

104TH CONGRESS
1ST SESSION

H. R. 1578

To amend the Indian Gaming Regulatory Act to provide adequate and certain remedies for sovereign tribal governments.

IN THE HOUSE OF REPRESENTATIVES

MAY 9, 1995

Mr. TORRES introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committees on the Judiciary and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Indian Gaming Regulatory Act to provide adequate and certain remedies for sovereign tribal governments.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Indian Gaming Regulatory Act Amendments of 1995”.

6 (b) REFERENCE.—Whenever in this Act a section or
7 other provision is amended or repealed, such amendment
8 or repeal shall be considered to be made to that section

1 or other provision of the Indian Gaming Regulatory Act
2 (25 U.S.C. 2701 et seq.).

3 **SEC. 2. FINDINGS.**

4 Section 2 of the Act (25 U.S.C. 2701) is amended—

5 (1) by striking out “and” at the end of para-
6 graph (4);

7 (2) by striking the period at the end of para-
8 graph (5) and inserting in lieu thereof a semicolon;
9 and

10 (3) by adding at the end the following:

11 “(6) tribal systems for the regulation of gaming
12 activities should be structured to maintain and pre-
13 serve the integrity and fairness of tribal gaming op-
14 erations;

15 “(7) the operation of gaming activities on In-
16 dian lands has had a significant impact on com-
17 merce with foreign nations, among the several
18 States, and with Indian tribes; and

19 “(8) the United States Constitution vests the
20 Congress with the powers to regulate commerce with
21 foreign nations, and among the several States, and
22 with the Indian tribes, and this Act is enacted in the
23 exercise of those powers, and shall extend to and en-
24 compass all federally recognized Indian tribes.”.

1 **SEC. 3. DECLARATION OF POLICY.**

2 Section 3 of the Act (25 U.S.C. 2702) is amended—

3 (1) by striking out “and” at the end of para-
4 graph (2);

5 (2) by striking the period at the end of para-
6 graph (3) and inserting in lieu thereof “; and”; and

7 (3) by adding at the end the following:

8 “(4) to ensure the right of Indian tribes to con-
9 duct gaming activities on Indian lands in a manner
10 consistent with the decision of the Supreme Court in
11 California et al. v. Cabazon Band of Mission Indians
12 et al. (480 U.S.C. 202, 107 S.Ct. 1083(1987)), in-
13 volving the Cabazon and Morango Bands of Mission
14 Indians.”.

15 **SEC. 4. DEFINITIONS.**

16 (a) CLASS I GAMING.—Section 4(6) of the Act (25
17 U.S.C. 2703(6)) is amended by inserting “played” after
18 “social games”.

19 (b) CLASS II GAMING.—(1) Section 4(7)(A) of the
20 Act (25 U.S.C. 2703(7)(A)) is amended—

21 (A) in clause (i), by amending the matter fol-
22 lowing subclause (III) to read as follows:

23 “including pull tabs, lotto, punch boards, tip jars,
24 instant, and games similar to bingo (whether or not
25 electronic, computer, or other technologic aids are
26 used in connection therewith so long as the fun-

1 damental characteristics of the game remain the
2 same), and”; and

3 (B) by amending clause (ii) to read as follows:

4 “(ii) card games where the gaming oper-
5 ation does not have a stake in the outcome of
6 the game, and for the purposes of this clause,
7 a stake in the outcome of the game shall not in-
8 clude (I) receiving a fixed percentage of the wa-
9 gERS made; (II) receiving a fixed fee per game
10 played; or (III) a rental fee for the player to
11 participate in the game.”.

12 (2) Section 4(7)(C) of the Act (25 U.S.C.
13 2703(7)(C)) is amended by striking out “as determined
14 by the Chairman”.

15 (3)(A) Section 4(7) of the Act (25 U.S.C. 2703(7))
16 is amended by striking out subparagraphs (D), (E), and
17 (F).

18 (B) Public Law 101–301 (25 U.S.C. 2703 note) is
19 amended by striking out section 6.

