

# **Analysis of Ballot Proposal 04-1**

## **Voter Approval for Gambling Expansion**

**November 2004  
General Election**



Mitchell E. Bean, Director

October 2004



STATE OF MICHIGAN  
HOUSE OF REPRESENTATIVES



HOUSE FISCAL AGENCY

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October 2004

TO: Members of the Michigan House of Representatives

This report provides an analysis of Proposal 04-1, which will be included on the November ballot. Background information, fiscal information, and arguments made for and against the proposal are included in this report, which will also be available on the House Fiscal Agency website.

It is important to note that the arguments contained in this analysis originate from sources outside the House Fiscal Agency. The House Fiscal Agency provides nonpartisan analysis, and takes no position on this, or any other, proposal.

This report was prepared by Mark Wolf, Legislative Analyst, and Rebecca Ross, Senior Economist. It was produced for publication by Jeanne Dee, Administrative Assistant.

Please do not hesitate to contact me if you have questions regarding the information in this report.

A handwritten signature in black ink that reads "Mitchell E. Bean". The signature is written in a cursive, flowing style.

Mitchell E. Bean  
Director



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**BALLOT PROPOSAL 04-1**  
**VOTER APPROVAL FOR GAMBLING EXPANSION**  
**November 2004 General Election**

The official language as it will appear on the ballot:

***A PROPOSAL TO AMEND THE STATE CONSTITUTION TO REQUIRE VOTER APPROVAL OF ANY FORM OF GAMBLING AUTHORIZED BY LAW AND CERTAIN NEW STATE LOTTERY GAMES***

*The proposed constitutional amendment would:*

- Require voter approval of any form of gambling authorized by law after January 1, 2004.*
- Require voter approval of any new state lottery games utilizing “table games” or “player operated mechanical or electronic devices” introduced after January 1, 2004.*
- Provide that when voter approval is required, both statewide voter approval and voter approval in the city or township where gambling will take place must be obtained.*
- Specify that the voter approval requirement does not apply to Indian tribal gaming or gambling in up to three casinos located in the City of Detroit.*

**CONTENT OF THE BALLOT PROPOSAL**

The proposed amendment would add the following language to the state constitution:

*No law enacted after January 1, 2004, that authorizes any form of gambling shall be effective, nor after January 1, 2004, shall any new state lottery games utilizing table games or player operated mechanical or electronic devices be established, without the approval of a majority of electors voting in a statewide general election and a majority of electors voting in the township or city where gambling will take place. This section shall not apply to gambling in up to three casinos in the city of Detroit or to Indian tribal gaming.*

## **BACKGROUND INFORMATION**

Today, residents and tourists have a wide variety of opportunities to gamble in the state.

- The Michigan state lottery sells tickets for instant (scratch-off) tickets and on-line tickets through over 9,200 retailers throughout the state, and offers the Club Keno game at an additional 1,500 bars and restaurants.
- At present, nine Native-American tribes operate 17 casinos in the northern parts of the state. There are three casinos in the City of Detroit: the Greektown Casino, the MotorCity Casino, and MGM Grand-Detroit.
- There are proposals currently before the state legislature to place video lottery terminals at the state's seven current (and possibly any additional future) racetracks.

### ***State Lottery***

In 1972, voters approved a constitutional amendment permitting authorization of a state lottery at a May special election, overturning a constitutional prohibition that had been in place since 1835. (During the constitutional convention of 1961-1962, some delegates promoted an exemption to the lottery prohibition for limited charitable gaming purposes. That effort failed, as did a similar ballot proposal in 1954.) Statutory authority for the state lottery is found in the McCauley-Traxler-Law-Bowman-McNeely Lottery Act (1972 Public Act [PA] 239).

Initially, lottery revenue (sales less an amount for administrative costs and payment of prizes) was deposited into the state general fund. However, 1981 PA 40 (House Bill 4168) amended the State Lottery Act to require lottery revenue to be deposited into the School Aid Fund, which funds the state K-12 public school system.

During FY 2003-04, the lottery generated more than \$1.97 billion in sales:

- Over \$644 million (32.6 percent) was deposited into the School Aid Fund,
- \$1.0 billion was paid out as prizes (55.7 percent), and
- \$145 million was paid out as commission (7.4 percent) to more than 9,000 lottery retailers throughout the state and 1,500 bars and restaurants.

Game-related expenses, advertising, administration, and other miscellaneous expenses accounted for the remainder. Since its inception, the state lottery has sold more than \$30 billion in tickets, generating more than \$11 billion in state revenue, \$2 billion in retailer commissions, and more than \$15 billion in prizes.

