

108TH CONGRESS
2D SESSION

H. R. 3745

To amend the Indian Gaming Regulatory Act to require State legislature approval of new gambling facilities, to provide for minimum requirements for Federal regulation of Indian gaming, to set up a commission to report to Congress on current living and health standards in Indian country, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2004

Mr. SHAYS (for himself and Mr. WOLF) introduced the following bill; which was referred to the Committee on Resources

A BILL

To amend the Indian Gaming Regulatory Act to require State legislature approval of new gambling facilities, to provide for minimum requirements for Federal regulation of Indian gaming, to set up a commission to report to Congress on current living and health standards in Indian country, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tribal and Local Com-
5 munities Relationship Improvement Act”.

1 **SEC. 2. STATE LEGISLATIVE APPROVAL NEEDED FOR GAM-**
2 **ING UNDER CERTAIN COMPACTS AND EXCEP-**
3 **TION.**

4 (a) IN GENERAL.—Section 11(d)(3) of the Indian
5 Gaming Regulatory Act (25 U.S.C. 2710(d)(3)) is amend-
6 ed by adding at the end the following new subparagraph:

7 “(D) Any Tribal-State compact approved after
8 the date of the enactment of the Tribal and Local
9 Communities Relationship Improvement Act shall
10 not be valid unless approved by the Governor and
11 the State legislature of the State with which the
12 Tribal-State compact was negotiated. This subpara-
13 graph shall not apply to a Tribal-State compact that
14 is a renewal or renegotiation of a Tribal-State com-
15 pact that was in effect on the date of the enactment
16 of the Tribal and Local Communities Relationship
17 Improvement Act if the renewed or renegotiated
18 Tribal-State compact does not include new terms or
19 provisions which result in an expansion of the gam-
20 ing operations covered by the Tribal-State compact
21 that was in effect on the date of the enactment of
22 the Tribal and Local Communities Relationship Im-
23 provement Act.”.

24 (b) APPROVAL REQUIRED FOR GAMING UNDER EX-
25 CEPTION.—

1 (1) IN GENERAL.—Section 20(a) of the Indian
2 Gaming Regulatory Act (25 U.S.C. 2719(a)) is
3 amended to read as follows:

4 “SEC. 20. (a) Gaming regulated by this Act shall not
5 be conducted on lands acquired by the Secretary in trust
6 for the benefit of an Indian tribe after October 17, 1988,
7 unless the Secretary, after consultation with the Indian
8 tribe and appropriate State and local officials, including
9 officials of other nearby Indian tribes, determines that a
10 gaming establishment on such land would be in the best
11 interest of the Indian tribe and its members, and would
12 not be detrimental to the communities in surrounding
13 counties and parishes, but only if the Governor and legis-
14 lature of the State in which the gaming activity is to be
15 conducted concurs in the Secretary’s determination.”.

16 (2) CONFORMING AMENDMENTS.—Section
17 20(b) of the Indian Gaming Regulatory Act (25
18 U.S.C. 2719(b)) is amended—

19 (A) by striking paragraph (1);

20 (B) in paragraph (3), by striking “para-
21 graph (2)(B)” and inserting “paragraph
22 (1)(B)”; and

23 (C) by redesignating paragraphs (2) and
24 (3) as paragraphs (1) and (2), respectively.

1 **SEC. 3. LIMIT ON NUMBER OF PARCELS OF LAND ON**
2 **WHICH CLASS III GAMING MAY BE CON-**
3 **DUCTED BY AN INDIAN TRIBE.**

4 Section 11(d)(8)(A) of the Indian Gaming Regulatory
5 Act (25 U.S.C. 2710(d)(8)(A)) is amended by adding at
6 the end the following: “Notwithstanding the preceding
7 sentence, after the date of the enactment of the Tribal
8 and Local Communities Relationship Improvement Act,
9 the Secretary shall not approve any Tribal-State compact
10 that would result in an Indian tribe conducting class III
11 gaming regulated under this Act on more than 1 parcel
12 of land or, if an Indian tribe conducted class III gaming
13 regulated under this Act under 1 or more valid, approved
14 Tribal-State compacts on the date of the enactment of the
15 Tribal and Local Communities Relationship Improvement
16 Act, on the number of parcels of land on which the Indian
17 tribe conducted such gaming on that date.”.