20 (c) COMPACT AND MANAGEMENT CONTRACT.—Sec-
21 tion 4(7) of the Act (25 U.S.C. 2703) is amended—

22 (1) by redesignating paragraphs (9) and (10)
23 as paragraphs (11) and (12), respectively; and

24 (2) by inserting after paragraph (8) the follow-
25 ing new paragraphs:

1 “(9) The term ‘compact’ means an agreement
2 relating to the operation of class III games on In-
3 dian lands entered into by an Indian tribe and a
4 State, which is approved by the Secretary, or the
5 procedures in lieu of such an agreement, published
6 by the Secretary.

7 “(10) The term ‘management contract’ means
8 any contract, other than employment contract, that
9 empowers any entity, which is not totally owned and
10 controlled by the tribe, with decision-making author-
11 ity over any gaming-related aspect of the gaming op-
12 eration. Decision-making authority means the exer-
13 cise of authority or supervision or the power to make
14 or cause to be made any discretionary decision with
15 regard to matters which have a substantial effect on
16 the management aspects of a gaming operation.”.

17 **SEC. 5. NATIONAL INDIAN GAMING COMMISSION.**

18 (a) MEMBERS.—Paragraph (5) of section 5(b) (25
19 U.S.C. 2704(b)) is amended—

20 (1) in subparagraph (B)—

21 (A) by inserting “(other than any interest
22 that is derived from the individual’s status as
23 an enrolled member of an Indian tribe)” after
24 “financial interest”; and

1 (B) by striking out “or” at the end there-
2 of;

3 (2) by striking out the period at the end of sub-
4 paragraph (C) and inserting in lieu thereof “; or”;
5 and

6 (3) by adding at the end thereof the following:

7 “(D) is unable to devote his entire time and at-
8 tention to the business of the Commission.”.

9 (b) COMPENSATION.—Subsection (g) of section 5 (25
10 U.S.C. 2704) is amended—

11 (1) by striking out paragraph (1) and redesign-
12 ating paragraphs (2) and (3) as paragraphs (1)
13 and (2), respectively; and

14 (2) in paragraph (1), as redesignated by para-
15 graph (1) of this subsection—

16 (A) by striking out “The associate mem-
17 bers” and inserting in lieu thereof “Members”;
18 and

19 (B) by striking out “level V of the Execu-
20 tive Schedule under section 5316” and inserting
21 in lieu thereof “level IV of the Executive Sched-
22 ule under section 5315”.

23 (c) SUPPORT SERVICES.—Section 5 of the Act (25
24 U.S.C. 2704) is amended by adding at the end thereof
25 the following:

1 “(h) The Administrator of General Services shall pro-
2 vide to the Commission on a reimbursable basis such ad-
3 ministrative support services as the Commission may re-
4 quest.”.

5 **SEC. 6. POWERS OF THE CHAIRMAN.**

6 Section 6 of the Act (25 U.S.C. 2705) is amended
7 to read as follows:

8 **“SEC. 6. POWERS OF THE CHAIRMAN.**

9 “(a) The Chairman shall serve as the chief executive
10 officer of the Commission.

11 “(b) Subject to the provisions of subsection (c), the
12 Chairman:

13 “(1) Shall, employ, appoint, and supervise,
14 without regard to the provisions of title 5, United
15 States Code, governing appointments in the competi-
16 tive service, such personnel as are deemed necessary
17 to carry out the functions of the Commission and as-
18 sign work among such personnel. Such staff shall be
19 paid without regard to the provisions of chapter 51
20 and subchapters III and VIII of chapter 53 of such
21 title relating to classification and General and Senior
22 Executive Service Schedule pay rates, except that no
23 individual so appointed may receive pay in excess of
24 the annual rate of basic pay payable for ES-5 of the

1 Senior Executive Service Schedule under section
2 5382 of that title.

3 “(2) May procure temporary and intermittent
4 services under section 3109(b) of title 5, United
5 States Code, but at rates for individuals not to ex-
6 ceed the daily equivalent of the maximum annual
7 rate of basic pay payable for ES-6 of the Senior Ex-
8 ecutive Service Schedule (established under section
9 5382 of such title).

10 “(3) May request the head of any Federal agen-
11 cy to detail any of the personnel of such agency to
12 the Commission to assist the Commission in carry-
13 ing out its duties under this Act, unless otherwise
14 prohibited by law.

