

**STATEMENT OF
THE HONORABLE VIVIAN JUAN-SAUNDERS
CHAIRWOMAN OF THE TOHONO O'ODHAM NATION**

**OVERSIGHT HEARING
ON
THE REGULATION OF INDIAN GAMING**

**BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
UNITES STATES SENATE**

JUNE 28, 2005

INTRODUCTION

Good morning Chairman McCain, Vice-Chairman Dorgan and members of the committee and staff. My name is Vivian Juan-Saunders and I am Chairwoman of the Tohono O'odham Nation. The Tohono O'odham Nation is a member of the Arizona Indian Gaming Association, an organization comprised of the gaming tribes in the State of Arizona. Thank you for the opportunity to address the Committee. It is my great pleasure to provide you with an overview of tribal gaming regulation in the State of Arizona, and to share the gaming success on the Tohono O'odham Nation.

The Arizona gaming compacts work both for tribes and for the State. Tribes in Arizona have a long track record of working with each other, and with the State. Because of our new gaming compacts, our commitment and our process, Arizona has a system that is meeting the intent and directives of the Indian Gaming Regulatory Act (IGRA).

BRIEF BACKGROUND OF ARIZONA GAMING

To understand the Arizona regulatory climate, it is important to first understand the Arizona gaming environment. For most of the past century, Indians on reservations in Arizona lived in extreme poverty, welfare dependency, and economic despair. The situation began to improve after federal legislation recognized and affirmed the right of Indian tribes to conduct gaming on our lands and established a regulatory framework for the purposes of, among other things, providing jobs and funding services for tribal members.

Since 1992, Arizona law has authorized the Governor of the State to negotiate tribal-state compacts on the State's behalf. Since then, 21 Indian tribes in Arizona have entered into compacts with the State. Sixteen have made major investments in gaming facilities on their tribal lands.

The first compacts authorizing class III gaming by tribal governments were signed in Arizona in 1993. Since the first casino opened in Arizona, gaming revenues earned by Arizona Tribes have been directed to providing for the health, welfare, education and well-being of tribal members. Just as the IGRA intended, Indian casinos on Arizona tribal lands generate vital revenues used to provide decent housing, clean water, better education, health care, public safety and other services to tens of thousands of Indians living on Arizona reservations. Indian casinos also provide jobs removing thousands of Indians off welfare and unemployment, and producing many economic benefits both for nearby communities and for the State as a whole.

EFFECTIVE REGULATION PROVIDES STABILITY TO INDIAN GAMING

Regulation is a major component of this successful system. In Arizona, the gaming conducted by tribal governments is both limited and well-regulated. Arizona's gaming compacts limit the types of games that may be played on tribal lands, the number of gaming facilities, and the number of gaming devices and table games that can be installed in these facilities. The scope of gaming permitted under Arizona's gaming compacts is based upon the size of the Tribe. Tribes with more enrolled members are eligible to have more gaming devices. Conversely, smaller tribes are able to have fewer gaming devices. This regulatory structure enjoys the broad support of both Arizona's Tribes and by Arizona's citizens.

Revenues earned by Arizona Indian casinos also fund the comprehensive regulatory oversight system of Arizona Indian casinos. Not only do Arizona's Tribes fund our Tribal gaming regulatory offices, they also fund the Arizona Department of Gaming (ADOG) -- the state agency that oversees gaming conducted by tribal governments on Indian lands.

Today, 567 people are engaged statewide in regulating gaming, including 105 employees with the Arizona Department of Gaming employees and 462 employees in tribal regulatory offices. Collectively, these regulatory offices spend more than \$35 million per year regulating Indian gaming in Arizona.

ARIZONA REGULATORY SYSTEM PROVIDES WIDE SPREAD BENEFITS

In November 2002, Arizona voters passed an initiative sponsored by seventeen of Arizona's Indian Tribes--Proposition 202. Proposition 202 allows Tribes that are unable to profitably operate gaming on their lands or that have chosen not to game to secure benefits of gaming by transferring their rights to operate gaming devices to other tribes. Intra-tribal transfers are enabling tribes on remote reservations like the Hualapai, Havasupai, San Juan Southern Paiute, Zuni and Kaibab-Paiute for the first time to benefit from gaming.

