Indian Gaming and Intergovernmental Relations

State-Level Constraints on Tribal Political Influence Over Policy Outcomes

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As a $25 billion industry generated by more than 220 tribes in 30 states, Indian gaming is today’s fulcrum for tribal–state intergovernmental relations (IGR). Despite its widespread influence on communities throughout the United States, how Indian gaming shapes tribal–state IGR remains inadequately studied and explained. A prominent hypothesis is that tribal governments increasingly engage in interest group behavior to further their interests. This article develops a case study of recent events in Minnesota to explore how tribes use gaming revenue to interact with state political systems and how effective tribes are at influencing political and policy outcomes related to Indian gaming. The article finds that the interest group model of tribal political behavior has considerable explanatory power; however, despite their use of insider tactics, tribes remain political outsiders subject to state authority. The article concludes that Indian gaming’s potential to produce win–win outcomes is better served by mutually respectful government-to-government relations.

Keywords: intergovernmental relations; Indian gaming; interest groups; public policy

We need to explore a better deal for Minnesotans, and that’s what we’re going to do.
—Minnesota Governor Tim Pawlenty (Robson, 2004)

Every dollar that goes to the state is a dollar the tribes can’t spend providing services to their own people.
—Minnesota Indian Gaming Association Executive Director John McCarthy (Klein, 2004)

Indian gaming is transforming lives as today’s most important tool of reservation economic development and tribal self-sufficiency (e.g., National Gambling Impact Study Commission, 1999; Taylor & Kalt, 2005). Tribal gaming also is the modern fulcrum for tribal–state intergovernmental relations (IGR; Light & Rand, 2005; Mays & Taggart, 2005). Through the federal Indian Gaming Regulatory Act of 1988 (IGRA; 25 U.S.C. §§ 2701-21), Congress recognized both tribal and state sovereignty as a dimension of federalism and
encouraged cooperative policymaking regarding casino-style gaming. At the same time, because states ordinarily lack authority over tribes and tribal lands (Wilkins, 2002), IGRA imposed clear limitations on state influence over tribal gaming. Yet the current national discourse over Indian gaming includes routine calls for increased state control. Coinciding with state budget crises as well as the perceived overwhelming profitability of Indian casinos, tribes in many states, including California, Wisconsin, and New York, are being encouraged to become partners in state economies through direct revenue sharing of gaming profits. The message from state leadership is that tribes must pay their “fair share.” In response, some tribes are pursuing revenue-sharing agreements; others are resisting while engaging directly with state political and electoral systems to defend their interests (Light & Rand, 2005, pp. 51-73).

These phenomena provide an important opportunity to further the developing theory of a “new era in IGR” (Mays & Taggart, 2005, p. 75) in which tribes and states negotiate the politics and policy of Indian gaming. An increasingly prominent hypothesis is that tribal governments are engaging in interest group behavior to protect or further their interests at the state level (see Hansen & Skopek, in press). Gaming tribes appear to follow the traditional interest group model described by Schattschneider (1971) and Baumgartner and Jones (1993) as they seek to narrow the “scope of conflict,” arena or venue surf, and engage in inside and outside lobbying techniques.

This article uses a case study of recent events in Minnesota to test the interest group hypothesis, assess whether tribal political behavior is achieving tribes’ desired policy outcomes, and extend IGR theory. Seeking to close a budget gap, Minnesota’s governor and other state officials adopted a variety of tactics to pressure tribes to share gaming revenue with the state. Tribes responded by negotiating directly with state officials, lobbying, making campaign contributions, and developing public relations campaigns in an effort to achieve their desired policy outcomes. As they behaved like and were treated as special interests, tribal governments faced considerable state-imposed constraints. The article teases out those constraints and argues that they have broader implications for understanding the nature of tribal–state IGR today.

In its first two sections, the article provides a brief overview of tribal political behavior and Indian gaming as well as background on how IGRA and its interpretation have shaped the political and policy environment for tribal–state IGR. The article next focuses on recent experiences in Minnesota as a case study of intergovernmental partnership and contestation. The Minnesota case provides answers to two key questions: How do tribes use gaming revenue to interact with state legal and political systems, and how successful are tribes at influencing policy outcomes concerning Indian gaming? The article’s following sections analyze the explanatory power of the interest group model of tribal political behavior in view of events in Minnesota and conclude by exploring the implications of this model for the theory of IGR.

The Influence of Indian Gaming on Tribal–State IGR

Despite their recognized political status and long history of interactions with other governments, American Indian tribal governments are the “often-overlooked third sovereign in the American political system” (Light, 2004, p. 315). Contemporary understanding of
IGR in the United States reflects the interactions of national, state, and local governments. The place of tribal governments in relation to theoretical and empirical understandings of IGR remains a relative conceptual enigma (Mays & Taggart, 2005, p. 75).

Indian gaming is opening a new window in IGR. Subject to an elaborate federal, state, and tribal regulatory scheme mandated by federal law, Indian gaming reflects a complex nexus of interactions among numerous governments and policymakers (Rand & Light, 2006). As the industry has emerged and matured as a means of self-determination and economic development for tribes across the United States—and as the associated economic stakes because of the real and perceived success of tribal casinos have increased dramatically—tribal–state interactions have increased in scope and intensity (Light & Rand, 2005). Tribal political behavior is changing, too, as tribes are using gaming revenue to participate in state and local politics, both to mold public policy to their interests and to defend those interests against economic competition or threats to tribal sovereignty. Increasingly a story is told in which tribal political clout is on the rise (e.g., McCain, 2006; Skopek & Hansen, 2006). In short, Indian gaming has generated an unprecedented era of IGR in which nontribal governments pay attention to tribes.

