

## **The Failure of Indian Casino Advocacy in New York**

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In 1993 Indian casino gambling came to New York State with the opening of the Oneida Nation's Turning Stone Casino. The willingness of the U.S. Department of the Interior's Bureau of Indian Affairs to approve a casino not actually situated on tribal land, the enthusiastic support of two state governors, and, perhaps most importantly, the enormous profits it generated, set in motion a bandwagon proponents believed would open the flood gates for a string of profitable Indian-run casinos across the Empire State. Yet for all of the advocacy New York tribes and their supporters have directed at Albany, the state capital, including the spending of nearly a million dollars to employ some of the state's most prominent lobbying firms, and another million in campaign contributions, to say nothing of enjoying the unqualified support of New York's most powerful political leader, Governor George Pataki, it took the September 11, 2001, terrorist attack on New York City to convince lawmakers to approve even a few more casinos. Now, a decade and a half later, it appears that the wheels have flown off of the wagon, not only have state lawmakers approved no more than a half dozen or so casinos, only four are actually operating and two of those are now in legal limbo and one has proven to be nearly a financial disaster. In other words, the number of failed proposals now outnumber the ones that have produced casinos. Given these high expectations, it is hard to see Indian casino gambling policy as little more than a failure. What makes it an *interesting* case study in competitive interest group advocacy, public policy making, and Indian affairs, is trying to understand why it failed.

In this paper we offer four explanations for this policy failure. Specifically, institutional and ideological rivalries among lawmakers, growing organized competition from a variety of interests opposed to any casino gambling, lack of cohesion within the Indian community, and poor representation by hired gun lobbyists, we believe, all contributed to a failed advocacy effort and, at best, a weak policy. After recounting the history of Indian casino gambling in New York,

we use available public data to support these claims. We conclude with a brief speculation as to what might have been done differently to make the policy a success.

### **A Brief History of Indian Gambling in New York**

The State of New York is the ancestral home of fourteen distinct Native American tribes, loosely comprising what was, and to some extent still is, known as the Iroquois League (see Morgan and Tooker 1983), although only seven have been formally recognized by the federal government.<sup>1</sup> Following a pattern common across the United States, these tribes lost most of their ancestral land in the mid to late 1800s and were grouped into special reserved lands both in and outside of the state. Although these reservations are exempt from state and local laws, and therefore from property and excise taxes, the land itself tends to be of poor quality and the tribes have found themselves caught in a downward spiral of poverty, poor health care, drug abuse, and alcoholism. But like other tribes across the United States they have also found an opportunity to reverse this spiral in the Indian Gaming Regulatory Act (IGRA): casino gambling (Mason 2000).

Although the New York State Constitution explicitly prohibits most forms of gambling, including the Las Vegas style games common at most casinos, what IGRA refers to as Class III gaming, Acts of Congress normally supersede even fundamental state law. Armed with federal authorization through IGRA, then Democratic Governor Mario Cuomo claimed that he had the authority to personally negotiate compacts with the Oneida and St. Regis Mohawk Indian Nations to transfer the ownership of what the tribes claimed as ancestral land back to them for the purpose of building the Empire State's first casinos. For tribes such as the Mohawks, casino gambling was about the only hope they had for combating the extreme poverty gripping their reservation. As Chief Hilda Smoke put it, "We have no alternative. We need to get out of

poverty. We need 20 miles of water lines, double that of sewer lines. From that money, we could build our schools” (Zielbauer 1999a).

But if Cuomo and the Indian nations believed this argument would fly with other politicians and interest groups in the state, even sweetened with promises of economic development and new revenue streams for the state from cuts of all casino profits, they were greatly mistaken. Almost immediately a chorus of dissenters who saw their interests directly threatened by Indian gaming accused Cuomo of grossly exceeding his legal authority. Gambling, they argued, was a social ill New York could do without. Specifically, county officials claimed that the loss of property tax revenue and other problems stemming from large numbers of tourists streaming into their communities would outweigh any economic development benefits.<sup>2</sup> State legislators and local officials protested that the governor had illegally circumvented them by negotiating the transfer of private property without their approval, though no law specifically required him to seek legislative approval for the compacts (Associated Press 1999). Finally, religious organizations and the state’s Conservative Party, which claimed most state Republican lawmakers as members, derided any attempt to promote something as morally and socially corrupt as gambling.<sup>3</sup>

For the Oneida Indians, Turning Stone Casino, located between Syracuse and Utica in central New York, proved immensely profitable, prompting many other Indian nations both in the state and abroad to contemplate their own casinos. What many overlooked was that the other early casino, Akwesasne Mohawk, located in northern New York near the Delaware border, and therefore a competitor with the successful Foxwoods casino of the Mashantucket Pequot Indians of Delaware, was a financial disaster.<sup>4</sup>

It fell to Cuomo's successor to navigate these roiled political waters. Although a Republican and a member of the Conservative Party, Governor George E. Pataki chose to pursue his predecessor's policy of unilateral negotiation with Indian nations. His argument was simple: New Yorkers were going to gamble whether lawmakers liked it or not. Was it not therefore in the state's interests to see that they spent their money here rather than in Delaware, New Jersey, or Canada? Not only did it provide clear economic benefits to Indian tribes, he argued, but also to the communities surrounding their casinos. In any case, he concluded, he was merely implementing Federal law and deals approved by the U.S. Department of the Interior so there was no reason why the legislature had to be involved. On the strength of these arguments Pataki opened negotiations early in his first term to build a second Mohawk casino in the Catskills Mountains, approximately 400 miles from their official reservation land.

The Mohawks first began lobbying Governor Pataki to permit electronic gaming, including keno, at Akwesasne (Zielbauer 1999b). Then, presenting what many critics considered to be very flimsy claims to ancestral land in the Catskills Mountains near the town of Monticello, the Mohawk Nation entered into negotiations with Pataki to acquire land on which they could build a second casino, asking the Interior Department to place the land in federal trust to exempt it from state and local taxes.<sup>5</sup> They approached the deal carefully, working out an economic development plan with officials and business leaders in Sullivan County to acquire land containing an old race track in the town of Monticello they would convert into a \$500 million casino (Chen 1998). Then they sold the proposal to the Bureau of Indian Affairs and Pataki by claiming that the casino would be an economic boon to the severely depressed Catskills region (Bagli 2004).<sup>6</sup> "The region will benefit," said Philip Tarbell of the Mohawk Nation, "the economy will benefit, and the tribe will benefit" (Chen 1998).

