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# Regulatory Affairs Committee

Thursday, March 26, 2015  
8:00 AM  
Sumner Hall (404 HOB)

## MEETING PACKET

Steve Crisafulli  
Speaker

Jose Diaz  
Chair

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Regulatory Affairs Committee

**Start Date and Time:** Thursday, March 26, 2015 08:00 am  
**End Date and Time:** Thursday, March 26, 2015 12:00 pm  
**Location:** Sumner Hall (404 HOB)  
**Duration:** 4.00 hrs

Workshop on Gaming:

1. Tribal-State Gaming Compact and Law Overview
2. State Regulatory Overview
3. Revenue Overview
4. Pending Legislation Overview
5. Public Testimony (time limited)

Please electronically submit public testimony requests by 4:00 p.m., Wednesday, March 25, 2015. Requests can be submitted through the "Appearance Request Form" on the Regulatory Affairs Committee webpage on "WWW.MYFLORIDAHOUSE.GOV". If handout materials are being provided for the members of the Committee, 20 copies should be delivered to Committee staff by 4:00 p.m., Wednesday, March 25, 2015.

**NOTICE FINALIZED on 03/20/2015 16:03 by Ellinor.Martha**



# The Florida House of Representatives

## Regulatory Affairs Committee

Steve Crisafulli  
Speaker

Jose Diaz  
Chair

### AGENDA

March 26, 2015

404 HOB

8:00 AM – 12:00 PM

- I. Call to Order and Roll Call
- II. Tribal-State Gaming Compact and Law Overview
  - A. Indian Gaming Law
    - Michelle Morton, House Staff Consultant
  - B. Tribal-State Gaming Compact
    - Laura Anstead, Senior Attorney, Regulatory Affairs Committee
- III. State Regulatory Overview
  - Jonathan Zachem, Director, Pari-Mutuel Wagering, Department of Business and Professional Regulation
- IV. Revenue Overview
  - Amy Baker, Legislature's Office of Economic and Demographic Research
- IV. Pending Legislation Overview



# Tribal-State Gaming Law Overview

Regulatory Affairs Committee

March 26, 2015

# Jurisdiction

- Tribal Sovereignty
- Congressional Plenary Power
- State Jurisdiction

# IGRA: Applicability

- Federally Recognized Indian Tribes
- Indian Lands
  - A. Reservation
  - B. Trust or restricted fee land over which Tribe exercises governmental power.

# IGRA: Games

	Class I	Class II	Class III
Games	Social or traditional games	Bingo and non-banked card games like poker	Everything else
Availability	Always	If State allows for any person.	
			Must be conducted under a Compact between the Tribe & State
State's Role	No role	May prohibit generally.	
			Negotiates Compact
Federal Role	No role	Oversight and enforcement: Sets minimum standards, reviews independent audits, approves ordinances and management contracts	
			Approves Compact



# IGRA: Items for Negotiation

- Application of Tribal or State gaming laws and regulations.
- Allocation of criminal and civil jurisdiction between Tribe and State.
- State's assessment necessary to defray costs of regulation.
- Tribal taxation of gaming comparable to State's taxation of comparable activities.
- Remedies for breach of contract.
- Standards for gaming operation and facility maintenance.
- Any other subjects that are directly related to the operation of gaming activities.

# IGRA: Revenue Sharing

- IGRA specifies:
  - Compact may allow for State to recoup regulation costs.
  - State may not impose a tax, fee, charge, or other assessment on Indian gaming.
- NIGC has approved revenue sharing provisions in Compacts:
  - Where State has offered meaningful concessions that
    - Provide Tribe with substantial economic benefit in proportion to revenue shared.

# IGRA: Approval

- Secretary may disapprove only if Compact violates IGRA, federal law or the United State's trust obligations to the Tribe.
- If not disapproved within 45 days, deemed approved to the extent consistent with IGRA.
- Effective once published in federal register.
- Amendments require Secretary approval.

# Gaming Compact

The Seminole Tribe of Florida and  
the State of Florida

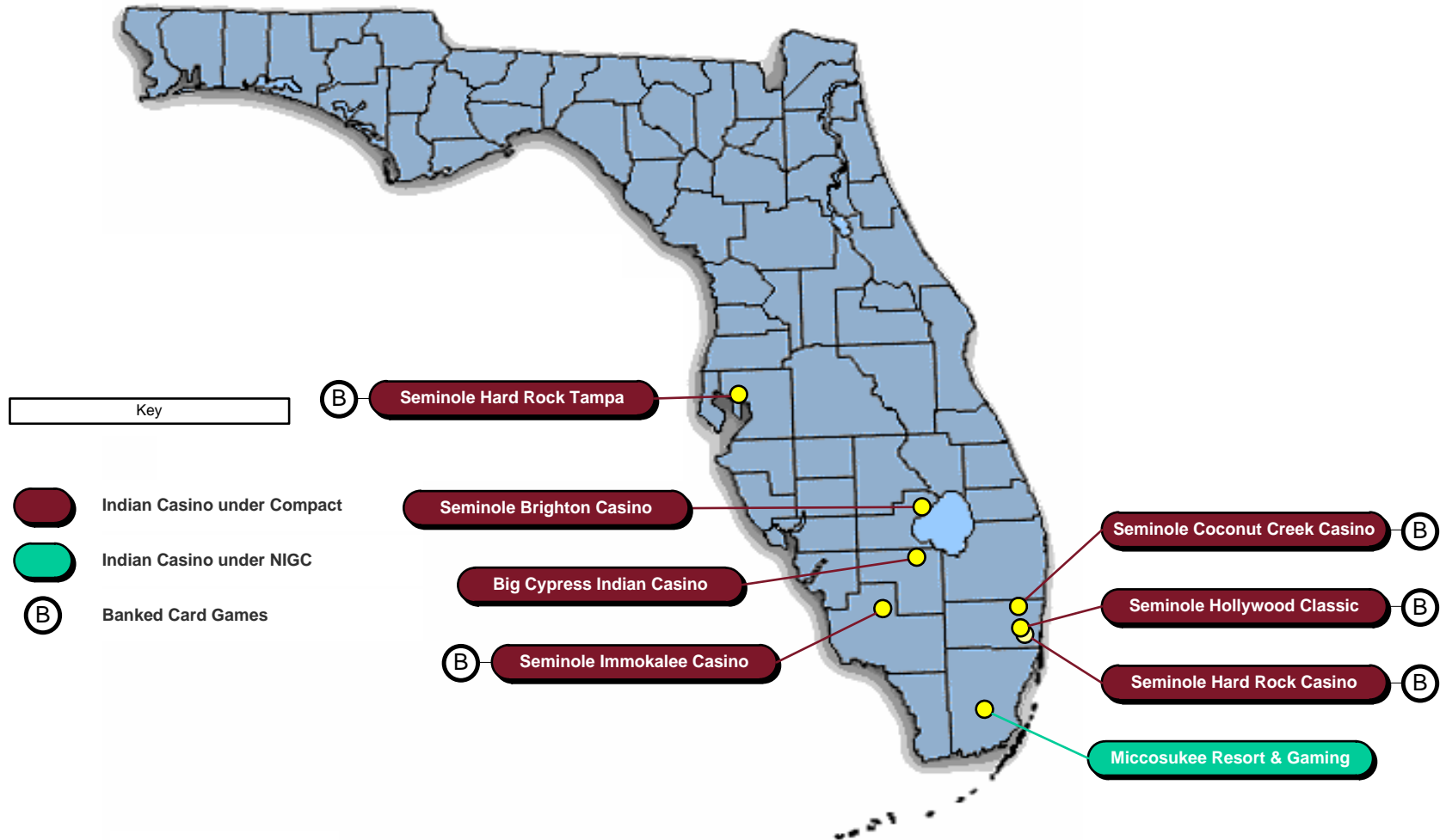


# Important Dates:

	Date	Party
<b>Executed</b>	April 7, 2010	Governor and Seminole Tribe of Florida
<b>Ratified</b>	April 28, 2010	Florida Legislature
<b>Approved</b>	June 24, 2010	U.S. Secretary of the Interior; required by Indian Gaming Regulatory Act of 1988.
<b>Effective</b>	July 6, 2010	Federal Register – date published.
<b>Term Begins</b>	August 1, 2010	According to terms of the Compact.
<b>Expires</b>	July 31, 2015	The Tribe's 5-year authorization to conduct banked card games automatically terminates.
<b>Expires</b>	July 31, 2030	The Gaming Compact ends.



# Tribal Casinos in Florida



2015 March 20



# Seminole Gaming Compact

- 20 year term.
  - 5 year authorization for banked card games.
- Authorized games.
  - Slots and Banked Card Games - Blackjack.
    - Slots at all 7 facilities.
    - Blackjack or banked card games at 5 facilities.
    - 85% Minimum payout for slot machines.
  - Any new game authorized by law.
  - No Roulette or Craps.
  - No Video Bingo Terminals.
- Exclusivity.
  - Slot machines: Outside Miami-Dade and Broward.
    - Partial – State limits PMW slots to Miami-Dade and Broward.
  - Banked card games - Blackjack: Statewide
    - Complete – Only the Tribe can offer blackjack.



# Regulation & Oversight of Gaming

- National Indian Gaming Commission's Minimum Control Standards.
  - Must meet or exceed.
  - All slot machines must be certified by an independent testing laboratory.
- State Compliance Agency.
  - Investigations.
  - Audits.
  - Inspections and Record Retention Policies.
- Seminole Tribal Gaming Commission.
  - Officers must be independent of gaming operations.
- Seminole Tribal Code.
  - Licensing and background checks for key employees and managers.





# Regulation & Oversight

- Inspection of Games
  - Random Inspections Public and Non-public Areas.
    - Once a month at each facility – non-public area.
    - 1200 hours a year.
    - Can review any document at any time.
- Audits
  - Annual Independent Audit.
    - Firm selected by the State but paid for by the Tribe.
    - Number of machines and type must be reported quarterly.
  - Examine revenue, verify net win and confirm payments to the State.
  - Annual Audit of Slot Machine Compliance.
    - Manufacturer's standards.



# Other Provisions:

- Florida Building Code
  - Adopted as Seminole Tribal Building Code.
- Workers' Compensation Claims
  - Meet or exceed protections provided for Floridians.
- Patron Disputes and Tort Claims
  - Insurance Coverage for Personal Injury and Property Damage.
  - Waiver of sovereign immunity.
- Tribe Alcohol Beverage Control Act
  - Proactive Prevention of Underage Drinking.
  - Safe Ride Home Program.



# Prevention of Problem Gaming:

- Tribe's Role in Preventing Problem Gambling
  - All employees must be trained and educated.
  - Work with the Florida Council on Compulsive Gambling.
  - Make information available at all casinos.
  - Voluntary exclusion list.
  - Prevent underage activity.



# Summary of Tribe's Payments:

- \$250,000 Cost of Oversight Paid By Tribe.
- Annual Audit of Revenue by Independent Auditor.
- \$1.75 million to Florida Council on Compulsive Gambling.
- Minimum Guaranteed Payment of \$1 billion.
  - First Five Years of Compact - Only.
- Revenue Sharing.
  - Sliding Scale - Between 12% and 25% of Net Win.
  - General Revenue Fund.
    - » 3% to Local Governments.
    - » Payments for gambling pre-Compact.



# Authorized Revenue Sharing:

## Revenue sharing:

12% of Net Win up to \$2 Billion.

15% of Net Win between \$2 and \$3 Billion.

17.5% of Net Win between \$3 and \$3.5 Billion.

20% of Net Win between \$3.5 and \$4 Billion.

22.5% of Net Win between \$4 and \$4.5 Billion.

25% of Net Win over \$4.5 Billion.



# What Does the State Give in Exchange?

- Exclusivity
- Meaningful concessions must have economic benefit to Tribe.
- Limit Gaming
  - The State can limit competition in part and in whole;
  - No new locations and no new games.
- Statewide Exclusivity
  - Banked Card Games.
- Partial Exclusivity
  - Slots limited to Miami-Dade and Broward Counties.
- In sum, the Tribe pays – revenue sharing, guaranteed minimum payments until 2015, oversight costs, and compulsive gambling costs in exchange for exclusivity.

# What Changes are Contemplated by the Compact?

May Be Offered, if in Accordance With the Compact:

- Historic Racing Machines.
- Electronic Bingo Machines.
- Lottery and Lottery Vending Machines.
- Pari-mutuel Wagering Activities.
- Internet Gambling.
- Legal Gambling as of 2010.
- Poker at Licensed Cardrooms.
- Compacts with Other Tribes.



# Changes and Compact Impact:

	Miami-Dade/Broward Counties	Elsewhere
New Games	<ul style="list-style-type: none"><li>• If Tribe's net win is reduced, revenue share from 3 Broward facilities is reduced by 50% of the reduction in the Net Win.</li><li>• Minimum guaranteed payments cease – last payment 2015.</li></ul>	Revenue sharing ceases.
New Locations	<ul style="list-style-type: none"><li>• Revenue share from Broward facilities ceases.</li><li>• Minimum guaranteed payments cease – last payment 2015.</li></ul>	Revenue sharing ceases.





## What Happens If No Action is Taken? Banked Card Games – Blackjack Provision

- No action = Automatically expires.
- The Tribe would end banked card games within 90 days.
- If Tribe does not end banked card games within 90 days, the State may seek injunctive relief.
  - The Tribe and the State waived sovereign immunity in the Compact.
- Revenue sharing is calculated excluding the net win from the Tribe's three facilities in Broward.
- Seminoles are still permitted to offer any game that is otherwise offered in the State under the Compact until 2030.



# BANKED CARD GAME OPTIONS 2015

<u>Option 1</u> <u>No action:</u>	<u>Annual State Revenue</u>	<u>Seminole Gaming Authorized</u>
<b>Bank Card Game Authorization Automatically Expires.</b>	<b>\$164.2 million - Projected annual revenue in 2015-2016 without banked card games.</b>  <b>A loss of \$132.3 million in annual revenue.</b>  <b>A loss of \$750,000 to the Florida Council on Compulsive Gambling.</b>	<b>Slots, non-banked poker, raffles, drawings, bingo and any new game authorized for any person.</b>



## **BANKED CARD GAME OPTIONS 2015**

<b><u>Option 2</u></b>	<b><u>Annual State Revenue</u></b>	<b><u>Seminole Gaming Authorized</u></b>	<b><u>Comments</u></b>
<b>Renew Banked Card Game Authorization.</b>	<b>\$296.5 million in projected revenue in 2015-2016.</b>	<b>Banked games would remain exclusive.</b>	<b>Requires affirmative action before July 31, 2015.</b>



## OTHER CONSIDERATIONS:

<u>Renegotiation Considerations:</u>	<u>Legislature</u>	<u>Governor</u>	<u>Comments</u>
<b>New Compact.</b>	<b>Legislative ratification required.</b>	<b>Authorized to negotiate on behalf of the State.</b>	<b>Compact's term could be extended or shortened; new games or locations could be added or removed.</b>
<b>Amendments to the Compact.</b>	<b>Legislative ratification required if provisions are related to covered games; revenue sharing; or exclusivity.</b>	<b>Authorized to negotiate on behalf of the State.</b>	<b>Same as above.</b>



FLORIDA HOUSE OF REPRESENTATIVES

# Indian Gaming in Florida

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Regulatory Affairs Committee

3/26/2015

## FEDERAL INDIAN LAW

### GENERAL JURISDICTION

Federal, state and tribal governments share jurisdiction in Indian country depending on the situation.

