□ 1230

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I support H.R. 5221, as amended, to reform the VA's Home Loan Guarantee Program. This program has enabled almost 13 million American veterans to realize the dream of home ownership.

Our mortgage indemnity plan can save the loan guarantee program and return it to a sound financial footing. Also, while I am no fan of the origination fee, if there is going to be a fee, our veterans ought to get something valuable for it.

The increase in the fee would be only one-fourth of 1 percent, and protection from liability in the event of default certainly ought to be worth that. I believe veterans would be willing to pay a reasonable amount for insurance against the unexpected, just as they pay for life, fire, and automobile insurance, because it is prudent to do so.

Mr. Speaker, I wish to commend the chairman and all who took the time to address the concerns raised by the mortgage bankers, realtors, and homebuilders. The members of these associations are an integral part of the large and complex loan guarantee picture, and we ignore their well considered views at our peril.

I commend MARCY KAPTUR and her excellent staff for developing and advancing this legislation from the Housing and Memorial Affairs Subcommittee. I would also thank DAN BURTON, the ranking member of the subcommittee, for his fine work and I commend the chairman for promptly acting on H.R. 5221. I urge my colleagues to support this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the former ranking Member of the full Committee on Veterans' Affairs.

Mr. HAMMERSCHMIDT. Mr. Speaker, the VA Home Loan Guarantee Program, which has been a great success over the past 44 years, is having serious financial difficulties. Our committee is strongly committed to the continuation of the program, and, if it is to continue, it must be changed in fundamental ways.

Mr. Speaker, I am pleased to support H.R. 5221 because I believe it can save the VA Loan Guarantee Program. At the same time, it would provide a major new benefit for veterans—insurance from liability to the VA if the guaranteed loan is foreclosed.

In my view, this indemnity protection for veterans would not cause an increase in foreclosures, as some critics have suggested. Few people, veterans or not, will walk away from their homes, except in extremely distressed circumstances.

Those who do walk away have almost always experienced total personal financial devastation and it is of little use to obtain deficiency judgments against them.

A particularly good feature of the bill would exempt from the indemnity fee veterans rated 30 percent or more for service-connected disabilities, similar to the current exemption for the origination fee.

Mr. Speaker, H.R. 5221 is needed to save the VA Loan Guarantee Program and I urge my colleagues to vote for it.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, again I want to thank the gentlewoman from Ohio, Ms. MARCY KAPTUR, the gentleman from Indiana, Mr. BURTON, the gentleman from Arkansas, Mr. HAMMERSCHMIDT, and also the gentleman from New York, Mr. SOLOMON, for their support of this legislation.

Mr. Speaker, I would like to remind Members that we have the blue sheets here that further explain this legislation. I think it is great that we can bring a bill to the floor which the Congressional Budget Office agrees, as the gentlewoman from Ohio [Ms. KAPTUR] has said, will save millions of dollars by this proposal we have submitted today in the housing program for veterans.

I certainly hope that all Members of the House will support this bill.

Mr. BOLAND. Mr. Speaker, H.R. 5221, the Veterans' Home Loan Mortgage Indemnity Act of 1988, would replace the existing Home Loan Guaranty Program with a new Home Loan Insurance Program.

I am concerned about a provision in this legislation which would establish a permanent indefinite appropriation. Under the proposed new progam, the Government would contribute its share of the anticipated future default costs of the loans at the time of origination. Government contributions of 0.75 percent of the mortgage principal would be made to the loan fund for each loan insured. The Government contribution for a loan, however, would be spread over the 3 years with 0.25 percent paid in each of the first 3 years after origination. The Government contribution for the loan would come from a permanent appropriation not subject to the annual appropriations process.

This proposal is in violation of the Congressional Budget and Impoundment Control Act of 1974 and the rules of the House. Section 401 of the Congressional Budget Act requires that bills providing new spending authority be effective only to the extent or in such amounts as are provided in appropriations acts. This provision was passed so as to provide the Congress with greater control over Government spending.

My concern is that the Congress and the administration continue to lose control of the Federal budget. By establishing a new permanent appropriation, the Congress places more pressure on discretionary programs when it addresses the budget deficit situation. When we do that, discretionary programs like veterans medical care, the space program, environmental programs, and housing programs are forced to bare the brunt of any deficit reduction action. Making the provision of the 0.75 percent fee subject to the appropriations process would not change the Home Loan Program. It would, however give the Congress an opportunity to annually review what the proper dollar amount provided for the Veterans Home Loan Program should be.

Mr. Speaker, as I understand it, this legislation will not be enacted this year. It is my sincere hope that if a similar proposal is introduced next year, that the House Veterans' Affairs Committee and the Appropriations Subcommittee on HUD-Independent Agencies can work together on this matter so that the Home Loan Insurance Program for veterans is in accord with the Budget Act and the rules of the House.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5221, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INDIAN GAMING REGULATORY ACT

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 555) to regulate gaming on Indian lands.

The Clerk read as follows:

S. 555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Indian Gaming Regulatory Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) numerous Indian tribes have become engaged in or have licensed gaming activities on Indian lands as a means of generating tribal governmental revenue;

(2) Federal courts have held that section 2103 of the Revised Statutes (25 U.S.C. 81) requires Secretarial review of management contracts dealing with Indian gaming, but does not provide standards for approval of such contracts;

(3) existing Federal law does not provide clear standards or regulations for the conduct of gaming on Indian lands;

(4) a principal goal of Federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal government; and

(5) Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the gaming activity is not specifically prohibited by Federal law and is conducted within a State which does not, as a matter

of criminal law and public policy, prohibit such gaming activity.

DECLARATION OF POLICY

SEC. 3. The purpose of this Act is—

(1) to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments;

(2) to provide a statutory basis for the regulation of gaming by an Indian tribe adequate to shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players; and

(3) to declare that the establishment of independent Federal regulatory authority for gaming on Indian lands, the establishment of Federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue.

DEFINITIONS

SEC. 4. For purposes of this Act—

(1) The term "Attorney General" means the Attorney General of the United States.

(2) The term "Chairman" means the Chairman of the National Indian Gaming Commission.

(3) The term "Commission" means the National Indian Gaming Commission established pursuant to section 5 of this Act.

(4) The term "Indian lands" means—

(A) all lands within the limits of any Indian reservation; and

(B) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians which—

(A) is recognized as eligible by the Secretary for the special programs and services provided by the United States to Indians because of their status as Indians, and

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

(6) The term "class I gaming" means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

(7)(A) The term "class II gaming" means—

(i) the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith)—

(I) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,

(II) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and

(III) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards,

including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and

(ii) card games that—

(I) are explicitly authorized by the laws of the State, or

(II) are not explicitly prohibited by the laws of the State and are played at any location in the State,

but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

(B) The term "class II gaming" does not include—

(i) any banking card games, including baccarat, chemin de fer, or blackjack (21), or

(ii) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

(C) Notwithstanding any other provision of this paragraph, the term "class II gaming" includes those card games played in the State of Michigan, the State of North Dakota, the State of South Dakota, or the State of Washington, that were actually operated in such State by an Indian tribe on or before May 1, 1988, but only to the extent of the nature and scope of the card games that were actually operated by an Indian tribe in such State on or before such date, as determined by the Chairman.

(D) Notwithstanding any other provision of this paragraph, the term "class II gaming" includes, during the 1-year period beginning on the date of enactment of this Act, any gaming described in subparagraph (B)(ii) that was legally operated on Indian lands on or before May 1, 1988, if the Indian tribe having jurisdiction over the lands on which such gaming was operated requests the State, by no later than the date that is 30 days after the date of enactment of this Act, to negotiate a Tribal-State compact under section 11(d)(3).

(8) The term "class III gaming" means all forms of gaming that are not class I gaming or class II gaming.

(9) The term "net revenues" means gross revenues of an Indian gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.

(10) The term "Secretary" means the Secretary of the Interior.

NATIONAL INDIAN GAMING COMMISSION

SEC. 5. (a) There is established within the Department of the Interior a Commission to be known as the National Indian Gaming Commission.

(b)(1) The Commission shall be composed of three full-time members who shall be appointed as follows:

(A) a Chairman, who shall be appointed by the President with the advice and consent of the Senate; and

(B) two associate members who shall be appointed by the Secretary of the Interior.

(2)(A) The Attorney General shall conduct a background investigation on any person considered for appointment to the Commission.

(B) The Secretary shall publish in the Federal Register the name and other information the Secretary deems pertinent regarding a nominee for membership on the Commission and shall allow a period of not less than thirty days for receipt of public comment.

(3) Not more than two members of the Commission shall be of the same political party. At least two members of the Commission shall be enrolled members of any Indian tribe.

(4)(A) Except as provided in subparagraph (B), the term of office of the members of the Commission shall be three years.

(B) Of the initial members of the Commission—

(i) two members, including the Chairman, shall have a term of office of three years; and

(ii) two members shall have a term of office of one year.

(5) No individual shall be eligible for any appointment to, or to continue service on, the Commission, who—

(A) has been convicted of a felony or gaming offense;

(B) has any financial interest in, or management responsibility for, any gaming activity; or

(C) has a financial interest in, or management responsibility for, any management contract approved pursuant to section 12 of this Act.

(6) A Commissioner may only be removed from office before the expiration of the term of office of the member by the President (or, in the case of associate member, by the Secretary) for neglect of duty, or malfeasance in office, or for other good cause shown.

(c) Vacancies occurring on the Commission shall be filled in the same manner as the original appointment. A member may serve after the expiration of his term of office until his successor has been appointed, unless the member has been removed for cause under subsection (b)(6).

(d) Two members of the Commission, at least one of which is the Chairman or Vice Chairman, shall constitute a quorum.

(e) The Commission shall select, by majority vote, one of the members of the Commission to serve as Vice Chairman. The Vice Chairman shall serve as Chairman during meetings of the Commission in the absence of the Chairman.

