

Gaming Revenue Update: Indian Gaming and Slots Activity

January 24, 2019
(with update to Slide #8)

Presented by:



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

Current Indian Gaming Compact...

- The existing Compact (sometimes referred to as the 2010 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 was made for the authorization of banking or banked card games (including baccarat, chemin de fer, and blackjack). That authorization formally expired July 31, 2015.
- Roulette, craps, roulette-styled games, and craps-styled games are expressly prohibited.
- The covered games can be offered at all seven facilities, but two are slots-only:
 - 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)

Revenue Sharing Details...

- **Guaranteed Minimum Payments were required for the first five years of the Compact which totaled \$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 exceeded the Minimum Guarantee, a True-up Payment had to be made.**
 - **Formal true-up payments were generated in Fiscal Years 2012-13, 2013-14 and 2014-15; each payment was received in the immediately following fiscal year. ✓**
- The Compact also provides the following brackets for Revenue Sharing.
 - 12% of Net Win up to \$2 billion (**only effective bracket through 2012-13**)
 - 15% of Net Win between \$2 billion and \$3 billion (**first triggered in 2013-14**)
 - 17.5% of Net Win between \$3 billion and \$3.5 billion (**first reached in 2025-26**)
 - 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**)

Banked Card Games...

- 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 authorization for banked card games expired on July 31, 2015, and the grace period ended October 31, 2015. ✓*
- *The Tribe continued to make revenue share payments as though the banked card games were reauthorized. ✓*
- *The Revenue Estimating Conference's convention of deferring to current law / current administration meant that the authorization cleanly expired. This removed all revenue sharing related to Broward County, as well as the banked card games from the forecast. ✓*
- *Based on the Settlement Agreement and Stipulation entered into between the Seminole Tribe of Florida and the State of Florida in July 2017, the accumulated payments associated with banked card games that the state had held in reserve (\$233.8 million) were released. ✓*

Settlement Agreement and Stipulation...

- On July 5, 2017, the Seminole Tribe of Florida and the State of Florida entered into a Settlement Agreement and Stipulation. Included as one of the issues that was resolved, the Tribe agreed to “release the State from any and all claims...to recover past Revenue Share Payments” and further agreed that “the State is entitled to the unencumbered use” of the reserve.
- The Settlement Agreement and Stipulation also requires that “...the state takes **aggressive enforcement action** against the continued operation of banked card games, including Designated Player Games that are operated in a banked game manner...” during the Forbearance Period, and does not specifically address the standard thereafter—nor does it define the standard.
 - The original Forbearance Period ended March 31, 2018; however, an amendment to the Settlement Agreement was signed on April 18, 2018, effectively extending the Forbearance Period to May 31, 2019.
- Assuming that the State would be deemed to be in compliance, the Revenue Estimating Conference recognizes all revenue share payments associated with banked card game activity; however, this outcome is not guaranteed.
- This ambiguity has changed the forecast: all future revenue share payments, including those formerly placed in reserve, have been treated as nonrecurring revenues. This is because the continuation of these payments depends on actions by the State and the Seminole Tribe that cannot be anticipated with sufficient certainty.

