

***AMERICAN INDIAN
GAMING POLICY AND
ITS SOCIO-ECONOMIC
EFFECTS***

*A Report to the National
Gambling Impact Study
Commission*

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*Stephen Cornell
Joseph Kalt
Matthew Krepps
Jonathan Taylor*

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About This Study

This study was performed by The Economics Resource Group, Inc., over the three months ending July 31, 1998. It relied on qualitative information and quantitative data from five selected tribes: The Ho-Chunk Nation, The Mohegan Tribe, The Sault Ste. Marie Tribe of Chippewa Indians, The Standing Rock Sioux Tribe, and The Oneida Tribe of Indians of Wisconsin. Additional materials and data about gaming and non-gaming tribes throughout the country were gathered from the public domain as noted in the footnotes and from our previous research and interviews.

The five aforementioned tribes have contributed financially to the study.

The authors' backgrounds and qualifications are listed in Appendix A.

Executive Summary

The goal of this study is to assess the economic and social impacts that Indian gaming operations have both on and off reservations. Gaming has been a growth industry in Indian Country for nearly two decades. As both the number of gaming tribes and the magnitude of some gaming operations has grown, questions have arisen about gaming's effects. To answer those questions, this study combines an overview of existing studies and available data on Indian gaming generally with a more narrow examination of the impacts of five tribes' gaming operations: the Ho-Chunk Nation (Wisconsin), the Oneida Tribe of Indians of Wisconsin, the Sault Ste. Marie Tribe of Chippewa Indians (Michigan), the Mohegan Tribe (Connecticut), and the Standing Rock Sioux Tribe (North and South Dakota).

Since late in the nineteenth century, federal policy toward American Indian tribes has repeatedly vacillated between efforts to assimilate individual Indians and break up reservation communities and policies of federal support of various kinds for tribal communities and reservations. These divergent and often conflicting policy approaches have had at least one thing in common: until the late 1970s, all of them failed to ameliorate the crushing poverty and abject social conditions on Indian lands.

This legacy of failed policies stands in stark contrast to the gains made more recently by tribes following the shift to a policy of tribal self-determination. In the mid-1970s the federal government, recognizing in practice the sovereignty tribes already enjoyed in law, began granting to Indian nations enhanced decision-making power over reservation affairs, more complete control over their governments, and more secure property rights to reservation assets. The result has been a dramatic increase in successful, sustained economic development efforts on reservations. In short, the policy of Indian self-determination has been a key to successful reservation development.

Self-determination has found its most controversial expression in the operation of tribal casinos. Like other successful economic activities on Indian reservations, successful Indian gaming is built on tribal sovereignty. The controversy over Indian gaming threatens not only gaming operations themselves, but the self-determination policy that fostered them. Because that policy is the only federal policy in this century that has produced lasting economic benefits for tribes, careful analysis of the consequences of Indian gaming is essential before drawing policy conclusions.

To fully understand those consequences, we have to answer the counterfactual question: “What would the world have looked like if Indian casinos had not been built?” While the methodological approach to answering this question is exactly the same in relation to Indian gaming as it would be in relation to non-Indian gaming, the legal, economic, and social context in which gaming arose in Indian Country is unique. It is impossible to understand the impact of Indian gaming without a detailed examination of the conditions that prevailed prior to the introduction of casinos.

The available evidence on pre-gaming economic conditions in Indian Country provides a long list of alarming comparisons between tribal economic and social conditions and U.S. national averages: Indian per capita income is about 40% of the national average, the Indian poverty rate is almost four times the national average, the incidence of Indian homes lacking complete plumbing is over 14 times the national average, alcoholism death rates are more than five times the national average for Indian adults and more than 17 times the national average for Indian youths, and so on.

While these nationwide statistics are arresting, our research indicates that the tribes that have opened casinos faced particularly desperate conditions. For example, within a sample of the 75 most populous tribes in the country (as of the 1990 census), 17 of the poorest 20 opened casinos. Furthermore, the group of tribes signing state gaming compacts had higher unemployment in 1989 than their non-compacting counterparts.

Against this backdrop of stagnant economies and poor social health, casino gaming has provided an engine for economic growth. It has enabled some tribes to achieve dramatic improvement in such indicators of economic health as employment and income. For example, although tribes that subsequently opened casinos had 24% higher unemployment as a group than non-gaming tribes in 1989, gaming tribes enjoyed 13% lower unemployment than their non-gaming counterparts by 1995. Casino gaming also has enabled some tribes to leverage gaming success into other business success, replacing longstanding dependence on federal assistance with productive, tribally-generated, economic activity.

Improvements in reservation conditions have not been limited to the economic sphere. Tribal gaming is a form of government enterprise (as opposed to private enterprise). Less than 15% of total tribal gaming revenues accrue to non-Indian casino management companies. Tribal governments are obligated by law and by their concern for the well being of tribal members to invest gaming profits in ways that improve tribal welfare. The fruits of these investments are reflected in, among other things, higher graduation rates and lower rates of participation in social assistance programs among members of gaming tribes. These are direct effects of tribal gaming.

Certainly, there have been some negative impacts as well. It seems clear, for example, that the number of compulsive gamblers, both on and off reservations, has grown as Indian gaming has grown. However, this masks the more compelling policy finding: Given the extraordinarily bleak socioeconomic conditions prevalent in Indian Country prior to the introduction of gaming, head counts of compulsive gamblers (even if there were agreement on what constitutes a compulsive gambler) pale in importance beside the demonstrable improvements in social and economic indicators documented for gaming tribes.

Of course, the economic and social impacts of Indian gaming and the controversies surrounding it are not confined within reservation boundaries. Therefore, this report also analyzes off-reservation economic impacts and considers as well tribal, state, and national efforts at regulatory oversight of Indian gaming. Our detailed examination of off-reservation economic activity and crime levels before and after the opening of five case-study Indian casinos provides no evidence of deleterious off-reservation impacts. Furthermore, the scope of Indian gaming regulatory oversight appears comparable to that of jurisdictions such as Atlantic City that are renowned for effectively monitoring casino gaming activities.

In sum, we find that Indian gaming, an expression of Indian self-determination, has produced remarkable movement on stubborn social and economic problems that have been resistant to federal and tribal efforts for decades. While the benefits of gaming are by no means evenly distributed among tribes, a significant number of tribes are making gains economically both through gaming itself and by leveraging gaming revenues into diversified economic activity. Tribes are also translating gaming employment and revenue into significant social change by investing in social and physical infrastructures, thus producing striking improvements in the quality of reservation life. While the legacy of Indian poverty will not be easily erased, and while the vast majority of gaming tribes enjoy only modest gaming income, the economic and social benefits Indian gaming has produced are diverse, substantial, and unprecedented in this century.

Our investigation inescapably yields the conclusion that the positive social and economic impacts of gaming, both on and off reservations, far outweigh the negative. Indeed, for much of Indian Country, the alternative to gaming is the

status quo ante: poverty, powerlessness, and despair. Self-determination– and the ways that Indian nations have used it– constitutes a public policy success of major dimensions. Indian gaming is a striking example of that success.

I. INTRODUCTION

This report begins (in Section II) by looking at the policy context in which Indian gaming has taken place. Examining the evolution of self-determination policy and its demonstrated success is key to understanding how Indian gaming came to be. This section also examines the judicial precedents, congressional legislation, and regulatory apparatus that both enable gaming to take place and determine the ways in which gaming is conducted and the purposes to which gaming income must be directed.

Section III examines the social and economic conditions prevailing on Indian reservations prior to the advent of Indian gaming. Section IV then turns to the economic implications of Indian casino gaming for reservation and non-reservation communities. A number of common perceptions are addressed, and evidence is used to weigh their validity against the actual economic impacts of Indian gaming. Section V examines the substantial social investments made possible by Indian gaming revenue and the available evidence on social change brought about by Indian gaming.

II. INDIAN LAW & POLICY: WHY TRIBES HAVE GAMING RIGHTS

An oft-overlooked attribute of Indian gaming is its government sponsorship. Of the many popular conceptions of Indians, most fail to embrace the historical and legal basis for tribes' existence as sovereign governments, and they thereby overlook the basis for the gaming powers tribes hold. Among other things, tribes have been cast as for-profit corporations, ethnic groups with entitlements granted by Congress, or fraternal associations, and each of these misconceptions carries with it implications for crafting policy. Thus, we begin here with the legal and policy foundations upon which tribal powers to have gaming establishments rest and place them in the context of past deliberate efforts to raise the abject condition of reservation Indians. From this starting point, the rest of the report will build its examination of Indian gaming.

A. Indian Tribes as Governments

The U.S. Constitution recognizes four sovereigns: foreign countries, the federal government, states, and tribes. The recognition of tribes as sovereigns in the writing of the Constitution and in subsequent legal doctrine stems from the *inherent* (rather than delegated) powers tribes have as self-governing societies that pre-dated the United States. The sovereign powers that inhere in tribal governments do not give tribes unlimited power. For example, the power to make treaties with foreign nations is considered (along with certain other powers) to have been "implicitly divested" of tribes.¹ Similarly, the courts have underscored Congress's plenary power to circumscribe tribal powers through explicit legislation, e.g., tribes do not have criminal jurisdiction over non-Indians. This plenary power is somewhat circumscribed by the U.S. trust relationship with tribes. Notwithstanding these "implicit" divestitures and explicit Congressional

¹ *Indian Tribes as Sovereign Governments* (Oakland, CA: AIRI Press, 1998), at 35.

extinguishments, tribal governments retain substantial inherent powers to govern. They can establish the form of their governments, determine membership, police, adjudicate individual conduct, tax, exclude persons from the reservation, charter businesses, and regulate certain activities of non-Indians.² A number of western tribes exercise these powers over land bases that exceed those of some eastern states.

How these powers are expressed varies from tribe to tribe and has varied substantially from one period to another. Today, tribes across the country perform virtually all the functions typically exercised by local, municipal, and county governments, many functions exercised by the states, and a few functions unique to Indian situations. Tribes collect trash, adjudicate child custody disputes, lease coal, provide Head Start programs, offer police protection, issue hunting permits, protect archeological sites, levy resort taxes, immunize children, remove snow, and carry out a myriad of other typical government functions. They may also choose to create a government-owned commercial sector, regulate businesses under a commercial code, establish an official religion, remove members from their communities, restore languages, foster elder-youth mentoring, offer Native education curricula, or determine tribal membership criteria. In addition, tribal governments cope with two challenges that non-Indian governments do not face. First, they must operate between the institutions of Indian culture and those of the larger society, balancing competing values while being constrained by differing norms. Second, tribal governments contend with staggering social conditions the likes of which are found in few other places in America. These two additional burdens make the exercise of tribal self-government a particularly delicate and urgent task. The recent past has seen a relative flowering of tribal governmental success in what has become known as the Self-Determination Era of Indian policy. However, Indian self-determination is a departure from the past.

B. Indian Policy Prior to the Self-Determination Era

Since the end of the late nineteenth century, American policy toward Indian tribes has repeatedly vacillated between policies that have endeavored to assimilate individual Indians and dissipate reservations and policies aimed at bolstering tribal governments and tribal property rights in reservations. In the Reservation Period (see Table 1), it was the goal of the United States federal government to suppress Indian culture and language (via, e.g., BIA boarding schools) and to introduce

² Because Indian governmental powers inhere with tribal governments, a comprehensive list of powers cannot be made by reference to a Congressional or Constitutional delegation of powers. Comprehensive treatments of tribal governmental powers can be found in *Indian Tribes as Sovereign Governments*, *op. cit.*; Canby, William C., Jr., *American Indian Law in a Nutshell* (St. Paul, MN: West Publishing Company, 1988); and Strickland, Rennard, *Felix S. Cohen's Handbook of American Indian Law* (Charlottesville, VA: Mitchie Bobbs-Merrill, 1982).

Indians into the agrarian economy as quasi-homesteading family farmers (via the allotment of tribal lands to individual Indians under the Dawes Act). When it became clear that assimilation and allotment exacerbated the crushing poverty of reservations because it resulted in the alienation of nearly two-thirds of Indian lands, Congress introduced a new era of policy with the Indian Reorganization Act of 1934 (IRA). The IRA ended allotment and established a protocol by which tribes were encouraged to formalize their governments. This period was characterized by growing tribal political authority; however, the Bureau of Indian Affairs (BIA) retained substantial *de facto* decision-making power over tribes' assets. The BIA managed those assets ineffectively or to meet non-tribal goals (e.g., maximizing benefits to off-reservation non-Indians or increasing BIA budgets), and reservations remained economically stagnant.³

³ For an empirical investigation of the magnitude of the BIA's efficiency shortfalls in managing Indian assets, see Krepps, Matthew B., "Can Tribes Manage Their Own Resources? The 638 Program and American Indian Forestry," in Cornell, Stephen, and Joseph P. Kalt, eds., *What Can Tribes Do? Strategies and Institutions in American Indian Economic Development* (Los Angeles, CA: American Indian Studies Center, 1993).

Table 1
Phases of American Indian Policy in the Twentieth Century

Period	Economic Incorporation	Political Incorporation	Indian Response	U.S. Government Approach to Indian Welfare Improvement
<i>Reservation</i> (c. late 19 th century to 1930s)	Continued land loss through allotment; welfare dependency; eventually declining demand for Indian resources.	Comprehensive U.S. administrative control of reservations; forced assimilation; citizenship	Secular inter-group politics sporadic at best; growth of religious movements	Individualized; goal to create self-sufficient family farmers
<i>Indian Reorganization</i> (1930s and 1940s)	Efforts to stabilize land base and develop reservation economies; support for reservation communities	Establishment of federally sponsored tribal governments; political support	Increased political participation through tribal governments; some supratribal activity	Corporate; desire to create self-sufficient "Americanized" communities
<i>Termination and Relocation</i> (late 1940s to early 1960s)	Some demand for Indian lands; federal promotion of urban migration; withdrawal of support for Indian reservations	New assault on tribal sovereignty; some states gain jurisdiction over Indian lands; imposed assimilation	Growth of supratribal politics; new constituencies appearing; opposition to termination	Individualized; desire to provide access to the modern; urban labor market
<i>Self-Determination</i> (1960s to the present)	Resurgent demands for Indian resources; major efforts to develop reservation economies; increased labor integration	"Self-determination" for Indian tribes; support for tribal governments; repression of radicals	Rapid growth of political activity of all kinds; eventual decline of radical activism	Corporate; desire to create self-sufficient Native communities in which individuals also have access to a federal social safety net

Sources: Cornell, Stephen E., *The Return of the Native: American Indian Political Resurgence* (New York: Oxford University Press, 1988), at 14; and Jorgensen, Miriam R., "Taking Up the Challenge: Fundamental Principles of Economic Development in Indian Country," in Dane Morrisson, ed., *American Indian Studies: An Interdisciplinary Approach to Contemporary Issues*.

In the 1950s, Congress began what became known as the "termination experiment." Under termination, scores of tribes were disbanded and their assets sold to third parties, transferred to private trusts, or transferred to private tribal corporations. In many cases, special federal programs for Indians were discontinued and tribal governance rights were replaced by state jurisdiction over tribes. Though the intent of termination was to accelerate Indian assimilation into the mainstream and, by implication, into the prosperity of the American economy, the policy had the opposite effect. Reservation *and* urban Indians remained among the poorest of the poor, and this poverty accelerated a political resurgence that began to call for greater Indian control over Indian affairs.

C. The Success of the Self-Determination Era

While the *de jure* sovereignty of tribes had not been extinguished in earlier eras, the *de facto* sovereignty— i.e., the powers actually exercised by the tribes— had atrophied. Indian political leaders began to push to reverse the erosion. By the 1970s, American Indian political mobilization had gathered enough momentum to begin altering the terms of Indian policy. At the federal level, new legislation was

passed that began to return to tribes the power to manage their communities. With the Indian Self-Determination and Education Assistance Act of 1975 (commonly referred to as PL 93-638, or just “638”), tribes gained the ability to become contractors to the federal government for the services that had previously been provided by the BIA or Indian Health Service (IHS) and to receive the concomitant funding to dispense as they saw fit.⁴ Subsequent amendments and extensions of PL 93-638 granted tribes substantial discretionary power to re-allocate funds between federal programs and thereby take responsibility for the prioritization of tribal policy. Heretofore, tribal governments had been conduits of federal program funds rather than the self-governing policy-making bodies implied by their constitutions and treaty rights.

In parallel with these legislative recognitions of inherent tribal governing rights, tribes developed greater effective control over their own resources and communities. Many tribes pursued litigation to defend property rights to reservation resources so that they rather than states, neighboring non-Indians, or the federal government would control development.⁵ Many tribes strengthened their administrative structures and developed their managerial human capital by taking over functions from the BIA and IHS. With these transfers of authority came increased tribal responsibility and accountability— tribal governments took on the challenge of addressing the social needs of their communities. Some also began to develop more appropriate political superstructures, discarding IRA institutions of governance and developing court systems, writing constitutional checks and balances, and removing business operations from political influence. In time, some tribes pulled away from the pack and improved their reservation economies— all before the advent of casino gaming. It turns out that the factors that explain which tribes pulled ahead of the pack hinge critically on the governmental nature of tribes.

A decade of research by The Harvard Project on American Indian Economic Development indicates conclusively that the tribes which have proven most effective at improving on-reservation socio-economic conditions share three common traits:⁶

⁴ Congress subsequently underscored the principles enshrined in PL 93-638 in numerous other acts covering Indian affairs. See, for example, the Indian Health Care Improvement Act of 1976, 25 USC Sec. 1601; the Indian Financing Act of 1974, 25 USC Sec. 1451; and the Indian Gaming Regulatory Act, 25 USC Sec. 2702(1).

⁵ Kalt, Joseph P. and Stephen Cornell, “The Redefinition of Property Rights in American Indian Reservations: A Comparative Analysis of Native American Economic Development,” in L. H. Legters and F. J. Lyden, eds., *American Indian Policy: Self-Governance and Economic Development* (Greenwood Press, 1994).

⁶ Note that this research is based on pre-casino gaming effects.

Sovereignty: Tribes that establish their own decision-making power over resources and take control of their economic destinies are better off than tribes that accede to outsiders' decisions, goals, plans, or programs. Indeed, nowhere in Indian Country is there a case of sustained improvement of socio-economic conditions controlled or directed by non-tribal actors.⁷ Self-determination and control mean results.⁸

Effective Institutions: Tribes that are pulling ahead not only assert control over their development, they develop the institutions of governance that prevent the dissipation of development benefits either by ineffectiveness, by social conflict, or by political diversion. In layman's terms, these tribes know how to get the job done, they resolve internal conflicts effectively, and they insist on their governments' being more politically accountable. In short, they make internal and external investors feel secure that their time, capital, or careers will not be needlessly at risk because of ineffectiveness or factionalism.⁹

Cultural Match: The tribes that are able to successfully orchestrate economic development have institutions of governance that match indigenous beliefs regarding the form, distribution, and scope of their governments. These tribes may be theocracies, parliamentary democracies, highly centralized unitary systems, or loose confederations, but their form does not matter as much as whether that form matches the cultural practices of the tribal community.¹⁰ Culture helps discipline leadership and the mistaken presumption that non-Indian governmental forms can be applied to tribes without regard for local acceptance of those forms is a common stumbling block for Indian policy.

In sum, recent success in Indian economic development depends critically on the strength of government.

⁷ Kalt, Joseph P., Before the United States Senate Committee on Indian Affairs, *Statement of Professor Joseph P. Kalt, Harvard Project on American Indian Economic Development John F. Kennedy School of Government, Harvard University*, September 17, 1996.

⁸ For example, a national study of Indian forestry operations shows that tribal rather than federal (BIA) control yields more efficient harvesting and higher prices in end markets. See Krepps, Matthew B. and Richard E. Caves, "Bureaucrats and Indians: Principal-Agent Relations and Efficient Management of Tribal Forest Resources," *Journal of Economic Behavior and Organization* 24, 1994.

⁹ See, e.g., Cornell, Stephen E., and Joseph P. Kalt, "Cultural Evolution and Constitutional Public Choice: Institutional Diversity and Economic Performance on American Indian Reservations," in Lott, John R., Jr., *Uncertainty and Economic Evolution: Essays in Honor of Armen A. Alchian* (London: Routledge, 1997)

¹⁰ Kalt, Joseph P., and Stephen Cornell, "Where's the Glue: Institutional Bases of American Indian Economic Development," National Bureau of Economic Research, Conference on Political Economy, December 1990, revised February 1991.

The self-determination policies of the federal government, when backed by tribal efforts to establish effective governing control, stand in stark contrast to the policies of the rest of the century. Assiduous and sometimes violent assimilation and quasi-self-governance have been tried as tools for improving the welfare of Indian individuals, but what really works is true self-governance. Thus, the premise that tribes are and ought to be treated as governments— as opposed to entitled ethnic groups, for-profit corporations, or fraternal associations— is foundational to the examination of Indian gaming policy. Moreover, policies that do not take this premise into account risk undermining the gains made by tribes under self-determination.

The legacy of failed pre-1960 policies and the unique success of the post-1970 self-determination policy together indicate that the legal premise that undergirds casino gaming— i.e., the doctrine of inherent sovereign powers— stands not only on its legal merits, but on a practical basis as well. Past experience in Indian Country has shown over and over again that enabling tribes to exercise their sovereign powers and control their own economic destinies is far more effective than merely providing economic assistance to tribes in the form of grants or services. For example, our own research indicates that in the area of Native American forestry, complete tribal control of these resources would increase productivity by over 40%.¹¹ In addition, we found that tribes with a history of business experience were more likely to exercise control over valuable forest resources in the first place. Thus, enabling tribes to run their own operations creates a virtuous cycle of economic development by planting the seeds for additional tribal economic endeavors. As we will see below, casino gaming is perhaps the clearest example of this virtuous cycle, as numerous tribes have utilized the operational experience gained from their experiences in casino gaming to develop non-gaming businesses and thereby diversify their economies. The very fact that the extent of tribal economic diversification has become an issue of debate in Indian Country is a sign of how successful self-determination has been: prior to the era of self-determination, there was no economic development at all.

