

## S 2078

### Indian Gaming Regulatory Act Amendments of 2006

**Congress:** 109 (2005–2007, Ended)

**Chamber:** Senate

**Policy Area:** Native Americans

**Introduced:** Nov 18, 2005

**Current Status:** Sponsor introductory remarks on measure. (CR S11686-11687)

**Latest Action:** Sponsor introductory remarks on measure. (CR S11686-11687) (Dec 8, 2006)

**Official Text:** <https://www.congress.gov/bill/109th-congress/senate-bill/2078>

### Sponsor

**Name:** Sen. McCain, John [R-AZ]

**Party:** Republican • **State:** AZ • **Chamber:** Senate

### Cosponsors

*No cosponsors are listed for this bill.*

### Committee Activity

| Committee                | Chamber | Activity    | Date        |
|--------------------------|---------|-------------|-------------|
| Indian Affairs Committee | Senate  | Reported By | Jun 6, 2006 |

### Subjects & Policy Tags

#### Policy Area:

Native Americans

### Related Bills

*No related bills are listed.*

Indian Gaming Regulatory Act Amendments of 2006 - (Sec. 3) Amends the Indian Gaming Regulatory Act (IGRA) to make technical amendments to IGRA on how National Indian Gaming Commission (NIGC) vacancies are filled. Allows reappointment of a Commission member unless he or she has been removed for cause. Authorizes the Vice Chairman to act as Chairman during the disability of the Chairman.

(Sec. 4) Revises the NIGC Chairman's power to approve certain contracts for class II gaming and class III gaming to include all gaming-related contracts, not just management contracts, as under current law. Defines gaming-related contracts to include management, consulting, development, financing, and participation contracts, as well as any other agreement determined by the NIGC to be subject to its requirements.

Grants the Chairman power to conduct a background investigation and make a determination with respect to the suitability of a gaming-related contractor.

Authorizes the Chairman to delegate any authority to any NIGC member, as the Chairman determines to be appropriate.

(Sec. 5) Extends NIGC oversight and auditing responsibilities to Class III (in addition to Class II) gaming operations.

Directs the NIGC to promulgate regulations: (1) addressing minimum internal control standards for class II and class III gaming activities; and (2) determining categories of contracts for goods and services directly relating to tribal gaming activities that shall be considered to be gaming-related contracts requiring NIGC approval and background checks.

Requires the NIGC to report at least annually to the Secretary of the Interior on aggregate revenues of the tribal-level gaming activities of each Indian tribe. Directs the Secretary to promulgate regulations under which information in such a report shall be made available to the members of the Indian tribe in question.

(Sec. 6) Makes technical amendments to update the statutory rates of pay for NIGC Commissioners, staff, and temporary services to comport with the current Federal Executive and General Schedule pay rates.

(Sec. 7) Amends requirements for tribal Class II gaming ordinances regarding background investigations and ongoing oversight activities with respect to primary management officials and key employees of the gaming enterprise. Requires such ordinances also to ensure such investigations and oversight activities with respect to: (1) tribal gaming commissioners and key tribal gaming commission employees; and (2) persons that provide goods or services directly related to the tribal gaming activity.

Requires the Secretary of the Interior to provide information to the Chairman relating to approved tribal Class II gaming revenue per capita allocation plans.

(Sec. 8) Replaces requirements for contracts for the operation and management of a class II gaming activity (management contracts) with requirements for all gaming-related contracts.

Requires approval of all gaming-related contracts by the NIGC Chairman. Renders all such contracts not approved by the NIGC Chairman void ab initio. Subjects to civil penalties any party to a gaming-related contract that is not approved. Subjects each gaming-related contractor to a suitability determination by the NIGC Chairman.

Prescribes minimum contract requirements (similar to those under current law for management contracts).

Limits the term of a gaming-related contract generally to five years, with an allowance for a seven-year term in extraordinary circumstances.

Limits the fee provided pursuant to a gaming-related contract to 30% of the net revenues of the gaming operation, with an allowance for up to 40% percent of net revenues in extraordinary circumstances.

Sets forth the requirements for disapproval of a gaming-related contract by the NIGC Chairman.

