

**DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION**

**CENTRAL INTAKE AND LICENSURE UNIT,
DIVISION OF PARI-MUTUEL WAGERING, AND
ADDITIONAL ADMINISTRATIVE MATTERS**

Operational Audit



SECRETARY OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Section 20.165, Florida Statutes, creates the Department of Business and Professional Regulation. The head of the Department is the Secretary of Business and Professional Regulation. The Secretary is appointed by the Governor and is subject to confirmation by the Senate. The following Secretaries served the Department during the period of our audit:

Ken Lawson	From May 2, 2011
Charlie Liem	Through April 29, 2011
Charles W. Drago	Through November 27, 2009

The audit team leader was Matthew Tracy, CPA, and the audit was supervised by Richard Munson, CPA. Please address inquiries regarding this report to Christi Alexander, CPA, Audit Manager, by e-mail at christialexander@aud.state.fl.us or by telephone at (850) 487-9069.

This report and other reports prepared by the Auditor General can be obtained on our Web site at www.myflorida.com/audgen; by telephone at (850) 487-9175; or by mail at G-74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
Central Intake and Licensure Unit, Division of Pari-Mutuel Wagering, and
Additional Administrative Matters

SUMMARY

This operational audit of the Department of Business and Professional Regulation (Department) focused on the Department's Central Intake and Licensure Unit, the Division of Pari-Mutuel Wagering (Division), and additional administrative matters. The audit also included a follow-up on the audit findings included in report No. 2010-045.

CENTRAL INTAKE AND LICENSURE UNIT

Finding No. 1: The Department did not always ensure that license-related payments were timely assigned to an appropriate fee type.

Finding No. 2: The licensing system access privileges of some Department staff were not appropriate for their job duties.

DIVISION OF PARI-MUTUEL WAGERING

Finding No. 3: The Division issued three-year slot machine occupational licenses for fees not commensurate with State law, resulting in potential lost revenues totaling \$105,300.

Finding No. 4: The Division issued three-year cardroom occupational licenses, although Department rule requires the issuance of a license annually.

Finding No. 5: Contrary to State law, the Division did not require that monthly reports of slot machine and cardroom licensees be submitted under oath.

Finding No. 6: Logical access controls related to the Department's Central Management System needed improvement.

ADDITIONAL ADMINISTRATIVE MATTERS

Finding No. 7: The Department did not properly accrue cigarette taxes receivable and related revenues.

Finding No. 8: The Department did not timely remove Florida Accounting Information Resource Subsystem (FLAIR) access for terminated employees.

BACKGROUND

The Department of Business and Professional Regulation (Department) is responsible for regulating professions and businesses to ensure the preservation of the health, safety, and welfare of the public. The Department is charged with regulating a broad spectrum of more than one million businesses and professionals and administers its regulatory responsibilities through nine divisions and one commission.

FINDINGS AND RECOMMENDATIONS

Central Intake and Licensure Unit

The Department's Central Intake and Licensure Unit (Central Intake), within the Division of Service Operations, serves as the Department's one-stop shop for the receipt of applications and payments, which are processed through LicenseEase, the Department's client server-based, commercial, off-the-shelf licensing application. The LicenseEase application consists of several components, including modules for Applications, Licenses, Cash Collections, Exams, Inspections, Enforcement, and Reports. The Department utilizes LicenseEase to initially record all cash receipts,

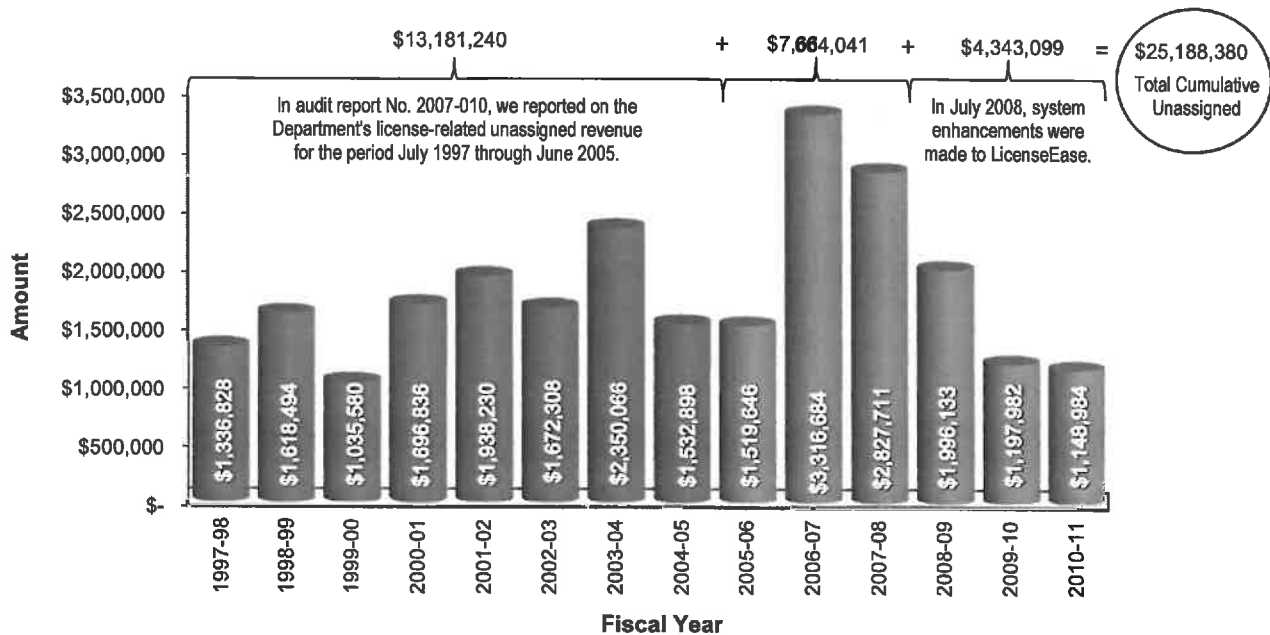
maintain license records, and facilitate recording of revenues into the Florida Accounting Information Resource Subsystem (FLAIR), the State’s general ledger accounting system. The Department also employs OnBase as its document imaging system.

