



# MEMORANDUM

AGENDA ITEM IV. B.1.

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DATE: JANUARY 9, 2012  
TO: COUNCIL MEMBERS  
FROM: STAFF  
SUBJECT: GAMING LEGISLATION

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Senator Elyn Bogdanoff and Representative Erik Fresen have introduced legislation, Senate Bill 0710 and House Bill 0487, to address how the Florida addresses gaming. The core aspects of the legislation, in their current version, would (1) create the Department of Gaming Control (Department) with the State Gaming Commission as the head of the Department; (2) consolidate the regulation of gaming activities under the Department; and (3) create a process for the location of destination resorts.

The Bills identify the following as gaming or limited gaming: pari-mutuel (horse riding, harness riding, greyhound, jai alai), baccarat, twenty-one, poker, craps, slot machines, video gaming of chance, roulette wheels, Klondike tables, punch-board, faro layout, numbers ticket, push car, jar ticket, pull tab, or their common variants or any other game of chance or wagering device that is authorized by the commission.

The Bills define destination resorts as a mixed-use development consisting of a combination of various tourism amenities and facilities, including, but not limited to, hotels, villas, restaurants, limited gaming facilities, convention facilities, attractions, entertainment facilities, service centers, and shopping centers. The gaming component of destination resort would be limited to 10% of the total square footage.

Miami-Dade County has recommended specific changes to SB 0710/HB 0487 that would allow local governments to analyze proposed destination resorts that have received an invitation to negotiate with the Gaming Commission. The analysis would include land and zoning, infrastructure, capital expenditures, resource management, and economic impact. A copy of the letter from Miami-Dade Deputy Mayor Osterholt is attached.

The ability to assess the potential economic impact of destination remains an important but challenging issue. The Florida Department of Economic Opportunity (DEO) recently attempted to assess the job creation that may be associated with destination resorts, but could not complete the analysis because there were too many variables in the current legislation. A copy of DEO's analysis is attached.

Council staff is currently researching models and techniques that have been employed to analyze mixed-use gaming facilities in order to be able to assist member local governments. It is anticipated that the legislation will change during session. Staff will keep you informed.

## Recommendation

Information Only

December 14, 2011

Honorable Erik Fresen

313 House Office Bldg

402 S. Monroe Street

Tallahassee, FL 32399-1300

Dear Representative Fresen

Enclosed please find a set of proposed additions and changes to the original version of HB487/SB710. We have focused on the Mayor's desires to rely on the Gaming Commission to complete the initial vetting of all potential parties. Once cleared, we feel strongly that final recommendations for any or all of the potential licensees would be the result of a more detailed evaluation at the local level. The County will be responsible for developing and managing an applicant review process that has special elections to provide guidance to the Mayor and Board of County Commissioners.

We have outlined this process, along with some specific proposed changes to the bill, for your review. We stand ready to be of any further assistance to you or staff as you see fit.

Thanks for your patience as we carefully developed this set of suggestions. We hope you find them helpful, and we look forward to talking to you at your convenience.

Best regards,

B. Jack Osterholt

Deputy Mayor

cc. CAG, Mayor

att.

## **Proposed Additions to and Revisions to HB 487/SB710 ORIGINAL Version**

### Local Review of Vetted Applicants

County shall:

- Develop a project review processes to be used by municipal and county governments in reviewing those applications that have been approved to receive invitations to negotiate by the Gaming Commission. These processes will include but not be limited to
  - A proposed site location/description
  - A process for creating a destination resort;
    - District definition
    - Land use classification
    - Zoning category
    - Infrastructure plan
    - Capital expenditure budget
    - Resource management plan
  
- Develop a destination resort local government economic impact analysis process that will address issues such as:
  - Estimated employment – both temporary and permanent
  - Estimated tax and fee revenues
  - Fiscal impact issues such as business revenues

Once an applicant's information has been evaluated by the Gaming Commission, and they are ready to present the applicant with an invitation to negotiate, notice of their recommendation and all pertinent information will be forwarded to the county to begin the local government portion of the review. If the proposed project is projected to be scheduled in a municipality, the municipal review process begins. If the potential location is in an unincorporated portion of the county, it will be the county's responsibility to complete the local government's project review.