15 “(4) May use and expend Federal funds and
16 funds collected pursuant to section 17 of this Act.

17 “(5) May contract for the services of other pro-
18 fessional, technical, and operational personnel and
19 consultants as may be necessary to the performance
20 of the Commission’s responsibilities under this Act.

21 “(c) In carrying out any of the functions pursuant
22 to this section, the Chairman shall be governed by the gen-
23 eral policies of the Commission and by such regulatory de-
24 cisions, findings, and determinations as the Commission
25 may by law be authorized to make.”.

1 **SEC. 7. POWERS OF THE COMMISSION.**

2 (a) BUDGET.—Paragraph (1) of section 7(a) (25
3 U.S.C. 2706(a)) is amended by striking out “upon the rec-
4 ommendation of the chairman,”.

5 (b) FORMER POWERS OF CHAIRMAN.—Subsection
6 (a) of section 7 (25 U.S.C. 2706) is amended—

7 (1) by striking out “and” at the end of para-
8 graph (4);

9 (2) by striking out the period at the end of
10 paragraph (5) and inserting in lieu thereof a semi-
11 colon; and

12 (3) by adding at the end thereof the following
13 new paragraphs:

14 “(5) by a unanimous vote of not less than 3
15 members, after a mandatory effort to mediate any
16 controversy, issue orders of temporary closure as
17 provided in section 14(b);

18 “(6) by an affirmative vote of not less than 2
19 members, and after a full hearing, levy and collect
20 civil fines as provided in section 14(a), which fines
21 shall only run from date of notice of violation or
22 later;

23 “(7) by an affirmative vote of not less than 2
24 members, approve tribal ordinances or resolutions
25 regulating class II gaming and class III gaming as
26 provided in section 11; and

1 “(8) by an affirmative vote of not less than 2
2 members, approve management contracts for class II
3 gaming and class III gaming as provided in sections
4 11(d)(9) and 12.

5 (c) POWERS.—Subsection (c) of section 7 (25 U.S.C.
6 2706) is amended—

7 (1) in paragraphs (1) and (2), by inserting
8 “and class III gaming, where a compact so pro-
9 vides,” after “class II gaming” both places it ap-
10 pears;

11 (2) by striking out “and” at the end of para-
12 graph (9);

13 (3) by redesignating paragraph (10) as para-
14 graph (13); and

15 (4) by inserting after paragraph (9) the follow-
16 ing:

17 “(10) may invoke, in the case of contumacy by
18 or refusal to obey any subpoena issued to any per-
19 son, the jurisdiction of any court of the United
20 States within the jurisdiction of which an investiga-
21 tion or proceeding is carried on, or where such per-
22 son resides or carries on business, in requiring the
23 attendance and testimony of witnesses and the pro-
24 duction of books, papers, correspondence, memo-
25 randa, and other records;

1 “(11) may in its discretion, whenever it shall
2 appear to the Commission that any person is en-
3 gaged or about to engage in acts or practices con-
4 stituting a violation of any provision of this Act or
5 rules or regulations thereunder, bring an action in
6 the proper district court of the United States to en-
7 join such acts or practices, or transmit such evidence
8 as may be available concerning such acts or prac-
9 tices as may constitute a violation of any criminal
10 law of the United States to the Attorney General,
11 who may institute the necessary criminal proceed-
12 ings;

13 “(12) may provide training and technical assist-
14 ance to Indian tribal governments in all aspects of
15 the conduct and regulation of gaming activities;
16 and”.

17 (d) REPORT.—Section 7 of the Act (25 U.S.C. 2406)
18 is amended by striking out subsection (c).

