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REGULATE CASINO GAMBLING: AMEND INITIATED LAW OF 1996

House Bill 4664 (Substitute H-2)
House Bill 4666 (Substitute H-4)
Sponsor: Rep. Harold Voorhees

House Bill 4716 (Substitute H-2)
Sponsor: Rep. Kim Rhead

House Bill 4718 (Substitute H-2)
Sponsor: Rep. Gerald Law

House Bill 4720 (Substitute H-2)
Sponsor: Rep. Ted Wallace

House Bill 4721 as introduced
Sponsor: Rep. Michael Hanley

House Bill 4722 (Substitute H-1)
Sponsor: Rep. Kwame Kilpatrick

House Bill 4723 (Substitute H-2)
Sponsor: Rep. Deborah Cherry

House Bill 4724 (Substitute H-2)
Sponsor: Rep. Eileen DeHart

House Bill 4725 (Substitute H-2)
Sponsor: Rep. Ilona Varga

House Bill 4732 as introduced
Sponsor: Rep. David Galloway

House Bill 4739 as introduced
Sponsor: Rep. Tom Alley

House Bill 4744 as introduced
Sponsor: Rep. John Llewellyn

House Bill 4755 (Substitute H-2)
Sponsor: Rep. Morris Hood, Jr.

House Bill 4856 as introduced
Sponsor: Rep. Kirk Profit

House Bill 4863 as introduced
Sponsor: Rep. A. T. Frank

House Bill 4864 as introduced
Sponsor: Rep. Mark Schauer

House Bill 4865 (Substitute H-1)
Sponsor: Rep. Lingg Brewer

House Bill 4883 (Substitute H-1)
Sponsor: Rep. Mary Lou Parks

Committee: House Oversight and Ethics
First Analysis (6-11-97)

THE APPARENT PROBLEM:

In the 18-year period from 1976 to 1994, the question of legalizing casino gambling went before the voters of the City of Detroit five times. Until the August 1994 proposal, Detroit voters rejected legalizing casino gambling in the city. In 1976 and 1981, in response to city financial emergencies, the Detroit City Council placed gambling proposals on the ballot that were rejected by votes of 59 percent to 41 percent and 63 percent to 37 percent, respectively. In 1988, Detroit

voters approved an initiated ordinance (by a vote of 62 percent to 38 percent) to prohibit casino gambling in the city even if it were to be approved by state law. And in 1993, following another city financial crisis (and after the Mayor's 21st Century Committee rejected a recommendation for casino gambling), Detroit voters rejected an initiated ordinance (by a vote of 51 percent to 49 percent) that would have repealed the 1988 initiated ordinance.

House Bills 4664, 4666, 4716, 4718, 4720-4725, 4732, 4739, 4744, 4755, 4856, 4863-4865, and 4883 (6-11-97)

However, on May 17, 1994, a casino owned by the province of Ontario opened across the Detroit River in

Windsor, Ontario. Within a year, Casino Windsor reported a daily average gross revenue take of about \$1 million and averaged 19,000 gamblers a day, with 80 percent of them coming from the United States. Later that year, Detroit voters approved two proposals, both of which repealed the 1988 initiated ordinance prohibiting casino gambling. One proposal authorized the "Atwater Recreation and Entertainment District," which would have allowed a permanently docked riverboat casino to be open 24 hours a day, seven days a week. Statutory authorization of commercial casinos was required for this proposal to be implemented. The second proposal approved an off-reservation Indian casino in Greektown to be operated by the Sault Ste. Marie Tribe of Chippewa Indians and their partners, Greektown Casino L.L.C. (formerly 400 Monroe Associates), and could be authorized only under federal law and with the concurrence of the governor.

The Bay Mills Indian tribe -- which operates two casinos near Sault Ste. Marie -- also began applying to the federal Secretary of the Interior for permission to operate an off-reservation casino in Detroit's Foxtown, and early in 1997, announced that it wanted to develop a casino on six acres of land in Oakland County off I-75, just north of Auburn Hills (the tribe recently acquired this land through a settlement with one of 174 Upper Peninsula property owners it had filed suit against over land along the St. Marys River in the U.P. that the tribe claims was wrongfully taken from them in the last century). Finally, the Lac Vieux Desert Band of the Lake Superior Chippewa Indians, which operates two casinos in the western Upper Peninsula, reportedly announced in February 1997 that it would seek to convert the Pontiac Silverdome into a casino when the Detroit Lions' lease runs out in 2004.

Although federal law allows Indian-owned casinos virtually anywhere if approved by the federal Secretary of the Interior and the governor of the state involved, state law would have to authorize non-Indian casinos in Michigan. Thus, even if a tribe obtains federal approval for an off-reservation casino, the state governor still would also have approve the casino before it could open.

The Sault Ste. Marie Tribe of Chippewa Indians did obtain federal approval for an off-reservation, land-based casino in Greektown in Detroit. However, despite the passage of the advisory proposals in Detroit and the recommendation of his own Blue Ribbon Commission on Michigan Gaming, the governor announced in June 1995 that he would not approve the expansion of off-reservation Indian casinos. He further said that any legislation to authorize casino gambling would have to include a statewide referendum.

In the spring of 1996, following the governor's 1995 announcement of his refusal to approve off-reservation Indian casinos, backers of two proposed Detroit casinos began a successful petition drive to place the issue of Detroit casinos on the November 1996 general election ballot. Ballot Proposal E was passed by the voters on November 5, 1996, and became the Initiated Law of 1996, the Michigan Gaming Revenue and Control Act. The act regarding the licensing and regulation of casinos and casino licensees, which was written by the casino groups advocating non-Indian casino gambling in Detroit, has widely been held to be too sketchy to adequately regulate non-Indian casino gambling in the state, and to need further legislative clarification and expansion of its provisions.

Legislation amending the Initiated Law of 1996 has been the subject of considerable public -- as well as partisan -- controversy. The act required, among other things, that within 60 days after the act took effect the governor appoint the initial 5-member bipartisan Gaming Control Board created by, and required to enforce the administration and supervision of, the act. The act also requires the Gaming Control Board to promulgate rules necessary to implement the act.

Governor Engler appointed members to the Gaming Control Board on December 20, 1996, also appointing the former state Racing Commissioner, Nelson Westrin, as the board's executive director. The executive director formed a working group -- with representation from the Gaming Control Board, the Department of State Police, and the attorney general's office -- to review and compare Proposal E with the laws and regulations of other casino gambling states. The working group drafted proposed legislation that embodied the Gaming Control Board's recommendations for amending Proposal E (that is, the board did not issue a separate report with suggested recommendations, but made its recommendations in the form of proposed legislation), and at its February 25, 1997, public meeting the board unanimously adopted Resolution 1997-10, authorizing and directing the board chair to prepare and send a letter to the legislative leadership of the House and Senate urging their support for passage of the proposed new legislation. At that same meeting, the governor's legal counsel read a letter to the board from Governor Engler in which he expressed his support for the proposed legislation; the assistant attorney general in charge of the Casino Control Division also read a letter from Attorney General Frank Kelley in support of the proposed legislation; and the director of the Department of State Police also expressed his support of the proposed legislation.

In late April, 1997, the legislation proposed by the Gaming Control Board was introduced by House and Senate Republicans (House Bill 4714 and Senate Bill

464). At about the same time, another package of bills to amend Proposal E was introduced by House Democrats, and a 19-bill bipartisan package of bills has been reported from the House Committee on Oversight and Ethics. Because the Michigan Gaming and Revenue Control Act is an initiated law, legislative amendments to the law constitutionally can only be made by a three-fourths vote by each house of the legislature.

THE CONTENT OF THE BILLS:

The bills generally would amend, and add to, the Initiated Law of 1996, the Michigan Gaming and Revenue Control Act (MCL 432.201 through 432.216). Major points include the following:

- ** The cost of regulating casinos would be paid for from the single business tax collected on casinos under the Single Business Tax Act.
- ** All license applicants -- whether for casino, supplier, or occupational licenses -- would have to meet "good moral character" and business experience requirements.
- ** Casino licensees would have to post surety bonds.
- ** Applicants for casino licenses would be prohibited from making political contributions while they were

applying for licenses, and would have to report within 24 hours any contributions over \$1,000 during the weeks before elections.

** Casinos would have to post notices for patrons on compulsive gambling assistance programs.

** Unlawful actions, whether by licensees, their employees, or casino gambling patrons, would be specified and criminal penalties would be established for violations.

** Board-approved certified public accountants hired by casinos would have to do quarterly audits.

** The Gaming Control Board would be given expanded authority over license applications and regulating casino gambling.

** The package retains the "preferences" for casino license applicants contained in the Initiated Law of 1996, that is, for the Atwater and Greektown casino groups.

The Initiated Law of 1996 ("Proposal E") was written in sixteen sections. The following bills would amend the following sections of the act (with the exception of sections 3, 9, 10, 11, 15, and 16, which would not be amended).