Finally, we note that the general public supports the economic development aims of self-determination policy generally and Indian Gaming Regulatory Act (IGRA) in particular. More Americans approve of Indian gaming than of gaming in general because of the economic base provided to tribes.¹²

¹¹ Krepps, “Can Tribes Manage Their Own Resources? The 638 Program and American Indian Forestry,” *op. cit.*

¹² Feldman, G.M., *Public Opinion Strongly Supports Indian Gaming* (Washington, D.C.: Washington University National Indian Policy Center, 1992).

D. Self-Determination Policy and Gaming: *Cabazon* and the Indian Gaming Regulatory Act

As the Self-Determination Era was getting under way, tribes across the country began investing in numerous economic development ventures including tourism development (e.g., hotels, ski resorts), resource extraction (e.g., mining, oil drilling, timber harvesting), light manufacturing (e.g., automotive electronics, defense sub-contracting), agriculture, and a number of other industries. Starting in 1979, just as state-sponsored lotteries were proliferating, a number of tribes began investing in gaming operations as well. These efforts in particular generated a fair amount of legal controversy that took nearly a decade to resolve; nonetheless, the general question of whether tribes have the power to offer gaming was eventually resolved by the Supreme Court. The remaining legal and policy conflicts concern issues of *how* rather than *whether* Indian gaming proceeds.

The Seminole Tribe of Florida led the move into the gaming sector in the late 1970s by opening a bingo hall offering stakes higher than those permitted at non-Indian establishments subject to the regulatory jurisdiction of the State of Florida. Florida immediately sued to enjoin the tribe and the case was ultimately resolved in the tribe's favor. The courts decided the case on the question of whether gaming falls under criminal/prohibitory law or civil/regulatory law. A long-established principle of Indian law holds that states do not have civil/regulatory powers over Indian tribes, and the courts found that gaming, where not prohibited by the states, was within the scope of tribes' inherent self-governing power. In subsequent litigation, states tried to claim that they ought to be able to regulate Indian gaming in order to control organized crime.

Ultimately, a case where such state interests were at stake was decided by the Supreme Court. In *California v. Cabazon and Morongo Bands of Mission Indians* the Court decided that tribal and federal interest in tribal self-sufficiency and economic development was worthy of great weight and the State of California's need to regulate for purposes of controlling organized crime did not supercede the prohibitory-regulatory doctrine. If California did not prohibit gaming to non-Indian establishments, then it could not regulate Indian gaming regardless of its interest in controlling organized crime.¹³

Though Congress was considering Indian gaming legislation before the Supreme Court's *Cabazon* decision, the handing down of the decision accelerated debate, and within about a year, Congress had passed the Indian Gaming Regulatory Act (IGRA) in 1988. In passing IGRA, Congress acknowledged that

¹³ Organized crime infiltration of the Cabazon and Morongo operations was an issue in the case but was not found in evidence in either case. To date, no significant organized crime infiltration has been identified in association with Indian gaming (see note 39).

numerous tribes had already engaged in gaming (under the precedents of *Seminole* and *Cabazon*) and that provisions for oversight of gaming-related contracts by the Secretary of the Interior had already been put in place, albeit with unclear standards. More specifically, Congress found that:

a principal goal of Federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal government; and

Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the gaming activity is not specifically prohibited by Federal law and is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such gaming activity.¹⁴

Thus, Congress intended for IGRA to:

provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments;

provide a statutory basis for the regulation of gaming by an Indian tribe adequate to shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players; and

declare that the establishment of independent Federal regulatory authority for gaming on Indian lands, the establishment of Federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue.¹⁵

IGRA divides the universe of possible games into three classes, each with a separate treatment:

Class I consists of traditional tribal games and “social games” for prizes of nominal value all of which are subject solely to tribal regulation;

Class II consists of bingo, instant bingo, lotto, punch cards and other similar games and manual card games legal anywhere in the state and not played against the house. A tribe may conduct or license and regulate Class II gaming if it occurs in “a state that permits such gaming for any purpose by any person” and is not prohibited by federal law.

Class III consists of all other games including electric facsimiles of permissible Class III games, card games played against the house, casino games, pari-mutuel racing and jai alai. Class III games may be conducted or

¹⁴ 25 USC Sec. 2701.

¹⁵ 25 USC Sec. 2702.

licensed by a tribe in a State that permits such gaming for any purpose or any person, subject to a state-tribal compact. The compact may include:

- tribe-state allocations of regulatory authority;
- terms of criminal justice cooperation and division of labor;
- payments to the state to cover the costs of enforcement or oversight;
- tribal taxes equal to those of the state;
- procedural remedies for breach of the compact; and
- standards for the operation of gaming including licensing.¹⁶

However, the state may not insist that the compact contain a tax, fee, charge, or other assessment.¹⁷

By requiring tribes to compact with states prior to operating Class III facilities, Congress established a means by which states and the tribes can come to agreement regarding the parameters under which such gaming would take place on reservations. The compacting process allows the state to raise its concerns for gaming, be they related to traffic congestion, visitation-related crime, and security and organized crime anti-infiltration measures. While states often receive compensation for licensing or other oversight costs (see Table 18), a number of compacts also entail additional sums be paid to the state.

One final characteristic of gaming under IGRA should be noted because it is so often overlooked in the public conceptions of Indian gaming: Indians do not have the right to offer gaming. Tribes do. Indian gaming is not “privilege for one group of citizens.” It is a power of government.

E. The Evolution of Indian Gaming

As Table 2 and Table 3 indicate, the 1990s have seen a peak of compacting activity stretching from 1992 to 1995 tapering off in 1996 and 1997. No states entered into compacts in 1996 or 1997 that had not already done so with at least one tribe in a previous year. Furthermore, as only five states have currently federally recognized tribes that do not have compacts, it appears that the state-by-state proliferation of Indian gaming has peaked.¹⁸ As of December 31, 1997, there were 72 Class II and 203 Class III operations run by 189 tribes in 28 states (see Figure 1). This means 84% of the approximately 225 federally recognized tribes in

¹⁶ 25 USC Sec. 2703 and Sec. 2710 (d)(3)(C). See also Getches, David H., Charles F. Wilkinson, and Robert A Williams, Jr., *Cases and Materials on Federal Indian Law* (St. Paul, MN: West Publishing Company, 1993), at 722-4.

¹⁷ 25 USC Sec. 2710 (d)(4).

¹⁸ The states are Utah, Maine, Massachusetts, Texas, and Florida. Texas and Florida already have in-state Indian gaming operations, albeit without compacts.

the lower forty-eight states have Class III operations, or 34% of the roughly 550 tribes nationally.¹⁹ Roughly one-third of the on-reservation Indian population of the lower forty-eight states (as counted in the last census) lives on a reservation with a compact for Class III gaming (see

Figure 2). Thus, one might expect future expansion of Indian gaming within states that already have it.

Table 2
Number of Tribes Compacting by Year

Year	Number of Tribes
1990	15
1991	8
1992	27
1993	35
1994	13
1995	31
1996	6
1997	9
TOTAL	144

Source: National Indian Gaming Commission, Tribal-State Compact List, 3/24/98.

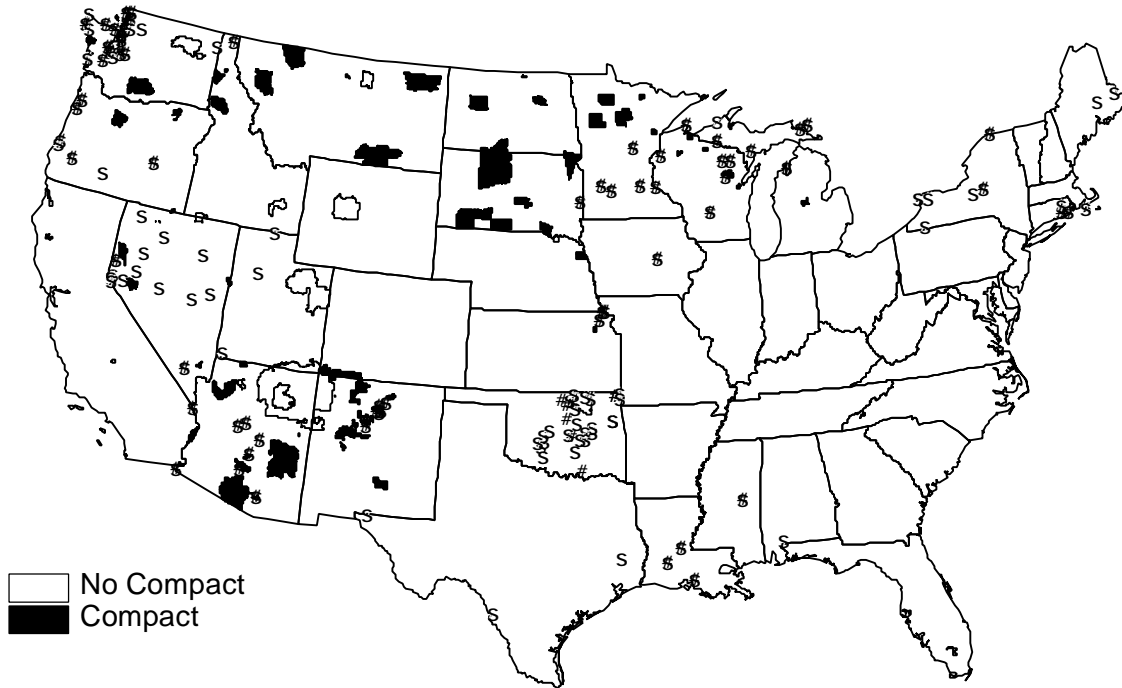
¹⁹ United States General Accounting Office, *Casino Gaming Regulation: Roles of Five States and the National Indian Gaming Commission*, May 1998, at 4, 23.

Table 3
Years of First Compacts

Year of First Compact	State
1990	Minnesota Nebraska Nevada South Dakota
1991	Connecticut Washington
1992	Arizona Colorado Iowa Louisiana Montana North Dakota Oregon Wisconsin
1993	Idaho Michigan Mississippi New York
1994	North Carolina Oklahoma Rhode Island
1995	Kansas New Mexico
TOTAL	23

Source: National Indian Gaming Commission Tribal-State Compact List, 3/24/98.

Figure 1
Indian Reservations with Class III Gaming Compacts
1997

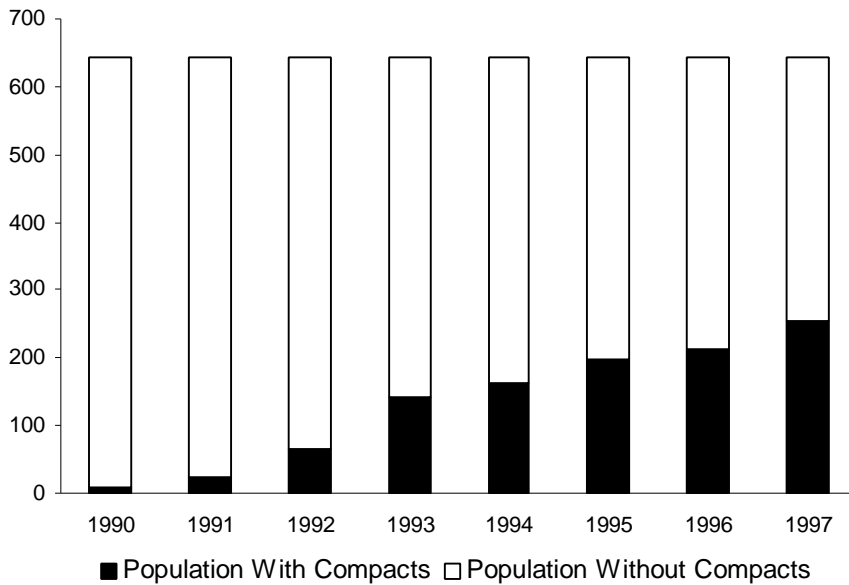


Note:

* There are 41 gaming operations operated by 41 tribes in California. The number of tribes with compacts with the State of California is currently in flux. There are 105 federally recognized bands and tribes in California. Tribes with small land areas are represented here with circles. Tribes with multiple reservation land blocks are represented here geographically by their largest block.

Source: United States General Accounting Office, *Tax Policy: A Profile of the Indian Gaming Industry*, May 1997, at Appendix II; Bureau of Indian Affairs, List of Federally Recognized American Indian Tribes, <http://www.doi.gov/bia/tribes/telist97.html>, 7/19/98 (see also, 62 Federal Register 55270, 10/23/97); National Indian Gaming Commission Tribal-State Compact List, 3/24/98.

Figure 2
The Growth of Tribal Gaming
 1990 On-Reservation Native American Population



Note: population represents total Native American population on reservations in the lower forty eight states where data are available, 1990 only.

Source: CensusCD+Maps Ver. 2.0, U.S. Bureau of the Census, Washington, D.C.; LandView II Ver. 1.0, U.S. Environmental Protection Agency and U.S. Bureau of the Census, Washington, D.C.

F. The Multiple Layers of Regulation Covering Indian Gaming

IGRA spells out a number of regulatory requirements that must be met before Class II or Class III gaming proceeds. At the center of the regulatory framework is the National Indian Gaming Commission (NIGC or “the Commission”). The NIGC approves certain managerial and regulatory decisions taken by the tribes and has substantial powers of investigation and oversight. Also at the federal level, the Secretary of the Interior partakes in the oversight of Indian gaming in his role as trustee over Indian resources and as the IGRA-designated approver of state-tribal compacts. At the tribal level, tribal governments implement their own regulatory systems as required under IGRA, and tribal enterprise managers or management contractors also implement security and auditing processes. Finally, state governments may play a regulatory role to the extent that such a role is negotiated into tribal-state compacts. These roles range from relatively hands-off approaches (as in Michigan)²⁰ to more cooperative approaches

²⁰ Michigan requires that tribes post signs in their casinos announcing to patrons that the State does not regulate Indian casinos. United States General Accounting Office, *Casino Gaming Regulation: Roles of Five States and the National Indian Gaming Commission*, May 1998, at 43.

where the state might actually conduct the background checks and/or licensing of tribal employees (e.g., North and South Dakota). This section describes in more detail these layers of the regulatory apparatus.

Federal Regulation

The NIGC

The NIGC was established in 1988 by IGRA as an independent agency within the Department of the Interior. The three commissioners regulate and monitor Indian bingo (Class II) and certain elements of casino gaming (Class III).²¹ Under IGRA, the Commission may:

- levy fees for its budget;
- issue subpoenas;
- conduct background investigations as necessary;
- demand access to and inspect financial records;
- assess and collect fines for violating regulations; and
- temporarily or permanently close a gaming operation.²²

And it must:

- approve tribal ordinances or resolutions regarding the conduct and regulation of gaming (see below);
- approve Class III management contracts (see below);²³
- monitor and inspect gaming operations and premises on a continuing basis; and
- review licensing of Class III primary management and key personnel.²⁴

The Commission's early activities consisted primarily of codifying and detailing the various regulations necessary to regulate Indian gaming on an ongoing basis. These include processes for background investigations, review of management contracts, and enforcement of IGRA and its implementing regulations. The Commission's activities in the last several years have focused on continuing efforts to monitor the growing number of Indian gaming enterprises. In the last two years, the NIGC conducted 500 visits to Indian gaming operations in 25 states and undertook 55 enforcement actions against violators of IGRA or NIGC

²¹ Casino gaming is also regulated to different degrees in accord with tribal-state compacts. The degree of responsibility that the NIGC has for overseeing a tribe's casino operation varies from state to state.

²² 25 USC Sec. 2706.

²³ 25 USC Sec. 2711 (a)(1).

²⁴ 25 USC Sec. 2706 (b)(1) and (b)(2).

regulations. From 1994 through 1997 the Commission collected more than \$1 million in fines.²⁵

The Commission has historically drawn its revenues from federal appropriations, fees levied on tribal bingo enterprises (but not Class III casinos), and cost reimbursements from tribes for conducting background investigations on contractors and processing fingerprints. The total amount of fees the Commission could collect from Indian gaming operations was capped at \$1.5 million.

Initially, the Commission relied heavily on federal appropriations for its revenue— 77% of its revenue in 1991 came from appropriations. As the number of tribal gaming operations increased, however, the Commission has come to rely less on appropriations and more on fees— 39% of revenue in 1997 came from fees, 35% from cost reimbursements, and only 26% from appropriations.²⁶ But as the number of tribal gaming operations increased, so did the expenditures necessary for the Commission to fulfill its regulatory responsibilities— after posting budget surpluses from 1991 to 1993, the Commission has posted operating deficits for 1994-97, including a deficit of approximately \$800,000 in 1997.²⁷ As more and more tribes started gaming operations, the Commission was forced to add staff to cope with the additional regulatory burden— the Commission's staff increased from 9 in 1991 to 37 in 1997. As the Commission added staff, Indian gaming grew at a faster rate— from a \$100 million business in 1988 to a \$6 billion business in 1996.²⁸ The Commission has been able to cover the deficits in its operating budget by carrying forward surpluses from previous years, but it had become clear by 1997 that the cap in fees was not high enough to cope with growing costs of operating the NIGC and that the surplus carryover would soon be depleted.²⁹ In order to remedy this budget imbalance, Congress doubled the amount of federal appropriations available to the Commission in the 1998 budget, increased the cap on fees to \$8 million, and extended the Commission's power to levy fees from bingo operations to Class III operations as well. The NIGC's primary plan for spending the increased funding is to increase the number of investigators operating in Indian Country.³⁰

Funding for the NIGC and the scope of its powers have been items of considerable debate in Congress during the past several years. The Commission has complained that in recent years it has been severely understaffed. Tribes, on

²⁵ United States General Accounting Office, *Casino Gaming Regulation: Roles of Five States and the National Indian Gaming Commission*, May 1998, at 8-9, 29. Civil fines are set by the Commission up to \$25,000 per violation per day.

²⁶ *Ibid.*, at 27.

²⁷ *Ibid.*, at 28.

²⁸ Prepared Testimony of Tom Foley, Vice Chairman, National Indian Gaming Commission, Before the United States Senate Subcommittee on Indian Affairs, July 10, 1997.

²⁹ *Ibid.*

³⁰ *Ibid.*

the other hand, are concerned that potential duplicative regulatory efforts will diminish the benefits attainable from gaming.

The Secretary of the Interior

Under IGRA the Secretary of the Interior approves tribal-state compacts and provides a backstop should negotiations break down.³¹ As discussed above, the compacts may include provisions relating to the application of regulatory or criminal justice laws, the allocation of jurisdiction, the assessment of costs and reimbursements for regulation, and criminal justice burdens. The Secretary also evaluates the degree to which commitments of tribal payments to the state constitute a tax or fee in violation of IGRA.

Tribal Regulation

A number of IGRA requirements require tribal governments to establish their own gaming regulatory systems. Under IGRA, the tribes must solely own Indian casinos.³² If a tribe contracts with an operator to manage the casino, IGRA caps the fee at 30% of net revenue and the term at five years unless the Commission can be convinced the capital investment and income projections require a higher fee or longer term, in which case the maximum is 40% and seven years.³³ In addition, the net revenues of the facility must be dedicated to the following purposes:

- (i) to fund tribal government operations or programs;
- (ii) to provide for the general welfare of the Indian tribe and its members;
- (iii) to promote tribal economic development;
- (iv) to donate to charitable organizations; or
- (v) to help fund operations of local government agencies.³⁴

If tribes choose to allocate any casino income to members individually, they must file a plan that details how they will spend all casino net income to accomplish the above purposes. The Commission must approve the Gaming Revenue Allocation Plan particularly as it applies to numbers (i) and (iii) above, and recipients of per capita distributions must pay federal income tax on their distributions.³⁵ Finally,

³¹ Currently proposed regulations are under public review regarding what the Secretary's role should be in the compact approval process in the event that negotiations break down and the tribe cannot sue the state for not acting in good faith under IGRA.

³² 25 USC Sec. 2710 (b)(2)(A). The only exception is in the case of a Class II operation already legal under the state law of the state in which it operates.

³³ 25 USC Sec. 2711 (b)(5) and 2711 (c).

³⁴ 25 USC Sec. 2710 (b)(2)(B).

³⁵ 25 USC Sec. 2710 (b)(3). Note that Indian individuals pay federal income taxes under virtually the same terms as non-Indians.

tribes must conduct annual audits of their facilities and all contracts greater than \$25,000 in value.

Tribes are also required to establish by ordinance a regulatory system that:

- conducts background investigations on key gaming personnel and notifies NIGC of results;
- issues licenses for key personnel and notifies the NIGC of such licenses; and
- sets standards for employment.³⁶

Typically, tribes comply with these requirements by establishing gaming commissions whose powers—aside from those specified in IGRA—differ from tribe to tribe, in large measure because of the different ways tribes establish their gaming commissions within their governing structures. Table 4 offers a snapshot of the oversight provided by tribes and states.

³⁶ 25 USC Sec. 2710 (b)(2)(F).

