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Description of document: National Indian Gaming Commission (NIGC) Budget Justifications and Performance Information for Congress, FY2006-FY2009

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FOIA Officer  
National Indian Gaming Commission  
1849 C Street NW  
Mailstop #1621  
Washington, DC 20240  
Fax: (202) 632-7066

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April 4, 2016

**Re: NIGC-FOIA-2016-027**

This responds to your Freedom of Information Act (FOIA) 5 U.S.C. § 552, request to the National Indian Gaming Commission (NIGC) received in the FOIA office on March 10, 2016. You requested:

- “A copy of the NIGC Budget Justification for 2006, 2007, 2008, and 2009.”

The NIGC FOIA Office has conducted a search of its files and has located 4 documents (totaling 104 pages) responsive to your request that are being released to you in full.

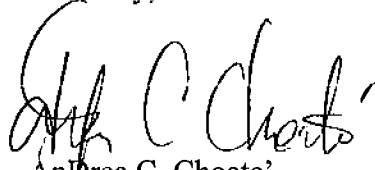
Please note that for fee purposes you were designated an “**all others**” requester. This designation entitles you to no charge for the first 2 hours of search time, no charge for review time; and, no charge for the first 100 pages of duplication. 25 C.F.R. § 517.9(d)(2). This release consists of 104 pages. The charge for 4 pages is \$.60. However, pursuant to 25 C.F.R. § 517.9(d)(4), the FOIA Officer may not charge fees if “the full reasonable direct costs incurred for searching for and reproducing records” does not exceed \$15.00. The duplication for this request did not exceed that minimum threshold. Accordingly, you are not required to pay any fees with respect to this request.

As this completes the processing of this request, the NIGC FOIA Office now considers your request closed.

Pursuant to 25 C.F.R. § 517.8, you may challenge the NIGC FOIA Office’s determination by submitting a written appeal to the National Indian Gaming Commission, C/O Department of the Interior, 1849 C Street N.W., Mail Stop #1621, Washington, D.C., 20240 within thirty (30) working days of the date of receipt of this letter. Both the letter and the envelope should be clearly marked “Freedom of Information Act Appeal.” The written submission should include copies of the original request, the denial, and a brief statement of the reasons you believe the denial to have been in error. 25 C.F.R. § 517.8(c).

If you have any questions and/or concerns, please do not hesitate by contacting me via telephone at (202) 632-7003 or by way of e-mail at AnDrea\_Choate@nigc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrea C. Choate". The signature is fluid and cursive, with the first name "Andrea" written in a larger, more prominent script than the last name "Choate".

AnDrea C. Choate

FOIA/PA and Records Management Assistant

Enclosures



# **BUDGET** The United States Department of the Interior **JUSTIFICATIONS**

and Performance Information  
Fiscal Year 2006

## **NATIONAL INDIAN GAMING COMMISSION**

NOTICE: These budget justifications are prepared for the Interior and Related Agencies Appropriations Subcommittees. Approval for release of the justifications prior to their printing in the public record of the Subcommittee hearings may be obtained through the Office of Budget of the Department of the Interior.





**The United States Department of the Interior**

**BUDGET  
JUSTIFICATIONS**

**Fiscal Year 2006**

**NATIONAL INDIAN  
GAMING COMMISSION**

# **DEPARTMENT OF THE INTERIOR NATIONAL INDIAN GAMING COMMISSION**

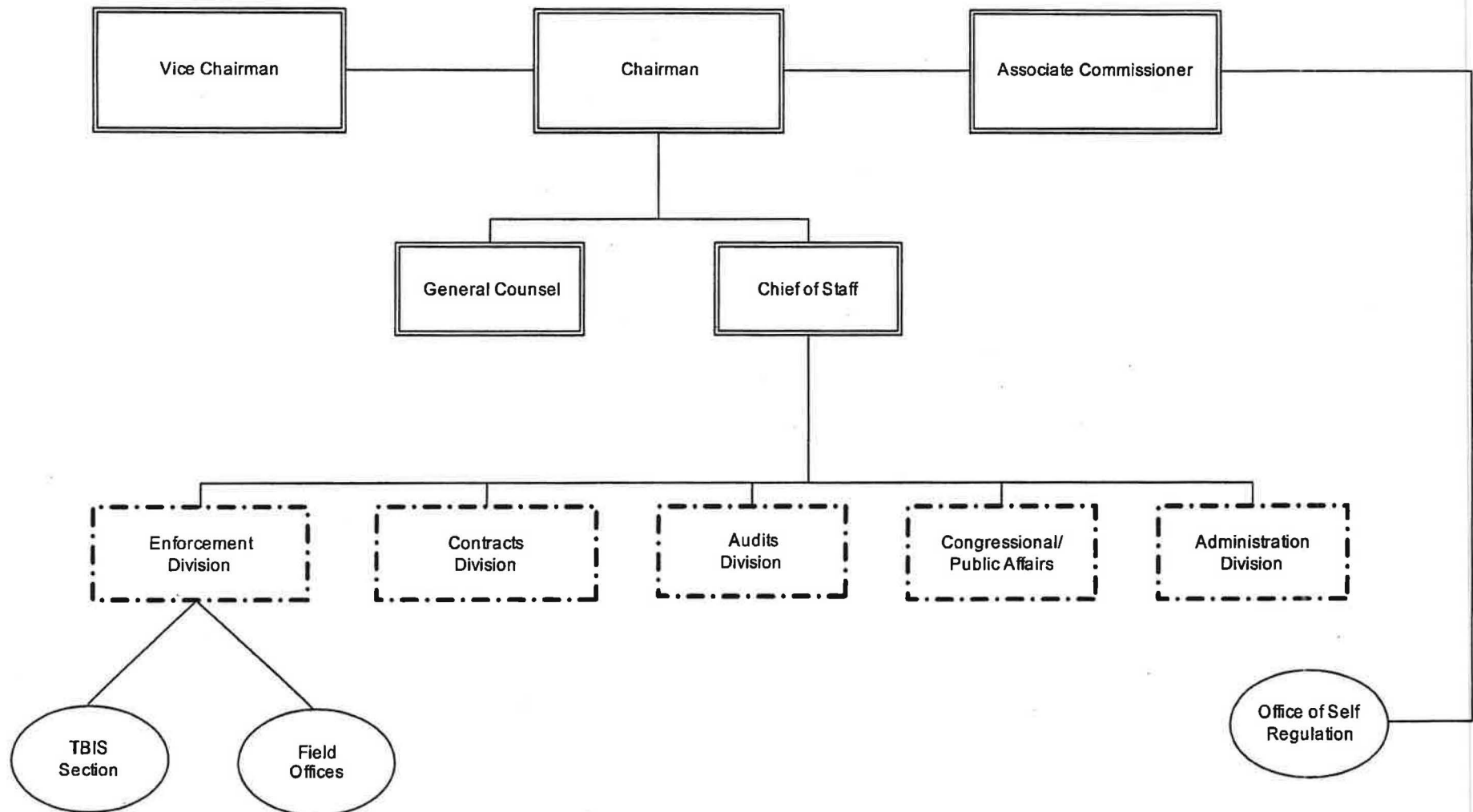
## **Fiscal Year 2006 Budget Justification**

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## NATIONAL INDIAN GAMING COMMISSION ORGANIZATIONAL CHART



# NATIONAL INDIAN GAMING COMMISSION

## General Statement

The National Indian Gaming Commission is an independent regulatory agency of the United States established pursuant to the Indian Gaming Regulatory Act (IGRA) of 1988. The Commission was created to regulate gaming conducted on Indian lands to ensure that adequate safeguards are in place to shield the tribal gaming industry from organized crime and other corrupting influences; to ensure that the Indian tribe is the primary beneficiary of the gaming operation; and to assure that gaming is conducted fairly and honestly by both the operator and players.

The Act authorizes the Commission to assess and collect fees on tribal gaming revenues to cover its operating costs. Background investigation and fingerprint processing costs are reimbursed.

## The Commission and its Activities

The Commission became operational in 1993. It is comprised of a Chairman and two Commissioners, each of whom are appointed to a three-year term. The Commission establishes policy, oversees the agency, and is responsible for carrying out the formal duties assigned it by the Act. The Chairman appoints a Chief of Staff to manage the day-to-day activities of the Commission and a General Counsel to handle its legal affairs.

The Commission provides federal oversight to approximately 400 tribally owned, operated, or licensed gaming establishments operating in 28 states. The Commission maintains its headquarters in Washington, D.C., and maintains five field offices. The Commission is divided into five separate divisions with a combined staff of approximately 78 full-time employees. Thirty-nine of the Commission staff is assigned to headquarters in Washington, D.C. with the remaining 39 assigned among five field offices located in: Portland, Oregon; Sacramento, California; Phoenix, Arizona; St. Paul, Minnesota; and Tulsa, Oklahoma. Regional satellite offices are located in Rapid City, South Dakota; and Temecula, California. An additional satellite office is opening in 2005 in Bellingham, Washington.

The Commission established its field structure to increase effectiveness and improve the level and quality of services it provides. The field offices are vital to carrying out the statutory responsibilities of the Commission and securing industry compliance with the Act. Commission efficiency and effectiveness has improved as a result of locating auditors and field investigators in closer proximity to tribal gaming facilities. Regular visits enable better oversight of tribal compliance with regulations and allows for timely intervention where warranted. In addition to auditing and investigative activities, the field staff provides technical assistance, education and training to promote a better understanding of gaming controls within the regulated industry, and to enhance cooperation and compliance.

### **Recent Changes Affecting Budget Priorities**

When IGRA was enacted in 1988, Indian gaming was a \$100 million per year industry, and the agency operated on a \$2.5 million budget. Currently, the industry consists of approximately 400 gaming operations in 28 states. These operations are owned, operated, or licensed by 224 tribal governments. The industry generated \$16.7 billion of gross gaming revenues in 2003, a net increase of over 13 percent from 2002 revenues.

In addition to the tremendous increase in the magnitude of Indian gaming, the technology of games is changing and financial resources must be directed to training NIGC officials, or contracting with technical experts, to assure proper audit and review of individual gaming operations. The Commission's development and implementation of a broad based consultation policy has impacted the financial and staff resources. Furthermore, ambitious regulatory initiatives for minimum internal controls, technical standards for Class II bingo and pulltab machines, and classification standards to clarify the distinction between Class II and III games all require financial support.

### **Background**

Prior to 1997, the Commission was legislatively prohibited from collecting fees in excess of \$1.5 million. The 1998 Interior Appropriations Act (P.L. 105-83) expanded the fee base to include Class III (casino style) gaming and raised the limitation on annual fee collections to \$8 million. In the 2003, 2004, and 2005 Interior Appropriations Acts, the Congress enacted a general provision raising this limitation to \$12 million for fiscal years 2004, 2005 and 2006 respectively. This general provision is in effect for 2004, 2005 and 2006 only and, if it is not included in future appropriation acts, the fee limitation will revert back to the previous \$8 million ceiling. A failure to continue this provision would severely hinder the day-to-day operations of the Commission, as it would trigger a sudden agency downsizing with a considerable regulatory impact.

The Administration proposes a legislative amendment to the current fee structure so that the Commission can adjust its activities to keep pace with the growth in the Indian gaming industry.

### **Proposed Amendment of the Indian Gaming Regulatory Act**

The 1998 amendment to the Indian Gaming Regulatory Act authorized the Commission to collect up to \$8 million each year in gaming activity fees. For the past several years, the annual appropriation acts have included language raising the Commission's limitation on assessments to \$12 million. The 2006 budget requests that this \$12 million limitation be continued until enactment of proposed legislation to enable the Commission to adjust its operations with the growth or contraction of the Indian gaming industry.

To this end, the Administration will submit amended authorization language to the Congress, including a proposal to limit the total amount of fees assessed during any fiscal year to no more than .080% of the gaming revenues of all gaming operations subject to Commission regulation.

### **Proposed Amendment of the Indian Gaming Regulatory Act (cont.)**

The current legislation allows the Commission to collect no more than 2.5 % of the first \$1.5 million, and no more than 5% of amounts in excess of the first \$1.5 million of the gross revenues from a gaming operation up to a total revenue ceiling of \$8 million. This legislative ceiling was raised to \$12 million on a one-year basis for fiscal years 2004, 2005 and 2006 through language included in annual appropriation acts. This action has enabled the Commissions to address the regulatory needs resulting from the rapid increase in Indian gaming, however, because the provision must be inserted into the bill each year, it does not provide a permanent solution to the operational needs of the Commission.

Enactment of the proposed assessment formula would, not only establish a reasonable revenue structure for Commission operations, but also reduce the maximum allowable assessment of tribal gaming operations. Reversal to the \$8 million fee limitation would cause the Commission to lose one-third of its annual revenue at a time when the Indian gaming industry continues to grow. Growth figures for the past five years demonstrate that Indian gaming continues to grow at about 14% per year and, should this trend continue, funds needed for essential regulatory oversight would soon outstrip available financial resources. Therefore, enactment of amended legislative authority, including an assessment formula tied to Indian gaming revenues, would provide a long-term solution assuring a revenue stream sufficient to address this expanding industry.

## **Mission and Responsibilities**

The National Indian Gaming Commission monitors gaming activity, inspects gaming premises, conducts background investigations, audits and reviews financial records of gaming operations, and undertakes enforcement actions when necessary. Its mission is to ensure that adequate safeguards are in place to shield the tribal gaming industry from organized crime and other corrupting influences and to assure that Indian tribes are the primary beneficiaries of the gaming operation, and that gaming is conducted fairly and honestly.

## **Annual Fees for Operations**

The Commission assesses fees on tribal gaming revenues in accordance with procedures set forth in 25 C.F.R. Part 514. At the beginning of each calendar year, by majority vote, the Commission publishes a preliminary fee rate. A final rate is established and published in the last quarter of the year based on prior year gross gaming revenues. The rate must be sufficient to generate income to fund the annual operation of the Commission and maintain a transition balance for the upcoming year's operation.

Maintenance of this transition balance is essential to the fiscal integrity of the Commission because the unique statutory provisions governing the Commission's funding subject it to significant cash flow variations. Unlike other federal agencies, the Commission's authorizing legislation does not provide for full funding at the beginning of each fiscal year. Instead, the Commission receives quarterly installments equal to approximately  $\frac{1}{4}$  of each gaming tribe's projected annual fee assessment. The carryover transition balance is necessary to cover the first and second quarter of operation until the fees are actually received and credited to the operating account. Without this transition balance, funds could potentially be insufficient to maintain continuity of operation. Fees collected during the fourth quarter of the fiscal year 2004 will provide the operational capital for the first quarter of fiscal year 2005. The Commission attempts to maintain a transition balance to fund the first two quarters of the new fiscal year, because cash flow variations often occur with potentially serious operational consequences should revenue fall short of projections.

## **Summary of the FY 2006 Budget**

### **Permanent Appropriation**

The Indian Gaming Regulatory Act, as amended by the 1998 Interior and Related Agencies Appropriations Act (P.L. 105-83) established the National Indian Gaming Commission as an independent agency within the Department of the Interior. The Commission monitors and regulates gaming activities conducted on Indian lands. Operation costs of the Commission are financed to the greatest extent possible through annual assessments of gaming operations, regulated by the Commission. The 1998 amendment authorized the Commission to collect up to \$8 million each year in gaming activity fees. For the past several years, the annual appropriation acts have included language raising the Commission's limitation on assessments to \$12 million. The 2005 appropriations act continues the \$12 million limitation through 2006. The 2006 budget requests that this \$12 million limitation be continued until enactment of proposed legislation to enable the Commission to adjust its operations with the growth or contraction of the Indian gaming industry.



### **Demand for Services and Areas of Responsibility**

With the fee limitation raised to \$12 million in 2004, the Commission was able to bring on additional field personnel to address the increasing number of gaming facilities. Because of the time needed to implement plans and bring on new hires, the Commission expended approximately \$10 million in FY 2004. These funds were also utilized to upgrade and improve its information management system. Considering the full-year costs of new personnel as well as full-year support costs, obligations will total approximately \$11 million in fiscal year 2005 and \$11.5 million in fiscal year 2006.

### **Summary of the FY 2006 Estimate**

All costs associated with the Commission's operation during FY 2005 will be derived from fees assessed on and collected from the regulated industry. The Commission will operate during FY 2006 within the current \$12 million limitation, and in fact will collect fees at the \$11.5 million level. The Commission has consulted with the affected tribes and evaluated their input in preparing developing its budget estimates. The \$11.5 million in revenue to be collected in 2006 will assure funding to address the full-year impact of 2005 new hires. The Commission will continue to maintain a carryover balance sufficient to assure that cash flow variations do not impact ongoing operations. As previously noted, fees are paid quarterly, based on each gaming tribe's projected annual assessment. This system often results in cash flow variations, and therefore a transition balance, derived from prior year funds carried forward to the new fiscal year, is essential to continuity of operations.

### **Reimbursable Expenses**

The NIGC conducts background investigations of individuals and entities with a financial interest in, or management responsibility for, potential management contracts. Pursuant to the Indian Gaming Regulatory Act, Section 2711(e), these investigations are conducted to determine whether the contracts can be approved. In accordance with Section 2711(i) of this legislation, the Commission is reimbursed approximately \$500,000 annually from the potential contractors. In addition, the Federal Bureau of Investigation and the Commission are reimbursed for fingerprint processing costs in the approximate amount of \$1,000,000.

**DEPARTMENT OF THE INTERIOR  
NATIONAL INDIAN GAMING COMMISSION**

**Change in Fee Regulation**

The regulations implementing the legislative provisions governing the collection of fees have been revised to allow the Commission to collect the statutory maximum allowed by Congress. The revised regulations are as follows:

**§514.1 Annual Fees**

- (d) The total amount of all fees imposed during any fiscal year shall not exceed the statutory maximum imposed by Congress. The Commission shall credit pro-rata any fees collected in excess of this amount against amounts otherwise due at the end of the quarter following the quarter during which the Commission makes such determination.
  - (1) The Commission will notify each gaming operation as to the amount of overpayment, if any, and therefore the amount of credit to be taken against the next quarterly payment otherwise due.
  - (2) The notification required in paragraph (d)(1) of this section shall be made in writing addressed to the gaming operation.

**Supplementary Information:**

The Commission changed its current regulations to reflect changes in the statutory fee limitation. This regulation has been amended so that the amount of fees imposed by the Commission is directly related to Congressional action. The change will allow the Commission to collect up to the statutory maximum and will eliminate the need to regularly amend this regulation as Congress raises or lowers the fee level.

**Justification of Program and Performance**

**Appropriation: NIGC Gaming Activity Fees**

	FY 2005 <u>Estimate</u>	Uncontrollable <u>Changes</u>	Program <u>Changes</u>	FY 2006 <u>Estimate</u>	Change From <u>FY 2005</u>
(\$000)	10,500	243	+757	11,500	+1,000
FTE	81	--	+2	83	+2

**Authorization:**

Indian Gaming Regulatory Act, Public Law 100-497, as amended.

**Objectives:**

To regulate and monitor gaming conducted on Indian lands and to protect Indian gaming as a means of generating Indian tribal revenues.

**Program Activities:**

The Commission's mission is to regulate gaming activities on Indian lands for the purpose of shielding Indian tribes from organized crime and other corrupting influences; ensuring that Indian tribes are the primary beneficiaries of gaming revenues; and assuring that gaming is conducted fairly and honestly by both operators and players. To effect these goals, the Commission is authorized to conduct investigations; undertake enforcement actions, including the issuance of notices of violation; assessment of civil fines, and/or issuance of closure orders; review and approve management contracts; and issue such regulations as are necessary to meet its responsibilities under the Act.

The Act grants broad authority to the Commission and provides authority to the Chairman to:

- issue temporary closure orders
- levy civil fines, of up to \$25,000 per violation per day, against a tribe, management contractor, or individual operator for violation of the Act, the regulations or a tribal gaming ordinance
- approve tribal gaming ordinances
- appoint and supervise staff.

The Commission as a whole is empowered to:

- monitor gaming activities
- inspect gaming premises
- conduct background investigations
- inspect records relating to gaming

### **Program Activities: (cont.)**

- approve the annual budget
- adopt regulations for the assessment and collection of civil fines
- adopt a schedule of annual fees
- issue permanent closure orders.

Together the Commission serves as an appellate body. Aggrieved parties may appeal decisions of the Chairman to the full Commission.

In carrying out these responsibilities, the Commission also:

- provides education, training and technical assistance regarding applicable regulatory requirements;
- assists tribes with background investigations and fingerprint processing;
- receives and process appeals;
- conducts formal and informal hearings;
- consults with Indian tribes, states and the regulated community;
- defends against lawsuits challenging the Commission's actions;
- issues advice and guidance through bulletins, advisory opinions and other publications; and
- provides audits and other evaluative services.