Caught largely unprepared for the first two casino deals, opponents were now mobilized and ready to fight (Bagli 2000a). In addition to the dubious citizens and officials of Sullivan County, resistance also came from a wide range of other interests. Unlike Akwesasne or Turning Stone, the proposed Catskills casino would include slot machines, generally considered to be the most lucrative form of gambling. Specifically prohibited by the state constitution, lawmakers and interest groups, including the New York Catholic Church, argued that this time the governor was clearly overstepping his legal authority (Hernandez 2000). Not even Pataki could set aside the state constitution, although a few legal experts noted that the federal government, through IGRA, probably could. Stiffer resistance came from the industry behind the state's primary form of betting. New York boasts a long tradition of horse racing, and the powerful industry that has grown up around this form of legal gambling saw casinos as a threat. Finally, being a mere ninety miles from New York City, the proposed casino was also seen as a serious threat by no less than billionaire real estate developer Donald Trump, the owner of numerous casinos in Atlantic City, New Jersey, to which New York residents had traditionally traveled to gamble.<sup>7</sup>

To bolster his position on the Akwesasne compact in Monticello, Pataki proposed in 1995 an amendment to the state constitution allowing casino gambling and slot machines generally in New York, setting off an intra-party brawl in a state known for strict party loyalty among elected officials. Normally an ally, Republican Senate Majority Leader Joseph L. Bruno, a staunch anti-gambling conservative and advocate for the rights of the state senate, flatly rejected the governor's proposal and kept it from coming up for a vote until 1997. As the elected representative of the town of Saratoga Springs, Bruno's district was also home to one of the nation's most famous horse racing tracks. But the Republican Conference that dominated the senate, and which normally marched in lock-step with its leader, split into supporters of the

governor and opponents to any expansion of gambling (Bagli 2000b). Senators from Syracuse, Buffalo, and the rest of the Niagara Falls area, who were also contemplating casino compacts with the Oneida and Seneca Indian nations, opposed their leader, depriving Bruno of the majority he needed to defeat the amendment. The defections gave control of the vote to the Democratic Minority Leader, Senator Martin Connor of Brooklyn, who used the opportunity to fill his campaign coffers with Trump's money (illegally as it turned out). To stop the amendment, as well as the flow of Atlantic City money to Connor, Bruno was forced to rely on Senate Democrats to vote down the constitutional amendment.<sup>8</sup>

By now the opposition was in full swing. Apart from Trump, the horse racing industry had mobilized its considerable resources to oppose casino gambling. Concerned more with the loss of private property issue than casinos per se, local property owners and county officials in the Catskills and areas around Lake Erie formed their own coalitions, such as Casino-Free Sullivan County and Upstate New Yorkers for Equity, to oppose returning land to Indian tribes. Having defeated the governor in the legislature, they now directed the political battle in a new direction by suing Pataki, claiming that neither he nor Cuomo had possessed the authority to return land to the Oneidas or Mohawks without legislative approval.

For his part the governor was not being well served by his allies. His prospects in the legislature and with the Interior Department for a compact in the Catskills, dim already, became even dimmer when it was revealed that the St. Regis Mohawks had dumped their local Sullivan County partners in favor of developers from Atlantic City and Las Vegas (Bagli 2000b). Furthermore, a second group of Oneidas out of Wisconsin were also now laying claim to the Catskills land, adding further confusion to negotiations already complicated by claims from the Cayuga Nation and the Seneca – Cayugas of Oklahoma (McKinley 2002). The only

achievement Pataki could boast at the end of the 20<sup>th</sup> Century was an amendment to the Akwesane Mohawk Compact allowing that anemic casino to offer electronic gambling. And even that victory was short lived. Lawsuits challenging the constitutionality of Pataki's actions and a vigorous lobbying campaign by lawmakers in other states convinced the Interior Department to deny his request to renew electronic gaming for one year.<sup>9</sup>

A sea-change came with the September 11, 2001, terrorist attack on New York City. The economic damage done to the state pushed Senator Bruno and other opposing legislators into voting to support a massive economic reconstruction bill, including the authority for the governor to enter into compacts with several Indian nations to build *six* casinos, three to be operated by the Senecas in the Niagara Falls and Lake Erie region, and the others in the Catskills, one of which owned by the Mohawks (Perez-Pena and McKinley 2001). As Cyrus Schindler, president of the Seneca Nation, "This has been a long and difficult process for both parties. This agreement should be a tremendous economic boost for the Seneca Nation and the entire region of western New York" (Sengupta 2001). The legislature also authorized slot machines in the casinos from which the state hoped to gain at least \$100 million a year. Indeed, the only money the state could receive under these agreements would come from this still constitutionally questionable form of gambling (McKinley 2001).

Organized resistance, however, never ceased. Not only did the immediate post-September 11 provide Pataki with his only legislative victory on Indian casinos, the years afterwards brought largely bad news. In 2004 the New York Court of Appeals, the highest court in the Empire State, ruled in *Saratoga Springs Chamber of Commerce v. Pataki* that Governor Cuomo *had* exceeded his legal authority by entering into compacts with the Mohawks to create Akwesasne Casino without the support of the legislature, rendering the casino, and by extension

Turning Stone, illegal. Though both casinos still operate today, the case has given opponents new ammunition to pressure the Interior Department to nullify the compacts. Pataki did see two bright spots. The first was the opening of two of the three Seneca casinos in the Niagara Falls area in 2002 and 2004, bringing the total number of casinos in the state to four.<sup>10</sup> The other was a court ruling in *Dalton v. Pataki* that casinos were legal under the state constitution.<sup>11</sup>

Although only loosely connected to each other, casino gambling opponents redoubled their efforts across the state by expanding the scope of conflict and bringing in new allies. The Natural Resources Defense Council entered the fray by arguing that building casinos in the Catskills would be destructive to the environment (Bagli 2007). In Buffalo the alleged failure of the new Seneca Nation casinos to hire locally or bring in money from outside of the region has soured many politicians and local officials who started turning on the Seneca's plan to build a third casino in downtown Buffalo (Staba 2006). Local opponents then won a major victory in a 2005 in *City of Sherrill v. The Oneida Nation of New York* where the U.S. Supreme Court made it significantly harder for Indian nations to claim ancestral land that had gone unclaimed for long periods of time, casting into legal doubt many of the compacts Pataki had made with several Indian tribes, including the land incorporating the Oneida's profitable Turning Stone casino. But by this point the Mohawks and others attempting to build casinos in the Catskills had gone through so many different development partners, and changed the proposed locations of casinos so many times, that in 2007 the Bureau of Indian Affairs decided to scrap the original compacts. The Mohawks were thrown back to square one.

