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# Research Report

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## How Much Revenue Will the Seminole Gaming Compact Provide For Florida?

### *An Analysis of the Impact on Other Tax Sources*

There has been vigorous debate over a gambling compact negotiated between Florida Governor Charlie Crist and the Seminole Tribe of Florida. Since the Florida Supreme Court has ruled that the compact is invalid without the Legislature's ratification, the question is: "What should the State of Florida do next?" Proponents of the compact argue the State could use the \$287.5 million that is scheduled to be paid to the state through the upcoming budget year (FY 2009-10) and the billions more that it could bring over the compact's 25-year life.

Since tribal sovereignty precludes states from taxing Indian tribes, gaming compacts are needed for states to share in any revenue from gambling on tribal lands. However, as the Legislature contemplates the next step, the full state revenue picture of the compact should be considered.

This report examines the revenue side of the compact as currently written. In addition to the revenue expected to be remitted by the Seminole Tribe to the State of Florida, the report estimates the direct impact that the expanded gambling may have on other state tax sources to approximate a net revenue impact of the compact. Florida TaxWatch concludes that any amount of revenue the State receives from the Tribe will be significantly offset by losses from other revenue sources. Therefore, if expanded gambling is to continue on tribal lands, there must be a compact. Without one, the state is not just foregoing additional revenue, but also it is actually losing money.

### **Background**

On November 14, 2007, Governor Charlie Crist and Seminole Chairman Mitchell Cypress signed a gaming compact to allow the Tribe to operate certain "Class III"<sup>1</sup> games in Florida, including Vegas-style slot machines and "banked" card games such as baccarat and blackjack for

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<sup>1</sup> Class I gaming includes social games solely for prizes of minimal value. Class II gaming includes bingo and non-banked card games in which participants play against only each other; the house has no stake in the outcome. Class III gaming comprises all other types of gaming, including slot machines, pari-mutuel wagering, lotteries, and banked card games such as baccarat and blackjack in which participants play against the house.

the next 25 years. Games such as craps and roulette were specifically excluded. The Tribe has been seeking such a compact, as allowed under the Indian Gaming Regulatory Act (IGRA) of 1988, since 1991. Prior to the compact, the Seminole casinos only offered "Class II" games such as poker and electronic bingo. The state did not share in the revenue from these games.

The State had been notified that the U.S. Secretary of the Interior planned to authorize the Tribe to conduct Class III gaming (specifically slots and non-Class II poker) if a compact was not submitted for approval by November 15, 2007. The State would not receive any revenue and would have no control over the Tribe's gaming operations. The compact was signed the day before the deadline.

The Tribe agreed to pay the State \$375 million over the first three years of the compact and at least \$100 million per year through the duration of the 25-year agreement. In return, the Seminoles were granted "substantial exclusivity" for the Class III games. Currently, the only Class III gaming authorized in Florida is the voter-approved slot machines at pari-mutuel facilities in Broward and Miami-Dade Counties.

The compact had not been authorized or ratified by the Florida Legislature. Soon after the compact was signed by the Governor and the Tribe, the Florida House of Representatives petitioned the Supreme Court of Florida, disputing the Governor's authority to bind the State to the compact. On July 3, 2008, the Court agreed that Governor Crist did not have the authority to enter into a compact for banked card games without the approval or ratification by the Florida Legislature. The Tribe's request for appeal to the U.S. Supreme Court was recently denied.

The Seminoles had already begun operating Class III slots in January 2008 and banked card games in June 2008. Despite the rulings, and a request by the Florida Attorney General to federal prosecutors to shut down the games, the expanded Seminole gaming continues with an uncertain future.

The Seminoles have also begun remitting the required payments to the State, but that money is in escrow and unavailable for the State to use because of the Florida Supreme Court ruling. The Governor is pushing the Legislature to ratify the compact and even used the \$287.5 million that is scheduled to be remitted to the State through FY 2009-10 in his recent budget recommendations. The Legislature is debating the compact and other gambling issues during this legislative session and appear reluctant to ratify the contract as currently exists.