#### *TRIBAL SOVEREIGNTY*

Indian tribes are self-governing political communities who enjoy inherent sovereignty predating the United States.

The U.S. Supreme Court has found this sovereignty includes:

- The power to regulate internal and social relations;
- Sovereign immunity from suit; and
- The power to prescribe and enforce laws for their community and members.

Federal recognition:

- Formalizes government-to-government relations.
  - Tribe is 'domestic dependent nation.'
  - Federal government has a fiduciary trust relationship.
- Recognizes tribe's sovereignty.
- Limits state authority over Indian lands.
- Determines eligibility for programs and services.

#### *CONGRESSIONAL PLENARY POWER*

Tribal sovereignty is subject by Congress's plenary power: Congress can limit, modify or even eliminate the powers of self-government.

#### *STATE JURISDICTION*

**General Rule:** State law does not apply, unless Congress has said otherwise.

**Public Law 280:** Florida has criminal jurisdiction over Indian tribes.

- **Does not include:** ability to regulate or tax.
- **Limited:** Criminal laws *prohibitory* in nature; not *regulatory*.

## INDIAN GAMING REGULATORY ACT

### *HISTORY*

In the early 1980s, states, including Florida, attempted to enforce state restrictions on the operation of bingo to tribes, which were opening high-stakes bingo halls.

A federal appellate court ruled the statute could not be enforced against the Tribe:

Where the state regulates the operation of bingo halls to prevent the game of bingo from becoming a money-making business, the Seminole Indian tribe is not subject to that regulation and cannot be prosecuted for violating the limitations imposed.

The U.S. Supreme Court adopted similar reasoning: state statutes that *regulated* gambling, even if enforceable by criminal penalties, could not be applied to tribal lands absent a justifying state interest.

In 1988, Congress reacted with the Indian Gaming Regulatory Act (IGRA), providing a framework for the regulation of gambling on Indian lands.

### *FEDERAL PREEMPTION OF PROSECUTION*

Federal statute now provides that, for purposes of Federal law, all state gambling laws apply to Indian lands. Exceptions exist for:

- Class I or Class II gaming conducted consistent with IGRA.
- Class III gaming conducted under a valid Tribal-State compact.

**Enforcement** of these state laws is preempted to the federal government.



*APPLICABILITY*

**Must be a federally recognized tribe.**

**Only governs gaming on Indian lands.**

Gaming off Indian lands is subject to state law.

“Indian lands” is defined as:

- (A) all lands within the limits of any Indian reservation; and
- (B) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

**General Rule:** Gambling prohibited on lands acquired after 1988.

**Exceptions:**

- *Expanding reservation:*
  - Lands taken into trust which were within or contiguous to the boundaries of the Tribe's reservation as of Oct. 17, 1988.
- *New reservation:*
  - If the Tribe had no reservation on Oct. 17, 1988, lands meeting certain criteria.
  - Lands taken into trust as part of a land claim or as an initial reservation for a newly recognized Tribe or a Tribe newly restored to Federal recognition.
- *Off reservation:*
  - If the Secretary of the Interior, after consultation with the Indian tribe and appropriate State and local officials, determines that the gaming establishment would be in the best interest of the Indian tribe and would not be detrimental to the surrounding community, but only if the State's Governor concurs.
  - Only 8 approved with Governor concurrence since 1988.

*GAMES COVERED*

	Class I	Class II	Class III
Games	Social or traditional games	Bingo Non-banked card games	Everything else
Availability	Always	If state allows for any person for any purpose	
State's Role	No role	May prohibit game generally	
Federal Role	No role	Negotiates Compact	
		Oversight and enforcement: Sets minimum standards, reviews independent audits, approves ordinances and management contracts.	
		Approves Compact	

**Class I games** are social games for prizes of minimal value, including those that are part of traditional celebrations. These games are within the exclusive jurisdiction of the tribe.

**Class II games** include bingo type games, if played in a group, and non-banked card games, such as poker. If the state allows a class II game for any purpose by any person, the tribe can offer the game.

The tribe regulates the games, with federal oversight. For example, the federal government sets minimum standards for operations, approves gaming ordinances and management contracts and enforces IGRA and other federal gaming laws. Tribes meeting certain criteria may apply to self-regulate, but remain subject to independent audit and reporting requirements.

**Class III games** include everything else, such as pari-mutuel wagering and slot machines. If a state allows a class III game for any person, the tribe may request compact negotiations to govern the conduct of the game on Indian lands; the state must negotiate in good faith. To be effective, compacts must be approved by the federal government. In addition to any applicable gaming compact terms, class III gaming, like class II gaming, is regulated by the Tribe, subject to federal oversight.

*ELECTRONIC GAMES*

Electronic games can be either Class II or Class III games under IGRA:

**Class II machines** are a technological aid to a bingo-type game. Players play simultaneously against other players for a common prize.

**Class III machines** are facsimiles of games of chance or slot machines. Players play against the machine for a payout.

### *COMPACT NEGOTIATIONS*

IGRA limits the topics of negotiations to:

- The application of Tribal or State criminal and civil directly related to, and necessary for, the licensing and regulation of gaming;
- The allocation of criminal and civil jurisdiction between the State and Tribe for enforcement of such laws and regulations;
- A State assessment necessary to defray costs of regulating gaming;
- Taxation of gaming by the Tribe comparable to amounts assessed by the State for comparable gaming activities;
- Remedies for breach of contract;
- Standards for the operation and maintenance of the gaming facility, including licensing; and
- Any other subjects directly related to the operation of gaming activities.

### *REVENUE SHARING*

IGRA specifies that, except for assessments to defray the State's cost of regulation, it does not authorize the State to impose any fee, tax, charge or other assessment on the Tribe for gaming.

Tribes are further limited to spending gaming revenue to:

- fund tribal government operations or programs;
- provide for the general welfare of the Indian tribe and its members;
- promote tribal economic development;
- donate to charitable organizations; or
- help fund operations of local government agencies.

The federal government has approved revenue sharing agreements, determining that the payments constitute an operating cost and, if paid with net revenues, would be considered an expense to promote tribal economic development.

Revenue sharing agreements are subjected to a 2-part analysis:

- Whether the state offers meaningful concessions.
- Whether those concessions provide substantial economic benefit proportional to the revenue sharing required.

### *FEDERAL REVIEW OF COMPACTS*

Compacts must be approved by the Secretary of Interior and become effective once published in the federal register. Compact amendments also require approval.

Secretary of Interior may disapprove only if compact violates:

- IGRA
- Other federal law
- The trust obligations of the United States to Indians

If the Secretary does not approve or disapprove the compact within 45 days, it is deemed approved, but only to the extent it is consistent with IGRA.

The Department of Interior publishes compact approval and disapproval letters on its website, [indianaffairs.gov](http://indianaffairs.gov).

## TIMELINE OF INDIAN GAMING IN FLORIDA

1967	Florida authorizes charitable bingo
1979	Seminole Tribe opens high-stakes bingo hall in Hollywood. State attempts to shut it down.
1981	Federal court issues injunction blocking State's efforts, finding State's regulations on bingo did not apply to tribal land. <i>Seminole Tribe v. Butterworth</i> , 658 F.2d 310.
1986	Florida voters pass constitutional amendment approving state lottery.
1987	U.S. Supreme Court ruled that state regulatory gambling laws did not apply to tribal lands. <i>California v. Cabazon Band of Mission Indians</i> , 480 U.S. 202.
1988	Congress passed the Indian Gaming Regulatory Act, 25 U.S.C. § 2701, et seq.
Jan. 1991	Seminole Tribe sought Compact negotiations with the State.
Sept. 1991	Seminole Tribe filed suit under IGRA, claiming State failed to negotiate in good faith.
1996	U.S. Supreme Court ruled that IGRA's waiver of state sovereign immunity was unconstitutional, <i>Seminole Tribe of Florida v. Florida</i> , 517 U.S. 44.
2004	Florida voters pass constitutional amendment approving slot machines at certain South Florida pari-mutuel facilities.
2007	Governor Crist signs Compact with Seminole Tribe authorizing slot, high-stakes poker and banked card games. The Florida House of Representatives filed a petition for quo warranto five days later.
2008	Florida Supreme Court rules the Governor lacked authority to bind the State to a compact that violated Florida law by authorizing games prohibited by law.
2010	Governor and Tribe execute Compact; Legislature ratifies (Ch. 2010-29, L.O.F.); and U.S. Secretary approves.
July 6, 2010	Compact published in Federal Register; goes into effect.
August 1, 2010	Compact term begins.
July 31, 2015	Compact provision authorizing banked card games expires, unless renewed by Legislature.
July 31, 2030	Compact term ends.

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

**Compact:** August 1, 2010 – July 31, 2030

**Banked card games:** August 1, 2010 – July 31, 2015

### AUTHORIZED GAMES

- Slots at all 7 facilities.
- Raffles and drawings.
- Banked card games at 5 facilities.
- Excludes roulette, craps or similar games.
- Any new game authorized by law for any person.

### TRIBE'S ROLE

Seminole Tribal Gaming Commission

- Officers are independent of gaming operations.

Tribe promulgates rules and regulations to implement Compact

- Internal Control Policies and Procedures, governing facilities and games.
- Records Retention Policies and Procedures, governing recordkeeping.
- Seminole Tribal Gaming Code, which includes regulations governing licensure of facility employees, exclusion of patrons, and patron disputes.
- Alcohol Beverage Control Act, governing sales of alcohol.
- Workers' Compensation Ordinance.
- Florida Building Code, adopted as the Seminole Tribal Building Code.
- Administrative procedure for patron tort claims.

Federal controls

- Tribe's policies must meet or exceed National Indian Gaming Commission's Minimum Internal Control Standards.

### Compact provisions

- Maintain Compulsive Gambling program, including paying an annual \$250,000 per facility to the Florida Council on Compulsive Gambling.
- Provide game rules to players and the State Compliance Agency.
- Maintain prevention of improper alcohol sales, drunk driving, underage drinking and underage gambling programs.
- Annual minimum slot machine payout of 85% per facility.
- Non-smoking areas required.

### STATE'S ROLE

State Compliance Agency has an oversight role, not regulatory

- Compliance with Tribe's rules and regulations.
- Compliance with Compact's provisions.
- Compliance with Federal law, as adopted by the National Indian Gaming Commission.

Compact authorizes

- One random inspection per month per facility for up to 10 hours over 2 days.
- Annual review of slot machine compliance audit.
- Annual limit of 1,200 hours for all random inspections and audit reviews.
- Annual, independent audit of games.

Cost of oversight paid by Tribe.

## REVENUE SHARING AGREEMENT

### *OVERVIEW*

Under federal law, states cannot impose taxes on Indian tribes.

IGRA does not specifically address revenue sharing.

The Department of Interior requires revenue sharing agreements provide:

1. Something of value: Has the state offered meaningful concessions to the tribe?
2. Proportional share: Does the value of the concessions provide substantial economic benefits to the tribe to justify the revenue sharing?

Under the Compact, the State granted the Tribe exclusivity as to banked card games throughout the state, and partial geographic exclusivity as to slot machines in exchange for a share of the Tribe's revenue from gaming.

### *PRE-COMPACT PAYMENTS*

The Compact provides that Tribal payments made under a previously negotiated agreement between the Tribe and Gov. Crist, which the Florida Supreme Court had found to exceed his authority, be paid to the State.

FY 2007-08	60.42
FY 2008-09	77.08
FY 2009-10	150.00
	<hr/>
	\$287.5 million

### *GUARANTEED MINIMUM PAYMENT*

The Compact guarantees a minimum payment of \$1 billion over 5 years:

Initial 2 years	Aug. 2010 – July 2012	\$150 million per year
Years 3-4	Aug. 2012 – July 2014	\$233 million per year
Year 5	Aug. 2014 – July 2015	\$234 million

The Compact provides if the Tribe's net win is reduced due to events beyond the Tribe's control that damage tribal facilities, the minimum payment amount would be reduced proportional to the reduction in net win at the impacted facilities.



*REVENUE SHARING FORMULA*

Beginning in year 3, the State’s share is calculated on a sliding scale, depending on the Tribe’s net win. For years 3 through 5, the State’s share is the greater of the minimum guaranteed payment and the calculation.

Annual Net Win	State’s Share
More than \$4.5 billion	25%
\$4 billion - \$4.5 billion	22.5%
\$3.5 billion - \$4 billion	20%
\$3 billion - \$3.5 billion	17.5%
\$2 billion - \$3 billion	15%
Up to \$2 billion	12%

*LOCAL DISTRIBUTION*

The Compact does not change any existing agreements between the Tribe and local governments.

The Compact provides that 3 percent of the State’s revenue share will be distributed to local governments affected by the Tribe’s operation.

The Legislature set the distribution formulas by statute in s. 285.710, F.S.

Seminole Hard Rock – Hollywood	
City of Hollywood	55%
Broward County	25%
Town of Davie	10%
City of Dania Beach	10%
Seminole Indian Casino – Coconut Creek	
City of Coconut Creek	55%
Broward County	22.5%
City of Coral Springs	12%
City of Margate	8.5%
City of Parkland	2%
Seminole Indian Casino – Brighton	
Glades County	100%

Seminole Indian Casino – Hollywood	
City of Hollywood	55%
Broward County	25%
Town of Davie	10%
City of Dania Beach	10%
Seminole Hard Rock – Tampa	
Hillsborough County	100%
Seminole Indian Casino – Big Cypress	
Hendry County	100%
Seminole Indian Casino – Immokalee	
Collier County	100%



### *EXCLUSIVITY*

The Compact grants the Tribe “partial but substantial exclusivity” in exchange for revenue sharing.

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.

