University of Hawaii at Manoa **Hamilton Library**

eVols Repository **https://evols.library.manoa.hawaii.edu**

Box SP10 Box SP10, All Folders

Chronological: Meeting with Reps. of Indian Tribal Governments Engaged in Indian Gaming Activities, 1993-03-19

Senator Daniel K. Inouye Papers
Speeches, Box SP10, Folder 21
http://hdl.handle.net/10524/63495

Items in eVols are protected by copyright, with all rights reserved, unless otherwise indicated.

UHM Library Digital Collections Disclaimer and Copyright Information

STATEMENT OF SENATOR DANIEL K. INOUYE

CHAIRMAN, SENATE COMMITTEE ON INDIAN AFFAIRS

BEFORE THE MARCH 19, 1993 MEETING

WITH REPRESENTATIVES OF INDIAN TRIBAL GOVERNMENTS

ENGAGED IN INDIAN GAMING ACTIVITIES

BEFORE WE BEGIN OUR DISCUSSIONS TODAY, I WOULD LIKE TO TAKE A FEW MOMENTS TO REVIEW THE EVENTS THAT HAVE BROUGHT US HERE TODAY.

AS MOST OF YOU KNOW, THE EFFORT TO DEVELOP A REGULATORY FRAMEWORK FOR THE ADMINISTRATION OF INDIAN GAMING ACTIVITIES BEGAN WELL BEFORE THE SUPREME COURT ISSUED ITS RULING ON FEBRUARY 25, 1987 IN THE NOW FAMOUS CASE OF CALIFORNIA v. CABAZON BAND OF MISSION INDIANS.

AT THE TIME THE COMMITTEE BEGAN ITS WORK IN THE INDIAN GAMING AREA, I WAS NOT THE CHAIRMAN OF THE COMMITTEE -- IN FACT, SOME OF YOU MAY REMEMBER ME AS A RATHER INACTIVE MEMBER OF THE COMMITTEE.

I RECALL SEVERAL CROWDED MARK-UP SESSIONS THAT TOOK PLACE IN 1986, AND I WILL NOT BE LIKELY TO FORGET ALL OF THOSE WHO CAME TO MY OFFICE, SEEKING TO HAVE THEIR RESPECTIVE AGENDAS AND OBJECTIVES INCORPORATED INTO THE BILL.

BUT I WAS NOT THE LEADER OF THE COMMITTEE, AND AS ONE MEMBER, THE ULTIMATE CONTENT OF THE BILL WAS NOT MY CALL TO MAKE. BESIDES, AS MANY OF YOU KNOW, WE HAVE NO GAMING IN THE STATE OF HAWAII. WE CRIMINALLY PROHIBIT EVERY FORM OF GAMING, EVEN BINGO.

I BEGAN MY TENURE AS CHAIRMAN OF THE INDIAN AFFAIRS COMMITTEE IN JANUARY OF 1987, AND IT WAS THEN THAT I BEGAN MY REAL IN-DEPTH EDUCATION IN MATTERS OF INDIAN SOVEREIGNTY; THE HISTORY OF TREATIES AND THE PROVISIONS OF THE CONSTITUTION RELATING TO THE INDIAN NATIONS; THE UNITED STATES TRUST RESPONSIBILITY, AND THE GOVERNMENT-TO-GOVERNMENT RELATIONSHIP BETWEEN THE UNITED STATES AND INDIAN TRIBAL GOVERNMENTS.

MOST OF THE COMMITTEE'S WORK ON INDIAN GAMING IN EARLY 1987 WAS CONDUCTED IN ANTICIPATION OF THE SUPREME COURT'S IMPENDING RULING IN THE CABAZON CASE. AS I RECALL, WHEN I ASSUMED THE CHAIRMANSHIP OF THE COMMITTEE, BOTH THE PROPONENTS AND OPPONENTS OF INDIAN GAMING WERE SEEKING EARLY PASSAGE OF LEGISLATION THAT HAD BEEN CONSIDERED IN THE PREVIOUS SESSION OF THE CONGRESS -- BOTH SIDES WANTING TO PROTECT WHAT GROUND THEY FELT THEY HAD WON IN EARLIER NEGOTIATIONS, IN CASE THE SUPREME COURT RULED AGAINST THEIR POSITION.

BUT, AS IT TURNED OUT, THE POLITICS PROVED TOO DIFFICULT -- CONSENSUS WAS FAR FROM BEING ACHIEVED, AND WE ENTERED THE SECOND SESSION OF THE 100TH CONGRESS WITH ALL SIDES FEELING A SENSE OF UNCERTAINTY.

AND THEN, ON FEBRUARY 25, 1987, THE SUPREME COURT ISSUED IT RULING IN CABAZON, AND AS THE OLD EXPRESSION GOES..."ALL HELL BROKE LOSE". THE TRIBES, SECURE IN THEIR VICTORY, WERE FINISHED WITH COMPROMISE. THE OPPONENTS OF INDIAN GAMING WERE JOINED IN FULL FORCE BY THE STATES WHO PAINTED OMINOUS PICTURES OF IMPENDING DOOM IF THE SUPREME COURT RULING WERE ALLOWED TO STAND.

I BEGAN MY TENURE AS CHAIRMAN OF THE INDIAN AFFAIRS COMMITTEE IN JANUARY OF 1987, AND IT WAS THEN THAT I BEGAN MY REAL IN-DEPTH EDUCATION IN MATTERS OF INDIAN SOVEREIGNTY; THE HISTORY OF TREATIES AND THE PROVISIONS OF THE CONSTITUTION RELATING TO THE INDIAN NATIONS; THE UNITED STATES TRUST RESPONSIBILITY, AND THE GOVERNMENT-TO-GOVERNMENT RELATIONSHIP BETWEEN THE UNITED STATES AND INDIAN TRIBAL GOVERNMENTS.

MOST OF THE COMMITTEE'S WORK ON INDIAN GAMING IN EARLY 1987 WAS CONDUCTED IN ANTICIPATION OF THE SUPREME COURT'S IMPENDING RULING IN THE CABAZON CASE. AS I RECALL, WHEN I ASSUMED THE CHAIRMANSHIP OF THE COMMITTEE, BOTH THE PROPONENTS AND OPPONENTS OF INDIAN GAMING WERE SEEKING EARLY PASSAGE OF LEGISLATION THAT HAD BEEN CONSIDERED IN THE PREVIOUS SESSION OF THE CONGRESS -- BOTH SIDES WANTING TO PROTECT WHAT GROUND THEY FELT THEY HAD WON IN EARLIER NEGOTIATIONS, IN CASE THE SUPREME COURT RULED AGAINST THEIR POSITION.

BUT, AS IT TURNED OUT, THE POLITICS PROVED TOO DIFFICULT -- CONSENSUS WAS FAR FROM BEING ACHIEVED, AND WE ENTERED THE SECOND SESSION OF THE 100TH CONGRESS WITH ALL SIDES FEELING A SENSE OF UNCERTAINTY.

