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Gambling in the Golden State 1998 Forward

By Charlene Wear Simmons, Ph.D.
Assistant Director

Requested by Attorney General Bill Lockyer

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Gambling in the Golden State
1998 Forward

By Charlene Wear Simmons, Ph.D.
Assistant Director

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EXECUTIVE SUMMARY

This report was requested by California Attorney General Bill Lockyer and provides an overview of gambling in California since 1998,[*] including its social and economic impacts. The report considers each segment of the gambling industry in a separate chapter: Indian casinos, the state lottery, horse racing, card rooms and Internet gambling. The final two chapters broadly examine the literature on the social and economic impact of the gambling industry.

A FAST GROWING AND PROFITABLE INDUSTRY

Gambling is a major and fast-growing industry. Industry revenues in the United States grew from $30.4 billion in 1992 to $68.7 billion in 2002, and increased from 0.48 to 0.66 percent of gross domestic product.[1]

Gambling is a large industry in California, with about $13 billion in gross gaming revenues in 2004. Indian casino gross gaming revenues were an estimated $5.78 billion, card clubs took in about $655 million, the state lottery's sales were nearly $3 billion, and over $4 billion was wagered on horse races. Net revenues after prizes and operational expenses are deducted were considerably less. Racetracks and horsemen kept about eight percent ($302 million) and the state lottery's net revenues were $1.09 billion; card club and Indian casino net revenue figures are generally proprietary.

What is the potential of the gambling market in California? We know of no way to produce a credible estimate. We simply have no experience with the phenomenon of readily available and skillfully packaged gambling opportunities located relatively near to California's large population centers. We do know that gambling is growing very rapidly in the state and that knowledgeable observers of the industry expect it to continue to expand.

Indian casino gaming in particular has the potential to expand considerably in California. Sixty-six of California's 108 federally recognized tribes have tribal-state compacts to operate gambling facilities, and 61 have gambling facilities. Another 67 California tribal groups are petitioning the Bureau of Indian Affairs for recognition. As tribes gain federal recognition, they have the right to establish reservation lands with federal approval, and the potential to operate gaming facilities on those and other non-ancestral trust lands.

California tribal casinos earn the most revenue of tribal casinos in any state—an estimated $5.78 billion in 2004, up from $3.67 billion in 2002. In 2004, the state's 56 Indian gaming facilities had an estimated 58,100 gaming machines, 1,820 non-house banked table games, and large bingo operations. Non-gaming revenues at California Indian gaming facilities (hotels, restaurants, retail shops, etc.) in 2004, earned an estimated $544.6 million, a seven percent increase from the previous year.[2]

---

[*] See Roger Dunstan, "*Gambling in California*," California Research Bureau, 1997, and Roger Dunstan, "*Indian Casinos in California*," California Research Bureau, 1998, for our earlier analyses.

Federally recognized California tribes which had tribal-state gaming compacts as of October 2005, had 31,623 enrolled members in 2001 (the most recent data available from the Bureau of Indian Affairs), about nine percent of all American Indians residing in California. Indian gross gaming revenues averaged about $188,000 per gaming tribal member in 2004.

STATE REGULATION

Gambling is government-regulated. Governments determine which kinds of gambling are permitted, where gambling establishments may locate, their size, who may own them, who may work for them, who may sell them supplies and what games they can offer. In effect, governments grant monopolies to themselves (state lotteries) and limit other gambling operations through regulation (Indian casinos, race tracks, card clubs), providing a valuable asset to a relatively few enterprises.

Governments regulate gambling in part to reduce its negative impacts on society. In order for a regulatory scheme to be effective, it must have the resources and structure to effectively monitor and investigate potential problems. California's regulatory structure mixes responsibilities among a number of entities—the Lottery Commission, the California Horse Racing Board, the California Gambling Control Commission, the Division of Gambling Control in the Department of Justice, the Office of Problem Gambling in the Department of Alcohol and Drug Programs, and the Governor. This divided structure makes it hard for the state to develop and implement a unified regulatory policy. Equally important, the state's regulatory agencies do not have sufficient resources to fully staff their responsibilities.

Technology is producing new and different forms of gambling, confounding old divisions between industry sectors and challenging regulatory schemes based on those divisions. In California, Indian casinos have bingo machines that look and operate like slot machines. Racetracks take wagers from bettors around the world over the Internet. Card clubs host poker tournaments and advocate for slot machines. The state lottery joins a multi-state lottery that offers larger jackpots. Internet gambling, which only the federal government can regulate, offers gambling at home without any intermediate provider. This reality suggests that the state should regularly review its entire approach to gambling regulation to ensure that it is as effective as it could be.

ECONOMIC BENEFITS AND SOCIAL COSTS

California's gambling industry provides economic and employment benefits to many Californians. Rural areas benefit economically when casinos attract gamblers from other places and some of their money is spent outside the casino. In California, Indian casinos also provide a new source of employment for residents in rural areas, since up to 90 percent of casino employees are non-Indians.[3] Casinos may purchase a variety of goods and services from local firms.

A 2003 study by San Diego County estimated the following economic impacts from tribal gaming in the county.[4]

- Creation of about 12,000 jobs, primarily for non-Indians, with an annual payroll of $270 million.
- Purchases of $263 million in goods and services in 2001, including contracts with over 2,000 vendors, most in the county.
- Contributions of over $7 million to community organizations.

A 2004 study of the impact of California Indian casinos by researchers at California State University, Sacramento (CSUS), based on county-level data, found "…a modest correlation between Indian casinos and [higher] county employment rates…[and]…somewhat higher crime and higher rates of personal bankruptcy." Aggravated assault and violent crimes were correlated with a greater casino presence, as were increased public expenditures (as additional $15.33 per capita) for law enforcement. The study also found somewhat higher tax revenues, primarily generated by room occupancy taxes and tobacco taxes. Since local jurisdictions cannot impose a room occupancy tax on hotels located on an Indian reservation, the increased tax revenues were most likely generated by hotels in surrounding communities.[5]

These findings run parallel to a 2002 National Bureau of Economic Research study using county-level data, which found that after the opening of a Native American casino employment increased by about five percent in nearby communities, while crime and bankruptcy rates increased by about ten percent.[6]

Problem and Pathological Gambling

Most people gamble responsibly for recreation, but a certain number gamble excessively and become problem and pathological gamblers, harming themselves, their families, and their communities. As access to gambling--either state-promoted or authorized--increases, the prevalence of problem and pathological gambling is also increasing. This addiction creates social costs analogous to the impact of excessive alcohol or drug consumption.[7]

Problem gambling refers to gambling that significantly interferes with a person's basic occupational, interpersonal, and financial functioning. Pathological gambling is the most severe form and is classified as a mental disorder with similarities to drug abuse including "…features of tolerance, withdrawal, diminished control, and relinquishing of important activities."[8]

Casino gambling generates 82.5 percent of all problem gambling helpline calls to the California Council on Problem Gambling. Over three quarters of the callers give California Indian casinos as their primary gambling preference, and five percent cite Nevada casinos. Casino gambling is thus the predominant venue for problem gambling in California.[9]

We use national prevalence figures to estimate that there are 589,000 adult problem gamblers and an additional 333,000 adult pathological gamblers in California--nearly a million people with a serious gambling problem.

Adolescents who gamble are more likely to develop problem and pathological gambling behaviors, with lotteries and Internet poker as gateway games. Adolescent excessive gambling can result in a number of long-term negative consequences including truancy, dropping out of school, severed relationships with family and friends, and mental health and behavioral problems including illegal behavior to finance gambling. If we apply Oregon's adolescent gambling problem/disorder prevalence percentages to California, we find that 436,800 youth are problem gamblers and 159,900 youth have gambling-related disorders with impairment--nearly 600,000 California youth have a serious gambling problem.

High-risk groups, in addition to adolescents, include adults in mental health and substance abuse treatment, who have rates of problem and pathological gambling four to ten times higher than the general population.[10] Men have a prevalence rate two to three times higher than women. Some ethnic groups are especially vulnerable to problem gambling. For example, in California the Commission on Asian & Pacific Islander American Affairs has identified problem gambling as a serious community concern.

- Prevalence increases considerably among adult casino gambling patrons—4.6 percent are problem gamblers and 5.4 percent are pathological gamblers. A study by the National Opinion Research Center found that adults living within 50 miles of a casino had double the probability of pathological or problem gambling.[11]
- A study in the *Journal of the American Medical Association* found that 3.6 percent of lottery patrons were problem gamblers and 5.2 percent were pathological gamblers.[12] Lotteries are a key entry point into this disorder, given their widespread and ready availability and state-sponsored legitimacy. Underage youth have little difficulty in purchasing lottery tickets.
- Studies find that adults who bet on horse racing (both on and off-track) have the highest incidence of problem and pathological gambling of any gambling patrons. Fourteen percent are estimated to be problem gamblers and 25 percent are pathological gamblers.[13] The California Horse Racing Board offers direct access to companies that facilitate betting on horse races through its state website.
- Internet poker gambling among young males is extremely popular, and becoming a problem. As an example, the president of the sophomore class at Lehigh University robbed a bank in an attempt to pay off $5,000 in Internet gambling debts.[14] Prohibitions against gambling by minors in California card clubs appear to not be not well enforced.
- A study by the State of Oregon of gambling treatment and prevention programs found that the primary gambling activity of gamblers enrolled in treatment was video poker (74.5 percent), followed by slot machines (10 percent), cards (5.2

percent), betting on animals (1.6 percent), Keno (1.5 percent), and bingo (1.4 percent).[15]

Based on national estimates, the annual cost of adult pathological gamblers in California is an estimated $489 million, and the annual cost of adult problem gamblers is an estimated $509 million--nearly one billion dollars in total. These costs derive from a number of social and personal problems that correlate with problem gambling including crime, unpaid debts and bankruptcy, mental illness, substance abuse, unemployment and public assistance.

California state prevention programs for problem and pathological gambling are just getting underway, and there are no state-funded treatment programs. The state's Office of Problem Gambling in the Department of Alcohol and Drug Programs has a budget of about $3 million. Based on an estimate provided by the California Council on Problem Gambling, it would cost around $280 million to offer all of the state's adult problem and pathological gamblers a six-week intensive treatment course, with follow-up at Gamblers' Anonymous. There currently are a very limited number of certified therapists, so there would need to be investment in capacity-building first.

Crime

Research suggests that crime rises as casinos attract visitors who either commit or are the victims of crime. This phenomenon may also occur in other attractions with cash-bearing participants.[16] In addition, problem and pathological gambling increases among local residents and is associated with crimes that generate money to gamble and/or pay off gambling debts.

A study using data from every U.S. county between 1977 and 1996, found that casinos (including Indian casinos and riverboat casinos) are associated with increased crime (defined as FBI Index 1 Offenses: aggravated assault, rape, murder, robbery, larceny, burglary, and auto theft) after a lag of three or four years. Prior to the opening of a casino, casino, and noncasino counties had similar crime rates, but six years after casino openings, property crimes were eight percent higher and violent crimes were ten percent higher in casino counties.

Should casinos help pay for the public costs of these crimes? The authors of one study estimate that taxes compensating for the casino-induced increase in FBI Index 1 crimes would represent about 25-30 percent of casino revenues.[17] Casinos could plausibly also be asked to address problem and pathological gambling. The authors of a Wisconsin study made the following recommendations to the state as it renegotiated its tribal-state gaming compacts:[18]

- The tribes should fund enhanced law-enforcement activities in casino and adjacent counties, including road patrols, especially in areas around bars.
- The tribes should fund community assistance, such as creating and activating neighborhood-watch programs.

- Tribes should not sell alcoholic beverages in their casinos.
- Drug-detection units of state police should be enhanced and made available to sheriffs and police.
- Police officers and prosecutors in all counties should include gambling screening questions in all arrest reports and crime reports.

Public Revenues

The gambling industry provides relatively modest revenues to state and local governments.

- Under the 1999 tribal-state compacts, California gaming tribes make payments to a Revenue Sharing Trust Fund for non-gaming tribes. Twenty eight tribes with 1999 compacts also contribute to a Special Distribution Fund that backfills shortages in payments to non-gaming tribes, with the remainder appropriated by the legislature. Under 2004 amended compacts, six tribes make payments to the General Fund. Five years of all these payments (2000-2005) are the equivalent of about nine percent of the Indian gaming revenues earned in four years (estimated gaming revenues for 2000 are not available).
- Net lottery revenue contributed about one percent of total California state revenues in FY 2004-05, and about three percent of the amount that the state spent on public education.
- In 2004, the state received $39.5 million in licensing fees and breakage[*] (1.03 percent) from California horse races and local governments retained more than $7 million (0.19 percent).
- Fees paid by card clubs to the state have held steady over the last eight years and have declined when inflation is taken into account; in contrast, revenues have increased by 75 percent.

AN EVOLVING INDUSTRY

Although we have made every effort to review recent data on gambling in California and the nation, the industry is constantly evolving. Thus the reader is advised to check recent news articles and state reports for updated information.

[*] "Breakage" is the odd cents not paid to winning ticket holders.

THE GAMING INDUSTRY

BACKGROUND

Gambling has a long history in human affairs--at times associated with sin and corruption and at other times considered a form of entertainment. Societal responses have ranged from strict prohibition to legal acceptance.[19] Various groups and individuals hold the full range of those views today, so controversy will certainly continue. Nonetheless, gambling revenues are a major source of funds for governments, charities and businesses throughout the world, gambling is a major industry that employs thousands of people, and it is an enjoyable entertainment for many people.

Studies in the United States suggest that religious differences and the availability of gambling in neighboring jurisdictions affect the permissiveness of state gambling laws.[20] All states except Hawaii and Utah have authorized at least one form of gambling, as summarized in Table 1.

Table 1

Number of State Permitting 21 Different Forms of Gambling (2003)

	# States Permitting		# States Permitting
Charitable Bingo	46	Indian Casinos	22*
Thoroughbred Wagering	43	Greyhound Racing	19
Inter-Track Wagering	42	Telephone Wagering	17
Charitable Games	41	Keno Style Games	15
Instant Pulltabs	40	Casinos and Gaming	14
Lotto Games	40	Card Rooms	13
Quarter Horse Wagering	37	Non-Casino Devices	6
Numbers Games	36	Video Lottery	6
Harness Racing	34	Jai Alai	4
Indian Bingo	30	Sports Betting	4
Off-Track Wagering	25		

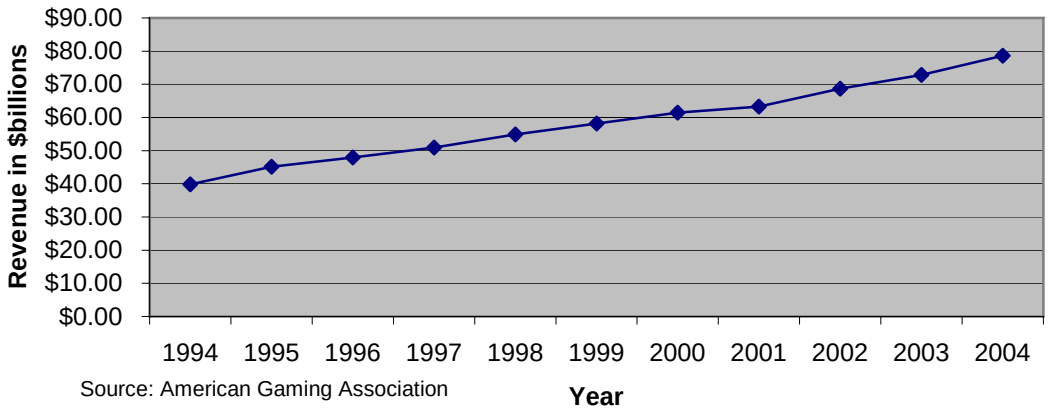
* 30 as of 2005.
Sources: Taggart and Wilks, *Gaming Law Review*, November 2005, drawn from McQueen, *International Gaming & Wagering Business*, 2003, and Alan Meister, *Indian Gaming Industry Report*, 2005-06 edition.

Gambling revenues in the United States grew from $30.4 billion in 1992 to $68.7 billion in 2002, and as a percentage of gross domestic product (GDP) increased from 0.48 to 0.66 percent over that period.[21] State governments have benefited from gambling revenues, which in 2000 transferred $26.8 billion to state coffers (although the net effect

is likely less due to displaced spending from other taxable sales, as discussed).[22] Even charities increasingly rely on poker tournaments and casino gaming as fundraisers, which pending legislation in California would legalize.[23]

Over a ten-year period, from 1994 to 2004, the gross gambling revenue earned by the legal gambling industry doubled in the United States.[*] In 2004, consumer spending increased by seven percent from the previous year to $78.6 billion. This was more than consumers spent on movie tickets, recorded music, theme parks, spectator sports, and video games combined.

Figure 1
Total Legal* Gross Gambling Revenue in the U.S.
1994-2004 (in $billions)



Source: American Gaming Association

*Includes horse racing, lotteries, commercial & Indian casinos, bingo, card rooms, legal bookmaking, charitable

Indian gaming is the most important growth sector of the U.S. gambling economy, with gross revenues doubling from $9.6 billion in 1999 to $19.4 billion in 2004. California's Indian casinos accounted for about half of that increase, generating more revenue than gaming tribes in any other state. Experts predict that there is room for substantial growth in the future. Indian gambling enterprises are rapidly expanding into related businesses, such as hotels and restaurants that attract gamblers and keep them playing.

Table 2 shows that the gambling industry in the United States grew considerably from 1999 to 2003. Indian casino gaming revenues increased by 75 percent. Estimated global Internet gambling revenues increased by an amazing 487 percent from 1999 to 2003[†]. Decreased horse racing and card room revenues were due in part to competition from casinos and Internet gambling, although card room revenues increased again in 2004, according to the American Gaming Association, driven by the popularity of poker. Card room revenues in California were an exception to the national trend, increasing by nearly 60 percent from 1999 through 2004 (see Figure 17, page 111).

[*] Gross gambling revenue is the amount wagered minus the winnings returned to players.
[†] The most recent estimate (2006) estimate by the American Gaming Association is that Internet gambling is a $7 billion to $9 billion market in the United States, and growing.

Table 2

1999, 2002 and 2003 Gross Revenues by Gambling Industry (U.S.) (in $ millions)

	1999 Gross Revenues	2002 Gross Revenues	2003 Gross Revenues	% Change 1999-2003
Horse Racing	$3,382.9	$3,445.5	$3,362.4	-1%
Lotteries (except Video)	$14,952.8	$16,237.7	$17,351.2	16%
Casinos (Land & Water)+	$24,888.4	$27,858.6	$28,689.4	15%
Indian Casinos*	Class II $1,149.8 Class III $8,454.9 Total $9,614.7	Class II $1,753.9 Class III $12,718.4 Total $14,472.3	Class II $2,018.5 Class III $14,802.6 Total $16,821.2	75%
Card Rooms	$909.3	$973.3	$851.3	-6%
Charitable Games	$1,417.7	$1,508.4	$1,559.7	10%
Internet Gambling (Global)	$1,167	$4,007	$5,691.4	487%

+Except for commercial casinos, the industries presented are legal in California.
*Indian gaming revenues in 2004 were $19.4 billion, according to the National Commission on Indian Gaming.
Source: *International Gaming & Wagering Business*, August 2001 and September 2004.

Table 2 shows gross revenues, which is the total amount wagered minus money returned to players. In competitive gaming markets, more revenues must go into prizes, limiting the industry's revenues. The amount of money actually earned by a gambling enterprise (the "take-out rate") is gross revenues minus operational expenses.

In some states, gambling businesses operate in a variety of markets. For example, casino companies and Native American tribes own and operate racetracks, casinos, and lotteries and offer keno and table games, including poker, as well as slot and video gaming machines. There are casinos on cruise ships and soon will be on airplanes.[24]

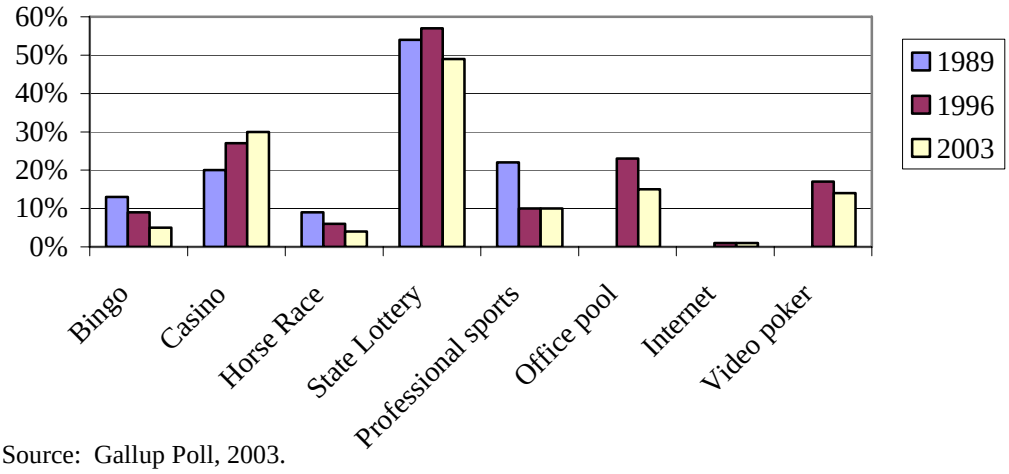
PARTICIPATION IN GAMBLING ACTIVITIES

A December 2003 *Gallup Lifestyle Poll* found that two-thirds of Americans had gambled in the previous 12 months. State lotteries were the most common form of gambling:[25]

- 49 percent had purchased a lottery ticket
- 30 percent had visited a casino
- 15 percent had participated in an office pool
- 14 percent had played a video poker machine
- Five percent had played bingo for money

- Four percent had bet on the horse races
- One percent had gambled for money on the Internet (a number that has undoubtedly increased since 2003).

Figure 2
Participation in Gambling Activities Over Previous 12 Months, in 1989, 1996 and 2003



Source: Gallup Poll, 2003.

As Figure 2 shows, national participation in casino gambling increased from 20 percent in 1989 to 30 percent in 2003, while participation in other types of gambling decreased. A study by Harrah's Entertainment found that more than a quarter of Americans over age 21 gambled at a casino in 2002, on average once every two months. The same survey found that California's 2002 casino participation rate was 38.3 percent, with 5.4 average trips per year. Indian casinos in Southern California were the top destination (33 percent of trips), followed by Las Vegas (21 percent of trips).[26]

Half the people who gamble do so to win money, and as many gamble for entertainment and excitement.[27] Nevertheless, the gambling industry as a whole suffers from a negative public image, according to a 2004 survey, which found that "trustworthiness" and a negative public image were the biggest challenges facing the industry. In comparison, gambling companies identified their biggest challenge as offering a broad range of secure payment methods.[28]

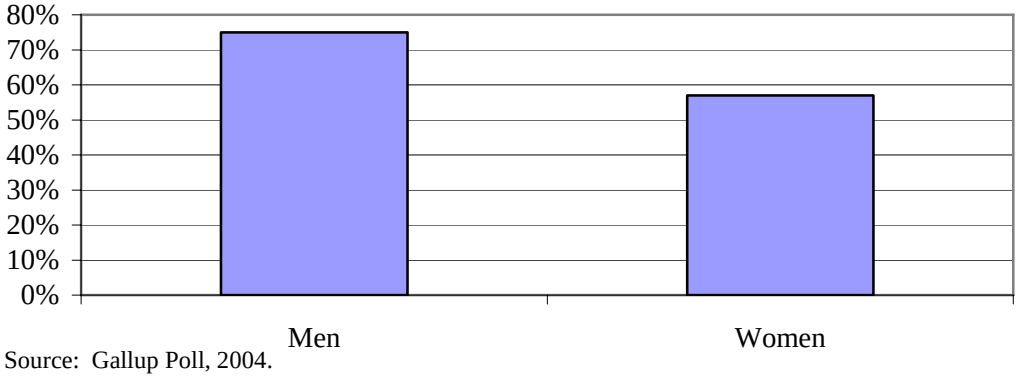
A poll by Harrah's Entertainment in 2002 found that casinos are "…perceived as a sin industry with deep pockets—much like tobacco, alcohol and pharmaceutical corporations---and therefore an attractive source of increased taxes." Only 23 percent of those polled had a positive perception of the casino industry and 99 percent said they would target casinos as a source for additional tax revenue.[29]

WHO GAMBLES?

According to a recent article in *The Atlantic Monthly*, a record 73 million Americans visited one of 1,200 gambling businesses in the last year, a 40 percent increase from five years ago, and a quarter of American adults list gambling as their first entertainment choice.[30] A 2004 *Los Angeles Times* poll found that 40 percent of Californians said that they or a family member had visited an Indian casino in the past year.[31]

The data presented in the following figures is drawn from a March 24, 2004, Gallup Poll and from a survey conducted by Harrah's Entertainment.[32] Gallup found that nearly seven out of ten American adults and 26 percent of teenagers took part in some form of gambling in 2003 (in most states it is not legal for teenagers to gamble).

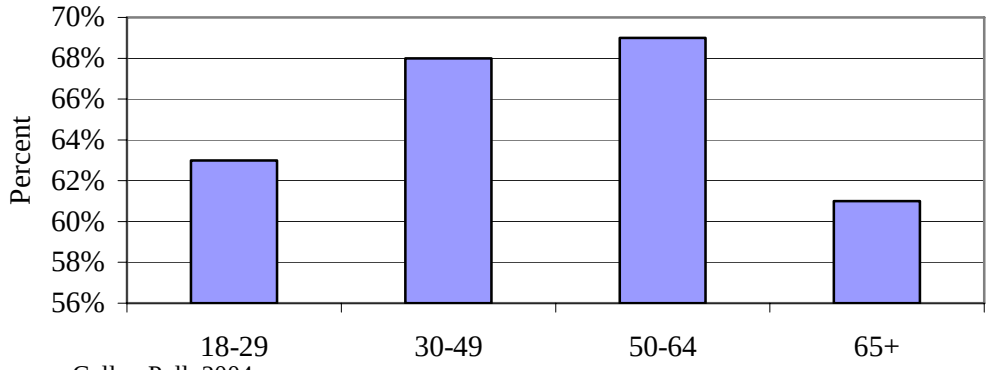
Figure 3
Gender of Americans Gambling in the Previous Year (2003)



Source: Gallup Poll, 2004.

More men than women gamble. Older Americans are more likely to gamble than young adults. The median age of all U.S. adult gamblers is 45 years old. A 1995 Las Vegas Visitor Profile Study found that nearly half of casino patrons were 50 years or older; 30 percent were over 60.[33]

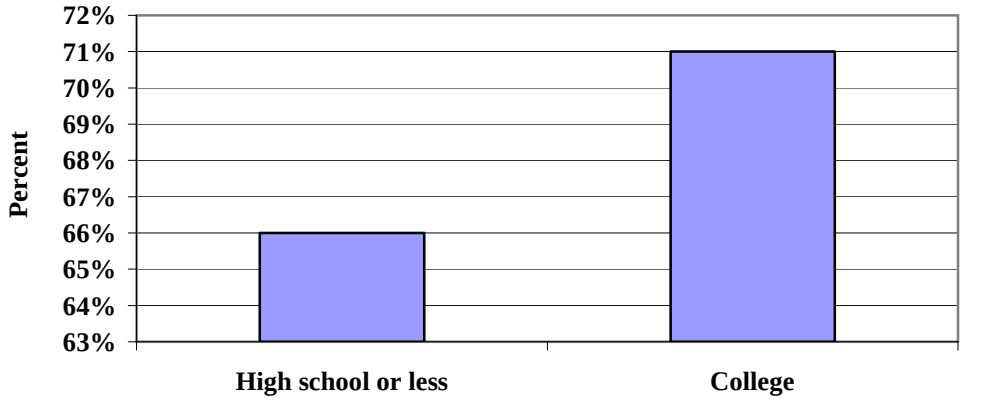
Figure 4
Age of Americans Gambling in the Previous Year (2003)



Source: Gallup Poll, 2004.

College-educated adults are more likely to gamble than adults who completed high school or have less than a high school education. The Harrah's survey found that the typical casino customer is slightly more likely to have attended college than the average American (55 percent versus 53 percent). However the relative amount gambled by these groups varies. For example, a 1999 study found that while high school dropouts and college graduates participated equally in lotteries, the dropouts spent $334 per capita while the average college graduate had bought just $86 of lottery tickets.[34]

Figure 5
Education of Americans Gambling in the Previous Year by Subgroup (2003)

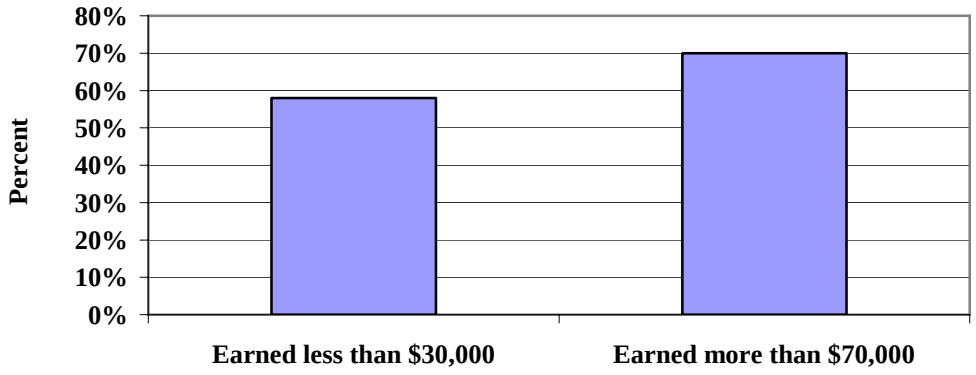


Source: Gallup Poll, 2004.

People who earn more money are more likely to gamble. According to the Harrah's survey, the median 2004 household income of U.S. casino customers was $55,322. However most economic studies have found that gambling expenditures are regressive

because the poor spend a higher proportion of their income on gambling than do the rich. In general the poor, racial minorities and less educated Americans spend considerably more per capita on gambling. In the 1999 study cited above, households with incomes in the $50,000 to $99,000 range participated in lotteries at a higher rate (61.2 percent) than poor households with less than $10,000 in income (48.5 percent). However the poorer households spent $520 on lotteries in a year compared to $301 for the richer households.

Figure 6
Income of Americans Gambling in the Previous Year (2003)



Source: Gallup Poll, 2004.

Americans have mixed opinions about gambling. According to a 1999 Gallup Poll, 56 percent agreed that casinos have a negative impact on family and community life in the cities in which they operate, even though two-thirds agreed that gambling had helped the local economy. Only 22 percent of Americans said that gambling should be expanded, nearly half (47 percent) wanted it to stay at current levels and 29 percent believed it should be reduced or banned.[35]

Although the national gambling polls cited above do not present information about the ethnicity of gamblers, in California Asian-Americans are highly represented among recreational gamblers: "Asian Americans make up some 50 percent of the clientele at Pechanga Resort & Casino and a large part of the clientele at other casinos. These casinos are seeking to attract …coveted Asian–American customers…and are doing everything from advertising in ethnic publications and hiring multilingual hosts, to offering Asian-American entertainment and in one case redesigning parts of the casino with Asian themes."[36]

REGULATION

Whether to allow gambling, what types of games, and in what locations--these are contentious issues in many states. The gaming industry is highly regulated as to where and how it can operate and what games it can offer. Gaming enterprises aggressively seek to increase their market share by lobbying political jurisdictions to expand into new locations, discourage competition, and extend regulatory boundaries to offer newer and

more profitable games. For example, horse racing tracks and cardrooms have been urging states to allow them to install slot machines in their facilities, with some success (although not in California)

.

According to the National Gambling Impact Study Commission, state and federal gambling laws and regulations support the following common goals:[37]

- Ensure the integrity of the games
- Prevent links with criminal activity
- Limit the size and scope of gambling

The extent to which gambling can expand in a relatively unregulated market may be seen in Russia, which after years of prohibition now has few regulatory restrictions, cheap licensing and low tax rates ($150 to $250 a month per slot machine). Moscow has one slot machine for every 290 inhabitants housed in more than 53 gambling halls and 2,000 arcades.[38]

Electronic Technology is Morphing Gambling

Electronic gaming and new communication technologies are rapidly erasing the divisions between games and locations on which many state and federal gambling laws and regulations are based. The challenges to regulators to define gaming limits are continuous given the pace of technological innovation. Large potential profits encourage gaming enterprises to push at the laws' limits. For example:

- Rapid Roulette uses a physical wheel and live dealer but touch screen technology that allows players to place bets via a video screen from remote locations.
- In video poker games based on blackjack, the most popular American table game, each player has a video screen and there is often a live dealer, using real chips, running the game.
- Electronic bingo is virtually indistinguishable from a slot machine from a player's perspective, the difference being that multiple players are linked electronically.

Examples of recent advisory opinions issued by the California Department of Justice's Division of Gambling Control include:

"*Ultimate Bingo Game System Considered to be a Slot Machine*"[39]

"*Volcanic Bingo Advisory*"[40]

"*California Roulette and California Craps as House-Banked Card Games*"[41]

Electronic gaming technologies have led to controversies involving multiplayer electronic units modeled on table games. Several California Indian tribes counted multiplayer units tied to a single server as one "slot machine," placing more terminals in their casinos than allowed under their tribal-state compact. A survey by the Division of

Gambling Control and the California Gambling Control Commission found nearly 300 terminals attached to multiplayer games in casinos around the state. The Attorney General defined each terminal as a gaming device and the tribes had to remove the extra machines after the federal district court agreed.[42]

Internet and wireless communications technologies challenge existing gambling markets and state and federal regulatory schemes. For example, bettors can play poker and wager on horses online, bypassing traditional card rooms and the pari mutuel wagering that supports horse racing. These communication technologies support multistate lotteries and allow bingo games to be hosted at multiple sites, creating larger prizes and more competitive games. International gambling companies headquartered in other countries compete in the American gambling market via the Internet, even though it is illegal. Some analysts contend that the gambling industry is facing a shake-up similar to the challenge that Napster and other file-sharing programs have posed for the music and movie industries.

Charitable Games

Even nonprofit organizations are pushing at the edges of legal gambling in California.[43] Some organizations recently received notice from the California Division of Gambling Control that poker tournaments and casino gambling nights are illegal fundraisers. Organizers could face up to a year in jail or a fine of $5,000. This is because only licensed card rooms or tribal casinos with state-tribal compacts are permitted to host games such as poker or Monte Carlo-style gambling in California. Pending legislation may legalize a limited number of casino-themed fundraisers for nonprofit organizations.[*]

Currently, non-profit organizations in California may host bingo games and raffles. Charities must register with the Attorney General's Registry of Charitable Trusts prior to conducting a raffle, and report afterwards. Charities operating bingo games must comply with local ordinances regulating days, locations, and hours of operation. Local governments may charge a licensing fee for bingo games.

Charitable bingo can be a big business, as in the case of the Hawaiian Gardens Bingo Club, which is the largest non-tribal bingo parlor in the state, operating seven days a week. Between 1997 and 2003, the club brought in more than $200 million in revenue and paid out almost $37 million in charitable giving. Some of the proceeds have gone to local charities, but considerable controversy has accompanied many of the grants to groups in Israel. Under California law, bingo halls must be staffed by volunteer workers, so the bingo hall's workers rely on tips from players. Next door to the bingo hall, and under the same management, is Hawaiian Gardens Casino, the state's largest card room,

[*] AB 839 (Torrico) would allow registered charitable organizations to hold one casino-night fundraiser a year, including poker and pai gow games, with at least 90 percent of the gross revenues going to the charity. Players must be over 21, and cash prizes are prohibited. Any single prize could not exceed $500 in value, or total prizes exceed $5,000. In addition, no more than four events could be held in any one location a year. The nonprofit organization would need to register with the Division of Gambling Control in the Department of Justice and pay a fee, and vendors would need to be licensed by the California Gambling Control Commission. (2/2/06 version).

with 1,675 employees, 180 tables, and expected revenues of $85 million this year. According to press accounts, the club plans to expand to 300 tables by the end of the year. The club provides nearly 80 percent of the city's general fund budget (almost $10 million a year).[44]

The flow of revenue to some nonprofit organizations from bingo games has shrunk since casino gambling on Indian lands became widespread in California. For example, Sacramento County charity bingo hall revenues have dropped by nearly one third in the last 12 years. Ride to Walk, a Placer county charity that at one time earned $150,000 a year from its weekly bingo night, lost $6,600 last year, reportedly due to competition from nearby Thunder Valley Casino.[45]

CALIFORNIA'S GAMBLING INDUSTRY

Gambling was limited to card rooms, racetracks and charitable bingo for most of the state's history. Now the state has a lottery and allows slot machines and Nevada-style house-banked card games in Indian casinos. The state's voters approved a casino gambling monopoly for California's federally recognized Indian tribes in March 2000, and validated that decision again in 2004, when they defeated an effort to expand slot machines and other casino games to card rooms and race tracks. Californians also participate in charitable gambling, including raffles and bingo. Cruise ships with casinos sail from Los Angeles and San Diego on short trips to Baja California and back. There is considerable illegal gambling, including cockfighting, and betting on sports games. In short, gambling is a major industry and activity in California.

California's gambling industry earned over $13 billion in gross gaming revenues in 2004. Indian casino gross gaming revenues were an estimated $5.78 billion, card clubs took in about $655 million, the state lottery's sales were nearly $3 billion, and over $4 billion was wagered on horse races. Net revenues after prizes and operational expenses are deducted were considerably less. Racetracks and horsemen kept about eight percent ($302 million) and the state lottery's net revenues were $1.09 billion.

What is the potential of the gambling market in California? We know of no way to produce a credible estimate. We simply have no experience with the phenomenon of readily available and skillfully packaged gambling opportunities located relatively near to California's large population. We do know that gambling is growing very rapidly in this state, and that knowledgeable observers expect it to continue to expand.

This report is divided into sections, each of which focuses on a different segment of California's gambling industry, principally since 1999.[*] Whenever possible we provide state-level data along with comparative national information. The report also examines research findings about the economic and social impact of gambling in California and other political jurisdictions.

[*] See California Research Bureau reports by Roger Dunstan and the National Gambling Impact Study Commission for more detailed earlier data.

INDIAN CASINOS IN CALIFORNIA

THE BASIC LEGAL FRAMEWORK

Several key principles underlie the special legal status that American Indian tribes enjoy in the United States. Most importantly, tribes are sovereign political entities with "inherent" rights that preceded European colonization, were recognized in treaties with the colonies and then the federal government, and continue today. The tribes are "…distinct political entities both protected by and subject to the laws and policies of the national government." [46]

Article I, Section 8 (3) of the U.S. Constitution reserves the power to regulate commerce with Indian tribes to the Congress. Thus tribal status can be modified by Congress but state laws do not apply to the tribes unless Congress consents.

Tribal Gaming

Tribal gaming as an economic development tool began with high-stakes bingo games offered by the Seminole and Miccosukee tribes in Florida in the 1970s. In California, the Cabazon and Morongo Bands of Mission Indians launched card games and bingo in their casinos approximately 25 years ago, leading to a dispute with county and state authorities and threatened criminal action. The legal basis of the dispute was anchored in Article IV, Section 19 (e) of California's Constitution, which prohibits casino operations:

> The Legislature has no power to authorize, and shall prohibit casinos of the type currently operating in Nevada and New Jersey (adopted by initiative, 1984).

In 1987, the United States Supreme Court found in *California v. Cabazon Band of Mission Indians* (480 U.S. 202, 1987) that federal law authorized gaming on federally recognized tribal lands and that the state did not have civil regulatory authority to proscribe gaming on those lands. The court further reasoned that since the state already allowed local communities to authorize card rooms and charity bingo games, these games did not violate the general public policy of the state and were therefore allowed on tribal lands. Indian gaming is conducted by tribal governments as an exercise of their sovereign rights.

In response to the Supreme Court's decision in *Cabazon*, Congress enacted the Indian Gaming Regulatory Act (IGRA) to provide a statutory basis for the operation of gaming by Indian tribes on Indian lands, "…as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments…"[47] IGRA created a comprehensive regulatory framework, dividing Native American gaming into three categories or classes, each of which differs as to the extent of federal, tribal and state oversight. IGRA also established the National Indian Gaming Commission (NIGC) to exercise general regulatory oversight.

While class I traditional and social games are subject only to tribal government regulation, and class II games such as bingo are subject to tribal and federal oversight,

class III casino-type gaming is regulated by the tribes, states and the federal government. In order for tribes to operate casino-type class III games, IGRA requires that a tribal-state compact be adopted. A tribe that wants to conduct class III gaming must formally request that the state enter into compact negotiations. Once approved by the state, the compact must be submitted to the Department of the Interior, which has 45 days to approve (sign or take no action) or disapprove it. NIGC approval is also required for tribal gaming ordinances and casino management contracts.

CLASS III INDIAN GAMING IN CALIFORNIA

Between 1990 and 1992, the State of California, through the California Horse Racing Board, entered into four compacts with federally recognized tribes to allow off-site betting on horse races on their lands. (The Board no longer has statutory authority to negotiate with tribes on behalf of the State.)

Then-Governor Wilson was resistant to expanding casino gambling to tribal lands. Nonetheless, some tribes installed a variety of video pull-tab games (under the legal theory, since disproved by the courts, that they were class II games) and nonbanked versions of Nevada casino games, leading to numerous legal actions.

In 1996, some California tribes had an estimated 496 table games and 14,407 video slot machines in their casinos, taking in more than $652 million.[48] Thus there was large-scale class III gaming but no tribal-state compact as required by federal law, a violation of IGRA and the federal Johnson Act.

