

**S B**

**263**

**FILE 1**

VIDEO GAMING MACHINE SERVICE FORM  
(Must be Legible)

Complete this form when any service work is done to a video gaming machine that effects any meters. Immediately fold, tape, stamp, and return to address on the reverse side.

Machine Serial # \_\_\_\_\_ Decal #(current) \_\_\_\_\_ Liquor License # \_\_\_\_\_  
 Keno \_\_\_\_\_  
 Bingo \_\_\_\_\_  
 Poker \_\_\_\_\_  
 CHECK ONE

DESCRIBE FAILURE/PROBLEM: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

METER READINGS BEFORE REPAIR/SERVICE

If machine does not have a printer, record all available meter readings

	<u>Mechanical</u>	<u>Electrical</u>	
credits in B.A.	_____	_____	Staple audit ticket here > <
coins in	_____	_____	
credits played	_____	_____	UNABLE TO PRINT AN AUDIT TICKET?
credits won	_____	_____	Record electrical readings from
credits paid	_____	_____	display and check here > _____

LABOR DESCRIPTION: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

New Logic Board Serial Number: \_\_\_\_\_ N/A \_\_\_\_\_

METER READINGS AFTER REPAIR/SERVICE

	<u>Mechanical</u>	<u>Electrical</u>	
credits in B.A.	_____	_____	Staple audit ticket here > <
coins in	_____	_____	
credits played	_____	_____	YOU MUST SUPPLY AN AUDIT TICKET
credits won	_____	_____	HERE IF MACHINE HAS A PRINTER
credits paid	_____	_____	

Printed Name of Service Man \_\_\_\_\_ Company Name or Vendor I.D. # \_\_\_\_\_ Date of Service \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
 \_\_\_\_\_

\*\*\*\*\*  
\* Place \*  
\*Postage\*  
\* Here \*  
\*\*\*\*\*

TO:

DEPARTMENT OF COMMERCE  
VIDEO GAMING CONTROL BUREAU  
1125 Missoula Avenue  
Helena, Montana 59620

New Phone Number  
442-7325  
Effective May 20, 1988

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Fold Here

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Fold Here

Please Tape Here

\_\_\_\_\_, 19\_\_\_\_

TO: Video Gaming Control Bureau

FROM: \_\_\_\_\_ Liquor License # (12 digits)  
(Print) \_\_\_\_\_ Establishment Name  
\_\_\_\_\_ Licensee Name  
\_\_\_\_\_ Phone #

1) I hereby "Authorize" you to mail all quarterly reporting forms for the above establishment to the following business:

\_\_\_\_\_ Business Name  
\_\_\_\_\_ Mailing Address  
\_\_\_\_\_ City, State, Zip  
\_\_\_\_\_ Phone #

2) I hereby designate the following to sign my quarterly reports. You may designate your vendor. Provide 1 or 2 (two) individual signatures. Only this/these signature(s) will be accepted.

\_\_\_\_\_  
Printed Name of Designee

\_\_\_\_\_  
Signature of Designee

\_\_\_\_\_  
Printed Name of Designee

\_\_\_\_\_  
Signature of Designee

This authorization is to apply to the following machines: (use another piece of paper if necessary)

<u>Serial #</u>	<u>Decal #</u>	<u>Serial #</u>	<u>Decal #</u>	<u>Serial #</u>	<u>Decal #</u>
1 _____ ( )		7 _____ ( )		13 _____ ( )	
2 _____ ( )		8 _____ ( )		14 _____ ( )	
3 _____ ( )		9 _____ ( )		15 _____ ( )	
4 _____ ( )		10 _____ ( )		16 _____ ( )	
5 _____ ( )		11 _____ ( )		17 _____ ( )	
6 _____ ( )		12 _____ ( )		18 _____ ( )	

I (licensee), understand that I may revoke this "Authorization" and/or "Designation" at any time by notifying the Video Gaming Control Bureau in writing.

This authorization does not release me, (the licensee), of my responsibility for the quarterly reports to be filed true, timely and in compliance with all laws. Furthermore, I understand that I remain liable for the quarterly report.

\_\_\_\_\_  
Licensee Signature Only (Holder of Liquor License)  
If Corporation - Corporate Officer

MONTANA



# Tavern Association

Affiliated and Associated with the NLBA

PROFESSIONAL PLAZA - SUITE AB-2  
900 N. MONTANA AVENUE - P.O. BOX 851  
Helena, MT 59624 / PHONE 406-442-5040

5/12/89

## BILLS PASSED 1989

### GAMBLING (Yellow pages)

- HB 36 50% Payout on sports pools allowed for nonprofit organizations
- HB207 Revision of Lottery laws.
- HB446 Increasing lottery commissions to agents.
- HB448 Allow possession of antique slot machines
- HB576 Used Keno machine licensing
- HB573 Allow bill acceptors on machines
- SB431 Revision to Gambling Laws
- SB443 Allowing multistate lottery games SB251 - Increase raffle prize

### LIQUOR (White pages)

- HB368 Negligent Vehicular Assault (DUI)
- HB393 Increase penalty for possession between 18-21 years
- HB417 Endorsement for resort tour boat all-beverage license
- HB425 Stiffen DUI Penalties
- HB497 Clarifying "unlawful possession".
- HB608 Allow persons under 21 to get alcohol from parents, guardians, etc.
- HB611 Revise liquor license protests
- SB348 Wage Protection Act - exclusion for family members.

### TAXES/FEES (Blue pages)

- HR202 Increase cigarette tax for veterans nursing/domiciliary home.
- SB323 Penalty for late payment of food license.

### LABOR & MISCELLANEOUS (Pink pages)

- HB 28 Increase minimum wage.
- SB 95 Increase state travel allowance for lodging.
- HB247 Ratemaking for volatile & noncompetitive insurance.

## BILLS KILLED 1989

### GAMBLING

- HB 95 Exempt lottery prizes from taxes (income).
- HB132 Increase live bingo prize from \$100 to \$800.
- HB255 Cumulative total of 20 video machines
- HB613 Centennial "21"
- HB625 Reimburse loss of machine taxes on reservations.
- HB746 Authorize punchboards and pulltabs.

(over)

BILLS KILLED (Cont'd)

GAMBLING (Cont'd)

HB753 Progressive prizes in video poker and keno.  
SB369 Repeal calcutta pool law.

LIQUOR

HB 42 Prohibit minors in taverns.  
HB271 Instruct abstinence of alcohol in schools.  
HB369 Prohibit deferral of DUI sentence.  
HB404 Increasing penalty for DUI.  
HB414 Increasing penalty for possession between 18-21 years.  
HB497 Suspend minor's driver's license for possession.  
HB582 Requiring ignition lock on DUI conviction.  
HB587 Lower BAC to .08  
HB627 State out of liquor monopoly.  
HB654 Warning signs - alcohol/pregnancy.  
HB743 Allow sale of fortified wines by distributors.  
SB263 Prohibit certain sexual conduct in bars.

TAXES/FEEES

HB266 Increase cigarette tax 1¢/package for cancer research.  
HB269 Amend constitution to establish restrictions on sales taxes.  
HB343 Increase fees for food establishments.  
HB747 4% General Sales Tax (Bradley's)  
HB762 Tax beer and table wines.  
HB779 4% luxury tax on drinks, food, etc.  
HB479 Local option taxes.  
SB462 4% excise tax on drinks, meals, entertainment.  
SB469 4% General Sales Tax (Crippen)

LABOR & MISCELLANEOUS

HB 49 Increase minimum wage.  
HB370 Increase state allowance for meals.  
SB234 Include tips in minimum wage.  
SB312 Constitutional Amendment - Tort Reform.

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## GAMBLING

### HB36 (Schye) 50% PAYOUT ON SPORTS POOLS

Nonprofit organizations only may retain up to 50% of the value of a sports pool if they verify that this 50% is used to support charitable activities, scholarships, educational grants, or community service projects. STATUS: Governor signed.

### HB95 (Pavlovich) EXEMPT LOTTERY PRIZES FROM TAXES

Would have exempt amount of prize won in the Montana lottery from state income tax; if included as gross income for federal income tax purposes, would have been allowed as a deduction in computing taxable income. STATUS: Killed in House Taxation.

### HB132 (Schye) INCREASING BINGO PRIZE AWARD

Would have increased live bingo prize from \$100 to \$800. STATUS: Killed on 2nd Reading in House (40-56).

### HB207 (Gould) REVISION OF LOTTERY LAWS

Major provisions include: allowing commission to determine the percentage of prize payout, subject to a minimum of 45% of money paid for tickets; allowing Montana to participate in multistate games; removes requirement that the lottery operate on 15% of revenue and mandates only that the administrative costs be outlined in a budget to be approved by the legislature every two years. Immediate effective date. Changes expected to allow the lottery to operate more like a business; larger prizes will increase sales and mean more money for schools. Governor's budget office anticipates \$8 million increase in sales. STATUS: Signed by Governor.

### HB255(Pavlovich) CUMULATIVE TOTAL OF 20 VIDEO MACHINES

Would have limited bingo or keno machines to 10; poker machines to 10. If you were licensed for fewer than 10 poker machines, you could receive licenses for bingo or keno that would cause the total of all machines to be 20 or fewer. STATUS: Died in House Business without hearing and upon decision by Rep. Pavlovich.

### HB446 (Daily) INCREASING LOTTERY COMMISSION

Increased agent's commission from 5% to 10%; no part is taken from revenue paid to Supt. of Public Instruction for teacher retirement. STATUS: Governor signed.

### HB448 (Menahan) ALLOW POSSESSION OF ANTIQUE SLOT MACHINES

This has been coordinated into SB431. Allows possession of an antique slot machine (manufactured prior to 1950), the operation of which is exclusively mechanical. Can be possessed, located and operated only in private residential dwelling; possessed or located for display purposes only, not operation, in public museum owned by state or local government. Licensed manufacturer-distributor may possess and sell. STATUS: Governor signed.

### HB576 (Roth) USED KENO MACHINE LICENSING

A used keno machine may be licensed without meeting the requirements of 23-5-609 (keno specifications) if: (a) it meets the requirements of 23-5-607 (80% payback) and 23-5-608 (\$2 limit and \$100/hand); (b) it has mechanical meters described in 23-5-609(4)(k) and electronic meters described in 23-5-609(4)(l), as that section read on 9/30/89; and the machine was licensed by the department prior to 1/1/89.

GAMBLING (Cont'd)

Effective 7/1/89 and terminates 6/30/90. STATUS: Governor signed. Coordinated into SB 431.

HB613 (Menahan) CENTENNIAL "21"

Would have included 21 as an authorized gambling activity. Local governments could have issued licenses for no more than two tables per premise between May 27, 1989, and September 4, 1989. STATUS: Killed in House Business Committee (10-6).

HB625 (Mercer) REIMBURSE LOSS OF MACHINE TAXES ON RESERVATIONS

This would have required the state to reimburse a local government located on a federally recognized Indian reservation for video poker and keno revenues lost as a result of an agreement entered into by the state and the tribal governments, pursuant to the new federal Indian gaming regulatory act. This bill carried a \$363,000 impact on the state's general fund. STATUS: Tabled in House Taxation.

HB746 (Pavlovich) AUTHORIZE PUNCHBOARDS & PULLTABS

Would have allowed licensing of punchboards and pulltabs, and their manufacture and distribution. Annual fee for retail license = \$100; distributor = \$1,000; manufacturer = \$2,000. Maximum cost/ticket = \$2; maximum prize = \$500; minimum 70% payout. Tax = 5% of adjusted gross proceeds (money received less prizes paid). The bill passed out of House Business as amended. When it got to the floor on 2nd Reading, it was attacked by Rep. Bob Marks and he made his well-publicized statement about tavern owners being "the greediest sort of people in Montana", which he later retracted. The bill was defeated 57-36, and here is how your legislator voted:

HB 746 - Representative Pavlovich moved HB 746 do pass. Motion failed as follows:

Ayes: Aafedt, Bachini, D. Brown, Campbell, Compton, Daily, Davis, DeBruycker, DeMars, Driscoll, Gervais, Giacometto, Gilbert, Glaser, Gould, Hanson, Harrington, McCormick, Menahan, Moore, L. Nelson, Nisbet, O'Connell, Owens, Pavlovich, Peterson, Phillips, Quilici, Rehberg, Roth, Smith, Spaeth, Stang, Strizich, Swysgood, Whalen,  
Total 36

Noes: Addy, Bardanouve, Elotkamp, Boharski, Brooke, J. Brown, Clark, Cobb, Cocchiarella, Cody, Cohen, Darko, Elliott, Eudaily, Good, Grinde, Guthrie, Hannah, Hansen, Harper, Hayne, Hoffman, Johnson, Kasten, Keller, Kilpatrick, Kimberley, Knapp, Koehnke, Lee, Marks, McDonough, Mercer, R. Nelson, T. Nelson, O'Keefe, Peck, Ramirez, Raney, Ream, Rice, Russell, Schye, Simon, Simpkins, Spring, Squires, Stepler, Stickney, Swift, Thoft, Thomas, Wallin, Westlake, Wyatt, Zook, Mr. Speaker.  
Total 57

Paired: Daily, Spaeth, Whalen, Ayes; Hannah, Ramirez, Thomas, Noes.

Excused: None.  
Total 0

Absent or not voting: Bradley, Connelly, Ellison, Grady, Iverson, Kadas, Patterson.  
Total 7

GAMBLING (Cont'd)

HB753 (Pavlovich) MEGABUCKS

Would have allowed an unlimited progressive prize in video poker and keno machines connected to a centralized computer system; 1.25% of gross machine income tax on such machines in addition to existing 15% on net income; system could be leased, maintained and operated by a licensed manufacturer who may participate in the revenue of the machines on the system as payment for his services. Rep. Pavlovich, recognizing the differing opinions of MTA members on this concept, recommended that MTA take no position on the bill this year. He wanted to test the idea and was successful in gaining a respectable number of votes in the committee. STATUS: Tabled in House Taxation. Rep. Pavlovich considered, then abandoned taking action to get the bill off the table.

HB573 (McCormick) ALLOW BILL ACCEPTORS ON MACHINES

Amended existing video draw poker specs (23-5-606) and keno specs (23-5-609) to allow machine manufacturer bill acceptors. The bill specified that if this bill and SB431 passed (which they did) and SB431 repealed these sections (which it did), the Dept. of Justice shall by rule allow these acceptors. STATUS: Governor signed.

SB251 (Harding) INCREASE RAFFLE PRIZE

Allows nonprofit veterans groups to conduct raffles not exceeding \$5,000 per individual raffle card and be exempt from a permit or investigative fee. Maximum prize for all others = \$1,000. See SB431). STATUS: Governor signed.

SB369 (Bob Brown) REPEAL CALCUTTA POOLS

This was a straight repealer. STATUS: Passed the Senate but was tabled in House Business Committee. (SB431 retains legalization of calcuttas and clarifies provisions.)

SB443 (Stimatz) MULTISTATE LOTTERY GAMES

Allows Montana to participate with other states in lottery games. STATUS: Governor signed.

SB431 (Gage) REVISION OF GAMBLING LAWS

Detailed report of this bill mailed to all members 5/1/89.

## LIQUOR

### HB42 (Stang) PROHIBIT MINORS IN TAVERNS

Would have allowed local governments to enact an ordinance prohibiting minors from entering establishments licensed for on-premise sale of alcoholic beverages, but allowing entrance to areas where another business is operated (restaurant, hotel, sporting event, fair, etc.) MTA opposed. STATUS: Killed in House Judiciary.

### HB271 (Wallin) INSTRUCT ABSTINENCE OF ALCOHOL IN SCHOOLS

MTA's interest was to see that taxes on alcoholic beverages were not expected to fund the \$95,000 annual budget. STATUS: Tabled in House Education.

### HB368 (Cocchiarella & Vincent) NEGLIGENCE VEHICULAR ASSAULT

Adds negligent vehicular assault to list of offenses requiring mandatory revocation of drivers license upon conviction, plus 12 conviction points in determining habitual traffic offender. This is the same section that includes DUIs. Includes operating vehicle in negligent manner, causing bodily injury to another. STATUS: Governor signed.

### HB369 (Cocchiarella & Vincent) PROHIBIT DEFERRAL OF DUI SENTENCE

Court may defer imposition of sentence except sentences for DUI or operating a vehicle with a .10 or more BAC. STATUS: Tabled in House Judiciary.

### HB393 (Darko) INCREASING PENALTY FOR POSSESSION BETWEEN 18-21 YEARS

Fines for conviction: less than 18, not to exceed \$50; age 18-21, \$50 for 1st offense, \$100 for second, \$200 for third, \$300 + 6 months for 4th. Person 18-21 does not commit offense if it is necessary to possess alcoholic beverages in the course of his employment. STATUS: Governor signed.

### HB404 (Keller) INCREASING PENALTY FOR DUI

Would have increased maximum jail sentence on first conviction from 60 days to 6 months; on 4th conviction, imprisonment not to exceed 5 years or \$5,000 or both. STATUS: Tabled in House Judiciary.

### HB414 (Spaeth) INCREASING PENALTY FOR POSSESSION BETWEEN 18-21 YEARS.

Basically the same as HB393, except penalties would have been stiffer. STATUS: Tabled in House Judiciary.

### HB417 (Pavlovich) ENDORSEMENT FOR RESORT TOUR BOAT A.B. LICENSE

Allows endorsement to resort license for operation of a tour boat within 30 miles of resort boundary only while boat is underway or in preparation for scheduled departure; boat must be at least 40' in length and equipped to carry at least 50 passengers; annual fee \$200; registered owner of boat must be part of the liquor license. STATUS: Governor signed.

HB425 (Vincent) STIFFEN DUI PENALTIES

This was Vincent's major DUI bill. On 2nd or subsequent DUI offense, driver's license continues to be suspended until the person completes an alcohol information course, treatment prescribed by the court, or both; a per se conviction constitutes a conviction under DUI for the purpose of calculating the number of convictions; if there has been no additional conviction for DUI for a period of 5 years after a prior conviction, all records and data pertaining to the prior are confidential criminal justice information and public access to the information may only be obtained by a district court order upon showing good cause. There was language to expunge the record after 5 years but that language was stricken. STATUS: Governor signed.

HB495 (Strizich) CLARIFYING "UNLAWFUL POSSESSION"

A person under 19 commits the offense of unlawful possession if he consumes or has in his possession an intoxicating substance. He needs not be consuming or in possession at the time of his arrest to violate this section. A person under 21 commits the offense if he has an alcoholic beverage in his possession, except if he consumes or gains possession because it was lawfully supplied by parent, guardian, physician, etc. STATUS: Governor signed.

HB497 (Darko) SUSPEND MINOR'S DRIVERS LICENSE FOR POSSESSION

This would have stiffened existing laws on suspension or revocation of driver's license for minors guilty of possession. STATUS: Tabled in House Judiciary.

HB582 (Eudaily) IGNITION LOCK REQUIRED ON DUI CONVICTION

A court would have been allowed to impose the additional punishment for a person convicted of DUI of requiring the person to drive only a motor vehicle equipped with an ignition interlock device, which the offender would have to pay for. "Ignition interlock device" is ignition equipment that analyzes the breath to determine BAC and designed to prevent a car being operated by a person who has consumed a specific amount of alcohol. STATUS: Bill passed the House; died in Senate Judiciary

HB587 (Addy & Vincent) LOWER BAC TO .08

This would have reduced blood alcohol concentration from .10 to .08 and increased the mandatory fine on 3rd or subsequent DUI conviction to a maximum of 5 years or \$50,000, or both (from 1 year or \$1,000, or both). STATUS: Tabled in House Judiciary.

HB608 (Grady) ALLOW PERSONS UNDER 21 TO GET ALCOHOL FROM PARENTS, ETC.

At the same time Addy wanted to reduce BAC level to .08 (HB587, above), this bill came along to allow parent or guardian, minister or priest, physician, pharmacist or dentist to provide a person under 21 "nonintoxicating amounts of alcohol (not to produce a BAC in excess of .05). STATUS: Governor signed.

(NOTE: It is particularly difficult to understand the rationale for this type of legislation, inasmuch as so much time and effort was devoted toward prohibiting minors from being able to drink.)

HB611 (Connelly) REVISE LIQUOR LICENSE PROTESTS

Provides that protests against the issuance or transfer of an alcoholic beverage license may be made only by creditors and residents of the county from which the application comes, and adjoining Montana counties. STATUS: Governor signed.

## LIQUOR (Cont'd)

### HB627 (Simon) STATE OUT OF LIQUOR MONOPOLY

MTA offered support of the bill, ONLY if its amendments were accepted. Simon agreed. Major provisions of the bill, with MTA amendments: The present 130 state stores, including agencies, would be put up for bid and have to be sold by 7/1/90. Successful bidders would operate stores as agencies until that date, then be issued an Original Package Store License, which couldn't be transferred to a new location until 1/1/92, nor could any additional package store licenses be issued until that date. After 1/1/92, however, these licenses would be unlimited in number. MTA and Rep. Pavlovich wanted amendment to provide that the present 130 outlets could not be exceeded, nor could there be any more in a town than the present number of state stores.

Holders of all beverage licenses could also hold package store license. Licensees would purchase directly from Helena warehouse at wholesale; freight would be equalized; payment would be made within 10 days after shipment. State excise tax would be flat rate of \$1.80/liter; license tax = 75¢/liter. No changes in the quota or all beverage licensee's right to sell both on- and off-premise. Annual all beverage renewal fees would be increased \$100 but licensee would not be required to pay separate \$400 annual fee to purchase from warehouse. Licensees could purchase from each other. In the subcommittee, the bill was further amended to provide \$50,000 in severance pay for liquor store employees who would lose their jobs, and these workers would be entitled to a lifetime absolute preference to be hired for any state job for which they were qualified. Rep. Simon strongly opposed this. STATUS: Tabled in House Business & Economic Development Committee.

### HB654 (Russell) WARNING SIGNS - ALCOHOL/PREGNANCY

This was a bill similar to the one supported by MADD and the Surgeon General, requiring a warning sign to be posted in any establishment licensed to sell alcoholic beverages, stating "Drinking alcohol during pregnancy may result in retardation or birth defects in your unborn baby." Excluded were special events (fairs, sports events, etc.), nonprofit arts organization functions, and common carriers. MTA opposed in House Public Health, but bill came out and passed through 3rd Reading. At the hearing in Senate Public Health, MTA again opposed, bringing in testimony from DISCUS and NLBA. STATUS: Died in committee.

### HB743 (Gould) SALE OF FORTIFIED WINES BY DISTRIBUTORS

Would have allowed beer/wine distributors to market fortified wines as table wines are now marketed, and create franchise territorial rights. MTA opposed distributors getting the higher percentage wines for sale in grocery stores, contending that their next step would be to acquire marketing of liquor. MTA produced testimony from other states that have allowed the 24% wines to be sold in grocery stores, and the social and control problems this has created (blocking off sales in areas where itinerants and winos gather, for example). Bill tabled in House Business; subsequently amended to create no more than 8 to 10 off-premise wine shops in the state; excluded supermarkets and convenient stores in an effort to get it off the table. MTA again offered opposition. STATUS: Bill tabled.

LIQUOR (Cont'd)

SB348 (Nathe) WAGE PROTECTION ACT EXCLUSION

A person who owns or operates a restaurant, bar or tavern, is exempt from including wages paid to members of his immediate family when filing a bond under the Wage Protection Act. "Immediate family" means spouse, parents, children, grandchildren, brothers or sisters of the person operating the business. MTA strongly supported. STATUS: Governor signed.

SB263 (Hofman) PROHIBIT CERTAIN SEXUAL CONDUCT IN BARS

This was one of three anti-pornography bills introduced by Hofman. It explicitly described certain sexual acts or displays that would be prohibited only in on-premise consumption establishments. MTA argued that the bill was unconstitutional, but offered amendments that would, if passed, have made these acts/displays illegal in all premises open to the public. The Senate passed the bill out without amendments but when it got to House Judiciary, it was rejected by a subcommittee and confirmed by the full committee because they also believed it to be unconstitutional. Proponents admitted that the only way banning of the acts could be enforced is by attachment to an on-premise alcoholic beverage license. STATUS: Tabled in House Judiciary.

## TAXES/FEES

### HB202 (Pavlovich) INCREASE CIGARETTE TAX

Final version reduced tax from 5¢ to 2¢ to pay costs of a study conducted by the Dept. of Military Affairs in considering locations for the construction of a state nursing or domiciliary home for veterans; provide revenue for construction and remodeling costs of such facilities. STATUS: To Governor

### HB 266 (Bradley) INCREASE CIGARETTE TAX 1¢/PACKAGE

Revenues would have been earmarked for cancer and other health research awards. STATUS: Tabled in House Taxation.

### HB269 (Koehnke) AMEND CONSTITUTION TO ESTABLISH RESTRICTIONS ON SALES TAX

No general statewide sales tax could be enacted unless approved by the voters; could not be increased or expanded without 2/3 vote of the legislature or approved by the voters. No local option sales tax could be adopted, increased or expanded without being provided for by law, authorized by the local government, and approved by the voters. House adopted floor amendment to delete local sales tax restrictions. STATUS: Amended bill killed on 2nd reading (42-55)

### HB343 (S. J. Hansen) INCREASE FEES FOR FOOD ESTABLISHMENTS

Included food served in drinking establishments that is prepared by microwave or broiler ovens. Increase in fee from \$30 to \$50 if you conduct business under more than one of numerous categories. Revenue was to give more money for local health inspection. STATUS: Killed on 2nd reading in House.

### HB747 (Bradley) 4% GENERAL SALES TAX

Would have been put to a vote of the people in a special June 13th election. The tax would generate \$284 million, with \$128 million for education, \$60 million for property tax reduction, \$36 million for rebates to low-income taxpayers, \$41 million to the general fund, \$20 million to local governments to replace lost property taxes. MTA offered testimony as to the failure of the bill to exclude alcoholic beverages; argued that liquor alone bears 56%+ of the entire cost in taxes and if gasoline was to be excluded because it already was heavily taxed, alcoholic beverages also should be. STATUS: Tabled in House Taxation.

### HB762 (S. J. Hansen) TAX BEER & TABLE WINE

Would have imposed a tax of 5¢/bottle and can of beer, and 5¢/bottle of table wine to increase funding for children's trust fund; money to be used for services and activities relating to prevention of child abuse, day care programs, early intervention, etc. Rep. Hansen discovered that 5¢ would bring in something like \$10 million (their present budget is \$40,000) so she reduced it to 1¢ and made a few more amendments at the hearing. MTA offered testimony in opposition. Kevin Tipton, DISCUS, joined MTA. STATUS: Tabled in House Taxation.

### HB779 (Janet Moore) 4% LUXURY TAX ON DRINKS, ETC.

Very similar to the World War II luxury tax. Would tax everything from drinks and electronic games to jewelry, campers, new and used cars, motor homes, souvenirs, admissions to any recreational or entertainment activity held for profit, plus more. Sponsor Moore was open to amendments but there was no support from the committee or interest groups. MTA joined the State Chamber and others in opposition. Estimated tax revenue \$45.6 million annually. STATUS: Tabled in House Taxation.

## TAXES/FEES (Cont'd)

### HB479 (Addy) LOCAL OPTION TAXES

Originally would have allowed local governments to impose tax on income, all goods and services, and any other type of tax not prohibited by law. Bill then amended to include a 2% tax only on taverns that sell alcoholic beverages for on-premise consumption, restaurants, ski resorts and other recreational facilities, entertainment and sporting events except those conducted by nonprofit organizations. MTA strongly opposed. STATUS: Killed in House, 2nd Reading (45-53). Here's how your House member voted:

FOR: Addy, Bachini, Bardanouve, Blotkamp, Bradley, Brooke, J. Brown, Cocchiarella, Cohen, Compton, Connelly, Daily, Darko, DeBruycker, DeMars, Gilbert, Stella Jean Hansen, Harrington, Hayne, Hoffman, Iverson, Kadas, Kilpatrick, Kimberley, Koehnke, Lee, McDonough, Moore, L. Nelson, R. Nelson, T. Nelson, O'Keefe, Peck, Raney, Ream, Rice, Russell, Schye, Spaeth, Spring, Squires, Stang, Stickney, Strizich, Vincent (45)

AGAINST: Aafedt, Boharski, D. Brown, Campbell, Clark, Cobb, Cody, Davis, Elliott, Ellison, Eudaily, Gervais, Giacometto, Glaser, Good, Gould, Grady, McCormick, Menahan, Mercer, Nisbet, O'Connell, Owens, Patterson, Pavlovich, Peterson, Phillips, Quilici, Ramirez, Rehberg, Roth, Simon, Simpkins, Smith, Stepler, Swift, Swysgood, Thoft, Thomas, Wallin, Westlake, Whalen, Wyatt, Zook (53).

ABSENT: Driscoll      EXCUSED: Grinde

### SB462 (Eck) 4% EXCISE TAX ON DRINKS, MEALS, ENTERTAINMENT

Sponsor called this an "entertainment tax" that would bring in about \$45 million over the next two years, and would give the legislature something to "fall back on". The 4% would have been imposed on all drinks sold for on-premise consumption, restaurant meals (including take-outs) admissions to entertainment functions, video cassette and car rentals, etc. MTA strongly opposed and was joined by Kevin Tipton, representing DISCUS. Money actually was earmarked for the University system. STATUS: Tabled in Senate Taxation.

### SB323 (Vaughn) PENALTY FOR LATE PAYMENT OF FOOD LICENSE

Annual fee for food establishments remains at \$30; penalty for payment after renewal date = \$25. STATUS: Governor signed.

### SB469 (Crippen) 4% GENERAL SALES TAX

MTA offered testimony similar to that submitted on HB747, Bradley's general sales tax bill. Passed the Senate. STATUS: Tabled in House Taxation.

## LABOR

### HB28 (Harrington) MINIMUM WAGE

Effective 1/1/90. Minimum wage to be set by the Labor Commissioner in accordance with federal law, but not to exceed \$4/hour. New-hire wage: at least \$3.35/hr. for no more than 120 days after hire. An employee may not be displaced by another employee (including partial displacement, such as a reduction in hours of nonovertime work, wages, or employment benefits) for the purpose of allowing the employer to pay the \$3.35 minimum wage. STATUS: To Governor.

### HB49 (Cohen) MINIMUM WAGE

Would have increased minimum wage to \$4.35/hr. and excluded employees who are high school pupils under 18 and reside with parent or guardian. STATUS: Tabled in House Labor.

### HB370 (Cocchiarella) INCREASE IN STATE MEAL ALLOWANCE

Would have allowed state employees, officials, board members, etc., an increase to \$17.50 from \$15.00 for meals while traveling in-state. MTA's interest was because many state employees are customers of our members who serve meals. STATUS: Passed both House and Senate but was vetoed by the Governor because it would cost \$300,000/year additional.

### SB 95 (Rasmussen) INCREASE STATE TRAVEL ALLOWANCE

Increased lodging to \$27/day (from present \$24) for state employees, appointees, etc. (Increase in meal allowance in HB370 was vetoed.) STATUS: To Governor

### SB234 (Boylan) INCLUDE TIPS IN MINIMUM WAGE

Would have allowed employers to deduct from minimum wage paid employees if employee continuously received \$30 or more each month in tips. STATUS: Killed in Senate Labor Committee.

## MISCELLANEOUS BILLS

### HB247 (Whalen) RATEMAKING FOR VOLATILE & NONCOMPETITIVE INSURANCE

MTA's support of this bill was requested by the sponsor because of our industry's problems in getting affordable rates on liability coverage. It's purpose is to ensure that rates are based as much as possible on claims resulting from exposures in Montana and similar states so they are not excessive, unfairly discriminatory, or inadequate. MTA offered testimony that rates should be based on Montana's experience, not a national norm, since claims from urban areas are generally responsible for driving up the cost of coverage. STATUS: Signed by Governor.

### SB312 (Pinsonneault) CONSTITUTIONAL AMENDMENT - TORT REFORM

An attempt to put the issue originally passed in 1986 as CI-30 to allow the legislature to enact tort reform measures. CI-30 was subsequently declared invalid by the supreme court because of a printing error in the voter information pamphlet. This would have put it back on the ballot without having to go through the initiative process again. Bill strongly opposed by trial lawyers and labor. MTA offered testimony in support. STATUS: Passed the Senate; tabled by House Judiciary.

COMPLETE ALL BOXES!

# GAMING MACHINE APPLICATION

FOR OFFICE USE ONLY

What Type of Machine Is This?

POKER

KENO

BINGO

HAS THIS MACHINE BEEN LICENSED BEFORE?

YES

NO

IF THIS MACHINE HAS NOT BEEN PREVIOUSLY LICENSED, READ NEWSLETTER!!

\$100.00  
Check # \_\_\_\_\_

Decal # \_\_\_\_\_

Refund \$ \_\_\_\_\_

LIQUOR LICENSE # (9 digits) or HAVE LOCAL LICENSE FORM COMPLETED

Establishment Name

Licensee: Actual Holder of License

Box/Mailing Address

Location Address

City

Zip Code

Is establishment in an incorporated city?

Yes, inside city limits

City Name

No, outside city limits

County Name

BE SURE!! THIS IS VERY IMPORTANT!!!

RETURN TO:

VIDEO GAMING CONTROL BUREAU  
1125 MISSOULA AVENUE  
HELENA, MT 59620

PHONE: 442-7325

### MACHINE INFORMATION:

(See I.D. plate on the side of the machine)

MFG's Serial # of Machine

MFG of Machine

Machine Model #

METER READINGS: If you are licensing an approved game, you must staple a correctly programmed audit ticket to the back of this sheet.

BILL ACCEPTOR

CREDITS IN

CREDITS PLAYED

CREDITS AWARDED

CREDITS PAID

### MACHINE OWNERSHIP: (check one)

Owned by Establishment

Owned by Vendor/Distributor

Give the vendor's license number.

I hereby agree to comply with all statutory and regulatory requirements. I declare with knowledge of the penalties for false swearing that this application is true and accurate. I, THE LICENSEE AM LEGALLY RESPONSIBLE FOR THIS MACHINE.

SIGNATURE of Licensee

Social Security #

Federal I.D. #

PRINT Name of Person Signing

Establishment Phone #

STAPLE \$100.00 PAYMENT HERE

State law requires an applicant of a video draw poker machine to disclose any past history or involvement with gaming. Cover the period from 1975 or from the age of 18, whichever is shorter. If you answer yes to any of the following questions, provide detailed information. ONLY ONE STATEMENT IS NECESSARY FOR EACH ESTABLISHMENT. INFORMATION WILL REMAIN CONFIDENTIAL.

A) Have you ever had control of gambling device(s) as an owner or operator in another establishment within the state of Montana?

YES

- 1) Date:
- 2) Types of devices:  
(manufacturer, model, game etc.)

NO

- 3) Location:  
(city/address)

B) Have you ever been employed by an owner or operator of gambling devices?

YES

- 1) Date Employed:
- 2) Types of Devices:
- 3) Employer:

NO

(name/address)

C) Have you ever been employed in another establishment where gambling was offered to the public?

YES

- 1) Date Employed:
- 2) Types of Gaming:
- 3) Employer:

NO

(name/address)

D) Have you ever had any convictions of local ordinances or state laws in any states that are related to gambling within the last 10 years.

YES

- 1) Date of Offense:
- 2) Date of Conviction
- 3) Location of Offense:
- 4) Nature of Offense:
- 5) Penalties Imposed:

NO

SIGNATURE of Licensee

PRINT Name of Person Signing

Social Security #

DISC/89

**PROOF OF LOCAL LICENSURE**  
*Required for Video Keno/Bingo Machines*

We, \_\_\_\_\_, have licensed \_\_\_\_\_ for the  
(City/County Name) (Establishment Name)

operation of Video Keno/Bingo machines. This license will expire on \_\_\_\_\_

\_\_\_\_\_  
Local Licensing Official Signature

NOTARY SEAL

LL/89

**ESTABLISHMENT OWNER INFORMATION:**

1) Serial number of machine:

2) Manufacturer of machine:

3) Please specifically identify the name of the game in which the machine plays.  
(i.e. *Showdown Poker, Montana Keno etc.*)

4) On what date did you acquire this machine?

Month  
Day  
Year

5) From whom did you acquire this machine?

Name  
Address

**MACHINE OWNER INFORMATION:**

6) Submit written proof of ownership stating that the machine was in Montana prior to June 30, 1987. (Use: checks, city/county licenses, invoices, bills of sale, etc.) If no documentation is available, provide a written statement that tells when the machine was purchased, who from, price paid, and where the machine has been in operation since you acquired it.

Limitations on the amount of money played and value of prizes:

By law each keno/bingo machine may not allow more than \$2.00 to be played on a game or award free games or credits in excess of the value of \$100.00 per hand.

7) Does this machine meet the above requirements?

YES

NO

SIGNATURE of Licensee

Social Security #

PRINT Name of Person Signing

PHONE #

DATE

DATE: \_\_\_\_\_

PROCESSED:	_____	YES
	_____	NO
SENT TO INV:	_____	YES
DATE SENT:	_____	

TO: VIDEO GAMING CONTROL BUREAU  
1125 MISSOULA AVENUE  
HELENA, MONTANA 59620

RE: "WITHDRAWAL" OF DECAL REQUEST

FROM: # \_\_\_\_\_ (LIQ. LIC. #)  
 \_\_\_\_\_ (ESTABLISHMENT NAME)  
 \_\_\_\_\_ (LICENSEE NAME)  
 # \_\_\_\_\_ (MACHINE SERIAL #)  
 \_\_\_\_\_ (POKER/KENO/BINGO)  
 # \_\_\_\_\_ (DECAL #)

I, \_\_\_\_\_, the licensee of the (Print Name of Licensee) establishment, request and authorize the withdrawal of the above referenced video gaming machine from my establishment.  
 Date of withdrawal is: \_\_\_\_\_

Final mechanical meter readings are: STAPLE  
 \_\_\_\_\_ AUDIT  
 -- Bill Acceptor  
 -- Credits In  
 -- Credits Played  
 -- Credits Won  
 -- Credits Paid  
 TICKET  
 HERE!!!!!!!!!!!!

I understand that I, the licensee, am responsible and accountable for the filing of the quarter net income tax report on this machine. Report is due and tax payable from this machines activity up to the date of withdrawal.

\_\_\_\_\_  
 PRINT Name of Licensee      SIGNATURE of Licensee      Date  
 If Corporate Licensee - officer signature required.

STAPLE  
 DECAL  
 HERE!!!!!!!!!!!!!!!  
 DECAL # MUST BE READABLE

Check here if you want an investigator to destroy the decal.....

YES\*\*\*  
 I want an investigator to destroy the decal.

DATE: \_\_\_\_\_

PROCESSED:	_____	YES
	_____	NO
SENT TO INV:	_____	YES
DATE SENT:	_____	

TO: VIDEO GAMING CONTROL BUREAU  
1125 MISSOULA AVENUE  
HELENA, MONTANA 59620

RE: "REPLACEMENT" DECAL REQUEST

FROM: # \_\_\_\_\_ (LIQ. LIC. #)  
 \_\_\_\_\_ (ESTABLISHMENT NAME)  
 \_\_\_\_\_ (LICENSEE NAME)  
 # \_\_\_\_\_ (MACHINE SERIAL #)  
 \_\_\_\_\_ (POKER/KENO/BINGO)  
 # \_\_\_\_\_ (DECAL #)

Please issue a "Replacement" decal for the above referenced video gaming machine. The original decal was: (check one)

Lost in mail     Lost after receipt     Placed wrong on machine

I, \_\_\_\_\_, the licensee of the (Print Name of Licensee) establishment, swear that if "replaced" decal is ever found, I will return it to the Video Gaming Control Bureau immediately.

I understand that an Investigator will affix the replacement decal as soon as possible.

\_\_\_\_\_  
PRINT Name of Licensee      SIGNATURE of Licensee      Date  
If Corporate Licensee - officer signature required.

NOTARY SEAL  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MONTANA



# Tavern Association

Affiliated and Associated with the NLBA

PROFESSIONAL PLAZA - SUITE AB-2  
900 N. MONTANA AVENUE - P.O. BOX 851  
Helena, MT 59624 / PHONE 406-442-5040

TO: ALL MTA MEMBERS

May 1, 1989

## RECAP OF SB431 - REVISION OF GAMBLING LAWS

SB431 was passed into law by the 51st Legislative Assembly. As of May 1, 1989, it has yet to be signed by the Governor, but his approval is expected. SB431 is a wide-ranging revision of Montana's gambling laws; it does not simply amend or repeal existing code sections.

We will attempt in this recap to outline the substantive provisions in each of the six sections which, for the purposes of this report, have been designated as:

1. GENERAL PROVISIONS
2. LIVE CARD GAMES
3. LIVE KENO, BINGO & RAFFLES
4. VIDEO GAMING MACHINES
5. SPORTS POOLS & CALCUTTA POOLS
6. GAMING ADVISORY COUNCIL, IMPLEMENTATION, EFFECTIVE DATES

Throughout, "department" means the Department of Justice (DOJ). "MAPA" means "Montana Administrative Procedure Act"; "DOC" means Department of Commerce; "DOR" means Department of Revenue.

### GENERAL PROVISIONS

1. A license or permit for any type of gambling is a privilege that can be revoked only for good cause. No vested rights are acquired.
2. Local governments may not license, regulate, or tax gambling but may zone areas where it is prohibited. They may not restrict the number of licenses the department may issue.
3. Department allowed to obtain criminal information and records from criminal justice and law enforcement agencies. Department has search, seizure, and arrest powers and may report gambling violations to the county attorneys.
4. All licensing, administration, recordkeeping, tax and fee collection, license and permit suspension and revocation, and rulemaking authority rests with the department for the types of gambling the bill covers.
5. A former employee of the department cannot be involved in operating gambling or in the administration or prosecution of gambling laws during the first year after leaving the department. This includes peace officers and prosecutors. Special exemption for person who is involved in charitable or fraternal organizations that conduct gambling activities.

6. Keno and bingo callers do not have to be licensed, but have to be 18 years of age or older.

7. Remedies, other than criminal penalties, that may be imposed by the department or a court for gambling violations include:

- Temporary cease and desist order issued by the department not effective for more than 60 days.
- Following notice and opportunity for hearing within 20 days of temporary cease and desist order, with the right of judicial review under MAPA:
  - (a) issue permanent cease and desist order which remains in effect pending judicial review;
  - (b) place a licensee on probation;
  - (c) suspend license or permit for gambling activity, device, or enterprise involved in the violation for no more than 180 days;
  - (d) revoke a license or permit for gambling activity, device, or enterprise involved in the act or practice constituting the violation;
  - (e) impose civil penalty not to exceed \$10,000 for each violation, whether or not the person is licensed by the department;
  - (f) impose any combination of the foregoing; and
  - (g) bring an action in district court for relief against the act or practice.
- On proper showing, the court is allowed to suspend or revoke a license or permit in an action brought by the department; issue restraining order, a temporary or permanent injunction, or other appropriate writ.

8. A lien that arises upon failure to pay a civil penalty is a lien on the licensed premises and devices, not on all assets and property of the person (such as a home and other non-gambling related assets).

9. The burden is on the department to prove unfitness, rather than making the applicant prove fitness, to qualify for licensure.

10. A person must obtain an "operator's license" before getting a license for a specific type of gambling. No fee charged.

11. Gambling not specifically authorized is prohibited.

12. A person is guilty of a felony if convicted of purposely or knowingly:

- counterfeiting, altering, or wrongfully displaying a seal, decal, license identification number or device, or other document issued by the department;
- obtaining (by gambling) money, property, or anything of value that exceeds \$300 by misrepresentation, fraud, use of illegal gambling device or illegal gambling enterprise. Under \$300 is a misdemeanor;
- manipulating, attempting or conspiring to manipulate the outcome of a video gambling machine by physically tampering or other interference with the proper functioning of the machine.

13. Payment for gambling must be in cash, except raffles. It is specifically provided that a person in a gambling establishment may use a check or credit card to pay for non-gambling goods or services, or to obtain cash to be used for gambling.

14. No one under 18 years of age can participate in a gambling activity.

15. Possession of illegal gambling devices prohibited, except for manufacturers of

50 DECED  
authorized?

equipment who export from the state. Possession of antique slot machines (mechanically operated, manufactured prior to 1950) permitted under strict limitations.

16. MISDEMEANOR CRIMINAL PENALTIES: (these apply upon conviction of purposely or knowingly violating a provision of this law, the punishment of which is for a misdemeanor.)

- how file your criminal case*
- 1st offense: Fine of not more than \$500.
  - 2nd offense: Within 5 years of first conviction, a fine of not more than \$1,000 or 6 months, or both.
  - 3rd offense: Within 5 years of second conviction, a fine or not more than \$10,000 or 1 year, or both.
  - 4th offense: Within 5 years of third conviction, a fine of not more than \$10,000 or 1 year, or both, and all licenses and permits the person holds are revoked (those pertaining to gambling), and the person is forever barred from receiving any license or permit under this gambling law.

When five years have passed following a conviction, the record of that conviction may be made available only to criminal justice agencies or upon court order.

17. FELONY CRIMINAL PENALTY: Penalty again applies to a person who is convicted of purposely or knowingly violating a provision of the law, the punishment for which is a felony: not more than \$50,000 or imprisoned for not more than 10 years, or both, for each violation. There are three sections that carry a felony penalty (see #12 of this report).

18. County attorney has the primary and original duty to prosecute gambling offenses. The attorney general may do so if the county attorney does not.

#### LIVE CARD GAMES

1. Only live card games authorized for public play are bridge, cribbage, hearts, panguingue, pinochle, pitch, poker, rummy, solo and whist. (Jacks or Better poker was amended into the bill in the House but was later deleted.) Games must be conducted only in presence and under control of licensed dealer in licensed premises.
2. Annual dealer's license required: 1st year = \$75; renewal = \$25. Department to adopt rules for temporary licensing.
3. To obtain an annual permit to run a live card game, you need: (a) an operator's license; and (b) a license to sell alcoholic beverages for on-premise consumption. Grandfather Clause: If you were running legal tables on 1/15/89 and did not have an on-premise alcoholic beverage license, but had a license to sell food, cigarettes, or any other consumable product, you can be granted an operator's license and permit for live tables.
4. Non-prorated annual fees: \$250 for the first table; \$500 for each additional table. Local government licensing is prohibited. Maximum payout per live card game raised from \$100 to \$300. Live card games prohibited between 2AM and 8AM unless the local government adopts an ordinance to allow play between those hours.

### LIVE KENO, BINGO, RAFFLES

1. Qualified charitable organizations exempt from license fees and taxes if they were qualified on 1/15/89. If the organization was formed after that date, they are exempt from taxation but must pay 1/2 the license fee, and they cannot carry on these gambling activities for more than 60 days/year, and only at their main premises, or at such places operated by the government, such as fairs. Permit can be revoked or suspended if department finds the organization is contracting with a nonqualified organization to operate in a predominately commercial manner.
2. Keno and bingo callers do not have to be licensed. Non-prorated annual license fee for live keno and bingo to a person with an operator's license: \$500. No requirement for alcoholic beverage license.
3. Licensee pays 5% of net income (gross proceeds, minus the cost of equipment, supplies, personnel, and advertising allocated to the games), but at least equal to 1% of gross proceeds. Annual report and annual payment of tax required.
4. Price for individual bingo or keno card may not exceed 50¢; prize limit is \$100 per card. Player can hand in one card, play it and the same numbers (keno) for as many successive games as the house allows, without having to go back before the start of each game to get a new card. Player has to remain on the premises until card is played or withdrawn.
5. Live bingo or keno must be closed between 2AM and 8AM unless, by ordinance, the local government allows play between those hours.
6. Raffle Prizes: Maximum value of \$1,000 per ticket. Permits must be issued by the county commissioners for each raffle conducted in its jurisdiction.

### VIDEO GAMING MACHINES

1. Permits issued for the number of approved machines, not for specific machines. If a machine breaks down you can bring in another approved machine to temporarily replace it during the repair period. No fee charged for replacement machine. Machines on premises licensed to sell alcoholic beverages on premise must be placed where drinks are actually sold and normally consumed.
2. You may be granted a permit for placement of video gaming machines if:
  - (a) you have BOTH an operator's license and a license to sell alcoholic beverages for on-premise consumption;
  - (b) (GRANDFATHER CLAUSES) If, on 1/15/89, you were legally operating keno and bingo machines under an operator's license, and the premises were NOT licensed for the sale of alcoholic beverages for on-premise consumption OR operated for the principal purpose of gaming, you can get a permit for the same number of video keno or bingo machines as you were operating on 1/15/89. (This would be the convenient stores, gas stations, etc.)  
  
If, on 1/15/89, you were legally operating an establishment for the principal purpose of gaming (bingo parlors, card rooms, etc.) and had no license to sell alcoholic beverages for on premise consumption, you may be granted a permit for the placement of bingo and keno machines in your premises.
3. No more than 20 machines of any combination are allowed, no more than 10 of which can be draw poker machines.

4. Local governments, by ordinance, can authorize operation of video machines between the hours of 2AM and 8AM, but they cannot limit the number of machines allowed.
5. Annual permit fee per machine = \$200. Department keeps \$100 and local government where machine is located receives the other \$100.
6. Grandfathering of used keno machines extended to 6/30/89. Machines can be licensed without printers but must have both electronic and mechanical meters in operation.
7. All machines approved by the DOC prior to the effective date of this act (10/1/89) must be considered approved by the department. The department will adopt rules on specifications for the machines but they must substantially follow those currently in effect, as those sections read on 9/30/89. The department cannot require a machine owner or operator to make a machine comply with new specifications adopted AFTER the machine was approved.
8. Annual fee of \$1,000 for the required machine manufacturer-distributor's license. License not required for a person who merely repairs a machine.
9. Net machine income tax remains at 15%; distribution the same--1/3 to the state general fund; 2/3 to local governments.
10. Maximum bet = \$2.00; maximum payout on POKER machines = \$100; maximum on keno/bingo = \$800. Machine payback must be at least 80% of a credit played.

#### SPORTS POOLS - CALCUTTA POOLS

1. Sports Pools: Maximum amount per chance raised from \$1 to \$5; total amount that may be won increased from \$100 to \$500. Winner receives 100% payout of the value of the pool.
2. Calcuttas: Can be conducted by an organization authorized by the department, not just charitable, tax-exempt organizations. Proceeds from pool (minus administrative costs and prizes paid) are to be contributed to a charitable or nonprofit organization, association, or cause. At least 50% of the total pool has to be paid out in prizes.

#### GAMING ADVISORY COUNCIL - IMPLEMENTATION - EFFECTIVE DATES

1. A Gaming Advisory Council is created, consisting of nine members:
  - One from the Senate (appointed by Senate Committee on Committees);
  - One from the House (appointed by the House Speaker);
  - One from the public-at-large (appointed by the department);
  - Two representing local governments (appointed by the department);
  - One being a Native American (appointed by the department)
  - Three representing the gaming industry (appointed by the department).
2. Council appoints its own chairman. Terms staggered. Council to prepare annual report with recommendations for amendments to the gambling statutes, need for additional or modified rules, clarification of existing rules, etc. Council meets with department upon request of department; department meets with council upon request of council. Department gives council members a copy of each proposed change in rules when they are filed w/secretary of state, to review and comment upon prior to adoption.
3. Certain fees prorated: Fees imposed under the following sections between the

*const problems*

effective date of this section (which is on passage and approval) and 10/1/89 must be prorated to cover only the period between the date the permit or license takes effect and 10/1/89:

- 23-5-321 Licensing by local governments for live card games.
- 23-5-421 Licensing by local governments for live keno, bingo, raffles.
- 23-5-612 State fee - video poker/keno.
- 23-5-625 Manufacturer-distributor's license.
- 23-5-631 Examination and approval of new machines.

4. Effective Dates:

On passage & approval: Adoption of rules, creating gaming advisory council, transferring functions of DOC and DOR to department; prorating certain fees; coordinating and codification; and effective dates.

July 1, 1989: Appropriation for Dept. of Justice.

October 1, 1989: All remaining sections.

