

105TH CONGRESS
2D SESSION

S. 1870

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

IN THE SENATE OF THE UNITED STATES

MARCH 26, 1998

Mr. CAMPBELL 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 Improvement Act of 1998”.

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. National Indian Gaming Commission.

“Sec. 6. Powers and authority of the National Indian Gaming Commission and
Chairman.

“Sec. 7. Regulatory framework.

“Sec. 8. Negotiated rulemaking.

“Sec. 9. Requirements for the conduct of class I and class II gaming on Indian
lands.

“Sec. 10. Class III gaming on Indian lands.

“Sec. 11. Review of contracts.

“Sec. 12. Civil penalties.

“Sec. 13. Judicial review.

“Sec. 14. Commission funding.

“Sec. 15. Authorization of appropriations.

“Sec. 16. Application of Internal Revenue Code of 1986; access to information
by States and tribal governments.

“Sec. 17. Gaming proscribed on lands acquired in trust after the date of enact-
ment of this Act.

“Sec. 18. Dissemination of information.

“Sec. 19. Severability.

“Sec. 20. Criminal penalties.

“Sec. 21. Conforming amendment.

“Sec. 22. Commission staffing.”;

6 (2) by striking sections 2 and 3 and inserting
7 the following;

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 those activities;

2 “(2) because of the unique political and legal
3 relationship between the United States and Indian
4 tribes, Congress has the responsibility of protecting
5 tribal resources and ensuring the continued viability
6 of Indian gaming activities conducted on Indian
7 lands;

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

12 “(4) a principal goal of Federal Indian policy is
13 to promote tribal economic development, tribal self-
14 sufficiency, and strong Indian tribal governments;

15 “(5) Indian tribes have the exclusive right to
16 regulate gaming activity on Indian lands, if the gam-
17 ing activity—

18 “(A) is not specifically prohibited by Fed-
19 eral law; and

20 “(B) is conducted within a State that does
21 not, as a matter of public policy, prohibit that
22 gaming activity;

23 “(6) Congress has the authority to regulate the
24 privilege of doing business with Indian tribes in In-

1 dian country (as defined in section 1151 of title 18,
2 United States Code);

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

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

10 “(9) the Constitution vests the Congress with
11 the powers to regulate commerce with foreign na-
12 tions, and among the several States, and with the
13 Indian tribes, and this Act is enacted in the exercise
14 of those powers.

15 **“SEC. 3. PURPOSES.**

16 “The purposes of this Act are—

17 “(1) to ensure the right of Indian tribes to con-
18 duct gaming activities on Indian lands in a manner
19 consistent with—

20 “(A) the inherent sovereign rights of In-
21 dian tribes; and

22 “(B) the decision of the Supreme Court in
23 California et al. v. Cabazon Band of Mission In-
24 dians et al. (480 U.S.C. 202, 107 S. Ct. 1083,
25 94 L. Ed. 2d 244 (1987)), involving the

1 Cabazon and Morongo bands of Mission Indi-
2 ans;

3 “(2) to provide a statutory basis for the con-
4 duct of gaming activities on Indian lands as a means
5 of promoting tribal economic development, tribal
6 self-sufficiency, and strong Indian tribal govern-
7 ments;

8 “(3) to provide a statutory basis for the regula-
9 tion of gaming activities on Indian lands by an In-
10 dian tribe that is adequate to shield those activities
11 from organized crime and other corrupting influ-
12 ences, to ensure that an Indian tribal government is
13 the primary beneficiary of the operation of gaming
14 activities, and to ensure that gaming is conducted
15 fairly and honestly by both the operator and players;
16 and

17 “(4) to provide States with the opportunity to
18 participate in the regulation of certain gaming ac-
19 tivities conducted on Indian lands without compel-
20 ling any action by a State with respect to the regula-
21 tion of that gaming.”;

22 (3) in section 4—

23 (A) by redesignating paragraphs (7) and
24 (8) as paragraphs (5) and (6), respectively;

1 (B) by striking paragraphs (1) through (6)
 2 and inserting the following new paragraphs:

3 “(1) APPLICANT.—The term ‘applicant’ means
 4 any person who applies for a license pursuant to this
 5 Act, including any person who applies for a renewal
 6 of a license.

7 “(2) ATTORNEY GENERAL.—The term ‘Attor-
 8 ney General’ means the Attorney General of the
 9 United States.

10 “(3) CHAIRMAN.—The term ‘Chairman’ means
 11 the Chairman of the Commission.

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

17 (C) by striking paragraphs (9) and (10);
 18 and

19 (D) by adding after paragraph (6) (as re-
 20 designated by subparagraph (A) of this para-
 21 graph) the following new paragraphs:

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

1 “(8) COMPACT.—The term ‘compact’ means an
2 agreement relating to the operation of class III gam-
3 ing on Indian lands that is entered into by an Indian
4 tribe and a State and that is approved by the Sec-
5 retary.

6 “(9) GAMING OPERATION.—The term ‘gaming
7 operation’ means an entity that conducts class II or
8 class III gaming on Indian lands.

9 “(10) INDIAN LANDS.—The term ‘Indian lands’
10 means—

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

13 “(B) any lands the title to which is held in
14 trust by the United States for the benefit of
15 any Indian tribe or individual or held by any
16 Indian tribe or individual subject to restriction
17 by the United States against alienation and
18 over which an Indian tribe exercises govern-
19 mental power.

20 “(11) INDIAN TRIBE.—The term ‘Indian tribe’
21 means any Indian tribe, band, nation, or other orga-
22 nized group or community of Indians that—

23 “(A) is recognized as eligible by the Sec-
24 retary for the special programs and services

1 provided by the United States to Indians be-
2 cause of their status as Indians; and

3 “(B) is recognized as possessing powers of
4 self-government.

5 “(12) 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 that contract or agreement provides for
9 the management of all or part of a gaming oper-
10 ation.

11 “(13) 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 that contract.

17 “(14) NET REVENUES.—With respect to a gam-
18 ing activity, net revenues shall constitute—

19 “(A) the annual amount of money wa-
20 gered; reduced by

21 “(B)(i) any amounts paid out during the
22 year involved for prizes awarded;

23 “(ii) the total operating expenses for the
24 year involved (excluding any management fees)
25 associated with the gaming activity; and

1 “(iii) an allowance for amortization of cap-
2 ital expenses for structures.

3 “(15) PERSON.—The term ‘person’ means—

4 “(A) an individual; or

5 “(B) a firm, corporation, association, orga-
6 nization, partnership, trust, consortium, joint
7 venture, or other nongovernmental entity.

8 “(16) SECRETARY.—The term ‘Secretary’
9 means the Secretary of the Interior.”;

10 (4) in section 5(b)(3), by striking “At least two
11 members of the Commission shall be enrolled mem-
12 bers of any Indian tribe.” and inserting “No fewer
13 than 2 members of the Commission shall be individ-
14 uals who—

15 “(A) are each enrolled as a member of an In-
16 dian tribe; and

17 “(B) have extensive experience or expertise in
18 tribal government.”;

19 (5) by striking sections 6, 7 and 9 through 16
20 and redesignating section 8 as section 22 and insert-
21 ing the following:

22 **“SEC. 6. POWERS AND AUTHORITY OF THE NATIONAL IN-**
23 **DIAN GAMING COMMISSION AND CHAIRMAN.**

24 “(a) GENERAL POWERS OF COMMISSION.—

1 “(1) IN GENERAL.—The Commission shall have
2 the power—

3 “(A) to approve the annual budget of the
4 Commission;

5 “(B) to promulgate regulations to carry
6 out the duties of the Commission under this Act
7 in the same manner as an independent estab-
8 lishment (as that term is used in section 104 of
9 title 5, United States Code);

10 “(C) to establish a rate of fees and assess-
11 ments, as provided in section 14;

12 “(D) to conduct investigations, including
13 background investigations;

14 “(E) to issue a temporary order closing the
15 operation of gaming activities;

16 “(F) after a hearing, to make permanent
17 a temporary order closing the operation of gam-
18 ing activities, as provided in section 12;

19 “(G) to grant, deny, limit, condition, re-
20 strict, revoke, or suspend any license issued
21 under any licensing authority conferred upon
22 the Commission pursuant to this Act or fine
23 any person licensed pursuant to this Act for
24 violation of any of the conditions of licensure
25 under this Act;

1 “(H) to inspect and examine all premises
2 in which class II or class III gaming is con-
3 ducted on Indian lands;

4 “(I) to demand access to and inspect, ex-
5 amine, photocopy, and audit all papers, books,
6 and records of class II and class III gaming ac-
7 tivities conducted on Indian lands and any
8 other matters necessary to carry out the duties
9 of the Commission under this Act;

10 “(J) to use the United States mails in the
11 same manner and under the same conditions as
12 any department or agency of the United States;

13 “(K) to procure supplies, services, and
14 property by contract in accordance with applica-
15 ble Federal laws;

16 “(L) to enter into contracts with Federal,
17 State, tribal, and private entities for activities
18 necessary to the discharge of the duties of the
19 Commission;