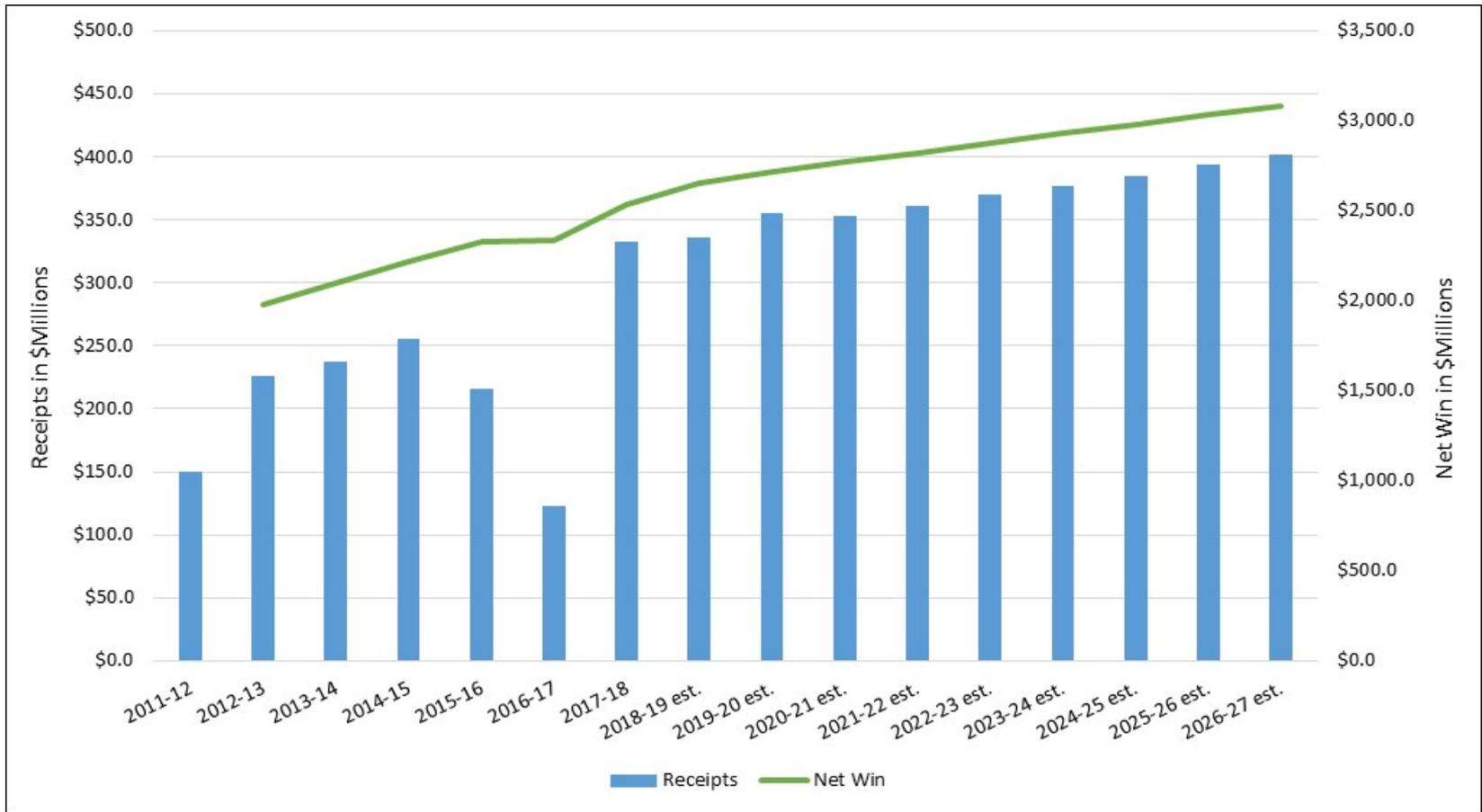
Revenue Sharing Payment Structure...

- The 2010 Compact states:

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. The Tribe will make available to the State at the time of the Monthly Payment the basis for the calculation of the payment. 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. [see pages 34 and 35 of the 2010 Compact; formatting removed]

- After the Guaranteed Minimum Payment period ended, the Tribe paid the state \$19.5 million per month, with a significant true-up payment after the fiscal year ended.
- The current payment structure was modified in FY 2017-18, but still differs from the Compact and continues to result in a partial shift of dollars between years:
 - 1) Twelve equal payments of \$19.5 million per month.
 - 2) In the month the Tribe receives its quarterly audit (November, February, May and August), they recalculate their projection for the year, and then make a single lump-sum true-up payment that represents the incremental addition associated with the prior quarter. This quarterly true-up payment incorporates seasonal effects since it is looking backwards.
 - 3) Any additional adjustment needed for the year is included in the August payment (final quarter + reconciliation).

Comparison of Net Win to Revenue Sharing...



Even though the effective revenue sharing rate for General Revenue is fairly stable at 12.5% per fiscal year contained in the forecast, past adjustments for banked card games and the fluctuating payment structure that has moved dollars between fiscal years have provided historical disruptions in the series.