Indian gaming thus provides a fruitful opportunity to deepen understanding of tribal–state IGR and broaden theories of IGR by recognizing tribes as a “partner worthy of consideration” (Mays & Taggart, 2005, p. 75). The small but growing literature on the political and policy dimensions of Indian gaming (e.g., Anders, 1998; Ashley, 2004; Boehmke & Witmer, 2006; Bretting & Morris, 2005; Brosnan, 1996; Hansen & Skopek, in press; Light, 2004; Light & Rand, 2005; Mason 1998, 2000; Mays & Taggart, 2005; Rand & Light, 2006; Skopek & Hansen, 2006; Steinman, 2004) has expanded the understanding of Indian gaming policy and administration, the influence of gaming on tribal political behavior, and tribal–state IGR.

An increasingly prominent theoretical framework informing this analysis is interest group behavior. Schattschneider (1971) and Baumgartner and Jones (1993) argue that interest groups seek the best venue to pursue their most favorable outcomes. Special interests employ varied political tactics and strategies, including narrowing the scope of conflict, venue shifting, and internal and external lobbying techniques (Walker, 1991). This classic model of the politics of interest group pluralism has been extended to explain the behavior of governments in contemporary environments (Schlozman & Tierney, 1986). Hansen and Krejci (2000), for instance, find that local governments act like interest groups in responding to threats to their interests. Skopek and Hansen (2006) hypothesize that tribal governments will behave similarly in pursuit of preferred policy outcomes related to Indian gaming.

Within a framework of tribal–state IGR in which tribes are an “intergovernmental partner in the federal system” (Mays & Taggart, 2005, p. 76), it is critical to assess whether and under what conditions tribal governments can in fact participate fully and effectively within that system. Given their political behavior, are gaming tribes best understood as governments that adopt interest group strategies to cope with state political systems? And if so, what are the normative implications of such empirical findings? Although evidence is building, the jury remains out on how best to understand tribal political behavior as well as the full implications of Indian gaming for a broadened theoretical understanding of IGR. It is clear, however, that tribal gaming’s socioeconomic effects and political ramifications are increasingly significant for state, local, and tribal communities throughout the United States. As tribes and states negotiate the legal, political, and economic dynamics of Indian gaming, it is important to understand how tribal–state IGR generates opportunities for and constraints on potential
political partnerships. The legal and political dimensions of Indian gaming and tribal–state IGRA are rooted in IGRA’s statutory framework.

IGRA and the Politics of Revenue Sharing

IGRA affirms the policy goals and establishes the regulatory structure for tribal gaming. Congress codified tribes’ right to conduct gaming on Indian lands as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments while providing sufficient regulation to ensure legality and to protect tribes’ financial interests. Generally speaking, a tribe can offer any form of gambling that is allowed under state public policy. For “Class III” or casino-style gaming, IGRA requires that the tribal and state governments negotiate a regulatory agreement, called a tribal–state compact (see 25 U.S.C. §§ 2702, 2710(d)). The state’s governor frequently has authority to negotiate such compacts with tribal officials (Rand & Light, 2006, pp. 55-56).

IGRA creates the legal framework for tribal gaming, but its statutory provisions have been far from the last word on policy outcomes. As the Indian gaming industry has evolved, the politics of tribal gaming have become equally if not more important than the law that governs it. A number of state-level political trends, some more controversial than others, are shaping Indian gaming today (Light & Rand, 2005, pp. 51-73). States’ growing push for revenue sharing, for example, has some legal footing in IGRA’s provisions but is politically problematic.

IGRA prohibits state taxation of tribal casinos as a condition of signing a tribal–state compact. Nevertheless, the U.S. Secretary of the Interior has interpreted IGRA as allowing tribes to make payments to states in return for additional benefits beyond the right to operate Class III gaming. Such benefits are based on “exclusivity”; for instance, a state that allows charitable gambling but not commercial casinos may promise not to expand non-Indian gaming in return for direct payments from the tribe. The Mashantucket Pequots in Connecticut were the first tribe to test the waters, agreeing in 1992 to pay 25% of gross slot machine revenues to the state. Seven states to date have negotiated revenue-sharing agreements with gaming tribes. Today a promise to grant market exclusivity—or a threat to abrogate it—is the primary political mechanism for states to leverage revenue-sharing agreements with gaming tribes (Light, Rand, & Meister, 2004). Connecticut’s share has become a benchmark, whereas California has set the standard for recent state recompacting efforts, as Governor Arnold Schwarzenegger’s campaign for tribes to pay their “fair share” to the state has been echoed in Wisconsin, New York, and elsewhere.

To protect tribal sovereignty and advance the interests of gaming tribes, interest groups such as the National Indian Gaming Association or other regional intertribal organizations pool resources and reach out to federal, state, and local governments. Individual tribes increasingly negotiate the politics of revenue sharing and other issues related to Indian gaming by engaging with state and political systems though such tactics as lobbying, providing campaign contributions, sponsoring ballot initiatives or referenda favorable to their positions, and using public relations and advertising to spin media coverage or influence voter or constituent opinion (e.g., Ashley, 2004; Mays & Taggart, 2005; Skopek & Hansen, 2006).
Faced with assertions by state officials that the status quo did not benefit the state enough, tribes in Minnesota similarly have sought to protect their interests through direct engagement with the state political system in recent legislative and electoral cycles. Minnesota embodies many of the realities of Indian gaming today, including variation in tribal experiences with Indian gaming. The state illustrates both poles of what Light and Rand (2005, pp. 10-11) label Indian gaming’s “spectrum of success”: tribes near urban areas with large markets and high casino profits, and tribes in remote areas with limited markets and low grosses. The Minnesota case, painted here in some detail to throw its contours into full relief, invites broader inquiry about models of IGR and the status of tribes in the American political system today.

Indian Gaming in Minnesota

Minnesota has the 13th largest American Indian population in the United States, with just more than 1% of the state’s total population. About 18,000 self-identified American Indians live on seven Chippewa and Ojibwe reservations in the northern part of the state and four Dakota (Sioux) communities in the state’s southern half. Reservation populations vary widely, from about 50 on the Upper Sioux reservation to more than 5,000 on the Red Lake reservation. The three largest reservation populations—Leech Lake, Red Lake, and White Earth—are located in the remote northern part of the state and together comprise roughly three fourths of the state’s total (Minnesota Indian Affairs Council, n.d.).