Once the local government analyses are complete, a special election will be held within the jurisdiction to determine the voters' preferences. Special effort will be made to present all the information about each proposal, and their positive and negative potential impacts. The results of the special election, and all the municipality's proposal analysis will be forwarded to the county.

The county will review the results of the special election, as well as each proposal originally vetted by the Gaming Commission. A special county-wide election will be held, and the results with all the supportive information will be forwarded to the Gaming Commission for final action on license issuance.

## **Comments on Specific Sections of the Bill**

Lines 1687 thru 1691 - revise as shown

1. Design and location; 20 percent
2. Management experience: 15percent
3. Speed to Market (reword: we were unsure of your intent): 10 percent
4. Financial plan and access to capital: 20 percent
5. Community Plan: 15 Percent
6. Economic impact on the city &/or county: 20 percent

Lines 1695 to 1700 revised as shown

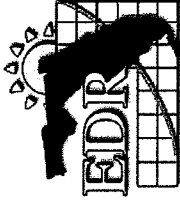
1. The mobility, water, sanitation and solid waste, utilities and related services to the proposed location of the destination resort are adequate and the proposed resort will not affect or improve public services transportation infrastructure, consumption of natural resources and quality of life enjoyed by residents of the jurisdiction and surrounding communities.

Lines 1599 to 1624 551.308 – This section will have to be amended to include a local government review process that will take between 12 and 18 months.

# Destination Resorts: Analysis of Senate Bill 710

December 7, 2011

Presented by:



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

# Setting the Stage: Compact

- On April 7, 2010, the Governor and the Seminole Tribe of Florida executed a Compact agreement that was subsequently ratified by the Legislature (Chapter 2010-29, Laws of Florida) and approved by the United States Secretary of the Interior.
- The Compact allows the play of covered games in seven Seminole tribal gaming facilities. The covered games include slot machines at all seven facilities and banked card games at five of the seven facilities. Expressly excluded are roulette, craps, roulette-style games and craps-style games.
- The Compact has a life of 20 years, with the exception of the authorization for banked card games which only lasts five years (until FY 2015-16). Revenues are deposited in the General Revenue Fund.