In October 2003, the state lottery introduced the Club Keno game. This game, in which players match numbers from a set of 80 chosen randomly every five minutes, is now offered in more than 1,500 bars and restaurants (including a few horse racetracks) in the state.

Through September 30, 2004, Club Keno produced about \$207 million in sales. Based on the May 2004 state revenue consensus estimate, this game is expected to raise \$45 million for the School Aid Fund. Introduction of the Club Keno game drew considerable debate amid concern that it



dramatically increased gambling in the state without specific statutory authority, although lottery officials asserted that it was merely an expansion of the existing keno game, which is still drawn once daily and has been conducted since 1990.

### Existing and Proposed Michigan Casinos

	<u>Tribe/Owner</u>	<u>Location</u>	<u>Open</u>
<b><u>TRIBAL CASINOS</u></b>			
Ojibwa Casino	Keweenaw Bay Indian Community	Baraga	1985
Ojibwa Casino II		Marquette	1996
Leelanau Sands Casino	Grand Traverse Band of Ottawa/Chippewa	Suttons Bay	1984
Turtle Creek Casino		Williamsburg	1997
Kewadin Vegan Casino	Sault Ste. Marie Chippewa	Sault Ste. Marie	1984
Kewadin slots		Manistique	1994
Kewadin Slots		Christmas	1994
Kewadin Slots		Hessel	1994
Kewadin Shores Casino		St. Ignace	1989
Bay Mills Resort and Casino	Bay Mills Indian Community	Brimley	1994
Kings Club Casino and Lounge		Brimley	1984
Chip-In Island Resort and Casino	Hannahville Tribe of Potawatomi	Harris	1991
Lac Vieux Desert Casino and Resort	Lac Vieux Desert	Watersmeet	1988
Soaring Eagle Casino and Resort (2 sites)	Saginaw Chippewa	Mt. Pleasant	1987
Little River Casino	Little River Band of Ottawa Indians	Manistee	1999
Victories Casino Entertainment Center	Little Traverse Bay Band of Odawa	Petoskey	1999
Unknown	Nottawaseppi Huron Band of Potawatomi	Calhoun County	
Unknown	Pokagon Band of Potawatomi	Allegan, Berrien, Cass, or Van Buren Courty	
<b><u>DETROIT CASINOS</u></b>			
MGM Grand Detroit Casino	MGM Grand Detroit, LLC	Detroit	1999
Greektown Casino	Greektown Casino, LLC	Detroit	2000
MotorCity Casino	Detroit Entertainment, LLC	Detroit	1999

#### ***Native-American Casinos***

Today, there are 11 federally-recognized Indian tribes in the state that have entered into a compact with the state to conduct casino gambling. Nine of those tribes operate 17 casinos under tribal-state compacts entered in 1993 or 1998. The tribes operating casinos under the 1993 compact are as follows:

- Saginaw Chippewa Indian Community
- Sault Ste. Marie Band of Chippewa Indians
- Keweenaw Bay Indian Community
- Hannahville Indian Community

- Bay Mills Indian Community
- Lac Vieux Desert Band of Lake Superior Chippewa Indians

The Little River Band of Ottawa Indians and the Little Traverse Bay Band of Odawa Indians are operating casinos under 1998 tribal-state contracts. The Pokagon Band of Potawatomi Indians and the Nottawaseppi Huron Band of Potawatomi Indians also agreed to tribal-state compacts in 1998, but have yet to build casinos.

Gambling through Michigan Native-American tribes first emerged in the mid-1980s when the Keweenaw Bay Tribe began conducting high stakes bingo games without registering their bingo operations as required under the state's charitable gaming law, 1972 PA 382. Later, the U.S. Attorney brought suit against the tribe seeking to prohibit it from further bingo operations. While the suit was pending, other recognized tribes in the state and the country began conducting similar bingo operations and other card games.

In response to a 1987 Supreme Court ruling regarding Indian gaming, Congress and then-President Reagan enacted the Indian Gaming Regulatory Act of 1988 (IGRA), which was designed to provide states with a limited means of regulating tribal gaming activities on tribal land within their borders. The IGRA defines three classes of gambling and specifies how they are to be regulated.