Finding No. 1: Unassigned Revenue

The Department is responsible for regulating and licensing 24 professions and multiple industries for more than 200 distinct license types, and during the audit period, the Department processed related nontax revenues of approximately \$451 million through LicenseEase. When amounts are received for a license-related payment, they are initially categorized in LicenseEase as unassigned revenues. The unassigned revenue category is to be used as a temporary designation for all collections, pending assignment in LicenseEase to an appropriate fee type. Although it is to be a temporary designation, we found that as of June 30, 2011, approximately \$25 million continued to be classified by the Department in LicenseEase as unassigned revenue. Additionally, we noted that the Department had not established a mechanism to record a liability for these amounts.

In audit report No. 2007-010, we reported a similar finding, and to address the problem, the Department in June 2007, put into place a “Revenue and Accounting Process Improvement Project” (RAPIP) to bring together various Division staff to look for system and process improvements. From this Project, system enhancements were to be developed to provide for the retroactive application of amounts that were currently unassigned and a process was implemented to provide unassigned revenue reports to each division on a monthly basis for review and disposition of the unassigned revenue transactions. Also, the LicenseEase application was enhanced to allow for the recording of additional fee types that could be used to classify revenue that was previously unassignable. While these enhancements provided tools to facilitate the timely processing and assignment of the amounts received, significant unassigned revenues have continued to accumulate as depicted in Chart 1.

**Chart 1
Unassigned Revenue
For the Period July 1, 1997, Through June 30, 2011**



Source: Department records.

The balance of unassigned amounts related to collections received during the period of July 1, 2009, through February 28, 2011, was approximately \$4.1 million. As of June 30, 2011, subsequent to our audit inquiry, the Department assigned approximately \$2 million of the \$4.1 million (49 percent). To obtain an understanding of the unassigned transactions, we selected for further testing nine unassigned amounts from four Boards with the largest unassigned amounts. Our audit disclosed that the nine unassigned amounts were the result of licensee overpayments. Specifically:

- For four of the nine overpayments:
 - In two instances, previous licensee remittances were not timely assigned in LicenseEase, and as a result, the System assessed late fees while the remittances were held in the unassigned category. Unknown to the licensees, on their next renewal notices, the late fees were included by the Department in the total amount due, and the total amounts assessed were subsequently paid by the licensees.
 - In one instance, a licensee was assessed and paid a late fee for failure to include the course number for a continuing education class, but later faxed the information to the Department. The Department accepted the additional information and waived the late fee; however, the Department failed to inform the licensee that a refund was available.
 - In the other instance, the licensee missed the deadline for reporting continuing education and submitted a late fee of \$50 on August 8, 2009, after the renewal notice was generated on July 16, 2009, but prior to the renewal notice being sent to the licensee in early September 2009. The Department failed to revise the renewal notice to exclude the late fee already paid by the licensee. Subsequently, the licensee paid the total amount shown as due on the renewal notice, resulting in an overpayment.
- For the remaining five overpayments, the individuals either overpaid because they had completed and submitted the wrong application or calculated the fees incorrectly. In each of these instances, the Department had not communicated to the payees that overpayments had been made and refunds were available.

From our analyses, we noted several factors that contributed to the continuing delays in the completion of the processing of these collections. Specifically:

- The Department had not adopted written policies and procedures requiring the timely assignment of collections and the monitoring of unassigned revenue balances.
- Renewal notices did not contain sufficient detail to describe the various fees charged the licensee. As a result, licensees may have been prompted to pay amounts, such as late fees, that were not due and that may have been contested had more information been provided.
- Department policy and practices regarding refunding any amounts overpaid were ambiguous and may have led staff to delay the initiation of refunds when overpayments were identified. The Department's written policy provided that any refund not caused by a Department error must be requested by written application signed by the payee. However, we were advised by Department management that refunds could and were being initiated for those overpayments less than or equal to \$100, without a request by written application and signature of the payee.

Absent establishing a liability for the unassigned amounts, the Department may inadvertently, and without legal authority, spend amounts that should have been reserved for refunds to licensees and license applicants. Further, the failure to timely assign revenue collections to the appropriate license accounts may make those moneys more susceptible to misappropriation or theft. Moreover, absent timely posting of payments to the applicable regulatory accounts, regulatory actions may be taken, such as the improper assessment of a late payment, that lack a justifiable basis.

Recommendation: We recommend that the Department:

- Establish a liability for the unassigned amounts;
 - Establish written policies and procedures that ensure the timely assignment of collections and the monitoring of unassigned revenue balances;
 - Continue its efforts to complete the research needed to properly account for and process prior year balances in the unassigned revenue account;
 - Ensure that renewal notices have sufficient detail of the fees assessed the licensee;
 - Consider revising the Department's refund policy to include current practices and provisions for payee notification of overpayments.
-

The Department in its response indicated, in part, that its first priority would be to assign all funds received during the period 2008 through 2011, and totaling \$4,343,099, to the appropriate categories to determine if eligible refunds are payable. Next, the Department plans to mark the remaining unassigned revenue totaling \$20,845,281 (\$7,625,968 from the period 1997 through 2002; and \$13,219,313 from the period 2002 through 2008) as assigned through a data patch. Prior to the execution of the data patch, the Department should consult with the State's Chief Financial Officer, who is authorized by Section 17.03, Florida Statutes, to adjust and settle all accounts of the State and by Section 215.26, Florida Statutes, to determine if repayment of funds paid into the State Treasury is merited.

