

## **First Nations Gaming as a Self-Government Imperative: Ensuring the Health of First Nations Problem Gamblers**

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Numéro 41, 2010

Representations of First Nations and Métis  
Les représentations des Premières Nations et des Métis

URI : <https://id.erudit.org/iderudit/044161ar>  
DOI : <https://doi.org/10.7202/044161ar>

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Éditeur(s)

Conseil international d'études canadiennes

ISSN

1180-3991 (imprimé)  
1923-5291 (numérique)

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Citer cet article

Belanger, Y. D. (2010). First Nations Gaming as a Self-Government Imperative: Ensuring the Health of First Nations Problem Gamblers. *International Journal of Canadian Studies / Revue internationale d'études canadiennes*, (41), 13–36.  
<https://doi.org/10.7202/044161ar>

Résumé de l'article

À la fin de 2008, on comptait, au Canada, 17 casinos des Premières Nations. Les dernières statistiques confirment qu'ils sont tous des entreprises lucratives et que chacune de ces Premières Nations utilise l'argent pour améliorer des programmes sociaux et accroître l'infrastructure. Or, on a fait abstraction d'un point jusqu'à présent, à savoir la santé de la population locale. Plus particulièrement, tous les accords sur les jeux de hasard entre les provinces et les Premières Nations n'ont prévu qu'un financement limité pour mettre en oeuvre des programmes de traitement du jeu compulsif à l'intention des résidents des réserves sur lesquels l'implantation d'un casino exerce une influence négative. Un fait étonnant, étant donné que plusieurs études au Canada et aux États-Unis ont montré que les Autochtones sont plus susceptibles de devenir des joueurs compulsifs. Cet article soutient qu'en établissant un casino dans une réserve indienne, la communauté d'accueil se doit de traiter les personnes touchées par la facilité d'accès aux jeux de casino. Agir dans ce sens est un acte d'autodétermination, un acte de responsabilité que les Premières Nations sont appelées à assumer lorsqu'elles choisissent les casinos comme des mécanismes de développement économique.

**Yale D. Belanger**

***First Nations Gaming as a Self-Government  
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**Abstract**

*At the end of 2008, there were 17 First Nations casinos operating in Canada. Recent statistics confirm that all are money-making enterprises, and that individual First Nations are using the money to improve social programming and augment infrastructure. What has been overlooked to date is local health: specifically, limited funding was set aside in all Province-First Nations gaming agreements to implement problem-gambling treatment programs for on-reserve residents negatively influenced by the introduction of a casino. This is surprising considering that several studies in Canada and the United States have shown Aboriginal people are more likely to become problem gamblers. This paper argues that by situating a casino in a reserve community, the host community establishes an imperative to treat those negatively affected by ease of access to casino gambling games. To do so is an aspect of self-determination, and a responsibility First Nations assume when selecting casinos as mechanisms of economic development.*

**Résumé**

*À la fin de 2008, on comptait, au Canada, 17 casinos des Premières Nations. Les dernières statistiques confirment qu'ils sont tous des entreprises lucratives et que chacune de ces Premières Nations utilise l'argent pour améliorer des programmes sociaux et accroître l'infrastructure. Or, on a fait abstraction d'un point jusqu'à présent, à savoir la santé de la population locale. Plus particulièrement, tous les accords sur les jeux de hasard entre les provinces et les Premières Nations n'ont prévu qu'un financement limité pour mettre en œuvre des programmes de traitement du jeu compulsif à l'intention des résidents des réserves sur lesquels l'implantation d'un casino exerce une influence négative. Un fait étonnant, étant donné que plusieurs études au Canada et aux États-Unis ont montré que les Autochtones sont plus susceptibles de devenir des joueurs compulsifs. Cet article soutient qu'en établissant un casino*

*dans une réserve indienne, la communauté d'accueil se doit de traiter les personnes touchées par la facilité d'accès aux jeux de casino. Agir dans ce sens est un acte d'autodétermination, un acte de responsabilité que les Premières Nations sont appelées à assumer lorsqu'elles choisissent les casinos comme des mécanismes de développement économique.*

*Why is Indian health still regarded as a medical question rather than an inseparable part of land claims resolution and reservation economic development?<sup>1</sup>*

## **Introduction**

The recent trend of First Nations hosting casino operations has in certain cases led to greater localized control of economic development attributable to an influx of gaming revenues.<sup>2</sup> Economic development, however, brings with it inimitable governing challenges as yet fully reconciled within existing self-governing models, and the First Nations casino phenomenon provides us with a unique opportunity to explore these and like issues while offering plausible strategies to offset the potentially harmful effects associated with situating casinos in reserve communities. Critics insist that serious academic consideration must be given to a provincial policy orientation: (1) that enables casino construction near vulnerable populations exhibiting significantly higher than average rates of problem and pathological gambling; and, (2) fails to stress the need for problem-gambling prevention, treatment and harm minimization programs. Often overlooked in this discussion, however, is the role First Nations played in the industry's creation, which is this paper's focus.