Table 4
Tribal Gaming Oversight by Selected Tribes and States

Tribe — Number of Commissioners	Compacting State
<p>Ho-Chunk Nation — 5</p> <ul style="list-style-type: none"> - Recommends gaming policies and guidelines to the Ho-Chunk Legislature; - Monitors all classes of gaming on the Nation's Lands; - Reviews all monthly reports and annual audits; - Issues gaming employee and vendor licenses; - Refers probable violations to the Ho-Chunk Department of Justice for investigation; - Adjudicates alleged violations; and - Imposes penalties for violations. 	<p>Wisconsin</p> <p>The State Indian Gaming Office and the State Department of Justice are authorized to monitor the tribe's gaming operations to ensure compliance. Agents of both authorities can make spot checks of gaming-related premises, equipment, records, and documents, with notification to the tribe's designated public safety officer, but must be accompanied by a tribal official during the inspection.</p>
<p>Mohegan Tribe — N/A</p> <ul style="list-style-type: none"> - Promulgates and enforces appropriate gaming regulations; - Provides 24-hour monitoring of gaming facilities, (including the count room, patron complaints, jackpot, pay-outs and slot activities); - Conducts background checks on employees and vendors; and - Processes all new employee applications and annual license renewals. 	<p>Connecticut</p> <p>The tribe must disclose its programs of instructional and on-the-job training and its systems of internal organization for all gaming operations to the State gaming agency. State law enforcement officers have free access to all gaming facilities—including locked and secured areas—for monitoring purposes. In addition, the State Department of Consumer Protection monitors the serving of alcohol within gaming facilities. The tribe funds both the police and the liquor control services.</p>
<p>Oneida Tribe — 5 full-time, 2 part-time</p> <ul style="list-style-type: none"> - Ensures compliance with tribal, state, and federal gaming regulations; - Ensures compliance with all audits and reporting requirements; - Maintains communication with federal and state regulatory bodies and compliance with their reporting requirements; and - Conducts background checks on employees and licenses <i>all</i> personnel. <p>The tribe spends \$8 million annually to regulate and monitor its operations (including security functions).</p>	<p>Wisconsin</p> <p>See Ho-Chunk, above.</p>
<p>Sault Ste. Marie Chippewa Tribe — 5</p> <ul style="list-style-type: none"> - Ensures compliance with state and federal gaming regulations; - Licenses all tribal gaming facilities, employees, and vendors; and - Performs background checks for licensing; 	<p>Michigan</p> <p>The State of Michigan may inspect public areas of the tribe's casinos without prior notice and may inspect private areas and records on two days notice in order to monitor compliance.</p>
<p>Standing Rock Sioux Tribe — 9</p> <ul style="list-style-type: none"> - Ensures compliance with state and federal gaming regulations; - Licenses all employees, facilities, and vendors; - Drafts a budget for the allocation of casino profits for submission to Tribal Council; and - Oversees the management of the tribe's casinos to ensure that the casinos are operated with the tribe's interests in mind. 	<p>North and South Dakota</p> <p>The states of North and South of Dakota perform the background checks necessary to license employees and vendors on behalf of the tribe. The results of these checks are submitted to the Gaming Commission for their approval. The tribe pays a fee to the states for this service. The state gaming authorities also have the right to inspect the tribe's gaming facilities without prior notice.</p>

Source: Tribal Gaming Ordinances and Compacts

Little systematic data are available nationwide about the magnitude of tribal regulatory efforts; however, the scope of tribal regulation is extensive— it parallels that of New Jersey. As the GAO has noted, New Jersey believes it has the toughest

gaming control measures ever enacted.³⁷ Table 5 shows that the scope of Indian gaming oversight is roughly comparable to that found in New Jersey.

Table 5
The Scope of New Jersey and Tribal Casino Regulation

New Jersey Casino Control Commission Function	NIGC	Tribal Ordinances (1)	Tribal-State Compacts
Licensing of Casino		✓ (2)	
Licensing of Casino Employees	reviews	✓ (2)	
Licensing of Casino Vendors/Contractors		varies	varies
24 Hour-a-Day Presence at Casino		varies	
Formal Inspection of Operation	✓	✓	✓ (3)
Informal Inspection of Operation	✓	✓	✓ (3)
Review of Annual Financial Reports	✓	✓	varies
Audit of Gaming Operation Records	varies	✓	✓ (3)
Compliance with Internal Control Systems	partial	✓	varies
Verification of Slot Computer Chips		✓	varies
Review of Gaming Operator's Surveillance		✓	varies
Observation of Money Count		(4)	
Processing of Customer Complaints		✓	✓
Ability to Shut Down Casino for non-Compliance	✓	✓	varies
Ability to Revoke License of Employee or Vendor/Contractor	(5)	✓	varies
Ability to Assess Fines Against Casino for non-Compliance	✓	varies	
Ability to Seize Illegal Equipment		✓	

Notes:

- 1) Note that tribal oversight and enforcement powers vary somewhat from tribe to tribe depending on tribal gaming ordinances and compacts. This table is intended to provide a general summary of these tribal powers.
- 2) While tribes generally perform licensing activities, all licenses granted (except for vendors/contractors not managing the casino) must be reviewed by the NIGC.
- 3) Under the compacts, the states generally have the right to inspect tribal gaming facilities and records, but do not have primary responsibility for these functions.
- 4) The regulatory role in the observation and surveillance of money counts is completed via a review of observer and other reports to address irregularities and take corrective action. These procedures vary from tribe to tribe.
- 5) The NIGC may revoke the license of a management contractor.

Source: United States General Accounting Office, *Casino Gaming Regulation: Roles of Five States and the National Indian Gaming Commission*, May 1998, at 64-69; selected Tribal Gaming Ordinances and Compacts; Metoxen, Jeff, Chairman, Oneida Tribe Gaming Commission and Chairman, National Tribal Casino Commissioners and Regulators, personal communication, 7/30/98; and IGRA.

In addition to what IGRA and its implementing regulations require, two tribally initiated efforts help ensure the quality of regulation across tribes. First, the National Indian Gaming Association (NIGA) initiated a process of gathering tribal input in developing an established set of Minimum Internal Control Standards (MICS). The MICS were developed with the support and input from a number of member tribes and from the National Tribal Gaming Commissioners and Regulators (NTGC&R). The MICS adapt various established standards including those of Nevada, New Jersey, and Mississippi into one set of standards that

³⁷ United States General Accounting Office, *Casino Gaming Regulation: Roles of Five States and the National Indian Gaming Commission*, May 1998, at 64.

encompasses the regulatory needs of a wide variety of casino types and allows the superstructure of the regulatory apparatus (e.g., the number of commissioners and their appointment procedures) to vary from tribe to tribe in accord with local institutional capacities, constitutions, and needs. NIGA and NTGC&R both encourage their members to embrace the standards. A second, tribally initiated effort was made by NIGA and the NTGC&R to establish and distribute best practices advice to tribes regarding the appropriate checks and balances to establish between the tribal government, the casino management, and the tribal gaming commission.

State Regulation

The states regulate Indian gaming via agencies created out of compact obligations or via pre-existing authorities that regulate non-Indian gaming in the state. The functions and roles of state gaming authorities vary from state to state and even within states (in accordance with different compact terms for different tribes). Thus, state staffing levels and expenditures vary as well. Consequently, as one would expect, the intensity of state regulation— i.e., the number of audits, site visits, etc.— varies (see Table 6). Nonetheless, the ultimate powers conferred on many states by their compacts with tribes may be substantial. As the GAO has noted in a survey of five states' casino regulating powers, all five states— Arizona, Michigan, Nevada, New Jersey, and Washington— report that they have the power to shut down gaming operations directly or via injunction.³⁸ This power may be disputed by the tribes, and it could certainly be counter-balanced by tribal suits. Nonetheless, IGRA calls for the state to have a say in how the regulation of Indian gaming is conducted in the compact negotiation process and subsequently.

³⁸ *Ibid.*, at 11.

Table 6
Variations in State Regulatory Activity as of December 1997
 Five Selected States

	Arizona	Michigan	Nevada	New Jersey	Washington
Casinos	16	17	2,425 (1)	12	11 (2)
Indian Casinos	16	17	4	0	11
1997 Staff	61	2 (3)	402	731 (4)	137
1997 Expenditures (\$ '000s)	\$3,790	\$175	\$22,000	\$53,700	\$8,631

Notes:

- 1) Most (80%) of Nevada gaming operations consist of 15 or fewer slot machines.
- 2) Does not include 11 casinos currently operated by tribes without gaming compacts. These casinos are currently under litigation. In addition to Indian casinos, Washington also has extensive non-casino gaming operations, such as bingo, card games, and pari-mutuel wagering.
- 3) Michigan voters have approved non-Indian casino gaming starting in 1999. In response to this development, the State is in the process of creating a Michigan Gaming Control Board which will have forty eight employees when fully staffed.
- 4) Includes staff for both the Casino Control Commission and the Division of Gaming Enforcement.

Source: United States General Accounting Office, *Casino Gaming Regulation: Roles of Five States and the National Indian Gaming Commission*, May 1998, at 29-34, 40-42, 46-51, 56-64, and 70-76.

Indian Gaming Regulation in Summary

Within the confines of this report, we cannot make a definitive assessment of how the overlapping layers of federal, state, and tribal gaming oversight have worked on the ground in Indian Country. However, we note that, in the aggregate, substantial resources and powers at the federal, state, and tribal level are directed toward Indian gaming oversight. The scope of those powers, the reach of the overlapping and cross-checking systems, and the discretion the states have in compact negotiations to establish the terms of regulation (with tribes) imply a robust system of regulation. Indeed, no substantial organized crime infiltration has been found in Indian casinos.³⁹ It is clearly in the interests of tribes that the system remain as strong as possible— the long-term health of their communities is at stake.

³⁹ In hearings before a House of Representatives subcommittee in late 1993, officials from the FBI testified that they had no evidence of widespread organized crime within Indian gaming. See Kelly, Joseph M., "Indian Gaming Law," *Drake Law Review*, Vol. 43, 1993-94.

III. THE SOCIO-ECONOMIC BASELINE: INDIAN COUNTRY PRIOR TO CLASS III GAMING

It bears repeating that no policy save self-determination policy has successfully created economic development on American Indian reservations. The preceding centuries' policies of forced assimilation, allotment, and re-organization and associated BIA mismanagement and corruption left reservation Indians the poorest minority in America, with little or no hope of escape from poverty. Indeed the swings of the Indian policy pendulum are a direct consequence of the stubbornness of the "Indian problem." This section briefly documents the grim conditions on reservations as reported at the beginning of the decade– the time of the decennial census and the eve of substantial Class III compacting.

A. Socio-Economic Conditions

It is difficult to overstate the grinding poverty of Indian reservations. Across virtually every measure of social health, conditions are far below national averages. As Senator John McCain observed:

Indian families live below the poverty line at rates nearly three times the national average. Nearly one of every three Native Americans lives below the poverty line. One-half of all Indian children on reservations under the age of six are living in poverty.

On average, Indian families earn less than two-thirds the incomes of non-Indian families. As these statistics indicate, poverty in Indian country is an everyday reality that pervades every aspect of Indian Life. In this country, we pride ourselves on our ability to provide homes for our loved ones. But, in Indian country a good, safe home is a rare commodity.

There are approximately 90,000 Indian families in Indian country who are homeless or under-housed. Nearly one in five Indian homes on the reservation are classified as severely overcrowded. One third are overcrowded. One out of every five Indian

homes lacks adequate plumbing facilities. Simple conveniences that the rest of us take for granted remain out of the grasp of many Indian families.

Indians suffer from diabetes at 2½ times the national rate. Indian children suffer the awful effects of fetal alcohol syndrome at rates far exceeding the national average. Perhaps most shocking of all, Indian youth between 5 and 14 years of age commit suicide at twice the national rate. The suicide rate for Indians between the ages of 15 and 24 is nearly three times the national rate.⁴⁰

As Table 7 and Table 8 illustrate, this pattern continues for indicator after indicator. Indian college graduation rates stood at one-fifth the national average; diabetes deaths at nearly three times the national average; youth alcohol deaths at more than seventeen times the national average; and so on.

Table 7
Indicators of Social Health
Reservation Indians vs. U.S. All Races, 1989

Indicator (1)	Avg. Native American Pop. on Reservations and Trust Lands (1)	U.S. Average
Income and Employment		
Median Household Income	\$12,459	\$30,056
Per Capita Income	\$4,478	\$14,420
Unemployment Rate	25.6%	6.3%
Poverty Rate	50.7%	13.1%
Child Poverty Rate	55.3%	17.9%
Households Receiving Public Assistance Income	18.7% (2)	7.5%
Education		
High School Graduates	53.8%	75.2%
College Graduates	3.9%	20.3%
Children and Families		
Families with Female Head	31.6%	20.4%
Single Parent Families	50.3%	24.0%
Housing		
Owner-Occupied Homes	69.7%	64.2%
Homes Lacking Complete Plumbing	17.0% (2)	1.2%
Homes Lacking Complete Kitchen	15.2% (2)	1.2%
Homes with Telephone	71.6% (2)	94.8%

Notes:

(1) Unless otherwise indicated, figures given are for the Native American (including American Indian, Eskimo and Aleut) population on reservation and trust lands.

(2) Figures are for total population on reservation and trust lands.

⁴⁰ 141 Cong. Rec. S11881, August 8, 1995.

Sources: U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census, *1990 Census of Population and Housing: CensusCD*.[®] U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census, *1990 Census of Population, Social and Economic Characteristics: American Indian And Alaska Native Areas*, Issued December 1990.

Table 8
Indicators of Physical Health
 U.S. v. Native American Averages, 1992

Indicator	Native American Average (1)	U.S. Average
Fertility		
Birth Rates	26.6	15.9
Infant Mortality	8.8	8.5
Mortality		
Mortality Rate	594.1	504.5
Life Expectancy at Birth	73.2 Years	75.8 Years
Accidental Deaths	83.4	29.4
Homicide Deaths	14.6	10.5
Suicide Deaths	16.2	11.1
Alcoholism Deaths	38.4	6.8
Tuberculosis Deaths	2.1	0.4
Diabetes Mortality Rate	31.7	11.9
Children and Youth		
Teen Births	20.1	12.7
Accidental Youth Deaths	91.9	37.8
Youth Homicide Deaths	20.1	22.2
Youth Suicide Deaths	31.7	13.0
Youth Alcoholism Deaths	5.2	0.3
Youth Drug-Related Deaths	3.1	2.2

Note:

(1) Average for American Indians and Alaska Natives in the Service Area of Indian Health Services.

Source: U.S. Department of Health and Human Services, Indian Health Service, *Trends in Indian Health 1996*.

B. Economic Development

In the face of this litany of indicators, tribal governments sought to develop their reservation economies. However, economic development remained elusive for most reservations and inadequate for those that attained some measure of business success. On many reservations, tribes, especially prior to the self-determination era, would develop new enterprises only to have them fail due to poor market access, inadequate government stability, insufficient control over tribal assets, BIA mismanagement, or lack of labor and management skills. The challenges facing tribal efforts to gain control of resources and profitably exploit market opportunities have been and continue to be formidable.

A sampling of real world examples is illustrative. Off-reservation non-Indians have obtained reservation grazing rights at below market rates. Banks have balked at the inherent difficulty of collateralizing loans on tribal lands and have thus denied much needed capital to countless reservations. State governments have taxed tribal mineral assets in contravention of law. Tribal members, neither familiar with formal employment for generations nor generally skilled in trades or management, have required additional managerial and policy attention thereby reducing enterprise efficiency. Federal government negligence drained reservations of essential assets including lush agricultural land impounded behind dams, trees cut to maximize water flow rather than timber income, and personal financial assets lost in an accounting morass. Even those tribes that did beat the odds might have found their enterprises inadequate to employ all the tribe's high school graduates or unemployed and underemployed members.

With unemployment and social ill-health on their minds, tribal leaders in the early 1990s approached Class III gaming as another ingredient in the development portfolio. It was anything but a sure bet for most. The uneven success of bingo halls in the 1980s made it evident by the end of that decade that access to metropolitan markets— an attribute enjoyed by relatively few reservations— was an important ingredient of success.⁴¹ Nonetheless, tribal leaders had social crises to address and the prospect of declining federal resources for the indefinite future. Thus, even a modest employment and fiscal contribution was worth the risk.

⁴¹ Cordeiro, Eduardo E., "The Economics of Bingo: Factors Influencing the Success of Bingo Operations on American Indian Reservations," in Cornell and Kalt, *What Can Tribes Do? Strategies and Institutions in American Indian Economic Development*, *op. cit.*

IV. THE ECONOMIC IMPACTS OF INDIAN GAMING

In this and the following sections, we analyze the economic impacts of Indian gaming and assess the available evidence on the implications of gaming-related economic development for the amelioration of social conditions on reservations. Analysis of economic impacts takes primacy in this study, not because we believe that the social consequences of casino gaming are unimportant, but rather because the available evidence indicates that the dramatic improvements in economic welfare for many tribes previously characterized by abject poverty have had positive side effects in the social sphere. While attempting to count up the number of addicted or compulsive gamblers attributable to the existence of a particular gaming facility is a worthwhile (though extremely difficult) task, we believe that such measures are merely proximate indicators of what we are really trying to understand: namely, the difference in social conditions attributable to Indian gaming. Given the economic hardship and social problems existing in Indian Country prior to the pervasive introduction of Indian gaming, we believe that head counts of compulsive gamblers, even if one could agree on a definition of what constitutes a compulsive gambler, pale in importance to the demonstrable improvements in numerous social indicators that we have documented for gaming tribes.

While detailed analysis of the social impacts of Indian gaming is taken up in Section V, we begin this section on economic impacts with an illustrative example of the linkages between economic and social impacts, demonstrating that negative social impacts associated with the introduction of casino gaming, while certainly possible, should not be taken as a foregone conclusion without empirical analysis. Social scientists concerned with the social impacts of gaming often allude to possible linkages between the introduction of gaming and the prevalence of crime. While it is typically assumed as a matter of course that any demonstrated linkage between gaming and crime will show crime increasing following the introduction of gaming, contrary evidence from Indian Country suggests that there are exceptions

to that common presumption. According to one study on potential crime spillovers related to Indian gaming in Wisconsin:

Almost uniformly, law enforcement officials stated that Indian gaming establishments had not directly contributed in any significant way to the incidences or rates of crime in their jurisdictions. Indeed, most believed that employment opportunities created by Indian gaming establishments reduced the incidence of crime. In their perception, employed persons were less likely to commit criminal acts.⁴²

For those who disagree with the importance of the significant improvements in social conditions on Indian lands following the introduction of gaming (see Section V for details) and who wish to perform the exercise of documenting problem gamblers, our efforts to document economic impacts (and resulting social impacts) are still a critical piece of the analytical puzzle. This is because the economic and social effects of Indian gaming are additive, and one cannot form a coherent picture of the net impact of gaming without measuring both economic and social effects. As noted above, the approach taken below attempts to document extensively the economic effects of gaming and to assess the ultimate social impact of these economic improvements, while foregoing analysis of proximate measures. We now turn to the detailed analysis of these economic effects in order to answer the question, “How much better or worse off would gaming tribes have been but-for the existence of Indian gaming?”

A. Economic Impacts on Reservations

Assessing the economic impact of a casino on an area involves measuring the level of economic activity following the opening of the casino and asking the counterfactual question, “What would the level of economic activity have been if the casino had not been built?” The difference between these two figures represents the net impact of the casino. While the measurement of economic activity in the presence of a casino typically presents a number of challenges such as determining how many times casino expenditures are re-spent before leaving the local economy (more on this below), the “what-if the casino had not been built” part of the analysis is typically the more challenging part. For many Indian tribes, however, estimating what the level of tribal economic activity would have been in the absence of a casino is quite simple: there would have been no significant economic activity. As the foregoing sections have shown, the socioeconomic situation on most reservations in general has been bleak since the last century. An analysis of the change in the economic fortunes of gaming tribes should prove particularly informative given the assertion made by John Warren Kindt at an earlier meeting of the National

⁴² Nelson, Dennis J., Howard L. Erickson, and Robert J. Langan, *Indian Gaming and its Impact on Law Enforcement in Wisconsin* (API Consulting Services, 1996), at 9.

Gambling Impact Study Commission that gaming destabilizes less-developed economies.⁴³ As we showed in the previous section, Indian tribes are less-developed economies within the geographic boundaries of the United States.

Of course, the impact of Indian gaming is not confined within the boundaries of the Indian reservations on which gaming takes place. Therefore, we analyze off-reservation impacts in the local economy in addition to analyzing gaming-induced tribal economic development. In the remainder of this section, we discuss the results of our research on Indian gaming across the country and present detailed empirical evidence from five gaming tribes that illustrate the range of socioeconomic outcomes experienced by tribes that have introduced casino gaming. These tribes, referred to hereafter as the case study tribes, are The Ho-Chunk Nation (Wisconsin), The Mohegan Tribe (Connecticut), The Oneida Tribe of Indians of Wisconsin, The Sault Ste. Marie Tribe of Chippewa Indians (Michigan), and The Standing Rock Sioux Tribe (North and South Dakota).

The discussion of economic impacts that follows is organized around a series of misperceptions that have been made by opponents of Indian gaming:

Six Common Misperceptions of Indian Gaming

1. “Indian gaming has made tribes across the country fabulously wealthy.”
2. “Indian gaming has little impact on unemployment rates.”
3. “Indian gaming jobs are not good jobs.”
4. “Indian gaming is merely a transfer payment to tribes.”
5. “Indian gaming reduces the amount of business flowing to off-reservation businesses.”
6. “Indian gaming is not taxed and does not contribute to local economies.”

⁴³ Kindt, John Warren, *U.S. and International Concerns Over the Socio-Economic Costs of Legalized Gambling: Greater than the Drug Problem?* Statement to the National Gambling Impact Study Commission, 5/21/98, at 21.

Misperception #1:
“Indian gaming has made tribes across the country fabulously wealthy.”