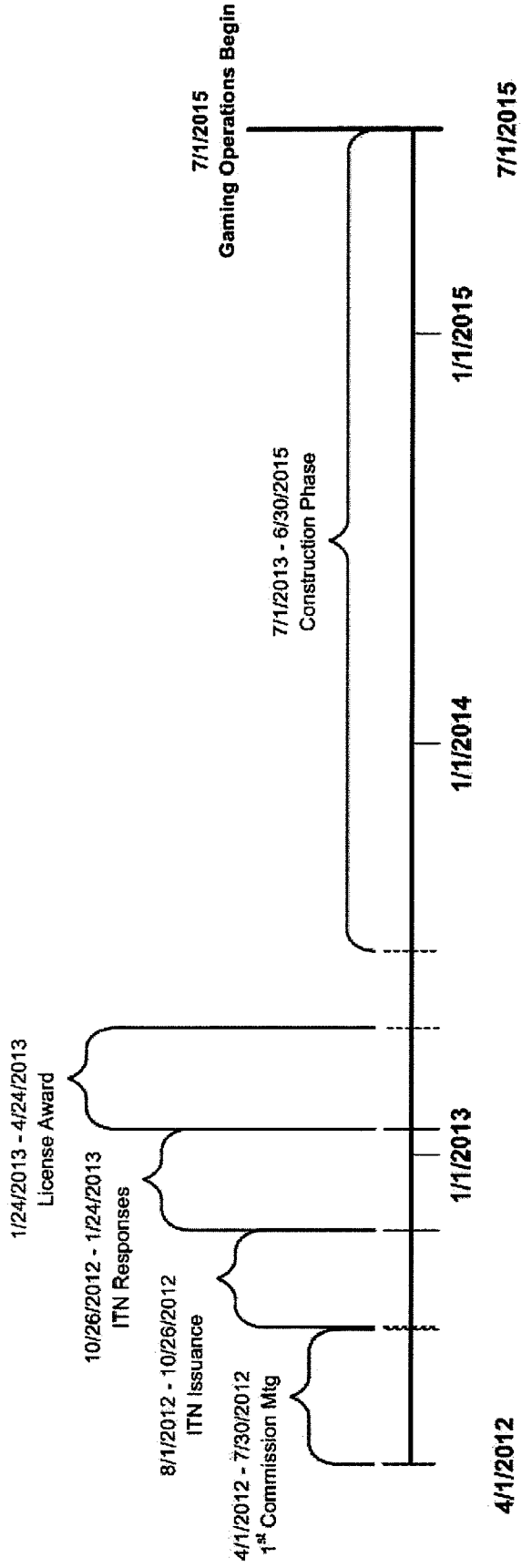
# Setting the Stage: Pari-Mutuels

- Chapter 2005-362, Laws of Florida, provided for the regulation of slot machines at pari-mutuel facilities located in Broward and Miami-Dade counties.
- Today, five facilities operate slots: Gulfstream Park, Mardi Gras Gaming Center, Isle Casino at Pompano, Flagler Magic City, and Calder Casino. Each of these facilities runs a cardroom in addition to the slots facilities. Miami Jai-Alai is anticipated to begin operations on January 1, 2012, and Hialeah is expected to commence operations on January 1, 2013.
- The current tax rate on slot machine revenues is 35%. Statutorily, there is a minimum guarantee of \$104.1 million in state revenues.
- Tax collections are deposited in the Educational Enhancement Trust Fund.

# Destination Resorts

- Means a freestanding, land-based structure in which limited gaming may be conducted. A destination resort is a mixed-use development consisting of a combination of various tourism amenities and facilities, including, but not limited to, hotels, villas, restaurants, limited gaming facilities, convention facilities, attractions, entertainment facilities, service centers, and shopping centers.
- Up to three successful applicants can be given licenses which allow them to operate and maintain a destination resort having a limited gaming facility.
- “Limited gaming” includes, but is not limited to, baccarat, twenty-one, poker, craps, slot machines, video gaming of chance, roulette wheels, Klondike tables, punch-board, faro layout, numbers ticket, push car, jar ticket, pull tab, or their common variants, or any other game of chance or wagering device that is authorized by the commission. [Broader than the Compact]
- The State Gaming Commission “**may** specify in its invitation to negotiate the county in which the facility would be located.”





**Quarters refer to Calendar Years.**

- The State Gaming Commission Nominating Committee must submit recommendations for the initial appointments to the State Gaming Commission to the Governor within 60 days after becoming law. The Governor then has 60 days to select among the nominees. [120 days or 4 months before the State Gaming Commission is in place. Assuming the bill becomes law on April 1, 2012, this would be July 29, 2012]
- The initial meeting of the commission must be held within thirty days of July 1, 2012. [First Commission meeting is assumed to be July 30, 2012.]
- The Invitation to Negotiate must be issued no later than 90 days after the date of the Commission's first meeting. [Approximately October 26, 2012]
- Proposals in response to the Invitation to Negotiate must be received within 90 days after issuance. [Assume receipt by January 24, 2013]
- The Commission shall award or deny a destination resort license within 90 days after the deadline for the submission of a reply. [Assume April 24, 2013]
- Construction Phase of 8 quarters or 2 years. [Assume begins Q3 of 2013 which is the beginning of FY 2013-14 and ends the last day of Q2 of 2015 which is the end of FY 2014-15; language directs the Commission to give preference to applicants who can begin construction no later than 12 months after the award of the resort license]
- Operations commence immediately after construction phase ends. [Assume begin Q3 of 2015, the start of FY 2015-16]

*The following estimates should be considered a preliminary work product produced by the Legislative Office of Economic and Demographic Research. While the numbers have been workshopped twice and revised after each meeting, they have not been formally adopted by the Revenue Estimating Conference.*

# State Revenues

(assuming required timeline can be met)

