

# Update: Seminole Compact Revenue Sharing

November 8, 2017

Presented by:



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

# Prior Compact Treatment...

- The 2010 Compact provides that if the authorization for banking or banked card games expires, revenue share payments from all banked card games and all Broward activity shall end. It also provides that the Tribe has 90 days to cease operation of banked card games.
- The Conference had previously assumed that the authorization for banked card games expired on July 31, 2015, and that the grace period ended October 31, 2015. Thereafter, all activity related to banked card games was removed from the official forecasts.

Indian Gaming Revenues Forecast--March 7, 2017 Conference					
Fiscal Year	Net Win	Loss From	Loss From	Remaining Net Win	Share of Total
		Broward 50.13%	Other Banked Card Games 8.38%		
2015-16	2,325.6	(777.2)	(130.0)	1,418.4	61.0%
2016-17	2,337.2	(1,171.7)	(195.9)	969.6	41.5%
2017-18	2,355.9	(1,181.0)	(197.5)	977.4	41.5%
2018-19	2,381.8	(1,194.0)	(199.7)	988.2	41.5%
2019-20	2,410.4	(1,208.4)	(202.1)	1,000.0	41.5%
2020-21	2,439.4	(1,222.9)	(204.5)	1,012.0	41.5%
2021-22	2,468.6	(1,237.5)	(206.9)	1,024.2	41.5%
2022-23	2,498.2	(1,252.4)	(209.4)	1,036.4	41.5%
2023-24	2,528.2	(1,267.4)	(211.9)	1,048.9	41.5%
2024-25	2,558.6	(1,282.6)	(214.5)	1,061.5	41.5%
2025-26	2,589.3	(1,298.0)	(217.0)	1,074.2	41.5%

# Pre-Conference Situation...

- The Legislature developed the budget for FY 2017-18 based on a forecast that excluded all revenue sharing associated with the operation of banked card games.
- The Tribe continued to make revenue share payments as though the banked card games were reauthorized under the 2010 Compact. The excess payments (any dollars above the official estimate) were placed in an effective reserve by the State. The reserve was officially in place from November 2015 to July 2017; however, due to the technical distribution of annual estimates, the first affected month was August 2015.
- 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, 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 established a “Forbearance Period” that is in place through the last day of the month in which the Legislature adjourns its 2018 Session, during which revenue share payments would continue under certain circumstances.

# Changes Related to the Settlement...

- The payments associated with banked card games that the State had held in reserve (\$233.8 million) were released. Of the total, **\$226.8 million** belonged exclusively to the State; the remainder will be distributed to local governments pursuant to s. 285.710, Florida Statutes. The release of the State's reserve is shown on the General Revenue Outlook dated August 15, 2017.
- The Settlement Agreement and Stipulation entered into between the Seminole Tribe of Florida and the State of Florida in July 2017 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.
- Assuming that the State would be deemed to be in compliance, the Revenue Estimating Conference recognized all revenue share payments associated with banked card game activity; however, this outcome is not guaranteed.
- This ambiguity produced an additional adjustment to 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.

# August 2017 Conference Adjustments...

- Estimates for Net Win were slightly lowered to reflect flat year-to-date receipts in FY 2016-17. Long-term growth is expected to be 1.1% per year.
- Prior deductions associated with banked card games were removed, restoring revenue sharing associated with those dollars to the forecast.
- Since the entire amount is now nonrecurring, the General Revenue Outlook loses between \$113.7 million and \$124.9 million that were formerly shown as recurring dollars for each year of the forecast.

Indian Gaming Revenues									
Millions of \$									
	Receipts			Local Distribution			Net General Revenue		
	Mar 2017	Aug 2017	Difference	Mar 2017	Aug 2017	Difference	Mar 2017	Aug 2017	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	117.2	276.0	158.8	3.5	3.5	0.0	113.7	272.5	158.8
2018-19	118.5	288.6	170.2	3.5	8.6	5.1	115.0	280.1	165.1
2019-20	119.9	292.5	172.6	3.6	8.7	5.1	116.3	283.8	167.5
2020-21	121.3	296.3	175.0	3.6	8.8	5.2	117.7	287.6	169.9
2021-22	122.8	300.3	177.5	3.6	8.9	5.2	119.1	291.4	172.3
2022-23	124.3	304.2	180.0	3.7	9.0	5.3	120.6	295.2	174.6
2023-24	125.7	308.2	182.5	3.8	9.1	5.4	122.0	299.1	177.1
2024-25	127.3	312.3	185.0	3.8	9.2	5.5	123.5	303.0	179.5
2025-26	128.8	316.4	187.6	3.9	9.4	5.5	124.9	307.0	182.1

# Since the August 2017 Conference...

- The final reported Net Win for FY 2016-17 came in close to the estimate at \$2.334 billion, but still \$28.5 million higher than expected. In terms of revenue sharing, this translates into a \$4.35 million gain to the forecast adopted in August.
  - ❖ This level of Net Win reflects just 0.4% growth in activity over the prior fiscal year, the lowest level of growth in the seven-year history of the Compact.
- As it has done since the end of the Guaranteed Payment period, the Seminole Tribe has continued to pay the State a flat amount of \$19.5 million per month (with a significant true-up in August of each following fiscal year), even though 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]*

- To date, the Department has filed administrative complaints against five facilities for “...operating a banking game or a game not specifically authorized by Section 849.086, Florida Statutes.” Each of the five facilities has requested a formal hearing.

# 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. In FY 2018-19, this would be a loss of \$280.1 million to General Revenue.
- If clarity or certainty is somehow provided, the revenue sharing dollars could potentially be restored to recurring dollars.