Indian gaming in Minnesota predates IGRA; by 1987, tribes operated at least 14 bingo parlors statewide. After IGRA’s passage, Minnesota became the first state to sign tribal–state compacts allowing Class III gaming. From 1989 to 1991, each of the 11 tribes and the state negotiated compacts permitting blackjack and video games of chance. The compacts were intended to protect and promote tribal gaming as a tool of reservation economic development and tribal economic self-sufficiency, create jobs throughout rural Minnesota, and regulate and limit the spread of gambling statewide (Williams, 2005). Minnesota is one of nine states out of approximately two dozen in the United States with Class III gaming whose compacts have no expiration date (Minnesota Indian Gaming Association [MIGA], n.d.-b). Minnesota compacts remain valid unless and until they are renegotiated following a formal request by either party, which may be issued at any time (Williams, 2003). The compacts appear to anticipate that any renegotiation would occur on a government-to-government basis.

Today tribes operate 18 casinos scattered throughout Minnesota. The state of Minnesota estimated Indian gaming revenue at nearly $1.4 billion in 2003, ranking Minnesota behind only California and Connecticut (Minnesota State Lottery, 2004). A 2005 state legislative report concluded that Indian gaming’s positive socioeconomic impacts on tribes have been “dramatic” (Williams, 2005, p. 51). Tribes have used gaming revenue to expand basic educational programs like Head Start; fund magnet schools and community colleges; create community health and elder care programs; secure on-reservation physician service; build new housing, health clinics, community and cultural centers, and museums; finance such ventures as a wild rice processing plant, a small business loan fund for tribal entrepreneurs, and a business incubation center; beef up tribal law enforcement; and construct or upgrade roads, water, sewer, and sanitation systems (MIGA, n.d.-a).
Although there also may be negative externalities, there is relative consensus in much recent research that Indian gaming generates a number of direct, indirect, and induced economic benefits for states and nontribal communities as well as tribes (see, e.g., Gerstein et al., 1999; Light & Rand, 2005, pp. 77-104; Taylor & Kalt, 2005; Taylor, Krepps, & Wang, 2000). A recent study commissioned by the MIGA (n.d.-a) documented extensive positive statewide economic impacts (but see Williams, 2005, pp. 50-51). Tribal gaming ranked among Minnesota’s top dozen employers in 2000, providing 13,300 jobs and contributing to a 60% decrease in the number of American Indians receiving state and county public assistance. Indian casinos generated direct payroll and benefits of $280 million and more than $81 million in payroll taxes. Tribal gaming enterprises had spent a half-billion dollars on construction and purchased nearly $190 million in goods and services from Minnesota vendors. In 2000, out-of-state visitors purchased about $200 million in food, lodging, gas, and other goods and services both on and off reservation lands (MIGA, n.d.-c).

Despite what could be portrayed as a homogeneous success story, tribal experiences with gaming in Minnesota in fact are far from uniform. Table 1 throws into relief Indian gaming’s spectrum of success by highlighting the tremendous variation in reservation quality-of-life indicators for Minnesota tribes. At one pole of the spectrum are the relatively high incomes and low poverty rates for tribes with small memberships that operate successful casinos located near urban areas. Two tribes in particular have profited particularly well by the existing tribal–state compacts: the Shakopee Mdewakanton Sioux Community and the Prairie Island Sioux Community, both located near the “Twin Cities” of Minneapolis–St. Paul. Prairie Island’s Treasure Island Casino and Resort is a regional leader in gross revenues, and the Shakopee’s Mystic Lake Casino Hotel, boasting an enormous laser spotlight “tipi” projected into the sky, is the largest gaming facility in Minnesota and one of the most

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**Table 1**

**Population and Socioeconomic Indicators by Tribal Reservation, 1999-2000**

<table>
<thead>
<tr>
<th>Reservation</th>
<th>Population</th>
<th>Median Household Income ($)</th>
<th>Family Poverty Rate (%)</th>
<th>Unemployment Rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bois Forte Band of Chippewa</td>
<td>464</td>
<td>28,214</td>
<td>23.7</td>
<td>7.9</td>
</tr>
<tr>
<td>Fond du Lac Band of Lake Superior Chippewa</td>
<td>1,353</td>
<td>38,190</td>
<td>11.4</td>
<td>8.8</td>
</tr>
<tr>
<td>Grand Portage Band of Chippewa</td>
<td>322</td>
<td>30,326</td>
<td>18.9</td>
<td>10.7</td>
</tr>
<tr>
<td>Leech Lake Band of Ojibwe</td>
<td>4,561</td>
<td>28,137</td>
<td>18.6</td>
<td>10.7</td>
</tr>
<tr>
<td>Lower Sioux Community</td>
<td>294</td>
<td>69,792</td>
<td>6.0</td>
<td>10.7</td>
</tr>
<tr>
<td>Mille Lacs Band of Ojibwe</td>
<td>1,237</td>
<td>30,422</td>
<td>13.2</td>
<td>9.9</td>
</tr>
<tr>
<td>Prairie Island Sioux Community</td>
<td>166</td>
<td>76,186</td>
<td>6.1</td>
<td>1.6</td>
</tr>
<tr>
<td>Red Lake Band of Chippewa</td>
<td>5,071</td>
<td>22,813</td>
<td>38.8</td>
<td>23.7</td>
</tr>
<tr>
<td>Shakopee Mdewakanton Sioux Community</td>
<td>214</td>
<td>55,000</td>
<td>18.3</td>
<td>7.6</td>
</tr>
<tr>
<td>Upper Sioux Community</td>
<td>47</td>
<td>25,625</td>
<td>21.4</td>
<td>13.3</td>
</tr>
<tr>
<td>White Earth Band of Ojibwe</td>
<td>3,378</td>
<td>28,487</td>
<td>15.9</td>
<td>8.2</td>
</tr>
<tr>
<td>Average</td>
<td>1,555</td>
<td>39,381</td>
<td>17.5</td>
<td>10.3</td>
</tr>
<tr>
<td>State of Minnesota</td>
<td>4,919,479</td>
<td>47,111</td>
<td>5.1</td>
<td>4.1</td>
</tr>
</tbody>
</table>