18 **SEC. 4. MINIMUM REQUIREMENTS FOR FEDERAL REGULA-**
19 **TION.**

20 (a) **ESTABLISHMENT.**—The President shall establish
21 an advisory committee to be known as the “Advisory Com-
22 mittee on Minimum Regulatory Requirements and Licens-
23 ing Standards for Indian Gaming” (hereinafter referred
24 to as the “Advisory Committee”).

25 (b) **MEMBERS.**—

1 (1) IN GENERAL.—The Advisory Committee
2 shall be composed of 8 members who shall be ap-
3 pointed by the President not later than 120 days
4 after the date of the enactment of this Act, of
5 which—

6 (A) 3 members, selected from a list of rec-
7 ommendations submitted to the President by
8 the chairperson and vice chairperson of the
9 Committee on Indian Affairs of the Senate and
10 the chairperson and ranking minority member
11 of the Committee on Resources of the House of
12 Representatives, shall be members of, and rep-
13 resent, Indian tribal governments involved in
14 gaming covered under the Indian Gaming Reg-
15 ulatory Act;

16 (B) 3 members, selected from a list of rec-
17 ommendations submitted to the President by
18 the majority leader and the minority leader of
19 the Senate and the Speaker and the minority
20 leader of the House of Representatives, shall
21 represent State governments involved in gaming
22 covered under the Indian Gaming Regulatory
23 Act, and shall have experience as State gaming
24 regulators; and

1 (C) 2 members shall be employees of the
2 Department of Justice.

3 (2) VACANCIES.—Any vacancy on the Advisory
4 Committee shall not affect its powers, but shall be
5 filled in the same manner as the original appoint-
6 ment.

7 (c) RECOMMENDATIONS FOR MINIMUM FEDERAL
8 STANDARDS.—

9 (1) IN GENERAL.—Not later than 180 days
10 after the date on which all initial members of the
11 Advisory Committee have been appointed under sub-
12 section (b), the Advisory Committee shall develop
13 and submit to the entities referred to in paragraph
14 (2) recommendations for minimum Federal stand-
15 ards as described in subsection (d).

16 (2) RECIPIENTS OF RECOMMENDATIONS.—The
17 Advisory Committee shall submit the recommenda-
18 tions required by paragraph (1) to the Committee on
19 Indian Affairs of the Senate, the Committee on Re-
20 sources of the House of Representatives, the Na-
21 tional Indian Gaming Commission, and each feder-
22 ally recognized Indian tribe.

23 (3) FACTORS FOR CONSIDERATION.—The min-
24 imum Federal standards recommended pursuant to
25 this subsection—

1 (A) may be developed taking into account
2 industry standards existing at the time of the
3 development of the standards; and

4 (B) shall be developed taking into ac-
5 count—

6 (i) the unique nature of tribal gaming
7 as compared to non-Indian commercial,
8 governmental, and charitable gaming;

9 (ii) the broad variations in the scope
10 and size of tribal gaming activity; and

11 (iii) the inherent sovereign right of In-
12 dian tribes to regulate their own affairs.

