



Joint Public Hearing of the New York State Senate Committee on Racing, Gaming & Wagering and New York State Senate Committee on the Judiciary

September 7, 2011 – 10:00 AM – 1:00 PM

September 7, 2011: Legislative Office Building, Hearing Room B, Albany, NY 12247

WITNESS LIST

1. Randy King, Trustee Chairman, Shinnecock Indian Nation
2. Kim Vele, President, Stockbridge Munsee Community
3. James Featherstonough, President, New York Gaming Association; along with Michael Wilton, Executive Director, New York Gaming Association; Timothy Rooney of Yonkers Raceway; and Michael Speller of Resorts World New York
4. Jonathan Rouis, Chairman, Sullivan County Legislature, along with Allan Scott, President, Sullivan County Partnership
5. Joseph D'Amato, Chief Executive Officer, along with Charlie Degliomini, Executive Vice President of Government Relations and Corporate Communication and Tim Lies, President, Entertainment Property Trust - East
6. Josh Gold, Director of Political and Strategic Affairs, New York Hotel & Motel Trades Council
7. Joseph Faraldo, President, Standardbred Owners Association of New York.



SHINNECOCK INDIAN NATION
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*The oldest self-governing
Tribe of Indians in the United States*

Tribal Trustees

*Randy King, Chairman
Gerrod Smith, Trustee
Frederick Bess, Trustee*

Shinnecock History and Culture

Good afternoon Senators. My name is Randy King, and I am Chairman of the Shinnecock Indian Nation Board of Trustees. The Shinnecock Nation is a federally recognized Indian Nation located on the eastern end of Long Island next to the Town of Southampton. Our Nation has operated as a self-governing Nation since time immemorial, long before New York State or the United States even existed. Despite, the fact that the Nation had previously been included and listed under the jurisdiction of the United States by the Commissioner of Indian Affairs, our Nation was not included on the list of federally recognized Indian tribes formally published in 1978. The Nation sought assistance from the United States in 1978 in regard to its land claim, however, rather than assist the Nation the United States accepted this request as a petition for acknowledgement under the then recently adopted regulations. In order to ensure equal footing with other Indian nations within the United States, the Nation pursued this petition for federal acknowledgement and was considered Petitioner #4. The Petition for federal acknowledgment that affirmed our recognition as an Indian Nation was finally granted on October 1, 2010, after submitting

thousands of pages of documented history and a 32 year struggle with the Bureau of Indian Affairs. The Nation is finally included on the list of federally recognized tribes.

Since the beginning, the lives of the Shinnecock people have revolved around the land and the sea. Our hunting and trading grounds ran from Montauk to Manhattan and our whalers challenged the mighty Atlantic from their dugout canoes long before the whaling industry flourished in the 19th century.

Traditionally, decisions concerning the welfare of the tribe were made by consensus of adult male members. The trustee system of tribal government currently utilized was imposed on the Shinnecock by the New York State legislature in February of 1792. This system, which provides that three tribal members serve a one-year term as Trustees, has never replaced the consensus process, which still remains the primary governing process of the Shinnecock Nation. However, the Trustees continue to play an important role as the Nation's leaders for government to government relations. It is in that capacity, as Chairman of the Board of Trustees, that I am here today to represent the people of the Shinnecock Nation.

Today, we number over 1,400 tribal members, roughly half of whom reside on the reservation. Our reservation land is part of our original ancestral lands, which has never been ceded and is still occupied by our people. A significant portion of the remaining members of our Nation live within 2 hours drive of the reservation within our ancestral territory in the greater New York metropolitan area. As most of our ancestral lands were taken or sold, and that which does remain is held by the Nation itself, we are without a tax base to fund essential governmental services. Despite that fact, we have managed to build and maintain a strong community with our limited resources. In addition to the Shinnecock Presbyterian

church, our infrastructure includes a tribal community center, a health and dental building, a family preservation building that houses our seniors, Indian education, and cultural enrichment programs, a museum, and playgrounds for our children.

Because we lack a tax base, we have historically been reliant on our annual Powwow and limited state grant funds to bring in much needed governmental revenues. These limited resources do not cover the costs for necessary governmental services such as environmental protection, including protection of water and land resources, housing, health care, tribal police, and needed internal infrastructure. With federal acknowledgement the Nation has an opportunity to pursue gaming under the Indian Gaming Regulatory Act or “IGRA” as a means to meet the needs of the Nation and its membership. This opportunity is a win-win for the Nation and the State of New York.

IGRA and Tribal Gaming

Indian tribes have always had the right, as sovereign governments, to engage in governmental activities, including gaming. The purpose of tribal gaming is to provide for a mechanism to create tribal governmental revenues that can only be used for specific purposes to promote the well being of tribal communities. Congress has declared an affirmative policy in support of Indian gaming by asserting one of the primary purposes for adoption of IGRA is “to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments.” IGRA 25 USC 2702.

IGRA did not create tribal casinos; large-scale tribal gaming existed roughly 10 years prior to the passage of the statute. During that time, the regulatory landscape was a grey area with states and tribes giving and taking at every turn where courts, not the self-interest of the

respective tribal and state governments, often dictated the terms of the tribal-state relationship. During this time, neither the states nor the tribes particularly desired the federal government's involvement in tribal gaming. It was only after the United States Supreme Court decision in *California v. Cabazon Band of Mission Indians* affirming the tribal sovereign right to casino gaming that the states pushed for federal intervention through the passage of IGRA.

A major component of IGRA is the Nation-State gaming compact procedure. Gaming compacts, such as those entered into between the Oneida Indian Nation and St. Regis Mohawk Tribe and Governor Mario M. Cuomo, explicitly address both the tribal interests of promoting self-sufficiency and the State's interests of protecting the health, safety and welfare of its citizens.

Through compacting, states and Indian nations are able to negotiate any terms directly related to gaming. This includes everything from the allocation of civil and criminal jurisdiction to the assessment by the State of such amounts necessary to defray the cost incurred in the regulation of tribal gaming activity. Indian Nations and the State of New York have successfully negotiated terms beneficial to both governments concerning the oversight of Indian gaming in New York. While a major component of IGRA is to channel the direction of Indian gaming through the Nation-State compacting process, the effect of the law on the ground, its real-world impact, is immeasurable.

Connecticut, a state which has not legalized commercial gambling, is a good example of the real-world impact of tribal gaming. According to a study drafted by the University of Connecticut, the Mashantucket Pequot Tribe, which runs the Foxwoods Resort Casino in South-East Connecticut, has raised the gross state product by 1.2 billion dollars annually and

has added \$1.9 billion to the State's aggregate personal income. Additionally, the Tribe's economic activities have sustained positive residential property values, have increased tourism dollars spent in the State (73% of visitors to Foxwoods Resort Casino are from other states with New York residents making up a significant portion of this %), and has provided millions of dollars in property tax money to local governments. In addition, the Tribe has assumed a leadership role in welfare reform and has paid slot revenues to the State totaling approximately half a billion dollars annually. Finally, each casino job at Foxwoods creates approximately 2 non-casino jobs and the Tribe has increased total employment statewide by more than 41,000 jobs. On a purely economic scale, rejecting the benefits of tribal gaming and the reinvestment of gaming dollars into the local community is a rejection of much needed new jobs and income for state and local governments in New York. Unlike other industries, and unlike out-of-state gaming consortiums, money from tribal casinos stays in New York and helps develop and preserve jobs, revenues, and stability in New York not just for Shinnecock but also for New York residents.

New York has the potential to significantly surpass gaming revenues in Connecticut. Through compacting and working together, both the Nation and the State can reap the immediate benefits of tribal gaming today.

The Future of Gaming in New York

The State of New York is the largest potential gaming market in the world. With Native American casinos, whether in the Catskills or other locations in the New York City/Long Island area, New York can realize significant new revenues and tens of thousands of new jobs in the near term future. Nation-State compacts authorizing class III gaming operations run by Indian Nations appear to be the most advantageous path for immediate

benefits of gaming revenue for both the Shinnecock Nation and New York State. This is because tribal gaming would not require a constitutional amendment, which would entail a lengthy 2 year plus process with no guarantees for success of the amendment at the end of the process. The approval process can begin immediately for development of a Native American casino in the region, whereas the steps towards commercial gaming in the area would realistically be several years out from adoption of any proposed constitutional amendment.

The history of Aqueduct provides an example of the logistical hurdles the State will face if it pursues a legalizing commercial gaming in New York. The state legislation authorizing VLT's was adopted in 2001, however 10 years later the VLT proposed for Aqueduct is not yet operating. It is scheduled to open later this year, almost 11 years after state legislation authorizing the expansion of VLT's at Aqueduct. This legislation was markedly less complicated to pass than what is needed for a Constitutional amendment that would allow commercial gaming in New York. The VLT legislation did not need passage in two consecutive sessions of the legislature, nor did it require a Constitutional amendment, and it still will be more than a decade before any facility will open. New York has not even begun the process for passage of a Constitutional amendment authorizing gaming (which requires two consecutive votes of the legislature before it can even be placed on the ballot). The process of allocating licenses, setting up regulation and developing major casinos can take many years, in fact the RFP process alone could take many years. Aqueduct is a recent example as to the extensive time it takes to finalize approvals to move forward with gaming; even after such gaming may be authorized under State law. On the other hand, Native American casinos will be producing jobs and revenues to the state almost immediately.

Furthermore, by focusing gaming on local Native American Tribes, the State would assure that a majority of the net profits would stay local and trickle back through to the public and private sectors in New York as opposed to being repatriated by a non-New York entity.

Finally, if New York approves commercial gaming, IGRA would require the State to negotiate tribal gaming compacts and in order to expect any fee sharing, the State would have to provide a meaningful concession to the Nation. In the past the State has offered exclusivity as the justification for fee sharing, there would not be an exclusivity justification for compact fees if the Constitutional amendment passes.