Indian Gaming Revenues									
Millions of \$									
	Receipts			Local Distribution			Net General Revenue		
	Aug 2018	Dec 2018	Difference	Aug 2018	Dec 2018	Difference	Aug 2018	Dec 2018	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	215.4	215.4	0.0	7.7	7.7	0.0	207.7	207.7	0.0
2016-17	122.3	122.3	0.0	6.3	6.3	0.0	116.0	116.0	0.0
2017-18	332.1	332.1	0.0	3.5	3.5	0.0	328.6	328.6	0.0
2018-19	365.3	336.2	-29.1	10.3	10.3	0.0	355.0	325.9	-29.1
2019-20	345.8	355.4	9.6	11.2	10.1	-1.1	334.6	345.3	10.7
2020-21	353.3	353.4	0.1	10.4	10.7	0.3	342.9	342.7	-0.2
2021-22	360.8	361.5	0.7	10.6	10.6	0.0	350.2	350.9	0.7
2022-23	368.6	369.4	0.9	10.8	10.8	0.0	357.7	358.6	0.9
2023-24	376.4	377.3	0.8	11.1	11.1	0.0	365.4	366.2	0.8
2024-25	384.2	385.1	0.9	11.3	11.3	0.0	372.9	373.8	0.9
2025-26	392.0	393.4	1.4	11.5	11.6	0.0	380.5	381.9	1.4
2026-27	400.6	402.1	1.5	11.8	11.8	0.0	388.8	390.3	1.5

Since the Conference held in August, the revenue share payments had been running consistently under forecast. This result was caused by the Tribe's deployment of an adjusted payment structure that differed from the one originally assumed by the Conference.

- With the exception of FY 2018-19, the underlying net win forecast was increased each year; however, the corrected payment pattern shifted money previously expected in FY 2018-19 to the August True-up anticipated in FY 2019-20. This shift between years made it appear that FY 2018-19 lost money relative to the prior forecast, even though the underlying estimate was unchanged from August.
- The difference is less apparent in the subsequent years, as the higher incoming true-up payment is offset by the lower expected payments during the remainder of the year.
- The Conference retained its estimate for FY 2018-19 based on the Tribe's most recent financial report and the true-up payment received in November for the prior quarter. Expectations for net win in FY 2019-20 and the remainder of the forecast are marginally higher, with long-term growth reflecting a blended rate of population growth and total visitors to the state.

Shoring Up Current Projections Is Critical...

- Key concepts and terms such as “aggressive enforcement” are not defined in the Settlement Agreement and Stipulation, nor had an informal understanding been reached with the Tribe at the time of the last Conference.
- If the Seminole Tribe determines that the State has not taken “aggressive enforcement action against the continued operation of banked card games...”, it can withhold the entire revenue sharing payment, not just the dollars associated with banked card games. Since payments received year-to-date are assumed to belong to the State with certainty, in FY 2018-19, the remaining dollars at risk are \$141.4 million to General Revenue (\$325.9 annual estimate - \$184.5 received through January 2019 = \$141.4 yet to be paid). Thereafter, the amount at risk is equal to 100% of the forecasted revenues.
- If clarity or certainty is somehow provided, the revenue sharing dollars could potentially be restored to recurring dollars.

Pari-Mutuel Permit Holders...

- As of June 30, 2018, there were **30 pari-mutuel facilities located throughout the state** where wagering is authorized for thoroughbred horse racing, harness horse racing, quarter horse racing, greyhound racing, or jai alai games.
- As part of the 2004 General Election, Florida voters approved a limited constitutional amendment to legalize slot machines at certain pari-mutuel facilities in Miami-Dade and Broward counties. The amendment further required an affirmative vote of the electors in each county before the slot machines could be actually authorized for that county. Broward's referendum was successful on March 8, 2005, and Miami-Dade's was successful on January 29, 2008. These referenda authorized slot operation at 7 facilities, and Florida law was amended to authorize operation at an 8th facility.
- **Slot machine gaming** is currently operating at 8 pari-mutuel facilities in Broward and Miami-Dade Counties.
 - A slot machine license fee is \$2 million annually.
 - There is a required fee of \$250,000 per facility to fund programs for the prevention of compulsive gambling.
 - The tax rate is 35% on specified slot machine revenues.
 - All but Calder Casino & Race Course also have a cardroom.

Basic Tax Base --- Simplistic Form

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

The total of all cash and property, except nonredeemable credits, received by the slot machine licensee from the operation of slot machines.

The amount of cash, cash equivalents, credits, and prizes paid to winners of slot machine gaming.