19 **SEC. 8. INTERIM AUTHORITY TO REGULATE GAMING.**

20 Section 10 of the Act (35 U.S.C. 2709) is repealed.

21 **SEC. 9. TRIBAL GAMING ORDINANCES.**

22 (a) CLASS II GAMING.—(1) Subsection (b) of section
23 11 (25 U.S.C. 2710) is amended—

24 (A) by striking out “Chairman” each place it
25 appears and inserting in lieu thereof “Commission”;

1 (B) in paragraph (2)(F), by striking out “and”
2 at the end of clause (i), by redesignating clause (ii)
3 as clause (iii) and inserting after clause (i) the fol-
4 lowing:

5 “(ii) ensures the integrity and fairness of the
6 games and which is appropriate for the size and
7 complexity of the gaming operations authorized by
8 the ordinance.”;

9 (C) in paragraph (3)(D), by inserting “shall
10 make appropriate withholdings and” after “tribes”;

11 (D) in paragraph (4)(A), by striking out “No
12 person or entity” and all that follows through
13 “State.”;

14 (E) in paragraph 4(B)—

15 (i) in clause (ii), by striking out “entity”
16 and all that follows through “Act” and insert-
17 ing in lieu thereof “entity; except, however, the
18 exemption may transfer to those heirs of the in-
19 dividual licensee who are otherwise enrolled as
20 members of the tribe which granted such li-
21 cense”; and

22 (ii) by striking out clause (iii); and

23 (2) Subsection (c) of section 11 (25 U.S.C. 2710) is
24 amended by striking out paragraphs (3), (4), (5), and (6).

1 (b) CLASS III GAMING.—(1) Subsection (d) of section
2 11 (25 U.S.C. 2710) is amended by striking out “Chair-
3 man” each place it appears and inserting in lieu thereof
4 “Commission”.

5 (2) Paragraph (1) of such subsection is amended by
6 amending subparagraphs (B) and (C) to read as follows:

7 “(B) located in a State where the requirements
8 of clauses (i) through (iii) of paragraph (3)(C) are
9 satisfied and the gaming activity is eligible for inclu-
10 sion in a compact, and

11 “(C) conducted in conformance with a compact
12 that is in effect.”.

13 (3) Subparagraph (C) of section 11(d)(2) (25 U.S.C.
14 22710(d)(2)) is amended by striking out “Tribal-State
15 compact entered into under paragraph (3) by the Indian
16 tribe” and inserting in lieu thereof “compact”.

17 (4) Clause (iii) of section 11(d)(2)(D) (25 U.S.C.
18 (d)(2)(D)) is amended by striking out “Tribal-State com-
19 pact entered into under paragraph (3)” and inserting in
20 lieu thereof “compact”.

21 (5) Paragraph (3) of section 11(d) (25 U.S.C.
22 2710(d)) is amended—

23 (A) by redesignating subparagraph (C) as sub-
24 paragraph (H) and in that subparagraph—

1 (i) by striking out “Tribal-State compact
2 and inserting in lieu thereof “compact entered
3 into”;

4 (ii) in clause (i)—

5 (I) by striking out “the application
6 of” and inserting in lieu thereof “the adop-
7 tion of”; and

8 (II) by inserting “, with tribal con-
9 sent, of” after “tribe or”;

10 (iii) by striking out clauses (ii) and (iv)
11 and redesignating clauses (iii) through (vii) as
12 clauses (ii) through (v), respectively;

13 (iv) in clause (ii) (as redesignated by
14 clause (iii) of this subparagraph), by inserting
15 “or Secretary” after “State”; and

16 (v) in clause (v) (as redesignated by clause
17 (iii) of this subparagraph), by striking out “di-
18 rectly” and inserting in lieu thereof “reason-
19 ably”; and

20 (B) by striking out subparagraphs (A) and (B)
21 and inserting in lieu thereof the following:

22 “(A)(i) Any Indian tribe having jurisdiction over the
23 lands upon which a class III gaming activity is to be con-
24 ducted may request the State in which such lands are lo-
25 cated to enter into negotiations for the purpose of entering

1 into a compact governing the conduct of class III gaming
2 activities;

3 “(ii) Such request shall be in writing and shall specify
4 the gaming activity or activities the Indian tribe proposes
5 for inclusion in the compact and within 30 days after such
6 request, the State shall respond to the Indian tribe.

7 “(iii) Compact negotiations shall commence within 30
8 days after the State’s response to the Indian tribe, and
9 shall be completed within 120 days of the initiation of
10 compact negotiations, unless the State and the Indian
11 tribe agree to a different period of time for the completion
12 of compact negotiations.