Section	Bill number	Name of section; amendment
1	4739 as introduced	Short title; add legislative intent
2	4755 (Substitute H-2)	Definitions; redefine "company" re SEC
3	(no change)	Casino Gaming Authorized
4	4723 (Substitute H-2)	Michigan Gaming Control Board; expand powers
4a (new)	4724 (Substitute H-2)	FOIA exceptions to board records
5	4725 (Substitute H-2)	Casino License Applications; appeals procedures
6	4865 (Substitute H-1)	Casino Licenses; "moral character" requirements
6a (new)	4721 as introduced	Affirmative duty to help Gaming Control Board
6b (new)	4722 (Substitute H-1)	Casino license surety bond
6c (new)	4732 as introduced	Post signs in casinos re help for gambling problems
7	4864 as introduced	Suppliers Licenses; "moral character" requirements
8	4863 as introduced	Occupational Licenses: "moral character"

9	(no change)	Conduct of Gaming
9a (new)	4716 (Substitute H-2)	Penalties for cheating, underage gamblers
10	(No change)	Alcoholic Beverages
10a (new)	4666 (Substitute H-4)	Post Michigan Council of Problem Gaming hotline
11	(No change)	Collection of Amounts Under Credit Agreement
12	4720 (Substitute H-2)	Wagering tax; daily deposit of Detroit share
13	4883 (Substitute H-1)	Municipal Services Fees; additional assessments
14	4718 (Substitute H-2)	Audit of Casinos; make casinos hire CPAs
15	(No change)	Annual Report of Board
16	(No change)	Limitation on Taxation/Fees
17 (new)	4664 (Substitute H-2)	Limitations on campaign contributions by casinos
17 (new)	4744 as introduced	Transportation of gambling devices

The provisions of the Initiated Law of 1996, and the proposed amendments and additions, are described in more detail below.

SECTION 1: Short title.

House Bill 4739 (as introduced) would amend Section 1 of the act (MCL 432.201), which specifies that the act "shall be known and may be cited as the Michigan Gaming Control and Revenue Act," to add that the purpose of the act was "to promote the safety, security, growth, and integrity of casino gaming in Michigan."

SECTION 2: Definitions.

House Bill 4755 (H-2) would amend Section 2 of the act (MCL 432.202) to rewrite the definitions of "development agreement" (raising the infrastructure and predevelopment cap to \$10 million "unless agreed to by the developer and the city"), "gross revenue," "affiliate," and "affiliated company," and "company," and would add definitions of "casino enterprise," "cheat," "junket enterprise," "person," and "supplier."

"Development agreement." Section 6 of the initiated law requires that before an applicant can be eligible for a casino license, he or she must have entered into a development agreement with Detroit, defining "development agreement" to mean "a written agreement between [Detroit] and a company naming such company as the designated developer of a casino in the city." The law requires casino developers to cover certain infrastructure and "predevelopment" costs, up to a cap

of \$6 million and lists eleven "subjects" that must be covered in a development agreement between a casino developer and Detroit, specifically mentioning two infrastructure and predevelopment costs: (a) utility connection fees, and (b) "reimbursement for traffic engineering and other transportation costs."

The bill would add to the list of subjects that would have to be covered in a development agreement (1) "reimbursement for other infrastructure or predevelopment costs," (2) "continuing casino maintenance and capital improvements obligations," and (3) "transfers of any interests in the casino license." The bill also would raise the cap on infrastructure and predevelopment costs to \$10 million, or more, if a larger amount was agreed to by the developer and the city.

"Gross revenue." Currently, Section 12 of the initiated law imposes an 18 percent "wagering tax" on the gross revenue received by casino licensees from gambling authorized under the act. The act defines "gross revenue" to mean the balance left once the total of all cash "paid out as losses" to patrons is subtracted from the sum of the cash, received both as winnings and in payment for credit extended by the casino licensee to patrons for gambling, and "compensation received for conducting any game in which the licensee is not party to a wager. Cash (or the value of noncash prizes) awarded to patrons in a contest or tournament are not "losses." The law explicitly excludes from the definition of "gross revenue" all of the following: counterfeit money or gambling tokens ("counterfeit facsimiles of

money, chips, tokens, wagering instruments or wagering credits"); foreign

money that had been deposited in (and collected from) gambling devices; any gambling tokens not bought from the casino ("any portion of the face value of any chip, token or other representative of value won by the holder of a casino license from a patron for which the holder of a casino license can demonstrate that it or its affiliate or affiliated company has not received cash"); cash taken from the casino by fraud; cash from entry fees for contest or tournaments in which casino patrons compete for prizes.

The bill would delete this definition and instead define "gross revenue" to mean the total of all sums received by a casino licensee ("including checks, whether or not collected") minus the total of all sums paid out as winnings plus a deduction for uncollectible gambling debts. The deduction for unpaid gambling debts could not be more than the lesser of either (1) a "reasonable provision" for uncollectible patron checks received from gambling operations or (2) four percent of the casino licensee's gross revenues without the deduction.

New definitions. The bill would add the following new definitions:

** "Casino enterprise" would mean "the buildings, facilities, or rooms functionally or physically connected to a casino" (such as bars, restaurants, hotels, cocktail lounges, retail establishments, arenas, "or any other facility located in a city under the control of a casino licensee or affiliated company").

** "Cheat" would mean "to alter the selection of criteria which determine[d] the result of a gambling game or the amount or frequency of payment in a gambling game, in violation of this act or rules promulgated under the act."

** "Junket enterprise" would mean "any person other than a casino licensee or applicant who employ[ed] or otherwise engaged in the procurement or referral of persons who [might] participate in a junket to a casino licensed under this act, whether or not those activities occur[red] within this state."

** "Supplier" would mean a "person" who the gaming control board had identified, under rules it had promulgated, as "requiring a license to provide casino licensees or casino enterprises with goods or services regarding the realty, construction, maintenance, or business of a proposed or existing casino, casino enterprise, or related facility on a regular or continuing basis," such as junket enterprises, security businesses, manufacturers, distributors, gambling devices or equipment servicers, garbage haulers, maintenance companies, food purveyors, and construction companies.

Finally, the bill would add a definition of "person" ("an individual, company, corporation, association, operation, firm, partnership, trust, entity, or other form of business association"), and use "person" in amended definitions of "affiliate," "affiliated company," and "applicant." Instead of meaning "any company, affiliate or affiliated company that applies for a license to operate a casino," "applicant" would mean "any person who applie[d] for a license under this act." "Affiliate" and "affiliated company" would refer to business entities involved with a "person who [held] or [applied] for a casino license under [the] act," instead of with a "proposed casino gaming licensee." In addition, definitions of both these terms would be amended to exclude shareholders who owned ("directly or indirectly") five percent or less income or profit in a publicly traded corporation.

SECTION 4: Michigan Gaming Control Board.

House Bill 4723 (H-2) would amend Section 4 of the act (MCL 423.204), which regulates the powers and duties of the board. In addition to exempting from the Freedom of Information Act information that would be exempted by House Bill 4724 (see below), the bill would require board members to be Michigan residents; add new language to specify the gaming control board's duties, jurisdiction and powers; prohibit certain actions by board members, employees, and agents; and specify penalties for violations of these prohibitions.

Exclusive counsel. The bill would specify that the attorney general's Casino Control Division would be the exclusive counsel to the gaming control board, and would require the attorney general (in his or her "discretion") to represent the board (including its agents and employees) in all legal and administrative proceedings.

Gaming control board duties. Under the initiated law, the gaming control board must enforce and supervise the administration of the act, and promulgate administrative rules to implement the act. The board also may suspend or revoke any license issued under the act if the licensee -- or any of the licensee's officers, directors, agents, members, or employees -- violate the act or its rules. The bill would allow the board to take a full range of license actions against violators -- including restricting or refusing to renew licenses, as well as suspend or revoke licenses -- and also would allow the board to impose fines on violators in addition to taking license actions.

The bill would specify that in fulfilling its responsibility for implementing the act, the board's duties would include at least all of the following:

(1) Deciding all license applications.

(2) Promulgating administrative rules necessary to implement, administer, and enforce the act, including rules regarding casino gambling authorized in the act that would: (a) govern, restrict, approve, or regulate it; (b) promote its safety, security, growth, and integrity; and (c) regulate each person participating in or involved with it.

(3) Providing for the establishment and collection of all license and registration fees and taxes imposed by the act and rules promulgated by the gaming control board, except for the 18 percent wagering tax imposed by the act.

(4) Providing for the levy and collection of fines imposed for violations of the act and rules promulgated by the gaming control board.

(5) Reviewing and ruling on any complaints by licensees regarding any investigative procedures of the gaming control board which were "unnecessarily" disruptive of gambling operations, subject to both (a) the presumption ("at all times") of the need to inspect and investigate, and (b) the requirement that the burden to prove the disruption of a licensee's operations be on the licensee.

