A BILL

To amend the Indian Gaming Regulatory Act to clarify the authority of the National Indian Gaming Commission to regulate class III gaming, to limit the lands eligible for gaming, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Gaming Regulatory Act Amendments of 2005".

SEC. 2. DEFINITIONS.

Section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703) is amended—

(1) in paragraph (7)(E), by striking "of the Indian Gaming Regulatory Act (25 U.S.C. 2710(d)(3))"; and

(2) by adding at the end the following:

"(11) GAMING-RELATED CONTRACT.—The term 'gaming-related contract' means—

(A) a contract or other agreement relating to the management and operation of an Indian tribal gaming activity, including a contract for services under which the gaming-related contractor—

(i) exercises material control over the gaming activity (or any part of the gaming activity); or

(ii) advises or consults with a person that exercises material control over the gaming activity (or any part of the gaming activity);

(B) an agreement relating to the development or construction of a facility to be used for
an Indian tribal gaming activity (including a facility that is ancillary to such an activity) the
cost of which is greater than $250,000; or

"(C) an agreement that provides for compensation or fees based on a percentage of the
net revenues of an Indian tribal gaming activity.

"(12) Gaming-related contractor.—The term 'gaming-related contractor' means an entity or
an individual, including an individual who is an officer; or who serves on the board of directors, of an
entity; or a stockholder that directly or indirectly holds at least 5 percent of the issued and out-
standing stock of an entity, that enters into a gaming-related contract with—

"(A) an Indian tribe; or

"(B) an agent of an Indian tribe.

"(13) Material control.—The term 'material control', with respect to a gaming activity,
means the exercise of authority or supervision over a matter that substantially affects a financial or
management aspect of an Indian tribal gaming activity.".
SEC. 3. NATIONAL INDIAN GAMING COMMISSION.

Section 5 of the Indian Gaming Regulatory Act (25 U.S.C. 2704) is amended—

(1) in subsection (e)—

(A) by striking "(c) Vacancies" and inserting the following:

"(c) VACANCIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a vacancy";

(B) by striking the second sentence and inserting the following:

"(3) EXPIRATION OF TERM.—Unless a member has been removed for cause under subsection (b)(6), the member may—

"(A) serve after the expiration of the term of office of the member until a successor is appointed; or

"(B) be reappointed to serve on the Commission."; and

(C) by inserting after paragraph (1) (as designated by subparagraph (A)) the following:

"(2) VICE CHAIRMAN.—The Vice Chairman shall act as Chairman in the absence or disability of the Chairman."; and

(2) in subsection (e), in the second sentence, by inserting "or disability" after "in the absence".
SEC. 4. POWERS OF THE CHAIRMAN.

Section 6 of the Indian Gaming Regulatory Act (25 U.S.C. 2705) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by striking "and" at the end;

(B) by striking paragraph (4) and inserting the following:

"(4) approve gaming-related contracts for class II gaming and class III gaming under section 12; and"

and

(C) by adding at the end the following:

"(5) conduct a background investigation and make a determination with respect to the suitability of a gaming-related contractor, as the Chairman determines to be appropriate."; and

(2) by adding at the end the following:

"(c) DELEGATION OF AUTHORITY.—

"(1) IN GENERAL.—The Chairman may delegate any authority under this section to any member of the Commission, as the Chairman determines to be appropriate.

"(2) REQUIREMENT.—In carrying out an activity pursuant to a delegation under paragraph (1), a member of the Commission shall be subject to, and act in accordance with—"
“(A) the general policies formally adopted
by the Commission; and

“(B) the regulatory decisions, findings,
and determinations of the Commission pursuant
to Federal law.”.

SEC. 5. POWERS OF THE COMMISSION.

Section 7(b) of the Indian Gaming Regulatory Act
(25 U.S.C. 2706(b)) is amended—

(1) in paragraphs (1) and (4), by inserting
“and class III gaming” after “class II gaming” each
place it appears;

(2) in paragraph (2), by inserting “or class III
 gaming” after “class II gaming”; and

(3) in paragraph (10), by inserting “, including
regulations addressing minimum internal control
standards for class II gaming and class III gaming
activities” before the period at the end.

SEC. 6. COMMISSION STAFFING.

(a) GENERAL COUNSEL.—Section 8(a) of the Indian
Gaming Regulatory Act (25 U.S.C. 2707(a)) is amended
by striking “basic” and all that follows through the end
of the subsection and inserting the following: “pay payable
for level IV of the Executive Schedule under chapter 11
of title 2, United States Code, as adjusted by section 5318
of title 5, United States Code.”.
(b) OTHER STAFF.—Section 8(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2707(b)) is amended by striking "basic" and all that follows through the end of the subsection and inserting the following: "pay payable for level IV of the Executive Schedule under chapter 11 of title 2, United States Code, as adjusted by section 5318 of title 5, United States Code."

(c) TEMPORARY AND INTERMITTENT SERVICES.—Section 8(c) of the Indian Gaming Regulatory Act (25 U.S.C. 2707(c)) is amended by striking "basic" and all that follows through the end of the subsection and inserting the following: "pay payable for level IV of the Executive Schedule under chapter 11 of title 2, United States Code, as adjusted by section 5318 of title 5, United States Code."

SEC. 7. TRIBAL GAMING ORDINANCES.

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

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking "; and" and inserting "; and;"

(B) in paragraph (2)(F)—

(i) by striking clause (i) and inserting the following:
“(i) ensures that background investigations and ongoing oversight activities are conducted with respect to—

“(I) tribal gaming commissioners and key tribal gaming commission employees, as determined by the Chairman;

“(II) primary management officials and other key employees of the gaming enterprise, as determined by the Chairman; and

“(III) any person that is a party to a gaming-related contract; and”;

(ii) in clause (ii)(I), by striking “primary” and all that follows through “with” and inserting “the individuals and entities described in clause (i); including”;

(C) in paragraph (3)—

(i) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(ii) by striking subparagraph (B) and inserting the following:

“(B) the plan is approved by the Secretary after the Secretary determines that—
"(i) the plan is consistent with the uses described in paragraph (2)(B);

(ii) the plan adequately addresses the purposes described in clauses (i) and (iii) of paragraph (2)(B); and

(iii) a per capita payment is a reasonable method of providing for the general welfare of the Indian tribe and the members of the Indian tribe;

(C) the Secretary determines that the plan provides an adequate mechanism for the monitoring and enforcement, by the Secretary and the Chairman, of the compliance of the plan (including any amendment, revision, or rescission of any part of the plan);"; and

(D) in paragraph (4)(B)(i)—

(i) in subclause (I), by striking "of the Act," and inserting a semicolon;

(ii) in subclause (II), by striking "of this subsection" and inserting a semicolon;

(iii) in subclause (III), by striking '" and" and inserting '"; and"; and

(iv) in subclause (IV), by striking "National Indian Gaming";

