

TRIBAL GAMING IN WISCONSIN

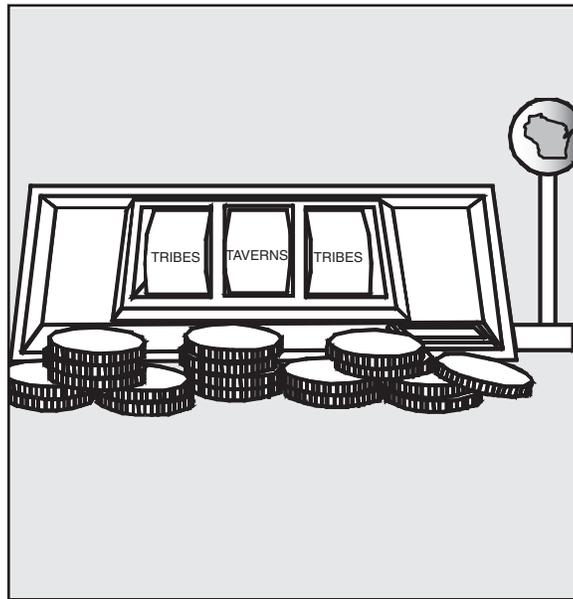
AN EMERGING POLITICAL AND ECONOMIC FORCE

JEFF MAYERS

One controversy above all others marked Democratic Governor Jim Doyle's first 100 days in office: tribal gambling. It is a controversy many Republicans say could dog Doyle throughout his first term and change the face of Wisconsin politics and culture for the worse in years to come.

Doyle supporters say the gambling controversy has been sensationalized, that, in the first four months of 2003, Republicans used tribal gambling as a fig leaf for their lack of budget-balancing ideas, that the GOP is trying to play the race card to gain political advantage in northern Wisconsin, and that some strident opponents of more tribal gambling exhibit contradictions of their own because they want to expand state-sanctioned gambling to taverns through the lottery.

Larger global issues as well as the state's budget crisis and Doyle's leadership have tended to overshadow the gambling issue recently, but it keeps popping up through the clutter. In mid-April, partisans tussled over a state GOP Web site cartoon that showed an airborne tomahawk chasing a Wisconsin taxpayer. A voice said, "As taxpayers, we got scalped." The GOP



removed the cartoon after a round of fierce criticism.

And then on April 25, the Doyle administration announced seven new compacts patterned after the Potawatomi compact, which is already moving forward. The new compacts include one with the Ho Chunk tribe that could result in a full-fledged casino in Madison. New

Madison Mayor Dave Cieslewicz, a Democrat who beat Doyle-backed Paul Soglin to win in April, immediately opposed turning the current bingo hall into a casino and then called for a referendum to show opposition. The announcements also spurred renewed legislative criticism of Doyle and more hand-wringing from some Democratic strategists who worried that Doyle's gambling expansion shift could make him vulnerable in 2006.

Those episodes demonstrate again that gambling is one of those issues that voters and politicians understand at a gut level, and its long-term political impact shouldn't be underestimated.

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Here's why:

- As attorney general over a dozen years, Doyle consistently criticized GOP Governor Tommy Thompson's gambling expansion policies. If Doyle now presides over widespread expansion — especially if new off-reservation casinos are opened in Kenosha and Beloit under his watch — that turnaround could eat away at his credibility and give Republicans a scandal-tinged issue to use against him in 2006, building on the negative advertising assault launched in 2002 (remember Bingo-gate?). The editorial press in Wisconsin has been critical of Doyle on the gambling issue, and newspaper editorial opposition to expanded gambling is entrenched. The political debate has focused on whether the pattern compact with the Potawatomi — whose chief lobbyist (ex-Democratic Governor Martin Schreiber) served as a Doyle campaign adviser and inaugural emcee — received a "permanent" compact and a lenient payment schedule in return for hundreds of thousands of dollars in soft money campaign donations. Early on, Republicans aggressively defined the terms of the debate, to the dismay of some Democratic strategists who say the issue helped Republicans unite against a new governor. Better communication with legislators in advance of the Potawatomi compact signing might have allowed Doyle to avoid the prolonged controversy. But this Republican theme still has political legs: Doyle made a 2002 campaign deal that gave away too much for too little.

