

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on March 23, 1989, at
12:25 p.m.

ROLL CALL

Members Present: All members present with the following
exceptions:

Members Excused: Rep. Ole Aafedt, Rep. Mary McDonough, Rep.
Linda Nelson

Members Absent: None.

Staff Present: Julie Emge, Secretary
John MacMaster, Legislative Council

Announcements/Discussion: Executive action on SB's 263, 307,
342, 396 and 397 will follow hearing on SB 431.

HEARING ON SENATE BILL 431

Presentation and Opening Statement by Sponsor:

Sen. Del Gage, Senate District 8 commented that there has been a lot of concern regarding gambling issues in the State of Montana to the point that a fairly large study report was filed. This bill is an attempt to address a lot of those issues, as far as the state is concerned. Those that have not had the opportunity to review the study report may want to as it indicates from the public hearings that were held the feelings of the public with regard to gambling in Montana. They do not want expansion of gambling in Montana by a fairly substantial margin but do want some kind of coordinated regulation of gambling in Montana. SB 431 primarily coordinates regulation in the State of Montana. It will be at the state level under the attorney general's jurisdiction to where everybody is being regulated on the same basis and in the same way. At the present, many areas are doing almost nothing as far as the regulation of gambling is concerned. This bill will additionally address the issue of revenues not being generated from licensing and controlling gambling. Sen. Gage stated that there were many people that wished to speak on the bill and reserved the right to close.

Testifying Proponents and Who They Represent:

Rep. Dorothy Cody, House District 20
Sen. Dennis Nathe, Senate District 10
Marc Racicot, Attorney General
Jimmy Gertlin, Director GIA
Bob Durkee, Montana Tavern Association
Steve Wilkin, President, Montana Tavern Association
Mike Schaeffer, Yellowstone County Sheriff
Roger Knudson, President, Yellowstone County Tavern Association
Pias Elias, Billings Bingo Palace
Bill Ware, Helena Chief of Police
Terry Will, Bingo and Poker Room of Helena
Jim Nugent, Missoula City Attorney
Alec Hansen, Montana League of Cities and Towns
Mark Brisam, Big Brothers and Sisters Bingo of Missoula
Becky Erickson, Sam's Supper Club in Glasgow
Mignon Waterman, Montana Association of Churches
Brad Schoepf, Gaming Operator from Kalispell
John E. Kennedy Jr., Mayor of Kalispell
Harold Hanser, Yellowstone County Attorney
Andy Poole, Dept. of Commerce
John Willems, Bureau Chief of Video Games Bureau
Bob Fletcher, Cannery Lounge in Bozeman
Robert Ellerd, Office of the Governor
Kent Frampton, Cavanaugh's Casino in Kalispell

Proponent Testimony:

Rep. Dorothy Cody, House District 20 stated that gambling in the State of Montana has slowly but surely been expanding. It has become increasingly obvious to many that there exists a great deal of fragmentation in who, what, and where the control is, has been, or should be. She feels that SB 431 takes care of most of all of these problems and stated that she strongly supports it for that reason. However, there is one small amendment that needs to be added (EXHIBIT 1). Last year the federal government passed a law requiring states and Indian reservations to enter into agreements concerning gambling on the reservations. This bill could be the vehicle for those agreements somewhere down the line. She stated that she does not have a lot of specifics on the federal law, but does know that it defines gambling on reservations in a three tiered system along with a commission. The amendment that she is offering is an amendment that she feels is important because of that federal law, and that it addresses some of the concerns of her people on the Fort Peck Reservation. Additionally, she commented that she would like to clarify a misunderstanding that some people have about gambling on the Fort Peck Reservation. It is not an individually owned enterprise. There are community organizations of Native Americans throughout the reservation, consisting of the Wolf Point

Community Organization, the Frazier Community Organization, and the Poplar Community Organization. Each of those community organizations is the governing body for the tribal members in that community. Particularly, in the community of Wolf Point, they elect members to a board from their own group and that is the governing body. Rep. Cody stated that they would like to see a Native American on the commission of this bill from a reservation that has gambling. She urged the committee's consideration of her proposed amendment and the adoption of SB 431.

Sen. Dennis Nathe, Senate District 10 rose in support of the amendment that was proposed by Rep. Cody and reiterated that they need cooperation between the state and the tribes on a certain class of gambling before they can use any of the poker machines in an establishment according to the law put forth by the federal government. It is also very important that the committee make provisions to have one Native American on the gaming commission. The Inter-Tribal Policy Board would be one entity that's in existence that could recommend to the State of Montana or to the governor a person to be appointed to sit on the gaming commission. Sen. Nathe expressed that he is in full support of the amendment offered by Rep. Cody and in favor of the bill.

Attorney General Marc Racicot stated that since the legislative session of 1972, gambling in Montana has grown. Not only in terms of the types of gambling that are legal, but also in terms of the form of regulation and the revenue that is being generated from gambling. Since that time they have authorized a number of different varieties of gaming in Montana; live bingo, live keno, live poker and other live card games. The legislature has also authorized the state lottery, sports pools, raffles, calcutta's, etc. as well as authorizing video gambling machines on which bingo, keno and poker can be played. In terms of the different types of gambling available in the State of Montana, we rank third in the country behind the states of Nevada and New Jersey. At this point and time, the estimates that Mr. Racicot has received are that approximately 1 billion quarters, or \$250 million in quarters are being utilized in video gambling machines annually in this state. Of that amount \$80,000 is the profit that the industry is realizing before taxes are paid. Of the taxes paid, \$8 million is being returned to local governments, and \$4 million is going into the state general fund. One must keep in mind when discussing those figures that they are only speaking of video gambling machine revenue, that does not include the revenue expended on any other forms of legal gambling in Montana.

Mr. Racicot stated that one of the more interesting things that was done by the Gaming Advisor Council was to survey local governing bodies across Montana about the forms of gambling that are statutorily empowered to be regulated and taxed. 87% of those local governments

responded to the survey and of those responding only 15% had created a local regulatory council to oversee gambling in this area. Only 40% taxed or assessed fees on the gambling even though they were empowered to do so by the legislature. One of the survey questions asked local governments to identify the types of gambling in their area. Some of the local governments identified games which are clearly illegal under our regulatory scheme. Mr. Racicot commented that he does not mean to imply that local governments do not care about what's going on in their jurisdiction, he firmly believes that they do; and most of the larger counties and cities in the state take responsibility for gambling in their area and they regulate and tax the gambling. There are however, two problems that exist. The small counties and communities do not have the resources to license and regulate gambling at the same level of their communities. Large communities and counties, while taking a much more active role in the regulation of gambling, interpret the statute much differently from jurisdiction to jurisdiction. What is the result of the gambling fragmentation in Montana? First, local governments are losing authorized revenues, not only because they do not tax legal gambling, but even if they do, the illegal gambling dollar is a dollar spent outside of the regulatory process which will never be recovered. Second, the industry is having to compete with illegal gambling enterprises that would otherwise be available to them on a competitive basis. Thirdly, one business may be paying \$1,500 a year to run a poker game while within a mile of a different jurisdiction, there is no annual fee. Mr. Racicot stated that the real question is who benefits from the gambling fragmentation in the State of Montana. He doesn't feel that it is local governments, state governments, the legitimate businessman and he doesn't feel that it is the player. The person who benefits from the fragmented mess that we have in Montana is the person with the desire or willingness to hide behind the statutes that currently exist.

Mr. Racicot stated that there is definitely a need for uniformity and regulation at the state level. Should local governments have a say about gambling in their jurisdiction? That is a question that the committee is obviously going to have to deal with. Local control has lead to not less gambling, legal or illegal, but to more gambling. The Gaming Advisory Council had Montana State University conduct a statistically valid gambling survey last spring. They asked a number of pertinent questions about gambling of adult citizens, both male and female. The question receiving the highest positive response was whether or not the respondents were in favor of uniform regulation and control. 95%

of the respondents favored uniform regulation and control of gambling in Montana. Therefore, gambling is not a local government issue, nor is it just a Montana issue, it is a legislative issue. The questions that they have to confront when considering this piece of legislation are: 1.) What do they need to do to assist local government, state government, the industry, law enforcement, and the players regarding gambling legislation; and 2.) What do they need to do to force illegal gambling elements out of business in the State of Montana? Those are the major arguments and questions that the Gaming Advisory Council dealt with for over a year and Mr. Racicot feels that they did a good job in answering those questions to the best of their ability. Additionally, they did not do their work in a vacuum, they held public hearings across the state and over 18 council meetings were held all across Montana receiving input from the industry, from local governments, from church groups and organizations, law enforcement agencies and other interest groups including players. They conducted the survey concerning relevant gambling issues and they contracted with the survey research center at MSU. The membership of that council included representation from the Montana Tavern Assoc., law enforcement, the Gaming Industry Assoc., local governments, the Inn Keepers Assoc., the Coin Operators Assoc., and the legislature in the form of Sen. Jack Haffey. As the chairman of the Gaming Advisory Council stated in the forward to the report, "it's important for me 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 Montanan's. It's 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 the local governments in Montana."

Mr. Racicot commented that the gambling legislation in the form of SB 431 recommends that gambling rules and regulations be uniform statewide for all forms of gambling. It recommends a regulatory scheme to be created for the purpose of assuring that gambling is uniform, fair and legal statewide. It recommends that all forms of legal gambling be taxed by the state with the revenue being returned to local governments. Under this bill, almost 2 million more dollars in revenue will be returned to local governments as is presently occurring. It recommends that persons receiving profits from gambling in Montana be licensed so that a problem in Missoula does not become a problem in Great Falls because of a lack of information. It also provides a provision of licensing revenues to treat

those who are involved in the enforcement end, habitual gambling and Gamblers Anonymous Association to provide for the provision of licensing revenues for law enforcement, training at the local law enforcement academy and it recommends that a licensing mechanism be established for all forms of gambling which alleviates a need for a business person to pay separately to local governments and the state various taxes and fees at different times. Currently in Montana, there are industries that are manufacturing gambling devices, which are illegal in the State of Montana to possess. They then they ship those devices to jurisdictions outside Montana where they are legal. This bill requires that those companies be allowed to continue to do business through licensing and inspections. There are several major manufacturers in Montana employing hundreds of people who could, if the law were to be applied everyday, be shut down under the current statutes in Montana.

Mr. Racicot stated that his intent in bringing this bill forward through the Advisory Council is to present a vehicle to the legislature so they can once and for all deal with this problem which involves a very major industry in the State of Montana. With very few exceptions, he feels that most of the concerns can be put on the table and dealt with honestly and responsibly and that they can end up with a bill that allows them the opportunity to deal with the problem in a fashion that is not oppressive and that is fair. Mr. Racicot expressed that he has no special interest in this legislation other than to see that it provides a vehicle for regulation and enforcement.

Jimmy Gertlin, Director of the GIA assured the committee that they will work with the appointed subcommittee to the best of their ability to make this bill work right for the state.

Bob Durkee, a lobbyist for the Montana Tavern Assoc. stated that they are in support of the concept of SB 431 with the inclusion of their proposed amendments (EXHIBIT 2).

Steve Wilkin, President of the Montana Tavern Assoc. and owner of the Steer Inn Lounge in Three Forks, Montana stated that the MTA membership consists of about 1/2 of all the licensed beverage outlets in the State of Montana. They feel that the uniformity concept of this bill will be good for their industry and that it is a good bill.

Mike Schaeffer, Yellowstone County Sheriff and representing the Montana Sheriff's and Peace Officers Assoc. stated that the Assoc. supports SB 431. They think that it's time that we have some uniformity and the enforcement of it. They don't have any problems with the amendments as long as equal enforcement throughout the state is followed through with.

Roger Knudson, President of the Yellowstone County Tavern Assoc. commented that because of so many previous problems in interpretation and enforcement of gambling laws, the Assoc. supports this bill as it will address those issues.

Pias Elias, operator of the Big B Bingo Parlour in Billings stood in support of SB 431 and stressed that Montana needs uniformity. He is concerned with page 5, section 3, line 20 and stated that the language, as printed would make every bingo cart in the State of Montana obsolete. That language should be changed to have that free space optional. Additionally, page 34, section 38 that talks of fee licensing live bingo also concerns him. This is something that would be very hard to regulate and tax. Mr. Elias commented that he is in strong favor of a flat fee.