- **Nonrefundable Application Fee** of \$1 million to the Commission to defray costs (nonrecurring) --- [Assume Q1 of 2013 which is in FY 2012-13; benefit to State Trust; limited participation due to significant financial barriers to entry --- direct cost of the application and licensing fees buttressed by the \$2 billion requirement for new development and construction]
  - **LOW:** 3 x \$1 = \$3 million (3 applications)
  - **MIDDLE:** 4 x \$1 = \$4 million (4 applications)
  - **HIGH:** 5 x \$1 = \$5 million (5 applications)
- **One-Time Licensing Fee** of \$50 million (nonrecurring) --- [Assume availability in Q2 of 2013 which is in FY 2012-13; assignment unknown but assume State Trust based on renewal placement]
  - **LOW:** 3 x \$50 = \$150 million (MAX)
  - **MIDDLE:** 3 x \$50 = \$150 million (MAX)
  - **HIGH:** 3 x \$50 = \$150 million (MAX)
- **Annual Renewal License Fee** of \$2 million --- [Assume begins Q2 of 2014 which is in FY 2013-14; benefit to State Trust (Destination Resort Trust Fund)]
  - **LOW:** 3 x \$2 = \$6 million (MAX)
  - **MIDDLE:** 3 x \$2 = \$6 million (MAX)
  - **HIGH:** 3 x \$2 = \$6 million (MAX)

# Gross Receipts Tax

- **Gross Receipts Tax** --- [Assume construction phase of 24 months which indicates no earlier than Q3 of 2015, placing first receipts in FY 2015-16; tax rate is 10% of the gross receipts] NOTE: First Year estimates reflect 12 months of activity.

- **LOW:**                      Adjusted Estimate Using Tourism Detail from Analysis  
Worksheet = **\$128.7** million

- **MIDDLE:**                      Adjusted Estimate Using Tourism Detail from Analysis  
Worksheet = **\$189.2** million

- **HIGH:**                      Adjusted Estimate Using Tourism Detail from Analysis  
Worksheet = **\$255.3** million

Limited gaming may not be conducted by a resort licensee until the resort is completed according to the proposal approved by the Commission. [Assume that the \$2 billion can be staged over the five years in the proposal, so that the resort licensee can begin at a phase prior to having all \$2 billion in construction for all ancillary facilities completed.]

# Compact Loss

- **Compact Loss** --- The REC has adopted a forecast of expected revenues from the Indian Gaming Compact. The forecast contains a decrease in projected Compact payments beginning in FY 2015-16 that is related to the anticipated loss of table games. [Assume Compact payments continue until the first destination resort begins operations and then cease entirely as at least one destination resort is authorized outside of Miami-Dade or Broward counties. Timeframe will permit a referendum(s) to be held prior to application deadline.]

• FY 2011-12	\$150.0 million	---	\$145.5 GR	---	NO Impact
• FY 2012-13	\$226.1 million	---	\$221.2 GR	---	NO Impact
• FY 2013-14	\$233.0 million	---	\$226.0 GR	---	NO Impact
• FY 2014-15	\$233.9 million	---	\$226.9 GR	---	NO Impact
• FY 2015-16	\$110.6 million	---	\$104.3 GR	---	100% Loss
• FY 2016-17	\$ 99.4 million	---	\$ 96.4 GR	---	100% Loss
• FY 2017-18	\$ 99.4 million	---	\$ 96.4 GR	---	100% Loss