**If** *Legislation or Constitutional amendment* allows:

- The operation of Class III gaming or other casino-style gaming at any location that was not in operation as of February 1, 2010, or
- New forms of Class III gaming or other casino style gaming that were not in operation as of February 1, 2010

**Then**, revenue sharing ceases when the newly authorized gaming begins.

*If court decision or administrative ruling* expands gambling (same scenarios as above), Tribe makes payments to escrow. Legislature has 12 months or until the end of the next session, whichever is sooner, to reverse the expansion.

If State breaches exclusivity provisions, remainder of Compact stays in effect.

### *EXCEPTIONS TO EXCLUSIVITY*

The Compact essentially froze Florida’s gaming industry as of February 1, 2010. Any expansions beyond what was happening on that date could affect revenue sharing.

Specifically provided exceptions to Tribe’s exclusivity:

- Slot machines at existing PMW facilities in Miami Dade and Broward counties.
- Pari-mutuel wagering at licensed pari-mutuel wagering facilities.
- Poker, including no-limit poker, at licensed cardrooms.
- Existing Florida Lottery games
  - Specifically excludes player-activated machines except vending machines.
  - Specifically prohibits more than 10 vending machines in any one location.
  - Specifically prohibits vending machines at pari-mutuel facilities.
- Games authorized by chapter 849, as of February 1, 2010.

*EXCEPTIONS TO EXPANSION LIMITATION*

The Compact provided some limited circumstances where gambling could be expanded in the state without ending the revenue sharing agreement:

Authorization	Effect on Revenue Sharing
Additional games at existing PMW facilities in Broward and Miami-Dade	<ul style="list-style-type: none"> <li>• Guaranteed minimum payment ends</li> <li>• If Tribe's net win from Broward Tribal facilities is reduced:                             <ul style="list-style-type: none"> <li>• Revenue share from Broward facilities reduced by 50% of reduction in net win.</li> </ul> </li> </ul>
Additional games at new locations in Broward and Miami-Dade	<ul style="list-style-type: none"> <li>• Guaranteed minimum payment ends.</li> <li>• Revenue share calculated excluding revenue from Broward Tribal facilities.</li> </ul>
Compacts with other tribes	No effect
Up to 350 Historic Racing Machines and Electronic Bingo Machines at PMW facilities outside Miami-Dade and Broward	No effect
Internet gaming *Only if Tribe does not also offer Internet gaming,	If Tribe's net win is reduced by 5%, the guaranteed minimum payment ends. Revenue sharing based on the formula would continue.

**DISPUTE RESOLUTION**

*NOTICE OF NONCOMPLIANCE*

1. Party asserting noncompliance or seeking interpretation serves written notice on other party identifying relevant provisions and detailing contention and claim.
2. Parties meet within 30 days to resolve dispute, unless extended by parties.

*REVENUE SHARING*

If Tribe stops revenue share payments and the issue cannot be resolved using the above process, State may seek injunctive relief in federal or state court to compel payments.

*MEDIATION*

1. If the parties are unable to resolve a dispute arising from the Compact, either party can call for mediation.
2. Mediation may not last more than 60 days, unless extended by parties.

*JUDICIAL RESOLUTION*

If mediation fails, either party may bring action in a U.S. District Court.

- If U.S. District Court refuses jurisdiction, suit may be brought in 17<sup>th</sup> Circuit Court (Broward County).

*SOVEREIGN IMMUNITY*

Both State and Tribe expressly waived sovereign immunity from suit for disputes arising under the Compact and enforcement of resulting judgments.

- Limited to Compact issues.
- No money damages, except payments under Compact.
- Does not apply to third parties.

WHAT'S NEXT

*BANKED CARD GAME AUTHORIZATION*

Expires July 31, 2015

Action	Seminole's authorization to conduct banked card games	Effect on Revenue Sharing
No action	Automatically expires. Tribe ends banked card games within 90 days, State may seek injunctive relief (Tribe waives sovereign immunity).	Revenue share is calculated excluding net win from Seminole facilities in Broward.
Legislature reauthorizes banked card games for Seminole	Continues	No effect
Banked card games authorized for any other person	Continues	Depends on operator and location. See Revenue Sharing and Exclusivity discussion above.

*RENEGOTIATION*

	Legislature	Governor
New Compact	Legislative ratification required.	Negotiates on behalf of State.
Amendments to Compact	Legislative ratification required for provisions relating to: <ul style="list-style-type: none"> <li>- Covered Games.</li> <li>- Amount of Revenue Share.</li> <li>- Suspension/Reduction in Revenue Share.</li> <li>- Exclusivity.</li> </ul>	Negotiates on behalf of State.

## State Regulatory Overview



License efficiently. Regulate fairly.

# **Division of Pari-Mutuel Wagering Overview**

# Historical Overview

1931 - Pari-Mutuel Wagering was authorized

1990 - Intertrack & Simulcast wagering authorized

1991-1993 - Chapter 550 sunset and re-enacted resulting in:

- Deletion of the Pari-Mutuel Commission
- Deregulation of permitholder take-out rates and racing dates

1996 - Cardrooms authorized at Pari-Mutuel Facilities (\$10 “pot” limits)

2000 – Tax rate reduction resulting in a loss of \$22 million in state revenue

2003 – Cardroom “pot” limits replaced with \$2.00 bet limits with no more than 5 raises

2004 – Constitutional Amendment passed allowing Slot Gaming

- Limited to Broward and Miami-Dade Counties
- Required county referendums to begin slot gaming

2005 – Slot Machine Legislation signed into law

2007 - Cardroom bet limits were increased to \$5 for regular play and replaced with a \$100 buy-in cap for tournament play

# Historical Overview

2010 - The Legislature approved the Seminole Gaming Compact and SB 788 that instituted the following provisions:

- Cardrooms
  - Extended cardroom operating hours to a cumulative 18 hours per day Monday through Friday, and 24 hours per day on Saturday, Sunday, and specified state holidays.
  - Removed all wagering limits and tournament buy-in caps.
- Slots
  - Reduced the tax rate from 50% to 35%.
  - Reduced the nonrefundable annual license fee from \$3 million to \$2.5 million in Fiscal Year 2010-11, and \$2 million annually thereafter.
  - Slightly amended the definition of “eligible facility”.
- Pari-Mutuel
  - Required quarterhorse permit applications be evaluated the same as other permit applicants under section 550.054, F.S.
  - Provided the division with rulemaking authority to prohibit certain practice acts resulting in gross negligence and/or intentional infliction of pain and suffering onto race animals.

# Gaming Terminology

- **“Pari-mutuel”** is a system of betting on races/games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportions to the sums they have wagered individually and with regard to the odds assigned to particular outcomes.
- **“Banked Games”** 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.
- **“Handle”** is the aggregate wagering contribution to pari-mutuel pools.
  - **Live** - live Florida race/game.
  - **Simulcast** - Signal of live race/game transmitted into or out of Florida.
  - **Intertrack** - live Florida race/game transmitted to another Florida facility.
  - **Intertrack Simulcast Handle**- Interstate signal of live race/game transmitted into Florida and rebroadcast to another in-state facility.
- **“Permitholder”** is the entity authorized to conduct pari-mutuel wagering.



# PMW Roles & Responsibilities

The Division oversees pari-mutuel events, cardroom activity, and slot activity, at authorized pari-mutuel permitholder facilities, including:

- Adopting rules for the control, supervision, and direction of all applicants, permitholders, and licensees.
- Issuing permits and annual operating licenses to pari-mutuel facilities, cardrooms, and slot machine facilities.
- Issuing occupational licenses upon satisfactory fingerprint and background checks to employees, and to those who have access to money rooms, restricted areas, and/or the race animals.
- Conducting investigations, inspections, and audits of gaming operations.
- Collecting, accounting, and safeguarding over \$450 million annually in state revenue, as well as ensuring compliance with financial reporting requirements.
- Ensuring the health, safety, and welfare of race animals, players, and patrons.

## **PMW Roles & Responsibilities cont'd**

- Ensure pre-race examination of all animals by a licensed veterinarian.
- Perform random kennel and stable inspections.
- Investigate allegations of animal abuse.
- Collect blood and urine samples from animals competing in races in Florida to detect impermissible substances.
- Testing dog/horse blood and urine samples for impermissible substances at the accredited racing lab located at the University of Florida.
- Ensure all racing animals are current on required inoculations.
- Serves as the State Compliance Agency (SCA) for the Compact between the Seminole Tribe and the State of Florida.

# Permit Types

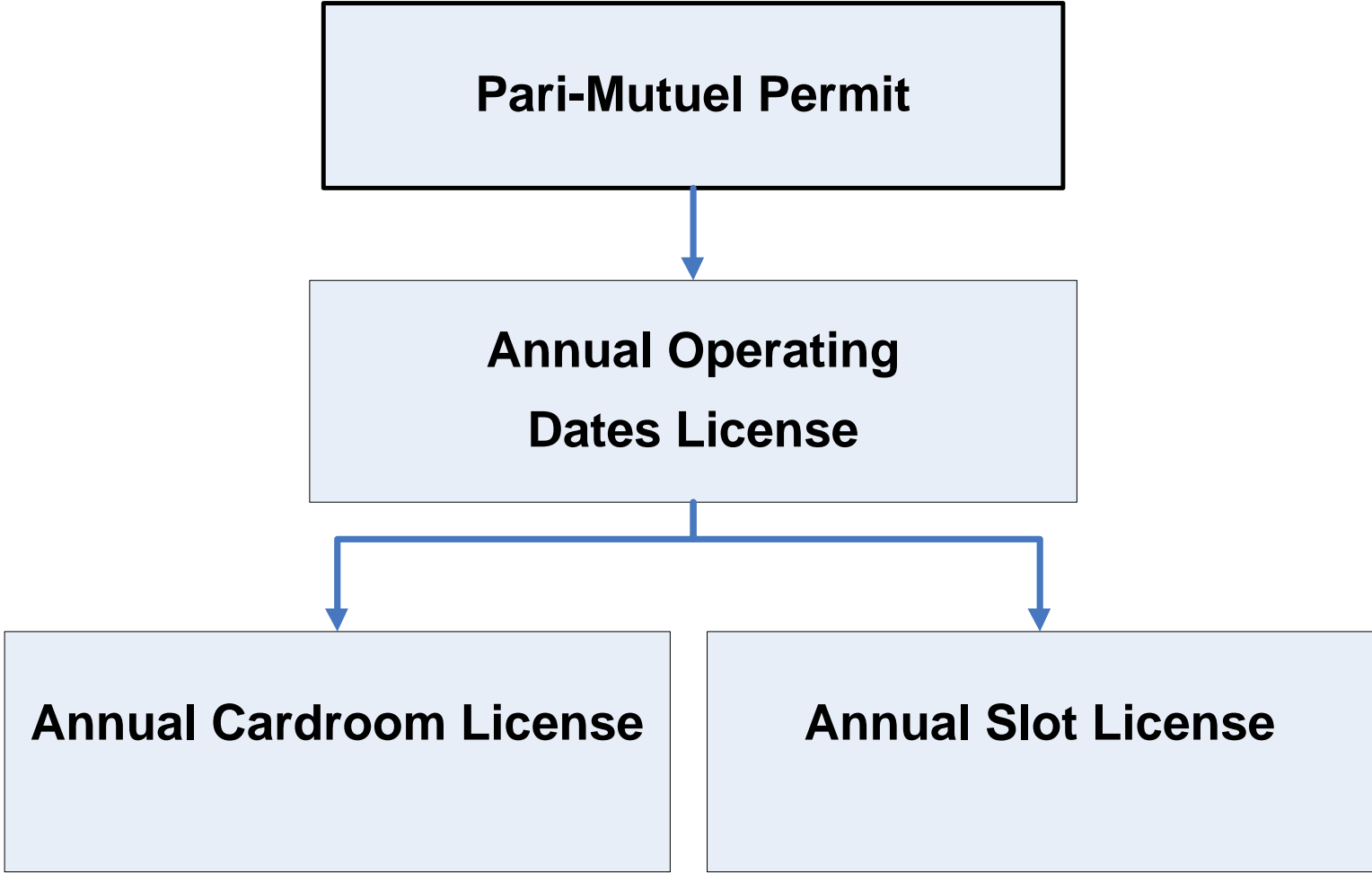
- “Jai Alai” means a ball game of Spanish origin played on a court with three walls.
- “Racing Greyhound” means a greyhound that is or was used, or is being bred, raised, or trained to be used in racing at a pari-mutuel facility and is registered with the National Greyhound Association.
- “Horserace permitholder” means any thoroughbred, harness, or quarterhorse entity permitted to conduct live wagering:
  - “Thoroughbred” is 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.
  - “Harness Racing” is 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.
  - “Quarterhorse” is a breed of horse developed in the western United States which is capable of high speed for a short distance and used in quarterhorse racing registered with the American Quarterhorse Association.

