

states to negotiate in good faith, but does not place the same requirement on tribes; and finally, that the scope of permissible gambling activities is not clearly defined under IGRA. And while many acceptable tribal-state compacts have been successfully negotiated, several tribes have opened Class III casinos without compacts (e.g., California, Florida, and Washington). States refer to such gambling outlets as “illegal” gambling; the tribes term it “uncompacted” gambling.

In a recent attempt to resolve the tribal-state disputes regarding compacts, the Bureau of Indian Affairs published an “Advance Notice of Proposed Rulemaking” (ANPR) on May 10, 1996. The key element of the ANPR is a provision that would allow the Secretary of the Interior to approve a tribe’s request to operate gambling facilities, even if the state and tribe had been unable to agree on a compact. At its July 29, 1998, hearing in Tempe, Arizona, the NGISC voted to send a letter to the Secretary of the Interior requesting that he defer issuance of a final rule, pending the completion of the Commission’s **Final Report**. However, on April 12, 1999, shortly after the expiration of a legislative ban imposed by Congress prohibiting the Secretary of the Interior from approving any Class III compacts without the prior approval of the affected states, the Department published its final rule, in effect implementing the proposed procedures. This measure was almost immediately challenged in federal court by the states of Florida and Alabama, which sought to block the new rules from taking effect. Absent congressional action, the resolution of this problem will almost certainly become the responsibility of the federal courts.

Internet Gambling

Technology is revolutionizing the gambling industry as we know it. As the Internet continues to grow, so too does the popularity of on-line wagering. Seemingly overnight, all forms of gambling have become accessible to every home and every individual 24 hours a day. But how prepared is the nation for this kind of evolution within the gambling industry? How will children’s access to Internet gambling be monitored? How will gambling regulators—indeed, how will any of our lawmakers—keep pace, in theory and in practice, with the exponential growth of EGD’s and on-line betting? The recent explosion of Internet gambling poses serious legal, economic, and social concerns. One researcher estimates that in 1997, there were approximately 6.9 million potential

Internet gamblers and Internet gambling revenues of \$300 million. By 1998, there were an estimated 14.5 million potential Internet gamblers and Internet gambling revenues of \$651 million. Today's Internet gambling sites feature dazzling interactive games. They broadcast races in real-time video. They walk their customers through "virtual" tours of casinos with music playing in the background. Most gambling sites offer casino-style gambling; others offer lotteries and bingo. There are an estimated 110 sports-related gambling sites offering on-line tournaments and sweepstakes with a special attraction to young gamblers.

⁵The legalities of gambling in cyberspace are unclear. Statute 18 U.S.C. 1084, the law most frequently cited in reference to Internet gambling, was written before the World Wide Web was invented. It uses the phrase "wire communications." But does the Internet, soon to employ aspects of satellite technology, fall within the domain of wire communications? And does the word "contest," also used in Statute 18 U.S.C. 1084, apply to Internet bingo, lotteries, and casino-style games? What are the legal jurisdictions when it comes to Internet gambling? Where are the bets and wagers actually taking place? At the point of financial transaction? At the site where the person downloads a Web page on a personal computer? Is gambling via the Internet protected by the First Amendment as an act of free speech or is it primarily a commercial enterprise? These unanswered questions may lead some Internet gamblers to believe that the traditional rules of honesty and financial accountability no longer apply.

Gambling on the Internet is especially enticing to youth, pathological gamblers, and criminals. There are currently no mechanisms in place to prevent youths—who make up the largest percentage of Internet users—from using their parents' credit card numbers to register and set up accounts for use at Internet gambling sites. For pathological gamblers, the Internet's anonymity provides a shield from public scrutiny, a ticket to traverse unchecked through scores of gambling web sites 24 hours per day. Dr. Howard J. Shaffer, director of addiction studies at Harvard, likens the Internet to new delivery forms of addictive drugs: "As smoking crack cocaine changed the cocaine experience, I think electronics is going to change the way gambling is experienced." Finally, Internet gambling can provide a nearly undetectable harbor for criminal enterprises. Since Internet "servers" for gambling operations are physically located offshore, dishonest gambling operators can

easily steal the “winnings” by taking credit card numbers and money from deposited accounts and then, within a matter of minutes, move a gambling site or close it down altogether. Computer hackers can tamper with software and manipulate games to their benefit. And money launderers need only to deposit their money into an offshore account, use the funds to gamble, lose a small percentage of the original funds, then cash out the remaining funds.