## **How Much State Revenue Does The Compact Provide?**

The revenue sharing provisions of the compact are as follows:

The Seminole Tribe will remit to the State of Florida:

- On the effective date of the compact - \$50 million advance against the \$100 million from the first Revenue Sharing Cycle<sup>2</sup>
- In the first Revenue Sharing Cycle - an additional \$50 million - \$25 million over the first twelve months and another \$25 million over the next twelve months
- In the second Revenue Sharing Cycle - \$125 million over twelve months
- In the third Revenue Sharing Cycle – a minimum of \$150 million
- In the fourth through 25<sup>th</sup> Cycle – a minimum of \$100 million
- In third through 25<sup>th</sup> Cycle – revenue share (minus minimum payment)
  - 10% of all “Net Win” up to \$2 billion
  - 12% of all “Net Win” between \$2 billion and \$2.5 billion
  - 15% of all “Net Win” between \$2.5 billion and \$3 billion
  - 25% of all “Net Win” between \$3 billion and \$4 billion
  - 22.5% of all “Net Win” between \$4 billion and \$4.5 billion
  - 25% of all “Net Win” over \$4.5 billion

The revenue used to calculate the State’s share is only the revenue from “covered” (Class III) games. "Net Win" means the total receipts from the new Class III games less all prize payouts and participation fees. Participation fees are the royalties of lease payments paid by the Tribe to outside companies to use gaming devices.

These provisions result in a minimum of \$375 million over the first three revenue cycles (12-month cycles beginning February 2008) and a minimum of \$100 million annually thereafter, for a guaranteed minimum of \$2.575 billion over the life of the 25-year compact.

The \$2.575 billion figure has been advertised as the minimum amount the State would receive under the compact, but that is not really correct. There is a provision that payments will stop if the Tribe's annual Net Win plus revenues from its remaining Class II video bingo terminals drops below \$1.37 billion. If revenue then climbs back above \$1.37 billion the payments will resume. Therefore, no future payments are truly guaranteed. But because of this revenue requirement, and because the compact requires the Tribe to convert all of its video bingo terminals to Class III slots within five years, if the State does receive revenue in each of 25 years of the compact, the minimum will actually exceed \$2.575 billion. The revenue share is 10% of the first \$2 billion in net win, meaning that after the fifth year, the minimum the state would receive is \$137 million (10% of \$1.37 billion)—not \$100 million. If the State were to receive payments in every year, the minimum total would be \$3.315 billion.

Payments to the state will also stop if the state breaches the exclusivity provision, meaning if Class III gaming, or other casino-style gambling such as electronic bingo or video lottery

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<sup>2</sup> 12-month cycles beginning February 2008

terminals, that is not presently authorized by or under Florida law becomes authorized during the 25-year period of the Compact anywhere else in Florida, the Tribe could stop payments.

One last “escape clause” that has caused some debate and consternation among legislators is a provision that payments will stop if illegal gaming exists in multiple counties “and its operation is sanctioned, tacitly or otherwise, by action or inaction of State and/or local officials if, after notice from the Tribe to the State Compliance Agency, the State has evidenced a lack of good faith and failed to take reasonable measures to stop the conduct of illegal gaming activities.”

So while no money from the compact, except what has already been remitted, is truly guaranteed, it is doubtful that low revenue would cause payments to stop. In fact, under current projections, it is likely that Seminole revenue will be high enough to trigger revenue sharing and require larger payments than the minimum.

**Effective "Tax" Rate of Seminole Compact  
After Revenue Sharing Begins**

million \$

Class III Revenue*	State Share of Revenue	Effective "Tax" Rate
\$1500	\$150	10.0%
2000	200	10.0%
2250	230	10.2%
2500	260	10.4%
2750	298	10.8%
3000	335	11.2%
3250	398	12.2%
3500	460	13.1%
3750	523	13.9%
4000	585	14.6%
4250	641	15.1%
4500	698	15.5%
4750	760	16.0%
5000	823	16.5%

*\* gambling revenue minus participation fees*

*Source: Florida TaxWatch. March 2009*

Consultants hired by the Florida House of Representative to analyze the compact, recently reported that they estimate the compact would result in direct payments from the Tribe to the

State of \$2.91 billion in the first ten years.<sup>3</sup> They estimate that after the fixed payments of \$100 million and \$125 million in the first two years, payments in the third year would reach \$174 million and climb to more than \$400 million annually by 2017 (9<sup>th</sup> year). These estimates assume the Tribe's planned casino expansions open in years 4 and 5, including major hotel and other expansions at the Seminole Hard Rock Hotel & Casinos in both Hollywood and Tampa and at the Coconut Creek casino. The Tampa expansion includes what would be the largest hotel in the Tampa Bay area.