First Nations advocated for reserve casinos on the basis that the gambling revenues would foster greater political independence and improved self-governance. This occurred despite mounting evidence showing that some of the highest prevalence rates of problem gambling occurred in Aboriginal populations. It was offered that a properly managed reserve casino had the potential to economically rejuvenate First Nations through gambling revenues. What was downplayed was the evidence demonstrating that increased access to gambling games had the potential to exacerbate existing problem-gambling behaviours. Yet, by entering into gaming agreements as an act of self-determination, gaming First Nations arguably have: (1) adopted responsibility for gambling-related health issues furthering self-government jurisdiction and authority; (2) accepted

the duty of care responsibilities related to establishing gambling-related, community-based health initiatives to offset racism, discrimination, and the structural inequities that disadvantage First Nations' individuals interfacing with the Canadian health system;<sup>3</sup> and (3) established a policy environment where unique First Nations' beliefs about gambling can be treated in culturally relevant and appropriate ways. This is best accomplished by fashioning community-based treatment programs guided by professionally trained individuals versed in the epistemological realities driving an individual's comprehension of gambling and its place/role in their life. In sum, this paper asserts that Aboriginal self-government's composite nature demands that economic development and community health be acknowledged as interdependent policy issues.

This paper's central thesis contends that the leaders of First Nation gaming communities are well situated economically and politically to accept responsibility for implementing programmatic responses to reserve residents' health issues directly attributable to problem gambling. By demanding reserve casinos as a means of expanding the powers of self-government, it appears that First Nations leaders acknowledged their responsibility to respond to casino-related health issues on reserve. This paper's assumption is that the introduction of casinos to reserves will exacerbate existing problem gambling-behaviours, while introducing high stakes and other highly addictive forms of games to reserve residents unaccustomed to easy access to gambling. Complicating this discussion is the lack of before and after the establishment of a First Nations casino prevalence studies or accompanying research assessing the impact of reserve gaming enterprises on First Nations health and welfare. Available studies to date conclude that an increased level in problem gambling correlates to localized casino construction. That premise is adopted for the purposes of the following analysis.

### **The Socio-Economic Setting**

Since becoming an operational reality in 1984 with the enactment of the Cree-Naskapi of Quebec Act and more formally with the Sechelt Indian Band Self-Government Act (1986), academics have devoted significant time and effort to improve our understanding of Aboriginal self-government. This work has captured Aboriginal self-government's evolution from a concept of local municipal government models rooted in the Indian Act to a constitutionally protected inherent right finding its most recent expression in the idea of 'Aboriginal national government' as a distinct order of government within the Canadian federation. Self-government's scope, authority and jurisdiction have since expanded

beyond municipalities, to include federal, provincial and municipal jurisdictions, and some unique Aboriginal authorities.<sup>4</sup> One example of this new and expansive way of envisioning Aboriginal self-government, specifically in terms of financing its operations, is the First Nations tendency to operate casinos in reserve communities. Since commencing operations in 1996, billions of dollars in gross revenue have been produced nationally and employed by First Nations in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, and Nova Scotia to improve local programs and enhance community infrastructure.

During the early 1980s, First Nations leaders in Saskatchewan and Ontario began studying the economic and political potential of reserve casinos. Captivated by the close to 100 American Indian bingo operations grossing an estimated \$200 million (combined) annually, First Nations leaders by 1987 were aggressively lobbying provincial officials to negotiate agreements permitting similar operations.<sup>5</sup> The American industry expanded during this period in the wake of two Supreme Court decisions: *Seminole* (1981), which concluded that the State of Florida could not interfere with the economic activities of Indian tribes including bingos and other gambling activities; and *Cabazon* (1987), which many tribal leaders interpreted as assigning control of Indian gaming to the individual tribes.<sup>6</sup> After years of observing, First Nations leaders decided that the gaming tribes' sovereignty model paralleled their approach to self-determination. Those First Nations pursuing casinos began presenting their communities as sovereign entities possessing an inherent right to establish economic development projects *sans* provincial oversight.<sup>7</sup> Unlike American tribes, however, First Nations did not have a sovereign right to control reserve commerce or economic development and were, as a result, subject to provincial legislation despite their claims that reserve businesses were shielded from provincial laws by virtue of section 91(24) of the British North America Act (1867).

First Nations leaders looked to gaming to offset devastating economic trends by establishing local control over economic development. First Nations spending through core federal programs is capped annually below inflation and population growth rates. This amounts to a First Nations per capita payment that is half the amount for average Canadians (between \$7,000-\$8,000 compared to \$15,000-\$16,000). Core Indian and Northern Affairs Canada (INAC) program budgets in 2005 were capped at 2% growth for 10 years after a five-year period where INAC funding increased by only 1.6% as the status First Nations population increased by 11.2%. First Nations budgets have dropped by almost 13% since 2000. The

amount of lost funds—the difference between the rate received (2%) and the need (6%)—amounted to more than \$10 billion. Gathering Strength, Canada's response to the Royal Commission on Aboriginal Peoples (1996), provided \$2.379 billion, leaving a shortfall of \$7.914 billion. For individual communities, lost funds in the existing funds range from \$1.5 million to \$13.9 million. Canada Health and Social Transfers (CHST) are growing at an average rate of 6.6% per year. It is expected that by 2009-10, CHSTs will have increased by 33% over five years. The equalization program received a total increase of \$10.9 billion in the mid-2000s.<sup>8</sup>

By all accounts, casinos appeared an appropriate economic development mechanism capable of effectively countering endemic impoverishment. According to the Harvard Project on American Indian Economic Development (est. 1987), First Nations were engaged in nation building, or in a policy of legitimate self-rule. Based on its research, the Harvard Project determined that legitimate self-governance demanded that First Nations' leaders take control of their communities by controlling the decision-making process related to economic development. Unlike the Indian Affairs model, which advocated that outside administrators direct reserve economic development, Harvard researchers encouraged First Nations leaders' to acquire control over local development since successful economic development was often hampered by a disconnect between government desires and community-based political and economic agendas.<sup>9</sup> Control over local decision making would permit First Nations to benefit from good policy decisions while suffering the consequences of bad policy decisions.

