NATIONAL INDIAN GAMING ASSOCIATION

Rebuilding Communities Through Indian Self-Reliance

Testimony of Ernest L. Stevens, Jr.
Chairman, National Indian Gaming Association

Concerning

The Second Discussion Draft of Legislation Regarding Off-Reservation Indian Gaming

Before

The House Committee on Resources
November 9, 2005

Good Morning. Chairman Pombo, Congressman Rahall and Members of the House Resources Committee, thank you for the opportunity to testify on the second discussion draft of legislation regarding off-reservation Indian gaming.

My name is Ernest L. Stevens, Jr. and I am the Chairman of the National Indian Gaming Association ("NIGA"). NIGA is an inter-tribal association of 184 Indian tribes that use Indian gaming to generate essential tribal government revenue.

Introduction

At the outset, I should note that 98 to 99% of Indian Gaming is conducted "on reservation." Indian tribes generally oppose amending the Indian Gaming Regulatory Act ("IGRA") because we are concerned that amendments will diminish tribal rights and that once lost, we would have great difficulty restoring our rights.

We ask the Committee to continue to consider any amendment to IGRA only through regular order, and if any amendments are marked out of Committee, we ask that they be considered under a closed rule. We also respectfully request that the Committee reject extraneous amendments that would undermine tribal rights to self-government. After all, for Indian nations tribal self-government is our original democracy. Finally, any amendment to IGRA should approve the Secretary's procedures in lieu of compact to address the Supreme Court's *Seminole* decision.

A. Indian Gaming: the Native American Success Story

Indian gaming is the Native American success story. Where there were no jobs, now there are 553,000 jobs.

Where our people had only an eighth grade education on average, tribal governments are building schools and funding college scholarships.

Where the United States and boarding schools sought to suppress our languages, tribal schools are now teaching their native language.

Where our people suffer epidemic diabetes, heart disease, and premature death, our tribes are building hospitals, health clinics, and wellness centers.

Historically, the United States signed treaties guaranteeing Indian lands as permanent homes, and then a few years later, went to war to take our lands. This left our people to live in poverty, often on desolate lands, while others mine for gold or pumped oil from the lands that were taken from us.

Throughout all of those long years, Indian tribes always fought to maintain our inherent right to self-government and Indian gaming is an exercise of that right.

Today, for over 60% of Indian tribes in the lower 48 states, Indian gaming offers new hope and a chance for a better life for our children.

Two-thirds of American voters support Indian gaming, and when they are informed that Indian gaming is rebuilding our communities, 74% of American voters support Indian gaming.

B. Government-to-Government Consultation

The Commerce Clause of the Constitution recognizes Indian tribes as pre-existing governments. The Constitution also acknowledges the status of tribal governments as sovereigns and the sanctity of our treaties in the Treaty Clause. As a result, the historical relations between the United States and Indian nations are built on a foundation of government-to-government relations.

Honoring the historical policy of government-to-government relations between the United States and Indian tribes, on September 23, 2004, President Bush issued an Executive Memorandum to the Heads of Executive Departments and Agencies explaining:

> The United States has a unique legal and political relationship with Indian tribes and a special relationship with American Indian tribes and Alaska Native entities as provided in the Constitution of the United States, treaties, and Federal statutes. Presidents for decades have recognized this relationship…. My Administration is committed to continuing to work with federally recognized tribal governments on a government-to-government basis and strongly supports and respects tribal sovereignty and self-determination for tribal governments in the United States.

The House Committee on Resources also has a strong tradition of respect for tribal self-government and government-to-government consultation.

Chairman Pombo released the first discussion draft bill on off-reservation gaming in March and since then the Committee has held four hearings to give tribal governments, state officials and members of the public an opportunity to present views. On October 31, Chairman Pombo released a second draft bill.

We thank you, Chairman Pombo, Congressman Rahall, and the Committee, for working with tribal governments in a manner that respects the principle of government-to-government consultation.

NIGA/NCAI Tribal Leaders Task Force on Indian Gaming

The National Indian Gaming Association and our sister organization, the National Congress of American Indians ("NCAI"), conducted several meetings around the country with tribal leaders to review the discussion draft: March 27 in Washington, D.C.; April

13 in San Diego, California; May 25 in Minneapolis, Minnesota; June 16 in Green Bay, Wisconsin; and October 30 in Tulsa, Oklahoma.

Our meetings included mostly tribal governments that use Indian gaming on their reservation lands, tribal governments that have used the Section 20 process to engage in gaming on after acquired lands, a few tribal governments that now seek to use the Section 20 process, and tribal governments opposing Section 20 applications by neighboring tribes. While tribal governments were not unanimous in their views, 95% or more of the tribal governments that participated in our meetings opposed amendments to the Indian Gaming Regulatory Act concerning off-reservation gaming.