These planned expansions may not be assured in light of the current state of the credit markets. The Legislature's consultants reported that there are numerous Indian casino projects across the nation that have been cancelled or put on hold due to the national liquidity and credit crisis. Failure to carry on with those planned expansions would have a substantial negative impact on actual revenues.

Additionally, some of the compact revenue could presumably go to local governments. The compact states that the appropriation of compact revenue received by the State is exclusively at the prerogative of the Legislature. However, the Governor envisioned, and the compact recommends, that the counties and municipalities that are affected by the Tribe's operation receive 5% of the revenue. Under current projections, this would total \$145 million over ten years.

## **Would The Compact Impact Other State Revenues?**

Research shows that the economic consequences of casino gambling will likely be mixed, since other tax sources may be reduced as consumers shift spending to new gaming. Different forms of gambling can "cannibalize" each other, leading to reductions in tax revenues from existing gaming due to the entrance of new gaming. Additionally, the diversion of consumer spending from taxable purchases to casino gaming reduces sales tax revenues.

Some research has even shown that casino gambling generally appears to have a negative impact on state government net revenue.<sup>4</sup>

A 1994 report by the Florida Executive Office of the Governor's Office of Planning and Budgeting examined the impacts of legalizing casino gambling in Florida, in the face of an upcoming vote on a constitutional amendment to allow limited casinos. It estimated that at a 16% tax rate, the casinos would generate tax revenue of between \$324 million and \$429 million

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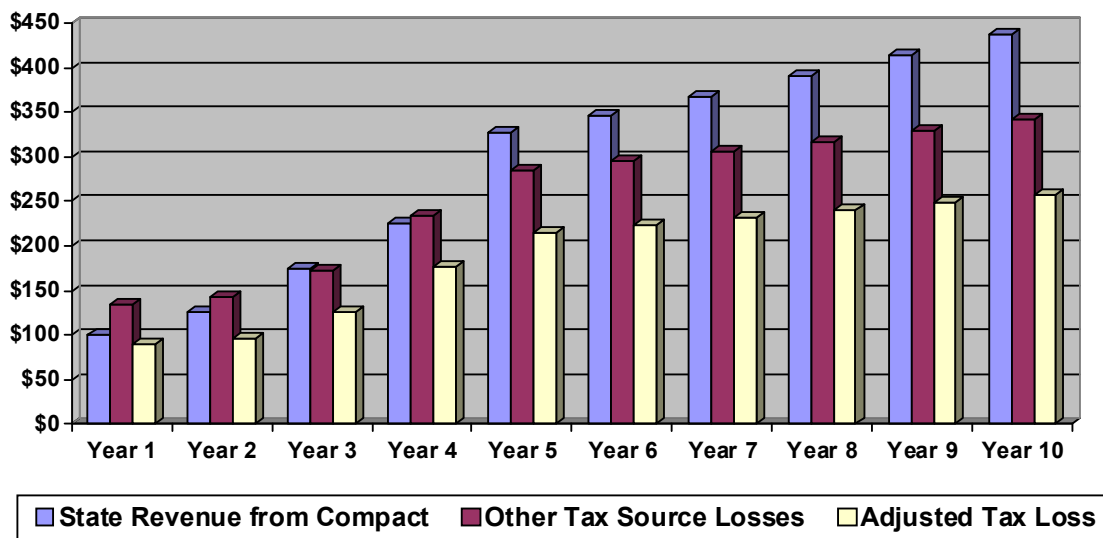
<sup>3</sup> Christiansen Capital Advisors, LLC, "Presentation for Select Committee on Seminole Indian Compact Review," March 4, 2009.

<sup>4</sup> Walker, Douglas M., and Jackson, John D. (2009). The effect of legalized gambling on state revenue. College of Charleston working paper.

annually. However, it also estimated that state revenue from sales taxes, the lottery and pari-mutuels would fall by more than \$180 million.<sup>5</sup>

Casino revenues are not free; they impact other businesses and government revenues. The following sections examine and estimate the impact the Seminole Gaming Compact would have on existing state gambling revenues from the Lottery, pari-mutuels, slot machines, and cardrooms—as well as state sales tax revenue. This analysis uses the estimates of the Tribe’s Class III revenues and state revenue from the Legislature’s consultants – Christiansen Capital Advisors, LLC.