After Aqueduct opens, there will be approximately 10,200 VLTs operating in a metropolitan region with over 13 million adults, or roughly 1,330 adults per machine. This does not factor in the roughly 50 million tourists that visit New York City annually. By comparison, the St. Louis region has approximately 200 adults per machine, the Detroit region approximately 270, and in the entire state of California there are about 390 adults for each machine. Even after the Shinnecock Nation opens casinos in Nassau and Suffolk counties, there will be approximately 750 adults per machine. This is roughly twice the number of any other active market in the country. This means even after Aqueduct opens, and the Nation opens two casinos, the market still has additional room to expand. This is real revenue that New York is losing everyday these facilities are not open to the public.

Casinos located closer to areas with a large concentration of residents or in an area that serves as a destination attraction reap the largest revenues. Demographics also come in to play when evaluating a gaming market including age, income levels and racial background.

As New York would be considered one of the top gaming markets on the planet, private sector investment envisioned for potential casino operators, whether tribal or commercial, would realistically be in the multiple billions provided the right projects are developed in the right markets under a favorable regulatory environment.

Additionally, it is generally understood that New York citizens provide a significant share of the revenues for casinos in eastern Pennsylvania, Connecticut and Atlantic City. Most likely the number is in the billions of dollars, with at least \$2 billion, possibly up to over \$3 billion dollars leaving New York every year. One of the new Pennsylvania casinos brags of 50 buses filled with New Yorkers coming to their facility each day. This is revenue that could remain in New York. These numbers are not based on hunches, but on over a decade of real data from many venues, states, and published studies. Additional information with citations can be provided upon the committee's request.

The law currently allows for Indian operated casinos. Federal law considered impacts to States when adopting IGRA and included Nation-State compacting mechanisms that allow Indian Nations and States to resolve concerns through government to government negotiations. The State receives and has the potential to receive significant new revenues, in the hundreds of millions of dollars per year, and significant and much needed new jobs through support of Shinnecock casinos in the New York/Long Island area. We have carefully analyzed the business aspects of sites at Belmont and in Suffolk County. Figures will be refined, but it is evident that the jobs impacts are very substantial. Our consultants, using prudent assumptions, presently estimate that together the two venues will directly employ **7,750** individuals on-site. They also estimate that there will be an additional **6,890** jobs created off-site from spending with vendors, off-site spending by patrons, and through

the ripple effect spending by our on-site employees. The total job impact is **14,640**. The annual on-site wage and benefit total will be in the vicinity of \$400 million annually. We will also be spending over \$200 million each year with local suppliers and contractors. I would also like to point out that we estimate that the projects combined will involve about 5,000 person years of construction employment in addition to the jobs that I just referenced. These construction jobs will be able to begin in the immediate future.

I again note that these jobs stem from patron spending that otherwise was primarily either leaving New York or will be attracted into New York----indeed, jobs that will not occur in New York “but for” the Shinnecock developments.

As you can see, Indian gaming has several advantages to the proposal to pursue commercial gaming through a Constitutional amendment. First, there is a defined process under the law to quickly move forward with Indian gaming now. Indian gaming now means thousands of new jobs for New York State and hundreds of millions of dollars in revenue for state and local governments through revenue sharing, in-state purchases, and State sales and income taxes. This is as opposed to the uncertainty of the passage of a Constitutional amendment that will take several years to reach the ballot with no guarantee of passage by the citizens of New York. Second, even if the Constitutional amendment were to pass it would still be several years after that before the State finalized a process and approval mechanisms to allow commercial gaming to move forward (again the RFP for VLTs at Aqueduct is a recent example of how long it could take from initial inception to completion). Third, any legalized commercial gaming operations will require the State to invest significant funds into the administration and regulation of these operations whether they are privatized or “managed” as are the VLT facilities. Indian gaming is developed, operated, and regulated

by Indian Nations that incur the expense for these operations. Finally, as stated earlier in my testimony, revenues from Indian gaming operations stay in New York and benefit New York.

I would also like to take a minute to address concerns about Indian gaming that have been raised in the media by potential competitors. First, these competitors make claims that they cannot compete with an Indian gaming facility, because they would not be able to offer the same games or would have to pay a higher tax. BUT, as we have stated and can demonstrate through numerous studies, the data clearly shows the market is so big that there is ample room for multiple players to survive. Even considering all facilities that are opened or plan to open, and at least two new Indian gaming facilities in the greater New York area, there are still roughly 750 adults per slot machine within the region. Yonkers today is competing against Pennsylvania, Connecticut and Atlantic City and doing extremely well. Aqueduct will come into the same market. These casinos all pay different taxes and offer different games, but all can survive. Another example is the greater Detroit market, which features 3 commercial Michigan casinos, 1 Indian casino, 2 Canadian casinos each allowing different games, and 2 Canadian racinos. All are thriving. Second, there have been questions raised about delays in federal approvals for Indian casinos. The Assistant Secretary of Indian Affairs has recently taken several parcels of land into trust around the country for Indian tribes, demonstrating a support for Indian gaming that did not exist in the prior administration. The Nation also believes with the support of elected Federal, State and Local New York officials it will be able to move quickly to secure the needed approvals through, either the legislative or administrative process to begin planning and construction of at least two casinos in the New York City/Long Island area. The time is now to move forward with these approvals.

The Shinnecock people represent the first New Yorkers. Gaming revenues from casinos operated by the Shinnecock Nation will stay in New York to benefit New York. We ask that you work with us to make this dream a reality, a reality that will benefit not just the Shinnecock people, but a reality that will create thousands of much needed jobs, and hundreds of millions of dollars in much needed revenue for the State of New York.

I hope I've addressed the questions presented by the Senator in your invitation to today's hearing. If the Committee needs additional information from the Nation concerning any of the comments presented today I am available to answer questions and to submit additional written comments for your consideration.

Thank you.

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**Statement by Kimberly Vele
President, Stockbridge-Munsee Tribe
Before the Senate Judiciary and Racing Committee
September 7, 2011**

Good Morning Chairman Bonacic, Members of the Senate Judiciary and Racing Committees. Thank you for inviting my Tribe, the Stockbridge-Munsee Band of Mohican Indians to participate in this important hearing. I am honored to be here to represent my Tribe as the current Chairperson and am always happy and honored to return to New York because as many of you know this my Tribe's aboriginal homeland.

I am pleased to be here today to share with you an important story relative to my Tribe's history and how it relates to your present request for information regarding gaming in the state of New York. The theme of my Tribe's story is that of many Tribes across this great nation, and that is, persistence. You see, despite what Fennimore Cooper claimed, the Mohican people are alive, and well and determined as ever to one day receive the justice that we have for over 250 years fought so hard for, that is, the recognition of our rightful place in history here and the preservation of some of our sacred sites, including burial grounds in the state of New York.

Despite forcible removal from our aboriginal territory here, in upstate New York, along the waters that are never still, and despite the forced separation of our families, disease, alcoholism, the loss of our language, forced assimilation, poverty, and starvation, we managed to survive and thrive as a people. It is with great pride that I report that my people continue to exist despite these seemingly insurmountable obstacles. Despite removal after removal after removal after removal, we never lost sight of what

our ancestors before us fought so hard to preserve and we are determined to never lose sight of our obligations to the seven generations who will follow us.

We call our Tribal insignia “Many Trails” which summarizes our story in a symbol. We are the people who have traveled many trails, but will never forget the home of our beginnings—the home of our ancestors. More than 160 years ago one of our Tribal Chiefs, John Quinney, came here to Albany seeking redress for the loss of our homeland, but without success. Despite his inability to get a satisfactory resolution, the story remains and continues to be passed from generation to generation along with an optimism that when circumstances are right, justice will be served.

Our New York land claims have been pending in the Court of Claims of the federal district court system for more than 60 years, and yet these matters have still not been settled. During this process, so much time had passed, and with the realization that neither New York nor the federal government had the money to pay for land claims, and with the development of Indian Gaming in the mid eighties, we began in earnest to look at alternative, creative ways to settle the land claims. It is through this process that the Tribe has worked for the last ten years to find a solution that worked for all parties concerned. With the assistance of our partners, Trading Cove and Associates of New York, we were able to negotiate with the local school district, the Towns of Thompson and Stockbridge, Sullivan County, Madison County, the State of New York, and even the unions to craft all of the necessary agreements to facilitate settlement of the land claims and the development of an Indian gaming facility in the Catskills that seemed like a win-win for everybody.

As you all know, despite our ability to develop and enter into comprehensive agreements with entities at every level of government as well as with the unions, we were unable to get the requisite approval from the Department of Interior because land claims require Congressional approval which our agreements did not contain. Although the denial might be reason enough for most to simply give up, as I indicated before, I come from a Tribe that fully understands courage and tenacity. With the Department of Interior's recent announcement that it was rescinding the commutability standard for off reservation gaming, we have another opportunity to pursue an alternative route to complete the gaming facility project in the Catskills and address the Tribe's need for continued economic development for the resources necessary to help protect our sacred sites here in the state of New York. Indeed, this past week the Department of Interior completed its review and issued four decisions on land into trust applications for gaming purposes. Despite mixed decisions, we will continue to pursue the parallel tracks that we have always pursued.

Even though publicity earlier this year suggested otherwise, our historic roots in New York is not controversial. It is accepted by all serious academic scholars of native history, and it is an accepted fact by both state and federal historic preservation experts. There are skeptics who admit that the Mohican people once lived here but maintain that since we have been in Wisconsin for more than 150 years, we have no right to do business in New York. At first blush this may seem like a fair point, but is it really? Why should there be home state advantage for any business? States, including New York, spend millions of dollars attracting businesses to their states—including international businesses. We are asking nothing from the state of New York—no land,

no tax credits, no subsidies of any sort whatsoever. We are simply asking for the opportunity to make good on the agreements that we executed in good faith with the Towns, counties, and the state of New York. We executed those agreements in good faith for our mutual benefit and most particularly for the benefit of our constituents, many of whom are in desperate need of the economic development and the thousands of jobs that it creates. New York State should not promote a Stockbridge-Munsee casino because it is good for Stockbridge, you should support it because it is good for New York.