20 “(M) to serve, or cause to be served, proc-
21 ess or notices of the Commission in a manner
22 provided for by the Commission or in a manner
23 provided for the service of process and notice in
24 civil actions in accordance with the applicable
25 rules of a Federal, State, or tribal court;

1 “(N) to propound written interrogatories
2 and appoint hearing examiners, to whom may
3 be delegated the power and authority to admin-
4 ister oaths, issue subpoenas, propound written
5 interrogatories, and require testimony under
6 oath;

7 “(O) to conduct all administrative hearings
8 pertaining to civil violations of this Act (includ-
9 ing any civil violation of a regulation promul-
10 gated under this Act);

11 “(P) to collect all fees and assessments au-
12 thorized by this Act and the regulations pro-
13 mulgated pursuant to this Act;

14 “(Q) to assess penalties for violations of
15 the provisions of this Act and the regulations
16 promulgated pursuant to this Act;

17 “(R) to provide training and technical as-
18 sistance to Indian tribes with respect to all as-
19 pects of the conduct and regulation of gaming
20 activities;

21 “(S) to monitor and, as specifically author-
22 ized by this Act, regulate class II and class III
23 gaming;

24 “(T) to approve all management contracts
25 and gaming-related contracts; and

1 “(U) in addition to the authorities other-
2 wise specified in this Act, to delegate, by pub-
3 lished order or rule, any of the functions of the
4 Commission (including functions with respect to
5 hearing, determining, ordering, certifying, re-
6 porting, or otherwise acting on the part of the
7 Commission concerning any work, business, or
8 matter) to a division of the Commission, an in-
9 dividual member of the Commission, an admin-
10 istrative law judge, or an employee of the Com-
11 mission.

12 “(2) STATUTORY CONSTRUCTION.—Nothing in
13 this section may be construed to authorize the dele-
14 gation of the function of rulemaking, as described in
15 subchapter II of chapter 5 of title 5, United States
16 Code, with respect to general rules (as distinguished
17 from rules of particular applicability), or the promul-
18 gation of any other rule.

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

20 “(1) IN GENERAL.—With respect to the delega-
21 tion of any of the functions of the Commission, the
22 Commission shall retain a discretionary right to re-
23 view the action of any division of the Commission,
24 individual member of the Commission, administra-

1 tive law judge, or employee of the Commission, upon
2 the initiative of the Commission.

3 “(2) VOTE NEEDED FOR REVIEW.—The vote of
4 1 member of the Commission shall be sufficient to
5 bring an action referred to in paragraph (1) before
6 the Commission for review, and the Commission
7 shall ratify, revise, or reject the action under review
8 not later than the last day of the applicable period
9 specified in regulations promulgated by the Commis-
10 sion.

11 “(3) FAILURE TO CONDUCT REVIEW.—If the
12 Commission declines to exercise the right to that re-
13 view or fails to exercise that right within the applica-
14 ble period specified in regulations promulgated by
15 the Commission, the action of any such division of
16 the Commission, individual member of the Commis-
17 sion, administrative law judge, or employee shall, for
18 all purposes, including any appeal or review of that
19 action, be deemed an action of the Commission.

20 “(c) MINIMUM REQUIREMENTS.—The Commission
21 shall advise the Secretary, as provided in section 8(a), with
22 respect to the establishment of minimum Federal stand-
23 ards—

24 “(1) for background investigations, licensing of
25 persons, and licensing of gaming operations associ-

1 ated with the conduct or regulation of class II and
 2 class III gaming on Indian lands by tribal govern-
 3 ments; and

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

6 “(A) surveillance and security personnel
 7 and systems capable of monitoring all gaming
 8 activities, including the conduct of games, cash-
 9 iers’ cages, change booths, count rooms, move-
 10 ments of cash and chips, entrances and exits to
 11 gaming facilities, and other critical areas of any
 12 gaming facility;

13 “(B) procedures for the protection of the
 14 integrity of the rules for the play of games and
 15 controls related to those rules;

16 “(C) credit and debit collection controls;

17 “(D) controls over gambling devices and
 18 equipment; and

19 “(E) accounting and auditing.

20 “(d) COMMISSION ACCESS TO INFORMATION.—

21 “(1) IN GENERAL.—The Commission may se-
 22 cure from any department or agency of the United
 23 States information necessary to enable the Commis-
 24 sion to carry out this Act. Unless otherwise prohib-
 25 ited by law, upon request of the Chairperson, the

1 head of that department or agency shall furnish that
2 information to the Commission.

3 “(2) INFORMATION TRANSFER.—The Commis-
4 sion may secure from any law enforcement agency or
5 gaming regulatory agency of any State, Indian tribe,
6 or foreign nation information necessary to enable the
7 Commission to carry out this Act. Unless otherwise
8 prohibited by law, upon request of the Chairman,
9 the head of any State or tribal law enforcement
10 agency shall furnish that information to the Com-
11 mission.

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

18 “(4) LAW ENFORCEMENT AGENCY.—For pur-
19 poses of this subsection, the Commission shall be
20 considered to be a law enforcement agency.

21 “(e) INVESTIGATIONS AND ACTIONS.—

22 “(1) IN GENERAL.—

23 “(A) POSSIBLE VIOLATIONS.—The Com-
24 mission may, as specifically authorized by this
25 Act, conduct such investigations as the Com-

1 mission considers necessary to determine wheth-
2 er any person has violated, is violating, or is
3 conspiring to violate any provision of this Act
4 (including any rule or regulation promulgated
5 under this Act). The Commission may require
6 or permit any person to file with the Commis-
7 sion a statement in writing, under oath, or oth-
8 erwise, as the Commission may determine, con-
9 cerning all relevant facts and circumstances re-
10 garding the matter under investigation by the
11 Commission pursuant to this subsection.

12 “(B) ADMINISTRATIVE INVESTIGATIONS.—

13 The Commission may, as specifically authorized
14 by this Act, investigate such facts, conditions,
15 practices, or matters as the Commission consid-
16 ers necessary or proper to aid in—

17 “(i) the enforcement of any provision
18 of this Act;

19 “(ii) issuing rules and regulations
20 under this Act; or

21 “(iii) securing information to serve as
22 a basis for recommending further legisla-
23 tion concerning the matters to which this
24 Act relates.

25 “(2) ADMINISTRATIVE AUTHORITIES.—

“(A) IN GENERAL.—

“(i) ADMINISTRATION OF CERTAIN DUTIES.—For the purpose of any investigation or any other proceeding conducted under this Act, an individual described in clause (ii) is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission considers relevant or material to the inquiry. The attendance of those witnesses and the production of any such records may be required from any place in the United States at any designated place of hearing.

“(ii) INDIVIDUALS DESCRIBED.—An individual described in this clause is—

“(I) any member of the Commission who is designated by the Commission to carry out duties specified in clause (i); or

“(II) any other officer of the Commission who is designated by the

1 Commission to carry out duties speci-
2 fied in clause (i).

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

14 “(C) COURT ORDERS.—Any court de-
15 scribed in subparagraph (B) may issue an order
16 requiring that person to appear before the Com-
17 mission, a member of the Commission, or an of-
18 ficer designated by the Commission, there to
19 produce records, if so ordered, or to give testi-
20 mony touching the matter under investigation
21 or in question, and any failure to obey that
22 order of the court may be punished by that
23 court as a contempt of that court.

24 “(3) ENFORCEMENT.—

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

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

16 “(ii) transmit such evidence as may be
17 available concerning that act or practice as
18 may constitute a violation of any Federal
19 criminal law to the Attorney General, who
20 may institute the necessary criminal or
21 civil proceedings.

22 “(B) STATUTORY CONSTRUCTION.—

23 “(i) IN GENERAL.—The authority of
24 the Commission to conduct investigations
25 and take actions under subparagraph (A)

1 may not be construed to affect in any way
 2 the authority of any other agency or de-
 3 partment of the United States to carry out
 4 statutory responsibilities of that agency or
 5 department.

6 “(ii) EFFECT OF TRANSMITTAL BY
 7 THE COMMISSION.—The transmittal by the
 8 Commission pursuant to subparagraph
 9 (A)(ii) may not be construed to constitute
 10 a condition precedent with respect to any
 11 action taken by any department or agency
 12 referred to in clause (i).

13 “(4) WRITS, INJUNCTIONS, AND ORDERS.—
 14 Upon application of the Commission, each district
 15 court of the United States shall have jurisdiction to
 16 issue writs of mandamus, injunctions, and orders
 17 commanding any person to comply with the provi-
 18 sions of this Act (including any rule or regulation
 19 promulgated under this Act).

20 “(f) POWERS OF THE CHAIRPERSON.—The Chair-
 21 man shall have such powers as may be delegated to the
 22 Chairman by the Commission.

23 **“SEC. 7. REGULATORY FRAMEWORK.**

24 “(a) CLASS II GAMING.—For class II gaming, Indian
 25 tribes shall retain the right of those tribes, in a manner

1 that meets or exceeds minimum Federal standards de-
 2 scribed in section 6(e) (that are established by the Sec-
 3 retary under section 8)—

4 “(1) to monitor and regulate that gaming;

5 “(2) to conduct background investigations; and

6 “(3) to establish and regulate internal control
 7 systems.

