

Findings

Lumbee Casino Gambling

Would Another Casino Be Good for North Carolina?

By Stephen Daniels and John Rustin

Debbie had never been to a casino, but when one opened in a nearby town, she and her husband decided to visit. After a few trips, the novelty wore off for Debbie, but for her husband who began visiting the casino four and five nights a week the effects were much different. Three months after their first visit, Debbie learned that they had to file for bankruptcy because her husband had lost close to \$40,000. Despite these losses, Debbie's husband continued to gamble. After episodes of domestic violence and bizarre behavior Debbie filed for divorce after 17 years of marriage. "The husband I divorced was not the husband that I married," she said. "He's a total stranger to me. He became a liar, he became a cheat, he became engaged in criminal and illegal activities."¹

Stories like this one are tragic and all too real for states with casino gambling. North Carolina saw its first and only casino open in 1997, when the Eastern Band of Cherokee Indians negotiated a compact with the state to have a casino on their reservation. Now, there is an effort to introduce full-blown Las Vegas style gambling in the casino, which now features only video gambling. In addition, another threat looms over eastern North Carolina, as bills have been introduced in the U.S. Congress to grant federal recognition to the Lumbee Indian Tribe, based near Lumberton. While the passage of such legislation would benefit tribe members in many ways, it would also open the door for the construction of one or more casinos along the highly traveled Interstate 95 corridor.

This paper will explain the factors that determine if additional Indian gambling

casinos will be introduced in North Carolina and what kind of impact such gambling could have on the state.

Federal Indian Gaming Laws

The question of whether or not an Indian tribe can conduct gambling operations is not always a simple one. Federal laws intermesh with state laws and are made even more complex by the fact that federally recognized Indian tribes are considered to have sovereign authority over their own land and activities, for most intents and purposes.

The federal Indian Gaming Regulatory Act (IGRA) defines three forms of Indian gaming: Class I—social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as part of, or in connection with, tribal ceremonies or celebrations;² Class II—all forms of bingo, and other games similar to bingo, such as pull tabs, lotto, and card games that are explicitly authorized by state law, not including baccarat, chemin de fer, or electronic facsimiles of any game of chance or slot machine of any kind;³ and Class III—all forms of gaming that are not Class I or Class II gaming.⁴ Class III includes casino gambling, slot machines, video-based games, blackjack, poker, keno, and other gaming authorized by states under tribal-state compacts.

Class I gaming on Indian land falls under the exclusive jurisdiction of the Indian tribe. Class II gaming is allowed if the state within which the tribe is located allows this form of gambling under any conditions. In order to conduct Class III gaming, an Indian tribe must be federally recognized; possess "Indian land;" and be "located in a State that permits such gaming for any purpose by any person, organization, or entity."⁵

If a tribe meets these requirements,

then they are eligible under IGRA to seek a gambling compact with the state in which their tribal lands are located. IGRA requires that states "negotiate...in good faith to enter into such a compact" at the request of any tribe having jurisdiction over Indian lands.⁶ The compact establishes the forms of Class III gaming available to the Tribe, as well as the rules, regulations and conditions under which the gaming is allowed.

The Cherokee Compact

In August 1994, then Governor James B. Hunt, Jr. signed the initial Tribal-State Compact between the State of North Carolina and the Eastern Band of Cherokee Indians to allow Class III gaming on the Cherokee reservation in western North Carolina.⁷ That compact authorized the Eastern Band to conduct raffles, electronic video games that involve the use of skill or dexterity as is permitted by state law, and other forms of Class III gaming agreed upon in the future by the Tribe and the Governor.⁸ At the time the compact was entered, the Tribe was already conducting Class II bingo operations.

In November 2000, in one of his last acts before leaving office, Governor Hunt signed an amendment to the compact, which, among other things allowed for prizes of an unlimited size on some video games; increased the age limit for casino patrons and employees from 18 to 21; allowed for credit card cash advances for gamblers; allowed unlimited Class III gaming space in the casino; and increased the renewal period of the compact to 30 years.⁹

Authority to Enter Into Compacts

In April 2001, in a case that challenged the authority of New York's governors to enter into gambling compacts on behalf of the state, a judge in Albany County ruled that "New York's Governors [Cuomo

and Pataki] in signing the Indian Gaming Compacts have crossed the line of executive power and entered into the domain of the legislature without proper mandate or authority within the New York State Constitution.”¹⁰ The North Carolina General Assembly then passed a bill in December 2001, which included two provisions that handed all authority to negotiate Tribal-State compacts over to the governor.¹¹ The effective date of the bill was made retroactive to 1994, giving the legislature’s complete approval to the original compact with the Eastern Band of Cherokee Indians, as well as subsequent amendments. It also granted *carte blanche* authority to the governor to represent the state in any future compact negotiations with no oversight, consultation, or approval by the General Assembly. Clearly, legislators recognized that the approval of gambling operations for Indian tribes is a political “hot potato” and wanted no part of the process.