Bill Ware, Helena Police Chief and representing the Montana Assoc. of Chief's of Police stated that they are in support of SB 431 as amended. This bill represents a giant step for the State of Montana as it provides uniformity. He expressed concerns with the bill on page 46, lines 18-22 which provides for jurisdictions to set limits of no less than 5 machines. Mr. Ware stated that he served on the Gaming Advisory Council for over a year and asked the committee to consider the proposed amendments carefully. This bill is workable, enforceable and it is understandable. He urged the committee's concurrence as currently amended.

Terry Will of the Bingo and Poker Room in Helena, referring to section 29 stated that about 50% of his income is from the live poker table. He suggested an amendment to section 47 to read that a person legally operating an established business as of January 15, 1989 for the principle purpose of gambling will be granted an operators license.

Jim Nugent, the Missoula City Attorney stated that the city of Missoula supports SB 431 with the addition of two major amendments. Both amendments cause concern to the city of Missoula's elected officials for the reason that they will, in fact, cost the city of Missoula gambling tax revenues. The two provisions that they are concerned about are the two proposals that would require that keno, bingo, and video draw poker machines only be located on a premise that sells alcohol for on premise consumption. Further, they oppose the prohibition on gambling between the hours of 2 a.m. and 8 a.m. with respect to the limitation on where the machines are located. As of this week the city of Missoula has approximately 26 keno machines that are located at locations that do not have on premise alcohol consumption licenses. These are convenient stores, laundromats, gas stations, Big Brothers and Sisters, etc. raising money for non-profit entities. There are some real irony's in the bill as it is proposed with those limitations in it. Mr. Nugent urged the committee to consider the above mentioned concerns. He

stated that their finance officer believes that they would lose between \$30 - \$45,000 a year and that would mean that the State of Montana would lose between \$15 - \$22,500. Under the current proposal the cities, the counties and the state government will lose.

Alec Hansen from the Montana League of Cities and Towns stated that they understand the logic of uniform regulation and enforcement of gambling in Montana, but believe there is one place in this law where local control is an important concept and that relates to the hours of operation. By providing uniform hours of operation, in a sense they are saying that every town is the same. They look at this provision as a way of maintaining revenue that video gambling is generating for cities and towns in the state. Additionally, Mr. Hansen commented that it would be important for the committee to consider another amendment that would allow the location of these machines in places other than those licensed for on premises consumption of alcohol. He also supported Rep. Cody's amendment, particularly if it would improve the prospects of negotiating agreements with the tribes that will maintain the states authority over gaming on reservations, and more importantly, the states ability to collect taxes on those games and machines.

Mark Brisam, appearing on behalf of the Big Brothers and Sisters of Missoula commented that a few years ago they came to the realization that the State and the United Way would not be able to fully fund Big Brothers and Sisters of Missoula. They therefore decided to get involved with a benefit bingo game to be more self sufficient. As written, SB 431 will enable them to continue to provide that stable source of funding and urged the committee's support.

Becky Erickson, owner of Sam's Supper Club in Glasgow, Montana rose in support of SB 431 with the amendments proposed by the Montana Tavern Association. In addition to being a member of the Glasgow City Council, a member of the Police Commission, an officer of the Montana Tavern Assoc., and also a member of the Gaming Advisory Council, she stated that she supported the recommendation submitted in its final report to the governor. She commented that she does not support the local option authority, it would seriously weaken the desired uniformity. Mrs. Erickson stated that she feels that SB 431 will help and benefit all those involved.

Mignon Waterman, speaking on behalf of the Montana Assoc. of Churches submitted written testimony voicing their support of SB 431 (EXHIBIT 3).

Brad Schoepf, a gaming operator from Kalispell, a member of the Coin Operators Assoc., and appointed to the Gaming Advisory Council commented that as a member of the Advisory Council they had many meetings throughout the State and one thing became very clear to the Council; the people in Montana want uniform gambling laws. He urged the committee's support of SB 431.

John Ed Kennedy Jr., the Mayor of the city of Kalispell, a member of the Gaming Advisory Council and a member of the Gambling Commission in Kalispell stood in strong support of SB 431. This is a very good piece of legislation. Kalispell, differently from Missoula, has expressed that they do not want gambling from 2:00 a.m. to 8:00 a.m., and they do not want gambling machines anywhere other than in licensed on premise consumption of alcohol places. SB 431 allows statewide control of gambling, training for licensees, training for law enforcement personnel, it addresses the social concerns of gambling including help for chronic gamblers, it increases local revenue, any administrative expenses incurred by this bill are paid by revenue from the industry it regulates, and very importantly, it clarifies the law which now is subject to interpretation and is interpreted differently in different counties and jurisdictions. Mr. Kennedy stated that he feels very strongly about this bill and feels that it can be administered very ably under Marc Racicot and the Dept. of Justice. It will fairly and honestly license and regulate gambling in the State of Montana.

Harold Hanser, the County Attorney in Yellowstone County submitted for the record testimony of Kay Foster, a member of the City Council of Billings (EXHIBIT 4). Mr. Hanser stated that he had the opportunity to serve on the Gaming Advisory Commission and he is very pleased to see that the essential work of that commission has been incorporated into SB 431. If there has been a persistent and non-soluble problem that has faced law enforcement prosecutors over the 20 years that he has been involved in business, it has been that of gambling in Montana. The basic problem, of course, is there has been a reluctance to accept the fact that gambling is an industry in the State of Montana. We simply do not have the legal structures to properly regulate and control this industry. The existing system in Montana neither does a very good job of protecting the public, nor does it protect the industry itself. Mr. Hanser stated that the proposed legislation picks up the short-falls because it provides for uniformity. It is the function of the legislature to set the public policy on gambling and what kind of gambling will be allowed. There has to be an administrative agency that puts out uniform rules so that everyone is doing the same thing. He feels they have an opportunity to make a real positive step forward in gambling and urged the committee's support.

Andy Poole of the Dept. of Commerce stated that the Dept. supports the concept of SB 431 and they support the transfer of the Video Gaming Control Bureau from the Dept. of Commerce to the Dept. of Justice. The members of the Gaming Advisory Council did a lot of work with this and it deserves the committee's support.

John Willems, Bureau Chief of the Video Games Control Bureau stood in support of SB 431 and submitted a portion of the Gaming Advisory Council's Survey for the committee's review (EXHIBIT 5).

Bob Fletcher of the Cannery Lounge in Bozeman, Montana Tavern Assoc. Chairman and a member of the State Gaming Advisory Council stood before the committee in support of SB 431. He commented that with the Attorney General's insight, and a structure that is established by the committee, the MTA and those members of the Gaming Advisory Council can live within a structure that will work. If they drift away from uniformity when considering the bill along with the amendments, the bill will not be workable.

Bob Ellerd from the Office of the Governor expressed that the Governor strongly supports this legislation. He is very emphatic about supporting uniform statewide rules and regulations and the enforcement of gambling in the State of Montana. Additionally, he is also strong is opposing and will not accept any expansion of gambling. He is behind the attorney general in this bill and asks for the committee's support.

Kent Frampton, representing Cavanaugh's Casino in Kalispell, the Grouse Mountain Lodge in Whitefish, and President of the Gaming Industry Assoc. of Montana stated that he would like to make a clarification. The amount of \$250 million that continues to be brought up, wants the committee to understand that \$250 million is a handle figure. With video gaming machines there is an 80% payback. He reviewed amendments for the committee's consideration and recommended that page 5, lines 5-14 be deleted. Page 7, line 14, following "random", insert at least 20 balls. He also expressed concern on page 10 and recommended to strike lines 22-25. Further concerns and amendments will be discussed with the subcommittee.

Additional testimony was submitted by Shelly Laine representing the City of Helena voicing her support of the proposed legislation (EXHIBIT 6).

Testifying Opponents and Who They Represent:

Mark Trafton, Cascade County Tavern Association
Lynn Seelye, Cascade County Tavern Association
Larry Ake, Montana Coalition Group
Rep. Bob Pavlovich, Owner of the Met Bar in Butte
Sid Smith, Bingo Parlour East of Helena
Walter Jakovich, IT Club in Rocker, Montana

Opponent Testimony:

Mark Trafton, representing the Cascade County Tavern Assoc. stated that the Assoc. is opposed to SB 431 in its current form. That is not to say that they couldn't change their mind if the committee adopts the amendments that will be proposed by further opponents. Mr. Lynn Seelye, a member of the Cascade County Tavern Assoc. and a practicing member of the law profession in Great Falls will submit those said amendments. Mr. Trafton introduced Mr. Seelye to the committee.

Lynn Seelye, a member of the Montana State Bar as well as a member of the Washington State Bar, and the owner of a bar and bingo parlour in Cascade County stated that he agrees that Montana needs regulation and uniformity. Mr. Seelye submitted a witness statement accompanied by proposed amendments listed as EXHIBIT 7.

Larry Ake, representing the Video Keno Coalition stated that the people he represents support laws that would create and maintain a uniform regulatory climate in order to insure fairness in the industry. They support laws that would protect the public from unscrupulous proprietors and operators. They support laws that would protect local and state government for the loss of revenues through illegal gambling activities and they support laws that would promote and fund programs to help compulsive gamblers and their families. Mr. Ake commented that these are all laudable goals, but not at the risk of suspension of the civil liberties of the people involved in the industry. There are parts of this bill that he feels do, in fact, suspend the civil liberties of the people involved in the gaming industry. He directed the committee's attention to section 8, page 12; page 15, line 22, qualifications for licensure; and page 18, section 12, judicial review. Mr. Ake submitted proposed amendments (EXHIBIT 8) for the committee's consideration.

Rep. Bob Pavlovich, House District 70 stated that he appears neither as a proponent nor as an opponent. He appears as a tavern owner and a concerned citizen. One of his concerns with the bill is that tavern owners often have to act as a bank for those customers wanting to cash checks. Under this bill, the person who wrote the check could use that money to use in his video machines. He has no recourse, he has to

give them their money. Additionally, he is concerned with the penalty section. He feels they should insert a grandfather clause or have a graduated penalty. Further, Rep. Pavlovich expressed that he believes in uniformity, but if we're going to have a local option, then lets have a local option for everything. Another problem, the bill states "a video gaming machine". They're talking about a bingo machine, a poker machine and a keno machine. There is a 21 machine out there. Can they legally use that machine? That decision will have to be left up to the attorney general. He has no problem with the hours of operation; however, if they're going to allow Kalispell to stay open after 2:00 a.m., then everyone should be able to stay open after 2:00 a.m. Again, uniformity. Rep. Pavlovich submitted proposed amendments listed as EXHIBIT 9.

Sid Smith, owner of a bingo parlour east of Helena stated that this bill directly affects him and his establishment. To his knowledge, not one of the members who served on the Gaming Advisory Council visited any of the local bingo establishments for their input. Instead, they went to Seattle, a state that has charity bingo. The city of Seattle and the surrounding area has more population than the entire State of Montana and the members did not address some of the problems that Montana is facing. When the Advisory Council met, Mr. Smith stated that he traveled to Billings, Kalispell, Great Falls and Helena and gave testimony thinking that this was an equitable bill and that it would treat everybody fairly. He was in favor of it, but in its present form he can't support it. Additionally, the fiscal note states that there are 380 commercial bingo and keno establishments in the State of Montana. The local Gambling Governing Survey of February 1988 shows that there are 70 live keno games in the State of Montana and 58 live bingo games, including all charitable and all commercial games. That comes to a total of 125. If, in fact, they can adopt amendments and make adjustments to SB 431 then he will be support the bill, if they can't, he suggests to kill the bill.

Walter Jakovich, owner of the IT Club in Rocker, Montana stated that he is opposed to the bill as written. Those means of exchange that are legal for every other business in the United States should be legal for the businesses of Montana. They pay a multitude of taxes and do their part concerning community services and they would like to be treated as honest businessmen.

Questions From Committee Members: Rep. Gould questioned Attorney General Racicot as to the first amendment that was proposed. He has no problem with a Native American being a part of the Advisory Council, but with the difference between the 7 Indian reservations in the rest of the state, there could be a recommendation made by that Advisory Council to him as far as something that would take place such pole tabs of the

Indian reservations. Attorney General Racicot commented that Rep. Cody's recommendation to the committee is very sound and appropriate. There are, pursuant to the Indian Gaming Act, three levels of gambling. Class 1, class 2, and class 3. The only form of gambling which is going to be subject to negotiation is those forms contained in class 3, which are the majority of the kinds that are authorized in the State of Montana. The other two forms of gambling are going to be controlled by a National Gambling Commission. As a consequence, they are, pursuant to the act, placed in the position of dealing with the Indian tribes certain agreements across the State of Montana that will cover the class 3 gaming. Mr. Racicot stated that he feels that it is very relevant and necessary that they have a representative of the Native American population on that commission.