8 “(b) CLASS III GAMING CONDUCTED UNDER A COM-
 9 PACT.—For class III gaming conducted under the author-
 10 ity of a compact entered into pursuant to section 10, an
 11 Indian tribe or a State, or both, as provided in a compact
 12 or by tribal ordinance or resolution, shall, in a manner
 13 that meets or exceeds minimum Federal standards de-
 14 scribed in section 6(e) (that are established by the Sec-
 15 retary under section 8)—

16 “(1) monitor and regulate gaming;

17 “(2) conduct background investigations; and

18 “(3) establish and regulate internal control sys-
 19 tems.

20 “(c) VIOLATIONS OF MINIMUM FEDERAL STAND-
 21 ARDS.—

22 “(1) CLASS II GAMING.—In any case in which
 23 an Indian tribe that regulates or conducts class II
 24 gaming on Indian lands substantially fails to meet
 25 minimum Federal standards for that gaming, after

1 providing the Indian tribe notice and reasonable op-
2 portunity to cure violations and to be heard, and
3 after the exhaustion of other authorized remedies
4 and sanctions, the Commission shall have the au-
5 thority to conduct background investigations, issue
6 licenses, and establish and regulate internal control
7 systems relating to class II gaming conducted by the
8 Indian tribe. That authority of the Commission may
9 be exclusive until such time as the regulatory and in-
10 ternal control systems of the Indian tribe meet or
11 exceed the minimum Federal standards concerning
12 regulatory, licensing, or internal control require-
13 ments established by the Secretary, in consultation
14 with the Commission, for that gaming.

15 “(2) CLASS III GAMING.—In any case in which
16 an Indian tribe or a State (or both) that regulates
17 class III gaming on Indian lands fails to meet or en-
18 force minimum Federal standards for class III gam-
19 ing, after providing notice and reasonable oppor-
20 tunity to cure violations and be heard, and after the
21 exhaustion of other authorized remedies and sanc-
22 tions, the Commission shall have the authority to
23 conduct background investigations, issue licenses,
24 and establish and regulate internal control systems
25 relating to class III gaming conducted by the Indian

1 tribe. That authority of the Commission may be ex-
 2 clusive until such time as the regulatory or internal
 3 control systems of the Indian tribe or the State (or
 4 both) meet or exceed the minimum Federal regu-
 5 latory, licensing, or internal control requirements es-
 6 tablished by the Secretary, in consultation with the
 7 Commission, for that gaming.

8 **“SEC. 8. NEGOTIATED RULEMAKING.**

9 “(a) IN GENERAL.—Subject to subsection (b), not
 10 later than 180 days after the date of enactment of the
 11 Indian Gaming Regulatory Improvement Act of 1998, the
 12 Secretary shall, in cooperation with Indian tribes, and in
 13 accordance with the negotiated rulemaking procedures
 14 under subchapter III of chapter 5 of title 5, United States
 15 Code, promulgate minimum Federal standards relating to
 16 background investigations, internal control systems, and
 17 licensing standards (as described in section 6(c)).

18 “(b) NEGOTIATED RULEMAKING COMMITTEE.—The
 19 negotiated rulemaking committee established under sub-
 20 chapter III of chapter 5 of title 5, United States Code,
 21 to carry out subsection (a) shall be established by the Sec-
 22 retary, in consultation with the Attorney General and the
 23 Commission.

24 “(c) FACTORS FOR CONSIDERATION.—While the
 25 minimum Federal standards established pursuant to this

1 section may be developed with due regard for existing in-
2 dustry standards, the Secretary and the negotiated rule-
3 making committee established under subsection (b), in
4 promulgating standards pursuant to this section, shall
5 also consider—

6 “(1) the unique nature of tribal gaming as com-
7 pared to commercial gaming, other governmental
8 gaming, and charitable gaming;

9 “(2) the broad variations in the scope and size
10 of tribal gaming activity;

11 “(3) the inherent sovereign rights of Indian
12 tribes with respect to regulating their own affairs;

13 “(4) the findings and purposes set forth in sec-
14 tions 2 and 3;

15 “(5) the effectiveness and efficiency of a na-
16 tional licensing program for vendors or management
17 contractors; and

18 “(6) other matters that are not inconsistent
19 with the purposes of this Act.

20 **“SEC. 9. REQUIREMENTS FOR THE CONDUCT OF CLASS I**
21 **AND CLASS II GAMING ON INDIAN LANDS.**

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

1 “(b) CLASS II GAMING.—

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

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

10 “(A) such Indian gaming is located within
11 a State that permits such gaming for any pur-
12 pose by any person, organization, or entity (and
13 such gaming is not otherwise specifically pro-
14 hibited on Indian lands by Federal law); and

15 “(B) such Indian gaming meets or exceeds
16 the requirements of this section and the stand-
17 ards described in section 6(c) (that are estab-
18 lished by the Secretary under section 8).

19 “(3) REQUIREMENTS FOR CLASS II GAMING OP-
20 ERATIONS.—

21 “(A) IN GENERAL.—The Commission shall
22 ensure that, with regard to any class II gaming
23 operation on Indian lands—

24 “(i) a separate license is issued by the
25 Indian tribe for each place, facility, or lo-

1 cation on Indian lands at which that In-
2 dian gaming is conducted;

3 “(ii) the Indian tribe has or will have
4 the sole proprietary interest and respon-
5 sibility for the conduct of any class II gam-
6 ing, unless the conditions of clause (ix)
7 apply;

8 “(iii) the net revenues from any class
9 II gaming activity are used only—

10 “(I) to fund tribal government
11 operations or programs;

12 “(II) to provide for the general
13 welfare of the Indian tribe and the
14 members of the Indian tribe;

15 “(III) to promote tribal economic
16 development;

17 “(IV) to donate to charitable or-
18 ganizations;

19 “(V) to help fund operations of
20 local government agencies;

21 “(VI) to comply with the provi-
22 sions of section 14; or

23 “(VII) to make per capita pay-
24 ments to members of the Indian tribe
25 pursuant to clause (viii);

1 “(iv) the Indian tribe provides to the
2 Commission annual outside audit reports
3 of the class II gaming operation of the In-
4 dian tribe, which may be encompassed
5 within existing independent tribal audit
6 systems;

7 “(v) each contract for supplies, serv-
8 ices, or concessions for a contract amount
9 equal to more than \$100,000 per year,
10 other than a contract for professional legal
11 or accounting services, relating to that
12 gaming is subject to those independent
13 audit reports and any audit conducted by
14 the Commission;

15 “(vi) the construction and mainte-
16 nance of a class II gaming facility and the
17 operation of class II gaming are conducted
18 in a manner that adequately protects the
19 environment and public health and safety;

20 “(vii) there is instituted an adequate
21 system that—

22 “(I) ensures that—

23 “(aa) background investiga-
24 tions are conducted on primary
25 management officials, key em-

1 employees, and persons having ma-
2 terial control, either directly or
3 indirectly, in a licensed class II
4 gaming operation, and gaming-
5 related contractors associated
6 with a licensed class II gaming
7 operation; and

8 “(bb) oversight of those offi-
9 cials and the management by
10 those officials is conducted on an
11 ongoing basis; and

12 “(II) includes—

13 “(aa) tribal licenses for per-
14 sons involved in class II gaming
15 operations, issued in accordance
16 with the standards described in
17 section 6(c) (that are established
18 by the Secretary under section
19 8);

20 “(bb) a standard under
21 which any person whose prior ac-
22 tivities, criminal record, if any, or
23 reputation, habits, and associa-
24 tions pose a threat to the public
25 interest or to the effective regula-

1 tion of gaming, or create or en-
2 hance the dangers of unsuitable,
3 unfair, or illegal practices and
4 methods and activities in the con-
5 duct of gaming shall not be eligi-
6 ble for employment or licensure;
7 and

8 “(cc) notification by the In-
9 dian tribe to the Commission of
10 the results of that background in-
11 vestigation before the issuance of
12 any such license;

13 “(viii) net revenues from any class II
14 gaming activities conducted or licensed by
15 any Indian tribal government are used to
16 make per capita payments to members of
17 the Indian tribe only if—

18 “(I) the Indian tribe has pre-
19 pared a plan to allocate revenues to
20 uses authorized by clause (iii);

21 “(II) the Secretary determines
22 that the plan is adequate, particularly
23 with respect to uses described in sub-
24 clause (I) or (III) of clause (iii);

1 “(III) the interests of minors and
2 other legally incompetent persons who
3 are entitled to receive any of the per
4 capita payments are protected and
5 preserved;

6 “(IV) the per capita payments to
7 minors and other legally incompetent
8 persons are disbursed to the parents
9 or legal guardians of those minors or
10 legally incompetent persons in such
11 amounts as may be necessary for the
12 health, education, or welfare of each
13 such minor or legally incompetent per-
14 son under a plan approved by the Sec-
15 retary and the governing body of the
16 Indian tribe; and

17 “(V) the per capita payments are
18 subject to Federal income taxation for
19 individuals and Indian tribes withhold
20 those taxes when those payments are
21 made;

22 “(ix) a separate license is issued by
23 the Indian tribe for any class II gaming
24 operation owned by any person or entity

other than the Indian tribe and conducted on Indian lands, that includes—

“(I) requirements set forth in clauses (v) through (vii) (other than the requirements of clauses (vii)(II)(cc) and (x)); and

“(II) requirements that are at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the State within which those Indian lands are located; and

“(x) no person or entity, other than the Indian tribe, is eligible to receive a tribal license for a class II gaming operation conducted on Indian lands within the jurisdiction of the Indian tribe if that person or entity would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the State.