Accordingly, NIGA and NCAI worked on a joint set of principles regarding this issue. First, in regard to newly recognized or landless tribes, there is no existing reservation, so reacquired lands are by definition "on reservation."

Only 3 Indian tribes have used the Section 20 two part secretarial consultation process for Indian gaming on lands acquired after 1988: Forest County Potawatomi in Milwaukee, Wisconsin; Kalispel Tribe near Spokane, Washington; and Keweenaw Bay Indian Community in Marquette, Michigan. Only 3 Indian tribes in 17 years. All three had a determination by the Secretary of the Interior that gaming was in the best interest of the tribe and not detrimental to the surrounding community and Governor's agreement. All three had local government support, and the Department of Interior staff explained that without local government support, an application under the two part process would not be approved by the Secretary.

Only one Indian tribe in 17 years – the Seneca Nation of New York – has been able to use land reacquired under a land claim settlement for gaming pursuant to Section 20. That is, in part, because the Secretary of the Interior requires that Congress approve any land claim settlement before an Indian tribe may use settlement lands for Indian gaming.

Tribal governments generally do not believe that the actual record under Section 20 justifies amendments to the Indian Gaming Regulatory Act. Thus, the NIGA/NCAI Tribal Leaders Task Force on Indian Gaming opposed legislative amendments to Section 20.

Tribal governments generally agree that in any Section 20 two-part process application for gaming on reacquired Indian lands:

- A tribal government should thoroughly consult with state and local officials;
- A tribal government should thoroughly consult with nearby Indian tribes; and
- The existing Section 20 process and the Tribal-State Compact process for Class III gaming provide important opportunities for consultation between tribal governments, Federal, state and local officials, and nearby Indian tribes about Indian Gaming.

The NIGA/NCAI Tribal Leaders Task force called upon the Secretary of the Interior to issue a new regulation under Section 20 that would clarify the existing process for reacquiring tribal lands for Indian gaming through negotiated rulemaking.

IGRA Section 20 and Chairman Pombo's Second Discussion Draft

A. Section 20: Existing Law

Through Section 20, the Indian Gaming Regulatory Act establishes a general policy that Indian tribes should conduct Indian gaming on lands held on October 17, 1988. Congress provided several exceptions to this general rule to take account of the historical mistreatment of Indian tribes, including:

- The fact that too many lands were taken from Indian tribes, leaving some tribes landless or with no useful lands;
- The fact that many Indian lands were unlawfully taken from Indian tribes in violation of Federal law; and
- The fact that after it was no longer militarily necessary to treat with some Indian tribes, the United States neglected and ignored those tribes.

Accordingly, Section 20 provides exceptions to the general rule for several reasons, including:

- **Land Claim Settlement**: Land is taken into trust as a result of a land claim settlement;
- **Initial Reservation**: Land is acquired in trust status as the initial reservation of an Indian tribe acknowledged by the Secretary of the Interior under the Federal Acknowledgement process; or
- **Restored Lands**: Land is restored to an Indian tribe in trust status when the Tribe is restored to Federal recognition;
- **Landless Tribes:** Land is put into trust for federally recognized tribes that did not have reservation land on the date IGRA was enacted; or
- **Two-Part Secretarial Process**: More generally, Section 20 provides for a two-part secretarial consultation process, whereby an Indian tribe may generally apply to the Secretary of the Interior for land to be taken into trust status for gaming purposes. Under the two-part process, upon application by the Indian tribe the Secretary of the Interior consults with state and local officials and nearby Indian tribes to determine whether an acquisition of land in trust for gaming would be in the tribe's "best interest" and "not detrimental to the surrounding community."

25 U.S.C. sec. 2719(b)(1).

B. Pombo Second Discussion Draft

The Second Discussion Draft would amend Section 20(b)(1) significantly. First, the second draft would strike the existing Section 20 Two-Part Secretarial Consultation Process and nullify pending applications under Section 20(b)(1)(A). Several tribes have invested millions of dollars to perform environmental assessments to apply to have land taken in trust under this provision. Some of them have the support of both the Governor and the local government where the land acquisition is proposed. Where the State, local governments, and nearby Indian tribes support an application under the Section 20 Two-Part Secretarial Consultation Process, we do not believe that Congress should prohibit the trust land reacquisition. In sum, we do not believe that the actual record of Section 20's implementation justifies eliminating the Two-Part Secretarial Consultation Process.