The worst was still yet to come. On the heels of announcing a new compact with the St. Regis Mohawks, Pataki's successor, Democratic Governor Elliot Spitzer, was informed in 2008 that Dirk Kempthorne, Secretary of the Interior, was nullifying the compact because he strongly

disapproved of off-reservation land claims, and the Catskills was roughly 450 miles from the Mohawk reservation. Consequently, the Mohawk's on-again, off-again partner, Empire Resorts, was apparently abandoning them to build a casino on their own.<sup>12</sup> On top of that, lawsuits over off-reservations casinos and bad environmental impact statements were sinking the Seneca's Buffalo Creek Casino in downtown Buffalo. The final humiliation came when the Federal Government had to take the land on which Turning Stone, the crown jewel of the Empire State's casinos, into trust in a last ditch effort to keep the casino open in the wake of the *Sherrill* decision, but relations between the Oneidas and residents have deteriorated, making new lawsuits likely. Oneida County policy analyst Mikale Billard said "When somebody living on one side of the road has to live by certain rules, and the family on the other side doesn't, that leads to a lot of ill feeling." "Why don't the Indians pay their fair share?" responded Oneida Nation leader Ray Halbritter, "Well, the Indians have paid a lot already in the land they lost" (Peterson 2003).

### **Explaining the Failure of Indian Casino Advocacy**

Four casinos in fifteen years (two now with dubious legal futures), a half dozen failed efforts in the Catskills Mountains and elsewhere, legal defeats that outweighed policy gains, and a single legislative victory that owed more to panic by lawmakers than any inspired lobbying strategy makes it difficult to see Indian gaming policy as little more than a failure. So why did a policy that has succeeded in other states, and that started with such promise in New York, fail to sustain its momentum? The historical narrative suggests four explanations that we explore below and try to view through the lenses of theories of interest group advocacy and policy making. The first regards the institutional and ideological rivalry among politicians, the second

is competitive lobbying, the third is a lack of unity among the Indian nations, and the last is poor lobbyist representation.

Most of the data we use to bolster our arguments comes from two public sources. The first is contributions from political action committees (PACs) by Indian nations and other organized interests to the governor and members of the state legislature. Data on these contributions for the years 1998 to 2004 came from campaign filing records made available by the Institute on Money in State Politics. We use this data well aware of the controversies surrounding its interpretations (see Grenzke 1989). For the most part this debate is between those who argue that PAC contributions directly influence legislative roll-call votes (e.g., Kau and Rubin 1982; Moore et al. 1994) and those who argue that they are primarily made to support allies and keep them in office (e.g., Wright 1990; 2004). Our objective is not to resolve this debate so much as to use PAC contributions as indicators of patterns of organized interests' connections to lawmakers, though we are mindful of it and what our findings might contribute.

The second set of data regards the money organized interests, again including Indian nations, paid lobbying firms in Albany to advocate on their behalf from 2003 to 2006. This data, including expenditures made by these firms, comes from the bi-monthly reports filed by each for-hire lobbying and public relations firm for each client with the New York Temporary State Commission on Lobbying. It is important to note that unlike the PAC data, these lobbying records do *not* indicate clearly who in the legislative and executive branches these hired guns targeted for advocacy. References were made to lobbying the executive and the legislature, but very little is clearly said in any disclosure report about which senator or assembly member was contacted in regards to Indian casinos or whom they tried to reach in the executive branch.

## **Institutional and Ideological Rivalries Among Lawmakers**

Our first argument is that advocacy failed because proponents never forged an enduring majority coalition of lawmakers capable of moving legislation to approve compacts between the state and Indian nations (under IGRA such compacts are required before land can be returned or casinos built). What is so unusual is that the fractures were primarily in the Republican Party, not between the two parties. With the senate under Republican and the assembly under Democratic control for decades, governors are usually expected to act as their party's primary agenda setter while the chamber controlled by the other plays the role of the opposition. But in the case of Indian casino gambling Governor Pataki and Senate Majority Leader Bruno found themselves fiercely at odds with each other, splitting Republican loyalties.

For Pataki the motivation to strongly support Indian casinos was clear. A Zogby poll of New Yorkers in September of 2001 found that 62% favored casino gambling in the state, 58% favored casinos owned by Indian nations, and 56% supported the idea of building more Indian casinos.<sup>13</sup> Without casinos closer to home, New Yorkers would continue to spend millions of dollars each year in New Jersey and Delaware. For a governor who was trying to make economic development the hallmark of his tenure in office, this was akin to economic hemorrhaging. New Yorkers should at least gamble in-state where profits could be used to develop, promote, and ultimately revitalize the state's most economically depressed regions, as well as help support education and social services. Finally, though there is little evidence that aiding New York's Indian nations was a high priority for the Pataki Administration, the governor was most likely happy to help when their needs could be subsumed under his own policy agenda.

Senator Bruno shared the governor's general emphasis on economic development; what concerned him was this particular form of development. There appear to have been three reasons

for his resistance. First, as a member of the New York Conservative Party, he personally considered gambling to be morally corrupt and opposed it in any form (at least other than horse racing). Second, in an excellent example of a legislator motivated by electoral concerns a la Mayhew (1974), he was a fierce defender of horse racing, a major multi-million industry in his legislative district. The track at Saratoga Springs in particular is home to one of the nation's most high profile annual races, the Travers Stakes. Finally, as majority leader, Senator Bruno had to defend the prerogatives of the senate against a governor who claimed that he could create an entire policy, and a constitutionally questionable policy at that, on his own just because it had federal support. No successful legislative leader, scholars of legislative – executive relationships have long argued, can long tolerate such disdain by the executive (e.g., Fisher 1998).

Yet while the majority leader opposed the governor, his GOP colleagues broke on either side of the issue, dividing their loyalties between their leaders. How much support proponents and opponents had in the senate is difficult to pin down because Senator Bruno consistently used his power of agenda control to prevent any formally recorded roll call votes on Indian gambling legislation to take place, reflecting Lowi's (1969; 1972) dictum that it is easier to protect the status quo than enact new policy. The single vote in 2001 approving the Seneca casinos is a very poor indicator because it largely reflected post-911 fears.

Fortunately, the high profile and polarizing nature of the issue has pushed many legislators to take clear positions for or against Indian casinos, making it relatively easy for us to identify their positions by perusing newspapers from around the state as well as the websites of concerned interest groups, the political parties, and even of the lawmakers themselves. Only lawmakers taking clear positions one way or the other were included in our data set. Examining this data reveals the GOP's loyalty problems with 45% of Republican senators supporting Indian

casino gambling and 55% opposing it. Nearly all Democrats in both chambers supported it and nearly all Assembly Republicans opposed it. Forced to rely on Democrats to advance his agenda, and unable to overcome the gate-keeping powers of the senate leader, it is little wonder that Governor Pataki and the Indian nations had so little success in passing casino authorizing bills once the courts made it clear that such approval was required. Indeed, this even clarifies why both Cuomo and Pataki tried to avoid dealing with the legislature in the first place.