An understanding of the socioeconomic baseline is important in order to understand the decision by 189 tribes to go into gaming and to place into context the economic development that gaming has brought to these tribes across the country. While the popular press repeatedly refers to Indian gaming as “the new buffalo,” conjuring up images of tribes all over the country reaping fabulous riches through gaming, the reality of the situation is quite different for a vast majority of gaming tribes. As a recent study by the Government Accounting Office (GAO) found, 13% of Class III Indian casinos studied by the GAO accounted for 59% of the total revenue generated by casinos in the study, and revenue from Class II and III Indian gaming accounted for only 10% of total gaming industry revenues in 1995.⁴⁴

Only by recognizing the socioeconomic backdrop in which gaming has been introduced in Indian Country can we reconcile the apparent contradiction between the image of gaming as the means of economic salvation for tribes across the country and the reality that a handful of tribes account for the vast preponderance of Indian gaming revenues. In fact, as discussed in Section V.A, the tribes that have introduced casino gaming pursuant to tribal-state compacts under the aegis of IGRA had significantly higher levels of unemployment in 1989 than tribes that have not entered into gaming compacts. These differences would have been even larger, but some tribes had already opened casinos prior to the 1989 BIA Labor Force Survey and were enjoying gaming-induced economic development,⁴⁵ thus leading to an understatement of true “pre-gaming” unemployment for compacting tribes. This measurement issue notwithstanding, the fundamental point is that because economic conditions were so dire on those reservations that subsequently introduced casino gaming, even small amounts of economic activity have proven a tremendous boon to many gaming tribes. While the backlog of socio-economic deficits left by decades of deprivation remains a daunting challenge, gaming has had a profound economic development impact on many tribes that have introduced it.

⁴⁴ United States General Account Office, *Tax Policy: A Profile of the Indian Gaming Industry*, May 1997, at 15, 17-18. The GAO studied the 1995 revenues of 178 of 281 Indian Gaming facilities operating in the United States as of December 1996.

⁴⁵ Under the provisions of IGRA, some tribes that had opened casinos prior to passage of the act were “grandfathered” and their facilities were permitted to remain open.

**Misperception #2:
“Indian gaming has little impact on unemployment rates.”**

Table 9 shows the direct employment attributable to casinos operated by our five case study tribes and demonstrates that gaming employment constitutes an important source of jobs for gaming tribes.

**Table 9
1997 Total Tribal Employment**

Tribe	Native American (1)		Non-Native	
	Gaming	Non-Gaming	Gaming	Non-Gaming
Ho-Chunk	384	583	1,596	364
Mohegan (2)	179	63	4,778	104
Oneida	846	1,137	576	651
Sault Ste. Marie Chippewa	774	655	1,242	421
Standing Rock Sioux	356	580	123	28

Notes:

(1) May include spouses of tribal members.

(2) Estimate.

Source: Data provided by tribes.

While these employment gains have been substantial when viewed in light of tribal unemployment rates discussed in the previous section, Earl Grinols has claimed that even though casinos create jobs, they do not in fact reduce the rolls of the unemployed in the areas surrounding casinos. Rather, he has argued, casinos merely hire people away from existing jobs or import labor from outside the area. According to Grinols, “Where casinos have had a positive effect, unemployment appears to have been little affected even as employment gained. This suggests that few of the jobs at casinos are filled by individuals who are unemployed at the time of opening.”⁴⁶ While the veracity of this claim for any casino jurisdiction is debatable, Indian casinos provide a particularly glaring exception to this argument.

In 1989, prior to the signing of any state-tribal casino compacts under the auspices of IGRA, the average unemployment rate for 214 tribes we studied was 38%. As of 1995, the rate of unemployment had fallen 13% for tribes that opened

⁴⁶ Earl L. Grinols, “The Impact of Casino Gambling on Income and Jobs,” in Tannenwald, Robert, *Casino Development: How Would Casinos Affect New England’s Economy?* (Boston, MA: Federal Reserve Bank of Boston, 1995).

casinos in the interim,⁴⁷ while the unemployment rate for tribes without casinos was statistically unchanged.⁴⁸ While these aggregate statistics are indicative of how pervasive the positive economic impact of gaming has been for many tribes, closer analysis of individual tribes' experiences shows quite dramatically what a difference the addition of casino jobs can make. As Table 10 below demonstrates, all of the four tribes for which we have data experienced significant drops in unemployment after opening casinos.

Table 10
Tribal Unemployment Pre- and Post-Gaming

Tribe	First Full Yr. of Class III Gaming	Unemployment				
		1987	1989	1991	1993	1995
Ho-Chunk (1)	1993	19%	19%	17%	N/A	6%
Mohegan (2)	1997	N/A	N/A	N/A	N/A	N/A
Oneida	1992	25%	22%	19%	19%	4%
Sault Ste. Marie Chippewa	1992(3)	55%	47%	49%	32%	27%
Standing Rock Sioux	1994	79%	87%	63%	62%	29% (4)

Notes:

- 1) Ho-Chunk statistics are for Wisconsin Winnebago. No statistics reported for 1993.
- 2) The Mohegan Tribe did not gain federal recognition as an Indian tribe until mid-1994. Consequently, there is no data available for the period 1987-1995.
- 3) The Sault Ste. Marie Chippewa have had Class III Gaming since 1985, but their gaming enterprises were small prior to 1991/92, when their casino operations went through a major expansion.
- 4) A different agency within the tribe compiled the unemployment statistics for the tribe's submission to the 1995 survey than had compiled earlier surveys. The extreme drop in unemployment shown from 1993 to 1995 may be partially due to different data collection procedures from agency to agency. Labor force participation only rose by 10% (from 14% to 24%) for the Standing Rock Sioux from 1993 to 1995.

Source: Bureau of Indian Affairs, *Indian Service Population and Labor Force Estimates*, 1987, 1989, 1991, 1993, and 1995.

Previous studies, as well as our work with the tribes in this study, have confirmed that a large proportion of casino workers was previously unemployed. For example, a University of Wisconsin study found that 55% of gaming employees in the Ho-Chunk Nation's (then Wisconsin Winnebago) casinos had been previously unemployed.⁴⁹ In addition, Figure 3 below shows the relationship over time between the number of unemployed tribal members and the number of Native Americans employed in the gaming industry for the Sault Ste. Marie Chippewa. As

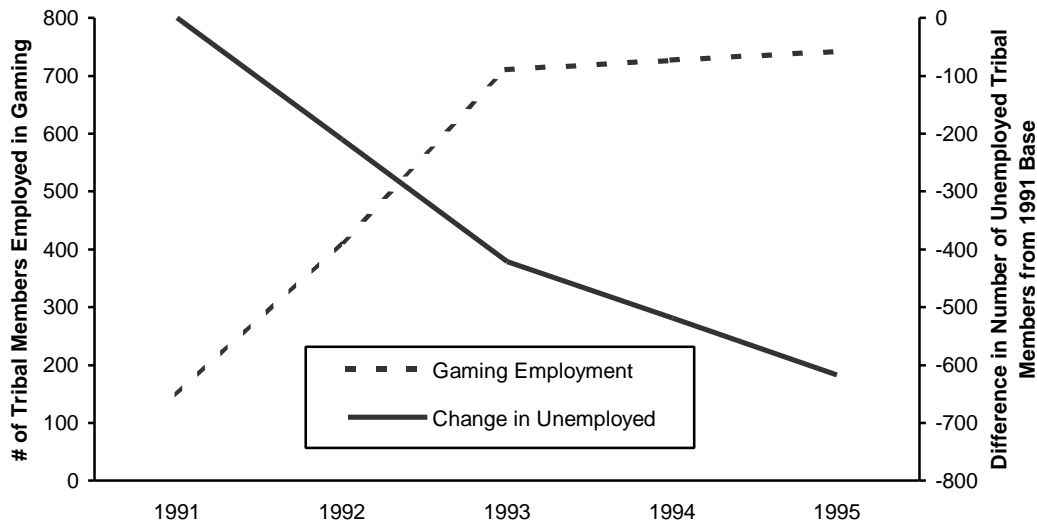
⁴⁷ There were a total of 86 tribes compacted as of 1996 and for whom unemployment data were available from the BIA for the years 1989 and 1995.

⁴⁸ Bureau of Indian Affairs, *Indian Service Population and Labor Force Estimates*, 1989 and 1995. Note that the labor force estimates are gathered by the BIA but compiled by the tribes. Thus, there may be methodological differences in data collection from tribe to tribe.

⁴⁹ Murray, Jim, *Economic Impacts of Wisconsin Winnebago Gaming Enterprises*, University of Wisconsin-Extension, October 1993, at 3.

can be seen in Figure 3, the increase in the number of employed tribal members mirrors the reduction in the number of unemployed tribal members almost exactly for the period 1991-1995, with gaming employment rising by roughly 600 people and tribal unemployment falling by about the same amount.

Figure 3
Native Americans Employed in the Gaming Industry v. Number of Unemployed Tribal Members
 Sault Ste. Marie Tribe of Chippewa Indians



Source: Information provided by tribe; Bureau of Indian Affairs, *Indian Service Populations and Labor Force Estimates*, 1991, 1993, and 1995.

It appears that whatever arguments can be made for job creation through casinos in general can be made with even greater force with respect to Indian casinos, since average tribal unemployment prior to the introduction of Indian gaming was more than four times the national unemployment rate (see Table 7). In fact, the economic development case for Indian casinos may be stronger than the case that can be made for casinos in general for a number of reasons. Again, the socioeconomic baseline in Indian Country suggests that small increases in economic activity have a big impact. Thus, while much has been made of the economic stimulus provided to depressed areas of Mississippi by the advent of casinos, Indian casinos can be found in places that were even more economically depressed than Tunica, Mississippi. For example, four of the ten poorest counties in the United States as of the 1990 Census now have Indian casinos, and eight of the ten poorest counties either contain an Indian casino or abut a county that contains an Indian

casino.⁵⁰ We quantitatively analyze the possibility that tribal casinos cause revenue reductions for local businesses in the following section; however, the evidence presented above on the very low levels of pre-gaming economic development provides *prima facie* evidence that such economic substitution fears are generally unfounded with respect to tribal non-gaming businesses.

***Misperception #3:
“Indian gaming jobs are not good jobs.”***

While the foregoing evidence suggests that tribal gaming employment does not fit Earl Grinols’ picture of employment gains without reductions in unemployment, critics of gaming have voiced the concern that gaming jobs are low pay jobs that should somehow be discounted in importance. The findings in Table 11 suggest that employees of tribal casinos may in some cases earn less than employees in surrounding counties and other parts of the state, but there is an important caveat to this finding. Recall that pre-gaming unemployment was four times the national average. In labor markets where the supply of jobless potential employees is very high, one would not expect to find wage levels comparable to those prevailing in tighter job markets. Thus, it is not possible to conclude from the wage variations observed in Table 11 that casino jobs are somehow not good jobs.

⁵⁰ Casino Windows: The World Gaming Directories Database NIGC Operations List; CensusCD+Maps Ver. 2.0, U.S. Bureau of the Census, Washington, D.C.

Table 11
Average Casino Salaries v. Surrounding Area Average Wage and Salary Income
 Selected Indian Casinos

Tribe	Average Wage and Salary Income for Gaming Counties (1)	State Average Wage and Salary Income for Non-Metro Areas (1)	Average Tribal Gaming Payroll (2)
	1996	1996	1997
Ho-Chunk	\$23,735	\$21,483	\$18,459
Mohegan	\$31,242	\$27,846	\$25,026
Oneida	\$26,380	\$21,483	\$27,761
Sault Ste. Marie Chippewa	\$19,924	\$22,249	\$15,292
Standing Rock Sioux	\$17,868	\$19,044	\$17,107

Notes:

- (1) Data show the estimated average wage and salary for counties with tribal gaming facilities, and for all non-metropolitan areas in the state. The wage and salary estimates, which comprise approximately 56 percent of personal income, are presented by place of work. The employment estimates used to compute the average wage are a job, not person, count. People holding more than one job are counted in the employment estimates for each job they hold. For tribes with gaming facilities in more than one county, the wage-employment-weighted average for all counties was used. For the Standing Rock Tribe, the state average income figure represents the wage-employment-weighted average income for all non-metropolitan areas in North and South Dakota.
- (2) Tribal gaming payroll numbers represent the average wages and salaries earned by gaming employees. They do not include benefits such as bonuses, employee meals, and other fringe benefits. Inclusive of such benefits, the average gaming payroll income for Mohegan Sun and Oneida Casino employees, for example, would have been \$35,595 and \$36,916 respectively.

Source: Wage and salary income data were taken from the Bureau of Economic Analysis, U.S. Department of Commerce, *Regional Accounts Data: County Wage and Salary Summary*; gaming payroll data were provided by the study tribes.

While Table 11 appears to indicate that gaming jobs are lower-paying than off-reservation jobs, the effect of increasing the number of gaming jobs is to diminish the gap between on-reservation and local off-reservations incomes. This is because tribal gaming jobs are higher-paying jobs than other jobs on the reservation. See Table 12.

Table 12
Gaming and Non-Gaming Salary Distributions for the Sault Ste. Marie Tribe of Chippewa Indians
 1997

Percent of Employees with Annual Salaries Above...			Salary Distribution	
			Gaming	Non-Gaming
\$ 15,000	=		44%	18%
\$ 20,000	=		17%	5%
\$ 25,000	=		6%	2%
\$ 30,000	=		3%	1%
\$ 35,000	=		2%	<1%
\$ 40,000	=		2%	<1%
\$ 45,000	=		1%	<1%
\$ 50,000	=		1%	<1%

Source: Information provided by tribe.

Misperception #4:
“Indian gaming is merely a transfer payment to tribes.”

Among those that recognize the significant improvements in tribal economic development following the introduction of gaming, it has been argued that giving tribes casinos is merely a disguised form of transfer payment and that forbidding tribal gaming while maintaining transfer payments would accomplish the same end result. This mindset, however, ignores the fact that casino gaming represents far more than simply revenue to tribes. While the previous paragraphs have shown that tribal gaming is an important source of jobs for tribal members, casinos also represent an opportunity for tribes to gain managerial experience that is desperately needed on reservations across the country. The value provided by casino gaming experience can be seen in the numerous examples of tribes that have used this experience to diversify into non-gaming enterprises. Table 13 below describes the non-gaming business enterprises operated by a selection of tribes with gaming enterprises. Note that the majority of the non-gaming businesses listed below were established after the introduction of Class III gaming.

Table 13
Selected Tribes That Have Diversified Their Economies

Ho-Chunk Nation	
Construction Company *	Gift Shops *
Gas & Convenience Stores	Motels *
Smoke Shops	Restaurant *
RV Park & Campground *	
Mohegan Tribe	
Native American Arts & Crafts Store *	General Contracting Enterprise *
Wholesale Electricity and Gas Marketing *	Aqua-culture Business (Initial Phase) *
Muckleshoot Tribe	
Smoke Shop	Outdoor Amphitheater (to be completed)*
Retail Shopping Center*	
Oneida Nation Tribe of Wisconsin	
Tobacco Outlets *	Printing Enterprise *
Nursing Home *	Golf Course *
Gas and Convenience Stores *	Shopping Center *
Airport Hotel (adjacent to Gaming Facility)	Agricultural Enterprises *
Industrial Park *	Promotions Company *
Convenience Stores *	Specialty Store (Humidor, Gifts & Snacks) *
Electronics Manufacturing Facility *	Internet Service Enterprise *
Cellular Communications Company *	Full Service Bank
Commercial Real Estate Development *	Construction *
Sault Ste. Marie Chippewa Tribe	
Air Charter Service*	Interior Furnishings Supplier*
Automotive Components Manufacturing*	Professional Hockey Team (Junior A)*
Cleaning Service Company*	Neon Sign Manufacturing*
Construction Company*	Property Management/Real Estate*
Convenience Stores	RV Park/Campground*
Hotels*	
Standing Rock Sioux Tribe	
Convenience Store*	Marina/Lakeside Recreation Area*
Hotel (adjacent to Casino)*	RV Park*
White Mountain Apache Tribe	
Sawmill	Light Manufacturing
Ski Resort and Hotel	Hotel (with associated casino)*
Retail Shopping	Museum*
Sport Hunting and Fishing	Conference Center*

* Developed after adoption of Class III gaming

Source: Information provided by tribes

Many gaming tribes have made use of gaming revenues to provide start-up capital and other types of financial assistance to non-gaming enterprises operated by the tribe or by tribal members (recall the point noted earlier about the

reluctance of non-Indian financial institutions to extend non-collateralizable loans). For example, the Ho-Chunk Nation allocates 25.55% of its gaming revenues to tribal economic development,⁵¹ out of which a portion is used to provide loans to tribal entrepreneurs who wish to start or expand their own businesses. Many tribes have also capitalized on the increased number of reservation visitors resulting from on-reservation casinos by establishing businesses near their casinos that cater to the non-gaming needs of casino visitors. For example, in the years following the opening of their relatively remote North Dakota casino, the Standing Rock Sioux Tribe has established several related businesses, including a hotel, RV park, recreation area, and yacht marina that would not have been feasible had the casino not provided an initial influx of visitors. Note, however, as we discuss below, that in spite of the increased investment in non-casino tribal facilities designed to cater to casino patrons, local off-reservation businesses have nonetheless generally experienced sales increases following the opening of tribal casinos.

In addition to the benefits brought by an increasingly diversified economy, some tribes have used the managerial expertise gained in managing tribal gaming enterprises to become significant players in the gaming industry outside of their local reservation area. For example, the Sault Ste. Marie Chippewa have recently completed a successful bid to build and operate one of three casinos recently authorized by Michigan voters to be built in downtown Detroit. After a year-long competitive bidding process, the tribe was selected in late 1997 to build a \$519 million casino-hotel complex.⁵² Two large Las Vegas casino management companies, MGM Grand and Circus Circus, were selected to build the other two casinos. In winning their casino contract, the tribe beat out a number of large, well-known casino management groups such as Mirage Resorts and Trump Hotel and Resorts.⁵³ Similarly, the Mohegan Tribe was negotiating to buy-out their management company, Trading Cove Associates, only a year after the construction of their casino. The tribe plans to acquire a hundred percent control of the Mohegan Sun facility by the year 2001. This will coincide with the opening of a major expansion.⁵⁴

Not only have casino jobs provided business experience that has permitted tribes to diversify and expand their economies, but the pride and satisfaction associated with earning a living, combined with increased tribal revenue, have prompted many tribes to invest in recovering parts of their cultural heritage lost to attrition. For example, the Mohegan Tribe's compact with the State of Connecticut includes as one of its provisions the return to the tribe of Fort Shantok, a burial

⁵¹ Ho-Chunk Amended and Restated Per Capita Distribution Ordinance, Section 4.01.

⁵² 1996 Annual Report of the Sault Ste Marie Tribe of Chippewa Indians, at 9.

⁵³ The Detroit News, "Detroit Casinos: the Bidders," 11/2/97.

⁵⁴ Bunnell, Charles F., Deputy Chief of Staff, The Mohegan Tribe, personal communication, 7/24/98.

ground removed from the tribe in the early 1900s. In addition, the Mohegans have begun an effort aimed at restoring the Mohegan language by 2000. The Oneida Nation has also made cultural preservation a top priority in deciding how to allocate gaming revenues. Cultural preservation has taken a variety of forms for the Oneida, ranging from purchases of land, to the construction of on-reservation schools with strong cultural themes, to designing a school curriculum that makes the Oneida language a required subject in tribal schools through grade eight.⁵⁵

B. Measuring the Off-Reservation Impact of Indian Gaming

The evidence presented in the previous section documents the powerful economic impact that casinos have had on Indian reservation economies. The effect of these tribal casinos, however, is not limited to the boundaries of the reservations on which they are located. In order to provide a complete picture of the economic impact of tribal gaming, it is necessary to analyze the off-reservation impacts of Indian gaming as well. While we do not take seriously the extreme and unsubstantiated claims advanced by John Warren Kindt at the Chicago meetings of the National Gambling Impact Study Commission (such as “Legalized U.S. Gambling Destabilizes the World Economy”),⁵⁶ we agree wholeheartedly that impact analyses should involve an investigation of casino impacts on the properly defined local or regional economy.

Misperception #5: “Indian casinos reduce the amount of business flowing to off-reservation businesses.”

The ultimate question in assessing economic impacts is “How much of the casino revenues represent new expenditures in the area, and how much is merely transferred from other local sectors?” Casino revenues that represent incremental dollars flowing into the region are typically classified as exports. The export category includes gaming dollars that local residents formerly spent at other non-local gaming venues, also known as recapture, since these dollars represent new money from the perspective of the local economy. Another source of incremental expenditures is increases in leisure expenditures induced by the casino. Americans have been devoting a greater fraction of their disposal income to leisure in recent years, and this phenomenon is often mentioned as a source of casino revenues.⁵⁷

⁵⁵ Golnick, William, Assistant Legislative Legal Support, Oneida Nation of Indians of Wisconsin, personal communication, 6/25/98.

⁵⁶ Kindt, John Warren, “U.S. and International Concerns Over the Socio-Economic Costs of Legalized Gambling: Greater than the Drug Problem?” Statement to the National Gambling Impact Study Commission, 5/21/98, at 20.

⁵⁷ Costa, Dora, “Less of a Luxury: The Rise of Recreation Since 1988,” NBER Working Paper 6054 (Cambridge, MA: National Bureau of Economic Research, 1997).

It is possible, however, that casino revenues come at the expense of other local businesses. For this reason, merely counting up dollars of casino revenue is not sufficient to fully understand the economic impact of the casino. For example, casino revenues may come at the expense of local non-gaming establishments, such as eating and drinking establishments. This effect is referred to as substitution.