### Comparison of State Revenue from Seminole Compact to Other Tax Losses (Million \$)



*Other Tax Sources Losses are the losses to sales taxes, lottery, pari-mutuels, slots, and cardrooms attributable to the Class III gaming. Adjusted Tax Loss is those losses after adjusting for the existing Class II video bingo terminals at the casinos.*

*Source: Florida TaxWatch, March 2009. State revenue projections from Christiansen Capital Advisors, LLC*

### Pari-mutuels, Slots, and Cardrooms

Florida already has several forms of state sanctioned gambling. The pari-mutuel industry has been operating in the state since 1931. There are now 26 pari-mutuel facilities in the state--16 greyhound tracks, six Jai-Alai frontons and four horse tracks. There is another facility offering

<sup>5</sup> Florida Executive Office of the Governor, Office of Planning and Budgeting, *Casinos in Florida: An Analysis of the Economic and Social Impacts*, 1994.

only inter-track wagering. Florida is the leading greyhound racing state in the nation and a major horse racing state. It is also the only state to operate Jai Alai.<sup>6</sup>

In 1996, the Legislature authorized cardrooms at pari-mutuel facilities; there are now 21 cardrooms across the state. In 2004, voters approve a constitutional amendment to allow slot machines at pari-mutuel facilities in Miami-Dade and Broward Counties, subject to each county's voter approval. In 2005, Broward voted to allow the slots and they began operating in 2006; there are currently three slot locations. After defeating a slot referendum in 2005, Miami-Dade County voters later approved slots in 2008. It is expected that three Dade locations will begin offering slots in FY 2010.

The effect of the Seminole Gaming Compact on pari-mutuels has been at the forefront of legislative debate on the issue. The pari-mutuel industry in Florida has been experiencing a decline in customers and revenue for a number of years, despite various efforts by the Legislature to help. These efforts include enacting numerous tax rate cuts, allowing simulcasting, and adding inter-track wagering and cardrooms to the pari-mutuel menu. Still, total state revenue from pari-mutuels (not including slots) has fallen from \$144.7 million in 1989 to \$33.9 million in 2008, a reduction of \$110.8 million or 76.6 percent. One reason is the entrance of the Internet as a competitor, where players can place bets at a lower cost. Another reason for the decline is the aging of the average racing enthusiast. "Horse bettors are dying and not being replaced."<sup>7</sup>

Representatives of the pari-mutuel industry, particularly those that offer slots in South Florida, are expressing concern that the compact could lead to the death of their industry. If this were to happen, the state would lose the \$33.9 million it now collects and the slot machine revenue would be in question as well. Support industries such as horse breeding would also suffer. Therefore, the industry is asking the Legislature for measures to level the playing field and encourage competition such as allowing the same games as the Tribe and a reduction in the current 50% tax rate on their slot machines.

It is likely the pari-mutuel industry will continue to decline with or without the expanded Seminole gaming, but expansion through the compact would accelerate the decline. The compact will also have a serious impact on facilities offering slot machines. The vast difference in the tax rates between Indian casinos and so-called "racinos" leads to a 10 to 1 advantage in marketing resources and can starve racinos of capital.<sup>8</sup> In a capital-intensive industry, a 50% tax rate makes it difficult for racinos to raise capital, so the facilities suffer, particularly in

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<sup>6</sup> Florida Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, *77th Annual Report*, Fiscal Year 2007-2008.

<sup>7</sup> Sinclair, Sebastian, Christiansen Capital Advisors, LLC, testimony to House Select Committee on Seminole Indian Compact Review, March 4, 2009.

<sup>8</sup> Christiansen, Eugene, Christiansen Capital Advisors, LLC, testimony to Select Committee on Seminole Indian Compact Review," March 4, 2009.

comparison to the Indian casinos, which can offer more upscale surroundings and more amenities, such as restaurants and entertainment.