# NEW LAW MONTANA

- 23-5-101. Renumbered 23-5-112 by Code Commissioner, 1989.
- 23-5-102. Renumbered 23-5-151 by Code Commissioner, 1989.
- 23-5-103. Renumbered 23-5-152 by Code Commissioner, 1989.
- 23-5-104. Renumbered 23-5-153 by Code Commissioner, 1989.
- 23-5-105. Repealed. Sec. 68, Ch. 642, L. 1989.
- 23-5-106. Repealed. Sec. 68, Ch. 642, L. 1989.
- 23-5-107. Repealed. Sec. 68, Ch. 642, L. 1989.
- 23-5-108. Renumbered 23-5-154 by Code Commissioner, 1989.
- 23-5-109. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-110. Public policy of state concerning gambling. (1) The legislature finds that for the purpose of ensuring the proper gambling environment in this state it is necessary and desirable to adopt a public policy regarding public gambling activities in Montana. The legislature therefore declares it is necessary to:

(a) create and maintain a uniform regulatory climate that assures players, owners, tourists, citizens, and others that the gambling industry in this state is fair and is not influenced by corrupt persons, organizations, or practices;

(b) protect legal public gambling activities from unscrupulous players and vendors and detrimental influences;

(c) protect the public from unscrupulous proprietors and operators of gambling establishments, games, and devices;

(d) protect the state and local governments from those who would conduct illegal gambling activities that deprive those governments of their tax revenues;

(e) protect the health, safety, and welfare of all citizens of this state, including those who do not gamble, by regulating gambling activities; and

(f) promote programs necessary to provide assistance to those who are adversely affected by legalized gambling, including compulsive gamblers and their families.

(2) The legislature adopts the policy that an applicant for a license or permit or other department approval under parts 1 through 6 of this chapter does not have a right to the issuance of a license or permit or the granting of the approval sought. The issuance of a license or permit issued or other department approval granted pursuant to the provisions of parts 1 through 6 of this chapter is a privilege revocable only for good cause. A holder does not acquire a vested right in the license or permit issued or other department approval granted. A license or permit issued under parts 1 through 6 of this chapter may not be sold, assigned, leased, or transferred.

(3) Revenue to fund the expense of administration and control of gambling as regulated by parts 1 through 6 of this chapter must be derived solely from fees, taxes, and penalties on

gambling activities, except the gambling activities of the Montana state lottery and the parimutuel industry.

23-5-111. Construction and application. (1) In view of Article III, section 9, of the Montana constitution, Chapter 642, Laws of 1989, must be strictly construed by the department and the courts to allow only those types of gambling and gambling activity that are specifically and clearly allowed by Chapter 642, Laws of 1989.

(2) This chapter applies only to public gambling activities within the state of Montana.

23-5-112. Definitions. Unless the context requires otherwise, the following definitions apply to parts 1 through 6 of this chapter:

(1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 6 of this chapter.

(2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

(3) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers.

(4) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. No more than 75 numbers may be used. One number must appear in each square, except for the center square, which may be considered a free play. Numbers are randomly drawn using authorized equipment until the game is won by the person or persons who first cover a previously designated arrangement of numbers on the bingo card.

(5) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live bingo.

(6) "Card game table" or "table" means a live card game table authorized by permit and made available to the public on the premises of a licensed gambling operator.

(7) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

(8) "Department" means the department of justice.

(9) "Distributor" means a person who:

(a) purchases or obtains from another person equipment of any kind for use in gambling activities; and

(b) sells, leases, or otherwise furnishes the equipment to another person for use in public.

(10) "Gambling" or "gambling activity" means risking money, credit, deposit, check, property, or any other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise.

(11) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use

in any gambling activity.

(12) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme, or agreement to provide gambling or a gambling device to the public.

(13) "Gross proceeds" means gross revenue received less prizes paid out.

(14) "Illegal gambling device" means a gambling device not specifically authorized by statute or by the rules of the department.

(15) "Illegal gambling enterprise" means a gambling enterprise that violates a statute or a rule of the department.

(16) "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal rows and 10 columns on which a player may pick up to 10 numbers. A keno caller, using authorized equipment, shall select at random at least 20 numbers out of numbers between 1 and 80, inclusive.

(17) "Keno caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live keno.

(18) "License" means an operator's, dealer's, or manufacturer-distributor's license issued to a person by the department.

(19) "Licensee" means a person who has received a license from the department.

(20) "Live card game" or "card game" means a card game that is played in public between persons on the premises of a licensed gambling operator.

(21) "Lottery" or "gift enterprise" means a scheme, by whatever name known, for the disposal or distribution of property by chance among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance. However, "gift enterprise" does not mean:

(a) lotteries authorized under part 10 of this chapter; or

(b) cash or merchandise attendance prizes or premiums that the county fair commissioners of agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos.

(22) "Manufacturer" means a person who assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device.

(23) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for use in public, a gambling device or gambling enterprise authorized under parts 1 through 6 of this chapter.

(24) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

(25) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(26) "Premises" means the physical building or property

within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(27) "Public gambling" means gambling conducted in:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access; or

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization.

(28) "Raffle" means a gift enterprise in which each participant buys a chance or chances to win a prize.

(29) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

(30) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department.

23-5-113. Department as criminal justice agency. The department is a criminal justice agency. Designated agents of the department are granted peace officer status, with the power of search, seizure, and arrest, to investigate gambling activities in this state regulated by parts 1 through 6 of this chapter and the rules of the department and to report violations to the county attorney of the county in which they occur.

23-5-114. Department employees -- activities prohibited. An employee of the department, a former department employee during the first 365 days following termination of employment, or any peace officer or prosecutor directly involved with the prosecution, investigation, regulation, or licensing of gambling may not:

(1) serve as an officer or manager of a corporation or organization, other than a nonprofit corporation or organization, that conducts a gambling activity;

(2) receive or share in, directly or indirectly, any profit of a gambling activity regulated by the department;

(3) have a beneficial or pecuniary interest in a contract for the manufacture, lease, or sale of a gambling device, the conduct of a gambling activity, or the provision of independent consultant services in connection with a gambling activity.

23-5-115. Powers and duties of department -- licensing. (1) The department shall administer the provisions of parts 1 through 6 of this chapter.

(2) The department shall adopt rules to administer and implement parts 1 through 6 of this chapter.

(3) The department shall provide licensing procedures, prescribe necessary application forms, and grant or deny license applications.

(4) The department shall prescribe recordkeeping requirements for licensees, provide a procedure for inspection of records, provide a method for collection of taxes, and establish penalties for the delinquent reporting and payment of required taxes.

(5) The department may suspend, revoke, deny, or place a condition on a license issued under parts 1 through 6 of this chapter.

(6) The department may not make public or otherwise disclose information obtained in the application or tax reporting processes, except for general statistical reporting or studies.

(7) The department shall assess, collect, and disburse any fees, taxes, or charges authorized under parts 1 through 6 of this chapter.

23-5-116 through 23-5-120 reserved.

23-5-121. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-122. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-123. Disposal of money confiscated by reason of violation of gambling laws. All fines, penalties, forfeitures, and confiscated money collected by criminal, civil, or administrative process for a violation of a provision of parts 1 through 6 of this chapter or a rule of the department must be deposited one-half in the state general fund and one-half in the general fund of the county in which the violation occurred.

23-5-124 through 23-5-127. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-128 through 23-5-130 reserved.

23-5-131. Losses at illegal gambling may be recovered in civil action. A person, or his dependent or guardian, who, by playing or betting at an illegal gambling device or illegal gambling enterprise, loses money, property, or any other thing of value and pays and delivers it to another person connected with the operation or conduct of the illegal gambling device or illegal gambling enterprise, within 1 year following his loss, may:

(1) bring a civil action in a court of competent jurisdiction to recover the loss;

(2) recover the costs of the civil action and exemplary damages of no less than \$500 and no more than \$5,000; and

(3) join as a defendant any person having an interest in the illegal gambling device or illegal gambling enterprise.

23-5-132. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-133. Repealed. Sec. 88, Ch. 642, L. 1989.

23-5-134. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-135. Discharge of defendant. (1) A person against whom a civil action is brought as provided in 23-5-131 may move to have the action against him dismissed if he has repaid to the person who suffered the loss or his dependent the gambling loss, the costs of bringing the civil action, and the exemplary damages agreed upon by the parties or assessed by the court.

(2) A civil action brought to recover gambling losses does not bar or interfere with another proceeding or action, whether criminal, civil, or administrative, that may be brought under the laws of the state.

23-5-136. Injunction and other remedies. (1) If a person has engaged or is engaging in an act or practice constituting a violation of a provision of parts 1 through 8 of this chapter or a rule or order of the department, the department may:

(a) issue a temporary order to cease and desist from the gambling activity, act, or practice for a period not to exceed 60 days;

(b) following notice and an opportunity for hearing, and with the right of judicial review, under the Montana Administrative Procedure Act:

(i) issue a permanent order to cease and desist from the act or practice, which order remains in effect pending judicial review;

(ii) place a licensee on probation;

(iii) suspend for a period not to exceed 180 days a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;

(iv) revoke a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;

(v) impose a civil penalty not to exceed \$10,000 for each violation, whether or not the person is licensed by the department; and

(vi) impose any combination of the penalties contained in this subsection (1)(b); and

(c) bring an action in district court for relief against the act or practice. The department may not be required to post a bond. On proper showing, the court may:

(i) issue a restraining order, a temporary or permanent injunction, or other appropriate writ;

(ii) suspend or revoke a license or permit; and

(iii) appoint a receiver or conservator for the defendant or the assets of the defendant.

(2) A civil penalty imposed under this section must be collected by the department and deposited in the state's general fund as required by 23-5-123. If a person fails to pay the civil penalty, the amount due is a lien on the person's licensed premises and gambling devices in the state and may be recovered by the department in a civil action.

23-5-137. Judicial review. (1) (a) A person aggrieved by a final order of the department may obtain a review of the order in district court by filing with the court, within 30 days after entry of the final order, a written petition requesting that the order be modified or set aside in whole or in part.

(b) A copy of the petition must be served upon the department at the same time. When the department receives the copy of the petition, it shall certify and file in court a copy of the filing, testimony, and other evidence upon which the final order was entered by the department. When these have been filed with the court, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the final order in whole or in part. A temporary cease and desist order from the department may remain in effect until a hearing has been held and a final order has been issued pursuant to 23-5-136.

(2) (a) The review must be conducted by the district court without a jury and must be confined to the record. In a case of alleged irregularity in procedure before the department not shown in the record, proof may be taken by the court. The court, upon request, shall hear oral argument and receive written briefs.

(b) The court may not substitute its judgment for that of the department as to the weight of the evidence on questions of fact. The court may affirm the decision of the department or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (i) in violation of a constitutional or statutory provision;
- (ii) in excess of the statutory authority of the department;
- (iii) made upon unlawful procedure;
- (iv) affected by other error of law;
- (v) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record;
- (vi) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- (vii) inadequate because findings of fact, upon issues essential to the decision, were requested but not made.

(3) The commencement of proceedings under this section, unless specifically ordered by the court, may not operate as a stay of the department's final order.

23-5-138 through 23-5-140 reserved.

23-5-141 through 23-5-144. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-145 through 23-5-150 reserved.

23-5-151. Gambling prohibited. Except as specifically authorized by statute, all forms of public gambling, lotteries, and gift enterprises are prohibited.

23-5-152. Possession of illegal gambling device prohibited -- exception. (1) Except as provided in 23-5-153 and subsection (2) of this section, it is a misdemeanor punishable under 23-5-151

for a person to purposely or knowingly have in his possession or under his control or to purposely or knowingly permit to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by him or under his management or control an illegal gambling device. This section does not apply to a public officer or to a person coming into possession of an illegal gambling device in or by reason of the performance of an official duty and holding it to be disposed of according to law.

(2) (a) The department may adopt rules to license persons to manufacture gambling devices that are not legal for public play in the state and are manufactured only for export from the state.

(b) A person may not manufacture or possess an illegal gambling device for export from the state without having obtained a license from the department. The department may charge an administrative fee for the license that is commensurate with the cost of issuing the license.

23-5-153. Possession of antique slot machines. (1) For the purposes of this section, an antique slot machine is a mechanically or electronically operated slot machine that at any present time is more than 25 years old.

(2) Except as provided in subsection (3), an antique slot machine may be possessed, located, and operated only in a private residential dwelling.

(3) An antique slot machine may be possessed or located for purposes of display only and not for operation in any public museum owned and operated by the state, a county, or a city. A licensed manufacturer-distributor may possess and sell antique slot machines.

(4) An antique slot machine may not be operated for any commercial or charitable purpose.

23-5-154. Soliciting or persuading persons to play illegal gambling device prohibited. A person who advertises for or solicits another person to play or engage in the use of an illegal gambling device is guilty of a misdemeanor and is punishable under 23-5-161.

23-5-155. Counterfeiting or defacing documents -- penalty.

(1) A person commits the offense of counterfeiting or defacing a document when he purposely or knowingly counterfeits, alters, or wrongfully displays a seal, decal, license, identification number or device, or other document issued by the department.

(2) A person convicted of the offense of counterfeiting or defacing a document is guilty of a felony and must be punished in accordance with 23-5-162.

23-5-156. Obtaining anything of value by fraud or operation of illegal gambling device or enterprise. (1) A person who by any gambling obtains money, property, or anything of value that does not exceed \$300 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a misdemeanor and is punishable as provided in 23-5-161.

(2) A person who by gambling obtains money, property, or anything of value that exceeds \$300 in value by misrepresentation.

fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a felony and is punishable as provided in 23-5-162.

23-5-157. Gambling on cash basis. (1) In every gambling activity, except raffles as authorized in 23-5-413, the consideration paid for the chance to play must be cash. A participant shall present the money needed to play the game as the game is being played. A check, credit card, note, I O U, or other evidence of indebtedness may not be offered or accepted as part of the price of participation in the gambling activity or as payment of a debt incurred in the gambling activity. The use of a check or credit card to pay for other goods or services in the establishment or to obtain cash is not a violation of this section.

(2) A person who violates this section is guilty of a misdemeanor and must be punished in accordance with 23-5-161.

23-5-158. Minors not to participate -- penalty. (1) A person may not purposely or knowingly allow a person under 18 years of age to participate in a gambling activity.

(2) A person who violates this section is guilty of a misdemeanor and must be punished in accordance with 23-5-161.

23-5-159 and 23-5-160 reserved.

23-5-161. Criminal liabilities -- misdemeanor. A person who purposely or knowingly violates a provision of parts 1 through 6 of this chapter, the punishment of which is for a misdemeanor, must upon conviction of a first offense be fined not more than \$500. Upon a second conviction within 5 years of a first conviction, a person must be fined not more than \$1,000 or imprisoned in the county jail for not more than 6 months, or both. Upon a third conviction within 5 years of a second conviction, a person must be fined not more than \$10,000 or imprisoned in the county jail for not more than 1 year, or both. Upon a fourth conviction within 5 years of a third conviction, a person must be fined not more than \$10,000 or imprisoned in the county jail for not more than 1 year, or both, and the department shall revoke all licenses and permits the person holds under parts 1 through 6 of this chapter and the person is forever barred from receipt of any license or permit under this chapter. When 5 years have passed following a conviction, the record of that conviction may be made available only to criminal justice agencies or upon court order.

*... which is except*

23-5-162. Criminal liabilities -- felony. A person who purposely or knowingly violates a provision of parts 1 through 6 of this chapter, the punishment for which is a felony, may upon conviction be fined not more than \$50,000 or imprisoned for not more than 10 years, or both, for each violation.

23-5-163 through 23-5-170 reserved.

23-5-171. Authority of local governments to regulate gambling. (1) A local government may not license or regulate a

form of gambling authorized by parts 1 through 6 of this chapter or assess or charge any fees or taxes unless specifically authorized by statute.

(2) An incorporated city or town may enact an ordinance or resolution zoning certain areas within its incorporated limits in which gambling is prohibited.

(3) A county may enact a resolution zoning certain areas in the county, not within an incorporated city or town, in which gambling is prohibited.

(4) A county or incorporated city or town may not restrict the number of licenses that the department may issue.

23-5-172. Prosecution. The county attorney of the county in which a violation of a provision of parts 1 through 8 of this chapter occurs shall prosecute all gambling actions within the jurisdiction of the department. However, if the county attorney declines prosecution or fails to commence an action within a reasonable time, the attorney general may initiate and conduct the prosecution on behalf of the state.

23-5-173 through 23-5-175 reserved.

23-5-176. Qualifications for licensure. (1) A person whom the department determines is qualified to receive a license under the provisions of this chapter, except for the provisions of part 10, may, based on information available to, required by, or supplied to the department under department rules, be issued a state gambling license.

(2) The department shall issue a license unless the department can demonstrate that the applicant is:

(a) a person whose prior activities or criminal record:

(i) poses a threat to the public interest of the state or the effective regulation and control of gambling; or

(ii) creates a danger of illegal practices, methods, or activities in the conduct of gambling or in the carrying on of the business and financial arrangements incidental to gambling; or

(b) receiving a substantial amount of financing for the proposed operation from an unsuitable source. A lender or other source of money or credit that the department finds to meet the provisions of subsection (2)(a) may be considered an unsuitable source.

23-5-177. Operator of gambling establishment -- license -- fee. (1) It is a misdemeanor for a person who is not licensed by the department as an operator to make available to the public for play a gambling device or gambling enterprise.

(2) An operator's license must include the following information:

(a) a description of the premises upon which the gambling will take place;

(b) the operator's name;

(c) a description of each gambling device or card game table licensed to the operator by the department for play upon the premises, including the type of game and license number or fiscal number for each licensed game; and

(d) any other relevant information determined necessary by the department.

(3) The operator's license must be issued annually along with all other licenses for gambling devices or games licensed to the operator.

(4) The operator's license must be updated each time a gambling device or card game table license is newly issued or the device or game is removed from the premises.

(5) The department may not charge a fee for the issuance of an operator's license.

(6) The operator's license must be prominently displayed upon the premises for which it is issued.

23-5-201 through 23-5-211. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-212 through 23-5-220 reserved.

23-5-221. Definition. As used in this part, "Calcutta pool" means a form of auction pool conducted by an organization authorized by the department. The Calcutta pool must be an auction pool in which:

(1) a person's wager is equal to his bid;

(2) the proceeds from the pool, minus administrative costs and prizes paid, are contributed to a charitable or nonprofit corporation, association, or cause;

(3) the rules of the pool are publicly posted;

(4) no more than one wager for each competitor is allowed;

(5) at least 50% of the total pool is paid out in prizes;

(6) persons may not bid or wager money on any elementary school or high school sports event; and

(7) the underlying event has more than two entrants.

23-5-222. Calcutta pools authorized. It is hereby lawful to conduct or participate in a Calcutta pool as defined in 23-5-221.

23-5-223. Penalty. A person who violates a provision of this part is guilty of a misdemeanor punishable pursuant to 23-5-161.

23-5-224. Construction. Nothing in this part may be construed to permit a person to conduct a race meet or to bet on a race of a licensed race meet in violation of 23-4-201 and 23-4-301.

23-5-301. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-302. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-303. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-304 and 23-5-305 reserved.

23-5-306. Live card game table -- permit -- fees -- disposition of fees. (1) A person who has been granted an operator's license under 23-5-177 and a license to sell alcoholic

beverages for consumption on the premises may be granted an annual permit for the placement of live card game tables. If one or more live card game tables were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed under 16-4-401(2) but were licensed on that date to sell food, cigarettes, or any other consumable product, an operator's license and an annual permit for the placement of live card game tables may be granted to the person who legally operated the premises on January 15, 1989.

(2) The annual permit fee in lieu of taxes for each live card game table operated in a licensed operator's premises may not be prorated and must be:

- (a) \$250 for the first table; and
- (b) \$500 for each additional table.

(3) The department shall retain for administrative purposes \$100 of the fee collected under this part for each live card game table.

(4) The department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (2) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from fees assessed on live card game tables located in incorporated cities and towns within the county. The local government portion of this fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury.

23-5-307. Live card game tables -- hours of play -- restriction. Live card game tables must be closed for play between the hours of 2 a.m. and 8 a.m. each day. However, in the jurisdiction of a local government where a game is played, the local government may adopt an ordinance allowing play between 2 a.m. and 8 a.m.

23-5-308. Card game dealers -- license. (1) A person may not deal cards in a live card game without being licensed annually by the department.

(2) The fee for the first year in which the license is effective is \$75, and the annual renewal fee is \$25. The fee may not be prorated.

(3) The department shall retain for administrative purposes the license fee charged for the issuance of a dealer's license.

(4) A licensed dealer shall have on his person, and display upon request, his dealer's license when he is working as a dealer.

(5) The department shall adopt rules to implement temporary licensing procedures until a permanent license is issued to a dealer. The rules must provide that a temporary license may be obtained at the place where a person locally applies for a driver's license and that the receipt received upon mailing an application for a permanent license by certified mail, return receipt requested, also constitutes a temporary license. The department may not assess a fee for the temporary license.

23-5-309. Presence and control of dealer. A live card game

may not be played except on a live card game table in the presence and under the control of a licensed dealer on the premises of a licensed operator.

23-5-310 reserved.

23-5-311. Authorized card games. (1) The card games authorized by this part are and are limited to the card games known as bridge, cribbage, hearts, panguingua, pinochle, pitch, poker, rummy, solo, and whist.

(2) A person may conduct or participate in a live card game or make a live card game table available for public play of a live card game only if it is specifically authorized by this part and described by department rules.

(3) This part does not apply to games simulated on electronic video gambling machines authorized under part 6 of this chapter.

23-5-312. Prizes not to exceed three hundred dollars. A prize for an individual live card game may not exceed the value of \$300. Games may not be combined in any manner so as to increase the value of the ultimate prize awarded.

23-5-313. Rules of play to be posted -- rake-off approved. Rules governing the conduct of each game must be prominently posted within the sight of the players at a live card game table on the premises of a licensed operator. The rules must include notice of the maximum percentage rake-off, if any, and must require that the person taking the rake-off do so in an obvious manner.

23-5-314. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-315. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-316. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-317 through 23-5-320 reserved.

23-5-321. Issuance of permits by local governing bodies prohibited. A city, town, or county may not issue permits for live card games or live card game tables authorized in this part.

23-5-322. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-323. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-324 through 23-5-330 reserved.

23-5-331. Penalty. A person who purposely or knowingly violates or who procures, aids, or abets in a violation of this part or any ordinance, resolution, or rule adopted pursuant to this part is guilty of a misdemeanor punishable pursuant to 23-5-161.

23-5-332. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-401. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-402. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-403. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-404 reserved.

23-5-405. Authorized live bingo, keno, and raffles. (1) A person may conduct or participate in a live bingo and keno game or raffle only if it is operated pursuant to this part.

(2) This part does not apply to a game simulated on a video gambling machine authorized by part 6 of this chapter.

23-5-406. Exempt charitable organizations. An organization qualified for exemption under 26 U.S.C. 501(c)(3) and (c)(4) on January 15, 1989, is exempt from the taxation and license fees imposed by this part. An organization qualified for exemption under that section after that date is exempt from taxation under, and need only pay one-half the license fees under, this part if the organization carries on gambling activities for no more than 60 days a calendar year and if the activities are limited to the main premises or place of operations and to events at other places operated by other charitable organizations or by a government unit or entity. The organization shall comply with other statutes and rules relating to the operation of live bingo and keno or raffles. A qualified organization shall apply to the department for a cost-free permit to conduct charitable live bingo and keno games or raffles. The department may revoke or suspend the permit of a qualified organization that, after investigation, the department determines is contracting with a nonqualified organization to operate live bingo, keno, or raffles in a predominantly commercial manner.

23-5-407. Live bingo or keno permit -- fees -- disposition of fees. (1) A person who has been granted an operator's license may be granted an annual permit by the department to conduct live bingo or keno games on specified premises.

(2) The permit fee for each of the premises in which a live bingo or keno game is conducted may not be prorated and must be \$500.

(3) The department shall retain the permit fee for administrative costs.

23-5-408. Hours of play -- restrictions. A live bingo or keno game must be closed for play between the hours of 2 a.m. and 8 a.m. of each day. However, in the jurisdiction of a local government where a game is played, the local government may adopt an ordinance allowing play between 2 a.m. and 8 a.m.

23-5-409. Bingo and keno tax -- records -- distribution -- statement and payment. (1) A licensee who has received a permit to operate bingo or keno games shall pay to the department a tax on

5% of the net income from the operation of each live bingo and keno game operated on his premises. For purposes of this section, "net income" means gross proceeds, as defined in 23-5-112, minus the cost of equipment, supplies, personnel, and advertising allocated to the games. If in any year 5% of net income does not equal 1% of gross proceeds, then the licensee shall pay a tax of 1% of gross proceeds.

(2) A licensee shall keep a record of gross proceeds and net income in the form the department requires. At all times during the business hours of the licensee the records must be available for inspection by the department.

(3) A licensee shall annually complete and deliver to the department a statement showing the total gross proceeds and net income for each live keno or bingo game operated by him and the total amount due as live bingo or keno tax for the preceding year. This statement must contain any other relevant information required by the department.

(4) The department shall forward the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed game is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from taxes on live bingo or keno games located in incorporated cities and towns within the county. The tax collected under subsection (3) is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury.

23-5-410 reserved.

23-5-411. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-412. Card prices and prizes. The price for an individual bingo or keno card may not exceed 50 cents. Bingo prizes may be paid in either tangible personal property or cash. A prize may not exceed the value of \$100 for each individual bingo award or keno card. It is unlawful to, in any manner, combine any awards so as to increase the ultimate value of the award. A player may give the caller a card with instructions on the card to play that card and its marked numbers for up to the number of successive games that the house allows and that the player has indicated on the card, upon payment of the price per game times the number of successive games indicated. The player shall remain on the house premises until the card is played or withdrawn. The caller shall keep the card until the end of the number of games indicated, and the department may by rule provide that at that time the caller shall pay the player any prizes won.

23-5-413. Raffle prizes -- permits -- exception. (1) Raffle prizes may not exceed the value of \$5,000 for each individual raffle ticket. It is unlawful to, in any manner, combine any awards so as to increase the ultimate value of the prize awarded for each ticket.

(2) A separate permit must be issued by the board of county commissioners for each raffle conducted within its jurisdiction. The permit must be issued before the raffle may be conducted. A

person who has conducted a raffle must submit an accounting to the board of county commissioners within 30 days following the completion of the raffle. The sale of raffle tickets authorized by this part is restricted to events and participants within the geographic confines of the state.

(3) (a) The restrictions of subsection (1) do not apply to a raffle conducted by a nonprofit corporation, religious corporation sole, or other nonprofit organization if the corporation or organization is permitted by the board of county commissioners to conduct the raffle. The board of county commissioners may not charge a permit fee or an investigative fee for a raffle conducted by a nonprofit veterans' organization.

(b) The nonprofit organization or corporation seeking permission under subsection (3)(a) shall apply to the board of county commissioners for the permit and provide the following information:

(i) the cost and number of raffle tickets to be sold;

(ii) the charitable purposes the proceeds of the raffle are intended to benefit; and

(iii) the proposed prizes and their value.

(c) A veterans' organization seeking exemption from the permit fee or an investigative fee shall present evidence of the organization's nonprofit status to the board of county commissioners.

(d) The proceeds from the sale of the raffle tickets may be used only for charitable purposes or to pay for prizes. The raffle prize must be in tangible personal property only and not in money, cash, stock, bonds, evidence of indebtedness, or other intangible personal property. None of the proceeds may be used for the administrative cost of conducting the raffle.

23-5-414. Restrictions on bingo and keno. In the playing of live bingo or keno, a person who is not physically present on the premises where the game is actually conducted may not be allowed to participate as a player in the game.

23-5-415 through 23-5-418. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-419 and 23-5-420 reserved.

23-5-421. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-422. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-423. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-424 through 23-5-430 reserved.

23-5-431. Criminal penalty. A person who purposely or knowingly violates or who procures, aids, or abets in a violation of this part or any ordinance, resolution, or rule adopted pursuant to this part is guilty of a misdemeanor punishable pursuant to 23-5-161.

23-5-501. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Nonprofit organization" means a charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, or service organization, other than one established for the purpose of conducting or participating in a sports pool.

(2) "Sports pool" means a card divided into squares or spaces, with the names of the participants in the pool written within such squares or spaces, for which consideration in money is paid by the person playing for each square or space for the chance to win money or other items of value on any sports event wherein the participants in such sports event are natural persons or animals.

23-5-502. Sports pools authorized. Conducting or participating in sports pools as defined and governed in this part is lawful.

23-5-503. Rules. (1) The card used for recording the pool and upon which the squares or spaces appear shall clearly indicate in advance of the sale of any chances the number of chances to be sold in that specific pool, the name of the event, the consideration to be paid for each chance, and the total amount to be paid to the winners.

(2) A chance to participate in a sports pool may not be sold other than upon the premises in which the sports pool is conducted. An individual chance to participate in a sports pool may not be sold for a consideration in excess of \$5, and the total amount to be paid to the winners of any individual sports pool may not exceed the value of \$500. Except as provided in subsection (3), the winner of any sports pool shall receive a 100% payout of the value of the sports pool.

(3) A nonprofit organization that maintains and opens to inspection upon reasonable demand records to verify that the retained portion is used to support charitable activities, scholarships or educational grants, or community service projects may retain up to 50% of the value of a sports pool.

23-5-504 through 23-5-508. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-509. Penalty. A person who purposely or knowingly violates or who procures, aids, or abets in a violation of this part is guilty of a misdemeanor punishable pursuant to 23-5-161.

23-5-510. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-511. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-601. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-602. Definitions. As used in this part, the following definitions apply:

(1) "Associated equipment" means all proprietary devices,

machines, or parts used in the manufacture or maintenance of a video gambling machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, metering devices, and cabinetry.

(2) "Bingo machine" means an electronic video gambling machine that, upon insertion of cash, is available to play bingo as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(3) "Draw poker machine" means an electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(4) "Keno machine" means an electronic video gambling machine that, upon insertion of cash, is available to play keno as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(5) "Net machine income" means money put into a video gambling machine minus credits paid out in cash.

(6) "Video gambling machine manufacturer-distributor" means a person who assembles, produces, makes, or supplies video gambling machines or associated equipment for sale, use, or distribution in the state.

23-5-603. Video gambling machines -- possession -- play -- restriction. (1) A person may make available for public play only the number of approved video gambling machines specifically authorized by this part.

(2) The video gambling machines specifically authorized by this part are bingo, keno, and draw poker machines. Only the number of approved machines for which permits have been granted under 23-5-612 may be made available for play by the public on the premises of a licensed operator. The department shall adopt rules allowing a video gambling machine that needs repair to be temporarily replaced while it is being repaired with a video gambling machine that is approved under the permit provisions of this part. A fee may not be charged for the replacement machine.

(3) Machinery on premises licensed to sell alcoholic beverages for consumption on the premises must be placed in the room, area, or other part of the premises in which the alcoholic beverages are sold and normally consumed.

23-5-604 reserved.

23-5-605. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-606. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-607. Expected payback -- verification. The department shall prescribe the expected payback value of one credit awarded to be at least 80% of the value of one credit played. Each video gambling machine must have an electronic accounting device that the department may use to verify the winning percentage.

23-5-608. Limitation on amount of money played and value of prizes -- payment of credits in cash. (1) A video gambling machine may not allow more than \$2 to be played on a game or award free games or credits in excess of the following amounts:

- (a) \$100 a game for a video draw poker machine; and
- (b) \$800 a game for a video keno or bingo machine.

(2) A licensee shall pay in cash all credits owed to a player as shown on a valid ticket voucher.

23-5-609. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-610. Video gambling machine net income tax -- records -- distribution -- quarterly statement and payment. (1) An operator issued a permit under this part shall pay to the department a video gambling machine tax of 15% of net machine income from each video gambling machine licensed under this part.

(2) An operator issued a permit under this part shall keep a record of net machine income in such form as the department may require. The records must at all times during the business hours of the licensee be subject to inspection by the department.

(3) An operator issued a permit under this part shall, within 15 days after the end of each quarter, complete and deliver to the department a statement showing the total net machine income from each video gambling machine licensed to him, together with the total amount due the state as video gambling machine net income tax for the preceding quarter. The statement must contain other relevant information as the department may require.

(4) (a) The department shall forward one-third of the tax collected under subsection (3) to the general fund.

(b) The department shall forward the remaining two-thirds of the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county or municipal treasury. Counties are not entitled to proceeds from taxes on income from video gambling machines located in incorporated cities and towns. The two-thirds local government portion of tax collected under subsection (3) is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury.

23-5-611. Machine permit qualifications -- limitations. (1) (a) A person who has been granted an operator's license under 23-5-177 and a license to sell alcoholic beverages for consumption

on the premises may be granted a permit for the placement of video gambling machines in his premises.

(b) If video keno or bingo gambling machines were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed to sell alcoholic beverages for consumption on the premises or operated for the principal purpose of gaming and there is an operator's license for the premises under 23-5-177, a permit for the same number of video keno or bingo gambling machines as were operated on the premises on that date may be granted to the person who held the permit for such machines on those premises on that date.

(c) A person who legally operated an establishment on January 15, 1989, for the principal purpose of gaming and has been granted an operator's license under 23-5-177 may be granted a permit for the placement of bingo and keno machines in his premises.

(2) An applicant for a permit shall disclose on the application form to the department any information required by the department consistent with the provisions of 23-5-176.

(3) A licensee may not have on the premises or make available for play on the premises more than 20 machines of any combination and no more than 10 may be draw poker machines.

23-5-612. (Temporary) Machine permits -- fee. (1) The department, upon payment of the fee provided in subsection (2) and in conformance with rules adopted under this part, shall issue to the operator a permit for an approved video gambling machine.

(2) The department shall charge an annual permit fee of \$200 for each video gambling machine permit. The department shall retain \$100 of the total permit fee collected for purposes of administering this part. The remaining \$100 must be returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located. The local government portion of the fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit in the local government treasury.

(3) The permit expires on June 30 of each year, and the fee may not be prorated.

(4) A used keno machine may be licensed under subsection (1) without meeting the requirements of 23-5-609 if:

(a) it meets the requirements of 23-5-607 and 23-5-608;

(b) it has mechanical meters described in 23-5-609(4)(k) and electronic meters described in 23-5-609(4)(l), as that section read on September 30, 1989; and

(c) the applicant for licensure can establish to the satisfaction of the department that, on the date of application, he owns or possesses a machine that was licensed by the department prior to January 1, 1989. (Terminates June 30, 1990--sec. 3, Ch. 496, L. 1989.)

23-5-612. (Effective July 1, 1990) Machine permits -- fee.

(1) The department, upon payment of the fee provided in subsection (2) and in conformance with rules adopted under this part, shall issue to the operator a permit for an approved video gambling machine.

(2) The department shall charge an annual permit fee of \$200 for each video gambling machine permit. The department shall

retain \$100 of the total permit fee collected for purposes of administering this part. The remaining \$100 must be returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located. The local government portion of the fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit in the local government treasury.

(3) The permit expires on June 30 of each year, and the fee may not be prorated.

(4) A used keno machine may be licensed under subsection (1) without meeting the requirements of 23-5-609 [as that section read on September 30, 1989] if the applicant for licensure can establish to the satisfaction of the department that, on the date of application, he owns or possesses a machine that was owned or operated in the state prior to June 30, 1987. A license issued under this subsection expires for all purposes no later than June 30, 1989.

23-5-613. Violations. Unless otherwise provided in this part, a person who purposely or knowingly violates or procures, aids, or abets a violation of this part or an ordinance, resolution, or rule adopted under this part is guilty of a misdemeanor punishable under 23-5-161.

23-5-614 reserved.

23-5-615. Repealed. Sec. 68, Ch. 642, L. 1980.

23-5-616. Removal of machine from public access. If a machine fails to meet the specifications and requirements of this part or any rule of the department which specification or requirement existed at the time the machine was approved at any time after its initial permit has been issued, the operator shall immediately remove the machine from public access until it meets all requirements.

23-5-617. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-618. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-619 reserved.

23-5-620. Video gambling machines -- hours of play. A video gambling machine may not be played between the hours of 2 a.m. and 8 a.m. each day. However, in the jurisdiction of a local government where a game is played, the local government may adopt an ordinance allowing play between 2 a.m. and 8 a.m.

23-5-621. Video gambling machine specifications -- rules. The department shall adopt rules describing the video gambling machines authorized by this part and stating the specifications for video gambling machines authorized by this part. The specifications in the rules must substantially follow the specifications contained in 23-5-606 and 23-5-609 as those sections read on September 30, 1989. The department shall adopt rules allowing video gambling machines to be imported into this

state and used for the purposes of trade shows, exhibitions, and similar activities.

23-5-622. Tampering with video gambling machine -- penalty. ✓

(1) A person commits the offense of tampering with a video gambling machine if he purposely or knowingly manipulates or attempts or conspires to manipulate the outcome or payoff of a video gambling machine by physical tampering or other interference with the proper functioning of the machine.

(2) A violation of this section is a felony and must be punished in accordance with 23-5-162.

23-5-623 and 23-5-624 reserved.

23-5-625. Video gambling machine manufacturer-distributor -- license -- fees. (1) It is unlawful for any person to assemble, produce, manufacture, or supply any video gambling machine or associated equipment for use or play in the state without having first been issued a video gambling machine manufacturer-distributor's license by the department.

(2) The department shall charge an annual license fee of \$1,000 for the issuance or renewal of a video gambling machine manufacturer-distributor's license.

(3) In addition to other license fees, the department may charge the applicant a one-time video gambling machine manufacturer-distributor's license application processing fee. The processing fee may not exceed the department's actual costs for processing an application.

(4) All video gambling machine manufacturer-distributor's licenses expire on June 30 of each year, and the license fee may not be prorated.

(5) The department shall retain the license and processing fees collected for purposes of administering this part, unless otherwise provided.

23-5-626. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-627. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-628 through 23-5-630 reserved.

23-5-631. Examination and approval of new video gambling machines and associated equipment -- fee. (1) The department shall examine and may approve a new video gambling machine and associated equipment which are manufactured, sold, or distributed for use in the state before the video gambling machine or associated equipment is sold, played, or used.

(2) A video gambling machine or associated equipment may not be examined or approved by the department until the video gambling machine manufacturer-distributor is licensed as required in 23-5-625.

(3) All video gambling machines approved by the department of commerce prior to October 1, 1989, must be considered approved under this part.

(4) The department shall require the

manufacturer-distributor seeking the examination and approval of a new video gambling machine or associated equipment to pay the anticipated actual costs of the examination in advance and, after the completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayments of actual costs.

(5) The department may inspect and test and approve, disapprove, or place a condition upon a video gambling machine prior to its distribution and placement for play by the public.

23-5-632 through 23-5-634 reserved.

23-5-635. Repealed. Sec. 88, Ch. 642, L. 1989.

23-5-636. Repealed. Sec. 88, Ch. 642, L. 1989.

23-5-1001. Short title. This part may be cited as the "Montana State Lottery Act of 1985".

23-5-1002. Purpose. (1) The purpose of this part is to allow lottery games in which the player purchases from the state, through the administrators of the state lottery, a chance to win a prize. This part does not allow and may not be construed to allow any game in which a player competes against or plays with any other person, including a person employed by an establishment in which a lottery game may be played.

(2) The administration and construction of this part must comply with Article III, section 9, of the Montana constitution, which mandates that all forms of gambling are prohibited unless authorized by acts of the legislature or by the people through initiative or referendum. Therefore, this part must be strictly construed to allow only those games that are within the scope of this section and within the definition of "lottery game".

(3) The state lottery may not:

(a) operate a slot machine or carry on any form of gambling prohibited by the laws of this state; or

(b) carry on any form of gambling permitted by the laws of this state but which is not a lottery game within the scope of this section and within the definition of "lottery game".

23-5-1003. Definitions. As used in this part, the following definitions apply:

(1) "Commission" means the state lottery commission created by 23-5-1006.

(2) "Director" means the director appointed by the governor under 23-5-1011 to administer and manage the state lottery.

(3) "Lottery" or "state lottery" means the Montana state lottery created and operated pursuant to this part.

(4) "Lottery game" means any procedure, including any on-line or other procedure using a machine or electronic device, by which one or more prizes are distributed among persons who have paid for a chance to win a prize and includes but is not limited to weekly (or other, longer time period) winner games, instant winner games, daily numbers games, and sports pool games, except games prohibited by Title 23, chapter 5, part 1; lotteries

prohibited by Title 23, chapter 5, part 2; card games regulated by Title 23, chapter 5, part 3; raffles and bingo games governed by Title 23, chapter 5, part 4; and sports pools governed by Title 23, chapter 5, part 5.

23-5-1004 and 23-5-1005 reserved.

23-5-1006. State lottery commission -- allocation -- composition -- compensation -- quorum. (1) There is a state lottery commission.

(2) The commission consists of five members, who shall reside in Montana, appointed by the governor.

(3) At least one commissioner must have 5 years of experience as a law enforcement officer. At least one commissioner must be an attorney admitted to the practice of law in Montana. At least one commissioner must be a certified public accountant licensed in Montana.

(4) After initial appointments, each commissioner shall be appointed to a 4-year term of office, and the terms shall be staggered.

(5) A commissioner may be removed by the governor for good cause. An office that for any reason becomes vacant must be filled within 30 days by the governor, and the commissioner filling the vacancy shall serve for the rest of the unexpired term.

(6) The commission shall elect one of its members as chairman.

(7) Three or more commissioners constitute a quorum to do business, and action may be taken by a majority of a quorum.

(8) Commissioners are entitled to compensation, to be paid out of the state lottery fund, at the rate of \$50 for each day in which they are engaged in the performance of their duties and are entitled to travel, meals, and lodging expenses, to be paid out of the state lottery fund, as provided for in Title 2, chapter 118, part 5.

(9) The commission is allocated to the department of commerce for administrative purposes only as prescribed in 2-15-121.

23-5-1007. Powers and duties of commission. The commission shall:

(1) establish and operate a state lottery and may not become involved in any other gambling or gaming;

(2) determine policies for the operation of the state lottery, supervise the director and his staff, and meet with the director at least once every 3 months to make and consider recommendations, set policies, determine types and forms of lottery games to be operated by the state lottery, and transact other necessary business;

(3) maximize the net revenue paid to the superintendent of public instruction under 23-5-1027 and ensure that all policies and rules adopted further revenue maximization;

(4) subject to 23-5-1027(1), determine the percentage of the money paid for tickets or chances to be paid out as prizes;

(5) determine the price of each ticket or chance and the

number and size of prizes;

(6) provide for the conduct of drawings of winners of lottery games;

(7) carry out, with the director, a continuing study of the state lotteries of Montana and other states to make the state lottery more efficient, profitable, and secure from violations of the law;

(8) study and may enter into agreements with other lottery states to offer lottery games;

(9) prepare quarterly and annual reports on all aspects of the operation of the state lottery, including but not limited to types of games, gross revenue, prize money paid, operating expenses, net revenue to the state, contracts with gaming suppliers, and recommendations for changes to this part, and deliver a copy of each report to the governor, the department of administration, the legislative auditor, the president of the senate, the speaker of the house of representatives, and each member of the appropriate committee of each house of the legislature as determined by the president of the senate and the speaker of the house; and

(10) adopt rules relating to lottery staff sales incentives or bonuses and sales agents' commissions and any other rules necessary to carry out this part.

23-5-1008. Legislative liaison committee -- bipartisan -- compensation from lottery fund. (1) There is a legislative liaison committee.

(2) The liaison committee consists of four legislators. Two members must be from the senate and two members must be from the house of representatives. The speaker of the house and the senate committee on committees shall appoint the members of the liaison committee, and no more than two members may be of the same political party. No legislator who has any ownership interest in any gambling device or establishment may be appointed to the liaison committee.

(3) A member of the liaison committee is entitled to compensation and expenses as provided in 5-2-302, paid from money appropriated to the lottery, while performing his duties as a member of the liaison committee, as provided in subsection (4) of this section.

(4) The liaison committee shall meet once each fiscal year with the commission at Helena and shall report to each legislature on the activities and operations of the state lottery.

23-5-1009 and 23-5-1010 reserved.

23-5-1011. Director -- appointment -- compensation -- qualifications. (1) The director must be appointed by the governor and shall hold office at the pleasure of the governor.

(2) The director must be qualified by training and experience to direct the state lottery. He must be a full-time employee and may not engage in any other occupation.

(3) The director's salary is equal to 90% of the salary of the director of the department of commerce.

23-5-1012. Powers and duties of director. (1) The director shall:

(a) administer the operation of the state lottery in accordance with this part and the rules and other directives of the commission;

(b) appoint an assistant director for security and employ and direct personnel necessary to the operation of the state lottery;

(c) license lottery ticket or chance sales agents and suspend or revoke licenses pursuant to this part and commission rules; and

(d) maintain, with the assistant director for security, the security of the state lottery.

(2) With the concurrence of the commission or pursuant to commission rules, the director may enter into contracts for materials, equipment, and supplies to be used in the operation of the state lottery, for the design and installation of games, for consultant services, and for promotion of the lottery. All contracts must be made in accordance with state law. No contract is legal or enforceable that provides for the management of the state lottery or for the entire operation of its games by any private person or firm. When a contract is awarded, a performance bond satisfactory to the commission and executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the commission, in an amount equal to the price of the contract, must be delivered to the commission.

23-5-1013. Assistant director for security -- qualifications -- duties -- compensation. (1) The director shall appoint an assistant director for security, who serves at the pleasure of the director.

(2) The assistant director for security must be qualified by training and experience, have at least 5 years of law enforcement experience, and be knowledgeable and experienced in computer security.

(3) The assistant director for security shall:

(a) be responsible for a security division to assure security, honesty, fairness, and integrity in the operation and administration of the lottery, including but not limited to an examination of the background of all prospective employees, ticket or chance sales agents, lottery vendors, and lottery contractors. The security division is designated a law enforcement agency for the purpose of administering this part.

(b) in conjunction with the director, confer with the attorney general or his designee to promote and ensure security, honesty, fairness, and integrity of the operation and administration of the lottery; and

(c) in conjunction with the director, report any alleged violation of law to the attorney general, the legislative auditor, and any other appropriate law enforcement authority for further investigation and action.

(4) The salary of the assistant director for security is equal to 90% of the salary of the director of the lottery.

23-5-1014 and 23-5-1015 reserved.

23-5-1016. Ticket or chance sales agents -- licenses. (1) Lottery tickets or chances may be sold only by ticket or chance sales agents licensed by the director in accordance with this section.

(2) The commission shall by rule determine the places at which state lottery game tickets or chances may be sold.

(3) (a) Before issuing a license, the director shall consider:

(i) the financial responsibility and security of the applicant and his business or activity;

(ii) the accessibility of his place of business or activity to the public; and

(iii) the sufficiency of existing licenses to serve the public convenience and the volume of the expected sales.

(b) No person under 18 years of age may sell lottery tickets or chances.

(c) A license as an agent to sell lottery tickets or chances may not be issued to any person to engage in business exclusively as a lottery ticket or chance sales agent.

(4) The director may issue temporary licenses upon conditions he considers necessary.

(5) License applicants shall pay a \$50 fee to cover the cost of investigating and processing the application.

(6) The director may require a bond from any licensed agent in an amount provided in the commission's rules and may purchase a blanket bond covering the activities of licensed agents.

(7) A licensed agent shall display his license or a copy thereof conspicuously in accordance with the commission's rules.

(8) A license is not assignable or transferable.

(9) An employee of a ticket or chance sales agent may not be required to sell lottery game tickets or chances if the sale is against his religious or moral beliefs.

(10) Sales agents are entitled to a commission of no more than 10% of the face value of tickets and chances that they purchase from the lottery and do not return. However, to further the sale of lottery products, the lottery commission may adopt rules providing additional commissions to sales agents based on incremental sales. Commissions may not come from that part of all gross revenue that is net revenue and is paid to the superintendent of public instruction. The commissions are statutorily appropriated, as provided in 17-7-502, to the lottery.

(11) Each sales agent shall keep a complete and up-to-date set of records and accounts fully showing his sales and provide it for inspection upon request of the commission, the director, the department of commerce, the office of the legislative auditor, or the office of the attorney general.

(12) Sales agents may pay the state lottery only by check, bankdraft, electronic fund transfer, or other recorded, noncash, financial transfer method as determined by the director.

(13) A license may be suspended or revoked for failure to maintain the license qualifications provided in subsection (3) or for violation of any provision of this part or a commission rule. Prior to suspension or revocation, the licensee must be given

notice and an opportunity for a hearing.

23-5-1017. Sales restrictions. (1) The price of each lottery game ticket or chance must be clearly stated thereon. The price of a lottery game chance vended by a machine or electronic device must be clearly stated on the machine or device.

(2) Tickets and chances may not be sold to or purchased by persons under 18 years of age.

(3) Tickets and chances may not be purchased on credit.

(4) Tickets and chances may not be sold to or purchased by commissioners, the director, his staff, gaming suppliers doing business with the state lottery, suppliers' officers and employees, employees of any firm auditing or investigating the state lottery, governmental employees auditing or investigating the state lottery, or members of their households.

(5) The names of elected officials may not appear on any ticket or chance.

23-5-1018. Disclosure of odds. The director shall make adequate disclosure of the odds with respect to each state lottery game by stating the odds in lottery game advertisements and by posting the odds at each place in which tickets or chances are sold.

23-5-1019. Felony and gambling-related convictions -- ineligibility for lottery positions. No person who has been convicted of a felony or a gambling-related offense under federal law or the law of any state may be a commissioner, director, assistant director, employee of the state lottery, or licensed ticket or chance sales agent. Prior to appointment as a commissioner, director, assistant director, or employee, a person shall submit to the commission a full set of fingerprints made at a law enforcement agency by an agent or officer of such agency on forms supplied by the agency. The assistant director for security may require a ticket or chance sales agent to submit fingerprints prior to licensing.

23-5-1020. Conflict of interest. No commissioner, director, assistant director, state lottery employee, licensed ticket or chance sales agent, or member of his household may have a financial interest in any gaming supplier or any contract between the state lottery and a gaming supplier or accept any gift or thing of value from a gaming supplier.

23-5-1021. Disclosures by gaming supplier: (1) Any person, firm, association, or corporation that submits a bid or proposal for a contract to supply lottery equipment, tickets, or other material or consultant services for use in the operation of the state lottery shall disclose at the time of such bid or proposal:

(a) the supplier's business name and address and the names and addresses of the following:

(i) if the supplier is a partnership, all of the general and limited partners;

(ii) if the supplier is a trust, the trustee and all persons entitled to receive income or benefit from the trust;

(iii) if the supplier is an association, the members, officers, and directors;

(iv) if the supplier is a corporation, the officers, directors, and each owner or holder, directly or indirectly, of any equity security or other evidence of ownership of any interest in the corporation; except that, in the case of owners or holders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those owning or holding 5% or more of the publicly held securities must be disclosed;

(v) if the supplier is a subsidiary company, each intermediary company, holding company, or parent company involved therewith and the officers, directors, and stockholders of each; except that, in the case of owners or holders of publicly held securities of an intermediary company, holding company, or parent company which is a publicly traded corporation, only the names and addresses of those owning or holding 5% or more of the publicly held securities must be disclosed;

(b) if the supplier is a corporation, all the states in which the supplier is authorized to do business and the nature of that business;

(c) other jurisdictions in which the supplier has contracts to supply gaming materials, equipment, or consultant services;

(d) the details of any conviction, state or federal, of the supplier or any person whose name and address are required by subsection (1)(a) of a criminal offense punishable by imprisonment for more than 1 year and shall submit to the commission a full set of fingerprints of such person made at a law enforcement agency by an agent or officer of such agency on forms supplied by the agency;

(e) the details of any disciplinary action taken by any state against the supplier or any person whose name and address are required by subsection (1)(a) regarding any matter related to gaming consultant services or the selling, leasing, offering for sale or lease, buying, or servicing of gaming materials or equipment;

(f) audited annual financial statements for the preceding 5 years;

(g) a statement of the gross receipts realized in the preceding year from gaming consultant services and the sale, lease, or distribution of gaming materials or equipment to states operating lotteries and private persons licensed to conduct gambling, differentiating that portion of the gross receipts attributable to transactions with states operating lotteries from that portion of the gross receipts attributable to transactions with private persons licensed to conduct gambling;

(h) the name and address of any source of gaming materials or equipment for the supplier;

(i) the number of years the supplier has been in the business of supplying gaming consultant services or gaming materials or equipment; and

(j) any other information, accompanied by any documents the commission by rule may reasonably require as being necessary or appropriate in the public interest to accomplish the purposes of this part.

(2) No person, firm, association, or corporation contracting to supply gaming equipment or materials or consultant services to the state for use in the operation of the state lottery may have any financial interest in any person, firm, association, or corporation licensed as a ticket or chance sales agent.

(3) No contract for supplying consultant services or gaming materials or equipment for use in the operation of the state lottery is enforceable against the state unless the requirements of this section have been fulfilled.

23-5-1022. Drawings for and payment of prizes -- unclaimed prizes. (1) All drawings must be held in public. The selection of winning tickets may not be performed by an employee of the lottery or by a member of the commission. All drawings must be witnessed by a professional staff employee of the legislative auditor's office, and all lottery drawing equipment used in public drawings to select winning prizes or participants for prizes must be examined by the director's staff and a professional staff employee of the legislative auditor's office prior to and after each public drawing.

