

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 2287

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

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## IN THE HOUSE OF REPRESENTATIVES

MAY 26, 1993

Mr. TORRICELLI (for himself, Mr. BILBRAY, Mr. CALVERT, Mr. HOAGLAND, Mr. REED, Mr. STUMP, and Mrs. VUCANOVICH) introduced the following bill; which was referred jointly to the Committees on Natural Resources and the Judiciary

MAY 2, 1994

Additional sponsors: Mr. LANCASTER, Mr. SOLOMON, Mrs. ROUKEMA, Mr. LEWIS of California, Mr. BAESLER, Mr. PAXON, Mr. ZELIFF, Mr. SENBRENNER, Mr. MENENDEZ, Mr. BACCHUS of Florida, Mrs. FOWLER, and Mrs. MALONEY

Deleted sponsor: Mr. HOAGLAND (added May 26, 1993; deleted November 18, 1993)

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## 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 “Gaming Integrity and  
5 State Law Enforcement Act of 1993”.

1 **SEC. 2. FINDINGS AND DECLARATION OF POLICY.**

2 (a) FINDINGS.—Section 2(5) of the Indian Gaming  
3 Regulatory Act (25 U.S.C. 2701(5)) is amended by insert-  
4 ing “subject to the provisions of this Act” after “Indian  
5 lands”.

6 (b) POLICY.—Section 3(2) of such Act (25 U.S.C.  
7 2702(2)) is amended by striking “by an Indian tribe”.

8 **SEC. 3. DEFINITIONS.**

9 (a) INDIAN LANDS.—Section 4(4) of the Indian Gam-  
10 ing Regulatory Act (25 U.S.C. 2703(4)) is amended to  
11 read as follows:

12 “(4) The term ‘Indian lands’ means lands over which  
13 an Indian tribe exercises governmental power, and which  
14 are located—

15 “(A) within the exterior boundaries of an In-  
16 dian reservation and held in fee by the Indian tribe  
17 for which such lands have been reserved;

18 “(B) within the exterior boundaries of the res-  
19 ervation title to which is either held in trust by the  
20 United States for the benefit of an Indian tribe or  
21 member of such tribe or held by an Indian tribe or  
22 member of such tribe subject to restriction by the  
23 United States against alienation; or

24 “(C) outside the exterior boundaries of a recog-  
25 nized reservation, as such boundaries existed on Oc-  
26 tober 17, 1988, title to which is either held in trust

1 by the United States for the benefit of an Indian  
2 tribe or held by an Indian tribe subject to restriction  
3 by the United States against alienation.”.

4 (b) INDIAN TRIBE.—Section 4(5)(A) of such Act (25  
5 U.S.C. 2703(5)(A)) is amended by inserting “before the  
6 date of the enactment of this Act” after “recognized”.

7 (c) CLASS III GAMING.—Section 4 of such Act (25  
8 U.S.C. 2703) is amended—

9 (1) in paragraph (7)(A)(i)—

10 (A) in the matter preceding subclause (I),  
11 by inserting after “therewith)” the following:  
12 “except video bingo”;

13 (B) in subclause (I), by inserting “(but not  
14 limited to” after “including”;

15 (C) in the matter following subclause (III),  
16 by inserting “, but not limited to,” after “loca-  
17 tion)”;

18 (2) in paragraph (7)(A)(ii)(II), by striking “re-  
19 garding” and inserting “including (but not limited  
20 to)”;

21 (3) in paragraph (7)(B)(i), by inserting “(but  
22 not limited to) house banking card games, pari-  
23 mutuel wagering, casino games played with dice,  
24 wheels and similar gaming equipment,” after “in-  
25 cluding”;

1           (4) in paragraph (8), by inserting before the pe-  
2           riod at the end the following: “including (but not  
3           limited to) slot machines, electronic or  
4           electromechanical facsimiles of any game of chance,  
5           and any and all forms of electronic video games or  
6           devices, such as video bingo, video pull-tabs, video  
7           keno, and video blackjack”.