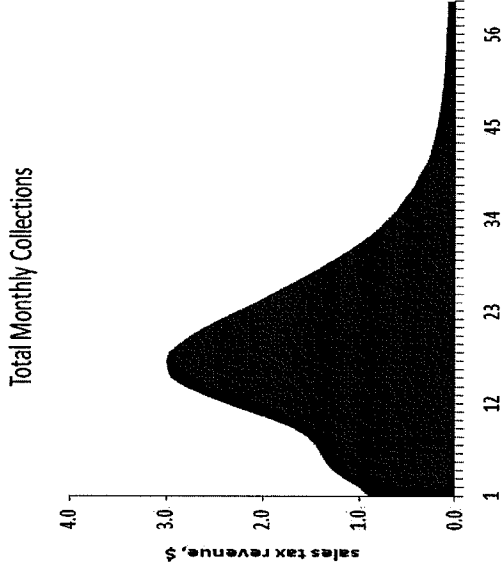
# State Revenues

- **Compulsive or Addictive Gambling Prevention Regulatory Fee (annual) ---** [Assume begins Q3 of 2015, the start of FY 2015-16, with the commencement of operations; State Trust]
  - **LOW:** 3 x \$250,000 = \$750,000 (MAX)
  - **MIDDLE:** 3 x \$250,000 = \$750,000 (MAX)
  - **HIGH:** 3 x \$250,000 = \$750,000 (MAX)
- **License to Sell or Serve Alcoholic Beverages for Consumption on the Premises (annual) ---**  
Resort licensees must pay an annual license fee of \$50,000 for a special state alcoholic beverage license allowing them to serve alcohol 24 hours per day, every day of the year. [Assume begins Q3 of 2015, the start of FY 2015-16, with the commencement of operations; State Trust]
  - **LOW:** 3 x \$50,000 = \$150,000 (MAX)
  - **MIDDLE:** 3 x \$50,000 = \$150,000 (MAX)
  - **HIGH:** 3 x \$50,000 = \$150,000 (MAX)
- **Supplier's License (annual) ---** The Commission must establish a scale of fees based on the type of service but may not exceed \$25,000 per year; indeterminate positive number to State Trust; could begin FY 2013-14 with construction.
- **Occupational License (4-Year) ---** May not exceed \$250 per employee; indeterminate positive number to State Trust; could begin FY 2013-14 with construction.

# Sales Tax Associated with Construction

- Sales Tax associated with \$2 billion Construction Requirement** (nonrecurring) --- [Assume—but for the bill—there will be no construction of destination resorts. Also assume that the \$2 billion requirement is a binding criteria on all applicants, and that each licensee has the full five years to comply with the dollar requirement. Based on discussions with the sponsors, also assume that the \$2 billion Construction Requirement is inclusive of furnishings and gaming equipment.]

	CYQ	High	Middle	Low
FY 2011-12		0.0	0.0	0.0
FY 2012-13		0.0	0.0	0.0
FY 2013-14	Q3	54.6	54.6	27.3
FY 2014-15		96.9	96.9	75.8
FY 2015-16		54.9	40.8	68.9
		206.4	192.3	171.9