Rep. Gould commented that the point he is trying to get across is, can he (attorney general) wind up in a situation where he can be sued by some individual or organization for making a decision that they would be construing and advocating a form of gambling that would not be legal. Mr. Racicot commented that if they don't ultimately reach an agreement, then they could end up in court. He cannot, however, see that they would end up in court in the event that something was authorized on the reservation that would not be authorized by the State.

Rep. Gould then asked the Attorney General if he could give the committee an idea of what class 1 and class 2 types of gambling consists of. Is there any possibility that one of the reservations might decide to opt for that form of commission? Mr. Racicot commented that he could not articulate the different forms of class, but for example, punch boards are contained within one of those two classes. They are not legal by our state law. Class 3 includes video gaming machines, live poker games, etc. The more commercial forms of gambling are contained within classes 1 and 2 and will be set by the Nationwide Indian Gaming Commission as to what will be allowable and what will not.

Rep. Eudaily referred to page 46, the jurisdiction of local governments to regulate where these machines are played and how many they may have. How are we going to have uniformity if we provide for that exception? Mr. Racicot stated that those are some accommodations that were made in an effort to provide a vehicle for regulation and uniformity as much as they could accomplish. There are some exceptions in the bill.

Rep. Mercer questioned section 6 where it states that an employer of the dept. or any other person that's involved in the prosecution of gambling cannot be an officer in an organization. Rep. Mercer stated that in Lake County, the County Attorney is an officer of the Polson Elks Lodge. Would this prohibit him from being an officer in that lodge since they have gambling devises? Mr. Racicot agreed that is would and stated that Sen. Van Valkenburg, who is a sponsor of this legislation is an officer with Big Brothers and Sisters of Missoula and considers himself to be in a position to have to resign that status as well.

Rep. Mercer asked the Attorney General if he thinks it essential to the bill and to the law that those people not be permitted to participate in those organizations. Mr. Racicot stated that yes, he feels it is essential.

Rep. Mercer continued and stated that he was interested in some of the comments made about this being within the Dept. of Justice. They have the obligation to enforce the laws, but now they are also administering them. He wondered what his reply is to the criticism that it is not wise to have the prosecutor also be the administrator. Mr. Racicot commented that he feels that there is some risk to that, but also recognizes that this is a common procedure in state government. These provisions, a number of which are complained about, are drawn out of the Administrative Procedure Act. Pursuant to that act there are a number of different administrative functions that are performed all by the same person. It is not something that is foreign or uncommon to them at all. It is something they have found is administratively necessary to properly manage the administrative workload.

Rep. Brown stated that in regard to Rep. Mercer's original concern, with a state the size of Montana, we don't have enough people to go around and cover all of those organizations. In small communities, everybody is a member of an organization, otherwise there wouldn't be any of those active clubs. Mr. Racicot stated that as a practical matter, the risk of any compromise or conflict is very marginal. He also feels that they owe an obligation to the industry to demonstrate that the rules and regulations place them beyond reproach.

Rep. Brown questioned Sen. Gage if the fiscal note reflects what provisions the Senate made. Sen. Gage stated no, it has not been changed since the Senate heard the bill. Rep. Brown asked if it would change given the action of the Senate. The Senator replied that he didn't recall any significant changes that would effect it.

Closing by Sponsor: Sen. Gage expressed that this is a decent bill to start with for what can become, and in some instances, is a problem in our state. The study that was done by the Advisory Council indicates that. Regarding some of the concerns that were expressed, they need to keep in mind that most of those folks will not have to be dealt with other than for the payment of the taxes and the licensing. It is that small factor of having tough rules and tough decisions in order to keep them under control. This bill is not being brought before the committee as a perfect bill, it is being brought as a whole new part of the operation of state government with regard to gambling in Montana. Let's work with the industry for the next two years and when they find out where the ragged edges are they can address those problems during the next session.

DISPOSITION OF SENATE BILL 342

Motion: Rep. Addy motioned that SB 342 BE CONCURRED IN, motion seconded by Rep. Strizich.

Discussion: John MacMaster explained to the committee proposed amendments drafted by the subcommittee (EXHIBIT 10).

Amendments, Discussion, and Votes: Rep. Addy moved amendments 1-23, amendment 25 and delete amendment 24 (EXHIBIT 10), motion seconded by Rep. Rice.

Rep. Brooke, referring to amendment 23 understood that the word "nudity" was taken out of the bill. She has no problem with that, but thought that it was removed. Sid Thomas stated that that particular amendment was taken from another state and the idea was to focus on nudity alone; however, it may be more consistent if it is taken out. The committee agreed to leave the word "nudity" as it appears in amendment 23.

A vote was taken on the proposed amendments and CARRIED unanimously.

Recommendation and Vote: Rep. Addy motioned SB 342 BE CONCURRED IN AS AMENDED, motion seconded by Rep. Knapp. Motion CARRIED unanimously.

DISPOSITION OF SENATE BILL 307

Motion: Rep. Addy motioned SB 307 BE CONCURRED IN, motion seconded by Rep. Rice.

Discussion: John MacMaster explained to the committee proposed amendments drafted by the subcommittee listed as EXHIBIT 11.

Rep. Brown stated that his purpose in working with the subcommittee on these bills was to bring them in line as best they could with Montana law and codes with the policy decisions that the House has the right to make in regard to

finer, misdemeanors, felony's, and how they apply. He believes that it is in correct form that should they pass this bill that it could be implemented. He still has some concern to the application to the video operators. Rep. Brown commented that his main concern with the bill is that adults in this country have a freedom to do as they see fit within the guidelines of not hurting others. He feels that this bill goes beyond that point and is opposed to this legislation.

- Rep. Rice commented that in the subcommittee meeting, the Attorney General explained what this bill does in addition to the law that Montana currently has. The bill that they just passed, SB 342, the display of obscene material to minors, replaces the law that is currently on the books. This bill is an addition to that, in that it adds adults to the group of people that they are trying to keep the material from and it changes the penalties. The Supreme Court has said that obscenity is not protected by the first amendment and it is in the best interest of society if they can regulate that. There are some real practical reasons for doing that. Presently, under federal law it is illegal to traffic this material from state to state, but once it arrives in Montana it is legal. Attorney General Racicot indicated that on a lot of prosecutions for child abuse, they often find this type of material. As difficult as it is to prosecute those cases because the child is a witness, it becomes a real tool to the prosecutor to be able to prosecute those people under an obscenity statute in addition to the child abuse statute.
- Rep. Brown disagreed with Rep. Rice stating that while it is possible that the obscenity statute might help in child abuse cases, there is a fine line about where they would be over stepping the boundaries of intrusion of individual privacy and individual freedom.
- Rep. Stickney asked if there is no way they can write the law that would only deal with what the attorney general seems to want to do to be able to prosecute at that point without going into this whole other issue. Couldn't they have one statute that says if a person is being tried for child abuse with obscene material in their possession, this material would be admissible as evidence. Rep. Brown commented that he feels it is possible but is not sure that it can be done in the scope of this bill.
- Rep. Eudaily questioned what is in 45-8-201 that this bill is repealing. Rep. Brown replied that it expands the present statute. Rep. Eudaily asked if there isn't anything in the present statute that is also covered in this statute. Aren't they covering the same subject? Rep. Mercer explained that the existing obscenity statute deals only with people under the age of 18 and this goes beyond and deals with all people, including adults. This bill would

create new law as it affects adults.

Rep. Strizich, commenting on Rep. Eudaily's concern stated that that is one of the flaws in this approach. If they're going to deal with organized crime, then they need to deal with organized crime as they do business and that is from a very broad base. They not only deal in pornographic material and obscenity, they also deal conjointly in drugs, etc. There are many more effective ways to attack this particular problem. Rep. Strizich stated that his concerns with this bill stem from a basis of what they have been discussing. Two of the issues that have been raised in terms of this bill are that they intend to fight organized crime, and they intend to fight child sexual abuse. Both of these are legitimate concerns. The child sexual abuse issue, as he sees it, while there is no scientific correlation between pornography and child sexual abuse directly, it is often present and used; however this law is a little broad. He believes the existing statute handles much of what they're concerned about and that is the effect of pornography on young adults, minors and adolescence. SB 307 is overly broad in scope and believes that it endangers some constitutional rights.

Amendments, Discussion, and Votes: Rep. Boharski moved the proposed amendments (EXHIBIT 11), motion seconded by Rep. Gould.

A vote was taken on the amendments and CARRIED unanimously.

Recommendation and Vote: Rep. Rice moved SB 307 BE CONCURRED IN AS AMENDED, motion seconded by Rep. Knapp.

Rep. Strizich made a substitute motion to TABLE SB 307, motion seconded by Rep. Addy. A Roll Call Vote was taken on the motion to TABLE and CARRIED with a 11-7 vote.

DISPOSITION OF SENATE BILL 263

Motion: Rep. Gould moved to TABLE SB 263, motion seconded by Rep. Strizich.

Discussion: Rep. Brown stated that the subcommittee made no motions on the bill, but that there were amendments. The Tavern Assoc. amendments take out the references to a licensed premises that sells alcohol and makes it in places open to the public. It also loosens the standards in regard to nude dancing.

Rep. Mercer stated that he fully intended to support this bill, but has a problem where they are making a distinction of nude dancing between someone who happens to operate a tavern and someone who doesn't. It is unconstitutional to ban this overall, but constitutional to ban it in establishments that sell alcohol? Rep. Brown commented that there is a Supreme

Court case in that regard. The other big problem with this bill is that it is overly vague and he doesn't feel that it will meet the Supreme Court test on nude dancing in an establishment that serves alcohol.

Rep. Mercer stated that if they can put this type of restriction on every establishment, whether it sells alcohol or not, then he would vote for this bill. If they're prohibited from doing that by the constitution and have to single out those people that have liquor licenses, then he would be against this bill. John MacMaster stated that with this bill, it is probably unconstitutional whether they put a restriction only on liquor licensees or whether they put a restriction on everyone else as well. This bill is vague and far too broad. There is an adequate nexus between drinking alcoholic beverages and watching nude dancing and similar acts. Somewhat similar to the nexus between drinking and driving . . . the two just don't mix. Therefore, there is a strong constitutional argument that it will withstand constitutional muster if they place the prohibition only on establishments that sell alcoholic beverages.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A voice vote was taken on the motion to TABLE and CARRIED 12-6 with Rep.'s Rice, Knapp, Darko, Nelson, Hannah, and Aafedt voting No.

DISPOSITION OF SENATE BILL 396

Motion: Rep. Eudaily made the motion that SB 396 BE CONCURRED IN, motion seconded by Rep. Mercer.

Discussion: Rep. Strizich stated that one thing that concerns him is that they are tipping some of the checks and balances. Unfortunately, just after they've had a change of administration it appears that they are prejudice towards the gentleman that now resides in the executive branch in the governors office. They have a certain responsibility as the legislature and what they are doing is passing the buck to the governor.

Rep. Mercer commented that he believes it is the reality of the situation that the governor can more or less determine what the rules should be. Maybe they should amend out the part that deals with who may then order changes in the rules, and the termination date on page 3, lines 7-17. The bill would then allow the governor to set up a commission, and the commission could then consider the rules, review them, and make recommendations to the governor with respect to those rules.

Amendments, Discussion, and Votes: Rep. Mercer moved to amend page 3, lines 7-17 to be deleted as well as on page 2, lines 20-25. Motion seconded by Rep. Boharski.

A vote was taken on the proposed amendment and CARRIED unanimously.

Recommendation and Vote: Rep. Mercer moved SB 396 BE CONCURRED IN AS AMENDED, motion seconded by Rep. Eudaily. A Roll Call Vote was taken and FAILED 8-10. Rep. Mercer requested to reverse the vote for a motion to TABLE. Motion CARRIED 10-8.