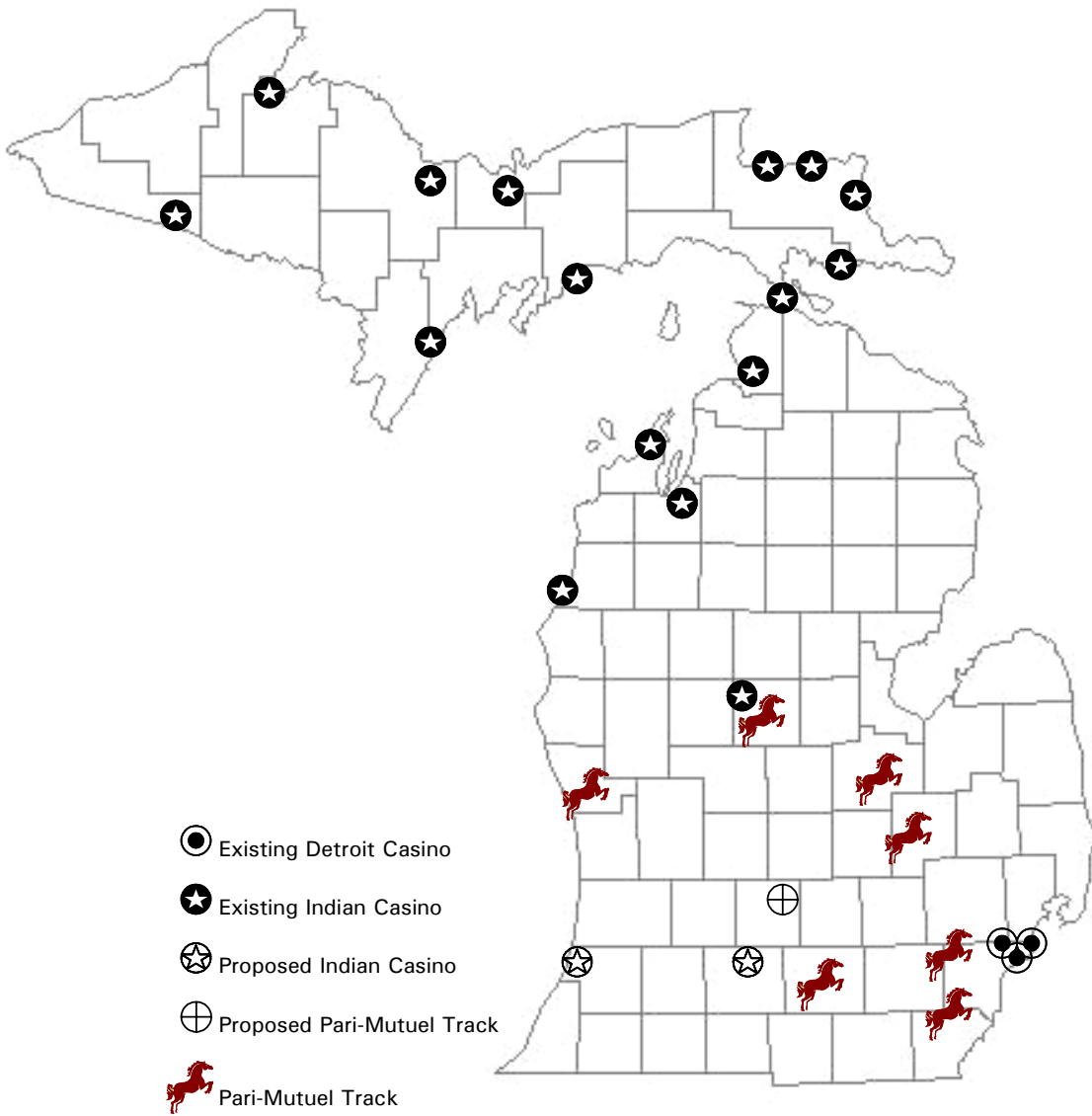
- Class I gambling activities include social games solely for prizes of minimal value or traditional forms of Indian games that are part of traditional tribal ceremonies or celebrations.
- Class II games include bingo, lotto, and certain card games.
- Class III games include casino-style gambling such as banking card games (e.g., blackjack), slot machines, and video poker.

Under IGRA, a state is required to negotiate "in good faith" with an Indian tribe seeking to conduct Class III gaming activities in order to establish a tribal-state contract that will provide a regulatory framework for the tribe's casinos. (If the state doesn't negotiate in good faith or if an agreement cannot be reached, there is a process involving a mediator and, ultimately the Secretary of the Interior, to produce a compact.)

The state has no regulatory authority outside of the compact. Each tribe, not the state, is responsible for primary enforcement of the IGRA and related federal regulations, as well as the provisions of the compact itself. The state has the authority to inspect tribal gaming facilities and records, examine any electronic game of chance (such as slot machines), and to conduct financial audits to ensure tribal payments are correct.

If, however, the state believes that a tribe is not properly administering the regulatory requirements of the compact, it must follow the dispute resolution process set forth in the compact—it cannot unilaterally take enforcement action to remedy the alleged violation. The compacts are agreed to by tribal leaders and the Governor. Legislative approval of the compact is only necessary when it is explicitly required in the compact.