# Sales Tax Associated with Tourism

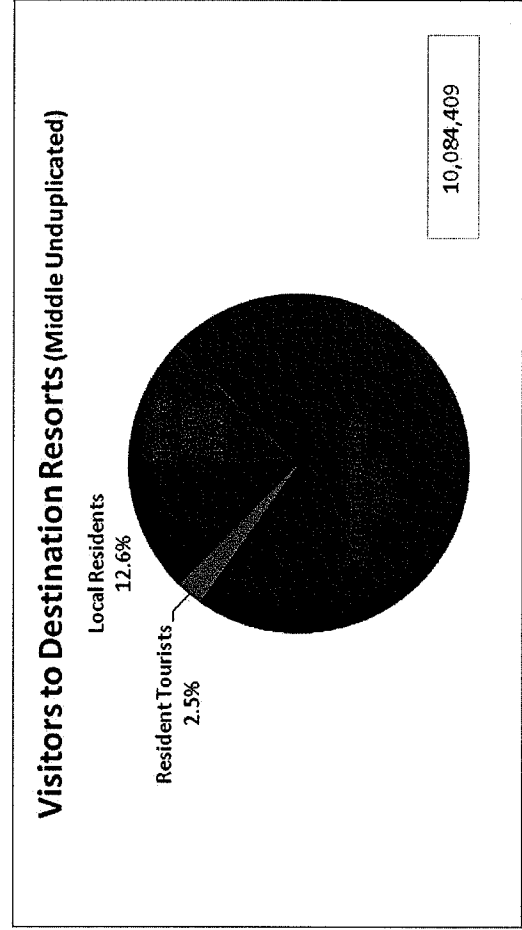
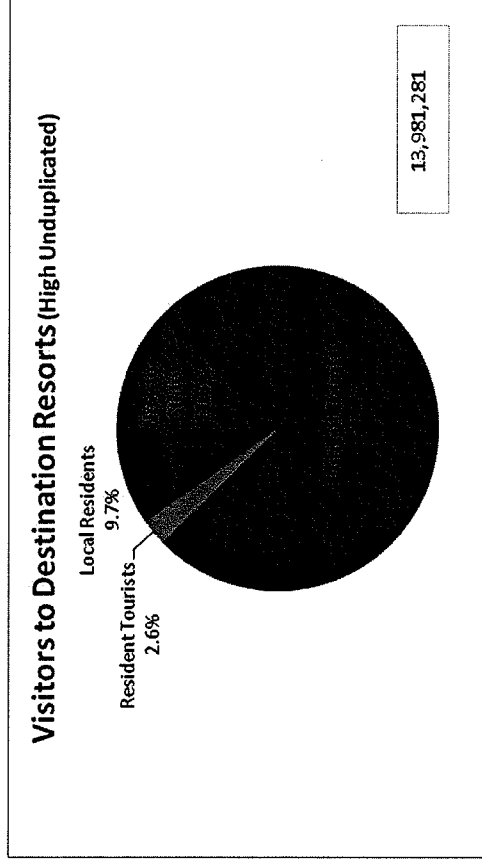
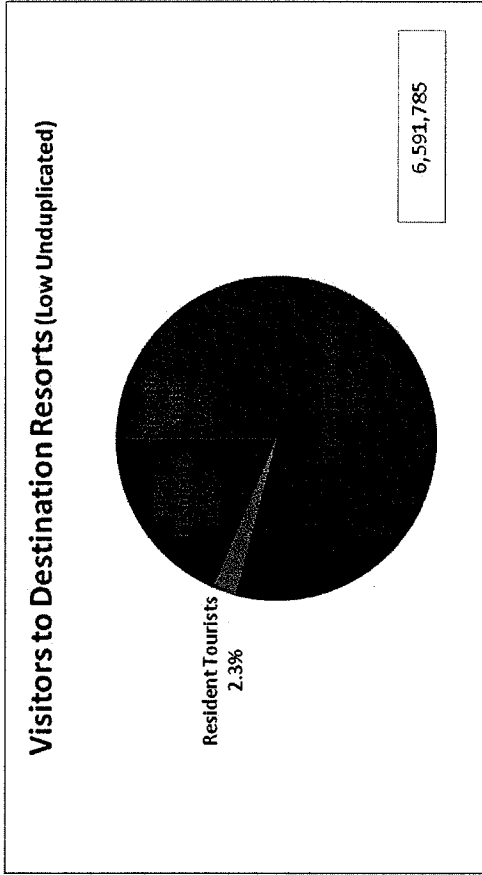
- Sales Tax associated with Tourism (annual) ---** Previous work developed by EDR to analyze the proposed \$3 billion resort expansion originally anticipated by the Seminole Tribe as part of the Compact negotiations suggested that there would be significant churning of existing tourist and convention activity associated with any new expansion. In addition, there is significant uncertainty to any sales tax projection for tourism because the ultimate business plans and locations are currently unknown. [Assumes collections do not begin until the commencement of gaming operations in Q3 of 2015, the start of FY 2015-16.]

	CY Q	High	Middle	Low
FY 2011-12		0.0	0.0	0.0
FY 2012-13		0.0	0.0	0.0
FY 2013-14		0.0	0.0	0.0
FY 2014-15		0.0	0.0	0.0
FY 2015-16	Q3	14.8	13.8	10.9



# Visitor Counts

Visitors to Destination Resorts (Unduplicated)			
	Low	Middle	High
New to State	823,150	1,234,725	1,646,300
Current Tourists	4,391,937	7,319,894	10,613,847
Resident Tourists	153,165	255,276	370,150
Local Residents	1,223,533	1,274,514	1,350,985
	6,591,785	10,084,409	13,981,281



2010  
All Tourists  
82,315,000  
Persons

2010  
FL Travelers  
7,420,802  
Households

# “But for the Existence...”

New Rooms	Occupied at .519	Day
12,300	7,269	Day
4,489,500	2,653,295	Year
<b>Occupancy Implied By New Visitors Immediately Below:</b>		
2,579,203	3,868,805	5,158,407
57.4%	86.2%	114.9%

