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## Native gaming and gambling in Canada

Kiedrowski & Associates Inc.

Indian and Northern Affairs Canada

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# **NATIVE GAMING AND GAMBLING IN CANADA**

**February 2001**

**Prepared by: Kiedrowski & Associates Inc.**

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The views expressed in this document are those of the author and do not necessarily reflect the views or policies of Indian Northern Affairs Canada or other government officials.

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## Executive Summary

In the last fifteen years provincial governments have expanded the scope of legalized gaming offered in Canada to include slot machine gaming at casinos and other locations. In 1999, Statistics Canada reported that \$8.1 billion was wagered on some form of non-charity legalized gambling activity, three times the \$2.7 billion of seven years earlier.

This period has also witnessed growth in Native gaming in Canada and the United States. In the United States, many American Indian tribes operate casino gaming that, in 1998-99, amounted to revenues of approximately US\$9.6 billion. In Canada, the Saskatchewan Indian Gaming Authority reported net profits of \$17 million from four First Nations casinos. However, the legal, demographics and market environments differ substantially between the two countries.

This growth in legalized gambling, has occurred within the governing framework of the federal Criminal Code and provincial statutes. This report provides an overview of the regulatory structures for casinos, lotteries, and charitable gaming in each province and territory. It also reviews literature that assesses the economic and social impact of tribal and First Nations gambling in the United States and Canada respectively. The report is divided into two parts.

Part I of the report reviews literature on the economic and social impact of Native gaming in Canada and the United States as well as material on the regulatory structure of tribal gaming in the United States and First Nations gambling in Canada. In terms of regulatory frameworks, tribal gaming in the United States is faced with more regulatory regimes than First Nations gaming in Canada.

The literature on the economic impact of gambling mainly comes from the United States. Although many tribes are generating substantial revenues, most made under US \$3 million in 1999. The substantial growth in revenues is not expected to continue. The literature also suggests that, for tribes in the United States, location is key in determining a casino's profitability, i.e., proximity to a metropolitan center. Those casinos that were not as profitable or were shut down were too remote, or could not benefit from a large urban area.

In some cases, tribal and First Nations casino gambling has created much needed employment in the communities. Some of the literature suggests that for some communities the unemployment rate substantially declined while other material suggests that gambling does not create that many jobs. In the United States the type of employment that gambling creates for Indians and Aboriginal people appears to be front line jobs with few Native employees being promoted to managerial positions. The literature suggests that this may be due to lack of experience, training, and education. The readings further point out that the

revenues from Tribal gambling helped to develop the communities but had little impact on the surrounding communities.

The literature also reveals that Native gaming also affected the communities socially. However, this impact varied, depending on the success of the gaming operations and whether the funds were being allocated back into the community to address issues such as housing, health, and other socially related programs. The literature is inconclusive on whether gambling causes an increase in crime. Some Native communities in the United States expressed concerns regarding the benefits of gambling, notably the Navajo and have rejected calls for such activities. Finally, the literature also suggests that pathological gambling or problem gamblers has a higher prevalence rate among Native Americans and Aboriginal people in Canada than the general population. A number of tribes and First Nations communities are contributing resources to address gaming addictions.

Part II of the report focuses on legal gaming schemes including Aboriginal gambling in the provinces and territories. British Columbia, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, and Nova Scotia have entered into agreements with First Nations communities that allow them to share from slot machines or other forms of gaming in First Nation communities. First Nations casinos are permitted to operate on or off reserve depending on the agreement with provincial governments. These agreements, however, vary among the provinces. Some First Nations have negotiated a percentage of the share of revenues from established provincial government casinos. In other provinces, First Nations do not have any special arrangements.



## **Acknowledgments**

To conduct this type of review is not possible without the input from those working in the area of gambling regulations from the provinces and territories. I would like to thank Elsie Bagen (Yukon), Michael Gagnon (Northwest Territories), Doug Garson (Nunavut), Ruth Rogers and Paul Whitehead (British Columbia), Gerry McLennan and John Annett (Alberta), Fiona Kribb (Saskatchewan), Liz Stephenson (Manitoba), John Nolan and Lydia Boni (Ontario), Gervais Oullet (Québec), Brian Steeves (New Brunswick), Dennis Kerr, Joel Baltzer and Martine Marleau (Nova Scotia) and Gerry Burke (Newfoundland). These individuals were instrumental in providing me with the information on native gambling and gaming in their province. Mr. Hal Pruden, Department of Justice Canada provided information on the legal aspects of native gaming in Canada and the United States. I also want to thank Dr. Jim McMullan, Saint Mary's University in Halifax, Dr. Bernard Schissel, University of Saskatchewan, Dr. Garry Smith, University of Alberta, and Dr. Colin Campbell, Douglas College, New Westminster for assisting me to identify information on native gaming in Canada. Finally, I would like to thank Dr. Kate Spilde, Librarian, National Indian Gaming Association, Washington D.C. and Kyle Nayback, National Indian Gaming Commission for providing me with information on tribal gaming in the United States.

Finally, I want to thank Bruno Steinke from Indian and Northern Affairs Canada for his assistance to help flush out some of the issues on native gaming. The information in the report will hopefully further a healthy debate on native gaming in Canada. The shortcomings of the report are my own.

## **INTRODUCTION**

Over the past fifteen years, the provincial governments have expanded the scope of legalized gaming offered in Canada to include slot machine gaming at casinos and video lottery terminals at other locations. A recent study by Vaillancourt and Roy (2000) for the Canadian Tax Foundation and Statistics Canada show that gaming is a very profitable enterprise. For example, Statistics Canada reported that, in 1999, \$8.1 billion was wagered on non-charity gambling activities, three times the \$2.7 billion of seven years earlier.<sup>1</sup> Statistics Canada data for 1998 show that in Canada approximately \$3.8 billion was wagered in casinos, \$2.1 billion on video lottery terminals (VLTs), and \$2.6 billion on lotteries.

This period witnessed a growth also in Native gaming in both Canada and the United States. In the United States in 1999, tribes operated casino gaming that is amounted to revenues of approximately US \$9.6 billion.<sup>2</sup> In Canada, several provinces have accommodated certain First Nations' gaming aspirations with co-operative arrangements to share proceeds from the provincial government's casino operations or from VLTs or both. Most lucrative is the Rama casino operation in Ontario, with proceeds divided between the host Band, a fund for all Ontario Bands and the Province of Ontario. Profit sharing with First Nations also occurs in British Columbia, Saskatchewan, Manitoba, New Brunswick, and Nova Scotia. The Saskatchewan Indian Gaming Authority reported net profits of \$17 million from four First Nations casinos.<sup>3</sup>

This report is divided into two main components:

Part I of the report reviews the literature on Native gaming. Over the past several years, Native gaming has become a source of discussion here in Canada and in the United States. Gaming is viewed as an economic development tool for

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<sup>1</sup> \_\_\_\_\_ Statistics Canada (2000) "Gambling: An Update," *The Daily*, Wednesday, March 8. See <http://www.statcan.ca/Daily/English>. For a general overview of gambling in Canada including its revenues, see Vaillancourt and Roy (2000). For an overview of gambling revenues in Canada see Statistics Canada's publication entitled "The Daily."

<sup>2</sup> **U. S. National Indian Gaming Commission. See Table 6 in this report.**

<sup>3</sup> ***Saskatchewan Liquor and Gaming Authority Annual Report 1998-99, p. 25.***

Native communities. However, the economic and social impact of gaming on the communities and the surrounding vicinity is not fully known.

Part II provides an overview of the regulatory structures for casinos, lotteries, and charitable gaming in each province and territory<sup>4</sup>. The main focus of Part II is on provincially conducted lottery schemes. The range of lottery schemes conducted varies from province to province. Combinations may include: lottery tickets, slot machines located in provincial government casinos with table games, slot machines located in private or charity buildings next to table games that are conducted by a charity under a provincial lottery scheme license, slot machines located at racetracks, slot machines placed in bars or other locations, paper bingos, and electronic bingos.

The administration of lottery tickets is governed by provincial legislation and marketed through a regional/Crown/combo of regional and Crown corporation. These include: the British Columbia Lottery Corporation, the Western Canada Lottery Corporation, the Ontario Lottery Corporation, Lotto Quebec, and the Atlantic Lottery Corporation. These bodies are responsible for managing provincial/regional lottery schemes (e.g., Instant, Pick-3); the types of games operated vary among the provinces. Furthermore, all provinces and territories are shareholders in the Interprovincial Lottery Corporation which manages Canada-wide lotteries, such as Lotto 6/49.<sup>5</sup>

Finally this section of the report will highlight gaming activities that are operated by First Nations communities both on and off reserves. These include charitable gaming activities that are operating on reserves as well as the gaming arrangements some provinces have with First Nations to share casino or VLT revenues.

## **1. SOME CRIMINAL LAW PROVISIONS GOVERNING GAMBLING IN CANADA**

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<sup>4</sup> Pari-mutuel betting is discussed in terms of a gaming activity, but has been excluded as part of the review in each province. It is regulated by the federal Minister of Agriculture.

<sup>5</sup> This report updates two reviews conducted in 1993 and 1995.

The following table provides an overview of some key sections of the *Criminal Code* related to gambling in Canada.

**Table 1 - Some Key Criminal Code Sections on Gambling<sup>6</sup>**

Section of the Criminal Code of Canada	Heading	Descriptions
201, 202 and 204	<p>201 Keeping Gaming or Betting House</p> <p>202 Betting, Pool-Selling, Book-making, etc.</p> <p>204 Exemption... Pari-Mutuel Betting</p>	<p>Being a keeper is an indictable offence. Being a found-in is a summary conviction offence</p> <p>A broad range of activities related to gaming and betting are indictable offences with mandatory minimum penalties for repeat offences.</p> <p>Exemptions are created from s. 201 and 202 for persons who do activities described therein for the purposes of legal, pari-mutuel betting on horse races at the racetrack of a race association through the agency of a pari-mutuel system.</p> <p>The federal Minister of Agriculture administers this section through the Canadian Pari Mutuel Agency<sup>7</sup>.</p>
206	Offences in Relation to Lotteries and Game of Chance	<p>A broad range of activities related to lotteries and games of chance are prohibited. Indictable offences are created for operators and summary conviction offences are created for participants. A permitted exception is created for wheels of fortune operated by the board of an annual fair or the lessor of a concession</p>
207	Permitted Lotteries	<p>207(1)(a) a broad range of lottery schemes conducted by provincial governments are permitted.</p> <p>207(1)(b) a narrower range of lottery schemes conducted by provincially licensed charitable/religious organizations are permitted. Provinces may not license a lottery scheme that operates on or through a computer, video device, slot machine or dice game.</p>
207.1	Exemption – Lottery Scheme on an International Cruise Ship	<p>A broad range of lottery schemes is permitted. All participants must be on board and there must be no link to an off-ship lottery scheme. The lottery scheme must not operate within 5 nautical miles of a Canadian port of call. The trip must be at least 48 hours long. There must be at least 1</p>

<sup>6</sup> Criminal Code of Canada. See <http://canada.justice.gc.ca>.

<sup>7</sup> The Agency is financed through a federal levy of eight tenths (0.8%) of one percent collected from each bet placed For further information see: [http://cpma-acpm.gc.ca/cpma\\_e.html#cpma](http://cpma-acpm.gc.ca/cpma_e.html#cpma)

		call at a foreign port and some scheduled voyaging in international waters.
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The direction of gambling, however, has been governed by various provincial statutes. Unlike the United States, where each state has authority to enact criminal law, the constitutional legislative authority for criminal law in Canada has been assigned to Parliament. It has enacted gambling provisions within the *Criminal Code*. The general framework that can be discerned from reading these provisions is that all forms of gambling are prohibited, except those that are specifically permitted within the *Code*.

Permitted forms of gambling include: pari-mutuel betting on horse races, a broad range of "lottery schemes" conducted on international cruise ships, a broader range of lottery schemes that are conducted by provinces/territories (only a province or territory may conduct a lottery scheme or a slot machine) and a narrower range of lottery schemes that are conducted by provincial/territorial licensees, such as charities or fairs. In the provinces, the responsibility for prosecuting *Criminal Code* offences has been assigned to the Attorney General of each province. Each provincial or territorial government may enact legislation and create regulations related to provincially conducted and provincially licensed lottery schemes that are legal under the *Criminal Code*.

British Columbia, Saskatchewan, Manitoba, Ontario, Quebec, and Nova Scotia conduct lottery schemes, including slot machine gaming, at provincial government casinos. In some cases, provinces contract with private corporations for assistance in the day to day management of the casinos. All of these casino provinces, except Quebec, have entered into arrangements with First Nations for sharing profits from certain casinos. The Yukon locates government slot machines in a casino facility that hosts casino table games conducted under territorial license by a charity. Alberta locates provincial

government slot machines in private casino facilities that host casino table games that are conducted under provincial license by a charity.

The following table provides a brief historical review of some key criminal legislation on gambling.

**Table 2 - Major Amendments to Canadian Gambling Laws<sup>8</sup>**

Year	Legislation/Amendments
1892	The received law at Confederation in 1867, post-Confederation federal acts relating to

<sup>8</sup> Some of this information was extracted from Campbell and Smith (1998).

	gambling and case law constituted the criminal law on gambling prior to 1892. In 1892, the <i>Criminal Code</i> codified the criminal law on gambling. Included was the offence of disposing of property by any mode of chance. Betting on horse races was permitted. Charitable raffles for prizes up to \$50 at bazaars were excepted from the offence provisions, where permitted by civic officials and where the items had first been offered for sale.
1910	Conducting, as a business, on-track betting at race tracks was made an offence but an exception was created for race associations. In 1920 provision was made for the use of a pari-mutuel system of betting by race associations.
1925	An exemption was created from the games of chance offence and the wheel of fortune offence for agricultural fairs or lessees of concessions at fairs to operate games of chance or wheels of fortune during annual fairs or exhibitions.
1969	A broad range of lottery schemes conducted by the federal government or by the provincial government were permitted. A narrow range of lottery schemes conducted by a charitable or religious organization under a provincial licence, where the proceeds are used for religious/charitable purposes, were also permitted. The code no longer sets a prize limit.
1985	The permission for federally conducted lottery schemes was removed. Provinces, therefore, exclusively controlled lottery schemes within the province. The <i>Code</i> was also amended to clarify that provinces could conduct but not license lottery schemes on or through a computer, video device or slot machine.
1999	Lottery schemes on international cruise ships in Canada's waters were permitted in specific conditions.

Following the amendments in 1969, provinces conducted lottery schemes and licensed charitable and religious organizations to conduct lottery schemes. The federal government also conducted lottery schemes through the Lotto Canada corporation for the purposes of raising funds to offset the costs of the Montreal Olympics and to provide funds for sporting activities.

In 1974, provincial governments established agreements with each other to manage large scale lottery schemes<sup>9</sup>. In 1979, federal/ provincial Ministers entered into a gaming agreement by which the federal government agreed not to conduct lottery schemes and the provinces agreed to make an annual payment. In 1983, Parliament amended the *Criminal Code* to authorize pool betting operations where they are conducted by the federal government. Litigation arose and in 1985 federal/provincial Ministers agreed that the federal government

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<sup>9</sup> In 1974, Manitoba, Saskatchewan, Alberta and British Columbia established the Western Lottery foundation which was later renamed the Western Canada Lottery Corporation. Yukon and Northwest Territories joined as associated members. In 1976, Prince Edward Island, New Brunswick, Newfoundland and Nova Scotia established the Atlantic Lottery Corporation. In 1976, Interprovincial Lottery corporation was created by all the provinces to coordinate three major interprovincial lottery schemes.

would place a bill before Parliament to remove the permission for federally conducted lottery schemes and pool betting operations. Provinces agreed to give the federal government 100 million dollars towards the Calgary Olympics and to continue the annual payment under the 1979 agreement.

## 2. FIRST NATIONS GAMBLING IN CANADA

Several provinces have entered into agreements with First Nations communities to share the profits from provincial government lottery schemes conducted in certain casinos. British Columbia, Saskatchewan, Manitoba, Ontario, and Nova Scotia have implemented or announced such arrangements. The arrangements vary from province to province. In Saskatchewan and Nova Scotia, some arrangements involve an off-reserve casino or casinos. Although some First Nations have chosen to enter into co-operative arrangements with provinces regarding casinos, not all First Nations have viewed their involvement in large-scale gambling operations as limited to such arrangements. Some individuals have in criminal cases raised arguments claiming First Nations' authority in the gambling sphere.

Cases have raised two lines of argument claiming the source for First Nations authority to regulate gaming on reserves. In the case *St. Mary's Indian Band v. Canada*<sup>10</sup>, the Chief and Council of the St. Mary's Indian Band passed a by-law, purportedly pursuant to paragraphs 81(1)(c), (m), (g) and (r) of the *Indian Act* for the regulation of gambling casinos on reserve. The Minister of Indian Affairs and Northern Development disallowed that by-law pursuant to his authority under section 82 of the Act. On an application for judicial review of the Minister's decision, the judge ruled that the subsection 81(1)(m) relates to order at public games and events and does not give Indian band councils the authority to regulate gambling casinos on their reserves. The matter was upheld on appeal and the Supreme Court of Canada declined to grant a further appeal.

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<sup>10</sup> Trial Division, Reed J. Vancouver, July 6, 7; Ottawa, August 17, 1995.



*R. v. Pamajewon and Jones*<sup>11</sup>, and another appeal from conviction heard at the same time in the Supreme Court of Canada, *Gardner, Pitchenese and Gardner*, arose in two separate First Nation communities (the Shawanaga First Nation and the Eagle Lake First Nation). The original convictions related to large-scale, illegal gambling under the *Criminal Code*. In both these cases, the Bands did not obtain a licence from the province of Ontario. In these cases, the appellants argued in defence that they held an Aboriginal right to conduct the gambling operations in question.

The Supreme Court of Canada affirmed that the test for an Aboriginal right in the gambling sphere is the same as that for any other Aboriginal right. Therefore, evidence relating to the role of gambling at the time of contact is necessary. While the court did not find sufficient evidence for an Aboriginal right in each of these cases, the ruling did not closed the door to such an argument on the right evidence.

The issue of whether a particular treaty right provides authority for large-scale gambling conducted by a First Nation or by First Nations individuals has not yet been addressed.

## **PART I - NATIVE GAMING IN CANADA AND THE UNITED STATES: A REVIEW OF THE LITERATURE**

### **3. INTRODUCTION**

Since the 1990s, several First Nations communities and numerous American Indian tribes adopted casino-style gaming.<sup>12</sup> In Canada, First Nations communities have gained access to gambling revenues through agreements with provincial authorities. The first agreement to facilitate gambling on reserves was adopted in 1994. The establishment of Indian gambling in the United States has taken on a different perspective. In the United States, tribal gaming was confirmed in 1988 after the Supreme Court judged that the state of California had no authority to apply its regulatory gaming statutes to gambling activities conducted on Indian reservations. Congress passed the *Indian Gaming Regulatory Act* (IGRA) which provides for the regulation of Native gambling. In the United States, Class III gaming requires a compact between the state and the

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<sup>11</sup> [1996] 2. S.C.R.