Slot machines will see the biggest impact, in terms of lost tax revenue to the state, in the pari-mutuel area. The Legislature's consultants estimate slot machine revenue losses to the State ranging from \$18.0 million in the first year to \$104.8 million in the tenth year. The total losses attributable to the expanded gaming at the casinos over ten years are estimated at \$713.0 million. These are the losses that result from the diversion of spending from the pari-mutuel slots to the new Class III gaming at the Seminole casinos.

The consultants estimate that while traditional pari-mutuel revenue will continue to decline with or without the compact, the increase Seminole gaming will hasten that decline. Their data indicate that the pari-mutuel handle (total amount bet) for South Florida facilities would decrease 30.1 percent and state tax revenue would decrease 24.3 percent over the first ten years, even without the compact. With the compact, those decreases grow to 34.2 percent and 37.9 percent, respectively. Revenue losses to the State, attributable to the compact, range from \$2.1 million in the first year to \$2.4 million in the tenth year. The total losses attributable to the expanded gaming at the casinos over ten years are estimated at \$23.4 million. These losses are from South Florida tracks only. Presumably, other tracks in the state would lose some business as well, but at a far smaller rate. For this analysis, we included only the South Florida losses.

The consultants estimate that both revenues and taxes from the State's cardrooms will continue to grow (after an initial dip) with the compact, but that growth would be slowed. Cardroom revenue losses to the State, attributable to the compact, range from \$0.8 million in the first year to \$1.8 million in the tenth year. The total losses attributable to the expanded gaming at the casinos over ten years are estimated at \$13.1 million. Again, these losses are from South Florida tracks only.

**Total losses to the State in pari-mutuel, slots and cardroom revenues would total \$749.5 million over ten years, or 25.8 percent of State revenue from the compact.**

This analysis also suggests revenue losses from these sources of almost \$38.3 million dollars through the upcoming budget year, with as yet no revenue from the compact.

## **The Lottery**

Since lotteries and casinos are also substitute forms of gambling, casinos will have a negative impact on lottery revenues. This too would decrease the actual net revenue collected by the state under the compact. A 2002 study found that every dollar in tax revenue from Missouri riverboat casinos led to a reduction in net lottery revenue of \$0.83.<sup>9</sup> A 2003 study by Fink and Rork

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<sup>9</sup> Elliott, D. and J. Navin (2002) "Has Riverboat Gambling Reduced State Lottery Revenue?" *Public Finance Review* 30, 235-247.



expanded on the earlier one by including all casinos, focusing on net casino revenue and using a longer time period.<sup>10</sup> This data period of 1988-2000 encompasses the legalization of all commercial casinos in the nation except those in Nevada and New Jersey. The authors concluded that “casino tax revenues unambiguously cannibalize lottery revenues to state funds” and a \$1 increase in casino tax revenues is matched by a \$0.56 decrease in lottery tax revenues. This is a 33% reduction from the earlier study, but still a remarkable finding.

It must also be mentioned that the studies assumed an average casino tax rate of 20 percent, while the effective “tax” rate in the current Seminole compact is much smaller (see table on page 4). Since it would take more casino spending to produce a dollar of revenue in Florida, it could be assumed that the impact could be greater. Conversely, the studies use an average lottery tax rate of 35 percent, while the rate in Florida is now about 30 percent (almost 40 percent for on-line sales but only 19 percent for scratch-off sales.)

Because the effective tax rate on the lottery in Florida is so much higher than that of the compact (approximately 30% vs. 6% - 12%), each dollar diverted from the lottery to the casinos results in a significant net revenue loss to the state.

The Florida Consensus Estimating Conference also projects that increased gaming in Florida will reduce lottery revenues. Although the State’s estimators did not quantify the potential reduction when assessing the impact of the compact, they did quantify the effect when estimating the impact of two proposed legislative bills that would increase gaming in the state (one that increased the number of allowed slot machines and one that would allow for video lottery terminals at pari-mutuel facilities.) In both cases, the Conference assumed that 10 percent of the net money spent on this proposed new gaming would have otherwise been spent on traditional lottery games.

For this analysis, Florida TaxWatch used this 10 percent assumption along with the estimates of Seminole casino revenue from the Legislature’s consultants. This produced results consistent with the findings of the Fink and Rork study – lottery losses as a percent of State compact revenue of 52 percent in the first year and 46 percent in the second year. However, this percentage of losses falls considerably as the amount of casino revenue increases, dropping to 25% by the 10<sup>th</sup> revenue cycle.