Finding No. 2: LicenseEase Access

Properly configured information technology (IT) access privileges restrict employees to only those system functions necessary to perform their assigned job duties and minimize the risk of unauthorized system actions. Our review of LicenseEase access permissions for users within both the Division of Service Operations and the Division of Pari-Mutuel Wagering disclosed the following instances of inappropriate access privileges:

- Nearly 16 percent (37 of 233) of Division staff were assigned the highest level of LicenseEase access. As a result, these 37 employees had the capability to add, change, and view any licensees' record. In response to audit inquiry, Department management indicated that the distribution of this role was not excessive and that it was needed during license renewal periods. Department management also indicated that as a compensating control, LicenseEase maintained a transaction log that recorded every transaction, as well as, the user who made the change and that the log could be used to identify unauthorized changes. However, it is our understanding that this transaction log was not being reviewed by Department staff.
- For 6 of 10 employees whose access permissions we reviewed, supervisory roles in LicenseEase had been assigned to staff who were not supervisors. Supervisory access allowed the employee to enter detailed applicant information such as gender, date of birth, and address and adjust license status.
- Certain other logical access controls relating to the management of access privileges needed improvement. Specific details of these issues are not disclosed in this report to avoid the possibility of compromising Department data and IT resources. However, appropriate Department personnel have been notified of these issues.

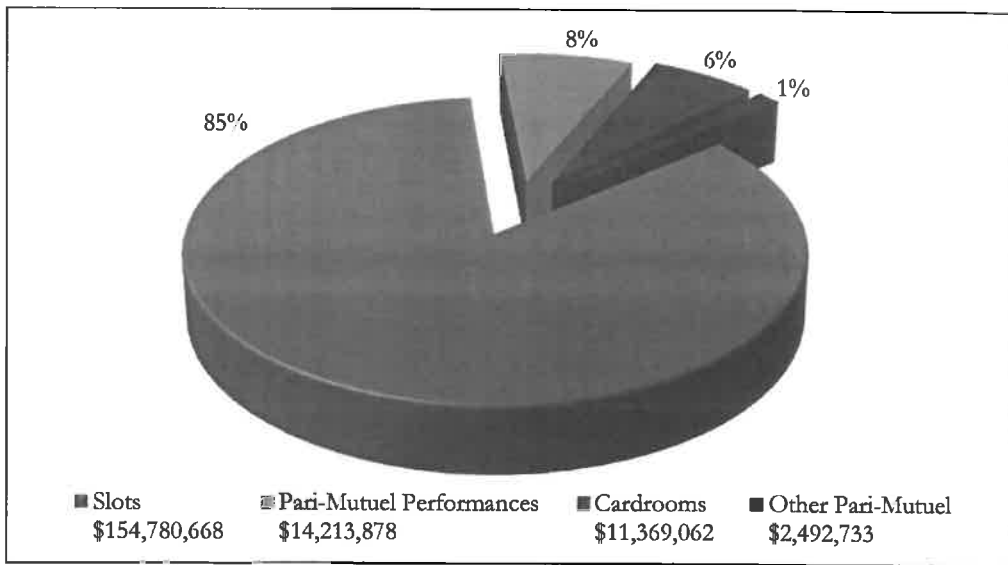
These conditions increased the risk of unauthorized system actions that could compromise the integrity of LicenseEase data and the Department's safeguarding of amounts collected.

Recommendation: We recommend that the Department ensure that LicenseEase access permissions are commensurate with assigned job duties. Additionally, we recommend that the Department periodically review transaction logs to verify that recorded actions were appropriate.

Division of Pari-Mutuel Wagering

In Florida, pari-mutuel wagering is authorized for horse racing, harness horse racing, quarter horse racing, greyhound racing, and jai alai games.¹ Additionally, slot machine gaming at pari-mutuel facilities is allowed in Broward and Miami-Dade Counties. The Department’s Division of Pari-Mutuel Wagering (Division), is responsible for regulating Florida’s pari-mutuel, cardroom, and slot machine gaming industries, as well as collecting and safeguarding associated revenues due to the State.² According to the Division’s 79th Annual Report, and as illustrated in Chart 2 below, approximately \$183 million in State revenues pertaining to pari-mutuel, cardroom, and slot machine gaming were collected by the Division during the 2009-10 fiscal year.

Chart 2
State Revenue from Pari-Mutuel, Cardroom, and Slot Activities
Fiscal Year 2009-10



Source: Division 2009-10 Annual Report.

In addition to LicenseEase and OnBase, the Division utilizes the Central Management System (CMS) database, the central depository and accounting system for cardroom, greyhound, horse, jai alai, and slot wagering activities in conducting many of its day-to-day operations. Among other things, CMS calculates taxes and fees due to the State and tax credits due to permit holders, captures demographic data and wagering data, records the cardroom, pari-mutuel, and slot taxes fees paid by permit holders, and balances tax and fee liabilities to payments received. The CMS database is maintained by the Division in conjunction with ESI Integrity Inc. (service provider), which is responsible for making programming changes to the application.

¹ Pari-mutuel wagering is a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes.

² Chapters 550, 551, and Section 849.086, Florida Statutes.

Finding No. 3: Slot Machine Occupational Licenses

In Florida, all individuals and businesses who work or conduct business at a slot machine facility and who have access to money wagered and restricted areas must obtain an occupational license issued by the Department. Under State law,³ pursuant to rules adopted by the Division, any person may apply for and, if qualified, be issued a three-year slot machine occupational license.

Department rule⁴ states that the license fee for an individual applying for a three-year slot machine occupational license shall be \$150 and that the fee for a business entity applying for a three-year slot machine occupational license shall be \$3,000. Contrary to the provisions of the rule, on July 1, 2009, the Division began to issue three-year individual occupational licenses for a \$100 fee and three-year business occupational licenses for a \$2,000 fee. During the period July 1, 2009, through February 28, 2011, the Division issued 646 slot machine individual occupational licenses for a \$100 fee and 73 slot machine business occupational licenses for a \$2,000 fee, representing potential losses of \$32,300 and \$73,000, respectively, or \$105,300 in total revenues to the State.

In response to audit inquiry, Division management cited Section 551.107(4)(d), Florida Statutes, as the statutory authority under which three-year business occupational licenses were issued for a \$2,000 fee and individual occupational licenses for a \$100 fee. However, that provision only stipulates that slot machine occupational license fees shall be determined by rule of the Division and that annual fees may not exceed \$50 for a general or professional occupational license for an employee of a slot machine licensee or \$1,000 for a business occupational license. As noted above, the rule promulgated by the Division provides for a three-year license fee of \$150 for individuals and \$3,000 for businesses.

