

SUMMARY

Based upon first passage by the State Legislature of a proposed constitutional amendment to authorize casino gambling and the possibility of off-reservation Indian gaming, Governor George E. Pataki issued an Executive Order establishing this Task Force to assess the potential effects of casino gambling throughout New York State.

The Task Force conducted an extensive outreach for credible data on the implications of casino gambling. Among the topics considered were the economic impact and viability of casinos in various regions of the State; the effects upon Indian gaming and State relations with Indian Nations of expanded casino gambling; the likely tax revenues from casino gambling; the most appropriate regulatory system if additional casino gambling is authorized; the effects of casino gambling on other forms of gambling such as horse racing, the Lottery and charitable gaming; the extent of crime in casino communities; and the social costs of pathological and problem gambling.

Four public hearings were held: one in New York City, one in Buffalo, and two in Albany. More than one hundred witnesses testified, and written statements brought the total submissions to nearly one hundred fifty. Additional research produced extensive information on the experience of jurisdictions where casino gambling is now conducted. The findings in this report are based upon a careful review of the available evidence, and the recommendations reflect the collective judgment of the eight-member Task Force.

While legalization of casino gambling may provide significant benefits to both the State and host communities in both state and local revenues and employment, there is no question that casino legalization will impose significant burdens on the infrastructure of its hosts. Additionally, casino legalization could negatively affect revenues and employment derived from the racing industry, revenues from the State Lottery, and rates of prevalence of pathological gambling.

THE TASK FORCE CONCLUDED THAT IT WOULD BE PRESUMPTUOUS AND INAPPROPRIATE TO ADVOCATE FOR OR AGAINST THE LEGALIZATION OF CASINO GAMBLING. RATHER, OUR ROLE IS TO PRESENT THE PERTINENT FACTS SO THAT LEGISLATORS AND THE PUBLIC ARE BETTER INFORMED, AND TO MAKE RECOMMENDATIONS REGARDING THE REGULATION OF CASINO GAMBLING IF IT IS APPROVED BY THE ELECTORATE.

IF APPROVED, THE TASK FORCE RECOMMENDS CASINO GAMBLING, INCLUDING INDIAN GAMBLING, BE A TIGHTLY REGULATED INDUSTRY GOVERNED BY INDEPENDENT COMMISSIONS TO CONSIDER FACTORS SUCH AS STATE AND LOCAL FISCAL AND ENVIRONMENTAL IMPACTS, NUMBER OF JOBS CREATED AND FITNESS OF THE APPLICANTS. FOR INDIAN GAMBLING, THE TASK FORCE RECOMMENDS IMMEDIATELY ESTABLISHING A COMMISSION TO OVERSEE APPLICATION FOR CASINOS.

A. REFERENDUM

The Oneida Indian Nation operates a gambling casino at Verona, New York. The St. Regis Mohawks plan to open a casino at their Akwesasne reservation. Many citizens have expressed their view that the State should authorize casino gambling as a private enterprise. We also heard expressions of intense opposition. Subject to statewide and local referendums, the concurrent resolution passed by the Legislature in 1995 would permit privately operated land-based casinos in the following specified locations: an unlimited number in Green, Sullivan, and Ulster counties; one each in the cities of Buffalo and Niagara Falls; one in either Saratoga County or Warren County; and slot machines at licensed horse racing tracks, on dates when live racing is conducted, except in New York City, Nassau, and Tioga counties.

B. ECONOMIC IMPACTS

New York residents already gamble in casinos with considerable frequency. In fact, New York City is the top casino "feeder market" in the country, accounting for an estimated eleven million visits annually. New Yorkers spent approximately \$2.35 billion last year on casino gambling and related expenses in three out-of-state destinations: Atlantic City; Las Vegas; and Foxwoods, Connecticut. Legalized casino gambling in New York could capture a substantial proportion of these dollars now expended elsewhere.

The upside market potential of casino gambling in New York was analyzed using economic models. These models are based upon relationships specified in economic theory, actual data, and informed estimates of input variables; like all models, they also require certain assumptions. Key variables include anticipated participation rates among prospective adult customers determined by their proximity to the potential casino sites and their expected frequency of visitation, and an estimate of the average loss per customer visit. The average loss per customer visit is assumed to be \$55, a conservative figure given the range of casino gambling revenues reported in other studies. Secondary spending generated by new casino-related economic activity in each region—the "multiplier effect"—is then computed. Adjustments are made to remove certain "negative economic impacts," such as substitutions involving casino spending diverted from other forms of gambling, amusements, recreation, restaurants, and retail sales. The models yield estimates of gambling revenues, direct casino employment, and other impacts induced throughout the State and regional economies.

The economic potential of casino gambling was examined for each of the possible casino locations named in the proposed constitutional amendment, as well as for Turning Stone Casino at Verona because of its interaction with other potential markets. The analysis also assumes that additional gambling opportunities at racetracks, as authorized in the proposed amendment, will not significantly lessen casino revenues.

Since the size and type of casino affects its market draw, the economic impact analyses considered two alternative scenarios. "Stand alone" casinos provide limited food and beverage

service, while "resort casinos" offer entertainment, lodging, a choice of restaurants and bars, as well as retail shops. Turning Stone Casino, as now operated, is an example of a stand-alone casino. Foxwoods Resort Casino exemplifies a resort-style casino. As the economic analysis demonstrates, resort casinos more fully exploit market potential.

Resort casinos operating in each of the identified locations (including Verona) collectively could attract up to a total of 54 million visits annually, including an estimated 19 million out-of-state residents. The model predicts that casino resorts would attract approximately six million new out-of-town guests to host communities, staying an average of two nights each. Out-of-state residents could account for 35 percent of casino visits under the resort casino scenario, bringing up to \$1 billion into New York annually. In addition, resort casinos in the Empire State could recover 50 percent of the money now expended by New Yorkers at casinos in Atlantic City (\$642 million) and Foxwoods (\$51 million). Resort casino visitors are projected to spend up to \$1.4 billion on non-gambling activities. More than 35,000 casino jobs potentially would be created, including more than 13,000 gaming positions paying an average of \$27,000 per year. Given the amount of non-gaming spending by casino patrons, as well as indirect spending by the casinos, a total of up to 66,000 jobs could be created. The potential net gain in New York, after accounting for the diversion of current spending to casino wagering, is estimated at up to 38,000 jobs and \$1.24 billion in personal income under the resort scenario.

