

Calendar No. 346

104TH CONGRESS
2^D Session

S. 487

[Report No. 104-241]

A BILL

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

MARCH 14 (legislative day, MARCH 13), 1996
Reported with an amendment

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

IN THE SENATE OF THE UNITED STATES

MARCH 2 (legislative day, FEBRUARY 22), 1995

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

MARCH 14 (legislative day, MARCH 13), 1996

Reported by Mr. MCCAIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

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

5 (1) by striking the first section and inserting
 6 the following new section:

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

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

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

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

“Sec. 2: Congressional findings.

“Sec. 3: Purposes.

“Sec. 4: Definitions.

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

“Sec. 6: Powers of the Chairperson.

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

“Sec. 8: Regulatory framework.

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

“Sec. 10: Licensing.

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

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

“Sec. 13: Review of contracts.

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

“Sec. 15: Civil penalties.

“Sec. 16: Judicial review.

“Sec. 17: Commission funding.

“Sec. 18: Authorization of appropriations.

“Sec. 19: Miscellaneous.

“Sec. 20: Dissemination of information.

“Sec. 21: Severability.

“Sec. 22: Criminal penalties.

“Sec. 23: Conforming amendment.

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

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

1 **~~“SEC. 2. CONGRESSIONAL FINDINGS.~~**

2 ~~“The Congress finds that—~~

3 ~~“(1) Indian tribes are—~~

4 ~~“(A) engaged in the operation of gaming~~
5 ~~activities on Indian lands as a means of gener-~~
6 ~~ating tribal governmental revenue; and~~

7 ~~“(B) licensing such activities;~~

8 ~~“(2) 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 ~~“(3) a principal goal of Federal Indian policy is~~
13 ~~to promote tribal economic development, tribal self-~~
14 ~~sufficiency, and strong tribal government;~~

15 ~~“(4) while Indian tribes have the right to regu-~~
16 ~~late the operation of gaming activities on Indian~~
17 ~~lands if such gaming activities are—~~

18 ~~“(A) not specifically prohibited by Federal~~
19 ~~law; and~~

20 ~~“(B) conducted within a State that as a~~
21 ~~matter of public policy permits such gaming ac-~~
22 ~~tivities;~~

23 ~~Congress has the authority to regulate the privilege~~
24 ~~of doing business with Indian tribes in Indian coun-~~
25 ~~try (as defined in section 1151 of title 18, United~~
26 ~~States Code);~~

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

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

8 “(7) the Constitution vests the Congress with
 9 the powers to regulate Commerce with foreign Na-
 10 tions; and among the several States; and with the
 11 Indian Tribes; and this Act is enacted in the exercise
 12 of those powers.

13 **“SEC. 3. PURPOSES.**

14 “The purposes of this Act are—

15 “(1) to ensure the right of Indian tribes to con-
 16 duct gaming activities on Indian lands in a manner
 17 consistent with the decision of the Supreme Court in
 18 California et al. v. Cabazon Band of Mission Indians
 19 et al. (480 U.S. 202, 107 S. Ct. 1083, 94 L. Ed.
 20 2d 244 (1987)), involving the Cabazon and Morongo
 21 Bands of Mission Indians;

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

1 “(3) to provide a statutory basis for the regula-
 2 tion of gaming activities on Indian lands by an In-
 3 dian tribe adequate to shield such activities from or-
 4 ganized crime and other corrupting influences; to en-
 5 sure that an Indian tribal government is the primary
 6 beneficiary of the operation of gaming activities; and
 7 to ensure that gaming is conducted fairly and hon-
 8 estly by both the operator and players; and

9 “(4) to declare that the establishment of inde-
 10 pendent Federal regulatory authority for the conduct
 11 of gaming activities on Indian lands and the estab-
 12 lishment of Federal minimum regulatory require-
 13 ments for the conduct of gaming activities on Indian
 14 lands are necessary to protect such gaming.

15 **“SEC. 4. DEFINITIONS.**

16 “For purposes of this Act, the following definitions
 17 shall apply:

18 “(1) **APPLICANT.**—The term ‘applicant’ means
 19 any person who applies for a license pursuant to this
 20 Act, including persons applying for a renewal of a li-
 21 cense.

22 “(2) **ADVISORY COMMITTEE.**—The term ‘Advi-
 23 sory Committee’ means the Advisory Committee on
 24 Minimum Regulatory Requirements and Licensing
 25 Standards established under section 9(a).

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

4 “(4) CHAIRPERSON.—The term ‘Chairperson’
 5 means the Chairperson of the Federal Indian Gam-
 6 ing Regulatory Commission established under sec-
 7 tion 5.

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

13 “(6) CLASS II GAMING.—

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

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

23 “(I) which is played for prizes,
 24 including monetary prizes, with cards

1 bearing numbers or other designa-
2 tions;

3 “(II) in which the holder of the
4 card covers such numbers or designa-
5 tions when objects, similarly num-
6 bered or designated, are drawn or
7 electronically determined; and

8 “(III) in which the game is won
9 by the first person covering a pre-
10 viously designated arrangement of
11 numbers or designations on such
12 cards; and

13 “(ii) card games that—

14 “(I) are explicitly authorized by
15 the laws of a State; or

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

1 “(B) EXCLUSIONS.—The term ‘class H
2 gaming’ does not include—

3 “(i) any banking card games, includ-
4 ing baccarat, chemin de fer, or blackjack
5 (21); or

6 “(ii) gambling devices, as defined in
7 paragraph (11), except for any class H
8 game that is played under subparagraph
9 (A)(i) with technologic aid that has been
10 approved by the Commission.

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

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

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

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

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

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

22 “(B) merely assists a player or the playing
23 of a game; and

24 “(C) is operated according to applicable
25 Federal communications law.

1 “(11) ELECTRONIC OR ELECTROMECHANICAL
2 FACSIMILE.—The term ‘electronic or
3 electromechanical facsimile’ means any gambling de-
4 vice, as defined in paragraph (12).

5 “(12) GAMBLING DEVICE.—The term ‘gambling
6 device’ means—

7 “(A) any gambling device, as defined in
8 section 1(a) of the Act of January 2, 1951
9 (commonly referred to as the ‘Gambling Devices
10 Transportation Act’) (64 Stat. 1134, chapter
11 1194; 15 U.S.C. 1171(a)), including any elec-
12 tronic or electromechanical facsimile; and

13 “(B) does not include a technological aid
14 to class II gaming that is approved by the Com-
15 mission.

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

19 “(A) under which an Indian tribe or an
20 agent of any Indian tribe procures gaming ma-
21 terials, supplies, equipment, or services that are
22 used in the conduct of a class II or class III
23 gaming activity; or

1 “(B) financing contracts or agreements for
2 any facility in which a gaming activity is to be
3 conducted.

4 “(14) GAMING-RELATED CONTRACTOR.—The
5 term ‘gaming-related contractor’ means any person
6 who enters into a gaming-related contract with an
7 Indian tribe or an agent of an Indian tribe, includ-
8 ing any person with a financial interest in such con-
9 tract.

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

15 “(A) the proposed agreement between the
16 enterprise and a class II or class III gaming op-
17 eration, or the aggregate of such agreements is
18 for an amount of not less than \$100,000 per
19 year; or

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

24 “(16) INDIAN LANDS.—The term ‘Indian lands’
25 means—

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

3 “(B) any lands—

4 “(i) the title to which is held in trust
5 by the United States for the benefit of any
6 Indian tribe; or

7 “(ii) the title to which is—

8 “(I) held by an Indian tribe sub-
9 ject to a restriction by the United
10 States against alienation;

11 “(II) held by the United States
12 for the benefit of an individual Indian;
13 or

14 “(III) held by an individual sub-
15 ject to restriction by the United
16 States against alienation; and

17 “(iii) over which an Indian tribe exer-
18 cises governmental power.

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

22 “(A) is recognized as eligible by the Sec-
23 retary for the special programs and services
24 provided by the United States to Indians be-
25 cause of their status as Indians; and

1 “(B) is recognized as possessing powers of
2 self-government.

3 ~~“(18) KEY EMPLOYEE.—~~The term ‘key em-
4 ployee’ means any individual employed in a gaming
5 operation licensed pursuant to this Act in a super-
6 visory capacity or empowered to make any discre-
7 tionary decision with regard to the gaming oper-
8 ation, including any pit boss, shift boss, credit exec-
9 utive, cashier supervisor, gaming facility manager or
10 assistant manager, or manager or supervisor of se-
11 curity employees.

12 ~~“(19) MANAGEMENT CONTRACT.—~~The term
13 ‘management contract’ means any contract or collat-
14 eral agreement between an Indian tribe and a con-
15 tractor, if such contract or agreement provides for
16 the management of all or part of a gaming oper-
17 ation.

18 ~~“(20) MANAGEMENT CONTRACTOR.—~~The term
19 ‘management contractor’ means any person entering
20 into a management contract with an Indian tribe or
21 an agent of the Indian tribe for the management of
22 a gaming operation, including any person with a fi-
23 nancial interest in such contract.

24 ~~“(21) MATERIAL CONTROL.—~~The term ‘mate-
25 rial control’ means the exercise of authority or su-

1 pervision or the power to make or cause to be made
 2 any discretionary decision with regard to matters
 3 which have a substantial effect on the financial or
 4 management aspects of a gaming operation.

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

8 “(A) any amounts paid out or paid for as
 9 prizes; and

10 “(B) the total operating expenses associ-
 11 ated with the gaming activity, excluding man-
 12 agement fees.

13 “(23) PERSON.—The term ‘person’ means an
 14 individual, firm, corporation, association, partner-
 15 ship, trust, consortium, joint venture, entity, or
 16 gaming operation.

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

19 **“SEC. 5. ESTABLISHMENT OF THE FEDERAL INDIAN GAM-**
 20 **ING REGULATORY COMMISSION.**

21 “(a) ESTABLISHMENT.—There is established as an
 22 independent agency of the United States, a Commission
 23 to be known as the Federal Indian Gaming Regulatory
 24 Commission. Such Commission shall be an independent es-

1 tablishment, as defined in section 104 of title 5, United
2 States Code.

3 ~~“(b) COMPOSITION OF THE COMMISSION.—~~

4 ~~“(1) IN GENERAL.—The Commission shall be~~
5 ~~composed of 3 full-time members, who shall be ap-~~
6 ~~pointed by the President, by and with the advice and~~
7 ~~consent of the Senate.~~

8 ~~“(2) CITIZENSHIP OF MEMBERS.—Each mem-~~
9 ~~ber of the Commission shall be a citizen of the Unit-~~
10 ~~ed States.~~

11 ~~“(3) REQUIREMENTS FOR MEMBERS.—No~~
12 ~~member of the Commission may—~~

13 ~~“(A) pursue any other business or occupa-~~
14 ~~tion or hold any other office;~~

15 ~~“(B) be actively engaged in or, other than~~
16 ~~through distribution of gaming revenues as a~~
17 ~~member of an Indian tribe, have any direct pe-~~
18 ~~cuniary interest in gaming activities;~~

19 ~~“(C) other than through distribution of~~
20 ~~gaming revenues as a member of an Indian~~
21 ~~tribe, have any pecuniary interest in any busi-~~
22 ~~ness or organization that holds a gaming license~~
23 ~~under this Act or that does business with any~~
24 ~~person or organization licensed under this Act;~~

1 ~~“(D) have been convicted of a felony or~~
 2 ~~gaming offense; or~~

3 ~~“(E) have any financial interest in, or~~
 4 ~~management responsibility for, any gaming-re-~~
 5 ~~lated contract or any other contract approved~~
 6 ~~pursuant to this Act.~~

7 ~~“(4) POLITICAL AFFILIATION.—~~

8 ~~“(A) IN GENERAL.—Not more than 2~~
 9 ~~members of the Commission shall be members~~
 10 ~~of the same political party. In making appoint-~~
 11 ~~ments to the Commission, the President shall~~
 12 ~~appoint members of different political parties,~~
 13 ~~to the extent practicable.~~

14 ~~“(B) TRIBAL MEMBERSHIP.—At least 2~~
 15 ~~members of the Commission shall each be a~~
 16 ~~member of a federally recognized Indian tribe.~~
 17 ~~No 2 members appointed under this subpara-~~
 18 ~~graph shall be members of the same Indian~~
 19 ~~tribe.~~

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

23 ~~“(A) CERTIFIED PUBLIC ACCOUNTANT~~
 24 ~~REPRESENTATION.—One member of the Com-~~
 25 ~~mission shall be a certified public accountant~~

1 with not less than 5 years of progressively re-
 2 sponsible experience in accounting and auditing,
 3 and a comprehensive knowledge of the prin-
 4 ciples and practices of corporate finance.

5 “(B) LAW ENFORCEMENT REPRESENTA-
 6 TION.—One member of the Commission shall be
 7 selected with special reference to training and
 8 experience in the fields of investigation or law
 9 enforcement.

10 “(6) BACKGROUND INVESTIGATIONS.—The At-
 11 torney General shall conduct a background inves-
 12 tigation concerning any individual under consider-
 13 ation for appointment to the Commission, with par-
 14 ticular regard to the financial stability, integrity, re-
 15 sponsibility, and reputation for good character, hon-
 16 esty, and integrity of the nominee.

17 “(c) CHAIRPERSON.—The President shall select a
 18 Chairperson from among the members appointed to the
 19 Commission.

20 “(d) VICE CHAIRPERSON.—The Commission shall se-
 21 lect, by majority vote, one of the members of the Commis-
 22 sion to serve as Vice Chairperson. The Vice Chairperson
 23 shall—

24 “(1) serve as Chairperson of the Commission in
 25 the absence of the Chairperson; and

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

3 ~~“(e) TERMS OF OFFICE.—~~

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

6 ~~“(2) INITIAL APPOINTMENTS.—Initial appoint-~~
 7 ~~ments to the Commission shall be made for the fol-~~
 8 ~~lowing terms:~~

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

11 ~~“(B) One member shall be appointed for a~~
 12 ~~term of 4 years.~~

13 ~~“(C) One member shall be appointed for a~~
 14 ~~term of 3 years.~~

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

17 ~~“(f) VACANCIES.—~~

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

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

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

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

12 “(h) MEETINGS.—

13 “(1) IN GENERAL.—The Commission shall meet
 14 at the call of the Chairperson or a majority of the
 15 members of the Commission.

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

19 “(i) COMPENSATION.—

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

24 “(2) OTHER MEMBERS.—Each other member of
 25 the Commission shall be paid at a rate equal to that

1 of level V of the Executive Schedule under section
2 5316 of title 5, United States Code.