The Harrah’s Cherokee Casino

The Harrah’s Cherokee Casino has become the most visited private tourist attraction in the state with 3.3 million annual visitors and annual net profits of around \$155 million.¹² In 2002, the casino opened a 15-story, 252-room high-rise hotel tower and expanded its Class III gaming area by 20,000 square feet.¹³ In December 2003, the Eastern Band broke ground on a second hotel tower that will more than double the number of rooms available at its existing hotel.¹⁴ As mentioned earlier, the Eastern Band is also actively seeking an expansion of its compact with the State to allow for Las Vegas-style table gambling such as poker, blackjack, craps, roulette, etc. at the casino.¹⁵

The Lumbee Bills

In February 2003, U.S. Senator Elizabeth Dole (R-NC) and U.S. Congressman Mike McIntyre (D-NC) each introduced bills in Congress that would grant federal recognition to the Lumbee Tribe of North Carolina.¹⁶ While these bills do not in themselves authorize the Lumbee Tribe to conduct gambling operations, the passage of either would represent a major step toward authorizing a gambling casino or casinos along Interstate 95 in Robeson County. If either bill is approved, all that would be necessary for the Lumbee tribe to obtain the ability to gamble is to secure “Indian lands” and enter into a gambling compact with the State of North Carolina. North Carolina has already entered into a compact with the Eastern Band of

Cherokee Indians and would be compelled by federal law to negotiate a compact in good faith with any other federally recognized Indian tribe located in the state. If the Lumbee obtain Indian land, such an agreement is all but guaranteed. S 420 passed the Senate Indian Affairs Committee November 25, 2003 and is eligible for consideration by the full Senate.

The Impacts of Casino Gambling

So what would happen if this legislation passes and a compact is negotiated, signed and implemented to bring gambling to southeastern North Carolina? The prospect of casino gambling along the I-95 corridor in Robeson County and possibly other surrounding counties is cause for serious concern. Such a casino, or casinos, would not only attract gamblers from the local counties, but from across North Carolina and other surrounding states. In fact, it would be the only casino on I-95 between New Jersey and Florida¹⁷ thus assuring that it will quickly expand into a full-blown gambling destination for the southeast. Each day an average of 39,000 automobiles travel through Robeson County on I-95,¹⁸ making it uniquely positioned to lure not only the local citizens to gamble, but also out-of-state motorists who are traveling through North Carolina.

The affects of a casino (or casinos) on the region and on North Carolina would be significant. Most vulnerable to the social and economic impact of gambling on the area would be the over half-a-million people living in Robeson and its surrounding counties.¹⁹ Studies show that a negative economic impact would be severe on the retail and restaurant businesses of any areas within a two hour driving time, especially those that depend on tourism and retirement populations. We will deal with each of these in turn.

Social Impact

Casinos are often promoted as destination entertainment for tourists and fun seekers. And for many, casino gambling remains an innocuous pleasure with little or no negative consequences.²⁰ But for millions of individuals like Debbie and her husband, the harsh reality is that a portion of people who enter casinos will become addicted and suffer the consequences.

Though the exact percentage of people with gambling problems has been hard to pinpoint, a highly recognized Harvard study estimated that approximately 1.6 percent of adults are lifetime pathological gamblers, and another 3.85 percent are lifetime problem gamblers—totaling 7.5

million adult problem and pathological gamblers in the United States in 1997.²¹ This is roughly equal to the entire population of North Carolina, meaning that one out of every 20 adults nationwide (5.45 percent) have a gambling problem. The American Psychological Association (APA) defines pathological gamblers as individuals who exhibit more than five of the ten criteria they have outlined to diagnose someone with a gambling problem. A problem gambler exhibits several, but less than five of the APA’s criteria.²²

Gambling addicts do not just damage their own lives, but hurt their family, friends and coworkers. Crime, domestic violence, child abuse, divorce, unemployment, bankruptcy, embezzlement, theft, and suicide are just some of the social ills that accompany this addiction. And it is assured that a casino in Robeson County would create thousands of new gambling addicts in a region that does not now have widespread gambling addiction problems.