(2) The commission may provide for the immediate payment of prizes by the ticket or chance sales agent who sold the winning ticket or chance whenever the amount of the prize is less than an amount set by commission rule. Payment may not be made directly by a machine or device or by a computer terminal.

(3) Prizes over \$100,000 may in the discretion of the commission be paid either in one lump sum or in equal yearly installments without interest over a period of not more than 20 years, except that each installment payment must be at least \$20,000.

(4) Prizes not claimed within 6 months are forfeited and must be paid into the state lottery fund. No interest is due on a prize when a claim is delayed but made within 6 months.

(5) The right to a prize is not assignable, but prizes may be paid to a deceased winner's estate or to a person designated by judicial order.

23-5-1023 through 23-5-1025 reserved.

23-5-1026. State lottery fund. There is a fund of the enterprise fund type, as defined in 17-2-102, to be known as the state lottery fund. The gross revenue from the state lottery, consisting of money from the sale of lottery tickets and chances, ticket or chance sales agent license fees, unclaimed prizes, or any other source, must be deposited in the fund, except that, at the discretion of the director, money for prizes paid immediately by a sales agent and money equaling the sales agent's commission may be drawn by a sales agent from his gross revenue before depositing his gross revenue with the state lottery.

23-5-1027. (Temporary) Disposition of revenue. (1) A minimum of 45% of the money paid for tickets or chances must be paid out as prize money. The prize money is statutorily appropriated, as provided in 17-7-502, to the lottery.

(2) Commissions paid to lottery ticket or chance sales

agents are not a state lottery operating expense.

(3) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue and must be paid quarterly from the enterprise fund established by 23-5-1026 to the superintendent of public instruction for distribution as equalization aid to the retirement fund obligations of elementary and high school districts in the manner provided in 20-9-532. The net revenue is statutorily appropriated, as provided in 17-7-502, to the superintendent of public instruction.

(4) The spending authority of the lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the budget office.

23-5-1027. (Effective July 1, 1990) Disposition of revenue. (1) A minimum of 45% of the money paid for tickets or chances must be paid out as prize money. The prize money is statutorily appropriated, as provided in 17-7-502, to the lottery.

(2) Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

(3) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue and must be paid quarterly from the enterprise fund established by 23-5-1026 to the superintendent of public instruction for distribution as state equalization aid to the public schools of Montana as provided in 20-9-343. The net revenue is statutorily appropriated, as provided in 17-7-502, to the superintendent of public instruction.

(4) The spending authority of the lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the budget office.

23-5-1028. Annual audit. The legislative auditor shall conduct or have conducted an annual audit of the state lottery. The costs of the audit must be paid out of the state lottery fund. A copy of the audit report must be delivered to the commission, the director, the governor, the president of the senate, the speaker of the house of representatives, and each member of the appropriate committee of each house of the legislature as determined by the president of the senate and the speaker of the house.

23-5-1029. Audit of lottery security. (1) After the first 9 months of sales to the public and every 2 years after that, the office of the legislative auditor shall conduct or have conducted a comprehensive audit of all aspects of security in the operation of the lottery. The costs of the audit are a state lottery operating expense and must be paid out of the state lottery fund. The audit must include:

- (a) personnel security;
- (b) lottery sales agent security;
- (c) lottery contractor security;
- (d) security of manufacturing operations of lottery contractors;

(e) security against ticket or chance counterfeiting and alteration and other means of fraudulently winning;  
(f) security of drawings among entries or finalists;  
(g) computer security;  
(h) data communications security;  
(i) database security;  
(j) systems security;  
(k) lottery premises and warehouse security;  
(l) security in distribution;  
(m) security involving validation and payment procedures;  
(n) security involving unclaimed prizes;  
(o) security aspects applicable to each particular lottery game;

(p) security of drawings in games whenever winners are determined by drawings;

(q) the completeness of security against locating winners in lottery games with preprinted winners by persons involved in their production, storage, distribution, administration, or sales; and

(r) any other aspects of security applicable to any particular lottery game and to the lottery and its operations.

(2) The security audit report must be presented to the commission, the director, the governor, the president of the senate, and the speaker of the house of representatives.

23-5-1030. Certain audit findings confidential. Specific audit findings relating to security invasion techniques are confidential and may be reported only to the legislative audit committee, the director of the lottery, the commission, the attorney general, and the governor.

23-5-1031 through 23-5-1035 reserved.

23-5-1036. Penalties. It is a misdemeanor, punishable by a fine not to exceed \$500 or imprisonment in the county jail for a term not to exceed 6 months, or both, to knowingly or purposely:

(1) require an employee to sell lottery tickets or chances in violation of 23-5-1016(9);

(2) violate 23-5-1016(11);

(3) sell a lottery ticket or chance to a person under 18 years of age;

(4) violate subsection (3) or (4) of 23-5-1017;

(5) serve as a commissioner, director, assistant director, employee, or licensed agent of the state lottery in violation of 23-5-1019;

(6) violate 23-5-1020;

(7) violate 23-5-1021; or

(8) influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials.

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

*New Regs -  
MONTANA*

In the matter of the ) NOTICE OF EMERGENCY AMEND-  
emergency amendment of ) MENT OF RULES 8.124.102,  
Rules 8.124.102, 8.124.201, ) 8.124.201, and 8.124.202,  
and 8.124.202, video ) VIDEO GAMBLING MACHINE  
gambling machine rules ) RULES

To: All Interested Persons.

1. On October 1, 1989, ch. 432, L. 1989 becomes effective. The Legislature considered that bill necessary to protect the welfare of the citizens of Montana (§ 1(e)). The bill requires extensive revision of video gambling machine specifications (§ 49). Those rules, 8.124.101 through 8.124.229, ARM, are currently administrative rules of the department of commerce, to which the department of justice has succeeded, pursuant to section 8-15-133, MCA. The Department has recently discovered that the time consumed by prior steps necessary to the implementation of this act have not left sufficient time to follow the standard rulemaking procedure and have the vital video gambling machine rules in place by October 1, 1989. Therefore, the Department intends to amend the following rules without public hearing (the Department has had informal consultations with representatives of both the gambling industry and law enforcement) as of the date of this publication. The rules as amended will be made available to all those affected thereby, and were discussed by the Gaming Advisory Council at its first meeting on August 31, 1989.

2. A standard rulemaking procedure will be undertaken with a full public hearing prior to the expiration of these emergency rules.

3. Rule 8.124.102, ARM, is amended to include the following definition:

"Audit copy" means the exact copy of all printing created by the printing mechanism in a video gambling machine. This copy is to be retained in the machine until removed by the operator. The audit copy will record the electronic meter readings, accounting summaries, valid ticket vouchers, and any other record created by this mechanism.

The balance of the rule is unchar

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-621, MCA.

4. Rule 8.124.201, ARM, is amended as follows:

8.124.201 GENERAL SPECIFICATIONS OF VIDEO GAMING GAMBLING MACHINES (1) Detailed specifications for video gaming machines are required by the department in 23-5-615 Title 23, chapter 5, MCA. Such specifications are required to ensure the legal operation and integrity of each machine and provide the department with methods to monitor the machines.

(2) Each video gambling machine model must:

(a) be inspected in the state for approval and licensure by the department. The department may inspect any machine sold or operated in the state. Any approval granted by the department to a person is not transferable. The department must be allowed immediate access to each machine. Keys to allow access to a machine for purposes of inspection may be provided to the department or must be immediately available at the premise.

(b) be operated by the players in the manner specified by this part.

(c) not have any switches, jumpers, wire posts, or other means of manipulation that could affect the operation or outcome of a game. The machine may not have any functions or parameters adjustable by and through any separate video display or input codes except for the adjustment of features that are wholly cosmetic. This is to include devices known as "knockoff switches."

(d) Offer only those games defined as video gambling in Title 23, chapter 5, MCA, and operate in the following manner:

(i) The number of cards must be generated by use of a random number generator and frozen prior to the start of each game.

(ii) In the case of poker, after the first five cards have been dealt, the player may be allowed to raise his wager up to the amount of his initial ante, but the player may not exceed the overall statutory bet limit.

(iii) The game must display the combinations for which credits will be awarded and the number of credits awarded for each combination.

(iv) One credit may not exceed twenty-five cents in value.

(v) The machine must have locked doors to two separate areas, one containing the logic board and software for the game and the other housing the cash. Game EPROMS contained on the logic board must be readily accessible from the front of the machine. Access from one area to another must not be allowed.

(vi) (A) The machines may have two mechanisms that accept coins, hereinafter referred to as "mechanism 1" and "mechanism 2." These mechanisms must have devices referred to as "lockouts" which prohibit the machine from accepting coins during periods when the machine is inoperable.

(B) The machine may have a machine manufacturer mechanism that accepts cash in the form of bills that do not exceed \$5.

(vii) In the case of poker each machine must use a color display with images of cards that closely resemble the standard poker playing cards.

(viii) The machine must be capable of printing a ticket voucher for all credits owed the player at the completion of each game. A valid ticket must contain the following in a format prescribed by the department:

(A) the name of the licensed establishment;

(B) the name of the city, town, or county in which the licensed establishment is located;

(C) the machine serial number;  
(D) The time of day in hours and minutes in a 24-hour format;

(E) the current date;

(F) the program name and revision;

(G) the value of the prize in numbers;

(H) the value of the prize in words;

(I) the sequential number of the ticket voucher;

(ix) The printing mechanism must be located in a locked area of the machine to insure the safekeeping of the audit copy. The logic board shall be mounted within the logic area so it is not visible upon opening the logic area door. The printing mechanism must have a paper sensing device that upon sensing a "low paper" condition will allow the machine to finish printing the ticket and prevent further play. The machine must recognize a printer power loss occurrence and cease play until power has been restored to the printer and the machine is capable of producing a valid ticket.

(x) The machine must have nonresettable mechanical meters housed in a readily accessible locked machine area. These meters must be in a configuration prescribed by the department. The mechanical meters must be manufactured in such a way as to prevent access to the internal parts without destroying the meter. Meters must be hardwired (no quick connects will be allowed in the meter wiring system). The department may require and provide a validating identification sticker to attach to the mechanical meters to verify the meters are assigned to a specific licensed machine. The meters must keep a permanent record of:

(A) total credits accepted by the coin acceptor mechanism(s), and bill acceptor (if applicable);

(B) total credits played;

(C) total credits won;

(D) total credits paid;

(xi) The machine must contain electronic metering, using meters that record and display the following on the video screen in a format prescribed by the department:

(A) total credits in mechanism(s) 1 and 2 (if applicable).

(B) total credits through the bill acceptor (if applicable);

(C) total credits, total credits played, total credits won, and total credits paid;

(D) in the case of poker, total hands of poker played and total hands of poker won; total winning hands, consisting of a pair, two pair, three of a kind, a straight, a flush, a full house, four of a kind, a straight flush,, and five of a kind (if applicable);

(E) in the case of keno, total games of keno played and total games of keno won;

(F) in the case of bingo, total games of bingo played and the total games of bingo won.

(vii) The machine must issue by activation of an external key switch, an accounting ticket containing a performance synopsis of the machine. The printing of all totals from the electronic meters shall occur automatically by means of a switch attached to the door or the lock for that door each time access occurs to either the logic compartment or any compartment where cash is collected. Each machine must produce a full accounting ticket whenever electronic meters are reset. The ticket must be in the format prescribed by the department and contain:

- (A) the name of the licensed establishment;
- (B) the name of city, town, or county in which the licensed establishment is located;
- (C) the serial number of the machine;
- (D) the time of day, in hours and minutes in a 24-hour format;
- (E) the current date;
- (F) the program name and revision number; and
- (G) the electronic meter readings required by the department.

(xiii) The machine must have an identification tag permanently affixed to the machine by the manufacturer. The tag must be on the right-hand side, upper left corner of the machine and must include the following information:

- (A) manufacturer;
- (B) serial number;
- (C) model;
- (D) date of manufacture; and
- (E) any other information required by the department.
- (F) The face of the machine must be clearly labeled so as to inform the public that no person under the age of 18 years is allowed to play.

(G) No machine may offer for play more than one pay table per program.

(H) Each machine must pass a static test that is determined by the department.

(I) The owner of a gambling machine that is capable of producing an audit ticket, must produce, in each machine owned an audit ticket at least every seven days.

(J) A machine shall be equipped with a surge protector that will feed all A.C. electrical current to the machine and a battery backup power supply capable of maintaining for a 30-day period the accuracy of all electronic meters, date, and time during power fluctuations and loss. The battery must be in a state of charge during normal operation of the machine. Manufacturers incorporating either the use of E2 proms or a lithium battery for memory retention will be considered to meet this requirement.

{2} (3) All hardware and software Any and all modifications made to a licensed an approved video gaming gambling machine must be submitted to the department for approval prior to installation.

~~(3)~~ (4) The department may suspend, or revoke a license, or revoke approval of a machine at any time when it finds that any machine or machine component does not comply with statutes and rules governing electronic video gaming gambling machines. The department may also suspend, or revoke the licenses, or revoke approval of other similar model machines or machine components in use in the state.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-621, MCA.

5. Rule 8.124.202, ARM, is amended as follows:

8.124.202 HARDWARE SAFETY SPECIFICATIONS A video gaming gambling machine must include the following hardware specifications:

(1) All electrical and mechanical parts and design principles shall follow acceptable industrial codes and standards in both design and manufacture.

(2) A video gaming gambling machine shall be designed to ensure that the player will not be subjected to any physical, electrical, or mechanical hazards.

The balance of the rule, subsections (3) through (20), is repealed.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-621, MCA.

6. A new rule is inserted in chapter 124, subchapter 2 as follows:

RULE 8.124.210 USE OF TEMPORARY REPLACEMENT OR LOANER MACHINES - PERMIT REQUIRED - REPORTING (1) The use of a temporary replacement or loaner machine is authorized only in cases where it is being used to replace a machine that has been removed from service for repair.

(2) Any operator placing a temporary replacement machine in service must notify the department on a form prescribed by the department.

(3) The temporary replacement machine must have an identification number issued by the department. The identification number must be issued in advance of the machine being placed into service, and must be issued to a holder of a manufacturer/distributor or an operator license. The identification number must be affixed to the machine.

(4) The operator is responsible for filing all quarterly tax reports for the temporary replacement machine.

(5) In no case may the number of machines authorized by the number of permits issued the operator be exceeded by the use of temporary replacement machines. A temporary replacement machine may not be used for more than ninety (90) days.

AUTH: Sec. 23-5-603(2), MCA. IMP: Sec. 23-5-603(2), MCA.

6. The rationale for the emergency amendments is set forth in the statement of reasons for emergency.

7. Interested persons are encouraged to submit their comments during the standard rulemaking process. If interested persons wish to personally notified of that rulemaking process, they should submit their names and addresses to the Gambling Control Division, Montana Department of Justice, 2687 Airport Road, Helena, Montana 59620.

By: \_\_\_\_\_  
MARC RACICOT  
Attorney General

Certified to the Secretary of State September \_\_\_\_, 1989.

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the Matter of the	)	NOTICE OF ADOPTION OF
Adoption of Emergency	)	EMERGENCY RULES ON
Rules on Gambling	)	GAMBLING

TO: All Interested Persons.

1. On October 1, 1989, ch. 432, L. 1989 becomes effective. The Legislature considered that bill necessary to protect the welfare of the citizens of Montana (§ 1(e)). Several new types of gambling regulation are included in the bill: licensing of gambling operators and card dealers (§§ 11 and 28), revised video gambling machine specifications (§ 49), specific descriptions of authorized card games (§ 26), standards for the conduct of sports pools (§ 58), standards for the temporary replacement of a video gambling machine that needs repair (§ 45), and standards for the play of successive games of keno (§ 39). The Department has recently discovered that the time consumed by prior steps necessary to the implementation of this act have not left sufficient time to follow the standard rulemaking procedure and have the vital rules in the areas described above in place by October 1, 1989. Therefore, the Department intends to adopt the following rules without public hearing (the Department has had informal consultations with representatives of both the gambling industry and law enforcement) as of the date of this publication. The rules as adopted will be made available to all those affected thereby, and were discussed by the Gaming Advisory Council at its first meeting on August 31, 1989.

2. A standard rulemaking procedure will be undertaken with a full public hearing prior to the expiration of these emergency rules.

3. The text of the proposed rules is as follows:

RULE I DEFINITIONS As used throughout this subchapter, the following definitions apply:

(1) "Applicant" means a person who has applied for a license issued by the department under Title 23, chapter 5, MCA.

(2) "Dealer" means a person who:

(a) deals playing cards in a card game; and

(b) may accept wagers and dispense winnings in a card game.

(3) "Department" means the department of justice unless otherwise specifically stated.

(4) "Gambling license" means any license issued by the department pursuant to Title 23, chapter 5, MCA.

(5) "Licensed" means that a person has been granted a dealer, operator, manufacturer/distributor, or manufacturer of illegal gambling devices license by the department.

(6) "Manufacturer/distributor" means a person who:

(a) assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind for use as a gambling device; or

(b) purchases or obtains from another person equipment of any kind for use in gambling activities and sells, leases, or otherwise furnishes this equipment to another person.

(7) "Manufacturer of illegal gambling devices" means a person who assembles from raw materials or subparts a completed or uncompleted piece of equipment intended for use as a gambling device which is not specifically authorized in Montana by statute or department rule.

(8) "Operator" means a person who operates or controls for use in public a gambling device or gambling enterprise.

(9) "Person" means both natural and artificial persons, and includes all partnerships, corporations, associations, clubs, fraternal orders, religious organizations, or charitable organizations.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-112, MCA.

#### RULE II APPLICATION FOR GAMBLING LICENSE - LICENSE FEE

(1) Every person working as a dealer, operator, manufacturer/distributor, or manufacturer of illegal gambling devices as defined by Title 23, chapter 5, MCA, and by these rules must have a valid license issued by the department.

(2) An application for a gambling license must be submitted to the department of justice, gambling control division, on forms prescribed by the department and described herein. The application is not complete unless it is signed and dated by the applicant and contains all information, statements, documentation, and fees required by the department.

(3) The application must contain a document authorizing the disclosure of confidential information which must be signed and dated by the applicant whose signature must be attested to before a notary public for the state of Montana.

(4) Any first year license fee required by Title 23, chapter 5, MCA, must accompany each application.

(5) Applicants for specific types of gambling licenses issued by the department must comply with any special requirements contained in rules applicable to those licenses.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-115(3), MCA.

#### RULE III INVESTIGATION OF APPLICANTS, FINGERPRINTS MAY BE REQUIRED

(1) An applicant for a gambling license must make full disclosure of all information required by the department, these rules, and Title 23, chapter 5, MCA.

(2) The department may, at its discretion, require additional information, documentation, or disclosure from an applicant for a gambling license. This information may include fingerprints.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308, MCA.

RULE IV PROCESSING OF GAMBLING LICENSE APPLICATION

(1) Upon receipt of an application for a gambling license, the department must make a thorough investigation as to the qualifications of the applicant for licensure. If, upon conclusion of such investigation, the applicant appears qualified under the law, a license must be issued if all requirements of the law and these rules are fulfilled.

(2) The department may consider the same matters, conditions, and qualifications for renewal of a gambling license as for the original application.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-115(3), MCA.

RULE V GROUNDS FOR DENIAL OF GAMBLING LICENSE

(1) The department may deny initial issuance or renewal of a gambling license or, if issued, suspend or revoke such license when it can be demonstrated an applicant or holder of such license has:

(a) concealed, failed to disclose, or otherwise attempted to mislead the department with respect to any material fact contained in the application or investigation for a gambling license or license renewal application; or

(b) purposely or knowingly failed to comply with Title 23, chapter 5, MCA, or these rules; or

(c) been convicted of committing, conspiring, or attempting to commit any felony, gambling-related misdemeanor, or other crime which is contrary to the declared policy of the state of Montana with regard to gambling; or

(d) been placed and remains in actual or constructive custody of any federal, state, or local law enforcement authority or court for any felony, gambling-related misdemeanor, or other crime which is contrary to the declared policy of the state of Montana with regard to gambling; or

(e) purposely or knowingly possessed or permitted to remain in or upon any premise licensed for gambling activity any device designed for the purpose of cheating or manipulating the outcome of any gambling activity or gambling enterprise authorized by Title 23, chapter 5, MCA; or

(f) purposely or knowingly committed, attempted, or conspired to commit theft or embezzlement against a gambling licensee or gambling enterprise; or

(g) been convicted in any jurisdiction of any offense involving or relating to gambling; or

(h) been prohibited by a governmental authority from being present upon the premises of any gambling establishment or gambling enterprise or any establishment where pari-mutual wagering is conducted for any reason relating to improper gambling activities or any illegal act; or

(i) failed to cooperate with any legislative investigative committee or other officially constituted body acting on behalf of the United States or any state, county, or municipality which seeks to investigate crimes relating to gambling, corruption of public officials, or any organized criminal activities.

(2) A person whose gambling license application has been denied for other than technical defects in the application may not reapply for a license for a period of one year from the date of denial.

(3) A person whose gambling license has been revoked may not reapply for a license for a period of one year from the date of the revocation.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-115(3), MCA.

RULE VI RECOURSE IN CASES OF DENIAL OR NON-RENEWAL OF GAMBLING LICENSE - HEARING, JUDICIAL REVIEW (1) When the department denies an application for a gambling license or renewal of said license, the applicant may request a hearing. Upon the department's receipt of a written request, a hearing must be scheduled and conducted in accordance with the provisions of the Montana Administrative Procedure Act.

(2) Administrative hearings conducted by the department are subject to judicial review in accordance with the provisions of the Montana Administrative Procedure Act.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-115(3), MCA.

RULE VII RENEWAL OF GAMBLING LICENSE (1) Renewal of an existing gambling license must be accomplished by submitting a renewal application on forms prescribed by the department. A renewal application is not complete unless it is signed and dated by the applicant and contains all information, statements, and documentation required by the department.

(2) The renewal license fee required by Title 23, chapter 5, MCA, must accompany each renewal application.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-115(3), MCA.

RULE VIII INSPECTION OF LICENSED PREMISES, RECORDS, AND DEVICES (1) Any premises wherein any gambling-related activity which is licensed by the department is conducted, or any premises in any way connected physically or otherwise with a licensed gambling-related activity, shall at all times be open to inspection by the department or its authorized representatives. At any time during which a licensed gambling activity is being operated upon a premises, the commission, and any authorized representative of the commission, may enter upon the premises without advance notice and:

(a) Inspect any of the other records of the licensed operator, or of any member that directly participates in the management, operation or promotion of a licensed activity, or of any employee of the licensed operator.

(b) Inspect, including the dismantling of, all pieces of equipment or parts thereof, or devices of any nature, which are being used to conduct the licensed activity.

(c) In the case of a live bingo or keno game, make a count of all monies received during the operation of the

licensed activity located on the premises, inspect all receipts for income issued by the licensed operator, and inspect all receipts for prizes which have been awarded by the licensed operator.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-115(3), MCA.

RULE IX APPLICATION FOR DEALER LICENSE (1) The application for a dealer license must contain a temporary dealer license form which, when accompanied by a receipt for certified mail, will serve as a temporary dealer license pending the issuance of an annual dealer license.

(2) Applications for dealer licenses are available only at driver examination stations. At the time an application for a dealer license is obtained by an applicant, the applicant must appear in person and present photographic verification of his identity to an authorized representative of the driver services bureau. The authorized representative of the driver services bureau must:

(a) record the verified identity of the applicant on the temporary dealer license form portion of the application and sign and date said form;

(b) assign an identification number to the applicant and record this number in the proper locations on the application; and

(c) obtain a photograph of the applicant utilizing the assigned identification number in a manner which will identify the applicant for future issuance of an annual dealer license as described by these rules.

(3) The first year license fee required by Title 23, chapter 5, MCA, must accompany each application.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308, MCA.

RULE X DEALER LICENSE (1) A dealer license issued by the department must be in the form of a laminated identification card and must contain the following information:

(a) on the front of the license:

(i) a photograph of the person to whom the license is issued;

(ii) the first name, middle initial, and last name of the person to whom the license is issued; and

(iii) the assigned license number and expiration date specific to the person to whom the license is issued.

(b) on the back of the license:

(i) the home address, height, weight, eye color, hair color, date of birth, sex, and social security number of the person to whom the license was issued.

(2) Every dealer license expires annually on the licensee's birthday, and in no case less than 12 months from the date of issuance.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308, MCA.

RULE XI TEMPORARY DEALER LICENSE (1) A temporary dealer license obtained by an applicant pursuant to these rules is valid only when attached to a receipt for certified mail which has been postmarked by the United States Postal Service at the time the application for dealer license is sent to the department.

(2) The temporary dealer license expires at midnight on the 90th day following the date of the postmark displayed on the receipt for certified mail.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308(5), MCA.

RULE XII PROCESSING OF DEALER LICENSE APPLICATION RENEWAL, OR REPLACEMENT (1) In every case in which application is made to the department for a dealer license, the department will, within ninety (90) days:

- (a) issue a dealer license to the applicant; or
- (b) deny a dealer license to the applicant.

(2) An application to renew a gambling license must be received by the department prior to the expiration date of the license. An application not postmarked by the date of expiration will result in expiration of the gambling license and will require the expired license holder to reapply for a new original license in the manner required by these rules.

(3) Replacement of a gambling license is accomplished by following the new license procedure and including a \$10 fee.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308(5), MCA.

RULE XIII CONFISCATION OF TEMPORARY DEALER LICENSE

(1) A temporary dealer license may be immediately confiscated by authorized representatives of the department when the following conditions can be demonstrated:

(a) The holder of such license has been placed or remains in actual or constructive custody as a result of any felony or gambling-related misdemeanor and is awaiting trial on such criminal charges; or

(b) The holder of such license has not affixed the certified mail receipt to the license as required by these rules; or

(c) A certified mail receipt is affixed to such license but displays no postmark as required by these rules; or

(d) The license has expired; or

(e) The department has denied a dealer license to the holder of such a license; or

(f) The department has returned an incomplete dealer license application and the applicant has not acted with 15 days of mailing by the department to correct the deficiency.

(2) An applicant whose temporary dealer license has been confiscated under these rules may appeal the confiscation

through the provision of the Montana Administrative Procedures Act.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308(5), MCA.

RULE XIV POSSESSION OF DEALER LICENSE (1) A temporary dealer license must be carried on the licensee's person while on duty in a gambling premise.

(2) Every person in possession of a dealer license must surrender such license to any peace officer of the state of Montana upon request for the purpose of inspecting said license and identifying the license.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308(5), MCA.

RULE XV DEALER LICENSE SPECIFIC TO THE PERSON NAMED THEREON (1) A dealer license is specific to the person named on the face of the license and must not be displayed by anyone other than the licensee.

(2) A dealer license displayed by anyone except the licensee is subject to confiscation by federal, state, or local law enforcement office charged with the responsibility of investigating gambling activities.

(a) Any confiscated dealer license must be sent to the department along with a report detailing the circumstances of the seizure.

(b) Upon receipt of a confiscated dealer license and the accompanying report, the department must immediately begin an investigation into the circumstances for the purposes of determining whether a violation of Title 23, chapter 5, MCA, or these rules occurred.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308(5), MCA.

RULE XVI DEFINITIONS As used throughout this subchapter, the following definitions apply:

(1) "Applicant" means a person who has applied for a operator license issued by the department under Title 23, chapter 5, MCA.

(2) "Department" means the department of justice unless otherwise specifically stated.

(3) "Provisional operator license" means a license issued provisionally by the department to make available to the public for play a gambling device or gambling enterprise.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-176 & 177, MCA.

RULE XVII APPLICATION FOR OPERATOR LICENSE (1) All applicants for operator licenses issued by the department must submit the following information:

(a) name(s), addresses, telephone numbers, and social security numbers; history of gambling licensure with any federal, state, or local agency; civil and criminal record; and

record of residence and employment of the business owners for the last 15 years.

(b) the applicant's most recent financial statements with the application form. Statements submitted to state and federal income tax agencies as part of the most recent tax returns are acceptable;

(c) the amounts and sources of all business financing, along with the terms of each loan agreement;

(d) the following ownership/management information, as applicable:

(i) if the business is a sole proprietorship, the above-cited information must be submitted on the proprietor; or

(ii) if the business is a partnership, the information must be submitted on each general and limited partner; or

(iii) if the business is a closely-held or subchapter s corporation, the information on each shareholder, and each officer and director if not the same; or

(iv) if the business is a publicly-traded corporation, the names of each shareholder owning 5 percent or more of the company stock and the corporate officers and board of directors; or

(v) if the applicant is a nonprofit corporation or association, the information must be submitted on the applicable managing body, i.e., board of directors or steering committee; or

(vi) if the owner(s) acquires the services of a gaming manager or management firm, the information must not only be submitted on the owner but the manager or firm as well; and

(e) the following information regarding employees and business associates:

(i) the full name and address of every person employed by the applicant in a gambling-related activity in Montana on a salary or commission basis;

(ii) every person who has any right to share in the profits of the gambling operation including assignees, landlords, or otherwise, to whom any interest or share of profits has been pledged as security for a debt or deposited as security for the performance of any act or to secure the performance of a contract of sale;

(iii) a list of those with options to purchase a share of the business.

(3) Operator licenses must be renewed annually by completing forms prescribed by the department.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-176 & 177, MCA.

RULE XVIII INVESTIGATION OF APPLICANTS, ADDITIONAL INFORMATION MAY BE REQUIRED (1) The department may require access to all of the applicant's financial records to evaluate statements and support documentation supplied with the background application form.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-176 & 177, MCA.

RULE XIX PROVISIONAL OPERATOR LICENSE (1) The department may issue to an applicant for an operator license a provisional license pending the results of the investigation of the applicant's suitability for licensure. A provisional license will be revoked upon a determination that the applicant does not qualify for licensure. Upon a final determination that the applicant does qualify for licensure the department will issue a final order removing the license from provisional status.

(2) A person granted a provisional operator license by the department must comply with all laws of the State of Montana and rules of the department.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-176 & 177, MCA.

RULE XX CHANGES IN OWNERSHIP REPORTING (1) With the exception of subsection (2) a new application for licensure must be submitted with each change in ownership.

(2) With regard to publicly traded corporations, changes are subject to the limitations contained in these rules.

(3) All new officers and directors must be reported to the department within 30 days of the date of change.

(4) As defined in Rule XVII, all new owners, officers, and directors are subject to the same background information requirements specified previously in this subsection. Applications are subject to license denial if the changes in ownership do not meet with department approval.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-176 & 177, MCA.

RULE XXI DEFINITIONS As used throughout this subchapter, the following definitions apply:

(1) "Ante" means the amount of money each player places into the pot before the first deal of each game.

(2) "Authority reference" means Official Poker Rulebook, copyright 1988, Las Vegas Hilton, except for sections E, F, and H and Scarne's Encyclopedia of Card Games by John Scarne, pages 18-276. These books will be used by the department as the authority on how to play authorized card games. The sections of the books cited as authority will not apply where there is a conflict with state law or rule.

(3) "Banking game" means a game where there is a fund against which everyone has the right to bet, the bank taking all that is lost by the bettors and paying all that is won. The test of such a game is whether the banker pays winnings and suffers losses. The game is not a banking game where the players bet against each other and settle with each other. Games in which any portion of the games includes betting against a fund are considered banking games.

(4) "Blind bet" means the money a player places into the pot before looking at his or her cards.

(5) "To burn a card" means to discard a card from the top of the deck and place it face down on the table according to house rules.

(6) "Cap card" means a blank card placed on the bottom of the deck.

(7) "Card table" or "live card game table" means a table licensed by the department.

(8) "Cutting card" means a blank card inserted by a player at the point where the player wishes the dealer to make a cut.

(9) "Dead card or hand" means a card or hand ruled out of play and ineligible to win any part of the pot.

(10) "Fouled hand" means a hand that either has an improper number of cards or has come in contact with discards.

(11) "Operator" means an individual licensed to conduct public gambling pursuant to Title 23, chapter 5, MCA.

(12) "Player" means a natural person participating in a live card game specifically authorized in Title 23, chapter 5, MCA, and described by these rules.

(13) "Poker" means a card game played by at least two players who bet against each other and settle with each other and not against the house. Poker is dealt by one dealer on a card table. A player bets on the cards (hand) the player holds. There may be an initial ante round and/or blind bet by the players. After the players receive their starting cards, there are one or more betting rounds. After all the dealing of cards and betting has occurred for a pot and there are two or more players still in contention, there is a showdown based on a maximum of five cards. The object of the game is for a player to win the pot either by making a bet no other player is willing to match or by having the best hand as described in these rules.

(14) "Pot" means all the bets placed by the players collected together.

(15) "Rake" means a set fee or percentage of the pot assessed by an operator for providing the services of a dealer, table, and location for public play.

(16) "Showdown" means the hands shown by all players remaining in the game.

(17) "Table stakes" means the amount of chips or cash in front of the player prior to the beginning of a hand.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-311, MCA.

RULE XXII TYPES OF CARD GAMES AUTHORIZED The following card games are authorized by law and must be played only in the manner set out for that game in the applicable authority reference.

(1) General poker rules, practices, and the games of Texas Hold'em, Draw Poker, Omaha, Seven Card Stud, and their variations according to Office Poker Rulebook, Copyright 1988, Las Vegas Hilton, except for sections E, F, and H.

(2) Other poker variations, Bridge, Cribbage, Hearts, Panguingue, Pinochle, Pitch, Rummy, Solo, and Whist, according to Scarnes' Encyclopedia of Games by John Scarnes, page 18-276.

(3) Card games not specifically authorized herein are prohibited.

(4) The department may approve other proposed variations of card games authorized by Title 23, chapter 5, MCA. Persons submitting card games for approval must provide the following information to the department:

(a) A complete description of the play of game, including but not limited to, the ranking of cards, betting procedures, number of cards in the showdown, and role of the house in the game; and

(b) The history of game.

(5) The department may require an actual demonstration of any game submitted for approval.

(6) No variations other than those authorized by the department may be played prior to department approval.

(7) Each licensed operator may establish rules of conduct for the card players on its premises.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-311, MCA.

RULE XXIII RANKING OF POKER CARDS AND HANDS (1) The cards in poker are ranked ace, king, queen, jack, ten, nine, eight, seven, six, five, four, three, deuce. The ace is the highest ranked card in high poker and is ranked lower than a deuce in low poker.

(2) The hands in poker are ranked and defined as follows from highest to lowest:

(a) Five of a kind - four cards of the same rank and a wild card.

(b) Straight flush - five cards of the same suit in sequence. An ace high straight flush is a "royal flush."

(c) Four of a kind - four cards of the same rank.

(d) Full house - three cards of the same rank and two cards of any other rank.

(e) Flush - five cards of the same suit.

(f) Straight - five cards in sequence.

(g) Three of a kind - three cards of the same rank.

(h) Two pair - two cards of the same rank and two cards of any other rank.

(i) One pair - two cards of the same rank.

(j) Highest card - the highest ranking card in the hand of five unmatched cards.

(3) If two or more hands are tied in the ranking, the hand with the highest rank matched card or cards wins. Otherwise the tie must be broken by the rank of the unmatched cards in the hand.

(4) In the event hands are identical in all aspects except for the suit, players shall evenly divide the pot.

(5) Wild cards may be used in poker.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXIV POKER CARDS - PHYSICAL CHARACTERISTICS

(1) The cards used in the game of poker must be one complete standard deck of 52 cards plus joker(s).

(2) The design on the backs of each card in the deck must be identical and no card may contain any marking, symbol, or design that will enable a player to know the identity of any element printed on the face of the card or that will in any way differentiate the back of that card from any other card in the deck. The backs of the cards may contain a logo.

(3) No operator or dealer may use cards that are taped, defaced, bent, crimped, or deformed in any manner.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXV POKER CHIPS - VALUE AND PHYSICAL CHARACTERISTICS

(1) Each poker chip used must be either clearly and permanently impressed, engraved, or imprinted on one side with a specific value of the chip or colored so as to clearly denote the value of the chip. At the operator's discretion, the other side of the chip may have the operator's name represented by a related design, symbol, abbreviation, or other identification which would differentiate the operator's chips from those being used by every other operator.

(2) Each denomination of poker chip must have a different primary color from the other denominations of chips. Each operator may, at its discretion, utilize contrasting secondary colors for any inlays on each denomination of poker chip.

(3) The value and colors of the poker chips must be conspicuously posted within sight of the card table.

(4) Poker chips must be sold for cash only and no credit of any nature may be extended to a person purchasing chips.

(5) The operator must redeem on demand its own chips for cash at the value for which they were sold.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXVI WAGERS TO BE MADE WITH POKER CHIPS OR CASH ONLY All wagers must be made with poker chips or cash.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXVII PERSONS NOT TO BRING THEIR OWN CARDS OR POKER CHIPS No person may bring to the card table or introduce into a poker game any playing card or cards or any poker chip or chips other than those obtained from the operator.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXVIII PROCEDURE FOR ACCEPTING CASH AT THE POKER

TABLE Each dealer who receives currency from a player at a poker table for exchange for poker chips shall observe the following procedures and requirements:

(1) The currency must be spread on the top of the poker table by the dealer accepting it, in full view of the player who presented it.

(2) The amount of currency must be verbalized by the dealer accepting it.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXIX PLAYER RESTRICTIONS (1) There must be at least two players.

(2) No player in a poker game may play other than the player's own hand.

(3) A player shall only play one hand and the player shall make all decisions without advice from any person.

(4) No player may provide any information to any person regarding the player's live or folded hand. No person may provide any information to any other person regarding a player's live or folded hand.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXX USE OF DEVICE PROHIBITED It is unlawful for any player to use any device to assist in keeping track of the cards played.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXXI SPECIAL POLICIES Each operator may establish rules of conduct for the players and spectators on its licensed premise as long as the operator's rules do not conflict with state law or administrative rule.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXXII DEALER RESTRICTIONS Dealers shall have no financial interest, directly or indirectly, in the outcome of any game which they deal.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXXIII SHILLS The operator or dealer must identify house players, shills, employees, or other representatives of the operator at a player's request.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXXIV DECKS - SHUFFLE AND CUT OF THE CARDS (1) The operator must have two separate decks of cards available at each table. The color of the backs of the cards of the two

decks must be a different predominant color. Any player may request that the dealer change decks. If such a request is made, the dealer must switch the use of decks at the end of that hand.

(2) Immediately prior to commencement of play of each game, the dealer must, in front of the players, shuffle all cards so that they are randomly intermixed.

(3) The dealer must cut the cards. The dealer must restack the cards with the former bottom part of the deck on top. Then the dealer must place a cutting card or cap card on the bottom of the deck to conceal the last card.

(4) The dealer at least once per shift must count cards in the deck and sort them on the table to verify the deck is complete.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXXV ANTE, BLIND BET (1) A player may ante for each hand by placing a bet on the table in front of him or her before the first card of the game is dealt. Then, the dealer shall sweep the antes and place them in the pot. Once the first card has been dealt, the ante may not be altered.

(2) For a blind bet to be part of any game, it must be announced prior to beginning the deal. A blind bet may be used in addition to an ante.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXXVI RAKE (1) The rake may be a percentage of the pot or a set fee established by the house and must be clearly posted.

(2) A rake must be pulled from the pot in an obvious manner following the completion of each betting round. The rake must be placed in a designated rake area and must remain in the designated rake area until the pot is awarded. After the pot is awarded, the rake must then be placed in a segregated area near the dealer.

(3) The designated rake area must be clearly visible to all players and must be on the table where it is near the dealer.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-312, MCA.

RULE XXXVII OPERATION OF THE GAMES (1) Play must always proceed in a clockwise direction, with each player's turn to act following the person on the player's immediate right.

(2) The operator may set a minimum buy-in for each game. The operator must announce the length of time a player may leave the game and still be considered part of the same playing session.

(3) The dealer must advise each new player of rules of the game being played prior to the ante.

(4) A player may not remove any of his or her chips from the table until the player quits the game. However, a player may use chips to pay for other goods or services in the premises.

(5) Players may only purchase additional chips between hands.

(6) Concealed chips may not be used in play for a game.

(7) Only poker chips and/or cash on the table (table stakes) at the start of a hand may be in play for that pot.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-311, MCA.

RULE XXXVIII FOULED HANDS (1) A player is responsible for taking reasonable steps to protect his/her hand by holding on to it or by placing one or more chips on it. A player who fails to take reasonable steps to protect his or her hand shall have no relief if that hand is "fouled" as defined in this subsection, or is accidentally taken in by the dealer. A fouled hand or a hand accidentally taken by the dealer is a "dead hand," as defined in this subsection.

(2) A protected hand may not be ruled fouled by accidental contact with discards unless it is impossible to completely reconstruct. A player who has a protected hand taken in by the dealer or fouled by discards through no fault of the player is entitled to be refunded from the pot all the chips the player put in the pot on that game. In disputed cases, the dealer's decision is final.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-311, MCA.

RULE XXXIX THE DEAL (1) Each card dealt must be the top card of the deck. The order of future ownership of cards that will be in play is not to be disturbed at any time during the deal of a game.

(2) When the dealer burns a card, it must be placed facedown on the table before dealing any round of cards. Burned cards must be kept separate from the discards throughout the hand.

(3) A player facing a bet who announces a fold shall have a dead hand.

(4) All pots must be awarded by the dealer only. When the dealer has awarded the pot and it has been taken in by that player without a claim made against it, the award stands. No player may make an agreement with any other player regarding the pot. Each game must be played to conclusion and the pot awarded to the actual winning player.

(5) The dealer may place a maximum time limit on players during which time a player must act on his or her hand. At the lapse of the time limit, if there has not been a bet to the player, the player must check; if there has been a bet to the player, the player's hand is dead. However, the dealer shall

provide a reasonable warning to the player prior to the application of this subsection.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XL BETTING (1) A player who unintentionally puts less chips into the pot than are needed to call a bet must either complete the call or withdraw his or her chips and fold.

(2) If an improper number of chips are bet by a player and the dealer puts the player's chips into the pot without making an immediate objection, it must be considered a bet by the player.

(3) A player must place his entire bet in front of the player at one time. Unless a player has failed to place the necessary amount of chips to call a bet or to signify a raise, the player may not place additional chips into the pot (no string bets).

(4) A player confronted by a bet larger than the player's table stakes may "call" with the amount of chips in front of the player ("all in" bet). The excess part of the bet is either returned to the bettor(s) or used to form a side pot with another player or players by matching the amount called.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XLI IMPROPER DEAL (1) A card improperly dealt faceup, flashed as it is dealt so a player might know its identity, a joker dealt when the joker is not being used in the game, or a downcard dealt off the table is considered an exposed card. A card exposed by a player is not an exposed card. An exposed card must be replaced.

(2) A misdeal shall cause all the cards to be returned to the dealer for a redeal.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XLII POSTING OF RULES (1) At least the following rules must be posted in a clear, legible manner at each card table or in such a conspicuous location that the player at a card table can readily read such rules.

- (a) Games to be played.
- (b) Betting limits of the games.
- (c) Ante or blind bets (if any).
- (d) Number of raises.
- (e) Minimum buy-in.
- (f) \$300 pot limit.
- (g) Rake percentage or set fee.
- (h) Check and raise (yes or no).
- (i) Designated wild card(s).
- (j) No side bets (except in cases of all-in bets).
- (k) No credit, no passing chips.
- (l) Maximum number of players.

(m) Players must be 18 years old.

(n) Players may request that house players (shills) be identified.

(2) When the operator chooses to make a general house rule, that house rule shall be posted on the premises where it can be clearly seen by players in the card game to which it applies.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-313, MCA.

RULE XLIII PLAY OF SUCCESSIVE KENO GAMES (1) A player may play successive keno games by paying for the games in advance only if he or she remains on the licensed premises. A player requesting to play multiple and successive keno is limited to the number of successive games allowed by the house. All games must be paid for in advance and any and all prizes won must be personally claimed by the player after the last game paid for and before the next game begins. Failure to personally claim prizes won by the player after the multiple games played will result in forfeiture of any prizes won.

(2) Any licensee allowing play of successive keno games must clearly post the house limits as to the number of successive games allowed, the requirement for payment in advance for the number of games to be played, the requirement to remain on the licensed premises while the games are played, and the requirement to personally claim any prizes before leaving the premises.

(3) In no case may prizes won on previous games be automatically carried forward to extend play for games beyond the number indicated when the player paid the caller.

(4) Recordkeeping for the play of successive games must be in accordance with these rules.

RULE XLIV DEFINITIONS (1) "Master square" means that portion of the sports pool card divided into smaller squares or spaces representing the chances purchased by the participants.

(2) "Sports event" means a game, race, or athletic contest, not including elementary or high school contests.

(3) "Sports pool" means a gambling activity using a card with a master square with the names or initials of the participants in the pool written within each square or space. Consideration, in money, is paid for each square or space by the participant for the chance to win money or other item of value on any sports event wherein the contestants in such event are natural persons or animals.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-503, MCA.

RULE XLV SPORTS POOL CARD (1) The master square of the card must be divided into smaller squares arranged in horizontal rows and vertical columns.

(a) There may be no more than one sports event per master square.

(b) The numbers for each horizontal row and vertical column must be randomly assigned after all squares have been sold and prior to the beginning of the sports event.

(c) Each square or space must be represented by a number from both the horizontal row and vertical column.

(2) The card shall, in advance of any sale of any chance, clearly indicate:

(a) The name of the sports event covered by the card.

(b) The total number of chances that must be sold in order to fill in all the squares or spaces.

(c) The cost to the participant for each chance to participate in the sports pool.

(d) The total amount to be paid to each winner.

(e) The intervals that a pay-out will be made and the amount of each pay-out.

(f) The name of the person conducting the sports pool.

(g) The value of each individual prize and the total value of all prizes.

(3) After each prize is awarded, the names of the winners of each prize must be prominently displayed on each card.

(4) After the card is prominently and visibly displayed for the sale of a chance to play, it must not be removed from the premises conducting the sports pool for 30 days after the event.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-503, MCA.

RULE XLVI SALE OF CHANCES (1) The total cost of a chance to participate shall not exceed five dollars (\$5) per chance and must be paid in cash at time the square or chance is selected.

(2) If, at the time of the event, all chances on the sports pool card are not sold, the persons who have paid for a chance to play shall be entitled to a full refund or must be allowed to transfer the chance to another sports pool currently advertised on the same premise where they purchased the chance on the uncompleted sports pool. If a participant cannot be located for a refund or transfer of the chance to another sports pool card prior to the event, the full purchase price of the chances purchased shall be retained by the premise for refund to the participant.

(3) The sports pool shall not be conducted if any chance remains unsold at the time the sports event is commenced.

(4) The sports event must not be changed to another sports event in order to allow the sale of all available chances.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-503, MCA.

RULE XLVII PRIZES (1) The prizes awarded to the winner or winners of a sports pool may be cash or merchandise but must not exceed a total value of \$500.

(a) Where the prize awarded is merchandise, the purchase price paid for the item(s) of the merchandise prize is considered to be the value of the prize. Proof of the purchase price of the item(s) of the merchandise prize shall be retained for a period of 30 days from the event.

(b) Subject to subsection (2), if the value of the merchandise prize is less than the amount of money paid by all participants for the chance to participate, the person conducting the sports pool shall award the balance to the winner(s).

(2) A nonprofit organization may retain up to 50 percent of the value of a sports pool; however, the nonprofit organization must maintain and open to inspection upon reasonable demand records to verify that the retained portion of the sports pool is used to support charitable activities.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-503, MCA.

4. The rationale for the emergency rules is set forth in the statement of reasons for emergency.

5. Interested persons are encouraged to submit their comments during the standard rulemaking process. If interested persons wish to be personally notified of that rulemaking process, they should submit their names and addresses to the Gambling Control Division, Montana Department of Justice, 2687 Airport Road, Helena, Montana 59620.

By: \_\_\_\_\_

MARC RACICOT

Attorney General

Certified to the Secretary of State September \_\_\_, 1989.

12-11-89

spoke to Kathy Anderson & John Willemo, Montana  
Gaming Control Bureau

- ① \$100 maximum award poker vs. \$800 max. keno  
Is because keno involves 8 cards, so can potentially win \$100 per card. Bureau objected to this initially — as did many conservatives who felt it would make gaming too enticing — but there seem to be no problems with it yet. However, keno is growing in popularity.

Our draft contains \$100 for keno, since this was more conservative.

- ② Limit poker machines to 10  
Because poker is the more popular game — this ensures no rampant growth.

Our draft contains maximum 10 poker, since this is more conservative.

③ Machine testing

This is intent of our draft.

Lab tests a prototype of each device, not each individual device. Once prototype approved, can sell as many as you can! Goal of investigative staff is to check every machine each year (wherever it's installed) to make sure it's just like the prototype.

④ Penalties

All gambling offenses are misdemeanors, with some exceptions:

machine tampering	} Felonies (don't have classes in MT): 10 yrs or \$50,000
cheating / fraud	
counterfeiting <small>i.e. artificially license self (civil)</small>	

23-5-155

23-5-136

Also administrative penalties — can order cease & desist, suspend/revoke license, etc. Penalty \$10 per violation.

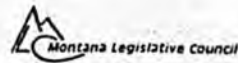
Kathy Anderson, MT  
406-442-7325

1 SENATE BILL NO. 431  
 2 INTRODUCED BY GAGE, HARPER, B. BROWN, MAZUREK,  
 3 ADDY, STRIZICH, MERCER, CRIPPEN, HANNAH,  
 4 HARP, VAN VALKENBURG  
 5 BY REQUEST OF THE DEPARTMENT OF JUSTICE  
 6  
 7 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 8 PUBLIC GAMBLING LAWS OF MONTANA; PROVIDING FOR LICENSURE AND  
 9 REGULATION OF GAMBLING ACTIVITIES BY THE DEPARTMENT OF  
 10 JUSTICE; ~~PROVIDING FOR--STATUTORY--APPROPRIATION;~~ PROVIDING  
 11 FOR AN APPROPRIATION AND A STATUTORY APPROPRIATION;  
 12 PROVIDING FOR A GAMING ADVISORY COUNCIL; AMENDING SECTIONS  
 13 ~~17-7-502;~~ 17-7-502, 23-5-101 THROUGH 23-5-104, 23-5-108,  
 14 23-5-123, 23-5-131, 23-5-135, 23-5-311 THROUGH 23-5-313,  
 15 23-5-321, 23-5-331, 23-5-412 THROUGH 23-5-414, 23-5-431,  
 16 23-5-503, 23-5-509, 23-5-602, 23-5-603, 23-5-607, 23-5-608,  
 17 23-5-610 THROUGH 23-5-613, 23-5-616, 23-5-625, 23-5-631,  
 18 23-5-1101, AND 23-5-1105, MCA; AND REPEALING SECTIONS  
 19 23-5-105 THROUGH 23-5-107, 23-5-109, 23-5-121, 23-5-122,  
 20 23-5-124 THROUGH 23-5-127, 23-5-132 THROUGH 23-5-134,  
 21 23-5-141 THROUGH 23-5-144, 23-5-201 THROUGH 23-5-211,  
 22 23-5-301 THROUGH 23-5-303, 23-5-314 THROUGH 23-5-316,  
 23 23-5-322, 23-5-323, 23-5-332, 23-5-401 THROUGH 23-5-403,  
 24 23-5-411, 23-5-415 THROUGH 23-5-418, 23-5-421 THROUGH  
 25 23-5-423, 23-5-504 THROUGH 23-5-508, 23-5-510, 23-5-511,

1 23-5-601, 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617,  
 2 23-5-618, 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103,  
 3 AND 23-5-1104, MCA; AND PROVIDING EFFECTIVE DATES."  
 4

5 STATEMENT OF INTENT  
 6 This bill requires a statement of intent because  
 7 [section 7] authorizes the department of justice to adopt  
 8 administrative rules to implement [this act]. [This act] is  
 9 intended to provide uniform statewide regulation of gambling  
 10 in Montana under the supervision of the attorney general.  
 11 It is the intent of the legislature that the department  
 12 of justice adopt necessary rules to implement uniform  
 13 statewide regulation of gambling in Montana consistent with  
 14 the purposes and policies set forth in [section 1] of this  
 15 bill.