3 “(3) TRAVEL.—All members of the Commission
4 shall be reimbursed in accordance with title 5, Unit-
5 ed States Code, for travel, subsistence, and other
6 necessary expenses incurred by them in the perform-
7 ance of their duties.

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

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

13 “(a) CHIEF EXECUTIVE OFFICER.—The Chairperson
14 shall serve as the chief executive officer of the Commis-
15 sion.

16 “(b) ADMINISTRATION OF THE COMMISSION.—

17 “(1) IN GENERAL.—Subject to subsection (c),
18 the Chairperson—

19 “(A) shall employ and supervise such per-
20 sonnel as the Chairperson considers necessary
21 to carry out the functions of the Commission,
22 and assign work among such personnel;

23 “(B) shall appoint a General Counsel to
24 the Commission who shall be paid at the annual
25 rate of basic pay payable for ES-6 of the Sen-

ior Executive Service Schedule under section 5382 of title 5, United States Code;

“(C) shall appoint and supervise other staff of the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service;

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

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

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

“(G) may contract for the services of such other professional, technical, and operational personnel and consultants as may be necessary to the performance of the Commission’s responsibilities under this Act.

1 ~~“(2) COMPENSATION OF STAFF.—~~The staff re-
 2 ferred to in paragraph (1)(C) shall be paid without
 3 regard to the provisions of chapter 51 and sub-
 4 chapters III and VIII of chapter 53 of title 5, Unit-
 5 ed States Code, relating to classification and Gen-
 6 eral Schedule and Senior Executive Service Schedule
 7 pay rates, except that no individual so appointed
 8 may receive pay in excess of the annual rate of basic
 9 pay payable for ES-5 of the Senior Executive Serv-
 10 ice Schedule under section 5382 of title 5, United
 11 States Code.

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

17 **~~“SEC. 7. POWERS AND AUTHORITY OF THE COMMISSION.~~**

18 ~~“(a) GENERAL POWERS.—~~

19 ~~“(1) IN GENERAL.—~~The Commission shall have
 20 the power to—

21 ~~“(A) approve the annual budget of the~~
 22 Commission;

23 ~~“(B) promulgate regulations to carry out~~
 24 this Act;

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

3 “(D) conduct investigations, including
4 background investigations;

5 “(E) issue a temporary order closing the
6 operation of gaming activities;

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

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

16 “(H) inspect and examine all premises in
17 which class II or class III gaming is conducted
18 on Indian lands;

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

1 “(J) use the United States mail in the
2 same manner and under the same conditions as
3 any department or agency of the United States;

4 “(K) procure supplies, services, and prop-
5 erty by contract in accordance with applicable
6 Federal laws;

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

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

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

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

1 “(P) collect all fees and assessments au-
2 thorized by this Act and the regulations pro-
3 mulgated pursuant to this Act;

4 “(Q) assess penalties for violations of the
5 provisions of this Act and the regulations pro-
6 mulgated pursuant to this Act;

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

11 “(S) monitor and, as specifically author-
12 ized by this Act, regulate class II and class III
13 gaming;

14 “(T) approve all management-related and
15 gaming-related contracts; and

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

1 istrative law judge, or an employee of the Com-
2 mission.

3 ~~“(2) STATUTORY CONSTRUCTION.—Nothing in~~
4 this section may be construed to authorize the dele-
5 gation of the function of rulemaking, as described in
6 subchapter II of chapter 5 of title 5, United States
7 Code, with respect to general rules (as distinguished
8 from rules of particular applicability), or the promul-
9 gation of any other rule.

10 ~~“(b) RIGHT TO REVIEW DELEGATED FUNCTIONS.—~~

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

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

1 “(3) FAILURE TO CONDUCT REVIEW.—If the
 2 Commission declines to exercise the right to such re-
 3 view or fails to exercise such right within the appli-
 4 cable period specified in regulations promulgated by
 5 the Commission, the action of any such division of
 6 the Commission, individual member of the Commis-
 7 sion, administrative law judge, or employee, shall,
 8 for all purposes, including any appeal or review of
 9 such action, be deemed an action of the Commission.

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

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

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

21 “(A) surveillance and security personnel
 22 and systems capable of monitoring all gaming
 23 activities, including the conduct of games, cash-
 24 iers’ cages, change booths, count rooms, move-
 25 ments of cash and chips, entrances and exits to

1 gaming facilities, and other critical areas of any
2 gaming facility;

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

6 “(C) credit and debit collection controls;

7 “(D) controls over gambling devices and
8 equipment; and

9 “(E) accounting and auditing.

10 “(d) COMMISSION ACCESS TO INFORMATION.—

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

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

1 agency shall furnish such information to the Com-
2 mission.

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

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

12 “(e) ~~INVESTIGATIONS AND ACTIONS.~~—

13 “(1) ~~IN GENERAL.~~—

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

1 the relevant facts and circumstances regarding
 2 the matter under investigation by the Commis-
 3 sion pursuant to this subsection.

4 “(B) ADMINISTRATIVE INVESTIGATIONS.—

5 The Commission is authorized, at the discretion
 6 of the Commission, and as specifically author-
 7 ized by this Act, to investigate such facts, con-
 8 ditions, practices, or matters as the Commission
 9 considers necessary or proper to aid in—

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

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

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

18 “(2) ADMINISTRATIVE AUTHORITIES.—

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

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

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

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

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

~~“(3) ENFORCEMENT.—~~

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

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

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

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

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

15 **“SEC. 8. REGULATORY FRAMEWORK.**

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

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

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

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

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

7 “(1) monitor and regulate gaming;

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

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

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

20 “(1) monitor and regulate such gaming;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 **“SEC. 10. LICENSING.**

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

19 “(1) gaming operations;

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

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

23 “(4) any gaming service industry; and

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

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

9 “(1) management contractors; and

10 “(2) gaming operations.

11 “(c) STATEMENT OF COMPLIANCE.—

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

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

25 “(d) GAMING OPERATION LICENSE.—

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

5 “(2) WRITTEN AGREEMENTS.—

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

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

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

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

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

7 “(f) APPLICATION FOR LICENSE.—

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

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

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

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

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

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

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

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

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

14 “(6) DENIALS.—

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

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

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

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

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

13 “(8) BONDS.—

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

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

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

1 “(i) in cash or negotiable securities;

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

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

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

13 “(g) RENEWAL OF LICENSE.—

14 “(1) IN GENERAL.—

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

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

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

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

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

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

“(2) TRANSITION.—

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

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

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

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

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

14 ~~“(h) HEARINGS.—~~

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

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

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

24 ~~“(B) issue an order; and~~

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

3 ~~“(3) REHEARING.—~~

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

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

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

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

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

22 ~~“(ii) issue an order; and~~

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

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

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

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

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

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

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

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

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

24 “(b) CLASS II GAMING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 “(I) ensures that—

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

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

5 “(H) includes—

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

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

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

1 investigation before the issuance
2 of any such license;

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

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

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

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

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

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

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

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

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

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

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

operation conducted on Indian lands within the jurisdiction of the Indian tribe if such 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) shall not bar the continued operation of an individually owned class II gaming operation that was operating on September 1, 1986, if—

“(I) such gaming operation is licensed and regulated by an Indian tribe;

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

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

“(IV) the owner of such gaming operation pays an appropriate assessment to the Commission pursuant to

1 section 17 for the regulation of such
2 gaming.

3 “(ii) LIMITATIONS ON EXEMPTION.—

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

12 “(C) LIST.—The Commission shall—

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

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

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

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

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

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

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

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

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

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

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

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

“(B) adopted and implemented adequate
systems for—

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

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

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

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

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

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

17 “(A) the tribe shall—

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

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

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

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

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

16 “(1) shall suspend such license; and

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

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

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

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

1 “(A) authorized by a compact that—

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

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

8 “(iii) is approved by the Secretary;

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

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

13 “(i) is in effect; and

14 “(ii) is—

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

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

20 “(2) COMPACT NEGOTIATIONS.—

21 “(A) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

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

11 ~~“(i) include provisions—~~

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

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

20 ~~“(ii) not violate—~~

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

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

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

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

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

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

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

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

10 “(3) PROVISIONS OF COMPACTS.—

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

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

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

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

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

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

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

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

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

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

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.

“(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.

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

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

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

13 “(c) APPROVAL OF COMPACTS.—

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

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

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

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

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

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

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

18 “(d) REVOCATION OF ORDINANCE.—

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

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

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

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

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

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

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

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

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

1 **~~“SEC. 13. REVIEW OF CONTRACTS.~~**

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

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

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

11 **~~“(b) MANAGEMENT CONTRACT REQUIREMENTS.—~~**

12 ~~The Commission shall approve any management contract~~
 13 ~~between an Indian tribe and a person licensed by an In-~~
 14 ~~dian tribe or the Commission that is entered into pursuant~~
 15 ~~to this Act only if the Commission determines that the~~
 16 ~~contract provides for—~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 ~~“(e) TIME PERIOD FOR REVIEW.—~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 business and financial arrangements incidental
2 thereto;

3 ~~“(2) the contractor—~~

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

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

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

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

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

18 ~~“(a) REVIEW OF EXISTING CONTRACTS.—~~

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

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

9 ~~“(2) REVIEW.—~~

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

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

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

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

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

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

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

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

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

8 **~~“SEC. 15. CIVIL PENALTIES.~~**

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

17 ~~“(b) ASSESSMENT AND COLLECTION.—~~

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

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

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

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

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

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

16 “(c) TEMPORARY CLOSURES.—

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

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

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

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

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

12 **~~“SEC. 16. JUDICIAL REVIEW.~~**

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

18 **~~“SEC. 17. COMMISSION FUNDING.~~**

19 ~~“(a) ANNUAL FEES.—~~

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

25 ~~“(2) LIMITATION ON FEE RATES.—~~

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

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

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

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

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

ject to regulations promulgated by the Commission;
 be grounds for revocation of the approval of the
 Commission of any license required under this Act
 for the operation of gaming activities.

“(6) SURPLUS FUNDS.—To the extent that revenue derived from fees imposed under the schedule established under paragraph (1) exceed the limitation in paragraph (2)(B) or are not expended or committed at the close of any fiscal year, such surplus funds shall be credited to each gaming activity that is the subject of the fees on a pro rata basis against such fees imposed for the succeeding year.

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

“(c) ANNUAL BUDGET.—

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

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

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

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

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

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

20 **~~“SEC. 19. MISCELLANEOUS.~~**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(B) the interests of the Miccosukee Tribe of Indians of Florida in approximately 25 contiguous acres of land, more or less, in Dade County, Florida, located within 1 mile of the intersection of State road numbered 27 (also known as Krome Avenue) and the Tamiami Trail.

“(4) AUTHORITY OF THE SECRETARY.—Nothing in this section may affect or diminish the authority and responsibility of the Secretary to take land into trust.

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

“(1) IN GENERAL.—The provisions of the Internal Revenue Code of 1986 (including sections 1441, 3402(q), 6041, and chapter 35 of such Code) concerning the reporting and withholding of taxes with respect to the winnings from gaming or wagering operations shall apply to Indian gaming operations conducted pursuant to this Act, or under a compact

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

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

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

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

ities under this Act or any compact approved by the Secretary.”;

(3) by striking section 20;

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

(5) by adding at the end the following new section:

“SEC. 24. DEFINITION OF FINANCIAL INSTITUTIONS.

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

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

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

“(X) an Indian gaming establishment;”.

SEC. 3. CONFORMING AMENDMENTS.

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

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

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

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

4 (2) in section 1167—

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

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

14 (3) in section 1168—

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

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

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

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

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

5 (1) in section 3701(2)—

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

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

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

17 **SECTION 1. SHORT TITLE.**

18 *This Act may be cited as the “Indian Gaming Regu-*
 19 *latory Act Amendments Act of 1995”.*

20 **SEC. 2. AMENDMENTS TO THE INDIAN GAMING REGU-**
 21 **LATORY ACT.**

22 *The Indian Gaming Regulatory Act (25 U.S.C. 2701*
 23 *et seq.) is amended—*

24 (1) *by striking the first section and inserting the*
 25 *following new section:*

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

2 “(a) *SHORT TITLE.*—This Act may be cited as the ‘In-

3 *dian Gaming Regulatory Act*’.

4 “(b) *TABLE OF CONTENTS.*—The table of contents for

5 *this Act is as follows:*

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

“Sec. 2. *Congressional findings.*

“Sec. 3. *Purposes.*

“Sec. 4. *Definitions.*

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

“Sec. 6. *Powers of the Chairperson.*

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

“Sec. 8. *Regulatory framework.*

“Sec. 9. *Advisory Committee on Minimum Regulatory Requirements and Licens-*
ing Standards.

“Sec. 10. *Licensing.*

“Sec. 11. *Requirements for the conduct of class I and class II gaming on Indian*
lands.