I appreciate your request for our input to issues that are important to the state including where casino gaming is desired in the state, what the saturation point is, whether you should focus on private sector casino development instead of Indian gaming, the impact on existing gaming in New York and how many jobs gaming development projects would create, but it is not for me to say what policy or route New York should take on the gaming issue. Given the nation's current economic status and our desperate need for jobs, and as a political leader myself, I would simply suggest that we all pursue every possible route that may lead us to jobs and economic development, whether it is Indian gaming or any other gaming and all of its consequential development opportunities. No one understands the value of these efforts more than the unemployed American worker. For these reasons alone, I implore you to continue to work with my Tribe to update the agreements already in place and to stand by our side when we present our application for approval from the Department of Interior. Indeed, for our project to get approved we would have to have to continued support from the State, including the Governor.

I can promise you all that the Stockbridge-Munsee people stand by our agreements. We have always negotiated in good faith, with the best intentions. We have always honored our agreements in any context, including gaming in the state of Wisconsin. There we have executed a compact, tax agreements, and cooperative law enforcement agreement among many, all designed to serve the people we serve. We have never missed a compact or tax payment. Our history of government to government relations with the state of Wisconsin attests to our commitment to negotiate fairly, live by what we negotiate and commit to meaningful and creative solutions to difficult issues.

I strongly urge you to continue to pursue Indian gaming in the Catskills because Stockbridge has a project that has been in the development stage for more than tens years. The environmental work is complete, all studies complete, plans developed and is a project that is near shovel ready after a significant financial investment in development costs and fees. Even if you decide to also pursue private sector casinos, there are a number of states including Louisiana, Michigan, Mississippi, Missouri, Nevada and South Dakota where private sector casinos successfully co-exist with Indian gaming operations. One does not necessarily preclude the other. At this point, our project envisions an initial investment of 350 million dollars excluding land and interest in the first phase which will include 2,040 slot machines, 60 table games, bingo and simulcast race book, parking, 40,000 of multi purpose space for conventions, meetings, entertainment and sports, 10,500 feet of retail space and food and beverage outlets. Phase II would include a 750 room hotel, gaming expansion and expanded amenities.

Whether New York decides to change its constitution to authorize commercial casinos is an important and complicated question on which it is not the Stockbridge-

Munsee Tribe's place to opine. I leave that to your judgment. I only suggest that while you are deliberating that question, that you continue to pursue the policy the New York legislature established in 2001, that is, the development of Indian Casinos in Sullivan County, particularly the Stockbridge-Munsee project which deserves your time and attention given all that has gone into the process and development for the past ten years and given the fact that it is simply also the right thing to do for both the Tribe and the state of New York. We both desperately need the jobs and benefits that our project represents to so many people at so many levels for so many different reasons.

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**Remarks by James Featherstonhaugh, Chair, New York
Gaming Association
Joint Hearing of the Senate Judiciary and Racing and
Wagering Committees
September 7, 2011**

Good morning. I'm James Featherstonhaugh, Chair of the New York Gaming Association or "NYGA". I am joined today by two members of the Association: Tim Rooney, Vice President of Empire City Raceway, and Christian Goode, Vice President of Genting International. Also at the table with me is Michael Wilton, Executive Director of the Association.

I would like to provide the Committee with an overview of NYGA's position and I will be asking my colleagues to address some of the specific questions that have been posed.

I would like to commend you, Senator Bonacic, and the other members of the Joint Committee, for convening this session. The history of gaming and racing legislation in New York too often has been last day, last hour, last minute, with deals done in secret. We commend the Chair and the Committee members for bringing these important issues before the public in a timely manner. Given the Governor's recent comments, and some other factors I will mention, the timing of this session could not be better.

I'd like to start with an observation that I hope is inarguable. It is this: New York State is in desperate need of measures to stimulate its economy - - by creating jobs, investing hundreds of millions of dollars in local economies, and generating hundreds of millions of dollars more in tax revenue.

Enhanced gaming is not the total or complete answer, but it is clearly a part of the answer.

In this regard, there are some numbers that I would ask you to keep in mind. Experts estimate the amount of money that New Yorkers spend in competing, out of state, gaming facilities each year as between \$3.1 billion and \$5 billion.

That's just the amount that New Yorkers drop at the gaming venues. It does not take into account the amount they spend on hotels, restaurants, stores, golf courses, etc.

Respectfully, it makes no sense for the state to encourage its citizens to support the economies of our neighbors. We all love our friends in Connecticut, New Jersey, Pennsylvania, Las Vegas and Canada, but we don't love them quite that much.

This is the point we believe Governor Cuomo, was making when he said recently that it was time for the state to review its gaming policies.

The key question then is this: How does New York improve its competitive position in gaming and do it in a fiscally and economically effective, but socially responsible way?

On behalf of the New York Gaming Association, I would suggest that state policymakers consider the following:

1. The state should proceed in a way that poses the greatest return with the least risk possible.
2. The state should proceed in a way that is geographically balanced and fair.
3. The state should work with companies that are known entities with a demonstrated commitment to the state

and local communities.

4. The state should give consideration to the plan that provides the quickest, most dependable, and most predictable results.

First, with regard to risk, the state needs to think carefully about the most appropriate model to follow. There will be those who advocate an "Atlantic City" or "Vegas-Style", "Cluster Gaming" approach. Respectfully, we are not Las Vegas, Atlantic City, or Black Hawk Colorado, nor would I suggest we would ever want to be. Those locations all desperately needed a resource that we in New York have in abundance: people. By all means, take a close look at the cluster model, it isn't working it was yesterday's model. A far more prudent, thoughtful, and intelligent approach is the New York model, which has been copied by Pennsylvania and which involves a limited number of strategically located sites -- exactly what you will have with our plan to enhance operations at existing gaming facilities.

You know us. We have nine tracks licensed by the Racing and Wagering Board and the Lottery Division. You know our business. You know our financials. You know that we have been good partners to the state -- providing billions of dollars for education, agriculture and the equine industry.

Authorizing commercial gaming - including table games -- at these existing facilities, where virtual gaming is already allowed, is not a risky expansion of gaming, but a sensible move that will allow successful facilities that already partner with the State of New York to become even more successful.

Second, with regard to geographic balance, I would direct your attention to a chart (Exhibit 1) we have prepared that shows

the current locations of the nine existing tracks in New York. As you will note from the chart virtually every region of the state is covered, including the Catskills, which are a focus of concern for you, Mr. Chairman. We believe that these facilities provide an even-handed distribution of gaming that will provide badly needed economic assistance to all areas of our state equally.

Third, with regard to the various operators of racing facilities in New York – let me repeat: you know us. The operators of the nine facilities in New York are well-known companies that are either New York-based or have New York-based affiliates whose commitment to the community has been well established. They include world leaders in the gaming and entertainment industries. They are already among the largest employers in their communities, and they all proudly support education, and the equine and agricultural industries. And here I would draw your attention to another chart (Exhibit 2) that we have prepared. It demonstrates the various groups that receive support from funds generated at our facilities. I think there is a credible argument to be made that the partnership between the racinos and the state is the most successful public-private partnership in the state, if not the entire nation.

This happens to contrast sharply with the experience of others. The facts should be clear in this regard. Other operators of gaming facilities have not paid the state the money they owe. Some of the agreements don't give the state anything at all. And the various new proposals, which we hear about weekly, would actually *take money away* from education, from horsemen and breeders. They have not been good partners in the past, and – pardon the pun -- they are a bad bet for the future.

The committee has asked what the impact of the amendment would be on the State's existing agreement with the Seneca Nation. The theoretical effect would be to violate the exclusivity provisions of the agreement and relieve the nation of its obligation to pay the state a tax of 25% of its gaming revenue, or about \$100 million per year. I say theoretical because, in fact, the Seneca's stopped paying their obligations to the state several years ago. Therefore the amendment would have no effect on monies currently owed and, when effective per our proposal, would more than offset any loss of revenue from the Seneca compacts with a reliable dedicated income stream.

Finally, with regard to results, I want to make a critical point. We are talking about an almost immediate ability to substantially increase revenues to state and local governments. We have nine shovel-ready sites that would have the fastest turnaround in terms of being up and running, creating new jobs and generating meaningful revenue to the state and local governments.

We estimate conservatively that if table games were approved at the existing facilities, we could recoup a significant percent of the wagering now done in other states. With ancillary economic activity such as hotels, restaurants, etc., and imported (i.e. out of state gamblers coming here) gamers, particularly at our metropolitan New York sites, this proposal will generate well above the billions that now flow out of the state. We are collecting data on this and other points as part of a comprehensive study that we will provide you in the near future. After all, if you really want to see a show, you don't go to Las Vegas, you go to Broadway.

One final point: We are not asking the state for another dime.

We are only asking for the permission to invest our private resources in facilities that would be truly competitive with those in other states. To the extent there is any risk associated, it is our risk, not the state's or the taxpayers.

While the risk will be ours, the success will be shared with our partners: education, agriculture, horse racing and the lottery. It will translate directly into the creation of thousands of new jobs and the generation of billions of new revenue for state and local governments, as well as for education and the equine and agricultural industries.

We urge you to build on the extraordinarily successful partnership that now exists between the existing facilities and the State.

We can accomplish this in a socially responsible, economically positive way through a proposed constitutional amendment.