(6) Holding at least one meeting each quarter of the fiscal year, as well as holding special meetings called by the chairperson or any two board members upon 72 hours' written notice to each member.

(7) Appointing one of the board members or a hearing officer to conduct hearings under the act or rules promulgated by the gaming control board. The board member or hearing officer would have the authority to both recommend findings and decisions to the board and to exercise all powers and rights granted to the board by the act and the rules promulgated by the board.

(8) Reviewing the record made at the time of a hearing and issuing findings and decisions that would constitute the order of the gaming control board.

(9) Maintaining records that were separate from the records of any other state board, that would be available for public inspection (except as otherwise provided in the act, as, for example, the restrictions proposed by House Bill 4724 below), and that would accurately reflect all gaming control board proceedings.

(10) Reviewing the patterns of casino wagering and wins and losses and making recommendations to the governor and legislature in an annual written report (and in additional written reports requested by the governor and the legislature). The annual report would have to include a statement of receipts and disbursements made by the gaming control board, actions taken by the board, and any additional information and

recommendations that the board considered appropriate or that governor and the legislature requested.

Gaming control board jurisdiction and powers.

Generally, the gaming control board would have jurisdiction over, and would supervise, all gambling operations governed by the act (that is, the three Detroit casinos authorized under the act). The board also would have "all powers necessary and proper" to execute the act, including (but not limited to) the following specific powers:

(1) Investigate and determine the eligibility of applicants for licenses or registrations, and to grant licenses to applicants in accordance with the criteria required by the act and "that best serve[d] the interests of the residents of Michigan."

(2) Jurisdiction and supervision over casino gaming operations authorized by the act and over all persons in "casinos where gaming operations are conducted pursuant to [the] act" (that is, over all persons in the three Detroit casinos authorized by the act).

(3) Enter -- without a warrant and without notice to the licensee -- any place of business (including the premises, offices, casinos, and facilities) of a casino or casino supplier licensee for any reason the board considered "reasonable and necessary," including where evidence of violations was "likely to be found" for the following purposes:

(a) To inspect and examine all premises on which casino gaming or casino gaming business or supplier business was conducted, or where any records of such activities were prepared.

(b) To inspect, examine, audit, impound, seize, or assume physical control of, or summarily remove from, such premises all records and record containers or gaming equipment ("books, ledgers, documents, writings, photocopies, correspondence, records, videotapes, electronically stored records, money receptacles, other containers and their contents, or equipment in which records [were] stored, or other gaming related equipment and supplies upon or around" such premises, including counting rooms).

(c) To inspect a person -- and inspect, examine, and seize a licensee's or registrant's personal effects present in the Detroit casinos licensed under the act -- while that person was present in a licensed casino facility.

(d) To investigate and deter alleged violations of the act or the rules promulgated by the gaming control board.

(4) Investigate alleged violations of the act or rules promulgated by the gaming control board, and take appropriate disciplinary action against licensees (including those holding casino licenses, occupational licenses, and supplier licenses) for violations, and/or institute "appropriate legal action" for enforcement.

(5) Adopt standards for licensing under the act and for electronic or mechanical gambling games, and establish license fees.

(6) Adopt appropriate standards for all casinos.

(7) Require that a licensee's records ("including financial or other statements of any licensee under this act") be kept on his or her premises ("in a manner prescribed or approved by the board") and that licensees involved in the ownership or management of gaming operations submit to the gaming control board an annual balance sheet and profit and loss statement, list stockholders or other persons having at least one percent beneficial interest in the gaming activities of each licensee, and any other information the board considered necessary in order to effectively administer the act and rules promulgated under the act.

(8) Conduct investigative and contested case hearings, issue subpoenas (for the attendance of witnesses) and "subpoenas duces tecum" (for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents), administer oaths and affirmations to the witnesses, and require and receive testimony under oath or affirmation.

(9) Prescribe a form to be used by casino licensees as an application for potential employees.

(10) Conduct periodic audits of casinos authorized under the act.

(11) Establish minimum levels of insurance to be kept by licensees.

(12) Delegate the execution of any of its powers under the act in order to administer and enforce it and the rules promulgated by the gaming control board.

(13) Take any other action that was "reasonable and appropriate" to enforce the act and rules promulgated by the board.

In addition, the casino gaming control board would be required to enter into agreements with the Department of State Police, the attorney general, and the Department of Treasury to help the board perform any of its responsibilities under the act. The board would be responsible for any costs associated with such

agreements. The board also would be allowed to enter into agreements with the Federal Bureau of Investigation, the Internal Revenue Service, any other state department, or a local law enforcement agency to help the board, which could (but would not be required to) agree to reimburse the actual costs incurred by these other agencies or departments as board operating expenses.

The gaming control board also would be required to notify the governor, attorney general, Senate Majority Leader, and House Speaker within 24 hours after it became aware of a violation or suspected violation by a board member, employee, or agent of any prohibited actions.

Criminal background checks. When the gaming control board was authorized or required by law to consider criminal history record information in order to carry out the board's statutory powers and responsibilities, it would be required to cause a criminal history record investigation to be conducted, in the form and manner required by the Department of State Police and the Federal Bureau of Investigation, in order to obtain information in the state police and FBI files. Upon request from the board of gaming control, the state police would be required to provide information concerning any criminal charges, and their disposition, currently or subsequently filed against an occupational license holder or applicant. Information obtained as the result of such criminal history record investigations would be used in determining eligibility for licenses authorized under the act.

Exclusion/ejection of people from casinos. The gaming control board would be allowed to eject or exclude from casinos licensed under the act anyone who (a) was convicted of a crime involving gambling, (b) violated the act or rules promulgated by the board, (c) had performed an act or had a reputation which the board determined would "adversely affect public confidence and trust in casino gaming," or (d) was on any ("valid and current") list that excluded them from a casino in another jurisdiction in the United States.

Someone ejected or excluded by order of the gaming control board could petition the board for a hearing to review that decision.

Confiscation of property. The gaming control board would be allowed to "seize, confiscate, destroy, or forfeit" any "equipment, gaming device, money, apparatus, proceeds from gaming, substituted proceeds, or real or personal property used, obtained, or received" in violation of the act.

Board members, employees, and agents. Gaming control board members, employees, and agents would be

required to do certain things and refrain from certain actions under the bill, as follows:

Disclosure. By January 31 of each year, each board member, employee, and agent would be required to prepare and file with the gaming control board a disclosure form prescribed by the board affirming under oath and penalty of perjury that he or she:

- (1) Was not a licensee or applicant for a license under the act;
- (2) Continued to meet any other criteria for board membership, employment, or agency; and
- (3) Had disclosed any legal or beneficial interest in any real property that was or might be directly or indirectly involved with gaming or gaming operations authorized under the act, or any other information required by the gaming control board to ensure its integrity and that of its work.

Notice to the board. Gaming control board members, employees, or agents who did, or knew of, certain activities (generally, involving them and a licensee or applicant for a licensee) would be required ("immediately") to notify the board in writing. Members, employees, and agents also would be prohibited from taking any action on behalf of the board with respect to any "person" involved in that reportable activity.

More specifically, board members, employees, and agents would have to give written notice to the board whenever they:

- ** Had a spouse, parent, or child who was a licensee or applicant; or whose spouse, parent, or child was a member of the board of directors of, was "financially interested in," or was employed by a licensee or applicant for a license under the act;
- ** Negotiated for or acquired an interest in, or entered into a negotiation for employment with, or received an invitation to initiate a discussion concerning employment with, a "person" who was a licensee or applicant or affiliate of either a licensee or applicant;
- ** Accepted anything of value (including gifts, gratuities, compensation, travel, or lodging) directly or indirectly from a licensee or applicant unless the acceptance conformed with written policies or directives that might be issued by the chairperson or the board;
- ** Was approached with or offered a bribe under the Michigan Penal Code;

** Had a conflict of interest given existing circumstances (as determined by the board);

** Engaged (or tried to engage) in unofficial communication with a licensee or applicant about matters before the gaming control board; and/or

** Had been charged with or convicted of (a) a misdemeanor involving gambling, dishonesty, theft, or fraud, or (b) any felony under state or federal law (or the law of any other jurisdiction).

Non-criminal prohibited actions. Gaming control board members, employees, and agents would be prohibited from doing any of the following:

** Disseminating or disclosing material in the board's possession that the board considered confidential, unless the chairperson specifically authorized the dissemination or disclosure;

** Accepting anything of value (including gifts, gratuities, compensation, travel, and lodging), directly or indirectly, from a licensee, applicant, or affiliate that didn't conform with written policies or directives that might be issued by the chairperson or the board;

** Engaging in any conduct that constituted a conflict of interest as determined by the board;

** Engaging in any political or politically-related activities (including making and soliciting political contributions) when performing official board duties or at any time that would interfere with the performance of official board duties; and/or

** Applying for a license under the act.

In addition, gaming control board employees and agents (though not board members) would be prohibited from beginning or continuing outside employment not approved by the board. Employees or agents who received permission to engage in outside employment couldn't conduct any activities related to that outside employment during the hours they were working for the board. ("Outside employment" would include, but not be limited to, operating a business and participating as an employee, partner, or officer in any business entity.)