(2) in subsection (d)—
(A) in paragraph (1)—

   (i) in subparagraph (A)—
   
   (I) in clause (i), by striking “lands,” and inserting “lands;”;
   
   (II) in clause (ii), by striking “;” and inserting “; and”; and
   
   (III) in clause (iii), by striking the comma at the end and inserting a semicolon; and
   
   (ii) in subparagraph (B), by striking “; and” and inserting “; and”;

(B) in paragraph (2)—

   (i) in subparagraph (B)(i), by striking “; or” and inserting “; or”; and
   
   (ii) in subparagraph (D)(iii)(I), by striking “; and” and inserting “; and”;

(C) in paragraph (7)(B)—

   (i) in clause (ii)(I), by striking “; and” and inserting “; and”;
   
   (ii) in clause (iii)(I), by striking “; and” and inserting “; and”; and
   
   (iii) in clause (vii)(I), by striking “; and” and inserting “; and”;

(D) in paragraph (8)(B)—
(i) in clause (i), by striking the comma at the end and inserting a semicolon; and

(ii) in clause (ii), by striking "; or" and inserting "; or"; and

(E) by striking paragraph (9); and

(3) by adding at the end the following:

"(f) Provision of Information to Chairman.—Immediately after approving a plan (including any amendment, revision, or recision of any part of a plan) under subsection (b)(3), the Secretary shall provide to the Chairman—

"(1) a notice of the approval; and

"(2) any information used by the Secretary in approving the plan.".

SEC. 8. GAMING-RELATED CONTRACTS.

Section 12 of the Indian Gaming Regulatory Act (25 U.S.C. 2711) is amended to read as follows:

"SEC. 12. GAMING-RELATED CONTRACTS.

"(a) In General.—To be enforceable under this Act, a gaming-related contract shall be—

"(1) in writing; and

"(2) approved by the Chairman under subsection (c).

"(b) Contract Requirements.—
(1) In general.—A gaming-related contract under this Act shall provide for the Indian tribe, at a minimum, provisions relating to—

(A) accounting and reporting procedures, including, as appropriate, provisions relating to verifiable financial reports;

(B) the access required to ensure proper performance of the gaming-related contract, including access to, with respect to a gaming activity—

(i) daily operations;

(ii) real property;

(iii) equipment; and

(iv) any other tangible or intangible property used to carry out the activity;

(C) assurance of performance of each party to the gaming-related contract, including the provision of bonds under subsection (d), as the Chairman determines to be necessary; and

(D) the reasons for, and method of, terminating the gaming-related contract.

(2) Term.—

(A) In general.—Except as provided in subparagraph (B), the term of a gaming-related contract shall not exceed 5 years.
“(B) EXCEPTION.—Notwithstanding subparagraph (A), a gaming-related contract may have a term of not to exceed 7 years if—

“(i) the Indian tribal party to the gaming-related contract submits to the Chairman a request for such a term; and

“(ii) the Chairman determines that the term is appropriate, taking into consideration the circumstances of the gaming-related contract.

“(3) FEES.—

“(A) IN GENERAL.—Notwithstanding the payment terms of a gaming-related contract, and except as provided in subparagraph (B), the fee of a gaming-related contractor or beneficiary of a gaming-related contract shall not exceed an amount equal to 30 percent of the net revenues of the gaming operation that is the subject of the gaming-related contract.

“(B) EXCEPTION.—The fee of a gaming-related contractor or beneficiary of a gaming-related contract may be in an amount equal to not more than 40 percent of the net revenues of the gaming operation that is the subject of the gaming-related contract if the Chairman de-
terminates that such a fee is appropriate, taking into consideration the circumstances of the gaming-related contract.

"(c) Approval by Chairman.—

"(1) Gaming-related contracts.—

"(A) In general.—An Indian tribe shall submit each gaming-related contract of the tribe to the Chairman for approval by not later than the earlier of—

"(i) the date that is 90 days after the date on which the gaming-related contract is executed; or

"(ii) the date that is 90 days before the date on which the gaming-related contract is scheduled to be completed.

"(B) Factors for consideration.—In determining whether to approve a gaming-related contract under this subsection, the Chairman may take into consideration any information relating to the terms, parties, and beneficiaries of—

"(i) the gaming-related contract; and

"(ii) any other agreement relating to the Indian gaming activity, as determined by the Chairman.
"(C) Deadline for determination.—

"(i) In general.—The Chairman shall approve or disapprove a gaming-related contract under this subsection by not later than 90 days after the date on which the Chairman makes a determination regarding the suitability of each gaming-related contractor under paragraph (2).

"(ii) Expedited review.—

"(I) In general.—If each gaming-related contractor has been determined by the Chairman to be suitable under paragraph (2) on or before the date on which the gaming-related contract is submitted to the Chairman, the Chairman shall approve or disapprove the gaming-related contract by not later than 30 days after the date on which the gaming-related contract is submitted.

"(II) Failure to determine.—
If the Chairman fails to make a determination by the date described in subclause (I), a gaming-related contract
described in that subclause shall be considered to be approved.

(I) Amendments.—The Chairman may require the parties to a gaming-related contract considered to be approved under subclause (I) to amend the gaming-related contract, as the Chairman considers to be appropriate to meet the requirements under subsection (b).

(III) Early Operation.—

(I) In General.—On approval of the Chairman under subclause (I), a gaming-related contract may be carried out before the date on which the gaming-related contract is approved by the Chairman under clause (i).

(II) Approval by Chairman.—The Chairman may approve the early operation of a gaming-related contract under subclause (I) if the Chairman determines that—

(aa) adequate bonds have been provided under paragraph
and subsection (d); and

"(bb) the gaming-related contract will be amended as the Chairman considers to be appropriate to meet the requirements under subsection (b).

"(D) REQUIREMENTS FOR DISAPPROVAL.—The Chairman shall disapprove a gaming-related contract under this subsection if the Chairman determines that—

"(i) the gaming-related contract fails to meet any requirement under subsection (b);

"(ii) a gaming-related contractor is unsuitable under paragraph (2);

"(iii) a gaming-related contractor or beneficiary of the gaming-related contract—

"(I) unduly interfered with or influenced, or attempted to interfere with or influence, a decision or process of an Indian tribal government relating to the gaming activity for the
benefit of the gaming-related con-
tractor or beneficiary; or

"(II) deliberately or substantially
failed to comply with—

"(aa) the gaming-related
contract; or

"(bb) a tribal gaming ordi-
nance or resolution adopted and
approved pursuant to this Act;

"(iv) the Indian tribe with jurisdiction
over the Indian lands on which the gaming
activity is located will not receive the pri-
mary benefit as sole proprietor of the gam-
ing activity, taking into consideration any
agreement relating to the gaming activity;

"(v) a trustee would disapprove the
gaming-related contract, in accordance
with the duties of skill and diligence of the
trustee, because the compensation or fees
under the gaming-related contract do not
bear a reasonable relationship to the cost
of the goods or the benefit of the services
provided under the gaming-related con-
tract; or
"(vi) a person or an Indian tribe would violate this Act—

"(I) on approval of the gaming-related contract; or

"(H) in carrying out the gaming-related contract.