Reserve casinos had two unique features First Nations leaders prized: (1) they were local businesses generating general operating revenue and onsite employment; and (2) the business model promoted low start-up capital to be financed by partners willing to absorb a portion of the financial risk. They were considered an economic panacea whereby revenues would be utilized similarly to how provinces used these monies to improve local services and infrastructure. First Nations, by the 1990s, openly rationalized legalized gambling to be a "legislative blessing... based on the premise that the social good of the activity outweighs any negative consequences."<sup>10</sup> Embracing practical sovereignty, Ontario and Saskatchewan First Nations sat down at the table and willingly negotiated gaming agreements with provincial officials in an effort to jump-start their economic development strategies. It is important to note the conspicuous absence of criteria specific to health issues in the provincial gaming agreements.

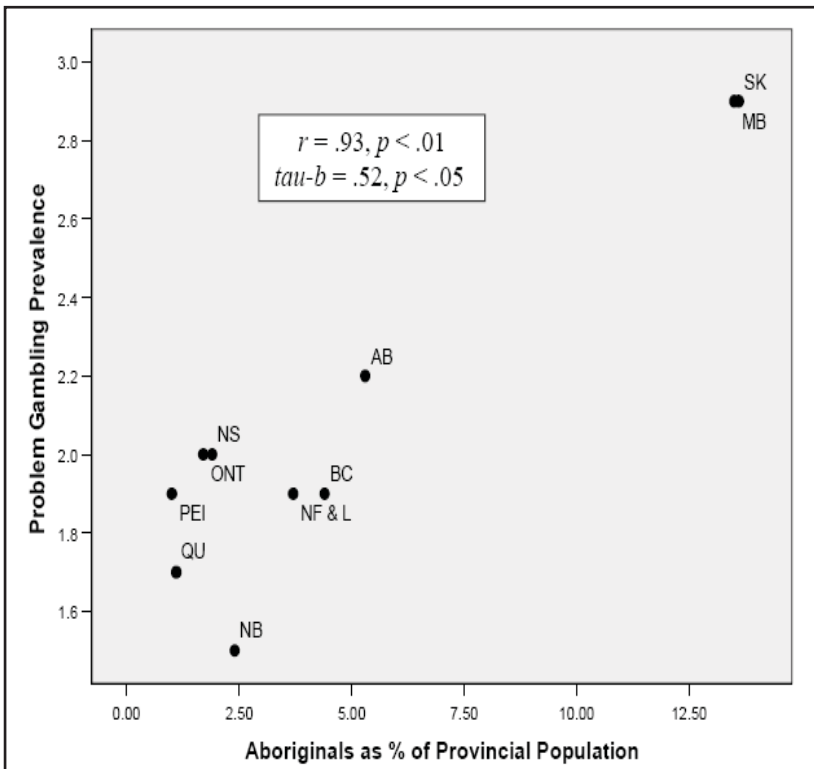
Several scholars during this period challenged optimistic pronouncements about reserve casinos' healing properties. Some countered that gambling was neither an efficient nor effective government funding mechanism.<sup>11</sup> Others argued that problem gambling was a health risk requiring political attention.<sup>12</sup> One scholar suggested that by encouraging public patronage the provinces were in a conflict of interest for failing to safeguard the public's well being.<sup>13</sup> Still others identified the difficulty associated with determining a casino's economic impact.<sup>14</sup> The reason: the majority of existing studies' failure to ensure objectivity or scientific rigour.<sup>15</sup> Indigenous populations were also being portrayed as inveterate gamblers, forcing provincial officials to probe the exigencies of situating casinos in reserve communities. Research that included Aboriginal populations regularly identified their prevalence of problem gambling to range from 5.8% to 19% and the prevalence of pathological gamblings ranging from 6.6% to 22%.<sup>16</sup> Further scholarship concluded that estimated lifetime Indigenous problem and probable pathological gambling prevalence rates were 14.5% compared to 3.5% in the general population; First Nations prevalence rates of problem and probable pathological gambling were an estimated 12.3% compared to 2% in the general population.<sup>17</sup> Further empirical research in the U.S. confirmed (comparable to emerging trends in Canada) increased rates of both pathological and potentially pathological gambling among Native populations, which should have concerned tribal leaders.<sup>18</sup>

First Nations leaders nevertheless maintained their allegiance to U.S. casino development models.<sup>19</sup> Noticeably absent in various organizational press releases or official correspondence during this period was the mention of problem gambling. But in Saskatchewan, for example, First Nations leaders anticipating government opposition to their casino desires soon discovered that First Nations community members were forwarding to the media academic studies and grey literature linking opportunities to participate in casino gambling with a per capita increase in Gamblers Anonymous chapters.<sup>20</sup> Later studies from this general time period showed that citizen participation rates in gambling increased as opportunities became available to partake in casino gambling,<sup>21</sup> which, in one case, led to reports of problem gambling.<sup>22</sup> Leaders failed to publicly respond to evidence suggesting that vulnerable, marginalized groups bore disproportionately the negative costs of gambling. Casino advocates responded that the general First Nations statistical profile showed reserve communities to be both economically and physically marginalized from Canadian society resulting from government impropriety and relentless

attempts at colonization.<sup>23</sup> The implicit argument was: Things could not get much worse so why not experiment with reserve casinos?

