

104TH CONGRESS
1ST SESSION

S. 487

To amend the Indian Gaming Regulatory Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 2 (legislative day, FEBRUARY 22), 1995

Mr. MCCAIN (for himself and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To amend the Indian Gaming Regulatory Act, and for other purposes.

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.**

4 This Act may be cited as the “Indian Gaming Regu-
5 latory Act Amendments Act of 1995”.

6 **SEC. 2. AMENDMENTS TO THE INDIAN GAMING REGU-**
7 **LATORY ACT.**

8 The Indian Gaming Regulatory Act (25 U.S.C. 2701
9 et seq.) is amended—

10 (1) by striking the first section and inserting
11 the following new section:

1 **“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 “(a) SHORT TITLE.—This Act may be cited as the
3 ‘Indian Gaming Regulatory Act’.

4 “(b) TABLE OF CONTENTS.—The table of contents
5 for this Act is as follows:

“Sec. 1. Short title; table of contents.

“Sec. 2. Congressional findings.

“Sec. 3. Purposes.

“Sec. 4. Definitions.

“Sec. 5. Establishment of the Federal Indian Gaming Regulatory Commission.

“Sec. 6. Powers of the Chairperson.

“Sec. 7. Powers and authority of the Commission.

“Sec. 8. Regulatory framework.

“Sec. 9. Advisory Committee on Minimum Regulatory Requirements and Li-
censing Standards.

“Sec. 10. Licensing.

“Sec. 11. Requirements for the conduct of class I and class II gaming on In-
dian lands.

“Sec. 12. Class III gaming on Indian lands.

“Sec. 13. Review of contracts.

“Sec. 14. Review of existing contracts; interim authority.

“Sec. 15. Civil penalties.

“Sec. 16. Judicial review.

“Sec. 17. Commission funding.

“Sec. 18. Authorization of appropriations.

“Sec. 19. Miscellaneous.

“Sec. 20. Dissemination of information.

“Sec. 21. Severability.

“Sec. 22. Criminal penalties.

“Sec. 23. Conforming amendment.

“Sec. 24. Definition of financial institutions.”;

6 (2) by striking sections 2 through 19 and in-
7 serting the following new sections:

8 **“SEC. 2. CONGRESSIONAL FINDINGS.**

9 “The Congress finds that—

10 “(1) Indian tribes are—

11 “(A) engaged in the operation of gaming
12 activities on Indian lands as a means of gener-
13 ating tribal governmental revenue; and

1 “(B) licensing such activities;

2 “(2) clear Federal standards and regulations
3 for the conduct of gaming on Indian lands will assist
4 tribal governments in assuring the integrity of gam-
5 ing activities conducted on Indian lands;

6 “(3) a principal goal of Federal Indian policy is
7 to promote tribal economic development, tribal self-
8 sufficiency, and strong tribal government;

9 “(4) while Indian tribes have the right to regu-
10 late the operation of gaming activities on Indian
11 lands if such gaming activities are—

12 “(A) not specifically prohibited by Federal
13 law; and

14 “(B) conducted within a State that as a
15 matter of public policy permits such gaming ac-
16 tivities,

17 Congress has the authority to regulate the privilege
18 of doing business with Indian tribes in Indian coun-
19 try (as defined in section 1151 of title 18, United
20 States Code);

21 “(5) systems for the regulation of gaming ac-
22 tivities on Indian lands should meet or exceed feder-
23 ally established minimum regulatory requirements;

24 “(6) the operation of gaming activities on In-
25 dian lands has had a significant impact on com-

1 merce with foreign nations, among the several States
2 and with the Indian tribes; and

3 “(7) the Constitution vests the Congress with
4 the powers to regulate Commerce with foreign Na-
5 tions, and among the several States, and with the
6 Indian Tribes, and this Act is enacted in the exercise
7 of those powers.

8 **“SEC. 3. PURPOSES.**

9 “The purposes of this Act are—

10 “(1) to ensure the right of Indian tribes to con-
11 duct gaming activities on Indian lands in a manner
12 consistent with the decision of the Supreme Court in
13 California et al. v. Cabazon Band of Mission Indians
14 et al. (480 U.S. 202, 107 S. Ct. 1083, 94 L. Ed.
15 2d 244 (1987)), involving the Cabazon and Morongo
16 Bands of Mission Indians;

17 “(2) to provide a statutory basis for the con-
18 duct of gaming activities on Indian lands as a means
19 of promoting tribal economic development, self-suffi-
20 ciency, and strong Indian tribal governments;

21 “(3) to provide a statutory basis for the regula-
22 tion of gaming activities on Indian lands by an In-
23 dian tribe adequate to shield such activities from or-
24 ganized crime and other corrupting influences, to en-
25 sure that an Indian tribal government is the primary

1 beneficiary of the operation of gaming activities, and
2 to ensure that gaming is conducted fairly and hon-
3 estly by both the operator and players; and

4 “(4) to declare that the establishment of inde-
5 pendent Federal regulatory authority for the conduct
6 of gaming activities on Indian lands and the estab-
7 lishment of Federal minimum regulatory require-
8 ments for the conduct of gaming activities on Indian
9 lands are necessary to protect such gaming.

10 **“SEC. 4. DEFINITIONS.**

11 “For purposes of this Act, the following definitions
12 shall apply:

13 “(1) APPLICANT.—The term ‘applicant’ means
14 any person who applies for a license pursuant to this
15 Act, including persons applying for a renewal of a li-
16 cense.

17 “(2) ADVISORY COMMITTEE.—The term ‘Advi-
18 sory Committee’ means the Advisory Committee on
19 Minimum Regulatory Requirements and Licensing
20 Standards established under section 9(a).

21 “(3) ATTORNEY GENERAL.—The term ‘Attor-
22 ney General’ means the Attorney General of the
23 United States.

24 “(4) CHAIRPERSON.—The term ‘Chairperson’
25 means the Chairperson of the Federal Indian Gam-

1 ing Regulatory Commission established under sec-
2 tion 5.

3 “(5) CLASS I GAMING.—The term ‘class I gam-
4 ing’ means social games played solely for prizes of
5 minimal value or traditional forms of Indian gaming
6 engaged in by individuals as a part of, or in connec-
7 tion with, tribal ceremonies or celebrations.

8 “(6) CLASS II GAMING.—

9 “(A) IN GENERAL.—The term ‘class II
10 gaming’ means—

11 “(i) the game of chance commonly
12 known as bingo or lotto including, if played
13 in the same location, pull-tabs, punch
14 boards, tip jars, instant bingo, and other
15 games similar to bingo (whether or not
16 electronic, computer, or other technologic
17 aids are used in connection therewith)—

18 “(I) which is played for prizes,
19 including monetary prizes, with cards
20 bearing numbers or other designa-
21 tions;

22 “(II) in which the holder of the
23 card covers such numbers or designa-
24 tions when objects, similarly num-

1 bered or designated, are drawn or
2 electronically determined; and

3 “(III) in which the game is won
4 by the first person covering a pre-
5 viously designated arrangement of
6 numbers or designations on such
7 cards; and

8 “(ii) card games that—

9 “(I) are explicitly authorized by
10 the laws of a State; or

11 “(II) are not explicitly prohibited
12 by the laws of a State and are played
13 at any location in the State, but only
14 if such card games are played in con-
15 formity with any such laws (including
16 regulations) of the State regarding
17 hours or periods of operation of such
18 card games or limitations on wagers
19 or pot sizes in such card games.

20 “(B) EXCLUSIONS.—The term ‘class II
21 gaming’ does not include—

22 “(i) any banking card games, includ-
23 ing baccarat, chemin de fer, or blackjack
24 (21); or

1 “(ii) gambling devices, as defined in
2 paragraph (11), except for any class II
3 game that is played under subparagraph
4 (A)(i) with technologic aid that has been
5 approved by the Commission.

6 “(C) TREATMENT OF CERTAIN GAMES.—
7 Notwithstanding any other provision of this
8 paragraph, the term ‘class II gaming’ includes
9 those card games played in the State of Michi-
10 gan, the State of North Dakota, the State of
11 South Dakota, or the State of Washington,
12 that, on or before May 1, 1988, were actually
13 operated in such State by an Indian tribe, but
14 only to the extent of the nature and scope of
15 the card games that were actually operated by
16 an Indian tribe in such State on or before such
17 date, as determined by the Commission (as de-
18 fined in paragraph (8)).

19 “(7) CLASS III GAMING.—The term ‘class III
20 gaming’ means all forms of gaming that are not
21 class I gaming or class II gaming.

22 “(8) COMMISSION.—The term ‘Commission’
23 means the Federal Indian Gaming Regulatory Com-
24 mission established under section 5.

1 “(9) COMPACT.—The term ‘compact’ means an
2 agreement relating to the operation of class III gam-
3 ing on Indian lands entered into by an Indian tribe
4 and a State, that is approved by the Secretary, or
5 an agreement relating to the operation of class III
6 gaming that is negotiated by an Indian tribe and the
7 Secretary, and approved by the Secretary.

8 “(10) ELECTRONIC, COMPUTER, OR OTHER
9 TECHNOLOGIC AID.—The term ‘electronic, computer,
10 or other technologic aid’, in connection with class II
11 gaming, means a device, such as a computer, tele-
12 phone, cable, television, satellite, or bingo blower,
13 that, when used—

14 “(A) is not a game of chance or a gam-
15 bling device;

16 “(B) merely assists a player or the playing
17 of a game; and

18 “(C) is operated according to applicable
19 Federal communications law.

20 “(11) ELECTRONIC OR ELECTROMECHANICAL
21 FACSIMILE.—The term ‘electronic or
22 electromechanical facsimile’ means any gambling de-
23 vice, as defined in paragraph (12).

24 “(12) GAMBLING DEVICE.—The term ‘gambling
25 device’ means—

1 “(A) any gambling device, as defined in
2 section 1(a) of the Act of January 2, 1951
3 (commonly referred to as the ‘Gambling Devices
4 Transportation Act’) (64 Stat. 1134, chapter
5 1194; 15 U.S.C. 1171(a)), including any elec-
6 tronic or electromechanical facsimile; and

7 “(B) does not include a technological aid
8 to class II gaming that is approved by the Com-
9 mission.

10 “(13) GAMING-RELATED CONTRACT.—The term
11 ‘gaming-related contract’ means any agreement for
12 an amount of more than \$50,000 per year—

13 “(A) under which an Indian tribe or an
14 agent of any Indian tribe procures gaming ma-
15 terials, supplies, equipment, or services that are
16 used in the conduct of a class II or class III
17 gaming activity, or

18 “(B) financing contracts or agreements for
19 any facility in which a gaming activity is to be
20 conducted.

21 “(14) GAMING-RELATED CONTRACTOR.—The
22 term ‘gaming-related contractor’ means any person
23 who enters into a gaming-related contract with an
24 Indian tribe or an agent of an Indian tribe, includ-

1 ing any person with a financial interest in such con-
2 tract.

3 “(15) GAMING SERVICE INDUSTRY.—The term
4 ‘gaming service industry’ means any form of enter-
5 prise that provides goods or services that are used
6 in conjunction with any class II or class III gaming
7 activity, in any case in which—

8 “(A) the proposed agreement between the
9 enterprise and a class II or class III gaming op-
10 eration, or the aggregate of such agreements is
11 for an amount of not less than \$100,000 per
12 year; or

13 “(B) the amount of business conducted by
14 such enterprise with any gaming operation in
15 the 1-year period preceding the effective date of
16 such agreement was not less than \$250,000.

17 “(16) INDIAN LANDS.—The term ‘Indian lands’
18 means—

19 “(A) all lands within the limits of any In-
20 dian reservation; and

21 “(B) any lands—

22 “(i) the title to which is held in trust
23 by the United States for the benefit of any
24 Indian tribe; or

25 “(ii) the title to which is—

1 “(I) held by an Indian tribe sub-
2 ject to a restriction by the United
3 States against alienation;

4 “(II) held by the United States
5 for the benefit of an individual Indian;
6 or

7 “(III) held by an individual sub-
8 ject to restriction by the United
9 States against alienation; and

10 “(iii) over which an Indian tribe exer-
11 cises governmental power.

12 “(17) INDIAN TRIBE.—The term ‘Indian tribe’
13 means any Indian tribe, band, nation, or other orga-
14 nized group or community of Indians that—

15 “(A) is recognized as eligible by the Sec-
16 retary for the special programs and services
17 provided by the United States to Indians be-
18 cause of their status as Indians; and

19 “(B) is recognized as possessing powers of
20 self-government.