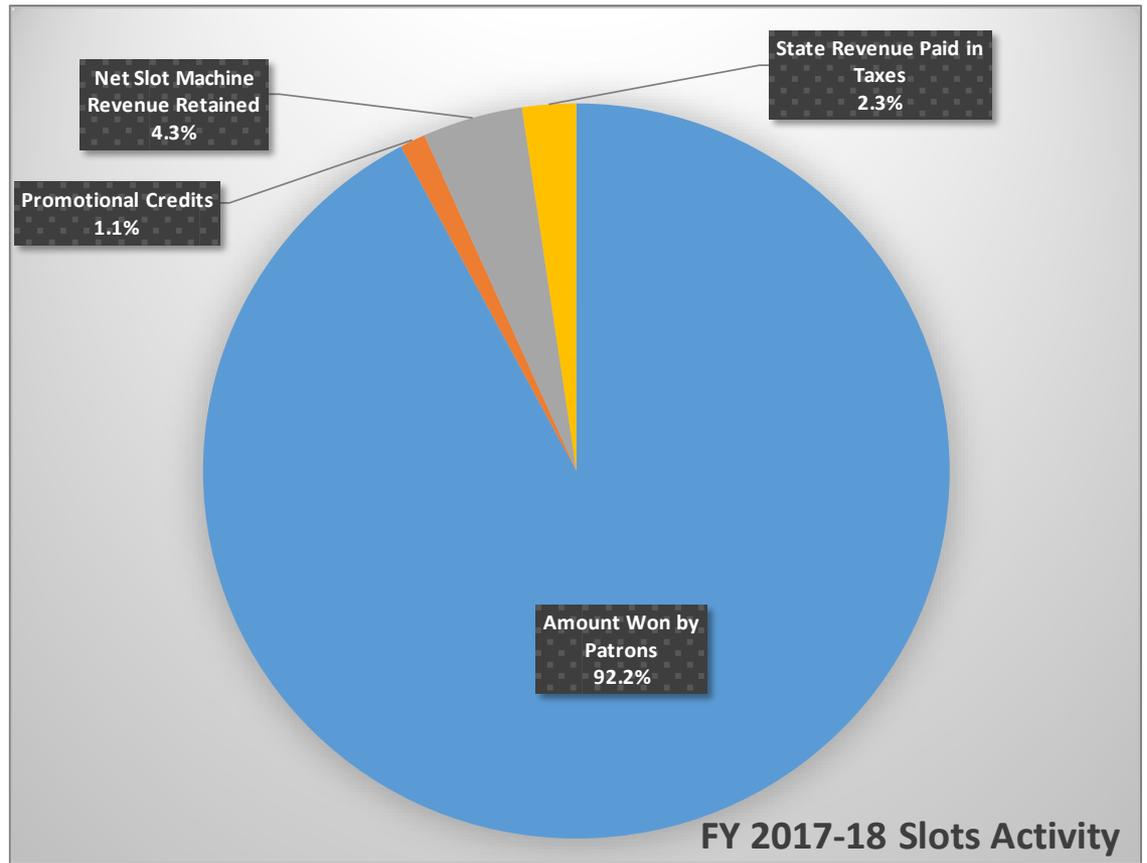
The amount initially retained by the slot machine licensee. Represents the loss to the entire class of gamblers.



The payout percentage of a slot machine gaming facility is required to be at least 85 percent by law.

Taxes, Expenses (which can include licenses) and Profits usually *come out of Net Win*, although taxes may be calculated against the handle.

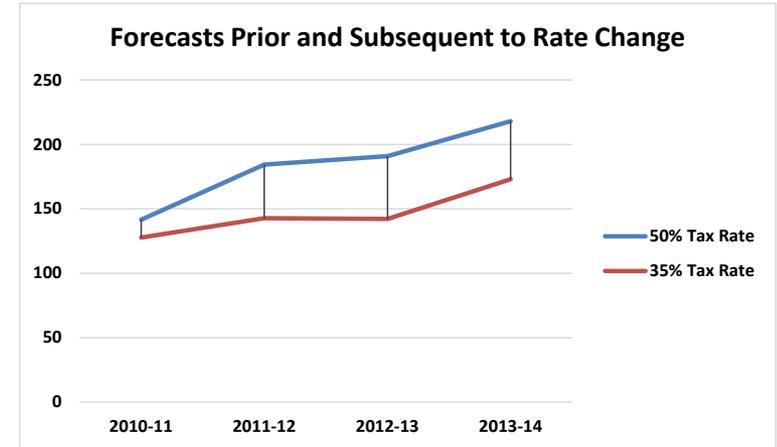
Amount Wagered in 2009-10	3,840,468,455	100.0%
Amount Won by Patrons	3,538,686,959	92.1%
Promotional Credits	25,760,424	0.7%
Net Slot Machine Revenue Retained	138,354,245	3.6%
State Revenue Paid in Taxes (50% Rate)	138,125,106	3.6%



