

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Jones, Chair
Senator Sachs, Vice Chair

MEETING DATE: Wednesday, December 8, 2010
TIME: 10:45 a.m.—12:45 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Jones, Chair; Senator Sachs, Vice Chair; Senators Altman, Dean, Diaz de la Portilla, Hill, Norman, Rich, Siplin, Thrasher, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Introduction of Staff		
2	Introduction of Members		
3	Overview of Committee Jurisdiction		
4	Overview of Interim Project, Issue Brief, and Monitoring Projects		
	Monitor Project 2011-369 (Implementation of the Seminole Tribe of Florida Gaming Compact) Presentation		
5	Monitor Project 2011-371 (The Department of Lottery's Effectiveness and Efficiency, and Rulemaking Authority) Presentation		

Staff Assignments

Miguel Oxamendi – Senior Attorney:

Issues:

- Indian Gaming
- Casino Gaming
- Building Code
- Tobacco Settlement Agreement/Master Settlement Agreement
- Community Associations
- Direct Shipment of Wine
- Clean Indoor Air Act
- Underage and Binge Drinking
- Elevator Safety

Department of Business & Professional Regulation:

- Division of Alcoholic Beverages and Tobacco
- Division of Hotels & Restaurants
- Division of Florida Condominiums, Timeshares, and Mobile Homes
- Division of Real Estate
- Division of Professions and Division of Regulation
 - Auctioneers
 - Barbers
 - Building Code Administrators and Inspectors
 - Athlete Agents
 - Employee Leasing
 - Cosmetology
 - Community Association Managers
 - Pilot Commissioners
 - Pilotage Rate Review Committee
 - Talent Agencies
 - Veterinary Medicine
 - Bureau of Education and Testing
- Division of Certified Public Accounting

- State Boxing Commission

Department of Financial Services

- Division of Funeral, Cemetery, and Consumer Services in conjunction with Committee on Banking and Finance

Staff Assignments

Tiffany Harrington - Attorney:

Issues:

- Casino Gaming
- Internet Poker
- Indian Gaming
- Video Lotteries
- Adult Arcades and Electronic Game Promotions
- Bingo
- Construction Defects
- Construction Industry Recovery Fund
- Construction Lien Law
- Imported Drywall

Department of Business & Professional Regulation:

- Division of Pari-Mutuel Wagering
 - Slot Machine Gaming
 - Cardrooms
- Division of Professions and Division of Regulation
 - Architects, Landscape Architects, and Interior Design
 - Asbestos Consultants
 - Construction Industry Licensing Board
 - Electrical Contractor's Licensing Board
 - Engineers Management Corporation
 - Farm and Child Labor Program
 - Home Inspection Services
 - Professional Geologists
 - Mold-Related Services

Department of the Lottery

In conjunction with the Committees on Education Pre-K – 12 and Higher Education

Department of Agriculture and Consumer Services

Surveyors and Mappers in conjunction with the Committee on Agriculture

Staff Assignments

Lynn Koon – Senior Administrative Assistant

Official custodian of the bills and records of the committee
Administrative Support
Committee coordination
LEAGIS Administrator for the committee

Staff Assignments

Ashley Young – Legislative Intern

Issues:

Internet Poker (with assistance and supervision by Booter Imhof)
Other issues as assigned

Staff Assignments

Booter Imhof – Staff Director:

Department of Business and Professional Regulation

Office of the Secretary
Planning and Budget
Division of Technology
Administration
Performance Based Budgeting

Department of the Lottery

Office of the Secretary
Sunset Review of the Department of Lottery

Senate Regulated Industries Committee 2011-2012

Members

Senator Dennis L. Jones, D.C., Chairman, District 13
487-5065
408 Senate Office Building

Senator Maria Sachs, Vice Chair, District 30
487 5091
216 Senate Office Building

Senator Thad Altman, District 24
487-5053
314 Senate Office Building

Senator Charles S. "Charlie" Dean, Sr., District 3
487-5017
302 Senate Office Building

Senator Miguel Diaz de la Portilla, District 36
487-5109
312 Senate Office Building

Senator Anthony C. "Tony", Hill, Sr., District 1
487-5024
213 Senate Office Building