We also get a sense of the ideological divisions within the senate, and between the senate and the governor, when we look at PAC contributions, summarized in Table 1. Of the 463 contributions made by proponents and opponents from 1998 to 2004, totaling \$1,548,722, 90% were given to the legislature rather than the state's chief executive. In terms of contribution *amounts*, Governor Pataki did even worse, taking in only 6% of all dollars contributed. Researchers have drawn attention to strategic venue shopping by advocates (e.g., Baumgartner and Jones 1993; Holyoke 2003), and in this case the senate was clearly the primary venue of action for Indian casino gambling.<sup>14</sup> Though the divided senate received only 46% of the total number of contributions, in terms of amounts senators collectively received \$604,107 while only \$281,501 was given to members of the assembly. Of this \$374,780, or 36% of all dollars, came from Indian tribes based both within and outside of New York, with \$234,900, or 79%, going to the senate and \$63,680 (21%) to the Assembly. Surprisingly, the prime supporter of Indian casinos, Governor Pataki, received a mere \$1,000 in the form of a one time contribution from the United Iroquois Shared Services, a hospital supply company based in Syracuse, New York.

---- Insert Table 1 about here ----

If these contributions were made to change the minds of supporters and opponents in the senate, then it was not money well spent. Examining the known positions of senators over time

reveals not one case from 1998 to 2004 where a position changed. Nor are there any particularly surprising cases of a senator or assemblymember supporting a position at odds with his or her district's interests. Senator Raymond Meier, a Republican from north-central New York, for example, consistently opposed the governor because a large portion of his Catskills constituency saw Indian casinos largely as a cultural threat rather than an economic boon. Senators John DeFrancisco and Nancy Lorraine Hoffmann, both Republicans from Syracuse, consistently supported Pataki in the hope that the local Onodoga Nation might one day be able to build a casino (though to date they have not). Most of the governor's legislative support came from New York City legislators, mostly Democrats, whose constituents regularly travel to Atlantic City but who might appreciate closer destinations such as Monticello in the Catskills. Without the majority in the senate needed to overcome Senator Bruno's resistance, and lacking another high profile event such as 911, no political policy window, to use Kingdon's (1995) terminology, could open to permit an expansion of gambling.

### **Competitive Interest Group Advocacy**

Our second explanation concerns a gradual increase in competition from other groups around the state who saw their interests threatened by the push in Albany to approve Indian casinos. Specifically there were three distinct coalitions of interest groups who fought the governor. The first were local interests, such as the Casino-Free Sullivan County Coalition, their neighbor Ulster County Citizens Against Casino Gambling, and their allies at Upstate Citizens for Equality. Their argument was one of property rights and fear of exploitation by the gambling industry. The restoration of land to Indian nations, a precursor to building casinos, meant loss of land to individuals. It also meant erosion of the county's property tax base because Indian tribal

land was exempt. Local leaders and residents were also very skeptical of the economic development benefits that Indian tribal leaders, developers, and politicians were touting. Casinos, they felt, were unlikely to directly employ locals, and while the greater demand for services from gambling travelers through the Catskills would increase business, the wear and tear from increased traffic would be hard on an infrastructure that was already in poor shape. The drinking and crime that often went hand in hand with casinos would put drunk drivers on their narrow, winding mountain roads and perhaps lead to other “less desirables” coming into their small, homogenous communities. Indeed, in 2005, Upstate Citizens for Equality wrote to the U.S. Attorney for the Northern District of New York complaining about racketeering at Turning Stone, particularly the shipping and selling of illegal cigarettes and money laundering.<sup>15</sup>

Yet in terms of advocacy these grassroots interests proved to be the least formidable opposition. New York politics tends to run on personal relationships among elites, not the grassroots advocacy that has often been successful in national politics (see Kollman 1998). Nor has their success in court been much better. Taxpayer suits were filed by groups in the Catskills, Buffalo, and Lake Erie regions, claiming that Indian casinos, and the process by which the governor approved the land compacts, were contrary to the state constitution. Yet in the most important of these cases, *Dalton v. Pataki*, the State Appellate Court ruled in 2005 that they did not violate the constitution’s ban on gambling.

A second group of competitors was out-of-state interests attempting to block the expansion of any gambling in New York. Perhaps the most high profile purveyor of this countervailing pressure was Atlantic City magnate Donald Trump who saw casinos in the Catskills as rivals for the same New York City customers who were otherwise driving by the thousands to New Jersey to gamble. After his highly publicized support of Senate Democrats in

the 1990s, Trump and his allies largely ceased making direct PAC contributions to legislative candidates and parties. But he hardly ceded the playing field, spending \$218,000 to employ powerful lobbying firms in Albany to advocate on behalf of his financially strapped casinos.

But it was New York's powerful horseracing industry that proved to be the most formidable competitor (Peterson 2004). For over a century, horseracing at Saratoga Springs, Tioga Downs, Yonkers Raceway, and similar venues had been the Empire State's only legal form of gambling. Money spent at Indian casinos meant less spent on horserace betting, either directly at the track or at the state's numerous off-track betting sites. Whether lobbying as individual racetracks, such as the Yonkers Raceway Corporation, or by their associations, such as the New York Thoroughbred Breeders Association, or industry coalitions, such as Friends of New York Racing, horse racing enjoyed powerful support not only from Senator Bruno, but from many other legislators whose districts contained tracks and ranches as well. Much of their strength is reflected in the money they could bring to bear. In 1998 the horse racing industry contributed \$32,981, but by 2004 this has risen to \$193,385. The fees they paid to hire some of Albany's most powerful lobbying firms from 2003 to 2006 totaled at \$1,062,179. Nor was this the limit of their strength, for it was this industry, through the Saratoga Springs Chamber of Commerce, that sponsored the *Saratoga* case essentially rendered Akwesasne and Turning Stone casinos illegal.

As Schattschneider (1951), and later Baumgartner and Jones (1993), argued, interest groups, such as the horse racing industry who essentially enjoyed their own iron triangle, are slow to react when the scope and terms of debate change. Moreover, the local interests, though quick to perceive the threat to their interests were slow to mobilize (often the case, Truman 1951 notes). Based on information from the Lobbying Commission's disclosure reports, we were able

to code whether each contributor was a supporter or opponent of Indian casino gambling. For Table 2 we calculated the percentage of all contributions made each year from 1998 to 2004 by opponents of casino gambling, and then for each year we found the amount and percentage of contributions made by Indian nations and other interest groups supporting gambling to lawmakers who opposed it, breaking out Indian nations separately in the last column. The results are very rough, but there is a distinct trend of increasing contributions from organized interests opposing casino gambling over time. There is also a small trend on the part of proponents, both in total and among the Indian nations alone, to contribute larger amounts of money to their ideological opponents in the legislature. A logical explanation for this seemingly irrational behavior is that they were trying to counteract the legislative influence of the horseracing and gambling interests in Atlantic City (per Austen-Smith and Wright 1994). All for naught as it turned out. Instead this competitive advocacy war taught the Indian nations a well known political truism: it is harder to defend the status quo than to overturn it.