Stand alone casinos in each of the designated locations could eventually draw 24 million visitors each year, with up to 7.4 million casino visits (over 30 percent of the total) originating out of State. These non-residents are projected to contribute nearly \$400 million to New York's economy annually. Stand alone casinos could generate up to 6,000 gaming jobs and an additional 3,650 other casino jobs. Given up to \$300 million in non-gambling expenditures by casino patrons, as well as indirect spending by the casinos, New York could create up to 19,000 new jobs. Subtracting job losses resulting from current spending diverted to casino gambling, the potential net gain to New York is estimated to be nearly 15,000 jobs paying \$487.5 million in personal income under the stand alone scenario.

It bears emphasis that these numbers are a "best case" scenario. They assume that New York will develop casinos that can compete successfully with Atlantic City and Foxwoods so that many gamblers now traveling there will choose New York casinos instead. And they assume that neighboring jurisdictions will not develop additional commercial casinos or more Indian gambling so as to hamper New York's ability to draw non-residents here. If either of these assumptions prove incorrect, the income and job creation potential would be affected.

The text and appendices detail the potential impacts in each location. This summary highlights several noteworthy findings for each region. The Catskill mountain area, with its proximity to New York City, has the largest market potential of any casino site identified in the proposed constitutional amendment. Establishment of stand alone casinos could result in almost 12 million annual casino visitors. Resort casinos could potentially attract over 31 million gambling visits a year. The net financial impact on the regional economy ranges from an estimated \$260

million (stand-alone) to \$965 million (resort). The Catskills offer the greatest opportunity for economic gains for two reasons. First, casinos sited in the Catskills would be best located to recapture out-of-state gambling expenditures by New York residents. Second, the great majority of casino visitors would come from outside the region. Indeed, 48 percent are projected to travel from outside New York under the resort scenario, which estimates that 20 percent of adults residing 26 to 75 miles from Monticello will visit a casino an average of fifteen times per year.

An estimated 2.8 million casino visitors a year could patronize a stand alone casino in Saratoga or Warren counties, including up to 300,000 new overnight visitors. Six million casino visits per year could be generated, including 700,000 overnight visitors, by a resort-style casino. A stand alone casino in either county could potentially yield a net employment increase approaching 1,500 jobs. The region could experience an estimated 7,500 additional jobs if a resort casino were developed.

If a stand alone casino is established in Western New York, it could attract up to 6.4 million visitors a year, of whom almost 250,000 would be gamblers who spend the night. A resort casino could attract up to 10.5 million visitors, of whom more than 650,000 would be new overnight guests. In addition to gambling revenues, another \$35.4 million would be pumped into the regional economy in the stand alone scenario. A larger percentage of the visitors to a Western New York casino would come from that region. Its out-of-state draw would be limited as a result of a competitive casino in Niagara Falls, Ontario. Indeed, it is possible that many Western New Yorkers may bypass a local casino because of tax-free winnings and a favorable currency exchange rate in Canada. For that reason, the model actually predicts a net loss in overall employment assuming stand alone casinos. Under the resort scenario, a net increase to the region of approximately 4,000 jobs would result, with a net increase in personal income of up to \$109 million. Unfortunately, even if a Western New York casino is not opened, a significant portion of the negative effects will occur as a result of the establishment of the Canadian casino.

The market analysis indicates that the potential draw for Turning Stone is nearly fifty percent greater than present attendance, presumably due to the absence now of slot machines and alcoholic beverage service. Turning Stone employs approximately 1,500 people. If it became a resort casino with a hotel and live entertainment, employment could be as much as 4,000 jobs in the resort, with another 2,200 in travel and tourism related jobs in the region and an additional 1,600 indirect and induced jobs. The potential net gain in area employment is estimated at almost 6,500, and total personal income could rise by as much as \$130.5 million.

OTHER POSSIBLE CASINO SITES

The economic estimates discussed above are based upon casinos located at Turning Stone and at those locations included in the proposed constitutional amendment. The Executive Order requires an analysis of other regions in the State that may be well suited for economically viable casinos. The results of that analysis are cited in the report. **THEY DO NOT CONSTITUTE A RECOMMENDATION BY THE TASK FORCE TO LOCATE A CASINO IN ANY REGION.**

The examination of other viable casino locations began with an assessment of the market areas of the State not fully serviced by Turning Stone and the proposed sites. To be successful, a casino must be situated relatively close to a large consumer market and must occupy an accessible location acceptable to potential patrons. Two other factors considered were proximity to major highways and the ability of existing tourism infrastructure to accommodate new visitors. Four locations across New York could meet these criteria: New York City, Long Island, the Adirondacks and the Finger Lakes.

While the inclusion of these four additional market areas would reduce the total draw and revenues of the proposed casino markets, total revenues statewide would increase by up to 50 percent. The largest impact area is New York City, which would have up to 61 percent of the casino visitations and revenues, a significant portion of which otherwise would go to Atlantic City or any casinos approved for the Catskills.

CASINOS AS AN ECONOMIC DEVELOPMENT STRATEGY

The primary economic impacts of casinos operations are: (1) the additional jobs and payrolls generated by the casinos and other travel-related businesses; (2) the economic impact of spending by casinos for equipment, supplies and business services, and the local spending by casino employees; and (3) the tax revenues derived from casinos and gaming operations. Any broader aspects of economic development depend on tourism programs and efforts of the casino industry to build an environment where travel and tourism related business can thrive.