2010 Tourist Counts and Local Visitors	2010 Current	New at +1%	New at +1.5%	New at +2%
TOTAL FOR NEW VISITORS ("But for the existence...")	82,315,000			
Domestic / National Percentage:	BASE:			
Canadian	0.865	712,025	1,068,037	1,424,050
Overseas / International Percentage:	0.037	30,457	45,685	60,913
	0.098	80,669	121,003	161,337
NOTES: No substitution of current spending		823,150	1,234,725	1,646,300
EXPENSE: One Day Taxable Expense of \$150.70 times 4.7 nights	PP: \$	583,028,914	874,543,370	1,166,057,827
SALES TAX EFFECT: new expenditures not otherwise expected	RATE: \$	34,981,735	52,472,602	69,963,470
GAMBLING EXPENDITURE: Nevada Per Trip Expenditure (on top*)	PP: \$	383,752,530	575,628,795	767,505,060
*assumes expanded budget by gambling expenditure				

*New Money to the State*

# “Incidental...”

Current Tourists	(Percentage Implied by Visitors)		
	<u>Low</u>	<u>Middle</u>	<u>High</u>
All Ages	5.3%	8.9%	12.9%
<b>Without Children</b>	<b>6.0%</b>	<b>10.0%</b>	<b>14.5%</b>
21+	6.8%	11.4%	16.5%

		0.06	0.1	0.145
WITHOUT CHILDREN FOR CURRENT VISITORS ("Incidental...")		Curr At 6%	Curr At 10%	Curr At 14.5%
Domestic / National Percentage:	0.780	3,852,342	6,420,570	9,309,827
Canadian	0.720	131,572	219,287	317,966
Overseas / International Percentage:	0.843	408,022	680,037	986,054
NOTES: 100% Substitution of Entertainment & Misc for Gambling		4,391,937	7,319,894	10,613,847
EXPENSE: -\$26.60 Taxable Expenses times 4.7 nights	PP: \$	(549,079,911)	(915,133,186)	(1,326,943,119)
SALES TAX EFFECT: diverted from current expenditures	0.77 \$	(25,367,492)	(42,279,153)	(61,304,772)
INDIAN GAMING EFFECT (not tax adjusted)	0.23	(126,288,380)	(210,480,633)	(305,196,917)
GAMBLING EXPENDITURE: \$26.60 times 4.7 nights	PP: \$	549,079,911	915,133,186	1,326,943,119
		2010 Current		
		64,205,700		
		2,192,872		
		6,800,371		

*Money Diverted from Current Expenditures*

# Mixed Effects for Floridians...

	2010 Current	0.06	0.1	0.145
		Curr At 6%	Curr At 10%	Curr At 14.5%
TOTAL HOUSEHOLDS FOR FL RESIDENT TRAVELERS	BASE: 7,420,802			
Percentage Taking Pleasure Trips (1 per Household)	0.172			
#1 In Florida (multiplied by 2 adults per household)	488,853	58,662	97,771	141,767
#2 Outside Florida (multiplied by 2 adults per household)	787,525	94,503	157,505	228,382
NOTES: 0% Substitution for Outside FL; 100% Ent & Misc for In-FL		153,165	255,276	370,150
EXPENSE #1: -\$26.60 times 4.7 nights	PP: \$ (125.02)	(7,333,965)	(12,223,274)	(17,723,748)
EXPENSE #2: One Day Taxable Expense of \$150.70 times 4.7 nights	PP: \$ 708.29	66,935,546	111,559,244	161,760,903
EXPENSE TOTAL:		59,601,582	99,335,969	144,037,156
SALES TAX EFFECT: net new expenditures not otherwise expected	RATE: \$ 0.06	3,576,095	5,960,158	8,642,229
GAMBLING EXPENDITURE: Blended Rate to Reflect Mix (on top*)	PP: \$ 335.53	51,391,274	85,652,123	124,195,578
*assumes expanded budget by gambling expenditure				

	2010 Current	0.24	0.25	0.265
		Curr At 24%	Curr At 25%	Curr At 26.5%
FLORIDA RESIDENTS (21+) FOR LOCAL VISITS (Region 1)				
Local Residents Who Will Visit	BASE: 5,098,055	1,223,533	1,274,514	1,350,985
Number of Visits Per Year (9.9 Total Visits to Nearby Casinos)	SCALAR: 3.3	4,037,660	4,205,895	4,458,249
GAMBLING EXPENDITURE:	PP: \$ 75.00	302,824,467	315,442,153	334,368,682
FULL INDIAN GAMING EFFECT (not tax-adjusted)	0.600	(181,694,680)	(148,573,254)	(115,357,195)
PAR-MUTUEL SLOTS TAX EFFECT	0.275	(29,146,855)	(44,603,520)	(62,025,391)
SALES DISPLACEMENT (not tax-adjusted)	0.125	(37,853,058)	(39,430,269)	(41,796,085)
SALES TAX EFFECT: diverted from other expenditures	RATE: \$ 0.06	(2,271,184)	(2,365,816)	(2,507,765)