“(B) TRANSITION.—

“(i) IN GENERAL.—Clauses (ii), (iii), and (ix) of subparagraph (A) shall not bar the continued operation of a class II gaming operation described in clause (ix) of

1 that subparagraph that was operating on
2 September 1, 1986, if—

3 “(I) that gaming operation is li-
4 censed and regulated by an Indian
5 tribe;

6 “(II) income to the Indian tribe
7 from that gaming is used only for the
8 purposes described in subparagraph
9 (A)(iii);

10 “(III) not less than 60 percent of
11 the net revenues from that gaming op-
12 eration is income to the licensing In-
13 dian tribe; and

14 “(IV) the owner of that gaming
15 operation pays an appropriate assess-
16 ment to the Commission pursuant to
17 section 14 for the regulation of that
18 gaming.

19 “(ii) LIMITATIONS ON EXEMPTION.—
20 The exemption from application provided
21 under clause (i) may not be transferred to
22 any person or entity and shall remain in
23 effect only during such period as the gam-
24 ing operation remains within the same na-
25 ture and scope as that gaming operation

1 was actually operated on October 17,
2 1988.

3 “(C) LIST.—The Commission shall—

4 “(i) maintain a list of each gaming
5 operation that is subject to subparagraph
6 (B); and

7 “(ii) publish that list in the Federal
8 Register.

9 “(c) PETITION FOR CERTIFICATE OF SELF-REGULA-
10 TION.—

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

15 “(A) has continuously conducted that gam-
16 ing activity for a period of not less than 3
17 years, including a period of not less than 1 year
18 that begins after the date of enactment of the
19 Indian Gaming Regulatory Improvement Act of
20 1998; and

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

23 “(2) ISSUANCE OF CERTIFICATE OF SELF-REG-
24 ULATION.—The Commission shall issue a certificate
25 of self-regulation under this subsection if the Com-

1 mission determines, on the basis of available infor-
2 mation, and after a hearing if requested by the In-
3 dian tribe, that the Indian tribe has—

4 “(A) conducted its gaming activity in a
5 manner that has—

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

8 “(ii) resulted in a reputation for safe,
9 fair, and honest operation of the activity;
10 and

11 “(iii) been generally free of evidence
12 of criminal activity;

13 “(B) adopted and implemented adequate
14 systems for—

15 “(i) accounting for all revenues from
16 the gaming activity;

17 “(ii) investigation, licensing, and mon-
18 itoring of all employees of the gaming ac-
19 tivity; and

20 “(iii) investigation, enforcement, and
21 prosecution of violations of its gaming or-
22 dinance and regulations;

23 “(C) conducted the operation on a fiscally
24 and economically sound basis; and

1 “(D) paid all fees and assessments that
 2 the Indian tribe is required to pay to the Com-
 3 mission under this Act.

4 “(3) EFFECT OF CERTIFICATE OF SELF-REGU-
 5 LATION.—During the period in which a certificate of
 6 self-regulation issued under this subsection is in ef-
 7 fect with respect to a gaming activity conducted by
 8 an Indian tribe—

9 “(A) the Indian tribe shall—

10 “(i) submit an annual independent
 11 audit report as required by subsection
 12 (b)(3)(A)(iv); and

13 “(ii) submit to the Commission a com-
 14 plete résumé of each employee hired and li-
 15 censed by the Indian tribe subsequent to
 16 the issuance of a certificate of self-regula-
 17 tion; and

18 “(B) the Commission may not assess a fee
 19 under section 15 on gaming operated by the In-
 20 dian tribe pursuant to paragraph (1) in excess
 21 of 0.25 percent of the net revenue from that
 22 class II gaming activity.

23 “(4) RESCISSION.—The Commission may, for
 24 just cause and after a reasonable opportunity for a
 25 hearing, rescind a certificate of self-regulation issued

1 under this subsection by majority vote of the mem-
 2 bers of the Commission.

3 “(d) LICENSE REVOCATION.—If, after the issuance
 4 of any license by an Indian tribe under this section, the
 5 Indian tribe receives reliable information from the Com-
 6 mission indicating that a licensee does not meet any stand-
 7 ard described in section 6(c) (that is established by the
 8 Secretary under section 8), or any other applicable regula-
 9 tion promulgated under this Act, the Indian tribe—

10 “(1) shall immediately suspend that license; and

11 “(2) after providing notice, holding a hearing,
 12 and making findings of fact under procedures estab-
 13 lished pursuant to applicable tribal law, may revoke
 14 that license.

15 **“SEC. 10. CLASS III GAMING ON INDIAN LANDS.**

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

18 “(1) IN GENERAL.—Class III gaming activities
 19 shall be lawful on Indian lands only if those activi-
 20 ties are—

21 “(A) authorized by a compact that—

22 “(i) is approved pursuant to tribal law
 23 by the governing body of the Indian tribe
 24 having jurisdiction over those lands;

1 “(ii) meets the requirements of sec-
 2 tion 9(b)(3) for the conduct of class II
 3 gaming activities; and

4 “(iii) is approved by the Secretary;

5 “(B) located in a State that permits such
 6 gaming for any purpose by any person organi-
 7 zation or entity; and

8 “(C) conducted in conformance with a
 9 compact that—

10 “(i) is in effect; and

11 “(ii) is—

12 “(I) entered into by an Indian
 13 tribe and a State and approved by the
 14 Secretary under paragraph (2); or

15 “(II) issued by the Secretary
 16 under paragraph (2).

17 “(2) COMPACT NEGOTIATIONS; APPROVAL.—

18 “(A) IN GENERAL.—

19 “(i) COMPACT NEGOTIATIONS.—Any
 20 Indian tribe having jurisdiction over the
 21 lands upon which a class III gaming activ-
 22 ity is to be conducted may request the
 23 State in which those lands are located to
 24 enter into negotiations for the purpose of
 25 entering into a compact with that State

governing the conduct of class III gaming activities.

“(ii) REQUIREMENTS FOR REQUEST FOR NEGOTIATIONS.—A request for negotiations under clause (i) shall be in writing and shall specify each gaming activity that the Indian tribe proposes for inclusion in the compact. Not later than 30 days after receipt of that written request, the State shall respond to the Indian tribe.

“(iii) COMMENCEMENT OF COMPACT NEGOTIATIONS.—Compact negotiations conducted under this paragraph shall commence not later than 30 days after the date on which a response by a State is due to the Indian tribe, and shall be completed not later than 120 days after the initiation of compact negotiations, unless the State and the Indian tribe agree to a different period of time for the completion of compact negotiations.

“(B) NEGOTIATIONS.—

“(i) IN GENERAL.—The Secretary shall, upon the request of an Indian tribe described in subparagraph (A)(i) that has

not reached an agreement with a State concerning a compact referred to in that subparagraph (or with respect to an Indian tribe described in clause (ii)(I)(bb) a compact) during the applicable period under clause (ii) of this subparagraph, initiate a mediation process to—

“(I) conclude a compact referred to in subparagraph (A)(i); or

“(II) if necessary, provide for the issuance of procedures by the Secretary to govern the conduct of the gaming referred to in that subparagraph.

“(ii) APPLICABLE PERIOD.—

“(I) IN GENERAL.—Subject to subclause (II), the applicable period described in this paragraph is—

“(aa) in the case of an Indian tribe that makes a request for compact negotiations under subparagraph (A), the 180-day period beginning on the date on which that Indian tribe makes the request; and

1 “(bb) in the case of an In-
2 dian tribe that makes a request
3 to renew a compact to govern
4 class III gaming activity on In-
5 dian lands of that Indian tribe
6 within the State that the Indian
7 tribe entered into prior to the
8 date of enactment of the Indian
9 Gaming Regulatory Improvement
10 Act of 1998, during the 60-day
11 period beginning on the date of
12 that request.

13 “(II) EXTENSION.—An Indian
14 tribe and a State may agree to extend
15 an applicable period under this para-
16 graph beyond the applicable termi-
17 nation date specified in item (aa) or
18 (bb) of subclause (I).