This analysis estimates net lottery revenue losses to the State ranging from \$51.7 million in the first year to \$109.6 million in the tenth year. The total losses attributable to the expanded gaming at the casinos over ten years are estimated at \$849.2 million.

Since earlier in the report we discussed the expected reductions in gaming revenues at the pari-mutuel facilities (racing, slots and cardrooms) due to the compact, we “added-back” lottery revenue attributable to that reduced spending. Using the same assumptions, we estimate that the

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<sup>10</sup> Fink, Stephen and Jonathan Rork, (2003) "The Importance of Self-Selection in Casino Cannibalization of State Lotteries." *Economics Bulletin*, Vol. 8, No. 10 pp. 1-8

lottery losses will be offset by \$51.9 million from reduced pari-mutuel revenue. **This results in net Florida Lottery losses of \$797.3 million over ten years, or 27.4 percent of State revenue from the current compact.**

This also suggests losses of \$105 million to the Florida Lottery through the upcoming budget year, with as yet no revenue from the compact.

## Sales and Use Taxes

Another area where the State could lose revenue from the increased gaming is in sales taxes. As people substitute additional gambling for the purchasing of other products, sales tax receipts on those goods will be lost. The introduction of casinos will affect other businesses as spending is shifted to gaming.

There have been numerous studies on this issue. A 2002 report for the Kentucky General Assembly concludes “the economic effect is primarily to transfer local spending from other local businesses to the casinos”.<sup>11</sup> Retail and entertainment in the surrounding areas will likely experience reduced sales from what they otherwise would have been.

One study found that two Indian casinos in Maricopa County, Arizona caused declines in both employment and retail sales.<sup>12</sup> Their model suggests that tax losses from the retail, restaurant, bar, hotel, and amusement sectors were significant. Another study found that New Mexico’s eleven Indian casinos had a negative effect on state sales tax revenues.<sup>13</sup> The impact was exponential – the introduction of one Indian casino led to a 1 percent decrease in sales tax revenues, but the introduction of a second Indian casino reduced revenue by more than 6 percent.

According to a report done by Don Phares of the University of Missouri, 72.6 percent of gaming revenues come from other spending within the community including retail and entertainment.<sup>14</sup> Phares applied sales tax rates to 72.6 percent of projected gaming revenues to estimate the amount of sales tax that could have been generated if used in industries other than casino gaming.

This percentage may be too high for Florida, since the state does have a significant and diverse tourist market. If the Seminole hotel and casino expansions go on as planned, they would likely

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<sup>11</sup> Wolfe, Charles. “Study: Out-of-state casinos luring Kentucky money away.” *Cincinnati Enquirer*, January 17, 2002.

<sup>12</sup> Anders, Gary C., Donald Siegel and Munther Yacoub. 1998. “Does Indian casino gambling reduce state revenues? Evidence from Arizona,” *Contemporary Economic Policy* 16, No. 3 (July): 347-356

<sup>13</sup> Popp, Anthony V. and Charles Stehwien. 2002. “Indian Casino Gambling and State Revenue: Some Further Evidence,” *Public Finance Review* 30 No. 4 (July): 320-330.

<sup>14</sup> Phares, Don, *Casino Gaming in Missouri: The Spending Displacement Effect and Gaming’s Net Economic Impact*, University of Missouri, St. Louis, 2001

draw tourists, perhaps some that would not have otherwise come to Florida, but it must be remembered that the gambling expenditures of a tourist who was going to come to Florida already—with or without the new gambling—would reduce sales tax revenues to the extent that they would have spent some of that money on taxable sales. It is only those tourists who would not have come to Florida without the expanded gaming at the Seminole casinos that would not led to some leakage of sales taxes.

The Florida Estimating Conference, in forecasting the impact of various proposed legislation to increase gambling, has used both 65 percent and 60 percent as the amount of new gaming spending diverted from taxable sales. For this analysis, Florida TaxWatch used the lower number, because the 65 percent assumption did not include any diversion from pari-mutuel activities.

Assuming 60% of total estimated Seminole revenue (gamblers' losses minus wins)<sup>15</sup> attributable to the compact, Florida TaxWatch finds that losses in state sales tax revenue range from \$65.5 million in the first year to \$139 million in the tenth year, for a total of \$1.08 billion over ten years.