8           (d) SLOT MACHINE.—Section 4 of such Act (25  
9           U.S.C. 2703) is amended by adding at the end thereof  
10          the following:

11           “(11) The term ‘slot machine’ means any me-  
12          chanical, electrical, or other device, contrivance, or  
13          machine which, upon insertion of a coin, token, or  
14          similar object therein, or upon payment of any con-  
15          sideration whatsoever, is available to play or operate,  
16          the play or operation of which, whether by reason of  
17          the skill of the operator or application of the element  
18          of chance, or both, may deliver or entitle the person  
19          playing or operating the machine to receive cash or  
20          tokens to be exchanged for cash or to receive mer-  
21          chandise or any thing of value whatsoever, whether  
22          the payoff is made automatically from the machine  
23          or in any other manner whatsoever, including (but  
24          not limited to) any and all forms of electronic video

1 games or devices such as video poker, video bingo,  
2 video pull-tabs, video keno, and video blackjack.”.

3 **SEC. 4. NATIONAL INDIAN GAMING COMMISSION.**

4 (a) ADDITIONAL MEMBERS.—Section 5(b)(1) of the  
5 Indian Gaming Regulatory Act (25 U.S.C. 2704(b)(1)) is  
6 amended—

7 (1) in the matter preceding subparagraph (A),  
8 by striking “three” and inserting “five”;

9 (2) in subparagraph (A), by striking “and”;

10 (3) in subparagraph (B), by striking the period  
11 at the end and inserting “; and”; and

12 (4) by adding at the end the following:

13 “(C) two associate members who shall be  
14 appointed by the President, with the advice and  
15 consent of the Senate, from among State offi-  
16 cials.”.

17 (b) COMPOSITION.—Section 5(b)(3) of such Act (25  
18 U.S.C. 2704(b)(3)) is amended in the first sentence by  
19 striking “two” and inserting “three”.

20 (c) QUORUM.—Section 5(d) of such Act (25 U.S.C.  
21 2704(d)) is amended by striking “two” and inserting  
22 “three”.

1 **SEC. 5. TRANSFER OF CERTAIN POWERS OF THE CHAIR-**  
2 **MAN TO THE COMMISSION.**

3 (a) POWERS OF CHAIRMAN.—Section 6(a) of the In-  
4 dian Gaming Regulatory Act (25 U.S.C. 2705(a)) is  
5 amended—

6 (1) by striking the semicolon at the end of  
7 paragraph (2) and inserting a period; and

8 (2) by striking paragraphs (3) and (4).

9 (b) POWERS OF COMMISSION.—Section 7(a) of such  
10 Act (25 U.S.C. 2706(a)) is amended—

11 (1) in paragraph (4), by striking “; and”;

12 (2) in paragraph (5), by striking the period and  
13 inserting “; and”; and

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

15 “(6) by an affirmative vote of not less than 3  
16 members, approve tribal ordinances or resolutions  
17 regulating class II gaming and class III gaming as  
18 provided in section 11; and

19 “(7) by an affirmative vote of not less than 3  
20 members, approve management contracts for class II  
21 gaming and class III gaming as provided in sections  
22 11(d)(9) and 12.”.

23 (c) REPORT.—Section 7(c) of such Act (25 U.S.C.  
24 2706(c)) is amended—

1 (1) in the matter preceding paragraph (1), by  
2 inserting “(but not be limited to)” after “include”;  
3 and

4 (2) in paragraph (2), by inserting “(but not  
5 limited to)” after “including”.

6 (d) CONFORMING AMENDMENTS.—Such Act is  
7 amended—

8 (1) in section 11(b)(2), by striking “The Chair-  
9 man” and inserting “The Commission”;

10 (2) in section 11(d)(1)(A)(iii), by striking “the  
11 Chairman” and inserting “the Commission”;

12 (3) in section 11(d)(2), by striking “Chairman”  
13 and inserting “Commission” each place it appears;

14 (4) in section 12, by striking “Chairman” and  
15 inserting “Commission” each place it appears;

16 (5) in section 13, by striking “Chairman” and  
17 inserting “Commission” each place it appears; and

18 (6) in section 14, by striking “Chairman” and  
19 inserting “Commission” each place it appears.