Casino gambling is a catalyst for tourism because of its ability to attract many visitors to a site. Learning from the experiences of Atlantic City, New York should recognize that successful tourism development requires a commitment to community aesthetics, recreational assets, access, visitor services, marketing, and quality of life. Established tourism areas, such as the Catskills, have a significant potential to capitalize on the growing interest in casino gambling as an additional amenity to improve their competitiveness. If a commitment is made to target tax revenues from casino gambling into the enhancement of travel and tourism infrastructure and into a fund for small business development, an area's chance for successful, balanced development is greatly enhanced. Moreover, government programs to promote travel and tourism can stimulate investment and job creation.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, THE LEGISLATURE ALLOCATE FUNDS FOR TOURISM DEVELOPMENT TARGETED TOWARD LOCALITIES WHERE CASINOS ARE SITUATED SO AS TO MAXIMIZE THEIR POTENTIAL ECONOMIC BENEFITS.

C. REVENUE POTENTIAL FROM TAXATION

POTENTIAL DIRECT TAX REVENUE

The total gross revenues of casino operators could amount to an estimated \$1.15 billion annually if all casinos in the three designated regions of New York are stand alone facilities. This figure could potentially reach \$2.6 billion annually if all casinos are resort facilities. The related tax revenue from commercial casinos would depend upon the selected tax rate. Indian casinos, however, would not provide the State with any direct tax revenue. Most states impose double digit tax rates; however, the basic rates in Nevada and New Jersey are 6.25 percent and 8 percent, respectively. For stand alone casinos, a 15 percent tax rate—a rate between that imposed in New Jersey and that in states that have riverboat casinos—would generate approximately \$170 million annually. If resort casinos were built in the three regions, the figure would be \$390 million. Alternatively, Nevada's tax rate (6.25 percent) would generate between \$70 million and \$160 million per year. New Jersey's tax rate (8 percent) would generate between \$90 million and \$210 million per year.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, A 15 PERCENT TAX ON GROSS REVENUES BE IMPOSED.

GAMING DEVICE AND OPERATING LICENSE FEES

New Jersey imposes a gaming device fee of \$500 per table and slot machine, and an annual licensing fee of \$100,000. If casino gambling is authorized at the proposed sites and such fees are imposed, the potential revenue would be \$7.5 million for the stand alone casino scenario and \$17 million for resort casinos.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, THE LEGISLATURE IMPOSE A \$500 FEE ON SLOT MACHINES AND GAMBLING TABLES AND A \$100,000 ANNUAL LICENSE FEE, AS IN NEW JERSEY.

OTHER TAX REVENUES

Stand alone casinos could generate up to \$22.5 million in State personal income taxes and up to \$87.4 million in State sales/use taxes. Assuming a three percent rate, local sales taxes could provide up to \$65.6 million in additional revenues to the counties involved. Resort casinos could generate up to \$55 million in State personal income taxes and \$223 million in State sales/use taxes. Assuming a three percent rate, local sales taxes would have the potential to increase by \$167 million.

Substantial additional local tax revenues could also be realized from real property taxes, depending on the size and location of each casino. Additional State and local tax revenues are also possible through licensing fees, registration fees, admissions and occupancy taxes. The casino industry's generation of indirect State taxes suggests that the effect can also be quite sizable. For example, New Jersey casinos are estimated to pay nearly \$40 million per year in State unemployment

and corporate income taxes.

D. REAL PROPERTY TAXATION

Real property levies are determined by the various local government units and then divided by the total value of taxable real property to determine the tax rate. When the tax base expands due to construction of a new facility such as a casino, local governments may not necessarily collect more revenues; they must raise their tax levies to do so. If they do not raise their levies, the tax base expansion will result in a lower tax rate, lowering the taxes paid by other taxpayers.

Commercial casinos would be subject to real property taxes in New York, unless built under the auspices of local industrial development authorities. The largest tax yield per dollar of tax base expansion would be in Buffalo and Niagara Falls, where commercial property is taxed at rates more than twice as high as those applied to residential property. Almost half of the casino-related property tax revenues would be received by school districts, with the remainder shared among other types of local government units, including counties, towns, cities and villages and other special taxing districts. The existence of less rigorous assessment standards in New York than in most casino states means that any estimate of the property tax revenues from casino properties is imprecise.

The property tax implications were investigated assuming new construction of both resort and non-resort casinos. Resort casinos would result in major expansion in local tax bases, as these facilities are generally valued at several hundred million dollars each. The assumed scale of a New York resort casino, in terms of gaming area, hotel rooms, and taxable value, was based primarily on actual Atlantic City examples. The non-resort figures reflect casinos built in Nevada before the hotel room requirement was instituted. Property tax revenues from each resort casino would be substantial, with projections of approximately \$13 million to over \$18 million annually, depending upon region. Non-resort casinos would generate tax increments ranging from \$1.3 million to about \$10 million, depending upon region.

The largest property tax gains would be in the Catskill area, due to the larger number of casinos assumed and large increases in new residential construction and non-casino commercial construction. A total of \$96 million in annual revenues is projected from development of five Catskill resort casinos, representing as much as one-quarter of the total property taxes now levied in the three counties.

IMPACT ON LOCAL GOVERNMENT SERVICES

Any significant real estate development project, such as a casino, will place additional demands on local governmental services. For some local government units, such as school districts, commercial development may contribute more in tax revenues than it requires in additional services. For other local government units, such as counties and other municipalities, the additional services required could include police and fire protection and new infrastructure such as water, sewer facilities and roads. In some instances, additional service demands and related costs may fall on

neighboring communities that receive no tax revenues from casinos. In short, casinos can be beneficial to one community and impose costs on another. The extent to which the cost of these services would be offset by local taxes generated by casino facilities cannot be determined until specific casino sites are identified and detailed development proposals are available. An appropriate forum for consideration of such local service costs and required improvements to municipal infrastructure would be the review required by the State Environmental Quality Review Act.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, CONSIDERATION BE GIVEN TO REIMBURSING LOCALITIES EXPERIENCING ADDITIONAL SERVICE DEMANDS AS A RESULT OF CASINO ACTIVITY, BUT RECEIVING NO CASINO-RELATED PROPERTY TAXES. FUNDS FOR SUCH REIMBURSEMENT COULD COME FROM TAXES AND FEES IMPOSED ON THE CASINOS.