19 “(iii) MEDIATION.—

20 “(I) IN GENERAL.—The Sec-
21 retary shall initiate mediation to con-
22 clude a compact governing the con-
23 duct of class III gaming activities on
24 Indian lands upon a showing by an
25 Indian tribe that, within the applica-

1 ble period specified in clause (ii), a
 2 State has failed—

3 “(aa) to respond to a re-
 4 quest by an Indian tribe for ne-
 5 gotiations under this subpara-
 6 graph; or

7 “(bb) to negotiate in good
 8 faith.

9 “(II) EFFECT OF DECLINING NE-
 10 GOTIATIONS.—The Secretary shall ini-
 11 tiate mediation immediately after a
 12 State declines to enter into negotia-
 13 tions under this subparagraph, with-
 14 out regard to whether the otherwise
 15 applicable period specified in clause
 16 (ii) has expired.

17 “(III) COPY OF REQUEST.—An
 18 Indian tribe that requests mediation
 19 under this clause shall provide the
 20 State that is the subject of the medi-
 21 ation request a copy of the mediation
 22 request submitted to the Secretary.

23 “(IV) PANEL.—The Secretary, in
 24 consultation with the Indian tribes
 25 and States, shall establish a list of

1 independent mediators, that the Sec-
 2 retary, in consultation with the Indian
 3 tribes and the States, shall periodi-
 4 cally update.

5 “(V) NOTIFICATION BY STATE.—

6 Not later than 10 days after an In-
 7 dian tribe makes a request to the Sec-
 8 retary for mediation under subclause
 9 (I), the State that is the subject of
 10 the mediation request shall notify the
 11 Secretary whether the State elects to
 12 participate in the mediation process.
 13 If the State elects to participate in the
 14 mediation, the mediation shall be con-
 15 ducted in accordance with subclause
 16 (VI). If the State declines to partici-
 17 pate in the mediation process, the
 18 Secretary shall issue procedures under
 19 clause (iv).

20 “(VI) MEDIATION PROCESS.—

21 “(aa) IN GENERAL.—Not

22 later than 20 days after a State
 23 elects under subclause (V) to
 24 participate in a mediation, the
 25 Secretary shall submit to the In-

1 dian tribe and the State the
2 names of 3 mediators randomly
3 selected by the Secretary from
4 the list of mediators established
5 under subclause (IV).

6 “(bb) SELECTION OF MEDI-
7 ATOR.—Not later than 10 days
8 after the Secretary submits the
9 mediators referred to in item
10 (aa), the Indian tribe and the
11 State may elect to have the Sec-
12 retary remove a mediator from
13 the mediators submitted. If the
14 parties referred to in the preced-
15 ing sentences fail to remove 2
16 mediators, the Secretary shall re-
17 move such names as may be nec-
18 essary to result in the removal of
19 2 mediators. The remaining me-
20 diator shall conduct the medi-
21 ation.

22 “(cc) INITIAL PERIOD OF
23 MEDIATION.—The mediator shall,
24 during the 60-day period begin-
25 ning on the date on which the

1 mediator is selected under item
2 (bb) (or a longer period on the
3 agreement of the parties referred
4 to in that item for an extension
5 of the period) attempt to achieve
6 a compact.

7 “(dd) LAST-BEST-OFFER.—
8 If by the termination of the pe-
9 riod specified in item (cc), no
10 agreement for concluding a com-
11 pact is achieved by the parties to
12 the mediation, each such party
13 may, not later than 10 days after
14 that date, submit to the mediator
15 an offer that represents the best
16 offer that the party intends to
17 make for achieving an agreement
18 for concluding a compact (re-
19 ferred to in this item as a ‘last-
20 best-offer’). The mediator shall
21 review a last-best-offer received
22 under this item not later than 30
23 days after the date of submission
24 of the offer.

1 “(ee) REPORT BY MEDI-
2 ATOR.—Not later than the date
3 specified for the completion of a
4 review of a last-best-offer under
5 item (dd), or in any case in
6 which either party in a mediation
7 fails to make such an offer, the
8 date that is 10 days after the ter-
9 mination of the initial period of
10 mediation under item (cc), the
11 mediator shall prepare and sub-
12 mit to the Secretary a report
13 that includes the contentions of
14 the parties, the conclusions of the
15 mediator concerning the permis-
16 sible scope of gaming on the In-
17 dian lands involved, and rec-
18 ommendations for the operation
19 and regulation of gaming on the
20 Indian lands in accordance with
21 this Act.

22 “(ff) FINAL DETERMINA-
23 TIONS.—Not later than 60 days
24 after receiving a report from a
25 mediator under item (ee), the

1 Secretary shall make a final de-
 2 termination concerning the oper-
 3 ation and regulation of the class
 4 III gaming that is the subject of
 5 the mediation.

6 “(iv) PROCEDURES.—Subject to
 7 clause (v), on the basis of a final deter-
 8 mination described in clause (iii)(VI)(ff),
 9 the Secretary shall issue procedures for the
 10 operation and regulation of the class III
 11 gaming described in that item by the date
 12 that is 180 days after the date specified in
 13 clause (iii)(V) or upon the determination
 14 described in clause (iii)(iv)(ff).

15 “(v) PROHIBITION.—No compact ne-
 16 gotiated, or procedures issued, under this
 17 subparagraph shall require that a State
 18 undertake any regulation of gaming on In-
 19 dian lands unless—

20 “(I) the State affirmatively con-
 21 sents to regulate that gaming; and

22 “(II) applicable State laws per-
 23 mit that regulatory function.

24 “(C) MANDATORY DISAPPROVAL.—Not-
 25 withstanding any other provision of this Act,

1 the Secretary may not approve a compact if the
2 compact requires State regulation of Indian
3 gaming absent the consent of the State or the
4 Indian tribe.

5 “(D) EFFECTIVE DATE OF COMPACT OF
6 PROCEDURES.—Any compact negotiated, or
7 procedures issued, under this subsection shall
8 become effective upon the publication of the
9 compact or procedures in the Federal Register
10 by the Secretary.

11 “(E) EFFECT OF PUBLICATION OF COM-
12 PACT.—Except for an appeal conducted under
13 subchapter II of chapter 5 of title 5, United
14 States Code, by an Indian tribe or a State asso-
15 ciated with the compact, the publication of a
16 compact pursuant to subparagraph (B) shall,
17 for the purposes of this Act, be conclusive evi-
18 dence that the class III gaming subject to the
19 compact is an activity subject to negotiations
20 under the laws of the State where the gaming
21 is to be conducted, in any matter under consid-
22 eration by the Commission or a Federal court.

23 “(F) DUTIES OF COMMISSION.—Consistent
24 with the requirements of the standards de-
25 scribed in section 6(c) (that are established by

1 the Secretary under section 8) and the require-
2 ments of section 7, the Commission shall mon-
3 itor and, if specifically authorized by those
4 standards and section 7, regulate and license
5 class III gaming with respect to any compact
6 that is approved by the Secretary under this
7 subsection and published in the Federal Reg-
8 ister.

9 “(3) PROVISIONS OF COMPACTS.—

10 “(A) IN GENERAL.—A compact negotiated
11 under this subsection may only include provi-
12 sions relating to—

13 “(i) the application of the criminal
14 and civil laws (including regulations) of the
15 Indian tribe or the State that are directly
16 related to, and necessary for, the licensing
17 and regulation of that gaming activity in a
18 manner consistent with the requirements
19 of the standards described in section 6(c)
20 (that are established by the Secretary
21 under section 8) and section 7;

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

1 “(iii) the assessment by the State of
 2 the costs associated with those activities in
 3 such amounts as are necessary to defray
 4 the costs of regulating that activity;

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

9 “(v) remedies for breach of compact
 10 provisions;

11 “(vi) standards for the operation of
 12 that activity and maintenance of the gam-
 13 ing facility, including licensing, in a man-
 14 ner consistent with the requirements of the
 15 standards described in section 6(c) (that
 16 are established by the Secretary under sec-
 17 tion 8) and section 7; and

18 “(vii) any other subject that is di-
 19 rectly related to the operation of gaming
 20 activities.

21 “(B) STATUTORY CONSTRUCTION WITH
 22 RESPECT TO ASSESSMENTS; PROHIBITION.—

23 “(i) STATUTORY CONSTRUCTION.—
 24 Except for any assessments for services
 25 agreed to by an Indian tribe in compact

negotiations, nothing in this section may be construed as conferring upon a State, or any political subdivision thereof, the authority to impose any tax, fee, charge, or other assessment upon an Indian tribe, an Indian gaming operation or the value generated by the gaming operation, or any person or entity authorized by an Indian tribe to engage in a class III gaming activity in conformance with this Act.

“(ii) ASSESSMENT BY STATES.—A State may assess the assessments agreed to by an Indian tribe referred to in clause (i) in a manner consistent with that clause.

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

1 “(5) EXEMPTION.—The provisions of section 2
 2 of the Act of January 2, 1951 (commonly referred
 3 to as the ‘Gambling Devices Transportation Act’)
 4 (64 Stat. 1134, chapter 1194; 15 U.S.C. 1175) shall
 5 not apply to any class II gaming activity or any
 6 gaming activity conducted pursuant to a compact
 7 entered into after the date of enactment of this Act,
 8 but in no event shall this paragraph be construed as
 9 invalidating any exemption from the provisions of
 10 such section 2 for any compact entered into prior to
 11 the date of enactment of this Act.