"(2) GAMING-RELATED CONTRACTORS.—

"(A) IN GENERAL.—Not later than 90 days after the date on which the Chairman receives a gaming-related contract, the Chairman shall make a determination regarding the suitability of each gaming-related contractor to carry out any gaming activity that is the subject of the gaming-related contract.

"(B) REQUIREMENTS.—The Chairman shall make a determination under subparagraph (A) that a gaming-related contractor is unsuitable if, as determined by the Chairman—

"(i) the gaming-related contractor—

"(I) is an elected member of the governing body of an Indian tribe that is a party to the gaming-related contract;

"(H) has been convicted of—

"(aa) a felony; or
"(bb) any offense relating to gaming;

"(III)(aa) knowingly and willfully provided any materially important false statement or other information to the Commission or an Indian tribe that is a party to the gaming-related contract; or

"(bb) failed to respond to a request for information under this Act;

"(IV) poses a threat to the public interest or the effective regulation or conduct of gaming under this Act, taking into consideration the behavior, criminal record, reputation, habits, and associations of the gaming-related contractor;

"(V) unduly interfered, or attempted to unduly interfere, with any determination or governing process of the governing body of an Indian tribe relating to a gaming activity, for the benefit of the gaming-related contractor; or
(VI) deliberately or substantially failed to comply with the terms of—

(aa) the gaming-related contract; or

(bb) a tribal gaming ordinance or resolution approved and adopted under this Act; or

(ii) a trustee would determine that the gaming-related contractor is unsuitable, in accordance with the duties of skill and diligence of the trustee.

(C) FAILURE TO DETERMINE.—If the Chairman fails to make a suitability determination with respect to a gaming-related contractor by the date described in subparagraph (A), each gaming-related contractor shall be considered to be suitable to carry out the gaming activity that is the subject of the applicable gaming-related contract.

(D) REVOCATION.—At any time, based on a showing of good cause, the Chairman may—
“(i) make a determination that a gaming-related contractor is unsuitable under this subsection; or

“(ii) revoke a suitability determination under this subsection.

“(E) TEMPORARY SUITABILITY.—

“(i) IN GENERAL.—For purposes of meeting a deadline under paragraph (1)(C), the Chairman may determine that a gaming-related contractor is temporarily suitable if—

“(I) the Chairman determined the gaming-related contractor to be suitable with respect to another gaming-related contract being carried out on the date on which the Chairman makes a determination under this paragraph; and

“(II) the gaming-related contractor has not otherwise been determined to be unsuitable by the Chairman.

“(ii) FINAL DETERMINATION.—The Chairman shall make a suitability determination with respect to a gaming-related
contractor that is the subject of a temporary suitability determination under clause (i) by the date described in subparagraph (A), in accordance with subparagraph (F).

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(f) Updating determinations.—The Chairman, as the Chairman determines to be appropriate, may limit an investigation of the suitability of a gaming-related contractor that—

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(i) has been determined to be suitable by the Chairman with respect to another gaming-related contract being carried out on the date on which the Chairman makes a determination under this paragraph; and

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(ii) certifies to the Chairman that the information provided during a preceding suitability determination has not materially changed.

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(g) Responsibility of gaming-related contractor.—A gaming-related contractor shall—

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“(i) pay the costs of any investigation activity of the Chairman in carrying out this paragraph;

“(ii) provide to the Chairman a notice of any change in information provided during a preceding investigation on discovery of the change; and

“(iii) during an investigation of suitability under this paragraph, provide to the Chairman such bonds under subsection (d) as the Chairman determines to be appropriate to shield an Indian tribe from liability resulting from an action of the gaming-related contractor.

“(H) REGISTRY.—The Chairman shall establish and maintain a registry of each suitability determination made under this paragraph.

“(3) ADDITIONAL REVIEWS.—Notwithstanding an approval under paragraph (1), or a determination of suitability under paragraph (2), if the Chairman determines that a gaming-related contract, or any party to such a contract, is in violation of this Act, the Chairman may—
(A) suspend performance under the gaming-related contract;
(B) require the parties to amend the gaming-related contract; or
(C) revoke a determination of suitability under paragraph (2)(D).

(4) Termination.—Termination of a gaming-related contract shall not require the approval of the Chairman.

(d) Bonds.—

(1) In General.—The Chairman may require a gaming-related contractor to provide to the Chairman a bond to ensure the performance of the gaming-related contractor under a gaming-related contract.

(2) Regulations.—The Chairman, by regulation, shall establish the amount of a bond required under this subsection.

(3) Method of Payment.—A bond under this subsection may be provided—

(A) in cash or negotiable securities;
(B) through a surety bond guaranteed by a guarantor acceptable to the Chairman; or
“(C) through an irrevocable letter of credit issued by a banking institution acceptable to the Chairman.

“(4) USE OF BONDS.—The Chairman shall use a bond provided under this subsection to pay the costs of a failure of the gaming-related contractor that provided the bond to perform under a gaming-related contract.

“(e) APPEAL OF DETERMINATION.—

“(1) IN GENERAL.—An Indian tribe or a gaming-related contractor may submit to the Commission a request for an appeal of a determination of the Chairman under subsection (c) or (d).

“(2) DETERMINATION OF COMMISSION.—

“(A) HEARINGS.—The Commission shall schedule a hearing relating to an appeal under paragraph (1) by not later than 30 days after the date on which a request for the appeal is received.

“(B) DEADLINE FOR DETERMINATION.— The Commission shall make a determination, by majority vote of the Commission, relating to an appeal under this subsection by not later than 5 days after the date of the hearing relating to the appeal under subparagraph (A).
(C) CONCURRENCE.—If the Commission concurs with a determination of the Chairman under this subsection, the determination shall be considered to be a final agency action.

(D) DISSENT.—

(i) IN GENERAL.—If the Commission dissents from a determination of the Chairman under this subsection, the Chairman may—

(I) rescind the determination of the Chairman; or

(II) on a finding of immediate and irreparable harm to the Indian tribe that is the subject of the determination, maintain the determination.

(ii) FINAL AGENCY ACTION.—A decision by the Chairman to maintain a determination under clause (i)(II) shall be considered to be a final agency action.