profitable tribal casinos in the United States (Lopez & Smith, 2004). As a general rule, only tribes with small memberships and highly lucrative casinos—like the Shakopee and Prairie Island Communities—are able to fulfill IGRA’s requirements for tribal government revenue expenditure and make per capita revenue distributions to enrolled tribal members (Rand & Light, 2006, pp. 60-62). Such tribes may have revenue for discretionary use in the broadly defined category of providing for the tribe’s general welfare. As discussed next, this may include funding various forms of political interactions with the state, such as lobbying or campaign contributions.

At the spectrum’s other pole, some tribes, mostly those located in the state’s rural northwest, have only modestly successful casinos because of their remote location and limited market. The Leech Lake, Red Lake, and White Earth Bands of Chippewa, three of the most populous and impoverished tribes in Minnesota, operate casinos with only moderate gaming profits and continue to experience high rates of unemployment and poverty (Lopez & Smith, 2004). Because of their large memberships, the difficulties of providing public services and supporting infrastructure on large reservation land bases, and their remote reservation locations with limited casino markets, such tribes have been unable to meet IGRA’s requirements and at the same time divert revenue from tribal treasuries to make per capita payments. The tribes instead use gaming revenue nearly exclusively to fund public services and improvements in reservation infrastructure and combat unemployment and poverty.

The Shifting Terrain of Minnesota State Politics

Minnesota’s tribal–state compacts, which were to have remained in effect indefinitely, required the tribes to pay the state’s annual regulatory costs of $150,000 (Williams, 2005). As other states, including Wisconsin and California, negotiated revenue-sharing agreements with tribes in the tens and hundreds of millions of dollars to compensate for looming budget deficits, Minnesota’s leadership by the mid-2000s began to see the existing compacts as a public policy failure for the state. Republican Governor Tim Pawlenty on several occasions had made clear his opposition to the expansion of gambling in Minnesota. But as the state’s economy stalled and key Republicans in the state legislature began to break ranks in opposition to the governor as well as the Democrat-Farmer-Labor (DFL) Party, Pawlenty looked to Indian gaming as an easy fix. Tribes soon faced a number of different proposals as the state’s political terrain shifted.

The Proposals

Proposal 1: Renegotiate the compacts. Asserting that “times have changed” since Minnesota’s tribal–state compacts were ratified, Pawlenty stated that he wanted to “explore a better deal for Minnesotans” (Khoo, 2004e). He expressed some willingness to grant additional benefits to the tribes in return for new revenue-sharing agreements, including a renewed grant of market exclusivity or the option to operate new types of games (Robertson, 2004a). If, however, the tribes were “unwilling or unable” to make payments to the state, Pawlenty indicated he would entertain the possibility of allowing direct commercial or state-run competition with tribal
Many DFLers asserted that gaming revenue should not be used to balance the state’s budget and accused Pawlenty of reversing his prior public antigambling stance and turning his back on his own party’s platform to avoid raising taxes (McCallum, 2004; “Pawlenty Puts Gambling,” 2004). Tribal representatives opposed reopening the compacts. “Our tribal sovereignty will not be compromised with the state,” insisted Leech Lake Band Tribal Chairman Pete White (Robertson, 2004b). MIGA Executive Director John McCarthy accused Pawlenty of “public negotiation using threat” but did not rule out considering add-on or side agreements to the compacts so long as the tribes benefited in some way (“Pawlenty Puts Gambling,” 2004).

Several Republican legislators then introduced a bill intended to override the compacts by outlawing video slot machines unless all 11 tribes entered into revenue-sharing agreements with the state. Tribal leaders saw the bill as a political tactic so extreme as to preclude constructive negotiations between the governor and tribal officials. A tribal council member for the Bois Forte Band labeled the proposal “extortion,” expressing outrage that the state would play political hardball at the expense of “my kids and my children’s children” (Khoo, 2004c). Tribes began to mobilize to exert control over their public image. In prior advertising campaigns, the Mille Lacs Band emphasized how its Grand Casino created jobs and improved reservation quality of life. New ads featured short vignettes of the casino’s customers who were able to do something fun and spontaneous with their winnings and emphasized how the casino benefited nontribal members and communities (Baxter, 2004).

Proposal 2: Build a new tribal casino. In spring 2004, White Earth and Red Lake broke ranks with other tribes, proposing to build a new casino north of the Twin Cities. With projected annual profits of $65 million for each tribe, the tribes offered to make payments to the state of roughly $90 million per year. A few Senate DFLers seized on the idea as a potential win–win that would assist the state’s rural, impoverished tribes while paying down the state’s deficit. The tribes began a public relations campaign, airing ads on Minnesota radio stations that explicitly contrasted the experiences of the Shakopee’s hugely profitable Mystic Lake casino with the modest success of White Earth’s and Red Lake’s facilities and asserted that the proposed casino could remedy the tremendous economic disparities among the state’s gaming tribes (Davis, 2004).