Of course, it is not possible to answer whether casino dollars represent new money to an area without first defining the relevant area. Is the area of concern a Native American reservation, a city, a state, or a country? The choice of a geographic area over which to assess a casino's economic impact is critical. If the geographic area is chosen too narrowly (e.g., by looking only at the effects on the casino site itself), important substitution and cannibalization effects may be overlooked, and the casino's positive economic impact may be overstated by improperly characterizing casino revenues as exportation. On the other hand, choosing an area that is too small may underestimate the multiplier effects attributable to casino spending, namely the total economic activity generated as a result of casino dollars being spent and re-spent in the relevant area. It is therefore important to measure the net impact of a casino on the appropriately defined local or regional economy.

In practice, the definition of the relevant geographic impact area is rarely a matter of defining a large enough area to capture substitution and cannibalization while still limiting the area so as not to overestimate multiplier effects. Rather, the choice of a relevant market is typically driven by the economic self-interest of the parties performing the study. While we have demonstrated in the preceding sections the dramatic improvements in economic conditions on reservations, in this section we turn to an analysis of Indian gaming's impact on off-reservation businesses.

In deciding whether the net impact of a casino on a state is positive or negative, there are three qualitatively distinct types of economic effects that must be considered. Let us call these casino effects, non-casino effects, and multiplier effects.

Description of Casino Effects

Casino effects are typically calculated by simply counting up the dollars coming out of the casino that are spent within the state. These dollars may be in the form of employee wages and salaries, expenditures on infrastructure, other vendor outlays, state taxes, and the like. This procedure of calculating direct casino effects always yields a positive number because there are no offsets to the dollars coming out of the casino. One can think of this exercise as comparing the dollars coming out of the casino to the dollars that would have come out of the vacant lot on which the casino was built. Theoretically, it is necessary to subtract out any revenues that would have been earned on the casino site if the casino had not been

built, but as a practical matter these have been negligible for sites on which tribal casinos have been built. In fact, the direct effects of Indian casinos may be understated by simply counting up dollars coming out of the casino, since prior to casino introduction there were net inflows of dollars from government assistance programs. While the pre-gaming dollar outflows from some reservations are likely to have been negative, the issue of reductions in social assistance following gaming is presented later in the report.

Table 14 shows the magnitude of casino spending on products from outside vendors for several tribes from which we have been able to obtain detailed data. The amount of spending off the reservation for many tribes is quite high because the reservations themselves typically have yet to establish diversified economies, although, as we describe below, gaming dollars are being reinvested to accomplish this objective on many reservations.

Table 14
1997 Vendor Outlays from Gaming-Related Enterprises

Tribe	Total Outlays	Percent of Outlays Spent In-State
Ho-Chunk	\$31,605,935	>70% (1)
Mohegan	\$169,781,819	66%
Oneida	\$28,037,000	88%
Sault Ste. Marie Chippewa	\$8,888,099 (2)	N/A
Standing Rock Sioux	\$7,066,659 – ND \$1,834,814 – SD	74% – ND 40% – SD

Notes:

(1) Estimate.

(2) Does not include construction outlays.

Source: Information provided by tribes.

Description of Non-Casino Effects

The second class of effects that must be considered are non-casino effects. Non-casino effects capture the impact of the casino on the geographic area of interest (in our case, the state economy) by counting up the dollars spent at in-state businesses before and after the casino was built. The goal here is to assess whether the increased spending by casino visitors at in-state businesses outweighs possible substitution away from non-gaming businesses (particularly those that are considered substitutes for all or part of the casino experience, like restaurants and

other forms of entertainment) and possible cannibalization of non-Indian gaming revenues in the casino area.

In public debates over the effect of casinos on surrounding businesses, most of the concern is focused on the retail, leisure, and entertainment sectors in areas contiguous to the casino. For example, a 1993 study on Indian gaming in Minnesota claimed that nearly 38% of Minnesota Restaurants, Hotels and Resorts Association members had lost business since the opening of nearby Indian gaming facilities.⁵⁸ Therefore, we have gathered county-level data on retail sales before and after the introduction of the Indian casinos operated by the five case study tribes (Mashantucket Pequot's Foxwoods casino is analyzed instead of Mohegan's facility since the two are located in the same county and before and after data are available only for Foxwoods). By analyzing these trends, it is possible to determine whether complaints of diminished business as a result of the introduction of Indian casinos have merit.

⁵⁸ Meyer, H. "Indian Gaming: Is it out of Control in Minnesota?" *Hospitality Management* 13(1), at 34-38.

Table 15
Changes in Retail Sales in Selected Tribal Gaming Counties

Tribe	Gaming County	Compact Approval	% Change in Retail Sales Between Year Before Compact Approval and 1996	
			Gaming County	State (1)
Ho-Chunk	Jackson, WI	Jul 1992	+ 39%	+ 47%
	Sauk, WI	Jul 1992	+ 83%	+ 47%
	Wood, WI	Jul 1992	+ 24%	+ 47%
Mashantucket Pequot	New London, CT	Apr 1991	+ 31%	+ 23%
Oneida	Brown, WI	Jan 1992	+ 38%	+ 47%
Sault Ste. Marie Chippewa	Chippewa, MI	Nov 1993	+ 53%	+ 29%
	Mackinac, MI	Nov 1993	+ 47%	+ 29%
Standing Rock Sioux	Sioux, ND	Dec 1992	+ 63%	+ 42%
	Corson, SD	Dec 1992	+ 118%	+ 57%

Notes:

(1) State-wide retail sales include data from metropolitan areas. Therefore many of the rural counties shown on this table may not necessarily be directly comparable to the statewide average.

Source: Retail sales data are based on data published by Sales and Marketing Management Magazine Survey of Buying Power; information on compact dates is from the Bureau of Indian Affairs.

As Table 15 demonstrates, changes in retail sales in the counties containing Indian casinos do not appear to differ uniformly when compared to the state economy as a whole. Of the nine cases analyzed, six casino counties experienced faster growth in retail sales than the state as a whole, while three casino counties exhibited lower growth. While it is possible that these aggregate increases in off-reservation sales mask a number of bankruptcies or sales declines for particular outlets, it would be hard to attribute such declines to Indian gaming. In other words, if off-reservation businesses as a whole benefited, then the failure of some non-Indian businesses would predominantly reflect their inability to compete with other non-Indian businesses, rather than an inability to compete with the newly introduced casino facility.

It is true that the before and after analysis of retail sales data presented above is insufficient to establish conclusively a positive causal link between casino introduction and off-reservation retail sales; however, the evidence does suggest that closer scrutiny of studies that find negative off-reservation impacts of Indian

gaming is warranted. For example, one recent study by researchers at Arizona State University West concluded that Indian gaming in Maricopa County (the county in which Phoenix is located) crowded out off-reservation retail sales.⁵⁹ The authors concluded that this dramatic crowding out effect occurred immediately after compacts were signed with three tribes in the Phoenix area. What the authors failed to account for, however, is the fact that their documented “crowding out” occurred before at least two of three of the tribes’ Class III casinos were even built.⁶⁰ It is difficult to imagine how casino compacting alone caused reductions in off-reservation spending and tax revenues before those casinos were even built or before the compacts resulted and expanded gaming opportunities for local residents.

Description of Multiplier Effects

The final piece of the economic impact puzzle involves measuring the multiplier effects generated by the casino. Multiplier effects measure the full impact on the local economy of the dollars counted as casino and non-casino effects. Multiplier effects are counted by assessing how much of each dollar spent at the casino or another local business is re-spent in the local economy. For example, the economic impact of a casino on a state is much greater if the casino pays wages to employees who buy houses and cars in that state, than if wages are paid to employees who live across the state line and buy their cars from out-of-state car dealers. Similarly, if the casino hires a construction company to build its facilities, the economic impact is greater if that contractor purchases its materials within the state than if it imports materials from another state. Multiplier effects therefore take the dollars counted as casino and non-casino effects and measure how much in-state economic activity is generated by these expenditures.

While we have not performed a detailed multiplier analysis on the revenues spent by Indian casinos in their local areas, there are numerous extant studies of multiplier effects attributable to non-Indian casinos, and we believe these measures provide a *lower* bound on the likely multipliers applicable to Indian casino expenditures for two reasons. The local off-reservation economy, in which multipliers are calculated, excludes, by definition, tribal lands and remote out-of-state locations. The proportion of expenditures in these two regions (on-reservation and out-of-state) are likely to be lower for Indian casinos than for non-Indian casinos. As noted above, reservation economies have been extremely underdeveloped. Consequently, purchases from on-reservation vendors will

⁵⁹ Anders, Gary C., Donald Siegel, and Munther Yacoub, “Does Indian Casino Gambling Reduce State Revenues? Evidence from Arizona,” *Contemporary Economic Policy*, July 1998, at 347-355.

⁶⁰ Full information regarding the inception date of the third casino was not available at the time of publication.

generally be quite small. As for expenditures out-of-state, Ricardo Gazel noted in a recent article that Native American casinos, "... are likely to reinvest their high profits in the local economy, resulting in a high ratio of positive impact to gross revenues,"⁶¹ relative to casinos that are owned by non-local companies. Gazel's point was that because tribal casinos are owned by the tribes themselves, profits will be spent locally instead of being exported to some remote jurisdiction.

That the majority of tribal gaming profits accrue to the tribes can be seen in Figure 4, which depicts the allocation of gaming revenues to management fees and to the tribes themselves. Contrary to the perceptions of some, this evidence indicates that the congressional intent not to have excessive Indian gaming profits flow to management companies has translated into minimal actual flows nationally. Only 28 of the 273 Indian gaming operations have contracts.⁶² In addition, a number of tribes report substantial competition among management companies seeking to work with them.⁶³ The presence of competition to supply management services puts downward pressure on fees (already capped by IGRA), and competitive fees assure that the profits associated with casinos accrue to the tribes with all the attendant regional economic (and tribal social) benefits. Moreover, some tribes, particularly tribes whose gaming is more successful than anticipated, have contemplated buying out their management contracts prior to expiration.⁶⁴ Finally, the limited time horizons of the management contracts imply that once tribal casino employees gain sufficient management experience, tribes that want to will be able to take over casino management themselves.

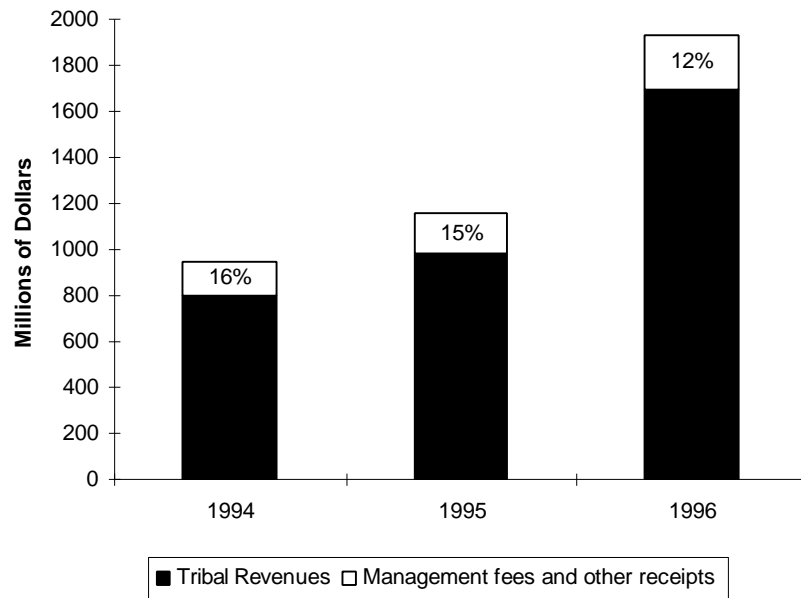
⁶¹ Ricardo Gazel, "The Economic Impacts of Casino Gambling at the State and Local Levels," *The Annals of the American Academy of Political and Social Sciences*, March 1998, at 78.

⁶² National Indian Gaming Commission List of Approved Management Contracts, 2/17/98; National Indian Gaming Commission Operations List by State, 3/20/98; National Indian Gaming Commission Tribal-State Compact List, 3/24/98.

⁶³ See, e.g., O'Hara, Charles P., "The Impact of Indian Gaming on a Tribal Economy and Economic Development Strategy: the White Mountain Apache Experience," *Economic Development Review*, Fall 1995, at 12.

⁶⁴ The Mohegan Tribe, for example, is contemplating buying out its management contract in 2000, well ahead of the seven-year expiration. Bunnell, *op. cit.*

Figure 4
National Indian Casino Gross Revenues Allocated to Management Companies



Source: Estimates by Christiansen/Cummings Associates, Inc., *International Gaming and Wagering Business*, 8/1/95, 8/96, and 8/97.

While Gazel acknowledged the propensity of tribal revenues to generate large multiplier effects, he asserted in the same paragraph that most Native American casinos “operate under a monopoly market structure.” This assertion, however, is another common misperception about Indian gaming. Our analysis of national data suggests that 77% of all Class III gaming tribes face competition from at least one non-Indian, non-lottery gaming operation within 100 miles of their casinos (see Table 16).

Table 16
Estimated Competition from Alternate Gambling Outlets

(Does not include Indian casino competition with Indian casinos.)

	Percentage of Indian Casinos Less than 100 Miles from:
Non-Indian Casino	14%
Pari-Mutuel Wagering	56%
Riverboat	7%
Slots (Non-restricted)	6%
Cardroom	18%
Some Form of Gaming	77%

Note: Count does not include California Indian Casinos.

Source: National Indian Gaming Commission Operations List by State, 10/97. Casino Windows: The World Gaming Directories Database.

While the evidence on off-reservation effects suggests that, at the very least, Indian gaming does not affect off-reservation businesses, and may stimulate

sales in areas around the casinos, we now turn to a more extensive analysis of tribal gaming-related contributions to local off-reservation economies.

Misperception #6:

“Indian gaming is not taxed and does not contribute to local economies.”

While the foregoing section was designed to address the argument that tribal casinos harm off-reservation businesses, the data presented above provide part of the answer to the sixth assertion: namely, that Indian casinos don’t contribute to the local economy. Aside from spending money in the local economy, tribal casinos do contribute significantly to the local, state, and federal tax bases—contrary to popular belief. Table 17 shows the aggregate payroll tax deductions and withholdings from tribal casino operations.

Table 17
1997 Aggregate Gaming-Related Payroll Tax Deductions / Withholdings

Tribe	Federal	State	Social Security	Medicare	Unemployment Tax	Total Withholdings
Ho-Chunk (1)	\$7,012,038	\$3,120,432	\$3,855,338 (2)	\$903,970	\$938,775	\$15,830,552
Mohegan (3)	\$15,234,406	\$2,867,699	\$17,209,992	\$1,817,381	\$4,819,140	\$41,948,618
Oneida (1)	\$10,303,751	\$2,958,286	\$10,788,016 (4)	\$2,433,724	\$1,071,128	\$27,554,905
Sault Saint Marie Chippewa	\$3,049,775	\$1,189,712	\$4,740,880 (5)		\$123,955	\$9,104,362
Standing Rock Sioux	\$669,710 – ND \$120,077 – SD	\$60,754 – ND	\$1,127,274 – ND (5) \$203,295 – SD	\$47,545 – SD	\$56,377 – ND \$7,809 – SD	\$1,914,115 – ND \$378,726 – SD

Notes:

- (1) Data includes payroll withholdings for all tribal employees.
- (2) Does not include employer’s contribution.
- (3) The tribe has a policy of not employing any individuals who are not up-to-date regarding their individual state and federal tax obligations.
- (4) Data includes pension contributions.
- (5) Includes Medicare.

Source: Data provided by tribes.

In addition to these direct tax payments, many tribes also contribute a share of gaming revenues to local, state, and county governments, as shown in Table 18 below. This evidence suggests that while Indian casinos have been perceived as untaxed by state governments,⁶⁵ such assertions are incorrect.

⁶⁵ Wacker, Fred, and William Thompson, “The November Surprise: Michigan Voters Approve Casinos,” Paper Presented to the Tenth International Conference on Gambling and Risk Taking, 6/2/97, at 4.

Also, tribal casinos employ a large number of non-Indians (see Table 9 above for our case study tribes). Many tribal gaming operations are now among the largest employers in their market areas. For example, the Sault Ste. Marie Tribe of Chippewa Indians is now the largest single employer in Michigan's Upper Peninsula⁶⁶; the Oneida Nation, the largest in Wisconsin's Brown and Outagamie counties⁶⁷; the Ho-Chunk Nation, in Wisconsin's Sauk County⁶⁸; while the Standing Rock Sioux's Prairie Knights Casino is the largest employer in Sioux County, North Dakota.⁶⁹ The Mohegan Tribe and the Mashantucket Pequot Tribe, both based in New London, CT, employ about 20,000 people between them. The two tribes have been major contributors to the alleviation of the severe unemployment situation in eastern Connecticut following the end of the Cold War.⁷⁰ In fact, the importance of many gaming tribes as a source of employment for non-Indians actually complicates a number of the comparisons we make in Section V between tribes and their surrounding areas in terms of improvements along a number of measures of social health. Since tribes have had a significant economic impact on off-reservation employment, these comparisons may significantly underestimate the relative improvement in social conditions on reservations.

Finally, while casino expenditures in the local economy, tax payments, revenue sharing, and employment of non-Indians constitute four of the largest sources of revenue contribution from tribes to non-Indian government agencies, tribal contributions take a multitude of forms. For example, the significant reductions in the need for non-tribal government services also constitute a net positive impact outside the boundaries of the reservation. Net government assistance to a tribe is equal to services provided minus taxes and other contributions made by the tribe to the local and state economy. Thus, there are three ways to reduce the net amount of service provided by the government to a tribe: i) collect more taxes; ii) increase the off-reservation impact of tribal economic initiatives; or iii) reduce the tribe's reliance on governmentally-provided services. Gaming tribes have successfully reduced their economic reliance on non-tribal governments in all these avenues: contributing more to their local economies (i and ii) and requiring fewer services (iii). While the increase in off-reservation jobs and spending was addressed above, post-gaming reduction in social assistance programs by tribal members is documented in Section V.

⁶⁶ 1996 Annual Report of the Sault Ste. Marie Tribe of Chippewa Indians, at 6.

⁶⁷ Testimony by Chairwoman Deborah Doxtator, Oneida Tribe of Indians of Wisconsin, House Committee on Resources, February 26, 1996, at 2.

⁶⁸ Brownell, Gary F., Attorney General, Ho-Chunk Nation, personal communication, 7/23/98.

⁶⁹ Ernst & Young, LLP, "Economic Impact Analysis of the Prairie Knights Casino and Lodge," 4/12/96, at V.

⁷⁰ Bunnell, *op. cit.*

Table 18
Gaming-Related Tribal Contributions to State and County/Local Governments
 1997

Amount of Contribution	Nature of Contribution(s)
Ho-Chunk Tribe	
\$95,277 to State of Wisconsin per compact	Under the 1992 state compact, the tribe agreed to pay \$25,000 a year as reimbursement to the state for regulation until negotiations with other tribes in the state were concluded. After the conclusion of the state's compact negotiations with other tribes, the tribe would pay its share of \$350,000, as determined by the tribe's gross annual Class III gaming handle as a percentage of the gross annual Class III gaming handle for all tribes in the state.
\$52,853 to State of Wisconsin for other voluntary contributions	Charitable contributions to various state agencies.
\$316,022 to Local Government (1)	Negotiated fees for ambulance and fire services, various voluntary contributions to local governments and charitable organizations.
Mohegan Tribe	
\$80,738,260 to State of Connecticut per Compact	Compact - Payment to State of the lesser of 30% of gross slot revenues or (the greater of) 25% of gross slot revenues or \$80,000,000.
\$4,307,503 to State of Connecticut per other agreements	Others - Liquor control; state police; problem gambler program; Division of Special Revenues; various voluntary contributions.
\$ 530,166 to Local Government	Under an agreement with Town of Montville, \$500,000 paid annually to compensate for removal of land from town's tax rolls into trust; various voluntary contributions to local organizations; tribe also pledged a one-time payment of \$3 million to improve town's water system.
Oneida Tribe	
\$95,277 to State of Wisconsin	Under its 1991 compact with the State of Wisconsin, the tribe agreed to pay \$25,000 a year as reimbursement to the state for regulation until negotiations with other tribes in the state were concluded. After the conclusion of the state's compact negotiations with other tribes, the tribe would pay its share of \$350,000, as determined by the tribe's gross annual Class III gaming handle as a percentage of the gross annual Class III gaming handle for all tribes in the state. According to the May 8, 1998, Amendment to the compact, however, the tribe's annual payments to the state will be \$5.4 million a year beginning November, 1998, over a period of five years. This payment would be reduced by \$550,000 if service agreements exist between the tribe and neighboring municipalities. The Amendment also proposes a revenue sharing system among tribes with gaming facilities in the state, whereby monies would be directed from tribes with the greatest gaming revenues to those having the least gaming revenues.
\$843,434 to Local Government	Fee-for-service payment to Village of Ashwaubenon for fire services; voluntary contributions to various organizations and local governments
Sault Ste. Marie Tribe of Chippewa Indians	
\$7,577,735 to State of Michigan	Direct Payment to state of 8% of slot revenues (per compact).
\$1,906,398 to Local Government	2% of slot revenues are paid to selected local organizations chosen by tribe (per the compact). These organizations include local municipalities and social services programs.
Standing Rock Sioux Tribe	
\$37,900 to states of North and South Dakota	Fees to ND and SD for casino inspections and background checks (per the compact).

Note:

(1) Includes 1998 Budgeted amount for charitable contributions.

Source: Information provided by tribes.

V. THE SOCIAL IMPACTS OF INDIAN GAMING

A. Overview

A priori, one would expect that the introduction of gaming to Indian reservations would yield substantial gains in social health—gains even greater than those hoped for in, for example, Atlantic City and Tunica, Mississippi. Given the legacy of privation discussed in Section III, the introduction of casino-related jobs and fiscal resources would be expected to substantially alter living conditions on reservations. Indeed, one of the stated purposes of IGRA is to promote tribal welfare,⁷¹ and tribal governments have taken that purpose seriously.