# Pari-Mutuel Permits

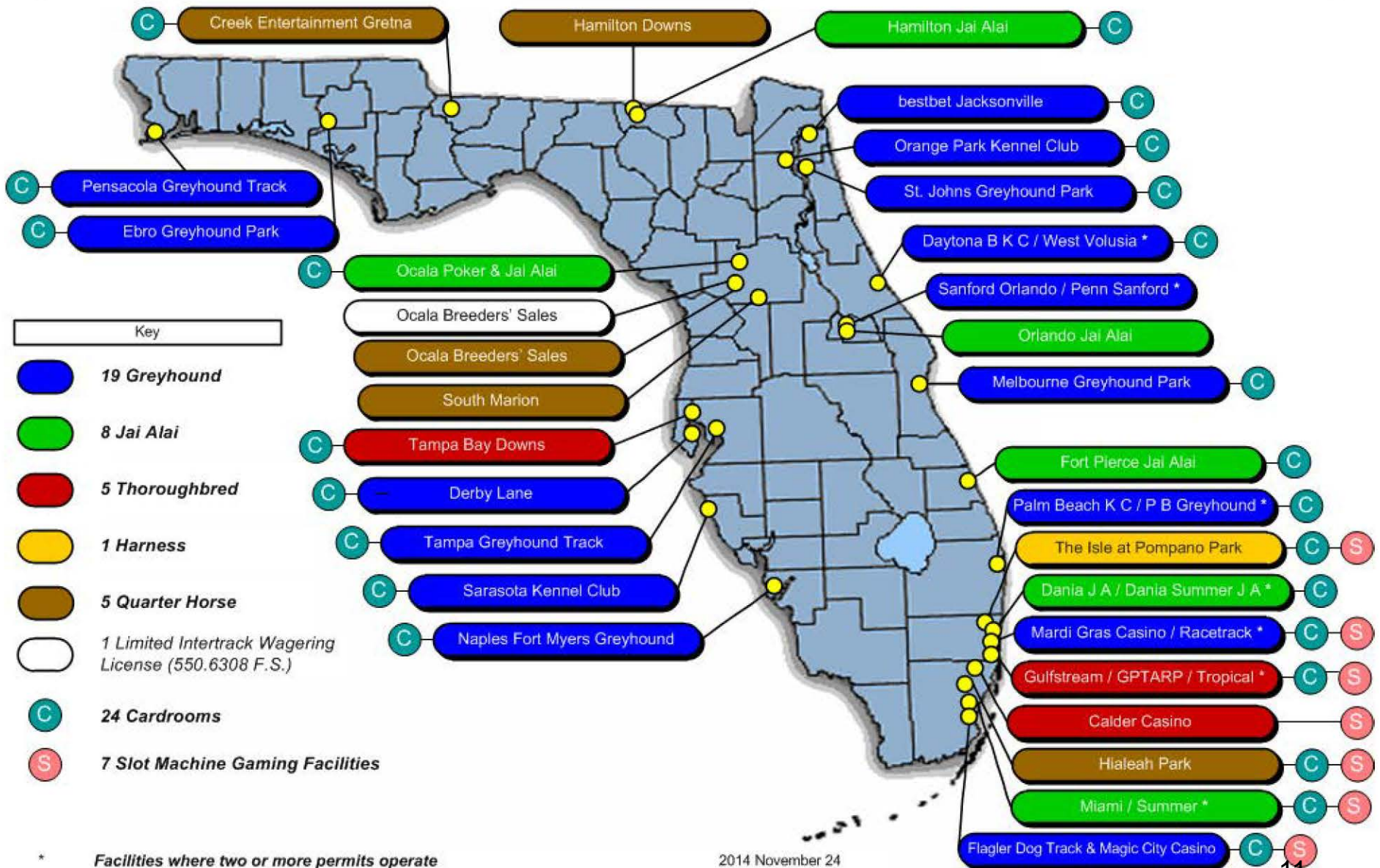
- Each permit is issued for a specific type of live event which includes greyhound racing, thoroughbred racing, harness racing, quarterhorse racing, or jai alai games.
- Generally, the issuance of new pari-mutuel permits is uncommon due to statutory mileage restrictions prohibiting:
  - greyhound or horserace permits within 100 miles of an existing pari-mutuel facility.
  - jai alai permits within 50 miles of an existing pari-mutuel facility.
- Pari-mutuel wagering must be approved by county referendum. In most cases, each specific permit must also be ratified by referendum in the county.

# Annual Operating Licenses

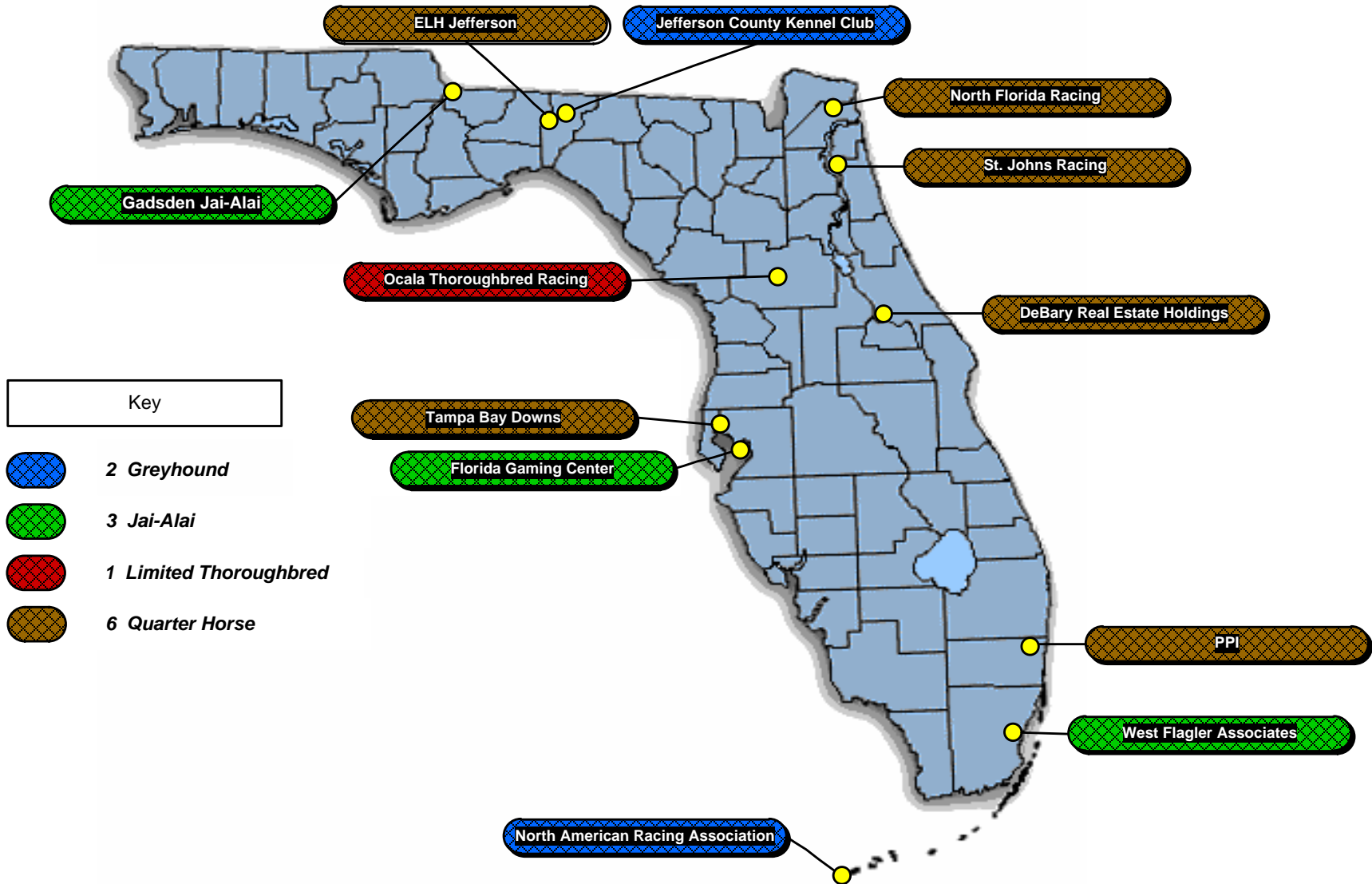
- **Operating Dates License**
  - A permitholder may annually apply to the Division for an operating license to conduct live events.
- **Cardroom License**
  - A permitholder possessing an annual operating dates license may apply for an annual license to operate a cardroom at the permitted pari-mutuel facility.
  - Requires approval from the government where the pari-mutuel facility is located.
- **Slot License**
  - A permitholder possessing an annual operating dates license and is an “eligible facility” may apply for an annual license to operate slot machines at the permitted pari-mutuel facility.
  - Attorney General Opinion issued in January 2012, states that current law prevents the Division from issuing a slot license to a pari-mutuel facility outside Broward or Miami-Dade County.