<sup>12</sup> The literature from the United States uses the words *Tribe* and *Indian* interchangeably.

tribe, similar to agreements in Canada between the province and First Nation.

In Canada and the United States, the Indian communities see gambling as a means to raise revenue and to use these funds for improving social and economic conditions in their communities. Indian gaming, which is sometimes referred to as the "new buffalo,"<sup>13</sup> has been presented as a vehicle for financial autonomy. As both the number of gaming operations in First Nation communities and the magnitude of some of them has grown, questions have arisen about the effects of gaming.

The objective of this part is to provide an overview of recent literature on native gaming in Canada and the United States. More specifically, the review will focus on how gaming has impacted on the communities' economies, and the extent of such factors as crime and gambling addiction.

It is important to keep in mind the population difference between Canada and the United States. In 2000, Canada's total population was 30,750,100, compared to the United States which was 285,230,500. The First Nation population in Canada is 642, 414 the American Indian population is 2,475,900.<sup>14</sup>

#### 4. APPROACH

To conduct this review of the literature on Native gaming, several academic data banks were searched.<sup>15</sup> Various data banks maintained by the National Indian Gaming Association (NIGA),<sup>16</sup> National Indian Gaming Commission (NIGC), Web sites of American Indian tribes that provide casino gambling, and other institutions that study gambling were reviewed. Provincial agencies responsible for Native gaming were also asked to identify any literature on the impact of Native gaming in Canada. Finally, individuals who have studied Native gaming in Canada were contacted.<sup>17</sup>

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<sup>13</sup> In 1999 the Assembly of Manitoba Chiefs submitted a report called, "The new Buffalo?". This term "new buffalo" is referenced in several articles on Tribal gaming in the United States.

<sup>14</sup> Refer to Appendix A for a provincial/territorial population breakdown. United States population data comes from the U.S. Department of Commerce, U.S. Census Bureau, 2000.

<sup>15</sup> These data banks included Sociofile, Eric, Expanded Academic Index, Legal Trac, Current Contents/All Edition, Dissertation Abstracts, and Econlit. In addition, data-banks provided by various First Nations in Canada, the National Indian Gaming Association, and Canadian Centre on Substance Abuse were searched.

<sup>16</sup> Communications with Dr. Kate Spilde, Librarian, National Indian Gaming Association, Washington, D.C.

<sup>17</sup> To identify literature on Native gaming in Canada, the following individuals were contacted: Dr. Jim McMullan, Saint Mary's University in Halifax, Dr. Bernard Schissel, University of Saskatchewan, Dr. Garry Smith, University of Alberta, and Dr. Colin Campbell, Douglas College, New Westminster.

A review of Native gaming literature reveals that studies on either the positive or negative aspects of gaming are limited. Indeed, few studies on the impact of Native gaming exist in Canada. The literature reviewed can be categorized into three areas.

First, there is literature produced by academics, private consultants, or government agencies on the impact of Native gaming. In some cases, the reports provide the methodologies used to conduct the studies. Some of these studies may have received peer review or similar scrutiny. Some were funded by foundations, government agencies, or by band or tribal councils. Although problems arising from sponsorship are minimal, bias may still arise from the investigator's own values and social pressures.

Second, there are various news paper or gambling trade magazine articles on the positive and negative effects of Native gaming written by individuals involved in gaming. These articles are descriptive in nature and provide little or no methodology or references to their materials.

Finally, there is some literature produced by band or tribal councils or gaming companies that focuses mainly on the positive aspects of gaming. This information attempts to show how gaming will correct all social and economic ills in the community and lacks peer review and excludes information unsupportive of the gaming companies' or First Nations' position.

This literature review focuses on articles produced in the last several years particularly by academics, private consultants, and government agencies. As Tribal gaming was introduced relatively recently — in the United States in the late 1980s and in Canada in early 1990s — there is a need for reasonable time to pass to assess its impact on and off Indian lands. Recent studies will bear more on policies or strategic planning than those produced around the time when Native gaming was introduced.<sup>18</sup>

## **5. REGULATORY STRUCTURE OF FIRST NATION GAMING IN CANADA**

As stated earlier in this report, the *Criminal Code* creates the permitted forms of gambling in Canada. Under section 207, certain lottery schemes conducted by provinces or by licensees of the province are permitted. In some provinces, First Nation organizations obtain licenses from the usual provincial licensing bodies. Some provinces have specified First Nation licensing bodies. In some provinces, the province has negotiated co-operative arrangements with First Nations to place provincial government video lottery terminals at reserve locations or to share with First Nations the proceeds of certain provincial government casinos. Thus, under this framework First Nations have gained access to gambling

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<sup>18</sup> Conversation with Dr. Stephen Hoenack (August 31, 2000) who wrote a report an economic development report on Native gaming in 1995. Alesch (1997) also made similar comments in his report on Indian casino gambling.

revenues not by virtue of Aboriginal and treaty rights, but through agreements with provincial governments. These agreements vary among the provinces.

Table 3 gives an overview on how existing First Nation's gambling operates in Canada. It shows that in order for First Nations communities to provide any type of gambling facility or opportunity they must be issued a licence from a province/First Nation licencing body specified by a province. In some cases, the provinces have entered into agreements with the First Nations communities.

**Table 3 - Levels of Responsibility for First Nations Gambling in Canada**

<b>Levels Responsible for Regulating Gaming</b>	<b>Activities</b>
Federal Government	<ul style="list-style-type: none"><li>Responsible for the Criminal Code which permits certain lottery schemes conducted by a province and certain lottery schemes licenced by a province.</li></ul>
Provincial Governments	<ul style="list-style-type: none"><li>Conduct lottery schemes</li><li>Regulate and license lottery schemes and other gaming activities.</li><li>Slots machines/ VLTs gaming. These casinos may be solely owned by the province and operated by a Crown corporation (e.g., Saskatchewan), or the casino may be government-owned but privately operated (e.g., Ontario, Nova Scotia)</li><li>Responsible for compliance and enforcement under provincial gaming legislation.</li></ul>
First Nations Communities	<ul style="list-style-type: none"><li>First Nations communities can apply for charitable gaming activities similarly to any other charitable organization.</li><li>Entering into an agreement with the province to operate a casino. Depending on the province, this casino may be on or off reserve. These agreements vary among the provinces.</li><li>First Nation designate licenced body for charity gaming</li></ul>

First Nations gambling operates under a cooperative framework whereby the provinces and the First Nations enter into an agreement to operate casinos. Charitable lottery schemes are permitted in First Nations communities provided a licence to conduct such activities for charitable purposes is obtained for the province or a provincially designated First Nation licencing body.

## **6. REGULATORY STRUCTURE OF TRIBAL GAMING IN THE UNITED STATES**

Under United States constitutional law, tribes are “domestic, dependent sovereign nations”. They may legislate in any area to the extent that Congress has not acted to limit their authority<sup>19</sup>. In the 1980s, an issue arose as to whether California law applied to certain gambling activities of the Cabazon tribe. In advance of a ruling from the Supreme Court of the United States, some tribes were concerned that a loss in the Supreme Court would end the possibility of using gambling as an economic development tool. They lobbied for federal legislation in the area of gambling. In 1987, the U.S. Supreme Court ruled in favour of the Cabazons. However, the legislative process already underway had gained considerable momentum. Consequently, in 1988 Congress passed the *Indian Gaming Regulatory Act* (IGRA) which regulates gaming activities on Indian land and is comprehensive limit upon a tribes "domestic sovereignty". Table 4 provides the three classes of gaming activity under the IGRA.

The act enables Indian tribes to operate gambling, even casino gambling, on their reservations as long as that type of gambling is legal in the state in which the reservation is located, providing there is an approved tribal-state compact. The act requires that the revenues generated by Indian gaming facilities be used to fund tribal government operations and programs, the general welfare of the Indian tribe and its members, and tribal economic development, such as essential governmental services (e.g., education, health, and infrastructure improvements).<sup>20</sup>

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<sup>19</sup> In 1987, the U.S. Supreme Court issued its decision in *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987). This decision made it clear that Indian tribes had the authority to conduct gaming activities on reservations unfettered by any state or county regulation. This decision recognized the importance of tribal self-governance and self-determination. At the same time that the *Cabazon* case was being litigated, there was a wide-spread growth of Indian bingo halls in many parts of the country. For a history of Indian gambling in the United States see Cornell et al., (1998) or Anders (1998).

In addition to the IGRA, the *Johnson Act* is responsible for regulating gaming, including Tribal gaming. This latter act makes it unlawful within Indian country to possess or use any "gambling device." 15 U.S.C. §§ 1175(a). A "gambling device" is defined as any slot machine, 15 U.S.C. §§ 1171(a)(1), and any other machine or mechanical device (including but not limited to, roulette wheels and similar devices) designed and manufactured primarily for use in connection with gambling, and (A) which when operated may deliver, as the result of the application of an element of chance, any money or property, or (B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property. 15 U.S.C. at §§ 1171(a)(2).

<sup>20</sup> 25 U.S.C. §2701(11)(B)i-v).

**Table 4 - Overview of Tribal Gaming under the IGRA**

<b>Classification of Gaming</b>	<b>Description</b>
Class I	Social games for prizes of minimal value, and traditional forms of Indian gaming engaged in as part of tribal ceremonies or celebrations. Gaming under Class 1 is solely regulated by the tribes.
Class II	Bingo and similar games, pull tabs, tip jars, punch boards, lotto, instant bingo, and some card games, excluding house banking card games such as blackjack and baccarat, and excluding certain nonbanking card games. A tribe may conduct, license, and regulate Class II gaming if: (1) the state in which the tribe is located permits such gaming for any purpose by a person or organization; and (2) the governing body of the tribe adopts a gaming ordinance which is approved by the National Indian Gaming Commission (NIGC).
Class III	All other forms of gaming, including banking card games, slot machines, craps, pari-mutuel horse racing, dog racing, and lotteries. Class III gaming may be conducted lawfully by an Indian tribe if: (1) the state in which the tribe is located permits such gaming; (2) the tribe and the state have negotiated a tribal-state compact which has been approved by the Secretary of Interior; and (3) the tribe has adopted a gaming ordinance that has been approved by the NIGC.

Source: IGRA

Indian gaming in the United States involve three tiers of regulation: federal, state, and tribal. At the federal level, several federal departments are involved in tribal gaming. The Department of the Interior determines which lands can be placed into reservation trusts, approves tribal-state compacts and rules on tribal gaming revenue allocation plans. The Department of Justice enforces criminal violation of gaming laws, performs background checks on gaming employees, and conducts investigative studies. The Federal Bureau of Indian Affairs provides oversight regarding crimes committed on reservations.

The National Indian Gaming Commission was established in 1988 under the IGRA. It regulates gaming activities on Indian lands for the purposes of shielding Indian tribes from organized crime and other corrupting influences, ensures that Indian tribes are the primary beneficiaries of gaming revenues and that gaming is conducted fairly and honestly by both operators and players. The Commission is authorized to conduct investigations; undertake enforcement actions, including the assessment of fines and the issuance of closure orders; conduct background

investigations; conduct audits; review and approve tribal gaming ordinances and management contracts; and issue such regulations as are necessary to meet its responsibilities under the IGRA.

At the state level, the state governments may negotiate compacts with the tribal governments. A tribal-state compact is a legal agreement that establishes such things as the kinds of games offered, the size of the facility, betting limits, regulation, and security. The compacts ensure that tribal governments are the sole owners and primary beneficiaries of gaming. Currently, of the 561 federally recognized tribes in the United States, 195 tribes have Class III gambling facilities operating under 309 tribal-state compacts. These gaming tribes operate in 28 states.<sup>21</sup>

At the tribal level, tribal gaming commissions, approved by the NIGC, control Tribal gaming. These commissions can be established either by tribal gaming ordinances, tribal resolutions, or tribal-state compacts. In addition, the tribal governments are mainly responsible for enforcing frontline gaming regulations by adopting ordinances, setting standards, and providing security. Table 5 provides an overview of responsibility for tribal gaming in the United States.

Tribal Gaming in the United States is a complicated affair with a robust system of regulation that involves federal, state, and tribal gaming commissions to oversee gaming activities. At times, these various levels of regulation appear to overlap. There are issues related to the negotiation of compacts between the tribal and state governments. Recently, the Department of the Interior passed regulations that provide a framework to negotiate Class III compacts.<sup>22</sup>

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<sup>21</sup> See U.S. Department of the Interior, Bureau of Indian Affairs. Web site: <<http://www.doi.gov/bia/gaming/complis/gamingcmptindex.htm>>.

<sup>22</sup> The Department of the Interior introduced a new regulation that will apply only in cases where tribes and states have been unable to voluntarily negotiate Class III gaming compacts, where states otherwise allow Class III gaming activities, and when states assert immunity from lawsuits to resolve the dispute. See Department of the Interior press release dated April 7, 1999. Web site: <<http://www.doi.gov/news/990407.html>>

**Table 5 - Levels of Responsibility for Tribal Gambling in the United States**

Levels Responsible for Regulating Gaming	Activities
Federal Level	
Department of Justice Federal Bureau of Investigation	<ul style="list-style-type: none"> <li>· Responsible for the Indian Gaming Regulatory Act (IGRA that provides for three classes of gaming.</li> <li>· Enforces National Indian Gaming Commission’s decisions.</li> <li>· Only enforces <i>Johnson Act</i></li> <li>· Seeks civil enforcement of IGRA.</li> <li>· Investigates and prosecutes violations of IGRA.</li> <li>· Provides fingerprint and background checks for some gaming employees.</li> <li>· Conducts studies and issues opinions.</li> </ul>
Department of the Interior	<ul style="list-style-type: none"> <li>· Responsible for the Bureau of Indian Affairs</li> <li>· Rules on plans for allocation of tribal gaming revenues.</li> <li>· Approves tribal-state compacts</li> </ul>
Department of the Treasury	<ul style="list-style-type: none"> <li>· Responsible for Internal Revenue Services, and Secret Service</li> </ul>
National Indian Gaming Commission. Established in 1988 under the IGRA	<ul style="list-style-type: none"> <li>· Approves management contracts for Class III gaming.</li> <li>· Enforces and regulates gaming under the IGRA (e.g., monitors, inspects and examines gaming premises, conducts audits)</li> <li>· Imposes fees upon Class II and Class III gaming activities.</li> <li>· Conducts background checks and reviews terms of gaming contracts.</li> <li>· Authorized to enforce civil penalties and impose fines up to \$25,000 per day and to order establishment closures</li> <li>· Approves tribal gaming ordinances.</li> </ul>
State Governments	<ul style="list-style-type: none"> <li>· Negotiate compacts (“in good faith”) with tribes for Class III gaming.</li> <li>· Negotiate security and protection at the casinos.</li> <li>· Negotiate on issues related to increased costs to the state/local governments because of the casinos (e.g., roads).</li> <li>· Enforce provisions of compacts (e.g., background checks of employees and management company personnel.</li> </ul>



Tribal Governments	<ul style="list-style-type: none"><li>· Establish tribal gaming commissions that are responsible for monitoring the gambling operations.</li><li>· Negotiate compacts with state governments.</li><li>· Adopt ordinances and issue licences for gaming operations and employees.</li><li>· Manage tribal gaming operations.</li><li>· Provide protection and policing.</li><li>· Provide casino security.</li></ul>
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There are several issues facing Tribal gaming in the United States. When tribal members receive a per-capita distribution from the gaming revenues it is subject to federal income taxes as ordinary income. Currently, only 12 tribes or 6% of tribes that have Class III gambling facilities provide a per-capita distribution from gaming revenues. Some compacts contain provisions for payments by the tribes to state governments as reimbursement of the state's share of the costs of regulating tribal gambling facilities or providing similar types of services. Some states require payment from tribes merely as a quid pro quo for concluding a compact or as exclusivity payments in exchange for the exclusive right to conduct casino-type gambling on a large scale when states allow charitable casino nights but not commercial casinos.<sup>23</sup> Furthermore, some tribes can make payments to the state to off-set any costs related to such expenses as paying for an infrastructure (e.g., roads). Finally, in California, the tribal-state compact must include a contribution to a fund that has been established to benefit non-gaming tribes.<sup>24</sup>

Questions are still raised regarding how Indian tribes have the right to engage in gaming. In short, tribal gaming is the exercise of tribal sovereignty. This concept of tribal sovereignty is firmly rooted in the United States Constitution, and in the numerous treaties entered into between the United States and Indian nations. Additionally, there exists a body of federal Indian law which acknowledges and defines tribal sovereignty as well as numerous federal statutes. Essentially, tribal

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<sup>23</sup> The National Gambling Impact Study Commission *Final Report* (1999) reported that Mashantucket Pequots provide 25% of the proceeds from slot machines at the Foxwoods casino to the state of Connecticut in return for maintaining the tribe's monopoly (shared with the nearby Mohegan Sun casino on the Mohegan reservation). pp. 6-20 and 6-21.

<sup>24</sup> For further information regarding the California tribal-state compact see: <http://www.doi.gov/bia/gaming/complis/gamingcmptindex.htm>

gaming is gaming conducted by a government, much like states that sanction and profit from gaming in the form of lotteries, and pull tabs. There are, no doubt, rules by which Indian Nations must abide if they are to game. The rules and regulations are complex and involve three sovereigns -the Tribes, the states and the United States.<sup>25</sup>

Finally, upon comparing the regulatory frameworks between tribal gaming in the United States and the First Nations gaming arrangements in Canada, it appears that tribal gaming in the United States are more regulated and controlled than in Canada because of legislation and government intervention by more than one federal department and the involvement of federal and state governments.

## **7. ECONOMIC IMPACT OF NATIVE GAMBLING**

Gaming is the fastest growing economic activity for some US tribal and a few Canadian First Nations communities. These communities enter into gaming operations under the assumption that they will provide much needed revenues, create jobs, and provide economic development.

### **7.1 Revenues**

Several studies and reports focused on the revenues generated by Tribal gaming. The National Gaming Impact Study Commission (NGISC) of 1999 found that since the passing of the IGRA in 1988, tribal gambling revenues consistently grew at a faster rate than commercial gambling revenues. This growth was attributed to a small number of Indian gambling facilities operating near metropolitan areas that previously had few if no legalized gaming activities (1999:6-2). For example, the commission reported that tribal gambling revenues increased by 16.5% from 1996 to 1997, whereas commercial gambling revenues increased by 4.8% in the same period.