13 “(iv) Should the State or the Indian tribe find that
14 they are unable to complete compact negotiations because
15 they cannot reach agreement on the terms of a compact
16 or should a State fail to respond to the tribe’s written re-
17 quest for a compact or should a State fail to participate
18 in negotiations, the State or the Indian tribe may notify
19 the Secretary.

20 “(B) The Secretary, in consultation with the Indian
21 tribes and, if possible, the States, shall develop a panel
22 of independent mediators, which shall be periodically up-
23 dated.

24 “(C) If after the 120 days authorized for the comple-
25 tion of compact negotiations, the State and the Indian

1 tribe have not agreed to recommend a compact to the Sec-
2 retary, the State and the Indian tribe shall enter into me-
3 diation, pursuant to the following procedures:

4 “(i) The Secretary shall provide the State and
5 Indian tribe with a list of names of three mediators
6 randomly selected from the panel of independent me-
7 diators. The State and the Indian tribe each may re-
8 move a different mediator from the list of three me-
9 diators, and if both the State and Tribe remove the
10 same mediator, the Secretary shall choose from the
11 remaining mediators to conduct the mediation.

12 “(ii) The mediator shall attempt to achieve a
13 compact within a 60-day period, which period may
14 be extended by mutual agreement of the State and
15 the Indian tribe.

16 “(iii) If mediation fails, the State and Indian
17 tribe may submit their last best offer to the medi-
18 ator, who shall evaluate the offers under the terms
19 of this Act and recommend a compact to the Sec-
20 retary, except that by mutual agreement the parties
21 may substitute either compulsory arbitration, or a
22 decision by the Secretary instead of a mediator’s
23 recommendation. If the State fails to submit a last
24 best offer, the mediator shall recommend the Indian
25 tribe’s last best offer to the Secretary.

1 “(iv) The recommended compact shall also in-
2 clude such provisions which in the opinion of the me-
3 diator or arbitrator best meet the objectives of this
4 Act, provides for adequate standards to ensure the
5 integrity and fairness of the games, and are consist-
6 ent with any declaratory judgment issued pursuant
7 to paragraph (7) of this subsection.

8 “(D) If the parties or the mediator or arbitrator pur-
9 suant to this paragraph recommend a compact to the Sec-
10 retary, the Secretary shall approve such compact and shall
11 publish it in the Federal Register.

12 “(E) The compact also shall not be approved by the
13 Secretary if it violates—

14 “(i) any provision of this Act or the regulations
15 promulgated by the Commission;

16 “(ii) any other provision of Federal law that
17 does not relate to jurisdiction over gaming on Indian
18 reservations; or

19 “(iii) the trust obligations of the United States
20 to Indians.

21 “(F) Except for an appeal under subchapter II of
22 chapter 5 of title 5, United States Code, by an Indian tribe
23 or a State associated with the publication of the compact,
24 the publication of a compact pursuant to paragraph
25 (3)(D) which permits a form of class III gaming shall,

1 for the purposes of this Act, be conclusive evidence that
2 such class III gaming is an activity subject to negotiations
3 under the laws of the State where the gaming is to be
4 conducted, in any matter under consideration by the Com-
5 mission or a Federal court.

6 “(G) Any compact negotiated under this subsection
7 shall be effective upon its publication in the Federal Reg-
8 ister by the Secretary or shall be effective after the pas-
9 sage of 60 days from the date of the mediator’s rec-
10 ommendations to the Secretary, or from the date that a
11 compact agreed to by both tribe and State is submitted
12 to the Secretary, unless the Secretary, within 60 days, re-
13 jects the compact under subparagraph (E).”.

14 (6) Paragraph (5) of section 11(d) (25 U.S.C.
15 2710(d)) is amended by striking out “Tribal-State com-
16 pact entered into by the Indian tribe under paragraph (3)”
17 and inserting in lieu thereof “compact”.

18 (7) Paragraph (6) of section 11(d) (25 U.S.C.
19 2710(d)) is amended to read as follows:

20 “(6)(A) Nothing in this subsection shall compel a
21 State to assume any responsibility regarding tribal gaming
22 activities. A State’s consent shall be required for any State
23 responsibility for tribal gaming activities. If a State does
24 not consent to a responsibility set forth in a compact, such
25 compact shall continue to be in effect, except the subject

1 responsibilities shall be assumed by the Commission, or
2 in the discretion of the Commission, may be delegated to
3 a tribal regulatory body.