Proposal 3: Bring a touch of Vegas to the Twin Cities. At the same time, Caesars Entertainment proposed to finance and build a massive casino entertainment complex near the Twin Cities that would generate $1 billion in annual revenue, of which a quarter would go directly to the state (Khoo, 2004a). Caesars called for a statewide referendum on the proposal. Caesars’ efforts to court Pawlenty’s support, along with various other state legislative proposals to build a combination horserace track and casino at Canterbury Park near Minneapolis–St. Paul and allow video slot machines in bars, placed additional pressure on the tribes to renegotiate existing compacts (Khoo, 2004d). Minnesota’s conservative Republican base began to splinter as citizens groups mobilized against any expansion of legalized gambling. Asserting that state collection of gambling revenue would lead to additional government spending, the Taxpayers League of Minnesota vowed to contact 15,000 members and activists and run $20,000 worth of radio ads against the proposal. The Joint Religious Coalition sent letters to 8,000 clergy and other activists focusing on gambling’s
negative social impacts. Both groups took the position that state backing for even one additional casino would lead to a virtually unlimited expansion of legalized gambling (Scheck, 2004). After Caesars was accused of making illegal campaign contributions and otherwise trying to bring Las Vegas–style problems to Minnesota, House Republicans dumped the proposal (Khoo, 2004b).

Proposal 4: Partner on a joint tribal–state venture. Governor Pawlenty then proposed to partner with the impoverished tribes in the state’s rural northwest in a tribal–state venture near the Twin Cities (Khoo, 2004a). The jointly owned casino would be located near the Mall of America, which annually attracts some 42 million visitors, and would compete for customers with the Shakopee’s Mystic Lake and Prairie Island’s Treasure Island casinos. The state Senate’s Taxes Committee authorized Pawlenty to negotiate a new compact with any of the State’s 11 tribes that would consider the joint venture, provided the state would receive between 20 and 50% of the revenue. Following a change in leadership, Leech Lake, which had stood with MIGA and lobbied against the Red Lake–White Earth casino proposal, abruptly announced it would join the coalition lobbying in its favor (Grant, 2004; Robertson, 2004a). With all three northern tribes on board, Pawlenty pushed them not only to make revenue-sharing payments but to underwrite the entire operation. Leech Lake, White Earth, and Red Lake would pay an initial $200 million licensing fee to the state, finance an estimated $575 million bond issue, and pay the state approximately $160 million per year. In return the tribes would receive up to $180 million annually over the first 5 years of the casino’s operation (Doyle, 2005).

Proposal 5: Underwrite new sports stadiums. The Mille Lacs Band, which earlier had argued that the White Earth–Red Lake partnership would cut into its market, offered to sit down with Pawlenty and discuss a new series of its own proposals. In return for renegotiating the Band’s existing compact to allow the tribe to operate new and different games, Mille Lacs proposed to partner with professional baseball’s Minnesota Twins or football’s Minnesota Vikings franchises to finance new stadiums in the Twin Cities area. The tribe also offered to establish a charitable foundation through which it would support nontribal organizations, local governments, or other tribes (Post, 2004).

Proposal 6: Renegotiate the compacts with more at stake. Governor Pawlenty subsequently revealed that he had asked the Minnesota State Lottery to assess the state’s existing gambling market in support of his efforts to “get a better deal for Minnesota” from tribes (Groeneveld, 2004). The resulting report estimated annual total wagers at tribal casinos of $10 billion, generating profits of approximately $1.4 billion. The report noted that Minnesota’s Indian gaming industry ranked third behind California’s and Connecticut’s, and both of those states had revenue-sharing agreements (Minnesota State Lottery, 2004). Citing these figures, Pawlenty demanded the state receive an across-the-board 25% cut of tribal gaming revenue, or some $350 million per year. Tribal leaders characterized the demands as illegal taxation, unfair extortion, and based on inaccurate information. MIGA Director John McCarthy pointed out that two thirds of states with Class III gaming compacts did not have revenue sharing and asserted that Pawlenty was using the state report’s figures for partisan and political gain (“Indian Group,” 2004; Klein, 2004).
Partisan Politics Rule the Day

As the 2004 state election approached, polls revealed that most Minnesotans were opposed to the expansion of legalized gambling in the state. A small majority, however, favored Pawlenty’s proposal for a 25% cut of tribal gaming revenue (Webb, 2004). As some DFLers backed down on their opposition to casino expansion, Pawlenty’s chief of staff kept the heat on tribes by continuing negotiations with various Las Vegas gaming interests, including Caesars, Harrah’s, MGM Grand, and Mandalay Bay (Brunswick, 2004).

Partisan politics soon bubbled over. Pawlenty infuriated tribal leaders by appearing in a series of radio ads for the House Republican Campaign Committee in which he again asserted that tribes needed to pay their “fair share.” The ads stated that tribal casinos “pay virtually nothing to the state” and encouraged listeners to vote Republican. Other Republican ads accused DFLers of taking the tribes’ side in return for campaign contributions. “We as a party—Republicans—have reaped zero,” asserted Republican Party State Chair Ron Eibensteiner, while DFLers accused Pawlenty of “scapegoat[ing] the Indians again” for partisan gain (Defiebre, 2004). The Prairie Island Community responded with a press release inviting state Republicans to return $10,000 the tribe had contributed to cohost a reception for the state’s delegation at the Republican National Convention (Budig, 2004). Several newspapers around the state came out against Pawlenty’s handling of the revenue-sharing issue, including the Minnesota Star-Tribune’s influential editorial page, which labeled Pawlenty’s efforts to force tribal leaders to renegotiate the compacts “ham-handed” and a “bullying shakedown” (“A Casino Tax,” 2004). Pawlenty’s own attorney general concluded that the proposed joint tribal–state partnership might run afoul of the state’s constitution (Khoo, 2005).

The 2004 election came and went, and so did all of the various proposals to expand legalized gambling or renegotiate the compacts to include revenue sharing. House Republicans lost 13 seats, leaving a slim 2-seat margin over the DFL, whereas the Senate maintained its relative partisan balance (“Pawlenty Looks,” 2004). Postelection tribal support for the joint tribal–state casino project fell apart (“Indian Leader,” 2004). As the state’s budget projections looked increasingly rosy and Governor Pawlenty ramped up for reelection in 2006, he backed down on his support for an expansion of legalized gambling and the renegotiation of tribal–state gaming compacts.