13 (d) REGULATIONS.—Upon receipt of the rec-
14 ommendations of the Advisory Committee, the National
15 Indian Gaming Commission shall hold public hearings on
16 the recommendations. After the conclusion of the hear-
17 ings, the Commission shall promulgate regulations estab-
18 lishing minimum Federal regulatory requirements sub-
19 stantially in accordance with the recommendations made
20 by the Advisory Committee, taking into consideration pub-
21 lic comment when appropriate. Such regulations shall in-
22 clude requirements for—

23 (1) background investigations, licensing of per-
24 sons, and licensing of gaming operations associated
25 with the conduct or regulation of class II and class

1 III gaming on Indian lands by tribal governments;
2 and

3 (2) the operation of class II and class III gam-
4 ing activities on Indian lands, including—

5 (A) surveillance and security personnel and
6 systems capable of monitoring all gaming activi-
7 ties, including the conduct of games, cashiers'
8 cages, change booths, count rooms, movements
9 of cash and chips, entrances and exits to gam-
10 ing facilities, and other critical areas of any
11 gaming facility;

12 (B) procedures for the protection of the in-
13 tegrity of the rules for the play of games and
14 controls related to such rules;

15 (C) credit and debit collection controls;

16 (D) controls over gambling devices and
17 equipment; and

18 (E) accounting and auditing.

19 (e) TRAVEL.—Each member of the Advisory Com-
20 mittee who is appointed under subparagraph (A) or (B)
21 of subsection (b)(1) and who is not an officer or employee
22 of the Federal Government or a government of a State
23 shall be reimbursed for travel and per diem in lieu of sub-
24 sistence expenses during the performance of duties of the
25 Advisory Committee while away from the home or the reg-

1 ular place of business of that member, in accordance with
2 subchapter I of chapter 57 of title 5, United States Code.

3 (f) TERMINATION.—The Advisory Committee shall
4 terminate 10 days after the Advisory Committee submits
5 the recommendations under subsection (c).

6 (g) EXEMPTION FROM FEDERAL ADVISORY COM-
7 MITTEE ACT.—All activities of the Advisory Committee
8 shall be exempt from the Federal Advisory Committee Act
9 (5 U.S.C. App.).

10 **SEC. 5. COMMISSION ON NATIVE AMERICAN POLICY.**

11 (a) ESTABLISHMENT.—There is established a com-
12 mission to be known as the “Commission on Native Amer-
13 ican Policy” (in this section referred to as the “Commis-
14 sion”).

15 (b) MEMBERSHIP.—The Commission shall be com-
16 posed of 13 members appointed for the life of the Commis-
17 sion as follows:

18 (1) A representative from the National Gov-
19 ernors’ Association, chosen by the members of that
20 association.

21 (2) A representative from the National Associa-
22 tion of Attorneys General, chosen by the members of
23 that association.

24 (3) The Attorney General, or a designee.

1 (4) The Secretary of the Treasury, or a des-
2 ignee.

3 (5) The Secretary of the Interior, or a designee.

4 (6) The Secretary of Commerce, or a designee.

5 (7) The Chairman of the National Indian Gam-
6 ing Commission, or a designee.

7 (8) 1 representative from Indian tribes that op-
8 erate Indian gaming facilities, appointed by the ma-
9 jority leader of the House of Representatives and the
10 majority leader of the Senate.

11 (9) 1 representative from Indian tribes that do
12 not operate Indian gaming facilities, appointed by
13 the majority leader of the House of Representatives
14 and the majority leader of the Senate.

15 (10) 1 representative from Indian tribes that
16 operate Indian gaming facilities, appointed by the
17 minority leader of the House of Representatives and
18 the minority leader of the Senate.

19 (11) 1 representative from Indian tribes that do
20 not operate Indian gaming facilities, appointed by
21 the minority leader of the House of Representatives
22 and the minority leader of the Senate.

23 (12) 1 representative from a unit of local gov-
24 ernment that is located near an Indian gaming facil-
25 ity appointed by the majority leader of the House of

1 Representatives and the majority leader of the Sen-
2 ate.

3 (13) 1 representative from the chamber of com-
4 merce of a unit of local government that is located
5 near an Indian gaming facility appointed by the ma-
6 jority leader of the House of Representatives and the
7 majority leader of the Senate.

8 (c) VACANCIES.—A vacancy in the Commission shall
9 be filled in the manner in which the original appointment
10 was made.