In January we will come before you with a concurrent resolution seeking to amend the New York State Constitution, within the section that contains the current lottery exception to gaming. We will seek to expand that exception to allow full commercial gaming at existing authorized sites. Gaming will continue to be regulated by the lottery and the racing and wagering board, revenues will continue to be dedicated to education, agriculture, the equine business and the support of state operations. The resolution will require passage by the legislature in 2012 and again in 2013. It will then go before the people in November 2013. If approved, you can rest assured that our shovels are ready and our people are poised to begin: 2014 will be the year the New York gaming industry becomes the model for the country.

Thank you for your time.

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VERMONT

CANADA

ONTARIO

NEW YORK

- HAMBURG CASINO AT THE FAIRGROUNDS**
5600 McKinley Parkway
Hamburg, NY 14075
- BATAVIA DOWNS CASINO**
8315 Park Road
Batavia, NY 14020
- FINGER LAKES CASINO & RACETRACK**
5857 Route 96
Farmington, NY 14425
- TIOGA DOWNS CASINO**
2384 W River Rd
Nichols, NY 13812-1406
- VERNON DOWNS CASINO & HOTEL**
4229 Stuhlman Rd
Vernon, NY 13476
- SARATOGA CASINO & RACEWAY**
342 Jefferson St
Saratoga Springs, NY
- EMPIRE RESORTS AT MONTICELLO CASINO & RACEWAY**
204 State Route 17B
Monticello, NY 12701
- EMPIRE CITY CASINO AT YONKERS RACEWAY**
810 Yonkers Avenue
Yonkers, NY 10704
- RESORTS WORLD CASINO NEW YORK AT AQUEDUCT RACETRACK**
110-00 Rockaway Blvd
New York, NY 11417

Niagara Falls
Buffalo

Rochester
FINGER LAKES CASINO & RACETRACK

Syracuse
VERNON DOWNS CASINO & HOTEL

SARATOGA CASINO & RACEWAY
Albany

HAMBURG CASINO AT THE FAIRGROUNDS

TIOGA DOWNS CASINO
Binghamton

EMPIRE RESORTS AT MONTICELLO

MASSACHUSETTS
CONNECTICUT

PENNSYLVANIA

NEW JERSEY

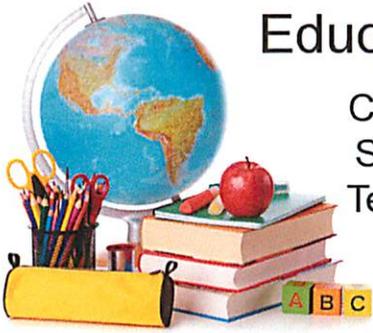
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New York
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Schools,
Teachers

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Jobs, Employees, Workforce



22%

Division of Lottery



10%



2010 - 2011

Race Track Casinos Aid to New York

700 million **\$632 Million**

600 million

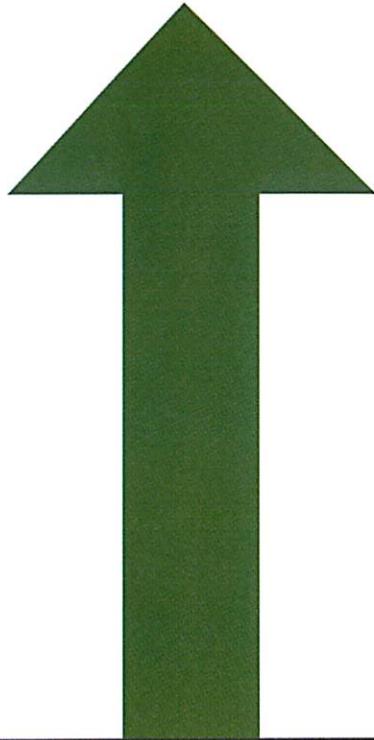
500 million

400 million

300 million

200 million

100 million



Native American Casinos Aid to New York

\$0 in Aid



Projected Annual Racetrack Casinos Aid to New York with Resorts World Casino New York at Aqueduct Racetrack

1.25 billion

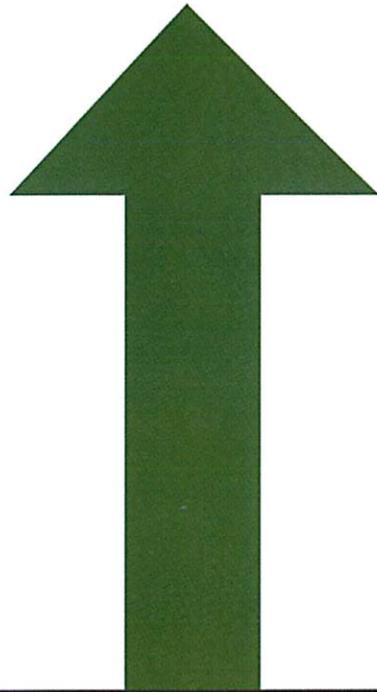
\$1.1 Billion

1 billion

750 million

500 million

250 million



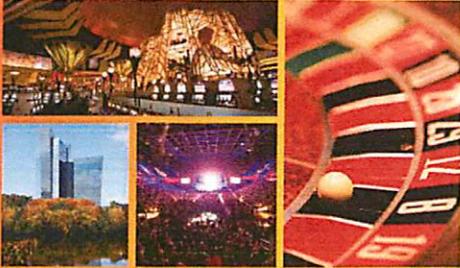
Native American Casinos Aid to New York

\$0 in Aid



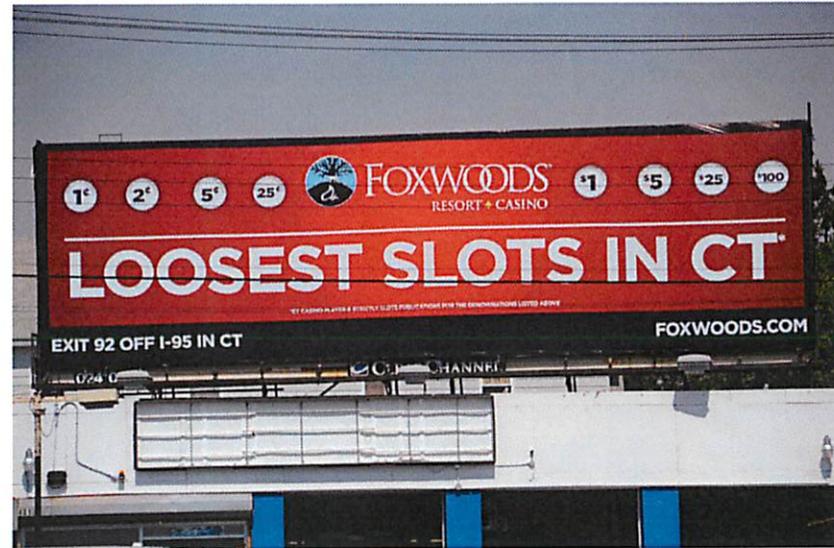
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4



Jonathan Rouis, Chairman

Sullivan County Legislature

100 North St., Monticello, NY 12701

Testimony before the

Joint Hearing of the

New York State Senate

Racing and Gaming Committee

September 7, 2011

Albany, New York

Mr. Chairman and Members of the Committee, my name is Jonathan Rouis, and I am the Chairman of Sullivan County Legislature. Thank you for this opportunity to provide testimony on the importance of gaming to the Sullivan County Catskills and New York State.

I join you today not to voice my opinion on the debate for Native American or State run gaming but to ask that you investigate a multi layered approach that can expedite a casino here in the Sullivan County Catskills. I cannot over emphasize the importance of gaming to Sullivan County and the ability to move forward and be allowed to host casino gaming and create an economic stimulus as soon as possible for my county and New York State. With several projects on the horizons that contain Native American and legalized gaming in their proposals, Sullivan County is poised to break ground on one of these projects with the approval of State and Federal government.

Casino gaming should follow the legislation enacted after 9/11 to develop the two areas of the State that needed economic stimulus. The Niagara Region has developed casinos but the Catskill Region is still waiting for this stimulus. The Sullivan County Catskills has a great deal of interest in hosting casino gaming and our location is conducive to realizing the greatest economic impact for New York State. Too many casinos scattered throughout a state can have a detrimental effect on not only each other but on the economy in which they are located. Two or three casinos clustered in an area lead to good competition and create solid travel destination.

Sullivan County's location boasts over 40 million people within a two hour drive, a casino in the Sullivan County Catskills will draw not only New Yorkers going to neighboring states but a large portion of visitors from out of state. Casinos as a destination are effective in attracting tourists and generating new money in the area. They generate taxes and employment and contribute to other direct and indirect community tourism-related businesses. The Sullivan County Catskills can once again be recognized as a year round travel and vacation destination.

It's important to realize that the New York City market area is the single largest generator of casino visitors in America, originating over 14.8 million casino trips annually. Of these trips, all are to out-of-state gaming venues: 74 percent of New Yorkers' trips were to Atlantic City,

and another 13 percent of the trips were to the Connecticut casinos. This represents spending that is exported out of New York State. A national survey of casinos indicated that nearly 91 percent of casino visitors came from outside a 50 mile radius, representing at least an hour's drive. Another study indicates that as many as 61.7 percent of casino patrons will travel 51-250 miles to visit a casino.

We need to create jobs and rebuild our economy. Our area has been in economic withdrawal for decades with the hotels in our area going out of business. Unemployment in Sullivan County has steadily increased over the past decade and poverty in Sullivan County has increased from 13.9% in 2009 to 15.8% in 2010.

Our area was once a proud resource for New York State. Many New York City residents visited our area, stayed in our hotels, dined at our restaurants, and enjoyed our recreational resources. For the last several decades our economy has been significantly challenged. With the opportunities for Sullivan County to host several casino projects, thousands of jobs in construction, operations of these casinos and ancillary businesses can generate a much needed economic boost not only for the Sullivan County Catskills but the entire Catskill and Hudson Valley Region.