This growth rate, however, is not expected to continue as there is a degree of economic concentration in a relatively small number of gaming tribes. According to the commission “the 20 largest revenue generators in Indian gaming account for 50.5% of the total revenue; the next 85 account for 41.2%”(1999: 6-2). These figures represent a small number of tribes that have gaming facilities. Among the 554 federally recognized tribes in the United States, 146 have Class III gambling facilities which operate under 196 tribal-state compacts. The NISGC pointed out

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25 This information was provided by Mr. Kyle Nayback, National Indian Gaming Commission.

that, while Indian gaming provided substantial new revenues to the tribal government, for others gambling has provided little or no net revenues to tribal governments, but it has created jobs.

The National Indian Gaming Commission provided more recent information on U.S. Tribal gaming revenues which is presented in Table 6. The table shows that in 1999, 28 tribal operations made over \$100 million.<sup>26</sup> This represents 61% of revenues. In the same year, 29% of the operations made under \$3 million which represents 1% of revenues. The average revenues for those tribal facilities making more than \$100 million was \$208,778,000 compared to the revenues of \$924,000 for those tribal operations categorized as making less than \$3 million. The table further reveals similar patterns for the years 1995 to 1998. The largest percentage of operations made under \$3 million.

**Table 6 - National Indian Gaming Commission Tribal Gaming Revenues 1998–1999<sup>27</sup>**

Years and Total	Gaming Revenue Range (In millions of US\$)	Number of Operations	Revenue (\$000)	% of Operations	% of Revenues	Mean (000)
1999	100 and over	28	5845787	11	61	208779
	50 to 100	19	1323996	8	14	69684
	25 to 50	32	1166820	13	12	36463
	10 to 25	54	926309	21	10	17154
	3 to 10	46	284345	18	3	6181
	under 3	73	67439	29	1	924
Totals		252	9614696	100	100	n/a
1998	100 and over	23	4674895	8	55	203256
	50 to 100	20	1354563	7	16	67728
	25 to 50	31	1090227	11	13	35169
	10 to 25	56	948098	21	11	16930
	3 to 10	55	341064	20	4	6201
	under 3	88	79079	32	1	899

<sup>26</sup> In this part of the report, figures for currency are in US dollars unless otherwise noted.

<sup>27</sup> For revenues generated between 1995 to 1999, refer to Appendix B.

Totals		265	8487917	100	100	n/a
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Source: National Indian Gaming Commission, Washington, D.C. (2000)

In Canada, few reports focus on revenues and the distribution of funds. The Saskatchewan Liquor and Gaming Authority annual report provides an overview of the casino operating agreements with the Federation of Saskatchewan Indian Nations. According to the report, revenues from the four First Nations casinos were to be distributed as follows: In 1998/1999, the First Nations Fund and the General Revenue Fund each received CDN\$6.4 million while the Associated Entities Fund received CAN\$4.2 million for a net profit of CAN\$17 million total from all four First Nations casinos.<sup>28</sup>

In Ontario, revenues from a Rama casino sparked a court battle initiated by Ontario's Métis and Non-Status Indians who argued that they cannot be excluded from a deal to share in the casino profits. The agreement between the Ontario government and First Nations allows for casino profits to be shared by 133 First Nations communities in Ontario. In September 1996, the Ontario Court (General Division) ruled that the Ontario's Métis and Non-Status Indians cannot be excluded from the agreement to share casino profits from the casino. In June 1997, however, this decision was overturned by the Supreme Court of Canada<sup>29</sup>. In Nova Scotia, a report in *The Sunday Herald* of Halifax stated that the Millbrook reserve had made about CAN\$12 million.<sup>30</sup> Profits from the Millbrook First Nations community are shared with other reserves.

The matter of revenues has also generated other issues. In the United States there are some disputes between states and tribal governments. For example in 1999, the City of Milwaukee and Milwaukee County were to get \$6.6 million annually from 800 slot machines and 25 blackjack tables that the Potawatomi tribe was adding to its casino, but the question of who should control how the money was spent was disputed.<sup>31</sup> *Forbes*, reported that some people were

<sup>28</sup> Saskatchewan Liquor and Gaming Authority (2000) *Annual Report, 1998/1999*. Also see Parker, Shafter Jr. (1995) "High Stakes Gamble in the New Jerusalem: Repudiating Its Past and Ignoring Public Opposition, Saskatchewan's NDP Bulldozes Ahead with VLTs and Indian Casinos," *Western Report*, Vol. 10, No. 14, (May 1), pp. 1, 9-10,12; Parker, Shafter Jr. (1995) "Gambling with Aboriginal Futures: The Saskatchewan Government Pushes Casinos As An Answer to Indian Problems," *Western Report*, Vol. 10, No. 47, (December 11), p. 16.

<sup>29</sup> In article in the *Toronto Sun*, December 1, 2000, it reported that after the court ruling there was \$400 million which needed to be divided between the 134 First Nation communities, Mnjikaning First Nation (Rama) received 35% and the other First Nations in the province split 65%. Initially the Province of Ontario takes 20% of the profits leaving the remainder to be split between the First Nations.

<sup>30</sup> Proctor, Steve (2000) "VLTs Pad Millbrook Accounts: \$12 Million in Profits Helps Band Build Future," *The Sunday Herald*, (March 5), p. A1.

<sup>31</sup> "Milwaukee Officials Battle over Casino Cash," *Congress*

claiming to be part of the Native community where casinos operate in order to capitalize on the casino revenues. This was a particular issue for Pequot where individuals were claiming to be from the Pequot reservation. Other communities are lobbying the U.S. federal government to get recognition as an Indian tribe so they can build a casino.<sup>32</sup>

## 7.2 Job Creation

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*Daily/A.M.*, (June 21, 1999).

<sup>32</sup> "A Connecticut Band Seeks Federal Recognition as Indian and Plans the World's Biggest Casino" *Forbes*, Vol. 155, No. 9, (March 6, 2000), p. 66.

Some studies and reports have highlighted how casino gaming has created employment in Native communities in both Canada and the United States. The Saskatchewan Lottery and Gaming Association observed that the four First Nations casinos in the province employ a total of 1,062 people of which 71% are Aboriginal.<sup>33</sup> In his study of the Oneida Tribe casino in Wisconsin, Alesch (1997) found that the casino was the largest single employer. In 1997, the casino employed 3,350 people, of whom 55% were Oneida tribal members, 9% were from other Tribal communities, and 36% were non-Native personnel. The tribe reduced its unemployment rate from 40% to 15% in a two-year period.

The NIGSC received several testimonies submitted by various bands on how gaming reduced the unemployment rates from 70% to less than 5% (Mille Lacs Band of Ojibway Indians), 40% to 11% (Gila River Indian Community), and from 55% to 22% (Coeur d'Alene Tribe). The Minnesota Indian Gaming Association posted on its Web site that 17 tribal casinos are the largest employers in their communities and, if tribal casinos were considered as one employer, tribal gaming ranks as the ninth largest employer in Minnesota.<sup>34</sup> Cornell et al., (1998), however, argued that given the high rate of unemployment on reservations, any economic activities would have a large impact on the employment rate (1998:41).

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<sup>33</sup> Saskatchewan Liquor and Gaming Authority (2000) *Annual Report: 1998-99*. See also Parker, Shafter Jr. (1995) "High Stakes Gamble in the New Jerusalem: Repudiating Its Past and Ignoring Public Opposition, Saskatchewan's NDP Bulldozes Ahead with VLTs and Indian Casinos," *Western Report*, Vol. 10, No. 14, (May 1), p. 1, 9-10,12; Parker, Shafter Jr. (1995) "Gambling with Aboriginal Futures: The Saskatchewan Government Pushes Casinos As An Answer to Indian Problems," *Western Report*, Vol. 10, No. 47, (December 11), p.16.

<sup>34</sup> See Minnesota Indian Gaming Association Web site: <[www.minnesotagaming.com/migafou.html](http://www.minnesotagaming.com/migafou.html)>.

Cornell and his colleagues showed that Native people were provided managerial positions and non-gaming business opportunities (e.g., shopping centres, gift shops, golf courses, motels, restaurants, construction companies, light manufacturing, and so on).

Other studies suggest that gaming operations do not fully employ the majority of Indians. Stein (no date) reported tribal casinos employed mostly non Natives (60%) rather than Natives (40%). The Minnesota Indian Gaming Association reported similar findings from a study conducted on their behalf. They found that of the employees in Indian gaming, 73% were non-Indian and 27% were Indian.<sup>35</sup> In Ontario, a 1996 news report indicated that Casino Rama would offer about 600 to 2,500 jobs for First Nations people living in Ontario, with 120 of those jobs being given to those living on the Rama reserve.<sup>36</sup>

Other studies report that casinos did not create that many jobs. A recent analysis by the Associated Press, found that unemployment on U.S. reservations with established casinos held steady around 54% between 1991 and 1997.<sup>37</sup> Many of these jobs continue to be held by non-Indians. The Associated Press analysis notes that the Seminole Tribe's Hollywood Gaming Center on Miami's Gold Coast generated more than \$100 million a year from slot machines. However, the unemployment rate on the reservation remained around 45% and the poverty rate increased from 10.4% in 1989 to 12.1% in 1995 (*Casino Magazine*: 2000:2 of 4). On one Indian reservation, the unemployment rate increased from 27.2% in 1991 to 74.2% in 1997 because many of the jobs were filled by non-Natives and those living on the reservation were not interested in working the casino operations.

The literature also suggests that, although gaming jobs have been created, there are some discrepancies in salaries between jobs on and off the reservations. The NGISC (1999) noted that the annual salary for those working in tribal casinos is \$18,000; for those employed in the smaller non-Native casinos, the average salary is \$20,500, and for employees in the larger commercial casinos, the average salary is \$26,000. Cornell et al., found that the salary data showed gaming jobs are lower-paying than off-reservation jobs, but the gap between on- and off-reservation employment is shrinking. The authors argued that this

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<sup>35</sup> See Minnesota Indian Gaming Association Web site: [www.minnesotagaming.com/migafou.html](http://www.minnesotagaming.com/migafou.html).

<sup>36</sup> Avery, Roberta (1996) "Change is a Way of Life for People at Rama Reserve: New Casino Is Just Another Factor in Adaptation," *Windspeaker*, Vol. 14, No. 5, (September), p. 2. Also in the *Toronto Sun* article, "Waiting on Lady Luck: Reserve Residents Hope to See Returns from Casio Rama's Success", December 10, 2000, states that the unemployment rate is down to 8%.

<sup>37</sup> "Land-Based Casinos" *Casino Magazine*. Friday September 29, 2000. [www.casinomagazine.com/manageratricle.asp?c=420&a=1107](http://www.casinomagazine.com/manageratricle.asp?c=420&a=1107)

narrowing of the employment gap is because tribal gaming jobs are higher-paying than other jobs on the reservation (1998, 36). This lower wage for tribal casinos can be attributed to Native people not having the minimum education requirements or the basic job skills for management positions (Vallen et al., 1998).



## 8. ECONOMIC DEVELOPMENT

The literature on Native gaming reveals that gaming has had a positive impact on the communities and surrounding areas. Stein (no date), Alesch (1997), and Cornell et al., (1998) reported that revenues from gaming resulted in Native communities' providing scholarships for higher education, improving social services for youth and elders, building and renovating homes and buildings, installing an infrastructure for water and sewers, providing loans to community members to purchase or renovate their homes, and using the funds to repair burial grounds, and purchasing land and cultural items.<sup>38</sup>

In Nova Scotia, Proctor (2000) reported in the *Sunday Herald* that funds from the Millbrook reservation were used to build new homes, infrastructure, and established education health and education funds.

Several studies also focused on how Native casinos will have affect the local economies. One of the earlier studies that assessed the economic impact of Indian-owned casinos located in non-urban areas was conducted by Hoenack and Renz (1995). It focused on how the casinos would affect towns or cities in terms of their proximity to a casino rather than in terms of how casinos would impact the local economy. The authors found that towns or cities located closest to Indian-owned casinos enjoyed the greatest growth in new businesses. While they found that casinos affected new businesses positively, Hoenack and Renz noted that the economic spin-offs from the casinos were more successful in promoting economic development than were government economic development programs.

Reeves (1996) found similar results in an economic impact study of Grand

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<sup>38</sup> The report report by Stein does not provide any information on the survey that was used to gather the information.. Alesch pointed out that the Shakopee Tribe in Minnesota divides its gaming profits by the number of tribal members and writes a cheque to each member. This "per capita" allotment amounts to approximately \$450,000 per member per year.

Casino Mille Lacs and Grand Casino Hinckley. Thompson et al. (1995) found a positive impact from the Oneida and Potawatomi tribes' casinos on the local economy. Alesch (1997) further reported that the Oneida gaming enterprises had a direct positive effect on the economy of greater Green Bay. The amount of this positive impact, however, has been inconclusive and ranges from \$160 million to \$400 million.<sup>39</sup>

Cornell et al., (1998) found that many of these Native communities and surrounding areas were in such economic straits that the small growth in the local economy resulting from gaming appeared to be an economic boom. Most of the growth occurred in communities adjacent to the Native communities (e.g., hotels, restaurants) because the reservations did not have diversified economies. Once these businesses became established in the Native communities, off-reservation businesses failed due to the shopkeepers' inability to compete with other non-Indian businesses rather than because of difficulty in competing with a casino facility.

For many of these Tribal gaming facilities to be economically successful, access to major population centres is an important factor. Goodman (1995) predicted that reservation-based casinos in Minnesota and South Dakota should do well because of high population densities of states east and south and the proximity to Saskatchewan and Manitoba. However, too many tribal gaming facilities in one state or near each other may not be able to capture the large number of gamblers or tourists. This position has also been expressed by other authors (Henthorne, and Williams, 1995; Eadington, 1995; Peppard, 1995; McClure, 1995; and Anders, 1998) who asserted the importance of accessing large populations so as to ensure a casino's competitiveness with other casinos nearby.

Many of these studies that conclude that Tribal gaming is a success are disputed by a few authors. The implementation of Tribal gaming as a strategy to cure the economic and social ills of Tribal communities was questioned by Vinje (1996). He found that those Indian reservations that developed manufacturing activities

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<sup>39</sup> In an article reported in the *Journal Sentinel* on November 26, 1998 entitled "Potawatomi Casino's Ace — Visitor Predictions — May Be Overblown," the journalist questions the number of tourists that would visit the Potawatomi Menomonee Valley casino.

had a greater influence on reducing poverty than those that relied on gaming revenues. The author argued that this should be the main strategy for Native communities to reduce poverty rather than focusing on gaming as an economic development strategy. This statement could be supported by the analysis of Tribal gaming by the Associated Press which found that reservations with casinos only slightly reduced the poverty levels, from 17.7% in 1989 to 15.5% in 1995.

Anders et al., (1998) found many nearby stores closed immediately after three tribes were permitted to open three Class III casinos. As a result, there was a loss of tax revenue to the state. However, Cornell et al., (1998) challenged the study by Anders et al. because the team did not take into consideration the fact that no opportunities were provided to the local residents to take advantage of the casinos before they were built.

Cornell et al., (1998) also found that Tribal gaming revenue contributes to a reduction in government services because the revenues enable many of the communities to provide their own services. However, the NGISC (1999) stressed that the perception that gaming revenues reduce reliance on federally-funded assistance is unfounded. The commission found that federal assistance has continued for tribes involved in gambling and gives the example of Mashantucket Pequots, who operate the Foxwoods facility in Connecticut, the largest casino in the world, grossing more than \$1 billion in annual revenues for the 550 tribal members. The tribe, however, received \$1.5 million in low-income housing assistance in 1996 and continues to receive other federal funds (1999, pp. 7-9).

Not all Indian tribes have accepted gaming as a means of raising revenues. Those that have rejected gaming have done so for a variety of reasons. The Navajo Nation, for example rejected Tribal gaming because they feared how revenues would be used. They could not clearly identify a site for the casino, did not want to sign a compact with the state because their sovereignty would be impinged, and were concerned about the social costs associated with gambling (Henderson and Russel, 1997). A further reason for rejecting gambling that the commission cited includes the belief that gambling may undermine the "cultural integrity" of Indian communities.

Finally, in Canada few studies or reports exist on the issue of economic impacts of First Nations' gambling. In 1996, the Alberta Gaming Committee issued a report on Native gaming. The committee acknowledged that gaming could bring some benefits to the communities, but wanted this issued reviewed before implementing any gaming activities. The committee was also concerned about the impact that Native gaming may have on the adjacent and surrounding communities.

The Canada West Foundation provided a glimpse of Canadian gambling behaviour and attitudes with respect to Native gaming. The author of the report found that those surveyed support the concept of First Nations gambling. However, only 45% of the respondents felt that gaming provides opportunities for economic development. Some respondents appeared to support gaming on reserves for reasons other than economic development (Azmier, 2000, p. 17).

## 9. SOCIAL IMPACT OF NATIVE GAMING

The literature on the social impact of Native gaming is more difficult to quantify because of the limited number of studies.

One of the first major studies to examine Native gaming's impact on the social aspects of the community was by Cornell and his colleagues in 1998. After reviewing various types of quantitative and qualitative data, they concluded that the actual social impact of gaming on Native communities is uneven, though positive overall. The authors grouped the experience of gaming into three broad categories of social impact:

*Major Social Impacts*<sup>40</sup> A number of tribes have created successful gaming enterprises with the resulting revenues and jobs bringing social benefits. These tribes have been able, for example, to reduce welfare transfers, improve the quality of service programs, and increase health outcomes and educational attainment. These policy and economic changes are likely to be reflected in substantial reductions in such social pathologies as domestic violence, crime, and suicide rates (1998, p.54).

*Modest Social Impacts*<sup>41</sup> A number of tribes have turned to successful (albeit modest) gaming operations for revenues that would keep tribal government programs at pre-gaming levels of scope and effectiveness. These tribes have managed to keep conditions from worsening, and, at best, they have made progress on a modest number of social problems, or for a modest fraction of their membership. Momentous forward gains on social pathologies, however, are not likely to be observed (1998, p. 55).

*Limited Social Impacts*<sup>42</sup> Finally, there are tribes where gaming makes a very

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<sup>40</sup> Examples of major social impacts are the Grand Traverse Band of Ottawa and Chippewa Indians in Sutton's Bay, Michigan.

<sup>41</sup> An example of modest social impact is the White Mountain Apache Tribe of Eastern Arizona.