4 “(B) The provisions of section 5 of the Act of Janu-
5 ary 2, 1951 (64 Stat. 1135; 15 U.S.C. 1175) shall not
6 apply to any gaming on any Indian lands, and shall not
7 apply to any commerce, intended for gaming on any In-
8 dian lands.”.

9 (8) Paragraph (7) of section 11(d) (25 U.S.C.
10 2710(d)) is amended—

11 (A) by amending clause (i) of subparagraph (A)
12 to read as follows:

13 “(i) any cause of action for a declaratory judg-
14 ment brought by an Indian tribe or State, which is
15 authorized by this clause to file an action for a de-
16 claratory judgment in district courts of the United
17 States for the purposes of seeking a determination
18 of what games are permitted to be played by any
19 person or entity for any purposes in the State in
20 which the proposed class III gaming activities are to
21 be conducted on Indian lands,”;

22 (B) in clause (ii) of subparagraph (A)—

23 (i) by inserting “the United States,” before
24 “a State”; and

1 (ii) by striking out “Tribal-State compact
2 entered into under paragraph (3)” and insert-
3 ing in lieu thereof “compact”;

4 (C) by amending clause (iii) to read as follows:

5 “(iii) any cause of action initiated by the Sec-
6 retary, a State or an Indian tribe to enforce provi-
7 sions of a compact.”; and

8 (D) by amending subparagraph (B) to read as
9 follows:

10 “(B) In any declaratory action brought under sub-
11 paragraph (A)(i) the court shall declare that the gaming
12 activity as a matter of Federal law shall be the subject
13 of negotiation and included in a compact if it finds that—

14 “(i) the gaming activity is not prohibited as a
15 matter of State criminal law; or

16 “(ii) even if the gaming activity is prohibited as
17 a matter of State criminal law, the gaming activity
18 meets one or more of the following criteria—

19 “(I) its principal characteristics are sub-
20 stantially similar to principal characteristics of
21 gaming activities that are not prohibited as a
22 matter of State criminal law;

23 “(II) State law permits the gaming activity
24 subject to regulation;

1 “(III) as a matter of State law any person,
2 organization, or entity within the State may en-
3 gage in the gaming activity for any purpose; or

4 “(IV) there is a pervasive pattern of non-
5 enforcement of the gaming prohibition.

6 “(C) Nothing in this subsection shall be construed to
7 preclude or delay a tribe from seeking the mediation set
8 forth in paragraph (3) of this subsection.”.

9 (9) Subsection (d) of section 11 (25 U.S.C. 2710)
10 is amended by striking out paragraph (8) and redesignat-
11 ing paragraph (9) as paragraph (8) and in that paragraph
12 by striking out “subsections (b), (c), (d), (f), (g), and (h)
13 of”.

14 (c) APPROVAL OF TRIBAL GAMING ORDINANCE OR
15 RESOLUTION.—Subsection (e) of section 11 (25 U.S.C.
16 2710) is amended by striking out “Chairman” each place
17 it appears and inserting in lieu thereof “Commission”.

18 **SEC. 10. MANAGEMENT CONTRACTS.**

19 (a) ROLE OF COMMISSION.—(1) Section 12 of the
20 Act (25 U.S.C. 2712) is amended by striking out “Chair-
21 man” each place it appears and inserting in lieu thereof
22 “Commission”.

23 (2) Subsection (f) of such section is amended by
24 striking out “he” and inserting in lieu thereof “the Com-
25 mission”.

1 (b) INFORMATION REQUIRED.—Section 12(a) (25
2 U.S.C. 2711(a)) is amended—

3 (1) in the matter preceding subparagraph (A)
4 of paragraph (1), by striking out “class II gaming
5 activity that the Indian tribe may engage in under
6 section 11(b)(1)” and inserting in lieu thereof “gam-
7 ing activity that the Indian tribe may engage in
8 under this Act”;

9 (2) by striking out “and” at the end of para-
10 graph (1)(B); by striking out the period at the end
11 of paragraph (1)(C) and inserting in lieu thereof “;
12 and”; and by adding at the end of paragraph (1) the
13 following:

14 “(D) a complete disclosure of all collateral and ancil-
15 lary agreements that exist between the management com-
16 pany and the tribe, and between any and all persons listed
17 in subparagraph (A) and the tribe.”; and

18 (3) by striking out paragraph (3).