Senator Jim Norman, District 12
487-5068
214 Senate Office Building

Senator Nan H. Rich, District 34
487-5103
228 Senate Office Building

Senator Gary Siplin, District 19
487-5190
205 Senate Office Building

Senator John Thrasher, District 8
487-5030
400 Senate Office Building

Senator Stephen R. Wise, District 5
487-5027
410 Senate Office Building

Committee Staff

Patrick L. “Booter” Imhof, Staff Director
Lynn Koon, Committee Administrative Assistant
Miguel Oxamendi, Staff Attorney
Tiffany Harrington, Staff Attorney
Ashley Young, Intern

330 Knott Building
487-5957

General Subject Areas and Committee Jurisdiction

General Subject Areas and Agency Oversight

Department of Business and Professional Regulation.

Professional Regulation, Education and Testing Services

- Architecture and Interior Design
- Asbestos Contractors and Consultants
- Athlete Agents
- Auctioneers
- Barbers
- Boxing, Kick Boxing and Mixed Martial Arts
- Building Code Administrators and Inspectors
- Certified Public Accounting Division Page
- Child Labor
- Community Association Managers and Firms
- Construction Industry
- Cosmetology
- Electrical Contractors
- Engineers
- Employee Leasing Companies
- Farm Labor
- Geologists
- Harbor Pilots
- Home Inspectors
- Labor Organizations
- Landscape Architecture
- Mold-Related Services
- Real Estate
- Talent Agencies
- Veterinary Medicine

Business Regulation

- Alcoholic Beverages and Tobacco
- Condominiums and Cooperatives (in conjunction with the Committee on Judiciary)
- Hotels and Restaurants (in conjunction with the Committee on Commerce and Tourism)
- Mobile Homes
- Pari-Mutuel Wagering
- Timeshares
- Yacht and Ships Brokers

Department of the Lottery

Operation of the State Lottery

Department of Financial Services

Division of Funeral, Cemetery, and Consumer Services (in conjunction with the Committee on Banking and Finance)

Other Issue Areas:

Gambling

Homeowners and community associations (in conjunction with the Committee on Judiciary)

Travel clubs

Indoor Smoking Ban (implementation of constitutional language)

The People of the State of Florida

The Governor of Florida

Secretary of the Department of Business and Professional Regulation

Office of the General Counsel

Office of the Inspector General

Chief of Staff

Division of Administration

- Agency Services
- Human Services
- Purchasing & Contract Admin.

Division of Information Technology

- Planning & Budget
- Finance & Accounting
- Business Manager

Office of Financial Management

Office of Legislative Affairs

Office of Public Affairs

- Customer Contact Center
- Central Intake

Division of Service Operations

- Education & Testing

Deputy Secretary of Professional Regulation

Division of Professions

- Professional Boards
- Boxing Commission

Division of Regulation

- Inspections and Compliance
- Child Labor
- Farm labor

Division of Real Estate

- Enforcement

Division of Certified Public Accounting

Deputy Secretary of Business Regulation

Division of Hotels and Restaurants

- Sanitation and Safety Inspectors
- Elevator Safety
- Hospitality Education Program
- Compliance & Licensure

