



Additional Steps Could Be Taken to Aid Pari-Mutuel Wagering Industry and/or Cut Regulatory Cost

at a glance

The Division of Pari-Mutuel Wagering is effectively carrying out its mission to regulate horse and dog races and cardroom and jai alai games. However, over the last decade, Florida's pari-mutuel wagering industry has declined steadily, with attendance and state revenue falling dramatically. The Legislature has amended pari-mutuel wagering laws several times in an effort to stimulate the industry. Nonetheless, the industry no longer generates sufficient revenue to support both the cost of regulation and the \$29.9 million distribution to counties mandated by current law. To assist the industry and ensure that the state does not have negative fiscal impacts due to declining pari-mutuel revenues, the division and Legislature could consider additional steps to cut state regulatory costs, aid the industry, and/or revise the distribution of funds to counties.

Scope

State law directs the Office of Program Policy Analysis and Government Accountability to complete a justification review of each state agency program operating under a performance-based program budget. This report reviews the performance and identifies policy alternatives for the Department of Business and Professional Regulation's Division of Pari-Mutuel Wagering. Appendix A summarizes our overall conclusions regarding the program.

Background

Florida authorizes pari-mutuel wagering for thoroughbred, harness, quarter horse, Appaloosa, and Arabian horseracing, greyhound racing, and jai alai and cardroom games. Pari-mutuel wagering is a system of betting on races/games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they wagered individually and with regard to the odds assigned to particular outcomes. Florida is one of the primary pari-mutuel states in the nation and hosts more dog races and jai alai games than any other state.

The Division of Pari-Mutuel Wagering within the Department of Business and Professional Regulation regulates Florida's pari-mutuel industry. The division's purpose is to ensure the health, safety, and welfare of the public, racing animals, and licensees through efficient, effective, and fair regulation of the pari-mutuel industry. The division's primary responsibilities are

- ensuring that races and games are conducted fairly and accurately;
- ensuring the safety and welfare of racing animals;
- collecting state revenue accurately and timely; and

Justification Review

- ensuring that permitholders, licensees, and totalizator companies comply with state law.^{1, 2}

The division is organized into three offices - Office of the Director, Office of Auditing, and Office of Operations.

The **Office of the Director** provides general oversight and administration of the division. This office implements division policies and procedures, has general oversight of the division's budget and legislative initiatives, and has final approval of all legal documents and procedures.

The **Office of Auditing** collects state taxes, reviews pari-mutuel facility financial reports, and audits permitholders to ensure the fiscal integrity of wagering activity. The office's mission is to account for and safeguard state revenues, as well as to protect the wagering public by ensuring that pari-mutuel wagering and cardroom activities are conducted in accordance with state law. The office is divided into three functional areas: field operations, compliance audits, and accounting/financial analysis.

Field operations personnel are assigned to each totalizator hub to ensure that pari-mutuel calculations are accurate, that pari-mutuel pools are distributed as required by state law, and that wagering activity is recorded accurately with proper payment of taxes.

Compliance audit personnel conduct totalizator tests and extensive audits to determine permitholder compliance with state law. These audits take into consideration numerous factors, including

- general compliance;
- totalizator reconciliation;
- tax credits;
- purse distribution; and
- unclaimed winning tickets.

Accounting personnel ensure that state taxes are collected accurately and timely and are responsible for reviewing permitholder financial statements and other financial reports.

The **Office of Operations** conducts background investigations of all permit applicants and issues facility operating licenses, occupational licenses (e.g., jockeys, trainers, and officials), and cardroom operating and personnel licenses. Office stewards/judges monitor the operation of each race/game and conduct inquiries and hearings into alleged violations of state pari-mutuel rules and laws. Office employees also investigate alleged permitholder violations. Investigations may result in the issuance of administrative charges and hearings before the division director or a designated hearing officer or referrals to other regulatory agencies or to law enforcement agencies for criminal prosecution.

In addition, office personnel collect post-race urine and blood samples from racing animals and ship specimens to the University of Florida Racing Laboratory where they are analyzed for prohibited substances. The office also administers the state's Salix program, which is responsible for ensuring diagnosis, proper certification, and tracking of racehorses that are permitted to take the drug.³

Currently, the division regulates 27 pari-mutuel facilities operating through 31 active permits: 18 greyhound; 7 jai alai; 5 thoroughbred; and 1 harness. See Appendix B for the location of Florida's pari-mutuel wagering facilities.

¹ Regulation of Florida's pari-mutuel wagering industry is governed by Ch. 550, *F.S.*, s. 849.086, *F.S.*, and Ch. 61D, *F.A.C.*

² A "totalizator" is a computer system used to accumulate wagers, record sales, and calculate payouts. Three totalizator companies service Florida pari-mutuel facilities via "hubs" located at Orange Park Kennel Club (Amtote), Pompano Park (United Tote), and Hollywood Kennel Club (Autotote).

³ Salix (i.e., Furosemide) is a diuretic that is used as a therapy for exercise-induced pulmonary hemorrhage, which occurs during high intensity exercise in horses.

Resources

In Fiscal Year 2002-03, the division collected approximately \$34.9 million in revenue, which includes taxes, fees, and fines paid by pari-mutuel permitholders as well as interest income.⁴ Of that amount, \$10 million was used to fund division operations, including FBI fingerprinting and a service charge to the Administrative Trust Fund. Approximately \$19.5 million was transferred to the General Revenue Fund, and \$18,700 was transferred to other non-operating categories.⁵ The Legislature appropriated the division 62 full-time equivalent positions to perform regulatory and administrative functions during this period.⁶

Pari-mutuel revenues have been shared with Florida counties since horse and dog racing was authorized in 1931. Since 1980, the Legislature has appropriated a lump sum of \$29.9 million, with \$446,500 distributed to each county.⁷ Prior to Fiscal Year 2000-01, these funds were appropriated from the Pari-Mutuel Wagering Trust Fund. However, because of continuing decreases in state pari-mutuel wagering revenue, the trust fund could no longer sustain the county distribution, and the Legislature shifted this burden to the General Revenue Fund.

Program Benefit and Placement

The program's operations benefit the public and we found no compelling reason to alter its organizational placement. The program provides necessary safeguards to maintain the integrity of pari-mutuel races and events, ensure that the state receives its tax revenues, and help prevent criminal activity. While the exact form

varies, all 43 states that actively regulate pari-mutuel wagering activity do so through a racing commission or other state regulatory agency.⁸

The division's current location within the Department of Business and Professional Regulation is consistent with program placement in other states.⁹ While most states (27) have independent racing commissions, many place this function within a larger agency, such as the departments of regulation, agriculture, or revenue. As shown in Exhibit 1, the organizational location of Florida's pari-mutuel wagering regulation function is consistent with four other states' placement of this function.