21 “(18) KEY EMPLOYEE.—The term ‘key em-
22 ployee’ means any individual employed in a gaming
23 operation licensed pursuant to this Act in a super-
24 visory capacity or empowered to make any discre-
25 tionary decision with regard to the gaming oper-

1 ation, including any pit boss, shift boss, credit execu-
2 tive, cashier supervisor, gaming facility manager or
3 assistant manager, or manager or supervisor of se-
4 curity employees.

5 “(19) MANAGEMENT CONTRACT.—The term
6 ‘management contract’ means any contract or collat-
7 eral agreement between an Indian tribe and a con-
8 tractor, if such contract or agreement provides for
9 the management of all or part of a gaming oper-
10 ation.

11 “(20) MANAGEMENT CONTRACTOR.—The term
12 ‘management contractor’ means any person entering
13 into a management contract with an Indian tribe or
14 an agent of the Indian tribe for the management of
15 a gaming operation, including any person with a fi-
16 nancial interest in such contract.

17 “(21) MATERIAL CONTROL.—The term ‘mate-
18 rial control’ means the exercise of authority or su-
19 pervision or the power to make or cause to be made
20 any discretionary decision with regard to matters
21 which have a substantial effect on the financial or
22 management aspects of a gaming operation.

23 “(22) NET REVENUES.—The term ‘net reve-
24 nues’ means the gross revenues of an Indian gaming
25 activity reduced by the sum of—

1 “(A) any amounts paid out or paid for as
2 prizes; and

3 “(B) the total operating expenses associ-
4 ated with the gaming activity, excluding man-
5 agement fees.

6 “(23) PERSON.—The term ‘person’ means an
7 individual, firm, corporation, association, partner-
8 ship, trust, consortium, joint venture, entity, or
9 gaming operation.

10 “(24) SECRETARY.—The term ‘Secretary’
11 means the Secretary of the Interior.

12 **“SEC. 5. ESTABLISHMENT OF THE FEDERAL INDIAN GAM-**
13 **ING REGULATORY COMMISSION.**

14 “(a) ESTABLISHMENT.—There is established as an
15 independent agency of the United States, a Commission
16 to be known as the Federal Indian Gaming Regulatory
17 Commission. Such Commission shall be an independent es-
18 tablishment, as defined in section 104 of title 5, United
19 States Code.

20 “(b) COMPOSITION OF THE COMMISSION.—

21 “(1) IN GENERAL.—The Commission shall be
22 composed of 3 full-time members, who shall be ap-
23 pointed by the President, by and with the advice and
24 consent of the Senate.

1 “(2) CITIZENSHIP OF MEMBERS.—Each mem-
2 ber of the Commission shall be a citizen of the Unit-
3 ed States.

4 “(3) REQUIREMENTS FOR MEMBERS.—No
5 member of the Commission may—

6 “(A) pursue any other business or occupa-
7 tion or hold any other office;

8 “(B) be actively engaged in or, other than
9 through distribution of gaming revenues as a
10 member of an Indian tribe, have any direct pe-
11 cuniary interest in gaming activities;

12 “(C) other than through distribution of
13 gaming revenues as a member of an Indian
14 tribe, have any pecuniary interest in any busi-
15 ness or organization that holds a gaming license
16 under this Act or that does business with any
17 person or organization licensed under this Act;

18 “(D) have been convicted of a felony or
19 gaming offense; or

20 “(E) have any financial interest in, or
21 management responsibility for, any gaming-re-
22 lated contract or any other contract approved
23 pursuant to this Act.

24 “(4) POLITICAL AFFILIATION.—

1 “(A) IN GENERAL.—Not more than 2
2 members of the Commission shall be members
3 of the same political party. In making appoint-
4 ments to the Commission, the President shall
5 appoint members of different political parties,
6 to the extent practicable.

7 “(B) TRIBAL MEMBERSHIP.—At least 2
8 members of the Commission shall each be a
9 member of a federally recognized Indian tribe.
10 No 2 members appointed under this subpara-
11 graph shall be members of the same Indian
12 tribe.

13 “(5) ADDITIONAL REQUIREMENTS.—The Com-
14 mission shall be composed of the most qualified indi-
15 viduals available, subject to the following conditions:

16 “(A) CERTIFIED PUBLIC ACCOUNTANT
17 REPRESENTATION.—One member of the Com-
18 mission shall be a certified public accountant
19 with not less than 5 years of progressively re-
20 sponsible experience in accounting and auditing,
21 and a comprehensive knowledge of the prin-
22 ciples and practices of corporate finance.

23 “(B) LAW ENFORCEMENT REPRESENTA-
24 TION.—One member of the Commission shall be
25 selected with special reference to training and

1 experience in the fields of investigation or law
2 enforcement.

3 “(6) BACKGROUND INVESTIGATIONS.—The At-
4 torney General shall conduct a background inves-
5 tigation concerning any individual under consider-
6 ation for appointment to the Commission, with par-
7 ticular regard to the financial stability, integrity, re-
8 sponsibility, and reputation for good character, hon-
9 esty, and integrity of the nominee.

10 “(c) CHAIRPERSON.—The President shall select a
11 Chairperson from among the members appointed to the
12 Commission.

13 “(d) VICE CHAIRPERSON.—The Commission shall se-
14 lect, by majority vote, one of the members of the Commis-
15 sion to serve as Vice Chairperson. The Vice Chairperson
16 shall—

17 “(1) serve as Chairperson of the Commission in
18 the absence of the Chairperson; and

19 “(2) exercise such other powers as may be dele-
20 gated by the Chairperson.

21 “(e) TERMS OF OFFICE.—

22 “(1) IN GENERAL.—Each member of the Com-
23 mission shall hold office for a term of 5 years.

1 “(2) INITIAL APPOINTMENTS.—Initial appoint-
2 ments to the Commission shall be made for the fol-
3 lowing terms:

4 “(A) The Chairperson shall be appointed
5 for a term of 5 years.

6 “(B) One member shall be appointed for a
7 term of 4 years.

8 “(C) One member shall be appointed for a
9 term of 3 years.

10 “(3) LIMITATION.—No member shall serve for
11 more than 2 terms of 5 years each.

12 “(f) VACANCIES.—

13 “(1) IN GENERAL.—Each individual appointed
14 by the President to serve as Chairperson and each
15 member of the Commission shall, unless removed for
16 cause under paragraph (2), serve in the capacity for
17 which such individual is appointed until the expira-
18 tion of the term of such individual or until a succes-
19 sor is duly appointed and qualified.

20 “(2) REMOVAL FROM OFFICE.—The Chair-
21 person or any member of the Commission may only
22 be removed from office before the expiration of the
23 term of office by the President for neglect of duty,
24 malfeasance in office, or for other good cause shown.

1 “(3) TERM TO FILL VACANCIES.—The term of
2 any member appointed to fill a vacancy on the Com-
3 mission shall be for the unexpired term of the mem-
4 ber.

5 “(g) QUORUM.—Two members of the Commission
6 shall constitute a quorum.

7 “(h) MEETINGS.—

8 “(1) IN GENERAL.—The Commission shall meet
9 at the call of the Chairperson or a majority of the
10 members of the Commission.

11 “(2) MAJORITY OF MEMBERS DETERMINE AC-
12 TION.—A majority of the members of the Commis-
13 sion shall determine any action of the Commission.

14 “(i) COMPENSATION.—

15 “(1) CHAIRPERSON.—The Chairperson shall be
16 paid at a rate equal to that of level IV of the Execu-
17 tive Schedule under section 5316 of title 5, United
18 States Code.

19 “(2) OTHER MEMBERS.—Each other member of
20 the Commission shall be paid at a rate equal to that
21 of level V of the Executive Schedule under section
22 5316 of title 5, United States Code.

23 “(3) TRAVEL.—All members of the Commission
24 shall be reimbursed in accordance with title 5, Unit-
25 ed States Code, for travel, subsistence, and other

1 necessary expenses incurred by them in the perform-
2 ance of their duties.

3 “(j) ADMINISTRATIVE SUPPORT SERVICES.—The Ad-
4 ministrator of General Services shall provide to the Com-
5 mission on a reimbursable basis such administrative sup-
6 port services as the Commission may request.

7 **“SEC. 6. POWERS OF THE CHAIRPERSON.**

8 “(a) CHIEF EXECUTIVE OFFICER.—The Chairperson
9 shall serve as the chief executive officer of the Commis-
10 sion.

11 “(b) ADMINISTRATION OF THE COMMISSION.—

12 “(1) IN GENERAL.—Subject to subsection (c),
13 the Chairperson—

14 “(A) shall employ and supervise such per-
15 sonnel as the Chairperson considers necessary
16 to carry out the functions of the Commission,
17 and assign work among such personnel;

18 “(B) shall appoint a General Counsel to
19 the Commission who shall be paid at the annual
20 rate of basic pay payable for ES-6 of the Sen-
21 ior Executive Service Schedule under section
22 5382 of title 5, United States Code;

23 “(C) shall appoint and supervise other
24 staff of the Commission without regard to the

1 provisions of title 5, United States Code, gov-
2 erning appointments in the competitive service;

3 “(D) may procure temporary and intermit-
4 tent services under section 3109(b) of title 5,
5 United States Code, but at rates for individuals
6 not to exceed the daily equivalent of the maxi-
7 mum annual rate of basic pay payable for ES-
8 6 of the Senior Executive Service Schedule;

9 “(E) may request the head of any Federal
10 agency to detail any personnel of such agency
11 to the Commission to assist the Commission in
12 carrying out the duties of the Commission
13 under this Act, unless otherwise prohibited by
14 law;

15 “(F) shall use and expend Federal funds
16 and funds collected pursuant to section 17; and

17 “(G) may contract for the services of such
18 other professional, technical, and operational
19 personnel and consultants as may be necessary
20 to the performance of the Commission’s respon-
21 sibilities under this Act.

22 “(2) COMPENSATION OF STAFF.—The staff re-
23 ferred to in paragraph (1)(C) shall be paid without
24 regard to the provisions of chapter 51 and sub-
25 chapters III and VIII of chapter 53 of title 5, Unit-

1 ed States Code, relating to classification and Gen-
2 eral Schedule and Senior Executive Service Schedule
3 pay rates, except that no individual so appointed
4 may receive pay in excess of the annual rate of basic
5 pay payable for ES-5 of the Senior Executive Serv-
6 ice Schedule under section 5382 of title 5, United
7 States Code.

8 “(c) APPLICABLE POLICIES.—In carrying out any of
9 the functions under this section, the Chairperson shall be
10 governed by the general policies of the Commission and
11 by such regulatory decisions, findings, and determinations
12 as the Commission may by law be authorized to make.

13 **“SEC. 7. POWERS AND AUTHORITY OF THE COMMISSION.**

14 “(a) GENERAL POWERS.—

15 “(1) IN GENERAL.—The Commission shall have
16 the power to—

17 “(A) approve the annual budget of the
18 Commission;

19 “(B) promulgate regulations to carry out
20 this Act;

21 “(C) establish a rate of fees and assess-
22 ments, as provided in section 17;

23 “(D) conduct investigations, including
24 background investigations;

1 “(E) issue a temporary order closing the
2 operation of gaming activities;

3 “(F) after a hearing, make permanent a
4 temporary order closing the operation of gam-
5 ing activities, as provided in section 15;

6 “(G) grant, deny, limit, condition, restrict,
7 revoke, or suspend any license issued under any
8 licensing authority conferred upon the Commis-
9 sion pursuant to this Act or fine any person li-
10 censed pursuant to this Act for violation of any
11 of the conditions of licensure under this Act;

12 “(H) inspect and examine all premises in
13 which class II or class III gaming is conducted
14 on Indian lands;

15 “(I) demand access to and inspect, exam-
16 ine, photocopy, and audit all papers, books, and
17 records of class II and class III gaming activi-
18 ties conducted on Indian lands and any other
19 matters necessary to carry out the duties of the
20 Commission under this Act;

21 “(J) use the United States mail in the
22 same manner and under the same conditions as
23 any department or agency of the United States;

1 “(K) procure supplies, services, and prop-
2 erty by contract in accordance with applicable
3 Federal laws;

4 “(L) enter into contracts with Federal,
5 State, tribal, and private entities for activities
6 necessary to the discharge of the duties of the
7 Commission;

8 “(M) serve or cause to be served process or
9 notices of the Commission in a manner provided
10 for by the Commission or in a manner provided
11 for the service of process and notice in civil ac-
12 tions in accordance with the applicable rules of
13 a tribal, State, or Federal court;

14 “(N) propound written interrogatories and
15 appoint hearing examiners, to whom may be
16 delegated the power and authority to administer
17 oaths, issue subpoenas, propound written inter-
18 rogatories, and require testimony under oath;

19 “(O) conduct all administrative hearings
20 pertaining to civil violations of this Act (includ-
21 ing any civil violation of a regulation promul-
22 gated under this Act);

23 “(P) collect all fees and assessments au-
24 thorized by this Act and the regulations pro-
25 mulgated pursuant to this Act;

1 “(Q) assess penalties for violations of the
2 provisions of this Act and the regulations pro-
3 mulgated pursuant to this Act;

4 “(R) provide training and technical assist-
5 ance to Indian tribes with respect to all aspects
6 of the conduct and regulation of gaming activi-
7 ties;

8 “(S) monitor and, as specifically author-
9 ized by this Act, regulate class II and class III
10 gaming;

11 “(T) approve all management-related and
12 gaming-related contracts; and

13 “(U) in addition to the authorities other-
14 wise specified in this Act, delegate, by published
15 order or rule, any of the functions of the Com-
16 mission (including functions with respect to
17 hearing, determining, ordering, certifying, re-
18 porting, or otherwise acting on the part of the
19 Commission concerning any work, business, or
20 matter) to a division of the Commission, an in-
21 dividual member of the Commission, an admin-
22 istrative law judge, or an employee of the Com-
23 mission.