(f) The Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least once every 4 months.

(g)(1) The Chairman of the Commission shall be paid at a rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) The associate members of the Commission shall each be paid at a rate equal to that of level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) All members of the Commission shall be reimbursed in accordance with title 5, United States Code, for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

POWERS OF THE CHAIRMAN

SEC. 6. (a) The Chairman, on behalf of the Commission, shall have power, subject to an appeal to the Commission, to—

(1) issue orders of temporary closure of gaming activities as provided in section 14(b);

(2) levy and collect civil fines as provided in section 14(a);

(3) approve tribal ordinances or resolutions regulating class II gaming and class III gaming as provided in section 11; and

(4) approve management contracts for class II gaming and class III gaming as provided in sections 11(d)(9) and 12.

(b) The Chairman shall have such other powers as may be delegated by the Commission.

POWERS OF THE COMMISSION

SEC. 7. (a) The Commission shall have the power, not subject to delegation—

(1) upon the recommendation of the Chairman, to approve the annual budget of the Commission as provided in section 18;

(2) to adopt regulations for the assessment and collection of civil fines as provided in section 14(a);

(3) by an affirmative vote of not less than 3 members, to establish the rate of fees as provided in section 18;

(4) by an affirmative vote of not less than 3 members, to authorize the Chairman to issue subpoenas as provided in section 16; and

(5) by an affirmative vote of not less than 3 members and after a full hearing, to make permanent a temporary order of the Chairman closing a gaming activity as provided in section 14(b)(2).

(b) The Commission—

(1) shall monitor class II gaming conducted on Indian lands on a continuing basis;

(2) shall inspect and examine all premises located on Indian lands on which class II gaming is conducted;

(3) shall conduct or cause to be conducted such background investigations as may be necessary;

(4) may demand access to and inspect, examine, photocopy, and audit all papers, books, and records respecting gross revenues of class II gaming conducted on Indian lands and any other matters necessary to carry out the duties of the Commission under this Act;

(5) may use the United States mail in the same manner and under the same conditions as any department or agency of the United States;

(6) may procure supplies, services, and property by contract in accordance with applicable Federal laws and regulations;

(7) may enter into contracts with Federal, State, tribal and private entities for activities necessary to the discharge of the duties of the Commission and, to the extent feasible, contract the enforcement of the Commission's regulations with the Indian tribes;

(8) may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems appropriate;

(9) may administer oaths or affirmations to witnesses appearing before the Commission; and

(10) shall promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Act.

(c) The Commission shall submit a report with minority views, if any, to the Congress on December 31, 1989, and every two years thereafter. The report shall include information on—

(1) whether the associate commissioners should continue as full or part-time officials;

(2) funding, including income and expenses, of the Commission;

(3) recommendations for amendments to the Act; and

(4) any other matter considered appropriate by the Commission.

COMMISSION STAFFING

SEC. 8. (a) The Chairman shall appoint a General Counsel to the Commission who shall be paid at the annual rate of basic pay payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(b) The Chairman 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. Such staff shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-17 of the General Schedule under section 5332 of that title.

(c) The Chairman 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 GS-18 of the General Service.

(d) Upon the request of the Chairman, the head of any Federal agency is authorized to detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act, unless otherwise prohibited by law.

(e) The Secretary or Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

COMMISSION—ACCESS TO INFORMATION

SEC. 9. The Commission may secure from any department or agency of the United States information necessary to enable it to carry out this Act. Upon the request of the Chairman, the head of such department or agency shall furnish such information to the Commission, unless otherwise prohibited by law.

INTERIM AUTHORITY TO REGULATE GAMING

SEC. 10. Notwithstanding any other provision of this Act, the Secretary shall continue to exercise those authorities vested in the Secretary on the day before the date of enactment of this Act relating to supervision of Indian gaming until such time as the Commission is organized and prescribes regulations. The Secretary shall provide staff and support assistance to facilitate an orderly transition to regulation of Indian gaming by the Commission.

TRIBAL GAMING ORDINANCES

SEC. 11. (a)(1) Class I gaming on Indian lands is within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this Act.

(2) Any class II gaming on Indian lands shall continue to be within the jurisdiction of the Indian tribes, but shall be subject to the provisions of this Act.

(b)(1) An Indian tribe may engage in, or license and regulate, class II gaming on Indian lands within such tribe's jurisdiction, if—

(A) such Indian gaming is located within a State that permits such gaming for any purpose by any person, organization or entity (and such gaming is not otherwise specifically prohibited on Indian lands by Federal law), and

(B) the governing body of the Indian tribe adopts an ordinance or resolution which is approved by the Chairman.

A separate license issued by the Indian tribe shall be required for each place, facility, or location on Indian lands at which class II gaming is conducted.

(2) The Chairman shall approve any tribal ordinance or resolution concerning the conduct, or regulation of class II gaming on the Indian lands within the tribe's jurisdiction if such ordinance or resolution provides that—

(A) except as provided in paragraph (4), the Indian tribe will have the sole proprietary interest and responsibility for the conduct of any gaming activity;

(B) net revenues from any tribal gaming are not to be used for purposes other than—

(i) to fund tribal government operations or programs;

(ii) to provide for the general welfare of the Indian tribe and its members;

(iii) to promote tribal economic development;

(iv) to donate to charitable organizations; or

(v) to help fund operations of local government agencies;

(C) annual outside audits of the gaming, which may be encompassed within existing independent tribal audit systems, will be provided by the Indian tribe to the Commission;

(D) all contracts for supplies, services, or concessions for a contract amount in excess of $25,000 annually (except contracts for professional legal or accounting services) relating to such gaming shall be subject to such independent audits;

(E) the construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety; and

(F) there is an adequate system which—

(i) ensures that background investigations are conducted on the primary management officials and key employees of the gaming enterprise and that oversight of such officials and their management is conducted on an ongoing basis; and

(ii) includes—

(I) tribal licenses for primary management officials and key employees of the gaming enterprise with prompt notification to the Commission of the issuance of such licenses;

(II) a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment; and

(III) notification by the Indian tribe to the Commission of the results of such background check before the issuance of any of such licenses.

(3) Net revenues from any class II gaming activities conducted or licensed by any Indian tribe may be used to make per capita payments to members of the Indian tribe only if—

(A) the Indian tribe has prepared a plan to allocate revenues to uses authorized by paragraph (2)(B);

(B) the plan is approved by the Secretary as adequate, particularly with respect to uses described in clause (i) or (iii) of paragraph (2)(B);

(C) the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare, of the minor or other legally incompetent person under a plan approved by the Secretary and the governing body of the Indian tribe; and

(D) the per capita payments are subject to Federal taxation and tribes notify members of such tax liability when payments are made.

(4)(A) A tribal ordinance or resolution may provide for the licensing or regulation of class II gaming activities owned by any person or entity other than the Indian tribe and conducted on Indian lands, only if the tribal licensing requirements include the requirements described in the subclauses of subparagraph (B)(i) and are at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the State within which such Indian lands are located. No person or entity, other than the Indian tribe, shall be eligible to receive a tribal license to own a class II gaming activity 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)(i) The provisions of subparagraph (A) of this paragraph and the provisions of subparagraphs (A) and (B) of paragraph (2) 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 pursuant to an ordinance reviewed and approved by the Commission in accordance with section 13 of the Act,

(II) income to the Indian tribe from such gaming is used only for the purposes described in paragraph (2)(B) of this subsection,

(III) not less than 60 percent of the net revenues is income to the Indian tribe, and

(IV) the owner of such gaming operation pays an appropriate assessment to the National Indian Gaming Commission under section 18(a)(1) for regulation of such gaming.

(ii) The exemption from the application of this subsection provided under this subparagraph may not be transferred to any person or entity and shall remain in effect only so long as the gaming activity remains within the same nature and scope as operated on the date of enactment of this Act.

(iii) Within sixty days of the date of enactment of this Act, the Secretary shall prepare a list of each individually owned gaming operation to which clause (i) applies and shall publish such list in the Federal Register.

(c)(1) The Commission may consult with appropriate law enforcement officials concerning gaming licenses issued by an Indian tribe and shall have thirty days to notify the Indian tribe of any objections to issuance of such license.

(2) If, after the issuance of a gaming license by an Indian tribe, reliable information is received from the Commission indicating that a primary management official or key employee does not meet the standard established under subsection (b)(2)(F)(ii)(II), the Indian tribe shall suspend such license and, after notice and hearing, may revoke such license.

(3) Any Indian tribe which operates a Class II gaming activity and which—

(A) has continuously conducted such activity for a period of not less than three years, including at least one year after the date of the enactment of this Act; and

(B) has otherwise complied with the provisions of this section

may petition the Commission for a certificate of self-regulation.

(4) The Commission shall issue a certificate of self-regulation if it determines from available information, and after a hearing if requested by the tribe, that the tribe has—

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

(i) has resulted in an effective and honest accounting of all revenues;

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

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

(B) adopted and is implementing adequate systems for—

(i) accounting for all revenues from the activity;

(ii) investigation, licensing, and monitoring of all employees of the gaming activity; and

(iii) investigation, enforcement and prosecution of violations of its gaming ordinance and regulations; and

(C) conducted the operation on a fiscally and economically sound basis.

(5) During any year in which a tribe has a certificate for self-regulation—

(A) the tribe shall not be subject to the provisions of paragraphs 1, 2, 3, and 4 of section 7(b);

(B) the tribe shall continue to submit an annual independent audit as required by section 11(b)(2)(C) and shall submit to the Commission a complete résumé on all employees hired and licensed by the tribe subsequent to the issuance of a certificate of self-regulation; and

(C) the Commission may not assess a fee on such activity pursuant to section 18 in excess of one quarter of 1 per centum of the gross revenue.

