

Calendar No. 948

106TH CONGRESS
2^D SESSION

S. 2920

[Report No. 106-498]

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

IN THE SENATE OF THE UNITED STATES

JULY 25, 2000

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

OCTOBER 11 (legislative day, SEPTEMBER 22), 2000

Reported by Mr. CAMPBELL, 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 Improvement Act of 2000”.

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

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

5 (1) in section 7 (25 U.S.C. 2706)—

6 (A) in subsection (c)—

7 (i) in paragraph (3), by striking
 8 “and” at the end thereof;

9 (ii) by redesignating paragraph (4) as
 10 paragraph (5); and

11 (iii) by inserting after paragraph (3),
 12 the following:

13 “(4) performance plans created under sub-
 14 section (d), including copies of such plans; and”;

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

16 “(d) PERFORMANCE PLANS.—The Commission shall
 17 be subject to the requirements of section 306 of title 5,
 18 United States Code, and sections 1115 and 1116 of title
 19 31, United States Code (as added by the Government Per-
 20 formance and Results Act (Public law 103–62)). Not later
 21 than 1 year after the date of enactment of the Indian
 22 Gaming Regulatory Improvement Act of 2000, the Com-
 23 mission shall prepare and submit the initial strategic plan
 24 required under such section 306 to the Director of the
 25 Office of Management and Budget.”;

1 (2) in section 11(b)(2)(F)(i) (25 U.S.C.
 2 2710(b)(2)(F)(i)), by striking “primary manage-
 3 ment” and all that follows through “such officials”
 4 and inserting “tribal gaming commissioners, tribal
 5 gaming commission employees, and primary manage-
 6 ment officials and key employees of the gaming en-
 7 terprise and that oversight of primary management
 8 officials and key employees”;

9 (3) by redesignating section 22 (25 U.S.C.
 10 2721) as section 26; and

11 (4) by inserting after section 21 (25 U.S.C.
 12 2720) the following:

13 **“SEC. 22. FEE ASSESSMENTS.**

14 “(a) ESTABLISHMENT OF SCHEDULE OF FEES.—

15 “(1) IN GENERAL.—Except as provided in this
 16 section, the Commission shall establish a schedule of
 17 fees to be paid annually to the Commission by each
 18 gaming operation that conducts a class II or class
 19 III gaming activity that is regulated by this Act.

20 “(2) RATES.—The rate of fees under the sched-
 21 ule established under paragraph (1) that are im-
 22 posed on the gross revenues from each activity de-
 23 scribed in such paragraph shall be as follows:

1 “(A) A fee of not more than 2.5 percent
2 shall be imposed on the first \$1,500,000 of
3 such gross revenues.

4 “(B) A fee of not more than 5 percent
5 shall be imposed on amounts in excess of the
6 first \$1,500,000 of such gross revenues.

7 “(3) TOTAL AMOUNT.—The total amount of all
8 fees imposed during any fiscal year under the sched-
9 ule established under paragraph (1) shall not exceed
10 \$8,000,000.

11 “(b) COMMISSION AUTHORIZATION.—

12 “(1) IN GENERAL.—By a vote of not less than
13 2 members of the Commission the Commission shall
14 adopt the schedule of fees provided for under this
15 section. Such fees shall be payable to the Commis-
16 sion on a quarterly basis.

17 “(2) FEES ASSESSED FOR SERVICES.—The ag-
18 gregate amount of fees assessed under this section
19 shall be reasonably related to the costs of services
20 provided by the Commission to Indian tribes under
21 this Act (including the cost of issuing regulations
22 necessary to carry out this Act). In assessing and
23 collecting fees under this section, the Commission
24 shall take into account the duties of, and services
25 provided by, the Commission under this Act.