## Existing/Proposed Casinos and Pari-Mutuel Tracks



### ***Detroit Casinos***

Casino gambling in Detroit was authorized by passage of Proposal E which appeared statewide on the November 1996 general election ballot. The question was put on the ballot as the result of a successful initiative petition drive.

By approving Proposal E, voters approved the initiated law, known as the Michigan Gaming Control and Revenue Act, permitting establishment of three land-based casinos in the City of Detroit. (The proposal did not specifically name the City of Detroit, but defined "city" so that only Detroit qualified.) The proposal imposed an 18 percent state wagering tax on gross gaming revenue, and allocated 55 percent to the City of Detroit for crime prevention, economic development, and quality of life improvements, and the remaining 45 percent to the state for K-12 public education.

There is no constitutional prohibition against gambling. The legislature and the governor could have enacted legislation authorizing casino gambling in the state without a vote of the people. Voter approval of the measure was necessary only because it was an initiative.

(Casino gambling was also made possible when two years earlier, in August 1994, voters in Detroit repealed a city ordinance enacted in 1988 [also by voter initiative] that prohibited casino gambling in the city.)

Authorization of casino gambling in Detroit came after many years of debate, discussions, and proposals. In 1975, the House of Representatives established a committee to "examine the feasibility and ramifications of establishing a limited number of casino gambling operations in Michigan." The committee's final report, issued in December 1976, recommended establishing a limited number of casinos in downtown Detroit, citing the existing infrastructure and established tourist industry of the city and metropolitan area and, in particular, the city's desperate need for economic development. Detroit voters, however, had defeated a November 1976 advisory question on establishing (with city council approval) six casinos within the city.

During the next several years, a number of bills permitting casino gambling in Detroit were introduced in the legislature, and Detroit residents were presented with several ballot questions on whether casino gambling should be permitted or prohibited in the city (pending passage of a state law.)

- In 1981, voters again rejected an advisory question on the establishment of casino gambling within the city.
- Voters approved an initiated ordinance prohibiting casinos in 1988, and five years later, rejected an attempt to repeal the ordinance.
- In August 1994, following the opening of Casino Windsor the previous May, Detroit voters approved two ballot proposals repealing the 1988 ordinance. The first proposal authorized a permanently-docked riverboat casino, and the second proposal authorized a land-based casino in Greektown operated by the Sault Ste. Marie Tribe of Chippewa Indians.

In September 1994, amid continued pressure from private and tribal gaming interests and following the votes in Detroit, then-Governor Engler established a Blue Ribbon Commission on Michigan Gaming. The commission's task was to study the impact of expanded gambling opportunities in

the state—particularly the addition of land-based or riverboat gambling facilities in Detroit and video slot machines at the state’s horse racetracks.

In April 1995, the Blue Ribbon Commission on Michigan Gaming issued its report to the governor, recommending a limited expansion of gambling in the state, including Indian-owned, off-reservation, land-based gaming in the City of Detroit. The commission recommended against video-gaming devices at the state’s horse race tracks, stating that the effect of permitting these devices “would be to create a casino at each racetrack, adding significantly to the proliferation of gambling in Michigan” and to cause severe economic harm to the state lottery and Indian gaming revenue.

Following the passage of Proposal E, the City of Detroit began soliciting bids for the three available casino licenses. Both the newly-initiated state law and a subsequent city ordinance provided a preference in bidding to developers who had initiated the casino gaming proposal put before city voters and had promoted and significantly supported the state initiative authorizing gaming. The only two qualifying entities were Atwater Entertainment and Greektown Casino. In accordance with the city ordinance, then-Detroit Mayor Dennis W. Archer and the city council granted the three casino licenses to:

- Greektown Casino LLC,
- Detroit Entertainment LLC (Atwater Entertainment and Mandalay Resort Group, formerly known as Circus Circus Enterprises), and
- MGM Grand-Detroit.

A challenge to the selection process by the Lac Vieux Desert Band of Lake Superior Chippewa Indians ultimately resulted in a federal court finding that the preferences in the state act and city ordinance were unconstitutional violations of the freedom of speech and freedom of association clauses of the U.S. and Michigan constitutions. After a seven-year legal battle, which held up the construction of permanent facilities, the tribe reached an agreement with Detroit Entertainment (which operates the MotorCity Casino) and Greektown Casino in which the casinos will each pay the tribe \$39.5 million over the next 25 years. In addition, two former shareholders of the Greektown Casino have agreed to pay the tribe an additional \$15 million.

The settlement does not include MGM Grand, which was a party to the lawsuit but was not afforded preference in the selection process. The Lac Vieux Desert tribe is asking that the license held by MGM Grand be re-bid, although MGM Grand continues to assert that the court case does not apply to its casino as the company did not receive any preference in the selection process.