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

“Sec. 13. *Review of contracts.*

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

“Sec. 15. *Civil penalties.*

“Sec. 16. *Judicial review.*

“Sec. 17. *Commission funding.*

“Sec. 18. *Authorization of appropriations.*

“Sec. 19. *Application of the Internal Revenue Code of 1986.*

“Sec. 20. *Gaming on lands acquired after October 17, 1988.*

“Sec. 21. *Dissemination of information.*

“Sec. 22. *Severability.*

“Sec. 23. *Criminal penalties.*

“Sec. 24. *Conforming amendment.*”;

6 (2) *by striking sections 2 and 3 and inserting*

7 *the following new sections:*

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

9 “The Congress finds that—

10 “(1) *Indian tribes are—*

11 “(A) *engaged in the operation of gaming ac-*

12 *tivities on Indian lands as a means of generat-*

13 *ing tribal governmental revenue; and*

1 “(B) *licensing such activities;*

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

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

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

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

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

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

21 “(5) *systems for the regulation of gaming activi-*
22 *ties on Indian lands should meet or exceed federally*
23 *established minimum regulatory requirements;*

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

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

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

8 **“SEC. 3. PURPOSES.**

9 *“The purposes of this Act are—*

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

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

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

1 *mary beneficiary of the operation of gaming activi-*
 2 *ties, and to ensure that gaming is conducted fairly*
 3 *and honestly by both the operator and players; and*

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

10 *(3) in section 4—*

11 *(A) by redesignating paragraphs (7) and*
 12 *(8) as paragraphs (6) and (7), respectively;*

13 *(B) by striking paragraphs (1) through (6)*
 14 *and inserting the following new paragraphs:*

15 *“(1) APPLICANT.—The term ‘applicant’ means*
 16 *any person who applies for a license pursuant to this*
 17 *Act, including any person who applies for a renewal*
 18 *of a license.*

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

23 *“(3) ATTORNEY GENERAL.—The term ‘Attorney*
 24 *General’ means the Attorney General of the United*
 25 *States.*

1 “(4) *CHAIRPERSON*.—The term ‘Chairperson’
2 *means the Chairperson of the Federal Indian Gaming*
3 *Regulatory Commission established under section 5.*

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

9 *(C) by striking paragraphs (9) and (10);*
10 *and*

11 *(D) by adding after paragraph (7) (as re-*
12 *designated by subparagraph (A) of this para-*
13 *graph) the following new paragraphs:*

14 “(8) *COMMISSION*.—The term ‘Commission’
15 *means the Federal Indian Gaming Regulatory Com-*
16 *mission established under section 5.*

17 “(9) *COMPACT*.—The term ‘compact’ means an
18 *agreement relating to the operation of class III gam-*
19 *ing on Indian lands that is entered into by an Indian*
20 *tribe and a State and that is approved by the Sec-*
21 *retary.*

22 “(10) *GAMING OPERATION*.—The term ‘gaming
23 *operation’ means an entity that conducts class II or*
24 *class III gaming on Indian lands.*

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

4 “(A) *under which an Indian tribe or an*
 5 *agent of any Indian tribe procures gaming mate-*
 6 *rials, supplies, equipment, or services that are*
 7 *used in the conduct of a class II or class III*
 8 *gaming activity, or*

9 “(B) *financing contracts or agreements for*
 10 *any facility in which a gaming activity is to be*
 11 *conducted.*

12 “(12) *GAMING-RELATED CONTRACTOR.*—*The*
 13 *term ‘gaming-related contractor’ means any person*
 14 *who enters into a gaming-related contract with an In-*
 15 *dian tribe or an agent of an Indian tribe, including*
 16 *any person with a financial interest in such contract.*

17 “(13) *GAMING SERVICE INDUSTRY.*—*The term*
 18 *‘gaming service industry’ means any form of enter-*
 19 *prise that provides goods or services that are used in*
 20 *conjunction with any class II or class III gaming ac-*
 21 *tivity, in any case in which—*

22 “(A) *the proposed agreement between the en-*
 23 *terprise and a class II or class III gaming oper-*
 24 *ation, or the aggregate of such agreements is for*

1 *an amount of not less than \$100,000 per year;*
 2 *or*

3 “(B) *the amount of business conducted by*
 4 *such enterprise with any such gaming operation*
 5 *in the 1-year period preceding the effective date*
 6 *of the proposed agreement between the enterprise*
 7 *and a class II or class III gaming operation was*
 8 *not less than \$250,000.*

9 “(14) *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—*

14 “(i) *the title to which is held in trust*
 15 *by the United States for the benefit of any*
 16 *Indian tribe; or*

17 “(ii)(I) *the title to which is—*

18 “(aa) *held by an Indian tribe sub-*
 19 *ject to a restriction by the United*
 20 *States against alienation;*

21 “(bb) *held in trust by the United*
 22 *States for the benefit of an individual*
 23 *Indian; or*

1 “(cc) held by an individual sub-
 2 ject to restriction by the United States
 3 against alienation; and

4 “(II) over which an Indian tribe exer-
 5 cises governmental power.

6 “(15) INDIAN TRIBE.—The term ‘Indian tribe’
 7 means any Indian tribe, band, nation, or other orga-
 8 nized group or community of Indians that—

9 “(A) is recognized as eligible by the Sec-
 10 retary for the special programs and services pro-
 11 vided by the United States to Indians because of
 12 their status as Indians; and

13 “(B) is recognized as possessing powers of
 14 self-government.

15 “(16) KEY EMPLOYEE.—The term ‘key employee’
 16 means any individual employed in a gaming oper-
 17 ation licensed pursuant to this Act in a supervisory
 18 capacity or empowered to make any discretionary de-
 19 cision with regard to the gaming operation, including
 20 any pit boss, shift boss, credit executive, cashier su-
 21 pervisor, gaming facility manager or assistant man-
 22 ager, or manager or supervisor of security employees.

23 “(17) MANAGEMENT CONTRACT.—The term
 24 ‘management contract’ means any contract or collat-
 25 eral agreement between an Indian tribe and a con-

1 *tractor, if such contract or agreement provides for the*
 2 *management of all or part of a gaming operation.*

3 “(18) *MANAGEMENT CONTRACTOR.*—*The term*
 4 *‘management contractor’ means any person entering*
 5 *into a management contract with an Indian tribe or*
 6 *an agent of the Indian tribe for the management of*
 7 *a gaming operation, including any person with a fi-*
 8 *nancial interest in such contract.*

9 “(19) *MATERIAL CONTROL.*—*The term ‘material*
 10 *control’ means the exercise of authority or supervision*
 11 *or the power to make or cause to be made any discre-*
 12 *tionary decision with regard to matters which have a*
 13 *substantial effect on the financial or management as-*
 14 *pects of a gaming operation.*

15 “(20) *NET REVENUES.*—*The term ‘net revenues’*
 16 *means the gross revenues of an Indian gaming activ-*
 17 *ity reduced by the sum of—*

18 “(A) *any amounts paid out or paid for as*
 19 *prizes; and*

20 “(B) *the total operating expenses associated*
 21 *with the gaming activity, excluding management*
 22 *fees.*

23 “(21) *PERSON.*—*The term ‘person’ means an in-*
 24 *dividual, firm, corporation, association, organization,*

1 *partnership, trust, consortium, joint venture, or en-*
 2 *tity.*

3 “(22) *SECRETARY.*—*The term ‘Secretary’ means*
 4 *the Secretary of the Interior.’;*

5 (4) *by striking sections 5 through 19 and insert-*
 6 *ing the following new sections:*

7 **“SEC. 5. ESTABLISHMENT OF THE FEDERAL INDIAN GAM-**
 8 **ING REGULATORY COMMISSION.**

9 “(a) *ESTABLISHMENT.*—*There is established as an*
 10 *independent agency of the United States, a Commission to*
 11 *be known as the Federal Indian Gaming Regulatory Com-*
 12 *mission. Such Commission shall be an independent estab-*
 13 *lishment, as defined in section 104 of title 5, United States*
 14 *Code.*

15 “(b) *COMPOSITION OF THE COMMISSION.*—

16 “(1) *IN GENERAL.*—*The Commission shall be*
 17 *composed of 3 full-time members, who shall be ap-*
 18 *pointed by the President, by and with the advice and*
 19 *consent of the Senate.*

20 “(2) *CITIZENSHIP OF MEMBERS.*—*Each member*
 21 *of the Commission shall be a citizen of the United*
 22 *States.*

23 “(3) *REQUIREMENTS FOR MEMBERS.*—*No mem-*
 24 *ber of the Commission may—*

1 “(A) pursue any other business or occupa-
2 tion or hold any other office;

3 “(B) be actively engaged in or, other than
4 through distribution of gaming revenues as a
5 member of an Indian tribe, have any pecuniary
6 interest in gaming activities;

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

13 “(D) have been convicted of a felony or
14 gaming offense; or

15 “(E) have any pecuniary interest in, or
16 management responsibility for, any gaming-re-
17 lated contract or any other contract approved
18 pursuant to this Act.

19 “(4) *POLITICAL AFFILIATION.*—Not more than 2
20 members of the Commission shall be members of the
21 same political party. In making appointments to the
22 Commission, the President shall appoint members of
23 different political parties, to the extent practicable.

24 “(5) *ADDITIONAL QUALIFICATIONS.*—

1 “(A) *IN GENERAL.*—*The Commission shall*
 2 *be composed of the most qualified individuals*
 3 *available. In making appointments to the Com-*
 4 *mission, the President shall give special reference*
 5 *to the training and experience of individuals in*
 6 *the fields of corporate finance, accounting, audit-*
 7 *ing, and investigation or law enforcement.*

8 “(B) *TRIBAL GOVERNMENT EXPERIENCE.*—
 9 *Not less than 2 members of the Commission shall*
 10 *be individuals with extensive experience or ex-*
 11 *pertise in tribal government.*

12 “(6) *BACKGROUND INVESTIGATIONS.*—*The Attor-*
 13 *ney General shall conduct a background investigation*
 14 *concerning any individual under consideration for*
 15 *appointment to the Commission, with particular re-*
 16 *gard to the financial stability, integrity, responsibil-*
 17 *ity, and reputation for good character, honesty, and*
 18 *integrity of the nominee.*

19 “(c) *CHAIRPERSON.*—*The President shall select a*
 20 *Chairperson from among the members appointed to the*
 21 *Commission.*

22 “(d) *VICE CHAIRPERSON.*—*The Commission shall se-*
 23 *lect, by majority vote, 1 of the members of the Commission*
 24 *to serve as Vice Chairperson. The Vice Chairperson shall—*

1 “(1) *serve as Chairperson of the Commission in*
 2 *the absence of the Chairperson; and*

3 “(2) *exercise such other powers as may be dele-*
 4 *gated by the Chairperson.*

5 “(e) *TERMS OF OFFICE.—*

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

8 “(2) *INITIAL APPOINTMENTS.—Initial appoint-*
 9 *ments to the Commission shall be made for the follow-*
 10 *ing terms:*

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

13 “(B) *One member shall be appointed for a*
 14 *term of 4 years.*

15 “(C) *One member shall be appointed for a*
 16 *term of 3 years.*

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

19 “(f) *VACANCIES.—*

20 “(1) *IN GENERAL.—Each individual appointed*
 21 *by the President to serve as Chairperson and each*
 22 *member of the Commission shall, unless removed for*
 23 *cause under paragraph (2), serve in the capacity for*
 24 *which such individual is appointed until the expira-*

1 *tion of the term of such individual or until a succes-*
 2 *sor is duly appointed and qualified.*

3 “(2) *REMOVAL FROM OFFICE.*—*The Chairperson*
 4 *or any member of the Commission may only be re-*
 5 *moved from office before the expiration of the term of*
 6 *office by the President for neglect of duty, malfeasance*
 7 *in office, or for other good cause shown.*

8 “(3) *TERM TO FILL VACANCIES.*—*The term of*
 9 *any member appointed to fill a vacancy on the Com-*
 10 *mission shall be for the unexpired term of the mem-*
 11 *ber.*

12 “(g) *QUORUM.*—*Two members of the Commission shall*
 13 *constitute a quorum.*

14 “(h) *MEETINGS.*—

15 “(1) *IN GENERAL.*—*The Commission shall meet*
 16 *at the call of the Chairperson or a majority of the*
 17 *members of the Commission.*

18 “(2) *MAJORITY OF MEMBERS DETERMINE AC-*
 19 *TION.*—*A majority of the members of the Commission*
 20 *shall determine any action of the Commission.*

21 “(i) *COMPENSATION.*—

22 “(1) *CHAIRPERSON.*—*The Chairperson shall be*
 23 *paid at a rate equal to that of level IV of the Execu-*
 24 *tive Schedule under section 5316 of title 5, United*
 25 *States Code.*

1 “(2) *OTHER MEMBERS.*—*Each other member of*
 2 *the Commission shall be paid at a rate equal to that*
 3 *of level V of the Executive Schedule under section*
 4 *5316 of title 5, United States Code.*

5 “(3) *TRAVEL.*—*All members of the Commission*
 6 *shall be reimbursed in accordance with title 5, United*
 7 *States Code, for travel, subsistence, and other nec-*
 8 *essary expenses incurred by them in the performance*
 9 *of their duties.*

10 “(j) *ADMINISTRATIVE SUPPORT SERVICES.*—*The Ad-*
 11 *ministrator of General Services shall provide to the Com-*
 12 *mission on a reimbursable basis such administrative sup-*
 13 *port services as the Commission may request.*

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

15 “(a) *CHIEF EXECUTIVE OFFICER.*—*The Chairperson*
 16 *shall serve as the chief executive officer of the Commission.*

17 “(b) *ADMINISTRATION OF THE COMMISSION.*—

18 “(1) *IN GENERAL.*—*Subject to subsection (c), the*
 19 *Chairperson—*

20 “(A) *shall employ and supervise such per-*
 21 *sonnel as the Chairperson considers necessary to*
 22 *carry out the functions of the Commission, and*
 23 *assign work among such personnel;*

24 “(B) *shall appoint a General Counsel to the*
 25 *Commission who shall be paid at the annual*

1 *rate of basic pay payable for ES–6 of the Senior*
2 *Executive Service Schedule under section 5382 of*
3 *title 5, United States Code;*

4 “(C) shall appoint and supervise other staff
5 *of the Commission without regard to the provi-*
6 *sions of title 5, United States Code, governing*
7 *appointments in the competitive service;*

8 “(D) may procure temporary and intermit-
9 *tent services under section 3109(b) of title 5,*
10 *United States Code, but at rates for individuals*
11 *not to exceed the daily equivalent of the maxi-*
12 *mum annual rate of basic pay payable for ES–*
13 *6 of the Senior Executive Service Schedule;*

14 “(E) may request the head of any Federal
15 *agency to detail any personnel of such agency to*
16 *the Commission to assist the Commission in car-*
17 *rying out the duties of the Commission under*
18 *this Act, unless otherwise prohibited by law;*

19 “(F) shall use and expend Federal funds
20 *and funds collected pursuant to section 17; and*

21 “(G) may contract for the services of such
22 *other professional, technical, and operational*
23 *personnel and consultants as may be necessary*
24 *for the performance of the Commission’s respon-*
25 *sibilities under this Act.*

1 “(2) *COMPENSATION OF STAFF.*—*The staff re-*
 2 *ferred to in paragraph (1)(C) shall be paid without*
 3 *regard to the provisions of chapter 51 and sub-*
 4 *chapters III and VIII of chapter 53 of title 5, United*
 5 *States Code, relating to classification and General*
 6 *Schedule and Senior Executive Service Schedule pay*
 7 *rates, except that no individual so appointed may re-*
 8 *ceive pay in excess of the annual rate of basic pay*
 9 *payable for ES–5 of the Senior Executive Service*
 10 *Schedule under section 5382 of title 5, United States*
 11 *Code.*

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

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

18 “(a) *GENERAL POWERS.*—

19 “(1) *IN GENERAL.*—*The Commission shall have*
 20 *the power to—*

21 “(A) *approve the annual budget of the Com-*
 22 *mission;*

23 “(B) *promulgate regulations to carry out*
 24 *this Act;*

1 “(C) *establish a rate of fees and assessments,*
2 *as provided in section 17;*

3 “(D) *conduct investigations, including back-*
4 *ground investigations;*

5 “(E) *issue a temporary order closing the*
6 *operation of gaming activities;*

7 “(F) *after a hearing, make permanent a*
8 *temporary order closing the operation of gaming*
9 *activities, as provided in section 15;*

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

16 “(H) *inspect and examine all premises in*
17 *which class II or class III gaming is conducted*
18 *on Indian lands;*

19 “(I) *demand access to and inspect, examine,*
20 *photocopy, and audit all papers, books, and*
21 *records of class II and class III gaming activities*
22 *conducted on Indian lands and any other mat-*
23 *ters necessary to carry out the duties of the Com-*
24 *mission under this Act;*

1 “(J) use the United States mails in the
2 same manner and under the same conditions as
3 any department or agency of the United States;

4 “(K) procure supplies, services, and prop-
5 erty by contract in accordance with applicable
6 Federal laws;

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

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

17 “(N) propound written interrogatories and
18 appoint hearing examiners, to whom may be del-
19 egated the power and authority to administer
20 oaths, issue subpoenas, propound written inter-
21 rogatories, and require testimony under oath;

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

1 “(P) collect all fees and assessments author-
2 ized by this Act and the regulations promulgated
3 pursuant to this Act;

4 “(Q) assess penalties for violations of the
5 provisions of this Act and the regulations pro-
6 mulgated pursuant to this Act;

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

11 “(S) monitor and, as specifically authorized
12 by this Act, regulate class II and class III gam-
13 ing;

14 “(T) establish precertification criteria that
15 apply to management contractors and other per-
16 sons having material control over a gaming op-
17 eration;

18 “(U) approve all management-related and
19 gaming-related contracts; and

20 “(V) in addition to the authorities otherwise
21 specified in this Act, delegate, by published order
22 or rule, any of the functions of the Commission
23 (including functions with respect to hearing, de-
24 termining, ordering, certifying, reporting, or oth-
25 erwise acting on the part of the Commission con-

cerning any work, business, or matter) to a division of the Commission, an individual member of the Commission, an administrative law judge, or an employee of the Commission.