Any gaming control board member, employee, or agent who violated the above prohibitions would be subject to removal from the board, termination of employment, and/or other disciplinary action by the board.

Criminally-prohibited activities. A violation of any of the following prohibitions would be a felony punishable by

imprisonment for up to one year and/or a fine of up to \$1,000:

** Except as otherwise allowed by the gaming control board, board members, employees, and agents would be prohibited from doing any of the following for two years after termination of their appointment, employment, or agency:

(a) Engaging in any employment with, having a contractual relationship with, or having a financial interest in a licensee or applicant;

(b) Appearing before the board on any matter on behalf of a licensee or applicant (though former board members, employees, or agents could appear before the board as witnesses about matters or actions they handled during their board membership, employment, or agency; however, they couldn't receive compensation for being a witness other than a standard witness fee and travel reimbursement as allowed by rule or law);

(c) Engaging in any discussion with a board employee for or on behalf of a specific applicant or licensee about a matter under investigation or pending before the board; and/or

(d) Applying for or having any financial or beneficial interest in a license under the act.

** Except as authorized by the board in conjunction with surveillance, security, or other board responsibilities, board members, employees, and agents couldn't participate in or wager on any gambling game conducted by a licensee under the act.

SECTION 4a (NEW): FOIA exceptions

House Bill 4724 (H-2) (MCL 432.204a) would add a new section (Section 4a) to the act prohibiting or restricting the disclosure of certain information on casinos by the state gaming control board and by the City of Detroit.

Prohibited disclosure. Currently under Section 4(e) of the act, a writing prepared, owned, used, in the possession of or retained by the gaming control board in the performance of an official function must be made available to the public in compliance with the Freedom of Information Act. The bill would amend the act to prohibit the state gaming control board from disclosing any of the following information, except as otherwise specified in the bill:

(1) Unless presented during a public hearing, all information, records, interviews, reports, statements, memoranda, or other data supplied to, created by, or used by the board in relation to a background

investigation or a licensee's or applicant's trade secrets, internal controls, or security measures;

(2) An "identification," including, if the licensee or applicant wasn't an individual, the state of incorporation

(2) All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board that were received from another jurisdiction or local, state, or federal agency if their release was barred by that jurisdiction's or agency's law, ordinance, rule, or regulation or by an intergovernmental agreement;

(3) All information provided in a license application under the act; and

(4) Information supplied to, created by, used by, or in the possession of the board related to background investigations, trade secrets, proprietary or "commercially sensitive" information, internal control systems, security measures, or information received from another jurisdiction or local, state, or federal agency.

Similarly, the bill would exempt from disclosure -- except as otherwise provided in the bill -- all information supplied to, created or used by, or in the possession of the City of Detroit related to background investigations, trade secrets, proprietary or "commercially sensitive" information, internal control systems, security measures, applications for licenses, or information received from another jurisdiction or local, state, or federal agencies.

Confidential disclosure. The bill would allow the state gaming control board to cooperate with and provide on a confidential basis, information, records, interviews, reports, statements, memoranda, or other data supplied to, created or used by, or in the possession of the board to the governor's office, the Department of State Police, the Department of Attorney General, other state agencies, jurisdictions, or law enforcement agencies, and the City of Detroit ("the city in which a casino [was] located or [was] proposed to be located"). Similarly, the bill would allow the City of Detroit to cooperate with and provide, on a confidential basis, such information to the state gaming control board, the Michigan State Police, the attorney general's office, and other state agencies, and other jurisdictions or law enforcement agencies.

Authorized disclosure. The bill would allow the state board of gaming control, upon written request from "any person", to provide only the following information (if the board had the information) concerning casino license applicants or holders, their products, or services, or "gaming enterprises" and their business holdings:

(1) Name, business address, and business telephone number;

or registration, the corporate officers, and the identity of all shareholders (though if an applicant or licensee had a pending registration statement filed with the Securities and Exchange Commission, the board could disclose only the names of those persons or entities holding interests of five percent or more);

(3) An identification of any business -- including, if applicable, the state of incorporation or registration -- in which the licensee or applicant (or their spouses or children) had an equity interest of more than five percent;

(4) Any criminal convictions (other than traffic violations): Specifically, whether the applicant or licensee had been indicted or convicted, had pleaded guilty or nolo contendere, or had forfeited bail concerning any criminal offense under the laws of any jurisdiction, whether felony or misdemeanor (except for traffic violations), including the name and location of the court, the date, the case number, and the disposition of the offense;

(5) Any license actions: Specifically, whether the applicant or licensee had had any license or certification (issued by a Michigan licensing authority or any other jurisdiction) denied, restricted, suspended, revoked, or not renewed and, if known by the board, a statement describing the facts and circumstances involved (including the licensing authority, the date each action was taken, and the reason for each action);

(6) Any bankruptcy proceedings: Specifically, whether the applicant or licensee had ever filed, or had filed against it, a proceeding for bankruptcy or had ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt (including the date of filing, the name and location of the court, the date, the case number, and the disposition);

(7) Any tax delinquencies: Specifically, whether the applicant or licensee had filed or been served with a complaint or other notice filed with any public body regarding the delinquency in the payment of any tax required under federal, state, or local law, including the amount, the type of tax, the taxing agency, and the relevant time periods;

(8) Any involvement with public officials: Specifically, a list of the names and titles of all public officials or officers -- and their relatives -- of any city, state, or federal body, entity, or agency who (directly or indirectly) owned any financial interest in, had any beneficial interest in, were the creditors of, or held or had any other interest in or had any contractual or service relationship with the applicant or licensee;

(9) The name and business telephone number of any attorney, counsel, lobbyist agent, or agent representing the applicant or licensee before the board;

(10) A summary of the applicant's or licensee's development agreement with the city (including the proposed location; the square footage of any proposed casino or casino enterprise; the type of proposed additional facilities, restaurants, or hotels; the expected economic benefit to the city; the anticipated or actual number of employees; any statement regarding compliance with federal and state affirmative action guidelines; projected or actual admissions; and projected annual gross revenues); and

(11) A description of the product or service to be supplied by, or occupation to be engaged in by, the applicant or licensee.

The bill's provisions for disclosure of information by the City of Detroit would be similar to those with regard to the gaming control board, with the following exceptions:

** the city's provisions do not include tax delinquency information;

** in addition to background investigations, trade secrets, internal controls, and security measures (all of which the gaming control board would be prohibited from disclosing unless the information had been presented at a public hearing), proprietary or commercially sensitive information held by the city also would be exempt from disclosure;

** where the gaming control board is allowed to cooperate with, and provide information on a confidential basis to, the governor, attorney general, Department of State Police, other state agencies, Detroit, and law enforcement agencies, the City of Detroit would be required to do so; and,

** in the case of Detroit, all of the other provisions apply not only to casino license applicants and holders but to "respondents" as well, where the bill defines "respondent" to mean "a person who ha[d] submitted a response to a request for proposals for development agreements to the city in which a casino [was] proposed to be located."

SECTION 5: Application for Casino License.

Currently, the initiated law requires casino license applicants to submit applications to the gaming control board, containing information prescribed by the board, including detailed information regarding the ownership and management of the applicant. The law further

requires applicants to disclose the identity of every person or business entity having more than one percent "direct or indirect pecuniary interest in the casino gaming operation with respect to which the license is sought." The board is required to act on applications within 90 days of the date of submission, and must deny a casino license if an application contains false statements.

House Bill 4725 (H-2) would amend the section of the act governing application for casino licenses (MCL 432.205) to require that applications be made under oath, to require the board to act on applications within "a reasonable period of time" (instead of within 90 days), to exempt from disclosure the identity of shareholders with less than five percent "pecuniary" interest in a publicly held corporation, and to add an appeals procedure for gaming control board decisions regarding license actions or fines.

The bill would allow applicants or licensees aggrieved by a license action of the gaming control board (denying, suspending, revoking, or restricting a license) or a fine imposed by the board to request a hearing before the board. The request would have to be made to the board in writing within 21 days after the aggrieved party had received service of notice of the action taken by the board. Notice of the action by the board would have to be served either by personal delivery or by certified mail ("postage prepaid") to the aggrieved party, with notice by certified mail being "complete" on the business day following the day that the notice was mailed. Judicial review of board decisions would be in accordance with the Administrative Procedures Act.

