

**TESTIMONY OF RICHARD G. HILL  
CHAIRMAN OF THE NATIONAL INDIAN GAMING ASSOCIATION**

**BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS**

**WEDNESDAY, JULY 26, 2000**

I. Introduction.

Good afternoon Mr. Chairman, Mr. Vice-Chairman, and members of the Committee. My name is Richard Hill and I am the Chairman of the National Indian Gaming Association ("NIGA"). Thank you for inviting me to testify before you today. I request that my written testimony be made a part of the record as well.

Please allow me to preface my comments with a few observations. Indian nation governmental gaming is now a 9.6 billion dollar industry. Keeping in mind our rapid growth, we acknowledge that with such success comes increased scrutiny. Therefore Mr. Chairman and members of the Committee, it is in our own best interest to have a zero tolerance policy when it comes to the violation of Indian nation governmental gaming regulations which are promulgated by legitimate authority.

In 1997 the United States Congress passed legislation amending the Indian Gaming Regulatory Act ("IGRA") to increase the total amount of fees that the National Indian Gaming Commission ("NIGC") could collect from Indian nations. The new authorization allowed the NIGC to collect fees from not only "Class II," but also from "Class III" operations. At that time I appeared before this same Committee and testified that NIGA was fully supportive of the Committee's expressed intentions to raise the level of efficiency and independent integrity of the NIGC, even if that meant increasing the fees imposed on our operations.

I appear before you today, nearly two years later, and I must tell you that we are not at all comfortable with the actions taken by the NIGC in that time span. NIGA remains supportive of a respected, independent, objective and efficient NIGC, yet no communications have been shared with us regarding how the NIGC plans to meet those goals. Instead we face a number of new regulatory initiatives that infringe upon Indian nations' governmental authority and are duplicative of existing regulatory structures.

The failure to communicate has not resulted from inaction from NIGA or its Member Indian nations. We have made repeated requests for budget projections and work plans, with no response. In January of this year NIGA facilitated a meeting between the NIGC and over 70 Indian nation leaders, the sole purpose of which was to promote communication between the NIGC and NIGA's Member Indian nations. Specifically our Member Indian nations sought some insight regarding the NIGC's recent actions and its plans to implement the new resources at its disposal. To date no satisfactory explanation has been given.

II. Physical expansion of NIGC.

A. 100% increase in personnel; increase of five field offices.

Within approximately the last two years the NIGC has expanded its personnel by over 100%. It has opened five field offices, and leased an additional floor at its offices on 1441 L Street, N.W., Washington, D.C. In commencing this expansion the NIGC quickly increased its annual budget by nearly 200% to over \$7 Million, very near the new ceiling on fees it could collect from Indian nations. However, as everyone who has been involved with the federal government can tell you, bigger does not necessarily mean better, and all too often does not translate into an efficient allocation of resources.

B. No apparent strategic planning.

What has greatly concerned many of NIGA's Member Indian nations, is that this lightning quick increase has apparently taken place without the benefit of any strategic planning. When this Committee indicated that it wanted the NIGC to have greater resources to fulfill its responsibilities, it did not indicate that it wanted the NIGC to take on new additional responsibilities. Rather it wanted the NIGC to have the resources to adequately and thoroughly meet the responsibilities with which it was already charged.

After numerous requests for a strategic plan or work plan, the NIGC finally disgorged a document entitled "Profile of the Proposed Expansion of the Resources and Services of the National Indian Gaming Commission." Unfortunately this document did not contain the type of information sought by NIGA's Member Indian nations. Rather it merely described the various staff positions, the intent of the NIGC to expand personnel and field offices, and a very brief budget projecting costs to meet the expansion.

C. No "government-to-government" consultation.

At no time did the NIGC meet with Indian nation leaders to consult regarding its plans to make use of the additional resources it was receiving. NIGA and its individual Member Indian nations have made numerous requests for information regarding the NIGC's budget priorities, forecasts, and plans, as well as strategic plans, needs analysis, and work plans, goals and objectives. To date those requests have gone unheeded. We can only surmise that they do not exist.

III. Attempted expansion of NIGC legal jurisdiction.

A. New regulatory initiatives.

Instead of the budgets and work plans requested, the NIGC has begun work promulgating new regulations with the stated purpose of protecting the integrity of Indian gaming from those special interests who falsely claim Indian gaming is unregulated. However, these regulatory initiatives are beyond the authority of the NIGC to pursue, and worse, do little to address the attacks on the integrity of Indian gaming. In particular the attempts to regulate Minimum Internal Control Standards ("MICS"), Class II game classifications and health and safety standards illustrate these misguided attempts.

## B. NIGC wanting "shared authorities."

Indian nation governmental gaming is already the most highly regulated gaming in the United States-with regulatory authority shared between the Indian nations and the individual states through the compacting process, and federal oversight provided by the Department of Justice ("DOJ"), Department of Treasury and the NIGC-all as dictated by IGRA. Recently, however, the NIGC has begun speaking of its "shared authorities," which we take to mean concurrent jurisdiction. It is apparent that these "shared authorities" will come at the expense of infringing on Indian nation governmental jurisdiction.

The primary regulatory authority for Indian gaming has always been accepted as residing within the Indian nations, as a matter of their inherent sovereign governmental powers. This legal concept was codified by IGRA. There has not been any legislation amending IGRA to grant greater regulatory authority to the NIGC, and without such authority it is unclear how the NIGC can legitimately usurp such authority to itself. Yet the MICS, the Class II gaming regulations, and the health and safety standard regulations strike at the very heart of this authority by setting standards for internal controls, pursuing a preemptive role in determining the classification of games, and seeking to control health and safety issues at Indian nation gaming facilities. These initiatives amount to an intrusion upon Indian nation governmental powers which a federal agency would never attempt to impose on a state government.