(3) APPEAL OF COMMISSION DETERMINATION.—An Indian tribe, a gaming-related contractor, or a beneficiary of a gaming-related contract may appeal a determination of the Commission under paragraph (2) to the United States District Court for the District of Columbia.
"(f) Conveyance of Real Property.—No gaming-related contract under this Act shall transfer or otherwise convey any interest in land or other real property unless the transfer or conveyance—

"(1) is authorized under law; and

"(2) is specifically described in the gaming-related contract.

"(g) Contract Authority.—The authority of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) relating to contracts under this Act is transferred to the Commission:

"(h) No Effect on Tribal Authority.—This section does not expand, limit, or otherwise affect the authority of any Indian tribe or any party to a Tribal-State compact to investigate, license, or impose a fee on a gaming-related contractor.”.

SEC. 9. CIVIL PENALTIES.

Section 14 of the Indian Gaming Regulatory Act (25 U.S.C. 2713) is amended—

(1) by striking the section designation and heading and all that follows through subsection (a) and inserting the following:

"SEC. 14. CIVIL PENALTIES.

"(a) Penalties.—

"(1) Violation of Act.—
“(A) IN GENERAL.—An Indian tribe, individual, or entity that violates any provision of this Act (including any regulation of the Commission and any Indian tribal regulation, ordinance, or resolution approved under section 11 or 13) in carrying out a gaming-related contract may be subject to, as the Chairman determines to be appropriate—

“(i) an appropriate civil fine, in an amount not to exceed $25,000 per violation per day; or

“(ii) an order of the Chairman for an accounting and disgorgement, including interest.

“(B) APPLICATION TO INDIAN TRIBES.— An Indian tribe shall not be subject to disgorgement under subparagraph (A)(ii) unless the Chairman determines that the Indian tribe grossly violated a provision of this Act.

“(2) APPEALS.—The Chairman shall provide, by regulation, an opportunity to appeal a determination relating to a violation under paragraph (1).

“(3) WRITTEN COMPLAINTS.—

“(A) IN GENERAL.—If the Commission has reason to believe that an Indian tribe or a party
to a gaming-related contract may be subject to a penalty under paragraph (1), the final closure of an Indian gaming activity, or a modification or termination order relating to the gaming-related contract, the Chairman shall provide to the Indian tribe or party a written complaint, including—

“(i) a description of any act or omission that is the basis of the belief of the Commission; and

“(ii) a description of any action being considered by the Commission relating to the act or omission.

“(B) REQUIREMENTS.—A written complaint under subparagraph (A)—

“(i) shall be written in common and concise language;

“(ii) shall identify any statutory or regulatory provision relating to an alleged violation by the Indian tribe or party; and

“(iii) shall not be written only in statutory or regulatory language.”;

(2) in subsection (b)—

(A) by striking “(b)(1) The Chairman” and inserting the following:
“(b) Temporary Closures.—

“(1) In general.—The Chairman”;

(B) in paragraph (1)—

(i) by striking “Indian game” and inserting “Indian gaming activity, or any part of such a gaming activity,”; and

(ii) by striking “section 11 or 13 of this Act” and inserting “section 11 or 13”;

and

(C) in paragraph (2)—

(i) by striking “(2) Not later than thirty” and inserting the following:

“(2) Hearings.—

“(A) In general.—Not later than 30”;

(ii) in subparagraph (A) (as designating by clause (i))—

(I) by striking “management contractor” and inserting “party to a gaming-related contract”; and

(II) by striking “permanent” and inserting “final”; and

(iii) in the second sentence—

(I) by striking “Not later than sixty” and inserting the following:
“(B) Determination of Commission.—

Not later than 60’’; and

(II) by striking “permanent” and

inserting “final’’;

(3) in subsection (c), by striking ‘‘(c) A decision’’ and inserting the following:

“(c) Appeal of Final Determinations.—A determination’’; and

(4) in subsection (d), by striking ‘‘(d) Nothing’’ and inserting the following:

“(d) Effect on Regulatory Authority of Indian Tribes.—Nothing’’.

SEC. 10. GAMING ON LATER-ACQUIRED LAND.

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

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ‘‘(A) the Secretary, after consultation’’ and inserting the following:

“(A)(i) before November 18, 2005, the Secretary reviewed, or was in the process of reviewing, at the Central Office of the Bureau of Indian Affairs, Washington, DC, the petition of an Indian tribe to have land taken into trust for purposes of gaming under this Act; and

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“(ii) the Secretary, after consultation”; and

(B) in subparagraph (B)—

(i) in clause (i), by striking the comma at the end and inserting the following: “under Federal statutory law, if the land is within a State in which is located—

“(I) the reservation of such Indian tribe; or

“(II) the last recognized reservation of such Indian tribe;”;

(ii) in clause (ii), by striking “; or” and inserting “if, as determined by the Secretary, the Indian tribe has a temporal, cultural, and geographic nexus to the land; or”; and

(iii) in clause (iii), by inserting before the period at the end the following: “if, as determined by the Secretary, the Indian tribe has a temporal, cultural, and geographic nexus to the land”; and

(2) by adding at the end the following:

“(4) EFFECT OF SUBSECTION.—Notwithstanding any other provision of this subsection, land that, before the date of enactment of the Indian
Gaming Regulatory Act Amendments of 2005; was determined by the Secretary or the Chairman to be eligible to be used for purposes of gaming shall continue to be eligible for those purposes.'

SEC. 11. CONFORMING AMENDMENT.

(a) In general.—Section 123(a)(2) of the Department of the Interior and Related Agencies Appropriations Act, 1998 (Public Law 105–83; 111 Stat. 1566) is amended—

(1) in subparagraph (A), by adding "and" at the end;

(2) in subparagraph (B), by striking "; and" and inserting a period; and

(3) by striking subparagraph (C).

(b) Applicability.—Notwithstanding any other provision of law, section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(a)) shall apply to all Indian tribes.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Gaming Regulatory Act Amendments of 2006".

SEC. 2. DEFINITIONS.

Section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703) is amended—
(1) by striking the section heading and all that follows through “For purposes of this Act—” and inserting the following:

“SEC. 4. DEFINITIONS.

“In this Act;”;

(2) in paragraph (7)(E), by striking “of the Indian Gaming Regulatory Act (25 U.S.C. 2710(d)(3))”;

(3) by redesignating paragraphs (3), (4), (5), (6), (7), (8), (9), and (10) as paragraphs (6), (12), (13), (3), (4), (5), (15), and (17), respectively, and moving the paragraphs so as to appear in numerical order;

(4) by inserting after paragraph (6) (as redesignated by paragraph (3)) the following:

“(7) CONSULTING CONTRACT.—The term ‘consulting contract’ means any contract or subcontract between an Indian tribe and a gaming-related contractor, or between a gaming-related contractor and a subcontractor, that provides for advising or consulting with a person that exercises management over all or a significant part of a gaming operation, subject to such categorical exclusions as the Commission may establish, by regulation.
“(8) Development contract.—The term ‘development contract’ means any contract or subcontract between an Indian tribe and a gaming-related contractor, or between a gaming-related contractor and a subcontractor, that provides for the development or construction of a facility to be used for an Indian gaming activity, subject to such categorical exclusions as the Commission may establish, by regulation.