Applicants for new casino licenses who were aggrieved by an action of the board denying a license or by Detroit's decision not to select the applicant under the competitive bidding process in the law would not be entitled to a contested case hearing before the board or any other administrative body, but would be entitled to judicial review in the court of appeals. Such appeals would have to be filed within 14 days after the decision made against the aggrieved party and would be conducted on an expedited basis. Such appeals would be limited, however, to a determination as to whether the action by the gaming control board (in denying the license) or by Detroit (in deciding not to select the applicant in the competitive bidding process under the initiated law) was authorized by law. In making its determination, the court would be required to consider both whether the board or the city followed the procedures, and used the criteria, specified or authorized by the initiated law.

SECTION 6: Casino Licenses.

The initiated law allows the gaming control board to issue no more than three casino licenses, and requires the board to issue casino licenses if the board determines the applicant is "eligible." The act specifies four criteria that an applicant must meet in order to be eligible for a casino license, and specifies that a license applicant is ineligible for licenses if the applicant or its affiliate or affiliated company has been convicted of: (1) any felony in the state; (2) any misdemeanor involving gambling or fraud in any state; or (3) any violation of a local ordinance corresponding to a misdemeanor in any state that involves gambling or fraud. The board must find an applicant is eligible for a casino license if four criteria are met:

- (1) Before the date of application, either the applicant was selected by Detroit ("the city") under a competitive bidding process; or the applicant or its affiliates or affiliated companies was the initiator of any casino gaming proposal submitted for voter approval in Detroit ("in the city in which the casino will be located") and the voters approved the proposal;
- (2) The applicant proposed to locate the casino in Detroit ("in a city where the local legislative body enacted an ordinance approving casino gaming, which ordinance may include local regulations governing casino operations, occupational licensees and suppliers consistent with rules promulgated by the board");
- (3) The applicant entered into a development agreement with Detroit; and
- (4) The applicant or its affiliates or affiliated companies has a history of, or a bona fide plan for, either investment or community involvement in Detroit ("in the city where the casino will be located").

If more than three applicants meet these criteria, licenses must first be issued to applicants who had successfully submitted any casino gaming proposal for voter approval before January 1, 1995, in Detroit (a condition that would apply only to the Atwater Casino Group and the Greektown developers). Finally, a casino license applicant licensed by the board must pay an annual license fee of \$25,000.

House Bill 4865 (H-1) (MCL 432.208) would amend the initiated act to rewrite these casino license requirements, both to conform the language of the act with standard legislative language, to add additional "moral character" and business experience requirements for casino license applicants, to add additional circumstances under which an applicant would become ineligible, and to set up provisions for conservatorships under certain circumstances.

The bill would amend the qualifying criteria as follows: It would require both (a) that the competitive bidding process be designed by Detroit to select the proposals that best served the interests of the city, and (b) that casino

license applicants show ("by clear and convincing evidence") that both the applicant -- and each person who controlled the applicant, directly or indirectly -- possessed "the necessary integrity, good character and reputation, personal and business probity, and business and financial experience and means" to be licensed ("to develop, construct, operate, or maintain the casino proposed in the development agreement").

The bill would make applicants ineligible not only if they had been convicted of the listed felonies or misdemeanors, but also if (a) the person had submitted a license application that contained false information; or (b) a person to whom any of these disqualifying circumstances applied was an officer, director, or key employee of the applicant or was a person who held more than one percent direct or indirect interest in the applicant. (Note: In addition, the bill would change the current felony provisions to include convictions under federal laws, in addition to the laws of Michigan or any other state, and would add misdemeanor convictions for theft or dishonesty in addition to the current gambling or fraud misdemeanors "in any state.")

The bill also would amend the casino licenses section of the initiated law to do the following:

** Specify that nothing in the act could be construed to prevent the Gaming Control Board from issuing a new casino license to replace a revoked or nonrenewed license if only three casino licenses were in effect at the same time.

** Allow the gaming control board to review Detroit's certification that an applicant had sufficient financial resources and business experience.

** Specify that a license to operate a casino under the act was a revocable privilege granted by the state, and was not a property right.

** Require the gaming control board to revoke a casino license, upon the request of the City of Detroit, when any "material agreement" pertaining to the casino or the casino enterprise between the casino licensee and Detroit was terminated.

** Require the approval of the City of Detroit for any change in the ownership or control of a casino licensee that required the approval of the gaming control board.

** Require the board to appoint a conservator when any of the following things happened (and "notwithstanding any other provision of [the] act"): A casino license was (a) revoked or (b) suspended ("in the discretion of the board") for more than 120 days; or (c) the board failed or

refused to renew a casino license ("notwithstanding the pendency of any appeal of the refusal or failure to renew").

The board-appointed conservator would ("among other things") take over ("and into his or her possession and control") all the licensee's property and business relating to the casino. The bill would prohibit the appointment of a person as conservator unless the board was satisfied that the person was qualified to perform the duties of a conservator, and would prohibit the operation of a casino by a conservator for more than one year. The conservatorship provisions of the bill would not apply, however, where the casino for which the casino license was issued had not been in operation and open to the public.

SECTION 6a (NEW):
Casino Licensee Affirmative Duties.

House Bill 4721 as introduced (MCL 432.206a) would add a new section (Section 6a) to the act requiring all casino license holders and applicants to do certain things, and making failure to comply grounds for denial, suspension, or revocation of a license.

More specifically, in addition to being under a continuing duty to provide information requested by the state gaming control board and to cooperate in any investigation, inquiry, or hearing conducted by the board, all casino license holders and applicants would have to do the following:

** Provide information requested by the gaming control board to help in any board investigation, inquiry, or hearing;

** Comply with the act, rules promulgated by the state board, and final orders of the gaming control board;

** Notify the gaming control board and the Department of State Police, in writing, within 24 hours of discovery of illegal or suspected illegal activity that was contrary to the act, rules promulgated by the board, or final orders of the board;

** Take reasonable precautions to ensure that persons less than 21 years of age are not permitted in an area where gaming is conducted (except employees), ensure that no employee less than 21 years old performs any function involved in gaming, and take reasonable steps to ensure that no one under 21 is permitted to make a wager in a casino.

** Consent to inspections, searches, and seizures; and

** Provide handwriting exemplars, fingerprints, photographs, and information as authorized in the act and in rules promulgated by the state gaming control board.

SECTION 6b (NEW): Casino Surety Bonds.

House Bill 4722 (H-1) (MCL 432.206b) would add a new section (Section 6b) to the act requiring a \$500,000 bond to be posted by casino licensees. More specifically, before a casino license were issued, the "licensee" would be required to post a \$500,000 bond payable to the state of Michigan. The bond would be used to guarantee that the licensee "faithfully" made all payments, "properly" kept his or her books and records, made reports, and conducted his or her casino gaming in conformity with the act and rules promulgated by the gaming control board. The total liability of the surety on the bond would be limited to the amount specified in the bond. A surety could not cancel a bond without first giving the gaming control board written notice 30 days before the date of cancellation. If a bond were canceled and the licensee failed to file a new bond with the gaming control board ("in the required amount") on or before the effective date of cancellation, the board would have to revoke the license.

SECTION 6c (NEW):
Posting of Signs on Problem Gambling.

House Bill 4732 as introduced (MCL 432.206c) would add a new section to the act to require that casino licensees post signs in their casinos on where and how to get help with gambling problems. The signs would have to be prescribed or approved by the Michigan Gaming Control Board, and posted both at each casino entrance and exit and near each location in the casino where a patron could obtain credit to participate in casino games. Each casino licensee also would be required to print a statement (prescribed or approved by the board) on where and how to get help with gambling problems on any printed material the licensee provided to the general public.

SECTION 7: Suppliers Licenses.

Under the initiated law, all equipment necessary for implementation of the act must be purchased from "suppliers" licensed by the gaming control board, which also is required to promulgate rules requiring the licensing of all persons manufacturing, selling, leasing or distributing equipment used in conducting casino gambling. The board may issue a suppliers license ("to such persons or companies which apply therefor") upon the following: (a) the payment of a non-refundable application fee set by the board; (2) a determination by the board that the applicant is eligible for a suppliers license under regulations to be promulgated by the

board; and (3) payment of a \$5,000 annual license fee. The law specifies an applicant will be ineligible to receive a suppliers license if the applicant or its affiliate or affiliated company has been convicted of any of the following: (1) any felony in the state; (2) any misdemeanor involving gambling or fraud in any state; or (3) any violation of a local ordinance corresponding to a misdemeanor in any state that involves gambling or fraud. The law also allows Detroit to regulate suppliers through ordinances that are not inconsistent with the act.

to a misdemeanor in any state that involves gambling or fraud. Detroit also may

House Bill 4864 as introduced would amend this section of the law to require applicants to have shown ("by clear and convincing evidence") that they -- and that each person who controlled the applicant, directly or indirectly -- had "the necessary integrity, good character and reputation, personal and business probity, and business and financial experience and means" to be licensed. An applicant ("or any applicant that ha[d] an affiliate or affiliated company") would be ineligible to receive a supplier's license not only if they had been convicted of the listed felonies or misdemeanors, but also if (a) the person had submitted a license application that contained false information; or (b) a person to whom any of these disqualifying circumstances applied was an officer, director, or key employee of the applicant or was a person who held more than one percent direct or indirect interest in the applicant. (Note: In addition, the bill would change the current felony provisions to include convictions under federal laws, in addition to the laws of Michigan or any other state, and would add misdemeanor convictions for theft or dishonesty in addition to the current gambling or fraud misdemeanors "in any state.")