It is apparent from this narrative of the state’s attempts to change the status quo of Indian gaming in Minnesota that tribal governments perceived their interests were threatened. The state did not pursue conventional avenues of government-to-government relations, and the tribes responded accordingly. Against that background it makes sense to find some additional means to measure and assess their political behavior.

Assessing Tribal Political Behavior

As the Indian gaming industry expanded in Minnesota, tribes invested additional resources in state politics. One measure of such behavior is campaign contributions. If tribes believed their interests were threatened by the various recent proposals to expand legalized gambling, compete with tribal casinos, or force tribes to come to the table to renegotiate existing compacts to institute revenue sharing, one would expect to see tribal campaign contributions
increase. Tribes presumably would engage in strategic donations, whether to their supporters (primarily DFLers) to reinforce their relationship or to those in favor of revenue sharing or gambling expansion (primarily Republicans).

The data presented in Table 2, which reflects the period in which tribal gaming revenues exploded and calls for change in state Indian gaming policy began in earnest, supports these conclusions.7 Tribal contributions jumped tenfold from 1996 to 1998, far outpacing the overall increase. Tribal donations again doubled in 2002, generally tracking the total increase. In 2004, overall contributions decreased dramatically, whereas tribal contributions increased slightly. Tribal contributions on the whole increased thirty-fold while continually increasing as a percentage of total campaign contributions. Tribal governments and members contributed roughly $2 million of the total contributions during this time frame. Notably, however, tribal contributions paled before the total—some $153 million—meaning tribes contributed just 1.2% of all contributions, maxing out at 2.5% in 2004, the electoral cycle in which the state posed the greatest threats to tribal gaming interests.

Given the state’s rural–urban divide between gaming tribes and the intertribal cleavage that manifested as the political terrain shifted beneath them, a logical follow-up question is whether there are differences in participation between tribal “haves” and “have-nots.” Are wealthier tribes willing and able to use gaming revenue to influence state political outcomes in their favor? Table 3 bears out that proposition. From 1996-2004, just three tribes—the Prairie Island, Lower Sioux, and Shakopee Mdewakanton Sioux, all “haves”—contributed more than 40% of the total dollars. By contrast, the White Earth, Red Lake, and Leech Lake Bands directly contributed slightly more than 1% of the total. Even so, those “have nots” joined with three other Chippewa tribes to make about one fifth of total tribal campaign contributions through the Mah Mah Wi No Min tribal association.

These figures evidence a general trend toward increased tribal contributions, with the greatest jump—exponential for tribal “haves”—from the 1996 to the 1998 electoral cycles. Overall contributions tripled between 1996 and 2004. In 2004, when one might hypothesize that tribes would respond to threats to their gaming interests with increased contributions, all 11 tribes made some form of contribution, whether individually or through the association. The three tribal “haves” donated nearly a half million dollars, more than one third of their total contributions from 1996-2004. White Earth, Red Lake, and Leech Lake, northwest

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**Table 2**

<table>
<thead>
<tr>
<th>Year</th>
<th>Tribal Contributions ($)</th>
<th>Total Contributions ($)</th>
<th>Tribal % of Total Contributions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>23,228</td>
<td>11,076,962</td>
<td>.2</td>
</tr>
<tr>
<td>1998</td>
<td>242,931</td>
<td>30,558,087</td>
<td>.8</td>
</tr>
<tr>
<td>2000</td>
<td>309,800</td>
<td>32,214,810</td>
<td>1.0</td>
</tr>
<tr>
<td>2002</td>
<td>616,550</td>
<td>53,181,011</td>
<td>1.2</td>
</tr>
<tr>
<td>2004</td>
<td>668,250</td>
<td>26,017,709</td>
<td>2.5</td>
</tr>
<tr>
<td>Total</td>
<td>1,860,759</td>
<td>153,048,579</td>
<td>1.2</td>
</tr>
</tbody>
</table>

Source: Calculated using figures from Institute on Money in State Politics (n.d.).

a. Includes contributions by governing units and tribal members.
Minnesota tribal “have nots” with a vested stake in the tribal–state joint ventures proposed in 2003–2004, made just $25,000 in direct contributions.

This discussion of tribal campaign contributions further bears out the hypothesis that tribal governments engage in interest group behavior to protect or pursue their interests. Tribal “haves” were the clear “high-stakes players” among gaming tribes in Minnesota, but all tribes made donations. As additional discussion begins to tease out, however, tribal political participation should not be conflated with tribal political influence.

Discussion

Tribes Behave Like Special Interests

By attempting to narrow the scope of conflict and using both inside and outside lobbying techniques, tribes in Minnesota behaved similarly to local governments whose interests are threatened by changes to the status quo. That is, tribal engagement with the state’s political and electoral systems largely took the form of interest group behavior. Faced with a host of new proposals, tribes sought to achieve favorable outcomes on Indian gaming by working within the state’s political and electoral systems. To stabilize shifting political terrain and maintain the continued viability of tribal gaming as a means of job creation and reservation economic development, tribes strategically used gaming revenue to underwrite special interest tactics designed to maintain or build goodwill among external constituencies. Through campaign contributions and other political donations, lobbying, public relations and advertising
campaigns, and attempts to stay united and on message as mediated by industry and other tribal associations, gaming tribes engaged with state officials and also “went public.”

State Politics Constrain Tribal Political Behavior and Tribal–State IGR

State officials pressure tribes to renegotiate compacts. Ordinarily the state’s share of legalized gaming revenue can be expanded through one of three means: allow additional forms of gaming, increase its volume, or increase its overall availability (Williams, 2005, p. 41). Under the status quo ante, Minnesota policy makers saw the first two options as generating additional revenue exclusively for tribes. The third option would have required the state to facilitate or sponsor the spread of gaming. None of these options was unequivocally palatable to state officials. Revenue sharing, however, represented the “easy” and “fair” fix. The state could create a new revenue stream without expanding legalized gambling or jeopardizing the future of tribal casinos.