- Full-fledged tribal involvement in Wisconsin politics will put a new political titan on the scene. Tribes have enough money to play politics like the big interest groups. Some tribes — the Potawatomi and Ho Chunk — already have more than tiptoed into the political arena with big soft-money contributions and commercials aiding Doyle and the Democrats in the campaign and in Doyle's successful battle to protect his veto of a Republican gambling-oversight bill. If the 11 tribes around the state ever got together — acting in unison on the political front and backing

the same slate of candidates with millions of dollars worth of TV ads every cycle — their impact could be huge.

- One subplot in the issue involves a constitutional dispute between Wisconsin's first Democratic governor in 16 years and a Republican-controlled Legislature. The Republicans say they should have the authority to approve compacts negotiated by Doyle — something the Legislature gave up years ago to Thompson. Doyle, switching positions from his stance as attorney general, has stated that the tribes can't negotiate with 132 lawmakers. He has vetoed two Republican bills aimed at reinstating legislative oversight and beat back a Republican veto-override attempt. Republicans have pressed on, asking the state Supreme Court to step in. If the Court gets involved, it could play havoc with the current regulatory framework — maybe even unravel the arrangements that support an industry valued by the Legislative Audit Bureau at nearly \$1 billion in 2001. The legal dispute could put on hold money due to come to the state from the tribes. Without that money (\$237 million more over the next two years, on top of the \$24.3 million a year received currently, according to the Doyle budget), the state's long-term fiscal health would become even more precarious and further cuts would be necessary.

- If the Republican Legislature, at the urging of the Tavern League of Wisconsin (TLW) — which is armed with poll numbers — approves legalizing and taxing video lottery, tribal payments to the state could be placed in jeopardy and state-sanctioned gambling would gain a prominent place in one of the state's cultural icons — the local tavern. Doyle has said video poker in bars is unconstitutional; proponents, including some Democrats, say you can get around the constitutional problem by hooking games in bars to the already-legal lottery.

To partisan spin-meisters, the political lines are clear. Democrat Kent Fitch and Republican R.J. Johnson squared off on the issue recently at WisOpinion.com.

Wrote Fitch, now part of ChristiansonFitch consulting in Madison:

There are really only two types of people in the state — those that gamble and those that don't. The people who don't like gambling believe we should banish all gambling in the state. And those who like gambling are happy we now have longer compacts.

So why are the compacts receiving so much play around the state? It is a sexy story for the media, and a very convenient foil that allows the Republican Legislature to hide its inability to come up with a solution.

You have to give credit where credit is due. The Republicans have successfully changed the debate about our budget [into] a discussion about the compacts.

Johnson, with the Eisner Johnson group, noted \$700,000 in soft money contributed to the DNC, plus an estimated \$1 million in issue ads paid for by the tribes (Eisner had a hand in some of the ads). He shot back to Fitch:

It's estimated the Forest County Potawatomi will double their annual net revenue to \$500 million. That's just one tribe. Would you consider a payoff of \$250 million a good return on your investment of \$1.7 million? 147 times your money back. Now that's my kind of gambling. I smell a campaign ad.

We are told we should be grateful as taxpayers to be getting so much more money than we did before. I don't know about you, but I don't feel grateful to have a governor who was bought. I don't care how much money it brings in.

We don't get to see the results on Doyle's electability until 2006. But you won't have to wait until then.

To sum it up?

Price to buy yourself a governor? About \$1.7 million.

The payoff for that investment? \$250 million a year and counting.

Handing Republicans three more Senate seats (in 2004) because in a payoff you expanded gambling in Wisconsin forever? Priceless.

Democrats dispute whether the three senators who voted with Doyle on the veto override — Roger Breske, Dave Hansen and Mark Meyer — will go down next fall over the gambling issue. But Republicans appear intent on keeping the issue alive, and it's probably a controversy those incumbents would rather not deal with.

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In addition to those political considerations, there's a clear economic one. Longer-term compacts could make the tribes true partners in bolstering Wisconsin's flagging economy. The tribes have money to invest, but they need longer-term compacts to ensure the financing for bigger projects. If the rich tribes were to leverage gam-

bling money into true non-gambling economic development, the state's long-term economic picture could brighten. One 2001 study concluded that the positive economic impact of longer compacts on Wisconsin's economy would exceed \$1.1 billion. Bureau of Indian Affairs (BIA) approval of the Potawatomi-Doyle Compact paves the way for a \$120 million investment in the Potawatomi Bingo Casino and an estimated \$340 million in payments to the state over the next 10 years, say Potawatomi officials. They also say that the compact will allow the casino to compete effectively with casinos in other states by permitting new games, higher betting limits, 24-hour play for table games, and more tables and slot machines at the Milwaukee casino.