SECTION 8: Occupational Licenses.

The initiated law allows the gaming control board to issue an occupational license to an applicant upon: (a) the payment of a nonrefundable fee set by the board; (b) a determination by the board that the applicant is eligible for an occupational license under regulations to be promulgated by the board; and (c) payment of an annual license fee, "in an amount to be established." In addition, to be eligible for an occupational license, an applicant must (1) be at least 21 years old, if he or she will perform any function involved in gaming by patrons; (2) be at least 18 years old, if he or she will perform only non-gaming functions; and (3) not have been convicted of any felony or any misdemeanor involving gaming in the state or any other jurisdiction. The law specifies that an applicant will be ineligible to receive an occupational license if the applicant or its affiliate or affiliated company has been convicted of any of the following: (1) any felony in the state; (2) any misdemeanor involving gambling or fraud in any state; or (3) any violation of a local ordinance corresponding

regulate occupational licenses through ordinances not inconsistent with the act.

House Bill 4863 as introduced (MCL 432.208) would add the same additional "moral character" and business experience requirements, and the same disqualifying circumstances, for applicants for occupational licenses as would be added for suppliers licenses by House Bill 4864. That is, the bill would amend this section of the law to require applicants to have shown ("by clear and convincing evidence") that they -- and that each person who controlled the applicant, directly or indirectly -- had "the necessary integrity, good character and reputation, personal and business probity, and business and financial experience and means" to be licensed. An applicant ("or any applicant that ha[d] an affiliate or affiliated company") would be ineligible to receive an occupational license not only if they had been convicted of the listed felonies or misdemeanors, but also if (a) the person had submitted a license application that contained false information; or (b) a person to whom any of these disqualifying circumstances applied was an officer, director, or key employee of the applicant or was a person who held more than one percent direct or indirect interest in the applicant. (Note: In addition, the bill would change the current felony provisions to include convictions under federal laws, in addition to the laws of Michigan or any other state, and would add misdemeanor convictions for theft or dishonesty in addition to the current gambling or fraud misdemeanors "in any state.")

SECTION 9a (NEW) : Violations; Penalties

House Bill 4716 (H-2) (MCL 432.209a) would add a new section to the act to establish a list of unlawful actions (with regard to cheating at casino games, falsifying casino license applications, and underage gambling), and to specify felony and misdemeanor penalties for committing these prohibited acts.

Felonies. More specifically, the bill would make it unlawful to knowingly do any of the following:

- (1) Cheat at any game.
- (2) Manipulate any "component" of a game, knowing that it would affect the outcome of the game, including varying the pull of a slot machine handle.
- (3) Change or lie about the outcome of a game on which wagers had been made after the outcome was determined but before the results were revealed to the players.
- (4) Use (or have, with the intent to use) anything to help project the outcome of a game, keep track of the cards played in a game, or analyze probabilities of game-

related "occurrences" or strategies for playing or betting in games.

(5) Place, increase, or decrease a bet, or determine the course of play after acquiring knowledge either not available to all players of the outcome of the game or of any event that affected the outcome of the game or was the subject of the bet -- or help anyone acquire such knowledge for the purpose of placing, increasing, or decreasing a bet or determining the course of play.

(6) Claim, collect, or take (or try to take) money (or anything of value) in or from a game without having bet on the game.

(7) Claim, collect, or take more than what was won in a game.

(8) Place or increase a bet (including "past-posting" and "pressing" bets) or reduce the amount wagered or cancel a bet (including "pinching" bets) after acquiring knowledge of the outcome of the game that is being bet on.

(9) Persuade someone to go to a casino (or any place where gambling is being done) operated in violation of the act in order to gamble.

(10) Have a key or device designed to open, enter, or affect the operation of a game, drop box, or electronic or mechanical device connected with a game, or for removing coins, tokens, chips, or other contents of a game, unless the person was an owner, employee, or casino agent acting in the course of his or her employment.

(11) Have (with the intent to use) or use any slug or counterfeit token, chip, or electronic card in a game, or have materials used to make any such items or devices intended to be used in a way that would violate the act or rules promulgated by the Michigan Gaming Control Board.

(12) Engage in "skimming of gaming proceeds," which the bill would define to mean the intentional exclusion (or attempted exclusion) of anything ("or its value") from the deposit, counting, collection, or computation of gross revenues from gaming operations, net gaming proceeds, and/or amounts due to the state or city under the act.

In addition to any other civil or criminal penalties imposed by the act or any other law, a casino (or casino enterprise) owner, employee, or agent who committed (or tried to commit) one of the above prohibited acts would be guilty of a felony punishable by imprisonment for up to 7 years and/or a fine of up to \$50,000. A

patron who "knowingly" committed (or tried to commit) one of the

listed prohibited acts would be guilty of a felony punishable by imprisonment for up to 2 years and/or a fine of up to \$25,000.

Misdemeanors. The bill also would make it unlawful to knowingly do any of the following:

- (1) Make a false statement on an application for a license (or for renewal of a license) under the act.
- (2) Let someone younger than 21 enter an area of a casino where gambling was being conducted, unless that person was an employee at least 18 years old.
- (3) Let someone under 21 bet on a game.
- (4) Bet on a game if younger than 21.
- (5) Let someone place a bet on a game on behalf of someone under 21.
- (6) Place a bet on a game on behalf of someone under 21.

In addition to any other civil or criminal penalties under the act or any other law, any person who knowingly committed (or tried to commit) one of the above prohibited acts would be guilty of a misdemeanor, punishable by imprisonment for up to 1 year and/or a fine of up to \$5,000.

SECTION 10a (NEW):
Michigan Council of Problem Gaming Hotline

House Bill 4666 (H-4) (MCL 432.210a) would add a new section to the act (Section 10a) to require anyone who held a casino license under the act to post ("conspicuously") at each casino entrance and exit a sign with the Michigan Council of Problem Gaming toll-free hotline number. The Michigan Gaming Control Board would determine the minimum size of the sign and the lettering to be used.

SECTION 12: Wagering Tax; Rate; Distribution.

House Bill 4720 (H-2) would amend the "wagering tax" section of the initiated law (MCL 432.212) to require that 55 percent of the tax be remitted daily directly to the City of Detroit, instead of to the state casino gaming fund and then allocated to Detroit from the fund; to impose an annual \$2.5 million assessment on the three casinos to be used to ameliorate compulsive gambling; and to allow for adjustment of wagering taxes submitted to the city.

The initiated law imposes an 18 percent "wagering tax" on the gross revenues received by casino licensees from gambling authorized under the act, which tax is to be

remitted daily by casino license holders to the Department of Treasury by electronic wire transfer of funds. The tax, plus all other fees (such as the \$50,000 casino license application fee), fines, and charges are to be deposited into the state casino gaming fund in the Department of Treasury. All of "the ordinary, necessary, and reasonable" expenses of operating the gaming control board are to be deducted from the fund, with the fund being distributed "periodically" -- in accordance with the provisions of the act according to a schedule and methodology "mutually agreeable" to the Department of Treasury and the City of Detroit. The state casino gaming fund is to be split between Detroit (55 percent) and the state school aid fund (45 percent, "to provide additional funds for K-12 classroom education"). The law requires that the 55 percent of the fund that goes to Detroit be used for the following:

methodology" that is "mutually agreeable" to the Department of Treasury and Detroit.

- (a) The hiring, training, and deployment of street patrol officers;
- (b) Neighborhood and downtown economic development programs designed to create local jobs;
- (c) Public safety programs, such as emergency medical services, fire department programs, and street lighting;
- (d) Anti-gang and youth development programs; and
- (e) Other programs designed to contribute to the improvement of the quality of life in Detroit.

The bill would amend this section of the act to do the following:

** In addition to the other fees imposed under the act, impose an annual assessment totaling \$2.5 million on the three casinos licensed under the act. The assessment would be deposited in the state casino gaming fund to be used exclusively for the prevention, education, and treatment of compulsive gamblers.

** Delete the provision requiring that the 18 percent wagering tax be remitted daily by casino license holders to the Department of Treasury by electronic transfer of funds, and instead require that 55 percent of the tax be remitted daily by the licensee, by electronic wire transfer, directly to an account that the City of Detroit ("the city in which a casino is located") had designated to be used for the above listed purposes. If the financial institution designated by Detroit was unable to receive an electronic wire transfer of funds on the day the licensee tried to transfer the funds, the licensee would have to transfer the funds on the following day. The bill also would delete the requirement that the casino gaming fund be distributed periodically in accordance with the provisions of the act under "a schedule and

** Direct all fees, fines, and charges to be deposited into the state casino gaming fund, and require that 45 percent of the 18 percent wagering tax be remitted daily by casino licensees by electronic wire transfer to the state casino gaming fund to be deposited in the state school aid fund to provide additional funds for K-12 classroom education.