1 “(3) FACTORS FOR CONSIDERATION.—In mak-
2 ing a determination of the amount of fees to be as-
3 sessed for any class II or class III gaming activity
4 under the schedule of fees under this section, the
5 Commission may provide for a reduction in the
6 amount of fees that otherwise would be collected on
7 the basis of the following factors:

8 “(A) The extent of the regulation of the
9 gaming activity involved by a State or Indian
10 tribe (or both):

11 “(B) The extent of self-regulating activi-
12 ties, as defined by this Act, conducted by the
13 Indian tribe:

14 “(C) Other factors determined by the Com-
15 mission, including

16 “(i) the unique nature of tribal gam-
17 ing as compared to commercial gaming,
18 other governmental gaming, and charitable
19 gaming;

20 “(ii) the broad variations in the na-
21 ture, scale, and size of tribal gaming activ-
22 ity;

23 “(iii) the inherent sovereign rights of
24 Indian tribes with respect to regulating the
25 affairs of Indian tribes;

1 “(iv) the findings and purposes under
2 sections 2 and 3; and

3 “(v) any other matter that is con-
4 sistent with the purposes under section 3.

5 “(4) CONSULTATION.—In establishing a sched-
6 ule of fees under this section, the Commission shall
7 consult with Indian tribes.

8 “(e) TRUST FUND.—

9 “(1) ESTABLISHMENT.—There is established in
10 the Treasury of the United States a fund to be
11 known as the Indian Gaming Trust Fund (referred
12 to in this subsection as the ‘Trust Fund’), consisting
13 of such amounts as are—

14 “(A) transferred to the Trust Fund under
15 paragraph (2)(A);

16 “(B) appropriated to the Trust Fund; and

17 “(C) any interest earned on the investment
18 of amounts in the Trust Fund under subsection
19 (d).

20 “(2) TRANSFER OF AMOUNTS EQUIVALENT TO
21 FEES.—

22 “(A) IN GENERAL.—The Secretary of the
23 Treasury shall transfer to the Trust Fund an
24 amount equal to the aggregate amount of fees
25 collected under this section.

1 “(B) TRANSFERS BASED ON ESTIMATES.—

2 The amounts required to be transferred to the
3 Trust Fund under subparagraph (A) shall be
4 transferred not less frequently than quarterly
5 from the general fund of the Treasury to the
6 Trust Fund on the basis of estimates made by
7 the Secretary of the Treasury. Proper adjust-
8 ment shall be made in amounts subsequently
9 transferred to the extent prior estimates were
10 in excess of or less than the amounts required
11 to be transferred.

12 “(d) INVESTMENTS.—

13 “(1) IN GENERAL.—It shall be the duty of the
14 Secretary of the Treasury to invest such portion of
15 the Trust Fund as is not, in the judgment of the
16 Secretary of the Treasury, required to meet current
17 withdrawals. The Secretary of the Treasury shall in-
18 vest the amounts deposited under subsection (c) only
19 in interest-bearing obligations of the United States
20 or in obligations guaranteed as to both principal and
21 interest by the United States.

22 “(2) SALE OF OBLIGATIONS.—Any obligation
23 acquired by the Trust Fund, except special obliga-
24 tions issued exclusively to the Trust Fund, may be
25 sold by the Secretary of the Treasury at the market

1 price, and such special obligations may be redeemed
2 at par plus accrued interest.

3 “(3) CREDITS TO TRUST FUND.—The interest
4 on, and proceeds from, the sale or redemption of,
5 any obligations held in the Trust Fund shall be
6 credited to and form a part of the Trust Fund.

7 “(c) EXPENDITURES FROM TRUST FUND.—

8 “(1) IN GENERAL.—Amounts in the Trust
9 Fund shall be available to the Commission, as pro-
10 vided for in appropriations Acts, for carrying out the
11 duties of the Commission under this Act.

12 “(2) WITHDRAWAL AND TRANSFER OF
13 FUNDS.—Upon request of the Commission, the Sec-
14 retary of the Treasury shall withdraw amounts from
15 the Trust Fund and transfer such amounts to the
16 Commission for use in accordance with paragraph
17 (1).