Through IGRA, Congress intended the two sovereigns—states and tribes—to enter into gaming compacts following good-faith negotiation on a government-to-government basis (25 U.S.C.§ 2710(d)(3)(A); see also Rand & Light, 2006, pp. 55-56). Minnesota’s tribal–state compacts require either party to issue a formal request for renegotiation and mandate that talks must occur pursuant to IGRA’s requirements (Tribal-State Compact, n.d.). From a tribal perspective, the state violated the compact and statutory procedural requirements in both spirit and substance. The state initiated pressure to renegotiate without filing a formal request. Governor Pawlenty and a number of legislators sought to push the tribes into revenue sharing, which was not a requirement of the existing compacts. In repeatedly taking the issue to the courts of public opinion and electoral politics, which turned more on tribes’ political popularity and less on their status as sovereign authorities, the state failed to afford tribal governments the opportunity to negotiate on a government-to-government basis. These elements explain why tribes engaged in interest group behavior to defend their interests.

State officials splinter tribal unity. Governor Pawlenty first sought to build public support for revenue sharing, believing he could close budget shortfalls without having to raise taxes or make additional deep cuts and without angering constituencies opposed to tribal gaming or the expansion of legalized gambling. Tribes then faced a dizzying array of proposals to change state public policy to outlaw casino-style gaming, authorize commercial or state-run casinos to compete with tribal enterprises, or sponsor a joint tribal–state casino with tribal “have-nots” that would be financed by the tribes, require revenue sharing, and compete directly with casinos operated by tribal “haves,” splintering tribal unity and diminishing tribal political capital.

As tribal unity on gaming disintegrated, the politics of reaction became the politics of partnership for some tribes, whereas the politics of partnership generated the politics of reaction for others. Tribes expended gaming revenue and political capital on crafting multiple, sometimes conflicting messages that reflected the factionalization of an otherwise unified front. Some tribes saw any renegotiation of valid compacts as not only unwarranted
but a fundamental compromise of tribal sovereignty. Others were willing to engage in
discussions with the state over revenue sharing but only if they received something of value
in return, such as an expanded slot machine market. And despite widespread tribal opposition,
some tribes were willing to partner with the state on a jointly owned and operated
casino and make massive revenue sharing payments. All tribes ran the risk of being
perceived as obstructionists—or worse, greedy—for opposing any expansion of legalized
gaming but their own.

State officials convert Indian gaming into a wedge issue. In addition to opening intertribal
cleavages, Indian gaming became a partisan wedge issue. As the 2004 state election approached,
Minnesota’s governor and like-minded legislators sought to cleave off moderate voters who
generally supported Indian gaming as a means of promoting economic development and
tribal self-sufficiency but were susceptible to the message that tribes were not paying their
“fair share” to the state. DFLers who stuck to the hard line of tribal sovereignty—even though
it effectively paralleled the line against expanding legalized gaming more generally—appeared
to diverge from the state’s best interests.

Because the state treated tribes like special interests instead of governments, the state could
more easily set the terms under which its proposals were to be negotiated. State politics,
including the politics of partisanship, constrained tribal political behavior and drove policy
outcomes. Despite their use of insider tactics, tribes ultimately remained political outsiders.
These observations suggest the need to return to the interest group model of tribal political
behavior and further discuss its implications for tribal–state IGR.

The Interest Group Model of Tribal Political Behavior
Versus Government-to-Government Relations

This case study of events in Minnesota supports a growing body of empirical research
finding that the interest group model of tribal political behavior has considerable “real-world”
explanatory force. The evidence from Minnesota indicates gaming tribes behaved like special
interests and certainly were treated as such by state officials. The hydraulic pressures of state
budgetary and electoral politics squeezed tribes to respond pragmatically by adopting interest
group strategies. At one level, tribes’ interest group behavior simply failed to produce their
desired outcomes. Although the special interests model may explain elements of tribal political
behavior, however, the inquiry should not stop there. The fact that tribes are behaving like
special interests begs further exploration of whether their actions are politically effective and why
or why not that is the case. At a deeper level, this case study demonstrates how the interest group
model is problematic, for tribes are not merely special interests (Light & Rand, 2006). They have
a particular, and constitutionally recognized, relationship to the federal government and the states
rooted in tribal sovereignty.

Tribal sovereignty defines tribes’ status in the American political system, yet it is perhaps
the single most misunderstood dimension of tribal–state IGR. Tribal sovereignty reflects the
fact that tribes are extraconstitutional, self-governing indigenous nations with legal, political,
cultural, and spiritual authority (e.g., Wilkins, 2002). Federal law recognizes tribes’ inherent
sovereignty as nations; that is, tribes’ powers of self-governance are inherent and original,
rather than delegated by acts of Congress. The U.S. Supreme Court has held that tribes’ political status differs from both foreign nations and states, presumably falling somewhere in between (see *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1 (1831)). Tribes generally are not subject to state authority (see *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515 (1831)), and their role in the American political system is quite different from that of states: Unlike states, their governmental authority is not limited by the U.S. Constitution (other than Congress’s asserted power to regulate tribes through Article I’s “Indian Commerce Clause”), nor do they have representation in Congress.

Tribes’ unique position in the American political system complicates tribal interest group behavior. Tribes, without formal representation in either Congress or state government, must rely in large part on non-Indian politicians’ awareness of and sympathy to issues tribes face. As it has for more than 200 years, tribal well-being depends, in many ways, on the good will of nontribal governments. At the bifederal level, for instance, the federal government has an explicit trust relationship with tribes; at the state level, IGRA mandates the negotiation of tribal–state compacts in good faith but lacks “teeth” to force states to come to the bargaining table. This is a unique dimension of IGR. In this light, tribal campaign contributions, lobbying, or other attempts to influence the scope of conflict are unremarkable and expected mechanisms of political influence. Nevertheless, newfound tribal political clout from gaming revenue (e.g., Boehmke & Witmer, 2006) is made problematic by policy makers’ and the general public’s distaste for the appearance that tribal “special interests” are “buying votes” (Light & Rand, 2005, p. 69).

