

# Tribes Bet on Gaming

Indian gaming has allowed a few tribal governments to strengthen their communities and provide for their people. And it often helps states and local governments as well.

By Judy Zelio



**Editor's note:** This is the last in a series on gambling. See "Gambling on Gaming" in the January magazine and "Counting on Gambling" in the February issue.

The 600-member Rincon Tribe in California opened a high-rise hotel-casino outside of San Diego in December. The tropical-themed 180-seat restaurant, deluxe spa and a presidential suite are designed to attract big gamblers and vacationers alike.

But all is not well in paradise. The county wants to levy a 9 percent occupancy tax on the hotel, managed by Harrah's Entertainment,

Inc. Harrah's owns or manages 25 casinos in the United States. The tribe maintains that the county's efforts to tax the tribe are unlawful. A resolution is not in sight, although the hotel-casino is open for business along with 52 other tribal casinos in California.

The legal complexities of gambling taxation, management and regulation are magnified when tribal governments are involved. A vast body of federal law, developed over the past 200 years, helps answer a host of questions associated with the entry of Indian tribes into the gaming business. For example, it's pretty well-established that tribal governments are not subject to state and local tax-

## THE BIGGEST MONEY MAKERS

Tribal gaming operations generate the highest gross revenues in:

California	\$4.7 billion
Connecticut	\$2 billion
Minnesota	\$1.4 billion
Arizona	\$1.2 billion
Wisconsin	\$1 billion
Michigan	\$870 million

Source: Analysis Group

tion, nor are the businesses tribal governments own and operate. But gambling-related businesses that involve outside partners and management firms complicate the already tangled relationships among states, tribes, local governments and the private sector. The legal questions, as Harrah's Rincon hotel-casino demonstrates, become harder to answer.

It's been nearly 17 years since Congress approved the 1988 federal Indian Gaming Regulatory Act (IGRA) that provides the legal guidelines under which tribal gaming can operate. A tribe may conduct Class II gaming (bingo, for example) without involving the state. But to legally operate Class III gaming (slots and blackjack, for example), a tribe must have a compact or agreement with the state detailing how the tribe will conduct the gaming, including types of games and regulation.

Since the act's adoption, more than 250 tribal governments out of approximately 560 have launched gambling enterprises ranging from card rooms to satellite bingo to full-fledged casinos. Some are Class II operations and some are Class III.

"Tribal government gaming has been a great asset to tribal economies and one of the few successful economic development tools in Indian country in over 200 years," says National Indian Gaming Association Chairman Ernest L. Stevens, Jr., who is a member of the Oneida Tribe of Indians of Wisconsin. "Indian gaming has allowed tribal governments to strengthen our communities and provide for our people."

## WHAT'S A CASINO?

The definition of casino is open to debate these days, and the lines that distinguish the types of gaming that require a state-tribal

compact are becoming more blurred all the time. New designs for electronic devices constantly rearrange the gambling landscape, making it difficult to define the differences between Class II and Class III activities. For example, a number of tribal operations in Oklahoma called casinos conduct only Class II gaming. The seven tribal "casinos" in Florida offer electronic bingo, also considered Class II. Some gaming regulators assert, however, that electronic gaming is edging very close to slot machines (a situation not limited to tribal venues), which presents new state policy challenges.

The potential for gambling addiction and other social ills also remains a concern wherever significant gaming activities have taken hold. "The whole atmosphere is ripe for discussion of the role that gambling plays in the life of the state," comments Senator Ann Rest, assistant majority leader in Minnesota.

