



# Arizona Department of Gaming

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Janet Napolitano  
Governor

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Director

## **PREPARED STATEMENT OF PAUL A. BULLIS DIRECTOR, ARIZONA DEPARTMENT OF GAMING**

### **BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS**

**March 8, 2006**

Good morning Chairman McCain, Vice-Chairman Dorgan, Members of the Committee and Staff. My name is Paul Bullis. I am the Director of the Arizona Department of Gaming. This Department is the State agency which, along with Arizona's Indian tribes and the National Indian Gaming Commission, oversees Indian gaming in Arizona. Thank you for the opportunity to speak today.

I would like to address some of the provisions of S.2078 from the perspective of a state regulator. More importantly, I speak from the perspective of a state regulator where the State and Tribes have developed a successful partnership for the effective oversight of Indian gaming. That partnership between sovereign governments has as its cornerstone a Tribal-State Compact which is intended to "ensure the fair and honest operation of . . . Gaming Activities; maintain the integrity of all activities conducted in regard to . . . Gaming Activities; and protect the public health, welfare and safety." The Compact clarifies the responsibilities of the Tribes and State in accomplishing those goals, and ensures that the State has the resources to carry out our end of the agreement. Although the Compact is the cornerstone of our partnership, what makes the

partnership work is communication, discussion, engagement, and a process for resolving issues. In many respects the Compact and our processes for dealing with each other have themselves become institutions which help ensure a healthy and successful relationship, effective oversight of gaming, and the accomplishment of the goals of the Compact.

Let me also add that the Arizona Department of Gaming maintains a strong relationship with the National Indian Gaming Commission. We meet monthly to share information and ideas, and have occasionally shared a podium addressing different groups.

My overall message is that when considering amendments to the Indian Gaming Regulatory Act, the Committee should take into consideration success stories such as Arizona. I would hope and request that any amendments would be crafted to not disrupt those successes.

I will first address those provisions of S.2078 that deal with the National Indian Gaming Commission's role in approving gaming-related contracts and determining suitability of gaming-related contractors. These provisions would create some overlap between the activities of the Arizona Department of Gaming and the NIGC. My hope is that it would not be the intention of this Committee to pre-empt state authority in this area, especially where that state authority has been exercised effectively. I believe that language clarifying the intent of the Committee would be helpful.

Let me discuss the role of the Arizona Department of Gaming in this area. Under our Tribal-State Gaming Compacts, the Arizona Department of Gaming certifies all persons (other than regulated lending institutions) providing financing to Tribes for gaming facilities, all management contractors engaged by a Tribe to assist in the management or operation of a gaming facility, all manufacturers and distributors of gaming devices, and all persons providing

gaming services in excess of \$10,000 in any one month. We look at the type of activity or product or service to determine whether the person or company must be certified.

Our certification process involves a determination of suitability. Each company, each principal of a company, and each individual providing gaming services must undergo a thorough background investigation. This includes criminal history, credit history, financial background, regulatory history and other pertinent information. Manufacturers and distributors of gaming devices, playing cards, card tables, and other items used in the play of Class III games, undergo a particularly rigorous investigation. This includes on-site visits to company headquarters and manufacturing facilities, reviews of company documents including Board of Directors minutes and financial audits, and face-to-face interviews with key personnel. Our investigators have traveled to Australia, Japan, Spain, Slovenia, and other locations to conduct their reviews. Tribal regulators are also required to license each of these persons and companies.

The universe of persons required to be certified by the Arizona Department of Gaming is much larger than, and includes, the universe of gaming-related contractors defined by S.2078. Moreover, I believe that we conduct a thorough investigation sufficient to protect the public and ensure the integrity of Indian gaming. We also recognize our responsibility to Indian gaming nationally. In other words, if a person is unsuitable to be in Indian gaming in Arizona, they are most likely to be unsuitable everywhere. We therefore try to share information with fellow regulators around the country to ensure that bad actors are not allowed to simply go forum shopping until they can slip through the cracks somewhere.

There is, though, a role laid out for the NIGC under S.2078 in this area where there is no overlap. That is the area of review and approval of gaming-related contracts. The Arizona Department of Gaming reviews only the suitability of the vendors, we do not review the terms of

the agreements themselves, nor do we approve those agreements. That would be within the purview of the NIGC. In this area, there is no overlap between the NIGC and the Arizona Department of Gaming because we do not perform the same function.