Proposition 202 also provides for a portion of gaming revenues to be shared with the State of Arizona and local governments calculated on a sliding scale of 1% to 8%. Eighty-eight percent of these shared revenues are deposited into the Arizona Benefits Fund to pay regulatory expenses incurred by the Arizona Department of Gaming, to combat problem gambling, reduce classroom sizes, increase teacher salaries, support dropout prevention programs and instructional improvement programs, reimburse hospitals for unrecovered costs for trauma and emergency

services, and fund wildlife conservation and statewide tourism promotion. The remaining twelve percent of these revenues are directed to city, town, and county governments, either through direct grants by Tribes or through the Local Communities Fund of the State's Commerce and Economic Development Commission.

ARIZONA GAMING FULFILLS THE INTENT OF IGRA

A statewide study of Indian Gaming in Arizona released by the Udall Center for Studies in Public Policy (Stephen Cornell: *An Analysis of the Economic Impacts of Indian Gaming in the State of Arizona*) estimated the economic impact of tribal governmental gaming in the State of Arizona. The report concluded that Indian gaming in Arizona indirectly generated \$468 million in economic activity during 2000.

The Udall report noted that many Indian employees formerly were welfare recipients. Although statistical data is not available on the actual number of former welfare workers now employed in Indian gaming, the study concluded that, in counties where casinos operate, the presence of casinos reduced welfare rolls.

Tribal gaming operations in Arizona currently employ approximately 10,000 people—a figure comparable in size to the number employed in Arizona's mining sector. Approximately 4,300 Indians are employed in tribal gaming operations, and several hundred more are employed as tribal gaming regulators. On remote reservations, Indian casinos are often the largest employer in the region, significantly reducing the economic burden for Indian and non-Indian residents by providing much needed jobs. There, where few other options for employment exist, the number of tribal employees working in Indian gaming can run as high as 84%. In addition to the direct benefits from employment, it is important to remember that these employees pay federal income and payroll taxes, most pay state income taxes, and all spend their earnings in the state, creating a positive economic impact for the State.

REGULATION AND ARIZONA TRIBES

The IGRA confirmed the right of Tribal governments to game on their lands, but it also established a regulatory structure for class III gaming, one that is shared by the state and tribes with oversight by the National Indian Gaming Commission (NIGC). Arizona's gaming compacts provide for Tribes to be the primary regulators of Indian gaming in the state, but the compacts also provide for a state regulatory agency with concurrent licensing authority and substantial oversight rights. The system has worked because sovereign tribal governments and the state government worked together to ensure that Indian gaming is well-regulated and achieves what Congress intended in passing the IGRA.

The Arizona Legislature established the Arizona Department of Gaming in 1995 to monitor Indian gaming operations on behalf of the State of Arizona. Today, the Arizona Department of Gaming has more than 105 full-time employees who perform a variety of functions to meet the State's responsibilities under the gaming compacts. These employees carry out regulatory activities such as licensing many casino employees and making licensing

recommendations on others, licensing all gaming vendors and large non-gaming vendors, inspecting gaming devices, reviewing the rules for poker and blackjack games, and monitoring Tribal compliance with compact requirements, including detailed internal control standards.

In 1999, the State of Arizona's Auditor General evaluated the State's effectiveness in overseeing gaming operations run by tribal governments in Arizona. The Auditor General's report concluded: "the (Arizona) Department's (of Gaming) extensive oversight activities are well designed for ensuring the integrity of Class III gaming operations." The Auditor General noted that the Department performs pre-operation inspections at every casino, randomly inspects 50 gaming devices at each casino every 4 weeks, conducts compact compliance reviews of each casino every 18 months, and maintains an ongoing presence through its investigators who visit casinos on a weekly basis to inspect operations and investigate possible compact violations. The Auditor General also concluded that the Department's "extensive and intensive activities are generally well designed and are accepted practices among gaming regulators."

