

May 1998

CASINO GAMING REGULATION

Roles of Five States and the National Indian Gaming Commission



**Resources, Community, and
Economic Development Division**

B-279573

May 15, 1998

The Honorable Ben Nighthorse Campbell
Chairman
The Honorable Daniel K. Inouye
Vice-Chairman
Committee on Indian Affairs
United States Senate

In the last decade, Indian gaming has grown into a multibillion-dollar business. At the end of fiscal year 1997, 275 Indian gaming operations existed in 28 states. These operations included casino gaming, which ranged from multimillion-dollar casinos, to a unit with a few slot machines, to bingo. The Indian Gaming Regulatory Act of 1988, among other things, established a statutory basis for the operation of gaming by Indian tribes as a means to promote tribal economic development, shield it from organized crime, and ensure that gaming is conducted fairly and honestly by both the operators and players. To this end, the act established the National Indian Gaming Commission to oversee Indian gaming and differentiated the roles of the Commission, the states, and the tribes. The Commission is responsible for ensuring that tribal gaming is conducted in compliance with the act and the Commission's regulations. In actual practice, the states, as well as the tribes, are responsible for ensuring compliance with tribal-state compacts—agreements negotiated between the states and tribes that identify which party will be responsible for licensing, monitoring, and enforcing the gaming activities. Thus, the day-to-day oversight of casino gaming was left to the states and tribes to negotiate—not the Commission. The act provided for the Commission's funding from appropriations and fees on Indian bingo operations.

In the last two Congresses, proposals have been put forward to expand the Commission's responsibilities and resources. These proposals included reconfiguring the Commission to promulgate minimum federal standards for Indian casino gaming. Minimum standards would be established for such areas as background checks, licensing, surveillance, and monitoring. The Commission's funding and staffing needs were also discussed during hearings. In order to better understand the organizational structure, staffing, and funding levels needed for an enhanced Commission, you requested (1) information on the National Indian Gaming Commission's organization, staffing, funding, and responsibilities from 1991 through 1997; (2) similar information on state gaming agencies in Arizona, Michigan, Nevada, New Jersey, and Washington, as it relates to casino

gaming; and (3) for those states, the views of the heads of the gaming agencies on the elements critical to regulating gaming.

Results in Brief

In 1991, the Commission's organization consisted of three commissioners and six other staff. By 1997, the Commission's staffing had increased to 37 and included two oversight offices—the Office of Contracts and Audits and the Office of Enforcement. Funding for the Commission, which comes from fees assessed on Indian bingo operations, appropriations, or cost reimbursements, increased from \$1.6 million in 1991 to \$3.8 million in 1997. Expenditures were greater than revenue during the last 4 fiscal years, but the use of carryover balances from prior years sustained the Commission. During the early 1990s, the Commission promulgated regulations for Indian gaming. Later, it focused on its responsibilities to (1) monitor gaming operations and (2) review and/or approve various gaming reports and submissions for both bingo and casino gaming. During the last 2 years, the Commission conducted over 500 field visits to discuss compliance requirements and to inspect records and operations. The submissions include, among other things, tribal ordinances that establish how tribes will regulate their gaming and, for tribes that choose to have contractors manage their gaming, the management contracts between the tribes and gaming operators.

The gaming agencies in the five states we reviewed vary considerably in their organization, staffing, and funding for casino gaming, a situation that reflects the differences in the scope and level of the responsibilities that the state agencies have. In fiscal year 1997, Nevada and New Jersey, the two states that almost exclusively regulate non-Indian casino gaming, had the largest organizations, in part, because they regulate all or almost all of the casino gaming in their state. New Jersey had a staff of about 700 and expenditures of about \$54 million to license, monitor, and enforce the gaming requirements at 12 non-Indian casinos in Atlantic City. Nevada had a staff of about 400 and expenditures of \$22 million to regulate over 2,400 gaming operations, of which 4 were Indian casinos. Arizona, Michigan, and Washington, which had only Indian casino gaming at the time of our review, had smaller organizations and shared responsibilities with the tribes. Although these three states oversee about the same number of Indian gaming operations—16 in Arizona, 17 in Michigan, and 11 in Washington—staffing and funding levels varied. Arizona had 61 staff and \$3.8 million in expenditures; Washington, 24 staff and \$1.6 million; and Michigan, 2 staff and \$175,000. Licensing, monitoring, and enforcement activities also differed in these three states. For example, Arizona and

Washington certify, rather than license, gaming businesses and individuals and have enforcement responsibilities; Michigan does neither. In all five states, gaming operations fund each state's regulatory or oversight program.

The heads of the gaming agencies in all five states we visited cited the importance of ensuring the integrity of gaming and identified what they view as critical regulatory elements. From their perspective, the critical elements are (1) the use of accounting, administrative, and internal controls, such as audits of the financial statements, to assist the regulators and casinos in monitoring gaming operations, and (2) the licensing process, which includes background investigations of individuals and companies, because it helps to identify and deter organized crime.

Background

From an estimated \$100 million when the act was passed in 1988, revenue from Indian gaming reached \$1.2 billion in 1992, \$3.2 billion in 1994, and exceeded \$6 billion in 1996. As we reported last year, casinos accounted for most of the Indian gaming revenue, and a few large casinos accounted for a major portion of the casino revenue.¹ In 1996, according to the Commission, for every \$1 in revenue derived from Indian bingo gaming, almost \$15 derived from Indian casino gaming. Although tremendous growth in total revenue has occurred, not every Indian gaming operation has been successful. In addition, not every operation has been without controversy. One contentious issue concerns the types of casino games that can be played within states.

The Indian Gaming Regulatory Act of 1988 established several requirements.² One requirement is that net revenues from tribal gaming are to be used to (1) fund tribal government operations or programs, (2) provide for the general welfare of the Indian tribe and its members, (3) promote tribal economic development, (4) donate to charitable organizations, or (5) help fund the operations of local government agencies. In addition, tribes may distribute a portion of their net revenues directly to tribal members as per-capita payments. However, such a distribution requires a revenue allocation plan that must be approved by the Secretary of the Interior.³

¹Tax Policy: A Profile of the Indian Gaming Industry (GAO/GGD-97-91, May 5, 1997); see also Profile of Indian Gaming (GAO/GGD-96-148R, Aug. 20, 1996).

²Under the act, an Indian tribe must be federally recognized by the Secretary of the Interior.

³The Secretary of the Interior delegated this authority to the Assistant Secretary—Indian Affairs, who is responsible for the Bureau of Indian Affairs.

The act established three classes of gaming to be regulated by a combination of tribal governments, state governments, and the National Indian Gaming Commission. Briefly, Class I gaming includes traditional forms of Indian gaming connected with tribal ceremonies or celebrations and is regulated solely by the tribes. Class II gaming includes bingo and other similar games and is regulated by the tribes and the Commission. Class III gaming includes casino games and slot machines and, although the Commission has regulatory responsibilities under the act, is regulated primarily by the tribes and states according to a compact that governs the gaming activities.⁴ For ease of discussion, we use “Indian bingo gaming” to refer to all Class II gaming and “Indian casino gaming” to refer to all Class III gaming.

The compact for Indian casino gaming is a negotiated agreement that establishes the state’s and tribe’s regulatory and oversight roles and specifies the games allowed. It may include provisions concerning the standards for the operation and maintenance of the gaming facility, the application of the tribe’s and the state’s laws and regulations that are related to the gaming activity, and the state’s assessment of the amounts necessary to defray the costs of regulating or overseeing the gaming activity. A compact may cover a single gaming operation or multiple operations, depending upon what is negotiated.

The act requires that tribes and states negotiate compacts to balance the interests of both the state and the tribe. In addition, the Secretary of the Interior must approve the compacts.⁵ The act also requires that the tribe’s governing body must pass a tribal gaming ordinance or resolution before the tribe can have casino gaming. Furthermore, if a management company is to run the gaming operation, a management contract is required. Per the act, the Commission must approve tribal gaming ordinances or resolutions and management contracts.⁶

At the end of fiscal year 1997, of the 275 Indian gaming operations, 203 had casino gaming, according to the Commission. Of these 203, 141 were operating with an approved compact, while 62 were not. Of the 57 Indian

⁴Appendix I contains a more detailed explanation of the classes.

⁵The Secretary of the Interior delegated this authority to the Assistant Secretary—Indian Affairs, who is responsible for the Bureau of Indian Affairs.

⁶Tribal gaming ordinance and management contract requirements apply to Indian bingo gaming and Indian casino gaming.

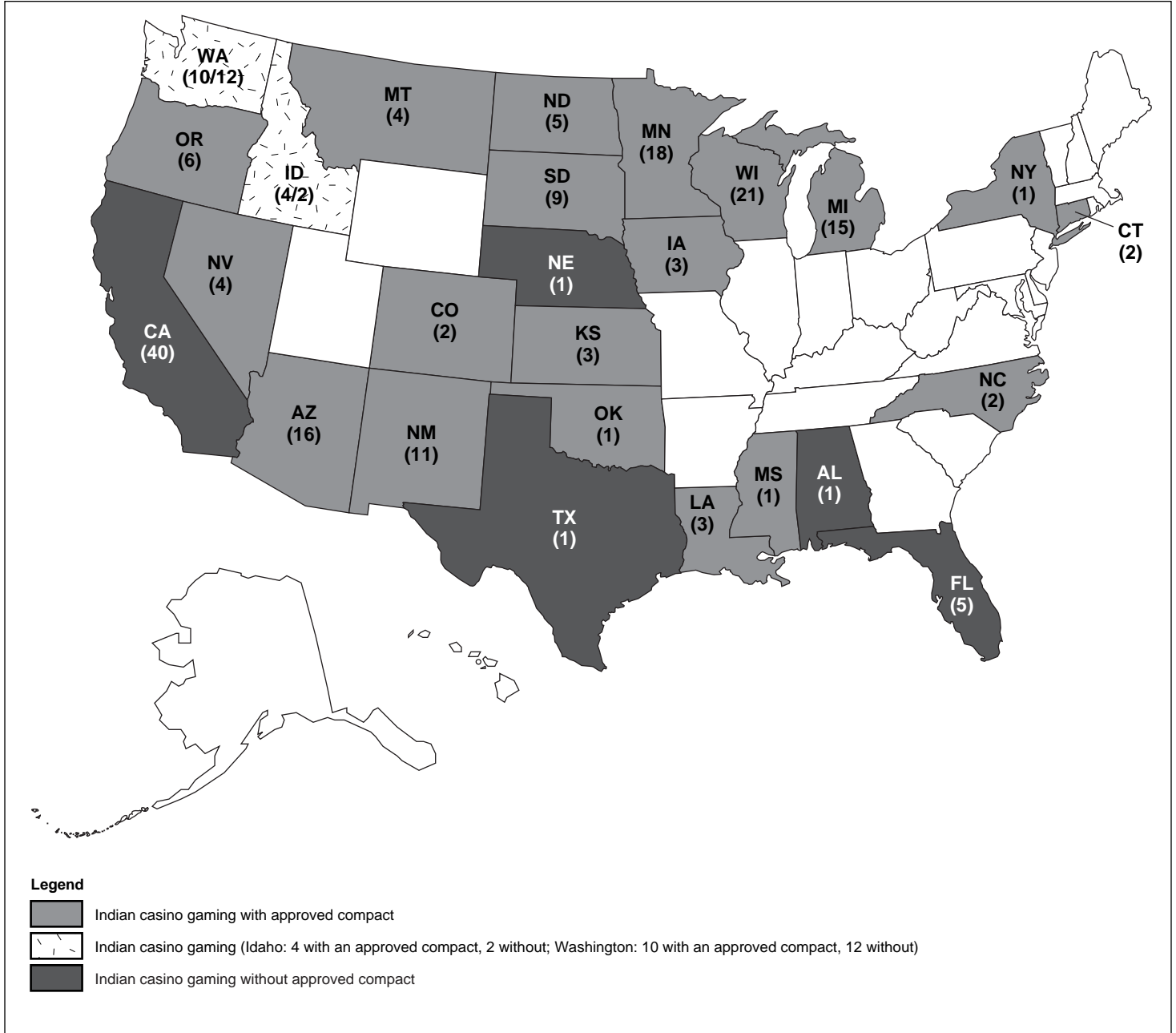
casinos in the four states that we visited that had Indian gaming,⁷ 45 were operating with a compact approved by the Secretary. Three tribes in Washington operated the remaining 12 without a Secretary-approved compact. Of those, 11 casino operations of two tribes contained slot machines, which Washington does not allow, and Washington would not agree to a compact allowing them. According to state officials, these two tribes are allowed to operate under a court order until pending litigation on this issue is settled. The other tribe with one operation had a compact approved by the state but not by the Secretary, as of the end of fiscal year 1997.⁸ The tribe has since submitted the compact for approval, and approval was granted on March 30, 1998. In these four states, about 60 percent of all of the federally recognized tribes (46 of 78) have negotiated compacts, but not all have opened casino operations or had successful operations.

Figure 1 shows the number of Indian casino gaming operations by state.

⁷New Jersey did not have Indian gaming.

⁸Indian Gaming: Federal Controls Did Not Detect Compact Approval Violation ([GAO/RCED-98-45R](#), Dec. 19, 1997). A Notice of Approved Tribal/State Compact for this tribe was published in the [Federal Register](#) on March 30, 1998.

Figure 1: Distribution of 203 Indian Casino Gaming Operations, by State



Source: National Indian Gaming Commission, as of September 30, 1997.

National Indian Gaming Commission

Organization, Staffing, and Funding

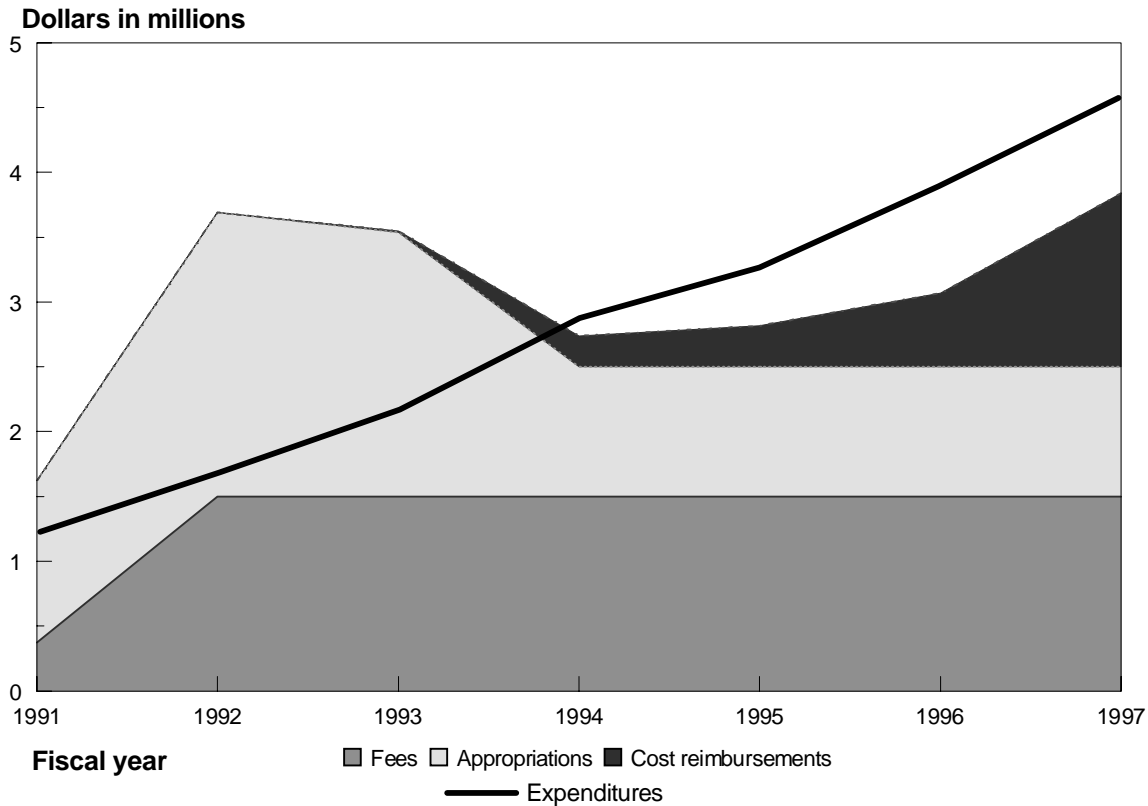
The National Indian Gaming Commission is headed by a Chairman and two associate commissioners. The Commission grew from a total staff of 9 in fiscal year 1991 to 37 in fiscal year 1997. With the staffing increases, the Commission's organization evolved to its current organizational structure, which includes a Chief of Staff and a General Counsel reporting to the Chairman. Reporting to the Chief of Staff are two primary oversight offices—the Office of Contracts and Audits with 3 staff and the Office of Enforcement with 16 staff, including 6 field investigators. The Office of General Counsel has five staff.

The Commission's revenue increased from \$1.6 million in fiscal year 1991 to \$3.8 million in fiscal year 1997. The revenue came from fees on Indian bingo operations,⁹ federal appropriations, and cost reimbursements for conducting background investigations on contractors and processing fingerprints. While the revenues from fees and appropriations have remained fairly constant and are the primary sources of revenue, cost reimbursements have increased dramatically.

Expenditures have also increased in the last 7 years—from \$1.2 million to \$4.6 million. The Commission's expenditures for the last 4 fiscal years have outpaced its revenues. The Commission used prior years' carryover balances to make up the difference. Figure 2 shows the Commission's sources and amounts of revenue and expenditures over the 7-year period.

⁹For most tribes, beginning in fiscal year 1998, the Commission will assess fees on Indian casino gaming operations as well.

Figure 2: National Indian Gaming Commission’s Revenues, by Source, and Total Expenditures, Fiscal Years 1991-97



Source: National Indian Gaming Commission.

Responsibilities

Established by the Indian Gaming Regulatory Act of 1988, the Commission is responsible for ensuring that both Indian bingo and casino gaming operations are in compliance with the act and its regulations. For example, the Commission is responsible for ensuring that the tribe has an approved tribal ordinance concerning the conduct of bingo and casino gaming. In the first few years of existence, the Commission focused its efforts on its responsibility to promulgate regulations. Later, the Commission focused on reviewing and/or approving various gaming reports and submissions for both bingo and casino gaming as well as on its monitoring activities. It reviews or approves (1) tribal ordinances for bingo and casino gaming that establish how tribes will comply with the Commission’s regulations;

-
- (2) management contracts that establish the relationship between the tribe and its gaming operator, including the payment to be made for this service;
 - (3) annual independent audits of the financial statements; and
 - (4) background investigation reports.

The Commission monitors compliance with its regulations and the requirements of the act. Monitoring activities include examining records of the gaming operation and inspecting the gaming facilities. As a part of its monitoring, six Commission field investigators made over 500 field visits in 25 states during the last 2 years. These visits involved discussions about compliance requirements as well as examinations of the records and inspections of the operations. Also, the Commission took 55 enforcement actions in the last 2 years for violations of the act or of the Commission's regulations.

State Gaming Agencies

Much variety exists among the five state gaming agencies that we reviewed that regulate or oversee casino gaming; differences exist in their organization, staffing levels, and funding levels. These differences are not, by themselves, an indication of effectiveness. They merely reflect differences in the scope and level of the state agencies' responsibilities. For example, the gaming agencies vary from a small organization that reviews compliance and operations at least quarterly to a relatively huge organization that has 24-hour continuous monitoring.

Some states' programs have some unique aspects. For example, Washington limits the number of gaming tables that a casino may have, and Arizona limits the number of slot machines on the basis of tribal membership. Michigan, on the other hand, considers the number of machines in a casino to be a business decision made by each individual operation. (Apps. III through VII provide the details of each state's program.)

Organization, Staffing, and Funding

The five state gaming agencies varied from a large, multibodied organization to much smaller units. The larger organizations are in New Jersey and Nevada, which primarily oversee billions of dollars in non-Indian casino gaming. The smaller units are in Arizona, Michigan, and Washington—states that oversee Indian casino gaming with many fewer total gaming dollars involved. All five state agencies, although structured differently, include audit and investigations functions.

For fiscal year 1997, staffing and expenditures in the states with the larger, more complex organizations were much greater than for the smaller organizations, as would be expected. The number of gaming operations in a state, however, does not correlate directly to the state agency's staffing level. For example, for 17 Indian casinos, Michigan committed 2 staff to oversee gaming operations.¹⁰ Washington, which has 11 Indian casinos, committed 24 staff to oversee the gaming operations. As we discuss later, staffing and funding levels reflect the states' roles in oversight or regulation. Table 1 illustrates the staffing and funding variations among the states.

Table 1: Number of Casino Gaming Operations and Total Staff and Expenditures for Five States' Gaming Agencies and Additional Revenue Generated for Fiscal Year 1997

State	Number of casino gaming operations		State gaming agency's total		Additional revenue generated from gaming ^a
	Indian	Non-Indian	Staff	Expenditures	
Arizona	16	0	61	\$3.8	\$0
Michigan	17	0	2	0.2	38.1 ^b
Nevada	4	2,421	402	22.0	548.0
New Jersey	0	12	731	53.7	308.1
Washington	11	0	24	1.6	0

Note: Fiscal year is July 1 of one year to June 30 of the next, except for Michigan's, which is October 1 to September 30.