“(2) *STATUTORY CONSTRUCTION.*—Nothing in this section may be construed to authorize the delegation of the function of rulemaking, as described in subchapter II of chapter 5 of title 5, United States Code, with respect to general rules (as distinguished from rules of particular applicability), or the promulgation of any other rule.

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

“(1) *IN GENERAL.*—With respect to the delegation of any of the functions of the Commission, the Commission shall retain a discretionary right to review the action of any division of the Commission, individual member of the Commission, administrative law judge, or employee of the Commission, upon the initiative of the Commission.

“(2) *VOTE NEEDED FOR REVIEW.*—The vote of one member of the Commission shall be sufficient to bring an action referred to in paragraph (1) before the Commission for review, and the Commission shall ratify, revise, or reject the action under review not

1 *later than the last day of the applicable period speci-*
 2 *fied in regulations promulgated by the Commission.*

3 “(3) *FAILURE TO CONDUCT REVIEW.*—*If the*
 4 *Commission declines to exercise the right to such re-*
 5 *view or fails to exercise such right within the applica-*
 6 *ble period specified in regulations promulgated by the*
 7 *Commission, the action of any such division of the*
 8 *Commission, individual member of the Commission,*
 9 *administrative law judge, or employee, shall, for all*
 10 *purposes, including any appeal or review of such ac-*
 11 *tion, be deemed an action of the Commission.*

12 “(c) *MINIMUM REQUIREMENTS.*—*Pursuant to the pro-*
 13 *cedures described in section 9(d), after receiving rec-*
 14 *ommendations from the Advisory Committee, the Commis-*
 15 *sion shall establish minimum Federal standards—*

16 “(1) *for background investigations, licensing of*
 17 *persons, and licensing of gaming operations associ-*
 18 *ated with the conduct or regulation of class II and*
 19 *class III gaming on Indian lands by tribal govern-*
 20 *ments; and*

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

23 “(A) *surveillance and security personnel*
 24 *and systems capable of monitoring all gaming*
 25 *activities, including the conduct of games, cash-*

1 *iers' cages, change booths, count rooms, move-*
 2 *ments of cash and chips, entrances and exits to*
 3 *gaming facilities, and other critical areas of any*
 4 *gaming facility;*

5 *“(B) procedures for the protection of the in-*
 6 *tegrity of the rules for the play of games and*
 7 *controls related to such rules;*

8 *“(C) credit and debit collection controls;*

9 *“(D) controls over gambling devices and*
 10 *equipment; and*

11 *“(E) accounting and auditing.*

12 *“(d) COMMISSION ACCESS TO INFORMATION.—*

13 *“(1) IN GENERAL.—The Commission may secure*
 14 *from any department or agency of the United States*
 15 *information necessary to enable the Commission to*
 16 *carry out this Act. Unless otherwise prohibited by*
 17 *law, upon request of the Chairperson, the head of such*
 18 *department or agency shall furnish such information*
 19 *to the Commission.*

20 *“(2) INFORMATION TRANSFER.—The Commission*
 21 *may secure from any law enforcement agency or gam-*
 22 *ing regulatory agency of any State, Indian tribe, or*
 23 *foreign nation information necessary to enable the*
 24 *Commission to carry out this Act. Unless otherwise*
 25 *prohibited by law, upon request of the Chairperson,*

1 *the head of any State or tribal law enforcement agen-*
 2 *cy shall furnish such information to the Commission.*

3 “(3) *PRIVILEGED INFORMATION.*—*Notwithstand-*
 4 *ing sections 552 and 552a of title 5, United States*
 5 *Code, the Commission shall protect from disclosure*
 6 *information provided by Federal, State, tribal, or*
 7 *international law enforcement or gaming regulatory*
 8 *agencies.*

9 “(4) *LAW ENFORCEMENT AGENCY.*—*For purposes*
 10 *of this subsection, the Commission shall be considered*
 11 *to be a law enforcement agency.*

12 “(e) *INVESTIGATIONS AND ACTIONS.*—

13 “(1) *IN GENERAL.*—

14 “(A) *POSSIBLE VIOLATIONS.*—*The Commis-*
 15 *sion may, at the discretion of the Commission,*
 16 *and as specifically authorized by this Act, con-*
 17 *duct such investigations as the Commission con-*
 18 *siders necessary to determine whether any person*
 19 *has violated, is violating, or is conspiring to vio-*
 20 *late any provision of this Act (including any*
 21 *rule or regulation promulgated under this Act).*
 22 *The Commission may require or permit any per-*
 23 *son to file with the Commission a statement in*
 24 *writing, under oath, or otherwise as the Commis-*
 25 *sion may determine, concerning all relevant facts*

1 *and circumstances regarding the matter under*
 2 *investigation by the Commission pursuant to*
 3 *this subsection.*

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

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

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

14 “(iii) *securing information to serve as*
 15 *a basis for recommending further legislation*
 16 *concerning the matters to which this Act re-*
 17 *lates.*

18 “(2) *ADMINISTRATIVE AUTHORITIES.—*

19 “(A) *IN GENERAL.—For the purpose of any*
 20 *investigation or any other proceeding conducted*
 21 *under this Act, any member of the Commission*
 22 *or any officer designated by the Commission is*
 23 *empowered to administer oaths and affirmations,*
 24 *subpoena witnesses, compel their attendance, take*
 25 *evidence, and require the production of any*

1 books, papers, correspondence, memoranda, or
2 other records that the Commission considers rel-
3 evant or material to the inquiry. The attendance
4 of such witnesses and the production of any such
5 records may be required from any place in the
6 United States at any designated place of hear-
7 ing.

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

19 “(C) *COURT ORDERS.*—Any court described
20 in subparagraph (B) may issue an order requir-
21 ing such person to appear before the Commission
22 or member of the Commission or officer des-
23 ignated by the Commission, there to produce
24 records, if so ordered, or to give testimony touch-
25 ing the matter under investigation or in ques-

tion, and any failure to obey such order of the court may be punished by such court as a contempt of such court.

“(3) *ENFORCEMENT.*—

“(A) *IN GENERAL.*—If the Commission determines that any person is engaged, has engaged, or is conspiring to engage, in any act or practice constituting a violation of any provision of this Act (including any rule or regulation promulgated under this Act), the Commission may—

“(i) bring an action in the appropriate district court of the United States or the United States District Court for the District of Columbia to enjoin such act or practice, and upon a proper showing, the court shall grant, without bond, a permanent or temporary injunction or restraining order; or

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

“(B) *STATUTORY CONSTRUCTION.*—

1 “(i) *IN GENERAL.*—*The authority of*
 2 *the Commission to conduct investigations*
 3 *and take actions under subparagraph (A)*
 4 *may not be construed to affect in any way*
 5 *the authority of any other agency or depart-*
 6 *ment of the United States to carry out stat-*
 7 *utory responsibilities of such agency or de-*
 8 *partment.*

9 “(ii) *EFFECT OF TRANSMITTAL BY THE*
 10 *COMMISSION.*—*The transmittal by the Com-*
 11 *mission pursuant to subparagraph (A)(ii)*
 12 *may not be construed to constitute a condi-*
 13 *tion precedent with respect to any action*
 14 *taken by any department or agency referred*
 15 *to in clause (i).*

16 “(4) *WRITS, INJUNCTIONS, AND ORDERS.*—*Upon*
 17 *application of the Commission, each district court of*
 18 *the United States shall have jurisdiction to issue*
 19 *writs of mandamus, injunctions, and orders com-*
 20 *manding any person to comply with the provisions of*
 21 *this Act (including any rule or regulation promul-*
 22 *gated under this Act).*

23 **“SEC. 8. REGULATORY FRAMEWORK.**

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

1 *that meets or exceeds minimum Federal standards estab-*
 2 *lished by the Commission pursuant to section 7(c)—*

3 “(1) *monitor and regulate such gaming; and*

4 “(2) *conduct background investigations and issue*
 5 *licenses to persons who are required to obtain a li-*
 6 *cence under section 10(a).*

7 “(b) *CLASS III GAMING CONDUCTED UNDER A COM-*
 8 *PACT.—For class III gaming conducted under the authority*
 9 *of a compact entered into pursuant to section 12, an Indian*
 10 *tribe or a State, or both, as provided in a compact or by*
 11 *tribal ordinance or resolution, shall, in a manner that*
 12 *meets or exceeds minimum Federal standards established by*
 13 *the Commission pursuant to section 7(c)—*

14 “(1) *monitor and regulate gaming;*

15 “(2) *conduct background investigations and issue*
 16 *licenses to persons who are required to obtain a li-*
 17 *cence pursuant to section 10(a); 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 or*
 25 *enforce minimum Federal standards for that gaming,*

1 *after providing the Indian tribe notice and reasonable*
2 *opportunity to cure violations and to be heard, and*
3 *after the exhaustion of other authorized remedies and*
4 *sanctions, the Commission shall have the authority to*
5 *conduct background investigations, issue licenses, and*
6 *establish and regulate internal control systems relat-*
7 *ing to class II gaming conducted by the Indian tribe.*
8 *Such authority of the Commission may be exclusive*
9 *until such time as the regulatory and internal control*
10 *systems of the Indian tribe meet or exceed the mini-*
11 *imum Federal standards concerning regulatory, licens-*
12 *ing, or internal control requirements established by*
13 *the Commission for such gaming.*

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

1 *until such time as the regulatory or internal control*
 2 *systems of the Indian tribe or the State (or both) meet*
 3 *or exceed the minimum Federal regulatory, licensing,*
 4 *or internal control requirements established by the*
 5 *Commission for such gaming.*

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

9 *“(a) ESTABLISHMENT.—The President shall establish*
 10 *an advisory committee to be known as the ‘Advisory Com-*
 11 *mittee on Minimum Regulatory Requirements and Licens-*
 12 *ing Standards’.*

13 *“(b) MEMBERS.—*

14 *“(1) IN GENERAL.—The Advisory Committee*
 15 *shall be composed of 8 members who shall be ap-*
 16 *pointed by the President not later than 120 days after*
 17 *the date of enactment of the Indian Gaming Regu-*
 18 *latory Act Amendments Act of 1995, of which—*

19 *“(A) 3 members, selected from a list of rec-*
 20 *ommendations submitted to the President by the*
 21 *Chairperson and Vice Chairperson of the Com-*
 22 *mittee on Indian Affairs of the Senate and the*
 23 *Chairperson and ranking minority member of*
 24 *the Subcommittee on Native American and Insu-*
 25 *lar Affairs of the Committee on Resources of the*

1 *House of Representatives, shall be members of,*
 2 *and represent, Indian tribal governments in-*
 3 *involved in gaming covered under this Act;*

4 *“(B) 3 members, selected from a list of rec-*
 5 *ommendations submitted to the President by the*
 6 *Majority Leader and the Minority Leader of the*
 7 *Senate and the Speaker and the Minority Leader*
 8 *of the House of Representatives, shall represent*
 9 *State governments involved in gaming covered*
 10 *under this Act, and shall have experience as*
 11 *State gaming regulators; and*

12 *“(C) 2 members shall each be an employee*
 13 *of the Department of Justice.*

14 *“(2) VACANCIES.—Any vacancy on the Advisory*
 15 *Committee shall not affect its powers, but shall be*
 16 *filled in the same manner as the original appoint-*
 17 *ment.*

18 *“(c) RECOMMENDATIONS FOR MINIMUM FEDERAL*
 19 *STANDARDS.—*

20 *“(1) IN GENERAL.—Not later than 180 days*
 21 *after the date on which all initial members of the Ad-*
 22 *visory Committee have been appointed under sub-*
 23 *section (b), the Advisory Committee shall develop and*
 24 *submit to the entities referred to in paragraph (2)*
 25 *recommendations for minimum Federal standards re-*

1 *lating to background investigations, internal control*
 2 *systems, and licensing standards (as described in sec-*
 3 *tion 7(c)).*

4 “(2) *RECIPIENTS OF RECOMMENDATIONS.—The*
 5 *Advisory Committee shall submit the recommenda-*
 6 *tions described in paragraph (1) to the Committee on*
 7 *Indian Affairs of the Senate, the Subcommittee on*
 8 *Native American and Insular Affairs of the Commit-*
 9 *tee on Resources of the House of Representatives, the*
 10 *Commission, and to each federally recognized Indian*
 11 *tribe.*