Addicted gamblers often turn to crime when they have exhausted their financial resources and need more money to fuel their gambling addiction or pay off gambling debts. About one-third of problem and pathological gamblers have been detained or arrested by police (compared to one in 20 non-gamblers). About 21 percent of pathological gamblers and 10 percent of problem gamblers have been incarcerated.²³ In a survey of almost 400 Gambling Anonymous members, 57 percent admitted to stealing in order to fund their gambling habit. As a group, those surveyed stole a total of \$30 million dollars, or about \$135,000 per person.²⁴

Research shows that the introduction of a casino always results in an increase in criminal activity. By studying county-level data from every county in the United States between 1977 and 1996, one of the most comprehensive studies on the link between casinos and crime found a three to four year lag after the casino opened and before the crime rate increased, commensurate with the time it took for gamblers to deplete their resources.²⁵ This research found significant increases in violent crimes including aggravated assault, rape and robbery, as well as property crimes, including larceny, burglary and auto theft.²⁶ Murder was the only violent crime that did not increase. Interestingly, this study found that counties neighboring the casino county experienced similar increases in crime, indicating that casinos don’t just attract crime from other locations but create it.²⁷

Analysis of counties with Indian casinos showed similar results. From 1987 to 1992, crime rates in Indian casino counties changed little, however between 1992 and 1996 (the years when the number of Indian casinos increased dramatically), crime rates in all categories (including robbery, aggravated assault, murder, burglary, rape, larceny and auto theft) rose significantly.²⁸

The same appears to have held true for North Carolina. According to local law enforcement officers in counties near the Harrah's Cherokee Casino, there has been a definite increase in violent crimes, theft, drug use and drug trafficking, domestic violence, and DWI.²⁹

The cost of crimes that result from a casino's presence is staggering. It is estimated that by 1996, the total cost of crime for 167 casino counties studied was \$1.3 billion per year, or \$63 per adult.³⁰

Sadly, many compulsive gamblers attempt, or consider attempting to take their own lives, and as many as 20 percent of gamblers seeking help will attempt suicide.³¹ One survey of Gamblers Anonymous members found that as many as two-thirds had considered committing suicide, 47 percent had a definite plan to take their own life and 77 percent stated that they wanted to die.³²

Gambling addiction also brings physical and emotional distress to the addict's family as well. A Gam-Anon survey of the spouses of compulsive gamblers found that most of them suffered serious emotional problems and had themselves turned to smoking, drinking, overeating and impulse spending. Another study found that gambler's spouses displayed physical and emotional problems such as headaches, stomach problems, dizziness, anger, depression and isolation. It is estimated that between 23 and 50 percent of the spouses of compulsive gamblers have been physically and verbally abused.³³

Divorce is another cost of compulsive gambling. According to a 1998 study of Gamblers Anonymous members, between 26 and 30 percent cite their gambling problem as the reason for their divorce or separation.³⁴ The lifetime divorce rate for pathological gamblers and problem gamblers is 53.5 and 39.5 percent, respectively, compared to the lifetime divorce rate for non-gamblers, which is 18.2 percent.³⁵

Children of compulsive gamblers have been found to be more likely to drink, smoke and use drugs. It is also estimated that between 10 and 17 percent have been physically and/or verbally abused.³⁶

All of these social ills will impact countless Tar Heel citizens if casino gam-

bling is brought to Robeson County, but the impact will be the greatest in the area nearest the casino. Studies have shown that the areas surrounding casinos are most at risk for negative social impacts. For example, one study found that the number of addicted gamblers doubled within the 50 mile radius surrounding a gambling facility,³⁷ while another found that the number of pathological and problem gamblers increased in seven out of nine communities where a casino was located.³⁸

Economic Impact

Defenders of gambling expansion, including casino gambling, often cite economic development as the main benefit of gambling. Many studies have been published that highlight economic benefits by pointing to increased tourism, job growth and more tax revenue. Much of this research, however, is published by organizations or government agencies that have a vested interest in the outcome of the findings. In addition, much of the research focuses narrowly on the local benefits and not the casino's cumulative effect on the region.³⁹ In fact, no economic report has ever been published that shows legalized gambling as a way to generate economic development.⁴⁰ Instead, studies published by pro-gambling groups focus mostly on short-term benefits without considering the negative longer-term social costs.