First Nations leaders could have referred to the available studies and discerned general conclusions regarding the potential issues associated with reserve casinos. The findings from two Canadian projects conducted in the 1990s suggested that an estimated 28% of First Nations respondents in Alberta were deemed problem gamblers with an additional 21% at risk of developing a problem.<sup>24</sup> Despite their limited nature, available research studies clearly suggested that First Nations individuals in Canada were more apt to developing gambling addictions.<sup>25</sup> A discernable trend at the time, recently it was proposed that “the Canadian provincial problem gambling prevalence rate is in fact *best* predicted by proportion of the population with Aboriginal ancestry” (see graph 1).<sup>26</sup> Of note, currently 13 of Canada’s First Nations casinos are located in the Prairie Provinces, which boast the nation’s highest per capita Aboriginal population numbers.<sup>27</sup>

**Graph 1. Aboriginal Ancestry as it Relates to Canadian Provincial Problem Gambling Prevalence in 2002<sup>28</sup>**





These and similar conclusions led one researcher to suggest that gaming tribes could expect a surge in criminal activity, problem gambling, erosion of family cohesion and a diminished quality of life.<sup>29</sup> However, existing studies suggest such assertions to be anecdotal at best.

Additional research during this period demonstrated the co-morbidity<sup>30</sup> of alcoholism and pathological gambling among a Native American sample to be three times that of the non-Native group.<sup>31</sup> Additional issues associated with gambling access, thereby increasing the potential for increased rates of problem gambling, included, but were not limited to, adverse financial impacts;<sup>32</sup> potential for increased bankruptcy rates; increased rates of depression and substance abuse;<sup>33</sup> and negative family impact such as stress and divorce.<sup>34</sup> This did not negatively influence First Nations' casino aspirations; nor did it compel an extended dialogue on anticipated casino-related health issues. Temporarily lost in the fanfare of the 1996 casino openings were the suggestions that reserve casinos' anticipated economic benefits could potentially be offset "by increased vulnerability to the negative consequences of gambling." This was due to Aboriginal people generally demonstrating "higher rates of problem and pathological gambling, poorer mental health status, as well as higher rates of substance-related problems compared with the general population."<sup>35</sup>

After opening several operations, First Nations casino managers responded that they were seeking to draw revenues from non-community sources, the suggestion being that the casinos would not harm the local populations. But First Nations leaders found that the strategies needed to promote reserve casinos to outside patrons also raised local residents' awareness of this new and locally accessible form of entertainment. For instance, concomitant with the need to introduce casinos to reserves was the need to commercialize the operations "to increase the purchases of current players and to attract new ones."<sup>36</sup> Outside of implementing a reserve-wide casino exclusion program, First Nations leaders would be unable to stop community members from patronizing the casinos and gambling. It appears that few took into consideration whether increased and localized advertising would attract residents curious to witness casino operations. At no time do public documents suggest this was a consideration of the Enoch First Nation prior to opening the River Cree Casino and Resort, for example. Its site near Edmonton was selected to maximize patronage and revenues. The goal was to improve the local First Nations standard of living. A corresponding increase in local levels of disposable income and the free time needed to patronize the casino

and gamble more frequently should have also been anticipated.<sup>37</sup> The combined frequency of commercial advertisements and accessibility to gambling would suggest that Enoch residents will face an increased risk of problem gambling prevalence thereby raising social and economic costs.<sup>38</sup>

It appears that economic development and community financial improvement took precedence over health related issues, even though the discourse of health and welfare remained an important reason driving the casino movement. Reserve health and well-being was apt to be discussed during the industry's embryonic stages, and it became an important speaking point before the media. All the same, First Nations leaders proclamations about the need to embrace alternative economic development projects were validated by the Royal Commission's final report (1996). Its authors concluded, "self-government without a significant economic base would be an exercise in illusion and futility" and "a more self-reliant economic base for Aboriginal communities and nations will require significant, even radical departures from business as usual."<sup>39</sup> Casinos represented a radical departure in several ways: (1) casinos in Canada were fairly new, recently expanding to a full-time enterprise in December 1989 when the Manitoba provincial government opened Canada's first permanent year-round casino, the Crystal Casino, at the Hotel Fort Garry in Winnipeg; (2) in general Canadians displayed an attitudinal shift in support of casino gambling that in turn compelled provincial officials to relax stringent criteria thereby permitting the Canadian gaming industry's expansion and evolution; and (3) First Nations were aggressively lobbying to host reserve casinos.

### **Negotiating Poorer Health?**

In spite of data demonstrating the problematic nature of placing casinos in or near First Nations communities and vulnerable populations, First Nations and provincial officials from Ontario to British Columbia forged ahead with negotiations and the implementation of casino plans. The Province of Alberta's experience is informative in this regard. In January 2001, the provincial First Nations' gaming policy permitting reserve casino developments was approved and the province quickly announced its willingness to review First Nations' casino proposals. This bold attempt to expand the province's gaming industry also provided First Nation leaders the opportunity to participate in this aspect of the provincial economy. By 2006, the Alberta Gaming and Liquor Commission (AGLC)

was vetting applications from seven First Nations according to the terms and conditions established for other provincial charitable casinos. The detailed eight-step proposal process considered various criteria ranging from site selection, an AGLC application assessment to determine community support, practical business plans, and account of opposing viewpoints. For First Nations, once the band council decided upon a community casino, a band council resolution was required confirming community support. No provisions were included compelling applicants to ensure First Nations' health and well-being through implemented problem-gambling programs.

