

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4893
OFFERED BY MR. POMBO OF CALIFORNIA AND
MR. RAHALL OF WEST VIRGINIA

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Restricting Indian
3 Gaming to Homelands of Tribes Act of 2006”.

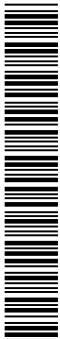
4 SEC. 2. RESTRICTION ON OFF-RESERVATION GAMING.

5 Section 20 of the Indian Gaming Regulatory Act (25
6 U.S.C. 2719) is amended—

7 (1) by amending subsection (b)(1) to read as
8 follows:

9 “(b)(1) Subsection (a) will not apply when lands are
10 taken in trust for the benefit of an Indian tribe that is
11 newly recognized, restored, or landless after the date of
12 the enactment of subsection (f), including those newly rec-
13 ognized under the Federal Acknowledgment Process at the
14 Bureau of Indian Affairs, and the following criteria are
15 met:

16 “(A) The Secretary determines that such lands
17 are within the State of such tribe and are within the



1 primary geographic, social, historical, and temporal
2 nexus of the Indian tribe.

3 “(B) The Secretary determines that the pro-
4 posed gaming activity would not be detrimental to
5 the surrounding community and nearby Indian
6 tribes.

7 “(C) Concurrence by the Governor in conform-
8 ance with laws of that State.

9 “(D) Mitigation by the Indian tribe in accord-
10 ance with this subparagraph. For the purposes of
11 the Indian tribe mitigating the direct impact on the
12 county or parish infrastructure and services, the In-
13 dian tribe shall negotiate and sign, to the extent
14 practicable during the compact negotiations de-
15 scribed in section 11(d)(3), a memorandum of un-
16 derstanding with the county or parish government.
17 Such mitigation requirements shall be limited to the
18 direct effects of the tribal gaming activities on the
19 affected county or parish infrastructure and services.
20 If a memorandum of understanding is not signed
21 within one year after the Indian tribe or county or
22 parish has notified the other party and the Sec-
23 retary, by certified mail, a request to initiate nego-
24 tiations, then the Secretary shall appoint an arbi-



1 trator who shall establish mitigation requirements of
2 the Indian tribe.”; and

3 (2) by adding at the end the following new sub-
4 sections:

5 “(e)(1) In order to consolidate class II gaming and
6 class III gaming development, an Indian tribe may host
7 one or more other Indian tribes to participate in or benefit
8 from gaming conducted under this Act and in conform-
9 ance with a Tribal-State compact entered into by each in-
10 vited Indian tribe and the State under this Act upon any
11 portion of Indian land that was, as of October 17, 1988,
12 located within the boundaries of the reservation of the host
13 Indian tribe, so long as each invited Indian tribe has no
14 ownership interest in any other gaming facility on any
15 other Indian lands and has its primary geographic, social,
16 historical, and temporal nexus to land in the State in
17 which the Indian land of the host Indian tribe is located.

18 “(2) An Indian tribe invited to conduct class II gam-
19 ing or class III gaming under paragraph (1) may do so
20 under authority of a lease with the host Indian tribe. Such
21 a lease shall be lawful without the review or approval of
22 the Secretary and shall be deemed by the Secretary to be
23 sufficient evidence of the existence of Indian land of the
24 invited Indian tribe for purposes of Secretarial approval
25 of a Tribal-State compact under this Act.



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

13 “(4) An invited Indian tribe under this subsection
14 shall be deemed by the Secretary and the Commission to
15 have the sole proprietary interest and responsibility for the
16 conduct of any gaming on lands leased from a host Indian
17 tribe.

18 “(5) Conduct of gaming by an invited Indian tribe
19 on lands leased from a host Indian tribe under this sub-
20 section shall be deemed by the Secretary and the Commis-
21 sion to be conducted under the Act upon Indian lands—

22 “(A) of the invited Indian tribe;

23 “(B) within the jurisdiction of the invited In-
24 dian tribe; and



1 “(C) over which the invited Indian tribe has
2 and exercises governmental power.

3 “(6) Notwithstanding the foregoing, the gaming ar-
4 rangement authorized by this subsection shall not be con-
5 ducted on any Indian lands within the State of Arizona.

6 “(7) Any gaming authorized by this subsection shall
7 not be conducted unless it is—

8 “(A) consistent with the Tribal-State com-
9 pacting laws of the State in which the gaming activi-
10 ties will be conducted;

11 “(B) specifically identified as expressly author-
12 ized in a tribal-State compact of the invited Indian
13 tribe approved by an Act of the legislature of the
14 State in which the gaming will be conducted; and

15 “(C) specifically identified as expressly author-
16 ized in a tribal-State compact of the invited Indian
17 tribe approved by the Governor of the State in which
18 the gaming will be conducted.

19 “(8) Host tribe compacts shall not be affected by the
20 amendments made by this subsection.

21 “(f) An Indian tribe shall not conduct gaming regu-
22 lated by this Act on Indian lands outside of the State in
23 which the Indian tribe is primarily residing and exercising
24 tribal government authority on the date of the enactment
25 of this subsection, unless such Indian lands are contiguous



1 to the lands in the State where the tribe is primarily resid-
2 ing and exercising tribal government authority.”.

3 **SEC. 3. STATUTORY CONSTRUCTION.**

4 (a) IN GENERAL.—The amendment made by para-
5 graph (1) of section 1 shall be applied prospectively. Com-
6 pacts or other agreements that govern gaming regulated
7 by the Indian Gaming Regulatory Act of 1988 (25 U.S.C.
8 2701 et seq.) on Indian lands that were in effect on the
9 date of the enactment of this Act shall not be affected
10 by the amendments made by paragraph (1) of section 1
11 of this Act.

12 (b) EXCEPTION.—The amendments of this Act shall
13 not apply to any lands for which an Indian tribe, prior
14 to March 7, 2006, has submitted to the Secretary or
15 Chairman a fee-to-trust application or written request re-
16 quiring an eligibility determination pursuant to 25 U.S.C.
17 2719(b)(1)(A) or 25 U.S.C. 2719(b)(1)(B)(ii) or (iii); pro-
18 vided that such lands are located within—

19 (1) the State where the Indian tribe primarily
20 resides; and

21 (2) an area where the Indian Tribe has a pri-
22 mary geographical, historical, and temporal nexus.