19 (c) APPROVAL.—Subsection (b) of section 12 (25
20 U.S.C. 2711) is amended by inserting “and” at the end
21 of paragraph (4), striking out paragraph (5), and redesi-
22 gnating paragraph (6) as paragraph (5).

23 (d) PERIOD FOR APPROVAL.—Subsection (d) of sec-
24 tion 12 (25 U.S.C. 2711) is amended—

1 (1) by striking out “180” both places it appears
2 and inserting in lieu thereof “90”; and

3 (2) by amending the second sentence to read as
4 follows: “In the event the time periods expire with-
5 out action taken by the Commission, the manage-
6 ment contract shall be deemed to be approved and
7 the tribe and management contractors may proceed
8 as if such contract is formally approved.”.

9 **SEC. 11. EXISTING ORDINANCES AND CONTRACTS.**

10 Subsection (c) of section 13 (25 U.S.C. 2712) is
11 amended by striking out “including all collateral agree-
12 ments,” and inserting in lieu thereof “including all related
13 agreements involving the same parties, financing or leas-
14 ing agreements, or any agreement that pertains to signifi-
15 cant management functions or responsibilities,”.

16 **SEC. 12. CIVIL PENALTIES.**

17 Paragraph (2) of section 14(a) (25 U.S.C. 2713(a))
18 is amended by inserting “a mechanism for informal dis-
19 pute resolution and”.

20 **SEC. 13. COMMISSION FUNDING.**

21 Section 18 of the Act (25 U.S.C. 2717) is amended
22 by adding at the end the following:

23 “(c) The Commission may assess applicable gaming
24 operations for an amount necessary to defray reasonable
25 costs related to the performance of regulatory responsibil-

1 ities set forth in compacts relating to class III gaming ac-
2 tivities.

3 “(d) All amounts collected pursuant to the assess-
4 ment of fees under this section shall be retained by the
5 Commission and, subject to subsection(a)(5), shall be
6 available without further appropriation—

7 “(1) first for the performance of the regulatory
8 responsibilities relating to the class of gaming with
9 respect to which such fees were collected; and

10 “(2) then, to the extent any amount remains,
11 for the performance of other responsibilities of the
12 Commission.”.

13 **SEC. 14. GAMING ON AFTER-ACQUIRED LANDS.**

14 (a) ELIMINATION OF GOVERNOR’S CONCURRENCE.—
15 Subparagraph (A) of section 20(b)(1) of the Act (25
16 U.S.C. 2719(b)(1)) is amended by striking out “, but only
17 if the Governor of the State in which the gaming activity
18 is to be conducted concurs in the Secretary’s determina-
19 tion”.

20 (b) REPORTING AND WITHHOLDING OF TAXES.—
21 Paragraph (1) of section 20(d) (25 U.S.C. 2719(d)) is
22 amended—

23 (1) by inserting “, the exemption from Federal
24 taxes provided to the States with respect to any

1 gaming activity, and the reporting of cash trans-
2 actions” after “wagering operations”; and

3 (2) by striking out “under a Tribal-State com-
4 pact entered into under section 11(d)(3) that is in
5 effect,”.

6 **SEC. 15. CRIMINAL PROVISIONS.**

7 Section 1166 of title 18, United States Code, is
8 amended by striking out “Tribal-State compact” both
9 places it appears and inserting in lieu thereof “compact”.

10 **SEC. 16. TAX EXEMPT STATUS.**

11 The Act is amended by inserting after section 20 the
12 following new section:

13 “TAX EXEMPT STATUS

14 “SEC. 20A. Notwithstanding any other provision of
15 Federal law, tribally owned or chartered gaming oper-
16 ations shall not be subject to any Federal tax, including
17 (but not limited to) excise and corporations taxes, except
18 for the fees and assessments expressly provided for in this
19 Act.”.