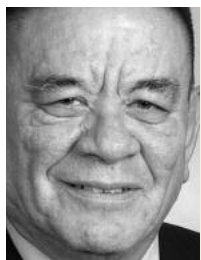


SENATOR  
**ANN REST**  
MINNESOTA

### BIG MONEY FOR A FEW

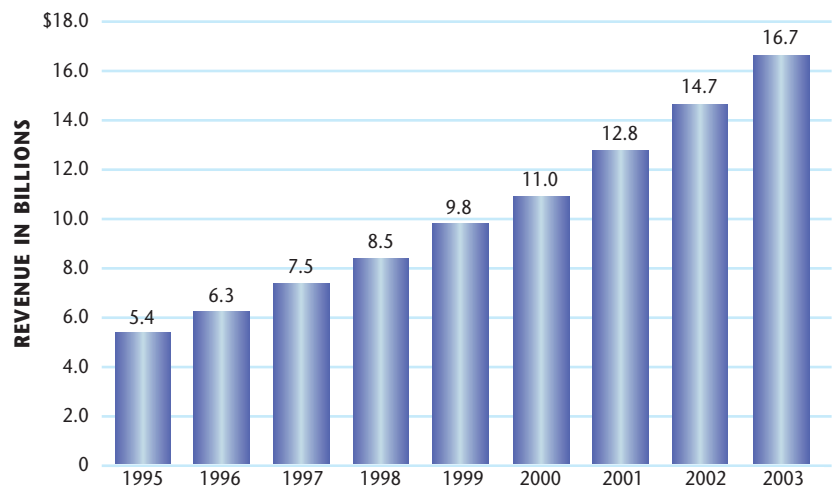
For the most part, tribal venues are small, not too fancy, and fit into their surroundings without rousing undue attention. They provide modest jobs and entertainment, and bring in some revenues to the tribal governments that operate them. On the other hand, a few in Minnesota, Arizona, Connecticut and California are destination resorts that rank with the "big boys" in Las Vegas and Atlantic City. Big money is spent there, which attracts attention.

Moreover, Indian gaming revenues have shown steady growth overall since 1995. Tribal gaming operations grossed \$16.7 billion in 2003, according to the National Indian Gam-



REPRESENTATIVE  
**JOHN MCCOY**  
WASHINGTON

## A STEADY INCREASE (GROSS REVENUES FROM TRIBAL GAMING 1995-2003)



Source: National Indian Gaming Commission

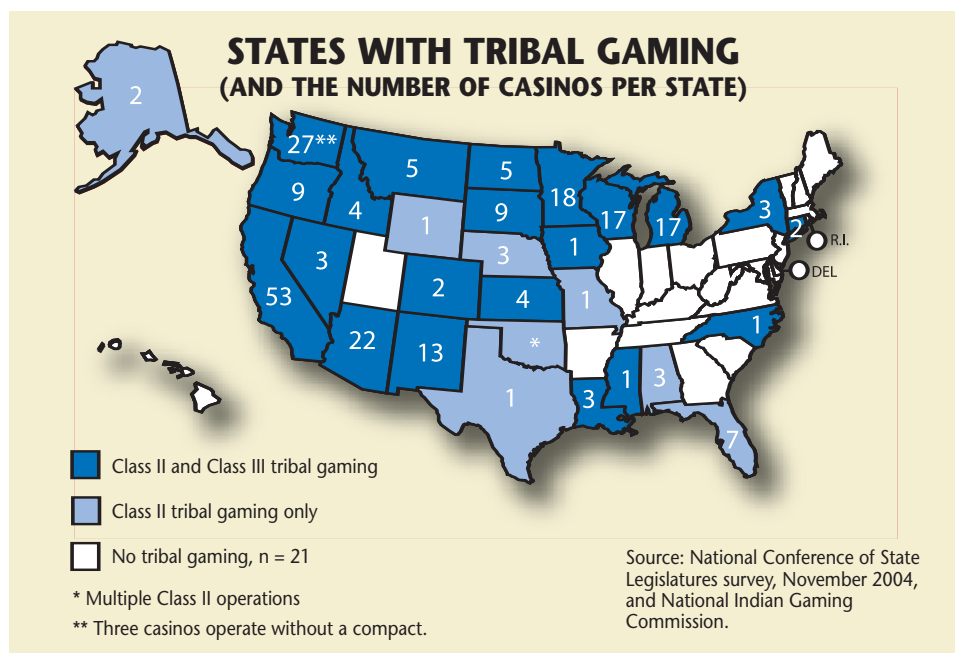
ing Commission, a federal regulatory agency. They paid \$7.9 billion in wages to approximately 240,000 employees, both Indian and non-Indian, reports Analysis Group, Inc.

### HIGH STAKES

Representative John McCoy, a member of the Tulalip Tribe beginning his second term in the Washington House, points at Harvard studies that show many ways tribes benefit communities, especially the cities and towns around reservations. "Sixty-five percent of employees at the Tulalip casino in Washing-

ton are from the community at large. They pay taxes, buy homes, pay property taxes. Tribes have been very generous in giving to charities, giving back in lieu of taxes, working with localities."

State and local coffers benefit from successful tribal gaming through income taxes paid by casino employees who are not tribal members, and tribal contributions for services such as fire protection and law enforcement. Casino construction also generates employment for Indians and non-Indians alike, along with additional tax money.



## GAMING REVENUES TO STATES FROM TRIBES

(EXCLUDING REGULATORY COST REIMBURSEMENT)

(IN MILLIONS, ESTIMATED)

State	FY 2004	FY 2005
Arizona	\$35	\$86
California	\$130	\$250
Connecticut	\$405	\$440
Michigan	\$15	\$16
New Mexico	\$63*	\$46
New York	**	**
Wisconsin	\$101***	\$104***

\* Includes a back payment of \$24 million from Mescalero Apache Tribe.