On October 22, 2010, the Division published a Notice of Proposed Rulemaking for Department Rule 61D-14.011, Florida Administrative Code, which would reduce the amount of the individual and business occupational license fees to \$100 and \$2,000, respectively. However, no further action has been taken on this proposed rule.

Recommendation: **We recommend that the Division charge the fees authorized by rule.**

Finding No. 4: Cardroom Occupational Licenses

State law⁵ requires that any person employed or otherwise working in a cardroom must hold a valid cardroom employee occupational license issued by the Division. Additionally, any cardroom management company or cardroom distributor associated with cardroom operations must hold a valid cardroom business occupational license issued by the Division. State law⁶ further states that the Division shall establish, by rule, a schedule for the renewal of cardroom occupational licenses.

The Division has established rules and those rules⁷ provide that cardroom business and employee occupational licenses “shall expire on June 30th of every year.” However, on July 1, 2010, the Division began to make available both one-year and three-year cardroom business and employee occupational licenses. Through February 28, 2011, the Division had issued one business and five employee three-year licenses.

³ Section 551.107(4)(c), Florida Statutes.

⁴ Department of Business and Professional Regulation Rule 61D-14.011, Florida Administrative Code.

⁵ Section 849.086, Florida Statutes.

⁶ Section 849.086(d), Florida Statutes.

⁷ Department of Business and Professional Regulation Rule 61D-11.008(7) and 61D-11.009(8), Florida Administrative Code.

In response to audit inquiry, Division management cited Section 849.086(6)(d), Florida Statutes, as the statutory authority under which three-year cardroom business and employee occupational licenses were issued. The Division reported that prior to July 1, 2010, the statute provided that the Division "...shall establish, by rule, a schedule for the annual renewal of cardroom occupational licenses." Effective July 1, 2010, the word "annual" was deleted and, therefore, provided the Division the ability to issue a three-year cardroom license.

While we agree that the Division has the authority to adopt by rule three-year cardroom occupational licenses, the change must be implemented by a lawfully adopted rule, particularly when a rule currently exists that limits the licenses to an annual period. Without such a rule adoption, such licenses are not authorized.

The Division is currently in the process of amending Department rules⁸ to provide for three-year cardroom business and employee occupational licenses. However, as of April 18, 2011, these changes had not been formally proposed. In response to audit inquiry, Division management reported that pursuant to the Governor's Executive Order No. 11-01, signed January 4, 2011, all rule notices must be submitted to the Office of Fiscal Accountability and Regulatory Reform (OFARR) prior to proposal. Division management stated that on March 18, 2011, it requested of OFARR permission to publish a Notice of Proposed Rulemaking for Department Rules 61D-11.008 and 61D-11.009, Florida Administrative Code, but its request was denied.

Recommendation: We recommend that the Division issue occupational licenses in accordance with lawfully adopted rules.

Finding No. 5: Monthly Licensee Reports

In order to better assure that amounts due from the various slot and cardroom taxes are accurate and complete, State law⁹ requires that all slot machine and cardroom licensees file reports under oath with the Division by the fifth day of each calendar month. These reports are to be reviewed by Division staff and reconciled to CMS to determine that the correct taxes were paid by the licensee

Department rules¹⁰ require that each slot machine licensee file a Slot Operations Monthly Remittance Report (Form DBPR PMW-3660) and a Slot Operations Cumulative Monthly Remittance Report (Form DBPR PMW-3670). The slot machine licensee reports are required to include the amount of taxes remitted during the preceding calendar month, as well as a record of all slot machine gaming activities.

Department rules¹¹ also required each cardroom licensee file a Cardroom Monthly Remittance Report (Form DBPR PMW-3640). The cardroom licensee reports must disclose all taxes and fees imposed, along with the total of all admissions and cardroom activities for the preceding calendar month. As part of our audit of the Division's revenue process, we reviewed 40 monthly slot machine licensee reports (Forms 3660 and 3670) and 40 monthly cardroom licensee reports (Form 3640). While we noted in most instances that the reports were filed timely, we found that contrary to State law, the forms submitted contained no evidence that they were submitted by the licensees under oath. Additionally, we found that the standard forms located on the Division's Web site contained no provision for an oath attesting to the accuracy and completeness of the reports.

⁸ Department of Business and Professional Regulation Rule 61D-11.008 and 61D-11.009, Florida Administrative Code.

⁹ Sections 551.106(3) and 849.086(13)(c), Florida Statutes.

¹⁰ Department of Business and Professional Regulation Rule 61D-14.081, Florida Administrative Code.

¹¹ Department of Business and Professional Regulation Rule 61D-11.018, Florida Administrative Code.

Absent an attestation under oath by licensees that monthly slot and cardroom reports represent to the best of their knowledge accurate and complete information concerning the activities conducted and the taxes due, there is less assurance that the information provided to the Division will comply with all requirements of State law. The absence of such an oath may also adversely impact the Division's ability to prosecute licensees should the reports be found to contain intentional and material misrepresentations.

Recommendation: We recommend that the Department amend applicable slot and cardroom monthly report forms to provide for an attestation under oath by licensees that the reports submitted are accurate, complete, and in compliance with all requirements of State law.

Finding No. 6: Central Management System

Our audit procedures disclosed that certain Central Management System (CMS) logical access controls relating to the management of access privileges needed improvement. Specific details of these issues are not disclosed in this report to avoid the possibility of compromising Department data and IT resources. However, appropriate Department personnel have been notified of these issues.

Recommendation: We recommend that the Division strengthen its IT security controls related to the management of CMS access privileges.

Additional Administrative Matters

Finding No. 7: Cigarette Taxes Receivable

In Florida, an excise tax, as well as an additional surcharge, is imposed on the sale, receipt, purchase, possession, consumption, handling, distribution, and use of cigarettes.¹² The tax and surcharge are incurred by the wholesale dealer at the time of the first sale or transaction within the State and are due no later than the 10th day of the month following the calendar month in which they were incurred.