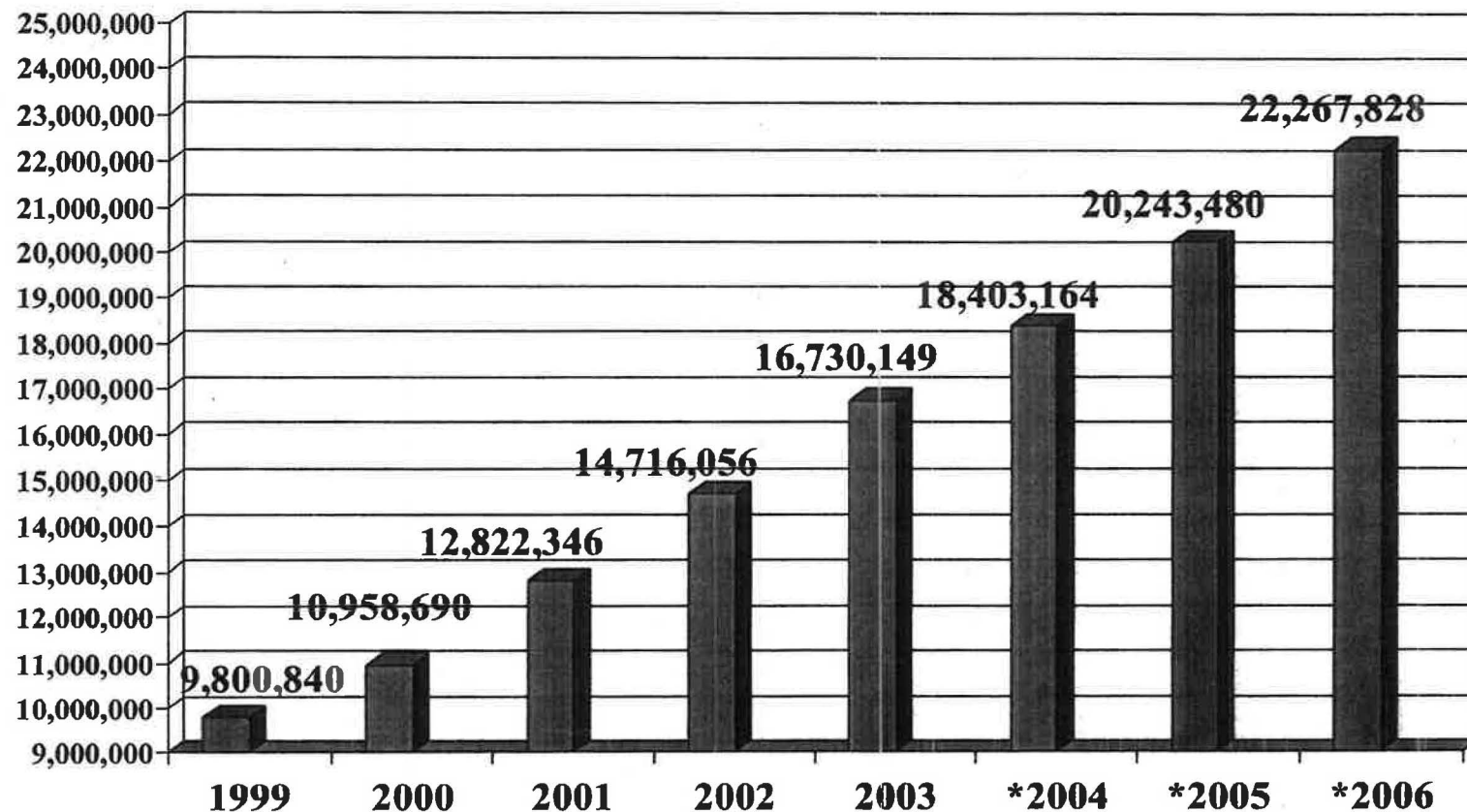
### **Legislative Change**

Having exhausted its capacity to operate within the strict limits set out in the 1988 amendment to IGRA, the Commission's legislative fee limitation was raised to \$12 million on a one-year basis for fiscal years 2004, 2005 and 2006. While this action has enabled the Commission to address recent regulatory needs resulting from the rapid increase in Indian gaming, it does not provide a permanent solution, as it must be inserted into the bill each year, or the legislative limitation will return to \$8 million. Furthermore, at a conservatively estimated annual growth rate of 10 percent, the Commission anticipates that its costs will exceed the \$12 million fee limitation by fiscal year 2009.

When Congress was considering the Indian Gaming Regulatory Act (IGRA) in 1988, it estimated that there were 100 tribal gaming operations generating \$100 million in revenues. The industry is now generating revenues of about \$16.7 billion. After consultation with and comment from the affected tribes, the Commission has collected fees totaling \$11 million in FY 2004 and plans to collect \$11 million in FY 2005 and 11.5 million in FY 2006. The 2006 budget requests that its current \$12 million limitation be continued until enactment of proposed legislation to enable the Commission to adjust its operations with the growth or contraction of the Indian gaming industry.

# Growth of the Indian Gaming Industry

## (Revenue in Thousands)



Source: National Indian Gaming Commission

\*Projected 10% Growth Rate

**DEPARTMENT OF THE INTERIOR**  
**NATIONAL INDIAN GAMING COMMISSION**  
**Special Fund Receipt/Expenditure Account**  
**Gaming Activity Fees**  
(In millions of dollars)

Identification code 14-5141-0-4-806		2004	2005	2006
		Actual	Estimate	Estimate
Unavailable Receipts:				
02.00	NIGC, Gaming activity fees.....	11	11	12
Appropriations:				
05.00	NIGC, Gaming activity fees.....	-11	-11	-12
07.99	Total balance, end of year.....	---	---	---

**Program and Financing (in millions of dollars)**

Identification code 14-5141-0-4-806		2004	2005	2006
		Actual	Estimate	Estimate
<u>Obligations by program activity:</u>				
0.01	Direct Program Activity	9	11	12
10.00	Total new obligations.....	9	11	12
<u>Budgetary resources available for obligation:</u>				
21.40	Unobligated balance carried forward, start of year.....	4	6	6
22.00	New budget authority (gross).....	11	11	12
23.90	Total budgetary resources available for obligation.....	15	17	18
23.95	Total new obligations.....	-9	-11	-12
24.40	Unobligated balance carried forward, end of year.....	6	6	6
<u>New budget authority (gross), detail:</u>				
Mandatory:				
60.20	Appropriation (special fund).....	11	11	12
<u>Change in obligated balances:</u>				
72.40	Obligated balance, start of year.....	1	1	1
73.10	New obligations.....	9	11	12
73.20	Total outlays (gross).....	-9	-11	-12
74.40	Obligated balance, end of year.....	1	1	1
<u>Outlays (gross), detail:</u>				
86.97	Outlays from new mandatory authority.....	7	9	10
86.98	Outlays from mandatory balances.....	2	2	2
87.00	Total Outlays (gross).....	9	11	12
<u>Net budget authority and outlays:</u>				
89.00	Budget authority.....	11	11	12
90.00	Outlays .....	8	11	12

**DEPARTMENT OF THE INTERIOR  
NATIONAL INDIAN GAMING COMMISSION  
Special Fund Receipt/Expenditure Account  
Gaming Activity Fees**

**Object Classification (in millions of dollars)**

Identification code 14-5141-0-2-806		2004	2005	2006
		Actual	Estimate	Estimate
<b>Direct obligations</b>				
11.11	Personnel compensation: Full-time permanent.....	6	7	7
11.21	Civilian personnel benefits.....	1	1	1
11.31	Rental payments to GSA.....	1	2	2
12.52	Other Services.....	1	1	2
19.90	Subtotal obligations, Direct obligations.....	9	11	12
99.99	Total new obligations.....	9	11	12

**Personnel Summary**

Identification code 14-5141-0-2-806		2004	2005	2006
		Actual	Estimate	Estimate
<b>Total compensable workyears</b>				
	Full-time equivalent employment .....	71	81	83

**DEPARTMENT OF THE INTERIOR**  
**NATIONAL INDIAN GAMING COMMISSION**  
**General and Special Funds: Salaries and Expenses**

**Program and Financing (in millions of dollars)**

Identification code 14-0118-0-4-806		2004	2005	2006
		Actual	Estimate	Estimate
<u>Obligations by program activity:</u>				
09.01	Reimbursable Program.....	3	2	2
10.00	Total obligations.....	3	2	2
<u>Budgetary resources available for obligation:</u>				
21.40	Unobligated balance carried forward, start of year.....	1	---	---
22.00	New budget authority (gross).....	2	2	2
23.90	Total budgetary resources			
	available for obligation.....	3	2	2
23.95	Total new obligations.....	-3	-2	-2
24.40	Unobligated balance carried forward, end of year.....	---	---	---
<u>New budget authority (gross), detail:</u>				
Discretionary:				
68.00	Spending authority from offsetting collections:			
	offsetting collections (cash): .....	2	2	2
<u>Change in obligated balances:</u>				
72.40	Obligated balance, start of year.....	---	1	1
73.10	Total new obligations.....	3	2	2
73.20	Total outlays (gross).....	-2	-2	-2
74.40	Obligated balance, end of year.....	1	1	1
<u>Outlays (gross), detail:</u>				
86.90	Outlays from new discretionary authority.....	2	2	2
Offsets:				
Against gross budget authority and outlays:				
88.00	Offsetting collections (cash) from Non-Federal sources.....	2	2	2
<u>Net budget authority and outlays:</u>				
89.00	Budget authority.....	---	---	---
90.00	Outlays (net).....	---	---	---



**DEPARTMENT OF THE INTERIOR**  
**NATIONAL INDIAN GAMING COMMISSION**  
**General and Special Funds: Salaries and Expenses**

**Object Classification (in millions of dollars)**

Identification code 14-0118-0-4-806		2004	2005	2006
		Actual	Estimate	Estimate
Reimbursable obligations				
22.52	Other services.....	<u>3</u>	<u>2</u>	<u>2</u>
99.99	Total new obligations.....	3	2	2

**Personnel Summary**

Reimbursable Program				
Total compensable workyears				
	Full-time equivalent employment .....	---	---	---

**DEPARTMENT OF THE INTERIOR  
NATIONAL INDIAN GAMING COMMISSION  
EMPLOYEE FTE COUNT BY GRADE OR GRADE EQUIVALENT**

	FY 2004 Actual	FY 2005 Estimate	FY 2006 Estimate
Executive Level IV.....	1	1	1
Executive Level V.....	2	2	2
ES-6.....	0	0	1
ES-5.....	0	0	0
ES-4.....	3	3	2
ES-2.....	0	0	0
ES-1.....	1	1	2
GS-15.....	7	9	9
GS-14.....	9	9	9
GS-13.....	17	19	20
GS-12.....	14	17	17
GS-11.....	2	2	2
GS-10.....	3	3	3
GS-09.....	4	4	4
GS-08.....	0	0	0
GS-07.....	1	1	1
GS-06.....	6	9	9
GS-05.....	1	1	1
<b>Total FTE.....</b>	<b>71</b>	<b>81</b>	<b>83</b>

In accordance with the Act, appointments are made without regard to the provisions of Title 5, U.S. Code, governing appointments in the competitive service.



**The United States Department of the Interior**

**BUDGET  
JUSTIFICATIONS**

**Fiscal Year 2007**

**NATIONAL INDIAN  
GAMING COMMISSION**



# **DEPARTMENT OF THE INTERIOR NATIONAL INDIAN GAMING COMMISSION**

## **Fiscal Year 2007 Budget Justification**

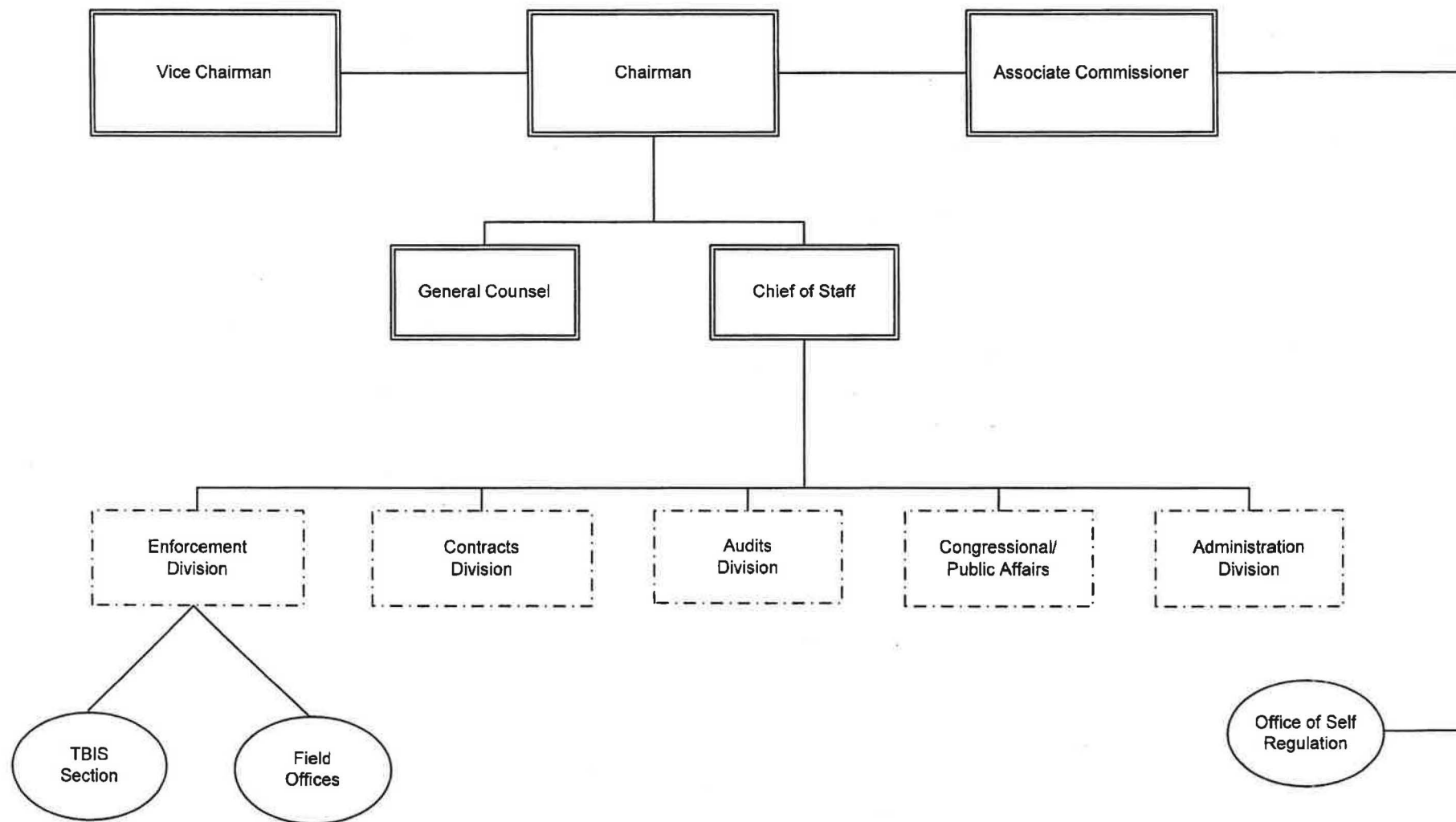
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## NATIONAL INDIAN GAMING COMMISSION ORGANIZATIONAL CHART







## **NATIONAL INDIAN GAMING COMMISSION**

### **General Statement**

The National Indian Gaming Commission is an independent regulatory agency of the United States established pursuant to the Indian Gaming Regulatory Act (IGRA) of 1988. The Commission was created to fulfill the mandates of IGRA in fostering economic development of Indian tribes by ensuring the integrity of Indian tribal government gaming on Indian lands and that the tribes are the primary beneficiaries.

This is accomplished by the promulgation of regulations to guide the operation of tribal government gaming; by direct regulation of certain aspects of such gaming activities, and coordinating regulation with tribal and other regulatory agencies through the review and approval of tribal gaming ordinances and agreements; by reviewing backgrounds of individuals and entities to ensure the suitability of those seeking to engage or invest in such gaming; by maintaining oversight and reviewing the conduct of gaming operations and financial performances; and by bringing enforcement actions for violations of IGRA, the regulations of the Commission, and tribal gaming ordinances, including imposition of appropriate sanctions on those committing such violations. As it fulfills these responsibilities, the Commission is particularly vigilant for any indications of corrupting influences such as those posed by organized criminal elements known to be attracted to cash-intensive industries such as gaming.

The Commission is mindful of the trust relationship the United States bears to the Indian nations it serves and of the importance of prompt and efficient administration of IGRA to foster the economic development so urgently needed by Indian tribes. In all phases of its regulatory performance, the Commission and its staff observe due process rights of those who come before it and extend to all individuals the courtesy they are entitled to expect from their government. The Commission strives to be responsive to tribes seeking guidance as they enter the dynamic gaming industry, monitors trends in tribal government gaming, and reports its findings to Congress and the Administration.

IGRA authorizes the Commission to assess and collect fees on tribal gaming revenues to cover its operating costs. The NIGC also conducts background investigations and fingerprints of individuals and entities with a financial interest in, or management responsibility for, potential management contracts. These investigations are conducted to determine whether the contracts can be approved. The Commission is reimbursed annually from the potential contractors. The Federal Bureau of Investigation and the Commission are reimbursed for fingerprint processing costs.

## **The Indian Gaming Regulatory Act (IGRA) of 1988**

Congress took up the issue of tribal gaming and conducted a series of hearings, ultimately culminating in the passage of IGRA in 1988. Embodied in IGRA was a compromise between state and tribal interests. The states were given a role in determining the scope and extent of tribal gaming by requiring tribal-state compacts for Class III gaming. However, tribal regulatory authority over Class II gaming without state intervention was preserved in full.

IGRA establishes the jurisdictional framework that governs Indian gaming. IGRA establishes three classes of games with a different regulatory scheme for each. Class I gaming is defined as traditional and social Indian gaming for minimal prizes. Regulatory authority over Class I gaming is vested exclusively in tribal governments.

Class II gaming is defined as the game of chance commonly known as bingo (whether or not electronic, computer, or other technological aids are used in connection therewith) and, played in the same location as bingo, pull-tabs, punchboards, tip jars, instant bingo and other games similar to bingo. Class II gaming also includes non-banked card games, that is, games that are played exclusively against other players rather than against the house or a player acting as a bank. IGRA specifically excludes slot machines or electronic facsimiles of any game of chance from the definition of Class II games. Tribes retain their authority to conduct, license and regulate Class II gaming so long as the state in which the tribe is located permits such gaming for any purpose and the tribal government adopts a gaming ordinance approved by the National Indian Gaming Commission (NIGC). Tribal governments are responsible for regulating Class II gaming with Commission oversight.

Class III is defined as all forms of gaming that are neither Class I nor II. Games commonly played in casinos, such as slot machines, blackjack, craps, and roulette fall in the Class III category, as well as wagering games and electronics facsimiles of any games of chance. Generally, Class III gaming is often referred to as full-scale casino-style gaming. As a compromise among Tribal, State and Federal interests, IGRA restricts tribal authority to conduct Class III gaming. Before a tribe may lawfully conduct Class III gaming, the following conditions must be met: (1) the particular form of Class III gaming that the tribe wants to conduct must be permitted in the state in which the tribe is located; (2) the tribe and the state must have negotiated a compact that has been approved by the Secretary of the Interior, or the Secretary must have approved regulatory procedures; and (3) the tribe must have adopted a tribal gaming ordinance that has been approved by the Chairman of the Commission.

The regulatory scheme for Class III gaming is more complex than a casual reading of the statute might suggest. Although Congress clearly intended states to address their regulatory issues in tribal-state compacts, it was not mandatory in IGRA and many states accordingly rely upon continued federal regulatory oversight by the NIGC and Congress to address regulatory concerns regarding Class III tribal gaming under IGRA, including approval of management contracts and tribal ordinances. Thus, the extent of a state's participation in the regulation of Class III gaming varies from state to state. In addition, IGRA expressly assigned a number of specific regulatory functions to the NIGC. Congress also vested the Commission with broad authority to issue regulations to implement the purpose of IGRA. Accordingly, the Commission plays a key role in the oversight and regulation of both Class II and III gaming.

### **The Commission and its Activities**

The Commission became operational in 1993. It is comprised of a Chairman and two Commissioners, each of whom are appointed to a three-year term. The Commission establishes policy, oversees the agency, and is responsible for carrying out the formal duties assigned it by the Act. The Chairman appoints a Chief of Staff to manage the day-to-day activities of the Commission and a General Counsel to handle its legal affairs.

The Commission provides federal oversight to approximately 400 tribally owned, operated, or licensed gaming establishments operating in 28 states. The Commission maintains its headquarters in Washington, D.C., maintains five field offices, and four satellite offices. The Commission is divided into five separate divisions with a combined staff of approximately 87 full-time employees. Forty-one members of the Commission staff are assigned to headquarters in Washington, D.C. with the remaining 46 assigned among five field offices located in: Portland, Oregon; Sacramento, California; Phoenix, Arizona; St. Paul, Minnesota; and Tulsa, Oklahoma. Regional satellite offices are located in Rapid City, South Dakota; Temecula, California; Bellingham, Washington; and Madison, Mississippi.

The Commission established its field structure to increase effectiveness and improve the level and quality of services it provides. The field offices are vital to carrying out the statutory responsibilities of the Commission and securing industry compliance with the Act. The Commission efficiency and effectiveness has improved as a result of locating auditors and field investigators closer to tribal gaming facilities. Regular visits enable better oversight of tribal compliance with regulations and allows for timely intervention where warranted. In addition to auditing and investigative activities, the field staff provides technical assistance, education, and training to promote a better understanding of gaming controls within the regulated industry, and to enhance cooperation and compliance.

### **Recent Changes Affecting Budget Priorities**

When IGRA was enacted in 1988, Indian gaming was a \$100 million per year industry, and the agency operated on a \$2.5 million budget. Currently, the industry consists of approximately 400 gaming operations in 28 states. These operations are owned, operated, or licensed by 224 tribal governments. The industry generated \$19.4 billion of gross gaming revenues in 2004, a net increase of over 15.3 percent from 2003 revenues.

In addition to the tremendous increase in the magnitude of Indian gaming, the technology of games is changing and financial resources must be directed to training NIGC officials, or contracting with technical experts, to assure proper audit and review of individual gaming operations. The Commission's development and implementation of a broad-based consultation policy has impacted the financial and staff resources. Furthermore, ambitious regulatory initiatives for minimum internal control standards, technical standards for Class II bingo and pulltab machines, and classification standards to clarify the distinction between Class II and III games were initiated, and require financial support.