(6) The Commission may, for just cause and after an opportunity for a hearing, remove a certificate of self-regulation by majority vote of its members.

(d)(1) Class III gaming activities shall be lawful on Indian lands only if such activities are—

(A) authorized by an ordinance or resolution that—

(i) is adopted by the governing body of the Indian tribe having jurisdiction over such lands,

(ii) meets the requirements of subsection (b), and

(iii) is approved by the Chairman,

(B) located in a State that permits such gaming for any purpose by any person, organization, or entity, and

(C) conducted in conformance with a Tribal-State compact entered into by the Indian tribe and the State under paragraph (3) that is in effect.

(2)(A) If any Indian tribe proposes to engage in, or to authorize any person or entity to engage in, a class III gaming activity on Indian lands of the Indian tribe, the governing body of the Indian tribe shall adopt and submit to the Chairman an ordinance or resolution that meets the requirements of subsection (b).

(B) The Chairman shall approve any ordinance or resolution described in subparagraph (A), unless the Chairman specifically determines that—

(i) the ordinance or resolution was not adopted in compliance with the governing documents of the Indian tribe, or

(ii) the tribal governing body was significantly and unduly influenced in the adoption of such ordinance or resolution by any person identified in section 12(e)(1)(D).

Upon the approval of such an ordinance or resolution, the Chairman shall publish in the Federal Register such ordinance or resolution and the order of approval.

(C) Effective with the publication under subparagraph (B) of an ordinance or resolution adopted by the governing body of an Indian tribe that has been approved by the Chairman under subparagraph (B), class III gaming activity on the Indian lands of the Indian tribe shall be fully subject to the terms and conditions of the Tribal-State compact entered into under paragraph (3) by the Indian tribe that is in effect.

(D)(i) The governing body of an Indian tribe, in its sole discretion and without the approval of the Chairman, may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorized class III gaming on the Indian lands of the Indian tribe. Such revocation shall render class III gaming illegal on the Indian lands of such Indian tribe.

(ii) The Indian tribe shall submit any revocation ordinance or resolution described in clause (i) to the Chairman. The Chairman shall publish such ordinance or resolution in the Federal Register and the revocation provided by such ordinance or resolution shall take effect on the date of such publication.

(iii) Notwithstanding any other provision of this subsection—

(I) any person or entity operating a class III gaming activity pursuant to this paragraph on the date on which an ordinance or resolution described in clause (i) that revokes authorization for such class III gaming activity is published in the Federal Register may, during the 1-year period beginning on the date on which such revocation ordinance or resolution is published under clause (ii), continue to operate such activity in conformance with the Tribal-State compact entered into under paragraph (3) that is in effect, and

(II) any civil action that arises before, and any crime that is committed before, the close of such 1-year period shall not be affected by such revocation ordinance or resolution.

(3)(A) Any Indian tribe having jurisdiction over the Indian lands upon which a class III gaming activity is being conducted, or is to be conducted, shall request the State in which such lands are located to enter into negotiations for the purpose of entering into a Tribal-State compact governing the conduct of gaming activities. Upon receiving such a request, the State shall negotiate with the Indian tribe in good faith to enter into such a compact.

(B) Any State and any Indian tribe may enter into a Tribal-State compact governing gaming activities on the Indian lands of the Indian tribe, but such compact shall take effect only when notice of approval by the Secretary of such compact has been published by the Secretary in the Federal Register.

(C) Any Tribal-State compact negotiated under subparagraph (A) may include provisions relating to—

(i) the application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity;

(ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws and regulations;

(iii) the assessment by the State of such activities in such amounts as are necessary to defray the costs of regulating such activity;

(iv) taxation by the Indian tribe of such activity in amounts comparable to amounts

assessed by the State for comparable activities;

(v) remedies for breach of contract;

(vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing; and

(vii) any other subjects that are directly related to the operation of gaming activities.

(4) Except for any assessments that may be agreed to under paragraph (3)(C)(iii) of this subsection, nothing in this section shall be interpreted as conferring upon a State or any of its political subdivisions authority to impose any tax, fee, charge, or other assessment upon an Indian tribe or upon any other person or entity authorized by an Indian tribe to engage in a class III activity. No State may refuse to enter into the negotiations described in paragraph (3)(A) based upon the lack of authority in such State, or its political subdivisions, to impose such a tax, fee, charge, or other assessment.

(5) Nothing in this subsection shall impair the right of an Indian tribe to regulate class III gaming on its Indian lands concurrently with the State, except to the extent that such regulation is inconsistent with, or less stringent than, the State laws and regulations made applicable by any Tribal-State compact entered into by the Indian tribe under paragraph (3) that is in effect.

(6) The provisions of section 5 of the Act of January 2, 1951 (64 Stat. 1135) shall not apply to any gaming conducted under a Tribal-State compact that—

(A) is entered into under paragraph (3) by a State in which gambling devices are legal, and

(B) is in effect.

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

(i) any cause of action initiated by an Indian tribe arising from the failure of a State to enter into negotiations with the Indian tribe for the purpose of entering into a Tribal-State compact under paragraph (3) or to conduct such negotiations in good faith,

(ii) any cause of action initiated by a State or Indian tribe to enjoin a class III gaming activity located on Indian lands and conducted in violation of any Tribal-State compact entered into under paragraph (3) that is in effect, and

(iii) any cause of action initiated by the Secretary to enforce the procedures prescribed under subparagraph (B)(vii).

(B)(i) An Indian tribe may initiate a cause of action described in subparagraph (A)(i) only after the close of the 180-day period beginning on the date on which the Indian tribe requested the State to enter into negotiations under paragraph (3)(A).

(ii) In any action described in subparagraph (A)(i), upon the introduction of evidence by an Indian tribe that—

(I) a Tribal-State compact has not been entered into under paragraph (3), and

(II) the State did not respond to the request of the Indian tribe to negotiate such a compact or did not respond to such request in good faith,

the burden of proof shall be upon the State to prove that the State has negotiated with the Indian tribe in good faith to conclude a Tribal-State compact governing the conduct of gaming activities.

(iii) If, in any action described in subparagraph (A)(i), the court finds that the State has failed to negotiate in good faith with the Indian tribe to conclude a Tribal-State compact governing the conduct of gaming activities, the court shall order the State and the Indian Tribe to conclude such a compact within a 60-day period. In determining in such an action whether a State has negotiated in good faith, the court—

(I) may take into account the public interest, public safety, criminality, financial integrity, and adverse economic impacts on existing gaming activities, and

(II) shall consider any demand by the State for direct taxation of the Indian tribe or of any Indian lands as evidence that the State has not negotiated in good faith.

(iv) If a State and an Indian tribe fail to conclude a Tribal-State compact governing the conduct of gaming activities on the Indian lands subject to the jurisdiction of such Indian tribe within the 60-day period provided in the order of a court issued under clause (iii), the Indian tribe and the State shall each submit to a mediator appointed by the court a proposed compact that represents their last best offer for a compact. The mediator shall select from the two proposed compacts the one which best comports with the terms of this Act and any other applicable Federal law and with the findings and order of the court.

(v) The mediator appointed by the court under clause (iv) shall submit to the State and the Indian tribe the compact selected by the mediator under clause (iv).

(vi) If a State consents to a proposed compact during the 60-day period beginning on the date on which the proposed compact is submitted by the mediator to the State under clause (v), the proposed compact shall be treated as a Tribal-State compact entered into under paragraph (3).

(vii) If the State does not consent during the 60-day period described in clause (vi) to a proposed compact submitted by a mediator under clause (v), the mediator shall notify the Secretary and the Secretary shall prescribe, in consultation with the Indian tribe, procedures—

(I) which are consistent with the proposed compact selected by the mediator under clause (iv), the provisions of this Act, and the relevant provisions of the laws of the State, and

(II) under which class III gaming may be conducted on the Indian lands over which the Indian tribe has jurisdiction.

(8)(A) The Secretary is authorized to approve any Tribal-State compact entered into between an Indian tribe and a State governing gaming on Indian lands of such Indian tribe.

(B) The Secretary may disapprove a compact described in subparagraph (A) only if such compact violates—

(i) any provision of this Act,

(ii) any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands, or

(iii) the trust obligations of the United States to Indians.

(C) If the Secretary does not approve or disapprove a compact described in subparagraph (A) before the date that is 45 days after the date on which the compact is submitted to the Secretary for approval, the compact shall be considered to have been approved by the Secretary, but only to the extent the compact is consistent with the provisions of this Act.

(D) The Secretary shall publish in the Federal Register notice of any Tribal-State compact that is approved, or considered to have been approved, under this paragraph.

(9) An Indian tribe may enter into a management contract for the operation of a class III gaming activity if such contract has been submitted to, and approved by, the Chairman. The Chairman's review and approval of such contract shall be governed by the provisions of subsections (b), (c), (d), (f), (g), and (h) of section 12.

(e) For purposes of this section, by not later than the date that is 90 days after the date on which any tribal gaming ordinance or resolution is submitted to the Chairman, the Chairman shall approve such ordinance or resolution if it meets the requirements of this section. Any such ordinance or resolution not acted upon at the end of that 90-day period shall be considered to have been approved by the Chairman, but only to the extent such ordinance or resolution is consistent with the provisions of this Act.

MANAGEMENT CONTRACTS

SEC. 12. (a)(1) Subject to the approval of the Chairman, an Indian tribe may enter into a management contract for the operation and management of a class II gaming activity that the Indian tribe may engage in under section 11(b)(1), but, before approving such contract, the Chairman shall require and obtain the following information:

(A) the name, address, and other additional pertinent background information on each person or entity (including individuals comprising such entity) having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold (directly or indirectly) 10 percent or more of its issued and outstanding stock;

(B) a description of any previous experience that each person listed pursuant to subparagraph (A) has had with other gaming contracts with Indian tribes or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had a contract relating to gaming; and

(C) a complete financial statement of each person listed pursuant to subparagraph (A).