12 “(3) *FACTORS FOR CONSIDERATION.—While the*
 13 *minimum Federal standards recommended or estab-*
 14 *lished pursuant to this section may be developed with*
 15 *due regard for existing industry standards, the Advi-*
 16 *sory Committee, and the Commission in promulgat-*
 17 *ing standards pursuant to subsection (d), shall also*
 18 *consider—*

19 “(A) *the unique nature of tribal gaming as*
 20 *compared to non-Indian commercial, govern-*
 21 *mental, and charitable gaming;*

22 “(B) *the broad variations in the scope and*
 23 *size of tribal gaming activity;*

24 “(C) *the inherent sovereign right of Indian*
 25 *tribes to regulate their own affairs; and*

1 “(D) *the findings and purposes set forth in*
 2 *sections 2 and 3.*

3 “(d) *REGULATIONS.—Upon receipt of the rec-*
 4 *ommendations of the Advisory Committee, the Commission*
 5 *shall hold public hearings on the recommendations. After*
 6 *the conclusion of the hearings, the Commission shall pro-*
 7 *mulgate regulations establishing minimum Federal regu-*
 8 *latory requirements and licensing standards.*

9 “(e) *TRAVEL.—Each member of the Advisory Commit-*
 10 *tee who is appointed under subparagraph (A) or (B) of sub-*
 11 *section (b)(1) and who is not an officer or employee of the*
 12 *Federal Government or a government of a State shall be*
 13 *reimbursed for travel and per diem in lieu of subsistence*
 14 *expenses during the performance of duties of the Advisory*
 15 *Committee while away from the home or the regular place*
 16 *of business of that member, in accordance with subchapter*
 17 *I of chapter 57 of title 5, United States Code.*

18 “(f) *TERMINATION.—The Advisory Committee shall*
 19 *cease to exist on the date that is 10 days after the date*
 20 *on which the Advisory Committee submits the recommenda-*
 21 *tions under subsection (c).*

22 “(g) *EXEMPTION FROM FEDERAL ADVISORY COMMIT-*
 23 *TEE ACT.—All activities of the Advisory Committee shall*
 24 *be exempt from the Federal Advisory Committee Act (5*
 25 *U.S.C. App.).*

1 ***“SEC. 10. LICENSING.***

2 “(a) *IN GENERAL.*—A license issued under this Act
3 shall be required of—

4 “(1) a gaming operation;

5 “(2) a key employee of a gaming operation;

6 “(3) a management or gaming-related contrac-
7 tor;

8 “(4) a gaming service industry; or

9 “(5) a person who has material control, either
10 directly or indirectly, over a licensed gaming oper-
11 ation.

12 “(b) *CERTAIN LICENSES FOR MANAGEMENT CONTRAC-*
13 *TORS AND GAMING OPERATIONS.*—Notwithstanding any
14 other provision of law relating to licenses issued by an In-
15 dian tribe or a State (or both) pursuant to this Act, the
16 Commission may require licenses of—

17 “(1) management contractors; and

18 “(2) gaming operations.

19 “(c) *GAMING OPERATION LICENSE.*—

20 “(1) *IN GENERAL.*—No gaming operation shall
21 operate unless all required licenses and approvals for
22 the gaming operation have been obtained in accord-
23 ance with this Act.

24 “(2) *WRITTEN AGREEMENTS.*—

25 “(A) *FILING.*—Prior to the operation of any
26 gaming facility or activity, each management

1 *contract for the gaming operation shall be in*
 2 *writing and filed with the Commission pursuant*
 3 *to section 13.*

4 “(B) *EXPRESS APPROVAL REQUIRED.—No*
 5 *management contract referred to in subpara-*
 6 *graph (A) shall be effective unless the Commis-*
 7 *sion expressly approves the management con-*
 8 *tract.*

9 “(C) *REQUIREMENT OF ADDITIONAL PROVI-*
 10 *SIONS.—The Commission may require that a*
 11 *management contract referred to in subpara-*
 12 *graph (A) include any provisions that are rea-*
 13 *sonably necessary to meet the requirements of*
 14 *this Act.*

15 “(D) *INELIGIBILITY OR EXEMPTION.—The*
 16 *Commission may, with respect to an applicant*
 17 *who does not have the ability to exercise any sig-*
 18 *nificant control over a licensed gaming oper-*
 19 *ation—*

20 “(i) *determine that applicant to be in-*
 21 *eligible to hold a license; or*

22 “(ii) *exempt that applicant from being*
 23 *required to hold a license.*

24 “(d) *DENIAL OF LICENSE.—The Commission, in the*
 25 *exercise of the specific licensure power conferred upon the*

1 *Commission by this Act, shall deny a license to any appli-*
 2 *cant who is disqualified on the basis of a failure to meet*
 3 *any of the minimum Federal standards promulgated by the*
 4 *Commission pursuant to section 7(c).*

5 “(e) *APPLICATION FOR LICENSE.*—

6 “(1) *IN GENERAL.*—*Upon the filing of the mate-*
 7 *rials specified in paragraph (2), the Commission shall*
 8 *conduct an investigation into the qualifications of an*
 9 *applicant. The Commission may conduct a nonpublic*
 10 *hearing on such investigation concerning the quali-*
 11 *fications of the applicant in accordance with regula-*
 12 *tions promulgated by the Commission.*

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

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

18 “(B) *such supplemental information as the*
 19 *Commission may require.*

20 “(3) *TIMING OF HEARINGS AND INVESTIGATIONS*
 21 *AND FINAL ACTION.*—

22 “(A) *DEADLINE FOR HEARINGS AND INVES-*
 23 *TIGATIONS.*—*Not later than 90 days after receiv-*
 24 *ing the materials described in paragraph (2), the*
 25 *Commission shall complete the investigation de-*

scribed in paragraph (1) and any hearings associated with the investigation conducted pursuant to that paragraph.

“(B) *DEADLINE FOR FINAL ACTION.*—Not later than 10 days after the date specified in subparagraph (A), the Commission shall take final action to grant or deny a license to the applicant.

“(4) *DENIALS.*—

“(A) *IN GENERAL.*—The Commission may disapprove an application submitted to the Commission under this section and deny a license to the applicant.

“(B) *ORDER OF DENIAL.*—If the Commission denies a license to an applicant under subparagraph (A), the Commission shall prepare an order denying such license. In addition, if an applicant requests a statement of the reasons for the denial, the Commission shall prepare such statement and provide the statement to the applicant. The statement shall include specific findings of fact.

“(5) *ISSUANCE OF LICENSES.*—If the Commission is satisfied that an applicant is qualified to re-

1 *ceive a license, the Commission shall issue a license*
 2 *to the applicant upon tender of—*

3 *“(A) all license fees and assessments as re-*
 4 *quired by this Act (including any rule or regula-*
 5 *tion promulgated under this Act); and*

6 *“(B) such bonds as the Commission may re-*
 7 *quire for the faithful performance of all require-*
 8 *ments imposed by this Act (including any rule*
 9 *or regulation promulgated under this Act).*

10 *“(6) BONDS.—*

11 *“(A) AMOUNTS.—The Commission shall, by*
 12 *rules of uniform application, fix the amount of*
 13 *each bond that the Commission requires under*
 14 *this section in such amount as the Commission*
 15 *considers appropriate.*

16 *“(B) USE OF BONDS.—The bonds furnished*
 17 *to the Commission under this paragraph may be*
 18 *applied by the Commission to the payment of*
 19 *any unpaid liability of the licensee under this*
 20 *Act.*

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

23 *“(i) in cash or negotiable securities;*

24 *“(ii) by a surety bond guaranteed by a*
 25 *satisfactory guarantor; or*

1 “(iii) *by an irrevocable letter of credit*
 2 *issued by a banking institution acceptable*
 3 *to the Commission.*

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

10 “(f) *RENEWAL OF LICENSE.—*

11 “(1) *IN GENERAL.—*

12 “(A) *RENEWALS.—Subject to the power of*
 13 *the Commission to deny, revoke, or suspend li-*
 14 *censes, any license issued under this section and*
 15 *in force shall be renewed by the Commission for*
 16 *the next succeeding license period upon proper*
 17 *application for renewal and payment of license*
 18 *fees and assessments, as required by applicable*
 19 *law (including any rule or regulation promul-*
 20 *gated under this Act).*

21 “(B) *RENEWAL TERM.—Subject to subpara-*
 22 *graph (C), the term of a renewal period for a li-*
 23 *cense issued under this section shall be for a pe-*
 24 *riod of not more than—*

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

5 “(ii) 3 years, for each succeeding re-
 6 newal period.

7 “(C) *REOPENING HEARINGS.*—The Commis-
 8 sion may reopen licensing hearings at any time
 9 after the Commission has issued or renewed a li-
 10 cense.

11 “(2) *TRANSITION.*—

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

20 “(B) *ACTION BEFORE EXPIRATION.*—The
 21 Commission shall act upon a timely filed license
 22 renewal application prior to the date of expira-
 23 tion of the then current license.

24 “(3) *FILING REQUIREMENT.*—Each application
 25 for renewal shall be filed with the Commission not

1 *later than 90 days prior to the expiration of the then*
 2 *current license, and shall be accompanied by full pay-*
 3 *ment of all license fees and assessments that are re-*
 4 *quired by law to be paid to the Commission.*

5 “(4) *RENEWAL CERTIFICATE.*—*Upon renewal of*
 6 *a license, the Commission shall issue an appropriate*
 7 *renewal certificate, validating device, or sticker,*
 8 *which shall be attached to the license.*

9 “(g) *HEARINGS.*—

10 “(1) *IN GENERAL.*—*The Commission shall estab-*
 11 *lish procedures for the conduct of hearings associated*
 12 *with licensing, including procedures for issuing, de-*
 13 *nying, limiting, conditioning, restricting, revoking, or*
 14 *suspending any such license.*

15 “(2) *ACTION BY COMMISSION.*—*Following a*
 16 *hearing conducted for any of the purposes authorized*
 17 *in this section, the Commission shall—*

18 “(A) *render a decision of the Commission;*

19 “(B) *issue an order; and*

20 “(C) *serve such decision and order upon the*
 21 *affected parties.*

22 “(3) *REHEARING.*—

23 “(A) *IN GENERAL.*—*The Commission may,*
 24 *upon a motion made not later than 10 days*
 25 *after the service of a decision and order, order a*

1 *rehearing before the Commission on such terms*
 2 *and conditions as the Commission considers just*
 3 *and proper if the Commission finds cause to be-*
 4 *lieve that the decision and order should be recon-*
 5 *sidered in view of the legal, policy, or factual*
 6 *matters that are—*

7 *“(i) advanced by the party that makes*
 8 *the motion; or*

9 *“(ii) raised by the Commission on a*
 10 *motion made by the Commission.*

11 *“(B) ACTION AFTER REHEARING.—Follow-*
 12 *ing a rehearing conducted by the Commission,*
 13 *the Commission shall—*

14 *“(i) render a decision of the Commis-*
 15 *sion;*

16 *“(ii) issue an order; and*

17 *“(iii) serve such decision and order*
 18 *upon the affected parties.*

19 *“(C) FINAL AGENCY ACTION.—A decision*
 20 *and order made by the Commission under para-*
 21 *graph (2) (if no motion for a rehearing is made*
 22 *by the date specified in subparagraph (A)), or a*
 23 *decision and order made by the Commission*
 24 *upon rehearing shall constitute final agency ac-*
 25 *tion for purposes of judicial review.*

1 “(4) *JURISDICTION.*—*The United States Court of*
 2 *Appeals for the District of Columbia Circuit shall*
 3 *have jurisdiction to review the licensing decisions and*
 4 *orders of the Commission.*

5 “(h) *LICENSE REGISTRY.*—*The Commission shall—*

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

8 “(2) *make the information contained in the reg-*
 9 *istry available to Indian tribes to assist the licensure*
 10 *and regulatory activities of Indian tribes.*

11 **“SEC. 11. REQUIREMENTS FOR THE CONDUCT OF CLASS I**
 12 **AND CLASS II GAMING ON INDIAN LANDS.**

13 “(a) *CLASS I GAMING.*—*Class I gaming on Indian*
 14 *lands shall be within the exclusive jurisdiction of the Indian*
 15 *tribes and shall not be subject to the provisions of this Act.*

16 “(b) *CLASS II GAMING.*—

17 “(1) *IN GENERAL.*—*Any class II gaming on In-*
 18 *dian lands shall be within the jurisdiction of the In-*
 19 *dian tribes, but shall be subject to the provisions of*
 20 *this Act.*

21 “(2) *LEGAL ACTIVITIES.*—*An Indian tribe may*
 22 *engage in, and license and regulate, class II gaming*
 23 *on Indian lands within the jurisdiction of such tribe,*
 24 *if—*

1 “(A) *such Indian gaming is located within*
 2 *a State that permits such gaming for any pur-*
 3 *pose by any person; and*

4 “(B) *the class II gaming operation meets or*
 5 *exceeds the requirements of sections 7(c) and 10.*

6 “(3) *REQUIREMENTS FOR CLASS II GAMING OP-*
 7 *ERATIONS.—*

8 “(A) *IN GENERAL.—The Commission shall*
 9 *ensure that, with regard to any class II gaming*
 10 *operation on Indian lands—*

11 “(i) *a separate license is issued by the*
 12 *Indian tribe for each place, facility, or loca-*
 13 *tion on Indian lands at which class II gam-*
 14 *ing is conducted;*

15 “(ii) *the Indian tribe has or will have*
 16 *the sole proprietary interest and respon-*
 17 *sibility for the conduct of any class II gam-*
 18 *ing activity, unless the conditions of clause*
 19 *(ix) apply;*

20 “(iii) *the net revenues from any class*
 21 *II gaming activity are used only—*

22 “(I) *to fund tribal government op-*
 23 *erations or programs;*

1 “(II) to provide for the general
2 welfare of the Indian tribe and the
3 members of the Indian tribe;

4 “(III) to promote tribal economic
5 development;

6 “(IV) to donate to charitable orga-
7 nizations;

8 “(V) to help fund operations of
9 local government agencies;

10 “(VI) to comply with the provi-
11 sions of section 17; or

12 “(VIII) to make per capita pay-
13 ments to members of the Indian tribe
14 pursuant to clause (viii);

15 “(iv) the Indian tribe provides to the
16 Commission annual outside audit reports of
17 the class II gaming operation of the Indian
18 tribe, which may be encompassed within ex-
19 isting independent tribal audit systems;

20 “(v) each contract for supplies, serv-
21 ices, or concessions for a contract amount
22 equal to more than \$50,000 per year, other
23 than a contract for professional legal or ac-
24 counting services, relating to such gaming is
25 subject to such independent audit reports

