

Testimony of Congressman Jesse L. Jackson, Jr.

Before the Committee on Resources  
Regarding Proposed Off-Reservation Gaming Bill  
Wednesday, April 27, 2004

Chairman Pombo, Ranking Member Rahall and Members of the Committee, I appreciate the opportunity to testify this morning on the subject of off-reservation gaming and on the draft bill intended to restrict it.

Mr. Chairman, I commend you for your efforts to seek input from all interested parties and to work in a cooperative way to craft sensible policies that improve the lives of Native Americans. I share your goals and commitment to protect, preserve and strengthen the sovereignty, self-determination and economic opportunities for all in the tribal community.

Clearly, the issue of "reservation shopping," in which a tribe seeks title to prime real estate to which they have absolutely no connection in order to set up a casino far from their reservation is both controversial and complicated. It, however, is different from "out-of-state, off-reservation gaming" in which a tribe located in one state seeks to establish gaming on land in another state, where that tribe has an historic, cultural or ethnographic tie. If allowed to become routine, I believe that "reservation shopping" has the potential to pit tribe against tribe, to erode public support for Indian gaming and to undermine the economic growth and potential of Indian Country.

In my view, any attempts by an Indian tribe to establish gaming facilities on land to which they have no historic, ethnographic, or cultural ties is impractical, imprudent and improper. While not readily apparent to me how prevalent or pressing the practice, I would support reasonable and precise efforts to prevent "reservation shopping" by tribes throughout the country.

However, I strongly oppose provisions in the draft bill that would bar a tribe in one state from locating a casino in another state on land to which the tribe has an historic or cultural connection. Without a doubt, there is a clear and sharp distinction to be made between "reservation shopping" on the one hand and "out-of-state, off-reservation gaming" on the other. The former is illegitimate; the latter is not. Therefore, the prohibition on one, should not lead to the preclusion of the other. For the purposes of our discussion and crafting sound policy, we must resist any temptation or tendency to equate the two.

Thus, I believe that imposing an outright, across-the-board ban on "out-of-state, off-reservation gaming" would be too broad, too unfair, too severe, and too punitive. It simply would be wrong. As allowed under current law, Indian tribes, like the Ho-Chunk Nation, should be allowed to "re-acquire" or "recover" a portion of their ancestral lands in another state in order to establish a gaming facility.

Based today in Wisconsin, the Ho-Chunks claim a 10,000-year history in present day Illinois. In the 17th Century, the historic territory of the Ho-Chunks, then known as the Winnebago, included parts of Illinois, Wisconsin, Minnesota and Iowa. After rich deposits of lead were discovered by European miners under tribal land, the Ho-Chunk ceded the northwestern Illinois territory by the Treaty of 1829, marking the beginning of long and tragic successive relocations, often by force, by the United States Government. But, now, in the words of one of the Nation's elected representatives, "the Ho-Chunk are knocking at the door and wish to come home."

My district, which includes the far south suburbs of Chicago, is indeed prepared to welcome them back home to Illinois with open arms.

Last year, the Ho-Chunk Nation, which runs several casinos in Wisconsin, announced plans to build a 432-acre family entertainment destination in Lynwood, Illinois. The Ho-Chunk Entertainment Complex would feature a land-based casino, as well as restaurants, retail stores, a luxury hotel, a water park, a spa and sports complex, a Native American museum and Pow Wow grounds.

Amid regional economic stagnation and neglect, the family entertainment facility would serve as a vital economic engine, bringing millions in revenue and thousands of jobs to an area in the state that so desperately needs them. Based on projections, the new complex would create 5,000 new jobs paying an average salary of \$45,000 annually -- that is \$16,000 greater than the region's per capita average. In addition, the massive economic development project would generate \$64 million in wages during construction and \$78 million in payroll taxes each year.

Since the announcement, the Ho-Chunk's proposal has generated broad civic, business and political support in the south suburbs. The Village of Lynwood, and virtually all of the local communities surrounding it support the Ho-Chunk proposal, including the Villages of Calumet City, Steger and Glenwood, the Township of Bloom, as well as the Mayors of

nearby communities Lansing, Thornton, East Hazel Crest and Sauk Village. In addition, it has the backing of the Southland Chamber of Commerce, the Illinois AFL-CIO and the local elected officials in the Illinois General Assembly, including Illinois State Senate Majority Leader Debbie Halvorson as well as the Chairman of the Southland Caucus, State Representative David Miller.

(Mr. Chairman, I ask for unanimous consent that official letters and resolutions of support for the Ho-Chunk proposal from surrounding communities be placed in the record immediately following my testimony).

Under current regulations set forth in 25 C.F.R. Part 151, the Ho-Chunk must submit their application to take the Lynwood land into trust in order to establish the casino complex. As Members of the committee well know, these regulations require the Department of the Interior to carefully scrutinize the Indian tribe's "need" for additional land, the "purpose for which the land will be used," the impact on state and local governments, and "jurisdictional problems and potential conflicts of land use which may arise." Revised in 1995, Part 151 regulations explicitly address decision-making on applications to take off-reservation land into trust, requiring, among other things, that as the distance from the reservation increases, "greater scrutiny" be given to the tribe's application and "greater weight" be given to the acquisition's potential impacts on the regulatory and taxing jurisdictions of the state and local governments.

If the Ho-Chunk proposal meets all the requirements of 25 C.F.R. Part 151, then, the Secretary must make a finding under the "two-part determination" exception in Section 20 (b)(1)(A) of Indian Gaming Regulatory Act (IGRA). Specifically, this section provides that gaming can occur on the land if the Secretary -- after consultation with the Indian tribe and appropriate State and local officials, including officials of other nearby tribes -- determines that a gaming establishment on the newly acquired lands would (1) be in the best interest of the Indian tribe and its members, and (2) would not be detrimental to the surrounding community. In addition, the governor of the state must concur with the Secretary's determination. In fact, since October of 1988, state governors have concurred in only three positive determinations for gaming on such trust lands.

Therefore, the statutory and regulatory framework currently in place provides an important, necessary and rigorous process by which the Ho-Chunk Nation has an opportunity, not a guarantee, to regain their ancestral land on which to develop the proposed complex. In my view, 25 C.F.R. Part 151 and IGRA's 20 (B)(1)(A) taken separately, and together, establish and permit the appropriate safeguards, input, checks and balances, and scrutiny among federal, state, local and tribal communities. The existing approval process is deliberative, detailed, careful and circumspect. Simply put, it works.

However, in its current form, the draft bill would break the process, throwing out the "two-part determination" exception under IGRA and eliminating a reasonable option by which tribes, such as the Ho-Chunk, may take land in trust for gaming purposes.

Mr. Chairman, I would urge you to keep the existing provisions of IGRA and allow tribes, under certain circumstances and thorough scrutiny, an opportunity to acquire land for gaming in another state. I thank you Mr. Chairman, Ranking Member Rahall and Members of the Committee for allowing me the opportunity to testify before you. I appreciate the Committee's time and attention and look forward to working with you to address important matters affecting Native Americans.