In 2004, the NIGC addressed major concerns identified in its outreach in consultation efforts during 2003. The Commission launched a comprehensive review of the Commission's Minimum Internal Control Standards (MICS) and mobilized an effort to distinguish between electronic and technological aids which are permitted to aid in the play of uncompact Class II gaming, and electronic facsimile and slot machines which require Class III compacts to be utilized in tribal gaming. The consultation process the Commission embarked upon in 2003 continued throughout 2004 and 2005, and these issues evolved as those with great importance to the tribal gaming industry.

The Commission planned to continue the consultation process to ensure that all tribes have the opportunity to present their respective positions on various issues. In 2005, the Commission engaged in eleven government-to-government consultation meetings in various locations throughout the country. The Commission invited 319 tribes, of which 107 attended, to address complicated issues facing the Indian gaming industry as a direct result of the government-to-government consultation.

### **Background**

Prior to 1997, the Commission was legislatively prohibited from collecting fees in excess of \$1.5 million annually. The 1998 Interior Appropriations Act (P.L. 105-83) expanded the fee base to include Class III (casino style) gaming and raised the limitation on annual fee collections to \$8 million. In the 2003, 2004, 2005, and 2006 Interior Appropriations Acts, the Congress enacted a general provision raising this limitation to \$12 million for fiscal years 2004, 2005, 2006, and 2007 respectively. This general provision is in effect for 2004, 2005, 2006, and 2007. The 2007 President's budget proposes to extend this authority and increase the limitation to \$13 million for fiscal year 2008. If the provision is not enacted, the fee limitation will revert back to the previous \$8 million ceiling. This reduced funding amount would hinder the day-to-day operations of the Commission, as it would require downsizing with a considerable adverse regulatory impact.

In addition, the 2007 budget assumes a legislative proposal to establish a fee based on a percentage of gaming revenue beginning in 2008. This would allow the Commission to adjust its activities to keep pace with the growth in the Indian gaming industry.

### **Proposed Amendment of the Indian Gaming Regulatory Act**

The 1998 amendment to the Indian Gaming Regulatory Act authorized the Commission to collect up to \$8 million each year in gaming activity fees. For the past several years, the annual appropriation acts have included language raising the Commission's limitation on assessments to \$12 million. The 2007 budget requests that this limitation be raised to \$13 million for 2008 and be continued until enactment of proposed legislation to enable the Commission to adjust its operations with the growth or contraction of the Indian gaming industry.

### **Proposed Amendment of the Indian Gaming Regulatory Act (cont.)**

To this end, the Administration submitted authorization language to the Congress, and the Senate, on December 12, 2005 passed S. 1295, the proposed National Indian Gaming Commission Accountability Act. The Senate bill includes the Administration's proposal to limit the total amount of fees assessed during any fiscal year to no more than .080 percent of the gross gaming revenues of all gaming operations subject to Commission regulation.

The National Indian Gaming Commission Accountability Act, if signed into law, will allow the agency to maintain a fee collection level that is in proportion to the size of the industry it oversees, and require that the NIGC be subjected to the Government Performance and Results Act (GPRA). With fees capped at .08 percent of the industry's gross revenue, the agency's funding would be established in proportion to the revenues of the Indian gaming industry, expanding or contracting as the Indian gaming industry grew or diminished. Should S. 1295 be enacted, the Commission will draft new regulations to implement these new legislative provisions.

The current legislation allows the Commission to collect no more than 2.5 percent of the first \$1.5 million, and no more than 5 percent of amounts in excess of the first \$1.5 million of the gross revenues from a gaming operation up to a total revenue ceiling of \$8 million. This legislative ceiling was raised to \$12 million on a one-year basis for fiscal years 2004, 2005, 2006 and 2007 through language included in annual appropriation acts. This action has enabled the Commission to address the regulatory needs resulting from the rapid increase in Indian gaming; however, because the provision must be inserted into the bill each year, it does not provide a permanent solution to the operational needs of the Commission, and severely hinders long-range planning.

Enactment of S. 1295 would implement an assessment formula that would establish a reasonable revenue structure for Commission operations, and also reduce the maximum allowable assessment of tribal gaming operations to .08 percent, rather than the existing maximum of 2.5 percent of the first \$1.5 million in gaming revenue and 5 percent of amounts greater than \$1.5 million. Maintaining an adequate level of funding is important as the Indian gaming industry continues to grow. Growth figures for the past five years demonstrate that Indian gaming continues to grow at about 14.7 percent per year and, should this trend continue, funds needed for essential regulatory oversight would soon outstrip available financial resources even at the \$13 million level proposed for 2008. Therefore, enactment of amended legislative authority, including a formula tied to Indian gaming revenues, would provide a long-term solution assuring a revenue stream at an appropriate level to support this expanding industry. Similarly, should trends reverse, and if the industry contracted, fee assessment levels for the Commission would be correspondingly lower.

Another change included in S. 1295 is the requirement that the Commission, like other Federal agencies, be subject to the Government Performance and Results Act of 1993, and that any plan instituted in compliance with the Government Performance and Results Act include technical assistance to tribal gaming operations.



### **Mission and Responsibilities**

The National Indian Gaming Commission monitors gaming activity, inspects gaming premises, conducts background investigations, audits and reviews financial records of gaming operations, and undertakes enforcement actions when necessary. Its mission is to ensure that adequate safeguards are in place to shield the tribal gaming industry from organized crime and other corrupting influences and to assure that Indian tribes are the primary beneficiaries of the gaming operation, and that gaming is conducted fairly and honestly.

### **Annual Fees for Operations**

The Commission assesses fees on tribal gaming revenues in accordance with procedures set forth in 25 C.F.R. Part 514. At the beginning of each calendar year, by majority vote, the Commission publishes a preliminary fee rate. A final rate is established and published in the last quarter of the year based on prior year gross gaming revenues. The rate must be sufficient to generate income to fund the annual operation of the Commission and maintain a transition balance for the upcoming year's operation.

Maintenance of this transition balance is essential to the fiscal integrity of the Commission because the unique statutory provisions governing the Commission's funding subject it to significant cash flow variations. Unlike other federal agencies, the Commission's authorizing legislation does not provide for full funding at the beginning of each fiscal year. Instead, the Commission receives quarterly installments equal to approximately  $\frac{1}{4}$  of each gaming tribe's projected annual fee assessment. The carryover transition balance is necessary to cover the first and second quarter of operation until the fees are actually received and credited to the operating account. Without this transition balance, funds could potentially be insufficient to maintain continuity of operation. Fees collected during the fourth quarter of the fiscal year 2005 will provide the operational capital for the first quarter of fiscal year 2006. The Commission attempts to maintain a transition balance to fund the first two quarters of the new fiscal year, because cash flow variations often occur with potentially serious operational consequences should revenue fall short of projections.

### **Summary of the FY 2007 Budget**

#### **Permanent Appropriation**

The Indian Gaming Regulatory Act, as amended by the 1998 Interior and Related Agencies Appropriations Act (P.L. 105-83) established the National Indian Gaming Commission as an independent agency within the Department of the Interior. The Commission monitors and regulates gaming activities conducted on Indian lands. Operation costs of the Commission are financed through annual assessments of gaming operations regulated by the Commission. The 1998 amendment authorized the Commission to collect up to \$8 million each year in gaming activity fees. For the past several years, the annual appropriation acts have included language raising the Commission's limitation on assessments to \$12 million. The 2006 appropriations act continues the \$12 million limitation through 2007. The 2007 budget requests that this limitation be increased to \$13 million beginning in 2008 pending enactment of proposed legislation that would enable the Commission to adjust its operations with the growth or contraction of the Indian gaming industry.

### **Demand for Services and Areas of Responsibility**

With a projected staffing increase from 77 FTE in 2005 to 99 FTE in 2007, the NIGC is forecasting full-year obligations of \$12 million in fiscal year 2007 and \$12.7 million in 2008. The Commission requests that the fee limitation be raised to \$13 million in 2008. This will allow the Commission to hire additional local and field personnel to address the demands of the expanding Indian gaming industry. These funds will also be used to upgrade and improve its information management system, and other staffing-related expenses.

### **Summary of the FY 2007 Estimate**

All costs associated with the Commission's operation during 2006 will be derived from fees assessed on and collected from the regulated industry. The 2006 Appropriations Act (P.L. 109-54) established the limitation for 2007 at \$12 million. The 2007 budget requests that the limitation on assessments be increased in 2008 to \$13 million to allow for a spending level of \$12.7 million. The Commission will continue its consultation with the affected tribes and evaluate their input prior to implementing the proposed budget. The revenue to be collected in 2007 will assure funding to address the full-year impact of 2006 new hires. The Commission will continue to maintain a carryover balance sufficient to assure that cash flow variations do not impact ongoing operations. As previously noted, fees are paid quarterly, based on each gaming tribe's projected annual assessment. This system often results in cash flow variations, and therefore a transition balance, derived from prior year funds carried forward to the new fiscal year, is essential to continuity of operations.

### **Reimbursable Expenses**

The NIGC conducts background investigations of individuals and entities with a financial interest in, or management responsibility for, potential management contracts. Pursuant to the Indian Gaming Regulatory Act, Section 2711(e), these investigations are conducted to determine whether the contracts can be approved. In accordance with Section 2711(i) of this legislation, the Commission is reimbursed approximately \$500,000 annually from the potential contractors. In addition, the Federal Bureau of Investigation and the Commission are reimbursed for fingerprint processing costs in the approximate amount of \$1,000,000.



**Department of the Interior  
Summary of Requirements  
(in thousands of dollars)**

**Appropriation: NIGC Gaming Activity Fees**

**Summary of Changes**

	<u>FTE</u>	<u>Amount</u>	<u>FTE</u>	<u>Amount</u>
Total 2006			95.0	10,900.0
Fixed cost and related changes:				
Additional cost in 2007 of the January 2006 pay raise		57.0		
Additional cost in 2007 of the January 2007 pay raise		143.0		
Total Fixed cost and related changes:		200.0		200.0
Program changes:				
Impact of additional 4 FTE	4.0	370.0	4.0	
Full year impact of 2006 new hires (Benefits@28%)		110.0		
Rent/Space/Communication/Utilities		150.0		
Printing & Reproduction/Supplies, Materials & Equip		90.0		
Other Services*		180.0		
Total Program Changes		900.0		900.0
Sub-Total				1,100.0
Total Requirements			99.0	12,000.0

\* Includes charges from OPM, MMS personnel charges, Central Billing, Metro Program, Postage, and other miscellaneous charges

**DEPARTMENT OF THE INTERIOR  
NATIONAL INDIAN GAMING COMMISSION**

**Change in Fee Regulation**

The regulations implementing the legislative provisions governing the collection of fees have been revised to allow the Commission to collect the statutory maximum allowed by Congress. The revised regulations are as follows:

**§514.1 Annual Fees**

- (d) The total amount of all fees imposed during any fiscal year shall not exceed the statutory maximum imposed by Congress. The Commission shall credit pro-rata any fees collected in excess of this amount against amounts otherwise due at the end of the quarter following the quarter during which the Commission makes such determination.
  - (1) The Commission will notify each gaming operation as to the amount of overpayment, if any, and therefore the amount of credit to be taken against the next quarterly payment otherwise due.
  - (2) The notification required in paragraph (d)(1) of this section shall be made in writing addressed to the gaming operation.

**Supplementary Information:**

The Commission changed its current regulations to reflect changes in the statutory fee limitation. This regulation has been amended so that the amount of fees imposed by the Commission is directly related to Congressional action. The change will allow the Commission to collect up to the statutory maximum and will eliminate the need to regularly amend this regulation as Congress raises or lowers the fee level.



**Justification of Program and Performance**

**Appropriation: NIGC Gaming Activity Fees**

	<u>FY 2006</u> <u>Estimate</u>	<u>Fixed Costs</u> <u>Changes</u>	<u>Program</u> <u>Changes</u>	<u>FY 2007</u> <u>Estimate</u>	<u>Change</u> <u>From</u> <u>FY 2006</u>
(\$000)	10,900.0	+200	+900	12,000	+1,100
FTE	95	--	+4	99	+4

**Authorization:**

Indian Gaming Regulatory Act, Public Law 100-497, as amended.

**Objectives:**

To regulate and monitor gaming conducted on Indian lands and to protect Indian gaming as a means of generating Indian tribal revenues.

**Program Activities:**

The Commission's mission is to regulate gaming activities on Indian lands for the purpose of shielding Indian tribes from organized crime and other corrupting influences; ensuring that Indian tribes are the primary beneficiaries of gaming revenues; and assuring that gaming is conducted fairly and honestly by both operators and players. To affect these goals, the Commission is authorized to conduct investigations; undertake enforcement actions, including the issuance of notices of violation; assessment of civil fines, and issuance of closure orders; review and approve management contracts; and issue such regulations as are necessary to meet its responsibilities under the Act.

The Act grants broad authority to the Commission and provides authority to the Chairman to:

- issue temporary closure orders
- levy civil fines, of up to \$25,000 per violation per day, against a tribe, management contractor, or individual operator for violation of the Act, the regulations or a tribal gaming ordinance
- approve tribal gaming ordinances
- approve gaming management contracts
- appoint and supervise staff

The Commission as a whole is empowered to:

- monitor gaming activities
- inspect gaming premises
- conduct background investigations
- inspect records relating to gaming

**Program Activities: (cont.)**

- approve the annual budget
- adopt regulations for the assessment and collection of civil fines
- adopt a schedule of annual fees
- issue permanent closure orders.

Together the Commission serves as an appellate body. Aggrieved parties may appeal decisions of the Chairman to the full Commission.

In carrying out these responsibilities, the Commission also:

- provides education, training and technical assistance regarding applicable regulatory requirements;
- assists tribes with background investigations and fingerprint processing;
- receives and processes appeals;
- conducts formal and informal hearings;
- consults with Indian tribes, states and the regulated community;
- defends against lawsuits challenging the Commission's actions;
- issues advice and guidance through bulletins, advisory opinions and other publications; and
- provides audits and other evaluative services.

**Legislative Change**

Having exhausted its capacity to operate within the strict limits set out in the 1988 amendment to IGRA, the Commission's legislative fee limitation was raised to \$12 million on a one-year basis for fiscal years 2004, 2005, 2006 and 2007. While this action has enabled the Commission to address recent regulatory needs resulting from the rapid increase in Indian gaming, it does not provide a permanent solution, as it must be inserted into the bill each year, or the legislative limitation will return to \$8 million. Furthermore, with annual growth averaging 14.7 %, the Commission anticipates that it will need an increase to its \$12 million fee limitation to \$13 million in fiscal year 2008.

Should the amended legislative authority, recently passed by the Senate (S. 1295), be enacted, assessments will be levied according to a formula tied to Indian gaming revenues. This legislation would provide a long-term solution that would allow revenue to increase and decrease in accordance with changes in the gross revenues generated by the Indian gaming industry.

When Congress was considering the Indian Gaming Regulatory Act (IGRA) in 1988, it estimated that there were 100 tribal gaming operations generating \$100 million in revenues. The industry is now generating revenues of about \$19.4 billion. After consultation with and comment from the affected tribes, the Commission has collected fees totaling \$10.4 million in 2005 and plans to collect \$11.5 million in 2006 and \$12 million in 2007. The 2008 budget requests that this limitation be increased to \$13 million until the enactment of proposed legislation that would enable the Commission to adjust its operations with the growth or contraction of the Indian gaming industry.

**DEPARTMENT OF THE INTERIOR**  
**NATIONAL INDIAN GAMING COMMISSION**  
**Special Fund Receipt/Expenditure Account**  
**Gaming Activity Fees**  
**(in millions of dollars)**

Identification code 14-5141-0-4-806		2005	2006	2007
		Actual	Estimate	Estimate*
<u>Unavailable Receipts:</u>				
02.00	NIGC, Gaming activity fees.....	10	12	12
<u>Appropriations:</u>				
05.00	NIGC, Gaming activity fees.....	-10	-12	-12
07.99	Total balance, end of year.....	---	---	---

**Program and Financing (in millions of dollars)**

Identification code 14-5141-0-4-806		2005	2006	2007
		Actual	Estimate	Estimate*
<u>Obligations by program activity:</u>				
0.01	Direct Program Activity	10	11	12
10.00	Total new obligations.....	10	11	12
<u>Budgetary resources available for obligation:</u>				
21.40	Unobligated balance carried forward, start of year.....	5	6	7
22.00	New budget authority (gross).....	10	12	12
22.10	Resources available from recoveries of prior year obligations.....	1	---	---
23.90	Total budgetary resources available for obligation.....	16	18	19
23.95	Total new obligations.....	-10	-11	-12
24.40	Unobligated balance carried forward, end of year.....	6	7	7
<u>New budget authority (gross), detail:</u>				
Mandatory:				
60.20	Appropriation (special fund).....	10	12	12
<u>Change in obligated balances:</u>				
72.40	Obligated balance, start of year.....	2	1	2
73.10	New obligations.....	10	11	12
73.20	Total outlays (gross).....	-10	-10	-11
73.45	Recoveries of prior year obligations.....	-1	---	---
74.40	Obligated balance, end of year.....	1	2	3
<u>Outlays (gross), detail:</u>				
86.97	Outlays from new mandatory authority.....	7	10	10
86.98	Outlays from mandatory balances.....	3	---	1
87.00	Total Outlays (gross).....	10	10	11
<u>Net budget authority and outlays:</u>				
89.00	Budget authority.....	10	12	12
90.00	Outlays .....	10	10	11

\*Modified from budget appendix.

**DEPARTMENT OF THE INTERIOR  
NATIONAL INDIAN GAMING COMMISSION  
Special Fund Receipt/Expenditure Account  
Gaming Activity Fees**

**Object Classification (in millions of dollars)**

Identification code 14-5141-0-2-806		2005	2006	2007
		Actual	Estimate	Estimate*
<b>Direct obligations</b>				
11.11	Personnel compensation: Full-time permanent.....	6	7	7
11.21	Civilian personnel benefits.....	2	2	2
11.31	Rental payments to GSA.....	1	1	2
12.52	Other Services.....	1	1	1
19.90	Subtotal obligations, Direct obligations.....	10	11	12
99.99	Total new obligations.....	10	11	12

**Personnel Summary**

Identification code 14-5141-0-2-806		2005	2006	2007
		Actual	Estimate	Estimate
<b>Total compensable workyears</b>				
	Full-time equivalent employment .....	77	95	99

\*Modified from budget appendix.