DISPOSITION OF SENATE BILL 397

Motion: A motion to TABLE SB 397 was made by Rep. Addy, motion seconded by Rep. Strizich.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A Roll Call Vote was taken on the motion to TABLE SB 397 and CARRIED with a 10-8 vote.

ADJOURNMENT

Adjournment At: 3:50 p.m.



REP. DAVE BROWN, Chairman

DB/je

6708.min

DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date March 23, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT			X
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO			
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH			X
REP. JOHN MERCER	X		
REP. LINDA NELSON			X
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

Juli

3/27/89
1:10 P
LBN

STANDING COMMITTEE REPORT

March 27, 1989

Page 1 of 4

Mr. Speaker: We, the committee on Judiciary report that SENATE BILL 342 (third reading copy -- blue) be concurred in as amended .

Signed: _____
Dave Brown, Chairman

And, that such amendments read:

1. Title, line 8.

Following: "OF"

Insert: "OBSCENE"

Following: "MATERIAL"

Strike: "HARMFUL"

2. Page 1, line 15.

Strike: "Harmful"

Insert: "Display or dissemination of obscene material"

3. Page 1, line 17.

Strike: "nudity,"

Strike: ", sexual excitement,"

4. Page 1, line 20.

Strike: "it has a predominant tendency to appeal"

Insert: "its dominant theme appeals"

5. Page 1, line 22.

Strike: "nudity,"

Following: "conduct"

Strike: ", "

6. Page 1, line 23.

Strike: "sexual excitement,"

7. Page 1, line 24.

Strike: "prevailing"
Insert: "contemporary"

8. Page 2, line 2.

Following: "minors."

Insert: "If the court finds that the material or performance has serious literary, scientific, artistic, or political value for a significant percentage of normal older minors, the material or performance may not be found to lack such value for the entire class of minors."

9. Page 2, line 6 and page 3, line 4.

Following: "videotape"

Insert: "(except a motion picture or videotape rated G, PG, PG-13, or R by the motion picture association of America)"

10. Page 2, line 7.

Strike: "an unmarried"

Insert: "a"

11. Page 2, lines 9 through 19.

Strike: subsection (4) in its entirety

Re-number: subsequent subsections

12. Page 2, line 22 through line 2 of page 3.

Strike: subsection (6) in its entirety

Re-number: subsequent subsections

13. Page 3, lines 10 through 15.

Strike: "Reasonable" on line 10 through "minor" on line 15

Insert: "Prurient interest in sex" means a shameful or morbid interest in sex or excretion"

14. Page 3, line 18.

Following: "perverted"

Strike: ";

Insert: ". A sexual act is simulated when it gives the appearance of depicting actual sexual activity or the consummation of an ultimate sexual act."

15. Page 3, line 20.

Following: "genitals"

Insert: "or female breasts"

16. Page 3, line 25 through page 4, line 2.

Strike: subsection (11) in its entirety

Insert: "(9) "Ultimate sexual act" means vaginal or anal sexual intercourse, fellatio, cunnilingus, or bestiality."

17. Page 4, line 4.

Following: "of"

Insert: "obscene"

Strike: "harmful"

Following: "to minors."

Insert: "(1)"

Re-number: subsequent subsections (1) through (3) as (a) through
(c)

18. Page 4, line 6.

Strike: "negligently"

Insert: "knowingly or purposely"

19. Page 4, line 10.

Following: "displayed"

Insert: "obscene"

Following: "material"

Strike: "harmful"

20. Page 4, line 13.

Following: "view"

Insert: "or other reasonable efforts were made to prevent view of
the material by a minor"

21. Page 4, line 16.

Following: "any"

Insert: "obscene"

Following: "material"

Strike: "that is harmful"

22. Page 4, line 20.

Strike: "harmful"

Insert: "obscene"

23. Page 4, line 21.

Insert: "(2) A person does not violate this section if:

(a) he had reasonable cause to believe the minor was 18 years of age. "Reasonable cause" includes but is not limited to being shown a draft card, driver's license, marriage license, birth certificate, educational identification card, governmental identification card, or other official or apparently official card or document purporting to establish that the person is 18 years of age;

(b) the person is, or is acting as, an employee of a bona fide public school, college, or university or a retail outlet affiliated with and serving the educational purposes of a school, college, or university and the material or performance was disseminated in accordance with policies approved by the governing body of the institution;

(c) the person is an officer, director, trustee, or employee of a public library or museum and the material or performance was acquired by the library or museum and disseminated in accordance with policies approved by the governing body of the library or museum;

(d) an exhibition in a state of nudity is for a bona fide scientific or medical purpose for a bona fide school, library, or museum; or

(e) the person is a retail sales clerk with no financial interest in the material or performance or in the establishment displaying or selling the material or performance.

NEW SECTION. Section 3. Notice of violation. Before a county attorney may prosecute a person for a continuing violation of [section 2], he shall determine that the material or performance is obscene to minors, give the alleged violator actual notice of the determination and notice that he will be prosecuted if he does not desist, and determine that the violation continued for at least 3 days after notice was received. The person may seek a declaratory judgment on the question whether the material or performance is obscene to minors. The statute of limitations for the offense is tolled while the declaratory judgment or an appeal from it is pending."

24. Page 8, lines 15 and 18.

Strike: "3"

Insert: "4"



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE DAVE BROWN

HOUSE DISTRICT 72

HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620

HOME ADDRESS:
3040 OTTAWA
BUTTE, MONTANA 59701
PHONE: (406) 782-3604

COMMITTEES:
JUDICIARY, CHAIRMAN
LOCAL GOVERNMENT
RULES

TO: John Vincent, Speaker of the House
FROM: Dave Brown, Chairman, House Judiciary Committee *JB*
DATE: March 27, 1989
RE: Senate Bill's 263, 307, 396, 397

The House Judiciary Committee TABLED the following bills

on March 23, 1989: SB 263
SB 307
SB 396
SB 397

DB/je

Amendments to Senate Bill No. 431
Third Reading Copy

Requested by Representative Cody
For the Committee on Judiciary

Prepared by Paul Verdon
March 22, 1989

1. Page 59, line 25.
Following: "GOVERNMENTS,"
Strike: "AND THREE"
Insert: "two"

2. Page 60, line 1.
Following: "INDUSTRY"
Insert: ", and one native American who resides on a Montana
Indian reservation where a gaming enterprise is operated in
conformance with the laws of the United States"

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: Rep. Dave Brown, Chairman, and
Members of the House Judiciary Committee

RE: SB431 - Hearing 3/23/89

The Montana Tavern Association appears in support of the concept of SB431, with the inclusion of our proposed amendments. However, we recognize that there will be other amendments offered at this hearing that, if accepted, may change the bill to such an extent that our position would have to be reassessed.

Because of the sudden death of our attorney and lobbyist, Phil Strobe, who was working on our amendments prior to his death, we respectfully ask the Committee's indulgence in allowing us to present our proposed amendments in narrative form at this point, and present them in formal language to the subcommittee.

Sec. 19, page 24, line 4 - Gambling on cash basis.

We seek clarification that a licensee who, in the normal course of doing business, cashes a check for a customer who in turn pays for drinks, food, and/or a gambling game, will not be in violation of this section.

Secs. 23 and 24, page 27 - Criminal liabilities.

MTA has unanimous opposition from its members to the severe penalties imposed in these sections for misdemeanors and felonies, particularly the second conviction felony language. These are extreme and unless they are reduced to a reasonable and fair degree commensurate with other criminal liabilities in the Montana Codes, our position on SB431 will be re-evaluated. Others will speak on this subject.

Sec. 47, page 46, lines 18-22 - Amendments to 23-5-611:

MTA's amendment will remove the option of local governments to limit, by ordinance or resolution, the number of machines to no less than five. The thrust of SB431 is to provide uniformity in gambling statewide, and because this local option provision weakens this uniformity, we will ask that this language be deleted.

Sec. 52, page 49, line 24 - Video gambling machine manufacturer-distributor -- license -- fees.

The licensee who may be required to perform repairs on his

machine should not be required to pay a \$1,000 annual fee to do so. The title of the section does not include repairs and we will propose that the words, "or repair", following "supply" on line 24, be stricken.

* * * *

TESTIMONY PRESENTED BY ROBERT A. DURKEE, REGISTERED LOBBYIST FOR THE MONTANA TAVERN ASSOCIATION, PROFESSIONAL PLAZA, SUITE 2-AB, 900 NORTH MONTANA AVENUE, HELENA, MONTANA. (PH: 442-5040)



March 23, 1989

CHAIRMAN BROWN AND MEMBERS OF THE HOUSE JUDICIARY COMMITTEE:

WORKING TOGETHER:

American Baptist Churches of the Northwest

I am Mignon Waterman and I am speaking on behalf of the Montana Association of Churches.

Christian Churches of Montana (Disciples of Christ)

I applaud the Montana legislature, the Department of Justice and the Gaming Advisory Council for their open and comprehensive review of gaming in Montana. During the past eighteen months, the Bureau of Gaming and the advisory council have held numerous public meetings that were adequately noticed and that not only provided opportunity for input but also encouraged active participation from all interested parties. The council sought public input through an extensive survey conducted by Montana State University.

Episcopal Church Diocese of Montana

The result is the legislation that is before this committee today. It provides, for the first time in Montana's history, a statewide policy on gaming, statewide regulation of gaming and most of all, a clear statement of the rules and policies by which all players in the gaming industry must abide.

Evangelical Lutheran Church in America Montana Synod

Presbyterian Church (U. S. A.) Glacier Presbytery

I would like to mention several provisions of the bill that the Montana Association of Churches supports.

Presbyterian Church (U. S. A.) Yellowstone Presbytery

First of all, the Montana Association of Churches strongly supports statewide regulation of gambling.

Roman Catholic Diocese of Great Falls - Billings

The bill recognizes the obligation of the gaming industry to provide assistance to those adversely impacted by gambling by providing funding for programs designed to treat persons with habitual gambling problems. Hopefully this progressive provision will curb the social costs associated with gambling. The Montana Association of Churches believes that early intervention in this area will benefit all Montanans.

Roman Catholic Diocese of Helena

United Church of Christ Mt.-N. Wyo. Cont.

United Methodist Church Yellowstone Conference

SB431 limits video gaming machines to premises that have liquor licenses and we support that provision.

I am pleased to see that SB431 reaffirms the current law that mandates that any gambling activity must be on a cash basis. If a person wishes to gamble, it should be a conscious decision that is planned for far enough ahead to allow an individual to determine the amount of money that he/she can afford to gamble. The lure of "winning on the next gamble," combined with alcohol and the opportunity to use a check or credit card provide an unhealthy risk of money that either isn't available or is needed for a family's basic needs such as food, clothes and shelter.

The Montana Association of Churches supports SB431 and once again we wish to express our appreciation for the openness of the review process that led to this legislation and for the opportunity for input from all parties.

I urge a do pass recommendation for SB431.

TESTIMONY IN SUPPORT OF HB431

My name is Kay Foster and I have served for seven years as a member of the City Council of Billings and appear on behalf of the City of Billings in support of HB431.

The City of Billings is very interested in the fate of this bill. According to the last reports which I have heard the City of Billings will have received approximately \$400,000.00 as our quarterly payment of the tax revenue from poker machine revenue alone. This would indicate that approximately the same amount of money, \$16M, flows through these machines, quarter by quarter, as the City of Billings has in general fund revenue in one year.

Our City Council took an official position on this bill when it was first introduced in the Senate. There was great concern about the relinquishing of local power to investigate backgrounds and monitor the operations of those involved directly or indirectly in gambling operations. Although we do feel that we do a thorough job of investigating and licensing those directly involved in the contact with the public and handling of the money, we understand the necessity of having statewide regulations and enforcement uniformly across the state. We urge the adoption of this bill and do so with the hope that thorough investigations will continue regarding those involved in Montana gambling operations and that this law will be strictly enforced.

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.

Commissioners
Russell J. Ritter, Mayor
Rayleen Beaton
Tom Huddleston
Rose Leavitt
Blake J. Wordal



EXHIBIT 6
DATE 3-23-89
HB SB 431

City-County
Administration Building
316 North Park
Helena, MT 59623

Phone: 406/442-9920

William J. Verwolf
City Manager

City of Helena

Mr. Chairman/Members of the Committee:

My name is Shelly Laine, and I represent the City of Helena. The Mayor and City Commissioners generally support SB431.