“(9) Financing contract.—

“(A) In general.—The term ‘financing contract’ means any contract or subcontract between an Indian tribe and a gaming-related contractor, or between a gaming-related contractor and a subcontractor—

“(i) that is not a management contract, a consulting contract, a development contract, or a participation contract;

“(ii) pursuant to which a gaming-related contractor or subcontractor provides services or property of any kind, or financing of any nature, to be used for an Indian gaming activity; and
“(iii) for compensation (including interest and fees), denominated in any manner—

“(I) of more than $250,000 during the term of the contract or subcontract (as periodically adjusted for inflation in accordance with rules adopted by the Commission); and

“(II) that is provided by—

“(aa) loan;

“(bb) lease; or

“(cc) deferred payments.

“(B) EXCLUSIONS.—The term ‘financing contract’ does not include—

“(i) a contract or agreement between an Indian tribe and—

“(I) a federally-chartered or State-chartered bank;

“(II) another Indian tribe;

“(III) another Indian tribe, or a State, pursuant to a Tribal-State compact; or

“(IV) an entity that is—
“(aa) regulated by the Securities and Exchange Commission;

or

“(bb) wholly owned, directly or indirectly, by an entity that is regulated by the Securities and Exchange Commission;

“(ii) a contract or agreement that is subject to the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); or

“(iii) any other agreement or contract that the Commission, by regulation, determines should be categorically excluded from consideration as a financing contract.

“(10) G AMING-RELATED CONTRACT.—The term ‘gaming-related contract’ means any management contract, consulting contract, development contract, financing contract, participation contract, or other agreement determined by the Commission pursuant to a rulemaking under section 7 to be subject to the requirements of section 12, and any collateral agreement related to any of the foregoing.

“(11) G AMING-RELATED CONTRACTOR.—The term ‘gaming-related contractor’ means an entity or person, including an individual who is an officer, or
who serves on the board of directors, of an entity, or a stockholder that directly or indirectly holds at least 5 percent of the issued and outstanding stock of an entity, that enters into a gaming-related contract with—

“(A) an Indian tribe; or

“(B) an agent of an Indian tribe.”;

(5) by inserting after paragraph (13) (as redesignated by paragraph (3)) the following:

“(14) MANAGEMENT CONTRACT.—

“(A) IN GENERAL.—The term ‘management contract’ means any contract or subcontract between an Indian tribe and a gaming-related contractor, or between a gaming-related contractor and a subcontractor, that provides for the management of all or a part of a gaming operation, subject to such categorical exclusions as the Commission may establish, by regulation.

“(B) EXCLUSION.—The term ‘management contract’ does not include a personal employment contract under which compensation is not based on a percentage of the revenues or profit increases of an Indian gaming activity or a prospective Indian gaming activity.”; and
(6) by inserting after paragraph (15) (as redesignated by paragraph (3)) the following:

“(16) PARTICIPATION CONTRACT.—The term ‘participation contract’ means any contract or subcontract between an Indian tribe and a gaming-related contractor, or between a gaming-related contractor and a subcontractor, under which compensation to the gaming-related contractor or subcontractor is based, in whole or in part, on a percentage of the revenues or profit increases of an Indian gaming activity or a prospective Indian gaming activity, subject to such categorical exclusions as the Commission may establish, by regulation.”.

SEC. 3. NATIONAL INDIAN GAMING COMMISSION.

Section 5 of the Indian Gaming Regulatory Act (25 U.S.C. 2704) is amended—

(1) in subsection (c)—

(A) by striking “(c) Vacancies” and inserting the following:

“(c) VACANCIES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a vacancy”;

(B) by striking the second sentence and inserting the following:

...
“(3) Expiration of Term.—Unless a member has been removed for cause under subsection (b)(6), the member may—

“(A) serve after the expiration of the term of office of the member until a successor is appointed; or

“(B) be reappointed to serve on the Commission.”; and

(C) by inserting after paragraph (1) (as designated by subparagraph (A)) the following:

“(2) Vice Chairman.—The Vice Chairman shall act as Chairman in the absence or disability of the Chairman.”; and

(2) in subsection (e), in the second sentence, by inserting “or disability” after “in the absence”.

SEC. 4. POWERS OF THE CHAIRMAN.

Section 6 of the Indian Gaming Regulatory Act (25 U.S.C. 2705) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by striking “and” at the end;

(B) by striking paragraph (4) and inserting the following:
“(4) approve gaming-related contracts for class II gaming and class III gaming under section 12; and”; and

(C) by adding at the end the following:

“(5) conduct a background investigation and make a determination with respect to the suitability of a gaming-related contractor, as the Chairman determines to be appropriate.”; and

(2) by adding at the end the following:

“(c) DELEGATION OF AUTHORITY.—

“(1) IN GENERAL.—The Chairman may delegate any authority under this section to any member of the Commission, as the Chairman determines to be appropriate.

“(2) REQUIREMENT.—In carrying out an activity pursuant to a delegation under paragraph (1), a member of the Commission shall be subject to, and act in accordance with—

“(A) the general policies formally adopted by the Commission; and

“(B) the regulatory decisions, findings, and determinations of the Commission pursuant to Federal law.”.
SEC. 5. POWERS OF THE COMMISSION.

(a) IN GENERAL.—Section 7(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2706(b)) is amended—

(1) in paragraphs (1) and (4), by inserting “and class III gaming” after “class II gaming” each place it appears;

(2) in paragraph (2), by inserting “or class III gaming” after “class II gaming”; and

(3) by striking paragraph (10) and inserting the following:

“(10) shall promulgate such regulations and guidelines as the Commission determines to be appropriate to implement this Act, including—

“(A) regulations addressing minimum internal control standards for class II gaming and class III gaming activities; and

“(B) regulations determining categories of contracts for goods and services directly relating to tribal gaming activities that shall be—

“(i) considered to be gaming-related contracts; and

“(ii) subject to the requirements of section 12.”.

(b) REPORTING OF TRIBAL-LEVEL GAMING REVENUES.—Section 7 of the Indian Gaming Regulatory Act (25 U.S.C. 2706) is amended by adding at the end the following:
“(c) REPORTING OF TRIBAL-LEVEL GAMING REVENUES.—Not less frequently than once each year—

“(1) the Commission shall submit to the Secretary a report describing the aggregate revenues of the tribal-level gaming activities of each Indian tribe; and

“(2) the Secretary, in consultation with affected Indian tribes, shall promulgate regulations under which information contained in a report under paragraph (1) regarding each Indian tribe shall be made available to the members of the Indian tribe, as the Secretary determines to be consistent with the purposes of this subsection.”.