Exhibit 1

All States that Permit Pari-Mutuel Wagering Regulate the Activity Through a State Agency

State Agency	States With Pari-Mutuel Wagering Regulation Placed in Agency
Independent Racing Commission, Board, or Department	Alabama, Arizona, California, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New York, Nevada, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, Vermont, Virginia, Washington, West Virginia, Wyoming (27)
Department of Administration	Arkansas, Wisconsin (2)
Department of Agriculture	Delaware, Maine, Michigan, Utah (4)
Department of Regulation	Florida, Maryland, Massachusetts, Rhode Island, South Dakota (5)
Department of Economic Development	Louisiana (1)
Department of Law and Public Safety	New Jersey (1)
Department of Revenue	Colorado, Connecticut (2)
State Police	Idaho (1)

Source: OPPAGA analysis.

⁴ The division deposits these funds into the Pari-Mutuel Wagering Trust Fund.

⁵ According to s. 550.135, *F.S.*, all un-appropriated funds in excess of \$3.5 million in the Pari-mutuel Wagering Trust Fund shall be deposited into the General Revenue Fund.

⁶ The division also relies heavily upon part-time, other personal services (OPS) positions.

⁷ Section 212.20(6)7.a., *F.S.*

⁸ While only 43 states actively regulate pari-mutuel wagering, the activity is legal in 44 states. Pari-mutuel wagering is authorized in Tennessee, but the state's racing commission ceased to exist in 1999 because there were no racetracks to regulate.

⁹ Florida once had a racing commission that directed the division's activities. The Legislature changed the commission's name to the Division of Pari-mutuel Wagering in 1971 with the enactment of Ch. 71-98, *Laws of Florida*.

Findings

The division is performing well, but data reliability controls need improvement

The division's performance-based program budgeting measures and other available data show that the division is effective at accomplishing its mission of ensuring the health, safety, and welfare of the public, racing animals, and licensees. However, the division needs to improve the reliability of its performance data.

The division's formal measurement system, along with supplemental information, provides useful data on its performance and shows that the division generally met legislative expectations in Fiscal Year 2002-03 (see Appendix C). During the year, the division met its legislatively mandated standards by processing all license applications within 90 days, and it collected \$21.57 in state taxes for every dollar spent completing compliance audits.

The division also came close to meeting the legislative output standards for the number of games and events monitored, audits conducted, and applications processed. For example, the division monitored 80,496 races/games and conducted 80,978 audits; the legislative standard for both of these measures was 87,000. According to Department of Business and Professional Regulation documents, the division has limited control over these results because permitholders establish annual event schedules and do not always conduct the planned number of races/games.

Moreover, internal performance measures demonstrate that the division is performing its primary functions well (see Appendix C). For example, the division took administrative action in response to all "drug positive" samples collected from racing animals.¹⁰ In addition, the division correctly issued all occupational licenses and timely conducted all required compliance audits.

¹⁰ According to division officials, administrative actions include license revocations and suspensions, reprimands, and fines, and are determined according to violation severity.

However, the department's Office of Inspector General has reported concerns about the accuracy of some of the division's performance data.¹¹ The inspector general has noted that data for the outcome measure "percent of races and games that are in compliance with all laws and regulations" may not be reliable because internal controls are inadequate, and the division needs to develop detailed written procedures describing the methodology for collecting, analyzing, verifying, and reporting performance measurement data. We concur with the inspector general's findings and recommend that the division implement the suggested changes.

The industry is declining and does not generate sufficient revenue to support both regulation and county funding

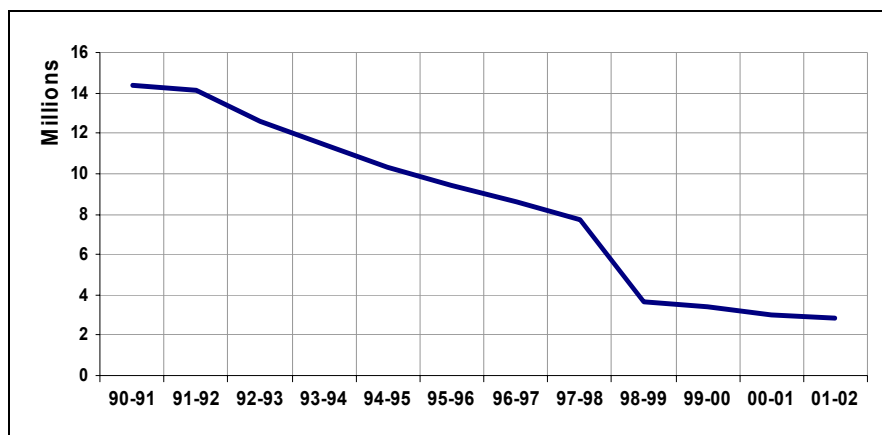
Over the last decade, Florida's pari-mutuel wagering industry has declined steadily, due in part to increased competition from the state lottery, tribal casinos, and gambling cruise ships. This decline is most apparent in the significant decrease in attendance at pari-mutuel wagering facilities. As shown in Exhibit 2, the number of consumers attending facilities has fallen from 14.4 million in Fiscal Year 1990-91 to 2.8 million in Fiscal Year 2001-02, an 80% decrease.

The amount of money wagered at the facilities has also declined, although not as dramatically as has attendance. However, as shown in Exhibit 3, there has been a substantial decrease in betting on live races and an increase in wagering on simulcast events (i.e., races and games broadcast from other in- and out-of-state facilities).

Moreover, several pari-mutuel facilities have gone out of business over the past decade. For example, Volusia, Tampa and Palm Beach Jai-Alai closed, as did Seminole Greyhound Park. Hialeah, Inc., a thoroughbred racetrack, has an active permit but has not scheduled races since Fiscal Year 2001-02.

¹¹ *Review of Performance Measurement Data for the Pari-Mutuel Wagering Program*, Special Project Report No. SP-068, Department of Business and Professional Regulation Office of Inspector General, May 2003 and *Review of Performance Measurement Data for the 1999-2000 Fiscal Year*, Special Project Report No. SP-052, Department of Business and Professional Regulation Office of Inspector General, May 2001.

