Information," West Virginia Lottery, n.d., http://www.wvlottery.com/video-lottery/limited-video-information/.

17 For more information, see *Charitable Video Lottery Regulations Effective as Amended, February 26, 2013* (Dover: Delaware State Lottery Office, 2013), http://www.delottery.com/pdf/Charitable-Video-Lottery-Regulations.pdf

18 In this report, we define lottery revenues as lottery proceeds transferred to various state programs.

19 The compound annual growth rate (CAGR) is the mean annual growth rate over a specified period of time.

20 For more information, see "WyoLotto Reports A Successful First Year Of Sales," WyoLotto News Release, August 21, 2015, http://wyolotto.com/wyolotto-reports-a-successful-first-year-of-sales .

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30 Douglas Walker, "Methodological Issues in the Social Cost of Gambling Studies," *Journal of Gambling Studies* 19, 2 (Summer 2003): 149-84, https://pdfs.semanticscholar.org/a3ed/185562d7708466a3fcf50304ce3ae4e9828c.pdf; Gerda Reith, *Research on the Social Impacts of Gambling:. Final Report* (Edinburgh: Scottish Executive Social Research, 2006), http://www.gla.ac.uk/media/media_34552_en.pdf; Walker and Jackson, "Casinos and Economic Growth: An Update."

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United States Government Accountability Office

Report to Congressional Requesters

June 2015

INDIAN GAMING

Regulation and Oversight by the Federal Government, States, and Tribes

GAO-15-355

June 2015

INDIAN GAMING

Regulation and Oversight by the Federal Government, States, and Tribes

GAO Highlights

Highlights of GAO-15-355, a report to congressional requesters

Why GAO Did This Study

Over the past 25 years, Indian gaming has become a significant source of revenue for many tribes, reaching $28 billion in fiscal year 2013. IGRA, the primary federal statute governing Indian gaming, provides a statutory basis for the regulation of Indian gaming. Tribes, states, Interior, and the Commission have varying roles in Indian gaming.

GAO was asked to review Indian gaming. This report examines (1) Interior's review process to help ensure that tribal-state compacts comply with IGRA; (2) how states and selected tribes regulate Indian gaming; (3) the Commission's authority to regulate Indian gaming; and (4) the Commission's efforts to ensure tribes' compliance with IGRA and Commission regulations. GAO analyzed compacts and Commission data on training, compliance, and enforcement; and interviewed officials from Interior, the Commission, states with Indian gaming, and 12 tribes in six states GAO visited selected for geographic distribution and gaming revenues generated.

What GAO Recommends

GAO recommends that the Commission (1) obtain input from states on its plans to issue guidance on class III minimum internal control standards; (2) review and revise, as needed, its performance measures to better assess its training and technical assistance efforts; and (3) develop documented procedures and guidance to improve the use of letters of concern. The Commission generally agreed with GAO's recommendations.

View GAO-15-355. For more information, contact Anne-Marie Fennell at (202) 512-3841 or fennella@gao.gov.

What GAO Found

The Department of the Interior (Interior) has a multistep review process to help ensure that compacts—agreements between a tribe and state that govern the conduct of the tribe's class III (or casino) gaming—comply with the Indian Gaming Regulatory Act (IGRA). From 1998 through fiscal year 2014, Interior approved 78 percent of compacts; Interior did not act to approve or disapprove 12 percent; and the other 10 percent were disapproved, withdrawn, or returned.

States and selected tribes regulate Indian gaming in accordance with their roles and responsibilities established in tribal-state compacts for class III gaming, and tribal gaming ordinances, which provide the general framework for day-to-day regulation of class II (or bingo) and class III gaming. GAO found that the 24 states with class III gaming operations vary in their approach for regulating Indian gaming. Specifically, based on the extent and frequency of state monitoring activities, GAO categorized 7 states as having an active regulatory role, 11 states with a moderate role, and 6 states with a limited role. In addition, all 12 of the selected tribes GAO visited had regulatory agencies responsible for the day-to-day regulation of their gaming operations.

The National Indian Gaming Commission (Commission)—an independent agency within Interior created by IGRA—has authority to regulate class II gaming, but not class III gaming, by issuing and enforcing gaming standards (minimum internal control standards for gaming). The Commission does, however, play a role in class III gaming. For example, the Commission Chair must approve tribal gaming ordinances. In addition, Commission officials told us they do have authority to issue guidance on class III gaming standards. In its plans for developing such guidance, the Commission has laid out specific steps for gathering tribal input, but its plan for gathering input from affected states is unclear. Federal internal control standards call for managers to obtain information from external stakeholders that may have a significant impact on the agency achieving its goals. Along with tribes, state input could aid the Commission in making an informed decision.

Even with differences in its authority for class II and class III gaming, the Commission conducts monitoring activities, and the Commission Chair takes enforcement action to ensure compliance with IGRA and applicable Commission regulations. The Commission has more recently emphasized actions that encourage voluntary resolution of compliance issues, including providing training and technical assistance and alerting tribes of potential compliance issues using letters of concern. However, the effectiveness of these two approaches is unclear. The Commission has limited performance measures that assess outcomes achieved. With such additional measures, the Commission would be better positioned to assess the effectiveness of its training and technical assistance. Further, the Commission does not have a documented process for its letters of concern to help ensure their effectiveness in encouraging tribal actions to address identified issues. Without written procedures the Commission cannot ensure consistency or effectiveness of the letters it sends.

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Abbreviations

ACE	Assistance, Compliance, and Enforcement
GPRA	Government Performance and Results Act of 1993
IGRA	Indian Gaming Regulatory Act

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U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

June 3, 2015

The Honorable John Barrasso
Chairman
The Honorable Jon Tester
Vice Chairman
Committee on Indian Affairs
United States Senate

The Honorable Maria Cantwell
United States Senate

The Honorable John McCain
United States Senate

Over the past 25 years, Indian gaming has become a significant source of revenue for many tribes. In fiscal year 2013, the Indian gaming industry included more than 400 gaming operations in 28 states and generated revenues totaling $28 billion.[1] The Indian Gaming Regulatory Act (IGRA) was enacted in 1988 to provide a statutory basis for the regulation of gaming on Indian lands.[2] IGRA established three classes of gaming and outlined regulatory responsibilities for tribes, states, and the federal government. Class I gaming consists of social games played solely for prizes of minimal value and traditional gaming played in connection with tribal ceremonies or celebrations. Class I gaming is within the exclusive jurisdiction of the tribes. Class II gaming includes bingo, games similar to bingo, and certain card games. Class III gaming includes all other types of games, including slot machines, craps, and roulette. Both tribes and the federal government have a role in class II and class III gaming. Class III gaming is also subject to state regulation to the extent specified in compacts between tribes and states that allow such gaming to occur. Compacts are agreements between a tribe and state that establish the terms for how a tribe's class III gaming activities will be operated and regulated, among other things. The Secretary of the Interior (Secretary)

[1]This was the most recent year for which revenue data were available as of January 26, 2015.

[2]Pub. L. No. 100-497, 102 Stat. 2467 (1988).

approves compacts and must publish a notice in the *Federal Register* before they go into effect.

IGRA also created the National Indian Gaming Commission (Commission) within the Department of the Interior (Interior) and charged it with regulating class II and overseeing class III Indian gaming. To help ensure compliance with IGRA and Commission regulations, the Commission engages in various activities to monitor the work of tribal gaming regulators—such as examining records of gaming operations,[3] inspecting gaming facilities,[4] and assessing tribes' compliance with minimum internal control standards for class II gaming.[5] In addition, the Commission's Chair reviews and approves various documents related to both class II and class III gaming operations, including tribal gaming ordinances or resolutions adopted by a tribe's governing body.[6] In 2011, the Commission implemented its Assistance, Compliance, and Enforcement (ACE) initiative, which emphasizes, among other things, providing assistance to tribes to help achieve voluntary compliance with IGRA.

You asked us to review the regulation and oversight of Indian gaming. Our objectives were to examine (1) the review process that Interior uses to help ensure that tribal-state compacts comply with IGRA; (2) how states and selected tribes regulate Indian gaming; (3) the Commission's authority to regulate Indian gaming; and (4) the Commission's efforts to ensure tribes' compliance with IGRA and Commission regulations.

[3]An Indian gaming operation refers to an economic entity that is licensed by a tribe, operates games, receives the revenue, issues prizes, and pays the expenses. 25 C.F.R. § 502.10.

[4]A gaming facility is a physical place or location on Indian lands where a tribe elects to allow class II or class III gaming.

[5]The minimum internal control standards for gaming are specific to the gaming industry, and they are the primary management procedures used to protect the operational integrity of gambling games, account for and protect gaming assets and revenue, and assure the reliability of the financial statements for class II and class III gaming operations. These standards govern the gaming enterprise's governing board, management, and other personnel and include procedures relevant to the play of, cash management, and surveillance for specific types of games.

[6]While IGRA refers to both tribal ordinances and resolutions, this report uses the term tribal ordinances for both terms.

In July 2014, we presented our preliminary observations in testimony before the Senate Committee on Indian Affairs.[7]

To examine the review process Interior uses to help ensure compliance with IGRA through its review of tribal-state compacts, we examined relevant Interior regulations and documentation describing the agency's process for reviewing compacts and interviewed agency officials about how this review process helps ensure compliance with IGRA. In addition, we obtained a list from Interior of all compacts in effect through fiscal year 2014 and verified the list against a search of *Federal Register* notices. We analyzed the compacts to identify key provisions, including those related to tribal and state regulation. We also obtained a list of all compact decisions and reviewed available decision letters from 1998 to 2014.

To determine how states and selected tribes regulate Indian gaming, we contacted all 24 states that have class III Indian gaming operations.[8] We collected written responses, conducted interviews, and obtained additional information about how each state oversees Indian gaming, including information on the states' regulatory organizations, staffing, funding, and expenditures, as well as the types of monitoring and enforcement activities conducted by state agencies.[9] We visited six states—Arizona, California, Michigan, New York, Oklahoma, and Washington. We selected these states because (1) of the geographic representation they provide and (2) they are among the states with the greatest revenue generated from Indian gaming.[10] For each of the six states we visited, we interviewed officials from at least one federally recognized tribe with gaming operations regarding their approaches to

[7]GAO, *Indian Gaming: Preliminary Observations on the Regulation and Oversight of Indian Gaming*, GAO-14-743T (Washington, D.C.: July 23, 2014).

[8]Twenty-four states have Indian gaming operations with both class II and class III gaming, and four states have Indian gaming operations with class II gaming only.

[9]We obtained information from representatives of all state agencies with class III gaming except for the state of New Mexico; its representative declined participation in an interview with us. Information about New Mexico's involvement with class III gaming regulation was found in publically available reports from the New Mexico Gaming Control Board and the New Mexico Legislative Finance Committee.

[10]Collectively, the six states we visited (Arizona, California, Michigan, New York, Oklahoma, and Washington) accounted for about 60 percent of all Indian gaming operations and Indian gaming revenue generated in 2013.

regulating gaming.[11] We met with tribal officials willing to meet with us and interviewed officials from 12 tribes in all.[12] The views of the 12 tribes that we met with are not generalizable to the views of the more than 200 gaming tribes; however, these views provide examples of tribal officials' views concerning gaming operations. In addition, we contacted 10 tribal gaming associations including the National Indian Gaming Association and the National Tribal Gaming Commissioners/Regulators, to obtain additional information on tribal perspectives on Indian gaming. The views of 5 out of the 10 associations that provided responses to discussion topics are not generalizable but provide additional examples of tribal perspectives on Indian gaming.

To examine the Commission's authority for regulating Indian gaming, we reviewed IGRA, relevant court cases, and Commission regulations and policies, including those related to minimum internal control standards for class II and class III gaming. We also interviewed Commission officials about the Commission's authority to regulate Indian gaming.

To examine the Commission's efforts to ensure tribes' compliance with IGRA and Commission regulations, we reviewed information on the Commission's regulations, policies, and guidance for regulating Indian gaming and analyzed Commission data. We obtained data to review the Commission's oversight activities before and after implementation of its ACE initiative in 2011. However, the availability and reliability of Commission data for fiscal years 2005 through 2014 varied by source. Thus, we obtained and analyzed data over varying periods of time. Specifically, for fiscal years 2009 through 2013, the most recent 5 years of data available, we collected and analyzed data on tribal compliance with internal control standards and audit risk level based on the Commission's review of annual audit reports required of tribal gaming operations. For fiscal years 2011 through 2014, we collected and analyzed available data on the Commission's monitoring activities,

[11]Federally recognized tribes are those recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. IGRA authorizes only federally recognized tribes to conduct gaming activities.

[12]See appendix I for the list of tribes that we interviewed regarding their approaches to regulating gaming. We also spoke with six additional tribes as part of an initial scoping visit in Arizona to learn more about Indian gaming and tribal perspectives generally but did not interview these tribes in our sample of 12.

including data on site visits conducted, and from a random, but not generalizeable, sample of summary findings from 50 Commission visits to Indian gaming operations.[13] To assess the reliability of these data, we interviewed Commission officials and reviewed documentation on the Commission's data system. We found the data to be sufficiently reliable for our purposes. For fiscal years 2011 through 2013, we collected and analyzed performance measures data and information on the training and technical assistance the Commission provided to tribes on IGRA and Commission regulations.[14] For fiscal years 2013 and 2014, we reviewed documentation on letters of concern that the Commission sent after the Commission's amendment of its compliance and enforcement regulation in fiscal year 2012.[15] For fiscal years 2005 through 2014, we reviewed publicly available information on the Commission's enforcement actions and verified information with Commission officials. We also interviewed Commission officials in their headquarters office about the Commission's role in regulating Indian gaming and interviewed directors of each of the Commission's seven regional offices about their oversight and assistance activities.

We conducted this performance audit from November 2013 to June 2015 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 provides a reasonable basis for our findings and conclusions based on our audit objectives. A more detailed description of our audit scope and methodology is presented in appendix I.

Background

Since fiscal year 1995, adjusted gross annual revenues from Indian gaming, equal to the difference between gambling wins and losses, have grown from $8.3 billion to $28 billion in fiscal year 2013 (see fig. 1). About 240 of the 566 federally recognized tribes operated more than 400 Indian gaming operations across 28 states in fiscal year 2013. These operations included a broad range of facilities, from bingo halls to multimillion dollar

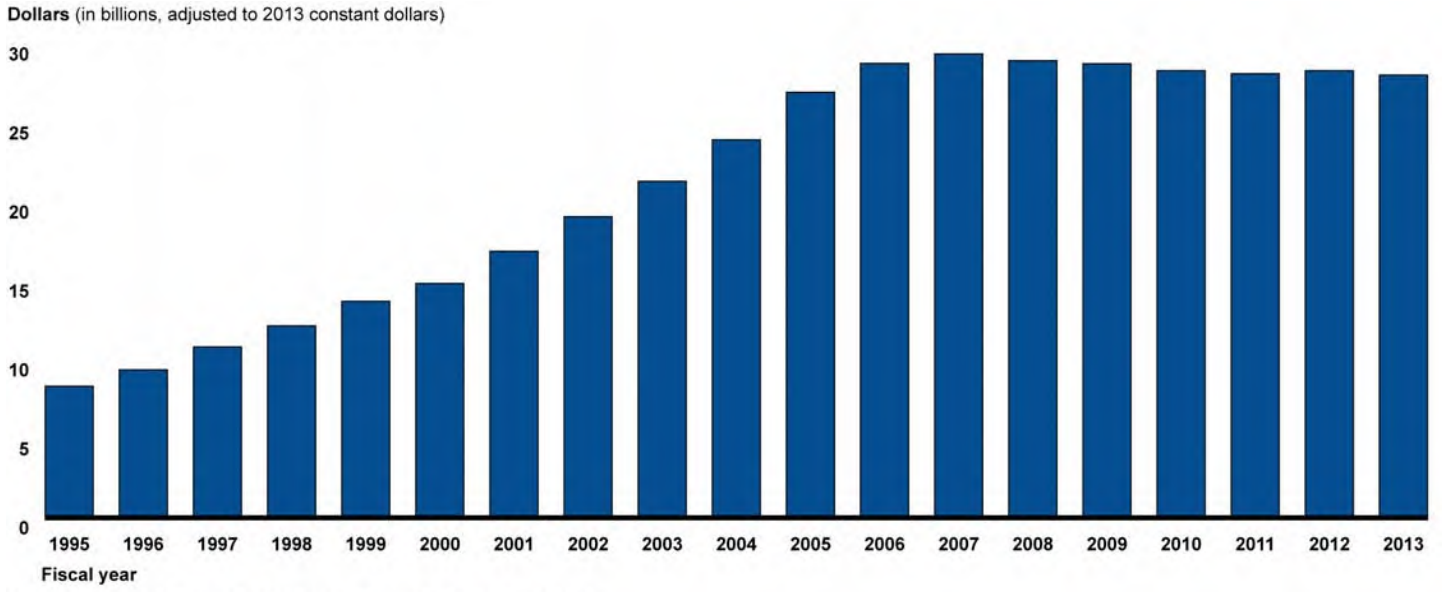
[13]Commission officials told us that collection of site visit data was integrated into one of its databases as of May 2010.

[14]Data for additional years was not available.

[15]25 C.F.R. § 573.2.

casinos. A relatively few large operations account for a major portion of the total revenue from Indian gaming. In fiscal year 2013, about 17 percent of Indian gaming operations generated more than 70 percent of the total gross gaming revenues that year.

Figure 1: Gross Annual Revenues from Indian Gaming, Fiscal Years 1995 to 2013



Source: GAO analysis of National Indian Gaming Commission data. | GAO-15-355

IGRA is the primary federal statute governing Indian gaming and provides the basis for regulating gaming to shield it from organized crime and other corrupting influences, assure that it is conducted fairly and honestly by both operators and players, and ensure that tribes are the primary beneficiaries of gaming operations.[16] In addition, IGRA prohibits using net revenues from Indian gaming for any purpose other than funding tribal government operations or programs; providing for general welfare of the tribe and its members;[17] promoting tribal economic development; donating

[16]Pub. L. No. 100-497, 102 Stat. 2467 (1988).

[17]Tribes may distribute per capita payments to tribal members from net gaming revenues in accordance with tribal revenue allocations plans approved by the Secretary of the Interior if certain conditions are met. 25 U.S.C. § 2710(b)(3).

to charitable organizations; or helping fund local government agencies' operations. Total net tribal gaming revenues, which reflect net income and include all operational costs, were less than half of the gross gaming revenues for the past 5 years. For example, in fiscal year 2013, total net revenues from Indian gaming operations were $11.3 billion, 40 percent of the gross revenues for that year. Tribal officials we interviewed told us they use gaming revenues to enhance or develop health and wellness programs for their members, offer educational programs for tribal children and youth, and provide tribal housing, among other uses. A few tribes also told us they make payments to members through approved revenue allocation plans.

IGRA establishes three classes of gaming and the roles of tribal, state, and federal agencies for each class (see table 1). The roles at the federal level are primarily carried out by the Commission and Interior's Office of Indian Gaming, which is within Interior's Office of the Assistant Secretary of Indian Affairs.

Table 1: Classes of Indian Gaming and Roles of Tribal, State, and Federal Agencies

				Department of the Interior	
Gaming class	**Description of gaming class**	**Tribe**	**State**	**Office of the Assistant Secretary of Indian Affairs[a]**	**National Indian Gaming Commission**
I	Consists of social gaming solely for prizes of minimal value, traditional gaming played in connection with tribal ceremonies, or celebrations. Not subject to the Indian Gaming Regulatory Act (IGRA).	Regulator	No role	No role	No role
II	Includes bingo, pull-tabs,[b] punch boards,[c] and certain card games[d]	Regulator	No role	Reviews and approves revenue allocation plans[e]	Regulatory responsibilities specified in IGRA[f]
III	Includes all other forms of gaming, including casino games and slot machines	Regulatory role pursuant to tribal-state compacts[g]	Regulatory role pursuant to tribal-state compacts[g]	Reviews and approves tribal-state compacts[g] and revenue allocation plans[e]	Responsibilities specified in IGRA[h]

Source: GAO analysis of the Indian Gaming Regulatory Act. | GAO-15-355

[a]Interior's Office of Indian Gaming within Interior's Office of the Assistant Secretary of Indian Affairs manages the tribal-state compact review process and coordinates its review with the Interior's Office of the Solicitor. IGRA requires the Secretary of the Interior to approve or disapprove a tribal-state compact within 45 days of its submission, but the Secretary has delegated that responsibility to the Assistant Secretary of Indian Affairs.

[b]A pull-tab is a gambling ticket that is sold as a means to play a pull-tab game. The object is to open the perforated windows on the back of the ticket and match the symbols inside to the winning combinations on the front of the ticket. A winning pull-tab ticket is turned in for a monetary prize.

[c]A punch board is a small board full of holes, with each hole containing a slip of paper with symbols printed on it; a gambler pays a small sum of money and pushes out a slip in the hope of obtaining one that entitles the gambler to a prize.

[d]Class II card games are nonbanking card games that state law explicitly authorizes, or does not explicitly prohibit and are played legally elsewhere in the state. Class II card games are played in conformity with state laws and regulations, if any, regarding hours or periods of operation and limitations on wagers and pot sizes for such card games.

[e]Tribal revenue allocations plans establish per capita payments a tribe may make to its tribal members from net gaming revenues. Net gaming revenues may include revenues from class II or class III gaming operations, or both.

[f]Under IGRA, the Chair of the National Indian Gaming Commission (Commission) reviews and approves management contracts and tribal gaming ordinances, and the Commission reviews the background checks and tribal gaming licenses of primary management officials and key gaming employees. The Commission has also issued regulations establishing minimum internal control standards for class II gaming operations.

[g]Tribal-state compacts are negotiated agreements between tribes and states that establish the tribes' and states' regulatory roles for class III gaming and specify the games that are allowed, among other things.

[h]Under IGRA, the Chair of the Commission reviews and approves management contracts and tribal gaming ordinances, and the Commission reviews background checks and tribal gaming licenses of primary management officials and key gaming employees. A federal circuit court has ruled that IGRA does not authorize the Commission to issue regulations establishing minimum internal control standards for class III gaming operations. *Colorado River Indian Tribes v. Nat'l Indian Gaming Comm'n*, 466 F.3d 134 (D.C. Cir. 2006).

Based on their varying roles in regulating and overseeing class II and class III gaming pursuant to IGRA, compacts, and tribal gaming regulations, the Commission, states, and tribes conduct a number of regulatory and oversight activities for Indian gaming operations.[18] These activities include the following:

- Issuance or review of licensing for gaming facilities required by IGRA to ensure that Indian gaming is located on Indian lands eligible for gaming and conducted in a facility that is constructed and maintained to ensure that it protects the environment and the public's health and safety.

[18]GAO, *Casino Gaming Regulation: Roles of Five States and the National Indian Gaming Commission*, GAO/RCED-98-97 (Washington, D.C.: May 15, 1998).

- Completion or review of background checks and investigations of key employees[19] and primary management officials[20] to ensure suitability of individuals involved in management or daily operation of gaming facilities.
- Issuance or review of licenses to employees and/or vendors of gaming machines and products.
- Gaming machine testing or review of test results to ensure compliance of gaming hardware, software, and associated equipment with electronic gaming regulations or standards.
- Development and regulation of the implementation of internal control standards for gaming that serve as the primary management procedures used to protect the integrity of gaming operations.

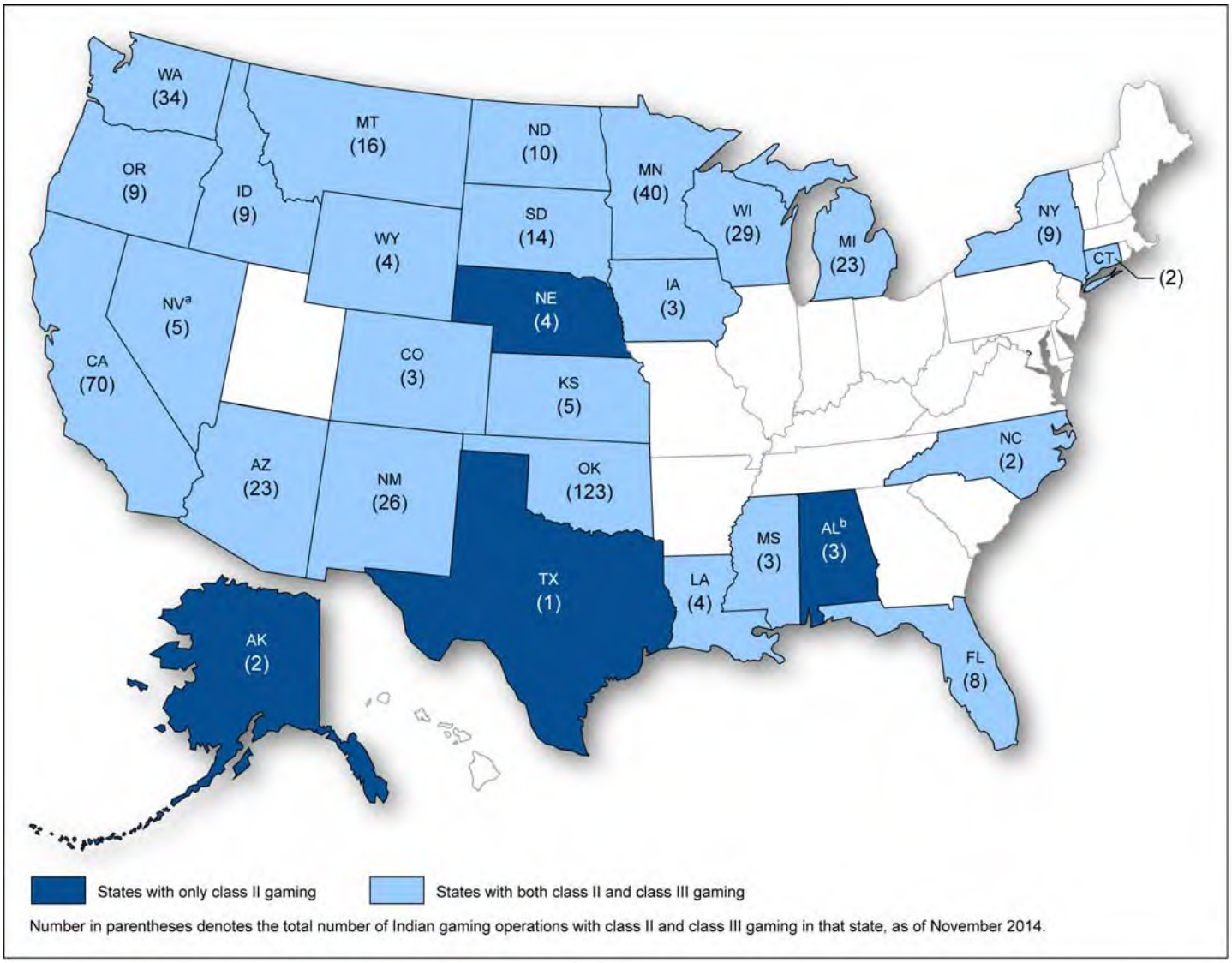
Twenty-four states have Indian gaming operations with both class II and class III gaming, and four states have Indian gaming operations with class II gaming only. Almost two-thirds (309 of 484) of Indian gaming operations include both class II and class III gaming, according to Commission data from November 2014. Of the remaining one-third of Indian gaming operations, about 97 operations have only class III gaming, and 78 operations have class II gaming only. The 484 Indian gaming operations shown in figure 2 by state were operated by 241 tribes.[21]

[19]Commission regulations define key employees as those (1) in specific positions; (2) any other person whose total cash compensation is in excess of $50,000 per year; (3) the four most highly compensated persons in the gaming operation; and (4) any other person designated by the tribe as a key employee. The specific positions are bingo caller, counting room supervisor, chief of security, custodian of gaming supplies or cash, floor manager, pit boss, dealer, croupier, approver of credit, or custodian of gambling devices including persons with access to cash and accounting records within such devices. 25 C.F.R. § 502.14.

[20]Commission regulations define primary management officials as (1) the person having management responsibility for a management contract; (2) any person who has authority to hire and fire employees or to set up working policy for the gaming operation; (3) the chief financial officer or other person who has financial management responsibility; and (4) any other person designated by the tribe. 25 C.F.R. § 502.19.

[21]Of the 241 tribes with gaming operations, 8 tribes had Indian gaming operations in more than one state.