20 **SEC. 17. EFFECTIVE DATES AND TRANSITION PROVISIONS.**

21 (a) PRIOR COMPACTS AND GOVERNANCE.—Notwith-
22 standing any other provision of the Indian Gaming Regu-
23 latory Act Amendments of 1995, all compacts approved
24 by the Secretary, and procedures for governance in lieu
25 of compacts promulgated by the Secretary of the Interior,
26 under the Indian Gaming Regulatory Act (25 U.S.C. 2701

1 et seq.) as in effect before the date of the enactment of
2 this Act, shall continue to be fully operative and binding
3 on the parties and shall not be subject to revision unless
4 agreed to by the parties.

5 (b) NEGOTIATIONS.—Any tribe that requested a
6 State to negotiate a Tribal-State compact before the en-
7 actment of the Indian Gaming Regulatory Act Amend-
8 ments of 1995 and has not completed that process may
9 request the State to enter into a compact as specified
10 under section 11(d)(3)(A) of the Indian Gaming Regu-
11 latory Act (25 U.S.C. 2701 et seq.) as amended by this
12 Act.

13 (c) LAWFULNESS OF CERTAIN CLASS III GAMING
14 ACTIVITIES.—(1) Class III gaming activities that are as
15 a matter of Federal law lawful in any jurisdiction on the
16 date of the enactment of this Act, shall, notwithstanding
17 any provision of this Act or the amendments made by this
18 Act, remain lawful for purposes of section 11(d)(7)(C) of
19 the Indian Gaming Regulatory Act (25 U.S.C.
20 2710(d)(7)(C)), as amended by this Act.

21 (2) For purposes of Federal law, the laws in effect
22 on the date that an Indian tribe notifies the Secretary (or
23 before 1993, notified the State) that it wishes to negotiate
24 a compact, shall be the basis for determining the scope
25 of gaming in section 11(d) of the Indian Gaming Regu-

1 latory Act (25 U.S.C. 2710(d)), as amended by this Act,
2 for any compact or for procedures in lieu of a compact.
3 For 1993 and later, laws in effect may be considered so
4 long as these laws increase the gaming options available
5 to tribes.

6 (3) Notwithstanding any provision of this Act or the
7 amendments made by this Act—

8 (A) tribes operating Class III gaming pursuant
9 to regulations promulgated by the Department of
10 the Interior and in effect on or before the date of
11 the enactment of this Act shall be entitled to con-
12 duct Class III gaming activities without the approval
13 of a compact, consistent with such regulations;

14 (B) tribes with Indian lands in Wisconsin shall
15 be entitled to conduct Class III gaming activities
16 consistent with the decision of Federal district court
17 in *Lac du Flambeau Band of Lake Superior Chip-
18 pewa Indians v. State of Wisconsin*, 770 F. Supp.
19 480 (W.D. Wis. 1991);

20 (C) tribes with Indian lands in the State of
21 Washington shall be entitled to conduct or continue
22 such class III gaming activities that were actually
23 operated in such State by any Indian tribe on or be-
24 fore November 1, 1994, without a compact, but only
25 to the extent of the nature and scope of such class

1 III gaming activities that were in operation by any
2 Indian tribe in such State on or before such date,
3 so long as such class III gaming activities are other-
4 wise in compliance with this Act or court order;

5 (D) tribes with Indian lands in the State of
6 California shall be entitled to conduct class III gam-
7 ing activities without a compact so long as such
8 games are limited to the nature and scope of gaming
9 activities conducted by an Indian tribe in the State
10 of California in effect on or prior to January 1,
11 1995, and such activities are otherwise in compli-
12 ance with this Act.

13 (d) CATAWBA INDIAN TRIBE OF SOUTH CARO-
14 LINA.—Nothing in this Act or the amendments made by
15 this Act shall be construed as a repeal of section 14(a)
16 of the Catawba Indian Tribe of South Carolina Land
17 Claims Settlement Act of 1993 (25 U.S.C. 9411(a)).

18 (e) DEFINITIONS.—For the purposes of this section,
19 the terms “class III gaming” and “Indian tribe” have the
20 meaning given such terms by the Indian Gaming Regu-
21 latory Act (25 U.S.C. 2701 et seq.).

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