As previously discussed with lottery revenue, we “added-back” increased sales tax revenue from the reductions in gaming revenues at the pari-mutuel facilities (racing, slots and cardrooms) due to the compact. Using the same assumptions for the sales tax losses, we estimate that sales tax losses could be offset by \$65.9 million from reduced pari-mutuel revenue. **This results in net state sales tax losses of \$1.01 billion over ten years, or 34.7 percent of State revenue from the current compact.**

This does not include any lost sales taxes from other non-taxed spending on the reservations such as hotels, retail, entertainment, dining, etc.

There would also be losses to local governments from local option sales taxes.

This analysis suggests that Florida will lose approximately \$133 million dollars in sales tax revenue through the upcoming budget year, with as yet no revenue from the compact.

## **Total Direct Tax Losses in State Taxes Due to the Compact**

When the estimates of losses to revenues from pari-mutuels, slots, cardrooms, the lottery and sales taxes are added up, the result is a total of \$2.56 billion in other taxes that could be lost to the State over ten years due directly to the Class III games allowed by the compact. This is 88 percent of the projected revenue sharing from the Seminoles to the State.

The compact requires the Seminoles to phase out the Tribe's video bingo terminals by the fifth year. The revenue from these terminals would remain without the compact, so this reduces the

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<sup>15</sup> We did not use “net win” since the participation fees paid by the casinos come from net losses by gamblers.

actual other tax losses because some of the Class III gaming will simply be replacing the bingo terminals. The estimates of pari-mutuel, slots, and cardroom losses already reflect this, but the sales tax and lottery estimates do not. The revenue data from these machines is not readily available. If those terminals existing prior to the compact would produce casino revenue equal to 40 percent of what is projected under the compact over ten years,<sup>16</sup> the sales tax and lottery losses would be reduced by 40 percent. Estimated total losses to the state would still be \$1.79 billion, or 61 percent of the projected revenue sharing from the Seminoles to the State. **If the compact does result in the estimated \$2.91 billion in revenue sharing to the State of Florida over the first ten years, related tax losses could reduce the net added revenue to the State to only \$1.12 billion, or 39 percent of the shared revenue.**

Similarly, losses to other tax sources could reduce the net revenue to the State if only the minimum payments that the State is guaranteed by the compact are made, from \$1.26 billion over ten years to \$459 million.

These figures do not include losses to local government tax sources. **Under this scenario, the loss to local option sales tax revenue alone would exceed \$100 million.** It also does not consider the tax impacts of non-gambling tribal enterprises, such as hotels and restaurants. Since Indian tribes are largely untaxed, the extent to which this economic activity replaces taxable activity will determine if it is a net positive or negative revenue impact to the State.

**Estimated State Revenue from Compact and  
Resulting Losses to Other Revenue Sources  
First Ten Years of Compact**

*Million \$*

<b>Payments to State from Tribe*</b>	\$2,909	100%
<b>Other Revenue Source Losses:</b>		
Slots Tax Losses	-713	24.5%
Sales Tax Losses	-580	19.9%
Lottery Revenue Losses	-458	15.7%
Pari-mutuel and Cardroom Tax Losses	-37	1.3%
<b>Net State Revenue</b>	<b>\$1,121</b>	<b>38.5%</b>

Source: Florida TaxWatch, March 2009.

\* State revenue projections from Christiansen Capital Advisors, LLC. There is considerable downside risk to these estimates due to current economic conditions.

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<sup>16</sup> This assumes that, prior to the compact, bingo terminals were producing 70% of the revenue projected for Class III gaming in the first year of the compact.

## **Other Economic and Fiscal Impacts**

Quantifying the effect the Seminole Gaming Compact would have on the economy and indirect tax revenue from economic development (as well as potential social costs) is beyond the scope of this report.

