

1 CHAIRPERSON JAMES: Mr. Metoxen?

2 MR. METOXEN: Good afternoon, Madam Chair and members  
3 of the Commission. My name is Jeff Metoxen. I'm the Chairperson  
4 for the Oneida Tribal Gaming Commission of the Oneida Tribe of  
5 Wisconsin and Chairperson for the National Tribal Gaming  
6 Commissioners and Regulators, NTGC&R. The testimony that I will  
7 be providing today is going to center around tribal gaming  
8 regulation and the roles and responsibilities of the tribal  
9 gaming regulators.

10 NTGC&R was established by the Forest County  
11 Potawatomi Tribal Gaming Commission in Wisconsin, the Spokane  
12 Tribal Gaming Commission in the State of Washington, the Gila  
13 River Tribal Gaming Commission in Arizona and the Oneida Tribal  
14 Gaming Commission in Wisconsin and their perspective tribes. The  
15 NTGC&R is a nonprofit organization that we had established about  
16 three years ago. It was a place in which we were bringing the  
17 tribal regulators together to share information and experiences.  
18 This was done through providing training and educational seminars  
19 and presentations.

20 The topics of these seminars and presentations  
21 centered around those that were of major concern as well as  
22 played a major factor within a tribal gaming regulatory entity  
23 such as licensing and auditing and the regulatory roles and  
24 responsibilities. The speakers that were chosen represented the  
25 expertise and knowledge on their fields in the above-related  
26 topics and they also provided representation on all three levels  
27 of tribal, federal and state.

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1 Through these seminars and training sessions we also  
2 had requested various organizations and individuals to present on  
3 their areas. We've had the National Indian Gaming Commission  
4 provide presentations, the National Indian Gaming Association as  
5 well as North American Gaming Regulators Association and various  
6 other entities and individuals. The reason we had started NTGC&R  
7 is recognizing that the tribal gaming regulators needed a place  
8 or training sessions in which to share information and to learn  
9 from one another and to network with one another. This was also  
10 done in providing those organizations or individuals that may  
11 provide a service or a product that could help the tribal  
12 regulators in their role and this would have been taken care of  
13 through various packages that they would have to offer and the  
14 licensing responsibilities that tribal regulators have, that  
15 tribes have in maintaining accurate records of background  
16 information as well as having a better understanding of the  
17 observation and surveillance responsibilities, equipment and  
18 things such as that area.

19 The membership of the NTGC&R currently exceeds 93  
20 entities that represent tribes. Within this membership there are  
21 gaming and non-gaming tribes that do attend and our members of  
22 NTGC&R. This is done from the non-gaming tribal perspective for  
23 those tribes who are interested in obtaining a tribal gaming  
24 operation are those as well as trying to learn better the  
25 responsibilities of regulating a tribal gaming operation. Of  
26 that membership there is also voting and associate members.  
27 Voting members are those that represent the tribal gaming  
28 regulatory entities, tribes themselves involved in gaming or even

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1 the non-gaming. The associate membership is opened up in the  
2 organization to allow organizations and individuals to also join  
3 in the benefits that are provided through the NTGC&R.

4 The constant and common question asked from us is, is  
5 Indian gaming adequately regulated. The statement we are  
6 providing on behalf of NTGC&R is Indian gaming probably has more  
7 regulatory requirements than any other industry. An example of  
8 these regulations that apply here on a federal, tribal and state  
9 level, under the federal area there is Title 31 from the U.S.  
10 Department of the Treasury, the Bureau of Indian Affairs, the  
11 Indian Gaming Regulatory Act, and the National Indian Gaming  
12 Commission and their rules and regulations as well as their soon  
13 to be developed minimum internal controls on the federal level.

14 The states are involved under the compact process if  
15 that's how the tribes and the states have come to an agreement  
16 within their gaming operations. The tribe itself has a number of  
17 levels that come under the requirements for the gaming operations  
18 and that's from the governmental standpoint and ordinance under  
19 the tribal establishment as well as internal rules and  
20 regulations and the tribe's own internal control standards.