# Permitholders with 2014-15 Operating Licenses

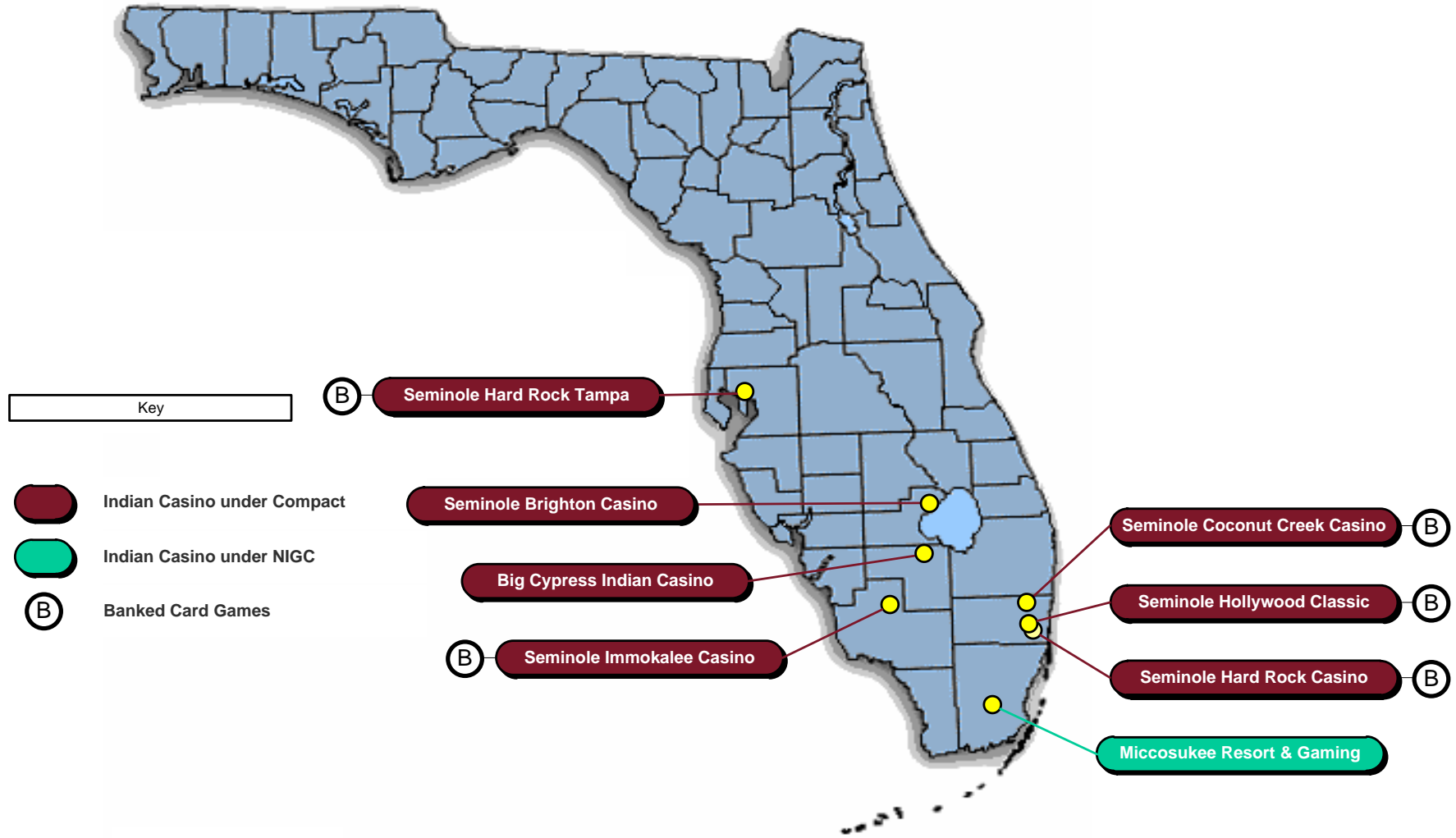


# Permitholders without 2014-15 Operating Licenses





# Fiscal Year 2014-15 Indian Gaming Facilities



2015 March 20

# Fiscal Year 2013/14 Operating Overview

## Operating Statistics

Occupational Licensees: 21,332

Number of Investigations: 630

Pari-Mutuel Races and Games: 59,380

- Horse: 5,778
- Greyhound: 44,650
- Jai Alai: 8,952

Blood/Urine Samples Collected: 79,573

- Horse: 15,816
- Greyhound: 63,757

Prohibited Substances Identified: 250

## Operating Resources

### **Division Staff:**

65 FTE for Pari-Mutuel/Cardroom

46 FTE Slots

4 FTE Compact Oversight

Approximately 100 OPS

### **Budget Expenditures:**

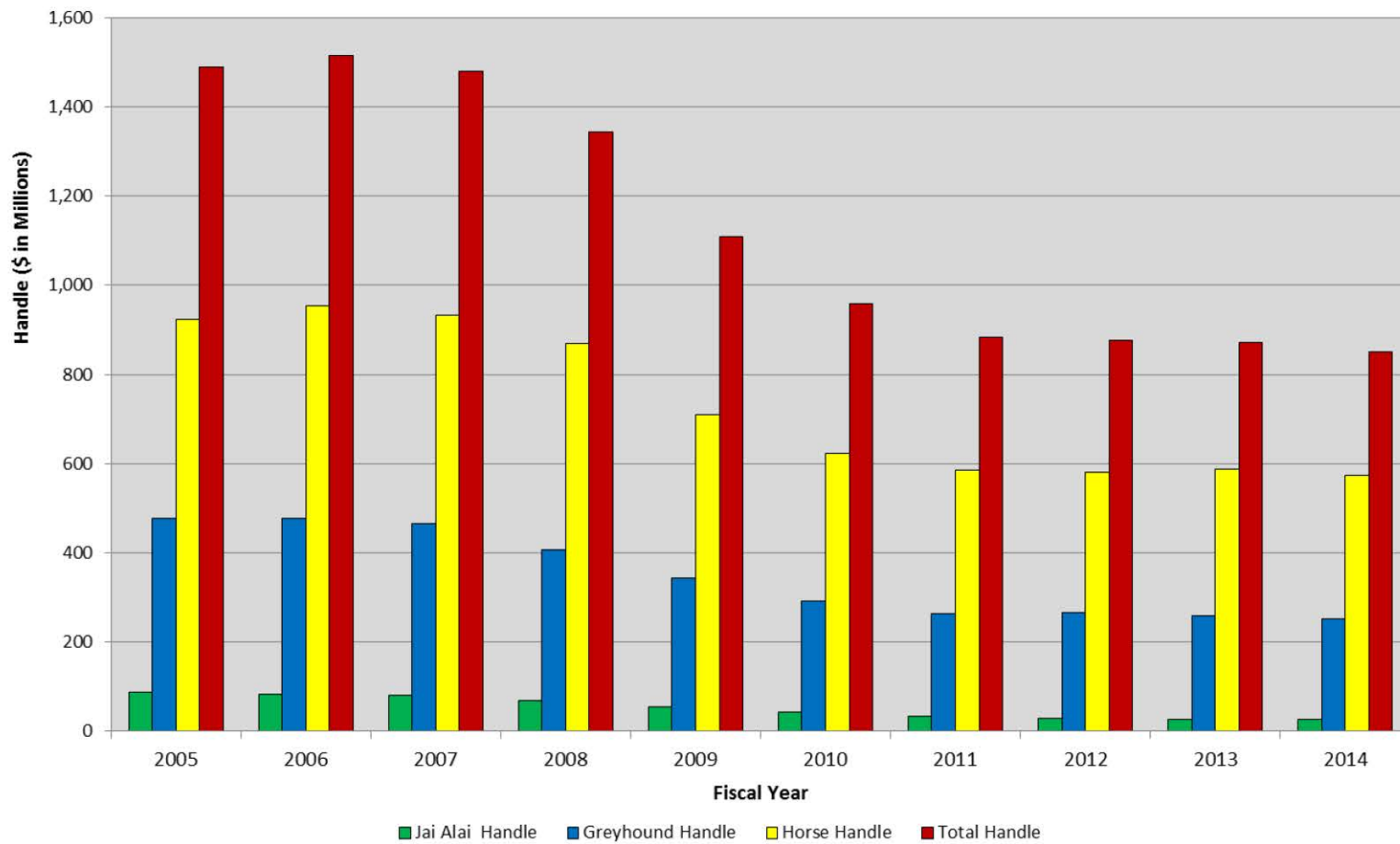
Pari-Mutuel/Cardroom \$ 8.4 million

Slots \$ 3.5 million

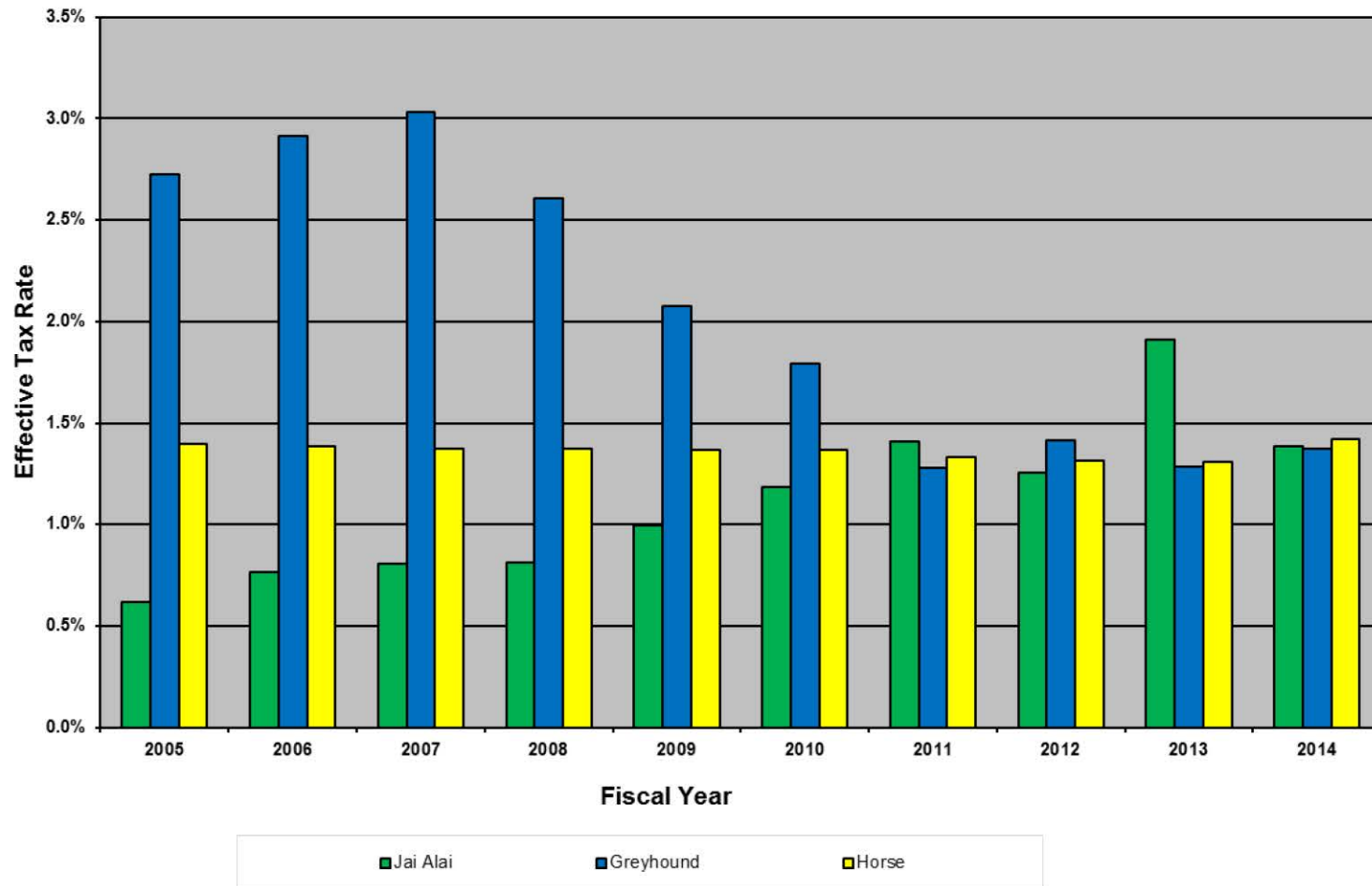
Compact Oversight \$ 0.28 million

**Total \$12.18 million**

## Pari-Mutuel Handle by Industry Fiscal Years 2004/2005 - 2013/2014



## Effective Pari-Mutuel Tax Rate by Industry Fiscal Years 2004/2005-2013/2014



## Horse Racing by State

Ranked by Live Races

State	Live Handle	Total Handle	Live Races
New York	\$ 367,473,011	\$ 1,565,347,724	15,150
Ohio	\$ 31,963,612	\$ 217,920,696	8,195
Pennsylvania	\$ 40,670,238	\$ 523,018,821	7,271
California	\$ 288,032,748	\$ 1,166,925,917	5,891
<b>Florida</b>	<b>\$ 97,403,550</b>	<b>\$ 581,026,024</b>	<b>5,618</b>
Illinois	\$ 66,307,932	\$ 550,735,046	5,452
Louisiana	\$ 34,754,730	\$ 256,019,729	4,860
New Mexico	\$ 21,837,346	\$ 81,126,488	3,060
New Jersey	\$ 60,794,800	\$ 694,630,496	2,679
Oklahoma	\$ 11,388,859	\$ 65,337,682	2,240

Source: 2012 Association of Racing Commissioners International, Inc., A Statistical Summary Pari-Mutuel Racing 2012

## Greyhound Racing by State

Ranked by Live Races

State	Live Handle	Total Handle	Live Races
<b>Florida</b>	<b>\$ 101,039,058</b>	<b>\$ 265,012,031</b>	<b>46,759</b>
Alabama*	\$ 17,741,756	\$ 72,386,152	6,968
West Virginia*	\$ 17,697,117	\$ 33,557,323	4,584
Arizona	\$ 1,186,649	\$ 30,008,835	4,244
Texas	\$ 9,063,558	\$ 67,194,465	3,632
Arkansas*	\$ 19,850,927	\$ 49,878,672	2,528

Source: 2012 Association of Racing Commissioners International, Inc., A Statistical Summary Pari-Mutuel Racing 2012

\* Estimated live races from performance information utilizing an average of 8 races per performance

# Cardrooms

- Requires approval from the government where the pari-mutuel facility is located.
- Cardroom may only be operated at the location where the permit holder is authorized to conduct pari-mutuel wagering.
- Games are limited to games of poker and dominoes in a non-banked manner.
- Wagering limits are established by the individual cardroom operators.
- Tax rate of 10% on gross receipts.
- Annual license fee of \$1,000 per table.
- Over 788 tables licensed for Fiscal Year 13-14.

# Slots

- Slot machine licensees may offer up to 2,000 slot machines for play within each facility.
- Approximately 7,050 slot machines are currently being offered for play at seven pari-mutuel facilities in Miami-Dade and Broward Counties.
- Annual slot license fee of \$2 million per facility.
- Annual fee of \$250,000 per facility to fund the compulsive and addictive gambling prevention program.
- Slot tax rate is 35% on slot machine revenue.
- Requires payout percentage of at least 85% to slot machine players.
- All slots machines must be certified by an independent testing laboratory to comply with Florida law.



# State Compliance Agency (SCA)

- **The Compact Authorizes:**
  - One inspection per month per facility not to last more than 10 hours over two consecutive days.
  - An annual limit of 1,200 hours for all random inspections and audit reviews.
- **Under the Compact we ensure:**
  - Compliance guidelines established by the Tribe's Internal Controls and any other procedures adopted by the National Indian Gaming Commission.
  - Covered Games are operated in compliance with standards that meet or exceed those set forth in the National Indian Gaming Commission's Minimum Internal Control Standards.
  - Documents are retained in compliance with requirements set forth in the Tribe's Record Retention Policies and Procedures.
  - Adequate measures exist to prevent participation of underage patrons.
  - The average minimum pay-out of all slot machines is not less than 85 percent.
  - Employees are licensed in accordance with the Seminole Tribal Gaming Code.
  - All revenue paid to the State of Florida is in compliance with the Compact.
  - The Tribe has paid an annual \$250,000 per facility donation to the Florida Council on Compulsive Gambling.

## SCA Roles & Responsibilities Include

- Determining the distribution to each eligible county or municipality as outlined in Section 285.710, F.S.
- The SCA Audit process is very similar to the audit functions the Division performs at the pari-mutuel slot licensee facilities.
- All gaming data is captured via automated monitoring systems similar to those used by slot licensees operating at pari-mutuel facilities.
- SCA has access to all gaming and gaming support areas of the tribal casinos including the monitoring system of all games; surveillance room and tapes, count rooms, slot machine meters, and findings related to the Seminole Tribe's internal audits.
- The Compact requires an annual audit from an independent audit firm to include:
  - Covered Games to assure compliance with the Tribe's Internal Control Policies and Procedures and any other standards, policies or procedures adopted by the Tribe, the Tribe's Gaming Commission or the National Indian Gaming Commission.
  - Revenues relating to Covered Games and determination of Net Win payments.
  - Quarterly audit reports beginning the first year of the Revenue Share Cycle, as well as a true-up of revenue share payments.

## Pending Rule Challenges

### ***South Florida Racing Association (SFRLA), LLC v. DBPR, 2013-004708***

SFRLA submitted an application for a Summer Jai Alai permit created by section 550.0745, F.S., from Fiscal Year 2011/2012. The Division denied their application based upon a prospective permitholder evaluation as outlined in Rule 61D-4.002(1), F.A.C. SFRLA is challenging the validity of the rule based on invalid exercise of delegated authority. A formal hearing was held on 1/27/2015. Awaiting Final Order.

### ***DBPR v. Richmond Entertainment, d/b/a Hamilton Downs, 2014-026021***

Hamilton Downs Quarter Horse track performed racing meet in 2013. The performances failed to meet the requisite definition of a “race” and, subsequently, Hamilton failed to complete their 20 requisite performances for an annual operating license. Hamilton is challenging the definition of a “race” as an un-promulgated rule. Set for formal hearing on 5/5-6/2015.

# Litigation from Permit/License Denials

## ***South Florida Racing Association, LLC v. DBPR, 2013-028720***

SFRLA submitted an application for a Summer Jai Alai permit created by section 550.0745 F.S., from Fiscal Year 2012/2013. The Division contends that no permit was authorized by statute because determination of lowest handle is limited to wagering pools from within county. The case was presented at the informal hearing and is presently under appeal in the 3<sup>rd</sup> DCA.

## ***South Florida Racing Association, LLC v. DBPR, 2014-042577***

SFRLA submitted an application for a Summer Jai Alai permit created by section 550.0745 F.S., from Fiscal Year 2013/2014. The Division contends that no permit was authorized by statute because determination of lowest handle is limited to wagering pools from within the county. The case is placed in abeyance until DCA ruling from 2013-028720.

## ***Gretna Racing, LLC v. DBPR, Div. of Pari-Mutuel Wagering, 3D14-2654***

The Division denied Gretna's application for slots machine license. The Division's denial was based on an Attorney General's Opinion issued in 2012. The issue is before the 1<sup>st</sup> DCA.

## ***Investment Corporation of Palm Beach v. DBPR, 2014-046914***

Palm Beach applied for a Slots License. The application was denied and they requested a Final Order. The Division's denial was based on an Attorney General's Opinion issued in 2012. The issue is presently before the 4<sup>th</sup> DCA.

## ***Richmond Entertainment, d/b/a Hamilton Jai Alai v. DBPR, 2014-007598***

Division denied Hamilton's request to amend its Fiscal Year 2013-14 operating dates license as not "minor" within the meaning of § 550.01215(3) F.S.. Hamilton contends the statute allows the Division to grant Hamilton's change in operating dates even though such change would not be "minor."

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# Questions



## Revenue Overview

# Gaming: Revenue Overview

March 26, 2015

Presented by:



The Florida Legislature  
Office of Economic and  
Demographic Research  
850.487.1402  
<http://edr.state.fl.us>

# Underlying Economic Premises...

- The money for gambling expenditures comes from somewhere; it is not created:
  - *Recreational budget from discretionary income that could be spent on other items.*
  - *Savings or other investments.*
  - *For problem gamblers, dollars essential to subsistence.*
- Some or all of the jobs, wages and tax revenues attributed to gambling enterprises may be simply transferred from elsewhere. In other words, if the money was spent elsewhere in Florida, it would also generate jobs, wages and potential tax revenues from that expenditure.
  - *Moving activity from one place to another is simply churn without overall statewide gain.*
  - *For jobs, a statewide increase only exists to the extent that the individuals are otherwise unemployable or they are moving in from outside the state to take the jobs*
- In terms of the economy, there are different economic effects based on the type of gambler. Generally:
  - *Residents in the normal course of daily activity—displacement (-) or neutral (=).*
  - *Tourists who would have come to Florida regardless—displacement (-) or neutral (=).*
  - *Residents who would have otherwise left the state to gamble—removal of a leakage (+).*
  - *Tourists coming into the state to gamble who otherwise would not have—new revenue (+).*

The various gaming alternatives will have different mixes of gamblers.



# Secondary Premises...

- A local economic gain doesn't necessarily translate into a statewide gain. Activity may be pulled from another area of the state.
- It makes a difference where equipment and supplies are purchased (in-state or out-of-state).
- It matters where the profits go (in-state or out-of-state).
- Financed capital investment for infrastructure is initially positive as the dollars are infused, but later becomes a drain as repayments of the principal and interest remove dollars.

# Key Concept for Impact Conference...

- Cannibalization—creating demand for one product at the expense of another; substitution of one purchase for another. It can be detected through:
  - The shifting among state revenue sources when the gambling product is a substitute purchase replacing the purchase of another good which would have been taxed in a different manner. (+ or – depending on the difference in tax rates)
  - The shifting among gambling products that are substitutes for each other. (+ or - depending on the difference in tax rates)
  - The shifting between a nontaxable purchase to a taxed gambling product. (+)

# Major Types of Gaming Revenue...

- **Taxes** are compulsory exactions or payments demanded by government to finance public goods and services. They are usually of general benefit, but revenues from some gaming sources (Lottery, Slots, Unclaimed Winning Tickets from certain Pari-Mutuel activities) have been primarily dedicated to education.
  - They can flow to General Revenue, be earmarked for a specific fund, or be redirected from another fund.
- **Fees** are assessed for a particular – or special - service or benefit and are usually collected to defray expenses associated with that service or benefit.
  - “Regulatory fees” are assessed to those obtaining a license, permit or other privilege under regulatory laws enacted to protect public health, welfare and safety. The money is frequently used to cover the cost of regulation.