Since municipalities have the power to grant property tax exemptions to commercial property, those in the Catskills might well compete with each other to attract casinos. Such competition would diminish the potential for new local revenues.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, CASINOS BE INELIGIBLE FOR LOCAL PROPERTY TAX INCENTIVES INTENDED TO STIMULATE ECONOMIC DEVELOPMENT. SUCH MEASURES ARE NOT NECESSARY TO ATTRACT CASINOS AND WILL SIGNIFICANTLY REDUCE THE BENEFITS TO HOST COMMUNITIES.

E. POTENTIAL IMPACT ON HORSE RACING

Statistics show that horse racing is an industry in decline. Total facility handle at the State's harness tracks has declined by nearly 25 percent over the past five years, with total betting on live harness races falling almost 50 percent and total attendance decreasing by 40 percent. The State's thoroughbred tracks have fared somewhat better than the harness tracks, but have also experienced downward trends. Total thoroughbred facility handle decreased by 23 percent, and on-track handle on live races dropped by 34 percent. Additionally, total attendance for live racing has fallen by 27 percent, with average daily handle on live racing decreasing 28 percent.

Out-of-state case studies of casino gambling's impact on horse racing support the conventional wisdom on the relationship between casino gambling and racing: Where a track does not have casino-style gambling but there is casino gambling nearby, the track is hurt severely. Tracks such as Aksarben in Nebraska, Quad City Downs and Fairmount Park in Illinois, Ruidoso Downs in New Mexico, and the Woodlands in Kansas have been damaged by competition from casinos. Conversely, where casino-style gambling is limited in the area of a track, a track with casino-style gambling is likely to prosper. The evidence from Delaware and Iowa illustrates that slot machines can generate substantial revenues. Use of slot machine revenues for racing purses may also generate more interest in racing as a gambling experience.

Although the precise effect is difficult to determine, it appears that Turning Stone Casino has adversely affected the handle at nearby Vernon Downs and, albeit to a lesser extent, at Finger Lakes

Racetrack. Similarly, a recent industry study indicates that casino gambling at Foxwoods and in Atlantic City has reduced the handle at Aqueduct and Belmont. The two tracks, however, have been competing against casinos for more than a decade and a half, during which time much has changed; it is therefore difficult to attribute their losses to any one factor.

The Legislature has recognized that casino gambling will negatively affect horse racing and the breeding industry by providing in the first passage that a percentage of the revenues derived from casino gambling be allocated to aid the industry. The first passage would also allow all racetracks, except Belmont and Aqueduct, to operate slot machines and electronic gaming devices for eight hours a day for the number of days raced at the track in 1989. While these measures are proper steps toward preserving the industry, they will not fully offset the adverse effects of casino gambling. The exclusion of Belmont and Aqueduct racetracks from the list of tracks authorized to have slot machines and electronic gaming devices unnecessarily limits their ability to offset casino induced losses. Likewise, restricting a racetrack's operation of slot machines and electronic gaming devices to eight hours per day and limiting such gambling to the number of days raced in 1989 restricts the track's business decisions and potential competitiveness.

Furthermore, it is important that the industry be allowed to locate slot machines to permit patrons to transfer easily between both types of gaming. Any rule that prevents such reasonable integration would fail to protect the industry.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, REVENUES DERIVED FROM CASINO GAMBLING BE DEDICATED TO AID THE RACING AND BREEDING INDUSTRY AND BE STRUCTURED TO ENSURE THAT THE DELETERIOUS EFFECTS OF CASINO GAMBLING ON THE INDUSTRY ARE MINIMIZED. SERIOUS CONSIDERATION SHOULD ALSO BE GIVEN TO FUTURE AUTHORIZATION OF SLOT MACHINES AND ELECTRONIC GAMING DEVICES AT AQUEDUCT AND BELMONT.

F. POTENTIAL IMPACT ON OFF-TRACK BETTING

Casino gambling in the close proximity of off-track wagering can have a deleterious effect on cumulative handle. The effect of Turning Stone Casino on off-track betting has been less pronounced than might have been expected because the casino does not offer wagering on horse racing. Still, off-track betting branches within a fifty mile radius of the casino have experienced a comparative four percent decline in handle relative to other off-track betting branches. (The closure of Griffiss Air Force Base in Rome may explain some of this comparative decline.)

Many innovations in off-track wagering have occurred over the past few years. Off-track betting facilities can now offer more out-of-state wagering opportunities, and new betting opportunities (pick-three and triples) have added to off-track handle. To avoid a serious decline in off-track handle in the face of casino competition, continued innovations will be required. Moreover, because revenues from off-track betting are distributed to a wide variety of worthy interests, including horsemen for purses and breeding funds, consideration should be given to

strategies that would directly assist the industry. Casinos, for example, could be prohibited from offering wagering on horses. Alternatively, they could be mandated to incorporate a facility operated by the regional off-track betting corporation or to operate an off-track betting facility and pay the same distributions as those made by the regional corporation. Either of these approaches would significantly reduce the harm to those who benefit from the distribution of off-track handle.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, A CASINO BE REQUIRED EITHER TO INCORPORATE A FACILITY OPERATED BY THE REGIONAL OFF-TRACK BETTING CORPORATION OR TO OPERATE AN OFF-TRACK BETTING FACILITY AND PAY ALL CURRENT DISTRIBUTIONS MADE BY REGIONAL CORPORATIONS.