21 The involvement of these three levels in the  
22 regulatory responsibilities caused a continuous growth in the  
23 bureaucracy and duplication. This is another example in the  
24 continuous cost involved in tribal gaming regulation causing an  
25 increased financial burden of the tribes that continues to grow  
26 and costs too much. Federal and state levels have continued to  
27 want to increase in money and funding for the role in regulating.  
28 The National Indian Gaming Commission has recently increased

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1 their fees by millions of dollars and states have continued to  
2 raise their regulatory costs and proposals for additional  
3 funding.

4 States have always alleged that violations of their  
5 compacts occur because they do not have total control of the  
6 tribal facilities and the regulation as they see it. The states  
7 continue to fail to recognize concurrent regulation and believe  
8 that the tribes are either too well educated or that there are  
9 too many close relationships within the tribes. They do not  
10 believe the tribes are capable of regulating themselves. Yet,  
11 tribes probably have more experience in gaming than the states do  
12 at times.

13 The relationship between the states and tribes begin  
14 on a very difficult level. Compact requirements have, in many  
15 cases, thrown two natural enemies together that are now expected  
16 to work cooperatively. The tribes have, in the past, always  
17 dealt on the federal level. The unique relationship that is in  
18 place between tribes and states has no past. Prior to the  
19 regulations being promulgated by the National Indian Gaming  
20 Commission, many tribes were already regulating by voluntarily  
21 seeking training in areas of gaming, regulatory responsibility by  
22 attending training sessions in already established gaming  
23 jurisdictions.

24 Tribes have continued to seek training from the  
25 Nevada, New Jersey and the Mississippi areas and the states  
26 involved within the gaming operations. Through this, the  
27 National Indian Gaming Association, as well as the NTGC&R have  
28 continued to offer training sessions and seminars under these

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1 areas of anything that applies for the gaming operations. This  
2 is using those areas that are both tribal and non-tribal that  
3 have experience in the gaming areas.

4 The National Indian Gaming Association as well as the  
5 National Tribal Gaming Commissioners and Regulators have  
6 voluntarily developed national minimum internal control  
7 standards. Approximately a few years ago, the NIGA organization  
8 had recognized that minimum internal controls standards was going  
9 to become a major factor within Indian gaming. In this, the NIGA  
10 organization was able to obtain volunteers representing different  
11 aspects within tribal gaming operations to develop the minimum  
12 internal control standards. That document was approved by NIGA  
13 and is supported by the NTGC&R and was submitted to the National  
14 Indian Gaming Commission as well as the Senate Committee on  
15 Indian Affairs.

16 Both organizations, NIGA and NTGC&R, also recognize  
17 the concern of tribal gaming regulatory bodies. In this, they  
18 established minimum requirements in establishing tribal gaming  
19 regulatory entities with about 21 main points that have also been  
20 submitted to the National Indian Gaming Commission as well as the  
21 Senate Committee. It was addressing on how tribes can establish  
22 an autonomous tribal gaming regulatory entity and that the need  
23 for this has to come through. And that in the tribes in  
24 recognizing that the ability of tribes to self-regulate and self-  
25 certification that in establishing a tribal gaming regulatory  
26 body is a tribal decision alone but there are maybe minimum  
27 requirements that would apply to this when establishing that  
28 body, recognizing that it has to be an autonomous entity, it

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1 cannot be part of the governmental section of the tribe as well  
2 as part of the managerial operational side of the gaming  
3 operation, and thereby creating three areas; legislative,  
4 operational and regulatory.

5 In regard to the self-certification regulations as  
6 well as concentrating on the National Indian Gaming Commission,  
7 they made proposed rulemaking under self-certification, I believe  
8 earlier this year in March requesting comments and to look at it  
9 and it did follow the lines of the Indian Gaming Regulatory Act.  
10 The NTGC&R and the NIGA organization had put together comments to  
11 cover that issue of self-certification and how to recognize that  
12 process, how to apply it to the tribes that can be considered  
13 self-certification and recognize that the oversight  
14 responsibilities of the NIGC as well as possibly the state can be  
15 lessened.