Figure 2: States with Class II and Class III Indian Gaming as of November 2014



Sources: GAO analysis of National Indian Gaming Commission data; Map Resources (map). | GAO-15-355

Note: This figure includes gaming on Indian lands pursuant to the Indian Gaming Regulatory Act. Tribes may operate other gaming activities on non-Indian lands. For example, in Alaska—where tribes generally do not have Indian lands as result of the Alaska Native Claims Settlement Act—many tribes conduct charitable gaming pursuant to state law. *See* Alaska Stat. § 05.15.150.

[a]The number of Indian gaming operations and gaming tribes in Nevada includes a class III gaming operation owned and operated by non-Indians on Indian lands that is licensed by the Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, as authorized by 25 U.S.C. § 2710(d)(2)(A). Under the tribal-state compact, this gaming operation is subject to concurrent tribal and state jurisdiction.

[b]The classification of the games in Alabama is in dispute. The Poarch Band of Creeks does not have a gaming compact with the state of Alabama, but the state alleged in a lawsuit that the tribe is offering a class III game. The federal district court dismissed the lawsuit without ruling on whether the game at issue is a class II or class III game. The state has appealed the decision, but the circuit court has yet to rule. *Alabama v. PCI Gaming Auth*., 15 F. Supp. 3d 1161 (M.D. Ala. 2014), *appeal argued*, No. 14-12004 (11th Cir. Jan. 13, 2015).

Class II and class III gaming may only be conducted on Indian lands in states that permit such gaming.[22] Indian lands, as defined in IGRA, are (1) all lands within the limits of an Indian reservation; (2) lands held in trust by the United States for the benefit of an Indian tribe or individual over which the tribe exercises governmental power; and (3) lands held by an Indian tribe or individual that are subject to restriction against alienation and over which the tribe exercises governmental power.[23]

A tribe may only conduct class III gaming activities if such activities are conducted in conformance with a tribal-state compact, among other requirements.[24] Compacts are negotiated agreements that establish the tribes' and states' regulatory roles for class III gaming and specify the games that are allowed, among other things. According to the Senate committee report accompanying the legislation, IGRA was intended to provide a means by which tribal and state governments can realize their

[22]IGRA generally prohibits gaming on lands acquired by the Secretary of the Interior in trust for the benefit of an Indian tribe after October 17, 1988, although the act contains several exceptions to the general prohibition. See GAO, *Indian Gaming Regulatory Act: Land Acquired for Gaming after the Act's Passage*, GAO/RCED-00-11R (Washington, D.C.: Oct. 1, 1999).

[23]25 U.S.C. § 2703(4). The federal government holds legal title to lands held in trust by the United States, but the beneficial interest remains with the individual Indian or tribe. Alienation is the transfer of property.

[24]In certain circumstances when a tribe and state cannot reach agreement on a compact, a tribe may conduct class III gaming under procedures issued by the Secretary of the Interior. 25 U.S.C. § 2710(d)(7)(B). According to Interior, three tribes conduct class III gaming under Secretarial procedures (Arapaho Tribe of the Wind River Reservation, Mashantucket Pequot Indian Tribe, and the Rincon Band of Luiseno Mission Indians of the Rincon Reservation).

unique and individual governmental objectives.[25] The Senate committee report also noted that the terms of each compact may vary extensively and may allocate most or all of the jurisdictional responsibility to the tribe, to the state, or to any variation in between.[26] IGRA specifies that compacts may include provisions related to

- the application of criminal and civil laws and regulations of the tribe or the state that are directly related to and necessary for the licensing and regulation of gaming,
- the allocation of civil and criminal jurisdiction between the tribe and the state necessary to enforce those laws and regulations,
- state assessments of gaming activities as necessary to defray the costs of regulating Indian gaming,
- tribal taxation of gaming activities,
- remedies for breach of contract,
- standards for gaming activity operations and gaming facility maintenance, and
- any other subjects directly related to the operation of gaming activities.

IGRA authorizes the Secretary to approve compacts and allows the Secretary to disapprove a compact only if it violates IGRA, any other federal law that does not relate to jurisdiction over gaming on Indian lands, or the trust obligation of the United States to Indians.[27] Under IGRA, the Secretary has 45 days to approve or disapprove a compact once it receives a compact package from a state and tribe. Under IGRA, if a compact is not approved or disapproved within 45 days, then it is considered to have been approved (referred to as deemed approved) to the extent it is consistent with IGRA.[28] Compacts go into effect only when

[25]S. Rep. No. 100-446, at 6 (1988).

[26]S. Rep. No. 100-446, at 14 (1988).

[27]The federal government has a fiduciary trust relationship to federally recognized Indian tribes and their members.

[28]No court has issued a decision considering the extent to which a deemed approved compact is consistent with IGRA. Currently, a federal district court is hearing a challenge to a deemed approved compact that allegedly provides for class III gaming on non-Indian lands. *Amador County, Cal. v. Jewell*, 1:05-cv-658 (D.D.C.). Neither the relevant state nor the relevant tribe is a party to the suit.

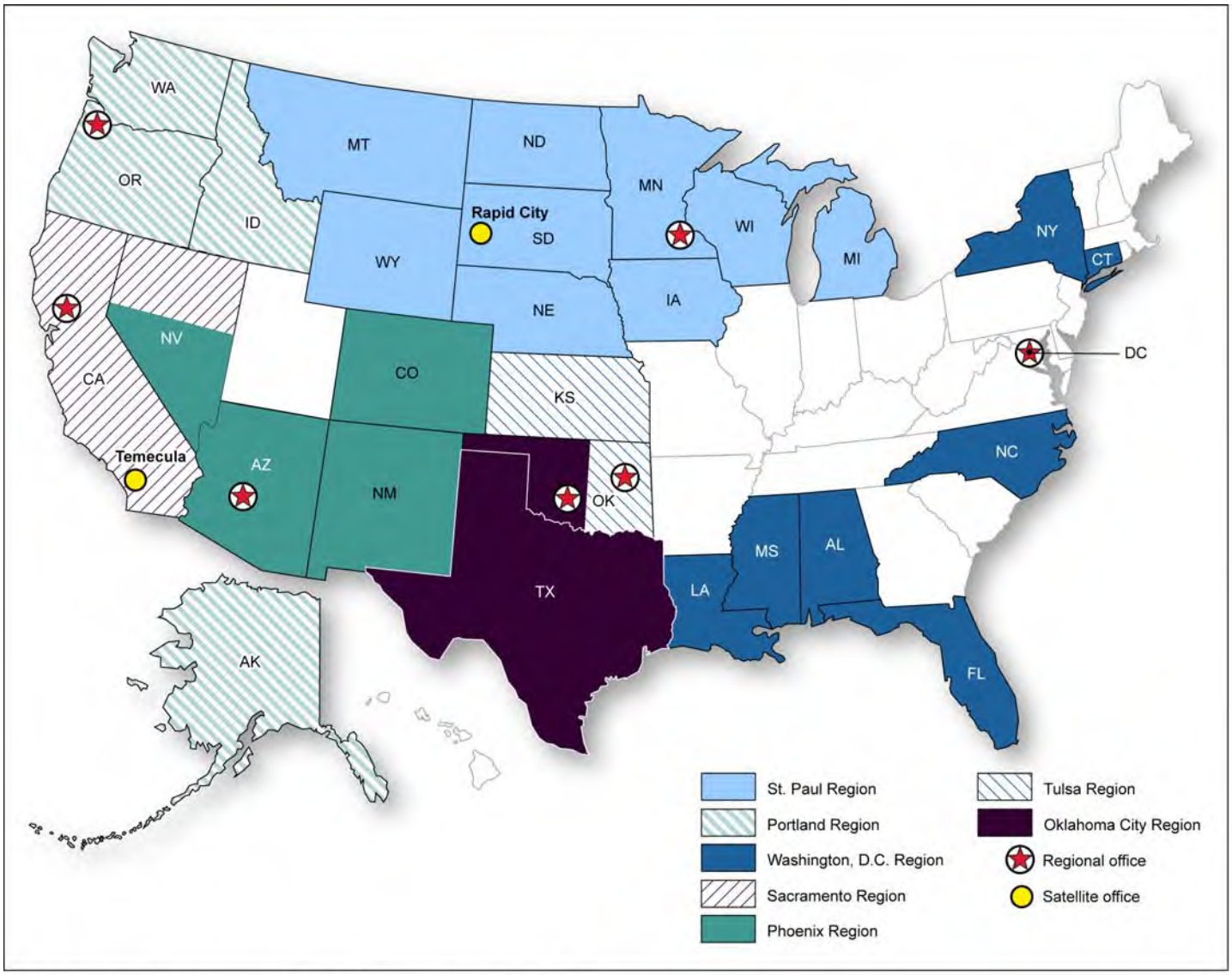
a notice from the Secretary has been published in the *Federal Register*. Interior's Office of Indian Gaming manages the compact review process and also reviews and approves revenue allocation plans. It had seven staff and a budget of nearly $1.1 million in fiscal year 2014.[29]

The Commission is an independent agency within Interior, established by IGRA as the primary federal agency with responsibilities for regulating class II and overseeing class III Indian gaming. The Commission is composed of a Chair appointed by the President and confirmed by the Senate, as well as two associate commissioners appointed by the Secretary. It has about 100 full-time staff. The Commission maintains its headquarters in Washington, D.C., and has seven regional offices and two satellite offices as shown in figure 3. The Commission's leadership, financial, and legal staff comprise about half of Commission staff and are assigned along with its Washington, D.C. region staff to its headquarters office in Washington, D.C. The other half of the Commission's staff consists of compliance officers and auditors who are located in regional and satellite offices and provide on-site monitoring of Indian gaming operations and technical assistance to tribes. Since fiscal year 1995, the Commission's staffing and overall expenditures have grown along with the growth of the Indian gaming industry, from more than 30 staff and $3.3 million in expenditures in fiscal year 1995, to nearly 100 staff and $19 million in expenditures in fiscal year 2014. The Commission is funded from fees collected on gross Indian gaming revenues from both class II and class III gaming conducted pursuant to IGRA.[30] For fiscal year 2013, the Commission assessed a fee rate of 0.072 percent on gross revenues in excess of $1.5 million for each operation.

[29]The Office of Indian Gaming has had an average of eight staff since 1993.

[30]IGRA requires the Commission to establish the fee schedule but caps the rate of fees based on the amount of gaming revenues, as well as the total amount of all fees imposed during a fiscal year (at 0.08 percent of gross gaming revenues of all gaming operations subject to IGRA).

Figure 3: National Indian Gaming Commission Regions and Offices



Sources: National Indian Gaming Commission information; Map Resources (map). | GAO-15-355

Interior Uses a Multistep Review Process to Help Ensure That Tribal-State Compacts Comply with IGRA and Has Approved Most Compacts

Interior uses a multistep review process to help ensure that tribal-state compacts,[31] and any compact amendments, comply with IGRA, other applicable laws, and the trust obligation of the United States to Indians. Interior officials said they closely review compact provisions that establish the terms for sharing gaming revenues between tribes and states that are included in many compacts. Overall, Interior approved most compacts submitted since 1998 and disapproved few compacts, most commonly because they contained provisions for revenue sharing between tribes and states that Interior found inconsistent with IGRA. In addition, Interior did not act to approve or disapprove some compacts within the 45-day review period citing concerns about various compact provisions. Consequently, under IGRA, those compacts are considered to have been approved (referred to as deemed approved) to the extent they are consistent with IGRA.

Interior Uses a Multistep Process to Review Tribal-State Compacts

Interior's Office of Indian Gaming is the lead agency responsible for managing a multistep process for reviewing all compacts submitted by tribes and states (see fig. 4).[32] The Office of Indian Gaming conducts an initial review of compacts to ensure that all necessary information was included and develops a draft briefing memo identifying any potentially problematic areas for Interior's Office of the Solicitor's review. The Solicitor's Office conducts a legal review to ensure that compacts do not violate: (1) IGRA; (2) any federal laws that do not relate to jurisdiction over gaming on Indian lands; or (3) the trust obligation of the United States to Indians. After the Solicitor's Office's legal review is complete, the Office of Indian Gaming finalizes its analysis and submits a recommendation to the Assistant Secretary of Indian Affairs who makes a final decision on whether to approve the compact. Interior has 45 days to

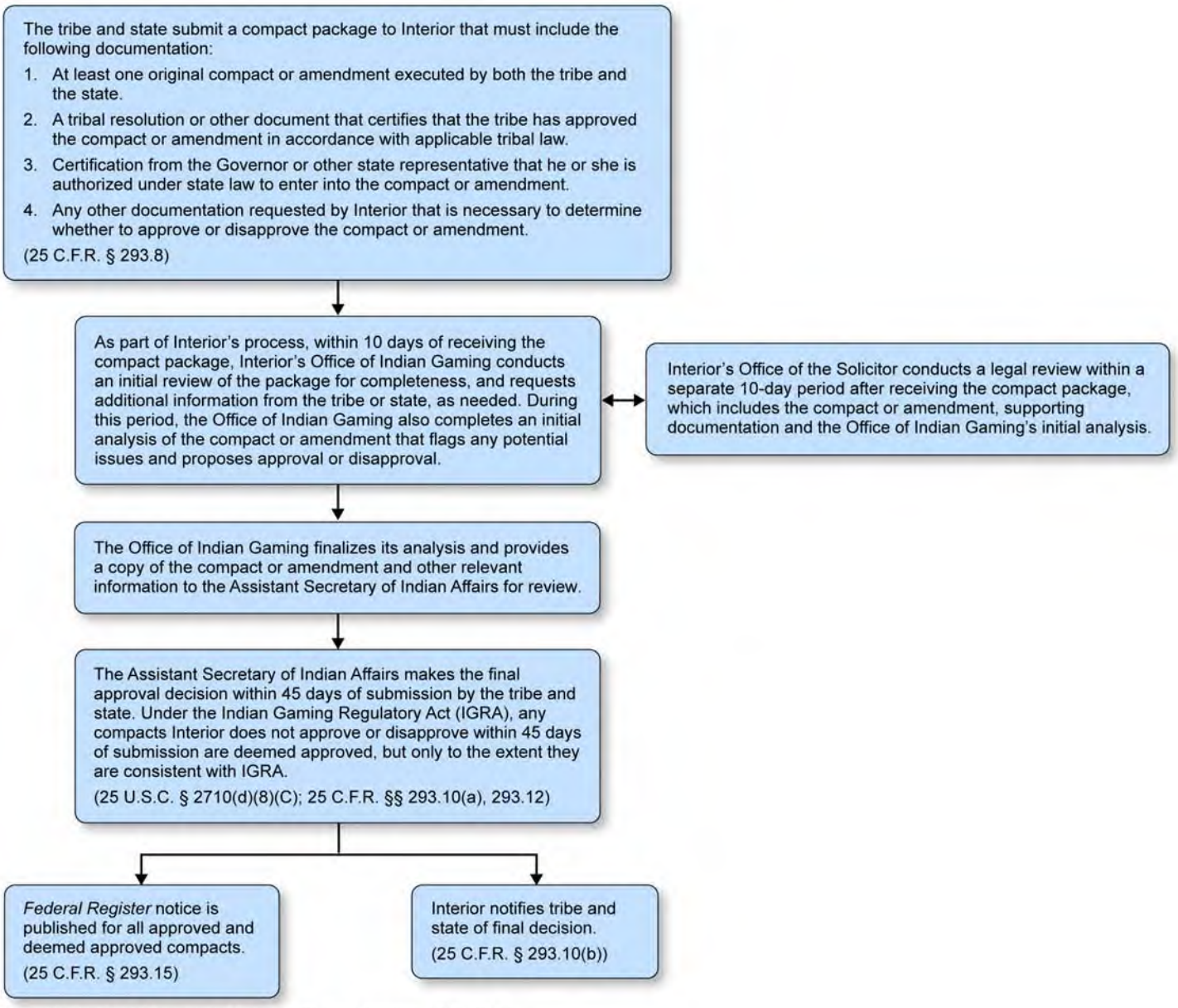
[31]We use the term compacts to refer to tribal-state compacts and compact amendments, unless otherwise noted.

[32]Interior regulations require compacts and all compact amendments to be submitted for approval. The regulations specify that all compact amendments, regardless of whether they are substantive or technical, are to be submitted to Interior. 25 C.F.R. § 293.4(b). However, Interior does not review agreements concerning Indian gaming unless submitted by states and tribes. We identified several agreements and consent judgments between tribes and states regarding revenue sharing from Indian gaming operations that were not submitted to or reviewed by Interior. In these cases, the tribe and state did not consider the agreements to be compact amendments. Interior officials told us that, without examining the agreements, they could not determine whether they were compact amendments that needed to be submitted for review.

approve or disapprove a compact once it receives a compact package from a state and tribe. Under IGRA, any compacts Interior does not approve or disapprove within 45 days of submission are deemed approved, but only to the extent they are consistent with IGRA. According to Interior officials, decision letters accompany all approved and disapproved compacts.[33] Deemed approved compacts only have decision letters in cases where Interior has policy guidance to share related to issues in the compact.

[33]We refer to Interior in our discussion of decision letters. Decision letters are signed by the Assistant Secretary of Indian Affairs, who makes final approval decisions. Under IGRA, the Secretary of the Interior is authorized to approve compacts, but the Secretary has delegated that authority to the Assistant Secretary of Indian Affairs.

Figure 4: Department of the Interior's (Interior) Compact Review Process



Source: GAO analysis of Department of the Interior (Interior) information. | GAO-15-355

Note: According to Interior officials upon receiving a compact for review, Interior's Office of Indian Gaming provides a copy of the compact to all relevant component agencies, including the Interior's Office of the Solicitor. The Office of Indian Gaming and the Solicitor's Office maintain ongoing discussions to address any potentially challenging issues throughout the review process.

For 1998 through fiscal year 2014, Interior reviewed and approved most of the 516 compacts and compact amendments that were submitted. Specifically, based on our analysis of Interior's list of compact decisions from 1998 to October 2014, 78 percent (405) were approved; 12 percent (60) were deemed approved; 6 percent (32) were withdrawn or returned; and about 4 percent (19) were disapproved. As of October 2014, a total of 276 compacts, not including amendments, were in effect.[34]

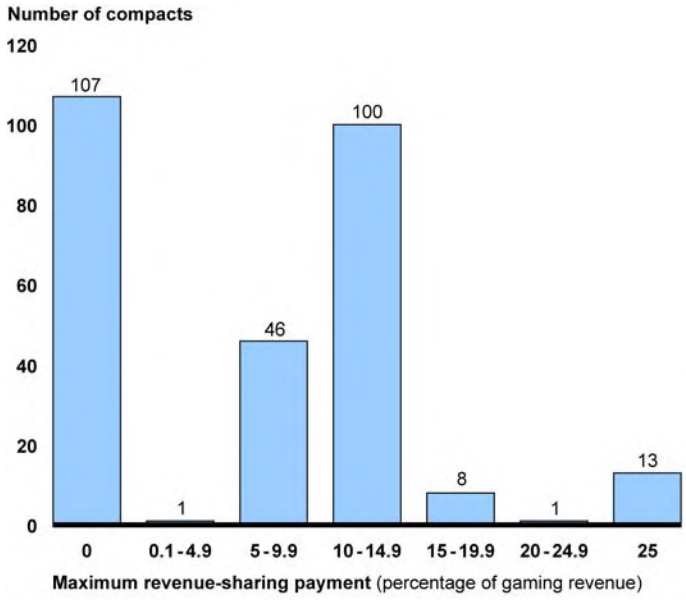
Interior Officials Said They Closely Review Compacts for Revenue Sharing Provisions

Interior officials told us that they pay close attention to provisions that dictate terms for revenue sharing between tribes and states to ensure that states are not imposing taxes or fees on Indian gaming revenues prohibited by IGRA.[35] Based on our analysis of compacts about 61 percent (169 of 276) of all compacts in effect as of October 2014 contained revenue sharing provisions between the tribes and states. These revenue sharing provisions include various payment structures that may require, for example, tribes to pay states a fixed amount or a flat percentage of all gaming revenues or an increasing percentage as gaming revenues rise. Of the 169 compacts that include revenue sharing provisions, most (164) involve payments tied to gaming revenues and include a maximum payment, ranging from 3.5 percent to 25 percent of all or a portion of gaming revenues (see fig. 5). A few compacts (5) require a fixed payment.

[34]This includes five compacts which, as of October 31, 2014, no class III gaming was being conducted pursuant to these compacts: the Mashpee Wampanog Tribe's compact with Massachusetts, the Omaha Tribe of Nebraska's compact with Nebraska, the Narragansett Indian Tribe of Rhode Island's compact with Rhode Island, and the North Fork Rancheria of Mono Indians and Wiyot Tribe's compacts with California. The Mashpee Wampanoag Tribe's class III gaming facility was under design and not in operation as of February 2015. The Omaha Tribe of Nebraska did not conduct class III in Nebraska as of February 2015. State and federal courts have declared the Narragansett Indian Tribe of Rhode Island's compact to be void and without legal effect. *Narragansett Indian Tribe of Rhode Island v. Rhode Island*, 94-cv-0618, 94-cv-0619, 95-cv-0034, 1996 WL 97856 (D.R.I. Feb. 13, 1996); *Narragansett Indian Tribe of Rhode Island v. State*, 667 A.2d 280 (R.I. 1995) (holding the Governor lacked constitutional and legislative authority to bind the state by executing the compact). The state law ratifying the North Fork Rancheria of Mono Indians and Wiyot Tribe's compacts was rejected in a November 2014 referendum, and consequently the compact has not been ratified in accordance with state law.

[35]IGRA prohibits states from imposing any tax, fee, charge, or assessment on an Indian tribe for Indian gaming except for an assessment to defray the costs of regulating Indian gaming. 25 U.S.C. § 2710(d)(4).

Figure 5: Maximum Revenue Sharing Payment in 276 Tribal-State Compacts Approved or Deemed Approved as of October 2014



Source: GAO analysis of tribal-state compacts. | GAO-15-355

Note: Of the 276 compacts represented in the figure, 5 compacts required a fixed payment based on a percentage of gaming revenue.

Interior officials said that if they have a concern about a revenue sharing provision they will send a letter to the tribe and state requesting that they provide a written explanation as to why the provision does not constitute a tax or fee. Based on decision letters we reviewed, Interior conducts a two-pronged analysis to determine whether the revenue sharing provision violates IGRA. First, Interior evaluates whether the state has offered a "meaningful concession" in exchange for the tribe's revenue sharing. For example, a state can offer a tribe exclusivity—the sole right to conduct gaming in the state, or a specific geographic area within the state.[36] Second, Interior determines whether the concessions offered by the state provide a substantial economic benefit for the tribe.

[36]According to Interior decision letters, Interior does not consider compact terms routinely negotiated by tribes and states, such as increases in the number of gaming devices or hours of operation, as adequate state concessions for revenue sharing.

Interior Disapproved Few Compacts, Most Commonly for Revenue Sharing Provisions Inconsistent with IGRA

Of the 516 compacts and compact amendments submitted to Interior since 1998, Interior disapproved 19. In decision letters we reviewed, the most common reason for disapproving compacts was that they contained revenue sharing provisions Interior found to be inconsistent with IGRA.[37] For example, Interior found that the concessions offered by the state in some compacts were not proportional to the value of the revenues the state sought from the tribe. Interior disapproved these compacts because they did not eliminate or sufficiently reduce the tribe's payment to the state if the tribe's exclusivity ended or was diminished in the future. In addition, Interior found the revenue sharing payment to the state in some compacts to be a tax, fee, charge, or assessment on the tribe, which is prohibited by IGRA. For example, for one compact, Interior found the state's offer of support for the tribe's application to take land into trust did not provide a quantifiable economic benefit that justified the proposed revenue sharing payments. Consequently, Interior viewed the payment to the state as a tax or other assessment in violation of IGRA. Interior also disapproved compacts for other reasons, including that compacts were signed by unauthorized state or tribal officials, included lands to be used for gaming that were not Indian lands as defined by IGRA, or included provisions that were not directly related to gaming.

Interior Did Not Act to Approve or Disapprove Some Compacts

Interior did not approve or disapprove 60 of the 516 compacts submitted by tribes and states since 1998 within the 45-day review period; as a result, these compacts are considered deemed approved to the extent that they are consistent with IGRA.[38] According to Interior officials, as a

[37]Our discussion of the compacts disapproved by Interior is based on a review of 18 out of 19 decision letters that Interior was able to locate as of February 2015. One letter for a compact between the Coyote Valley Band of Pomo Indians and the state of California, submitted to Interior on June 1, 2004, was unavailable.

[38]No court has issued a decision considering the extent to which a deemed approved compact is consistent with IGRA. Federal courts have generally dismissed lawsuits challenging deemed approved compacts because a necessary and indispensable party to the litigation—the state, tribe, or both—could not be joined to the lawsuit due to sovereign immunity, which is explained and discussed in appendix II. *Friends of Amador County v. Salazar*, 554 F. App'x 562 (9th Cir. 2014); *Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas v. Babbitt*, 43 F.3d 1491 (D.D.C. 2014); *Pueblo of Sandia v. Babbitt*, 47 F. Supp. 2d 49 (D.D.C. 1999); *Lac Du Flambeau Band of Lake Superior Chippewa Indians v. Norton*, 327 F. Supp. 2d 995 (W.D. Wis. 2004), *aff'd on other grounds*, 422 F.3d 490 (7th Cir. 2005). Currently, a federal district court is hearing a challenge to a deemed approved compact that allegedly provides for class III gaming on non-Indian lands. *Amador County, Cal. v. Jewell*, 1:05-cv-658 (D.D.C.). Neither the relevant state nor the relevant tribe is a party to the suit.

general practice, the agency only sends a decision letter to the tribes and state for deemed approved compacts to provide guidance on any provisions that raised concerns or may have potentially violated IGRA.[39] We reviewed the decision letters for 26 of the 60 deemed approved compacts.[40] In 19 of the 26 letters we reviewed, Interior described concerns about the compact's revenue sharing provisions, and most of these letters also noted concerns about the inclusion of provisions not related to gaming. The remaining 7 letters we reviewed cited other concerns, such as ongoing litigation, that could affect the compact.

States and Selected Tribes Regulate Indian Gaming Based on Compacts and Tribal Ordinances, Depending on Gaming Class

States and selected tribes regulate Indian gaming in accordance with their roles and responsibilities established in compacts and tribal ordinances. Compacts establish the roles and responsibilities of both states and tribes for regulating class III gaming and identify applicable state and tribal laws and regulations for gaming operations, among other things. Tribal laws and regulations—which include tribal gaming ordinances—outline the general framework for tribes' regulation of class II and class III gaming operations. The regulatory approaches of the 24 states with class III gaming vary—with some states taking an active regulatory role in regulating Indian gaming, and others taking a limited role. In addition, all 12 of the selected tribes we visited had regulatory agencies responsible for the day-to-day regulation of gaming operations to help ensure compliance with tribal gaming ordinances and, for class III operations, compliance with compacts.

[39]One federal circuit court expressed the view that the Secretary of the Interior was attempting to evade responsibility by allowing compacts to be deemed approved because he was aware that such an action would be practically unenforceable and unreviewable, leaving the tribes with no means of vindicating their rights under IGRA even though he considered the revenue sharing and regulatory fee provisions to be illegal. *Pueblo of Sandia v. Babbitt*, 47 F. Supp. 2d 49, 56-57 (D.D.C. 1999).

[40]Interior officials told us no decision letters were issued for the remaining 34 deemed approved compacts.

Compacts and Tribal Gaming Ordinances Establish the Roles and Responsibilities of States and Tribes

The roles of states and tribes in regulating Indian gaming are established in two key documents: (1) compacts for class III gaming and (2) tribal gaming ordinances for both class II and class III gaming. Compacts are generally negotiated between tribes and state Governors or their staffs but, in some states, state law requires the state legislature to approve or ratify a compact negotiated by the Governor. State law requirements for entering into a compact are described in appendix III. Compacts lay out the responsibilities of both tribes and states for regulating class III gaming. For example, compacts may include provisions allowing states to conduct inspections of gaming operations, certify employee licenses, review surveillance records, and impose assessments on tribes to defray the state's costs of regulating Indian gaming. They may also include provisions requiring tribes to notify the state when they hire a new employee or when they make changes to their gaming regulations or rules. In addition, compacts may contain provisions governing how any disputes between the state and tribe over the compact and its terms will be resolved, including provisions waiving the sovereign immunity of the state, tribe, or both, to lawsuits seeking to resolve disputes. Sovereign immunity, including waivers in compacts and the IGRA provisions limiting state and tribal sovereign immunity, is described in appendix II.