In accordance with generally accepted accounting principles, derived tax revenues (for example, State sales taxes) are recognizable when the underlying exchange occurs, subject to availability criterion. Receivables are recognized when the underlying exchange transaction occurs and an enforceable claim exists. Chief Financial Officer procedures provide that taxes collected on behalf of the State or payable to the State on or before June 30, and received after June 30, but prior to August 1, are to be recorded as taxes receivable and tax revenues.

In July 2010, the Department collected over \$91 million in cigarette taxes and surcharges related to sales made in June 2010. However, contrary to generally accepted accounting principles, the Department did not properly accrue and record cigarette tax revenues and applicable receivable accounts were not established. Consequently, taxes receivable and tax revenue, as well as related transfers and liabilities, were misstated in the Cigarette Tax Collection Trust Fund.

Recommendation: We recommend that the Department ensure that all taxes receivable and related revenues are properly recorded at fiscal year-end.

¹² Sections 210.011 and 210.02, Florida Statutes.

Finding No. 8: FLAIR Access

The Department relies on FLAIR to record and report its financial transactions and for budgetary control. To prevent and detect any improper or unauthorized use, as well as, protect the integrity of Department accounting records, controls should be in place which effectively limit access to FLAIR.

Effective management of system access privileges include provisions to timely disable or remove employee access privileges when employment terminations occur. Prompt action is necessary to ensure that a former employee's access privileges are not misused by the former employee or others. As part of our current audit, we reviewed the FLAIR access privileges for seven Department employees who terminated employment during the period July 1, 2009, through January 31, 2011. Our review disclosed five instances in which the employee's access was not promptly disabled or removed after termination, ranging in time from 11 to 129 days. The Department had procedures in place to remove or update access to FLAIR for employees who have been terminated or who no longer need access, but the procedures did not indicate a timeframe within which the FLAIR access should be updated or removed. For our review purposes, we considered the disabling of access privileges to have been timely if it occurred within the next business day after termination.

In order to safeguard assets and protect the integrity of Department accounting records, it is important that the privileges of all terminated employees are timely disabled or removed.

Recommendation: To reduce the risks associated with unauthorized access and to protect the integrity of Department accounting records, we recommend that the Department enhance its procedures by establishing a timeframe within which the FLAIR access should be updated or removed.

PRIOR AUDIT FOLLOW-UP

The Department had taken corrective actions for the applicable findings included in our report No. 2010-045.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from January 2011 to June 2011 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This operational audit focused on the Department's Central Intake and Licensure Unit, Division of Pari-Mutuel Wagering, and additional administrative matters. The overall objectives of the audit were:

- To evaluate the effectiveness of established internal controls in achieving management's control objectives in the categories of compliance with controlling laws, administrative rules, and other guidelines; the economic, efficient, and effective operation of State government; the relevance and reliability of records and reports; and the safeguarding of assets.

- To evaluate management's performance in achieving compliance with controlling laws, administrative rules, and other guidelines; the economic, efficient, and effective operation of State government; the relevance and reliability of records and reports; and the safeguarding of assets.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

Our audit included steps to determine whether management had corrected, or was in the process of correcting, all applicable deficiencies disclosed in report No. 2010-045.

In conducting our audit we:

- Reviewed 40 license receipts and associated supporting documentation received by the Department's Central Intake and Licensure Unit during the period July 2009 through February 2011 to test the Department's compliance with significant governing laws and rules, the adequacy of selected controls, and to assess the efficiency and effectiveness in which the Department collected, processed, and recorded revenues and related licensee data.
- Reviewed the Central Intake and License Unit's policies and procedures to ensure that they were current, correctly reflected applicable provisions of State law, and were subject to routine review and update.
- Reviewed the Department's efforts to increase the availability of online applications.
- Inquired of Department personnel and examined written policies, procedures, and supporting documentation relating to the Department's fraud prevention and detection internal controls.
- Reviewed 40 pari-mutuel permit holder weekly fee and tax remittances received by the Department during the period July 2009 through February 2011 to test the Department's compliance with significant governing laws and rules and the adequacy of related controls.
- Reviewed all slot license fees paid to the Department during the period July 2009 through February 2011 to test the Department's compliance with significant governing laws and rules and the adequacy of related controls.
- Reviewed 40 slot permit holder weekly tax remittances received by the Department during the period July 2009 through February 2011 to test the Department's compliance with significant governing laws and rules and the adequacy of Department-related controls.
- Reviewed 10 cardroom license fees received by the Department during the period July 2009 through February 2011 to test the Department's compliance with significant governing laws and rules and the adequacy of Department-related controls.
- Reviewed 40 cardroom gross receipt tax remittances received by the Department during the period July 2009 through February 2011 to test the Department's compliance with significant governing laws and rules and the adequacy of Department-related controls.
- Analyzed data to evaluate the reasonableness of pari-mutuel, cardroom, and slot machine gaming occupational licensing revenues recorded in FLAIR.
- Reviewed payments received from the Seminole Tribe of Florida by the Department during the period August 2010 through February 2011 to determine that the amounts received conformed with governing laws and the Seminole Gaming Compact.
- Reviewed 10 escheated ticket deposits received by the Department during the period July 2009 through February 2011 to test the Department's compliance with significant governing laws and rules and whether the deposits were handled in accordance with Department policies and procedures.
- Reviewed the Department's procedures for timely and properly recording significant receivables and recording and writing-off uncollectible amounts.

- Obtained an understanding of selected information technology (IT) controls pertinent to LicenseEase, OnBase, and the Central Management System database, determined whether selected general and application IT controls were in place, and tested the effectiveness of selected controls.
- Interviewed Department personnel and reviewed Department policies and procedures.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe those matters requiring corrective actions.

AUTHORITY

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a periodic basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



David W. Martin, CPA
Auditor General

MANAGEMENT'S RESPONSE

In a response letter dated October 7, 2011, the Secretary of the Department provided responses to our audit findings and recommendations. The Department's response is included as EXHIBIT A.