24 “(2) STATUTORY CONSTRUCTION.—Nothing in
25 this section may be construed to authorize the dele-

1 gation of the function of rulemaking, as described in
2 subchapter II of chapter 5 of title 5, United States
3 Code, with respect to general rules (as distinguished
4 from rules of particular applicability), or the promul-
5 gation of any other rule.

6 “(b) RIGHT TO REVIEW DELEGATED FUNCTIONS.—

7 “(1) IN GENERAL.—With respect to the delega-
8 tion of any of the functions of the Commission, the
9 Commission shall retain a discretionary right to re-
10 view the action of any division of the Commission,
11 individual member of the Commission, administra-
12 tive law judge, or employee of the Commission, upon
13 the initiative of the Commission.

14 “(2) VOTE NEEDED FOR REVIEW.—The vote of
15 one member of the Commission shall be sufficient to
16 bring an action referred to in paragraph (1) before
17 the Commission for review, and the Commission
18 shall ratify, revise, or reject the action under review
19 not later than the last day of the applicable period
20 specified in regulations promulgated by the Commis-
21 sion.

22 “(3) FAILURE TO CONDUCT REVIEW.—If the
23 Commission declines to exercise the right to such re-
24 view or fails to exercise such right within the appli-
25 cable period specified in regulations promulgated by

1 the Commission, the action of any such division of
2 the Commission, individual member of the Commis-
3 sion, administrative law judge, or employee, shall,
4 for all purposes, including any appeal or review of
5 such action, be deemed an action of the Commission.

6 “(c) MINIMUM REQUIREMENTS.—Pursuant to the
7 procedures described in section 9(d), after receiving rec-
8 ommendations from the Advisory Committee, the Commis-
9 sion shall establish minimum Federal standards—

10 “(1) for background investigations, licensing of
11 persons, and licensing of gaming operations associ-
12 ated with the conduct or regulation of class II and
13 class III gaming on Indian lands by tribal govern-
14 ments; and

15 “(2) for the operation of class II and class III
16 gaming activities on Indian lands, including—

17 “(A) surveillance and security personnel
18 and systems capable of monitoring all gaming
19 activities, including the conduct of games, cash-
20 iers’ cages, change booths, count rooms, move-
21 ments of cash and chips, entrances and exits to
22 gaming facilities, and other critical areas of any
23 gaming facility;

1 “(B) procedures for the protection of the
2 integrity of the rules for the play of games and
3 controls related to such rules;

4 “(C) credit and debit collection controls;

5 “(D) controls over gambling devices and
6 equipment; and

7 “(E) accounting and auditing.

8 “(d) COMMISSION ACCESS TO INFORMATION.—

9 “(1) IN GENERAL.—The Commission may se-
10 cure from any department or agency of the United
11 States information necessary to enable the Commis-
12 sion to carry out this Act. Unless otherwise prohib-
13 ited by law, upon request of the Chairperson, the
14 head of such department or agency shall furnish
15 such information to the Commission.

16 “(2) INFORMATION TRANSFER.—The Commis-
17 sion may secure from any law enforcement or gam-
18 ing regulatory agency of any State, Indian tribe, or
19 foreign nation information necessary to enable the
20 Commission to carry out this Act. Unless otherwise
21 prohibited by law, upon request of the Chairperson,
22 the head of any State or tribal law enforcement
23 agency shall furnish such information to the Com-
24 mission.

1 “(3) PRIVILEGED INFORMATION.—Notwith-
2 standing sections 552 and 552a of title 5, United
3 States Code, the Commission shall protect from dis-
4 closure information provided by Federal, State, trib-
5 al, or international law enforcement or gaming regu-
6 latory agencies.

7 “(4) LAW ENFORCEMENT AGENCY.—For pur-
8 poses of this subsection, the Commission shall be
9 considered a law enforcement agency.

10 “(e) INVESTIGATIONS AND ACTIONS.—

11 “(1) IN GENERAL.—

12 “(A) POSSIBLE VIOLATIONS.—The Com-
13 mission may, at the discretion of the Commis-
14 sion, and as specifically authorized by this Act,
15 conduct such investigations as the Commission
16 considers necessary to determine whether any
17 person has violated, is violating, or is conspiring
18 to violate any provision of this Act (including
19 any rule or regulation promulgated under this
20 Act). The Commission may require or permit
21 any person to file with the Commission a state-
22 ment in writing, under oath, or otherwise as the
23 Commission may determine, concerning all of
24 the relevant facts and circumstances regarding

1 the matter under investigation by the Commis-
2 sion pursuant to this subsection.

3 “(B) ADMINISTRATIVE INVESTIGATIONS.—
4 The Commission is authorized, at the discretion
5 of the Commission, and as specifically author-
6 ized by this Act, to investigate such facts, con-
7 ditions, practices, or matters as the Commission
8 considers necessary or proper to aid in—

9 “(i) the enforcement of any provision
10 of this Act;

11 “(ii) prescribing rules and regulations
12 under this Act; or

13 “(iii) securing information to serve as
14 a basis for recommending further legisla-
15 tion concerning the matters to which this
16 Act relates.

17 “(2) ADMINISTRATIVE AUTHORITIES.—

18 “(A) IN GENERAL.—For the purpose of
19 any investigation or any other proceeding con-
20 ducted under this Act, any member of the Com-
21 mission or any officer designated by the Com-
22 mission is empowered to administer oaths and
23 affirmations, subpoena witnesses, compel their
24 attendance, take evidence, and require the pro-
25 duction of any books, papers, correspondence,

1 memoranda, or other records that the Commis-
2 sion considers relevant or material to the in-
3 quiry. The attendance of such witnesses and the
4 production of any such records may be required
5 from any place in the United States at any des-
6 ignated place of hearing.

7 “(B) REQUIRING APPEARANCES OR TESTI-
8 MONY.—In case of contumacy by, or refusal to
9 obey any subpoena issued to, any person, the
10 Commission may invoke the jurisdiction of any
11 court of the United States within the jurisdic-
12 tion of which an investigation or proceeding is
13 carried on, or where such person resides or car-
14 ries on business, in requiring the attendance
15 and testimony of witnesses and the production
16 of books, papers, correspondence, memoranda,
17 and other records.

18 “(C) COURT ORDERS.—Any such court
19 may issue an order requiring such person to ap-
20 pear before the Commission or member of the
21 Commission or officer designated by the Com-
22 mission, there to produce records, if so ordered,
23 or to give testimony touching the matter under
24 investigation or in question, and any failure to

1 obey such order of the court may be punished
2 by such court as a contempt of such court.

3 “(3) ENFORCEMENT.—

4 “(A) IN GENERAL.—If the Commission de-
5 termines that any person is engaged, has en-
6 gaged, or is conspiring to engage, in any act or
7 practice constituting a violation of any provision
8 of this Act (including any rule or regulation
9 promulgated under this Act), the Commission
10 may—

11 “(i) bring an action in the appropriate
12 district court of the United States or the
13 United States District Court for the Dis-
14 trict of Columbia to enjoin such act or
15 practice, and upon a proper showing, the
16 court shall grant, without bond, a perma-
17 nent or temporary injunction or restraining
18 order; or

19 “(ii) transmit such evidence as may be
20 available concerning such act or practice as
21 may constitute a violation of any Federal
22 criminal law to the Attorney General, who
23 may institute the necessary criminal pro-
24 ceedings.

1 “(B) STATUTORY CONSTRUCTION.—The
2 authority of the Commission to conduct inves-
3 tigations and take actions may not be construed
4 to affect in any way the authority of any other
5 agency or department of the United States to
6 carry out statutory responsibilities of such
7 agency or department.

8 “(4) WRITS, INJUNCTIONS, AND ORDERS.—
9 Upon application of the Commission, each district
10 court of the United States shall have jurisdiction to
11 issue writs of mandamus, injunctions, and orders
12 commanding any person to comply with the provi-
13 sions of this Act (including any rules and regulations
14 promulgated under this Act).

15 **“SEC. 8. REGULATORY FRAMEWORK.**

16 “(a) CLASS II GAMING.—For class II gaming, Indian
17 tribes shall retain the right of such tribes to, in a manner
18 that meets or exceeds minimum Federal standards estab-
19 lished by the Commission pursuant to section 7(c)—

20 “(1) monitor and regulate such gaming; and

21 “(2) conduct background investigations and
22 issue licenses to persons who are required to obtain
23 a license under section 10(a).

24 “(b) CLASS III GAMING CONDUCTED UNDER A TRIB-
25 AL-STATE COMPACT.—For class III gaming conducted

1 under the authority of a tribal-State compact entered into
2 pursuant to section 12, an Indian tribe or a State, or both,
3 as provided in a compact or by tribal ordinance or resolu-
4 tion, shall, in a manner that meets or exceeds minimum
5 Federal standards established by the Commission pursu-
6 ant to section 7(c)—

7 “(1) monitor and regulate gaming;

8 “(2) conduct background investigations and
9 issue licenses to persons who are required to obtain
10 a license pursuant to section 10(a); and

11 “(3) establish and regulate internal control sys-
12 tems.

13 “(c) CERTAIN OTHER COMPACTS.—For class III
14 gaming conducted under the authority of a compact nego-
15 tiated with the Secretary pursuant to section 12(a)(2),
16 such compact shall provide that the Indian tribes or other
17 appropriate entity shall, in a manner that meets or ex-
18 ceeds minimum Federal standards established by the
19 Commission pursuant to section 7(c)—

20 “(1) monitor and regulate such gaming;

21 “(2) conduct background investigations and
22 issue licenses to persons who are required to obtain
23 a license pursuant to section 10(a); and

24 “(3) establish and regulate internal control sys-
25 tems.

1 “(d) VIOLATIONS OF MINIMUM FEDERAL STAND-
2 ARDS.—

3 “(1) CLASS II GAMING.—In any case in which
4 an Indian tribe that conducts class II gaming sub-
5 stantially fails to meet minimum Federal standards
6 for class II gaming, after providing the Indian tribe
7 notice and opportunity to cure violations and to be
8 heard, and after the exhaustion of other authorized
9 remedies and sanctions, the Commission shall have
10 the authority to conduct background investigations,
11 issue licenses, and establish and regulate internal
12 control systems. Such authority of the Commission
13 may be exclusive until such time as the regulatory
14 and internal control systems of the Indian tribe meet
15 or exceed the minimum Federal standards concern-
16 ing regulatory, licensing, or internal control require-
17 ments established by the Commission.

18 “(2) CLASS III GAMING.—In any case in which
19 an Indian tribe or a State (or both) that regulates
20 class III gaming fails to meet or exceed minimum
21 Federal standards for class III gaming, after provid-
22 ing notice and opportunity to cure violations and be
23 heard, and after the exhaustion of other authorized
24 remedies and sanctions, the Commission shall have
25 the authority to conduct background investigations,

1 issue licenses, and establish and regulate internal
2 control systems. Such authority of the Commission
3 may be exclusive until such time as the regulatory
4 or internal control systems of the Indian tribe or a
5 State, or both, meet or exceed the minimum regu-
6 latory, licensing, or internal control requirements es-
7 tablished by the Commission.