In addition, IGRA requires a tribe's governing body to adopt a tribal gaming ordinance approved by the Commission Chair before a tribe can conduct class II or class III gaming.[41] According to Commission documents, tribal gaming ordinances are a key part of the regulatory framework established by IGRA for tribal gaming, providing the general framework for tribal regulation of gaming operations, and including specific procedures and standards to be met. Tribal ordinances must contain certain required provisions that provide, among other things, that

- the tribe will have sole proprietary interest and responsibility for the conduct of gaming activity;[42]
- net gaming revenues will only be used for authorized purposes;

[41]Along with the ordinance, a tribe must also submit other documentation to the Commission, including copies of all tribal gaming regulations.

[42]However, IGRA authorizes tribes to adopt gaming ordinances that provide for the licensing or regulation of class II or class III gaming activities on Indian lands owned by others in certain circumstances. 25 U.S.C. § 2710(b)(4), (d)(2)(A).

- annual independent audits of gaming operations will be provided to the Commission;
- the construction, maintenance, and operation of the gaming facilities will be conducted in a manner that adequately protects the environment and public health and safety; and
- the tribe performs background investigations and the licensing of key employees and primary management officials in accordance with certain requirements in Commission regulations.

In addition to the required provisions, ordinances may also contain provisions specifying, for example, how conflicts are to be resolved between tribal and compact internal control standards for gaming and the land on which gaming will be conducted.

States Varied in Their Approaches to Regulating Class III Indian Gaming

Since IGRA allows states and tribes to agree on how each party will regulate class III gaming, regulatory roles vary among the 24 states that have class III Indian gaming operations. We identified states as having either an active, moderate, or limited role to describe their approaches in regulating class III Indian gaming, primarily based on information states provided on the extent and frequency of their monitoring activities (see table 2). Monitoring activities conducted by states ranged from basic, informal observation of gaming operations to testing of gaming machine computer functions and reviews of surveillance systems and financial records. We also considered state funding and staff resources allocated for regulation of Indian gaming, among other factors, in our identification of a state's role. See figure 6 for information on state regulation of gaming operations.

Table 2: State Regulatory Roles for Class III Indian Gaming, Fiscal Year 2013

Dollars in thousands

State regulatory role	Number of class III Indian gaming operations	State regulatory agency	State funding for regulating Indian gaming[a]	Number of regulatory staff[b]	Monitoring frequency				
					Daily	Weekly	Monthly	Annually	Every 1.5 to 3 years
Active									
Arizona	23	Department of Gaming	$9,725	100		✓	✓	✓	
Connecticut	2	Department of Consumer Protection, Gaming Division	$2,350	16	✓				
Kansas	4	State Gaming Agency	$1,839	23	✓	✓	✓		

Dollars in thousands

State regulatory role	Number of class III Indian gaming operations	State regulatory agency	State funding for regulating Indian gaming[a]	Number of regulatory staff[b]	Monitoring frequency				
					Daily	Weekly	Monthly	Annually	Every 1.5 to 3 years
Louisiana	3	State Police, Gaming Enforcement Division	$1,899	20	✓	✓	✓		
New York	5	State Gaming Commission	$4,507	49	✓		✓		
Oregon	8	State Police, Gaming Enforcement Division	$2,325	18	✓	✓	✓	✓	
Wisconsin	26	Department of Administration, Division of Gaming	$1,825	18	✓	✓	✓	✓	✓
Moderate									
California	62	Bureau of Gambling Control; Gambling Control Commission	$20,082	136				✓[c]	
Florida	7	Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering	$270	4			✓		
Iowa	3	Department of Inspections and Appeals	$130	1				✓	
Michigan	23	Gaming Control Board	$719	6				✓	✓
Minnesota	19	Department of Public Safety, Alcohol and Gambling Enforcement	$187	1				✓[c]	
Nevada	5	Gaming Control Board	<$300[d]	1					✓
New Mexico	25	Gaming Control Board	$868[e]	[e]				✓[e]	
North Dakota	6	Office of Attorney General, Gaming Division	$143	4			✓	✓	
Oklahoma	116[f]	Office of Management and Enterprise Services, Gaming Compliance Unit	$1,085	3				✓	
South Dakota	9	Commission on Gaming	$30	<1[g]				✓	
Washington	28	State Gambling Commission	$4,882	43				✓[c]	
Limited									
Colorado	3	Department of Revenue, Division of Gaming	$0	0					
Idaho	9	Idaho Lottery	$0	0[h]				✓[h]	
Mississippi	3	Gaming Commission	$0	0					

Dollars in thousands

State regulatory role	Number of class III Indian gaming operations	State regulatory agency	State funding for regulating Indian gaming[a]	Number of regulatory staff[b]	Monitoring frequency				
					Daily	Weekly	Monthly	Annually	Every 1.5 to 3 years
Montana	12	Department of Justice, Gambling Control Division	$0	0					
North Carolina	1	Office of the Governor	$0	0					
Wyoming	4	Office of the Attorney General	$0	0					

Sources: GAO analysis of state and National Indian Gaming Commission data. | GAO-15-355

Note: States are listed as having an active, moderate, or limited role in regulating Indian gaming, largely based on the extent and frequency of their monitoring activities. Monitoring activities included inspection or observation of gaming operations, review of financial reports, and verification of gaming machine computer functions, among other activities. Other factors that were also considered in determining the extent of states roles included state funding and staffing levels, involvement in licensing and background investigations of gaming employees and vendors, among other factors. States categorized as having an active role monitor gaming operations at least weekly, and most have a daily on-site presence. States categorized as having a moderate role conduct monitoring activities at least annually, and all collect some amount of funding from tribes to support state regulatory activities. States categorized as having a limited role do not regulate class III Indian gaming in their state. Within each category—active, moderate, or limited role—states are listed in alphabetical order.

[a]Reported figures include assessments imposed on Indian gaming activity pursuant to tribal-state gaming compacts to defray the state's regulatory costs, as authorized by IGRA. 25 U.S.C. § 2710(d)(3)(C)(iii). Most states that reported funding amounts for state regulatory activities indicated that all or a majority of these state activities are funded through assessments on Indian gaming.

[b]Staff data are in full-time equivalents and rounded to the nearest whole number.

[c]States performed monitoring activities at least annually and visited gaming operations as needed or, in the case of Washington, determined their monitoring frequency in consultation with tribes.

[d]Nevada's regulatory funding is a percentage of revenue from two tribes, so the state declined to provide an exact number to protect confidentiality. In lieu of an exact figure, Nevada told us their regulatory funding is less than $300,000.

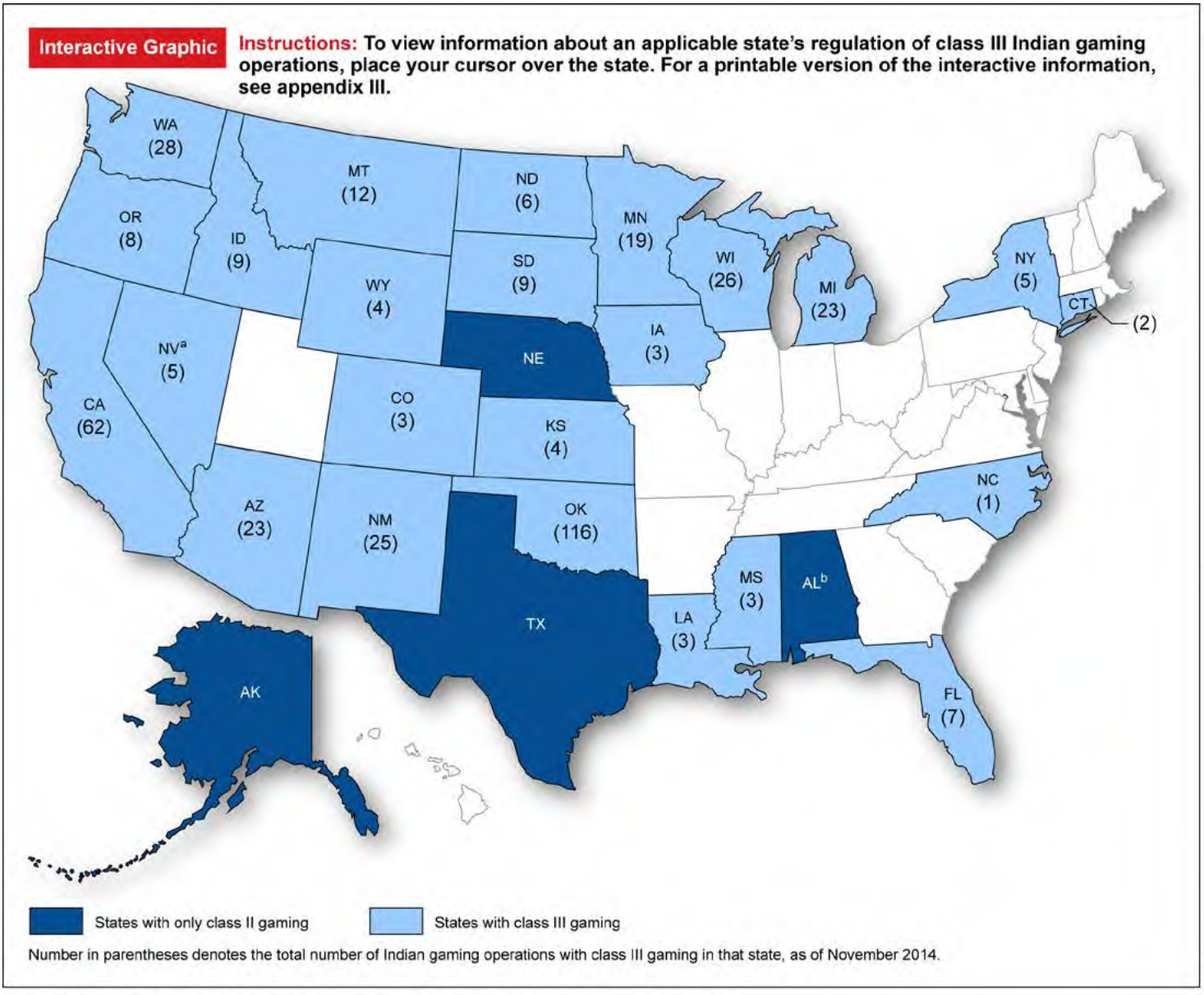
[e]New Mexico officials declined to be interviewed for this report. We obtained funding information from New Mexico's Fiscal Year 2013 Annual Report and information on annual monitoring of tribal gaming operations conducted by the state from a 2013 report to the New Mexico Legislative Finance Committee entitled Evaluation of Operational Effectiveness of Gambling Oversight in New Mexico. Other information on the number of regulatory staff for Indian gaming operations was not available.

[f]Oklahoma has over 100 gaming operations; however, most are small-scale operations consisting of a few slot machines installed at rest stops or travel centers.

[g]South Dakota has two regulatory staff that spend partial time monitoring Indian gaming operations. South Dakota officials told us total staff time involved in overseeing Indian gaming is equal to less than one full-time-equivalent.

[h]Idaho's visits included informal tours of gaming operations, but tours did not involve any state-initiated monitoring activity. Idaho officials estimated about 1 percent of their time is used to oversee Indian gaming.

Figure 6: State Regulation of Class III Indian Gaming Operations



Sources: GAO analysis of National Indian Gaming Commission and state information; Map Resources (map). | GAO-15-355

[a]The number of Indian gaming operations and gaming tribes in Nevada includes a class III gaming operation owned and operated by non-Indians on Indian lands that is licensed by the Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, as authorized by 25 U.S.C. § 2710(d)(2)(A). Under the tribal-state compact, this gaming operation is subject to concurrent tribal and state jurisdiction.

[b]The classification of the games in Alabama is in dispute. The Poarch Band of Creeks does not have a gaming compact with the state of Alabama, but the state alleged in a lawsuit that the tribe is offering a class III game. The federal district court dismissed the lawsuit without ruling on whether the game at issue is a class II or class III game. The state has appealed the decision, but the circuit court has yet to rule. *Alabama v. PCI Gaming Auth*., 15 F. Supp. 3d 1161 (M.D. Ala. 2014), *appeal argued*, No. 14-12004 (11th Cir. Jan. 13, 2015).

States with an Active Regulatory Role

Seven states have an active regulatory role and monitor gaming operations at least weekly, with most having a daily on-site presence.[43] Over 17 percent (71 of 406) class III Indian gaming operations are located in these seven states. Operations in these seven states accounted for about 25 percent of gross gaming revenue in fiscal year 2013.[44]

Based on our analysis of states' written responses to questions and interviews, states with an active regulatory role perform the majority of monitoring activities, including

- formal and informal inspection or observation of gaming operations,
- review of financial report(s),
- review of compliance with internal control systems,
- audit of gaming operation records,
- verification of gaming machines computer functions,
- review of gaming operator's surveillance, and
- observation of money counts.

Some states with an active regulatory role told us they also verify gaming operation funds to confirm payments to the state and inspect gaming operations to ensure public health and safety, such as reviewing building inspection records for gaming facilities. Of these states, five states assign staff at gaming operations to observe money counts, conduct background checks, and investigate compact violations, among other things. For example, New York regulators are present at all five class III gaming

[43]States with an active regulatory role are Arizona, Connecticut, Kansas, Louisiana, New York, Oregon, and Wisconsin.

[44]This gross gaming revenue percentage was calculated using both class II and class III gaming revenues.

operations 24 hours a day, with nine compliance officers at each gaming operation. Connecticut, Kansas, Louisiana, and Oregon also have staff at gaming operations to perform monitoring activities on a daily basis. In addition, Wisconsin regulators utilize electronic monitoring systems that report gaming operation information to the state on a daily basis. Arizona regulators visit operations weekly to perform various monitoring activities, and can conduct real-time electronic monitoring of gaming devices for some tribes with gaming operations in the state according to Arizona officials.

All of the states with an active regulatory role also told us that they require state-performed background checks for vendors. For example, Louisiana conducts extensive background investigations on any individual or company owning at least 5 percent stock in the gaming operation or receiving more than $50,000 in payments over a 12-month period. In addition, all active role states except for Oregon and Wisconsin require state-performed background checks for key employees. Oregon provides background checks for key employees by request from tribes.

States with a Moderate Regulatory Role

Based on our analysis of states' written responses to questions and interviews with states, most of the 11 states that have a moderate regulatory role monitor operations at least annually, and all collect funds from tribes to support state regulatory activities.[45] About 75 percent (303 of 406) of class III Indian gaming operations are located in the 11 states with a moderate role. Operations in these 11 states generated 69 percent of all gross Indian gaming revenue in fiscal year 2013.[46]

States with a moderate regulatory role have the broadest range of regulatory approaches, as demonstrated by varying monitoring frequencies and activities as described by state officials. For example, according to Nevada officials, Nevada conducts comprehensive inspections of gaming operations once every 2 to 3 years and performs covert inspections, as needed, based on risk. North Dakota officials told us they monitor more frequently than Nevada, with monthly inspections of

[45]States with a moderate regulatory role are California, Florida, Iowa, Michigan, Minnesota, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, and Washington.

[46]This gross gaming revenue percentage was calculated using both class II and class III gaming revenues.

gaming operations and an annual review of financial reports, among other activities. In addition, some moderate states perform a wide array of monitoring activities, and others perform a select few. For example, Washington performs monitoring activities commonly performed by states with an active role at least annually or, as needed, in addition to verifying gaming machines' functionality at a state-run laboratory prior to installation in gaming operations. According to California officials, all California compacts require state investigations of key employees, gaming vendor resource suppliers, and financial source suppliers to determine their suitability for licensing in California, and the state performed most monitoring activities with the exception of the gaming operations of 15 tribes.[47] In contrast, South Dakota compacts require state background investigations of employees, and the state verifies gaming machine computer functions annually and performs no other monitoring activity according to a South Dakota official.

Overall, based on our analysis of state responses to interview questions, most states with a moderate regulatory role (1) perform formal and informal inspection or observation of gaming operations, (2) review financial reports, and (3) verify gaming machine computer functions. In addition, about half of moderate states evaluate compliance with internal control standards, review surveillance systems in gaming operations, and audit gaming operation records in order to ensure compliance with compact provisions. Several of these states require state-issued background checks, while some states perform background checks upon request from tribes.

States with a Limited Regulatory Role

Based on our analysis of state information including written responses to questions and interviews with states, six states have a limited regulatory role and do not incur substantial regulatory costs or regularly perform monitoring activities of class III Indian gaming operations.[48] Eight percent (32 of 406) of class III Indian gaming operations are located in states with a limited regulatory role. Operations in these states represent about

[47]State regulations issued pursuant to the tribal-state gaming compacts in California allow tribes to adopt tribal gaming ordinances that provide for Commission monitoring and enforcement of 25 C.F.R. Part 542 instead of tribal and state monitoring and enforcement of tribal minimum internal control standards.

[48]States with a limited regulatory role are Colorado, Idaho, Mississippi, Montana, North Carolina, and Wyoming.

4 percent of gross Indian gaming revenue in fiscal year 2013.[49] The role of these states is largely limited to the negotiation of compacts with tribes. Montana officials told us that given the limitations on the size of the Indian gaming operations and lack of reported conflicts with localities, they saw no need for additional state regulation of Indian gaming. Montana compacts place limits on the number of gaming devices permitted in Indian gaming facilities. This controls the size and potential profits from a gaming operation. Some states visit or contact tribes annually or more frequently, but they do not perform monitoring activities. For example, Colorado officials told us they meet with tribes to discuss gaming trends, licensing, or technology issues, but the state does not perform monitoring activities during these meetings. Idaho officials told us they meet with tribes annually to tour their facilities, but the state relies on the tribes to ensure compliance with the compact. A few state officials with a limited role noted that their state has the right to investigate compact violations, should the state become aware of them. For example, according to North Carolina officials, while the Eastern Band of the Cherokee Indians compact does not give North Carolina authority to regulate class III gaming, it does give the state the right, after notifying the tribe, to informally inspect or observe operations and records related to class III gaming.

The 12 Selected Tribes Regulate Indian Gaming Day-to-Day

Tribes take on the primary day-to-day role of regulating Indian gaming, but they interact with the Commission and states given their roles in regulating or overseeing gaming operations. For example, each of the 12 tribes that we visited had established tribal gaming regulatory agencies that perform various regulatory functions to ensure that their gaming facilities are operated in accordance with tribal laws and regulations and, for class III operations, compacts.[50] For each of these tribes, the tribal government established the tribal gaming regulatory agency for the exclusive purpose of regulating and monitoring gaming on

[49]We calculated this gross gaming revenue percentage using both class II and class III gaming revenues. The total gross gaming revenue percentage for all the 24 states with class III gaming does not equal 100 percent because of the additional revenue generated by the other 4 states that have only class II gaming.

[50]Each of the 12 tribes we visited had gaming ordinances for class II and class III gaming that had been approved by the Commission Chair and had negotiated tribal-state compacts for class III gaming that had been approved by the Secretary of the Interior as required by IGRA.

behalf of the tribe. The tribes' regulatory agencies were similar in their approaches to regulating their gaming operations. For example, all of the tribes' regulatory agencies had established procedures for

- developing licensing procedures for all employees of the gaming operations,
- conducting background investigations on primary management officials and key employees,
- obtaining annual independent outside audits and submitting these audits to the Commission,
- ensuring that net revenues from any gaming activities are used for the limited purposes set forth in the gaming ordinance,
- promulgating tribal gaming regulations pursuant to tribal law,
- monitoring gaming activities to ensure compliance with tribal laws and regulations, and
- establishing or approving minimum internal control standards or procedures for the gaming operation.

In regulating their gaming operations, officials from many of the 12 tribal regulatory agencies generally reported good working relationships with both the Commission and state governments.[51] For example, according to tribal regulatory agency officials, many of the tribes generally worked well with the Commission to ensure that the required background checks are performed on primary management officials and key gaming employees and that these employees were licensed. With regard to their relationships with state governments, the tribal officials generally told us they had positive experiences. For example, many tribal officials said that they work cooperatively with state regulators and often share information related to compliance with state and federal regulations. However, several tribal officials told us that their expertise in regulating gaming has matured to the point where they believe state oversight is too extensive.

[51]We provided the tribes with a list of topics for discussion. Not every tribe addressed every topic. The topics were open-ended, and the tribes volunteered responses. We did not ask officials from each tribe to agree or disagree with particular issues.

To obtain a broader view of tribes' roles in regulating Indian gaming, we also contacted 10 tribal associations.[52] Among other things, representatives from tribal associations emphasized that tribal governments have worked diligently to develop regulatory systems to protect the integrity of Indian gaming and have dedicated significant resources to meet their regulatory responsibilities. For example, according to representatives of the National Indian Gaming Association, in 2013, tribal governments dedicated $422 million to regulate Indian gaming, including $319 million for tribal government gaming regulatory agencies; $83 million for state gaming regulation; and $20 million for Commission regulation and oversight of Indian gaming collected through fees required by IGRA. The association representatives also stated that the Commission has acknowledged that a vast majority of tribes have independent tribal gaming regulatory agencies and that, in 2013, tribal governments employed approximately 3,656 regulators, investigators, auditors, and other related regulatory officials who were dedicated to protecting Indian gaming from fraud, theft, and other crime.

The Commission Has Limited Authority for Class III Gaming, but It Provides Some Services, as Requested, Using Standards Last Updated in 2006

Although the Commission has the authority to regulate class II gaming, it has limited authority for class III gaming. The Commission does have some authority for class III gaming such as the Chair's review and approval of tribal gaming ordinances and the Commission's review of tribal licensing decisions for key employees and primary management officials of Indian gaming operations. A key difference between class II and class III gaming is that IGRA authorizes the Commission to issue and enforce minimum internal controls standards for class II gaming but not for class III gaming. Commission regulations require tribes to establish and implement internal control standards for class II gaming activities—such as requirements for surveillance and handling money—that provide a level of control which equals or exceeds the Commission's minimum

[52]We provided a list of topics for discussion to 10 tribal associations. Not every association addressed every topic. The topics were open-ended, and the associations volunteered responses. Of the 10 associations contacted: 5 provided responses to at least some of the topics, 4 did not respond, and 1 said it did not deal with Indian gaming issues. Tribal associations contacted include the Arizona Indian Gaming Association; California Nations Indian Gaming Association; Great Plains Indian Gaming Association; Midwest Alliance of Sovereign Tribes; National Indian Gaming Association; National Tribal Gaming Commissioners/Regulators; Oklahoma Indian Gaming Association; Oklahoma Tribal Gaming Regulators Association; United South and Eastern Tribes, Inc.; and Washington Indian Gaming Association.

internal control standards. According to the Commission, minimum internal control standards are a vitally important component to properly regulated gaming.[53]

In 1999, prior to a court decision on the Commission's authority, the Commission issued regulations establishing minimum internal control standards for both class II and class III gaming. The Commission updated those standards in 2002, 2005, and 2006, which we refer to in this report as the 2006 regulations.[54] However, in 2006, a federal circuit court ruled that IGRA did not authorize the Commission to issue and enforce regulations establishing minimum internal control standards for class III gaming.[55] As a result of this decision, the Commission does not have the authority to enforce or update the 2006 regulations, which have not been withdrawn. In contrast, the Commission issued new minimum internal control standards for class II gaming in 2008.[56] Since the court decision, for operations with class III gaming, the Commission continues to (1) conduct audits using the 2006 regulations at the request of tribes and (2) provide monitoring and enforcement of its 2006 regulations for 15 tribes in California with approved tribal gaming ordinances that call for the Commission to have such a role.[57]

Commission officials told us they have authority to issue guidance with updated minimum internal control standards for class III gaming as best practices for tribes to voluntarily adopt. According to Commission officials, issuing such guidance would be helpful because updated standards could be changed to reflect technology introduced since the standards were last updated in 2006. For example, they said gaming reporting functions have improved since 2006 and are now in a digital rather than an analog format referenced in the Commission's regulations. Based on our review of

[53]73 Fed. Reg. 60492 (Oct. 10, 2008).

[54]*See* 25 C.F.R. Part 542.

[55]*Colorado River Indian Tribes v. Nat'l Indian Gaming Comm'n*, 466 F.3d 134 (D.C. Cir. 2006).

[56]25 C.F.R. Part 543. The Commission updated these regulations in 2012 and 2013.

[57]State regulations issued pursuant to the tribal-state gaming compacts in California allow tribes to adopt tribal gaming ordinances that provide for Commission monitoring and enforcement of 25 C.F.R. Part 542 instead of tribal and state monitoring and enforcement of tribal minimum internal control standards.

tribal-state gaming compacts, many tribes have compacts that allow them to establish their own internal control standards for class III gaming as long as they are at least as stringent as the Commission's 2006 regulations.[58] If the Commission issued guidance with class III minimum internal control standards that are at least as stringent as the 2006 regulations, these tribes would be able to adopt them by amending their tribal gaming ordinance. In other cases, however, tribes may not be able to amend their tribal gaming ordinances to adopt such guidance without changes to their compact.[59] In addition, California tribes cannot amend their ordinances to require compliance with such guidance while retaining the Commission's monitoring and enforcement role, without the state regulation being amended to allow them to do so. California regulations issued pursuant to the compacts allow tribes to adopt tribal gaming ordinances that provide for Commission monitoring and enforcement of its 2006 regulations. Fifteen tribes in California have adopted tribal gaming ordinances with such a provision, according to Commission officials.

Commission officials told us that before the agency can make a decision on how to proceed with issuing guidance for class III minimum internal control standards, it first needs to consult with tribes in accordance with Executive Order 13175.[60] In 2011, the Commission consulted with tribes on updating the 2006 regulations as part of a comprehensive review of its

[58]Sixty tribes have compacts that allow them to establish their own internal control standards for class III gaming as long as they are at least as stringent as 25 C.F.R. Part 542.

[59]Eleven tribes in three states—Iowa, Montana, and North Dakota—have compacts that require their compliance with 25 C.F.R. Part 542 and so would not be able to adopt any minimum internal control standards the Commission issues as guidance unless their compacts are amended to permit them to do so. In addition, some tribes, like those in Arizona, have compacts that require them to comply with minimum internal control standards contained in the compact. These tribes won't be able to adopt any minimum internal control standards the Commission issues as guidance unless they are consistent with the minimum internal control standards in the compact or the compact is amended to permit them to do so.

[60]Executive Order 13175 directs federal agencies to have a process to ensure meaningful and timely input by tribal officials in the development of policies that have tribal implications. Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, November 6, 2000.

regulations.[61] At that time, the Commission received written comments from tribes on revisions to the 2006 regulations and some comments at tribal consultation meetings. Written comments included recommendations from a few tribes that all references to class III minimum internal control standards in Commission regulations, notices, and bulletins be withdrawn. Other tribes supported issuing the standards as guidance. According to Commission officials, the Commission decided at that time not to amend its regulations where it does not have clear authority under IGRA and did not make a decision on whether to issue guidance on class III minimum internal control standards.

In February 2015, the Commission notified tribes of plans to seek comments on issuing guidance for class III minimum internal control standards during consultation meetings to be held in April and May 2015. In its letter to tribes about these consultation sessions, the Commission cited the importance of class III minimum internal control standards for a large section of the Indian gaming industry. Based on Commission data from November 2014, over 80 percent of Indian gaming operations have class III gaming. The Commission stated its plans to announce at consultation meetings a proposal to draft updated nonmandatory guidance on class III minimum internal control standards, publish draft guidance for comment by industry stakeholders, and withdraw the 2006 regulations once final guidance is issued.

In addition to tribes, states also regulate class III gaming and are users of the Commission's 2006 regulations. For example, three states have tribal-state compacts that require tribes to comply with the Commission's 2006 regulations.[62] If the Commission withdraws its 2006 regulations, it is not clear what minimum internal control standards the compacts would require tribes to meet. In addition, nine states have tribal-state compacts that require tribal internal control standards to be at least as stringent as

[61]In 2011, the Commission conducted a comprehensive review of its regulations to determine the need for any amendments to more effectively implement IGRA's policies and sought input from tribes through written comments and a series of consultation meetings. 75 Fed. Reg. 70680 (Nov. 18, 2010). As a result of this review, the Commission amended its minimum internal control standards for class II gaming (25 C.F.R. Part 543), as well as other regulations.