Requires the NIGC Chairman to approve or disapprove: (1) a management, development, participation, or other gaming-related contract within 90 days after its submission; and (2) a financing or a consulting contract within 30 days after submission.

Conditions approval of a gaming-related contract upon NIGC determination that each applicable gaming-related contractor is suitable.

Requires the NIGC Chairman to establish a suitability standard for such determinations. Requires such standard to include current prohibitions and requirements.

Authorizes the NIGC Chairman to contract with any Indian tribe to: (1) conduct a background investigation of a gaming-related contractor; (2) assist in determining the contractor's suitability; or (3) facilitate tribal licensing of a person that provides goods or services directly relating to the tribal gaming activity or a gaming-related contractor in accordance with the suitability standard.

Provides for alternative means of determining suitability.

Directs the NIGC Chairman to establish and maintain a registry of suitability determinations.

Prohibits gaming-related contracts (like management contracts under current law) from transferring or otherwise conveying any interest in land or other real property unless the transfer or conveyance: (1) is authorized under law; and (2) is specifically described in the gaming-related contract.

Requires the NIGC Chairman, by regulation, to provide an opportunity for an appeal, with a hearing, within 30 days after any determination of the NIGC Chairman.

Authorizes the Chairman to promulgate regulations providing for waiver of any gaming-related contract requirements because of an emergency or an imminent threat to the public health or safety.

(Sec. 9) Applies civil penalties to Indian tribes, individuals, and entities (currently, the tribal operator of an Indian game or a management contractor engaged in gaming). Revises the civil fine from up to \$25,000 per violation to up to \$25,000 per violation per day.

(Sec. 10) Revises requirements for gaming on Indian lands acquired after October 17, 1988.

Extends the general exceptions to such requirements to lands acquired by the Secretary in trust for the benefit of an Indian tribe before April 15, 2006, if certain criteria are met. Requires an Indian tribe to have submitted to the Secretary a written request to have the land deemed eligible for gaming.

Requires such lands taken into trust as part of a land claim settlement to be within a state in which the tribe's reservation,

or last recognized reservation, is located.

Requires any such lands taken into trust as part of an initial reservation to have a historic and geographic nexus to the tribe. Requires also that the Secretary determine, after consultation with the tribe and appropriate local and tribal officials, and a standard administrative public hearing procedure, that a gaming establishment on that land would be in the best interests of the tribe and would not create significant, unmitigated impacts on the surrounding community.

Provides that such lands taken into trust as part of a restoration of lands must meet the same requirements as lands taken into trust as part of an initial reservation. Requires there also to be a temporal connection between the acquisition of the land and the date of recognition of the tribe. Requires in addition a determination by the Secretary, after consultation with the tribe and the standard administrative public hearing procedure, that a gaming establishment on that land would be in the best interests of the tribe and would not create significant, unmitigated impacts on the surrounding community.

Grandfathers any determination of the Secretary about the gaming eligibility of land made before enactment of this Act.

(Sec. 11) Requires the NIGC, in promulgating rules and regulations pursuant to IGRA, to establish and maintain a policy of consultation with Indian tribes in accordance with federal trust responsibility and the government-to-government relationship that exists between Indian tribes and the federal government.

(Sec. 12) Directs NIGC to promulgate rules and regulations implementing new definitions, authorities, responsibilities, and restrictions in accordance with this Act.

## Actions Timeline

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- **Dec 8, 2006:** Sponsor introductory remarks on measure. (CR S11686-11687)
- **Jun 6, 2006:** Committee on Indian Affairs. Reported by Senator McCain with an amendment in the nature of a substitute. With written report No. 109-261.
- **Jun 6, 2006:** Committee on Indian Affairs. Reported by Senator McCain with an amendment in the nature of a substitute. With written report No. 109-261.
- **Jun 6, 2006:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 466.
- **Mar 29, 2006:** Committee on Indian Affairs. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Mar 8, 2006:** Committee on Indian Affairs. Hearings held. Hearings printed: S.Hrg. 109-443.
- **Nov 18, 2005:** Introduced in Senate
- **Nov 18, 2005:** Sponsor introductory remarks on measure. (CR S13389-13390)
- **Nov 18, 2005:** Read twice and referred to the Committee on Indian Affairs. (text of measure as introduced: CR S13390-13393)