Testimony of the Honorable Robert Martin
Chairman, Morongo Band of Mission Indians

H.R. 2266, Reasonable Prudence in Regulation Act, and H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act

December 3, 2009

Mr. Chairman and members of the Committee, thank you for providing us with this opportunity to comment on HR 2266 and HR 2267.

My name is Robert Martin and I am the tribal chairman of the Morongo Band of Mission Indians in Riverside County, California. I am speaking today on behalf of the members of my tribe, my tribal government and the thousands of people we employ. Morongo is a federally recognized Indian tribe comprised of about 1,000 members, half of whom live on our 37,000-acre reservation located at the foot of the San Gorgonio Mountains between Los Angeles and Palm Springs.

HR 2266 proposes to provide safe harbor to those currently engaged in illegal online gaming from the regulations mandated by the Unlawful Internet Gambling Enforcement Act (UIGEA), for one year, or until HR 2267 can be enacted. HR 2267 would authorize and create a licensing regime for the use of the Internet for various forms of online gambling and provides for the regulation of those games.

We are here today to ask why Congress would want to protect foreign illegal operators to the detriment of existing American jobs? In summary, we stand in opposition to these bills because:

1. The legislation will do nothing but legalize off-shore gaming, at the expense of American Jobs;
2. As tribes are restricted to offer gaming only from Indian lands, we will be at a competitive disadvantage relative to all other non-tribal gaming interests; and
3. Current law, the Unlawful Internet Gaming Enforcement Act (UIGEA), provides a constructive pathway for those who wish to offer in Internet gaming on a state by state basis, and that law should be given time to become effective in its own right.

Mr. Chairman, I am also troubled by that Treasury Department has now granted a six-month reprieve from the implementation of the 2006 Unlawful Internet Gaming Enforcement Act. In a memorandum signed by President Obama on November 5, 2009, the President declared his commitment to fulfilling the consultation requirements of Executive Order 13175, a directive originally issued by President Clinton on November 6, 2000. Executive Order 13175 calls for regular, meaningful consultation and collaboration with Tribal officials in the development of Federal policy. Tribes were not consulted on this extension and our interests in the law were not considered. Jobs are being lost and capital is fleeing our shores every day the 2006 Act fails to be enforced.

Keep American Jobs and Capital in America

Let me be clear at the outset, gaming is the primary economic driver for our government. The Indian Gaming Regulatory Act of 1988 was enacted to assist tribes in the development of reservation based jobs. The revenues from gaming have enabled us to create jobs, provide education and social services; diversify our economic base; and generate substantial economic activity throughout the region. In addition, those same revenues have enabled us to return millions of dollars to local and regional governments in addition to the millions we pay to the state. Our gaming has allowed us to provide millions more in support to non-gaming tribes. However, every day this illegal gaming is continued to exist, more pressure is placed on our ability to serve our community and meet the needs of our neighbors.

Current illegal online wagering is estimated to total $347 billion a year globally. This vast, illegal activity is dominated by offshore entrepreneurs and they intend to use these bills to continue to control the market.

These bills will do nothing but promote the status quo of illegal online gaming. They will protect offshore online gambling interests at the expense of tens of thousands of jobs here in the United States. And they will cost billions of dollars from the investments that tribal governments and non-tribal commercial interests have made in our communities

HR 2267 threatens existing U.S. gaming facilities that employ hundreds of thousands of Americans.

Here is a look at Indian gaming in 2008 by the numbers.

- Tribes generated $25.9 billion in gross gaming revenues.
- Tribes produced another $3.2 billion in gross revenues from related resorts, hotels, restaurants and other lodging or entertainment venues.
- Tribal gaming has created more than 600,000 jobs nationwide
- Tribal gaming has delivered $8.0 billion in federal taxes and saved the government millions more in unemployment and welfare payments.