# Basic Tax Base --- Simplistic Form

**Handle**      -      **Prizes**      =      **Net Win**

*The total sum wagered or bet by participating gamblers on any particular race or game is known as the handle. This is the initial source of all non-investment revenue.*

*The amount returned to the class of participating gamblers in the form of winnings.*

*The amount initially retained by the gambling provider. Represents the loss to the entire class of gamblers and is sometimes called the "hold."*



Taxes can also be levied more directly against patrons in the form of admissions taxes.

**Taxes, Expenses (which can include licenses) and Profits** usually come out of *Net Win*, although taxes may be calculated against the handle. Cardroom gross receipts are a special case.

# Indian Gaming Compact...

- The Compact has a term of 20 years, which began the first day of the month following the publication of the notice of approval in the Federal Register --- effectively August 1, 2010. Based on this, the expiration date is July 31, 2030.
- An exception is made for the authorization for banking or banked card games (including baccarat, chemin de fer, and blackjack) That authorization expires July 31, 2015, unless renewed.
- The Revenue Estimating Conference's convention of looking at current law / current administration means that the current forecast assumes that the authorization expires.

# Compact Provisions...

- The covered games can be offered at 7 facilities:
  - Seminole Indian Casino – Brighton (Glades) --- Slots Only
  - Seminole Indian Casino – Coconut Creek (Broward)
  - Seminole Indian Casino – Hollywood (Broward)
  - Seminole Indian Casino – Immokalee (Collier)
  - Seminole Indian Casino – Big Cypress (Hendry) --- Slots Only
  - Seminole Hard Rock Hotel & Casino – Hollywood (Broward)
  - Seminole Hard Rock Hotel & Casino – Tampa (Hillsborough)
- Roulette, craps, roulette-styled games, and craps-styled games are expressly prohibited.
- While IGRA does not authorize states to impose a tax or fee on tribes—other than an assessment to defray regulatory costs—the Secretary of the Interior has approved compacts that contain provisions for revenue sharing with states, so long as the states provide the tribe with a comparable benefit in return—a benefit to which the tribe would not otherwise be entitled. [GAO-14-743T]

# Revenue Sharing...

- Revenue-Sharing is offered in exchange for “partial but substantial” exclusivity related to the authority to conduct some games not offered elsewhere, as well as at some locations outside Miami-Dade and Broward counties that have no nearby competition.
- **Implicit Competitive Advantage**—a benefit leading to higher profits than rivals will experience.

Example: Seminole Tribe’s tax advantage... Although sales tax applies to spending by patrons at the nongaming Seminole-operated facilities such as restaurants, retail, lodging and entertainment, tribal immunity prevents the enforcement of the collection and remittance of sales tax. The Seminole Tribe not only effectively sells items free from the burden of collecting sales tax, the Tribe and any of its solely owned entities purchase on a sales tax-exempt basis as well.

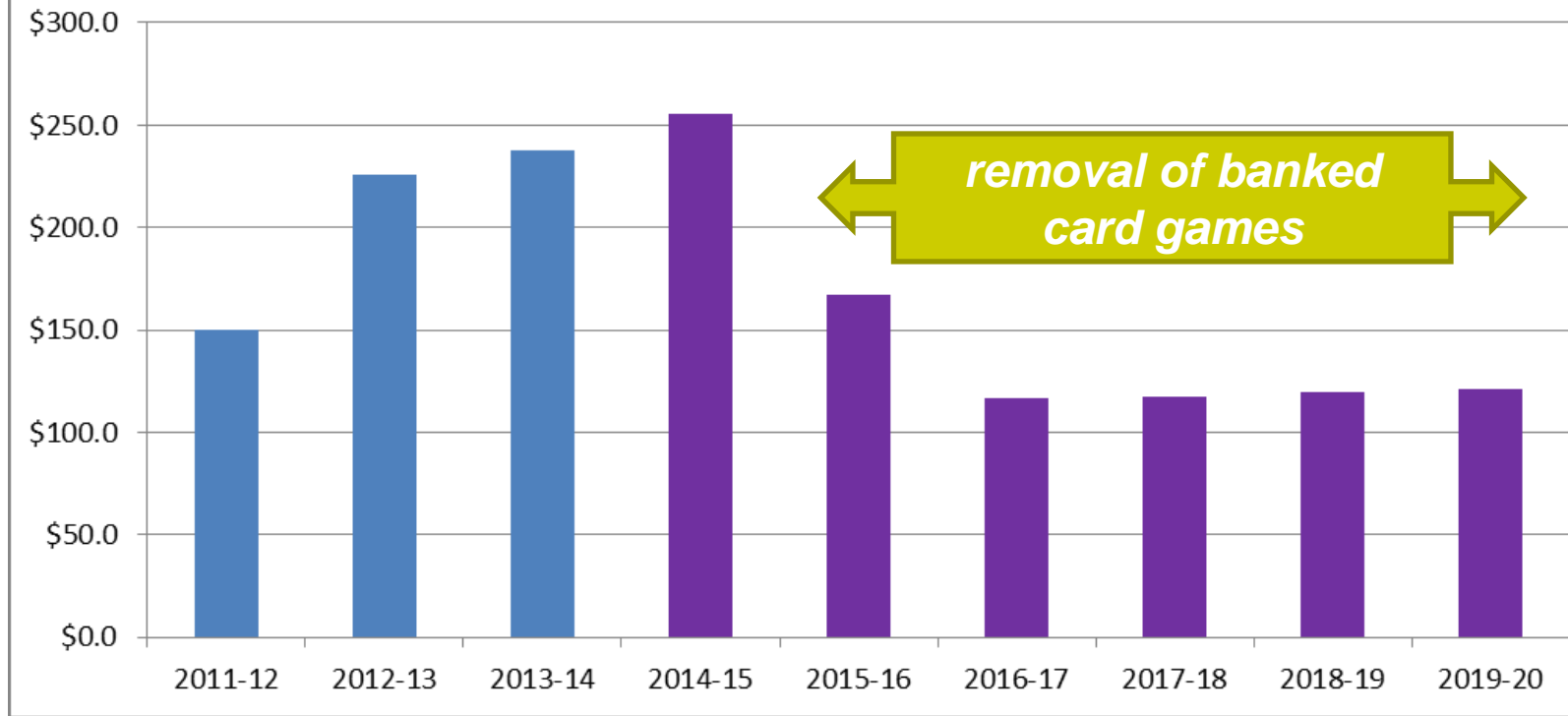
# Revenue Sharing Details...

- **Guaranteed Minimum Payments were required for the first five years of the Compact which total \$1.0 billion.**
  - **\$150 million for Fiscal Years 2010-11 and 2011-12 ✓**
  - **\$233 million for Fiscal Years 2012-13 and 2013-14 ✓**
  - **\$234 million for Fiscal Year 2014-15 ✓**
- If the Revenue Sharing calculation exceeds the Minimum Guarantee, a True-up Payment must also be made.
  - True-up payments have been generated in Fiscal Years 2012-13 and 2013-14 that were received in Fiscal Years 2013-14 and 2014-15. A true-up payment is also expected to be generated in Fiscal Year 2014-15 that will be received in Fiscal Year 2015-16.
- The Compact also provides the following Revenue Sharing schedule.
  - 12% of Net Win up to \$2 billion (**in place through 2012-13**)
  - 15% of Net Win between \$2 billion and \$3 billion (**triggered in 2013-14**)
  - 17.5% of Net Win between \$3 billion and \$3.5 billion (**not reached in forecast**)
  - 20% of Net Win between \$3.5 billion and \$4 billion (**not reached in forecast**)
  - 22.5% of Net Win between \$4 billion and \$4.5 billion (**not reached in forecast**)
  - 25% of Net Win over \$4.5 billion (**not reached in forecast**)

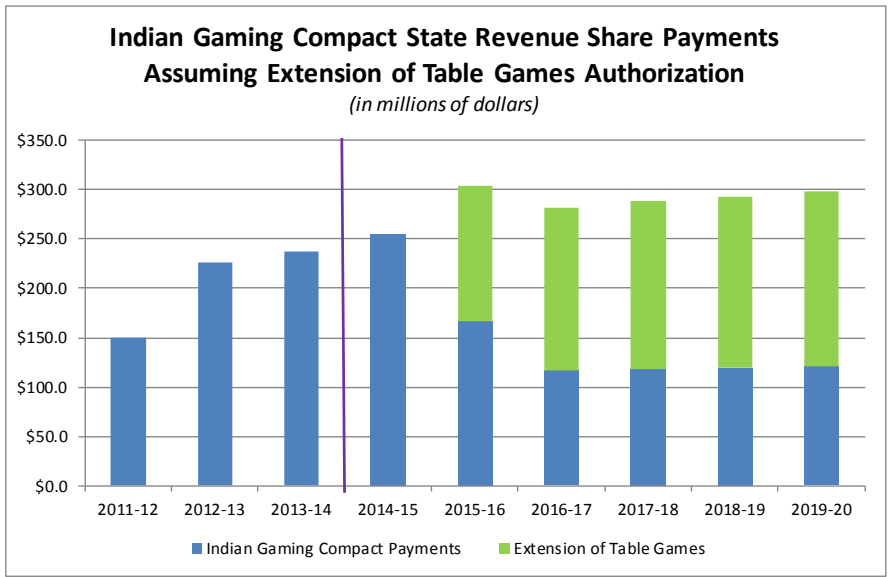


## Indian Gaming Compact State Revenue Share Payments

(in millions of dollars)



True-up payments are received the year after they are generated, so they appear here in Fiscal Years 2013-14 (\$4.3m), 2014-15 (\$21.7m), and 2015-16 (estimated \$31.7m). By the end of FY 2014-15, the Compact will have generated \$1.0577 billion in revenue sharing over its first five years (\$1 billion through the minimum payments, and \$57.7 million in true-up payments), although some of this money will be received in FY 2015-16.



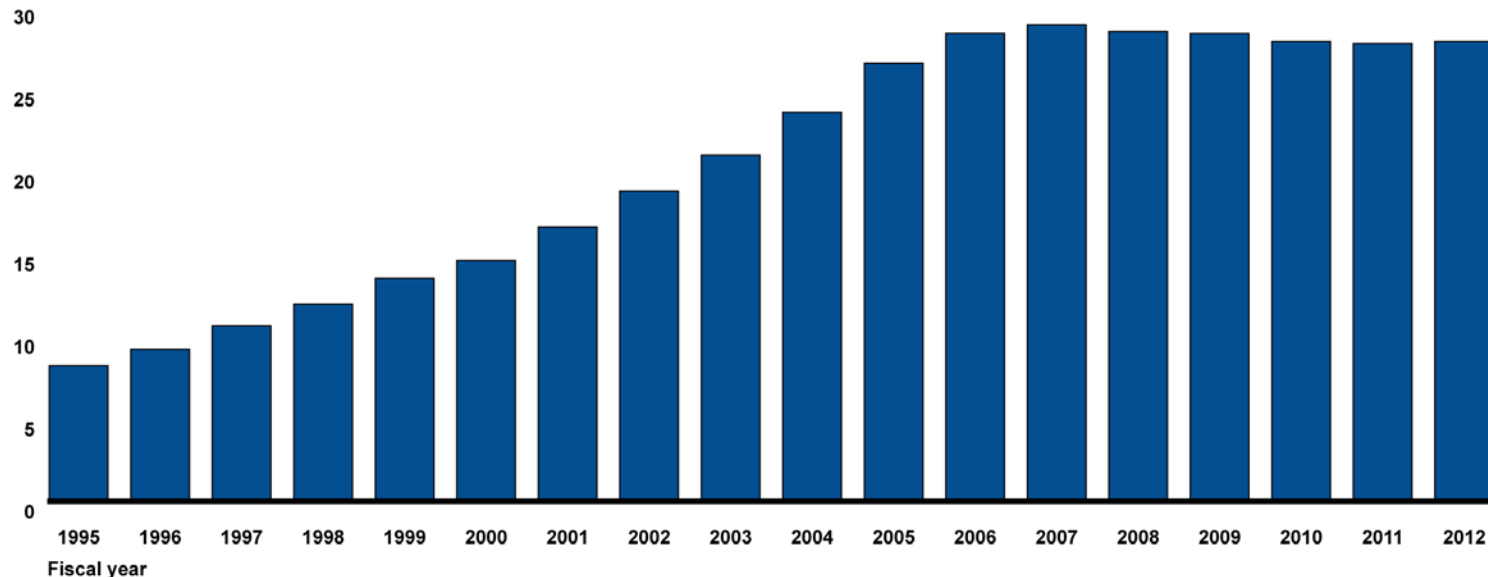
**Even if banked card games are extended, the state would not trigger a bracket higher than 15% (net win greater than \$3 billion) in the forecast window, assuming the current level of activity.**

Indian Gaming Revenues Assuming Banked Card Games Extended						
Fiscal Year	Net Win	% change	Net Revenues			
2012-13	1,977.6		237.3			
2013-14	2,098.0	6.09%	254.7	Current		
2014-15	2,171.4	3.50%	265.7	Forecast	Difference	
2015-16	2,236.5	3.00%	275.5	167.1	136.6	
2016-17	2,281.3	2.00%	282.2	116.7	164.9	
2017-18	2,321.2	1.75%	288.2	117.7	170.0	
2018-19	2,357.2	1.55%	293.6	119.5	173.6	
2019-20	2,393.7	1.55%	299.1	121.3	177.3	
2020-21	2,430.8	1.55%	304.6	123.2	181.0	
2021-22	2,468.5	1.55%	310.3	125.1	184.7	
2022-23	2,506.7	1.55%	316.0	127.1	188.4	
2022-23	2,545.6	1.55%	321.8	129.0	192.4	

# Indian Gaming Across States...

**Growth of Indian Gaming Revenues, Fiscal Years from 1995 to 2012 (GAO)**

Dollars (in billions, adjusted to 2012 constant dollars)



Source: GAO analysis of National Indian Gaming Commission data. | GAO-14-743T

- In fiscal year 2012, about 240 of the 566 federally recognized tribes operated 425 Indian gaming establishments across 28 states, generating \$27.9 billion. These establishments included a broad range of operations, from tribal bingo to multimillion dollar casino gaming facilities. Of these establishments, a few large operations account for a major portion of the revenue. [GAO-14-743T]
- Effective Revenue Sharing rates ranged from nearly 5% in Wisconsin to 25% in New York and Connecticut.