---- Insert Table 2 about here ----

### **Conflict Among Proponents**

Contrary to what might be expected of different interest groups who happen to have temporarily congruent interests, those opposing Indian casinos succeeded without working together. Although Salisbury (1990) argues that success in modern policy making is unlikely without the support of broad coalitions of groups, it is also more likely to be true of interests seeking to change the status quo. And in this case lack of a coalition appears to have hurt the Indian tribes. The tribes themselves never lobbied as a united block because too often the interests of one were at odds with those of another as they competed for the rights to build

casinos on the same land. Though they all wanted a policy supportive of gaming, casinos are potentially big business, as seen in the success of Turning Stone, so when it came to particulars such as which casinos to authorize, and whose tribal land claims should be recognized, they fought each other as much as they battled the horse racing industry. The Wisconsin Oneidas tried to build a casino to compete with the Mohawks (McKinley 2002) and the Cayugas of New York and Seneca – Cayugas of Oklahoma tried to claim land in the mountains near Monticello to potentially steal away the Mohawks' development partners (Semple 2004).

To push their land claims with the state these tribes spent \$2,118,307, more than all of their opponents combined, to hire some of Albany's most powerful lobbying firms to advocate on their behalf. Table 3 lists the tribes that actively lobbied, the amount of money they spent hiring these firms, and the number of firms hired (though not all at the same time) from 2003 to 2006. But the tribes and their for-hire lobbyists ended up making so many competing claims that BIA became frustrated and brought the approval process to a virtual stand still. This competition may have pressured different tribes into repeatedly changing their relationships with developers and entertainment firms as they sought to present better deals to federal regulators. At one point on the Catskills proposals, federal officials announced that the claims had become so convoluted that they were scrapping everything that had gone before and starting to examine these competing claims and proposals from scratch (Earle 2007). Unfortunately, dumping local partners for Las Vegas firms not only buried BIA in paperwork, it also eroded support in Albany.

---- Insert Table 3 about here ----

### **Potentially Unfaithful Agents**

Finally, there is some evidence that the lobbying firms hired by the various Indian tribes may have had other agendas than those of their principles that may have compromised the

effectiveness of their advocacy. We begin this final stage of our analysis with an interesting observation. Recall that we coded which contributing interest groups were supporters and which were opponents. We now break out these results for both Indian tribes and other interest groups in table 4 and find, surprisingly, that supporters gave an astonishing 73% of their contributions (in terms of amounts of money) to known opponents. Indian nations were no more peculiar in their contribution patterns than anybody else, for opponents gave 45% to known supporters of casino gambling. The Mohawks, who arguably had the most to gain, gave \$10,000 to legislators who were taking position against any expansion of casino gambling in the state. The Oneidas, who already had Turning Stone, gave \$51,680 to proponents and \$215,800 to opponents.

---- Insert Tables 4 about here ----

What explains this apparently odd behavior? Even if they were not supportive, proponents may have still felt the need to lobby Senator Bruno and other opponents to try to allay their fears or shape the debate. In this case, as Sorauf (1992) and Wright (1996) suggest, PAC contributions may have been used to buy access rather than influence votes. Even if proponents could not convince Senator Bruno or other key lawmakers to change their positions, perhaps they might convince them to accept a water-down version. Perhaps new casinos could be delayed, or subjected to labor organization friendly hiring requirements. Such compromises were talked about at various stages. Though we cannot confirm this interpretation of the contributions, we do know that in 2002 there was a substantial across the board increase in contributions when a bill for the Catskills casino nearly came to the floor. Advocates may have been buying access on all sides to shape the legislation and the debate surrounding it.

There is, however, another possibility. The lobbying literature generally assumes that lobbyists faithfully represent their group members or clients, but a few works suggest that there

might be incentives for them to be less than faithful. Salisbury (1969), for example, in developing his exchange theory of group formation drew a clear distinction between lobbyists and those they represented, and he also suggested that their goals might be fundamentally different. Group members desire to be represented and receive material benefits for membership, but lobbyists desire careers. Ainsworth and Sened (1993) develop this distinction by arguing that lobbyists are under pressure to serve the needs of lawmakers as they are to faithfully represent the needs of their dues paying members or clients. It is lawmakers, after all, who hold the keys to access and influence. In fact, there are so many more lobbyists than legislators, Ainsworth (1997) argues, the latter can essentially cherry pick who they work with.

Although the balance of power between lobbyist and lawmaker certainly varies with the relative authority and skill of each, it is nonetheless true that lobbyists build successful careers by making themselves useful and even indispensable to powerful governors and legislators. This is most likely to be true for lobbying firms that are hired on the strength of their portfolio of relationships with key decision makers. The consequence is that lobbyists may often place a greater importance on keeping the powerful happy, and thereby maintaining their own power, rather than working with whom they need to in order to advance client interests.

That this was taking place in Albany where Indian tribes hired some of the most powerful, certainly some of the most expensive, lobbying and public relations firms in the city to represent them is not entirely clear. Certainly from 2003 to 2006 Indian tribes spent an average of \$25,000 every three-month to each firm. The two most prominent out-of-state tribes looking to acquire land for casinos, the Oneida of Wisconsin and the Seneca – Cayuga of Oklahoma, hired the most lobbying firms, four and five respectively, and gained the least. The one contribution the Oneida of Wisconsin made, almost certainly directed by one of their five hired

lobbying firms, was \$2,400 to their foe, Senator Bruno. The firm Powers, Crane, Vacco & Company, employing former state Attorney General Dennis Vacco, took in \$45,000 from the Seneca – Cayuga, large amounts of which were spent entertaining legislators. The St. Regis Mohawks themselves opened their own lobbying office in Albany and, according to records, \$20,000 on entertaining their own chiefs along with legislators. Neither received much in terms of policy from the state for their entertaining efforts.

Peculiar billing was not confined only to Indian nations and proponents; it appeared on the other side as well. The super-lobbying firm of Featherstonehaugh, Wiley, Cline & Cordo, representing the Thoroughbred Horsemen of New York, spent \$14,541 on the mundane activity of drafting legislation for lawmakers to introduce. The Horsemen may have been fine with this, however, as they consistently contracted with the firm across the entire time period for a cost of \$314,000, the third largest total amount paid by a single client to a single firm. Another super-firm, Bogden, Laskey & Kopley, charged the New York Thoroughbred Breeders \$173,332 over the same time period, most of which, according to their disclosure records, spent on treating legislators to lunch. At least in these cases the lobbying firms may very well have been effective, for these two interest groups were opposed to any expansion of Indian casino gambling and the largely successful preservation of the status quo.