EXHIBIT A
MANAGEMENT'S RESPONSE



Office of the Secretary
Ken Lawson, Secretary
1940 North Monroe Street
Tallahassee, Florida 32399-1000
Phone: 850.413.0755 • Fax: 850.921.4094

Ken Lawson, Secretary

Rick Scott, Governor

October 7, 2011

David W. Martin, CPA
Auditor General
State of Florida
G74 Claude Pepper Building
111 West Madison Street
Tallahassee, FL 32399-1450

Dear Mr. Martin:

In accordance with Section 11.45(4)(d), Florida Statutes, enclosed is our response to the Auditor General's September 9, 2011 preliminary and tentative audit findings and recommendations based on an Operational Audit of the Department of Business and Professional Regulation, Central Intake and Licensure Unit, Division of Pari-Mutuel Wagering and Additional Administrative Matters.

We appreciate the time and energy put forth by your staff and your efforts to improve the operations of state government.

If you have any questions, please contact Stan Branham, Inspector General, at (850) 414-6700.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Lawson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ken Lawson
Secretary

KL/cbh

Enclosure

cc: Tim Vaccaro, Deputy Secretary of Professional Regulation
Ruth Dillard, Director, Division of Administration
George Ayrish, Director, Division of Service Operations
Jason Allison, Director, Division of Technology
Joe Dillmore, Acting Director, Division of Pari-Mutuel Wagering

EXHIBIT A
MANAGEMENT'S RESPONSE (CONTINUED)

**Department of Business and Professional Regulation
Central Intake and Licensure Unit, Division of Pari-Mutuel Wagering and
Additional Administrative Matters
Response to Findings and Recommendations
Auditor General Report**

Central Intake and Licensure Unit

Finding No. 1: The Division did not always ensure that license-related payments were timely assigned to an appropriate licensure record and fee type.

Agency Response:

The Department agrees that to the extent possible, all unassigned revenue should be assigned to the proper revenue object code or if it is an overpayment, refunded to the license holder in a timely manner.

The Department views this issue as two-fold – the unassigned cash and the refund of overpayments by license holders – and has taken steps to deal with both problems. As of May 2011, each Division/Board receives a report of outstanding unassigned cash for the month. The report (CA37) is run 30 days after the end of each month to allow some of the unassigned transactions to be resolved naturally prior to working the remaining transactions. Once the Division/Board receives the file, it has 15 days to work the unassigned cash, assigning it to the appropriate revenue code or marking it for refund if it is determined there was an overpayment by the license holder.

Finance and Accounting reviews unassigned cash balances after the 45-day period to make sure that each Division/Board is completing its assignment. A second CA37 report is run by Finance and Accounting after the 15-day review period by Divisions/Boards and compared to the original report to make sure the unassigned cash has been worked for each month.

After the Divisions/Boards complete the review of the transactions and identify any refunds, two files are created in LicenseEase, the Department's document management system: one containing the vendor file information and the other containing the information necessary to pay the refund. Once these files are reviewed by Finance and Accounting, they are sent to disbursements for payment to the appropriate license holders.

Recommendation:

We recommend that the Department establish a liability for the unassigned amounts.

Agency Response:

Not all unassigned revenue is refundable and therefore not a liability. Once the unassigned revenue is worked by the Divisions/Boards, it can be determined whether it is an overpayment that needs to be refunded or the appropriate revenue code can be assigned. If the revenue is an overpayment, the Divisions/Boards mark it as such and within a few days it is refunded by the disbursements section.

If liabilities were established, the Department would only transfer the portion of unassigned revenue that is refundable to a liability account and within a few days, the refund(s) would be paid out to the license holder(s). There would be very few refunds

EXHIBIT A
MANAGEMENT'S RESPONSE (CONTINUED)

**Department of Business and Professional Regulation
Central Intake and Licensure Unit, Division of Pari-Mutuel Wagering and
Additional Administrative Matters
Response to Findings and Recommendations
Auditor General Report**

payable in the liability account and more likely than not, these would be immaterial compared to the work effort required to transfer those amounts to a liability account and then transfer them out a few days later.

It is the Department's position that moving unassigned revenue to a liability account would create an additional workload for the Divisions/Boards and would not be material in the overall financial impact to the Department's financial statements at year-end once the new process is fully implemented to work unassigned revenue and to timely refund overpayments.

Recommendation:

We recommend that the Department establish written policies and procedures that ensure the timely assignment of collections and the monitoring of unassigned revenue balances.

Agency Response:

The Department is in the process of converting all of the above procedures necessary to work unassigned cash and make the appropriate refunds, as described in the overall response to finding one, to a written policy and procedure. The process should be completed within 60 days.

Recommendation:

We recommend that the Department continue its efforts to complete the research needed to properly account for and process prior year balances in the unassigned revenue account.

Agency Response:

The Department continues to review and work towards streamlining and improving its accounting processes to assign all funds received to appropriate categories. Unfortunately, because licensees may often send multiple payments within one transmittal or incorrect amounts, the Department may not necessarily know how to apply the funds at first. With the voluminous number of licensees and the multiple categories that often apply to funds transmitted to the Department, the unassigned revenue account is the designated category for placement while employees manually research the appropriate category to assign the revenue in the accounting process. While the cash itself has been appropriately deposited within the seven days required by the State and disbursed within various agency budget exercises, the allocation process remains one that the agency is working to improve. Over the years, the agency has implemented automation improvements, but additional opportunities are being identified to compensate for the increase in licensees and licensee transactions.

Within the unassigned revenue account, the amount of \$25,188,380 has been identified for review and appropriate assignment. The Department's first priority will be focusing on \$4,343,099 of unassigned revenue for the period 2008-09 through 2010-11. These revenues are being worked to determine eligible refunds payable within the three-year statute and the remaining amounts will be properly assigned to their revenue codes. The

EXHIBIT A
MANAGEMENT'S RESPONSE (CONTINUED)

**Department of Business and Professional Regulation
Central Intake and Licensure Unit, Division of Pari-Mutuel Wagering and
Additional Administrative Matters
Response to Findings and Recommendations
Auditor General Report**

Department will prioritize the oldest transactions to ensure no additional overpayments fall outside of the three-year statute of limitations for paying refunds. The process of doing this has been explained in the Department's response to Finding No. 1. In an effort to continue with streamlining of processes and to mitigate the number of unassigned transactions in the future, the Department is pursuing the option of further automation which may include online payments to limit licensee transmittals to those amounts open within the Department's system.