[62]These three states are Iowa, Montana, and North Dakota.

the Commission's 2006 regulations.[63] If the Commission withdraws its 2006 regulations, these states and tribes would no longer have a benchmark against which to measure the stringency of tribal internal control standards. Although the tribal gaming ordinances may establish internal control standards for the class III gaming operations, uncertainty over the compact's requirements for minimum internal control standards could affect a state's ability to enforce those requirements.[64]

The Commission's plans for obtaining input from states on its proposal to issue guidance on minimum internal control standards for class III gaming and withdraw its 2006 regulations is unclear. *Standards for Internal Control in the Federal Government* call for management to ensure that there are adequate means of communicating with, and obtaining information from, external stakeholders that may have a significant impact on the agency achieving its goals.[65] Commission officials told us that in the past some states provided written comments on updating minimum internal control standards for class III gaming, but the Commission did not specifically outreach to the states. In its letters to tribes, the Commission did not specify including states in its solicitation of comments on its proposal to issue guidance and withdraw its 2006 regulations. According to a Commission official, the Commission is considering outreach to the states on its proposal but did not have any specific plan for doing so. Consistent with federal internal control standards, seeking state input is important, as it could aid the Commission in making an informed decision on how to proceed with issuing such guidance and whether withdrawal of

[63]These nine states are California, Florida, Louisiana, Massachusetts, Minnesota, North Carolina, Oklahoma, Wisconsin, and Wyoming.

[64]Tribal gaming ordinances might also require compliance with the Commission's 2006 regulations, but a tribe can often change its ordinance without negotiating amendments to the tribal-state compact.

[65]GAO, *Standards for Internal Control in the Federal Government,* GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999). GAO's *Standards for Internal Controls in the Federal Government* are different from the minimum internal control standards for gaming. Federal internal control standards provide an framework for identifying and addressing major performance and management challenges to help federal agencies achieve their mission and results and improve accountability. The minimum internal control standards for gaming are specific to the gaming industry, and they are the primary management procedures used to protect the operational integrity of gambling games, account for and protect gaming assets and revenue, and assure the reliability of the financial statements for class II and class III gaming operations.

its 2006 regulations would cause complications or uncertainty under existing tribal-state compacts.

The Commission Performs Various Activities to Help Ensure Tribes' Compliance with IGRA and Commission Regulations, but the Effectiveness of Some Activities Is Unclear

The Commission helps ensure that tribes comply with IGRA and applicable federal and tribal regulations through various activities, including monitoring gaming operations, providing training and technical assistance, and alerting tribes of potential compliance issues using letters of concern. The Commission monitors gaming compliance by reviewing financial statements and audit reports submitted by tribes, visiting gaming facilities, and auditing gaming operations. Under the Commission's ACE initiative implemented in 2011, the Commission places emphasis on working collaboratively with tribes to encourage voluntary tribal compliance with IGRA and Commission regulations. As part of the initiative, the Commission uses several approaches, including providing training and technical assistance and sending letters of concern, to help tribes comply early and voluntarily with IGRA and applicable regulations. However, the effectiveness of these two approaches remains unclear. As part of the Commission's efforts to ensure tribal compliance with IGRA and regulations, the Commission Chair may take enforcement actions when violations occur, but a small number of actions have been taken in recent years.

The Commission Monitors Tribal Compliance with IGRA and Commission Regulations through Various Activities

The Commission conducts a broad array of monitoring activities to help ensure tribal compliance with IGRA and Commission regulations, including the following:

- reviewing and approving tribal gaming ordinances that dictate the framework, including specific procedures and standards for tribal regulation of Indian gaming;[66]

[66]IGRA requires a tribe's governing body to adopt, and the Commission Chair to approve, a tribal gaming ordinance before a tribe can conduct class II or class III gaming. Along with the ordinance, a tribe must also submit other documentation to the Commission, including copies of all tribal gaming regulations. The Chair has 90 days after the submission of a tribal gaming ordinance to approve or disapprove it; if the Chair does not act within 90 days, the ordinance is considered to have been approved but only to the extent it is consistent with IGRA and the Commission's implementing regulations.

- reviewing and approving management contracts for the operation and management of the tribes' gaming activity;[67]
- reviewing background investigation results and tribal licensing decisions to ensure help ensure suitability of key employees and primary management officials licensed by tribal regulators;[68]
- reviewing independent audit reports submitted annually by tribes;
- reviewing of audited financial statements and quarterly fee worksheets used to determine the amount to be collected to fund Commission operations;
- conducting examinations during site visits to gaming operations to verify compliance with specific requirements, such as maintenance of employee background investigation and licensing records or surveillance at gaming facilities; and
- auditing gaming operations as needed or by tribes' request, such as through reviews of gaming operations' compliance with internal controls standards.

Commission officials identified its review of independent audit reports, site visits to Indian gaming operations, and Commission audits as among its core monitoring activities. We discuss these activities in more detail.

[67]A tribe may enter into a management contract for the operation and management of its class II or class III gaming activity if the contract is submitted to, and approved by, the Chair. A management contract is any contract, subcontract, or collateral agreement between a tribe and contractor, or a contractor and subcontractor, that provides for the management of all or part of the gaming operation. According to Commission officials, there were 11 approved management contracts in effect as of November 2014.

[68]Tribes are required to submit the notice of results containing background investigation information and an eligibility determination for key employees and primary management officials to the Commission. If the Commission raises objections to the issuance of a license within 30 days of receiving a completed notice of results, the tribe must reconsider the application. The tribe is required to notify the Commission within 30 days of issuing a license to a key employee or primary management official. 25 C.F.R. § 558.3. In fiscal year 2014, the Commission received over 42,600 notices of results for applicants of key employee or primary management officials' positions. Ninety-four percent of the applicants were licensed by the tribe with no objection from the Commission, and 4 percent were denied a license by the tribe. The Commission objected to licensing about 0.1 percent of the applicants (nearly 40 applicants). Licensing status of the remaining 1 percent of applicants was not available as of December 2014.

Review of Audit Reports Submitted by Tribes

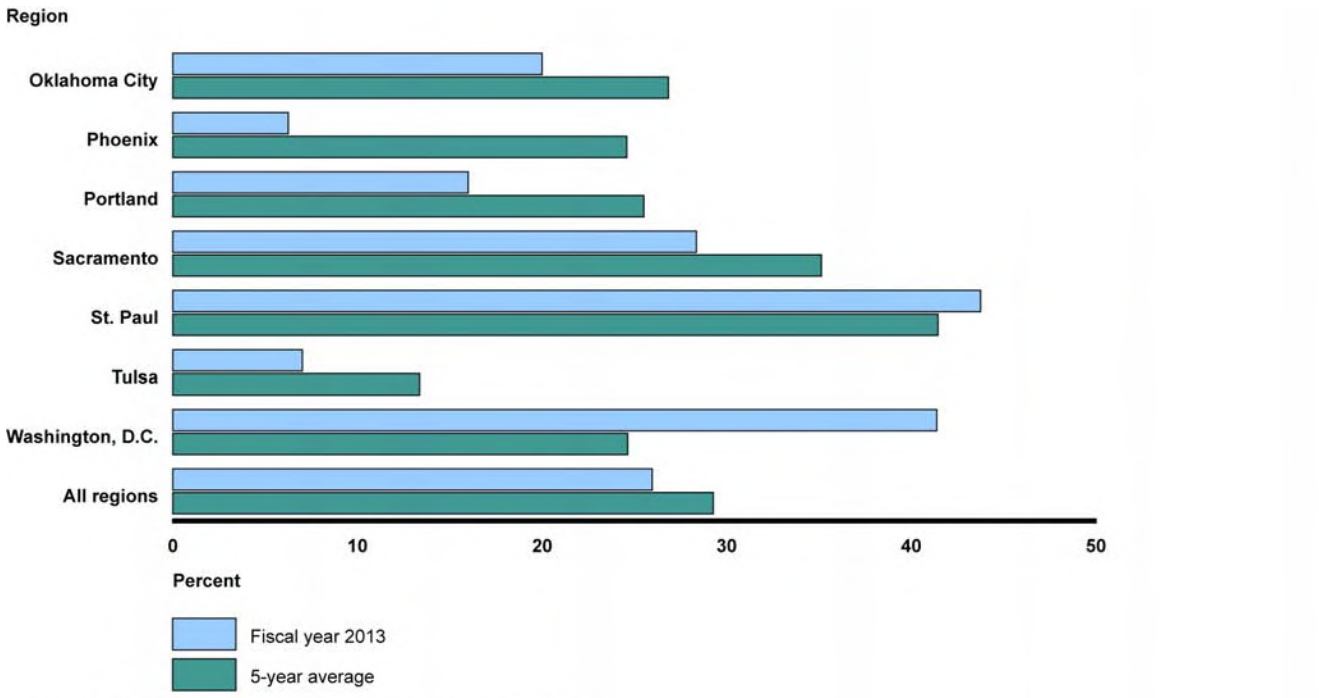
Commission regulations require tribes to have independent auditors—contracted certified public accountants that are external to their gaming operations—conduct two types of audit reports to be submitted annually by the tribes to the Commission. These reports are (1) annual audits of financial statements for class II and class III gaming and (2) agreed-upon procedures reports for class II gaming. Commission auditors review these reports to ensure that tribes are in compliance with various accounting and internal control requirements.[69] According to Commission officials, annual audits of financial statements indicate a gaming operation's fiscal health, and agreed-upon procedure reports detail how well a gaming operation complies with minimum internal control standards. Commission auditors use financial statements and agreed-upon-procedures reports to assess gaming operations' audit risks—an operations' risks for noncompliance with minimum internal control standards. The Commission uses the audit risk assessments to help identify operations for follow-up and additional audits.

Overall, based on our review of Commission audit risk data from fiscal years 2009 through 2013, Commission auditors identified about 25 percent of all Indian gaming operations as having a high audit risk in fiscal years 2011 through 2013, down from 38 percent in fiscal year 2009. Commission officials attributed some of this decline to the collaborative approach between the Commission and tribes under the ACE initiative. Our analysis of Commission data showed some differences in high audit risk operations across regions. Specifically, two Commission regions—St. Paul and Sacramento—consistently had a larger proportion of gaming operations within their respective regions identified as having high audit risk in comparison with other regions (see fig. 7). In addition, compared to average audit risk in fiscal years 2009 through 2013, the number of operations identified with high audit risk in fiscal year 2013 increased in the St. Paul and Washington, D.C. regions. The Commission also

[69]Agreed-upon procedure reports test a an operation's compliance with selected minimum internal control standards for gaming. Because of the expense of producing agreed-upon procedures reports, most tribes with both class II and class III gaming operations do not have their independent auditors produce a separate report for each class of gaming, according to Commission officials. As a result, when tribes submit agreed-upon procedure reports, the Commission often receives information about the extent to which a tribe complies with their internal controls for both class II and class III gaming. In addition, according to Commission officials, some tribes that only have class III gaming operations submit their agreed-upon procedure reports to the Commission, even though they are not required to, with the exception of the 15 California tribes whose tribal gaming ordinances provide for Commission monitoring and enforcement of 25 C.F.R. Part 542.

consistently identified 12 percent of Indian gaming operations as having a high audit risk for 4 or more years of the 5 fiscal years (fiscal years 2009 through 2013) we reviewed. For fiscal year 2015, the Commission's audit manager told us that the Commission plans to offer its auditing services on a first come, first serve basis to the 25 tribes it considers as having the highest audit risk. Auditing services will vary based on needs but could involve training on audit related tasks or completion of a minimum internal control audit or assessment.

Figure 7: Percentage of Indian Gaming Operations Considered at High Audit Risk by National Indian Gaming Commission Region, Fiscal Year 2009 to Fiscal Year 2013



Source: GAO analysis of National Indian Gaming Commission data. | GAO-15-355

Commission Site Visits

Compliance officers from the Commission's regional offices conduct site visits of class II and class III tribal gaming operations. In addition to training and technical assistance that may be provided to tribes during site visits, compliance officers typically review, or examine, the gaming operation's compliance with applicable Commission regulations, such as adherence to standards for surveillance of class II gaming. For operations with class III gaming, Commission officials told us they obtain a tribe's permission to review tribal compliance with minimum internal control

standards in an advisory role, such as in a surveillance review or to observe table games. In addition, Commission officials told us that they ask tribes that operate facilities with class III gaming if they need assistance in any area and provide advisory information as needed. In fiscal years 2011 through 2014, Commission officials conducted over 400 site visits each year according to Commission data, examining various areas of an operations' compliance with Commission regulations during these site visits (see table 3).

Commission officials said that they scaled back the number of site visits they conducted in fiscal years 2013 and 2014 due to sequestration.[70] The number of site visits by Commission region varied because some regions visited gaming operations more often than others, and the number of gaming operations in each region vary. Among the regions, St. Paul conducted the most site visits (about one-third) for fiscal years 2011 to 2014 and had the largest number of operations in 2011 to 2013 (more than a quarter)—the most recent year for which data were available. A Commission official in the St. Paul region, told us that most gaming operations received at least two site visits per year, and some were visited three times. Commission officials from other regions told us they visit gaming operations annually.

[70]Under the Budget Control Act, which amended the Balanced Budget and Emergency Deficit Control Act of 1985, when legislative action to reduce the deficit by $1.2 trillion did not occur, the sequestration process in section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 as amended was triggered. Pub. L. No. 99-177, tit. II, 99 Stat. 1037 (1985). Section 251A required the Office of Management and Budget to calculate, and the President to order, a sequestration of discretionary appropriations and direct spending, also known as mandatory spending, to achieve a certain amount of deficit reduction for fiscal year 2013. *See* GAO, *2013 Sequestration: Agencies Reduced Some Services and Investments, While Taking Certain Action to Mitigate Effects*, GAO-14-244 (Washington, D.C.: Mar. 6, 2014).

Table 3: Types of Examinations Conducted During National Indian Gaming Commission Site Visits to Tribal Gaming Operations, Fiscal Years 2011 through 2014

	2011	2012	2013	2014
Number of site visits completed	640	568	441	467
Areas examined[a]				
Key employee and primary management officials background investigation review	440	331	308	254
Other[b]	318	304	229	258
Tribal internal controls compliance	183	129	133	93
Surveillance review[c]	65	65	32	120
Facility license compliance	56	44	49	98
Training for tribal gaming operations	50	52	82	45
Internal audit review	65	43	53	36
Gaming ordinance review	23	13	11	11
Investigation[d]	8	8	4	6
Review of use of gaming revenue	4	2	1	5
Total number of examinations conducted	**1,212**	**991**	**902**	**926**

Source: GAO analysis of National Indian Gaming Commission data. | GAO-15-355

[a]National Indian Gaming Commission (Commission) staff perform one or more types of examinations or reviews during a single site visit.

[b]According to Commission officials, when reporting on site visits in its tribal information management system, Commission staff frequently marked "other" for the area examined, where they are able to enter more detailed information. Examples of information noted when "other" areas examined was marked include new facility tours, reviews of specific components of the gaming operation such as the cage or specific types of games, technical assistance on specific procedures or regulations, and complaint follow-up. Some information listed by Commission staff in the data system when marking "other" areas examined overlap with existing categories including facility licensing, surveillance review, and internal audit review.

[c]Commission staff conduct reviews of gaming operations' surveillance systems for compliance with Commission minimum internal control standards, which include standards for security and access to surveillance equipment and extent of surveillance by the type of gaming conducted.

[d]Investigations refer to Commission follow-up on a range of issues, such as noncompliance with the requirement for the Chair to approve management contracts, or other potential violations of IGRA or Commission regulations. Investigative tasks that may be conducted during a site visit include conducting interviews, reviewing or collecting records or documents, and observing gaming activity.

In analyzing the results of data from a random, nongeneralizable sample of 50 Commission site visits, we found that Commission officials identified deficiencies at tribal gaming operations in over two-fifths (33 out of 74) of the various types of examinations they conducted (see table 4).[71] Commission officials told us in November 2014 that they began requiring that compliance officers send follow-up letters to tribes summarizing site visit results, as a standard practice. In our sample, follow-up letters were sent in half the cases.

Table 4: Number of Deficiencies Identified in a Random Sample of 50 National Indian Gaming Commission Site Visits to Gaming Operations and Areas Examined, Fiscal Year 2011 through Fiscal Year 2014

Area examined	No deficiency identified	Deficiency identified	Unclear whether a deficiency was identified[a]	Total
Key employee and primary management officials background investigation review	21	13	0	**34**
Training and technical assistance	4	5	0	**9**
Internal audit review	3	5	0	**8**
Surveillance review	1	6	0	**7**
Routine site visit	6	0	0	**6**
Facility license compliance	2	1	1	**4**
Conducted a minimum internal controls audit	0	2	1	**3**
Investigation	0	1	1	**2**
Environment, public health, and safety compliance	1	0	0	**1**
Total	**38**	**33**	**3**	**74**

Source: GAO analysis of the National Indian Gaming Commission documents. | GAO-15-355

[a]Based on documentation provided for the National Indian Gaming Commission site visits to tribal gaming operations, we were unable to determine whether Commission officials identified a deficiency.

[71]As shown in table 4, multiple areas are examined per site visit. For our random sample of 50 site visits, 74 compliance areas were examined.

Commission Audits

The Commission also conducts audits of class II gaming operations, and class III gaming operations for 15 tribes in California and when requested by other tribes,[72] to evaluate internal controls and compliance with IGRA, applicable Commission regulations, and tribal ordinances. According to Commission officials, the focus of Commission audits may vary and are conducted as needed. For example, the Commission may conduct a comprehensive audit to test gaming operations' minimum internal controls against Commission regulations for minimum internal controls, which can take from 1 week to 4 weeks. If an operation is determined to be noncompliant, the Commission describes its findings in a letter to the operation and gives the operation 6 months to address these findings. The Commission may also conduct more limited audits to test operations' compliance with key accounting controls or a gaming operation's calculation of gross gaming revenues. In fiscal year 2013, the Commission conducted 12 audits, compared with 16 in fiscal year 2012, but consistent with the number conducted in fiscal year 2011.

The Commission Provides Tribes with Training and Technical Assistance to Encourage Voluntary Compliance but Does Not Have a Way to Assess Its Effectiveness

Under its ACE initiative, the Commission has publically emphasized providing tribes with training and technical assistance as a means to build and sustain their ability to prevent, respond to, and recover from weaknesses in internal controls and violations of IGRA and Commission regulations. For instance, the Commission hosts regular training events in each region and provides one-on-one training on specific topics as needed during site visits. In addition, the Commission's technical assistance involves guidance and advice provided to tribes on compliance with IGRA; Commission regulations; and day-to-day regulation of Indian gaming operations through written advisory opinions and bulletins, compliance reviews or examinations conducted during site visits, and responding to questions by phone and e-mail, among other activities.

[72]The Commission will conduct audits of class III gaming operations at a tribe's request. In addition, the Commission monitors and enforces 25 C.F.R. Part 542 at 15 California tribes' class III gaming operations as specified in their tribal gaming ordinances. State regulations issued pursuant to the tribal-state gaming compacts in California allow tribes to adopt tribal gaming ordinances that provide for Commission monitoring and enforcement of 25 C.F.R. Part 542 instead of tribal and state monitoring and enforcement of tribal minimum internal control standards.

Although the Commission has always provided training and technical assistance as a means to support tribal compliance with IGRA and Commission regulations, Commission officials told us that since the implementation of the ACE initiative there is a greater emphasis on these activities. For instance, the Commission's training program is now more structured. Since 2011, the Commission has conducted annual regional trainings that have consisted of at least two planned 3-day trainings in each region rather than adding training to other events, such as gaming industry conferences, as it had done in the past. Commission officials also told us that they use results of Commission analyses of annual independent audits of financial statements and agreed-upon procedure reports, in part, to identify areas for training and technical assistance. For example, Commission officials said that annual regional trainings have included a focus on regulating gaming technology given that agreed-upon procedure reports for fiscal years 2009 to 2013 consistently showed tribes had the greatest challenge with complying with internal control standards related to gaming machines, among other things. In addition, the Commission may target facilities it identifies as at high risk for noncompliance with minimum internal control standards for further technical assistance, such as through follow-up site visits or audits.

However, the effectiveness of the Commission's training and technical assistance efforts remains unclear. The Commission's strategic plan for fiscal years 2014 through 2018 includes two goals corresponding to its focus on training and technical assistance to achieve compliance with IGRA and Commission regulations: one goal for continuing its ACE initiative; and another goal for improving its technical assistance and training to tribes.[73] Yet, the Commission's performance measures for tracking progress toward achieving these goals are largely output-oriented rather than outcome-oriented, and overall do not demonstrate the effectiveness of the Commission's training and technical assistance efforts. Specifically, 12 of 18 performance measures for these two goals are output-oriented, describing the types of products or services delivered by the Commission (see table 5). For example, the Commission's output

[73]In May 2006, the Native American Technical Corrections Act of 2006, made the Commission subject to the Government Performance and Results Act of 1993 (GPRA) and mandated the Commission to submit a plan to provide technical assistance to tribal gaming operations in accordance with GPRA. Subsequently, as required by GPRA, the Commission published a strategic plan for fiscal years 2009 through 2014 and replaced it with a strategic plan covering fiscal years 2014 through 2018.

measures include the number of audits and site visits conducted and the number of training events and participants attending these training events. In March 2004, we concluded that, while necessary, these kinds of measures do not fully provide agencies with the kind of information they need to determine how training and development efforts contribute to improved performance, reduced costs, or a greater capacity to meet new and emerging transformation challenges.[74] In that report, we stated that it is important for agencies to develop and use outcome-oriented performance measures to ensure accountability and assess progress toward achieving results aligned with the agency's mission and goals. This is consistent with Office of Management and Budget guidance, which encourages agencies to use outcome performance measures—those that indicate progress toward achieving the intended result of a program—where feasible.[75]

The Commission's remaining 6 measures include 1 customer service-oriented measure that indicates tribes' general satisfaction with training and 5 outcome-oriented measures. Four of the outcome-oriented measures are intermediate outcome measures. An intermediate outcome measure is a type of measure that indicates progress against an intermediate outcome that contributes to an ultimate outcome. These 4 measures track tribes' compliance with specific requirements, including percentage of gaming operations that submit audit reports on time and have a Chair approved tribal gaming ordinance. They do not, however, indicate the extent minimum internal control standards are implemented or reflect improvements in the overall management of Indian gaming operations. In addition, they do not correlate such compliance with the Commission's training and technical assistance efforts. The final measure is an outcome measure and tracks whether actions were taken by the tribe to address audit findings, but this measure does not indicate the extent of actions taken or status of a gaming operation's overall compliance with IGRA and gaming regulations. Furthermore, the Commission has conducted few comprehensive audits since 2011 to indicate the extent of overall improvement in tribes' compliance and regulation of their gaming operations since the ACE initiative was

[74]GAO, *Human Capital: A Guide for Assessing Strategic Training and Development Efforts in the Federal Government*, GAO-04-546G (Washington, D.C.: March 2004).

[75]Office of Management and Budget, Circular A-11: *Preparation, Submission, and Execution of the Budget*, November 2014.

implemented. With additional outcome-oriented performance measures that better reflect and correlate the level of tribes' compliance or improvements to the regulation of gaming operations with the training and technical assistance it provides, the Commission would be better positioned to assess the effectiveness of its training and technical assistance efforts and its ACE initiative. Commission officials told us that they recognize they have more work to do on performance measures and are interested in taking steps to ensure that their ACE initiative is meeting its intended goals.

Table 5: Performance Measures Used by the National Indian Gaming Commission to Track Assistance to Gaming Tribes, Fiscal Years 2011 through 2013

No.	Performance measure	2011	2012	2013	Performance goal[a]	Type of measure[b]
Goal: Continue the Assistance, Compliance, and Enforcement Initiative						
1	Site visits conducted	640	568	441[c]	500	Output
2	Audits conducted	12[c]	16[c]	12[c]	12	Output
3	Remedial action taken from findings reported in audits	[d]	[d]	[d]	[e]	Outcome
4	Response to e-mail inquiry from tribe	23	33	72	40	Output
5	Audit reports received within timeline[f]	95%	96%	[g]	99%	Intermediate outcome
6	Fee worksheets received within timelines[f]	87%	86%	[g]	99%	Intermediate outcome
7	Commission approved ordinance[f]	100%	100%	[g]	99%	Intermediate outcome
8	Operation licensed by tribe[f]	98%	100%	[g]	99%	Intermediate outcome
9	Fingerprint cards processed	67,724	67,421	69,305	67,000	Output
10	Notices of violation issued	2	1	1	[e]	Output
11	Management contracts approved	2	1	0	[e]	Output
12	Amendments to management contracts	3	6	3	[e]	Output
13	Modifications to list of individual or entities for management contracts	6	3	2	[e]	Output
Goal: Improve Training and Technical Assistance to Tribes						
14	Events held	83	84	194	70[h]	Output
15	Participants attending	2,309	2,013	2,751	2,000	Output
16	Percentage of tribes attending	84%	65%	81%	70%	Output
17	Percentage of attendees satisfied	86%	93%	91%	85%	Customer service
18	Hours	659	748	754	[e]	Output

Sources: GAO analysis of National Indian Gaming Commission performance reports, strategic plan, and interviews with Commission officials. | GAO-15-355

[a]The National Indian Gaming Commission (Commission) refers to its performance goals as benchmarks in its Summary Performance Dashboard reports. All performance goals were the same as outlined in its strategic plan for fiscal years 2014 to 2018, unless otherwise indicated.

[b]Types of performance measures as defined by the Office of Management and Budget in Circular A-11: *Preparation, Submission, and Execution of the Budget* (2014) include the following:

- Customer service: A type of measure that indicates or informs the improvement of government's interaction with those it serves.
- Intermediate outcome: A type of measure that indicates progress against an intermediate outcome that contributes to an ultimate outcome, such as the percentage of schools adopting effective literacy programs, compliance levels, or the rate of adoption of safety practices.
- Outcome: Type of measure that indicates progress against achieving the intended result of a program. Indicates changes in conditions that the government is trying to influence.
- Output: Type of measure, specifically the tabulation, calculation, or recording of activity or effort, usually expressed quantitatively. Outputs describe the level of product or activity that will be provided over a period of time.

[c]These data are different from data reported in performance reports and were updated based on information provided by Commission officials.

[d]Updated data corresponding to revised audit numbers were not available as of March 2015.

[e]No performance goal has been set.

[f]Performance measure that tracks percent of tribes' compliance with specific requirements, such as percentage of gaming operations that submit timely audit reports as required by Commission regulations or have a tribal gaming ordinance approved by the Chair as required under the Indian Gaming Regulatory Act.

[g]Performance measures data were not reported in the Commission's Fiscal Year 2013 Performance Dashboard Report.

[h]Performance goals for this measure for fiscal years 2011 to 2013 differed from performance goals established for fiscal years 2014 to 2018. The performance goal for fiscal years 2014 to 2018 increased to 82.

The Commission may already collect data and information that could be compiled for use in outcome-oriented performance measures to help gauge progress in meeting Commission training and technical assistance related goals. The Commission collects extensive data and information on compliance of Indian gaming operations, as well as information on the training and technical assistance it provides to tribes.[76] For example, the Commission compiles compliance data from required annual agreed upon procedures reports that detail exceptions to minimum internal control standards and identify specific compliance issues by operation. In addition, the Commission tracks technical assistance and training provided during site visits. Data such as exceptions to minimum internal control standards could be analyzed along with training data to observe changes in compliance over time. For example, if data indicate that

[76]Commission data and information on compliance, technical assistance, and training are collected in different data systems. Commission officials told us they are planning to integrate existing data systems as part of information technology upgrade in 2015 intended to facilitate sharing of information and data across the agency and tracking of workflow, among other benefits.

compliance generally increases after receiving training, this could indicate that the training has had a positive impact. Conversely, if compliance appears unrelated to training, this could signal the need to examine whether training is effectively targeting previously identified compliance issues.