^aAdditional revenues represent the following: in Michigan, 8 percent of net win from electronic video gaming and slot machines but not payments made to local governmental units; in Nevada, total revenue collected minus expenditures; in New Jersey, 8 percent of the casino win (which goes to the Casino Revenue Fund).

^bCalendar year data.

Source: The five states' gaming agencies.

Although revenue sources vary somewhat, the gaming agencies in all five states receive their funding from gaming operations within the state; state tax dollars are not used. Generally, the states are reimbursed for the expenditures they actually incur for their licensing, certification, or oversight costs. Arizona bills the tribes for services provided, but if bills for services do not cover all expenditures, Arizona allocates the remaining amount (shared enforcement expenditures) on the basis of the number of gaming machines an operation has. New Jersey also bills for services provided but allocates any remaining costs equally among the casinos. Michigan bills the tribes equally for staff wages and benefits and bills for

¹⁰A staff of 48 is anticipated for non-Indian casino gaming expected to begin in Michigan in 1999.

other expenses as they are incurred. Nevada, depending on the compact, charges the tribes a 1-percent fee or bills for services provided. Washington either bills for services or charges a flat fee, at the option of the tribe.

Nevada, Michigan, and New Jersey receive additional revenue from gaming. In Nevada, this additional revenue is largely generated from the fees assessed on gaming revenues. Michigan and New Jersey also receive a percentage of the gaming revenues. Michigan receives an 8-percent fee on electronic video gaming and slot machine earnings because the tribes have the exclusive right to operate such games in the state.¹¹ New Jersey collects an 8-percent tax on casinos' gross revenues, which is used to benefit senior citizens and disabled persons within the state.

Responsibilities

The level of staffing and funding that each state commits to gaming oversight or regulatory activities varied according to the responsibilities each state has for licensing, monitoring, and enforcement. New Jersey is the only casino gaming regulator in the state and, therefore, assumes all of the oversight responsibilities. Nevada assumes all of the responsibility except in the case of one Indian casino gaming operation for which, under the compact, the tribe assumes some of the regulatory responsibility. Arizona, Michigan, and Washington all monitor or oversee Indian casino gaming. Their responsibilities for licensing and enforcement vary according to the compact negotiated.

Licensing

The states differed in how they handled the licensing of gaming businesses and individuals, such as operators, employees, contractors, and suppliers. New Jersey licenses these individuals because the state is the only casino gaming regulator. Depending on the compact, Nevada may license these individuals or the tribe may have the responsibility. In Arizona, Michigan, and Washington, the tribes license businesses and individuals. However, Arizona and Washington have a certification process to certify the businesses and individuals as suitable. Michigan, which has standards for gaming equipment, supplies, and machines, does not certify businesses or individuals associated with Indian gaming casinos.

Monitoring

Monitoring activities in the five states were fairly similar, but the frequency of the monitoring varied. For example, all states review the annual financial reports of the gaming operations and conduct informal

¹¹This revenue will end when non-Indian casinos open with slot machines, which is expected sometime in 1999.

observations of gaming operations. However, the states perform their monitoring activities at various times. For example, Washington conducts many of its activities weekly, whereas Michigan conducts its activities at least quarterly. In some instances, states conduct their monitoring activities at nonspecific times, such as periodically or ongoing. Table 2 shows how states perform selected monitoring activities at widely differing intervals.

Table 2: Frequency of Selected Monitoring Activities Performed by Five States' Gaming Agencies

State	Monitoring activity			
	Tribal compliance with compact requirements	Formal inspection of gaming operation	Compliance with internal controls	Observation of money count
Arizona	Ongoing	Every 1.5 years ^a	Weekly	Annually
Michigan	At least quarterly	At least quarterly	At least quarterly	At least quarterly
Nevada	Periodically	Periodically	Periodically	Periodically
New Jersey	N/A ^b	Daily	Daily	Daily
Washington	Weekly	Weekly	Weekly	Periodically

^aFormal observation of the operation is on a weekly ongoing basis.

^bN/A = not applicable. New Jersey has no federally recognized tribes and thus has no compacts.

Source: Five states' gaming agencies.

New Jersey is the only state of the five that has a state presence in the casinos at all times during operations. This presence is possible, in part, because all of the state's casinos are located in Atlantic City.

Enforcement

The five states varied somewhat in their enforcement authority. New Jersey and Washington have the authority to assess fines or penalties and seize illegal equipment. Arizona and Michigan do not. For Indian gaming, Nevada's enforcement authority varies according to the compact. Of the five states, only Michigan, which does not certify or license gaming employees or establishments, cannot suspend or revoke any employee's license. All five states can ultimately suspend or shut down a gaming operation, either directly or through an injunction directing closure.

Critical Regulatory Elements

In outlining their views on the elements critical to regulating gaming, the heads of the gaming agencies in all five states stressed the importance of ensuring the integrity of gaming. From their perspective, two critical elements emerge. All agree on the importance of accounting,

administrative, and internal controls, such as audits of the financial statements, to assist the regulators and casinos in monitoring gaming operations. Four of the five view the licensing or certification process, which includes background investigations of individuals and companies, as critical. They noted that this process helps to identify individuals and companies having criminal records or involvement with organized crime in order to keep such elements out of the states' gaming operations.

State officials provided a variety of other critical elements. For example, Nevada and Arizona noted the importance of having the regulatory body independent from the industry regulated. Washington and Michigan cited the importance of a cooperative relationship between the tribe and state. New Jersey pointed out that it is important to have a laboratory to evaluate and approve the sophisticated electronic equipment and devices used in the gaming industry and to monitor changes and advances in technology.

Agency Comments and Our Evaluation

We provided a draft of this report to the Commission and the gaming agencies in the five states we visited as well as to the tribes whose gaming operations we visited. The Commission's Director of Contracts and Audits provided several technical comments, which we incorporated into this report. He also pointed out that we did not mention the role of the tribal gaming commissions, whose role the Commission views as significant. We recognize that the tribes have a regulatory role that is based on what is negotiated in their compacts, as stated in the background section of our report. However, the major objectives of our review were to provide information on the Commission's organization, staffing, funding, and responsibilities from 1991 to 1997 and similar information for five states' gaming agencies.

We obtained comments from each of the five states' gaming agencies. The Arizona Department of Gaming (see app. VIII), the Deputy Director of the Michigan Gaming Control Board, and the Chairman of the Nevada Gaming Control Board provided technical comments, which we incorporated, as appropriate, into our report. New Jersey's Division of Gaming Enforcement (see app. IX), New Jersey's Casino Control Commission, and the Washington State Gambling Commission indicated that the report was accurate.

The Arizona Tribal Gaming Regulators Alliance, which represents the Arizona gaming tribes, provided comments on its differences with the

information provided by the Arizona Department of Gaming and noted that the draft report did not discuss the regulatory role and commitment of the tribal gaming commissions in protecting the integrity of gaming in Arizona. The Alliance presented its view that the Department is attempting to both attack the sovereignty of Arizona tribes and increase the Department's role to more than oversight. Specifically, the Alliance stated that the state's oversight responsibility is limited to monitoring, rather than enforcement; would prefer a different presentation of the state's revenue and expenditures; and stated that the intervals for monitoring activities were less frequent than what the Department said it performed. Finally, the Alliance concluded that the Arizona gaming tribes would be more agreeable to an increased role by the National Indian Gaming Commission and a reduced role by the Arizona Department of Gaming.

The tribal gaming commissions have a regulatory role in Indian gaming activities. However, the scope of our review was to obtain data from the state gaming agencies, including Arizona's, on their licensing, monitoring, and enforcement concerning gaming activities—not the tribes'. The remaining comments noted above by the Alliance demonstrate the differing views that exist in Arizona between the Alliance and the Department. Because our scope was limited to gathering data from the states, we did not take a position on or try to reconcile these differing views. Appendix X presents the Alliance's views in their entirety, and we have annotated the Alliance's letter to indicate the current pages to which the comments refer.

In a separate letter, the Ft. McDowell Tribal Gaming Office, of one of the Arizona gaming tribes, found the report informative and noted that it indicates that diverse Indian gaming regulation by states is "creeping" toward increased federal control and more stringent state controls, in spite of Indian gaming efforts to adequately regulate Indian gaming businesses. These comments are in appendix XI. The tribes whose gaming operations we visited in Michigan, Nevada, and Washington had no comments on the draft.

Scope and Methodology

At the National Indian Gaming Commission, we met with staff, including the Chairman and an Associate Commissioner, to discuss the Commission's organization, staffing, funding, and responsibilities. We reviewed documents that they provided as well as the Indian Gaming Regulatory Act, the Commission's relevant regulations, congressional hearings, and recent legislation proposed to modify the Commission's

responsibilities. To obtain an indication of the type and frequency of contact made with gaming operations by Commission field staff, at our request, the Commission identified the number and type of field visits made during the last 2 years.

To obtain information on the organization, staffing, funding, and responsibilities of the state agencies that regulate or oversee casino gaming operations, we visited five states. We were specifically requested to gather this information for Nevada and New Jersey, which are the two states with the largest gaming revenues. We judgmentally selected Arizona, Michigan, and Washington as the other three states to provide information about a variety of tribal-state gaming relationships and to include states that had only Indian casinos at the time of our review. Because our work was performed in a limited number of states, the results cannot be used to make generalized statements about all states' activities.

In all five states, we met with staff to discuss the states' roles and operations and to obtain various documentation, including copies of organizational charts, state regulations, copies of tribal-state compacts, and state reports on gaming operations. To obtain comparable data on funding, staffing, and monitoring activities, we provided each state with tables in standard format for them to complete. We met with state staff and officials to discuss their states' regulation or oversight of gaming operations. In addition, we obtained written comments on views of critical regulatory elements from the heads of the Arizona Department of Gaming, the Michigan Gaming Control Board, the Nevada Gaming Control Board, the New Jersey Casino Control Commission, the New Jersey Division of Gaming Enforcement, and the Washington State Gambling Commission.

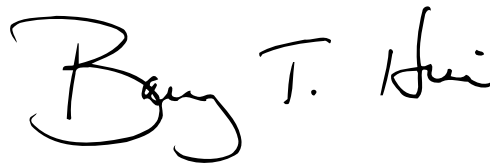
Because our work focused on the states' perspectives, we did not review the operations of the tribal gaming commissions. However, we visited gaming activities in all five states to observe their operations and procedures. We visited Indian casinos in Arizona, Nevada, Michigan, and Washington and non-Indian casinos in Nevada and New Jersey.

Because the funding and staffing figures we used were generally from budgets or other published data, we did not independently verify the accuracy of these figures. When appropriate, however, we asked for clarification of the figures provided. Because it was beyond the scope of what we were asked to do, we did not assess the effectiveness of the Commission's or state gaming agencies' programs or operations. We

conducted our review from June 1997 through March 1998 in accordance with generally accepted government auditing standards.

As agreed with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies of this report to the Secretary of the Interior; the Director, Office of Management and Budget; the Chairman, National Indian Gaming Commission; the five states' gaming agencies discussed in this report; tribes whose casinos we visited; and other interested parties. We will also make copies available to others upon request.

If you or your staff have any questions about this report, please call me at (202) 512-3841.

A handwritten signature in black ink that reads "Barry T. Hill". The signature is written in a cursive style with a large, looping initial "B".

Barry T. Hill
Associate Director, Energy,
Resources, and Science Issues

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Abbreviations

FTE full-time equivalent

Classes of Indian Gaming

Class I

1. Social games played solely for prizes of minimum value
2. Traditional forms of Indian gaming played as part of or in connection with tribal ceremonies or celebrations

Class II

1. Bingo or lotto (regardless of whether electronic, computer, or other technological aids are used) played for prizes
2. Pull-tabs, punch boards, tip jars, instant bingo (if played in same location as bingo) and other games similar to bingo
3. Nonbanking card games that state law authorizes or does not prohibit and that are played legally anywhere in the state^a

Class III

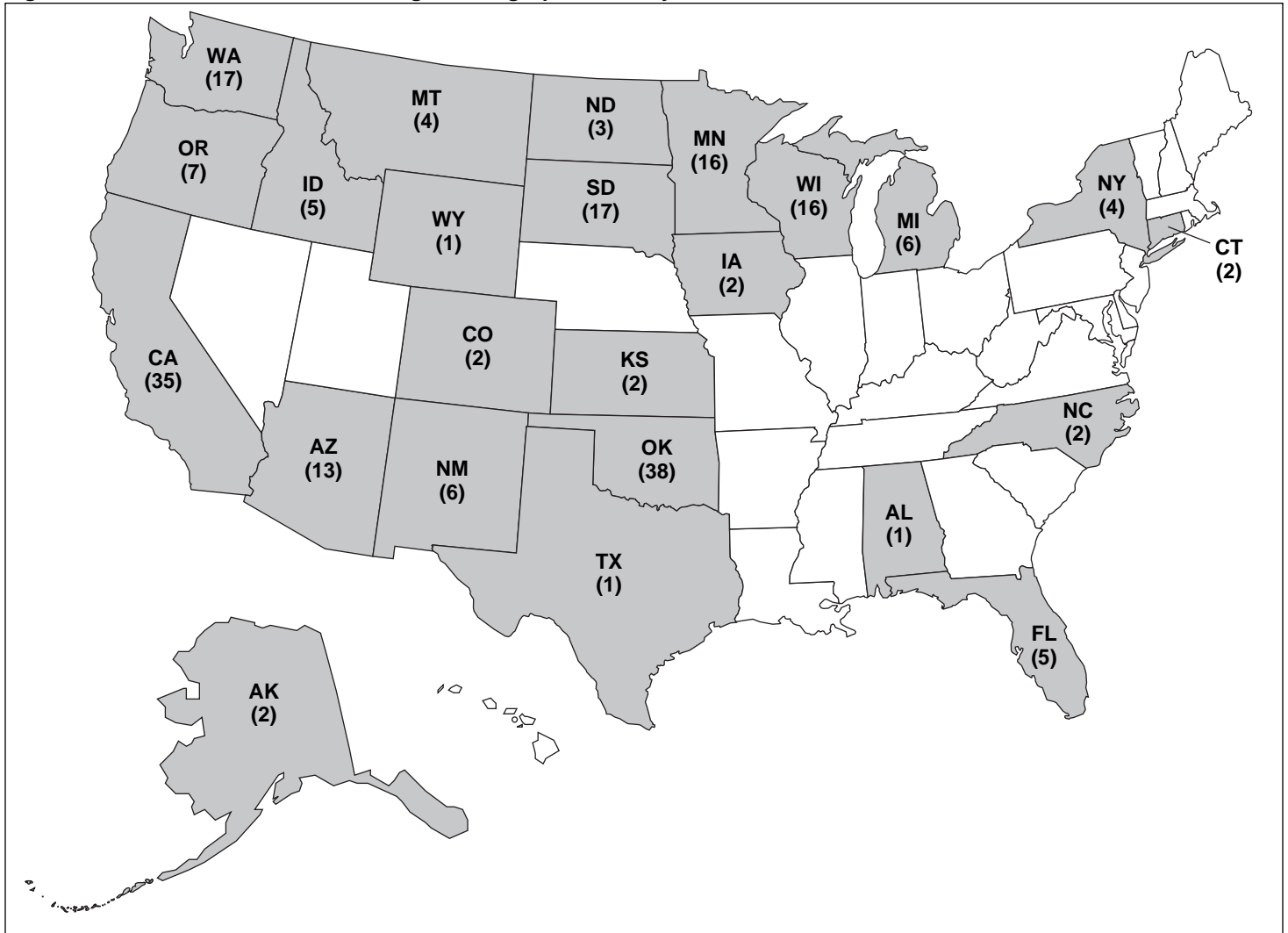
1. All forms of gaming that are not Class I or II gaming and any house banking games
2. Card games such as baccarat, blackjack (21), Pai Gow, etc.
3. Casino games such as roulette, craps, keno, etc.
4. Slot machines and electronic or electro-mechanical facsimiles of any game of chance, such as video poker, video blackjack, etc.
5. Sports betting and pari-mutuel wagering, including horse racing, dog racing, Jai Alai, etc.
6. Lotteries

^aPer the National Indian Gaming Commission, a banking game is any game of chance that is played with the house or player as a banker participant in the game, in which the bank takes on all players, collects from all losers, and pays all winners—and the bank can win.

National Indian Gaming Commission

The Indian Gaming Regulatory Act of 1988 (Pub. L. 100-497) established the National Indian Gaming Commission as an independent agency within the Department of the Interior. Although the Commission began its start-up efforts in May 1990, it did not consider itself operational until early 1993 after the publication of its regulations in the Federal Register. The Commission's mission is to fulfill the mandates of the act in fostering the economic development of Indian tribes by attempting to ensure the integrity of Indian bingo and casino gaming and to ensure that tribes are the primary beneficiaries. The Commission is responsible for regulating Indian bingo and casino gaming in 28 states and 275 gaming facilities operated by 189 tribes. Figure II.1 shows which states have Indian bingo gaming and the number of operations in each state.

Figure II.1: Distribution of 207 Indian Bingo Gaming Operations, by State



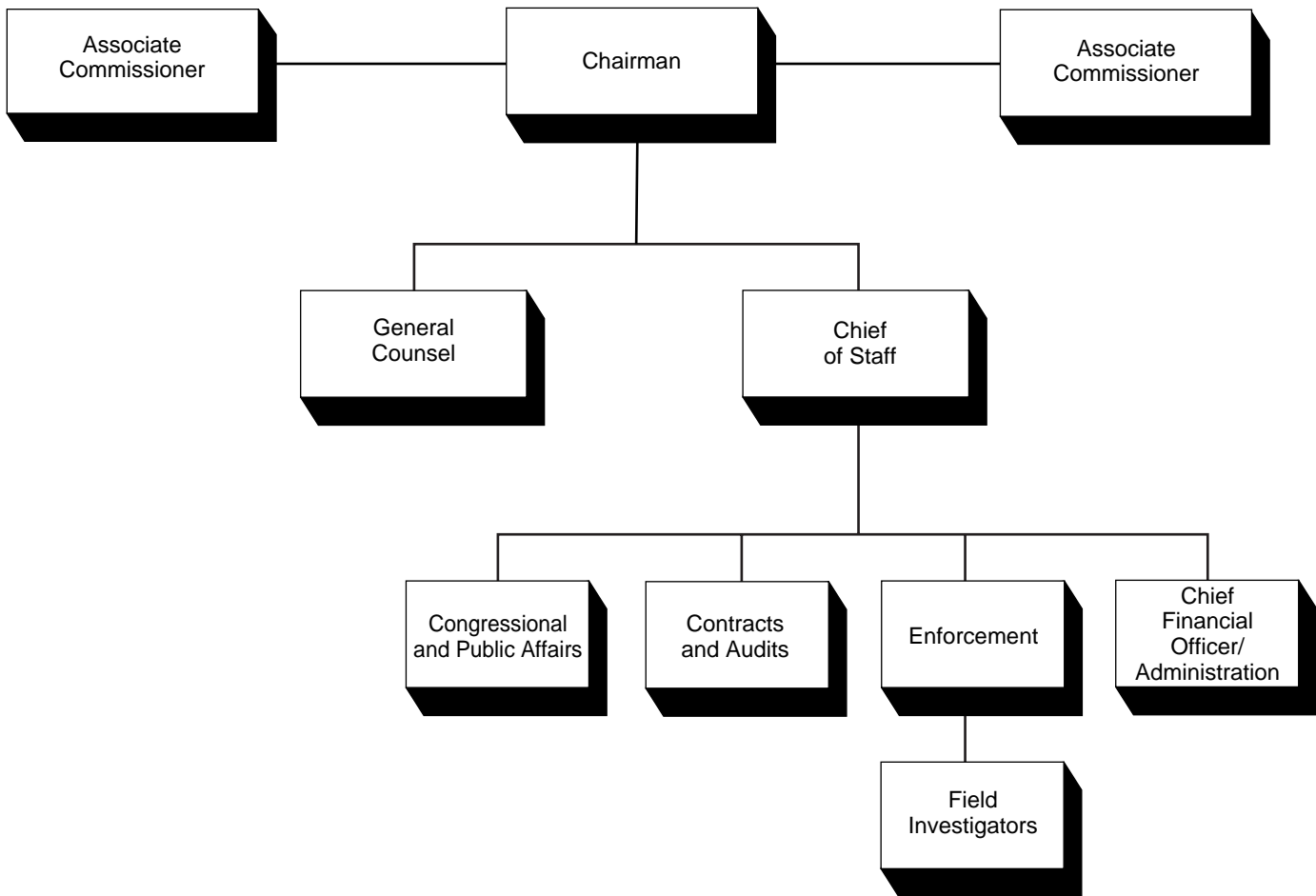
Source: National Indian Gaming Commission.

Organization, Structure, and Staffing

As established by the act, the Commission is composed of three full-time commissioners—a chairman appointed by the President with the advice and consent of the Senate and two associate commissioners appointed by the Secretary of the Interior. At least two must be enrolled members of an Indian tribe, and no more than two may be of the same political party. The commissioners serve 3-year terms. The first Chairman of the Commission came on board in May 1990, and the two associate commissioners started

in November 1990 and April 1991, respectively. The Commission has had three Chairmen and two acting Chairmen and a total of five associate commissioners. The most recent Chairman started in September 1997.