The Auditor General concluded that Arizona's regulatory approach was "among the most extensive nationally," noting that the Arizona Department of Gaming has more staff monitoring Indian gaming than any other state, maintains a larger budget than states with comparable numbers of casinos, and conducts its activities more frequently than most other states.

GAMING BENEFITS ON THE TOHONO O'ODHAM NATION

The Tohono O'odham Nation in Southern Arizona encompasses more than 2.8 million acres of vast desert land, and is home to more than 28,000 enrolled members. Our lands also extend into Sonora, Mexico, and we have the unique distinction and challenges created by the 75 miles of international border shared with Mexico, the largest of any Tribe. The Tohono O'odham Nation, is the second largest Indian Nation in land base, next to the Navajo Nation, and is roughly equal in size to the State of Connecticut.

The Tohono O'odham Nation's gaming operations generate revenues that fund more than half of our budget, providing vital and essential services to all our members. Our Tribal gaming revenues directly fund essential governmental services such as education, public safety, housing, health care, community and economic development, as well as many basic operations of the Nation and our eleven political subdivisions (which are known as Districts).

The Nation is the first line of defense for the United States, protecting 75 miles of International border between the U.S. and Mexico. Since October 2003, the Nation has seized more than 180,000 pounds of illegal narcotics and, when combining Federal and Tribal law enforcement efforts, more than 300,000 pounds of illegal narcotics were seized on the Nation's lands in 2004. In addition, 27,130 undocumented immigrants were detained and arrested crossing the border on the Nation's reservation last year. Every single one of our officers spends 60% of his or her day on border-related law enforcement. This benefit for the United States came at a great cost to the Nation, as the Nation spends in excess of \$3 million annually on border law enforcement alone. To date, the Nation has spent more than \$10 million dollars in Tribal resources on Homeland Security issues, which is clearly a Federal responsibility. Over \$2

million of the Nation's Indian health care funding allocation is lost to emergency health care treatment of undocumented immigrants taken to our health clinic.

Revenues from the Nation's gaming operations fund 66% of the Nation's budget for police protection, supporting over 70 officers, 30 rangers, 109 support staff, 40 vehicles and 4 substations. However, the police protection provided cannot address the vast border related issues faced by the Nation.

Our gaming revenues have had a marked impact on improving higher education opportunities for our tribal members to obtain college educations. A college education formerly was beyond the reach of most of our students. Our gaming revenues have allowed the Nation to fund over \$30 million in scholarships, enabling more than 2,000 Tohono O'odham students to attend college. Our gaming revenues also have made it possible for the Nation to start our own community college, the Tohono O'odham Community College, which now is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools. In addition to supporting higher education, our gaming revenues also have entirely funded the Nation's budget for Early Childhood and Head Start facilities, as well as the costs of starting a radio station, KOHN, which broadcasts in O'odham in an effort to preserve our native language.

Our gaming revenues have also allowed the Nation to fund initiatives to improve the health of our people, who are plagued with diabetes and related medical conditions. Although portions of the Nation's lands are close to metropolitan areas with numerous health care options, the vast majority of our members live in remote, rural areas far from health care providers. Our gaming revenues fund the entire \$11.2 million budget for a health care clinic on the rural West side of the Nation, and were used to construct a \$2.5 million kidney dialysis center in a location far more convenient for those who suffer from kidney failure. Our gaming revenues also have funded the entire \$14 million budget for the construction of the first nursing home on the Nation's lands, providing health care services to our elderly without them having to move to Tucson, far from their families. Additionally, our gaming revenues are funding eleven youth recreation centers to encourage our youth to engage in healthy lifestyles.

In an effort to diversify our economy, the Nation also has used gaming revenues to foster economic development on the Nation. The Nation has established a substantial fund to provide grants to small business ventures. To date, more than 150 of our tribal members have received grants to help them establish and run private businesses.