**DEPARTMENT OF THE INTERIOR**  
**NATIONAL INDIAN GAMING COMMISSION**  
**General and Special Funds: Salaries and Expenses**

**Program and Financing (in millions of dollars)**

Identification code 14-0118-0-4-806		2005	2006	2007
		Actual	Estimate	Estimate
<u>Obligations by program activity:</u>				
09.01	Reimbursable Program.....	3	2	2
10.00	Total obligations.....	3	2	2
<u>Budgetary resources available for obligation:</u>				
21.40	Unobligated balance carried forward, start of year.....	1	4	4
22.00	New budget authority (gross).....	5	2	2
23.90	Total budgetary resources available for obligation.....	6	6	6
23.95	Total new obligations.....	-3	-2	-2
24.40	Unobligated balance carried forward, end of year.....	4	4	4
<u>New budget authority (gross), detail:</u>				
Discretionary:				
68.00	Spending authority from offsetting collections: offsetting collections (cash): .....	5	2	2
<u>Change in obligated balances:</u>				
72.40	Obligated balance, start of year.....	1	---	---
73.10	Total new obligations.....	3	2	2
73.20	Total outlays (gross).....	-3	-2	-2
<u>Outlays (gross), detail:</u>				
86.90	Outlays from new discretionary authority.....	3	2	2
Offsets:				
Against gross budget authority and outlays:				
88.00	Offsetting collections (cash) from Non-Federal sources	5	2	2
<u>Net budget authority and outlays:</u>				
89.00	Budget authority.....	---	---	---
90.00	Outlays (net).....	-2	---	---



**DEPARTMENT OF THE INTERIOR**  
**NATIONAL INDIAN GAMING COMMISSION**  
**General and Special Funds: Salaries and Expenses**

**Object Classification (in millions of dollars)**

Identification code 14-0118-0-4-806		2005	2006	2007
		Actual	Estimate	Estimate
Reimbursable obligations				
22.52	Other services.....	3	2	2
99.99	Total new obligations.....	3	2	2

**Personnel Summary**

Reimbursable Program				
Total compensable workyears				
	Full-time equivalent employment .....	---	---	---

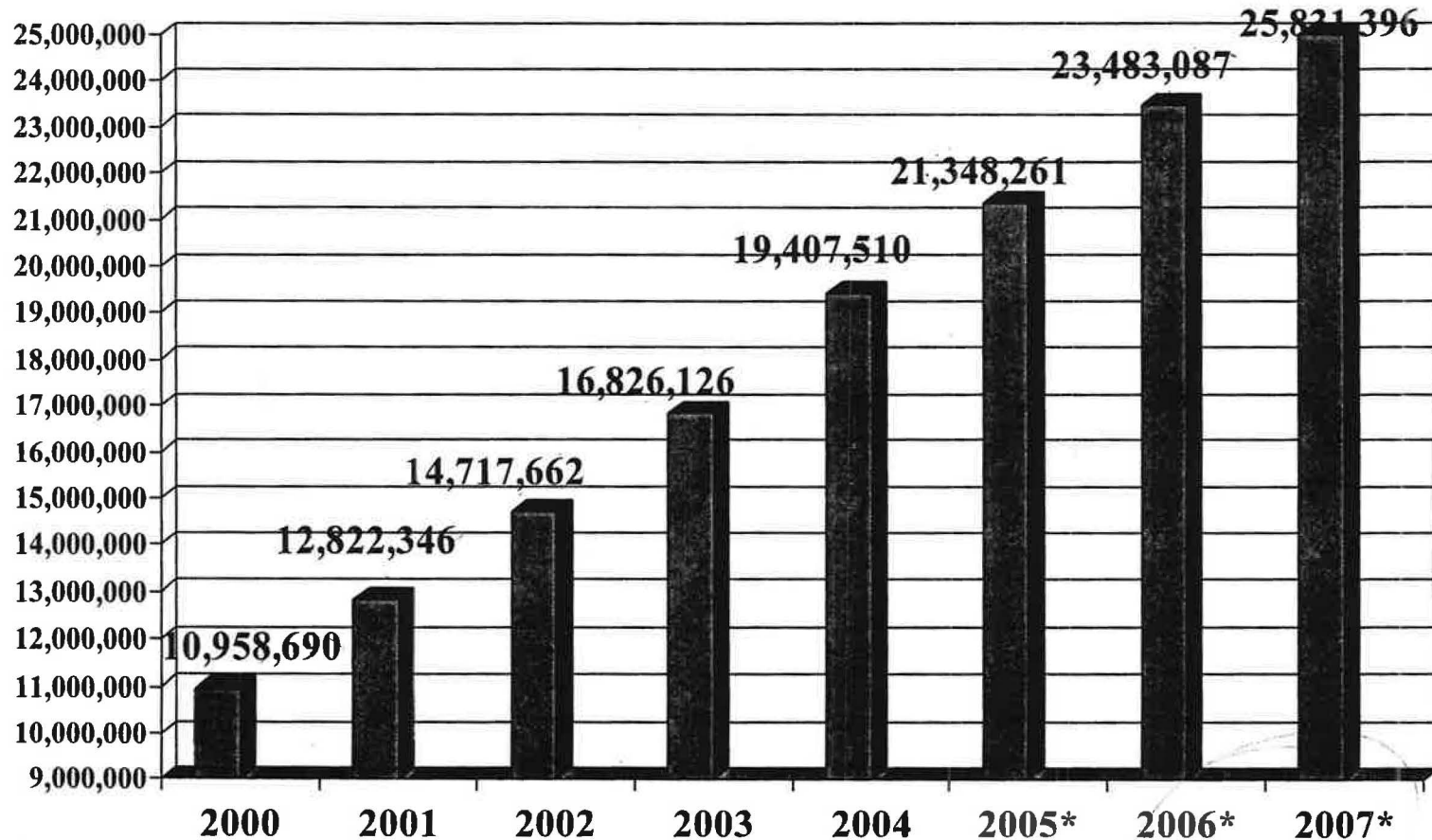
**DEPARTMENT OF THE INTERIOR  
NATIONAL INDIAN GAMING COMMISSION  
EMPLOYEE FTE COUNT BY GRADE OR GRADE EQUIVALENT**

	FY 2005 Actual	FY 2006 Estimate	FY 2007 Estimate
Executive Level IV.....	1	1	1
Executive Level V.....	2	2	2
ES-4.....	1	2	2
ES-1.....	1	1	1
GS-15.....	8	8	9
GS-14.....	9	9	9
GS-13.....	21	28	30
GS-12.....	14	21	22
GS-11.....	2	2	2
GS-10.....	3	5	5
GS-09.....	5	6	6
GS-08.....	0	0	0
GS-07.....	1	1	1
GS-06.....	7	7	7
GS-05.....	2	2	2
Total FTE.....	77	95	99

In accordance with the Act, appointments are made without regard to the provisions of Title 5, U.S. Code, governing appointments in the competitive service.

# Growth of the Indian Gaming Industry

## (Revenue in Thousands)



Source: National Indian Gaming Commission

\*Projected 10% Growth Rate



# **BUDGET** The United States Department of the Interior **JUSTIFICATIONS**

and Performance Information  
Fiscal Year 2008

## **NATIONAL INDIAN GAMING COMMISSION**

NOTICE: These budget justifications are prepared for the Interior, Environment and Related Agencies Appropriations Subcommittees. Approval for release of the justifications prior to their printing in the public record of the Subcommittee hearings may be obtained through the Office of Budget of the Department of the Interior.



**The United States Department of the Interior**

**BUDGET  
JUSTIFICATIONS**

**Fiscal Year 2008**

**NATIONAL INDIAN  
GAMING COMMISSION**



# **DEPARTMENT OF THE INTERIOR NATIONAL INDIAN GAMING COMMISSION**

## **Fiscal Year 2008 Budget Justification**

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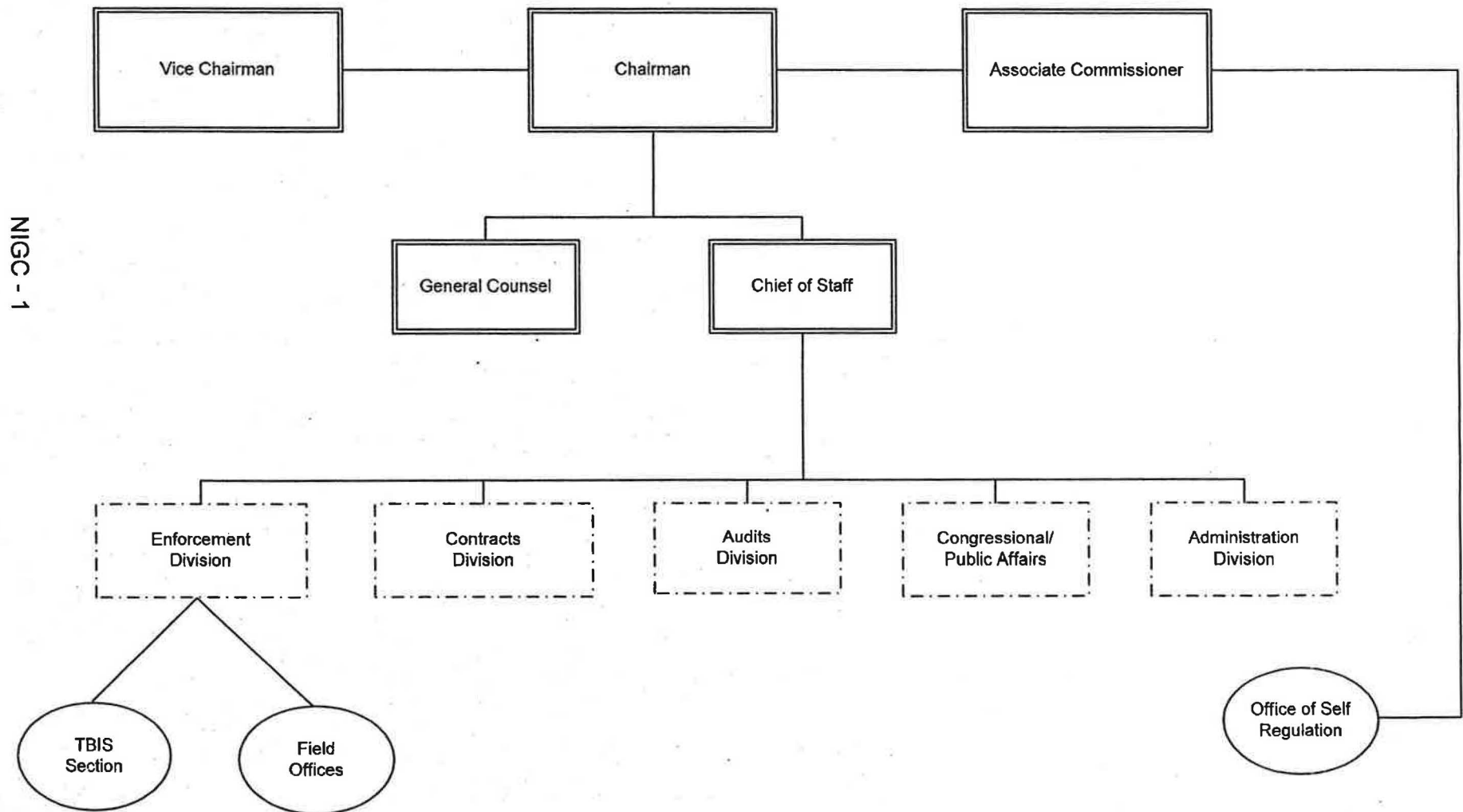
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## NATIONAL INDIAN GAMING COMMISSION ORGANIZATIONAL CHART





## **NATIONAL INDIAN GAMING COMMISSION (NIGC)**

### **Executive Summary**

With the passage for the Native American Technical Corrections Act of 2006 (P.L. 109-221), enacted in May of 2006, the National Indian Gaming Commission (NIGC) now has a limitation on fee collections that is tied to the growth, or contraction, of the Indian Gaming industry. With the dramatic growth of the Indian gaming industry over the past decade and a half, this type of fee limitation will allow the Commission to provide needed technical assistance and essential oversight to the industry in the face of continued expansion.

When NIGC initiated operations in February of 1992, the Indian gaming industry was generating revenue of about \$3 billion per year. In 2005, the Indian gaming industry reported \$22.6 billion in revenue, an increase of 653% from the 1992 level. The growth of the industry led NIGC administrators to request Congress change the fee cap from a legislated ceiling of \$12 million per year to a percentage tied to gross gaming revenue. P.L. 109-221 authorizes the Commission to collect up to 0.080 percent of gross gaming revenue, allowing NIGC's authorized funding to keep pace with industry growth. For fiscal year 2007, the NIGC set its fee rate at 0.059 percent, well below the maximum of 0.080 percent. This translates into a budget of \$16 million in 2007, 30 percent above the 2006 level.

In 1992, the agency operated on an appropriation of \$2.2 million with 33 full-time staff, and oversaw about 200 gaming operations. Currently, there are about 405 gaming operations in 28 states. With the enactment of the Native American Technical Corrections Act, the Commission is now able to hire additional personnel, expand field office operations, enhance the information technology infrastructure, and provide internal and external training.

### **Mission and Responsibilities**

The National Indian Gaming Commission monitors gaming activity, inspects gaming premises, conducts background investigations, audits and reviews financial records of gaming operations, and undertakes enforcement actions, if necessary. Its mission is to ensure that adequate safeguards are in place to shield the tribal gaming industry from organized crime and other corrupting influences and to assure that Indian tribes are the primary beneficiaries of the gaming operation, and that gaming is conducted fairly and honestly.

### **General Statement**

The National Indian Gaming Commission is an independent regulatory agency of the United States established pursuant to the Indian Gaming Regulatory Act (IGRA) of 1988, as amended. The Commission was created to fulfill the mandates of IGRA in fostering economic development of Indian tribes by ensuring the integrity of Indian tribal government gaming on Indian lands and that the tribes are the primary beneficiaries.

This is accomplished by the promulgation of regulations to guide the operation of tribal government gaming by:

- Direct regulation of certain aspects of such gaming activities, and coordinating regulation with tribal and other regulatory agencies through the review and approval of tribal gaming ordinances and agreements
- Reviewing backgrounds of individuals and entities to ensure the suitability of those seeking to engage or invest in such gaming
- Maintaining oversight and reviewing the conduct of gaming operations and financial performance
- Enforcement actions for violations of IGRA, the regulations of the Commission, and tribal gaming ordinances, including imposition of appropriate sanctions on those committing such violations

As it fulfills these responsibilities, the Commission is particularly vigilant for any indications of corrupting influences such as those posed by organized criminal elements known to be attracted to cash-intensive industries such as gaming.

The Commission is mindful of the trust relationship the United States bears to the Indian nations it serves and of the importance of prompt and efficient administration of IGRA to foster the economic development so urgently needed by Indian tribes. In all phases of its regulatory performance, the Commission and its staff observe due process rights of those who come before it and extend to all individuals the courtesy they are entitled to expect from their government. The Commission strives to be responsive to tribes seeking guidance as they enter the dynamic gaming industry, monitors trends in tribal government gaming, and reports its findings to Congress and the Administration.

IGRA authorizes the Commission to assess and collect fees on tribal gaming revenues to cover NIGC operating costs. The NIGC also conducts background investigations, including fingerprinting of individuals and entities with a financial interest in, or management responsibility for potential management contracts. These investigations are conducted to determine whether the contracts can be approved. The Commission is reimbursed annually from the potential contractors for investigative services. The Federal Bureau of Investigation and the Commission are reimbursed for fingerprint processing costs.

### **The Indian Gaming Regulatory Act (IGRA) of 1988**

Congress took up the issue of tribal gaming and conducted a series of hearings, ultimately culminating in the passage of IGRA in 1988. Embodied in IGRA was a compromise between state and tribal interests. The states were given a role in determining the scope and extent of tribal gaming by requiring tribal-state compacts for Class III gaming. However, tribal regulatory authority over Class II gaming without state intervention was preserved in full.

IGRA establishes the jurisdictional framework that governs Indian gaming. IGRA establishes three classes of games with a different regulatory scheme for each.

- Class I gaming is defined as traditional and social Indian gaming for minimal prizes. Regulatory authority over Class I gaming is vested exclusively in tribal governments.
- Class II gaming is defined as the game of chance commonly known as bingo (whether or not electronic, computer, or other technological aids are used in connection therewith) and, played in the same location as bingo, pull-tabs, punchboards, tip jars, instant bingo and other games similar to bingo. Class II gaming also includes non-banked card games; that is, games that are played exclusively against other players rather than against the house or a player acting as a bank. IGRA specifically excludes slot machines or electronic facsimiles of any game of chance from the definition of Class II games. Tribes retain their authority to conduct, license and regulate Class II gaming so long as the state in which the tribe is located permits such gaming for any purpose and the tribal government adopts a gaming ordinance approved by the National Indian Gaming Commission (NIGC). Tribal governments are responsible for regulating Class II gaming with Commission oversight.
- Class III is defined as all forms of gaming that are neither Class I nor II. Games commonly played in casinos, such as slot machines, blackjack, craps, and roulette fall in the Class III category, as well as wagering games and electronics facsimiles of any games of chance. Generally, Class III gaming is often referred to as full-scale casino-style gaming. As a compromise among Tribal, State and Federal interests, IGRA restricts tribal authority to conduct Class III gaming. Before a tribe may lawfully conduct Class III gaming, the following conditions must be met: (1) the particular form of Class III gaming that the tribe wants to conduct must be permitted in the state in which the tribe is located; (2) the tribe and the state must have negotiated a compact that has been approved by the Secretary of the Interior, or the Secretary must have approved regulatory procedures; and (3) the tribe must have adopted a tribal gaming ordinance that has been approved by the Chairman of the Commission.

The regulatory scheme for Class III gaming is more complex than a casual reading of the statute might suggest. Although Congress clearly intended states to address their regulatory issues in tribal-state compacts, it was not mandatory in IGRA and many states accordingly rely upon continued federal regulatory oversight by the NIGC and Congress to address regulatory concerns regarding Class III tribal gaming under IGRA, including approval of management contracts and tribal ordinances. Thus, the extent of a state's participation in the regulation of Class III gaming varies from state to state. In addition, IGRA expressly assigned a number of specific regulatory functions to the NIGC, such as; approving tribal ordinances and class III gaming; approving management contracts; ensuring tribes and management contracts abide by IGRA and NIGC rules and regulations; and implementing regulations. Accordingly, the Commission plays a key role in the oversight and regulation of both Class II and III gaming.

## **The Commission and its Activities**

The Commission became operational in 1993. It is comprised of a Chairman and two Commissioners, each of whom are appointed to a three-year term. The Commission establishes policy, oversees the agency, and is responsible for carrying out the formal duties assigned to it by the Act. The Chairman appoints a Chief of Staff to manage the day-to-day activities of the Commission and a General Counsel to handle its legal affairs.

The Commission provides federal oversight to approximately 400 tribally owned, operated, or licensed gaming establishments operating in 28 states. The Commission maintains its headquarters in Washington, D.C., maintains five field offices, and four satellite offices. The Commission is divided into five separate divisions with a combined staff of approximately 88 full-time employees as September 30<sup>th</sup> 2006. Forty-four members of the Commission staff are assigned to headquarters in Washington, D.C. with the remaining 44 assigned among five field offices located in: Portland, Oregon; Sacramento, California; Phoenix, Arizona; St. Paul, Minnesota; and Tulsa, Oklahoma. Regional satellite offices are located in Rapid City, South Dakota; Temecula, California; Bellingham, Washington; and Madison, Mississippi. The Commission plans to open field offices in Michigan, Florida, New Mexico, and Northern California to address the rapid growth of Indian gaming in these regions.

The Commission established its field structure to increase effectiveness and improve the level and quality of services it provides. The field offices are vital to carrying out the statutory responsibilities of the Commission and securing industry compliance with the Act. The Commission's efficiency and effectiveness has improved as a result of locating auditors and field investigators closer to tribal gaming facilities. Regular visits enable better oversight of tribal compliance with regulations and allows for timely intervention where warranted. In addition to auditing and investigative activities, the field staff provides technical assistance, education, and training to promote a better understanding of gaming controls within the regulated industry, and to enhance cooperation and compliance.

## **Recent Changes Affecting Budget Priorities**

When IGRA was enacted in 1988, Indian gaming was a \$100 million per year industry, and the agency operated on a \$2.5 million budget. The years since the enactment of IGRA have seen a tremendous growth in the Indian gaming industry. Currently, the industry consists of approximately 405 gaming operations in 28 states. These operations are owned, operated, or licensed by 229 tribal governments. The industry generated \$22.6 billion of gross gaming revenues in 2005, an increase of over 16.6 percent from 2004.

In addition to the tremendous increase in the magnitude of Indian gaming, the technology of games is changing and financial resources must be directed to training NIGC officials, or contracting with technical experts, to assure proper audit and review of individual gaming operations. The Commission's development and implementation of a broad-based consultation policy has impacted the financial and staff resources. Functions requiring financial support include ambitious regulatory initiatives for minimum internal control standards. In its oversight role, NIGC is also developing technical standards for Class II bingo and pulltab machines and is developing classification standards to clarify the distinction between Class II and III games.

In 2006, the NIGC addressed major concerns identified in its outreach in consultation efforts during 2003. The Commission launched a comprehensive review of the Commission's Minimum Internal Control Standards (MICS) and mobilized an effort to distinguish between electronic and technological aids which are permitted to aid in the play of uncompact Class II gaming, and electronic facsimile and slot machines which require Class III compacts to be utilized in tribal gaming. The consultation process the Commission embarked upon in 2003 continued throughout 2005 and 2006, and these issues evolved as those with great importance to the tribal gaming industry.

The Commission plans to continue the consultation process to ensure that all tribes have the opportunity to present their respective positions on various issues. In 2006, the Commission engaged in 139 government-to-government consultation meetings across the country, of which 673 tribal representatives attended, to address complicated issues facing the Indian gaming industry.

### **Background**

Prior to 1997, the Commission was legislatively prohibited from collecting fees in excess of \$1.5 million annually. The 1998 Interior Appropriations Act (P.L. 105-83) expanded the fee base to include Class III (casino style) gaming and raised the limitation on annual fee collections to \$8 million. In the 2003, 2004, 2005, and 2006 Interior Appropriations Acts, the Congress enacted a general provision raising this limitation to \$12 million for fiscal years 2004, 2005, 2006, and 2007 respectively. On May 12, 2006, the Native American Technical Corrections Act of 2006 was enacted. Title III of this Act, struck the subparagraph containing the dollar amount fee limitation, and replaced it with a formula limiting fees imposed in any fiscal year to 0.080 percent of the gross gaming revenues of all gaming operations subject to regulation by NIGC. Consequently, the budget estimates for 2007 and 2008 reflect the impact of the revised fee limitation.

For the past several years, the annual appropriation acts have included language raising the Commission's limitation on assessments to \$12 million. In view of the tremendous growth in the Indian gaming industry, the \$12 million limitation was insufficient to allow effective oversight of the Indian Gaming industry.

To this end, the Administration submitted authorization language to the Congress, and significant revisions to NIGC's authorization were incorporated into the Native American Technical Corrections Act of 2006 (P.L. 109-221), enacted in May of 2006. This legislation incorporated the Administration's proposal to limit the total amount of fees assessed during any fiscal year to no more than .080 percent of the gross gaming revenues of all gaming operations subject to Commission regulation.

The newly enacted fee limitation will allow the agency to maintain a fee collection level that is in proportion to the size of the industry it oversees. With fees capped at 0.080 percent of the industry's gross revenue, the Commission's funding will expand or contracting in proportion to the growth or contraction of the Indian gaming industry.



Another change included in P.L. 109-221, is the requirement that the Commission, like other Federal agencies, be subject to the Government Performance and Results Act of 1993, and that any plan instituted in compliance with the Government Performance and Results Act includes technical assistance to tribal gaming operations.

### **Annual Fees for Operations**

The Commission assesses fees on tribal gaming revenues in accordance with procedures set forth in 25 C.F.R. Part 514. At the beginning of each calendar year, by majority vote, the Commission publishes a preliminary fee rate. A final rate is established and published in the last quarter of the year based on prior year gross gaming revenues. The rate must be sufficient to generate income to fund the annual operation of the Commission and maintain a transition balance for the upcoming year's operation.

Maintenance of this transition balance is essential to the fiscal integrity of the Commission because the unique statutory provisions governing the Commission's funding subject it to significant cash flow variations. Unlike other federal agencies, the Commission's authorizing legislation does not provide for full funding at the beginning of each fiscal year. Instead, the Commission receives quarterly installments equal to approximately  $\frac{1}{4}$  of each gaming tribe's projected annual fee assessment. The carryover transition balance is necessary to cover the first and second quarter of operation until the fees are actually received and credited to the operating account. Without this transition balance, funds could potentially be insufficient to maintain continuity of operation. Fees collected during the fourth quarter of the fiscal year 2006 will provide the operational capital for the first quarter of fiscal year 2007. The Commission attempts to maintain a transition balance to fund the first two quarters of the new fiscal year, because cash flow variations often occur with potentially serious operational consequences should revenue fall short of projections.