Second, the Department has developed the following plan to deal with the oldest portion of the unassigned revenue accounting from prior years. Of the \$25,188,380 identified as unassigned revenue, \$7,625,968 is merely revenue transferred from the previous licensing system. For the fiscal year period 1997-98 through 2001-02, data recorded in LicenseEase was legacy data from the previous program, Best License System. To address this recommendation, all of the data for the above time frame will be marked as assigned through a data patch. This solution will have no impact to the accounting records nor the information in FLAIR for that previous time period because all of the revenue has already been reported.

Third, the Department has developed the following plan to deal with the portion of the unassigned revenue accounting for which no refunds could be issued based on statutory limitations. Of the \$25,188,380 of unassigned revenue for the period 2002-03 through 2007-08, \$13,219,313 will be marked as assigned through a data patch. The revenue has already been recorded in FLAIR as unassigned so the marking of the unassigned to assigned will not have a current effect on the revenue in FLAIR.

While the Department could expend time and resources to work all of the above unassigned transactions for the period 2002-03 through 2007-08, it would have the following effect on the FLAIR financial statements: \$13,219,313, which is six years of unassigned revenue, would be recognized as income in the appropriate revenue categories and revenue refunds with an offsetting \$13,219,313 debit to unassigned revenue in the current fiscal year. This would distort the revenue categories in the current year and would not make any difference to the bottom line revenue for each Division/Board. The Department and its licensees would be better served marking the transactions as assigned and focus its efforts on the remaining three years of unassigned revenue including the refunding of overpayments, which are statutorily allowable.

Recommendation:

We recommend that the Department ensure that renewal notices have sufficient detail of the fees assessed the licensee.

Agency Response:

The renewal notices generated provide amounts due for the successful renewal of licenses based on the system record status at the time the renewal notice is generated. The renewal notices include the record status and the fee amount due for renewals submitted on time

EXHIBIT A
MANAGEMENT'S RESPONSE (CONTINUED)

**Department of Business and Professional Regulation
Central Intake and Licensure Unit, Division of Pari-Mutuel Wagering and
Additional Administrative Matters
Response to Findings and Recommendations
Auditor General Report**

and the amount due for those who renew late. The Department encourages all licensees to renew their license using the online services where the fee break down is also provided. The Department will modify its renewal notices to include language directing licensees to review the fee break down on their portal account prior to submission of the renewal fee.

Recommendation:

We recommend that the Department consider revising the Department's refund policy to include current practices and provisions for payee notification of overpayments.

Agency Response:

The Department is considering several options to deal with the notification to the payee of overpayments, taking into consideration budget restraints and the most efficient way to make the notification. As we develop our new process of working unassigned revenue, the Department is considering an automated process. All unassigned revenue less than \$99.99 would automatically be refunded within 45 to 60 days of receipt date. This would be done under the assumption that there are no other outstanding expectations in LicenseEase, that sufficient safe guards are built into the process and that the Department exercises due diligence in the refund process. Because these overpayments would be refunded automatically a notice of overpayment would not be necessary. For those overpayments of \$100.00 or more LicenseEase would generate a notice of overpayment that would be sent to the payee along with a refund form. Also included in the instructions would be a notification to the payee advising them that instead of manually filling out the refund form, they could chose to fill out the form online to accelerate the refund process and sign it with an electronic signature. However, this change would be subject to approval by another State agency.

Currently the Department has the refund form on the website where the payee can download the form. The automated options are being explored, but some would require substantial changes in technology and may not be financially feasible, such as an online refund form with an electronic signature to accelerate the refund process. Approval from another governmental agency would be required along with a change in technology to support it. The Department will consider both short term and long term solutions with the end goal of refunding overpayments as quickly as possible. There may be other solutions to these problems and to the extent they are more fiscally sound and easy to implement, they will also be considered for adoption. The Department is still in the process of evaluating what solution or solutions would work the best.

The current practices are detailed in response to Finding 1.

EXHIBIT A
MANAGEMENT'S RESPONSE (CONTINUED)

**Department of Business and Professional Regulation
Central Intake and Licensure Unit, Division of Pari-Mutuel Wagering and
Additional Administrative Matters
Response to Findings and Recommendations
Auditor General Report**

Finding No. 2: The licensing system access privileges of some Department staff were not appropriate for their job duties.

Recommendation:

We recommend that the Department ensure that LicenseEase access permissions are commensurate with assigned job duties.

Agency Response:

LicenseEase Security Role Definitions include the Role name of "Supervisor" for each function. However, this does not correspond with the function of personnel supervisor for the intake staff. It corresponds with a tier-two security permission granted to staff based on job duties. As a corrective action, Technology will change the LicenseEase Security Role Definitions to more accurately reflect this role. Additionally, an entitlement audit is performed each year by the agency's Information Security Manager to ensure that access permissions are appropriate to the job duties of each employee issuing LicenseEase transactions.

Recommendation:

Additionally, we recommend that the Department periodically review transaction logs to verify that recorded actions were appropriate.

Agency Response:

The Division of Service Operations (DSO) responded that an entitlement review of Mod_Lic_A permissions was conducted and the number of employees granted this access was reduced from 31 employees to 22 DSO employees. The Division assigns system access based on the work area and/or the position level. This system access will be limited to Regulatory Consultant or higher classification, or specifically assigned to employees whose position requires this access to carry out their job responsibilities. Although not specific to Mod_Lic_A, exception reports are generated prior to each license renewal cycle. All unusual activities including those done through Mod_Lic_A are reviewed and serve as a compensating control to ensure that employee actions were appropriate.

