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CHAIRPERSON JAMES:

Mr.

17 Johnson

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MR. JOHNSON: Thank you very much, Madam

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Chairwoman and members of the Committee. And thank you

1 for the opportunity to appear here today to testify on  
2 the regulation of Indian gaming.

3           My name is Tadd Johnson, I'm Chairman of  
4 the National Indian Gaming Commission. Before I begin  
5 my very brief discussion on the regulation of Indian  
6 gaming, I'd like to dispel a couple of myths -- I've  
7 been editing here so, with each witness it's gotten  
8 shorter and shorter -- a couple of the myths and  
9 misconceptions about Indian gaming.

10           First, not all Indian tribes are involved  
11 in gaming. In fact, fewer than half of the federally  
12 recognized Indian tribes offer gaming on their  
13 reservations. There are currently 558 federally  
14 recognized Indian tribes and of those, only 183 are  
15 gaming tribes.

16           A second myth is that all Indian gaming  
17 tribes are making huge profits. In fact, the revenue  
18 generated from all of Indian gaming represents only 11  
19 percent of the gross revenues of legalized gambling in  
20 the nation.

1                   Moreover, 40 percent of the total gross  
2 revenues from Indian gaming comes from only six tribes  
3 and almost 30 percent of Indian gaming facilities have  
4 a gross revenue of less than \$1.5 million.

5                   It is my understanding that after today's  
6 panel the Commission will be visiting the Foxwoods  
7 Casino and I will be joining you on that, and I just  
8 request that you keep in mind that it is not  
9 representative of all Indian gaming. And we would like  
10 to work with you, we have some suggestions of other  
11 places you may want to visit.

12                   To assist you in understanding the NIGC's  
13 role in regulating gaming let me very briefly describe  
14 the history of the Indian Gaming Regulatory Act. In  
15 1987 the U.S. Supreme Court issued it's decision in  
16 California V. Cabizon a band of mission Indians. The  
17 decision made it clear that Indian tribes have the  
18 authority to conduct gaming activities on reservations  
19 unfettered by any state or county regulation.

1           This decision recognized the importance of  
2 tribal self governance and self determination. At the  
3 same time, the Cabizon case was being litigated there  
4 was a widespread growth in Indian bingo halls in many  
5 parts of the country. In response to state concerns  
6 that Indian gaming activities presented attractive  
7 targets for organized crime, Congress enacted the  
8 Indian Gaming Regulatory ACT or IGRA. Congress  
9 carefully crafted the balance and the IGRA encourages  
10 Indian gaming as a form of economic development, but  
11 also preserves the enforcement options necessary to  
12 assure the integrity of gaming.

13           The Act created the National Indian Gaming  
14 Commission to establish a permanent federal regulatory  
15 presence throughout Indian country. IGRA was signed in  
16 to law in 1988, and the first chairman was appointed in  
17 1990. The majority of the NIGC regulations were  
18 enacted in 1992. And the NIGC became fully operational  
19 in early 1993.

1           IGRA establishes a comprehensive system for  
2 regulating gambling activities on Indian lands and  
3 divides gaming into three categories or classes. Class  
4 I consists of social gaming for minimal prizes and is  
5 regulated exclusively by the Indian tribes. Class II  
6 consists of bingo, pull tabs and bingo-like games and  
7 non-banking card games such as poker. A tribe may  
8 conduct, license and regulate class II gaming if the  
9 state in which the tribe is located permits such gaming  
10 and the tribe adapts a gaming ordinance which is  
11 approved by the NIGC.

12           All forms of gaming not including in class  
13 I or II, such as banking card games, casino games, slot  
14 machines and electronic facsimiles of any game of  
15 chance are designated as class III gaming under IGRA.  
16 Class III gaming may lawfully be conducted by an Indian  
17 tribe if: 1) the state in which the tribe is located  
18 permits such gaming, 2) the tribe and the state have  
19 negotiated a tribal state compact which has been  
20 approved by the Secretary of the Interior, and 3) the

1 tribe has adopted a gaming ordinance which has been  
2 approved by the NIGC.

3           Prior to 1996, the IGRA contained a  
4 provision which allowed tribes and states to go to  
5 federal court for failure to negotiate a class III  
6 compact in good faith. However, the United States  
7 Supreme Court in Seminole V. Florida found that  
8 provision unconstitutional because it violated the  
9 state's 11th Amendment right to not be sued in federal  
10 court without its consent.

11           Following the Seminole Decision, the number  
12 of tribal state compacts have declined with only  
13 fourteen new compacts approved in 1996 and '97  
14 combined. However, the Secretary of Interior has  
15 approved 158 compacts with 147 tribes in 24 states over  
16 the last ten years.

17           Like state governments the revenue  
18 generated by tribal gaming facilities are used to fund  
19 essential services such as education, and  
20 infrastructural improvements on reservations. The IGRA

1 required that the net revenues for any tribal gaming  
2 operation be limited to fund tribal government  
3 operations, provide for the general welfare of tribal  
4 members and promote tribal economic development. Many  
5 tribes have used gaming revenues to build schools, fund  
6 social service programs, provide college scholarships,  
7 build roads, provide new sewer and water systems, and  
8 provide for adequate housing for tribal members.

9           The NIGC is only one component for the  
10 regulation of Indian gaming. Presently the NIGC  
11 monitors and regulates gaming in 276 tribal gaming  
12 facilities operated by 183 tribes in 28 states. The  
13 tribal governments share in the responsibility of day  
14 to day regulation of class II gaming, while many  
15 aspects of the regulation of class III gaming are  
16 controlled by tribal state compacts. Thus, there are  
17 three levels of regulation, federal, state and tribal.

18           The particular methods of federal  
19 regulation of Indian gaming are outlined in IGRA and  
20 NIGC regulations, specifically, the Commission is

1 responsible for monitoring gaming operations on a  
2 continuing basis, approving all contracts for the  
3 management of gaming, operations by non tribal parties,  
4 conducting background investigations.

5           The NIGC also reviews all gaming related  
6 tribal ordinances. And another major responsibility is  
7 reviewing background investigations of key employees  
8 conducted by the tribes. The NIGC is also responsible  
9 for reviewing and conducting audits of the books and  
10 records of the gaming operations.

11           And finally, and perhaps most importantly,  
12 the NIGC is responsible for initiating enforcement  
13 actions to help ensure the integrity of Indian gaming  
14 operations.

15           The Commission produces a quarterly  
16 compliance report that tracks the major compliance  
17 obligations for gaming tribes. Recently the Commission  
18 has placed more emphasis on its enforcement  
19 responsibilities. In the past year the NIGC has  
20 initiated 64 enforcement cases, and since 1993 the

1 Commission has collected approximately one million  
2 dollars in civil client assessments.

3           As a final point, I would like to discuss  
4 the expansion of the NIGC. Last fall the Congress  
5 amended IGRA to allow us to assess fees from both class  
6 II and class III facilities. And we're working on an  
7 expansion plan right now and we'll be able to  
8 significantly increase our staff size.

9           In summary, Indian gaming is regulated on  
10 three different levels. The NIGC is only one component  
11 of that regulation. The NIGC has oversight and  
12 regulatory responsibilities over class II gaming and  
13 most aspects of class III gaming. The state exercises  
14 authority over class III gaming by negotiating gaming  
15 compacts with tribes. And finally, tribal governments  
16 themselves are exercising regulatory responsibilities  
17 over all categories of gaming on the reservations.

18           This concludes my prepared remarks, and I  
19 look forward to your questions.

1                   CHAIRPERSON JAMES: Thank you, Mr. Johnson.

2 We really appreciate that.

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