11 (d) QUORUM.—A majority of the members of the
12 Commission shall constitute a quorum but a lesser number
13 may hold hearings.

14 (e) CHAIRPERSON.—The Chairperson of the Commis-
15 sion shall be elected by the members of the Commission.
16 The term of office of the Chairperson shall be for the life
17 of the Commission.

18 (f) BASIC PAY.—

19 (1) COMPENSATION OF MEMBERS.—Each mem-
20 ber of the Commission who is not an officer or em-
21 ployee of the Federal Government, or whose com-
22 pensation is not precluded by a State, local, or Na-
23 tive American tribal government position, shall be
24 compensated at a rate equal to the daily equivalent
25 of the annual rate of basic pay prescribed for Level

1 IV of the Executive Schedule under section 5315 of
2 title 5, United States Code, for each day (including
3 travel time) during which such member is engaged
4 in the performance of the duties of the Commission.
5 All members of the Commission who are officers or
6 employees of the United States shall serve without
7 compensation in addition to that received for their
8 services as officers or employees of the United
9 States.

10 (2) TRAVEL EXPENSES.—The members of the
11 Commission shall be allowed travel expenses, includ-
12 ing per diem in lieu of subsistence, at rates author-
13 ized for employees of agencies under subchapter I of
14 chapter 57 of title 5, United States Code, while
15 away from their homes or regular places of business
16 in the performance of service for the Commission.

17 (g) HEARINGS AND SESSIONS.—

18 (1) IN GENERAL.—The Commission may, for
19 the purpose of carrying out its duties, hold hearings,
20 sit and act at times and places, take testimony, and
21 receive evidence as the Commission considers appro-
22 priate. The Commission may administer oaths or af-
23 firmations to witnesses appearing before it.

24 (2) WITNESS EXPENSES.—Witnesses requested
25 to appear before the Commission shall be paid the

1 same fees as are paid to witnesses under section
2 1821 of title 28, United States Code. The per diem
3 and mileage allowances for witnesses shall be paid
4 from funds appropriated to the Commission.

5 (h) POWERS OF MEMBERS AND AGENTS.—Any mem-
6 ber or agent of the Commission may, if authorized by the
7 Commission, take any action which the Commission is au-
8 thorized to take by this section.

9 (i) OBTAINING OFFICIAL DATA.—The Commission
10 may secure directly from any department or agency of the
11 United States information necessary to enable it to carry
12 out its duties. Upon request of the Chairperson of the
13 Commission, the head of that department or agency shall
14 furnish that information to the Commission.

15 (j) MAILS.—The Commission may use the United
16 States mails in the same manner and under the same con-
17 ditions as other departments and agencies of the United
18 States.

19 (k) ADMINISTRATIVE SUPPORT SERVICES.—Upon
20 the request of the Commission, the Administrator of Gen-
21 eral Services shall provide to the Commission, on a reim-
22 bursable basis, the administrative support services nec-
23 essary for the Commission to carry out its duties.

24 (l) SUBPOENA POWER.—

1 (1) IN GENERAL.—If a person fails to supply
2 information requested by the Commission, the Com-
3 mission may by majority vote require by subpoena
4 the production of any written or recorded informa-
5 tion, document, report, answer, record, account,
6 paper, computer file, or other data or documentary
7 evidence necessary to carry out its duties. The Com-
8 mission shall transmit to the Attorney General a
9 confidential, written notice at least 10 days in ad-
10 vance of the issuance of any such subpoena. A sub-
11 poena under this paragraph may require the produc-
12 tion of materials from any place within the United
13 States.

14 (2) INTERROGATORIES.—The Commission may,
15 with respect only to information necessary to under-
16 stand any materials obtained through a subpoena
17 under paragraph (1), issue a subpoena requiring the
18 person producing such materials to answer, either
19 through a sworn deposition or through written an-
20 swers provided under oath (at the election of the
21 person upon whom the subpoena is served), to inter-
22 rogatories from the Commission regarding such in-
23 formation. A complete recording or transcription
24 shall be made of any deposition made under this
25 paragraph.