G. POTENTIAL IMPACT ON GAMES OF CHANCE AND BINGO

Games of chance and bingo continue to provide many charitable, non-profit organizations with an important fundraising tool. The Task Force was unable to identify any studies on the effects of legalizing casino gambling on such organizations. Nor did our interviews with town and municipal clerks who license gambling activities in the vicinity of the Turning Stone reveal that the casino has had an appreciable effect on the fund-raising abilities of these organizations. While many organizations report decreased fundraising, the declines began prior to the casino's establishment and may be attributed to factors such as increased liability premiums and fewer volunteers willing to operate gambling fund-raisers. Nonetheless, it remains true that religious, charitable and other non-profit organizations receive significant income from the operation of bell jar games of chance and bingo and that commercial casinos appear to have little interest in operating these games. It therefore seems advisable to reserve these games to such organizations. This reservation would alleviate any deleterious effect casino gambling might have on fundraising without prejudicing the competitiveness of New York casinos in the commercial marketplace.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, BINGO AND BELL JAR GAMES OF CHANCE NOT BE PERMITTED WITHIN A CASINO. THIS PROHIBITION WOULD RESERVE THESE GAMES FOR RELIGIOUS, CHARITABLE AND OTHER NON-PROFIT ORGANIZATIONS AND PROTECT A PRINCIPAL SOURCE OF THEIR FUND-RAISING.

H. POTENTIAL IMPACT ON THE STATE LOTTERY

In fiscal year 1994-95, New York State lottery sales totaled more than \$3 billion, yielding \$1.24 billion in revenues to the State. New York has averaged a 14 percent annual increase in lottery sales over the past five years. To maintain this growth, the Lottery has continually sought improvements in technology, services and products. Although there is no clear consensus, the experience of other states suggests that a loss in lottery sales is likely to follow the legalization of casino gambling. Impulse purchase games such as Instant™ and Quick Draw™ are most likely to be affected. Because the Lottery returns about 40 percent of its gross sales to the General Fund, the

State could expect to lose revenues for education if casinos are authorized. Moreover, the Task Force heard testimony that increased competition from casinos could force the Lottery to become more aggressive in its marketing strategy, a direction contrary to its current approach.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, THE TAX AND FEE STRUCTURE IMPOSED ON NEW CASINOS SHOULD INCLUDE A REVENUE STREAM DEDICATED TO SUPPORT STATE AID TO EDUCATION. SUCH A DEDICATED REVENUE SOURCE WOULD MITIGATE THE IMPACT OF CASINO GAMBLING ON LOTTERY SALES, AND ALLOW ALL LOCALITIES TO BENEFIT FROM CASINO GAMBLING.

I. PATHOLOGICAL GAMBLING

It is clear that the State's population includes problem and pathological gamblers and that their number could increase with the expansion of casino gambling. While difficult to quantify, the costs of problem gambling are quite real. Like any other addiction, pathological gambling can destroy family relations and lead otherwise law-abiding people to commit crimes. At a public hearing, the Task Force heard compelling testimony from compulsive gamblers that dramatically demonstrated the nature of the problem. Moreover, compulsive gambling imposes costs on society, not the least of which are the costs of treatment and rehabilitation programs. If we choose to expand gambling opportunities, New York has a moral and economic obligation to implement measures that will limit any increase in problem gambling and afford effective treatment to those for whom gambling is not a form of entertainment but a disease.

The State Legislature wisely has provided in the proposed constitutional amendment that a percentage of the revenues derived from casino gambling be dedicated to "services for and the treatment of persons addicted to gambling." The Task Force is concerned, however, that the problems associated with gambling extend beyond those individuals who are "addicted to gambling." The Legislature should make clear that it intends the term "addicted" to be interpreted with wide latitude. Moreover, funds from casino gambling should be available to support educational programs for the prevention of gambling-related problems, and for intervention and treatment programs to assist problem as well as pathological gamblers. Moreover, funding should also be available for research on problem gambling so that its causes are better understood.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, IMPLEMENTING LEGISLATION PROVIDE A FULL RANGE OF REMEDIAL AND EDUCATIONAL SERVICES FOR PROBLEM GAMBLERS AND THAT A GENEROUS PORTION OF CASINO GAMBLING REVENUES BE ALLOCATED TO SUCH PROGRAMS. INDEED, THE TASK FORCE RECOMMENDS ENHANCEMENT OF CURRENT PROGRAMS TO TREAT PROBLEM GAMBLERS, EVEN IF CASINO GAMBLING IS NOT LEGALIZED.

To prevent problem gamblers from frequenting casinos, consideration should also be given to a "self-exclusion" program like that at Foxwoods or that planned in Missouri. Such a program allows an individual to authorize his or her exclusion from casino gambling. It gives compulsive

gamblers, especially those in treatment, a measure of control over their gambling. If a person puts his name on the self-exclusion list, he cannot enter a casino and can be removed lawfully if he does so. Although far from a complete solution to problem gambling, a self-exclusion program allows an individual to limit the damage that his gambling inflicts on himself and his family.

It is also important that casino employees be trained to identify problem gamblers. To that end, all floor personnel should be required to participate in a program, certified by the Office of Mental Health, that teaches employees to recognize problem gamblers and report them to management for appropriate intervening action. Several casinos have undertaken such an education program on their own, and there is every reason to make such a program a mandatory component of employee training. Early identification and intervention is important if we are to minimize problem gambling.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, LEGISLATION BE ENACTED CREATING A SELF-EXCLUSION PROGRAM AND A CASINO EMPLOYEE PROBLEM GAMBLING RECOGNITION PROGRAM.

Studies have indicated that young people have a higher rate of compulsive gambling than the general population, but also that adult problem and probable pathological gamblers started gambling at a significantly younger age. Prevention of access of the gaming floor by minors should be a primary objective.

THE TASK FORCE RECOMMENDS, IF CASINO GAMBLING BE AUTHORIZED, THAT PROOF OF AGE SHOULD BE REQUIRED FOR ENTRY TO A CASINO AND PHYSICAL LAYOUTS SHOULD BE DESIGNED TO PRECLUDE CASUAL ADMITTANCE TO ANY AREA.

J. INDIAN GAMBLING

Federal law recognizes Indian tribes as distinct political communities, with the authority to regulate activities on their lands without interference from the State in which such lands are located. While New York has been granted criminal and limited civil jurisdiction over Indian lands, such grant of jurisdiction does not provide New York with the authority to regulate activities that are otherwise not illegal, such as the operation of games of chance that may be conducted by charitable organizations.