This was not an unusual approach if other First Nations' casino models are indicative. For example, Manitoba responded by ensuring an allocation of 2.5% of gaming revenues, since increased to 3%, to First Nations addiction programs; Nova Scotia made no mention of like issues. In the latter case, casino and VLT revenues returned to the First Nations are earmarked for economic and community development. This is not to suggest that First Nations' health has been overlooked and/or outright ignored so much as it was publicly downplayed. The Province of Saskatchewan and the Federation of Saskatchewan Indian Nations (FSIN) acknowledged the health issues associated with introducing casinos to reserves. During negotiations in 1995, all parties agreed to "... work in cooperation with existing agencies and charities in order to ensure that effective and accessible prevention and treatment programs are available to First Nations people affected by gaming addictions."<sup>40</sup>

Little came of this until the agreement was renegotiated in 2002. This time, however, the FSIN established the First Nations Addictions Rehabilitation Foundation (FNARF) "to ensure that effective and accessible education, prevention and treatment programs about problem gambling are available to First Nations people."<sup>41</sup> In all, it was agreed that \$1.5 million "shall be allocated to FNARF, through the First Nations Trust, for funding of FNARF activities in relation to problem gambling." This amount has since grown to \$2.4 million annually, representing approximately 5% of net gambling revenues. In Ontario, the Aboriginal Responsible Gambling Strategy Steering Committee identified a need to provide counseling and treatment by First Nations organizations so that the special cultural features and needs of a community could be incorporated into service plans and counseling methods. Casino Rama's managers responded with an annual \$65,000 contribution followed by the Ontario Ministry of Health recently allocating \$1-million for an

educational program that is currently being accessed by eight Aboriginal organizations.

A percentage of gambling revenues is also available for public health programs at the discretion of the host First Nation. One of the key areas First Nations may utilize gambling revenues is health initiatives even if clear criteria are unclear concerning spending practices. In British Columbia, for instance, funding for the Responsible Gambling Strategy, which includes the Problem Gambling Program, is set at a fixed amount each fiscal year. It is not possible to attribute a portion of that funding from any one casino, as it is drawn from the Province's consolidated revenue fund. In 2006/07, the Province spent \$4.3 million on responsible and problem-gambling programs, an amount that grew to \$7 million in 2007/08. There are two agreements under which net income to government-generated revenues from the St. Eugene's Mission Resort (Casino of the Rockies) is shared with the community and service provider, and is thereby available for public health programs.

The *Host Financial Assistance Agreement* (HFA), to which the Ktunaxa First Nation and B.C. are signatories, provides a one-sixth share of net income to the host local government, in this case, the Ktunaxa First Nation, to be used for any purpose that is deemed beneficial to the community. The *Destination Casino Project Development Agreement* provides an additional one-sixth share of provincial net gaming income generated from the casino, to the casino service provider. These funds are set aside for infrastructure projects that support the casino's viability. Finally, the *Casino Operational Service Agreement* between the casino gaming service provider and the British Columbia Lottery Corporation, which conducts and manages all provincial gaming on behalf of the Province, sets out the distribution of revenue earned at the casino and how those monies are to be spent by the casino operator.

The gaming revenues generated have in many cases equipped First Nations leaders with the financial capacity to respond to western-based health issues infiltrating their communities, in this instance the potential proliferation of problem gambling in host communities. Casino Rama, situated on the Mnjikaning First Nation in Ontario, is to date Canada's most profitable First Nations casino. Although exact data are difficult to obtain, since opening in 1996 an estimated \$1 billion after winnings and expenses has been cleared, including \$91 million in 2004-05.<sup>42</sup> The provincial First Nations and the Ontario government recently signed an agreement directing an additional \$201 million annually and 1.7% of

provincial gaming revenues over the next 25 years (\$3 billion in total) to be used for First Nations health care, education and infrastructure.<sup>43</sup> The Mnjikaning First Nation, Casino Rama's host, has parlayed its gambling revenues and site allowance into a daycare, a seniors' home, and created 3,000 jobs in its hotel, restaurant and entertainment facilities. The community also boasts that the once impoverished reserve of about 500 now has just 10 members on social assistance.<sup>44</sup>

The Saskatchewan Indian Gaming Authority (SIGA) opened four casinos in 1996 which at the end of 2008 expanded to six operations. In that time the four casinos have grossed over \$900 million in gambling revenues while producing net profits of \$281 million.<sup>45</sup> Close to two-thirds of this amount (\$185,328,953) have been generated in the last five fiscal years (see table 1).