Division of Alcoholic Beverages and Tobacco

- Law Enforcement
- Auditing
- Licensing
- Auditing

Division of Pari-mutuel Wagering

- Investigations
- Operations
- Slot Operations

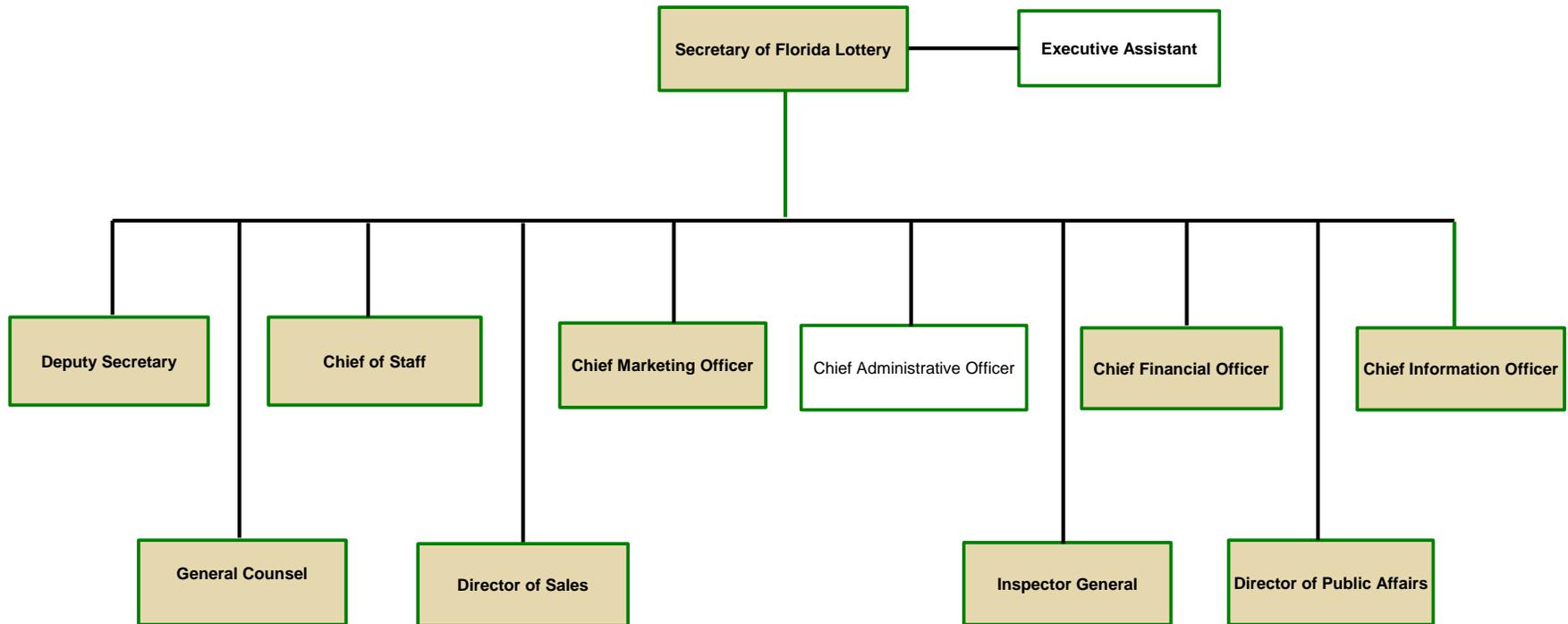
Division of Florida Land Sales, Condominiums & Mobile Homes

- Standards & Registration Compliance

Florida Department of
**Business
 Professional
 Regulation**

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DEPARTMENT OF THE LOTTERY



INTERIM PROJECT TITLE:***Review of the Expansion of Casino Gaming in Other States*****DATE DUE:** October 1, 2010**PROJECT NUMBER:** 2011-133**ISSUE DESCRIPTION and BACKGROUND:**

There are 27 pari-mutuel wagering facilities located throughout the state. In addition to pari-mutuel wagering facilities, gaming occurs on Indian Reservations. Other than gaming that is regulated and connected to a pari-mutuel facility or allowed on Indian lands, there are no free standing traditional casinos in the state. During the 2010 Regular Session, the Legislature ratified a gaming compact between the state and Seminole Tribe of Florida. In exchange for substantial exclusivity over gaming in the state, the Tribe agreed to pay revenue sharing payments to the state. If gaming is expanded, the Tribe may be entitled to a reduction or cessation of payments due to the state under the provisions of the compact. Recently, other states including Pennsylvania Michigan, Louisiana, Mississippi, Kansas and Iowa have legalized casino gaming. Prior to these changes, only New Jersey and Nevada had legal casino gaming. The Las Vegas Sands Corporation made a presentation on the establishment of casino destination resorts in Florida before the House Select Committee on Seminole Indian Compact Review. The Sands Corporation, as well as other gaming corporations, are exploring expansion plans in the United States and around the world, most notably in Macau, China, and Singapore.

OBJECTIVE:

This issue brief will identify federal and state laws that regulate gaming, examine the expansion of casinos that have occurred in other states, examine the impact of existing Tribal-state compacts on the expansion of casino gaming in those states, and examine the effect of authorizing casino gaming would have on the Seminole Indian Gaming Compact in the state of Florida. The Senate professional staff will provide alternatives regarding the establishment of casino gaming in Florida.