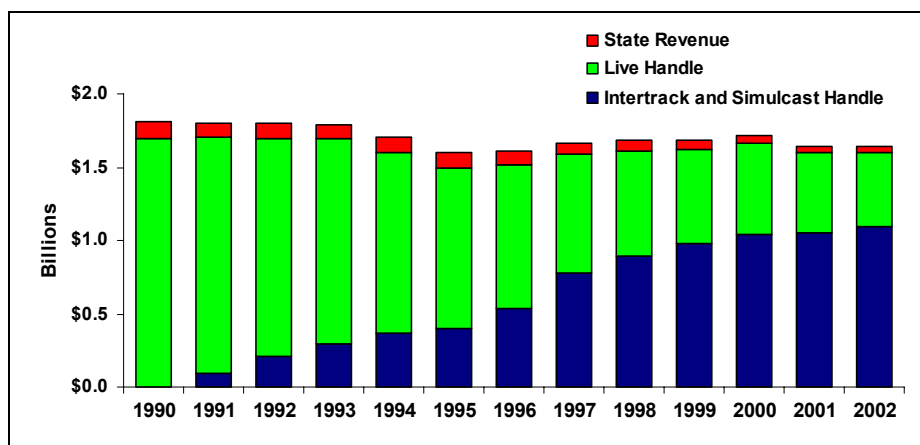
Exhibit 2 Attendance at Races and Games Has Dropped ¹



¹The significant drop in attendance between Fiscal Years 1997-98 and 1998-99 is due to the division no longer tracking unpaid attendance because of the enactment of Ch. 98-190, *Laws of Florida*.

Source: Division of Pari-Mutuel Wagering.

Exhibit 3 Total Pari-Mutuel Wagering Has Remained Relatively Stable, but “Live Handle” Has Declined ¹



¹“Handle” is the aggregate funds contributed to pari-mutuel pools. Total handle includes wagers on live performances as well as on performances broadcast (via radio or television) from other instate or out-of-state facilities.

Source: Division of Pari-Mutuel Wagering.

To address this situation, the Legislature has amended pari-mutuel laws several times to decrease state taxes and increase permitholder revenue potential. For example, the 2000 Legislature reduced tax rates for pari-mutuel permitholders. ¹² The reduction amounts differed, depending upon permit type, with the tax rate for live and simulcast performances dropping from

- 7.6% to 5.5% for greyhound permitholders;
- 4.25% to 2% for jai alai permitholders;
- 3.3% to 1% for quarter horse permitholders; and
- 1% to 0.5% for harness permitholders.

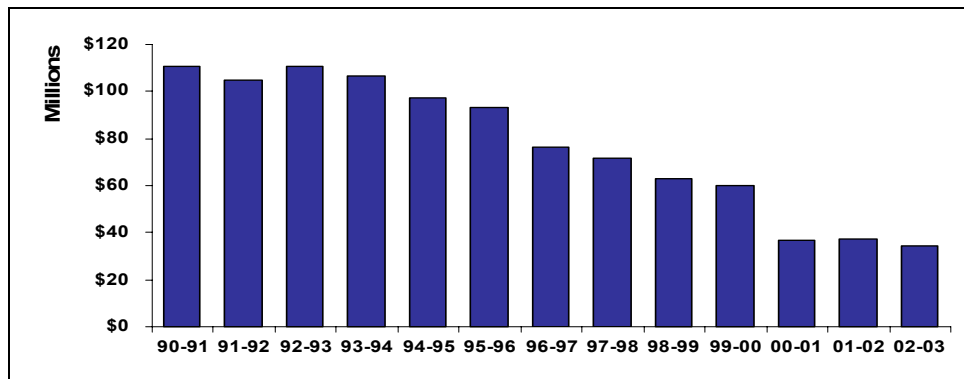
In addition, this legislation established a baseline tax rate of 0.5% for thoroughbred permitholders.

These rate changes reduced state tax revenues by an estimated \$20 million annually. ¹³ Since Fiscal Year 1990-91, the amount of state taxes, fees, and fines paid by permitholders has declined 68.9%, from \$110.5 million to \$34.9 million in Fiscal Year 2002-03 (see Exhibit 4).

¹² Chapter 2000-354, *Laws of Florida*.

¹³ *Staff Analysis of House Bill 770*, House Committee on Regulated Services, May 10, 2000.

Exhibit 4 State Pari-Mutuel Revenue Has Declined Significantly



Source: Division of Pari-Mutuel Wagering.

To assist the industry further, the 2003 Legislature revised the operating conditions for cardrooms at pari-mutuel wagering facilities.¹⁴ This included replacing the \$10 pot limit with a \$2 bet limit and allowing a maximum three raises per round. The Legislature also authorized thoroughbred tracks to both operate a cardroom and receive out-of-state broadcasts after 7 p.m., and it created an opportunity for three same-class permitholders located within a 35-mile radius of each other to enter into an agreement wherein one of the permitholders may operate a cardroom when the others are conducting live racing. These changes are projected to increase facility cardroom gross receipts by \$8.3 million and generate \$879,000 in additional state revenue for Fiscal Year 2003-04.

However, the potential tax revenue from the cardroom legislation will not resolve a substantial shortfall between pari-mutuel tax revenues and the state's costs of regulating the industry and distributing funds to counties. While the state collected \$34.9 million in industry taxes, fees, fines, and interest income in Fiscal Year 2002-03, it spent \$10 million for division operations and distributed \$29.9 million to counties, resulting in a \$5 million subsidy from other General Revenue sources. Thus, the revenues generated by the industry were not sufficient to support both the cost of regulation and the county distribution.

¹⁴ Chapter 2003-295, *Laws of Florida*.

Policy Options

We analyzed three options the Legislature and the division could take to address the continuing decline of the pari-mutuel industry and the growing decline of associated state taxes and fees. First, the state could reduce regulatory costs associated with maintaining OPS employees at facilities and regulating Salix. Second, the Legislature could further expand the types of gaming permitted in pari-mutuel facilities. Third, the Legislature could reduce funds distributed to counties.