Second, the new discussion draft would eliminate the land claim settlement provision. Only one Indian tribe has successfully utilized this process to date, and the proposal to eliminate this provision is tantamount to a 5th Amendment taking of vested property rights and the frustration of justifiable expectations.

Third, the second draft would require "newly recognized, restored, or landless tribes" to apply to have land taken in trust through a Five-Part Secretarial Consultation Process:

- **Newly Recognized, Restored, and Landless Tribes** would apply to the Secretary of the Interior to have land taken in trust for gaming;
- **Secretarial Determination**: The Secretary would consult with state, local officials, and nearby Indian tribes to determine that the reacquisition of land was in the best interest of the applicant tribe and not detrimental to the surrounding community;
- **Governor concurs in the Secretary's Determination**;
- **State Legislature concurs**;
- **Nearby Indian tribes concur**; and
- **County Government concurs**.

Subjecting "newly recognized, restored, or landless tribes" to this new and cumbersome process discounts the fact that the United States mistreated these tribes by ignoring and neglecting them, taking all of their lands or allowing their lands to be stolen by others. These Indian tribes had aboriginal and historical lands. We believe that Congress should restore these tribes to a portion of their aboriginal or historical lands and that these lands should be held on the same basis as other Indian lands.

It is not necessary to add the State Legislature to Gubernatorial concurrence authority. The question of state law authority and decision-making is reserved to the States under the 10th Amendment. In addition, subjecting Indian lands to a veto by local governments is a bad precedent for Indian tribes. We believe that local governments are

subdivisions of the state – not separate sovereigns. State governments have the power and authority to protect the interests of local governments.

The second draft also provides for the cooperative use of existing reservation lands, whereby an Indian tribe may invite another Indian tribe to conduct gaming on its reservation lands. We support this provision, yet we believe that this could be enacted on a more specific basis without amending IGRA.

The new draft again would prohibit Indian tribes from crossing state lines to engage in gaming. The reason why a few tribes are seeking to cross state lines has to do with the 19th Century Removal Policy, which was a historical wrong by the United States against Americans Indians. When an Indian tribe seeks to return to aboriginal lands, due consideration should be given to historical facts. Not all states reject a return by Indian tribes to ancestral lands. There are ways to promote respect for the interests of states and nearby tribes other than a prohibition. Colorado Governor Bill Owens, for example, told the Cheyenne-Arapaho Tribes that Colorado voters could approve their return from Oklahoma to Colorado.

Alternative to Legislation: A New Regulation Under Section 20

Under Section 20 there are more proposals than actual gaming facilities. Only 3 new gaming facilities have gone forward under the Section 20 Two-Part Secretarial Consultation Process. Each facility had the support of the local government. A new regulation under Section 20 could clarify the rights of states, local governments, and nearby Indian tribes to consult with the Secretary *before* her decision on the potential impacts of a new gaming facility in the surrounding community. The Secretary now gives great weight to local government comments thereby protecting local interests. The Secretary should give the same weight to interests of nearby Indian tribes. Through the Governor, states have a right to agree or disagree – which is sufficient to protect state rights.

Concerning land claim settlement lands, a new regulation could simply spell out the fact that congressional ratification of a land claim settlement is necessary before such lands can be used for gaming. State, local governments, nearby Indian tribes and the public have an opportunity to fully participate in the legislative process for ratification. That should protect everyone's interest in ensuring a fair settlement process.

With regards to "newly recognized, restored, and landless tribes," we agree that these tribes should seek to reacquire lands in their aboriginal or historic land areas to avoid any infringement on the aboriginal land rights of nearby Indian tribes. The Secretary now requires "significant historical, cultural, and geographic ties" to the land sought for tribal reacquisition. We believe that the Secretary of the Interior has authority to require an aboriginal or historical connection to the lands and that issue should be dealt with in a new regulation under Section 20.

We understand that the Department of the Interior is currently in the process of developing a new regulation under Section 20 that will clarify these issues.

Conclusion

Chairman Pombo, Congressman Rahall, and Members of the Committee, we thank you for undertaking a process that is respectful of government-to-government relations. The underlying principle of government-to-government relations, similar to protection of states rights under the 10th Amendment, is idea that the least intrusive means to achieve a Federal goal is generally the best avenue to pursue. In this case, the least intrusive means of protecting the rights of state, local governments, and nearby Indian tribes is through a new regulation under Section 20 that will clarify the right to consult with the Secretary and the State's right to concur or not concur in the Secretary's determination. Accordingly, we respectfully request that the Committee give the Department of the Interior time to develop and promulgate its new regulation before amending Section 20 of the Indian Gaming Regulatory Act.