### ***Recent Casino Tax Changes***

In August 2004, the legislature and the governor enacted legislation (House Bill 4612, 2004 PA 306) to increase the 18 percent wagering tax to 24 percent, and to earmark the increase between the state and the City of Detroit. (Because the Michigan Gaming Control and Revenue Act was an initiated law, the increase required a three-quarter vote in both houses of the legislature.)

One-third of the 6 percent increase is allocated to the City of Detroit; of the remaining two-thirds (8/12ths), seven-twelfths is allocated to the State General Fund/General Purpose and the remaining

one-twelfth is allocated to the Michigan Agriculture Equine Development Fund. If a casino does not become fully operational at its permanent location—as specified under its development agreement—the wagering tax is to increase by 1 percent on July 1 of 2009, 2010, and 2011 (from 24 percent up to as much as 27 percent).

After a casino becomes fully operational at its permanent location, the increase in the wagering tax would be reduced to 1 percent (bringing the total tax to 19 percent) and allocated to the city of Detroit. However, Public Act 306 specifies that if the State Lottery Act is amended to permit the operation of video lottery terminals at licensed horse race tracks in the state (and if those VLTs are in operation), the additional wagering tax would be removed, and the total wagering tax would again be 18 percent.

### Existing and Proposed Michigan Racetracks

	<u>Race Meeting Licensee</u>	<u>Location</u>	<u>Open</u>
<b><u>EXISTING RACETRACKS</u></b>			
Great Lakes Downs	MI Racing, Inc.	Muskegon	1989
Hazel Park Harness Raceway	Hazel Park Racing Association, Inc.	Hazel Park	1949
Jackson Harness Raceway	Jackson Trotting Association, LLC	Jackson	1949
Mt. Pleasant Meadows	Oil Capital Race Ventures, Inc.	Mount Pleasant	1985
Northville Downs	Northville Downs, Northville Racing Corporation	Northville	1944
Saginaw Harness Raceway	Saginaw Raceway	Saginaw	1980
Sports Creek Raceway	Sports Creek Acquisitions, Inc.	Swartz Creek	1986
<b><u>PROPOSED RACETRACK</u></b>			
	<u>Track Licensee</u>		
Windsor Downs	Platinum Partners, LLC	Windsor Township, Eaton County	Proposed 2006

### ***Michigan's Horse Racing Industry***

As the oldest form of legalized gaming permitted in Michigan, the state's regulated horse racing industry dates back to the enactment of the Racing Law of 1933 (PA 199). In that year, more than 101,000 people wagered \$3.5 million—resulting in more than \$123,000 in state wagering tax revenue—in 31 race dates held at the state fairgrounds in Detroit.

Attendance at Michigan horse racetracks steadily increased after the inaugural season, peaking in 1975 with more than 3.9 million people in attendance. Total state revenue from horse races also peaked that year at more than \$28 million. Since then, total attendance has fallen—to 1.3 million in 2003—with total state revenue down to about \$11 million in 2003 (although tax changes account for some of the reduction in revenue).

Currently, there are seven racing facilities in the state. The state's only thoroughbred racing facility is Great Lakes Downs in Muskegon; the only mixed-breed racing facility is Mount Pleasant Meadows. Standardbred (harness) racing facilities are:

- Saginaw Harness Raceway
- Northville Downs

- Sports Creek Raceway in Swartz Creek
- Hazel Park Raceway
- Jackson Harness Raceway

At the close of the 1998 racing season, Ladbroke DRC in Livonia closed after more than 50 years in operation. The State Racing Commissioner recently approved a track license for a new racetrack in Windsor Township, in the Greater Lansing area.

For the 2003 season, the ORC reports that there were 559 live race dates, and a total of 2,244 live and simulcast dates. Total attendance for season was approximately 1.3 million. The average daily attendance was 594—although the average at individual tracks ranged from 76 at Mount Pleasant Meadows to 1,952 at Hazel Park Raceway.

Total wagering for the 2003 season included \$29.8 million for live races and \$316.8 million for simulcast races. Additionally, there were \$60.1 million in out-of-state simulcast wagers on races in Michigan. The daily combined average wager was \$154,447, and the total state tax on simulcast wagering was about \$11 million.

Increasing pressure from the Native-American casinos and the recently opened Casino Windsor was partly responsible for decreases over several years in attendance and total wagering at the state's racetracks. The Horse Racing Law of 1995 substantially amended and recodified the Racing Law of 1980 in an effort to enhance the industry's viability. Among other changes, the 1995 racing law:

- Authorized full-card simulcasting, which allowed racetracks to conduct live races and simulcast wagering on other races,
- Eliminated the tax on wagering on live racing, and
- Provided funding to go to agriculture, county fairs, and racing programs through a tax on simulcast wagering.