<sup>42</sup> An example of limited social impact is the Oglala Sioux Tribe that operates the Prairie Winds Casino in Pine Ridge, South Dakota.

small contribution because remoteness or regional competition limit the enterprise's success. Tribal social problems are monumental or reservation populations are relatively large. For these tribes, gaming does not bring dramatic or even modest change in employment and fiscal health, and thus, the tribe's social health depends on the level of federal funding and what pre-existing enterprises may have supported the tribal government. Thus, in this category, one would find gaming tribes whose socio-economic health might be holding steady or improving slightly. While the gains may be relatively small for these tribes as a whole, the social and economic impacts may be monumental for those whose lives are directly affected by employment and incremental government spending (1998, p. 56).

Cornell et al., pointed out that gaming will have a limited impact on social conditions within the community until tribes can lever gaming experience into other forms of economic development. However, this sort of leverage may be difficult for some communities because of their distance from metropolitan markets. Lawrence (1995) supports this position. He points out that gaming is creating inequalities between urban and rural tribes and between the large tribes and less large tribes. For example, the Navajo and Hopi suffer from extremely limited economic conditions but have chosen not to open casinos.

Peacock et al., (1999) examined the social impact of gaming on communities and in particular on cultural traditions on one reservation in northern Minnesota.<sup>43</sup> The authors found that the American Indian community had a mixed reaction to gaming. Those who responded to the questionnaire felt that gaming had a negative impact on the community. Because casino gaming was the dominant social activity in the community, the respondents perceived gaming as replacing alcohol abuse as an addiction, and saw decreased family and other community social activities, including increased neglect to the family.

Concerns were also expressed regarding the lack of child care while family members either worked in the casinos or gambled. Conversely, some respondents believed that casinos provided a stronger and more positive collective consciousness, created much needed jobs, increased individuals' self-worth as they became employed, and increased tourism, especially on the part of non-Natives. These findings resulted in shifting some negative stereotypes Natives and non-Natives held about each other. In terms of whether gambling had any impact on Indian culture, the authors reported that Native gaming has brought Indian and non-Indian cultures colliding together (1999, p. 33). The

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<sup>43</sup> The authors employed a qualitative approach to let the American Indian community members describe in their own words the impact of gaming on their lives and the lives of other community members (1999, p. 23).

authors noted that further research is required to properly assess the impact of gambling on Indian culture.

## **10. PATHOLOGICAL OR PROBLEM GAMBLING**

The literature on pathological gambling or problem gamblers appears to be the most substantive on the matter of the social costs of gaming. This literature on pathological or problem gambling has been reviewed elsewhere by such authors as Volberg (1992), Lesieur (1998), Frey (1998), and most recently by the National Gambling Impact Study Commission (1999) and the United States General Accounting Office (2000). However, few studies focus on problem gambling or gambling addictions in Native communities.<sup>44</sup>

One of the first studies on pathological gambling among Native Americans was produced by Elia and Jacobs (1993). The authors reported that 41% of the Native Americans (compared with 21.3% of Caucasians) had some difficulty with gambling. They also found that 22% of the Native Americans in the sample (compared with 7.3% of non-Natives) scored in a range indicating a probable gambling addiction. Similarly, Volberg and Silver (1993) studied gambling among Native Americans in North Dakota and found that the lifetime prevalence rate of problem and compulsive gaming was 14.5% compared to a rate of 3.5% in non-Native populations.

A study in 1995 estimated that compulsive gamblers range as high as 4-5% of the general adult population. The estimated social costs of gaming were estimated to be between \$12,000 and \$50,000 for each problem gambler (Thompson et al., 1995). These costs included gambling debts, costs to the family, unpaid utility bills, repossession of homes and furniture, and so on. As part of his study on the Oneida casino enterprise, Alesch (1997) found that gaming did have an impact on social problems such as gambling and alcoholism. In citing a study commissioned by the Louisiana Gambling Control Board, the NGIS (1999) reported that problem and pathological gamblers in Louisiana comprised 42% of spending in Indian casinos, 30% of all spending on river boat casinos, and 27% of spending at electronic gambling device machines.

To address the problems of pathological gaming, the NDIS (1999) pointed out

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<sup>44</sup> French (2000) argues that the definition of pathological gambling is problematic especially in its application to Native people.

that many tribal governments that operate casinos contribute to non-profit organizations that deal with gaming addictions. The commission noted that Mashantucket Pequot Nation, which owns the Foxwoods casino, contributed \$200,000 annually to the Connecticut Council on Compulsive Gambling while the Oneidas in Wisconsin provide \$35,000 annually to the Wisconsin Council on Problem Gambling (1999, pp. 4–18). The commission noted that tribal casino operators work with Indian gambling associations within their states to fund problem gambling programs and promote awareness of pathological gambling by distributing literature and training their employees to recognize problem gamblers.

As Native gambling grows in Canada, some attention is being directed to the public health risks accompanying this activity. In 1995, the Nechi Training and Health Promotions Institute sponsored a study on the prevalence of gaming and problem gambling among Aboriginal adolescents in Alberta (Hewitt and Auger, 1995). The authors found that 89% of the students had gambled in the past year and a very high proportion were classified either as problem gamblers (28%) or at risk of becoming a problem (21%). The authors concluded that Aboriginal youth were in danger of developing serious gambling problems. This conclusion is further heightened by the findings that Aboriginal adolescents are more likely than their non-Native counterparts to drink alcohol frequently, more likely to use illegal drugs (other than marijuana), and more likely to gamble. In another study sponsored by Nechi, Hewitt (1994) examined Native Albertans who were experiencing problems with gambling. The author found that although bingo was the gambling activity of choice, other activities included video lottery terminals, horse racing, and playing card games. From those who participated in the survey, Hewitt found that 64% are probable problem lifetime gamblers<sup>45</sup>, 55% are probable pathological current gamblers<sup>46</sup>, 22% are current problem gamblers, and 19% are lifetime pathological gamblers.

In a third study, Hewitt (1995) focused on problem gambling among Ontario Native people. His findings were very similar to those in the Alberta study. In terms of the seriousness of the problem, 50% of those interviewed were classified as lifetime problem or probable pathological gamblers. The prevalence rate for problem and pathological gambling among the Native adult population is higher than in non-Native communities (6%). The author pointed out that problem gambling is widespread and is a serious financial and emotional burden on individuals, their families, and the community as a whole (1995, p. 24). Similar

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<sup>45</sup> Lifetime gamblers are those individuals who participated in at least one gambling activity at some point in their lifetime.

<sup>46</sup> Current gamblers are those individuals who participated in at least one gambling activity within the past 12 months only.

concerns were also expressed by counsellors working at Casino Rama (Luciano, 1996).

Recently, the Nechi sponsored a study to provide an estimate of the prevalence of gambling among Aboriginal adults in Alberta to help determine the personal, cultural, and social factors related to gambling and problem gambling. In this study, the authors Auger and Hewitt (2000), used the South Oaks Gambling Screen to identify the type of problem gamblers. Among the 500 interviewees, 64% were lifetime non-problem gamblers, 25% were lifetime probable pathological gamblers, 11% were problem gamblers, and fewer than 1% were lifetime non-gamblers.

However, when the authors examined those participants who gambled within the past 12 months (e.g., current gamblers), they found that 63% were non-problem gamblers, 17% were probable pathological gamblers, 8% were problem gamblers, and 12% were non-gamblers. Among the current probable pathological gamblers, only 29% had sought help for their gambling addiction (2000, p. ii).

Two other studies pointed out that Aboriginal people have a higher than average risk of becoming problem gamblers. The National Council of Welfare found different prevalence rates between non-Aboriginal and Aboriginal youth (1996). A recent study by Schissel (2000), found that Aboriginal female youth are more likely to gamble than non-Aboriginal female youth. Factors that influence gambling among Aboriginal female youth are peer group socializing rather than high-risk substance abuse or socio-economic marginality (2000, p. 13). However, for Aboriginal males, alcohol and drug use are strongly associated with gambling activities. Also, Aboriginal males gamble more than non-Aboriginal males.

## **11. CRIME**

In a study conducted by the Wisconsin Policy Research Institute, the authors found that there was an increase in crime near the Indian casinos (Thompson et al., 1996). However, other studies that focused on crime and the Oneida casino disagreed with Thompson et al. and Nelson et al., (1996) found that the crime rate around the casino was below rates for counties of similar size. The authors attributed this lower crime rate to the high level of casino regulatory activities, security, and surveillance. Reeves and Associates (1996) also found that casinos did not contribute to an increase in crime, except for public safety calls such as the need for ambulances and traffic control.

Miller and Schwartz (1998) conducted a review of casino gambling and street crime. They pointed out that many studies that attempt to examine a causal



relationship between casino gambling and street crime are methodologically flawed and lack any theoretical framework. Consequently, it is difficult to conclude whether crime increases or decreases as a result of casino gambling.

## **12. INTERNET GAMING**

In Canada, lottery schemes conducted on a computer are regulated pursuant to section 207 of the *Criminal Code*. Currently, there are no studies that focus on Internet gaming in First Nations communities, or indeed, in Canada.

In the United States, Internet gambling or on-line wagering is projected to revolutionize the way people gamble because it opens up the possibility of immediate, individual, 24-hour access to a full range of gaming activities within the home (NGISC, 1999). This convenience has led to a substantial increase in wagering. The NGISC (1999) reported that Internet gambling revenues in the United States more than doubled from 1997 to 1998 from \$300 million to \$651 million respectively.

The NGISC (1999) studied Native American Internet gambling. According to the commission, the state governments have difficulties prohibiting or regulating the Internet on Web sites owned by Native American tribal governments. The first Internet lottery site was provided by the Coeur d'Alene Tribe in Idaho in 1998. However, the state attorney general challenged this site. After several appeals, the courts were asked to determine whether activities occurring off the reservation are covered by state law and whether the protection of sovereignty includes technology that assists the tribe in providing Internet gambling sites (National Gambling Impact Study Commission, 1999).

In this particular situation, the courts ruled that state law covers activity occurring off reservation and that sovereign nation exemptions do not include technology firms that assist in establishing Internet gaming on reservations. Previously, Janower (1996) pointed out that the Coeur d'Alene tribe raised issues related to federal and state jurisdiction over gaming and the use of credit cards and betting by telephone.

## **13. CONCLUSION**

The literature review reveals few studies focus on the economic and social impact of Indian gambling and in Canada is the studies are particularly scant. The introduction of casino gambling for many Native communities in the United States appears to have been economically beneficial not only to the community, but has rejuvenated the local areas near the communities. Especially so in the states where there is a tribal monopoly on casino gaming. Native casinos have

created jobs, brought in tourism, and lifted some of the communities out of the economic doldrums. The positive economic aspects of gaming are documented, however, the success of gaming varies among the communities. Fewer than 30% of the United States Native gaming facilities make an average of \$924,000. Some Tribal casinos are making enough to break even while others have had to close their doors. The literature further suggests that there may be a “shake-out” of Tribal casinos and revenues appear to be in decline. The success of Native casinos depends upon several factors, but the most important is location and whether the casino is near a metropolitan centre and whether there are other economic development strategies in place other than gambling.

The literature also suggests that Native gambling has some impact on the social aspects of the community. Gambling revenues have been used to improve the quality of service programs and to improve living conditions for those residing in the Native communities. The revenues have also been used to maintain the status quo, i.e., not having any of the social conditions deteriorate. In other communities, the gaming revenues supplemented other financial support provided to the communities. The prevalence rate of potential and pathological gambling among the Native communities is viewed as a problem. Studies suggest that Natives have a higher prevalence rate of problem gambling than non-Natives. As gambling among Native groups becomes widespread, the communities have taken action to introduce various educational and treatment programs. Although the impact of criminality in Native communities is inconclusive, the literature raises concerns regarding specific criminal acts such as embezzlement and infiltration of organized crime. Gambling may also have some impact on Native culture. Finally, Internet gambling controlled by Native communities appears to be the next trend. This type of gambling could rekindle some of the earlier debates regarding tribal sovereignty.

Given the emphases that the First Nations in Canada and the provincial governments place on permitting gaming in Native communities, further research should be conducted to fully understand the impact of Native gaming and also the factors which make any casino viable, especially in a First Nations community.

## **PART II - GAMBLING AND FIRST NATIONS GAMING IN CANADA**

### **14 BRITISH COLUMBIA**

#### **14.1 AGENCIES RESPONSIBLE FOR GAMING**

##### **14.1.1 BC Lottery Corporation**

The British Columbia Lottery Corporation (BCLC) was incorporated in October 1984 and operates under the *Lottery Corporation Act of British Columbia* (1985).

BCLC's mandate is to maximize gaming revenue to the province. As an agent of the Crown, BCLC is the designated authority under Section 207(1)(a) of the *Criminal Code* and the *Lottery Corporation Act* to conduct and manage lottery schemes within B.C., including marketing of nation-wide and regional lottery games in association with other provinces of Canada.

BCLC is designated by government as its agent to conduct and manage all electronic gaming, including electronic (e.g., Starship), linked (e.g., SuperStar), and hand-held bingo. The BCLC conducts and manages casino gaming, including table games and slot machines, under the provisions [Section 207(1)(a)] of the *Criminal Code* and the *Lottery Corporation Act*.

The BCLC's mandate includes: the determination of all operating policies, procedures, and standards; selection and ownership of all gaming equipment; provision of all gaming supplies; prescription of all games and rules of play; determination of all security and surveillance policies and procedures; determination of all revenue control and internal control policies and procedures; the conduct of compliance reviews/audits; determination and prescription of management control and reporting requirements for the service provider.

##### **14.1.2 British Columbia Gaming Commission**

The British Columbia Gaming Commission (BCGC), accountable to the Ministry of Labour, manages charitable gaming in B.C. This includes formulating policy, developing and applying standards for the regulation of charitable gaming, and establishing and enforcing terms and conditions related to charitable gaming.

The Commission is solely responsible for the licensing of charities to conduct and manage bingo events, social occasion casinos, charitable ticket raffles, and gaming at fairs and exhibitions. The Commission also awards eligible community-based charitable and religious organizations direct access to gaming

revenue.

### **14.1.3 Gaming Policy Secretariat**

The Gaming Policy Secretariat (GPS), reporting to the Minister of Labour, was formed in April 1998, to oversee the development, management and implementation of government's gaming policies. The GPS coordinates policy and operational issues amongst the various government gaming agencies and advises the minister and Cabinet on gaming policy, procedure, and implementation.

## **14.2 Legislative Mandate**

The BCLC operates pursuant to two statutes, the *Lottery Corporation Act*, which incorporates the organization and *The Lotteries Act*, which stipulates the conduct and management of lotteries.

No provincial statute regulates charitable gaming. In 1993, the B.C. government reviewed gaming legislation and the operation of lottery schemes. In 1994, the province published the *Report of the Gaming Policy Review* that outlined proposals for B.C.'s first comprehensive charitable gaming act. A gaming Act has not been passed to date.

## **14.3 Aboriginal Charitable Gaming**

B.C. has no special arrangements with First Nations regarding charitable gaming. At present, the same terms and conditions for access to charitable gaming and to gaming revenue apply to First Nations communities as to non-First Nation communities.

## **14.4 Regulatory Scheme**

Only charitable or religious organizations may be licensed by the BCGC to conduct charitable gaming events and the proceeds may only be used for charitable or religious purposes. The organizations must be incorporated under the *Society Act* and/or be active for a minimum of 12 months prior to their licence application.

### **14.4.1 Types of Licence**

There are two types of licences: “A” and “B.” An “ A ” licence is issued by the commission for the conduct and management of:

- Social occasion casino events;
- Fairs, exhibitions, wheel of fortune events, or community carnivals where the expected gross revenue will exceed \$10,000 in a calendar year.
- Bingo events or ticket raffles where the expected gross income will exceed \$10,000 in a calendar year.

A “ B “ licence is issued by the commission or government agent for the conduct and management of bingo, ticket raffle or wheel of fortune events where the projected gross revenue from all “B” licences will not exceed \$10,000 in a calendar year.

#### **14.4.2 Licence Fees**

There are no fees associated with obtaining a gaming licence.

### **14.5 Gaming Activities**

#### **14.5.1 Bingos**

Pursuant to the *Lottery Act*, as amended by the *Miscellaneous Statutes Amendment Act* (No. 3, 1998), the BCGC is solely responsible for the licensing of charities, charitable bingo associations, social occasion casinos, charitable ticket raffles, and gaming at fairs and exhibitions.

The BCGC permits the formation of charitable bingo associations to address matters of common interest in conducting and managing bingo events. All bingo halls must be approved by the BCGC.

Charitable bingo associations (i.e., charitable bingo manager licence) must be jointly licensed with the charitable licensees (i.e., charitable bingo participant licence) and are responsible as the “operating minds” for the conduct and management of bingo programs while the charitable licensees are responsible for bingo events.

Most bingo events are conducted in one of 41 bingo halls throughout the province. The commission also approves applications from other eligible charities for direct access to provincial gaming revenues. Charitable or religious organizations are permitted to receive gaming revenue, either through licensed gaming events, such as bingo and ticket raffles, or the direct charitable access

program. To be considered charitable, organizations must exist primarily for public service or community benefit.

Licensees operating bingo locations other than bingo halls shall be limited to 52 events annually unless the commission grants approval for additional events.

#### **14.5.2 Casinos**

In B.C., two types of casinos are permitted: (1) the social occasion casino held in conjunction with a social event such as a dance, award banquet, or concluding dinner, where the event is for the exclusive enjoyment and benefit of members of the licensee and its guests; and, (2) a casino games event that operates at government approved sites.

In B.C., there are 16 community casinos and two destination casinos. With a maximum of 30 tables and 300 provincial government slot machines, plus a maximum of six poker tables, B.C.'s casinos are moderate in size in comparison to most of the casinos in the country.

The total municipal share of community and destination casino revenue at the end of March 2000 was \$19,563,888.

#### **14.5.3 Raffles**

The ticket raffle licensee is responsible, through its volunteers, for the conduct and management of the licensed gaming event in accordance with the licence, the Terms and Conditions for Licensed Charitable Access to Gaming Revenue, Standard Procedures for Ticket Raffles, and all relevant policies, procedures, and orders of the Commission.

The BCGC does not allow more than three "A" licence ticket raffles in a 12-month term.

BCGC recognizes three raffle types:

1. Registered raffles (gross sales of \$250,000 or over), which are audited annually and are required to submit all application materials as required in the *Standard Procedures for Ticket Raffles*.
2. Major raffles (gross sales between \$100,000 and \$250,000), which are required to submit all application materials as currently required in the *Standard Provisions for Ticket Raffles*, but are not required to be registered.
3. Minor raffles (gross sales between \$10,000 and \$100,000), which

require proof of prize and other application form basics.

#### **14.5.4 Other Lotteries**

Gaming on video lottery terminals in non-casino locations is not offered.

### **14.6 Compliance Mechanism**

#### **14.6.1 British Columbia Gaming Commission (BCGC)**

All Gaming activities are monitored by the BCGC which has established standard operating procedures and audits for the various types of games. All licensees must submit a financial report within 30 days of the event's conclusion.