\*\* Not available. New York figures for FY 2003 were \$39 million.

\*\*\* Estimated revenues are currently in question because the Wisconsin Supreme Court struck down key portions of the compacts in 2004.

Source: State legislative fiscal offices, November 2004.

### SHARING REVENUE WITH STATES

But states continue to eye the potential for tapping tribal gaming revenues directly through revenue-sharing agreements. Tribes

can agree to share some of their gaming proceeds with state and local governments, subject to approval by the secretary of the Interior. Tribes that share gambling revenues usually receive such benefits as monopolies on certain kinds of gaming or opportunities to expand.

“I support the notion of tribes looking for ways to improve the lives of thousands of their own members. I am very cautious of the motives of people who want tribes (absent agreement in compacts) to turn over money to a state,” notes Senator Rest.

Representative McCoy says, “States constantly are coming back to take more—they’re looking for easy money so they don’t have to tax themselves.”

Seven states—Arizona, California, Connecticut, Michigan, New Mexico, New York and Wisconsin—have forged agreements with tribes to share revenue. The portion paid to the state ranges from 1 percent to 25 percent. Kansas Governor Kathleen Sibelius is working on a compact that would provide the state with some revenues from a new casino operated by the Kickapoo and Sac and

## FEDS HELP WITH CRIME

Continued growth in Indian gaming has prompted the U.S. Department of Interior’s National Indian Gaming Commission to form a working group to assist more than 250 tribes in 29 states in keeping Indian gaming facilities crime-free.

Tribes pay fees based on their gaming revenues to help support the commission. Tribes are the day-to-day regulators and provide the primary due diligence to keep gaming facilities fair and honest. The working group, which includes seven federal agencies, addresses instances where federal involvement is needed to investigate and prosecute criminal activity. The FBI’s Indian Country Unit has the primary responsibility to coordinate the working group’s activities.

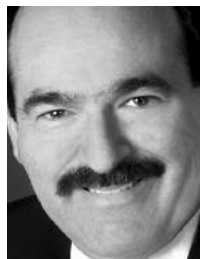
Fox Tribes.

IGRA allows tribes to reimburse states for gaming regulation costs, including expenses of licensing, investigations, law enforcement

and state audits. The majority of tribes do reimburse states for these costs.

### THE FUTURE OF TRIBAL GAMING

As long as gambling is an accepted form of entertainment, it is likely that tribal gaming will continue to be an important part of the American scene. "There is broad support among our members for gaming by the large, federally-recognized tribes," says Florida Senator Steven Geller, president of



SENATOR  
**STEVEN GELLER**  
FLORIDA

the National Council of Legislators from Gaming States (NCLGS).

Yet gambling is not the economic development panacea for all tribal communities.

"The success of a small handful of tribes does not translate to economic success for all Indian people, just as the New York State Lottery has no impact on the economic status of families in Mississippi," points out Tex G. Hall, president of the National Congress of American Indians. The Navajo Nation, the largest tribe, has rejected gambling in all but one tiny, isolated location. Most of the gaming revenues tribes collect is used for the same purposes as other governments' revenues—the safety and education of their citizens.

### OFF-RESERVATION TRIBAL GAMING

Only a handful of tribal casinos have been wildly successful. Clearly, casinos in high population areas like the East and West Coasts do better financially than those in the Dakotas. As a result, tribal efforts to expand gaming beyond reservations and tribal trust land into urban areas may increase.

Oregon and the Confederated Tribes of Warm Springs are negotiating the tribe's plan for an off-reservation casino relatively close to the city of Portland in the Columbia River Gorge.

The 53-member Lower Lake Rancheria, also known as the Koi Nation, likewise has proposed a casino to be located near the Oakland, Calif., airport. The effort is opposed by nearby residents as well as other gaming tribes in the state.

Some members of the Arapaho and Cheyenne Tribe have approached Colorado's governor with a proposal to locate a tribal casino near Denver. In exchange they would give up a potential claim to millions of acres in the state. Colorado's mountain gambling towns of Central City and Black Hawk would likely oppose the proposal.

And Minnesota's Governor Tim Pawlenty may propose a new off-reservation casino

near the Twin Cities for two geographically isolated tribes if they would agree to share a portion of their revenues with the state.

The expansion of off-reservation tribal gaming is a long and complicated process that requires federal approval, governors' acquiescence, and in some cases, state legislative agreement. The costs and benefits of these efforts will continue to be weighed well into the future. 