However, in that area of contract review where the Arizona Department of Gaming does play a role, i.e., in the suitability determination for the contractors and vendors themselves, we would hope that the intent of Congress would not be to pre-empt the role of states such as Arizona in this area where we have performed effectively, but rather to encourage states who are already performing that role. The Arizona Department of Gaming does an effective job of protecting the public and the integrity of Indian gaming in this area, and we have the resources to perform that job effectively.

I would also like to address the proposal contained in S.2078 to clarify the NIGC's authority to promulgate Minimum Internal Control Standards. Governor Janet Napolitano has previously addressed this issue in her letter of October 4, 2005 to this Committee. I have attached a copy of that letter to this testimony for your convenience. Let me summarize Gov. Napolitano's position. When the State and Tribes were negotiating the current Compact, the NIGC's Minimum Internal Control Standards applying to Class III gaming were in effect. The State and Tribes recognized the importance of internal controls in the operation and regulation of casinos, and so incorporated the NIGC's MICS in one of the appendices to the Compact. In fact, in many instances the State and Tribes agreed to make those controls stronger than what the NIGC required. If the NIGC had not issued its Minimum Internal Control Standards, which had to be complied with in any event, I am quite certain that our Compact would not contain comparable controls. The point to be made is that the existence of the NIGC's MICS, issued under the NIGC's presumed authority at the time, was instrumental in making Arizona's

Compact as strong as it is in terms of protecting the integrity of gaming. We therefore support language in S.2078 clarifying that the NIGC has authority to issue Minimum Internal Control Standards governing Class III gaming.

In conclusion, I believe that there is effective oversight of Class III gaming in our state, and that the NIGC's Minimum Internal Control Standards have played a role in achieving that. I reiterate my request that any amendments to IGRA be crafted to avoid upsetting successful Tribal-State partnerships such as that in Arizona. Thank you.



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October 4, 2005

The Honorable John McCain  
United States Senate  
241 Russell Senate Office Building  
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Dear Chairman McCain, Senator Dorgan, and Members of the Senate  
Committee on Indian Affairs:

I write concerning the Federal District Court's recent decision in *Colorado River Indian Tribes v. National Indian Gaming Commission*, 2005 WL 2035946 (D. D.C. Aug. 24, 2005) ("CRIT decision"), and the Committee's recent hearings concerning the regulation of Indian gaming.

In the *CRIT* decision, the Court concluded that Congress intended Indian tribes to work cooperatively with states to develop the framework for regulating Class III Indian gaming through the Tribal-State Compact Process. The Minimum Internal Control Standards regulations ("MICS") issued by the National Indian Gaming Commission ("NIGC") were held to be beyond the agency's statutory authority. In light of the *CRIT* decision, the NIGC is seeking legislation to authorize it to issue Minimum Internal Control Standards regulations.

In Arizona, both the State and Tribes recognize the critical role that strong internal controls play in the operation and regulation of casinos. As part of our compact process, the State and Tribes agreed to a set of Minimum Internal Control Standards that are patterned after, and in many areas exceed the requirements of, the NIGC's MICS.

I believe that the oversight of Indian gaming in Arizona reflects the proper balance of the roles of Tribal, State and federal regulators. This balance was achieved through the compact process, approved by the voters, and is consistent with NIGC's role in adopting and enforcing its MICS.

The Honorable John McCain  
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If the NIGC's role or authority had been different when our current compacts were negotiated, we likely would not have achieved the proper balance of the roles of the Tribal, State and federal regulators. Likewise, if Congress amends the Indian Gaming Regulatory Act ("IGRA") to change the role and authority of the NIGC from what it was when our compacts were negotiated, the roles of the three regulatory arms may no longer be in the proper balance in Arizona today.

I would encourage the Committee to give serious thought and deliberation before undertaking any amendment to IGRA that would alter the role or authority of the NIGC. At a minimum, I would strongly encourage the Committee to provide ample opportunity for consultation with Indian tribes and affected State governments.

Yours very truly,



Janet Napolitano  
Governor