In response to court decisions which precluded States from regulating gambling on Indian reservations, Congress enacted the Indian Gaming Regulatory Act (IGRA) in 1988. Under IGRA, tribes must enter into a compact with the State in which their lands are located as a condition to offering casino gambling. Two tribes have entered into compacts with New York State, the Oneida Indian Nation of New York and the St. Regis Mohawk Tribe. To date, only the Oneida Nation has opened a casino. Federal law allows the opening of Indian casinos on land outside reservations under certain specific circumstances. This possibility has been widely discussed in the Catskills and

Western New York.

The economic impacts of casinos on Indian reservations would be equivalent to the projected economic impacts for non-Indian casinos located in the State. These impacts, both positive and negative, are indicated throughout this report. The only significant difference between Indian and non-Indian casinos is that Indian casinos do not pay State or local taxes.

THE TASK FORCE RECOMMENDS THAT THE GOVERNOR ESTABLISH A "COMMISSION ON INDIAN GAMBLING" TO EVALUATE AND DETERMINE WHETHER ANY APPLICATION FOR OFF-RESERVATION INDIAN GAMBLING BE APPROVED. THE COMMISSION IMMEDIATELY SHOULD ADOPT REQUIREMENTS TO DETERMINE WHETHER AN APPLICANT IS SUITABLE FOR OPERATION OF CASINO GAMBLING IN NEW YORK STATE. THE COMMISSION ALSO SHOULD EVALUATE EACH APPLICATION ON THE BASIS OF THE LOCAL FISCAL IMPACTS, ENVIRONMENTAL IMPACTS, REGULATORY CONCERNS, LOCAL ZONING, SUPPORT OF THE COMMUNITY AND STATE FISCAL IMPACTS AN INDIAN CASINO COULD HAVE UPON ITS HOST COMMUNITY. UPON COMPLETING ITS ANALYSIS, THE COMMISSION MUST MAKE A DECISION WHETHER THE GOVERNOR SHOULD CONCUR WITH THE DECISION OF THE SECRETARY OF THE INTERIOR THAT THE LAND BE TAKEN INTO TRUST FOR GAMBLING PURPOSES.

K. CASINOS AND CRIME

OPPORTUNISTIC CRIME

Property crimes and traffic-related offenses are likely to increase in and around a casino, with the extent of the increase dependent upon the casino's location, the area's historical crime patterns, and the daily visitor population. Most communities have experienced similar crime patterns following the establishment of casinos. The introduction of casino gaming has been accompanied by a modest increase in low-level offenses, which can be handled effectively with proper security and law enforcement measures. A telephone survey of 57 jurisdictions across the country and in Canada confirms the point: it revealed that casino gambling had brought few significant or recurring crime problems with it. In most jurisdictions, any increase in crime was limited to property offenses, such as larceny and employee thefts, and to traffic-related offenses, including drunken driving; there was no significant increase in violent crime.

The incidence of crime at Turning Stone casino and its immediate environs conforms to this pattern: crime has been low and limited to less serious property crimes. Moreover, an analysis of reported crime within a 50-mile radius of Turning Stone does not support the notion that casino gambling has brought crime to surrounding communities.

There are a few exceptions to the pattern. Researchers have found greater increases in violent crime in localities more accessible to Atlantic City than in other communities in the region. Statistics for Gulfport, Mississippi, show major increases in assaults, robberies and arson. And,

Tunica County, Mississippi, has experienced significant increases in felony indictments and lower court filings since riverboat casinos began operating in 1992. (Notably, since 1990 Atlantic City itself has experienced declines in reported crime with the number of serious crimes approaching levels last observed in 1980.) Major resorts with casinos, like Atlantic City, and jurisdictions with multiple casino establishments, like Tunica County, possess unique characteristics that make it difficult to generalize from their experiences. The small number of cities with casinos also makes it hard to predict the crime impact of a casino in an urban area.

CRIME AMONG PATHOLOGICAL GAMBLERS

With the advent of legalized casino gambling, pathological gamblers will likely commit additional income-generating crimes. Research indicates a relationship between pathological gambling and economically motivated crimes, such as embezzlement, check forgery, and tax evasion. The limitations of existing research, however, make it impossible to quantify the rate of criminal involvement among pathological gamblers or to predict the extent of any possible increase. It is reasonable to conclude, however, that if the number of compulsive gamblers grows with expanded casino gambling, some increase in offending can be expected.

ORGANIZED CRIME

There is a continuing threat that organized crime can infiltrate casino gaming and related ancillary services. Organized crime is a factor in public discussion of casinos because of the historic relationship of the Mafia with Las Vegas gambling ventures. Stricter regulations, improved oversight measures, and publicly held ownership of casinos have hindered racketeers from infiltrating casinos in recent years. Nevertheless, instances of infiltration have been reported, and the threat remains. Today, casinos are particularly susceptible to money laundering, but ancillary services (supplier companies providing cleaning, food, laundry, and trash-hauling) may be most vulnerable to organized crime influences. Casinos are also vulnerable to organized crime through mob control of unions, as experienced in Nevada and New Jersey. Legalized gambling will always be targeted for exploitation by organized crime, and regulatory and law enforcement officials will have to maintain a consistent vigil.

PLANNING TO REDUCE CRIME

The size of a casino facility and its overnight accommodations, the hours of operation, types of games, age eligibility of patrons, availability of alcohol, and stake limits may all affect the degree to which a casino causes crime in the community. Physical siting, access, and surrounding environment can contribute to more effective crime control so customers can enjoy their visits and businesses can prosper in safety. Solid collaboration among state and local law enforcement and casino security is also important in controlling casino-related crime. Within the casino, strict adherence to regulations will reduce opportunities for crime. Background investigations of casino employees and business affiliates, monitoring the games and players for integrity, and removing accused criminals and cheaters from the casino will protect the casino and its customers.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, SUFFICIENT RESOURCES SHOULD BE DEVOTED TO LAW ENFORCEMENT IN ANY HOST COMMUNITY, AND LAW ENFORCEMENT AGENCIES SHOULD BE ACTIVELY INVOLVED IN THE PLANNING PROCESS.