20 **SEC. 6. CLASS II INDIAN GAMING RESTRICTED.**

21 (a) REGULATION OF CLASS II GAMING.—Section  
22 11(b) of the Indian Gaming Regulatory Act (25 U.S.C.  
23 2710(b)) is amended—

24 (1) in paragraph (1)—

1 (A) in subparagraph (A), by striking all  
2 that follows after “entity” and inserting the fol-  
3 lowing: “which conducts the authorized gaming  
4 activity as part of a commercial, for-profit busi-  
5 ness enterprise;”; and

6 (B) by redesignating subparagraph (B) as  
7 subparagraph (D) and inserting the following:

8 “(B) such gaming is not otherwise specifically  
9 prohibited on Indian lands by Federal law;

10 “(C) permissible gaming is limited to the spe-  
11 cific games and methods of play of gaming activities  
12 expressly authorized by the laws of the State; and”;  
13 and

14 (2) in paragraph (2)—

15 (A) in subparagraph (E), by striking  
16 “and” at the end;

17 (B) in subparagraph (F)—

18 (i) by amending clause (i) to read as  
19 follows:

20 “(i) ensures that background investigations  
21 are conducted on all financial backers, inves-  
22 tors, mortgagees, lenders, security holders, and  
23 other such persons or entities as well as on pri-  
24 mary management officials, key employees of  
25 the gaming enterprise, and any other person en-

1 gaged in the operation of gaming or the ac-  
2 counting of gaming assets and that oversight of  
3 such officials, persons, or entities is conducted  
4 on an ongoing basis; and”; and

5 (ii) in clause (ii)—

6 (I) by amending subclause (I) to  
7 read as follows:

8 “(I) tribal licenses for primary man-  
9 agement officials, key employees of the  
10 gaming enterprise, and any other person  
11 engaged in the operation of gaming or the  
12 accounting of gaming assets, with prompt  
13 notification to the Commission of the issu-  
14 ance of such licenses;” and

15 (II) by striking the period at the

16 end and inserting “; and”; and

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

18 “(G) all gaming activities shall be con-  
19 ducted in conformity with those laws and regu-  
20 lations (if any) of the State regarding specific  
21 games allowed and methods of play, including  
22 (but not limited to) periods of operation, limita-  
23 tion on wagers, pot sizes, and losses.”.

24 (b) LICENSING.—Section 11(b)(4)(A) of such Act (25  
25 U.S.C. 2710(b)(4)(A)) is amended to read as follows:

1       “(4)(A) A tribal ordinance or resolution may provide  
2 for the licensing or regulation of class II gaming activities  
3 owned by any person or entity other than the Indian tribe  
4 and conducted on Indian lands, only if—

5           “(i) the regulations require that nontribally  
6 owned class II gaming be conducted pursuant to  
7 limitations, including (but not limited to) those on  
8 hours or periods of operation and wager or pot lim-  
9 its, at least as restrictive as those imposed under  
10 State law, and

11           “(ii) the tribal licensing requirements include  
12 the requirements described in the subclauses of sub-  
13 paragraph (B)(i) and are at least as restrictive as  
14 those established by State law governing similar  
15 gaming within the jurisdiction of the State within  
16 which such Indian lands are located. No person or  
17 entity, other than the Indian tribe, shall be eligible  
18 to receive a tribal license to own a class II gaming  
19 activity conducted on Indian lands within the juris-  
20 diction of the Indian tribe if such person or entity  
21 would not be eligible to receive a State license to  
22 conduct the same activity within the jurisdiction of  
23 the State.”.

24 **SEC. 7. REGULATION OF CLASS III GAMING.**

25       (a) MORATORIUM.—

1           (1) IN GENERAL.—Except as provided in para-  
2 graph (2), Tribal-State compacts relating to gaming  
3 activities under the Indian Gaming Regulatory Act  
4 (25 U.S.C. 2701 et seq.) may not be entered into  
5 after the date of the enactment of this Act during  
6 the period beginning on such date and ending on the  
7 date on which the Attorney General of the United  
8 States, the Secretary of the Treasury, and the Sec-  
9 retary of the Interior have jointly certified to Con-  
10 gress that all necessary rulemakings have been final-  
11 ized to carry out the intent of the Indian Gaming  
12 Regulatory Act, as amended by this Act.

13           (2) EXCEPTION.—Subparagraph (A) does not  
14 apply to any Tribal-State compact approved, in writ-  
15 ing, by the Governor of the State concerned.

16           (b) STATE-PERMITTED ACTIVITIES.—Section  
17 11(d)(1) of the Indian Gaming Regulatory Act (25 U.S.C.  
18 2710(d)(1)) is amended—

19           (1) by amending subparagraph (B) to read as  
20 follows:

21           “(B) located in a State that permits the specific  
22 games and methods of play of the gaming activities  
23 expressly authorized by the laws of the State by any  
24 person, organization, or entity which conducts the

1 authorized gaming activity as part of a commercial,  
2 for-profit business enterprise,”; and

3 (2) by redesignating subparagraph (C) as sub-  
4 subparagraph (D) and inserting after subparagraph (B)  
5 the following new subparagraph:

6 “(C) limited to the specific games and methods  
7 of play of gaming activities expressly authorized by  
8 the laws of the State, and”.