AND THEN, ON FEBRUARY 25, 1987, THE SUPREME COURT ISSUED IT RULING IN CABAZON, AND AS THE OLD EXPRESSION GOES..."ALL HELL BROKE LOSE". THE TRIBES, SECURE IN THEIR VICTORY, WERE FINISHED WITH COMPROMISE. THE OPPONENTS OF INDIAN GAMING WERE JOINED IN FULL FORCE BY THE STATES WHO PAINTED OMINOUS PICTURES OF IMPENDING DOOM IF THE SUPREME COURT RULING WERE ALLOWED TO STAND.

THE SUPREME COURT HAD SAID:

"WE CONCLUDE THAT THE STATE'S INTEREST IN PREVENTING THE INFILTRATION OF THE TRIBAL BINGO ENTERPRISES BY ORGANIZED CRIME DOES NOT JUSTIFY STATE REGULATION OF THE TRIBAL BINGO ENTERPRISES IN LIGHT OF THE COMPELLING FEDERAL AND TRIBAL INTERESTS SUPPORTING THEM. STATE REGULATION WOULD IMPERMISSIBLY INFRINGE ON TRIBAL GOVERNMENT, AND THIS CONCLUSION APPLIES EQUALLY TO THE COUNTY'S ATTEMPTED REGULATION OF THE CABAZON CARD CLUB."

BECAUSE THE COURT WAS RULING WITHIN THE CONTEXT OF A STATE IN WHICH PUBLIC LAW 83-280 APPLIED, THE SUPREME COURT EXAMINED THE APPEALS COURT'S ANALYSIS OF THE CALIFORNIA STATUTE TO DETERMINE WHETHER IT WAS CRIMINAL AND PROHIBITORY IN NATURE OR CIVIL AND REGULATORY, AND AFFIRMED IT TO BE THE LATTER.

I BELIEVE THAT IT IS IMPORTANT TO RECALL THAT THE FEDERAL INTERESTS THAT THE SUPREME COURT FOUND TO BE PRE-EMPTIVE WERE THOSE OF INDIAN SELF-GOVERNMENT, INCLUDING THE GOAL OF ENCOURAGING TRIBAL SELF-SUFFICIENCY AND ECONOMIC DEVELOPMENT.

IT WAS INTEGRAL TO THE COURT'S FINDINGS THAT THE TRIBAL GAMES PROVIDED THE SOLE SOURCE OF REVENUES FOR THE OPERATIONS OF THE TRIBAL GOVERNMENT AND SERVED AS THE MAJOR SOURCE OF EMPLOYMENT FOR TRIBAL MEMBERS.

THE SEVERAL STATES SOUGHT AN IMMEDIATE RESOLUTION TO WHAT THEY VIEWED AS THE CRISIS IN LAW ENFORCEMENT THAT WOULD FLOW FROM THE COURT'S RULING. THE STATES CALLED UPON THE CONGRESS TO OVERTURN THE SUPREME COURT'S RULING IN CABAZON.

AT THAT TIME, YOU MAY RECALL, WE WERE CONSIDERING A MODEL FOR INDIAN GAMING LEGISLATION THAT WAS CONSISTENT WITH THE TRADITIONAL AND HISTORICAL FEDERAL-TRIBAL RELATIONSHIP. UNDER THAT MODEL, POWERS OF REGULATION AND LAW ENFORCEMENT WOULD HAVE BEEN VESTED IN A FEDERAL COMMISSION.

THE JUSTICE DEPARTMENT HAD OPPOSED THAT FORMULATION, AND NOW THEY WERE JOINED BY THE STATES, WHO NOW WANTED SOME ROLE TO PLAY IN THIS AREA.

IF WE WERE GOING TO ACCOMMODATE THE STATES, WE HAD TO FASHION A COMPREHENSIVE FEDERAL FRAMEWORK THAT WOULD TAKE INTO ACCOUNT THE WIDE VARIATIONS IN THE LAWS OF EACH STATE.

NONETHELESS, IT WAS IMPORTANT TO ME, AS WELL AS TO OTHERS ON THE COMMITTEE, THAT WE NOT JEOPARDIZE THE SOVEREIGNTY OF THE TRIBAL GOVERNMENTS. IF STATES AND TRIBES WERE GOING TO HAVE SOME INTERACTION IN THE AREA OF GAMING, IT HAD TO BE PREMISED ON THE BASIS OF THEIR STATUS AS EQUAL SOVEREIGNS.

AND SO, WHEN THE NOTION OF TRIBAL-STATE COMPACTS WAS PROPOSED, WHEREBY TRIBES AND STATES WOULD SIT DOWN TOGETHER ON A SOVEREIGN-TO-

THE SEVERAL STATES SOUGHT AN IMMEDIATE RESOLUTION TO WHAT THEY VIEWED AS THE CRISIS IN LAW ENFORCEMENT THAT WOULD FLOW FROM THE COURT'S RULING. THE STATES CALLED UPON THE CONGRESS TO OVERTURN THE SUPREME COURT'S RULING IN CABAZON.

AT THAT TIME, YOU MAY RECALL, WE WERE CONSIDERING A MODEL FOR INDIAN GAMING LEGISLATION THAT WAS CONSISTENT WITH THE TRADITIONAL AND HISTORICAL FEDERAL-TRIBAL RELATIONSHIP. UNDER THAT MODEL, POWERS OF REGULATION AND LAW ENFORCEMENT WOULD HAVE BEEN VESTED IN A FEDERAL COMMISSION.

THE JUSTICE DEPARTMENT HAD OPPOSED THAT FORMULATION, AND NOW THEY WERE JOINED BY THE STATES, WHO NOW WANTED SOME ROLE TO PLAY IN THIS AREA.

IF WE WERE GOING TO ACCOMMODATE THE STATES, WE HAD TO FASHION A COMPREHENSIVE FEDERAL FRAMEWORK THAT WOULD TAKE INTO ACCOUNT THE WIDE VARIATIONS IN THE LAWS OF EACH STATE.

NONETHELESS, IT WAS IMPORTANT TO ME, AS WELL AS TO OTHERS ON THE COMMITTEE, THAT WE NOT JEOPARDIZE THE SOVEREIGNTY OF THE TRIBAL GOVERNMENTS. IF STATES AND TRIBES WERE GOING TO HAVE SOME INTERACTION IN THE AREA OF GAMING, IT HAD TO BE PREMISED ON THE BASIS OF THEIR STATUS AS EQUAL SOVEREIGNS.

AND SO, WHEN THE NOTION OF TRIBAL-STATE COMPACTS WAS PROPOSED, WHEREBY TRIBES AND STATES WOULD SIT DOWN TOGETHER ON A SOVEREIGN-TO-

SOVEREIGN GOVERNMENT BASIS -- THIS APPEARED TO BE A WORKABLE SOLUTION, PARTICULARLY GIVEN THE STRONG OPPOSITION OF THE JUSTICE DEPARTMENT TO A FEDERAL PRESENCE TO WORK WITH TRIBAL GOVERNMENTS IN MATTERS OF LAW ENFORCEMENT AND REGULATION OF INDIAN GAMING.

BUT LET US BE CLEAR ABOUT THIS. EVEN BEFORE THE BILL WAS SIGNED INTO LAW, IT BECAME KNOWN AS THE "NEVADA BILL". MORE SPECIFICALLY, LAS VEGAS INTERESTS WERE BOASTING THAT THEY DESERVED THE CREDIT FOR THE PROVISIONS OF THE INDIAN GAMING REGULATORY ACT.