The Commission Uses Letters of Concern to Help Resolve Compliance Issues, but Some Letters Did Not Include Key Information

Since the implementation of the Commission's ACE initiative, the Commission amended its regulations in August 2012 to formalize an existing practice of sending letters of concern to prompt tribes to voluntarily resolve potential compliance issues.[77] A letter of concern outlines Commission concerns about a potential compliance issue and is not a prerequisite to an enforcement action, according to Commission regulations.[78] Commission officials told us that regional directors generally send these letters to tribes after consulting with headquarters staff. Commission regulations require letters of concern to provide a time period by which a recipient must respond but do not specify which compliance issues merit a letter of concern or indicate when a letter should be sent once a potential compliance issue is discovered. The Commission did not issue guidance or documented procedures to inform its staff about how to implement its regulation regarding letters of concern. Commission officials noted that they have not issued associated guidance in part because there are many variables to consider when determining whether to issue a letter of concern and emphasized that each tribe and situation is unique.

In fiscal years 2013 and 2014, the Commission sent 16 letters of concern to 14 tribes as follows:

- 7 letters addressed background investigations for key employees and primary management officials;
- 5 letters addressed the submission of annual audits of financial statements of gaming operations to the Commission; and

[77]25 C.F.R. § 573.2.

[78]The Chair of the Commission is not obligated to wait for Commission staff to attempt to resolve potential compliance issues with letters of concern. If the Chair takes enforcement action before Commission staff send a letter of concern, Commission regulations require the Chair to state the reasons for moving directly to enforcement in the enforcement action.

- 4 letters addressed a unique issue, such as the potential management of a gaming operation without a Commission Chair-approved contract or minimum internal control standards potentially not being met.

Of the 16 letters of concern provided to us by the Commission, 6 did not include a time period by which the recipient was to respond, as required by Commission regulations. In addition, 12 letters did not specify in the subject line or elsewhere in the letter that they were letters of concern. In addition to letters of concern, the Commission sends tribes various types of letters including follow-up letters from Commission site visits, letters regarding licensing of key employee and primary management officials, and notifications of investigation. By not including a time period for a response as required by Commission regulations and not consistently identifying letters as a letter of concern, it may be difficult for tribes to discern the significance of the letters as describing a potential compliance issue warranting their attention or for the Commission to ensure timely responses. Under federal internal control standards, agencies are to clearly document internal controls, and the documentation is to appear in management directives, administrative policies, or operating manuals.[79] Without guidance or documented procedures to inform its staff about how to complete letters of concern, the Commission cannot ensure consistency in the letters that are sent to tribes.

In addition, for 8 letters of concern, the Commission provided us with documentation to demonstrate whether the tribe took action to address the issues described in the letters, but did not provide requested documentation for the remaining 8 letters. Letters of concern and related documentation of tribal responses and actions taken in response to letters are not centralized in Commission data systems, but maintained by regional offices. A few regional offices did not provide follow-up documentation. Based on the documentation provided, we found 2 letters of concern resulted in tribal actions that addressed the issues. In another case the tribe sent letters to the Commission acknowledging its overdue audit report and financial statement but the reports were not submitted, and the Commission elected to take an enforcement action. In the remaining 5 cases, it was not clear from the documentation that tribes took action to address the issues identified or that the Commission considered the issues resolved. Under federal internal control standards, federal agencies are to clearly document transactions and other

[79]GAO/AIMD-00-21.3.1.

significant events, and that documentation should be readily available for examination.[80] Without guidance or documented procedures to maintain such documentation, it may difficult for the Commission to track and measure the effectiveness of the letters in encouraging tribal actions to address potential compliance issues.

The Commission Chair Has Initiated a Small Number of Enforcement Actions in Recent Years

IGRA authorizes the Commission Chair to take enforcement actions for violations of IGRA and applicable Commission regulations for both class II and class III gaming.[81] Specifically, the Commission Chair may issue a notice of violation or a civil fine assessment for violations of IGRA, Commission regulations, or tribal ordinances and, for a substantial violation, a temporary closure order.[82] The most common enforcement action taken by the Commission Chair in fiscal years 2005 through 2014 was a notice of violation (see table 6).[83] During this same period, the Commission Chair issued one closure order and six civil fine assessments, with most of these types of enforcement actions issued prior to fiscal year 2010. Similarly, the Chair issued most notices of violations prior to fiscal year 2010.

[80]GAO/AIMD-00-21.3.1.

[81]The Commission refers matters that it does not have jurisdiction over to other federal agencies and states. For example, the Commission does not have the authority to enforce IGRA's criminal provisions. IGRA requires the Commission to provide information to the appropriate law enforcement officials when it has information that indicates a violation of federal, state or tribal laws, or ordinances. In 2013, the Commission referred eight matters to other federal agencies and states, including six matters to federal law enforcement agencies and two matters to the Internal Revenue Service. The Commission also notified a state about one of the eight matters.

[82]In lieu of taking an enforcement action, the Chair may enter into a settlement agreement with an Indian tribe concerning the potential compliance issue.

[83]According to Commission officials, from fiscal year 2005 to 2014, the Commission was without a chair or acting chair for approximately 4 months so no enforcement actions could be taken. Specifically, the Commission was without a chair or acting chair from September 27, 2013, to October 29, 2013, and April 26, 2014, to July 23, 2014.

Table 6: Reasons for National Indian Gaming Commission Notices of Violations, Fiscal Years 2005 Through 2014

Reason cited	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total
Failing to submit or untimely submission of quarterly statement or fee[a]	8	4	0	0	38	1	0	0	0	0	**51**
Failing to submit or untimely submission of annual audit report	3	9	3	19	6	1	1[b]	0	0	2	**44**
Operating under an unapproved management contract	1	2	1	0	0	0	1	1	0	0	**6**
Failing to conduct background investigations of and license certain employees[c]	0	2	1	1	0	0	0	0	0	0	**4**
Failing to submit or untimely submission of agreed upon procedures report[d]	0	0	1	1	0	0	0	0	0	2	**4**
Improper per capita payment made[e]	0	1	0	0	1	1	0	0	0	0	**3**
Gaming on ineligible land	0	0	0	1	1	0	0	0	0	0	**2**
Unauthorized use of gaming revenue	0	0	0	0	0	1	1	0	0	0	**2**
Unlawful proprietary interest[f]	0	0	0	0	0	0	2	0	0	0	**2**
Gaming without an approved ordinance	0	0	0	1	0	0	0	0	0	0	**1**
Total	**12**	**18**	**6**	**23**	**46**	**4**	**5**	**1**	**0**	**4**	**119**

Source: GAO analysis of National Indian Gaming Commission notices of violations. | GAO-15-355

Notes:

For the 10-year period for fiscal years 2005 through 2014, the Chair of the National Indian Gaming Commission (Commission) issued 107 unique notices of violations. Specifically, for fiscal years 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, and 2014, the numbers of unique notices of violations issued were 12, 15, 6, 21, 46, 2, 2, 1, and 2, respectively. However, in some cases, the notices of violations cited multiple violations. Specifically, 9 notices of violations cited two violations each and 1 notice of violation in fiscal year 2011 cited four violations.

Three notices of violation included in the table above—one each in fiscal year 2008, 2009, and 2011—have been appealed to the Commission or are being challenged in court. A tribe appealed a notice of violation issued in fiscal year 2008, but the appeal was stayed until litigation regarding the eligibility of land for gaming was resolved. *Citizens Against Casino Gambling in Erie County v. Hogen*, Nos. 11-5171, 13-2339 (2nd Cir. argued Jan. 16, 2015). A tribe appealed a notice of violation issued in fiscal year 2009 and brought suit against the Commission in federal court for failing to rule on the appeal in 2014. *Fort Sill Apache Tribe v. Nat'l Indian Gaming Comm'n*, No. 14-cv-00958, (D.D.C. filed June 6, 2014). The Commission issued its final decision on the appeal in May 2015. A notice of violation the Commission Chair issued in fiscal year 2011 found that an agreement between a municipality and tribe violated IGRA's sole proprietary interest provision, but the municipality challenged the notice in federal court. In 2015, the federal district court dismissed the lawsuit after finding no grounds to set aside the notice. *City of Duluth v. Nat'l Indian Gaming Comm'n*, No. 13-cv-00246, slip op. at 6 (D.D.C. Mar. 31, 2015).

[a]In 2012, the Commission modified its regulations so that quarterly statements or fees submitted late are now subject to a fine rather than a notice of violation. Late payments are those received between 1 day and 90 days late. Payments received after 90 days are failures to pay, which subjects the tribe to a potential notice of violation and civil fine assessment.

[b]The tribe submitted the annual audit to the Commission but did not submit the management letter that accompanies the audit as required.

[c]These violations included: failure to conduct background investigations of primary management officials and key employees; failure to submit the investigation and related material to the Commission; failure to make eligibility determinations for licensing of primary management officials and key employees; and failure to issue tribal gaming licenses to primary management official and key employee.

[d]Agreed upon procedures reports are assessments to verify whether a gaming operation is in compliance with the Commission's minimum internal control standards and/or a tribe or states' internal control standards that provide at least the same level of controls as the Commission's minimum internal control standards. Tribes are required to submit agreed upon procedure reports to the Commission for class II gaming operations by Commission regulations, and 15 California tribes submit agreed upon procedures reports for class III pursuant to their tribal gaming ordinances that provide for Commission monitoring and enforcement of class III gaming.

[e]A tribe may use net gaming revenues to make payments to tribal members, called per capita payments, if the tribe has a revenue allocation plan approved by the Secretary of the Interior. This plan describes how the tribe intends to allocate net gaming revenues among the allowable uses under the Indian Gaming Regulatory Act, which includes funding of tribal government operations or programs and promoting tribal economic development. Improper per capita payments can be payments made without an approved revenue allocation plan or payments that are not authorized by the approved plan.

[f]Under the Indian Gaming Regulatory Act, tribes must have the sole proprietary interest and responsibility for conducting class II and class III gaming unless a tribal ordinance or resolution provides for class II or class III gaming owned by entities other than the tribe on Indian lands.

Enforcement actions since fiscal year 2010 may have been taken less often because the Commission Chair has discretion in determining when to pursue an enforcement action, and recent Commission chairs have emphasized seeking voluntary compliance with IGRA. For example, in 2014, the Commission Chair issued a notice of violation to a tribe for failing to submit a required audit report. However, 16 months elapsed before the Chair issued the notice of violation, as Commission staff sought to achieve voluntary compliance. Before issuing the notice of violation in September 2014, the Commission sent two letters of concern about the late audit report in July 2013 and April 2014 because, according to Commission officials, such an approach was consistent with the ACE initiative and provided opportunity for tribal actions to voluntarily resolve the issue. Prior to the ACE Initiative, the last time the Commission issued a notice of violation to a tribe for failing to submit a required audit report was in fiscal year 2008. In this case, the Commission Chair issued the notice of violation 4 months after determining the tribe had not submitted an audit report. Commission officials told us that even with the focus on voluntary compliance, the Commission uses all tools at its disposal, including enforcement actions, when the Chair decides it is necessary. For example, Commission officials pointed to the immediate temporary closure order the Commission Chair issued in October 2014—to the same tribe that had received the notice of violation 1 month before for failure to submit the required audit report—when operation of the tribe's gaming facility threatened public health and safety.

Conclusions

The National Indian Gaming Commission was established by IGRA to help ensure the integrity of the Indian gaming industry that now includes more than 400 gaming operations in 28 states. We are encouraged by the Commission's plans to consult with tribes on and to make a decision regarding the Commission's proposal to issue guidance on class III minimum internal control standards. However, states are also important stakeholders in the regulation of class III Indian gaming. Both states and tribes will be affected by the Commission's proposal to issue guidance on class III minimum internal control standards, along with its proposal to withdraw its 2006 regulations. In addition to consulting with tribes, seeking state input would aid the Commission in making an informed decision on how to proceed.

In addition, since 2011, the Commission has emphasized providing tribes with training and technical assistance through its collaborative ACE initiative, and using tools such as letters of concern, as a means for achieving voluntary compliance with IGRA and Commission regulations without the need to use enforcement actions. However, the effectiveness of these two approaches is unclear. Most of the Commission's performance measures do not demonstrate the effectiveness of the agency's training and technical assistance efforts. Most of the measures are not outcome-oriented, inconsistent with Office of Management and Budget guidance, and those that are focused on tribes' compliance largely do not correlate with the Commission's training and technical assistance efforts. With additional outcome-based performance measures that better correlate the level of tribes' compliance or improvements to gaming operations with training and technical assistance provided, the Commission would be better positioned to assess the effectiveness of its training and technical assistance efforts and its ACE initiative.

Finally, the Commission has not consistently issued letters of concern that contain, as required by Commission regulations, a time period for the tribe to submit a response. In addition, some of these letters were not clearly marked as letters of concern to warrant tribes' attention, which may be helpful given the many types of letters sent to tribes. Both of these issues limit the Commission's ability to help ensure a timely response and actions by tribes to resolve potential compliance problems. The Commission has not issued guidance or documented procedures about how to complete letters of concern consistent with federal internal control standards. Without guidance or documented procedures to inform its staff about how to complete letters of concern and track tribal actions taken in response to letters, the Commission cannot ensure consistency or assess the effectiveness of the letters it sends.

Recommendations for Executive Action

We recommend that the National Indian Gaming Commission take the following four actions:

To help make an informed decision, the Commission should seek input from states on its proposal to draft updated guidance on class III minimum internal control standards and withdraw its 2006 regulations.

To improve its ability to assess the effectiveness of its training and technical assistance efforts, the Commission should review and revise, as needed, its performance measures to include additional outcome-oriented measures.

To help ensure letters of concern are more consistently prepared and responses tracked, the Commission should develop documented procedures and guidance to

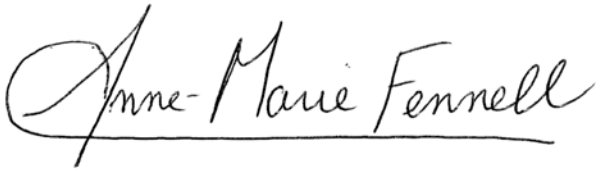
- clearly identify letters of concern as such and to specify the type of information to be contained in them, such as time periods for a response; and
- maintain and track tribes' responses to the Commission on potential compliance issues.

Agency Comments and Our Evaluation

We provided a draft of this report to the Department of the Interior and the National Indian Gaming Commission for review and comment. In an e-mail, the Department of the Interior stated that the Office of Indian Gaming agreed with our recommendations. In written comments provided by the National Indian Gaming Commission (reproduced in appendix IV), the Commission generally agreed with our findings and recommendations. In its letter, the Commission described actions that it has already taken, has ongoing, or plans to take to address each of the recommendations. Both agencies also provided technical comments that we incorporated, as appropriate.

We are sending a copy of this report to the appropriate congressional committees, the Secretary of the Interior, the Chairman of the National Indian Gaming Commission, and other interested parties. In addition, the report will be available at no charge on the GAO website at http://www.gao.gov.

If you or your staff members have any questions about this report, please contact me at (202) 512-3841 or fennella@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix V.



Anne-Marie Fennell
Director, Natural Resources and Environment

Appendix I: Objectives, Scope, and Methodology

Our objectives were to examine (1) the review process that the Department of the Interior (Interior) uses to help ensure that tribal-state compacts comply with the Indian Gaming Regulatory Act (IGRA); (2) how states and selected tribes regulate Indian gaming; (3) the National Indian Gaming Commission's (Commission) authority to regulate Indian gaming; and (4) the Commission's efforts to ensure tribes' compliance with IGRA and Commission regulations.

To examine the review process that Interior uses to help ensure that tribal-state compacts comply with IGRA, we examined relevant regulations including Interior's regulations on class III tribal-state gaming compact process (25 C.F.R. Part 293) and documentation describing Interior's process for reviewing compacts, such as process diagrams and checklists used during its review. In addition, we obtained a list from Interior of all Indian gaming compact decisions from 1998 to 2014. We verified this list of compacts in effect through fiscal year 2014 with *Federal Register* notices. We analyzed the compacts to identify key provisions. Specifically, we reviewed compacts for provisions related to revenue sharing with the state, waivers of sovereign immunity, minimum internal control requirements, among others. We obtained copies of decision letters sent by Interior for deemed approved and disapproved compacts, and we analyzed these letters for the explanation of each decision. We interviewed agency officials from Interior's Office of Indian Gaming and Office of the Solicitor about how this review process helps ensure compliance with IGRA.

To determine how states and selected tribes regulate Indian gaming, we contacted all 24 states that have class III Indian gaming operations.[1] Most states provided written responses to a structured interview guide, participated in interviews, and supplied additional documentation as appropriate.[2] We collected information about how each state oversees Indian gaming, including information on the states' regulatory

[1]There are 27 states with class III gaming compacts; however, 3 states (Massachusetts, Nebraska, and Rhode Island) do not have Indian gaming operations with class III gaming and were not included in our review of state regulation of Indian gaming.

[2]We obtained information from all states with class III gaming operations except for New Mexico, which declined to provide written responses or participate in an interview. Information about New Mexico's involvement with class III gaming regulation was found in publically available reports from the New Mexico Gaming Control Board and the New Mexico Legislative Finance Committee.

organizations, staffing, funding and expenditures, and the types of monitoring and enforcement activities conducted by state agencies. We analyzed this information and grouped states into one of three categories—active role, moderate role, or limited role—primarily based on information states provided on the extent and frequency of monitoring activities. States categorized as having an active role monitor gaming operations at least weekly, and most have a daily on-site presence. States categorized as having a moderate role conduct monitoring activities at least annually, and all collect some amount of funding from tribes to support state regulatory activities. States categorized as having a limited role do not regulate class III Indian gaming in their state. Other factors, such as funding per gaming operation and background check requirements, were also considered. We verified our categorization of state regulatory roles with state officials.

We visited six states—Arizona, California, Michigan, New York, Oklahoma, and Washington. We chose these states to provide geographic representation and because they are among the states with the greatest revenue generated from Indian gaming. Collectively, these six states accounted for more than 60 percent of all Indian gaming operations and Indian gaming revenue generated in fiscal year 2013. For each of the six states that we visited, we interviewed officials from at least one federally recognized tribe with gaming operations willing and available to meet with us regarding their approaches to regulating gaming.[3] We spoke with officials from 12 tribes in all.[4] The experiences of the 12 tribes that we met with are not generalizable to the more than 200 gaming tribes. Rather, the information from the 12 tribes provides illustrative information on the views of tribes regarding their approaches to

[3]IGRA only authorizes federally recognized tribes—those recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians—to conduct gaming activities.

[4]Tribes we interviewed regarding their approaches to regulating gaming were: Chickasaw Nation, Oklahoma; Confederated Tribes of the Chehalis Reservation; Muscogee (Creek) Nation; Oneida Indian Nation of New York; Pokagon Band of Potawatomi Indians of Michigan; Puyallup Tribe of the Puyallup Reservation; Salt River Pima Maricopa Indian Community; Shingle Springs Band of Miwok Indians; Squaxin Island Tribe; Tulalip Tribes of the Tulalip Reservation; United Auburn Indian Community of Auburn Rancheria; and Yocha DeHe Wintun Nation, California. We also spoke to representatives of six additional tribes—Colorado River Indian Tribes, Gila River Indian Community, San Carlos Apache Reservation, Tohono O'odham Nation, White Mountain Apache Tribe, and Yavapai-Apache Nation—as part of an initial scoping visit in Arizona to learn more about Indian gaming and tribal perspectives generally.

regulating gaming.[5] In addition, to obtain regional and national tribal perspectives, we contacted representatives of 10 tribal gaming associations, including the Arizona Indian Gaming Association; California Nations Indian Gaming Association; Great Plains Indian Gaming Association; Midwest Alliance of Sovereign Tribes; National Indian Gaming Association; National Tribal Gaming Commissioners/Regulators; Oklahoma Indian Gaming Association; Oklahoma Tribal Gaming Regulators Association; United South and Eastern Tribes, Inc.; and Washington Indian Gaming Association. We provided a list of open-ended topics for discussions to the 10 tribal associations to obtain their views of tribes' roles in regulating Indian gaming. The views of associations we spoke with are not generalizable. Of the 10 associations contacted, 5 provided responses to at least some of the topics, 4 did not respond at all, and 1 said they did not deal with Indian gaming issues.

To examine the Commission's authority for regulating Indian gaming, we reviewed IGRA, relevant court cases, and Commission regulations and policies including those related to minimum internal control standards. We identified and reviewed public comments to proposed regulations collected in 2011 to discern varying viewpoints on updating minimum internal control standards last updated in 2006. We also interviewed attorneys from the Commission's Office of the General Counsel about the Commission's authority to regulate Indian gaming.

To examine the Commission's efforts to ensure tribes' compliance with IGRA and Commission regulations, we reviewed IGRA, Commission regulations and policies for regulating Indian gaming including its regulations on compliance and enforcement, and background investigations and licensing of key employees and primary management officials. We also reviewed Commission guidance and policies on agreed-upon-procedure reports and its directives on the agency's audit work.

We obtained and analyzed Commission data on its monitoring activities including the number and type of examinations conducted during site visits in fiscal years 2011 through 2014. We limited our review to data from these 4 fiscal years because Commission officials told us that

[5]We provided the tribes with a list of topics for discussion. Not every tribe addressed every topic. The topics were open-ended, and thus the issues raised by the tribes were "volunteered." We did not ask officials from each tribe to agree or disagree with particular issues.

collection of site visit data was integrated into one of its databases as of May 2010. We also reviewed a random, but not generalizeable, sample of 50 site visit reports entered into the Commission's database to provide examples of the extent of any deficiencies or any potential compliance issues identified by the Commission during these visits. We limited our random sample to those that included attachments in the database. These attachments included documents such as follow-up letters sent to tribes after a site visit or other written assessments or information collected during the visit. For this random sample of site visits, we requested information such as the date and reason for the site visit, as well as any electronic documents associated with the site visit. To assess the reliability of the site visit data, we reviewed documentation on the tribal information management database, interviewed relevant Commission officials, and compared the data with published information on the number of site visits reported annually in recent Commission performance reports for 2012 and 2013. We found the data to be sufficiently reliable for our purposes.

We also obtained and analyzed available revenue and compliance data from the Commission's financial and agreed-upon procedures database for fiscal years 2009 through 2013. Specific data we obtained and analyzed included: gross gaming revenue data, net income data, data on noncompliance with internal control standards reported in agreed-upon procedure reports, and the audit risk level assigned by Commission auditors to each gaming operation based on review of submitted financial statements and agreed-upon-procedure reports. To assess the reliability of this data, we reviewed documentation on the database and asked follow-up questions of knowledgeable Commission officials to determine the extent to which the database included safeguards for data quality. In addition, for audit risk data and agreed-upon procedures data, as part of our analysis, we conducted testing for missing data. Due to confidentiality concerns, Commission officials ran our financial-related queries. Given the limited number of individuals that have access to this database, the Commission's internal review processes that include management review of samples of data, and how the data is linked to the fees the Commission collects for its operations, we found the financial and agreed-upon procedures reports database sufficiently reliable for our purposes.

We collected and analyzed Commission documentation on the training and technical assistance it provides to tribes. Specifically, we reviewed information related to training and technical assistance since implementation of the Commission's Assistance, Compliance and Enforcement initiative in 2011 contained in the Commission's budget

justification documents for fiscal years 2010 and 2013 and the Commission's strategic plans for fiscal years 2009 through 2014 and fiscal years 2014 through 2018. We reviewed and analyzed performance measures data reported by the Commission on its training and technical assistance to tribes for fiscal years 2011 to fiscal year 2013. We also reviewed the Commission's (1) Training and Technical Assistance 2011 Survey Summary; (2) presentation slides on the Training and Technical Assistance 2011 Survey; (3) Annual Report of Training and Technical Assistance Events Covering Fiscal Year 2013 and (4) most current Technical Assistance and Training Catalog, dated August 2011. We also interviewed current Commissioners, Commission headquarters staff, and Directors of each of the Commission's seven regional offices for further information and clarification on the Commission's role in Indian gaming and interviewed about their oversight and assistance activities.

We also reviewed publicly available information on all of the Commission's enforcement actions from fiscal year 2005 through fiscal year 2014 to determine the number and type of enforcement actions, reasons for the enforcement actions, and the amount of time that elapsed before an enforcement action was taken. We verified enforcement action information with Commission officials. In addition, we collected and analyzed documentation on 16 letters of concern the Commission sent in fiscal years 2013 and 2014 to notify tribal gaming operations about potential compliance issues. We focused our review of the letters of concern sent in these 2 fiscal years, to enable review of letters sent after the Commission's amendment of its compliance and enforcement regulations in fiscal year 2012. We reviewed the letters to determine whether the Commission clearly identified the letter as a letter of concern and whether the Commission included a time period for the gaming operation to respond to the letter. We also requested and reviewed available documentation on tribal actions taken to address potential compliance issues identified in these letters.

We conducted this performance audit from November 2013 to June 2015 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 provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Legal Appendix on IGRA and Sovereign Immunity

Like federal and state governments, Indian tribes are immune from lawsuits unless they have waived their sovereign immunity in a clear and unequivocal manner—such as including a statement waiving sovereign immunity in the tribal-state gaming compact—or a federal treaty or law has expressly abrogated or limited tribal sovereign immunity.[1] The Indian Gaming Regulatory Act (IGRA) includes provisions limiting both state and tribal sovereign immunity in certain circumstances. This allows states and tribes to sue each other. According to IGRA's legislative history, given the unequal balance between tribal and state governmental interests, the Senate Committee on Indian Affairs decided "to grant tribes the right to sue a state if a compact is not negotiated" as the "least offensive option to encourage states to deal fairly with tribes."[2] Allowing the states to sue tribes was a response to a 1987 Supreme Court decision that found states lacked any authority over gaming on Indian lands, [3] thus allowing states to have some measure of authority over it.

Court decisions have limited the effect of these provisions, however. Specifically, a Supreme Court decision in 1996 holding that IGRA's provision limiting state sovereign immunity is unconstitutional has prevented tribes from bringing the lawsuits envisioned by that provision. Furthermore, a Supreme Court decision in 2014 regarding IGRA's limitation of tribal sovereign immunity has highlighted the limited circumstances under which states can sue tribes over class III gaming.

State Sovereign Immunity

IGRA requires states to negotiate in good faith with tribes that want to enter into the compacts necessary for tribes to conduct class III gaming. In addition, IGRA provides for tribes to sue states in federal court for failure to enter into negotiations for such a compact or to negotiate in good faith.[4] If, after a successful tribal lawsuit, the state and tribe cannot

[1]U.S. Const., amend. XI; *Seminole Tribe of Fla. v. Florida*, 517 U.S. 44, 54 (1996) (the Eleventh Amendment provides for state sovereign immunity*); Santa Clara Pueblo v. Martinez,* 436 U.S. 49, 58 (1978) (noting that Indian tribes have long been recognized as possessing the common law immunity from suit traditionally enjoyed by sovereign powers but tribal sovereign immunity is subject to the plenary control of Congress).

[2]S. Rep. No. 100-446, at 14 (1988).

[3]*California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987).

[4]25 U.S.C. § 2710(d)(7)(A)(i).

agree on a compact, IGRA's dispute resolution provision is triggered.[5] If the dispute resolution procedure does not result in a compact, IGRA requires the Secretary of the Interior to issue Secretarial procedures to govern the tribe's class III gaming.[6]

However, a 1996 Supreme Court decision finding that the Eleventh Amendment prevents Congress from authorizing lawsuits by tribes against states to enforce laws like IGRA that were enacted under the Indian Commerce Clause invalidated IGRA's provision limiting state sovereign immunity.[7] Without IGRA's provision limiting state sovereign immunity, tribes cannot sue states that refuse to negotiate or fail to negotiate in good faith unless states waive their sovereign immunity.[8] As federal courts have noted, if states do not waive their sovereign

[5]Specifically, if the federal district court concludes that the state failed to negotiate in good faith to conclude a tribal-state compact, then the court must order the state and tribe to conclude such a compact within 60 days. 25 U.S.C. § 2710(d)(7)(B)(iii). If they do not conclude such a compact within the 60 days, then IGRA's dispute resolution provision is triggered, and the tribe and state must each submit to a court-appointed mediator a proposed compact that represents their last best offer for a compact. 25 U.S.C. § 2710(d)(7)(B)(iv). If the state consents within 60 days to the proposed compact the mediator has selected as best comporting with the terms of IGRA, any other applicable federal law and the findings of the court, it becomes the tribal-state compact. 25 U.S.C. § 2710(d)(7)(B)(vi).