The Commission recognizes the need for uniform gambling standards, and this bill would provide for this. Specifically, the City takes the following stances:

1) The City supports uniform gambling hours throughout the State. The provision calling for no gambling between 2 and 8 A.M. is a good one. Allowing local jurisdictions to set different hours encourages competition between entities. For instance, if Lewis and Clark County allows 24 hour gambling while the City does not, many patrons will frequent establishments outside of the City limits. This will cause tavern owners in the City to encourage the Commission to adopt 24 hour gambling.

2) The city supports the provision that allows for up to 20 gambling machines, but allows a local jurisdiction to limit the number of video gambling machines to no less than five. Currently, the City has adopted the State limit of 20 machines, but would like to have the option to set a lesser limit in the event that the State raises the limit or circumstances change in some other way.

3) The City would support the 5% tax on gross proceeds from the operation of live keno and bingo. This would raise an estimated \$1.9 million for local governmental units. In a time of stagnant or declining tax revenues, additional revenue sources must be sought to maintain essential services.

4) The City opposes the fact that this bill only allows establishments with a liquor license to have gambling machines. This will take keno machines out of convenience stores. The City feels that stores or like establishments that have made this investment should not now be penalized. We would support an amendment to take this into account.

Thank you

REVISION OF SENATE BILL NO. 431

NEW SECTION. Section 1. Public policy of state concerning gambling. (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 shall have the right to the issuance of a license or permit or the granting of the approval sought unless the department shall determine a valid reason for the denial of the issuance of a license or permit or 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 revocable privilege revocable for cause. A holder acquires a vested right in the license or permit issued or other department granted unless a valid reason can be shown by the department for revoking it under the standards set forth herein. A license or permit issued under parts 1 through 6 of this chapter may be sold, signed, leased or transferred.

Subsection (4) line 19 should read no more than 75 numbers may be used. One number must appear in each square except for the center square which is considered a free play. Numbers and letters are RANDOMLY drawn from a receptacle and announced by a bingo caller using authorized equipment, and the game is won by the person who first covers a previously designated arrangement of numbers on the bingo card.

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

NEW SECTION. Section 5. Department status. The department shall designate agents of the department as granted peace officer status to investigate legal and illegal gambling activities in this state regulated by parts 1 through 6 of this chapter and the rules of the department and to report violations thereof.

NEW SECTION. Section 7. Powers and duties of department - - licensing. (1) The department shall administer the provisions of parts 1 through 6 of this chapter except that the department shall not have the power to impose criminal sanctions arising through allegations of violations of its rules and regulations.

(5) The department may suspend, revoke, deny or place a condition on a license issued under parts 1 through 6 of this chapter only after following administrative procedures set forth herein and any such action shall be subject to judicial review.

NEW SECTION. Section 8. Injunction and other remedies. (1) If it appears to the department that a person has engaged in or is about to engage in an act or practice constituting a violation of a provision of parts 1 through 6 of this chapter or a rule or order of the department, it may not

(a) Issue a temporary cease and desist order without

reasonable notice and opportunity for hearing. Following a hearing or if the person to whom the notice is addressed does not request a hearing within five (5) days after receipt of the notice, the department may apply to a judicial court for the issuance of a temporary cease and desist order and such cease and desist order shall remain in effect until a permanent cease and desist order is granted by the judicial court or until a hearing is had before the judicial court.

(b) On a proper showing, the court may grant a permanent or temporary injunction, a restraining order, or other appropriate writ and appoint a receiver or conservator for the defendant or the defendant's assets. The department may not be required to post a bond.

(c) The Court may place a licensee on probation independent of the hearing before the department and allowance for judicial review of any action taken by the department;

(d) The Court may suspend a license for a period not to exceed two years independent of the hearing before the department and allowance for judicial review of any action taken by the department;

(e) The Court may revoke a license independent of the hearing before the department and allowance for judicial review of any action taken by the department;

(f) The Court may deny renewal of a license upon its expiration independent of the hearing before the department and allowance for judicial review of any action taken by the department;

(g) The Court may impose a civil penalty not to exceed \$10,000 for each violation of a provision of parts 1 through 6 of this chapter or a rule of the department, whether or not the person is licensed by the department independent of the hearing before the department and allowance for judicial review of any action taken by the department;

(h) impose a combination of the penalties provided in subsections (1)(a) through (1)(g) independent of the hearing before the department and allowance for judicial review of any action taken by the department;

(i) The department may impose civil fines of up to \$1,000 for each violation of its rules and regulations.

NEW SECTION. Section 10. Qualifications for licensure. (2)

The applicant who presently holds a license has a presumption of being qualified to receive a license.

(3) A license shall be granted unless the department can show that the applicant is:

(a) a person of bad character, dishonesty.

(b) a person whose prior activities, criminal record, if any, reputation, habits, and associations do:

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

(ii) create A DANGER of illegal practices, methods, and activities in the conduct of gambling or in the carrying on of the business and financial arrangements incidental to the conduct of gambling; and

(4) A license to operate a gambling activity shall be issued unless the department can show that the applicant has no business probity, competence and experience.

(Eliminate (b)(i))

NEW SECTION. Section 12. Judicial Review. (b) A copy of the petition must be served upon the department at the same time. When the department receives a 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. (Eliminate balance of paragraph b.)

(2)(a) The review shall be conducted by the district court and may be with or without jury. The court, upon request, shall hear oral arguments and receive written briefs.

(b) The court shall act as the court of original jurisdiction. (Eliminate balance of (b) and subsection (3).)

SECTION 13. The title should be amended to read "Losses at illegal gambling may be recovered by civil action."

SECTION 14. Discharge of Defendant.

(3) The clerk of the court shall notify the department of any adverse decision rendered against the

defendant licensee based on a violation of the provisions of this chapter.

NEW SECTION. Section 18. Obtaining anything of value by fraud or operation of illegal gambling device or enterprises. (1) A person who by 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.

(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 illegal gambling device or illegal gambling enterprise shall be prosecuted under felony charges under the criminal section of the Montana Codes.

NEW SECTION. Section 19. Gambling on cash basis. (1) In every gambling activity, EXCEPT RAFFLES AS AUTHORIZED IN (SECTION 41) 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 privilege of participation in the gambling activity or as payment of a debt incurred in the gambling activity. For purposes of this Section, proceeds from a check cashed by a business operation or licensee in conjunction with the services offered by its licensed operations or unrelated gambling services or products shall not be subject

to the limitations of this section and shall not be considered to be accepted as part of the price of participation in gambling activities being conducted and licensed on the premises.

NEW SECTION. Section 23 and Section 24 allowing the imposition of criminal sanctions including imprisonment should be eliminated.

NEW SECTION. Section 25. Prosecution. The county attorney of the county in which a violation of a provision of parts 1 through 6 of this chapter occurs shall prosecute all gambling actions within the jurisdiction of the department where criminal sanctions are being attempted to be imposed or where the fines imposed exceed \$1,000 in an amount for each violation.

NEW SECTION. Section 36. Exempt charitable organizations. An organization qualified for exemption under 26 U.S.C. 501 (c)(3) and (c)(4) is exempt from taxation but shall be subject to license fees in an amount of one-half (1/2) of those imposed by this part on commercial operations. 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 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.

NEW SECTION. Section 37. Keno callers -- qualifications -- license -- fee. (1) A person may not act as a keno caller without being licensed annually by the department.

(2) The fee for each year in which the license is effective must be commensurate with the costs associated with keno caller licensing as established by department rules. The fee may not be prorated.

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

(4) A keno caller shall have on his person, and display upon request, his keno caller's license where he is working as a keno caller.

(5) The department may adopt rules to implement temporary licensing procedures until a permanent license is issued. The department may delegate the authority to issue temporary licenses to local governments, including the authority to assess and retain a fee for a temporary license.

NEW SECTION. Section 39. Bingo and Keno license fees. The licensee shall who has received a permit to operate bingo or keno games shall pay the department a base license fee of \$400 and an additional fee based upon the following schedules. An annual fee of \$300 for day of operation so that those operations which are conducting their business only one night a week will

pay an annual license fee of \$700 and those conducting a bingo operation seven nights a week shall pay an annual license fee of \$2,500 increments of \$300 being added to the base fee of \$400 for each day during the week a commercial operation conducts its bingo activities, progressing from 1 day through 7 days of the week.

SECTION 44. Should be eliminated in view of the fact that the judicial courts shall retain the power to impose criminal penalties for violations of this act.

NEW SECTION. Section 47. Subparagraph (3) of Subsection (b). A licensee may not have on the premises or make available on the premises more than 20 video gambling machines of any combination of keno, bingo or poker providing there shall be no more than 10 draw poker machines. (Eliminate that portion of the portion of the paragraph which allows local government to limit the number of video games to no less than five.)

NEW SECTION. Section 50. Video gambling machines specifications -- rules. The department shall require video gambling machines authorized by this part shall have at least two hard meters in addition to a soft meter which the department requires in conjunction with gaming laws adopted in the legislative session ending April 1986. The department shall adopt rules and specifications for new video gambling machines authorized by this part.

SECTION 51 should be eliminated.

SECTION 54. Eliminate Subsection (2).

SECTION 57. Eliminate. Section 25-5-613, M.C.A. and the old laws should be reinstated except Department fines should not exceed \$1,000.

NEW SECTION. Section 58. (2) Violation of this section shall constitute a felony. (Balance OK)

SECTION 60. Penalty. Every a person who purposely or knowingly violates or who procures, aids, or abets in a violation of this part is guilty of a misdemeanor.

SECTION 64. Gaming Advisor Board. (1) There is a gaming board.

(3) The seven remaining members shall be appointed by the Senate and House of Representative member, with two representing the public at large, two representing local governments including one from the Department, and three representing the gaming industry.

Amendment to SB 431, Third Reading Copy

Presented to the House Judiciary Committee

1. Page 3, line 18.
Strike: "does not"
Insert: "shall"
2. Page 3, line 20.
Following: "sought"
Insert: "unless the department demonstrates valid reasons for denial pursuant to [section 10]"
3. Page 3, line 23.
Strike: "revocable"
Following: "privilege"
Insert: "revocable only for good cause"
Following: "holder"
Strike: "does not acquire"
Insert: "acquires"
4. Page 3, line 25.
Following: "granted"
Insert: "unless the department demonstrates valid reasons for revocation pursuant to [section 8]"
5. Page 4, line 1.
Following: "may"
Strike: "not"
6. Page 5, line 20.
Following: "square"
Insert: ", except for the center square which may be considered a free play"
7. Page 7, line 21.
Strike: "caller's"
8. Page 11, line 8.
Strike: "are"
Insert: "may be"
9. Page 11, lines 9 and 10.
Strike: "to investigate, regulate, and control all legal and illegal"
Insert: "only for purposes of investigating"

10. Page 11, line 12.
Following: "department"
Insert: "and reporting violations to the county attorney of the county in which an alleged violation occurs"
11. Page 12, line 3.
Following: "chapter"
Insert: "except the power to impose criminal sanctions arising from violations of parts 1 through 6 of this chapter or the rules of the department. Only the district court of original jurisdiction shall have the power to impose criminal sanctions arising from violations of parts 1 through 6 of this chapter or the rules of the department."
12. Page 12, line 16.
Following: "chapter"
Insert: "only after following appropriate procedures described in [section 8]. Any action of the department to deny or place a condition on a license may be subject to judicial review"
13. Page 13, line 1.
Strike: "or is about to engage in"
14. Page 13, line 4.
Following: "may"
Insert: "not"
15. Page 13, line 5.
Strike: "with"
Insert: "without"
16. Page 13, line 9.
Strike: "issue"
Insert: "apply to the district court for"
17. Page 13, line 10.
Strike: "must"
Insert: "may"
Following: "or"
Insert: "further"
18. Page 13, line 15.
Following: "practice"
Strike: ". On proper showing, the court may"
Insert: "; or
(c) impose civil fines in excess of \$1000 for each violation of parts 1 through 6 of this chapter or the rules of the department.

(2) On proper showing, a district court may, independent of a hearing before the department: (a)"

Renumber: subsequent subsections

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19. Page 14, line 14.

Strike: "the fine is a lien"

Insert: "the department may seek a lien in the amount of the fine"

Following: "and"

Insert: "the fine"

20. Page 15, line 20 through page 16, line 22.

Strike: subsections (2) through (4) in their entirety

Insert: "(2) The department shall issue a license to an applicant unless the department can demonstrate the applicant is:

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

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

(ii) create 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 the conduct of 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 standards of subsection (a) may be considered an unsuitable source.