Also in 1996, in *Seminole vs. Florida*, the U.S. Supreme Court struck down as unconstitutional a provision in IGRA that permitted tribes to sue a state for failure to negotiate a compact in good faith. This decision increased states' negotiating leverage with tribes desiring to establish and/or expand gambling operations on their lands, and "…set the stage for highly politicized compact negotiations."[49] It is not clear, outside California, that a tribe has an effective legal remedy should a state refuse to negotiate a compact.[*]

California State-Tribal Compacts for Class III Gaming

In 1998, Governor Wilson entered into a compact with the Pala Band of Mission Indians, a non-gaming tribe, after 17 months of negotiations, permitting specific types of class III gaming on tribal lands. Ten other tribes subsequently signed similar agreements, which were approved by the legislature in August 1998. However other tribes found the compacts' provisions to be intrusive into traditional Indian sovereignty and circulated an initiative to essentially overturn the Pala compact. Concurrently the U.S. Department of

[*] Department of Interior regulations establish a mediation process, but whether a compact could be imposed on a state is open to constitutional challenge under the Tenth Amendment. However California has waived its immunity to suit under IGRA (Gov. Code §98005; *H.E.R.E. v. Davis* (1999) 21 Cal.4th 585, 615-616.)

Justice had forfeiture and injunction actions underway to seize tribal slot machines from gaming tribes operating without tribal-state compacts.

In November 1998, California voters approved Proposition 5, the "Tribal Government Gaming, and Economic Self-Sufficiency Act of 1998," by 63 percent. The initiative sponsored by the tribes authorized the full range of gambling on Indian lands in the state. At that time, this was the most expensive initiative campaign in U.S. history, with the tribes investing nearly $70 million in support and Nevada casinos $26 million in opposition. However since Proposition 5 was a statutory initiative, and the prohibition against casino gambling was in the state's Constitution, the state Supreme Court found the initiative to be unconstitutional in a 1999 decision.

Nonetheless, a number of tribes continued to operate an estimated 20,000 slot machines in about 40 casinos. Christiansen Capital Advisors estimated that California tribal casinos generated between $800 million and $1 billion in gross gambling revenues in 1999, while operating in a questionable legal environment that impeded ready access to capital for facilities.[50] Many of the slot machines were supplied by companies under revenue-sharing agreements.

In March 2000, two-thirds of the state's voters voted in favor of Proposition 1A, which was placed on the ballot by the governor and the legislature and supported by more than 80 of the state's 108 federally recognized tribes.[51] Proposition 1A authorized the governor, with the approval of the legislature, to negotiate and conclude compacts for the operation of slot machines, lottery games and banking and percentage card games by federally recognized Indian tribes on Indian lands. Proposition 17, passed in the same election, enabled the legislature to authorize private, nonprofit organizations to conduct raffles [*California Constitution*, Article IV, Section 19(f)]. The adoption of Proposition 1A provided a legal basis for tribal gaming in California.

In anticipation of the passage of Proposition 1A, in September 1999, Governor Davis and 58 of the state's 108 federally recognized tribes signed 20 year compacts giving the tribes a monopoly on slot machines and house-banked card games in the state. Sixty-one tribes ultimately signed the compacts, which were ratified by the legislature. In 2003, the Ninth U.S. Circuit Court of Appeals found Proposition 1A to be constitutional.

In 2004, an initiative sponsored by card rooms and horse tracks (Proposition 68) to allow card rooms and five tracks to have slot machines was defeated, receiving only 16.3 percent of the vote after the sponsors spent $27 million. Proposition 70, sponsored by the Agua Caliente Band of Cahuilla Indians and several other Southern California tribes to expand Indian gaming, was also defeated in that election. Sponsors spent $30.6 million.

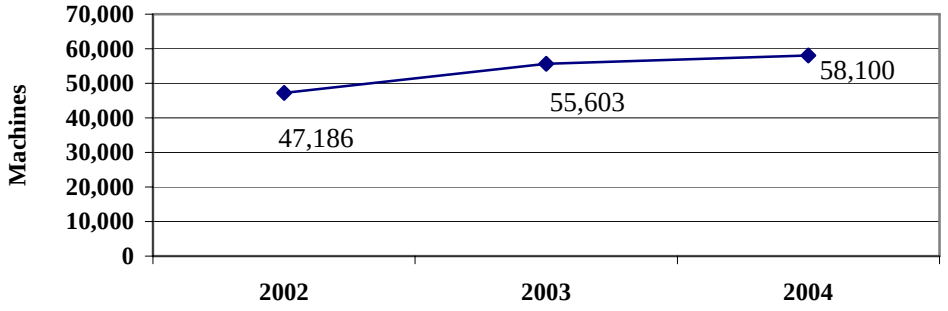
The Proposition 1A Compact

The 37 page tribal-state gaming compact negotiated by Governor Davis and tribal leaders in September 1999, was hastily drafted over a 16 day period, with no public hearings or review. The compacts authorized the tribes to use up to 350 slot machines each, or more if they had more in operation as of September 1, 1999. Tribes could also purchase

licenses to use as many as 2,000 machines. They could establish and operate up to two gaming facilities, offering slot machines and house banked card games. In addition, the tribes could offer class II games (bingo etc.), which the state does not regulate. The compacts were among the first in the nation to contain payments for non-gaming tribes, and to allow collective bargaining among casino employees.

The compact, signed by 61 tribes, has been subject to varying interpretations, sometimes resulting in litigation. Key terms are vague, leading to disputes such as over the number of slot machines allowed, which ranged from Governor Davis' figure of 45,000 to the Legislative Analyst Office's estimate of 113,000. The California Gambling Control Commission eventually placed the number of authorized slot machines at 61,957. As shown in Figure 7, the state's Indian casinos currently have around 58,100 slot machines in operation (although 66,507 have been authorized by the Commission), as well as 1,820 table games.

Figure 7
Gaming Machines in California
Indian Gaming Facilities



Source: Alan Meister, *Casino City's Indian Gaming Industry Report*, 2005-2006 Updated Edition.

The compacts established a Revenue Sharing Trust Fund (RSTF), which is funded by fees paid by gaming tribes with licensed slot machines for distribution to non-compact tribes (defined as tribes with less than 350 slot machines). The compacts provide that non-gaming tribes are to receive $1.1 million annually. As of September 2005, $148 million had been distributed to eligible tribes. Including interest, payments to the fund totaled $154.6 million.

Tribal contributions do not generate sufficient revenue to allow the RSTF to provide $1.1 million annually to all non-gaming tribes, resulting in an aggregate shortfall to all eligible recipient Indian tribes in fiscal year (FY) 2004-05, of $48,483,757, or $692,625 per tribe.[52] Government Code §12012.90 provides that the shortfall is to be paid from the Special Distribution Fund (SDF) through the state budget process.

The 1999 compacts provide that up to 13 percent of net win* from slot machines in operation on September 1, 1999, is contributed to the SDF. Tribes that did not have these gaming devices in operation prior to September 1, 1999, are not obligated to pay into the SDF. The funds can be appropriated by the legislature through the budget process for any purpose including, but not limited to, gambling addiction programs, reimbursement of regulatory costs, grants to state and local governments impacted by gaming, and to cover shortfalls in the RSTF. Payments to the SDF began in 2003, and totaled $368.7 million (including interest) through September 2005. The fund has a balance of about $92.9 million for FY 2005-06.

The 1999 compacts will expire at the beginning of 2021. However they provide for renegotiation at the request of either tribal leaders or the governor under specific circumstances. These include unresolved environmental issues in the development of a gaming facility, and/or a tribe's desire to operate more than the 2,000 gaming devices allowed by the compact. The compacts were opened for renegotiation over environmental issues in 2003, but Governor Davis sent a letter to tribes rescinding his formal request to renegotiate before he left office later that year.

In 2003, three tribes, the La Posta Band of Mission Indians, the Santa Ysabel Band of Mission Indians and the Torres-Martinez Desert Cahuilla Indians negotiated tribal–state gaming compacts with the Davis Administration that introduced revenue-sharing with the state (payments to the General Fund) for the first time. These compacts also contain stronger environmental language, requiring tribes to reach agreements with local governments on off-reservation impacts.

The La Posta and Santa Ysabel compacts provide that five percent of the net win from up to 350 gaming devices will go to the state, and that the tribes will enter into memoranda of understanding with local governments to mitigate the impact of their casinos. The Torres-Martinez compact creates a sliding scale beginning with three percent of net win the first year and topping at five percent the third year. These tribes do not currently have operating casinos.

The Schwarzenegger Compacts

Thirteen new or amended compacts have been negotiated between tribes and Governor Schwarzenegger, of which eight have been ratified by the legislature. These compacts build on the Davis Administration compacts and contain provisions providing for greater revenue sharing with the state, enhanced patron protections, stronger environmental, labor and building safety provisions, and most recently a problem gambling program. They also require agreements with local governments. These compacts are likely to be seen as models in future compact negotiations, a possibility opposed by some tribes. (Table 8 provides information about all tribes with tribal-state gaming compacts.)

* According to the California Gambling Control Commission, net win is "…the difference between gaming wins and loses before deducting costs and expenses." (CGCC *Publication 1*, Feb. 16, 2005, p. 5).

- In January 2004, the governor successfully entered into negotiations with nine tribes; six were parties to the 1999 tribal-state compact and sought to offer more gaming devices, and three sought to enter into compacts for the first time. One of the new compacts, with the Lytton Rancheria of California, was not ratified by the legislature due to controversy over its proposed location and size. The other new and amended compacts were ratified, resulting in a total of 66 tribes with tribal-state gaming compacts in California (four of those tribes do not have casinos).
- In 2005, the governor negotiated four compacts (one amended, three new) that have not yet been ratified by the legislature. Compacts with the Yurok, Quechan, Big Lagoon Rancheria and Los Coyotes Band tribes were opposed by "smaller, powerful tribes with big casinos" who do not support some of the new provisions in the compacts, according to press accounts.[53]

Table 3
California Indian Tribes With Unratified Compacts, October 2005

Tribe, Location, # Members reported to BIA (2001)	Business Partners	State Compact	Proposed casino location	Number and Types of Games	Payments to state and local jurisdictions
Big Lagoon Rancheria, Humboldt Co., 18 members	BarWest Gaming LLC (Detroit)	Negotiated in 2005, land not in trust	Barstow	Up to 2,250 slot machines, card games	Would pay state 16-25% annual net win
Los Coyotes Band of Cahuilla and Cupeño Indians, San Diego, 286 members	BarWest Gaming LLC (Detroit)	Negotiated in 2005, land not in trust	Barstow	Up to 2,250 slot machines, card games	Would pay state 16-25% annual net win
Lytton Rancheria of California,* 246 members	Rumsey and Pala tribes, G. Maloof	Negotiated in 2004	San Pablo	Compact would allow 2,500 gaming devices; tribe has 800 class II games and card room;	Compact provides 25% net win to state minus local payments; city earned $9 million in FY 05-06 (7.5% revenues) from class II games
Quechan Indian Nation, Imperial County, 2,668 members in Ca.		Amended 1999 compact negotiated in 2005	Imperial County	One casino, up to 1,100 slots, card games	10% net win up to 25% based on tribal enrollment and revenues
Yurok Tribe of the Yurok Reservation, Klamath, 4,466 members		Negotiated in 2005	Klamath	Up to 350 gaming devices, card games	Sliding scale beginning with 10% net win, up to 25%

* The Lytton Rancheria makes per capita payments to its members that total 49% of revenues. Payments to the city of San Pablo amount to over half the city's annual budget.
Source: California Research Bureau, California State Library, 2006.

The casinos proposed in the Los Coyotes and Big Lagoon tribal-state compacts would be located in Barstow, where neither tribe has federal trust land. The tribes would have to secure federal and state approval and demonstrate local community support in order to gain federal trust land for gambling purposes, a long and uncertain process.

The Quechan tribe has sued the state in federal court alleging bad-faith by virtue of the Legislature's failure to ratify the negotiated compact amendment, requesting that a mediator be empowered to choose the "last best offer" as a compact binding between the tribe and the state. If successful, this suit could obviate legislative ratification of the amended compact.[54] The tribe wants to build a larger facility with up to 1,100 slot machines in a better location than its existing casino. According to court filings submitted by the tribe, 67 percent of its members are unemployed.[55]

The new and amended 2004-05 tribal state compacts strengthen Indian gaming exclusivity and in some cases allow more than 2,000 gaming devices per casino. Gaming devices are defined to include instant lottery game devices and video poker as well as slot machines, expanding the range of games that can be offered.

Tribal parties to the 2004 amended compacts agreed to fund a $1 billion state transportation bond and share revenues with the state. These tribes make payments into three accounts: the Revenue Sharing Trust Fund, the state General Fund (based on the number of slot machines added since the amended compacts took effect), and a transportation bond fund.[56]

All the recent compacts contain increased revenue sharing provisions with the state from ten to 25 percent of annual net win. However, the definition of annual net win is different from that typically used by the gaming industry and in the 1999 compacts. It allows deduction of limited operational expenses, including leasing fees for gaming devices, thereby decreasing the revenue base on which payments to the state are calculated. As of September 2005, $20 million had been contributed to the state's General Fund.

Unlike the 1999 compacts, the Schwarzenegger compacts require tribes to reach Memoranda of Understanding (MOUs) with local governments. The MOUs are to address local land use, environmental and public safety issues, as well as mitigate local impacts, such as increased traffic, that require infrastructure investments and increased police and fire services. These MOUs are enforceable in state superior court under a limited waiver of sovereign immunity.

The Viejas Band of Kumeyaay Indians recently agreed to pay San Diego County more than $1.2 million for road improvements to address impacts of a planned $18 million casino expansion, the first agreement reached in the county under the compacts negotiated by Governor Schwarzenegger. The tribe's expanded casino will have 2,500 slot machines, 68 table games, a 900-seat bingo hall and off-track betting. In addition, the neighboring Ewiiaapaayp Band plans to develop a second casino on Viejas land,

pending federal approval, a plan endorsed by county supervisors as a means of concentrating the casinos' impact.[57]

According to news accounts, the California Nations Indian Gaming Association, an association of 63 tribes, is developing guidelines for future compacts, "…driven by gaming tribes who fear that the Schwarzenegger administration is piecing together a tough template for the compacts."[58] The tribes reportedly want to limit the amount of revenue the state can seek and to avoid other concessions such as collective bargaining and local impact agreements.

Where Indian Gaming Can be Located–the "Indian Lands" Requirement

Under IGRA, Indian gaming must take place on "Indian lands" or the gaming is subject to state laws. For historical reasons, the location of Indian lands is not always clear. This is because at various times in the nation's history the federal government has taken away Indian land by treaty or by force. At other times it has tried to force assimilation, for example by allowing reservation land to be sold, resulting in a checkerboard pattern of land ownership on some reservations.[*]

Approximately 473,000 acres of California are under tribal control, compared to the nine million acres (about seven percent of the state) that would have been retained under 18 federal treaties negotiated in 1851, but never ratified by the U.S. Senate.[59] During the early 20th century, the federal government purchased land in rural areas for homeless California Indians, leading to the eventual creation or purchase of 82 rancherias.

Tribal Restoration

For the purposes of this report, the 1950's and 1960's "termination era" is particularly important. Congress passed the California Rancheria Act of 1958, leading to the termination of the federal trust relationship with 38 California rancherias and of the tribes that lived on them.[†] Of the Indian groups that lost their federally recognized tribal status at that time, 17 were reinstated in the *Tillie Hardwick* decision in 1983, and ten other tribes have since been restored by the federal courts.

Three California tribes have been recognized by acts of Congress. The Federated Indians of Graton Rancheria was restored by Congressional action in 2000. The legislation placed a mandatory duty on the Secretary of the Interior to acquire land for the benefit of the tribe. The tribe has purchased land in Rohnert Park on which it hopes to build a 2,000 slot machine casino. The Paskenta Band of Nomlaki Indians and the United Auburn Indian Community were restored by Congressional actions in 1994, and authorized to establish reservations in Tehama and Placer Counties, respectively. Both tribes operate

[*] One important question is whether states have jurisdiction over non-Indian member fee land located within a reservation. In March 2005, the NIGC opined that they do not.

[†] A more complete discussion of federal law would include the General Allotment Act of 1887 that led to a significant reduction in tribal lands, the Indian Reorganization Act of 1934, which provides for, among other things, the acquisition of additional trust land for tribes, and other developments beyond the scope of this report.

casinos. Legislation to facilitate recognition of other tribes is pending, such as HR 3475 (D-Honda), which would require the Bureau of Indian Affairs (BIA) to expedite recognition of the Amah Mutsun, a tribe of 500 members located south of Gilroy.[*]

Gaining federal recognition through administrative action is a lengthy process. The Bureau of Indian Affairs (BIA) must find that a tribe was functioning before the arrival of Europeans, has maintained political influence over its members to the present, and is not an offshoot of an already recognized tribe.[60] Of the 302 tribes seeking federal recognition nationally, 67 are from California (Appendix A lists California tribal groups petitioning for recognition as of February, 2005).

Restoration and Acquisition of Indian Lands

As tribes are restored to federal recognition, they have the right to acquire land for a reservation with federal approval. The Secretary of the Interior is empowered under the Indian Reorganization Act of 1934, at his/her discretion, to acquire lands in trust[†] for a tribe "within or without existing reservations." This is a lengthy process, overseen by the Bureau of Indian Affairs, which has been called "cumbersome" and lacking "sufficient clarity over the standards applied."[61] Decisions are subject to judicial appeal in federal courts.

The Secretary must consider the following criteria in evaluating requests for the acquisition of trust land, under regulations adopted by the Department:[62]

- The existence of statutory authority for the acquisition.
- The need of the individual Indian or tribe for additional land and the amount of land already owned.
- The purposes for which the land will be used.
- The extent to which the tribe has complied with the National Environmental Protection Act.
- Whether the tribe owns an interest in the land and whether adverse legal claims exist on the property, including potential environmental liability.
- The impact on state and local governments resulting from the removal of the land from the tax rolls.
- Whether the acquisition of the land is necessary to facilitate tribal self-determination, economic development, or Indian housing.

In evaluating off-reservation land acquisitions, the Secretary of the Interior must also consider the distance of the land from the boundaries of the tribe's reservation. The

[*] Two rival groups claim leadership of the tribe, a complicated but not unique situation.
[†] Placing tribal lands "into trust" is a process whereby the Secretary of the Interior acquires title to a property and holds it in trust for the benefit of a Native American tribe or tribal members. The use of trust lands is governed by the tribes with some federal restrictions, and is not generally subject to state laws.

greater the distance, the more scrutiny is to be given to the tribe's justification and the greater weight given to state and local concerns. If the land is being acquired for business purposes, the tribe must provide a plan specifying the anticipated economic benefits.

Land Acquisition for Indian Gaming

The IGRA provides that an Indian tribe has the right to locate gaming facilities on land that was within or contiguous to a reservation in 1988, at the time of the Act's passage.

The ability of tribes to offer gaming on off-reservation lands that were not part of a reservation or held in trust at that time is limited and the process is of obtaining approval is complex. After a review process conducted by the Bureau of Indian Affairs, the Secretary of the Interior must find, after consultation with state and local officials, that (1) the gaming is in the best interest of the tribe and (2) is not detrimental to the local community (defined as all units of local government within ten miles of the site and all Indian tribes within 50 miles). Although there is no requirement that the land be located with the tribe's ancestral area, the further the land is from the tribe's original lands, the greater the weight given to local concerns. Finally, the state's governor must concur (a "Section 20 concurrence").

However tribes may conduct gaming on after-acquired lands (post IGRA, 1988) without the governor's concurrence if the lands:

- Are taken into trust due to a court decision or settlement.
- Are acknowledged to have been part of an initial reservation by the Secretary of the Interior.
- Or have been restored to a landless tribe that was restored to federal recognition.

To qualify under the "restoration of lands" exception, a tribe must have been previously recognized, terminated, and subsequently restored by Congressional, judicial, or administrative action. The land must be identified in the restoration legislation or the tribe must establish a strong historical and geographical relation to the land within a reasonable period of time after restoration.[63]

In 2005, former Secretary Norton declared in a letter to the Governor of Oregon that the Department of Interior would no longer consider gambling agreements for sites that are not already Indian lands held in trust for a tribe by the federal government. The new policy requires an extensive environmental review and support from surrounding communities.

Governor Schwarzenegger negotiated state-tribal compacts in 2005 with the Los Coyotes and Big Lagoon tribes to build casinos in Barstow. Neither tribe is from the area or has land in trust there. Former Secretary Norton's policy of not considering compacts when the land is not already Indian land held in trust and eligible for gaming purposes appears to be in conflict with these compacts.

Previously two California gaming tribes gained state approval for a gaming compact before they had land in federal trust, although the United Auburn Indian Community and the Paskenta Band of Nomelaki Indians had received federal permission through Congressional action to re-establish a land base in their home counties.

So far no California tribes have been authorized to conduct gaming on after-acquired lands by the Secretary of the Interior, although a number are in the process of seeking local and state support for their efforts to do so (see Table 4).

Table 4
Pending Land-Into-Trust Applications for Gaming in California (May 2006)

Tribe	Location	Section 20 Exception*
Big Lagoon Rancheria 677 miles from reservation	23.10 Acres – Barstow, San Bernardino County	Off-Reservation §2719(b)(1)(A)** Application dated 3/27/06
Chemehuevi Indian Tribe 160 miles from reservation	40 Acres – Barstow, San Bernardino County	Off-Reservation §2719(b)(1)(A) Application dated 2/14/06
Colorado River Indian Tribes of Arizona 10 miles from reservation	75 Acres – Blythe, Riverside County	Off-Reservation §2719(b)(1)(A) Application dated 2/14/06
Fort Mohave Tribe of Arizona 2.5 miles from reservation	300 Acres - Needles, San Bernardino County	Off-Reservation §2719(b)(1)(A) Application dated 10/2/03 Land is in trust
Karuk Tribe	34 Acres - Yreka, Siskiyou County	Off-Reservation §2719(b)(1)(A) Application dated 4/11/06
Los Coyotes Band of Cahuilla & Cupeño Indians 115 miles from reservation	20 Acres – Barstow, San Bernardino County	Off-Reservation §2719(b)(1)(A) Application dated 3/27/06
Manzanita Band of the Kumeyaay Nation 60 miles from reservation	60 Acres – Calexico, Imperial County	Off-Reservation §2719(b)(1)(A0 Application dated 4/14/06
Ramona Band of Cahuilla Indians		Off-Reservation §2719(b)(1)(A) Application dated 4/14/06
Tule River Indian Tribe	39.9 Acres, Tulare County	Off-Reservation §2719(b)(1)(A) Land is in trust, 1994
Elk Valley Rancheria	203 Acres, Del Norte County	Restored Tribe exception+ Off-Reservation §2719(b)(1)(A) Application dated 4/13/01
Enterprise Rancheria of Maidu Indians	40 Acres, Olivehurst, Yuba County	Restored Tribe exception Off-Reservation §2719(b)(1)(A) Application dated 8/13/02
Greenville Rancheria of Maidu Indians	333.66 Acres - Red Bluff, Tehema County	Restored Tribe exception Off-Reservation §2719(b)(1)(A) NOA for EIS published 8/22/05++
Greenville Rancheria of Maidu Indians	18.40 Acres – Chester, Plumas County	Restored Tribe exception Off-Reservation §2719(b)(1)(A) Application dated 4/14/06
North Fork Rancheria of Mono Indians	305 Acres, Madera County	Restored Tribe exception Off-Reservation §2719(b)(1)(A) NOA for EIS published 10/27/05
Quartz Valley Indian Community	74 Acres – Siskiyou County	Restored Tribe exception Off-Reservation §2719(b)(1)(A)

Table 4
Pending Land-Into-Trust Applications for Gaming in California (May 2006)

Tribe	Location	Section 20 Exception*
		Application dated 4/13/06
Cloverdale Rancheria of Pomo Indians	13.04 Acres – Cloverdale, Sonoma County	Restored Tribe exception Application dated 4/7/06
Graton Rancheria	360 Acres, Rohnert Park, Sonoma County	Restored Tribe exception Application dated 4/14/06
Guidiville Band of Pomo Indians	375 Acres, Richmond, Contra Costa County	Restored Tribe exception Application dated 4/13/06
Ione Band of Miwok Indians	224 Acres, Plymouth, Amador County	Restored Tribe exception NOA for EIS published 11/7/03
Mechoopda Indian Tribe of Chico Rancheria	650 Acres, Chico, Butte County (Tillie Hardwick)	Restored Tribe exception Application dated 1/10/03
Scotts Valley Band of Pomo Indians	29.87 Acres, City of Richmond, Contra Costa County	Restored Tribe 2719(b)(1)(B)(iii) NOA for EIS published 7/20/04
Upper Lake Pomo Tribe	27 Acres – Upper Lake, Lake County	Restored Tribe 2719(b)(1)(B)(iii) Application dated April 10, 06
Timbisha Shoshone 100 miles from reservation	58 Acres, City of Hesperia, San Bernardino County	Settlement of a Land Claim IGRA exception §2719(b)(1)(B)(i) NOA for EIS published 4/7/04

Source: California Tribal Business Alliance, May 2006.
*Section 20 of the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. § 2701 *et seq*
**Section 2719 (b)(1)(A) of the IGRA provides that the Secretary of the Interior may determine that a gaming establishment on newly acquired lands may be in the best interest of a tribe, and would not be detrimental to the surrounding community, but only if the governor of the state concurs.
+Section 2719(b)(1)(B)(iii) of the IGRA provides that lands restored to a tribe that is restored to federal recognition are excepted from the October 17, 1988 deadline for gaming on trust lands.
++Notice of Availability (NOA) for Environmental Impact Statement

Separately, the National Indian Gaming Commission (NIGC) must determine whether the proposed gaming will occur on Indian lands, or whether lands taken into trust for non-gaming purposes can be redefined as "Indian lands" for gaming purposes. A number of Indian tribes are seeking this determination. NIGC regulations provide that "Indian lands" are those located within the limits of an Indian reservation, or held in trust by the United States for the benefit of an Indian tribe or individual, over which an Indian tribe exercises governmental power.

In at least one instance, Congress has enacted legislation backdating a post-1988 land acquisition so that it falls within the provisions of IGRA. The Lytton Band of Pomo Indian's acquisition of a card room in San Pablo, California, about 40 miles south of its ancestral homeland, is the notable and controversial example. The tribe does not have a ratified state-tribal gaming compact (see Table 3).

As noted above, Indian land may also be restored as the result of a lawsuit settlement. For example, the Torres-Martinez tribe entered into a settlement with the United States government in response to the inundation of reservation lands by the Salton Sea. Congress enacted the settlement agreement, providing for additional land near the

reservation and in a secondary acquisition area, not to exceed 640 acres, in Riverside County. The tribe is planning to build gaming facilities in both locations.

A recent review by the Inspector General of the Department of the Interior found ten instances in which tribes had converted trust land from non-gaming to gaming purposes without the approval of the Bureau of Indian Affairs (BIA) or of the NIGC, and that neither agency had a process for identifying those converted lands.[64] As a result, the National Indian Gaming Commission is reviewing Indian casino sites around the country to ensure that they are located on federally approved lands. Title searches underway in California involve the Smith River Casino and the Mooretown Casino near Oroville.[65]

Reservation Shopping

Most tribal lands are located in rural areas, but the most successful casinos are located near urban areas. This reality provides important motivation for some tribes and their financial backers to seek land closer to the state's urban areas. In some cases landless restored tribes are seeking a favorable land base on which to reestablish their communities. In other cases cities and counties are seeking the revenue a casino might produce. For example, the city of Garden Grove has authorized city staff to negotiate with Indian tribes and developers to build a casino near Disneyland on city-owned redevelopment land.[66] The Scotts Valley Band of Pomo Indians and the Guidiville Band of Pomo Indians have proposed building casinos in the city of Richmond.

The more marketable locations for casinos may be outside areas over which tribes historically exercised their sovereignty. As U.S. Attorney Thomas Heffelfinger cautioned:

> This is an industry where location, location, location are the three rules and all the good locations are taken…I think the future holds a whole bunch of cooperation agreements between Indian and non-Indian entities in an attempt to develop land which can be taken into trust for purposes of gaming.[67]

"Reservation shopping," as this process is sometimes characterized, is creating considerable controversy in California. This is because placing land under Indian sovereignty can allow large scale gambling-related development that may be exempt from city and county zoning laws and state laws designed to protect workers, consumers and the environment. Local opposition can be intense. For example, the proposal by the landless Ione Band of Miwok Indians and its partner, a Mississippi casino developer, to acquire property near Plymouth in Amador County to build a $250 million casino and hotel complex[*] led to the recall of the city council after it signed a municipal services agreement with the tribe. The county subsequently sued the city.[68] More recently, 85 percent of the voters in Amador County voted "no" to more casinos on an advisory measure.

[*] The tribe lacks federal approval to take the land into trust and does not have a tribal-state compact.

Tribes that have invested in farther-out, less urban casinos sometimes oppose other tribal efforts to locate gaming facilities closer to urban areas. Opponents also include card rooms, racetracks, and community groups.

There is concern that outside financial interests are funding some tribal recognition and land purchase efforts. The Inspector General of the U.S. Department of the Interior testified before Congress that the Department is "…troubled by the invariable presence of wealthy individuals and companies invested heavily in the recognition outcome for seemingly one reason only, that is to ultimately fund and then reap the financial benefits of a new gaming operation." Subsequent testimony by the Tribal Treasurer of the Paskenta Band of Nomlaki Indians, before the U.S. House of Representatives, Committee on Resources, expressed concern about "…the inappropriate tribe-stalking role taken on by these wealthy investors…Rather than reservation shopping, tribe shopping is the more appropriate term."[69]

An analysis by *Time* magazine found that "The National Indian Gaming Commission… knows little about most of the investors." These investors may pay the expenses of a tribal group applying to the Bureau of Indian Affairs for recognition and to place land in trust, including historical documentation, and fund environmental impact studies, casino construction, tribal government staff, public affairs, legal expenses and lobbyists. They also provide management services and gaming devices. *Time* reports that the potential profits of this investment are enormous.[70]

Congress has been considering this issue. The Senate Indian Affairs Committee reported out a bill by Senator Feinstein (S 113) that would delete the portion of the law that deemed the Casino San Pablo, purchased by the Lytton Band of Pomo Indians, to be Indian lands acquired before 1988 (pre-IGRA), and thus eligible for gaming. HR 4893 by Representative Pombo, Chairman of the House Resources Committee, would limit the circumstances under which tribes could acquire lands for gaming. S 2078 by Senator McCain, Chairman of the Senate Indian Affairs Committee, would limit the lands that are eligible for Indian gaming.

Senator McCain recently amended his legislation to tighten the ability of tribes to take new land into trust for gaming purposes under the exceptions currently allowed in the IGRA, Section 2719(b). He said he would "grandfather" tribal applications received by the Department of the Interior before April 15. This doubled the number of pending proposals in California to 24, as seen by the dates on the applications listed in Table 4 above.[71]

The following sample of selected newspaper headlines from one week in August 2005, suggests how common--and sometimes contentious--the issue of expanded Indian gaming has become in many California communities. For example, proposals from three tribes to build casinos in Barstow, near the interstate highway from Los Angeles to Las Vegas, have generated considerable controversy. None of those tribes has federal trust land approved for gambling in Barstow. One of the tribes is located 700 miles north in

Humboldt County. In another example, a tribe is seeking local support for its efforts to place land into trust for gambling purposes.

"Tribe, County Must Negotiate a Better Plan," *San Diego Union Tribune*

> The announcement of the Jamul Indian Village that it plans to build a 30-story hotel and casino on the six acres it owns in semi-rural east county unleashed a firestorm of criticism. Parking, hotel, restaurants, and support facilities would be on 101 adjacent acres owned by the tribe's partner, Lakes Gaming of Minnesota. In 2004, the governor wrote a letter to the Bureau of Indian Affairs opposing the tribe's application to take the 101 acres into trust, citing traffic, water, and broader environmental concerns.[72]

"Governor, Two Tribes Reach Deal on Casinos," *San Diego Union Tribune*

> The Governor and two Indian tribes, the Los Coyotes band of San Diego County, and the Big Lagoon tribe of Humboldt County, have finalized agreements to build large, off-reservation casinos in Barstow, in Imperial County, along a heavily traveled route to Las Vegas. The 20-year deal offers up to 2,400 slot machines to each tribe.[73]

"Bill Targets New Casino in Madera," *The Fresno Bee*

> Senator Dean Florez introduced emergency legislation to require local public approval for off-reservation casinos, in response to the Madera County Board of Supervisor's vote last week in support of an off-reservation $250 million resort casino west of Highway 99 at Avenue 17.[74]

"California Tribe Accepts County, City Conditions," *Merced Sun Star*

> Stockton's California Valley Miwok tribe will have to pay for an expansion to the local hospital's emergency room, road improvements, and services for gambling addicts before it can get an approval from Los Banos and Merced County to build a Westside casino. The landless tribe has accepted these conditions.[75]

"Legislators and Others Say it's Not What Voters Approved in a 2000 Ballot Measure," *The Riverside Press Enterprise*

> "Reservation shopping," whereby a tribe tries to win government approval to build a casino in an urban area far from its ancestral lands, is drawing increasing criticism.[76]

A 2002 survey of California local officials in communities located near Indian gaming facilities found that two-thirds of the respondents reported occasional or frequent local controversy associated with the gaming operation.[77]

Governor Schwarzenegger has stated his policy to (1) oppose federal acquisition of trust land in any urban area for a casino; (2) decline to negotiate a compact with a tribe that does not have land eligible for class III gaming, and; (3) consider tribal requests to conduct class III gaming in non-urban areas only if they have local community support.

The November 2005 ballot in two California counties contained advisory measures seeking local approval of tribal gaming (as now required by the Secretary of the Interior to bring land into trust for gaming and by the governor for a state-tribal compact for class III gaming on that land). Both lost.

- Measure G in Yuba County would have endorsed a proposal by a Butte County tribe and a Chicago developer (Forsythe Racing Inc.) to place 40 acres of land in trust in order to build a $150 million casino, hotel, and convention center at a prime location, with the promise of 2,000 jobs. The Yuba County Board of Supervisors and Marysville City Council had signed agreements with the tribe in exchange for the promise of annual fees of $5 million to the county and $250,000 to the city. The measure lost, 52 percent to 48 percent.
- Amador County Measure 1 asked the voters if they approved of more casinos in Amador County (there is already one, the Jackson Rancheria). Two tribes (one with a state-tribal compact) want to develop casinos in the county. The measure lost by 85 percent of the vote.

California casino gaming has considerable growth potential. According to some analysts, the state could accommodate more than 100,000 slot machines—many more than are allowed under existing tribal-state compacts. It seems clear that Indian gaming will be a contentious issue for some time to come. A 2003 analysis arrived at the following conclusion:

> Despite Congress' best intentions in enacting the IGRA, the law of Indian gaming remains unsettled in many important respects and the fundamental tension between federal, state and tribal sovereignty persists. Currently, these tensions are being resolved on a case-by-case basis often without uniform national rules. The result will almost certainly be additional litigation and a shifting legal landscape.[78]

THE GAMES

Under federal law, Indian tribes may conduct class I games without outside regulation and class II games on tribal lands subject only to broad federal regulation. Tribes can conduct class III games only after concluding a compact with the state. So the definitions of these categories have considerable relevance.

Class I Games

Class I games include traditional Native American "…social games played in connection with 'tribal ceremonies or celebrations.'"[79] Tribes have exclusive jurisdiction to regulate class I gaming.

Class II Games

Class II games as defined by IGRA include bingo (with or without "electronic, computer or other technologic aids"), and related games, including pull-tabs, lotto, punch boards, tip jars, instant bingo, and non-banked card games such as poker.[80] Tribes may offer class II games if a state permits gambling for any purpose. There are no restrictions on the number of class II machines a tribe may operate.

An Unclear Distinction

Class II games are regulated by the tribes and the National Indian Gaming Commission (NIGC). Determining whether a device is class II or class III is difficult, given rapidly evolving electronic technologies and the creativity of the manufacturers of gaming equipment. The federal courts, the NIGC and the Justice Department have all been involved in defining class II machines, but there is no clear "bright line test." The result is that each new class II gaming device is evaluated on a case-by-case basis, sometimes leading to litigation if a tribal casino proceeds with a questionable machine.

In determining whether games are to be classified as class II, federal courts have relied upon an analysis of the specific nature of the device and the underlying game. Players must compete against each other and not against the house. For example, federal courts found that Lucky Tab II (with a paper pull tab) is a class II game that does not require a gaming compact with a state but that electronic pull-tab machines do.[*] In another set of decisions, the Ninth and Tenth Circuit Courts of Appeals have held that the electronic bingo game *MegaMania* is a class II game.[†] The courts relied in part upon definitions set forth by the National Indian Gaming Commission, which allow jackpots and a house cut of the profits.

Federal courts have upheld the right of tribes to offer bingo played on linked video machines, in which players play against a pool composed of other players. Even some house-banked games are allowed under certain conditions, such as a paper pull-table vending machine that plays like a slot machine but prints out a win/loss statement.

The federal Johnson Act makes it a crime to possess, use, sell, or transport any "gambling device, both outside and in "Indian Country." The Act defines a "gambling device" as "…any slot machine…and other machine or mechanical device (including but not limited to roulette wheels and similar devices) designed and manufactured primarily for use in

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[*] See *U.S. v. 103 Electronic Gambling Devices*, 2000 and *Cabazon Band of Mission Indians v. National Indian Gaming Commission*, 1994.

[†] *U.S. v. 103 Electronic Gambling Devices*, 2000 and *U.S. v. 162 MegaMania Gambling Devices*, 2000.

connection with gambling…"[81] The Indian Gaming Regulatory Act (IGRA) provides that the Johnson Act does not apply to any gaming conducted under a tribal-state compact. Putting a class III gaming machine onto a reservation without a compact is a felony. For this reason, the unclear distinction between class II and class III games is "…subject to considerable scrutiny from state officials, state and federal regulators, as well as opponents of tribal gaming."[82]

Each regulatory agency applies its own standards for class II games and they do not always agree.

- The NIGC issues game classification opinions that are advisory in nature and not binding upon a court of law.
- At the state level, the Division of Gambling Control of the California Department of Justice has issued *Tribal Gaming Advisories* that caution against the use of certain games.

According to Tom Heffelginger, U.S. Attorney in Minnesota and chairman of the Native American Issues Subcommittee of the Attorney General's Advisory Committee, "It is the [U.S.] Department of Justice's position…that the Johnson Act prohibits gambling devices absent a State-tribal compact…IGRA intended that there be a clear distinction between class III games that require a compact and class II games that do not."[83]

At a recent hearing of the U.S. Senate Committee on Indian Affairs, the Chairman of the NIGC conceded that "…technology has now reached the point where if you look at one of these Class II devices or purportedly Class II devices, it looks a lot like a slot machine." He asserted that there are over 30,000 devices that go beyond the "pale" in play in the United States. According to his testimony, the Commission is trying to develop a standard for class II games based on player participation, but is receiving criticism from the tribes for being overly restrictive and from the U.S. Department of Justice for being overly broad. [84]

In September 2005, the U.S. Department of Justice announced that it was developing a legislative proposal to amend the Johnson Act in order to clarify the distinction between class II and class III games. In its most recent form, the department's proposal would leave the definition of what constitutes class II games to the NIGC. In March, the Chairman of the NIGC contended that "The need has never been greater to have a bright line that divides Class II and Class III gaming."[85]

Bingosinos

The National Indian Gaming Commission (NIGC) has authorized tribes without compacts with state governments to have an unlimited number of bingo slot machines. Since these devices are "virtually indistinguishable from video slots" with current technology, bingo halls increasingly look like casinos, hence "bingosinos."[86]

> Class II machines are the exact duplicates of slot machines in more than just appearance. They play like slot machines. Players have to pay each time before they pull the handle or press the button starting that round of play. If they win an interim prize on that round the machine pays them instantly. The differences between Class II and III machines are usually minor, at least from the point of view of the patron.[87]

Progressive jackpots and satellite technology have had a large impact on tribal bingo halls, linking multiple bingo rooms and thereby creating the opportunity to win larger amounts on the games. The technology and larger jackpots draw more and younger customers, although most bingo players are older. As one commentator writes, "Class II gaming is booming."[88]

The Lytton Band of Pomo Indians' Casino San Pablo has 805 electronic bingo machines. The tribe originally proposed a 5,000 slot machine casino, but its tribal-state gaming compact allowing 2,500 slot machines was turned down by the state legislature. The Lytton tribe's bingo-casino in San Pablo is earning nearly $300,000 a day in gross gaming revenues on average, or about $2 million a week, most of it from local gamblers.[89] Twenty two other California gaming tribes offer bingo in their casinos in addition to the slot machines and table games allowed by the state, with the largest bingo halls seating over 1,000 people (see Table 8).