## **Summary of the 2008 Budget**

### **Permanent Appropriation**

The Indian Gaming Regulatory Act, as amended, established the National Indian Gaming Commission as an independent agency within the Department of the Interior. The Commission monitors and regulates gaming activities conducted on Indian lands. NIGC's operational costs are financed through annual assessments of gaming operations regulated by the Commission.

All costs associated with the Commission's operation during 2008 will be derived from fees assessed on and collected from the regulated industry. The Commission will continue its consultation with the affected tribes and evaluate their input prior to implementing the proposed budget. The revenue to be collected in 2008 will assure funding to address the full-year impact of 2007 new hires. The Commission will continue to maintain a carryover balance sufficient to assure that cash flow variations do not impact ongoing operations. As previously noted, fees are paid quarterly, based on each gaming tribe's projected annual assessment. This system often results in cash flow variations, and therefore a transition balance, derived from prior year funds carried forward to the new fiscal year, is essential to continuity of operations.

With a projected staffing increase from 86 FTE in 2006 to 119 FTE in 2008, the NIGC is forecasting full-year obligations of \$16 million in fiscal year 2007 and \$17 million in 2008. This will allow the Commission to hire additional local and field personnel to address the demands of the expanding Indian gaming industry. These funds will also be used to upgrade and improve NIGC's information management system, open new field offices, and expand training. This forecast excludes pending Colorado River Indian Tribe (CRIT) expense for class III gaming.

### **Reimbursable Expenses**

The NIGC conducts background investigations of individuals and entities with a financial interest in, or management responsibility for, potential management contracts. Pursuant to the Indian Gaming Regulatory Act, Section 2711(e), these investigations are conducted to determine whether the contracts can be approved. Accordingly, the Commission incurs reimbursable expenses of approximately \$1 million annually, reimbursed by potential contractors. In addition, the Commission incurs reimbursable expenses of \$1.5 million for fingerprint processing costs performed through an agreement with the Federal Bureau of Investigation. These costs are reimbursed by the tribal gaming facility requesting the fingerprinting services.

**Department of the Interior  
Summary of Requirements  
(in thousands of dollars)**

**Appropriation: NIGC Gaming Activity Fees**

**Summary of Changes**

	<u>FTE</u>	<u>Amount</u>	<u>FTE</u>	<u>Amount</u>
Total 2007			115.0	16,000.0
Fixed cost and related changes:				
Additional cost in 2007 of the January 2006 pay raise		80.0		
Additional cost in 2008 of the January 2008 pay raise		220.0		
Total Fixed cost and related changes:		300.0		300.0
Program changes:				
Impact of additional 4 FTE	4.0	370.0	4.0	
Full year impact of 2007 new hires (Benefits@25%)		110.0		
Rent/Space/Communication/Utilities		120.0		
Other Services*		100.0		
Total Program Changes		700.0		700.0
Sub-Total				1,000.0
2008 Total Requirements			119.0	17,000.0

\* Includes charges from OPM, MMS personnel charges, Central Billing, Metro Program, Postage, and other miscellaneous charges

**DEPARTMENT OF THE INTERIOR  
NATIONAL INDIAN GAMING COMMISSION**

**Change in Fee Regulation**

The regulations implementing the legislative provisions governing the collection of fees have been revised to allow the Commission to collect the statutory maximum allowed by Congress. The revised regulations are as follows:

**§514.1 Annual Fees**

- (d) The total amount of all fees imposed during any fiscal year shall not exceed the statutory maximum imposed by Congress. The Commission shall credit pro-rata any fees collected in excess of this amount against amounts otherwise due at the end of the quarter following the quarter during which the Commission makes such determination.
  - (1) The Commission will notify each gaming operation as to the amount of overpayment, if any, and therefore the amount of credit to be taken against the next quarterly payment otherwise due.
  - (2) The notification required in paragraph (d)(1) of this section shall be made in writing addressed to the gaming operation.

**Supplementary Information:**

The Commission will change its current regulations to reflect changes in the statutory fee limitation. This regulation has been amended so that the amount of fees imposed by the Commission is directly related to Congressional action. The change will allow the Commission to collect up to the statutory maximum and will eliminate the need to regularly amend this regulation as Congress raises or lowers the fee level.



**Justification of Program and Performance**

**Appropriation: NIGC Gaming Activity Fees**

	<u>FY 2007</u> <u>Estimate</u>	<u>Fixed Costs</u> <u>Changes</u>	<u>Program</u> <u>Changes</u>	<u>FY 2008</u> <u>Estimate</u>	<u>Change</u> <u>From</u> <u>FY 2007</u>
(\$000)	16,000	+300	+1,700	18,000	+2,000
FTE	115	--	+4	119	+4

**Authorization:**

Indian Gaming Regulatory Act, Public Law 100-497, as amended.

**Objectives:**

To regulate and monitor gaming conducted on Indian lands and to protect Indian gaming as a means of generating Indian tribal revenues.

**Program Activities:**

The Commission's mission is to regulate gaming activities on Indian lands for the purpose of shielding Indian tribes from organized crime and other corrupting influences; ensuring that Indian tribes are the primary beneficiaries of gaming revenues; and assuring that gaming is conducted fairly and honestly by both operators and players. To affect these goals, the Commission is authorized to conduct investigations; undertake enforcement actions, including the issuance of notices of violation; assessment of civil fines, and issuance of closure orders; review and approve management contracts; and issue such regulations as are necessary to meet its responsibilities under the Act.

The Act grants broad authority to the Commission and provides authority to the Chairman to:

- issue temporary closure orders
- levy civil fines, of up to \$25,000 per violation per day, against a tribe, management contractor, or individual operator for violation of the Act, the regulations or a tribal gaming ordinance
- approve tribal gaming ordinances
- approve gaming management contracts
- appoint and supervise staff

The Commission as a whole is empowered to:

- monitor gaming activities
- inspect gaming premises
- conduct background investigations

**Program Activities: (cont.)**

- inspect records relating to gaming
- approve the annual budget
- adopt regulations for the assessment and collection of civil fines
- adopt a schedule of annual fees
- issue permanent closure orders

Together the Commission serves as an appellate body. Aggrieved parties may appeal decisions of the Chairman to the full Commission.

In carrying out these responsibilities, the Commission also:

- provides education, training and technical assistance regarding applicable regulatory requirements;
- assists tribes with background investigations and fingerprint processing;
- receives and processes appeals;
- conducts formal and informal hearings;
- consults with Indian tribes, states and the regulated community;
- defends against lawsuits challenging the Commission's actions;
- issues advice and guidance through bulletins, advisory opinions and other publications; and
- provides audits and other evaluative services.

**Legislative Change**

Having exhausted its capacity to operate within the strict limits set out in the 1988 amendment to IGRA, the Commission's legislative fee limitation was raised to \$12 million on a one-year basis for fiscal years 2004, 2005, 2006.

In 2006, the enactment of P.L. 109-221 changed the cap on the fees paid to the Commission annually by each gaming operation to 0.08% of assessable gaming revenue. The passage of this legislation recognizes the steady growth in tribal gaming, the impact on regulation and oversight and the resource requirements of the Commission.

**DEPARTMENT OF THE INTERIOR**  
**NATIONAL INDIAN GAMING COMMISSION**  
**Special Fund Receipt/Expenditure Account**  
**Gaming Activity Fees**  
**(in millions of dollars)**

Identification code 14-5141-0-2-806		2006	2007	2008
		Actual	Estimate	Estimate
<u>Unavailable Receipts:</u>				
02.60	NIGC, Gaming activity fees.....	10	16	18
<u>Appropriations:</u>				
05.00	NIGC, Gaming activity fees.....	-10	-16	-18
07.99	Total balance, end of year.....	---	---	---
<b>Program and Financing (in millions of dollars)</b>				
Identification code 14-5141-0-2-806		2006	2007	2008
		Actual	Estimate	Estimate
<u>Obligations by program activity:</u>				
00.01	Direct Program Activity	14	16	17
10.00	Total new obligations.....	14	16	17
<u>Budgetary resources available for obligation:</u>				
21.40	Unobligated balance carried forward, start of year.....	7	3	3
22.00	New budget authority (gross).....	10	16	18
23.90	Total budgetary resources available for obligation.....	17	19	21
23.95	Total new obligations.....	-14	-16	-17
24.40	Unobligated balance carried forward, end of year.....	3	3	4
<u>New budget authority (gross), detail:</u>				
Mandatory:				
60.20	Appropriation (special fund).....	10	16	18
<u>Change in obligated balances:</u>				
72.40	Obligated balance, start of year.....	1	2	4
73.10	New obligations.....	14	16	17
73.20	Total outlays (gross).....	-13	-14	-17
73.45	Recoveries of prior year obligations.....			
74.40	Obligated balance, end of year.....	2	4	4
<u>Outlays (gross), detail:</u>				
86.97	Outlays from new mandatory authority.....	10	13	14
86.98	Outlays from mandatory balances.....	3	1	3
87.00	Total Outlays (gross).....	13	14	17
<u>Net budget authority and outlays:</u>				
89.00	Budget authority.....	10	16	18
90.00	Outlays .....	13	14	17



**DEPARTMENT OF THE INTERIOR  
NATIONAL INDIAN GAMING COMMISSION  
Special Fund Receipt/Expenditure Account  
Gaming Activity Fees**

**Object Classification (in millions of dollars)**

Identification code 14-5141-0-2-806		2006	2007	2008
		Actual	Estimate	Estimate
<b>Direct obligations</b>				
11.11	Personnel compensation: Full-time permanent .....	7	9	9
11.21	Civilian personnel benefits.....	2	2	2
12.10	Travel and transportation of persons.....	1	1	1
12.31	Rental payments to GSA.....	---	2	2
12.52	Other Services.....	3	2	2
12.60	Supplies and materials.....	1	---	1
99.99	Total new obligations.....	14	16	17

**Personnel Summary**

Identification code 14-5141-0-2-806		2006	2007	2008
		Actual	Estimate	Estimate
<b>Total compensable workyears</b>				
	Full-time equivalent employment .....	86	115	119

**DEPARTMENT OF THE INTERIOR**  
**NATIONAL INDIAN GAMING COMMISSION**  
**General and Special Funds: Salaries and Expenses**

**Program and Financing (in millions of dollars)**

Identification code 14-0118-0-1-806		2006	2007	2008
		Actual	Estimate	Estimate
<u>Obligations by program activity:</u>				
09.01	Reimbursable Program.....	2	2	2
10.00	Total obligations (object class 25.2).....	2	2	2
<u>Budgetary resources available for obligation:</u>				
21.40	Unobligated balance carried forward, start of year.....	4	5	5
22.00	New budget authority (gross).....	3	2	2
23.90	Total budgetary resources			
	available for obligation.....	7	7	7
23.95	Total new obligations.....	-2	-2	-2
24.40	Unobligated balance carried forward, end of year.....	5	5	5
<u>New budget authority (gross), detail:</u>				
Discretionary:				
58.00	Spending authority from offsetting collections:			
	offsetting collections (cash): .....	3	2	2
<u>Change in obligated balances:</u>				
73.10	Total new obligations.....	2	2	2
73.20	Total outlays (gross).....	-2	-2	-2
<u>Outlays (gross), detail:</u>				
86.90	Outlays from new discretionary authority.....	2	2	2
Offsets:				
Against gross budget authority and outlays:				
88.40	Offsetting collections (cash) from Non-Federal sources.....	-3	-2	-2
<u>Net budget authority and outlays:</u>				
89.00	Budget authority.....	---	---	---
90.00	Outlays (net).....	-1	---	---

**DEPARTMENT OF THE INTERIOR**  
**NATIONAL INDIAN GAMING COMMISSION**  
**General and Special Funds: Salaries and Expenses**

**Object Classification (in millions of dollars)**

Identification code 14-0118-0-1-806		2006	2007	2008
		Actual	Estimate	Estimate
Reimbursable obligations				
22.52	Other services.....	2	2	2
29.99	Total new obligations.....	2	2	2

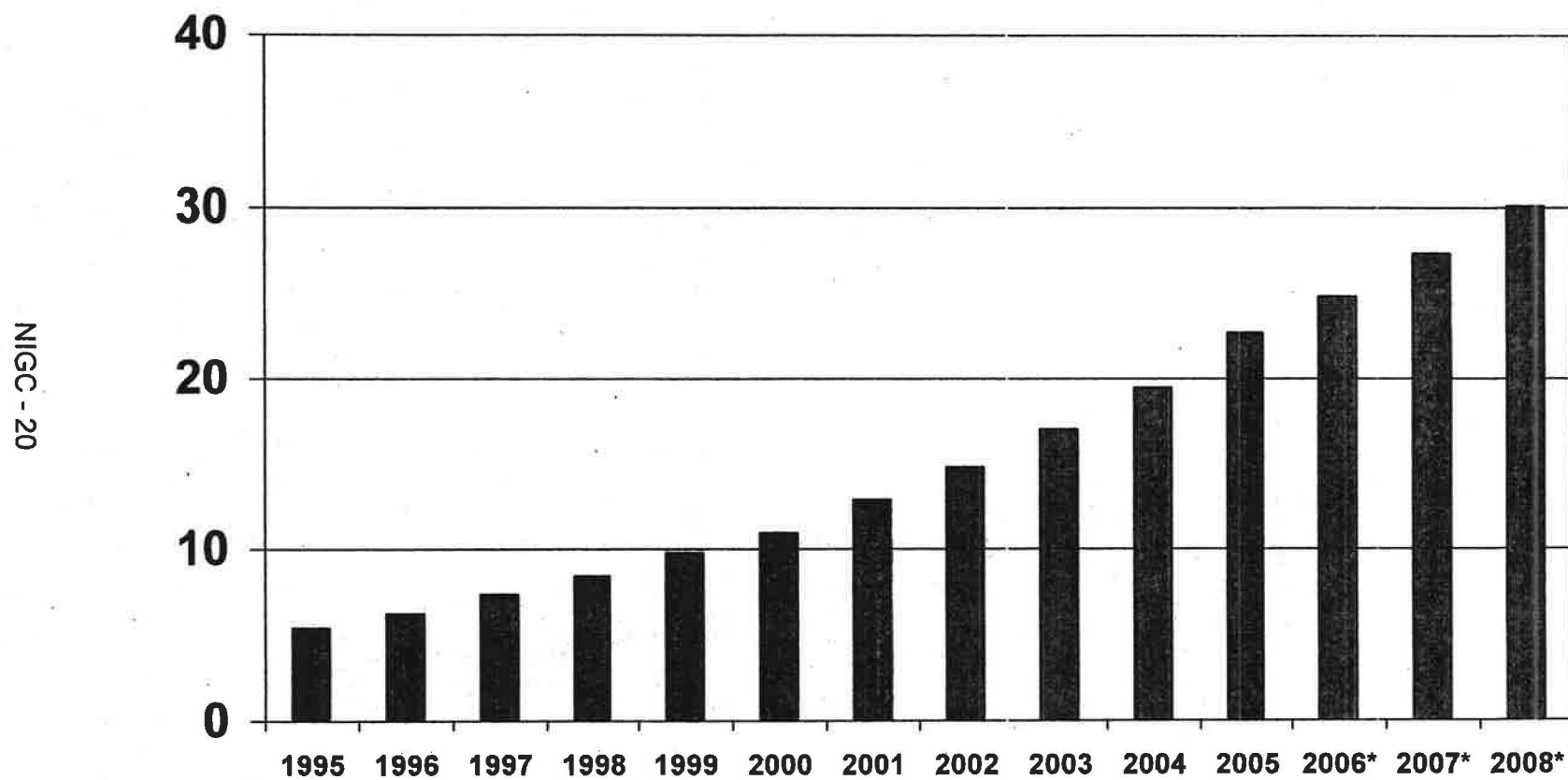
**DEPARTMENT OF THE INTERIOR  
NATIONAL INDIAN GAMING COMMISSION  
EMPLOYEE FTE COUNT BY GRADE OR GRADE EQUIVALENT**

	FY 2006 Actual	FY 2007 Estimate	FY 2008 Estimate
Executive Level IV.....	1	1	1
Executive Level V.....	1	2	2
ES-4.....	2	2	2
ES-1.....	1	1	1
GS-15.....	9	9	9
GS-14.....	9	11	11
GS-13.....	30	34	35
GS-12.....	15	28	30
GS-11.....	2	6	7
GS-10.....	5	5	5
GS-09.....	4	6	6
GS-08.....	0	0	0
GS-07.....	0	1	1
GS-06.....	7	7	7
GS-05.....	2	2	2
<b>Total FTE.....</b>	<b>88</b>	<b>115</b>	<b>119</b>

In accordance with the Act, appointments are made without regard to the provisions of Title 5, U.S. Code governing appointments in the competitive service.

# Indian Gaming Industry Growth

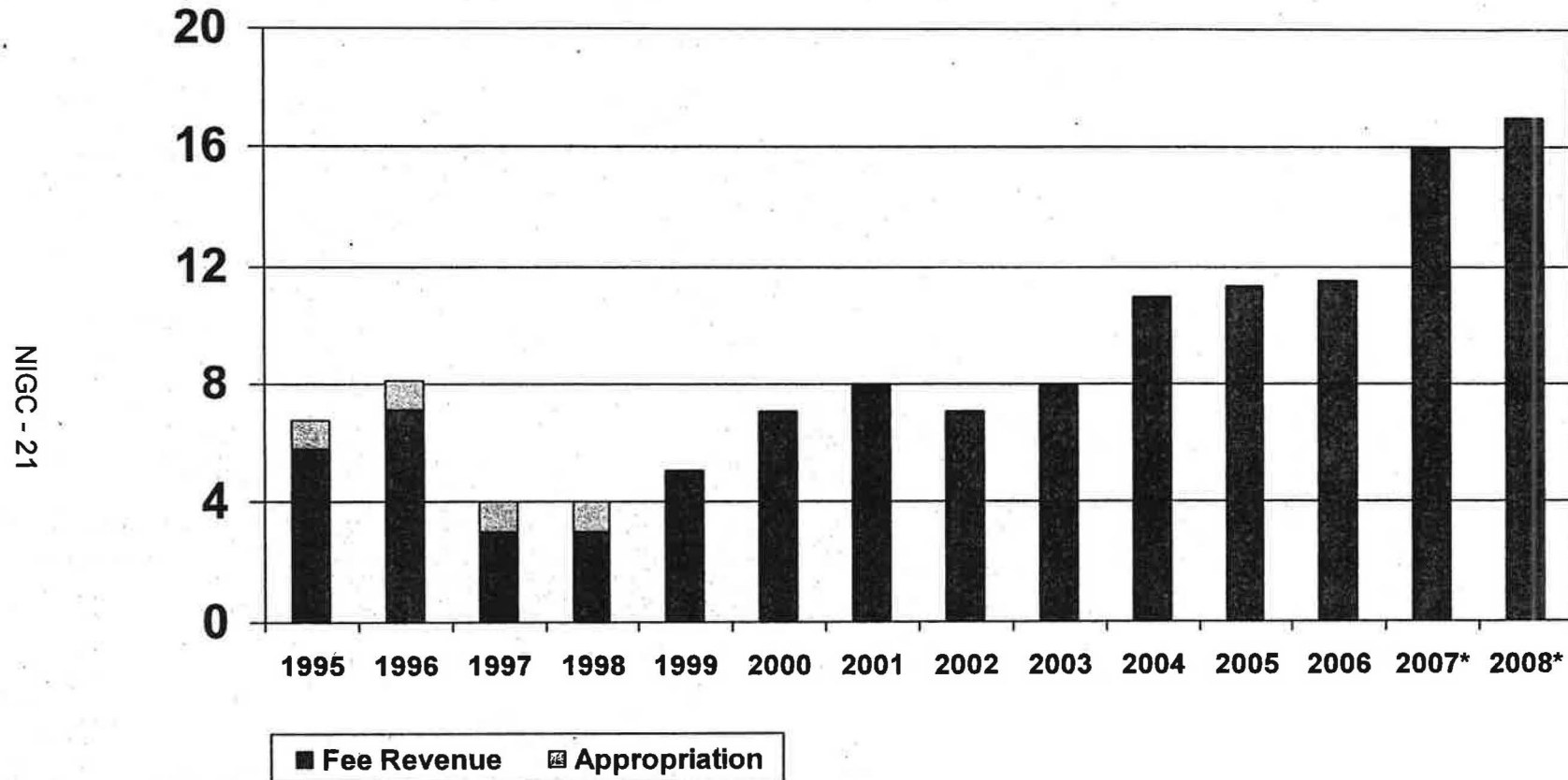
(\$ Billions)



\* Forecast

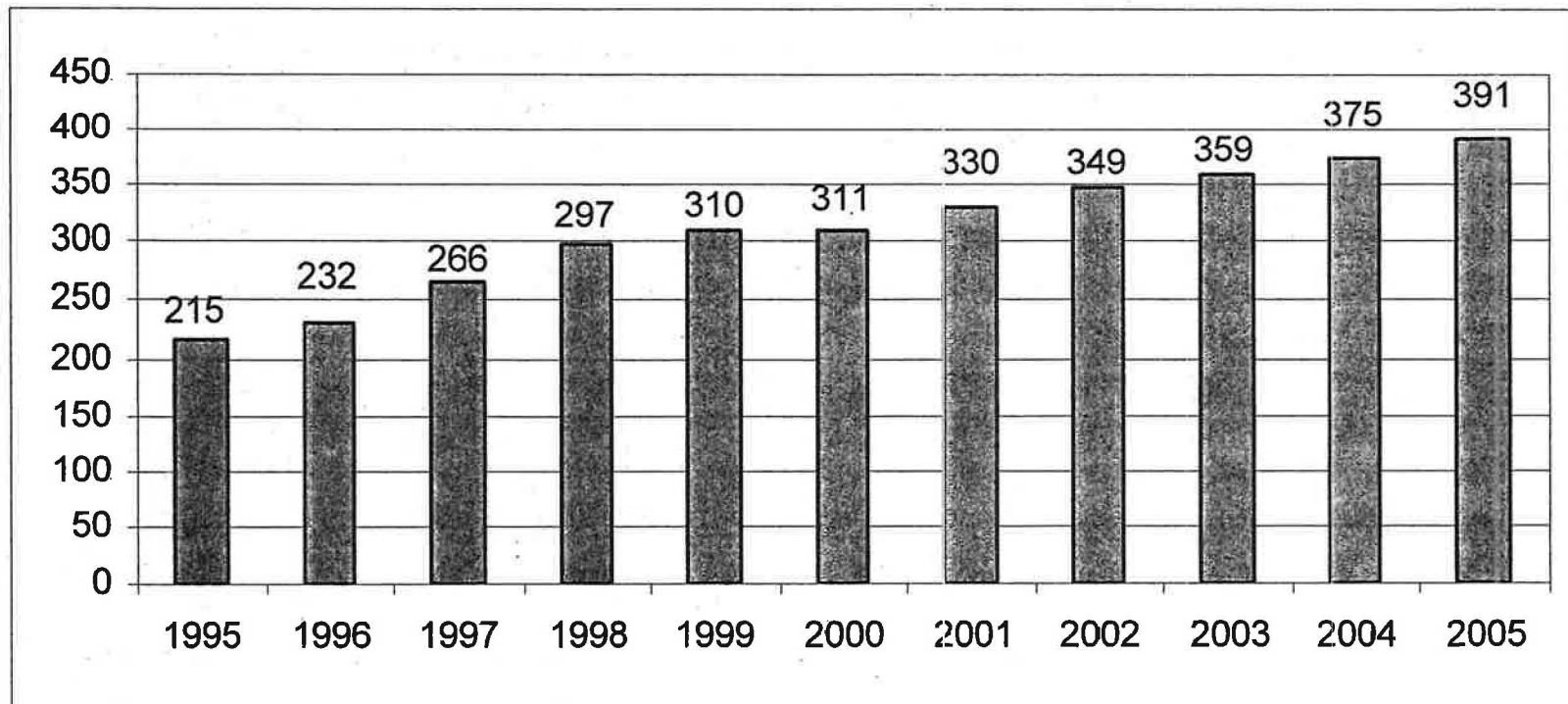
# NIGC Fee Revenue

(\$ Millions)



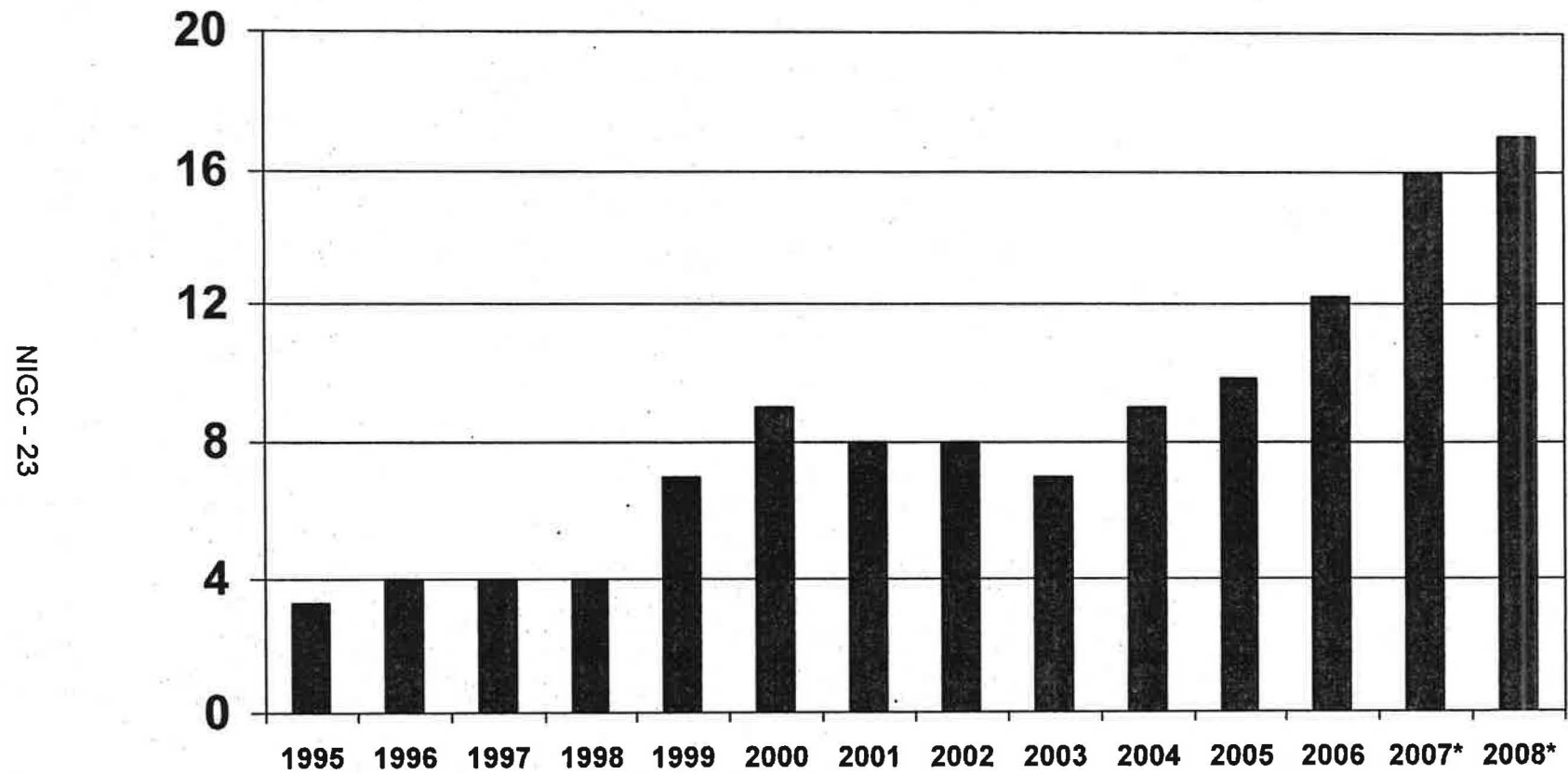
\* Forecast

# Growth in Indian Gaming Operations



# NIGC Expenditures

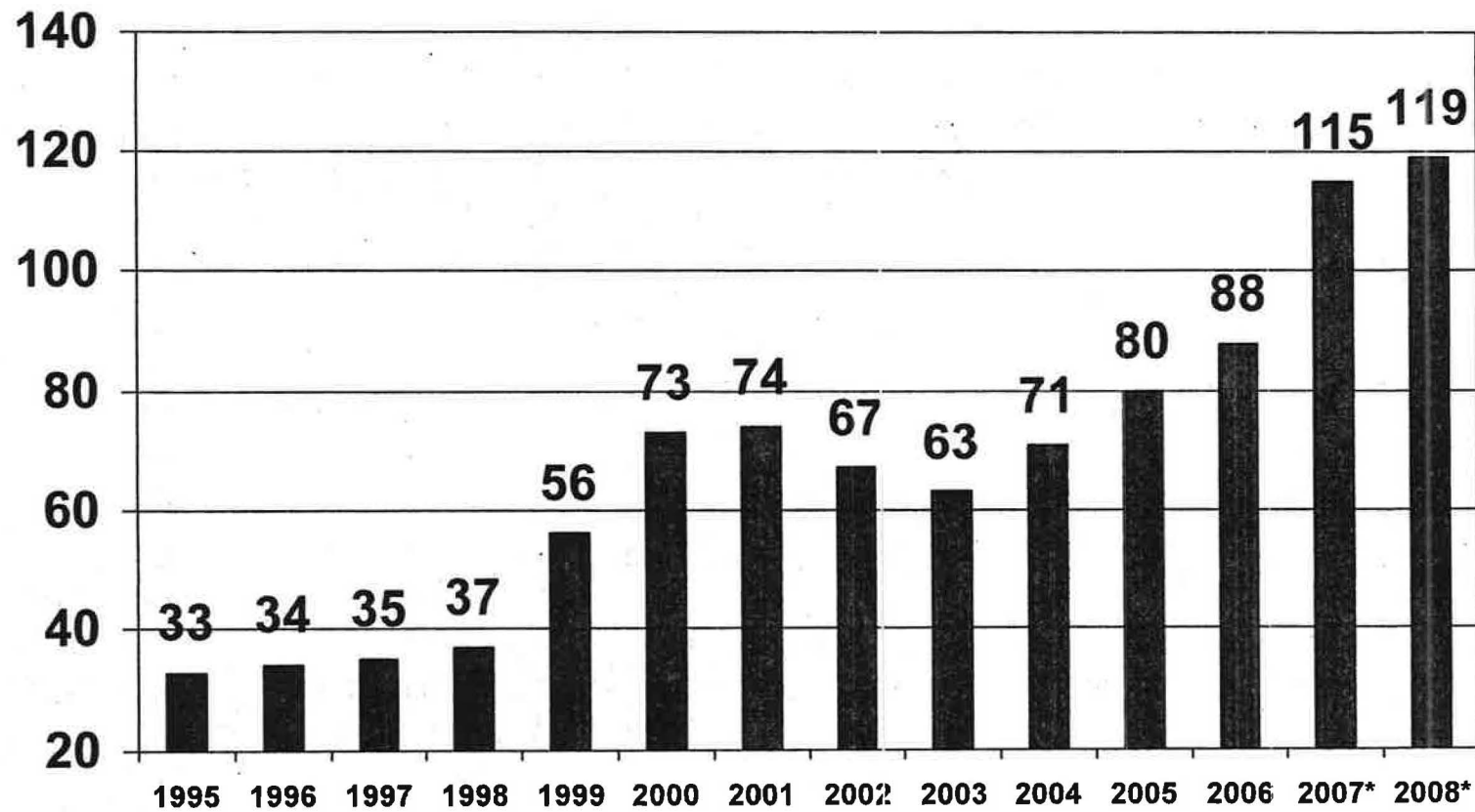
(\$ Millions)



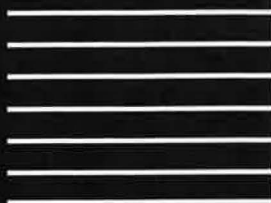
\* Forecast



# Staffing Levels



\* Forecast



# **BUDGET** The United States Department of the Interior **JUSTIFICATIONS**

and Performance Information  
Fiscal Year 2009

## **NATIONAL INDIAN GAMING COMMISSION**

NOTICE: These budget justifications are prepared for the Interior, Environment and Related Agencies Appropriations Subcommittees. Approval for release of the justifications prior to their printing in the public record of the Subcommittee hearings may be obtained through the Office of Budget of the Department of the Interior.



# **DEPARTMENT OF THE INTERIOR NATIONAL INDIAN GAMING COMMISSION**

## **Fiscal Year 2009 Budget Justification**

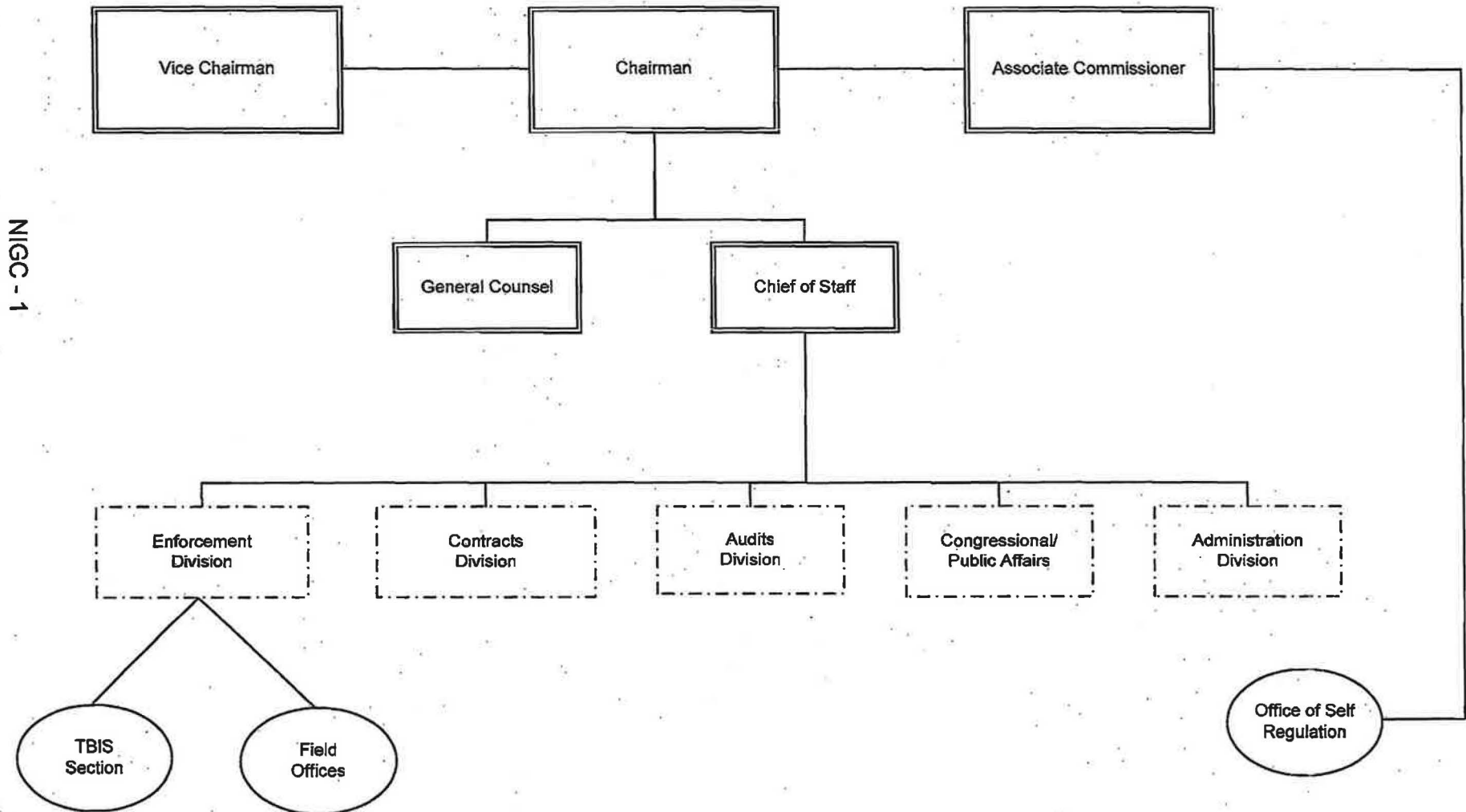
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## NATIONAL INDIAN GAMING COMMISSION ORGANIZATIONAL CHART





## **NATIONAL INDIAN GAMING COMMISSION (NIGC)**

### **Executive Summary**

When the National Indian Gaming Commission (NIGC) began operations in February 1992, the Indian Gaming industry generated revenue of about \$3 billion per year. The agency itself operated on an appropriation of \$2.2 million with 33 full-time employees with oversight of about 200 gaming operations. Since that time, the industry has grown dramatically. In 2006, the Indian gaming industry reported \$25.1 billion in revenue and there are now 423 gaming operations in 28 states.

The growth of the industry led to enactment in May 2006 of the Native American Technical Corrections Act of 2006 (P.L. 109-22). The Act enables NIGC to tie its fee collections to the growth, or contraction, of the Indian gaming industry. Specifically, the Act authorizes the Commission to collect up to 0.08 percent of the gross gaming revenue, allowing the NIGC's authorized funding to keep pace with industry growth and enabling the agency to provide needed technical assistance and essential oversight. The 2009 budget will focus primarily on hiring additional personnel, expanding field office operations, enhancing the information technology infrastructure, and providing internal and external training to keep pace with industry growth.

### **Mission and Responsibilities**

The National Indian Gaming Commission monitors gaming activity, inspects gaming premises, conducts background investigations, audits and reviews financial records of gaming operations, and undertakes enforcement actions, if necessary. Its mission, as set forth in the Indian Gaming Regulatory Act (IGRA), is to ensure that adequate safeguards are in place to shield the tribal gaming industry from organized crime and other corrupting influences and to assure that Indian tribes are the primary beneficiaries of the gaming operation and that gaming is conducted fairly and honestly.

### **General Statement**

The National Indian Gaming Commission is an independent regulatory agency within the Department of the Interior established pursuant to IGRA as amended. The Commission was created to fulfill the mandates of IGRA in fostering economic development of Indian tribes by ensuring the integrity of Indian tribal government gaming on Indian lands and that the tribes are the primary beneficiaries of their gaming operations.



This is accomplished by the promulgation of regulations to guide the operation of tribal government gaming by:

- Direct regulation of certain aspects of such gaming activities, and coordinating regulation with tribal and other regulatory agencies through the review and approval of tribal gaming ordinances and agreements
- Reviewing backgrounds of individuals and entities to ensure the suitability of those seeking to engage or invest in such gaming
- Maintaining oversight and reviewing the conduct of gaming operations and financial performance
- Enforcement actions for violations of IGRA, the regulations of the Commission, and tribal gaming ordinances, including imposition of appropriate sanctions on those committing such violations

As it fulfills these responsibilities, the Commission is particularly vigilant for any indications of corrupting influences such as those posed by organized criminal elements known to be attracted to cash-intensive industries such as gaming.

IGRA authorizes the Commission to assess and collect fees on tribal gaming revenues to cover NIGC operating costs. The NIGC also conducts background investigations, including fingerprinting of individuals and entities with a financial interest in, or management responsibility for potential management contracts. These investigations are conducted to determine whether the contracts can be approved. The Commission is reimbursed annually from the potential contractors for investigative services. The Federal Bureau of Investigation and the Commission are reimbursed for fingerprint processing costs.

The Commission is mindful of the trust relationship the United States bears to the Indian nations it serves and of the importance of prompt and efficient administration of IGRA to foster the economic development so urgently needed by Indian tribes. In all phases of its regulatory performance, the Commission and its staff observe due process rights of those who come before it and extend to all individuals the courtesy they are entitled to expect from their government. The Commission strives to be responsive to tribes seeking guidance as they enter the dynamic gaming industry, monitors trends in tribal government gaming, and reports its findings to Congress and the Administration.

### **The Indian Gaming Regulatory Act (IGRA) of 1988**

Congress took up the issue of tribal gaming and conducted a series of hearings, ultimately culminating in the passage of IGRA in 1988. Embodied in IGRA was a compromise between state and tribal interests. The states were given a role in determining the scope and extent of tribal gaming by requiring tribal-state compacts for Class III gaming. However, tribal regulatory authority over Class II gaming without state intervention was preserved in full.

IGRA establishes the jurisdictional framework that governs Indian gaming. IGRA establishes three classes of games with a different regulatory scheme for each.

- Class I gaming is defined as traditional and social Indian gaming for minimal prizes. Regulatory authority over Class I gaming is vested exclusively in tribal governments.
- Class II gaming is defined as the game of chance commonly known as bingo (whether or not electronic, computer, or other technological aids are used in connection therewith) and, played in the same location as bingo, pull-tabs, punchboards, tip jars, instant bingo and other games similar to bingo. Class II gaming also includes non-banked card games, that is, games that are played exclusively against other players rather than against the house or a player acting as a bank. IGRA specifically excludes slot machines or electronic facsimiles of any game of chance from the definition of Class II games. Tribes retain their authority to conduct, license and regulate Class II gaming so long as the state in which the tribe is located permits such gaming for any purpose and the tribal government adopts a gaming ordinance approved by the National Indian Gaming Commission (NIGC). Tribal governments are responsible for regulating Class II gaming with Commission oversight.
- Class III is defined as all forms of gaming that are neither Class I nor II. Games commonly played in casinos, such as slot machines, blackjack, craps, and roulette fall in the Class III category, as well as wagering games and electronic facsimiles of any games of chance. Generally, Class III gaming is often referred to as full-scale casino-style gaming. As a compromise among Tribal, State and Federal interests, IGRA restricts tribal authority to conduct Class III gaming. Before a tribe may lawfully conduct Class III gaming, the following conditions must be met: (1) the particular form of Class III gaming that the tribe wants to conduct must be permitted in the state in which the tribe is located; (2) the tribe and the state must have negotiated a compact that has been approved by the Secretary of the Interior, or the Secretary must have approved regulatory procedures; and (3) the tribe must have adopted a tribal gaming ordinance that has been approved by the Chairman of the Commission.

The regulatory system for Class III gaming is more complex than a casual reading of the statute might suggest. Although Congress clearly intended states to address their regulatory issues in tribal-state compacts, it was not mandatory in IGRA and many states accordingly rely upon continued federal regulatory oversight by the NIGC to address regulatory concerns regarding Class III tribal gaming under IGRA, including approval of management contracts and tribal ordinances. Thus, the extent of a state's participation in the regulation of Class III gaming varies from state to state. In addition, IGRA expressly assigned a number of specific regulatory functions to the NIGC, such as: approving tribal ordinances and class III gaming; approving management contracts; ensuring tribes and management contracts abide by IGRA and NIGC rules and regulations; and implementing regulations. Accordingly, the Commission plays a key role in the oversight and regulation of both Class II and III gaming.

### **The Commission and its Activities**

The Commission became operational in 1992. It is comprised of a Chairman and two Commissioners, each of whom are appointed to a three-year term. The Commission establishes policy, and is responsible for carrying out the formal duties assigned to it by the Act. The Chairman appoints a Chief of Staff to manage the day-to-day activities of the Commission and a General Counsel to handle its legal affairs.

The Commission provides federal oversight to approximately 423 tribally owned, operated, or licensed gaming establishments in 28 states. The Commission maintains its headquarters in Washington, D.C., has five field offices, and four satellite offices. The Commission is divided into five separate divisions with a combined staff of approximately 100 full-time employees as September 30, 2007. Approximately fifty members of the Commission staff are assigned to headquarters in Washington, D.C. with the remaining 50 assigned among five field offices located in: Portland, Oregon; Sacramento, California; Phoenix, Arizona; St. Paul, Minnesota; and Tulsa, Oklahoma. Regional satellite offices are located in Rapid City, South Dakota; Temecula, California; Bellingham, Washington; and Flowood, Mississippi. The Commission plans to open field offices in Michigan, Florida, New Mexico, and Northern California to address the rapid growth of Indian gaming in these regions.

The Commission established its field structure to increase effectiveness and improve the level and quality of services it provides. The field offices are vital to carrying out the statutory responsibilities of the Commission and securing industry compliance with the Act. The Commission's efficiency and effectiveness have improved as a result of locating auditors and field investigators closer to tribal gaming facilities. Regular visits enable better oversight of tribal compliance with regulations and allow for timely intervention where warranted. In addition to auditing and investigative activities, the field staff provides technical assistance, education, and training to promote a better understanding of gaming controls within the regulated industry, and to enhance cooperation and compliance.

### **Recent Changes Affecting Budget Priorities**

When IGRA was enacted in 1988, Indian gaming was a \$100 million per year industry. When the Commission became operational in 1992, it received a direct appropriation of \$1.5 million and collected an additional \$1 million in fees assessed on the regulated industry. At that time, the Indian gaming industry generated revenue of \$1.6 billion. The years since the enactment of IGRA have seen a tremendous growth in the Indian gaming industry. Currently, the industry consists of approximately 423 gaming operations in 28 states. These operations are owned, operated, or licensed by 228 federally recognized tribal governments. The industry generated \$25.1 billion of gross gaming revenues in 2006, which is an increase of over 11.1 percent from 2005.

In addition to the tremendous increase in the magnitude of Indian gaming, the technology of games is changing and financial resources must be directed to training NIGC officials, or contracting with technical experts, to assure proper audit and review of individual gaming operations. The Commission's development and implementation of a broad-based consultation policy have impacted the financial and staff resources. Furthermore, ambitious regulatory initiatives for Minimum Internal Control Standards (MICS), technical standards for Class II bingo and pulltab machines, and classification standards to clarify the distinction between Class II and III games were initiated, and require financial support.

In 2007, the NIGC addressed major concerns identified in its outreach in consultation efforts begun in 2003. The Commission launched a comprehensive review of the Commission's MICS and mobilized an effort to distinguish between electronic and technological aids which are permitted to aid in the play of uncompact Class II gaming, and electronic facsimile and slot machines which require Class III compacts to be utilized in tribal gaming. The consultation process the Commission embarked upon in 2003 continued throughout 2006 and 2007, and these issues evolved as those with great importance to the tribal gaming industry.

The Commission plans to continue the consultation process to ensure that all tribes have the opportunity to present their respective positions on various issues. In 2007, the Commission engaged in 139 government-to-government consultation meetings across the country, of which 673 tribal representatives attended, to address complicated issues facing the Indian gaming industry.

### **Background**

Prior to 1997, the Commission was legislatively prohibited from collecting fees in excess of \$1.5 million annually. The 1998 Interior Appropriations Act (P.L. 105-83) expanded the fee base to include Class III (casino style) gaming and raised the limitation on annual fee collections to \$8 million. In the 2003, 2004, 2005, and 2006 Interior Appropriations Acts, the Congress enacted a general provision raising this limitation to \$12 million for fiscal years 2004, 2005, 2006, and 2007 respectively. On May 12, 2006, the Native American Technical Corrections Act of 2006 (P.L. 109-221) was enacted. Title III of this Act struck the subparagraph containing the dollar amount fee limitation, and replaced it with a formula allowing fees up to .08 percent in any fiscal year of the gross gaming revenues of all gaming operations subject to regulation by NIGC.

The newly enacted fee limitation will allow the agency to maintain a fee collection level that is in proportion to the size of the industry it oversees. With fees at 0.08 percent of the industry's gross revenue, the Commission's funding will expand or contract in proportion to the growth or contraction of the Indian gaming industry.

Another change included in P.L. 109-221 is the requirement that the Commission, like other Federal agencies, be subject to the Government Performance and Results Act (GPRA) of 1993, and that any plan instituted in compliance with GPRA include technical assistance to tribal gaming operations. On October 1, 2007 NIGC submitted a draft strategic plan to OMB, laying out proposed strategic goals. These goals relate to organizational excellence, enforcement of

license regulations, program evaluations, compliance reviews, financial planning, auditing, and internal controls. They also address the sharing of information and consultation with stakeholders along with technical assistance and training provided to federally recognized Tribes.

### **Annual Fees for Operations**

The Commission assesses fees on tribal gaming revenues in accordance with procedures set forth in 25 C.F.R. Part 514. At the beginning of each calendar year, by majority vote, the Commission publishes a preliminary fee rate. A final rate is established and published in the last quarter of the year based on prior year gross gaming revenues. The rate must be sufficient to generate income to fund the annual operation of the Commission and maintain a transition balance for the upcoming year's operation.

Maintenance of this transition balance is essential to the fiscal integrity of the Commission because the unique statutory provisions governing the Commission's funding subject it to significant cash flow variations. Unlike other federal agencies, the Commission's authorizing legislation does not provide for full funding at the beginning of each fiscal year. Instead, the Commission receives quarterly installments equal to approximately one-quarter of each gaming tribe's projected annual fee assessment. The carryover transition balance is necessary to cover the first and second quarter of operation until the fees are actually received and credited to the operating account. Without this transition balance, funds could potentially be insufficient to maintain continuity of operation. Fees collected during the fourth quarter of the fiscal year 2007 will provide the operational capital for the first quarter of fiscal year 2008. The Commission attempts to maintain a transition balance to fund the first two quarters of the new fiscal year, because cash flow variations often occur with potentially serious operational consequences should revenue fall short of projections.

## **Summary of the FY 2009 Budget**

### **Permanent Appropriation**

The Indian Gaming Regulatory Act, as amended, established the National Indian Gaming Commission as an independent agency within the Department of the Interior. The Commission monitors and regulates gaming activities conducted on Indian lands. NIGC's operational costs are financed through annual assessments of gaming operations regulated by the Commission.

All costs associated with the Commission's operation during 2008 will be derived from fees assessed on and collected from the regulated industry. The Commission will continue its consultation with the affected tribes and evaluate their input prior to implementing the proposed budget. The revenue to be collected in 2008 will assure funding to address the full-year impact of 2008 new hires. The Commission will continue to maintain a carryover balance sufficient to assure that cash flow variations do not impact ongoing operations. As previously noted, fees are paid quarterly, based on each gaming tribe's projected annual assessment. This system often results in cash flow variations, and therefore a transition balance, derived from prior year funds carried forward to the new fiscal year, is essential to continuity of operations.

With a projected staffing increase from 96 FTE in 2007 to 129 FTE in 2009, the NIGC is forecasting full-year obligations of \$15 million in fiscal year 2008 and \$17 million in 2009. This will allow the Commission to hire additional local and field personnel to address the demands of the expanding Indian gaming industry. These funds will also be used to upgrade and improve NIGC's information management system, open new field offices, and expand training. This forecast excludes expenditures for oversight of class III gaming as limited by the decision in Colorado River Indian Tribes (CRIT) versus the NIGC.

### **Reimbursable Expenses**

The NIGC conducts background investigations of individuals and entities with a financial interest in, or management responsibility for, potential management contracts. Pursuant to the Indian Gaming Regulatory Act, Section 2711(e), these investigations are conducted to determine whether the contracts can be approved. In accordance with Section 2711(i) of this legislation, the Commission is reimbursed approximately \$1,000,000 annually from the potential contractors. In addition, the Federal Bureau of Investigation and the Commission are reimbursed for fingerprint processing costs in the approximate amount of \$1,200,000.



**Department of the Interior  
Summary of Requirements  
(in thousands of dollars)**

**Appropriation: NIGC Gaming Activity Fees**

**Summary of Changes**

	<u>FTE</u>	<u>Amount</u>	<u>FTE</u>	<u>Amount</u>
Total 2009			123	15,000.0
Fixed cost and related changes:				
Additional cost in 2009 of the January 2008 pay raise/step inc.		80.0		
Additional cost in 2009 of the January 2009 pay raise/step inc.		300.0		
Total Fixed cost and related changes:		380.0		380.0
Program changes:				
Impact of additional 6 FTE	6	600.0	6	
Full year impact of 2008 new hires benefits		200.0		
Rent/Space/Communication/Utilities for new field offices		300.0		
Other*		520.0		
Total Program Changes		1,620.0		1,620.0
Sub-Total				2,000.0
Total Requirements			129	17,000.0

\* Includes charges from OPM, MMS personnel charges, Central Billing, Transportation Subsidy Program, Postage, and other miscellaneous charges

**DEPARTMENT OF THE INTERIOR  
NATIONAL INDIAN GAMING COMMISSION**

**Change in Fee Regulation**

The regulations implementing the legislative provisions governing the collection of fees have been revised to allow the Commission to collect the statutory maximum allowed by Congress. The revised regulations are as follows:

**§514.1 Annual Fees**

- (d) The total amount of all fees imposed during any fiscal year shall not exceed the statutory maximum imposed by Congress. The Commission shall credit pro-rata any fees collected in excess of this amount against amounts otherwise due at the end of the quarter following the quarter during which the Commission makes such determination.
  - (1) The Commission will notify each gaming operation as to the amount of overpayment, if any, and therefore the amount of credit to be taken against the next quarterly payment otherwise due.
  - (2) The notification required in paragraph (d)(1) of this section shall be made in writing addressed to the gaming operation.

**Supplementary Information:**

The Commission will change its current regulations to reflect changes in the statutory fee limitation. This regulation has been amended so that the amount of fees imposed by the Commission is directly related to Congressional action. The change will allow the Commission to collect up to the statutory maximum and will eliminate the need to regularly amend this regulation as Congress raises or lowers the fee level.





**Justification of Program and Performance**

**Appropriation: NIGC Gaming Activity Fees**

	<u>FY 2008</u> <u>Estimate</u>	<u>Fixed Costs</u> <u>Changes</u>	<u>Program</u> <u>Changes</u>	<u>FY 2009</u> <u>Estimate</u>	<u>Change</u> <u>From</u> <u>FY 2008</u>
(\$000)	15,000	+380	+1,620	17,000	+2,000
FTE	123	--	+6	129	+6

**Summary of Program Change**

**Request Component**

Provide an additional 6 FTE in local and field personnel to address the demands of the expanding Indian gaming industry +600.0

Funding to address the annualized cost of salary and benefits for staff brought on during 2008 +200.0

Funding for rent, space and utilities to fund the annualized cost +300.0

Represent the annualized cost of new field offices opened during 2008-2009 plus the increased cost of existing field offices

**Fixed Costs**

Additional cost in 2009 of the January 2008 pay increase and the cost of three quarters of the January 2009 pay increase +380

Increased costs relating to charges from the Office of Personnel Management and MMS relating to recruitment and staffing, Interior Working Capital Fund centralized and direct billing charges, increases in the cost of the Transportation subsidy program, postage, and other similar fixed costs. +520.0

**Justification of Program Change**

**Additional FTE-Field Auditors:** An additional six FTE are needed to address the demands of the expanding Indian gaming industry. Three of these positions are field auditors who are required to possess an accounting degree and a minimum of three years casino auditing experience, or the equivalent. Additionally, Field Auditors must be well informed regarding the typical methodologies employed by criminal elements attempting to exert control over a gaming operation. Referrals to law enforcement authorities have occurred and often result in successful investigations of organized criminal syndicates involved in Indian gaming. Because of the relationship between investigations and enforcement, the Commission provides cross-training

and assistance to the auditors and investigators in NIGC's Audit and Enforcement Divisions as the opportunities and needs arise.

**Additional FTE-Enforcement:** The other three FTE are needed in the area of enforcement. Enforcement staff play a critical role in processing background investigations of employees at tribal gaming facilities. IGRA requires that Indian tribes conduct background investigations on their key employees and primary management officials and notify the Commission of the results of the background investigations before issuing a license to those individuals. In a typical year, the Enforcement Division will process over 30,000 investigative reports with approximately 50,000 fingerprint cards submitted by tribes in compliance with this obligation.

Enforcement staff ensure tribal compliance with the fundamental statutory and regulatory compliance obligations required by IGRA. Oversight activities primarily involve the performance of six critical functions. These include:

- Monitoring Indian gaming operations for compliance with NIGC regulations, ranging from reviews of gaming operation records to on-site inspections to ensure the health and safety of the public.
- Assisting tribes in compliance activities including advice on how to structure a tribal gaming operation and reviewing operating procedures with tribal gaming commissions and managers.
- Investigating matters relating to regulatory violations and alleged criminal activities. Such investigations often result in the issuance of Notices of Violation, Closure Orders, and Civil Fine Assessments and the initiation of criminal investigations by various laws enforcement authorities.
- Functioning as liaison to federal, state, and tribal law enforcement officials. Law enforcement investigators facilitate the flow of information between various regulatory authorities, and help coordinate investigative and monitoring activities.
- Mediating disputes that threaten the integrity of the tribal gaming operations. Such disputes often involve factional divisions within tribes as well as disputes between tribes and management contractors.
- Conducting background investigations of individuals and companies seeking approval of management contracts. The field investigators review pertinent documents and records, conduct interviews, and verify the accuracy of information submitted by applicants.

However, investigation and enforcement are key to compliance, and additional staff are required to keep pace with the growth of the Indian gaming industry. Because of the specialized nature of these positions, the wide geographical areas and often remote locations covered, it is neither practical nor cost-effective to contract-out these positions.

**Full-Year Impact of 2008 New Hires:** Funds totaling \$200,000 are needed to cover the full-year cost new hires brought on during the course of 2008.

**Rent/Space/Communications/Utilities:** Funding of \$300,000 is needed in the areas of rent, space, communications, and utilities. The Commission maintains its headquarters in Washington, D.C., with six regional offices located in Portland, Oregon; Sacramento, California; Phoenix, Arizona; St. Paul, Minnesota; Tulsa, Oklahoma; and Washington, D.C. In addition,

satellite offices are located in Rapid City, South Dakota; Temecula, California; Bellingham, Washington; and Flowood, Mississippi. The Commission plans to open field offices in Michigan, Florida, New Mexico, and Northern California to address the rapid growth of Indian gaming in these regions. The Michigan and Florida offices will open during 2008 and the remaining two will open in 2009. The funds requested for rent, space, communications and utilities will cover the annualized cost of the Michigan and Florida offices as well as the cost of the New Mexico and Northern California field offices which will open in 2009. The new field offices will be staffed primarily by existing personnel from other field offices who will be relocated to be closer to the gaming facilities they oversee.

### **Fixed Costs**

**Personnel Related:** Funds totaling \$380,000 are needed to cover the cost of one quarter of the 2008 pay raise along with the three quarters of the 2009 pay raise that occur in fiscal year 2009.

**Other:** Funds totaling \$520,000 are need for a variety of non-personnel charges. NIGC centrally procures a number of centralized services including recruitment and staffing (from the Minerals Management Service); financial services, annual auditing; travel management, activity based costing, space management, records management, ethics training, FOIA appeals and other services (from the Department of Interior, Office of the Secretary). Increases are expected in the costs of these services. Other increases are expected in the transportation subsidy program, support of flexible spending accounts for employees, postage, and the cost of advertising vacant positions through OPM's GovWorks website.

### **Program Overview**

#### **Authorization:**

Indian Gaming Regulatory Act, Public Law 100-497, as amended (including amendments in the Native American Technical Corrections Act of 2006, P.L. 109-221).

#### **Objectives:**

To regulate and monitor gaming conducted on Indian lands and to protect Indian gaming as a means of generating Indian tribal revenues.

#### **Program Activities:**

The Commission regulates gaming activities on Indian lands: for the purpose of shielding Indian tribes from organized crime and other corrupting influences; ensuring that Indian tribes are the primary beneficiaries of gaming revenues; and assuring that gaming is conducted fairly and honestly by both operators and players. To affect these goals, the Commission is authorized to conduct investigations, undertake enforcement actions including the issuance of notices of violation, assessment of civil fines, issuance of closure orders, approve management contracts, and issue such regulations as necessary to meet its responsibilities under the Act.

The Act grants broad authority to the Commission and provides authority to the Chairman to: (1) issue temporary closure orders; (2) levy civil fines, of up to \$25,000 per violation per day, against a tribe, management contractor, or individual operator for violation of the Act, the regulations or a tribal gaming ordinance; (3) approve tribal gaming ordinances; (4) approve gaming management contracts; and (5) appoint and supervise staff.

The Commission as a whole is empowered to: (1) monitor gaming activities, (2) inspect gaming premises, (3) conduct background investigations; (4) inspect records relating to gaming; (5) approve the annual budget; (6) adopt regulations for the assessment and collection of civil fines; (6) adopt a schedule of annual fees; and (7) issue permanent closure orders. The Commission also serves as an appellate body. Aggrieved parties may appeal decisions of the Chairman to the full Commission.

In carrying out these responsibilities, the Commission also: (1) provides education, training and technical assistance regarding applicable regulatory requirements; (2) assists tribes with background investigations and fingerprint processing; (3) receives and processes appeals; (4) conducts formal and informal hearings; (5) consults with Indian tribes, states and the regulated community; (6) defends against lawsuits challenging the Commission's actions; (7) issues advice and guidance through bulletins, advisory opinions and other publications; and (8) provides audits and other evaluative services.

**DEPARTMENT OF THE INTERIOR**  
**NATIONAL INDIAN GAMING COMMISSION**  
**Special Fund Receipt/Expenditure Account**  
**Gaming Activity Fees**  
**(in millions of dollars)**

Identification code 14-5141-0-2-806		2007	2008	2009
		Actual	Estimate	Estimate
01.99	Balance, start of year.....	---	---	---
Receipts:				
National Indian Gaming Commission				
02.60	Gaming Activity Fees.....	13	15	17
04.00	Total: Balances and Collections .....	13	15	17
Appropriations:				
National Indian Gaming Commission				
02.60	Gaming Activity Fees.....	-13	-15	-17
07.99	Balance, end of year.....	---	---	---
<b>Program and Financing (in millions of dollars)</b>				
Identification code 14-5141-0-2-806		2007	2008	2009
		Actual	Estimate	Estimate
<u>Obligations by program activity:</u>				
00.01	Direct Program Activity .....	14	15	17
10.00	Total new obligations.....	14	15	17
<u>Budgetary resources available for obligation:</u>				
21.40	Unobligated balance carried forward, start of year.....	4	3	3
22.00	New budget authority (gross).....	13	15	17
23.90	Total budgetary resources available for obligation.....	17	18	20
23.95	Total new obligations.....	-14	-15	-17
24.40	Unobligated balance carried forward, end of year.....	3	3	3
<u>New budget authority (gross), detail:</u>				
Mandatory:				
60.20	Appropriation (special fund).....	13	15	17
<u>Change in obligated balances:</u>				
72.40	Obligated balance, start of year.....	2	2	2
73.10	New obligations.....	14	15	17
73.20	Total outlays (gross).....	-14	-15	-17
73.45	Recoveries of prior year obligations.....			
74.40	Obligated balance, end of year.....	2	2	2
<u>Outlays (gross), detail:</u>				
86.97	Outlays from new mandatory authority.....	13	12	14
86.98	Outlays from mandatory balances.....	1	3	3
87.00	Total Outlays (gross).....	14	15	17
<u>Net budget authority and outlays:</u>				
89.00	Budget authority.....	13	15	17
90.00	Outlays .....	14	15	17

**DEPARTMENT OF THE INTERIOR**  
**NATIONAL INDIAN GAMING COMMISSION**  
**Special Fund Receipt/Expenditure Account**  
**Gaming Activity Fees**

**Object Classification (in millions of dollars)**

Identification code 14-5141-0-2-806		2007	2008	2009
		Actual	Estimate	Estimate
<b>Direct obligations</b>				
11.11	Personnel compensation: Full-time permanent .....	8	9	10
11.21	Civilian personnel benefits.....	2	2	2
12.10	Travel and transportation of persons.....	1	1	1
12.52	Other Services.....	3	3	4
99.99	Total new obligations.....	14	15	17

**Personnel Summary**

Identification code 14-5141-0-2-806		2007	2008	2009
		Actual	Estimate	Estimate
<b>Total compensable workyears</b>				
	Full-time equivalent employment .....	96	123	129

**DEPARTMENT OF THE INTERIOR**  
**NATIONAL INDIAN GAMING COMMISSION**  
**Federal Funds: Salaries and Expenses**  
**Program and Financing (in millions of dollars)**

Identification code 14-0118-0-1-806		2007	2008	2009
		Actual	Estimate	Estimate
<u>Obligations by program activity:</u>				
09.01	Reimbursable Program.....	2	4	3
10.00	Total obligations (object class 25.2).....	2	4	3
<u>Budgetary resources available for obligation:</u>				
21.40	Unobligated balance carried forward, start of year.....	5	8	6
22.00	New budget authority (gross).....	5	2	2
23.90	Total budgetary resources available for obligation.....	10	10	8
23.95	Total new obligations.....	-2	-4	-3
24.40	Unobligated balance carried forward, end of year.....	8	6	5
<u>New budget authority (gross), detail:</u>				
Discretionary:				
58.00	Spending authority from offsetting collections: offsetting collections (cash): .....	5	2	2
<u>Change in obligated balances:</u>				
72.40	Obligated balance, start of year.....	1	1	2
73.10	Total new obligations.....	2	4	3
73.20	Total outlays (gross).....	-2	-3	-3
74.40	Obligated balance, end of year.....	1	2	2
<u>Outlays (gross), detail:</u>				
86.90	Outlays from new discretionary authority.....	2	2	2
86.90	Outlays from discretionary balances.....	---	1	1
87.00	Total outlays (gross).....	2	3	3
Offsets:				
Against gross budget authority and outlays:				
88.40	Offsetting collections (cash) from Non-Federal sources.....	-5	-2	-2
<u>Net budget authority and outlays:</u>				
89.00	Budget authority.....	---	---	---
90.00	Outlays (net).....	-3	1	1



**DEPARTMENT OF THE INTERIOR**  
**NATIONAL INDIAN GAMING COMMISSION**  
**Federal Funds: Salaries and Expenses**

**Object Classification (in millions of dollars)**

Identification code 14-0118-0-1-806		2007	2008	2009
		Actual	Estimate	Estimate
Reimbursable obligations				
22.52	Other services.....	<u>2</u>	<u>4</u>	<u>3</u>
29.99	Total new obligations.....	2	4	3

**DEPARTMENT OF THE INTERIOR  
NATIONAL INDIAN GAMING COMMISSION  
EMPLOYEE FTE COUNT BY GRADE OR GRADE EQUIVALENT**

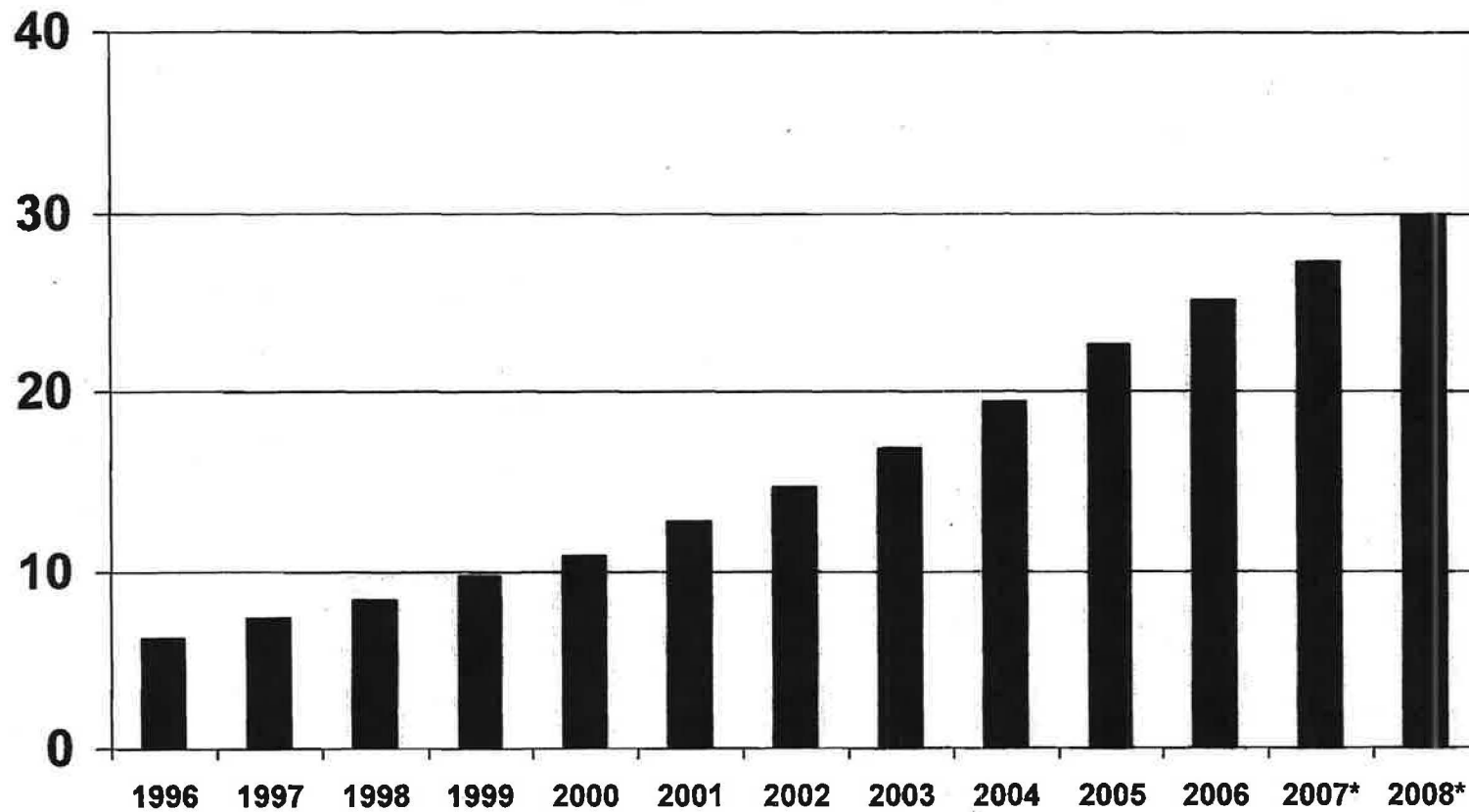
	<b>FY 2007 Actual</b>	<b>FY 2008 Estimate</b>	<b>FY 2009 Estimate</b>
Executive Level IV	1	1	1
Executive Level V	1	2	2
ES-4	1	1	1
ES-1	1	2	2
GS-15	10	11	11
GS-14	12	14	14
GS-13	34	40	42
GS-12	18	31	34
GS-11	2	4	5
GS-10	5	5	5
GS-09	3	3	3
GS-08	0	0	0
GS-07	0	0	0
GS-06	7	8	8
GS-05	1	1	1
	<hr/>	<hr/>	<hr/>
Total FTE	96	123	129

In accordance with the Act, appointments are made without regard to the provisions of Title 5, US Code, governing appointments in the competitive services.

# Indian Gaming Industry Growth

(\$ Billions)

NIGC - 22

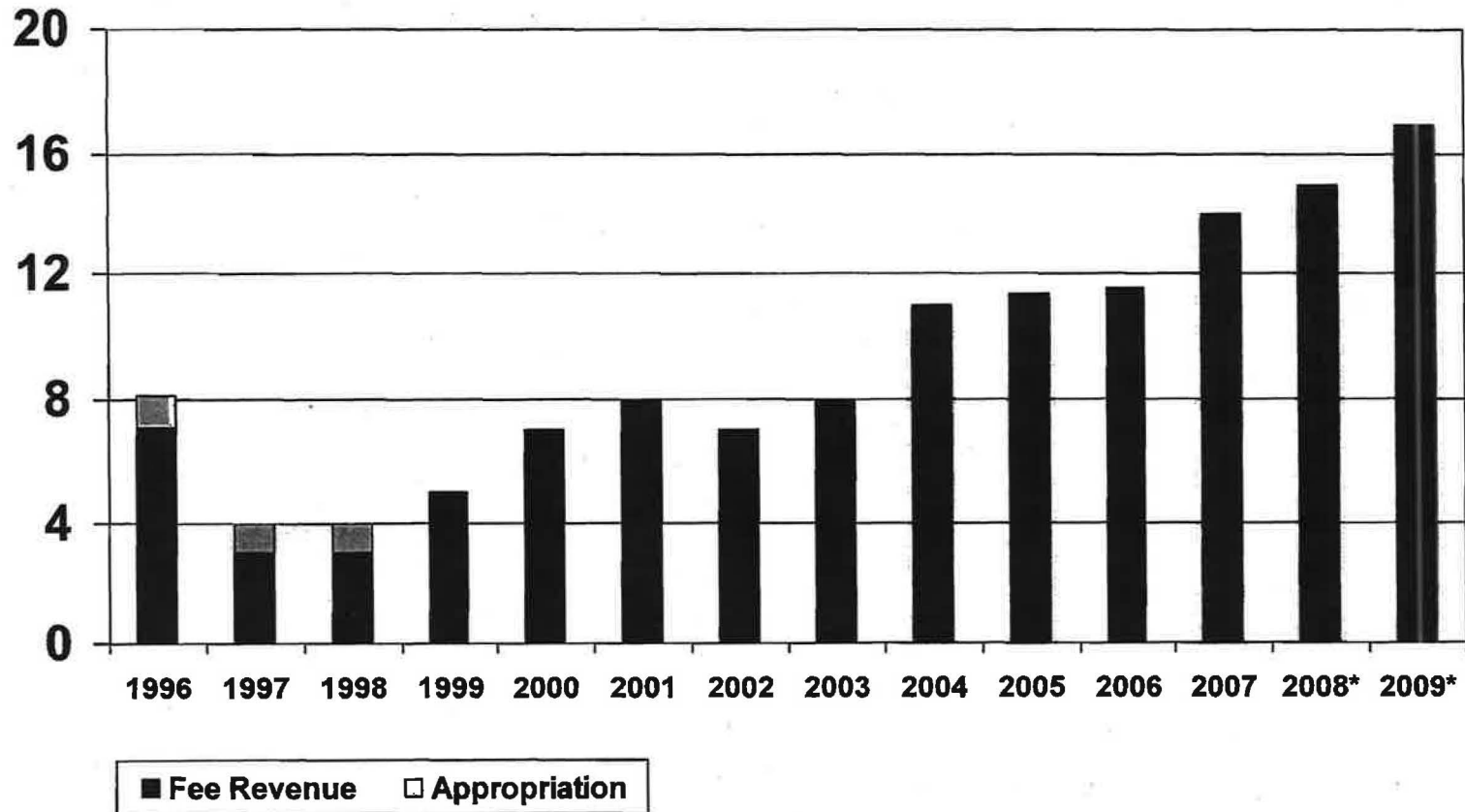


\* Forecast

# NIGC Fee Revenue

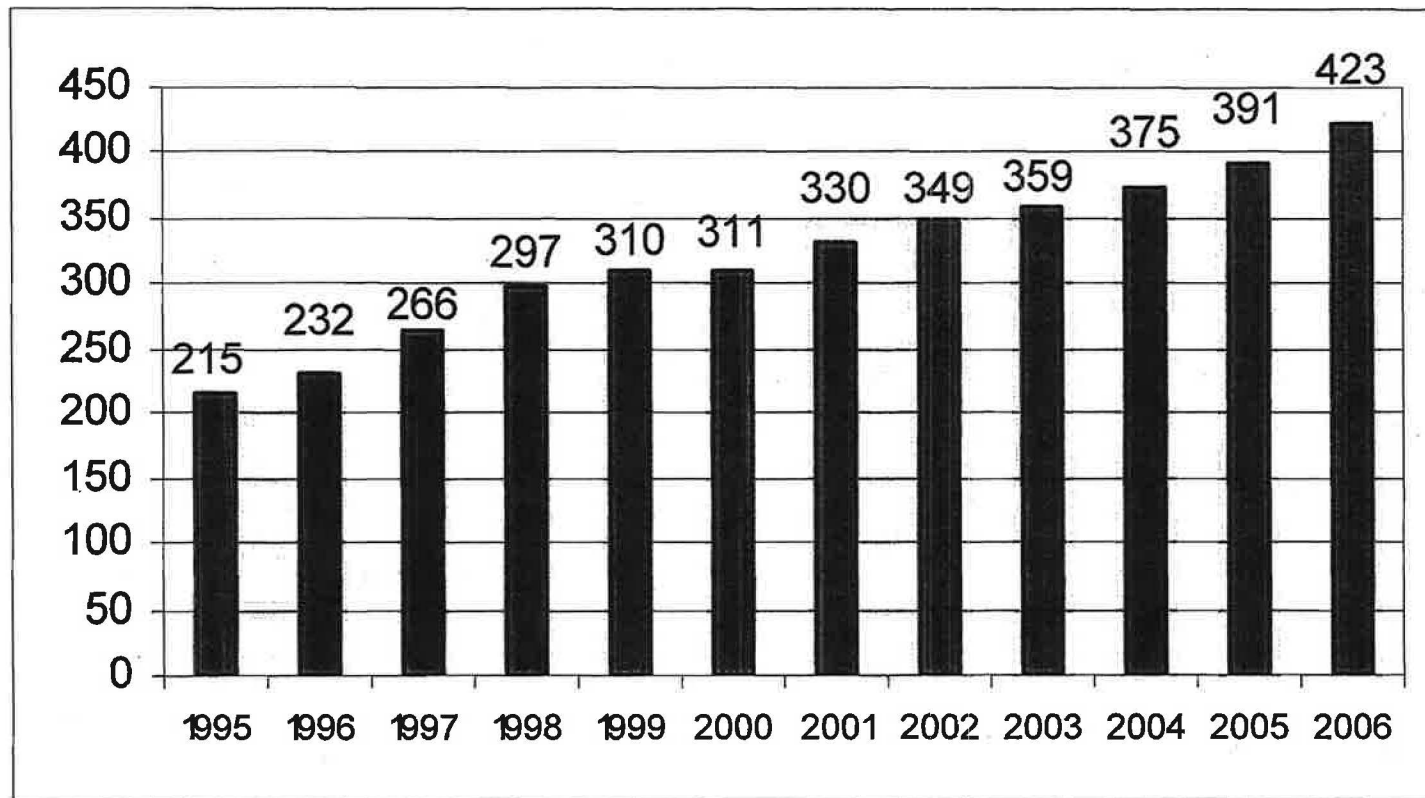
(\$ Millions)

NIGC - 23



\* Forecast

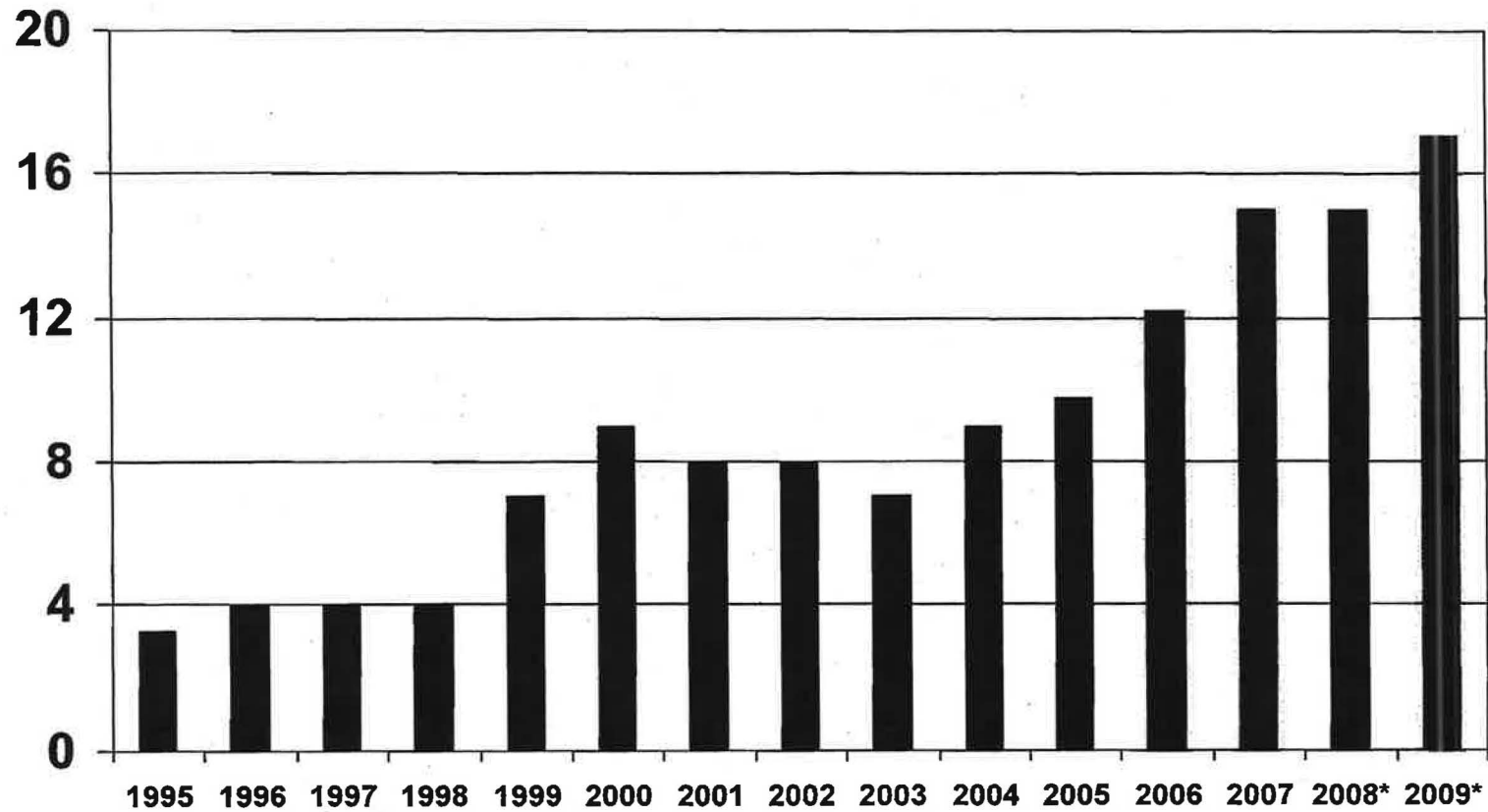
# Growth in Indian Gaming Operations



# NIGC Expenditures

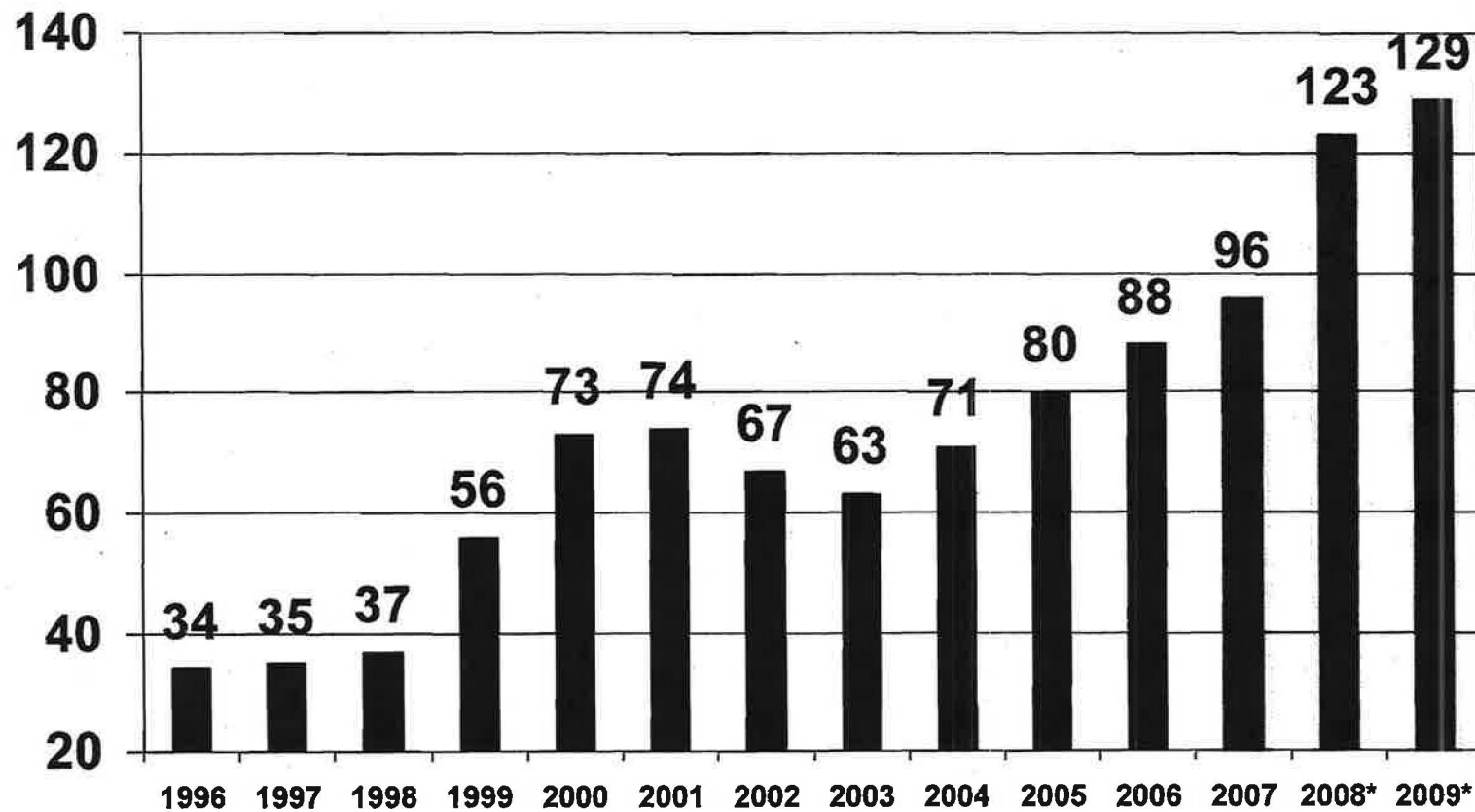
(\$ Millions)

NIGC - 25



\* Forecast

# Staffing Levels



\* Forecast