Decrease state regulatory costs

Although the division has taken steps to reduce its costs in recent years, it may be feasible to achieve further savings. Between Fiscal Years 2000-01 and 2002-03, the division reduced its expenditures by 28%, from \$13.9 million to \$10 million. The division accomplished this by decreasing its full-time equivalent personnel by 26%; much of this reduction was due to combining division activities, eliminating the cardroom section, and shifting some positions to central processing. Similarly, the division reduced its other personnel service (OPS) employees by approximately 14%.¹⁵

¹⁵ The division's OPS employees serve as judges, stewards, veterinary supervisors, veterinary assistants, and inspectors at pari-mutuel facilities. This includes monitoring each race/game to ensure fairness, collecting post-race samples from racing animals for the detection of drugs, and testing racehorses for the Salix drug.

We identified two opportunities for the division to decrease regulatory costs by reducing additional personnel. However, these potential savings would not be large enough to offset the state's current need to use other sources of General Revenue to support both the cost of regulation and the distribution of funds to counties.

Reduce division OPS employees at facilities.

The division could further reduce regulatory costs by minimizing the number of OPS employees at pari-mutuel facilities. Specifically, the division could reduce OPS employees at both dog and horse racing facilities to the current minimum staffing level, which is 5 employees for dog racing and 17 for horseracing.¹⁶ The division is currently reducing staff at jai alai frontons to the minimum level.¹⁷ OPS staff fill most of these positions. If the division reduced its OPS employees to the minimum staffing level at the remaining facilities, it could eliminate 12 of its OPS employees based on the current minimum staffing level. This would produce annual cost savings of approximately \$199,000 in division OPS funding (see Exhibit 5).

Reducing personnel below the minimum staffing level would produce additional savings but could have an adverse effect on the industry. If staffing were reduced below this level, it would decrease state regulatory staff presence at some pari-mutuel events. Some permitholders we contacted expressed concern that the absence of state personnel at the pari-mutuel facilities would increase vulnerability to fraud and other illegal activities and decrease consumer confidence in the integrity of the games.¹⁸

¹⁶ OPPAGA concluded that the minimum staffing level could be 5 OPS employees for dog racing and 17 OPS employees for horseracing based on discussions with division staff and the fact that some dog racing facilities currently operate with 5 employees and one horseracing facility operates with 17 employees. Division staff reported that the number of state OPS employees at some facilities currently exceeds the proposed minimum staffing level because low employee retention makes it necessary to hire excess personnel.

¹⁷ The division is eliminating the judge position at jai alai frontons, which will amount to about \$48,600 annually.

¹⁸ OPPAGA solicited input from 24 facilities and received responses from 12 facilities and/or their representatives.

Exhibit 5
Reducing OPS Personnel at Pari-Mutuel Facilities to Minimum Required Staffing Level Would Save About \$199,000 Annually

Facility	OPS Employee Reductions	Savings
Greyhound Facilities		
Tampa Greyhound Circuit (Tampa Greyhound Track, St. Petersburg Kennel Club)	1	\$ 18,144
Total Greyhound Facilities	1	\$ 18,144
Thoroughbred Facilities		
Tampa Bay Downs	5	\$ 54,979
South Florida Thoroughbred Club (Calder Race Course, Gulfstream Park, Tropical Park)	6	125,917
Total Thoroughbred Facilities	11	\$180,896
Total	12	\$199,040

Source: OPPAGA analysis of the Division of Pari-Mutuel Wagering data.

Modify Salix regulation. The division could also cut costs by modifying its regulation of Salix. Salix (scientific name Furosemide) is a diuretic that is widely used as a therapy for exercise-induced pulmonary hemorrhage (EIPH), bleeding that occurs in the lungs of some racehorses during high intensity exercise. By some estimates, 70% to 100% of racehorses suffer from EIPH, and studies show that a comparable number are administered Salix.¹⁹ However, the therapeutic value of Salix for the treatment of EIPH has not been definitely proven, so it is unclear whether the drug actually benefits racehorses.

State regulatory agencies vary widely in their regulation of Salix, with some jurisdictions completely banning its use and others allowing use with limited oversight. In Florida, horses that are "registered bleeders" are allowed to race after being administered Salix, but administration of the drug within four hours prior to the officially scheduled time of a race is strictly prohibited.²⁰ Currently, the division maintains information on 43,195 registered bleeders. In Fiscal Year 2002-03, the division

¹⁹ *EIPH Research—Past and Present*, Laurie Fio and Dr. James Jones, 2001.

²⁰ Section 550.2415(9)(b), *F.S.*, and Rule 61D-6.004, *F.A.C.*

spent \$74,839 for seven personnel to complete Salix-related regulatory activities.

Industry representatives we interviewed reported that the ongoing work of the Racing Medication and Testing Consortium will affect the way that Salix is regulated nationwide, with the possibility of the drug being completely deregulated.²¹ The consortium is attempting to standardize drug-testing policies, procedures, and standards for horse races nationwide and is developing national standards and model rules that it will publish in 2004. Once the workgroup issues its findings, the division should consider whether it is feasible to cut state costs by reducing or eliminating Salix-related regulatory activities.

However, reducing regulation of the drug has disadvantages. First, because Salix increases urine flow, there is a danger that the drug may mask the presence of other drugs in post-race tests, diminishing the detection of illegal substances and impeding the enforcement of state pari-mutuel laws. Second, the drug may enhance performance by causing excessive urine excretion and weight loss, which may increase speed. In addition, Salix may improve lung capacity, which may also enhance racehorse performance. Third, because many racing jurisdictions require bleeder certification, deregulating Salix might jeopardize Florida horses that travel to other states to race. For example, if regulators in other states cannot verify that Florida horses are certified bleeders, the horses would not be allowed to race unless they were observed to bleed by regulatory staff in those states.

Expand pari-mutuel products by authorizing additional gaming in permitted facilities

The second option would be to take additional steps to expand the range of gaming that is authorized to occur within pari-mutuel facilities. During the 2003 session, the Legislature considered, but did not pass, several bills that would have authorized video lottery terminals

in pari-mutuel facilities. These terminals can be programmed to play casino-style games such as poker, blackjack, keno, and bingo, or simulate mechanical slot machines or roulette wheels. In general, the various bills granted overall control of video lottery terminals to the Department of the Lottery; limited the video lottery terminals to licensed pari-mutuel facilities; established an application fee for video lottery retailers; and created associated trust funds.

The bill analyses for the legislation reported that authorizing pari-mutuel facilities to offer video lottery terminals would increase state tax collections; unofficial estimates are between \$600 million and \$2 billion.²² Seven states—Delaware, Louisiana, New Mexico, New York, Oregon, Rhode Island, and West Virginia—allow video gaming devices at pari-mutuel facilities.