[6]If the state does not consent within the 60 days, the mediator must notify the Secretary of the Interior, who is required to prescribe procedures, in consultation with the Indian tribe, under which class III gaming may be conducted on the Indian lands over which the Indian tribe has jurisdiction. The procedures must be consistent with the proposed compact selected by the mediator, IGRA, and relevant provisions of state law. 25 U.S.C. § 2710(d)(7)(B)(vii).

[7]*Seminole Tribe of Fla. v. Florida*, 517 U.S. 44 (1996). The Indian Commerce Clause authorizes Congress to regulate commerce with Indian tribes. *See* U.S. const., art. I, § 8, cl. 3. The clause is the most often cited basis for modern legislation regarding Indian tribes.

[8]Tribes cannot sue state officials in lieu of the state because the Supreme Court's 1996 decision also held that IGRA's dispute resolution process had significantly fewer remedies than those available in a lawsuit against state officials and, therefore, Congress intended to limit relief to those remedies. *Seminole Tribe of Fla. v. Florida*, 517 U.S. 44, 73-76 (1996).

immunity—and many have not[9]—tribes must accept the state's terms to be able to operate class III gaming legally.[10] In addition to acknowledging the tribes' position and inability to sue states following the Supreme Court's 1996 decision, two federal circuit courts have noted that Congress could take action to remedy it, but IGRA has not been amended.[11] At least two federal courts have suggested that the federal government could sue states that refuse to negotiate or fail to negotiate in good faith

[9]Since the Supreme Court's 1996 decision, federal courts have dismissed several lawsuits tribes brought against states because the states did not waive their sovereign immunity. *See e.g.*,*Santee Sioux Tribe of Neb. v. Nebraska*, 121 F.3d 427 (8th Cir. 1997); *Mescalero Apache Tribe v. New Mexico*, 131 F.3d 1379 (10th Cir. 1997), *Ponca Tribe of Okla. v. Oklahoma,* 89 F.3d 690 (10th Cir. 1996). However, California, by statute, has waived its sovereign immunity for lawsuits brought by tribes alleging that the state has refused to enter into negotiations over a compact or amendment to a compact; or negotiate in good faith, as well as for lawsuits alleging that the state has violated the terms of a compact. Cal. Govt. Code § 98005.

[10]*Rincon Band of Luiseno Mission Indians of Rincon Reservation v. Schwarzenegger*, 602 F.3d 1019, 1026 n.8 (9th Cir. 2010) (noting that tribes in states that have not waived their Eleventh Amendment immunity for IGRA suits have no recourse to challenge the validity of revenue sharing, and some, therefore, choose to accept revenue sharing rather than go without a compact); *United States v. Spokane Tribe of Indians*, 139 F.3d 1297, 1301 (9th Cir. 1998) (noting that nothing now protects the tribe if the state refuses to bargain in good faith or at all; the state holds all the cards (so to speak)); *New Mexico v. Dep't of the Interior*, No. 1:14-cv-695, slip op. at 4 (D.N.M. Oct. 17, 2014), *appeal docketed,* No. 14-2222 (10th Cir. Dec. 12, 2014) (noting that the *Seminole* decision seriously weakened Indian tribes' bargaining power under IGRA because it made unobtainable tribes' sole remedy for state's bad faith).

[11]*Pueblo of Sandia v. Babbitt*, 47 F. Supp. 2d 49, 57 (D.D.C. 1999) (noting, in the court's opinion, that Congress's time might be well spent examining whether the original goals and mechanisms of the IGRA have been emaciated by the judicial and executive branches and whether the statute should be reformed or revised to recalibrate a balance that has tipped drastically in favor of the states at the expense of tribal sovereignty); *United States v. Spokane Tribe of Indians*, 139 F.3d 1297, 1302 (9th Cir. 1998) ("we are left, then, with a tribe that believes it has followed IGRA faithfully and has no legal recourse against a state that allegedly hasn't bargained in good faith. Congress did not intentionally create this situation and would not have countenanced it had it known then what we know now…Congress could return to the statute and come up with a new scheme that is both equitable and constitutional").

on behalf of tribes but, as of March 2015, the Department of Justice has not brought any such lawsuits.[12]

In a *Federal Register* notice, the Department of the Interior (Interior) recognized that the Supreme Court's 1996 decision allows states to create an effective state veto over IGRA's dispute resolution system and stalemate the compacting process by not waiving their sovereign immunity.[13] In 1999, Interior issued a regulation, 25 C.F.R. Part 291—simply known as Part 291—that provides for the Secretary to issue class III gaming procedures after a tribe sues a state for not negotiating in good faith, and the state refuses to wave its sovereign immunity from suit.[14] As of March 2015, eight tribes have sought to obtain Secretarial procedures under Part 291 but Interior has not issued any procedures.[15] However, in 2008, the U.S. Court of Appeals for the Fifth Circuit held that IGRA did not authorize the Secretary to promulgate Part 291 and that the

[12]*See United States v. Spokane Tribe of Indians,* 139 F.3d 1297, 1301 (9th Cir. 1998) (noting that the United States might sue on behalf of a tribe and force the state into a compact because the Supreme Court has held that sovereign immunity does not prevent the federal government from suing states); *New Mexico v. Dep't of the Interior*, No. 1:14-cv-695, slip op. at 27 (D.N.M. Dec. 15, 2014), *appeal docketed,* No. 14-2222 (10th Cir. Dec. 12, 2014) (noting that while the Pueblo of Pojoaque is effectively precluded from obtaining a ruling on its allegations of bad faith, it appears that nothing prevents the United States from doing so as the Pueblo's trustee).

[13]64 Fed. Reg. 17535, 17536 (Apr. 12, 1999).

[14]64 Fed. Reg. 17535, 17536 (Apr. 12, 1999), *codified at* 25 C.F.R. Part 291. One federal court has described Part 291 as preventing tribal gaming from becoming a compact-or-nothing prospect after the Supreme Court's 1996 decision by making IGRA's river card—regulations allowing gaming without a compact—available to a tribe on the flop, before a federal court has ruled on the tribe's allegations of bad faith. The court also noted that the state, of course, did not like this turn of events: if valid, the regulations prevent the state from using its Eleventh Amendment sovereign immunity as a trump card to force tribes to negotiate on the state's terms or not conduct gaming at all. *New Mexico v. Dep't of the Interior*, No. 1:14-cv-695, slip op. at 7 (D.N.M. Dec. 15, 2014), *appeal docketed*, No. 14-2222 (10th Cir. Dec. 12, 2014).

[15]Two of the applications became moot because the tribes (Seminole Tribe of Florida and Confederated Tribes of the Colville Reservation) subsequently entered into tribal-state gaming compacts, two more applications (Kickapoo Traditional Tribe of Texas and the Jena Band of Choctaw Indians) became moot after the 5th Circuit's decision in *Texas v. United States* (discussed below), one was denied (Santee Sioux Nation), and two were put on hold (Miccosukee Tribe of Indians and Poarch Band of Creeks). A decision by the federal district court in New Mexico prevented Interior from taking action on the eighth application (Pueblo of Pojoaque).

regulation was not a reasonable interpretation of IGRA.[16] As a result, the regulation is invalid in the states located in the Fifth Circuit—Mississippi, Louisiana, and Texas. Other federal appeals courts have not ruled on the regulation's validity, although a case is pending before the U.S. Court of Appeals for the Tenth Circuit Court.[17] According to a federal district judge, if Part 291 is not available to tribes, they must negotiate with states, essentially on the states' terms, or they would not have legal authority to conduct class III gaming.[18]

Tribal Sovereign Immunity

While the Supreme Court's 1996 decision affected tribes' ability to bring lawsuits against states, a 2014 Supreme Court decision and other recent cases, including cases currently pending before federal courts, have and will affect states' ability to sue Indian tribes to enforce IGRA. IGRA limits tribal sovereign immunity for lawsuits by states to enjoin, or stop, class III gaming on Indian lands conducted in violation of a tribal-state gaming

[16]*Texas v. United States*, 497 F.3d 491 (5th Cir. 2007), *cert. denied sub nom, Kickapoo Traditional Tribe v. Texas*, 555 U.S. 881 (2008). The court said that Part 291 was not a reasonable interpretation of IGRA because the role the Secretary plays and the power he wields under Part 291 bear no resemblance to the Secretarial power expressly delegated by Congress under IGRA. *Id.* at 508-09.

[17]In October 2014, a federal district court in New Mexico ruled that Part 291 runs contrary to Congress' clear intent—that the Secretary may only adopt class III gaming procedures after a federal court finds a state has failed to negotiate in good faith and ordered mediation between the parties—and thus is unenforceable. *New Mexico v. Dep't of the Interior*, No. 1:14-cv-695, slip op. at 25-6 (D.N.M. Oct. 17, 2014), *appeal docketed,* No. 14-2222 (10th Cir. Dec. 12, 2014).The tribe and federal government appealed the district court's decision to the Tenth Circuit, which has not ruled in the case as of May 2015.

[18]*New Mexico v. Dep't of the Interior*, No. 1:14-cv-695, slip op. at 20 (D.N.M. Oct. 17, 2014), *appeal docketed,* No. 14-2222 (10th Cir. Dec. 12, 2014).

compact.[19] If the class III gaming is not located on Indian lands or does not violate a compact, in 2014, the Supreme Court said that states must resort to other mechanisms, such as lawsuits against the responsible tribal officials or bargaining in the gaming compact for a waiver of the tribe's sovereign immunity for such a lawsuit to enforce IGRA.[20]

Recent court decisions, however, have raised questions about states' ability to bring lawsuits under IGRA against tribal officials for class III gaming that is not located on Indian lands or does not violate a compact. First, the Supreme Court noted in a 2014 decision that IGRA may not authorize states to bring lawsuits against tribal officials for violating the act by conducting class III gaming outside of Indian lands.[21] Second, a

[19]25 U.S.C. § 2710(d)(7)(A)(ii). Courts have dismissed several lawsuits brought by states that do not satisfy the requirements of section 2710(d)(7)(A)(ii). *Michigan v. Bay Mills Indian Cmty*, _ U.S. _, 134 S.Ct. 2024, 2034 n.6 (2014) (noting that the statutory abrogation in 25 U.S.C. § 2710(d)(7)(A)(ii) does not cover all suits to enjoin gaming on Indian lands because it does not allow a state to sue a tribe for all class III gaming activity located on Indian lands, but only for such gaming as is conducted in violation of any tribal–state compact that is in effect); *Oklahoma v. Hobia*, 775 F.3d 1204, 1205-6 (10th Cir. 2014), *petition for cert. filed*, (U.S. Mar. 25, 2015) (No. 14-1177) (holding that any federal cause of action brought pursuant to 25 U.S.C. § 2710(d)(7)(A)(ii) to enjoin class III gaming activity must allege and ultimately establish that the gaming is located on Indian lands); *Florida v. Seminole Tribe of Fla.*, 181 F.3d 1237, 1242 (11th Cir. 1999) (dismissing state's lawsuit to enjoin the tribe's class III gaming operation due to the tribe's sovereign immunity because there was no tribal-state gaming compact in effect); *Cabazon Band of Mission Indians v. Wilson*, 124 F.3d 1050,1060 (9th Cir. 1997) (dismissing the state's lawsuit because the activity it sought to enjoin was not expressly prohibited by the tribal-state gaming compact). *Cf. Ho-Chunk Nation v. Wisconsin*, 512 F.3d 921, 933-34 (7th Cir. 2008) (holding that a proper interpretation of section 2710(d)(7)(A)(ii) is not that federal jurisdiction exists over a suit to enjoin class III gaming whenever *any* clause in a tribal–state compact is violated, but rather that jurisdiction exists only when the alleged violation relates to one of the seven items enumerated in 25 U.S.C. § 2710(d)(3)(C)(i-vii)); *Mescalero Apache Tribe v. New Mexico*, 131 F.3d 1379, 1385 (10th Cir. 1997) (noting that section 2710(d)(7)(A)(ii) waived tribal sovereign immunity in the narrow category of cases where compliance with IGRA's provisions is at issue and where only declaratory or injunctive relief is sought).

[20]*Michigan v. Bay Mills Indian Cmty*, _ U.S. _, 134 S.Ct. 2024, 2035 (2014). States are able to bring lawsuits against tribal officials for conduct that violates federal law because the Supreme Court has ruled that such suits are not barred by tribal sovereign immunity. Michigan has filed suit against members of the Sault Ste. Marie Tribe of Chippewa Indians' Board of Directors and Tribal Gaming Commission Tribal Gaming Authority for allegedly violating their compact by submitting applications to the Secretary of the Interior to take land into trust in Lansing and Huron, Michigan, for gaming. *Michigan v. Payment*, No. 12-cv-962 (D. Mich. filed Feb. 3, 2015). As of May 2015, the federal district court had not ruled on the case.

[21]*Michigan v. Bay Mills Indian Cmty*, _ U.S. _, 134 S.Ct. 2024, 2029 n.2 (2014).

federal circuit court has ruled that a state's lawsuit against tribal officials for allegedly conducting class III gaming outside of Indian lands cannot be brought under IGRA.[22] Moreover, a federal district court ruled in 2014 that IGRA does not authorize a state to bring suit against tribal gaming officials for allegedly conducting class III gaming on Indian lands without a compact.[23]

In addition, a 2014 federal circuit court decision raised questions about whether the other mechanism the Supreme Court identified—broad waivers of tribal sovereign immunity in gaming compacts—would permit states to sue tribal officials for violating IGRA. Specifically, the court noted that such a waiver might not suffice to permit states to bring lawsuits against tribal officials because the dispute resolution provision in the compact at issue requires arbitration and thus effectively forbids the state from suing tribal officials for compact violations.[24]

According to the Supreme Court, if states are not able sue tribes or tribal officials to stop class III gaming operations that violate IGRA but do not occur on Indian lands or violate a tribal-state compact, IGRA authorizes the federal government to enforce the law.[25] The federal government has sometimes filed a lawsuit to stop gaming activity that violates IGRA.[26] In addition, the National Indian Gaming Commission has issued closure

[22]*Oklahoma v. Hobia*, 775 F.3d 1204, 1213 (10th Cir. 2014), *petition for cert. filed*, (U.S. Mar. 25, 2015) (No. 14-1177) (holding that the state's complaint alleging that the tribal officials' efforts to conduct class III gaming somewhere other than on Indian lands as defined in IGRA fails on its face to state a valid claim for relief under IGRA).

[23]*Alabama v. PCI Gaming Auth.*, 15 F. Supp. 3d 1161, 1187 (M.D. Ala. 2014), *appeal argued*, No. 14-12004 (11th Cir. Jan. 13, 2015) (holding that IGRA did not authorize the state to bring a civil enforcement action to enjoin allegedly unlawful class III gaming on Indian lands). The case has been appealed and is pending before the U.S. Court of Appeals for the 11th Circuit.

[24]*Oklahoma v. Hobia*, 775 F.3d 1204, 1213-14 (10th Cir. 2014*), petition for cert. filed*, (U.S. Mar. 25, 2015) (No. 14-1177) (noting that the tribal-state compact at issue effectively forbids the state from filing suit against tribal officials for violating the compact because it strictly limits the remedies available).

[25]*See Michigan v. Bay Mills Indian Cmty*, _ U.S. _, 134 S.Ct. 2024, 2034 n.6 (2014).

[26]*See e.g., United States v. Spokane Indian Tribe,* 139 F.3d 1297 (9th Cir. 1998); *United States v. Santee Sioux Tribe of Nebraska*, 135 F.3d 558 (8th Cir. 1998); *United States v. Seminole Tribe of Fla.*, 45 F. Supp. 2d 1330 (M.D. Fla. 1999); *United States v. Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation*, 983 F. Supp. 1317 (C.D. Cal. 1997).

orders to tribes for operating class III gaming without a tribal-state compact.[27]

[27]*See e.g.*, the following National Indian Gaming Commission closure orders (CO), notices of violation (NOV) and settlement agreements (SA): CO-98-01; CO-99-07; CO-99-06; NOV/CO-99-01; NOV/CO-99-05; NOV/CO-99-04; SA/NOV/CO-99-10; NOV/CO-00-01; NOV/CO-00-06; CO-04-01.

Appendix III: Information on State Regulation of Class III Indian Gaming (Corresponds to Fig. 6)

In this appendix, table 7 provides additional details on the state regulation of class III Indian gaming that are part of the rollover information contained in interactive figure 6.

Table 7: Information on State Regulation of Class III Indian Gaming in Figure 6

Gaming tribes and operations by state as of November 2014	Compacts	State regulation of class III Indian gaming
Arizona		
Number of gaming tribes: 16 **Number of gaming operations by class:** **Class II:** 0 **Class II/III:** 19 **Class III:** 4	**State process to enter into compact:** • Governor negotiates and executes compact. Ariz. Rev. Stat. § 5-601(A). • A 1996 ballot initiative required the Governor to enter into a specific compact under certain circumstances, which resulted in one compact. *Salt River Pima-Maricopa Indian Cmty. v. Hull*, 190 Ariz. 97 (1997); 63 Fed. Reg. 49923 (Sept. 18, 1998) **Revenue sharing:** Yes	**Regulatory role:** Active **State regulatory agency:** • Department of Gaming **Number of regulatory staff:** 100 **State fiscal year 2013 funding for regulating Indian gaming:** $9,725,000 **State performed background checks:** Yes, required for employees and vendors **State issued licenses and/or certifications:** Yes, certifies suitability of employees and vendors **Monitoring frequency:** Weekly, monthly, annually
California		
Number of gaming tribes: 61 **Number of gaming operations by class:** **Class II:** 8 **Class II/III:** 46 **Class III:** 16	**State process to enter into compact:** • Governor negotiates and executes compact, which is subject to ratification by statute approved by the state legislature and signed by the Governor. • As a state law, ratification of compact can be subject to voter referendum. • Cal. Gov't. Code § 12012.25. **Revenue sharing:** Yes	**Regulatory role:** Moderate **State regulatory agency:** • Bureau of Gambling Control • Gambling Control Commission **Number of regulatory staff:** 136 **State fiscal year 2013 funding for regulating Indian gaming:** $20,082,000 **State performed background checks:** Yes, required for key employees, vendors, and financial sources. Under some compacts, required for tribal gaming agency members. **State issued licenses and/or certifications:** Yes, certifies suitability of key employees, vendors, financial sources and tribal gaming agency members under some compacts. **Monitoring frequency:** Annually, as needed

Gaming tribes and operations by state as of November 2014	Compacts	State regulation of class III Indian gaming
Colorado		
Number of gaming tribes: 2 **Number of gaming operations by class:** **Class II:** 0 **Class II/III:** 2 **Class III:** 1	**State process to enter into compact:** • Governor negotiates and executes compact, after consultation with the Colorado Limited Gaming Control Commission. Colo. Rev. Stat. §§ 12-47.2-101 to 12-47.2-102. **Revenue sharing:** No	**Regulatory role:** Limited **State regulatory agency:** • Department of Revenue, Division of Gaming **Number of regulatory staff:** 0 **State fiscal year 2013 funding for regulating Indian gaming:** $0 **State performed background checks:** Yes, required for management employees only **State issued licenses and/or certifications:** No **Monitoring frequency:** Does not monitor
Connecticut		
Number of gaming tribes: 2 **Number of gaming operations by class:** **Class II:** 0 **Class II/III:** 2 **Class III:** 0	**State process to enter into compact:** • Governor negotiates and executes compact, which did not require approval by the legislature until June 20, 1994. Since that date, compact and compact amendments have required approval by the legislature. • Conn. Gen. Stat. § 3-6c. **Revenue sharing:** Yes	**Regulatory role:** Active **State regulatory agency:** • Department of Consumer Protection, Gaming Division **Number of regulatory staff:** 16 **State fiscal year 2013 funding for regulating Indian gaming:** $2,350,000 **State performed background checks:** Yes, required for employees and vendors **State issued licenses and/or certifications:** Yes, licenses employees and vendors **Monitoring frequency:** Daily
Florida		
Number of gaming tribes: 2 **Number of gaming operations by class:** **Class II:** 1 **Class II/III:** 6 **Class III:** 1	**State process to enter into compact:** • Governor negotiates and executes the compact. • Compact must be ratified by the state legislature. • Fla. Stat. ch. 285.712. **Revenue sharing:** Yes	**Regulatory role:** Moderate **State regulatory agency:** • Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering **Number of regulatory staff:** 4 **State fiscal year 2013 funding for regulating Indian gaming:** $270,000 **State performed background checks:** No **State issued licenses and/or certifications:** No **Monitoring frequency:** Monthly

Gaming tribes and operations by state as of November 2014	Compacts	State regulation of class III Indian gaming
Idaho		
Number of gaming tribes: 4 Number of gaming operations by class: **Class II:** 0 **Class II/III:** 3 **Class III:** 6	**State process to enter into compact:** • Governor, or designee, negotiates and executes compact. • Compacts that do not meet state statutory requirements must be ratified by the state legislature. • Idaho Code § 67-429A. **Revenue sharing:** No	**Regulatory role:** Limited **State regulatory agency:** • Idaho Lottery **Number of regulatory staff:** 0 **State fiscal year 2013 funding for regulating Indian gaming:** $0 **State performed background checks:** No **State issued licenses and/or certifications:** No **Monitoring frequency:** Annual tour of gaming operations
Iowa		
Number of gaming tribes: 3 **Number of gaming operations by class:** **Class II:** 0 **Class II/III:** 2 **Class III:** 1	**State process to enter into compact:** • The Director of the Department of Inspections and Appeals negotiates and executes compact. Iowa Code § 10A.104(10). **Revenue sharing:** No	**Regulatory role:** Moderate **State regulatory agency:** • Department of Inspections and Appeals **Number of regulatory staff:** 1 **State fiscal year 2013 funding for regulating Indian gaming:** $130,000 **State performed background checks:** Yes, background checks on employees are performed as requested by tribes **State issued licenses and/or certifications:** No **Monitoring frequency:** Annually
Kansas		
Number of gaming tribes: 5 **Number of gaming operations by class:** **Class II:** 1 **Class II/III:** 3 **Class III:** 1	**State process to enter into compact:** • Governor or designated representative negotiates compact, but the Joint Committee on State-Tribal Relations may recommend modifications. • State legislature must approve compact. • Kan. Stat. Ann. § 46-2302. **Revenue sharing:** No	**Regulatory role:** Active **State regulatory agency:** • State Gaming Agency **Number of regulatory staff:** 23 **State fiscal year 2013 funding for regulating Indian gaming:** $1,839,000 **State performed background checks:** Yes, required for employees and vendors **State issued licenses and/or certifications:** No **Monitoring frequency:** Weekly, monthly

Gaming tribes and operations by state as of November 2014	Compacts	State regulation of class III Indian gaming
Louisiana		
Number of gaming tribes: 4 **Number of gaming operations by class:** **Class II:** 1 **Class II/III:** 3 **Class III:** 0	**State process to enter into compact:** • The Governor and, since1993, the Governor's Office of Indian Affairs, negotiates compacts. • The Governor enters into and signs the compacts. • La. Rev. Stat. Ann. §§ 46:2302(6), (8), 46:2303. **Revenue sharing:** No	**Regulatory role:** Active **State regulatory agency:** • State Police, Gaming Enforcement Division **Number of regulatory staff:** 20 **State fiscal year 2013 funding for regulating Indian gaming:** $1,899,000 **State performed background checks:** Yes, required for employees and vendors **State issued licenses and/or certifications:** Yes, certifies suitability of employees and vendors **Monitoring frequency:** Daily, weekly, monthly
Michigan		
Number of gaming tribes: 12 **Number of gaming operations by class:** **Class II:** 0 **Class II/III:** 17 **Class III:** 6	**State process to enter into compact:** • Governor negotiates and executes compact, according to state officials. • State legislature approves compact. *Taxpayers of Mich. Against Casinos v. State*, 685 N.W.2d 221 (Mich. 2004). **Revenue sharing:** Yes	**Regulatory role:** Moderate **State regulatory agency:** • Gaming Control Board **Number of regulatory staff:** 6 **State fiscal year 2013 funding for regulating Indian gaming:** $719,000 **State performed background checks:** No **State issued licenses and/or certifications:** No **Monitoring frequency:** Annually, biannually
Minnesota		
Number of gaming tribes:11 **Number of gaming operations by class:** **Class II:** 21 **Class II/III:** 15 **Class III:** 4	**State process to enter into compact:** • Governor or designated representatives, which must include two members from the state Senate and two from the state House, two of whom must be Chairs of committees with jurisdiction over gambling policy, negotiate and execute compact. Minn. Stat. § 3.9221(2). **Revenue sharing:** No	**Regulatory role:** Moderate **State regulatory agency:** • Department of Public Safety, Alcohol and Gambling Enforcement **Number of regulatory staff**: 1 **State fiscal year 2013 funding for regulating Indian gaming:** $187,000 **State performed background checks:** Yes, required for employees and vendors **State issued licenses and/or certifications:** Yes, licenses vendors **Monitoring frequency:** Annually, as needed

Gaming tribes and operations by state as of November 2014	Compacts	State regulation of class III Indian gaming
Mississippi		
Number of gaming tribes: 1 **Number of gaming operations by class:** **Class II:** 0 **Class II/III:** 1 **Class III:** 2	**State process to enter into compact:** • Governor negotiates and executes compact. *Willis v. Fordice*, 850 F. Supp. 523, 532-33 (S.D. Miss. 1994), *aff'd*, 55 F.3d 633 (5th Cir. 1995). **Revenue sharing:** No	**Regulatory role:** Limited **State regulatory agency:** • Gaming Commission **Number of regulatory staff:** 0 **State fiscal year 2013 funding for regulating Indian gaming:** $0 **State performed background checks:** No **State issued licenses and/or certifications:** No **Monitoring frequency:** Does not monitor
Montana		
Number of gaming tribes: 8 **Number of gaming operations by class:** **Class II:** 4 **Class II/III:** 6 **Class III:** 6	**State process to enter into compact:** • Governor or designee negotiates compact. • State Attorney General must approve compact. • Mont. Code Ann. §§ 18-11-103(2), 18-11-105(1). **Revenue sharing:** No	**Regulatory role:** Limited **State regulatory agency:** • Department of Justice, Gambling Control Division **Number of regulatory staff:** 0 **State fiscal year 2013 funding for regulating Indian gaming:** $0 **State performed background checks:** Yes, but only as requested and paid for by tribes **State issued licenses and/or certifications:** Yes, but only as requested and paid for by tribes **Monitoring frequency:** Does not monitor
Nevada		
Number of gaming tribes: 4 **Number of gaming operations by class:** **Class II:** 0 **Class II/III:** 1 **Class III:** 4	**State process to enter into compact:** • The compacts are signed by the Governor, a representative of the state Attorney General's office, Board of Examiners, and the Chair of the state Gaming Control Board. **Revenue sharing:** No	**Regulatory role:** Moderate **State regulatory agency:** • Gaming Control Board • Office of the Attorney General **Number of regulatory staff:** 1 **State fiscal year 2013 funding for regulating Indian gaming:** <$300,000 **State performed background checks:** Yes, varies by compact **State issued licenses and/or certifications:** Yes, varies by compact **Monitoring frequency:** Every 2 to 3 years

Gaming tribes and operations by state as of November 2014	Compacts	State regulation of class III Indian gaming
New Mexico		
Number of gaming tribes: 14 **Number of gaming operations by class:** **Class II:** 1 **Class II/III:** 13 **Class III:** 12	**State process to enter into compact:** • Compact terms are specified in state law; tribes join compact by enacting a tribal resolution. N.M. Stat. Ann. § 11-13-1. • Governor and tribal official execute revenue sharing agreement, with terms that are specified in state law. N.M. Stat. Ann. § 11-13-2. **Revenue sharing:** Yes	**Regulatory role:** Moderate **State regulatory agency:** • Gaming Control Board **Number of regulatory staff:** Unknown **State fiscal year 2013 funding for regulating Indian gaming:** $868,000 **State performed background checks:** Unknown **State issued licenses and/or certifications:** Unknown **Monitoring frequency:** Annually
New York		
Number of gaming tribes: 4 **Number of gaming operations by class:** **Class II:** 4 **Class II/III:** 4 **Class III:** 1	**State process to enter into compact:** • Governor negotiates and executes compact as authorized by state law. • Compact deemed ratified by the state legislature upon the Governor's certification that the compact meets specified statutory requirements. • N.Y. Exec. Law § 12. **Revenue sharing:** Yes	**Regulatory role:** Active **State regulatory agency:** • State Gaming Commission **Number of regulatory staff:** 49 **State fiscal year 2013 funding for regulating Indian gaming:** $4,507,000 **State performed background checks:** Yes, required for employees and vendors **State issued licenses and/or certifications:** Yes, certifies suitability of employees and vendors **Monitoring frequency:** Daily, weekly, monthly
North Carolina		
Number of gaming tribes: 1 **Number of gaming operations by class:** **Class II:** 1 **Class II/III:** 0 **Class III:** 1	**State process to enter into compact:** • Governor negotiates and executes the compact. N.C. Gen. Stat. § 147-12(a)(14). **Revenue sharing:** Yes, compact includes revenue sharing provision.	**Regulatory role:** Limited **State regulatory agency:** • Office of the Governor **Number of regulatory staff:** 0 **State fiscal year 2013 funding for regulating Indian gaming:** $0 **State performed background checks:** No **State issued licenses and/or certifications:** Yes, tests and approves games to be offered by the tribe **Monitoring frequency:** Does not monitor