#### **14.6.2 Gaming Audit and Investigation Office**

The Gaming Audit and Investigation Office (GAIO), Ministry of Attorney General, was created in 1995 to ensure gaming in the province is conducted honestly and is free from criminal and corruptive elements. The GAIO is responsible for registering individuals and companies involved in lawful gaming; investigating any occurrence that may be of a criminal nature or may bring lawful gaming into disrepute; and audit and review gaming operations and organizations against standards established by provincial legislation and policy.

## **15. ALBERTA**

### **15.1 Agency Responsible for Gaming**

The Alberta Gaming and Liquor Commission (AGLC) is an agent of the Government of Alberta and part of the Ministry of Gaming.

The AGLC licenses charitable and religious organizations to conduct and manage bingos, table games in casinos, raffles, and pull-ticket schemes. In addition, the AGLC operates and manages video lottery terminals (VLTs) and slot machines and dice games in Alberta. Through the Western Canada Lottery Corporation (WCLC), the AGLC is also responsible for all ticket lottery operations in Alberta.

### **15.2 Legislative Mandate**

The AGLC is governed by the *Criminal Code*, the provincial *Gaming and Liquor Act* and by regulations and policies of the AGLC Board.

### **15.3 Aboriginal Gaming**

Native groups that can be classified as charitable or religious organizations are eligible for a licence from the AGLC. Currently, there are no special arrangements between First Nations and Alberta. Groups on reserves are treated the same as those off reserves. Formal discussions with First Nations regarding a licensing policy for on-reserve casinos have been ongoing since July 2000.

### **15.4 Regulatory Scheme**

Gaming licensing policies cover bingos, casinos, raffles, pull tickets, VLTs, slot machines, and ticket lotteries. Licensing policies deal with: Operations of gaming activities, conduct of games, gaming facilities, eligibility for charitable gaming licences, use of proceeds by charitable or religious organizations, and enforcement.

#### **15.4.1 Licence Fees**

The licensee fees for gaming events are as follows:

Bingo licence - \$30 per bingo event.

Casino licence - cost is calculated by multiplying the number of gaming



tables authorized by the licence, excluding poker tables, times \$15 times the number of days that the casino is authorized;

Raffle licence - cost is determined by the total ticket value of the licence. Where the total ticket value is \$10,000 or less, there is no charge. Where the total ticket value is more than \$10,000 and less than \$100,000, the licence fee is \$150.

Where the total ticket value is \$100,000 or more and less than \$1,000,000, the licence fee is \$500. Where the total ticket value is \$1,000,000 or more, the licence fee is \$1000.

Pull-ticket licence - cost is \$10 per set of sealed, boxed, or bagged pull-tickets.

## **15.5 Gaming Activities**

### **15.5.1 Bingos**

Bingo is played in either a commercial-style association bingo hall or in community halls. Association bingo is operated in a licensed facility by the members of the association. (There were 63 bingo associations in Alberta on March 31, 2000). The association members individually hold bingo licences granted by the AGLC. Community bingo is typically operated by one licensed charity in its own facility, such as a community hall, service club hall, or church facility. Disbursements of gross proceeds in fiscal year (FY) 1998-99 were approximately: prizes 65%; expenses 17%; and profit 18%. In FY 1998-99, 3,506 bingo licences were issued.

### **15.5.2 Casinos**

Provincial policy permits non-profit casinos only for First Nations or any other organizations. The organizations hold their casinos in one of the 16 licensed charitable casino facilities in the province. The casinos must be held within the operating organization's own municipality. Similar to bingo association halls, these facilities operate as permanent casino facilities that many charities may use in a year. In FY 1998-99, 2,534 charitable casino licences were issued. The following games are permitted in a casino: blackjack, roulette, baccarat, poker, Caribbean poker, craps, tile pai gow, sic bo, red dog, let it ride, and wheels of fortune.

In 1995, slot machines were introduced and currently, there are a total of 4,041

provincial government slot machines in the 16 charitable casino facilities.

### **15.5.3 Pull-Tickets**

Pull-tickets may only be sold on the premises of the organization and during events or activities (e.g., bingo) operated by that organization. A maximum of 10% of gross proceeds may be used for costs associated with conducting and managing pull-ticket sales. No individual winning ticket may exceed \$1000. In FY 1998-99, 729 pull-ticket licences were issued.

### **15.5.4 Raffles**

The retail value of all raffle prizes shall be at least 20% of the total ticket value. Expenses for the raffle cannot exceed 30% of the total ticket value. There is no limit on the price of a raffle ticket. No revenue from ticket sales may be used on raffle expenses or approved objectives until sufficient funds are available to guarantee the awarding of prizes. In FY 1998-99, 342 raffle licences with a total ticket value over \$10,000 were issued.

### **15.5.5 VLTs**

VLTs were introduced into Alberta by the provincial government on a test basis in 1991 and were officially launched in 1992. The AGLC is authorized by the provincial *Gaming and Liquor Act* to manage and collect revenues from VLTs in Alberta. Currently, there are just under 6,000 VLTs in about 1,235 locations across Alberta. VLTs are only found in age-restricted liquor-licensed venues.

## **15.6 Compliance Mechanism**

The AGLC conducts investigations, inspections, and field audits. Terms and conditions of a licence require an organization to submit one or more financial reports, depending on the type of event, together with support documents to the AGLC for an audit.

## **16. SASKATCHEWAN**

### **16.1 Agency Responsible for Gaming**

The Saskatchewan Liquor and Gaming Authority, reporting to the government, administers both charitable and commercial gaming, including VLTs and casinos and also regulates the horse racing industry. Saskatchewan is also a member of the Western Canada Lottery Corporation (WCLC) which operates “649” style lotteries in the province.

### **16.2 Legislative Mandate**

In July 1993, the *Saskatchewan Gaming Commission Act* was merged with the *Alcohol Act* to create the *Alcohol and Gaming Regulation Act* which in turn created the Saskatchewan Liquor and Gaming Authority (SLGA). The authority issues licences for charities to manage and conduct charitable gaming (bingos, break-opens, and raffle ticket lotteries) and registers gaming suppliers and gaming employees. It is authorized to conduct and manage lottery schemes on behalf of the government and so conducts and manages the VLT program and the slot machines located at casinos operated by the Saskatchewan Indian Gaming Authority (SIGA).

### **16.3 Regulatory Scheme**

Charitable organizations may be licensed to operate bingos, some table games, raffles and to sell break-open tickets. The hospitality industry participates in the sale of break-open tickets with proceeds directed to hospital foundations in the province.

The VLT program places VLTs in licensed liquor establishments under site contractor agreements. Exhibition boards may be licensed to operate table game casinos. Each person who works as a gaming employee, or provides gaming supplies (including promotions, financial or management services) or provides premises for games while holding an interest in the games, must hold an Authority certificate of registration.

#### **16.3.1 Licence Fees**

In December 1994, gaming licence fees for charitable gaming (bingos, break-open tickets, and raffle sales) were eliminated, making the \$8.5 million previously paid annually in fees available to charitable groups. This decision was retroactive to April 1, 1994. Licence fees calculated on a percentage of gross revenues

were eliminated; today, only a nominal administrative fee is charged for a licence.

### **16.3.2 Types of Licences - Bingos**

Four classes of licences exist for bingos: (1) Class A licences are issued to associations to conduct and manage events at association bingo halls: (2) Class Bs are issued to individual charitable or religious organizations to conduct events in a Class A hall: (3) Class Cs are issued to charity or religious organizations to conduct and manage events in premises owned by one of these organizations (Lions) or at community halls; and, (4) Class C restricted licences are issued to charity or religious organizations to conduct and manage events at premises specified in the licences. Under these restricted licences, the total prize value may not exceed \$1,000 and organizations are limited to one bingo event per week.

## **16.4 Gaming Activities**

### **16.4.1 Bingos**

A group of licensed charities may form an association to conduct and manage bingo events under the authority's approval. With a Class A licence, association bingo halls — previously referred to as commercial bingo halls — can operate seven days per week, three events per day commencing between the hours of 12 noon and 12 midnight, and hold more than three bingo events in any week. Each individual charitable organization is allowed only one bingo licence per year and may be a member of only one association.

Charitable organizations holding Class B licences can conduct a maximum of 52 events in a licence year. A group may hold either a Class B or a Class C licence during a licensing year.

In 1998/99, the authority introduced a number of amendments to the bingo terms and conditions to enhance the marketing of bingo and to provide charities with increased flexibility in their operations.

The authority has also introduced a Link Bingo system that offers a province-wide jackpot nightly with a larger prize pool. In keeping with the *Criminal Code*, the system is conducted and managed by the province through its agent, the WCLC.

### **16.4.2 Raffles/Break-Opens**

Charitable organizations may be licensed to operate raffle lotteries and sell break-open tickets. The raffle market has shown some increases over the last few years, while the break-open industry has declined.

The hospitality industry participates in the sale of break-open tickets with proceeds directed to hospital foundations in the province. In 1999/00, the authority introduced automated vending machines for the break-open tickets in all interested liquor-permitted sites in an effort to revive lagging sales and to bring about better accountability.

### **16.4.3 Casinos**

The Saskatchewan Gaming Corporation, a Treasury Board Crown corporation, opened Casino Regina in January 1996, pursuant to *The Saskatchewan Gaming Corporation Act*. Casino Regina operates 620 slot machines and various table games.

In 1995, the government entered into an agreement with the Federation of Saskatchewan Indian Nations (FSIN) that provided for the development of four community-sized casinos to be operated by an FSIN subsidiary, the Saskatchewan Indian Gaming Authority (SIGA). During 1996, SIGA opened casinos on the White Bear Reserve in southern Saskatchewan, at Yorkton, Prince Albert, and North Battleford. SIGA casinos have a total of 620 slot machines and a variety of table games. The slot machines at the casinos are operated by the WCLC, as agent for the authority.

The exhibition associations in Saskatoon and Moose Jaw continue to operate casinos under Section 207(1)(c) of the *Criminal Code*. Saskatoon operates on a full-time basis, with VLTs and table games. Moose Jaw operates four days a week, with VLTs and table games. The authority, through the WCLC, maintains and manages the VLTs.

Occasional special event casino licences are still available for summer fairs; only one licence was issued in 1998/99.

### **16.4.4 VLTs**

VLTs are restricted to licensed liquor establishments, where minors can neither play the machines nor watch them being played. A cap of 3600 machines is in place. These are installed in approximately 600 sites in about 300 communities. Each site has a minimum of three machines and a maximum of 12. Through a regular review of financial performance, the authority determines the appropriate number of machines for each site. Sites retain 15% of VLT profits with the

remainder being remitted to the government. VLT revenue becomes part of the General Revenue Fund.

The Authority has established a compulsory program for its site contractors to assist customers who are problem gamblers.

#### **16.4.5 Lotteries**

Lotteries are operated by the WCLC under contract to the province.

#### **16.5 Compliance Mechanism**

All licensees must abide by the terms and conditions specific to their licence and submit financial reports to the authority.

#### **16.6 Aboriginal Gaming**

In 1993, the White Bear First Nation opened a small casino on its reserve near Carlyle and asserted that it had jurisdiction over gaming. The RCMP closed the casino, seized all the equipment and laid charges under the *Criminal Code*. The Federation of Saskatchewan Indian Nations and other First Nations supported the White Bear First Nation's assertion of jurisdiction.

The resulting negotiations between the Province of Saskatchewan and the FSIN, which represents 72 of the province's 73 First Nations, led to an agreement in 1994. This agreement envisioned Regina and Saskatoon each having a casino. Under the agreement, the FSIN was to hold three of seven seats on the board of the Crown corporation, the corporation committed to achieve at least 50% Aboriginal employment in the casinos, and it agreed to revenue sharing.

Plans for a Saskatoon casino were cancelled after a plebiscite in the City of Saskatoon rejected the casino. A further agreement between the province and the FSIN, known as the 1995 Gaming Framework Agreement (GFA), was reached in February 1995 to replace the cancelled Saskatoon casino. The agreement set out a process for the FSIN to develop four community-sized casinos, through a subsidiary body known as the Saskatchewan Indian Gaming Authority (SIGA). The agreement also set out the terms for revenue sharing from the venture.

The Casino Operating Agreement (COA) between SLGA and SIGA governs the operations of the four casinos to ensure compliance with the *Criminal Code of Canada*.

The 1995 Gaming Framework Agreement also stipulated that the provincial government and the FSIN would develop and present proposals to the federal

government to allow First Nations full jurisdiction for gaming on reserves, either through amendments to the Criminal Code or new federal legislation. Consensus on a submission to the federal government has not been reached.

In accordance with the 1994 agreement, the Saskatchewan Gaming Corporation developed the Regina casino which opened in January 1996. The SGC has achieved and maintained Aboriginal employment rates of 50% or higher for its 600-plus workforce. Revenue sharing is: 50% to the General Revenue Fund; 25% to the Associated Entities Fund (a community development fund that includes a Métis economic development fund as a beneficiary); 25% to the First Nations Fund (a First Nations development fund controlled by a board of trustees appointed by the FSIN).

During 1996, SIGA opened four casinos. Aboriginal employment at SIGA is greater than 70% for its 1100-plus workforce. Revenue sharing is: 37.5% to the General Revenue Fund; 37.5% to the First Nations Fund; 25% to either (1) the Associated Entities Fund, with respect to off-reserve casino profits, or (2) 25% to First Nations charitable purposes, with respect to on-reserve casinos. The latter was amended in March 2000 to substitute local community development corporations for First Nations charitable purposes.

The Gaming Framework Agreement expired on February 9, 2000, but by an amending agreement signed on March 31, 2000, was extended to December 31, 2000.

In June 2000, auditing procedures revealed unauthorized spending by the SIGA CEO/Chair. On November 15, 2000, the Provincial Auditor's Office released a report that concluded that the SIGA CEO/Chair improperly spent SIGA money and the SIGA board did not meet its stewardship responsibilities regarding public money. The provincial regulator, the SLGA, announced a number of structural and policy directives directed at SIGA on November 15, 2000. Implementation is underway.

## **17. MANITOBA**

### **17.1 Agencies Responsible for Gaming**

The Manitoba Gaming Control Commission (MGCC) was established under the *Manitoba Gaming Control Act* (1997). The MGCC is an independent commission created to regulate and control gaming activity in the Province of Manitoba to ensure that the gaming activity is conducted honestly, with integrity, and in the public interest. The MGCC reports to the minister responsible for the *Gaming Control Act*.

Prior to 1997, operational and regulatory responsibilities for gaming were held by the Manitoba Lotteries Corporation (MLC). As a result of a review of gaming activities in the province, the regulatory and operational responsibilities were bifurcated. The MGCC was established as a gaming regulatory body while the MLC retained its operational responsibilities. The MLC is governed by the *Manitoba Lotteries Corporation Act* and regulations. The MLC reports to the minister responsible for the *Manitoba Lotteries Corporation Act*. The MGCC and MLC are independent organizations.

First Nations and municipalities also have authority over gaming activities as stipulated in specific orders-in-council. Appendix A provides an historical overview of gaming in the province and an overview of the MGCC.

### **17.2 Legislative Mandate**

The legislative authority for the Commission's operations is the *Gaming Control Act* and regulations. Much of the MGCC's authority focuses upon charity licensees as contemplated by Section 207(1)(b) of the *Criminal Code*. The MGCC is an independent commission responsible for licensing, registration, inspection, audit, and investigational activities related to gaming as specified in the *Gaming Control Act*.

The act, regulations, and the terms and conditions combine to prescribe how lottery schemes must be conducted and managed, where lotteries may be played, the amount and value of each prize, the price to secure a chance to win a prize in a lottery scheme, and how lottery tickets are sold to the public.

As well, the MGCC has specific responsibilities outlined in the *Gaming Control Local Option Act*, enacted in July 1999. This legislation outlines the requirements for municipality-based local-option plebiscites to determine a community's choice with regard to the removal or reinstatement of VLTs. The MLC is responsible for activities carried out in accordance with Section



207(1)(a) of the *Criminal Code*. Its activities include the operation of two casino properties (McPhillips Street Station and Club Regent), a VLT network, a lottery ticket sales network, and the sale of bingo and break-open product to charitable organizations. The MLC also has regulations that relate to its operational mandate for casinos and the operation of VLTs.

As well, municipalities may license raffles with prizes valued up to \$3,000 in accordance with a provincial order-in-council as contemplated by the *Criminal Code* paragraph 207(1)(b).

### **17.3 Aboriginal Gaming**

Through orders-in-council, First Nations in Manitoba may enter into agreements with the Province of Manitoba to license lottery schemes in accordance with 207(1)(b) of the *Criminal Code*. These agreements, known as First Nations Gaming commission agreements, establish charitable gaming licensing authority on reserves.

The First Nations Gaming Commissions established under this authority have exclusive licensing authority to license specific lottery schemes on reserves, including bingos, break-open tickets, raffles, and other lottery schemes in accordance with Section 207(1)(b) of the *Criminal Code*. All profits from licensed events remain in the hands of the licensees on reserve. The provincial government does not share in the profit from these events. Additional information about specific agreements, as well as VLT agreements with the MLC, are outlined in Appendix B.

#### **17.3.1 First Nations Casinos**

In late 1999, the Province of Manitoba and the Assembly of Manitoba Chiefs established the First Nations Casino Project Selection Committee to select up to five First Nations casino proposals. The framework for this selection process was based on the recommendations in the 1997 *First Nations Gaming Policy Review Report*.<sup>47</sup> The selection committee issued a request for proposals early in 2000 that detailed the selection process, including eligibility criteria, the regulatory and operational framework, and revenue sharing arrangements. The selection committee completed its work on May 31, 2000, and issued a report that recommended five casino proposals. In June 2000, the Province of

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<sup>47</sup> For copies of this report see Manitoba Gaming Control Commission.

Manitoba established an implementation committee for the recommended proposals.

## **17.4 Regulatory Scheme**

### **17.4.1 Charitable Gaming**

All lottery schemes must be licensed. Only volunteer, democratic, non-profit, charitable and religious organizations may be licensed to conduct a lottery scheme. Only actual and reasonable expenses (excluding prizes, rent, licence fees, and cost of product) are permitted and may not exceed: 10% of gross bingo revenue; 7.5% of break-open ticket revenue; 10% of raffle revenue; 5% of Calcutta auction revenue (unless more is expressly authorized by the MGCC); and 10% of wheel of fortune scheme revenue.

### **17.4.2 Licence Fees**

The licence fees charged by the MGCC for lottery schemes are as follows: Monte Carlo charitable casino events - \$5 per game per day. Bingo, media bingo, Calcutta auctions, raffles, and wheels of fortune - 1.5% of gross revenue. There is no licence fee for break-open ticket licences. Detailed terms and conditions are attached to each licence. Although a licence must be obtained, there are no licence fees for bingo events with a prize value up to \$150.