Four lobbying firms managed to represent both sides at the same time. Patricia Lynch and Associates, run by the former chief press aide to Assembly Speaker Silver, earned \$820,000 for representing the Oneida and Seneca Nations and the Las Vegas based Venetian Casino Resorts, all supporters, while at the same time in 2005 representing Magna Entertainment and the Yonkers Raceway Corporation who opposed gambling in New York. Brian R. Meara Public Relations took in \$713,750 by representing the Seneca – Cayugas of Oklahoma, the Shinnecock

Nation, and Empire Resorts (another Las Vegas firm), while at the same time in 2005 representing Delaware North Companies, Southern Tier Acquisitions, and Finger Lakes Racetrack. The lobbying firms of Wilson, Elser, Moskowitz, Edelman, & Dicker and Albany Strategies earned smaller amounts of money for similarly appearing to represent both sides.

Granted, the interests of these clients may not have been strictly at odds with each other, the public record is too thin to tell, but the appearance is certainly one of a conflict of interest and a greater interest in making money and being successful Albany lobbyists than promoting the interests of their clients. The interests of the Indian nations does not appear to have been especially well served by hiring large number of powerful but expensive lobbying firms who may have been more interested in shoring up their relationships with lawmakers by directing campaign contributions and entertaining them really pushing legislation to return ancestral land to the tribes and authorize new casinos.

### **Conclusion**

After Turning Stone, the only tribes to successfully establish casinos exhibited three qualities: first, they were far from a major race track. Second, they were far from the New Jersey or Delaware borders. Finally, they were in areas, such as Buffalo, that were badly in need of economic development. Did the four problems we described above hamstring efforts to create a large set of healthy Indian casinos in New York State? No clear smoking gun exists to say precisely why the policy was so anemic. Like all social science we can merely infer from the evidence that we do have. We can also draw on existing theory to help understand our explanations, and we have done so across the paper, though it is worth wrapping up with a few thoughts regarding how our findings fit into theories of lobbying and public policymaking. The

latter body of literature frequently notes the difficulty in not merely enacting new policy, but in progressively making it stick without opposing interests both within and without legislative institutions chipping away at it. As Schattschneider (1951) argued, when public policy favors one side, expanding the scope of conflict to involve new interests frequently brings about change, both in terms of moving new policy and blocking policy that is already moving. Coupled with Lowi's reminder that it is nearly always harder to move new policy than defend an old status quo, it appears that in New York the Oneidas and Mohawks were initially successful in getting their casinos authorized because opposition from organized interests was unprepared and Governors Cuomo and Pataki were able to do end runs around the equally unprepared senate. When the senate majority leader and organized opposition did appear, the only way the state government could obtain approval for new casinos was piggy backing on the September 11 tragedy. Furthermore, Governor Cuomo's initial choice to bypass the legislature created bad will with the legislative leaders, especially Senator Bruno, who felt as though their legitimate role had been ignored and they felt the need to assert themselves. In Bruno's case this meant breaking with a long tradition of following the lead of his party leader.

What we have found regarding Indian casinos makes a more substantial contribution to the literature on interest group lobbying. For the most part we can consider Indian nations as organized interest groups, a faction of society collectively pursuing their interests in the public arena with the aide of lobbyists. In this case most of the lobbying was being done by for-hire law and lobbying firms in Albany, the state capital. The New York political culture is one of insider lobbying, outside tactics largely ignored and ineffectual in a legislature that normally marches to the drums of its leaders. In most circumstances, as scholars such as Wilson (1973), Moe (1980), and Sabatier (1992) have argued, members of interest groups tend to know

relatively little about what their lobbyists are doing regarding important issues. This was certainly no different for Indian tribes and in many cases lobbyists may have used the money they were receiving from Indian nations and others, and the political action committee money they were directing on behalf of the tribes, to enhance their own relationships with lawmakers in ways not always in the best interests of their clients. As Wright (1996) has argued, access to legislators defines the careers of lobbyists and may very well be more important than faithfully representing clients who probably have little idea as to what the day to day strategies of their hired lobbyists are.

But in an important way the main enemy of an expansive Indian casino policy was the Indian nations themselves. Competing claims by different tribes to the same piece of land in the Catskill Mountains, frequently changing their business partners, going back on deals with made with local developers, all of these wrought confusion among regulators who, in the case of the Bureau of Indian Affairs, apparently through their hands up in frustration and started the entire process of approval over again. Lack of unity also hampered the lobbying effort as tribes such as the Oneidas of Wisconsin were as much a hindrance to the Oneidas of New York as were the relatively unified horseracing industry. Nor did the Indian nations show any sign of desiring to aid each other. Once the Oneidas had Turning Stone they had little incentive to help the Mohawks establish a second rival casino. With so much resistance both within and without the Indian community in New York, it is surprising that the policy went as far as it did.

**Table 1**  
**Summary of PAC Contributing Patterns by Major Contributors**  
(Percentages are of total contributions made by each contributor category)

Recipient	Contributor				Contributor Totals
	Indian Nation	Horse Racing Industry	Casino Management Corporation	Other Contributors	
Governor Pataki	\$1,000 (0%)	\$35,075 (8%)	\$0 (0%)	\$55,000 (13%)	\$91,075 (6%)
Senate Republicans	\$133,900 (36%)	\$122,435 (29%)	\$27,350 (9%)	\$65,450 (15%)	\$349,135 (23%)
Senate Democrats	\$101,000 (27%)	\$4,800 (1%)	\$142,000 (47%)	\$6,672 (2%)	\$254,472 (17%)
Assembly Republicans	\$3,000 (1%)	\$5,125 (1%)	\$10,000 (3%)	\$0 (0%)	\$18,125 (1%)
Assembly Democrats	\$60,680 (16%)	\$118,351 (28%)	\$18,150 (6%)	\$66,195 (15%)	\$263,376 (17%)
State Republican Party	\$38,000 (10%)	\$132,500 (31%)	\$99,000 (33%)	\$241,000 (55%)	\$510,500 (33%)
State Democratic Party	\$5,000 (1%)	\$0 (0%)	\$0 (0%)	\$0 (0%)	\$5,000 (0%)
Other	\$32,200 (9%)	\$8,314 (2%)	\$6,000 (2%)	\$0 (0%)	\$46,514 (3%)
<b>Total</b>	<b>\$374,780</b> <b>(100%)</b> <b>(24%)*</b>	<b>\$426,600</b> <b>(100%)</b> <b>(28%)*</b>	<b>\$302,500</b> <b>(100%)</b> <b>(20%)*</b>	<b>\$434,317</b> <b>(100%)</b> <b>(28%)*</b>	<b>\$1,538,197</b> <b>(100%)</b> <b>(100%)</b>

\* Bottom row percentages are that contributor's percentage of \$1,538,197.