THE ACT WAS NOT THEN, NOR HAS IT EVER BEEN VIEWED, AS THE BILL THAT THE INDIANS WOULD HAVE WANTED. NOR WAS IT EVER THE COMMITTEE'S BILL. THOSE WHO NOW RUSH TO CHARACTERIZE THE ACT AS SUCH ARE SIMPLY SEEKING TO REVISE HISTORY TO SERVE THEIR OWN ENDS.

BECAUSE I BELIEVE THAT IF WE HAD KNOWN AT THE TIME WE WERE CONSIDERING THE BILL -- IF WE HAD KNOWN THAT THIS PROPOSAL OF TRIBAL-STATE COMPACTS THAT CAME FROM THE STATES AND WAS STRONGLY SUPPORTED BY THE STATES, WOULD LATER BE RENDERED VIRTUALLY MEANINGLESS BY THE ACTION OF THOSE STATES WHICH HAVE SOUGHT TO AVOID ENTERING INTO COMPACTS BY ASSERTING THE 10TH AND 11TH AMENDMENTS TO DEFEAT FEDERAL COURT JURISDICTION, WE WOULD NOT HAVE GONE DOWN THIS PATH.

THE ACT WAS SIGNED INTO LAW ON OCTOBER 17, 1988. NATURALLY, WE ASSUMED THAT THE APPOINTMENT OF THE INDIAN GAMING COMMISSION WOULD FOLLOW SHORTLY THEREAFTER. BUT THE BUSH ADMINISTRATION APPARENTLY

DIDN'T CONSIDER INDIAN GAMING TO BE A VERY HIGH PRIORITY, BECAUSE THE FIRST APPOINTMENT -- THAT OF THE CHAIRMAN OF THE COMMISSION -- WASN'T MADE UNTIL ONE YEAR AND SEVEN MONTHS AFTER THE PASSAGE OF THE ACT, ON MAY 17, 1990.

THE FIRST COMMISSIONER WAS APPOINTED OVER TWO YEARS FOLLOWING ENACTMENT, ON NOVEMBER 26, 1990. AND THE FINAL COMMISSIONER WASN'T APPOINTED UNTIL APRIL 7, 1991 -- A FULL TWO AND A HALF YEARS AFTER THE ACT HAD BEEN SIGNED INTO LAW.

TODAY, 61 TRIBAL GOVERNMENTS HAVE ENTERED INTO COMPACTS WITH STATE GOVERNMENTS IN EIGHTEEN STATES. THOSE COMPACTS VARY DRAMATICALLY IN THE SIZE OF THE GAMING OPERATIONS THEY GOVERN, RANGING FROM THE MASHANTUCKET PEQUOT TRIBE'S IMPRESSIVE SUCCESS TO SOME OF THE SMALLER OPERATIONS IN THE WESTERN STATES. AND YET, DESPITE THE FACT THAT IN EIGHTEEN OUT OF THE 28 RESERVATION STATES, THERE ARE COMPACTS IN PLACE AND GAMING ACTIVITIES ARE BEING CONDUCTED UNDER THE WATCHFUL EYES OF STATE AND TRIBAL AND FEDERAL LAW ENFORCEMENT OFFICERS, THOSE WHO SUPPORTED THE ACT ARE NOW SEEKING TO ELIMINATE IT.

FIVE YEARS LATER, ALTHOUGH EXPRESSED IN DIFFERENT TERMS, THE STATES ARE STILL SEEKING WHAT THEY SOUGHT IN 1988 -- NAMELY, THEY WANT THE CONGRESS TO OVERTURN THE SUPREME COURT'S RULING IN CABAZON -- AND TO REVERSE TWO HUNDRED YEARS OF FEDERAL JURISPRUDENCE WHICH HAS CONSISTENTLY HELD THAT UNLESS CONGRESS EXPRESSLY AUTHORIZES IT, STATE LAWS DO NOT APPLY ON INDIAN LANDS.

DIDN'T CONSIDER INDIAN GAMING TO BE A VERY HIGH PRIORITY, BECAUSE THE FIRST APPOINTMENT -- THAT OF THE CHAIRMAN OF THE COMMISSION -- WASN'T MADE UNTIL ONE YEAR AND SEVEN MONTHS AFTER THE PASSAGE OF THE ACT, ON MAY 17, 1990.

THE FIRST COMMISSIONER WAS APPOINTED OVER TWO YEARS FOLLOWING ENACTMENT, ON NOVEMBER 26, 1990. AND THE FINAL COMMISSIONER WASN'T APPOINTED UNTIL APRIL 7, 1991 -- A FULL TWO AND A HALF YEARS AFTER THE ACT HAD BEEN SIGNED INTO LAW.

TODAY, 61 TRIBAL GOVERNMENTS HAVE ENTERED INTO COMPACTS WITH STATE GOVERNMENTS IN EIGHTEEN STATES. THOSE COMPACTS VARY DRAMATICALLY IN THE SIZE OF THE GAMING OPERATIONS THEY GOVERN, RANGING FROM THE MASHANTUCKET PEQUOT TRIBE'S IMPRESSIVE SUCCESS TO SOME OF THE SMALLER OPERATIONS IN THE WESTERN STATES. AND YET, DESPITE THE FACT THAT IN EIGHTEEN OUT OF THE 28 RESERVATION STATES, THERE ARE COMPACTS IN PLACE AND GAMING ACTIVITIES ARE BEING CONDUCTED UNDER THE WATCHFUL EYES OF STATE AND TRIBAL AND FEDERAL LAW ENFORCEMENT OFFICERS, THOSE WHO SUPPORTED THE ACT ARE NOW SEEKING TO ELIMINATE IT.

FIVE YEARS LATER, ALTHOUGH EXPRESSED IN DIFFERENT TERMS, THE STATES ARE STILL SEEKING WHAT THEY SOUGHT IN 1988 -- NAMELY, THEY WANT THE CONGRESS TO OVERTURN THE SUPREME COURT'S RULING IN CABAZON -- AND TO REVERSE TWO HUNDRED YEARS OF FEDERAL JURISPRUDENCE WHICH HAS CONSISTENTLY HELD THAT UNLESS CONGRESS EXPRESSLY AUTHORIZES IT, STATE LAWS DO NOT APPLY ON INDIAN LANDS.

THE LINES HAVE BEEN REDRAWN. SOME IN LAS VEGAS WHO ORIGINALLY OPPOSED INDIAN GAMING -- THOSE THAT SOUGHT THE TRIBAL-STATE COMPACT APPROACH -- THOSE THAT LATER ORGANIZED TO CONDUCT A PUBLIC MEDIA CAMPAIGN IN OPPOSITION TO INDIAN GAMING -- SOME OF THOSE INTERESTS NOW SUPPORT INDIAN GAMING BECAUSE THEY ARE INTEGRALLY INVOLVED AND INVESTED IN INDIAN GAMING.

THERE ARE OTHERS WHO OPPOSE INDIAN GAMING FOR OTHER REASONS. THERE ARE THOSE WHO VIEW INDIAN GAMING AS HOLDING THE POTENTIAL TO DRAW FUNDS AWAY FROM STATE-RUN LOTTERIES THAT DIRECTLY BENEFIT STATE COFFERS. THERE ARE THOSE THAT OPPOSE INDIAN GAMING BECAUSE THEY DO NOT WANT THE TRIBES TO HAVE ANY COMPETITIVE ADVANTAGE OVER OTHERS WHO CONDUCT GAMING ACTIVITIES IN THEIR STATES.