8 **“SEC. 9. ADVISORY COMMITTEE ON MINIMUM REGULATORY**
9 **REQUIREMENTS AND LICENSING STAND-**
10 **ARDS.**

11 “(a) ESTABLISHMENT.—The President shall estab-
12 lish an advisory committee to be known as the ‘Advisory
13 Committee on Minimum Regulatory Requirements and Li-
14 censing Standards’.

15 “(b) MEMBERS.—The Advisory Committee shall be
16 composed of 7 members who shall be appointed by the
17 President, of which—

18 “(1) 3 members, selected from a list of rec-
19 ommendations submitted to the President by the
20 Chairperson and Vice Chairperson of the Committee
21 on Indian Affairs of the Senate and the Chairperson
22 and ranking minority member of the Subcommittee
23 on Native American and Insular Affairs of the Com-
24 mittee on Resources of the House of Representa-
25 tives, shall be members of federally recognized In-

1 dian tribes involved in gaming covered under this
2 Act;

3 “(2) 2 members, selected from a list of rec-
4 ommendations submitted to the President by the
5 Majority Leader and the Minority Leader of the
6 Senate and the Speaker and the Minority Leader of
7 the House of Representatives, shall represent State
8 governments; and

9 “(3) 2 members shall each be an employee of
10 the Department of Justice.

11 “(c) RECOMMENDATIONS FOR MINIMUM FEDERAL
12 STANDARDS.—

13 “(1) IN GENERAL.—Not later than 180 days
14 after the date on which the Advisory Committee is
15 fully constituted, the Advisory Committee shall de-
16 velop and submit to the entities referred to in para-
17 graph (2) recommendations for minimum Federal
18 standards for the conduct of background investiga-
19 tions and the establishment of internal control sys-
20 tems and licensing standards.

21 “(2) RECIPIENTS OF RECOMMENDATIONS.—The
22 Advisory Committee shall submit the recommenda-
23 tions described in paragraph (1) to the Committee
24 on Indian Affairs of the Senate, the Subcommittee
25 on Native American and Insular Affairs of the Com-

1 mittee on Resources of the House of Representa-
2 tives, the Commission, and to each federally recog-
3 nized Indian tribe.

4 “(3) FACTORS FOR CONSIDERATION.—While
5 the minimum standards established pursuant to this
6 section may be developed in light of existing industry
7 standards, the Advisory Committee, and Commission
8 in promulgating standards pursuant to subsection
9 (d), shall give equal weight to—

10 “(A) the unique nature of tribal gaming as
11 compared to non-Indian commercial, govern-
12 mental, and charitable gaming;

13 “(B) the broad variations in the scope and
14 size of tribal gaming activity;

15 “(C) the inherent sovereign right of Indian
16 tribes to regulate their own affairs; and

17 “(D) the findings and purposes set forth in
18 sections 2 and 3.

19 “(d) REGULATIONS.—Upon receipt of the rec-
20 ommendations of the Advisory Committee, the Commis-
21 sion shall hold public hearings on the recommendations.
22 After the conclusion of the hearings, the Commission shall
23 promulgate regulations establishing minimum regulatory
24 requirements and licensing standards.

1 “(e) TRAVEL.—Members of the Advisory Committee
2 appointed under paragraphs (1) and (2) of subsection (b)
3 shall be reimbursed for travel and per diem in lieu of sub-
4 sistence expenses during the performance of duties of the
5 Advisory Committee while away from home or their regu-
6 lar place of business, in accordance with subchapter I of
7 chapter 57 of title 5, United States Code.

8 “(f) TERMINATION.—The Advisory Committee shall
9 cease to exist on the date that is 60 days after the date
10 on which the Advisory Committee submits the rec-
11 ommendations under subsection (c).

12 “(g) EXEMPTION FROM FEDERAL ADVISORY COM-
13 MITTEE ACT.—All activities of the Advisory Committee
14 shall be exempt from the Federal Advisory Committee Act
15 (5 U.S.C. App.).

16 **“SEC. 10. LICENSING.**

17 “(a) IN GENERAL.—A license issued under this Act
18 shall be required of—

19 “(1) gaming operations;

20 “(2) key employees of a gaming operation;

21 “(3) management- and gaming-related contrac-
22 tors;

23 “(4) any gaming service industry; and

1 “(5) any person who has material control, ei-
2 ther directly or indirectly, over a licensed gaming op-
3 eration.

4 “(b) CERTAIN LICENSES FOR MANAGEMENT CON-
5 TRACTORS AND GAMING OPERATIONS.—Notwithstanding
6 any other provision of law relating to licenses issued by
7 an Indian tribe or a State (or both) pursuant to this Act,
8 the Commission may require licenses of—

9 “(1) management contractors; and

10 “(2) gaming operations.

11 “(c) STATEMENT OF COMPLIANCE.—

12 “(1) IN GENERAL.—The Commission may issue
13 a statement of compliance to an applicant for any li-
14 cense or for qualification status under this Act at
15 any time that the Commission is satisfied that one
16 or more eligibility criteria for the license have been
17 satisfied by an applicant.

18 “(2) CONTENTS OF STATEMENT.—A statement
19 issued under subparagraph (A) shall specify the eli-
20 gibility criterion satisfied, the date of such satisfac-
21 tion, and a reservation by the Commission permit-
22 ting the Commission to revoke the statement of com-
23 pliance at any time on the basis of a change of cir-
24 cumstances affecting such compliance.

25 “(d) GAMING OPERATION LICENSE.—

1 “(1) IN GENERAL.—No gaming operation shall
2 operate unless all required licenses and approvals for
3 the gaming operation have been obtained in accord-
4 ance with this Act.

5 “(2) WRITTEN AGREEMENTS.—

6 “(A) FILING.—Prior to the operation of
7 any gaming facility or activity, each manage-
8 ment contract for the gaming operation shall be
9 in writing and filed with the Commission pursu-
10 ant to section 13.

11 “(B) EXPRESS APPROVAL REQUIRED.—No
12 such agreement shall be effective unless the
13 Commission expressly approves the agreement.

14 “(C) REQUIREMENT OF ADDITIONAL PRO-
15 VISIONS.—The Commission may require that an
16 agreement referred to in subparagraph (A) in-
17 cludes any provisions that are reasonably nec-
18 essary to meet the requirements of this Act.

19 “(D) INELIGIBILITY OR EXEMPTION.—Any
20 applicant who does not have the ability to exer-
21 cise any significant control over a licensed gam-
22 ing operation may be determined by the Com-
23 mission to be ineligible to hold a license or may
24 exempt such applicant from being required to
25 hold a license.

1 “(e) DENIAL OF LICENSE.—The Commission, in the
2 exercise of the specific licensure power conferred upon the
3 Commission by this Act, shall deny a license to any appli-
4 cant who is disqualified on the basis of a failure to meet
5 any of the minimum Federal standards promulgated by
6 the Commission pursuant to section 7(c).

7 “(f) APPLICATION FOR LICENSE.—

8 “(1) IN GENERAL.—Upon the filing of the ma-
9 terials specified in paragraph (2), the Commission
10 shall conduct an investigation into the qualifications
11 of an applicant. The Commission may conduct a
12 nonpublic hearing on such investigation concerning
13 the qualifications of the applicant in accordance with
14 regulations promulgated by the Commission.

15 “(2) FILING OF MATERIALS.—The Commission
16 shall carry out paragraph (1) upon the filing of—

17 “(A) an application for a license that the
18 Commission is specifically authorized to issue
19 pursuant to this Act; and

20 “(B) such supplemental information as the
21 Commission may require.

22 “(3) TIMING OF FINAL ACTION.—After an ap-
23 plication is submitted to the Commission, the Com-
24 mission shall take final action not later than 90 days
25 after—

1 “(A) completing all hearings and investiga-
2 tions concerning the application; and

3 “(B) receiving all information required to
4 be submitted to the Commission.

5 “(4) DEADLINE FOR HEARINGS AND INVES-
6 TIGATIONS.—Not later than 90 days after receiving
7 the information described in paragraph (3)(B), the
8 Commission shall complete the hearings and inves-
9 tigations described in paragraph (3)(A).

10 “(5) ACTION BY COMMISSION.—Following the
11 completion of an investigation and hearing, the
12 Commission shall either deny or grant a license to
13 an applicant.

14 “(6) DENIALS.—

15 “(A) IN GENERAL.—The Commission may
16 deny any application pursuant to this Act.

17 “(B) ORDER OF DENIAL.—If the Commis-
18 sion denies an application submitted under this
19 section, the Commission shall prepare an order
20 denying such application. In addition, if an ap-
21 plicant requests a statement of the reasons for
22 the denial, the Commission shall prepare such
23 statement and provide the statement to the ap-
24 plicant. The statement shall include specific
25 findings of fact.

1 “(7) ISSUANCE OF LICENSES.—If the Commis-
2 sion is satisfied that an applicant is qualified to re-
3 ceive a license, the Commission shall issue a license
4 to the applicant upon tender of—

5 “(A) all license fees and assessments as re-
6 quired by this Act (including regulations pro-
7 mulgated by the Commission under this Act);
8 and

9 “(B) such bonds as the Commission may
10 require for the faithful performance of all re-
11 quirements imposed by this Act (including regu-
12 lations promulgated under this Act).

13 “(8) BONDS.—

14 “(A) AMOUNTS.—The Commission shall,
15 by rules of uniform application, fix the amount
16 of each bond that the Commission requires
17 under this section in such amount as the Com-
18 mission considers appropriate.

19 “(B) USE OF BONDS.—The bonds fur-
20 nished to the Commission under this paragraph
21 may be applied by the Commission to the pay-
22 ment of any unpaid liability of the licensee
23 under this Act.

24 “(C) TERMS.—Each bond required in ac-
25 cordance with this section shall be furnished—

1 “(i) in cash or negotiable securities;

2 “(ii) by a surety bond guaranteed by
3 a satisfactory guarantor; or

4 “(iii) by an irrevocable letter of credit
5 issued by a banking institution acceptable
6 to the Commission.

7 “(D) TREATMENT OF PRINCIPAL AND IN-
8 COME.—If a bond is furnished in cash or nego-
9 tiable securities, the principal shall be placed
10 without restriction at the disposal of the Com-
11 mission, but any income shall inure to the bene-
12 fit of the licensee.

13 “(g) RENEWAL OF LICENSE.—

14 “(1) IN GENERAL.—

15 “(A) RENEWALS.—Subject to the power of
16 the Commission to deny, revoke, or suspend li-
17 censes, any license issued under this section
18 and in force shall be renewed by the Commis-
19 sion for the next succeeding license period upon
20 proper application for renewal and payment of
21 license fees and assessments, as required by ap-
22 plicable law (including regulations of the Com-
23 mission).

24 “(B) RENEWAL TERM.—Subject to sub-
25 paragraph (C), the term of a renewal period for

1 a license issued under this section shall be for
2 a period of not more than—

3 “(i) 2 years, for each of the first 2 re-
4 newal periods succeeding the initial issu-
5 ance of a license pursuant to subsection
6 (f); and

7 “(ii) 3 years, for each succeeding re-
8 newal period.

9 “(C) REOPENING HEARINGS.—The Com-
10 mission may reopen licensing hearings at any
11 time after the Commission has issued or re-
12 newed a license.

13 “(2) TRANSITION.—

14 “(A) IN GENERAL.—Notwithstanding any
15 other provision of this subsection, the Commis-
16 sion shall, for the purpose of facilitating the ad-
17 ministration of this Act, renew a license for an
18 activity covered under subsection (a) that is
19 held by a person on the date of enactment of
20 the Indian Gaming Regulatory Act Amend-
21 ments Act of 1995 for a renewal period of 18
22 months.

23 “(B) ACTION BEFORE EXPIRATION.—The
24 Commission shall act upon any license renewal
25 application that is filed in a timely manner

1 prior to the date of expiration of the then cur-
2 rent license.

3 “(3) FILING REQUIREMENT.—Each application
4 for renewal shall be filed with the Commission not
5 later than 90 days prior to the expiration of the then
6 current license. All license fees and assessments that
7 are required by law shall be paid to the Commission
8 on or before the date of expiration of the then cur-
9 rent license.

10 “(4) RENEWAL CERTIFICATE.—Upon renewal
11 of a license, the Commission shall issue an appro-
12 priate renewal certificate, validating device, or stick-
13 er, which shall be attached to the license.