SEC. 6. COMMISSION STAFFING.

(a) GENERAL COUNSEL.—Section 8(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2707(a)) is amended by striking “basic” and all that follows through the end of the subsection and inserting the following: “pay payable for level IV of the Executive Schedule under chapter 11 of title 2, United States Code, as adjusted by section 5318 of title 5, United States Code.”.

(b) OTHER STAFF.—Section 8(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2707(b)) is amended by striking “basic” and all that follows through the end of the subsection and inserting the following: “pay payable for
level IV of the Executive Schedule under chapter 11 of title 2, United States Code, as adjusted by section 5318 of title 5, United States Code.”.

(c) Temporary and Intermittent Services.—Section 8(c) of the Indian Gaming Regulatory Act (25 U.S.C. 2707(c)) is amended by striking “basic” and all that follows through the end of the subsection and inserting the following: “pay payable for level IV of the Executive Schedule under chapter 11 of title 2, United States Code, as adjusted by section 5318 of title 5, United States Code.”.

SEC. 7. TRIBAL GAMING ORDINANCES.

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

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking “, and” and inserting “; and”; 

(B) in paragraph (2)(F)—

(i) by striking clause (i) and inserting

the following:

“(i) ensures that background investigations and ongoing oversight activities are conducted with respect to—

“(I) tribal gaming commissioners and key tribal gaming commission employees, as determined by the Chairman;
“(II) primary management officials and other key employees of the gaming enterprise, as determined by the Chairman; and

“(III) persons that provide goods or services directly relating to the tribal gaming activity; and”; and

(ii) in clause (ii)(I), by striking “primary” and all that follows through “with” and inserting “the individuals and entities described in subclauses (II) and (III) of clause (i), including”; and

(C) in paragraph (4)(B)(i)—

(i) in subclause (I), by striking “of the Act,” and inserting a semicolon;

(ii) in subclause (II), by striking “of this subsection” and inserting a semicolon;

(iii) in subclause (III), by striking “; and” and inserting “; and”; and

(iv) in subclause (IV), by striking “National Indian Gaming”;

(2) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (A)—
(I) in clause (i), by striking “lands,” and inserting “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; and

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

(B) in paragraph (2)—

(i) in subparagraph (B)(i), by striking “, or” and inserting “; or”; and

(ii) in subparagraph (D)(iii)(I), by striking “, and” and inserting “; and”;

(C) in paragraph (7)(B)—

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

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

(iii) in clause (vii)(I), by striking “State , and” and inserting “State; and”;

(D) in paragraph (8)(B)—

(i) in clause (i), by striking the comma at the end and inserting a semicolon; and
(ii) in clause (ii), by striking “; or” and inserting “; or”; and

(E) by striking paragraph (9); and

(3) by adding at the end the following:

“(f) Provision of Information to Chairman.—Immediately after approving a plan (including any amendment, revision, or recision of any part of a plan) under subsection (b)(3), the Secretary shall provide to the Chairman—

“(1) a notice of the approval; and

“(2) the plan, and any information used by the Secretary in approving the plan.”.

SEC. 8. GAMING-RELATED CONTRACTS.

Section 12 of the Indian Gaming Regulatory Act (25 U.S.C. 2711) is amended to read as follows:

“SEC. 12. GAMING-RELATED CONTRACTS.

“(a) Approval by Chairman.—

“(1) Gaming-related contracts.—To be enforceable and valid, a gaming-related contract must be approved by the Chairman under subsection (b).

“(2) Gaming-related contractors.—Each gaming-related contractor shall be subject to a suitability determination by the Chairman under subsection (c).
“(3) Failure to Approve.—For any gaming-related contract that is not approved by the Chairman under subsection (b)—

“(A) the gaming-related contract shall be void ab initio; and

“(B) any party to the gaming-related contract shall be subject to such civil penalties as the Chairman determines to be appropriate under section 14.

“(b) Contract Review.—

“(1) Minimum Contract Requirements.—A gaming-related contract under this Act shall provide, at a minimum, provisions relating to—

“(A) accounting and reporting procedures, including, as appropriate, provisions relating to verifiable financial reports;

“(B) the access required to ensure proper performance of the gaming-related contract, including access to—

“(i) the daily operations of the gaming activity;

“(ii) real property relating to the gaming activity;

“(iii) equipment associated with the gaming activity; and
“(iv) any other tangible or intangible property used to carry out the gaming activity;

“(C) assurances of performance by each party to the gaming-related contract, as the Chairman determines to be necessary;

“(D) the reasons for, and method of, termination of the gaming-related contract; and

“(E) such other provisions as the Chairman determines to be necessary to ensure that the Indian tribe will receive the primary benefit as the sole proprietor of the gaming activity.

“(2) Term.—

“(A) In general.—Except as provided in subparagraph (B), the term of a gaming-related contract shall not exceed 5 years.

“(B) Exceptions.—

“(i) Extraordinary circumstances.—Notwithstanding subparagraph (A), a gaming-related contract may have a term of not more than 7 years if the Chairman determines the term is appropriate, taking into consideration any extraordinary circumstances relating to the gaming-related contract.
“(ii) Financing Contracts.—The terms described in subparagraph (A) and clause (i) shall not apply to a financing contract.

“(3) Fees.—

“(A) In General.—Except as provided in subparagraph (B), the fee provided pursuant to a gaming-related contract shall not exceed an amount equal to 30 percent of the net revenues of the gaming operation that is the subject of the gaming-related contract.

“(B) Exceptions.—

“(i) Extraordinary Circumstances.—The fee provided pursuant to a gaming-related contract may be in an amount equal to not more than 40 percent of net revenues of the gaming operation that is the subject of the gaming-related contract if the Chairman determines that such a fee is appropriate, taking into consideration any extraordinary circumstances relating to the gaming-related contract.

“(ii) Financing Contracts.—The limitations described in subparagraph (A)
and clause (i) shall not apply to a financing contract.

“(4) REQUIREMENTS FOR DISAPPROVAL.—The Chairman shall disapprove a gaming-related contract under this subsection if the Chairman determines that—

“(A) the gaming-related contract fails to meet any requirement under paragraph (1), (2), or (3);

“(B) a gaming-related contractor that is a party to the gaming-related contract is unsuitable under subsection (c);

“(C) a gaming-related contractor or beneficiary of the gaming-related contract—

“(i) unduly interfered with or influenced a decision or process of tribal government relating to the gaming activity; or

“(ii) deliberately or substantially failed to comply with a tribal gaming ordinance or resolution;

“(D) the Indian tribe will not receive the primary benefit as the sole proprietor of the gaming activity;

“(E) a trustee would not approve the gaming-related contract because the compensation or
fees do not bear a reasonable relationship to the cost of the goods or benefit of the services provided; or

“(F) a person or an Indian tribe would violate a provision of this Act—

“(i) on approval of the gaming-related contract; or

“(ii) in carrying out the gaming-related contract.