Our experience in Indian Country suggests that the actual social impact on tribes is uneven, though positive. Generally, the experience gaming tribes have had can be grouped into three broad categories:

1. **Major Social Impacts:** A number of tribes have created successful gaming enterprises whose revenues and jobs are bringing social benefits. These tribes have been able to, e.g., reduce welfare transfers, improve the quality of service programs, and increase health outcomes and educational attainment. These policy and economic changes are likely to be reflected in substantial reductions in such social pathologies as domestic violence, crime, and suicide rates.
2. **Modest Social Impacts:** A number of tribes have turned to successful (albeit modest) gaming operations for revenues that would keep tribal government programs at pre-gaming levels of scope and effectiveness. These tribes have at least managed to keep conditions from worsening, and at best they have made forward progress on a modest number of

⁷¹ See discussion at note 16 above.

social problems or for a modest fraction of their membership. Momentous forward gains on social pathologies, however, are not likely to be observed.

3. **Limited Social Impacts:** Finally, there are tribes whose gaming makes a very small contribution because remoteness or regional competition limit enterprise success, whereas tribal social problems are monumental or reservation populations are relatively large. For these tribes, gaming does not bring dramatic or even modest change in employment and fiscal health, and thus, the tribes' social health is dependent on the level of federal funding and what pre-existing enterprises there may have been that supported the tribal government. Thus, in this category, one would find gaming tribes whose socio-economic health might be holding steady or improving slightly. While the gains may be relatively small for these tribes as a whole, the social and economic impacts may be monumental for those whose lives are directly affected by employment and incremental government spending.

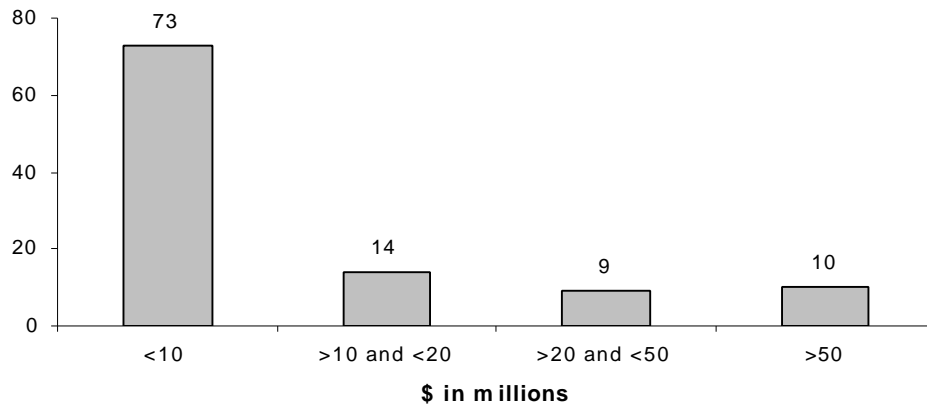
Because net income figures for Indian gaming operations are not in the public domain across the full spectrum of tribes,⁷² it is difficult to ascertain with certainty how many tribes are in each of the above categories.⁷³ Data from the GAO's analysis of Indian casino financial statements, however, indicate the vast majority of tribes are generating modest income from gaming. The median Class III facility brought in \$4.9 million in 1995 net income,⁷⁴ and the amount transferred to tribes was less than \$20 million for more than 80% of the tribes observed (see Figure 5).

⁷² Note that some tribes do publish annual reports in which gaming financial statements are released to their membership, and hence, the general public.

⁷³ Even with perfect information on gaming income, it would be no small task to categorize tribes on the basis of their expected social impacts because such interacting factors as relative enterprise development opportunity and past success; depth of social pathologies; ease of immigration/emigration; and so on, would confound the prognosis. Reliable statements regarding the heterogeneity of Indian gaming's social impact must come from direct measurement.

⁷⁴ United States General Accounting Office, *Tax Policy: A Profile of the Indian Gaming Industry*, May 1997, at 9.

Figure 5
Distribution of Funds Transferred from Indian Gaming Operations to Tribes
 Number of Tribes, 1995



Source: United States General Accounting Office, *Tax Policy: A Profile of the Indian Gaming Industry*, May 1997, at 14.

Given this large majority of tribes with modest net income, we expect to find a fair number of populous and remote tribes (e.g., the northern Plains tribes of Montana and the Dakotas) where gaming revenues offer only modest means of social recovery. For example, even though gaming allowed the Standing Rock Sioux Tribe to *double* on-reservation employment— by adding about 300 jobs— the overall effect on its reservation labor pool of 4,000 is modest.⁷⁵ A great proportion of working age members still need employment. In addition, the fact that the Standing Rock Sioux Tribe’s accessible gaming market population is 122nd out of the 140 tribes with compacts for which we have market data suggests that the fiscal impact on the tribe is likely to remain modest in the long term as well.⁷⁶ For the Standing Rock Sioux Tribe (and other tribes similarly situated), the incremental revenue is certainly helpful, especially given the difficulty it has had developing other enterprises and the limited availability of federal funding. However, the effect of gaming on social conditions will be limited until such tribes can lever gaming business experience into other forms of economic development.⁷⁷ Thus, it is

⁷⁵ Information provided by Tribe and Bureau of Indian Affairs, *Indian Service Population and Labor Force Estimates*, 1995. Even more modest is the Pine Ridge situation (see below)

⁷⁶ The rank ordering is based on total population within 100 miles as measured by the 1990 census. The 140 tribes do not include California Tribes. LandView II Ver. 1.0, U.S. Environmental Protection Agency and U.S. Bureau of the Census, Washington, D.C.; National Indian Gaming Commission Tribal-State Compact List, 3/24/98; National Indian Gaming Commission Operations List by State, 10/97.

⁷⁷ This may be a difficult task for tribes that are remote from metropolitan markets. Generally speaking, “persistent poverty” counties with declining per capita incomes tend to be low population density counties not adjacent to metropolitan counties. Persistent-poverty counties also tend to have high concentrations of Black, Hispanic, and Native Americans among the ranks of the poor. Nord, Marc, “Overcoming Persistent Poverty— And Sinking Into It: Income

reasonable to expect a substantial number of gaming tribes that find themselves making only modest inroads on their social problems— i.e., that a large number will find themselves in category two above.

A few archetypal examples of tribal experiences with gaming illustrate how these general categories capture what is happening in Indian Country.

1. **A Tribe Experiencing Major Social Impacts:** The Grand Traverse Band of Ottawa and Chippewa Indians in Sutton's Bay, Michigan, has used its gaming profits to support a number of tribal initiatives. The band has built its own comprehensive health department, meeting many of the health needs of its members, from infectious diseases, to optical services, to counseling and psychological services for families in distress. The last of these services has received a good deal of tribal attention in view of the inadequacies of federal funds for dealing with problems such as alcoholism, spousal abuse, and suicide, all of which are major problems on most reservations. Tribal leaders say that their investment in health care has dramatically improved the availability of health services to tribal members. Thanks to gaming revenues, for the first time they now have sufficient funds to address these problems effectively. Pointing to the expense of developing a comprehensive tribal health department, a tribal attorney (a tribal member) stated flatly, "We couldn't have done it without gaming dollars." Other gaming revenues have gone into housing, college scholarship funds for tribal members, and other programs.

The Grand Traverse Band also deposits a set percentage of gaming revenues directly into an investment fund on behalf of the long-term economic security of the tribe. Investments are diversified as the tribe attempts to build an economy that can survive changes in the fortunes of the gaming industry. Among other things, they have invested in a cellular telephone company and in non-gaming-related tourism. The tribe also bought up a blighted area in the nearby community of Traverse City, removed the worst of the blight, and is putting up an office building on the site. An editorial in the local newspaper thanked the tribe for undertaking the project.

A gaming commission, set up as an independent body by the Grand Traverse tribal council, oversees casino operations. Casino operators keep a record of individuals, Indian or non-Indian, who appear or are known to be compulsive gamblers. They exclude these persons from the casino and

Trends in Persistent-Poverty and Other High-Poverty Rural Counties, 1989-94," *Rural Development Perspectives*, Vol. 12, No. 3, June 1997, at 9.

promote programs for compulsive gambling problems. The tribe also has decided to exclude tribal members from gambling at tribally owned facilities.⁷⁸

For the Grand Traverse Band, gaming has allowed a remarkable degree of social investment. While much remains to be done, the Band has been able not only to take the lead in solving its own problems, but to contribute in concrete ways to solving problems beyond its borders.

2. **A Tribe Experiencing Modest Impacts:** The White Mountain Apache Tribe (WMAT) of eastern Arizona has witnessed modest socio-economic impacts from their gaming operation. While their casino employs upwards of 170 people, roughly 80% of whom are tribal members, a number of factors contribute to a modest gaming-induced impact. First, the casino is in a remote area. While the casino is on the road to the tribe's ski resort, one of the best in Arizona, the casino's market reach includes only a modest number of potential customers. Second, the casino employs a very small fraction of the reservation's population of roughly 16,000 and a labor force estimated at roughly 9,000.⁷⁹ Third, the tribe's other main employer, a large sawmill, faced declining throughputs for most of the 1980s due to BIA overestimates of appropriate harvest levels. Fourth, the tribe's enterprise employment in 1993 was around 500, making the introduction of gaming a modest increment to employment.

Despite its modest role in the tribal economy, the casino has afforded a measure of financial flexibility the tribe did not have before gaming. By collateralizing casino revenues, the tribe has been able to secure construction capital for a 25-bed alcohol/substance abuse treatment facility, a cultural learning center, a museum, a youth center, and an elderly day care center. The tribe has also contributed to the construction of a gymnasium at the main school on the reservation.⁸⁰ Thus, the casino affords a measure of investment in the social and physical infrastructure that was not possible prior to gaming.

3. **A Tribe Experiencing Limited Impacts:** The Oglala Sioux Tribe, with an estimated population of 38,000 and labor force of nearly 19,000,⁸¹

⁷⁸ Interviews with Grand Traverse Band tribal officials and senior managers, Sutton's Bay, Michigan, 1994, and by telephone, May and July 1998.

⁷⁹ U.S. Department of the Interior, Bureau of Indian Affairs, *Indian Service Population and Labor Force Estimates*, January 1995.

⁸⁰ O'Hara, Charles P., "The Impact of Indian Gaming on a Tribal Economy and Economic Development Strategy: the White Mountain Apache Experience," *Economic Development Review*, Fall 1995, at 12.

⁸¹ U.S. Department of the Interior, Bureau of Indian Affairs, *op. cit.*

operates the Prairie Winds Casino in Pine Ridge, South Dakota. This casino's accessible gaming market population is 121st out of the 140 tribes with compacts for which we have market population data.⁸² Moreover, the residents of the major population center near the reservation (i.e., Rapid City, SD) have numerous non-Indian gaming options in the more accessible town of Deadwood, SD. Given these facts, it is not surprising that Prairie Wind has just over 100 employees.⁸³ Notwithstanding the fact that the overwhelming majority of these employees are Native American, the limited market, the presence of substantial competition, and the large reservation population base imply a limited gaming-induced change in overall reservation social conditions.

It should be noted that the Pine Ridge Reservation includes the poorest county in America and contains very little economic activity outside of government employment. For the roughly 100 families directly affected by casino employment, the socio-economic benefits from gaming are enormous. Given the overall conditions of the Pine Ridge Reservation, it seems safe to assume that, without the casino, at least some number of these 100 families would be on public assistance and suffering the social and health hardships attendant to unemployment and poverty.

B. Social Impacts: The National View

A fully detailed national analysis of Indian gaming's consequences awaits the completion of the next census.⁸⁴ However there are a number of preliminary national indicators that hint at the level of impact. This section turns to those indicators.

The most convincing national evidence centers around the question of unemployment (also see discussion in Section IV). Evidence indicates that tribes sought to go into gaming at the very least to increase tribal employment and that they succeeded at achieving this goal. First, of the 75 most populous reservations in the lower forty-eight states, 17 of the poorest 20 have gaming compacts.⁸⁵ Second, in looking at the period 1989-1996, we find that the tribes that eventually compacted for Class III gaming by 1996 began the period with higher self-reported

⁸² LandView II Ver. 1.0, U.S. Environmental Protection Agency and U.S. Bureau of the Census, Washington, D.C.; National Indian Gaming Commission Tribal-State Compact List, 3/24/98; National Indian Gaming Commission Operations List by State, 10/97.

⁸³ Luger, J. Kurt, *Opportunities and Benefits of South Dakota Tribally Owned Casinos* (Bismark, ND: Great Plains Indian Gaming Association, March 1998), at 6.

⁸⁴ The current population survey does not report Native American data at a level of detail that would enable a comparison of gaming and non-gaming tribes.

⁸⁵ CensusCD+Maps Ver. 2.0, U.S. Bureau of the Census, Washington, D.C.; National Indian Gaming Commission Tribal-State Compact List, 3/24/98.

reservation area unemployment (averaging 41% in 1989) than tribes that did not compact by the end of the period (averaging 33%).⁸⁶ Moreover, by 1995, tribes that compacted reported an average of 28% unemployment whereas tribes that did not compact reported 32%.⁸⁷ In short, tribes were more likely to compact the more dire their unemployment, and compacting tribes tended to catch up, if not surpass, their non-compacting counterparts in the reduction of unemployment. Thus, for tribal governments gaming represents a very effective policy choice for addressing the backlog of social and economic problems they have inherited from one hundred year's worth of federal experimentation.

One would expect that these employment gains would translate into gains against the common social pathologies of reservations as well. There is a substantial body of literature suggesting that changes in unemployment translate into changes in social health indicators. Unemployment has an adverse effect on mortality, particularly from suicide and lung cancer. It is also associated with higher incidences of suicide attempts, depression, and anxiety. The onset of unemployment is associated with greater tobacco and alcohol use. In addition, a higher proportion of families with unemployed adults are reported as having greater risk of domestic violence and divorce.⁸⁸

Moreover, because Indian gaming is government-sponsored gaming, one would expect there to be focused social spending that would also alleviate poor social conditions. Just as states dedicate lottery revenues to public purposes— e.g., education (California) or natural resource preservation (Minnesota)— so too do tribes. As discussed above, tribes are required by IGRA to expend tribal gaming revenues only: i) to fund tribal government operations or programs; ii) to provide for the general welfare of the Indian tribe and its members; iii) to promote tribal economic development; iv) to donate to charitable organizations; or v) to help fund operations of local government agencies. And, if tribes choose to appropriate some casino net income for per capita payments (the way Alaska allocates oil royalty revenues to its citizens), they must receive Secretarial approval for Gaming

⁸⁶ I.e., tribes that eventually compacted reported 24% higher unemployment in 1989 than those that did not compact.

⁸⁷ I.e., tribes that compacted reported 12% lower unemployment than their non-compacting counterparts in 1995. The 1989 differences between compacting and non-compacting tribes are significant at the 99% confidence level. The 1995 differences are significant at the 91% level. The 214 tribes in the sample are in the lower forty-eight states not including California. Bureau of Indian Affairs, *Indian Service Population and Labor Force Estimates*, 1989 and 1995; National Indian Gaming Commission Tribal-State Compact List, 3/24/98.

⁸⁸ See, e.g., Wilson, S.H., and G.M. Walker, "Unemployment and Health: a Review," *Public Health* (1993), Vol. 137, at 153-162; Hibbard, Judith H. and Clyde R. Pope, "Employment Status, Employment Characteristics, and Women's Health," *Women & Health*, (1985) Vol. 10(1), at 59-79; and Graetz, Brian, "Health Consequences of Employment and Unemployment: Longitudinal Evidence for Young Men and Women," *Soc. Sci. Med.* 36, No. 6, 1993.

Revenue Allocation Plans that specifically apportion the casino net income to the aforementioned categories of expenditure. Even in the absence of the legal impetus to dedicate casino income to social enhancement, tribal governments could not sustainably ignore the dire social conditions on reservations. Federal Indian programs are, by and large, chronically under-funded (see below) and the low levels of educational, health, familial, income, and wealth status indicators for reservation Indians could not be easily ignored by reservation governments– the overwhelming majority of which are elected.⁸⁹

What little intercensal social data are available shows a mixed post-gaming picture. As noted, unemployment is in decline by 1995, especially for gaming tribes. Violent crime, however, is currently rising on reservations while declining elsewhere in the country.⁹⁰ The Ft. Peck and Navajo reservations, for example, have murder rates that make them on par with the most violent cities in the country.⁹¹ In 1996, Native Americans in non-metropolitan counties were three times as likely as similarly situated non-Hispanic Whites to be below the poverty line and had the highest poverty rate for any ethnic group in the country.⁹² In data gathered from 1991 through 1993, Native Americans are shown to be more prone to use and/or abuse alcohol, tobacco, and illegal drugs than almost every other ethnic group (see Table 19).

⁸⁹ A tiny handful of pueblo governments (e.g., the Cochiti Pueblo) are theocracies in which the positions of political authority are filled by appointment by religious leaders.

⁹⁰ “While nationwide violent crimes in 1996 dropped 16 percent below 1992 levels and murders were down 20 percent, this was not the case in Indian Country...in the past two years, according to reports submitted by tribes and BIA law enforcement agencies, there has been an overall 18 percent increase of Part One crimes from 1996 to 1997. Part One crimes include homicides, forcible rape, robbery, aggravated assault, burglary, larceny, motor vehicle theft and arson.” Statement of Kevin Gover, Assistant Secretary - Indian Affairs, Department of the Interior, Before The Committee on Indian Affairs, United States Senate, Hearing on the Department on the Interior and the Department of Justice Initiative on Indian Country Law Enforcement, June 3, 1998.

⁹¹ Executive Committee for Indian Country Law Enforcement Improvements, *Final Report to the Attorney General and the Secretary of the Interior*, October 1997, at 4-5. The Assiniboine and Sioux Tribes of the Fort Peck Reservation have a Class III compact and the Navajo Nation has twice rejected gaming in referenda.

⁹² Poverty rates are as follows (non-metropolitan %, metropolitan %): White, non-Hispanic (12.2, 7.4); Black (34.8, 28.1); Hispanic (30.6, 30.2); Native American (35.5, 28.1). U.S. Department of Agriculture, *Rural Conditions and Trends*, Vol. 8, No. 2, at 33.

Table 19
Drug Use Among Persons 12 Years and Older
 Native v. U.S. All Races, 1991-1993, in percent

Measure	Native American	National Sample
Cigarette Use (past year)	52.7	30.9
Alcohol Use (past year)	63.7	66.4
Any Illicit Drug Use (past year)	19.8	11.9
Marijuana(past year)	15.0	9.0
Cocaine(past year)	5.2	2.5
Need Drug Abuse Treatment	7.8	2.7
Alcohol Dependent	5.6	3.5
Heavy Cigarette Use (past month)	23.9	13.8

Note: Comparisons to other ethnic groups can be found at <http://www.samhsa.gov/oas/nhsda/ethn/TOC.htm>.

Source: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies, *Prevalence of Substance Use Among Racial and Ethnic Subgroups in the United States*, Table 4.1.

Finally, the annual Current Population Survey of 1996 shows that the status of rural Indians still lags behind the national average on a number of economic dimensions.⁹³

Table 20
U.S. Averages v. Native Americans in Non-Metropolitan Areas
 1996

Indicator	Non-Metropolitan Native Americans	U.S. Average
Per Capita Income	\$8,034	\$18,136
Unemployment Rate	8.0%	5.6%
Child Poverty Rate	46.7%	16.5%
Adults Receiving Public Assistance	6.9%	2.4%
High School Graduates	67.0%	82.1%

Notes:

Because the Current Population Survey is a sample rather than a census, we must approximate "reservation Indians" with "Non-Metropolitan Indians. Thus, the data here presented are not directly comparable to that reported in Table 7 of Section III.

(1) Data from sample of American Indian, Eskimo and Aleut population.

Sources: U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census, *March 1997 Current Population Survey*. Native American data were obtained from a special tab from the 1997 survey that was prepared by the Housing and Household Economic Statistics Division of the Census Bureau for The Economics Resource Group, Inc.

Unfortunately, little if any of this data allows an analysis of differential effects between gaming and non-gaming tribes because of the statistical problems associated with small samples.

⁹³ Unfortunately, because the survey is a sample, these data cannot be directly compared to those in Table 7 of Section III to assess how much Indians have moved with respect to the national averages over the intervening seven years.

In sum, the national view of tribal socio-economic change suggests that an employment-driven transformation of reservation life is beginning. However, the ultimate social effects of changing employment levels and rising tribal social spending remain difficult to observe. On the one hand, it is difficult to actually measure what is happening across all of Indian Country with any acceptable detail. On the other hand, a number of factors may limit the rapidity with which social investments translate into changes in actual living and social conditions.

The legacy of the long history of reservation poverty discussed in Section III is not likely to be quickly overcome by increased employment or tribal governmental spending. A number of factors would cause the backlog of social pathologies to be difficult to attack and slow to remedy. First, the social pathologies interact with each other. Above average alcoholism (born of a combination of discouragement and a genetic predisposition to the disease) engenders higher than average fetal alcohol syndrome rates, which in turn beget greater difficulties in raising educational levels. Thus, increments of income to an Indian family suffering from such layered and interacting problems, while essential for recovery, accomplish less than would otherwise be the case.

Second, many social problems (e.g., families weakened by domestic violence, divorce, or substance abuse) are not immediately responsive to increased spending by tribal governments. Third, the long legacy of warfare, isolation, assimilation, and decades of associated poverty and/or mistreatment by non-Indians may create its own obstacles to efforts aimed at remediation. We are familiar with one tribe, for example, where the experience with corporal punishment in BIA boarding schools causes elders who were beaten for speaking their native language in BIA schools to downplay the value of a “white” education. Thus, the effects of a centuries-long history of subjugation cannot be expected to be reversed by less than a decade’s worth of economic development success.