(3) An applicant who holds a valid license issued under parts 1 through 6 of this chapter on [the effective date of this act] is presumed to qualify to receive a license."

21. Page 13, line 12 through 16.

Strike: language beginning "A temporary" on line 12 through "[section 8]." on line 16.

22. Page 12, line 17 through page 19, line 21.

Strike: subsections (2) and (3) in their entirety

Insert: "(2) (a) The district court in the county of the aggrieved person's residence is the court of original jurisdiction.

(b) The court may conduct its review with or without jury. The court, upon request, shall hear oral arguments and receive written briefs."

23. Page 19, line 23.

Following: "Losses at"

Insert: " illegal"

24. Page 21, line 25.

Strike: "a civil action"

Insert: "any adverse decision rendered against a defendant"

25. Page 23, lines 18 and 19.

Following: "misdemeanor"

Insert: "."

Strike: the remainder of lines 18 and 19

26. Page 23, line 24.

Strike: "and is punishable as provided in [section 24]"

Insert: "and may prosecuted under ⁴⁵⁻⁶⁻³⁰¹ ~~[the fraud or felony theft provisions of Title 49]."~~

27. Page 24, line 8.

Following: "activity."

Insert: "For purposes of this section, proceeds from a check cashed by a licensee for goods or services other than those regulated by parts 1 through 6 of this chapter shall not be subject to the limitations of this section and shall not be considered to be accepted as a part of the price of participation in gambling activities being conducted on the licensee's premises."

28. Page 24, line 10.

Following: "misdemeanor"

Insert: "."

Strike: the remainder of lines 10 and 11

29. Page 24, line 17.

Following: "misdemeanor"

Insert: "."

Strike: the remainder of lines 17 and 18

30. Page 27, lines 1 through 16.

Strike: sections 23 and 24 in their entirety

Re-number: subsequent sections

31. Page 27, lines 21 through 24.

Following: "department."

Strike: remainder of lines 21 through 24

32. Page 33, lines 2 and 3.

Strike: "punishable pursuant to [section 23]"

33. Page 33, line 13.

Strike: "and license fees"

Following: "part"

Insert: ", but shall pay license fees of one-half the amount of those imposed by this part on commercial operations"

34. Page 33, line 23.
Strike: "Bingo and keno"
Insert: "Keno"
35. Page 33, line 25 through page 34, line 11.
Strike: "bingo or" whenever it appears
36. Page 35, lines 3 through 5.
Strike: "gross proceeds tax -- records"
Insert: "license tax"
Strike: "-- quarterly statement and payment"
37. Page ~~33~~³⁵, lines 7 through 20.
Following: "department" on line 7
Strike: remainder of subsection (1) and subsections (2) and (3) in their entirety
Insert: "an annual license tax of \$400 plus an additional incremental annual license tax of \$300 for each day of the week the permit holder conducts bingo or keno games. The annual bingo or keno license tax shall not exceed \$2500."
38. Page 39, line 25 through page 40, line 9.
Strike: section 44 in its entirety
Re-number: subsequent sections
39. Page 46, line 12.
Strike: "10 keno or bingo"
Insert: "20 video gambling"
40. Page 46, lines 13 and 14.
Strike: "and"
Insert: ", providing there shall be no more than"
41. Page 46, lines 18 through 22.
Strike: "In the" on line 18 through "section." on line 22
42. Page 49, line 10.
Following: "part."
Insert: "The rules adopted by the department stating specifications for video gambling machines shall substantially follow the applicable specifications of 23-5-606, 23-5-607, 23-5-608, and 23-5-609 on [the effective date of this act]."
43. Page 49, line 23.
Following: "manufacture,"
Insert: "or"

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44. Page 49, line 24.

Following: "supply"
Strike: ", or repair"

45. Page 52, line 15.

Strike: "as shown on a valid ticket voucher"

46. Page 54, line 3.

Following: "misdemeanor"

Strike: "punishable under [section 23]"

47. Page 55, lines 12 and 13.

Strike: "and must be punished in accordance with [section 24]."

48. Page 56, line 12.

Strike: "punishable pursuant to [section 23]"

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H/SB 431

Amendments to Senate Bill No. 431
Third Reading Copy

Requested by Representative Pavlovich
For the House Judiciary Committee

Prepared by Eddy McClure
March 23, 1989

1. Page 26, line 24.

Following: line 23

Insert: "(4) A licensed manufacturer-distributor may possess and
sell an antique slot machine."

Renumber: subsequent subsections

Amendments to Senate Bill No. 342
Third Reading Copy

For the Committee on the Judiciary

Prepared by John MacMaster
March 23, 1989

1. Title, line 8.
Following: "OF"
Insert: "OBSCENE"
Following: "MATERIAL"
Strike: "HARMFUL"
2. Page 1, line 15.
Strike: "Harmful"
Insert: "Display or dissemination of obscene material"
3. Page 1, line 17.
Strike: "nudity,"
Strike: ", sexual excitement,"
4. Page 1, line 20.
Strike: "it has a predominant tendency to appeal"
Insert: "its dominant theme appeals"
5. Page 1, line 22.
Strike: "nudity,"
Following: "conduct"
Strike: ", "
6. Page 1, line 23.
Strike: "sexual excitement,"
7. Page 1, line 24.
Strike: "prevailing"
Insert: "contemporary"
8. Page 2, line 2.
Following: "minors."
Insert: "If the court finds that the material or performance has serious literary, scientific, artistic, or political value for a significant percentage of normal older minors, the material or performance may not be found to lack such value for the entire class of minors."
9. Page 2, line 6 and page 3, line 4.
Following: "videotape"
Insert: "(except a motion picture or videotape rated G, PG, PG-13, or R by the motion picture association of America)"
10. Page 2, line 7.
Strike: "an unmarried"
Insert: "a"

11. Page 2, lines 9 through 19.
Strike: subsection (4) in its entirety
Renumber: subsequent subsections
12. Page 2, line 22 through line 2 of page 3.
Strike: subsection (6) in its entirety
Renumber: subsequent subsections
13. Page 3, lines 10 through 15.
Strike: "Reasonable" on line 10 through "minor" on line 15
Insert: "Prurient interest in sex" means a shameful or morbid
interest in sex or excretion"
14. Page 3, line 18.
Following: "perverted"
Strike: ";"
Insert: ". A sexual act is simulated when it gives the appearance
of depicting actual sexual activity or the consummation of
an ultimate sexual act."
15. Page 3, line 20.
Following: "genitals"
Insert: "or female breasts"
16. Page 3, line 25 through page 4, line 2.
Strike: subsection (11) in its entirety
Insert: "(9) "Ultimate sexual act" means vaginal or anal sexual
intercourse, fellatio, cunnilingus, or bestiality."
17. Page 4, line 4.
Following: "of"
Insert: "obscene"
Strike: "harmful"
Following: "to minors."
Insert: "(1)"
Renumber: subsequent subsections (1) through (3) as (a) through
(c)
18. Page 4, line 6.
Strike: "negligently"
Insert: "knowingly or purposely"
19. Page 4, line 10.
Following: "displayed"
Insert: "obscene"
Following: "material"
Strike: "harmful"
20. Page 4, line 13.
Following: "view"
Insert: "or other reasonable efforts were made to prevent view of
the material by a minor"

21. Page 4, line 16.
Following: "any"
Insert: "obscene"
Following: "material"
Strike: "that is harmful"

22. Page 4, line 20.
Strike: "harmful"
Insert: "obscene"

23. Page 4, line 21.
Insert: "(2) A person does not violate this section if:
(a) he had reasonable cause to believe the minor was 18 years of age. "Reasonable cause" includes but is not limited to being shown a draft card, driver's license, marriage license, birth certificate, educational identification card, governmental identification card, or other official or apparently official card or document purporting to establish that the minor is 18 years of age;
(b) the person is, or is acting as, an employee of a bona fide public school, college, or university or a retail outlet affiliated with and serving the educational purposes of a school, college, or university and the material or performance was disseminated in accordance with policies approved by the governing body of the institution;
(c) the person is an officer, director, trustee, or employee of a public library or museum and the material or performance was acquired by the library or museum and disseminated in accordance with policies approved by the governing body of the library or museum;
(d) an exhibition in a state of nudity is for a bona fide scientific or medical purpose for a bona fide school, library, or museum; or
(e) the person is a retail sales clerk with no financial interest in the material or performance or in the establishment displaying or selling the material or performance.

NEW SECTION. Section 3. Notice of violation. Before a county attorney may prosecute a person for a continuing violation of [section 2], he shall determine that the material or performance is obscene to minors, give the alleged violator actual notice of the determination and notice that he will be prosecuted if he does not desist, and determine that the violation continued for at least 3 days after notice was received. The person may seek a declaratory judgment on the question whether the material or performance is obscene to minors. The statute of limitations for the offense is tolled while the declaratory judgment or an appeal from it is pending."

Renumber: subsequent sections

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24. Page 7, line 18.
Strike: "and"
Strike: "[section 2]"

25. Page 8, lines 15 and 18.
Strike: "3"
Insert: "4"

SENATE BILL NO. 342

- 1 INTRODUCED BY HOPMAN, HANNAH, LEE, WALLIN, CLARK, KEATING,
- 2 HARDING, DEBRUYCKER, KELLER, HOFFMAN, ELLISON, ZOOK, RICE,
- 3 ANDERSON, SPRING, HINSL, ANFEDT, VAUGHN, OWENS, THOMAS,
- 4 PINSONEAULT, CRIPPEN, HARP, RASMUSSEN, GAGE

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT THE DISPLAY
 6 **OBSCENE**
 7 AND DISSEMINATION OF MATERIAL ~~TO MINORS~~ TO MINORS; AMENDING
 8 SECTIONS 45-8-201 AND 45-8-203, MCA; AND REPEALING SECTION
 9 45-8-202, MCA."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 NEW SECTION. Section 1. Definitions. As used in (this

12 act), the following definitions apply:
 13 (1) ~~Display or dissemination~~ **Display or dissemination of obscene material**

14 (1) ~~to minors~~ means that quality of a
 15 description, exhibition, presentation, or representation, in
 16 whatever form, of ~~sexual conduct~~ ~~sexual excitement~~
 17 or sadomasochistic abuse when the material or performance,
 18 taken as a whole, has the following characteristics:
 19 (a) ~~it has a predominant tendency to appeal~~ **its dominant theme appeals** to a
 20 minor's prurient interest in sex;

21 (b) it depicts or describes ~~sexual~~ sexual conduct
 22 ~~sexual excitement~~ or sadomasochistic abuse in a manner that
 23 is patently offensive to ~~prevailing~~ **CONTEMPORARY** standards in the adult
 24 community with respect to what is suitable for minors; and
 25

If the court finds that the material or performance has serious literary, scientific, artistic, or political value for SB 0342/02 a significant percentage of normal older minors the material or performance may not be found to lack such value for the entire class of minors.

1 (c) it lacks serious literary, scientific, artistic,
 2 or political value for minors.

3 (2) "Material" means a book, magazine, newspaper,
 4 pamphlet, poster, print, picture, figure, image,

5 description, motion picture film, record, recording tape, or
 6 videotape. **(except a motion picture or videotape**
 7 **rated G, PG, PG-13, or R by the motion pic**
 8 **rating system)**
 9 (3) "Minor" means ~~an individual person~~ **an individual person** under 18 years
 10 of age.

11 ~~"Negligently" means consciously disregarding~~
 12 risk or existence of circumstances of which a person should
 13 be aware to the degree that the risk deviates from the
 14 conduct of a reasonable person concerning;

15 (a) the character and content of any material or
 16 performance that is reasonably susceptible to examination;

17 and
 18 (b) the age of the minor. However, an honest mistake
 19 will constitute an excuse from liability if the defendant
 20 made a reasonable bona fide attempt to ascertain the true
 21 age of the minor.

22 (4) "Newsstand" means a stand that distributes or
 23 sells newspapers or magazines.

24 ~~(5) "Public place" means the showing of the~~
 25 ~~female genitals, pubic area, or buttocks with less than a~~
 26 ~~full opaque covering, the showing of any portion of the~~
 27 ~~female breast below the top of the nipple with less than~~



(except a motion picture or videotape rated G, PG, PG-13, or R by the motion picture association of America)

1 full episode covering or the depiction of covered mate
2 genitalia in a discriminatory target state.