16 The NTGC&R has taken a position in supporting  
17 standardized minimum internal controls. The tribes have realized  
18 that we must set aside family relationships when regulating in  
19 certain circumstances. This is a very difficult aspect for  
20 tribes and almost anti-cultural. However, in order to protect  
21 Indian gaming, their means of maintaining their culture and  
22 government and more importantly, their sovereignty, tribes are  
23 learning to deal with the regulatory process and sometimes  
24 negative reactions.

25 An example of these particular areas can come into  
26 the licensing role and responsibilities of those tribal  
27 regulators. Tribal regulators are required to license certain  
28 individuals due to the Indian Gaming Regulatory Act such as

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1 primary management officials and key personnel. With the tribal  
2 operation the majority of the time their employees are going to  
3 be tribal members and at times they're going to be family members  
4 or close relationships. The regulation of the tribal gaming  
5 operation requires that the background be done and at times  
6 difficult decisions must be made. The tribal regulators in  
7 saying that this is a responsibility that they take very  
8 seriously address these issues and establish a due process within  
9 the tribe itself.

10 Tribal regulatory bodies have learned to be the  
11 designated, so-called bad guys in their role. The applicable  
12 regulations of tribal, federal and state are enforced in the  
13 majority of the tribal gaming operations. There are allegations  
14 of crimes and scams applied to tribal gaming operations. Tribes  
15 are able to detect and address problems before they become actual  
16 crimes, an aspect that is not generally reported. Tribes have  
17 recognized and put in place the proper checks and balances to  
18 address the tribal gaming regulatory requirements.

19 Under the checks and balances that tribal gaming  
20 operations have recognized and within the tribal structure itself  
21 we've submitted earlier as part of the testimony a chart that  
22 contains a legislative section, an operational section as well as  
23 a regulatory section. This addresses the internal issue on how  
24 tribes are able to self-regulate.

25 Part of this process is the general tribal council  
26 which is the people of the tribe, falling underneath the  
27 legislative area of the tribal government's business council  
28 representing the tribes. Our Tribal Gaming Commission, a

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1 regulatory entity, falls underneath the regulatory level, which  
2 is consistent in that as well as the observation and surveillance  
3 responsibilities to insure that the procedures, laws and  
4 regulations are complied with.

5 Under gaming management there usually includes an  
6 operational side of the security of that area as well as  
7 management establishing its own auditing requirements. Under the  
8 auditing requirements that apply to the tribal gaming operations  
9 internally alone there are management, tribal and regulatory.  
10 All three areas have different levels of responsibility in the  
11 regulatory field and within that, that is just for the tribal  
12 structure. That does not include the state if it is involved  
13 with the compact process or the requirements under the Indian  
14 Gaming Regulatory Act, the federal audits that need to be  
15 forwarded on to NIGC.

16 Under the regulation of the tribal gaming operation  
17 it also includes the licensing of individuals and the licensing  
18 of vendors and contractors. The tribes themselves have been able  
19 to establish court systems or appeals commissions allowing due  
20 process to all parties involved, whether they be customers or the  
21 employees and tribal regulatory entities also accept the  
22 responsibility of meeting code requirements, such as the zoning,  
23 health and safety and environmental areas.

24 The testimony was to center around the tribal and  
25 gaming regulation, how it applies to the roles of the tribal  
26 gaming regulators. In closing I would like to reiterate that the  
27 NTGC&R provides the tribal gaming regulatory entities, other  
28 organizations and individuals the ability to share experiences as

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1 both negative and positive, to be able to establish a directory  
2 of memberships and organizations to provide some of the most  
3 important parts in tribal gaming regulations such as networking,  
4 communication and training.

5 I would like to thank you again for providing the  
6 NTGC&R the chance to provide testimony on tribal gaming  
7 regulation. I would also like to take this time to invite any  
8 member of the Commission to an NTGC&R seminar to attend or  
9 participate. Thank you.

10 CHAIRPERSON JAMES: Thank you very much.

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