METHODOLOGY:

Senate professional staff will review the federal and state laws that pertain to gaming and will research the procedures used by other states and jurisdictions that have expanding casino gaming. Senate professional staff may also receive input from representatives for the Department of Business and Professional Regulation, states that have expanded casino gaming, casino resort representatives, and other interested parties. In addition, Senate professional staff will review any other information deemed relevant by the committee.

INTERIM ISSUE BRIEF TITLE:***Review of Internet Poker***

DATE DUE: October 1, 2010

PROJECT NUMBER: 2011-223

ISSUE DESCRIPTION and BACKGROUND:

Internet poker is a game of poker played over the internet or online instead of at a traditional casino or pari-mutuel facility. In 2009, proposed federal legislation sought to legalize internet poker. In addition, multiple states including Florida proposed legislation to legalize intrastate poker. Representative Abruzzo introduced HB 1441 to authorize intrastate Internet poker, regulate the operation of the games, and tax the operators. The bill died in the House Insurance, Business, & Financial Affairs Policy Committee.

OBJECTIVE:

This issue brief will identify federal and state laws that cover internet and online poker and examine the impact of regulating internet and online poker in the state of Florida.

METHODOLOGY:

Senate professional staff will review the federal and state laws that pertain to internet poker. Senate professional staff will contact representatives of the Department of Business and Professional Regulation, representatives of the pari-mutuel industry, Internet poker organizations, the staff of the Congressional committees considering the federal legislation, and other interested parties. In addition, Senate professional staff will review any other information deemed relevant by the committee.

INTERIM MONITOR PROJECT TITLE:

Implementation of the Seminole Tribe of Florida Gaming Compact

DATE DUE: N/A

PROJECT NUMBER: 2011-369

ISSUE DESCRIPTION and BACKGROUND:

During the 2010 Regular Session, the Legislature passed ch. 2010-29, L.O.F. that ratified the Tribal-state compact between the Seminole Tribe of Florida and the State of Florida. The compact requires certain payments to be made to the State of Florida and designated the Department of Business and Professional Regulation as the State Compliance Agency to oversee the gaming activities at the tribal facilities. The compact limits the number of facilities that are allowed to conduct banked table games to the facilities in Broward County – Hollywood Hard Rock Hotel and Casino, Hollywood Classic Casino, and Coconut Creek Casino, the Immokalee Casino, and the Tampa Hard Rock Hotel and Casino. All the tribal facilities are authorized to conduct slot machine gaming.

OBJECTIVE:

To monitor the implementation of the Tribal-state compact to track the amount of money received by the state under the compact, to scrutinize the oversight of the compact by the department, and to examine the impact of the compact on other gaming interests in Florida.

METHODOLOGY:

Senate professional staff will monitor the submission of the compact to the United States Department of the Interior for approval pursuant to 25 U.S.C. s. 2710. Senate professional staff will also maintain continuous contact with the Office of Economic and Demographic Research to track the payment amounts received by the state. Contact will also be maintained with the DBPR to monitor the procedures and applicable rules for the oversight of the compact. The revenue reports of the Department of the Lottery and the pari-mutuel industry will be reviewed to determine if the compact has impacted the revenue of these entities. The Senate professional staff will survey news articles, federal activity, and litigation regarding the implementation of the compact.

INTERIM MONITOR PROJECT TITLE:

Implementation of Chapter 2009-170, Laws of Florida, Relating to Pari-mutuel Facilities

DATE DUE: N/A

PROJECT NUMBER: 2011-370

ISSUE DESCRIPTION and BACKGROUND:

Chapter 2009-170, L.O.F., passed during the extended 2009 Regular Session. The legislation provided terms for a gaming compact to be negotiated by the Governor and ratified by the Legislature and amended various provisions related to the pari-mutuel facilities including extending cardroom hours, removing wager limits on poker games, lowering the tax rate and license fees for slot machine facilities, and reducing other regulatory burdens. The provisions would take effect only if the Governor and the Seminole Tribe of Florida signed a gaming compact that substantially mirrored the provisions related to the compact that were found in ch. 2009-170, L.O.F., and only if that compact was ratified by the Legislature and approved or deemed approved by the Department of Interior. Although the Tribe entered into a compact with the Governor, that compact was not ratified by the Legislature. As a result, the provisions related to the pari-mutuel facilities never took effect.