ATTACHMENTS

TO

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Concerning

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The House Committee on Resources
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Chairman Pombo's Revised Proposed Amendments to 25 U.S.C. 2719 (Gaming on Lands Acquired After October 17, 1988)

(a) Prohibition on lands acquired in trust by Secretary -- Except as provided in subsection (b) of this section, gaming regulated by this chapter shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe after October 17, 1988, unless--

(1) such lands are located within or contiguous to the boundaries of the reservation of the Indian tribe on October 17, 1988; or

(2) the Indian tribe has no reservation on October 17, 1988, 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) Exceptions --

(1) Subsection (a) of this section will not apply ~~when~~ *to any Indian tribe that is newly recognized, restored, or landless as of the date of enactment of this [bill] including those newly recognized under the Federal Acknowledgement Process at the Bureau of Indian Affairs, if –*

(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~~ *determines that the lands, acquired in trust for the benefit of the Indian tribe for the purposes of gaming, are lands within the State of such tribe, and are where the Indian tribe has its primary geographic, social, and historical nexus to the land;*

(B) ~~lands are taken into trust as part of~~ *The Secretary determines that the proposed gaming activity is in the best interest of the Indian tribe and its*

tribal members, and would not be detrimental to the surrounding community and nearby Indian tribes;

~~(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.~~

(C) the Governor and the State legislature of the State in which the gaming activities will be conducted concur;

(D) the nearby Indian tribes concur; and

(E) the county or parish with authority over land that is contiguous to the lands acquired in trust for the benefit of the Indian tribe for the purposes of gaming approve by a majority vote in a county or parish referendum.

(2) Subsection (a) of this section 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 465 and 467 of this title, 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) Authority of Secretary not affected -- Nothing in this section shall affect or diminish the authority and responsibility of the Secretary to take land into trust.

(d) Application of Internal Revenue Code of 1986

(1) The provisions of the Internal Revenue Code of 1986 (including sections 1441, 3402(q), 6041, and 6050 I, 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 chapter, or under a Tribal-State compact entered into under section 2710(d)(3) of this title 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 October 17, 1988, unless such other provision of law specifically cites this subsection.

(e) *(1) In order to consolidate class II gaming and class III gaming development, an Indian tribe may invite one or more other Indian tribes to participate in or benefit from gaming conducted under this Act upon any portion of Indian land that was, as of October 18, 1988, located within the boundaries of the reservation of the inviting Indian tribe, so long as each invited Indian tribe has no ownership interest in any other gaming facility on any other Indian lands and has its primary geographic, social, and historical nexus to land within the State in which the Indian land of the inviting Indian tribe is located.*

(2) Notwithstanding any other provision of law, an Indian tribe invited to conduct class II gaming or class III gaming under paragraph (1) may do so under authority of a lease with the inviting Indian tribe, which lease shall be lawful without the review or approval of the Secretary and which lease shall be deemed by the Secretary to be sufficient evidence of the existence of Indian land of the invited Indian tribe for the purposes of secretarial approval of the Tribal-State compact under this Act.

(3) Notwithstanding any other provision of law, the Indian tribes identified in paragraph (1) may establish this terms and conditions of their lease and other agreements between them in their sole discretion, provided that in no case may the total payments to the inviting Indian tribe under the lease and other agreements exceed 40 percent of the net revenues (defined for such purposes as the revenue available to the 2 Indian tribes after deduction of costs of operating and financing the gaming facility developed on the leased land and of fees due to be paid under the Tribal-State compact) of the gaming activity conducted by the invited Indian tribe.

(4) An invited Indian tribe under this subsection shall be deemed by the Secretary and the Commission to have the sole proprietary interest and responsibility for the conduct of any gaming on lands leased from an inviting Indian tribe.

(5) Conduct of gaming by an invited Indian tribe on lands leased from an inviting Indian tribe under this subsection shall be deemed by the Secretary and the Commission to conducted under the Act upon Indian lands –

(A) of the invited Indian tribe;
(B) within the jurisdiction of the invited Indian tribe; and
(C) over which the invited Indian tribe has and exercises governmental power.

(f) Notwithstanding any other provision of this Act, an Indian tribe shall not conduct gaming regulated by this Act on Indian lands outside of a State in which the Indian tribe has a reservation on the date of the enactment of this subsection, unless such Indian lands are contiguous to such a reservation of that Indian tribe in the State.

Sec. 2 Statutory Construction
The amendment made by paragraph (1) of section 1 shall be applied prospectively. Compacts or other agreements that govern gaming regulated by this Act on Indian lands that were in effect on the date of the enactment of this Act shall not be affected by the amendments made by paragraph (1) of section 1 of this Act.