9 (c) STATE’S RIGHT OF FIRST REFUSAL OPTION.—  
10 Section 11(d)(3)(A) of such Act (25 U.S.C.  
11 2710(d)(3)(A)) is amended to read as follows:

12 “(3)(A) Any Indian tribe having jurisdiction over the  
13 Indian lands upon which a class III gaming activity is to  
14 be conducted shall request in writing that the State in  
15 which such lands are located enter into negotiations for  
16 the purpose of entering into a Tribal-State compact gov-  
17 erning the conduct of gaming activities. Upon receiving  
18 such a request, the State may negotiate with the Indian  
19 tribe to enter into such a compact, or, subject to para-  
20 graph (7) of this subsection, decline to enter into negotia-  
21 tions with the Indian tribe by informing the tribe in writ-  
22 ing of such decision before the expiration of the 180-day  
23 period following such request.”.

24 (d) TRIBAL-STATE COMPACT STANDARDS.—Section  
25 11(d)(3)(C)(vi) of such Act (25 U.S.C. 2710(d)(3)(C)(vi))

1 is amended by inserting “(but not limited to)” after “in-  
2 cluding”.

3 (e) JURISDICTION.—Section 11(d)(7) of such Act (25  
4 U.S.C. 2710(d)(7)) is amended to read as follows:

5 “(7)(A) The United States district courts shall have  
6 jurisdiction over—

7 “(i) any cause of action initiated by the United  
8 States on behalf of an Indian tribe arising from the  
9 failure of a State to conduct negotiations under  
10 paragraph (3),

11 “(ii) any cause of action initiated by a State,  
12 the United States or an Indian tribe to enjoin a  
13 class III gaming activity located on Indian lands and  
14 conducted in violation of this Act or Tribal-State  
15 compact entered into under paragraph (3) that is in  
16 effect, and

17 “(iii) any cause of action initiated by the Sec-  
18 retary to enforce the procedures prescribed under  
19 subparagraph (I).

20 “(B) The United States may initiate a cause of action  
21 described in subparagraph (A)(i) only if—

22 “(i) a 180-day period has passed since the In-  
23 dian tribe requested the State to enter into negotia-  
24 tions under paragraph (3)(A),

1           “(ii) a Tribal-State compact has not been en-  
2           tered into under paragraph (3) within one year after  
3           the date that negotiations between the Indian tribe  
4           and the State commenced in good faith, and

5           “(iii) the specific games and methods of play of  
6           class III gaming activity are expressly authorized by  
7           the laws of the State.

8           “(C) In any action described in subparagraph (A)(i),  
9           the burden of proof shall be upon the United States to  
10          prove that the State has failed to negotiate with the Indian  
11          tribe in good faith to conclude a Tribal-State compact gov-  
12          erning the conduct of gaming activities. In determining  
13          whether a State has negotiated in good faith, the court—

14               “(i) may take into account the public interest,  
15               public safety, criminality, financial integrity, and ad-  
16               verse economic impacts on existing gaming activities  
17               on either Indian lands or within the State or States  
18               concerned, or both,

19               “(ii) shall consider any demand by the State for  
20               direct taxation of the Indian tribe or of any Indian  
21               lands as evidence that the State has not negotiated  
22               in good faith,

23               “(iii) shall not consider a State’s refusal to ne-  
24               gotiate on terms which differ from State laws and

1 regulations regarding gaming activities as evidence  
2 of failure to negotiate in good faith, and

3 “(iv) shall not consider reliance upon a legal in-  
4 terpretation, sufficient under Federal Rules of Civil  
5 Procedure, rule 11, of the requirements of the In-  
6 dian Gaming Regulatory Act as evidence of failure  
7 to negotiate in good faith.

8 “(D) It shall be a defense to an action brought under  
9 paragraph (3) that—

10 “(i) the tribe has not conducted negotiations  
11 with the State on a good-faith basis,

12 “(ii) the tribe has conducted gaming activities  
13 on its lands, or allowed gaming activities to be con-  
14 ducted on its lands, in violation of the provisions of  
15 this Act during a 180-day period preceding initiation  
16 of such action, or

17 “(iii) the specific games and methods of play of  
18 the class III gaming activity are not expressly au-  
19 thorized by the laws of the State.