Figure II.2: Organizational Structure of the National Indian Gaming Commission

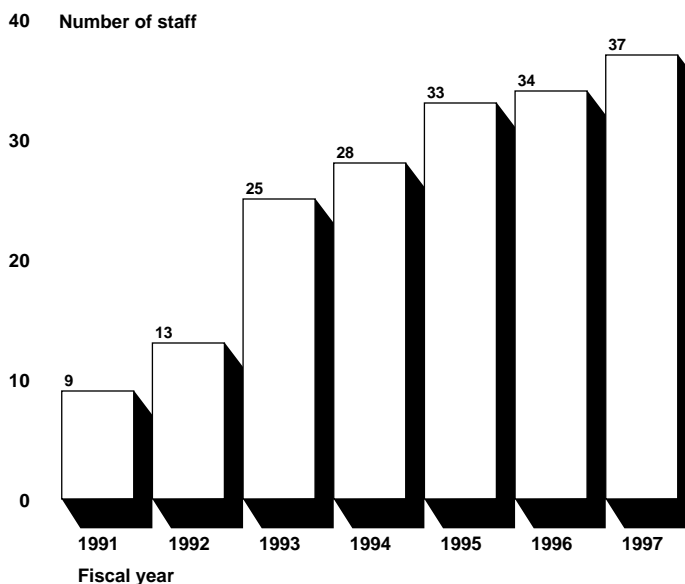


Source: National Indian Gaming Commission.

The Commission has evolved to its current organization, which consists of a General Counsel and a Chief of Staff who report to the Chairman. Under the Chief of Staff are the two primary oversight divisions, the Division of Contracts and Audits and the Division of Enforcement, and two other divisions, Chief Financial Officer/Administration and Congressional and Public Affairs. The Division of Contracts and Audits is responsible for overseeing annual audits of tribal gaming operations and management contracts between the tribes and the companies running their gaming operations. The Division of Enforcement is responsible for monitoring compliance with the act and the Commission's regulations and taking appropriate enforcement actions. The Chief Financial Officer/Administration Division is responsible for budget, financial, and administrative matters, while the Congressional and Public Affairs Division is the liaison to the public and the Congress.

Including the three commissioners, the Commission began with 9 staff in fiscal year 1991 and increased to a total of 37 staff by the end of fiscal year 1997. In addition to the Chairman and the two Associate Commissioners, five staff are in the General Counsel's office. Under the Chief of Staff, 3 staff are in Contracts and Audits, 16 are in Enforcement, including 6 field investigators to cover the 28 states with Indian gaming, 8 are in Chief Financial Officer/Administration, and 1 is in Congressional and Public Affairs. Figure II.3 shows the growth in staffing at the Commission over the last 7 years.

Figure II.3: National Indian Gaming Commission Staffing, Fiscal Years 1991-97



Source: National Indian Gaming Commission.

Funding

The Commission's revenue comes primarily from fees assessed on Indian bingo gaming revenues, federal appropriations, and cost reimbursements. In fiscal year 1991, the Commission had \$1.6 million in revenues—77 percent from appropriations, 23 percent from fees, and no cost reimbursements. By fiscal year 1997, the Commission had \$3.8 million in revenues—39 percent from fees, 35 percent from cost reimbursements, and 26 percent from appropriations. The Congress provided for an increase in the Commission's fiscal year 1998 funding. Starting in 1998, the Commission can charge fees on the revenues of Indian casino gaming as well as Indian bingo gaming. The total amount that can be collected from such fees increased from \$1.5 million to \$8 million. In addition, up to \$2 million can be appropriated. Thus, fees will likely provide the majority of the funding for the Commission.

Expenditures for the Commission also have increased each year since fiscal year 1991. During the last 4 fiscal years, expenditures exceeded revenues to the Commission. Unused fees carried over from prior years were used to make up the difference between the two. Table II.1 shows the Commission's revenues and expenditures since 1991.

Appendix II
National Indian Gaming Commission

Table II.1: National Indian Gaming Commission's Revenues, by Source and Total Expenditures, Fiscal Years 1991-97

Dollars in thousands							
	Fiscal year						
	1991	1992	1993	1994	1995	1996	1997
Revenues							
Fees	\$375	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500
Appropriations	1,247	2,190	2,040	1,000	1,000	1,000	1,000
Cost reimbursements	0	0	12	242	315	565	1,335
Other	0	1	2	1	1	0	0
Total	\$1,622	\$3,691	\$3,554	\$2,743	\$2,815 ^a	\$3,065	\$3,835
Expenditures							
Total	\$1,214	\$1,677	\$2,179	\$2,903	\$3,295	\$3,944	\$4,642

Note: According to the Commission, unused fees were carried forward until used, while unused appropriations expired.

^aNumbers do not add to total because of rounding.

Source: National Indian Gaming Commission, as of September 30, 1997.

Responsibilities

The Indian Gaming Regulatory Act established the Commission's responsibilities for the different classes of Indian gaming, charging the Commission with regulating and monitoring Indian bingo gaming and certain aspects of Indian casino gaming. Individual tribes and states regulate casino gaming under negotiated tribal-state agreements, called compacts. The act requires the Commission to provide the Congress with a report on various issues pertaining to the Commission every 2 years.

Initially, the Commission focused its efforts on its responsibility to promulgate regulations for Indian bingo and casino gaming. From April 1991, when the third commissioner was approved, until January 1993, the Commission developed, proposed, and issued regulations covering such requirements as the annual fee rates, ordinances,¹ background investigations for gaming licenses, management contracts, monitoring and investigations, and enforcement.² During this time, in December 1991, the Commission issued its first and only report to the Congress, although the act established the requirement for a report every 2 years. The

¹Tribal ordinances establish how the tribe will comply with the gaming requirements, including the appropriate use of net revenues and adequate protection of the environment and the public health and safety.

²The act authorized the Commission to issue a tribe a certificate of self-regulation. On March 12, 1998, the Commission published in the Federal Register the start of a rulemaking process for self-regulated casino operations and proposed regulations for similar bingo gaming operations.

Commission also performed other initial responsibilities, such as requesting and reviewing for approval all existing ordinances.

The Commission's more recent efforts have focused on ongoing responsibilities, such as processing fingerprint cards, the review and approval of new ordinances, management contracts, and background investigation reports for Indian bingo gaming and Indian casino gaming, as well as oversight and monitoring of Indian bingo and casino gaming. The Commission's monitoring responsibilities include examining records and inspecting the facilities. As a part of the Commission's monitoring, six field investigators made over 500 field visits in 25 states during the last 2 years. These visits, in part, were to monitor and discuss compliance requirements and to inspect gaming operations and their records. Because the Commission assesses a fee on Indian bingo gaming, it is responsible for verifying the gross revenues of Indian bingo gaming, collecting fees, and reconciling the quarterly fee reports from these operations. In addition, the Commission reviews the results of the annual independent audits of the financial statements of Indian bingo gaming and Indian casino gaming operations, which the act requires to be submitted to the Commission.

The Commission also has enforcement responsibilities, preparing a quarterly report to the Secretary of the Interior on tribal compliance with the act and its regulations. Depending on the severity of the noncompliance and whether voluntary compliance can be obtained, noncompliance can result in a notice of violation, an order of temporary closure, or a civil fine of up to \$25,000. According to the Commission, from 1994 through 1997, the Commission took 67 enforcement actions, of which 55 were taken in the last 2 years, and collected over \$1 million in fines for violations of the act or the Commission's regulations. These actions were against both Indian bingo and casino gaming operations and covered a range of violations including operating casino gaming without a compact, failure to submit an annual audit, and operating in a manner that threatened public health and safety.

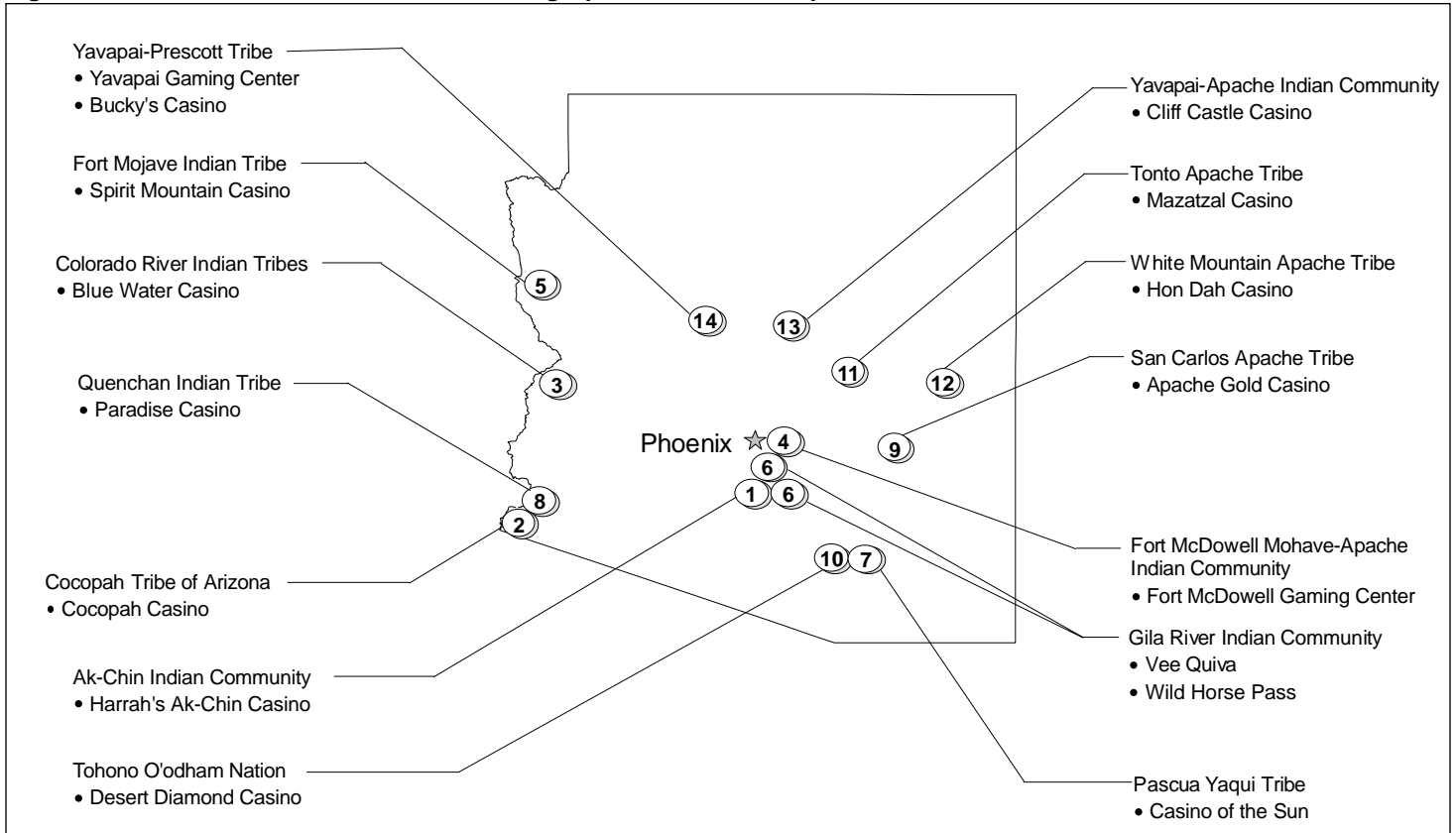
The Commission also provides training to assist tribes in understanding regulatory requirements. For example, its January 1997 compliance workshop included speakers and information on the quarterly report prepared by the Commission on overall compliance, compacts, background investigations, management contracts and the Commission's enforcement policy, procedures, and priorities.

Arizona

According to the Arizona Department of Gaming, an Arizona federal district court judge ruled in 1991 that the state of Arizona had to negotiate the scope of games to be included in a compact with the tribes. Although the state successfully negotiated compacts with four tribes, several other tribes asked for mediation to resolve disagreements concerning the scope of gaming to be allowed. Between June 24, 1993, and April 14, 1994, the state agreed to 10-year compacts with 16 of the 21 federally recognized tribes in Arizona. According to the state, these compacts provide for state oversight of casino gaming in Arizona and are generally similar with some minor modifications on a case-by-case basis.

Under the compacts, tribal population determines the number of gaming devices authorized and the number of locations authorized. For 11 of the 16 tribes with compacts, the compact allows each to have up to 475 gaming devices at two facilities. Four tribes are allowed up to 900 gaming devices at three locations, and one tribe is allowed 1,400 gaming devices at four locations. While these 16 tribes are authorized a total of 10,225 gaming devices at 38 locations under their compacts, as of the end of December 1997, 14 tribes were operating casinos in 16 locations with a total of 6,490 gaming devices. (See fig. III.1.) In addition, two tribes with compacts have closed their casino gaming operations—one in 1995 and one in 1996.

Figure III.1: Distribution of Indian Casino Gaming Operations With Compacts in Arizona



Source: Arizona Department of Gaming.

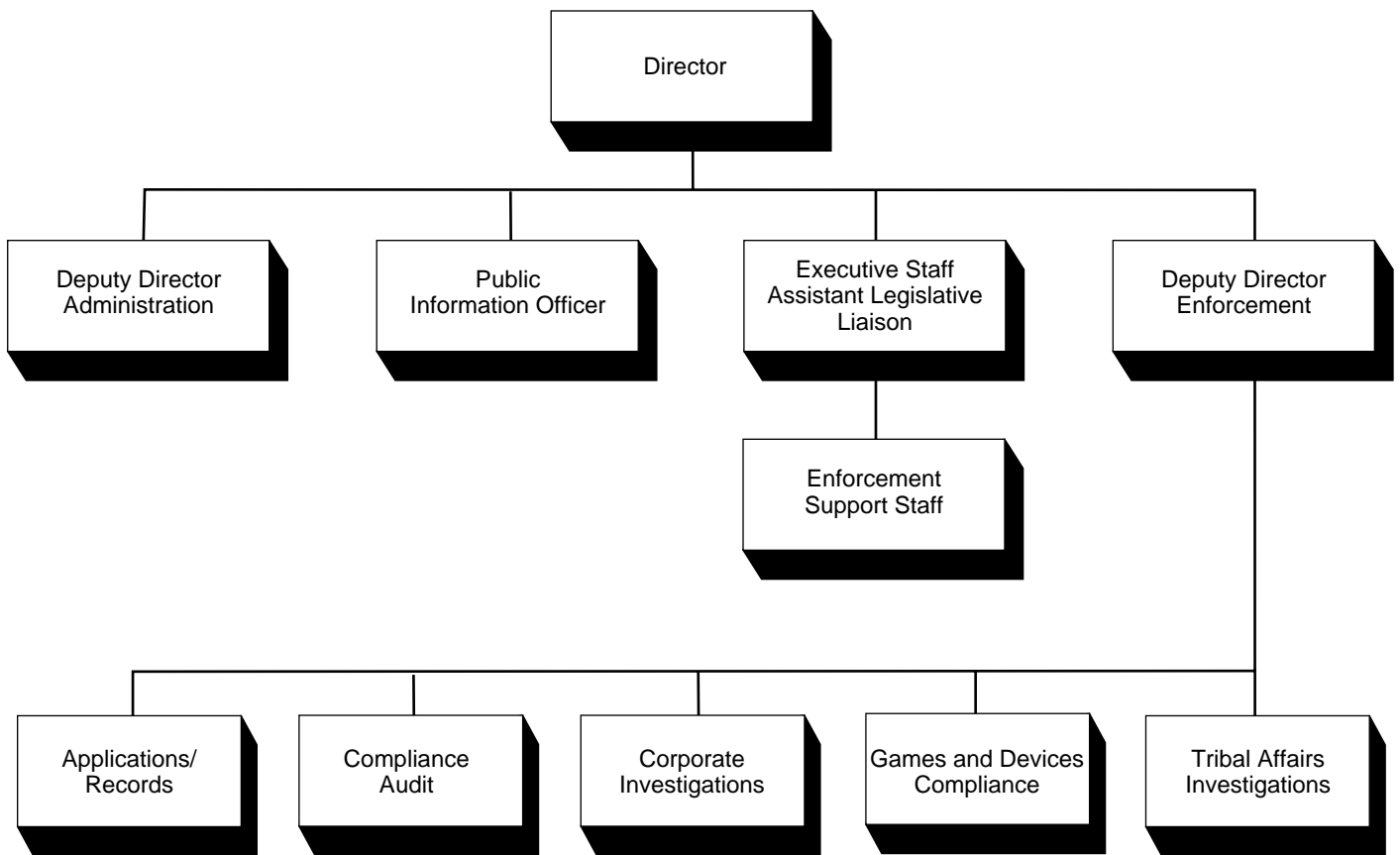
Organizational Structure and Staffing

The Arizona State Gaming Agency was established within the Arizona Department of Racing to carry out the state's responsibilities under the Indian Gaming Regulatory Act and the gaming compacts negotiated pursuant to the act. In 1995, the Arizona Department of Gaming was established as a separate state agency. Its mission is to protect the public by ensuring the integrity of the Indian gaming industry in Arizona.

The Department is headed by a Director appointed by the Governor and confirmed by the Arizona Senate. It monitors and enforces compliance by the tribal gaming operations with all compact requirements, including those governing the nature, extent, and conduct of gaming activities; public health, safety and welfare; and other operational requirements. The

Department conducts background investigations to ensure that unsuitable individuals or companies are not involved in Arizona's gaming industry.

Figure III.2: Organizational Structure of the Arizona Department of Gaming



Source: Arizona Department of Gaming.

The Department has two divisions, Enforcement and Administration, each headed by a Deputy Director. The Enforcement Division is divided into five units: Applications/Records, Compliance Audit, Corporate Investigations, Games and Devices Compliance, and Tribal Affairs

Investigations. The Applications/Records Unit processes all individual certification applications; collects fees; maintains agency records and databases; and conducts background investigations on individuals. The Compliance Audit Unit performs compact compliance reviews to monitor the tribes' compliance with all of the provisions of the compact; tests internal controls; and reviews and analyzes financial records of companies applying for state certification. The Corporate Investigations Unit performs the corporate background investigations that are required to obtain state certification. The Games and Devices Compliance Unit ensures that electronic games of chance and related equipment comply with the technical standards set forth in the compacts before the devices are put into operation at the gaming facility and through random inspections and testing. The Tribal Affairs Investigations Unit is the primary unit charged with enforcing compact provisions at gaming facilities. This unit conducts background investigations on all key employees, primary management personnel, and casino employees submitting renewal applications. The Administration Division is responsible for accounting, budget, hearings, purchasing, personnel, planning, and support services. Table III.1 and figure III.3 show how the agency's staff were distributed for fiscal year 1997 and total staffing for fiscal years 1993 through 1997, respectively.

Table III.1: Arizona Department of Gaming Staffing at the End of Fiscal Year 1997

	Number of staff	Percent of total ^a
Director	1	2
Administration		
Administrative staff	8	13
Enforcement		
Applications/records staff	15	25
Compliance audit staff	7	11
Corporate investigations staff	8	13
Enforcement support staff	6	10
Gaming and devices compliance staff	6	10
Tribal affairs investigations staff	10	17

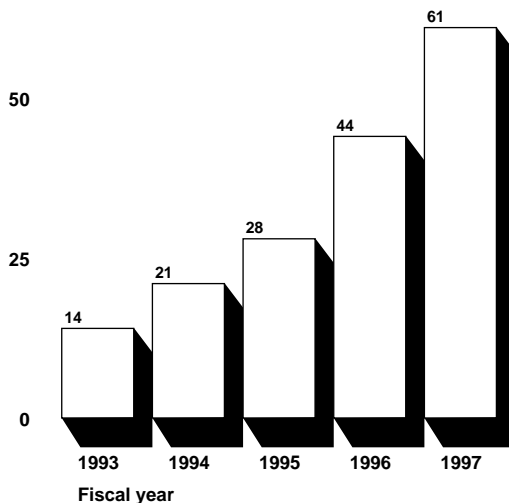
Note: Fiscal year is July 1 of one year to June 30 of the next.

^aPercentages do not add to 100 because of rounding.

Source: Arizona Department of Gaming.

Figure III.3: Arizona Department of Gaming's Fiscal Years 1993-97 Staffing

75 Number of staff



Note: Fiscal year is July 1 of one year to June 30 of the next.

Source: Arizona Department of Gaming.

Funding

The Department is funded by the gaming industry solely through gaming device assessments and certification fees. The \$500 annual assessment for a gaming device is used to fund enforcement and is pro-rated on the basis of quarterly use. The certification fee is nonrefundable and applied to the actual cost of the background investigation. However, should the cost of the investigation exceed the initial certification fee, the applicant is required to reimburse the Department in full for its actual costs before the state issues certification. In fiscal year 1997, enforcement activities represented about 70 percent of the Department's operating budget, and certification represented the remaining portion of the budget.

Actual expenditures for enforcement are allocated to the tribes in two ways. The expenditure may be directly billed to an individual tribe if the expenditure is directly attributed to that tribe. Otherwise, shared enforcement expenditures are billed quarterly to each tribe on the basis of the number of machines a tribe has; the greater the number of gaming devices, the more its share of the shared enforcement expenditures. If

revenues exceed expenditures, the distribution is made similarly. Table III.2 shows the change in revenue and expenditures since 1993.