According to press accounts, some gaming tribes that have been unwilling to accede to the governor's terms for new compacts allowing more class III machines have instead installed "hundreds of the [class II] machines that look and play like slots."[90] The Morongo casino reportedly has 627 bingo devices, the San Manuel casino has 200, and the Pechanga casino has 1,034 bingo devices. All three tribes sought, but were unable to reach, agreements on revisions to their tribal-state compacts allowing more than 2,000 slot machines.[91]

The California Tribal Business Alliance, composed of five gaming tribes, has expressed the following concerns regarding class II gaming machines to the governor:

> We are aware of several thousand purported Class II machines being operated by tribes with compacts, which may, in fact, not be Class II electronically aided bingo games and which do not have the approval of the NIGC. We believe that tribes with compacts purporting to operate electronic Class II gaming devices should provide to the state a written determination by the NIGC that such games are Class II. In the absence of such written NIGC determination, such games should be considered Class III slot machines subject to the terms of the compacts.[92]

Class III Games

Class III games include all gaming activity other than class I and II gambling. Examples given in Indian Gaming Regulatory Act (IGRA) include, by virtue of their exclusion from class II games, banking card games such as blackjack or baccarat, electronic facsimiles of

any game of chance, or slot machines of any kind. However California law, and California tribal-state compacts, do not allow craps, roulette or dice games.

Tribes hoping to offer casino-style class III games must pass an ordinance authorizing the gambling activities, execute a tribal-state compact, and secure approval of the compact by the Department of the Interior. The compacts are intended to contain all significant terms and conditions governing the proposed Indian gaming.

Slot Machines

Slot machines are "…electronic gambling boxes with coin/token/bill validation and coin/token rewards for attaining certain combinations on the reels."[93] They were invented by a San Franciscan, Charles August Fey, in 1899, but have been transformed by computer technology.

> Nowadays every machine on every casino floor in America is a sophisticated, powerful digital processor whose outcomes and paybacks are quite precisely determined long before any player walks up to play.[94]

Playing the common bet of five dollars a spin, with a 90 percent payback, results in an average loss of $240 an hour.[95]

Slot machines are by far the most profitable games offered by gambling establishments, earning 70 to 80 percent of gaming revenues. On a relatively modest investment of about $10,000 per machine, the most profitable Indian casinos in California can earn over $500 a day in revenues. The machines pay for themselves in under a month. Since slot machines last about five years (although some games turn over more quickly), one of these machines could earn $912,500 during its lifetime. Earnings per machine are less in Las Vegas, where there is more competition.

There are currently approximately 60,000 slot machines in Indian casinos in California. Their profitability provides significant motivation for tribes whose casinos already have the 2,000 machines allowed by their 1999 compacts to push at the definition of a slot machine. Nevada currently has about 200,000 slot machines and California is a much bigger market. This suggests that the state will be asked to negotiate or renegotiate many tribal-state compacts in the future.

As noted above, some tribes installed multi-player gaming devices hooked to one central controller and counted them as one slot machine in order to expand the number of gaming devices in their facilities. The Division of Gambling Control has stated in an advisory that each terminal is an individual device; that interpretation was adopted by the California Gambling Control Commission in February 2005.

Similarly some tribes installed video lottery terminals (VLTs) that mimic slot machines: Morongo installed 2,025 VLTs and Pechanga installed nearly 1,700.[96] The governor's attorney declared the machines illegal and a "material breach" of the tribes' compacts.

The tribes subsequently agreed to remove the machines. As discussed in the Lottery Chapter, VLTs are major moneymakers for some state lotteries.

Beginning in 2004, California's tribal-state gaming compacts expand the definition of a "gaming device" to include any slot machine, instant lottery game device or video poker machine (see, for example, the tribal-state gaming compact with the Coyote Valley Band of Pomo Indians at http://www.cgcc.ca.gov/compacts.html).

Roulette and Games With Dice

The California Department of Justice's Division of Gambling Control has advised that "any house-banked games played with dice" are not permitted in California as they are prohibited by the state's Constitution and are not authorized by tribal-state compacts.[97] Craps games in casinos operated by the Pala and Rumsey tribes, among others, use colored cubes with multiple numbers that do not fit the common definition of dice. The tribes reject the state's position that these are legally prohibited games.[98] Some tribes also have electronic roulette games; roulette is prohibited by the state Constitution. The question is whether these electronic games are "roulette" or "slot machines."

The tribes' ability to operate these games is under negotiation with the governor's office under the dispute resolution process provided for in the compacts. At some point the federal courts could become involved. In the meantime, the games continue in operation.

THE REGULATORY FRAMEWORK

Tribal Regulation

Tribal governments have the primary responsibility for the regulation of gaming activity conducted on their lands. They share aspects of this responsibility with the National Indian Gaming Commission (NIGC) for class II games and, in California, with the Attorney General's Division of Gambling Control and the California Gambling Control Commission for class III games authorized by tribal-state compacts. The ability of the NIGC to regulate class III gaming is currently being challenged in the courts.[99]

Tribal gaming ordinances must be approved by the NIGC and address a number of issues including use of gaming revenues, audits, vendor contracts, and background checks and licensing. Most tribes have created tribal gaming commissions to oversee gaming activities and ensure compliance with tribal, state and federal laws and regulations. Tribal gaming commissioners are either elected or appointed and typically serve as chief administrative and enforcement officers. According to the National Indian Gaming Commission, in 2004, 200 tribal gaming agencies employed 2,800 commissioners and regulatory staff at a cost of $150 million nationwide.[100]

As an example, the Viejas Band of Kumeyaay Indians adopted the "Viejas Tribal Gaming Ordinance and Tribal Gaming Regulations" in 1998. The tribe appropriates $3.9 million to operate an independent Gaming Commissioner's Office and a sophisticated surveillance system operated by 52 regulatory personnel.[101] A Gaming Review Board

reviews and approves regulations and hears appeals of licensing actions and patron disputes. When regulatory personnel find improprieties such as theft and embezzlement, they generally call the county sheriff or the Division of Gambling Control in the Department of Justice.* As the Viejas Band points out, "No one has a greater interest in protecting the integrity of tribal government gaming than Indian governments." [102]

Not all tribal gaming commissions are equally effective. They require independence from casino management and tribal politics, unrestricted access to all areas and records of the gaming operation, clear authority to undertake enforcement actions, and a stable source of funding. A tribal gaming commissioner stresses the importance of avoiding serious conflicts of interest: "Commission members should not be employed by gambling operations or by the Management Company…" or participate as a player.[103]

State Regulation

Under California's tribal-state gaming compacts, state responsibility for regulating class III gaming conducted by tribes is shared by the Division of Gambling Control in the Department of Justice and the California Gambling Control Commission. However only the governor can determine whether provisions of a tribal-state compact have been breached and whether enforcement action is appropriate. Thus three entities share the state's regulatory enforcement responsibilities, an awkward arrangement.

Recently the Office of the Governor demanded that the Alturas Indian Rancheria relinquish its unused gaming licenses to the state, and notified the tribe that should it commence with class III gaming on land that has not been placed in trust for gaming purposes, the state will immediately take steps to terminate the tribe's gaming compact.[104]

The Division of Gambling Control

The state's 1999 tribal-state gaming compacts established a state certification process for determining the suitability of all gaming resource suppliers and financial sources as well as key tribal casino employees. The Gambling Control Act gives that responsibility to the Division of Gambling Control, which is charged with investigating the qualifications of individuals who apply for state gambling licenses and monitoring their conduct to ensure compliance with state law. The Division also investigates and monitors cardroom owners and key employees, and the manufacturers, sellers and distributors of gambling equipment.

Gaming resource suppliers (such as slot machine vendors) and financial sources must request a finding of suitability from the Division and then submit an application to be certified as suitable by the California Gambling Control Commission (CGCC) in order to do business with the tribes. Some applicants withdraw during the Division's investigation before any formal finding is reached. To date, the Commission has found

* California is a Public Law 280 state, meaning that Congress has provided the state with enforcement authority over criminal activity on tribal lands.

44 vendors and/or financial sources to be suitable and four have been found to be unsuitable. Eighteen final determinations are at the CSCC awaiting approval.

Key employees go through a similar process, with some exceptions as specified in the compacts. To date, the Division has investigated 5,772 tribal key employee applications and recommended 11 denials to the CGCC. All of the state's gaming tribes have submitted information, covering the majority of their employees.

Prior to 2004, the Division checked whether tribes had appropriate procedures in place but did not independently verify that they were actually conducting thorough background checks on their gaming commissioners. Under the terms of more recently negotiated compacts, the CGCC issues determinations on tribal gaming agency members' suitability to serve as gambling regulators. In part this policy resulted from allegations that seven members of the Chumash gaming commission had criminal records. The top casino regulator subsequently resigned following disclosure of a felony conviction. The casino is operated by the Santa Ynez Band of Chumash Indians in Santa Barbara County.[105]

The Division recently began monitoring gaming devices used in tribal casinos to ensure that they meet established technical standards. The Division also monitors tribal compliance with other compact provisions such as building codes, health, fire and safety codes and environmental standards. If an initial compliance inspection finds a problem, the Division will notify the tribe and follow-up with a report recommending an action. The next step is a formal letter sent by the special agent in charge to the tribe. If compliance is still not achieved, the Division generally sends the tribe another letter before turning the issue over to the governor's office, which may or may not initiate a formal dispute resolution process. If at the end of this process the governor feels the tribe is still out of compliance, the matter can be taken to federal court. This is a lengthy and cumbersome process.

The Division has 134 employees and a budget of $13.4 million (FY 2005-06), funded from fees paid by cardrooms and from the Special Distribution Fund established by some tribal-state compacts. The bulk of the Division's resources are directed towards its licensing responsibilities, leaving it short of investigative and enforcement staff. For example, under federal Public Law 280, the Division is responsible for investigating and prosecuting criminal violations such as theft and embezzlement in Indian gaming operations.

The California Gambling Control Commission

The California Gambling Control Commission, which is also funded by cardroom fees and gaming tribe payments to the Special Distribution Fund, is responsible for auditing the fund, establishing minimum regulatory standards, and ensuring that state gambling licenses are not held by unsuitable vendors or individuals and that games are fairly played (including hardware and software approvals, annual inspections). The Commission's semi-monthly agendas are filled with lists of individuals and suppliers applying for suitability determinations for the conduct of business with tribal casinos.

Recommendations to the Commission are based on findings made by both Division and Commission staff.

The Commission is handicapped by a relatively small staff and by unclear language in the 1999 compact regarding its authority to inspect and audit casinos. The commission has 46 employees and a budget of $8.3 million (FY 2005-06) to monitor the state's $5.78 billion Indian gaming industry and 86 card rooms.[*] It has fallen behind on audits of Indian casinos and has a backlog of casino employee and vendor license reviews.

The state's Gambling Control Act declares in §19802(c) that the legislature should "…sufficiently fund a full-time commission and law enforcement capability with responsibilities commensurate with the expanded scope of gambling." Interviews with officials in the state's regulatory bodies suggest that neither the Division nor the Commission have sufficient staff resources to fulfill their statutory obligations to regulate, investigate and enforce state gambling laws. Table 5 below provides comparative state regulatory information on staff and budgets that supports this view.

Comparative State Regulatory Data

California's agencies that regulate gambling have fewer resources relative to their responsibilities than those provided by other major gambling states. The following table provides information on regulatory functions and resources in states with commercial (non-Indian) casinos, compared to California.

[*] The number of licensed card rooms in California varies. It was over 100 in October 2005, and was 86 as of February 2006. See http://www.cgcc.ca.gov/cardrooms.html for the most recent information.

Table 5
California Compared to States with Commercial (non-Indian) Casinos—
Regulatory Statistics (2005-2006)

State	# Casinos	# Gaming Devices	Regulatory Agency	Regulatory Functions	Regulatory Agency Budget	# Regulatory Personnel
California	**58 Indian casinos, 86 card clubs**	**58,100 slots, 3,325 table games (1,820 tribal, 1,505 in cardrooms)**	**Ca. Gaming Control Commission; Division of Gaming Control, AG**	**Licensing, audits, game approval, fee collection, law enforcement, tribal compact compliance**	**$12.42 million (Division), $8.3 million (Commission)**	**Division- 134 positions (32 sworn), Commission- 46 positions**
Colorado	46	17,069 (slots and table)	Colorado Division of Gaming	Licensing, audit, game approval, law enforcement	$9.4 million	72 positions (34 sworn)
Illinois	9	9,908 slot machines, 227 table games	Illinois Gaming Board	Licensing, audit, game approval, tax collection, law enforcement, self exclusion program	$14.2 million (not including police)	75 agency employees 65 state police
Indiana+	10	17,906 slots 645 table games	Indiana Gaming Commission	Licensing, law enforcement	$3.3 million	149 positions; 113 vacant
Iowa*	13	17,307 slots, 438 table games	Iowa Racing and Gaming Commission	Licensing, law enforcement, self exclusion program, drug testing	$4.2 million	58 positions
Louisiana*	18	22,145 slots, 851 table games, 12,000 video poker/lottery	State Police, AG's Gaming Unit, Gaming Control Board	Licensing, law enforcement	$1.25 million (Board); $5.5 million (AG), $23 million (Police)	5 positions (Board), 58 positions (AG), 285 State Police (140 sworn)
Michigan	3	7,721 slots; 235 table games	Michigan Gaming Control Board, Attorney General	Licensing, audits, gaming tests, law enforcement	$15.7 million (Board, '04)	110 positions (Board), 35 positions (AG)
Mississippi	29	4,719 slots; 380 table games	Mississippi Gaming Commission	Licensing, law enforcement, audits, game approval	$10.7 million	150 positions authorized (39 sworn)
Missouri	11	17,875 slot machines; 547 table games	Missouri Gaming Commission, Highway Patrol unit	Licensing, audits, enforcement, self exclusion program	$15.35 million (Commission)	74 positions (Commission), 124 police
Nevada**	258	200,000+ slot machines; 5,260 table games	Nevada Gaming Control Board and Commission	Licensing, game approval, audits, law enforcement, tax collection	$37.53 million	439 positions
New Jersey	12	40,820 slot machine; 1,578 table games	N.J. Casino Control Commission and Division of Gaming Enforcement	Licensing, audits, law enforcement, game approval, self exclusion program	$29 million (Commission), $42 million (Division)	350 positions (Comm.), 360 positions (207 sworn, Division)
South Dakota	36	2,996 licensed devices (slots, poker, blackjack)	South Dakota Commission on Gaming	Licensing, audits, game inspections, investigations and enforcement	$9.6 million	14 positions (4 sworn)

Source: state gambling regulator websites
+Regulates riverboat gambling only
*Locations include racetrack casinos
**Locations with gross casino revenue of at least $1 million

Federal Regulation

The National Indian Gaming Commission (NIGC) was created by IGRA to regulate Indian gaming. Tribal gaming ordinances must be approved by the NIGC,[*] which also must approve management contracts (such as the Rincon contract with Harrah's). The NIGC has the power to conduct background investigations and object to the persons hired and licensed by tribal governments to work in their casinos. However it lacks legal authority to enforce minimum background standards for tribal gaming commissioners.

The U.S. Department of Justice also conducts background checks on key gaming employees and enforces criminal violations of federal gaming laws through the FBI and the U.S. Attorney. In addition, tribes work with the IRS to collect taxes and with the Secret Service to prevent counterfeiting.

In reviewing tribal gaming management contracts, the NIGC staff conduct background investigations and seek to make sure that the tribe is the primary beneficiary of its gaming operations, with a maximum of 30 percent of revenues (how revenues are defined is unclear) going to the contactor. Since many of the contracts involve construction and development, the contract approval process requires compliance with the National Environmental Protection Act. However, according to the Inspector General of the Department of the Interior, "Some tribes have circumvented this [NIGC] review, approval and background process by entering into consultant agreements which…do not significantly differ from management contracts."[106] The NIGC has only approved 45 management contracts nationwide, nine in California.

The NIGC's primary role is to oversee tribal regulatory operations. Each tribe must submit an annual audit conducted by an independent outside auditing firm, including of all gaming-related contracts. The NIGC also directly audits tribal gaming operations, although its field operations are constrained by a relatively small budget and staff.

The Commission is funded by fees paid by gaming tribes, about $11.2 million in 2005, and has 80 staff, of which 39 are auditor-investigators. This is to oversee more than 200 tribes that operate more than 400 gaming operations nationwide. In contrast, the Nevada Gaming Commission has a budget of $37.5 million (FY 2006-07) with 439 positions allocated to oversee 365 gaming operations. The California Regional Office of the NIGC has four field investigators and two auditors to monitor a $5.78 billion industry.

The NIGC has the primary responsibility, along with the tribes, for regulation of class II gaming. As noted above, NIGC advisory opinions have been significant in establishing that a wide array of electronic bingo games—that look like slot machines--can be classified as class II games and thus placed in tribal casinos without a tribal-state compact.

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[*] See for example the August 26, 2002, *Federal Register* (Vol. 67, No. 165, p. 54823) for a list of 241 tribes with approved Class III gaming ordinances.

The NIGC may impose civil penalties and fines of up to $25,000 per day. For severe violations, it may close an establishment.

The NIGC's role in regulating class III gaming is under challenge in the federal courts. NIGC regulations establishing minimum internal controls for class III gaming casinos were overturned by a U.S. District Court in a lawsuit brought by the Colorado River Indian Tribes. The case is under appeal.

California Lobbying and Campaign Contributions

Article 15 of the California Gambling Control Act recognizes that:

> In California, in other states, and in other countries, there is ample historical evidence of the potential for revenues derived from gambling to be used to corrupt political officials in the regulation or prosecution of crimes related to gambling activities, embezzlement, and money laundering.

The Article prohibits members of the CGCC from soliciting campaign contributions, creates a three year "revolving door" period in which Commission and Division members and employees may not lobby on behalf of gambling interests before either body, and provides for the suspension or revocation of a gambling license if the licensee violates "…any law or ordinance with respect to campaign finance disclosure or contribution limits…" (Business & Professions Code §§19980-19983).

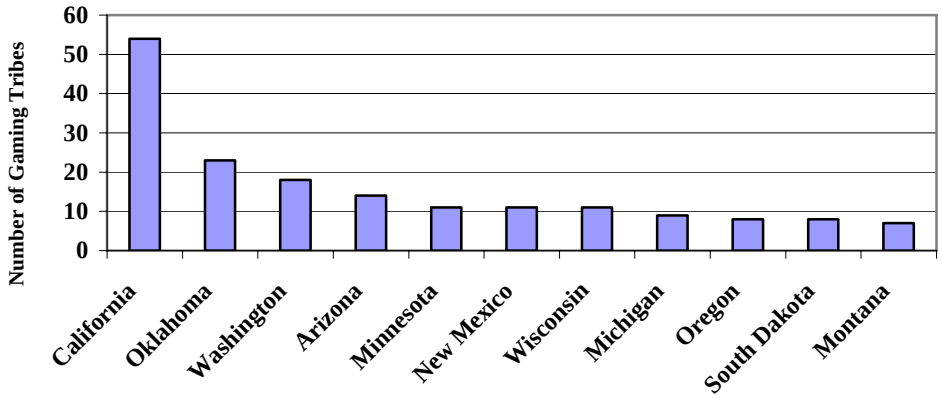
Historically, racetracks and card rooms were the dominant gaming political donors in California. Given the importance of gambling to Indian tribes, and the impact of federal and state laws on their ability to pursue gaming enterprises, it is not surprising that the tribes have become the largest contributors to political campaigns. California Indian tribes became major players in the state's political process when they contributed $70 million toward the passage of Proposition 5 in 1998, and $30 million to the Proposition 1A campaign in 2000, legalizing gaming on tribal lands in the state. Nearly one fifth of the money spent in the 2003 gubernatorial recall came from gaming tribes.

State law does not limit campaign contributions in initiative, referendum and recall campaigns, but it does require disclosure of contributions. In 2000, California Common Cause filed a complaint with the state's Fair Political Practices Commission alleging violations of the state's campaign contribution reporting laws. In early 2003, in a lawsuit brought by the state's Fair Political Practices Commission, a Superior Court judge found that the Agua Caliente Band of Cahuilla Indians was subject to the same laws that apply to other political contributors with respect to disclosure requirements. The court rejected the assertion that the doctrine of tribal immunity applied. The Third District Court of Appeal subsequently denied the tribe's appeal. However a different Superior Court judge came to a different conclusion in a related case involving the Santa Rosa tribe. The case is under appeal to the California Supreme Court. It is likely that the issue will ultimately have to be decided by the U.S. Supreme Court.

GAMING TRIBES AND REVENUES

California has 108 federally recognized tribes and by far the most gaming tribes of any state, as shown in the following chart drawn from National Indian Gaming Commission data (states with fewer than seven gaming tribes are not represented).

Figure 8
States with Seven or More Gaming Tribes (2005)



Source: National Indian Gaming Commission, 2005.

In 2004, there were 228 tribes in the United States operating 405 gaming facilities in 30 states. According to the National Indian Gaming Commission, these gaming operations earned $19.4 billion in gross gaming revenues, a 15.3 percent increase over 2003. Region II (California and Northern Nevada) gross gaming revenues increased by 23.2 percent over 2003, to $5,788,332.[107]

In comparison, commercial (non-Indian) casinos in 11 states earned $28.93 billion in gross gaming revenue in 2004. Comparative state information on gross revenues, gaming tax revenue and employees is shown in Table 6 below.

Table 6
Commercial (non-Indian) Casinos—Gaming Statistics (2004)

State	# Casinos	Gross revenues	Gaming tax revenue (state and local)	Casino employees	Casino employee wages+
Colorado	46	$725.9 million	$ 99.55 million	7,703	$ 210.4 million
Illinois	9	$1.718 billion	$801.72 million	8,628	$ 360.1 million
Indiana	10	$2.369 billion	$760.52 million	17,377	$ 589.5 million++
Iowa*	13	$1.064 billion	$252.67 million	8,799	$ 272.3 million
Louisiana*	18	$2.163 billion	$436.9 million	20,048	$ 486.03 million
Michigan	3	$1.189 billion	$279.4 million	7,572	$ 366.2 million
Mississippi	29	$2,781 billion	$333.01 million	28,932	$1.009 billion
Missouri	11	$1.473 billion	$403.13 million	11,200	$ 284 million
Nevada**	258	$10.652 billion	$886.99 million	191,620	$7,287 billion
New Jersey	12	$4.807 billion	$470.67 million	45,501	$1.259 billion
South Dakota	36	$78.02 million	$ 11.93 million	1,830++	$ 36.4 million
Total	**445**	**$28.93 billion**	**$4.74 billion**	**349,210**	**$12.16 billion**

Source: American Gaming Association, 2004
+Includes benefits and tips
++2003 data
*Includes racetrack casinos
**Locations with gross casino revenue of at least $1 million

Indian gaming is two-thirds the size of commercial non-Indian gaming and growing faster. Revenues earned by Indian gaming in the United States grew by an astounding average yearly growth rate of 33.2 percent from 1988 to 2004, adjusted for inflation. Non-gaming revenues (hotels, restaurants, etc.) rose 16 percent, from $1.8 billion to $2.1 billion.[108] According to a 2002 article in *Time* magazine, Indian gaming as a whole was among the top 20 most profitable U.S. corporations. However the profits were not evenly distributed. Thirteen percent of the casinos accounted for two thirds of the revenues.[109]

California and Connecticut gaming tribes earned about 40 percent of all Indian gaming revenues in the country in 2004, of which California tribes accounted for 28 percent of the total.[110] Two of the three highest revenue-producing casinos in the country are Indian casinos: Foxwoods (in Connecticut) and United Auburn Indian Community's Thunder Valley Casino in Lincoln, California.

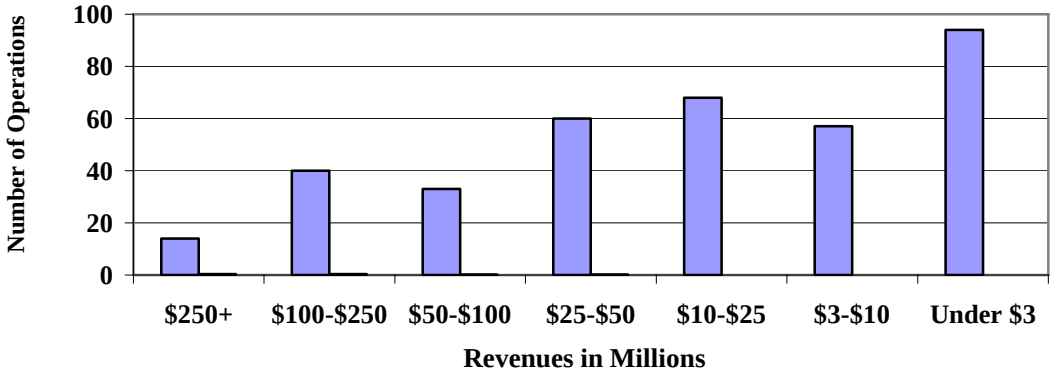
Indian gaming revenue figures are estimates derived from a variety of sources, as tribes are not subject to public information disclosure requirements. The Indian Gaming Regulatory Act provides tribal gaming operations with an exemption from the Freedom of Information Act. Unless a tribe agrees, federal and state regulators cannot publicly release or disclose financial information, making it difficult to find out individual casino revenues.

Tribes with locations near major metropolitan areas have the most successful casinos, but "...very few tribes have really hit the jackpot" because many are located in remote areas. An analysis by the Federal Reserve Bank of Minneapolis found that of the 42 reservations for which 1998 casino revenues could be estimated in the Bank's district, the

top five accounted for 53 percent of all casino revenue but had just 5.5 percent of the reservation population; in contrast, ten reservations had one percent of casino revenue and 42 percent of the total reservation population.[111]

The following chart, based on 2004 data from the NIGC, shows that 55 Indian gaming operations earned over $100 million, compared to 151 operations that earned less than $10 million. The top 55 operations grossed nearly 70 percent of all tribal gaming revenues, but comprised only 16 percent of all gaming operations. The 151 tribal gaming operations earning less than $10 million comprised 41 percent of all gaming operations but earned only two percent of all revenues.

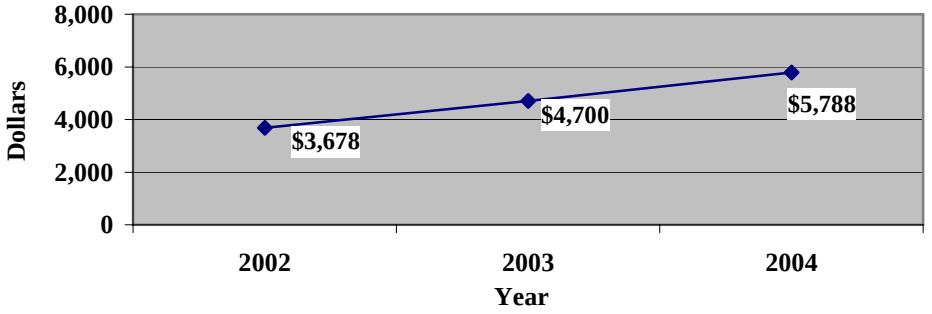
Figure 9
National Indian Gaming Revenues by Number of Gaming Operations (2004)



Source: National Indian Gaming Commission.

California tribal casinos earn the most revenue of any state—an estimated $5.78 billion in 2004, a 23 percent increase over the previous year. In 2004, the state's 56 class III Indian gaming facilities had 58,100 gaming machines (not including bingo) and 1,820 table games.[112] As previously discussed, and as indicated in Table 8, a number of tribal gaming casinos also have bingo halls and class II bingo machines.

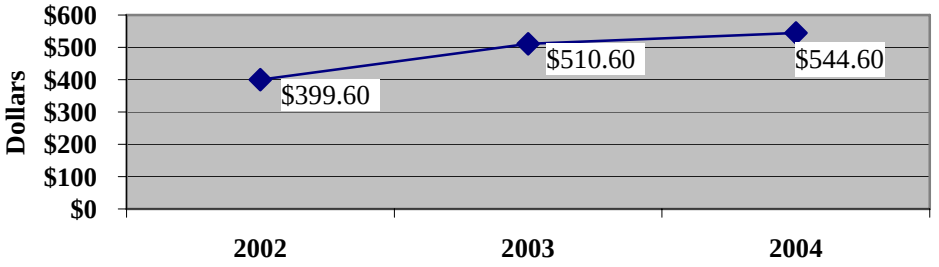
Figure 10
Net Win Gaming Revenues at California Indian Gaming Facilities ($ Millions)



Source: Alan Meister, *Casino City's Indian Gaming Industry Report* , 2005-2006 Updated Ed.

Non-gaming revenues at California Indian gaming facilities (hotels, restaurants, retail shops, etc.) in 2004, were an estimated $544.6 million, nearly a seven percent increase from the previous year.[113]

Figure 11
Non-Gaming Revenue at California Indian Gaming Facilities ($ Millions)



Source: Alan Meister, *Casino City's Indian Gaming Industry Report*, 2005-2006 Updated Ed.

There is some indication that the growth of Indian gaming in some areas in California is slowing down and that the industry is getting more competitive, particularly in San Diego, Riverside and San Bernardino counties. For example, the Cabazon Band of Mission Indians, which opened a $200 million resort in December 2004, near Indio, is in debt and has laid off workers, dissolved its police and fire departments and dismissed its top three tribal executives.[114]

San Diego County has the largest number of tribes and reservations of any county in the nation, with 18 federally recognized tribes, 18 reservations, and 17 tribal governments

serving about 5,900 enrolled tribal members. The county currently has nine Indian casinos, with more under development.*

Restrictions on Expenditures

IGRA restricts how Indian government can spend their gaming revenues. Tribes are allowed to use profits for governmental purposes including:[115]

1. Funding tribal government operations or programs.
2. Providing for the general welfare of the tribe and its members.
3. Promoting tribal economic development.
4. Donating to charitable organizations.
5. Helping fund operations of local government agencies.

With the consent of the Secretary of the Interior, a tribe may allocate gaming revenue among all enrolled tribal members ("per capita payments"), conditioned on submitting a plan. The plan must address economic development and general welfare goals, as well as affirm the responsibility to report per capita payments and gaming winnings for income tax purposes. Tribes making per capita payments must establish a tribal dispute resolution process to challenge the distribution and allocation of gaming revenues. Forty-two California gaming tribes make per capita payments to members, ranging from one percent to 80 percent of revenues (see Table 8). For example, according to press accounts, last year the Santa Ynez Band of Chumash Indians made per capita payments of $30,000 a month to its 153 members.

The Internal Revenue Services (IRS) has an Office of Indian Tribal Governments, which deals with tax issues resulting from tribal gaming as well as issues involving tribal governments and enterprises.

Bonds

The Indian Tribal Government Tax Status Act specifies that tribal governments should be treated as states for purposes of issuing tax-exempt bonds if their bond proceeds are used for an "essential governmental function." The IRS currently has 12 tribal bond audits open, six of tribes and six of issuers who sold bonds on behalf of tribes. At issue for the tribes and the IRS is whether casinos, golf courses, hotels, convention centers, and other facilities qualify as "essential governmental functions."

The IRS has ordered the Seminole tribe in Florida to retire its casino construction bonds. In California, the Cabazon Band of Mission Indians issued $145 million in tax exempt casino-construction bonds for its Fantasy Spring resort that are under investigation.[116] The bonds saved the tribe close to $25 million in state and local taxes.

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* See *Update on Impacts of Tribal Economic Development Projects in San Diego County* for more detailed information. (San Diego County: April 2003).

Recently the IRS began investigating $51 million in bonds issued by the Morongo Band of Mission Indians to build a parking garage for its new casino as well as roads and a sewer system. After an initial review, the IRS determined that the Morongo Band of Mission Indians' bonds did not appear to be issued for an essential governmental function. The issue had originally been planned as a $145 million deal -- using the neighboring city of Banning as a conduit bond issuer -- to expand the tribe's casino and to construct a 23-story hotel.[117]

Non-Gambling Revenues

Most tribes with casinos are reinvesting their gaming profits into business enterprises, as well as improving the social, educational, and health care infrastructures of their communities. For example, the Viejas Band of Kumeyaay Indians in San Diego County owns a shopping center, a bank and radio and television stations. The Rumsey Band of Wintun Indians in Yolo County is investing in real estate and owns a Ford dealership, while the Agua Caliente Band of Cahuilla Indians owns a downtown shopping area and a community bank, among other investments.[118] The Paskenta Band of Nomlaki Indians plans to diversify over a ten-year period by creating an engineering company and investing in medical waste destruction and real estate.

The trend toward diversification is also evident in Las Vegas. Gambling as a percentage of revenue for Las Vegas' hotel-casinos decreased from 55 percent in 1997 to 40 percent in 2000. The Las Vegas Strip has 2.1 million square feet of retail shops, over half of which was created in the last decade.[119]

TAXES AND REVENUE SHARING WITH STATE AND LOCAL GOVERNMENTS

Commercial Casinos

Casino gambling is a fast growing industry around the world. In the United States, commercial casino (non-Indian) revenues more than doubled from 1994 ($13.8 billion) to 2004. The American Gaming Association reports that 445 commercial (non-Indian) casinos[*] in 11 states earned nearly $29 billion in gross revenues in 2004, from which state and local governments derived $4.74 billion in direct gaming taxes, about 16 percent of gross gaming revenue.[120] (California does not have commercial, non-Indian casinos.)

Gambling tax rates vary considerably in states with commercial casinos, as the following data developed by the Indiana Gaming Commission indicates (the chart does not include Colorado, New Jersey or South Dakota, which also have commercial casino gambling).

[*] Commercial casinos include land-based, riverboat, docked, and racetrack casinos operated for commercial purposes (and are not Indian casinos).

Table 7 Comparison of Selected State Commercial Gambling Taxes Fiscal Year 2005			
State	Total Taxes	Adjusted Gross Revenues*	Effective Tax Rate
Nevada	$904 million	$10.61 billion	8.5%
Illinois	$797 million	$ 1.75 billion	45.5%
Indiana	$774 million	$ 2.40 billion	32.2%
New Jersey	$398 million	$ 4.80 billion	8.3%
Missouri	$410 million	$ 1.50 billion	27.2%
Louisiana	$335 million	$ 1.56 billion	21.4%
Mississippi	$334.6 million	$ 2.79 billion	12.0%
Iowa	$161.8 million	$ 745.9 million	21.7%
Total	**$4.224 billion**	**$25.15 billion**	
Source: Indiana Gaming Commission, 2006 *AGR includes adjustments such as chip and token float not included in win figures.			

Indian Casinos

In 2004, there were 403 Indian gaming facilities in 30 states, which according to the National Indian Gaming Commission earned $19.4 billion in gross gaming revenues. Indian gaming tribes do not pay taxes on their gaming revenues to the state or federal government, but they are legally required to deduct and withhold state and federal income tax from non-Indian and nonresident tribal member employees, pay federal employment taxes, report payments to independent contractors, and report and withhold federal incomes taxes from gaming winnings and per capita payments to tribal members.[121]

The IGRA prohibits states from imposing taxes, fees, charges, or other assessments on Indian tribes as a condition of offering class III games. For this reason, revenue-sharing agreements have become a common part of the compact negotiation process. The 1996 U.S. Supreme Court decision, *Seminole vs. Florida*, which struck down a provision in IGRA that permitted tribes to sue a state for failure to negotiate a compact in good faith, increased states' negotiating leverage. Since that decision, most state-tribal gaming compacts have involved revenue sharing.

The Department of the Interior will approve revenue sharing payments only when a state has agreed to provide the valuable economic benefit of "substantial exclusivity" from non-Indian, and occasionally other Indian, gambling enterprises in exchange. The Department has refused to approve of compacts with revenue sharing provisions in states that did not offer this benefit.

The most well-known compact in the country, signed in January 1993, between the state of Connecticut and the Mashantucket Pequot tribe, created the spectacularly successful Foxwoods casino, and called for the tribe to contribute 25 percent of slot machine revenues to the state in return for the exclusive right to operate slot machines. That

compact set a precedent that some states have tried to follow. California's former Governor Davis, for example, unsuccessfully proposed at one time that the tribes share 25 percent of their revenues with the state.

Alan Meister, in a recent analysis of Indian gaming, writes that seven factors can influence tribal revenue sharing:

1. Economic climate—of the tribe, the state and the economy
2. New versus existing gaming and the degree of expansion
3. Profitability and its relation to tribal needs
4. Degree of competition
5. Type of gaming
6. Revenue-sharing rate
7. Revenue-sharing base (i.e. net win, net win after expenses, etc.)[122]

Revenue sharing arrangements provide from eight percent (New Mexico) to 25 percent (Connecticut) of Indian gaming revenues to state and local governments in fifteen states. The three states receiving the largest aggregate contributions from tribal casinos in 2004 were Connecticut ($411.4 million, two casinos), California ($153.2 million, 56 casinos) and Wisconsin ($68 million, 17 casinos and seven "ancillary sites").[123]

According to one analyst:

> The fiscal aspects of these compacts appear to be completely *ad hoc* with no evidence of fundamental public finance principles being applied in their design by states and tribes, much less consideration being given to the design of *optimal fiscal compacts* in any sense.[124]

California

Gaming revenue at California Indian gaming facilities over a four-year period, 2001-2004, was an estimated $17 billion.[125] Payments made by gaming tribes to the Revenue Sharing Trust Fund, the Special Distribution Fund and the state's General Fund from 2000 to September 30, 2005, totaled $543.4 million.[126] The five years of payments made by gaming tribes to these funds was the equivalent of about nine one percent of the estimated Indian gaming revenues earned in four years.

Under the 1999 compacts, the 28[*] California gaming tribes that had gaming devices as of September 1, 1999, make payments to the Special Distribution Fund (SDF) ranging from zero to 13 percent of gaming machine revenue, based on the number of machines that

[*] However the Rumsey Band of Wintun Indians and the Viejas Band of Kumeyaay Indians no longer make payments to the SDF under 2004 amended compacts; 26 tribes now make payments to the fund. See Table 8 below.

they had in operation at that time. The legislature annually appropriates money from the fund. Under a formula enacted in 2003, which sunsets in 2009, payments are directed to local jurisdictions. The intent is to mitigate the impact of the casinos on local communities.

Riverside County tribes had more slot machines in 1999 than tribes in other parts of the state, and thus those tribes pay more into the SDF. With nine casinos, Riverside County has received 41 percent of the SDF funds allocated to date. San Diego County, which has eight casinos in operation, has received 18 percent. The number of slot machines in each of these counties totals about 13,100. The rest of the SDF has been distributed among the other 33 counties with casinos. Of the $105 million allocated to date, only $5.5 million has gone to eight counties that collectively have ten casinos.[127]

The governor vetoed $20 million of SDF funds from the FY 2005-06 budget, "…because local government agencies have not provided required annual reports that detail the specific projects funded." The funding was subsequently restored by legislation.

In 2003, Governor Davis negotiated compacts with three tribes that required revenue sharing with the state of up to five percent of net win. These were the first compacts to provide revenue to the state's General Fund. In amended compacts negotiated in 2004, six tribes agreed to increase payments to the RSTF and to make payments to the state's General Fund based on gaming devices added after the compact amendments became effective, in exchange for removing limits on the number of slot machines. In addition, these tribes also agreed to make a fixed annual payment equivalent to at least ten percent of net win minus expenses in 2003--about $100 million a year--to back a $1 billion state transportation bond over 18 years.

The state greatly over-estimated the amount of General Fund revenue it would receive from the new and amended compacts. Administration officials predicted a payment of $300 million in FY 2004-05, based on revenues from new slot machines. Instead the state is expected to receive about $35 million in General Fund payments from tribes in 2005-06. The tribes have not increased the number of slot machines in their casinos as rapidly as expected.

Some tribes have signed agreements with local governments, making direct payments to offset increased local costs attributed to gaming operations (roads, law enforcement, etc.) and contributing to special community funds. For example, the Rumsey Band of Wintun Indians has agreed to pay Yolo County $100 million over 18 years. The Viejas Band of Kumeyaay Indians recently agreed to pay San Diego County $1.2 million for road improvements associated with its casino expansion, as well as funding a full-time deputy sheriff and the district attorney's tribal liaison position.

Because a compact with the state is not required for class II gaming, revenues from class II gaming are not contractually shared with the state or local governments, but they may be shared voluntarily. For example, the city of San Pablo expects to collect $9 million

from Casino San Pablo in FY 2005-06, over half of the city's annual budget and 7.5 percent of the casino's revenues.

State and Local Taxes

Generally, Indian tribes and their property are not subject to state taxation unless expressly authorized by an act of Congress. Tribal members living on the reservation are subject to federal income tax but not state income tax. If they live outside of Indian lands and within California, they are taxed by California on all income, including income from Indian-country sources such as per capita casino distributions. They are also taxed by the state on all income earned outside of Indian lands regardless of where they live.[128]

The National Conference of State Legislatures notes that "Complex rules regarding state taxation and Native American lands and individuals have been the source of many misunderstandings…The legal right of tribal governments to conduct business free of state taxation, the right of tribal members to make tax-free purchases, and the obligation of non-Indians to pay taxes on their purchases has led both to litigation and to negotiation."[129]

Sales of goods to tribal members for use on the reservation are exempt from state sales and use tax when title to the good passes, and delivery occurs, to a tribal member. This includes slot machines, vehicles (and vehicle license fees), construction materials, and prepared food. However states can require tribes to collect taxes on goods sold to non-Indians on Indian lands.[130] In 1976, the United States Supreme Court affirmed "…the State's requirement that the Indian tribal seller collect a tax validly imposed on non-Indians is a minimal burden…"[131] In 1985, the U.S. Supreme Court found that the state of California could legally require collection of excise taxes[*] by the tribes.[132]

Enforcement is an issue as state sales, use and excise taxes must be collected by the tribes. In 2001, the California Board of Equalization, which administers the state's sales tax, estimated restaurant and bar sales on California tribal lands to be $200 million annually, resulting in approximately $15 million in tax, of which the tribes remitted less than $3 million to the state. In addressing the issue of unremitted tax liabilities, the Assistant Chief Counsel of the Board had written to the attorney of an Indian casino in 1997, "…we have no means at this time of bringing an action for collection against your client without your client's acquiescence…We will not cancel the liability."[133]

In 2002, the Board of Equalization exempted tribes from collecting use tax on meals, food, or beverages sold for consumption on an Indian reservation. However Indian retailers are required to collect use tax from non-Indian purchasers (except for meals, food and beverages), and non-Indian retailers making sales on reservations are responsible for collecting sales tax on sales made to non-Indians. This could include, for example, items sold in a hotel gift shop. The amount of taxes actually being collected is unknown as the Board does not keep statistics on goods purchased on Indian lands.