**Table 2**  
**Trends in Bi-Annual Contributions to Supporting and Opposing Lawmakers**

Year	Indian Casino Gambling Opponent's Percentage of the Total Contributions	Amount and Percentage of Total Contributions made by Proponents to Opposing Lawmakers	Amount and Percentage of Total Contributions made by Indian Nations to Opposing Lawmakers
1998	58%	\$60,650 (57%)	\$59,650 (83%)
2000	67%	\$60,950 (73%)	\$45,700 (68%)
2002	53%	\$64,450 (73%)	\$59,450 (83%)
2004	78%	\$87,750 (74%)	\$61,000 (87%)

**Table 3**  
**Money Spent on Employing Lobbying Firms by Tribe from 2003 to 2006**

Name of Tribe	Amount Spent	Number of Firms Hired
Oneida Indian Nation	\$295,000	1
Oneida of Wisconsin	\$544,090	5
Seneca – Cayuga of Oklahoma	\$260,000	4
Seneca Nation	\$578,806	3
Shinnecock Nation	\$390,000	2
Stockbridge – Munsee Mohicans	\$18,840	2*
St. Regis Mohawk	\$31,571	1*
<b>Total Spent</b>	<b>\$2,118,307</b>	

\* Indian nation is listed itself as a lobbying agency.

**Table 4**  
**Contributions by Proponents and Opponents to Supportive and Opposing Lawmakers**  
(Percentage is of total contributions given to supporting and opposing lawmakers)

<b>Contributor Category</b>	<b>Supporter</b>	<b>Opponent</b>	<b>Total by Contributor</b>
Indian Nations	\$54,430 (19%)	\$233,200 (81%)	\$287,630
Horse Racing Industry	\$155,620 (57%)	\$118,635 (43%)	\$274,255
Casino Management Corporations Opposing Indian Casinos	\$8,350 (6%)	\$141,100 (94%)	\$149,450
Casino Management Corporations Supporting Indian Casinos	\$12,000 (34%)	\$23,750 (66%)	\$35,750
Other Contributing Proponents	\$37,045 (64%)	\$21,250 (36%)	\$58,295
Other Contributing Opponents	\$87,000 (64%)	\$48,947 (36%)	\$135,947
<b>Total</b>	<b>\$354,445</b> <b>(38%)</b>	<b>\$586,882</b> <b>(62%)</b>	<b>\$941,327</b> <b>(100%)</b>

## References

- Ainsworth, Scott H. 1997. "The Role of Legislators in the Determination of Interest Group Influence." *Legislative Studies Quarterly* 22(November): 517 – 533.
- Ainsworth, Scott H. and Itai Sened. 1993. "The Role of Lobbyists: Entrepreneurs with Two Audiences." *American Journal of Political Science* 37(August): 834 – 866.
- Associated Press. 1999. "Battle Over Indian Casinos Expanding to State Court." *New York Times*, March 8, Section B, Page 6.
- Austen-Smith, David and John R. Wright. 1994. "Counteractive Lobbying." *American Journal of Political Science* 38(February): 25 – 44.
- Bagli, Charles V. 2000a. "Tribe Wins Federal Approval for Casino in the Borscht Belt." *New York Times* April 7, Section B, page 1.
- Bagli, Charles V. 2000b. "Despite Approval, Fate of Catskills Casino Is Murky." *New York Times*, April 8, Section B, page 1.
- Bagli, Charles V. 2004. "Major Step Towards Casino in the Catskills." *New York Times* June 11, Section B, page 1.
- Bagli, Charles V. 2005. "Spitzer Back Plan for Indian Casino in Catskills." *New York Times*, February 20, Section B, page 1.
- Bagli, Charles V. 2008. "Casino Developer Now Wants to Revive the Concord Hotel." *New York Times*, February 7, Section B, page 1.
- Baumgartner, Frank R. and Bryan D. Jones. 1993. *Agendas and Instability in American Politics*. Chicago: University of Chicago Press.
- Chen, David W. 1998. "Catskills Casino Plan Wins Initial Approval." *New York Times*, December 30, Section B, Page 2.

- Earle, Geoff. 2007. "Don't Bet on Casinos: Feds." *New York Post* February, Sports, page 22.
- Fisher, Louis. 1998. *The Politics of Shared Power: Congress and the Executive*, 4<sup>th</sup> Edition. College Station, TX: Texas A&M University Press.
- Grenzke, Janet M. 1989. "PACs and the Congressional Supermarket: The Currency is Complex." *American Journal of Political Science* 33(February): 1-24.
- Grinols, Earl L. and David B. Mustard. 2001. "Business Profitability versus Social Profitability: Evaluating Industries with Externalities, the Case of Casinos." *Managerial and Decision Economics* 22: 143 – 162.
- Hernandez, Raymond. 2000. "Senate Chief May Consider Indian Casinos for Catskills." *New York Times*, April 13, Section B, page 5.
- Holyoke, Thomas T. 2003. "Choosing Battlegrounds: Interest Group Lobbying Across Multiple Venues." *Political Research Quarterly* 56(September): 325 – 336.
- Holyoke, Thomas T. 2004. "By Invitation Only: Controlling Interest Group Access to the Oval Office." *American Review of Politics* 25(Fall): 221 – 240.
- Kau, James B. and Paul H. Rubin. 1982. *Congressmen, Constituents, and Contributors*. Boston: Martinus Nijhoff.
- Kingdon, John. 1995. *Agendas, Alternatives, and Public Policies*, 3<sup>rd</sup> Ed. Boston: Little, Brown.
- Kollman, Ken. 1998. *Outside Lobbying*. Princeton: Princeton University Press.
- Lowi, Theodore J. 1969. *The End of Liberalism*. New York: W.W. Norton.
- Lowi, Theodore J. 1972. "Four Systems of Politics, Policy, and Choice." *Public Administration Review* 32(July): 298 – 310.
- Mason, W. Dale. 2000. *Indian Gaming: Tribal Sovereignty and American Politics*. Norman, OK: University of Oklahoma Press.