THE ROLE OF THE STATE POLICE

The State Police Casino Unit, which now operates at Turning Stone casino, is well trained and efficient at enforcing criminal laws in a casino environment. The mobility of casino employees, problem gamblers, and con artists militates in favor of one law enforcement agency for casino gaming statewide. If casino gaming comes to fruition, the State Police should be that agency. Moreover, the State Police Casino Unit should continue to operate with autonomy and within the State Police command structure.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, THE STATE POLICE BE THE SOLE LAW ENFORCEMENT AGENCY RESPONSIBLE FOR ENFORCING THE CRIMINAL LAW IN CASINO FACILITIES.

In nearly every gaming jurisdiction, it is standard practice to require background investigations of casino operators, employees and gaming vendors. At Turning Stone, the State Police Casino Unit conducts background investigations on all employees, gaming vendors, and the principals of the gaming vendor companies. For casino employees, the extent of the investigation is commensurate with the degree of responsibility that an individual exercises. As a result of extensive training and practical experience, the State Police Casino Unit has developed the capacity to conduct these investigations in a competent manner. To enhance its effectiveness in carrying out complex financial investigations, the State Police should develop additional expertise in forensic accounting. With that expertise, the State Police should be given responsibility for conducting all background investigations related to casino gambling.

THE TASK FORCE RECOMMENDS IF CASINO GAMBLING IS AUTHORIZED, THE STATE POLICE BE THE SOLE LAW ENFORCEMENT AGENCY RESPONSIBLE FOR CONDUCTING BACKGROUND INVESTIGATIONS OF CASINO OPERATORS, EMPLOYEES, VENDORS AND LABOR UNIONS.

Our Penal Law inadequately defines crimes that may be committed in connection with casino operations. Laws in Nevada and New Jersey have been written especially for casino gaming and allow for tighter control and tougher sanctions. For example, Nevada and New Jersey have statutes that prohibit the use of fraudulent or counterfeit cards, tokens or dice and the possession of devices that facilitate cheating. New York's criminal law would have to be construed liberally to permit arrests for such conduct. Legislation should also limit those who can possess firearms in a casino to on-duty State Police personnel. Because casinos are a cash driven business which attract large numbers of people and may serve alcohol, the presence of firearms would jeopardize public safety.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, THAT NEW STATUTES BE ENACTED THAT SPECIFICALLY PROHIBIT CASINO GAMING CRIMES.

L. REGULATION

If casino gambling is authorized in New York, an effective regulatory structure must be established to monitor its operation. The reality is that if the public loses confidence in the integrity of the industry, the economic benefits that can be derived from casino gambling will rapidly disappear. Strong controls are therefore essential. The recommendations in this section are animated by the philosophy that, especially early on, it is better to impose rigorous regulations than to be lax and allow corrupting influences or improper practices to take root. The degree of regulatory supervision over an aspect of casino operations should be proportional to the risk of organized crime infiltration or the potential for fraud.

RELATIONSHIP TO NON-CASINO GAMBLING REGULATION

Any casino regulatory agency should operate independent of other regulatory agencies responsible for the lottery, parimutuel racing and charity events. Casino operations present regulatory issues that are often not found in other forms of wagering. Moreover, there is a significant potential for an economic conflict of interest among New York's racing industry, casino industry, non-profit gaming organizations, and the State Lottery. A single regulatory agency involved in the resolution of such conflicts could shift resources and focus away from casino regulation.

A corollary of this position would be the transfer of authority for regulating Native American casinos from the Racing and Wagering Board, where it now resides, to the agencies regulating casino gambling. Once an independent regulatory agency for casino gambling is established, there is little justification for distinguishing between commercial and Native American casino operations with respect to regulatory control. To the greatest extent feasible consistent with federal law and negotiated compacts, the degree of regulatory control over each type of casino should be comparable.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, CASINO REGULATORY AGENCIES BE CREATED THAT OPERATE INDEPENDENT OF REGULATORY AGENCIES FOR OTHER FORMS OF GAMBLING AND THAT AUTHORITY FOR REGULATING NATIVE AMERICAN CASINOS BE TRANSFERRED TO SUCH CASINO GAMBLING REGULATORY AGENCIES.

A BIFURCATED REGULATORY STRUCTURE

Both New Jersey and Nevada, which are recognized leaders in casino regulation, employ a bifurcated structure: one agency (a Casino Review Board) is responsible for promulgating regulations and adjudicating license decisions, and a second agency (a Casino Control Bureau) is responsible for the enforcement and prosecutorial functions. A well designed bifurcated structure guarantees greater adjudicative impartiality and can reduce regulatory costs.

The Casino Control Bureau should be headed by an Executive Director appointed for a fixed term by the Governor with Senate confirmation. Its responsibilities should include: processing of casino operating license applications, issuance of occupational licenses and registrations, audit and

enforcement functions, and liaison with the State Police for background and other investigations. The Bureau should be empowered to take all necessary actions to ensure a complete accounting of gaming revenues. Bureau gaming inspectors should provide a visible regulatory presence on the gaming floor, ensuring compliance with statutory and regulatory provisions. These inspectors should have complete access to all areas of the casino, including counting rooms, to ensure an accurate accounting of all gaming revenues.

The Casino Review Commission should consist of five members, serving staggered terms. Selection should be by the Governor with Senate confirmation. Consideration should be given to limiting the number of terms a member can serve (e.g., to two terms) and obtaining an appropriate mix of occupational backgrounds. The Commission would limit its functions to formal adjudications and the promulgation of regulations and would avoid involvement in administrative or enforcement matters, thus reducing its staffing needs. Its responsibilities would include: approval and issuance of casino operating licenses, after application to the Bureau; adjudicating appeals by regulated parties from adverse administrative actions by the Bureau; issuance of operating regulations; and issuance of regulations and standards applicable to the conduct and operation of the Bureau. It should have broad power to exclude a person or entity from participating in casino activities if warranted. Disciplinary proceedings before the Commission should be formal adversary proceedings, in which the Bureau must prove its case. Consistent with this approach, the Commission should not permit Bureau personnel to function as Commission staff, and restrictions on personnel interchange may be appropriate. The Commission should also be exempted from certain statutes of general applicability, which could limit its discretionary powers (e.g., Corrections Law Section 752, which regulates employment actions with respect to felons) and should have regulatory authority with respect to the sale of liquor on casino premises. Its rulemaking should be subject to the cost-benefit analysis requirements of the State Administrative Procedure Act.