3 (5) "Performance" means any motion picture, film,
4 videotape, phonograph record, compact disk, tape recording,
5 preview, trailer, play, show, skit, dance, or other
6 exhibition played or performed before an audience of one or
7 more, with or without consideration.

8 (6) "Person" means any individual, partnership,
9 association, corporation, or other legal entity of any kind.

10 (7) ~~ascertainable bona fide attempt means an attempt to~~
11 ascertain the true age of the minor by requiring production
12 of a driver's license, marriage license, birth certificate,
13 or a governmental or educational identification card or
14 paper rather than relying solely on the oral allegations or
15 ~~percentage of the minor's~~ "prurient interest in sex" means a
16 ~~percentage of the minor's~~ shameful or morbid interest in sex
17 of excretion.

18 (8) (a) vaginal, anal, or oral intercourse, whether actual
19 or simulated, normal or perverted, when it gives the appearance
20 of depicting actual sexual activity or the consumption of any
21 (b) masturbation, excretory functions, or lewd ultimate
22 sexual acts

23 (c) exhibition of uncovered genitalia; or female breasts
24 that depicts torturous, physical restraint by being fettered
25 or bound, or flagellation of or by a nude person or a person
26 clad in undergarments or in a revealing or bizarre costume.

27 ~~(d) "Sexual excitement" means the condition of human~~

(9) "ultimate sexual act" means vaginal or anal
sexual intercourse, fellatio, cunnilingus, or bestiality

1 male or female genitalia when in a state of sexual
2 stimulation or arousal.

3 NEW SECTION. Section 2. Public display or
4 dissemination of obscene material to minors. (1) A person having
5 custody, control, or supervision of any commercial
6 establishment or newsstand may not knowingly or purposefully
7 (a) display material that is harmful to minors in such
8 a way that minors, as a part of the invited public, will be
9 able to view the material; provided, however, that a person
10 is considered not to have displayed obscene material to
11 minors if the material is kept behind devices commonly known
12 as blinder racks so that the lower two-thirds of the
13 material is not exposed to view; or other reasonable effort
14 (b) sell, furnish, present, distribute, or otherwise
15 disseminate to a minor or allow a minor to view, with or
16 without consideration, any material that is harmful to
17 minors; or

18 (c) present to a minor or participate in presenting to
19 a minor, with or without consideration, any performance that
20 is obscene to minors. (2) (See amendment # 23)
21 New Section. Section 3. Penalties. (1) A person who
22 is convicted of violating [section 2] is guilty of a
23 misdemeanor and may be fined an amount not less than \$500
24 or more than \$1,000 or be imprisoned for a term not more than 6
25 months or both.

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1 (2)--Each-day-that-a-violation-of-[section 2]-occurs-or
2 continues--constitutes--a-separate-offense-and-is-punishable
3 as-a-separate-violation;

4 (3)--Every-act-thing--or--transaction--prohibited--by
5 [section--2]-constitutes--a--separate-offense--to--each--item
6 issuer--or--title--involved--and--is--punishable--as--a--separate
7 offense;

8 (4)[2] For purposes of [section 2], multiple copies of
9 the same title, monthly issue, volume and number issue, or
10 other identical material constitutes a single offense.

11 Section 45-8-201, MCA, is amended to read:
12 "45-8-201. Obscenity. (1) A person commits the offense
13 of obscenity when, with knowledge of the obscene nature
14 thereof, he purposely or knowingly:

15 (a) sells, delivers, or provides or offers or agrees
16 to sell, deliver, or provide any obscene writing, picture,
17 record, or other representation or embodiment of the obscene
18 to anyone under the age of 18;

19 (b) presents or directs an obscene play, dance, or
20 other performance, or participates in that portion thereof
21 which makes it obscene, to anyone under the age of 18;

22 (c) publishes, exhibits, or otherwise makes available
23 anything obscene to anyone under the age of 18;

24 (d) performs an obscene act or otherwise presents an
25 obscene exhibition of his body to anyone under the age of

1 18;
2 (e) creates, buys, procures, or possesses obscene
3 matter or material with the purpose to disseminate it to
4 anyone under the age of 18; or
5 (f) advertises or otherwise promotes the sale of
6 obscene material or materials represented or held out by him
7 to be obscene.

8 (2) A thing is obscene if:

9 (a) (i) it is a representation or description of
10 perverted ultimate sexual acts, actual or simulated;

11 (ii) it is a patently offensive representation or
12 description of normal ultimate sexual acts, actual or
13 simulated; or

14 (iii) it is a patently offensive representation or
15 description of masturbation, excretory functions, or lewd
16 exhibition of the genitals; and

17 (b) taken as a whole the material:
18 (i) applying contemporary community standards, appeals
19 to the prurient interest in sex;

20 (ii) portrays conduct described in subsection
21 (2)(a)(i), (ii), or (iii) of--this--section in a patently
22 offensive way; and

23 (iii) lacks serious literary, artistic, political, or
24 scientific value.

25 (3) In any prosecution for an offense under this

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1 section, evidence shall be admissible to show:
 2 (a) the predominant appeal of the material and what
 3 effect, if any, it would probably have on the behavior of
 4 people:
 5 (b) the artistic, literary, scientific, educational,
 6 or other merits of the material;
 7 (c) the degree of public acceptance of the material in
 8 the community;
 9 (d) appeal to prurient interest or absence thereof in
 10 advertising or other promotion of the material; or
 11 (e) purpose of the author, creator, publisher, or
 12 disseminator.
 13 (4) A person convicted of obscenity shall be fined at
 14 least \$500 but not more than \$1,000 or imprisoned in the
 15 county jail for a term not to exceed 6 months, or both.
 16 (5) Cities, towns, or counties may adopt ordinances or
 17 resolutions which are more restrictive as to obscenity than
 18 the provisions of this section ~~and 45-8-202~~.

19 **Section 6.** Section 45-8-203, MCA, is amended to read:
 20 "45-8-203. Certain motion picture theater employees
 21 not liable for prosecution. (1) As used in this section,
 22 "employee" means any person regularly employed by the owner
 23 or operator of a motion picture theater if he has no
 24 financial interest other than salary or wages in the
 25 ownership or operation of the motion picture theater, has no

1 financial interest in or control over the selection of the
 2 motion pictures shown in the theater, and is working within
 3 the motion picture theater where he is regularly employed.
 4 "Employee" does not include a manager of the motion picture
 5 theater.
 6 (2) No employee is liable to prosecution under
 7 45-8-201 and 45-8-202 [section 2] or under any city or
 8 county ordinance for exhibiting or possessing with intent to
 9 exhibit any obscene motion picture provided the employee is
 10 acting within the scope of his regular employment at a
 11 showing open to the public."

12 **NEW SECTION. Section 7. Repealer.** Section 45-8-202.

13 MCA, is repealed.

14 **NEW SECTION. Section 8.** Codification instruction.
 15 [Sections 1 through 4] are intended to be codified as an
 16 integral part of Title 45, chapter 8, part 2, and the
 17 provisions of Title 45, chapter 8, part 2, apply to
 18 [sections 1 through 4].

-End-

Amendments to Senate Bill No. 307
Third Reading Copy

For the Committee on the Judiciary

Prepared by John MacMaster
March 21, 1989

1. Page 1, line 16 through page 2, line 1.

Strike: subsection (2) in its entirety

Insert: "(2) "Obscene material or performance" means one that:

(a) (i) is a representation or description of perverted ultimate sexual acts, actual or simulated;

(ii) is a patently offensive representation or description of normal ultimate sexual acts, actual or simulated; or

(iii) is a patently offensive representation or description of masturbation, excretory functions, or lewd exhibition of the genitals; and

(b) taken as a whole and applying contemporary community standards, appeals to the prurient interest in sex, portrays conduct described in subsection (2)(a) in a patently offensive way, and lacks serious literary, artistic, political, or scientific value."

2. Page 2, line 6.

Insert: "(5) "Prurient interest in sex" means a shameful or morbid interest in sex or excretion."

Renumber: subsequent subsection

3. Page 3, lines 3 through 8.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

4. Page 3, line 12.

Insert: "(3) A person does not commit the offense of obscenity if:

(a) the material is a motion picture film or videotape rated G, PG, PG-13, or R by the motion picture association of America;

(b) the person is, or is acting as, an employee of a bona fide public school, college, or university or a retail outlet affiliated with and serving the educational purposes of a school, college, or university and the material or performance was disseminated in accordance with policies approved by the governing body of the institution;

(c) the person is an officer, director, trustee, or employee of a public library or museum and the material or performance was acquired by the library or museum and disseminated in accordance with policies approved by the governing body of the library or museum;

(d) an exhibition in a state of nudity is for a bona fide scientific or medical purpose for a bona fide school, library, or museum; or

(e) the person is a retail sales clerk with no financial interest in the material or performance or in the establishment displaying or selling the material or performance."

5. Page 3, lines 12 and 13.

Strike: "for" on line 12 through "violation" on line 13

6. Page 3, line 14.

Strike: "\$5,000"

Insert: "\$1,000"

7. Page 3, line 15.

Strike: "second"

Insert: "subsequent"

Following: "conviction"

Insert: "based on a separate transaction"

8. Page 3, line 16.

Strike: "is guilty of a felony and"

9. Page 3, line 17.

Strike: "\$50,000"

Insert: "\$10,000"

Strike: "10"

Insert: "1"

10. Page 3, line 18.

Strike: "years"

Insert: "year"

11. Page 3, line 21.

Following: "exhibition"

Insert: "shall be fined a minimum of \$500 but not more than \$1,000, imprisoned in the county jail for a term not to exceed 6 months, or both. Upon a subsequent conviction based on a separate transaction the person"

Following: "felony and"

Insert: "may be fined an amount not to exceed \$10,000, imprisoned for a term not to exceed 1 year, or both. A person who knowingly imports or causes obscene material to be brought into the state for sale, rent, delivery, or exhibition as part of a common scheme is guilty of a felony and"

12. Page 3, ⁶line 24.

Insert: "(~~7~~) In a prosecution for violation of this section, evidence is admissible to show:

(a) the predominant appeal of the material or performance and the effect, if any, it would have on the behavior of people;

(b) the artistic, literary, scientific, educational, or other merits of the material or performance;

(c) the degree of public acceptance of the material or performance in the community;

(d) appeal to prurient interest in sex or absence

thereof in advertising or other promotion of the material or performance; and
(e) the purpose of the author, creator, publisher, or disseminator."

Renumber: subsequent subsections

13. Page 4, line 4.

Insert: "NEW SECTION. Section 3. Notice of violation. Before a county attorney may prosecute a person for a continuing violation of [section 2], he shall determine that the material or performance at issue is obscene, give the alleged violator actual notice of the determination and notice that he will be prosecuted if he does not desist, and determine that the violation continued for at least 3 days after notice was received. The person may seek a declaratory judgment on the question whether the material or performance is obscene to minors. The statute of limitations for the alleged offense is tolled while the declaratory judgment or an appeal from it is pending."

Renumber: subsequent sections

14. Page 4, line 25.

Page 5, line 3.

Strike: "and 2"

Insert: "through 3"

6

1 *Senate* BILL NO. 307
 2 INTRODUCED BY *Adrian Ketting*
 3 *Repealing Age Harboring Code for sexual things*
 4 *Wesley Dyer, William Peterson, Jimmie Young*
 5 *Tom Nelson*
 6 REGARDLESS OF AGE; AMENDING SECTION 45-8-203, MCA; AND
 7 REPEALING SECTION 45-8-201, MCA."

~~literary, artistic, scientific or scientific value~~

(3) "Performance" means any play, dance, or other live exhibition performed before an audience.

(4) "Person" means an individual, partnership, corporation, association or other entity.

(5) "Prurient interest in sex" means a *shameful or morbid interest in sex or operation.*

(6) "Sexual conduct" includes: (a) vaginal, anal, or oral intercourse, whether actual or simulated, normal or perverted;

(b) masturbation, excretory functions, or lewd exhibition or uncovered genitals;

(c) sadomasochistic abuse, meaning an act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a nude person or a person clad in undergarments or in a revealing or bizarre costume.