### ***Racino Proposal***

Changes in the horse racing statute from the 1995 racing law resulted in increases in track attendance and total wagering. Nine years later, however, the horse racing industry still finds itself in difficult financial circumstances—facing increasing competition from tribal casinos, Detroit casinos, and increased gambling opportunities at racetracks in other states.

In response to increasing concerns of the horse racing industry and related agricultural interests, both houses of the legislature have passed legislation (House Bill 4610) amending the State Lottery Act to authorize placing video lottery terminals (VLTs) at the state's seven racetracks. Other bills in the package would permit off-track betting and wagering by telephone and Internet, as well as allow the Detroit casinos to operate off-track betting facilities.

The House and Senate passed different versions of House Bill 4610. As a result, the bill is now in a House/Senate conference committee. Both versions of the bill propose permitting racetracks to install and operate up to 500 VLTs initially, with additional VLTs permitted upon approval of the state lottery. The Senate-passed version differs notably in levying stiffer application fees;

preventing racetracks from having VLTs if they are close to tribal casinos; requiring a countywide vote of approval for a racetrack to become a "racino" and a separate citywide approval in a city with a population between 6,000 and 15,000; and providing less VLT revenue to the agricultural sector.

### ***Gambling Behavior in Michigan***

In 2001, researchers from Western Michigan University conducted a survey of gambling behaviors of state residents for the Department Community Health.<sup>1</sup> The survey noted that 85.3 percent of respondents have gambled at some point in their life. This is similar to previous studies in 1997 (84.5 percent) and 1999 (88.9 percent). In the survey, 71.9 percent of respondents stated they had gambled at least once in the past year. This is slightly lower than previous studies in 1997 (76.6 percent) and 1999 (77.6 percent).

The study estimated the actual number of lifetime problem gamblers (that is, they have been a problem gambler at some point in their lives) to be between 206,000 and 455,000, and estimated "past year" problem gamblers to be between 81,000 and 333,000. The study notes that these numbers probably underestimate the actual incidence of problem gambling in the state because the survey tends to under-represent younger and older adults, and totally excludes individuals under 18 years of age. Further, the study notes that these numbers are well within the range of numbers from studies in other states.

Additionally, the Department of Community Health reports that approximately 5 percent of people who gamble ultimately become addicted, which equates to approximately 350,000 compulsive gamblers in the state.<sup>2</sup> The department also reports that men and women gamble for different reasons, and the progression of a gambling problem is usually quicker for women than men.

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<sup>1</sup> <http://www.wmich.edu/exalctr/pubs/gambling01.pdf>

<sup>2</sup> [http://www.michigan.gov/mdch/0,1607,7-132-2940\\_3185-14615--,00.html](http://www.michigan.gov/mdch/0,1607,7-132-2940_3185-14615--,00.html)



## FISCAL INFORMATION

Currently, consumer spending (spending less prizes) in Michigan on the major forms of gaming totals an estimated \$3.2 billion—approximately 27 percent from the lottery, 32 percent from Native American casinos, 38 percent from the three Detroit casinos, and the remaining 3 percent from pari-mutuel horse racing.

### Estimated Michigan State and Local Gaming Revenue: FY 2003-04

#### Type of Gaming and Revenue Distribution

##### Detroit Casinos

State: 8.1%; then 12.1% effective September 1, 2004 \$102.6 million

City of Detroit: 9.9%; then 11.9% effective September 1, 2004 \$122.4 million

##### Native American Casinos

Locals: 2% of slot machine revenue, all tribes \$16.2 million

State: 8% of slot machine revenue, tribes operating under the 1998 compacts \$13.1 million

##### Lottery

State: 100% of net revenue, approximately 33% of total sales \$643.7 million

##### Pari-Mutuel Horse Racing

State: 3.5% of simulcast wagering \$11.0 million

On a per-capita basis, Michigan consumer spending is \$310 annually on gaming activities; the national consumer spending is approximately \$250 annually.

The state currently receives approximately \$770 million in direct tax or lottery revenue; the City of Detroit receives \$122 million, and other local units that host tribal casinos receive \$16 million.

The fiscal impact of the ballot proposal depends on the legal interpretation of the proposal and whether voters are willing to approve additional games.

Some of the key variables that would determine the fiscal impact on any new gaming venue in the state are the location of a gaming facility, the size of a facility, and the types of games permitted (slot machines and table games).

The degree to which new gaming facilities are successful at generating new gaming revenue, and existing gaming facilities are successful at retaining revenue with additional competition, could have significant fiscal ramifications. Since per capita consumer spending on gaming in the state is currently more than \$50 higher than the national average, a significant portion of any new gaming revenue could come at the expense of existing outlets.

