

A Stacked Deck?

Indian Affairs Committee probes whether the NIGC has the personnel and budget to do their job

By Jeff Hinkle

MEMBERS OF THE SENATE Indian Affairs Committee spent the final dank days of summer locked in session discussing the future of Indian gaming and the government's role in policing the industry.

Triggering those hearings were concerns first voiced last June by Sen. John McCain, R-Ariz., who fired off a letter to committee heads Sen. Daniel Inouye, D-Hawaii, and Sen. Ben "Nighthorse" Campbell, R-Colo., calling for a federal probe into the growing industry, its profits and precepts.

But in spite of his rallying cry, McCain now says the proceedings are simply business as usual.

"This is fairly routine," he says. "Senator Inouye has felt for some time that it was time to re-examine the industry. In fact, the August hearing is only one of a series that he has planned to see if existing regulations are effective, if there needs to be amendments to IGRA [Indian Gaming Regulatory Act]..."

McCain sounded more alarmed in his letter last June when he reminded his colleagues that the "federal government has an important responsibility to ensure that Indian gaming law continues to provide the necessary statutory and regulatory framework to conform with the growth of the tribal gaming industry."

One of the things McCain said he hoped would come out of the hearings was a picture of just how well the National Indian Gaming Commission (NIGC) was doing its job. The NIGC was given the task of overseeing the industry in 1988, according to the Indian Gaming Regulatory Act.

Just what the NIGC does and should be doing still needs to be fleshed out, McCain tells

American Indian Report.

"We need to look at whether the NIGC is sufficiently funded to carry out the responsibilities we have given the agency. If funding is



Sen. John McCain, R-Ariz., called for probe into Indian Gaming. Ed Felker

lacking, then we need to find additional money for the agency," he says.

McCain is not alone in his concerns about the NIGC or the gaming industry. In recent months, many have wondered aloud how well a bureau with an \$8 million budget and a staff of 70 people can monitor the bursting-at-the-seams, \$10 billion tribal casino industry.

The same month that McCain called for hearings, Rep. Chris Shay, R-Conn., and Rep. Frank Wolf, R-Va., introduced a bill calling for a new commission to examine the government's relationship with Indian tribes. The bill also proposes giving local lawmakers greater say in approving new tribal casinos in their states. Less

than a year ago, those same two Congressmen warned President Clinton about the "influence of organized crime on Indian gambling" — a problem they say can be traced back to the "lack of federal oversight for Indian gambling operations."

Meanwhile Sen. Chris Dodd, D-Conn., is calling for an investigation into the federal tribal recognition process and how it relates to the gaming industry that often underwrites costly recognition bids.

All of this hoopla over tribal casinos comes as no surprise to Indian Affairs Committee member Sen. Harry Reid, D-Nev., who warned his fellow lawmakers in 1996 that the federal government's "hands-off" policy on Indian gaming would lead to problems. Five years later, Reid is still troubled by what he sees.

"I believe that Indian Gaming has grown so fast it is overwhelming the current regulatory system," says Reid. "As a former chairman of Nevada's Gaming Control Board, I know firsthand the need for effective enforcement of gaming regulations. We must do more to strengthen NIGC's ability to perform its oversight duties by providing additional staff and resources to monitor compliance with existing law."

Proponents of Indian gaming are quick to point out that the NIGC is only one part of the arrangement of supervision established by IGRA. The NIGC keeps an eye on things at the federal level, but IGRA also demands that state governments as well as tribes play a role in keeping casinos and casino owners honest.

"It's wrong to say that the NIGC is budgeted at \$8 million and then to compare that to the many millions that are spent on regulation in Nevada or New Jersey," said a staff member for Campbell. "There are many warm bodies watching over the industry. There are federal regulators, state regulators and tribal regulators. The Oneidas of New York spend \$9 million a year of their own money watching the operations of their casino. To compare the NIGC's budget to what is spent in Las Vegas gives an incomplete picture."

It was Campbell himself who fought in 1997 to up the NIGC's budget from its then-yearly cap of \$2 million to its existing level of \$8 million — an amount collected entirely from gaming tribes.

But the staff member (who asked not to be identified) says now the Colorado senator is satisfied with the figure in spite of the many voices calling for reforms.

That early prognosis on the part of the co-

chairman of the Indian Affairs Committee may come as bad news to NIGC personnel who say they are feeling a pinch trying to keep up with the expanding business.

"Because the industry has grown twenty-fold and our funding has only slightly more than doubled, we are struggling to keep pace," says Anna Briatico, acting director of Congressional and public affairs for the NIGC.

Philip Hogen, a former executive with the NIGC who started with the agency "back when we had a \$1.5 million budget, 35 people on staff and inspectors operating out of the trunks of their cars," says he warned regulators early on about fiscal shortfalls within the agency. It was only after the budget increase in 1997 that things improved "dramatically," he says.

"We were much better equipped to deal with the industry with an \$8 million budget. But that's not to say there aren't still soft spots in the system."

Still, Hogen says, once lawmakers sit down to mull over the issue of Indian gaming and the NIGC, he believes, "Congress will be pleased with what they learn. The mega-operations — they already have world-class regulatory systems in place. The NIGC doesn't have a lot to teach the people at Foxwoods, for example."

But industry insiders remain skeptical about

the existing three-tier approach to casino supervision.

"As far as states stepping in, you have situations in California where tribes are refusing to tell the state how many machines they operate," says Mike Sloan, vice president of the Mandalay Resort Group in Las Vegas.

"Letting anybody regulate themselves is difficult. You have a situation where the same people who are benefiting from the industry are supposed to regulate it as well. It didn't work with the savings-and-loan industry. It doesn't work with casinos," he says.

The final link in oversight of tribal gaming is the weakest of all, says Sloan.

"There is no federal regulation. The NIGC has fewer employees than any other gaming regulatory board in the world," he says.

Certainly it's no surprise to hear criticisms of tribal gaming being voiced in Nevada. Several years ago a coalition of Las Vegas-based businesses spent millions of dollars fighting the expansion of Indian gaming in California and lost. Yet corporate-run casino companies continue to donate millions in each year in soft money contributions to Washington lawmakers in hopes of protecting their interests.

As do gaming tribes.

In fact, last spring a *Boston Globe* story went so far as to suggest that the \$40 million that

gaming tribes had contributed to political coffers in the past five years was part of an "all-out effort to minimize federal oversight of casinos" and keep the NIGC's budget small.

McCain dismisses such innuendo.

"I have not heard that connection made before," he says.

In fact, McCain — who has gotten a lot of political mileage out of the issue of campaign finance reform — downplays how much political or regulatory influence is bought by either corporate or tribal gaming interests with their many millions in soft money donations.

"We used to hear from tribes who believed that — either real or imagined — PAC money was threatening Indian gaming. Maybe that used to be true. But now so many of these Vegas companies — like Harrah's and Bally's — have mutual interests with Indian tribes, that I'm not sure it's so true anymore," he says.

McCain chalks that up to the continually evolving world of tribal gaming.

"There are many looming issues out there right now," he says. "A federal judge in Arizona recently ruled that the governor in my state had no right to negotiate compacts with tribes; that that was a job better suited to the state Legislature. No doubt there will be further court challenges ahead. Indian gaming is by no means a static issue." □