However, because of their similarity to casino games, the authorization of video lottery terminals would represent a significant expansion of gambling. Concerns were voiced that because of its rapid play style, it may be more addictive than other lottery games and can be regressive. Also, the state's legal position in relation to Native American gaming might materially change should video lottery be permitted, which might ultimately increase casino style gambling on Native American lands in Florida.

Currently, a political action committee—Floridians for a Level Playing Field—is seeking Florida Supreme Court approval to put on the 2004 ballot a constitutional amendment allowing Miami-Dade and Broward counties to hold referenda on whether to authorize slot machines in existing, licensed pari-mutuel facilities within the counties. If the initiative is successful, citizens in each county will have the opportunity to approve or disapprove slot machines at pari-mutuel facilities. The initiative's sponsor had gathered 62,437 signatures by September 1, 2003; 488,722 signatures are required to place the initiative on the ballot.

²¹ OPPAGA staff interviewed the executive directors of the Association of Racing Commissioners International (ARCI) and the North American Pari-Mutuel Regulators Association (NAPRA).

²² A previous OPPAGA report similarly estimated that video lottery terminals in pari-mutuel facilities would generate up to \$1 billion per year in additional state revenue. *Justification Review: Sale of Lottery Products Program, Department of the Lottery, Report No. 02-11*, February 2002.

Reevaluate \$29.9 million county distribution

The third option is to modify the distribution of funds to counties. Since horse and dog racing were first authorized in 1931, Florida counties have received a share of state revenues from the pari-mutuel wagering industry. Initially, counties received 90% of the net proceeds (after salaries and expenses of the State Racing Commission - now the Division of Pari-mutuel Wagering - were paid), while the state retained 10%. As required by the Florida Constitution, the county share was equally apportioned among the counties.²³ In 1980, the Legislature changed the county distribution methodology, authorizing a fixed lump sum of \$29,915,500 to be paid from the Pari-Mutuel Wagering Trust Fund. These funds were divided equally and distributed to counties, with each receiving \$446,500. Funds in excess of the division's operating expenses and the required maximum \$1 million trust fund balance were paid to the General Revenue Fund.²⁴

During the 2000 session, the Legislature authorized the county distribution to be paid from the General Revenue Fund instead of the Pari-Mutuel Wagering Trust Fund. It was the intent of the Legislature to alleviate concerns of any potential adverse impact on county obligations based upon these funds in the event that the trust fund could no longer support the county distribution.²⁵

During the last three fiscal years, revenues from the pari-mutuel industry have not been sufficient to cover county distributions and the cost of regulation. For example, the state has had to use from \$3.9 to \$6.4 million (see Exhibit 7) from other General Revenue sources to meet these obligations.

Exhibit 7

Effect of County Distribution on State Revenue

	Millions of Dollars by Fiscal Year			
	99-00	00-01	01-02	02-03
State Revenue	\$60.0	\$37.4	\$37.5	\$34.9
Division Expenditures ¹	12.1	13.9	11.5	10.0
County Distribution ²	29.9	29.9	29.9	29.9
General Revenue Supplement	\$0	\$6.4	\$3.9	\$5.0

¹ Division expenditures include operating expenditures as well as non-operating expenditures such as a transfer to the Department of Law Enforcement for fingerprinting services and a transfer to the Administrative Trust Fund.

² Beginning in Fiscal Year 2000-01, the county distribution was made from the General Revenue Fund rather than from the Pari-Mutuel Wagering Trust Fund.

Source: OPPAGA analysis of Division of Pari-Mutuel Wagering data.

To address this situation, the Legislature could reevaluate the current county distribution process. The Legislature could either discontinue the distribution or limit it to the amount of net state revenue realized from the pari-mutuel wagering industry. If the Legislature chooses to implement either of these two options, it would be in the best interest of the counties to phase the change in over time to limit the immediate impact on local budgets.

Discontinue county distribution. First, the Legislature could eliminate the county distribution and retain all pari-mutuel revenues. The Florida Constitution authorizes the Legislature to retain tax revenues received from pari-mutuel wagering pools or to allocate those funds in whole or in part to the counties.²⁶ If the Legislature were to repeal s. 212.20(6)7.a., *Florida Statutes*, these funds could be used to support other state needs.

Base county distribution on net state revenue. Second, the Legislature could re-establish the allocation method that was in effect before implementation of the lump sum distribution. Specifically, counties could be appropriated 90% of net industry proceeds (after deducting division expenses), while the division would retain 10% in the Pari-mutuel Wagering Trust

²³ Article 7, section 7, *Florida Constitution*.

²⁴ The 2000 Legislature authorized all un-appropriated funds in excess of \$3.5 million in the Pari-Mutuel Wagering Trust Fund be deposited into the General Revenue Fund.

²⁵ Prior to Fiscal Year 2000-01, the county contribution and division operating expenses were paid from revenues deposited into the Pari-Mutuel Trust Fund, including pari-mutuel and cardroom taxes, and various fees.

²⁶ Article 7, Section 7, *Florida Constitution*.

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Fund. If the Legislature repealed s. 212.20(6)7.a. and amended s. 550.135, *Florida Statutes*, to base the allocation on net state revenue rather than the lump sum, the amount paid to counties would vary from year to year based on the amount of revenue and division operating expenditures. As shown in Exhibit 8, each county would have received an allocation of \$334,514 in Fiscal Year 2002-03 under this option.

The advantage of these alternatives is that they would eliminate the need to use other General Revenue sources to support distributions that were originally intended to be made from pari-mutuel proceeds. The disadvantage of the alternatives is that they would decrease the amount of revenues shared with the counties, which use the funds to meet local needs. For example, we found that some counties use these funds to secure short- and long-term debt. For most counties, these funds represent only a small portion of total revenue. However, for small counties such as Lafayette and Union, the funds account for more than 4% of total revenue. See Appendix D for specific county allocations.

Exhibit 8 County Distribution from Net State Revenue Would Be \$334,514 in Fiscal Year 2002-03

	Fiscal Years		
	2000-01	2001-02	2002-03
Net State Revenue	\$21,138,358	\$23,450,014	\$22,412,427
County Distribution from Net State Revenue ¹	\$315,498	\$350,000	\$334,514
Current County Distribution	\$446,500	\$446,500	\$446,500
Percentage Change in Distribution	29%	22%	25%

¹ County distribution from net state revenue is derived by dividing the amount of net state revenue for each fiscal year by 67.

Source: OPPAGA analysis of Division of Pari-Mutuel Wagering data.