The Sullivan County tourism industry enjoys over \$311 million in visitor spending a year with \$40 million in taxes generated for Sullivan County and NYS. The industry employs over 4,800 people with a labor income of \$135 million.

If one casino were completed, it would become the Catskills largest private sector employer. It would create an estimated 4,900 new full-time jobs in Sullivan County doubling the people now employed in the industry. These are local jobs with 80 percent of the employees coming from the immediate Sullivan, Orange, Ulster, and Delaware County areas. The casino payroll would be approximately \$171 million per year more than doubling the labor income in Sullivan County. The multiplier or "ripple effect" of these casino jobs in the NYS economy would support another 1,820 jobs and a payroll of \$111 million.

In total, Sullivan County would benefit from over 5,800 new jobs and the state as a whole would gain over 6,700 new jobs (including those in Sullivan County). The total payroll of on-site casino and off-site non-casino jobs resulting from this one project would be approximately \$282 million per year. The casino, when in full operation, is estimated generate a total economic output of \$926 million in New York State. This figure is three times the amount generated currently by Sullivan County and equal to the total current amount of visitor spending generated by the four counties in the Catskill Region.

A casino will bring new visitors to the Sullivan County Catskills and New York State. Many of these new visitors will visit other area attractions including Bethel Woods and our vast array of cultural and natural attractions.

Incidental spending by casino visitors is expected to result in direct economic benefits to local businesses and businesses along travel routes.. The traffic analysis shows that every day between 32,400 and 36,700 automobiles are expected to come to a completed casino.

Casino visits are cited to be multi-purpose tourist visits during which exploration and impulsive spending occurs. Local businesses are expected to capitalize on the casino's presence and attract and capture the spending potential of casino employees and patrons. Any shifts in spending away from existing entertainment to the casino is still spending that is retained within the NYS and Sullivan County Catskill economy, and therefore continues to support local economic activity, including local jobs, purchases, and income and sales taxes.

Testimony given before the NYS Senate in 2005 stated in 1996 New Yorkers accounted for 11 million visits to casinos a year. This represents a significant source of money that flows out of state. Overall this is \$2.4 billion spent by New Yorkers on out of state gambling trips. Updated data from 2003 almost doubled to 21.4 million visitations of which the above spending can be extrapolated to even more dollars escaping to the states of NJ, CT, and NV. These figures do not incorporate the recent addition of PA into these equations.

The loss of \$2.4 billion in spending to other states means to NY using spending multipliers:

\$2.4 billion could have:

- **Supported a total of 41,700 jobs in NYS**
- **Added \$3.3 billion to total NYS State output**
- **Added \$1.85 billion of total income in the State and \$1.2 billion of personal income**
- **Added over \$45 million in NYS State personal income taxes and over \$101 million in NY sales and use tax.**

In conclusion, casino locations in the Sullivan County Catskills can greatly increase the success of economic generation for jobs and sales tax revenue. With 40 million people located within a two hours drive and the location of Port Authority airports serving a vast international population, the Sullivan County Catskills with intelligent management of casino facilities either Native American or State operated could create an economic stimulus for the entire State of New York.

The time to act is now. The Sullivan County Catskills has waited long enough for a decision. We respectfully request your assistance in returning the Sullivan County Catskills to the premiere Travel Destination that is once was for New York State.

Thank you.

Testimony of Allan Scott, President of the Sullivan County Partnership for Economic Development.

My Name is Allan Scott and I am the President of the Sullivan County Partnership for Economic Development. I would like to thank Senator Bonacic for all his support to our county over the years. Our organization seeks to market Sullivan County, attract and develop new business, as well as help in business retention, in the County. We have hundreds of members who are business owners. Over the last several decades our County has suffered tremendous economic upheaval. Tourism used to be a major industry in our County. Over the last several decades the economy has suffered, and with that the tourism industry has significantly declined. Many businesses that supported the tourism industry have also suffered, and the economic downward spiral continues to erode our tax base. We have seen our middle class dwindle away. It is vital for a community to have a strong middle class. There is a very simple solution; JOB CREATION. I am going to talk about and advocate that the State continue to support a multifaceted approach to gaming.

Our State has watched as large hotel gaming projects have developed in Connecticut, New Jersey and Pennsylvania. It is time for the State to act. We recognize that the State has made some progress with VLTs in racetracks, but the larger focus should be on developing tourist destinations that will attract **out of state dollars**. For this we need casinos. After all, the gaming/casino element is an amenity in resorts. It is like an attraction for patrons like a golf course, spa, night club, etc. It provides patrons with something to do in the hotels. With gaming we can spur resort development which will be able our County and State to compete with the surrounding states. It is clear that our New York dollars are exiting the state to other venues. We need to stop this exodus. We need to redevelop the Catskills as a world class destination. We have very few hotel rooms left in our County. Without question, gaming will help revitalize our tourism industry.

The multi layered approach that I spoke about is to continue to push for Indian gaming in Washington. We have recent evidence that these projects that can be done. Additionally, if the State is going to move towards legalization, that is also good, but we see this as a moderate to long term opportunity, which we strongly support, but we also desperately need to develop projects now, as tax revenue is needed. This approach can satisfy many interests and best serve the people of the State of New York. The Stockbridge project, which I will detail below, has done everything the Federal and State and Local governments have asked for. In a recent decision the Department of Interior last Friday, approved two off reservation gaming projects. This is a significant sign that the current Obama administration is willing to move forward on these projects. We recognize the frustration that has existed by not only our local governments but Senator Bonacic on the inability to get the Federal government to move on these projects, but Friday's decision demonstrates that they can be accomplished.

Now, the naysayers, may point to that fact that the Department also did not approve two projects last week, and specifically cited that one of the Tribes had not demonstrated to the Department that it could "effectively exercise jurisdiction over a parcel nearly 300 miles from its existing

reservation". We understand that the Stockbridge reservation is over 1000 miles from the proposed gaming site, however what is a clear fact is that the Stockbridge have diligently and systematically worked with our local governments - for over 10 years - in such a way as to clearly demonstrate that they can exercise jurisdiction over the parcel that is proposed to be taken into trust. They have successfully worked on local service agreements with the County and the Town of Thompson, they have entered into local infrastructure agreements with the Town of Thompson and the Village of Monticello. They have conducted numerous public meetings in the County and Town. They have participated in numerous local meetings. They have clearly demonstrated to the County, the Town of Thompson and the local community they would be good neighbors and active in the fabric of our community, while maintaining the sovereign status. A status with the local governments recognizes and fully support. This message must go to the Department of Interior as they consider the Stockbridge project for approval.

The Stockbridge Munsee casino project is a much needed economic engine that can help Sullivan County begin to re-establish and redefine its tourism industry. Tourism is one of the original green industries. Our County possesses a great wealth of natural resources for outside visitors and locals to enjoy. We have always sought to balance and protect our county's resources and the Stockbridge project will not deviate from that great tradition. I would again emphasize to you, one of our most precious resources is our people. We have to give them good jobs, a decent wage, and not tax them into extinction.

Let us look at the economics of this project. The benefits to the local and state economy are unquestionably positive. The Stockbridge project represents a \$680 million dollar investment in Sullivan County and New York State's economy. It would be built in two phases. The first phase would generate approximately 2,400 construction jobs and with a construction cost of \$350 million dollars. Total construction payroll would be 132 million dollars. The multiplier effect of this \$350,000 dollar investment would result in an additional \$321 million dollars of related economic activity and would support another 1,800 jobs in the New York State economy with an additional payroll of almost \$90 million dollars. Following Phase I when the casino goes into operation it would be expected to create about 3,000 new fulltime jobs in Sullivan County. These jobs represent a total payroll of approximately \$106.5 million dollars. Additionally the ripple effect would create almost another 1,000 jobs in the regional economy with wages and salaries of approximately \$50 million dollars. These numbers speak for themselves. With phase 1 alone, this project must be done by the State. How could we not embrace this type of economic development?

When phase II is built out, for each of the seven years of construction, it would generate almost 700 jobs per year of construction with a total payroll of \$257 million dollars. On top of that the project would generate an additional 500 construction related jobs for each year of Phase II construction generating another \$173 million dollars in wages over the seven year period.

When fully built out, the casino would become the Catskills largest employer creating an estimated 4,900 new full time jobs in Sullivan County. It is expected that 80% of the employees are expected to come from the immediate Sullivan, Orange, Ulster and Delaware County areas. The casino payroll would be approximately \$171 million dollars per year.

The multiplier or ripple effect of these jobs in the New York State economy would support another 1,820 jobs and a payroll of \$111 million dollars. It is expected that half of these new non-casino jobs would be located in Sullivan County and the rest in the region. In total, Sullivan County would benefit from over 5,800 new jobs, and the State as a whole would gain over 6,700 new jobs. The total payroll for the on-site and off-site non-casino jobs resulting from the project is \$282 million dollars. The casino at full operation is expected to generate total economic output of 926 million dollars in New York State. I ask again, how this project does not get done in the economic environment that we are now living in New York State. We have a 10 billion dollar budget gap in this State. Here is a way that the Hudson Valley and Sullivan County can help to close that gap.

Also, the completed proposed Project would continue to provide direct payments to Sullivan County in the amount of \$15 million annually to address impacts to local services. I would note for the record, that these numbers are derived from the Tribe's Draft Environmental Impact Statement.