18 “(f) LIMITATION ON TRANSFERS AND WITH-
19 DRAWALS.—Except as provided in subsection (e)(2), the
20 Secretary of the Treasury may not transfer or withdraw
21 any amount deposited under subsection (e).

22 **“SEC. 23. MINIMUM STANDARDS.**

23 “(a) CLASS I GAMING.—Notwithstanding any other
24 provision of law, class I gaming on Indian lands shall be

1 within the exclusive jurisdiction of the Indian tribes and
2 shall not be subject to the provisions of this Act.

3 “(b) CLASS II GAMING.—Effective on the date of en-
4 actment of this section, an Indian tribe shall retain the
5 rights of that Indian tribe, with respect to class II gaming
6 and in a manner that meets or exceeds the minimum Fed-
7 eral standards established under section 11, to—

8 “(1) monitor and regulate that gaming;

9 “(2) conduct background investigations; and

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

12 “(c) CLASS III GAMING UNDER A COMPACT.—With
13 respect to class III gaming that is conducted under a com-
14 pact entered into under this Act, an Indian tribe or a
15 State (or both), as provided for in such a compact or a
16 related tribal ordinance or resolution shall, in a manner
17 that meets or exceeds the minimum Federal standards es-
18 tablished by the Commission under section 11—

19 “(1) monitor and regulate that gaming;

20 “(2) conduct background investigations; and

21 “(3) establish and regulate internal control sys-
22 tems.

23 “(d) RULEMAKING.—The Commission may promul-
24 gate such regulations as may be necessary to carry out
25 this section.

1 **“SEC. 24. USE OF NATIONAL INDIAN GAMING COMMISSION**
2 **CIVIL FINES.**

3 “(a) **USE OF FUNDS.**—The Secretary may provide
4 grants and technical assistance to Indian tribes from any
5 funds secured by the Commission pursuant to section 14,
6 which funds shall be made available only for the following
7 purposes:

8 “(1) To provide technical training and other as-
9 sistance to Indian tribes to strengthen the regulatory
10 integrity of Indian gaming.

11 “(2) To provide assistance to Indian tribes to
12 assess the feasibility of non-gaming economic devel-
13 opment activities on Indian lands.

14 “(3) To provide assistance to Indian tribes to
15 devise and implement programs and treatment serv-
16 ices for individuals diagnosed as problem gamblers.

17 “(4) To provide other forms of assistance to In-
18 dian tribes not inconsistent with the Indian Gaming
19 Regulatory Act.

20 “(b) **CONSULTATION.**—In carrying out this section,
21 the Secretary shall consult with Indian tribes and any
22 other appropriate tribal or Federal officials.

23 “(c) **REGULATIONS.**—The Secretary may promulgate
24 such regulations as may be necessary to carry out this
25 section.

1 **“SEC. 25. REGULATIONS.**

2 **“(a) IN GENERAL.—**

3 **“(1) PROMULGATION.—**Not later than 90 days
4 after the date of enactment of the Indian Gaming
5 Regulatory Improvement Act of 2000, the Secretary
6 shall develop procedures under subchapter III of
7 chapter 5 of title 5, United States Code, to negotiate
8 and promulgate regulations relating to the classifica-
9 tion of games conducted by Indian tribes pursuant
10 to this Act.

11 **“(2) PUBLICATION OF PROPOSED REGULA-**
12 **TIONS.—**Not later than 1 year after the date of en-
13 actment of the Indian Gaming Regulatory Improve-
14 ment Act of 2000, the Secretary shall publish in the
15 Federal Register proposed regulations to implement
16 the amendments made by such Act.

17 **“(b) COMMITTEE.—**A negotiated rulemaking com-
18 mittee established pursuant to section 565 of title 5,
19 United States Code, to carry out this section shall be com-
20 posed only of Federal and Indian tribal government rep-
21 resentatives, a majority of whom shall be nominated by
22 and be representative of Indian tribes that conduct gam-
23 ing pursuant to this Act.”.