16  
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 18 NEW SECTION. Section 1. Public policy of state  
 19 concerning gambling. (1) The legislature finds that for the  
 20 purpose of ensuring the proper gambling environment in this  
 21 state it is necessary and desirable to adopt a public policy  
 22 regarding public gambling activities in Montana. The  
 23 legislature therefore declares it is necessary to:  
 24 (a) create and maintain a uniform regulatory climate  
 25 that assures players, owners, tourists, citizens, and others



1 that the gambling industry in this state is fair and is not  
2 influenced by corrupt persons, organizations, or practices;

3 (b) protect legal public gambling activities from  
4 unscrupulous players and vendors and detrimental influences;

5 (c) protect the public from unscrupulous proprietors  
6 and operators of gambling establishments, games, and  
7 devices;

8 (d) protect the state and local governments from those  
9 who would conduct illegal gambling activities that deprive  
10 those governments of their tax revenues;

11 (e) protect the health, safety, and welfare of all  
12 citizens of this state, including those who do not gamble,  
13 by regulating gambling activities; and

14 (f) promote ~~and~~ fund programs necessary to provide  
15 assistance to those who are adversely affected by legalized  
16 gambling, including compulsive gamblers and their families.

17 (2) The legislature adopts the policy that an  
18 applicant for a license or permit or other department  
19 approval under parts 1 through 6 of this chapter does not  
20 have a right to the issuance of a license or permit or the  
21 granting of the approval sought. The issuance of a license  
22 or permit issued or other department approval granted  
23 pursuant to the provisions of parts 1 through 6 of this  
24 chapter is a revocable privilege REVOCABLE ONLY FOR GOOD  
25 CAUSE. ~~A holder does not acquire a vested right in the~~

1 ~~license or permit issued or other department approval~~  
2 ~~granted: A HOLDER DOES NOT ACQUIRE A VESTED RIGHT IN THE~~  
3 ~~LICENSE OR PERMIT ISSUED OR OTHER DEPARTMENT APPROVAL~~  
4 ~~GRANTED.~~ A license or permit issued under parts 1 through 6  
5 of this chapter may not be sold, assigned, leased, or  
6 transferred.

7 (3) Revenue to fund the expense of administration and  
8 control of gambling as regulated by parts 1 through 6 of  
9 this chapter must be derived solely from fees, taxes, and  
10 penalties on gambling activities, except the gambling  
11 activities of the Montana state lottery and the parimutuel  
12 industry.

13 NEW SECTION. Section 2. General application. This  
14 chapter applies only to public gambling activities within  
15 the state of Montana.

16 Section 3. Section 23-5-101, MCA, is amended to read:  
17 "23-5-101. Definitions. Unless the context requires  
18 otherwise, the following definitions apply to parts 1  
19 through 6 of this chapter:

20 (1) ~~A slot machine is defined as a machine operated by~~  
21 ~~inserting a coin, token, chip, trade check, or paper~~  
22 ~~currency therein by the player and from the play of which he~~  
23 ~~obtains or may obtain money, checks, chips, tokens, or paper~~  
24 ~~currency redeemable in money; Merchandise vending machines~~  
25 ~~where the element of chance does not enter into their~~

1 operation--are--not--within--the--provisions--of--this-part-  
 2 "Applicant" means a person who has applied for a license or  
 3 permit issued by the department pursuant to parts 1 through  
 4 6 of this chapter.

5 (2) "Application" means a written request for a  
 6 license or permit issued by the department. The department  
 7 shall adopt rules describing the forms and information  
 8 required for issuance of a license.

9 (3) "Authorized equipment" means, with respect to live  
 10 keno or bingo, the--receptacle-and-numbered-objects-drawn  
 11 from-it,-the-master-board-upon-which-such-objects-are-placed  
 12 as-drawn,-the-cards--or--sheets--bearing--numbers--or--other  
 13 designations--to--be--covered--and-the-objects-used-to-cover  
 14 them,-the--boards--or--signs,-however--operated,-used--to  
 15 announce--or-display-the-numbers-or-designations-as-they-are  
 16 drawn,-public--address--system,-and--all--other--articles  
 17 essential--to--the--operation,-conduct,-and-playing-of-live  
 18 keno-or--bingo EQUIPMENT THAT MAY BE INSPECTED BY THE  
 19 DEPARTMENT AND THAT RANDOMLY SELECTS THE NUMBERS OR-SYMBOLS.

20 (4) "Bingo" means a game-of-chance GAMBLING ACTIVITY  
 21 played for prizes with a card bearing a printed design of 5  
 22 columns of 5 squares each, 25 squares in all. The letters  
 23 B-I-N-G-O must appear above the design, with each letter  
 24 above one of the columns. No more than 75 numbers OR-SYMBOLS  
 25 may be used. One number OR-SYMBOL must appear in each

1 square,-except-for-the-center-square-which-is--considered--a  
 2 free--play, EXCEPT FOR THE CENTER SQUARE, WHICH MAY BE  
 3 CONSIDERED A FREE PLAY. Numbers and-letters OR-SYMBOLS are  
 4 RANDOMLY drawn from--a-receptacle-and-announced-by-a-bingo  
 5 caller using authorized equipment,-and UNTIL the game is won  
 6 by the person OR PERSONS who first covers COVER a previously  
 7 designated arrangement of numbers OR-SYMBOLS on the bingo  
 8 card.

9 (5) "Bingo caller:" means a person licensed-by-the  
 10 department-to-work-as-a-live-bingo-caller 18 YEARS OF AGE OR  
 11 OLDER who, using authorized equipment, announces the order  
 12 of the objects NUMBERS OR-SYMBOLS drawn in live bingo.

13 (6) "Card game table" or "table" means a live card  
 14 game table authorized by permit and made available to the  
 15 public on the premises of a licensed gambling operator.

16 (7) "Dealer" means a person with a dealer's license  
 17 issued under part 3 of this chapter.

18 (8) "Department" means the department of justice.

19 (9) "Distributor" means a person who:

20 (a) purchases or obtains from another person equipment  
 21 of any kind for use in gambling activities; and

22 (b) sells, leases, or otherwise furnishes the  
 23 equipment to another person for use in public.

24 (10) "Gambling" or "gambling activity" means risking  
 25 money, credit, deposit, check, property, or any other thing

1 of value for a gain that is contingent in whole or in part  
 2 upon lot, chance, or the operation of a gambling device or  
 3 gambling enterprise.

4 (11) "Gambling device" means a mechanical,  
 5 electromechanical, or electronic device, machine, slot  
 6 machine, instrument, apparatus, contrivance, scheme, or  
 7 system USED OR INTENDED FOR USE IN ANY GAMBLING ACTIVITY.

8 (12) "Gambling enterprise" means an activity, scheme,  
 9 or agreement or an attempted activity, scheme, or agreement  
 10 to provide gambling or a gambling device to the public.

11 (13) "GROSS PROCEEDS" MEANS GROSS REVENUE RECEIVED LESS  
 12 PRIZES PAID OUT.

13 {13}(14) "Illegal gambling device" means a gambling  
 14 device not specifically authorized by statute or by the  
 15 rules of the department.

16 {14}(15) "Illegal gambling enterprise" means a gambling  
 17 enterprise that violates a statute or a rule of the  
 18 department.

19 {15}(16) "Keno" means a game of chance in which prizes  
 20 are awarded using a card with 8 horizontal rows and 10  
 21 columns on which a player may pick up to 10 numbers. A keno  
 22 caller, using authorized equipment, shall select at random  
 23 AT LEAST 20 numbers out of numbers between 1 and 80,  
 24 inclusive.

25 {16}(17) "Keno caller" means a person licensed--by--the

1 department--to-work-as-a-live-keno-caller 18 YEARS OF AGE OR  
 2 OLDER who, using authorized equipment, announces the order  
 3 of the numbers drawn in live keno.

4 {17}(18) "License" means an operator's, dealer's,  
 5 caller's or manufacturer-distributor's license issued to a  
 6 person by the department.

7 {18}(19) "Licensee" means a person who has received a  
 8 license from the department.

9 {19}(20) "Live card game" OR "card game"--or--"game"  
 10 means a card game that is played in public between persons  
 11 on the premises of a licensed gambling operator.

12 {20}(21) "Lottery" or "gift enterprise" means a scheme,  
 13 by whatever name known, for the disposal or distribution of  
 14 property by chance among persons who have paid or promised  
 15 to pay valuable consideration for the chance of obtaining  
 16 the property or a portion of it or for a share or interest  
 17 in the property upon an agreement, understanding, or  
 18 expectation that it is to be distributed or disposed of by  
 19 lot or chance. However, "gift enterprise" does not mean:

20 (a) lotteries authorized under part 10 of this  
 21 chapter; or

22 (b) cash or merchandise attendance prizes or premiums  
 23 that the county fair commissioners of agricultural fairs and  
 24 rodeo associations may give away at public drawings at fairs  
 25 and rodeos.

1 †21†(22) "Manufacturer" means a person who assembles  
 2 from raw materials or subparts a completed piece of  
 3 equipment or pieces of equipment of any kind to be used as a  
 4 gambling device.

5 †22†(23) "Operator" means a person who purchases,  
 6 receives, or acquires, by lease or otherwise, and operates  
 7 or controls for use in public, a gambling device or gambling  
 8 enterprise authorized under parts 1 through 6 of this  
 9 chapter.

10 †23†(24) "Permit" means approval from the department to  
 11 make available for public play a gambling device or gambling  
 12 enterprise approved by the department pursuant to parts 1  
 13 through 6 of this chapter.

14 †24†(25) In-addition-to-their-ordinary-meaning,--the  
 15 words--"person" "Person" or "persons"--as-used-in-this-part,  
 16 include means both natural and artificial persons and all  
 17 partnerships, corporations, associations, clubs, fraternal  
 18 orders, and societies, including religious,--fraternal, and  
 19 charitable organizations.

20 †25†(26) "Premises" means the physical building or  
 21 property within or upon which a licensed gambling activity  
 22 occurs, as stated on an operator's license application and  
 23 approved by the department.

24 †26†(27) "Public GAMBLING" means GAMBLING CONDUCTED IN:

25 (a) a place, building, or conveyance to which the

1 public has access or may be permitted to have access; or

2 (b) a place of public resort, including but not  
 3 limited to a facility owned, managed, or operated by a  
 4 partnership, corporation, association, club, fraternal  
 5 order, or society, including a religious,--fraternal, or  
 6 charitable organization.

7 †27†(28) "Raffle" means a gift enterprise in which each  
 8 participant buys a chance or chances to win a prize.

9 †28†(29) "Slot machine" means a mechanical, electrical,  
 10 electronic, or other gambling device, contrivance, or  
 11 machine that, upon insertion of a coin, currency, token,  
 12 credit card, or similar object or upon payment of any  
 13 valuable consideration, is available to play or operate, the  
 14 play or operation of which, whether by reason of the skill  
 15 of the operator or application of the element of chance, or  
 16 both, may deliver or entitle the person playing or operating  
 17 the gambling device to receive cash, premiums, merchandise,  
 18 tokens, or anything of value, whether the payoff is made  
 19 automatically from the machine or in any other manner. This  
 20 definition does not apply to video gambling machines  
 21 authorized under part 6 of this chapter.

22 †29†(30) "Video gambling machine" is a gambling device  
 23 specifically authorized by part 6 of this chapter and the  
 24 rules of the department."

25 NEW SECTION. Section 4. Authority of local

1 governments to regulate gambling. (1) A local government may  
 2 not license, OR regulate, ~~or otherwise limit~~ a form of  
 3 gambling authorized by parts 1 through 6 of this chapter OR  
 4 ASSESS OR CHARGE ANY FEES OR TAXES unless specifically  
 5 authorized by statute.

6 (2) An incorporated city or town may enact an  
 7 ordinance or resolution defining ZONING certain areas within  
 8 its incorporated limits in which gambling is prohibited.

9 (3) A county may enact a resolution defining ZONING  
 10 certain areas in the county, not within an incorporated city  
 11 or town, in which gambling is prohibited.

12 (4) A county or incorporated city or town may not  
 13 restrict the number of licenses that the department may  
 14 issue.

15 NEW SECTION. Section 5. Department as criminal  
 16 justice agency. The department is a criminal justice agency.  
 17 Designated agents of the department are granted peace  
 18 officer status, WITH THE POWER OF SEARCH, SEIZURE, AND  
 19 ARREST, to investigate, ~~regulate, and control all legal and~~  
 20 ~~illegal~~ gambling activities in this state regulated by parts  
 21 1 through 6 of this chapter and the rules of the department  
 22 AND TO REPORT VIOLATIONS TO THE COUNTY ATTORNEY OF THE  
 23 COUNTY IN WHICH THEY OCCUR.

24 NEW SECTION. Section 6. Department employees --  
 25 activities prohibited. An employee of the department, A

1 FORMER DEPARTMENT EMPLOYEE DURING THE FIRST 365 DAYS  
 2 FOLLOWING TERMINATION OF EMPLOYMENT, OR ANY OTHER PERSON  
 3 PEACE OFFICER OR PROSECUTOR directly involved with the  
 4 prosecution, investigation, regulation, or licensing of  
 5 gambling may not:

6 (1) serve as an officer or manager of a corporation or  
 7 organization, OTHER THAN A NONPROFIT CORPORATION  
 8 ORGANIZATION, that conducts a gambling activity;

9 (2) receive or share in, directly or indirectly, any  
 10 profit of a gambling activity regulated by the department;

11 (3) have a beneficial or pecuniary interest in a  
 12 contract for the manufacture, LEASE, or sale of a gambling  
 13 device, the conduct of a gambling activity, or the provision  
 14 of independent consultant services in connection with a  
 15 gambling activity.

16 NEW SECTION. Section 7. Powers and duties of  
 17 department -- licensing. (1) The department shall administer  
 18 the provisions of parts 1 through 6 of this chapter.

19 (2) The department shall adopt rules to administer and  
 20 implement parts 1 through 6 of this chapter.

21 (3) The department shall provide licensing procedures,  
 22 prescribe necessary application forms, and grant or deny  
 23 license applications.

24 (4) The department shall prescribe recordkeeping  
 25 requirements for licensees, provide a procedure for

1 inspection of records, provide a method for collection of  
2 taxes, and establish penalties for the delinquent reporting  
3 and payment of required taxes.

4 (5) The department may suspend, revoke, deny, or place  
5 a condition on a license issued under parts 1 through 6 of  
6 this chapter.

7 (6) The department may not make public or otherwise  
8 disclose information obtained in the APPLICATION OR tax  
9 reporting processes, except for general statistical  
10 reporting or studies.

11 (7) THE DEPARTMENT SHALL ASSESS, COLLECT, AND DISBURSE  
12 ANY FEES, TAXES, OR CHARGES AUTHORIZED UNDER PARTS 1 THROUGH  
13 6 OF THIS CHAPTER.

14 NEW SECTION. Section 8. Injunction and other  
15 remedies. (1) If it appears to the department that a person  
16 has engaged in or is about to engage in an act or practice  
17 constituting a violation of a provision of parts 1 through 6  
18 of this chapter or a rule or order of the department, it  
19 may:

20 (a) issue a temporary cease and desist order with  
21 reasonable notice and opportunity for hearing; Following a  
22 hearing or if the person to whom the notice is addressed  
23 does not request a hearing within 15 days after receipt of  
24 the notice, the department may issue a permanent cease and  
25 desist order that must remain in effect pending an appeal or

1 judicial review by the person aggrieved by a final order of  
2 the department;

3 (b) bring, without the issuance of a cease and desist  
4 order, an action in district court to enjoin the act or  
5 practice; On a proper showing, the court may grant a  
6 permanent or temporary injunction, a restraining order or  
7 other appropriate writ and appoint a receiver or conservator  
8 for the defendant or the defendant's assets; The department  
9 may not be required to post a bond;

10 (c) place a licensee on probation;

11 (d) suspend a license for a period not to exceed 180  
12 days;

13 (e) revoke a license;

14 (f) deny renewal of a license upon its expiration;

15 (g) impose a civil penalty not to exceed \$10,000 for  
16 each violation of a provision of parts 1 through 6 of this  
17 chapter or a rule of the department, whether or not the  
18 person is licensed by the department;

19 (h) impose a combination of the penalties provided in  
20 subsections (i) through (g);

21 (2) A fine imposed by a district court or by the  
22 department under this section must be collected by the  
23 department and deposited in the special revenue account as  
24 provided in 23-5-123;

25 (3) Imposition of a fine under this section is an

*penalties*

1 order from which an appeal may be taken pursuant to {section  
2 12}:

3 {4}--if a person fails to pay a fine imposed under this  
4 section, the fine is a lien on all of the assets and  
5 property of the person in the state and may be recovered by  
6 the department in a civil action:

7 {5}--if a person fails to pay a fine imposed under this  
8 section, he may not be licensed to operate a gambling device  
9 or gambling enterprise in the state under parts 1 through 6  
10 of this chapter. A PERSON HAS ENGAGED OR IS ENGAGING IN AN  
11 ACT OR PRACTICE CONSTITUTING A VIOLATION OF A PROVISION OF  
12 PARTS 1 THROUGH 6 OF THIS CHAPTER OR A RULE OR ORDER OF THE  
13 DEPARTMENT, THE DEPARTMENT MAY:

14 (A) ISSUE A TEMPORARY ORDER TO CEASE AND DESIST FROM  
15 THE GAMBLING ACTIVITY, ACT, OR PRACTICE FOR A PERIOD NOT TO  
16 EXCEED 60 DAYS; AND

17 (B) FOLLOWING NOTICE AND AN OPPORTUNITY FOR HEARING,  
18 AND WITH THE RIGHT OF JUDICIAL REVIEW, UNDER THE MONTANA  
19 ADMINISTRATIVE PROCEDURE ACT:

20 (I) ISSUE A PERMANENT ORDER TO CEASE AND DESIST FROM  
21 THE ACT OR PRACTICE, WHICH ORDER REMAINS IN EFFECT PENDING  
22 JUDICIAL REVIEW;

23 (II) PLACE A LICENSEE ON PROBATION;

24 (III) SUSPEND FOR A PERIOD NOT TO EXCEED 180 DAYS A  
25 LICENSE OR PERMIT FOR THE GAMBLING ACTIVITY, DEVICE, OR

1 ENTERPRISE INVOLVED IN THE ACT OR PRACTICE CONSTITUTING THE  
2 VIOLATION;

3 (IV) REVOKE A LICENSE OR PERMIT FOR THE GAMBLING  
4 ACTIVITY, DEVICE, OR ENTERPRISE INVOLVED IN THE ACT OR  
5 PRACTICE CONSTITUTING THE VIOLATION;

6 (V) IMPOSE A CIVIL PENALTY NOT TO EXCEED \$10,000 FOR  
7 EACH VIOLATION, WHETHER OR NOT THE PERSON IS LICENSED BY THE  
8 DEPARTMENT; AND

9 (VI) IMPOSE ANY COMBINATION OF THE PENALTIES CONTAINED  
10 IN THIS SUBSECTION (1)(B); AND

11 (C) BRING AN ACTION IN DISTRICT COURT FOR RELIEF  
12 AGAINST THE ACT OR PRACTICE. THE DEPARTMENT MAY NOT BE  
13 REQUIRED TO POST A BOND. ON PROPER SHOWING, THE COURT MAY:

14 (I) ISSUE A RESTRAINING ORDER, A TEMPORARY OR  
15 PERMANENT INJUNCTION, OR OTHER APPROPRIATE WRIT;

16 (II) SUSPEND OR REVOKE A LICENSE OR PERMIT; AND  
17 (III) APPOINT A RECEIVER OR CONSERVATOR FOR THE  
18 DEFENDANT OR THE ASSETS OF THE DEFENDANT.

19 (2) A CIVIL PENALTY IMPOSED UNDER THIS SECTION MUST BE  
20 COLLECTED BY THE DEPARTMENT AND DEPOSITED IN THE STATE'S  
21 GENERAL FUND AS REQUIRED BY 23-5-123. IF A PERSON FAILS TO  
22 PAY THE CIVIL PENALTY, THE AMOUNT DUE IS A LIEN ON THE  
23 PERSON'S LICENSED PREMISES AND GAMBLING DEVICES IN THE STATE  
24 AND MAY BE RECOVERED BY THE DEPARTMENT IN A CIVIL ACTION.

25 **Section 9.** Section 23-5-123, MCA, is amended to read:

1       "23-5-123. Disposal of money confiscated by reason of  
 2 violation of gambling laws. All money seized or taken by any  
 3 peace officer and confiscated by order of any court, by  
 4 reason of a violation of the gambling laws of the state of  
 5 Montana, shall be deposited with the county treasurer of the  
 6 county in which such seizure and confiscation was made and  
 7 shall be credited to the poor fund of the county. All fines,  
 8 penalties, forfeitures, and confiscated money collected by  
 9 criminal, civil, or administrative process for a violation  
 10 of a provision of parts 1 through 6 of this chapter or a  
 11 rule of the department must be deposited ONE-HALF in a  
 12 special revenue account for use by the department for:  
 13       (1) training law enforcement personnel in the  
 14 investigation of illegal gambling activity;  
 15       (2) training persons licensed under the authority of  
 16 the department; or  
 17       (3) funding programs designed to treat persons with  
 18 habitual gambling problems. THE STATE'S GENERAL FUND AND  
 19 ONE-HALF IN THE GENERAL FUND OF THE COUNTY IN WHICH THE  
 20 VIOLATION OCCURRED."

21       NEW SECTION. Section 10. Qualifications       for  
 22 licensure. (1) A person whom the department determines is  
 23 qualified to receive a license under the provisions of this  
 24 chapter, except for the provisions of part 10, may, BASED ON  
 25 INFORMATION AVAILABLE TO, REQUIRED BY, OR SUPPLIED TO THE

1       DEPARTMENT UNDER DEPARTMENT RULES, be issued a state  
 2 gambling license.

3       (2) The applicant has the burden of proving his  
 4 qualification to receive a license:

5       (2) THE DEPARTMENT SHALL ISSUE A LICENSE UNLESS THE  
 6 DEPARTMENT CAN DEMONSTRATE THAT THE APPLICANT IS:

7       (A) A PERSON WHOSE PRIOR ACTIVITIES OR CRIMINAL  
 8 RECORD:

9       (I) POSES A THREAT TO THE PUBLIC INTEREST OF THE STATE  
 10 OR THE EFFECTIVE REGULATION AND CONTROL OF GAMBLING; OR

11       (II) CREATES A DANGER OF ILLEGAL PRACTICES, METHODS, OR  
 12 ACTIVITIES IN THE CONDUCT OF GAMBLING OR IN THE CARRYING ON  
 13 OF THE BUSINESS AND FINANCIAL ARRANGEMENTS INCIDENTAL TO  
 14 GAMBLING; OR

15       (B) RECEIVING A SUBSTANTIAL AMOUNT OF FINANCING FOR  
 16 THE PROPOSED OPERATION FROM AN UNSUITABLE SOURCE. A LENDER  
 17 OR OTHER SOURCE OF MONEY OR CREDIT THAT THE DEPARTMENT FINDS  
 18 TO MEET THE PROVISIONS OF SUBSECTION (2)(A) MAY BE  
 19 CONSIDERED AN UNSUITABLE SOURCE.

20       (3) An application for a license may not be granted  
 21 unless the department is satisfied that the applicant is:

22       (a) a person of good character, honesty, and  
 23 integrity;

24       (b) a person whose prior activities, criminal record,  
 25 if any, reputation, habits, and associations do not:

1       (i) pose a threat to the public interest of the state  
 2 or to the effective regulation and control of gambling; or  
 3       (ii) create or enhance the dangers A-BANGER of illegal  
 4 practices, methods, and activities in the conduct of  
 5 gambling or in the carrying on of the business and financial  
 6 arrangements incidental to the conduct of gambling; and  
 7       (c) in all other respects qualified to be licensed  
 8 consistent with the declared gambling policy of the state;  
 9       (4) A license to operate a gambling activity may not  
 10 be issued unless the applicant has demonstrated to the  
 11 department that:

12       (a) the applicant has adequate business probity,  
 13 competence, and experience; and

14       (b) the proposed financing of the entire operation is:

15       (i) adequate for the nature of the proposed operation;  
 16 and

17       (ii) from a suitable source; A lender or other source  
 18 of money or credit that the department finds does not meet  
 19 the standards set forth in subsection (3) may be considered  
 20 unsuitable;

21       NEW SECTION. Section 11. Operator of gambling  
 22 establishment -- license -- fee. (1) It is a misdemeanor for  
 23 a person who is not licensed by the department as an  
 24 operator to make available to the public for play a gambling  
 25 device or gambling enterprise.

1       (2) An operator's license must include the following  
 2 information:

3       (a) a description of the premises upon which the  
 4 gambling will take place;

5       (b) the operator's name;

6       (c) a description of each gambling device or card game  
 7 table licensed to the operator by the department for play  
 8 upon the premises, including the type of game and license  
 9 number or decal number for each licensed game; and

10       (d) any other relevant information determined  
 11 necessary by the department.

12       (3) The operator's license must be issued annually  
 13 along with all other licenses for gambling devices or games  
 14 licensed to the operator.

15       (4) The operator's license must be updated each time a  
 16 gambling device or card game table license is newly issued  
 17 or the device or game is removed from the premises.

18       (5) The department may not charge a fee for the  
 19 issuance of an operator's license.

20       (6) The operator's license must be prominently  
 21 displayed upon the premises for which it is issued.

22       NEW SECTION. Section 12. Judicial review. (1) (a) A  
 23 person aggrieved by a final order of the department may  
 24 obtain a review of the order in district court by filing  
 25 with the court, within 30 days after entry of the final

1 order, a written petition requesting that the order be  
2 modified or set aside in whole or in part.

3 (b) A copy of the petition must be served upon the  
4 department at the same time. When the department receives  
5 the copy of the petition, it shall certify and file in court  
6 a copy of the filing, testimony, and other evidence upon  
7 which the final order was entered by the department. When  
8 these have been filed with the court, the court has  
9 exclusive jurisdiction to affirm, modify, enforce, or set  
10 aside the final order in whole or in part. A temporary cease  
11 and desist order from the department must MAY remain in  
12 effect ~~and cannot be set aside by the court~~ until a hearing  
13 has been held and a final order has been issued pursuant to  
14 [section 8].

15 (2) (a) The review must be conducted by the district  
16 court without a jury and must be confined to the record. In  
17 a case of alleged irregularity in procedure before the  
18 department not shown in the record, proof may be taken by  
19 the court. The court, upon request, shall hear oral argument  
20 and receive written briefs.

21 (b) The court may not substitute its judgment for that  
22 of the department as to the weight of the evidence on  
23 questions of fact. The court may affirm the decision of the  
24 department or remand the case for further proceedings. The  
25 court may reverse or modify the decision if substantial

1 rights of the appellant have been prejudiced because the  
2 administrative findings, inferences, conclusions, or  
3 decisions are:

4 (i) in violation of a constitutional or statutory  
5 provision;

6 (ii) in excess of the statutory authority of the  
7 department;

8 (iii) made upon unlawful procedure;

9 (iv) affected by other error of law;

10 (v) clearly erroneous in view of the reliable,  
11 probative, and substantial evidence on the whole record;

12 (vi) arbitrary or capricious or characterized by abuse  
13 of discretion or clearly unwarranted exercise of discretion;  
14 or

15 (vii) inadequate because findings of fact, upon issues  
16 essential to the decision, were requested but not made.

17 (3) The commencement of proceedings under this  
18 section, unless specifically ordered by the court, may not  
19 operate as a stay of the department's final order.

20 **Section 13.** Section 23-5-131, MCA, is amended to read:

21 "23-5-131. Losses at ILLEGAL gambling may be recovered  
22 in civil action. ~~if any person, by playing or betting at any~~  
23 ~~of the games prohibited by this part, loses to another~~  
24 ~~person any sum of money or thing of value and pays or~~  
25 ~~delivers the same or any part thereof to any person~~

1 connected with the operating or conducting of such game,  
 2 either as owner, dealer, or operator, the person who so  
 3 loses and pays or delivers may, at any time within 60 days  
 4 next after the loss and payment or delivery, sue for and  
 5 recover the money or thing of value so lost and paid or  
 6 delivered or any part thereof from any person having any  
 7 interest, direct or contingent, in the game as owner,  
 8 backer, or otherwise, with costs of suit, by civil action  
 9 before any court of competent jurisdiction, together with  
 10 exemplary damages which in no case shall be less than \$50 or  
 11 more than \$500, and may join as defendants in said suit all  
 12 persons having any interest, direct or contingent, in such  
 13 game as backers, owners, or otherwise. A person, or his  
 14 dependent or guardian, who, by playing or betting at an  
 15 illegal gambling device or illegal gambling enterprise,  
 16 loses money, property, or any other thing of value and pays  
 17 and delivers it to another person connected with the  
 18 operation or conduct of the illegal gambling device or  
 19 illegal gambling enterprise, within 1 year following his  
 20 loss, may:

21 (1) bring a civil action in a court of competent  
 22 jurisdiction to recover the loss;

23 (2) recover the costs of the civil action and  
 24 exemplary damages of no less than \$500 and no more than  
 25 \$5,000; and

1 (3) join as a defendant any person having an interest  
 2 in the illegal gambling device or illegal gambling  
 3 enterprise."

4 **Section 14.** Section 23-5-135, MCA, is amended to read:

5 "23-5-135. Discharge of defendant. Upon discovery and  
 6 repayment of the money or other thing, the person  
 7 discovering and repaying the same, with costs and such an  
 8 amount of exemplary damages as may be agreed upon by the  
 9 parties or fixed by the court, shall be acquitted and  
 10 discharged from any further or other forfeiture, punishment,  
 11 penalty, or prosecution he or they may have incurred for so  
 12 winning such money or thing discovered and repaid: (1) A  
 13 person against whom a civil action is brought as provided in  
 14 23-5-131 may move to have the action against him dismissed  
 15 if he has repaid to the person who suffered the loss or his  
 16 dependent the gambling loss, the costs of bringing the civil  
 17 action, and the exemplary damages agreed upon by the parties  
 18 or assessed by the court.

19 (2) A civil action brought to recover gambling losses  
 20 does not bar or interfere with another proceeding or action,  
 21 whether criminal, civil, or administrative, that may be  
 22 brought under the laws of the state.

23 ~~(3) The clerk of the court shall notify the department~~  
 24 ~~of a JUDGMENT IN A civil action based on a violation of a~~  
 25 ~~provision of this chapter."~~

1 **Section 15.** Section 23-5-102, MCA, is amended to read:

2 "23-5-102. Gambling prohibited ---penalty. Except as  
3 otherwise-provided-by-law,-a-person-who-engages-in-gambling  
4 in-any-form-with-cards,-dice,-or-other-inplements-or-devices  
5 of-any-kind-wherein-anything-valuable-may-be-wagered-upon  
6 the-outcome-or-who-keeps-any-establishment,-place,  
7 equipment,-or-apparatus-for-such-gambling-or-any-agents-or  
8 employees-for-such-purpose-is-guilty-of-a-misdemeanor-and-is  
9 punishable-by-a-fine-of-not-less-than-\$100-or-more-than  
10 \$1,000-or-imprisonment-not-less-than-3-months-or-more-than-1  
11 year-or-by-both-such-fine-and-imprisonment specifically  
12 authorized by statute, all forms of public gambling,  
13 lotteries, and gift enterprises are prohibited."

14 NEW SECTION. Section 16. Counterfeiting or defacing  
15 documents -- penalty. (1) A person commits the offense of  
16 counterfeiting or defacing a document when he purposely or  
17 knowingly counterfeits, alters, or wrongfully displays a  
18 seal, decal, license, identification number or device, or  
19 other document issued by the department.

20 (2) A person convicted of the offense of  
21 counterfeiting or defacing a document is guilty of a felony  
22 and must be punished in accordance with [section 24].

23 **Section 17.** Section 23-5-108, MCA, is amended to read:

24 "23-5-108. Soliciting or persuading persons to visit  
25 play illegal gambling resorts device prohibited. Any-person

1 who-persuades-or-solicits-another-to-visit-any-room,-tent,  
2 apartment,-or-place-used-or-represented-by-the-person  
3 soliciting-or-persuading-to-be-a-place-used-for-the-purpose  
4 of-running-any-of-the-games-prohibited-by-this-part-shall-be  
5 punished-by-a-fine-of-not-less-than-\$100-or-more-than-\$1,000  
6 or-imprisonment-not-less-than-3-months-or-more-than-1-year  
7 or-by-both-such-fine-and-imprisonment-in-the-county-jail. A  
8 person who advertises for or solicits another person to play  
9 or engage in the use of a illegal gambling device is guilty  
10 of a misdemeanor and is punishable under [section 23]."

11 NEW SECTION. Section 18. Obtaining anything of value  
12 by fraud or operation of illegal gambling device or  
13 enterprise. (1) A person who by gambling obtains money,  
14 property, or anything of value that does not exceed \$300 in  
15 value by misrepresentation, fraud, or the use of an illegal  
16 gambling device or an illegal gambling enterprise is guilty  
17 of a misdemeanor and is punishable as provided in [section  
18 23].

19 (2) A person who by gambling obtains money, property,  
20 or anything of value that exceeds \$300 in value by  
21 misrepresentation, fraud, or the use of an illegal gambling  
22 device or an illegal gambling enterprise is guilty of a  
23 felony and is punishable as provided in [section 24].

24 NEW SECTION. Section 19. Gambling on cash basis. (1)  
25 In every gambling activity, EXCEPT RAFFLES AS AUTHORIZED IN

1 ~~{SECTION 4}~~ 23-5-413, the consideration paid for the chance  
 2 to play must be cash. A participant shall present the money  
 3 needed to play the game as the game is being played. A  
 4 check, credit card, note, I O U, or other evidence of  
 5 indebtedness may not be offered or accepted as part of the  
 6 price of participation in the gambling activity or as  
 7 payment of a debt incurred in the gambling activity. THE  
 8 USE OF A CHECK OR CREDIT CARD TO PAY FOR OTHER GOODS OR  
 9 SERVICES IN THE ESTABLISHMENT OR TO OBTAIN CASH IS NOT A  
 10 VIOLATION OF THIS SECTION.

11 (2) A person who violates this section is guilty of a  
 12 misdemeanor and must be punished in accordance with [section  
 13 23].

14 NEW SECTION. Section 20. Minors not to participate --  
 15 penalty. (1) A PERSON MAY NOT PURPOSELY OR KNOWINGLY ALLOW A  
 16 person under 18 years of age may--not--be-permitted to  
 17 participate in a gambling activity.

18 (2) A person who violates this section is guilty of a  
 19 misdemeanor and must be punished in accordance with [section  
 20 23].

21 **Section 21.** Section 23-5-103, MCA, is amended to read:

22 "23-5-103. Possession of illegal gambling implements  
 23 device prohibited -- exception. Any (1) Except as provided  
 24 in {section-22} 23-5-104 and subsection (2) of this section,  
 25 it is a misdemeanor punishable under [section 23] for a

1 person who--has to PURPOSELY OR KNOWINGLY have in his  
 2 possession or under his control or who-permits to PURPOSELY  
 3 OR KNOWINGLY permit to be placed, maintained, or kept in any  
 4 room, space, enclosure, or building owned, leased, or  
 5 occupied by him or under his management or control any--fare  
 6 box,--fare--layout,--roulette--wheel,--roulette--table,--crap  
 7 table,--punchboard,--or-any-machine-or-apparatus-of-the-kind  
 8 mentioned-in-23-5-102-is-punishable-by-a-fine--of--not--less  
 9 than--\$100-or-more-than-\$1,000-and-may-be-imprisoned-for-not  
 10 less-than-3-months-or-more-than-1-year-in-the-discretion--of  
 11 the--court,--provided-that-this-section-shall-not an illegal  
 12 gambling device. This section does not apply to a public  
 13 officer or to a person coming into possession thereof of an  
 14 illegal gambling device in or by reason of the performance  
 15 of an official duty and holding the-same it to be disposed  
 16 of according to law.

17 (2) (a) The department may adopt rules to license  
 18 persons to manufacture gambling devices that are not legal  
 19 for public play in the state and are manufactured only for  
 20 export from the state.

21 (b) A person may not manufacture or possess an illegal  
 22 gambling device for export from the state without having  
 23 obtained a license from the department. The department may  
 24 charge an administrative fee for the license that is  
 25 commensurate with the cost of issuing the license."

1 Section 22. Section 23-5-104, MCA, is amended to read:

2 "23-5-104. Slot-machines-----possession-unlawful----  
3 exception Possession of antique slot machines. (1) Except-as  
4 provided--in--subsections--(2)--through--(5);--it-shall-be-a  
5 misdemeanor-and-punishable-as-hereinafter-provided--for--any  
6 person--to--use; possess; operate; keep; or-maintain-for-use  
7 or-operation-or-otherwise;--anywhere--within--the--state--of  
8 Montana; any-slot-machine-of-any-sort-or-kind-whatsoever;

9 (2)--The--provisions--of-subsection-(1)-and-23-5-121-do  
10 not-apply-to-antique-slot-machines-possessed;--located;--and  
11 used-in-accordance-with-subsections-(2)-through-(5);--For-the  
12 purposes--of--subsections--(2)--through--(5);--an-antique-slot  
13 machine-is-a-slot-machine-manufactured-prior--to--1950;--the  
14 operation--of--which-is-exclusively-mechanical-in-nature-and  
15 is-not-aided-in-whole-or-in-part-by-any-electronic-means: An  
16 antique-slot-machine-is-a-slot-machine-manufactured-prior-to  
17 1950-that-is-operated-exclusively-by-mechanical-means-and-is  
18 not-aided-in-whole-or-in-part-by-any-electrical--means; FOR  
19 THE PURPOSES OF THIS SECTION, AN ANTIQUE SLOT MACHINE IS A  
20 SLOT MACHINE MANUFACTURED PRIOR TO 1950, THE OPERATION OF  
21 WHICH IS EXCLUSIVELY MECHANICAL IN NATURE AND IS NOT AIDED  
22 IN WHOLE OR IN PART BY ANY ELECTRONIC MEANS.

23 (3)(2) Except as provided in subsection (4) (3), an  
24 antique slot machines machine may be possessed, located, and  
25 operated only in a private residential dwelling.

1 (4)(3) Antique--slot--machines An antique slot machine  
2 may be possessed or located for purposes of display only and  
3 not for operation in any public museum owned and operated by  
4 the state of Montana, or a county, or a city. A LICENSED  
5 MANUFACTURER-DISTRIBUTOR MAY POSSESS AND SELL ANTIQUE SLOT  
6 MACHINES.

7 (5)(4) No antique slot machine may be operated for any  
8 commercial or charitable purpose."

9 NEW SECTION. Section 23. Criminal liabilities --  
10 misdemeanor. A person who purposely or knowingly violates a  
11 provision of parts 1 through 6 of this chapter, the  
12 punishment of which is for a misdemeanor, must; upon  
13 conviction; OF A FIRST OFFENSE be fined not less MORE than  
14 \$500 or-more-than-\$5,000; or-imprisoned-for-not-more-than-1  
15 year; or-both; for-each-violation. UPON A SECOND CONVICTION  
16 WITHIN 5 YEARS OF A FIRST CONVICTION, A PERSON MUST BE FINED  
17 NOT MORE THAN \$1,000 OR IMPRISONED IN THE COUNTY JAIL FOR  
18 NOT MORE THAN 6 MONTHS, OR BOTH. UPON A THIRD CONVICTION  
19 WITHIN 5 YEARS OF A SECOND CONVICTION, A PERSON MUST BE  
20 FINED NOT MORE THAN \$10,000 OR IMPRISONED IN THE COUNTY JAIL  
21 FOR NOT MORE THAN 1 YEAR, OR BOTH. UPON A FOURTH CONVICTION  
22 WITHIN 5 YEARS OF A THIRD CONVICTION, A PERSON MUST BE FINED  
23 NOT MORE THAN \$10,000 OR IMPRISONED IN THE COUNTY JAIL FOR  
24 NOT MORE THAN 1 YEAR, OR BOTH, AND THE DEPARTMENT SHALL  
25 REVOKE ALL LICENSES AND PERMITS THE PERSON HOLDS UNDER PARTS

1 1 THROUGH 6 OF THIS CHAPTER AND THE PERSON IS FOREVER BARRED  
 2 FROM RECEIPT OF ANY LICENSE OR PERMIT UNDER THIS CHAPTER.  
 3 WHEN 5 YEARS HAVE PASSED FOLLOWING A CONVICTION, THE RECORD  
 4 OF THAT CONVICTION MAY BE MADE AVAILABLE ONLY TO CRIMINAL  
 5 JUSTICE AGENCIES OR UPON COURT ORDER.

6 NEW SECTION. Section 24. Criminal liabilities --  
 7 felony. A person who purposely or knowingly violates a  
 8 provision of parts 1 through 6 of this chapter, the  
 9 punishment for which is a felony, may upon conviction be  
 10 fined not more than \$50,000 or imprisoned for not more than  
 11 10 years, or both, for each violation. However, if the  
 12 person previously has been convicted of a felony involving  
 13 a gambling device, gambling activity, or gambling  
 14 enterprise, he must be imprisoned for at least 2 years.

15 NEW SECTION. Section 25. Prosecution. The county  
 16 attorney of the county in which a violation of a provision  
 17 of parts 1 through 6 of this chapter occurs shall prosecute  
 18 all gambling actions within the jurisdiction of the  
 19 department. However, if the county attorney declines  
 20 prosecution or fails to commence an action within a  
 21 reasonable time, the attorney general may initiate and  
 22 conduct the prosecution on behalf of the state.

23 Section 26. Section 23-5-311, MCA, is amended to read:  
 24 "23-5-311. Authorized card games. (1) It is unlawful  
 25 for any person to conduct or participate in any card game or

1 make any tables available for the playing of card games  
 2 except those card games authorized by this part:

3 (1) The card games authorized by this part are and  
 4 are limited to the card games known as bridge, cribbage,  
 5 hearts, panguingue, pinochle, pitch, poker {NEBUBING-JACKS  
 6 OR-BETTER}, rummy, solo, and whist, solo, and poker.

7 (2) A person may only conduct or participate in a live  
 8 card game or make a live card game table available for  
 9 public play of a live card game that ONLY IF IT IS  
 10 specifically authorized by this part and described by  
 11 department rules.

12 (3) This part does not apply to games simulated on  
 13 electronic video gambling machines authorized under part 6  
 14 of this chapter."

15 NEW SECTION. Section 27. Presence and control of  
 16 dealer. A live card game may not be played except on a live  
 17 card game table in the presence and under the control of a  
 18 licensed dealer on the premises of a licensed operator.

19 NEW SECTION. Section 28. Card game dealers --  
 20 license. (1) A person may not deal cards in a live card game  
 21 without being licensed annually by the department.

22 (2) The fee for each THE FIRST year in which the  
 23 license is effective must be commensurate with the  
 24 administrative costs associated with dealer licensing as  
 25 established by department rules IS \$75, AND THE ANNUAL

1 RENEWAL FEE IS \$25. The fee may not be prorated.

2 (3) The department shall retain for administrative  
3 purposes the license fee charged for the issuance of a  
4 dealer's license.

5 (4) A licensed dealer shall have on his person, and  
6 display upon request, his dealer's license when he is  
7 working as a dealer.

8 (5) The department ~~may~~ SHALL adopt rules to implement  
9 temporary licensing procedures until a permanent license is  
10 issued to a dealer. THE RULES MUST PROVIDE THAT A TEMPORARY  
11 LICENSE MAY BE OBTAINED AT THE PLACE WHERE A PERSON LOCALLY  
12 APPLIES FOR A DRIVER'S LICENSE AND THAT THE RECEIPT RECEIVED  
13 UPON MAILING AN APPLICATION FOR A PERMANENT LICENSE BY  
14 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ALSO CONSTITUTES A  
15 TEMPORARY LICENSE. The department may ~~delegate the authority~~  
16 ~~to issue temporary licenses to local governments including~~  
17 ~~the authority to~~ NOT assess and ~~retain~~ a fee for the  
18 temporary license.

19 NEW SECTION. Section 29. Live card game table --  
20 permit -- fees -- disposition of fees. (1) A person who has  
21 been granted an operator's license under [section 11] and a  
22 license under ~~16-4-401(2)~~ to sell alcoholic beverages for  
23 consumption on the premises ~~OR WHO OPERATES AN ESTABLISHMENT~~  
24 ~~FOR THE PRINCIPAL PURPOSE OF GAMING AND HAS BEEN GRANTED AN~~  
25 ~~OPERATOR'S LICENSE UNDER SECTION 11~~ may be granted an

1 annual permit for the placement of live card game tables.  
2 IF ONE OR MORE LIVE CARD GAME TABLES WERE LEGALLY OPERATED  
3 ON A PREMISES ON JANUARY 15, 1989, AND THE PREMISES WERE NOT  
4 ON THAT DATE LICENSED UNDER 16-4-401(2) BUT WERE LICENSED ON  
5 THAT DATE TO SELL FOOD, CIGARETTES, OR ANY OTHER CONSUMABLE  
6 PRODUCT, AN OPERATOR'S LICENSE AND AN ANNUAL PERMIT FOR THE  
7 PLACEMENT OF LIVE CARD GAME TABLES MAY BE GRANTED TO THE  
8 PERSON WHO LEGALLY OPERATED THE PREMISES ON JANUARY 15,  
9 1989.

10 (2) The annual permit fee in lieu of taxes for each  
11 live card game table operated in a licensed operator's  
12 premises may not be prorated and must be:

13 (a) \$250 for the first table; AND

14 (b) \$750 ~~\$500~~ for the second table; and

15 ~~1,000~~ for the third and each additional table.

16 (3) The department shall retain for administrative  
17 purposes \$100 of the fee collected under this part for each  
18 live card game table.

19 (4) The department shall forward on a quarterly basis  
20 the remaining balance of the fee collected under subsection  
21 (2) to the treasurer of the county, or the clerk, finance  
22 officer, or treasurer of the city or town in which the live  
23 card game table is located for deposit to the county or  
24 municipal treasury. A COUNTY IS NOT ENTITLED TO PROCEEDS  
25 FROM FEES ASSESSED ON LIVE CARD GAME TABLES LOCATED IN

1 INCORPORATED CITIES AND TOWNS WITHIN THE COUNTY. The local  
 2 government portion of this fee is statutorily appropriated  
 3 to the department as provided in 17-7-502 for deposit to the  
 4 county or municipal treasury. THE LOCAL GOVERNMENT PORTION  
 5 OF THIS FEE IS STATUTORILY APPROPRIATED TO THE DEPARTMENT,  
 6 AS PROVIDED IN 17-7-502, FOR DEPOSIT TO THE COUNTY OR  
 7 MUNICIPAL TREASURY.

8 **Section 30.** Section 23-5-321, MCA, is amended to read:

9 "23-5-321. Bicensing Issuance of permits by local  
 10 governing bodies prohibited. (1) Any A city, town, or county  
 11 may not issue licenses permits for the live card games  
 12 provided for or live card game tables authorized in this  
 13 part, to be conducted on premises which have been licensed  
 14 for the sale of liquor, beer, food, cigarettes, or any other  
 15 consumable products. Within the cities or towns, such  
 16 licenses may be issued by the city or town council or  
 17 commissioner. Licenses for games conducted on premises outside  
 18 the limits of any city or town may be issued by the county  
 19 commissioners of the respective counties. When a license has  
 20 been required by any city, town, or county, no game as  
 21 provided for in this part shall be conducted on any premises  
 22 which have been licensed for the sale of liquor, beer, food,  
 23 cigarettes, or any other consumable product without such  
 24 license having first been obtained.

25 (2) Any governing body may charge an annual license

1 fee for each license so issued under this part, which  
 2 license fee, if any, shall expire on June 30 of each year,  
 3 and such fee shall be prorated.

4 (3) Any license issued pursuant to this part shall be  
 5 deemed to be a revocable privilege, and no holder thereof  
 6 may acquire any vested rights therein or thereunder."

7 **Section 31.** Section 23-5-312, MCA, is amended to read:

8 "23-5-312. Prizes not to exceed one three ONE THREE  
 9 hundred dollars. No prize for any individual game shall  
 10 exceed the value of \$100. A prize for an individual live  
 11 card game may not exceed the value of \$300 \$100 \$300. Games  
 12 shall may not be combined in any manner so as to increase  
 13 the value of the ultimate prize awarded."

14 **NEW SECTION. Section 32.** Live card game tables --  
 15 hours of play -- restriction -- exception. Live card game  
 16 tables must be closed for play between the hours of 2 a.m.  
 17 and 8 a.m. each day. However, in the jurisdiction of a  
 18 local government where the table is located, the local  
 19 government may adopt an ordinance defining the hours of play  
 20 within that jurisdiction. HOWEVER, IN THE JURISDICTION OF A  
 21 LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL  
 22 GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2  
 23 A.M. AND 8 A.M.

24 **Section 33.** Section 23-5-313, MCA, is amended to read:

25 "23-5-313. Rules of play to be posted -- rake-off

1 approved. Rules governing the conduct of each game shall  
 2 must be prominently posted within the sight of the players  
 3 at a live card game table on the premises of any--licensed  
 4 establishment--where--such--game--is--conducted a licensed  
 5 operator. Such The rules shall must include notice of the  
 6 maximum percentage rake-off, if any, and shall must require  
 7 that the person taking the rake-off do so in an obvious  
 8 manner and--only--after--announcing--the--amount--of--each  
 9 rake-off, which shall only be taken--at--the--conclusion--of  
 10 each--game--when--the--winner--of--each--individual--pot--has--been  
 11 determined."

12 **Section 34.** Section 23-5-331, MCA, is amended to read:

13 "23-5-331. Penalty. Every A person who willfully  
 14 purposely or knowingly violates or who procures, aids, or  
 15 abets in the--willful a violation of this part or any  
 16 ordinance, resolution, or regulation rule adopted pursuant  
 17 thereto--shall--be--deemed to this part is guilty of a  
 18 misdemeanor and--upon--conviction--shall--be--punished--by--a--fine  
 19 of--not--more--than--\$17000--or--imprisonment--in--the--county--jail  
 20 for--not--more--than--3--months,--or--both punishable pursuant to  
 21 [section 23]."

22 **NEW SECTION. Section 35.** Authorized live bingo, keno,  
 23 and raffles. (1) A person may only conduct or participate in  
 24 a live bingo and keno game or raffle ONLY IF IT IS operated  
 25 pursuant to this part.

1 (2) This part does not apply to a game simulated on a  
 2 video gambling machine authorized by part 6 of this chapter.

3 **NEW SECTION. Section 36.** Exempt charitable  
 4 organizations. An organization qualified for exemption under  
 5 26 U.S.C. 501(c)(3) and (c)(4) ON JANUARY 15, 1989, is  
 6 exempt from the taxation and license fees imposed by this  
 7 part. AN ORGANIZATION QUALIFIED FOR EXEMPTION UNDER THAT  
 8 SECTION AFTER THAT DATE IS EXEMPT FROM TAXATION UNDER, AND  
 9 NEED ONLY PAY ONE-HALF THE LICENSE FEES UNDER, THIS PART IF  
 10 THE ORGANIZATION CARRIES ON GAMBLING ACTIVITIES FOR NO MORE  
 11 THAN 60 DAYS A CALENDAR YEAR AND IF THE ACTIVITIES ARE  
 12 LIMITED TO ITS MAIN PREMISES OR PLACE OF OPERATIONS AND TO  
 13 EVENTS AT OTHER PLACES OPERATED BY OTHER CHARITABLE  
 14 ORGANIZATIONS OR BY A GOVERNMENT UNIT OR ENTITY. The  
 15 organization shall comply with other statutes and rules  
 16 relating to the operation of live bingo and keno or raffles.  
 17 A qualified organization shall apply to the department for a  
 18 cost-free permit to conduct charitable live bingo and keno  
 19 games or raffles. THE DEPARTMENT MAY REVOKE OR SUSPEND THE  
 20 PERMIT OF A QUALIFIED ORGANIZATION THAT, AFTER  
 21 INVESTIGATION, THE DEPARTMENT DETERMINES IS CONTRACTING WITH  
 22 A NONQUALIFIED ORGANIZATION TO OPERATE LIVE BINGO, KENO, OR  
 23 RAFFLES IN A PREDOMINANTLY COMMERCIAL MANNER.

24 **NEW SECTION. Section 37.** Bingo and keno callers  
 25 qualifications--license--fee--(1)--A person may not act

1 as-a-bingo-or-keno-caller-without-being-licensed-annually-by  
2 the-department;

3 (2) The fee for each year in which the license is  
4 effective must be commensurate with the costs associated  
5 with bingo or keno caller licensing as established by  
6 department rules. The fee may not be prorated.

7 (3) The department shall retain for administrative  
8 purposes the license fee charged for the issuance of a bingo  
9 or keno caller's license.

10 (4) A bingo or keno caller shall have on his person,  
11 and display upon request, his bingo or keno caller's license  
12 whenever he is working as a bingo or keno caller.

13 (5) The department may adopt rules to implement  
14 temporary licensing procedures until a permanent license is  
15 issued. The department may delegate the authority to issue  
16 temporary licenses to local governments, including the  
17 authority to assess and retain a fee for a temporary  
18 license.