Again our approach is not to just advocate for the Stockbridge. We also would like to see the other projects proposed in the County, at the Monticello racetrack and the Concord Hotel move forward. I am happy to point out that many members of this committee, including the Chairman have supported casino gaming in the Catskills for many years. Senator Bonicic, we appreciate your support in 2001 when you voted to authorize 3 Indian casinos in the Catskills and also in 2005 when you voted to authorize the Mohawk casino at the Kutcher's hotel. These votes by you and the other members of your committee show the kind of commitment that is needed to rebuild the economy of our county, region, and state. We would hope that you would continue to support the efforts to bring gaming to Sullivan County and rebuild our tourist industry. Rebuilding our tourism industry rebuilds our middle class. This will of course have a positive economic effect to other business including the racing industry.

Regarding the issues raised concerning environmental protection, the Tribe has completed a full environmental impact statement (EIS) under NEPA. Every issue was addressed through this lengthy process. One of the issues raised is the protection of the New York City Watershed. I testified before the New York City Council recently on this issue. First and most importantly, the New York City Department of Environmental Protection testified there would be absolutely no impact on the watershed. I would like to remind this committee that when there were hundreds of hotels in Sullivan County, and millions of people who traveled to our County in the 1950s through the 1980s, there was not any issue raised about the tourist industry damaging the Watershed. Given the fact that all those hotels have now vanished, it is perfectly reasonable to conclude that by redeveloping the tourism industry to its previous level, we would not see any negative effect on the Watershed or the towns that surround that resource. There used to be hundreds of hotels. Also, when we had a very vibrant tourism industry the Monticello raceway would attract 15,000 to 20,000 on some nights.

In conclusion, we need jobs, we need jobs and we need jobs. The Stockbridge project is an opportunity not only to create thousands of jobs, but to re-energize a once vital industry, tourism, in an economically impoverished county. Sullivan County was once a renowned tourist destination. The Stockbridge project would be a world class facility that would with other world

class facilities like Bethel Woods help our green tourism industry thrive again. The project has looked at the environmental issues. A full EIS has been drafted. We also support the other proposed projects in the County at the Racetrack and the Concord. We need to move forward to build our economy. We do not believe our precious natural resources will be harmed. Now is the time to rebuild one of the greenest industries we have, tourism. Let's all work together on this. Thank you for your time.

TESTIMONY BY
EMPIRE RESORTS/MONTICELLO CASINO & RACEWAY

Charlie Degliomini, Executive Vice President of Empire Resorts:

Mr. Chairman and members of the committee my name is Charles Degliomini and I am the Executive Vice President of Empire Resorts. Empire Resorts is the publicly traded owner of Monticello Casino & Raceway located in the Village of Monticello in Sullivan County. Seated next to me is Joseph D'Amato our CEO who will later address some of the specific issues and benefits regarding commercial casino development in New York State. Also with us today on the panel is Tim Lies who is Project Executive at Entertainment Properties Trust – East. Entertainment Properties Trust is a specialty real estate investment trust that invests in properties in select categories throughout the United States, with an investment portfolio of nearly \$3 billion. Mr. Lies will address the Committee later on how the proposed Constitutional Amendment would impact private non-gaming investment, particularly how these changes will impact Entertainment Properties Trust's current investment in Sullivan County.

The Chairman is fully aware that Monticello Casino & Raceway is New York State's gaming and racing partner in Sullivan County. I am proud to report that since our opening in June of 2006, Monticello Casino & Raceway has contributed over \$192 million for New York State Education, over \$62 million in payroll to our employees, \$32 million in purses to our harness horsemen, \$14 million in benefits and taxes to the State of New York, \$3.8 million to the Town of Thompson, \$1.8 million to Sullivan County, \$1.7 million to the Village of Monticello and \$1.4 million in sales and use taxes. In addition to these financial contributions to the State and local governments, we also employ over 312 local residents and we host a harness horsemen

colony comprised of over 300 plus members who earn their livelihoods from our harness racing operations.

The operation of a harness race track and Video Gaming Machines facility in New York State has not always been easy. The 2010-11 New York State Budget resulted in the loss of 1 percentage point of our vendor rate. This resulted in an additional cost to Monticello Casino & Raceway of approximately \$560,000. The impact of New York City OTB closing also has had a dramatic impact on the industry with Monticello and its horsemen losing \$7 million that were owed to us in pre-petition payments and \$200,000 per month in future payments. That being said, as Monticello Casino & Raceway moves forward we continue in our commitment for economic development in Sullivan County. This year we announced a exclusivity agreement and term sheet for the joint development of approximately 1,500 acres at the Concord Resort property. The estimated investment by Empire will be in the \$250 million range relating to the construction of a new casino and racetrack with a hotel and related amenities, including restaurants, a spa, conference, simulcast room and meeting rooms, entertainment venues, and a parking garage. Ultimately, the total investment in the property will be in excess of \$600 million. If table games and industry standard slot machines were to be approved by the citizens of New York State, that investment would grow significantly and provide more employment to the Sullivan County community.

It is interesting when we look at casino development in light of the recently released report by the Fiscal Policy Institute. According to the Fiscal Policy Institute 1.4 million New Yorkers, or 14.7 percent of the workforce, lack full-time employment - this includes 8 percent who make up the state's official unemployment rate plus those who could only land part-time work or gave up looking. Those are alarming numbers and even with the rosier estimates from the Rockefeller

Institute there is still cause for great concern. Although the Rockefeller Institute report showed that New York's economy surpassed the nations from 2007 through last year the report found that while jobs grew by 1.1 percent in New York City from 2007 to 2010, they declined everywhere else in the state including a 3.1 percent decline on Long Island.

Now, casinos are not the elixir to all of New York's economic problems but, the fact remains, that the authorization of commercial casinos would spur economic development in New York State and create jobs, both in construction and permanent full-time positions at the casinos. Right now many of our dollars are streaming out to other jurisdictions. It is only a matter of time before Massachusetts authorizes commercial casino gaming. Not only would the authorization of commercial casinos in New York keep many of those dollars in state, but the jobs created by casino development would have a positive impact on the New York State economy. Later, both Joe and Tim will address our investment in Sullivan County and the impact that commercial casino gaming would have on this investment as well as throughout the State

As with any discussion of casino gaming, the issue of Native American gaming must be addressed. Empire more than anyone is aware of the arguments for and against Native American gaming as Empire has its own history with Native American gaming. By way of background, prior Empire Board of Directors and executive management pursued off-reservation gaming for many years. Although, for the record, at no point did prior or current management ever consider closing VGM and harness racing operations as off-reservation gaming was contemplated. That being said, about a year ago, our Board of Directors and executive management evaluated and reviewed the feasibility of Native American gaming. When we completed our review, we ceased pursuing off-reservation gaming for two very important reasons:

First, we have been apprised that Tribes can and will unilaterally stop payments to NYS and local governments. As a publicly traded company, it would be extremely difficult and perhaps impossible for us to manage any gaming facility that would stop mandated compact payments to the State and local governments. As a company and as individuals, we do not enjoy the legal protection of the impervious shield of sovereign immunity.

Second, under federal law, we would only be permitted a 5-year management contract, with the possibility of an extension to 7 years, and development and financing fees, but nothing more. As an EXISTING Casino and Raceway, we own our operations outright now and in perpetuity. After a side-by-side analysis, it is clear to us that our future is in being a NYS commercial casino and racing partner.

Finally, it is to the benefit of Empire, as well as the New York State and our local community, that we maintain a business model that does not have a five or seven year "expiration date" --- as would be the case if we were to pursue off-reservation gaming. We will operate, pay taxes and employ local residents under New York State law and regulations and subject to New York State court jurisdiction. Currently Monticello has already provided over \$192 million to New York State for Education. The other six currently operating VLT sites provide a revenue stream for the State of New York in a similar manner. But what happens to these contributions and our jobs after a Tribe opens a Class III casino? We are struggling with the conundrum that to create Tribal casino jobs, over 300 Monticello Casino & Raceway jobs (and hundreds of harness horsemen jobs and breeders) must be destroyed along with our substantial contributions to the State and local economy.

As we look at commercial casino gaming there are other important aspects we must address. First, as far as how the State should divide the revenue received from gaming we understand this is the purview of this Committee and those in the Assembly and Governor's office who will make this determination. Given a fair tax rate and the tools to compete with our surrounding States, we will more than have the ability to be an economic engine for the State of New York.

Also, we must examine where these commercial casinos should be located and the impact that this would have on casino development and the economy. With that in mind I would like to turn my time over to Joseph D'Amato who will further discuss the issues surrounding Native American casinos as well casino development and the investments associated with such development.

Joseph D'Amato, CEO of Empire Resorts:

Thank you Charlie and thank you Mr. Chairman and members of the Committee for providing me with this opportunity to address you on this topic.

I have spent nearly 30 years in the casino hospitality and entertainment industry. I understand how to compete. I spent a majority of my career in Atlantic City and four and a half years of my career in a New York Native American gaming operation. Not to belabor the point, but when I worked as the COO and CFO for a New York Tribe, the exclusivity arrangement that the Compact gave the Tribe regarding Class III slots, positioned the Tribal casino at a distinct competitive advantage against any of our competition. I understand what these advantages mean to any business that has them. First and foremost, Tribes are able to restrict competition. They can reinvest in their guests and facilities, raising the competitive bar.

Some would argue that you could consider operating commercial casinos alongside Native American casinos but again, we need to look at the actual facts associated with such a proposal. Last year the State was considering a proposed Stockbridge Tribe casino in Sullivan County. The Tribe's response to Monticello's ability to survive was simply that, "Monticello Casino & Raceway should just compete, look at all the casinos there are next to each other in Atlantic City and Las Vegas."

This statement might be very easy to say but no single casino on Atlantic City or Las Vegas has a one-sided a competitive advantage that makes it impossible for their neighboring casinos to compete! In Atlantic City and Vegas, each casino has the SAME . . . repeat . . . THE SAME TAX RATE! In Atlantic City and Vegas casinos are allowed to compete on a level playing field.