(2) Any person listed pursuant to paragraph (1)(A) shall be required to respond to such written or oral questions that the Chairman may propound in accordance with his responsibilities under this section.

(3) For purposes of this Act, any reference to the management contract described in paragraph (1) shall be considered to include all collateral agreements to such contract that relate to the gaming activity.

(b) The Chairman may approve any management contract entered into pursuant to this section only if he determines that it provides at least—

(1) for adequate accounting procedures that are maintained, and for verifiable financial reports that are prepared, by or for the tribal governing body on a monthly basis;

(2) for access to the daily operations of the gaming to appropriate tribal officials who shall also have a right to verify the daily gross revenues and income made from any such tribal gaming activity;

(3) for a minimum guaranteed payment to the Indian tribe that has preference over the retirement of development and construction costs;

(4) for an agreed ceiling for the repayment of development and construction costs;

(5) for a contract term not to exceed five years, except that, upon the request of an Indian tribe, the Chairman may authorize a contract term that exceeds five years but does not exceed seven years if the Chairman is satisfied that the capital investment re-

quired, and the income projections, for the particular gaming activity require the additional time; and

(6) for grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the Commission.

(c)(1) The Chairman may approve a management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity if the Chairman determines that such percentage fee is reasonable in light of surrounding circumstances. Except as otherwise provided in this subsection, such fee shall not exceed 30 percent of the net revenues.

(2) Upon the request of an Indian tribe, the Chairman may approve a management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity that exceeds 30 percent but not 40 percent of the net revenues if the Chairman is satisfied that the capital investment required, and income projections, for such tribal gaming activity require the additional fee requested by the Indian tribe.

(d) By no later than the date that is 180 days after the date on which a management contract is submitted to the Chairman for approval, the Chairman shall approve or disapprove such contract on its merits. The Chairman may extend the 180-day period by not more than 90 days if the Chairman notifies the Indian tribe in writing of the reason for the extension. The Indian tribe may bring an action in a United States district court to compel action by the Chairman if a contract has not been approved or disapproved within the period required by this subsection.

(e) The Chairman shall not approve any contract if the Chairman determines that—

(1) any person listed pursuant to subsection (a)(1)(A) of this section—

(A) is an elected member of the governing body of the Indian tribe which is the party to the management contract;

(B) has been or subsequently is convicted of any felony or gaming offense;

(C) has knowingly and willfully provided materially important false statements or information to the Commission or the Indian tribe pursuant to this Act or has refused to respond to questions propounded pursuant to subsection (a)(2); or

(D) has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

(2) the management contractor has, or has attempted to, unduly interfere or influence for its gain or advantage any decision or process of tribal government relating to the gaming activity;

(3) the management contractor has deliberately or substantially failed to comply with the terms of the management contract or the tribal gaming ordinance or resolution adopted and approved pursuant to this Act; or

(4) a trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

(f) The Chairman, after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if he subsequently determines that any of the provisions of this section have been violated.

(g) No management contract for the operation and management of a gaming activity regulated by this Act shall transfer or, in any other manner, convey any interest in land or other real property, unless specific statutory authority exists and unless clearly specified in writing in said contract.

(h) The authority of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81), relating to management contracts regulated pursuant to this Act, is hereby transferred to the Commission.

(i) The Commission shall require a potential contractor to pay a fee to cover the cost of the investigation necessary to reach a determination required in subsection (e) of this section.

REVIEW OF EXISTING ORDINANCES AND CONTRACTS

SEC. 13. (a) As soon as practicable after the organization of the Commission, the Chairman shall notify each Indian tribe or management contractor who, prior to the enactment of this Act, adopted an ordinance or resolution authorizing class II gaming or class III gaming or entered into a management contract, that such ordinance, resolution, or contract, including all collateral agreements relating to the gaming activity, must be submitted for his review within sixty days of such notification. Any activity conducted under such ordinance, resolution, contract, or agreement shall be valid under this Act, or any amendment made by this Act, unless disapproved under this section.

(b)(1) By no later than the date that is 90 days after the date on which an ordinance or resolution authorizing class II gaming or class III gaming is submitted to the Chairman pursuant to subsection (a), the Chairman shall review such ordinance or resolution to determine if it conforms to the requirements of section 11(b) of this Act.

(2) If the Chairman determines that an ordinance or resolution submitted under subsection (a) conforms to the requirements of section 11(b), the Chairman shall approve it.

(3) If the Chairman determines that an ordinance or resolution submitted under subsection (a) does not conform to the requirements of section 11(b), the Chairman shall provide written notification of necessary modifications to the Indian tribe which shall have not more than 120 days to bring such ordinance or resolution into compliance.

(c)(1) Within 180 days after the submission of a management contract, including all collateral agreements, pursuant to subsection (a), the Chairman shall subject such contract to the requirements and process of section 12.

(2) If the Chairman determines that a management contract submitted under subsection (a), and the management contractor under such contract, meet the requirements of section 12, the Chairman shall approve the management contract.

(3) If the Chairman determines that a contract submitted under subsection (a), or the management contractor under a contract submitted under subsection (a), does not meet the requirements of section 12, the Chairman shall provide written notification to the parties to such contract of necessary modifications and the parties shall have not more than 120 days to come into compliance. If a management contract has been approved by the Secretary prior to the date of enactment of this Act, the parties shall have not more than 180 days after notification of necessary modifications to come into compliance.

CIVIL PENALTIES

SEC. 14. (a)(1) Subject to such regulations as may be prescribed by the Commission, the Chairman shall have authority to levy and collect appropriate civil fines, not to exceed $25,000 per violation, against the tribal operator of an Indian game or a management contractor engaged in gaming for any violation of any provision of this Act, any regulation prescribed by the Commission pursuant to this Act, or tribal regulations, ordinances, or resolutions approved under section 11 or 13.

(2) The Commission shall, by regulation, provide an opportunity for an appeal and hearing before the Commission on fines levied and collected by the Chairman.

(3) Whenever the Commission has reason to believe that the tribal operator of an Indian game or a management contractor is engaged in activities regulated by this Act, by regulations prescribed under this Act, or by tribal regulations, ordinances, or resolutions, approved under section 11 or 13, that may result in the imposition of a fine under subsection (a)(1), the permanent closure of such game, or the modification or termination of any management contract, the Commission shall provide such tribal operator or management contractor with a written complaint stating the acts or omissions which form the basis for such belief and the action or choice of action being considered by the Commission. The allegation shall be set forth in common and concise language and must specify the statutory or regulatory provisions alleged to have been violated, but may not consist merely of allegations stated in statutory or regulatory language.

(b)(1) The Chairman shall have power to order temporary closure of an Indian game for substantial violation of the provisions of this Act, of regulations prescribed by the Commission pursuant to this Act, or of tribal regulations, ordinances, or resolutions approved under section 11 or 13 of this Act.

(2) Not later than thirty days after the issuance by the Chairman of an order of temporary closure, the Indian tribe or management contractor involved shall have a right to a hearing before the Commission to determine whether such order should be made permanent or dissolved. Not later than sixty days following such hearing, the Commission shall, by a vote of not less than three of its members, decide whether to order a permanent closure of the gaming operation.

(c) A decision of the Commission to give final approval of a fine levied by the Chairman or to order a permanent closure pursuant to this section shall be appealable to the appropriate Federal district court pursuant to chapter 7 of title 5, United States Code.

(d) Nothing in this Act precludes an Indian tribe from exercising regulatory authority provided under tribal law over a gaming establishment within the Indian tribe's jurisdiction if such regulation is not inconsistent with this Act or with any rules or regulations adopted by the Commission.

JUDICIAL REVIEW

SEC. 15. Decisions made by the Commission pursuant to sections 11, 12, 13, and 14 shall be final agency decisions for purposes of appeal to the appropriate Federal district court pursuant to chapter 7 of title 5, United States Code.

SUBPOENA AND DEPOSITION AUTHORITY

SEC. 16. (a) By a vote of not less than two members, the Commission shall have the power to require by subpoena the attendance and testimony of witnesses and the

production of all books, papers, and documents relating to any matter under consideration or investigation. Witnesses so summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(b) The attendance of witnesses and the production of books, papers, and documents, may be required from any place in the United States at any designated place of hearing. The Commission may request the Secretary to request the Attorney General to bring an action to enforce any subpoena under this section.

(c) Any court of the United States within the jurisdiction of which an inquiry is carried on may, in case of contumacy or refusal to obey a subpoena for any reason, issue an order requiring such person to appear before the Commission (and produce books, papers, or documents as so ordered) and give evidence concerning the matter in question and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) A Commissioner may order testimony to be taken by deposition in any proceeding or investigation pending before the Commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Reasonable notice must first be given to the Commission in writing by the party or his attorney proposing to take such deposition, and, in cases in which a Commissioner proposes to take a deposition, reasonable notice must be given. The notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Commission, as hereinbefore provided.

(e) Every person deposing as herein provided shall be cautioned and shall be required to swear (or affirm, if he so requests) to testify to the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent. All depositions shall be promptly filed with the Commission.

(f) Witnesses whose depositions are taken as authorized in this section, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

INVESTIGATIVE POWERS

SEC. 17. (a) Except as provided in subsection (b), the Commission shall preserve any and all information received pursuant to this Act as confidential pursuant to the provisions of paragraphs (4) and (7) of section 552(b) of title 5, United States Code.

(b) The Commission shall, when such information indicates a violation of Federal, State, or tribal statutes, ordinances, or resolutions, provide such information to the appropriate law enforcement officials.

(c) The Attorney General shall investigate activities associated with gaming authorized by this Act which may be a violation of Federal law.