** Require the gaming control board to provide, by rule, for the procedures and forms to allow for any adjustments or corrections of the portion of the wagering tax remitted by casino licensees to Detroit under this section of the act.

** As in House Bill 4723, House Bill 4720 would make the attorney general's Casino Control Division the exclusive counsel to the gaming control board, and would require the attorney general (in his or her "discretion") to represent the board, its agents, and employees in all legal and administrative proceedings. In addition, just as House Bill 4723 would make the board responsible for any costs associated with mandatory agreements with the attorney general and the Departments of Treasury and State Police, the bill also would specify that casino-related services provided by the attorney general, and casino-related expenses of the Department of State Police, would be paid by the board, which would remit the money for these expenses on a quarterly basis to the Department of Treasury. The treasury department then would distribute the money to the board, the attorney general, and the Department of State Police.

SECTION 13: Municipal Services Fee.

In addition to the 18 percent wagering fee imposed by the initiated law, the law also requires each casino licensee to pay to the City of Detroit an annual "municipal services" fee "in order to assist the city in defraying the cost of hosting casinos." This fee is to be the greater of either (a) \$4 million, or 1.25 percent of gross revenue, and is to begin to be paid on the first anniversary of the casino opening for operations. The law requires this municipal services fee to be deposited by Detroit into its general fund "for disbursement as it sees fit," but also specifies that no other cost for police, fire, or EMS protection may be imposed in a development agreement.

House Bill 4883 (H-1) would amend the law (MCL 432.213) to require that the municipal services fee initially would be paid on the first day that the casino was open for operations, instead of the anniversary of the casino's opening. After the first year of operation, the fee would be paid quarterly, and if, at the end of the year, the city determined that the fee was "insufficient," it would be able to assess the licensee an additional amount. The licensee would have to pay any such

additional fee within 20 days after the anniversary of the date on which the casino opened for operations.

SECTION 14: Audit of License Operations.

Currently, the initiated law requires that within 90 days after the end of each quarter of each fiscal year an audit of the financial transactions and conditions of a licensee's total operations be conducted by the legislative auditor general, with the cost of the audit paid for by the licensee. Additionally, the City of Detroit may audit casinos through its own personnel.

House Bill 4718 (H-2) (MCL 432.214) would amend the law to require that casino licensees pay for quarterly operational and legal audits of their total operations by certified public accountants approved by the Michigan Gaming Control Board. Every two years, the state auditor general also would be required to conduct an audit of the quarterly audit procedures used in the quarterly audits of the casinos.

SECTION 17 (NEW): Campaign Contributions.

House Bill 4664 (H-2) (MCL 432.217) would add a new section to the act (Section 17) to prohibit casino license applicants from making campaign contributions while they were applying for a license, and would require applicants who made contributions of \$1,000 or more to a political party caucus committee in a single day to report that contribution to the secretary of state by no later than 4 p.m. on the following business day.

More specifically, the bill would prohibit applicants, affiliates, or affiliated companies from ("directly or indirectly") paying or using money or property for any of the following political purposes during the period of time beginning on the date on which they submitted a proposal for a development agreement to Detroit and ending on the date the Gaming Control Board made a decision on the application:

** To aid a political party or organization or any committee (including candidate committees, political committees, and political party committees) organized under the Michigan Campaign Finance Act;

** To aid a candidate for elective office (or for nomination to elective office); or

** To reimburse a person for money or property used in violation of the bill.

In addition, the bill would require an applicant who made, in a single day, a contribution greater than \$1,000 to a Senate or House political party caucus committee to file a report of the contribution with the secretary of state no later than 4 p.m. the following

business day. The report would have to include all of the following information: the applicant's name, the name of the caucus

committee that received the contribution, and the date and amount of the contribution.

A person who violated the provisions of this section of the bill would be guilty of a misdemeanor and could be subject to imprisonment for up to one year and/or a fine of up to \$1,000.

SECTION 17 (NEW):
Transportation of Gambling Devices.

The federal Gambling Devices Transportation Act (the popular name for Section 2 of Chapter 1194, 64 Stat., [Title] 15 of the United States Code, approved Jan. 2, 1951) prohibits the transportation of gambling devices to any place in a state unless the state has enacted a law exempting the state from this provision. The transportation prohibition also does not apply to any gambling devices used at, and transported to, a licensed gambling establishment where betting is legal under state law (15 U.S.C. 1172).

House Bill 4744 as introduced (MCL 432.217) would add a new section to the Initiated Law of 1996, the Michigan Gaming and Revenue Control Act, to exempt Michigan from the federal ban on transporting gambling devices and to specify that all shipments of legally registered, recorded, and labeled gambling devices (including slot machines) to licensed casinos in the state would be legal shipments of gambling devices into Michigan. (Note: Both House Bill 4664 and House Bill 4744 would add a Section 17 to the initiated law, though they include different provisions.)

PAYING FOR CASINO REGULATION

Finally, House Bill 4856 would add a new section to the Single Business Tax Act (MCL 208.31b) that would direct taxes collected under the act on casinos to the state Casino Gaming Fund to provide funding for the administration and regulation of casinos. A company's tax liability attributable to casino operations would be determined by means of a formula that, generally speaking, took into account both the proportion of all the company's property in the state that was casino property and the proportion of all the company's payroll in the state that was casino payroll. (Note: Because this bill amends the Single Business Tax Act, and not an initiated law, presumably its passage would require only a simple majority affirmative vote instead of the three-fourths vote needed to amend the initiated law.)

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, House Bills 4664, 4716, and 4720-4725 would result in increased local revenues and increased state costs; the amounts are unknown at this time. As a point of reference, the

Michigan Gaming Control Board estimates total oversight costs for regulation of casinos in Detroit at \$10.6 million per year. House Bill 4856 would result in a decrease in single business tax revenue of approximately \$10 million. However, in comparison to the current provisions of the initiated law, the bill would have a net effect of decreasing state revenues by \$5.5 million. House Bill 4883 would have no state fiscal impact, and would increase local revenues by an indeterminate amount. House Bills 4863, 4864, and 4865 would increase state costs by an indeterminate amount. House Bills 4666, 4718, 4732, 4739, 4744, and 4755 would have no fiscal impact. (6-9-97 and 6-10-97)

ARGUMENTS:

For:

While there has been considerable public debate on the expansion of legalized gambling, particularly casino gambling, in the state, the fact remains that in November of 1996, the voters of the state approved Proposal E, an initiated referendum that for the first time would allow limited non-Indian casino gambling in the state. The Initiated Law of 1996 (the Michigan Gaming and Revenue Control Act) has taken effect and although it has provisions requiring the state gaming control board established under the law to promulgate rules necessary for the act's implementation, there is widespread agreement that the law itself is not adequate to protect the public safety and welfare of the citizens of the state and that it needs to be amended legislatively.

Any legislation amending "Proposal E" (as the initiated law often is called) must have at least a three-fourths majority in both houses of the legislature; therefore it is important that there be bipartisan support for any proposed amendments. The proposed bipartisan package of 19 bills would appear to be a good beginning toward implementing the changes necessary to ensure the kind of regulation that balances maximizing the economic benefits to the state from this hugely profitable segment of the entertainment industry with the protection of the people of the state from its attendant social risks, such as the potential for an increase in crime, whether "street" or organized, and in the kinds of domestic violence and bankruptcy that can result from the increase in problem and/or compulsive gambling that experts predict will inevitably follow in the wake of increased casino gambling opportunities.

As the attorney general says, in a letter dated May 21, 1997, "Not since the repeal of Prohibition has the need for decisive action in the protection of our state's citizens, economy, and reputation been so crucial. The electorate's

decision to legalize gambling represents both an opportunity for growth and a potential for harm. Any amendments [the legislature] consider[s] must allow economic growth while minimizing attendant social cost." He goes on to note that, in light of the well documented potential for harm to the public safety posed by such an enormously profitable enterprise as casino gambling (according to one source, casinos generally make profits in the range of 50 percent, in comparison to other businesses, whose profit margins typically range from 6 to 8 percent), stringent regulation of Michigan casinos and the provision of adequate law enforcement tools is necessary to ensure that casino gambling in Michigan is operated responsibly, and free of organized crime, corruption, money laundering, and other such possible abuses. The package of bills addresses a whole range of law enforcement and/or regulatory-related issues identified by the attorney general, the top law enforcement officer in the state, including licensing criteria and broad rule-making authority, regulation of ancillary casino facilities (such as junket operators, casino hotels, restaurants, and entertainment facilities), cost of regulation, time limits on background investigations, interagency agreements, exclusion of violators from casinos, inspection of casinos and seizure of property, investigations and disciplinary action, auditing authority, and criminal provisions. Thus, for example, one of the bills in the package incorporates into the criteria for all three kinds of license applicants under the initiated law (casino, supplier, and occupational) the kinds of character, business experience, sufficiency of financial resources, and integrity that existing Michigan law requires of licensees in the oldest form of legalized gambling in the state (dating back to 1931), horse racing. The bills also would impose the toughest criminal penalties -- a maximum of up to 7 years in prison (compared, for example, to Nevada, which reportedly has a 6-year maximum) -- for certain felony violations of the act's provisions.