Last year Congress introduced legislation to address Internet gambling. Efforts to regulate an industry whose parameters have yet to be defined could be premature and unwarranted. Furthermore, regulation of Internet gambling would likely involve large costly regulatory bodies within each state that would take away the anonymity of Internet users through registration processes. Alternatively, total prohibition of gambling on the Internet, a proposition unanimously endorsed by every member of the NGISC, would provide law enforcement with the additional authority it needs to prosecute dishonest operators. In addition, a total ban on Internet gambling would prevent improper endorsements by the U.S. government of what are often questionable offshore gambling operations.

Gambling's Impact on People and Places

The proponents of gambling tend to stress its economic benefits. Opponents tend to point to its social costs. In fact, there are both significant benefits and significant costs. Communities that embrace gambling, and the areas that surround them, experience both gambling's negative and positive impacts. The key question is this: How do gambling's benefits measure against its costs? Even after the NGISC's 2 years of extensive research, the question cannot be

“When the casinos came to Atlantic City I got employed as a pantry person making sandwiches. Then the casino sent me to school to further my education in the culinary field. I became a cook, shortly thereafter a relief cook, making money that I didn't imagine I could be making and being able to provide for my family.”

—Sydney Meadows
Cook
Atlantic City Showboat
Atlantic City, New Jersey

I'm so glad to be part of the union gaming industry. Thanks to it, I don't need to depend on welfare anymore, and I can give my family anything they need. And I can give them a better life and a prosperous future.

—Silvia Amador
Guest Room Attendant
Las Vegas Hilton Hotel
and Casino

definitively answered. The overall amount of high-quality and relevant research in this area is still extremely limited. Indeed, much of the previously existing research is flawed by insufficient data, poor or underdeveloped methodology, or researchers' biases. However, even without a complete range of measurements, the NGISC has begun the process of determining the **net impact** of gambling. Policymakers at all levels of government are urged to review the Commission's analyses and to evaluate and critically test gambling's costs and benefits within their own communities. To that end, the NGISC offers policymakers a process as well as qualitative and quantitative factors to consider as they assess the true benefits and costs of gambling.

The NGISC suggests that policymakers consider a number of caveats: First, social and economic impacts are not easily severable. Employment, for instance, is both an economic

"I have worked at the Hollywood Park Casino for the last four years. I am married and I have a beautiful family. I am the father of six children. I came to California sixteen years ago, and I got a job at the International House of Pancakes where I worked for twelve years as a cook for \$7.00 an hour. In those twelve years I never received a raise, never had a vacation, and never was offered family health insurance. When my children got sick, I had to take them to a local clinic and pay cash for all the expenses. I never had time for my family. I worked 14 or 15 hours a day, seven days a week just to be able to support them. But now I am working at the Hollywood Park Casino, the first union casino in Southern California. As a lead cook I make \$12.00 an hour, \$5.00 more an hour than I used to make. And now I have affordable health insurance, and I can count on having regular days off to spend with my family. Before, I had to worry about our future, but now I have job security and most importantly I have respect and a voice on my job."

—Carlos Alvarenga
Hollywood Park Casino, Eglewood, California

In 1994 Ellen Cantor experienced a mid-life crisis of sorts. She was at the top of her field, earning \$90,000 a year as a controller for a home care agency. But Cantor, a self-described “nice Jewish girl from New York,” wanted a change. She cashed in her 401K plan, withdrew her substantial savings, and she and her soon-to-be husband packed up everything and headed to “the land of opportunity”—Las Vegas. Once there, they visited the casinos frequently—he played the horses, and she played blackjack. They both found jobs they enjoyed. For two years, life was good. Then Cantor discovered video poker. Before then, Cantor used to chuckle at the people playing video poker in the convenience stores and supermarkets. “Don’t they have a life?” she wondered. Her husband tried to warn her. “That stuff is video crack. You are never going to get away from it.” He was right; she couldn’t. Cantor “won” over \$1 million at one casino on video poker—but of course losing far more there and at the other casinos she frequented. She began stealing from her company. Her husband finally left. Cantor sought help at Gamblers Anonymous meetings, but the opportunity to gamble remained ever present. The pull was too strong. Cantor knew she had to get away. She left her clothes, furniture—everything—in the apartment and drove back to New York City. She was so broke she had to write hot checks to cover expenses on the trip. The support of family and a GA group in New York has seen her through recent months. She thinks often of the hundreds of others she met in Las Vegas whose lives were similarly destroyed by a gambling addiction. She worries, though, about the rapid spread of gambling across America. What if video poker was to come to New York? “I know I don’t have another recovery left in me,” she says. “I will never set foot in Vegas again, because I know I’m not strong enough not to gamble.”