COMMISSION FUNDING

SEC. 18. (a)(1) The Commission shall establish a schedule of fees to be paid to the Commission annually by each class II gaming activity that is regulated by this Act.

(2)(A) The rate of the fees imposed under the schedule established under paragraph (1) shall be—

(i) no less than 0.5 percent nor more than 2.5 percent of the first $1,500,000, and

(ii) no more than 5 percent of amounts in excess of the first $1,500,000,

of the gross revenues from each activity regulated by this Act.

(B) The total amount of all fees imposed during any fiscal year under the schedule established under paragraph (1) shall not exceed $1,500,000.

(3) The Commission, by a vote of not less than three of its members, shall annually adopt the rate of the fees authorized by this section which shall be payable to the Commission on a quarterly basis.

(4) Failure to pay the fees imposed under the schedule established under paragraph (1) shall, subject to the regulations of the Commission, be grounds for revocation of the approval of the Chairman of any license, ordinance, or resolution required under this Act for the operation of gaming.

(5) To the extent that revenue derived from fees imposed under the schedule established under paragraph (1) are not expended or committed at the close of any fiscal year, such surplus funds shall be credited to each gaming activity on a pro rata basis against such fees imposed for the succeeding year.

(6) For purposes of this section, gross revenues shall constitute the annual total amount of money wagered, less any amounts paid out as prizes or paid for prizes awarded and less allowance for amortization of capital expenditures for structures.

(b)(1) The Commission, in coordination with the Secretary and in conjunction with the fiscal year of the United States, shall adopt an annual budget for the expenses and operation of the Commission.

(2) The budget of the Commission may include a request for appropriations, as authorized by section 19, in an amount equal to the amount of funds derived from assessments authorized by subsection (a) for the fiscal year preceding the fiscal year for which the appropriation request is made.

(3) The request for appropriations pursuant to paragraph (2) shall be subject to the approval of the Secretary and shall be included as a part of the budget request of the Department of the Interior.

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. (a) Subject to the provisions of section 18, there are hereby authorized to be appropriated such sums as may be necessary for the operation of the Commission.

(b) Notwithstanding the provisions of section 18, there are hereby authorized to be appropriated not to exceed $2,000,000 to fund the operation of the Commission for each of the fiscal years beginning October 1, 1988, and October 1, 1989.

GAMING ON LANDS ACQUIRED AFTER ENACTMENT OF THIS ACT

SEC. 20. (a) Except as provided in subsection (b), gaming regulated by this Act shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe after the date of enactment of this Act unless—

(1) such lands are located within or contiguous to the boundaries of the reservation of the Indian tribe on the date of enactment of this Act; or

(2) the Indian tribe has no reservation on the date of enactment of this Act and—

(A) such lands are located in Oklahoma and—

(i) are within the boundaries of the Indian tribe's former reservation, as defined by the Secretary, or

(ii) are contiguous to other land held in trust or restricted status by the United States for the Indian tribe in Oklahoma; or

(B) such lands are located in a State other than Oklahoma and are within the Indian tribe's last recognized reservation within the State or States within which such Indian tribe is presently located.

(b)(1) Subsection (a) will not apply when—

(A) the Secretary, after consultation with the Indian tribe and appropriate State and local officials, including officials of other nearby Indian tribes, determines that a gaming establishment on newly acquired lands would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination; or

(B) lands are taken into trust as part of—

(i) a settlement of a land claim,

(ii) the initial reservation of an Indian tribe acknowledged by the Secretary under the Federal acknowledgment process, or

(iii) the restoration of lands for an Indian tribe that is restored to Federal recognition.

(2) Subsection (a) shall not apply to—

(A) any lands involved in the trust petition of the St. Croix Chippewa Indians of Wisconsin 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 one mile of the intersection of State Road Numbered 27 (also known as Krome Avenue) and the Tamiami Trail.

(3) Upon request of the governing body of the Miccosukee Tribe of Indians of Florida, the Secretary shall, notwithstanding any other provision of law, accept the transfer by such Tribe to the Secretary of the interests of such Tribe in the lands described in paragraph (2)(B) and the Secretary shall declare that such interests are held in trust by the Secretary for the benefit of such Tribe and that such interests are part of the reservation of such Tribe under sections 5 and 7 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 465, 467), subject to any encumbrances and rights that are held at the time of such transfer by any person or entity other than such Tribe. The Secretary shall publish in the Federal Register the legal description of any lands that are declared held in trust by the Secretary under this paragraph.

(c) Nothing in this section shall affect or diminish the authority and responsibility of the Secretary to take land into trust.

(d)(1) The provisions of the Internal Revenue Code of 1986 (including sections 1441, 3402(q), 6041, and 6050I, 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 Tribal-State compact entered into under section 11(d)(3) that is in effect, in the same manner as such provisions apply to State gaming and wagering operations.

(2) The provisions of this subsection shall apply notwithstanding any other provision of law enacted before, on, or after the date

of enactment of this Act unless such other provision of law specifically cites this subsection.

DISSEMINATION OF INFORMATION

SEC. 21. Consistent with the requirements of this Act, sections 1301, 1302, 1303 and 1304 of title 18, United States Code, shall not apply to any gaming conducted by an Indian tribe pursuant to this Act.

SEVERABILITY

SEC. 22. In the event that any section or provision of this Act, or amendment made by this Act, is held invalid, it is the intent of Congress that the remaining sections or provisions of this Act, and amendments made by this Act, shall continue in full force and effect.

CRIMINAL PENALTIES

SEC. 23. Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1166. Gambling in Indian country

"(a) Subject to subsection (c), for purposes of Federal law, all State laws pertaining to the licensing, regulation, or prohibition of gambling, including but not limited to criminal sanctions applicable thereto, shall apply in Indian country in the same manner and to the same extent as such laws apply elsewhere in the State.

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

"(c) For the purpose of this section, the term 'gambling' does not include—

"(1) class I gaming or class II gaming regulated by the Indian Gaming Regulatory Act, or

"(2) class III gaming conducted under a Tribal-State compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act that is in effect.

"(d) The United States shall have exclusive jurisdiction over criminal prosecutions of violations of State gambling laws that are made applicable under this section to Indian country, unless an Indian tribe pursuant to a Tribal-State compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act, or under any other provision of Federal law, has consented to the transfer to the State of criminal jurisdiction with respect to gambling on the lands of the Indian tribe.

"§ 1167. Theft from gaming establishments on Indian lands

"(a) Whoever abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any money, funds, or other property of a value of $1,000 or less belonging to an establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission shall be fined not more than $100,000 or be imprisoned for not more than one year, or both.

"(b) Whoever abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any money, funds, or other property of a value in excess of $1,000 belonging to a gaming establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission shall be fined not more than $250,000, or imprisoned for not more than ten years, or both.

"§ 1168. Theft by officers or employers of gaming establishments on Indian lands

"(a) Whoever, being an officer, employee, or individual licensee of a gaming establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission, embezzles, abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any moneys, funds, assets, or other property of such establishment of a value of $1,000 or less shall be fined not more than $250,000 and be imprisoned for not more than five years, or both;

"(b) Whoever, being an officer, employee, or individual licensee of a gaming establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission, embezzles, abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any moneys, funds, assets, or other property of such establishment of a value in excess of $1,000 shall be fined not more than $100,000,000 or imprisoned for not more than twenty years, or both.".

CONFORMING AMENDMENT

SEC. 24. The table of contents for chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following:

"1166. Gambling in Indian country.
"1167. Theft from gaming establishments on Indian lands.
"1168. Theft by officers or employees of gaming establishments on Indian lands.".

The SPEAKER pro tempore. Is a second demanded?

Mrs. VUCANOVICH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 555 provides for the regulation of certain gambling activity conducted on Indian lands. I want to make clear that this bill does not authorize gambling on Indian reservations, but, rather, establishes regulatory schemes for gaming which is otherwise legal under existing law.

S. 555 is the culmination of nearly 6 years of congressional consideration of this issue. The basic problem which has prevented earlier action by Congress has been the conflict between the right of tribal self-government and the desire for State jurisdiction over gaming activity on Indian lands.

On July 6, I inserted a statement in the RECORD which set out my position on this issue. I stated that I could not support the unilateral imposition of State jurisdiction over Indian tribal governments. I did state, however, that I remained open to reasonable compromises on the issue.

S. 555 is such a compromise, hammered out in the Senate after considerable debate and negotiations. It is a solution which is minimally acceptable to me and I support its enactment.

The core of the compromise in S. 555 is that class III gaming activities, generally defined to be casino gaming and parimutuel betting, will hereafter be legal on Indian reservations only if conducted under a compact between the tribe and the State.

While it is possible that elements of State regulation may be a part of such a compact, this is a matter between two sovereign entities and the Federal court, under the terms of the bill, will review the failure of the parties to arrive at an agreement under a test of good faith bargaining.

While the Interior Committee did not consider and did not report S. 555, certain members and committee staff did participate very actively in the negotiations in the Senate which gave rise to the compromise of S. 555. In addition, many of the provisions of S. 555 are included in House legislation which has been considered by the Interior Committee and the House in this and past congresses. Therefore, I would like to comment briefly on some aspects of the bill.

First, I would like to comment on the core compromise relating to the regulation of class III gaming. Over the years, I have strongly resisted the imposition of State jurisdiction over Indian tribes in this and other areas. This Nation has had a longstanding policy of protecting the rights of Indian tribes to self-government. Most acts of Congress in the last 50 years, including in this Congress, have been designed to strengthen those governments. The tribal-State compact provisions of S. 555 should be viewed in those terms. To the extent those provisions result in State involvement in tribal gaming activities, they should be viewed as exceptions to this policy and not as precedents for the future.

