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STATEMENT OF
THE NATIONAL CONGRESS OF AMERICAN INDIANS

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TO THE NATIONAL GAMBLING IMPACT
STUDY COMMISSION

July 30, 1998

The National Congress of American Indians appreciates the opportunity to submit this statement in connection with the Commission's meeting in Tempe, Arizona addressing matters of tribal government gaming. NCAI is the oldest and largest national organization of American Indian and Alaskan tribal governments, representing over 250 tribal government members on a variety of federal issues. Since 1944, NCAI has served to promote unity and cooperation among tribal governments for the protection of tribal sovereignty and self-determination and the promotion of the general welfare of Indian and Alaska Native people.

The National Congress of American Indians would like to express our appreciation for the study that the Commission is engaging in, and would like to encourage the Commission to spend even more time visiting and understanding Indian tribal governments in the United States. Tribal governments are often put at a disadvantage by misperceptions of tribal governments and the role of tribal gaming enterprises. A fair and comprehensive study of gambling in all of its forms will place tribal government gaming in its appropriate context as a form of government gaming that provides governmental revenues and will provide the public and federal policy makers with precise information and an understanding of how Indian gaming is a tool for native self-government and is planting the seeds of economic recovery for some of the country's most impoverished people.

I. The Status of American Indian and Alaska Native Tribal Governments

The first and most fundamental misperception of tribal government gaming enterprises is with regard to the status of Indian tribes. It is well

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established under the U.S. Constitution, federal treaties, case law and statutes that *Indian tribes are governments*. Put another way, tribal governments are the primary legal authority on Indian reservations and other Indian lands.

The inherent right of tribal self-government existed long before European settlement, but it serves the same purpose today as it always has: it empowers Indian tribes to protect their cultures and identities and provide for the needs of their people. Although the history of the federal Indian policy is filled with injustices and periodic swings toward annihilation and assimilation, these impulses have been held in check and the basic principles of self-governance have never been removed. To that degree, the United States is engaged in a grand and noble project in tolerance and protection of the indigenous cultures. It is this principle of self-governance and sovereignty that enable tribal governments to choose for themselves whether to engage in gaming.

Like state and local governments, the revenues accruing to tribal governments from any source are used as a tax base to fund essential services, such as education, law enforcement, tribal courts, economic development, and infrastructure improvement. In fact, Indian tribes are required by the Indian Gaming Regulatory Act to use their gaming revenues for such purposes. Much like the revenues from state lotteries, tribal governments also use gaming revenues to fund social service programs, scholarships, health care clinics, new roads, new sewer and water systems, adequate housing and chemical dependency treatment programs, among others.

The major point is that tribal government gaming is much more akin to state lotteries than to commercial for-profit businesses. The key distinction is that the gaming enterprise is run by a governmental entity to raise revenues for essential government functions. This understanding of Indian tribes as governmental entities is not only important to the Commission's study, but is also a fundamental concept that informs and frames the consideration of every issue of federal Indian policy. NCAI would strongly urge that the Commission regard the status of tribal governments as a seminal consideration in the study of tribal government gaming.

II. Economic Conditions in Indian Communities

Another common and very damaging misperception is that many tribes are growing rich from gaming proceeds. Nothing is further from the truth. Indian reservations have a 31% poverty rate—the highest poverty rate in America. Indian unemployment is six times the national average; and Indian health, education and income statistics are the worst in the country. Indian people are consistently at the bottom of every socio-economic indicator in this country. Only a very small number of tribes have been fortunate enough to have successful gaming operations; and for the most part, the revenues are just beginning to

address these tribes' needs for essential services and infrastructure.

The popular wisdom would also have it that Indian gaming is a huge industry. The reality is that Indian gaming accounts for only 9% of the gambling activity in the country and fully two-thirds of the Indian tribes in the country have chosen not to engage in gaming. Of those tribes that do have gaming, it is far more common to find that a tribal gaming enterprise is a relatively small operation that provides limited but important revenue to the tribal government and, most significantly, jobs to tribal members and others in the surrounding community.

NCAI strongly urges that the Commission's study of the impacts of Indian gaming take a very close look at the existing economic conditions in a wide range of Indian communities. In this vein, NCAI would ask the Commission to also take a very close look at pre-existing conditions in Indian communities that now have instituted gaming. For instance, the Commission may very well find that car theft has increased after the institution of a tribal gaming enterprise, but upon closer examination may find that previously there were very few cars worth stealing. A close look at existing and pre-existing conditions in Indian communities will be critical to a fair and comprehensive study of each matter to be examined by the Commission.

III. The Regulation of Indian Gaming

Another popular misperception is that Indian gaming is "unregulated," when in fact Indian gaming is heavily regulated. The Indian Gaming Regulatory Act (IGRA) was established in 1988 in order to provide clear standards for the conduct of gaming on Indian land, and by doing so to protect Indian gaming as a vehicle for tribal economic development, tribal self-sufficiency, and strong tribal government. The National Indian Gaming Commission was created under this statute to perform essential regulatory functions such as conducting background checks, approving tribal gaming ordinances, assessing the fairness of casino management contracts, judging the suitability of casino managers, and monitoring compliance with the Indian Gaming Regulatory Act. Indian gaming is also regulated by many state governments through the compacting process established under IGRA. Finally, and most importantly, tribal governments themselves are zealously regulating Indian gaming. IGRA requires that each tribal government engaged in gaming pass a tribal ordinance that provides for regulation by the tribal governments. Tribal governments realized long ago that public confidence in, and ultimately the profitability of, Indian gaming is enhanced by having vigorous regulation.

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Conclusion

Like all governments, tribal governments have a responsibility to care for their citizens and ensure adequate education, health care and housing and a host of other government services. As the Commission will become aware, there has historically been a grossly inadequate supply of these services for Indian people. Tribal governments are beginning to step up their effort to meet this need and become self-sustaining, and Indian gaming is the economic development tool that some tribes are using to create tribal revenues and begin economic recovery.

Congress established the National Gambling Impact Study Commission to examine the economic and social effects of gambling. It is NCAI's hope that as the Commission examines tribal government gaming within the scope of the overall study, it take a fair and comprehensive look at the status of tribal governments, the economic conditions in Indian communities, and the regulation of Indian gaming. NCAI stands ready to provide information or assistance on any of these issues and looks forward to working with the Commission throughout the study period. Thank you, once again, for the opportunity to provide this statement.
