

Statement of Ben Nighthorse Campbell
Chairman, Committee on Indian Affairs
Hearing on the Intergovernmental Gaming Agreement Act of 1999
July 21, 1999

Today we will receive testimony on *the Intergovernmental Gaming Agreement Act of 1999*, a bill I introduced on May 6, 1999.

Some history is in order to provide the proper context for this bill. **In 1987**, the Supreme Court decided the *Cabazon* case holding the state lacked jurisdiction to enforce its state gaming laws on Indian lands.

In 1988, the states clamored for action and Congress responded by enacting IGRA --- a law which provided states an unprecedented role in regulating activities that are conducted entirely on Indian lands.

There should be no misunderstandings about the IGRA: in agreeing to IGRA, the tribes ceded a significant part of their sovereignty and for the first time the states were authorized to play a significant role in deciding the kinds of activities Indians can conduct *on their own lands*. Let's not forget that point: *activities on their own lands*.

From 1988 through 1996, the IGRA worked well, with over 200 Class III tribal-state compacts being negotiated and entered.

In 1996, the Supreme Court issued its decision in *Seminole Tribe of Indians v. State of Florida* and held that the tribes can not sue states under IGRA because of their 11th Amendment immunity from suit.

In the last 3 years, tribal-state negotiations have broken down, with some states refusing to negotiate with tribes. **Most times** there is a disagreement between the tribe and the state over what gaming activities are allowed by state law. In this situations, there is no neutral party to break the logjam.

S.985 will **NOT** affect a state's 11th Amendment immunity but will

1. Provide for direct TRIBAL-STATE negotiations;
2. Provide for TRIBAL-STATE mediation;
3. Provide Secretarial facilitation of an agreement; and
4. Provide for TRIBAL or STATE LAWSUITS against the Interior Secretary if it

believes the Secretary is acting in intervening in the mediation or in approving a compact.

With this and every other Indian gaming bill I have introduced, I have attempted to honor the spirit of the *Indian Gaming Regulatory Act* and to ensure that the Act's objectives are achieved.

Despite many attempts, IGRA has been amended only once. In 1997, I along with the support of the Vice Chairman successfully proposed an amendment to increase the amount of fees the NIGC can assess to fund its regulatory efforts in Indian country. I think its fair to say the tribes did not support our efforts on this amendment. However, this was the responsible thing to do and the right thing to do.

To provide tribes a remedy where none now exists is also the responsible and the right thing to do, and I am hopeful my colleagues will join me in this effort.

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