19 NEW SECTION. Section 37. Live bingo or keno permit --  
20 fees -- disposition of fees. (1) A person who has been  
21 granted an operator's license may be granted an annual  
22 permit by the department to conduct live bingo or keno games  
23 on specified premises.

24 (2) The permit fee for each of the premises in which a  
25 live bingo or keno game is conducted may not be prorated and

1 must be \$500.

2 (3) The department shall retain the permit fee for  
3 administrative costs.

4 NEW SECTION. Section 38. Bingo and keno gross  
5 proceeds tax -- records -- distribution -- quarterly  
6 statement and payment. (1) A licensee who has received a  
7 permit to operate bingo or keno games shall pay to the  
8 department a tax of 3% 5% of the gross proceeds NET INCOME  
9 from the operation of each live bingo and keno game operated  
10 on his premises. FOR PURPOSES OF THIS SECTION, "NET INCOME"  
11 MEANS GROSS PROCEEDS, AS DEFINED IN 21-5-101, MINUS THE COST  
12 OF EQUIPMENT, SUPPLIES, PERSONNEL, AND ADVERTISING ALLOCATED  
13 TO THE GAMES. IF IN ANY YEAR 5% OF NET INCOME DOES NOT EQUAL  
14 1% OF GROSS PROCEEDS, THEN THE LICENSEE SHALL PAY A TAX OF  
15 1% OF GROSS PROCEEDS.

16 (2) A licensee shall keep a record of gross proceeds  
17 AND NET INCOME in the form the department requires. At all  
18 times during the business hours of the licensee the records  
19 must be available for inspection by the department.

20 (3) A licensee shall, within 15 days after the end of  
21 each quarter, ANNUALLY complete and deliver to the  
22 department a statement showing the total gross proceeds AND  
23 NET INCOME for each live keno or bingo game operated by him  
24 and the total amount due as live bingo or keno gross  
25 proceeds tax for the preceding quarter YEAR. This statement

1 must contain any other relevant information required by the  
2 department.

3 (4) The department shall forward the tax collected  
4 under subsection (3) to the treasurer of the county or the  
5 clerk, finance officer, or treasurer of the city or town in  
6 which the licensed game is located for deposit to the county  
7 or municipal treasury. A county is not entitled to proceeds  
8 from taxes on live bingo or keno games located in  
9 unincorporated INCORPORATED cities and towns within the  
10 county. ~~The tax collected under subsection (3) is~~  
11 ~~statutorily appropriated to the department as provided in~~  
12 ~~17-7-502 for deposit to the county or municipal treasury.~~  
13 THE TAX COLLECTED UNDER SUBSECTION (3) IS STATUTORILY  
14 APPROPRIATED TO THE DEPARTMENT, AS PROVIDED IN 17-7-502, FOR  
15 DEPOSIT TO THE COUNTY OR MUNICIPAL TREASURY.

16 Section 39. Section 23-5-412, MCA, is amended to read:

17 "23-5-412. Bingo Card prices and prizes. The price for  
18 an individual bingo or keno card may not exceed 50 cents.  
19 Bingo prizes may be paid in either tangible personal  
20 property or cash, ~~except that a prize must be paid in~~  
21 ~~tangible personal property if the game is played on a~~  
22 ~~player-operated electronic video game machine.~~ A prize may  
23 not exceed the value of ~~\$100~~ \$300 \$100 for each individual  
24 bingo award or keno card. ~~The price for an individual bingo~~  
25 ~~card may not exceed 50 cents. It shall be is~~ unlawful to, in

1 any manner, combine any awards so as to increase the  
2 ultimate value of such the award. A PLAYER MAY GIVE THE  
3 CALLER A CARD WITH INSTRUCTIONS ON THE CARD TO PLAY THAT  
4 CARD AND ITS MARKED NUMBERS FOR UP TO THE NUMBER OF  
5 SUCCESSIVE GAMES THAT THE HOUSE ALLOWS AND THAT THE PLAYER  
6 HAS INDICATED ON THE CARD, UPON PAYMENT OF THE PRICE PER  
7 GAME TIMES THE NUMBER OF SUCCESSIVE GAMES INDICATED. THE  
8 PLAYER SHALL REMAIN ON THE HOUSE PREMISES UNTIL THE CARD IS  
9 PLAYED OR WITHDRAWN. THE CALLER SHALL KEEP THE CARD UNTIL  
10 THE END OF THE NUMBER OF GAMES INDICATED, AND THE DEPARTMENT  
11 MAY BY RULE PROVIDE THAT AT THAT TIME THE CALLER SHALL PAY  
12 THE PLAYER ANY PRIZES WON."

13 Section 40. Section 23-5-413, MCA, is amended to read:

14 "23-5-413. Raffle prizes ~~restricted~~ ~~exemption~~ ~~--~~  
15 PERMITS -- EXCEPTION. (1) Raffle prizes ~~must be in tangible~~  
16 ~~personal property only and not in money, cash, stocks,~~  
17 ~~bonds, evidences of indebtedness, or other intangible~~  
18 ~~personal property and must not exceed the value of \$1,000~~  
19 ~~for each individual raffle card ticket. It shall be is~~  
20 ~~unlawful to, in any manner, combine any awards so as to~~  
21 ~~increase the ultimate value of such award the prize awarded~~  
22 for each ticket.

23 (2) A separate permit must be issued by the board of  
24 county commissioners for each raffle conducted within its  
25 jurisdiction. The permit must be issued before the raffle

1 may be conducted. A person who has conducted a raffle must  
 2 submit an accounting to the board of county commissioners  
 3 within 30 days following the completion of the raffle. The  
 4 sale of raffle tickets authorized by this part is restricted  
 5 to events and participants within the geographic confines of  
 6 the state.

7 ~~{2}{3}~~ (a) The restrictions of subsection (1) do not  
 8 apply to a raffle conducted by a nonprofit corporation,  
 9 religious corporation sole, or other nonprofit organization  
 10 when if the corporation or organization is licensed  
 11 permitted by the board of county commissioners to conduct  
 12 the raffle. ~~A separate license shall be required for each~~  
 13 ~~raffle conducted.~~

14 (b) The nonprofit organization or corporation seeking  
 15 the license permission under subsection ~~{2}{3}~~(a) must shall  
 16 apply to the board of county commissioners for the license  
 17 permit and must provide the following information:

- 18 (i) the cost and number of raffle tickets to be sold;  
 19 (ii) the charitable purposes the proceeds of the raffle  
 20 are intended to benefit; and  
 21 (iii) the proposed prizes and their value.

22 (c) The proceeds from the sale of the raffle tickets  
 23 are to may be used only for charitable purposes or to pay  
 24 for prizes. The raffle prize must be in tangible personal  
 25 property only and not in money, cash, stock, bonds, evidence

1 of indebtedness, or other intangible personal property. None  
 2 of the proceeds may be used for the administrative cost of  
 3 conducting the raffle.

4 ~~{d}--The--corporation--or--organization--conducting--the~~  
 5 ~~raffle--must--submit--an--accounting--to--the--board--of--county~~  
 6 ~~commissioners--within--30--days--following--the--completion--of--the~~  
 7 ~~raffle;--The--person--or--persons--submitting--the--application--to~~  
 8 ~~the--board--of--county--commissioners--along--with--the--corporation~~  
 9 ~~or--organization--conducting--the--raffle--shall--be--responsible~~  
 10 ~~for--submitting--the--accounting--to--the--board--of--county~~  
 11 ~~commissioners."~~

12 **Section 41.** Section 23-5-414, MCA, is amended to read:  
 13 23-5-414. Restrictions on bingo, and keno, and raffles  
 14 ~~---bingo--or--keno--machines--in--establishment--limit---hours--of~~  
 15 ~~operation---exception. {1} In the playing of live bingo or~~  
 16 ~~keno, no a person who is not physically present on the~~  
 17 ~~premises where the game is actually conducted shall may not~~  
 18 ~~be allowed to participate as a player in the game.~~

19 ~~{2}--Raffles---authorized---by---this---part---shall---be~~  
 20 ~~restricted--to--events--and--participants--within--the--geographic~~  
 21 ~~confines--of--the--state--of--Montana.~~

22 ~~{3}--No---establishment---may---receive---licenses---under~~  
 23 ~~23-5-421--for--or--make--available--for--play--more--than--15--bingo~~  
 24 ~~or--keno--machines;--A--local--governing--body,--however,--may~~  
 25 ~~restrict--the--number--of--licensed--machines--available--for--play~~

*video poker & keno*  
*The entire video rewrite so it's complete in this document.*

1 in-an-establishment-to-less-than-15-but-must-allow-at-least  
2 5-

3 (4)--(a)-Except--as--provided--in--subsection--(4)(b)-an  
4 establishment-that-receives-a-license-to--make--a--bingo--or  
5 keno--machine--available-for-play-must-have-the-machine-shut  
6 off-each-day-during--the--hours--provided--in--16-3-304--for  
7 closure---of---licensed---retail---alcoholic---beverage  
8 establishments;

9 (b)--A-local-governing-body-may-establish-any-hours--of  
10 play--for-bingo-or-keno-machines-that-it-determines-proper:"

11 NEW SECTION. Section 42. Hours of play --  
12 restrictions ---penalty. (1) A live bingo or keno game must  
13 be closed for play between the hours of 2 a.m. and 8 a.m. of  
14 each day. However, in the jurisdiction of a local government  
15 where the live bingo or keno game is played, the local  
16 government may adopt an ordinance defining other hours of  
17 play within that jurisdiction;

18 (2)--A-violation--of--this--section--is--a--misdemeanor  
19 punishable--under--(section-23); HOWEVER, IN THE JURISDICTION  
20 OF A LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL  
21 GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2  
22 A.M. AND 8 A.M.

23 Section 43. Section 23-5-431, MCA, is amended to read:  
24 "23-5-431. Penalty Criminal penalty. Every A person  
25 who willfully purposely or knowingly violates or who

1 procures, aids, or abets in the willful a violation of this  
2 part or any ordinance, resolution, or regulation rule  
3 adopted pursuant thereto shall be deemed to this part is  
4 guilty of a misdemeanor and upon conviction shall be  
5 punished by a fine of not more than \$1,000 or imprisonment  
6 in the county jail for not more than 3 months, or both  
7 punishable pursuant to [section 23]."

8 Section 44. Section 23-5-602, MCA, is amended to read:

9 "23-5-602. Definitions. As used in this part, the  
10 following definitions apply:

11 (1) "Associated equipment" means all proprietary  
12 devices, machines, or parts used in the manufacture or  
13 maintenance of a video draw-poker gambling machine,  
14 including but not limited to integrated circuit chips,  
15 printed wired assembly, printed wired boards, printing  
16 mechanisms, video display monitors, and metering devices,  
17 and cabinetry.

18 (2) "Department" means the department of commerce;

19 (2) "Bingo machine" means an electronic video gambling  
20 machine that, upon insertion of cash, is available to play  
21 bingo as defined by rules of the department. The machine  
22 utilizes a video display and microprocessors in which, by  
23 the skill of the player, by chance, or both, the player may  
24 receive free games or credits that may be redeemed for cash.  
25 The term does not include a slot machine or a machine that

1 directly dispenses coins, cash, tokens, or anything else of  
2 value.

3 (3) "Draw poker machine" means an electronic video  
4 gambling machine that, upon insertion of cash, is available  
5 to play or simulate the play of the game of draw poker, as  
6 defined by rules of the department. The machine utilizes a  
7 video display and microprocessors in which, by the skill of  
8 the player, by chance, or both, the player may receive free  
9 games or credits that may be redeemed for cash. The term  
10 does not include a slot machine or a machine that directly  
11 dispenses coins, cash, tokens, or anything else of value.

12 (3)(4) "Keno machine" means an electronic video game  
13 gambling machine that, upon insertion of cash, is available  
14 to play or simulate the play of the game of keno or bingo as  
15 provided in part 4 of this chapter, utilizing defined by  
16 rules of the department. The machine utilizes a video  
17 display and microprocessors, in which, by the skill of the  
18 player, or by chance, or both, the player may receive free  
19 games or credits that can may be redeemed for cash. The term  
20 does not include a slot machine or a machine that directly  
21 dispenses coins, cash, tokens, or anything else of value.

22 (4) "Licensed establishment" means:

23 (a) with respect to the licensure of keno machines, an  
24 establishment that is licensed to sell alcoholic beverages  
25 for consumption on the premises or an establishment licensed

1 under 23-5-421; and

2 (b) with respect to the licensure of video draw poker  
3 machines, an establishment that is licensed to sell  
4 alcoholic beverages for consumption on the premises;

5 (5) "Licensee" means an individual, partnership,  
6 corporation, or association that has been issued a license  
7 by the department for the placement and operation of video  
8 draw poker machines or keno machines in the licensed  
9 establishment of the individual, partnership, corporation,  
10 or association;

11 (6) "Manufacturer-distributor" means an individual,  
12 partnership, corporation, or association that assembles,  
13 produces, and makes or supplies video draw poker machines or  
14 associated equipment for sale, use, or distribution in this  
15 state;

16 (7)(5) "Net machine income" means money put into a  
17 video draw poker or keno gambling machine minus credits paid  
18 out in cash.

19 (8) "Used keno machine" means a keno machine, as that  
20 term is defined in this section, that is owned or possessed  
21 by an applicant on the day he applies for a license for the  
22 used machine and that was owned or operated in the state  
23 prior to June 30, 1987;

24 (9) "Used video draw poker machine" means a video draw  
25 poker machine, as that term is defined in this section;

1 which--is--owned--or--possessed--by--an--applicant--on--the--day--he  
2 applies--for--a--license--for--the--used--machine--and--which--was  
3 owned--or--operated--in--the--state--prior--to--February--31--1984.

4 (10) "Video--draw--poker--machine"--means--an--electronic  
5 video--game--machine--that--upon--insertion--of--cash--is  
6 available--to--play--or--simulate--the--play--of--the--game--of--draw  
7 poker--as--provided--in--this--part--utilizing--a--video--display  
8 and--microprocessors--in--which--by--the--skill--of--the--player--or  
9 by--chance--or--both--the--player--may--receive--free--games--or  
10 credits--that--can--be--redeemed--for--cash--The--term--does--not  
11 include--a--machine--that--directly--dispenses--coins--cash--  
12 tokens--or--anything--else--of--value.

13 (6) "Video gambling machine manufacturer-distributor"  
14 means a person who assembles, produces, makes, OR supplies,  
15 or--repairs video gambling machines or associated equipment  
16 for sale, use, or distribution in the state."

17 Section 45. Section 23-5-603, MCA, is amended to read:

18 "23-5-603. Video draw-poker-or-keno gambling machines  
19 -- possession -- play -- hours-of-play-- restriction. (1)  
20 No-person-may-place-an-electronic-video-game-machine-that  
21 simulates--or--offers--a--game--of--poker--bingo--or--keno--in--his  
22 licensed-establishment-unless-he-is-licensed-under-23-5-612.  
23 A person may only make available for public play ONLY the  
24 NUMBER OF APPROVED video gambling machines specifically  
25 authorized by this part.

1 (2) The video gambling machines specifically  
2 authorized by this part are bingo, keno, and draw poker  
3 machines. A-person-may-not-make-available-for-public-play--a  
4 video-gambling-machine-unless-he-has-obtained-an-operator's  
5 license. Machines--licensed Only THE NUMBER OF APPROVED  
6 machines for which permits have been granted under 23-5-612  
7 are-legal--and-it-is-legal-to--play--such--machines--except  
8 that-a-person-under-the-age-of-18-years-may-not-play-a-video  
9 draw-poker-or-keno-machine may be made available for play by  
10 the public on the premises of a licensed operator. THE  
11 DEPARTMENT SHALL ADOPT RULES ALLOWING A VIDEO GAMBLING  
12 MACHINE THAT NEEDS REPAIR TO BE TEMPORARILY REPLACED WHILE  
13 IT IS BEING REPAIRED WITH A VIDEO GAMBLING MACHINE THAT IS  
14 APPROVED UNDER THE PERMIT PROVISIONS OF THIS PART. A FEE  
15 MAY NOT BE CHARGED FOR THE REPLACEMENT MACHINE.

16 (2)--Except--as--provided--in--subsection--(3)--an  
17 establishment--that--receives--a--license--to--make--a--video--draw  
18 poker-machine-available-for-play--must--have--the--machine--shut  
19 off--each--day--during--the--hours--provided--in--16-3-304--for  
20 closure--of--licensed--retail--alcoholic--beverage  
21 establishments.

22 (3)--A--local-governing-body--may--establish--any--hours--of  
23 play--for--video--draw--poker--machines--that--it--determines  
24 proper.

25 (4)--The--provisions--of--part--3--of--this--chapter--do--not

1 apply--to--or--prohibit--video--draw--poker--or--keno--machines--or  
2 the--playing--of--such--machines--

3 (3) MACHINES ON PREMISES LICENSED TO SELL ALCOHOLIC  
4 BEVERAGES FOR CONSUMPTION ON THE PREMISES MUST BE PLACED IN  
5 THE ROOM, AREA, OR OTHER PART OF THE PREMISES IN WHICH THE  
6 ALCOHOLIC BEVERAGES ARE SOLD AND NORMALLY CONSUMED."

7 Section 46. Section 23-5-611, MCA, is amended to read:

8 "23-5-611. State-license Machine permit qualifications  
9 -- limitations ---right-to-hearing. (1) (a) A person who has  
10 been--granted--a--license--under--16-4-401(2)--to--sell--alcoholic  
11 beverages--for--consumption--on--the--premises--may--be--granted--a  
12 license--for--the--placement--of--video--draw--poker--machines--in  
13 his--licensed--establishment; Only-a (A) A person who has been  
14 granted an operator's license under [section 11] and a  
15 license under--16-4-401(2) to sell alcoholic beverages for  
16 consumption on the premises OR WHO OPERATES AN ESTABLISHMENT  
17 FOR THE PRINCIPAL PURPOSE OF GAMING AND HAS BEEN GRANTED AN  
18 OPERATOR'S--LICENSE--UNDER--[SECTION--11] may be granted a  
19 permit for the placement of video gambling machines in his  
20 premises.

21 (b) --A--PERSON--WHO--HAS--BEEN--GRANTED--AN--OPERATOR'S  
22 LICENSE--UNDER--[SECTION--11]--AND--IS--NOT--ENTITLED--TO--A--PERMIT  
23 UNDER--SUBSECTION--(1)(A)--MAY--BE--GRANTED--A--PERMIT--FOR--THE  
24 PLACEMENT--OF--UP--TO--TWO--VIDEO--KENO--OR--BINGO--GAMBLING--MACHINES  
25 IN--HIS--PREMISES--IF--THE--PREMISES--HAVE--BEEN--LICENSED--FOR--THE

1 SALE--OF--FOOD,--CIGARETTES,--OR--ANY--OTHER--CONSUMABLE--PRODUCT  
2 OTHER--THAN--LIQUOR--OR--BEER;--IF--ONLY--ONE--MACHINE--IS--ALLOWED  
3 UNDER--SUBSECTION--(1)(E),--ONE--MORE--MAY--BE--ALLOWED--UNDER--THIS  
4 SUBSECTION--(B);

5 (c) (B) IF VIDEO KENO OR BINGO GAMBLING MACHINES WERE  
6 LEGALLY OPERATED ON A PREMISES ON JANUARY 15, 1989, AND THE  
7 PREMISES WERE NOT ON THAT DATE LICENSED UNDER--16-4-401(2) TO  
8 SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES OR  
9 OPERATED FOR THE PRINCIPAL PURPOSE OF GAMING AND THERE IS AN  
10 OPERATOR'S LICENSE FOR THE PREMISES UNDER [SECTION 11], A  
11 PERMIT FOR THE SAME NUMBER OF VIDEO KENO OR BINGO GAMBLING  
12 MACHINES AS WERE OPERATED ON THE PREMISES ON THAT DATE MAY  
13 BE GRANTED TO THE PERSON WHO HELD THE PERMIT FOR SUCH  
14 MACHINES ON THOSE PREMISES ON THAT DATE;--TO--AN--ANCESTOR,  
15 DESCENDANT,--SIBLING,--OR--SPOUSE--OF--THAT--PERSON;--OR--TO--A  
16 PERSON--WHO--PURCHASES--OR--LEASES--THE--BUSINESS--THAT--IS--ON--THE  
17 PREMISES;--IF--THE--BUSINESS--IS--MOVED--TO--ANOTHER--PREMISES,--THE  
18 PERMITEE--REMAINS--ELIGIBLE--FOR--THE--SAME--NUMBER--OF--PERMITS.

19 (b) (C) A PERSON WHO LEGALLY OPERATED AN ESTABLISHMENT  
20 ON JANUARY--1 JANUARY 15, 1989, FOR THE PRINCIPAL PURPOSE OF  
21 GAMING AND HAS BEEN GRANTED AN OPERATOR'S LICENSE UNDER  
22 [SECTION 11] MAY BE GRANTED A PERMIT FOR THE PLACEMENT OF  
23 BINGO AND KENO MACHINES IN HIS PREMISES.

24 (b) --Each--applicant--for--a--license--shall--on--the  
25 application--form--disclose--to--the--department--any--previous

1 experience--or--involvement--as--an--owner--or--operator--of  
2 gambling-devices-and-establishments;-Previous-experience--or  
3 involvement--includes:

4 (i)--controlling--of--gambling--devices--as--an--owner--or  
5 operator;

6 (ii)--employment-with-the-owner-or-operator-of--gambling  
7 devices;

8 (iii)--employment--in--establishments--where-gambling-is  
9 offered-to-the-public;-and

10 (iv)--conviction-of-violation-of-state-or-local-gambling  
11 laws-in-any-jurisdiction;

12 (2) A applicant for a permit shall disclose on the  
13 application form to the department any information required  
14 by the department consistent with the provisions of [section  
15 10].

16 (2)(3) A licensee may not have on the premises or make  
17 available for play on the premises of---his---licensed  
18 establishment more than five 20 10--KENO--AND--BINGO 20  
19 machines of any combination that are legal under--this--part  
20 AND NO MORE THAN 10 MAY BE DRAW POKER MACHINES. In the  
21 jurisdiction of a--local--government--where--video--gambling  
22 machines--are--played, the local government may by ordinance  
23 or resolution limit the number of video gambling machines to  
24 no less than five per operator premises; IN THE JURISDICTION  
25 OF A--LOCAL--GOVERNMENT--WHERE--VIDEO--GAMBLING--MACHINES--ARE

1 PLAYED, THE LOCAL GOVERNMENT MAY BY ORDINANCE OR RESOLUTION  
2 LIMIT THE NUMBER OF VIDEO GAMBLING MACHINES TO NO LESS THAN  
3 FIVE PER OPERATOR PREMISES AND NO MORE THAN ALLOWED BY THIS  
4 SECTION.

5 (3) A person denied a state license has the right to a  
6 hearing before the department. The hearing must be conducted  
7 in accordance with the provisions of the Montana  
8 Administrative Procedure Act."

9 Section 47. Section 23-5-612, MCA, is amended to read:  
10 "23-5-612. State--license Machine permits -- fee --  
11 used-keno-machines. (1) (a) The department, upon payment of  
12 the fee provided in subsection (1)(b) (2) and in conformance  
13 with rules adopted under 23-5-605 this part, shall issue to  
14 the licensee operator a license permit for each AN APPROVED  
15 video draw-poker-or-keno gambling machine.

16 (b)(2) The department shall charge an annual license  
17 permit fee of \$100 \$200 for each video draw--poker--machine  
18 and--\$100--for--each--keno gambling machine PERMIT. The  
19 department shall retain \$100 of the total license permit fee  
20 collected for purposes of administering this part--except  
21 23-5-615. The remaining \$100 must be returned on a quarterly  
22 basis to the local government jurisdiction in which the  
23 gambling machine is located. THE LOCAL GOVERNMENT PORTION OF  
24 THE FEE IS STATUTORILY APPROPRIATED TO THE DEPARTMENT, AS  
25 PROVIDED IN 17-7-502, FOR DEPOSIT IN THE LOCAL GOVERNMENT

1 TREASURY.

2 (3) The license permit expires on June 30 of each  
3 year, and the fee may not be prorated.

4 (2) A used keno machine may be licensed under  
5 subsection (1) without meeting the requirements of 23-5-609  
6 if the applicant for licensure can establish to the  
7 satisfaction of the department that, on the date of  
8 application, he owns or possesses a machine that was owned  
9 or operated in the state prior to June 30, 1987. A license  
10 issued under this subsection expires for all purposes no  
11 later than June 30, 1989.

12 (4) A USED KENO MACHINE MAY BE LICENSED UNDER  
13 SUBSECTION (1) WITHOUT MEETING THE REQUIREMENTS OF 23-5-609  
14 IF THE APPLICANT FOR LICENSURE CAN ESTABLISH TO THE  
15 SATISFACTION OF THE DEPARTMENT THAT, ON THE DATE OF  
16 APPLICATION, HE OWNS OR POSSESSES A MACHINE THAT WAS OWNED  
17 OR OPERATED IN THE STATE PRIOR TO JUNE 30, 1987. A LICENSE  
18 ISSUED UNDER THIS SUBSECTION EXPIRES FOR ALL PURPOSES NO  
19 LATER THAN JUNE 30, 1989.

20 Section 48. Section 23-5-631, MCA, is amended to read:

21 "23-5-631. Examination and approval of new video draw  
22 poker gambling machines and associated equipment -- fee. (1)  
23 The department shall examine and may approve a new video  
24 draw-poker machines gambling machine and associated  
25 equipment which is are manufactured, sold, or distributed

1 for use in this the state before the video draw-poker  
2 gambling machine or associated equipment is sold, played, or  
3 used.

4 (2) A video draw-poker gambling machine or associated  
5 equipment may not be examined or approved by the department  
6 until the video gambling machine manufacturer-distributor of  
7 the machine or associated equipment is licensed as required  
8 in 23-5-625.

9 (3) All video gambling machines approved by the  
10 department of commerce prior to [the effective date of this  
11 act] must be considered approved under this part.

12 (3)(4) The department shall require the  
13 manufacturer-distributor seeking the examination and  
14 approval of a new video draw-poker gambling machine or  
15 associated equipment to pay the anticipated actual costs of  
16 the examination in advance and, after the completion of the  
17 examination, shall refund overpayments or charge and collect  
18 amounts sufficient to reimburse the department for  
19 underpayments of actual costs.

20 (5) The department may inspect and test and approve,  
21 disapprove, or place a condition upon a video gambling  
22 machine prior to its distribution and placement for play by  
23 the public."

24 NEW SECTION. Section 49. Video gambling machine  
25 specifications -- rules. The department shall adopt rules

1 describing the video gambling machines authorized by this  
 2 part and stating the specifications for video gambling  
 3 machines authorized by this part. THE SPECIFICATIONS IN THE  
 4 RULES MUST SUBSTANTIALLY FOLLOW THE SPECIFICATIONS CONTAINED  
 5 IN 23-5-606 AND 23-5-609 AS THOSE SECTIONS READ ON SEPTEMBER  
 6 30, 1989. THE DEPARTMENT SHALL ADOPT RULES ALLOWING VIDEO  
 7 GAMBLING MACHINES TO BE IMPORTED INTO THIS STATE AND USED  
 8 FOR THE PURPOSES OF TRADE SHOWS, EXHIBITIONS, AND SIMILAR  
 9 ACTIVITIES.

10 **Section 50.** Section 23-5-616, MCA, is amended to read:

11 "23-5-616. Removal of machine from public access. If a  
 12 machine fails to meet the specifications and requirements of  
 13 23-5-606, 23-5-607, or 23-5-608 this part or any rule of the  
 14 department WHICH SPECIFICATION OR REQUIREMENT EXISTED AT THE  
 15 TIME THE MACHINE WAS APPROVED at any time after its initial  
 16 license permit has been issued, the licensee operator  
 17 shall immediately remove the machine from public access  
 18 until it meets all requirements."

19 **Section 51.** Section 23-5-625, MCA, is amended to read:

20 "23-5-625. ~~Manufacturer-distributor--of---video---draw~~  
 21 ~~poker-----machines~~ Video gambling machine  
 22 manufacturer-distributor -- license -- fees. (1) It is  
 23 unlawful for any person to assemble, produce, manufacture,  
 24 sell, or distribute OR supply, or repair any video draw  
 25 poker gambling machine or associated equipment for use or

1 play ~~in~~ this the state without having first been issued a  
 2 video gambling machine manufacturer-distributor's license by  
 3 the department.

4 (2) The department shall charge an annual license fee  
 5 of \$1,000 for the issuance or renewal of a video gambling  
 6 machine manufacturer-distributor's license.

7 (3) In addition to other license fees, the department  
 8 may charge the applicant a one-time video gambling machine  
 9 manufacturer-distributor's license application processing  
 10 fee. The processing fee may not exceed the department's  
 11 actual costs for processing an application.

12 (4) All video gambling machine  
 13 manufacturer-distributor's licenses expire on June 30 of  
 14 each year, and the license fee may not be prorated.

15 (5) The department shall retain the license and  
 16 processing fees collected for purposes of administering this  
 17 part, ~~except 23-5-615~~ unless otherwise provided."

18 **Section 52.** Section 23-5-610, MCA, is amended to read:

19 "23-5-610. Video draw-poker-and-keno gambling machine  
 20 net income tax -- records -- distribution -- quarterly  
 21 statement and payment. (1) Each A licensee AN OPERATOR  
 22 ISSUED A PERMIT UNDER THIS PART shall pay to the department  
 23 a video draw-poker-and-keno gambling machine tax of 15% of  
 24 net machine income from each video draw-poker-and-keno  
 25 gambling machine licensed under this part.

1 (2) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER  
 2 THIS PART shall keep a record of net machine income in such  
 3 form as the department may require. The records must at all  
 4 times during the business hours of the licensee be subject  
 5 to inspection by the department, ~~its agents, or employees.~~

6 (3) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER  
 7 THIS PART shall, within 15 days after the end of each  
 8 quarter, complete and deliver to the department a statement  
 9 showing the total net machine income from each video draw  
 10 poker ~~and keno~~ gambling machine licensed to him, together  
 11 with the total amount due the state as video draw poker ~~and~~  
 12 keno gambling machine net income tax for the preceding  
 13 quarter. The statement must contain such other relevant  
 14 information as the department may require.

15 (4) (a) The department ~~must deposit~~ shall forward  
 16 one-third of the tax collected under subsection (3) in to  
 17 the general fund.

18 (b) The department ~~must~~ shall forward the remaining  
 19 two-thirds of the tax collected under subsection (3) to the  
 20 treasurer of the incorporated county or the clerk, finance  
 21 officer, or treasurer of the city or town in which the  
 22 licensed machine is located, for deposit to the county or  
 23 municipal treasury. Counties are not entitled to proceeds  
 24 from taxes on income from video draw poker ~~and keno~~ gambling  
 25 machines located in incorporated cities and towns. The

1 two-thirds local government portion of tax collected under  
 2 subsection (3) is statutorily appropriated to the department  
 3 as provided in 17-7-502 for deposit to the county or  
 4 municipal treasury."

5 **Section 53.** Section 23-5-608, MCA, is amended to read:

6 "23-5-608. Limitation on amount of money played and  
 7 value of prizes -- payment of credits in cash. (1) A video  
 8 draw-poker-or-keno gambling machine may not allow more than  
 9 \$2 to be played on a game or award free games or credits in  
 10 excess of the ~~value of \$100 per hand~~ following amounts:

11 (a) \$100 a hand or \$800 \$800 \$100 a game for a video  
 12 draw poker machine; and

13 (b) \$800 a game for a video keno or bingo machine.

14 (2) Each A licensee shall pay in cash all credits owed  
 15 to a player as shown on a valid ticket voucher provided in  
 16 23-5-606(4)(k)."

17 **Section 54.** Section 23-5-607, MCA, is amended to read:

18 "23-5-607. Expected payback -- verification. The  
 19 department shall prescribe the expected payback value of one  
 20 credit played awarded to be at least 80% of the value of a  
 21 one credit played. Each video draw-poker-or-keno gambling  
 22 machine must have an electronic accounting device that the  
 23 department may use to verify the winning percentage. ~~The~~  
 24 ~~department may not publish or otherwise disseminate income~~  
 25 ~~figures and other statistics obtained in the payback~~

1 commence proceedings to revoke or suspend the licensee's  
2 video draw poker license:

3 (6) Any peace officer of this state may arrest a  
4 person for tampering with a video draw poker machine,  
5 attempting or conspiring to manipulate the outcome or the  
6 payoff of a video draw poker machine, or manipulating the  
7 outcome or payoff of a video draw poker machine by physical  
8 tampering or other interference with the proper functioning  
9 of the machine."

10 NEW SECTION. Section 57. Tampering with or  
11 manipulating video gambling machine -- penalty. (1) It is a  
12 felony to A PERSON COMMITS THE OFFENSE OF TAMPERING WITH A  
13 VIDEO GAMBLING MACHINE IF HE PURPOSELY OR KNOWINGLY  
14 manipulate MANIPULATES or attempt ATTEMPTS or conspire  
15 CONSPIRES to manipulate the outcome or payoff of a video  
16 gambling machine by physical tampering or other interference  
17 with the proper functioning of the machine.

18 (2) A violation of this section is a felony and must  
19 be punished in accordance with [section 24].

20 Section 58. Section 23-5-503, MCA, is amended to read:

21 "23-5-503. Rules. (1) The card used for recording the  
22 pool and upon which the squares or spaces appear shall  
23 clearly state indicate in advance of the sale of any chances  
24 the number of chances to be sold in that specific pool, the  
25 name of the event, the consideration to be paid for each

1 chance, and the total amount to be paid to the winners.

2 (2) No A chance to participate in a sports pool may  
3 not be sold other than upon the premises in which the sports  
4 pool is conducted. No An individual chance to participate in  
5 a sports pool shall may not be sold for a consideration in  
6 excess of ~~91 910 91 95~~, and the total amount to be paid to  
7 the winners of any individual sports pool shall may not  
8 exceed the value of ~~9100 9500~~. The winner of any sports pool  
9 shall receive a 100% payout of the value of the sports  
10 pool."

11 Section 59. Section 23-5-509, MCA, is amended to read:

12 "23-5-509. Penalty. Every A person who willfully  
13 purposely or knowingly violates or who procures, aids, or  
14 abets in the willful a violation of this part shall be  
15 deemed is guilty of a misdemeanor and upon conviction shall  
16 be punished by a fine of not more than \$17000 or  
17 imprisonment in the county jail for not more than 3 months,  
18 or both punishable pursuant to [section 23]."

19 Section 60. Section 23-5-1101, MCA, is amended to  
20 read:

21 "23-5-1101. Definition. As used in this part,  
22 "Calcutta pool" means a form of auction pool in which  
23 persons bid or wager money, with winnings awarded based on  
24 the outcome of an event, except that conducted by an  
25 organization qualified for exemption under 26-4-801

1 verification--process--or--contained-in-payback-verification  
 2 reports-in-a--manner--that--allows--or--helps--a--person--to  
 3 identify--a--particular--machine--or--to--match-a-particular  
 4 machine-with-a-particular-income-or-statistic;"

5 NEW SECTION. Section 55. Video gambling machines --  
 6 hours of play ---penalty. (1) A video gambling machine may  
 7 not be played between the hours of 2 a.m. and 8 a.m. each  
 8 day. However,--in--the--jurisdiction--of--a--local--government  
 9 where--the--video--gambling--machine--is--played,--the--local  
 10 government--may--adopt--an--ordinance--defining--the--hours--of--play  
 11 within--that--jurisdiction;

12 (2)--A--violation--of--this--section--is--a--misdemeanor  
 13 punishable--under--(section-23); HOWEVER, IN THE JURISDICTION  
 14 OF A LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL  
 15 GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2  
 16 A.M. AND 8 A.M.

17 Section 56. Section 23-5-613, MCA, is amended to read:  
 18 "23-5-613. Investigations--and--violations Violations.  
 19 (1)---The---department---or---duly---authorized---department  
 20 representatives--shall--make--necesary--investigations,--suspend  
 21 or--revoke--state--licenses--for--violations--of--this--part,--except  
 22 23-5-615,--and--hold--hearings--on--such--matters. A--license--may  
 23 be--suspended--prior--to--a--hearing--upon--a--finding--of--danger--to  
 24 public--health--and--welfare--but--may--not--be--revoked--until--the  
 25 hearing--is--completed;

1 (2)--A Unless otherwise provided in this part, A PERSON  
 2 WHO PURPOSELY OR KNOWINGLY VIOLATES OR PROCURES, AIDS, OR  
 3 ABETS a violation of this part,--except--23-5-615, or--a--rule  
 4 promulgated under--23-5-605 by--the---department OR AN  
 5 ORDINANCE, RESOLUTION, OR RULE ADOPTED UNDER THIS PART is  
 6 GUILTY OF a criminal--offense,--and--a--fine--not--to--exceed  
 7 \$10,000--for--the--first--violation--and--\$15,000--for--a--subsequent  
 8 violation--must--be--imposed misdemeanor punishable under  
 9 [section 23].

10 (3)--If--a--video--draw--poker--machine--is--operated--in  
 11 violation--of--this--part,--except--23-5-615,--it--may--be--seized  
 12 under--23-5-121--and--the--provisions--of--23-5-122--apply;

13 (4)--Employees--of--the--department--or--duly--authorized  
 14 department--representatives--designated--as--enforcement--agent,  
 15 may--investigate--the--background--of--license--applicants--to--the  
 16 extent--judged--necessary--by--the--department,--but--no--person--may  
 17 be--investigated--prior--to--his--submission--of--an--application  
 18 for--a--license;

19 (5)--(a)--Findings--of--suspected--illegal--activity--must--be  
 20 reported--to--the--appropriate--law--enforcement--agency;

21 (b)--The--clerk--of--the--court--shall,--upon--final--judgment  
 22 of--conviction--of--a--licensee,--report--to--the--department--the  
 23 name--of--the--licensee--convicted--of--violating--a--local--gambling  
 24 ordinance;

25 (c)--On--receipt--of--such--report,--the--department--may

1 50%(c)(3)-or-(c)(4)-and authorized by the department. The  
 2 Calcutta pool must be an auction pool in which:

3 (1) a person's wager is equal to his bid;

4 (2) the organization conducting the pool has no direct  
 5 interest in the pool;

6 (3) THE PROCEEDS FROM THE POOL, MINUS ADMINISTRATIVE  
 7 COSTS AND PRIZES PAID, ARE CONTRIBUTED TO A CHARITABLE OR  
 8 NONPROFIT CORPORATION, ASSOCIATION, OR CAUSE;

9 (4) the rules of the pool are publicly posted;

10 (5) no more than one wager for each competitor is  
 11 allowed;

12 (6) at least 50% of the total pool is paid out in  
 13 prizes;

14 (7) persons may not bid or wager money on any  
 15 elementary school or high school sports event; and

16 (8) the underlying event has more than two entrants."

17 **Section 61.** Section 23-5-1105, MCA, is amended to  
 18 read:

19 "23-5-1105. Penalty. Any A person who violates a  
 20 provision of this part is guilty of a misdemeanor and upon  
 21 conviction shall be fined not more than \$1,000 or imprisoned  
 22 in the county jail for a term not to exceed 3 months, or  
 23 both punishable pursuant to [section 23]."

24 **Section 63.** Section 17-7-502, MCA, is amended to read:

25 "17-7-502. Statutory appropriations definition--

1 requisites for validity:--(1) A statutory appropriation is  
 2 an appropriation made by permanent law that authorizes  
 3 spending by a state agency without the need for a biennial  
 4 legislative appropriation or budget amendment;

5 (2) Except as provided in subsection (4), to be  
 6 effective, a statutory appropriation must comply with both  
 7 of the following provisions:

8 (a) The law containing the statutory authority must be  
 9 listed in subsection (3);

10 (b) The law or portion of the law making a statutory  
 11 appropriation must specifically state that a statutory  
 12 appropriation is made as provided in this section;

13 (3) The following laws are the only laws containing  
 14 statutory appropriations:--2-9-202;--2-17-105;--2-18-012;  
 15 10-3-203;--10-3-312;--10-3-314;--10-4-301;--13-37-304;  
 16 15-25-123;--15-31-702;--15-36-112;--15-65-121;--15-70-101;  
 17 16-1-404;--16-1-410;--16-1-411;--17-3-212;--17-5-404;--17-5-424;  
 18 17-5-804;--19-8-504;--19-9-702;--19-9-1007;--19-10-205;  
 19 19-10-305;--19-10-506;--19-11-512;--19-11-513;--19-11-606;  
 20 19-12-301;--19-13-604;--20-4-109;--20-6-406;--20-8-111;  
 21 23-5-610; [section 24]; [section 39]; 23-5-1027; 33-31-212;  
 22 33-31-401;--37-51-501;--39-71-2594;--53-6-150;--53-24-206;  
 23 67-3-205;--75-1-1101;--75-7-305;--76-12-123;--80-2-103;  
 24 80-2-220;--82-11-136;--90-3-301;--90-3-302;--90-3-412;--90-4-215;  
 25 90-9-306;--90-15-101; section 13; House Bill No. 861; laws of

1 1985, and section 1, Chapter 454, Laws of 1987;  
 2 (4) There is a statutory appropriation to pay the  
 3 principal, interest, premiums, and costs of issuing, paying,  
 4 and securing all bonds, notes, or other obligations, as due,  
 5 that have been authorized and issued pursuant to the laws of  
 6 Montana; Agencies that have entered into agreements  
 7 authorized by the laws of Montana to pay the state  
 8 treasurer, for deposit in accordance with 17-2-101 through  
 9 17-2-107, as determined by the state treasurer, an amount  
 10 sufficient to pay the principal and interest as due on the  
 11 bonds or notes have statutory appropriation authority for  
 12 such payments; (in subsection (3), pursuant to sec. 157-Ch-  
 13 607, b-1987, the inclusion of 15-65-121 terminates June 30,  
 14 1989; pursuant to sec. 107-Ch-664, b-1987, the inclusion  
 15 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.  
 16 67-Ch-454, b-1987, the inclusion of sec. 17-Ch-454, b-  
 17 1987, terminates July 1, 1988.)"

18 **SECTION 62. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

19 "17-7-502. Statutory appropriations -- definition --  
 20 requisites for validity. (1) A statutory appropriation is an  
 21 appropriation made by permanent law that authorizes spending  
 22 by a state agency without the need for a biennial  
 23 legislative appropriation or budget amendment.

24 (2) Except as provided in subsection (4), to be  
 25 effective, a statutory appropriation must comply with both

1 of the following provisions:

2 (a) The law containing the statutory authority must be  
 3 listed in subsection (3).

4 (b) The law or portion of the law making a statutory  
 5 appropriation must specifically state that a statutory  
 6 appropriation is made as provided in this section.

7 (3) The following laws are the only laws containing  
 8 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
 9 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;  
 10 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101;  
 11 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;  
 12 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;  
 13 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;  
 14 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111;  
 15 23-5-610; 23-5-612; [section 29]; [section 38]; 23-5-1027;  
 16 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150;  
 17 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123;  
 18 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412;  
 19 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No.  
 20 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.

21 (4) There is a statutory appropriation to pay the  
 22 principal, interest, premiums, and costs of issuing, paying,  
 23 and securing all bonds, notes, or other obligations, as due,  
 24 that have been authorized and issued pursuant to the laws of  
 25 Montana. Agencies that have entered into agreements

1 authorized by the laws of Montana to pay the state  
 2 treasurer, for deposit in accordance with 17-2-101 through  
 3 17-2-107, as determined by the state treasurer, an amount  
 4 sufficient to pay the principal and interest as due on the  
 5 bonds or notes have statutory appropriation authority for  
 6 such payments. (In subsection (3): pursuant to sec. 15, Ch.  
 7 607, L. 1987, the inclusion of 15-65-121 terminates June 30,  
 8 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion  
 9 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.  
 10 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.  
 11 1987, terminates July 1, 1982.)"

12 NEW SECTION. SECTION 63. EXEMPTION FROM SUNRISE  
 13 PROVISIONS. THE PROVISIONS OF TITLE 2, CHAPTER 8, PART 2,  
 14 AND 5-4-207 DO NOT APPLY TO [THIS ACT].

15 NEW SECTION. SECTION 64. GAMING ADVISORY COUNCIL --  
 16 ALLOCATION -- COMPOSITION -- COMPENSATION -- ANNUAL REPORT.

- 17 (1) THERE IS A GAMING ADVISORY COUNCIL.  
 18 (2) THE GAMING ADVISORY COUNCIL IS ALLOCATED TO THE  
 19 DEPARTMENT FOR ADMINISTRATIVE PURPOSES ONLY AS PRESCRIBED IN  
 20 2-15-121.  
 21 (3) THE GAMING ADVISORY COUNCIL CONSISTS OF NINE  
 22 MEMBERS. ONE MEMBER MUST BE FROM THE SENATE, AND ONE MEMBER  
 23 MUST BE FROM THE HOUSE OF REPRESENTATIVES. THE SENATE  
 24 COMMITTEE ON COMMITTEES AND THE SPEAKER OF THE HOUSE OF  
 25 REPRESENTATIVES SHALL APPOINT THE LEGISLATIVE MEMBERS OF THE

1 COUNCIL. THE SEVEN REMAINING MEMBERS MUST BE APPOINTED BY  
 2 THE DEPARTMENT, WITH TWO ONE REPRESENTING THE PUBLIC AT  
 3 LARGE, TWO REPRESENTING LOCAL GOVERNMENTS, ONE BEING A  
 4 NATIVE AMERICAN, AND THREE REPRESENTING THE GAMING INDUSTRY.

5 (4) EACH GAMING ADVISORY COUNCIL MEMBER IS APPOINTED  
 6 TO A 2-YEAR 3-YEAR TERM OF OFFICE, EXCEPT THAT THREE OF THE  
 7 FIRST-APPOINTED ORIGINAL MEMBERS SHALL SERVE A 1-YEAR TERM,  
 8 THREE (INCLUDING BOTH LEGISLATIVE MEMBERS) SHALL SERVE A  
 9 2-YEAR TERM, AND THREE SHALL SERVE A 3-YEAR TERM. A MEMBER  
 10 OF THE COUNCIL MAY BE REMOVED FOR GOOD CAUSE BY THE  
 11 APPOINTING BODY PROVIDED FOR IN SUBSECTION (3).

12 (5) THE GAMING ADVISORY COUNCIL SHALL APPOINT A  
 13 CHAIRMAN FROM ITS MEMBERS.

14 (6) LEGISLATIVE MEMBERS OF THE GAMING ADVISORY COUNCIL  
 15 ARE ENTITLED TO COMPENSATION AND EXPENSES, AS PROVIDED IN  
 16 5-2-302, WHILE THE COUNCIL IS MEETING. THE REMAINING MEMBERS  
 17 ARE ENTITLED TO TRAVEL, MEALS, AND LODGING EXPENSES AS  
 18 PROVIDED FOR IN 2-15-501 THROUGH 2-18-503. EXPENSES OF THE  
 19 COUNCIL MUST BE PAID FROM LICENSING FEES RECEIVED BY THE  
 20 DEPARTMENT.

21 (7) THE GAMING ADVISORY COUNCIL SHALL, WITHIN ITS  
 22 AUTHORIZED BUDGET, HOLD MEETINGS AND INCUR EXPENSES AS IT  
 23 CONSIDERS NECESSARY TO STUDY ALL ASPECTS OF GAMBLING IN THE  
 24 STATE.

25 (8) (A) THE GAMING ADVISORY COUNCIL SHALL SUBMIT AN

1 ANNUAL REPORT TO THE DEPARTMENT, AT A TIME DESIGNATED BY THE  
 2 DEPARTMENT, WITH RECOMMENDATIONS FOR AMENDMENTS TO THE  
 3 GAMBLING STATUTES, THE NEED FOR ADDITIONAL OR MODIFIED  
 4 DEPARTMENT RULES, THE CLARIFICATION OF EXISTING RULES, AND  
 5 OTHER RECOMMENDATIONS ON THE OPERATION OF THE DEPARTMENT OR  
 6 ANY OTHER GAMBLING-RELATED MATTER.

7 (B) THE ANNUAL REPORT REQUIRED UNDER SUBSECTION (B)(A)  
 8 MUST BE AFFIXED TO THE ANNUAL DEPARTMENT REPORT ON GAMBLING  
 9 IN THE STATE. THE DEPARTMENT AND COUNCIL SHALL SUBMIT THE  
 10 TWO MOST RECENT DEPARTMENT AND COUNCIL REPORTS TO EACH OF  
 11 THE NEXT TWO REGULAR SESSIONS OF THE LEGISLATURE.

12 (C) THE COUNCIL MAY SUBMIT INTERIM REPORTS TO THE  
 13 DEPARTMENT AS THE COUNCIL CONSIDERS NECESSARY.

14 (D) THE COUNCIL SHALL MEET WITH THE DEPARTMENT UPON  
 15 REQUEST OF THE DEPARTMENT.

16 (E) THE DEPARTMENT SHALL MEET WITH THE COUNCIL UPON  
 17 REQUEST OF THE COUNCIL.

18 (9) THE DEPARTMENT SHALL GIVE EACH COUNCIL MEMBER  
 19 NOTICE AND A COPY OF EACH PROPOSED CHANGE IN ADMINISTRATIVE  
 20 RULES RELATING TO GAMBLING. THE NOTICE AND COPY MUST BE  
 21 GIVEN AT THE TIME A NOTICE OF PROPOSED RULES CHANGES IS  
 22 FILED WITH THE SECRETARY OF STATE. THE COUNCIL SHALL REVIEW  
 23 THE PROPOSAL, MAY COMMENT ON IT, AND MAY ATTEND ANY HEARING  
 24 ON THE PROPOSAL. THE DEPARTMENT SHALL CONSIDER ANY COMMENT  
 25 BY ANY COUNCIL MEMBER OR BY THE COUNCIL AS A WHOLE PRIOR TO

1 ADOPTING THE PROPOSED CHANGE.

2 NEW SECTION. SECTION 65. CONSTRUCTION. IN VIEW OF  
 3 ARTICLE III, SECTION 9, OF THE MONTANA CONSTITUTION. [THIS  
 4 ACT] MUST BE STRICTLY CONSTRUED BY THE DEPARTMENT AND THE  
 5 COURTS TO ALLOW ONLY THOSE TYPES OF GAMBLING AND GAMBLING  
 6 ACTIVITY THAT ARE SPECIFICALLY AND CLEARLY ALLOWED BY [THIS  
 7 ACT].

8 NEW SECTION. Section 66. Reorganization procedure.  
 9 The provisions of sections 2-15-131 through 2-15-137 govern  
 10 the transfer of the various functions contained in [this  
 11 act] from the department of commerce AND THE DEPARTMENT OF  
 12 REVENUE to the department of justice.

13 NEW SECTION. Section 67. Implementation. (1) The  
 14 governor shall by executive order implement the provisions  
 15 of [this act].

16 (2) The governor may by executive order assign to the  
 17 department of justice in a manner consistent with [this act]  
 18 functions allocated to the department of commerce AND THE  
 19 DEPARTMENT OF REVENUE by the 51st legislature relating to  
 20 the implementation of Title 23, chapter 5, parts 1 through  
 21 6, that are not transferred by [this act].

22 NEW SECTION. Section 68. Repealer. Sections 23-5-105  
 23 through 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124  
 24 through 23-5-127, 23-5-132 through 23-5-134, 23-5-141  
 25 through 23-5-144, 23-5-201 through 23-5-211, 23-5-301

1 through 23-5-303, 23-5-314 through 23-5-316, 23-5-322,  
 2 23-5-323, 23-5-332, 23-5-401 through 23-5-403, 23-5-411,  
 3 23-5-415 through 23-5-418, 23-5-421 through 23-5-423,  
 4 23-5-504 through 23-5-508, 23-5-510, 23-5-511, 23-5-601,  
 5 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618,  
 6 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103,  
 7 23-5-1104, MCA, are repealed.

8 NEW SECTION. SECTION 69. PRORATION OF CERTAIN FEES.  
 9 A FEE IMPOSED UNDER 23-5-321, 23-5-421, 23-5-612, 23-5-625,  
 10 OR 23-5-631 BETWEEN [THE EFFECTIVE DATE OF THIS SECTION] AND  
 11 OCTOBER 1, 1989, MUST BE PRORATED TO COVER ONLY THE PERIOD  
 12 BETWEEN THE DATE THE PERMIT OR LICENSE TAKES EFFECT AND  
 13 OCTOBER 1, 1989.