20 “(E) If, in any action described in subparagraph  
21 (A)(i), the court finds that the State has failed to nego-  
22 tiate in good faith with the Indian tribe to conclude a  
23 Tribal-State compact governing the conduct of gaming ac-  
24 tivities, the court shall order the State and the Indian  
25 tribe to conclude such a compact within a 60-day period.

1       “(F) If a State and an Indian tribe fail to conclude  
2 a Tribal-State compact governing the conduct of gaming  
3 activities on the Indian lands subject to the jurisdiction  
4 of such Indian tribe within the 60-day period provided in  
5 the order of a court issued under subparagraph (E), the  
6 Indian tribe and the State shall each submit to a mediator  
7 appointed by the court a proposed compact that represents  
8 their last best offer for a compact. The mediator shall se-  
9 lect from the two proposed compacts the one which best  
10 comports with the terms of this Act and any other applica-  
11 ble Federal law and with the findings and order of the  
12 court.

13       “(G) The mediator appointed by the court under sub-  
14 paragraph (F) shall submit to the State and the Indian  
15 tribe the compact selected by the mediator under subpara-  
16 graph (F).

17       “(H) If a State consents to a proposed compact dur-  
18 ing the 60-day period beginning on the date on which the  
19 proposed compact is submitted by the mediator to the  
20 State under subparagraph (G), the proposed compact shall  
21 be treated as a Tribal-State compact entered into under  
22 paragraph (3).

23       “(I) If the State does not consent during the 60-day  
24 period described in subparagraph (H) to a proposed com-  
25 pact submitted by a mediator under subparagraph (G),

1 the mediator shall notify the Secretary and the Secretary  
2 shall prescribe, in consultation with the Indian tribe, pro-  
3 cedures—

4 “(i) which are consistent with the proposed  
5 compact selected by the mediator under subpara-  
6 graph (F), the provisions of this Act, and the rel-  
7 evant provisions of the laws of the State, and

8 “(ii) under which class III gaming may be con-  
9 ducted on the Indian lands over which the Indian  
10 tribe has jurisdiction.

11 “(J) If the State expressly declines to negotiate for  
12 a Tribal-State compact pursuant to paragraph (3)(A), or  
13 if the State does not consent during the 60-day period de-  
14 scribed in subparagraph (H) to a proposed compact sub-  
15 mitted by a mediator under subparagraph (G), the tribe,  
16 in the former case, may notify the Secretary, or the medi-  
17 ator, in the latter case, shall notify the Secretary and the  
18 Secretary shall prescribe upon such notification, in con-  
19 sultation with the Indian tribe, procedures—

20 “(i) which are consistent with, where applicable,  
21 the proposed compact selected by the mediator  
22 under subparagraph (F), the provisions of this Act,  
23 and the relevant provisions of the laws of the State,  
24 and

1           “(ii) under which class III gaming may be con-  
2           ducted on the Indian lands over which the tribe has  
3           jurisdiction.

4           “(K) For the purposes of this section, failure of the  
5           State to expressly decline a tribal request to enter into  
6           negotiations for a Tribal-State compact within the 180-  
7           day period under paragraph (3)(A) shall be deemed a dec-  
8           laration, whereupon the tribe may notify the Secretary  
9           under subparagraph (J) for the prescription of procedures  
10          allowing for class III gaming.

11          “(L) A mediator appointed by the court may not se-  
12          lect a proposed compact within a State that violates an  
13          existing law of that State regulating class III gaming, or  
14          construe an authorization by a State of one form of class  
15          III gaming as an authorization for all forms of class III  
16          gaming.”.

17          (f) CHANGES IN STATE OR TRIBAL LAW.—Section  
18          11(d) of such Act (25 U.S.C. 2710(d)) is amended by add-  
19          ing at the end the following:

20          “(10) Except as provided by paragraph (2)(D), a  
21          State or tribe may request in writing to enter into negotia-  
22          tions based on the enactment or adoption of a State law  
23          or tribal ordinance or resolution that amends, repeals, or  
24          otherwise affects a Tribal-State compact in effect pursu-  
25          ant to this subsection. A request under this paragraph

1 shall be treated as a request made under paragraph (3),  
2 except that the Tribal-State compact shall remain in effect  
3 and gaming may be conducted pursuant to such compact  
4 during the negotiation process.”.