Table III.2: Arizona Department of Gaming's Revenues, by Source and Expenditures, Fiscal Years 1993-97

Dollars in thousands					
	Fiscal year ^a				
	1993	1994	1995	1996	1997
Revenues					
Gaming device assessments	\$415.3	\$828.0	\$906.8	\$2,804.8	\$2,771.4
Certification fees	99.3	308.3	516.9	1,624.5	1,056.1
Total	\$514.5 ^b	\$1,136.3	\$1,423.6 ^b	\$4,429.3	\$3,827.5
Expenditures					
Total	\$193.2	\$648.3	\$1,306.4	\$3,072.6	\$3,790.0

^aFiscal year is July 1 of one year to June 30 of the next.

^bNumbers do not add to total because of rounding.

Source: Arizona Department of Gaming.

Oversight Responsibilities

The Department of Gaming's oversight responsibilities include certification, monitoring, and enforcement. The Department is responsible for the certification of individuals and companies involved in gaming, the review of individual tribal members' applications, and monitoring to ensure that operations are conducted in compliance with the compacts.

Licensing

In Arizona, the compacts call for the tribe to license and the state to certify. The Department certifies non-tribal individuals seeking employment in the gaming industry, manufacturers and suppliers of gaming services, distributors of gaming devices, and management contractors. The tribe licenses these same individuals and companies. However, the tribe is not bound to issue a license if a state certification has been issued. The Department does not certify tribal members. Instead, the state issues a recommendation for licensing on the tribal member. Furthermore, if an individual tribal member is denied a state recommendation, the tribe may allow this person to work at its casino without a state recommendation. The state may appeal the decision at an appropriate tribal forum, and the decision of the tribal forum is final. While this individual would be able to work at a casino gaming operation of his or her tribe, this individual would not be able to work at a different tribe's casino gaming operation without state certification. According to the Department, under the compacts, the gaming facility operators cannot

employ someone who has been convicted of any felony or gaming offense and must terminate any such employee if already employed. Tribal licenses and state certifications are effective for 1 year from the date of issuance. The compact allows tribes to set their fees for licensing and prescribes the state's fees for certification shown in table III.3.

Table III.3: Fees for State Certification in Arizona

Type of certification	Initial fee	Renewal fee
Gaming employees and provider of gaming services	\$150	\$75
Management contractor and/or financier	\$1,500	\$500
Manufacturers and suppliers of gaming devices	\$1,500	\$500

Note: The total cost of the background investigation is borne by the applicant. If the actual cost exceeds the certification fee, payment in full is required prior to state certification.

Source: Arizona Department of Gaming.

Monitoring

According to the compacts, the primary responsibility for the on-site regulation, control, and security of the gaming operation is that of the tribal gaming agency. The Department has the authority to monitor the gaming operation to ensure that the operation is conducted in compliance with the compact's provisions and conducts regular inspections of facilities to verify compact compliance. The Department has unrestricted access to public areas but generally must provide notice to enter nonpublic areas. The Department has access to records of the gaming operation and reviews employment records to verify certification status and workpapers prepared for the annual financial audit. The tribe has access to the Department's records on the tribe's casino gaming. Table III.4 shows selected monitoring activities and the frequency of the monitoring performed by the state gaming agency.

Table III.4: Selected Monitoring Activities for Indian Casino Gaming in Arizona

Monitoring activity	Performed by state gaming agency	
	(Y)es/(N)o	How often
On-site presence during operating hours	Y	Weekly
Compliance with compact provisions	Y	Ongoing
Formal inspection or observation of operation	Y	Every 1.5 years ^a /ongoing
Informal inspection or observation of operation	Y	Ongoing
Review of annual financial report	Y	Annually
Compliance with internal control systems	Y	Weekly
Audit of gaming operation records	Y	Periodically
Verification of slot machine computer chip ^b	Y	Ongoing
Review of gaming operator's surveillance	Y	Ongoing
Observation of money count	Y	Annually
Monitoring for safety and health	Y	Ongoing
Verification of funds (net win) for state payments	N	N/A ^c

^aAccording to the Department, a formal inspection is a detailed compact compliance review and report of the internal control systems and is performed every 18 months; the formal observation of the operation is on a weekly, ongoing basis.

^bThis chip is the brain of the machine.

^cN/A = not applicable.

Source: Arizona Department of Gaming.

Enforcement

According to the Department, the tribes and the Department have dual responsibilities for ensuring compliance with the compact. The tribe investigates reported violations of the compact provisions and sends copies of the investigative report to the state. In turn, the Department conducts an independent investigation of the reported violations. If the violation is committed by a non-tribal employee or a vendor certified by the Department, the Department may suspend or revoke its certification. If the violation is committed by the gaming operation, the only remedy available to the Department under the compact is to file suit in federal district court to enjoin the gaming activity. The compact does not provide the Department the ability to assess fines or penalties, seize illegal equipment, or resolve patrons' disputes.

Critical Regulatory Elements

The Director, Arizona Department of Gaming, stressed the cash-intensive nature of the industry and identified three critical elements for regulating

gaming: (1) a truly independent regulatory body; (2) licensing, reporting, and audit requirements; and (3) minimum levels for internal controls.

First, according to the Director, the body that provides oversight must be truly independent and should not be composed of individuals who have an interest in the gaming industry. This body should have broad enforcement authority that should include investigative authority, criminal jurisdiction, subpoena authority, the authority to assess civil fines, and the ability to close noncomplying gaming facilities. Due process requirements must be provided, as well.

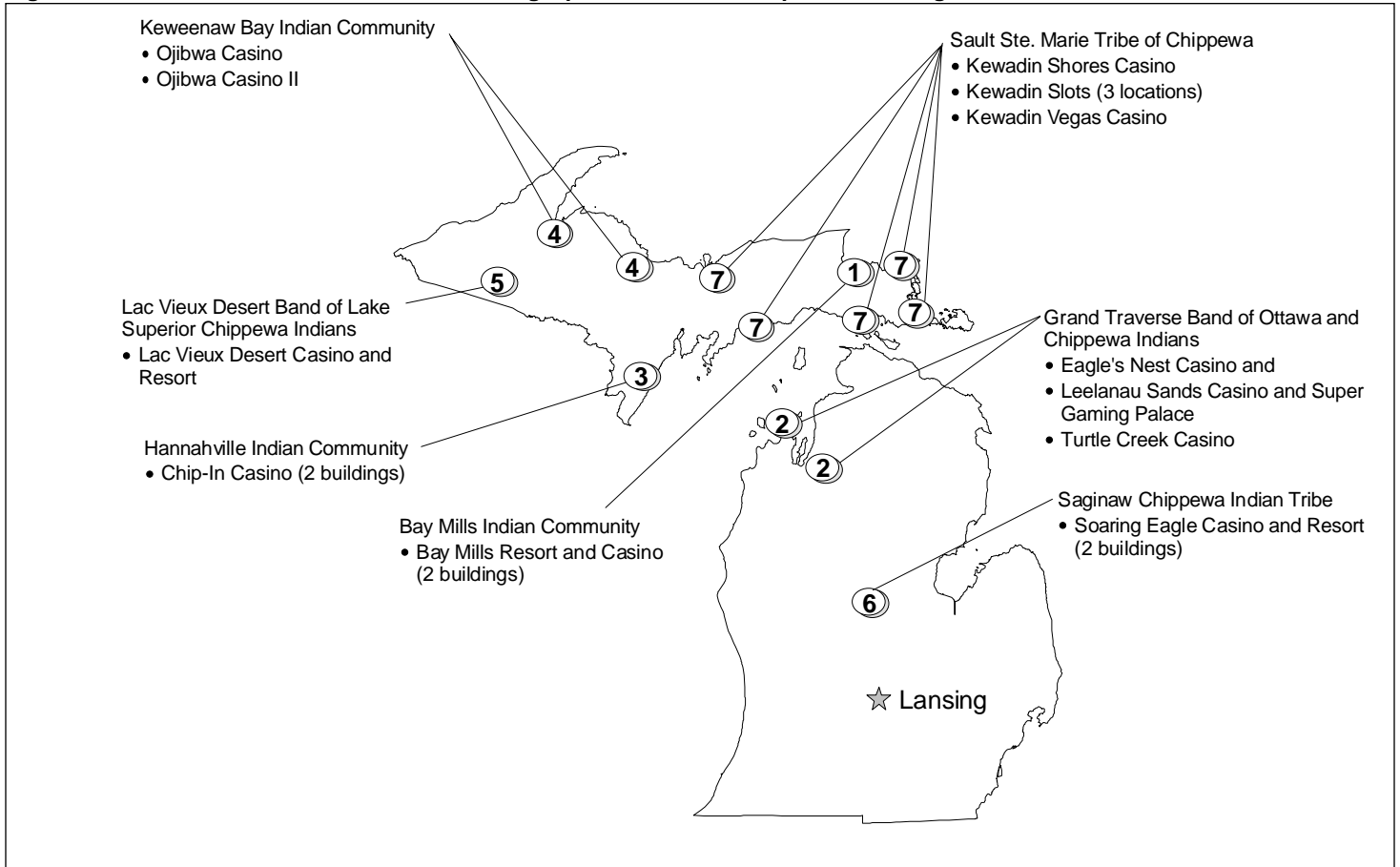
Second, a licensing component should be included for the independent regulatory body to conduct background/financial investigations of individuals employed in the industry and companies seeking to conduct business with gaming facilities. The Director said that these investigations are extremely useful in identifying and deterring organized crime influences within the industry. Gaming revenues should be reported to the independent regulatory authority, and this authority must be able to conduct independent audits of the gaming facilities. Finally, the independent regulatory authority should be able to establish minimum internal controls for the handling and protection of assets and enforce compliance with these internal controls.

Michigan

Until recently, tribal gaming was the only legalized casino gaming in the state. Non-Indian casino gaming is expected to begin in 1999 as a result of the passage of a voter referendum to allow private casino gaming in the state. Tribal gaming began in Michigan in the early 1980s with high-stakes bingo games, but compacts were not entered into until 1993, when seven tribes signed compacts with the state. As of December 1997, the 7 tribes, of the state's 11 tribes that are currently federally recognized, operate a total of 17 separate casinos. (See fig. IV.1.) Two of the 17 casinos were the subject of pending litigation over whether the casinos are located on approved tribal lands. The four other tribes have attempted to enter into compacts with the state to open casinos. While the Governor has signed these compacts, the compacts have not been approved by the legislature.

**Appendix IV
Michigan**

Figure IV.1: Distribution of Indian Casino Gaming Operations With Compacts in Michigan



Note: Because of differences in the way they count gaming operations, Michigan identified 17 casino gaming operations, while the National Indian Gaming Commission identified 15.

Source: Michigan Gaming Control Board.

Approved games under the compact include dice and wheel games, banked card games, and slot machines, among others. The tribes determine any limitations, such as the number of games, hours of operations, and limits on wagers. The annual gross gaming receipts of the tribes in Michigan cannot be reported because tribal revenues are not public information.

Organizational Structure and Staffing

With the advent of non-Indian gaming, the state is establishing a much larger regulatory infrastructure that will include the responsibility for non-Indian gaming. Responsibility for oversight of the compacts originally resided with the Office of Racing Commissioner. It was recently transferred to the newly created Michigan Gaming Control Board, which was established in late 1997 to regulate the recently approved non-Indian gaming. The Board's mission is to properly license and regulate the conduct of private commercial casino gaming activities and to closely monitor the compliance of Native American casino operations with the compacts in order to protect the best interests of the state and its residents and ensure that such gaming activities and operations are conducted in an honest and lawful manner.

The Board is headed by an Executive Director, who is appointed by the Governor. It is comprised of three divisions: the Administrative Services Division, Audit and Financial Services Division, and Licensing and Compliance Division. When fully staffed, the Board will have 48 full-time-equivalent¹ staff. An additional 55 state troopers will be assigned by the Michigan State Police to assist the Board, as will five attorneys from the Office of the Attorney General.

Indian gaming oversight, although virtually the same as before the new organization, is the responsibility of the Indian Gaming Oversight Section, which reports to the Administrative Services Division. The section consists of the same two gaming specialists—one functions as a regulatory officer who has been in this position since 1993 and the other, as an auditor who has been in this position since 1995. They report to the Deputy Director of the Administrative Services Division.

Funding

Michigan is reimbursed for its actual oversight costs of Indian casino gaming at \$175,000 a year and also receives revenue-sharing funds from certain tribal gaming activities. A provision in the compacts requires each of the tribes to submit \$25,000 annually to the state for reimbursement of the actual costs incurred by the state in conducting its oversight responsibilities. With seven tribes, this payment currently totals \$175,000 in billings and provides the total annual funding for the Indian Gaming Oversight Section. The total expenditures to support the wages and benefits of the two staff members are divided equally among the seven tribes. Since the first casino opened December 1993, the first payment year

¹A full-time equivalent equals the number of hours worked divided by the number of compensable hours in a fiscal year.

was 1994. Any amounts not expended are returned to the tribes. Although funds were returned to the tribes the first 2 years, no funds have been returned since 1995. If the state incurs costs above the \$25,000 limit, the compacts, which are in effect for 20 years, do not contain any provision for increasing the amount above \$25,000.

According to the Michigan Gaming Control Board, the tribes are also required by a federal court consent judgment and order² to pay the state 8 percent of their net win from the electronic video gaming and slot machines operated at the tribal casinos—about \$38 million in calendar year 1997. (The net win is the amount wagered at each machine minus the payout to the players.) This money is deposited in the state’s Strategic Fund. As part of this agreement, the tribes were given the exclusive right to operate electronic games of chance in Michigan. If this right is rescinded, the tribes’ obligation to make these payments ceases. Thus, when the non-Indian casinos open with their electronic video gaming and slot machines, which, according to Board officials, is anticipated sometime in 1999, the tribes at that time will no longer be required to pay the 8 percent. Table IV.1 shows the increases in expenditures and additional revenues over the years.

Table IV.1: Michigan Gaming Control Board’s Expenditures and Additional Revenue, Fiscal Years 1994-97

Dollars in thousands		
Fiscal/calendar year ^a	Expenditures	Additional revenue ^b
1994	\$17	\$14,053
1995	\$167	\$25,850
1996	\$175	\$31,888
1997	\$175	\$38,061

^aExpenditures are for fiscal year October 1 to September 30; revenue is for calendar year.

^bExcludes locality payments, required by a federal court consent judgment and order, that the tribes make to local units of government affected by gaming in their area. The locality payments are not contingent upon the tribes having exclusive right to operate electronic games of chance in Michigan.

Source: Michigan Gaming Control Board.

Oversight Responsibilities

The compacts in Michigan provide that the regulation of Indian casino gaming is the responsibility of the tribe. Michigan recognizes the tribes as individual sovereign nations and therefore has no regulatory authority

²In an effort to reach final agreement on a compact, the state and tribes entered into a consent judgment in U.S. District Court. The consent decree gave the state and the tribes a vehicle outside the compacts that would allow for payments to the state.

over the tribal casinos in the state. This policy is made public by requiring the tribe to post a sign at each casino gaming facility stating that Michigan does not regulate this facility. Regulatory activities, such as licensing, and business decisions as to the numbers of machines and hours of operation are left to the tribes.

Licensing

The state does not license the various Indian gaming entities and employees. According to the compact, the tribes are responsible for licensing and background investigations. However, the compacts do stipulate certain conditions. For example, in licensing suppliers, no casino games of chance, gaming equipment, or supplies may be used unless they meet the technical equipment standards of either Nevada or New Jersey. The compacts also stipulate that upon written request from the state, the tribes will provide information on personnel, suppliers, and others sufficient to allow the state to conduct its own background investigation as it may deem necessary and to make an independent determination as to the suitability of the individuals.

Monitoring

Although the state does not regulate Indian casino gaming, the state does have monitoring responsibilities, which Board officials refer to as oversight. The compacts provide for the state to inspect all tribal casino gaming operations and records to determine compliance with the compacts. The state inspects the various records that the tribes are required to maintain. For example, it may review revenues, expenses, daily cash transactions, audits prepared by or on behalf of the tribe, and personnel information. The state also reviews the tribes' submittals of semiannual financial questionnaires with their payments and reports of what they have done during the last 6 months, such as any procedural or key personnel changes. As part of its audit function, the state audits all of the tribal casinos' electronic gaming operations to ensure that the tribes have made their required payments to the state. According to Board officials, staff schedule at least one visit each quarter to all of the tribal casinos. Table IV.2 shows selected monitoring activities and the frequency with which they are performed by the state gaming agency.

Table IV.2: Selected Monitoring Activities for Indian Casino Gaming in Michigan

Monitoring activity	Performed by state gaming agency	
	(Y)es/(N)o	How often
On-site presence during operating hours	Y	At least quarterly
Compliance with compact provisions	Y	At least quarterly
Formal inspection or observation of operation	Y	At least quarterly
Informal inspection or observation of operation	Y	At least quarterly
Review of annual financial report	Y	Yearly
Compliance with internal control systems	Y	At least quarterly
Audit of gaming operation records	Y	Yearly
Verification of slot machine computer chip ^a	Y	At least quarterly
Review of gaming operator's surveillance	Y	At least quarterly
Observation of money count	Y	At least quarterly
Monitoring for safety and health	N	N/A ^b
Verification of funds (net win) for state payments	Y	Biannually

^aThis chip is the brain of the machine.

^bN/A = not applicable.

Source: Michigan Gaming Control Board.

Enforcement

The primary responsibility for enforcement rests with the tribes. The compacts contain no provision for the state to issue fines, seize illegal equipment, or suspend or revoke the licenses issued by the tribes. The state also is not responsible for resolving disputes with patrons. Although the state can ultimately suspend or shut down a gaming operation for a tribe's noncompliance with the compact, it must seek an injunction directing closure. However, when the state finds a tribe out of compliance, it generally tries to work with the tribe to obtain compliance, according to Michigan staff. The compact provides options for resolving compact disputes between the tribe and the state. Written notice identifying the relevant compact provision is required, and representatives of the state and tribe are to meet in an effort to resolve the dispute. If the dispute is not resolved, the state may serve notice to the tribe to stop the particular activity. The tribe may stop or continue the activity and request arbitration.

Critical Regulatory Elements

In responding to our request for views on critical elements in regulating tribal gaming, the Executive Director of Michigan's Gaming Control Board pointed out that Michigan does not have true regulatory authority over

tribal casinos in the state. Rather, the state's role has been largely oversight in nature. Nevertheless, he cited cooperation between the state and tribe as critical, regardless of whether the authority is oversight or regulatory.

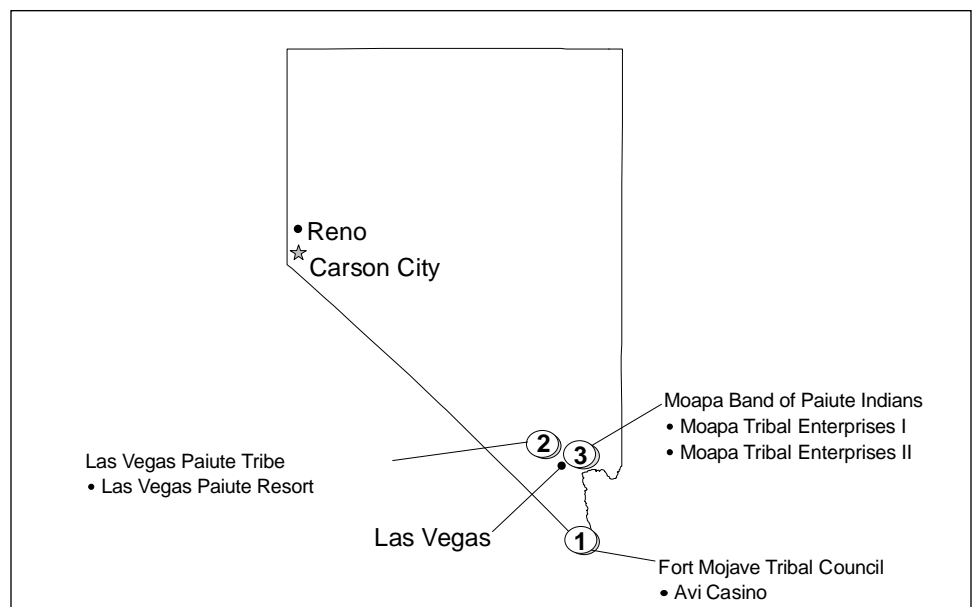
The Executive Director also explained that testing and sealing electronic gaming machines with specially designed security tape, coupled with periodic casino inspection visits and audits, have enabled the Michigan oversight program to effectively protect the state's interests. The testing and sealing program typifies the cooperative and respectful relationship that exists between the oversight staff and the tribes because the tribes cooperate although they are not required to do so. The program also serves to protect both the state's and tribes' interests by enhancing public confidence in the integrity of tribal gaming operations in the state.

If Michigan were to regulate tribal gaming, according to the Executive Director, it would be essential to have the authority to effectively police and enforce the activity. As such, it would be possible to conduct unannounced inspections (currently, unannounced inspections are restricted to public areas of the casinos) and unannounced audits. Enforcement authority would also allow for penalties for noncompliance and would eliminate the delays that accompany litigation in federal court, which is the only current remedy for dispute resolution. Ultimately, however, such efforts would be ineffective without tribal-state cooperation.