THERE ARE THOSE WHO ARE MORALLY OPPOSED TO GAMING. AND THERE ARE THOSE WHO OPPOSE GAMING BECAUSE OF THE CRIMINAL ELEMENTS THEY ASSOCIATE WITH GAMING.

TODAY, INDIAN GAMING REPRESENTS TWO PERCENT OF ALL GAMING ACTIVITIES IN THE UNITED STATES -- OR APPROXIMATELY $4.7 BILLION DOLLARS IN GROSS REVENUES FROM ALL FORMS OF INDIAN GAMING IN 1991.

THAT COMPARES WITH THE ESTIMATED REVENUES OF JUST ONE STATE -- THE FIRST STATE IN WHICH COMPREHENSIVE GAMING WAS CONDUCTED -- WHERE GROSS REVENUES WERE ESTIMATED AT $368 MILLION DOLLARS IN THE 1991-1992 PERIOD, AND WHERE ANOTHER $22 MILLION IS REALIZED BY THE STATE THROUGH A CASINO

ENTERTAINMENT TAX, AND AN ADDITIONAL $38 MILLION IS REALIZED FROM AN ANNUAL TAX ON SLOT MACHINES.

INCOME TO STATES OTHER THAN NEVADA DERIVED FROM ALL FORMS OF GAMING MAY BE AS HIGH AS $250 BILLION DOLLARS. A CONSERVATIVE ESTIMATE OF REVENUES DERIVING FROM STATE-RUN LOTTERIES IS $30 BILLION.

THUS, GAMING IS NOT ONLY BIG BUSINESS IN THE UNITED STATES, BUT WIDESPREAD. THOSE WHO ARE GENERALLY OPPOSED TO GAMING WILL HAVE TO REACH MUCH FURTHER THAN MERELY SEEKING THE ELIMINATION OF INDIAN GAMING.

BECAUSE IF THEY DON'T, THERE WILL BE THOSE WHO WILL PERCEIVE THE EFFORT TO WIPE-OUT INDIAN GAMING AS ONE THAT IS RACIALLY-MOTIVATED. AND I DON'T BELIEVE THAT ANY OF US WANTS TO SEE THE UGLY HEAD OF RACISM BECOME PART OF THIS DEBATE.

THE MOUNTING OPPOSITION TO INDIAN GAMING STEMS IN PART FROM THE RULINGS OF VARIOUS FEDERAL DISTRICT COURTS ACROSS THE COUNTRY -- JUDGES WHO HAVE BEEN CALLED UPON IN ONE CONTEXT OR ANOTHER TO INTERPRET STATE LAW AS IT APPLIES TO THE FEDERAL INDIAN GAMING REGULATORY ACT STATUTE.

ONE OF THE FIRST CASES THAT BECAME A RALLYING CRY FOR THOSE WHO WERE OPPOSED TO INDIAN GAMING, WAS THE DECISION THAT CAME OUT OF THE FEDERAL DISTRICT COURT IN WISCONSIN, INTERPRETING WISCONSIN LAW.

ENTERTAINMENT TAX, AND AN ADDITIONAL $38 MILLION IS REALIZED FROM AN ANNUAL TAX ON SLOT MACHINES.

INCOME TO STATES OTHER THAN NEVADA DERIVED FROM ALL FORMS OF GAMING MAY BE AS HIGH AS $250 BILLION DOLLARS. A CONSERVATIVE ESTIMATE OF REVENUES DERIVING FROM STATE-RUN LOTTERIES IS $30 BILLION.

THUS, GAMING IS NOT ONLY BIG BUSINESS IN THE UNITED STATES, BUT WIDESPREAD. THOSE WHO ARE GENERALLY OPPOSED TO GAMING WILL HAVE TO REACH MUCH FURTHER THAN MERELY SEEKING THE ELIMINATION OF INDIAN GAMING.

BECAUSE IF THEY DON'T, THERE WILL BE THOSE WHO WILL PERCEIVE THE EFFORT TO WIPE-OUT INDIAN GAMING AS ONE THAT IS RACIALLY-MOTIVATED. AND I DON'T BELIEVE THAT ANY OF US WANTS TO SEE THE UGLY HEAD OF RACISM BECOME PART OF THIS DEBATE.

THE MOUNTING OPPOSITION TO INDIAN GAMING STEMS IN PART FROM THE RULINGS OF VARIOUS FEDERAL DISTRICT COURTS ACROSS THE COUNTRY -- JUDGES WHO HAVE BEEN CALLED UPON IN ONE CONTEXT OR ANOTHER TO INTERPRET STATE LAW AS IT APPLIES TO THE FEDERAL INDIAN GAMING REGULATORY ACT STATUTE.

ONE OF THE FIRST CASES THAT BECAME A RALLYING CRY FOR THOSE WHO WERE OPPOSED TO INDIAN GAMING, WAS THE DECISION THAT CAME OUT OF THE FEDERAL DISTRICT COURT IN WISCONSIN, INTERPRETING WISCONSIN LAW.

I FEEL COMPELLED TO EMPHASIZE THAT LAST PHRASE, "INTERPRETING WISCONSIN LAW", BECAUSE THE COURT'S FINDING WITH REGARD TO THE MEANING OF THE TERM "LOTTERY" IN WISCONSIN LAW, CANNOT AND SHOULD NOT BE USED TO EQUATE THE LAWS OF WISCONSIN WITH THE LAWS OF OTHER STATES.

OBVIOUSLY, THE LAWS OF EACH STATE ARE UNIQUE AND PECULIAR TO EACH STATE. SOME STATES HAVE ALMOST SURGICALLY CARVED OUT AN EXCEPTION TO A CRIMINAL PROHIBITION ON ALL CLASS III GAMING WHEN THEY DECIDE TO AUTHORIZE A STATE-RUN LOTTERY. OTHER STATES MAY HAVE AMENDED STATE LAW OR STATE CONSTITUTIONS ON A GAME-BY-GAME BASIS.

THERE IS ONLY ONE STATE THAT I KNOW OF -- MY HOME STATE -- THAT CRIMINALLY PROHIBITS ALL FORMS OF GAMING. SO I DON'T WORRY WHEN I HEAR ABOUT A FEDERAL COURT'S INTERPRETATION OF ANOTHER STATE'S LAW.

AND, WHILE I RECOGNIZE THAT HAWAII MAY BE THE EXCEPTION, I WOULD STILL EXPECT THAT THE LAWYERS IN OTHER STATES WOULD LOOK TO THE LAWS IN THEIR RESPECTIVE STATES, BEFORE RUSHING TO JUDGMENT AS TO WHAT THE WISCONSIN COURT'S RULING MAY MEAN FOR THEIR STATE.

MORE RECENTLY, ON FEBRUARY 15TH OF THIS YEAR, A MEDIATOR IN ARIZONA ANNOUNCED HIS CHOICE OF COMPACTS OFFERED BY ARIZONA TRIBES AND THE STATE OF ARIZONA. BY HIS OWN ACKNOWLEDGMENT, THE STATEMENT WHICH ACCOMPANIED THE MEDIATOR'S ELECTION OF COMPACTS WAS NOT NECESSARY. NONETHELESS, SOME HAVE ACCORDED THAT STATEMENT THE WEIGHT OF A COURT RULING.