12 “(b) JURISDICTION OF UNITED STATES DISTRICT
 13 COURT FOR THE DISTRICT OF COLUMBIA.—The United
 14 States District Court for the District of Columbia shall
 15 have jurisdiction over any action initiated by the Sec-
 16 retary, the Commission, a State, or an Indian tribe to en-
 17 force any provision of a compact entered into under sub-
 18 section (a) or to enjoin a class III gaming activity located
 19 on Indian lands and conducted in violation of any compact
 20 that is in effect and that was entered into under sub-
 21 section (a).

22 “(c) APPROVAL OF COMPACTS.—

23 “(1) IN GENERAL.—The Secretary may approve
 24 any compact between an Indian tribe and a State
 25 governing the conduct of class III gaming on Indian

1 lands of that Indian tribe entered into under sub-
2 section (a).

3 “(2) REASONS FOR DISAPPROVAL BY SEC-
4 RETARY.—The Secretary may disapprove a compact
5 entered into under subsection (a) only if that com-
6 pact violates any—

7 “(A) provision of this Act or any regula-
8 tion promulgated by the Commission pursuant
9 to this Act;

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

11 “(C) trust obligation of the United States
12 to Indians.

13 “(3) EFFECT OF FAILURE TO ACT ON COM-
14 PACT.—If the Secretary fails to approve or dis-
15 approve a compact entered into under subsection (a)
16 before the date that is 45 days after the date on
17 which the compact is submitted to the Secretary for
18 approval, the compact shall be considered to have
19 been approved by the Secretary, but only to the ex-
20 tent the compact is consistent with the provisions of
21 this Act and the regulations promulgated by the
22 Commission pursuant to this Act.

23 “(4) NOTIFICATION.—The Secretary shall pub-
24 lish in the Federal Register notice of any compact

1 that is approved, or considered to have been ap-
2 proved, under this subsection.

3 “(d) REVOCATION OF ORDINANCE.—

4 “(1) IN GENERAL.—The governing body of an
5 Indian tribe, in its sole discretion, may adopt an or-
6 dinance or resolution revoking any prior ordinance
7 or resolution that authorized class III gaming on the
8 Indian lands of the Indian tribe. That revocation
9 shall render class III gaming illegal on the Indian
10 lands of that Indian tribe.

11 “(2) PUBLICATION OF REVOCATION.—An In-
12 dian tribe shall submit any revocation ordinance or
13 resolution described in paragraph (1) to the Com-
14 mission. The Commission shall publish that ordi-
15 nance or resolution in the Federal Register. The rev-
16 ocation provided by that ordinance or resolution
17 shall take effect on the date of that publication.

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

20 “(A) any person or entity operating a class
21 III gaming activity pursuant to this Act on the
22 date on which an ordinance or resolution de-
23 scribed in paragraph (1) that revokes author-
24 ization for that class III gaming activity is pub-
25 lished in the Federal Register may, during the

1 1-year period beginning on the date on which
 2 that revocation, ordinance, or resolution is pub-
 3 lished under paragraph (2), continue to operate
 4 that activity in conformance with an applicable
 5 compact entered into under subsection (a) that
 6 is in effect; and

7 “(B) any civil action that arises before,
 8 and any crime that is committed before, the
 9 termination of that 1-year period shall not be
 10 affected by that revocation ordinance, or resolu-
 11 tion.

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

13 “(1) COMPACTS ENTERED INTO BEFORE THE
 14 DATE OF ENACTMENT OF THE INDIAN GAMING REG-
 15 ULATORY IMPROVEMENT ACT OF 1998.—Class III
 16 gaming activities that are authorized under a com-
 17 pact approved or issued by the Secretary under the
 18 authority of this Act prior to the date of enactment
 19 of the Indian Gaming Regulatory Improvement Act
 20 of 1998 shall, during such period as the compact is
 21 in effect, remain lawful for the purposes of this Act,
 22 notwithstanding the Indian Gaming Regulatory Im-
 23 provement Act of 1998 and the amendments made
 24 by that Act or any change in State law, other than
 25 a change in State law that constitutes a change in

1 the public policy of the State with respect to permit-
 2 ting or prohibiting class III gaming in the State.

3 “(2) COMPACT ENTERED INTO AFTER THE
 4 DATE OF ENACTMENT OF THE INDIAN GAMING REG-
 5 ULATORY IMPROVEMENT ACT OF 1998.—Any com-
 6 pact entered into under subsection (a) after the date
 7 specified in paragraph (1) shall remain lawful for
 8 the purposes of this Act, notwithstanding any
 9 change in State law, other than a change in State
 10 law that constitutes a change in the public policy of
 11 the State with respect to permitting or prohibiting
 12 class III gaming in the State.

13 **“SEC. 11. REVIEW OF CONTRACTS.**

14 “(a) CONTRACTS INCLUDED.—The Commission
 15 shall, in accordance with this section, review and approve
 16 or disapprove any management contract for the operation
 17 and management of any gaming activity that an Indian
 18 tribe may engage in under this Act.

19 “(b) MANAGEMENT CONTRACT REQUIREMENTS.—
 20 The Commission shall approve any management contract
 21 between an Indian tribe and a person licensed by an In-
 22 dian tribe or the Commission that is entered into pursuant
 23 to this Act only if the Commission determines that the
 24 contract provides for—

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

5 “(2) access to the daily gaming operations by
6 appropriate officials of the Indian tribe who shall
7 have the right to verify the daily gross revenues and
8 income derived from any gaming activity;

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

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

14 “(5) a contract term of not to exceed 5 years,
15 except that, upon the request of an Indian tribe, the
16 Commission may authorize a contract term that ex-
17 ceeds 5 years but does not exceed 7 years if the
18 Commission is satisfied that the capital investment
19 required, and the income projections for, the par-
20 ticular gaming activity require the additional time;
21 and

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

1 “(c) MANAGEMENT FEE BASED ON PERCENTAGE OF
2 NET REVENUES.—

3 “(1) PERCENTAGE FEE.—The Commission may
4 approve a management contract that provides for a
5 fee that is based on a percentage of the net revenues
6 of a tribal gaming activity if the Commission deter-
7 mines that such percentage fee is reasonable, taking
8 into consideration surrounding circumstances.

9 “(2) FEE AMOUNT.—Except as provided in
10 paragraph (3), a fee described in paragraph (1) shall
11 not exceed an amount equal to 30 percent of the net
12 revenues described in that paragraph.

13 “(3) EXCEPTION.—Upon the request of an In-
14 dian tribe, if the Commission is satisfied that the
15 capital investment required, and income projections
16 for, a tribal gaming activity, necessitate a fee in ex-
17 cess of the amount specified in paragraph (2), the
18 Commission may approve a management contract
19 that provides for a fee described in paragraph (1) in
20 an amount in excess of the amount specified in para-
21 graph (2), but not to exceed 40 percent of the net
22 revenues described in paragraph (1).

23 “(d) 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 is submitted to the
2 Commission for approval, the Commission shall ap-
3 prove or disapprove that contract on the merits of
4 the contract.

5 “(2) EXTENSION.—The Commission may ex-
6 tend the 90-day period for an additional period of
7 not more than 45 days if the Commission notifies
8 the Indian tribe in writing of the reason for the ex-
9 tension of the period.

10 “(3) ACTION.—The Indian tribe may bring an
11 action in the United States District Court for the
12 District of Columbia to compel action by the Com-
13 mission if a contract has not been approved or dis-
14 approved by the termination date of an applicable
15 period under this subsection.

16 “(e) CONTRACT MODIFICATIONS AND VOID CON-
17 TRACTS.—The Commission, after providing notice and a
18 hearing on the record—

19 “(1) shall have the authority to require appro-
20 priate contract modifications to ensure compliance
21 with the provisions of this Act; and

22 “(2) may declare invalid any contract regulated
23 by the Commission under this Act if the Commission
24 determines that any provision of this Act has been
25 violated by the terms of the contract.

1 “(f) INTERESTS IN REAL PROPERTY.—No contract
 2 regulated by this Act may transfer or, in any other man-
 3 ner, convey any interest in land or other real property,
 4 unless—

5 “(1) specific statutory authority exists;

6 “(2) all necessary approvals for the transfer or
 7 conveyance have been obtained; and

8 “(3) the transfer or conveyance is clearly speci-
 9 fied in the contract.