[*] Excise taxes are paid when purchases are made on a specific good such as gasoline, wine or cigarettes.

California tribes earned revenues of $544.6 million on non-gaming operations in 2004, a seven percent increase from the previous year. As Table 8 indicates, many California tribes are heavily invested in retail operations on their lands including hotels, restaurants, gas stations, convenience stores, and retail shops. The Viejas Band of Kumeyaay Indians collects and remits state sales and use tax from its retail outlet mall operations, the only such example found for this report; San Diego County's share in FY 2000-01 was $520,981.[134]

The state of Washington publishes the *Indian Guide to Washington State Excise Taxes* that clarifies which state taxes should be paid, including sales tax on items sold to non-tribal members.[135] In Minnesota, the Department of Revenue collects millions of dollars in sales taxes from restaurants, shops, and hotels on reservations. Connecticut has a tax agreement with the Mashantucket Pequot and Mohegan tribes establishing which items sold on their lands to non-Indians will be subject to state taxes, such as alcoholic beverages, gasoline and gift items; the tribes collect and remit the taxes to the state.[136]

States with non-Indian casinos impose a variety of taxes including: wagering taxes (varies from four to 70 percent of adjusted gross receipts), an admissions tax (primarily riverboat casinos), taxes on slot machines, a tax on complementary items such as entertainment and food, taxes on gross revenues and licensing fees to cover municipal services.

Property taxes and local taxes such as hotel occupancy taxes do not apply to reservations. In 2004, the Rincon Band of Luiseño Indians successfully sued the county of San Diego to stop it from trying to collect more than $1.6 million in hotel transient occupancy taxes on Harrah's Rincon Resort and Casino, which has a 651 room hotel. In granting the plaintiffs' motion for summary judgment, the U.S. District Court ruled that the county could not tax a hotel on tribal land, even if the hotel is operated by a corporate entity.[137] The court declared that, "absent a withdrawal or waiver by Congress or the tribe, the doctrine of tribal immunity bars the imposition of state taxes." The Rincon Band levies its own hotel transient occupancy tax, from which it received $130,000 in 2002-03, when the hotel had 200 rooms.[138]

The Displacement Effect

Gambling does not increase the total pool of money available in the economy but rather redistributes it. This is because consumers finance their gambling activities from reduced savings and reduced spending on other taxable goods and services. Due to this "displacement effect," economists find that the net revenue benefit of gambling to states and local governments is smaller than it might appear. A recent article in *State Tax Notes* examined several state-level studies using county-level data to estimate the effect of casino gambling on state sales tax revenues.[139]

- A 1998 study in Arizona found that the introduction of Indian casinos diverted funds from taxable to non-taxable sectors of the state economy, including from retail trade, restaurants and bars, hotels and motels, and particularly from amusement and entertainment. The commencement of casino operations lowered

sales tax revenues (called transaction privilege tax in Arizona) by an average of 2.7 percent.

- A 2002 study using 1990-97 data from all New Mexico counties found that counties with two Indian casinos have a sales tax base that is 6.2 percent lower than counties without tribal casinos, suggesting the substitution of gambling for other taxable activity. The model controlled for the effect of county employment and wages, seasonal variations and systematic differences between counties with and without Indian reservations.
- A 1999 study of riverboat casinos in Missouri found that a ten percent increase in casino annual gross revenues was associated with an average decline in sales tax revenue in the amusement and recreation sector of three to 5.9 percent.

The author of a study examining the change in sales tax revenue per dollar of casino annual gross revenues found considerable variation among 13 states that have commercial (non-Indian) casinos. Four states (Louisiana, Michigan, Mississippi, South Dakota) experienced a net gain in per capita sales tax (of one cent to 47 cents per dollar of per capita annual gross casino revenues). These states drew more out-of-state gamblers. Eight states experienced a net reduction of sales tax, ranging from -$1.24 in Illinois to -$.01 in Rhode Island. The author concluded that casino wagering could displace taxable consumer expenditures and, as a result, lower sales tax revenue.[140]

CALIFORNIA INDIAN TRIBES WITH CASINOS

Table 8 lists the 66 California tribes with tribal-state gaming compacts as of October 2005, including

- the number of enrolled members in each tribe (in 2001, as provided by the Bureau of Indian Affairs)
- management partners approved by the National Indian Gaming Commission
- the number of authorized gaming devices, per the California Gambling Control Commission
- other games, non-gaming facilities and profits (as available from press and websites)
- % of revenues paid to tribal members in per capita payments (provided by the BIA)
- payments to the Revenue Sharing Trust Fund over a five year period, tribes that make payments to the Special Distribution Fund and, when appropriate, state revenue-sharing agreements.

This is a very dynamic industry and information can change quickly. The reader is advised to check for more recent updates.

At the time of the 2000 Census there were 333,346 American Indians residing in California, of which members of California's federally recognized tribes are a subset. Federally recognized California tribes which had tribal-state gaming compacts as of

October 2005, had 31,623 members in 2001 (the most recent data available from the BIA), about nine percent of all American Indians residing in California. California Indian gaming net win revenues in 2004 were more than $5.7 billion, an average of about $188,000 per gambling tribal member.

Information presented in Table 8 comes from a variety of government and press sources and is uneven for revenues and investments in facilities, as this proprietary information can only occasionally be gleaned from Securities and Exchange Commission filings of casino management companies and other sources. California gaming tribes do not have to publicly report earnings and they do not do so. Some other states (Connecticut, Nevada, New Jersey) provide for the disclosure of considerably more information about casino revenues, audits and disciplinary actions.

Information is presented about tribal payments made to three funds pursuant to the state's tribal-state compacts, from 2000 to September 30, 2005.

- Payments made to the Revenue Sharing Trust Fund by gaming tribes from the inception of the fund totaled $154.6 million (including interest).[141] These payments are distributed to nongaming tribes.

- 28 tribes have made payments of $368.7 million (including interest) to the Special Distribution Fund; 26 tribes still make payments.[*] However we are unable to provide the amount paid by each tribe, as that information is confidential.

- Six tribes with 2004 amended compacts paid $20 million into the state's General Fund.

In total, California gaming tribes made payments of $543,445,721 to these three funds from 2000 through September 2005.

The National Indian Gaming Commission (NIGC) is required to approve all tribal casino management contracts; only nine contracts have been approved for California gaming tribes with firms such as Harrah's and Station Casinos (one of those contracts has since been terminated). NIGC limits the percentage of tribal casino revenues that can be paid to management consultants/contractors to thirty percent, according to its staff.

[*] The tribes that have made contribution to the Special Distribution Fund include: August Caliente Band of Cahuilla Indians, Barona Band of Mission Indians, Berry Creek Rancheria, Big Sandy Rancheria, Big Valley Rancheria, Bishop Pauite-Shoshone Indians, Cabazon Band of Cahuilla Indians, Chicken Ranch Rancheria, Colusa Indian Community, Hopland Band of Pomo Indians, Jackson Rancheria, Mooretown Rancheria, Morongo Band of Cahuilla Mission Indians, Redding Rancheria, Robinson Rancheria of Pomo Indians, Rumsey Band of Wintun Indians, San Manuel Band of Serrano Mission Indians, Santa Rosa Indian Community, Santa Ynez Band of Chumash Indians, Smith River Rancheria, Soboba Band of Luiseno Indians, Sycuan Band of Diegueño Mission Indians, Table Mountain Rancheria, Tule River Indian Tribe, Twenty-Nine Palms Mission Indians, Viejas Band of Kumeyaay Indians. (The Rumsey and Viejas Bands no longer contribute to the SDF under their amended 2004 compacts, but rather have revenue-sharing agreements with the state.)

Table 8
California Indian Tribes with State Gaming Compacts as of November 2005

Tribe, Location, Enrollment (2001, BIA)	*NIGC-Approved Management Contracts*	*State Compact*	*Authorized Slot Machines, Other Games**	*Facilities in addition to casino(s)*	*Investment in Facilities, # employees+*	*Total revenues and % revenues in per capita payments to members+*	*Payments to RSTF 2000 to 09/30/05, SDF Payments, State Revenue Sharing++*
Agua Caliente Band of Cahuilla Indians, Palm Springs, 379 members		1999	Two casinos, 2,000 slots total, 78 table games, 700 seat bingo hall	228 room hotel, 13 restaurants, 2 showrooms, spa	$95 million Spa Resort, $90 million Rancho Mirage	50% per capita	Payments to RSTF of $3,873,142; SDF payments
Alturas Rancheria, Alturas, 9 members		1999	650 slots, 2 table games	1 restaurant, planned 100 room hotel		60% per capita	Payments to RSTF, $187,500
Augustine Band of Mission Indians, Coachella, 8 members	Paragon Augustine LLC, Nevada	1999	775 slots, 10 gaming tables	2 restaurants	325 employees		Payments to RSTF, $437,500
Barona Band of Mission Indians, Lakeside, 362 members		1999	2,000 slots, bingo, off-track betting, 70 table games	397 room hotel, spa, golf course, 10 restaurants		60% per capita	Payments to RSTF of $3,774,550, SDF payments
Bear River Band of Rohnerville Rancheria, Humboldt Co., 265 members		1999	350 slots, 10 table games	2 restaurants		10% per capita	$0**
Berry Creek Rancheria of Maidu Indians, Oroville, 464 members		1999	900 slots, 22 table games, bingo (300 seats)	Hotel, 5 restaurants		50% per capita	Payments to RSTF of $617,500, SDF payments
Big Sandy Rancheria Band of Western Mono Indians, Auberry, 331 members		1999	350 slots, 8 table games	1 restaurant	Proposed $200 million hotel-casino	50% per capita	$0,** SDF payments
Big Valley Band of Pomo Indians, Lakeport, 696 members		1999	753 slots, 8 table games	80 room hotel, RV park, marina, 2 restaurants, convention facility		49% per capita	Payments to RSTF of $500,000, SDF payments

Tribe, Location, Enrollment (2001, BIA)	*NIGC-Approved Management Contracts*	*State Compact*	*Authorized Slot Machines, Other Games**	*Facilities in addition to casino*	*Investment in Facilities, # employees+*	*Total revenues and % revenues in per capita payments to members+*	*Payments to RSTF 2000 to 09/30/05, SDF Payments, State Revenue Sharing++*
Bishop Paiute Tribe, Bishop, 914 members		1999	350 slots, 3 table games	1 restaurant, gas station		40% per capita	$0,** SDF payments
Blue Lake Rancheria, Blue Lake, 48 members		1999	700 slots, 16 table games, bingo	3 restaurants, showroom			Payments to RSTF; $437,500
Buena Vista Rancheria of Me-Wuk Indians, Ione, 12 members		1999, amended 2004	Unlimited number of slots under amended compact	Proposed casino, shops, restaurants, entertainment	$200 million estimate		Amended compact: 15-25% annual net win to state, bond payments
Cabazon Band of Mission Indians, Indio, 30 members		1999	1,956 slots, 30 table games, bingo, off-track betting	250 room hotel, convention center, 7 restaurants, golf, bowling alley, theater	$200 million resort, 1,200 employees	$75.2 million revenue March 2003-March 2004	Payments to RSTF of $4,225,442, SDF payments
Cahto Indian Tribe of the Laytonville Rancheria, Laytonville, 81 members		1999	350 slots	1 restaurant			$0**
Cachil Dehe Indian Band of Wintun Indians, Colusa, 75 members		1999	846 slots, table games, bingo	3 restaurants, hotel, showroom		20% per capita	Payments to RSTF of $403,750, SDF payments
Cahuilla Band of Mission Indians, Anza, 297 members		1999	350 slots, 3 table games	3 restaurants	116 employees	51% per capita	Payments to RSTF of $125,000, SDF payments

Tribe, Location, Enrollment (2001, BIA))	*NIGC-Approved Management Contracts*	*State Compact*	*Authorized Slot Machines, Other Games**	*Facilities in addition to casino*	*Investment in Facilities, # employees+*	*Total revenues and % revenues in per capita payments to members+*	*Payments to RSTF 2000 to 09/30/05, SDF Payments, State Revenue Sharing++*
Campo Band of Mission Indians, Campo, 294 members		1999	750 slots, 13 table games, 46 poker video games	2 restaurants, bar, truck stop (gas, convenience store etc.)		50% per capita	Payments to RSTF, $500,000
Chemehuevi Tribe, Havasu Lake, 708 members		1999	350 slots, table games	1 restaurant, air strip, marina, RV park, campground, market		60% per capita	$0**
Cher-Ae Heights Indian Community of the Trinidad Rancheria, Trinidad, 189 members		1999	350 slots, 15 table games, bingo	4 restaurants, 78 room hotel, rental home		49% per capita	$0**
Chicken Ranch Band of Miwok Indians, Jamestown, 21 members		1999	350 slots, bingo (900 seats),	Restaurant, gift shop			$0,** SDF payments
Coast Indian Community, Resighini Rancheria, Hoopa, 90 members		1999	350 slots, no casino				
Concow-Maidu Tribe of the Mooretown Rancheria, Oroville, 1,193 members		1999	1,000 slots, 12 poker and 16 table games	Gas station, convenience store, KOA campground, 3 restaurants, theater/lounge		50% per capita	Payments to RSTF of $692,013, SDF payments
Coyote Valley Tribe of Pomo Indians, Redwood Valley, 358 members		2004	2,000 slots, bingo, poker, other table games	Café, gift shop		50% per capita	Per device fee up to 750; 12-25% net annual win over 750; RSTF over $50 million net win

Tribe, Location, Enrollment (2001, BIA)	*NIGC-Approved Management Contracts*	*State Compact*	*Authorized Slot Machines, Other Games**	*Facilities in addition to casino*	*Investment in Facilities, # employees+*	*Total revenues and % revenues in per capita payments to members+*	*Payments to RSTF 2000 to 09/30/05, SDF Payments, State Revenue Sharing++*
Dry Creek Rancheria Band of Pomo Indians, Geyserville, 583 members		1999	1,600 slots, 16 table games	3 restaurants, gift shop		$4.8 million 2nd qtr. 2005 ($1.9 million to Nevada Gold & Casinos, $356,000 to tribe); 30% per capita	Payments to RSTF, $7,176,996
Elk Valley Rancheria, Crescent City, 100 members		1999	400 slots, 5 table games	Golf course, RV resort, bowling alley, 1 restaurant		30% per capita	Payments to RSTF, $62,500
Elem Indian Colony of Pomo Indians, Clearlake, 104 members		1999	350 slots, no casino				
Ewiiaapaayp Band of Kumeyaay Indians (also known as Cuyapaipe), Alpine, 8 members		1999, amended 2004	350 slots; proposed casino on Viejas tribal lands, federal approval not yet received				Payments to RSTF, $2,437,433; amended compact: bond payments, 15% net win up to $200 million, 25% over $200 million
Fort Mojave Indian Tribe, Needles, 412 members in California		2004	1,500 gaming devices, no casino				10-25% annual net win; RSTF over $25 million net win**
Hoopa Valley Tribe, Hoopa, 2,500 members		1999	350 slots, 1 table	Hotel, gas station			$0**
Hopland Band of Pomo Indians, Hopland, 692 members		1999	942 slots, 10 table games, 1,000 seat bingo hall	2 restaurants, lounge		30% per capita	Payments to RSTF of $2,119,408, SDF payments

Tribe, Location, Enrollment (2001, BIA)	*NIGC-Approved Management Contracts*	*State Compact*	*Authorized Slot Machines, Other Games**	*Facilities in addition to casino*	*Investment in Facilities, # employees+*	*Total revenues and % revenues in per capita payments to members+*	*Payments to RSTF 2000 to 09/30/05, SDF Payments, State Revenue Sharing++*
Jackson Rancheria Band of Miwuk Indians, Jackson, 24 members		1999	1,500 slots, 40 table games, bingo	446 room hotel, 6 restaurants, conference center, store		25% per capita	Payments to RSTF of $3,026,877, SDF payments
Jamul Indian Village, Jamul, 56 members		1999	350 slots, planned 2000 class II machines, 40 card tables	Planned 412 room hotel, 5 restaurants	Planned $300 million with Lakes Gaming		$0**
La Jolla Band of Luiseño Indians, Pauma Valley, 698 members		1999	350 slots, 12 card tables	800 site campground; planned 75 room hotel			$0**
La Posta Band of Mission Indians, Lakeside, 20 members		2003, allows one casino	350 gaming devices, no casino				5% net win
Manchester Band of Pomo Indians, Manchester, 621 members		1999	350 slots, no casino				
Manzanita Band of Diegueño Mission Indians, Calexico, 98 members			350 slots, no casino				
Middletown Rancheria Band of Pomo Indians, Middletown, 75 members		1999	608 slots, 8 table games	1 restaurant		50% per capita	Payments to RSTF; $187,500.
Morongo Band of Mission Indians, 1,055 members		1999	2,000 slots, 100 table games, 22 poker tables	310 room hotel, 10 restaurants, nightclub, spa	$250 million resort, 3,000+ employees	70% per capita	Payments to RSTF of $497,300, SDF payments

Tribe, Location, Enrollment (2001, BIA)	*NIGC-Approved Management Contracts*	*State Compact*	*Authorized Slot Machines, Other Games**	*Facilities in addition to casino*	*Investment in Facilities, # employees+*	*Total revenues and % revenues in per capita payments to members+*	*Payments to RSTF 2000 to 09/30/05, SDF Payments, State Revenue Sharing++*
Pala Band of Mission Indians, Pala, 891 members	Anchor Pala Management LLC	1999, amended in 2004	Unlimited number of slots, 85 table games	507 room hotel, 8 restaurants, spa, theater, 2 lounges	$115 million	$188.6 million net win 2003-04; 50% per capita	Payments to RSTF, $14,871,569; amended compact: 10-25% annual net win, RSTF, bond payments
Paskenta Band of Nomlaki Indians, Corning, 262 members		1999	773 slots, 12 table games	4 restaurants, 2 hotels with 120 rooms		10% per capita	Payments to RSTF, $528,750
Pauma-Yuima Band of Mission Indians, Pauma Valley, 132 members		1999, amended in 2004	Unlimited number of slots authorized in 2004, table games	Café, lounge		$44.2 million net win 2003-04; 48% per capita	Payments to RSTF, $1,080,421; amended compact: 25% annual net win, bond payments
Pechanga Band of Luiseño Indians, Temecula, 1,372 members		1999	2,000 slots, 174 table games	522 room hotel, 11 restaurants, store, RV resort convention hall, gas station	$252 million	$100+ million in annual revenue; 80% per capita	Payments to RSTF of $1,533,780, SDF payments
Picayune Rancheria of the Chukchansi Indians, Coarsegold, 1,173 members	Cascade Entertainment Group, CA (terminated)	1999	1,800 slots, 47 table games	192 room hotel, 7 restaurants, theater	$310 million bond		Payments to RSTF, $9,848,969
Pit River Tribe, Burney, 1,657 members		1999	350 slots, 3 table games, 70 bingo seats	1 restaurant			$0**
Quechan Indian Nation, Fort Yuma, Imperial County, 2,668 members in California		1999, amended 2005 but not ratified	350 slots, 15 table games; seeking approval for 2nd CA casino with 1,100 slots	3 restaurants, casino in Arizona			$0** amended compact: 10-25% annual net win

Tribe, Location, Enrollment (2001, BIA)	*NIGC-Approved Management Contracts*	*State Compact*	*Authorized Slot Machines, Other Games**	*Facilities in addition to casino*	*Investment in Facilities, # employees+*	*Total revenues and % revenues in per capita payments to members+*	*Payments to RSTF 2000 to 09/30/05, SDF Payments, State Revenue Sharing++*
Redding Rancheria, Redding, 281 members		1999	951 slots, 18 table games, 300 bingo seats	4 restaurants, planned 100 room hotel		60% per capita	Payments to RSTF of $687,500, SDF payments
Rincon Band of San Luiseño Indians, Valley Center, 639 members	Harrah's Entertainment Inc., Nevada	1999	1,600 slots, 51 table games and 8 poker tables	653 room hotel, spa, 8 restaurants, lounge, showroom, gift shop	$293 million, 1,500 employees	50% per capita	Payments to RSTF, $7,288,246
Robinson Rancheria Pomo Indians, Nice, 433 members		1999	600 slots, 10 table games, 530 bingo seats	48 room hotel, 2 restaurants, RV park, conference center, gift shop,		49% per capita	Payments to RSTF of $275,000, SDF payments
Rumsey Band of Wintun Indians, 44 members		1999, amended 2004	Unlimited slots under 2004 amendment, 111 table games, bingo	200 room hotel, mini mart, spa, showroom, 8 restaurants, golf course		$250 million in 2003 (net); 30% per capita	Payments to RSTF, $5,634,900; amended compact: 25% annual net win, bond payments
San Manuel Band of Mission Indians, Highland, 151 members		1999	2,000 slots, 99 table games, 2,500 seat bingo hall	6 restaurants, gift shop	$240 million resort, 2,700 employees	Over $100 million/year (2002 estimate); 45% per capita	Payments to RSTF of $4,828,747, SDF payments
San Pasquel Band of Mission Indians, Valley View, 529 members	Siren Gaming LLC, Nevada	1999	1,572 slots, 10 table games	3 restaurants		45% per capita	Payments to RSTF, $6,261,281
Santa Ynez Band of Chumash Indians, Santa Ynez, 159 members		1999	2,000 slots, bingo (1,000 seats), 40 table games, 14 poker tables	hotel, spa, 3 restaurants, showroom		$200 million annual net revenue; 20% per capita	Payments to RSTF of $7,072,164, SDF payments

Tribe, Location, Enrollment (2001, BIA)	*NIGC-Approved Management Contracts*	*State Compact*	*Authorized Slot Machines, Other Games**	*Facilities in addition to casino*	*Investment in Facilities, # employees+*	*Total revenues and % revenues in per capita payments to members+*	*Payments to RSTF 2000 to 09/30/05, SDF Payments, State Revenue Sharing++*
Santa Ysabel Band of Mission Indians, Santa Ysabel, 936 members		2003, allows one casino	350 slots; no casino		Planned $30 million		5% annual net win to state
Sherwood Valley Band/Pomo tribe, Willits, 367 members		1999	350 slots	Cafe		65% per capita	$0**
Shingle Springs Rancheria of Miwok Indians, Shingle Springs, 310 members	Lakes-KAR Shingle Springs LLC	1999	350 slots; not open		Planned $250 million		Payments to RSTF, $1,238,750
Smith River Rancheria, Smith River, 896 members		1999	350 slots, 2 blackjack tables, bingo	Restaurant			$0,** SDF payments
Soboba Band of Luiseño Indians, San Jacinto, 802 members	Century Casinos Management, Inc., CO	1999	2,000 slot machines, 21 table games, 10 table poker room, 350 seat bingo hall	3 restaurants, entertainment pavilion, proposed 400 room hotel	950 employees		Payments to RSTF of $3,858,730, SDF payments
Susanville Indian Rancheria, Susanville, 360 members		1999	350 slots, table games	3 restaurants, gift shop			$0**
Sycuan Band of Kumeyaay Nation, El Cajon, 67 members		1999	2,000 slots, 64 table games, off-track betting, 1,254 seat bingo hall	102 room hotel, 5 restaurants, entertainment hall, golf course, gift shop, tennis		32% per capita	Payments to RSTF of $12,579,097, SDF payments

Tribe, Location, Enrollment (2001, BIA)	*NIGC-Approved Management Contracts*	*State Compact*	*Authorized Slot Machines, Other Games**	*Facilities in addition to casino*	*Investment in Facilities, # employees+*	*Total revenues and % revenues in per capita payments to members+*	*Payments to RSTF 2000 to 09/30/05, SDF Payments, State Revenue Sharing++*
Table Mountain Rancheria, Chukchansi Mono Tribe, Friant, 115 members		1999	2,000 slots, 32 table games, 800 seat bingo hall	2 restaurants, gift shop	Cascade Entertainment Group	25% per capita	Payments to RSTF of $6,285,920, SDF payments
Tachi Yokut (Santa Rosa Rancheria), Lemoore, 682 members		1999	2,000 slots, 17 table games, 950 seat bingo hall	4 restaurants		30% per capita	Payments to RSTF of $13,042,151, SDF payments
Torres-Martinez Band of Cahuilla Indians, Salton City, 532 members		2003	Planned 350 slots on existing reservation; possible 1,650 expansion	Truck stop			Revenue sharing of 3% 1st yr., 4% 2nd yr., 5% 3rd yr.
Tuolumne Band of Me-Wuk Indians, Tuolumne, 350 members		1999	1,013 slots, 24 table games	7 bars and restaurants, bowling alley, arcade	Expansion underway	1% per capita	Payments to RSTF, $828,750.
Tule River Indian Tribe, Porterville, 1,425 members		1999	1,500 slots, table games, bingo (450 seat)	2 restaurants, showroom, gift shop		35% per capita	Payments to RSTF of $2,897,124, SDF payments
Twenty Nine Palms Band of Mission Indians, Coachella, 13 members	THCR Management Services, Delaware	1999	2,000 slots, 37 table games	3 restaurants, gift shop; 800 employees		21.5% per capita	Payments to RSTF, $7,410,853, SDF payments
United Auburn Indian Community, Lincoln, El Dorado Co., 244 members	Station Casinos, LLC Nevada	1999; amended 2004	Unlimited number under 2004 amendment, 98 table games	11 restaurants	$100 million	$338 million in 2003 (net); 40% per capita	Payments to RSTF, $7,446,560

Tribe, Location, Enrollment (2001, BIA)	*NIGC-Approved Management Contracts*	*State Compact*	*Authorized Slot Machines, Other Games**	*Facilities in addition to casino*	*Investment in Facilities, # employees+*	*Total revenues and % revenues in per capita payments to members+*	*Payments to RSTF 2000 to 09/30/05, SDF Payments, State Revenue Sharing++*
Viejas Band of Kumeyaay Indians, Alpine, 268 members		1999, amended 2004	Unlimited number under 2004 amendment, 62 table games, 900 seat bingo hall, off-track betting	6 restaurants, factory outlet store mall, outdoor theater	$135 million +$25million expansion, $56.6 million in outlet center	$174 million annual net win 2003-04; 55% per capita	Payments to RSTF, $4,192,366; amended compact: 25% annual net win, payments to secure bond

The information provided in this table is drawn from government and news sources. Given how quickly new developments occur, there may be more recent changes.

*Some tribes do not have all authorized slot machines in operation; information about other games is taken from tribal websites.

**Tribes with 350 or fewer gaming devices (slot machines) are defined as "non-gaming tribes" and are eligible to receive a full share from the Revenue Sharing Trust Fund, which currently provides $1.1 million/year to eligible compact tribes.

+Revenue information is considered to be proprietary and so is incomplete. Per capita % is from the Office of Indian Gaming Management, U.S. Department of the Interior.

++Revenue Sharing Trust Fund (RSTF) payments began July 1, 2000. The RSTF receives license fees of $0-$4,350 per device per year, depending on the number of gaming devices a tribe operates. Some of the 2003-2005 compact tribes pay only into the RSTF; others pay only a % of net win to the state, as described..

SOCIAL AND ECONOMIC IMPACTS OF INDIAN CASINOS

In the last two chapters of this report, we discuss the social and economic impacts of gambling in more detail. In this section, we review research that focuses solely on the impact of Indian casinos.

On Tribes

Many of the country's 1.9 million American Indians have lived in poverty on rural federal trust reservations for decades, receiving minimal government services and suffering from inadequate housing, poor schools, and chronic diseases such as diabetes, alcoholism, and drug abuse. In 1990, per capita income for Indians on reservations was less than one-third the U.S. average; college attainment was less than half the U.S. level; unemployment was three times the U.S. level; and Indian homes disproportionately lacked access to running water and wastewater facilities.[142]

California tribes have experienced unemployment as high as 90 percent, welfare dependency, and poor education and health services. Inadequate investment in infrastructure on the tribes' isolated lands has increased their lack of business opportunities. For example, the state's largest tribe, the Yurok (about 4,000 members), lives on a reservation in which 80 percent of the homes lack electricity, 75 percent of the tribal members do not have jobs or phone lines, water and sewer systems are inadequate, and there is only a one lane roadway.[143]

A Brookings Institute report summarized the costs of concentrated poverty on individuals and society:

> These costs come in the form of: reduced private-sector investment and local job opportunities; increased prices for the poor; higher levels of crime; negative impacts on mental and physical health; low-quality neighborhood schools; and heavy burdens on local governments that induce out-migration of middle-class households. Together, these factors combine to limit the life chances and quality of life available to residents of high-poverty neighborhoods.[144]

Improved Socioeconomic Well-Being

The IGRA requires that revenues from tribal gaming be used to fund tribal governmental gaming operations and programs, provide for the general welfare of tribal citizens, promote economic development, support charitable organizations, and fund operations for local, non-tribal government agencies. Some tribes have used gaming profits to build houses, schools, day-care centers, clinics, and hospitals; to support social service programs; to build infrastructure such as roads and sewer and water systems; to make direct per capita payments to tribal members; and to fund retirement programs and college scholarships. Welfare and unemployment have been eliminated for members of some gaming tribes.

Indian gaming has had a tremendous impact on the economic well being of many California tribes, resulting in:

> …well-paying jobs; a viable revenue stream with which to provide essential government services; a means to leverage economic growth, development and economic diversification; the chance to revitalize culture and tradition; and the opportunity to strengthen the institutions of tribal governance…[145]

A National Bureau of Economic Research 2002 study found that four years after tribes opened casinos, tribal employment increased by 26 percent and tribal populations increased by about 12 percent, while the fraction of poor working adults declined by 14 percent. The increased employment was not necessarily in gaming, as some tribes have diversified their economic base.[146]

An extensive study by the Harvard Project on American Indian Economic Development, summarized in Table 9, found many positive changes nationally from 1990, when few tribes had gaming enterprises, to 2000, when many tribal-state compacts were in operation (although large scale Indian gaming did not begin in California until after 2000). As the authors suggest, the results are remarkable. They conclude that a national policy of Indian self-government is driving socioeconomic change as well as gambling, given the reported improvements for non-gaming as well as gaming tribes.[147]

Table 9
Changes on Reservations Other than Navajo (1990-2000)

	Non-Gaming	Gaming	U.S. overall
Real per capita income	+21%	+36%	+11%
Median family income	+14%	+35%	+4%
Family poverty	-6.9%	-11.8%	-0.8%
Child poverty	-8.1%	-11.6%	-1.7%
Deep poverty	-1.4%	-3.4%	-0.4%
Public assistance	+0.7%	-1.6%	+0.3%
Unemployment	-1.8%	-4.8%	-0.5%
Labor force participation	-1.6%	+1.6%	-1.3%
Overcrowded homes	-1.3%	-0.1%	+1.1%
Homes lacking plumbing	-4.6%	-3.3%	-0.1%
Homes lacking kitchen	+1.3%	-0.6%	+0.2%
College graduates	+1.7%	+2.6%	+4.2%
Only high school or equivalent	-0.3%	+1.8%	-1.4%
Less than 8th grade	-5.5%	-6.3%	-2.8%

Source: Jonathan B. Taylor, Joseph P. Kalt, *American Indians on Reservations: A Databook of Socioeconomic Change Between The 1990 and 2000 Census*, p. xi.

Despite these impressive socioeconomic gains, the gap between American Indians living on reservations and the United States as a whole remains significant. Per capita income in 2000 was less than half the U.S. level, unemployment was twice the U.S. rate, and family poverty was three times the U.S. rate. The authors of the Harvard Project study point out that, "If U.S. and on-reservation Indian per capita incomes were to continue to grow at their 1990's rate, it would take half a century for tribes to catch up."[148]

A recent study by University of California, Riverside researchers relies on data developed by the Harvard Project on American Indian Economic Development from the 1990 and 2000 censuses to arrive at conclusions about the impact of Indian gaming on California tribes and nearby communities. Since California's tribal-state gaming compacts were not approved by the voters until March 2000, the study was not able to measure the full impact of Indian gaming in the state, although it provides a useful baseline.

The UC Riverside study found that the income of gaming tribes increased 55 percent from 1990 to 2000, reducing the percentage of families living in poverty from 36 percent to 26 percent. In comparison, the income of non-gaming tribes increased by 15 percent. Gaming tribes also experienced a reduction in the number of members with less than a ninth grade education, from 11 percent to six percent; in contrast, the percentage of non-gaming tribe members with less than a ninth grade education increased from 12 percent to 14 percent.[149]

Improved Child Well-Being

A study published in the *Journal of the American Medical Association (JAMA),* examined the impact of casino revenues on the mental health of youth living on the Eastern Band of Cherokee Indian reservation in North Carolina. The study began in 1993, with the goal of studying the development of psychiatric disorders and the need for mental health services in rural and urban youth. One quarter of the sample was composed of children aged 9, 11 and 13 years old living on the reservation. A "natural experiment" occurred halfway through the eight year study when a casino was built, bringing jobs and per capita payments of $12,000 a year (in 2001) to tribal members, lifting around 30 percent of the Indian families in the study sample out of poverty.[150]

Children living in poverty are more likely to have psychiatric disorders. The study found that "Children whose families moved out of poverty…showed a significant decrease in the mean number of psychiatric symptoms after the casino opened." Parental supervision was the intervening variable, accounting for 77 percent of the improved behavioral symptoms. The authors conclude that, "This finding raises the possibility that children's symptoms, particularly those of oppositional and deviant behavior, are affected by economic constraints on parents' ability to devote scarce time resources to supervision."

Concentrated Impact

While Indian gaming has greatly improved the social and economic status of many tribes, its impact has been concentrated. Two-thirds of the nation's American Indian population belongs to tribes that do not have casinos, some for cultural reasons and others because

their reservations are too remote. In 2001, "…22 of the more than 300 casinos and bingo halls generated 56 percent of the nation's tribal gambling revenues."[151]

Gaming tribes represent nine percent of California's American Indian residents. Sixty-two of California's 108 federally recognized tribes currently have tribal-state compacts to operate casinos, but the size of their operations and revenues varies considerably (see Table 8). The largest tribal gambling facilities are located near major population centers. Non-gaming tribes are located primarily in sparsely populated areas in Northern California and along the eastern border of the state.

Tribes that have "hit the jackpot" with large, successful gaming operations are able to provide a very high standard of living for their members. According to Chairman Richard Milanovich, a tribal survey conducted by the Agua Caliente Band of Cahuilla Indians in 1993, before the opening of the tribe's Spa Hotel and Casino in downtown Palm Springs, found that 50 percent of the tribe's members lived at or below federal poverty levels, with about 40 percent living in substandard housing. Now the tribe offers all members a health and dental and vision program, pays all college tuition and expenses, and pays a direct per capita payment to all members. Much of the tribe's casino profits are put into its economic development programs, purchasing commercial property around Palm Springs and a 45 percent share in a local bank, among other investments.[152]

Disharmony

Gaming can bring tribal members together, giving them a choice in the direction of their economic development. However in some tribes gaming profits have contributed to disputes over tribal membership. Tribal membership criteria are up to the discretion of the tribe, generally as interpreted by the tribal council. Most tribes determine membership by the applicant's percent of tribal blood—one quarter, one eighth or less. Some tribal councils exclude certain blood relatives if they have not participated in tribal affairs. Pechanga, Table Mountain, and Cabazon are among the tribes mentioned in press accounts as having expelled members, in some cases leading to unsuccessful litigation in state courts (which have ruled that they have no jurisdiction).

The Pechanga lawsuit lays out in considerable detail the benefits from gaming revenues that the expelled members have lost. The 11 plaintiffs sued on behalf of an extended family of more than 130 adults and children who claim ancestry in the Pechanga tribe but were ousted from the tribe. They claim losing about $120,000 a year apiece in casino profits that came with tribal membership, as well as homes, jobs and health benefits.

According to a news account, at least ten of California's gambling tribes have "…kicked out members or denied them a share of casino profits that often exceed $50 million a year. The expulsions and exclusions have torn apart families and rekindled old hatreds."[153] Disenrolled members lose their share of casino profits and their status as federally recognized Indians entitled to federal housing assistance, health care and tuition.

Perhaps the most serious quarrel over gaming profits occurred in the mid-1990s in the Elem Indian Colony, in which disputes over gaming funds led to five days of violence, including drive-by shooting and homes set on fire. Nine people were injured, ten homes were made uninhabitable, and almost 60 tribal members fled the reservation to take refuge at a nearby Navy base.[154]

More Effective Governance

Casino revenues have provided tribal governments the means to professionalize their operations and to offer their members a wide variety of services. Gaming tribes have fully staffed departments providing a range of services from health and finance to public safety and public works. This increase in capacity has also assisted the tribes to successfully compete for federal and state grant funds. The UC Riverside study found that "…the opening of a tribal gaming facility…is associated with an additional $535,000 in federal American Indian grants for that county."[155]

A 2005 survey conducted as part of the UC Riverside study, with responses from a limited sample of 11 gaming and ten non-gaming tribes, found that:

> …the gaming tribes provide more public services to their members, they have more fully developed tribal legal structures, employ more workers…develop lines of communication with other local governments, are more likely to be engaged in policy discussions of regional and community issues, and have more diversified economic activities.[156]

The survey also found that non-gaming tribes are adding services at the same rate as gaming tribes, a beneficial result of the 1999 tribal-state compacts, under which non-gaming tribes receive Revenue Sharing Trust Fund payments, currently $1.1 million a year.

About a fourth of the local government officials in communities located near gaming tribes responding to the UC Riverside study rated the tribes as "constantly engaged in area issues," compared to about five percent of respondents from communities located near non-gaming tribes. These communications are likely to take place through the tribe's professional administrative staff, reflecting the stronger institutional capacity of gaming tribes.[157]

A number of statewide and regional intertribal organizations strengthen tribal influences on public policy decisions. For example, the tribal leader heading the Southern California Tribal Chairmen's association also chairs a subcommittee of the San Diego Association of Governments. Tribal chairs participate in chambers of commerce and in regional planning groups.[158]

On Communities and Consumers

Background

Indian gaming is located in less than half (25 counties) of California's 58 counties. These are primarily rural counties, containing 26 percent of California's population. An analysis by UC Riverside researchers found that 11 percent of California's population lives near a tribal gaming facility when measured at the census tract level.[159]

As Table 10 illustrates, Indian gaming confers both cost and benefits to the tribes and the larger society.

Table 10
Benefits and Costs of Indian Gaming

Benefits	Costs
1. Some tribal economies profit.	1. Reduced taxes and lottery sales, offset by revenue sharing with the state and payments to some local governments.
2. Can reduce unemployment both on and off the reservation.	2. Can increase unemployment in other sectors of the state economy.
3. Can reduce state social service costs.	3. Can increase state social service costs.
4. Increased tribal income can stimulate local businesses.	4. Can negatively impact local businesses.
5. Decreased cost of providing public services to reservations.	5. Increases the demand for public services.

Source: "Testimony before the National Gambling Impact Study Commission," Gary C. Anders, Ph.D.

Economic Impact

California's $6.3 billion (gaming and non-gaming) tribal industries (2004 data) provide economic and employment benefits to many Californians, particularly in the rural areas where most Indian casinos are located. Off reservation communities benefit economically when rural casinos attract gamblers from other places and some of their money is spent outside the casino. The casinos also provide a new source of employment for local residents, since up to 90 percent of casino employees are non-Indians.[160] Higher crime rates and more personal bankruptcies offset these benefits.

A 2004 study of the impact of California Indian casinos by researchers at California State University, Sacramento (CSUS), based on county-level data, found "…a modest correlation between Indian casinos and [higher] county employment rates…[and]…somewhat higher crime and higher rates of personal bankruptcy." Aggravated assault and violent crimes were correlated with a greater casino presence, as were increased public expenditures ($15.33 per capita) for law enforcement. The study also found somewhat higher tax revenues, primarily generated by room occupancy taxes and tobacco taxes. Since local jurisdictions cannot impose a room occupancy tax on

hotels located on an Indian reservation, the increased tax revenues were most likely generated by hotels located outside of the reservations.[161]

These findings run parallel to a 2002 National Bureau of Economic Research study using county-level data, which found that after the opening of a Native American casino, employment increased by about five percent in nearby communities, while crime and bankruptcy rates increased by about ten percent.[162]

UC Riverside researchers examining 1990 and 2000 census data, found increased family incomes in census tracts located near California Indian casinos. The study concluded that "…the establishment of gaming had beneficial impacts on poverty, employment, educational expansion and the receipt of public assistance…resulting from the fact that most Indian reservations in California, even the better-off ones, are located in the poorest counties and tracts in the state."[163]

However there are limitations to the UC Riverside study:

- The study's conclusions are based primarily on 1990-2000 census data. However, as the researchers note, class III Indian casino gaming was not legal in California until March 2000. Between 2000 and 2005, 16 new Indian casinos opened in California and the average casino doubled in size.
- The rural areas in Riverside, San Bernardino, and San Diego counties (where many casinos are located) experienced considerable population and economic growth during 1990-2000, for reasons not related to gaming, and the study did not control for these factors.
- The study concludes that tribal gaming was associated with a decline in the number of poor people on public assistance, without taking into account the impact of the 1994 federal welfare reform that resulted in a dramatic decrease in public assistance rolls.
- The study examines a limited range of variables and does not, for example, take into account the public and private costs associated with Indian gaming such as public safety, infrastructure, crime, environmental degradation and problem and pathological gambling. These issues are considered below.