“(5) Timelines.—

“(A) Submission of Gaming-Related Contracts.—To be approved under this subsection, a gaming-related contract shall be submitted to the Chairman by the appropriate Indian tribe by not later than 30 days after the date on which the gaming-related contract is executed.

“(B) Determination of Chairman.—

“(i) In General.—Subject to clause (ii), the Chairman shall approve or disapprove a management contract, a development contract, a participation contract, or other gaming-related contract designated by the Chairman under section 7 by not later than 90 days after the date on which such
a contract is submitted under subparagraph (A).

“(ii) FINANCING CONTRACTS AND CONSULTING CONTRACTS.—The Chairman shall approve or disapprove a financing contract or a consulting contract by not later than 30 days after the date on which such a contract is submitted under subparagraph (A).

“(iii) EXTENSIONS.—The Chairman may extend a deadline under clause (i) or (ii) on approval of the Indian tribe that is party to the applicable contract.

“(6) ADDITIONAL FACTORS FOR CONSIDERATION.—In determining whether to approve a gaming-related contract under this subsection, the Chairman may take into consideration any information relating to the terms, parties, and beneficiaries of—

“(A) the gaming-related contract; and

“(B) any other agreement relating to the Indian gaming activity, as the Chairman determines to be appropriate.

“(7) MODIFICATIONS.—Notwithstanding an approval of a gaming-related contract under this subsection, or a determination of suitability of a gaming-related contractor under subsection (c), if the Chair-
man determines, based on information that was not disclosed at the time of the approval or determination, that a gaming-related contract violates this Act, or that a determination of suitability should not have been made, the Chairman, after providing notice and an opportunity for a hearing, may—

“(A) require any modification of the gaming-related contract that the Chairman determines to be necessary to comply with this Act;

“(B) suspend performance under the gaming-related contract;

“(C) revoke a determination of suitability under subsection (c); or

“(D) void the gaming-related contract.

“(c) Suitability Determinations.—

“(1) In general.—Subject to paragraph (4), a gaming-related contract shall not be approved under subsection (b) unless, on receipt of an application for a determination of suitability, the Chairman determines under this subsection that each applicable gaming-related contractor is suitable.

“(2) Standard.—The Chairman, by regulation, shall establish a suitability standard under which a gaming-related contractor shall not be considered to
be suitable under this subsection if, as determined by
the Chairman—

“(A) the gaming-related contractor—

“(i) is an elected member of the gov-
erning body of an Indian tribe that is a
party to an applicable gaming-related con-
tract;

“(ii) at any time, was convicted of any
felony or gaming offense; or

“(iii)(I) has knowingly and willfully
provided materially important false state-
ments or information to the Commission or
the Indian tribe under this Act; or

“(II) has refused to provide informa-
tion requested by the Commission under
this Act; or

“(B) the prior activities, criminal record (if
any), reputation, habits, or associations of the
gaming-related contractor—

“(i) pose a threat to—

“(I) the public interest; or

“(II) the effective regulation of
gaming; or
“(ii) create or enhance the risk of unsuitable, unfair, or illegal practices, methods, or activities with respect to—

“(I) a gaming activity; or

“(II) the operation of a gaming facility.

“(3) AGREEMENTS WITH INDIAN TRIBES.—In carrying out this subsection, the Chairman may enter into a contract with any Indian tribe—

“(A) to conduct a background investigation of a gaming-related contractor;

“(B) to assist in determining the suitability of a gaming-related contractor; or

“(C) to facilitate tribal licensing of a person that provides goods or services directly relating to the tribal gaming activity or a gaming-related contractor in accordance with the standard established under paragraph (2).

“(4) ALTERNATIVE DETERMINATIONS AND EXCLUSIONS.—The Commission, by regulation, may establish, as the Commission determines to be appropriate—

“(A) alternative methods of determining suitability; and
“(B) categorical exclusions for persons or entities that are subject to licensing or suitability determinations by—

“(i) a Federal, State, or tribal agency;
or

“(ii) a professional association.

“(5) Registry.—The Chairman shall establish and maintain a registry of—

“(A) each suitability determination made under this subsection; and

“(B) each suitability determination of an Indian tribe provided under section 11.

“(6) Responsibility of Gaming-Related Contractor.—A gaming-related contractor shall—

“(A) pay the costs of any investigation activity of the Chairman in carrying out this subsection; and

“(B) provide to the Chairman a notice of any change in information provided during an investigation on discovery of the change

“(d) Conveyance of Real Property.—No gaming-related contract under this Act shall transfer or otherwise convey any interest in land or other real property unless the transfer or conveyance—

“(1) is authorized under law; and
“(2) is specifically described in the gaming-related contract.

“(e) CONTRACT AUTHORITY.—The authority of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) relating to contracts under this Act is transferred to the Commission.

“(f) NO EFFECT ON TRIBAL AUTHORITY.—This section does not expand, limit, or otherwise affect the authority of any Indian tribe or any party to a Tribal-State compact to investigate, license, or impose a fee on a gaming-related contractor.

“(g) APPEALS.—The Chairman, by regulation, shall provide an opportunity for an appeal, conducted through a hearing before the Commission, of any determination of the Chairman under this section by not later than 30 days after the date on which the determination is made.

“(h) EMERGENCY WAIVERS.—The Chairman may promulgate regulations providing for a waiver of any requirement under this section because of—

“(1) an emergency; or

“(2) an imminent threat to the public health or safety.”.

SEC. 9. CIVIL PENALTIES.

Section 14 of the Indian Gaming Regulatory Act (25 U.S.C. 2713) is amended—
“(1) by striking the section designation and heading and all that follows through subsection (a) and inserting the following:

“SEC. 14. CIVIL PENALTIES.

“(a) PENALTIES.—

“(1) VIOLATION OF ACT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an Indian tribe, individual, or entity that violates any provision of this Act (including any regulation of the Commission and any Indian tribal regulation, ordinance, or resolution approved under section 11 or 13) may be subject to, as the Chairman determines to be appropriate—

“(i) an appropriate civil fine, in an amount not to exceed $25,000 per violation per day; or

“(ii) an order of the Chairman for an accounting and disgorgement, including interest.

“(B) APPLICATION TO INDIAN TRIBES.—Subparagraph (A)(ii) shall not apply to any Indian tribe.
“(2) APPEALS.—The Chairman shall provide, by regulation, an opportunity to appeal a determination relating to a violation under paragraph (1).