5 **SEC. 8. NONRESERVATION LANDS; GAMING ON AFTER AC-**  
6 **QUIRED LANDS.**

7 (a) PROHIBITION.—Subsection (a) of section 20 of  
8 the Indian Gaming Regulatory Act (25 U.S.C. 2719(a))  
9 is amended to read as follows:

10 “(a) Gaming regulated by this Act shall not be con-  
11 ducted on Indian lands which, on or after October 17,  
12 1988, are acquired by any Indian tribe, are taken into  
13 trust by the United States, or are first subject to a restric-  
14 tion against alienation by the United States unless—

15 “(1) such lands are located in Oklahoma and  
16 are within the boundaries of the Indian tribe’s  
17 former reservation, as defined by the Secretary, or

18 “(2) such lands are located in a State other  
19 than Oklahoma and are within the Indian tribe’s  
20 last recognized reservation within the State or  
21 States within which such Indian tribe is presently lo-  
22 cated.”.

23 (b) REPEAL.—Subsection (b) of section 20 of the In-  
24 dian Gaming Regulatory Act (25 U.S.C. 2719(a)) is re-

1 pealed and subsections (c) and (d) are redesignated as  
2 subsections (b) and (c), respectively.

3 **SEC. 9. REPORTING AND BOOKKEEPING.**

4 The Indian Gaming Regulatory Act (25 U.S.C. 2701  
5 et seq.) is amended by inserting after section 21 the fol-  
6 lowing new section:

7 “REPORTING AND BOOKKEEPING

8 “SEC. 21A. (a) Within 90 days after the date of the  
9 enactment of this section, the Secretary of the Treasury  
10 shall issue such regulations as may be necessary to require  
11 gaming establishments authorized pursuant to this Act to  
12 be subject to such reporting and recordkeeping require-  
13 ments as those which are applicable to a casino or gam-  
14 bling casino referred to in section 103.11(i)(7)(i) of part  
15 103 of title 31 of the Code of Federal Regulations in order  
16 to ensure a high degree of usefulness in criminal, tax, and  
17 regulatory matters.

18 “(b) In the administration of this Act, an authoriza-  
19 tion provided by a State for one form of class III gaming  
20 shall not be construed as an authorization of all forms of  
21 class III gaming for purposes of negotiations between a  
22 State and a tribe.

23 “(c) In the administration of this Act, the United  
24 States district courts shall have sole jurisdiction over con-  
25 tract disputes between tribes and contract operators of In-  
26 dian gaming establishments.”.

1 **SEC. 10. BACKGROUND INVESTIGATIONS.**

2 (a) ROLE OF ATTORNEY GENERAL.—The Indian  
3 Gaming Regulatory Act (25 U.S.C. 2701 et seq.), as  
4 amended by section 9 of this Act, is amended by inserting  
5 after section 21A the following new section:

6 “BACKGROUND INVESTIGATIONS

7 “SEC. 21B. (a) The Attorney General shall conduct  
8 such background investigations as may be necessary—

9 “(1) to determine the suitability of each individ-  
10 ual, person or entity (including individuals compris-  
11 ing such entity, serving on the board of directors of  
12 a corporation, and stockholders of a corporation)  
13 listed in section 12(a)(1)(A) to be involved in class  
14 III gaming activities under this Act;

15 “(2) to determine the suitability of any finan-  
16 cial backer, investor, mortgagee, lender, security  
17 holder, or other such person or entity to be involved  
18 in class III gaming activities under this Act;

19 “(3) to determine the suitability of any primary  
20 management official, or key employee of a class III  
21 gaming activity under this Act, or any other person  
22 or entity engaged in class III gaming activities, or  
23 the accounting of class III gaming assets, under this  
24 Act, to continue to engage in such activities;

25 “(4) to assist the Commission in carrying out  
26 sections 7(b) and 12; and

1           “(5) otherwise necessary with respect to imple-  
2           menting class III gaming activities pursuant to this  
3           Act.

4           “(b) For the purposes of this Act, a background in-  
5           vestigation shall include (but not be limited to)—

6           “(1) criminal history, especially criminal history  
7           with respect to organized crime;

8           “(2) taxpayer return and return information;

9           “(3) immigration information;

10           “(4) records, held by any entity of the Federal  
11           Government, which are not described in paragraphs  
12           (1), (2), or (3); and

13           “(5) records held by State entities.