—Ellen Cantor
New York City

and social benefit. Likewise, crime is both an economic and social cost. Second, it is extremely difficult to quantify social costs and benefits. For example, a casino job might not be considered a true benefit, because other jobs may be available. Likewise, bankruptcy might not be considered a true cost, because in the eyes of economists, the dollars are merely transferred. But in the context of real people leading real lives, the lens through which policymakers must view the gambling issue, a casino job, complete with benefits, might be an individual family’s saving grace. And to the individual family that must

“ I would like to tell [the advocates of] video poker what it has done for me. I am now a ‘single’ parent with one small income and two small children, one of who doesn’t even remember ever seeing his daddy outside of prison gates. Anyone who thinks that video poker isn’t addictive or harmful needs to walk a mile, or even a step, in my shoes.”

—“ Susan”
Greenville, South
Carolina

“ I was a good family man, a good man in my church and a good businessman but after gambling in Atlantic City, I turned into a thief and a bum.”

—Dominick Fiorese
New Jersey

endure it, bankruptcy is indeed a crisis and a cost to be borne. Third, what society terms “the gambling industry” actually involves segments that are quite different from one another. “Destination” casino resorts, for example, bear little resemblance to “convenience” gambling. The former provides numerous jobs, restaurants, shopping, and entertainment as well as a number of games in a highly regulated setting. The latter involves a relatively small number of games, creates few or no jobs, is far less regulated, and fails to create significant beneficial economic impact.

Legalized gambling has unquestionably had certain positive economic effects in some of the communities in which it has been introduced. Hundreds of employees in several cities enthusiastically described to the Commission the new and better jobs they had obtained with the advent of casinos. They described the homes and cars they had been able to purchase and the health and retirement benefits that they had obtained by going to work for the casinos. In other locations, tribal members testified that the advent of casinos on tribal lands had provided jobs where none had existed before and that casinos had made possible improved hospital and clinic facilities and schools for the benefit of their children. Several tribal representatives testified that gambling revenues are providing tribes with enough resources to make investments in other industries and enterprises.

Regarding the quantifiable economic benefits of legalized gambling, the Commission heard testimony that in 1995 the industry posted revenues of between \$22 billion and \$25 billion, paid a total of \$2.9 billion in taxes, directly employed 300,000 people, and paid \$7.3 billion

in wages and salaries. In 1996, 83 percent of Atlantic City's unionized casino workers received employer-paid family health insurance, almost twice the percentage of New Jersey and U.S. service workers with family coverage. In 1993, 95 percent of Atlantic City's unionized casino workers were earning pension benefits, compared with 45 percent of the private sector force nationally. The pari-mutuel horse-racing industry reported revenues of \$3.25 billion and employed approximately 119,000 people.

But there were other factors brought to the attention of the NGISC. In Atlantic City and elsewhere, small business owners testified to the loss of their businesses when casinos came to town. Other citizens testified to the lack of job security they had encountered in tribal casinos as well as the absence of federal and state antidiscrimination laws and the lack of workers' compensation benefits. In one of the surveys contracted by the NGISC, NORC conducted case studies in 10 communities in which they interviewed 7 or 8 community leaders regarding their perceptions. Respondents in five of the nine communities cited new employment opportunities as a "very positive advantage." However, respondents in the other four communities indicated that unemployment remained a problem despite former hopes to the contrary.

Much of the analysis of the economic effects of gambling is, in fact, poorly developed and incomplete. Almost all of the studies have been conducted by interested parties. These typically have gone no further than to estimate local jobs and income from the gambling industry. But since the economic effect of an activity is its value added above what the same resources would be adding to value if employed elsewhere, these studies are deficient and may mislead readers to conclude that the introduction of gambling activities in an area will result in significant benefits without attendant costs, costs which may, in fact, overwhelm the benefits. Without an estimate of the opportunity cost of the resources used in gambling, the NGISC can generate no meaningful estimate of its net effect. Furthermore, the social costs of gambling are so important to regulatory decisions that even an accurate estimate of the net income generated by the gambling industry would constitute only the start of a full cost-benefit analysis. No one—not tribal leaders, governors, mayors, or citizens—should make, or should be forced to make, a decision