14 “(h) HEARINGS.—

15 “(1) IN GENERAL.—The Commission shall es-
16 tablish procedures for the conduct of hearings asso-
17 ciated with licensing, including procedures for deny-
18 ing, limiting, conditioning, restricting, revoking, or
19 suspending any such license.

20 “(2) ACTION BY COMMISSION.—Following a
21 hearing conducted for any of the purposes author-
22 ized in this section, the Commission shall—

23 “(A) render a decision of the Commission;

24 “(B) issue an order; and

1 “(C) serve such decision and order upon
2 the affected parties.

3 “(3) REHEARING.—

4 “(A) IN GENERAL.—The Commission may,
5 upon a motion made not later than 10 days
6 after the service of a decision and order, order
7 a rehearing before the Commission on such
8 terms and conditions as the Commission consid-
9 ers just and proper if the Commission finds
10 cause to believe that the decision and order
11 should be reconsidered in view of the legal, pol-
12 icy, or factual matters that are—

13 “(i) advanced by the party that makes
14 the motion; or

15 “(ii) raised by the Commission on a
16 motion made by the Commission.

17 “(B) ACTION AFTER REHEARING.—Follow-
18 ing a rehearing conducted by the Commission,
19 the Commission shall—

20 “(i) render a decision of the Commis-
21 sion;

22 “(ii) issue an order; and

23 “(iii) serve such decision and order
24 upon the affected parties.

1 “(C) FINAL AGENCY ACTION.—A decision
2 and order made by the Commission under para-
3 graph (2) (if no motion for a rehearing is
4 made), or a decision and order made by the
5 Commission upon rehearing shall constitute
6 final agency action for purposes of judicial re-
7 view.

8 “(4) JURISDICTION.—The United States Court
9 of Appeals for the District of Columbia Circuit shall
10 have jurisdiction to review the licensing decisions
11 and orders of the Commission.

12 “(i) LICENSE REGISTRY.—The Commission shall—

13 “(1) maintain a registry of all licenses that are
14 granted or denied pursuant to this Act; and

15 “(2) make the information contained in the reg-
16 istry available to Indian tribes to assist the licensure
17 and regulatory activities of Indian tribes.

18 **“SEC. 11. REQUIREMENTS FOR THE CONDUCT OF CLASS I**

19 **AND CLASS II GAMING ON INDIAN LANDS.**

20 “(a) CLASS I GAMING.—Class I gaming on Indian
21 lands shall be within the exclusive jurisdiction of the In-
22 dian tribes and shall not be subject to the provisions of
23 this Act.

24 “(b) CLASS II GAMING.—

1 “(1) IN GENERAL.—Any class II gaming on In-
2 dian lands shall be within the jurisdiction of the In-
3 dian tribes, but shall be subject to the provisions of
4 this Act.

5 “(2) LEGAL ACTIVITIES.—An Indian tribe may
6 engage in, and license and regulate, class II gaming
7 on Indian lands within the jurisdiction of such tribe,
8 if—

9 “(A) such Indian gaming is located within
10 a State that permits such gaming for any pur-
11 pose by any person; and

12 “(B) the class II gaming operation meets
13 or exceeds the requirements of sections 7(c) and
14 10.

15 “(3) REQUIREMENTS FOR CLASS II GAMING OP-
16 ERATIONS.—

17 “(A) IN GENERAL.—The Commission shall
18 ensure that with regard to any class II gaming
19 operation on Indian lands—

20 “(i) a separate license is issued by the
21 Indian tribe for each place, facility, or lo-
22 cation on Indian lands at which class II
23 gaming is conducted;

24 “(ii) the Indian tribe has or will have
25 the sole proprietary interest and respon-

1 sibility for the conduct of any class II gam-
2 ing activity, unless the conditions of clause
3 (ix) apply;

4 “(iii) the net revenues from any class
5 II gaming activity may only be used—

6 “(I) to fund tribal government
7 operations or programs;

8 “(II) to provide for the general
9 welfare of the Indian tribe and the
10 members of the Indian tribe;

11 “(III) to promote tribal economic
12 development;

13 “(IV) to donate to charitable or-
14 ganizations;

15 “(V) to help fund operations of
16 local government agencies; or

17 “(VI) to comply with the provi-
18 sions of section 17;

19 “(iv) the Indian tribe shall provide to
20 the Commission annual outside audits of
21 the class II gaming operation of the Indian
22 tribe, which may be encompassed within
23 existing independent tribal audit systems;

24 “(v) all contracts for supplies, serv-
25 ices, or concessions for a contract amount

1 equal to more than \$50,000 per year,
2 other than contracts for professional legal
3 or accounting services, relating to such
4 gaming shall be subject to such independ-
5 ent audits and any audit conducted by the
6 Commission;

7 “(vi) the construction and mainte-
8 nance of a class II gaming facility and the
9 operation of class II gaming shall be con-
10 ducted in a manner that adequately pro-
11 tects the environment and public health
12 and safety;

13 “(vii) there shall be instituted an ade-
14 quate system that—

15 “(I) ensures that—

16 “(aa) background investiga-
17 tions are conducted on primary
18 management officials, key em-
19 ployees, and persons having ma-
20 terial control, either directly or
21 indirectly, in a licensed class II
22 gaming operation, and gaming-
23 related contractors associated
24 with a licensed class II gaming
25 operation; and

1 “(bb) oversight of such offi-
2 cials and the management by
3 such officials is conducted on an
4 ongoing basis; and

5 “(II) includes—

6 “(aa) tribal licenses for per-
7 sons involved in class II gaming
8 operations, issued in accordance
9 with sections 7(c) and 10;

10 “(bb) a standard whereby
11 any person whose prior activities,
12 criminal record, if any, or reputa-
13 tion, habits, and associations
14 pose a threat to the public inter-
15 est or to the effective regulation
16 of gaming, or create or enhance
17 the dangers of unsuitable, unfair,
18 or illegal practices and methods
19 and activities in the conduct of
20 gaming shall not be eligible for
21 employment or licensure; and

22 “(cc) notification by the In-
23 dian tribe to the Commission of
24 the results of such background

1 investigation before the issuance
2 of any such license;

3 “(viii) net revenues from any class II
4 gaming activities conducted or licensed by
5 any Indian tribal government may be used
6 to make per capita payments to members
7 of the Indian tribe only if—

8 “(I) the Indian tribe has pre-
9 pared a plan to allocate revenues to
10 uses authorized by clause (iii);

11 “(II) the Secretary determines
12 that the plan is adequate, particularly
13 with respect to uses described in
14 subclause (I) or (III) of clause (iii);

15 “(III) the interests of minors and
16 other legally incompetent persons who
17 are entitled to receive any of the per
18 capita payments are protected and
19 preserved;

20 “(IV) the per capita payments to
21 minors and other legally incompetent
22 persons are disbursed to the parents
23 or legal guardians of such minors or
24 legally incompetent persons in such
25 amounts as may be necessary for the

1 health, education, or welfare of each
2 such minor or legally incompetent per-
3 son under a plan approved by the Sec-
4 retary and the governing body of the
5 Indian tribe; and

6 “(V) the per capita payments are
7 subject to Federal income taxation
8 and Indian tribes withhold such taxes
9 when such payments are made;

10 “(ix) a separate license shall be issued
11 by the Indian tribe for any class II gaming
12 operation owned by any person or entity
13 other than the Indian tribe and conducted
14 on Indian lands, that includes—

15 “(I) requirements set forth in
16 subparagraph (C); and

17 “(II) requirements that are at
18 least as restrictive as those established
19 by State law governing similar gaming
20 within the jurisdiction of the State
21 within which such Indian lands are lo-
22 cated; and

23 “(x) no person or entity, other than
24 the Indian tribe, shall be eligible to receive
25 a tribal license to own a class II gaming

1 operation conducted on Indian lands within
2 the jurisdiction of the Indian tribe if such
3 person or entity would not be eligible to re-
4 ceive a State license to conduct the same
5 activity within the jurisdiction of the State.

6 “(B) TRANSITION.—

7 “(i) IN GENERAL.—Clauses (ii), (iii),
8 and (ix) shall not bar the continued oper-
9 ation of an individually owned class II
10 gaming operation that was operating on
11 September 1, 1986, if—

12 “(I) such gaming operation is li-
13 censed and regulated by an Indian
14 tribe;

15 “(II) income to the Indian tribe
16 from such gaming is used only for the
17 purposes described in subparagraph
18 (A)(iii);

19 “(III) not less than 60 percent of
20 the net revenues from such gaming
21 operation is income to the licensing
22 Indian tribe; and

23 “(IV) the owner of such gaming
24 operation pays an appropriate assess-
25 ment to the Commission pursuant to

1 section 17 for the regulation of such
2 gaming.

3 “(ii) LIMITATIONS ON EXEMPTION.—

4 The exemption from application provided
5 under clause (i) may not be transferred to
6 any person or entity and shall remain in
7 effect only during such period as the gam-
8 ing operation remains within the same na-
9 ture and scope as such gaming operation
10 was actually operated on October 17,
11 1988.

12 “(C) LIST.—The Commission shall—

13 “(i) maintain a list of each individ-
14 ually owned gaming operation that is sub-
15 ject to subparagraph (A)(x); and

16 “(ii) publish such list in the Federal
17 Register.

18 “(c) PETITION FOR CERTIFICATE OF SELF-REGULA-
19 TION.—

20 “(1) IN GENERAL.—Any Indian tribe that oper-
21 ates, directly or with a management contract, a class
22 II gaming activity may petition the Commission for
23 a certificate of self-regulation if that Indian tribe—

24 “(A) has continuously conducted such ac-
25 tivity for a period of not less than 3 years, in-

1 cluding a period of at least 1 year after the
2 date of the enactment of the Indian Gaming
3 Regulatory Act Amendments Act of 1995; and

4 “(B) has otherwise complied with the pro-
5 visions of this Act.

6 “(2) ISSUANCE OF CERTIFICATE OF SELF-REG-
7 ULATION.—The Commission shall issue a certificate
8 of self-regulation if the Commission determines on
9 the basis of available information, and after a hear-
10 ing if requested by the tribe, that the Indian tribe
11 has—

12 “(A) conducted its gaming activity in a
13 manner which has—

14 “(i) resulted in an effective and hon-
15 est accounting of all revenues;

16 “(ii) resulted in a reputation for safe,
17 fair, and honest operation of the activity;
18 and

19 “(iii) been generally free of evidence
20 of criminal or dishonest activity;

21 “(B) adopted and implemented adequate
22 systems for—

23 “(i) accounting for all revenues from
24 the activity;

1 “(ii) investigation, licensing, and mon-
2 itoring of all employees of the gaming ac-
3 tivity; and

4 “(iii) investigation, enforcement, and
5 prosecution of violations of its gaming or-
6 dinance and regulations;

7 “(C) conducted the operation on a fiscally
8 and economically sound basis; and

9 “(D) paid all fees and assessments that
10 the tribe is required to pay to the Commission
11 under this Act.

12 “(3) EFFECT OF CERTIFICATE OF SELF-REGU-
13 LATION.—During the period in which a certificate of
14 self-regulation issued under this paragraph is in ef-
15 fect with respect to a gaming activity conducted by
16 an Indian tribe—

17 “(A) the tribe shall—

18 “(i) continue to submit an annual
19 independent audit as required by sub-
20 section (b)(3)(A)(iv); and

21 “(ii) submit to the Commission a com-
22 plete résumé of each employee hired and li-
23 censed by the tribe subsequent to the issu-
24 ance of a certificate of self-regulation; and

1 “(B) the Commission may not assess a fee
2 on such activity pursuant to section 17 in ex-
3 cess of $\frac{1}{4}$ of 1 percent of the gross revenue
4 from such activity.

5 “(4) RESCISSION.—The Commission may, for
6 just cause and after an opportunity for a hearing,
7 rescind a certificate of self-regulation by majority
8 vote of the members of the Commission.

9 “(d) LICENSE REVOCATION.—If, after the issuance
10 of any license by an Indian tribe under this section, the
11 Indian tribe receives reliable information from the Com-
12 mission indicating that a licensee does not meet any stand-
13 ard established under section 7(c) or 10, or any other ap-
14 plicable regulation promulgated by the Commission, the
15 Indian tribe—

16 “(1) shall suspend such license; and

17 “(2) after notice and hearing under procedures
18 established pursuant to applicable tribal law, may
19 revoke such license.