FOLLOWING THE MEDIATOR'S ELECTION OF COMPACTS, STATEMENTS ATTRIBUTED TO INTERIOR SECRETARY BABBITT APPARENTLY ADDED FUEL TO THE FIRESTORM OF CONTROVERSY THAT HAD BEEN STIRRED UP IN THE WAKE OF THE MEDIATOR'S ACTION, AND WE'VE BEEN TOLD THAT THE GOVERNORS OF THE SEVERAL STATES UNDERTOOK A CAMPAIGN OF PHONE CALLS TO THE WHITE HOUSE TO REGISTER THEIR PROTESTS.

THEN, ON MARCH 5TH, TWO MORE RULINGS OF FEDERAL DISTRICT COURTS WERE ANNOUNCED. ONE, IN THE STATE OF RHODE ISLAND, HELD THAT THE INDIAN GAMING REGULATORY ACT PRE-EMPTED THE PROVISIONS OF THE RHODE ISLAND INDIAN LANDS CLAIMS SETTLEMENT ACT.

IN THIS MATTER, I HAVE TO TAKE EXCEPTION TO THE COURT'S FINDING, BECAUSE IT WAS CLEAR TO US AT THE TIME THE SENATE WAS CONSIDERING THE GAMING ACT -- WE SAID SO IN THE SENATE COMMITTEE REPORT ACCOMPANYING THE GAMING ACT AND A COLLOQUY BETWEEN MYSELF AND SENATORS CHAFEE AND PELL -- THAT THE CIVIL, CRIMINAL, AND CIVIL REGULATORY LAWS OF THE STATE OF RHODE ISLAND WOULD APPLY TO TRIBAL LANDS.

OUR STATEMENTS REFLECTED AN EARLIER MEMORANDUM OF AGREEMENT ENTERED INTO BY THE NARRAGANSETT TRIBE AND THE STATE OF RHODE ISLAND WHICH SERVED AS THE BASIS FOR THE TRIBE'S SETTLEMENT ACT. THESE WERE NOT CONDITIONS UNILATERALLY IMPOSED ON THE TRIBE BY THE CONGRESS.

THE SECOND ANNOUNCEMENT OF A RULING ON MARCH 5TH, IN CALIFORNIA, WAS MADE FROM THE BENCH, SO WE DON'T HAVE A WRITTEN OPINION TO INFORM

FOLLOWING THE MEDIATOR'S ELECTION OF COMPACTS, STATEMENTS ATTRIBUTED TO INTERIOR SECRETARY BABBITT APPARENTLY ADDED FUEL TO THE FIRESTORM OF CONTROVERSY THAT HAD BEEN STIRRED UP IN THE WAKE OF THE MEDIATOR'S ACTION, AND WE'VE BEEN TOLD THAT THE GOVERNORS OF THE SEVERAL STATES UNDERTOOK A CAMPAIGN OF PHONE CALLS TO THE WHITE HOUSE TO REGISTER THEIR PROTESTS.

THEN, ON MARCH 5TH, TWO MORE RULINGS OF FEDERAL DISTRICT COURTS WERE ANNOUNCED. ONE, IN THE STATE OF RHODE ISLAND, HELD THAT THE INDIAN GAMING REGULATORY ACT PRE-EMPTED THE PROVISIONS OF THE RHODE ISLAND INDIAN LANDS CLAIMS SETTLEMENT ACT.

IN THIS MATTER, I HAVE TO TAKE EXCEPTION TO THE COURT'S FINDING, BECAUSE IT WAS CLEAR TO US AT THE TIME THE SENATE WAS CONSIDERING THE GAMING ACT -- WE SAID SO IN THE SENATE COMMITTEE REPORT ACCOMPANYING THE GAMING ACT AND A COLLOQUY BETWEEN MYSELF AND SENATORS CHAFEE AND PELL -- THAT THE CIVIL, CRIMINAL, AND CIVIL REGULATORY LAWS OF THE STATE OF RHODE ISLAND WOULD APPLY TO TRIBAL LANDS.

OUR STATEMENTS REFLECTED AN EARLIER MEMORANDUM OF AGREEMENT ENTERED INTO BY THE NARRAGANSETT TRIBE AND THE STATE OF RHODE ISLAND WHICH SERVED AS THE BASIS FOR THE TRIBE'S SETTLEMENT ACT. THESE WERE NOT CONDITIONS UNILATERALLY IMPOSED ON THE TRIBE BY THE CONGRESS.

THE SECOND ANNOUNCEMENT OF A RULING ON MARCH 5TH, IN CALIFORNIA, WAS MADE FROM THE BENCH, SO WE DON'T HAVE A WRITTEN OPINION TO INFORM

OUR JUDGMENT AS TO HOW THE COURT'S RULING MAY OR MAY NOT AFFECT FUTURE CASES. HOWEVER, AGAIN I FEEL COMPELLED TO MAKE THE SIMPLE OBSERVATION THAT THE COURT MUST HAVE BEEN EXAMINING THE APPLICATION OF THE INDIAN GAMING REGULATORY ACT WITHIN THE CONTEXT OF CALIFORNIA LAW.

NONETHELESS, A RENEWED ROUND OF CALLS APPARENTLY CAME INTO THE WHITE HOUSE, STRONGLY URGING THAT THE WHITE HOUSE TAKE IMMEDIATE ACTION TO RESOLVE WHAT IS NOW BEING REFERRED TO AS "THE INDIAN GAMING PROBLEM".

LAST WEEK, SECRETARY BABBITT MET WITH SOME OF THE GOVERNORS, AND LATER, WITH SOME OF THE TRIBES INVOLVED IN GAMING. HE WAS SEEKING, I THINK, TO BRING PEOPLE TOGETHER SO THAT HE MIGHT MORE FULLY UNDERSTAND THEIR CONCERNS.

I COMMEND THE SECRETARY FOR HIS EFFORTS. I THINK HE WAS HEADED IN THE RIGHT DIRECTION. I THINK THAT ALL OF THOSE WHO ARE INVOLVED IN INDIAN GAMING -- WE IN THE FEDERAL GOVERNMENT, THE GOVERNORS AND THE ATTORNEYS GENERAL AND THE STATE LEGISLATORS, AND THE TRIBAL GOVERNMENTS -- NEED TO BE TALKING TO ONE ANOTHER.