In reality, casino gambling has a negative effect on an economy. Consumers who spend money in a casino will not spend that money on other consumer goods or services. A study of Indian casinos in Wisconsin found that gamblers were spending 10 percent less on food, 25 percent less on clothes and that 37 percent had less savings than before they began to gamble.⁴¹ But unlike any other competing business, gambling has an unfair advantage. As one author put it, "Nongambling related businesses will not be competing for consumer dollars or recreational dollars on a 'level playing field,' because legalized gambling activities can cater to an addicted and potentially addicted market segment."⁴² This means that while a casino in Robeson County will likely attract business and tourism dollars to the immediate area, it will do so by cannibalizing commerce and tourism in other parts of the state, especially nearby coastal communities. For example, the above-mentioned Wisconsin study found that "Without considering the social costs of compulsive gambling, the 'rest-of-the-state' areas lose—or, transfer in—\$223.94 million to the local gaming areas. Considering the

lowest estimated social costs of problem gambling, the rest of the state currently loses \$318.61 million to gambling."⁴³

The effect of lost revenue is even more pronounced when the "multiplier effect" of taking this revenue out of the consumer economy is considered. Every dollar that is put into gambling (which produces no tangible asset) is money that does not go into consumer goods such as refrigerators and computers—goods that benefit manufacturers, create jobs and generate further reinvestment into the economy. This "multiplier effect" of two to three means that a billion dollars spent on gambling is really worth two to three billion dollars in the consumer economy. These billions of dollars also represent lost tax revenues and property revenues that would grow the economy.⁴⁴

Casinos also create more costs for government entities, such as increased police services. Indiana had to hire 120 additional state troopers after casinos were introduced in that state.⁴⁵ Likewise, law enforcement in and around North Carolina's Cherokee casino has also increased. In the last five years, the Jackson County police force has increased by about 40 percent, while the number of police on the Cherokee reservation has increased by about 33 percent.⁴⁶ Additional taxpayer costs can also come from increased strain on infrastructure caused by new roads to handle additional traffic, high regulatory costs, increased expense from the criminal justice system and higher social-welfare costs caused by the rise in gambling addiction. In fact, for every dollar legalized gambling contributes in taxes, taxpayers pay three dollars.⁴⁷

Perhaps the most dramatic economic disadvantage to a community comes from problem and pathological gamblers. Though it is impossible to place a price tag on a ruined life or a broken family, some calculations have been made to measure the economic impact on the government, employers, health insurance companies and families as a result of the lost jobs, welfare benefits, arrests, corrections, divorce and other things resulting from compulsive gambling behavior. According to the National Opinion Research Center (NORC), the lifetime impact of problem and pathological gamblers is \$5,130 and \$10,550 respectively. NORC estimates that compulsive gambling costs society \$5 billion a year or \$40 billion per lifetime.⁴⁸ The NORC estimates should be taken as a minimum, however, as they do not include costs associated with such things as theft, embezzlement, suicide, domestic violence,

child abuse and neglect and the non-legal costs of divorce.⁴⁹ Others have estimated these costs to be even higher.⁵⁰ On a per adult basis, the national social costs of problem and pathological gamblers ranges between a low estimate of \$140 to a high of \$221 per adult.⁵¹

Examining these social costs and comparing them to any economic development that may occur as the result of a casino quickly diminishes any economic positives. For example, one study compared the benefits and costs of a casino and found that “the social costs outweigh benefits by a factor of \$190 to \$34 or 5.6 to 1.” It went on to say, “An economy that includes casino gambling is worse off by \$156 per capita compared to the same economy where casino gambling is prohibited.”⁵² This study also points out that in order to overcome this deficit through the creation of jobs, it would require 21 new jobs for every 100 adults in the population—a very unlikely scenario.⁵³ Of course, even if this many new jobs were created, it still would not correct the problems caused by the compulsive gamblers the casino creates.

Casino communities that report an increase in jobs as a benefit often do not take into consideration jobs lost elsewhere because of the money that no longer goes to numerous other non-gambling businesses or the types of jobs that are created by casinos. In their analysis of a casino’s impact on communities, NORC stated that, “per capita income stays the same, indicating the communities reap more jobs, but not necessarily better jobs. There appears to be more of a shift in the types and locations of work than a net improvement in the local standard of living.”⁵⁴

Conclusion

The purpose of this paper is not to endorse or oppose the services and benefits that come with federal tribal recognition, except to the degree that such recognition authorizes federally recognized Indian tribes to conduct gambling operations. While laws and regulations governing Indian casino gambling are complex, the implications to society are simple and clear. Legalized gambling may result in some economic benefit for a few, but

it does so at great expense to countless others. Before state and federal lawmakers consider any legislation that could expand gambling in North Carolina, they must weigh the cumulative impact these activities will have on all the citizens they represent. The inevitable result is ruined lives and broken families. Such a payoff is not worth the gamble.

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Endnotes

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