1 **SEC. 3. APPLICATION OF GOVERNMENT PERFORMANCE**
 2 **AND RESULTS ACT.**

3 Section 306(f) of title 5, United States Code, is
 4 amended by inserting “and includes the National Indian
 5 Gaming Commission,” after “section 105.”

6 **SECTION 1. SHORT TITLE.**

7 *This Act may be cited as the “Indian Gaming Regu-*
 8 *latory Improvement Act of 2000”.*

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

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

13 *(1) in section 4(7) (25 U.S.C. 2703(7)), by add-*
 14 *ing at the end the following:*

15 *“(G) Notwithstanding any other provision of*
 16 *law, sections 1 through 7 of the Act of January 2,*
 17 *1951 (commonly known as the Gambling Devices*
 18 *Transportation Act (15 U.S.C. 1171–1177)) shall not*
 19 *apply to any gaming described in subparagraph*
 20 *(A)(i) (class II gaming) where technologic aids are*
 21 *used in connection with any such gaming.”;*

22 *(2) in section 7 (25 U.S.C. 2706)—*

23 *(A) in subsection (c)—*

24 *(i) in paragraph (3), by striking*
 25 *“and” at the end thereof;*

1 (ii) by redesignating paragraph (4) as
2 paragraph (5); and

3 (iii) by inserting after paragraph (3),
4 the following:

5 “(4) the strategic plan for Commission activi-
6 ties.”; and

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

8 “(d) STRATEGIC PLAN.—

9 “(1) IN GENERAL.—The strategic plan required
10 under subsection (c)(4) shall include—

11 “(A) a comprehensive mission statement
12 covering the major functions and operations of
13 the Commission;

14 “(B) the general goals and objectives, in-
15 cluding outcome-related goals and objectives, for
16 the major functions and operations of the Com-
17 mission;

18 “(C) a description of how the general goals
19 and objectives are to be achieved, including a de-
20 scription of the operational processes, skills and
21 technology, and the human, capital, information,
22 and other resources required to meet those goals
23 and objectives;

1 “(D) a performance plan that shall be re-
2 lated to the general goals and objectives of the
3 strategic plan;

4 “(E) an identification of the key factors ex-
5 ternal to the Commission and beyond its control
6 that could significantly affect the achievement of
7 the general goals and objectives; and

8 “(F) a description of the program evalua-
9 tions used in establishing or revising the general
10 goals and objectives, with a schedule for future
11 program evaluations.

12 “(2) *TERM OF PLAN.*—The strategic plan shall
13 cover a period of not less than 5 fiscal years begin-
14 ning with the fiscal year in which the plan is sub-
15 mitted. The strategic plan shall be updated and re-
16 vised at least every 4 years.

17 “(3) *PERFORMANCE PLAN.*—The performance
18 plan under paragraph (1)(D) shall be consistent with
19 the strategic plan. In developing the performance
20 plan, the Commission should be consistent with the
21 requirements of section 1115 of title 31, United States
22 Code (the Government Performance and Results Act).

23 “(4) *CONSULTATION.*—In developing the stra-
24 tegic plan, the Commission shall consult with the
25 Congress, and shall solicit and consider the views and

1 *suggestions of those entities that may be potentially*
 2 *affected by or interested in such a plan.”;*

3 (3) *in section 11(b)(2)(F)(i) (25 U.S.C.*
 4 *2710(b)(2)(F)(i)), by striking “primary manage-*
 5 *ment” and all that follows through “such officials”*
 6 *and inserting “tribal gaming commissioners, tribal*
 7 *gaming commission employees, and primary manage-*
 8 *ment officials and key employees of the gaming enter-*
 9 *prise and that oversight of primary management offi-*
 10 *cials and key employees”;*