During the 2010 Regular Session, the Legislature passed ch. 2010-29, L.O.F., that ratified the Tribal-state compact between the Seminole Tribe of Florida and the State of Florida. The legislation also amended the effective date of ch. 2009-170, L.O.F., making the effective date of the pari-mutuel provisions July 1, 2010.

OBJECTIVE:

To monitor the implementation of the pari-mutuel provisions found in ch. 2009-170, L.O.F., and to track whether or not the pari-mutuel facilities experience any positive revenue growth.

METHODOLOGY:

Senate professional staff will monitor the submission of the taxes and reports submitted to the Department of Business and Professional Regulation, Division of Pari-mutuel Wagering by the pari-mutuel wagering facilities. The Senate professional staff will survey news articles, federal activity, and litigation regarding the implementation of the law.

INTERIM MONITOR PROJECT TITLE:

The Department of Lottery's Effectiveness and Efficiency, and Rulemaking Authority

DATE DUE: N/A

PROJECT NUMBER: 2011-371

ISSUE DESCRIPTION and BACKGROUND:

The Department of the Lottery is authorized by Art. X, s. 15, Florida Constitution. Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery. In the 2010 Regular Session, Senator Jones introduced SB 674 to amend the type of player activated games that the department may utilize among other provisions dealing with the Lottery. That bill died in House Messages. In addition, Representative Ford and others introduced HB 1537 to change the department's rulemaking exemptions and emergency rulemaking powers. That bill died in Senate Messages.

OBJECTIVE:

The objective is to monitor the Department of Lottery to determine its effectiveness and efficiency of the agency, and the utilization of emergency rulemaking by the department.

METHODOLOGY:

Senate professional staff will monitor the agency's emergency rules and activities, information submissions, relevant OPPAGA reports and studies, relevant Auditor General and any relevant agency inspector general reports and any other information deemed relevant by the committee.

INTERIM MONITOR PROJECT TITLE:

Remediation of Homes with Imported Drywall

DATE DUE: N/A

PROJECT NUMBER: 2011-372

ISSUE DESCRIPTION and BACKGROUND:

Many homes around the nation have been affected by imported drywall. During the 2010 Regular Session, several bills were introduced in the Senate dealing with the imported drywall problem. The bills ranged from a limitation of liability for imported drywall remediators (SB 2196 by Senator Bennett) to creating a task force to study the issue (SB 1044 by Senator Aronberg) to providing for various regulatory and licensing provisions (SBs 498, 500, and 1042 by Senator Aronberg). These bills died in the Committee on Regulated Industries. The chair of the committee, Senator Jones, believed that no action should be taken on these bills until the results of the various activities across the nation had been determined. The Committee on Community Affairs prepared an Issue Brief on the subject, *Imported Drywall*, Issue Brief 2010-311. The brief identified action being taken at the federal level through the U.S. Consumer Product Safety Commission, the U.S. Environmental Protection Agency, and the U.S. Centers for Disease Control.

In addition, there were several federal lawsuits filed relating to imported drywall manufactured in China, four in the U.S. Southern District of Florida, three in the U.S. Middle District of Florida, and one each in the U.S. Eastern District of Louisiana, the U.S. Northern District of Florida, and the U.S. Southern of Ohio. All of these lawsuits were transferred to the U.S. Eastern District of Louisiana and assigned to the Honorable Eldon E. Fallon for consolidated hearing, *see In re: Chinese-Manufactured Drywall Products Liability Litigation*, 626 F.Supp.2d 1346, 2009 WL 1725973 (U.S.Jud.Pan.Mult.Lit.). The judge has awarded damages and ordered remediation in some of the cases.