Amount Wagered in 2017-18	8,268,257,753	100.0%
Amount Won by Patrons	7,625,987,757	92.2%
Promotional Credits	91,921,534	1.1%
Net Slot Machine Revenue Retained	358,925,395	4.3%
State Revenue Paid in Taxes (35% Rate)	192,876,273	2.3%

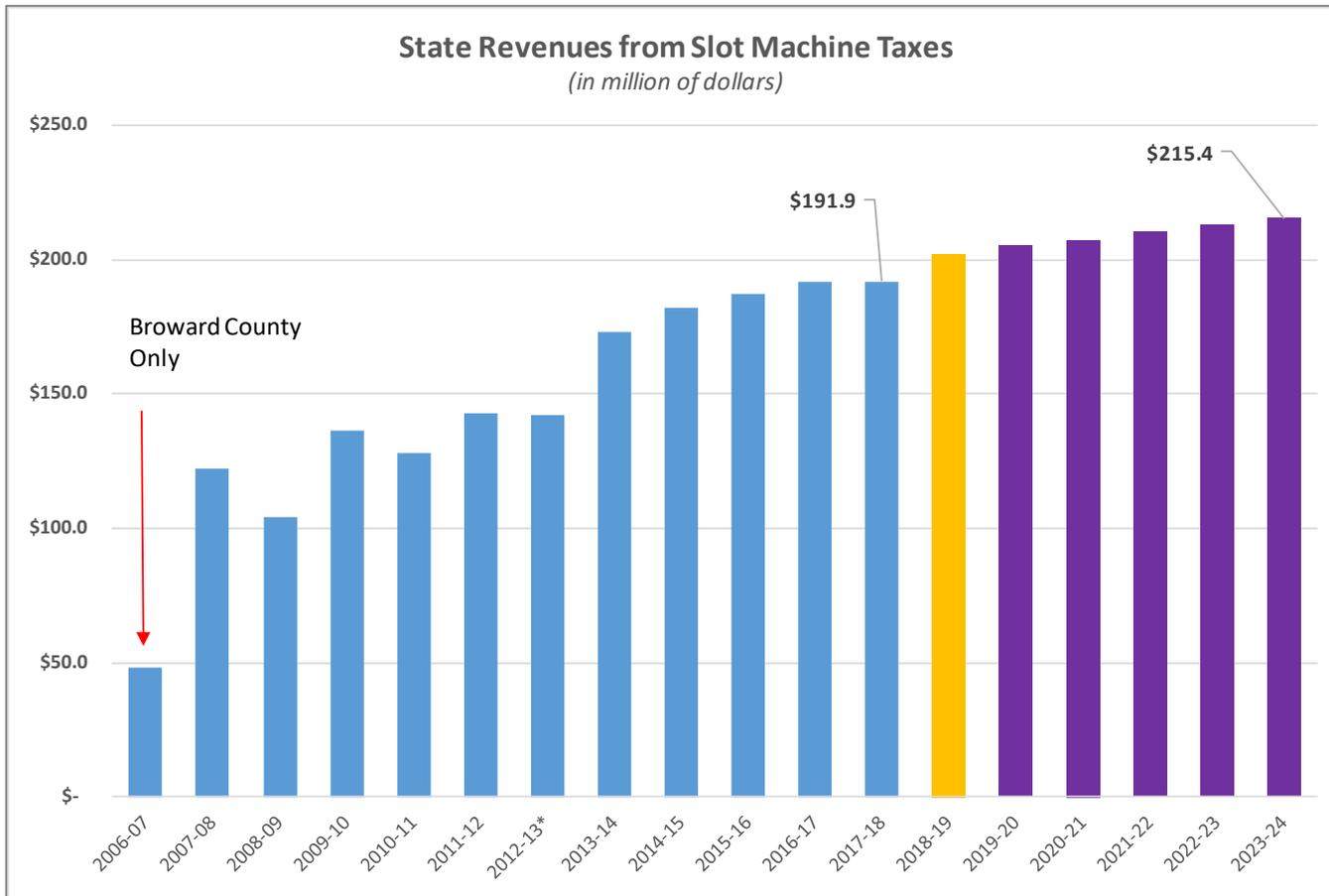
Tax Rate Change...