Some concern has been expressed about the interpretation of the term

"Indian lands" with respect to the restriction or expansion of tribal jurisdiction within the reservation. Except to the extent of limitations specifically placed on the tribe by the bill or agreed to by the tribe under a compact, nothing in this bill is intend to limit the existing reach of tribal jurisdiction within their reservations.

Subsection (c) of section 11 of the bill provides for the regulation of class III gaming on the reservations. This subsection authorizes the negotiation of tribal-State compacts for such regulation. The subsection requires the State to bargain in good faith with the tribe requesting such a compact and imposes the burden of proof on the State in any court test. Where the State's refusal to enter into the agreement is based upon its position that the activity should not take place at all, it must be incumbent upon the State to make a clear showing that the activity will have a significant adverse impact upon the public. Where the failure of the State to agree revolves around its insistence that a particular provision be included in the compact, it must be incumbent on the State to make a clear showing that the inclusion of such provision is necessary to avoid such an adverse impact.

Mr. Speaker, while this legislation does impose new restrictions on tribes and their members, it is legislation enacted basically for their benefit. I would expect that the Federal courts, in any litigation arising out this legislation, would apply the Supreme Court's time-honoring rule of construction that any ambiguities in legislation enacted for the benefit of Indians will be construed in their favor.

Mr. Speaker, S. 555 is a delicately balanced compromise. I know that many Indian tribes are strongly opposed to enactment of S. 555 and consider it a further infringement on their rights and another broken promise. I sympathize with their anger and frustration, but I feel that this bill is probably the most acceptable legislation that could be obtained given the circumstances.

It may be small consolation to them to know that the other side, the strong economic forces of the gambling industry, also do not totally support the bill.

Mr. Speaker, I would like to recognize and commend the efforts of Congressman COELHO on this legislation. While he and I have strongly disputed the central issue I have discussed, it has always been in the spirit in good will and sincerity.

While I understand the misgivings of my Indian friends and while I share some of those misgivings about this legislation, in the spirit of compromise, I urge passage of S. 555.

Mr. Speaker, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 555, the Indian Gaming Regulatory Act. S. 555 is the outgrowth of more than 5 years of discussions and negotiations between gaming tribes, States, the gaming industry the administration, and the Congress, in an attempt to formulate a system for regulating gaming on Indian lands. In developing the legislation, the issue has been how best to preserve the right of tribes to self-government while, at the same time, to protect both the tribes and the gaming public from unscrupulous persons. An additional objective inherent in any government regulatory scheme is to achieve a fair balancing of competitive economic interests.

The question of how best to regulate gaming on Indian lands raises important issues regarding State law enforcement authority, the need for proper regulation of gaming activities and the strong interests of Indian tribes in self-government and economic development. As with most matters affecting the legal relations between the States and Indian tribes, Congress is faced with the difficult task of reconciling powerful and conflicting interests. The task faced by Congress in developing this legislation has been made far more difficult since it involves the balancing of not only property rights or other economic considerations, but also complex matters of law enforcement and regulatory policy in the unique field of gaming.

S. 555, in my view, represents a sound attempt by Congress to strike a fair balance among the many parties who have interests at stake in the regulation. The bill, which was passed unanimously by the other body on September 15, 1988, incorporates elements of most of the legislative proposals introduced in Congress and considered at length in the Interior Committee. Like all compromises, the bill is not perfect from the point of view of any individual interest within its purview. State attorneys general, the non-Indian gaming industry throughout the country, and Indian tribes can all point to particular provisions of the bill they may find objectionable. Considering the strongly held views of the diverse interest groups involved in our deliberations, I believe that the Interior Committee and the Senate Committee on Indian Affairs have done an admirable job in fashioning an acceptable, workable, compromise bill. At this point, I would like to commend Chairman UDALL, ranking minority member DON YOUNG, the other members of the Interior Committee, Chairman INOUYE and Senator EVANS for their hard work in producing a compromise acceptable to all parties.

The principal objective of S. 555 is to provide a statutory basis and an appropriate regulatory framework for gaming on Indian lands. The bill achieves this by dividing the many types of gaming into three classes and prescribing a particular form of regulation for each class.

Class I gaming, as defined in the bill, includes social or traditional Indian games played in connection with tribal ceremonies or celebrations. This class of gaming will be regulated exclusively by tribal governments under S. 555.

Class II gaming includes bingo, lotto, and poker games if played in conformance with State laws regarding pot sizes, bet limits, and hours of operation. Those card games allowed under class II are those where players play against each other rather than against the house. Those games where players play against the house and the house acts as banker are placed under class III which I will talk about next. Class II also includes a "grandfather clause" for certain banking card games in operation on or before May 1, 1988. Class II specifically excludes slot machines or electronic or electromechanical facsimiles of other games. Under the bill, class II gaming will be regulated by the tribes with oversight by a five-member national Indian gaming commission.

Class III gaming includes all forms of gaming not identified in classes I and II. In particular, this class would include casino gaming and parimutuel betting on horse racing, dog racing, and jai alai. For this class, the bill establishes a system through which tribes and States may negotiate the terms of gaming regulation as part of a compact. This system ensures that tribal economic opportunities are preserved in a context which assures the States a degree of control over high stakes gaming within their borders.

Many State law enforcement officials had advocated complete State jurisdiction over gaming on Indian lands. Some tribes, on the other hand, advocated strictly tribal jurisdiction over all forms of gaming by requiring the States and the tribes to negotiate with one another, this bill favors neither State jurisdiction nor exclusive tribal control.

In order to meet tribal concerns that States may refuse to allow them to initiate class III gaming, the bill includes protections for tribes in the process or achieving a compact. In particular, the bill requires States to negotiate in good faith with tribes, and establishes standards for determining whether this requirement has been met. The bill grants tribes a federal cause of action against States for failure to negotiate in good faith. If a court finds that the State did not negotiate in good faith, the bill prescribes further procedures, including a court-ordered second round of negotiations, submittal of the matter to a mediator, and

the establishment of class III gaming procedures by the Secretary of the Interior.

In short, this bill represents a carefully crafted and long-sought solution to an especially difficult problem in Indian affairs. While the bill may not be perfect, it is perhaps as close as we will ever get to an appropriate solution. Recognizing that S. 555 may have certain short-comings, I nevertheless feel it is a workable and effective compromise. Once again, I want to thank Chairman UDALL; Chairman INOUYE; Mr. PEPPER from Florida; my colleague from California, Mr. COELHO; and Mr. RHODES of Arizona for their help. We've all worked very hard on ths bill and I urge my colleagues to support passage.

□ 1245

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL. Mr. Speaker, I yield such time as he may consume to the distinguished gentlemen from California [Mr. COELHO].

Mr. COELHO. Mr. Speaker I thank the gentlemen for yielding time to me.

Mr. Speaker, the legislation we have before us today is not perfect. It would be impossible to craft a bill that perfectly addresses every single aspect of an issue as complex and—for many—as emotional as the regulation of gambling on Indian lands. But I believe this legislation represents a fair and reasonable approach to resolving that difficult issue, and I joint the distinguished chairman of the Interior and Insular Affairs Committee in urging my colleagues to support it.

The gentleman from Arizona has worked long and hard to develop consensus legislation that would provide for the effective regulation of high-stakes gambling on Indian reservations while preserving the sovereignty of tribal governments. Achieving that balance has not been easy, and I commend Chairman UDALL for his dedication and leadership in pursuing the consensus embodied by this bill.

I also want to acknowledge the outstanding leadership of Senator INOUYE, the chairman of the Senate Indian Affairs Committee and author the legislation we have before us today. I doubt that a consensus would have been possible without Senator INOUYE's diligent efforts to accommodate the interests of the tribes, the States and the non-Indian gaming industry.

Mr. Speaker, I also want to acknowledge the work of my colleague, the gentlewoman from Nevada [Mrs. VUCANOVICH], who I think has done a tremendous job in making sure that all interests are represented as well.

Mr. Speaker, it has taken us a long time to get to this point, and I will not waste any more time rehashing all of the issues and arguments. But I do think it is important to say a few words about why this legislation is necessary.

Indian tribes have been engaged in gaming activity, chiefly bingo, for about 15 years. To be sure, gaming revenues have greatly benefited tribes that would otherwise face dire economic hardship. And in most cases, the tribes appear to have done a fairly good job of regulating their bingo games, even though some Indian reservation bingo operations have been victimized by unscrupulous characters and criminal elements.

There are those who say that because there has never been a "clearly proven" case of "organized" criminal activity in bingo and card operations on Indian reservations, there is no reason for Congress to pass this legislation. That argument misses the point completely because the congressional debate on the regulation of Indian gaming has never been about bingo. In fact, the bill we have here today provides for only minimal Federal regulation of bingo and certain card games. It even allows most of that Federal regulation to be waived for reservation bingo and card games that are well run.

The debate and this bill are about regulation of the kind of high-stakes gambling that for the most part has not yet appeared on Indian reservations. This so-called class III gaming includes horse racing, dog racing, jai alai and certain casino-type card games and gambling devices. No one can deny that these very lucrative and easily corrupted games have long been the target of organized and sometimes intensive criminal activity. That is why the States that allow such gaming activities subject them to very strict regulation. In the case of horse racing, much of that regulation is intended to protect horses from those who would abuse them for an unfair advantage and an illegal profit. As a lifelong horseman, I am concerned that the welfare of racing animals receives the greatest measure of protection possible. That concern is what brought me into the debate on the regulation of gaming on Indian reservations.

Despite the vast amount of experience and resources that the States devote to the regulation of non-Indian horse racing and other high-stakes gambling, the pressure from criminal elements remains constant and strong. There is good reason to believe that similar gambling activity on Indian reservations would be subject to similar pressures. But there is also good reason to doubt that many Indian tribes, lacking in experience and resources, would be able to effectively regulate high-stakes gambling. And the checkered history of Federal Indian programs makes it impossible to believe that any sort of Federal regulatory system would be successful.