“(3) WRITTEN COMPLAINTS.—

“(A) IN GENERAL.—If the Commission has reason to believe that an Indian tribe or a party to a gaming-related contract may be subject to a penalty under paragraph (1), the final closure of an Indian gaming activity, or a modification or termination order relating to the gaming-related contract, the Chairman shall provide to the Indian tribe or party a written complaint, including—

“(i) a description of any act or omission that is the basis of the belief of the Commission; and

“(ii) a description of any action being considered by the Commission relating to the act or omission.

“(B) REQUIREMENTS.—A written complaint under subparagraph (A)—

“(i) shall be written in common and concise language;
“(ii) shall identify any statutory or regulatory provision relating to an alleged violation by the Indian tribe or party; and
“(iii) shall not be written only in statutory or regulatory language.”;

(2) in subsection (b)—

(A) by striking “(b)(1) The Chairman” and inserting the following:

“(b) TEMPORARY CLOSURES.—
“(1) IN GENERAL.—The Chairman;

(B) in paragraph (1)—

(i) by striking “Indian game” and inserting “Indian gaming activity, or any part of such a gaming activity,”; and

(ii) by striking “section 11 or 13 of this Act” and inserting “section 11 or 13”;

and

(C) in paragraph (2)—

(i) by striking “(2) Not later than thirty” and inserting the following:

“(2) HEARINGS.—
“(A) IN GENERAL.—Not later than 30”;

(ii) in subparagraph (A) (as designating by clause (i))—
(I) by striking “management contractor” and inserting “party to a gaming-related contract”; and

(II) by striking “permanent” and inserting “final”; and

(iii) in the second sentence—

(I) by striking “Not later than sixty” and inserting the following:

“(B) DETERMINATION OF COMMISSION.—Not later than 60”; and

(II) by striking “permanent” and inserting “final”;

(3) in subsection (c), by striking “(c) A decision” and inserting the following:

“(c) APPEAL OF FINAL DETERMINATIONS.—A determination”; and

(4) in subsection (d), by striking “(d) Nothing” and inserting the following:

“(d) EFFECT ON REGULATORY AUTHORITY OF INDIAN TRIBES.—Nothing”.

SEC. 10. GAMING ON LATER-ACQUIRED LAND.

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

(1) in paragraph (1)—
(A) in subparagraph (A), by striking “(A) the Secretary, after consultation” and inserting the following:

“(A)(i) before April 15, 2006, an Indian tribe has submitted to the Secretary a written request to have land deemed eligible for gaming under this subparagraph; and

“(ii) the Secretary, after consultation”; and

(B) in subparagraph (B)—

(i) in clause (i), by striking the comma at the end and inserting the following:

“under Federal statutory law, if the land is within a State in which is located—

“(I) the reservation of such Indian tribe; or

“(II) the last recognized reservation of such Indian tribe;”;

(ii) by striking clause (ii) and inserting the following:

“(ii) the initial reservation of an Indian tribe acknowledged by the Secretary pursuant to the Federal acknowledgment process, if—

“(I) the Indian tribe has an historical and geographical nexus to the land, as determined by the Secretary; and
“(II) after consultation with the Indian tribe and appropriate local and tribal officials, and after providing for public notice and an opportunity to comment and a public hearing, the Secretary determines that a gaming establishment on the land—

“(aa) would be in the best interests of the Indian tribe and members of the tribe; and

“(bb) would not create significant, unmitigated impacts on the surrounding community; or”; and

(iii) by striking clause (iii) and inserting the following:

“(iii) the restoration of land for an Indian tribe that is restored to Federal recognition, if—

“(I) the Indian tribe has an historical and geographical nexus to the land, as determined by the Secretary;

“(II) a temporal connection exists between the acquisition of the land and the date of recognition of the tribe, as determined by the Secretary; and

“(III) after consultation with the Indian tribe and appropriate local and tribal
officials, and after providing for public no-
tice and an opportunity to comment and a
public hearing, the Secretary determines
that a gaming establishment on the land—
“(aa) would be in the best inter-
ests of the Indian tribe and members of
the tribe; and
“(bb) would not create significant,
unmitigated impacts on the sur-
rounding community.”; and
(2) by adding at the end the following:
“(4) Effect of subsection.—Nothing in this
subsection affects the validity of any determination
regarding the eligibility of land for gaming made by
the Secretary or Chairman before the date of enact-
ment of this paragraph.”.

SEC. 11. CONSULTATION POLICY.

The Indian Gaming Regulatory Act (25 U.S.C. 2701
et seq.) is amended by adding at the end the following:

“SEC. 25. CONSULTATION POLICY.

“In promulgating rules and regulations pursuant to
this Act, the Commission shall establish and maintain a
policy of consultation with Indian tribes in accordance with
the Federal trust responsibility and the government-to-gov-
ernment relationship that exists between Indian tribes and the Federal Government.”.

SEC. 12. IMPLEMENTATION.

The Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) (as amended by section 11) is amended by adding at the end the following:

“SEC. 26. IMPLEMENTATION.

“(a) RULES AND REGULATIONS.—Not later than 2 years after the date of enactment of this section, the Commission, in consultation with Indian tribes, shall promulgate rules and regulations implementing new definitions, authorities, responsibilities, and restrictions in accordance with the Indian Gaming Regulatory Act Amendments of 2006.

“(b) REPORT.—Not later than 1 year after the date of enactment of this section, the Commission shall submit to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives a report describing the status of the promulgation of rules and regulations pursuant to subsection (a).

“(c) GAMING-RELATED CONTRACTS.—

“(1) EFFECTIVE DATE.—With respect to gaming-related contracts other than management contracts, section 12 shall not take effect until the date on which
rules and regulations implementing that section are
promulgated pursuant to subsection (a).

“(2) Effect on existing gaming-related
contracts.—Notwithstanding section 12, a gaming-
related contract entered into before the date of enact-
ment of this section that is not approved by the
Chairman shall be valid.

“(d) Effect on existing regulations.—Nothing
in this section prohibits, limits, or restricts the Commission
from—

“(1) applying any regulation in effect on the
date of enactment of this section that is not incon-
sistent with this Act;

“(2) amending any regulation; or

“(3) adopting any new regulation.”.

SEC. 13. CONFORMING AMENDMENT.

(a) In general.—Section 123(a)(2) of the Depart-
ment of the Interior and Related Agencies Appropriations
Act, 1998 (Public Law 105–83; 111 Stat. 1566) is amend-
ed—

(1) in subparagraph (A), by adding “and” at the
end;

(2) in subparagraph (B), by striking “; and”
and inserting a period; and

(3) by striking subparagraph (C).
(b) APPLICABILITY.—Notwithstanding any other provision of law, section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(a)) shall apply to all Indian tribes.
A BILL

To amend the Indian Gaming Regulatory Act to clarify the authority of the National Indian Gaming Commission to regulate class III gaming, to limit the lands eligible for gaming, and for other purposes.

JUNE 6, 2006

Reported with an amendment