During the 2010 Session, CS/SB 622 (Ch. 2010-29, LOF) passed which reduced the slots tax rate from 50% to 35% effective July 1, 2010. The Revenue Estimating Conference developed a new methodology to evaluate the change, assuming a non-recurring loss for three years and then a break-even point in the 4th year (meaning tax receipts at 35% in FY 2013-14 would equal 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. It did not.

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

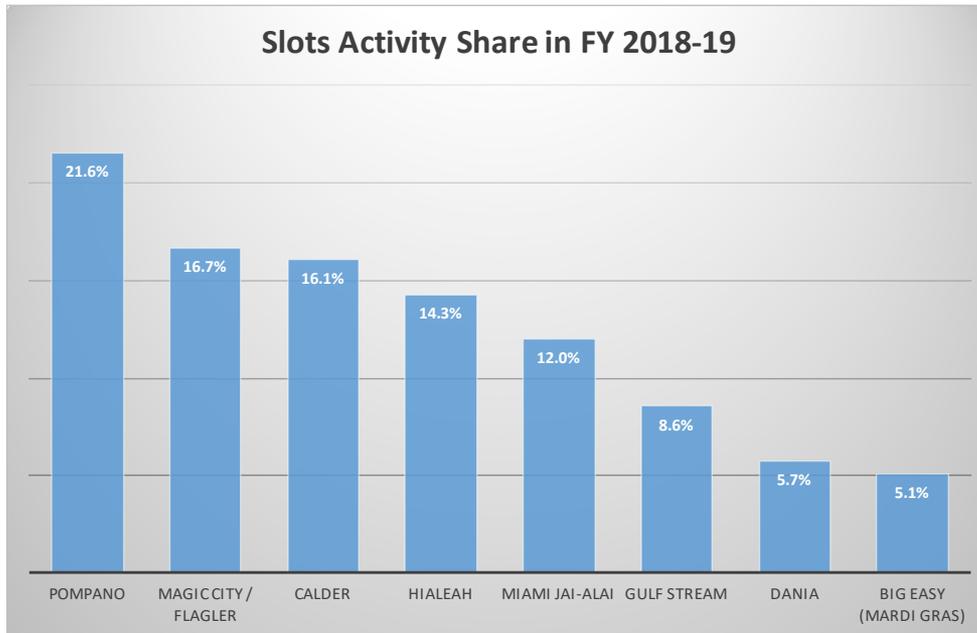


One-hundred percent of slot machine tax collections go to the Educational Enhancement Trust Fund. The slot machine tax rate was 50% in FY 2006-07 through FY 2009-10, and was reduced to 35% beginning in Fiscal Year 2010-11. The state switched from weekly to monthly collections of slot machine taxes in FY 2012-13, which causes the FY 2012-13 revenues to appear artificially low.

Revenue Analysis for 2018-19...

	2018-19 Taxes
Pompano	43.6
Magic City / Flagler	33.7
Calder	32.5
Hialeah	28.9
Miami Jai-Alai	24.3
Gulf Stream	17.3
Dania	11.6
Big Easy (Mardi Gras)	10.3
	<hr/>
	202.2

- ✓ The slot machine facilities will have about \$8.7 billion in total wagering activity, of which \$578 million will qualify as taxable slot revenue and generate \$202.2 million in taxes.
- ✓ The average activity share among pari-mutuel facilities is 12.5%, and it increases to 14.3% when Pompano is excluded.
- ✓ The average number of machines per facility is 931, ranging from a high of 1,466 at Pompano to a low of 631 at Big Easy (Mardi Gras).
- ✓ Magic City / Flagler and Hialeah have the highest income per machine per day and Dania has the lowest.
- ✓ The average tax receipts per facility is \$25.3 million at 35%. Pompano is the largest tax producer for the state.



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...

- The specific location of new facilities matters. Pari-mutuel facilities with slot machines typically draw on their nearby market area (i.e., the local resident population).
- 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. (+)

New Gaming Framework...

Amendment #3 – Voter Control of Gambling in Florida

- Petition initiative approved by 71.5% of voters
- 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.
- FIEC Impact (5/19/16): 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.

Amendment #13 – Ends Dog Racing

- Constitution Revision Commission proposal approved by 69.1% of voters
- Summary: Phases out commercial dog racing in connection with wagering by 2020. Other gaming activities are not affected.