# Options for Improving Revenues...

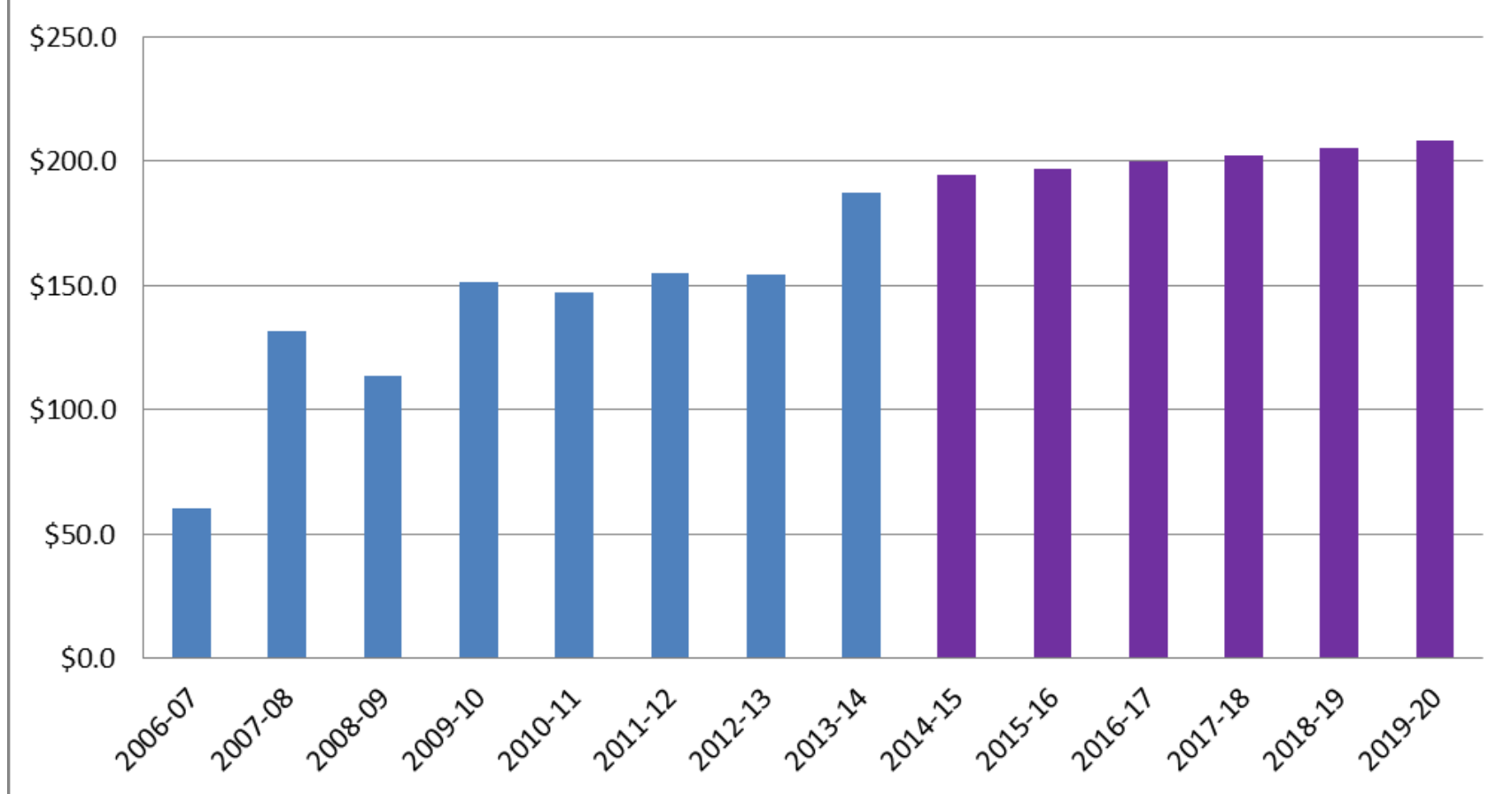
- Exclude deductions for free play and promotional credits from calculation of net win.
- Impose new Minimum Payments related to promised facility expansion or additional gaming opportunities above the current level.
- Incorporate “required effort” to attract tourists from other gambling destinations.
- Provide greater exclusivity (adding in roulette, craps, roulette-styled games, or craps-styled games).
- Change the “brackets” by adjusting tiers and dollar thresholds; the current effective rate is 12.24%.

# Pari-Mutuel Permit Holders...

- There are **40 operating licenses at 28 pari-mutuel locations** where wagering is authorized for horse racing, harness horse racing, quarter horse racing, greyhound racing, or jai alai games.
- **Cardroom poker games** are authorized at 24 pari-mutuel facilities.
- **Slot machine gaming** is currently operating at 7 pari-mutuel facilities in Broward and Miami-Dade Counties.

## State Revenues from Slot Machine Taxes & Fees

*(in millions of dollars)*



The slot machine tax rate was 50% in Fiscal Years 2006-07 through 2009-10, and was reduced to 35% beginning in Fiscal Year 2010-11. The state switched from weekly to monthly collections of slot machine taxes in FY 2012-13, which causes the FY 2012-13 revenues to appear artificially low. A slot machine license fee is \$2 million annually.

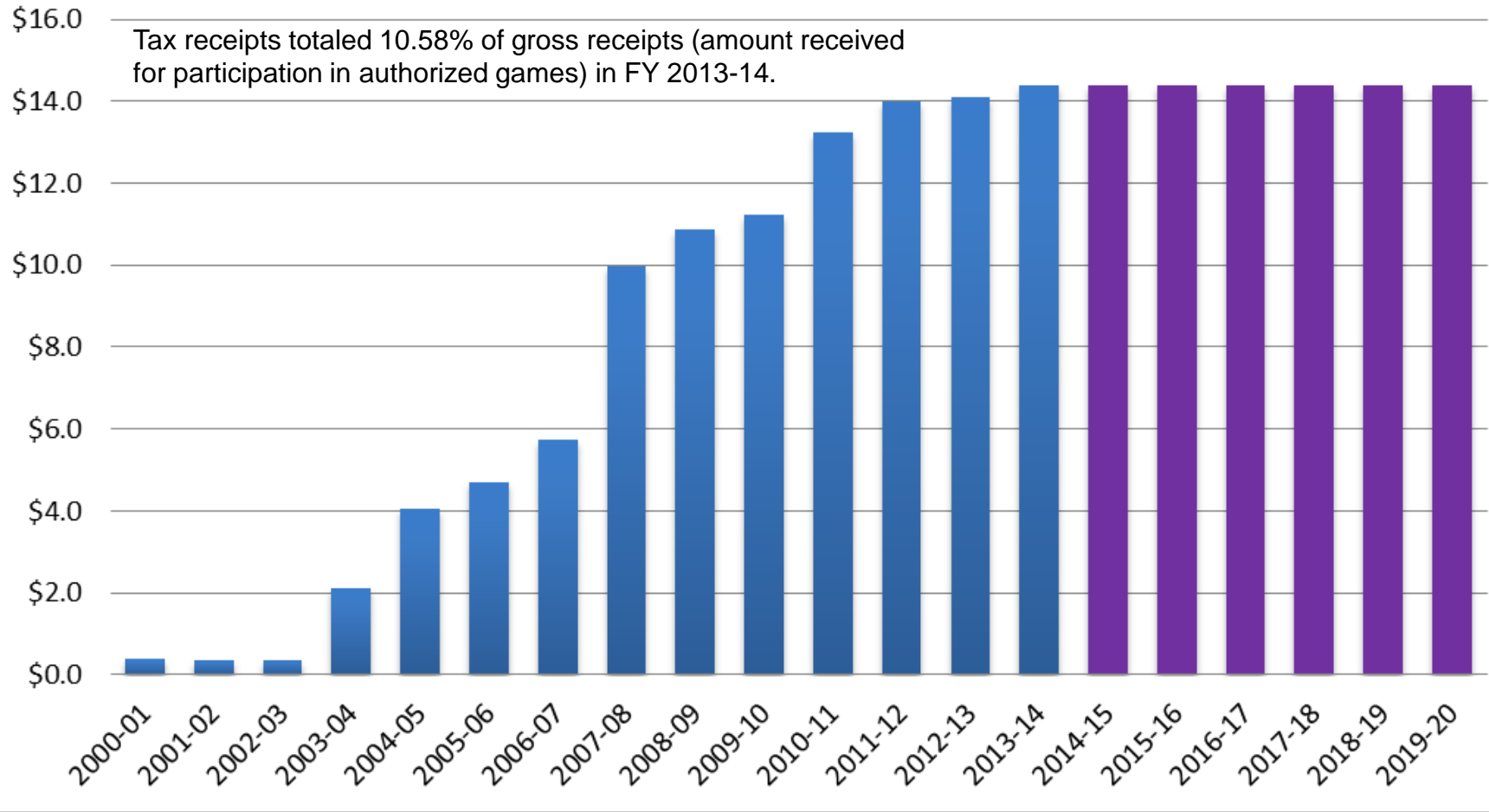
# Prior Experience with Tax Rate Change

- 2010 Session...CS/SB 622 (Ch. 2010-29, Laws of Florida); tax rate reduction from 50% to 35% effective July 1, 2010. The Conference developed a new methodology to evaluate the change, assuming a non-recurring loss for three years and then breaking-even in the 4<sup>th</sup> year (tax receipts at 35% in FY 2013-14 equaling the prior forecast for that year at 50%). The underlying assumption was that activity would increase to the point where the rate change was revenue neutral by the fourth year—due to greater capital investments, promotions and prizes. Overall, net income would have had to increase by 43% for the change to have been revenue neutral.

Tax	Feb-10	Impact Rate Chg	Other Changes	Post-Session '10	Actual	Difference
2006-07	48.2	0.0	0.0	48.2	48.2	
2007-08	122.3	0.0	0.0	122.3	122.3	
2008-09	104.4	0.0	-0.3	104.1	104.1	
2009-10	129.6	0.0	0.0	129.6	136.4	
2010-11	166.7	-25.0	0.0	141.7	127.7	-14.0
2011-12	189.4	-14.2	9.1	184.3	142.7	-41.6
2012-13	193.8	-8.7	5.9	191.0	142.2	-48.8
2013-14	199.0	0.0	19.1	218.1	173.1	-45.0

# State Revenues from Cardroom Taxes & Fees

(in millions of dollars)

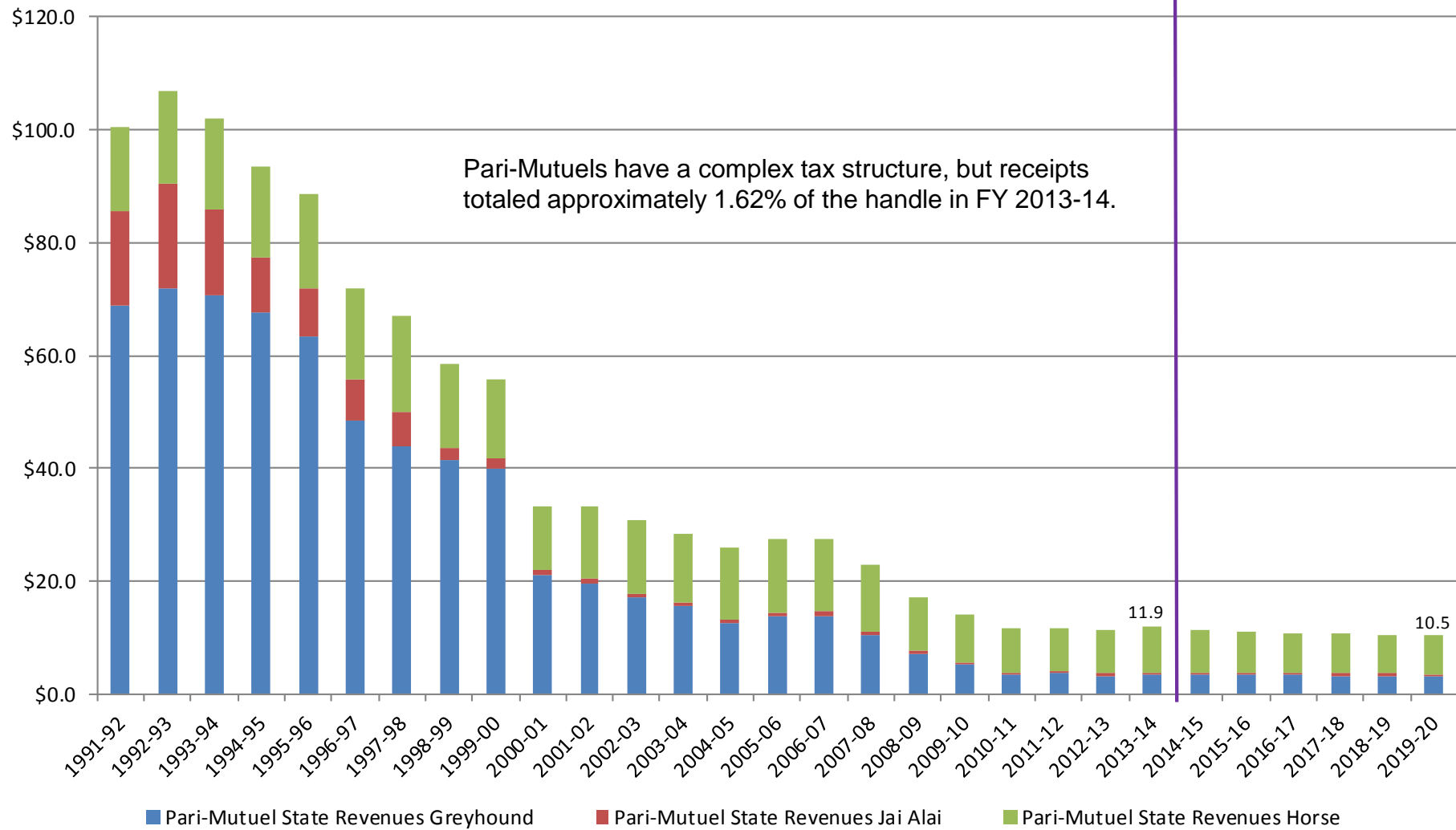


Prior to FY 2007-08, cardrooms could only be operated during live races at pari-mutuel facilities. Beginning in FY 2007-08, cardroom activity was allowed at any time, resulting in a jump in revenues from cardroom taxes and fees.