Agency Response

In accordance with the provisions of s. 11.45(7)(d), *Florida Statutes*, a draft of our report was submitted to the Secretary of the Department of Business and Professional Regulation for review and response. The Secretary's written response is included in Appendix E.

Appendix A

OPPAGA Conclusions for Program Evaluation and Justification Review

Section 11.513(3), *Florida Statutes*, provides that OPPAGA program evaluation and justification reviews shall address nine issue areas. Our conclusions on these issues as they relate to the Department of Business and Professional Regulation's Division of Pari-Mutuel Wagering are summarized below.

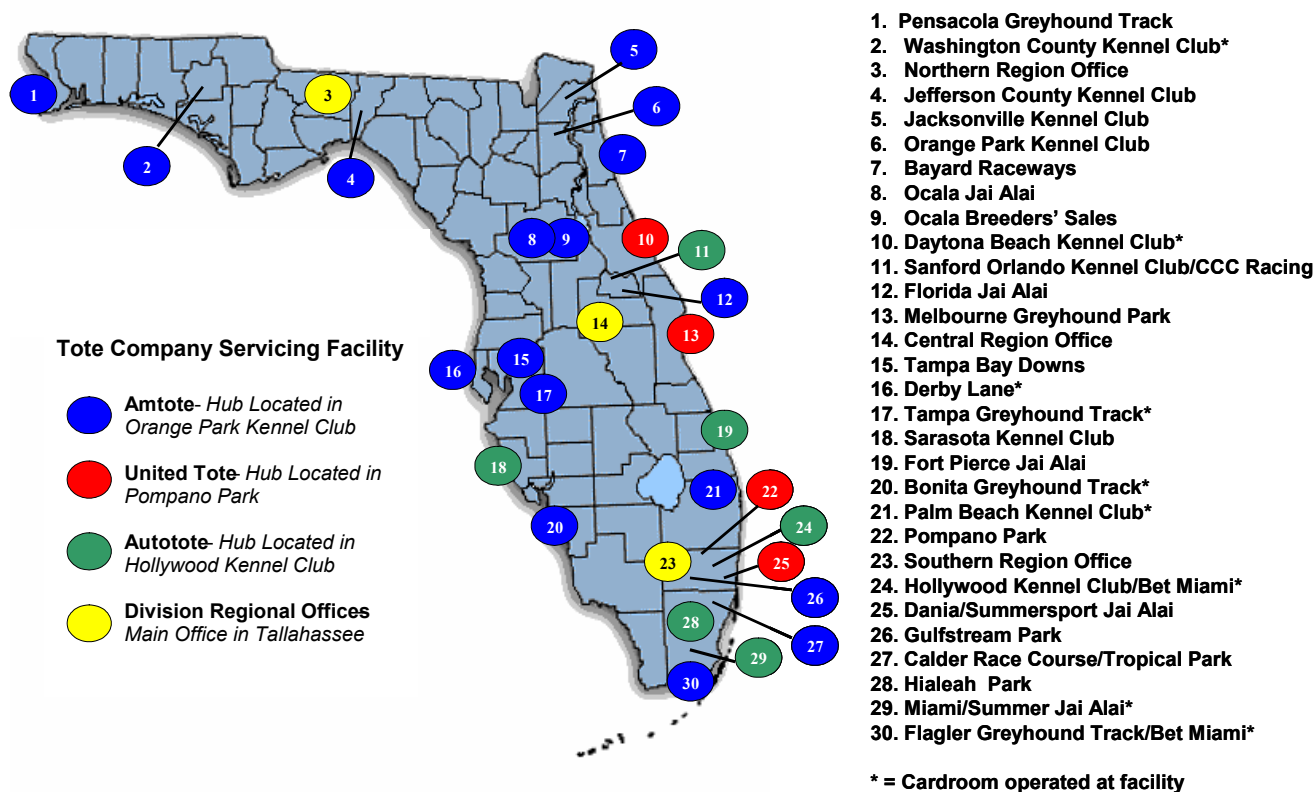
Issue	OPPAGA Conclusions and Policy Options
The identifiable cost of the program	In Fiscal Year 2003-03, the division spent \$10 million for operations.
The specific purpose of the program, as well as the specific public benefit derived therefrom	The purposes of regulation include maintaining the integrity of the races or events, ensuring that the state receives its tax revenues, overseeing the licensing of facilities, and preventing criminal activity.
The consequences of discontinuing the program	If the program were discontinued, there would be reduced assurance that <ul style="list-style-type: none"> ▪ races and games are conducted fairly and accurately; ▪ racing animals are safe and treated humanely; ▪ state revenue is collected accurately and timely; and ▪ permit holders, licensees, and totalizator companies comply with state law.
Determination as to public policy, which may include recommendations as to whether it would be sound public policy to continue or discontinue funding the program, either in whole or in part	The division's activities, while not essential state functions, help to protect the interests of Florida's citizens. Thus, the program should be continued.
Progress towards achieving the outputs and outcomes associated with the program	The division's performance-based program budgeting measures and other available data show that the division is effective at accomplishing its mission of ensuring the health, safety, and welfare of the public, racing animals, and licensees.
An explanation of circumstances contributing to the state agency's ability to achieve, not achieve, or exceed its projected outputs and outcomes, as defined in s. 216.011, <i>F.S.</i> , associated with the program	The division's formal measurement system, along with supplemental information, provides data on performance in the division's primary functional areas and shows that the division generally met legislative expectations in Fiscal Year 2002-03. For instance, during that period, the division met its legislatively mandated standards by processing 100% of license applications within 90 days and collecting \$21.57 in state taxes for every dollar spent completing compliance audits. Moreover, internal performance measures demonstrate that the division is performing its primary functions well. For example, data collected by the division in Fiscal Year 2002-03 indicates that the division took administrative action in response to 100% of the "drug positive" samples collected from racing animals. In addition, the division correctly issued 100% of occupational licenses and timely conducted 100% of required compliance audits.
Whether the information reported as part of the state's performance-based program budgeting system has relevance and utility for the evaluation of each program	The division's performance measures are relevant and meaningful to program objectives.