UC Riverside researchers also conducted a 2005 survey of local officials located in communities near Indian gaming operations. About half of these officials viewed gaming as a benefit to the local business community, as shown in Table 11.

Table 11 Casinos" Effects on Local Businesses as Perceived by Local Government Officials (2005)	
Casino Effects on Business	Local Officials' Opinion
Help business	49.2%
Have no effect	29.2%
Hurt business	12.3%
Does not apply	9.2%
Source: UC Riverside, 2005.	

A 2003 study by San Diego County estimated the following economic impacts from tribal gaming in the county:[164]

- Creation of about 12,000 jobs, primarily for non-Indians, with an annual payroll of $270 million.
- Purchases of $263 million in goods and services in 2001, including contracts with over 2,000 vendors, most in the county.
- Contributions of over $7 million to community organizations.

The following examples of the substantial economic impact of rural tribal casinos are drawn primarily from tribal and news reports because information about tribal gaming operations is proprietary and confidential.

- According to the 2002 Financial Statement of the Viejas Band of Kumeyaay Indians, the tribe's total payroll for its casino and retail operations in rural Alpine was $72 million, creating 3,000 jobs in San Diego County. Its enterprises generated $41 million in federal, state, and local taxes. The tribe purchased $83 million in goods and services, and made the following payments:
    - $2 million to community and charitable contributions
    - $.7 million to non-gaming tribes per tribal-state compact
    - $3.8 million to the Special Distribution Fund per compact[165]
- The Viejas Band has a diversified investment portfolio. It purchased a half-interest in a San Diego company that operates three radio stations and is participating in financing of Marriott Inns in Washington, D.C. and Sacramento.
- The Rincon Band of San Luiseño Indians' Harrah's Rincon casino in San Diego County employs 1,500 people, with a payroll of $56 million. It spends about $32 million with 1,042 vendors in California and $17 million elsewhere, and generates more than $5 million in payroll, sales and tribal hotel occupancy taxes.[166]
- Indian gaming helps drive the Inland Empire economy, with ten casinos providing more than 14,400 jobs in Riverside and San Bernardino counties. The most

profitable Inland casino slot machines are believed to pull in $450 to $500 a day.[167]

- The Jackson Rancheria Casino Hotel & Conference Center is the largest employer in Amador County, of 1,700 people.
- Barstow officials estimate that two tribes' plans to build casinos and hotels would create 3,700 jobs and yield up to $9 million yearly for the city, based on a 4.5 percent share of slot machine profits.[168]

Urban casinos

The cost-benefit calculus for an urban casino is different from that of rural casinos. Negative economic impacts can result when gaming operations alter established retail spending or employment patterns, create more problem gambling, and increase costs for traffic, law enforcement and infrastructure. In part this is because more of the gamblers are local residents so the money they spend on gambling displaces other local expenditures. Gambling in rural areas tends to draw residents from other regions, bringing money into the local economy.

An analysis prepared for opponents of a proposed 5,000 slot machine Indian casino in the city of San Pablo concluded that the casino would result in a regional economic loss of $138 million a year, not taking into consideration social, public health, or safety costs. Money lost to the local economy, which would otherwise have been spent on local goods and services, was estimated to have a multiplier effect on the regional economy resulting in 7,219 jobs lost (compared to an estimated 2,000 employed at the casino).[169] The smaller casino (805 class II bingo machines) currently operated by the Lytton Rancheria employs 540 unionized workers, and reportedly has had little effect on nearby businesses because most players are from the local area and leave after they gamble.[170]

Public Revenues

As noted above, some California gaming tribes with 1999 compacts make payments into the Special Distribution Fund (SDF). Tribes with more recent compacts also make payments to the state's General Fund and, in the case of six tribes, payments to fund a state transportation bond issue. Some of these revenues fund state programs for problem and pathological gamblers, cover state regulatory and enforcement costs at a relatively low level and mitigate some of the off-reservation impacts on local governments.

Local Infrastructure

Casinos in rural areas draw tens of thousands of people into relatively isolated areas that may lack adequate roads, water supplies, and sewer infrastructure. The projected cost to local and state governments of providing the needed investment is substantial. Tribes have paid for some road improvements directly, and for others through the Special Distribution Fund, but these payments do not fully mitigate the impact. For example, San Diego County estimated in 2003 that the price of improving roads to casinos in rural areas was $150 million.[171] The county estimated that the tribal "fair-share" to improve

county roads near reservations was $23.9 million. Three tribes had comprehensive cooperative agreements with the county to fund $10.9 million of that amount. In another example, the Rumsey Band of Wintun Indians agreed to pay Yolo County $5 million a year for 18 years to mitigate the traffic, environmental and other problems associated with its casino expansion.

Large casinos can easily double the daily population in small communities, increasing traffic congestion and air pollution. San Diego County notes that "Deterioration of air quality in the vicinity of gaming and resort projects is still a significant issue for the County that is largely unaddressed, and the major road improvements needed to prevent development of "hot spots" take years to construct, under the best of circumstances."[172]

Sewer and wastewater treatment are another major concern. Some casinos are located in dry rural areas that lack sufficient water and have inadequate wastewater infrastructure. Local governments do not have jurisdiction, and the state's role is limited, particularly under the 1999 tribal-state compacts. For example, according to an August 2005 article, the state wanted to inspect the wastewater treatment system at the Campo Band of Mission Indian's Golden Acorn Casino to ensure that it is not a threat to public health, but under the tribal-state compact, the state can only investigate in the absence of regular federal inspections. The U.S. Environmental Protection Agency had inspected earlier in the year but did not test for harmful bacteria or require safety equipment for workers.[173]

Labor Standards

The 1999 California tribal-state compacts require that the tribes provide "…an agreement or other procedures acceptable to the State for addressing organization and representation rights of class III Gaming Employees and other employees associated with the Tribe's class III gaming enterprise…" More recent tribal-state compacts contain more explicit language providing employees the right to organize for collective bargaining purposes if they choose to do so. For example, the tribal-state compact with the Coyote Valley Band of Pomo Indians, ratified in 2003, contains the following provisions:

- The tribe is to adopt and comply with federal and state workplace and occupational health and safety standards, and to allow for inspection of the gaming facility by state inspectors to assess compliance. Violations are a violation of the compact and may result in enjoining employees from entering into the gaming facility.
- The tribe agrees to participate in the state's workers' compensation program for employees of the gaming facility and independent contractors, and consents to the jurisdiction of the Worker's Compensation Appeals Board and state courts for purposes of enforcement.
- The tribe is to enact an ordinance that affords employees the right to self-organize, bargain collectively, and engage in other concerted activities including a right to strike and to select a representative through secret ballot. The model ordinance describes the certification process (after employment of 250 or more persons), defines eligible employees and access to those employees, describes

unfair labor practices and unfair union practices, provides for free speech and posting of information, and ensures tribal preference in employment.

- All issues are to be resolved through a binding dispute resolution mechanism.

Employees in six Indian casinos in the state are unionized and have collective bargaining agreements. UNITE HERE, which represents nearly half a million workers in the hospitality, gaming, apparel, textile, retail, distribution and laundry industries in North America, has contracts with four casinos: Casino San Pablo (Lytton), Cache Creek (Rumsey), Thunder Valley (United Auburn) and the Chukchansi Gold Resort and Casino (Picayune Rancheria); and is in negotiations with the Pala Casino (Pala). The Communications Workers of America represents gaming workers in two Southern California casinos owned by the Viejas Band of Kumeyaay Indians and the San Manuel Band of Mission Indians. Other tribes have been involved in organizing battles with unions and reportedly object to the collective bargaining provisions in the new gaming compacts.

A *Decision and Order* of the National Labor Relations Board in 2004, found that tribal operation of a casino is not an exercise of self-governance and that the Board has jurisdiction over labor relations.[174] In its opinion, the Board noted that tribal enterprises are playing "…an increasingly important role in the Nation's economy...[as]…significant employers of non-Indians and serious competitors of non-Indian owned businesses." Significantly, the Board found that, "When the Indian tribes act in this manner, the special attributes of their sovereignty are not implicated. Running a commercial business is not an expression of sovereignty in the same way that running a tribal court system is."

Tribal casino employment manuals specify grievance procedures for casino employees. In a recent civil suit against Thunder Valley Casino, alleging civil rights violations ranging from sexual assault to age bias, a Placer Court commissioner found that neither the casino nor its owner, United Auburn Indian Community, could be sued for violations of state and federal civil rights laws because the tribe is a sovereign nation. The employees have appealed. Related civil suits against a supervisor and Station Casinos, Inc., the casino's contract manager, are pending.[175]

Many of the jobs created by Indian casinos are service jobs involving restaurant and hotel work and are relatively low paying. A 2003 study of *Wages and Healthcare Benefits of Workers at Agua Caliente Casino* (Rancho Mirage), found that the average hourly wage of employees was $8.93, with an average workweek of 38 hours, resulting in an annual income of $16,967. The authors concluded that this income was not enough for casino employees with children to achieve a modest standard of living. Over a quarter of the casino employees had second jobs, indirect evidence of the "inadequacy of their casino earnings."[176] The authors also found that "Agua Caliente Casino induces employees to depend on government subsidized health-care for their children…[and] potentially increases casino profits by as much as $1,000,000 a year...[but]…costs state taxpayers who fund the Health Families and Medi-Cal programs." The casino employed approximately 1,000 workers, of whom 470 were covered by the Tribal Labor Relations Ordinance.

Environmental Impact

Language in the state's 1999 compacts with gaming tribes intended to mitigate the environmental impact of large casino construction projects has proven to be vague and "largely unenforceable." Tribes are required by the compact to adopt environmental ordinances and conduct environmental impact studies, making a "…good faith effort to incorporate the policies and purposes of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) consistent with the Tribe's governmental interest" (Sec. 10.8.1). Tribal signatories are also charged with making "…good faith efforts to mitigate any and all such significant adverse off-Reservation environmental impacts" [Sec. 10.8.2 (b) (2)].

The first wave of casino construction was driven by a compact deadline requiring that slot machines authorized under licenses drawn from the compact-created license pool be in operation within a year. This happened before any agreement was reached on what environmental protections were required. The Attorney General notified at least three tribes (Rincon, San Pasquel, Tuolumne Band of Me-Wuk) that they had failed to comply with the basic guidelines of CEQA.[177] For example, the Attorney General's letter to the Tuolumne Band of Me-Wuk Indians declared that under either NEPA or CEQA, the *Draft Mitigated Negative Declaration for the Tuolumne Rancheria's Grading and Clearing Operation* was inadequate, and "…must be withdrawn until such time as the environmental impacts of the entire project have been considered."[178] However that tribe continued grading and clearing for construction. The Attorney General does not have the authority to enforce provisions of the compact—that responsibility remains with the governor.

Concerns have been raised around the state about the sufficiency of some tribal environmental impact reports and mitigation efforts, particularly relating to wastewater, groundwater depletion, endangered species, water contamination, grading of land, and dangerous road conditions. In some areas, such as near the Barona casino and golf course, local residents have experienced loss of water due to ground water depletion. The Campo Indian tribe's Golden Acorn Casino sewage system allowed wastewater to flow to a hillside behind the casino for about two years.[179]

The casinos' large-scale developments have changed the character of some rural areas. After an extensive review, San Diego County concluded that:

> In general, the Environmental Assessments prepared for individual proposed gaming facilities have not provided the level of detail the County requires of projects under its jurisdiction, and have not included factual analysis to support the conclusions that the tribal projects did not have significant impacts on the community character of the surrounding areas.[180]

Environmental standards are still unclear in the 2004 amended compacts. For example, the county of San Diego has asked the governor to intervene in a dispute with the Pauma Band of Mission Indians, which county officials say has illegally expanded its casino operations. At issue is what "significant" environmental impact actually means in the

tribe's 2004 amended contract, and whether the 1999 compact provisions continue to apply to the project. [181]

Public Health Impact

Alcohol

Some California Indian casinos provide alcohol for their patrons. Federal law requires that they first receive a state license to sell alcohol, which is issued and regulated by the Department of Alcoholic Beverage Control (ABC) in California. The Department regularly inspects the premises of businesses with liquor licenses, including tribal casinos, to make sure they are enforcing state laws, such as against underage drinking.

Issuance of a liquor license is not automatic. In some areas there is strong local opposition to granting a liquor license to a tribal casino. For example, The River Rock Casino's application for a liquor license, which has been approved by the ABC, is opposed by the Sonoma County sheriff, the Sonoma County fire chief, town officials, and local residents.[182]

Many tribal casinos are located in rural areas and reached by narrow winding roads, leading to special problems with drunken driving (see Crime section). In the opinion of a Riverside County deputy district attorney, tribal casinos need to train their alcohol servers better, as " People do not get drunk unless someone serves them."[183]

The following 15 tribes, about one quarter of the state's gaming tribes, had state liquor licenses as of October 2005, according to the ABC:

- Viejas Band of Kumeyaay Indians (5 licenses)
- Pechanga Band of Luiseño Indians (2 licenses)
- Chemehuevi Tribe (3 licenses)
- Cabazon Band of Mission Indians (1 license)
- Agua Caliente Band of Cahuilla Indians (3 licenses)
- Quechan Tribe of Fort Yuma Indian Reservation (1 license)
- Morongo Band of Mission Indians (5 licenses)
- Twenty-Nine Palms Band of Mission Indians (1 license)
- La Jolla Band of Mission Indians (1 license)
- Pala Band of Mission Indians (2 licenses)
- Rincon Band of Luiseño Indians (1 license)
- Rumsey Indian Rancheria of Wintun Indians (1 license)
- Big Sandy Band of Western Mono Indians (1 license)

- Concow Maidu Tribe of the Mooretown Rancheria (1 license)
- Colusa Indian Community Council (1 license)

Liquor license applications have also been approved by the ABC following administrative judicial determinations for the River Rock Casino (Dry Creek Rancheria Band of Pomo Indians) and the San Manuel Indian Bingo and Casino (San Manuel Band of Mission Indians).

Smoking

Smoking presents a major public health issue for casino workers and patrons, as most casinos allow smoking. Bingo halls in particular are well known for their heavy smoking. The California Environmental Protection Agency (CalEPA) estimates that casinos and bingo parlors that allow smoking may expose their patrons and staff to twenty three times more nicotine than venues where smoking is prohibited.[184]

California's tribal-state gaming compacts exempt tribes from "any state laws, regulations, or standards governing the use of tobacco." However beginning in 2003, with La Posta Band of Mission Indians' tribal-state gaming compact, casinos are required to have non-smoking areas and ventilation systems that exhaust tobacco smoke. The small Lucky Bear Casino owned by the Hoopa Valley Tribe is advertised as a non-smoking casino.

According to CalEPA, environmental tobacco smoke (ETS) aggravates asthma and contributes to chronic respiratory impairment, coronary heart disease and lung, nasal sinus, breast and cervical cancers. It may be associated with decreased fertility. For pregnant women, exposure to environmental tobacco smoke adversely affects fetal growth, with elevated risks of low birth weight, perinatal mortality, and other health problems.[185] In labeling ETS as toxic, the California Air Resources Board relied on CalEPA's study finding a clear link between secondhand smoke and breast cancer. The findings, the first of their kind by a government agency in the United States, concluded that premenopausal women exposed to significant amounts of secondhand smoke suffered a 68 percent to 120 percent higher risk of breast cancer.[186]

Any increase in exposure to environmental tobacco smoke translates into increased healthcare costs for individuals and society.

Emergency Services and Public Safety

Under the 1999 tribal-state compact, all gaming facility construction is to conform to the building and safety codes of the tribe, which are to meet the standards of the local county or the Uniform Buildings Codes, and to comply with the Americans with Disabilities Act. Subsequent tribal-state compacts contain more explicit standards. For example, the 2004 tribal state compact with the Coyote Valley Band of Pomo Indians provides that the tribal ordinance governing new construction or building modifications must meet or exceed the California Building Code and the Public Safety Code applicable to the city or county in which the facility is located.

There are concerns about the adequacy of fire protection for some casino properties. Rural counties and cities may not have the capacity to provide fire protection for the large hotels that have been built on tribal lands next to some casinos. For example, according to the Indio Police Chief, the city does not have a ladder truck that can meet the fire protection needs of the Cabazon tribal casino and hotel, and the tribe recently disbanded its fire department for financial reasons.[187] The most recent tribal state compacts address this issue. The 2004 tribal state compact with the Coyote Valley Band of Pomo Indians provides for the tribe to ensure availability of fire suppression services and to satisfy all requirements of Title 19 of the California Code of Regulations.

The adequacy of rural road infrastructure and traffic control is a major concern given the thousands of patrons drawn daily to many tribal casinos. For example, the California Highway Patrol has determined that the estimated 9,400 daily trips to a casino-hotel proposed by the Jamul Indian Village could not be accommodated on Highway 94, and that an additional twelve officers and two sergeants would be required to handle traffic control.[188]

About a fourth of the local officials in communities located near gaming tribes responding to a 2005 UC Riverside survey, indicated that they contract with tribal gaming operations to provide services.[189] Some tribes, such as United Auburn Indian Community, have signed memoranda of understanding (MOUs) with local governments to provide fire and police protection. United Auburn built a fire station on casino property and pays the county nearly a million dollars annually for staffing and maintenance costs. In another example, the Dry Creek Rancheria Band of Pomo Indians is currently paying $336,000 a year for emergency fire services from the Geyserville Fire Protection District.[190]

In some cases there are jurisdictional overlaps and inefficiencies in policing casino properties. For example, the Indio police patrol the parking lots while sheriff's deputies respond to problems inside the Cabazon casino. The tribe had its own police force, which it disbanded earlier this year.

An analysis by the Abaris Group of the potential impact of a Las Vegas-style casino in the city of San Pablo estimated three EMS responses to the casino and one additional automobile crash daily, requiring a new ambulance at a cost of $490,000. The experience of the first five months, with a smaller bingo-casino in San Pablo, is that the ambulance has responded 19 times, compared to six times over the same time period in 2003 and 2004.[191] The number of visitors has increased from 54,000 to 155,000 visitors monthly. Riverside County reports an average of three to four ambulance responses daily to each of the major casinos in their county, with many of the responses for casino employees.[192]

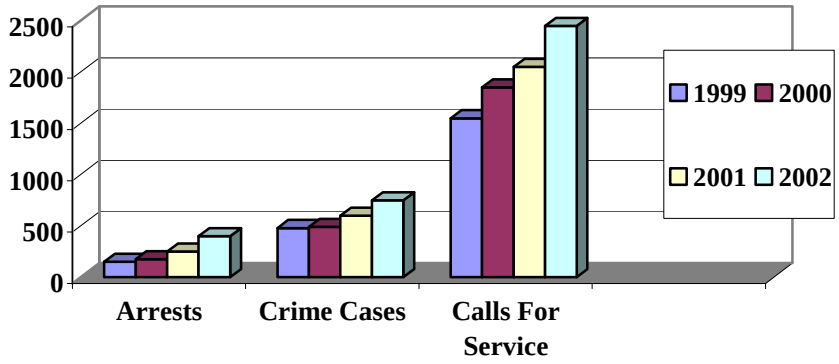
CRIME

Law enforcement on Indian lands is a complex issue beyond the scope of this report. Both the state of California and county governments (through Public Law 280) and the federal government have law enforcement responsibilities, as do the tribes. Most gaming

tribes have large security operations in place to protect the integrity and safety of their gaming operations.

The following figure, drawn from data developed by San Diego County, shows that arrests, crime cases and calls for service to the county sheriff on reservations with casinos have increased considerably since 1999.[193]

Figure 12
Trends in Arrests, Crime Cases and Calls for Service on Reservations with Casinos, San Diego County



Source: San Diego County, 2003.

Casinos attract large numbers of people and thus may become venues for crime. For example, the Palace Casino in Lemoore, California, owned by the Tachi Yokut Tribe, was the site of a major drug bust in January 2004. Some casinos in rural San Diego near the border attract immigrant smugglers who look for down-and-out gamblers to transport undocumented immigrants. According to an article in the *San Diego Union-Tribune*, the parking lots of casinos such as the Golden Acorn and Viejas have been used as staging areas for smuggling operations.[194]

A 2002 analysis by the National Bureau of Economic Research found that: "Four years after a casino opens, bankruptcy rates, violent crime, auto thefts and larceny are up 10 percent in counties with a casino."[195] This association is supported by other studies and is discussed more extensively in the chapter of this report on social impacts.

According to the Inspector General of the U.S. Department of the Interior, Indian casinos are particularly attractive to money launderers, who can cash-in illegal proceeds for chips, gamble for a while, and then redeem "clean" money. Tribal financial institutions without federal or state charters and regulations are particularly vulnerable to manipulation.[196] Nevada estimates that six percent of net gaming revenues are lost to theft, fraud, and embezzlement every year.[197] If that were true in California, losses would be around $320 million per year.

Local Law Enforcement

The Riverside District Attorney's office received $700,000 from the Special Distribution Fund to form an Indian gaming prosecution unit for casino-related crime in 2005. The county has eight gaming tribes and nine casinos. As of October 2005, the unit had prosecuted 104 felonies and 264 misdemeanor crimes in the previous nine months. Driving Under Intoxication (DUI) was the most common felony crime, followed by ID thefts (credit cards and fake checks), and auto theft and violent crimes (ten percent). Misdemeanors included petty theft, drunk in public, and trespassing (people who have been barred from the casinos but keep going back).[198]

Crime at the casinos may not be disproportionate given the large numbers of people who visit, although DUI is a particular concern, according to the Riverside prosecutor. Prosecution of crimes committed inside a casino is fairly straightforward, given that they are captured on surveillance cameras.[199]

Traffic safety is an issue for tribal members and casino patrons. A 2002 report found that Native Americans are at the highest risk of motor vehicle-related death of all ethnic groups. Moreover, the number of fatal crashes on Indian reservations increased by 52.2 percent between 1975 and 2002, compared to a two percent decrease for the nation as a whole. Alcohol-related crime is a major contributor—the "great majority of calls to tribal police involve alcohol-related offenses, including driving under the influence."[200]

Casino-related crime has a workload impact on local law enforcement. For example, according to the Sonoma County sheriff, calls for deputies to respond to the River Rock Casino in Geyserville increased by 51 percent from 2003 (85 calls) to 2004 (128 calls), diverting law enforcement from the rest of the north county. The sheriff estimates a cost of $700,000 to increase patrols to accommodate the increased workload. In 2004, Alpine law enforcement responded to 443 calls from the Viejas reservation, mostly from the casino and outlet center, which draw about 21,000 people a day.[201] Calls to San Pablo police have increased from an average of 12 a month (at the smaller card room) to 71 monthly calls at the Lytton bingo-casino.

Some gaming tribes support local law enforcement services through MOUs or grants. For example, the Paskenta Band of Nomlaki Indians (Rolling Hills Casino) earlier this year gave $200,000 to the Tehama County general fund, $50,000 to fund a deputy district attorney and $180,000 to the sheriff.[202]

Problem and Pathological Gambling

"Compulsive or pathological gambling remains the most real and serious side-effect of gambling legalization."[203] Problem and pathological gambling affects approximately four percent of adults in the United States (see Chapter on Social Impacts) and can lead to a number of serious problems including personal bankruptcy, family abuse, and crimes such as theft. Adolescents who gamble are more likely to develop into problem gamblers, making underage gambling a major concern. California's 1999 tribal state

compact allows individuals 18 and older to gamble. More recent compacts draw the line at age 21.

The National Gambling Impact Study Commission found that the number of compulsive and problem gamblers doubles when a casino is placed within 50 miles of their home. Greater access and closer proximity to casinos results in more problem gambling, particularly among low-income gamblers.[204] Thus casinos in or close to urban areas create significantly more social costs than do rural casinos. Personal bankruptcies increase and the impact on family income can be substantial. Financial tensions in poorer families can result in increased domestic violence and child abuse. These impacts are discussed in more detail later in this report.

Over three quarters (77.5 percent) of the calls to the problem gambling helpline of the California Council on Problem Gambling, Inc., a nonprofit organization, are generated by gamblers whose primary preference is gambling in an Indian casino. The top ten Indian casinos of choice for problem gamblers in 2004 were (in order, beginning with the most): Thunder Valley (United Auburn), Pechanga, Casino Morongo, Cache Creek (Rumsey), San Manuel, Barona, Viejas, Soboba, Harrah's Rincon and Jackson. An additional five percent of the problem gamblers calling the helpline prefer to gamble in Nevada casinos. Thus casino gambling generates 82.5 percent of all problem gambling helpline calls, making it the predominant venue for problem gambling in California.[205]

An analysis of the impact of a casino proposed by the Lytton Band of Pomo Indians for the city of San Pablo, with 2,500 slot machines and 100 gaming tables, estimated that it would create 10,341 new compulsive gamblers and 12,065 new problem gamblers, with associated costs to Contra Costa and Alameda counties of $54,899,128.[206]

California gaming tribes support the state's Office of Problem Gambling, in the Department of Alcohol and Drug Programs, through payments to the Special Distribution Fund. Funding for the Office is $3 million a year. The Office[*] was created by AB 673 (Statutes of 2003) to develop a problem gambling prevention program consisting of a toll-free telephone number, public awareness campaigns, research, and training of health care professionals and gambling industry personnel. This effort is just getting underway. The state does not fund gambling treatment programs, in contrast to some other states with casino gambling.

The California Council on Gambling estimates that the 3,399 callers who called in 2004 for help with problem gambling had an average gambling-related debt of $32,461, and spent an average of $33,636 per year on gambling, resulting in a total of $45,745,199 spent on gambling that year. We estimate later in the paper, using prevalence and cost data published in the *Journal of the American Medical Association (JAMA)*, that problem and pathological gamblers cost $1 billion a year in California.

Many states have laws requiring commercial casinos to address pathological gambling. A review of California tribal casino websites finds that very few provide information

[*] http://www.adp.ca.gov/OPG/OPGhome.shtml.

about problem/pathological gambling or have links to resources to help individuals who experience this serious problem.

The most recent California tribal-state gaming compacts provide for tribes to negotiate written agreements with local jurisdictions including mitigation of gambling addiction. The 2005 amended 1999 compact with the Quechan tribe, which has not yet been ratified by the legislature, provides for the tribe to establish a self-exclusion program for patrons, and create signage and advertising to encourage responsible gambling. Data developed by the California Council on Problem Gambling finds that casino signs generate nearly half of all calls to the problem gambling helpline, suggesting that this type of information marketing is importance. Friends and the Internet were the next more frequent sources of referral, at about seven percent each.[207]

CALIFORNIA STATE LOTTERY

BACKGROUND

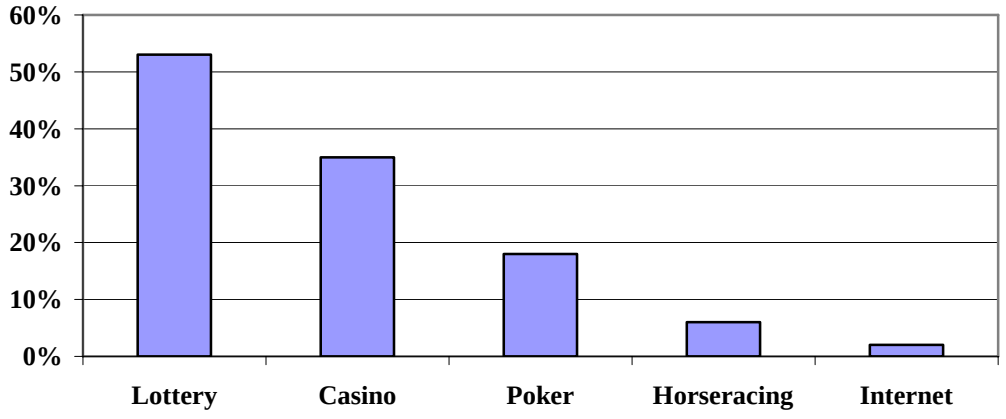
The drawing of lots--a lottery--may be the oldest game of chance. A lottery is "A contest in which tokens are distributed or sold, the winning token or tokens being secretly predetermined or ultimately selected in a random drawing."[208] Lotteries are based on the pari mutuel system of wagering, in which all the money bet is divided up among those who have winning tickets (after expenses and other deductions are made). The term "parier mutuel," meaning, "betting among ourselves," originated in France in the 19th century, and became known as "Paris mutuals" and then "pari mutuels" in England.[209]

New Hampshire authorized the first state-run lottery, a sweepstakes based on the results of a horse race, in 1963. New York followed with monthly drawings in 1967, and in 1969 New Jersey began to offer weekly state lottery games promoted by mass marketing that became the first modern successful lottery in the United States. By the year 2000, lotteries were operating in 37 states plus the District of Colombia.

The California State Lottery Act, enacted by the voters by initiative in 1984, was passed by 58 percent. The initiative also amended the state Constitution to prohibit "casinos of the type currently operating in Nevada and New Jersey," and required that at least 34 percent of lottery revenues go to public education.[210]

Lotteries are the most popular of all legal wagering games. A 2005 poll by The Luntz Research Companies found that 53 percent of American adults had purchased lottery tickets in the last year. The second largest group—35 percent—had visited a casino. In 2002, the average Californian spent $77 on lotteries.[211]

Figure 13
Gambling Participation in Previous 12 Months by American Adults, 2005



Source: The Luntz Research Companies.

California's lottery currently offers a number of games: *Super Lotto Plus*, *Daily 3*, *Daily Derby*, *Scratchers* (including a bingo variation authorized by legislation in 2003), *Big Spin*, *Fantasy 5*, *Hot Spot*, and *Mega Millions*. The goal is to attract players by offering a variety of games with either quick or large jackpots. Information about all California State Lottery games is presented on the state's official website via links from the Lottery's site, but tickets must be purchased from authorized retailers in order to play.

In 1996, the California Supreme Court ruled that the state lottery was not authorized to offer electronic keno, since keno is a banked game, pitting the state against the player and thus giving the state an interest in the outcome of each game, contrary to the state's constitutional restrictions on Nevada-style banked gaming (*Western Telcon Inc. v. California State Lottery*).[212]

There are currently 18,500 retailers that sell lottery products in California under contract with the State Lottery. That number will increase to nearly 20,000 over the next six months as the Lottery seeks additional outlets for its games. Sales commissions range from four and one half percent to six percent. Retailers also receive cash bonuses for cashing winning tickets ranging from two percent of the prize value for a winning *Scratchers* ticket, to a half a percent of the jackpot prize for selling a top prize ticket such as for *MEGA Millions* or a SuperLOTTO *Plus Jackpot* winner.[213]

The California State Lottery is operated and administered by the Lottery Commission, which is composed of five members appointed by the governor, and meets quarterly and as needed. The Lottery's Security Division and independent auditors maintain the integrity of the games. The Security Division conducts background checks on employees and vendors and monitors complaints against vendors. Retailers' contracts may be terminated for just cause, such as fraudulent activity. In general, however, the Lottery's primary motivation is to expand its vendor base and market, not decrease it through enforcement actions.

COMPETITION, INNOVATION AND EXPANSION

State lotteries compete with other forms of gambling for customers, so like other businesses, they must be innovative in order to maintain and gain market share. Preprogrammed instant scratch-off tickets were first introduced in Massachusetts in 1974, and are now offered in most states with lotteries. Instant ticket vending machines operate in 30 states. Some state lotteries offer subscription programs, allowing players to sign up in advance for drawings without having to go to a retailer to buy tickets. New games are regularly introduced by all lotteries. Competition for the gaming dollar worldwide is fierce:

> …many lotteries around the world are worrying about generating revenues in a softening economy, finding new channels of distribution, creating interesting new products, and enhancing public awareness of how lottery revenues benefit good causes.[214]

Video Lottery Terminals

Some states allow video lottery terminals (VLTs), which are played like slot machines. By law, the California State Lottery does not operate VLTs. VLT revenues dwarf other lottery revenues in states where they are allowed to operate.[215] The six states in which lotteries operate VLTs reported net machine income of $3.2 billion in FY 2004-05, an increase of 17 percent from the previous year.

VLTs are run by lotteries in South Dakota, Oregon, New York, Delaware, Rhode Island, and West Virginia, by other state agencies in Montana, Indiana, Mississippi, Colorado, Illinois, and are authorized for operation by racetracks in Iowa, New Mexico, and Louisiana (see discussion of "racinos"). Maine and Pennsylvania expect to offer VLTs by the end of 2006. New York has set a goal of one VLT for every 1,188 people.[216]

South Dakota was the first state to offer VLTs in 1989, and now offers variations of poker, blackjack, keno, and bingo games. The private sector runs the South Dakota's VLT games to a significant degree, with the state serving more as a regulator than an operator. State administrative expenses consume only 0.5 percent of net machine income; 49.5 percent is deposited in the state's property tax reduction fund and 50 percent goes to licensed operators.[217]

Multistate Games

In 1985, the smaller states of New Hampshire, Maine, and Vermont began the first multi-state lottery in order to compete against larger states with bigger prizes. In 1987, six states got together to offer *Lotto America* (Iowa, Kansas, Missouri, Oregon, Rhode Island, West Virginia and the District of Columbia). The Multi-State Lottery Association (MUSL), which is now comprised of 29 states (not including California), the District of Columbia and the U.S. Virgin Islands, currently runs six games, of which *Powerball* is the best known. The *Powerball* game is designed to sell about $2 billion a year or about 17 percent of the total lottery sales of all its members; the amount contributed to total state sales varies from four to nearly 60 percent in different states.[218]

Mega Millions is another large multistate lottery that currently includes 12 states: California, Georgia, Illinois, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Texas, Virginia and Washington.[*] It began in 1996 as *The Big Game* with six states, and was given the name *Mega Millions* in 2002. Jackpots start at $12 million and can roll over to higher levels. The largest jackpot, of $363 million, occurred in 2002. The average jackpot in 2004 was $70 million. Smaller prizes range from $250,000 to $1 million. Each play costs one dollar.

With a combined population of over 150 million people in the 12 participating states, *Mega Millions* jackpots attract attention that draws in more players. For example, in 2004, the New York lottery's *Mega Millions* revenue increased by more than $100 million, prompted in part by a $239 million jackpot.[219] According to the game's website,

[*] Florida is the only state lottery not to participate in a multi-state game.

on average 35 percent of all *Mega Millions* ticket sales go to support government services in the member states, 50 percent is returned to players as prizes, five percent goes to retailers who sell tickets and ten percent is used for lottery administrative expenses.[220]

California is the most recent state to join *Mega Millions*. Its 2005 entry resulted in considerable controversy, a lawsuit and pending legislation. The state entered into the multi-state game without legislative approval, which the legislative counsel opined was necessary, but with the Attorney General's approval.[221] State law does not allow the lottery to have games in which prizes do not increase as ticket sales increase. Mega Millions jackpots increase with ticket sales, but eight other non-jackpot prizes are fixed. In order to enable California to enter the game, the other states agreed to let the California Lottery create its own non-jackpot prize levels.[222]

Internet Lottery Games

In other parts of the world, especially the European Union, government lotteries are going online, retailing their ticket games from web sites, interactive televisions and mobile phones, but not in the United States. This is because the federal 1961 Wire Act prohibits online gambling, although horse racing has since carved out an exemption (see Chapter on horse racing).

Nonetheless, some states are developing Internet lottery games that are legal because the transactions do not actually occur on the Internet and the outcome is predetermined. In 2004, the Kansas Lottery began offering an interactive Internet lottery game, *eScratch*, while New Jersey offered *Cyber Slingo*. Once a player has purchased a ticket for a given amount and number of plays, he/she can go to the website listed on the ticket to play the game. If they win, they must return to the retail establishment to claim their prize. Alternatively, they can ask the retailer to scan the ticket to determine if it is a winner.[223] However the real potential appears to be in allowing ticket sales on the Internet.[224]

Currently state and multi-state lotteries provide information about gambling opportunities on their websites, but do not offer direct access to gambling by allowing online purchase of tickets. However Internet technology is transforming lottery games: "Traditional online lottery systems are printing instant-win and extended-play instant games, and tickets bought at retail, either in a regular scratch format or as an online ticket voucher, have an Internet gaming component."[225]

REVENUES

State lotteries are the single largest contributor to state treasuries of any gambling industry, earning $15.7 billion in 2005 on gross gambling revenues of $47.6 billion (excluding VLTs)[226]. With thousands of retail outlets at the neighborhood level, state lotteries also have the most extensive system of distribution of any gambling industry.

State lottery sales are significantly influenced by the top prize amount and the odds of winning it. States set prize amounts, the number of combinations, and the probabilities of

winning each prize, thereby determining the structure of the lottery and its games.[227] Multi-state games can offer larger prizes and attract more players.

In 2003, the California State Lottery was ranked tenth in the world based on total sales of nearly $2.8 billion. The national lotteries of Japan, Spain, France, Italy, and the United Kingdom were in the top five spots, followed by the state lotteries of New York, Massachusetts, Texas, Florida, and California.[228] In 2005, California lottery sales increased to $3.3 billion, resulting in gross revenues of $1.59 billion.[229]

Efficiency in lottery operations is an important component in the amount of revenue returned to the state. Table 12 provides information on the California State Lottery's revenues and expenses for 2003 and 2004.

Table 12
California State Lottery Revenue/Expense Analysis
(2003 and 2004)

	2003	2004
Sales	$2,781,569,856	$2,973,975,717
Prizes	$1,451,804,079 (52.2%)	$1,566,027,494 (52.7%)
Gross Revenue*	$1,329,765,777	$1,407,948,223
Operating Expenses**	$362,342,273	$370,821,346
Operating Income***	$967,423,504	$1,037,126,877
Net to state government****	$1,019,816,972	$1,094,256,988

Source: *International Gaming & Wagering*, June 2004, p. 28, and March 2005, p. 30, and the California State Lottery.
*Total sales minus total prizes paid, or the net gaming revenue.
**Current year expenses, including retailer commissions.
***Net revenue from current year operations.
****Includes current year operations and nonoperating items such as interest and investments.

Table 13 examines the amount of revenue that each state lottery returned to state governments in 2004, and the per capita transfer amount adjusted for population. West Virginia, the state with the highest per capita transfer, benefited from its location as the only state offering VLTs in its geographical region. That strategy is not open to California, which placed 32nd out of 41 in this comparison. Many factors influence state lottery operations, making state-to-state comparisons difficult. These include demographic characteristics, product offerings, promotion and distribution methods, and the competitive environment.[230]

Table 13
State Lottery Returns to State Governments, 2004

State	*'04 Transfer in millions*	*Transfer per capita*	*State*	*'04 Transfer in millions*	*Transfer per capita*
Arizona	$107.8	$19.25	Missouri	$230	$40.35
California	$1090	$30.70	Montana	$58.2	$74.67
Connecticut*	$202.5	$44.02	Nebraska	$20.8	$12.24
District of Columbia	$73.5	$122.50	New Hampshire	$73.7	$56.69
Delaware	$222	$277.50	New Jersey	$793	$92.21
Florida	$1051	$61.82	New Mexico*	$193.7	$101.95
Georgia	$782	$89.89	New York	$1890	$98.44
Idaho	$25	$17.86	Ohio	$648.1	$56.85
Illinois*	$1239.7	$97.61	Oregon	$364.7	$101.31
Indiana*	$942.1	$151.95	Pennsylvania	$818.7	$66.02
Iowa*	$280.7	$96.79	Rhode Island	$281	$255.45
Kansas	$70	$25.93	South Carolina	$287	$70.00
Kentucky	$193.5	$47.20	South Dakota	$115.5	$144.38
Louisiana*	$656.6	$145.91	Texas	$1000	$45.25
Maine	$41.8	$32.15	Vermont	$19.5	$32.50
Maryland	$458	$83.27	Virginia	$408	$55.14
Massachusetts	$912	$142.50	Washington	$117.6	$19.28
Michigan	$644.5	$63.81	West Virginia	$512	$284.44
Minnesota	$100	$19.61	Wisconsin	$154.89	$28.16

*Return figure includes lottery and non-lottery-operated FY 2004 gaming machine return.
Source: *Public Gaming International*, February 2005, p. 15.

While the states with the largest per capita returns have VLTs, Massachusetts and the District of Columbia have achieved very high per capita returns without them. Returns are a function of the types of games that are legally allowed, degree of competition, efficiency of operations, and marketing effectiveness. Developing new content and widening distribution channels are key areas that drive growth.

Differences in state lottery sales can partly be explained by the socioeconomic characteristics of state residents. National studies generally find that lottery sales are higher for individuals who belong to minority groups, have little or no formal education, are residents of urban areas, and are between 45 and 65 years old.[231]

Displacement Effect

When consumers spend money on lottery tickets they spend less on other items, some of which would have been taxable. Thus general sales and excise tax revenues fall with additional lottery revenues. This is called a "displacement effect."