As sovereign governments, Indian tribes certainly have the right to engage in gambling if they wish. But the States also have the sovereign right—and the responsibility—to protect their citizens from the threat of criminal activity. When the legitimate exercise of their rights brings sovereign States into conflict with one another, the universally accepted practice is for them to negotiate an agreement that serves the interests of all parties. In most cases, such agreements require each party to voluntarily limit the exercise of certain individual rights in order to achieve a common goal. This bill establishes a framework in which Indian tribes and States can meet as equals, government-to-government, to negotiate an agreement—a compact—for a mutually acceptable method of regulating high-stakes gambling on Indian reservations. The bill requires the States to negotiate in good faith and it provides for legal recourse if they do not.

It is important to make it clear that the compact arrangement set forth in this legislation is intended solely for the regulation of gaming activities. It is not the intent of Congress to establish a precedent for the use of compacts in other areas, such as water rights, land use, environmental regulation or taxation. Nor is it the intent of Congress that States use negotiations on gaming compacts as a means to pressure Indian tribes to cede rights in any other area. Congress also assumes that the States will be reasonable in negotiating gaming compacts and not simply insist that tribes submit to complete State regulation. It is even possible that a compact may provide for no State involvement in the regulation of gaming activities on a particular reservation.

Last year, I worked with representatives of both the Indian and non-Indian gaming communities to develop a compromise proposal based on a tribal-State compact arrangement very similar to the one contained in this bill. I believe it is a good idea now, and I again strongly urge my colleagues to support this bill.

Mr. SHUMWAY. Mr. Speaker, I am opposed to S. 555, the Indian Gaming Regulatory Act. While proponents laud this measure as the best compromise we are going to get, I believe it is just not good enough.

My major objection to this bill is the establishment of another layer of Federal bureaucracy, with its attendant cost. The bill establishes the National Indian Gaming Commission, to monitor gaming activities on Indian lands and approve management contracts for such games. While the bill provides for a compact between the State and the tribe in the case of class III games, no similar provision is made for class II gambling. Ironically, several Members who spoke in favor of the Federal regulatory approach pointed out that State supervision and control is imperative for class III games to prevent corruption, ensure compliance and apply existing expertise. In my view, the same should hold true for all gaming activities.

I make no secret of my personal opposition to using gambling as a means to raise money. However, I also believe that the decision to permit gambling should be left up to the individual States. In States where gambling is permitted, a mechanism is already in place to police and oversee the games of chance. It makes far more sense to permit the States to extend existing regulations to games taking place on Indian lands. There is no need to establish more Federal Government.

Mrs. VUCANOVICH. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I have a question for Chairman UDALL. The language of section 12(b)(5) and 12(c) contemplates that if an Indian tribe so requests, the Chairman of the Commission may au-

thorize a contract term of 7 years and a management fee of 40 percent. The Indian tribe, as a party to the management contract and as the owner of the bingo operation, is in the best position to evaluate the reasonableness of its contract term and management fee. Am I correct in my understanding that it is the intent of this legislation that because the request by the Indian tribe is a condition precedent to a 7-year term and 40-percent management fee, the assumption by the Chairman will be that such term and fee are economically reasonable when so requested by the Indian tribe and will be approved by the Chairman?

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. I thank the gentleman for yielding.

Mr. Speaker, yes, we expect the Chairman will approve the tribe's request.

Mr. LUJAN. I thank the gentleman for his response.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Speaker, I want to congratulate the chairman of the Committee on Interior and Insular Affairs on developing this legislation which I know has been very difficult to bring together. One of the most difficult challenges that one could undertake is one of those involving Indian affairs, This legislation will bring consistency to the way in which the Federal Government regulates gaming on Indian lands. But at least one inconsistency remains in the bill.

On the one hand, I think it is very good that the legislation provides regulation on a joint basis between the Federal Government and the tribes, of class two high stakes bingo. That is a very important provision. It is a very important source of revenue for Indian reservations in our State of Minnesota and in my congressional district where reservations are using the money wisely to invest in health care, education and economic development, the revenue derived from high-stakes bingo.

But there is another class of activity that is not covered by this legislation and that is the class three gaming. Many of the reservations in Minnesota are set up for games of chance. It seems to me that they should have been grandfathered in along with those tribes in the four States that are allowed to continue with class three card games under the Federal mandate.

I earnestly hope that future legislation can be written and enacted to remedy this omission. But as I understand it, however, the State of Minnesota can go back, that is if I understand the legislation correctly, can change its own law to regulate between the State and the Indian reservations the class three gaming that is now already set up and for which the reservations are ready to undertake activities. But frankly it seemed to me that this activity should have been within the ambit of the overall Federal-to-tribe responsibility that has historically existed with respect to Indian activities.

Overall I support the legislation. I want to compliment the gentleman on bringing it forth. It does make secure the high states bingo operation that has been such an important source of revenue and economic growth and development for Indian reservations throughout the country.

Mrs. VUCANOVICH. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. I thank the gentleman for yielding.

Mr. Speaker, it is with reluctance that I rise in opposition of the bill. I point out that although we are operating under suspension of the rules, it is a little strained to be debating a bill which at this point is not even yet printed. It has not been made available to the Members.

Granted that the bill is taken to us without amendment from the way in which it was passed September 15 in the Senate. It is a little late for Members on either side of the aisle to be getting that kind of information.

But more importantly, Mr. Speaker, are the merits of the bill. I come from one of the five States in which this bill circumvents State law by grandfathering in existing illegal gambling on some of the tribal territories and reservations within the State.

My Federal prosecutor has advised me of this fact and urge that I urge you, in turn, to support the State of Michigan and several other States who have fought illegal gambling on Indian reservations. Our position has been upheld by the Federal district court for western Michigan and also on appeal to the sixth district court of the Federal court of appeals.

It is unfair, Mr. Speaker, to retroactively grandfather existing illegal gambling operations in a number of States as this legislation does. I am also advised that other States object because they were not grandfathered while others will be, which indicates inconsistencies in the legislation.

I urge a "no" vote.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. SIKORSKI].

Mrs. VUCANOVICH. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. Mr. Speaker, I rise in opposition to the legislation although I have great respect for the gentlewoman from Nevada and for the gentleman from Arizona [Mr. UDALL], the chairman, for their long and vigorous fight for Indian rights, and with others who are involved in this legislation.

After a weekend of conversation with Minnesota's Indians, I think there are more questions than answers.

For example, what is the origin of this legislation undermining Indian sovereignty? Who wins and who loses under it? Where is the problem that needs correction? Finally, why do we feel we can invade Indian sovereignty when it is inconvenient to respect it?

On the "who" issue, I have been told that the white and multibillion-dollared casino syndicates on the east and west coasts, the track owners and even States that have their own gambling operation do not like the little competition they get from reservation bingo and cards and video machines.

We can understand this desire to shut down any competition; any business wants to do that.

But does this explain why we pull the plugs on a couple of video machines hundreds of miles, in some cases thousands of miles, from Donald Trump or the Vegas strip? It is piddling money to the big boys, but to most reservations it is the very small difference between survival and total dependence on the "Big White Father"—the Federal Government. On the reservations, this little money is the difference between a drug rehabilitation program and no program; between the successful child nutrition program and no program; between an alternative school or a senior citizen center and nothing.

It provides a little cushion, a little bit of employment on reservations that have 50, 60, 70, 80 most of them close to 90 percent unemployment. This little industry provides health and human services, Indian cultural efforts, and badly needed employment to forgotten human beings who are set aside on picked-over and left-over public lands that were given to them as reservations under treaties. Indians lose. In gambling turns—with winners and losers—Indians are losers and the gamblers, casino operators, track owners, and State gamblers are winners.

Where is the problem? There have been grand claims that this is good for the Indians because it "protects them" from unscrupulous managers and organized crime. But there is no data on that at all. In fact, one tribal leader told me the only organized crime they have seen is the Bureau of Indian Affairs. And they do not need one more commission or another bureaucracy, and still more outside intervention from those people who say they know it all but know too little.

Now why? Why do we feel we can once again invade the sovereignty of Indian tribes and governments and peoples? Nonchalantly? Not only do we invade Indian sovereignty, this bill in wholesale fashion empowers the States to do the same. And these are the States that are negotiating with these tribes on water rights, on mineral rights, on hunting and fishing rights.

This is a usurpation of powers held under treaty with this Government by the independent tribal governments in this Nation that they once held dominion over.

The Supreme Court has ruled for the Indians; Congress has passed laws on Indian self-determination; Presidents from Washington to Reagan have in statements respected Indian rights. So how can we now in this great body and as this Government so easily trample on independent treaties recognized by our forebearers? Is it simple mathematics? More of us and less of them? Is it sheer force of habit? Or convenience? Like the many people we know who are great dieters, and are always on a diet—except when it comes to mealtime or snacktime or ice cream time.

Can we not resist just once the temptation to resolve a real or potential problem by diminishing the sovereignty of Indian peoples? Is this, the 100th Congress, memorializing the 200th anniversary of our Constitution, not going to go back and read that document? Indian nations are given special status and protection therein.

Vote "no" and vote against bureaucracy, against the casino syndicates, and for respect for Indian rights.

Mr. UDALL. Mr. Speaker, I reserve the balance of my time.

□ 1300

Mrs. VUCANOVICH. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER], a former member of the committee.

Mr. BEREUTER. Mr. Speaker, let me begin by thanking the gentlewoman from Nevada [Mrs. VUCANOVICH] for yielding me this time and commending the distinguished chairman, the gentleman from Arizona [Mr. UDALL], and the members of the Committee on Interior and Insular Affairs and their counterparts in the other body for wrestling with the issues involved in this legislation. They are contentious, they are complicated, and I think it is well to commend the committees for addressing them through this legislation.