Issue	OPPAGA Conclusions and Policy Options
Whether state agency management has established control systems sufficient to ensure that performance data are maintained and supported by state agency records and accurately presented in state agency performance reports	The division has not developed detailed written procedures describing the methodology for collecting, analyzing, verifying, and reporting performance measurement data.
Alternative courses of action that would result in administering the program more efficiently and effectively	<ol style="list-style-type: none"> 1. Improve Performance Data Reliability. <ul style="list-style-type: none"> ▪ Maintain detailed files indicating how performance measure figures were calculated and containing all data necessary to arrive at those figures. ▪ Create procedures to test data reliability and maintain documentation to support the amounts used to calculate reported outcome and output data. ▪ Develop detailed procedures relative to the specific steps involved in collecting, recording, accumulating, and reporting performance information, including a process for verifying data reliability after it has been recorded in the system used to accumulate it and before it is reported to the Legislature. 2. Decrease state regulatory costs. <ul style="list-style-type: none"> ▪ Reduce division staff at facilities. ▪ Modify Salix regulation. 3. Expand pari-mutuel products by authorizing additional gaming in permitted facilities. 4. Reevaluate \$29.9 million county distribution.

Source: OPPAGA analysis.

Appendix B

Florida's Pari-Mutuel Wagering Facilities



Source: Division of Pari-Mutuel Wagering.

Appendix C

Division Performance Measures

Measure		Fiscal Years			
		2001-02 Performance Standard	2001-02 Actual Performance	2002-03 Performance Standard	2002-03 Estimated Performance
Office of Operations-Compliance and Enforcement					
Legislative Outcome	Percentage of races and games that are in compliance with all laws and regulations	99.15%	99.75%	99.15%	99.75%
Legislative Output	Number of races and games monitored	87,000	85,129	87,000	80,496
Internal Outcome	Percentage of the "drug positive" samples collected from racing animals that resulted in administrative action	NA	100%	NA	100%
Internal Output	Number of urine/blood sample which tested positive	NA	227	NA	230
Internal Output	Number of administrative actions taken as a result of drug positives	NA	227	NA	230
Office of Operations-Standard and Licensure					
Legislative Outcome	Percentage of applications processed within 90 days	100%	100%	100%	100%
Legislative Output	Number of applications processed	16,679	18,859	17,000	16,521
Internal Outcome	Percentage of occupational licenses issued correctly	NA	100%	NA	100%
Internal Output	Number of occupational licenses issued	NA	18,859	NA	16,521
Internal Output	Number of occupational licenses determined, by review, to be issued correctly	NA	18,859	NA	16,521
Office of Auditing-Tax Collection and Auditing					
Legislative Outcome	Total auditing expenditures compared to auditing collections	\$1.00/ \$19.38	\$1.00/ \$24.23	\$1.00/ \$17.55	\$1.00/ \$21.57
Legislative Output	Number of audits conducted	87,500	85,614	87,000	80,978
Internal Outcome	Percentage of timely conducted compliance audits	NA	97.9%	NA	100%
Internal Output	Number of required compliance audits	NA	47	NA	47
Internal Output	Number of required compliance audits conducted timely	NA	46	NA	47

Source: Division of Pari-Mutuel Wagering.

Appendix D

The Pari-Mutuel Wagering Distribution from General Revenue to the Counties Is \$29,915,500

Counties	Total Distribution	Allocation of Distribution				Total County Revenue	Distribution as a Percentage of Revenue
		Board of County Commissioners	School Board	Hospital	Other		
Alachua	\$ 446,500	\$ 446,500				\$ 262,132,552	0.17%
Baker	446,500	267,625	\$ 143,875	\$ 25,000	\$ 10,000	23,190,887	1.93%
Bay	446,500	446,500				172,820,508	0.26%
Bradford	446,500	223,250	223,250			24,400,109	1.83%
Brevard	446,500	223,250	223,250			507,322,880	0.09%
Broward	446,500		446,500			2,502,942,000	0.02%
Calhoun	446,500	230,750	215,750			14,292,136	3.12%
Charlotte	446,500	297,667	148,833			255,069,932	0.18%
Citrus	446,500	223,250	223,250			119,624,984	0.37%
Clay	446,500	223,250	223,250			144,826,065	0.31%
Collier	446,500	446,500				490,797,811	0.09%
Columbia	446,500	223,250	223,250			68,545,753	0.65%
Dade	446,500	446,500				5,959,399,189	0.01%
DeSoto	446,500	314,333	132,167			29,497,985	1.51%
Dixie	446,500	223,250	223,250			16,314,916	2.74%
Duval	446,500		446,500			Data Unavailable	---
Escambia	446,500		446,500			280,141,844	0.16%
Flagler	446,500	223,250	223,250			41,345,162	1.08%
Franklin	446,500	140,500	306,000			14,800,977	3.02%
Gadsden	446,500	223,250	223,250			33,334,676	1.34%
Gilchrist	446,500	204,247	202,248		40,005	17,684,586	2.52%
Glades	446,500	223,250	223,250			16,121,890	2.77%
Gulf	446,500	216,500	230,000			19,191,247	2.33%
Hamilton	446,500	223,250	223,250			17,080,456	2.62%
Hardee	446,500	446,500				34,565,981	1.28%
Hendry	446,500	218,025	143,300	85,175		48,778,896	0.92%
Hernando	446,500	236,750	209,750			128,250,816	0.35%
Highlands	446,500	223,250	223,250			75,927,413	0.59%
Hillsborough	446,500	446,500				2,093,820,194	0.02%
Holmes	446,500	237,250	209,250			17,239,214	2.59%
Indian River	446,500	446,500				208,901,547	0.21%
Jackson	446,500	168,625	259,875	18,000		38,829,125	1.15%
Jefferson	446,500	223,250	223,250			14,225,020	3.14%
Lafayette	446,500	220,150	210,150		16,200	10,071,175	4.43%
Lake	446,500	297,667	148,833			185,139,395	0.24%