The amount of displacement found in different studies varies:[232]

- A multistate analysis spanning the years 1953 to 1987 found that the displacement effect ranged from a two cent to a 14 cent reduction in sales tax revenue per one dollar increase in state lottery revenues.
- The most recent multistate study, examining 1967 to 1999, found that sales tax revenues declined by $1.35 per $1 in additional lottery revenues, in part due to substitution of lottery purchases for taxable purchases and in part due to a reduced likelihood that a state will raise sales taxes when lottery revenues are high.

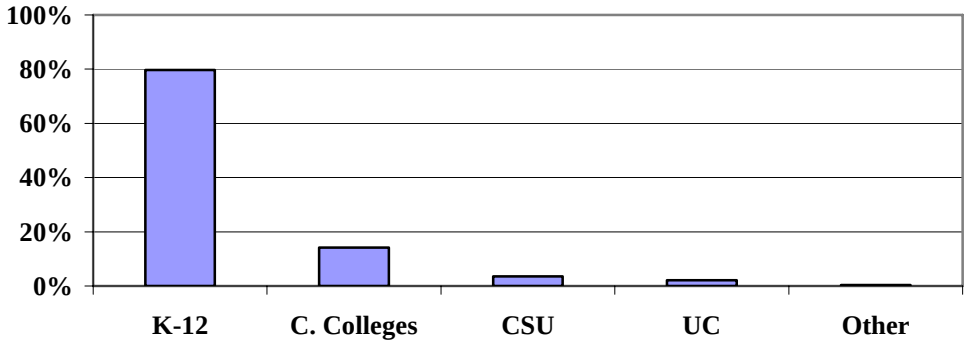
There is also evidence of substitution of spending among games. Interstate lottery competition can reduce single state lottery sales, and the introduction of new lottery games reduces spending on traditional lottery games.[233]

PUBLIC EDUCATION—CALIFORNIA'S STATE LOTTERY BENEFICIARY

State lotteries transfer a portion of their revenues to states to help fund important programs such as education, economic development and natural resource programs. The beneficiaries of the revenues vary in each state. The California and New York lotteries provide funds for public education. The Pennsylvania lottery generates funds for older residents, contributing more than $14.6 billion since 1971 to elder programs that provide low-cost prescription drugs, specialized transportation, and rent and property tax assistance.

By law, the California lottery must send a minimum of 34 percent of revenues to schools, although over a 20 year period the average has been 37 percent due to unclaimed prizes and other savings. As of November 2004, the California Lottery had sent nearly $16 billion to education during its 19 years of existence.[234] Most of that funding ($12,890,874,665) went to K-12 schools, as shown in Figure 14. The funds can be used only for instructional purposes. Schools spend the majority of funds, 80 to 90 percent, for teachers.

Figure 14
California State Lottery Education Allocations
(1985-2004)



Source: California State Lottery, 2004.

Total California state revenues in FY 2004-05 were $98.7 billion. Net lottery revenue contributed about one percent of that amount.

The California State Lottery's contribution to state public education in FY 2003-04 was $1,094,601,888. That year the Governor's budget proposed to spend $35,900,000,000 on public education (K-12, higher education, other); lottery income contributed about three percent of that amount.

Studies find that state lottery funds generally do not benefit the statutory recipients because equivalent funds are merely shifted into other programs. Several studies have examined the earmarking of lottery funds for education and found that "…the state was robbing Peter to pay Paul," and that "…lottery revenues earmarked for education had no impact on education expenditures."[235] According to a California school official, when districts first received lottery money the state simultaneously reduced funding nearly the same amount, making the deal a wash.[236] Proposition 98, which was enacted four years after the lottery, sets a minimum level of school funding from the state's General Fund. Funds from the lottery are on top of that funding.

CONSUMER IMPACT—PROBLEM GAMBLING

A study published in 2002 found that the introduction of a state lottery results in increased household gambling expenditures and participation, and a decrease in nongambling expenditures by about two percent on average:[237]

- Participation in lotteries among adults living in lottery states was 54.7 percent versus 25.2 percent in non-lottery states.
- Lottery expenditures substituted away from other non-gambling consumption: "The introduction of a state lottery is associated with a decline of $115 per quarter in household non-gambling consumption."

- For low-income households, there was a larger $139 or three percent average quarterly reduction in non-gambling consumption, financed by reduced expenditures on food eaten in the home (3.1 percent) and home mortgage, rent and other bills (6.9 percent).

As Table 14 shows, Blacks spent nearly twice as much on lottery tickets as did Whites and Hispanics. According to the study author, the Black male high-school dropouts in the sample reported average annual expenditures of over $1,000. Expenditures among income groups were roughly equivalent, meaning that low-income households spent a larger amount of their wealth on lottery tickets than other households.

Table 14
Lottery Participation Rates and Expenditures in Lottery States
(1998 survey data adjusted to 2000 dollars)

	% Playing in the previous year	Mean annual spending, all adults
Overall	55.7%	$128.4
Male	51.8%	$153.4
Female	59.9%	$105.3
White	57%	$119.3
Black	46%	$230
Hispanic	61%	$107.5
Other	51.8%	$81.8
Household income less than $27,000	50.5%	$139.5
$27,000-$54,000	63%	$127.1
More than $54,000	62.9%	$158.9
High school drop out	54%	$197.2
High school graduate	57.3%	$155.1
Some college	58.8%	$120
College graduate	52%	$86.7

Source: 1998 National Survey on Gambling conducted by the National Opinion Research Council, as presented in Kearney, NBER Working Paper 9330. p. 31.

A study in the *Journal of the American Medical Association* found that 3.6 percent of lottery patrons were problem gamblers and 5.2 percent were pathological gamblers (see the Chapter on Social Impacts for a discussion of problem and pathological gambling).[238] Lotteries appear to be a key entry point into this disorder, given their widespread and ready availability and state-sponsored legitimacy.

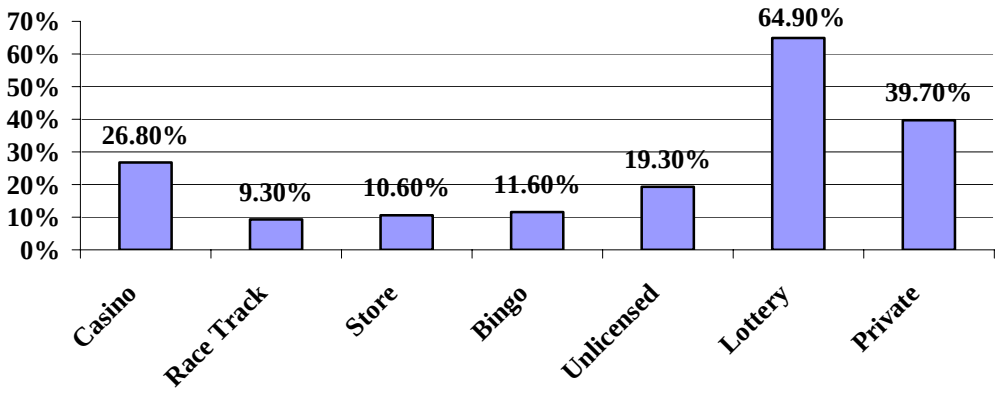
An Oregon study reinforces this finding. An analysis of individuals in gambling treatment and prevention programs in the state found that nearly 70 percent gambled primarily at a lottery retailer near their home. The average gambling debt was $22,840, and the average annual household income was $36,246.[239] Oregon has video lottery terminals (VLTs), which are prohibited by law in California. VLTs have been called "the

most addictive form of gambling in history," because they create pathological addiction nearly four times faster than other popular games of chance.[240]

Adolescents who gamble are more likely to develop problem and pathological gambling problems. Studies find that underage youth have little difficulty in purchasing lottery tickets. One study found that 90 percent of young people in the United States had purchased lottery tickets by the time they were seniors in high school.[241] An Oregon study of 13 to 17 year olds found that 39 percent had played the Oregon Lottery at least once, 30 percent within the last year. Over a third of those bought their tickets illegally at grocery and convenience stores.[242]

Figure 15 shows the types of gambling that adolescents had engaged in during the previous year, as measured in 1999, according to a survey conducted by the National Opinion Research Center at the University of Chicago. More minors played the lottery than any other game.

Figure 15
Adolecent Past-Year Gambling by Type of Game, 1999



Source: National Opinion Research Center, 1999.

Given that lotteries are the entry point into problem gambling for many adolescents, the enforcement of California's prohibition against the purchase of lottery tickets by minors is important. *Government Code* § 8880.52 provides that:

> No tickets or shares in Lottery Games shall be sold to persons under the age of 18 years. Any person who knowingly sells a ticket or share in a Lottery Game to a person under the age of 18 years is guilty of a misdemeanor. Any person under the age of 18 years who buys a ticket or share in a Lottery is guilty of a misdemeanor. In the case of lottery tickets or shares sold by Lottery Game Retailers or their employees, these persons shall establish safeguards to assure that the sales are not made to persons under the age of 18 years.

There appears to be very limited enforcement of California's laws against the purchase of lottery tickets by persons under the age of 18. The State Lottery's investigations unit

relies on complaints and self-regulation by retailers, and does not undertake stings to locate retailers who sell to underage customers. This type of enforcement has proven to be critical to enforcing laws against underage purchase of alcohol and tobacco. In the last five years, no retailer in California has had its contract with the State Lottery terminated because of sales to underage players. Although state law provides that underage players may not collect winnings, as a practical matter anyone can redeem a ticket that pays under $500 at the retailer.[243]

Lottery advertising is controversial, as it represents state government actively promoting gambling. The National Gambling Impact Study Commission found that ads that are persuasive, manipulative, or misleading (i.e. not explaining the poor odds of winning) are particularly troublesome when targeted towards groups least able to afford to play. A few states ban lottery ads designed to induce people to play.[244]

Some state lottery websites prominently display a link to information about problem gambling, including how to identify a problem, links to Gamblers Anonymous and a toll-free help line number. In contrast, a small-type grey link at the bottom of the California Lottery's website is entitled "Play Responsibly." While not featured prominently, it contains useful information about problem gambling and provides links to the Lottery's help line, the California Council on Problem Gambling, NICOS Chinese Health Coalition and other service providers. The California Lottery website does not include information indicating that adolescents should not play.

The California Lottery contracts with the California Council on Problem Gambling to respond to calls to its helpline. In 2004, 3,399 calls for help with problem gambling were made to the helpline, predominantly from people who prefer casino gambling (82 percent). Nearly 41 percent of the callers played the lottery, but the lottery was the referral source of only about two percent of the calls.[245] In contrast, casinos signs were the referral source of nearly half of all calls. This suggests that the lottery is not providing a strong message about where to find assistance with problem gambling. The lottery does distribute pamphlets to its retail outlets, but a visit to several retailers indicates that they are not being distributed effectively.

CALIFORNIA HORSE RACING

BACKGROUND

Horseracing has a long history in California. The Californians, inheritors of a proud tradition from Spain and Mexico, were renowned horsemen and regularly held races on Sundays for entertainment and wagering. After California became a state, organized racing was conducted at district fairs. In addition, many communities had local horse race tracks. Horses were the primary means of transportation, and races were analogous in popularity to today's car racing.

During the Great Depression, the need for state revenues and for a stable source of support for county fairs led to the adoption of state-regulated horse racing and wagering. The California Horse Racing Act of 1933 was ratified by the voters in 1933, and Article IV, Section 19(b) was added to the state Constitution:

> The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

The California Horse Racing Act provides for a California Horse Racing Board to oversee the industry, "…with the goal of protecting the public from fraud, promoting California agriculture and quality racehorse breeding, and encouraging expansion of the racing industry to maximize tax revenues in the public interest."[246] The board is charged with maintaining the integrity of the races, ensuring that the state and local jurisdictions receive tax revenues, overseeing the licensing of tracks and operators, and preventing crime.

Several of the state's major racetracks were created in the 1930s, including Santa Anita (1934), Hollywood Park (1938) and Bay Meadows (1934). The late 1930s through the early 1980s was horse racing's "golden era," including the much celebrated Seabiscuit. Attendance in 1972 at the tracks nationally was triple that of baseball, 72 million people.[247] However over the last decade, attendance has declined considerably both nationally and in the state (see discussion below).

Horseracing uses the pari-mutuel system of wagering, in which bettors bet against one another instead of against the house. The money bet on a race is pooled, with approximately 80 percent returned to the winning bettors and 20 percent paid out to jockeys and horse owners, the racetrack, and state and local governments.

The Chairman of the Senate Select Committee on California's Horse-Racing Industry reports that the sport generates over $4 billion a year for the state's agribusiness, tourism, and entertainment economies and directly or indirectly employs more than 52,500 Californians. The California Horse Racing Board licenses nearly 14,000 individuals who work in the industry (trainers, jockeys, etc.). More than 1,000 farms in California breed racehorses.[248]

CALIFORNIA RACE TRACKS

The state has seven licensed racetracks (although Bay Meadows will close soon) and nine licensed racing series at county fairs, as shown in Table 15.

Table 15
California Horse Racing Venues, 2005

Race Tracks	***Racing Fairs***
Bay Meadows (San Mateo)—scheduled to close and be replaced by housing	Alameda County Fair
Cal Expo (Sacramento)	California State Fair, Sacramento
Del Mar (Del Mar)	Humboldt County Fair
Golden Gate (Albany)	Los Angeles County Fair
Hollywood Park (Inglewood)	San Joaquin Fair
Los Alamitos (Los Alamitos)	San Mateo County Fair
Santa Anita (Arcadia)	Solano County Fair
	Sonoma County Fair
	The Big Fresno Fair

Source: California Horse Racing Board, www.chrb.ca.gov.

A person does not have to be at tracks to wager on the results of the race. Simulcast facilities where races may be viewed and bets placed are located around the state at the following locations:

> Alameda County Fair, Antelope Valley Fair, Barona Casino, Bay Meadows Race Track, CalExpo (Sacramento), Desert Expocentre (Indio), Earl Warren Showgrounds (Santa Barbara), Fantasy Spring Casino, Fresno Club One, Fresno District Fairground, Hollywood Park Race Track, Kern County Fair, Lake Perris Sports Pavilion, Los Alamitos Race Course, Los Angeles County Fair, Los Angeles Turf Club, Monterey County Fair, National Orange Show (San Bernardino), Pacific Racing Association (Albany), Redwood Acres Fair (Eureka), San Bernardino County Fair, San Joaquin Fair, Santa Clara County Fair, Santa Anita Race Track, Santa Barbara County Fair, Shasta District Fair, Sonoma County Fair, Solano County Fair, Stanislaus County Fair, Surfside Race Place (Del Mar), Sycuan Casino, Tulare County Fair, Ventura County Fair, Viejas Casino & Turf Club

California's horse racing industry, like its counterparts nationally has experienced declining attendance for the better part of a decade. From a 28 percent share of America's gambling market in 1982, horse racing declined to a 5.2 percent share in 2000, the "…victim of shifts in consumer preference…from the track window to the slot machine."[249] Since 1990, attendance at California racetracks has declined by 35 percent and on-track handle has decreased by 59 percent. There were 938 horse racing days in

California in 2004, with an average daily attendance of 9,540 and an average daily handle* of more than four million dollars.[250] The 2005 attendance and handle numbers at the CalExpo spring harness meet were down more than 25 percent from the previous year. [251]

The growth is in off-track and Internet betting. According to analysts, "Without off-track betting and simulcasting, horse racing as we know it today would not exist." [252] Off-track betting at simulcast locations generated $13.1 billion nationally in 2001, 82 percent of the industry total. Off-track handle now accounts for nearly three quarters of wagering on California horse races and is increasing rapidly, particularly for Advance Deposit Wagering (see discussion). Wagers actually made at the state's racetracks account for less than 22 percent of total wagers. Off-track betting in the state's simulcast facilities accounts for nearly 40 percent, with out-of-state wagers nearly as significant, at 38 percent.[253] Competition from offshore Internet betting services that offer a wider selection of betting options at lower prices is one reason for declining track revenues.[254]

California's horse racing industry is consolidating. Magna Entertainment Corporation operates Santa Anita Park and Golden Gate Fields. In August 2005, the California Horse Racing Board approved the purchase of Hollywood Park by the owner-operator of Bay Meadows. Bay Meadows will close and be replaced by housing.

ACCOUNT WAGERING

In 2001, Governor Gray Davis signed a bill (AB 471 Hertzberg, Chapter 198, Statutes of 2001) to permit in-state Internet and telephone gambling on authorized horse races, and allowing California-licensed operators to accept bets from people in any state that authorizes interstate betting. This is called "advance deposit wagering" (ADW). According to I. Nelson Rose, a leading authority on gambling law, this may have been "...the second largest expansion of legal gambling in the history of the United States." (According to Rose, the largest expansion was California's authorization of Indian gaming in 2000).[255]

California's entrance into long distance electronic gambling on horse races followed Congress' 2000 expansion of the Interstate Horseracing Act to allow wagers across state lines by phone or other electronic media, which presumably includes the Internet (15 U.S.C. §§ 3001-3007). The Act governs the relationship between the off-track betting operators, "…licensed Internet and interactive television horserace betting services, the tracks, the horse owners and trainers, and the state racing commissions concerning wagers placed in one state on the outcome of races being held in another state."[256] The state where the bettor is located and the state where the "off-track betting operator" is located must both have authorized interstate betting. Twelve states have authorized the acceptance of ADW over the Internet for off-track pari-mutuel wagering.

The California Horse Racing Board is the state's lead agency responsible for adopting regulations and approving all arrangements involving ADW. From the California Horse

* "Handle" is the sum of wagers (or "pari-mutuel pool") made on a race.

Racing Board's state website, one can directly access three authorized ADW companies: XpressBet, youbet.com and TVG. XpressBet enables betting on horse races in England and Australia, creating a state-licensed international Internet gambling opportunity. Conversely, bettors in other countries can bet on California horse races. For example, Darwin All Sports, an account wagering system based in Australia, has an agreement that allows it to merge its wagers into California pari-mutuel pools. California's total ADW handle increased by more than $89 million from 2003 to 2004 (about 28 percent), to $403 million, and has increased 37 percent in 2005 over the previous year for three fair meets (Sonoma, San Mateo, and Humboldt).[257]

Internet gambling on horse races outside of the established state-regulated wagering systems is increasing at a rapid rate. Offshore Internet gambling sites may offer higher return rates, as they do not need to make payments to jockeys, owners, tracks or state and local governments. This hurts the horse racing industry, which needs the income provided by state-regulated pari-mutuel wagering to survive.

Federal legislation introduced by Senator Kyl (R-AZ) in 1998 and 1999, and again 2005, would prohibit all wagering over the Internet, including for horse racing. The immediate impetus is a World Trade Organization (WTO) decision involving a dispute between the United States and Antigua over Antigua's attempt to secure rights to host Internet casinos serving U.S. residents.[258] A WTO appeals panel decision in April 2005, found that the entire U.S. gambling service sector was covered by the General Agreement on Trade in Services (GATS) and thus the ability of local, state and federal governments to regulate all forms of gambling was limited by the rules of GATS. The WTO ruling found that the government does have the right to restrict remote gambling to protect public morals and public order, but must consistently apply restrictions to domestic and foreign operations. The fact that the United States allows an exemption for ADW on horse races over the Internet weakens the U.S. position.

REGULATION

The California Horse Racing Board is composed of seven members appointed by the governor. Its purpose:

> …is to regulate pari-mutuel wagering for the protection of the betting public, to promote horse racing and breeding industries, and to maximize State of California tax revenues… Principal activities of the board include: protecting the betting public; licensing of racing associations; sanctioning of every person who participates in any phase of horse racing; designating racing days and charity days; acting as a quasi-judicial body in matters pertaining to horse racing meets; collecting the state's lawful share of revenue derived from horse racing meets; and enforcing laws, rules, and regulations pertaining to horse racing in California.[259]

The board is financed by horse racing fees (nearly $8.5 million in 2005-06). Judging from the board's agendas, it spends a considerable amount of time creating and enforcing safety standards and investigating and fining violators. Drug abuse is a particular

concern. Equine research at the University of California, Davis, receives a share of the pari-mutuel tax (.06 percent in 2003 and 2004), amounting to $2,183,975 in 2004, for research and for the equine analytical chemistry laboratory which carries out the board's drug testing programs.

The board delegates its enforcement responsibility at each track to three stewards, who it licenses, and they serve as judges in determining legal violations. Stewards can "…level fines, suspend licenses, bar individuals from the track, and suspend horses from racing. They determine the official results of races, and can order the redistribution of purses."[260] Their decisions can be appealed to the board.

RACINOS

Over the last decade, the horse racing industry has experienced declining attendance and increased competition from other forms of legalized gambling, primarily lotteries and casinos: "The [horse racing] industry was taking a real beating when lotteries and commercial casinos were introduced…"[261] The response in some jurisdictions has been to allow other types of gambling at the tracks, resulting in "racinos"-- "racing" plus "casino."

According to the American Gaming Association, the racetrack casino sector of the commercial gaming industry experienced substantial growth in 2004: "The 23 operational racetrack casinos in seven states generated nearly $2.9 billion in gross gaming revenues, a 30 percent increase over 2003 figures."[262]

Table 16
Racetrack Casino State Statistics, 2004

State	# Racetrack casinos	Gross gaming revenue	Distribution to state and local government	Number of employees
Delaware	3	$553.32 million	$196.26 million	2,370
Iowa	3	$337.48 million	$98.31 million	2,207
Louisiana	3	$280.97 million	$42.6 million	1,856
New Mexico	5	$149.68 million	$37.42 million	518
New York	4	$192.45 million	$136.64 million	1,813
Rhode Island	2	$383.8 million	$234.1 million	1,057
West Virginia	4	$882.4 million	$327.63 million	4,404
Total	**24**	**$2.86 billion**	**$1.07 billion**	**14,225**

Source: American Gaming Association, 2006

In California, Hollywood Park in Los Angeles operates the third largest card club in the state. Minnesota permits card games at racetracks, with limitations on the types of games, amount of wagers and number of tables. A number of states have considered allowing expanded gambling operations at racetracks. A proposal to do so was opposed by tribal gambling interests and defeated by California voters in November 2004. In

some other states, tribes are buying racetracks and/or operating casino facilities at racetracks (Oklahoma, Wisconsin, Minnesota among others).

In the mid-1990s, video lottery terminals were allowed at racetracks in Rhode Island, Oregon, Louisiana, Delaware, and New Mexico. They have been very profitable. For example, in FY 2004-05, the West Virginia Lottery's racetrack VLT net machine income totaled $894.5 million, up 4.6 percent from the previous year.[263]

In 2004, New York began implementing a video gaming system in eight of its racetracks, and similar legislation has been introduced in a number of states. The first New York racino to open was Saratoga Gaming and Raceway, with 1,324 video gaming machines. In the facility's first month of operation, it earned $5.1 million from $81 million in wagers, of which the state received $3.7 million. During that month, video gaming machines averaged more than $11,500 per hour in revenues, generating approximately $185,000 per day.[264] Two of the New York racinos being planned will house 4,500 and 5,500 VLT machines each. In addition, Governor Pataki has proposed authorizing eight additional facilities, with the only restriction being that they are not located within 15 miles of an existing facility (not necessarily at a racetrack).

Other states allow slot machines at racetracks. Their revenues are subsidizing the racing side of the house. For example, New Mexico's horseracing industry was "on the verge of collapse" when the legislature approved slot machines at the tracks (as part of tribal-state gaming compacts). Revenues from slot machines have led to facility improvements and bigger horse racing purses. However slot machine players generally do not convert to racing enthusiasts. [265]

Slot machines draw recreational gamblers to the tracks, but there seems to be very little crossover between the trackside and the gaming side. Nonetheless, racing revenue is also rising. The additional traffic and revenue have allowed for stronger racing programs and facility upgrades, leading to larger purses, higher horse sales and growth in the breeding industry, according to observations drawn from racinos in Ontario, Canada, Iowa, Minnesota, Texas and New Mexico.[266]

REVENUES

According to the California Horse Racing Board's most recent annual report, $4.1 billion was wagered on California horse racing during the 2004-05 fiscal year (FY), $138 million less than in FY 2002-03. Payments of over $3.3 billion were returned to holders of winning tickets, an 80.1 percent return.[267] The remaining nearly 20 percent supported purses for winning owners and jockeys, racetrack commissions, off-track betting operations and taxes. In 2004, the state received $39.5 million in licensing fees and breakage[*] (1.03 percent), local governments retained more than $7 million (0.19 percent), the tracks kept $153 million (four percent), and horsemen earned $149 million (four percent).[268]

[*] "Breakage" is the odd cents not paid to winning ticket holders.

In FY 1999-2000, the state received $44 million from wagering on California horse races, ($4.5 million more than in FY 2004-05), of which $37.5 million went to the Fair and Exposition Fund and $4.5 million to the General Fund. Donations to local charities from legally required benefits races totaled more than $1 million.[269] (Most charity proceeds are directed to equine-related charities.)

County Fairs

Horse racing license fees help support the state's 79 local fairs.[270] The Department of Food & Agriculture's *2005/06 Expenditure Plan for the Fair and Exposition Fund and Satellite Wagering Account* projected a slight increase in horse racing fees to result in over $39 million in revenues. Nearly $8.5 million of that amount funds the California Horse Racing Board, and the department receives over $4 million for its support of the state's fairs and expositions. About $26.3 million is allocated for local assistance, of which $14.8 million is for general fair programs and funding. Once various reimbursements and fees are subtracted, the local fair revenue base was $9.7 million.[271]

Given that there were 79 fairs scheduled in California in 2005, the average payment per fair from horse racing fees was less than $125,000.

According to the Department, county fair economic activity results in more than $136 million in direct state and local income from sales, income and other tax sources and 28,000 jobs, with a total statewide economic impact of $2.5 billion.[272]

SOCIAL IMPACT

Race betting has the fewest players relative to other forms of legal gambling, but a 2001 survey found that each player represents substantially more revenue. Race bettors spent an average of $171 per month compared to casino ($164), lottery ($95) and bingo players ($104).[273]

Studies find that adults who bet on horse racing (both on and off-track) have the highest incidence of problem and pathological gambling of any gambling patrons. Fourteen percent of pari-mutuel bettors are estimated to be problem gamblers and 25 percent are pathological gamblers.[274] The California Horse Racing Board does not have any programs designed to assist people with gambling problems and seems to provide state-sanctioned encouragement for gambling (for example their web site links directly to sites that offer online account deposit wagering on horse races--see http://www.chrb.ca.gov/advance_deposit_wagering.htm).

CALIFORNIA'S CARD CLUBS

BACKGROUND

Card clubs (also called cardrooms) have existed in California since before statehood. They were a particularly popular form of entertainment during the Gold Rush, when gambling was pervasive. However in 1860, all house-banked games (meaning that each player wagers money against the gambling establishment) were prohibited by the legislature. From the 1860s through the 1980s, the poker club, or cardroom, was the major form of gambling in the state, with the house acting as a neutral overseer of the games.[275] The clubs were regulated at the local level with minimal state oversight.

Rather than having a stake in the game (house banked) and taking a percentage of the wager, California card clubs provide a house dealer and charge a player participation fee by time period (generally every half hour) or by hand played. Third party players are paid by a card club or an independent business to play in the games, usually to start a new game or keep a shorthanded game going.

Card clubs are limited in the types of games that they can offer by the California Constitution, which reserves house-banked Nevada-style casino games for casinos operated by tribes that have federally-approved tribal-state gaming compacts.

As of July 2005, there were 98 licensed card clubs and four clubs with provisional licenses in California (one has since received a regular license, according to the state Department of Justice; see Table 17); in February 2006, there were 86 licensed card clubs. In contrast, in 2001, the state had 113 card clubs with 1,473 tables. The industry is consolidating but business is booming; the number of tables had increased to 1,515 in July 2005, primarily due to the popularity of poker. Some clubs are open 24 hours, with people waiting in line to play poker.[276]

Cardroom revenues statewide have increased by nearly 75 percent over the last eight years (see Figure 17). Revenues in the five cardroom states—California, Florida, Minnesota, Montana and Washington—rose from $844 million in 2003 to $1.01 billion in 2004.[277]

Many card clubs are small businesses but a few are quite large (see Table 17). The Hollywood Park Casino in Inglewood is co-located with a racetrack. It offers a variety of games 24 hours a day and is the most profitable of Hollywood Park's divisions. The Hawaiian Gardens Casino has 180 tables and 1,675 employees, with yearly revenues of $85 million.

The state currently has a moratorium on the authorization and expansion of cardrooms until 2010, which does not allow local jurisdiction to expand gaming beyond that permitted on January 1, 1996 (*Business and Professions Code* §19962). However a number of local ordinances in effect as of that deadline already allowed for considerable expansion, and in addition state law allows expansion of up to 25 percent in the number

of licensed cardrooms, gambling tables (total and per card room), hours of operation and in the maximum wager over the limits imposed in 1996 by a city or county (*Business and Professions Code § 19961*). Thus in actuality state law allows for considerable cardroom expansion. For example, according to press accounts the Hawaiian Gardens Casino is expanding from five tables in 1997 to a planned 300 tables by the end of the year.[278]

POKER

Poker is the most widely known card game and in its various formats is played more than any other game. Its popularity has increased considerably and has brought new customers to the state's card rooms, drawn by televised tournaments of Texas Hold'Em. According to the American Gaming Association, 18 percent of American adults played poker in 2004, a 50 percent increase over the previous year. Poker draws in younger players, ages 21 through 39, who also provide incremental revenue at other table games, as well as purchasing food and beverages.

Some forms of poker are house-banked and can be offered only by tribal casinos in California, including blackjack, craps (with cards, not dice), baccarat, Caribbean Stud Poker, Let It Ride, Spanish 21, Three Card Poker, and Pai Gow poker. New games are introduced regularly, with the most successful being variations on blackjack or poker that offer larger jackpots.[279]

Poker tournaments have become very popular. The California Gambling Control Commission recently clarified that both state and local city approval must be obtained by a card room before the number of tables, which is set by licensing regulations, can be expanded to accommodate a tournament. The Alcohol Beverage Control (ABC) Board followed with an *Industry Advisory* that ABC-licensed premises cannot hold, or allow anyone else to hold, unlicensed poker tournaments.

Online poker does not have these restrictions and offers cheaper fees. One analyst asserts that online poker is having the effect on card rooms that "Napster" had on the music industry—widespread low or no cost access that bypasses traditional retailers.[280]

SHARED STATE AND LOCAL CONTROL

In 1997, the legislature enacted the California Gambling Act, which among other things created the Division of Gambling Control in the Department of Justice and the California Gambling Control Commission, an independent agency with quasi-judicial powers and five members appointed by the governor. The Act established a concurrent state regulatory jurisdiction with local governments over cardrooms and created uniform statewide minimum regulatory standards. Local governments may enact more stringent controls by local ordinance on matters such as size, location, hours of operation, security, and wagering limits.

The state administers a comprehensive licensing and registration system for cardrooms, their key employees, and work permit holders. The Division and the Commission are

jointly responsible for ensuring that card club licenses, approvals, and permits are not issued to unqualified or disqualified persons. The Division investigates the background of applicants for gambling licenses, including owners, directors, employees and vendors, and forwards its findings to the Commission, which issues licenses. The Division also monitors the conduct of licensees, regulates accounting and internal controls, reviews and approves gaming equipment and rules of the games, investigates suspected violations and complaints, and initiates disciplinary actions.[281]

Since 1984, when state licensing by the Department of Justice began, 304 applications for card club licenses have been approved, 123 were denied, 49 were revoked, and two have been surrendered. Key employees must also be licensed. There are currently 254 licensed key card room employees. Since 1984, 43 applications for key employee licenses have been denied and four were revoked. Many more have been withdrawn.

Third party providers of proposition player services run a business in which a player is paid by a card club or an independent business to play in the games, usually to start a new game or keep a shorthanded game going. For example, Network Management Group, Inc., bills itself as the largest provider of third-party proposition player services in the California gambling industry, employing more than 650 associates in over a dozen card rooms.[282]

Contracts for proposition player services must be approved in advance by the Division of Gambling Control, and businesses that utilize the services must register with the California Gambling Control Commission. Some clubs do not have contracts with third parties, but have banking businesses that may register with the Gambling Control Commission on a voluntary basis. The goal is to protect patrons from money laundering, loan sharking,[*] and organized crime. According to the Division, although many card rooms have these businesses on their premises, only about 25 are registered. It would require an investigation to locate the other businesses, and the Division does not have sufficient resources to uncover them.[283]

Both the Division and the Commission are special funded by fees. All applications for state card club licenses include a nonrefundable fee of $500. Card clubs pay licensing fees set in statute in 1998 (Business & Professions Code § 19951). Fee revenue is less now than in 1998, when inflation is taken into account. Cardroom revenues have increased by nearly 75 percent since that time.

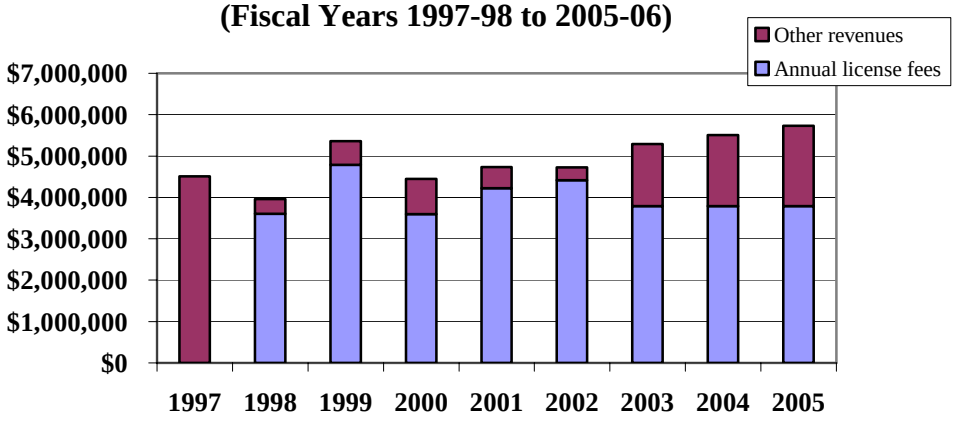
- A club with one to five tables pays $250 for each table.
- A club with five to eight tables, or earning $200,000 to $499,999 in gross revenues, pays $450 per table.
- Clubs with nine to 14 tables, or earning $500,000 to $1,999,999 in gross revenues, pay $1,050 for each table.

[*] Loan sharking is the practice of lending money to heavy gamblers at extremely high interest rates, making it difficult for the gambler to ever pay off the debt. As a consequence, the gambler may fall under the control of the loan sharking operation.

- Clubs with 15 to 25 tables, or earning $2 million to $9,999,999 in gross revenues, pay $2,150 per table.
- Clubs with 26 to 70 tables, or earning ten million dollars or more in gross revenues, pay $3,200 per table.
- Clubs with 71 or more tables pay $3,700 for each table.

As shown in Figure 16, fees paid by California cardrooms to the state have not increased appreciably for six years ("other revenues" on the chart include application fees, background deposits and initial license fees). Since fees are intended to support the state's regulatory operations, low fees impede the ability of the state to enforce its gambling control laws.

Figure 16
State Fees Paid by California Cardrooms
(Fiscal Years 1997-98 to 2005-06)

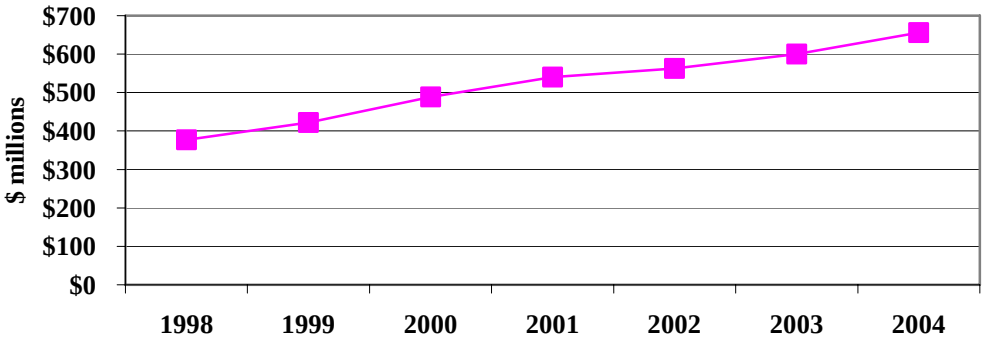


Source: California Department of Justice, Division of Gambling Control, 2006.

REVENUES AND TAXES

A 1995 survey found that California card clubs are the largest in the nation, with a total handle (wagering total) of $8.9 million and gross revenues of $711 million.[284] According to the American Gaming Association, California cardrooms earned $688 million in 2003, an increase from $563 million in 2002, fueled by the popularity of poker and other table games.[285] The gross gaming revenues reported by cardrooms to the Division of Gambling Control are shown in Figure 17.

Figure 17
California Cardroom Gross Gaming Revenues, 1998-2004

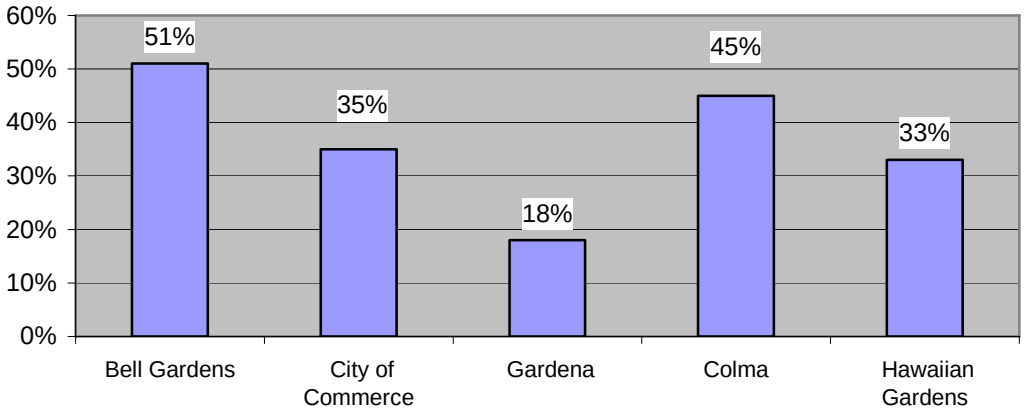


Source: California Department of Justice, Division of Gambling Control, 2005.

The state does not tax cardrooms, although they pay licensing fees as described above, but local governments may negotiate a tax, typically on the table fees collected by the cardrooms. These can be very lucrative sources of revenue. For example, the Lake Elsinore Hotel & Casino pays a gaming fee of more than $74,000 a year for 18 table games, as well as property, sales, and hotel-room taxes.[286]

Some cities are particularly dependent on card room revenues as a major source of municipal funds. Cities such as Commerce, Bell Gardens, Colma, Hawaiian Gardens, Gardena, and San Pablo depend on local cardrooms for a significant portion of their income. This dependence has raised questions as to whether these cities can adequately regulate club operations, as they are in essence a "municipal partner."[287]

Figure 18
Percent of Local Revenues Derived from Card Clubs (2002)



Source: Little Hoover Commission, 2002

In 2005, the small town of Colma's ordinance allowing unlimited card betting was declared illegal by the Attorney General as a violation of the state's moratorium on card club expansion, a finding that reportedly could cost the city half of the $3.8 million in fees that the Lucky Chances Casino generates for the town each year.[288] The California Gambling Control Division subsequently ordered Lucky Chances Casino to halt unlimited card betting. The casino's owner is advocating removing the betting cap via a local ordinance and state legislation. (He was recently indicted for allegedly diverting card room money and owing nearly $1 million in taxes.)[289]

The Colma dispute over wagering limits has raised a larger issue, as some 30 local jurisdictions apparently do not comply with the state's moratorium on card club expansion. The result is a patchwork of wagering limits in different jurisdictions and clubs that may create a competitive disadvantage for some card clubs.[290]

CRIME

Gambling in card clubs has been associated with a number of crimes including embezzlement, bookmaking, loan sharking, money laundering, criminal gangs, job selling, prostitution, cheating and gambling by minors. For example, in 2000, 55 people were indicted in connection with alleged illegal activity at the Bay 101 and Garden City cardrooms in San Jose. Testimony before the grand jury described loan-sharking, drug sales, credit-card and check fraud, and buying stolen computer chips, all of which were alleged to have taken place on a routine basis.[291]

Proposals to allow or expand local card clubs can be extremely contentious, particularly since most are located in urban areas. For example, some members of the Vietnamese-American community in San Jose have been vocal in their opposition to the city's two cardrooms, which they claim have exploited gambling addiction in the Vietnamese community and led to increased crime, domestic violence and child neglect.[292] In 2000, San Jose's two cardrooms produced $7.5 million in tax revenue, based on a 13 percent tax on gross receipts. Asian games provide about 70 percent of the clubs' combined revenues.

Gambling by minors in card clubs is particularly problematic given the popularity of youth poker and its role as a gateway to adolescent problem gambling. Gambling by minors is also illegal. According to Division of Gambling Control's records, only one cardroom has been cited for minor gambling but pled guilty to having a minor on the premises, a lesser charge. Three other cardrooms have received violation notices for having a minor on premises. A Division investigator contends, "I'm sure more is occurring out there. We just do not have the staff to be on site in the cardrooms as much as we would like."[293] Local governments are also responsible for enforcing gambling laws in cardrooms.

Cardrooms are subject to the Federal Bank Secrecy Act and must track cash buy-ins and cash-outs at the gaming tables, and report all transactions in excess of $10,000 in any

gambling day to the IRS. The IRS has audit and investigation authority for compliance purposes.