Nevada

Gaming has been present in Nevada for most of the last 100 years. Nevada began its modern era of legalized gambling in 1931 and later, in 1955, inaugurated a policy to eliminate the undesirable element in Nevada gaming and provide gaming regulations. One of the 19 federally recognized tribes entered into the first compact with the state in 1987. Although compacts with six Indian tribes have been approved, only three tribes were operating four gaming facilities as of December 1997. (See fig. V.1.) The remaining tribes had not yet opened facilities.

Figure V.1: Distribution of Indian Casino Gaming Operations With Compacts in Nevada



Source: Nevada Gaming Control Board.

Most casino-type gaming is allowed in Nevada. As of December 1997, Nevada had approximately 2,425 licensed gaming operations; about 80 percent of them consisted of 15 or fewer slot machines. The gross gaming revenue in Nevada for fiscal year 1997 was \$7.6 billion. Nevada’s tribal revenue is considered confidential, however, because the disproportionate share of the revenue for one of the four tribal operations would have the effect of releasing confidential revenue figures for a single licensee.

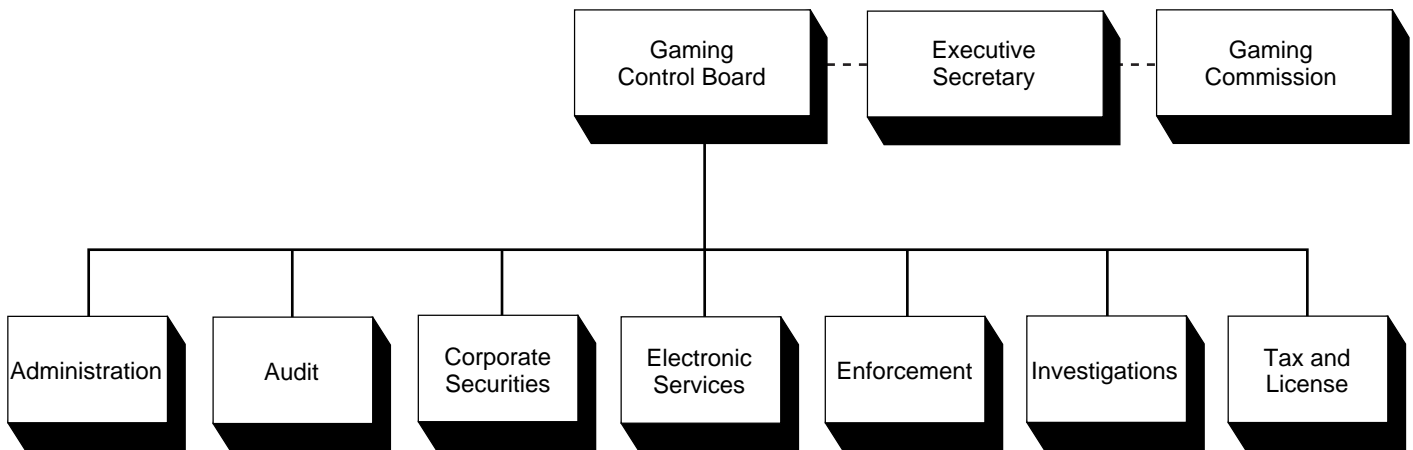
Organizational Structure and Staffing

Nevada’s gaming regulatory structure consists of the State Gaming Control Board, the Nevada Gaming Commission, and the Gaming Policy

Committee. The Gaming Control Board, a three-member body appointed by the Governor, is the regulatory, investigatory, and enforcement branch of the system. The mission of the Board is to regulate the state's gaming industry to ensure that gaming is conducted honestly, competitively, and free from criminal and corruptive elements; to foster the continued growth and success of gaming; and to ensure the collection of gaming taxes and fees, which are an essential source of state revenue. A five-member Gaming Commission, also appointed by the Governor, considers and acts upon the Board's licensing recommendations; it is the final authority in gaming matters. A nine-member Gaming Policy Committee is appointed by the Governor as an advisory group to the Board and Commission. It meets as necessary to examine gaming policies and to make recommendations to the Board and the Commission.

The Board has six operating divisions in addition to an administrative division that provides staff services. (See fig. V.2.)

Figure V.2: Organizational Structure of the Nevada Gaming Control Board



Source: Nevada Gaming Control Board.

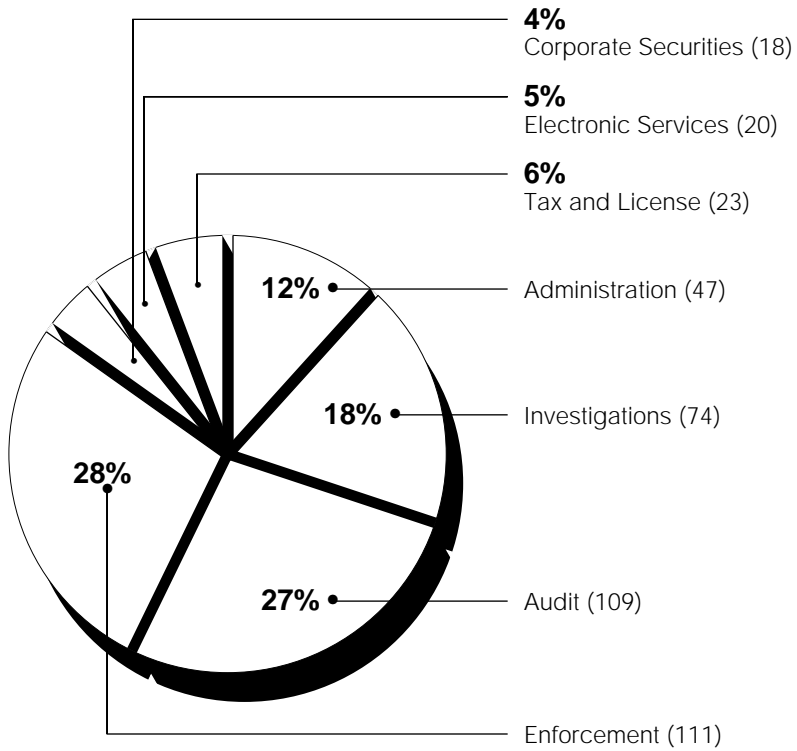
The six operating divisions and their responsibilities are as follows:

- The Audit Division audits the records of licensees to determine whether taxable gaming revenues have been properly reported and if the licensees have complied with the regulations.
- The Corporate Securities Division monitors, investigates, and analyzes activities of registered, publicly traded corporations and their subsidiaries.
- The Electronic Services Division tests and recommends gaming devices for approval or denial by the Board and Commission.
- The Enforcement Division is responsible for the enforcement of Nevada's Gaming Control Act and the regulations of the Board and Commission. The Division conducts inspections and investigates reported violations.
- The Investigations Division conducts in-depth background and financial investigations on all applicants for gaming licenses and for key employee positions.
- The Tax and License Division issues all state gaming licenses approved by the Commission and collects, controls, and accounts for all state gaming fees, taxes, fines, and penalties.

The Board's offices are located in Las Vegas, Carson City, or Reno, except for the Enforcement Division, which in addition to those three cities also has offices in Laughlin and Elko. Table V.3 shows the authorized full-time equivalent¹ (FTE) staffing for the divisions; over half of the total FTEs are assigned to the Audit and Enforcement Divisions.

¹A full-time equivalent equals the number of hours worked divided by the number of compensable hours in a fiscal year.

Figure V.3: Nevada Gaming Control Board's Fiscal Year 1997 Authorized FTEs, by Division

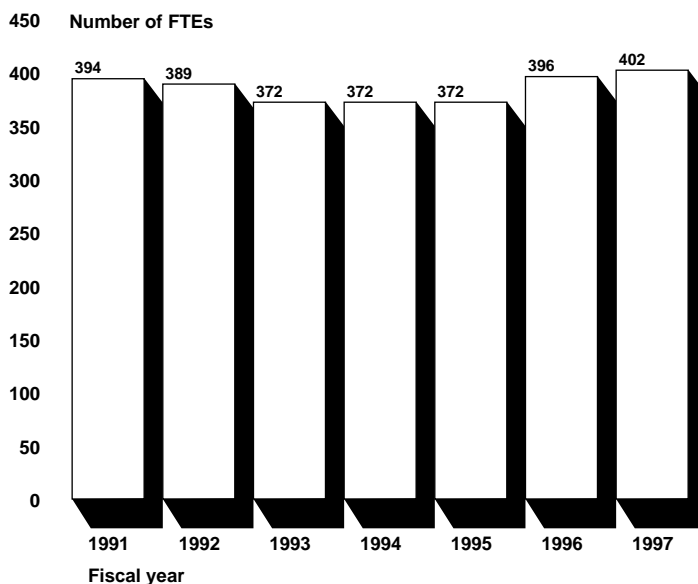


Note: Fiscal year is from July 1 of one year to June 30 of the next.

Source: Nevada Gaming Control Board.

The Gaming Control Board had 402 FTEs in fiscal year 1997, approximately half of whom are located in Las Vegas. The Board does not assign specific staff to Indian gaming. As shown in figure V.4, staffing over the last 7 years has remained fairly stable.

Figure V.4: Nevada Gaming Control Board's Authorized FTEs for Fiscal Years 1991-97



Note: Fiscal year is July 1 of one year to June 30 of the next.

Source: Nevada Gaming Control Board.

Funding

Nevada imposes various fees on its gaming industry. These fees are a source of revenue for the state, and the cost of the regulatory program is then funded from the state's general fund. For fiscal year 1997, the statewide gaming taxes and fees totaled about \$570 million. About \$22 million of that amount was used to fund the State Gaming Control Board and Nevada Gaming Commission.

Funding from Indian gaming is governed by the three different compacts with the tribes that operate casinos. As a result, the tribes agree to pay Nevada either (1) a fee of 1 percent of the gross revenue of the licensed gaming establishments located within the Indian reservation or (2) all reasonable costs incurred by Nevada for its oversight or regulatory activities. For non-Indian gaming, the state collects a monthly percentage fee based on gross gaming revenue. The fee ranges from 3 percent to 6-1/4 percent, depending on the amount of the revenue. Additional revenue that the state collects from non-Indian gaming comes from such sources as annual taxes and quarterly license fees for slot machines and other games. For example, a gaming establishment with 1 game is assessed \$100

annually, while an establishment with 16 games is assessed \$1,000 for each game. Revenue also comes from applicants who bear the entire cost of pre-licensing investigations; and the funds, which are prepaid, cannot be refunded, even if the license is denied. This is true for both non-Indian and Indian gaming—that is, for the two tribes for which Nevada licenses.

The following table shows the revenues and expenditures over the last 7 fiscal years. Indian gaming expenditures and revenue are not provided. The Nevada Gaming Control Board declined to release these figures because divulging them could be viewed as releasing confidential revenue figures for a single licensee because of the disproportionate revenue of one Indian gaming operation over the others.

Table V.1: Nevada Gaming Control Board's Expenditures and Additional Revenue, Fiscal Years 1991-97

Dollars in millions		
Fiscal year ^a	Expenditures	Additional revenue ^b
1991	\$19	\$400
1992	\$19	\$410
1993	\$19	\$436
1994	\$18	\$480
1995	\$19	\$502
1996	\$21	\$545
1997	\$22	\$548

^aFiscal year is July 1 of one year to June 30 of the next.

^bAdditional revenue is the total revenue collected minus the amount used for expenditures.

Source: Nevada Gaming Control Board.

Oversight Responsibilities

Nevada regulates all non-Indian casino gaming in the state, but its regulatory responsibilities over Indian casinos vary according to the three different compacts. Under two of the compacts, the state basically regulates the Indian casino as it does non-Indian gaming. The tribe transfers to the state its civil and criminal jurisdiction—except for taxing authority—for licensing and regulation, together with the authority to enforce all of Nevada's gaming laws and regulations. Under the third compact, which permits only slot machines, the facility is generally regulated by the tribe as long as it is operated only by tribal members. However, the slot machines are limited in number, must meet state standards, and must be acquired and disposed of through a state-licensed

distributor. The tribe is also required to post a sign that indicates that the facility is not licensed by the state.

Licensing

Under one compact, the tribe licenses the applicants but agrees not to hire any non-tribal members until the state makes a suitability determination. Under the other two compacts, the tribes transfer their jurisdiction to the state to license. Except for the one compact, the state licenses all establishments where gaming is conducted and where gaming devices are operated, as well as manufacturers, sellers, and distributors of certain gaming devices and equipment. In addition, it licenses key employees of the gaming industry and issues work permits to casino employees. Licenses are valid for an indefinite period of time, and the costs for the licenses, which the state considers confidential, cover the investigative fees only.

The Nevada Control Board conducts in-depth background and financial investigations on all applicants for gaming licenses and for key employee positions to determine their viability, business integrity, and suitability. The license for a gaming device requires the Electronic Services Division to examine, test, and recommend approval or denial. Licensing decisions are made by the Gaming Commission at public meetings held once each month, and licenses are issued by the Tax and License Division. Work permits to ensure the suitability of all gaming employees are reviewed and issued by the Board.

Monitoring

The Nevada Control Board is also responsible for monitoring various aspects of the gaming industry, including Indian gaming, depending on the individual compacts. For one compact, the Board conducts random inspections of slot machines and provides other assistance at the request of the tribe. Also, as part of its monitoring, the Board requires various reports from the tribe, including an independent accountant's report of the gaming operation's financial statements. For the other two compacts, the Board monitors the Indian gaming operations as it does non-Indian operations. It conducts inspections as well as undercover observations of gaming activities. The Board also investigates post-licensing, non-routine gaming problems, such as hidden ownership interests in casinos, organized crime involvement in Nevada, and intelligence gathering. The Board's Enforcement Division is staffed or on-call 24 hours a day, 7 days a week at all five offices (Las Vegas, Reno, Elko, Laughlin, and Carson City).

The Board audits the accounting records of licensees to determine if taxable gaming revenues have been properly reported and if the licensees

have complied with the regulations. It uses information provided by the licensees' independent accountants to supplement its own monitoring efforts. The length of the audit cycle for the largest gaming operations is about 3 years. However, the Board also uses a regulatory risk evaluation system to determine the nature and frequency of contacts with each licensee. Factors include the licensee's history of noncompliance, gross gaming revenue, and financial condition, among other things.

The Board also monitors stockholder lists for stockholders with holdings large enough to be considered a controlling interest. It inspects gaming devices in its laboratory and in the field to ensure continued integrity and assists in resolving gaming patrons' disputes through analysis of device electronics. Table V.2 shows selected monitoring activities and the frequency with which they are performed by the Board for the two tribes that transfer their jurisdiction to the state.

Table V.2: Selected Monitoring Activities for Selected Indian Casino Gaming in Nevada

Monitoring activity	Performed by state gaming agency	
	(Y)es/(N)o	How often
On-site presence during operating hours	Y	Periodically
Compliance with compact provisions	Y	Periodically
Formal inspection or observation of operation	Y	Periodically
Informal inspection or observation of operation	Y	Weekly
Review of annual financial report	Y	Annually
Compliance with internal control systems	Y	Periodically
Audit of gaming operation records	Y	3 years
Verification of slot machine computer chip ^a	Y	Periodically
Review of gaming operator's surveillance	Y	Weekly
Observation of money count	Y	Periodically
Monitoring for safety and health	Y	Periodically
Verification of funds (net win) for state payments	Y	Periodically

^aThis chip is the brain of the machine.

Source: Nevada Gaming Control Board.

Enforcement

Two compacts allow for transfer to the state of such criminal jurisdiction as may be necessary to enforce the gaming regulations. Nevada's gaming regulations allow enforcement actions for various violations, and certain state gaming agents have the powers of peace officers. The state can suspend gaming operations, suspend or revoke the license of any

establishment or person, seize illegal equipment, and resolve patrons' disputes. In addition, the state may also assess a fine of not less than \$25,000 or more than \$250,000 for each separate violation of the gaming regulations.

Under the remaining compact, the tribe has the enforcement responsibilities. However, in connection with any violation of the compact, the compact provides for resolution of disputes between the state and tribe, including mediation and arbitration. And the state can seek an injunction directing closure of the gaming facility.

Critical Regulatory Elements

According to the Chairman of Nevada's Gaming Control Board, critical regulatory elements involve a balance of two issues in its public policy on gambling. On the one hand, the gaming industry is vital to Nevada's economy, and the state must ensure that regulatory efforts do not needlessly hamper the furtherance of the industry. At the same time, the success of gaming requires public confidence that gaming is conducted honestly and free from corruptive and criminal elements. Such confidence can only be maintained by strict regulation of all gaming operations as well as the manufacturers and distributors of gaming devices.

To be effective, the Chairman noted, the regulatory body must maintain independence from the gaming industry. Adequate staff must also be provided to the regulatory body. According to the Chairman, one cannot over-emphasize the need for qualified individuals to test and inspect gaming devices and without whom it would be impossible to ensure the integrity of the gaming devices in play. It is also vital that employees of the regulatory organization be permitted free access to any licensee's operation 24 hours a day. Such access is necessary to maintain assurance that proper procedures are being followed when regulatory personnel are not present, and establishing the statutory authority to enforce this access is critical.

To ensure the legitimacy of individuals connected with the gaming industry, the Chairman said that Nevada focuses intensely on whom it allows into the industry and considers the preclicensing investigation as the cornerstone of Nevada's gaming regulation. The audit function relies on minimum internal control standards and reports of independent accountants and uses a regulatory risk evaluation system to determine the nature and frequency of contacts with each licensee. He also said that a critical aspect of the audits includes the authority to promulgate internal

controls. Finally, the enforcement arm must have the legal authority to discipline gaming licensees for noncompliance with gaming regulations and statutes, serve as a neutral third party when resolving patrons' or casinos' complaints, and pursue aggressive prosecution of cheating crimes to protect the revenue as well as act as a deterrent.

New Jersey

In November 1976, voters in New Jersey approved a referendum proposal authorizing casino gambling in Atlantic City. According to the New Jersey Casino Control Act,¹ the law that governs the casino industry in New Jersey, casinos are not to be an industry unto themselves. Instead, in keeping with Atlantic City's traditional emphasis on tourism and the convention industry, the casinos are to be associated with major hotel and convention facilities.

In 1978, when the first casino opened in Atlantic City, gross gaming revenues were about \$134 million. In December 1997, after almost 20 years of casino operations, Atlantic City had 12 casinos and remains the only location in New Jersey with casinos. Casino win² for the casinos totaled \$3.9 billion in 1997 from slot machines and table games.³ New Jersey has no federally recognized Indian tribes and, thus, no Indian casino gaming.

Organizational Structure and Staffing

In an April 1977 report on casino gambling, the New Jersey State Commission of Investigation recommended that the regulation of casino gambling be a two-tier system. This system was to consist of a decision-making, rule-making, hearing body and an investigative and law enforcement body. The decision-making, rule-making, hearing body became the Casino Control Commission, while the investigative and law enforcement body became the Division of Gaming Enforcement.

Casino Control Commission

The Casino Control Commission is the agency of the state government responsible for regulating Atlantic City's casino gaming industry. The Commission is made up of five members—a chairman and four commissioners appointed to 5-year terms by the Governor with the advice and consent of the State Senate.

The Commission determines the granting, suspension, revocation, and renewal of all licenses,⁴ registrations, certificates, and permits and

¹New Jersey P.L. 1977, c.110, as amended.

²The amount the casinos retain after all bets have been paid but before any operating or other expenses have been paid.

³In December 1997, Atlantic City had 12 casinos with 35,057 slot machines and 1,473 table games such as blackjack, poker, roulette, and craps. In December 1990, 12 casinos had 21,186 slot machines and 1,355 table games.