Maintaining player interest by introducing new games and modifying existing games is key to the success of the lottery. According to the Lottery Commissioner, the ballot proposal could limit the ability of the lottery to achieve this goal and restrict its ability to raise revenue for the School Aid Fund.

## **ARGUMENTS FOR THE PROPOSAL**

### ***Supporters of the Proposal make the following arguments:***

- The ballot proposal does not prevent the expansion of gambling; it just says that any expansion must be approved by voters.

It is not a pro-gambling or anti-gambling proposal; it is a pro-voter proposal. It recognizes that the impact of any expansion of gambling on the state and on local communities is significant enough to warrant voter approval.

The unchecked spread of gambling will have serious economic, social, and moral implications for the state.

- The current Detroit casinos had to go through a voter-approval process: voters in the city of Detroit and statewide approved the establishment of the current casinos.

This is not true of the Indian casinos in the state because they are governed mostly by federal law. Casinos require U.S. government approval and are subject to negotiated tribal-state compacts.

Voter approval of gambling proposals is nothing new: the state lottery itself only began operations due to the approval of voters statewide. The proposed constitutional amendment makes any expansion of gambling subject to the same standard of review.

- The ballot proposal was stimulated in part by the proposal currently before the Legislature that could impose the equivalent of nine new casinos in the state with 18,000 or more video slot machines. This would be a dramatic expansion of gambling in the state.

Without this constitutional amendment, the public at large would have no voice in the dramatic alteration of the state's economic and social climate. Local voters would have no way to express their opposition to the creation of these new gambling outlets at racetracks in their own backyards.

- Placing this kind of restriction in the constitution is not a new phenomenon. Several other states require voter approval prior to an expansion of gambling.

Ten states permit certain gaming activities only when authorized by local voters in the municipality or county where the gaming will take place: Alabama, Colorado, Delaware, Kansas, Louisiana, Maryland, New Jersey, Rhode Island, South Dakota, and West Virginia.

Five states require a statewide vote for a gambling expansion or authorization: Colorado, Montana, New Jersey, Rhode Island, and Washington.

Five state constitutions permit gaming only in specified locations: Alabama, Arkansas, Colorado, New Jersey, and South Dakota.

- Michigan's constitution has a long history of addressing gaming.

The constitutional prohibition against lotteries was first placed in the state constitution in 1835—two years prior to statehood. The prohibition remained in place in subsequent constitutions in 1850, 1908, and 1963.

One can reasonably assume that the drafters of the first state constitution recognized the importance of requiring a public vote for the legitimization of gambling. Besides, the constitution is a foundational document that sets limits on the power of elected representatives; it is up to the people of the state to determine what that document is to contain.

If the people decide (by supporting this proposal) that limitations on the expansion of gambling belong in the constitution, who is to say otherwise?

- Some opponents of gaming expansions point to the serious social and moral implications. They fear that more gambling outlets and new forms of gambling will lead to more gambling-related problems: more crime (and increased law enforcement costs) and unsavory behavior; more gambling addicts; more stress on families; the prevalence of a "get rich quick" mentality; and, in short, a culture awash in the gaming ethos.

The people of the state ought to have a direct voice in policies that fundamentally affect the state's way of life.

- Other proponents of the ballot proposal note that both the tribal casinos and Detroit casinos were established as a means of providing much-needed economic development to economically depressed areas of the state. Indeed, one of the principal goals of Federal Indian policy, including IGRA, is to promote tribal economic development and tribal self-sufficiency.

Plus, principal justifications for establishing casinos in Detroit were the new jobs and additional tax base they could bring to an area with significant unemployment.

The casinos were also seen as a potential catalyst for further economic growth.

The introduction of more gambling elsewhere in the state is likely to cannibalize the gaming dollar, undermining efforts at improving conditions in Detroit (and for Indian tribes).

## ARGUMENTS AGAINST THE PROPOSAL

### *Opponents of the proposal make the following arguments:*

- The proposed constitutional amendment is anti-competitive, and would give existing gambling operations an unfair advantage over new entrants into the market.

Note that the proposal would not prevent expansions of the three existing Detroit casinos. It would not prevent expansions at existing Indian casinos. It would not prevent creation of new Indian casinos.

So, it obviously is not what it is advertised to be: an effort to prevent the expansion of gambling. Instead, it is a thinly veiled attempt to provide a casino monopoly for existing businesses.

The proposal provides constitutional protection for a few businesses while threatening efforts at economic development and job creation elsewhere, including, notably, the agricultural sector and the state's horse industry.

- While existing casinos would get special economic protection, the state's racetracks would be hamstrung. For years, these were the only recognized commercial gambling outlets.

