

TESTIMONY OF JAMIE HUMMINGBIRD, CHAIRMAN
NATIONAL TRIBAL GAMING COMMISSIONERS / REGULATORS
SENATE COMMITTEE ON INDIAN AFFAIRS
OVERSIGHT HEARING ON INDIAN GAMING REGULATION

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Chairman Akaka, Vice-Chairman Barrasso, and Members of the Committee, my name is Jamie Hummingbird, Chairman of the National Tribal Gaming Commissioners / Regulators and citizen of the Cherokee Nation where I serve as Director of the Gaming Commission. I thank the Committee for the opportunity to provide insight into the regulatory side of the Indian gaming industry from the perspective of a tribal gaming regulator.

DEFINING THE REGULATORY STRUCTURE

Prior to the enactment of the Indian Gaming Regulatory Act (IGRA) in 1988, Tribal Gaming Regulatory Authorities (TGRA) played a pivotal role in overseeing the conduct of gaming offered on Indian lands. It was in that pre-IGRA era that the regulatory principles, roles and responsibilities of gaming regulators were established and continue to be the foundation for each TGRA,

namely: the protection of tribal assets; protecting the integrity of the gaming environment; and accountability of the gaming operations.

One constant concept in the minds of the tribes and TGRAs as these principles were expressed was that they were, and remain, an exercise of the tribe's inherent sovereign authority to determine the conduct of its affairs.

The IGRA required tribes to draft gaming ordinances establishing their respective gaming regulatory authorities. The Act further clarified the role of Tribal gaming regulators at 25 USC 2701 by specifying:

“The Congress finds that...

(5) Indian tribes have the **exclusive right to regulate gaming activity on Indian lands**”

In seeking to balance the interests of the Federal Government and states, IGRA also created the National Indian Gaming Commission to provide federal regulatory oversight, and, as necessary various states were expected to

utilize their existing regulatory bodies or create them pursuant to the terms of a tribal-state compact.

Further, IGRA allowed tribes to offer games that were not expressly prohibited within the state in which they reside. IGRA created gaming classifications and designated regulatory responsibility for the various classes of gaming where tribes are the sole regulators of Class I gaming and the primary regulator in Class II gaming with the NIGC providing oversight. Tribes share regulatory responsibility with states under the terms of a Class III gaming compact.

TRIBAL GAMING REGULATORY AUTHORITIES – ROLES AND RESPONSIBILITIES

Tribal gaming ordinances, which are subject to the review and approval of the Chairman of the NIGC, fulfill basic requirements for tribal propriety, revenue distribution, audits, the environment, public health and safety, and management background investigations.

Tribal gaming regulatory authorities must evaluate the gaming environment and devise a set of rules and regulations governing gaming facilities fitting their unique circumstances. As extensions of the gaming ordinances, these regulations clarify the duties, authorities, and methods by which tribal gaming facilities are to be governed. The regulations address licensing of gaming facilities, individuals and vendors, approval of games that are to be offered, handling tort and prize claims, surveillance, security, auditing, and overseeing compliance with environmental, public health and safety activities.

Tribes also utilize internal control standards as a tool to gauge a gaming facilities' level of compliance with applicable laws and regulations. Numerous tools and processes are utilized in these efforts, beginning with the employment of qualified personnel.

Currently, the tribal gaming industry is directly or indirectly responsible for more than 628,000 jobs where over 4,000 individuals monitor and ensure the maximum level of compliance with all gaming laws and regulations. TGRAs

also maintain strong lines of communication with federal law enforcement agencies, among them, the Internal Revenue Service, the Financial Crimes Enforcement Network, the Office of Foreign Asset Control, and the Secret Service. TGRAs also maintain cooperative relationships with state compliance agencies and the NIGC as each have a role to play in Indian gaming regulation.

INDIAN GAMING – PAST, PRESENT, AND FUTURE

Over the past several decades, tribal gaming facilities have increased the level of sophistication of their gaming activities by using the technology available, as provided by IGRA. Tribal regulators have also attained highly sophisticated levels of security. In addition, the qualifications of regulatory personnel have also increased. It is not uncommon for a TGRA to employ credentialed professionals such as Certified Fraud Examiners, Certified Internal Auditors, Network Security Administrators and Background Investigation Specialists. Each of these disciplines aids in the development and refinement of tribal gaming regulations and internal controls.

TGRAs must remain up-to-date as technology advances. In the recent past, gaming vendors have introduced wireless gaming and systems-based games. Presently, internet gaming has become a topic that has garnered a great deal of attention by everyone in the gaming industry, including tribes. This issue and its potential impact on tribal gaming will be carefully monitored by tribes.

CONCLUSION

While everyone involved in Indian gaming may agree that the IGRA is less than perfect, it has proven to be a stable base for regulation. The IGRA has survived numerous amendment attempts due to the many successes that overshadow its relatively minor shortcomings. Tribes have consistently demonstrated substantial compliance with all tribal, federal, and, where applicable, state laws and regulations.

Tribal gaming regulators are capably performing the due diligence necessary to protect the assets of the Tribes and are proud of our history of protecting

the integrity of the Indian gaming industry. The responsibility of regulating tribal gaming facilities is a task that tribal gaming regulators take very seriously. It is the obligation to our Tribal citizens that drives us to excel.

On behalf the of the National Tribal Gaming Commissioners / Regulators I thank you for the opportunity to appear before the Committee today and I welcome any questions you may have.