This is just what the Nation has accomplished so far. In the future, the Nation plans to expand our police, fire, and EMT services, build a solid waste disposal way station, and continue work on addressing the sizeable problem of substandard housing and poor or inadequate infrastructure on the Nation's lands.

ARIZONA TRIBES ARE STRONG PRIMARY REGULATORS

With the State taking an active role in the oversight of Indian gaming, it is important to recognize that the State's activities are secondary to those of the primary gaming regulators in

the State—the Tribes. Arizona’s gaming compacts allocate the primary responsibility for the regulation of gaming to the Tribes. The Tribal gaming regulatory offices in Arizona license all casino employees, license all gaming vendors and large non-gaming vendors, inspect gaming devices, approve the rules for poker and blackjack games, set the detailed internal control standards that govern casino operations, and monitor compliance with the IGRA, compact requirements, and internal control standards. In addition, Arizona’s gaming compacts require that a tribal gaming inspector be physically present in each gaming facility at all times during operating hours.

Arizona’s Indian tribes also have embraced technology as a tool for regulating gaming. Since 1993, Arizona’s gaming compacts have required all gaming devices to be hooked up to and monitored by a computerized accounting system, which provides much greater control than a manual system. Soon, Arizona’s larger gaming facilities will provide limited access to those computerized accounting systems to Tribal and state regulators, which will allow for easier access to information, which today is available only on paper.

The Arizona Department of Gaming, in consultation with many of Arizona’s gaming tribes, has recently completed negotiations over the terms of a memorandum of understanding that contemplates the Department of Gaming funding a position at the U.S. Attorney’s office. The Special U.S. Attorney position funded under this agreement will solely address crimes committed in tribal gaming facilities. This agreement assures that the U.S. Attorneys’ office has adequate resources to prosecute crimes committed in these facilities.

There is a misperception that serious crime exists at Indian casinos that is going unpunished. What has been found is that typically most crimes occurring at tribal casinos are minor property crimes against casinos. Regardless of the nature of the crime, Arizona is working to find unique solutions to address all challenges and ensure appropriate action is taken for any criminal action found. Clearly, in Arizona, crimes in gaming country are not being ignored.

The Arizona Department of Gaming and many of Arizona’s gaming tribes also have been engaged for several years in an on-going effort to update and improve the regulatory requirements for Indian gaming in Arizona. We have just completed several years of negotiations that will result in new security and surveillance regulations for Arizona casinos. Similar discussions will continue in the future as we address new topics of concern for Tribes and the State.

CONCLUSION

A few short years of gaming revenues cannot reverse the effects of more than a century of poverty, despair, and inadequate education, but gaming conducted by tribal governments is contributing to significant improvements on many of Arizona’s Indian reservations. If the challenges remain severe, the successes are sweet.

As this Committee considers potential changes to the IGRA, please remember that the regulatory framework in Arizona is working well. Arizona’s gaming tribes take our role as

gaming regulators seriously, as does the State in its oversight role. Stringent and often demanding, this system, which has required substantial on-going cooperation by tribal governments and the State of Arizona, has provided comprehensive and highly-effective regulation of Indian gaming operations. Additional regulation at the federal level will only duplicate current tribal and State efforts in Arizona. We invite the members of this committee to visit Arizona and see how Indian gaming *is* working.

Considering that class III Indian gaming largely hinges on the agreements negotiated with the states, it makes the most sense that the majority of the regulation be left to the states and tribes. The appropriate role for the NIGC would be providing technical assistance to the states to strengthen the tribal state regulatory relations. It is not appropriate or functional to add a third layer of regulators if the basic tribal state regulation is soundly established and effective.

Finally, in light of the significant tribal resources already devoted to the regulation of Indian gaming in Arizona, and the limited role the NIGC plays in the regulation of Indian gaming in Arizona, Arizona's Indian tribes do not believe that we should be forced to shoulder the cost of any additional funding that the National Indian Gaming Commission needs to carry out its regulatory responsibilities in other states.

Mr. Chairman, Members of the Committee and staff, thank you for the opportunity to share my perspective on this very important issue. I would be happy to answer any questions you may have.