Justification Review

Counties	Total Distribution	Allocation of Distribution				Total County Revenue	Distribution as a Percentage of Revenue
		Board of County Commissioners	School Board	Hospital	Other		
Lee	\$ 446,500	\$ 223,250	\$ 223,250			\$ 1,101,437,438	0.04%
Leon	446,500	446,500				235,581,713	0.19%
Levy	446,500		446,500			40,199,798	1.11%
Liberty	446,500	198,250	248,250			15,027,764	2.97%
Madison	446,500	217,000	217,000	\$ 12,500		21,304,505	2.10%
Manatee	446,500	446,500				441,031,095	0.10%
Marion	446,500	446,500				245,253,788	0.18%
Martin	446,500	223,250	223,250			236,966,510	0.19%
Monroe	446,500	223,250	223,250			239,931,188	0.19%
Nassau	446,500	223,250	223,250			113,537,984	0.39%
Okaloosa	446,500	446,500				176,267,507	0.25%
Okeechobee	446,500	223,250	223,250			46,462,427	0.96%
Orange	446,500	446,500				1,702,385,350	0.03%
Osceola	446,500	223,250	223,250			314,795,876	0.14%
Palm Beach	446,500	446,500				2,128,757,262	0.02%
Pasco	446,500	223,250	223,250			342,990,215	0.13%
Pinellas	446,500	223,250	223,250			1,423,872,703	0.03%
Polk	446,500	446,500				459,814,607	0.10%
Putnam	446,500	446,500				72,937,414	0.61%
St. Johns	446,500	239,750	206,750			168,991,137	0.26%
St. Lucie	446,500	200,925	223,250		\$ 22,325	199,634,982	0.22%
Santa Rosa	446,500	223,250	223,250			102,057,037	0.44%
Sarasota	446,500		446,500			642,960,069	0.07%
Seminole	446,500	446,500				456,370,599	0.76%
Sumter	446,500	223,250	223,250			58,390,339	0.76%
Suwannee	446,500	233,250	213,250			35,684,883	1.25%
Taylor	446,500	223,250	223,250			41,253,168	1.08%
Union	446,500	223,250	223,250			7,656,016	5.83%
Volusia	446,500	132,500	314,000			438,800,424	0.10%
Wakulla	446,500	446,500				21,848,543	2.04%
Walton	446,500	224,000	222,500			72,689,544	0.61%
Washington	446,500	207,850	223,250		15,400	37,263,619	1.20%
Totals	\$29,915,500	\$17,652,114	\$12,018,781	\$140,675	\$103,930	\$25,528,782,825	0.12%

Source: OPPAGA analysis of Florida Department of Revenue and Florida Department of Financial Services Data.

Appendix E

Agency Response



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

October 10, 2003

Florida's Future...
**Right Here.
Right Now.**

Jeb Bush
Governor

Diane Carr
Secretary

Mr. Gary R. VanLandingham
Interim Director
Office of Program Policy Analysis and Government Accountability
Room 312, Claude Pepper Building
111 Madison St.
Tallahassee, FL 32399-1475

Dear Mr. VanLandingham:

The following is presented in response to the Office of Program Policy Analysis and Government Accountability's Justification Review of the Division of Pari-Mutuel Wagering. The response addresses specific findings and policy options in the report that directly effect the Division's regulatory functions. The response does not address other recommendations that are out of scope of the Division's regulatory mission but would require action by the Legislature.

Finding: The division is performing well, but data reliability controls need improvement.

During the course of the review, the Division created detailed written control procedures for the collection, calculation, and verification of all performance data and measures. The written procedures shall be reviewed and updated annually. Furthermore, detailed documentation will be maintained for all PB2 measures. The new procedures are in a format that will facilitate consistent and reliable calculations of the measures.

Policy Option: Decrease state regulatory costs. Reduce division OPS employees at facilities.

The pari-mutuel industry has a significant annual impact on the Florida economy. Thousands of jobs are created directly at the pari-mutuel facilities and thousands more in the agriculture and agribusiness industry. Nearly \$1.7 billion is wagered in Florida annually and an additional \$1.5 billion enters Florida wagering pools from out-of-state. Additionally, the pari-mutuel industry generates approximately \$35 million annually in taxes and fees for the State of Florida. All of these factors are directly reliant on the confidence of the patrons that the races and games being wagered on are conducted fairly in accordance with law. The Division of Pari-Mutuel Wagering was created and authorized by the Legislature to provide that confidence by independently monitoring the industry and ensuring statutory compliance

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Mr. Gary R. VanLandingham
October 10, 2003
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with the guidelines set forth in Chapter 550, Florida Statutes. In short, the Division ensures the integrity of the pari-mutuel events.

OPPAGA has recommended that an additional \$199,000 could be reduced in OPS expenditures through the elimination of 12 OPS employees. It should be noted that the Legislature appropriates OPS spending authority in dollars and not in positions. For Fiscal Year 03/04, the Division has been granted a net OPS appropriation amount of \$1.7 million to monitor approximately 6,100 performances. That equates to an average of only \$278 per performance to perform duties such as collect samples, judge races, conduct inspections, and perform licensing. The Division's position is that OPS funding is currently at minimum levels and that a \$199,000 reduction in OPS budget would not eliminate 12 employees, but simply eliminate the flexibility that the Division currently requires. Any further decreases will compromise the Division's regulatory effectiveness and thus, the integrity of the pari-mutuel races and games.

The Division carefully monitors all OPS expenditures through a quarterly spending plan based on an average number of hours for the total number of licensed performances. Typically, OPS staffing levels remain constant, however, each pari-mutuel facility is unique in design, physical plant, and may employ different times between races to satisfy market conditions resulting in lengthier performances. Additionally, OPS staffing is directly related to independent management decisions of the permitholders to increase/decrease total performances or increase/decrease the number of races or games in each performance. As such, the Division does require flexibility in OPS allocations due to changing circumstances and environments, especially at horse tracks.

Should consumer confidence falter due to additional OPS reductions, the state could realize a significant fiscal impact to the Florida economy and state revenue.

Policy Option: Modify Salix regulation.

The Division concurs with the option for reviewing the need of reducing the regulation of Salix. One approach would be to regulate the medication in a manner similar to that of phenylbutazone in that it would be a permitted medication, within certain guidelines, but not to exceed specified quantitation levels in post-race urine/blood samples. Any changes to the existing Florida Administrative Code would have to take into consideration the implications of Florida's relationship with other horseracing regulatory bodies pertaining to the regulation of Salix and reciprocity with those bodies. Slight savings might be realized by a reduction in the OPS staff assigned to Salix program. However, the cost incurred by the Racing Laboratory to analyze the urine/blood samples for the presence of Salix and/or its metabolites must also be considered to determine if there are true cost-savings available to the state.

Mr. Gary R. VanLandingham
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Page Three

The Division appreciates the assistance of your staff in identifying areas where the Division may improve program operations. Please advise if additional information is required.

Sincerely,

/s/
Diane Carr
Secretary

DC/lm

cc: Kim Mills, DBPR Inspector General
David J. Roberts, Director
Division of Pari-Mutuel Wagering

The Florida Legislature

Office of Program Policy Analysis and Government Accountability



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Gary VanLandingham, OPPAGA Interim Director