The debate has moved beyond whether casino gambling is good or bad. It focuses now on how much gambling there should be, where it should be located and how it can be used to benefit the tourism industry, small businesses, and the state's economy.

Tribal gambling is here to stay. Federal law, the building of big casino and hotel complexes, and the loyalty of gambling hall patrons ensures that. But the controversy over tribal gambling is also here to stay. Republicans and the press don't seem likely to let it go.

That obviously nettles Doyle, who used to dig at Thompson on the issue. At a WisPolitics.com newsmaker breakfast in late March, Doyle said he was surprised at the Republican Legislature's stance on the issue.

Obviously, the Legislature never objected when Tommy [Thompson] entered into a compact with the Menominee tribe that would have given Kenosha an off-reservation casino, signed it, and it wasn't revealed until three months later and there wasn't a peep out of the Legislature. I guess it was a little surprising to see the vehemence of [the reaction to] my delivering a compact that delivers five times more money, does not have off-reservation gambling.

The fact that they would move so precipitously, go into an extraordinary session on one day, have a bill passed the next day. . . I would have thought that they would have taken a deep breath and thought about it a little, talked it over a little before they did all of that. . . . It doesn't surprise me that there were people who were strongly opposed to compacts and some who have been consistently opposed to compacts, but people who never uttered a word when Tommy signed the secret deal with the Menominee [tribe] for an off-reservation casino in Kenosha that gave them the full range of games that suddenly got so worked up over this, I guess that was a little surprising.

Still, Doyle didn't rule out new casinos in Kenosha and Beloit. "It is not likely that that is going to happen — certainly not without an

expression of local approval. I am not going to do it without an expression of local approval. If that is what they want to do, even then, I don't think it is going to happen," Doyle said at the WisPolitics newsmaker breakfast, pulling back from what had been a more encouraging administration tone. He continued:

This process, by the way, is an incredibly long and difficult process that has little to do with the state. Before you ever move forward on this you have to first purchase the land. . . . [Then you] have to go to the federal government and have the [BIA] put the land in a trust. . . . [And you have to] make the determination that the land can be used for gaming. That is a long and difficult process, long in terms of years and years. . . . I was in Beloit recently and of course they bring it up and I said to them, "Anybody who thinks a casino in Beloit is going to be a quick and easy answer to economic problems better look at the history of these [casino initiatives] all over the country that take years and years to ever happen."

But some Republicans predict new off-reservation casinos will be established under Doyle's watch, benefiting the tribes more than the taxpayers and the State unless the Legislature can gain oversight authority. Assembly Speaker John Gard, R-Peshtigo, who has emerged as Doyle's leading critic, says he and his colleagues support longer gaming compacts but are pressing the tribal gambling issue because every generation should have the right to examine the role of gambling in the state. Some tribal supporters say the Republican stance is rooted in racism (and cite the GOP Web cartoon as proof). But Gard told WisPolitics.com in early April:

Some representatives of some of the tribes want to play the race card because they're afraid to talk about the merits of gambling. That is a copout. And . . . I think it hurts their own credibility, not the credibility of the people around here. . . . There is a dark side to gambling that nobody wants to talk about. And they know it. Everybody knows it. Look, if anybody else had gotten the sweetheart deals that the tribes have gotten, they'd want it approved, too. The problem

is the taxpayers of Wisconsin could've gotten a much better deal for much shorter terms. And . . . when you're in a budget problem the way we have it, I . . . think we could've . . . gotten a better deal. They want longer contracts. We were prepared to give it to them, just not forever.