NIGA/NCAI TRIBAL LEADER TASK FORCE ON INDIAN GAMING

RESOLUTION # GBW-005-009

By The National Congress Of American Indians Concerning Off-Reservation Gaming

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the United States has a government-to-government relationship with Indian Tribes which is carried out by the Department of Interior pursuant to its policy of government-to-government consultation on regulations and rules impacting Indian Tribes; and

WHEREAS, the Bureau of Indian Affairs (BIA) has established an internal guideline titled “Checklist For Gaming Acquisitions Gaming-Related Acquisitions And IGRA Section 20 Determinations for implementation of the Indian Gaming Regulatory Act (IGRA) Section 20”, which was amended on March 7, 2005, without consulting Tribal Governments in violation of the government-to-government policy of the United States; and

WHEREAS, IGRA was enacted to promote tribal economic development, self-sufficiency and strong tribal governments, and reflects a delicate balance of Tribal, Federal, and State Sovereign interests; and

WHEREAS, Indian gaming is the Native American success story and through Indian gaming, Indian tribes have created more than 550,000 jobs, fund essential government services including education, health care, police and fire services, water, sewer, and sanitation services, transportation, child care and elderly nutrition, and museums and cultural centers; and

WHEREAS, Section 20 of the IGRA (25 U.S.C. § 2719) establishes a general rule that Indian gaming shall be conducted only on Indian lands held prior to 1988, with exceptions for contiguous lands, landless Indian tribes, newly recognized Indian tribes, restored tribes, land claims settlements, and the Section 20 two-part determination for off-reservation land; and

WHEREAS, under the Section 20 two-part determination, the Secretary of the Interior must consult with state and local officials and nearby Indian tribes to determine that any proposed off-reservation gaming is in the best interests of the applicant tribe and not detrimental to the surrounding community which includes nearby Indian Tribes; then the Governor must concur in the Secretary's determination before the applicant tribe may conduct gaming on the off-reservation land;

WHEREAS, through IGRA, Congress provided State and local governments a voice in Indian gaming policy through the Section 20 two-part determination process and through the Tribal-State Compact process;

WHEREAS, the reality of off-reservation gaming is far different than the media misrepresentations and in fact since the enactment of IGRA in 1988 only three Indian Tribes have ever successfully navigated the Section 20 two-part process: all three Tribes had the support of the local government and the concurrence of the Governor; and

WHEREAS, Tribal Governments acknowledge the responsibility to speak on their own behalf regarding gaming locations under the Section 20 two-part process, to promote positive media coverage and reduce public misunderstanding of the land into trust process; and

WHEREAS, Tribal Governments have a long history of respect for and consultation with neighboring Tribes and local governments, which is reflected within the Section 20 two-part process; and

WHEREAS, there have been recent efforts to bypass the Section 20 two-part process through appropriation riders without the benefit of hearings and tribal input.

NOW THEREFORE BE IT RESOLVED, the NCAI strongly opposes amending the Indian Gaming Regulatory Act.

BE IT FURTHER RESOLVED, the NCAI opposes legislation that would diminish the sovereign rights of Tribal Governments and opposes any effort to subordinate Tribal Governments to local governments.

BE IT FURTHER RESOLVED, the NCAI does hereby call upon tribal governments proposing off-reservation gaming locations to promote positive relationships with State and local governments and minimize impacts on the aboriginal rights of nearby Tribes; NCAI also supports the development of a joint subcommittee of the NIGA/NCAI Task Force on Gaming that will encourage cooperation and support for this policy similar to the Tribal Supreme Court Project.

BE IT FURTHER RESOLVED, that the NCAI calls upon state and tribal governments to work together to ensure that local government concerns are addressed through the existing Tribal-State Compact process and the Section 20 two-part determination process.

BE IT FURTHER RESOLVED, that the NCAI does hereby call upon Congress to adhere to the significant process set forth in IGRA's Section 20 and to refrain from appropriations riders that bypass Section 20 or otherwise amend IGRA.

BE IT FURTHER RESOLVED, that the NCAI requests that the Department of Interior engage in a negotiated rulemaking process with Tribal Governments to adopt formal regulations governing the implementation of the Section 20 two-part determination process that respects the interests of tribal governments, including nearby Indian tribes, and state and local governments.

BE IT FURTHER RESOLVED, that the NCAI supports the initial intent of IGRA to support the development of tribal economies.

BE IT FINALLY RESOLVED, that the NCAI requests that Congress pass legislation that will encourage other forms of economic development in Indian country such as energy development incentives and equitable tax exempt bond authority.