I SAY THIS, NOT ONLY BECAUSE I BELIEVE IT, BUT BECAUSE IN THE ABSENCE OF SUCH COMMUNICATION, THERE IS AN ORGANIZED EFFORT COMING OUT WITH THE FOLLOWING PROPOSALS:

- A MORATORIUM ON ALL CLASS III GAMING ON INDIAN LANDS;

- REPLACING THE STATES WITH A FEDERAL PRESENCE IN THE AREA OF INDIAN GAMING;

- A TWO-YEAR RESTRICTION ON THE SECRETARY'S AUTHORITY TO APPROVE TRIBAL-STATE COMPACTS;

- A REPEAL OF THE INDIAN GAMING REGULATORY ACT;

- A GAME-SPECIFIC RESTRICTION ON WHAT CAN BE CONSIDERED IN NEGOTIATIONS THAT WOULD LEAD TO A TRIBAL-STATE COMPACT;

- A CLARIFICATION OF WHAT CONSTITUTES "GOOD FAITH" OR "BAD FAITH" ON THE PART OF A STATE;

- AN ALTERNATIVE PROCESS FOR ENTERING INTO FEDERAL-TRIBAL COMPACTS WHEN A STATE ASSERTS THE TENTH OR ELEVENTH AMENDMENT TO DEFEAT FEDERAL COURT JURISDICTION IN AN ACTION BROUGHT BY A TRIBAL GOVERNMENT SEEKING THE NEGOTIATION OF A TRIBAL-STATE COMPACT;

- A CLARIFICATION OF WHAT THE TERM "CONCUR" MEANS IN THE CONTEXT OF THE REQUIREMENT THAT A GOVERNOR MUST CONCUR IN THE SECRETARY'S DECISION TO TAKE LAND INTO TRUST FOR GAMING PURPOSES;

- A PROCESS TO PROVIDE FOR FEDERAL CLASS III CERTIFICATION IN LIEU OF A TRIBAL-STATE COMPACT; AND

- A REVERSAL OF THE SUPREME COURT'S RULING IN CABAZON.

THESE ARE JUST A FEW OF THE RECOMMENDATIONS THAT HAVE BEEN ADVANCED, BUT AS FAR AS I CAN DISCERN, THERE IS VERY LITTLE IF ANY DISCUSSION OR COMMUNICATION BEING HAD AMONGST THE AFFECTED GOVERNMENTS. INSTEAD, TERRITORIES HAVE BEEN STAKED OUT, AND SOME HAVE DECLARED THAT THIS IS WAR.

SOME HAVE EVEN SUGGESTED THAT THE COMMITTEE ON INDIAN AFFAIRS IN THE SENATE HAS BECOME TOO MUCH OF AN ADVOCATE FOR INDIAN POSITIONS, AND

- A TWO-YEAR RESTRICTION ON THE SECRETARY'S AUTHORITY TO APPROVE TRIBAL-STATE COMPACTS;

- A REPEAL OF THE INDIAN GAMING REGULATORY ACT;

- A GAME-SPECIFIC RESTRICTION ON WHAT CAN BE CONSIDERED IN NEGOTIATIONS THAT WOULD LEAD TO A TRIBAL-STATE COMPACT;

- A CLARIFICATION OF WHAT CONSTITUTES "GOOD FAITH" OR "BAD FAITH" ON THE PART OF A STATE;

- AN ALTERNATIVE PROCESS FOR ENTERING INTO FEDERAL-TRIBAL COMPACTS WHEN A STATE ASSERTS THE TENTH OR ELEVENTH AMENDMENT TO DEFEAT FEDERAL COURT JURISDICTION IN AN ACTION BROUGHT BY A TRIBAL GOVERNMENT SEEKING THE NEGOTIATION OF A TRIBAL-STATE COMPACT;

- A CLARIFICATION OF WHAT THE TERM "CONCUR" MEANS IN THE CONTEXT OF THE REQUIREMENT THAT A GOVERNOR MUST CONCUR IN THE SECRETARY'S DECISION TO TAKE LAND INTO TRUST FOR GAMING PURPOSES;

- A PROCESS TO PROVIDE FOR FEDERAL CLASS III CERTIFICATION IN LIEU OF A TRIBAL-STATE COMPACT; AND

- A REVERSAL OF THE SUPREME COURT'S RULING IN CABAZON.

THESE ARE JUST A FEW OF THE RECOMMENDATIONS THAT HAVE BEEN ADVANCED, BUT AS FAR AS I CAN DISCERN, THERE IS VERY LITTLE IF ANY DISCUSSION OR COMMUNICATION BEING HAD AMONGST THE AFFECTED GOVERNMENTS. INSTEAD, TERRITORIES HAVE BEEN STAKED OUT, AND SOME HAVE DECLARED THAT THIS IS WAR.

SOME HAVE EVEN SUGGESTED THAT THE COMMITTEE ON INDIAN AFFAIRS IN THE SENATE HAS BECOME TOO MUCH OF AN ADVOCATE FOR INDIAN POSITIONS, AND

SO IT MUST BE ELIMINATED.

I CAN TELL YOU THAT EVEN THOUGH I AM THE CHAIRMAN OF THE COMMITTEE OF JURISDICTION OVER THE INDIAN GAMING REGULATORY ACT IN THE SENATE, I HAVE NOT RECEIVED ONE CALL FROM A GOVERNOR OF ANY STATE IN WHICH INDIAN GAMING IS AT ISSUE. I WILL TELL YOU THAT I FIND THIS VERY STRANGE.

ON THE OTHER HAND, I HAVE HAD SEVERAL MEETINGS WITH THE ATTORNEYS GENERAL OF THE WESTERN STATES, AND I HAVE FOUND THEM TO BE A GROUP OF PEOPLE WHO ARE NOT ONLY AMENABLE TO DIALOGUE, BUT VERY FORTHCOMING AND STRAIGHTFORWARD IN EXPRESSING THEIR CONCERNS. I APPRECIATE THIS WAY OF APPROACHING A CONTROVERSIAL ISSUE. I THINK IT IS THE ONLY RESPONSIBLE WAY TO ATTACK A PROBLEM.

APPARENTLY, ALL SIDES HAVE COME TO BELIEVE THAT THERE ARE PROBLEMS WITH THE ACT, AND THAT IT NEEDS TO BE OPENED FOR AMENDMENT.

WE ARE AT A CRUCIAL JUNCTURE IN FEDERAL-INDIAN RELATIONS, AND I HAVE CALLED UPON YOU TO MEET WITH US TODAY TO DISCUSS WHAT NATIVE AMERICANS SHOULD DO IN THE FACE OF THIS AWESOME OPPOSITION.

I WILL TELL YOU THAT I AM INCLINED TO HOLD HEARINGS WITHIN THE NEXT SIXTY DAYS -- HEARINGS THAT WILL ENABLE ALL PARTIES TO OFFER UP THEIR PROPOSED AMENDMENTS TO THE ACT FOR THE SENATE'S CONSIDERATION.

BUT I WILL ALSO TELL YOU THAT I FIRMLY BELIEVE THAT SOME RATIONAL

DISCUSSION AMONGST THE GOVERNMENTS MUST PRECEDE THOSE HEARINGS. ACCORDINGLY, I AM TODAY WRITING TO THE GOVERNORS AND THE ATTORNEYS GENERAL OF THE STATES INVOLVED IN INDIAN GAMING, TO REQUEST MEETINGS WITH THEM AS SOON AS WE RETURN FROM THE APRIL RECESS. I WILL ADVISE THEM THAT IF IT IS NOT CONVENIENT FOR THEM TO COME TO WASHINGTON, I WILL TRAVEL TO WHEREVER THEY WANT TO MEET.