### **17.4.3 Bingo**

Charitable and religious organizations may conduct two types of bingos. Media bingo, which is played via a mass communication medium, and regular paper bingo. There are no limits on the prize values. All bingo paper must be purchased from the MLC, with the exception of media bingo paper. In 1900–2000, licences were issued to conduct 535 bingo ongoing and limited series events. First Nations gaming commissions may also license bingo events in accordance with a Gaming Commission Agreement.

### **17.4.4 Break-Open Tickets**

Licences for break-open tickets are issued by the MGCC or a First Nations gaming commission. Restrictions are placed on where and how tickets may be sold, the age of the players (18 years and over), and the storage of tickets. Licences were issued by the MGCC to conduct 461 ongoing and limited series break-open events in 1999-2000.

#### **17.4.5 Raffles**

The MGCC licenses raffle events. As well, municipalities and First Nations gaming commissions may licence raffle events as outlined in respective orders-in-council. Licences were issued by the MGCC to conduct 157 raffle events in 1999-2000.

#### **17.4.6 Charitable Casinos**

Charitable Monte Carlo casinos are licensed by the MGCC. In such casinos, individual bets cannot exceed \$1 and are restricted to blackjack and wheels of fortune. Organizations, as well as the premises, are limited to one Monte Carlo event per calendar year. These casinos may only operate between noon and midnight and must not exceed three days of operation.

#### **17.4.7 Calcutta Auctions**

Calcutta auctions are lotteries associated with competitive events in which the competitors are sold by auction to the public in attendance. Total prizes awarded must be a minimum of 84.5% of the gross auction receipts.

#### **17.4.8 Wheels of Fortune**

Wheels of fortune must have two operators at each wheel, one to supervise betting and the other to operate the wheel. Individual bets must not exceed \$1.

### **17.5 Gaming Activities**

#### **17.5.1 MLC Casinos**

The MLC operates two casinos in Winnipeg: the McPhillips Street Station and Club Regent. Both operate seven days a week and offer slot machines, table games, and bingo events. Profits from paper bingo events are directed from the MLC to charitable organizations dedicated to community programs, sports, heritage, cultural, and educational endeavours. These organizations coordinate volunteer participation in MLC bingo events. The Crystal Casino, which the MLC operated for ten years, was closed in July 1999.

#### **17.5.2 VLTs**

The MLC controls and manages VLTs which are placed in licensed liquor establishments, as well as in First Nations sites and at Assiniboia Downs race track. In 2000, there were approximately 4,500 VLTs operating in about 570

locations. Commercial VLT site holders retain 20% of net proceeds and the province receives the remaining 80%. First Nations sites and Assiniboia Downs have different commission structures. VLTs feature a maximum prize of \$1,000. The pay-out is between 92-96%.

### **17.5.3 Lottery Tickets**

The MLC oversees a province-wide lottery ticket sales network as a partner in the Western Canada Lottery Corporation. National as well as regional games are offered through approximately 800 retailers.

## **17.6 Compliance Mechanism**

### **17.6.1 Licensed Events**

The MGCC enforces strict licensing procedures. Terms and conditions of licences set out accounting criteria for the licensees. All licensees are required to submit financial reports from the lottery schemes to the MGCC within 30 days of the event, or on a quarterly basis for on-going events. However, bingo events with a fixed prize value of up to \$150 are not required to submit financial statements. All licensees are required: to maintain a separate lottery bank account for the deposit of revenue; deposit lottery proceeds into that account; and, to disburse all donations and expenses by cheque from the account after each event.

### **17.6.2 Registration and Enforcement**

The MGCC also registers all MLC employees, all electronic games, VLT siteholder agreements, and all gaming and non-gaming suppliers providing goods or services to the MLC in excess of established dollar amounts. The MGCC's registration, inspection, investigation, and enforcement functions combine to support the commission's responsibilities with regard to: compliance with terms and conditions for charitable gaming; complaints and dispute resolution; technical integrity; background investigations; and compliance with gaming agreements and VLTs.

## **18. ONTARIO**

### **18.1 Agencies Responsible for Gaming**

#### **18.1.1 Alcohol and Gaming Commission of Ontario**

The Alcohol and Gaming Commission of Ontario (AGCO) is responsible for the regulation of charitable and casino gaming to ensure those people and companies involved in gaming satisfy high standards of honesty, integrity, and financial responsibility, and that games of chance are conducted fairly. The Commission registers and issues licences to gaming operators. It also controls the registration of persons and organizations providing goods and services to the commercial and charity casinos and to racetrack slot machine operations.

#### **18.1.2 Ontario Lottery and Gaming Corporation**

As a Crown corporation, the Ontario Lottery and Gaming Corporation (OLGC) is responsible for four main business units: Province-wide lottery games, commercial casinos, charity and Aboriginal casinos, and slot machine facilities at horse racing tracks.

The OLGC also participates in the management of lotteries through the Interprovincial Lottery Corporation. It delivers gaming entertainment to maximize economic benefits for the people of Ontario in a regulated, socially responsible, and responsive manner.

### **18.2 Legislative Mandate**

#### **18.2.1 Alcohol and Gaming Commission of Ontario**

The Alcohol and Gaming Commission of Ontario (AGCO) is a provincial agency that was established February 23, 1998 under the *Alcohol and Gaming Regulation and Public Protection Act, 1996*, and is a quasi-judicial regulatory agency that reports to the Minister of Consumer and Commercial Relations. It is responsible for administering alcohol and gaming regulations under the *Gaming Control Act, 1992*, the *Liquor Licence Act*, and the *Wine Content Act*. In partnership with approximately 600 municipalities, the AGCO also administers the charity lottery licensing framework (i.e., licensed religious or charitable organizations to manage and conduct lottery events such as raffles, bingos, break-open tickets, and bazaars) under Order-in-Council 2688/93, as contemplated by Section 207(1)(b) of the *Criminal Code*.

#### **18.2.2 Ontario Lottery and Gaming Corporation**

On April 1, 2000, the Government of Ontario merged the mandates and operations of the Ontario Lottery Corporation (OLC) and the Ontario Casino Corporation (OCC) to form the OLG. Established in 1975, the OLC was responsible for the development, management, and promotion of lottery games in Ontario. In 1998, it was given the additional responsibilities of developing and operating the province's charity casinos as well as slot machines at racetracks. Established in 1994, the OCC's mandate was to conduct and manage the operations of commercial and Aboriginal casinos.

As a Crown corporation, the OLG is responsible for four main business units: Province-wide lottery games, commercial casinos, charity and Aboriginal casinos, and slot machine facilities at horse racing tracks. The OLG reports to the Management Board Secretariat.

### **18.3 Aboriginal Gaming**

Between 1993 to 1995, the government (through the Ministry of Consumer and Commercial Relations) negotiated and signed charitable gaming agreements with three Aboriginal communities: Mississaugas of Scugog Island (near Port Perry), Wauzhushk Onigum/Rat Portage (near Kenora), and Ginoogaming (near Geraldton).

The gaming agreements give the three communities authority to license charitable gaming events such as bingo, break-open tickets, raffles, and table game events on their reserves. Although the agreements recognize the authority of on-reserve licensing bodies, commercial gaming suppliers that provide supplies or services to the events on the reserve must be registered by the Alcohol and Gaming Commission in accordance with the *Gaming Control Act*.

Ontario no longer negotiates this type of gaming agreement, although existing agreements were "grandfathered."

#### **18.3.1 Delegated Licensing Authority (Orders-in-Council)**

In November 1998, the government approved a First Nations lottery licensing framework that delegates authority. An Order-in-Council is issued to each participating First Nation. The Order-in-Council provides First Nations with authority to issue licences to religious or charitable organizations so they can conduct lottery schemes.

#### **18.3.2 Commercial Casino**

Since July 1996, Ontario has operated a commercial casino (Casino Rama) on the Chippewas of Mnjikaning First Nation reserve near Orillia. Currently, the Casino operates approximately 2,100 slot machines and 120 gaming tables. The net revenue from Casino Rama is distributed among all First Nations in the province (the First Nations Fund) in accordance with the *Casino Rama Revenue Agreement* as negotiated between the province and the Chiefs of Ontario (on behalf of First Nations bands in Ontario).

The distribution formula for the net casino revenue was developed by the Chiefs of Ontario and is based on a per-capita formula, weighted for population and isolation. First Nations may use the net casino revenues for economic development, community development, health, education, and cultural development.

The net casino revenue is transferred each month from the OLG to two limited partnerships established by the First Nations. In accordance with the *Casino Rama Revenue Agreement*, 65% of the net casino revenue is transferred to the Ontario First Nations Limited Partnership (to be distributed to participating First Nations other than Mnjikaning); and 35% of the net casino revenue is transferred to the Mnjikaning First Nation Limited Partnership (to be used primarily for casino resort development at Casino Rama). In the summer of 1999, Ontario's 134 First Nations received \$400 million dollars, the total net casino revenue since Casino Rama opened. Mnjikaning receives \$140 million. The remaining 65% of the revenue will be divided among the other nations with most receiving about \$1 million dollars each. The 65%-35% revenue split is to be reviewed by the Chiefs of Ontario by July 2001, in accordance with the terms of the *Casino Rama Revenue Agreement*.

#### **18.4 Regulatory Scheme**

Government gaming is authorized under the *Ontario Lottery Corporation Act* and the *Ontario Casino Corporation Act* (now referred to as the *Ontario Lottery and Gaming Corporation Act, 1999*).

Order-in-Council 2688/93 provides the Registrar of Alcohol and Gaming and municipal councils with the authority to license eligible entities to conduct and manage lottery schemes under the provisions of Section 207 of the Criminal Code.

The *Alcohol and Gaming Regulation and Public Protection Act, 1996* establishes the AGCO as a Crown corporation responsible for administering alcohol and gaming regulations under the *Gaming Control Act, 1992*, the *Liquor Licence Act*,

and the *Wine Content Act*.

The *Gaming Control Act, 1992* provides for the registration and regulation of suppliers of goods or services to charitable or casino gaming events.

#### **18.4.1 Licences - Issued by the Province**

The AGCO is the licensing authority for:

- Bingo events with a prize board over \$5,500;
- Super jackpot bingo events;
- Social gaming events (i.e., table game events held in conjunction with a social event);
- Ticket raffle lotteries with total prizes over \$50,000;
- Break-open tickets sold by organizations with a provincial mandate;
- Lotteries held in conjunction with another gaming event, including break-open tickets at bingo events;
- All lottery schemes conducted in unorganized territories; and
- All lottery schemes at designated fairs or exhibitions;

#### **18.4.2 Licenses - Issued by Municipalities**

The Order-in-Council provides municipalities with licensing authority for:

- bingo events with prize boards of up to \$5,500;
- media bingo events with prizes up to \$5,500;
- break-open tickets for local organizations;
- ticket raffle lotteries for total prizes of \$50,000 and under; and
- bazaar lotteries that include: wheels of fortune with a maximum bet of \$2, raffles not exceeding \$500, and bingo events up to \$500.

Approximately 90% of the licences issued in the province are issued by the municipalities.

#### **18.4.3 Licence Fees**

Under Order-in-Council 2688/93, the maximum fees for issuing licences are prescribed by the Registrar of Alcohol and Gaming and all other fees or charges that exceed the maximum are prohibited. The Registrar has set a maximum fee of 3% of the prize offered. Most, but not all, municipalities charge the maximum.

The annual registration fee schedule for casino, charity casino, slot machine facilities (i.e., slot operations at racetracks), and bingos are as follows:



- Gaming related supplier (commercial casino operator) - \$100,000;
- Gaming related supplier - \$15,000;
- Non-gaming-related supplier - \$2,000;
- Trade union - \$2,000;
- Gaming key employees - \$300;
- Gaming employees - \$165;
- Bingo hall/owner-operator Class A - \$10,000, \$12,000 with break-open tickets
- Bingo hall/owner-operator Class B - \$2,000, \$2,500 with break-open tickets
- Bingo hall/owner-operator Class C - \$500, \$700 with break-open tickets
- Bingo paper or break-open ticket manufacturer - \$10,000
- Gaming assistant - \$50

In addition, the Registrar of Alcohol and Gaming may require the applicant/registrant to pay the reasonable costs of an investigation.

## **18.5 Gaming Activities**

### **18.5.1 Bingos**

Most often, licensed religious or charitable organizations “conduct and manage” bingo events in premises supplied by bingo hall operators. Bingo hall operators, paper manufacturers, gaming premises managers, and callers are required to register under the *Gaming Control Act, 1992*.

SuperStar Bingo was launched by the OLGC on March 25, 1997 and uses PC technology to electronically link approximately 170 bingo halls nightly for a daily pari-mutuel jackpot game. On April 20, 1998, a progressive prize starting at \$50,000 was added to SuperStar Bingo.

### **18.5.2 Commercial Casinos**

Ontario currently operates three commercial casinos. *Casino Windsor* opened its doors to the public in May 1994, followed by *Casino Rama* in July 1996, and *Casino Niagara* in December 1996. The province conducts and manages the casino operations in accordance with the *Criminal Code*, but contracts day-to-day operations to private casino companies.

### **18.5.3 Charity Casinos**

Four provincial government charity casinos with profits accessible to charities are

currently open: *Casino Sault Ste. Marie* (450 slot machines), *Brantford Charity Casino* (452 slot machines), *Point Edward Charity Casino* (450 slot machines), and the *Thunder Bay Charity Casino* (452 slot machines). The OLGC also conducts and manages the slot machine operation at the *Great Blue Heron Charity Casino* (452 slot machines), located on the reserve of the Mississaugas of Scugog Island First Nation, near Port Perry, Ontario.

#### **18.5.4 Racetrack Slot Machines**

In 1998, Ontario introduced slot machine facilities at horse racing tracks. These facilities do not offer table games.

#### **18.5.5 Monte Carlo Events**

Ontario no longer licenses three-day roving Monte Carlo events. They were replaced by the charity casino initiative.

#### **18.5.6 VLTs**

VLTs in non-casinos/racetracks locations are not permitted in Ontario.

### **18.6 Compliance Mechanism**

The AGCO inspects and monitors casinos, charity casinos, slot machine facilities (i.e., slot operations at racetracks), and charitable gaming events for compliance with the *Gaming Control Act, 1992*, and compliance with established standards and terms and conditions of lottery licences or registrations. The AGCO also tests and approves slot machines and gaming systems. Municipalities play a role in enforcing and monitoring the lottery licences they issue to ensure that the licensees adhere to the terms and conditions that govern the lottery events.

## **19. QUEBEC**

### **19.1 Agency Responsible for Gaming**

La Régie des loteries du Québec is responsible for the licensing of charitable and religious gaming activities.

La Société des loteries du Québec (Loto-Québec) is the Crown corporation responsible for VLTs, lottery, and casino administration. Both the Régie and the Société report to the provincial Minister of Justice.

### **19.2 Legislative Mandate**

The Régie issues licences pursuant to the *Act Respecting Lotteries, Publicity Contests and Amusement Machines and Regulations*.

Loto-Québec operates in accordance with La société des loteries vidéos du Québec.

### **19.3 Aboriginal Gaming**

First Nations in Quebec have expressed interest in gaining control of casinos and other gaming on reserves. Currently, reserves are allowed VLTs, but only in liquor licensed establishments. Bingos can also be operated on reserves provided they have been licensed by Regie des alcohols, des courses et des jeux. Super bingos have been held without provincial authorization and a super bingo licence was issued by the Mohawk Council of Kanasetake without provincial authorization.

A protocol agreement was reached between the provincial government and the First Nation of Mashteulatsh and Pointe-Bleue. Provincial regulations regarding charitable gaming will continue to apply, but a First Nations authority board (comprised of five members) will be permitted to issue local bingo licences to charitable organizations on reserves. This type of agreement is available to other First Nations.

### **19.4 Regulatory Scheme**

Only charitable and religious organizations, fairs, and exhibitions may be licensed to conduct gaming events and the proceeds must be used for charitable or religious purposes.

Licences are issued for the following activities: bingos, media bingos, raffles,

raffles during fund-raising campaigns, wheels of fortune, casinos, and charity casinos. These licences are restricted as to which groups may apply (i.e., only charitable organizations may apply for a charity casino licence).

In 1993, Québec introduced government-owned and operated permanent casinos. Cash casinos are only permitted for fairs and exhibitions (where the stakes do not exceed \$5) and charitable casinos remain exclusively applicable to charitable organizations.

#### **19.4.1 Licence Fees**

The licence fees are as follows: bingo events held in a public place of amusement, at a fair or exhibition - \$50 per day; bingo events where the prizes are between \$501 and \$1,000 - \$25 fee; where the prizes are between \$1,001 and \$3,500 - \$25, plus 1% of the total prize value; where the prizes are between \$3,501 and \$5,000 - \$50 plus ½% of the total prize value; draws and fund-raising campaigns - \$25 plus 5% of the total prize value; wheels of fortune - \$25 plus \$100 per day for each wheel where the stake is from 25¢ to \$2, and \$200 per day for others; cash casino licences for fairs and exhibitions - \$25 plus \$100 per day, and \$200 per day where the stakes exceed \$5; charity casino licences - \$25 plus \$50 per day for each table or wheel of fortune.

### **19.5 Gaming Activities**

#### **19.5.1 Bingos**

Where the prize value for bingos is between \$3,501 and \$5,000, the application must be submitted jointly by two organizations. Where the prize value does not exceed \$3,500, no more than 52 bingos per year per organization are allowed. Where the prize value exceeds \$3,500, no more than two events per calendar year, per organization are permitted. For bingos operated by organizations, fairs, or exhibitions, the total value of the prizes may not exceed \$5,000. Where the prizes are merchandise, the total prize value must not exceed \$5,000.

#### **19.5.2 Casinos**

The government-owned casinos introduced since 1993 are in Montreal, in the Charlevoix area (east of Quebec City), and in Hull. These casinos are operated by Loto-Québec. No private commercial casinos are allowed.

#### **19.5.3 VLTs**

In 1994, the province introduced government-run VLTs, which fall under Loto-Québec responsibility. Loto-Québec owns and maintains the machines. VLTs are only permitted in liquor licensed establishments. Loto-Québec operates in accordance with La Société des loteries vidéos du Québec.

#### **19.5.4 Other Lottery Schemes**

Nevada, break-open and pull tickets may also be sold by an organization during a bingo event. Pull tickets must conform to specifications regarding quantities, prizes, and lots.

#### **19.6 Compliance Mechanism**

The Quebec Provincial Police are responsible for enforcing gaming legislation. In some instances, the Montreal Urban Police Force and the RCMP also enforce gaming legislation.