# Pari-Mutuel State Revenues

(in millions of dollars)



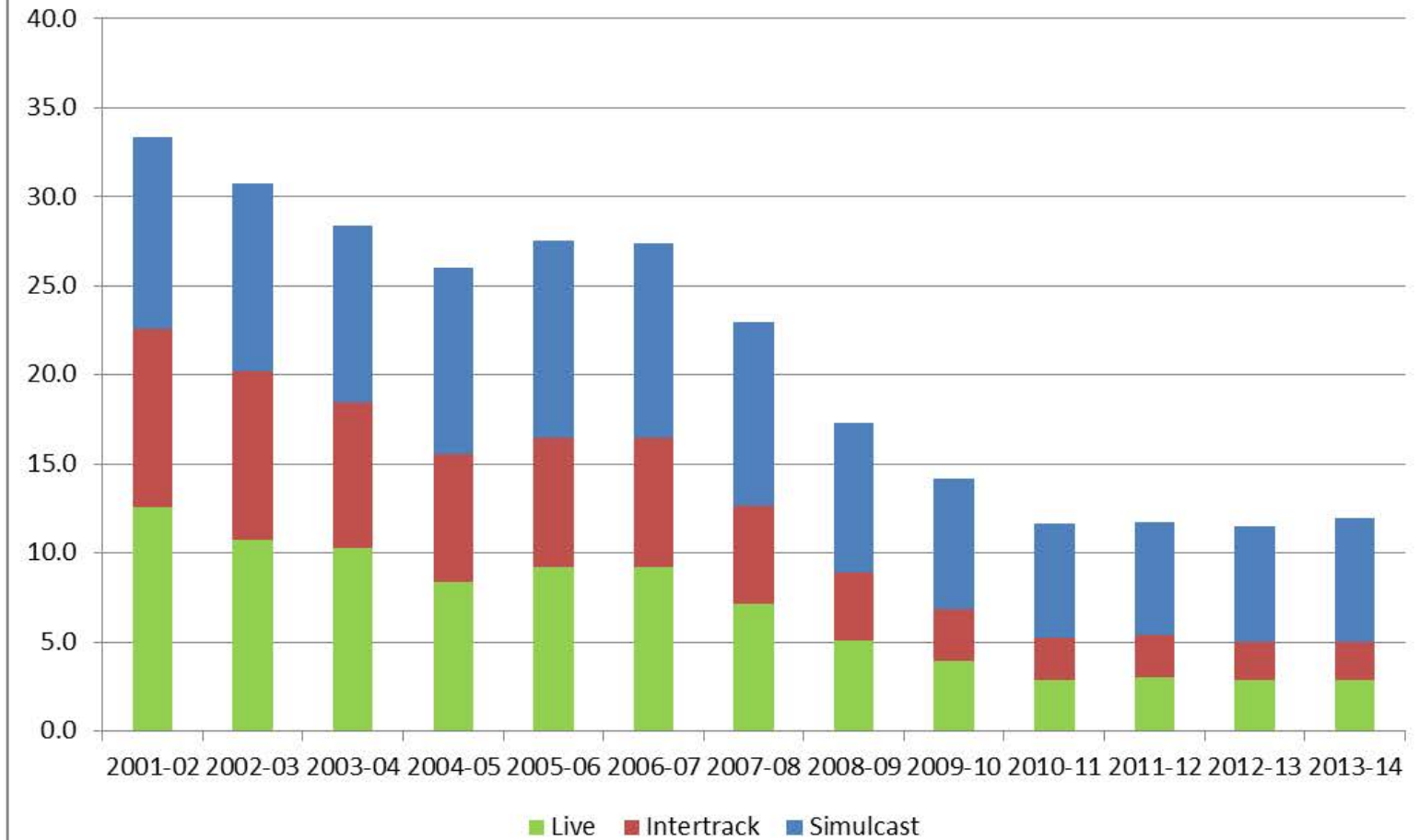
Source: DBPR PMW Annual Reports

# Pari-mutuel Terminology...

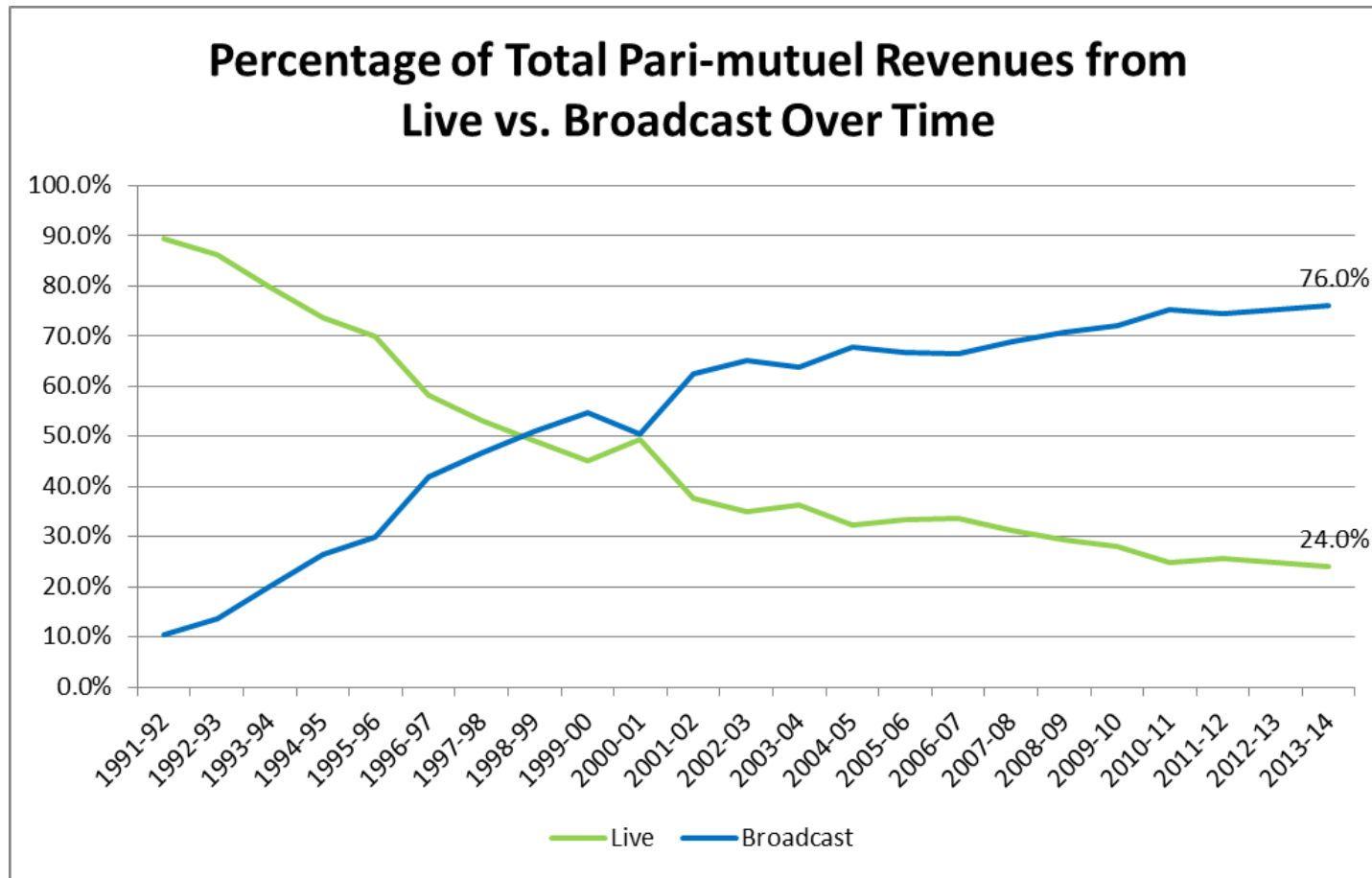
- There are four types of handle at Florida pari-mutuel facilities. Handle is defined as aggregate contributions to pari-mutuel pools (total betting or wagering).
  - Live Ontrack – handle from races or games that take place at the track/fronton in Florida.
  - Intertrack – handle from races or games at a Florida host track/fronton that is broadcast live other Florida tracks/frontons.
  - Simulcast – handle from races or games that originate from out-of-state and are broadcast to a Florida track/fronton.
  - Intertrack Simulcast – handle from re-broadcasting of simulcast races or games from one Florida track/fronton to other Florida tracks/frontons.

## Pari-mutuel State Revenues Live, Intertrack, and Simulcast

*(in millions of dollars)*



Revenues from Live and Intertrack wagering have declined over time as a percentage of total state revenues, while simulcast wagering has increased.



The portion of revenue generated from live events has consistently and substantially declined over time. An average of 25% of total state pari-mutuel revenues was generated from live handle for the five most recent fiscal years, while 75% was generated from wagering on broadcasts of races (from in-state and out-of-state).

# Comparison of Gambling Across Top 10 States

Revenue by Gaming Activity for Fiscal Year 2013-14						
<i>(in millions of dollars)</i>						
	Lottery	Casino	Racino	Video Gaming	Pari-Mutuel	Total
New York	<b>2,235.0</b> 70.0%		<b>937.7</b> 29.4%		21.8 0.7%	3,194.5
Pennsylvania	1,081.5 44.3%	<b>575.7</b> 23.6%	770.8 31.6%		11.8 0.5%	2,439.8
Florida	1,495.4 88.2%		174.0 10.3%		<b>25.3</b> 1.5%	1,694.7
Illinois	815.4 54.9%	516.6 34.8%		<b>145.6</b> 9.8%	6.5 0.4%	1,484.1
California	1,349.6 99.0%				13.8 1.0%	1,363.4
Texas	1,220.7 99.4%				7.3 0.6%	1,228.0
New Jersey	965.0 79.0%	257.1 21.0%				1,222.1
Ohio	764.9 64.2%	273.4 22.9%	148.0 12.4%		5.0 0.4%	1,191.3
Michigan	738.1 73.3%	264.0 26.2%			4.3 0.4%	1,006.4
Georgia	945.1 100.0%					945.1

Source: The Nelson A. Rockefeller Institute of Government, public policy research arm of the State University of New York, Data Alert, March 2015.

# Revenue Scenarios...

Impact to Current Revenue Forecasts from Various Scenarios

Scenario	Compact	Slots at Pari-Mutuels	Pari-Mutuels	Cardrooms
Compact - No Extension of Banked Card Games	Neutral*	Neutral**	Neutral	Neutral
Compact - With Simple Extension of Banked Card Games	Increase	Neutral**	Neutral	Neutral
Compact - Added Games such as Roulette or Craps	Increase	Decrease to Neutral	Neutral	Neutral
Compact - Simple Extension with Targeted Tourism or Capital Investment	Increase	Decrease to Neutral	Neutral	Neutral
Reduction of the 35% Tax Rate on Slots at Pari-Mutuels	Neutral	Likely Decrease	Neutral	Neutral
Slots at Pari-Mutuel Facilities Other Than Broward & Miami-Dade	Total Loss of Revenue Sharing	Increase	Neutral	Neutral
Banked Card Games at Existing Pari-Mutuel Slots (Miami-Dade & Broward)	Largely Neutral if No Extension; Less of an Increase if Extension	Increase to Neutral***	Neutral	Decrease to Neutral
Destination Resorts - Locations Other Than Broward & Miami-Dade	Total Loss of Revenue Sharing	Decrease to Neutral	Neutral	Neutral
Destination Resorts - Broward & Miami-Dade	Largely Neutral	Decrease to Neutral	Neutral	Neutral

\*The current forecast assumes the loss of all revenue sharing from Broward and all banked card game revenue outside of Broward.

\*\*The Revenue Estimating Conference assumed the loss of banked card games would induce the players to go out-of-state to play banked card games.

\*\*\*Even if there is no extension to the Compact, the Tribe would still be allowed to have banked card games in this scenario--with a significant competitive advantage (reduced revenue share).

**Note:** Actual Impact Conference results would be dependent on the details of the specific legislative proposal.





## Gaming Legislation Pending in 2015 Legislative Session

Issue	House Bill	Potential Compact Impact*
<b>Racing Animal Safety</b>		
Require greyhound injury reporting and penalties for failure to report	HB 129 - Moskowitz HB 187 - Rader HB 1233 - Young	None anticipated
Update greyhound medication and safety requirements	HB 187 - Rader HB 239 - Fitzenhagen HB 1233 - Young	None anticipated
Update horse medication and testing requirements	HB 239 - Fitzenhagen HB 1233 - Young	None anticipated
<b>Decoupling Live Racing</b>		
Remove requirement for live racing for greyhound permitholders	HB 1183 - Moskowitz HB 1233 - Young	None anticipated
Eliminate live greyhound racing tax credits and reduce tax on handle rate	HB 1183 - Moskowitz HB 1233 - Young	None anticipated
<b>Gaming Authorization and Tax Rates</b>		
Reduce slots tax rate from 35% to 25%	HB 1233 - Young	None anticipated
Authorize slots at additional pari-mutuel locations, with limitations	HB 1233 - Young	Anticipated - Remaining revenue sharing would cease upon opening of slot operations at additional location
Authorize historical racing games (gaming based on video of previously conducted races), with requirements and tax rates	HB 1233 - Young	Anticipated - Remaining revenue sharing would cease upon opening of games outside of Miami-Dade or Broward
<b>Gaming Limitation</b>		
Revert dormant pari-mutuel wagering permits	HB 1233 - Young	None anticipated
Prohibit transfer of permits to other locations	HB 1233 - Young	None anticipated
Impose moratorium on the issuance of new gaming permits, with exceptions	HB 1233 - Young	None anticipated
Impose constitutional moratorium on issuance of new gaming permits	HJR 1239 - Young	None anticipated

\* "Potential Compact Impact" is based on staff's initial analysis of the current bill language. This does not represent an official legal opinion or the intent of the proposed legislation.



<b>Gaming Commission</b>		
Create Gaming Commission and Department of Gaming Control - DPBR Division of Pari-mutuel Wagering transfers to the new Department and adds jurisdiction over Destination Resorts	HB 1233 - Young	None anticipated
Create Joint Legislative Gaming Control Nominating Committee - nominates candidates for Governor selection; selection is subject to Senate confirmation	HB 1233 - Young	None anticipated
<b>Destination Resorts</b>		
Authorize 2 Destination Resorts in Miami-Dade or Broward - countywide referendum requirement; competitive application process; minimum capital investment; minimum tax payments; 10% tax rate on gross receipts	HB 1233 - Young	Anticipated - Revenue sharing from Broward facilities would cease upon opening of DR gaming operations; Seminole facilities would be authorized for the same games
<b>Amusement Games</b>		
Clarify that entertainment games of skill are authorized	HB 641 - Trumbull HB 1233 - Young	None anticipated