The Tribe has forecast 45,000 additional jobs<sup>17</sup> from the current compact and the resultant major expansions they are planning. But the employment effects of casino gaming are difficult to quantify. “It is possible that casino gaming may reduce employment in other local industries if consumers substitute casino gaming for other consumption. The net effect of gaming could be positive or negative depending upon the degree to which casino gaming substitutes for or complements consumption at other local businesses.”<sup>18</sup>

While the expansion planned by the Seminoles may result in some tax benefits to the State, governments generally will not reap the same fiscal benefits from tribal economic development as they would from non-Indian economic development. Not only can gaming replace other taxable spending but the other businesses at the casinos and on the reservations can have deleterious effect on existing similar off-reservation businesses such as hotels, restaurants and bars, entertainment, retail and convention space. Since tribal businesses are not taxable,<sup>19</sup> the extent to which Seminole growth replaces existing non-tribal businesses or non-tribal economic growth will determine if the State (and local governments) will gain or lose additional tax dollars.

## **The Debate Facing the Legislature is a Complex One**

As the Florida Legislature debates the Seminole Gaming Compact and ancillary gambling issues, it must weigh a number of factors, including whether Florida wants expanded gambling, the State’s desire for additional state revenue, the impact of the compact on the pari-mutuel industry and state tax revenues, and the rights of the Tribe and the benefits that gaming can provide to the Seminole people.

The Legislature also has to consider what will happen without a compact. There is some debate about what the Seminole Tribe can do without a compact, but it must be acknowledged that without a compact, it is likely that at least some Class III gaming could continue on tribal lands and the State would not be entitled to any revenue sharing. Vegas-style slots machines could very well still be offered at Seminole casinos, and the potential exists that banked card games

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<sup>17</sup> Seminole Tribe of Florida, *Investing in Florida’s Future*, PowerPoint presentation.

<sup>18</sup> Garrett, Thomas A., *Casino Gaming and Local Employment Trends*, Federal Reserve Bank of St. Louis, January/February 2004

<sup>19</sup> If the Seminoles lease space on the reservation to a non-Indian business--a restaurant chain, for example--that business does have to collect and remit sales taxes and other taxes that might apply. The property would not be subject to property taxes.

could continue as well. Without a compact, it is ultimately up to the U.S. Federal Bureau of Indian Affairs but at least some knowledgeable people feel that all Class III gaming on tribal lands could be shut down.<sup>20</sup>

If Class III gaming were to continue without a compact, some degree of tax revenue loss as described in this report would occur and there would be no payment to the State from the Tribe to offset the losses.

It must also be acknowledged that if the Legislature were to ratify the current compact it would not preclude them from expanding gaming in the future. The compact reads: “Nothing in this Compact is intended to affect the ability of the State Legislature to enact laws either further restricting or expanding gambling on non-tribal lands.” The Florida Legislature can still decide to offer expanded non-tribal gaming in Florida. If the exclusivity provided the Seminoles by the compact is breached, payments to the state will cease, but any money earned up to that point would belong to the State. If the expanded gaming were to cease, the Tribe’s payments would resume. Since the increased tribal gaming will likely further harm an already declining pari-mutuel industry, the Legislature may want to address ways to help the state’s pari-mutuels, now or in the future. The compact, as currently written, does not prevent them from doing so.

Florida TaxWatch recommends that the Legislature consider the combined tax and lottery revenue effects described in this report during its deliberations. It is possible the Legislature could attempt to renegotiate a compact to require more revenue for the State and perhaps address some of the concerns with “escape clauses” and the lack of oversight that have been voiced during the committee process. However, it is unclear how much negotiating leverage the State has.

While it is clear that the current compact is not the fiscal boon to the State that it might appear to be on the surface, it is also clear that as long as Class III gaming continues on tribal lands and the State does not share in the revenue, Florida is not just foregoing revenue, but the State is actually losing money—an estimated \$200 million annually by the fifth year. Florida cannot afford to have Class III gaming at any Indian casino without a compact to share in the revenue.

This *Research Report* was written by Kurt R. Wenner, Director of Tax Research.

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<sup>20</sup> Steven Geller, former Florida Legislator and former President of the National Council of Legislators from Gaming States, in testimony to the House Select Committee on Seminole Indian Compact Review, March 4, 2009. Professor I. Nelson Rose, an expert on gambling law hired by the Senate, concluded that after the compact was ruled invalid, “The tribe was under the legal obligation to immediately cease operating all of its slot machines and banking card games. Continuing to run a Class III casino without a valid compact is a violation of federal and state law, and all of the statutes designed to fight organized crime can be used to prevent this illegal gambling from continuing.”

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