## **20. NEW BRUNSWICK**

### **20.1 Agency Responsible for Gaming**

The New Brunswick Lotteries Commission (NBLC) is the Crown corporation responsible for all charitable gaming activities Reporting to the province's Minister of Finance, the NBLC conducts and manages national and provincial lottery schemes on behalf of the Atlantic Lottery Corporation (ALC).

### **20.2 Legislative Mandate**

The *Lotteries Act* and regulations give the NBLC authority to develop, organize, undertake, conduct, and manage lottery schemes. The NBLC is registered under the *Lotteries Act* whereas the Atlantic Lottery Commission is registered under the *Companies Act*.

### **20.3 Aboriginal Gaming**

The province has signed six agreements with First Nations that combine gaming and taxation clauses. The agreements provide for the establishment of an on-reserve gaming commission for charitable gaming and for revenue sharing of provincial government proceeds from VLTs on reserve. The same charity gaming rules apply to the First Nations communities as to non-First Nations. These types of agreements are available to other First Nations in the province.

### **20.4 Regulatory Scheme**

To obtain a gaming licence, charitable and religious organizations, and fairs and exhibitions must fulfill the NBLC's terms and conditions. Charitable and religious organizations are those which perform services of public good or welfare without profit and include any organizations designated as such by the minister.

Organizations grossing less than \$500 on average per bingo event, need not report earnings. A non-profit organization must be the main beneficiary of an event.

#### **20.4.1 Licence Fee**

Lottery permits are free for events where the prize value does not exceed \$500. For fairs, exhibitions, casinos, and events mounted by charitable organizations where the prize value exceeds \$500, there is a \$10 fee for each day of

operation. Each break-open lottery licence costs \$25. There are no limits on the

amount that can be charged for playing a game.

## **20.5 Gaming Activities**

### **20.5.1 Bingos**

Bingo events must not exceed \$15,000 in prizes during any 18-hour period or in any one location. No credit is allowed as payment at bingo games. Only four bingo events are allowed in any one location per week except at approved fairs and exhibitions. Only 104 bingo games are permitted under a licence per organization during a calendar year.

The NBLC requires companies and individuals that sell bingo cards to non-profit organizations within N.B. to register with the NBLC. Licensees must purchase their cards from a NBLC-approved supplier.

### **20.5.2 Casinos**

The provincial government reaffirmed in April 1994 that it would not allow cash casinos in the province.

Charitable casinos and Monte Carlo nights are limited to blackjack tables and wheels of fortune. The maximum allowable number of blackjack tables is 20 to 10 respectively. Only two casino licences per organization are issued. Games played at casino and Monte Carlo nights may not include legal tender and prizes must be in the form of merchandise.

### **20.5.3 Raffles**

Prizes for raffle draws cannot exceed a total of \$75,000 per event.

### **20.5.4 Break-Open Tickets**

Break-open tickets are only sold directly by licensed organizations at their events and locations. The ALC is the only approved supplier of break-open tickets for charities.

### **20.5.5 VLTs**

Provincial government VLTs are permitted only in licensed liquor establishments. In May 2001, the provincial government will hold a referendum on VLTs. Charitable organizations contracting for VLT services from commercial or individual entrepreneurs must retain at least 51% of gross receipts after prize

payouts, advertising, supplies, and permissible miscellaneous costs.

VLT profit distribution is as follows: operators who own and service the machines receive 24%, establishments where the machines are located receive 23%, and the government receives the remaining 53%.

## **20.6 Compliance Mechanism**

Organizations holding a licence must submit a financial report of their lottery activities when their licence expires. The NBLC secures compliance by: ensuring that licensees understand the terms and conditions; taking action against organizations that violate the terms and conditions; revoking and suspending an organization's licensing privileges when necessary; and contacting the police to handle illegal lottery activities. The enforcement and licensing of charitable gaming is delegated by the NBLC to the Department of Public Safety.



## **21. NOVA SCOTIA**

### **21.1 Agencies Responsible for Gaming**

The *Gaming Control Act*, which became law in February 1995, established two distinct and separate organizations to handle the responsibility of gambling: the Nova Scotia Gaming Corporation (NSGC) is responsible for gaming operations and the Nova Scotia Alcohol and Gaming Authority (NSAGA) is the regulator.

The NSGC conducts and manages the provincial government's gaming activities, including the casinos and the activities of the Atlantic Lottery Corporation (ALC).

The NSAGA is responsible for the registration and regulation of casinos and their suppliers, for regulating the conduct of lottery schemes, and for the licensing of charitable organizations for the purposes of conducting lottery schemes.

### **21.2 Legislative Mandate**

The authority for gaming is the *Gaming Control Act* and assorted regulations relating to the operation of bingos, video lotteries, ticket lotteries, and games of chance (e.g., Bingo Regulations, Bingo Suppliers Regulations, Ticket Lottery Regulations, Atlantic Lottery Regulations, Casino Regulations, Video Lottery Regulations, and *The Video Lottery Terminal Moratorium Act*).

The *Gaming Control Act* was created to:

2(a) establish a framework for conducting, managing, controlling and regulating casinos and other lottery schemes so as to increase the level of sustainable economic activity within the Province and increase the net revenue of the Province;

2(b) ensure that casinos and other lottery schemes are conducted in a socially responsible manner

### **21.3 Aboriginal Gaming**

Beginning in 1995, a series of gaming agreements were signed with Mi'kmaq bands to provide their communities with revenue to assist with community and economic development. This revenue is available both through the retention of profits from on-reserve gaming and access to a share of the Sydney Casino profits. The gaming agreements provide that First Nations reserves can operate ticket lotteries, bingos, and VLTs owned by the ALC. The current arrangements extend to January 1, 2003, and have been signed by 10 of the 13 First Nation

communities.

## **21.4 Regulatory Scheme**

All charitable and religious organizations must hold either a permit or a licence to conduct a lottery. These organizations must have a charitable or religious purpose and perform services for the good of the public without profit. The minister also has the power to designate organizations as charitable or religious (i.e., community or volunteer groups).

The NSGC was created as a Crown corporation to conduct and manage the gaming business in the province. This includes the activities of its approved operators, the Metropolitan Entertainment Group (Casino Nova Scotia) and the Atlantic Lottery Corporation (lottery tickets and VLT program).

### **21.4.1 Licence Fees**

A permit is issued without a fee for those lotteries where the prize value does not exceed \$500. For charitable bingos, an annual licence fee of \$25 applies, plus 2% of the prize value from each event. For ticket lotteries, the fee is 2% of the prize value. For games of chance, the fee is \$5 per game for each day (bingo is \$10) when there is a cash prize, licence fee for a charitable casino is \$25. No fee is applicable where the award is a merchandise prize, nor for games where merchandise prizes are awarded at an entertainment or fund-raising casino.

The NSAGA no longer issues new licences to commercial bingos or to charities that wish to operate in commercial halls. However, three existing commercial bingos remain in the province. The cost for this licence is \$100 annually, plus 10% of the prize value from each event. Such private lottery schemes are possible under s.207 of the Criminal Code, when licensed by the provinces.

## **21.5 Gaming Activities**

### **21.5.1 Bingos**

There are two types of bingo operations:

Commercial Bingo: Bingo Regulations (1995) forbid establishing any new commercial licensing, but allow existing or "grandfathered" commercial bingos to continue their operations (three commercial bingo operations existed in 2000).

Commercial bingos can award single prizes not exceeding \$100 in value, plus one game per week at \$500.

Charitable Bingo: Bingos operated by charitable, community, and religious organizations can have a total prize value not exceeding \$15,000 per event. (For the 1999/2000 fiscal year, there were approximately 500 series charitable bingo licences and approximately 225 single charitable licences).

### **21.5.2 Casinos**

There are two commercial casinos in Nova Scotia (Casino Nova Scotia - Halifax and Casino Nova Scotia - Sydney). On April 24, 2000, Casino Nova Scotia opened its new, permanent facility at Purdy's Wharf on the Halifax harbour front. The casinos are operated by the Metropolitan Entertainment Group, as an agent for the NSGC. The Halifax casino has 40 tables and 688 slot machines; the Sydney casino has 14 tables and 373 slot machines.

### **21.5.3 Ticket Lotteries**

The ALC is responsible for the promotion of its lottery schemes, the sale of tickets, and it conducts internet, retail, and break-open ticket lotteries. Tickets may be sold to the public directly by the ALC or through retailers. Where tickets are sold through a retailer, a discount or commission fixed by ALC is granted to the retailer.

Charitable ticket lottery operations are distinguished by prize value. Those lotteries that offer a prize over \$500 require a ticket lottery licence; lotteries with a prize of \$500 or less require a lottery permit. During the 1999/2000 period, the authority issued 575 charitable ticket lottery single licences, 610 charitable ticket lottery series licences, and 4,504 ticket lottery permits.

### **21.5.4 Games of Chance**

Games of chance for charitable events include money games (i.e., colour block and colour wheel), wheels of fortune, and merchandise games. Charitable casino games using play money are permitted. Casino nights may only be operated by charitable and religious organizations. These events conclude with the auction of merchandise prizes, using the play money accumulated by players. Players can also purchase tickets with play money for a draw for merchandise prizes. The licensee sets the play money denominations required for the prizes. Only blackjack, roulette, and wheels of fortune are permitted at casino fun nights.

### **21.5.5 VLTs**

As an agent of the Gaming Corporation, the ALC currently operates all VLTs within the province of Nova Scotia. VLT play is prohibited for those under 19 years of age; only age-restricted liquor licensed establishments are permitted to be VLT operators. VLT operators divide the profits from VLTs in the following manner: 75% to the ALC and approximately 25% to liquor establishment owners. Effective June 29, 1998, the *Video Lottery Terminals Moratorium Act* capped the number of VLTs in the province at 3,234 (excluding those on Native lands).

### **21.6 Compliance Mechanism**

As legislatively ordered, the authority regulates all legal gaming activity conducted in the Nova Scotia, with two exceptions: 1) Harness racing and related pari-mutuel activities, and 2) the province's Native gaming agreements.

To ensure that lottery schemes managed by the NSGC and its contracted operators (Metropolitan Entertainment Group and ALC) are conducted in accordance with the *Criminal Code* and the *Gaming Control Act*, the authority's Investigation and Enforcement Division conducts routine inspections. The inspections include: routine inspection and special investigations of casinos, bingos, VLT operators, and charitable lotteries; interviews with gaming corporation staff; and reviews of the audit procedures. In addition, the NSGC regularly submits reports to the director of the Investigation and Enforcement Division concerning its gaming operations.

## **22. PRINCE EDWARD ISLAND**

### **22.1 Agency Responsible for Gaming**

The Consumer Services Division of the provincial Department of Justice is responsible for the licensing and regulation of charitable and religious gaming activities.<sup>48</sup> As a member of the Atlantic Lottery Corporation, the Prince Edward Island Lotteries Commission (PEILC) administers lotteries and VLTs in the province.

### **22.2 Legislative Mandate**

Charitable and religious gaming is permitted under the *Terms and Conditions for the Issuance of Licences for the Conduct and Management of Lottery Schemes*. These orders establish eligibility to conduct lottery schemes, licence fees, and the general terms and conditions for operating lotteries.

*The Lotteries Commission Act* provides regulations for operating and managing national and interprovincial lotteries in PEI.

### **22.3 Aboriginal Gaming**

First Nations are permitted to hold games if they are operated by charitable or religious organizations and if the proceeds are used for charitable purposes. There are no special gaming arrangements between PEI and First Nations on or off reserves.

There are two First Nations bands in PEI and they have not shown any interest in gaming or casinos to date.

### **22.4 Regulatory Scheme**

Gaming activities are restricted to charitable or religious organizations registered as such with Revenue Canada or, in the opinion of the minister, are otherwise qualified to be issued lottery licences. Licences may be issued to conduct lotteries, raffles, bingos, and games of chance, including fun night casinos or Monte Carlo nights, 50/50 draws, and sports pools.

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<sup>48</sup>Pina Peters pointed out that there was no change to the native gaming report that was written in 1995 entitled *Legal Gaming in Canada: An*



### **22.4.1 Licence Fees**

The licence fees for lottery schemes are based on the total prize value per calendar year. Where the value is below \$250, the fee is \$5; where the value exceeds \$250, the fee is 2% of the value of the prizes offered. A series of bingo events is levied a fee of 2% of the prizes awarded.

A bingo schedule outlines and defines the various games of bingo, the general terms of operation, the use of equipment and supplies, how the game must be played, and the prizes that may be offered at events.

## **22.5 Gaming Activities**

### **22.5.1 Bingos**

Twelve regular games are the required minimum at each bingo event. Total prizes at any event may not exceed \$5,500. When a charitable organization hires a third party to manage bingos on its behalf, the operator must forward at least 15% of the gross receipts in any calendar month to the charitable organization.

### **22.5.2 Casinos**

Cash casinos are prohibited.

Fun night and single-event casinos are permitted, with merchandise provided as prizes. Play money is used. At the end of the fun night, prizes are auctioned with players bidding on the items using the tokens won during the evening. Casino licences are usually issued for a one-night event. Eligible games include roulette, blackjack, and wheels of fortune.

### **22.5.3 Break-Open Tickets**

Charitable organizations may sell break-open tickets that are distributed through the Atlantic Lottery Corp. These tickets may be sold only on charitable or religious premises or during bingo events.

### **22.5.3 VLTs**

VLT siteholders include licensed liquor establishments and small commercial establishments, such as corner stores and laundromats. There are no VLTs on reserves in the province.

## **22.6 Compliance Mechanism**

A licensee is subject to a number of terms and conditions for bingo including prize limits, the reporting of accounts, and the percentage that third-party operators must forward to the licensed charitable organization. A licence for up to one year may be issued for events.

Bingo operators are required to file monthly financial reports and are subject to random audits and on-site inspections. All other gaming operators may be required to file financial reports and are subject to audit. The cost of audits is borne by the licensee.



## **24. NEWFOUNDLAND AND LABRADOR**

### **24.1 Agency Responsible for Gaming**

Charitable gaming in Newfoundland and Labrador is administered by the Trade Practices and Licensing Division of the provincial Department of Government Services and Land. The province is also a member of the Atlantic Lottery Corporation which regulates its lotteries and VLTS.

### **24.2 Legislative Mandate**

The authority for private gaming is the *Lotteries Terms and Conditions*. The terms and conditions establish the types of licences required for private lottery schemes and the conduct and management of events.

### **24.3 Aboriginal Gaming**

There are no special arrangements between First Nations and the province for charity gaming licencing. For charitable and religious groups operating gaming on reserves, the same criteria apply as for off reserve gaming.

### **24.4 Regulatory Scheme**

Under the *Lotteries Terms and Conditions*, the Lotteries Licensing Branch is authorized to issue a licence where the applicant is a charitable or religious organization (one that performs services solely for public good without profit to its members). Charitable or religious organizations are also defined as those who work for the relief of poverty, the advancement of education or religion, or for other purposes beneficial to the community.

Each organization must hold either a permit or a licence to operate a lottery scheme. Permits are required for ticket lotteries, bingo events, card games, and ticket raffles where the prize value does not exceed \$300. Permits may be obtained, at no cost, from police stations.

#### **24.4.1 Licence Fees**

The licence fees for each lottery event are: bingos - 1% of the retail value of prizes and cash prizes; Nevada ticket lotteries - 1% of prize retail value ; raffles - 1% of the retail value of prizes and cash prizes; games of chance/lotteries - \$5 per wheel of fortune and \$5 per other game, per event, held within a 12-hour period; charitable casino lotteries - \$5 per blackjack table, roulette wheel, and wheel of fortune, held within a 12-hour period; National Hockey League (NHL)

time-ticket lotteries - 1% of prize awarded. Applicants must deposit a minimum of 25% of the estimated amount of the licence fees.

## **24.5 Gaming Activities**

### **24.5.1 Bingos**

Three types of bingos are permitted: regular bingos, satellite bingos or media bingos (i.e., those transacted via a medium of mass communication). The maximum combined prize allowed for either type of event is \$3,000 in accumulating jackpots and can rise to \$7,000. Satellite bingo has a prize payment of \$50,000. The maximum authorized expenses from gross bingo proceeds are 20% and the minimum required return for charitable or religious purposes from gross proceeds are 15%. Charitable organizations are permitted to operate a maximum of 104 bingo events in a calendar year. The Lotteries Licensing Branch has the authority to restrict the number of events.

### **24.5.2 Casinos**

There is no provincial government casino.

Charitable casino lotteries include the operation of blackjack tables, roulette wheels and wheels of fortune such as ticket wheels, over and under, crown and anchor, horse race, or any other approved wheel of fortune. A licensee is limited to a maximum of three casino events in any 12-month period. The operation of any casino event must not exceed a period of 12 hours in any 24-hour period. The number of tables and wheels are restricted to a maximum of 20 at any one event.

For casinos and games of chance lottery schemes, restrictions exist on the amount of the wagers, the number of wheels, length of time per event, and on providing credit or cashing cheques. Terms and conditions are also established on "instant win" merchandise games. The licensee may claim an administrative fee that does not exceed 7.5% of the total revenue from the games of chance.

### **24.5.3 Nevada Tickets**

Nevada tickets may be sold only by an organization that owns or leases and regularly occupies suitable premises from where the sales are made. A licensee may claim an administrative fee that does not exceed 7.5% of the gross ticket receipts. Restrictions exist as to where Nevada tickets may be sold (i.e., in a hotel, lounge, motel, stadium, or arena) providing that the Nevada scheme is conducted in conjunction with another licensed gaming activity. A Nevada licence is only issued for the sale of break-open tickets that conform with the terms and

conditions regarding the ticket quantities, prices, and prizes awarded.

The prize value for each winning ticket must not exceed \$100. Scratch-off or other forms of break-open tickets are not permitted.

#### **24.5.4 Raffles**

Ticket lotteries or raffles sold for any event must not exceed 12 times the total retail prize value. A commission of not more than 20% of gross receipts may be paid for the sale of the tickets. Where the prize value exceeds \$300, a number of terms and conditions apply (e.g., winning numbers and names of prize winners must be published in the local newspaper). Unclaimed prizes are distributed for charitable or religious purposes.

#### **24.5.5 Games of Chance**

Games of chance lottery schemes include: ticket wheels (cash or merchandise), crown and anchor, over and under, horse race wheels, and instant win merchandise games. These lotteries are restricted to events held in conjunction with other activities such as exhibitions, fairs, garden parties, regattas, or carnivals. The same restrictions regarding premises for selling Nevada tickets apply to games of chance lotteries.