**Table 1. SIGA Revenue – 5-Year Overview**

<b>Year</b>	<b>Gross Revenue</b>	<b>Net Revenue</b>
2006-2007	\$130,337,810	\$48,836,918
2005-2006	\$112,858,873	\$40,157,971
2004-2005	\$100,637,018	\$33,954,945
2003-2004	\$98,258,458	\$33,179,599
2002-2003	\$88,121,908	\$29,199,520
<b>Total</b>	<b>\$530,214,067</b>	<b>\$185,328,953</b>

Source: SIGA Annual Reports

SIGA has also ranked consistently as one of the top fifty most profitable companies in Saskatchewan, claiming twenty-seven consecutive quarters of growth/rising revenues. It also won the *Saskatchewan Business Magazine* Business of the Year award in 2007. In Nova Scotia the combined VLT revenues and the annual contribution from the Sydney Casino have pocketed provincial First Nations nearly the same total during the same time period (\$184,643,355) (table 2).<sup>46</sup>

**Table 2. Nova Scotia Band Share of Gaming Revenue – 5-Year Overview**

<b>Year</b>	<b>VLT Revenue</b>	<b>Sydney Casino Profits</b>	<b>Net Revenue</b>
2006-2007	\$39,936,366.65	\$2,725,400	\$42,661,766.65
2005-2006	\$39,024,043.80	\$1,715,500	\$40,739,543.80
2004-2005	\$37,098,126.70	\$283,314 (2004)	\$37,381,440.70
2003-2004	\$32,708,556.76	\$1,631,872.31 (2003)	\$34,340,429.07
2002-2003	\$26,744,915.80	\$2,764,259.96 (2002)	\$29,509,175.76
<b>Total</b>	<b>\$175,512,009.71</b>	<b>\$9,120,346.27</b>	<b>\$184,643,355.98</b>

Source: Nova Scotia, Office of Aboriginal Affairs [online]  
<http://www.gov.ns.ca/abor/resources/firstnationsgaming>.

The River Cree Casino and Resort has contributed an estimated \$60 to \$80 million to Alberta's coffers since opening in October 2006 (to April 2008). Using the revenue distribution schedule as a guide, it is estimated that in its first fourteen months of operations the Casino grossed upwards of \$114 million from casino slots machines alone, which is on par with Casino Rama while outpacing SIGA and other First Nations casino operations.<sup>47</sup> The South Beach Casino Limited Partnership in Manitoba produced net earnings of \$7,139,404 in 2007 and \$5,585,321 in 2006 from combined \$48,232,924 gross gaming revenue. In total \$378,571 was distributed to each of the Partnership's seven member First Nation communities.<sup>48</sup> The Asensekak Casino near The Pas turned a profit of \$1.6 million in 2007, increasing cash flow operations by \$839,000 from 2006. Each of the seven partner First Nations received \$72,000.<sup>49</sup> Finally, the \$42.1 million St. Eugene's Mission Resort in Cranbrook was taken over within a year of opening by the Mnjikaning/Samson Cree (Alberta) First Nations' joint venture and no financials have to date been released making determining the casino's profitability difficult.<sup>50</sup> It is nevertheless still operational suggesting at the very least that it is breaking even.

## **Jurisdictional Environment**

First Nations until recently have refrained from pursuing health-related initiatives for financial reasons: the money just wasn't there. Many

leaders expressed an unwillingness or were unable to financially respond to the variability of health transfer payments resulting from provincial and federal bickering over who precisely is responsible for First Nation health. Many herald this to represent the federal government's abdication of responsibility for "Indians, and lands reserved for the Indians"<sup>51</sup>; and the provincial governments' failure to ensure the health of First Nations citizens according to section 92 of the *British North America Act* (1867). This instability has proven difficult for First Nations seeking to establish appropriate health programming, a situation that is further aggravated by the complex matrix of Indian legislation and the various acts and policies that assign responsibility for First Nations health to a range of public agencies and individual band councils. In the latter case, section 81(1)a of the *Indian Act* assigns First Nations responsibility "to provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases."<sup>52</sup> Augmenting local health (on paper at least) is section 66(3)b of the *Indian Act*, which empowers the minister in charge of Indian Affairs to establish regulations to "prevent, mitigate and control the spread of diseases on reserves; to provide medical treatment for infectious diseases ... and to provide for sanitary conditions ... on reserves."<sup>53</sup> Despite these provisions designed to protect First Nations' health, federal policies established to regulate First Nations societal advancement historically took direct aim at traditional healing practices.<sup>54</sup> In Western Canada, for example, the Sundance and its associated healing ceremonies were outlawed in 1895 as were, interestingly enough, all associated games and wagering practices. This restriction remained in place until 1951.<sup>55</sup>

Although legally empowered to accept responsibility for local health care, limited funding was (and remains) directed to First Nations communities for this purpose. In fact, national First Nations health care deteriorated well into the 1950s when, citing spiralling costs, federal officials endeavoured to convince provincial premiers to accept responsibility for First Nations health while simultaneously scaling back health programming. Persistent provincial resistance was the norm until 1964, when, at the Federal-Provincial Conference on Indian Affairs, federal officials reintroduced their proposed slow devolution of the Indian health care program and its associated costs to the provinces.<sup>56</sup> The provinces again balked, claiming that First Nations health care was the federal government's responsibility for 'Indians' under section 91(24). This inter-jurisdictional dispute continued its slow burn until 1974 following a ministerial policy statement describing federal responsibility

for First Nations health issues as strictly voluntary. This remains the Canadian government's policy position in 2009.<sup>57</sup>

First Nations disagreed with this interpretation. This did not stop several First Nations during the 1970s from initiating the devolution of social control of health, which was formalized with the Health Transfer Policy (1989). This involved the reassignment of certain responsibilities for managing and delivering health care services from Health Canada to First Nations.<sup>58</sup> The devolution process has resulted in an estimated 46% of First Nations communities signing transfer agreements with 82% of eligible First Nations currently in the process of transferring responsibility.<sup>59</sup> Some First Nations leaders consider this transfer to be an abdication of the historical trust responsibility to ensure the health of First Nations.<sup>60</sup> Others see it as a chance to improve self-governing powers.<sup>61</sup> One scholar in particular has argued that First Nations assuming responsibility for local health care delivery are testing "their own capacity to manage programs and eliminate cultural and linguistic barriers."<sup>62</sup> Combined with the provinces declaiming liability for First Nations health while citing the Canadian government's exclusive responsibility for 'Indians', even should First Nations individuals who demonstrate gambling problems seek treatment, this political grey area may result in their being denied health care.