OWNERSHIP

State law prohibits California card club proprietors from owning an interest in out-of-state gambling operations that would be illegal under California law, with the exception of companies that own racetracks. Since slot machines are illegal (except in Indian casinos), companies that are engaged in casino operations legal in other states may not operate a card club in California. State law also requires that every owner, director and key employee be licensed, including shareholders of corporations, effectively excluding most publicly owned companies from operating card clubs. Over the last five years, several bills have been introduced in the legislature to remove one or both of these prohibitions, but they have either been defeated or vetoed.

According to the Little Hoover Commission, these prohibitions were enacted as attempts to keep organized crime out of California.[294] However publicly traded gambling companies with good reputations now dominate the gambling market and even manage casinos for California Indian gaming tribes. The Commission concludes that state's card club ownership prohibitions are not necessary to protect the public against criminal activities and are "...an anachronistic attempt to protect public safety."[295] The prohibitions do have the effect of limiting the capital resources available to card clubs and thus restricting their expansion, a goal of anti-gambling forces and other competitors in the gaming industry such as tribal casinos.

LOCATIONS

Of the state's 58 counties, 24 do not have any card rooms and 13 only have one card room. Los Angeles County has over half the licensed tables in the state, while the city of Sacramento has the most card rooms of any city. The size and location of card rooms varies considerably, as Table 17 shows (updated lists can be found at http://www.cgcc.ca.gov/cardrooms/CardRoomData.htm).

Table 17
California Card Clubs by City, December 2005

Active Clubs	No. of Tables	Club Address	City	Zip	License Issuance	License Expiration
Napa Valley Casino	8	3466 Broadway	American Canyon	94589	12/01/04	11/30/05
Kelly's	6	408 “O” St.	Antioch	94509	08/01/05	02/28/06
Nineteenth Hole, The	5	2746 W. Tregallas	Antioch	94509	10/01/05	09/30/06
Outlaws Bar & Grill	2	9850 E. Front Rd.	Atascadero	93423	12/01/04	07/31/06
Dealer's Choice Cardroom	3	13483 Bowman Rd.	Auburn	95603	12/01/04	06/30/06
Golden West Casino	25	1001 S. Union Ave.	Bakersfield	93307	03/01/05	02/28/06
Bell Gardens Bicycle Club	170	7301 Eastern Ave.	Bell Gardens	90201	01/01/05	12/31/05
Bruce's Casino	1	116 S. Main	Blythe	92225	07/01/05	06/30/06
Cibola Club	1	138 N. Main	Blythe	92225	10/01/04	09/30/05
Black Sheep Casino	2	3181 Cameron Park Dr., #108	Cameron Park	95682	08/01/05	07/31/06
Old Cayucos Tavern	2	130 N. Ocean Ave.	Cayucos	93430	12/01/04	11/30/05
Angie's Poker Club	3	114 W. 15th St.	Chico	95928	11/01/05	04/30/07
Village Club	12	429 Broadway	Chula Vista	91910	01/01/05	12/31/05
Lucky Derby Casino	7	7433 Greenback Lane, Ste. C	Citrus Heights	95610	08/01/05	07/31/06
Phoenix Lounge Casino	7	5948 Auburn Blvd.	Citrus Heights	95621	08/01/05	07/31/06
Clovis 500 Club	6	500 Clovis Ave.	Clovis	93612	06/01/05	05/31/06
Commerce Casino	243	6131 E. Telegraph Rd.	Commerce	90040	01/01/05	12/31/05
Crystal Park Casino	22	123 E. Artesia Blvd.	Compton	90220	01/01/05	02/28/06

Table 17
California Card Clubs by City, December 2005

Active Clubs	No. of Tables	Club Address	City	Zip	License Issuance	License Expiration
Club Caribe	10	7617 Atlantic Ave.	Cudahy	90201	02/01/05	01/31/06
Aldo's Cardroom	2	1225 Airport Dr.	Delano	93215	10/01/05	09/30/06
St. Charles Place	1	315 Main St.	Downieville	95936	09/01/05	08/31/06
Tommy's Casino & Saloon	3	467 W. Main St.	El Centro	92243	01/01/05	12/31/05
Oaks Card Club	40	4097 San Pablo Ave.	Emeryville	94608	02/01/05	01/31/06
Klondike Casino	2	1930 Fourth St.	Eureka	95501	10/01/05	01/31/07
S & K Card Room	4	306 F St.	Eureka	95501	11/01/05	01/31/06
Lake Bowl Cardroom	5	511 E. Bidwell St.	Folsom	95630	10/01/05	09/30/06
Hustler Casino	65	15331 So. Vermont	Gardena	90247	02/01/05	01/31/06
Normandie Club	45	1045 W. Rosecrans	Gardena	90247	12/01/04	05/31/06
Garlic City Club	5	40 Hornlien Ct.	Gilroy	95020	09/01/05	03/31/07
Gloria's Lounge & Casino	2	30435 Road 68	Visalia	93291	11/01/05	10/31/06
Gold Rush Casino	5	106 E. Main St.	Grass Valley	95945	10/01/05	01/31/06
Central Coast Casino-G.B.	2	359 Grand Ave.	Grover Beach	93433	12/01/04	06/30/06
Jalisco Pool Room	4	920 Guadalupe St.	Guadalupe	93434	07/01/05	06/30/06
Cottage, The	3	106 W. Seventh St.	Hanford	93230	11/01/04	10/31/05
Hawaiian Gardens Casino	180	11871 Carson St.	Hawaiian Gardens	90716	09/01/05	08/31/06
Palace Card Room	8	22821 Mission Blvd.	Hayward	94541	11/01/05	10/31/06

Table 17
California Card Clubs by City, December 2005

Active Clubs	No. of Tables	Club Address	City	Zip	License Issuance	License Expiration
Hollywood Park	102	3883 W. Century Blvd.	Inglewood	90301	01/01/05	12/31/05
Hotel Del Rio & Casino	4	209 Second St.	Isleton	95641	11/01/05	10/31/06
Rogelio's, Inc.	2	34 Main St.	Isleton	95641	09/01/05	03/31/07
Royal Flush Card Room	2	44 North 19½ Ave.	Lemoore	93245	11/01/05	10/31/06
Livermore Casino	3	2223 First St.	Livermore	94550	09/01/05	08/31/06
Lucky Buck Card Club	5	1620 Railroad Ave.	Livermore	94550	02/01/05	01/31/06
Axtion Jaxon Cardroom	3	29 N. Sacramento St.	Lodi	95240	08/01/05	07/31/06
La Primavera Pool Hall & Café	2	224 S. “C” St.	Madera	93638	05/01/05	04/30/06
Casino Real	6	1030-B West Yosemite	Manteca	95336	07/01/05	06/30/06
Marina Club	7	204 Carmel Ave.	Marina	93933	11/01/05	10/31/06
Mortimer's Card Room	5	3100 Del Monte Blvd.	Marina	93933	09/01/05	11/30/05
Ginny's Club	1	5402 Lindhurst Ave.	Marysville	95901	03/01/05	02/28/06
Rooney's Cardroom	4	515 Fourth St.	Marysville	95901	09/01/05	08/31/06
Gold Sombero	4	2217 Yosemite Parkway	Merced	95340	05/01/05	04/30/06
Poker Flats Casino	4	1714 Martin Luther King Jr., Way	Merced	95340	08/01/05	07/31/06
Empire Sportsmen's Assoc.	5	5801 N. McHenry	Modesto	95356	12/01/04	11/30/05
Hemphill's Card Room	3	3385 California Blvd.	Napa	94558	10/01/05	09/30/05

Table 17
California Card Clubs by City, December 2005

Active Clubs	No. of Tables	Club Address	City	Zip	License Issuance	License Expiration
Mike's Card Casino	5	112 N. Yosemite Ave.	Oakdale	95361	04/01/05	03/31/06
Brooks Oceana Cardroom	3	1795 Front St.	Oceana	93445	12/01/04	06/30/06
Ocean's Eleven Casino	45	121 Brooks St.	Oceanside	92054	12/01/04	11/30/05
California Grand Casino	14	5867 Pacheco Blvd.	Pacheco	94553	11/01/05	10/31/06
Central Coast Casino-P.R.	2	1428 Spring St.	Paso Robles	93446	11/01/05	10/31/06
101 Casino, The	15	5151 Montero Way	Petaluma	94954	01/01/05	12/31/05
River Cardroom, The	7	246 Petaluma Blvd., North	Petaluma	94952	05/01/05	04/30/06
Mint, The	3	940 West Morton Ave.	Porterville	93257	05/01/05	06/30/06
Don Juan Club & Casino	1	2785 Don Juan Dr.	Rancho Cordova	95670	12/01/04	06/30/05
Rancho's Club	7	2740 Mills Park Dr.	Rancho Cordova	95670	09/01/05	01/31/07
Casino Club	5	1885 Hilltop Dr.	Redding	96002	01/01/05	12/31/05
Oasis Card Room	3	117 Ridgecrest Blvd., #A	Ridgecrest	93555	11/01/05	02/28/07
Diamond Jim's	16	118 20th Street West	Rosamond	93560	10/01/05	09/30/06
Capitol Casino	8	411 N. 16th St.	Sacramento	95814	06/01/05	05/31/06
Duffy's Cardroom	1	1944 El Camino Ave.	Sacramento	95815	04/01/05	03/31/06
Limelight Cardroom	5	1014 Alhambra Blvd.	Sacramento	95816	09/01/05	05/31/07
Silver Fox	7	6010 Stockton Blvd.	Sacramento	95824	08/01/05	07/31/06
Cap's Saloon	3	12 W. Gabilan St.	Salinas	93901	12/01/04	11/30/05

Table 17
California Card Clubs by City, December 2005

Active Clubs	No. of Tables	Club Address	City	Zip	License Issuance	License Expiration
Artichoke's Joe's Casino	51	659 Huntington Ave.	San Bruno	94066	08/01/05	07/31/06
Lucky Lady	7	5526 El Cajon Blvd.	San Diego	92115	01/01/05	01/31/06
Palomar Card Club	5	2724 El Cajon Blvd.	San Diego	92104	10/01/05	02/28/07
Garden City	40	360 South Saratoga Ave.	San Jose	95129	10/01/05	09/30/06
Sutter's Place, Inc. dba Bay 101	40	1801 Bering Dr.	San Jose	95112	01/01/05	12/31/05
Club San Rafael	4	721 Lincoln Ave.	San Rafael	94901	01/01/05	12/31/05
Ocean View Cardroom	4	709 Pacific Ave.	Santa Cruz	95060	03/01/05	02/28/06
Ven A Mexico	2	955 Front St.	Soledad	93960	12/01/04	11/30/05
Cameo Club	6	5757 Pacific Ave.	Stockton	95202	01/01/05	01/31/06
Delta Club Card Room	6	6518 A Pacific Ave.	Stockton	95207	12/01/04	11/30/05
Saigon Casino Club	4	146 E Market St.	Stockton	95202	12/01/04	11/30/05
Comstock Cardroom	5	125 W. 11th St.	Tracy	95376	11/01/05	10/31/06
Turlock Poker Room	4	270 W. Main St.	Turlock	95380	06/01/05	05/31/06
Player's Poker Club	4	906 N. Ventura Ave.	Ventura	93001	09/01/05	03/31/07
Sundowner Cardroom (Visalia)	1	15638 Ave., 296	Visalia	93292	05/01/05	04/30/06
Caesar's Club	3	184 Main St.	Watsonville	95076	12/01/04	11/30/05
Philippine Gardens	5	410 Rodriguez St.	Watsonville	95077	10/01/04	09/30/05
El Resbalon	1	154 N. Valencia	Woodlake	93286	12/01/04	06/30/06

Table 17
California Card Clubs by City, December 2005

Active Clubs	No. of Tables	Club Address	City	Zip	License Issuance	License Expiration
La Fuerza	2	175 E. Antelope	Woodlake	93286	09/01/05	08/31/06
Total Tables	1417					
Provisionally Licensed Clubs	**No. of Tables**	**Club Address**	**City**	**Zip**		
Club One, Inc.	35	1033 Van Ness Ave.	Fresno	93721		
Lucky Chances	43	1700 Hillside Blvd.	Colma	94014		
Pastime Club	2	726 First St.	Benicia	94510		
Lake Elsinore Hotel and Casino (Sahara Dunes)	18	20930 Malaga Rd.	Lake Elsinore	92350		
Total Tables	98					

Sources: The Division of Gambling Control, Department of Justice, and the California Gambling Control Commission, 12/2005.

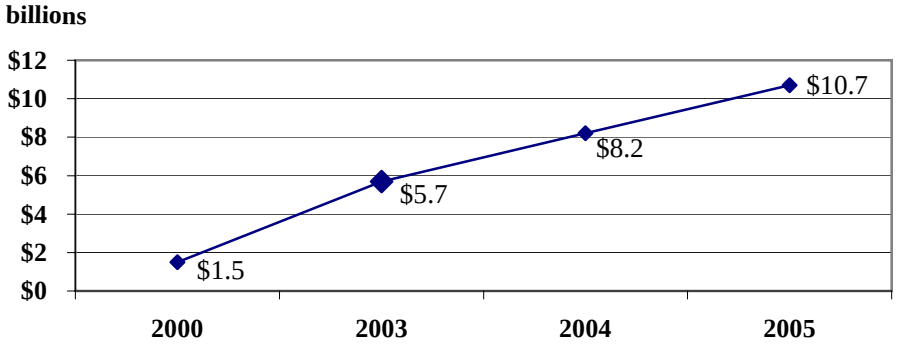
INTERNET GAMBLING

BACKGROUND

The Internet's global reach and the ability of individuals to access it by wire and wireless devices have enabled an unprecedented movement of goods and information across national borders. Gambling is no exception. Internet gambling offers a powerful means to reach people in their homes and allows gambling without the need for a physical gaming establishment.

Global gaming operations were quick to understand the potential and ramped up operations in the late 1990s. Virtually all of the estimated 250 to 300 companies that operated about 1,400 Internet gambling services in 2003 were privately held and located offshore in 55 different jurisdictions. As shown in Figure 19, revenues were estimated to have been $1.5 billion in 2000, $5.7 billion in 2003, $8.2 billion in 2004, and $10.7 billion in 2005.[296] The American Gaming Association estimates that in 2006, Internet gambling will be a $12 billion to $15 billion market worldwide.[297]

Figure 19
Estimated Worldwide Internet Gambling Revenues
(in $ billions)



Sources: *International Gaming & Wagering Business*, 2002, and *Los Angeles Times*, 2005.

A 2003 Government Accounting Office (GAO) study estimated that United States players make up between 50 and 70 percent of Internet gamblers worldwide, despite the fact that Internet gambling is illegal in the United States (except on horse racing--see chapter on horse racing).[298]

The industry is moving towards legalization in some countries, most recently in the United Kingdom, which has instituted a comprehensive licensing and regulatory regime for Internet, iTV and mobile phone gambling. Major Internet gambling companies are now traded on the London Stock Exchange. For example PartyGaming, the parent company of PartyPoker.com, is licensed in Gibraltar and was valued at $8.5 billion on the London Stock Exchange when it went public on June 30, 2005.[299] It is now valued at $9.6 billion. SportingBet and BetOnSports are also publicly traded in London.

SportingBet acquired 700,000 new customers in a recent quarter, almost equal to the number of people who signed up the previous year. The company reports taking in $530,000 a day just from its poker business. American investment houses own substantial amounts of stock in these highly profitable, fast-growing companies, even though online gambling is illegal under federal law.[300]

PLAYERS

Internet gambling sites can turn a personal computer or a cell phone into a virtual duplicate of a casino video slot machine. Online games include blackjack, video poker, bingo, craps, roulette, baccarat, and keno—virtually every form of gambling. Players deposit "front money," which includes payment in advance by credit/debit card, wire transfer, mailed checks, money orders, or payment aggregators. Many sites allow players to obtain a small number of chips for free. Even with low stakes betting, the fastest games can run through hundreds of dollars an hour.

Two of the online market's fastest growing areas are betting exchanges and online poker. Poker accounts for nearly a quarter of Internet gaming revenues; sports betting and online casinos each account for 35 percent of revenues.[301]

Sport betting is one of the most popular forms of at-home gambling, although it is illegal in many jurisdictions. Industry analysts estimate that online sports betting generated $4.29 billion in revenues in 2005, more than double the $1.7 billion earned in 2001.[302] One 24-hour online site advertises that over 7,000 players are logged in during peak times. According to the site, payments can be made by cash advances through credit card companies and by direct access to bank accounts.

Online poker is especially popular with young men and has even become a problem on school campuses where kids play it on their mobile phones. Recently the president of the sophomore class at Lehigh University robbed a bank in an attempt to pay off $5,000 in Internet gambling debts.[303]

A 2001 study found that 14 of the top 20 most recognized Internet gambling sites were online casinos.[304] While 83 percent of gamblers played online, only one third of that group, or 28 percent of all gamblers, played for real money. The rest were drawn by websites that offered free games. Other findings included:

- Seventy-three percent of the gamblers who played both on-and-offline had lost money in the past month, compared to 80 percent of players at bricks and mortar casinos.
- Three of five online gamblers visited more than one gambling site a day, and one-fifth visited four or more.
- Gamblers who played both at land-based casinos and online lost an average (net loss) of $122 a month, double that of any other group.

- Players who wagered exclusively online tended to confine their gambling to bingo and lottery sites, and lost the least of any of the real-money gambler groups.
- One quarter of online bingo players gambled for real money, averaging about $104 a month, compared to their casino counterparts who spent $164 per month.

THE LEGALITY OF INTERNET GAMBLING IN THE UNITED STATES

The Internet "…is a means, not a location, it exists and functions outside of traditional governmental spheres of central control, sovereignty, and regulation…[and] presents considerable challenges to any attempt to regulate its use."[305]

State governments have the primary responsibility for determining what forms of gambling may legally take place within their borders, and for this reason gambling has traditionally been treated as a state's rights or 10th amendment issue. Prohibitions vary from state to state. Nevada makes it a crime to make or accept a wager over the Internet unless the operator is a state licensee. Certain aspects of Internet gambling are prohibited in Illinois, Louisiana, Oregon, and South Dakota (excluding the state lottery), and are covered by broader laws in other states. Washington State recently made it a felony to play poker on the Internet.[306]

If and how state prohibitions can be effectively enforced is an open question given that Internet gambling consists of interstate transactions. Some state Attorneys General have been active in attempting to regulate online gambling. For example, in 1998-99, the Florida Attorney General distributed "cease and desist" letters to at least ten media companies providing publishing or broadcasting advertisements for offshore computer gambling sites.[307]

Federal gambling law (the Wire Act, the Illegal Gambling Business Act, and the Travel Act) prohibits most interstate and extraterritorial gambling, including transmitting bets over state lines. However the language of the law has become outdated by technology and various courts have interpreted it differently. For example, the Wire Act has been used primarily to prosecute cases involving sports betting. It does not clearly prohibit Internet gambling sites.[308] According to one analysis, "The Department of Justice has limited its few criminal complaints to American citizens licensed in foreign countries who were taking bets from the United States."[309]

The growing participation by Americans in online gambling, as well as large investments by many of Wall Street's largest firms in shares of online casinos and betting parlors, underscores "…a striking gap between the federal law enforcement position on online gambling and the realities behind what has emerged as a booming business."[310]

Several bills have been introduced in Congress to create a regulatory scheme that would identify and block financial transactions related to illegal Internet gambling, but none has passed. How to address off-the-track Internet betting on horse racing, allowed in some states including California, is one unresolved issue (see chapter on horse racing). Multistate lotteries also raise issues. A major concern of the Department of Justice is

how a law making it a federal crime to place a bet over the Internet would be enforced, raising memories of Prohibition. For this reason, most bills target businesses by making it a crime to conduct gambling online.

Given the loopholes in anti-Internet gambling laws, the federal government has concentrated its prohibition efforts on credit card companies and advertisers. In 2003, the Department of Justice (DOJ) sent letters to the National Association of Broadcasters, the Magazine Publishers of America and other trade groups warning that ads for Internet gambling are "ubiquitous," misleading the public into believing that such gambling is legal, when it is not. The DOJ threatened to prosecute major communications companies under aiding and abetting statutes for accepting advertising from online gaming companies, raising First Amendment concerns.[311]

According to the Government Accountability Office (GAO), major U.S. credit card companies have tried to restrict the use of their cards for Internet gambling by denying authorization for Internet gambling transactions and by developing transaction codes that banks can use to block payments at their discretion. Attempts by Visa and Mastercard to prohibit the use of their credit cards for Internet gambling purposes have not always been effective, however, although GAO estimates that they have slowed the growth of the industry. This is because payments are actually made through banks, some of which operate in jurisdictions where Internet gambling is legal. Furthermore, it is difficult to distinguish between legal (i.e., bets on horse racing) and illegal gambling transactions.

Debts incurred through potentially illegal activities are unenforceable. Some losing bettors have refused to pay their credit card gambling debts, claiming that the banks issuing the credit cards facilitated illegal activities.[312]

Online payment providers that aggregate payments, such as PayPal, can also be used to circumvent Internet gambling prohibitions, since banks cannot necessarily determine the type of activity being charged. In addition, wire transfers, private label debit cards, direct deposit/withdrawal and personal checks are other ways to transfer funds. Finally, electronic cash allows an individual to use real money to purchase electronic cash units to make any transaction over the Internet. The authors of one analysis conclude that, "From the U.S. experience, regulating prohibition of Internet gambling effectively is unfeasible."[313]

If Internet gambling operators are U.S. citizens, they may be prosecuted under state and federal criminal and/or civil laws for accepting bets from residents in every state.[314] Individual citizens are not likely to be charged for betting online, however, and thus online gambling is available to consumers as a practical matter.[315]

An International Business

As of 2003, Internet gambling had been legalized in over 50 countries and jurisdictions, including Europe, the Caribbean, Australia, and the Pacific islands. In April 2005, online casinos became legal in the United Kingdom. Other European countries are considering similar actions. Sportingbet pic, a publicly traded company on the London Stock

Exchange, recently joined forces with Paradise Poker to form the world's largest online betting company, with over two million customers. Partypoker.com, another large website, is licensed in Gibraltar.

At least two U.S. courts have held that foreign casino businesses accepting bets from customers in the United States may violate federal law. However extradition treaties ordinarily cannot reach offshore operators and may be contrary to U.S. treaty obligations under the General Agreement on Trade in Services (GATS).[316]

Whether the federal government can restrict virtual casinos that originate in areas where casino gambling is a legal activity has been the subject of a World Trade Organization (WTO) dispute brought by the nation of Antigua, which houses some Internet gaming operations. In April 2005, a WTO appeals panel ruled that the U.S. federal ban on Internet gambling violated WTO treaty obligations, and that the entire U.S. gambling service sector was covered by the GATS, thus limiting the ability of federal, state and local government to limit gambling. According to one commentator, the ruling also puts state lotteries and tribal-state gaming compacts at risk because GATS prohibits government monopolies.

The fact that the United States allows an exemption for account deposit wagering[*] on horse races over the Internet weakens the U.S. position. The WTO ruling found that the government does have the right to restrict remote gambling to protect public morals and public order, but must consistently apply restrictions to domestic and foreign operations. Congress is considering removing the exemption allowing account deposit wagering for horse racing in order to strengthen the U.S. position.[317]

SOCIAL AND ECONOMIC COSTS OF INTERNET GAMBLING

Congress created the National Gambling Impact Study Commission in 1996, to study the social and economic impacts of gambling. Concerns about Internet gambling raised by the Commission in its 1999 report included: increased and unregulated underage gambling, more pathological and problem gambling with associated personal, family and community costs, lack of consumer protections and criminal abuse. The use of virtual cash, unlimited accessibility, and the solitary nature of gambling on the Internet are all potential risk factors for the development of problem gambling.[318]

Critics contend that gambling on the Internet offers a particularly addictive and child-alluring form of gambling, as evidenced by the number of websites that offer free electronic games as an introduction to gambling. Research shows that young people are particularly at risk of becoming addicted to gambling. Parents may have little control, even with the most advanced software protections.

The convenience of easy access to gambling in one's home may lead to more personal bankruptcies for consumers of all ages (see a more extended discussion, under Economic

[*] See discussion of account deposit wagering in the chapter on horse racing.

Impacts). According to an analysis by Deloitte, "Managing the issues of problem and under-age gaming will be critical to the industry's success…"[319]

Law enforcement officials are concerned about an increased risk of fraud in today's unregulated Internet gaming environment, and the enhanced opportunity for international money laundering by organized crime and terrorists. According to GAO, "Law enforcement officials said they believed that Internet gambling could potentially be a powerful vehicle for laundering criminal proceeds [due to]…the volume, speed and international reach of Internet transactions and the offshore locations of Internet gambling sites."[320] However gaming industry officials contend that all e-commerce is susceptible to money laundering, not just gaming.

I. Nelson Rose, a prolific analyst of gaming law, concludes that:

> There is general agreement that a complete prohibition [of Internet gambling] is impossible to enforce, while complete legalization without regulation would cause untold social harm, particularly to children and compulsive gamblers. Lawmakers at all levels and in all branches of government are now faced with the necessity of finding a way to control this constantly evolving invention.[321]

SOCIAL IMPACTS OF GAMBLING

PROBLEM AND PATHOLOGICAL GAMBLING

Background

If everyone could gamble responsibly, as most people do for recreation and leisure, a discussion of the social impacts of gambling might be relatively brief. However a significant percentage of people who gamble do so excessively, harming themselves, their families, and their communities. As access to gambling--either state-promoted or authorized--increases, the prevalence of problem and pathological gambling is also increasing. This addiction creates social costs analogous to the impact of excessive alcohol consumption or of tobacco and illegal drug use.[322]

Problem gambling refers to gambling that significantly interferes with a person's basic occupational, interpersonal, and financial functioning. Pathological gambling is the most severe form and is classified as a mental disorder with similarities to drug abuse including "…features of tolerance, withdrawal, diminished control, and relinquishing of important activities."[323]

Pathological gamblers are important to the fiscal health of the gaming industry, generating 15 percent of the industry's gross revenues, according to a study by the National Opinion Research Center at the University of Chicago.[324] A 1999 study by the Australian Productivity Commission found that problem gamblers accounted for about one-third of the gambling industries' market in the country, and that problem gamblers lost, on average, around $12,000 a year compared with under $650 for other gamblers.[325]

Clinical Definition

In 1980, the American Psychiatric Association (APA) recognized compulsive gambling as a mental disorder. The World Health Organization also recognizes this mental disorder.

Pathological gambling is classified as an impulse control disorder or a nonsubstance-related addictive disorder, a "…failure to resist an impulse, drive, or temptation to perform some act that is harmful to the person or others."[326] It is characterized by "High rates of mood, psychotic, anxiety, attention-deficit, personality, and substance use disorders."[327] An individual suffering from pathological gambling is unable to participate responsibility in gambling with any sense of moderation, and is unable to stop. The APA states:

> The essential features of this disorder are a chronic and progressive failure to resist impulses to gambling, and gambling behavior that compromises, disrupts, or damages personal, family, or vocational pursuits. The gambling preoccupation, urge and activity increase during periods of stress. Problems that arise as a result of gambling lead to an intensification of the gambling behavior. Characteristic problems include extensive indebtedness and consequent default on debts and

other financial responsibility, disrupted family relationships, inattention at work, and financially motivated illegal activities to pay for gambling.[328]

The diagnostic criteria for pathological gambling includes at least five of the following behaviors (DSM-IV):[*]

1. Is preoccupied with gambling.
2. Needs to gamble with increasing amounts of money in order to achieve the desired excitement.
3. Has repeated unsuccessful efforts to control or stop gambling.
4. Is restless or irritable when attempting to control or stop gambling.
5. Gambles as a way of escaping from problems or of relieving feelings of helplessness, guilt, anxiety, and depression.
6. After losing money, often returns another day in order to get even ("chasing losses"). [329]

Studies have suggested "…neurobiological explanations for the similarities and high rates of co-morbidity between substance abuse disorders and pathological gambling."[330]

Recent studies of medicines prescribed to calm tremors of Parkinson's disease have found an association with a heightened risk of pathological gambling, according to an analysis of adverse drug reactions reported to the Food and Drug Administration. The link seems to be related to increased dopamine, which leads to impulsive behavior.[331]

Prevalence

A meta-analysis of prevalence studies published in the *Journal of the American Medical Association (JAMA)* estimated an adult population prevalence rate for pathological gamblers in the United States of 1.2 percent for the previous year and 1.6 percent over a lifetime.[332] Problem gamblers comprised an additional 2.8 percent during the previous year, and 3.85 percent over a lifetime. The problem increases considerably among gambling patrons—4.6 percent (problem gamblers) and 5.4 percent (pathological gamblers) for casino gamblers, 3.6 percent and 5.2 percent for gamblers at lottery terminals, and 14.3 percent and 25 percent for gamblers in pari-mutuel locations.

The National Council on Problem Gambling cites similar estimates: two million (one percent) U.S. adults meet the criteria for pathological gambling in a given year. Another four to eight million adults (two to three percent) are problem gamblers who do not meet the full diagnostic criteria for pathological gambling, but meet one or more of the criteria and are experiencing problems due to their gambling behavior.[333]

The National Gambling Impact Study Commission estimated in its 1999 report that of the 125 million Americans who gambled at least once a year, about 5.5 million had some

[*] Diagnostic and Statistical Manual of Mental Disorders, IV ed. (DSM-IV)

form of gambling problem (2.5 million pathological gamblers and three million problem gamblers), while another 15 million were "at risk" of developing a gambling problem.[334]

If we apply the *JAMA* estimates to California, using 2000 Census data, we find that 336,419 adults are pathological gamblers and 588,733 adults are problem gamblers (lifetime prevalence). This means that 925,151 adults in California had a serious gambling problem in 2000, a number that is probably closer to one million now.

Researchers have also concluded that the rate of problem gambling increases when more gambling alternatives become available in a community.

- A study by the National Opinion Research Center found that adults living within 50 miles of a casino had double the probability of pathological or problem gambling.[335]

- A 1998 study in seven jurisdictions with new casinos estimated that 16 percent of local residents had a gambling problem.[336]

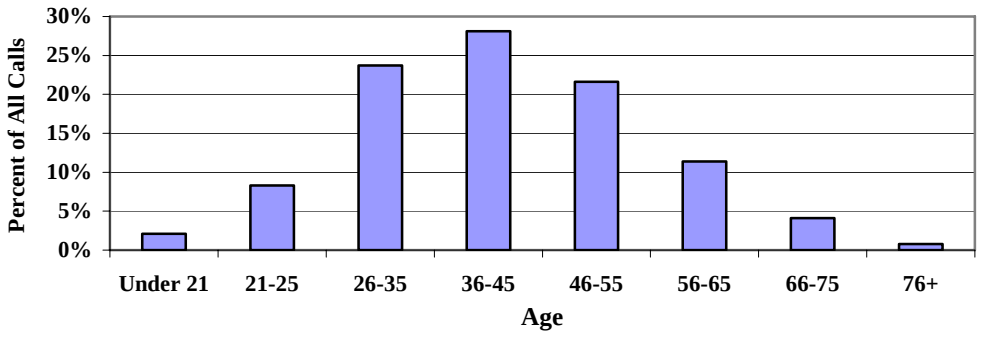
- A 1999 study by the Australian government found that "The prevalence of problem gambling is related to the degree of accessibility of gambling, particularly gaming machines."[337]

- In Nevada, which has casinos located in every corner of the state, the Nevada Council on Problem Gambling estimates that as many at six percent of Nevada adults may suffer from a gambling problem, a number twice the estimated national prevelance.[338]

In a 2003 *Gallup Lifestyle Poll*, eight percent of those who had participated in gambling activities said they sometimes gambled more than they should, and six percent said that gambling had been a source of problems within their families. Twelve percent of 18-to-29 year olds agreed that gambling had been a problem for someone in their family, compared to four percent of those aged over 50.[339] A 1999 Gallup Poll found that 41 percent of adults and 10 percent of teens reported knowing someone outside their family for whom gambling had become a problem.[340]

The California Council on Problem Gambling operates a helpline for problem gamblers that received 3,399 calls in 2004. The largest number (12 percent) of calls originated in the San Bernardino County area. Over half the callers were male (53 percent). Nearly half the callers were married (48 percent) and 11 percent were divorced or separated. Most of the callers were middle-aged, as shown in Figure 20.

Figure 20
Age of Callers to California Problem Gambling Hotline, 2004



Source: California Council on Problem Gambling, 2004.

As discussed previously, Indian casinos were the primary gambling preference of over three quarters of the calls to the state's problem gambling helpline in 2004 (77.5 percent). Another five percent preferred gambling in Nevada casinos. Thus casino gambling is by far the largest source of problem gambling in California.

Vulnerable Groups

High risk groups include adults in mental health and substance abuse treatment, who have rates of problem and pathological gambling four to ten times higher than the general population.[341] Men have a prevalence rate two to three times higher than women (although they call the state helpline in roughly equal numbers). Adolescents are more likely than adults to become problem and pathological gamblers.

Some ethnic groups are especially vulnerable to problem gambling. A study in St. Louis, Missouri, found that African Americans comprised 31 percent of persons with problem and pathological gambling.[342] In California, the Commission on Asian & Pacific Islander American Affairs (APIAs) has identified problem gambling as a serious concern, citing research that "…APIAs may have significantly higher rates of problem gambling compared with that of the mainstream population." For example, the Commission cites anecdotal reports that as many 70 percent of the gamblers at the Lucky Chance card room in Colma are Asian Pacific Islanders.[343]

Newspaper accounts verify that Indian casinos and card clubs target their marketing efforts at the APIA community. The Barona tribal casino recently opened an office in San Gabriel Valley, which is 22 percent Asian American; "Every property in Southern California tries to appeal to the Asian community, because Asians have a propensity to play table games…"[344] In Northern California, buses from the Cache Creek Casino operated by the Rumsey Band of Wintun Indians pick up Chinese gamblers from San Francisco, following practices long established by Nevada casinos. Casino San Pablo targets Asian language advertising and "…celebrates the Chinese, Vietnamese, and

Cambodian new years and employs APIA music promoters, celebrities, and performers from Vietnam and Cambodia to provide entertainment at the casino."[345]

The Commission's report cites a study by the NICOS* Chinese Health Coalition in San Francisco that found that gambling was the number one social concern in the Chinese American community. The NICOS study also found that 84 percent of Chinese American adults in the community reported gambling in the previous year; 15 percent were classified as problem gamblers and 21 percent were classified as pathological gamblers.[346]

The Commission and a community coalition have formed the Asian and Pacific Islander Problem Gambling Task Force to gather information and make recommendations, which include securing more revenues from all sectors of the gambling industry for prevention and treatment services for problem and pathological gamblers. The United Cambodian Association of Minnesota and the Lao Family Community of Minnesota have also developed prevention and education programs to inform young people about the risks of adolescent gambling.

People who work in the industry are particularly vulnerable to problems with their own gambling behaviors. In a notable case, the president of Caesars Atlantic City was fired and lost his license in 2001, due to compulsive gambling.[347] Employees who have problem gambling behaviors may be afraid to seek help. However some gambling companies have developed training programs and responsible gambling programs and policies to help their employees who have gambling problems.[348]

Adolescents

A number of studies have found that adolescents who engage in adult forms of gambling are more likely to develop problem and pathological gambling problems:

- A 1998 study by the National Research Council estimated that as many as 1.1 million adolescents, or six percent of teenagers between the ages of 12 and 18, were pathological gamblers, a higher rate than adults.[349] [350]
- As many at 30 percent of American youth wager money on some game of chance weekly and four percent gamble daily; between four and eight percent have a very serious gambling problem, with another ten to 15 percent at risk for developing a gambling problem.[351]
- Young adults ages 18-24, especially males, comprise a disproportionate number of adults with significant gambling disorders, almost double their representation in the population (they represent 12.7 percent of the population but 20.4 percent of the population with a gambling problem).[352]

* The organizations, whose names form the acronym "NICOS," are: **N**orth East Medical Services, **I**PA (Chinese Community Health Care Association), **C**hinese Hospital, **O**n-Lok Senior Health Services, and **S**elf-Help for the Elderly.

A study by the Annenberg Public Policy Center at the University of Pennsylvania found that the number of American men ages 14 to 22 who gamble once a month rose 20 percent from 2004 to 2005. Of the 2.9 million young people who gamble on cards at least once a week, 80 percent are men. Over half of male college students gamble on cards at least once a month. Poker competitions and Internet betting websites are especially popular, and college students are the target demographic. One poker website, absolutepoker.com/, based in Canada, offers to pay a semester's tuition for tournament winners. In a notable case, the president of the sophomore class at Lehigh University robbed a bank in an attempt to pay off $5,000 in Internet gambling debts.[353]

A 1998 Oregon study found that 75 percent of 13-17 year olds in the state had gambled for money at least once, 66 percent within the last year. Boys and older adolescents were more likely to gamble than girls and younger adolescents. The study measured self-reported youth gambling on a continuum of involvement ranging from 0 (no gambling), to 1 (social, no problem), 2 (signs of gambling problems), 3 (gambling-related disorder with impairment) and 4 (impaired gambler who seeks treatment). The study found that 11.2 percent of Oregon adolescents were level 2 gamblers and 4.1 percent were level 3 gamblers, equating to an estimated 20,000 to 29,000 youth in the state with a gambling problem, and between 4,700 and 13,600 youth with a gambling-related disorder.[354]

In the 2000 Census, 27 percent of California's population was under age 18; of that group, 42 percent or 3.9 million youth were ages ten to 18. If we apply Oregon's gambling problem/disorder prevalence percentages to California,[*] we could expect to find that 436,800 youth are level 2 problem gamblers and 159,900 youth are level three gamblers who have gambling-related disorders with impairment. In total, 600,000 California youth could have serious gambling problems.

In California, it is a misdemeanor for a person under 21 years of age to play any gambling game, or loiter in any room where gambling is conducted. Any gambling licensee or employee who allows a minor to gamble is also guilty of a misdemeanor unless he/she can demonstrate that the minor presented a fake identification card [*Business & Professions Code* § 19941(a) and (b)]. However persons 18 and older can play the state lottery, and the state's 1999 tribal-state gaming compact, which applies to most Indian casinos in the state, allows individuals 18 or older to gamble. Beginning in 2003, tribal-state gaming compacts began providing that no persons under age 21 may be present in any room where class III gaming activities are taking place unless enroute to a nongaming area.

Adolescent excessive gambling can result in a number of long-term negative consequences, including truancy, dropping out of school, severed relationships with family and friends, and mental health and behavioral problems including illegal behavior to finance gambling. In addition, there is a moderate correlation between adolescent gambling and other risk behaviors including alcohol, drug, and tobacco use. A study of adolescent pathological gamblers found the following significant negative behaviors:[355]

[*] Oregon has a different mix of gambling opportunities than California, particularly video lottery terminals, which are more accessible and may create more adolescent problem gambling.

> …91% of adolescents with a pathological gambling problem show signs of having a preoccupation with gambling; 85% indicate chasing their losses; 70% lie to family members, peer and friends about their gambling behavior; 61% use their lunch money and/or allowance for gambling; 61% become tense and restless when trying to cut down on their gambling; 57% report spending increasing amounts of money gambling; 52% gamble as a way of escaping problems; 27% report skipping school (more than five times) to gamble in the past year; 24% have taken money from a family member to gamble without their knowledge; 21% have developed familial problems resulting from their gambling behavior; and 12% report having stolen money from outside the family to gamble.

Adolescent pathological gamblers report starting as early as age ten, often with family members, which means that early prevention efforts--of which there are few--need to begin in the elementary grades. Youth often fail to comprehend the risks and odds associated with gambling. They find Internet gambling particularly attractive. Sites incorporating video technology offer blackjack, roulette, slots, poker and other casino games and sports betting. "Practice sites" where no money is needed to play expose youth to adult games without adult supervision or control. The similarity of video games with online gambling games can be deceptive since the more one plays video games, the more one can improve, compared to gambling, which is a game of chance each time.