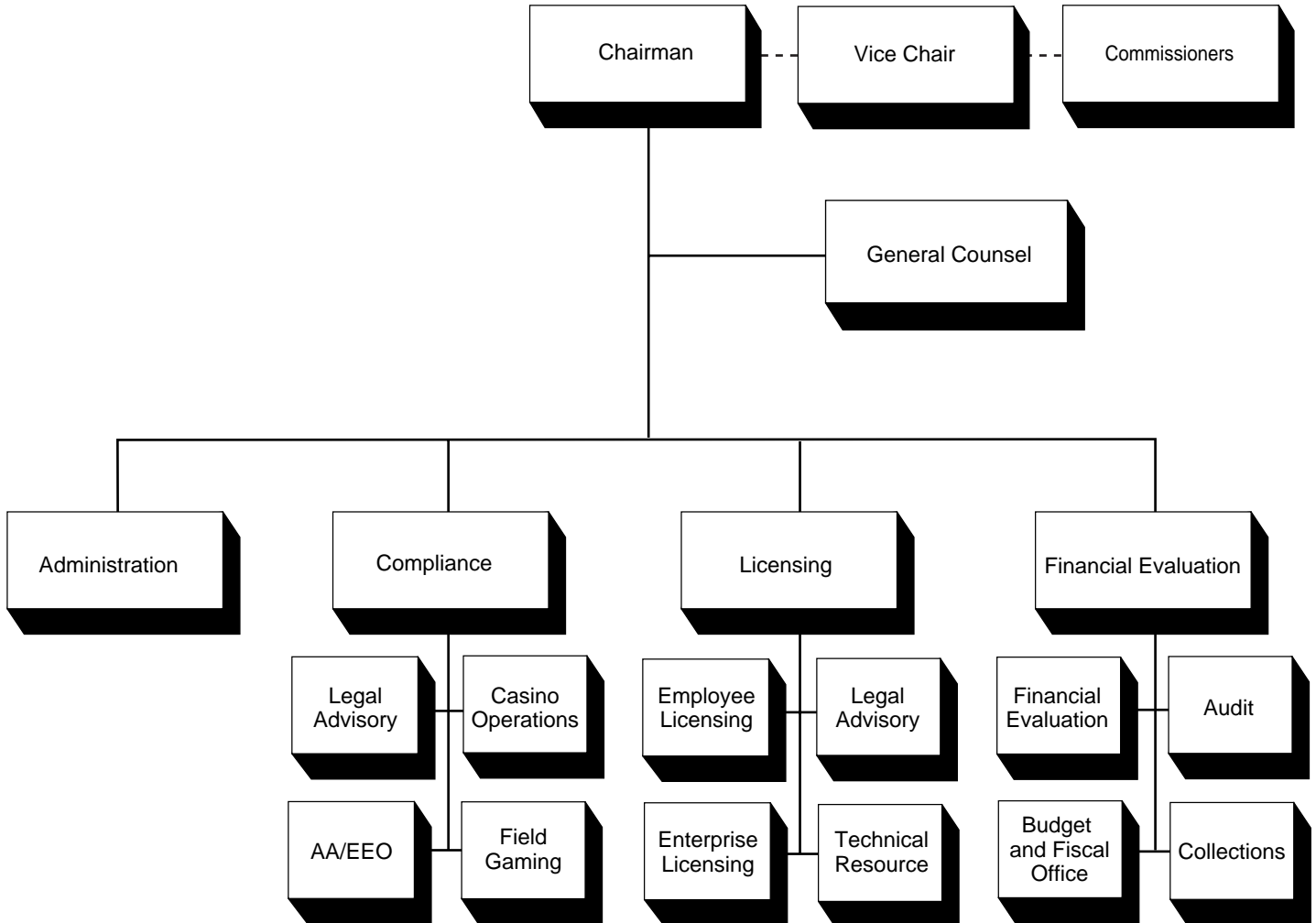
⁴Includes Casino Hotel Alcoholic Beverage licenses. While the Division of Alcoholic Beverage Control is responsible for licensing elsewhere in the state, the Commission has this responsibility for the casinos.

promulgates regulations. It holds hearings⁵ and can levy penalties on civil violations of the Casino Control Act or regulations promulgated under the act and collects fees, taxes, and penalties assessed.

In addition to its Office of the General Counsel, the Commission has four operating divisions. These are the Division of Compliance, the Division of Financial Evaluation, the Division of Licensing, and the Division of Administration. The divisions are staffed by a variety of professionals, including auditors and financial analysts. In addition, a staff of inspectors is in each casino around the clock. Figure VI.1 shows the Commission's organizational structure.

⁵All parties in actions before the Commission have a right of appeal that begins in the Appellate Division of the New Jersey Superior Court.

Figure VI.1: Organizational Structure of the New Jersey Casino Control Commission



Note: AA/EEO = Affirmative Action/Equal Employment Opportunity.

Source: New Jersey Casino Control Commission.

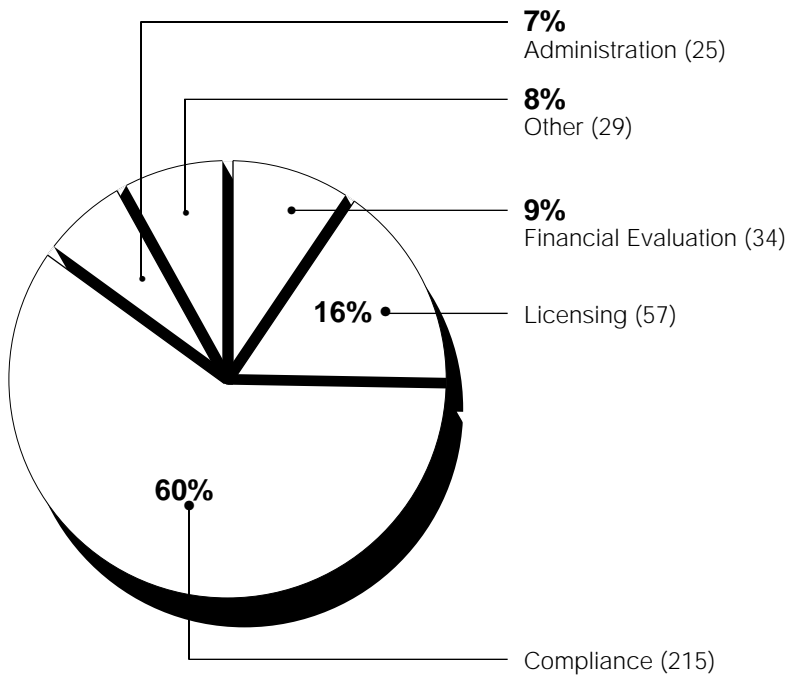
The Division of Compliance develops and revises regulations under which the casinos operate and monitors the casinos' compliance with gaming rules and regulations and internal controls. The Division of Financial

Evaluation is responsible for ensuring the integrity of financial controls in casinos, tracking casinos' revenues, and making sure that all of the appropriate taxes and fees are paid. It also analyzes the financial stability of casino operators and collects fines, penalties, or other assessments imposed by the Commission. The Division of Licensing is responsible for handling initial and renewal applications for casino employees and casino service industries, tracks dealings with companies permitted to do business with casinos, handles most of the contested cases, and promulgates regulations affecting licensing issues. The Division of Administration provides support services to the Commission.

The Commission also establishes affirmative action requirements for casinos, certain licensees, and construction contractors and subcontractors for hiring women, minorities, and persons with disabilities. It also establishes affirmative action requirements for the purchase of goods and services from minority-owned and women-owned business enterprises.

In fiscal year 1997, the Casino Control Commission had a total of 360 staff. Figure VI.2 shows the staffing, by division, for fiscal year 1997.

Figure VI.2: New Jersey Casino Control Commission Staffing, by Division, at the End of Fiscal Year 1997



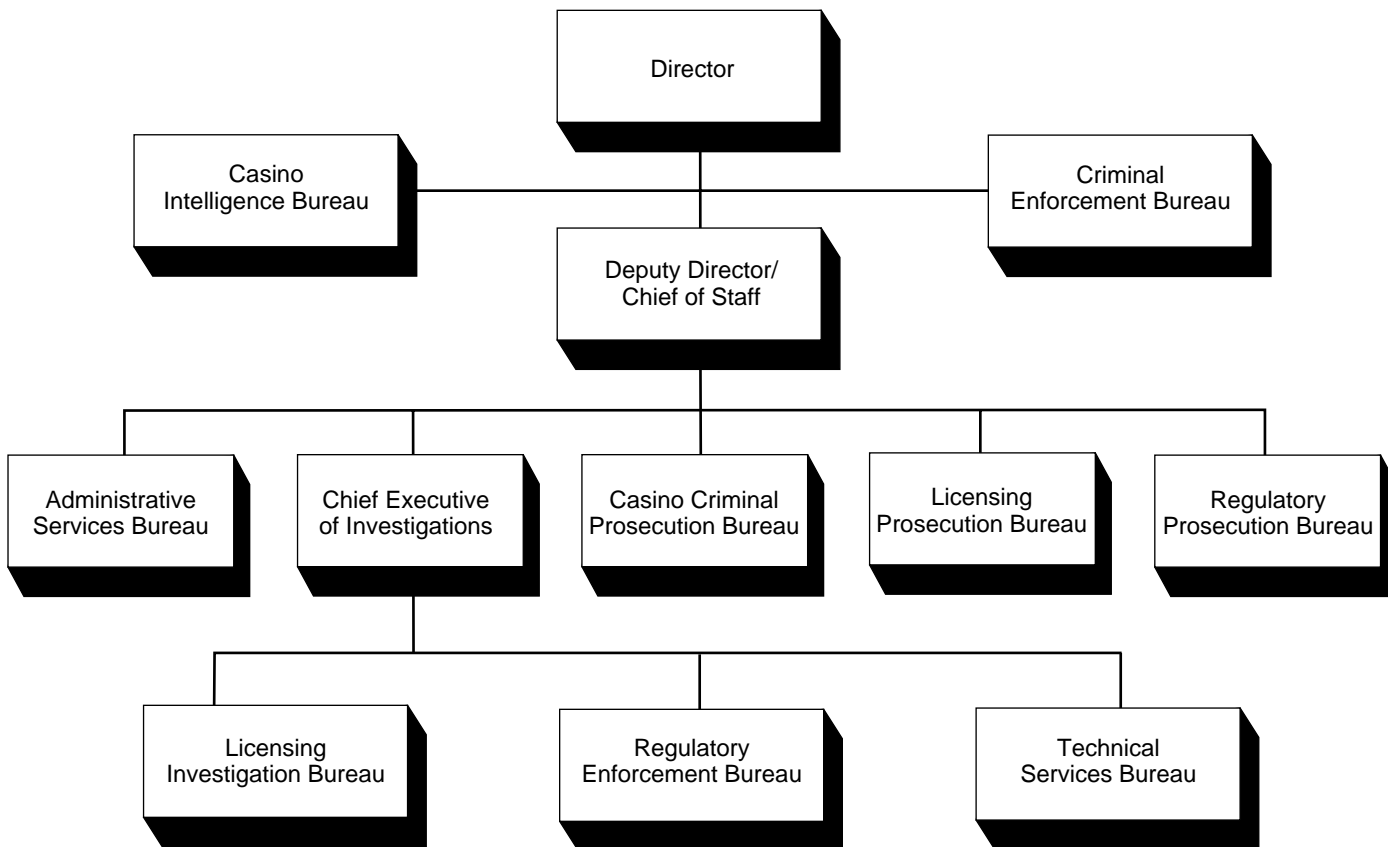
Note: Fiscal year is July 1 of one year to June 30 of the next.

Source: New Jersey Casino Control Commission.

Division of Gaming Enforcement

The Division of Gaming Enforcement is a law enforcement agency within the Department of Law and Public Safety. It is headed by a Director appointed by the Governor with the advice and consent of the State Senate and serves during the Governor's term of office. The Division is charged with carrying out the investigations necessary for the licensing of casinos, their employees, and the service industries that do business with them, ensuring integrity, monitoring casino operations, and scrutinizing gaming. The Division has investigatory and prosecutorial functions and is staffed by attorneys, investigators, and state police. The Division performs investigations and then prosecutes the case before the Casino Control Commission, which then may grant or revoke a license or assess fines and/or penalties. The Division prosecutes criminal violations of the Casino Control Act, except those it refers to the Division of Criminal Justice. Figure VI.3 shows the Division's organizational structure.

Figure VI.3: Organizational Structure of the New Jersey Division of Gaming Enforcement



Source: New Jersey Division of Gaming Enforcement.

The Licensing Investigation Bureau conducts background investigations to ensure that casino employees, casino entities, and service industries do not have links to organized crime and meet the standards of employment established by law, including financial stability, integrity, and good character. The Criminal Enforcement Bureau enforces New Jersey’s criminal statutes and the provisions of the Casino Control Act. The Regulatory Enforcement Bureau provides continuous oversight of the revenues from casino gaming and is responsible for ensuring the integrity of the casino games, accounting, and internal controls. In addition, this

Bureau enforces the state’s alcoholic beverage control rules and regulations. The Division also has three bureaus with prosecution responsibilities—the Licensing Prosecution Bureau, the Casino Criminal Prosecution Bureau, and the Regulatory Prosecution Bureau. The Technical Services Bureau is responsible for ensuring the integrity of slot machines and electronic games in Atlantic City. It operates a slot machine laboratory to test machines and provides technical assistance to others. The Casino Intelligence Bureau oversees and directs all intelligence for licensing, regulatory, and criminal matters. Finally, the Administrative Services Bureau provides support for the division. Table VI.1 provides staffing for the various bureaus within the Division as of the end of fiscal year 1997.

Table VI.1: New Jersey Division of Gaming Enforcement Staffing at End of Fiscal Year 1997

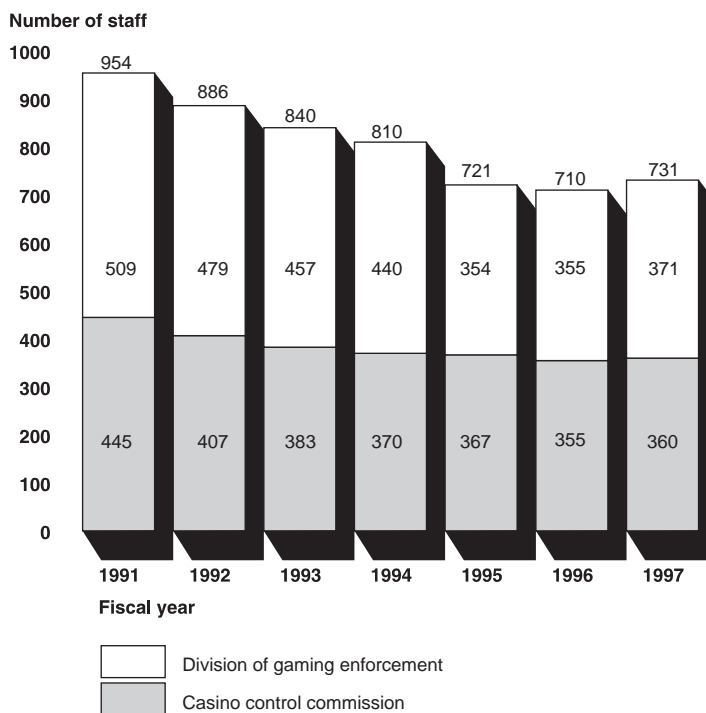
Bureau	Number of staff
Licensing Investigation	146
Licensing Prosecution	27
Criminal Enforcement	75
Casino Criminal Prosecution	14
Regulatory Enforcement	23
Regulatory Prosecution	8
Technical Services	20
Casino Intelligence	14
Administrative Services	36
Other - (Executive)	8
Total	371

Note: Fiscal year is July 1 of one year to June 30 of the next.

Source: New Jersey Division of Gaming Enforcement.

From fiscal years 1991 through 1997, total staffing for casino regulation in New Jersey decreased. Figure VI.4 provides end-of-fiscal-year staffing for the Casino Control Commission and the Division of Gaming Enforcement.

Figure VI.4: New Jersey Casino Control Commission and Division of Gaming Enforcement's End-Of-Year Staffing, Fiscal Years 1991-97



Note: Fiscal year is July 1 of one year to June 30 of the next.

Source: New Jersey Casino Control Commission and Division of Gaming Enforcement.

Funding

The money needed to regulate casinos in New Jersey comes from licensing fees and assessments charged to the casino industry. No tax money is used to support either the Casino Control Commission or the Division of Gaming Enforcement. In addition, the state collects 8 percent of the gross revenues from Atlantic City casinos, which goes into the Casino Revenue Fund.⁶ In 1997, this fund received about \$308 million. Civil penalties collected are used to fund programs related to compulsive gambling. Should the penalties collected exceed \$600,000, the additional amount collected goes to the Casino Revenue Fund.

⁶The Casino Revenue Fund was established in 1977 as a separate fund dedicated to programs that benefit senior citizens and the disabled. The funds are turned over to the State Treasurer and are disbursed to authorized programs such as pharmaceutical assistance to the aged and disabled, utility payments, transportation aid, or real estate property tax reimbursements. From May 1978 through December 1997, \$3.77 billion was deposited into this fund.

The revenue needed to fund casino regulation comes from fees charged for casino licenses and other forms of licensure or approval and an annual \$500 per machine slot machine assessment. In addition, if revenues from the preceding sources are not sufficient to cover all expenditures, the state allocates the remaining costs among the casinos for payment. The moneys collected are deposited into the state of New Jersey Casino Control Fund,⁷ from which funds are appropriated to pay for the operations of the Casino Control Commission and the Division of Gaming Enforcement. Table VI.2 provides total funding and expenditures for the Casino Control Commission and Division of Gaming Enforcement for fiscal years 1991 through 1997.

Table VI.2: Expenditures for Casino Regulation in New Jersey, Fiscal Years 1991-97

Dollars in millions							
Organization	Fiscal year ^a						
	1991	1992	1993	1994	1995	1996	1997
Casino Control Commission	\$25.9	\$23.1	\$23.0	\$22.0	\$21.4	\$22.4	\$23.8
Division of Gaming Enforcement	36.0	33.9	31.5	31.7	32.0	28.3	29.9
Total	\$61.9	\$57.0	\$54.5	\$53.7	\$53.3^b	\$50.7	\$53.7

^aFiscal year is July 1 of one year to June 30 of the following year.

^bNumbers do not add to total because of rounding.

Source: New Jersey Casino Control Commission.

Oversight Responsibilities

According to a 1986 report by the Casino Control Commission,⁸ New Jersey believed that its Casino Control Act was the toughest gaming control measure ever enacted. As a result of this act and the regulations promulgated by the Casino Control Commission, New Jersey started with extremely strict controls and, on the basis of changes in technology and experience with the industry, has made adjustments to work with the industry to develop rules that make sense. Nonetheless, applicants for casino licenses undergo complete investigations; accounting and internal controls are monitored; accounting, administrative, and financial records are audited; and the state has the authority to assess fines, close operations, and seize illegal equipment.

⁷The Casino Control Fund is a special revenue fund used to account for the proceeds of specific revenue sources that are legally restricted to expenditure for specified purposes.

⁸A Report on Casino Gaming in Atlantic City, State of New Jersey, Casino Control Commission, July 1986.

Licensing

In New Jersey, every employee who has anything to do with the operation of the casino,⁹ and companies doing regular and continuing business with casinos must be licensed. In addition, every labor organization that represents or seeks to represent employees who are employed in a casino hotel, casino, or a casino simulcasting facility owned by a casino licensee must register annually.

The level of information required from an applicant and the effort required for the state to grant a license varies depending on the position held or the type of business license. For example, a casino service employee pays a fee of \$60 for a one-time registration; a gaming-related casino service industry pays a minimum of \$5,000, while a casino pays a minimum of \$200,000 for its initial license. The depth or complexity of the investigation involved in granting a license generally is reflected in the initial or minimum charge shown in table VI.3.

⁹This includes casino employees such as dealers or croupiers, security employees, count room personnel, slot machine personnel, and casino surveillance personnel; casino key employees, persons empowered to make discretionary decisions related to casino operations, such as facility managers and assistant managers, credit executives, hotel managers, entertainment directors, and food and beverage directors; and casino service employees who work in a casino as other than a casino employee, casino key employee, or casino security employee. For the 1978-96 period, 38 percent of the applications were for casino employees, 3 percent were for casino key employees, and 59 percent were for casino service employees.

Table VI.3: Examples of Fees Charged in New Jersey for Selected Licenses

Type of license	Initial fee	Renewal fee
Casino	Minimum of \$200,000	1-year - not less than \$100,000 4-year - not less than \$200,000
Casino key employee	\$750 - \$4,000	\$750
Casino employee	\$350	\$250
Casino service employee	\$60 one-time fee	N/A ^a
Gaming-related casino service industry	\$5,000 minimum	\$5,000 minimum
Nongaming-related casino service industry	\$2,000	\$2,500
Junket ^b enterprise	\$3,000	\$3,750
Casino hotel alcoholic beverage ^c	\$1,000 per location	\$1,000 per location

^aN/A = not applicable.

^bAn arrangement to induce individuals to take trips to a casino to gamble where the casino pays for some or all of the transportation, food, lodging, and entertainment cost.

^cThe Casino Control Commission has the exclusive authority to issue alcoholic beverage licenses to any premises licensed as part of a casino hotel. The application fee for an alcoholic beverage license issued to a casino hotel is included with the casino license application fee. However, casino service industries pay a \$1,000 fee for a new or renewed alcoholic beverage license.

Source: New Jersey Casino Control Commission.

Monitoring

Casino Control Commission and Division of Gaming Enforcement staff maintain a 24-hour-a-day presence in each casino in Atlantic City. The state has a variety of controls on and performs a variety of monitoring of the money that flows through the casino. For example, the access door to the cash boxes on slot machines has a second lock to which only the state has the key. When the moneys are collected, the state unlocks its lock and monitors the collection. In addition, the state both observes and verifies the “hard” (coin) and “soft” (bill) counts of funds and verifies the amount received. The verification of the money counts is important to the state in monitoring the flow of money and because 8 percent of this money goes to the Casino Revenue Fund, as mentioned above.

The state monitors the casino’s accounting and internal controls to ensure that all funds are accounted for and proper procedures are followed. It also limits the amount of complimentary items or services such as food, room, beverage, or travel that a casino can provide to casino patrons at little or no cost and monitors the amount provided. Table VI.4 shows

selected monitoring activities and the frequency with which they are performed.