Gaming tribes and operations by state as of November 2014	Compacts	State regulation of class III Indian gaming
North Dakota		
Number of gaming tribes: 5 **Number of gaming operations by class:** **Class II:** 4 **Class II/III:** 4 **Class III:** 2	**State process to enter into compact:** • Governor or designee negotiates the compact and is authorized to execute the compact after holding a public hearing. N.D. Cent. Code § 54-58-03. **Revenue sharing:** No	**Regulatory role:** Moderate **State regulatory agency:** • Office of Attorney General, Gaming Division **Number of regulatory staff:** 4 **State fiscal year 2013 funding for regulating Indian gaming:** $143,000 **State performed background checks:** Yes, state or federal background check required for employees and management contractors **State issued licenses and/or certifications:** No **Monitoring frequency:** Monthly, annually
Oklahoma		
Number of gaming tribes: 30 **Number of gaming operations by class:** **Class II:** 7 **Class II/III:** 112 **Class III:** 4	**State process to enter into compact:** • Compact terms specified in state law. • Tribes accept terms through signature of tribal Chief Executive Officer. • Okla. Stat. tit. 3A, §§ 280-281. **Revenue sharing:** Yes	**Regulatory role:** Moderate **State regulatory agency:** • Office of Management and Enterprise Services, Gaming Compliance Unit **Number of regulatory staff:** 3 **State fiscal year 2013 funding for regulating Indian gaming:** $1,085,000 **State performed background checks:** No **State issued licenses and/or certifications:** No **Monitoring frequency:** Annually
Oregon		
Number of gaming tribes: 8 **Number of gaming operations by class:** **Class II:** 1 **Class II/III:** 6 **Class III:** 2	**State process to enter into compact:** • Governor negotiates and executes compact. Or. Rev. Stat. § 190.110(3). **Revenue sharing:** No	**Regulatory role:** Active **State regulatory agency:** • State Police, Gaming Enforcement Section **Number of regulatory staff:** 18 **State fiscal year 2013 funding for regulating Indian gaming:** $2,325,000 **State performed background checks:** Yes, required for vendors; performed as requested by tribes for employees **State issued licenses and/or certifications:** No **Monitoring frequency:** Daily, weekly, monthly annually

Gaming tribes and operations by state as of November 2014	Compacts	State regulation of class III Indian gaming
South Dakota		
Number of gaming tribes: 9 **Number of gaming operations by class:** **Class II:** 5 **Class II/III:** 9 **Class III:** 0	**State process to enter into compact:** • Governor or designee may execute compact after public hearing(s). S.D. Codified Laws § 1-54-4. **Revenue sharing:** No	**Regulatory role:** Moderate **State regulatory agency:** • Commission on Gaming **Number of regulatory staff:** <1 **State fiscal year 2013 funding for regulating Indian gaming:** $30,000 **State performed background checks:** Yes, required for employees **State issued licenses and/or certifications:** Yes, licenses vendors **Monitoring frequency:** Annually
Washington		
Number of gaming tribes: 23 **Number of gaming operations by class:** **Class II:** 6 **Class II/III:** 15 **Class III:** 13	**State process to enter into compact:** • The Washington State Gambling Commission Director, or Director's designee, is authorized to negotiate compacts. • Proposed compacts must be submitted to State Gambling Commission members and state legislative committees on gaming compacts, which hold public hearings. • The State Gambling Commission votes to forward it to Governor for execution. • Wash. Rev. Code § 9.46.360. **Revenue sharing:** No	**Regulatory role:** Moderate **State regulatory agency:** • State Gambling Commission • Office of the Attorney General **Number of regulatory staff:** 43 **State fiscal year 2013 funding for regulating Indian gaming:** $4,882,000 **State performed background checks:** Yes **State issued licenses and/or certifications:** Yes, certifies suitability of employees and vendors **Monitoring frequency:** Annually, or more frequently as determined in consultation with tribes
Wisconsin		
Number of gaming tribes: 11 **Number of gaming operations by class:** **Class II:** 3 **Class II/III:** 18 **Class III:** 8	**State process to enter compact:** • Governor negotiates and executes compacts. Wis. Stat. § 14.035. **Revenue sharing:** Yes	**Regulatory role:** Active **State regulatory agency:** • Department of Administration, Division of Gaming **Number of regulatory staff:** 18 **State fiscal year 2013 funding for regulating Indian gaming:** $1,825,000 **State performed background checks:** Yes, required for vendors **State issued licenses and/or certifications:** Yes, vendor certification **Monitoring frequency:** Daily, weekly, monthly, annually, every 1.5 years

Gaming tribes and operations by state as of November 2014	Compacts	State regulation of class III Indian gaming
Wyoming		
Number of gaming tribes: 2 **Number of gaming operations by class:** **Class II:** 0 **Class II/III:** 2 **Class III:** 2	**State process to enter compact:** • The Governor's Office and Attorney General's Office are involved in the negotiation of compacts, according to a state official. **Revenue sharing:** No	**Regulatory role:** Limited **State regulatory agency:** • Office of the Attorney General **Number of regulatory staff:** 0 **State fiscal year 2013 funding for regulating Indian gaming:** $0 **State performed background checks:** No **State issued licenses and/or certifications:** No **Monitoring frequency:** Does not monitor

Sources: GAO analysis of National Indian Gaming Commission data, state laws and relevant court decisions on the compact process, and state information. | GAO-15-355

Appendix IV: Comments from the National Indian Gaming Commission

May 8, 2015

Ms. Anne-Marie Fennell
Director, Natural Resources and Environment
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Fennell:

Thank you for the opportunity to review and provide comments on the draft report entitled *Indian Gaming: Regulation and Oversight by the Federal Government, States, and Tribes* (GAO-15-355). The National Indian Gaming Commission reviewed the report and generally agrees with its findings and recommendations.

We were pleased that the report recognized the important and strong relationships between the NIGC, tribes, and states. As the report details, tribes dedicated $422 million to the regulation of the Indian gaming industry in 2013. The resources devoted to effective regulation, especially the thousands of tribal regulators, are a testament to the importance of gaming to tribal economic development and self-determination.

Sound regulation preserves public confidence, supports tribal self-sufficiency and self-determination, protects tribal assets, and promotes a safe and fair environment for all people who interact with the industry. The draft report is another tool for the Commission to assess its performance in the regulation of Indian gaming. We recognize there are still opportunities for improvement as we continue to advance the goals of the Indian Gaming Regulatory Act, but it is appropriate to highlight the work we have done. Many of the Commission's specific efforts in this area are outlined further below.

GAO Recommendation 1: To help make an informed decision, the Commission should seek input from states on its proposal to draft updated guidance on class III minimum internal control standards and withdraw its 2005 regulations.

NIGC Response: Earlier this year the Commission invited tribal leaders to participate in consultations on the issuance of guidance on class III minimum internal control standards that regulators may use in developing their own class III internal controls. The Commission recognizes and respects the sovereignty of Indian tribes and the government-to-government relationship that exists between the United States and tribal governments. The Commission is committed to implementing the President's November 5, 2009 Executive Memorandum on Tribal Consultation with Indian tribes and Executive Order 13175 prior to and during any rulemaking process. Once drafted, the guidance will be published for comments from the industry stakeholders including states.

NEW MAILING ADDRESS: NIGC/DEPARTMENT OF THE INTERIOR 1849 C Street NW, Mail Stop # 1621 Washington, DC 20240 Tel: 202.632.7003 Fax: 202.632.7066
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During the consultations that we have conducted so far, tribes have expressed concern over the withdrawl of the 2005 regulations and the possible void that may be left for tribes whose compacts reference or incorporate those standards. We will work closely with tribes and states to ensure that there is no void in the reglation of Indian gaming.

GAO Recommendation 2: To improve its ability to assess the effectiveness of its training and technical assistance efforts, the Commission should review and revise, as needed, its performance measures to include additional outcome-oriented measures.

NIGC Response: The Commission has committed itself to measuring the efficacy of its training and technical assistance and making adjustments, where necessary. The Commission is actively working to develop outcome-focused assessments of its effectiveness. Congress, through IGRA, mandated that the NIGC provide tribes with training and technical assitance. As we have discussed with GAO, the Commission's emphasis on training and technical assistance through the ACE initiative, is relatively new. The Commission's focus has been to incorporate this mandate into its overall compliance efforts rather than something that is done simply as a service. In recognition of the value of accurate performance measurements to continued improvement of operational management, the Commission has actively explored a variety tools to measure the effectiveness of the initiative.

One of the tools it has been using is an analysis of data contained in Agreed Upon Procedures (AUP) reports that tribes are required to submit to the Agency. A comparison of AUP findings from before the ACE initiative began with findings after show a 34% decline in high risk findings and a 36% decline in overall findings. The agency is mindful, however, of narrow reliance on any one data source in assessing its ongoing training and technical assistance. In addition to a review of data collected by existing means, the Commission has recently developed additional tools to track its operations. These include voluntary internal control assessments and IT threat assessments.

Further, the Commission is considering developing knowledge reviews that will be conducted during training sessions. The draft report recommends that the Commission apply the recommendations found in the GAO report titled *Human Capital: A Guide for Assessing Strategic Training and Development Efforts in the Federal Government*, GAO -04-546G (Washington, D.C.: March 2004). The Commission is currently reviewing this report to ascertain whether it is practical to track and apply individual training results to improvements in IGRA compliance. The Commission anticipates coordinating the development of performance measures with the regulated industry.

GAO Recommendation 3: To help ensure letters of concern are more consistently prepared and responses tracked, the Commission should develop documented procedures and guidance to 1) clearly identify letters of concern as such and to specify the type of information to be contained in them, such as time periods for a response; and 2) maintain and track tribes' responses to the Commission on potential compliance issues.

NIGC Response: The Commission's regulations related to letters of concern were first promulgated on August 9, 2012, and established a method to garner voluntary compliance through a graduated enforcement process. Additionally, a standardized format for these letters has

already been developed that include action timelines. Finally, the Commission is refining its procedures for tracking responses to these letters.

Thank you for the opportunity to review the draft report and for providing recommendations on how we may better implement the goals of IGRA. If you have any questions, please contact the Commission at 202-632-7003.

Sincerely,

Jonodev O. Chaudhuri
Chairman

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Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Anne-Marie Fennell, (202)512-3841 or fennella@gao.gov

Staff Acknowledgments

In addition to the individual named above, Jeff Malcolm (Assistant Director), Amy Bush, Jillian Cohen, John Delicath, Justin Fisher, Paul Kazemersky, Dan Royer, Jeanette Soares, Kiki Theodoropoulos, Swati Sheladia Thomas, and Lisa Turner made key contributions to this report.

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Tab 6

Presentations and Materials Provided by Presenters

Q&A

Q. The Florida Legislature recently rejected plans to put Las Vegas-style casinos in South Florida. In addition, Las Vegas Sands has announced they are no longer actively pursuing the effort in Florida. Why is this necessary?

A. The history of the expansion of gambling in Florida shows that those who want more gambling never stop. Rest assured that the international gambling conglomerates one day will return to Florida whenever they see an opportunity to expand here. We also have seen pari-mutuel owners repeatedly coming before the legislature claiming they must "level the playing field" by morphing into Vegas-style casinos, in an ever-escalating build up of gambling. Recently, pari-mutuel owners are seeking to bypass the legislature and use the court system to exploit wording in a statute to obtain slot machines.

Because of the Indian Gaming Regulatory Act (IGRA), any gambling made legal in the state has to be given to the Native American tribes in our state. Therefore, decisions made to give gambling to one facility can have a domino effect on other communities in Florida. The only way this will stop is for there to be a definitive constitutional barrier restoring power to Florida voters.

Q. Doesn't the state constitution already restrict gambling?

A. Yes. In the constitution, Article X, section 7 states: "Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state."For many years most policymakers and legal experts interpreted this as meaning no new gambling could be approved in Florida without amending the constitution. Conflicting case law, however, has given rise to the notion that the Florida Legislature can bypass this constitutional prohibition and legalize casino gambling. A very authoritative legal analysis of this issue was provided in the Florida Bar Journal a couple of years ago, and can be found here.

There are two pending court cases that could determine how Article X, section 7 will be applied. In the town of Gretna, gambling interests are arguing that possession of a pari-mutuel permit and a local referendum entitles them to slot machines. The case, Gretna Racing LLC v. Florida Department of Business and Professional Regulation, has been certified to the Florida Supreme Court. Groups supporting Voters In Charge will seek to file an amicus brief and lend support to the argument that the Florida Constitution is the ultimate authority in deciding on gambling expansion. A similar case, Investment Corporation of Palm Beach v. Department of Business and Professional Regulation, is pending in the 4th District Court of Appeals and our supporters will argue for strict enforcement of Article X, section 7 in that case as well.

We want to ensure that the people of Florida remain the ultimate judges of casino expansion in Florida. This petition resolves that issue once and for all.

Q. Is this petition effort premature given the Supreme Court hasn't ruled on the Gretna case yet?

A. Voters In Charge is beginning the petition effort now with the goal to collect 100,000 signed petitions, and submit those petitions to county Supervisors of Elections for validation by the end of 2015. We believe that will result in the necessary 68,314 valid petitions to trigger a review of the initiative by the Florida Supreme Court.

If the Supreme Court issues a favorable ruling in the Gretna case, offering a strict interpretation of Article X, section 7, then the people of Florida will have won and there will be no need to proceed with the petition. But if the court determines that the Legislature can legalize casino gambling without voter approval, then we are prepared to collect the remaining signatures and move forward with plans for a 2018 referendum.

Q. What is the history of gambling referenda in Florida?

A. Florida voters have repeatedly voted down proposals to allow Las Vegas-style casinos to enter Florida. In fact, votes in 1978 and 1986 were over 2 to 1 against the proposals. The vote in 1994 failed by 24 percentage points. Only with a carefully worded initiative in 2004 promising slots would be confined to existing pari-mutuel facilities in Broward and Miami-Dade, did gambling proponents pass an amendment by a slim .8% margin (when the threshold for passage was only a simple majority). As could have been predicted, the South Florida pari-mutuels did not produce promised revenue to Florida education, with the gambling expansion only escalating pressure to introduce slot machines in other counties.

- 1978: Yes= 28.6%, No=71.4%
- 1986: Casino gambling: Yes=31.7%, No=68.3%
  Lottery: Yes=63.6%, No=36.4%
- 1994: Yes=38.0%, No=62.0%
- 2004: Yes=50.8%, No=49.2%

Q. Will Florida voters support this proposed amendment?

Supporters of Voters In Charge developed this amendment three years ago for legislative consideration. Polling on the amendment has show it consistently getting support approaching or exceeding 70% of Florida voters. We have little doubt about our ability to prevail if this issue is put to residents to decide.

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FURTHER INFORMATION FOR FISCAL IMPACT ESTIMATING CONFERENCE
VOTER CONTROL OF GAMBLING IN FLORIDA

PROVIDED BY VOTERS IN CHARGE

MAY 4, 2016

Q: Regarding amendment's impact on designated player games or "player banked" games at pari-mutuels:

A: The existence of designated player games at pari-mutuel cardrooms in Florida is a recent development, not authorized by statute, but through rules created by the Department of Business and Professional Regulation. The first such approvals were for Double Hand Poker in 2011, then a 2014 rule governing conduct of player-banked card games. These games and their play at pari-mutuel cardrooms are now the subject of proposed rulemaking by the Division. These games are also a subject of litigation in Federal Court between the Seminole Tribe of Florida and the State of Florida. Accordingly, at this point, the Department of Business and Professional Regulation is in the best position to characterize what player-banked games that imitate Class III games are currently authorized and might be disallowed under the proposed amendment.

Based on the same economic principles of gambling that EDR has outlined in past presentations to the legislature, we believe that it is clear that any revenue that the state currently derives from player-banked games that might be disallowed by the amendment is both insignificant, and would be replaced through current players switching to other card games that are identically taxed, or other forms of gambling or other discretionary spending from which the state also derives revenue.

It is also possible that disallowing these player-banked games will provide fiscal benefits to the state by assisting the state in avoiding conflict with the Seminole Tribe regarding compact exclusivity provisions, which has the dual benefit of allowing the state to avoid legal costs AND avoid real or contended compact exclusivity violations that might cause the tribe to withhold revenues to the state.

Q: Regarding sentence in subsection (b): ("As used herein, 'casino gambling' includes any electronic gambling devices, simulated gambling devices, video lottery devices, internet sweepstakes devices, and any other form of electronic or electromechanical facsimiles of any game of chance, slot machine, or casino-style game, regardless of how such devices are defined under IGRA.") and potential effect on Class II gambling games in Florida:

A: As stated in our presentation, the purpose of this section is to close loopholes that are otherwise exploited by those who purvey devices that look and feel like Class III gambling, but for which some technological or procedural trait becomes a legal distinction allowing it to be described as something other than Class III gambling. The most notorious case in point is "internet sweepstakes cafés," and "adult arcades."

It is our understanding that no such facilities are authorized today. Therefore, there is no fiscal impact associated with this portion.

It was also asked if this definition would include simple amusement apps, such as those on iPads, iPhones or similar devices. Inherent in the term "Casino gambling" is the word "gambling." Therefore, games of chance for which there is no prize or consideration and are simply for amusement would not be considered casino gambling as defined by this amendment. This is therefore fiscally neutral.

It was asked how the amendment might impact the operation of "electronic table games" marketed by certain south Florida pari-mutuels as "blackjack, roulette, craps and baccarat." Authorization for these games is the result of an Administrative Law Judge's decision that the Department of Business and Professional Regulation lacked the rulemaking authority to require these games to have an internal random number generator. The judge held that these games, based on their electronic characteristics, fall under the legal definition of a slot machine. The operation of these games are at the heart of the Seminole Tribe of Florida's federal lawsuit against the state. The Tribe considers their existence a violation of the compact. They are therefore a threat to state revenue derived from the tribe. Under this amendment, such games that imitate Class III games that are not authorized in the Constitution would not be allowed. This would protect state revenue under the Seminole Compact, and revenues that the state realizes from a specific machine that may be disallowed under our amendment is insignificant, and would continue to be realized by gamblers diverting their discretionary spending to approved slot machines at the same facility or elsewhere within or outside of the racino.

Q: What is the potential impact of the amendment on Daily Fantasy Sports?

A: It is our understanding that there are no current Florida statutes that specifically authorize, prohibit, or tax internet-based games such as are now known as "daily fantasy sports". As such there can be no fiscal impact related to these games, which are currently neither specifically authorized nor taxed. Our amendment was originally written before the introduction of such games and therefore does not specifically speak to this issue.

Q: The conference asked about retroactive application of our amendment.

A: As stated in our response to the conference, the intent of our amendment is to clarify an existing constitutional standard for what forms of gambling are and are not legal to operate within the state. Like any other constitutional provision and any other constitutional amendment, it is applied to existing and proposed policies. This information is provided as background to the conference, since it does not pertain to a fiscal matter.

Q**: Does our amendment limit the ability of the state to offer any kind of gambling to a Native American tribe pursuant to a compact for gambling on tribal property?**

A: Our intent with this amendment is to not countervail federal law as it relates to compacts on tribal lands. This provision does not allow State-Tribal compacts to be used as a vehicle to authorize non-tribal gambling outside of the amendment's prescribed voter approval process.

The only compact currently in Florida law is the compact that relates to slot machines. This compact would not be impacted by our amendment, except that it makes it less likely that the state will violate such compacts in the future, therefore protecting State revenue currently provided by the Seminole Tribe.

Tab 7

Impact

FINANCIAL IMPACT ESTIMATING CONFERENCE
FINANCIAL IMPACT STATEMENT
VOTER CONTROL OF GAMBLING IN FLORIDA (15-22)

The amendment's impact on state and local government revenues and costs, if any, cannot be determined at this time because of its unknown effect on gambling operations that have not been approved by voters through a constitutional amendment proposed by a citizens' initiative petition process.

FINANCIAL IMPACT ESTIMATING CONFERENCE
SUMMARY OF INITIATIVE FINANCIAL INFORMATION STATEMENT
VOTER CONTROL OF GAMBLING IN FLORIDA (15-22)

The proposed amendment would prohibit certain activities defined as "casino gambling" unless they are authorized by a constitutional amendment approved by voters through the citizens' initiative petition process. The proposed amendment is not expected to affect the authority of the state to enter into compacts addressing gambling on tribal lands pursuant to the Federal Indian Gaming Regulatory Act.

- The amendment's impact on state and local government revenues, if any, cannot be determined at this time because there are a number of uncertainties regarding the effect of the amendment on currently authorized gambling activities which have not been authorized pursuant to a citizens' initiative. The primary uncertainty is whether the amendment's effects will be prospective only or also retrospective. In this context, the term "prospective" means that the casino gambling activities that have been authorized prior to the effective date of the amendment will not be affected. The term "retrospective" means that casino gambling activities authorized at the time the amendment is adopted will have to cease unless they have been authorized pursuant to a citizens' initiative.

- Further uncertainties exist regarding the extent to which currently authorized casino gambling activities may be affected by the amendment. Ongoing litigation and administrative hearings complicate the determination of what types of casino gambling activities would be "currently authorized" as of the effective date of the amendment.

- There is no revenue impact if the amendment is deemed to be only prospective in its application. The revenue impact, if any, would come from a retrospective application of the amendment which de-authorizes certain gambling operations or games that are currently subject to taxes or fees. To the extent this occurs, behavioral changes that lead to the shifting of one type of gambling activity for another taxable activity would mitigate the loss.

- The amendment does not directly require or prohibit an expenditure by state or local government, but there may be an indirect effect from its implementation. If the amendment is determined to have only a prospective application, it will have no impact on anticipated government costs. However, if it is determined that the amendment de-authorizes certain gambling operations or games that are currently allowed, costs of regulating casino gambling activities may be reduced, and the loss of tax revenues may cause some appropriations reductions.

FINANCIAL IMPACT ESTIMATING CONFERENCE

COMPLETE INITIATIVE FINANCIAL INFORMATION STATEMENT:
VOTER CONTROL OF GAMBLING IN FLORIDA (15-22)

SUMMARY OF INITIATIVE FINANCIAL INFORMATION STATEMENT

The proposed amendment would prohibit certain activities defined as "casino gambling" unless they are authorized by a constitutional amendment approved by voters through the citizens' initiative petition process. The proposed amendment is not expected to affect the authority of the state to enter into compacts addressing gambling on tribal lands pursuant to the Federal Indian Gaming Regulatory Act.

- The amendment's impact on state and local government revenues, if any, cannot be determined at this time because there are a number of uncertainties regarding the effect of the amendment on currently authorized gambling activities which have not been authorized pursuant to a citizens' initiative. The primary uncertainty is whether the amendment's effects will be prospective only or also retrospective. In this context, the term "prospective" means that the casino gambling activities that have been authorized prior to the effective date of the amendment will not be affected. The term "retrospective" means that casino gambling activities authorized at the time the amendment is adopted will have to cease unless they have been authorized pursuant to a citizens' initiative.

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FINANCIAL IMPACT STATEMENT

The amendment's impact on state and local government revenues and costs, if any, cannot be determined at this time because of its unknown effect on gambling operations that have not been approved by voters through a constitutional amendment proposed by a citizens' initiative petition process.

SUBSTANTIVE ANALYSIS

A. Proposed Amendment

Ballot Title:

Voter Control of Gambling in Florida

Ballot Summary:

This amendment ensures that Florida voters shall have the exclusive right to decide whether to authorize casino gambling by requiring that in order for casino gambling to be authorized under Florida law, it must be approved by Florida voters pursuant to Article XI, Section 3 of the Florida Constitution. Affects articles X and XI. Defines casino gambling and clarifies that this amendment does not conflict with federal law regarding state/tribal compacts.

Proposed Amendment to the Florida Constitution:

The amendment proposes to add new Section 29 to Article X as follows:

Voter Control of Gambling in Florida.

(a) This amendment ensures that Florida voters shall have the exclusive right to decide whether to authorize casino gambling in the State of Florida. This amendment requires a vote by citizens' initiative pursuant to Article XI, section 3, in order for casino gambling to be authorized under Florida law. This section amends this Article; and also affects Article XI, by making citizens' initiatives the exclusive method of authorizing casino gambling.

(b) As used in this section, "casino gambling" means any of the types of games typically found in casinos and that are within the definition of Class III gaming in the Federal Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq. ("IGRA"), and in 25 C.F.R. §502.4, upon adoption of this amendment, and any that are added to such definition of Class III gaming in the future. This includes, but is not limited to, any house banking game, including but not limited to card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games); any player-banked game that simulates a house banking game, such as California blackjack; casino games such as roulette, craps, and keno; any slot machines as defined in 15 U.S.C.1171 (a)(1); and any other game not authorized by Article X, section 15, whether or not defined as a slot machine, in which outcomes are determined by random number generator or are similarly assigned randomly, such as instant or historical racing. As used herein, "casino gambling" includes any electronic gambling devices, simulated gambling devices, video lottery devices, internet sweepstakes devices, and any other form of electronic or electromechanical facsimiles of any game of chance, slot machine, or casino-style game, regardless of how such devices are defined under IGRA. As used herein, "casino gambling" does not include pari-mutuel wagering on horse racing, dog racing, or jai alai exhibitions. For purposes of this section, “gambling" and "gaming" are synonymous.

(c) Nothing herein shall be deemed to limit the right of the Legislature to exercise its authority through general law to restrict, regulate, or tax any gaming or gambling activities. In addition, nothing herein shall be construed to limit the ability of the state or Native American tribes to negotiate gaming compacts pursuant to the Federal Indian Gaming Regulatory Act for the conduct of casino gambling on tribal lands, or to affect any existing gambling on tribal lands pursuant to compacts executed by the state and Native American tribes pursuant to IGRA.

(d) This section is effective upon approval by the voters, is self-executing, and no Legislative implementation is required.

(e) If any part of this section is held invalid for any reason, the remaining portion or portions shall be severed from the invalid portion and given the fullest possible force and effect.

B. Effective Date

By its own terms, the proposed amendment becomes effective upon approval by the voters. The election will be held November 6, 2018.

C. Substantive Effect of Proposed Amendment

The proposed amendment would prohibit certain activities defined as "casino gambling" unless authorized by a constitutional amendment approved by voters through the citizens' initiative petition process. The proposed amendment is not expected to affect the authority of the state to enter into compacts addressing gambling on tribal lands pursuant to the Federal Indian Gaming Regulatory Act.

D. Background

Sponsor of the Proposed Amendment

Voters in Charge is the organization sponsoring the proposed amendment.

Division of Pari-Mutuel Wagering

Pari-mutuel wagering is regulated by the Division of Pari-Mutuel Wagering (division) in the Department of Business and Professional Regulation (DBPR). The division has regulatory oversight of permitted and licensed pari-mutuel wagering facilities, cardrooms at pari-mutuel facilities located throughout the state, and slot machines at pari-mutuel facilities located in Miami-Dade and Broward counties.[1]

Slot Machines

Slot machines are currently authorized at 8 pari-mutuel facilities located in Miami-Dade and Broward counties. Taxes are imposed at a rate of 35% on slot machine net win revenues. All slot machine tax revenues are deposited to the Educational Enhancement Trust Fund (EETF). Each facility must also pay an annual license fee of $2.0 million to cover the division's expenses. Any unappropriated funds in excess of those necessary for incurred obligations and subsequent year cash flow needs are transferred to the General Revenue Fund.[2] In addition, slot machine licensees must pay an annual regulatory fee of $250,000 to the division to fund the compulsive or addictive gambling prevention program. The following table provides estimated slot machine tax revenues by facility and in total by fiscal year.