So, while some of the mythology about the “new buffalo” is based on real experience with economic development success, it is important that policy decisions not take Indian social recovery as a foregone conclusion. The vast majority of gaming tribes enjoy modest success or less (see above) and the social problems gaming revenues would ameliorate were decades in their creation and are not, in general, likely to accede to a recent increase in tribal wherewithal to remedy them.

C. Tribal Investments in Social Infrastructure

Given the difficulty in gathering comprehensive national data, we turn to the specific experiences of five tribes. In particular, we examine how these tribes invest in their social infrastructure. Generally, tribes with enterprise income (gaming and non-gaming) have invested in four broad categories of social expenditure:

(i) **Making up for federal funding shortfalls:** A preponderance of federal Indian programs receives funding below levels appropriate to reservation conditions. School construction backlogs, for example, mean that upgrades for all but the most decayed schools are decades away unless tribes contribute the capital costs themselves. The backlog for the construction of Indian Health Care facilities is equally alarming—tribes in urgent need of adequate health care centers wait an average of 35 years for new facilities to be built.⁹⁴ The augmentation of federal programs can lift spending levels, extend recipient bases (e.g., to spouses or marginally disqualified low-income households), or raise quality of service to the benefit of members.

(ii) **Investing in tribal culture:** Tribes have also chosen to invest in their language retention, family integrity, religion, subsistence resources, and numerous other facets of their indigenous culture. Evidence indicates that these investments will yield returns not just in civic confidence or improved self-image but in the measurable performance of reservation community life.⁹⁵ These investments stand in stark contrast to the U.S. government's past indifference and active intolerance of tribal culture.

(iii) **Rebuilding tribal assets:** Tribes are repurchasing land, repatriating archeological property, and asserting property rights to, among other things, water, oil, gas, minerals, wildlife, and fish. These assets are essential to diversified economic development.

(iv) **Strengthening tribal government:** Tribes have inherited (largely from the IRA and past interactions with the federal government), institutions of government that are not adequate to the tasks of modern Indian societies. Tribal judiciaries, for example, are recognized by Congress as essential to reservation government, yet for years, funds for the tribal courts have not been appropriated. Tribes with enterprise income are investing in constitutional reform, judicial institutions, administrative accountability, and government service excellence.

A few illustrative examples from our prior experience in Indian Country show the forms these investments take. In San Diego County, the Viejas Band of Kumeyaay Indians has used some of their gaming revenues to build an outlet mall and to fund college scholarships for Viejas young people. San Diego's Sycuan Tribe has used some of its gaming revenues to fund a badly needed tribal fire department and ambulance service. The Barona Band (also San Diego County) has established

⁹⁴ Golnick, *op. cit.*, 7/29/98.

⁹⁵ See, for example, the examination of the role of cultural factors in certain aspects of economic growth on Indian reservations in Miriam Jorgensen, "Governing Government," unpublished manuscript, John F. Kennedy School of Government, Harvard University, December 1997.

a tribal detoxification program for drug and alcohol abusers. These tribes also have become major sources of charitable giving. They are among the leading underwriters of public radio and television programming in San Diego and have made sizeable donations to Crime Stoppers, Make-a-Wish Foundation, Muscular Dystrophy Association, the Arthritis Foundation, the symphony, several schools in the area, and others. In Arizona, the Fort McDowell tribe has used gaming revenues to fund, among other things, new housing for tribal members, a day care center, and college scholarships. In Michigan, as already noted, the Grand Traverse Band of Ottawa and Chippewa Indians has established a major investment fund that has invested in non-Indian businesses as well as in on-reservation activities. The Fond du Lac Band of Chippewa Indians has invested in an award-winning foster care placement system that takes advantage of relational bonds that extend beyond the nuclear families in the Band.

Table 21
Gaming Revenue Allocation Plans/Gaming Revenue Spending
 1997

Tribe	Plan	Category	% of Revenues	Federal and State Transfers as % of Tribal Budget
Ho-Chunk Nation	Yes	General Welfare of Tribal Members (1)	52.26%	4% (2)
		Tribal Economic Development	25.55%	
		Tribal Government Operations	16.27%	
		Local Government Services	5.72%	
		Charitable Donations	0.20%	
Mohegan Tribe	Yes	Tribal Government Operations (3)	45.57%	>2% (4)
		Regulatory Compliance & Safety	23.87%	
		Tribal Economic Development	13.68%	
		Capital Expenditures	6.55%	
		Education	3.71%	
		Health & Human Services	3.61%	
Oneida Nation (WI)	Yes	General Welfare of Tribal Members	58.97%	7.9% (6)
		Tribal Government Operations and Programs	27.72%	
		Tribal Economic Development	8.72%	
		Per Capita Payments to Elderly Members (5)	2.81%	
		Local Government Operations (supplemental)	1.37%	
		Donations to Charitable Organizations	0.42%	
Sault Ste. Marie Chippewa Tribe	No	Gaming revenues are primarily used for tribal economic development (especially providing capital to tribal non-gaming business), funding tribal government operations, and creating tribal "self-sufficiency" funds (see discussion below). The tribe does not make per-capita payments.	N/A	44% (7)
Standing Rock Sioux Tribe	No	Tribal Government Operations	59%	66%
		Health and Human Services	23%	
		Economic Development	7% (8)	
		Education	6%	
		Cultural	5%	
(Tribe does not make per-capita payments)				

Notes:

- (1) Includes per-capita payments. For FY 1998, the budgeted amount for per capita payments is \$48,600,000 or 46.53%.
- (2) Data is for the period 7/1/97-4/1/98.
- (3) The tribe's Gaming Revenue Allocation Plan was approved by the Federal government in late 1997 and resulted in modest semi-annual payments to the membership. Two payments of \$1,500 each have been made so far.
- (4) Since the introduction of Class III gaming the Mohegan Tribe has adopted a policy of not seeking or accepting any federal assistance or grant funding with the exception of its contracts with the IHS and BIA. Furthermore, the tribe is considering reducing the amount of government assistance for these programs to a token sum of a dollar. In early 1997, the tribe actually returned \$3 million received from HUD so that less advantaged tribes would benefit.
- (5) For FY1998, the per capita payment to elderly members of the tribe will be \$2,000 each.
- (6) This figure shows the percentage of total tribal "funds", including gross gaming and non-gaming revenues, that come from government grants. Thus, the percentage of government transfer payments out of net tribal funds is higher than this figure.
- (7) Data is for 1998 tribal budget.
- (8) Revenue breakdown is summarized from individual line item payments, excluding loan repayments. Data is for 1994-97.

Source: Information provided by tribes

The Study Tribes

This pattern of rebuilding tribal communities, investing in social and physical health, and contributing to off-reservation community life is further

underscored in a detailed discussion of the study tribes' activities below. As a preliminary matter, the tribes allocate revenues across general categories of expenditure that encompass the above investments (see Table 21 above). Moreover, some of the tribes stand in relative independence from other governments when it comes to making these social investments— federal and state transfers are, for certain tribes, small proportions of their overall budgets. Specific treatment of each tribe's social and economic re-investment in turn illustrates the depth and range of the forms these investments take.

The Oneida Indian Tribe of Wisconsin

The tribe cites the preservation of Oneida culture as one of the most important benefits of gaming. The tribe's efforts to preserve its culture have taken many forms, from the construction of the Oneida Nation Elementary School whose architecture and curriculum underscore Oneida culture and values to intensive land repurchasing projects intended to restore the reservation.⁹⁶ The Oneida Nation does not make significant per capita payments to its members.⁹⁷ Instead, gaming revenues have gone into the provision of comprehensive educational facilities and services consistent with the goal of cultural preservation. Aside from the culturally symbolic elementary school, Oneida children are exposed to their traditional culture in another important way— the Oneida language is a required subject in the tribal school through the eighth grade.⁹⁸ The Nation has also experienced an influx of returning Nation members, some attracted by the new employment opportunities created by the gaming facilities and others by the cultural revitalization of the reservation.⁹⁹

The Nation has invested heavily in providing quality educational opportunities to all tribal members, regardless of age. Tribal members have access to early childhood development, Head Start, job training, recreation, cultural,

⁹⁶ During the allotment era (see Dawes Act above), 86 million of 132 million acres passed from Indian to non-Indian possession nation-wide as real estate passed from indigent reservation allottees to non-Indian buyers and creditors and as federally designated "surplus" lands were sold off. A central goal of tribes around the country is the reversal of this erosion of what were often treaty-specified reservation lands intended to be unaltered in perpetuity. Testimony of Chairwoman Deborah Doxtator, Oneida Tribe of Indians of Wisconsin, before the House Committee on Resources, February 26, 1996, at 2. For more information regarding the specification of Indian lands under treaties and treaty substitutes and their subsequent allotment, see Wilkinson, Charles F., *American Indians, Time, and the Law: Native Societies in a Modern Constitutional Democracy* (New Haven, CT: Yale University Press, 1987), at chapter 1.

⁹⁷ The Tribe only makes an annual per capita distribution to elders of about \$2,000-\$2,500. Golnick, *op. cit.*, 8/25/98.

⁹⁸ *Ibid.*

⁹⁹ *Ibid.*

language and repatriation programs as well as a career center, a Tribal Museum and a library.¹⁰⁰ Other services provided to tribal members include:

- comprehensive health care, including dental and vision care
- an on-site pharmacy
- housing and home improvement programs
- extensive chemical dependency and prevention programs (for alcohol- and other drug abuse)
- recycling program
- job-training
- higher education assistance programs
- domestic abuse, crisis respite, employee assistance and counseling services for tribal members and employees
- child care
- mental-health services
- summer youth employment programs
- elderly care (nursing homes in several locations, meal assistance, referral services, recreational activities, emergency aid, senior center)

In a move to restore its community and create a measure of economic security, the Oneida Nation is seeking to re-acquire the land within in its reservation boundaries via arm's-length purchases in the Wisconsin real estate market. Of the 65,000 acres designated by a 1838 treaty as the original Oneida Reservation, all but a few hundred acres were lost via land speculation, BIA mismanagement, and tribal member sales under financial duress.¹⁰¹ To-date, the tribe has successfully acquired almost 15% of the original reservation, boosting land holdings to over 10,000 acres by January 1997.¹⁰² About half of the tribe's total land holdings today were acquired after the introduction of gaming in 1992.¹⁰³

Despite some tensions with neighboring jurisdictions, Oneida investing, purchasing, and donating activities have led to positive relations with the tribe's neighbors because the Nation has seen fit to contribute to the off-reservation social infrastructure as well as its own. For example, the Nation shares the cost of providing certain critical services with neighboring communities. To eliminate duplicative costs, the tribe has entered into an agreement with the Village of Ashwaubenon regarding the provision of fire and police protection.¹⁰⁴ The tribe has

¹⁰⁰ Oneida Nation Brochure.

¹⁰¹ Testimony by Chairwoman Deborah Doxtator, Oneida Tribe of Indians of Wisconsin, House Committee on Resources, February 26, 1996, at 2.

¹⁰² Oneida Nation Brochure

¹⁰³ Alesch, Daniel J., *The Impact of Indian Gaming on Metropolitan Green Bay*, September 1997 at 10.

¹⁰⁴ Testimony of Chairwoman Deborah Doxtator, 2/26/96, at 3. Under this innovative arrangement, the Village is the first responder for fire protection services to all tribal lands within its jurisdiction, while the Oneida Nation is the first responder to all tribal lands within its jurisdiction for police services (the tribal police force is cross-deputized). Both communities are responsible for providing ambulance and emergency medical and rescue services. Under the terms of the agreement, the tribe pays the Village an annual fee for fire protection services, plus a per occurrence surcharge for any services rendered in excess of an agreed-upon base

similar agreements with the Cities of Green Bay and De Pere. Moreover, like the other study tribes, it contributes substantially to many non-tribal, off-reservation, or non-Indian civic associations and causes (see Table 22). For instance, the tribe has been an active participant in a \$52 million project to build an arena and convention center in the downtown Green Bay.¹⁰⁵

Table 22
Sample of Organizations Receiving Funds From Tribal Gaming Enterprises

Alcohol & Drug Program – HCN	Historic Preservation – HCN
Alger County Sheriff Dept – SSM	Home Health Care – SRST
Boy Scouts, Singing Groups – ONT, HCN, MT	Huntington House – MT
Boys and Girls Club – SRST, HCN	Independent Living Program – HCN
Cancer Fund – SRST	Lakota Sioux Tribe – MT
Catastrophic Illness – ONT	Language & Culture – HCN, MT
Child Welfare – SRST	Lions Club, Salvation Army – ONT
Childcare Voucher Program – HCN	LSSU-River of History Museum – SSM
Children's Home – MT	Youth Hockey – SSM
Chipp County Animal Control – SSM	Mothers Against Drunk Drivers – MT
Chipp County Rudyard Schools – SSM	Manistique Area Schools – SSM
Churches – ONT, MT	Marquette County Sheriff Dept – SSM
City of Manistique - Ice Arena – SSM	Mental Health Services – HCN
City of SSM Athletic Field – SSM	Museum/Cultural – ONT, HCN, MT
Combined Health Appeal of CT. – MT	Mystic and Noank Library – MT
Community Sporting Sponsorships – ONT	Nutrition for Elderly – SRST
Community Support – ONT, MT, HCN	Parks and Recreation – ONT, HCN, MT
Connecticut Food Bank – MT	Pow-Wow – SRST, HCN
Cystic Fibrosis Wethersfield – MT	Public Schools – ONT, MT, HCN
DARE – MT	Road Maintenance – ONT
Eastern Conn. Symphony – MT	Sugar Island Emergency Room – SSM
Emergency Assistance Program – HCN	Snow Removal – SRST
Environmental Health Services – HCN	Tribal Public Transit – HCN
Forster Funmaker Treatment Home – HCN	United States Cerebral Palsey – MT
Garde Arts Center – MT	United Way of SE Conn. – MT, HCN
Girl Scouts – SRST	Veterans Assistance – SRST
Health Emergency Assistance – SRST	Victory Games for the Disabled – MT

Legend: HCN – Ho-Chunk Nation; ONT – Oneida Tribe; MT – Mohegan Tribe; SSM – Sault Ste. Marie Tribe of Chippewa Indians; SRST – Standing Rock Sioux Tribe

Source: Information Provided by Tribes

rate. In addition, the tribe made a one-time contribution of \$120,000 to the Village for the improvement and/or enhancement of fire protection services.

¹⁰⁵ Kalihwisaks, “Area Leaders react with approval to compact renewal,” May 11, 1998.

The Sault Ste. Marie Tribe of Chippewa Indians

The Sault Ste. Marie Tribe uses gaming revenues to fund a variety of social programs designed to assist tribal members. In recent years, this has taken the form of what the tribe calls “Self-Sufficiency Funds.” A new fund is established annually as an endowment earmarked to help a certain class of people within the tribal membership, e.g., elders, college students.¹⁰⁶ Recently established funds include a \$3 million fund to provide assistance to tribal members in paying for funerals and a \$4 million higher education fund that provides assistance to tribal members in paying for college costs. Both funds were established in 1996.¹⁰⁷ The former serves about 100 members annually and the latter paid out \$196,000 to 457 members to pay for college tuition and books in 1996.¹⁰⁸

Generally speaking, most of the tribe’s basic social programs (about 45% of government expenditures) are funded through federal and state grants as they have been very successful in obtaining grant money.¹⁰⁹ Like many tribes’ social service offerings, these programs include:

- foster care placement
- diabetic outreach¹¹¹
- emergency assistance
- day care
- medical and dental care
- group homes¹¹⁰
- general assistance
- energy assistance
- education¹¹²
- subsidized housing
- substance abuse counseling
- employment skills development
- domestic violence intervention
- meals and services to homebound elders
- traditional medicine services

Gaming revenues supplement these programs and make up more than half of all governmental revenues. In addition to improving the quality or reach of the above programs, enterprise revenues underwrite governmental administration, conservation programs (e.g., treaty fishing resources), judicial functions, and a

¹⁰⁶ Nygaard, Robert, Resource Development Director, The Sault Ste. Marie Tribe of Chippewa Indians, personal communication, 6/16/98.

¹⁰⁷ *Ibid.*; Win Awenen Nisitotung (Sault Ste. Marie Tribal Newspaper), “College Graduation Outstanding Achievement,” 4/21/97 and Win Awenen Nisitotung, “Funeral Fund Available to All Tribal Members,” 5/4/98.

¹⁰⁸ Sault Ste. Marie Tribe of Chippewa Indians, Annual Report, 1996, at 15.

¹⁰⁹ Nygaard, *op. cit.*

¹¹⁰ For youth unable to live at home.

¹¹¹ A prevention program for treatable diabetes.

¹¹² Via a Michigan charter school.

number of diverse cultural projects such as the construction of a tribal ceremonial building and new pow-wow grounds.¹¹³ The tribe also makes substantial contributions to off-reservation government and civic groups both as charitable giving and under the terms of its compact (see Table 18 and Table 22).

The tribe follows an Indian preference policy in hiring workers for its tribal enterprises. The employment preference policy gives first consideration to Sault Tribe members, then to other native Americans, then to non-Natives when making hiring decisions. The tribe's layoff policy works in the opposite direction.¹¹⁴ The tribe also adds a cultural component to its personnel policy that grants members working at tribal enterprises paid leave to participate in tribal cultural ceremonies and events including wakes and funerals.¹¹⁵

The Ho-Chunk Nation of Wisconsin

The salient social investment made by the Ho-Chunk Nation has been in its governmental superstructure. Prior to the existence of gaming the Wisconsin Winnebago Business Committee was the governing body of the tribe, then known as the Wisconsin Winnebago Tribe. Limited financial resources, however, meant fewer than half of tribal members in need of support and services could be helped. The Nation pursued gaming to augment its governmental service programs. Gaming revenues permitted the development of an extensive home ownership, construction, and financing program, undergraduate and post-graduate scholarship programs, elder medical insurance and other health care prevention programs. Gaming revenues also brought increased wherewithal to support continuing tribal governmental reform.

The Nation undertook a constitutional reform effort that resulted in the approval of a new constitution in November of 1994. Eschewing the Business Committee model in which substantial powers were held by a sole branch of government, the Ho-Chunk created a four-branch government with checks and balances. The General Council is the vehicle by which the membership assembles as a body to make certain policy decisions. The Legislature and Executive split between them the powers of the former Business Committee with the Legislature retaining substantial powers. A Judiciary has been established to settle internal tribal disputes (e.g., child custody disputes), adjudicate certain relationships with the outside world, and (importantly) to exercise the power of judicial review of actions taken by the Legislature and Executive. The Judiciary has resolved a number of inter-governmental and constitutional disputes in the Nation (e.g.,

¹¹³ Nygaard, *op. cit.*; and Win Awenen Nisitotung, "Policy Set for Tribe's Ceremonial Building," 2/9/98.

¹¹⁴ Nygaard, *op. cit.*

¹¹⁵ *Ibid.*

relating to election challenges and the removal of elected officials) and has contributed to the stability of the Nation's political system.

In addition to taking substantial steps toward sophisticated self-governance, the Ho-Chunk have engaged a complex intergovernmental resource management project. After congressional legislation ordered the transfer of 8,569 acres of land to the State of Wisconsin and the Ho-Chunk Nation, both governments agreed to co-manage portions of the land while the Nation acquired separate ownership of 1200 acres. The Kickapoo Valley Reserve, a combination of remnant prairie fragments, riverine forest, flood plains, remnant northern bluff forest, and farmland, contains 450 archeological sites including petroglyphs, effigy and conical mounds, ancient villages, campsites, and other traditional cultural properties.¹¹⁶ The lands also contain four endangered species and a number of bird species in decline. The Ho-Chunk Nation have determined that no construction, forestry, or agriculture will take place on its lands and it maintains a number of trails for general public use. It has spent \$111,000 of its gaming proceeds to survey and otherwise manage the land in the last two years, not inclusive of tribal staff time.¹¹⁷

The Standing Rock Sioux Tribe

As noted above, the Standing Rock Sioux Tribal gaming operations are relatively small compared to many tribes', and the tribe's casinos are more isolated from metropolitan markets. Social and economic conditions on the reservation remain quite bad even after the advent of gaming. For example, the tribe has recently experienced a significant jump in the suicide rate among young people¹¹⁸ and other social problems such as alcoholism, sub-standard housing, and domestic violence remain troublesome.¹¹⁹

Nonetheless, the tribe has been able to convert gaming income into a number of successful casino-related business investments (see discussion above) and they have utilized profits in a wide variety of social and community programs designed to improve the quality of life on their reservation. In 1996, for example, the tribe spent \$500,000 on emergency snow removal for their reservation that would not have been possible without gaming revenues. In many cases, the removal of snow at member homes was a matter of saving lives.¹²⁰ Other significant programs funded by casino money in 1997 include \$500,000 for duplex housing for tribal

¹¹⁶ As defined in the Archeological Protection Act of 1979.

¹¹⁷ Tribal sources.

¹¹⁸ "Standing Rock tackles suicide crisis," *The Bismark Tribune*, 1/25/98.

¹¹⁹ The Bismark Tribune, "Suicide not only problem; Standing Rock issues also include family breakdown, alcohol, drugs," 1/31/98.

¹²⁰ Red Tomahawk, Wilbur, Chairman, Tribal Gaming Commission, Standing Rock Sioux Tribe, personal communication, 6/29/98.

members, \$50,000 for a burial program, \$60,000 for district pow-wows, \$190,000 for a nutrition for the Elderly program, and \$158,000 for road maintenance on the reservation. The tribe has also begun repurchasing lands, roughly half of which passed out of tribal possession under allotment, and it has helped to underwrite a community radio station. The tribe has also installed a computerized guide to its language that can be accessed by school children. SRST gaming revenue has added to existing federally funded programs or has been used for *de novo* tribal cultural policies, and while overall contributions have been limited, the addition of discretionary income (both personal and governmental) has offered some relief from decades of poverty.