20 **“SEC. 12. CLASS III GAMING ON INDIAN LANDS.**

21 “(a) REQUIREMENTS FOR THE CONDUCT OF CLASS
22 III GAMING ON INDIAN LANDS.—

23 “(1) IN GENERAL.—Class III gaming activities
24 shall be lawful on Indian lands only if such activities
25 are—

1 “(A) authorized by a compact that—

2 “(i) is approved pursuant to tribal law
3 by the governing body of the Indian tribe
4 having jurisdiction over such lands;

5 “(ii) meets the requirements of sec-
6 tion 11(b)(3) for the conduct of class II
7 gaming; and

8 “(iii) is approved by the Secretary;

9 “(B) located in a State that permits such
10 gaming for any purpose by any person; and

11 “(C) conducted in conformance with a trib-
12 al-State compact that—

13 “(i) is in effect; and

14 “(ii) is—

15 “(I) entered into by an Indian
16 tribe and a State and approved by the
17 Secretary under paragraph (2); or

18 “(II) issued by the Secretary
19 under paragraph (2).

20 “(2) COMPACT NEGOTIATIONS.—

21 “(A) IN GENERAL.—

22 “(i) COMPACT NEGOTIATIONS.—Any
23 Indian tribe having jurisdiction over the
24 lands upon which a class III gaming activ-
25 ity is to be conducted may request the

1 State in which such lands are located to
2 enter into negotiations for the purpose of
3 entering into a tribal-State compact gov-
4 erning the conduct of class III gaming ac-
5 tivities.

6 “(ii) REQUIREMENTS FOR REQUEST
7 FOR NEGOTIATIONS.—A request for nego-
8 tiations under clause (i) shall be in writing
9 and shall specify each gaming activity that
10 the Indian tribe proposes for inclusion in
11 the compact. Not later than 30 days after
12 receipt of such written request, the State
13 shall respond to the Indian tribe.

14 “(iii) COMMENCEMENT OF COMPACT
15 NEGOTIATIONS.—Compact negotiations
16 conducted under this paragraph shall com-
17 mence not later than 30 days after the
18 date on which a response by a State is due
19 to the Indian tribe, and shall be completed
20 not later than 120 days after the initiation
21 of compact negotiations, unless the State
22 and the Indian tribe agree to a different
23 period of time for the completion of com-
24 pact negotiations.

1 “(iv) INABILITY TO MEET DEADLINES
2 FOR NEGOTIATIONS.—

3 “(I) NOTIFICATION.—If the
4 State and the Indian tribe find that
5 the State and Indian tribe are unable
6 to commence or complete compact ne-
7 gotiations within the applicable time
8 periods provided in this subsection,
9 the Indian tribe shall notify the Sec-
10 retary.

11 “(II) PRESENTATION OF POSI-
12 TIONS.—Upon receipt of a notice
13 under subclause (I), the Secretary
14 shall request that the tribe and the
15 State present their respective posi-
16 tions, not later than 60 days after
17 such request, regarding—

18 “(aa) the gaming activities
19 that the tribe seeks to conduct
20 that are permissible under this
21 Act;

22 “(bb) the framework for reg-
23 ulation of tribal gaming; and

1 “(cc) such other matters as
2 the Secretary may consider ap-
3 propriate.

4 “(B) APPROVAL OF COMPACT.—Not later
5 than 90 days after the date of expiration of the
6 60-day period specified in subparagraph (A),
7 the Secretary shall approve a compact that
8 meets the requirements of this section, and
9 shall publish the compact in the Federal Reg-
10 ister. The compact shall—

11 “(i) include provisions—

12 “(I) that best meet the objectives
13 of this Act; and

14 “(II) for background investiga-
15 tions, internal controls, and licensing
16 that are consistent with this Act (in-
17 cluding regulations promulgated by
18 the Commission pursuant to section
19 7(c)); and

20 “(ii) not violate—

21 “(I) any provision of this Act (in-
22 cluding regulations promulgated by
23 the Commission pursuant to this Act);

24 “(II) any other provision of Fed-
25 eral law; or

1 “(III) the trust obligation of the
2 United States to Indians.

3 “(C) MANDATORY DISAPPROVAL.—Not-
4 withstanding any other provision of this Act,
5 the Secretary shall not have the authority to
6 approve a compact if the compact requires
7 State regulation of Indian gaming absent the
8 consent of the State or the Indian tribe.

9 “(D) EFFECT OF PUBLICATION OF COM-
10 PACT.—Except for an appeal conducted under
11 subchapter II of chapter 5 of title 5, United
12 States Code, by an Indian tribe or a State asso-
13 ciated with the publication of the compact, the
14 publication of a compact pursuant to subpara-
15 graph (B) that permits a form of class III gam-
16 ing shall, for the purposes of this Act, be con-
17 clusive evidence that such class III gaming is
18 an activity subject to negotiations under the
19 laws of the State where the gaming is to be
20 conducted, in any matter under consideration
21 by the Commission or a Federal court.

22 “(E) EFFECTIVE DATE OF COMPACT.—
23 Any compact negotiated under this subsection
24 shall become effective upon the publication of

1 the compact in the Federal Register by the Sec-
2 retary.

3 “(F) DUTIES OF COMMISSION.—Consistent
4 with the provisions of sections 7(c), 8, and 10,
5 the Commission shall monitor and, if specifi-
6 cally authorized, regulate and license class III
7 gaming with respect to any compact that is ap-
8 proved by the Secretary under this subsection
9 and published in the Federal Register.

10 “(3) PROVISIONS OF COMPACTS.—

11 “(A) IN GENERAL.—A compact negotiated
12 under this subsection may include provisions re-
13 lating to—

14 “(i) the application of the criminal
15 and civil laws (including regulations) of the
16 Indian tribe or the State that are directly
17 related to, and necessary for, the licensing
18 and regulation of such activity in a manner
19 consistent with sections 7(c), 8, and 10;

20 “(ii) the allocation of criminal and
21 civil jurisdiction between the State and the
22 Indian tribe necessary for the enforcement
23 of such laws (including regulations);

24 “(iii) the assessment by the State of
25 the costs associated with such activities in

1 such amounts as are necessary to defray
2 the costs of regulating such activity;

3 “(iv) taxation by the Indian tribe of
4 such activity in amounts comparable to
5 amounts assessed by the State for com-
6 parable activities;

7 “(v) remedies for breach of compact
8 provisions;

9 “(vi) standards for the operation of
10 such activity and maintenance of the gam-
11 ing facility, including licensing, in a man-
12 ner consistent with sections 7(c), 8, and
13 10; and

14 “(vii) any other subject that is di-
15 rectly related to the operation of gaming
16 activities and the impact of gaming on
17 tribal, State, and local governments.

18 “(B) STATUTORY CONSTRUCTION WITH
19 RESPECT TO ASSESSMENTS.—Except for any
20 assessments for services agreed to by an Indian
21 tribe in compact negotiations, nothing in this
22 section may be construed as conferring upon a
23 State or any political subdivision thereof the au-
24 thority to impose any tax, fee, charge, or other
25 assessment upon an Indian tribe, an Indian

1 gaming operation or the value generated by the
2 gaming operation, or any person or entity au-
3 thorized by an Indian tribe to engage in a class
4 III gaming activity in conformance with this
5 Act.

6 “(4) STATUTORY CONSTRUCTION WITH RE-
7 SPECT TO CERTAIN RIGHTS OF INDIAN TRIBES.—
8 Nothing in this subsection impairs the right of an
9 Indian tribe to regulate class III gaming on the In-
10 dian lands of the Indian tribe concurrently with a
11 State and the Commission, except to the extent that
12 such regulation is inconsistent with, or less stringent
13 than, this Act or any laws (including regulations)
14 made applicable by any compact entered into by the
15 Indian tribe under this subsection that is in effect.

16 “(5) EXEMPTION.—The provisions of section 2
17 of the Act of January 2, 1951 (commonly referred
18 to as the ‘Gambling Devices Transportation Act’)
19 (64 Stat. 1134, chapter 1194, 15 U.S.C. 1175) shall
20 not apply to any class II gaming activity or any
21 gaming activity conducted pursuant to a compact
22 entered into after the date of enactment of this Act,
23 but in no event shall this paragraph be construed as
24 invalidating any exemption from the provisions of

1 such section 2 for any compact entered into prior to
2 the date of enactment of this Act.

3 “(b) JURISDICTION OF UNITED STATES DISTRICT
4 COURT FOR THE DISTRICT OF COLUMBIA.—The United
5 States District Court for the District of Columbia shall
6 have jurisdiction over any action initiated by the Sec-
7 retary, the Commission, a State, or an Indian tribe to en-
8 force any provision of a compact entered into under sub-
9 section (a) or to enjoin a class III gaming activity located
10 on Indian lands and conducted in violation of any compact
11 that is in effect and that was entered into under sub-
12 section (a).

13 “(c) APPROVAL OF COMPACTS.—

14 “(1) IN GENERAL.—The Secretary is authorized
15 to approve any compact between an Indian tribe and
16 a State governing the conduct of class III gaming on
17 Indian lands of such Indian tribe entered into under
18 subsection (a).

19 “(2) REASONS FOR DISAPPROVAL BY SEC-
20 RETARY.—The Secretary may disapprove a compact
21 entered into under subsection (a) only if such com-
22 pact violates any—

23 “(A) provision of this Act or any regula-
24 tion promulgated by the Commission pursuant
25 to this Act;

1 “(B) other provision of Federal law; or

2 “(C) trust obligation of the United States
3 to Indians.

4 “(3) EFFECT OF FAILURE TO ACT ON COM-
5 PACT.—If the Secretary fails to approve or dis-
6 approve a compact entered into under subsection (a)
7 before the date that is 45 days after the date on
8 which the compact is submitted to the Secretary for
9 approval, the compact shall be considered to have
10 been approved by the Secretary, but only to the ex-
11 tent the compact is consistent with the provisions of
12 this Act and the regulations promulgated by the
13 Commission pursuant to this Act.

14 “(4) NOTIFICATION.—The Secretary shall pub-
15 lish in the Federal Register notice of any compact
16 that is approved, or considered to have been ap-
17 proved, under this subsection.

18 “(d) REVOCATION OF ORDINANCE.—

19 “(1) IN GENERAL.—The governing body of an
20 Indian tribe, in its sole discretion, may adopt an or-
21 dinance or resolution revoking any prior ordinance
22 or resolution that authorized class III gaming on the
23 Indian lands of the Indian tribe. Such revocation
24 shall render class III gaming illegal on the Indian
25 lands of such Indian tribe.

1 “(2) PUBLICATION OF REVOCATION.—An In-
2 dian tribe shall submit any revocation ordinance or
3 resolution described in paragraph (1) to the Com-
4 mission. The Commission shall publish such ordi-
5 nance or resolution in the Federal Register. The rev-
6 ocation provided by such ordinance or resolution
7 shall take effect on the date of such publication.

8 “(3) CONDITIONAL OPERATION.—Notwithstand-
9 ing any other provision of this subsection—

10 “(A) any person or entity operating a class
11 III gaming activity pursuant to this paragraph
12 on the date on which an ordinance or resolution
13 described in paragraph (1) that revokes author-
14 ization for such class III gaming activity is pub-
15 lished in the Federal Register may, during the
16 1-year period beginning on the date on which
17 such revocation, ordinance, or resolution is pub-
18 lished under paragraph (2), continue to operate
19 such activity in conformance with an applicable
20 compact entered into under subsection (a) that
21 is in effect; and

22 “(B) any civil action that arises before,
23 and any crime that is committed before, the
24 termination of such 1-year period shall not be

1 affected by such revocation ordinance, or reso-
2 lution.

3 “(e) CERTAIN CLASS III GAMING ACTIVITIES.—

4 “(1) COMPACTS ENTERED INTO BEFORE THE
5 DATE OF ENACTMENT OF THE INDIAN GAMING REG-
6 ULATORY ACT AMENDMENTS ACT OF 1995.—Class
7 III gaming activities that are authorized under a
8 compact approved or issued by the Secretary under
9 the authority of this Act prior to the date of enact-
10 ment of the Indian Gaming Regulatory Act Amend-
11 ments Act of 1995 shall, during such period as the
12 compact is in effect, remain lawful for the purposes
13 of this Act, notwithstanding the Indian Gaming Reg-
14 ulatory Act Amendments Act of 1995 and the
15 amendments made by such Act or any change in
16 State law enacted after the approval or issuance of
17 the compact.