1 (3) CERTIFICATION.—Each person who submits
2 materials or information to the Commission pursu-
3 ant to a subpoena issued under paragraph (1) or (2)
4 shall certify to the Commission the authenticity and
5 completeness of all materials or information sub-
6 mitted. The provisions of section 1001 of title 18,
7 United States Code, shall apply to any false state-
8 ments made with respect to the certification required
9 under this paragraph.

10 (4) TREATMENT OF SUBPOENAS.—Any sub-
11 poena issued by the Commission under paragraph
12 (1) or (2) shall comply with the requirements for
13 subpoenas issued by a United States district court
14 under the Federal Rules of Civil Procedure.

15 (5) FAILURE TO OBEY A SUBPOENA.—If a per-
16 son refuses to obey a subpoena issued by the Com-
17 mission under paragraph (1) or (2), the Commission
18 may apply to a United States district court for an
19 order requiring that person to comply with such sub-
20 poena. The application may be made within the judi-
21 cial district in which that person is found, resides,
22 or transacts business. Any failure to obey the order
23 of the court may be punished by the court as civil
24 contempt.

1 (m) IMMUNITY.—The Commission is an agency of the
2 United States for the purpose of part V of title 18, United
3 States Code (relating to immunity of witnesses). Except
4 as provided in this subsection, a person may not be ex-
5 cused from testifying or from producing evidence pursuant
6 to a subpoena on the ground that the testimony or evi-
7 dence required by the subpoena may tend to incriminate
8 or subject that person to criminal prosecution. A person,
9 after having claimed the privilege against self-incrimina-
10 tion, may not be criminally prosecuted by reason of any
11 transaction, matter, or thing which that person is com-
12 pelled to testify about or produce evidence relating to, ex-
13 cept that the person may be prosecuted for perjury com-
14 mitted during the testimony or made in the evidence.

15 (n) CONTRACT AUTHORITY.—To the extent or in the
16 amounts provided in advance in appropriation Acts, the
17 Commission may contract with and compensate govern-
18 ment and private agencies or persons for services, without
19 regard to section 3709 of the Revised Statutes (41 U.S.C.
20 5).

21 (o) STUDY; REPORT.—

22 (1) STUDY.—Not later than 18 months after
23 funds are first made available for this section, the
24 Commission shall complete a study on the following:

1 (A) Living standards in Indian country, in-
2 cluding health, infrastructure, economic devel-
3 opment, educational opportunities, and housing.

4 (B) The effectiveness of current Federal
5 programs designed to improve living standards
6 in Indian country, including health, infrastruc-
7 ture, economic development, educational oppor-
8 tunities, and housing.

9 (C) Crime control on Indian reservations.

10 (D) The influence of non-Native American
11 private investors on the Indian Federal recogni-
12 tion process.

13 (E) The influence of non-Native American
14 private investors on the establishment and oper-
15 ation of Indian gaming facilities.

16 (F) The influence of organized crime on
17 Indian gaming.

18 (G) The impact of Indian gaming facilities
19 on local communities, including the impact on
20 economic, environmental, and social issues.

21 (2) REPORT.—Not later than 6 months after
22 completion of the study required by paragraph (1),
23 the Commission shall submit to Congress a report
24 containing a detailed statement of the findings and

1 conclusions of the Commission, together with its leg-
2 islative recommendations for improving—

3 (A) the welfare of Native Americans, in-
4 cluding health infrastructure, economic develop-
5 ment, educational opportunities, and housing;

6 (B) the relationship between tribal entities
7 and nontribal communities that live in the same
8 area as tribal entities or Indian gaming facili-
9 ties; and

10 (C) regulations that govern tribal gaming
11 to reduce the potential for crime and exploi-
12 tation of Indians and Indian tribes.

13 (p) TERMINATION.—The Commission shall terminate
14 30 days after submitting its final report pursuant this sec-
15 tion.

○