The bills go further, however, and address the issue of potential political corruption by limiting the campaign contributions that casino license applicants and license holders can make and by imposing "super-reporting" requirements when contributions are made. In addition, the bills would require casino licensees to post surety bonds, and casinos to address the problem/compulsive gambling issue by posting notices within the casinos on where patrons can go to get help and by imposing an annual \$2.5 million assessment on the three Detroit casinos to be used exclusively for the prevention and treatment of compulsive gambling. The bills' expansion and strengthening of the gaming control board's jurisdiction, powers, and duties -- including addressing such issues as prohibiting conflicts of interest and "revolving door" lobbying -- would further assure that, as the proposed legislative intent language says, the

Michigan Gaming Control and Revenue Act would "promote the safety, security, growth, and integrity of casino gaming in Michigan."

other (business, sales, and alcohol) taxes, the state still could lose money because of

Against:

Some of the arguments against the package of bills are arguments that were raised against ballot Proposal E before last November's general election. For example, some people argue that unless video gambling is allowed at race tracks and bars, expansion of casino gambling will hurt a number of existing businesses -- both gambling, such as horse racing, and non-gambling entertainment, such as local restaurants, theaters, and bars -- by diverting, rather than creating new, patterns of spending and revenue. In particular, however, many people have argued that the casino license "preferences" written into Proposal E by the Detroit-based casino developers who promoted the city initiatives to allow casino gambling and who wrote and funded (according to some reports, to the tune of up to \$10 million) Proposal E are patently unfair. Because of the way the initiated law is written, only three casinos would be allowed in qualified cities, and only Detroit qualifies under the law. But further, if more than three applicants meet the law's criteria for "eligible" applicants for casino licenses, the law requires that "licenses shall first be issued to applicants which submitted any casino gaming proposal for voter approval prior to January 1, 1995, in the city in which the casino will be located [i.e. Detroit] and the voters approved the proposal." Only two potential applicants -- the Atwater Entertainment group and the Greektown casino group -- meet this retrospective requirement. Opponents to this provision argue that it will -- and perhaps already has -- discouraged competition for the three licenses, and that the only fair thing to do -- and the only thing that will maximize Detroit's ability to pick those applicants that will provide it with the best deal for its residents and the state's taxpayers -- is to eliminate this preference. Opponents also argue that this "preference" provision is an unconstitutional denial of fair and due process to other potential applicants, and that rejected applicants could sue, claiming they didn't have a fair chance at winning a casino license because of the built-in preference. Finally, some people argue -- as they did before the vote on Proposal E -- that while Detroit's three casinos could help the city, they also could result in a net loss to the state from a possible drop in lottery sales and a loss of Indian casino revenues when the Detroit casinos open. According to a study done by the Office of Revenue and Tax Analysis in the Department of Treasury, reportedly Detroit casinos could cost the state up to \$21 million in fiscal year 1999 despite the \$103-109 million the city is expected to gain in casino and other taxes. Despite an increase in state revenues of \$68-72 million in casino taxes, plus \$17-27 million in

the other costs of the casinos. The study reportedly estimates that there will be about \$10.6 million in costs for police, auditors, and other staff to regulate the Detroit casinos, a loss of \$59.4 million from an estimated ten-percent drop in lottery sales, and a loss of \$52.4 million to the state's Renaissance Fund from the loss of current payments from the seven tribes that operate 14 casinos in the state and that will not have to pay the state when they no longer have a monopoly on slot machines.

Response:

While the gaming control board has to give a preference to certain applicants, before the selection process even gets to that point, the applicant must have entered into a written development agreement with the City of Detroit, which is not bound by the law to choose either of the two "preferred" potential applicants. And if casino license standards are sufficiently high, it doesn't really matter who holds a casino license, since the license holder will have been chosen regardless of his or her history of involvement in Detroit referenda before 1995. In addition, the director of legal research of the Legislative Service Bureau, in a memorandum dated March 21, 1997, has said that because the preference is not based on a "suspect criteria" (such as race or sex) and does not affect a fundamental right (such as the right to vote), "the preference will likely be found to be constitutional." Others also have pointed out that plenty of competition in the casino gambling market in Michigan still exists, in the form not only of Indian casinos but also the Windsor casinos just across the river from Detroit (and which, in fact, were the impetus that apparently changed Detroiters' otherwise longstanding opposition to allowing casino gambling in their city). Finally, it has been argued that there's nothing wrong with giving a preferred status to two Detroit-based development companies that have a proven track record of involvement in, and loyalty to, Detroit. The preferences could, in fact, help ensure that Michigan-based companies will be rewarded in this instance, just as they have been by the state in other instances.

In response to the treasury department study, it was pointed out by a spokesman for the Greektown Casino Group that the governor's own "Blue Ribbon" panel on gambling estimated two years ago that a limited expansion of casino gambling would result in a one to three percent drop in lottery revenues, not a ten percent drop, and added that casinos and lotteries attract different players. In its report, further, the governor's panel said that expansion of casino gambling would have only minimal impact on the Michigan Lottery, and that the impact would be temporary. In addition, it pointed out that whatever effect casino gambling would have on the lottery has already been felt because of the recent expansion of Indian casino gambling in Michigan and of the Windsor casinos in Canada. Furthermore, even if

the state were to experience the worst-case scenario of a loss to the state of over \$20 million from Indian casino money, this loss could be offset if the legislature approved compacts with four newly (federally) recognized tribes that wish to open casinos and that have said that they would be willing to give 8 percent of their slot machine revenues to the state even after the Detroit casinos opened. The tribes' consultants reportedly estimate that the new tribes' casinos could put \$29 million into the Renaissance Fund, more than making up for the loss from the other tribes. And if the state didn't lose as much money as the treasury study estimated, then the state could actually wind up with a net increase in money.

Against:

One of the biggest disagreements between proponents of the 19-bill House package of legislation and legislation based on the gaming control board's recommendations that was simultaneously introduced into both Houses, concerns where payment for regulation of casinos will come from. The House bill package would pay for regulation from the single business tax on the three Detroit casinos; the alternative would pay for regulation by imposing additional taxes on the casinos, most notably in the form of a \$1,500 tax on each slot machine. Since some estimates are that the three Detroit casinos are expected to have between 2,500 and 4,000 slot machines each, this would bring in a considerable amount of money. Opponents of the single business tax approach to funding the costs of casino regulation argue that this approach uses public, taxpayer money that ought to instead come from the operators of these hugely profitable enterprises. Rather than take taxpayer money to pay for the cost of regulating casino gambling, they argue, it would be preferable to tax the gambling equipment with an annual tax instead.

Response:

Not surprisingly, the casino industry opposes an additional, annual \$1,500-per-slot machine tax, arguing that such a tax would push the total tax burden on the casinos to almost 24 percent of revenue (instead of the 21.33 percent under Proposal E). According to a study sponsored by the industry, the gambling tax in Detroit would compare to a 7.5 percent rate for Indian-operated casinos, 7.52 percent for Las Vegas gambling establishments, 11.2 percent in Atlantic City, and 20 percent across the river in Windsor. Increasing the tax rate this way, they argue, could simply make the Detroit casinos non-competitive, in which case everyone would lose. In addition, proponents of the single business tax approach point out, since there currently are no casinos operating in Detroit, using this revenue source to fund regulation of the casinos would not take away from taxpayers public money that currently is coming in and being used to fund other state functions. Instead, it would

be a new revenue stream, and one most appropriately used to regulate this new revenue source.

POSITIONS:

The City of Detroit unequivocally supports the House package. (6-11-97)

The Greektown Casino Group (the Sault Ste. Marie Tribe of Indians and 400 Monroe Associates, a real estate investment partnership between Greektown developers Ted Gatzaros and James Papas) supported the bills as introduced, and supports the intent of the bills as reported from committee. However, it has concerns about the transfer of power from Detroit to the state that would occur under the committee version of the bills. (6-11-97)

The Atwater Casino Group (a partnership between Atwater Entertainment Associates -- and North American Gaming) believes that the package of bills has some defects and will be suggesting some amendments. (6-11-97)

The Michigan Gaming Control Board has endorsed alternative legislation that contains the board's recommendations (House Bill 4714), and has not yet taken a position on this package. (6-11-97)

Analyst: S. Ekstrom

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.