18 “(2) COMPACT ENTERED INTO AFTER THE
19 DATE OF ENACTMENT OF THE INDIAN GAMING REG-
20 ULATORY ACT AMENDMENTS ACT OF 1995.—Any
21 compact entered into under subsection (a) after the
22 date specified in paragraph (1) shall remain lawful
23 for the purposes of this Act, notwithstanding any
24 change in State law enacted after the approval or is-
25 suanance of the compact.

1 **“SEC. 13. REVIEW OF CONTRACTS.**

2 “(a) **CONTRACTS INCLUDED.**—The Commission shall
3 review and approve or disapprove—

4 “(1) any management contract for the oper-
5 ation and management of any gaming activity that
6 an Indian tribe may engage in under this Act; and

7 “(2) unless licensed by an Indian tribe consist-
8 ent with the minimum Federal standards adopted
9 pursuant to section 7(c), any gaming-related con-
10 tract.

11 “(b) **MANAGEMENT CONTRACT REQUIREMENTS.**—
12 The Commission shall approve any management contract
13 between an Indian tribe and a person licensed by an In-
14 dian tribe or the Commission that is entered into pursuant
15 to this Act only if the Commission determines that the
16 contract provides for—

17 “(1) adequate accounting procedures that are
18 maintained, and verifiable financial reports that are
19 prepared by or for, the governing body of the Indian
20 tribe on a monthly basis;

21 “(2) access to the daily gaming operations by
22 appropriate officials of the Indian tribe who shall
23 have the right to verify the daily gross revenues and
24 income derived from any gaming activity;

1 “(3) a minimum guaranteed payment to the In-
2 dian tribe that has preference over the retirement of
3 any development and construction costs;

4 “(4) an agreed upon ceiling for the repayment
5 of any development and construction costs;

6 “(5) a contract term of not to exceed 5 years,
7 except that, upon the request of an Indian tribe, the
8 Commission may authorize a contract term that ex-
9 ceeds 5 years but does not exceed 7 years, if the
10 Commission is satisfied that the capital investment
11 required, and the income projections for the particu-
12 lar gaming activity, require the additional time; and

13 “(6) grounds and mechanisms for the termi-
14 nation of the contract, but any such termination
15 shall not require the approval of the Commission.

16 “(c) MANAGEMENT FEE BASED ON PERCENTAGE OF
17 NET REVENUES.—

18 “(1) PERCENTAGE FEE.—The Commission may
19 approve a management contract that provides for a
20 fee that is based on a percentage of the net revenues
21 of a tribal gaming activity if the Commission deter-
22 mines that such percentage fee is reasonable, taking
23 into consideration surrounding circumstances.

24 “(2) FEE AMOUNT.—Except as provided in
25 paragraph (3), a fee described in paragraph (1) shall

1 not exceed an amount equal to 30 percent of the net
2 revenues described in such paragraph.

3 “(3) EXCEPTION.—Upon the request of an In-
4 dian tribe, if the Commission is satisfied that the
5 capital investment required, and income projections
6 for, a tribal gaming activity, necessitate a fee in ex-
7 cess of the amount specified in paragraph (2), the
8 Commission may approve a management contract
9 that provides for a fee described in paragraph (1) in
10 an amount in excess of the amount specified in para-
11 graph (2), but not to exceed 40 percent of the net
12 revenues described in paragraph (1).

13 “(d) GAMING-RELATED CONTRACT REQUIRE-
14 MENTS.—The Commission shall approve a gaming-related
15 contract covered under subsection (a)(2) that is entered
16 into pursuant to this Act only if the Commission deter-
17 mines that the contract provides for—

18 “(1) grounds and mechanisms for termination
19 of the contract, but such termination shall not re-
20 quire the approval of the Commission; and

21 “(2) such other provisions as the Commission
22 may be empowered to impose by this Act.

23 “(e) TIME PERIOD FOR REVIEW.—

24 “(1) IN GENERAL.—Except as provided in para-
25 graph (2), not later than 90 days after the date on

1 which a management contract or other gaming-relat-
2 ed contract is submitted to the Commission for ap-
3 proval, the Commission shall approve or disapprove
4 such contract on the merits of the contract. The
5 Commission may extend the 90-day period for an
6 additional period of not more than 45 days if the
7 Commission notifies the Indian tribe in writing of
8 the reason for the extension of the period. The In-
9 dian tribe may bring an action in the United States
10 District Court for the District of Columbia to com-
11 pel action by the Commission if a contract has not
12 been approved or disapproved by the termination
13 date of an applicable period under this subsection.

14 “(2) EFFECT OF FAILURE OF COMMISSION TO
15 ACT ON CERTAIN GAMING-RELATED CONTRACT.—
16 Any gaming-related contract for an amount less
17 than or equal to \$100,000 that is submitted to the
18 Commission pursuant to paragraph (1) by a person
19 who holds a valid license that is in effect under this
20 Act shall be deemed to be approved, if by the date
21 that is 90 days after the contract is submitted to the
22 Commission, the Commission fails to approve or dis-
23 approve the contract.

1 “(f) CONTRACT MODIFICATIONS AND VOID CON-
2 TRACTS.—The Commission, after providing notice and
3 hearing—

4 “(1) shall have the authority to require appro-
5 priate contract modifications to ensure compliance
6 with the provisions of this Act; or

7 “(2) may void any contract regulated by the
8 Commission under this Act if the Commission deter-
9 mines that any of the provisions of this Act have
10 been violated by the terms of the contract.

11 “(g) INTERESTS IN REAL PROPERTY.—No contract
12 regulated by this Act may transfer or, in any other man-
13 ner, convey any interest in land or other real property,
14 unless specific statutory authority exists, all necessary ap-
15 provals for such transfer or conveyance have been ob-
16 tained, and such transfer or conveyance is clearly specified
17 in the contract.

18 “(h) AUTHORITY OF THE SECRETARY.—The author-
19 ity of the Secretary under section 2103 of the Revised
20 Statutes (25 U.S.C. 81) shall not extend to any contract
21 or agreement that is regulated pursuant to this Act.

22 “(i) DISAPPROVAL OF CONTRACTS.—The Commis-
23 sion may not approve a contract if the Commission deter-
24 mines that—

1 “(1) any person having a direct financial inter-
2 est in, or management responsibility for, such con-
3 tract, and, in the case of a corporation, any individ-
4 ual who serves on the board of directors of such cor-
5 poration, and any of the stockholders who hold (di-
6 rectly or indirectly) 10 percent or more of its issued
7 and outstanding stock—

8 “(A) is an elected member of the governing
9 body of the Indian tribe which is a party to the
10 contract;

11 “(B) has been convicted of any felony or
12 gaming offense;

13 “(C) has knowingly and willfully provided
14 materially important false statements or infor-
15 mation to the Commission or the Indian tribe
16 pursuant to this Act or has refused to respond
17 to questions propounded by the Commission; or

18 “(D) has been determined to be a person
19 whose prior activities, criminal record, if any, or
20 reputation, habits, and associations pose a
21 threat to the public interest or to the effective
22 regulation and control of gaming, or create or
23 enhance the dangers of unsuitable, unfair, or il-
24 legal practices, methods, and activities in the
25 conduct of gaming or the carrying on of the

1 business and financial arrangements incidental
2 thereto;

3 “(2) the contractor—

4 “(A) has unduly interfered or influenced
5 for its gain or advantage any decision or proc-
6 ess of tribal government relating to the gaming
7 activity; or

8 “(B) has attempted to interfere or influ-
9 ence a decision pursuant to subparagraph (A);

10 “(3) the contractor has deliberately or substan-
11 tially failed to comply with the terms of the contract;
12 or

13 “(4) a trustee, exercising the skill and diligence
14 that a trustee is commonly held to, would not ap-
15 prove the contract.

16 **“SEC. 14. REVIEW OF EXISTING CONTRACTS; INTERIM AU-**
17 **THORITY.**

18 “(a) REVIEW OF EXISTING CONTRACTS.—

19 “(1) IN GENERAL.—At any time after the Com-
20 mission is sworn in and has promulgated regulations
21 for the implementation of this Act, the Commission
22 shall notify each Indian tribe and management con-
23 tractor who, prior to the enactment of the Indian
24 Gaming Regulatory Act Amendments Act of 1995,
25 entered into a management contract that was ap-

1 proved by the Secretary, that the Indian tribe is re-
2 quired to submit to the Commission such contract,
3 including all collateral agreements relating to the
4 gaming activity, for review by the Commission not
5 later than 60 days after such notification. Any such
6 contract shall be valid under this Act, unless the
7 contract is disapproved by the Commission under
8 this section.

9 “(2) REVIEW.—

10 “(A) IN GENERAL.—Not later than 180
11 days after the submission of a management
12 contract, including all collateral agreements, to
13 the Commission pursuant to this section, the
14 Commission shall review the contract to deter-
15 mine whether the contract meets the require-
16 ments of section 13 and was entered into in ac-
17 cordance with the procedures under such sec-
18 tion.

19 “(B) APPROVAL OF CONTRACT.—The
20 Commission shall approve a management con-
21 tract submitted for review under subsection (a)
22 if the Commission determines that—

23 “(i) the management contract meets
24 the requirements of section 13; and

1 “(ii) the management contractor has
2 obtained all of the licenses that the con-
3 tractor is required to obtain under this
4 Act.

5 “(C) NOTIFICATION OF NECESSARY MODI-
6 FICATIONS.—If the Commission determines that
7 a contract submitted under this section does
8 not meet the requirements of section 13, the
9 Commission shall provide written notification to
10 the parties to such contract of the necessary
11 modifications and the parties shall have 180
12 days to make the modifications.

13 “(b) INTERIM AUTHORITY OF THE NATIONAL INDIAN
14 GAMING COMMISSION.—

15 “(1) IN GENERAL.—Notwithstanding any other
16 provision of this Act, the Chairperson and the asso-
17 ciate members of the National Indian Gaming Com-
18 mission who are holding office on the date of enact-
19 ment of this Act shall exercise those authorities vest-
20 ed in the Federal Indian Gaming Regulatory Com-
21 mission by this Act until such time as the members
22 of the Federal Indian Gaming Regulatory Commis-
23 sion are sworn into office.

24 “(2) TRANSITION.—Notwithstanding any other
25 provision of law, the Commission shall exercise the

1 authority conferred on the Commission by this Act,
2 and until such time as the Commission promulgates
3 revised regulations after the date of enactment of
4 the Indian Gaming Regulatory Act Amendments Act
5 of 1995, the regulations issued under this Act, as in
6 effect on the day before such date of enactment,
7 shall apply.

8 **“SEC. 15. CIVIL PENALTIES.**

9 “(a) AMOUNT.—Any person who commits any act or
10 causes to be done any act that violates any provision of
11 this Act or the rules or regulations promulgated under this
12 Act, or who fails to carry out any act or causes the failure
13 to carry out any act that is required by any such provision
14 of law shall be subject to a civil penalty in an amount
15 equal to not more than \$50,000 per day for each such
16 violation.

17 “(b) ASSESSMENT AND COLLECTION.—

18 “(1) IN GENERAL.—Each civil penalty assessed
19 under this section shall be assessed by the Commis-
20 sion and collected in a civil action brought by the
21 Attorney General on behalf of the United States.
22 Before the Commission refers civil penalty claims to
23 the Attorney General, the Commission may com-
24 promise the civil penalty after affording the person
25 charged with a violation referred to in subsection

1 (a), an opportunity to present views and evidence in
2 support of such action by the Commission to estab-
3 lish that the alleged violation did not occur.

4 “(2) PENALTY AMOUNT.—In determining the
5 amount of a civil penalty assessed under this section,
6 the Commission shall take into account—

7 “(A) the nature, circumstances, extent,
8 and gravity of the violation committed;

9 “(B) with respect to the person found to
10 have committed such violation, the degree of
11 culpability, any history of prior violations, abil-
12 ity to pay, the effect on ability to continue to
13 do business; and

14 “(C) such other matters as justice may re-
15 quire.

16 “(c) TEMPORARY CLOSURES.—

17 “(1) IN GENERAL.—The Commission may order
18 the temporary closure of all or part of an Indian
19 gaming operation for a substantial violation of any
20 provision of law referred to in subsection (a).

21 “(2) HEARING ON ORDER OF TEMPORARY CLO-
22 SURE.—

23 “(A) IN GENERAL.—Not later than 30
24 days after the issuance of an order of tem-
25 porary closure, the Indian tribe or the individ-

1 ual owner of a gaming operation shall have the
2 right to request a hearing before the Commis-
3 sion to determine whether such order should be
4 made permanent or dissolved.