### **Self-Government Response to Problem Gambling**

First Nations attempts to mitigate potential gaming-related health issues through self-financed educational and treatment programs is but one approach to self-government that can be exercised in various ways in relation to casino developments. Another way is to aggressively pursue casino placement through a negotiated framework (province-First Nations-[American] casino operator). Another, albeit proven to be less successful, avenue is to open a casino in lieu of a negotiated agreement with the province. A final approach has been to eschew casinos altogether. In the latter instance, casinos and in particular gambling's potentially destabilizing force, led to a highly publicized gaming referendum on the Navajo Reservation (U.S.), where voters concerned for the social welfare of tribal members in 1996 defeated a casino-style gaming proposal by a vote of 54.5 to 45.5%.<sup>63</sup> Kainai (Blood) First Nations leaders in Southern Alberta quickly withdrew their casino application before the AGLC in response to local opposition. First Nations casinos have all the same



proven themselves profitable, suggesting that the economic benefits of placing casinos in reserve communities have been realized.

As suggested above, First Nations have established a policy environment that permits the creation of treatment programs that integrate culture into their operations, something current provincial programs fail to accomplish. Culture plays a limited role in prevalence studies. It is nevertheless assumed that cultural factors are significant factors as they relate to problem gaming among Indigenous peoples.<sup>64</sup> It is not a significant leap to suggest that culture provides meaning to gambling behaviour.<sup>65</sup> As one researcher has asked in relation to First Nations' problem gambling in Canada, How do we know what we know about gambling?<sup>66</sup> This is a complicated issue for First Nations, Métis and Inuit cultures, each exhibit unique gambling behaviours and game preferences. Recent demographic trends further complicate our understanding of this phenomenon: currently there are 614 First Nations and 1,100 Aboriginal communities in Canada in addition to countless Métis and Inuit communities that have access, in one form or another, to western forms of gambling. Not factored into this assessment are the growing urban Aboriginal populations with improved access to electronic gaming machines.

First Nations communities have a collection of innate and tacit assumptions about life and reality; assumptions that in turn guide the interpretation and understanding of games and wagering that still animate contemporary understandings and processes. Prior to extended European contact in the late sixteenth century, North America was home to unique ways of understanding and its own distinctive reality. This is not to suggest the existence of a universal North American indigenous philosophy—each unique group practiced regionally specific forms of gambling. Still, very little is “known about the differences in gambling behaviours in many cultural groups.”<sup>67</sup> Historically, social and political events enabled multiple communities to interact, a process deemed essential in promoting non-hostile environments where the open exchange of goods occurred as opposed to raiding and warfare.<sup>68</sup> These were “occasions of feasting and gift giving, accompanied by singing, dancing, gambling and contests of skill.”<sup>69</sup> In this context, First Nations' games extended beyond simple conventions focusing on the roles various games played in individual communities. Modern events like competition powwows, Native rodeos and the North American Indian Games, for example, all include traditional games and related wagering.<sup>70</sup> Unlike casino gambling, these events promote large gatherings for entertainment purposes. The complex

social history of Indigenous games and gambling demands we construct culturally specific frameworks to probe this deeper reality, specifically if we are to better appreciate how these ideas inform contemporary gambling practices and game choice. Simply stated, we need to understand the past before grappling with the current state of Aboriginal problem gambling. This can be accomplished by examining “the different roles and meanings gambling have in different cultural groups” for such “knowledge can help develop more sensitive preventative and treatment approaches for those that are experiencing problem gambling.”<sup>71</sup>

Games were and continue to act as important religious rites used for divinatory purposes, and the creation stories, legends and songs performed at similar events speak of heroes revered for their gambling exploits.<sup>72</sup> They retain their cosmological significance—by playing games it is possible to recreate and relive “the establishment of cosmos and meaning out of chaos.”<sup>73</sup> From an economic perspective, games were and, in many cases, still are considered important wealth distribution mechanisms<sup>74</sup> while also closely associated with healing and funerary customs.<sup>75</sup> Curiously, First Nations prior to the late twentieth century demonstrated little interest in non-indigenous card and dice games suggesting that First Nations were not indiscriminate gamblers: they participated in culturally significant games while wagering accordingly.<sup>76</sup>