*New Money & Money Diverted from Current Expenditures*

# Cannibalization...

- **Slots Tax Losses Associated with Direct Cannibalization (annual) ---** There will be slots tax losses associated with the increased gambling opportunities that cannibalize from existing activity. Fundamentally, the state loss is attributable to the lower tax rate that will be assessed at the destination resorts (10% at the destination resorts instead of 35% for existing slots activity).
  - **LOW:** Adjusted Estimate Using Tourism Detail from Analysis Worksheet = \$29.1 million
  - **MIDDLE:** Adjusted Estimate Using Tourism Detail from Analysis Worksheet = \$44.6 million
  - **HIGH:** Adjusted Estimate Using Tourism Detail from Analysis Worksheet = \$62.0 million
- **Secondary Effect on Slots from Indian Gaming Shift (annual) ---** There will be a secondary impact on Pari-Mutuel Slots facilities associated with a change in business strategy by the Indian Gaming Facilities as they lose part of their customer base to the new Destination Resorts. Since their competition with the Destination Resorts is largely over tourists, the Indian Gaming Facilities can turn to the local market to offset some of their losses. In this regard they would have a new tax advantage over the Pari-Mutuel Slots facilities.
  - **LOW:** Worksheet = \$16.2 million
  - **MIDDLE:** Worksheet = \$18.9 million
  - **HIGH:** Worksheet = \$22.1 million



# Indeterminate

- **Property Tax Associated with \$2 billion Construction Project (annual) ---**There will be increased property taxes associated with a \$2 billion project for the host communities; indeterminate positive number to Local since sites are unknown; would probably first affect the 2016 tax roll.
- **Documentary Tax Associated with Land Purchase (nonrecurring) ---** There will likely be increased documentary stamp taxes associated with the land purchase; however, the impact is positive indeterminate since the sites and footprints are unknown; it is also known that some of the land has already been purchased by the prospective applicants.
- **Gambling Business License (annual) ---** The bill appears to require any person who allows gambling to occur on his or her property to get a gaming license from the department. The department shall fix the fee in an amount sufficient to meet the costs of carrying out its licensing, enforcement, and administrative responsibilities, but in an amount not to exceed \$5,000. The impact is positive indeterminate (unknown universe and unknown fee level) to State Trust (proceeds to the Destination Resort Trust Fund). Assume effective July 1, 2012.

## Preliminary Revenue Estimate

Total Impact: (State Trust, GR and Local Trust)	FY 2012-13 Cash	FY 2013-14 Cash	FY 2014-15 Cash	FY 2015-16 Cash
High	155.0	60.6	102.9	137.2
Middle	154.0	60.6	102.9	76.6
Low	153.0	33.3	81.8	59.5

Component 1 of Total State Trust Impact:	FY 2012-13 Cash	FY 2013-14 Cash	FY 2014-15 Cash	FY 2015-16 Cash
High	155.0	6.0	6.0	(-72.2)
Middle	154.0	6.0	6.0	(-51.6)
Low	153.0	6.0	6.0	(-33.4)

Component 2 of Total Local Impact:	FY 2012-13 Cash	FY 2013-14 Cash	FY 2014-15 Cash	FY 2015-16 Cash
High	0.0	6.2	11.0	1.6
Middle	0.0	6.2	11.0	(-0.1)
Low	0.0	3.1	8.6	2.8

Component 3 of Total General Revenue Impact:	FY 2012-13 Cash	FY 2013-14 Cash	FY 2014-15 Cash	FY 2015-16 Cash
High	0.0	48.4	85.9	207.8
Middle	0.0	48.4	85.9	128.3
Low	0.0	24.2	67.1	90.1