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

14 “(h) DISAPPROVAL OF CONTRACTS.—The Commis-
 15 sion may not approve a management contract or other
 16 gaming-related contract if the Commission determines
 17 that—

18 “(1) any person having a direct financial inter-
 19 est in, or management responsibility for, that con-
 20 tract, and, in the case of a corporation, any individ-
 21 ual who serves on the board of directors of that cor-
 22 poration, and any of the stockholders who hold (di-
 23 rectly or indirectly) 10 percent or more of its issued
 24 and outstanding stock—

1 “(A) is an elected member of the governing
2 body of the Indian tribe that is a party to the
3 contract;

4 “(B) has been convicted of any felony or
5 gaming offense;

6 “(C) has knowingly and willfully provided
7 materially important false statements or infor-
8 mation to the Commission or the Indian tribe
9 pursuant to this Act or has refused to respond
10 to questions propounded by the Commission; or

11 “(D) has been determined to be a person
12 whose prior activities, criminal record, if any, or
13 reputation, habits, and associations pose a
14 threat to the public interest or to the effective
15 regulation and control of gaming, or create or
16 enhance the dangers of unsuitable, unfair, or il-
17 legal practices, methods, and activities in the
18 conduct of gaming or the carrying on of the
19 business and financial arrangements incidental
20 thereto;

21 “(2) the contractor—

22 “(A) has unduly interfered or influenced
23 for its gain or advantage any decision or proc-
24 ess of tribal government relating to the gaming
25 activity; or

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

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

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

9 **“SEC. 12. CIVIL PENALTIES.**

10 “(a) AMOUNT.—Any person who commits any act or
11 causes to be done any act that violates any provision of
12 this Act or any rule or regulation promulgated under this
13 Act, or who fails to carry out any act or causes the failure
14 to carry out any act that is required by any such provision
15 of law shall be subject to a civil penalty in an amount
16 equal to not more than \$25,000 per day for each such
17 violation.

18 “(b) ASSESSMENT AND COLLECTION.—

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

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

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

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

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

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

17 “(c) TEMPORARY CLOSURES.—

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

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

24 “(A) IN GENERAL.—Not later than 10
 25 days after the issuance of an order of tem-

porary closure, the Indian tribe or the individual owner of a gaming operation shall have the right to request a hearing on the record before the Commission to determine whether that order should be made permanent or dissolved.

“(B) DEADLINES RELATING TO HEARING.—Not later than 30 days after a request for a hearing is made under subparagraph (A), the Commission shall conduct that hearing. Not later than 30 days after the termination of the hearing, the Commission shall render a final decision on the closure.

“SEC. 13. JUDICIAL REVIEW.

“A decision made by the Commission pursuant to section 6, 7, 11, or 12 shall constitute a final agency decision for purposes of appeal to the United States District Court for the District of Columbia pursuant to chapter 7 of title 5, United States Code.”;

(6) by redesignating sections 18 and 19 as sections 14 and 15, respectively;

(7) in section 14, as redesignated—

(A) in subsection (a)—

(i) by striking paragraphs (3) through (6);

1 (ii) by redesignating paragraph (2) as
2 paragraph (3);

3 (iii) by striking “(a)(1) The Commis-
4 sion” and inserting the following:

5 “(2) MINIMUM FEES.—The Commission”;

6 (iv) by inserting before paragraph (2)
7 the following:

8 “(a) ANNUAL FEES.—

9 “(1) MINIMUM REGULATORY FEES.—In addi-
10 tion to assessing fees pursuant to a schedule estab-
11 lished under paragraph (2), the Commission shall re-
12 quire each gaming operation that conducts a class II
13 or class III gaming activity that is regulated by this
14 Act to pay to the Commission, on a quarterly basis,
15 a minimum fee in an amount equal to \$250.”; and

16 (v) in paragraph (3), as redesignated,
17 by striking subparagraphs (B) and (C) and
18 inserting the following:

19 “(B) GRADUATED FEE LIMITATION.—

20 “(i) IN GENERAL.—The aggregate
21 amount of fees collected under this para-
22 graph shall not exceed—

23 “(I) \$8,000,000 for fiscal year
24 1999;

1 “(II) \$9,000,000 for fiscal year
2 2000; and

3 “(III) \$11,000,000 for fiscal year
4 2001, and for each fiscal year there-
5 after.

6 “(C) FACTORS FOR CONSIDERATION.—

7 “(i) IN GENERAL.—The aggregate
8 amount of fees assessed under this section
9 shall be reasonably related to the costs of
10 services provided by the Commission to In-
11 dian tribes under this Act (including the
12 cost of issuing regulations necessary to
13 carry out this Act). In assessing and col-
14 lecting fees under this section, the Com-
15 mission shall take into account all of the
16 duties of, and services provided by, the
17 Commission under this Act.

18 “(ii) FACTORS FOR CONSIDER-
19 ATION.—In determining the amount of fees
20 to be assessed against class II or class III
21 gaming activities regulated by this Act, the
22 Commission shall consider the extent of
23 regulation of gaming activities by States
24 and Indian tribes and shall, if appropriate,

1 reduce or eliminate the fees authorized by
2 this section.

3 “(iii) CONSULTATION.—In establish-
4 ing any schedule of fees under this sub-
5 section, the Commission shall consult with
6 Indian tribes.

7 “(4) TRUST FUND.—

8 “(A) ESTABLISHMENT.—There is estab-
9 lished in the Treasury of the United States a
10 fund to be known as the Indian Gaming Trust
11 Fund (referred to in this paragraph as the
12 ‘Trust Fund’), consisting of—

13 “(i) such amounts as are—

14 “(I) transferred to the Trust
15 Fund under subparagraph (B)(i); or

16 “(II) appropriated to the Trust
17 Fund; and

18 “(ii) any interest earned on the in-
19 vestment of amounts in the Trust Fund
20 under subparagraph (C).

21 “(B) TRANSFER OF AMOUNTS EQUIVA-
22 LENT TO FEES.—

23 “(i) IN GENERAL.—The Secretary of
24 the Treasury shall transfer to the Trust
25 Fund an amount equal to the aggregate

1 amount of fees collected under this sub-
2 section.

3 “(ii) TRANSFERS BASED ON ESTI-
4 MATES.—The amounts required to be
5 transferred to the Trust Fund under
6 clause (i) shall be transferred at least
7 quarterly from the general fund of the
8 Treasury to the Trust Fund on the basis
9 of estimates made by the Secretary of the
10 Treasury. Proper adjustment shall be
11 made in amounts subsequently transferred
12 to the extent prior estimates were in excess
13 of or less than the amounts required to be
14 transferred.

15 “(C) INVESTMENTS.—

16 “(i) IN GENERAL.—It shall be the
17 duty of the Secretary of the Treasury to
18 invest such portion of the Trust Fund as
19 is not, in the judgment of the Secretary of
20 the Treasury, required to meet current
21 withdrawals. The Secretary of the Treas-
22 ury shall invest the amounts deposited
23 under subparagraph (A) only in interest-
24 bearing obligations of the United States or

1 in obligations guaranteed as to both prin-
 2 cipal and interest by the United States.

3 “(ii) SALE OF OBLIGATIONS.—Any
 4 obligation acquired by the Trust Fund, ex-
 5 cept special obligations issued exclusively
 6 to the Trust Fund, may be sold by the
 7 Secretary of the Treasury at the market
 8 price, and such special obligations may be
 9 redeemed at par plus accrued interest.

10 “(iii) CREDITS TO TRUST FUND.—The
 11 interest on, and proceeds from, the sale or
 12 redemption of, any obligations held in the
 13 Trust Fund shall be credited to and form
 14 a part of the Trust Fund.

15 “(D) EXPENDITURES FROM TRUST
 16 FUND.—

17 “(i) IN GENERAL.—Amounts in the
 18 Trust Fund shall be available, as provided
 19 in appropriations Acts, to the Commission
 20 for carrying out the duties of the Commis-
 21 sion under this Act.

22 “(ii) WITHDRAWAL AND TRANSFER
 23 OF FUNDS.—Upon request of the Commis-
 24 sion, the Secretary of the Treasury shall
 25 withdraw amounts from the Trust Fund

1 and transfer such amounts to the Commis-
2 sion for use in accordance with clause (i).

3 “(E) LIMITATION ON TRANSFERS AND
4 WITHDRAWALS.—Except as provided in sub-
5 paragraph (D)(ii), the Secretary of the Treas-
6 ury may not transfer or withdraw any amount
7 deposited under subparagraph (A).

8 “(5) CONSEQUENCES OF FAILURE TO PAY
9 FEES.—Failure to pay the fees imposed under the
10 schedule established under paragraph (2) shall, sub-
11 ject to regulations promulgated by the Commission,
12 be grounds for revocation of the approval of the
13 Commission of any license required under this Act
14 for the operation of gaming activities.

15 “(6) CREDIT.—To the extent that revenue de-
16 rived from fees imposed under the schedule estab-
17 lished under paragraph (2) are not expended or
18 committed at the close of any fiscal year, those sur-
19 plus funds shall be credited to each gaming activity
20 on a pro rata basis against the fees imposed under
21 that schedule for the succeeding fiscal year.