14 NEW SECTION. SECTION 70. APPROPRIATION. THE  
 15 FOLLOWING APPROPRIATION IS MADE FROM A STATE SPECIAL REVENUE  
 16 ACCOUNT TO THE DEPARTMENT OF JUSTICE FOR THE PURPOSE OF  
 17 IMPLEMENTING [THIS ACT] AND ADMINISTERING CHAPTER 5 OF TITLE  
 18 23:

19	<u>FISCAL YEAR BEGINNING JULY 1, 1989</u>	<u>\$527,081</u>
20	<u>FISCAL YEAR BEGINNING JULY 1, 1990</u>	<u>\$449,081</u>

21 NEW SECTION. Section 71. Extension of authority. Any  
 22 existing authority to make rules on the subject of the  
 23 provisions of [this act] is extended to the provisions of  
 24 [this act].

25 NEW SECTION. Section 72. Codification instruction.

1 (1) [Sections 1, 2, 4 through 8, 10 through 12, 16, 18  
 2 through 20, and 23 through 25] are intended to be codified  
 3 as an integral part of Title 23, chapter 5, part 1, and the  
 4 provisions of Title 23, chapter 5, part 1, apply to  
 5 [sections 1, 2, 4 through 8, 10 through 12, 16, 18 through  
 6 20, and 23 through 25].

7 (2) [Sections 27 through 29 and 32] are intended to be  
 8 codified as an integral part of Title 23, chapter 5, part 3,  
 9 and the provisions of Title 23, chapter 5, part 3, apply to  
 10 [sections 27 through 29 and 32].

11 (3) [Sections 35 through 39 38 and 43 42] are intended  
 12 to be codified as an integral part of Title 23, chapter 5,  
 13 part 4, and the provisions of Title 23, chapter 5, part 4,  
 14 apply to [sections 35 through 39 38 and 43 42].

15 (4) [Sections 50 49, 56 55, and 58 57] are intended to  
 16 be codified as an integral part of Title 23, chapter 5, part  
 17 6, and the provisions of Title 23, chapter 5, part 6, apply  
 18 to [sections 50 49, 56 55, and 58 57].

19 (5) The code commissioner shall recodify the  
 20 provisions of Title 23, chapter 5, part 11, as an integral  
 21 part of Title 23, chapter 5, part 7.

22 (6) [SECTION 64] IS INTENDED TO BE CODIFIED AS AN  
 23 INTEGRAL PART OF TITLE 2, CHAPTER 15, PART 20, AND THE  
 24 PROVISIONS OF TITLE 2, CHAPTER 15, APPLY TO [SECTION 64].

25 NEW SECTION. SECTION 73. COORDINATION INSTRUCTION.

1 (1) THE REFERENCE COPY OF HOUSE BILL NO. 576 OF THE 51ST  
 2 LEGISLATURE IS AMENDED TO INSERT, ON PAGE 2, LINE 9, AFTER  
 3 "23-5-609(4)(L)", THE PHRASE ", AS THAT SECTION READ ON  
 4 SEPTEMBER 30, 1989".

1 1989.

-End-

5 (2) THE REFERENCE COPY OF HOUSE BILL NO. 251 OF THE  
 6 51ST LEGISLATURE IS AMENDED TO CHANGE "LICENSE" TO "PERMIT"  
 7 ON PAGE 2, LINES 2 AND 13.

8 (3) THE REFERENCE COPY OF HOUSE BILL NO. 448 OF THE  
 9 51ST LEGISLATURE IS AMENDED TO DELETE THE AMENDMENTS MADE TO  
 10 23-5-104(1). SUBSECTION (1) OF 23-5-104 AND THE FIRST  
 11 SENTENCE OF 23-5-104(2) ARE DELETED, AS PROVIDED IN (SECTION  
 12 22), AND THE AMENDMENTS TO THE REMAINDER OF 23-5-104 BY  
 13 (SECTION 22) AND HOUSE BILL NO. 448 TAKE EFFECT.

14 NEW SECTION. Section 74. Severability. If a part of  
 15 [this act] is invalid, all valid parts that are severable  
 16 from the invalid part remain in effect. If a part of [this  
 17 act] is invalid in one or more of its applications, the part  
 18 remains in effect in all valid applications that are  
 19 severable from the invalid applications.

20 NEW SECTION. SECTION 75. EFFECTIVE DATES. (1)  
 21 [SUBSECTION (2) OF SECTION 7 AND SECTIONS 63 THROUGH 67, 69,  
 22 72, 73, AND THIS SECTION] ARE EFFECTIVE ON PASSAGE AND  
 23 APPROVAL.

24 (2) [SECTION 70] IS EFFECTIVE ON JULY 1, 1989.

25 (3) THE REMAINING SECTIONS ARE EFFECTIVE ON OCTOBER 1,

**JOHN K. WILLEMS**

BUREAU CHIEF

(406) 442-7325

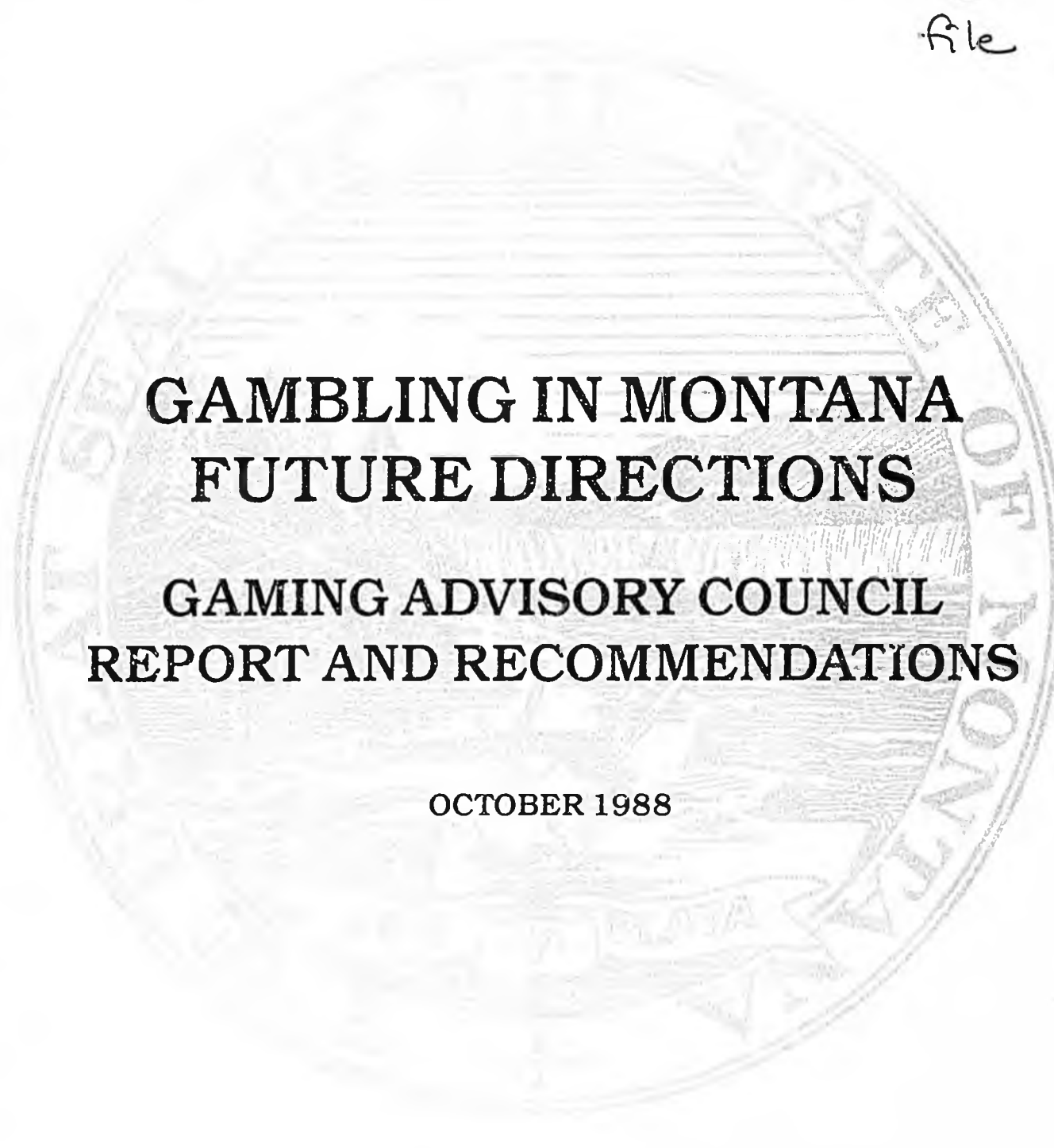


**STATE OF MONTANA**

VIDEO GAMING CONTROL BUREAU  
DEPARTMENT OF COMMERCE

1125 MISSOULA AVENUE  
HELENA, MONTANA 59620

Copy also  
in SB 263  
file

The seal of the State of Montana is faintly visible in the background. It features a central figure holding a bow and arrow, surrounded by the text "SEAL OF THE STATE OF MONTANA" and the date "1889".

**GAMBLING IN MONTANA  
FUTURE DIRECTIONS  
GAMING ADVISORY COUNCIL  
REPORT AND RECOMMENDATIONS**

OCTOBER 1988

## FOREWORD AND ACKNOWLEDGMENT

This report represents the commitment of time and talent of the nine council members, and of the very competent staff of the Department of Commerce of the State of Montana, without whose hard work this result would not have been possible. It is particularly important to thank Mr. Andy Poole, Mr. Brint Markle, Mr. John Willems and Ms. Kathy Anderson for their diligence and total support of the council, and Mr. Keith Colbo, whose good guidance caused this study to occur.

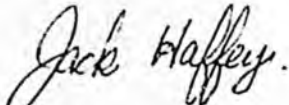
The subject matter is of course one that brings out strong opinions and feelings from most Montanans, either in support or opposition to gambling. It is clearly not a ho-hum issue for the people of our state.

We have endeavored to study the subject objectively and thoroughly - by researching existing statutes, surveying local governments, conducting public hearings and commissioning a survey of Montanans, as well as by conducting our several working meetings around Montana.

It is important for me to both thank my fellow council members for their hard and productive work, and to advise the readers of this report that these council members truly committed themselves to finding the best path for gambling in Montana's future - the path wanted by Montanans. It is my opinion that the objective nature of their work gives this report validity and credibility as a useful basis for action, both by the legislative and administrative branches of state government, as well as local governments in Montana.

It has been an honor to be part of this work. I express hope that it will serve the people of Montana well, through consideration and implementation of its recommendations.

Sincerely,



Senator Jack Haffey, Chairman  
Gaming Advisory Council

## PREFACE

The Gaming Advisory Council was established in January of 1988 upon the recommendation of Keith Colbo, director of the Department of Commerce, and upon subsequent approval of Governor Ted Schwinden. Statutory authority for the creation of the Gaming Advisory Council is found in 2-15-122, MCA.

In creating the Gaming Advisory Council, the Director of the Department of Commerce determined that gambling in Montana required serious study for the following reasons;

Gambling and wagering in various forms have far-reaching economic and social impacts upon the State of Montana and its citizens that necessitate control and regulation.

Title 23, Chapter 5, MCA, imposes on local and state governments the responsibility for controlling, regulating and taxing gambling, and this situation has resulted in fragmentation and disparity.

The 1987 legislature amended various parts of Title 23, Chapter 5 to the effect that the state of Montana is required to license video gaming machines (keno, bingo and poker) and to verify payback percentages and collect revenue from net machine income.

State and local departments and agencies are experiencing difficulty administering statutory provisions relating to video gaming machines, and this difficulty is due, in part, to interpretation of the gaming laws as written, and, in part, to existing structures and interrelationships of agencies to enforce those laws.

Given these administrative difficulties for all parties concerned including the industry being regulated by these statutes, Mr. Colbo asked that the Council conduct;

1. A review of existing legislation to correct technical defects in the existing statutes;
2. An analysis of potential legislation to modify the environment under which regulated gambling operates in the State;
3. A review of jurisdictional authority in gambling matters with respect to the following:
  - a. inequitable enforcement of existing gaming statutes across the state, and;
  - b. potential problems and remedies associated with

local-option gambling including types of games allowed, hours of play, regulation and enforcement of state and local statutes and ordinances, and law enforcement and regulatory problems crossing jurisdictional boundaries.

4. A review of the current gaming tax rate on video games; study of a potential tax on live games and pools; and, an analysis of the methods, laws and rules related to the collection of tax revenues.
5. A long term analysis of the direction the state of Montana is going and should be going in relation to gaming in the state including:
  - a. a review of the regulatory organizational structure in state and local governments;
  - b. some comment through analysis of the types and proliferation of games and gambling in Montana; and,
  - c. an analysis of the tax receipts available under various options discussed in (b), including some discussion of the higher social, regulatory and law enforcement costs associated with gaming.

The Director asked the Council that their analysis and advice include all existing and potential areas of gambling except the Montana State Lottery and the area of pari-mutual betting in the state. These areas were excluded because the state lottery has a statutory commission and, the Board of Horse Racing regulates pari-mutual betting. The Director felt that each of these statutory entities could provide their own recommendations for change if needed.

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## PART I: PUBLIC/INDUSTRY OUTREACH

In conducting the analysis requested by the Director of the Department of Commerce, the Gaming Advisory Council was acutely aware that the participation of all interested groups in the evaluation and eventual recommendation for change in the gambling regulatory environment was essential. Keeping this in mind, the recommendations included in this document represent input from numerous public and private associations and groups as well as the input from citizens of Montana.

### A: GAMING ADVISORY COUNCIL

In choosing the membership of the Gaming Advisory Council, the Department of Commerce attempted to choose individuals representing those parties closely associated with legal gambling in the state. Members of the council and their affiliations are as follows;

**Jack Haffey:** State Senator District 33; Chairman - Gaming Advisory Council

**Al Donohue:** Owner of Heritage Inn (Great Falls); Chairman - Tourism Advisory Council; Video Gaming Machine Licensee; Gaming Industry Association Member

**Harold Hanser:** Yellowstone County Attorney; Member - Board of Crime Control; State Youth Advisory Council

**Becky Erickson:** Owner - Sam's Supper Club (Glasgow); Glasgow City Council; Video Gaming Machine Licensee; Montana Tavern Owners Association Member

**Bill Ware:** Helena Police Chief; President - Montana Association of Chiefs of Police; Crime Control Drug Policy Committee

**Brad Schoepf:** Owner - Schoepf Amusement (Video Gaming Machine Supplier); Montana Coin Operators Association Member; Manufacturer/Distributor Licensee

**Bob Fletcher:** Owner - Cannery Lounge (Bozeman); Chairman - Montana Tavern Owners Association Gaming Committee; Video Gaming Machine Licensee

**Ed Kennedy:** Mayor - Kalispell; Kalispell City Gaming Commission; Montana League of Cities and Towns

**Mike McMeekin:** Lieutenant - Missoula Sheriff's Office

### B: MEETINGS AND PUBLIC HEARINGS

A number of meetings and public hearings were conducted across Montana during 1988 to receive input from citizens and interest groups in different geographic areas of the state. The council was encouraged by the fact that all parts of Montana shared the same general views regarding subjects under study by the council.

Meetings and public hearings were conducted in the following Montana locations;

January 1988 - Council meeting - Helena  
February 1988 - Subcommittee meetings - Great Falls  
Public Hearing - Great Falls  
Council Meeting - Great Falls  
March 1988 - Taxation subcommittee meeting - Missoula  
Legal review subcommittee - Helena  
April 1988 - Council Meeting - Helena  
Legal review subcommittee - Bozeman  
May 1988 - Taxation subcommittee - Helena  
June 1988 - Council meeting - Billings  
Public hearing - Billings  
Taxation subcommittee - Kalispell  
July 1988 - Public hearing - Kalispell  
- Council meeting - Kalispell  
August 1988 - Taxation subcommittee - Billings  
September 1988 - Council Meeting - Helena  
October 1988 - Council Meeting - Helena

Meetings conducted under the authority of the council dealt with a number of issues. Many of those meetings were well attended by persons in the industry as well as various interest groups including the Montana Association of Churches, the Montana Tavern Owners Association, the Gaming Industry Association, the Montana Association of Counties, the League of Cities and Towns, the Montana Coin Operators Association, representatives of many of the different Indian Tribes in Montana, legislators from across the state, and many other interested groups and individuals.

#### C: PUBLIC OPINION SURVEY

The Council also felt it was important to ask a number of critical questions of Montana adult citizens about gambling in Montana and the way in which it is regulated.

The Council contracted with the Survey Research Center at Montana State University to conduct a survey and during late April and early May of 1988, 635 interviews were completed. The interviews conducted were done in a manner which assured the Council that it adequately represented the opinions of both men and women, and all age groups over the age of seventeen.

The sample size of the survey is sufficiently large to predict statewide results with a margin of error due to chance of plus or minus four percentage points at the 95 percent confidence level. The results of the survey are incorporated within the text of this document and lend very strong support to most of the council recommendations.

## PART II : GAMING ADVISORY COUNCIL RECOMMENDATIONS

### A: COUNCIL ORGANIZATION

During the initial meeting of the council it was determined that because of the scope of work to be accomplished, subcommittees would be formed from the membership of the council. The task given to the council breaks out in logical issues related to three main areas. Those subcommittees formed include the following;

1. Subcommittee on Jurisdiction
2. Subcommittee on Taxation
3. Subcommittee on Legal Review

As mentioned earlier in this document, a number of subcommittee meetings were conducted across Montana to receive input on relevant issues. The remainder of this part of the report discusses the recommendations of the council with regard to these important issues.

B: RECOMMENDATIONS - SUBCOMMITTEE ON JURISDICTION

**Membership:** The subcommittee on jurisdiction includes Al Donohue, chairman, owner of the Heritage Inn, chairman of the Tourism Advisory Council, member of the Gaming Industry Association and a video gaming machine licensee; Jack Haffey, State Senator representing District 33; and Harold Hanser, Yellowstone County Attorney and a member of the Board of Crime Control.

**RECOMMENDATION 1. Create a Montana State Gaming Commission**

Current statutes in Montana segregate the powers and duties related to gaming regulation between the state and local governments. This segregation of duties has led to extremely diverse methods and degrees of control and regulation among the various governing bodies within the state. This has resulted in fragmentation and a gambling framework where certain type of gaming are strictly regulated in some jurisdictions while others have allowed gambling to occur without any regulation and in fact, some of those jurisdictions have allowed the provision of illegal gambling activities.

Of all of the legal forms of gambling in Montana, the legislature has given authority to state regulators only in the area of video gaming machines, specifically, video keno, video bingo and video poker. The regulation of video gaming, in the opinion of the council, has been for the most part beneficial to residents and the industry alike. State regulation has resulted in identical regulation and taxation statewide which has allowed the industry and the players a degree of confidence that the games being played and provided are uniform and legal in Montana. In addition, these games are providing a stable and much needed source of tax revenue for local governments. However, because of problems with statutory language, work needs to be done in this area and will be discussed later in this document.

All other forms of legal gambling in the state with the exception of the state lottery and horse racing are regulated or not, as the case may be, by local jurisdictions. These games include live poker, live keno, live bingo, raffles, sports pools and various other forms of live card games. Some local governments have created gaming commissions to oversee, tax and regulate these forms of gambling. Other local jurisdictions have ignored the potential and sometimes real problems associated with the gambling in their area. Therefore, a person can visit parts of this state which do not conform to any of the statutory provisions related to these forms of gambling and can in fact gamble in games which are clearly illegal such as punch boards, pull tabs, bookmaking, illegal video games, high stake poker

games etc. These facts are confirmed by a local government survey conducted by the council in which many local governments have no capacity to regulate the gambling in their area.

**Public Opinion Survey:** Findings from the public opinion survey clearly indicate that Montanans want uniformity in both the types of gambling allowed and in the regulation of that gambling. When asked whether or not they would support the creation of a state gaming commission, an overwhelming majority of the respondents (76%) favored the creation of a gaming commission.

This recommendation has been publicly supported by most persons and organizations giving testimony to the council during the last year. Persons and organizations supporting in concept the creation of a state gaming commission include the Montana Tavern Association, the Montana Association of Chiefs of Police, the Montana Association of Churches, the Gaming Industry Association, the Montana Sheriffs and Peace Officers Association, the United States Attorney for Montana, both candidates for the position of Attorney General in Montana, a number of city and local government officials, several of Montanas Indian Tribes and numerous private citizens and business people. All members of the Gaming Advisory Council support the creation of a gaming commission except for Bob Fletcher.

**RECOMMENDATION 2.** The Montana State Gaming Commission should have statutory authority to regulate all legal forms of gambling in Montana except the state lottery and horse racing.

Because of the disparity mentioned in the previous recommendation regarding the local regulation of legal gambling, the council recommends that the gaming commission should have the statutory authority to regulate all forms of legal gambling in Montana with the exception of the state lottery and horse racing. Without a statutorily created legal entity regulating legal gambling in the state, the rules and regulation under which that gambling occurs will always be diverse, and often times unfair in this state.

The local government survey conducted by the council clearly indicates the diversity of regulation in Montana for those forms of gambling not regulated by the state. Surveys were sent to all of the local government jurisdictions to find out a number of things including whether or not they had created a gaming commission, if they had adopted regulations related to the provision of legal gambling in their jurisdiction, and whether or not gambling was taxed by them. Of the 156 surveys forms mailed, 79% of those jurisdictions responded. Only 10% responding had created some governing regulatory body for gambling activities and over 50% had not adopted any rules or regulation related to gambling in their jurisdiction. Therefore, we can surmise that over 50% of the legal gambling in Montana not regulated by the state is unregulated.

The Gaming Advisory Council considered the possibility of combining the duties of a state gaming commission with the state lottery commission and rejected the idea because the purpose of each commission would be incompatible with the other.

The state lottery was created and exists to promote the sale of lottery products including instant tickets and electronic lotto games using machines similiar to the video gaming machines which currently exist in Montana. The lottery was given an advertising budget by the legislature for the purpose of promoting the sale of lottery products and is expected to function much as a private business would.

To ask one commission to promote the sale of gambling products in which it has a direct interest and statutory mandate to do so, and then to regulate and enforce statutes and rules on its competition, the private gambling industry in Montana, cannot work. Because of this fundamental conflict of interest, the Gaming Advisory Council recommends a separate gaming commission.

**Public Opinion Survey:** Findings from the public opinion survey clearly indicate that Montanans want uniformity in both the types of gambling allowed and in the regulation of that gambling. An overwhelming majority of the respondents to the public opinion survey (96%), indicated that they favored identical regulations statewide. When asked whether local governments should be allowed to legalize games not legal everywhere in the state (local option gambling), only 20% of the respondents were favorable.

**RECOMMENDATION 3.** The Montana State Gaming Commission should have statutory authority to regulate all illegal forms of gambling in Montana.

Through the work of the council, it has become very apparent that most of the local jurisdictions in Montana do not have the expertise or capacity to understand and regulate the gambling laws. With limited tax bases and budgets, gambling as a law enforcement issue has not been an important priority. This is one of the most pernicious issues that the council considered because those who would provide and participate in illegal gambling activities are unregulated and therefore cheat the local governments out of their legal taxing revenue from legal gaming, provide unfair competition and impair the business of those business persons involved in gaming who follow the rules and pay the taxes, consume the resources of those law enforcement agencies who choose to investigate and prosecute these illegal activities - and because these games are unregulated, the players are often cheated. By giving a state gaming commission authority to act against illegal gambling activity, we can minimize the potential harm to all Montanans.

In addition, a state gaming commission can acquire the expertise

necessary to limit these activities as well as providing local law enforcement with appropriate training. This would be a shared responsibility among the state gaming commission where the primary role at that level would be to investigate complaints of illegal activity and working in conjunction with local law enforcement and prosecutorial services, have the resources, training and commitment to stop the activity when found.

**RECOMMENDATION 4. Local option gambling should be prohibited.**

Because of the decision on the part of many jurisdictions not to control and regulate the legal gambling currently available, the council cannot recommend a mechanism which would allow those same jurisdictions to legalize games not legal everywhere in the state. This kind of gambling disparity would exacerbate the problems already being experienced statewide due to the fact that there isn't a gambling commission with authority to regulate all forms of gambling in the state. Local option gambling can also be expected to have a deleterious affect on local jurisdictions bordering a county or city which has adopted local option gambling. That jurisdiction would see none of the benefits from economic development or taxation related to the expanded gambling but would definitely feel the adverse affects of increased law enforcement and social service costs.

With further study and appropriate statutory control, it may be possible in the future that some jurisdictions meeting developed control criteria could be given authority to adopt forms of gambling not readily available throughout the state. This issue needs further study before that authority should be considered.

**Public Opinion Survey:** The survey found that 92% of the respondents want uniformity of gambling in the state. Only 20% felt that local governments should have the option of providing games over and above those games legal statewide. It is interesting to note that a survey question was asked about whether or not designated areas of the state should be allowed to legalize Nevada style gambling. When asked this question, a higher percentage supported this concept (38%) than supported local option gambling. This result suggests some support, although significantly less than 50%, for resort area gambling in Montana.

**RECOMMENDATION 5. No member of the gaming commission should have any financial interest in gaming activities.**

The council feels that the gaming commission, if established, should not include an individual having a monetary interest in a gambling activity. There are several strong reasons why the council supports this motion. There is a potential for a continuing conflict of interest on the part of the individual

every time the commission must make a decision which would have an impact on the personal finances of that individual. Even an appearance of a conflict of interest would be harmful to the integrity of the commission. In addition, there are several major industry groups having divergent goals in the area of gambling in this state. Representation of one group and not the others would create continuing administrative difficulties. The council also considered the fact that neither Nevada nor New Jersey, the other two large gambling states, has a commission member with a financial interest in gambling. The council does not intend to exclude any stockholder in a publicly traded corporation from being on the commission as long as that individual is a minority stockholder and does not serve in any decision making capacity for the corporation.

The council understands the importance of informed decision making and believes that the best solution to provide that informed input to the commission while avoiding the conflict of interest issue, is to create an advisory council to the commission which would include four industry representatives as well as two legislators, two representatives of local government and a public member. The advisory council would provide input to the commission on the need for new or modified rules and legislation. Recommendations of the council would be included with the annual report of the commission to the governor and the legislature.

This particular motion is favored by a majority of the Gaming Advisory Council members. Bob Fletcher, Brad Schoepf and Al Donohue do not agree with this recommendation and would support industry representation of the commission.

RECOMMENDATION 6. That the commission study gaming machine leases between manufacturers/distributors and gambling machine operators to determine if legislation or administrative rules are needed to correct any problems which may exist.

C: RECOMMENDATIONS : SUBCOMMITTEE ON TAXATION

**Membership:** The subcommittee on taxation includes Becky Erickson, co-owner of Sam's Supper Club in Glasgow, Glasgow City Council member, Montana Tavern Owners Association member, video gaming machine licensee; Ed Kennedy, Mayor of Kalispell, Kalispell gaming commission member, Montana League of Cities and Towns; and Brad Schoepf, owner of Schoepf amusement - a supplier of video gaming machines, Montana Coin Operators Association member, and a manufacturer/distributor licensee.

**RECOMMENDATION 1.** All forms of legal gambling in Montana should be taxed by the state.

There is no question that the provision of legal gambling results in higher administrative costs for those jurisdictions where that gambling occurs. These additional costs can be seen in the law enforcement area and the administrative clerical area and may be seen in higher social costs. These costs should be borne by those who choose to participate in this form of entertainment.

Local jurisdictions have the option to impose a fee on live games and video games operating within their jurisdictions. Some local jurisdictions take full advantage of this taxing authority while others do not. This again leads to a situation where a system has developed which is basically skewed. As an example, there are jurisdictions, such as within a city limit, where an operator of a live poker game will pay a high annual fee to provide that game to the public and within blocks, outside the city limit, another proprietor will pay nothing to have the same game which may in fact be more profitable. The jurisdictional costs associated for both the county and the city are affected by both operations. By analyzing the figures from the local government survey, it is estimated that less than 50% of the live games in Montana pay an annual fee to the local jurisdictions where they operate.

**Public Opinion Survey:** The survey found that 75% of the respondents feel that all forms of gambling including live games and video games should be taxed by the state.

**RECOMMENDATION 2.** That the taxes imposed on live card games should be in the form of an annual fee because of the difficulty in verifying income on live card games.

In order to reduce the administrative work related to the taxing of live card games, the council feels that it would be more appropriate and save administrative costs by charging an annual table fee. This fee should be progressively greater depending upon the number of tables operated in a particular establishment.

This progressive fee structure allows the very small operations to continue with a minimal tax and, as the operations become larger, assesses a higher annual fee.

**RECOMMENDATION 3.** The current tax of 15% of net machine income on video gaming machines is appropriate and should not be changed.

At the writing of this report, video gambling has been taxed by the state for one year. The receipts from that tax have been shared by the state and local governments with 1/3 going to the state general fund and 2/3 being returned to the local government where the tax was collected.

During this time period, the tax has resulted in revenues of approximately \$10,500,000. Each quarter the tax was collected resulted in a new record for video gambling receipts with the latest quarter showing tax revenues of 2.95 million. There is no question that this revenue, particularly for local governments, has been most timely. Based upon the last four quarters tax figures, proprietors of video gaming machines are realizing gross profits of approximately \$70,000,000. This averages out to about \$9,300 per machine for the 7,500 licensed machines in the state. This is not net profit for the owner of the machine however. The video gaming tax of 15%, state and federal income taxes along with license fees, equipment and maintenance expenses must be deducted from that amount.

**RECOMMENDATION 4.** The gaming commission should earmark a percentage of revenues coming from late payments, delinquent taxes and administrative fines for the training of licensees, the training of local law enforcement officials, and for providing assistance to persons with habitual gambling problems.

One of the greatest problems currently experienced in the regulation of video gambling as well as the local regulation of live games is the level of expertise on the part of both the licensees and law enforcement officials. Providing monies for the training of these individuals in the law and adopted administrative rules will go a long way toward alleviating regulatory problems.

Giving those licensees the knowledge necessary to operate their establishments and games in the manner provided by law, and local law enforcement personnel the training and expertise necessary to identify problems is highly recommended. This may seem straight forward, however it is not. Gambling just like many other things has entered the high tech 20th century. Understanding the games, equipment and rules associated with that equipment is not as easy as it would seem. Training in this area is essential for the well being of all concerned parties.

It is also necessary and desirable to provide funds for the provision of services for problem gamblers who are out of control. Gambling can and has destroyed the lives of individuals because they cannot control their gambling habits. It therefore makes sense that some of the funds received should be used to create or support programs such as gamblers anonymous.

**RECOMMENDATION 5.** That all currently authorized table games be required to pay an annual flat fee in lieu of a tax. The recommended fee schedule for those licenses are:

1. One table - \$250/yr.
2. Second table - \$750/yr.
3. Third and following tables - \$1,000/yr.

The state would retain \$100.00 for each table licensed for administrative purposes and the remainder of the fee should be forwarded to the City Clerk or County Treasurer where the table is located. The fee should be annual and should not be prorated.

This fee schedule is appropriate in the council's opinion because it allows the very small operator to pay a low fee for the first table and recognizes the income made by the larger operators and taxes them accordingly. The fee schedule is not excessive. When comparing it to the average tax paid on video gaming machines during the last year, the council considered the fact that each video gaming machine in Montana paid on average over \$900 in tax.

**Public Opinion Survey:** The survey found that 75% of the respondents felt that all forms of legal gambling in Montana should be taxed including live games and machine games.

**RECOMMENDATION 6.** That live bingo and live keno should be assessed a 3% gross proceeds tax.

The council spent a great deal of time and effort in trying to determine an easy and equitable way of taxing live bingo and keno. In studying this issue, several members of the council visited Washington State where live bingo is played for charitable purposes and taxed. It was very apparent from that visit that commercial bingo establishments have the potential to make considerable profits from that enterprise. As an example, Seattle Junior Hockey grossed approximately \$3,000,000 during 1987. This indicated to the council that a flat fee, or even a fee based upon occupancy rates would not result in a fair assessment of the true activity of the establishment.

The difference between this form of gambling and a live card game is that the number of players in a live card game is limited to no more than 10. A bingo or keno game can have a wide range of players and therefore does not fairly lend itself to a flat fee assessment as do live card games.

Public Opinion Survey: The survey found that 75% of the respondents felt that all forms of legal gambling in Montana should be taxed including live games and machine games.

RECOMMENDATION 7. That statutory authorization be given for the licensing of card dealers and keno/bingo callers. This license is to be valid statewide upon issuance. This authorization should include the following provisions;

1. A temporary or immediate license can be issued upon the verification of need. The only need considered should be verification of immediate employment.
2. The gaming commission will track all persons licensed or applying for license under this provision. This information will include a record of any violation of gambling laws. A conviction of a gambling statute shall be sufficient for the denial or immediate revocation of this license.
3. The gaming commission should be given the necessary rule making authority to establish licensing procedures including the provision of multi-year licenses and the authority to delegate temporary licensing authority to local governments. Further to give authority to use the Montana drivers license, Montana identification card, and the Montana Drivers Services Bureau in a licensing process if necessary.

Montana is one of the few states which has authorized live card games. The only method of regulating the persons running those games - the dealers - is to license them. A number of dealers working in Montana have worked in Nevada and other states. Questions should be asked and the background of the dealers should be verified through a licensing process.

D: RECOMMENDATIONS - SUBCOMMITTEE ON LEGAL REVIEW

Membership: The subcommittee on legal review includes Bill Ware, Helena Chief of Police, President - Montana Association of Chiefs of Police, Crime Control Drug Policy Committee; Mike McMeekin, Lieutenant - Missoula Sheriff's Office; Bob Fletcher, Owner of the Cannery Lounge in Bozeman, Chairman - Montana Tavern Owners Association Gaming Committee, and a video gaming machine licensee.

RECOMMENDATION 1. That a new license called an "Operator's License" be created which would provide a description of the "premises" in which the gaming would be provided; list all of the gaming license numbers and decal numbers at that premises; provide for the payment of one annual fee for all games and machines on the premises; and allow the state to collect all mandatory fees and distribute them to the local governments.

The council feels that it would be in the best interest of the state and the providers of legal gambling in Montana if an operator's license is created which provides the business person with the authority to operate the various individual games provided in that persons establishment. This licensing mechanism will reduce the administrative hardship necessary in licensing each individual game or device each year and provides an easy way to accomplish this task through one straightforward process. It is also necessary to license the owner or proprietor of the business in order to make that person accountable for the actions which take place in their establishment. Without this license, there is a real question of accountability when an enforcement action is necessary. Because the proprietor must pay for all of the games and devices incorporated within the operator's license, the council recommends that there be no fee for the operator's license.

RECOMMENDATION 2. That gaming laws be uniform statewide and that primary enforcement authority rests with the state. Local governments should have no options or ordinance making authority related to gambling except in the area of zoning.

There is no question that gaming regulation, whether in Billings, Libby or anywhere else in the state, should be uniform. At the writing of this report, less than 50% of the local governments in Montana actively regulate the gambling in their jurisdiction. Other than enforcing the statutes, local governments currently have the option of extending the hours of play from 18 to 24

hours, and the number of machines which can be located in an establishment as long as they allow at least five. It is the council's position that all areas of the state should by statute allow only 18 hours of play - between the hours of 8 a.m. and 2 a.m. It is also the opinion of the council that the state statutory limit on the number of machines remain at 20. This number of machines is not excessive and would allow a business owner wherever in the state that person is located, to operate under the same terms and conditions as any other operator.

This particular recommendation was discussed at length by the members of the council and there are specific local issues which some council members felt should be left at the local government level. Al Donohue felt that local governments should have the option of increasing the gaming hours to 24 if a local government chose to do so. Mr. Donohue also felt that the number of machines an establishment can operate should be determined by the marketplace - the number of machines which are economically profitable for a particular location. Mike McMeekin felt that local governments should have the option of licensing dealers and callers along with the state gaming commission.

**Public Opinion Survey:** Findings from the public opinion survey clearly indicate that Montanans want uniformity in both the types of gambling allowed and in the regulation of that gambling. An overwhelming majority of the respondents to the public opinion survey - 96% - indicated that they favored identical regulations statewide.

**RECOMMENDATION 3.** That gaming be limited to the hours between 8 a.m. and 2 a.m. of the following day.

The council supports the position that 24 hour gambling can create problems which, at this point in time, are not warranted given the attitude of the respondents to the survey. Those responding to the survey generally favor the existing forms of legal gambling and were not anxious to see an expansion. The commission believes that statewide 24 hour gambling would definitely be an expansion not desired by a majority of Montanans. It is also true that very few jurisdictions have adopted a resolution to go to 24 hour gambling.

This recommendation was not supported by Al Donohue who feels that local governments should have the option of allowing 24 hour gaming if they choose to do so.

RECOMMENDATION 4. That commercial gaming, with the exception of live keno and live bingo, be restricted to establishments licensed to sell alcoholic beverages for consumption on the premises.

The council feels that gambling and gaming must necessarily be exclusively available for adults who choose to play. The provision of gambling devices on premises generally available to any age group is not, in the opinion of the council, a responsible form of gambling regulation. While it is generally true that a minor, even if he or she should play a video gambling device, would not be able to receive the amount won without interacting with the clerk etc., the availability of gambling devices to minors without some "premises" related restrictions are not advisable and therefore we recommend the provision of gambling only for on premises consumption licensees. The exception to this recommendation would be live bingo and live keno where the individual must interact with an employee of the business before playing.

Public Opinion Survey: The survey found that 77% of the respondents feel that video poker should be limited to bars and that 63% of the respondents would restrict video keno and video bingo to bars.

RECOMMENDATION 5. That video gaming machines be limited to 20 per premises of any mix.

Current statute restricts the allowable number of keno, bingo and poker machines allowed in an establishment to a total of 20. Within that total, a premises can have no more than 5 poker machines and 15 keno and/or bingo machines for a total of 20. It makes no sense to the council that statute should determine the "mix" of legal video gaming machines allowable in an establishment. Therefore, the council recommends that the statutory limit of 20 be maintained but that the types of legal video gaming machines within that limit be at the discretion of the licensee.

Mr. Donohue did not agree with this council recommendation on the basis that it unfairly limits the larger hotel and motel operators who cannot accommodate all of their gambling customers because of these limitations.

RECOMMENDATION 6. That penalties be progressive, both administrative and criminal.

The council believes that a penalty scheme, in order to work well, for those who have broken either criminal laws or administrative rules, must be progressively severe. First time offenders will often change their ways without the extremely severe penalties necessary to deter or eliminate a threat from a career offender.

RECOMMENDATION 7. That gaming devices which are illegal to play in Montana, may be manufactured in Montana for out-of-state only by persons specially licensed for that purpose by the gaming commission.

Current Montana statutes make it illegal to possess any gambling device which is illegal for play in Montana. Unfortunately, there are a number of Montana manufacturers who have the capability and in fact are producing gambling equipment/ devices for export outside of Montana where those devices are legal. Strict interpretation of the statute would put these companies out of business in Montana and further impair the economic picture for the state. This does not make sense and we strongly recommend modification of the statute to enact this recommendation.

This recommendation was adopted by the council with one dissenting vote. Bill Ware did not agree with this council recommendation.

RECOMMENDATION 8. That the Gaming Commission be allowed to issue warrants of distraint for tax collection purposes.

The Gaming Advisory Council recommends that the commission be given the authority to attach property of individuals licensed by the commission who fail to pay statutory taxes related to gambling. As an example, this would give the commission authority to put a lien on a gaming machine or actually seize the machine if the taxes for the receipts on that gambling are not paid. The Department of Revenue currently has this statutory authority for tax collections under their authority and the council feels that this authority would be appropriate for the commission.

RECOMMENDATION 9. That the betting limit for all video gaming machines should not exceed the existing \$2.00 limit and that video gaming machines be allowed to offer games for play for less than 25 cents.

The existing betting limit for video gambling machines is \$2.00 and the advisory council believes that this betting limit is appropriate. The council further believes that existing statute should be changed to allow for the play of games at less than 25 cents. There are a number of people in Montana, both players and owners of machines, who want 5 cent and 10 cent machines to be legal. State statutes should be changed to accommodate this desire.

Public Opinion Survey: When asked if persons gambling in Montana should be limited in the amount of money they can bet, 68% of the respondents said that there should be a betting limit. Twenty five percent said there should not be a bet limit and seven percent had no opinion.

RECOMMENDATION 10. That the winning limit for all legal forms of gambling under the authority of the commission will not exceed \$800 per game.

Through the public testimony received by the council, it was made clear that the existing \$100 win limit for video poker machines is not proportional to the risk of the \$2.00 bet. As an example, the chances of getting a royal flush on a poker game are so low that a \$2.00 bet should statistically pay a much larger prize than the statutory \$100. The existing \$100 win limit is unfair to the players and should be changed.

Public Opinion Survey: The survey found that 48% of the respondents feel that there should be a limit on the amount an individual can win in a game while 44% feel that there should be no winning limit. This finding is within the margin of error of the survey and shows that Montanans are almost evenly divided on this issue.

RECOMMENDATION 11. That the betting limit for all legal live card games be defined by the Gaming Commission such that the winning limit does not exceed a maximum payout in any game in excess of \$800.

The betting limit and method of betting in legal live card games needs to be modified to reflect the way the games are played. The gaming commission should adopt betting rules which conform to the way in which the games are conducted. As in recommendation 10,

the council supports a winning limit of \$800 for legal live card games.

**Public Opinion Survey:** The survey found that 48% of the respondents feel that there should be a limit on the amount an individual can win in a game while 44% feel that there should be no winning limit. This finding is within the margin of error of the survey and shows that Montanans are almost evenly divided on this issue.

### PART III - GAMBLING IN THE FUTURE

#### A: GENERAL

The public opinion survey conducted on behalf of the council by the Survey Research Center in Bozeman asked a number of questions of those responding relevant to the role gambling should play in Montana. There is a consistent theme running through the results of the survey which indicates that Montanans are generally satisfied with the types of games which are legal in the state.

The level of support for continuing the currently legal games was associated with the degree of familiarity with the game. Except for calcuttas, people were reasonably familiar with most currently legal games. Calcuttas were the least familiar of the currently legal games - 35% were not familiar with calcuttas - and they received only a 40% approval to remain legal. Next in order, only 6% were not familiar with commercial sports pools and they received a 60% approval rating. At the other extreme, almost everyone was familiar with commercial bingo and raffles, and they received 81 and 76 percent approvals respectively.

No currently illegal game received more than a 50% support for legalization. Furthermore, there was no consistent pattern relating game familiarity with the degree of support. Almost everyone was familiar with slot machines and they received the highest rating of approval of any of the illegal games with 48%. Legalization of "21" was second with an approval rating for legalization of 47 percent. Each of these forms of gambling are within the margin of error due to the sample size and therefore might be favored for legalization by a small majority of the citizens of Montana.

The results of the survey and the information provided at public hearings and council meetings seems to indicate generally that most Montanans;

- are comfortable with the types of games currently legal;
- would not substantially favor the legalization of any currently illegal game;
- want the legal gambling which is available to be uniform across the state;
- want all forms of gambling to be taxed;
- want strong, uniform, statewide regulation;
- want the legislature to create a state gaming commission.

B: LEGALIZATION OF "21", PUNCHBOARDS AND PULL TABS.

Through the public testimony which the council heard, it is anticipated that a "21" bill will be introduced during the next legislative session. It is also likely that a "punchboard" and/or "pull-tab" bill will be introduced. The Gaming Advisory Council makes no recommendation regarding whether or not these forms of gambling should be legalized in Montana. The council does however recommend that any form of gambling legalized in the future in Montana come under the authority of the proposed Gaming Commission. The legalization of any form of gambling should occur only if that gambling is subject to the rules and regulations recommended for video gambling machines or the live card games act depending on the form in which it is legalized, that is, machine play or live play.

The subcommittee on taxation met with Mr. Richard Tessier, head of the Gaming Division of the North Dakota State Attorney General's Office. In discussing the gambling environment in North Dakota, Mr. Tessier indicated that North Dakota has legalized live "21" as well as "punchboards" and "pull tabs". North Dakota operates these games under the guidelines of charitable gambling but that difference is behind the scenes and has little affect on the players perception of the game, the operation of the game, or the adequate regulation of the game.

The Gaming Advisory Council upon the recommendation of the subcommittee on taxation recommends that, prior to the implementation or the actual playing of "21", punchboards, pull tabs, or any other form of currently illegal gambling activity;

1. stringent regulatory rules and laws are in place prior to the first game being played;
2. the regulatory agency must know the game and the pitfalls of the game if certain rules are not in place;
3. the state gaming commission or similar regulatory agency must be in place prior to implementation;
4. blackjack or "21" should be uniformly regulated in all 56 counties to include consideration of the use of card shoes, 4 to 6 deck minimums, color coded chips, licensing of "21" dealers etc.;
5. the commission should study and understand the potential problems with punch boards and pull tabs including the provision of insider information and the pointing out of "hot jars" by those with insider information.

Based upon the previous discussion, materials received from North Dakota which are available at the Department of Commerce, the complexity of gambling issues in general, the fact that there is no statewide gambling regulatory agency, and the potential for the public not being protected from improper or illegal gambling activity -- the Gaming Advisory Council recommends that the gaming commission be given six months from the date of passage and approval of any bill authorizing new forms of gambling to study all relevant materials including information from other states so that well thought out rules and procedures can be adopted before the game is played in this state.

#### C: AMUSEMENT GAME REGULATION

Amusement or carnival games are those games where a player bets or gambles that, either through chance or a combination of skill and chance, the player can perform a task which will result in winning a prize (not cash). This is a form of gambling in that the player is risking money for a chance to win something.

A number of states regulate amusement and carnival games in order to assure the player that the game is not "rigged" and that there is a reasonable expectation based upon the amount wagered and the prize offered that the player can win. Several of the council members visited Washington State and found that these types of games are licensed and regulated. Personnel from the Washington State Gambling Commission stated that, based upon their experience, cheating is present and a definite threat to the player of these games. Washington has instituted a licensing and regulatory function related to amusement and carnival games to protect the players, many of whom are children attending carnivals and amusement parks.

The council believes and has recommended that the gaming commission study and recommend a mechanism for regulating amusement and carnival games in Montana.

D: CHARITABLE GAMBLING

The Gaming Advisory Council recommends that the legislature adopt a statutory definition of Charity Gambling, and that the state gaming commission be authorized to adopt rules and regulations for charity gambling. It is not the intent of the council to propose any specific charity games. Should the legislature decide to authorize specific charity games, the council recommends that an appropriate legal mechanism be developed to do so. Likewise, issues such as whether charity gaming should be revenue neutral except for administrative costs or for revenue enhancement of the charity and the purpose for which it exists is not addressed by the council.

The following definitions are offered to illustrate the basic differences between commercial gambling and charitable gambling;

COMMERCIAL GAMBLING: Those forms of legalized gambling where the total amount wagered, less prizes, license fees and taxes belong to the licensee and may be used for any purpose.

CHARITABLE GAMBLING: Describes those forms of gambling authorized only for certain defined IRS qualified nonprofit and charitable organizations where the total amount wagered, less prizes, license fees, and taxes, belong to the licensee and, except for regulated administrative costs, can be used only for statutorily defined public purposes.

# APPENDIX A

## Part 1 Prohibited Games — Penalties

## Part 1

### Prohibited Games -- Penalties

23-5-101. Definitions. (1) "Gambling" and "gaming" are synonymous and mean risking any money, credit, deposit, check, property or thing of value for a gain contingent in whole or in part upon lot, chance or the operation of a gambling device or enterprise."

(2) "Gambling device or enterprise" means any mechanical, electromechanical or electronic device, machine, instrument, apparatus, scheme, system, or organization, including a system for processing information which can alter the normal criteria of random selection, employed, conducted or operated for the purpose of gambling.

(3) "Slot machine" means any mechanical, electrical, or other gambling device or enterprise, contrivance or machine which, upon insertion of a coin, token, credit card or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens or any thing of value whatsoever, whether the payoff is made automatically from the machine or in any manner whatsoever.

(4) A "lottery" or "gift enterprise" is any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining such property or a portion of it or for any share or interest in such property upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether it is called a lottery, gift enterprise, or by whatever name the same may be known; provided that this part shall not apply to lotteries authorized under Part 10 of this chapter; and provided further that the county fair commissioners of agricultural fairs and rodeo associations in this state may give away at such fairs and rodeos cash or merchandise attendance prizes or premiums by public drawings.

(5) In addition to their ordinary meaning, the words "person" or "persons", as used in this part, include both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious, fraternal, and charitable organizations.

(6) "Commission" means the Montana state gaming commission.

(7) "Public" means, in the context of this chapter, except for Part 10, means a place, building, or conveyance to which the public has or may be permitted to have access and any place of public resort, including, but not limited to, facilities owned, managed, or operated by partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious, fraternal, and charitable organizations.

(8) A person is engaged in "commercial gambling" when, acting other than as a player, he owns, operates, or makes available for play in public any gambling device or enterprise in anticipation of receiving any remuneration, or any of the proceeds of, the gambling activity.

(9) "Operator" is any person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for public use any gambling device or enterprise authorized by this chapter, except for Part 10.

(10) "Manufacturer" is any person who assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device or enterprise.

(11) "Distributor" is any person who purchases or obtains equipment of any kind for use in gambling activities from any person and sells or otherwise furnishes such equipment to another person for use in public.

(12) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as set out and approved on an operator's license application.

(13) "video gambling machine" is a machine specifically authorized by part 6 and the rules of the commission.

23-5-102. Gambling prohibited -- penalty. Except as specifically provided by statute and/or the rules of the commission, all forms of gambling, lotteries, and gift enterprises are illegal.

23-5-103. Possession of illegal gambling device or enterprise prohibited - exception. (1) Except as provided in subsection (2), Any person who has in his possession or under his control or who permits to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by him or under his management or control any illegal gambling device or enterprise shall be punished in accordance with the laws of this chapter, provided that this section shall not apply to a public officer or to a person coming into possession thereof in or by reason of the performance of an official duty and holding the same to be disposed of according to law.

(2) The commission may adopt rules to license persons to manufacture gambling devices not legal in Montana for export outside of Montana. No person may manufacture or possess any illegal gambling device without first having obtained a license from the commission specifically for this purpose. The commission may charge an administrative fee for this license which must be commensurate with costs.

23-5-104. Possession of antique Slot machines. (1) An antique slot machine is a slot machine manufactured prior to 1950, the operation of which is exclusively mechanical in nature and is not aided in whole or in part by any electronic means.

(2) Except as provided in subsection (3), antique slot machines may be possessed, located, and operated only in private residential dwelling.

(3) Antique slot machines may be possessed or located for purposes of display only and not for operation in any public museum owned and operated by the state of Montana, or a county, or a city.

(4) No antique slot machine may be operated for any commercial or charitable purpose.

23-5-107. Obtaining money by operation of illegal gambling device or enterprise. Obtaining money, property or anything of value by cheating, fraud, or the use of an illegal gambling device or enterprise not exceeding \$300 is punishable as a misdemeanor. Obtaining money, property, or anything of value by cheating, fraud, or the use of an illegal gambling device or enterprise exceeding \$300 is punishable by a fine of not less than \$500 or more than \$5,000 or imprisonment of not less than 1 year or more than 10 years, or both.

23-5-108. Soliciting or persuading persons to play illegal gambling devices or enterprises prohibited. Any person who persuades, advertises or solicits another to play or engage in the use of an illegal gambling device or enterprise is punishable as a misdemeanor.

23-5-121. Duty of public officials and peace officer(s) -- negligence. (1) It is the duty of all public officials to inform against, make complaint and diligently prosecute any person whom they know or concerning whom they may be informed or have reasonable cause to believe to be offenders of the provisions of this chapter.

(2) It is the duty of every peace officer to seize any illegal gambling device or enterprise and to arrest any person actually or apparently in possession or control thereof, and to bring the illegal gambling device or enterprise, and the prisoner, if there be one, before a magistrate.

(3) This section does not apply to antique slot machines, the possession, location, or use of which is authorized by 23-5-104.

(4) Any public official or peace officer who refuses or neglects to perform any of the duties imposed upon him by any of the provisions of this chapter shall be punished in accordance with 23-5-144, and any such prosecution shall not bar or interfere with any proceeding or action for removal from office.

23-5-122. Destruction of gambling apparatus -- when required. The magistrate before whom any illegal gambling device or enterprise is brought pursuant to 23-5-121 must, if there is a prisoner and if he holds such prisoner, cause the illegal gambling device or enterprise to be delivered to the county attorney to be used as evidence on the trial of such prisoner. If there is no prisoner or if the magistrate does not hold the prisoner, the magistrate must cause the immediate and public destruction of the gambling device or enterprise in his own presence. No person owning or claiming to own any such gambling device or enterprise so destroyed has any right of action against any person or against the state, county, or city for the value of such article, for any monies found within or upon such article, or for damages. It is the duty of the county attorney to produce such articles in court on the trial of the case. It is the duty of the trial court, after the disposition of the case and whether the defendant is convicted, acquitted, or fails to appear for trial, to cause the immediate and public destruction of any such article by the sheriff or any other officer or person designated by the court.; provided that the court may, upon request, authorize the commission to possess such article to be used for training purposes, or other disposition as deemed appropriate by the commission.