The Mohegan Tribe of Indians of Connecticut

Prior to the introduction of gaming, the Mohegan government operated by borrowing funds from various lending institutions and by obtaining federal grant programs. The only revenue-generating activity undertaken by the tribe was the annual wigwam/powwow festival held in August. In 1995, tribal government operations consisted mostly of fulfilling commitments made in grant applications and completing trust applications. In late 1996, in conjunction with the opening of the Mohegan Sun casino, the tribe expanded its government operations, creating divisions of public safety, health and human services, planning, cultural resources, and human resources. The tribe also established a gaming disputes court, a gaming commission, and a bingo department.

Today, the Mohegan Tribe operates almost exclusively on revenues generated by tribal enterprises. In fact, the tribe has adopted a formal policy not to seek or accept any federal assistance or grant funding, with the exception of its contracts with Indian Health Services and the Bureau of Indian Affairs. In early 1997, only a short period after the opening of the Mohegan Sun casino, the tribe actually returned \$3 million received from the Department of Housing and Urban Development so that less advantaged tribes could benefit. It now has a policy not to apply for competitive grants nor to accept BIA funding that is not related to the federal trust responsibility.

Since the opening of the Mohegan Sun casino, the tribe has been able to employ a significant number of tribal members, including their spouses and children. The Mohegan Tribe enforces an Indian Preference Program in the hiring and promotion of qualified tribal members and their spouses within the tribe's gaming facilities and tribal government. In addition to offering employment, the tribe adopted a Workforce Readiness Policy early this year to assist tribal members who may not be accustomed to sustaining full-time jobs or may have other barriers that prevent them from securing employment. Tribal members who have been dismissed more than twice from their jobs or have difficulty gaining employment and continue to rely on social services programs will be selected to attend the program for a minimum of 16 weeks (longer for GED candidates). The goal of the

program is to help candidates develop a strong work ethic and the ability to provide adequately for their families.

Although the Mohegan Tribe has benefited from the revenues generated by gaming for only a relatively short period of time, the tribe has already made significant social service investments, particularly in education, health and human services, and housing. Tribal programs either partially or completely funded by the tribe itself areas include:

- full-funding for full-time students in college
- contract health service provision through Indian Health Services
- elder and disabled persons assistance including in-home care, transportation, medical and shopping assistance, and home safety.
- funding up to \$10,000 for continuing education students
- comprehensive preventive and other medical care
- a special needs program that will include respite care, day care and therapeutic treatment
- vocational training
- daycare assistance for low and middle income families
- rental assistance and low income housing
- private education for all high school students and for younger students located in areas with substandard school systems
- maternity and medical leave assistance
- home improvement loans and down payment assistance
- a “cohort” program in cooperation with the local community college to reintroduce continuing education students to school.
- general assistance programs, including fuel, food and holiday assistance as well as clothing.
- a fully-funded septic and well program similar to the sanitation program offered through Indian Health Services
- youth services including outings, a youth council, workshops, internships, and youth work
- burial assistance
- hardship, personal and business loans

The tribe also operates a full-scale public safety department consisting of fire, police, and building code enforcement and safety departments. Tribal efforts to maintain and promote Mohegan culture include the expansion of their Cultural Resources Department, the establishment of Little People, LLC, a Tribal Arts & Crafts shop, a language project aimed at restoring the Mohegan Language by the year 2000, as well as the restoration of important cultural sites. The tribe’s compact

with the State of Connecticut includes as one of its provisions the return to the tribe of Fort Shantok, a burial ground removed from the tribe in the early 1900s.¹²¹

D. Effects of Tribal Social Investments

Preliminary and tribally focused indicators are available on the level of socio-economic change afforded by gaming and suggest that where gaming is successful, social conditions are improving. As Table 23 indicates, Native Americans are dropping off the rolls of the AFDC, general assistance, medical assistance, and food stamp programs where gaming success is substantial relative to reservation population. Notably, the Standing Rock Sioux Tribe, whose gaming operation is modest relative to its tribal community (see above), has not witnessed the same gains that others have.

Table 23
Population Receiving Selected Benefits Programs in Gaming Counties, Pre- and Post Gaming

Tribe	Period	Percent Change in Number of People Receiving or In:			
		AFDC Benefits	Income Maintenance	Medical Assistance	Food Stamps
Ho-Chunk Nation(1) Surrounding Counties	1990-1997	-56% -74%	-38% -2%	-34% -4%	-52% -31%
Oneida Nation (2) Surrounding Counties	1990-1997	-72% -71%	-22% 0%	-32% -5%	-40% -30%
Sault Saint Marie (3) Surrounding Counties	1990-1997	-37% -57%	-38% N/A	N/A N/A	+16% -14%
Standing Rock Sioux (4) Surrounding Counties	1991-1997	0% N/A	+3% N/A	+7% N/A	+5% N/A

Notes and sources:

- (1) State of Wisconsin Department of Health and Social Services, "Data on Ethnicity Report," July 1990, June 1997. Gaming counties are Sauk, Jackson and Wood.
- (2) State of Wisconsin Department of Health and Social Services, "Data on Ethnicity Report," July 1990, June 1997. Data are for Brown and Outagamie counties.
- (3) Data provided by tribe. Data are for Chippewa and Mackinac counties.
- (4) South Dakota Department of Social Services and North Dakota Department of Human Services. Data includes all recipients (Indian and non-Indian) in Sioux, ND and Corson, SD counties. Note that the Standing Rock reservation completely covers both counties. Income Maintenance data is for Sioux county only.

¹²¹ Bunnell, *op. cit.*

E. Social Costs of Indian Gaming

In comparison with the social costs of not having successful gaming development take hold on Indian reservations, the social costs of Indian gaming are likely to be modest. Indian gaming revenues allow tribes to engage themselves in one of the most-neglected social rehabilitation tasks the country has faced. The gains made by tribes on such margins as suicides, drug addiction, fetal alcohol syndrome, etc., begin from the worst starting point of any group in the U.S. Moreover, many tribes have adopted policies that mitigate the possible social consequences of gaming. For example, a fair number of Indian casinos are alcohol free owing to the legacy of alcohol abuse in Indian Country.¹²² We know of no non-Indian casino that does this.

Crime

There are two dimensions of crime associated in the public mindset with casino gaming: organized crime and the crimes associated with visitation—the concentration of large numbers of non-residents in and around casinos may move crime to new levels. As we have discussed above, the regulatory structures associated with Indian gaming appear to be adequate at keeping organized crime at bay. The net spillover of other crime may depend in large measure on the degree to which pre-gaming crime levels were high to begin with. As we note in Section IV, interviews with law enforcement officials generally indicate that they feel that the increased employment generated by gaming enterprises reduced the incidence of crime. Moreover,

The highly regulated atmosphere in [Indian] casinos appears actually to be a crime deterrent. Customers and employees are subject to constant video surveillance which is highly coordinated with gaming floor security. In other words, a casino is not the place where criminals choose to operate.¹²³

This same study noted that tribes with gaming revenues were able to underwrite the costs of well-developed police operations, “effectively adding to each county’s law enforcement staffing without taxpayer expense.”¹²⁴ Thus, where substantial tribal investment in security and/or police presence was being funded by gaming revenues, gaming contributed to lower, not higher, off-reservation police burdens.

This generally favorable picture of Indian casinos’ relationship is further corroborated with preliminary evidence on visitor-adjusted crime rates in the study tribes’ casinos. Table 24 shows no systematic discontinuity in the visitor-adjusted

¹²² Nelson, Dennis, Howard Erickson, and Robert J. Langan, *op. cit.*, at 10.

¹²³ *Ibid.*, at 9-10.

¹²⁴ *Ibid.*, at 14.

crime rates for the counties where the study tribes introduced casinos. In other words, the introduction of a casino does not yield a systematic increase in the crime rate. There could well be other factors to control for, such as changes in county visitation patterns or migrations unrelated to the advent of Indian gaming but coincident with it. Nonetheless, we believe that policy context of Indian gaming— i.e., economic development in a depressed area coupled with substantial security and regulatory investments by tribes that are backed up by state observation and/or regulation under the compacts— would tend to push crime rates down with the introduction of gaming, not up.

Social Conflict

Indian gaming has been associated with factional conflict that sometimes erupts into violence. We do not here undertake to examine systematically the causes of factional tensions within tribes— they arise out of a complete interplay of social forces. However, our research on Indian government generally suggests a number of issues that could contribute to factional stresses within tribes. Tribes, like all societies, are not monolithic political entities. Indeed, the addition of familial loyalties and divisions and uniquely Indian cultural debates (e.g., traditionalist vs. assimilationist arguments) can inflame tribal political discourse. In addition, tribal governments across Indian Country are making a transition from being extensions of the federal government (i.e., arms the BIA's program delivery systems) to being self-governing societies all in a matter of two decades or less. The stresses of, for example, discarding an IRA constitution after six decades and adopting a new one that can simultaneously account for the unique cultural requirements of a tribe, match the sophistication of a state government, and compete in capital markets for enterprise investments are substantial. There is no reason to expect that tribes as a group would proceed to self-governing stability evenly or uniformly. Thus, intra-tribal conflict should be seen as symptomatic not of gaming's effect on government but of the evolution tribes are going through toward self-governance.

It is true that gaming can raise the political temperature tribes face. However, Indian policy should devote more resources toward the strengthening of self-government, not limit the ability of tribes to make the choices regarding which economic development options they choose. Just because gaming is co-incident with factional conflict in Indian Country does not mean that gaming is the proximate cause. Indeed, the warfare, imprisonment, paternalism, and federal corruption that tribes have had to endure better explain why tribes may have begun the self-determination era with weak governments. The independence they are able to obtain by way of self-determined economic development will enable them to more fully strengthen their governing institutions, and thereby gain political stability as a socio-economic benefit of gaming.

Table 24
Visitor-Adjusted (1) Crime Rates in Counties Containing Tribal Casinos, Pre- and Post-Gaming

Tribe	Gaming County	First Full Year of Casino Operation	Index Crimes (2) Reported per 100,000 Population in Gaming County						
			1990	1991	1992	1993	1994	1995	1996
	Jackson, WI	1993	3,376	3,875	3,834	3,615	3,748	3,177	3,910
Ho-Chunk	Sauk, WI	1993	2,968	2,863	3,087	2,848	3310	N/A (3)	3,869
	Wood, WI	1993	3,180	3,273	3,044	3,489	3,104	2,858	3,214
Mashantucket Pequot	New London, CT	1992	4,943	5,194	3,650	3,734	3,268	3,495	3,178
Oneida	Brown, WI	1992	4,008	4,110	3,731	3,705	3,715	3,846	3,716
Sault Ste. Marie Chippewa	Chippewa, MI	1992 (4)	3,419	3,025	3,437	2,949	2,811	2,176	2,602
	Mackinac, MI	1991	7,467	5,591	4,655	4,828	5,650	5,640	4,242
Standing Rock Sioux	Sioux, ND and Corson, SD	1994	N/A	N/A	2,291	675	2,415	392	174

Notes:

- 1) Visitor adjustment is performed by adding the estimated number of daily casino visitors to the resident population of the county when calculating crimes per 100,000. For the Sault Ste. Marie Chippewa Tribe, Ho-Chunk Nation, and Standing Rock Sioux Tribe daily casino visitors are estimated using actual 1997 casino visitation data. For the other tribes, daily casino visitors are estimated based on the population within a 50 to 100 mile ring around the casino and the known propensity for individuals within that distance from the casino to patronize the casino.
- 2) Index crimes are the sum of known offenses and arrests for murder, manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny, and motor vehicle theft.
- 3) Incomplete statistics reported for 1995.
- 4) The Sault Ste. Marie Tribe has operated a casino in Chippewa County since 1985. Prior to 1991/92, when the casino went through a major expansion, the casino was very small.

Source: Federal Bureau of Investigation, Information provided by tribes

Gambling Addiction

Tribes are increasingly aware that gambling addiction is a proper policy concern for them to handle as governments and as enterprise managers. As noted above, a number of Indian casinos ban the use of alcohol. In addition, some tribes actively seek out problem gamblers and keep them out of their casinos. Still others allow patrons to self-prohibit, offer hot-line or counseling services, or underwrite state programs on gambling addiction (see Table 25).

Table 25
Tribal Programs to Treat Addictive/Compulsive Gambling

Tribe	Nature of Program (s)	1997 Budget	Utilization of Program (s)
Ho-Chunk	The tribe has an exclusion policy where customers can request to be barred from entering tribal gaming facilities. County social services refer individual cases to Gamblers Anonymous groups in major metropolitan areas such as Madison.	None	NA
Mohegan	Tribe contributes to the Connecticut Council on Problem Gambling.	\$100,000 for hotline	The Council is affiliated with the National Council on Problem Gambling and operates a 24-hour Help Line that covers CT, MA and RI. In 1996, they received 704 calls. The Council puts great emphasis on the problem of teen gambling. It also provides prevention programs, advocacy, conducts research, and refers individual cases to state-funded gambling treatment centers.
Oneida	Tribe contributes to the Wisconsin Council on Problem Gambling.	\$35,000 in 1996 and \$32,000 in 1997 – Oneida Gaming is the main contributor to the Council, providing more almost 80% of their 1997 budget (1)	The Council is affiliated with the National Council on Problem Gambling. The Council operates a Help Line that received 3865 calls in 1997. It also hosts all Gamblers Anonymous meetings in the state and trains counselors to become eligible referral sources for their Help Line. The Council focuses on the public education and awareness of problem and compulsive gambling and the identification of “high risk” groups.
Sault Ste. Marie Chippewa	Tribe runs Gaming Rehabilitation Program which promotes awareness of problem gambling, provides addictive gambling support groups, and provides counseling/treatment for problem gamblers.	\$ 38,741 (2)	Program is in its inception.
Standing Rock Sioux	Tribe provides financial assistance to Mental Health Association of North Dakota for maintenance of compulsive gamblers crisis counseling hotline. The tribe is currently designing a full counseling service to help problem gamblers within their market area.	\$12,000 for hotline (Will contribute \$30,000 in 1998)	The hotline received 351 gambling-related calls in North Dakota in 1997.

Notes:

- (1) The Council does not receive government funding and relies exclusively on voluntary grants from private contributors.
- (2) Budget is for 1998.

Source: Information provided by tribes.

VI. CONCLUSION

The most fundamental distinction between Indian gaming and non-Indian gaming is that the former is a government activity while the latter is a commercial enterprise. Many of the findings in this report arise from this fundamental attribute.

Because tribal gaming arises through the actions of tribal governments seeking to improve their members' welfare in the absence of ostensibly attractive alternatives, Indian casinos have been located where they are most needed (i.e., where unemployment rates and poverty levels are the highest). The pursuit of profits by private enterprise would not be expected to result in the observed distribution of gaming and non-gaming tribes, whereby large, impoverished, and remote tribes represent such a large fraction of gaming tribes. Because gaming tribes exhibit such a low socioeconomic baseline, the gaming-induced changes in economic indicators are all the more dramatic.

The governmental nature of tribal gaming is also seen on the social side of the gaming balance sheet, where investments in social infrastructure financed by gaming profits have yielded dramatic improvements in social health on the gaming reservations that we studied.

In addition to these positive economic and social impacts on reservations, the available evidence also demonstrates that tribes contribute to local economies through taxes, revenue sharing, employment of non-Indians, contributions to local charities, and a myriad of other ways. Furthermore, the case study tribal casinos we analyzed did not appear to have discernible negative impacts on off-reservation sales or crime rates.

In short, the idea that the consequences of Indian gaming are largely negative, either for Indians or for non-Indians, is misguided and unacquainted with the facts. Certainly gaming has negative consequences. But our investigation

inescapably yields the conclusion that the positive social and economic impacts of gaming, both on and off reservations, far outweigh the negative. Indeed, for much of Indian Country, the alternative to gaming is the *status quo ante*: poverty, powerlessness, and despair. Self-determination– and the ways that Indian nations have used it– constitutes a public policy success of major dimensions. Indian gaming is a striking example of that success.

Appendix A: About the Authors

Stephen E. Cornell is Professor of Sociology and of Public Administration and Policy and Director of The Udall Center for Studies in Public Policy at the University of Arizona. He also is Co-Director (with Joseph P. Kalt and Manley Begay) of The Harvard Project on American Indian Economic Development. He is a leading academic researcher on Indian affairs and Indian policy, including the cultural and institutional underpinnings of Indian economic development and political action and the nature of political culture.

Professor Cornell has extensive experience working with Indian Nations on economic development, strategic planning, and tribal governance issues, and has conducted numerous workshops for tribal leaders, focusing on strategic and managerial issues and institutional design. He is the author of *The Return of the Native: American Indian Political Resurgence*, co-editor (with Joseph P. Kalt) of *What Can Tribes Do? Strategies and Institutions in American Indian Economic Development*, and the author of numerous articles on economic development, the dynamics of collective identity and action, and related topics. He recently co-authored (with Jonathan Taylor, Kenneth W. Grant, Victor Fischer and Thomas Morehouse) *Alaska Native Self-Governance Policy Reform: Toward Implementation of the Alaska Natives Commission Report*, a policy document evaluating Native self-governance and suggesting enhancements to policies affecting Native governing institutions. The report was prepared for the Alaska Federation of Natives.

Professor Cornell spent nine years on the Sociology faculty at Harvard University and another nine at the University of California, San Diego, before moving to the University of Arizona in 1998. He received a Ph.D.(1980) and A.M. (1974) in Sociology from the University of Chicago, and a B.A. (1970) in English from Mackinac College.

Matthew B. Krepps is an Assistant Professor of Strategy and Management at the European Institute of Business Administration (INSEAD), where he teaches courses on strategic management to master's level students and business executives. He is also an expert in the economics of antitrust and regulated industries and has lectured on these subjects at Harvard University and the Massachusetts Institute of Technology. Professor Krepps is a nationally recognized scholar of the gaming industry whose academic credentials and consulting experience qualify him as an expert on the proliferation and impacts of gaming.

Dr. Krepps recently provided an independent assessment of a socioeconomic impact study commissioned by the sponsors of a proposed casino to be operated by the Narragansett Indians in Providence, Rhode Island. The study was conducted on behalf of the *Providence Journal* and was commissioned to provide the public with a quantitative and well-reasoned, yet unbiased analysis of the likely effects of the proposed casino on the State of Rhode Island. In addition, he is co-author (with Richard J. McGowan and Jonathan Taylor) of *Gambling with State Revenues: The Economics and Politics of Casino Gambling in America*, to be published by The MIT Press in 1999. Dr. Krepps has been an invited speaker at numerous gaming conferences in the U.S. and abroad.

Dr. Krepps received a Ph.D. (1996) and an A.M. (1995) in Business Economics, and an A.B. in Economics (1991), all from Harvard University.

Joseph P. Kalt is Ford Foundation Professor in International Political Economy at the John F. Kennedy School of Government, Harvard University, and founder and Co-Director (with Stephen E. Cornell), The Harvard Project on American Indian Economic Development. He is a prominent expert on Native economic development.

In March of 1998, Professor Kalt testified before a National Gambling Impact Study Commission on the economic impact of gaming by American Indian tribes. He has published frequently on Native American issues and co-edited *What Can Tribes Do? Strategies and Institutions in American Indian Economic Development* (with Stephen Cornell). He is often an invited speaker on such issues as "Sovereignty and American Indian Economic Development," "Cultural Evolution and Constitutional Public Choice: Institutional Diversity and Economic Performance on American Indian Reservations," and "Property Rights and American Indian Economic Development." Professor Kalt is also a world-renowned expert on antitrust economics and regulated industries, with special emphasis on the energy industries and regulated utilities.

Dr. Kalt received a Ph.D. (1980 and M.A. (1977) in Economics from the University of California at Los Angeles (1980), and a B.A. in Economics from Stanford University (1973).

Jonathan Taylor is a Consultant at the Economics Resource Group, Inc. and provides consulting expertise to tribes and bands in the United States and Canada in the areas of strategic management and economic development. He has also authored or supported testimony in litigation and public hearings for a number of Native American groups needing economic analysis to support treaty rights or tribal policies. He recently co-authored (with Stephen Cornell, Kenneth W. Grant, Victor Fischer and Thomas Morehouse) *Alaska Native Self-Governance Policy Reform: Toward Implementation of the Alaska Natives Commission Report*, a policy document evaluating Native self-governance and suggesting enhancements to policies affecting Native governing institutions prepared for the Alaska Federation of Natives.

As a consultant to Indian tribes, Mr. Taylor has worked in a wide variety of institutional and cultural settings on projects ranging from Constitutional reform to enterprise feasibility. These projects have included assessing changes in quality of life arising from major enterprise success, planning for self-governance compacting, assisting in constitutional evaluation and reform, providing public policy analysis and negotiation support in the context of resource development, and educating tribal executives. Mr. Taylor also has specific industry experience in the railroad, timber, oil, and gas sectors. He is co-author (with Matthew B. Krepps and Richard J. McGowan) of *Gambling with State Revenues: The Economics and Politics of Casino Gambling in America*, to be published by The MIT Press in 1999.

Prior to joining ERG, Mr. Taylor was a research associate of The Harvard Project on American Indian Economic Development, authoring case studies for the training of managers in tribal colleges and conducting public policy research in Indian Country. He continues to work with the Project on a number of research and education projects.

Mr. Taylor received a Master's in Public Policy from the John F. Kennedy School of Government, Harvard University (1992), and an A.B. in Politics from Princeton University (1986).