The Division of Pari-Mutuel Wagering responded that the Division is reducing the number of employees who have access to "Modify License Standing" from six employees to four. The remaining four Division employees that have access to modify a license will continue as it is germane to their job duties.

Further, Division inspectors conduct routine license inspections at the pari-mutuel facilities to verify that information in the licensing system reconciles to the license. To monitor the use of the "Modify License Standing" in LicenseEase, the Division will maintain a log of all changes made by its personnel who utilize this functionality. The log will include the following:

- Name of the employee making the change.
- The licensee's name, license number, license type, license status, and

EXHIBIT A
MANAGEMENT'S RESPONSE (CONTINUED)

**Department of Business and Professional Regulation
Central Intake and Licensure Unit, Division of Pari-Mutuel Wagering and
Additional Administrative Matters
Response to Findings and Recommendations
Auditor General Report**

expiration date.

- An explanation of the change.

The log will be reviewed bi-weekly by management to verify that the access is used appropriately.

Division of Pari-Mutuel Wagering

Finding No. 3: The Division issued three-year slot machine occupational licenses for fees not commensurate with State law, resulting in potential lost revenues totaling \$105,300.

Recommendation:

We recommend that the Division charge the fees authorized by rule.

Agency Response:

Section 551.107(4) (d), Florida Statutes (F.S.), provides the Division the statutory authority to adjust its fees for slot machine occupational licenses. During the 2009/2010 fiscal year, the Division reduced the fee for a three-year slot machine occupational license to encourage applicants to purchase it in lieu of a one-year license. This saves the licensee the time and trouble of renewing his/her license every year, and it reduces the number of one-year applications the Division has to process, saving both time and resources. This practice is also in keeping with the Governor's initiative to make the licensing process more business-friendly and less cumbersome.

The Division is currently in the rulemaking process to establish the reduced fees for three-year license in rule. Additionally, the assertion that the State potentially lost \$105,300 in revenue does not take into account the cost savings the Division realized from the reduction of resources from processing fewer applications.

Finding No. 4: The Division issued three-year Cardroom occupational licenses, although Department rule requires the issuance of a license annually.

Recommendation:

We recommend that the Division issue occupational licenses in accordance with lawfully adopted rules.

Agency Response:

Section 849.086(6) (i), F.S., provides the Division the statutory authority to adjust its fees for cardroom occupational licenses. The issuance of three-year cardroom licenses saves the licensee the time and trouble of renewing his/her license every year, and it reduces the number of one-year applications the Division has to process, saving both time and resources. This practice is also in keeping with the Governor's initiative to make the licensing process more business-friendly and less cumbersome.

The Division is in the rulemaking process to establish the three-year cardroom licenses in

EXHIBIT A
MANAGEMENT'S RESPONSE (CONTINUED)

**Department of Business and Professional Regulation
Central Intake and Licensure Unit, Division of Pari-Mutuel Wagering and
Additional Administrative Matters
Response to Findings and Recommendations
Auditor General Report**

rule. The rule package is being reviewed internally within the Department and once approved will be forwarded to Office of Fiscal Accountability and Regulatory Reform (OFARR) in the Governor's Office for review.

Finding No. 5: Contrary to State law, the Division did not require that monthly reports of slot machine and cardroom licensees be submitted under oath.

Recommendation:

We recommend that the Department amend applicable slot and cardroom monthly report forms to provide for an attestation under oath by licensees that reports submitted are accurate, complete, and in compliance with all requirements of State law.

Agency Response:

Although the current monthly reports for slot machines and cardroom licensees do not have an oath statement, the Division's administrative enforcement of the requirement to submit the forms monthly has not been impeded by the missing written oath. The Division will add an oath statement to DBPR PMW-3640 Cardroom Monthly Remittance Report, DBPR PMW-3605 — Daily Tracking of Cardroom Jackpots, DBPR PMW-3660 — Slot Monthly Remittance Report, and DBPR PMW-3670 — Slot Operations Cumulative Monthly Remittance Report.

Finding No. 6: Logical access controls related to the Department's Central Management System needed improvement.

Our audit procedures disclosed that certain Central Management System (CMS) logical access controls relating to the management of access privileges needed improvement. Specific details of these issues are not disclosed in this report to avoid the possibility of compromising Department data and IT resources. However, appropriate Department personnel have been notified of these issues.

Agency Response:

No written agency response is required.

Additional Administrative Matters

Finding No. 7: The Department did not properly accrue cigarette taxes receivable and related revenues.

Recommendation:

We recommend that the Department ensure that all taxes receivable and related revenues are properly recorded at fiscal year-end.

Agency Response:

The Department agrees that the cigarette taxes receivable should be recorded for financial statement purposes at the end of the fiscal year. The Department has already taken

EXHIBIT A
MANAGEMENT'S RESPONSE (CONTINUED)

**Department of Business and Professional Regulation
Central Intake and Licensure Unit, Division of Pari-Mutuel Wagering and
Additional Administrative Matters
Response to Findings and Recommendations
Auditor General Report**

appropriate steps to ensure the accrued taxes are recorded in the future and the referenced taxes were recorded for the fiscal year ended June 30, 2011.

Finding No. 8: The Department did not timely remove Florida Accounting Information Resource Subsystem (FLAIR) access for terminated employees.

Recommendation:

To reduce the risks associated with unauthorized access and to protect the integrity of Department accounting records, we recommend that the Department enhance its procedures by establishing a timeframe within which the FLAIR access should be updated or removed.

Agency Response:

The Department agrees that in order to reduce risks associated with unauthorized access and to protect the integrity of Department accounting records, additional procedures are required to address time frames in which managers are to notify finance and accounting of terminated employees with FLAIR access.

The Access Control procedures have been updated to include the following language:

Deletion of record

It is the responsibility of the supervisor of the position to notify the Access Control Custodian when access is no longer needed or should be revoked. The Employee Separation Check List is being updated to require managers to check off that they have notified the Bureau of Finance and Accounting of the employee's termination on the day of separation. The actual date of notification must be entered on the form. Deletion will be done within the next business day of notification. The Access Control form will be annotated with the deletion date and custodian that completed the deletion.