1 *and any audit conducted by the Commis-*
2 *sion;*

3 “(vi) *the construction and mainte-*
4 *nance of a class II gaming facility and the*
5 *operation of class II gaming are conducted*
6 *in a manner that adequately protects the*
7 *environment and public health and safety;*

8 “(vii) *there is instituted an adequate*
9 *system that—*

10 “(I) *ensures that—*

11 “(aa) *background investiga-*
12 *tions are conducted on primary*
13 *management officials, key employ-*
14 *ees, and persons having material*
15 *control, either directly or indi-*
16 *rectly, in a licensed class II gam-*
17 *ing operation, and gaming-related*
18 *contractors associated with a li-*
19 *censed class II gaming operation;*
20 *and*

21 “(bb) *oversight of such offi-*
22 *cial and the management by such*
23 *officials is conducted on an ongo-*
24 *ing basis; and*

25 “(II) *includes—*

1 “(aa) tribal licenses for per-
2 sons involved in class II gaming
3 operations, issued in accordance
4 with sections 7(c) and 10;

5 “(bb) a standard whereby
6 any person whose prior activities,
7 criminal record, if any, or reputa-
8 tion, habits, and associations pose
9 a threat to the public interest or
10 to the effective regulation of gam-
11 ing, or create or enhance the dan-
12 gers of unsuitable, unfair, or ille-
13 gal practices and methods and ac-
14 tivities in the conduct of gaming
15 shall not be eligible for employ-
16 ment or licensure; and

17 “(cc) notification by the In-
18 dian tribe to the Commission of
19 the results of such background in-
20 vestigation before the issuance of
21 any such license;

22 “(viii) net revenues from any class II
23 gaming activities conducted or licensed by
24 any Indian tribal government are used to

1 *make per capita payments to members of*
2 *the Indian tribe only if—*

3 “(I) *the Indian tribe has prepared*
4 *a plan to allocate revenues to uses au-*
5 *thorized by clause (iii);*

6 “(II) *the Secretary determines*
7 *that the plan is adequate, particularly*
8 *with respect to uses described in*
9 *subclause (I) or (III) of clause (iii);*

10 “(III) *the interests of minors and*
11 *other legally incompetent persons who*
12 *are entitled to receive any of the per*
13 *capita payments are protected and*
14 *preserved;*

15 “(IV) *the per capita payments to*
16 *minors and other legally incompetent*
17 *persons are disbursed to the parents or*
18 *legal guardians of such minors or le-*
19 *gally incompetent persons in such*
20 *amounts as may be necessary for the*
21 *health, education, or welfare of each*
22 *such minor or legally incompetent per-*
23 *son under a plan approved by the Sec-*
24 *retary and the governing body of the*
25 *Indian tribe; and*

1 “(V) the per capita payments are
 2 subject to Federal income taxation and
 3 Indian tribes withhold such taxes when
 4 such payments are made;

5 “(ix) a separate license is issued by the
 6 Indian tribe for any class II gaming oper-
 7 ation owned by any person or entity other
 8 than the Indian tribe and conducted on In-
 9 dian lands, that includes—

10 “(I) requirements set forth in
 11 clauses (v) through (vii) (other than
 12 the requirements of clause
 13 (vii)(II)(cc)), and (x); and

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

20 “(x) no person or entity, other than the
 21 Indian tribe, is eligible to receive a tribal
 22 license for a class II gaming operation con-
 23 ducted on Indian lands within the jurisdic-
 24 tion of the Indian tribe if such person or
 25 entity would not be eligible to receive a

1 *State license to conduct the same activity*
 2 *within the jurisdiction of the State.*

3 “(B) *TRANSITION.*—

4 “(i) *IN GENERAL.*—Clauses (ii), (iii),
 5 *and (ix) of subparagraph (A) shall not bar*
 6 *the continued operation of a class II gam-*
 7 *ing operation described in clause (ix) of*
 8 *that subparagraph that was operating on*
 9 *September 1, 1986, if—*

10 “(I) *such gaming operation is li-*
 11 *censed and regulated by an Indian*
 12 *tribe;*

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

17 “(III) *not less than 60 percent of*
 18 *the net revenues from such gaming op-*
 19 *eration is income to the licensing In-*
 20 *dian tribe; and*

21 “(IV) *the owner of such gaming*
 22 *operation pays an appropriate assess-*
 23 *ment to the Commission pursuant to*
 24 *section 17 for the regulation of such*
 25 *gaming.*

1 “(ii) *LIMITATIONS ON EXEMPTION.*—

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

9 “(C) *LIST.*—*The Commission shall—*

10 “(i) *maintain a list of each gaming*
 11 *operation that is subject to subparagraph*
 12 *(B); and*

13 “(ii) *publish such list in the Federal*
 14 *Register.*

15 “(c) *PETITION FOR CERTIFICATE OF SELF-REGULA-*
 16 *TION.*—

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

21 “(A) *has continuously conducted such activ-*
 22 *ity for a period of not less than 3 years, includ-*
 23 *ing a period of not less than 1 year that begins*
 24 *after the date of the enactment of the Indian*

1 *Gaming Regulatory Act Amendments Act of*
 2 *1995; and*

3 “(B) *has otherwise complied with the provi-*
 4 *sions of this Act.*

5 “(2) *ISSUANCE OF CERTIFICATE OF SELF-REGU-*
 6 *LATION.—The Commission shall issue a certificate of*
 7 *self-regulation under this subsection if the Commis-*
 8 *sion determines, on the basis of available information,*
 9 *and after a hearing if requested by the tribe, that the*
 10 *Indian tribe has—*

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

13 “(i) *resulted in an effective and honest*
 14 *accounting of all revenues;*

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

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

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

22 “(i) *accounting for all revenues from*
 23 *the gaming activity;*

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

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

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

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

12 “(3) *EFFECT OF CERTIFICATE OF SELF-REGULA-*
 13 *TION.—During the period in which a certificate of*
 14 *self-regulation issued under this subsection is in effect*
 15 *with respect to a gaming activity conducted by an In-*
 16 *dian tribe—*

17 “(A) the tribe shall—

18 “(i) submit an annual independent
 19 audit report as required by subsection
 20 (b)(3)(A)(iv); and

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

1 “(B) the Commission may not assess a fee
 2 under section 17 on gaming operated by the tribe
 3 pursuant to paragraph (1) in excess of $\frac{1}{4}$ of 1
 4 percent of the net revenue from such activity.

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

10 “(d) *LICENSE REVOCATION*.—If, after the issuance of
 11 any license by an Indian tribe under this section, the In-
 12 dian tribe receives reliable information from the Commis-
 13 sion indicating that a licensee does not meet any standard
 14 established under section 7(c) or 10, or any other applicable
 15 regulation promulgated under this Act, the Indian tribe—

16 “(1) shall immediately suspend such license; and

17 “(2) after providing notice, holding a hearing,
 18 and making findings of fact under procedures estab-
 19 lished pursuant to applicable tribal law, may revoke
 20 such license.

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

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

1 “(1) *IN GENERAL.*—*Class III gaming activities*
 2 *shall be lawful on Indian lands only if such activities*
 3 *are—*

4 “(A) *authorized by—*

5 “(i) *a compact that—*

6 “(I) *is approved pursuant to trib-*
 7 *al law by the governing body of the In-*
 8 *dian tribe having jurisdiction over*
 9 *such lands;*

10 “(II) *meets the requirements of*
 11 *section 11(b)(3) for the conduct of class*
 12 *II gaming; and*

13 “(III) *is approved by the Sec-*
 14 *retary under paragraph (4); or*

15 “(ii) *the Secretary under procedures*
 16 *prescribed by the Secretary under para-*
 17 *graph (3)(B)(vii);*

18 “(B) *located in a State that permits such*
 19 *gaming for any purpose by any person; and*

20 “(C) *conducted in conformance with—*

21 “(i) *a compact that—*

22 “(I) *is in effect; and*

23 “(II) *is entered into by an Indian*
 24 *tribe and a State and approved by the*
 25 *Secretary under paragraph (4); or*

1 “(ii) procedures prescribed by the Sec-
2 retary under paragraph (3)(B)(vii).

3 “(2) COMPACT NEGOTIATIONS.—

4 “(A) IN GENERAL.—Any Indian tribe hav-
5 ing jurisdiction over the Indian lands upon
6 which a class III gaming activity is being con-
7 ducted, or is to be conducted, shall request the
8 State in which such lands are located to enter
9 into negotiations for the purpose of entering into
10 a compact governing the conduct of gaming ac-
11 tivities. Upon receiving such a request, the State
12 shall negotiate with the Indian tribe in good
13 faith to enter into such a compact.

14 “(B) APPROVAL BY THE SECRETARY.—Any
15 State and any Indian tribe may enter into a
16 compact governing class III gaming activities on
17 the Indian lands of the Indian tribe, but such
18 compact shall take effect only when notice of ap-
19 proval by the Secretary of such compact has been
20 published by the Secretary in the Federal Reg-
21 ister.

22 “(3) ACTIONS.—

23 “(A) IN GENERAL.—The United States dis-
24 trict courts shall have jurisdiction over—

1 “(i) any cause of action initiated by
 2 an Indian tribe arising from the failure of
 3 a State to enter into negotiations with the
 4 Indian tribe for the purpose of entering into
 5 a compact under paragraph (2) or to con-
 6 duct such negotiations in good faith;

7 “(ii) any cause of action initiated by
 8 a State or Indian tribe to enjoin a class III
 9 gaming activity located on Indian lands
 10 and conducted in violation of any compact
 11 entered into under paragraph (2) that is in
 12 effect; and

13 “(iii) any cause of action initiated by
 14 the Secretary to enforce the procedures pre-
 15 scribed under subparagraph (B)(vii).

16 “(B) PROCEDURES.—

17 “(i) IN GENERAL.—An Indian tribe
 18 may initiate a cause of action described in
 19 subparagraph (A)(i) only after the expira-
 20 tion of the 180-day period beginning on the
 21 date on which the Indian tribe requests the
 22 State to enter into negotiations under para-
 23 graph (2)(A).

24 “(ii) BURDEN OF PROOF.—In any ac-
 25 tion described in subparagraph (A)(i), upon

1 *introduction of evidence by an Indian tribe*
2 *that—*

3 “(I) *a compact has not been en-*
4 *tered into under paragraph (2); and*

5 “(II) *the State did not respond to*
6 *the request of the Indian tribe to nego-*
7 *tiate such a compact or did not re-*
8 *spond to such request in good faith,*
9 *the burden of proof shall be upon the State*
10 *to prove that the State has negotiated with*
11 *the Indian tribe in good faith to conclude a*
12 *compact governing the conduct of gaming*
13 *activities.*

14 “(iii) *FAILURE TO NEGOTIATE.—If, in*
15 *any action described in subparagraph*
16 *(A)(i), the court finds that the State has*
17 *failed to negotiate in good faith with the In-*
18 *dian tribe to conclude a compact governing*
19 *the conduct of gaming activities, the court*
20 *shall order the State and the Indian tribe to*
21 *conclude such a compact within a 60-day*
22 *period. In determining in such an action*
23 *whether a State has negotiated in good*
24 *faith, the court—*

1 “(I) may take into account the
2 public interest, public safety, criminal-
3 ity, financial integrity, and adverse
4 economic impacts on existing gaming
5 activities; and

6 “(II) shall consider any demand
7 by the State for direct taxation of the
8 Indian tribe or of any Indian lands as
9 evidence that the State has not nego-
10 tiated in good faith.

11 “(iv) *PROCEDURE IN THE EVENT OF*
12 *FAILURE TO CONCLUDE A COMPACT.—If a*
13 *State and an Indian tribe fail to conclude*
14 *a compact governing the conduct of gaming*
15 *activities on the Indian lands subject to the*
16 *jurisdiction of such Indian tribe within the*
17 *60-day period provided in the order of a*
18 *court issued under clause (iii), the Indian*
19 *tribe and the State shall each submit to a*
20 *mediator appointed by the court a proposed*
21 *compact that represents their last best offer*
22 *for a compact. The mediator shall select*
23 *from the 2 proposed compacts the 1 which*
24 *best comports with the terms of this Act and*

1 *any other applicable Federal law and with*
 2 *the findings and order of the court.*

3 “(v) *SUBMISSION OF COMPACT TO*
 4 *STATE AND INDIAN TRIBE.*—*The mediator*
 5 *appointed under clause (iv) shall submit to*
 6 *the State and Indian tribe the proposed*
 7 *compact selected by the mediator under*
 8 *clause (iv).*

9 “(vi) *CONSENT OF STATE.*—*If a State*
 10 *consents to a proposed compact submitted to*
 11 *the State under clause (v) during the 60-*
 12 *day period beginning on the date on which*
 13 *the proposed compact is submitted to the*
 14 *State under clause (v), the proposed com-*
 15 *pact shall be treated as a compact entered*
 16 *into under paragraph (2).*

17 “(vii) *FAILURE OF STATE TO CON-*
 18 *SENT.*—*If the State does not consent during*
 19 *the 60-day period described in clause (vi) to*
 20 *a proposed compact submitted by a medi-*
 21 *ator under clause (v), the mediator shall no-*
 22 *tify the Secretary and the Secretary shall*
 23 *prescribe, in consultation with the Indian*
 24 *tribe, procedures—*

1 “(I) that are consistent with the
 2 proposed compact selected by the medi-
 3 ator under clause (iv), the provisions of
 4 this Act, and the relevant provisions of
 5 the laws of the State; and

6 “(II) under which class III gam-
 7 ing may be conducted on the Indian
 8 lands over which the Indian tribe has
 9 jurisdiction.

10 “(4) APPROVAL BY SECRETARY.—

11 “(A) IN GENERAL.—The Secretary is au-
 12 thorized to approve any compact entered into be-
 13 tween an Indian tribe and a State governing
 14 gaming on Indian lands of such Indian tribe.

15 “(B) DISAPPROVAL BY SECRETARY.—The
 16 Secretary may disapprove a compact described
 17 in subparagraph (A) only if such compact vio-
 18 lates—

19 “(i) any provision of this Act;

20 “(ii) any other provision of Federal
 21 law that does not relate to jurisdiction over
 22 gaming on Indian lands; or

23 “(iii) the trust obligation of the United
 24 States to Indians.