Under this structure, the New York State Police should conduct background investigations. The State Police's responsibilities, however, should be restricted to fact-gathering and should not extend to making licensing recommendations. The Casino Review Commission should be empowered to define the parameters for licensing investigations; the scope of such investigations should not be left to the discretion of either the State Police or the Casino Control Bureau.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, A BIFURCATED STRUCTURE – WITH AN ADJUDICATIVE AGENCY AND A SEPARATE ENFORCEMENT AGENCY – BE ESTABLISHED ON THE NEW JERSEY AND NEVADA MODEL. THE ENFORCEMENT AGENCY SHOULD BE EMPOWERED TO TAKE ALL NECESSARY ACTIONS TO ENSURE A COMPLETE ACCOUNTING OF GAMING REVENUES AND SHOULD HAVE COMPLETE ACCESS TO ALL AREAS OF THE CASINO.

LICENSING OF CASINO OPERATORS

The Casino Review Commission should be vested with broad discretion to determine moral fitness for a casino gambling license. The enabling legislation should specify moral integrity and financial stability as criteria for receiving an operating license; a felony conviction should disqualify

an operating licensing applicant. Moreover, for Niagara Falls, Buffalo, and Saratoga/Warren County, the enabling legislation should vest the Commission with the authority to select the one authorized operator, and should specify an appropriate and readily applied selection method. For the Catskills, casino legislation should specify whether economic factors such as estimated volume of gambling should be considered in determining whether to grant or deny a license. Because the risk of organized crime domination of a widely held, publicly traded enterprise is virtually non-existent, the licensing criteria should strongly favor such enterprises.

REGULATION OF GAMING EQUIPMENT SUPPLIERS AND NON-GAMING VENDORS

For consumer protection, the regulatory system must exercise close scrutiny over manufacturers, distributors, and servicers of the equipment used for gaming, including slot machines, cards, dice, and tables. For gaming equipment suppliers, any New York regulatory system should be consistent with the approach used by other jurisdictions. To avoid unnecessary duplication and reduce costs, due consideration should be given to equipment certification or service licenses issued by other states or by the federal government. Excessive regulation of non-gambling vendors can divert investigative and enforcement resources from more critical areas. Unreasonable requirements for supplier qualification also may act as a barrier or deterrent to entry for legitimate businesses and place smaller, locally-owned businesses at a competitive disadvantage to larger, national suppliers.

The Bureau should be vested with broad powers to review transactions between casino licensees and non-gaming vendors, and the Commission should have the power to require a casino operating licensee to cease doing business with a vendor. Suppliers that provide small dollar amounts of goods or services and entities that are already closely regulated, such as public utilities and banks, should be exempt from licensing requirements.

OCCUPATIONAL LICENSING OF INDIVIDUALS

Occupational licensure of all casino employees is a reasonable and effective control mechanism. Distinct levels of licensure and background investigations should be based upon employment responsibilities. A felony conviction should constitute an absolute bar to individuals receiving any form of occupational license, regardless of the nature of the felony or the duties of the individual. Employees of gaming equipment distributors or servicers should be registered, but should not be required to obtain a separate license. Reasonable employee conduct standards can be imposed upon the employer as a condition of the employer's gaming supplier license; and other vendor employees should be allowed only escorted access onto the casino floor. To minimize delays to persons seeking employment, consideration should be given to mandated time limits for review of an application.

LABOR UNION REGISTRATION

To prevent the infiltration of labor unions by organized crime, any enabling legislation should adopt a mechanism for labor union registration as now in effect in New Jersey. Federal law permits

a form of licensure for individuals holding positions in unions representing casino employees. Failures by an individual to meet licensure standards limits the ability of a union to collect dues, usually through wage check offs, from casino employees.

COSTS OF CASINO REGULATION

It is difficult to estimate government regulatory costs if casino gambling is authorized in New York. Critical variables include the number, size, and geographic distribution of casinos; the degree to which categorical limitations, monetary thresholds, or other exemptions reduce the number of suppliers or employees who require full-scale background investigations; the number and type of casino licensee applicants; and the organizational structure and size of the regulatory agencies. Effective regulation of casino gambling is expensive; however, the most expensive form of regulation is not always the most effective.

Although the Task Force favors requiring regulated parties to reimburse the State for the costs of casino regulation, we recognize that such reimbursement can be a disincentive to cost-effective regulation. Appropriate mechanisms must therefore be developed to assure that regulatory structures, organizations, and techniques do not foster excessive bureaucracy and impose undue costs on the industry. In this regard, the regulatory experience of other states should be carefully studied.

SOURCE OF REVENUE FOR REGULATORY COSTS

A special revenue fund supported by taxes and fees from casino gambling operations should be used as the source of funds for the Casino Review Commission and Casino Control Bureau. The funding for the Commission and Bureau should be statutorily separated to reinforce their separate identities, and functions. Following the practice of New Jersey, fines generated through the enforcement and disciplinary processes should not be included in the revenue streams for the regulatory agencies. Otherwise, those agencies may appear to be motivated by the potential of collecting additional fees. That is the wrong signal to send to casino owners, operators, and the public.

THE TASK FORCE RECOMMENDS THAT IF CASINO GAMBLING IS AUTHORIZED, THE COST OF REGULATION BE BORNE BY THE CASINO INDUSTRY AND APPLICANTS, THROUGH LICENSE AND LICENSE APPLICATION FEES, REIMBURSEMENTS FOR SPECIFIC EXPENSES (E.G., INVESTIGATIONS), EQUIPMENT FEES, AND GAMING TAXES.