New York Commercial racinos, taxed at a blended rate of about 60%, cannot compete with a Native American casino, which pays zero tax on table games and up to a mere 25% on slot revenues. This unlevel playing field means that Native American casinos can invest much more in resort facilities and provide free room, food, beverage, shows and other complimentary incentives to players, which may not be economically viable for a full tax-paying commercial business. Finally, the statement fails to comprehend the current business model on the east coast. New York, Pennsylvania, New Jersey, Connecticut, Delaware, Maryland and Ohio IS NOT the Las Vegas market.

Therefore, as Charlie mentioned, the expansion of Native American gaming to the New York State landscape will only hurt the current New York State VLT operators regardless of whether or not Class III gaming is approved.

Mr. Chairman and members of the Committee, as I look at gaming today from my experience on the East Coast, the State must be cognizant of the fact that the model which seemed so plausible over a decade ago, the Las Vegas/Atlantic City model, does not work any longer. You simply can no longer build multiplecasinos in one location and expect each casino to fair as well as the next. The expansion of gaming into Pennsylvania, West Virginia, Delaware, Maryland and Ohio, in addition to gaming offered in New Jersey and Connecticut and perhaps Massachusetts has altered the face of gaming on the East Coast. Convenience gaming dominates the competitive landscape offering the gaming public with many options in their own areas. Couple that with a downturn in the economy and the landscape for what constitutes the casino customer has changed. Even in Las Vegas which we all would agree is the gaming center of the United States has seen the cannibalization of gaming and the loss of revenue. The economy and competition

from Arizona and California has adversely impacted their performance. So, when looking at the New York State model, there is a saturation point to gaming. What we want to see is New York State maximize its revenue and create solid economic development opportunities in local communities that will last and provide jobs.

Therefore, it is important that this Committee consider the correct balance in regards to the number of casinos that should be authorized by a Constitutional Amendment. I think we would all agree that casinos create jobs. But we would be foolish to think that this job creation mechanism should not be balanced against what is best for the community and the economic realities of the market.

One only need to look at Atlantic City's cluster model vs. Pennsylvania's model where facilities are not placed on top of each other to understand that old premise of, "build multiple casinos in one spot and the people will come" is no longer operative. Gaming revenue and attendance in the state of Pennsylvania has caught up to and exceeded Atlantic City because, in Pennsylvania, these facilities are not all in the same zip code. Moreover, in Pennsylvania, the jobs and economic positive impact are spread across the state, clearly a major benefit to all of the people of the Commonwealth.

What makes most sense it to have table gaming in our soon to be nine existing locations that already host racing and gaming and that are well distributed geographically across the state. The State must also take into account the concerns and needs of the various communities. Oversaturation will not help the New York State economy. Therefore we propose, as does the New York Gaming Association, that casino gaming be authorized at the existing and approved VLT operations. The communities that are home to these facilities are used to gaming and have

embraced gaming as part of their community. Horse racing as well as video lottery gaming already exists at these sites. The addition of table games will not dramatically alter how these communities interact with their current gaming partners. Also, since these facilities are strategically spread out throughout the State, it would avoid any concerns regarding oversaturation of the market. This proposal would bring economic development to every region of the State, create jobs, and have a positive impact on the communities hosting these facilities.

As Charlie has mentioned, Empire is currently seeking to develop approximately 1,500 acres of property in Sullivan County. As part of this development, we believe the initial investment will be substantial, approximating \$250 million to develop and construct a new gaming and raceway facility and with other development on the approximate 1,500 acres with Entertainment Properties Trust the overall investment will exceed \$600 million. This investment is being made without the contemplation of casino gaming. We estimate that this investment will create a minimum of 1,200 construction jobs and over 750 permanent jobs at the casino site alone and we expect over 1,000 permanent jobs created on the entire site that will be developed with Entertainment Property Trust. If we were allowed full casino gaming the investment by Monticello alone would increase substantially adding 200 to 300 additional jobs as well as increased tax revenue to the State and Sullivan County. The benefits to Sullivan County are significant:

- [Increased real estate taxes on the value of the facility.
- Occupancy taxes on occupied hotel rooms.
- Full-time jobs for local residents.
- New housing demands bring more jobs, economic development and taxes to the County.
- More money spent in local stores due to increased employment.

- Reduction in certain payments to individuals on government assistance.
- Catalyst for further economic development in the County.

In closing, it is our belief that if New York State takes a balanced and sensible approach to casino gaming, it can more than exceed its expected economic revenue gains from the ratification of a Constitutional Amendment to allow commercial casino gaming.

Thank you Mr. Chairman and now at this time I would like to turn it over to Tim Lies who can provide some perspective as to how a non-gaming investor sees the opportunities associated with the authorization of commercial casino gaming in New York State.

Tim Lies, Project Executive, Entertainment Properties Trust

Thank you Joe and thanks you members of this Committee. My name is Tim Lies and I am Project Executive at Entertainment Properties Trust – East. By way of some background –

Entertainment Properties Trust is a specialty real estate investment trust (commonly known as a REIT) that invests in properties in select categories which require unique industry knowledge, while offering the potential for stable and attractive returns. Our total assets exceed \$2.7 billion and include megaplex movie theatres and adjacent retail, public charter schools and other destination recreational and specialty investments. We adhere to rigorous underwriting and investing criteria, centered on key industry and property level cash flow criteria.

Our investments in New York are significant. As the Chairman knows, we are the owners of the Concord Resort Property which comprises approximately 1500 acres in the Town of Thompson which represents an existing \$183 million investment. We are also owner of the New Roc Shopping Center in Westchester County which further represents a multi-million dollar investment in New York State. Clearly, considering all of the capital we have already invested in New York -- and with the prospect that we will be doing much more at the Concord Resort property-- even though we are a Kansas City based company, we are very much in a, "*New York State of Mind.*"

Mr. Chairman and members of the committee, I am pleased to be here today in order to add our voice to supporting a constitutional amendment. First off, I want to be frank with the committee and tell you that I cannot speak to the gaming particulars as Joe and Charlie have done as long-time industry professionals. However, my company is very familiar with the components that are

necessary to build an economically sustainable entertainment complex – which is what we are contemplating for the Concord Resort property.

We have retained the well-respected master planning firm HART HOWERTON to come up with an economically sustainable development model at our property in Sullivan County. While our overall master planning work is currently on-going, one thing that is readily apparent from our experience and research is that gaming development at our site is a very critical element.

One of the big challenges we face at Entertainment Properties is that in order to build a viable entertainment complex – there needs to be what is commonly known as “an anchor property.” The way this process works is simply that marquee entertainment attractions like to follow development; not necessary lead it -- especially in a rural location that is not densely populated. In other words, “Everyone wants to go second, not first.”

Should table games be permitted in New York State, it will be more likely that we would be able to better master plan the site. Our ability to attract additional, high-end tenants beyond the core casino, racetrack and single hotel would be enhanced. With table games attracting additional visitors (and especially overnight stays), it is more likely that we will be able to bring in the marquee non-gaming entertainment brands. Table games attract a “higher-end” gaming customer. The table-game-customer is one who stays longer at a facility, often overnight, and thus creates a need for more and varied food and beverage facilities as well as lodging. This cliental also creates the need for more retail and merchandise offerings and stores. It also leads to more amenities such as spas, golf courses, tennis, wedding facilities, and event centers. Quite simply, the addition of table gaming in turn, increases the need for the non-gaming partners to increase their investment to keep up with the demands of the customer.

Right now the property we are seeking to develop in Sullivan County will have an overall investment of \$600 million and create at a minimum 1,000 jobs. As I mentioned, table games offers us an additional market as a non-casino investor. This new consumer would create more needs for development and expansion of non-gaming facilities. In turn this will increase investment at the site, increase the number of permanent and construction jobs, and lead to additional retail development in the surrounding Sullivan County Community. As we look at the startling job numbers that Charlie mentioned earlier, the addition of casino gaming would be an important revitalization tool for Sullivan County and, from the viewpoint of a non-casino investor, will lead to increased overall development in the Sullivan County area as well as New York State.

In closing Mr. Chairman, Entertainment Property Trust has already made a significant investment In New York State as well as Sullivan County. As we look across the potential landscape through our experience as a leading real estate investment trust, it is clear to us that the authorization of commercial casinos would have a positive impact on economic development. In particular, from our viewpoint in Sullivan County it is clear that we, along with Monticello Casino & Raceway, could build a viable and sustainable economic engine for Sullivan County -- an engine that will only grow larger and more forceful through the authorization of commercial casino gaming at that site.

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Testimony by Joshua Gold

**Director of Political & Strategic Affairs, New York Hotel & Motel Trades Council
Joint Hearing of the Senate Judiciary and Racing and Wagering Committees
September 7, 2011**

Good Afternoon,

I wanted to first take this opportunity to thank Senator Bonacic, and the members of both committees here today for taking the time to begin what should be a series of good, important discussions around the future of full casino gambling here in New York. It's a subject that deserves serious conversation, and we hope to play a constructive roll in that dialogue moving forward.

My name is Josh Gold and I am political & strategic director for the Hotel & Motel Trades Council. We represent 30,000 hard working New Yorkers in the hospitality industry throughout the State.

The current discussion about gaming in New York is a very important and very serious conversation. The consequences of the decisions that we make, as a State, will be far-reaching and long lasting. Success cannot be defined solely on how many big new casinos are built, or what kind of restaurants and events come in, but by whether or not the citizens of New York would be better off than they are today.

At its best, a thriving gaming industry can offer recreation and entertainment to residents and tourists. It can lure visitors and stimulate the local economy by providing good paying jobs with health care benefits and pensions. At its worst, gaming can drain local economies and government resources, rend the social fabric of a community and depress wages.