HR 2266 and HR 2267 pose a direct threat to bricks and mortar gaming facilities and the hundreds of thousands of Americans who work there. Passage of these bills will create few new U.S. jobs because current illegal online gaming is primarily run by offshore entrepreneurs.

The Morongo Band of Mission Indians has employed as many as 2,500 people at one time with an annual payroll of more than $73 million. Collectively, it is estimated that California tribal gaming has generated more than 200,000 direct and indirect jobs for the

state. In fact, California's Employment Development Department has reported that the only industry sector to have experienced any form of job growth in California from 2002-2007 was Indian gaming. With the exception of tribal governments, virtually every other sector of the economy has posted losses, including retailing, transportation, manufacturing and business services.

Today, we are facing the same economic stresses as everyone else. Morongo has seen a decrease in our revenues by nearly 50 percent since the recession began and we have been forced to lay off employees. Similar hardship has befallen most tribes across the country.

This means tribal gaming, like most enterprises, must be pro-active in protecting its emerging markets – and online gaming is a central part of tribal gaming's future.

This Congress and our current Administration have worked to promote programs to save and create new jobs. However, the passage of this legislation would only imperil existing jobs.

HR 2267 Promotes Anti-Competitive Policies

HR 2267 discriminates against tribes and establishes an unfair competitive advantage to foreign offshore gaming operators. If these bills became law, tribes would only be allowed to offer Internet-based gaming to people physically located on the Indian lands of that specific tribe. That is an enormous restriction on our ability to compete with non-tribal entities.

To be fair, HR 2267 will allow tribes to prohibit a licensee from accepting wagers initiated and received within its territory. That is a significant step in the right direction with respect to the treatment of our tribal sovereignty. But the bill fails to provide a tribal licensee with the ability to initiate or receive bets or wagers from outside its territory. Instead, HR 2267 simply continues the same Indian Lands restriction provided under the Indian Gaming Regulatory Act of 1988, a law that was written before the commercialization of the Internet. The framers of IGRA sought to create a major economic development engine for Indian Country. They would never have intended to have those economic opportunities undermined by foreign-owned entities. But that's what HR 2267 would do.

Current Law Can Work

Third, we believe the current law, the Unlawful Internet Gaming Enforcement Act, provides a constructive pathway for those who wish to offer Internet gaming on a state-by-state basis. We urge Congress to give that law enough time to become effective in its own right.

The Unlawful Internet Gaming Enforcement Act has solid safeguards for the use of credit cards and wire transfers associated with Internet gaming transactions. It provides

the terms, conditions and restrictions for wagers initiated by an intrastate or intertribal source. States and tribes providing such licensing and regulatory structures have this option available to them.

Those seeking passage of HR 2267 should be asked to demonstrate the shortcomings of this existing law before Congress decides to toss it out for a replacement that is defective on its face.

Final Observations

The one-size-fits-all financing scheme in HR 2267 would disrupt the existing flow of public revenues to many states and municipalities. HR 2267 would undermine the significant tax base generated by gaming properties for state and local governments across the country. Local governments receive more than $100 million from gaming tribes. States receive $2.5 billion in taxes, regulatory payments and revenue sharing, resulting from state tribal gaming compacts. But HR 2267 will rob income to these operations, in turn diminishing tax revenue for local communities.

Proponents of this legislation on behalf of the illegal offshore operators argue that giving them free access to the American market will eventually increase the gaming industry's bottom line. Even if this were true, there will be a few winners, and many losers. The winners are likely to be large Nevada gaming corporations and overseas Internet gaming site operators. The many losers will include almost all tribal and commercial casinos outside of Nevada, and the people who work in them.

Only the largest casino operators will be able to market successfully and have the 'critical mass' necessary to operate a viable Internet gaming site. Other competitors will not be able to achieve this critical mass, and thus can realize no benefit from HR 2267's wide-open federal Internet gaming concept.

I would be pleased to answer any questions you might have regarding my testimony.