The availability of gambling in the community affects youth participation even though it is illegal. A study of the impact of gambling in Atlantic City in the mid 1980s found that 86 percent of high school students in New Jersey had gambled in the past year and 91 percent had participated in some form of gambling during their lifetime.[356]

Young men in the military are vulnerable to developing gambling problems. There are 4,150 video slot machines located in officers' clubs, activity centers and bowling alleys on overseas bases taking in about $2 billion a year, of which $127 million remains with the armed forces to help pay for recreational programs such as golf courses and family activity centers. A PricewaterhouseCoopers report found "a general lack of accessible treatment for gambling addiction" in the military.[357]

Gambling opponents argue that slot machines are increasingly designed to attract children. Machines that give cash payments without authorization enable youth gambling. Machines that are distributed in the community at convenience locations such as gas stations, liquor stores, restaurants and laundromats, exacerbate adolescent (and adult) problem gambling because they are so easily accessible.[358]

Electronic Technologies and Problem Gambling

Video poker, slot machines, and other video gambling terminals are the most addictive forms of gambling as well as the most effective at generating revenue.[359] "These machines combine quick-cycling, sensory-rich experiences, the psychologically attractive principle of intermittent reward, and the statistically inevitable house advantage which are assured to produce significant gambling losses over time."[360] A recent article in the

Atlantic Monthly calls them the "crack cocaine" of the gambling world, and points out that the United States has twice as many publicly available gambling devices (740,000) that take money as it does ATMS that dispense it.[361]

A study by the State of Oregon of gambling treatment and prevention programs in the state found that the primary gambling activity of gamblers enrolled in treatment was video poker (74.5 percent), followed by slot machines (10 percent), cards (5.2 percent), betting on animals (1.6 percent), Keno (1.5 percent), and bingo (1.4 percent).[362] A 2005 study for the California Office of Problem Gambling found that "Policies that significantly enhance access to electronic gambling machines, casino table games and other continuous gambling forms can be expected to generate increases in problem gambling."[363]

Electronic technology has also made it easier than ever for a pathological or problem gambler to access money to play. Cash can be transferred from a player's bank account to a machine on the casino floor and ATM machines are readily accessible. The National Gambling Impact Study Commission recommended that this ready access to gambling cash be restricted, but its recommendations were not adopted as public policy or by the industry. According to articles in trade magazines, the industry is focused on making it easier for people to obtain quick cash and credit to gamble through cashclub cards and other devices that let the casino keep the entire transaction fee.[364]

The National Gambling Impact Study Commission examined the issue of ready access to credit in casinos, which can contribute to problem and pathological gambling. The Commission found that 40 to 60 percent of the cash wagered by individuals in casinos is not physically brought onto the premises. Casinos extend billions of dollars of credit, accounting for nearly ten percent of casino revenues in Nevada. This figure does not include credit extensions from ATM's, debit and credit cards, or other credit providers.[365]

There is a significant monetary benefit to casinos by enabling gamblers to spend money easily. When bill acceptors were introduced in casinos, they enabled people to play more quickly by eliminating coins, and thus "…dramatically increased slot machine revenues" by 30 to 40 percent.[366] Many casinos place ATM machines near their gambling machines. Credit cards and debit cards can allow people, especially compulsive gamblers, to run up debts they cannot pay. The question then arises as to who is responsible for those debts—the casino or the player—and whether credit card companies can and will enforce collection.

Public Health Impacts

Suicide

A number of studies have attempted to document whether excessive gambling losses lead to suicide. There are many tragic stories but prevalence studies are unclear; some find an effect and some do not. This is because gambling may be one of several interacting or independent variables contributing to an individual's decision to commit suicide. Clinical studies have reported elevated levels of "suicidality" in pathological gamblers,

ranging from 17 to 80 percent for thoughts-of-suicide and from four to 23 percent for actual attempts. An Australian study of coroner's files estimated that approximately 1.7 percent of suicides during 1997 were gambling related.[367] Studies of individuals in treatment for pathological gambling and of members of Gambler Anonymous have found rates of attempted suicide of 17 to 24 percent.[368]

Males aged 15 to 35 are the group at highest risk for both suicide and the development of gambling problems.

Domestic Violence and Child Neglect

Testimonial accounts before the National Gambling Impact Study Commission suggest that individuals who suffer from problem or pathological gambling engage in destructive family behavior, such as domestic violence, divorce, child neglect and homelessness. However the data is inconclusive, and quantifying social costs by isolating gambling from other contributing factors, such as drug and alcohol abuse, has proven difficult. A National Opinion Research Center survey conducted for the Commission found that 53.5 percent of identified pathological gamblers reported having been divorced; the U.S. per capita divorce rate at the time of the survey was 41 percent**.** Two studies found that between one quarter and one half of the spouses of compulsive gamblers had been abused. [369]

The Commission on Asian & Pacific Islander American Affairs' *Annual Report 2005* found that "…gambling leads to problems related to child welfare and domestic violence." The report presents testimony from a Santa Clara social service worker who estimated that about 20 percent of the APIA child neglect cases he sees are caused by problem gambling. For example, children are left unattended in cars in parking lots while their parents gamble. A family counselor in San Francisco estimated that about 30 percent of the APIA domestic violence cases he sees are related to gambling.[370]

Social Costs

The National Gambling Impact Study Commission found that individuals with problem and pathological gambling "…had higher rates of receipt of past-year unemployment and welfare benefits, bankruptcy, arrest, incarceration, divorce, poor or fair physical health, and mental health treatment." Out-of-control gambling is an important contributor to this cluster of problems and the related social costs.[*] A study conducted for the Commission estimated the annual cost in the United States at that time to be $1,200 for each adult pathological gambler and $715 for each adult problem gambler, or an estimated $5 billion annual/$40 billion in lifetime costs ($6 billion annual/$48 billion in 2006 dollars). Each

[*] The definition of "social costs" in the gambling literature is not clear, and, in general, studies do not isolate gambling's contribution to the array of social costs associated with problem and pathological gambling. As Walker and Barnett point out, "…simply observing that gambling is correlated with such problems does not imply that gambling causes them." Douglas M. Walker, A.H. Barnett, "The Social Costs of Gambling: An Economic Perspective," *Journal of Gambling Studies*, Vol. 15, No. 3, September 1999, p. 195.

adult problem gambler cost society an estimated $5,130 and each pathological gambler cost society an estimated $10,550 over his/her lifetime [371]

If we update these estimated costs to 2006, and apply them to California, we find that each adult problem gambler in the state annually costs society an estimated $865, or $6211 over his/her lifetime, while each adult pathological gambler annually costs an estimated $1,453, or $12,774 over a lifetime. Given our previous estimate of 588,733 adult problem gamblers and 333,419 adult pathological gamblers in the state, based on *JAMA* data, the annual estimated cost of pathological gamblers in California is $488,816,807, while the annual estimated cost of problem gamblers is $509,254,045, or nearly one billion dollars in total. Table 18 presents average estimated financial and health effects.

Table 18
Lifetime Financial and Health Effects for Problem and Pathological Gamblers (1998 data)

Characteristic	Non-gambler	Problem Gambler	Pathological Gambler
Any unemployment benefits, 12 months	4.6%	10.9%	15%
Welfare benefits, 12 months	1.9%	7.3%	4.6%
Household income, 12 months	$36,000	$45,000	$40,000
Household debt	$22,000	$14,000	$48,000
Health poor/fair last year	22.8%	16.3%	31.1%
Depression	NA	16.9%	29.1%
Divorce	18.2%	29.8%	53.5%
Emotionally harmful family arguments about gambling	NA	15.8%	53.1%
Alcohol/drug dependent, ever	1.1%	12.4%	9.9%
Job loss, last year	2.6%	10.8%	13.8%
Bankruptcy, ever	3.9%	10.3%	19.2%
Arrested, ever	4%	10.4%	21.4%

Source: National Opinion Research Center at the University of Chicago, *National Gambling Impact Study Commission Report*, 1999, pp. 7-21, 7-26.

Prevention and Treatment

Primary prevention efforts seek to delay or prevent the onset of activities that can lead to harmful gambling. These include public education and careful enforcement of prohibitions against gambling by minors. Secondary prevention efforts target social gamblers to ensure that they do not develop problems related to gambling. Once a person has a gambling problem, prevention efforts seek to stop the behavior and minimize the harm caused by that behavior.

Pathological gambling is a compulsive disorder that can be treated, but it is often a hidden addiction. There are various treatment approaches. Gamblers Anonymous is a self-help program that recommends that its members do not go near or enter a gambling establishment. There are also pharmaceutical treatments utilizing drugs that obstruct or impede the pathway of nerve cells to the brain's reward center.

The gambling industry recognizes that gambling addiction is a problem in the industry. According to a study by the National Opinion Research Center, 96 percent of the 25 largest casinos provide gambling treatment coverage for their employees.[372]

States that authorize state lotteries, like California, generally have programs to assist and treat problem and pathological gamblers. California's Office of Problem Gambling was founded in 1997, in the Department of Mental Health, and moved by 2003 legislation to the Department of Drug and Alcohol Programs in order to take advantage of the state's network of county alcohol and drug abuse service providers. The 2003 legislation directed the Office to develop a problem gambling program including, as a first priority, a statewide plan to address problem and pathological gambling. The Office is also directed to establish a toll-free telephone service; undertake public awareness campaigns; sponsor research into prevalence, causation, and best treatment practices; and, offer training for health care and law enforcement professionals.

The Office was appropriated $3 million from the Special Distribution Fund in FY 2004-05, but did not spend the funds. In FY 2005-06, the Office expects to expend most of its $3 million in funding. It is a very small amount compared to the size of gambling in California and the estimated prevalence of problem and pathological gamblers. The Office's website is not easy to find on the Department of Alcohol and Drug homepage, as the user must scroll down past prominently featured drug and alcohol abuse programs.

There is no state funding for treatment services in California. In recommending that the state provide treatment funding, the Commission on Asian & Pacific Islander Americans noted that "Other states, such as Wisconsin, have set aside between 0.5% and 1 % of all gross [gambling] revenues for treatment, prevention, and education of pathological gambling."[373] One percent of gross gambling revenues in California would generate about $120,000,000.

The California Council on Problem Gambling reports that most callers to its gambling problem help line have exhausted their resources and do not have funds to cover the cost of gambling addiction treatment. A typical six-week intensive treatment might cost $2,800, with a reference to Gambler's Anonymous (which is free) for aftercare. Given our previous estimate of one million problem and pathological gamblers in the state, treatment costs could top $280,000,000 a year if they all requested it.

In March 2005, the Office of Problem Gambling issued a report, *Situational Assessment of Problem Gambling Services in California,* which found that there are few trained problem gambling counselors and problem gambling service programs in California. The

assessment concluded that "…there is clearly an enormous gap between the need for problem gambling treatment in California and the availability of such services." Nearly three quarters of crisis and treatment respondents did not know where to refer their clients for problem gambling services or only referred them to Gambler Anonymous.[374]

The Commission on Asian & Pacific Islander American Affairs, in its *Annual Report 2005*, found one "culturally competent" gambling prevention and treatment service in the state, in San Francisco—the NICOS Chinese Health Coalition. Despite the large number of Asian and Pacific Islander Americans in Southern California, and widespread marketing of gambling to that community, there are no prevention and treatment programs directed to that community.

Very few treatment programs in California target adolescent gamblers and "The vast majority of schools [colleges]...have no formal or informal policy regarding gambling." Most counselors on campuses have very little training in understanding what constitutes a gambling problem. Experts recommend youth education, starting young, the same prevention strategy used for drugs and alcohol.[375]

A study in Oregon found that 28 percent of gamblers enrolling in treatment and prevention programs accessed the system through the Help line; ten percent through recommendations of a current or former program participant; and, ten percent through a family or friend. A goal of the treatment system is to respond in a timely manner. The average number of workdays between first call to a program and a first appointment was less than four days.[376]

There are four statewide help line numbers that problem gamblers in California can call. In 2003, there were 13,349 calls to these help lines; 60 percent were from Southern California, 20 percent from the San Francisco Bay Area, and 15 percent from the Sacramento and Fresno areas.[377] Data developed by the California Council on Problem Gambling finds that casino signs generate nearly half of all calls to the problem gambling help line, suggesting that this type of information marketing is important. Friends and the Internet were the next most frequent sources of referral.[378]

Some states and casinos have instituted voluntary self-exclusion programs, in which an individual can request in writing to be refused entrance to all gaming venues. California's Gambling Control Act provides for the exclusion of individuals from gaming establishments (*Business and Professions Code* § 19844) for violations of law or offensive behavior such as intoxication, but not to preclude problem gambling. However some efforts are underway.

The California Gambling Control Commission is developing a problem gambling regulation in which a voluntary, confidential "self-exclusion" list would be maintained by the Division of Gambling Control. Gambling establishments would be prohibited from issuing credit, cashing a check or marketing to individuals on the list.[379] In addition, the Division is coordinating with the casino and card club industries, the Commission and the Office of Problem Gambling to write regulations that would require card clubs to have

problem gambling materials available for patrons, a Help line phone number posted, trained staff and a voluntary self exclusion program.

The recent tribal-state compact with the Quechan Tribe of the Fort Yuma Indian Reservation (negotiated in 2005, but not ratified) provides for the tribe to establish a self-exclusion program for problem gamblers, the first compact to do so. The California Tribal Business Alliance, composed of six tribes with casinos, has announced a responsible gambling policy that includes a self-exclusion program, employee training, casino advertising standards, a toll-free help line and problem-gambling information to be posted on casino web sites.

Australia's Responsible Gambling Code

In response to a government-commissioned report that found that one in 50 adults in Australia have a gambling problem, the industry's Australian Gaming Council crafted a responsible gambling code. In the code, the industry acknowledges that problem gambling is a community issue and makes a commitment to develop measures to reduce the potential for harm including training staff, allowing self-exclusion arrangements, and providing better public information about the likelihood of winning.[380]

CRIME

Crime and gambling interact in a number of ways, including: illegal gambling, which is a direct violation of the law; crimes committed by problem and pathological gamblers; and, crimes associated with legal gambling.

Public Corruption

The National Gambling Impact Study Commission pointed out in its 1999 report that "...the shape and operation of legalized gambling has been largely a product of government decisions…[and a]…key determinant of the various industries' potential profits and losses."[381] Thus it is not surprising that legal gambling is at times associated with public corruption. An article published in 1998, entitled "Follow the Money: Gambling, Ethics and Subpoenas," found "…significant congressional fears that the gambling industry could become sufficiently powerful to change U.S. policy and the economy (locally, regionally and nationally)."[382]

A scandal currently unfolding in Washington, D.C. involves, in part, $66 million in contributions from six gaming tribes made to indicted lobbyists, in part to block rival casinos. Casino-owning tribes also contributed millions of dollars to congressional campaigns at the lobbyists' direction.[383] Federal law allows Indian tribes to contribute to an unlimited number of candidates, political parties, political actions committees, and state parties, unlike other donors, who are subject to limits.[384]

There are many examples of gambling money influencing the public policy and regulatory process, legally through substantial campaign contributions to elected officials and at times illegally. In British Columbia, a scandal involving charity gambling was

called "Bingogate," and a second scandal involving the approval of casino locations led to the resignation of the provincial premier.[385]

In California, two cases involving non-disclosure of otherwise legal tribal campaign contributions are moving through the courts. The National Gambling Impact Study Commission recommended that states adopt tight restrictions on contributions to state and local campaigns by corporate, private or tribal entities that have applied for or been granted the privilege of operating gambling facilities.

Financial Crimes

The large amount of money that circulates in casinos offers occasions for money laundering and other financial crimes. For this reason, the United Nations' *Law on Prevention of Money Laundering* lists "gaming establishments, automated casino clubs, organizers of lottery games, special event raffles, lotteries and other games of chance" as obligated to implement measures to detect and prevent money laundering.[386] U.S. federal and state laws require similar precautions.

According to one literature review, "The connection between gambling and crime has been well-documented, with adult gambling-related criminal offenses typically including fraud, theft, fencing stolen goods, embezzlement, tax fraud and evasion, forgery, selling drugs and counterfeiting."[387]

Victim Crimes

Research suggests that crime rises as casinos attract visitors who either commit or are the victims of crime. This phenomenon may also occur in other venues that attract cash-bearing participants.[388] Unique to gambling enterprises, problem and pathological gambling increases among local residents and is associated with crimes that generate money to gamble or pay off gambling debts.

A study using data from every U.S. County between 1977 and 1996, found that casinos (including Indian casinos and riverboat casinos) increased crime (defined as FBI Index 1 Offenses: aggravated assault, rape, murder, robbery, larceny, burglary, and auto theft) after a lag of three or four years. Prior to the opening of a casino, casino and noncasino counties had similar crime rates, but after six years, casino counties had eight percent more property crimes and ten percent more violent crimes than noncasino counties. Border counties experienced about half the rate of increase as casino counties. The study's authors conclude that, "…casinos create crime, rather than attract it from elsewhere."[389]

- The aggravated assault rate was 112 incidents per 100,000 population higher five years after a casino opened in a county.
- The rape rate was higher by eight to twelve incidents per 100,000 population in the fourth and fifth years after a casino opened.

- Increases in robberies began almost immediately after a casino opened; after five years the rate per 100,000 population was about 70 incidents higher.
- Property crimes increased dramatically after a casino opened: the rate of larceny per 100,000 population increased from about 300 to 1,400 over seven years; burglary increased from about 80 to over 500; and, auto theft increased from about 200 to nearly 500 incidents per 100,000 population.

The authors of this study speculate that violent crime increases more rapidly after a casino opens because it is committed by criminals drawn to the gambling operation, while the impact of property crime is delayed as local residents, who may become problem or pathological gamblers, exhaust their resources. The most significant crime effects were for property crimes such a larceny and burglary, where obtaining resources was the primary motivation for the crime.

A 2002 national study, using county-level data, found that four years after a Native American casino opened, property crimes (primarily auto theft and larceny) and violent crimes increased by about ten percent.[390]

Similar findings were found in a study of casino gambling and crime in Wisconsin: "…the emergence of casino gambling significantly increased county crime rates..." by about 8.6 percent in casino counties and by 7.5 percent in counties adjacent to two or more counties with casinos.[391] At the time of this study, there were 17 casinos in Wisconsin owned by 11 Indian tribes, most located in rural areas. Thus these findings are especially applicable to California.

Casinos are associated with increased consumption of alcohol, which also may have an impact on crime rates. Many tribal casinos are located in rural areas and reached by narrow winding roads, leading to problems with drunken driving. The Wisconsin study found that arrests for Driving While Intoxicated, liquor law violations, and disorderly conduct comprised 45 percent of Non-FBI Index arrests.[392]

Crime has substantial social costs. A national study of crime in casino counties found total costs in 1995-96 for increased crime associated with the casinos of $65 per adult in casino counties, not counting the judicial and regulatory costs, costs related to employment and lost productivity, and social service and welfare costs. The 1996 Wisconsin study found that the cost to the public for increased crime resulting from the introduction of Indian casinos was nearly $51 million ($63.8 million in 2005 dollars).[393]

Other studies have found that problem and pathological gamblers impose high costs on society. A 1990 Maryland study found that 62 percent of the members of a Gamblers Anonymous group had committed illegal acts as a result of their gambling: 80 percent had committed civil offenses[*] and 29 percent had committed criminal offenses. A study

[*] A civil offense is an infraction of a law that is not a crime. This may be something like a routine traffic offense such as speeding. The only penalty for a civil offense is a fine.

of 400 members of Gamblers Anonymous found that 57 percent admitted to stealing an average of $135,000 to finance their gambling; the total stolen was over $30 million.[394]

A 1996 study in Plymouth, England found that adolescents who gamble excessively on slot machines engage in stealing to fund their habit. In examining police reports over a one-year period, the authors found that in 3.9 percent of the juvenile cases the offense was gambling-related; of these, 86 percent involved theft or burglary. The offender was male in 93 percent of the cases. This was a first time offense for over one third of the offenders.[395]

Given that casinos create external social costs for the larger society, the policy issue arises as to whether they should compensate for those costs. The authors of one study estimate that taxes compensating for the casino-induced increase in FBI Index 1 crimes would represent about 25-30 percent of casino revenues.[396] Policy options for reducing this impact would have to effectively and directly address problem and pathological gambling. The authors of the Wisconsin study made the following recommendations to the state as it renegotiated its tribal-state gaming compacts:[397]

- The tribes should fund enhanced law-enforcement activities in casino and adjacent counties, including road patrols, especially in areas around bars.
- The tribes should fund community assistance, such as creating and activating neighborhood-watch programs.
- Tribes should not sell alcoholic beverages in their casinos.
- Drug-detection units of state police should be enhanced and made available to sheriffs and police.
- Police officer and prosecutors in all counties should include gambling screening questions in all arrest reports and crime reports.

Illegal Games

Estimates of the amount of illegal gambling in the U.S. range from $80 billion to $360 billion a year. Sport betting is the largest illegal gaming enterprise in most states.[398]

Sports betting

A 2002 Gallup Poll survey found that ten percent of American adults had bet on a sporting event in the previous year. Sport betting is illegal under federal law in all states but Nevada, Oregon, Delaware and Montana. In 2005, $2.25 billion was legally wagered in Nevada's sports books.[399]

The National Gaming Association estimated in 1999 that illegal wagers on sporting events are as much as $380 billion annually. According to one report, the United States has the world's largest illegal bookmaking network, principally on sports.[400] The FBI estimates that more than $2.5 billion is illegally wagered annually on college basketball's

March Madness playoffs each year. There is evidence that sports wagering can act as a gateway to other forms of gambling, and threaten the integrity of sports and athletes.[401]

As previously discussed in the chapter on Internet Gambling, sport betting is one of the most popular forms of at-home gambling, accounting for about 35 percent of the Internet gambling industry's revenues.[402]

Cockfighting

Cockfighting has been illegal in California since 1905, and is illegal in every state but New Mexico and Louisiana. However it is a growing problem in California, along with other forms of illegal animal fighting. According to news accounts, a number of large cockfighting derbies have been broken up in recent years, resulting in the arrests of dozens of people and thousands of birds confiscated. A cockfighting bust in Amador County resulted in the arrest of 30 people including the ranch owner, who is facing felony conspiracy and gambling charges.[403]

In 2003, officials estimated that some 50,000 gamecock operations existed in Southern California alone. During the containment of Newcastle disease that year, one third of the flocks eradicated were illegal gamecocks.[404]

Cockfights offer opportunities for money laundering, drug trafficking, and violence. Training or causing a bird to fight or even watching a cockfight is a misdemeanor, with a penalty of up to one year in jail and a $5,000 fine. Legislation that would make it a felony for second and subsequent offenses, with a maximum one year prison sentence and $25,000 fine, was proposed but not enacted by the legislature this session (see early versions of SB 156, Soto).

HEALTH ISSUES

Smoking

"Gambling, cigarettes and cigars" is a combination that makes for smoky casinos and tribal and charity bingo halls. According to an industry publication, "…it is generally acknowledged that the prevalence of smokers is higher among gamblers than the general population."[405] Smoking and exposure to secondhand smoke are serious health hazards in California Indian casinos, as discussed in that section of this report.

The gambling industry has been active in opposing laws restricting smoking in public places. A study of revenues at three video lottery terminal gaming facilities located at racetracks, and run by the state lottery in Delaware, found a significant decline after the implementation of a smoke-free law, depending on whether there were alternative gaming venues in the region. Competing gambling venues in nearby states continued to allow smoking, drawing customers.[406]

Alcohol

Alcohol abuse is a significant contributor to crime in and around gambling enterprises. Fifteen California Indian gaming tribes are authorized by the Department of Alcohol Beverage Control (ABC) to sell alcohol at their casinos (see list on page 74). Drunken driving and violent and disorderly behavior are problems, according to local law enforcement. Researchers studying the interaction between crime and Indian casinos in Wisconsin recommended that alcohol not be sold at the casinos.[407] An alternative is well-trained servers following clear policies on limited alcohol service.

ECONOMIC IMPACTS OF GAMBLING

BACKGROUND

Gambling is a product for which there is considerable consumer demand, as the polling and financial data presented in Chapter 1 indicate. Some form of commercial gambling is legal in every state except for two, and in 1998, gambling accounted for over ten percent of leisure expenditures by Americans. The gambling industry has since expanded considerably and seems to have considerable potential to grow further in the casino and Internet gaming sectors.[408] Like many discretionary consumer goods, spending on gambling is cyclical. When aggregate income slows, so does gambling revenue.

In this chapter, we review the economic literature examining gambling through standard measures such as job creation and personal income. Many jurisdictions have pursed gambling enterprises as economic development opportunities, most famously Atlantic City and Las Vegas. The literature generally finds a positive economic development benefit when gamblers are drawn from outside an area to a destination resort. Destination resorts create jobs in the casinos, but also in hotels, restaurants, casino supply firms, outdoor recreation, and retail shopping. They attract a high proportion of their visitors from outside the region in which they operate, exporting social costs.[409] For example, about 85 percent of Nevada's gambling revenues come from out-of-state tourists.

However the calculus for urban casinos is different. They attract people primarily to gamble for a few hours, not to experience a destination resort, and so stimulate considerably less job creation and economic development. They are also more likely to displace other local consumer spending (the "cannibalization effect"). Shifting expenditures from one area to another does not represent new income for the local economy. The convenience of urban casinos and their proximity to large numbers of people means that the negative social impacts caused by excessive gambling are likely to be felt locally. Urban casinos are also likely to reduce the demand for rural casinos. One analyst recommends that, "It is better to concentrate casinos in one specific area, creating competition between them (forcing them to attract outside gamblers) than to establish several local monopolies."[410]

DIRECT EMPLOYMENT

The National Gambling Impact Study Commission found that in 1996, the legal gambling industry employed over half a million people, primarily in casinos and in the pari-mutuel (horse-racing) industry, with total salaries of more than $15 billion.[411] Studies conducted for the Commission found decreased unemployment, a slight increase in construction employment and earnings, a substantial increase in earnings in the hotel and lodgings and recreation and amusement industries, and reduced welfare outlays, but no change in overall per capita income in communities near casinos (commercial and tribal). None of the tribal casinos were unionized, and paid on average $18,000 in annual salaries, $8,000 less than the largest, unionized casinos.[412]

A Point of Comparison—Commercial Casinos

In 1997, Coopers & Lybrand L.L.P. conducted a national survey of employees in the commercial, non-Indian casino gaming industry for the American Gaming Association. Total industry employment at that time was estimated to be 330,000 employees in ten states (not including California, where only Indian tribes may operate casinos). Over half of those employees were in Nevada, where much of the industry is unionized. The sample size was approximately 54 percent of all casino employees. Key results include:[413]

- Commercial casinos are major employers. Employment had increased by 16 percent in the previous year and a half, compared to total nonagricultural job growth in the U.S. of 2.2 percent.
- Commercial casinos offer benefits. All of the companies participating in the survey offered health benefits and a retirement or profit sharing program.
- Less than half of all employees in the commercial casino gaming industry nationwide, and under one third in Nevada, actually worked in the casino. The rest worked in hotels, restaurants, and other jobs associated with the casino.

The types of jobs provided by the gaming industry are predominantly "service workers," according to a Price WaterhouseCoopers study for the American Gaming Association, which concluded "…it appears that the industry is providing 'entry-level' positions to a diverse workforce."[414] Other studies have found that non-unionized casino jobs are, for the most part, low paying and/or part time jobs with no benefits.[415] Most Indian casinos in California are not unionized.

Local Impact

In 1998, the National Opinion Research Center analyzed data from 1980 to 1997, to determine the impact of casinos on jobs and other economic indicators. The Center sampled 100 communities and reported that communities with a casino within a 50-mile radius experienced:

- A one percent decrease in the unemployment rate.
- A 17 percent decrease in per capita unemployment insurance payments.
- A 13 percent decrease in welfare costs.[416]

A number of studies find that the major economic benefit a casino can bring to an area is if it attracts gamblers from out of the area. If casino revenue comes mainly from local residents, displacing other local expenditures, jobs may be merely transferred from other sectors of employment.[417]

For example, a study of the impact of casinos on the local economy of Greenville, Mississippi during 1990-1997, found increased personal income and retail spending which the authors' attributed to the opening of two casinos and wages paid to casino

employees. However the casinos relied heavily on local residents for their business, attracting few tourists, and "Residents are as likely to know someone employed by the casinos as they are someone wiped out by a gambling addiction."[418]

Casinos in areas attracting tourists fared better in a study by the University of Southern Mississippi, which found that non-residents generated 82 percent of all gaming revenues in the North Mississippi region (close to Memphis) and 66 percent of gaming revenues on the Gulf Coast.[419]

STATE AND LOCAL REVENUES

> "Legalized gaming," said Biloxi's Mayor, A.J. Holloway, "is going to be what saves us."[420]

A 1995 gambling industry report found that the commercial casino industry paid $2.9 billion in federal, state, and local taxes.[421] Some jurisdictions, such as Atlantic City, New Jersey, and states such as Nevada and Mississippi, are particularly dependent on revenues derived from commercial casinos. For example, Mississippi's casinos pay 12 percent of their revenues to state and local governments, two-thirds to the state and one-third to localities. Mississippi Gulf Coast casinos generated $1.4 billion in profit in 2004, and paid $168 million in state and local taxes.[422]

Increasing public revenue has been one of the main motivations for states and localities to legalize gambling, particularly state lotteries and expanded casino venues. However in California, the public revenues have been comparatively modest:

- The state lottery provides about one percent of the state's General Fund revenues and about three percent of education revenues.
- Horse racing provided about $4 million to the state General Fund in FY 2004-05, around $39 million to the Fair and Exposition Fund, and about $7 million to local governments.
- Card room licensing fees have not kept pace with increasing industry revenues, and are less now than they were than seven years ago, adjusting for inflation.
- Some gaming tribes make payments to the Special Distribution Fund and the Revenue Sharing Trust Fund (see Table 8). These fees and payments over a five-year period represent less than one percent of the gross gaming revenues earned by the gaming tribes over a four year period. In addition, five gaming tribes will make an estimated $35 million in payments to the state's General Fund in FY 2005-06 and will support a $1 billion transportation bond issue over a ten year period.
- Since Indian casino revenues are not taxable, their presence may divert funds from a taxable activity and thus negatively impact state and local revenues.

Casino gambling creates public costs as well as benefits. These include the regulatory costs of gaming boards and other regulatory institutions; police, prosecutorial and judicial/correctional costs; expenditures for new roads and fire protection; social costs due to problem and pathological gambling (lost of productive work time, family welfare costs, treatment costs, crime costs); and local environmental and planning costs. These have previously been discussed in more detail.

BANKRUPTCIES

In 1998, the Congress directed the Department of the Treasury to study the interaction between gambling and bankruptcy. The subsequent 1999 report found that:

> On average, frequent high-risk gambling is associated, in our data, with a 6-percentage point increase in the lifetime probability of declaring bankruptcy. Other levels of gambling activity (non-frequent, non-high-risk) are not associated with elevated probabilities of declaring bankruptcy. Since only an estimated 2.7 percent of the population gambles frequently in high-risk venues, the impact of these activities on overall bankruptcy rates is relatively small.[423]

Contrary to other studies, which have found a localized impact of increased bankruptcies associated with casino operations, the Treasury report found "…no statistically significant casino effect (proximity to a casino) with regard to county bankruptcy rates." In contrast, a 2002 study by the National Bureau of Economic Research found that four years after a Native American casino opens, bankruptcy rates increase ten percent in counties with a casino and seven percent in counties within 50 miles of a casino.[424]

The California Council on Problem Gambling reports that 61 percent of the 3,399 callers to its problem gambling hotline in 2004 used credit cards to finance their gambling, and nearly 49 percent were maxed out. They spent an average of $33,636 a year on gambling, and had an average debt of $32,461. The total spent on gambling per year by these callers was $45,745,199, and their total debt was reported to be $41,809,983. Financial problems are one of the main reasons that gamblers call the California problem gambling hotline, according to the Council.[425]

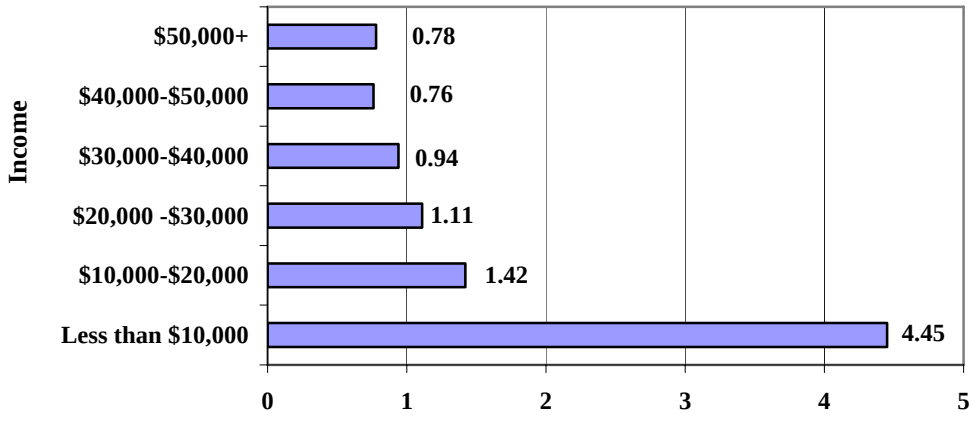
A 2005 study by the Federal Reserve Bank of St. Louis found "strong evidence" that destination casinos export bankruptcy back to visitors' home states, especially in the Southern United States.[426] A study of bankruptcy rates from 1990 to 2002 found that "…adding legalized casino gambling to a local economy correlates positively to increasing bankruptcy rates over time…explained in part by the effects of problem gamblers." The authors speculate that over time casino patrons are increasingly drawn from the local population, causing economic distress in other businesses in the community.[427]

A 1996 study by SMR Research Corporation found that gambling was one of several variables affecting bankruptcy rates, along with easy credit, unemployment, lender marketing, and consumer debt loads.[428] The study found that counties with gambling

facilities had higher bankruptcy filing rates (4.67 per thousand residents) than counties with no facilities (3.96 per thousand residents). Bankruptcy rates in Atlantic City were 71 percent higher than in the rest of the state, and in Las Vegas 50 percent higher than the national average, although the reasons for this difference were not identified in the study.

Based on interviews, SMR found that 20 percent of compulsive gamblers were forced to file for bankruptcy protection because of gambling losses. This finding was supported by another study of gamblers receiving treatment from compulsive gambling treatment centers in Minnesota, which found that 21 percent had declared bankruptcy. A subsequent study by Abt Associates, Inc. found that the amount of debt held by compulsive gamblers was relatively large, especially for low-income compulsive gamblers (see Figure 21).[429]

Figure 21
Gambling Debts Among Compulsive Gamblers in Minnesota
(ratio of gambling debt to annual income, 1996)



Source: Abt Associates, 1997, as cited in U.S. Treasury, 1999.

A 1996 Wisconsin study, also cited in the Treasury report, sought to determine the extent of compulsive gambling in the state and found that one fifth of the self-identified "serious problem gamblers" had filed for bankruptcy, with an average debt of $39,000. The study projected that Wisconsin had 32,000 serious problem gamblers, costing $300 million a year in the form of bankruptcies, treatment, unemployment compensation, lost tax revenue and law enforcement.

The weight of these studies suggests that problem and pathological gamblers have relatively high rates of bankruptcies. However when considered in the aggregate, the U.S. Treasury concluded that, "…gambling has no measurable effect on *statewide* bankruptcy rates (italics added)."[430] The report recommended that, "Public education regarding bankruptcy and gambling should be considered as a part of our efforts to inform and educate the public on financial security and public health issues."[431]

APPENDIX A

List of Petitioners by State

U.S. Bureau of Indian Affairs

Groups Petitioning the Bureau of Indian Affairs to be Federally Recognized Tribes in California as of February 2005

Ione Band of Miwok Indians (Ione)
Letter of Intent to Petition 1916, status clarified administratively 1994

Mono Lake Indian Community (Lee Vining)
Letter of Intent to Petition 1976

Washoe/Paiute of Antelope Valley (Coleville)
Letter of Intent to Petition 1976

Antelope Valley Paiute Tribe (Coleville)
Letter of Intent to Petition 1976

United Maidu Nation (Susanville)
Letter of Intent to Petition 1977

Kern Valley Indian Community (Weldon)
Letter of Intent to Petition 1979

Death Valley Timbi-Sha Shoshone Band (Death Valley)
Letter of Intent to Petition 1979
Acknowledged 1983

United Lumbee Nation of North Carolina and America (Exeter, CA)
Letter of Intent to Petition 1980
Decline to acknowledge 1985

Coastal Band of Chumash (Buelton)
Letter of Intent to Petition 1982

Southern Sierra Miwuk Nation (formerly American Indian Council of Mariposa County, *aka* Yosemite)
Letter of Intent to Petition 1982

Shasta Nation (Yreka)
Letter of Intent to Petition 1982

Juaneño Band of Mission Indians (also Juaneño Band of Mission Indians, Acjachemen Nation) (San Juan Capistrano)
Letter of Intent to Petition 1996

Tolowa Nation (Fort Dick)
Letter of Intent to Petition 1983

North Fork Band of Mono Indians (Clovis)
Letter of Intent to Petition 1983

Dunlap Band of Mono Indians (*aka* Mono Tribal Council of Dunlap)
Letter of Intent to Petition 2002

Nor-Rel-Muk Nation (formerly Hayfork Band; formerly Nor-El-Muk Band of Wintu Indians) (Hayfork)
Letter of Intent to Petition 1984

San Luis Rey Band of Mission Indians (Oceanside)
Letter of Intent to Petition 1984

Wintu Indians of Central Valley, California (Central Valley)
Letter of Intent to Petition 1984; certified letter returned by P.O. 1997

Wintoon Indians (Anderson)
Letter of Intent to Petition 1984; certified letter returned by P.O. 1997

Chukchansi Yokotch Tribe (Raymond)
Letter of Intent to Petition1985; letter withdrawn 2000

Yokayo Tribe of Indians (Ukiah)
Letter of Intent to Petition 1987

Wukchumni Council (Fresno)
Letter of Intent to Petition 1988

Choinumni Council (Stockton)
Letter of Intent to Petition 1988

Coastanoan Band of Carmel Mission Indians (El Monte)
Letter of Intent to Petition 1988

Muwekma Ohlone Tribe (formerly Ohlone/Costanoan Muwekma Tribe) (San Jose)
Letter of Intent to Petition 1989
Decline to acknowledge 2002

Indian Canyon Band of Coastanoan/Mutsun Indians (Hollister)
Letter of Intent to Petition 1989

Salinan Nation (*aka* Salinan-Chumash Nation) (San Jose)
Letter of Intent to Petition 1989

Amah Mutsun Band of Ohlone/Costanoan Indians (formerly Amah Band of Ohlone/Cosstanoan Indians) (Woodside)
Letter of Intent to Petition 1990

Tsnungwe Council (Salyer)
Letter of Intent to Petition 1992

Esselen/Costanoan Tribe of Monterey County (Monterey)
Letter of Intent to Petition 1992; letter withdrawn 1996

Ohlone/Costanoan-Esselen Nation (Monterey)
Letter of Intent to Petition 1992

Chukchansi Yokotch Tribe of Mariposa California (Mariposa)
Letter of Intent to Petition 1993

Wintu Tribe of Northern California (Project City)
Letter of Intent to Petition 1993

Salinan Tribe of Monterey & San Luis Obispo Counties (King City)
Letter of Intent to Petition 1993

Gabrielino/Tongva Nation (San Gabriel)
Letter of Intent to Petition 1994

Gabrielino/Tongva Indians of California Tribal Council (Culver City)

Letter of Intent to Petition 1997

Costanoan-Rumsen Carmel Tribe (Chino)
Letter of Intent to Petition 1994

Costoanoan Ohlone Rumsen-Mutsun Tribe (Watsonville)
Letter of Intent to Petition 1994

Federated Coast Miwok (Novato)
Letter of Intent to Petition 1995; restored as Graton Rancheria by Act of Congress 12/27/2000

Fernandeno/Tatviam Tribe (Sylmar)
Letter of Intent to Petition 1995

Wadatkuht Band of the Northern Paiutes of the Honey Lake Valley (Susanville)
Letter of Intent to Petition 1995

San Fernando Band of Mission Indians (formerly Ish Panesh United Band of Indians) (Newhall)
Letter of Intent to Petition 1995

Tinoqui-Chalola Council of Kitanemuk and Yowlumne Tejon Indians (Covina)
Letter of Intent to Petition 1996

Ani Yvwi Yuchi (Yucca Valley)
Letter of Intent to Petition 1996

Coastal Gabrieleño Diegueño Band of Mission Indians (Santa Ana)
Letter of Intent to Petition 1997

Calusa-Seminole Nation (Santa Cruz)
Letter of Intent to Petition 1998

The Displaced Elem Lineage Emancipated Members (*aka* DELEMA) (Santa Rosa)
Letter of Intent to Petition 1998

Konkow Valley Band of Maidu (Oroville)
Letter of Intent to Petition 1998

Gabrieleño Band of Mission Indians of California (Beaumont)
Letter of Intent to Petition 1998

T'Si-akim Maidu (Quincy)
Letter of Intent to Petition 1998

Sierra Foothill Wuksachi Yokuts Tribe (Sanger)
Letter of Intent to Petition 1999

Costanoan Tribe of Santa Cruz and San Juan Bautista Missions (Madera)
Letter of Intent to Petition 1999; letter withdrawn 2000

Traditional Choinuymni Tribe (Sanger)
Letter of Intent to Petition 2000

Honey Lake Maidu (Susanville)
Letter of Intent to Petition 2000

North Valley Yokut Tribe (Stockton)
Letter of Intent to Petition 2000

Tejon Indian Tribe (Wasco)
Letter of Intent to Petition 2000

Calaveras Band of Miwuk Indians (West Point)
Letter of Intent to Petition 2001

Xolon Salinan Tribe (Bay Point)
Letter of Intent to Petition 2001

Barbareño/Ventureño Band of Mission Indians (Thousand Oaks)
Letter of Intent to Petition 2002

Dumna Wo-Wah Tribal Government (formerly Dumna Tribe of Millerton Lake) (Fresno)
Letter of Intent to Petition 2002

The Chiricahua Tribe of California (El Cajon)
Letter of Intent to Petition 2003

Digueño Band of San Diego Mission Indians (Colton)
Letter of Intent to Petition 2003

Choctaw Allen Tribe (Willows)
Letter of Intent to Petition 2003

Callattakapa-Choctaw Tribe (San Diego)
Letter of Intent to Petition 2004

Monachi Indian Tribe (Exeter)
Letter of Intent to Petition 2004

Nashville-Eldorado Miwok Tribe (Elk Grove)
Letter of Intent to Petition 2004

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