I am particularly pleased with section 20 of this legislation. It reflects, with only minor adaptations, legislation I introduced about 3 years ago, in the 99th Congress—H.R. 3130. It relates to gaming on noncontiguous sites for Indian tribes. In this legislation, section 20 prohibits Indian gaming activities on land not adjacent to Indian reservations, on reservation or contiguous sites, and then, when additional sites are considered in that category, on reservation or contiguous to reservation. For gaming to occur on reservation or parcels contiguous to a reservation after the enachment of this legislation the Secretary would have to consult with State and local officials, including officials of nearby Indian tribes that might be affected, to determine that such gaming would be in the best interest of Indian tribes and its members and that such gaming would not be detrimental to the surrounding community or adjacent Indian tribes for such gaming activities to take place on these new sites.

While proposed Indian gaming activities on noncontiguous sites was a problem that affected South Sioux City, NE, in my own district, it was also a situation that was apparently about to occur on noncontiguous sites as far as halfway across the United States from the Indian tribe proposing such sites. This legislation also gives the opportunity for the Governor to have an input, and the Secretary, in fact, could not take action to establish or approve additional gaming sites on reservation or contiguous to a reservation unless the Governor concurred with the proposed approval by the Secretary.

So, Mr. Speaker, the language contained in section 20, I think, demonstrates a respect for local community views and for the responsibility of State government. I thank the committees for their effort on this particular section of the bill.

Mrs. VUCANOVICH. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I rise in opposition to the bill, and I wish to associate myself with the remarks of the gentleman from Minnesota [Mr. SIKORSKI], who just completed his presentation in the well of the House a few moments ago.

Whatever good may come out of this bill is not well-known to me, primarily because the committee has not seen fit to present us with a committee report. We have only a copy of a Senate bill, and it is a little hard for us to know exactly what the committee intends or what benefits it believes are inherent in the bill.

However, to the gentleman from Minnesota [Mr. SIKORSKI], the gentleman from Minnesota [Mr. OBERSTAR], myself, and many others who represent tribal units which rely on the income from certain games other than bingo conducted by groups within our area, this is a devastating blow.

In my own district, there is a very small tribal unit which uses bingo and the television games. They are an important part of its revenue. Since it undertook the conduct of these games, things have taken a good turn for that tribe.

Its operations have always been very highly thought of by the neighboring municipalities and counties, and there is general approbation of the conduct of these games. There have never been complaints, insofar as I am aware, and now this tribe is going to have jerked from it its very important source of revenue.

That, it seems to me, is a very strange maneuver by a committee like this whose job it is to look after the interests of Indian tribes. This bill would seem to give evidence that the committee is more interested in the welfare of the large casinos in Las Vegas and Atlantic City.

I am extremely disappointed that the committee would not have undertaken an amendment to grandfather in a group such as the one that operates in my district and the ones of which the other two gentlemen from Minnesota spoke.

Mr. Speaker, I hope there will be a chance to defeat this bill so that the committee can do a job that will pay attention to the needs of these small tribes such as the ones to which I refer.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a final note, let me say that the administration has fully participated in the formulation of S. 555, and officially the administration has no objection to the bill.

Mr. RHODES. Mr. Speaker, I rise in reluctant support of S. 555, the Indian Gaming Regulatory Act. The act would provide a regulatory scheme for gambling operations regulated by an Indian tribe in Indian country. The bill divides gaming into three categories—class I ceremonial, class II bingo-level games, and class III all other forms, including parimutuels and casinos.

While I support a regulatory oversight by the Federal Government of Indian games, I am concerned that we may have taken a step too far, and may subject tribes to unwarranted State control.

As my colleagues should know, the U.S. Constitution grants Congress the authority to address Indian issues, and except where specifically granted by Congress, States do not have jurisdiction over Indian tribes nor over Indian country. This was the basis for the ruling in the Cabazon decision, affirming the rights of tribes to regulate gaming outside of the State regulatory system.

S. 555 would provide a procedure for an Indian tribe and a State to enter into a compact for the purpose of regulating class III Indian gaming, such as dog and horse racing, casinos, and jai alai. While this appears on the surface to be fair to tribes, as independent sovereigns, to negotiate with States for these compacts, I am concerned. The States do not have a good track record in how they deal with Indians, and the appeal provisions of S. 555 are quite complicated.

Therefore, Mr. Speaker, I urge my colleagues to support S. 555, but also to be aware that I believe congressional oversight of the compact process is essential in the future.

Mr. BILBRAY. Mr. Speaker, I wish to take this opportunity to say a few words in support of S. 555, the Indian Gaming Regulatory Act.

We in Nevada have over 55 years of legal gaming experience, and we have enjoyed many of the benefits as well as the unpleasant side effects of legalized casino gaming. Prior to serving in the Congress, I served in both the legislative and judicial branches of government in the State of Nevada. My experience in Nevada has sensitized me to many of the issues surrounding Indian gaming. It is from this perspective that I wish to discuss S. 555 and other issues concerning gaming on Indian lands.

Today more than ever, Indian tribes are seeking to supplement their limited resources through the exercise of their sovereign right to invite the general public to come onto their lands to participate in various forms of legal gaming activities. But because of the special nature of legal gaming, governmental regulation of such activity is necessary. The current question before Congress is whether this legal gaming will be regulated by the Indian tribes, by the States where the tribal lands are located, or by the Federal Government, which retains authority over certain aspects of reservation life. A recent decision of the Supreme Court, Cabazon Band of Mission Indians, reaffirmed that State laws may be applied to tribal Indians on their reservations if Congress expressly provides for such application.

S. 555 seeks to balance the legitimate interest of the Indian tribes with the need to regulate gaming on Indian lands in order to minimize or avoid the effects of the actions of unscrupulous operators. This measure leaves class I gaming activities, such as traditional ceremonial gaming, under the sole jurisdiction of the tribes. Class II gaming, such as bingo, lotto, and certain card games, would continue to be within tribal jurisdiction but subject to oversight regulation by the National Indian Gaming Commission. Supervision and control of class III gaming, which includes horse racing, dog racing, casino gaming including slot machines, jai alai and similar activities, would be a State function under a transfer of authority from the Indian tribe once the tribe had decided to offer class III games. This is most appropriate given the expertise of State class III gaming regulators on the oversight and control of this complex class of gaming.

Mr. Speaker, because of the experience of the State of Nevada in the area of legal gaming, I believe State supervision and control of class III gaming is imperative for the following reasons:

Class III games are complex and easily corrupted without constant vigilance by trained and experienced regulators.

Those States that now permit such gaming already have in place tested regulatory programs and trained programs.

The expertise and experience these States have acquired over the years cannot be readily replicated by the Indian tribes or by regulatory contractors to the tribes.

A Federal commission would not have the money, manpower, or expertise necessary to regulate class III games.

The States have a strong interest in regulating all class III gaming activities within their borders—the vast majority of consumers of such gaming on Indian lands would be non-Indian citizens of the State and tourists to the State. Similarly, most operators of class III games would be non-Indians with previous experience in such gaming.

The States have a constitutional responsibility to protect their citizens from harm, here in the form of fraudulent manipulation by the operators of the games and of victimization by criminal elements that may infiltrate the legal games operated on Indian lands. A State's citizenry has a right to be treated fairly in any commercial activity, whether provided by Indians or non-Indians.

Disparate treatment of the same activities within a State would not only create tremendous strains between the tribes and State law enforcement officials, it would also accord preferential treatment to one group of gaming operators.

A single State entity to regulate all class III gaming within the State is the most efficient allocation of scarce resources.

The imposition of a State regulatory scheme on class III games operated on Indian lands would enhance both the appearance and the fact of integrity in the operation of the games.

Mr. Speaker, for all of these reasons, I urge my colleagues to join me in supporting S. 555.

Mrs. VUCANOVICH. Mr. Speaker, I have no further requests for time, I urge my colleagues to support S. 555, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the Senate bill, S. 555.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5232) to grant the consent of the Congress to the southwestern low-level radioactive waste disposal compact.

The Clerk read as follows:

H.R. 5232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act".

SEC. 2. CONGRESSIONAL FINDING.

The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act.

SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

The consent of the Congress to the compact set forth in section 5—

(1) shall become effective on the date of the enactment of this Act;

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act; and

(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.

SEC. 4. CONGRESSIONAL REVIEW.

The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of enactment of this Act, and at such intervals thereafter as may be provided in such compact.

SEC. 5. SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMPACT.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d (a)(2)), the consent of Congress is given to the states of Arizona, California, and any eligible states, as defined in article VII of the Southwestern Low-Level Radioactive Waste Disposal Compact, to enter into such compact. Such compact is substantially as follows:

ARTICLE I.—COMPACT POLICY AND FORMATION

The party states hereby find and declare all of the following:

(A) The United States Congress, by enacting the Low-Level Radioactive Waste Policy Act, Public Law 96-573, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. sec. 2021b to 2021j, incl.), has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste.

(B) It is the purpose of this compact to provide the means for such a cooperative effort between or among party states to protect the citizens of the states and the states' environments.

(C) It is the policy of party states to this compact to encourage the reduction of the volume of low-level radioactive waste requiring disposal within the compact region.

(D) It is the policy of the party states that the protection of the health and safety of their citizens and the most ecological and economical management of low-level radioactive wastes can be accomplished through cooperation of the states by minimizing the amount of handling and transportation required to dispose of these wastes and by providing facilities that serve the compact region.

(E) Each party state, if an agreement state pursuant to section 2021 of title 42 of the United States Code, or the Nuclear Regulatory Commission if not an agreement state, is responsible for the primary regulation of radioactive materials within its jurisdiction.

ARTICLE II.—DEFINITIONS

As used in this compact, unless the context clearly indicates otherwise, the following definitions apply: