Three Decades of Making the Indian Gaming Regulatory Act Work for Native Communities

by Ernest L. Stevens, Jr.

As we prepare to open the tradeshow floor for Indian Gaming 2018, and throughout this calendar year, the National Indian Gaming Association will reflect on the upcoming 30th Anniversary of the Indian Gaming Regulatory Act (IGRA) on October 17, 2018.

We will remember our humble beginnings and those who blazed the trail for our industry. We will honor the work of the hundreds of thousands of individuals who helped grow our Indian gaming industry to what it is today. And we will consider the important work ahead to secure our future and expand the economic benefits of Indian gaming to all Native communities.

Shortly after the Nixon Administration formally ushered in the era of Indian Self-Determination in 1970, a handful of tribal leaders embraced that policy and took measures to rebuild their communities by opening the first modern-day Indian gaming operations.

These early days of Indian gaming were indeed humble. In 1984, during one of the earliest U.S. Senate hearings on the topic of Indian gaming, the Interior Department’s Assistant Secretary for Indian Affairs under President Reagan testified that approximately 80 Indian tribes were engaged in gaming with estimated revenues in the tens of millions of dollars. Many of these operations took place in temporary pop-up buildings or local tribal community gyms.

At home in Oneida Wisconsin, I remember the frustration as a young athlete wanting to work out in our only basketball facility. The gym was often full of tables, chairs, the ‘caller stand’ and many workers in preparation for the evening’s bingo games. Back then, two moms and community leaders explained to me that bingo was providing our Nation with an economy that kept the lights on in our gym, kept the doors to our nursing home open, and provided much needed health and dental care for community members.

However, these early acts of Indian self-determination were immediately met with attacks from state governments and commercial gaming operations in Congress and in federal courtrooms.

The legal challenges culminated in the Supreme Court’s historic California v. Cabazon Band of Mission Indians decision. In a victory for tribal sovereignty, the Court upheld the right of Indian tribes, as governments, to conduct gaming on their lands free from state control or interference.

After Cabazon, states and commercial gaming interests doubled their legislative efforts in Congress. Many tribal leaders opposed IGRA, primarily for the law’s requirement that tribal governments enter into compacts with states. Tribal leaders reasoned that this process failed to respect the federal-tribal government-to-government relationship: Indian tribes entered into solemn treaties with the United States federal government, not the several states – which had consistently sought to eradicate tribal sovereignty, and impose state authority on Indian lands.

Despite this opposition, Congress enacted the Indian Gaming Regulatory Act on October 17, 1988. Clearly, IGRA did not come from Indian Country. The Act was a compromise that sought to balance tribal, federal, and state government interests. IGRA is far from perfect, but for nearly thirty years now, Indian Country is making the Act work for our governments, communities and people.

From these humble means, Indian gaming has responsibly grown to provide a steady source of revenue for more than 240 tribes in 28 states. In nearly 30 years under IGRA – Indian gaming has grown into a $31 billion industry that is rebuilding our communities, educating a generation of new Native leaders, and providing jobs to more than one half million American families.

I can share some classic examples from my Nation, the Oneida Nation of Wisconsin, of the many successes that have taken place all across Indian Country. The Anna John Resident Centered Care Facility replaced an old, dilapidated nursing home facility that was built in the seventies. It now provides both assisted living care and long-term nursing home care. The Oneida Turtle School, which is an architectural wonder – having been built in the shape of one of our Clans and houses many Oneida cultural symbols, legends and traditions that our children see and experience on a daily basis – now houses K through 5th grade students. Two Catholic Diocese facilities that once served as a seminary and nunnery were purchased and now house our Oneida Nation High School and tribal government headquarters and our social services agencies and the Oneida Fitness Center. Gaming revenues also contribute to roads and infrastructure improvements, local government service agreements and new housing developments. These are only a few examples of success stories that are repeated throughout Indian Country.

Last fall, I testified before the Senate Committee on Indian Affairs about the significant investments that tribes have made in education. Those investments are paying dividends throughout Native communities today.
Thirty years ago, we relied on others to serve as our doctors, lawyers, and other professionals. But today, Indian gaming revenues are helping to educate our young leaders, and they are returning to serve their communities.

From the very start of modern-day Indian gaming in the 1970s, tribal leaders made it a priority to protect the integrity of our operations. In the 30 years since IGRA, Indian gaming operations have become the measuring stick for gaming regulation worldwide. In 2017, tribal governments invested more than $450 million on regulation, employing 7,000 regulators, surveillance officers, security personnel and other experts.

More and more states are legalizing commercial gaming operations, and the competition for America’s gaming dollar has increased significantly in the past 30 years. However, Indian gaming offers our customers a unique experience – immersed in Native American culture and history. Our culture is a part of who we are as a people and it guides our daily routines.

Past federal policies of assimilation and relocation sought to suppress Native language, culture, and religion. Our ancestors fought back to preserve tribal sovereignty, Native culture, and the right of tribal governments to maintain our way of life.

Today, Indian gaming is working to honor those sacrifices by helping to foster Native language, culture, and identity. It is through unmatched regulation, reinvesting in our communities, and highlighting Native culture that Indian gaming has worked to become the industry leader we are today.

We know that more must be done. Far too many Native communities continue to struggle with the failed federal policies of the past. But we are making headway. Indian gaming is tribal government self-determination that is improving lives and providing opportunities across Indian Country.

Looking ahead, one key to securing our future is working to restore balance to IGRA’s compacting process. The careful compromise that IGRA struck in 1988 was short-lived, when a short eight years later, the U.S. Supreme Court issued its ruling Seminole Tribe of Florida v. Florida holding that state government sovereign immunity prevents tribes from enforcing IGRA’s good faith compact negotiation requirement. Congress and the Administration must work to restore balance to the compact process. We will continue to make this a top priority.

NIGA and our Member Tribes will also continue to work to strengthen tribal sovereignty by ensuring that Congress enacts laws that respect the governmental status of Indian tribes. The Trump Administration has repeatedly vowed that, “Tribal sovereignty should mean something.”

In some cases, sovereignty means keeping the federal government out of the way by reducing laws and regulations. This means respecting Indian tribes as other governments for purposes of federal labor laws. In this regard, NIGA will continue to press Congress to enact the Tribal Labor Sovereignty Act, to put a stop to the treatment of Indian tribes as second-class sovereigns for purposes of the National Labor Relations Act.

Tribal sovereignty also means respecting tribal decision-making if Congress moves to authorize the emerging gaming markets of Internet, fantasy, and sports betting. Tribes should be free to make their own decisions to legalize or prohibit these new markets, and that decision cannot be subject to a veto by states.

We have come far in thirty years under IGRA – from our humble start in community gyms, to world-class destination resorts that highlight Native art, culture, and history. Working together and continuing to tell our story, I am confident that Indian gaming will continue to diversify and grow – providing more opportunities to our future generations – so that our people, culture and traditions continue to flourish and prosper far beyond the next seven generations.

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