23-5-123. Disposal of money confiscated by reason of violation of gambling laws. All fines, penalties, forfeitures, or confiscated money, imposed or collected, whether by criminal, civil, or administrative process, for violation of any of the provisions of this chapter or rules of the commission shall be deposited in a special revenue account for use by the commission in training law enforcement personnel, training persons licensed under the authority of the commission, and for funding programs designed to treat persons with habitual gambling problems.

23-5-131. Losses at gambling may be recovered in civil action. If any person, by playing or betting at any illegal gambling device or enterprise loses to another person any sum of money or thing of value and pays or delivers the same or any part thereof to any person connected with the operating or conducting of such game, either as owner, dealer, or operator, the person who so loses and pays or delivers may, at any time within 60 days next after the loss and payment or delivery, sue for and recover the money or thing of value so lost and paid or delivered or any part thereof from any person having any interest, direct or contingent, in the game as owner, backer, or otherwise, with costs of suit, by civil action before any court of competent jurisdiction, together with exemplary damages which in no case shall be less than \$50 or more than \$500, and may join as defendants in said suit all persons having any interest, direct or contingent, in such illegal gambling device or enterprise as backers, owners, or otherwise.

23-5-132. Remedy available to dependents. If any person losing such money or thing of value does not, within 60 days, without collusion or deceit, sue and with effect prosecute for the money or thing of value so lost and paid or delivered, any person or a guardian of any person dependent in any degree for support upon or entitled to the earnings of such persons losing said money or thing of value or any citizen for the use of the person so dependent may, within 1 year, sue for and recover the same, with costs of suit and exemplary damages as aforesaid, against any and all person having any interest, direct or contingent, in the illegal gambling device or enterprise as backers, owners, or otherwise.

23-5-133. Pleadings in actions to recover money lost. In the prosecutions of such actions it shall be sufficient for the complaint to allege that the defendant is indebted to the plaintiff's use the money or thing of value so lost and paid or delivered, whereby the plaintiff's action accrued to him or to the person for whose use the suit is brought, without setting forth the special matter. In case suit is brought by a plaintiff for the use of another person, that fact and the name of the person for whose use the suit is brought shall be stated.

23-5-134. Discovery. Every person liable in a civil action under this part may be compelled to answer, upon oath, interrogatories annexed to the complaint in such civil action for the purpose of discovery of his liability.

23-5-135. Discharge of defendant. (1) Upon discovery and repayment of the money or other thing, the person discovering and repaying the same, with costs and such an amount of exemplary damages as may be agreed upon by the parties or fixed by the court, shall move to have the case against him dismissed.

(2) Any civil case brought for the recovery of a gambling debt shall not bar or interfere with, for reasons of double jeopardy or otherwise, any other proceeding or action, whether criminal, civil or administrative, which may be taken against such person under the laws of this state.

(3) Any case founded upon violation of the laws of this chapter shall be forwarded by the clerk of court to the commission.

23-5-142. Ordinances concerning gambling. All local governments are prohibited the exercise of the power to regulate any form of gambling, lotteries, or gift enterprise, except as specifically authorized and delegated in this chapter.

23-5-143. Lessor of buildings used for gambling purposes treated as principal. Whenever premises are occupied for the operation, playing or storage of an illegal gambling device or enterprise, the lease or agreement under which they are so occupied shall be absolutely void at the instance of the lessor, who may at any time obtain possession by civil action or by action of unlawful detainer. If any person leases premises for any such purpose or knowingly permits them to be used or occupied for such purpose or purposes or, knowing them to be so occupied or used, fails immediately to prosecute in good faith an action or proceeding for the recovery of the premises, such lessor shall be considered in all cases, civil and criminal, as a principal in operating, playing, or storing such illegal gambling device or enterprise in such building in violation of this chapter and shall be dealt with and punished accordingly.

23-5-144. Maintaining gambling apparatus a nuisance. Any article, machine, or apparatus maintained or kept in violation of any of the provisions of this part is a public nuisance, but the punishment for the maintaining or keeping of the same shall be as provided in this chapter.

# APPENDIX B

## Part 2

### Montana State Gaming Commission

Part 2

Montana State Gaming Commission

23-5-201. Short title. This part may be cited as the "Montana State Gaming Commission Act of 1989".

23-5-202. Public policy of state concerning gambling. (1) The legislature finds that for the purposes of ensuring the proper provision of a gambling environment in Montana, it is necessary and desirable to create a Montana gaming commission in order to:

(a) create and maintain a uniform regulatory climate which assures players, owners, tourists, citizens and others that the gambling industry in Montana is fair and that the industry is not influenced by corrupt practices or persons.

(b) protect the gambling industry from unscrupulous players, vendors or influences which would be detrimental to the viability of the legal gambling community;

(c) protect the public from unscrupulous proprietors and operators of legal or illegal gambling establishments, games and devices;

(d) protect the state and local governments from those who would illegally conduct gambling in such a manner as to defraud those governments from their legal taxing revenue;

(e) protect the health, safety and welfare of all citizens of the state, including those who do not gamble, by regulating the industry in a manner which inhibits the growth of illegal activities;

(f) promote and fund programs necessary to provide assistance to those who are adversely affected by legalized gambling including compulsive gamblers and their families;

(2) The Montana legislature adopts the policy that no applicant for a license or other affirmative commission approval has any right to a license or the granting of the approval sought. Any license issued or other commission approval granted pursuant to the provisions of this chapter except part 10 is a revocable privilege, and no holder acquires any vested right therein or thereunder.

(3) The determination of suitability for licensure is totally within the authority of the commission and is not subject to judicial review.

(4) Revenue to fund the expense of administration and control of gambling as regulated by this chapter will be derived solely from fees, taxes and penalties on legal and illegal gaming activities, except the Montana State Lottery and the pari-mutuel industry.

(5) The commission is hereby given authority to adopt rules necessary to implement this chapter except part 10 and further, to adopt rules which assure that gambling will not impair the health, safety, morals, good order and general welfare of the inhabitants of the State of Montana.

(6) Unless otherwise provided, the commission is hereby given authority to adopt rules to license and regulate the gambling activities of any class of individuals working or receiving a monetary benefit as a result of employment or ownership in a gambling enterprise except the state lottery and the pari-mutuel industry. License fees adopted for this purpose shall be commensurate with the costs of regulation.

23-5-203. Purpose. (1) The purpose of this part is to create a Montana State Gaming Commission to enforce the statutes and adopt rules related to all forms of legal gambling, including amusement and carnival games with the exception of the Montana State Lottery and the pari-mutuel industry.

(2) The gaming commission is also given authority to act against persons, establishments, devices, implements, or any other thing which may be used for gambling purposes which are prohibited by the Montana Constitution or other statutes.

23-5-204. Definitions. As used in this part the following definitions apply:

(1) "Commission" means the Montana state gaming commission created by 23-5-206.

(2) "Administrator" means the administrator of the state gaming commission appointed by the commission under 23-5-209.

(3) "Department" means the department of commerce.

(4) "Applicant" means any person who has applied for or is about to apply for any license issued by the commission, or approval of any act or transaction for which commission approval is required or permitted under the provisions of this chapter except part 10.

(5) "Application" means a request for the issuance of any license issued under the authority of the commission, or for approval of any act or transaction for which commission approval is required or permitted under the provisions of this chapter except part 10.

(6) "License" means the documentary approval required by state statute or the rules of the commission needed to conduct, participate, sell, lease, possess, or in any other way have an interest as determined by the commission in gambling activities or devices. No license issued under the authority of the commission is valid for more than a period of one year.

23-5-205 reserved.

23-5-206. Montana state gaming commission - allocation - composition - compensation - quorum. (1) There is a Montana state gaming commission.

(2) The commission consists of five members, who shall be appointed by the governor, and confirmed by the state senate. The commission members must be residents of the state of Montana.

(3) After initial appointments, each commissioner shall be appointed to a 4-year term of office, and the terms shall be staggered in accordance with 2-15-124.

(4) A commissioner may be removed by the governor for good cause. An office that for any reason becomes vacant must be filled within 30 days by the governor, and the commissioner filling the vacancy shall serve the rest of the unexpired term.

(5) The governor shall appoint the chairman of the commission.

(6) Three or more commissioners constitute a quorum to do business, and action may be taken by a majority of the quorum.

(8) The chairman is entitled to annual compensation of \$6,000. Other commissioners are entitled to annual compensation of \$5,000. Each commissioner shall be entitled to travel, meals and lodging as provided for in Title 2, chapter 18, part 5.

(9) The commission is allocated to the department of commerce for administrative purposes only.

(10) The commission is a quasi-judicial agency for the purposes of 2-15-124.

(11) The commission is a criminal justice agency, and designated employees and duly authorized commission representatives are granted peace officer status with powers of search, seizure, and arrest to regulate and control all legal and illegal gambling activities in the state with the exception of Title 23, Chapter 4, and Title 23, Chapter 5, Part 10.

23-5-207. Powers and duties of commission. The commission shall:

- (1) devote such time to the business of the commission as is necessary to the discharge of their duties;
- (2) meet at least once each month to conduct business;
- (3) provide training opportunities for licensees, giving them the information necessary to be responsible members of the legal gambling community;
- (4) provide training opportunities for local law enforcement personnel, giving them the information necessary to enforce the state gambling laws;
- (5) cause to be made and keep a record of all proceedings at regular and special meetings of the commission, and maintain a file of all applications for licenses issued under the authority of the commission, together with a record of all final actions taken with respect to license applications. These files and records will be open to public inspection;
- (6) maintain confidential records not open to public inspection concerning the finances, earnings, revenues, criminal records, antecedents and background relating to any applicant for licensure under the authority of the commission;
- (7) be granted access to all files, records, reports and other information pertaining to gaming matters in the possession of the Montana department of revenue upon demand;
- (8) inspect and examine all premises wherein gambling devices or equipment is stored, manufactured, sold, distributed or operated; inspect all equipment, supplies and records in, upon or about such premises pertaining to gambling matters;
- (9) demand access to and inspect, examine, photocopy and audit all papers, books and records of applicants and licensees, on their premises, or elsewhere as practicable, and in the presence of the licensee or his agent, respecting gross income produced by any gaming enterprise, and require verification of income, and all other matters affecting the enforcement of the policy or any provisions of this chapter except Part 10;
- (10) issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the commission or before its authorized agents conducting the investigation;
- (11) adopt rules to inspect, approve and license any form of gambling within the policies, guidelines and limitations established by the legislature except for Title 23, Chapter 4 and Title 23, Chapter 5, Part 10;
- (12) adopt rules to investigate, approve and license any individual associated with gambling activities in this state subject to the policies, guidelines and limitations established by the legislature except for Title 23, Chapter 4 and Title, Chapter 5, Part 10. Licensing fees adopted by the commission for the purpose of licensing individuals must be commensurate with costs unless otherwise provided for in this chapter;

- (13) conduct a continuing study of gambling in other states in order to make gambling secure from violations of the law;
- (14) conduct a continuing study of all forms of gambling in Montana and prepare an annual report on all aspects of the operation of the commission, including but not limited to types of games licensed, gross revenue, payback, operating expenses, revenue collected, enforcement actions taken and pending and recommendations for amendments to gambling laws, and deliver a copy of the report to the governor, the legislative auditor, the president of the senate, and the speaker of the house of representatives;
- (15) adopt rules necessary to carry out the provisions of this chapter except Part 10. Rules adopted by the commission have the force of law.
- (16) exercise any proper power and authority necessary to perform the duties assigned to it by the legislature, this authority is not limited by any enumeration of powers in this chapter.

23-5-208. Gaming advisory council - allocation - composition - compensation - bipartisan. (1) There is a gaming advisory council.

(2) The gaming advisory council consists of nine members. One member must be from the senate and one member must be from the house of representatives. The speaker of the house and the senate committee on committees shall appoint the legislative members of the advisory council. The seven remaining members will be appointed by the commission with one representing the public at large, two representing local governments, and the four remaining members being representative of the gaming industry.

(3) Each advisory council member shall be appointed to a two year term of office and members of the advisory council may be removed by the appointing body as defined in (2) for good cause.

(4) The advisory council shall appoint its own chairman.

(5) The legislative members of the advisory council are entitled to compensation and expenses as provided in 5-2-302 while the advisory council is meeting. The remaining members are entitled to compensation in the amount of \$50 per day while the advisory council is meeting and shall be entitled to travel, meals and lodging as provided for in Title 2, chapter 18, part 5. Expenses of the gaming advisory council shall be paid from licensing fees received by the commission.

(6) The advisory council shall, within their authorized budget, hold such meetings and incur such expenses as they deem necessary to study all aspects of gambling in Montana.

(7) (a) The advisory council shall submit an annual report to the commission at a time designated by the commission with recommendations for amendments to the gambling statutes, or the need for additional or modified commission rules. The clarification of existing rules, and other recommendations on the operation of the commission or any other gambling related matter.

(b) The annual report shall be affixed as an appendix to the commission annual report.

(c) The advisory council may submit interim reports to the commission as it deems necessary.

(d) When requested, the gaming advisory council shall meet with the commission.

(e) When requested, the commission shall meet with the gaming advisory council.

23-5-209. Administrator - appointment - qualifications. (1) The administrator shall be appointed by the commission and shall hold office at the pleasure of the commission. For the purposes of appointing an administrator, the commission will consult with the director of the department of commerce as the administratively attached agency.

(2) The administrator must be qualified by training and experience to direct the activities and operations of the state gambling commission. The administrator must be a full-time employee and may not have any interest whatsoever in any form of gambling enterprise.

23-5-210. Gambling commission -- members and employees -- Activities prohibited. A member or employee of the gambling commission shall not:

- (1) Serve as an officer or manager of any corporation or organization which conducts a lottery or gambling activity;
- (2) Receive or share in, directly or indirectly, any profits of any gambling activity regulated by the commission;
- (3) Be beneficially interested in any contract for the manufacture or sale of gambling devices, the conduct of gambling activity, or the provision of independent consultant services in connection with a gambling activity.

23-5-211. Qualifications for license or finding of suitability.

(1) Any person who the commission determines is qualified to receive a license or be found suitable under the provisions of this chapter except part 10, having due consideration for the proper protection of the health, safety, morals, good order and general welfare of the inhabitants of the State of Montana and the declared policy of this state, may be issued a state gaming license or found suitable. The burden of proving the applicants qualification to receive any license or be found suitable is on the applicant.

(2) An application to receive a license or be found suitable shall not be granted unless the commission is satisfied that the applicant is:

(a) A person of good character, honesty and integrity;  
(b) A person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this state or to the effective regulation and control of gambling, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gambling or the carrying on of the business and financial arrangements incidental thereto; and

(c) In all other respects qualified to be licensed or found suitable consistently with the declared policy of the state.

(3) A license to operate an establishment or business related to the gambling industry shall not be granted unless the applicant has satisfied the commission that:

(a) The applicant has adequate business probity, competence and experience, in gambling or generally; and  
(b) The proposed financing of the entire operation is:  
(i) adequate for the nature of the proposed operation; and  
(ii) from a suitable source. Any lender or other source of money or credit which the commission finds does not meet the standards set forth in subsection (2) may be deemed unsuitable.

(4) The commission may, by regulation, establish such other qualifications for licenses as they may, in their discretion, deem to be in the public interest and consistent with the declared policy of this state.

23-5-212. Operator's of gambling establishments - license - fee. (1) It is unlawful for any person to conduct gambling on a premises without having first been issued an operator's license by the commission.

(2) The operator's license shall include the following information;

(a) a description of the premises upon which the gambling will take place;

(b) the operator's name;

(c) a description of each gaming device or table game licensed to the operator by the commission for play upon that premises including the type of game and license number or decal number for each licensed game;

(d) any other information determined to be necessary by the commission.

(3) The operator's license shall be issued annually along with all other licenses for devices or games licensed to the operator. The operator's license shall be updated each time a gaming device or table game license is either newly issued or removed from the premises.

(4) The commission will not charge a fee for the issuance of an operator's license.

(5) The operator's license shall be prominently displayed upon the premises for which it is issued.

23-5-213. Penalties - hearing. If the commission determines after a hearing conducted pursuant to the Montana Administrative Procedures Act that a person has violated any of the provisions of this chapter except part 10, or the commission's rules, the commission may, in addition to other penalties prescribed:

(1) suspend the license for a period of not more than 180 days if the individual is licensed by the commission;

(2) impose a civil penalty not to exceed \$6,000 for each violation whether or not the person is licensed by the commission;

(3) revoke the license of the individual, such license being issued by the commission;

(4) deny renewal of the license issued by the commission on expiration thereof; or

(5) impose a combination of any two of the penalties set forth in subsections (1) through (4).

23-5-214. Emergency orders of the commission. The commission may issue an emergency order for suspension, limitation or conditioning of a license, registration, finding of suitability, or prior approval when the commission believes that such action is necessary to the immediate preservation of the public peace, health, safety, morals, good order or general welfare of the inhabitants of the state. An emergency order;

(1) Must set forth the grounds upon which it is issued, including a statement of facts constituting the alleged emergency necessitating such action.

(2) May be issued only with the approval and signature of not less than three members of the commission.

(3) Is effective immediately upon issuance and service upon the licensee or resident agent of the licensee.

(4) Remains effective until further order of the commission or disposition of the case. Within 5 days after the issuance of an emergency order, the commission shall cause a complaint to be filed and served upon the person or entity involved.

23-5-215. Judicial review of commission decision. (1) Any interested party has the right to judicial review of a final decision of the commission concerning the grant, denial, renewal, revocation, or suspension of a license, or the imposition of a civil penalty, required under this chapter, except that part 10 does not apply.

(2) A petition for judicial review must conform to the provisions of Title 2, chapter 4, part 7.

(3) Any limitation, condition, revocation, suspension, denial, fine or imposition of a civil penalty enacted by the commission is effective until reversed upon judicial review.

23-5-216. Legal Advisor - Prosecution. (1) The attorney general shall be the legal advisor to the state gaming commission.

(2) The attorney general shall have concurrent jurisdiction with the respective county attorneys to prosecute criminal actions relating to those gambling matters within the jurisdiction of the commission.

(3) The commission may employ its own attorney(s) and, with the concurrence of the attorney general, shall have the same authority to prosecute as the attorney general under paragraph (2).

# APPENDIX C

## Part 3 Live Card Games Act

### Part 3

#### Live Card Games Act

23-5-301. Short title. This part may be cited as the "Montana Live Card Games Act."

23-5-302. Definitions. As used in this part and unless the context requires otherwise, the following terms or phrases mean:

(1) "Authorized card game", "card game" or "game" means any card game specifically permitted by this part to be played in public and none other.

(2) "dealer" means a person with a dealer's permit issued under this part.

(3) "card game table" or "table" means a licensed live card game table made available to the public by a licensed gambling operator on his premises.

(4) "commission" means the Montana state gaming commission defined in 23-5-206.

(5) "operator" means a person licensed to operate a gambling establishment as defined in 23-5-212.

23-5-303. Prior laws still in effect. (1) To the extent that they are not specifically superseded by provisions of this part, or any other gambling law, the provisions of part 1 and part 2 of this chapter remain in effect.

(2) This part has no application to games simulated on electronic video gambling machines authorized in part 6.

23-5-310. Live card game tables -- hours of play -- restriction. Live card game tables licensed under this part must be closed for play between the hours of 2 a.m. and 8 a.m. each day.

23-5-312. Card game dealers - qualifications - license - fee. (1) It is unlawful for any person to deal cards in a legal card game as defined in this part without first having received a dealers license from the commission. (2) The dealers license may be issued annually or every two years pursuant to rules adopted by the commission. (3) The fee for each year in which the license is effective shall be \$25. This fee is not to be prorated. (4) The license fee charged for the issuance of a dealers license will be retained by the commission for administration. (5) The dealers license shall be worn upon the person licensed as a dealer whenever they are working as a dealer. (6) Qualifications to become licensed as a dealer shall be in conformance with the provisions of 23-5-211. (7) The commission may adopt rules to implement temporary licensing procedures until a permanent license is issued to an individual and the commission may delegate this authority to local governments including the ability to assess fees for the temporary licenses.

23-5-311. Authorized card games - card game tournaments. (1) No person shall conduct or participate in any live card game, or make any tables available for the playing in public of any live card game not specifically authorized by this part and described by rules of the Commission. (2) The live card games authorized by this part are and are limited to the card games known as bridge, cribbage, hearts, panguingue, pinochle, pitch, rummy, whist, solo, and poker. (3) The commission may adopt rules for card game tournaments or special events and issue limited tournament licenses specifying tournament restrictions and conditions.

23-5-312. Prizes not to exceed eight hundred dollars.

(1) No prize for any individual live card game shall exceed the value of \$800. Games shall not be combined in any manner so as to increase the value of the ultimate prize awarded. The commission shall adopt rules defining and strictly enforcing this section.

(2) For the game of poker only, the commission may, at its discretion, limit the maximum size of a pot by establishing a system of maximum bets and raises which may be made by players during one betting round. Under no circumstances may any person not a player in the game bet upon or in any other way influence the betting or the pot.

23-5-313. Rules of play to be posted -- rake-off approved. (1) Rules governing the conduct of each game shall be prominently posted within sight of the table where a live card game is played on the premises of a licensed gambling operator as defined in 23-5-212. Such rules shall include notice of the maximum percentage rake-off, if any, and shall require that the person taking the rake-off do so in an obvious manner.

(2) No live poker game shall be played in public except on a licensed card game table in the presence and under the control of a dealer or gambling operator duly licensed under the authority of the commission.

23-5-314. Gambling on cash basis. In every authorized card game the consideration paid for the chance to play shall be strictly cash. Every participant must present the money with which he intends to play the game at the time the game is played. No check, credit card, note, I O U, or other evidence of indebtedness may be offered or accepted as part of the price of participating in a card game or as payment of a debt incurred therein.

23-5-315. Minors not to participate. No person under the age of 18 years may be permitted to participate in any live card game held, operated, or conducted pursuant to this part.

23-5-316. Cheating unlawful. It shall be unlawful to conduct or participate in a card game authorized by this part in any manner which results in cheating, misrepresentation, or other such disreputable tactics which distract from a fair and equal chance for all participants or which otherwise affects the outcome of the game.

23-5-317. Live card tables - license - fees - disposition of fees. (1) A person who has been granted an operator's license as defined in 23-5-212 and a license under 16-4-401(2) to sell alcoholic beverages for consumption on the premises may be granted a license for the placement of live card games in his licensed establishment.

(2) Annual license fee in lieu of taxes for each live card game table operated in a licensed operator's premises shall be:

- (a) \$250 for the first table;
- (b) \$750 for the second table; and
- (c) \$1,000 for the third, and each additional table.

(3) The first \$100 of fees for each table collected under this part shall be retained by the Commission for administrative purposes.

(4) The commission must forward the remaining balance of the fee collected under subsection (2) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed table is located, for deposit to the county or municipal treasury. The local government portion of this fee is statutorily appropriated to the commission as provided in 17-7-502 for deposit to the county or municipal treasury.

23-5-321. Licensing by local governing bodies forbidden.

(1) No city, town or county may issue licenses for the games or tables provided for in this part.

(2) Any license issued pursuant to this part shall be deemed to be a revocable privilege, and no licensed operator, or any other person or entity, may acquire any vested rights therein or thereunder.

23-5-322. Gambling prohibited by ordinance. (1) An incorporated city may enact an ordinance defining certain areas in its incorporated limits where gambling activities may or may not occur.

(2) A county may enact an ordinance or resolution defining certain areas in the county, not within the incorporated limits of a city, where gambling may or may not occur

(3) No county or incorporated city may by ordinance restrict the number of licenses that the commission may issue.

23-5-323. Peace officers' responsibilities. It shall be the duty of all peace officers to enforce the provisions of this part and to arrest and complain against any person violating any provision of this part. It shall be the duty of the county attorney for the respective county to prosecute all violations of this part in the manner and form as is provided by law, and it shall be a misdemeanor for any such person or persons to knowingly fail to perform his or her duty under this section.

23-5-331. Penalty. (1) Every person who willingly violates or who procures, aids, or abets in the willful violation of this part shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000 or imprisonment in the county jail for not more than 3 months, or both.

(2) If the commission determines after a hearing conducted pursuant to the Montana Administrative Procedures Act that a person has violated any of the provisions of this part, or the commission's rules, the commission may, in addition to other penalties prescribed:

- (a) suspend the license for a period of not more than 180 days if the individual is licensed by the commission;
- (b) impose a civil penalty not to exceed \$6,000 for each violation whether or not the person is licensed by the commission;
- (c) revoke the license of the individual, such license being issued by the commission;
- (d) deny renewal of the license issued by the commission on expiration thereof; or
- (e) impose a combination of any two of the penalties set forth in subsections (1) through (4).

# **APPENDIX D**

## **Part 4**

### **Live Bingo, Keno and Raffles**

Part 4

Live Bingo, Keno and Raffles

23-5-401. Short title. This part shall be known and may be cited and referred to as the "Live Bingo, Keno and Raffles Law".

23-5-402. Definitions. (1) As used in this part the following games, and no others, are specifically authorized and shall have the following meanings:

(a) "bingo" is a game of chance in which prizes are awarded using a card with a playing surface that bears a printed design of 5 rows of 5 squares each -- 25 squares in all. The letters B-I-N-G-O appear above this design, each letter above one of the vertical columns. No more than 75 numbers may be used which shall appear in each of the squares, except for the center square which is considered a free play;

(b) "keno", is a game of chance in which prizes are awarded using a card with 8 horizontal columns and 10 vertical columns on which a player may pick up to 10 numbers out of a total of 20 numbers selected at random out of numbers between 1 and 80.

(c) "raffles", which are conducted by drawing for prizes.

(2) "Equipment" means:

(a) with respect to bingo or keno, the receptacle and numbered objects drawn from it, the master board upon which such objects are placed as drawn, the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them, the boards or signs, however operated, used to announce or display the numbers or designations as they are drawn, public address system, and all other articles essential to the operation, conduct, and playing of bingo or keno; or

(b) with respect to raffles, the implements, devices, and machines designed, intended, or used for the conduct of raffles and the identification of the winning number or unit and the ticket or other evidence of right to participate in raffles.

(4) "commission" means the Montana state gaming commission as defined in 23-5-206.

(5) "caller" means a person licensed by the commission to work as a live bingo or keno caller who announces the order of the objects drawn in either live keno or live bingo from the equipment defined in 3(a).

23-5-404. Prior laws still in effect. (1) To the extent that they are not specifically superseded by provisions of this part or any other gambling law, the provisions of part 1 and part 2 of this chapter remain in effect.

(2) This part has no application to games simulated on video gambling machines authorized by part 6 of this chapter.

23-5-405. Bingo and keno gross proceeds tax - records - distribution - quarterly statement and payment. (1) Each bingo and keno licensee shall pay to the commission a tax of 3% of gross proceeds from the operation of each bingo and keno game licensed under this part.

(2) Each licensee shall keep a record of gross proceeds in such form as the commission may require. The records must at all times during the business hours of the licensee be subject to inspection by the commission, its agents, or employees.

(3) Each licensee shall, within 15 days after the end of each quarter, complete and deliver to the commission a statement showing the total gross proceeds for each keno or bingo game licensed to him, together with the total amount due the state as live bingo and keno gross proceeds tax for the preceding quarter. The statement must contain such other information as the commission may require.

(4) The commission must forward the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed game is located, for deposit to the county or municipal treasury. Counties are not entitled to proceeds from taxes on live bingo or keno games located in cities and towns. The tax collected under subsection (3) is statutorily appropriated to the commission as provided in 17-7-502 for deposit to the county or municipal treasury.

23-5-406. Bingo/Keno callers - qualifications - license - fee. (1) It is unlawful for any person to work as a live bingo or keno caller as defined in this part without first having received a bingo/keno callers license from the commission. (2) The callers license may be issued annually or every two years pursuant to rules adopted by the commission. (3) The fee for each year in which the license is effective shall be \$25. This fee is not to be prorated. (4) The license fee charged for the issuance of a callers license will be retained by the commission for administration. (5) The keno/bingo callers license shall be worn upon the person licensed as a caller whenever they are working as a dealer. (6) Qualifications to become licensed as a keno/bingo caller shall be in conformance with the provisions of 23-5-211. (7) The commission may adopt rules to implement temporary licensing procedures until a permanent license is issued to an individual and the commission may delegate this authority to local governments including the ability to assess fees for the temporary licenses.

23-5-407. Live bingo and keno - license - license fee - disposition of fees. (1) All live bingo and keno games conducted by a gambling operator as defined in 23-5-212 must, prior to operation, be licensed by the Commission. Licensure of each game shall be noted upon the gambling operator's license as defined in 23-5-212.

(2) Licenses will be issued by the commission for the provision of either live keno or live bingo on an annual basis and are not prorated.

(3) The license fee for each bingo and keno game is \$100 annually.

(4) The license fee will be retained by the commission for administrative purposes.

23-5-410. Live Bingo and Keno -- hours of play -- restriction. Live keno and bingo games licensed under this part must be closed for play between the hours of 2 a.m. and 8 a.m. each day.

23-5-411. Bingo, keno, and raffles authorized. Conducting or participating in games of chance as specifically authorized and defined in 23-5-402 and in accordance with the provisions of this part and the rules of the commission is lawful.

23-5-412. Bingo and keno prizes. Bingo prizes may be paid in either tangible personal property or cash. A prize may not exceed the value of \$800 for each individual bingo award. or keno card. The price for an individual bingo or keno card may not exceed 50 cents. It shall be unlawful to, in any manner, combine any awards so as to increase the ultimate value of such award. The commission shall adopt rules defining and strictly enforcing this section.

23-5-413. Raffle prizes restricted -- exemption. (1) Raffle prizes must be in tangible personal property only and not in money, cash, stocks, bonds, evidences of indebtedness, or other intangible personal property and must not exceed the value of \$10,000 for each individual raffle card. It shall be unlawful to, in any manner, combine any awards so as to increase the ultimate value of such award.

(2) (a) The restrictions of subsection (1) do not apply to a raffle conducted by a nonprofit corporation, religious corporation sole, or other nonprofit organization when the corporation or organization is licensed by the commission to conduct the raffle. A separate license shall be required for each raffle conducted.

(b) The organization or corporation seeking the license under subsection (2)(a) must apply to the commission for the license and must provide information which the commission deems by rule to be required prior to the issuance of a license.

(3) The proceeds from the sale of the raffle tickets are to be used only for charitable purposes or to pay for prizes. The raffle prize must be in tangible personal property only and not in money, cash, stock, bonds, evidence of indebtedness, or other intangible personal property. None of the proceeds may be used for the administrative cost of conducting the raffle.

(4) The corporation or organization conducting the raffle must submit an accounting to the commission within 30 days following the completion of the raffle. The person or persons submitting the application to the commission along with the corporation or organization conducting the raffle shall be responsible for submitting the accounting to the commission.

23-5-414. Restrictions on bingo, keno, and raffles. (1) In the playing of bingo or keno, no person who is not physically present on the premises where the game is actually conducted shall be allowed to participate as a player in the game.

(2) The sale of raffle tickets authorized by this part shall be restricted to events and participants within the geographic confines of the state of Montana.

23-5-415. Time limitations on raffle drawing. No raffle drawing may be held or winner determined unless the chances to participate have been offered for sale for at least 30 days prior to the drawing. The drawing shall take place no later than 90 days after the first offering for sale of chances to participate.

23-5-416. Minors not to participate. No person under the age of 18 years shall be permitted to participate in any game or games of chance held, operated, or conducted pursuant to this part.

23-5-417. Gambling on cash basis. (1) In every game of chance the consideration paid for the chance to play shall be strictly cash. Every participant must present the money with which he intends to play the game at the time the game is played. No check, credit card, note, I O U, or other evidence of indebtedness shall be offered or accepted as part of the price of participation in such game or as payment of a debt incurred therein.

23-5-418. Cheating unlawful. It shall be unlawful to conduct or participate in a game of chance authorized by this part in any manner which results in cheating, misrepresentation, or other such disreputable tactics which distract from a fair and equal chance for all participants or which otherwise affect the outcome of the game.

23-5-421. Gambling prohibited by ordinance. (1) An incorporated city may enact an ordinance defining certain areas in its incorporated limits where gambling activities may or may not occur.

(2) A county may enact an ordinance or resolution defining certain areas in the county, not within the incorporated limits of a city, where gambling may or may not occur

(3) No county or incorporated city may by ordinance restrict the number of licenses that the commission may issue.

23-5-423. Peace officers' responsibilities. It shall be the duty of all peace officers to enforce the provisions of this part and to arrest and complain against any person violating any provision of this part. It shall be the duty of the county attorney of the respective county to prosecute all violations of this part in the manner and form as is provided by law, and it shall be a misdemeanor for any such person or persons to knowingly fail to perform his or her duty under this section.

23-5-431. Penalty. Every person who willfully violates or who procures, aids, or abets in the willful violation of this part or any ordinance, resolution, or regulation adopted pursuant thereto shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000 or imprisonment in the county jail for not more than 3 months, or both.

(2) If the commission determines after a hearing conducted pursuant to the Montana Administrative Procedures Act that a person has violated any of the provisions of this part, or the commission's rules, the commission may, in addition to other penalties prescribed:

- (a) suspend the license for a period of not more than 180 days if the individual is licensed by the commission;
- (b) impose a civil penalty not to exceed \$6,000 for each violation whether or not the person is licensed by the commission;
- (c) revoke the license of the individual, such license being issued by the commission;
- (d) deny renewal of the license issued by the commission on expiration thereof; or
- (e) impose a combination of any two of the penalties set forth in subsections (1) through (4).

# APPENDIX E

## Part 5 Sports Pools

Part 5

Sports Pools

23-5-501. Definitions . (1) "Sports pool" means a card divided into squares or spaces, with the names of the participants in the pool written within such squares or spaces, for which consideration in money is paid by the person playing for each square or space for the chance to win money or other items of value on any sports event wherein the participants in such sports event are natural persons or animals.

(2) "commission" means the Montana state gaming commission as defined in 23-5-206.

23-5-502. Sports pools authorized. Conducting or participating in sports pools as defined and governed in this part is lawful.

23-5-503. Rules. (1) The card used for recording the pool and upon which the squares or spaces appear shall clearly state in advance of the sale of any chances the number of chances to be sold in that specific pool, the name of the event, the consideration to be paid for each chance, and the total amount to be paid to the winners.

(2) No chance to participate in a sports pool may be sold other than upon the premises in which the sports pool is conducted. The commission shall adopt rules and license any sports pool exceeding a total prize value of \$1000. The proceeds of any sports pool played in violation of this section and the rules of the commission may be confiscated by the commission. The winner or winners of any sports pool shall receive a 100% payout of the value of the sports pool.

23-5-504. Transportation exempt from federal law. The transportation of sports pool cards is hereby declared exempt from the provisions of 15 U.S.C. 1172.

23-5-505. Gambling on cash basis. (1) In every sports pool the consideration paid for the chance to play shall be strictly cash. Every participant must present the money with which he intends to play at the time the pool is entered.

23-5-506. Minors not to participate. No person under the age of 18 years may be permitted to participate in any sports pool held, operated, or conducted pursuant to this part.

23-5-507. Cheating unlawful. It shall be unlawful to conduct or participate in a sports pool authorized by this part in any manner which results in cheating, misrepresentation, or other such disreputable tactics which distract from a fair and equal chance for all participants or which otherwise affects the outcome of the pool.

23-5-508. Peace officers' responsibilities. It shall be the duty of all peace officers to enforce the provisions of this part and to arrest and complaint against any person violating any provision of this part. It shall be the duty of the county attorney of the respective county to prosecute all violations of this part in the manner and form as is provided by law, and it shall be a misdemeanor for any such person or persons to knowingly fail to perform his or her duty under this section.

23-5-509. Penalty. Every person who willfully violates or who procures, aids, or abets in the willful violation of this part shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000 or imprisonment in the county jail for not more than 3 months, or both.

(2) If the commission determines after a hearing conducted pursuant to the Montana Administrative Procedures Act that a person has violated any of the provisions of this part, or the commission's rules, the commission may, in addition to other penalties prescribed:

- (a) suspend the license for a period of not more than 180 days if the individual is licensed by the commission;
- (b) impose a civil penalty not to exceed \$6,000 for each violation whether or not the person is licensed by the commission;
- (c) revoke the license of the individual, such license being issued by the commission;
- (d) deny renewal of the license issued by the commission on expiration thereof; or
- (e) impose a combination of any two of the penalties set forth in subsections (1) through (4).

23-5-510. Jurisdiction. Jurisdiction for all violations of this part is in the district court., provided, however, that the commission shall enforce its rules and licenses issued under this part in accordance with the Administrative Procedures Act.

23-5-511. Prior law still in effect. To the extent that they are not specifically superseded by the provisions of this part or any other gambling law, the provisions of part 1 of this chapter remain in effect.

# APPENDIX F

## Part 6 Video Gaming Machine Act

Part 6

Video Gaming Machine Act

23-5-601. Short title. This part shall be known and may be cited as the "Video Gaming Machine Act of 1989".

23-5-602. Definitions. As used in this part, the following definitions apply:

(1) "Associated equipment" means all proprietary devices, machines, or parts used in the manufacture or maintenance of a video gambling machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, metering devices, and cabinetry.

(2) Video gambling machines specifically authorized by this part are:

(a) "Keno machine" means an electronic video gambling machine that, upon insertion of cash, is available to play keno as defined and provided by rules of the commission, utilizing a video display and microprocessors, in which by the skill of the player or by chance, or both, the player may receive free games or credits that can be redeemed for cash. The term does not include a slot machine or any machine that directly dispenses coins, cash, tokens, or anything else of value.

(b) "Bingo machine" means an electronic video gambling machine that, upon insertion of cash, is available to play bingo as defined and provided by rules of the commission, utilizing a video display and microprocessors, in which by the skill of the player or by chance, or both, the player may receive free games or credits that can be redeemed for cash. The term does not include a slot machine or any machine that directly dispenses coins, cash, tokens, or anything else of value.

(c) "Draw poker machine" means an electronic gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker, as defined and provided by rules of the commission, utilizing a video display and microprocessors in which, by the skill of the player or by chance, or both, the player may receive free games or credits that can be redeemed for cash. The term does not include a slot machine or any machine that directly dispenses coins, cash, tokens or anything else of value.

(5) "Licensee" means an individual, partnership, corporation, or association that has been issued an operator's license as defined in 23-5-212 by the commission.

(6) "Manufacturer-distributor" means an individual, partnership, corporation, or association that assembles, produces, makes or supplies or repairs video draw poker machines or associated equipment for sale, use, or distribution in this state.

(7) "Net machine income" means money put into a video draw poker or keno machine minus credits paid out in cash.

23-5-603. Video gambling machines -- possession -- play -- hours of play -- restriction. (1) No person may make available for public play a video gambling machine unless that person has first obtained an operator's license as defined in 23-5-212. Machines licensed under 23-5-612 may be made available for play by the public, and it is legal to play such machines, except that a person under the age of 18 years may not play a video gambling machine.

(2) Any person who receives an operator's license to make a video gambling machine available for play must have the machine unavailable for play between 2a.m. and 8a.m. each day.

23-5-605. Powers and duties of the commission -- licensing. (1) In addition to those powers and duties enumerated in Part 2, the commission shall administer the provisions of this part.

(2) The commission shall adopt rules implementing this part and:

(a) with respect to state licenses:

(i) provide licensing procedures;

(ii) prescribe necessary application forms; and

(iii) grant or deny license applications;

(b) with respect to the video draw poker, bingo and keno machine net income tax:

(i) prescribe record keeping requirements for licensees;

(ii) provide a procedure for inspection of records;

(iii) provide a method for collection of the tax; and

(iv) establish penalties for the delinquent reporting and payment of the required tax.

(c) with respect to video gambling machine

specifications, shall define by rule the kind and location within the machine of all devices and mechanisms necessary to assure that the machines meet the provisions of this part.

(3) The commission may suspend, revoke, deny, or place a condition on a license issued under this part for reasonable cause.

(4) The commission is a criminal justice agency, and designated employees and duly authorized commission representatives are granted peace officer status with powers of search, seizure, and arrest to regulate and control those persons licensed under this part.

23-5-607. Expected payback -- verification. The commission shall prescribe the expected payback value of one credit played to be at least 80% of the value of a credit. Each video gambling machine must have an electronic accounting device that the commission may use to verify the winning percentage. The commission may not publish or otherwise disseminate income figures and other statistics obtained in the payback verification process or contained in payback verification reports in a manner that allows or helps a person to identify a particular machine or to match a particular machine with a particular income or statistic.

23-5-608. Limitation on amount of money played and value of prizes -- payment of credits in cash. (1) A video gambling machine may not allow more than \$2 to be played on a game or award free games or credits in excess of the value of \$800 per game.

(2) Each licensee shall pay in cash all credits owed to a player as shown on a valid ticket voucher.

23-5-610. Video gambling machine net income tax -- records -- distribution -- quarterly statement and payment.

(1) Each licensee shall pay to the commission a gambling machine tax of 15% of net machine income from each gambling machine licensed under this part.

(2) Each licensee shall keep a record of net machine income in such form as the commission may require. The records must at all times during the business hours of the licensee be subject to inspection by the commission, its agents, or employees.

(3) Each licensee shall, within 15 days after the end of each quarter, complete and deliver to the commission a statement showing the total net machine income from each gambling machine licensed to him, together with the total amount due the state as gambling machine net income tax for the preceding quarter. The statement must contain such other information as the commission may require.

(4) (a) The commission must deposit one-third of the tax collected under subsection (3) in the general fund.

(b) The commission must forward the remaining two-thirds of the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county or municipal treasury. Counties are not entitled to proceeds from taxes on income from video draw poker and keno machines located in cities and towns. The two-thirds local government portion of tax collected under subsection (3) is statutorily appropriated to the commission as provided in 17-7-502 for deposit to the county or municipal treasury.

23-5-611. State license qualifications -- limitations -- right to hearing. (1) (a) A person who has been granted an operator's license as defined in 23-5-212 and a license under 16-4-401(2) to sell alcoholic beverages for consumption on the premises may be granted a license for the placement of video gambling machines in his licensed establishment.

(b) Each applicant for a license shall on the application form disclose to the commission any information required by the commission consistent with the provisions of 23-5-211.

(2) A licensee may not have on the premises or make available for play on the premises of his licensed establishment more than twenty five machines of any combination legal under this chapter.

23-5-612. State license -- fee. (1) (a) The commission, upon payment of the fee provided in subsection (1)(b) and in conformance with rules adopted under this part, shall issue to the operator's license a license for each video gambling machine.

(b) The commission shall charge an annual license fee of \$200 for each video gambling machine. The commission shall retain \$100 of the license fee collected for each video gambling machine for the purposes of administering this part and the remaining \$100 shall be returned on a quarterly basis to the local governing body where the machine is located. The license expires on June 30 of each year and shall not be prorated.

23-5-613. Investigations and violations. (1) The commission or duly authorized commission representatives shall make necessary investigations, suspend or revoke state licenses for violations of this part, except 23-5-615, and hold hearings on such matters. A license may be suspended prior to a hearing upon a finding of danger to public health and welfare but may not be revoked until the hearing is completed.

(2) A violation of this part, except 23-5-615, or a rule promulgated under 23-5-605 is a criminal offense, and a fine not to exceed \$10,000 for the first violation and \$15,000 for a subsequent violation must be imposed.

(3) If a video draw poker machine is operated in violation of this part, except 23-5-615, it may be seized under 23-5-121 and the provisions of 23-5-122 apply.

(4) Employees of the commission or duly authorized commission representatives designated as enforcement agents may investigate the background of license applicants to the extent judged necessary by the commission, but no person may be investigated prior to his submission of an application for a license.

(5) (a) Findings of suspected illegal activity must be reported to the appropriate law enforcement agency.

(b) The clerk of the court shall, upon final judgment of conviction of a licensee, report to the commission the name of the licensee convicted of violating a local gambling ordinance.

(c) On receipt of such report, the commission may commence proceedings to revoke or suspend the licensee's video draw poker license.

(6) Any peace officer of this state may arrest a person for tampering with a video draw poker machine, attempting or conspiring to manipulate the outcome or the payoff of a video draw poker machine, or manipulating the outcome or payoff of a video draw poker machine by physical tampering or other interference with the proper functioning of the machine.

23-5-615. Gambling prohibited by ordinance. (1) An incorporated city may enact an ordinance defining certain areas in its incorporated limits where gambling activities may or may not occur.

(2) A county may enact an ordinance or resolution defining certain areas in the county, not within the incorporated limits of a city, where gambling may or may not occur

(3) No county or incorporated city may by ordinance restrict the number of licenses that the commission may issue.

23-5-616. Removal of machine from public access. If a machine fails to meet the specifications and requirements of this part, or any rules of the commission at any time after initial licensure, the operator licensee shall immediately remove the machine from public access until it meets all requirements.

23-5-618. Judicial review of agency decision. (1) Any interested party has the right to judicial review of a final decision of the commission concerning the grant, denial, renewal, revocation, or suspension of a license required under this part.

(2) A petition for judicial review must conform to the provisions of Title 2, chapter 4, part 7.

23-5-625. Manufacturer-distributor of video draw poker machines -- license -- fees. (1) It is unlawful for any person to manufacture, sell, or distribute any video gambling machine or associated equipment for use or play in this state without having first been issued a manufacturer-distributor's license by the commission.

(2) The commission shall charge an annual license fee of \$1,000 for the issuance or renewal of a manufacturer-distributor's license.

(3) In addition to other license fees, the commission may charge the applicant a onetime manufacturer-distributor's license application processing fee. The processing fee may not exceed the commission's actual costs for processing an application.

(4) All manufacturer-distributor's licenses expire on June 30 of each year, and the license fee may not be prorated.

(5) The commission shall retain the license and processing fees collected for purposes of administering this part.

23-5-626. License qualifications -- investigation -- right to hearing. (1) An applicant for issuance or renewal of a manufacturer-distributor's license shall:

(a) apply to the commission on forms prescribed by the commission;

(b) establish to the satisfaction of the commission that the applicant's past record and present status as a manufacturer-distributor of video draw poker machines or associated equipment and as a business person and citizen demonstrate that the applicant is likely to conduct his business in compliance with all laws.

(c) in all other respects meet the provisions of 23-5-211.

(2) A person denied a manufacturer's or distributor's license has the right to a hearing before the commission. The hearing must be conducted in accordance with the provisions of the Montana Administrative Procedure Act.

23-5-627. Determination of unsuitability for licensure -- effect. (1) If the commission determines that a manufacturer-distributor is unsuitable for issuance of a license or if a previously issued license is revoked:

(a) the commission may not approve any new video gambling machine or associated equipment produced by the manufacturer-distributor;

(b) the commission may revoke a license for a machine produced by that manufacturer-distributor and owned by a person in the state of Montana at the time of revocation of the manufacturer-distributor's licensure only if, after a reasonable length of time, the machine remains out of compliance with state requirements; and

(c) a manufacturer-distributor may not sell, transfer, or offer for use or play in this state any new video gambling machine or associated equipment.

(2) Any association or agreement between the manufacturer-distributor and a licensee is considered to include a provision for its termination without liability on the part of the licensee upon a determination by the commission that the manufacturer-distributor is unsuitable for licensure. Failure to include such provisions for termination in an agreement is not a defense in any action brought under the provisions of this section to terminate the agreement.

(3) Failure of a licensee to terminate any association or agreement with a manufacturer-distributor after receiving notice of the commission's determination of unsuitability for licensure constitutes grounds for revocation of the licensee's video gambling machine licenses.

23-5-631. Examination and approval of new video gambling machines and associated equipment -- fee. (1) The commission shall examine and approve new video gambling machines and associated equipment which is manufactured, sold, or distributed for use in this state before the video gambling machine or associated equipment is played or used.

(2) A video gambling machine or associated equipment may not be examined or approved by the commission until the manufacturer-distributor of the machine or associated equipment is licensed as required in 23-5-625.

(3) The commission shall require the manufacturer-distributor seeking the examination and approval of a new video gambling machine or associated equipment to pay the anticipated actual costs of the examination in advance and, after the completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the commission for underpayments of actual costs.

23-5-635. Penalties -- hearing. If the commission finds, after a hearing conducted pursuant to the Montana Administrative Procedure Act, that a person has violated any of the provisions of this part or the commission's rules, the commission may, in addition to the other penalties prescribed:

- (1) suspend the license for a period of not more than 180 days;
- (2) impose a civil penalty not to exceed \$6,000 for each violation whether or not the person is licensed by the commission;
- (3) revoke the license;
- (4) deny renewal of the license on expiration thereof;

or

- (5) impose a combination of any two of the penalties set forth in subsections (1) through (4).

23-5-636. Judicial review of commission decision. (1) Any interested party has the right to judicial review of a final decision of the commission concerning the grant, denial, renewal, revocation, or suspension of a license, or the imposition of a civil penalty required under this part.

(2) A petition for judicial review must conform to the provisions of Title 2, chapter 4, part 7.

(3) Any limitation, condition, revocation, suspension, denial, fine or imposition of a civil penalty enacted by the commission is effective until reversed upon judicial review.

# APPENDIX G

Gaming Advisory Council Charge

## CREATION OF GAMING ADVISORY COUNCIL

WHEREAS, gambling and wagering in various forms have far-reaching economic and social impacts upon the State of Montana and its citizens that necessitate control and regulation; and

WHEREAS, Title 23, Chapter 5, MCA, imposes on local and state governments the responsibility for controlling, regulating and taxing gambling, and this situation has resulted in fragmentation and disparity; and

WHEREAS, the 1987 legislature amended various parts of Title 23, Chapter 5 to the effect that the state of Montana is required to license video gaming machines (keno, bingo and poker) and to verify payback percentages and collect revenue from net machine income; and

WHEREAS, state and local departments and agencies are experiencing difficulty administering statutory provisions relating to video gaming machines, and this difficulty is due, in part, to interpretation of the gaming laws as written, and, in part, to existing structures and inter-relationships of agencies to enforce those laws.

NOW, THEREFORE I, Keith Colbo, Director of the Department of Commerce, hereby create the GAMING ADVISORY COUNCIL within the Department of Commerce, effective January 11, 1988, in accordance with the provisions of section 2-15-122, MCA. The Council shall terminate its activities by June 30, 1989 unless renewed before that date.

The Council shall serve in an advisory capacity to the Department of Commerce, and shall study, analyze and report to the Department regarding the following matters:

1. A review of existing legislation to correct technical defects in the existing statutes;
2. An analysis of potential legislation to modify the environment under which regulated gambling operates in the State;
3. A review of jurisdictional authority in gambling matters with respect to the following:
  - (a) inequitable enforcement of existing gaming statutes across the state, and

- (b) potential problems and remedies associated with local-option gambling including types of games allowed, hours of play, regulation and enforcement of state and local statutes and ordinances, and law enforcement and regulatory problems crossing jurisdictional boundaries;
4. A review of the current gaming tax rate on video games; study of a potential tax on live games and pools; and, an analysis of the methods, laws and rules related to the collection of tax revenues.
  5. A long term analysis of the direction the state of Montana is going and should be going in relation to gaming in the state including:
    - (a) a review of the regulatory organizational structure in state and local governments;
    - (b) some comment through analysis of the types and proliferation of games and gambling in Montana; and,
    - (c) an analysis of the tax receipts available under various options discussed in (b), including some discussion of the higher social, regulatory and law enforcement costs associated with gaming.

This analysis and advice to be offered the department should include all existing and potential areas of gambling except the Montana State Lottery and the area of pari-mutual betting in the state.

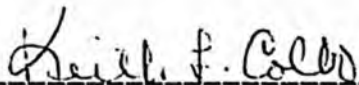
The Director of the Department of Commerce shall advise the Legislature of the recommendations made by the Gaming Advisory Council.

The Council shall have 9 (nine) members who shall serve at the pleasure of the governor, and whose names and addresses are:

1. Jack Haffey, Chairman  
40 E. Broadway  
Butte, MT 59701
2. Al Donahue  
1700 Fox Farm Road  
Great Falls, MT 59401
3. Becky Erikson  
114 Lomond  
Glasgow, MT 59230

4. Brad Schoepf  
1320 Two-Mile Drive  
Kalispell, MT 59901
5. Bob Fletcher  
c/o Cannery Lounge  
43 W. Main  
Bozeman, MT 59715
6. Harold Hanser  
P.O. Box 35025  
Billings, MT 59107
7. Bill Ware  
221 Breckenridge  
Helena, MT 59601
8. Mike McMeekin  
Sheriff's Office  
Missoula County Courthouse  
Missoula, MT 59801
9. John "Ed" Kennedy  
Drawer 1997  
Kalispell, MT 59901

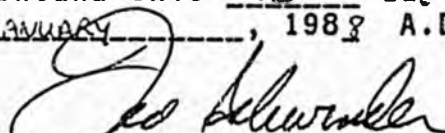
SUBMITTED to the Governor for approval this 11th day of January, 1988.