I FIRMLY BELIEVE THAT MATTERS OF THIS IMPORTANCE DESERVE NO LESS THAN A COMMITMENT TO HONEST AND RATIONAL DISCUSSION. BECAUSE WE WILL BE CONSIDERING ISSUES THAT TOUCH UPON THE MOST FUNDAMENTAL ASPECTS OF OUR RESPONSIBILITIES UNDER THE UNITED STATES CONSTITUTION AND THE TREATIES ENTERED INTO WITH THE INDIAN NATIONS.

WE WILL BE CONSIDERING MATTERS THAT GO TO THE HEART OF THE SOVEREIGNTY OF TRIBAL GOVERNMENTS, STATE GOVERNMENTS, AND THE FEDERAL GOVERNMENT.

THESE ARE NOT MATTERS THAT WILL BE TAKEN LIGHTLY -- THESE ARE NOT MATTERS THAT WILL BE ADDRESSED UNDER THE COVER OF DARKNESS.

THE FRAMERS OF OUR CONSTITUTION DID NOT TAKE THESE MATTERS LIGHTLY. THEY RECOGNIZED, EVEN IN THOSE EARLIEST DAYS OF OUR UNION, THAT THE RESPECTIVE RIGHTS OF THE THREE SOVEREIGNS HAD TO BE CAREFULLY BALANCED.

LET THERE BE NO MISUNDERSTANDING THAT IT IS WITHIN THIS CONTEXT THAT WE WILL PROCEED.

DISCUSSION AMONGST THE GOVERNMENTS MUST PRECEDE THOSE HEARINGS. ACCORDINGLY, I AM TODAY WRITING TO THE GOVERNORS AND THE ATTORNEYS GENERAL OF THE STATES INVOLVED IN INDIAN GAMING, TO REQUEST MEETINGS WITH THEM AS SOON AS WE RETURN FROM THE APRIL RECESS. I WILL ADVISE THEM THAT IF IT IS NOT CONVENIENT FOR THEM TO COME TO WASHINGTON, I WILL TRAVEL TO WHEREVER THEY WANT TO MEET.

I FIRMLY BELIEVE THAT MATTERS OF THIS IMPORTANCE DESERVE NO LESS THAN A COMMITMENT TO HONEST AND RATIONAL DISCUSSION. BECAUSE WE WILL BE CONSIDERING ISSUES THAT TOUCH UPON THE MOST FUNDAMENTAL ASPECTS OF OUR RESPONSIBILITIES UNDER THE UNITED STATES CONSTITUTION AND THE TREATIES ENTERED INTO WITH THE INDIAN NATIONS.

WE WILL BE CONSIDERING MATTERS THAT GO TO THE HEART OF THE SOVEREIGNTY OF TRIBAL GOVERNMENTS, STATE GOVERNMENTS, AND THE FEDERAL GOVERNMENT.

THESE ARE NOT MATTERS THAT WILL BE TAKEN LIGHTLY -- THESE ARE NOT MATTERS THAT WILL BE ADDRESSED UNDER THE COVER OF DARKNESS.

THE FRAMERS OF OUR CONSTITUTION DID NOT TAKE THESE MATTERS LIGHTLY. THEY RECOGNIZED, EVEN IN THOSE EARLIEST DAYS OF OUR UNION, THAT THE RESPECTIVE RIGHTS OF THE THREE SOVEREIGNS HAD TO BE CAREFULLY BALANCED.

LET THERE BE NO MISUNDERSTANDING THAT IT IS WITHIN THIS CONTEXT THAT WE WILL PROCEED.

A Forum for Tribal Leaders On

GAMING IN INDIAN COUNTRY: AN ASSESSMENT OF ISSUES AND CHALLENGES

Location

United States Senate
Dirksen Senate Office Building (DSOB) - *Room G-50*
Washington, DC

Convened By:
SENATE COMMITTEE ON INDIAN AFFAIRS

Facilitated By:
AMERICAN INDIAN RESOURCES INSTITUTE
NATIVE AMERICAN RIGHTS FUND

SCHEDULE

FRIDAY, March 19, 1993

8:00 a.m.	**FORUM REGISTRATION** *(DSOB - Room G-50)*
9:00 a.m.	**CALL TO ORDER**
	INVOCATION
	WELCOMING REMARKS & FORUM OVERVIEW
	Richard Trudell, *Executive Director* American Indian Resources Institute
	John E. Echohawk, *Executive Director* Native American Rights Fund
9:15 a.m.	**CONGRESSIONAL PERSPECTIVES**
	Hon. Daniel K. Inouye, *Chairman* Senate Committee on Indian Affairs
	Hon. John McCain, *Vice Chairman* Senate Committee on Indian Affairs

9:45 a.m.	**TRIBAL PERSPECTIVES**
	Tribal leaders will offer their views on current issues and challenges facing Indian gaming enterprises, including topics such as: "Indian Gaming and Tribal-State Relations," "The Control and Management of Indian Gaming Enterprises," "Regulation and Enforcement," "The Economic Impact of Indian Gaming," and "Federal-Tribal Relations."
11:00 a.m.	***OPEN DIALOGUE***
12:00 noon	LUNCH BREAK
1:30 p.m.	**OPENING REMARKS**
1:45 p.m.	**INTERIOR DEPARTMENT'S PERSPECTIVE**
	Hon. Bruce Babbitt, *Secretary* U.S. Department of the Interior
2:15 p.m.	***OPEN DIALOGUE*: BUILDING UNITY AND CONSENSUS TO ADDRESS ISSUES AND CHALLENGES**
4:30 p.m.	**CONCLUDING REMARKS**
	END OF FORUM

A Tribal Leaders Summit On

INDIAN COUNTRY AND THE CLINTON ADMINISTRATION: FORGING A VISIONARY PARTNERSHIP TO BUILD RESERVATION ECONOMIES AND SUSTAINABLE HOMELANDS

DISCUSSION PAPERS
ON
KEY ISSUES AND CONCERNS

January 1993

TABLE OF CONTENTS

PREFACE & ACKNOWLEDGEMENTS
INTRODUCTION

Discussion Papers:

- DATA ON INDIAN ECONOMIES
- TRIBAL ECONOMIC COUNCIL
- CAPITAL DEVELOPMENT AND FINANCING
- JOBS AND JOB CREATION
- SMALL BUSINESS DEVELOPMENT
- INDIAN EMPLOYMENT AND INVESTMENT TAX CREDITS
- TAX POLICY
- NATURAL RESOURCES
- WATER
- INDIAN ENERGY RESOURCES
- RESERVATION ECONOMIES AND THE ENVIRONMENT
- HOUSING
- INDIAN GAMING
- ALASKA NATIVE ISSUES
- FOREIGN TRADE

INTRODUCTION

In the face of a lingering national recession and a growing federal deficit, Indian Country like other segments of the nation, is looking to the Clinton-Gore Administration to breathe new life into the economy by developing an economic stimulus plan that will provide both short-term recovery and long-term growth. In the early days of the new Administration, rebuilding the economy will be the first order of business. The Democratic leadership in the 103rd Congress equally is prepared to make the national economy their first priority.