There has been gaming at racetracks in Michigan for over 70 years. Yet this proposal would prevent gambling expansion at the racetracks.

It would prevent the current proposals for the development of so-called racinos, aimed at rescuing the state's struggling horse industry (as well as related agricultural enterprises), from going into effect without overcoming extraordinary hurdles. This is true even though the proposals have been debated by the state legislature for a number of years.

Incredibly, the ballot proposal would not permit a law enacted after January 1, 2004 to become effective if it authorized a new form of gambling—a feature of the proposal clearly aimed at preventing the legislature from acting on racinos.

- The proposal would seriously hamper the operations of the state lottery, which provides a substantial amount of funding for the state's K-12 educational system.

It prevents the lottery from introducing new electronic games or table games, which it will need to do in order to remain competitive, without a popular vote. To maintain player interest and maintain state revenue, the lottery regularly replaces older games or underperforming games with newer ones.

As technology advances, the lottery is likely look to alternative forms of games, including electronic and mechanical devices operated by the player, including self-service, online terminals and scratch-off ticket dispensers. This proposal threatens those efforts.

Note that the lottery would have to get legislative approval of any ballot language (it could not put a question on the ballot itself) and would not be allowed to spend money in support of proposals (even though the opposition could).

- Not only does the proposed amendment require a statewide vote for the introduction of a new game, it would prevent a new game from being introduced into any given local unit of government without local voter consent.

That would mean hundreds of local elections in order to place a new state lottery game in businesses that are already lottery outlets; these decisions ought be made administratively by state lottery officials and not be the subject of bitterly fought elections involving self-interested business rivals.

If games were approved in some municipalities but not others, the result would be a patchwork of lottery games that would be difficult to administer.

Requiring lottery games to be voted on at a general election (only held every two years) could mean a two-year wait to implement new games; this could seriously affect the ability of Michigan's lottery to compete with lotteries in other states.

- The constitution already provides the people of the state, through the powers of initiative and referendum, with the ability to vote to stop laws enacted by legislature from going into effect, to overturn laws enacted by the legislature, and to enact laws without interference by the legislature. These time-honored methods are preferable to enshrining this new provision in the constitution.

Why, of all the policy issues facing state government, should gaming have this special treatment?

For example, assuming the racino package was enacted by the legislature and the governor, opponents of the legislation could seek signatures on petitions to overturn the legislation at referendum. This requires public sentiment on an issue to be strong, which is as it should be.

- The current constitutionally-permitted methods of voter involvement were how the current Detroit casinos were authorized, not through the kind of process envisioned in the ballot proposal.

State and local votes were never both legally required as a condition of establishing the Detroit casinos.

A vote in the City of Detroit was necessary to rescind a 1988 ordinance prohibiting casinos in the city, but no statewide vote was necessary.

With voter approval of the establishment of the state lottery in 1972, there was no constitutional provision prohibiting casino gambling in the state and, as a result, no explicit requirement for voter approval.

The Detroit casinos came about through initiated legislation only after Governor Engler announced his opposition to off-reservation casino gambling. Had there been support in the legislative and executive branches for casinos in Detroit, they could have been established without an election.

## **POSITIONS**

### **Let Voters Decide Yes on 1**

is the name of the principal group supporting the proposed constitutional amendment.

Its website is [www.letvotersdecideyes.com](http://www.letvotersdecideyes.com).

Membership includes:

- Atwater Entertainment (MotorCity Casino),
- the Detroit Regional Chamber of Commerce,
- the Detroit Black Chamber of Commerce,
- Citizens for Traditional Values,
- the Grand Traverse Band of Ottawa and Chippewa Indians,
- Hannahville Indian Community,
- Little River Band of Ottawa Indians,
- the Little Traverse Bay Band of Odawi Indians,
- the Michigan Family Forum,
- the MGM Grand Detroit,
- the Pokagon Band of Potawatami Indians,
- the Saginaw Chippewa Tribe, and
- the Sault Ste. Marie Tribe of Chippewa Indians.

### **No Casino Monopolies**

is the name of the principal opposing group.

Its website is [www.noonprop1.com](http://www.noonprop1.com).

Membership includes:

- the Michigan Farm Bureau,
- the Michigan Agri-Business Association,
- the Michigan Licensed Beverage Association,
- the Michigan Education Association,
- the Michigan Federation of Teachers,
- Great Lakes Downs,
- the Hazel Park Harness Raceway,
- Jackson Harness Raceway,
- the Michigan Horsemen's Association,
- the Michigan Horse Council,
- the Michigan Racing Association,
- Mount Pleasant Meadows,
- Northville Downs,
- Sports Creek Harness Raceway,
- Saginaw Harness Raceway, and
- the Bowling Centers Association of Michigan.

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