14           “(c) For the purposes of subsection (b)—

15           “(1) the Attorney General is authorized to uti-  
16           lize the system devised under section 242(a)(3)(A)(i)  
17           of the Immigration and Nationality Act to determine  
18           if an individual is an alien; and

19           “(2) returns and return information (as such  
20           terms are defined in section 6103(b) of the Internal  
21           Revenue Code of 1986) shall be open to inspection  
22           by, or disclosure to, the Attorney General and other  
23           officers and employees of the Department of Justice  
24           and the Commission, subject to the procedures and

1 recordkeeping required under subsection (p) of such  
2 section 6103(b).

3 “(d) Upon application by any State to the Attorney  
4 General that such State is willing and able to conduct any  
5 or all background investigations required by this section  
6 regarding Class III gaming, the Attorney General is au-  
7 thorized, if the Attorney General determines that such  
8 State is willing and able to conduct such investigations,  
9 to permit that State to conduct such investigations as are  
10 authorized by the Attorney General.”.

11 (b) CONFORMING AMENDMENTS.—(1) Paragraph (3)  
12 of section 7(b) of such Act (25 U.S.C. 2706(b)) is amend-  
13 ed to read as follows:

14 “(3) in consultation with the Attorney General,  
15 shall conduct or cause to be conducted such back-  
16 ground investigations as may be necessary to carry  
17 out the duties of the Commission under this Act  
18 with respect to class II gaming;”.

19 (2) Section 12 of such Act (25 U.S.C. 2711), as  
20 amended by section 5 of this Act, is amended—

21 (A) in subsection (a)(1), by striking “the Com-  
22 mission shall” and inserting “the Commission, in  
23 consultation with the Attorney General pursuant to  
24 section 21B, shall”; and

1 (B) in subsection (e), by striking “the Commis-  
2 sion determines” and inserting “the Commission, in  
3 consultation with the Attorney General pursuant to  
4 section 21B, determines”.

5 **SEC. 11. CRIMINAL LAWS.**

6 Section 1166 of title 18, United States Code, is  
7 amended to read as follows:

8 **“§ 1166. Gambling Indian country**

9 “(a) Subject to subsection (c), for purposes of Fed-  
10 eral law, all State laws pertaining to the licens-  
11 ing, or prohibition of gambling, including (but not limited  
12 to) criminal sanctions applicable thereto, shall apply in In-  
13 dian country in the State in the same manner and to the  
14 same extent as such laws apply elsewhere in the State.

15 “(b) Whoever in Indian country is guilty of any act  
16 or omission involving gambling, whether or not conducted  
17 or sanctioned by an Indian tribe, which, although not  
18 made punishable by any enactment of Congress, would be  
19 punishable if committed or omitted within the jurisdiction  
20 of the State in which the act or omission occurred, under  
21 the laws governing the licensing, regulation, or prohibition  
22 of gambling in force at the time of such act or omission,  
23 shall be guilty of a like offense and subject to a like  
24 punishment.

1       “(c) For the purpose of this section, the term ‘gam-  
2 bling’ does not include—

3               “(1) class I gaming or class II gaming regu-  
4 lated by the Indian Gaming Regulatory Act, or

5               “(2) class III gaming conducted under a Tribal-  
6 State compact approved by the Secretary of the In-  
7 terior under section 11(d)(8) of the Indian Gaming  
8 Regulatory Act that is in effect.

9       “(d) The United States shall have exclusive jurisdic-  
10 tion over criminal prosecutions of violations of State gam-  
11 bling laws that are made applicable under this section to  
12 Indian country, unless—

13               “(1) an Indian tribe pursuant to a Tribal-State  
14 compact approved by the Secretary of the Interior  
15 under section 11(d)(8) of the Indian Gaming Regu-  
16 latory Act, or under any other provision of Federal  
17 law, has consented to the transfer to the State of  
18 criminal jurisdiction with respect to gambling on the  
19 lands of the Indian tribe, or

20               “(2) authority has been granted to a State to  
21 enforce the criminal laws of the State on Indian  
22 lands within the State pursuant to section 1162 of  
23 this title, or any other provision of Federal law  
24 which authorizes exercise of such criminal jurisdic-  
25 tion by a State, which authority shall be concurrent

1 with the United States with respect to violations also  
2 made violations of Federal law under subsection (a)  
3 of this section.”.

○

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