

110TH CONGRESS
2D SESSION

S. 2676

To make technical corrections to the Indian Gaming Regulatory Act, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2008

Mr. VITTER introduced the following bill; which was read twice and referred
to the Committee on Indian Affairs

A BILL

To make technical corrections to 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 “Common Sense Indian
5 Gambling Reform Act of 2008”.

6 **SEC. 2. CONSULTATION WITH STATE, LOCAL, AND TRIBAL**
7 **GOVERNMENTS.**

8 Section 20 of the Indian Gaming Regulatory Act (25
9 U.S.C. 2719) is amended—

1 (1) in subsection (a), by striking paragraph (2)
 2 and inserting the following:

3 “(2) the Indian tribe has no reservation as of
 4 October 17, 1988, and the land is located in the
 5 State of Oklahoma and—

6 “(A) is within the boundaries of the former
 7 reservation of the Indian tribe, as defined by
 8 the Secretary; or

9 “(B) is contiguous to other land held in
 10 trust or restricted status by the United States
 11 for the benefit of the Indian tribe in the State
 12 of Oklahoma.”;

13 (2) in subsection (b)—

14 (A) by redesignating paragraphs (2) and
 15 (3) as paragraphs (3) and (4), respectively;

16 (B) in paragraph (4) (as redesignated by
 17 subparagraph (A)), by striking “paragraph
 18 (2)(B)” and inserting “paragraph (3)(B)”; and

19 (C) by striking “(b)(1) Subsection” and all
 20 that follows through clause (iii) of paragraph
 21 (1)(B) and inserting the following:

22 “(b) EXCEPTIONS.—

23 “(1) IN GENERAL.—

24 “(A) EFFECT ON COMMUNITY.—Subject to
 25 subparagraph (B) and paragraph (2), sub-

1 section (a) shall not apply to Indian lands for
2 which the Secretary, after consultation with the
3 Indian tribe and officials of all State, local, and
4 tribal governments that have jurisdiction over
5 land located within 60 miles of the Indian
6 lands, determines that a gaming establishment
7 on that land—

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

10 “(ii) taking into consideration the re-
11 sults of a study of the economic impact of
12 the gaming establishment, would not have
13 a negative economic impact, or any other
14 negative effect, on any unit of government,
15 business, community, or Indian tribe lo-
16 cated within 60 miles of the land.

17 “(B) CONCURRENCE OF AFFECTED
18 STATE.—For a determination of the Secretary
19 under subparagraph (A) to become valid, the
20 Governor and legislative body of the State in
21 which a gaming activity is proposed to be con-
22 ducted shall concur in the determination.

23 “(C) EFFECT OF PARAGRAPH.—This para-
24 graph shall not apply to any land on which a
25 gaming facility is in operation as of the date of

1 enactment of the Common Sense Indian Gam-
2 bling Reform Act of 2008.

3 “(2) PRIMARY NEXUS.—

4 “(A) IN GENERAL.—The land described in
5 paragraph (1) shall be land—

6 “(i) within a State in which the In-
7 dian tribe is primarily located, as deter-
8 mined by the Secretary; and

9 “(ii) on which the primary geographic,
10 social, and historical nexus to land of the
11 Indian tribe is located, as determined in
12 accordance with subparagraph (B).

13 “(B) DETERMINATION.—For purposes of
14 subparagraph (A), a geographic, social, and his-
15 torical nexus to land of an Indian tribe shall
16 exist with respect to land that is—

17 “(i)(I) owned by, or held in trust by
18 the United States for the benefit of, an In-
19 dian tribe;

20 “(II) located within the boundaries
21 of—

22 “(aa) the geographical area, as
23 designated by the Secretary, in which
24 financial assistance and social service
25 programs are provided to the Indian

1 tribe, including land on or contiguous
2 to a reservation; or

3 “(bb) the geographical area des-
4 ignated by the Indian tribe during the
5 Federal acknowledgment process of
6 the Indian tribe as the area in which
7 more than 50 percent of the members
8 of the Indian tribe reside in a group
9 composed exclusively or almost exclu-
10 sively of members of the Indian tribe;
11 and

12 “(III) located within the geographical
13 area in which the Indian tribe dem-
14 onstrates that the Indian tribe has histori-
15 cally resided, as determined by the Sec-
16 retary; or

17 “(ii) located—

18 “(I) in a State other than the
19 State of Oklahoma; and

20 “(II) within the boundaries of the
21 last recognized reservation of the In-
22 dian tribe in any State in which the
23 Indian tribe is located as of the date
24 on which a determination under this
25 subparagraph is made.”;

1 (3) by redesignating subsections (c) and (d) as
2 subsections (d) and (e), respectively; and

3 (4) by inserting after subsection (b) the fol-
4 lowing:

5 “(c) CONTIGUOUS LAND REQUIREMENT.—Notwith-
6 standing any other provision of this Act, an Indian tribe
7 shall conduct any gaming activity subject to regulation
8 under this Act on 1 contiguous parcel of Indian lands.”.