The Federal Interagency Task Force on Problem Drywall has issued *Interim Remediation Guidance for Homes with Corrosion from Problem Drywall*, by the Consumer Product Safety Commission and the Department of Housing and Urban Development, April 2, 2010. According to the National Homebuilders Association, the Department of Housing and Urban Development may provide some financial relief for home owners. The department has stated that it would make Community Development Block Grant funds available for this purpose, although no money has been dispensed yet (*see* http://www.nahb.org/news_details.aspx?newsID=10490, last visited, May 14, 2010).

OBJECTIVE:

To monitor the status of remediation and funding efforts for homes that are affected by the problem of imported drywall.

METHODOLOGY:

Senate Professional Staff will review the status of the ongoing litigation in the U.S. Eastern District of Louisiana. The status of drywall remediation regulations and funding from the federal government will also be monitored. Senate Professional Staff will also contact affected homebuilders and other interested parties to monitor the problem, and will coordinate with the Senate Professional Staff of the Senate Committee on Community Affairs.



2010 Department of Lottery Review Project Overview

- OPPAGA is your research office – we examine agencies and programs to improve services and cut costs when directed by state law, the presiding officers, or the Joint Legislative Auditing Committee. OPPAGA supports the Florida Legislature by providing data, evaluative research, and objective analyses.
- OPPAGA is directed, as part of the annual audit in s. 24.123, *F.S.*, to make recommendations to enhance the Department of Lottery’s earning capability and operational efficiency.
- While analyzing and offering recommendations and/or policy options to increase Lottery’s revenue transfers to education, as directed, OPPAGA recognizes that the expansion of legalized gambling could produce negative social costs and consequences for a small percentage of players.

Performance

Education transfers down about \$41 million, or 3%, in FY 2009-10 (unaudited); expected to continue to decrease by another \$66 million in FY 2010-11 before increasing slightly in FY 2011-12

- **Recent Lottery Efforts**
 - **New game feature** for Cash 3 daily numbers game – one-off (allows players to miss 1 or more of the 3 digits and still win) – launched August 2010
 - **New games** – Lucky Lines (bingo-like game) – launched October 2010
 - **Additional Instant Ticket Vending Machines (ITVM’s)** – currently installing 500 across the state at grocery stores and select trade styles - K-Mart, B.J.’s Wholesale, 7-Eleven, Pantry, and Racetrac – OPPAGA examining the fiscal impact of the first 1,000 ITVM’s installed

Revenue Enhancement Options

- **Launch New Games**
 - **Keno** (where players typically choose 10 numbers from 80, trying to match a central computer draw, normally every 5 minutes) – requires legislative budget approval – attractive to non-traditional retailers such as bars and restaurants – found in 13 other states including Georgia
 - **Mega-Millions** – multi-state game – all U.S. lotteries except California, Florida, and Louisiana are selling both multi-state games – Florida hosts the national Powerball drawings – department has the authority but has not pursued – OPPAGA examining fiscal impact to date and updating potential revenue figures
 - **Video lottery terminals** (player activated machines programmed to play casino style games) – requires legislative approval – would violate the current revenue sharing agreement between the state and the Seminole Indian Tribe (ratified in Ch. 2010-29, Laws of Florida)
- **Expand Product Distribution**
 - **Full-service vending machines** – offering scratch-off and on-line games – requires legislative approval – minimizes on-site labor and attractive to corporate retailers
 - **Increase the statewide retailer network** – market penetration rates vary across the state with the highest rates in rural areas – OPPAGA examining department retailer recruitment efforts
 - **Internet-based sales** – requires legislative approval and enhanced technology to ensure that Internet sales are made within a state's borders

Operational Efficiency Options

Administrative Cost Ratio (expenses as a percentage of total revenues) continues to decline – from 8.93% in FY 2008-09 to 8.85% in FY 2009-10

- **Headquarters Facility Lease Costs** – the department established a consolidation plan – found that it is not cost effective to consolidate and sublet excess leased space – the department has not sublet the majority of its excess leased space – OPPAGA examining the cost(s) to continue to lease compared to moving to state-owned space
- **Retailer Commission Structure** – department was directed to review and report to the Legislature January 2010 – OPPAGA examining/evaluating the report
- **In-House Draw Studio** – OPPAGA examining current use, additional use options
- **Review Department Use of Authority** – OPPAGA examining the Lottery's emergency rulemaking authority and use of alternative procurement procedures