However, to insure that economic challenges unique to tribal economies are addressed by the Clinton-Gore Administration and the Congress, tribal leaders collectively must take the initiative to develop and articulate Indian Country's economic agenda. In order to accomplish this, tribal leadership will need to reach a consensus on a comprehensive strategy for tribal economic growth. To this end, the primary goals of the January 7-8, 1993 Tribal Leaders Summit are to provide the opportunity for tribal leaders to engage in a thorough discussion of the components of an Indian economic agenda, including initiatives that might be proposed to the Administration and the Congress; to set short-term and long-term economic priorities and to identify ways in which such priorities should be addressed; to examine barriers to reservation economic development and to identify ways in which such barriers may be overcome or eliminated; to build a working relationship with the new Administration; and to create a mechanism for sustaining dialogue and work with the Administration.

This booklet contains papers on key issues and concerns and was compiled to facilitate discussion at the Tribal Leaders Economic Summit. The issues discussed and potential approaches to addressing such issues are offered to provide a starting point from which tribal leaders may choose to proceed to discuss critical economic concerns in Indian Country and to reach a national consensus on immediate, as well as long-term, efforts that will result in strengthening reservation economies,and ensuring sustainable homelands.

INDIAN GAMING

Over the last decade, gaming has been an unprecedented source of jobs, income and wealth in Indian Country. For tribes that lack significant developable natural resources, gaming has become Indian Country's most powerful force for reservation economic development. Where it has been allowed to develop, tribal gaming is accomplishing the Indian Gaming Regulatory Act's (IGRA) goals of "promoting tribal economic development, self-sufficiency, and strong tribal governments."

Gaming always has been controversial and tribal gaming is no exception. The sovereign right of tribes to conduct business is, in fact, coming under ever increasing attack from wealthy private gaming competitors, state governments, and state-run gaming competitors.

In the face of this well-funded and highly organized opposition, it is imperative that tribes develop the new Administration's support for tribal gaming. Development of such support requires emphasis on the ways in which gaming has created strong tribal economies — in the absence of which, strong tribal governments and meaningful self-determination remain hollow concepts.

Tribal advocates must make sure the Clinton-Gore Administration understands that gaming in Indian Country has resulted in the following benefits:

- **Vastly increased employment opportunities for tribal members.** Gaming has created thousands of jobs for tribal members, many of whom previously were unemployed and on welfare rolls. Minnesota statistics actually demonstrate a correlation between Indian gaming and decreased welfare rolls and expenditures. On the Pequot Reservation in Connecticut and at a number of other reservations around the country where strong gaming businesses have been established, gaming has enabled tribes to offer a job literally to every tribal member. The importance of these new jobs is underscored by the historic difficulty in establishing viable, job-creating businesses in Indian Country.

- **Desperately needed funding for social, cultural and governmental programs.** New tribal schools, clinics and community centers, reservation roads, water and sewer systems have been constructed with gaming revenues. Scholarship programs, health care programs, cultural preservation efforts and countless other programs have been funded by gaming monies. On the Pequot Reservation, as elsewhere, gaming revenues have allowed the tribe, for the first time, to fund police and fire departments and develop its tribal government. The critical need for such funds is magnified by the last decade's dramatic reductions in federal programs and services.

- **Creation of capital for diversification of tribal economies.** Tribes engaging in gaming view it as a means of beginning the development of self-sustaining tribal economies. Gaming revenues are allowing tribes to build the capital needed to diversify their economies and move successfully in a variety of forms of business development.

At the same time, tribes must dispel some of the myths that opponents of tribal gaming have been spreading. The following must be pointed out:

- **Local communities and surrounding regions benefit greatly from tribal gaming, through increased employment and spin-off spending.** Indian gaming has helped, rather than hurt, surrounding communities. As an example, the Pequot Tribe now employs approximately 3,500 people, over 90% of whom are non-tribal members. The tribe's annual payroll is in excess of $60 million and it purchases over $40 million in local goods and services. Tribal casinos in Minnesota currently employ more than 5,700 people, of whom over 4,000 are non-tribal members. These casinos also have estimated annual payrolls in excess of $60 million. As the Minnesota State Planning Office concluded, tribal gaming benefits for local economies include higher employment and wage rates, more lodging and hospitality business, increased construction activity, and higher property valuation. Such patterns repeat themselves around the country, as tribes — often for the first time — are in a position to provide economic support for needy neighboring communities.

- **Tribal gaming operations are significant taxpayers.** Primarily through federal and state payroll taxes and regulatory fees, tribal gaming operations are substantial taxpayers. For example, the Pequot Tribe pays over $24 million annually in federal and state taxes and state regulatory fees.

- **Indian gaming has not been plagued by substantial problems of criminal infiltration.** While integrity issues are a paramount concern for all gaming tribes, the Justice Department has confirmed that criminal infiltration of tribal gaming has been minimal: "The perception in the media and elsewhere that Indian gaming operations are rife with serious criminality does not stand up under close examination." (Justice Department statement before U.S. Senate Select Committee on Indian Affairs, March 18, 1992.)

- **Tribes are sovereign entities with the right to use gaming as a source of governmental revenues in the same manner as states.** As the Pequot Tribe struggled to overcome the opposition of the state of Connecticut to the tribe's establishment of Class III gaming, Connecticut either directly operated or sanctioned over $1 billion of legal gaming, with net state revenues in excess of $200 million. Gaming has been a legitimate and important source for revenue for state governments for years and many states are looking increasingly at an expansion of state-sanctioned gaming as a means of raising additional revenues. Tribal governments must not be denied the same opportunity to tap this critically needed source of funding.

- **The public supports gaming.** Polls around the country indicate that while there is no consensus for or against an expansion of casino gaming generally, the public clearly supports reservation-based casino gaming. For example, in October 1992 the nationally recognized Harris Poll found that while the public was ambivalent about casino gambling in general, people believe — by a majority of 68% to 28% — that tribes should be allowed to have casino gambling on their reservations if they so desire.

While the benefits of gaming in Indian Country are undeniable, state opposition has prevented tribes, in a number of states, from establishing successful gaming enterprises. The refusal by some states to negotiate compacts, and the assertion by such states of Tenth and Eleventh Amendment defenses to tribal suits attempting to force negotiation, thus far have denied many tribes the desperately needed benefits that gaming will provide.

The Indian legislative agenda must focus on ways to force states to negotiate with tribes as required by the IGRA. Legislation, such as the Torres bill, can be crafted which would require states either to negotiate with tribes as intended by the IGRA, or face the prospect that compacts will be created without their input or involvement. The legislative agenda also must focus on resisting efforts by opponents to dismantle key portions of the IGRA. As one example, the Hoaglund bill, which already has been introduced, would, if enacted, cripple the ability of most tribes to conduct meaningful gaming enterprises.

The strength of the opposition to Indian gaming must not be underestimated. Indian gaming opponents are numerous, sophisticated, well-organized and have sizable war chests. Successful legislative efforts will require working closely with tribal allies in Congress. In the absence of such unity, attempts to modify the IGRA to solve the existing Tenth and Eleventh Amendment dilemma run the risk of failure or worse. Senator Inouye has announced that the U.S. Senate Select Committee on Indian Affairs will sponsor a process of dialogue and negotiation with all affected parties in an effort to reach consensus on amendments to the IGRA. Tribes strongly should support this process and participate fully in it, and urge the new Administration to do the same. As the same time, tribes must build coalitions and work with Senator Inouye to ensure fulfillment of his stated commitment to preclude any measure which will diminish the sovereign nature of tribal governments or which fails to facilitate implementation of the IGRA's goals.