#### **24.5.6 NHL Tickets**

NHL time tickets cost up to \$2. These tickets specify either the time of goals scored or the time of penalties in a National Hockey League (NHL) televised game. A minimum of 1,190 tickets must be available for each series of an NHL scheme. The maximum individual prize for the time of each goal scored or the time of each penalty must not exceed \$300. Schedule "F" of the Terms and Conditions sets out the criteria for the content of time tickets. A commission, not to exceed 20% of gross receipts, may be paid for the sale of NHL tickets.

#### **24.5.7 VLTS**

The ALC is responsible for the control and management of VLTs which are permitted only in licensed liquor establishments. About 2,500 licences (i.e., establishments) were issued in fiscal year 1998-99, varying in length of applicability (1–12 months).

### **24.6 Compliance Mechanism**

A licensee must submit a lottery financial report within 30 days of the end of the

event. The Lotteries Licensing Branch conducts discretionary audits and has the authority to refuse, revoke, or suspend a licence. Appeals of licensing decisions are heard by a review board.

## **24. YUKON TERRITORY**

### **24.1 Agency Responsible for Gaming**

The Consumer and Commercial Affairs, Department of Justice, Government of the Yukon is the regulating agency for charitable gaming and casinos. Charitable organizations apply to Consumer Services where applications are reviewed and are either approved or rejected by the Register of Lotteries.

The Yukon Lotteries Commission (YLC) is a member of the Western Canada Lottery Corporation (WCLC) and administers WCLC lotteries in the territory.

### **24.2 Legislative Mandate**

Consumer Services regulates gaming pursuant to the *Lottery Licensing Act*. The YLC administers lotteries under the *Public Lotteries Act*.

### **24.3 Aboriginal Gaming**

Any organization including First Nations, may apply for a licence under the *Lottery Licensing Act*. Charitable gaming by First Nations is subject to the same laws and rules as non-Aboriginal gaming. Proceeds after expenses must go to charitable purposes.

Various First Nations have obtained permits for gaming activities in the past. They have expressed interest in self-licensing and regulations.

### **24.4 Regulatory Scheme**

Charitable and religious organizations must hold a licence to conduct and manage a lottery scheme and the earnings must be for charitable purposes. A charitable organization is defined in the *Lottery Licensing Act* as one that does not carry on a business for pecuniary gain to its members and pursuing objectives and activities for the relief of poverty or disease, the advancement of education, of religion, or of any cultural, recreational, athletic, or other activity or program that is beneficial to a territorial community.

Any organization realizing more than \$1,000 from a lottery scheme, must be registered pursuant to the *Societies Act*, and must be in good standing, pursuant to the Act and to the terms and conditions of its lottery licence. Workers can be paid, but they must be volunteers.

#### **24.4.1 Licence Fees**

Licence fees for charities are as follows: bingos - \$10 per day; casinos - \$5 for each gaming table per day. Raffle fees are determined by multiplying the number of tickets by the cost per ticket, to determine the licensed ticket sales. This amount is applied to a sliding scale leading to a maximum fee of \$250.

## **24.5 Gaming Activities**

### **24.5.1 Bingos**

Bingo games must be conducted within an organization's town, community, or city and may be held either on the premises of the licensee or at a rented facility.

### **24.5.2 Casinos**

The organizations for charitable casino games, including wheels of fortune and blackjack, must provide sufficient volunteers to conduct and manage the event. A licensee may rent equipment from private operators. A casino licence is only valid for three consecutive days.

The Klondike Visitors Association (KVA) operates Diamond Tooth Gertie's Gambling Hall in Dawson City. This facility is unique in Canada in that it is a permanent charity-licensed casino operated by one organization on a continuous basis. Under an agreement with the government, the KVA operates slot machines. Funds from the table games must be used for the association's charitable objectives. The casino operates seven days a week from May to September. It has blackjack tables, 52 territorial government slot machines, wheels of fortune, and roulette.

Although the KVA is registered under the *Societies Act*, all proceeds must be used for the association's charitable objectives, which are to preserve the character of Dawson City in the Gold Rush era, support social and cultural events, and promote Dawson City and the Klondike region as tourist attractions. The licence fee for KVA is \$5 per gaming table per day.

The Tourism Industry Association of the Yukon has stated an interest in operating a casino in Whitehorse and a private consortium has made representation to develop a casino in that city. The Yukon government's Council on the Economy and the Environment completed a round of public consultations that indicated that a majority of Yukoners are not in favour of expanding casino operations, nor of introducing VLTs at this time.

### **24.5.3 Other Lotteries**

Raffle lotteries of various kinds are permitted and the license fees are similar to bingo fees. Sports pools are licensed as raffles.

#### **24.5.4 VLTs**

VLTs are prohibited.

#### **24.6 Compliance Mechanism**

Charities must submit financial statements under the *Lottery Licensing Act*. Inspectors from the Yukon Lottery Licensing Board and the RCMP are responsible for enforcing the act and regulations.

## **25. NORTHWEST TERRITORIES AND NUNAVUT TERRITORIES**

### **25.1 Agency Responsible for Gaming**

The Consumer and Corporate Affairs Division of the Department of Municipal and Community Affairs of the Northwest Territories is responsible for charitable gaming.<sup>49</sup>

Sport North, a territorial government corporation manages the government's relationship with the Western Canada Lottery Corporation (WCLC) and sells its lotteries in the territory. The Government of the Northwest Territories (GNWT) is an associate member of the WCLC.

Under the government's Communities Transfer Initiatives Program, certain responsibilities may be transferred to municipalities, including the regulation of charitable gaming activities, providing that municipalities adopt bylaws and rules limiting the number of licences, etc. To date, 22 communities in the NWT have taken on responsibilities for lottery licensing.

### **25.2 Legislative Mandate**

Charitable gaming is licensed under the *Lotteries Act*. The Commissioner of the GNWT, on the recommendation of the minister, may make regulations prescribing: terms, conditions and fees; how lottery schemes must be conducted and managed; and, delegation of authority to any person, regional, or community council to regulate and license lottery schemes.

### **25.3 Aboriginal Gaming**

First Nations have not expressed much interest in gaming to date. Possible future concerns may be in the areas of bingos, lotteries, etc., rather than casinos. The Dene Nation appears to be opposed to gaming because of potential social problems.

### **25.4 Regulatory Scheme**

There are offices in six regional centres that issue lottery licences. Licences for charitable or religious organizations are issued for bingos, Nevada break-open

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<sup>49</sup> Currently, Nunavut has adopted the gambling regulations from Northwest Territories.



tickets, casinos, and raffles.

Charitable and religious organizations are those groups registered as such under the *Income Tax Act*, and the *Societies Act*, or those designated by the minister as having charitable or religious objectives or purposes. Educational institutions are also considered to be charitable organizations.

#### **25.4.1 Licence Fees**

The licence fees are as follows: for bingo events of six games or fewer - \$10; more than seven games, - \$5 per game; prize value not exceeding \$1,250 - \$25 per day; regulator games with a total prize value of \$2,500 or less - \$50.00; regulator games with a total prize value greater than \$2,500 but less than \$10,000 - 2% of payout; regulator games with a total prize value equal to or greater than \$10,000 - 5% of payout.

For Nevada tickets as a single event or series of events during a bingo or casino - \$50 per day; a booth licence to sell tickets for a six-month series - \$2,500; for less than six months - \$25 per day. For charitable casinos, each table or wheel - \$ 50 per day.

For raffles with a single draw or a series of draws where the prize value does not exceed \$1,250 - \$50 per day; where the prize value exceeds \$1,250 - 4% of the total prize value.

For territorial wide raffles, the fee for those with a total prize value of \$1,2500 or less is \$100; when the total prize value greater than \$1,250, the fee is 8% of total prize value.

For sports draft lotteries where the total value of the prizes offered is \$10,000 or less, the fee is \$400; where the total value of the prizes is greater than \$10,000, the fee is 8% of the total prize value.

No prize or combination of prizes in any single lottery may exceed \$30,000 unless approved by the minister before the issuance of a licence.

### **25.5 Gaming Activities**

#### **25.5.1 Bingos**

Bingos are limited to a maximum of one event per week whether under a licence for a series of bingos or for a single event. Except for television bingo, administrative charges may not exceed 10% of the gross proceeds, excluding the rental of the premises. Callers may be paid honoraria.

### **25.5.2 Casinos**

The territorial government has chosen not to operate a casino.

Charitable casino events may include blackjack, roulette, and wheels of fortune. Only one casino licence may be issued to an organization in any six-month period, and a licence may not be issued for a period exceeding three consecutive days, except during Carnival Week. Casino events must be physically separated from other ongoing events. A minimum of 25% of gross- casino proceeds must be used for charitable or religious purposes.

### **25.5.3 Nevada Tickets**

Nevada tickets must be sold from a booth on an organization's premises and must be in conjunction with a bingo event. Licences are issued only for a period not exceeding six months. A maximum of 10% of the gross proceeds of the Nevada ticket lottery, minus the cost of prizes and tickets, may be used towards managing and operating the lottery. The balance must be used for charitable objectives and purposes.

### **25.5.4 Raffles**

A raffle licence may be issued for a period not exceeding six months. The maximum ticket sales may not exceed \$50,000 unless the licence specifically permits sales in excess of this amount. Administrative expenses for conducting a raffle must not exceed 10% of the gross proceeds.

### **25.5.5 Territorial Raffles**

The terms and conditions for single licence territorial-wide raffles are similar to the standard raffles.

### **25.5.6 Sports Draft**

Sports draft lotteries can be operated for an entire regular season or complete playoff period. Funds raised must be used for charitable or religious objectives or purposes. Rules are in place concerning advertising, series sales (of entry forms), and various other administrative matters concerning the lottery.

### **25.5.7 VLTs**

There are no VLTs in the NWT.

## **25.6 Compliance Mechanism**

Consumer Services does not have an enforcement branch. The RCMP enforces all acts and regulations on gaming.

Where the total prizes awarded for a series of lotteries exceed \$100,000, the licence holder must submit to the Minister of Finance a financial report audited by an independent auditor within 90 days after the event.

## **25.7 Nunavut Territory**

The Nunavut Territory adopted the Northwest Territories legislation on gaming.

## 26. CONCLUSION

Part II provided an overview of the regulatory framework for gaming in Canada. The review shows that each province has established a compliance framework that meets its own needs and that provinces may conduct a broad range of lottery schemes. Provinces may license charitable or religious organizations to conduct a lottery scheme, where the proceeds of the lottery scheme are used for religious or charitable purposes. Under the *Criminal Code* (Section 207(1)(b)), a province a lottery scheme is legal when licensed by an authority specified by a province for lottery schemes conducted by charitable organizations.

Lottery schemes conducted under a provincial license include the following gaming activities: bingos, break-open tickets, raffles, and certain casino table games. Typically, provinces have established a provincial gaming commission or board to license charitable lottery schemes. Some provinces have designated First Nations licensing authorities for lottery schemes conducted by charitable organizations on reserves. Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, and Nova Scotia have special arrangements with the First Nations communities to licence charitable gaming. Some First Nation charitable organizations obtain licenses directly from the province.

Provinces can also license a lottery scheme conducted at an annual fair or exhibition. They may license a lottery scheme conducted by a private individual, but the cost to participate must be 2 dollars or less and the prize 500 dollars or less. While provinces may conduct lottery schemes on or through a video device, slot machine, computer or dice game, they may not license others to do so.

Arrangements for the sharing of gaming profits, from First Nation's casinos and VLTs vary among the provinces. Currently, Saskatchewan has four First Nations casinos, Manitoba will have a maximum of five, Ontario has four, New Brunswick has six, and Nova Scotia has five First Nations communities operating charitable gaming casinos.

The other provinces and territories do not have any special arrangements with First Nations communities. These include Yukon, Prince Edward Island, and Newfoundland. In the Northwest Territories and Nunavut, First Nations communities have expressed no interest in operating charitable casinos. Although in Alberta, there are no special arrangements, at the time of writing this report, the Alberta government was holding discussions with the First Nations to establish a policy for First Nation casinos. In Quebec, gaming is occurring in some First Nations communities without provincial authorization.

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## **28. CONTACTS**

### **Yukon Territories**

Elsie Bagen - Consumer Services  
(867) 667-5111  
Department of Justice  
P.O. Box 2703 (J-6)  
Whitehorse, Yukon  
Y1A 2C6  
bagan@gov.yk.ca

### **Northwest Territories**

Michael Gagnon- Municipal Affairs  
(867) 873-7125  
600 5201 50<sup>th</sup> Ave  
Yellowknife, NWT  
X1A 3I9

### **Nunavut**

Doug Garson- Justice Nunavut  
(867) 979-6000  
Department of Justice  
Legal Division  
Government of Nunavut  
P.O. box 800  
Iqaluit, Nunavut  
X0A 0H0

### **British Columbia**

Ruth Rogers  
Counsel  
BC Gaming Commission  
844 Courtney St.  
Victoria, BC  
V8W 9N1  
[Ruth.Rogers@gems9.gov.bc.ca](mailto:Ruth.Rogers@gems9.gov.bc.ca)

Paul Whitehead  
Policy Analyst  
Paul.Whitehead@gems1.gov.bc.ca

## **Alberta**

Gerry McLennan  
Director  
Alberta Gaming Commission  
50 Corriveau Ave  
St. Alberta, Alberta  
T8N 3T5  
[Gerry.mclennan@aglc.gov.ab.ca](mailto:Gerry.mclennan@aglc.gov.ab.ca)  
[John.annett@aglc.gov.ab.ca](mailto:John.annett@aglc.gov.ab.ca)

## **Saskatchewan**

Fiona Kribb  
Manager  
Saskatchewan Liquor and Gaming Authority  
P.O. box 5054  
Regina, Saskatchewan  
S4P 3P3  
Fiona Cribb  
fcribb@slga.gov.sk.ca

## **Manitoba**

Liz Stephenson  
Director of Research  
Manitoba Gaming Control Commission  
800-215 Garry Street  
Winnipeg, Manitoba  
R3C 3P3  
estephenson@mgcc.mb.ca

## **Ontario**

John Nolan  
Gaming Secretariat  
(416) 325-8740  
Management Board Secretariat  
9<sup>th</sup> Floor Ferguson Block  
77 Wesley St. West  
Toronto, Ontario  
M7A 1N3  
john.nolan@mbs.gov.on.ca

Lydia Boni

Manager, Corporate Issues and Information  
(416) 326-8710  
Alcohol Gaming Commission of Ontario  
20 Dundas Street West  
Toronto, Ontario  
Lydia.Boni@ccr.gov.on.ca

**Quebec**

Gervais Oullet  
(514) 598-4418  
Sureté du Québec  
1701 Rue Parthinais  
Montreal, Quebec  
H2K 3S1  
dlco@videotron.ca

**New Brunswick**

Brian Steeves  
(506) 457-6761  
Department of Finance  
Centennial Building Room 671  
P.O. Box 3000  
Fredericton, NB  
E3B 5H1  
brian.steeves@gnb.ca

**Prince Edward Island**

Linda Peters  
Consumer Services  
(902) 368-4580  
P.O. box 2000  
Charlottetown, PEI  
C1A 7N8

**Nova Scotia**

Dennis Kerr  
Executive Director  
(902) 424-4884  
P.O. Box 545  
Alderney Gate, 5<sup>th</sup> Floor  
Dartmouth, NS  
B2Y 3Y8  
[kerrdw@gov.ns.ca](mailto:kerrdw@gov.ns.ca)

Joel Baltzer  
Manager, Policy and Research  
(902)424-4096  
Baltzeji@gov.ns.ca

### **Newfoundland**

Gerry Burke  
Trade practices  
Department of Government Services and Lands  
2<sup>nd</sup> Floor, West Block  
Confederation Building  
P.O. Box 8700  
St. John's Nfld  
A1B 4J6  
gburke@mail.gov.nf.ca

## **APPENDIX A - Canada's Population by Province/Territory and by First**

**Nation Population**

<b>CANADIAN POPULATION</b>	<b>FIRST NATION POPULATION IN CANADA</b>
30,247,900	675,499

**POPULATION BY REGION**

<b>REGION</b>	<b>POPULATION</b>	<b>FIRST NATION POPULATION</b>
Atlantic <sup>50</sup>	2,375,300	26,397
Quebec	7,372,400	63,315
Ontario	11,669,300	153,946
Manitoba	1,147,900	107,146
Saskatchewan	1,023,600	106,111
Alberta	2,997,200	85,373
B.C.	4,028,100	110,529
Yukon	31,100	7,633
N.W.T.	42,100	15,049
Nunavut	27,700	information not available

- Information on First Nation population taken from DIAND's *Basic Departmental Data 2000*
- Information on Provincial population taken from Statistics Canada, [www.statcan.ca/english/Pgdb/People/Population/demo02.htm](http://www.statcan.ca/english/Pgdb/People/Population/demo02.htm).

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52 Includes Newfoundland, Prince Edward Island, Nova Scotia and New Brunswick.

**APPENDIX B - National Indian Gaming Commission Tribal Gaming Revenues 1996–1999**

<b>Years and Total</b>	<b>Gaming Revenue Range (In millions of US\$)</b>	<b>Number of Operations</b>	<b>Revenue (\$000)</b>	<b>% of Operations</b>	<b>% of Revenues</b>	<b>Mean (000)</b>
1999	100 and over	28	5845787	11	61	208779
	50 to 100	19	1323996	8	14	69684
	25 to 50	32	1166820	13	12	36463
	10 to 25	54	926309	21	10	17154
	3 to 10	46	284345	18	3	6181
	under 3	73	67439	29	1	924
Totals		252	9614696	100	100	n/a
1998	100 and over	23	4674895	8	55	203256
	50 to 100	20	1354563	7	16	67728
	25 to 50	31	1090227	11	13	35169
	10 to 25	56	948098	21	11	16930
	3 to 10	55	341064	20	4	6201
	under 3	88	79079	32	1	899
Totals		265	8487917	100	100	n/a
1997	100 and over	15	32986112	6	44	219907
	50 to 100	22	1676320	8	22	76196
	25 to 50	35	1182924	13	16	33798
	10 to 25	52	890465	20	12	17124
	3 to 10	53	311960	20	4	5886
	under 3	88	91069	33	1	723
Totals		265	7451349	100	100	n/a

1996	100 and over	12	2604463	5	41	217039
	50 to 100	20	1511280	9	24	75564
	25 to 50	24	843558	10	13	34553
	10 to 25	61	1022540	26	16	16100
	3 to 10	42	233520	18	4	5807
	under 3	73	85507	31	1	1171
Totals		232	6300868	100	100	n/a
1995	100 and over	8	2014492	4	37	251812
	50 to 100	19	1485172	9	27	76167
	25 to 50	22	793567	10	15	36071
	10 to 25	57	883545	27	16	15501
	3 to 10	36	214549	17	4	5960
	under 3	73	63691	34	1	872
Totals		215	5455016	100	100	n/a

Source: National Indian Gaming Commission, Washington, D.C.