- Mayhew, David. 1974. *Congress: The Electoral Connection*. New Haven: Yale University Press.
- McKinley, James C. Jr. 2001. "Bill That Expands Gambling is Approved by the Legislature." *New York Times* October 25, Section D, page 5.
- McKinley, James C. Jr. 2002. "Pataki Works Out Deal With Indians For Upstate Land." *New York Times*, February 17, Section 1, page 1.
- Moe, Terry M. 1980. *The Organization of Interests*. Chicago: University of Chicago Press.
- Moore, Stephen, Sidney M. Wolfe, Deborah Lindes, and Clifford E. Douglas. 1994. "Epidemiology of Failed Tobacco Control Legislation." *Journal of the American Medical Association* 272: 1171 – 1175.
- Morgan, Lewis H. and Elisabeth Tooker. 1983. "The Structure of the Iroquois League: Lewis H. Morgan's Research and Observations." *Ethnohistory* 30(Summer): 141 – 154.
- Perez-Pena, Richard and James C. McKinley, Jr. 2001. "In Albany, Getting Serious About Casinos." *New York Times* October 15, Section D, Page 1.
- Peterson, Iver. 2003. "Neighbors See Lessons in Oneida Casino Deal: What Not To Do." *New York Times*, July 30, Section B, page 1.
- Peterson, Iver. 2004. "Casino Deals are Stalled by State, U.S., and Tribal Hurdles." *New York Times*, January 20, Section B, page 1.
- Sabatier, Paul A. 1992. "Interest Group Membership and Organization: Multiple Theories." In *The Politics of Interests*, ed. Mark P. Petracca. Boulder, CO: Westview Press.
- Salisbury, Robert H. 1969. "An Exchange Theory of Interest Groups." *Midwest Journal of Political Science* 13(February): 1 – 32.
- Salisbury, Robert H. 1990. "The Paradox of Interest Groups in Washington, D.C.: More Groups and Less Clout." In *The New American Political System*, ed. Anthony King.

- Washington, D.C.: American Enterprise Institute.
- Schattschneider, E.E. 1960. *The Semisovereign People*. New York: Holt, Rinehart and Winston.
- Semple, Kirk. 2004. "Catskills Casinos Are Closer After Land Claim Accord." *New York Times*, November 19, Section B, page 5.
- Sengupta, Somini. 2001. "Niagara Falls and Buffalo Proposed as Casino Sites." *New York Times*, June 21, Section B, page 5.
- Sorauf, Frank J. 1992. *Inside Campaign Finance: Myths and Realities*. New Haven: Yale University Press.
- Staba, David. 2004. "A Casino Proposal That Was Once Lauded is Now Drawing Criticism." *New York Times* April 17, Section B, Page 3.
- Truman, David B. 1951. *The Governmental Process*. New York: Alfred A. Knopf.
- Wilson, James Q. 1973. *Political Organizations*. Princeton: Princeton University Press.
- Wright, John R. 1990. "Contributions, Lobbying, and Committee Voting in the U.S. House of Representatives." *American Political Science Review* 84(June): 417 – 438.
- Wright, John R. 1996. *Interest Groups and Congress*. Boston: Allyn and Bacon.
- Wright, John R. 2004. "Campaign Contributions and Congressional Voting on Tobacco Policy, 1980 – 2000." *Business and Politics* 6(3): 1 – 26.
- Zielbauer, Paul. 1999a. "With Casino, St. Regis Mohawks Hope to Reverse Their Fortunes." *New York Times* April 12, Section B, page 1.
- Zielbauer, Paul. 1999b. "Mohawk Casino Allowed to Begin Video Gambling." *New York Times* May 28, Section B, page 5.

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<sup>1</sup> A complete list of tribes can be found in the New York section of [www.500nations.com](http://www.500nations.com). Those officially recognized by the Federal Government are the Cayuga Nation of Indians, the Oneida

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Indian Nation of New York, the Onodoga Indian Nation, the St. Regis Mohawk Tribe, the Seneca Nation of Indians, the Tonawanda Band of Senecas, and the Tuscarora Nation. On its own the State of New York also recognizes the Shinnecock Tribe and the Unkechaug Nation of Poospatuck Indians.

<sup>2</sup> For a selection of the various arguments made by proponents, see the Coalition Against Gambling in New York at <http://cagnying.org/> last accessed on July 28, 2008. Also see Upstate Citizens for Equality at <http://www.upstate-citizens.org/myrights.html> last accessed on July 28, 2008.

<sup>3</sup> In 2000 the New York Council on Problem Gambling reported that about 11% of residents, or 1 million people, had some sort of gambling problem. Also see Grinols and Mustard (2001).

<sup>4</sup> Akwesasne Mohawk Casino was originally projected to bring in \$100 million annually in gambling revenue, 75% of which would go back to the tribe, but in fact has barely made enough to cover the \$30 million cost of construction (Zielbauer 1999a). In desperation, the Mohawks made an agreement with the state to allow electronic video gambling machines that they hope will bring in about \$42 million annually, with the state taking 10% of profits (Zielbauer 1999b).

<sup>5</sup> This is a special provision of federal law allowing the Interior Department to essentially convert land into Indian reservation land (Bagli 2000a).

<sup>6</sup> The deal was expected to generate \$500 million annually, \$5 million for Sullivan County.

<sup>7</sup> Trump and others employed some of the most expensive lobbyists in Albany, the state capitol, to oppose Governor Pataki's deal with the Mohawks. U.S. Senator Robert Torricelli (D-NJ) and Republican Governor Christine Witman pressured Pataki to drop the deal (Bagli 2000a).

<sup>8</sup> Senator Bruno's actions on bringing this amendment to the floor of the Senate and his own vote in support made his position somewhat ambiguous for he voted in favor of it. But in a very unusual move, Bruno chose not to make it a party line vote knowing that in the end the votes

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were not there to pass it, which is virtually unheard of in New York politics. It is difficult to believe Bruno would have done such a thing had he wanted the amendment to pass. Furthermore, his vote of “aye” was a parliamentary maneuver that allowed him to then table the amendment so that it could no be acted on until 1999, effectively killing it off entirely.

<sup>9</sup> Upstate New Yorkers for Equality, an opposing interest group based near Niagara Falls, argued that the casino is offering electronic gambling, even though it was never given the right to do so.

<sup>10</sup> In 2004 the first of these casinos gave the state a \$38 million cut of its profits (Peterson 2004).

<sup>11</sup> The court did not clearly rule on whether the state constitution was pre-empted by the IGRA, which was the decision which most parties hoped the court would make. Instead it ruled that IGRA fit into the state constitution’s gambling for charity exemption so there was no conflict.

<sup>12</sup> According to (Bagli 2008), Empire Resorts officials denies breaking off their deal with the Mohawks, and they have provided financial support in the nation’s efforts to sue Secretary Kempthorne, but they have also suspended all work on the Mohawk’s casino and begun negotiations on a new cite a few miles away with other partners. The Mohawks, assuming a breach of contract, have threatened to sue Empire Resorts.

<sup>13</sup> Full results are available at [http://archive.pressrepublican.com/Archive/2001/09\\_2001/091520014.htm](http://archive.pressrepublican.com/Archive/2001/09_2001/091520014.htm).

<sup>14</sup> As Holyoke (2004) argues, chief executives like governors are hard to lobby anyway as they have less need of group support, either as advocates for policies or as information providers.

<sup>15</sup> A copy of the letter can be found at <http://www.upstate-citizens.org/UCE-Suddaby-Letter-032805.pdf>.