5 “(B) DEADLINES RELATING TO HEAR-
6 ING.—Not later than 30 days after a request
7 for a hearing is made, the Commission shall
8 conduct such hearing. Not later than 30 days
9 after the termination of the hearing, the Com-
10 mission shall render a final decision on the clo-
11 sure.

12 **“SEC. 16. JUDICIAL REVIEW.**

13 “A decision made by the Commission pursuant to sec-
14 tions 7, 8, 10, 13, 14, and 15 shall constitute final agency
15 decisions for purposes of appeal to the United States Dis-
16 trict Court for the District of Columbia pursuant to chap-
17 ter 7 of title 5, United States Code.

18 **“SEC. 17. COMMISSION FUNDING.**

19 “(a) ANNUAL FEES.—

20 “(1) IN GENERAL.—The Commission shall es-
21 tablish a schedule of fees to be paid to the Commis-
22 sion annually by gaming operations for each class II
23 and class III gaming activity that is regulated by
24 this Act.

25 “(2) LIMITATION ON FEE RATES.—

1 “(A) IN GENERAL.—For each gaming op-
2 eration regulated under this Act, the rate of the
3 fees imposed under the schedule established
4 under paragraph (1) shall not exceed 2 percent
5 of the net revenues of such gaming operation.

6 “(B) TOTAL AMOUNT OF FEES.—The total
7 amount of all fees imposed during any fiscal
8 year under the schedule established under para-
9 graph (1) shall equal not more than
10 \$25,000,000.

11 “(3) ANNUAL FEE RATE.—The Commission, by
12 a vote of a majority of the members of the Commis-
13 sion, shall annually adopt the rate of the fees au-
14 thorized by this section. Such fees shall be payable
15 to the Commission on a monthly basis.

16 “(4) ADJUSTMENT OF FEES.—The fees paid by
17 a gaming operation may be adjusted by the Commis-
18 sion to reduce the amount of the fees by an amount
19 that takes into account that regulatory functions are
20 performed by an Indian tribe, or the Indian tribe
21 and a State, pursuant to regulations promulgated by
22 the Commission.

23 “(5) CONSEQUENCES OF FAILURE TO PAY
24 FEES.—Failure to pay the fees imposed under the
25 schedule established under paragraph (1) shall, sub-

1 ject to regulations promulgated by the Commission,
2 be grounds for revocation of the approval of the
3 Commission of any license required under this Act
4 for the operation of gaming activities.

5 “(6) SURPLUS FUNDS.—To the extent that rev-
6 enue derived from fees imposed under the schedule
7 established under paragraph (1) exceed the limita-
8 tion in paragraph (2)(B) or are not expended or
9 committed at the close of any fiscal year, such sur-
10 plus funds shall be credited to each gaming activity
11 that is the subject of the fees on a pro rata basis
12 against such fees imposed for the succeeding year.

13 “(b) REIMBURSEMENT OF COSTS.—The Commission
14 is authorized to assess any applicant, except the governing
15 body of an Indian tribe, for any license required pursuant
16 to this Act. Such assessment shall be an amount equal
17 to the actual costs of conducting all reviews and investiga-
18 tions necessary for the Commission to determine whether
19 a license should be granted or denied to the applicant.

20 “(c) ANNUAL BUDGET.—

21 “(1) IN GENERAL.—For the first full fiscal year
22 beginning after the date of enactment of the Indian
23 Gaming Regulatory Act Amendments Act of 1995,
24 and each fiscal year thereafter, the Commission shall

1 adopt an annual budget for the expenses and oper-
2 ation of the Commission.

3 “(2) REQUEST FOR APPROPRIATIONS.—The
4 budget of the Commission may include a request for
5 appropriations authorized under section 18.

6 “(3) SUBMISSION TO CONGRESS.—Notwith-
7 standing any other provision of law, a request for
8 appropriations made pursuant to paragraph (2) shall
9 be submitted by the Commission directly to the Con-
10 gress beginning with the request for the first full fis-
11 cal year beginning after the date of enactment of
12 this Act, and shall include the proposed annual
13 budget of the Commission and the estimated reve-
14 nues to be derived from fees.

15 **“SEC. 18. AUTHORIZATION OF APPROPRIATIONS.**

16 “Subject to section 17, there are authorized to be ap-
17 propriated \$5,000,000 to provide for the operation of the
18 Commission for each of fiscal years 1997, 1998, and 1999,
19 to remain available until expended.

20 **“SEC. 19. MISCELLANEOUS.**

21 “(a) GAMING PROSCRIBED ON LANDS ACQUIRED IN
22 TRUST.—

23 “(1) IN GENERAL.—Except as provided in para-
24 graph (2), gaming regulated by this Act shall not be
25 conducted on lands acquired by the Secretary in

1 trust for the benefit of an Indian tribe after the date
2 of enactment of this Act, unless—

3 “(A) such lands are located within or con-
4 tiguous to the boundaries of the reservation of
5 the Indian tribe on the date of enactment of
6 this Act;

7 “(B) the Indian tribe has no reservation on
8 the date of enactment of this Act and such
9 lands are located in the State of Oklahoma
10 and—

11 “(i) are within the boundaries of the
12 former reservation of the Indian tribe, as
13 defined by the Secretary; or

14 “(ii) are contiguous to other land held
15 in trust or restricted status by the United
16 States for the Indian tribe in the State of
17 Oklahoma; or

18 “(C) such lands are located in a State
19 other than the State of Oklahoma and are with-
20 in the last recognized reservation of the Indian
21 tribe within the State within which the Indian
22 tribe is presently located.

23 “(2) EXEMPTION FOR CERTAIN TRUST
24 LANDS.—Paragraph (1) does not apply in any case
25 in which—

1 “(A) the Secretary, after consultation with
2 the Indian tribe and a review of the rec-
3 ommendations, if any, of the Governor of the
4 State in which such lands are located, and any
5 other State and local officials, including officials
6 of other nearby Indian tribes, determines that
7 a gaming establishment on newly acquired
8 lands—

9 “(i) would be in the best interest of
10 the Indian tribe and the members of the
11 Indian tribe; and

12 “(ii) would not be detrimental to the
13 surrounding community;

14 “(B) lands are taken into trust as part of
15 a settlement of a land claim;

16 “(C) the initial reservation of an Indian
17 tribe is acknowledged by the Secretary under
18 the Federal acknowledgment process or by an
19 Act of Congress; or

20 “(D) lands are restored for an Indian tribe
21 that is restored to Federal recognition.

22 “(3) EXEMPTION.—Paragraph (1) shall not
23 apply to—

24 “(A) any lands involved in the trust peti-
25 tion of the St. Croix Chippewa Indians of Wis-

1 consin that is the subject of the action filed in
2 the United States District Court for the Dis-
3 trict of Columbia entitled St. Croix Chippewa
4 Indians of Wisconsin v. United States, Civ. No.
5 86-2278; or

6 “(B) the interests of the Miccosukee Tribe
7 of Indians of Florida in approximately 25 con-
8 tiguous acres of land, more or less, in Dade
9 County, Florida, located within 1 mile of the
10 intersection of State road numbered 27 (also
11 known as Krome Avenue) and the Tamiami
12 Trail.

13 “(4) AUTHORITY OF THE SECRETARY.—Noth-
14 ing in this section may affect or diminish the au-
15 thority and responsibility of the Secretary to take
16 land into trust.

17 “(b) APPLICATION OF THE INTERNAL REVENUE
18 CODE OF 1986.—

19 “(1) IN GENERAL.—The provisions of the Inter-
20 nal Revenue Code of 1986 (including sections 1441,
21 3402(q), 6041, and chapter 35 of such Code) con-
22 cerning the reporting and withholding of taxes with
23 respect to the winnings from gaming or wagering
24 operations shall apply to Indian gaming operations
25 conducted pursuant to this Act, or under a compact

1 entered into under section 12 that is in effect, in the
2 same manner as such provisions apply to State gam-
3 ing and wagering operations. Any exemptions to
4 States with respect to taxation of such gaming or
5 wagering operations shall be allowed to Indian
6 tribes.

7 “(2) EXEMPTION.—The provisions of section
8 6050I of the Internal Revenue Code of 1986 shall
9 apply to an Indian gaming establishment that is not
10 designated by the Secretary of the Treasury as a fi-
11 nancial institution pursuant to chapter 53 of title
12 31, United States Code.

13 “(3) STATUTORY CONSTRUCTION.—This sub-
14 section shall apply notwithstanding any other provi-
15 sion of law enacted before the date of enactment of
16 this Act unless such other provision of law specifi-
17 cally cites this subsection.

18 “(c) ACCESS TO INFORMATION BY STATE AND TRIB-
19 AL GOVERNMENTS.—Subject to section 7(d), upon the re-
20 quest of a State or the governing body of an Indian tribe,
21 the Commission shall make available any law enforcement
22 information which it has obtained pursuant to such sec-
23 tion, unless otherwise prohibited by law, in order to enable
24 the State or the Indian tribe to carry out its responsibil-

1 ities under this Act or any compact approved by the Sec-
2 retary.”;

3 (3) by striking section 20;

4 (4) by redesignating sections 21 through 24 as
5 sections 20 through 23, respectively; and

6 (5) by adding at the end the following new sec-
7 tion:

8 **“SEC. 24. DEFINITION OF FINANCIAL INSTITUTIONS.**

9 “Section 5312(a)(2) of title 31, United States Code,
10 is amended—

11 “(1) by redesignating subparagraphs (X) and
12 (Y) as subparagraphs (Y) and (Z), respectively; and

13 “(2) by inserting after subparagraph (W) the
14 following new subparagraph:

15 “(X) an Indian gaming establishment;”.

16 **SEC. 3. CONFORMING AMENDMENTS.**

17 (a) TITLE 10.—Section 2323a(e)(1) of title 10, Unit-
18 ed States Code, is amended by striking “section 4(4) of
19 the Indian Gaming Regulatory Act (102 Stat. 2468; 25
20 U.S.C. 2703(4))” and inserting “section 4(16) of the In-
21 dian Gaming Regulatory Act”.

22 (b) TITLE 18.—Title 18, United States Code, is
23 amended—

24 (1) in subsections (c) and (d) of section 1166,
25 by striking “section 11(d)(8) of the Indian Gaming

1 Regulatory Act” each place it appears and inserting
2 “section 12(a)(2)(B) of the Indian Gaming Regu-
3 latory Act”;

4 (2) in section 1167—

5 (A) in subsection (a), by striking “Na-
6 tional Indian Gaming Commission” and insert-
7 ing “Federal Indian Gaming Regulatory Com-
8 mission established under section 5 of the In-
9 dian Gaming Regulatory Act”; and

10 (B) in subsection (b), by striking “Na-
11 tional Indian Gaming Commission” and insert-
12 ing “Federal Indian Gaming Regulatory Com-
13 mission”; and

14 (3) in section 1168—

15 (A) in subsection (a), by striking “Na-
16 tional Indian Gaming Commission” and insert-
17 ing “Federal Indian Gaming Regulatory Com-
18 mission established under section 5 of the In-
19 dian Gaming Regulatory Act”; and

20 (B) in subsection (b), by striking “Na-
21 tional Indian Gaming Commission” and insert-
22 ing “Federal Indian Gaming Regulatory Com-
23 mission”.

24 (c) INTERNAL REVENUE CODE OF 1986.—Section
25 168(j)(4)(A)(iv) of the Internal Revenue Code of 1986 is

1 amended by striking “Indian Regulatory Act” and insert-
 2 ing “Indian Gaming Regulatory Act”.

3 (d) TITLE 28.—Title 28, United States Code, is
 4 amended—

5 (1) in section 3701(2)—

6 (A) by striking “section 4(5) of the Indian
 7 Gaming Regulatory Act (25 U.S.C. 2703(5))”
 8 and inserting “section 4(17) of the Indian
 9 Gaming Regulatory Act”; and

10 (B) by striking “section 4(4) of such Act
 11 (25 U.S.C. 2703(4))” and inserting “section
 12 4(16) of such Act”; and

13 (2) in section 3704(b), by striking “section 4(4)
 14 of the Indian Gaming Regulatory Act” and inserting
 15 “section 4(16) of the Indian Gaming Regulatory
 16 Act”.

○

S 487 IS—2

S 487 IS—3

S 487 IS—4

S 487 IS—5

S 487 IS—6

S 487 IS—7