  
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Keith Colbo, Director

I, Ted Schwinden Governor of the State of Montana, pursuant to the authority vested in me by Section 2-15-122, MCA, do hereby approve the creation of the GAMING ADVISORY COUNCIL within the Department of Commerce, and the appointment of the above-named persons thereto, as requested by Keith Colbo, Director of the Department of Commerce.

GIVEN under my hand and the  
GREAT SEAL of the State of  
Montana this 25<sup>th</sup> day of  
JANUARY, 1988 A.D.

  
-----  
Ted Schwinden, Governor

ATTEST:

  
-----  
Jim Waltermire  
Secretary of State

# APPENDIX H

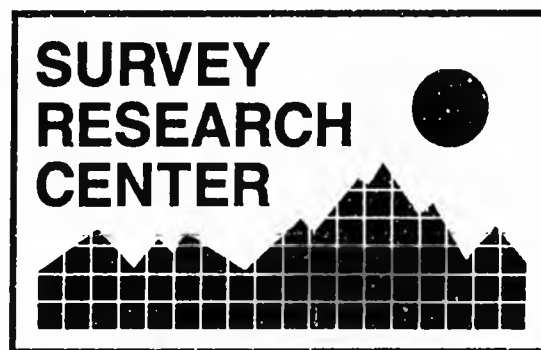
Montana Gambling Survey

Montana State University

**MONTANA GAMBLING SURVEY**

Gaming Advisory Council  
Montana Department of Commerce

1-108  
Wilson  
Hall  
Bozeman  
Montana  
59717  
406•994•4481



Applied  
Research  
Focusing  
on  
Statewide  
Social,  
Economic  
and  
Policy  
Issues

**MONTANA GAMBLING SURVEY**

**Gaming Advisory Council  
Montana Department of Commerce**

**Montanans' Opinions About Gaming  
and Its Regulation, Enforcement and Effects**

**Prepared by  
Survey Research Center  
Montana State University  
1-108 Wilson Hall  
Bozeman, Montana 59715**

**May 27, 1988**

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HIGHLIGHTS OF THE STUDY  
Montanans' Opinions About  
Gambling Games, Regulations, and Effects

A General Summary of Study Findings:

- \* The majority of Montanans do not gamble frequently.  
50 % didn't gamble in the past year.  
17 % gamble frequently.
- \* However, a majority of Montanans are tolerant of current games. They support retaining all current games by wide margins, except calcuttas which aren't well known.
- \* Montanans recognize gambling creates costs to society.  
67 % said gambling is a moral issue, among others.  
90 % recognized family problems.  
72 % said law enforcement costs are higher.  
62 % said social services costs are higher.
- \* Thus, the gambling industry must get support from non-gamblers.  
85 % see gambling as an economic issue.  
37 % view economics as the most important gambling issue.
- \* Montanans must see benefits that override social costs.  
73 % see gambling as a recreation issue.  
70 % believed attracting outside money is a benefit.
- \* Revenues are the most widely recognized gambling benefit.  
85 % viewed the generation of tax revenues as a benefit.

POLICY CONCLUSIONS OF THE STUDY  
Montanans' Opinions About  
Gambling Games, Regulations, and Effects

A General Summary of Policy Conclusions.

- \* Regulation of gaming is desirable.
  - 74 % would limit hours.
  - 68 % would limit bets.
  - 77 % would keep video poker in bars and lounges.
  - 63 % would further limit video keno and bingo to the same locations as poker machines.
  - 73 % wouldn't allow local governments to legalize more types of games than allowed by the state.
  
- \* Uniformity of rules and regulations is desirable.
  - 92 % want identical rules statewide.
  
- \* Taxation of gambling is widely recognized and is desirable.
  - 85 % view gaming as an economic issue.
  - 82 % see tax revenues as a benefit.
  - 75 % want all live games taxed, equivalent to machines. However, those who are strictly opposed to gambling on moral grounds do not favor gambling more when informed about tax revenues.
  
- \* A State Gaming Commission is desirable.
  - 76 % are in favor.

CHANGES IMPLIED BY THE STUDY  
Montanans' Opinions About  
Gambling Games, Regulations, and Effects

Specific Changes Implied From the Study.

- \* Oversight of gaming needs to be strengthened.  
Establish a State gaming commission.  
Establish State control of enforcement.
- \* Access to games is and should continue to be restricted.  
Limit types of games, hours, and location more strictly.
- \* Uniformity of rules and regulations needs to be enacted.  
Uniformity throughout the State is a very consistent theme. However, a sizeable minority still want localities to be able to further restrict types of games available.
- \* An economic development focus for gaming is needed.  
An economic development theme runs throughout responses. But, clearly, promotion shouldn't be a State responsibility.
- \* Problems created by gambling must be addressed.  
Family, social, economic and local government problems are widely recognized.
- \* Taxation of additional games needs to be enacted.  
Live games should be taxed as are video games.

Preferences for current rules.

- \* Keep the current types of games authorized.
- \* Keep casino-type gaming illegal.
- \* Keep rules for charities and non-profit groups the same as those for commercial gaming.

Montanans' Opinions About  
Gambling Games, Regulations, and Effects

INTRODUCTION

Gambling has been a common form of entertainment in Montana for years. Under the 1972 Montana Constitution, the Legislature has the power to authorize the types of gambling that are legal, and the rules and regulations governing gambling and its enforcement. The Legislature in turn has the power to establish the authority that can be exercised at the local level.

**Purpose of the Report:** This report describes the opinions and attitudes of Montanans about gaming in Montana. It is the result of a telephone survey conducted during late April and early May, 1988 by the Survey Research Center under contract with the Montana Department of Commerce and at the request of the Montana Gaming Advisory Council.

Topics included in the survey and described in this report include opinions concerning the types of games that should be legal, desired regulations and the location of regulatory authority, the effects of gaming on Montanans and the economy, viewpoints on charitable gaming, and gaming habits.

Legal games in Montana are live poker and certain other card games, keno, bingo and raffles; video draw poker, keno and bingo; commercial sports pools; and calcuttas. In addition, horse racing and the state lottery are permitted but not addressed in this study.

Illegal games in Montana include blackjack, dice games, roulette, slot machines (other than video draw poker, keno, and bingo), punchboards, bookmaking, dog racing, and private commercial lotteries.

**Regulatory Background:** Regulation of video gambling in Montana is the responsibility of the Montana Department of Commerce. Local governments have the authority under state law to levy license fees for gaming devices, and also to further limit the places and conditions of game machine operations, such as the maximum number of machines at any one establishment, below that established by state law. Localities can restrict the number of video bingo and keno machines per establishment to less than 15, but must allow at least five per establishment.

Criminal enforcement of gaming regulations is the responsibility of local law enforcement officials, not state officials, under current law.

The only games currently regulated by the State are video poker, bingo and keno machines. Live games are not regulated by the State. Poker machines are limited to establishments licensed to serve alcoholic beverages. Keno machines are only limited to establishments selling food products.

On July 1, 1988, the number of poker machines per establishment is limited to five, and the combined number of both bingo and keno machines to 15, for a maximum grand total of 20.

Gaming machines also are limited by state law to accept only \$0.25. Grandfathered bingo and keno machines can accept \$0.10, and \$0.05 coins until July 1, 1989, at which time these machines must conform to all state regulations.

The current payout per machine is required by state law to be at least 80 percent, and can be either in the form of additional games or currency at the players option. The probabilities of winning are controlled by mechanical or electronic settings in the machines.

The maximum winning limit is \$100 per game for poker machines, and \$100 per card for bingo and keno machines, resulting in a possible \$800 payout since these machines are capable of playing up to 8 cards per game.

**Taxation Background:** The 1987 Legislature enacted a 15-percent tax on the net income of video gaming machines. Net receipts are gross receipts less payouts from the machines. Of these tax revenues, two-thirds are retained by local governments, and the remainder goes to the State. The total video game tax revenues for a full fiscal year are estimated to be \$12 million, of which \$8 million will be retained by local governments. By comparison, the Montana Department of Revenue reports that total state revenues were \$1.7 billion, and local government revenues \$1.2 billion in fiscal 1986. Total tax revenues in that year were \$617 million for the State and \$510 million for local governments. (The differences in tax and total revenues are transfers from Federal sources, and other non-tax revenues such as sewer and water fees, and interest.) While the video game machine tax revenues are not large by comparison with total revenues in the State, the video tax retained by local governments can be significant in some localities.

## SUMMARY OF SURVEY METHODS

The value of a survey is that, under certain conditions, the opinions of only a small proportion of the population can be used to estimate, within known margins of error, the opinions of the entire population. The margin of error of a survey is determined by the number interviewed, assuming all other conditions are met. The conditions that are most critical in producing an accurate survey and one for which the margin of error is predictable are (a) a random sample, (b) an unbiased questionnaire, (c) skilled interviewers and (d) a high response rate. Given those conditions and a large number of completed interviews, the results of a survey predict the opinions of the whole population with a known margin of error.

Special efforts were made in this study to ensure that these conditions were met. The sample is a random state-wide sample of telephone numbers. Professional experts were involved in the construction of the questionnaire in order to minimize biases resulting from the wording of and manner in which questions were asked. Interviewers were given training in the administration of this survey. Finally, callbacks to specific telephone numbers in the sample were made rather than substituting new telephone numbers for those that could not be reached, and a high response rate was achieved. Additional details of procedures are reported in the "Appendix."

This study reflects a sample of the views of adult Montanans statewide. Opinions of people in specific geographic regions of the State cannot be studied separately using these data because the number of respondents in any one area of the State would be too small to yield an acceptable margin of error in the estimates.

The final number of interviews completed was 635. The success rate was 71 percent of working residential telephone numbers in the sample, due to continued recalling and making appointments to speak with the appropriate household members at later times if they were not available at the time of the first call. More than 3,500 telephone calls were made during the course of this survey in order to achieve the high response rate.

The sample size is sufficiently large to predict state-wide results with a margin of error due to chance of plus or minus four percentage points at the 95 percent confidence level. This means that the true population percentage would be within the range of four points above or below that reported

from the sample data 95 percent of the time. When comparing two percentages from the sample data, the difference between the two must be greater than 8 percent in order to infer that a difference is meaningful for the population.

The sample size is also large enough to describe subpopulations of at least 250 members with a margin of error of plus or minus six percentage points at the 95 percent confidence level.

The appropriateness of the reported results in this study in reflecting the views of all adult Montanans was improved considerably over that of the raw data. The raw data demonstrated that the opinions of female interviewees were significantly different from the opinions of males interviewed, although the opinions usually were in the same direction. On average, female respondents generally were less inclined toward gambling than male respondents. A larger proportion of male respondents in the sample than is normal in the Montana population would yield raw percentage totals inappropriately weighted toward favoring gambling. Or, a larger proportion of female respondents than is in the Montana population would yield raw averages less inclined toward gambling. In order to appropriately reflect the opinions of all adult Montanans, the raw responses for males and females from the survey are weighted by the proportions of males and females in the Montana population. All data reported in the following tables are calibrated in this manner in order to reflect the Montana population.

The socio-economic characteristics of people in the sample are reasonably close to those reported by the 1980 U.S. Census, supporting the representativeness of the sample. Socio-economic profiles of the sample are reported in the Appendix under "Socio-economic Characteristics."

#### TYPES OF COMMERCIAL GAMES DESIRED

The very first questions of the interview asked about games that should be legal. The questions were designed to determine if any change in the types of currently legal games was desired, and, in addition, if other games should be legalized. These lists established a common basis for the remainder of the interview for questions concerning commercial gaming in Montana.

Desired Status of Currently Legal Games: Montanans agree that the games now legal should remain legal except for calcuttas. (Table 1) Legal games in Montana are live poker

Table 1: Types of Legal Games Desired<sup>a</sup>

	Yes	No	No Answer <sup>b</sup>	Total <sup>c</sup>
	Percent			
<u>Games Currently Legal</u>				
Commercial bingo	81	17	3	100
Commercial raffles	76	20	4	100
Poker tables	65	30	5	100
Commercial keno	65	26	9	100
Video draw poker	62	30	8	100
Video bingo	62	29	10	100
Video keno	60	31	9	100
Commercial sports pools	60	29	11	100
Calcuttas	38	22	40	100
<u>Games Currently Illegal</u>				
Slot machines	47	48	5	100
Twenty-one	44	46	10	100
Punchboards	40	45	15	100
Dog racing	34	61	5	100
Private commercial lotteries	31	60	9	100
Craps/other dice games	28	60	12	100
Roulette	28	61	11	100
Bookmaking	15	70	15	100

<sup>a</sup> Percentages calculated from 635 raw interviews to reflect statewide Montana population characteristics.

<sup>b</sup> No opinion or no response.

<sup>c</sup> Percentages may not add to 100 because of rounding error.

and certain other card games, keno, bingo and raffles; video draw poker, keno and bingo; commercial sports pools; and calcuttas.

Commercial live bingo received the highest rating, with 81 percent agreeing that it should remain legal, followed by commercial raffles with 76 percent. Other games, including video games and sports pools, received approval for remaining legal from over 60 percent of Montanans.

Calcuttas were the only currently legal game that did not get over 50 percent agreeing that it should remain legal.

The level of support for continuing the currently legal games was associated with the degree of familiarity with the game. Except for calcuttas, people were reasonably familiar with most currently legal games. Calcuttas were the least familiar of the currently legal games--35 percent were not familiar with calcuttas--and they received only a 40-percent approval to remain legal. Next in order, only 6 percent were not familiar with commercial sports pools and they received a 60-percent approval. At the other extreme, almost everyone was familiar with commercial bingo and raffles, and they received 81 and 76-percent approvals, respectively.

**Desired Status of Currently Illegal Games:** No currently illegal game received more than a 50-percent support for legalization. (Table 1) Furthermore, there was no consistent pattern relating game familiarity with the degree of support. Almost everyone was familiar with slot machines and they received the highest rating of any currently illegal game with a 48-percent approval for legalization. Legalization of blackjack was preferred by 47 percent, with only 5 percent not familiar with the game. Punchboards received the third highest rating, with 41 percent favoring legalization, yet 10 percent were not familiar enough with punchboards to make a judgement. Bookmaking received the lowest approval rate of 16 percent, yet only 11 percent were not familiar with the game.

#### TYPES OF COMMERCIAL GAMING REGULATIONS DESIRED

A series of questions was asked about gaming regulations. In general, Montanans want gaming to be controlled (Table 2), and they want control to be uniform throughout the State and among games.

Table 2: Types of Commercial Gaming  
Regulations and Controls Desired<sup>a</sup>

Item	Yes	No	No Answer <sup>b</sup>	Total <sup>c</sup>
	-----Percent-----			
<u>Regulation</u>				
Limits on hours?	74	23	3	100
Limits on bet?	68	25	7	100
Limits on win?	48	44	8	100
Limit video poker to bars?	77	20	3	100
Limit video keno & bingo to bars?	63	32	5	100
<u>Controls</u>				
Identical rules statewide?	92	5	3	100
Should local governments be allowed to limit the types of games to fewer than allowed by the State?	51	45	4	100
Should local governments be allowed to legalize more types of games than allowed by the State?	20	73	6	100
Statewide Gaming Commission?	76	16	8	100

<sup>a</sup> Percentages calculated from 635 raw interviews to reflect statewide Montana population characteristics.

<sup>b</sup> No opinion or no response.

<sup>c</sup> Percentages may not add to 100 because of rounding error.

**Gaming Hours:** Almost three-fourths do not want 24-hour gaming. That fact implies that some limits on gaming hours are desired. Currently, gaming hours are established by local ordinances and differ from place to place across the State.

**Betting Limits:** Limits on how much a player can bet in a game also were preferred by 68 percent of Montanans. Current law limits bets to two dollars per game on video machines.

**Winning Limits:** Only 48 percent favor limits on winnings. The margin of error in the sample implies that no judgement can be made from this finding. Current Montana law limits winnings to \$100 per game for poker machines and \$800 for bingo and keno machines.

**Location of Video Machines:** Montana regulations allow video keno and bingo machines to be anywhere food is sold, while video draw poker machines are limited to establishments that serve alcoholic beverages.

By a wide margin--77 percent--Montanans prefer poker machines to be in establishments that serve alcoholic beverages. That preference is consistent with current Montana law.

Montanans also prefer that video keno and bingo machines be limited to establishments that serve alcoholic beverages. The 63-percent response is significantly above the majority, and the five percent not answering the question also would not change the outcome significantly. Note that this question was not asked for live games, and the response to video keno and bingo machines may not be the same as that for live keno and bingo.

#### KINDS OF COMMERCIAL GAMING CONTROLS DESIRED

The control of gaming is a significant state issue. For example, Senate Bill 293 of the 50th Montana Legislature to legalize the licensing of electronic video twenty-one died in committee without action. In addition, Senate Bill 308 would have allowed localities to legalize blackjack in their jurisdiction, but the bill failed to pass second reading in the Senate.

Several questions probed Montanans' attitudes about controls. (Table 2)

**State-wide Rules:** An overwhelming majority of Montanans--92 percent--favor gambling rules that are the same everywhere in the State. Variations would not be allowed in rules such as

types of legal games, establishments qualifying for gaming, or legal gaming hours from one place to another if this response is strictly interpreted.

**Local Control Over Types of Games:** The theme of common state-wide gaming rules remained when additional questions were asked. Half of the respondents would allow localities to limit the types of games to fewer than are legal by state law. However, only 20 percent prefer to allow localities to legalize more games than allowed by state law. Thus, local option even for limiting the types of games otherwise legal in the State is not heavily favored. Allowing localities to add games otherwise not legal in the State is overwhelmingly opposed.

Since a significant number of respondents still desire local option to limit types of games, along with the contradictory desire for uniformity, caution should be exercised in interpreting this result.

**State-wide Gaming Commission:** Also in keeping with the theme of state-wide rules, Montanans favor a state-wide gaming commission by an overwhelming majority of 76 percent.

#### OPINIONS ABOUT TAXATION OF COMMERCIAL GAMING

A 15-percent tax on net income of video gaming machines was passed almost unanimously by both chambers of the 50th Montana Legislature. The tax yield should be about \$12 million dollars for the first full year, of which \$8 million will be retained by the local governments in each jurisdiction.

The first question posed on taxation was whether all live games (such as commercial poker tables or live bingo) should also be taxed by the State. That question was preceded by a statement that only video gambling machines are taxed by the state government in Montana. The preference was 75 percent favoring the taxation of live games. (Table 3) This response again is consistent with the theme of uniform gaming regulations across the State as discussed in the previous section.

A second taxation question came at the end of the opinion survey so as not to introduce bias in answers to other questions on gaming. This second question was asked only of those who had expressed disapproval of gaming machines in previous questions. The intent of the question was to determine if knowledge of the tax yields would change their negative opinions about gaming machines. Before asking the

Table 3: Desirability of Taxing All Live Games<sup>a</sup>

Response	Percent
Yes	75
No	20
No Answer <sup>b</sup>	5
Total <sup>c</sup>	100

<sup>a</sup> Percentages calculated from 635 raw interviews to reflect statewide Montana population characteristics.

<sup>b</sup> No opinion or no response.

<sup>c</sup> Percentages may not add to 100 because of rounding error.

Table 4: Does Tax Information Change Attitudes of those Opposed to Video Games?<sup>a</sup>

Information makes attitude toward video gaming machines:	Percent
Initially Opposed	
More favorable	3
Less Favorable	2
Same as Before	28
Initially in Favor	
Question not Asked	67
Total <sup>b</sup>	100

<sup>a</sup> Percentages calculated from 635 raw interviews to reflect statewide Montana population characteristics.

<sup>b</sup> Percentages may not add to 100 because of rounding error.

question, interviewers stated that "In 1988, about \$12 million will be collected from taxes on video gambling machines. Eight million of that will go to local governments. Does this information change your feelings about keeping video gambling legal? Does it make you less favorable, more favorable or does your attitude stay the same toward video gambling machines?"

Previously in the survey, 67 percent already had expressed approval of gaming machines. (Table 4) Of the remaining 33 percent, over 80 percent were opposed to gambling on moral grounds, and almost none of the 33 percent changed their negative opinion concerning gaming machines by the added knowledge about the machine's tax yield and its distribution to local governments. To them it was more desirable to outlaw games than to collect taxes on them.

In summary, these and other responses confirm that Montanans desire gaming to be taxed, and that games be taxed uniformly.

#### OPINIONS ABOUT THE EFFECTS OF COMMERCIAL GAMING

A combination of social, moral, economic and recreation issues are related to gambling in Montana. (Table 5) Of the gambling issues, economic issues were rated as the most important by 37 percent. Moral issues were rated next highest as the most important issue by 25 percent. Social and recreation issues rated in third and fourth place as the most important issue by 17 and 14 percent, respectively.

When asked if commercialized gambling is good or bad for the people of Montana, 34 percent responded "good", 35 percent responded "bad", and 22 percent recognized both good and bad effects. (Table 6)

These answers clearly demonstrate that gambling issues are complex and not clearcut.

Responses to additional questions show that Montanans recognize the costs as well as the economic benefits of gambling.

Effects on Families and Society: Montanans regard the effects of gambling on the family as a problem. A commonly heard perception about gamblers is that they spend money gambling rather than providing their families the basic necessities. Only 10 percent said that the conflict between gambling and providing families with the basic necessities was "not a problem", while 81 percent said that it was a problem. (Table 7)

Table 5: Perceived Types of Issues Related to Commercial Gambling<sup>a</sup>

Type of Issue	Is an Issue	Is the Most Important Issue
Social	75	17
Moral	67	25
Economic	85	37
Recreation	73	14
Other	9	2
No Answer <sup>b</sup>	N/A	5
Total <sup>c</sup>	N/A	100

<sup>a</sup> Percentages calculated from 635 raw interviews to reflect statewide Montana population characteristics.

<sup>b</sup> No opinion or no response.

<sup>c</sup> Percentages may not add to 100 because of rounding error.

Table 6: Effect of Commercial Gambling  
On the People of Montana<sup>a</sup>

Effect	Percent
Good	34
Bad	35
Both Good & Bad	22
Other	2
No Answer <sup>b</sup>	6
Total <sup>c</sup>	100

a Percentages calculated from 635 raw interviews to reflect statewide Montana population characteristics.

b No opinion or no response.

c Percentages may not add to 100 because of rounding error.

Table 7: Gambling Versus Basic Family Necessities<sup>a</sup>

Degree of problem	Percent
Very Serious	12
Moderately Serious	27
Slightly Serious	41
Not a Problem	10
No Answer <sup>b</sup>	9
Total <sup>c</sup>	100

<sup>a</sup> Percentages calculated from 635 raw interviews to reflect statewide Montana population characteristics.

<sup>b</sup> No opinion or no response.

<sup>c</sup> Percentages may not add to 100 because of rounding error.

The problem of money being spent on gambling versus family necessities was rated "slightly serious" by 41 percent of Montanans. (Table 7) Twenty-seven percent perceived it as a "moderately serious" problem, and 12 percent as a "very serious" problem.

**Effects on Local Governments:** Montanans also recognize that gambling increases governmental costs. Most--72 percent--believe that law enforcement costs would increase. (Table 8) In addition, 62 percent believe that the costs of social services would increase. However, only 41 percent believe that welfare costs would increase. It is noteworthy that only a very few stated that governmental costs would decrease.

**Effects on the Economy:** The economic issues associated with gambling were mentioned as the most important of any issue by the greatest number of respondents. (Table 5) In addition, the gambling industry is often perceived as a source of economic development in Montana.

Three questions related to the economy were asked--the perceived benefits of the gambling industry to Montana, opinions concerning the legalization of casino gambling, and promotion of gambling for economic development.

Perceived Benefits: The benefits of gambling are widely recognized, just as were the costs. The generation of tax revenues was listed as a benefit by 82 percent of Montanans. (Table 9) In addition, most Montanans--70 percent--recognize that the attraction of money from outside the State is a benefit of the gambling industry. The provision of jobs and the attraction of tourists were each recognized as benefits by 58 percent.

However, the attraction of new residents to Montana was rated as a benefit by only 33 percent. This response can have at least three interpretations. First, Montanans could believe that gambling will create few new jobs. Or, the jobs created by gambling may be filled only by residents. Finally, Montanans may not want new residents in the State, especially gaming employees. Since new jobs are viewed as one of the benefits of gambling, this response appears to signal that attracting new residents is not to be counted as a benefit.

Legalization of Casino Gambling: A total of 57 percent of Montanans do not want legalized casino gambling similar to that in Nevada. (Table 10) Only 38 percent prefer legalized casino gambling, and 6 percent expressed no opinion. Two-

Table 8: Effect of Commercial Gambling on Government Expenses<sup>a</sup>

Service	Increase	Decrease	No Change	No Answer <sup>b</sup>	Total <sup>c</sup>
Law enforcement	72	1	22	6	100
Welfare	41	4	35	21	100
Social services	62	1	25	12	100

<sup>a</sup> Percentages calculated from 635 raw interviews to reflect statewide Montana population characteristics.

<sup>b</sup> No opinion or no response.

<sup>c</sup> Percentages may not add to 100 because of rounding error.

Table 9: Perceived Economic Benefits of Commercial Gambling on Montana's Economy<sup>a</sup>

Effect	Benefits	Does Not Benefit	No Answer <sup>b</sup>	Total <sup>c</sup>
Generate tax revenues	82	14	5	100
Attract outside money	70	26	4	100
Provide more jobs	58	38	4	100
Attract tourists	58	40	2	100
Attract new residents	33	63	4	100

<sup>a</sup> Percentages calculated from 635 raw interviews to reflect statewide Montana population characteristics.

<sup>b</sup> No opinion or no response.

<sup>c</sup> Percentages may not add to 100 because of rounding error.

Table 10: Should the State Legalize Casino Gambling Similar to Nevada?<sup>a</sup>

Answer	Percent
Yes:	
Allow it Everywhere in State	23
Limit it to Certain Places	13
No opinion on Location	2
No:	
No Answer <sup>b</sup>	6
Total <sup>c</sup>	100

<sup>a</sup> Percentages calculated from 635 raw interviews to reflect statewide Montana population characteristics.

<sup>b</sup> No opinion or no response.

<sup>c</sup> Percentages may not add to 100 because of rounding error.

thirds of the 38 percent preferring casino gambling (23 percent of the all adults) would allow casino gambling anywhere in the State, and the remaining one-third would limit it to certain cities, towns, or places.

Promotion of Commercial Gambling: The promotion of commercial gambling as an industry by the State of Montana is desired by only 42 percent, with 5 percent expressing no opinion. (Table 11) Fifty-two percent believe the State should not promote the industry.

#### VIEWPOINTS ON CHARITABLE GAMING

Two questions were asked concerning charitable gambling. (Table 12) Charitable gambling was defined in the question as gambling that was operated by non-profit organizations.

Consistent with the theme of uniformity of gaming regulations and controls, 66 percent of Montanans do not favor allowing non-profit organizations to operate games that are not commercially legal in the State. An affirmative answer would have left the question open as to what would be allowed.

When the question was asked with limits attached, still no clearcut majority approved. The second question asked whether Montana should let charities and other non-profit organizations have a temporary license for Las Vegas-type casino gambling for short-term fund raising. In contrast to the first question, the second question placed a time limit on the license, made it clear that any non-profit organization was eligible, and mentioned fund raising as a goal. Still, only 48 percent approved with only three percent not answering the question. The survey error of plus or minus four percent means that the answer is too close to call--the true vote could turn out for or against by a small majority in this case.

#### GAMING HABITS OF MONTANANS

Charitable Gaming: According to the survey results, charitable gambling appears to be much less common than commercial gambling in Montana. (Table 13) Only three percent had participated in charitable gambling frequently--at least once a month during the past year. Fully 70 percent reported no charitable gambling during the past year. Perhaps activities such as buying a chance, for example, on a side of beef from Future Farmers of America are simply not perceived as gambling by the average Montanan.

Table 11: Should the State Promote Commercial Gambling as an Industry?<sup>a</sup>

Response	Percent
Yes	42
No	52
No Answer <sup>b</sup>	5
Total <sup>c</sup>	100

a Percentages calculated from 635 raw interviews to reflect statewide Montana population characteristics.

b No opinion or no response.

c Percentages may not add to 100 because of rounding error.

Table 12: Legalization of Charitable Gambling<sup>a</sup>

	Yes	No	No Answer <sup>b</sup>	Total <sup>c</sup>
	Percent			
Allow games not commercially legal?	29	66	5	100
Issue temporary casino licenses?	48	49	3	100

a Percentages calculated from 635 raw interviews to reflect statewide Montana population characteristics.

b No opinion or no response.

c Percentages may not add to 100 because of rounding error.

Table 13: Gambling Habits of Montanans<sup>a</sup>

Frequency	Charitable Commercial	
	-----Percent-----	
Frequently	3	17
Less than Once a Month	6	15
Once or Twice a Year	19	14
None Last Year	70	53
No Answer <sup>b</sup>	1	1
Total <sup>c</sup>	100	100

a Percentages calculated from 635 raw interviews to reflect statewide Montana population characteristics.

b No opinion or no response.

c Percentages may not add to 100 because of rounding error.

Commercial Gaming: More than half of Montanans reported no commercial gambling during the past year. (Table 13) On the other hand, 17 percent reported gambling at commercial establishments frequently.

Montanans appear to be tolerant of commercial gambling even though they may not practice it. That interpretation also explains the themes of uniformity of rules and controls, and the hesitancy of approving casino gambling.

#### GENDER DIFFERENCES AND GAMING OPINIONS

Women were more opposed to commercial gaming than were men. Significant differences in attitudes between the sexes were found. (Table 14) For example, the row headings in the first part of Table 14 correspond to row headings and titles in Tables 1 and 2 in the text. An asterisk in the first column indicates that differences in responses were not statistically significant. The last two columns show significant differences--the second column differences in degree but not direction, and the last column differences in the direction of opinions. A large X means that the differences were very significant (significant at the one percent level), and a small x indicates significant differences but only at the five percent level.

Thus in the first part of Table 14, reading down the last column, we find that women were not in favor of slot machines, blackjack, and punchboards while men were by significant margins. Men were not in favor of winning limits, but, women were, and by a significant margin.

Table 14: Items with Significant Male/Female Attitude Differences

	No Difference	Difference	
		Same Direction	Opposite Direction
<u>Legalization of Games</u>			
Commercial bingo.....		X	
Commercial raffles.....*			
Poker tables.....		X	
Commercial keno.....		X	
Video draw poker.....		X	
Video bingo.....*			
Video keno.....		X	
Commercial sports pools.....		X	
Calcuttas.....		X	
Slot machines.....			X
Twenty-one.....			X
Punchboards.....			X
Dog racing.....		X	
Private commercial lotteries.....		X	
Craps/other dice games.....		X	
Roulette.....		X	
Bookmaking.....		X	
<u>Regulation</u>			
Limits on hours?.....		X	
Limits on bet?.....		X	
Limits on win?.....			X
Limit video poker to bars?.....		X	
Limit video keno & bingo to bars?.....		X	
<u>Controls</u>			
Identical rules statewide?.....*			
Limit games to fewer types?.....		X	
Should local governments be allowed to limit the types of games to fewer than allowed by the State?.....			X
Should local governments be allowed to legalize more types of games than allowed by the State?.....*			X
Statewide Gaming Commission?.....		X	(Men are <u>more</u> in favor)
<u>Taxation</u>			
Desirability of taxing all live games.....*			
Tax income affects attitude toward video games.....		X	

(continued next page)

Table 14 Cont'd: Items with Significant Male/Female Attitude Differences

	No Difference	Same Direction	Difference Opposite Direction
<u>Issues Related to Commercial Gambling</u>			
Social.....*			
Moral.....X			
Economic.....*			
Recreation.....X			
Effect of Gambling on Montanans.....X			
Gambling Versus			
Basic Family Necessities.....X			
<u>Effect of Commercial Gambling</u>			
<u>on Government Expenses</u>			
Law enforcement.....*			
Welfare Aid.....X			
Social services.....X			
<u>Perceived Economic Benefits of Commercial</u>			
<u>Gambling on Montana's Economy (Men see greater benefits throughout)</u>			
Generate tax revenues.....X			
Attract outside money.....X			
Attract tourists.....X			
Provide more jobs.....X			
Attract new residents.....X			
Should the State Legalize Casino			
Gambling Similar to Nevada?.....X			
Should the State Promote Commercial			
Gambling as an Industry?.....X			
<u>Legalization of Charitable Gambling</u>			
Issue temporary licenses			
for casino gambling?.....*			
Allow games not			
commercially legal?.....*			
<u>Gambling Habits of Montanans</u>			
Charitable.....*			
Commercial.....X			

APPENDIX

- A. Questionnaire
- B. Cross-reference to Tables
- C. Socio-economic Characteristics of Respondents
- D. Methods
  - Sample
  - Questionnaire Development
  - Procedures
  - Response Rate

A. Questionnaire

Is this \_\_\_\_\_ (telephone #) \_\_\_\_\_?

This is \_\_\_\_\_ (Interviewer's full name) \_\_\_\_\_, calling from the Montana State University Survey Research Center. We are doing a survey on how Montanans feel about commercial gambling issues. I need to talk to the youngest/oldest man/woman over the age of 17 in your household (would that be you? is he/she in today?)

IF THERE IS NO SUCH HOUSEHOLD MEMBER, ACCEPT ONE OF THE GENDER AVAILABLE, AND THE RIGHT AGE, THEN ALTERNATE THE REQUEST FOR THE NEXT CALL. IF THE PERSON EXISTS, BUT IS NOT AVAILABLE, MAKE ARRANGEMENTS TO CALL BACK WHEN HE/SHE WILL BE HOME.

IF NEW PERSON COMES TO TELEPHONE, REPEAT: This is \_\_\_\_\_, calling from the Montana State University Survey Research Center. We are doing a survey on how Montanans feel about commercial gambling issues.

CONTINUE AS FOLLOWS: Are you a resident of Montana? IF NOT A RESIDENT, THANK THEM AND CONCLUDE THE CALL.

The Montana Gaming Advisory Council, associated with the Department of Commerce, is interested in what you want in the future for gambling in the State. The survey results will be used for legislative recommendations.

Your telephone number was selected at random and your responses will be confidential. The survey should take about 15 minutes. Feel free to ask questions at any time, and you may withhold a response to any item if you wish, Okay?

First, I have a list of different games that are often played in commercial gambling. Some kinds are legal in the state, and some are not. We'd like to know how you feel.

1. The following COMMERCIAL games are NOT LEGAL in Montana. Do you think any of them should be legalized?

Twenty-one (or black jack)  
Craps, or other dice games  
Roulette  
Slot machines (other than poker, keno, bingo video games)  
Punchboards  
Bookmaking  
Dog Racing  
Private commercial lotteries

NOT LEGAL NOW:

- 1 LEGALIZE
- 2 DON'T LEGALIZE
- 3 NOT FAMILIAR WITH GAME
- 4 (NO OPINION)
- 5 (NO RESPONSE)

- 1a. Are there any other commercial games you know of that are NOT LEGAL, which you would like to see legalized? (Specify -- 1 line, press RETURN at end)
2. The following COMMERCIAL games ARE legal in Montana. Do you think any of them should be against the law?

Poker tables  
Commercial bingo  
Commercial raffles  
Commercial keno  
Video draw poker  
Video keno  
Video bingo  
Commercial sports pools  
Calcuttas

LEGAL. NOW:           1 SHOULD BE AGAINST THE LAW  
                          2 OK TO BE LEGAL  
                          3 NOT FAMILIAR WITH GAME  
                          4 (NO OPINION)  
                          5 (NO RESPONSE)

- 2a. DO NOT READ!! AT THIS POINT, PLEASE ENTER RESPONDENT'S VOLUNTEERED ATTITUDE TOWARD GAMBLING:

1 VERY OPPOSED  
2 VERY IN FAVOR  
3 NOTHING VOLUNTEERED

3. Next, we would like to know what you think about regulating commercial gambling in the state. Residents' opinions are important to help shape future rules and regulations.

- 3a. Do you think Montana should have 24-hour gambling?

1 NO  
2 YES  
3 (NO OPINION)  
4 (NO RESPONSE)

- 3b. Should there be limits on how much a player can bet in a game?

1 NO  
2 YES  
3 (NO OPINION)  
4 (NO RESPONSE)

- 3c. Should there be limits on how much a player can win in a game?

1 NO  
2 YES  
3 (NO OPINION)  
4 (NO RESPONSE)

3d. Currently, poker machines can only be placed in bars, cocktail lounges or other places where alcohol is consumed. Would you like to see poker machines allowed other places as well, or do you think the limitation is OK?

- 1 THEY SHOULD BE ALLOWED OTHER PLACES, TOO
- 2 LIMITATION IS OK
- 3 (NO OPINION)
- 4 (NO RESPONSE)

3e. Keno and bingo machines can go virtually anywhere food can be purchased. Do you think THAT is OK, or do you think they should be limited like poker machines?

- 1 THEY SHOULD BE LIMITED LIKE POKER MACHINES
- 2 IT IS OK AS IS
- 3 (NO OPINION)
- 4 (NO RESPONSE)

4. Only video gambling machines are taxed by the state government in Montana. Do you think ALL live games (such as commercial poker tables or live bingo) should also be taxed by the state?

- 1 NO
- 2 YES
- 3 (NO OPINION)
- 4 (NO RESPONSE)

COMMENTS: (IF VOLUNTEERED: 2 lines -- Enter comments and press RETURN)

5a. Do you think gambling rules should be the same everywhere in Montana--in Kalispell, Billings, Plentywood, or your own county or city?

- 1 NO
- 2 YES
- 3 (NO OPINION)
- 4 (NO RESPONSE)

5b. Do you think local governments should have the right to legalize MORE types of games than allowed by the state?

- 1 NO
- 2 YES
- 3 (NO OPINION)
- 4 (NO RESPONSE)

5c. Should local governments have the right to limit the types of games to FEWER kinds than allowed by the state?

- 1 NO
- 2 YES
- 3 (NO OPINION)
- 4 (NO RESPONSE)

5d. Do you think Montana should have a state gaming commission?

- 1 NO
- 2 YES
- 3 (NO OPINION)
- 4 (NO RESPONSE)

Now I would like to ask about some effects of gambling on the state and the people of Montana.

6. Would you say commercialized gambling is good or bad for the people of Montana?

- 1 GOOD
- 2 BAD
- 3 (BOTH GOOD AND BAD)
- 4 (OTHER)
- 5 (NO OPINION)
- 6 (NO RESPONSE)

7. Some people believe that commercial gambling is an industry that is beneficial to the state. From this list, please tell me if you think gambling BENEFITS the state's economy:

- By making more jobs for Montanans?
- By attracting new residents?
- By getting outside money into the state?
- By attracting tourists to Montana?
- By providing a source of tax revenue to the state?

- 1 DOES NOT BENEFIT ECONOMY OF STATE
- 2 BENEFITS ECONOMY OF STATE
- 3 (NO OPINION)
- 4 (NO RESPONSE)

7a. Can you think of other examples of the effect of commercial gambling on Montana's economy? (2 lines--Press RETURN after each line)

(Questions 8, 9a and 9b are SKIPPED if respondent answered "BAD" to question 6 and saw NO BENEFITS in all of question 7.)

8. Do you think the state should PROMOTE commercial gambling as a benefit to the economy?

- 1 NO
- 2 YES
- 3 (NO OPINION)
- 4 (NO RESPONSE)

COMMENTS: (IF VOLUNTEERED: 2 lines -- Enter comments and press RETURN)

9a. Would you support the legalization of casino gambling similar to that which is legal in Nevada?

- 1 NO
- 2 YES
- 3 (NO OPINION)
- 4 (NO RESPONSE)

9b. Should casino gambling be allowed everywhere, or be limited to certain cities and towns or resort areas as designated by the state legislature?

- 1 ALLOW EVERYWHERE
- 2 LIMIT TO AREAS DESIGNATED BY LEGISLATURE
- 3 (NO OPINION)
- 4 (NO RESPONSE)

10. (This question is asked ONLY if respondent desires to make any video game(s) illegal.) In 1988, about 12 million dollars will be collected from taxes on video gambling machines. Eight million of that will go to local governments. Does this information change your feelings about keeping video gambling legal? Does it make you less favorable, more favorable or does your attitude stay the same toward video gambling machines?

- 1 MORE FAVORABLE
- 2 LESS FAVORABLE
- 3 STAY THE SAME
- 4 (NO OPINION)
- 5 (NO RESPONSE)

11. Now we want your opinion on how commercial gambling may affect the amount of effort and expense for providing public services by state or local governments.

a. Let's start with Law Enforcement. Does gambling cause an increase, decrease, or no change in effort or expense for Law Enforcement?

- 1 INCREASE
- 2 DECREASE
- 3 NO CHANGE
- 4 (NO OPINION)
- 5 (NO RESPONSE)

Why do you say that? ( 2 lines — Press RETURN at the end of each line)

b. Next, Welfare Aid: Does gambling cause an increase, decrease, or no change in effort or expense for Welfare aid?

- 1 INCREASE
- 2 DECREASE
- 3 NO CHANGE
- 4 (NO OPINION)
- 5 (NO RESPONSE)

Why do you say that? ( 2 lines — Press RETURN at the end of each line)

c. Next, Social Services (such as family or individual counseling):  
Does gambling cause an increase, decrease, or no change in effort  
and expense for social services?

- 1 INCREASE
- 2 DECREASE
- 3 NO CHANGE
- 4 (NO OPINION)
- 5 (NO RESPONSE)

Why do you say that? ( 2 lines -- Press RETURN at the end of each line)

d. Can you think of any other government or community service that is  
affected by gambling?

- 1 NO
- 2 YES

What service? Can you explain the effect and why you think it occurs?  
(3 lines -- press RETURN after each line):

12a. In your opinion, are the issues related to commercial gambling:

social issues?  
moral issues?  
economic issues?  
recreation issues?

- 1 NO
- 2 YES
- 3 (NO OPINION)
- 4 (NO RESPONSE)

12b. Are there OTHER kinds of issues involved?

- 1 NO
- 2 YES

Please specify (1 line -- press RETURN at end):

12c. You mentioned these kinds of issues:

- 1 social
- 2 moral
- 3 economic
- 4 recreation
- 5 other
- 6 (NO RESPONSE)

This set of choices corresponds  
to the items receiving a "YES"  
response in parts 12a and 12b  
above.

13. Not used in survey.

Which ONE set of issues do you feel is more important?

14. Some people think gamblers spend their money on games rather than providing basic family necessities. In your opinion, how big a problem is this in Montana? Would you say it is a very serious problem, a moderate problem, a slight problem, or not a problem in Montana?

- 1 A VERY SERIOUS PROBLEM
- 2 A MODERATE PROBLEM
- 3 A SLIGHT PROBLEM
- 4 NOT A PROBLEM
- 5 (NO OPINION)
- 6 (NO RESPONSE)

15. So far, I have been asking questions related to COMMERCIAL gambling. Now I would like to ask a few questions about CHARITABLE gambling, that is, gambling operated by NON-PROFIT organizations.

- a. Should "charitable gambling" be allowed to offer other types of gambling not legal for commercial gambling establishments?

- 1 NO
- 2 YES
- 3 (NO OPINION)
- 4 (NO RESPONSE)

- b. Should Montana let charities and other non-profit organizations have a temporary license for Las Vegas-type casino gambling for short-term fund raising?

- 1 NO
- 2 YES
- 3 (NO OPINION)
- 4 (NO RESPONSE)

16. Have you done any "charitable gambling" in the last year?

- 1 NO
- 2 YES
- 3 (NO OPINION)
- 4 (NO RESPONSE)

- a. (If YES) About how frequently? (READ DOWN THE LIST UNTIL STOPPED)

- 1 ONCE OR TWICE LAST YEAR
- 2 LESS THAN ONCE A MONTH
- 3 LESS THAN ONCE A WEEK
- 4 ONCE A WEEK
- 5 MORE THAN ONCE A WEEK
- 6 (NO RESPONSE)

17. Have you done any commercial gambling in the last year?

- 1 NO
- 2 YES
- 3 (NO OPINION)
- 4 (NO RESPONSE)

a. (If YES) About how frequently? (READ DOWN THE LIST UNTIL STOPPED)

- 1 ONCE OR TWICE LAST YEAR
- 2 LESS THAN ONCE A MONTH
- 3 LESS THAN ONCE A WEEK
- 4 ONCE A WEEK
- 5 MORE THAN ONCE A WEEK
- 6 (NO RESPONSE)

Finally we need some background information for statistical purposes.  
ALL INFORMATION YOU GIVE ME WILL BE COMPLETELY CONFIDENTIAL.

18. First I am going to read some age categories to you. Please stop me when I get to the right one for you:

- 1 UNDER 20
- 2 20 TO 29
- 3 30 TO 39
- 4 40 TO 49
- 5 50 TO 59
- 6 50 TO 69
- 7 70 AND OVER
- 8 (NO RESPONSE)

19. What is your occupation? (What kind of work do you do?)

- A MANAGERIAL AND PROFESSIONAL
- B TECHNICAL, SALES AND ADMINISTRATIVE SUPPORT
- C SERVICE
- D FARMING, FORESTRY AND FISHING
- E PRECISION PRODUCTION, CRAFT AND REPAIR
- F OPERATORS, FABRICATORS AND LABORERS
- G UNEMPLOYED
- H NOT EMPLOYED OUTSIDE HOME
- I STUDENT
- J RETIRED
- K (NO RESPONSE)

20. What is the last grade you finished in school?

- 1 GRADE SCHOOL ONLY (GRADE 8 OR UNDER)
- 2 SOME HIGH SCHOOL (GRADE 9 TO GRADE 11)
- 3 HIGH SCHOOL GRADUATE (GRADE 12)
- 4 SOME COLLEGE
- 5 COLLEGE GRADUATE
- 6 ADVANCED DEGREE
- 7 (NO RESPONSE)

21. How long have you lived in Montana?

- 1 LESS THAN 1 YEAR
- 2 1 - 2 YEARS
- 3 3 - 5 YEARS
- 4 6 - 10 YEARS
- 5 11 - 15 YEARS
- 6 16 OR MORE YEARS
- 7 (NO RESPONSE)

22. Is your household located within city limits, in a suburban area, or in a rural area?

- 1 WITHIN CITY LIMITS
- 2 SUBURBAN
- 3 RURAL
- 4 (NO RESPONSE)

23. What is your marital status?

- 1 MARRIED
- 2 DIVORCED/SEPARATED
- 3 WIDOW/WIDOWER
- 4 NEVER MARRIED
- 5 (OTHER)
- 6 (NO RESPONSE)

24. Finally, I am going to read some income categories to you. Please stop me when I get to your approximate total annual household income.

- A NO CURRENT HOUSEHOLD INCOME
- B UNDER \$5000
- C 5,000 to 9,999
- D 10,000 to 19,999
- E 20,000 to 29,999
- F 30,000 to 39,999
- G 40,000 to 49,999
- H 50,000 AND OVER
- I (DON'T KNOW)
- J (NO RESPONSE)

THANK RESPONDENT FOR TAKING PART IN THE SURVEY AND CONCLUDE THE CALL.

GOOD WORK!

Now complete the following information for the records:  
Respondents' Sex:

- 1 MALE
- 2 FEMALE

Telephone Number:

Enter and press RETURN for all remaining items.

B. Cross-reference to Tables

Cross-reference to Tables

<u>Tables</u>	<u>Questions</u>	<u>Topics</u>
1	1,2	Types of commercial games desired
2	3,5	Commercial gaming regulations and controls desired
3,4	4,10	Taxation of commercial gaming
5,6	14,11	Issues and effects of gambling
7	14	Effects on families and society
8	11	Effects on local governments
9	7	Perceived economic benefits
10	9	Casino gambling
11	8	Promotion of commercial gaming
12	15	Charitable gambling
13	16,17	Gambling habits of Montanans
Appendix Part C	18 through 24	Socio-economic Characteristics

C. Socio-economic Characteristics of Respondents

## SOCIO-ECONOMIC CHARACTERISTICS OF RESPONDENTS

Age of respondent	Percent
under 20.....	4
20 to 29.....	18
30 to 39.....	25
40 to 49.....	15
50 to 59.....	13
60 to 69.....	12
70 and over.....	11
no response.....	2
 Total.....	 100

---

Occupation of respondent	Percent
managerial, professional....	17
technical, sales, admin....	14
service.....	12
farming, forestry, fish....	6
craft and repair.....	2
operations, laborers.....	5
unemployed.....	2
not employed outside home...	15
student.....	6
retired.....	18
no response.....	3
 Total.....	 100

---

Education of respondent	Percent
grade school only.....	4
some high school.....	8
high school grad.....	37
some college.....	28
college grad.....	16
advanced degree.....	5
no response.....	2
 Total.....	 100

---

Sex of respondent	Percent
male.....	40
female.....	60
 Total.....	 100

Years resident of Montana	Percent
less than 1 yr.....	2
1-2 yrs.....	2
3-5 yrs.....	4
6-10 yrs.....	6
11-15 yrs.....	8
16 or more yrs.....	77
no response.....	2
Total.....	100

---

Household location	Percent
within city limits.....	55
suburban.....	15
rural.....	28
no response.....	2
Total.....	100

---

Marital status	Percent
married.....	62
divorced, separated.....	9
widow, widower.....	10
never married.....	16
other.....	1
no response.....	2
Total.....	100

---

Household income	Percent
no household income.....	1
under \$5000.....	5
\$5000-9,999.....	8
\$10,000-19,999.....	24
\$20,000-29,999.....	26
\$30,000-39,999.....	13
\$40,000-49,999.....	6
\$50,000 and over.....	8
no response.....	10
Total.....	100

D. Methods

Sample  
Questionnaire Development  
Procedures  
Response Rate

## METHODS

**Sample:** The sample used for this survey was purchased from Survey Sampling, Inc. (SSI), a Connecticut firm which specializes in random samples of households and persons in the United states. 1,400 telephone numbers were generated from data on Montana exchanges and households, stratified to all counties in proportion to each county's share of telephone households in the state.

For each county, unique telephone numbers were selected by systematic sampling from among all working blocks of numbers for all telephone exchanges assigned to the county. SSI then screened these numbers to remove as many business listings as possible; such ineligible numbers were replaced with other random numbers. The sample was geographically drawn so that each successive 100 set of numbers was representative of the State as a whole, allowing the sample to be split into two groups of 700 numbers each for purposes of distributing respondents' ages more representatively according to the procedures described below. The 1,400 numbers were called exhaustively during the course of the survey.

**Questionnaire Development:** Questionnaire development was a multi-step procedure involving transmission of the clients' desires on paper, personal discussion, and an audio tape of part of a Gaming Advisory Commission meeting. Two draft versions were submitted to the clients for discussion, clarification and revision. Experts at the M.S.U. Survey Research Center and Department of Sociology consulted in the revision process. The final draft was then programmed for the Sawtooth Software Ci2 Computer Interviewing software package and underwent thorough checking and pre-testing. About 25 pre-test interviews were held, after which some wording was revised to improve respondent comprehension of questions.

**Procedures:** Most interviews were done during the hours of 6:30 to 9:00 P.M. the weeks of April 25 through May 9. When telephone numbers had been called three nights in a row and were still unanswered, the numbers were then called during the daytime. Messages were left on answering machines for the recipient to call the Survey Research Center, collect. Constant busy signals were checked to see if the numbers were actually in service. Numbers not in service, business phones and numbers of non-residents were eliminated from the sample. All numbers that remained unanswered were called at least once a day until data collection was stopped.

The first 700 sample numbers were called for the youngest adult male or female Montana resident in the household; the second 700 numbers were called for the oldest adult male or female Montana resident in the household. This procedure

eliminated a potential bias: the failure to randomly select adults younger or older than the head of household, when they were present. The sex of the person to be interviewed was alternated from interview to interview to better balance the gender of respondents. When the person to be interviewed was not present, an appointment was made to call back at a convenient time. More than 3,500 calls were made in the three weeks of calling, and 635 interviews were completed.

Response Rate: Of the 1,400 numbers in the sample, 401 were not in service, 98 were businesses not initially screened out, and 9 were households of persons who were not residents of the State. The remaining of 892 numbers were considered valid sample numbers. The response rate for 635 completed interview was therefore calculated as  $100 \times 635/892$ , or 71.2 percent.

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