If tribes are viewed as both subscribing to and subject to the conventions of pluralism, they appear no different than other interest groups in a state’s political arena. The substantive outcomes deriving from tribal political behavior then may be viewed as less important than is the fact that tribes, at some level, are participating in the process. From that perspective, one might be sanguine about recent events in Minnesota. In the aftermath of the state’s push to reshape the terrain of Indian gaming policy, the status quo remained in effect—no revenue sharing and no expansion of legalized gambling—so tribes either appear to have “won” or neither won nor lost. A win would indicate that tribes can compete as “interest groups” and the state need not engage in formal IGR; a loss would be merely unfortunate or even wholly unproblematic.

But if we tilt the lens differently to see tribes not as interest groups but as governments with authority over yet responsive to enrolled memberships with pressing socioeconomic needs, snapshots of events like those in Minnesota are colored much differently. Under the tenets of federalism, tribal sovereignty and the general inapplicability of state law to tribes raise issues that do not necessarily conform to the special interests model. Although under existing federal and state law and policy the model acts as a practical constraint on tribes, and thus assists in explaining tribal political behavior and the nature of tribal-state IGR, it is far from an unproblematic one.

Increasingly tribes have had to adapt their stances on Indian gaming to the vagaries of state politics. But the opposite seems less true: State nonconformance to tribal preferences is fairly constant. This has been the case since the U.S. Supreme Court’s landmark decision in *Seminole Tribe v. Florida* (517 U.S. 44 (1996)), which invalidated IGRA’s cause of action for a state’s breach of the duty to negotiate tribal–state compacts in good faith (Light & Rand, 2005, pp. 48-50). Despite the remaining limitations imposed by IGRA, internal state
law and politics drive many dimensions of Indian gaming law and policy within the state (Rand, 2007). Paradoxically, Indian gaming may decrease or even moot tribal political influence at the same time it appears to increase it. State electoral, legislative, and budgetary cycles, together with partisan divides, establish the terms of when, whether, and how tribes participate in state politics. But participation is not the same as realizing desired outcomes. For tribes, the stakes of IGR are much higher than are the risks of pluralism for special interest groups, for which a “loss” is simply part of “politics as usual.”

In essence, although the interest group model is useful to scholars seeking to explain political behavior, the theory of IGR suggests that one should expect more. The formal dynamics of government-to-government relations are contingent on mutual state and tribal understanding that IGR is rooted in the legal and political relationships established in the federal system. The complex nexus of legal, political, and economic forces surrounding Indian gaming that incorporates tribal governments into the IGR framework create the necessary if not sufficient conditions for cooperative policymaking and implementation between sovereigns. In states like Washington, Kansas, or Arizona, which have histories of recognizing the meaning and significance of tribal versus state sovereignty, the negotiation of Indian gaming policy reflects tribal–state IGR hinging on the interactions of governments against a background of federalism rather than interest group pluralism.

Conclusion

This account of Minnesota’s recent experiences with Indian gaming furthers important recent discussion on how theories and understandings of IGR, which currently are based nearly exclusively on the relations among national, state, and local governments, can and should incorporate tribal governments. This conclusion derives in large part from a newly expanded understanding of the contemporary role of Indian gaming in creating a nexus of interactions among governments and political actors at the tribal, state, local, and national levels.

Indian gaming generates real-world opportunities for innovative partnerships among tribal, state, and local governments. The valence of such IGR is not determined by the very fact of policy innovation; that is, such innovation can be beneficial or detrimental to any or all of the partners. The key to producing win–win policy outcomes—and a clear reflection of congressional intent as embodied in IGRA—lies less in tribal interest group behavior than it does in establishing an understanding of tribal–state IGR rooted in mutually respectful government-to-government relations.

Notes

1. IGRA states, “Nothing in this section shall be interpreted as conferring upon a State or any of its political subdivisions authority to impose any tax, fee, charge, or other assessment upon an Indian tribe” (25 U.S.C. § 2710(d)(4)).
2. As long as payments provide what the U.S. Department of the Interior has labeled “a valuable economic benefit,” usually “substantial market exclusivity,” they presumably will not run afoul of IGRA’s prohibition on state taxation, charges, or other assessments against tribes (Martin, 2003, p. 2).
3. MIGA, however, estimated annual revenue at $700 to $800 million (Brunswick, 2004).
4. IGRA permits a tribe to make per capita payments only after it demonstrates that it is able to meet its governmental obligations to tribal members and the federal Bureau of Indian Affairs approves the distribution plan (25 U.S.C. §§ 2710(b)(3), 2710(d)(1)(A)).

5. This shift increasingly typifies tribal public relations on Indian gaming. In both California and Arizona, tribes have met success with the message that Indian gaming protects tribal sovereignty, promotes self-reliance, and reduces member poverty. A new theme is that everyone, including—or perhaps especially—non-Indians, benefits from tribal gaming (see, e.g., Ashley, 2004).

6. The editors pointed out that in 2001 the state’s corporate income tax rate was 7.7%, generating $590 million from $7.7 billion in total revenue. By contrast, Pawlenty sought $350 million from $1.4 billion in tribal gaming revenue—a 25% take (“A Casino Tax,” 2004).

7. Data on tribal political contributions were collected by searching the Institute on Money in State Politics Web site (http://www.followthemoney.org) by state, election year, and “Tribal Governments” in the Special Interests category. Some tribes were listed more than once in search results; if so, data were summed to find the total number of contributions and amount contributed. A few individual contributors were listed by tribal affiliation; their contributions were added to tribal totals.

References