11 (4) *by redesignating section 22 (25 U.S.C. 2721)*
 12 *as section 25; and*

13 (5) *by inserting after section 21 (25 U.S.C.*
 14 *2720) the following:*

15 **“SEC. 22. FEE ASSESSMENTS.**

16 *“(a) ESTABLISHMENT OF SCHEDULE OF FEES.—*

17 *“(1) IN GENERAL.—Except as provided in this*
 18 *section, the Commission shall establish a schedule of*
 19 *fees to be paid annually to the Commission by each*
 20 *gaming operation that conducts a class II or class III*
 21 *gaming activity that is regulated by this Act.*

22 *“(2) RATES.—The rate of fees under the schedule*
 23 *established under paragraph (1) that are imposed on*
 24 *the gross revenues from each activity described in*
 25 *such paragraph shall be as follows:*

1 “(A) A fee of not more than 2.5 percent
2 shall be imposed on the first \$1,500,000 of such
3 gross revenues.

4 “(B) A fee of not more than 5 percent shall
5 be imposed on amounts in excess of the first
6 \$1,500,000 of such gross revenues.

7 “(3) TOTAL AMOUNT.—The total amount of all
8 fees imposed during any fiscal year under the sched-
9 ule established under paragraph (1) shall not exceed
10 \$8,000,000.

11 “(b) COMMISSION AUTHORIZATION.—

12 “(1) IN GENERAL.—By a vote of not less than 2
13 members of the Commission the Commission shall
14 adopt the schedule of fees provided for under this sec-
15 tion. Such fees shall be payable to the Commission on
16 a quarterly basis.

17 “(2) FEES ASSESSED FOR SERVICES.—The ag-
18 gregate amount of fees assessed under this section
19 shall be reasonably related to the costs of services pro-
20 vided by the Commission to Indian tribes under this
21 Act (including the cost of issuing regulations nec-
22 essary to carry out this Act). In assessing and col-
23 lecting fees under this section, the Commission shall
24 take into account the duties of, and services provided
25 by, the Commission under this Act.

1 “(3) *FACTORS FOR CONSIDERATION.*—*In making*
2 *a determination of the amount of fees to be assessed*
3 *for any class II or class III gaming activity under*
4 *the schedule of fees under this section, the Commission*
5 *may provide for a reduction in the amount of fees*
6 *that otherwise would be collected on the basis of the*
7 *following factors:*

8 “(A) *The extent of the regulation of the*
9 *gaming activity involved by a State or Indian*
10 *tribe (or both).*

11 “(B) *The extent of self-regulating activities,*
12 *as defined by this Act, conducted by the Indian*
13 *tribe.*

14 “(C) *Other factors determined by the Com-*
15 *mission, including*

16 “(i) *the unique nature of tribal gaming*
17 *as compared to commercial gaming, other*
18 *governmental gaming, and charitable gam-*
19 *ing;*

20 “(ii) *the broad variations in the na-*
21 *ture, scale, and size of tribal gaming activ-*
22 *ity;*

23 “(iii) *the inherent sovereign rights of*
24 *Indian tribes with respect to regulating the*
25 *affairs of Indian tribes;*

1 “(iv) the findings and purposes under
2 sections 2 and 3;

3 “(v) the amount of interest or invest-
4 ment income derived from the Indian gam-
5 ing regulation accounts; and

6 “(vi) any other matter that is con-
7 sistent with the purposes under section 3.

8 “(4) CONSULTATION.—In establishing a schedule
9 of fees under this section, the Commission shall con-
10 sult with Indian tribes.

11 “(c) INDIAN GAMING REGULATION ACCOUNTS.—

12 “(1) IN GENERAL.—All fees and civil forfeitures
13 collected by the Commission pursuant to this Act shall
14 be maintained in separate, segregated accounts, and
15 shall only be expended for purposes set forth in this
16 Act.