22 “(7) GROSS REVENUES.—For purposes of this
23 section, gross revenues shall constitute the annual
24 total amount of money wagered, reduced by—

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

3 “(B) allowance for amortization of capital
4 expenditures for structures.”; and

5 (B) by striking subsection (b) and insert-
6 ing the following:

7 “(b) REIMBURSEMENT OF COSTS.—

8 “(1) CONTENTS OF BUDGET.—For fiscal year
9 1999, and for each fiscal year thereafter, the budget
10 of the Commission may include a request for appro-
11 priations, as authorized by section 15, in an amount
12 equal to the sum of—

13 “(A)(i) for fiscal year 1999, an estimate
14 (determined by the Commission) of the amount
15 of funds to be derived from the fees collected
16 under subsection (a) for that fiscal year; or

17 “(ii) for each fiscal year thereafter, the
18 amount of funds derived from the fees collected
19 under subsection (a) for the fiscal year preced-
20 ing the fiscal year for which the appropriation
21 request is made; and

22 “(B) \$1,000,000.

23 “(2) BUDGET REQUEST OF THE DEPARTMENT
24 OF THE INTERIOR.—Each request for appropriations
25 made under paragraph (1) shall—

1 “(A) be subject to the approval of the Sec-
2 retary; and

3 “(B) be part of a request made by the Sec-
4 retary to the President for inclusion in the an-
5 nual budget request submitted by the President
6 to Congress under section 1105(a) of title 31,
7 United States Code.”;

8 (8) in section 15, as redesignated, by striking
9 “section 18” each place it appears and inserting
10 “section 14”;

11 (9) by striking section 17 and inserting the fol-
12 lowing:

13 **“SEC. 16. APPLICATION OF INTERNAL REVENUE CODE OF**
14 **1986; ACCESS TO INFORMATION BY STATES**
15 **AND TRIBAL GOVERNMENTS.**

16 “(a) APPLICATION OF THE INTERNAL REVENUE
17 CODE OF 1986.—

18 “(1) IN GENERAL.—The provisions of the Inter-
19 nal Revenue Code of 1986 (including sections 1441,
20 3402(q), and 6041, and chapter 35 of such Code)
21 concerning the reporting and withholding of taxes
22 with respect to the winnings from gaming or wager-
23 ing operations shall apply to Indian gaming oper-
24 ations conducted pursuant to this Act, or under a
25 compact entered into under section 10 that is in ef-

1 fect, in the same manner as those provisions apply
2 to State gaming and wagering operations. Any ex-
3 emptions to States with respect to taxation of those
4 gaming or wagering operations shall be allowed to
5 Indian tribes.

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

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

17 “(b) ACCESS TO INFORMATION BY STATE AND TRIB-
18 AL GOVERNMENTS.—Subject to section 6(d), upon the re-
19 quest of a State or the governing body of an Indian tribe,
20 the Commission shall make available any law enforcement
21 information that it has obtained pursuant to such section,
22 unless otherwise prohibited by law, in order to enable the
23 State or the Indian tribe to carry out its responsibilities
24 under this Act or any compact approved by the Secretary.

1 **“SEC. 17. GAMING PROSCRIBED ON LANDS ACQUIRED IN**
2 **TRUST AFTER THE DATE OF ENACTMENT OF**
3 **THIS ACT.**

4 “(a) IN GENERAL.—Except as provided in subsection
5 (b), gaming regulated by this Act shall not be conducted
6 on lands acquired by the Secretary in trust for the benefit
7 of an Indian tribe after the date of enactment of this Act,
8 unless—

9 “(1) those lands are located within or contig-
10 uous to the boundaries of the reservation of the In-
11 dian tribe on the date of enactment of this Act; or

12 “(2) the Indian tribe has no reservation on the
13 date of enactment of this Act and those lands are
14 located in the State of Oklahoma and—

15 “(A) are within the boundaries of the
16 former reservation of the Indian tribe, as de-
17 fined by the Secretary; or

18 “(B) are contiguous to other land held in
19 trust or restricted status by the United States
20 for the Indian tribe in the State of Oklahoma.

21 “(b) EXEMPTION.—Subsection (a) shall not apply
22 to—

23 “(1) any lands involved in the trust petition of
24 the St. Croix Chippewa Indians of Wisconsin that is
25 the subject of the action filed in the United States
26 District Court for the District of Columbia entitled

1 St. Croix Chippewa Indians of Wisconsin v. United
 2 States, Civ. No. 86–2278; or

3 “(2) the interests of the Miccosukee Tribe of
 4 Indians of Florida in approximately 25 contiguous
 5 acres of land, more or less, in Dade County, Florida,
 6 located within 1 mile of the intersection of State
 7 road numbered 27 (also known as Krome Avenue)
 8 and the Tamiami Trail; or

9 “(3) where the use of such lands for gaming
 10 purposes is provided for in a tribal-state compact de-
 11 scribed in section 10(a)(1)(C)(ii)(I) or a tribal-state
 12 agreement specifically providing for the use of such
 13 lands for gaming purposes.”.

14 (10) by striking section 20;

15 (11) by redesignating sections 21 through 23 as
 16 sections 18 through 20, respectively; and

17 (12) by redesignating section 24 as section 21.

18 **SEC. 3. LIMITATION ON LOBBYING.**

19 Section 104 of the Indian Self-Determination and
 20 Education Assistance Act (25 U.S.C. 450i) is amended by
 21 inserting after subsection (j) the following:

22 “(k) LOBBYING LIMITATION.—Notwithstanding sub-
 23 section (j), except as otherwise provided in sections 205
 24 and 207 of title 18, United States Code, a former Federal
 25 officer or employee of the United States shall not act as

1 an agent or attorney for, or appear on behalf of, a client
 2 in connection with any specific matter or decision involv-
 3 ing the Indian Gaming Regulatory Act (25 U.S.C. 2701
 4 et seq.) in any matter in which the officer or employee
 5 of the United States had personal and substantial involve-
 6 ment while an officer of the United States.”.

7 **SEC. 4. DEFINITION OF FINANCIAL INSTITUTIONS.**

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

10 (1) by redesignating subparagraphs (Y) and (Z)

11 as subparagraphs (Z) and (AA), respectively; and

12 (2) by inserting after subparagraph (X) the fol-
 13 lowing new subparagraph:

14 “(Y) an Indian gaming establishment;”.

15 **SEC. 5. CONFORMING AMENDMENTS.**

16 (a) TITLE 10.—Section 2323a(e)(1) of title 10,
 17 United States Code, is amended by striking “section 4(4)
 18 of the Indian Gaming Regulatory Act (102 Stat. 2468;
 19 25 U.S.C. 2703(4))” and inserting “section 4(12) of the
 20 Indian Gaming Regulatory Act”.

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

23 (1) in section 1166—

24 (A) in subsection (c)(2), by striking “a

25 Tribal-State compact approved by the Secretary

1 of the Interior under section 11(d)(8) of the In-
2 dian Gaming Regulatory Act that is in effect”
3 and inserting “a compact approved by the Sec-
4 retary of the Interior under section 10(c) of the
5 Indian Gaming Regulatory Act that is in effect
6 or pursuant to procedures issued by the Sec-
7 retary of the Interior under section
8 10(a)(2)(B)(iv) of such Act”; and

9 (B) in subsection (d), by striking “a Trib-
10 al-State compact approved by the Secretary of
11 the Interior under section 11(d)(8) of the In-
12 dian Gaming Regulatory Act” and inserting “a
13 compact approved by the Secretary of the Inte-
14 rior under section 10(c) of the Indian Gaming
15 Regulatory Act or pursuant to procedures
16 issued by the Secretary of the Interior under
17 section 10(a)(2)(B)(iv) of such Act,”;

18 (2) in section 1167, by striking “pursuant to an
19 ordinance or resolution approved by the National In-
20 dian Gaming Commission” and inserting “pursuant
21 to an ordinance or resolution that meets the applica-
22 ble requirements under the Indian Gaming Regu-
23 latory Act (25 U.S.C. 2701 et seq.)”; and

24 (3) in section 1168, by striking “pursuant to an
25 ordinance or resolution approved by the National In-

1 dian Gaming Commission” and inserting “pursuant
 2 to an ordinance or resolution that meets the applica-
 3 ble requirements under the Indian Gaming Regu-
 4 latory Act (25 U.S.C. 2701 et seq.)”.

5 (c) INTERNAL REVENUE CODE OF 1986.—Section
 6 168(j)(4)(A)(iv) of the Internal Revenue Code of 1986 is
 7 amended by striking “Indian Regulatory Act” and insert-
 8 ing “Indian Gaming Regulatory Act”.

9 (d) TITLE 28.—Title 28, United States Code, is
 10 amended—

11 (1) in section 3701(2)—

12 (A) by striking “section 4(5) of the Indian
 13 Gaming Regulatory Act (25 U.S.C. 2703(5))”
 14 and inserting “section 4(11) of the Indian
 15 Gaming Regulatory Act”; and

16 (B) by striking “section 4(4) of such Act
 17 (25 U.S.C. 2703(4))” and inserting “section
 18 4(10) of such Act”; and

19 (2) in section 3704(b), by striking “section 4(4)
 20 of the Indian Gaming Regulatory Act” and inserting
 21 “section 4(10) of the Indian Gaming Regulatory
 22 Act”.

○