Absent the firm guiding regulation and leadership of the State, the gaming industry will pay workers low wages; provide little or no healthcare; and little or no retirement benefits. Workers will go home from bad jobs with little to give back to their communities. Workers will need healthcare coverage and retirement support for themselves and their families. State and local governments will be left to pick up the tab, and New Yorkers will suffer.

There are some people who oppose gaming for ideological reasons. We respect their views and expect legislators and the public to give careful thought to the question throughout the lengthy process of considering a constitutional amendment. However, here today as representatives of hard working New Yorkers, the key question for us is not whether to have gaming or not.

The question is, if we expand gaming, what kind of industry will it be and what will be its impact on New Yorkers? Will the future of gaming look like the racino at Aqueduct, where workers will collectively bargain for fair wages, healthcare and pensions? Where workers can speak up about abuse and discrimination?



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Or will the future of gaming look like other casinos where workers are paid substandard wages, have no collective bargaining rights and have limited protections from abuse and discrimination in the workplace.

These are the questions that must be addressed in any consideration of a constitutional amendment. Going forward, it is the responsibility of State leaders, including the elected officials in this room, to set the bar high and hold the industry accountable. State leaders must ensure that gaming helps New Yorkers, and lifts the New York economy.

There is a lot of talk right now about creating jobs, and for good reason. The extended economic recession has left many New Yorkers unemployed or underemployed. Certainly, more jobs are needed.

Job creation is often the carrot that gets dangled in front of the public when expansion of gaming is discussed. But we cannot make mistakes in haste and we cannot assume that gaming is in and of itself a cure-all. Should the state move forward with granting an industry the privilege and opportunity of full casino gaming, the state must recognize its unique and historic position to ensure that good jobs are created.

New York must make it clear before it agrees to anything, or rewrites its constitution, what kind of jobs it wants. The State must make it clear that it wants good paying jobs, where workers have healthcare coverage and pensions and the right to organize a union.

Expanding the gaming industry is a major undertaking that may result in significant tax revenues. Elected officials must be careful to protect our taxpayer dollars and to protect our economy.

One of the most important ways to do so is to require labor peace agreements for any gaming facility in which the State has an interest. Labor Peace agreements safeguard the state from strikes and work stoppages, which can damage the industry and undermine the taxpayers' interests. Labor Peace agreements ensure that employers have the conversation about jobs before the state lets them in the door.

As representatives of hard working New Yorkers across the state, we believe that without labor peace agreements, expanding gaming in the state of New York may do far more harm than good, and we strongly encourage the Senate not to consider any proposals that do not include Labor Peace.

Thank you for your time.



STANDARD BRED OWNERS ASSOCIATION OF NEW YORK

TESTIMONY FROM JOE FARALDO REGARDING PROPOSED CONSTITUTIONAL AMENDMENT FOR FULL CASINO GAMING IN NEW YORK STATE

**To the NYS Senate Committees on Racing & Wagering and Judiciary
September 7, 2011**

I want to thank Chairman Bonacic and the Committee members for the opportunity to testify today. As you might imagine, many who are among the 40,000 New Yorkers employed as a result of the state's critically important racing, equine and agriculture industries are extremely concerned about their futures and their livelihoods, and so we are very grateful to be able to share our thoughts and concerns about a proposed constitutional amendment to allow full casino gaming in New York.

My name is Joe Faraldo and I am the President of the Standardbred Owners Association, representing horsemen at Yonkers Raceway. I am also advocating here today on behalf of thousands of members of the Empire State Harness Horsemen's Alliance, a statewide organization comprised of the SOA, Harness Horse Association of Central NY, Monticello Harness Horsemen's Association, Saratoga Harness Horseperson's Association and the Western NY Harness Horsemen's Association.

And finally, I am extremely proud to be able to announce that I am also speaking to you today as a member of a new statewide advocacy group that is now coming together – the New York Horse Racing and Agriculture Industry Alliance – that will consist of horsemen, breeders, and agricultural and farming industry representatives and organizations from across the state. The goal of this Alliance will be to protect the current and future interests of a horse racing and agriculture industry that is, as I mentioned before, responsible for 40,000 jobs across New York. So while you will no doubt be hearing today from a Gaming Association that represents the interests of nine racino owners, you will also be hearing – for the first time – from representatives of the tens of thousands of New York horse owners, trainers, veterinarians, farmers, feed suppliers, breeders, grooms, blacksmiths and others who could potentially see their livelihoods threatened should a constitutional amendment be adopted without specific protections and support for New York racing.

However, before we get to a more detailed discussion of our position on a constitutional amendment, let me first provide you with some context about the status of our sport. While the harness racing industry has seen a number of challenges and threats in recent years - from the proposed reductions in legally mandated payments to our industry as part of various OTB bailouts to the continuing struggle to get racino owners to adequately promote and support racing at their tracks – we also have seen significant job creation and major economic gains. Thanks to the thoughtful, racing-based video lottery terminal (VLT) initiative created by you and your colleagues

in the New York State Legislature, we have worked our way to an unprecedented renaissance in harness racing and standardbred horse breeding.

This dual purpose VLT initiative – charged with funding education and supporting a horse racing industry that is a major job-generator across virtually every region of the state – has increased purses and attracted investment into our breeding and agriculture sectors like never before. New farms and training facilities are opening in regions across the state and our New York standardbred horses are commanding the highest prices by far at auction. At a recent sale, for example, New York-breds averaged more than \$36,000, while our nearby competitor, Pennsylvania (which also has a major VLT initiative) barely averaged more than \$27,000.

The economic multiplier effects of this purse money on various sectors of the New York's economy are really quite amazing. Just consider a few of these very real, very concrete, very significant examples of how VLT-generated purse money is filtering throughout our local economies and is attracting even more investment in New York State:

- Blue Chip Farms in Wallkill, NY has made \$9 million in capital investments to their property since 2001 and has purchased and franchised stallions worth \$11.3 million dollars here in New York since the inception of the VLT program. Each of these investments has generated additional expenditures for New York feed companies, hay growers, veterinarians, trucking companies, plumbers, electricians, tractor mechanics and more.
- In 2006, a horse family from New Jersey moved to New York and built the Mt. Hope Training Center in Orange County. They have invested millions of dollars in this new facility, including building a new ½ mile track and a new 62-stall barn all with New York contractors and workers.
- In nearby Middletown, NY, Mark Ford has built a brand new, 85-acre training center that includes a 5/8 mile track and seven barns with 300 stalls. This facility – which directly employs 22 full time workers and hosts and additional 30 to 40 grooms employed by the trainers at the farm – represents a capital investment of more than \$8 million. It is also important to note that of the ten trainers currently stabled at the facility, eight have come to New York from other states...specifically as a result of New York's VLTs.
- Finally, in yet another truly inspiring story about New York investment, consider that in May of 2007, a gentleman named Agostino Abbatiello purchased an empty, abandoned horse farm in Pine Bush that he has since invested more than \$4 million dollars into and which now is home to the Pine Bush Training Facility. What was an abandoned property only four short years ago now hosts eight to ten trainers at a time – again, many relocating here from other states – and accounts for between 50 and 60 good New York State jobs.

As you can see, this isn't just economic theory or conjecture. These are proven, on-the-ground economic gains in communities throughout New York State that are taking place thanks to our harness racing industry, and a similar renaissance in the thoroughbred racing and breeding industries is no doubt about to occur with the opening of the Aqueduct VLT facility in the fall of 2011.

So then, in light of all of these positive economic gains, you can imagine why the members of this racing and agriculture Alliance are on pins and needles about how the proposed constitutional amendment will play out. For while it certainly could represent a real opportunity to expand upon these gains and benefits, it could also have the exact opposite effect if New York State, our elected officials, and ultimately our voters, do not make the right economic choice and take specific, proactive steps to protect our racing and agricultural industries.

To avoid cannibalizing a strong and growing racing industry – and potentially erase several years of economic gains – then any resolution to allow full-scale commercial casinos must include strong, detailed language mandating that these new gaming opportunities provide similar contributions to the state’s job-intensive racing and agriculture industries as currently exist in the VLT law. Without such mandated contributions, any resulting shift from existing VLT wagering to these new, competing full-scale casino wagering vehicles will undoubtedly decimate racing and, by extension, our agricultural industry. It is, quite frankly, economically illogical to consider trading off tens of thousands of existing racing, agricultural and equine-related jobs in exchange for increased profits for casino owners and a limited number of new positions for blackjack dealers, croupiers and pit bosses.

Furthermore, one must carefully consider what additional costs might be involved in the “fine print” of any proposal and what other details will be involved in this promise of new casino-related jobs. For example, if the racino operators are angling for reduced tax rates as a trade off for these additional jobs, then the state must consider how it will handle the transition from existing (and extremely popular) lottery table games such as roulette and craps to full casino versions of these table games with potentially different tax rates. If the racino operators are seeking lower tax rates on these new games than the current lottery based versions, how will that impact revenue to the state and to education? And how will the state protect our agri-industry within this transition?

These types of questions – and the need to effectively balance the various interests of the state, public school students, the racino operators, the racing industry, and agriculture in New York State, as the existing VLT program has done – are critical to the process and to the policy discussion we are now undertaking. So with New York continuing to face unprecedented economic challenges – and with “jobs, jobs, jobs” serving as the state’s current public policy mantra – we in the NY Horse Racing and Agriculture Industry Alliance look forward to working closely with you in your deliberations over the issue of a potential constitutional amendment. We remain committed to the belief that any such initiative must generate important funding for education in New York and simultaneously protect and promote New York racing, jobs and agriculture. Once again, on behalf of more than 40,000 industry representatives across New York State, thank you for the opportunity to share our thoughts.

CONTACT:

For additional information, please contact Joe Faraldo at 718-544-6800 or the SOA’s lobbyist, Joni Yoswein, at 212-233-5700.