1 “(C) *FAILURE OF THE SECRETARY TO TAKE*
2 *FINAL ACTION.*—*If the Secretary does not ap-*
3 *prove or disapprove a compact described in sub-*
4 *paragraph (A) before the expiration of the 45-*
5 *day period beginning on the date on which the*
6 *compact is submitted to the Secretary for ap-*
7 *proval, the compact shall be considered to have*
8 *been approved by the Secretary, but only to the*
9 *extent the compact is consistent with the provi-*
10 *sions of this Act.*

11 “(D) *PUBLICATION OF NOTICE.*—*The Sec-*
12 *retary shall publish in the Federal Register no-*
13 *tice of any compact that is approved, or consid-*
14 *ered to have been approved, under this para-*
15 *graph.*

16 “(E) *EFFECT OF PUBLICATION OF COM-*
17 *PACT.*—*Except for an appeal conducted under*
18 *subchapter II of chapter 5 of title 5, United*
19 *States Code, by an Indian tribe or by a State as-*
20 *sociated with the publication of the compact, the*
21 *publication of a compact pursuant to subpara-*
22 *graph (D) or subsection (c)(4) that permits a*
23 *form of class III gaming shall, for purposes of*
24 *this Act, be conclusive evidence that such class*
25 *III gaming is an activity subject to negotiations*

1 *under the laws of the State where the gaming is*
 2 *to be conducted, in any matter under consider-*
 3 *ation by the Commission or a Federal court.*

4 “(F) *EFFECTIVE DATE OF COMPACT.*—A
 5 *compact shall become effective upon the publica-*
 6 *tion of the compact in the Federal Register by*
 7 *the Secretary.*

8 “(G) *DUTIES OF COMMISSION.*—Consistent
 9 *with the provisions of sections 7(c), 8, and 10,*
 10 *the Commission shall monitor and, if specifically*
 11 *authorized, regulate and license class III gaming*
 12 *with respect to any compact that is published in*
 13 *the Federal Register.*

14 “(5) *PROVISIONS OF COMPACTS.*—

15 “(A) *IN GENERAL.*—A compact negotiated
 16 *under this subsection may include provisions re-*
 17 *lating to—*

18 “(i) *the application of the criminal*
 19 *and civil laws (including any rule or regu-*
 20 *lation) of the Indian tribe or the State that*
 21 *are directly related to, and necessary for,*
 22 *the licensing and regulation of such activity*
 23 *in a manner consistent with sections 7(c),*
 24 *8, and 10;*

1 “(ii) the allocation of criminal and
2 civil jurisdiction between the State and the
3 Indian tribe necessary for the enforcement
4 of such laws (including any rule or regula-
5 tion);

6 “(iii) the assessment by the State of the
7 costs associated with such activities in such
8 amounts as are necessary to defray the costs
9 of regulating such activity;

10 “(iv) taxation by the Indian tribe of
11 such activity in amounts comparable to
12 amounts assessed by the State for com-
13 parable activities;

14 “(v) remedies for breach of compact
15 provisions;

16 “(vi) standards for the operation of
17 such activity and maintenance of the gam-
18 ing facility, including licensing, in a man-
19 ner consistent with sections 7(c), 8, and 10;
20 and

21 “(vii) any other subject that is directly
22 related to the operation of gaming activities
23 and the impact of gaming on tribal, State,
24 and local governments.

1 “(B) *STATUTORY CONSTRUCTION WITH RE-*
 2 *SPECT TO ASSESSMENTS.*—*Except for any assess-*
 3 *ments for services agreed to by an Indian tribe*
 4 *in compact negotiations, nothing in this section*
 5 *may be construed as conferring upon a State or*
 6 *any political subdivision thereof the authority to*
 7 *impose any tax, fee, charge, or other assessment*
 8 *upon an Indian tribe, an Indian gaming oper-*
 9 *ation or the value generated by the gaming oper-*
 10 *ation, or any person or entity authorized by an*
 11 *Indian tribe to engage in a class III gaming ac-*
 12 *tivity in conformance with this Act.*

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

23 “(7) *EXEMPTION.*—*The provisions of sections 2*
 24 *and 5 of the Act of January 2, 1951 (commonly re-*
 25 *ferred to as the ‘Gambling Devices Transportation*

1 *Act’)* (64 Stat. 1134, chapter 1194, 15 U.S.C. 1172
 2 *and 1175)* shall not apply to any class II gaming ac-
 3 *tivity or any gaming activity conducted pursuant to*
 4 *a compact entered into after the date of enactment of*
 5 *this Act or conducted pursuant to procedures pre-*
 6 *scribed by the Secretary under this Act, but in no*
 7 *event shall this paragraph be construed as invalidat-*
 8 *ing any exemption from section 2 or 5 of the Act of*
 9 *January 2, 1951, for any compact entered into prior*
 10 *to the date of enactment of this Act or any procedures*
 11 *for conducting a gaming activity prescribed by the*
 12 *Secretary prior to such date of enactment.*

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

22 “(c) *REVOCATION OF ORDINANCE.—*

23 “(1) *IN GENERAL.—The governing body of an*
 24 *Indian tribe, in its sole discretion, may adopt an or-*
 25 *dinance or resolution revoking any prior ordinance or*

1 *resolution that authorized class III gaming on the In-*
2 *dian lands of the Indian tribe. Such revocation shall*
3 *render class III gaming illegal on the Indian lands*
4 *of such Indian tribe.*

5 “(2) *PUBLICATION OF REVOCATION.—An Indian*
6 *tribe shall submit any revocation ordinance or resolu-*
7 *tion described in paragraph (1) to the Commission.*
8 *Not later than 90 days after the date on which the*
9 *Commission receives such ordinance or resolution, the*
10 *Commission shall publish such ordinance or resolu-*
11 *tion in the Federal Register. The revocation provided*
12 *by such ordinance or resolution shall take effect on the*
13 *date of such publication.*

14 “(3) *CONDITIONAL OPERATION.—Notwithstand-*
15 *ing any other provision of this subsection—*

16 “(A) *any person or entity operating a class*
17 *III gaming activity pursuant to this subsection*
18 *on the date on which an ordinance or resolution*
19 *described in paragraph (1) that revokes author-*
20 *ization for such class III gaming activity is pub-*
21 *lished in the Federal Register may, during the 1-*
22 *year period beginning on the date on which such*
23 *revocation, ordinance, or resolution is published*
24 *under paragraph (2), continue to operate such*
25 *activity in conformance with an applicable com-*

1 *pact approved or issued under subsection (a)*
 2 *that is in effect; and*

3 “(B) *any civil action that arises before, and*
 4 *any crime that is committed before, the expira-*
 5 *tion of such 1-year period shall not be affected*
 6 *by such revocation ordinance, or resolution.*

7 “(d) *CERTAIN CLASS III GAMING ACTIVITIES.—*

8 “(1) *COMPACTS ENTERED INTO BEFORE THE*
 9 *DATE OF ENACTMENT OF THE INDIAN GAMING REGU-*
 10 *LATORY ACT AMENDMENTS ACT OF 1995.—*

11 “(A) *IN GENERAL.—Subject to subpara-*
 12 *graph (B), class III gaming activities that are*
 13 *authorized under a compact approved, or proce-*
 14 *dures prescribed, by the Secretary under the au-*
 15 *thority of this Act prior to the date of enactment*
 16 *of the Indian Gaming Regulatory Act Amend-*
 17 *ments Act of 1995 shall, during such period as*
 18 *the compact is in effect, remain lawful for the*
 19 *purposes of this Act, notwithstanding the Indian*
 20 *Gaming Regulatory Act Amendments Act of*
 21 *1995 and the amendments made by such Act or*
 22 *any change in State law enacted after the ap-*
 23 *proval or issuance of the compact.*

24 “(B) *COMPACT OR PROCEDURES SUBJECT*
 25 *TO MINIMUM REGULATORY STANDARDS.—Sub-*

paragraph (A) shall apply to a compact or procedures described in that subparagraph on the condition that any class III gaming activity conducted under the compact or procedures shall be subject to all Federal minimum regulatory standards established under this Act and the regulations promulgated under this Act.

“(2) COMPACT ENTERED INTO AFTER THE DATE OF ENACTMENT OF THE INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1995.—Any compact entered into under subsection (a) after the date specified in paragraph (1) shall remain lawful for the purposes of this Act, notwithstanding any change in State law enacted after the approval or issuance of the compact.

“SEC. 13. REVIEW OF CONTRACTS.

“(a) CONTRACTS INCLUDED.—The Commission shall, in accordance with this section, review and approve or disapprove—

“(1) any management contract for the operation and management of any gaming activity that an Indian tribe may engage in under this Act; and

“(2) unless licensed by an Indian tribe consistent with the minimum Federal standards adopted pursuant to section 7(c), any gaming-related contract.

1 “(b) *MANAGEMENT CONTRACT REQUIREMENTS.*—*The*
2 *Commission shall approve any management contract be-*
3 *tween an Indian tribe and a person licensed by an Indian*
4 *tribe or the Commission that is entered into pursuant to*
5 *this Act only if the Commission determines that the contract*
6 *provides for—*

7 “(1) *adequate accounting procedures that are*
8 *maintained, and verifiable financial reports that are*
9 *prepared, by or for the governing body of the Indian*
10 *tribe on a monthly basis;*

11 “(2) *access to the daily gaming operations by*
12 *appropriate officials of the Indian tribe who shall*
13 *have the right to verify the daily gross revenues and*
14 *income derived from any gaming activity;*

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

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

20 “(5) *a contract term of not to exceed 5 years, ex-*
21 *cept that, upon the request of an Indian tribe, the*
22 *Commission may authorize a contract term that ex-*
23 *ceeds 5 years but does not exceed 7 years if the Com-*
24 *mission is satisfied that the capital investment re-*

1 *quired, and the income projections for, the particular*
 2 *gaming activity require the additional time; and*

3 *“(6) grounds and mechanisms for the termi-*
 4 *nation of the contract, but any such termination shall*
 5 *not require the approval of the Commission.*

6 *“(c) MANAGEMENT FEE BASED ON PERCENTAGE OF*
 7 *NET REVENUES.—*

8 *“(1) PERCENTAGE FEE.—The Commission may*
 9 *approve a management contract that provides for a*
 10 *fee that is based on a percentage of the net revenues*
 11 *of a tribal gaming activity if the Commission deter-*
 12 *mines that such percentage fee is reasonable, taking*
 13 *into consideration surrounding circumstances.*

14 *“(2) FEE AMOUNT.—Except as provided in para-*
 15 *graph (3), a fee described in paragraph (1) shall not*
 16 *exceed an amount equal to 30 percent of the net reve-*
 17 *nuces described in such paragraph.*

18 *“(3) EXCEPTION.—Upon the request of an In-*
 19 *dian tribe, if the Commission is satisfied that the*
 20 *capital investment required, and income projections*
 21 *for, a tribal gaming activity, necessitate a fee in ex-*
 22 *cess of the amount specified in paragraph (2), the*
 23 *Commission may approve a management contract*
 24 *that provides for a fee described in paragraph (1) in*
 25 *an amount in excess of the amount specified in para-*

1 graph (2), but not to exceed 40 percent of the net reve-
 2 nues described in paragraph (1).

3 “(d) *GAMING-RELATED CONTRACT REQUIREMENTS.*—

4 *The Commission shall approve a gaming-related contract*
 5 *covered under subsection (a)(2) that is entered into pursu-*
 6 *ant to this Act only if the Commission determines that the*
 7 *contract provides for—*

8 “(1) *grounds and mechanisms for termination of*
 9 *the contract, but such termination shall not require*
 10 *the approval of the Commission; and*

11 “(2) *such other provisions as the Commission*
 12 *may be empowered to impose by this Act.*

13 “(e) *TIME PERIOD FOR REVIEW.*—

14 “(1) *IN GENERAL.*—*Except as provided in para-*
 15 *graph (2), not later than 90 days after the date on*
 16 *which a management contract or other gaming-related*
 17 *contract is submitted to the Commission for approval,*
 18 *the Commission shall approve or disapprove such con-*
 19 *tract on the merits of the contract. The Commission*
 20 *may extend the 90-day period for an additional pe-*
 21 *riod of not more than 45 days if the Commission no-*
 22 *tifies the Indian tribe in writing of the reason for the*
 23 *extension of the period. The Indian tribe may bring*
 24 *an action in the United States District Court for the*
 25 *District of Columbia to compel action by the Commis-*

1 *sion if a contract has not been approved or dis-*
 2 *approved by the termination date of an applicable pe-*
 3 *riod under this subsection.*

4 *“(2) EFFECT OF FAILURE OF COMMISSION TO*
 5 *ACT ON CERTAIN GAMING-RELATED CONTRACTS.—Any*
 6 *gaming-related contract for an amount less than or*
 7 *equal to \$100,000 that is submitted to the Commis-*
 8 *sion pursuant to paragraph (1) by a person who*
 9 *holds a valid license that is in effect under this Act*
 10 *shall be deemed to be approved, if by the date that is*
 11 *90 days after the contract is submitted to the Com-*
 12 *mission, the Commission fails to approve or dis-*
 13 *approve the contract.*

14 *“(f) CONTRACT MODIFICATIONS AND VOID CON-*
 15 *TRACTS.—The Commission, after providing notice and a*
 16 *hearing on the record—*

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

20 *“(2) may void any contract regulated by the*
 21 *Commission under this Act if the Commission deter-*
 22 *mines that any provision of this Act has been violated*
 23 *by the terms of the contract.*

24 *“(g) INTERESTS IN REAL PROPERTY.—No contract*
 25 *regulated by this Act may transfer or, in any other manner,*

1 *convey any interest in land or other real property, unless*
 2 *specific statutory authority exists, all necessary approvals*
 3 *for such transfer or conveyance have been obtained, and*
 4 *such transfer or conveyance is clearly specified in the con-*
 5 *tract.*

6 “(h) *AUTHORITY OF THE SECRETARY.*—*The authority*
 7 *of the Secretary under section 2103 of the Revised Statutes*
 8 *(25 U.S.C. 81) shall not extend to any contract or agree-*
 9 *ment that is regulated pursuant to this Act.*

10 “(i) *DISAPPROVAL OF CONTRACTS.*—*The Commission*
 11 *may not approve a contract if the Commission determines*
 12 *that—*

13 “(1) *any person having a direct financial inter-*
 14 *est in, or management responsibility for, such con-*
 15 *tract, and, in the case of a corporation, any individ-*
 16 *ual who serves on the board of directors of such cor-*
 17 *poration, and any of the stockholders who hold (di-*
 18 *rectly or indirectly) 10 percent or more of its issued*
 19 *and outstanding stock—*

20 “(A) *is an elected member of the governing*
 21 *body of the Indian tribe which is a party to the*
 22 *contract;*

23 “(B) *has been convicted of any felony or*
 24 *gaming offense;*

1 “(C) has knowingly and willfully provided
2 materially important false statements or infor-
3 mation to the Commission or the Indian tribe
4 pursuant to this Act or has refused to respond to
5 questions propounded by the Commission; or

6 “(D) has been determined to be a person
7 whose prior activities, criminal record, if any, or
8 reputation, habits, and associations pose a threat
9 to the public interest or to the effective regulation
10 and control of gaming, or create or enhance the
11 dangers of unsuitable, unfair, or illegal practices,
12 methods, and activities in the conduct of gaming
13 or the carrying on of the business and financial
14 arrangements incidental thereto;

15 “(2) the contractor—

16 “(A) has unduly interfered or influenced for
17 its gain or advantage any decision or process of
18 tribal government relating to the gaming activ-
19 ity; or

20 “(B) has attempted to interfere or influence
21 a decision pursuant to subparagraph (A);

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

1 “(4) a trustee, exercising the skill and diligence
2 that a trustee is commonly held to, would not approve
3 the contract.