Gard says he expects to win in the Supreme Court, but a decision there could be months away. In the meantime, the GOP Legislature is likely to stick with Doyle's projected gambling revenue line-item in the budget. About the Supreme Court victory he foresees, Gard says:

[it] would mean that [the tribes] would have to come back and negotiate fairer deals to the taxpayers in Wisconsin. I've maintained we could've gotten a better deal. And I maintain that this is not the only alternative out there. I mean, the governor has to hard-sell this, because he knows people are suspicious as to why the deals were cut the way they were. But regardless of what happens in the court, at the end of the day, Potawatomis, Ho-Chunks and Oneidas want longer-term gaming compacts. They can get them, as long as they're not forever, and more reasonable terms. And then I think the state can receive a significant amount of money for them. I don't think it's the Doyle plan or nothing. . . . Anybody who wants to say that, I think, is playing the state for a bunch of fools.

As to video lottery in taverns, Gard hinted that his Assembly caucus might approve it. Said Gard:

I think from Milwaukee, to Madison, to Marinette, people believe it is unfair that one group of people get wholesale, massive expansion of gaming, and nobody else is entitled to it. And every poll I've seen recently would support that belief. . . .

I mean, Governor Doyle's premise has been, we need the money so badly, I'll sell my soul on gambling to get it. You know, if it's all about the money, you can make more money on video lottery. [But with] permanent gaming compacts that just blow the doors off expanding gaming in the state, it's much harder to look at Joe average small business guy — who's paid his taxes, hired people and [is] earning an honest living — it's harder to tell those folks that they don't deserve some of the same opportunities that Native Americans do. And I think there is a growing sense that the current standard in Wisconsin is unfair.

Some see Republicans gaining a political advantage if Doyle would veto such a proposal, estimated to bring in between \$100 million and \$500 million over the next two years. Republicans would portray Doyle as being against small businesses and for the tribal monopoly. Polling done for the Tavern League of Wisconsin by The Tarrance Group appears to support the coming campaign themes.

A poll of 800 likely voters near the beginning of April 2003 suggests what seems to be a shift in voter attitude, at least according to proponents of video gambling in bars. After years of opposing video gambling in bars, public opinion seems to have shifted as voters realize gambling is here to stay and that the issues now are property tax relief and fairness. Here is a summary of the relevant polling data:

1. "As you may know, there is a proposal to allow video lottery terminals in taverns. Under this proposal, the state would charge taverns a fee and license them to provide video lottery games. The proposal would generate more than \$200 million a year to be used for property tax relief. Do you favor or oppose tavern owners in Wisconsin offering video lottery in their bars?"

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Sixty-one percent of those polled said they favored video lottery in bars, 32 percent said they were opposed, and 7 percent were unsure. This represents a shift from 1993, when state voters said they wanted to limit gambling. Analysts also have noted that tying the latest proposal to the already-accepted lottery might make it more palatable to voters.

2. *"Other people say that they are in favor of allowing video lottery terminals in taverns because it will generate as much as \$200 million annually in property tax relief, and allow taverns to compete with the Tribes, while not jeopardizing tribal payments to the state."*

Sixty percent supported that statement.

3. *"Governor Doyle says that he is opposed to allowing video lottery in taverns because it may jeopardize the payments that the Tribes currently make to the state."*

Twenty-two percent supported that statement of opposition.

The numbers also suggest that the gambling issue is contested statewide, not merely in northern Wisconsin. The TLW issues scored well in Milwaukee County, Dane County, and in the Twin Cities media market that covers western Wisconsin. For the tribes, legislative endorsement of video lottery in bars would be seen as one more reason to tilt to the

Democrats. The GOP Web cartoon flap spurred a backlash that appeared to deepen the divisions caused by the veto override debate. Forest County Potawatomi Community Attorney General Jeff Crawford called the GOP cartoon "racist and derogatory." Said Crawford:

Someone should tell the Republican party that the political campaign is over and it is time to govern. Legislators should be working to balance the budget, not trash the people who are helping to solve a problem that Indian tribal governments did not create. . . .

I have counseled tribal leaders to be bipartisan and support Republicans and Democrats. We will continue to support Republicans who support us, but the racism embodied in this cartoon makes it more difficult.

You would think that any politician would be happy with payments that are five times what they were under the previous compact and payments that are two or three times what the corporate income tax would be if these tribal governments were subject to corporate taxation.

The latest casino gambling controversy not only threatens to dog Doyle but also renews old divisions not seen since the spearfishing wars of the late 1980s. Such divisions won't help the governor or the legislative leadership build a better Wisconsin economy.