Table VI.4: Selected Monitoring Activities for Casino Gaming in New Jersey

Monitoring activity	Performed by state gaming agency	
	(Y)es/(N)o	How often
On-site presence during operating hours	Y	At all times
Compliance with compact provisions	N/A ^a	N/A
Formal inspection or observation of operation	Y	Daily
Informal inspection or observation of operation	Y	Daily
Review of annual financial report	Y	Annually
Compliance with internal control systems	Y	Daily
Audit of gaming operation records	Y	Monthly
Verification of slot machine computer chip ^b	Y	Prior to use
Review of gaming operator's surveillance	Y	Daily
Observation of money count	Y	Daily
Monitoring for safety and health	N/A	N/A
Verification of funds (net win) for state payments	Y	Daily

^aN/A = not applicable.

^bThis chip is the brain of the slot machine. The chip is verified upon initial installation or when a payout of \$35,000 or more occurs.

Source: New Jersey Casino Control Commission.

Enforcement

The state, through the Casino Control Commission, has the authority to suspend or shut down a gaming operation or suspend or revoke a license. The state may also assess fines or penalties or seize illegal equipment. On the basis of its investigations, the Division of Gaming Enforcement presents the information to the Commission for an administrative decision. While the Atlantic City police have jurisdiction in the hotels, the Division of Gaming Enforcement has jurisdiction on the casino floor and uses state police to deal with any criminal violations.

At the Casino Control Commission's office in the casino, part of the inspector's job is to accept patrons' complaints. These complaints typically include concern about the payoffs from table games, malfunctioning slot machines, or funds received from cashiers.

Critical Regulatory Elements

We obtained comments from the Chairman, Casino Control Commission, and the Director, Division of Gaming Enforcement, on what they view as

critical regulatory elements. Each noted the importance of insuring the integrity of gaming and the criticality of licensing and internal control systems and provided additional comments. The following summarizes their responses.

Casino Control Commission

The Chairman of the Casino Control Commission stated that it is critical to maintain the integrity of the industry and keep proper controls over and accounting for casino revenues. The state's licensing system ensures the integrity of the companies and individuals involved in gaming, and its rulemaking process ensures the integrity of the games. Internal control systems assist the casinos and the regulators in monitoring gaming operations. The Chairman said that he recognizes that the approach to handling these two critical elements varies among states and stated his belief that New Jersey has the "tightest and most complex system of controls."

The state's licensing system is designed to keep unsavory individuals, including anyone associated with organized crime, from direct and indirect employment in the casino industry. The state licenses all casino companies, their officers, directors, management, financial sources, and other employees involved in gaming operations. They undergo complete background investigations and must satisfy standards of honesty, integrity, good character, and financial stability. In addition, all entities doing regular and continuing business with a casino licensee must be licensed.

The integrity of the games played is ensured, according to the Chairman, by the state's establishment of the rules for the various games and the use of on-site inspectors who observe play 24 hours a day. The inspectors observe the play to ensure that dealers are following the rules and that the public is not being cheated.

According to the Chairman, the system of regulation has been described as "people watching people, watching people." He pointed out that because of the internal control requirements in New Jersey, a conspiracy among numerous people in different departments would be required in order to misappropriate casino revenue. For example, when money is collected from the casino floor, three separate casino departments are involved—accounting, games, and security. As a result, the Chairman believes that misappropriation of casino revenue is more difficult.

The Chairman also pointed out other areas that should be considered. These include the ability of casinos and management to contribute to

political campaigns, the ability of casino employees and regulators to gamble, pre- and post-employment restrictions, and ethics codes for commissioners and regulators.

Division of Gaming
Enforcement

The Director, Division of Gaming Enforcement, told us that the overall objective of a regulatory system is to ensure the integrity of gaming operations and public confidence in the gaming industry. According to the Director, to do this requires a determination as to who qualifies for licensure as well as the oversight of the gaming operations. Substantial resources must be allocated to underwriting the regulatory system, and once such a system is established, it is critical to assemble a professional staff to develop and implement the regulations to ensure the integrity of the system. In addition, a laboratory is needed to evaluate and approve the sophisticated electronic equipment and devices.

The licensing process includes the investigation of casino entities, their employees, and those companies with which they transact business, directly or indirectly. This is an ongoing process in which licenses are subject to renewal and investigations are conducted on a continuing basis. Oversight of gaming operations includes enforcing the New Jersey Casino Control Act and the regulations promulgated thereunder. The Director noted that the act, the regulations, and the required internal controls make for a system of checks and balances which, if properly implemented and monitored, ensure the integrity of the industry.

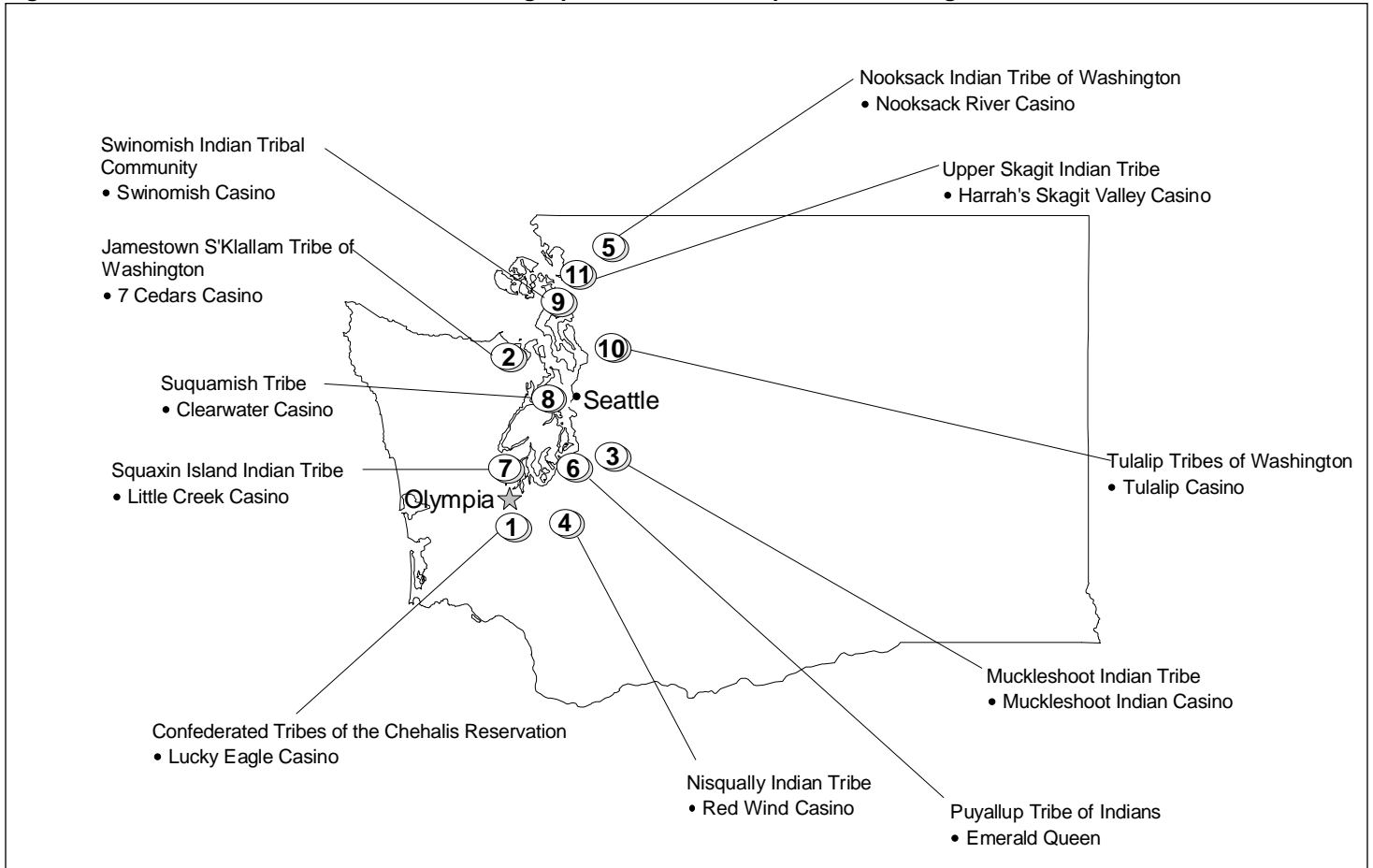
Because the gaming industry uses highly sophisticated electronic games and equipment such as slot machines and bill and coin acceptors, the state established and developed a laboratory capable of evaluating and approving these devices. In the Director's view, it is important for the laboratory to continuously monitor the changes and advances in technology.

Washington

Washington's legalized gaming began with social gambling activities, such as bingo, authorized in 1973, and card games, authorized in 1974. Although Indian casino gaming first began in Washington in the 1970s, the first two tribes did not enter into compacts to operate casinos until 1991. Washington has 27 federally recognized tribes in the state. As of December 1997, 17 tribes had compacts with Washington, 11 of which were operating casinos. (See fig. VII.1.) According to the Director, Office of Policy, Planning and Support, one operation closed because of competition with recently opened Canadian casinos, and one operation is expected to open in 1998. Three tribes were operating casinos without approved compacts. One of the tribes had a compact agreed to with the state but did not obtain the required approval of the Secretary of the Interior until March 30, 1998. The two other tribes had no compact agreed to with the state and were operating slot machines, which Washington does not allow and would not agree to in a compact, at 11 casinos. Washington does not oversee these 11 casinos, which are under litigation.

"Banked" card games, in which the house serves as the bank, were approved for non-Indian gaming in October 1997. Banked games have been allowed in Indian gaming, but the numbers of tables for the games are limited by the compact. Slot machines are illegal in all Washington gaming establishments. The net profit in tribal gaming establishments amounted to about \$150 million last fiscal year. This is in addition to the approximately \$750 million annual total from all non-Indian regulated gaming activities under the Commission's jurisdiction, which included non-casino activities, such as bingo and unbanked card games.

Figure VII.1: Distribution of Indian Casino Gaming Operations With Compacts in Washington



Note: The Nisqually Indian Tribe was operating a casino under a compact approved by the state but did not receive approval of its compact by the Secretary of the Interior until March 30, 1998.

Source: Washington State Gambling Commission.

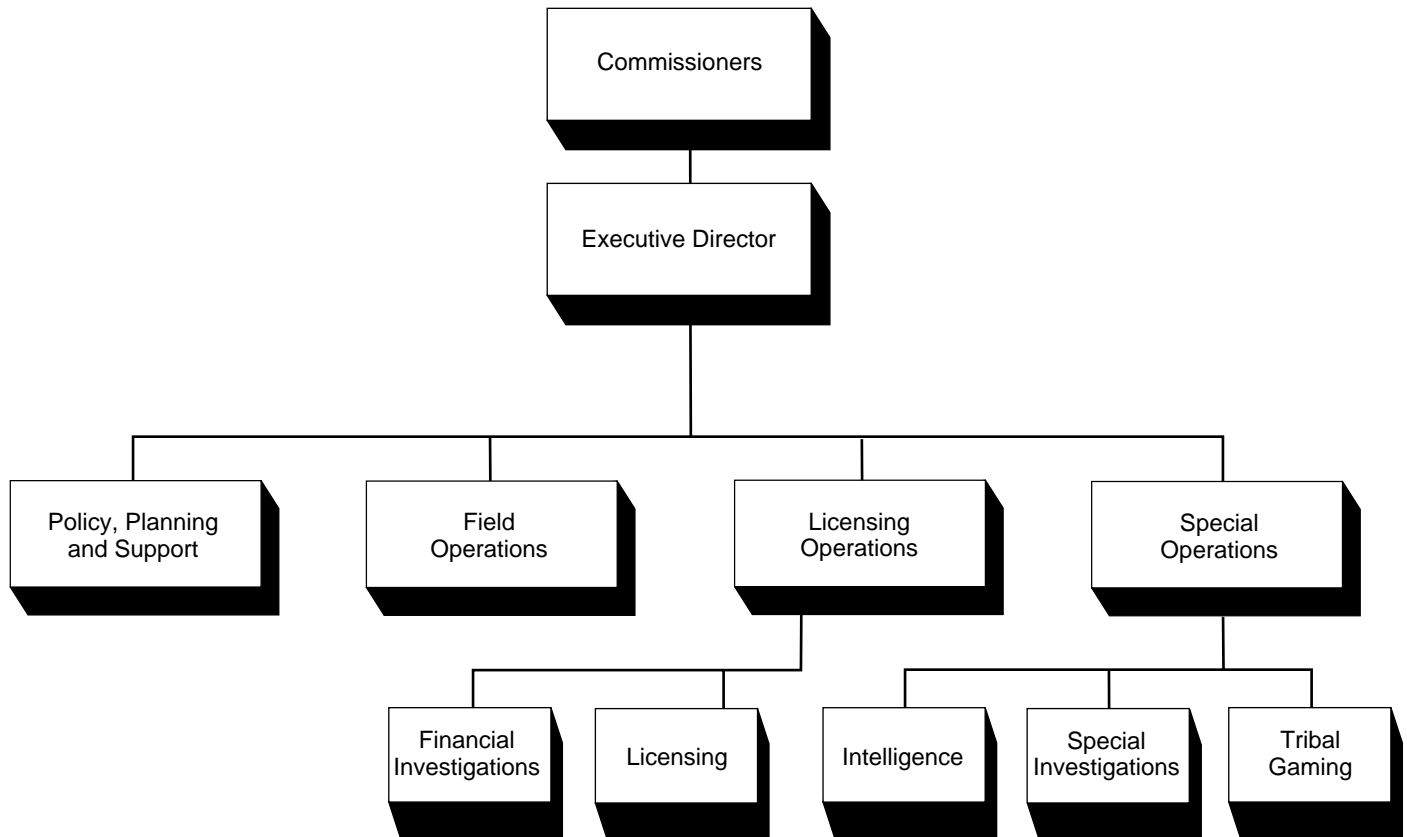
Organizational Structure and Staffing

The Washington State Gambling Commission was established in 1973 to keep out the criminal element and promote the social welfare of the people by limiting the nature and scope of gambling activities and by strictly regulating and controlling them. In 1992, the Commission was given the responsibility for negotiating and implementing the terms of the compacts. The Commission primarily regulates non-Indian, non-casino gaming, such as bingo and unbanked card games. The only casino-type gaming that the Commission oversaw at the time of our review was Indian.

Other commissions regulate pari-mutuel betting on horse races and the state lottery.

The Commission operates under a five-citizen board appointed by the Governor and approved by the State Senate for a single 6-year term with staggered expiration dates. Also on the board are four members of the legislature—one each from the majority and minority parties of the two branches of the legislature—appointed to act as coordinators between the legislature and the Commission. They are nonvoting members for routine Commission business, except for the approval of tribal gaming compacts. The board generally meets monthly to approve licenses; hear administrative cases; promulgate regulations; and interact with licensees, public officials, and the public. Figure VII.2 shows the organization of the Commission.

Figure VII.2: Organizational Structure of the Washington State Gambling Commission



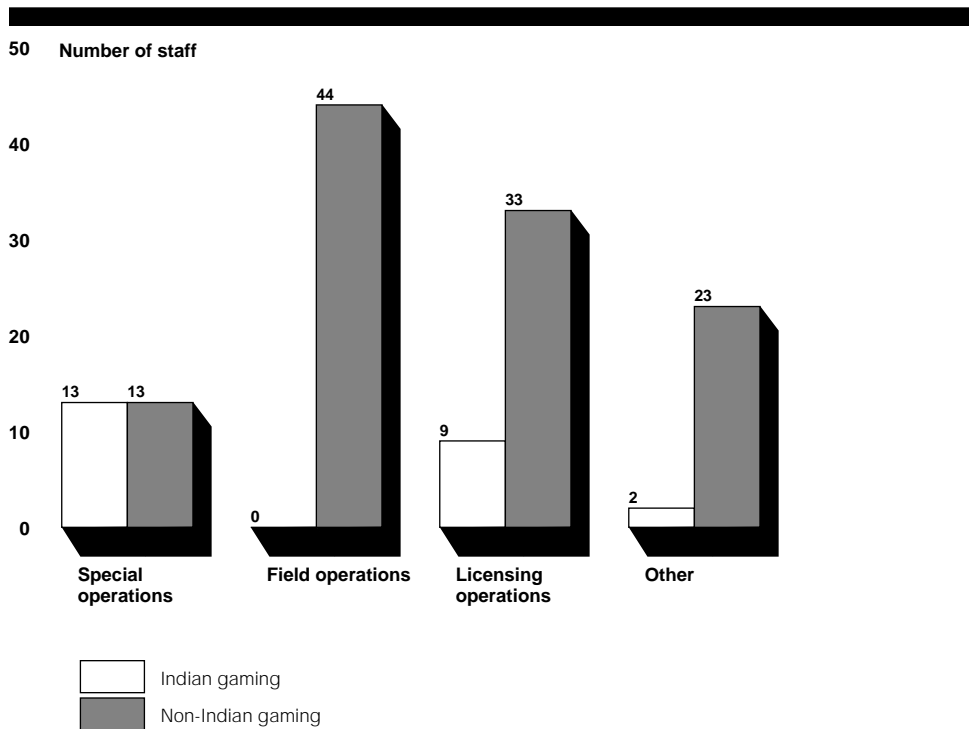
Source: Washington State Gambling Commission.

The board appoints the executive director to manage the day-to-day activities of the Commission. The Commission has three operating divisions: (1) licensing operations, which is responsible for all licensing investigations, including certifying qualifications of persons involved in Indian casino gaming activities, and for maintaining agency records and activity reports; (2) field operations, which is responsible for the day-to-day investigation of complaints, inspections, and audits of licensed operators and for training licensees; and (3) special operations, which is responsible for monitoring tribal gaming activities, investigations of illegal or criminal activities, and criminal intelligence. Agents in the Tribal

Gaming Unit must complete training courses on Native American cultural heritage and on the specific tribal culture of the casino the agent oversees. A fourth division, Policy, Planning and Support, consists of Public Affairs, Legal Services, Business Operations, and Information Services. Human Resources reports to the Executive Director. The Commission, located in Olympia, has three regional offices throughout the state—Spokane in the east, Lynnwood in the northwest, and Tacoma in the southwest.

The Commission’s staffing for fiscal year 1997 was 137, of which 24 staff were assigned to Indian gaming. The remaining 113 regulated non-Indian gaming activities. Figure VII.3 shows how the staff were distributed among the various divisions.

Figure VII.3: Washington State Gambling Commission’s Staffing, by Division, End of Fiscal Year 1997

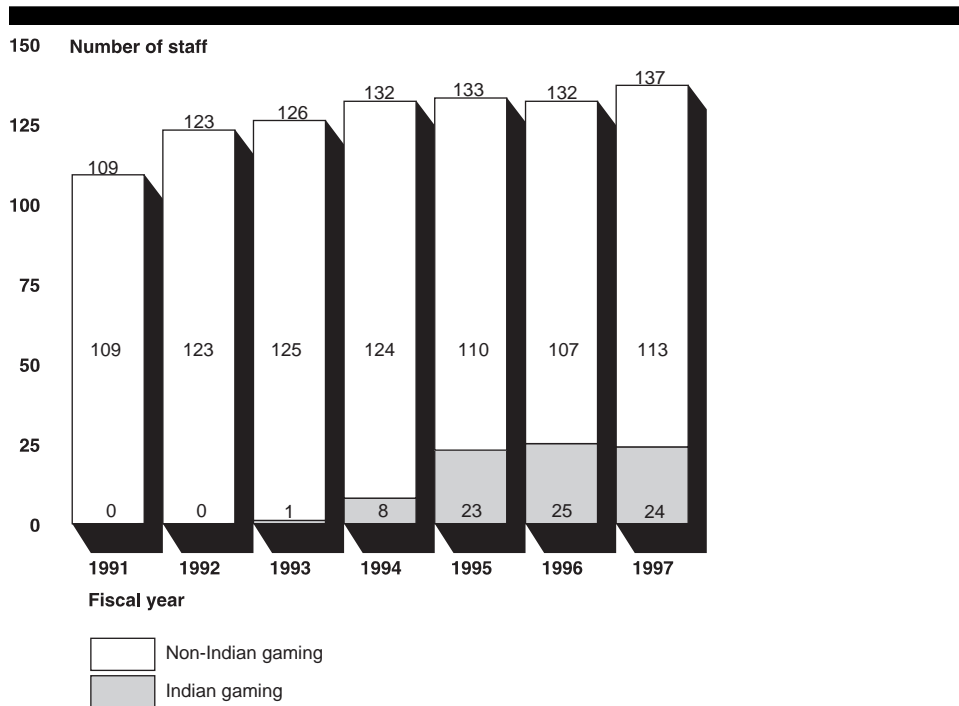


Note: Fiscal year is July 1 of one year to June 30 of the next.

Source: Washington State Gambling Commission.

After initial increases, Commission staff for both Indian and non-Indian gaming have remained fairly constant in recent years. Figure VII.4 shows staffing levels over the last 7 fiscal years.

Figure VII.4: Washington State Gambling Commission's Fiscal Years 1991-97 Staffing



Note: Fiscal year is July 1 of one year to June 30 of the next.

Source: Washington State Gambling Commission.

Funding

All revenue for the Commission, which included about \$1.6 million from Indian gaming last fiscal year, is derived independently from gaming operations and is deposited into a revolving fund controlled by the Commission. Under the compacts, the tribes are to reimburse the state gaming agency for all reasonable costs and expenses actually incurred by the Commission in carrying out its responsibilities as authorized under the provisions of the compact. Reimbursement for monitoring, investigative, and processing costs is on an hourly basis or a flat fee, at the option of the tribe. Administrative actions, such as certifying a license, are reimbursed for the costs incurred that exceed the fees received. The state does not

provide an appropriation for the Commission, and no taxes are assessed on gaming revenues at the state level.