NEW SECTION. Section 2. Exhibition or dissemination of obscenity -- penalty. (1) A person commits the offense of obscenity if he knowingly or purposely:

(a) sells, rents, delivers, provides, or offers or agrees to sell, rent, deliver, or provide any obscene material or performance;

(b) presents, participates in, or directs an obscene play, dance, or other performance;

(c) publishes, exhibits, or otherwise makes available any obscene material or performance; or

(d) exhibits, presents, rents, sells, delivers, or

NEW SECTION. Section 1. Definitions. As used in [this act], the following definitions apply:

(1) "Material" means any magazine or other printed or written matter, picture, photograph, motion picture film, videotape, sound record, object, representation, or description.

~~(2) "Obscenity" means material of a performance which, if taken as a whole:~~

(a) the average person applying contemporary community standards would consider a patently offensive depiction or description of sexual conduct;

(b) the average person applying contemporary community standards relating to the depiction or description of sexual conduct would find appealing to the prurient interest in sex; and

~~(c) reasonable persons would find looking to persons~~

(2) "Obscene material or performance" means one that:

- (a) (i)
- (ii)
- (iii)
- (b)

see Amendment 1 #

THIRD READING

-2-

LC 307

EXHIBIT 11
 DATE 3-23-89
 HB SB 307

1 provides or offers or agrees to exhibit, present, rent,
2 sell, or provide any obscene material or performance.

3 ~~(2) Obscenity will be judged with reference~~
4 ~~ordinary adults except that it will be judged with reference~~
5 ~~to children or other especially susceptible audiences if it~~
6 ~~appears from the character of the material or the~~
7 ~~circumstances of its dissemination to be especially designed~~
8 ~~for or directed to children or susceptible audiences.~~

9 (2)(f) A person is guilty of the offense of obscenity if
10 he knowingly or purposely creates, buys, procures, or
11 possesses obscene material for dissemination. *(3) A person does not*

12 (4)(f) A person convicted of obscenity shall *commit the offense of*
13 ~~be fined a minimum of \$500 but not more than~~ *(a)*
14 ~~\$1,000, imprisoned in the county jail for a term not to~~ *(b)*
15 ~~exceed 6 months, or both. Upon a conviction, a separate~~ *(c)*
16 ~~person ~~convicted of a felony and~~ may be fined an amount not~~ *(d)*
17 ~~to exceed \$10,000; imprisoned for a term not to exceed~~ *(e)*
18 ~~one year or both.~~ *SEE # 4*

19 (5)(f) A person who knowingly imports or causes obscene
20 material to be brought into the state for sale, rent,
21 delivery, or exhibition *X* is guilty of a felony and *X* may be
22 fined an amount not to exceed \$50,000, imprisoned for a term
23 not to exceed 10 years, or both. *SEE # 10*

24 (7)(f) Obscene material disseminated, procured, *IN A PROSECUTION FOR VIOLATION OF THIS SECTION,*
25 promoted in violation of this section is contraband. *EVIDENCE IS*
ADMISSIBLE TO
Show: (a)
(b)
(c)
(d)
(e)

*may be fined an amount not to exceed \$10,000,
imprisoned for a term not to exceed 1 year, or both.
A person who knowingly imports or causes obscene material to
be brought into the state for sale, rent, delivery or exhibition
shall be a felony.*

(8)(f) Cities, towns, or counties may adopt ordinances or
resolutions that are more restrictive as to obscenity than
the provisions of this section and 45-8-202. *SEE # 13*
NEW SECTION. SECTION 3. NOTICE OF VIOLATION.
SECTION 4. SECTION 45-8-203, MCA, IS AMENDED TO READ:

"45-8-203. Certain motion picture theater employees
not liable for prosecution. (1) As used in this section,
"employee" means any person regularly employed by the owner
or operator of a motion picture theater if he has no
financial interest other than salary or wages in the
ownership or operation of the motion picture theater, has no
financial interest in or control over the selection of the
motion pictures shown in the theater, and is working within
the motion picture theater where he is regularly employed.
"Employee" does not include a manager of the motion picture
theater.

(2) No An employee is not liable to prosecution under
45-8-202 [section 2] and 45-8-202 or under any city or
county ordinance for exhibiting or possessing with intent to
exhibit any obscene motion picture provided the employee is
acting within the scope of his regular employment at a
showing open to the public."

*NEW SECTION. SECTION 5. Repealer. Section 45-8-201,
MCA, is repealed.*

*NEW SECTION. SECTION 6. Codification instruction.
Sections 1 and 2 are intended to be codified as a
through 3*

*shall be fined
a minimum of
\$500 but not
more than
\$1,000, imprisoned
in the county
jail for a term
not to exceed
6 months, or
both. Upon a
subsequent
conviction based
on a separate
transaction the
person*

LC 0751/01

- 1 integral part of Title 45, chapter 8, part 2, and the
- 2 provisions of Title 45, chapter 8, part 2, apply to
- 3 ~~sections 1 and 2~~ through 3

-End-

SB 431

3/23/89

WITNESS STATEMENT

NAME LYNN M. JOSELYE BILL NO. S.B. 431

ADDRESS PO Box 1673, Gr Falls, Mont

WHOM DO YOU REPRESENT? CASCADE County TOWN Assn

SUPPORT OPPOSE AMEND

COMMENTS: support Regulation is uniformity
of gambling laws in the STATE of
MONTANA. Oppose concentrating the
powers of legislation, prosecution
trial & imposition of sanctions
including imprisonment for two
years in the hands of one
department.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

DO NOT REMOVE!!

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. _____ DATE 3/23/89

SPONSOR SB 431 1044

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Doug Lovell	634 AVE C BILLINGS, MT ^{J9102}	X w/ Amend.	
Jim Coe Shli	501 Parkside Building	X	
J.S. Murphy	1800 - 3 rd ST NW ^{Great Falls}		X
R.C. Murphy	5315 2 nd Av N - Great Falls		X
Ray Foster	City of Billings	X	
STUART J. McQUARIE	1701 Hwy. 93 S, KALISPELL	X	
HAROLD HANSEER	629 AVE C Billings	X	
Sid Smith	3425 Hwy 12 E HW		X
Art Lundberg	245. Lakeview St.	X	
Mike Schupe (Mt. Sheriff + Peace Officer Chairman)		X	
G.L. "Andy" ANDERSON	PO Box 2636 KALISPELL	X	
Randy Reger	Bldg 111 G/A	X with Amend.	
Jack Lambrecht	Bldg 110	X with Amend.	
Jim Nugent	Missoula 201 W. Spruce	X with Amend.	
Terry G. Will	8320 Greenwood Helms	X with Amend.	
MARK TRAYTON	Cascade Co. Tax Assoc.		X
Rick Day	Dept of Revenue Helena		
HAROLD BITTNER	2812 BANCROFT MISS	X with Amend.	
JEFFREY RENE	ACLU/MT - Bldg		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary

COMMITTEE

BILL NO. SB 431 2014

DATE 3/23/89

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Mayor John Ed Kennedy Jr.	Kalispell, MT	X	
Bob Durkee	MTA	X W/ALPDS	
Phil Hornung	MT 17		X
John Tomian	765 337 Ave ^{67 Falls}		X
Steve Wilk	MTA	X	
Barbara Foster	Head Falls ^{MTA} CCTA		X
Joyce Spontegem	MTA CCTA Kit Falls		X
James Mills	MTA CCTA Wdr, MT		X
Tim Barbour	Gr. Falls		X
Christa Bullock	Basin		X
Roselee Bullock	Tri County, Towner ^{h.c. Broadent. Jefferson}		X
Mrs. C. TRACY	CCTA VILLAGE IN W. DITTA- FLINT RAIL	X	
WACHT - JAC KOUCH.	Butte		X ^{AS W/ALPDS}
Brad Schopp F	Kalispell	X	
John W. Nease	Bozeman	X	
Winnifred Digby	Great Falls		X
Steve	Whitefish	X W/ALPDS	
Sandra Lefavour	Missoula	X	
Jay O. Beach	Missoula	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary

COMMITTEE

BILL NO.

SB 4313064

DATE

3/23/89

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
MARK BRETZ	610 OVERLOOK WAY MISSOULA MT	X	
VERN ARLOW	1100 CREEK CROSSING MISSOULA	X	
PATRICIA MARTIN	BIG BOYS & SISTERS	X	
Eric Graszesch	M.T.A.		X
Wm. J. WARE	221 Brockway ^{MA COP} Helena	X	
Beggy Edgerson	114 Lamond, Glasgow	X	
Roger Branton	323 of 24 Billie,	X	
Mignon Waterman	Mt. Assoc. of Churches	X	
Bon Larson	M.T.A.	X	
Troy W. Miller	Helena		X
Troyeta Kuehner	Superior		X
Richard E. Morning	Senate Dist # 18		X
Holly Carrell	Self	✓	
Terry Coale	Self - Lobby -	✓	
Heather Crocker	Lobby	✓	
"Sandy" Keith	Butte		✓
Red Williams	Bozeman		✓
LARRY AKEY	VIDEO KENO COALITION		✓
Tom Heister	GREAT FALLS MTA MEMBER		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ROLL CALL VOTE

JUDICIARY COMMITTEE

DATE March 23 BILL NO. SB 307 NUMBER 1

NAME	AYE	NAY
REP. KELLY ADDY, VICE-CHAIRMAN	X	
REP. OLE AAFEDT		X
REP. WILLIAM BOHARSKI		X
REP. VIVIAN BROOKE	X	
REP. FRITZ DAILY	X	
REP. PAULA DARKO		X
REP. RALPH EUDAILY	X	
REP. BUDD GOULD	X	
REP. TOM HANNAH		X
REP. ROGER KNAPP		X
REP. MARY McDONOUGH	X	
REP. JOHN MERCER		X
REP. LINDA NELSON	X	
REP. JIM RICE		X
REP. JESSICA STICKNEY	X	
REP. BILL STRIZICH	X	
REP. DIANA WYATT	X	
REP. DAVE BROWN, CHAIRMAN	X	

TALLY

11 7

Julie Empe
Secretary

Dave Brown
Chairman

Motion: Rep. Strizich move to TABLE, seconded by
Rep. Addy. Motion passes.

ROLL CALL VOTE

JUDICIARY

COMMITTEE

DATE March 23, 1989 BILL NO. SB 396 NUMBER 1

NAME	AYE	NAY
REP. KELLY ADDY, VICE-CHAIRMAN		X
REP. OLE AAFEDT	X	
REP. WILLIAM BOHARSKI	X	
REP. VIVIAN BROOKE		X
REP. FRITZ DAILY		X
REP. PAULA DARKO		X
REP. RALPH EUDAILY	X	
REP. BUDD GOULD	X	
REP. TOM HANNAH	X	
REP. ROGER KNAPP		X
REP. MARY McDONOUGH		X
REP. JOHN MERCER	X	
REP. LINDA NELSON	X	
REP. JIM RICE	X	
REP. JESSICA STICKNEY		X
REP. BILL STRIZICH		X
REP. DIANA WYATT		X
REP. DAVE BROWN, CHAIRMAN		X

TALLY

8 10

Julie Enge
Secretary

Dave Brown
Chairman

Motion: Rep. Mercer's motion DO CONCUR AS AMENDED,
seconded by Rep. Eudaily. Vote was then reversed
for a motion to TABLE & CARRIED 10-8.

ROLL CALL VOTE

JUDICIARY

COMMITTEE

DATE March 23, 1989

BILL NO. SB 397

NUMBER 1

NAME	AYE	NAY
REP. KELLY ADDY, VICE-CHAIRMAN	X	
REP. OLE AAFEDT		X
REP. WILLIAM BOHARSKI		X
REP. VIVIAN BROOKE	X	
REP. FRITZ DAILY		X
REP. PAULA DARKO	X	
REP. RALPH EUDAILY		X
REP. BUDD GOULD		X
REP. TOM HANNAH		X
REP. ROGER KNAPP	X	
REP. MARY McDONOUGH	X	
REP. JOHN MERCER		X
REP. LINDA NELSON	X	
REP. JIM RICE		X
REP. JESSICA STICKNEY	X	
REP. BILL STRIZICH	X	
REP. DIANA WYATT	X	
REP. DAVE BROWN, CHAIRMAN	X	

TALLY

10

8

Julie Emge
Secretary

Dave Brown
Chairman

Motion: TABLING motion made by Rep. Addy,
seconded by Rep. Strizich. Motion CARRIES.