9 **SEC. 3. TRIBAL GAMING ORDINANCES.**

10 Section 11 of the Indian Gaming Regulatory Act (25
11 U.S.C. 2710) is amended—

12 (1) in subsection (b)(1)—

13 (A) in subparagraph (A), by striking “,
14 and” and inserting a semicolon;

15 (B) in subparagraph (B), by striking the
16 period at the end and inserting “; and”; and

17 (C) by adding at the end the following:

18 “(C) the class II gaming is conducted—

19 “(i) on lands that were Indian lands
20 before the date of enactment of this sub-
21 paragraph; or

22 “(ii) on land taken into trust for the
23 benefit of the Indian tribe after the date of
24 enactment of this subparagraph, but only
25 if the application of the Indian tribe re-

questing that the land be taken into trust
for the benefit of the Indian tribe stated
the intent of the Indian tribe to conduct
class II gaming activities on the land.”;
and

(2) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in clause (i), by striking
“such lands,” and inserting “the In-
dian lands;”;

(II) in clause (ii), by striking “,
and” and inserting “; and”; and

(III) in clause (iii), by striking
the comma at the end and inserting a
semicolon;

(ii) in subparagraph (B), by striking
“, and” and inserting a semicolon;

(iii) in subparagraph (C), by striking
the period at the end and inserting “;
and”; and

(iv) by adding at the end the fol-
lowing:

“(D) conducted—

1 “(i) on lands that were Indian lands
 2 before the date of enactment of this sub-
 3 paragraph; or

4 “(ii) on land taken into trust for the
 5 benefit of the Indian tribe after the date of
 6 enactment of this subparagraph, but only
 7 if the application of the Indian tribe re-
 8 questing that the land be taken into trust
 9 for the benefit of the Indian tribe stated
 10 the intent of the Indian tribe to conduct
 11 class III gaming activities on the land.”;
 12 and

13 (B) by adding at the end the following:

14 “(10) DEFINITION OF STATE.—In this sub-
 15 section, the term ‘State’ means the Governor of the
 16 State and the legislative body of the State.”.

17 **SEC. 4. INVESTIGATION AND APPROVAL.**

18 (a) POWERS OF THE CHAIRMAN.—Section 6(a) of the
 19 Indian Gaming Regulatory Act (25 U.S.C. 2705(a)) is
 20 amended—

21 (1) in paragraph (3), by striking “and” at the
 22 end;

23 (2) in paragraph (4), by striking the period at
 24 the end and inserting “; and”; and

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

1 “(5) approve or disapprove the involvement in
 2 a gaming activity subject to regulation by the Com-
 3 mission of any 1 of the 10 persons or entities that
 4 have the highest financial interest in the gaming ac-
 5 tivity, as identified by the Commission under section
 6 7(b)(3)(A).”.

7 (b) POWERS OF THE COMMISSION.—Section 7(b) of
 8 the Indian Gaming Regulatory Act (25 U.S.C. 2706(b))
 9 is amended—

10 (1) in the matter preceding paragraph (1), by
 11 inserting “shall have the authority” after “Commis-
 12 sion”;

13 (2) in paragraphs (1), (2), and (10), by striking
 14 “shall” each place it appears and inserting “to”;

15 (3) in paragraph (2), by striking “is conducted”
 16 and inserting “or class III gaming is conducted to
 17 ensure compliance with this Act (including regula-
 18 tions promulgated pursuant to paragraph (10))”;

19 (4) by striking paragraph (3) and inserting the
 20 following:

21 “(3)(A) to identify the 10 persons or entities
 22 that have the highest financial interest (including
 23 outstanding loans, debt-based financing, and other
 24 financial interests) in each gaming activity subject to
 25 regulation by the Commission; and

1 “(B) to conduct a background investigation
2 of—

3 “(i) each of the persons and entities identi-
4 fied under subparagraph (A); and

5 “(ii) any other person or entity, as the
6 Commission determines to be appropriate;”;

7 (5) in paragraphs (4) through (9), by striking
8 “may” each place it appears and inserting “to”;

9 (6) in paragraph (4), by inserting “and class
10 III gaming” after “class II gaming”; and

11 (7) in paragraph (10), by inserting “, including
12 regulations to address minimum internal control
13 standards for class II gaming and class III gaming”
14 after “this Act”.

15 (c) TRIBAL GAMING ORDINANCES.—Section
16 11(b)(2)(F) of the Indian Gaming Regulatory Act (25
17 U.S.C. 2710(b)(2)(F)) is amended by striking clause (i)
18 and inserting the following:

19 “(i) ensures that—

20 “(I) a background investigation
21 will be conducted by the Commission
22 on—

23 “(aa) each tribal gaming
24 commissioner;

1 “(bb) key tribal gaming em-
 2 ployees, as determined by the
 3 Commission;

4 “(cc) primary management
 5 officials; and

6 “(dd) key employees of the
 7 gaming enterprise; and

8 “(II) oversight of the individuals
 9 described in subclause (I) will be con-
 10 ducted on an ongoing basis; and”.

11 (d) COMMISSION FUNDING.—Section 18(a)(2)(B) of
 12 the Indian Gaming Regulatory Act (25 U.S.C.
 13 2717(a)(2)(B)) is amended—

14 (1) by indenting the subparagraph appro-
 15 priately; and

16 (2) by striking “0.080 percent” and all that fol-
 17 lows through the end of the subparagraph and in-
 18 serting “\$16,000,000.”.

19 **SEC. 5. CHANGING USE OF INDIAN LANDS.**

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

22 (1) by redesignating sections 21 through 24 as
 23 sections 22 through 25, respectively; and

24 (2) by inserting after section 20 the following:

1 **“SEC. 21. CHANGING USE OF INDIAN LANDS.**

2 “Before an Indian tribe uses any Indian lands for
3 purposes of class II gaming or class III gaming, the In-
4 dian tribe shall—

5 “(1) submit to the Secretary an environmental
6 impact statement that the Secretary determines to
7 be in accordance with the National Environmental
8 Policy Act of 1969 (42 U.S.C. 4321 et seq.) relating
9 to that use; and

10 “(2) obtain the consent of the Secretary with
11 respect to the change in use of the Indian lands.”.

12 **SEC. 6. EFFECT OF ACT.**

13 This Act, and the amendments made by this Act,
14 shall not affect any compact or other agreement relating
15 to gaming subject to regulation under the Indian Gaming
16 Regulatory Act (25 U.S.C. 2701 et seq.) in existence on
17 the date of enactment of this Act.