17 “(2) INVESTMENTS.—It shall be the duty of the
18 Commission to invest such portion of the accounts
19 maintained under paragraph (1) as are not, in the
20 judgment of the Commission, required to meet imme-
21 diate expenses. The Commission shall invest the
22 amounts deposited under this Act only in interest-
23 bearing obligations of the United States or in obliga-
24 tions guaranteed as to both principal and interest by
25 the United States.

1 “(3) *SALE OF OBLIGATIONS.*—Any obligation ac-
2 quired by the accounts maintained under paragraph
3 (1), except special obligations issued exclusively to
4 such accounts, may be sold by the Commission at the
5 market price, and such special obligations may be re-
6 deemed at par plus accrued interest.

7 “(4) *CREDITS TO THE INDIAN GAMING REGU-*
8 *LATORY ACCOUNTS.*—The interest on, and proceeds
9 from, the sale or redemption of any obligations held
10 in the accounts maintained under paragraph (1)
11 shall be credited to and form a part of such accounts.

12 **“SEC. 23. MINIMUM STANDARDS.**

13 “(a) *CLASS I GAMING.*—Notwithstanding any other
14 provision of law, class I gaming on Indian lands shall be
15 within the exclusive jurisdiction of the Indian tribes and
16 shall not be subject to the provisions of this Act.

17 “(b) *CLASS II GAMING.*—Effective on the date of enact-
18 ment of this section, an Indian tribe shall retain the rights
19 of that Indian tribe, with respect to class II gaming and
20 in a manner that meets or exceeds the minimum Federal
21 standards established under section 11, to—

22 “(1) monitor and regulate that gaming;

23 “(2) conduct background investigations; and

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

1 “(c) *CLASS III GAMING UNDER A COMPACT.*—With re-
 2 spect to class III gaming that is conducted under a compact
 3 entered into under this Act, an Indian tribe or a State (or
 4 both), as provided for in such a compact or a related tribal
 5 ordinance or resolution shall, in a manner that meets or
 6 exceeds the minimum Federal standards established by the
 7 Commission under section 11—

8 “(1) monitor and regulate that gaming;

9 “(2) conduct background investigations; and

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

12 “(d) *RULEMAKING.*—The Commission may promul-
 13 gate such additional regulations as may be necessary to
 14 carry out this section.

15 **“SEC. 24. USE OF NATIONAL INDIAN GAMING COMMISSION**

16 **CIVIL FINES.**

17 “(a) *IN GENERAL.*—All funds secured by the Commis-
 18 sion pursuant to section 14 shall be deposited in an Indian
 19 gaming regulation account, as provided for in section 22(c).

20 “(b) *USE OF FUNDS.*—The Commission may provide
 21 grants and technical assistance to Indian tribes from any
 22 funds secured by the Commission pursuant to section 14,
 23 which funds shall be made available only for the following
 24 purposes:

1 “(1) *To provide technical training and other as-*
2 *stance to Indian tribes to strengthen the regulatory*
3 *integrity of Indian gaming.*

4 “(2) *To provide assistance to Indian tribes to as-*
5 *sess the feasibility of non-gaming economic develop-*
6 *ment activities on Indian lands.*

7 “(3) *To provide assistance to Indian tribes to de-*
8 *vide and implement programs and treatment services*
9 *for individuals diagnosed as problem gamblers.*

10 “(4) *To provide other forms of assistance to In-*
11 *Indian tribes not inconsistent with the Indian Gaming*
12 *Regulatory Act.*

13 “(c) *CONSULTATION.—In carrying out this section, the*
14 *Commission shall consult with Indian tribes and any other*
15 *appropriate tribal or Federal officials.*

16 “(d) *REGULATIONS.—The Commission may promul-*
17 *gate such regulations as may be necessary to carry out this*
18 *section.”.*

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106TH CONGRESS
2D SESSION

S. 2920

[Report No. 106-498]

A BILL

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

OCTOBER 11 (legislative day, SEPTEMBER 22), 2000

Reported with an amendment