[1] Senate Bill Analysis for SB7072, February 2016.
[2] Section 550.135(3), F.S.

Slot Machine Tax Revenues, Fiscal Years 2014-15 through 2020-21

	Gulf Stream	Mardi Gras	Pompano	Magic City Flagler	Calder	Miami Jai-Alai	Hialeah	Dania	Total
2014-15	17.2	16.8	50.6	28.0	25.8	19.9	22.4	1.3	182.2
2015-16	16.4	16.0	53.2	29.8	25.6	21.4	23.8	4.8	191.0
2016-17	14.1	13.2	53.8	30.2	24.2	21.6	24.4	13.9	195.4
2017-18	14.3	13.3	55.3	30.6	24.5	21.8	24.8	14.1	198.7
2018-19	14.4	13.5	56.4	30.9	24.9	22.0	25.2	14.3	201.5
2019-20	14.6	13.6	57.5	31.3	25.2	22.2	25.6	14.5	204.4
2020-21	14.7	13.7	58.6	31.6	25.6	22.4	25.9	14.7	207.2

Source: Slot Machine Tax Revenues December 2015 Revenue Estimating Conference. Fiscal Year 2014-15 actual revenues; Fiscal Year 2015-16 through 2020-21 estimated revenues.

Pari-mutuel facilities that operate slot machine gaming are governed by ch. 551, F.S. Eligible facilities are defined to include:

1. Any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 and has been approved by a majority of voters in a countywide referendum to have slot machines at such facility in the respective county;
2. Any licensed pari-mutuel facility located within a county as defined in s. 125.011, F.S., provided such facility has conducted live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter; or
3. Any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section in the respective county, provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter.

Seven pari-mutuel facilities obtained eligibility through constitutional approval - the first clause above. An additional pari-mutuel facility, Hialeah Park, was ineligible as it had not operated live racing or games during 2002 and 2003. It obtained eligibility through the second clause. No facilities have obtained eligibility through the third clause; however, it has been subject to competing interpretations. Stakeholders and counties have argued that the phrase "after the effective date of this section" applies to "a countywide referendum held" - so any county could authorize slot machines relying on their general authority to hold referenda. Based on this interpretation, Brevard, Gadsden, Lee, Palm Beach, Hamilton and Washington counties, have approved slot machines at pari-mutuel facilities by referendum. The Attorney General rejected this interpretation, arguing that the phrase "after the effective date of this section" modified the phrase "a statutory or constitutional authorization" so counties could not rely on their general authority to hold referenda, instead needing a specific authorization to hold a referendum on the question of slot machines.[3]

There is currently ongoing litigation regarding the authorization of slot machines outside of Miami-Dade and Broward counties.[4] Specifically, Gretna Racing, LLC contends that it is authorized to operate slot machines in Gadsden County because voters approved slot machine gaming in a countywide referendum in 2012. The Florida Supreme Court is set to hear oral arguments for this case on June 7, 2016. The decision in this case

[3] House Bill Analysis for HB1233, April 2015. Also see 2012-01 Fla. Op. Att'y Gen. (2012).
[4] *Gretna Racing, LLC, v. Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering*, 178 So. 3d 15 (Fla. 1st DCA 2015), *on appeal* (Fla. SC15-1929 filed October 20, 2015).

will have implications for the future of gaming in Florida and whether or not non-tribal slot machine gaming could expand beyond the two counties where it is authorized today. In addition to Gadsden County, the five other counties in Florida that have also approved slot machines pursuant to countywide referenda would be affected by the court decision.

In presentations to the conference, Voters in Charge stated that the intent of the proposed amendment is to clarify the original intent of the Constitution. Therefore, they believe that there would be no impact to slot machine activity at the seven pari-mutuel facilities in Miami-Dade and Broward counties that were approved pursuant to the 2004 citizens' initiative. However, the sponsor reported that there would be an impact to the slots facility in Hialeah because it was authorized by statute and not by citizens' initiative.

In addition, according to the sponsor's testimony, the proposed amendment would prohibit non-tribal casino gambling at any location in the state, unless approved by citizens' initiative pursuant to Article XI, Section 3 of the Florida Constitution.

Cardrooms, Designated Player Games, and Player-Banked Games

Section 849.086, F.S., authorizes cardrooms at licensed pari-mutuel facilities and defines authorized games as poker and dominoes. In order for a cardroom license to be renewed the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto if the permitholder ran at least a full schedule of live racing or games in the prior year.

After rulemaking proceedings in 2013 and 2014, DBPR adopted amended administrative rules regarding cardrooms. Rule 61D-11.001(17), F.A.C., defines the term "designated player" to mean the player identified by the button as the player in the dealer position. Rule 61D-11.002(5), F.A.C., addresses rules for designated player games:

> Card games that utilize a designated player that covers other players' wagers shall be governed by the cardroom operator's house rules. The house rules shall:
> (a) establish uniform requirements to be a designated player;
> (b) ensure that the dealer button rotates around the card table in a clockwise fashion on a hand by hand basis to provide each player desiring to be the designated player an equal opportunity to participate as the designated player; and
> (c) not require the designated player to cover all potential wagers.

After the 2014 rule was adopted, designated player games wherein the designated player acted as the bank (player-banked games) were offered by cardroom operators. According to DBPR, designated player games do not include player-banked games. Although the department has provided notice that player-banked games are not authorized, some cardrooms may still be offering the games.

In 2015, DBPR pursued additional rulemaking "to address issues discovered in the implementation and practical application of cardroom rules adopted on July 21, 2014." The proposed rule amendments delete Rules 61D-11.001(17) and 61D-11.002(5), quoted above.

Several pari-mutuel facilities challenged the proposed rule amendments and are currently scheduled for final hearing before the Division of Administrative Hearings (DOAH).[5] Additionally, DBPR filed administrative complaints against several facilities for conducting unauthorized gaming. These complaints are also currently being challenged.[6]

Classes of Gaming

The Federal Indian Gaming Regulatory Act (IGRA) defines Class I, Class II, and Class III Gaming as follows:

- Class I Gaming – social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.
- Class II Gaming – the game of chance commonly known as bingo, whether or not it is electronic; and card games that are explicitly authorized by the laws of the State, or are not explicitly prohibited by the laws of the State and are played at any location in the State. Class II Gaming does NOT include any banking card games, including baccarat, chemin de fer, or blackjack, or electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.
- Class III Gaming – all forms of gaming that are not Class I or Class II gaming.

The 2010 Indian Gaming Compact defines Class II and Class III Games consistent with IGRA and further provides that "Covered Games" include the following Class III gaming activity: slot machines, banked card games, raffles and drawings, and any new game authorized by Florida law for any purpose. The 2010 Compact provides that the Tribe is authorized to operate covered games with exclusivity, with the exception of the slot machines authorized to operate at pari-mutuel facilities in Miami-Dade and Broward County.

The proposed amendment "ensures that Florida voters shall have the exclusive right to decide whether to authorize casino gambling" in Florida and defines "casino gambling", in part, as any type of game typically found in casinos within the IGRA definition of Class III Gaming. The amendment specifies that casino gambling includes, but is not limited to, any house banking game; any player-banked game; casino games such as roulette, craps, and keno; slot machines; instant racing machines; and historical racing machines. These portions of the definition appear to be consistent with Class III Gaming as contemplated in IGRA and the 2010 Indian Gaming Compact. However, the amendment further specifies that "casino gambling" also includes any electronic bingo devices, simulated gambling devices, video lottery devices, internet sweepstakes devices, and any other form of electronic game of chance, slot machine, or casino-style game, regardless of how such devices are defined under IGRA. Voters in Charge reported that the intent of the proposed amendment is to prohibit Class III Games and any games that imitate Class III Games that have not been authorized pursuant to a citizens' initiative.

Indian Gaming Compact

The 2010 Indian Gaming Compact provides substantial exclusivity of certain Class III gaming to the Seminole Tribe while also requiring revenue sharing with the state. The Tribe was required to make a minimum guaranteed payment for each of the first five years of the Compact unless 12 percent of Net Win produced a larger amount, in which case a true-up payment was also required. Fiscal Year 2014-15 was the last year of

[5] The rule challenges involve the following DOAH cases, which have been consolidated: 15-007010RP through 15-007016RP, and 15-007022RP. There was another petition that was originally part of the consolidated group, case number 15-007055RP; however, it was voluntarily dismissed. The hearing on the remaining cases is scheduled for July 2016.
[6] The eleven complaints have been consolidated into two groups: case numbers 16-001504 through 16-001509 have been consolidated with case number 16-001839, and is set for hearing in late May and early June 2016; and case numbers 16-001008 through 16-001011 have been consolidated and are currently being held in abeyance.

the minimum guarantee payment period. True-up payments were generated in fiscal years 2012-13, 2013-14, and 2014-15, which means that revenue sharing exceeded the minimum guarantee. The 2010 Compact has a term of 20 years and will expire in its entirety in 2030. However, authorization for banked card games expired July 31, 2015. The Compact states that if the banked card games provision expires, the Tribe will cease revenue share payments for all gaming activity in Broward County. From the expiration date, the Tribe had a 90-day grace period in which to terminate operation of banked card games; however, the Tribe has continued to operate those games. While the Tribe is still remitting revenue sharing associated with the banked card games, those dollars are not included in the state's official forecast.[7] The current forecast for Indian Gaming Revenues is provided in the table below.

Indian Gaming Revenues, Fiscal Years 2014-15 through 2020-21

	Receipts	Local Distribution	General Revenue
2014-15	255.6	7.1	248.5
2015-16	215.4	7.7	207.7
2016-17	126.2	6.3	119.9
2017-18	124.4	3.7	120.7
2018-19	126.4	3.7	122.6
2019-20	128.3	3.8	124.5
2020-21	130.3	3.9	126.5

Source: Indian Gaming Revenues, December 2015 Revenue Estimating Conference

Note: FY15-16 includes revenues from banked card games during the 90-day grace period.

A proposed 2015 Compact was signed by the Governor on December 7, 2015, but was not ratified by the Legislature during the 2016 Regular Session. The proposed 2015 Compact would have reinstated the authority to operate banked card games at the 5 facilities that are currently operating banked card games and extended the authorization to two other facilities for the entire term of the new compact which would have ended in 2036. The proposed 2015 Compact also would have allowed all seven of the Tribe's facilities to operate live table games such as craps and roulette.

The proposed 2015 Compact also established a Guarantee Payment Period that is defined as the seven-year period beginning July 1, 2017, and ending June 30, 2024. During the Guarantee Payment Period, the Tribe would make payments as specified ranging from $325 million in the first year to $550 million in the last year, for a total of $3 billion. At the end of the seven-year period, a true-up payment would be required if the amount due using the revenue share rates and brackets outlined in the 2015 Compact would have generated more than $3 billion. The proposed 2015 Compact also established an Initial Payment Period defined as the period beginning on the effective date of the Compact and ending June 30, 2017. During the Initial Payment Period, revenue share rates and brackets that are the same as the ones in the 2010 Compact would be used to determine payments to the state.

The proposed 2015 Compact also outlined exceptions to the exclusivity provided to the Tribe that would not have negative impacts on revenue sharing, such as: one additional slot machine facility in both Miami-Dade and Palm Beach counties, blackjack at slots facilities in Miami-Dade and Broward counties under certain circumstances, a reduction in the tax rate for pari-mutuels to as low as 25% of slot machine revenue, and decoupling slots from other pari-mutuel activities such as greyhound racing, horse racing, and jai alai.

[7] The authority of the Tribe to operate banked card games is currently being litigated. *Seminole Tribe v. State*, No. 4:15cv516-RH/CAS (N.D. Fla. May 13, 2016).

According to the sponsor, the proposed amendment is not intended to conflict with the 2010 Compact and therefore would not have an impact on revenue sharing payments. The proposed amendment permits the negotiation of gaming compacts pursuant to IGRA to allow Class III Gaming in Tribal facilities.

Department of Lottery

In November 1986, voters approved an amendment to the Florida Constitution (Article X, Section 15) providing for a state-operated lottery. Chapter 24, F.S., implements the state operated lottery. The Department of Lottery was created during the 1987 Regular Legislative Session, and the state lottery officially began selling tickets on January 12, 1988. The Lottery operates both instant ticket games (scratch-off) and terminal games and is required to determine prize percentages that maximize education funding. After prizes and administrative expenses are paid from total collections, the remainder is deposited into the Educational Enhancement Trust Fund (EETF).[8]

Based on the plain language of the proposed amendment and according to the sponsor, the proposed amendment will not affect any game the state can operate lawfully under Article X, Section 15.

Department of Agriculture and Consumer Services

The Division of Consumer Services within the Department of Agriculture and Consumer Services (DACS) is the state's clearinghouse for consumer complaints, information, and protection. DACS regulates game promotions and sweepstakes in Florida. A game promotion or sweepstakes is a marketing technique designed to induce consumers to purchase a product or service. The prizes in legitimate game promotions in Florida must be awarded solely by chance, and contestants must not be required to pay a fee or make a purchase to enter or increase their odds of winning. DACS registers legitimate game promotions, and provides assistance to consumers harmed by fraudulent game promotions. According to DACS, the proposed amendment would not have a fiscal impact on these types of games.

E. Financial Impact of Proposed Amendment

Section 100.371(5)(a), F.S., requires that the Financial Impact Estimating Conference "…complete an analysis and financial impact statement to be placed on the ballot of the estimated increase or decrease in any revenues or costs to state or local governments resulting from the proposed initiative."

As part of determining the fiscal impact of this proposed amendment, the Conference held five public meetings:

- Public Workshop on April 27, 2016
- Principals' Workshop on May 4, 2016
- Formal Conference on May 12, 2016
- Formal Conference on May 17, 2016
- Formal Conference on May 18, 2016

[8] 2016 Tax Handbook

Requested Information from State Entities and Other Organizations

Presenter	Date	Summary of Information
Department of Business and Professional Regulation (DBPR)	May 4th	The department has taken the position that player-banked games are prohibited by statute. The department is uncertain of the effect the proposed amendment might have on the operation of slot machines at Hialeah.
Department of Lottery (DOL)	May 3rd	The department does not think the proposed amendment will have any impact on its current operations or any of its planned operations.*
Department of Agriculture and Consumer Services (DACS)	May 3rd	The proposed amendment does not appear to directly impact the department's regulation of game promotions.*
Voters in Charge	April 27th and May 4th	The sponsor indicated that there would be no impact to live racing; jai-alai; cardrooms; or slot machines at the seven pari-mutuel facilities in Miami-Dade and Broward counties that were approved pursuant to the 2004 citizens' initiative. The sponsor believes that the proposed amendment would effectively de-authorize slot machines at Hialeah, but that there would not be an overall loss in state revenue as a result because the money spent on slot machine gaming at Hialeah would be spent either on other gaming or some other taxable item or activity in the state.

*E-mails dated May 3, 2016 on file with the Office of Economic and Demographic Research (EDR).

Neither the League of Cities nor the Association of Counties provided comments regarding the proposed amendment.

Revenues

The proposed amendment's impact on state and local government revenues, if any, cannot be determined at this time because there are a number of uncertainties regarding the effect of the amendment on currently authorized[9] gambling activities which have not been authorized pursuant to a citizens' initiative. The primary uncertainty is whether the proposed amendment's effects will be prospective[10] only or also retrospective[11]. Further uncertainties exist regarding the extent to which other currently authorized casino gambling activities may be affected by the proposed amendment. These issues are discussed below.

[9] This discussion is limited to those casino gambling activities that are currently authorized. However, the proposed amendment will not be before the voters until November, 2018. Therefore, other authorized gambling activities not known today may also be affected by the proposed amendment.

[10] In this context, prospective means it will not affect those casino gambling activities that have been previously authorized.

[11] In this context, retrospective means casino gambling activities that are authorized at the time the amendment is adopted will have to cease, unless they have been previously authorized pursuant to a citizens' initiative petition.

Prospective v. Retrospective

The FIEC has concluded that it cannot determine whether the proposed amendment will have a prospective or retrospective effect because its effect on "casino gambling" authorized in Florida prior to November 2018 by means other than citizens' initiative is not clear.

When determining the effect of a new constitutional provision on existing statutes where the intent is unclear, courts resort to rules of statutory construction and consider several legal principles. Among these are:

- Amendments to the constitution generally are prospective in operation, and if neither the provision, nor the ballot statement, manifest any intent that an amendment is to be applied retroactively, it will be given prospective effect only. See *State v. Lavazzoli*, 434 So. 2d 321, 323 (Fla. 1983). This rule applies with particular force to those instances where retrospective operation of the law would impair or destroy existing rights. *Trustees of Tufts College v. Triple R. Ranch, Inc.*, 275 So.2d 521 (Fla.1973).

- In considering the effect of constitutional amendments upon existing statutes, the rule is that the statute will continue in effect unless it is completely inconsistent with the plain terms of the Constitution. *In re Advisory Opinion to the Governor*, 132 So. 2d 163, 169 (Fla. 1961). A statute in force when a constitutional amendment is adopted ordinarily is not affected by it unless the new constitution or the new amendment is clearly and irreconcilably in conflict with the statute. In such case, the statute may be regarded as repealed by the constitutional provision by implication. *Am. Jur. 2d, Constitutional Law § 50*.

- Implied repeals of statutes by later constitutional provisions are not favored. To effect a repeal by implication, the inconsistency between existing legislation and a new constitutional provision must be irreconcilable, that is, the inconsistency must be obvious, clear, and strong. Such a statute cannot be upheld if it is opposed to the plain terms of the new constitution if the statute is inconsistent with the full operation of its provisions. Otherwise, the statute will be deemed to be still in force and effect. In making the determination whether there is a conflict between a preexisting statute and a new constitutional provision so that the statute is repealed by implication, a court will presume in favor of the constitutionality of the statute until the contrary clearly appears and will, if possible, construe a statute so as to render it valid. The repeal must be plain and unambiguous. *Am. Jur. 2d, Constitutional Law § 51*.

The first sentence of subsection (a) of the proposed amendment reads: "[t]his amendment ensures that Florida voters **shall have** the exclusive right to decide whether **to authorize** casino gambling in the State of Florida." (emphasis supplied) It does not say: "[t]his amendment ensures that only casino gambling that has been authorized by the voters is allowed in Florida." The use of the phrases "shall have" and "to authorize" could be read to be prospective only, allowing a court to decide that the adoption of the proposed constitutional amendment does not conflict with, or upset, the current statutory scheme. These phrases are also present in the Ballot Summary.

The second sentence of subsection (a), reads: "[t]his amendment requires a vote by citizens' initiative pursuant to Article XI, Section 3, in order for casino gambling **to be authorized** under Florida law." (emphasis supplied) One particular phrase appears to be crucial: "to be authorized." The phrase is not defined. One plausible interpretation is that in order "to be authorized" means in order for such authority to exist under Florida law, it "requires a vote by citizens' initiative…." A court could simply read that sentence and decide that in order to be authorized under Florida law, casino gambling must be approved by citizens' initiative and to the extent that a statute provided otherwise, a conflict exists that cannot be reconciled. However, a reasonable person could

also read that sentence together with the first sentence and conclude that there is insufficient clarity regarding an intent to create a conflict with existing statutory provisions and therefore find that such a conflict does not legally exist.

A court trying to determine the effect of the proposed amendment on existing statutes would be faced with parsing these sentences and determining the meaning of words individually and together. Trying to anticipate what a court will decide here is fraught with uncertainty. In the end, the effect of the adoption of the proposed amendment on the operation of slot machines and other casino gambling not authorized by citizens' initiative will depend upon the actions, or inactions, of multiple parties, including the Legislature[12], the Department of Business and Professional Regulation, parties with standing to challenge such actions or inactions, and ultimately the courts.

Depending on these outcomes, the amendment may or may not have a financial impact.

1. Prospective – No financial impact

If the amendment is ultimately determined to be prospective only, there will be no financial impact on state and local governments. Gambling activities authorized prior to the amendment's adoption and their associated revenues will continue as if the amendment had not been adopted.

2. Retrospective – Financial impact cannot be determined

If the amendment is ultimately determined to be retrospective, the amendment will have an impact on state and local government revenues. However, a probable financial impact cannot be determined because whether certain casino gambling activities are currently authorized is not clear.

The FIEC has identified four activities that may be affected if the proposed amendment has a retrospective effect. These are discussed below. There will be varying degrees of substitution associated with the losses identified for each of the activities. For example, research shows that the vast majority of the net win generated by casinos (the amount typically retained by the casino after prizes and certain promotional activities are paid) comes from a limited number of frequent players.[13,14] The most recent literature indicates that as much as 90% of the net win is generated by just 10% of the players; this is referred to as "revenue concentration." Given this research, it is probable that de-authorizing certain gambling operations or games will result in substantial shifting of dollars previously spent on that activity to another game or gambling operation that acts as a viable substitute--both in type and proximity. To the extent this substitution occurs, there would be no revenue loss to the state. To the extent that current players shift away from spending on gambling, there may be revenue losses. Since many of these players would then make other taxable purchases with their entertainment dollars, the ultimate loss would reflect only the incremental difference between the tax rates (e.g., the applicable tax rate on gambling versus the tax on sales).

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[12] Legislative construction of a constitutional provision is entitled to great weight (see *Amos v. Moseley*, 74 Fla. 555, 77 So. 619 (1917)) and a contemporaneous construction of the Constitution by the Legislature is strongly presumed to be correct. *Am. Bankers Ins. Co. v. Chiles*, 675 So. 2d 922, 923 (Fla. 1996) The Legislature may or may not amend or adopt statutes implementing the constitutional amendment. If it does, and if a court finds the constitutional language susceptible to two different meanings, the meaning adopted by the Legislature is conclusive. See *Vinales v. State*, 394 So. 2d 993 (Fla. 1981).

[13] J.W. Welte et al., The Relationship of Ecological and Geographic Factors to Gambling Behavior and Pathology, 20 J. Gambling Studies 405 (2004).

[14] Richard A. LaBrie et al., Inside the Virtual Casino: A Prospective Longitudinal Study of Actual Internet Casino Gambling, 18 Eur. J. Public Health 410 (2008).

a. Hialeah Park Slots Facility. As discussed in section “D. Background” of this document, the authorization for the Hialeah Park slots facility was granted by law and not pursuant to a citizens’ initiative petition. Therefore, if the Hialeah Park slots facilities cannot continue to operate, state revenues are expected to be reduced by an indeterminate amount due to the loss of slot machine tax revenues, $2.0 million from the loss of the annual license fee and the $250,000 compulsive gambling fee currently paid by Hialeah Park.

b. Player-Banked Card Games. As discussed in section "D. Background,” the status of player-banked card games at cardrooms is the subject of administrative hearings before the DOAH. Player-banked games are specifically included in the proposed amendment as casino gambling that would be prohibited unless authorized pursuant to a citizens’ initiative petition. The state has received revenues from the operation of these games at licensed cardrooms.

DBPR’s interpretation of s. 849.086, F.S., is that the statute does not authorize player-banked games. Cardroom operators argue that these types of games are authorized by the statute.

If player-banked card games are ultimately determined to be allowed under s. 849.086, F.S., the state will lose an indeterminate amount of revenue if the proposed amendment is adopted. If player-banked card games are ultimately determined to not be allowed under s. 849.086, F.S., there will be no fiscal impact if the proposed amendment is adopted.

c. Electronic Table Games. Electronic Table Games are games played on a computer screen that simulate casino-style table games like blackjack, roulette, craps, and baccarat. Some forms of these games are considered slot machines in Florida and are authorized for play at facilities that have slots licenses.

Since slot machines were authorized in seven pari-mutuel facilities pursuant to a citizens’ initiative, it would appear that electronic table games that are considered slot machines would also be authorized in those seven facilities and not be affected by the proposed amendment.

However, the proposed amendment contains the following language: “As used herein, ‘casino gambling” includes any electronic gambling devices, simulated gambling devices, video lottery devices, internet sweepstakes devices, and any other form of electronic or electromechanical facsimiles of any game of chance, slot machine, or casino-style game, regardless of how such devices are defined under IGRA.” This language appears to make a distinction between slot machines and casino-style games. If this distinction is recognized and electronic casino-style games are determined to be something different from slot machines, the proposed amendment will have an indeterminate fiscal impact due to the loss of revenues from electronic table games, since these games have not been authorized pursuant to a citizens’ initiative.

d. Gretna Racing and Other Potential Slots Facilities. As discussed in section “D. Background,” the decision in *Gretna Racing, LLC*, is currently on appeal before the Florida Supreme Court.

If the Court rules that Gretna Racing, LLC is not entitled to a slots license, the proposed amendment will not have a fiscal impact. However, if the Court rules that Gretna Racing, LLC is entitled to a slots license, the proposed amendment will have a fiscal impact due to the loss of revenues from slot machine taxes (assuming that slots are operated at the facility before November, 2018), since these slots machines would not have been authorized by a citizens’ initiative. In addition to Gretna Racing, LLC there are other pari-mutuel facilities that could be similarly affected.

Effect on Indian Gaming Compacts

The proposed amendment is expected to affect neither the 2010 Indian Gaming Compact nor any other compact that may be entered into and ratified in the future, including the 2015 Compact signed by the Governor but not ratified by the Legislature. In particular, the continuing authority of the state to enter into compacts is readily apparent in the amendment language. Also preserved is the authority of the state to allow casino gambling on tribal lands that may be otherwise prohibited by the proposed amendment outside of tribal lands.

The amendment, in part, provides:

> "Nothing herein shall be construed to limit the ability of the state or Native American tribes to negotiate gaming compacts pursuant to the Federal Indian Gaming Regulatory Act for the conduct of casino gambling on tribal lands, or to affect any existing gambling on tribal lands pursuant to compacts executed by the state and Native American tribes pursuant to IGRA."

The Federal Indian Gaming Regulatory Act (IGRA) and related case law allow states to grant authority to conduct types of class III gaming on tribal lands beyond those types otherwise allowed on non-tribal lands.[15] For example, the Florida Legislature made an exception to a general statutory prohibition against gambling by specifically authorizing the Seminole Tribe to conduct certain banked card games for purposes of the IGRA and the 2010 Indian Gaming Compact.[16] Since the proposed amendment is explicit that its provisions will not limit negotiation of gaming compacts pursuant to IGRA, the amendment is not expected to constrain the state in determining the types of class III gaming that may be conducted on tribal lands pursuant to a compact.

Costs

The amendment does not directly require or prohibit an expenditure by state or local government, but there may be an indirect effect from its implementation. If the amendment is determined to have only a prospective application, it will have no impact on anticipated government costs. However, if it is determined that the amendment de-authorizes certain gambling operations or games that are currently allowed, costs of regulating casino gambling activities may be reduced, and the loss of tax revenues may cause some appropriations reductions.

First, there may be regulatory cost reductions to the state budget. Since regulatory costs are currently funded by the associated license fees, the budgetary reduction would have little to no practical effect on other government expenditures since the removal of regulatory costs that are no longer necessary would occur in tandem with the loss of the fees.

Second, to the extent that any tax revenues from slot machine activity are lost (see the discussion above), funds currently available for state education expenditures may be reduced by a minimal amount. It is unknown whether a future Legislature would shift funds from other purposes to replace this loss. In either of these cases, the total budget would be smaller than it would have been in the amendment's absence.

Third, any revenue loss from player-banked games would affect the state's general revenue and trust funds as well as local government distributions. This would have a small impact on expenditures.

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[15] See 25 U.S.C. § 2710(d)(1). See also *Artichoke Joe's California Grand Casino v. Norton*, 353 F.3d 712, 720 (9th Cir. 2003); *McCracken & Amick, Inc. v. Perdue*, 201 N.C. App. 480, 489, 687 S.E.2d 690, 696 (2009).

[16] See Chapter 849, Florida Statutes, for general gambling prohibitions. See ss. 285.710(13) and (14), Florida Statutes, for class III gaming authority for the 2010 Indian Gaming Compact.

Effect on Future Legislatures

If the effect of the proposed amendment is determined to be prospective, it will limit the Legislature's ability to raise revenues by expanding casino gambling activities after the passage of the amendment. However, if the amendment is determined to have a retrospective application, it would ultimately nullify any actions taken by the Legislature prior to November 2018 that run counter to the amendment.