4 **“SEC. 14. REVIEW OF EXISTING CONTRACTS; INTERIM AU-**
5 **THORITY.**

6 “(a) *REVIEW OF EXISTING CONTRACTS.*—

7 “(1) *IN GENERAL.*—At any time after the Com-
8 mission is sworn in and has promulgated regulations
9 for the implementation of this Act, the Commission
10 shall notify each Indian tribe and management con-
11 tractor who, prior to the enactment of the Indian
12 Gaming Regulatory Act Amendments Act of 1995, en-
13 tered into a management contract that was approved
14 by the Secretary, that the Indian tribe is required to
15 submit to the Commission such contract, including all
16 collateral agreements relating to the gaming activity,
17 for review by the Commission not later than 60 days
18 after such notification. Any such contract shall be
19 valid under this Act, unless the contract is dis-
20 approved by the Commission under this section.

21 “(2) *REVIEW.*—

22 “(A) *IN GENERAL.*—Not later than 180
23 days after the submission of a management con-
24 tract, including all collateral agreements, to the
25 Commission pursuant to this section, the Com-

1 mission shall review the contract to determine
 2 whether the contract meets the requirements of
 3 section 13 and was entered into in accordance
 4 with the procedures under such section.

5 “(B) APPROVAL OF CONTRACT.—The Com-
 6 mission shall approve a management contract
 7 submitted for review under subsection (a) if the
 8 Commission determines that—

9 “(i) the management contract meets
 10 the requirements of section 13; and

11 “(ii) the management contractor has
 12 obtained all of the licenses that the contrac-
 13 tor is required to obtain under this Act.

14 “(C) NOTIFICATION OF NECESSARY MODI-
 15 FICATIONS.—If the Commission determines that
 16 a contract submitted under this section does not
 17 meet the requirements of section 13—

18 “(i) the Commission shall provide the
 19 parties to such contract written notification
 20 of the necessary modifications; and

21 “(ii) the parties shall have 180 days
 22 after the date on which such notification is
 23 provided to make the modifications.

24 “(b) INTERIM AUTHORITY OF THE NATIONAL INDIAN
 25 GAMING COMMISSION.—

1 “(1) *IN GENERAL.*—Notwithstanding any other
2 *provision of this Act, the Chairman and the associate*
3 *members of the National Indian Gaming Commission*
4 *who are holding office on the day before the date of*
5 *enactment of the Indian Gaming Regulatory Act*
6 *Amendments Act of 1995 shall exercise the authorities*
7 *described in paragraph (2) until such time as all of*
8 *the initial members of the Federal Indian Gaming*
9 *Regulatory Commission are sworn into office.*

10 “(2) *AUTHORITIES.*—Until the date specified in
11 *paragraph (1), the Chairman and the associate mem-*
12 *bers of the National Indian Gaming Commission re-*
13 *ferred to in that paragraph shall exercise those au-*
14 *thorities vested in the Federal Indian Gaming Regu-*
15 *latory Commission by this Act (other than the author-*
16 *ity specified in section 7(a)(1)(A) and any other au-*
17 *thority directly related to the administration of the*
18 *Federal Indian Gaming Regulatory Commission as*
19 *an independent establishment, as defined in section*
20 *104 of title 5, United States Code).*

21 “(3) *REGULATIONS.*—Until such time as the
22 *Commission promulgates revised regulations after the*
23 *date of enactment of the Indian Gaming Regulatory*
24 *Act Amendments Act of 1995, the regulations promul-*
25 *gated under this Act, as in effect on the day before*

1 *the date of enactment of the Indian Gaming Regu-*
 2 *latory Act Amendments Act of 1995, shall apply.*

3 ***“SEC. 15. CIVIL PENALTIES.***

4 *“(a) AMOUNT.—Any person who commits any act or*
 5 *causes to be done any act that violates any provision of*
 6 *this Act or any rule or regulation promulgated under this*
 7 *Act, or who fails to carry out any act or causes the failure*
 8 *to carry out any act that is required by any such provision*
 9 *of law shall be subject to a civil penalty in an amount equal*
 10 *to not more than \$50,000 per day for each such violation.*

11 *“(b) ASSESSMENT AND COLLECTION.—*

12 *“(1) IN GENERAL.—Each civil penalty assessed*
 13 *under this section shall be assessed by the Commission*
 14 *and collected in a civil action brought by the Attorney*
 15 *General on behalf of the United States. Before the*
 16 *Commission refers civil penalty claims to the Attor-*
 17 *ney General, the Commission may compromise the*
 18 *civil penalty after affording the person charged with*
 19 *a violation referred to in subsection (a), an oppor-*
 20 *tunity to present views and evidence in support of*
 21 *such action by the Commission to establish that the*
 22 *alleged violation did not occur.*

23 *“(2) PENALTY AMOUNT.—In determining the*
 24 *amount of a civil penalty assessed under this section,*
 25 *the Commission shall take into account—*

1 “(A) *the nature, circumstances, extent, and*
 2 *gravity of the violation committed;*

3 “(B) *with respect to the person found to*
 4 *have committed such violation, the degree of cul-*
 5 *pability, any history of prior violations, ability*
 6 *to pay, the effect on ability to continue to do*
 7 *business; and*

8 “(C) *such other matters as justice may re-*
 9 *quire.*

10 “(c) *TEMPORARY CLOSURES.—*

11 “(1) *IN GENERAL.—The Commission may order*
 12 *the temporary closure of all or part of an Indian*
 13 *gaming operation for a substantial violation of any*
 14 *provision of law referred to in subsection (a).*

15 “(2) *HEARING ON ORDER OF TEMPORARY CLO-*
 16 *SURE.—*

17 “(A) *IN GENERAL.—Not later than 30 days*
 18 *after the issuance of an order of temporary clo-*
 19 *sure, the Indian tribe or the individual owner of*
 20 *a gaming operation shall have the right to re-*
 21 *quest a hearing on the record before the Commis-*
 22 *sion to determine whether such order should be*
 23 *made permanent or dissolved.*

24 “(B) *DEADLINES RELATING TO HEARING.—*

25 *Not later than 30 days after a request for a hear-*

1 ing is made under subparagraph (A), the Com-
 2 mission shall conduct such hearing. Not later
 3 than 30 days after the termination of the hear-
 4 ing, the Commission shall render a final decision
 5 on the closure.

6 **“SEC. 16. JUDICIAL REVIEW.**

7 “A decision made by the Commission pursuant to sec-
 8 tion 7, 8, 10, 13, 14, or 15 shall constitute a final agency
 9 decision for purposes of appeal to the United States District
 10 Court for the District of Columbia pursuant to chapter 7
 11 of title 5, United States Code.

12 **“SEC. 17. COMMISSION FUNDING.**

13 “(a) *ANNUAL FEES.*—

14 “(1) *IN GENERAL.*—The Commission shall estab-
 15 lish a schedule of fees to be paid to the Commission
 16 annually by gaming operations for each class II and
 17 class III gaming activity that is regulated by this
 18 Act.

19 “(2) *LIMITATION ON FEE RATES.*—

20 “(A) *IN GENERAL.*—For each gaming oper-
 21 ation regulated under this Act, the rate of the
 22 fees imposed under the schedule established under
 23 paragraph (1) shall not exceed 2 percent of the
 24 net revenues of such gaming operation.

1 “(B) *TOTAL AMOUNT OF FEES.*—*The total*
2 *amount of all fees imposed during any fiscal*
3 *year under the schedule established under para-*
4 *graph (1) shall be equal to not more than*
5 *\$25,000,000.*

6 “(3) *ANNUAL FEE RATE.*—*The Commission, by a*
7 *vote of a majority of the members of the Commission,*
8 *shall annually adopt the rate of the fees authorized by*
9 *this section. Such fees shall be payable to the Commis-*
10 *sion on a monthly basis.*

11 “(4) *ADJUSTMENT OF FEES.*—*The fees imposed*
12 *upon a gaming operation may be reduced by the*
13 *Commission to take into account any regulatory func-*
14 *tions that are performed by an Indian tribe, or the*
15 *Indian tribe and a State, pursuant to regulations*
16 *promulgated by the Commission.*

17 “(5) *CONSEQUENCES OF FAILURE TO PAY*
18 *FEES.*—*Failure to pay the fees imposed under the*
19 *schedule established under paragraph (1) shall, subject*
20 *to regulations promulgated by the Commission, be*
21 *grounds for revocation of the approval of the Commis-*
22 *sion of any license required under this Act for the op-*
23 *eration of gaming activities.*

24 “(6) *SURPLUS FUNDS.*—*To the extent that reve-*
25 *nues derived from fees imposed under the schedule es-*

1 *tablished under paragraph (1) exceed the limitation*
 2 *in paragraph (2)(B) or are not expended or commit-*
 3 *ted at the close of any fiscal year, such surplus funds*
 4 *shall be credited to each gaming activity that is the*
 5 *subject of the fees on a pro rata basis against such*
 6 *fees imposed for the succeeding year.*

7 *“(b) REIMBURSEMENT OF COSTS.—The Commission is*
 8 *authorized to assess any applicant, except the governing*
 9 *body of an Indian tribe, for any license required pursuant*
 10 *to this Act. Such assessment shall be an amount equal to*
 11 *the actual costs of conducting all reviews and investigations*
 12 *necessary for the Commission to determine whether a license*
 13 *should be granted or denied to the applicant.*

14 *“(c) ANNUAL BUDGET.—*

15 *“(1) IN GENERAL.—For the first full fiscal year*
 16 *beginning after the date of enactment of the Indian*
 17 *Gaming Regulatory Act Amendments Act of 1995,*
 18 *and each fiscal year thereafter, the Commission shall*
 19 *adopt an annual budget for the expenses and oper-*
 20 *ation of the Commission.*

21 *“(2) REQUEST FOR APPROPRIATIONS.—The*
 22 *budget of the Commission may include a request for*
 23 *appropriations authorized under section 18.*

24 *“(3) SUBMISSION TO CONGRESS.—Notwithstand-*
 25 *ing any other provision of law, a request for appro-*

1 “(b) *EXEMPTION.*—The provisions of section 6050I of
 2 the Internal Revenue Code of 1986 shall apply to an Indian
 3 gaming establishment that is not designated by the Sec-
 4 retary of the Treasury as a financial institution pursuant
 5 to chapter 53 of title 31, United States Code.

6 “(c) *STATUTORY CONSTRUCTION.*—This section shall
 7 apply notwithstanding any other provision of law enacted
 8 before, on, or after, the date of enactment of this Act unless
 9 such other provision of law specifically cites this subsection.

10 “(d) *ACCESS TO INFORMATION BY STATE AND TRIBAL*
 11 *GOVERNMENTS.*—Subject to section 7(d), upon the request
 12 of a State or the governing body of an Indian tribe, the
 13 Commission shall make available any law enforcement in-
 14 formation which it has obtained pursuant to such section,
 15 unless otherwise prohibited by law, in order to enable the
 16 State or the Indian tribe to carry out its responsibilities
 17 under this Act or any compact approved by the Secretary.”;
 18 and

19 (5) by striking section 20(d).

20 **SEC. 3. CONFORMING AMENDMENTS.**

21 (a) *TITLE 10.*—Section 2323a(e)(1) of title 10, United
 22 States Code, is amended by striking “section 4(4) of the
 23 Indian Gaming Regulatory Act (102 Stat. 2468; 25 U.S.C.
 24 2703(4))” and inserting “section 4(14) of the Indian Gam-
 25 ing Regulatory Act”.

1 (b) *TITLE 18.—Title 18, United States Code, is*
2 *amended—*

3 (1) *in section 1166—*

4 (A) *in subsection (c), by striking “a Tribal-*
5 *State compact approved by the Secretary of the*
6 *Interior under section 11(d)(8) of the Indian*
7 *Gaming Regulatory Act that is in effect” and in-*
8 *serting “a compact approved by the Secretary of*
9 *the Interior under section 12(a)(4) of the Indian*
10 *Gaming Regulatory Act that is in effect or pur-*
11 *suant to procedures prescribed by the Secretary*
12 *of the Interior under section 12(a)(3)(B)(iii) of*
13 *such Act”; and*

14 (B) *in subsection (d), by striking “a Tribal-*
15 *State compact approved by the Secretary of the*
16 *Interior under section 11(d)(8) of the Indian*
17 *Gaming Regulatory Act” and inserting “a com-*
18 *pact approved by the Secretary of the Interior*
19 *under section 12(a)(4) of the Indian Gaming*
20 *Regulatory Act or pursuant to procedures pre-*
21 *scribed by the Secretary of the Interior under*
22 *section 12(a)(3)(B)(iii) of such Act,”;*

23 (2) *in section 1167, by striking “pursuant to an*
24 *ordinance or resolution approved by the National In-*

1 *dian Gaming Commission” each place it appears;*
 2 *and*

3 *(3) in section 1168, by striking “pursuant to an*
 4 *ordinance or resolution approved by the National In-*
 5 *Indian Gaming Commission,” each place it appears.*

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

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

12 *(1) in section 3701(2)—*

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

17 *(B) by striking “section 4(4) of such Act (25*
 18 *U.S.C. 2703(4))” and inserting “section 4(14) of*
 19 *such Act”; and*

20 *(2) in section 3704(b), by striking “section 4(4)*
 21 *of the Indian Gaming Regulatory Act” and inserting*
 22 *“section 4(14) of the Indian Gaming Regulatory Act”.*

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