The Commission's total revenue of almost \$9.7 million for fiscal year 1997 included about \$1.6 million from Indian gaming sources and about \$8 million from non-Indian gaming. Both types of revenue have generally been increasing since 1991, or when initially collected. The Commission's expenditures for Indian casino gaming totaled about \$1.6 million and for non-Indian gaming, about \$7 million. While the Commission's expenditures for Indian gaming are increasing, non-Indian gaming expenditures have varied. Table VII.1 shows the revenues and expenditures since fiscal year 1991.

Table VII.1: Washington State Gambling Commission's Revenue and Expenditures, Fiscal Years 1991-97

Fiscal year ^a	Revenue		Expenditures	
	Indian gaming	Non-Indian gaming	Indian gaming	Non-Indian gaming
	1991	\$0	\$5,842	\$0
1992	\$37	\$6,368	\$0	\$6,845
1993	\$169	\$6,599	\$156	\$7,828
1994	\$404	\$6,902	\$490	\$7,203
1995	\$839	\$6,956	\$1,305	\$6,715
1996	\$1,298	\$7,107	\$1,554	\$6,997
1997	\$1,603	\$8,074	\$1,638	\$6,993

^aFiscal year is July 1 of one year to June 30 of the next.

Source: Washington State Gambling Commission.

Oversight Responsibilities

The state's oversight responsibilities for Indian casino gaming are established in the compacts. Although the tribal gaming agencies have the primary oversight responsibility, the state also has oversight responsibilities. State activities consist of certification of tribal gaming licensees, weekly monitoring of various gaming activities, and the ability to take various enforcement actions. The state also limits the number of gaming facilities, number of gaming stations, amount of wagers, and hours of operation. The state reviews the operations of an establishment after it has been in operation for 6 months, and increasing the scope of the operation is conditioned upon a favorable review. For example, tribes may

operate up to 31 gaming tables¹ and allow wagers up to \$250 during the first 6 months, after which these may be increased to 52 tables and wagers up to \$500.

Licensing

For Indian casino gaming, the compacts assign the licensing responsibility to both the state and the tribal gaming agency, but the state, through its certification process, assumes final responsibility for approving an applicant. Licenses are required for all gaming employees, management companies, manufacturers and suppliers of gaming services, and financiers—those extending financing to the gaming operation. No license is required for nongaming employees, such as those involved in food and beverage service. The state certifies and recertifies the applicants annually. Table VII.2 shows the basic fees for selected certifications; it does not include additional fees necessary to defray the cost of background investigations.

Table VII.2: Examples of Fees Charged in Washington for Selected Certifications

Type of certification	Initial fee ^a	Renewal fee
Gaming equipment manufacturer/supplier	\$1,500	\$500
Gaming management company	\$1,500	\$500
Gaming employee	\$200	\$125
Gaming financier	\$1,500	\$500

^aThese fees are for in-state applicants; out-of-state certification fees are higher. The initial fee for an out-of-state manufacturer/supplier, management company, or financier is \$5,000; for an out-of-state gaming employee, \$250.

Source: Washington State Gambling Commission.

Applicants submit their completed applications to the tribal gaming agency. Once the tribal gaming agency transmits the completed application package to the state gaming agency, the state conducts a background investigation to ensure that the applicant is qualified for state certification. The tribal gaming agency may also conduct a background investigation or may rely on the state’s certification.

Monitoring

According to the compact, the tribal gaming agency has the primary responsibility for on-site regulation, control, and security. However, the state gaming agency has the authority to monitor whether the gaming operation is conducted in compliance with the provisions of the compact. State agents have free and unrestricted access to all areas of the gaming facility and access to all records. They conduct scheduled and

¹And one optional nonprofit table—the proceeds of which are dedicated to support nonprofit organizations in the state.

unscheduled inspections, investigations, and/or audits of all Indian casino gaming activities to ensure compliance with the terms of the compacts.

The state periodically performs various monitoring activities at the tribal gaming operations. Table VII.3 shows selected monitoring activities and the frequency with which they are performed by the state gaming agency.

Table VII.3: Selected Monitoring Activities for Indian Casino Gaming in Washington

Monitoring activity	Performed by state gaming agency	
	(Y)es/(N)o	How often
On-site presence during operating hours	Y	Weekly
Compliance with compact provisions	Y	Weekly
Formal inspection or observation of operation	Y	Weekly
Informal inspection or observation of operation	Y	Weekly
Review of annual financial report	Y	Annually
Compliance with internal control systems	Y	Weekly
Audit of gaming operation records	Y	Periodically
Verification of slot machine computer chip ^a	N/A ^b	N/A
Review of gaming operator's surveillance	Y	Weekly
Observation of money count	Y	Periodically
Monitoring for safety and health	N	N/A
Verification of funds (net win) for state payments	N	N/A

^aThis chip is the brain of the machine.

^bN/A = not applicable. Slot machines are not authorized in the compacts.

Source: Washington State Gambling Commission.

Enforcement

Although, according to the compact, the tribal gaming agency has primary responsibility for the enforcement of the compact, the state has similar enforcement authorities. The state has the authority to suspend or revoke license certifications; seize illegal equipment, such as slot machines; and resolve patrons' disputes. In addition, the state can seek an injunction directing closure of a gaming facility if it determines that any violation of the compact has occurred. The compact also contains provisions for the imposition of fines or penalties, which vary depending on whether the infraction was a repeat violation. For example, for the first violation of the licensing and certification requirements, a gaming supplier could be fined up to \$5,000; for the second violation, up to \$20,000. The payments for imposed fines go to nonprofit organizations.

In recognition of the government-to-government relationship that exists between the state and the tribes, several remedies for breach of compact provisions are allowable. Methods for resolution of compact disputes include good faith negotiations; mediation; arbitration (nonbinding as well as mandatory and binding); and, for breach of provisions, injunction.

Critical Regulatory Elements

According to the Executive Director of the Commission, although several elements are critical to regulating gaming, the most critical is the compact. The compact should contain provisions to ensure that the interests of all parties are met and that the integrity of gaming is beyond reproach. As such, he said that the compact should require comprehensive background investigations of managers and operators. It should also include a framework of controls and procedures that allow for independent verification that the games are operated fairly and the proceeds are used lawfully.

In state certification of individuals and entities involved in gaming, according to the Executive Director, ensuring that precertification investigations are adequate is the most important step in ensuring that individuals with undesirable histories or the criminal element do not infiltrate gaming. Similarly, the financial investigations that the state conducts to certify management companies or any entity providing financing to the tribe are to ensure that the money is from a legitimate source.

Another critical element that the Executive Director cited is maintaining and building a positive and cooperative partnership. This partnership involves the state's dealing with tribes on a government-to-government basis while balancing the state's duty to the public. He said that a cooperative partnership also includes having voluntary compliance as the goal, instead of taking a heavy-handed approach.

Comments From the Arizona Department of Gaming

ARIZONA DEPARTMENT OF GAMING

JANE DEE HULL
GOVERNOR



GARY A. HUSK
DIRECTOR

April 13, 1998

Mr. Barry T. Hill
U.S. General Accounting Office
Resources, Community, and Economic
Development Division
Room 2T23
441 G Street, NW
Washington, DC 20548

Re: Draft report *Casino Gaming Regulation: Roles of Five States and the National Indian Gaming Commission*

Dear Mr. Hill:

Please consider this as the Arizona Department of Gaming's response to GAO's request for comments regarding the above draft report. The Department appreciates the opportunity to offer comments and clarification relating to Arizona's portion of the report.

With respect to Funding, the Department wishes to clarify that it is funded by the gaming industry **solely** rather than primarily through gaming device assessments and certification fees. The Department has no other source of funding. Further and contrary to the report, the certification fee does not represent the estimated cost required to do the background investigation. The certification fee is non-refundable and applied to the **actual cost** of the background investigation. The State has the ability to change certification fees after notifying the gaming tribes.

Pertaining to Licensing, in addition to the categories of vendors listed, the Department certifies distributors of gaming devices. Also, the Department does not certify tribal members. Instead, the state issues a recommendation **for licensing** on the tribal member. It is important to note in this section that, pursuant to the gaming compacts, the Gaming Facility Operators cannot employ and, if already employed, must terminate any gaming employee who has been convicted of any felony or gaming offense.

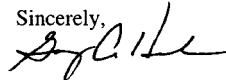
Appendix VIII
Comments From the Arizona Department of
Gaming

Mr. Barry T. Hill
04/13/98
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Finally, under Monitoring it is important to clarify that the Department's formal inspections consist of a detailed compact compliance review and report of the internal control systems similar to a comprehensive audit. The compact compliance review is performed every 18 months. In addition, the Department observes the operation of the casinos on a weekly ongoing basis.

Again, thank you for permitting us to offer comments on the draft report. Please contact me if you have any questions regarding these comments.

Sincerely,



Gary A. Husk
Director

GAH\tp

Comments From the New Jersey Division of Gaming Enforcement



State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF GAMING ENFORCEMENT
PO BOX 047
TRENTON, NJ 08625-0047

CHRISTINE TODD WHITMAN
Governor

April 14, 1998

PETER VERNIERO
Attorney General

FRANK CATANIA
Director

Mr. Barry T. Hill
Associate Director, Energy,
Resources, and Science Issues
United States General Accounting Office
Resources, Community, and
Economic Development Division
Room 2T23
441 G Street, NW
Washington, D.C. 20548

RE: Comments Regarding Draft Report Entitled *Casino Gaming Regulation: Roles of Five States and the National Indian Gaming Commission*

Dear Mr. Hill:

I have reviewed the Draft Report entitled: Casino Gaming Regulation: Roles of Five States and the National Indian Gaming Commission. I offer these comments with regard to those portions of the report, including Appendix VI, which deal with the responsibilities of the New Jersey Division of Gaming Enforcement.

The Draft is an accurate representation of the duties and responsibilities assigned to this Division pursuant to the New Jersey Casino Control Act. Our regulatory goals have remained constant since the inception of casino gaming in New Jersey.

We ensure the integrity of those casino operators and service industries who profit from casino gaming. We ensure that those who patronize New Jersey casinos get a fair game. And we ensure that the citizens of New Jersey get an accurate accounting of the moneys generated by casino gaming.

While the Draft Report purposefully avoids commenting on the effectiveness of any particular regulatory system, our system has shown itself to be both flexible in adapting to the changing needs of a maturing industry and unyielding in furtherance of the State's

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Comments From the New Jersey Division of
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regulatory goals. The Draft Report quite accurately sets forth the New Jersey regulatory system and structure.

We are happy to have been able to assist your office in the preparation of the Report.

Very truly yours,

Frank Catania
Director

Comments From the Arizona Tribal Gaming Regulators Alliance

Arizona Tribal Gaming Regulators Alliance
T.A.R. Lot #30
Payson, Arizona 85541
(520) 474-7021

April 15, 1998

Barry T. Hill
U.S. General Accounting Office
Resources, Community and Economic
Development Division
Room 2T23
441 G. Street, N.W.
Washington, DC 20548

Dear Mr. Hill,

This letter of response to the General Accounting Office's draft report on Casino Gaming Regulation: Roles of Five States and the National Indian Gaming Commission is being submitted by the Arizona Tribal Gaming Regulators Alliance (ATGRA). The ATGRA was the group that Mr. Hunt and Mr. Kurz met with on August 22, 1997 at the AkChin Indian Community in Maricopa, Arizona. The ATGRA consists of the gaming commissions of each Arizona Gaming Tribe. ATGRA was founded in August 1994 to promote a cooperative relationship among the regulators of tribal gaming enterprises and to promote regulatory standards, methods of operation, and educational seminars in order to create consistent regulatory practices through the exchange of thoughts, information and ideas for the mutual benefit of all the Arizona Tribes.

At the meeting on August 22, 1997, the members of ATGRA that were present gave to Mr. Hunt and Mr. Kurz detailed descriptions of how their commissions regulate Class I, II and III gaming on their reservations. This information included yearly commission operating budgets, staffing levels, licensing responsibilities for employees and vendors, and thorough explanations of the level and degree of regulation provided by the Tribal Gaming Commission. Also provided was an explanation of the different responsibilities of the Arizona Department of Gaming and the National Indian Gaming Commission.

This information was provided in response to the June 16, 1997 letter from the Committee on Indian Affairs Chairman Ben Nighthorse Campbell and Vice Chair Daniel K. Inoye to James Hinchman Acting Controller General, U.S. General Accounting Office in which the Committee requested the GAO to undertake a review to identify:

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Regulators Alliance

ATGRA Response to GAO
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- The current organization, staffing and funding of NIGC;
- how, in a number of gaming states, those activities are licensed, monitored, regulated and enforced;
- the staffing and funding levels associated with these gaming activities.

The Indian Gaming Regulatory Act of 1988 (IGRA) requires that any tribe who wishes to engage in Class III gaming must: enter into a Tribal/State Compact, establish a Tribal Gaming Commission in order to regulate gaming on Tribal Lands and submit a Tribal Gaming Ordinance to the NIGC for approval.

For the GAO to gather information on how Tribal Gaming is regulated and ignore the role of each tribes Tribal Gaming Commission certainly provides a view that not enough regulation is in place to protect the integrity of gaming. The Arizona Gaming Tribes/State of Arizona Compacts give the State of Arizona the role of monitor of the regulation done by each tribes Gaming Commission. The Arizona Department of Gaming (ADOG) is always trying to claim that ADOG is a co-regulator with the tribes of Tribal Gaming in Arizona. This is not what the Compact states and this attempt by ADOG is an attack on the sovereignty of Arizona Tribes.

Mr. Hunt and Mr. Kurz stated during the meeting, on August 22, 1997, that if the draft report contained differences of opinion or policy between ADOG and the Arizona Gaming Tribes, the report would include both parties position.

In response to the draft report, and in particular, Appendix III, pages 32 through 43, inclusive, the ATGRA is dismayed with the inclusion of only information and comments from the Arizona Department of Gaming, and would like to offer the following information and ask that it be included in the report.

Now on p. 30.

Page 32, line 7, the Compacts provide for state oversight of casino gaming in Arizona. The state recognizes and acknowledges the but then attempts to increase that role to more than oversight by the increase in staffing.

Now on p. 31.

Page 34, line 4, it monitors and “enforces” compliance by Tribal Gaming Operations . . . , ADOG only monitors; each tribe’s Gaming Commission enforces the compliance to applicable regulations by the Tribal Gaming Operations. This sentence is inaccurate and misleading and shows ADOG’s attempt to have a greater role than the Compact allows. If ADOG had enforcement authority they could impose fines and close casinos. ADOG can do neither. ADOG has authority to monitor only Class III gaming, ADOG has no authority over Class II gaming.

Now on p. 33.

Page 35, line 14, the Tribal Affairs Investigation Unit is the primary unit charged with enforcing Compact provisions at gaming facilities. The Compacts between each gaming tribe and the State of Arizona gives ADOG no enforcement powers, rather only powers to monitor the enforcement done by each tribes Tribal Gaming Office. ADOG has no investigative authority whatsoever. All investigations are conducted by each Tribal Gaming Office and/or law enforcement agency with jurisdiction.

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Now on p. 34.

Page 37, figure III.3 Arizona Department of Gaming's fiscal year 1993-97 staff chart, demonstrates the increase in staffing from 1995 & 1997, from 28 to 61. This is disproportional to the increase in numbers of slot machines in 1995 of 5,469 to 6,317 machines in 1997 that were in use in Arizona Tribal Casinos.

Now on p. 34.

Page 37 the last sentence on this page is inaccurate, certification fees are meant only to cover the cost of the actual certification, not be a profit making operation for the Department of Gaming.

Now on p. 35.

Page 38, Figure III.2 Shows Arizona Department of Gaming's revenue by source and expenditures between enforcement and certification. The gaming device assessments received under revenue from the tribes should show a corresponding amount spent to "monitor" tribal gaming and should show the amount rebated back to the tribes for the over collection of assessments. Each year overpayments are rebated to the tribes or applied to the fees for the new fiscal year assessments.

The certification fees shown under revenues should be separated by employee and vendor and then the corresponding expenditures for performing the certifications should be shown. This chart does not accurately match expenditures to the revenues.

Now on p. 36.

Page 40 Monitoring, line 5, the department had unrestricted access to public areas but "generally" must provide . . . generally should read "always". The first sentence of this heading portrays accurately the role that was intended for ADOG when the Compacts were written.

Now on p. 37.

Page 41, Table III.4 selected monitoring activities for Indian casino gaming in Arizona. This chart does not accurately depict the monitoring activities performed by ADOG. The following are the inaccuracies: Line one, Onsite presence during operating hours: not being done weekly in all facilities. Line six, Compliance with internal control systems: not done weekly, tested during formal inspection every 1.5 years.

Line eleven, Monitoring for safety and health - not ongoing - initial review of building and health codes.

Now on p. 37.

Page 41 Enforcement

The Compact does not provide the Department of Gaming a dual responsibility for ensuring compliance with the Compact. That responsibility is only granted to the Tribal Gaming Office. The department does not conduct independent investigations of compact violations, but rather reviews the investigation done by the regulatory agency charged with the authority to investigate, the Tribal Gaming Commission.

The Compact does not provide the Department the ability to assess fines or penalties, seize illegal equipment, or resolve patron disputes, those duties are done by the agency that IGRA gave those powers to, the Tribal Gaming Commission.

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Page 42 Critical Regulatory Elements:

The director clearly identifies three critical elements that each tribes Tribal Gaming Commission performs, in paragraph one. We agree - the NIGC currently performs this function.

In paragraph two, the compacts give the powers to the Tribal Gaming Commission and only gives the Department the authority to monitor the work of the Commissions.

In paragraph III, each tribe has a licensing component that is more stringent, in most cases, than the licensing done by the Department.

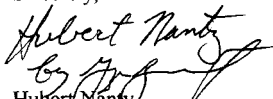
The revenue reporting is done to each Tribal Gaming Commission and the Commissions conduct independent audits of the gaming facility. The audit is conducted by an outside independent accounting firm as is prescribed by the Compact. A copy of the audit is sent to the NIGC.

The Arizona tribes show an incredible commitment to the importance of strong regulatory compliance to IGRA and their respective compacts by the dollars that are committed to the funding of their Tribal Gaming Commissions.

What is not mentioned in the draft report is the near 100% compliance with requirements of IGRA as monitored and reported by the NIGC on a quarterly basis.

Based on past experience, Arizona Gaming Tribes would be more agreeable to an increased role in Class III gaming by the NIGC, in monitoring of the regulation by Tribal Gaming Commissions of gaming on their sovereign lands and a reduced role by the State Department of Gaming in Arizona. IGRA clearly mandates the regulation of gaming on sovereign lands by the Tribal Gaming Commissions. The NIGC has shown the ability to objectively monitor gaming on sovereign lands while the Arizona Department of Gaming has constantly attempted to limit and reduce gaming done on Tribal Sovereign Lands. And that is not their role as defined by IGRA or the Compact.

Sincerely,


Hubert Nanty
President

Now on p. 38.

Comments From the Ft. McDowell Tribal Gaming Office



Ft. McDowell Tribal Gaming Office

April 7, 1998

Mr. Chet Janik, Assistant Director
U.S. General Accounting Office
Resources, Community and Economic Development Division
Room 2T23
441 G Street NW
Washington, DC 20548

Dear Mr. Janik,

This is in response to a letter dated March 27, 1998, to me from Mr. Barry T. Hills regarding my comments on the draft report on "Casino Gaming Regulation."

The draft report is very informative. It indicates to me that diverse Indian gaming regulation by states is "creeping" toward increased Federal control, and toward more stringent State controls, in spite of Indian gaming efforts to adequately regulate their own businesses.

For example, in present Arizona gaming Compacts, the primary responsibility for on-site regulation, control and security of gaming operations is that of the Tribal Gaming Agency, not the State.

The Director of the Arizona State Department of Gaming opposes this arrangement and states that the body that provides gaming oversight must be "truly independent" and should not be composed of individuals who have an interest in the gaming industry. He states further that this "independent body" should have broad enforcement authority that should include investigative authority, criminal jurisdiction, subpoena authority, the authority to assess civil fines, and the ability to close non-complying gaming facilities; that gaming revenues should be reported to the "independent" regulatory authority, which must be able to conduct independent audits of the gaming facilities, be able to establish minimum internal controls for the handling and protection of assets and to enforce compliance with these internal controls.

It is pretty obvious what the Arizona Tribes will have to face during coming negotiations with the State of Arizona on Compact renegotiations. All Indian Gaming

**Appendix XI
Comments From the Ft. McDowell Tribal
Gaming Office**

Tribes *must* defend the principle of “self-regulation” with evidence that it works. Otherwise, “creeping” government regulation and control is inevitable, in accordance with the stated objectives above of the Director of the Arizona Department of Gaming.

Whether or not the Indian Gaming Tribes can develop and publicize efforts to resist such creeping regulation and control will become evident in the next several years as results of your fact-finding, future Indian Gaming public relations efforts and political developments occur.

Thank you for the opportunity to comment.

Sincerely,


William M. Fisher
Executive Director

WMF/sr

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