Recent research suggests that traditional gambling practices still inform contemporary First Nations gamblers<sup>77</sup> in much the same way historic ideas animate justice,<sup>78</sup> health,<sup>79</sup> education,<sup>80</sup> economic,<sup>81</sup> and governance processes.<sup>82</sup> It is further suggested that when evaluating problem gambling, cultural variables “should not be considered in isolation but in the context of other possible factors that have been implicated by the gambling literature as playing a role in the cause and maintenance of problem gambling.”<sup>83</sup> In the Canadian context, the most comprehensive work to date has been accomplished among southern Alberta Blackfoot populations. Consisting of the Kainai, the Piikuni and the Siksika, the Blackfoot (Niitisitapi) have a well-documented history of gambling.<sup>84</sup> One recent study employed narrative and myth to provide the context for traditional gambling patterns by collecting autobiographies of Blackfoot individuals with a history of gambling problems to discern the sacred and secular aspect of play. The collected data allowed the authors to conclude that “cultural, historical, and experiential contexts shape the meanings given to the gambling experience” and, in context to modern forms of gambling, “sacred meanings appear to persist in the pursuit of play, and traditional medicines continue to be used to influence outcomes.”<sup>85</sup> A

follow-up to this research suggested that traditional knowledge provides a base for devising culturally sensitive programmatic responses to Blackfoot problem gambling.<sup>86</sup>

These introductory studies, while limited in scope, nevertheless offer intriguing insights into the impact of culture upon First Nations' conceptions of not only gambling but its potential impact in contemporary First Nations society. Importantly the authors effectively discerned the contrasting ways in which western and Blackfoot gamblers envision the world that arguably need to be built into culturally specific treatment programs and educational initiatives in gaming First Nations (table 3). Gambling's objective separates the two worldviews: "From a western perspective, gambling is about money; from a Blackfoot perspective, the promise of a 'big win' of money is a factor, but the promise of prestige or merit is significant and the hero's journey is exemplified in the archetypal culture hero, Napi, and stories of heroic figures counting coup or winning at rodeo competitions."<sup>87</sup>

**Table 3. Comparison of Models of Western and Blackfoot Worldviews on Gambling**

<b>Western Worldview</b>	<b>Blackfoot Worldview</b>
Recovery	Mediated Healing
Money	Prestige or merit
Leisure	Depends on context
Prediction	Influence
Randomness	Natural law

Source: McGowan et al. 2002: 250.

The 2002 study and its 2004 follow-up highlighted the integration of traditional gambling ideologies into modern gambling practices, indicating that the previously acknowledged separation between western and Blackfoot gambling practices has become increasingly blurred. Today, stick games and horse racing are as popular as VLTs, bingo, lotteries, and casinos.

Traditional wagering methods were geared, if you will, to embrace culturally specific notions of material wealth, which made it possible for an individual to wager all s/he had without experiencing significant personal hardship upon losing. Historically, an individual's loss would activate internal mechanisms such as kinship ties, for example, thereby ensuring that individual was provided with everything s/he needed until it

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was possible through reciprocity to repay that kindness.<sup>88</sup> As identified in these two studies, “bingo, VLT playing, and casino gambling have had a significant cultural impact in many communities by replacing or reducing participation in cultural activities of a more traditional nature.”<sup>89</sup>

## **Final Thoughts**

In the face of concerted opposition, a host of First Nations remain loyal to an enterprise they anticipate can benefit their communities, regardless of the short-term social and economic costs. The latter costs unfortunately receive limited attention as First Nations leaders work toward securing reliable revenue streams needed to implement long-range development plans. It is as yet not determined whether a correlation exists between increased levels of problem/pathological gambling and the construction of reserve casinos, primarily because no before and after the establishment of a First Nation casino prevalence studies have been conducted. We do know, however, that First Nations currently demonstrate: (1) higher rates of problem and pathological gambling among the Canadian population, trends that show no signs of abating; and (2) a culturally specific understanding of games in First Nations society and the associated wagering practices. Yet there are no rigorous First Nations'-responsible gambling initiatives.<sup>90</sup> What First Nations leaders have yet to acknowledge, based on the available evidence, is that operating a reserve casino brings with it the duty of care responsibilities to protect the welfare of gambling participants (both on- and off-reserve).

It would appear that implementing state of the art and culturally reflective problem-gambling prevention, treatment and harm minimization programs is warranted since reserve casino placement will likely lead to the maintenance of or, in worst case scenarios, exacerbate existing trends. Gaming First Nations have the legislative and financial means to combat similar issues through education and the establishment of culturally appropriate programming. Establishing anti-gambling programs is also consistent with Aboriginal self-government and an important step toward self-determination that could one day permit gaming First Nations to both reclaim authority for local health while offering problem-gambling treatment models that embrace culturally unique perspectives about gambling. Such an approach may only prove mildly effective, for statistics illustrate that current programs to mitigate problem gambling are only marginally effective. It is, however, the role of a self-governing nation, to at the very least, consider what are now viewed as localized

policy issues; and for provinces to remain cognizant that First Nations individuals are indeed their citizens whose well-being also requires safeguarding. Both governmental regimes must at the very least appear to have these concerns on their respective political agendas. This is for First Nations the pith and substance of self-government and a responsibility borne of such economically motivated decisions.

## Notes

- \* A version of this paper was presented at the annual conference of the Alberta Gaming Research Institute (2008). The author would like to thank Dr. Garry Smith for his helpful comments on an earlier draft.
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42. "Casino Rama cash cow is sacred and off-limits to provincial auditors." *Whitehorse Star* (7 July 2006), p. 16. It should be noted that Casino Rama's operators' claim proprietary interests restrict distribution of revenue data—as a privately owned and operated business, for instance, they are beholden only to key stakeholders for information and as such cannot be compelled to make available these data to Canadian officials or the general public.
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44. Kevin Libin, "Natives roll the dice on life after casino." *National Post* (15 February 2008), A10-11.
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88. See Russel Lawrence Barsh, "The Nature and Spirit of North American Political Systems." *American Indian Quarterly*, Spring 1986, 181-198.
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