

Testimony of The Honorable Jerry Weller  
A Representative in Congress from the State of Illinois

Mr. Chairman, Members of the Committee, thank you for inviting me to testify at this important hearing. I am a supporter of your legislation, good reform legislation that takes into consideration the concerns of Tribal Governments and States, in a bi-partisan manner, I appreciate the time you are taking to examine off-reservation gaming and its impact on tribal and non-tribal communities alike.

Mr. Chairman, with your permission, I would like to submit my written statement for the record.

This reform legislation prevents federally recognized tribes from crossing state lines to set up gaming facilities in a different state than where they currently reside; it prevents federally recognized tribes from opening gaming facilities outside of their existing lands in the state where they currently reside; and perhaps most importantly, it gives the Secretary of Interior much clearer guidance about the limited area where a newly recognized, restored, or landless tribe can conduct gaming operations. I believe this is the right type of reform for this issue, and I am happy to speak in support of it.

First, I am a supporter of tribal gaming, with the benefits that it brings to Tribal Governments and the communities they serve. I strongly support tribal sovereignty and self-determination of Native Americans, our first Americans.

As former Chairman of the Congressional Gaming Caucus, I have supported all forms of gaming, provided that they act in accordance with the clearly defined and commonly accepted laws and regulations that govern gaming in the United States.

However, I cannot support attempts to circumvent these established procedures to create opportunities for gaming, tribal or otherwise.

It is this aspect upon which I appear before you today.

As you know, Congress passed the Indian Gaming Regulatory Act, (IGRA), 1988, which was enacted into law.

The law has been successful in many ways. According to the National Indian Gaming Association, there are 354 tribally operated casinos that employ approximately 400,000 people.

In 2002, Tribal Governmental gaming revenue was \$14.5 billion (21% of total gaming industry), which benefited tribes and Tribal Governments by providing better education for their children, health care and housing for their elders, and new economic opportunity for all in the tribal community.

The Act clearly laid out the process by which a tribe could lawfully conduct any gaming, but most specifically, class III gaming of the type commonly played at casinos, such as slot machines, black jack, craps, and roulette.

The Act stated that—Before a Tribe might lawfully conduct class III gaming; the following conditions must be met:

- (1) The Particular form of class III gaming that the Tribe wants to conduct must be permitted in the state in which the tribe is located;
- (2) The Tribe and the state must have negotiated a compact that has been approved by the Secretary of the Interior, or the Secretary must have approved regulatory procedures; and
- (3) The Tribe must have adopted a Tribal gaming ordinance that has been approved by the Chairman of the Commission.

However, there has been an increase in proposals to create off reservation gaming in extra-legal ways, seriously threatening the purposes of the Act in several States, including Ohio, California, Kansas, Minnesota, and my home State of Illinois.

In Illinois, the Ho-Chunk Nation of Wisconsin is seeking to establish tribal gaming in Lynwood, located only a few miles away from my Congressional District. Originally, the Ho-Chunk Nation had publicly stated its interest in two other sites in Illinois.

This is a perfect example of an instance where the process of establishing a casino under IGRA should be adhered.

The Ho-Chunks have purchased approximately 130 acres of the 260 acres desired for a casino complex, and in order to

create this complex, they pursued a dual-track strategy.

The first part of this strategy was to seek a bill in Congress that would put their project on a "fast-track," circumventing existing law. I strongly objected to this and fortunately, no such legislation has been introduced in this Congress.

The other approach was to go through the regular procedures as provided under IGRA by seeking to place the land into trust, which I have been informed the Ho-Chunks are preparing.

I do not believe that the Ho-Chunks meet the requirements for having land placed into trust, yet should they meet them; I have no objections to their establishment of commercial operations.

However, the fact that the Ho-Chunks sought to use a process outside of IGRA clearly underscores the need to clarify and strengthen the protections and processes for the establishment of tribal gaming.

While I am opposed to tribes circumventing the law to establish gaming, I want to be clear that I am not opposed to current law which allows for lands taken into trust as part of a land claim settlement to be used for gaming.

However, I do want to make certain that the claims are legitimate.

Perhaps one way to address this problem is to look to the work of past Congresses. For example, I understand that in 1982 Congress directed the Department of the Interior to establish a list of all tribal claims for money damages, which included land claims because of the associated claim for trespass damages.

In 1983, the Department of the Interior published such a list in the Federal Register. Because this list predates the Indian Gaming Regulatory Act, we can feel confident that the tribal claims listed were not manufactured for the purpose of advancing casino projects.

This list could be used as a bright line test, which communities could look to in determining whether they should be concerned with proposals by tribes or others who might seek to promote a tribal casino in their area.

This is but one suggestion among the many ways that Congress can act to clarify the legal process by which a tribe may establish gaming. I ask that you consider this as a possibility while you continue to work on the excellent bill that you have produced in this committee.

By following through on these reforms, Congress can alleviate the negative image that Tribal Gaming has taken on as a result of efforts to establish off-reservation gaming.

In doing so, it will allow Congress to act on issues of importance to the Native American community such as tax-exempt bonding, Indian health care, and regular appropriations without the fear of backlash resulting from bad publicity and negative news stories about American Indian tribes and tribal gaming today.

Further, under a clearly defined process, Tribes will be able to continue gaming in such a way as to boost reservation economies and better the lives of tribal members.

Again, Chairman Pombo, and members of the Committee, thank you for your attention to this important issue.

Mr. Chairman, with that I conclude my remarks, and welcome whatever questions the Committee may have of me.