

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BRUCE D. CRIPPEN**, on January 26, 1995, at 10:00 a.m.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Lorents Grosfield (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Linda J. Nelson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Council
Judy Keintz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 109, SB 203
Executive Action: None.

HEARING ON SB 203

Opening Statement by Sponsor:

SENATOR LORENTS GROSFIELD, Senate District 13, Big Timber, presented SB 203, which is a water rights contract between the state of Montana and the United States National Park Service. This was negotiated by the Montana Reserve Water Rights Compact Commission which is an entity created for the purpose of negotiating water rights with tribes and federal agencies. The Compact Commission is authorized to negotiate settlements

regarding the federal reserved water rights. These water rights are implied either from an act of Congress, a treaty, or from an executive order. The compacting process is an exercise of Montana's jurisdiction over the adjudication of federal and tribal water rights. This resulted from winning a U.S. Supreme Court decision Arizona v. St. Carlos. The court held that the federal McCarran Amendment allows Montanans to adjudicate water rights. All existing Montana rights are fully protected by the compact. There is no effect of this compact on the Crow Tribal water rights.

Proponents' Testimony:

Chris Tweeten, Chairman of the Reserve Water Rights Compact Commission, stated that this Commission was established in 1979 as part of the statewide water adjudication process. The legislature created the commission to represent the governor of the state of Montana in settlement negotiations with the federal government and Indian tribes over reserved water rights claims. The legislature understood that there are significant differences between federal reserved water rights and state based water rights. Among them, federal reserved water rights are not tied to the application of water to beneficial use as state based rights are. Federal reserved rights are quantified by reference to the amount of water that is necessary to accomplish the purpose of the federal reserve. The legislature acted advisedly when it established a commission to represent the state of Montana in conducting these negotiations. The legislature wanted to ensure that legislators and the public were heavily involved in the negotiation process. The commission consists of four members of the legislature, four members of the public appointed by the governor and one representative appointed by the attorney general. The current members of the commission who unanimously approved this compact and recommended it for your ratification in this legislature in addition to Chris Tweeten are: **SENATOR LORENTS GROSFIELD, SENATOR MIKE HALLIGAN, REPRESENTATIVE EMILY SWANSON**, Jack Salmon - State Livestock Board, Terry Dupuis - Park County Attorney, Gene Etchart, and former state representative - Bob Thoft.

Barbara Cosens, Legal Counsel for Montana Reserve Water Rights Compact Commission, stated that this agreement covers two small units of the National Park Service. Because of the location of the two units with respect to the Crow Reservation, the Commission took extra care to make sure that the Tribe was informed of all negotiations and had an opportunity to comment. The compact takes no position on the validity of the Crow Tribe. This deals simply with the National Park Service. The Tribe's reserved water rights are subject to negotiations currently underway between the Tribe, the state and the United States. The compact makes it clear that there is no intent to affect those negotiations or any interpretation of those water rights.

Through the negotiations the commission and the park service were able to agree to minor consumptive uses and to instream flow. The quantity of a federal reserved water right is determined by the act of Congress that reserves the land. The Little Bighorn Battlefield was originally established by executive order in 1886 as a national cemetery. In 1946, by act of Congress it was set aside as a national monument. The intent to commemorate a historic event leads to two types of water rights. First, a minor consumptive use right which is the amount of water necessary for their visitor facilities and grounds upkeep at the Battlefield. The more important right is the instream flow right. In order to preserve the historic site of the battle, research indicates that the river played a role both in the location of the Sioux and Cheyenne Camp in the valley adjacent to the river that was formed by the bend in the river and in the movement of troops on the bluffs as they approached the camp. The instream flow right is not intended to arrest the river in the state it was in 1876 when the battle took place. To stop movement of a channel of a river would take more than a water right and would destroy the natural setting. The instream flow right has two components. It has a minimum flow which is enough to cover the riffles to keep a live stream. A bank flow which is sufficient to flush sediment through and maintain the channel of the stream. When looking at instream flow rights, the concern should be upstream. Water users in that area are ones that could be potentially called to satisfy the instream flow right. Downstream from the Battlefield it can only be a benefit because it keeps water in the stream for irrigators that are downstream. The most important feature of this compact for water users upstream from the battlefield is the delineation in the compact of what water rights could be curtailed in order to satisfy the instream flow right. Under state law, satisfaction of a water right precedes in priority. A senior water user can call a junior user in times of shortage. Under current conditions, even though the Park Service might have a senior priority date, the channel is being maintained. No water right that exists as of the date that the legislature ratifies this agreement and the United States Department of Interior and Department of Justice sign off on it, could be shut in to satisfy the instream flow right. All senior Crow Tribe water rights are protected. As far as future water rights are concerned, we are also able to protect all instream stock, all non-consumptive uses and all small ground water uses that are currently exempt from the permit process under state law. The only rights that could be called by this instream flow right are new consumptive uses or large groundwater uses. After identifying what rights could be curtailed, the compact had to address how to do that. A channel maintenance comes at the whim of nature. By using the stream flow records, the parties were able to limit the period during which the call could occur to May 1 to June 30 and limited the call to 15 days. The agreement calls for cooperation between the United States and the state of Montana to administer the call. The Bighorn Canyon

National Recreation Area has two types of water uses. One is consumptive for visitors facilities and for historic sites. The second is instream flow. The Commission and the Park Service agreed on a level of new use that would double existing uses. If that limit is ever reached, those drainages would be closed to new consumptive uses. Exempt from that closure would be any instream stock water uses and wells. The Commission is subject to open meetings law. All negotiations are open to the public and the Commission sends out a mailing to interested people. The meetings were well attended by representatives of the Crow Tribe and by representatives of Wyoming. At a public meeting in Lodge Grass, **EXHIBIT 1** was read into the record. This exhibit is a letter from Madam Chairman, Clara Nomee, Crow Tribal Council, addressed to Chris Tweeten, Chairman of the Commission. The main concern of Wyoming is that nothing in this agreement would be interpreted to affect the Yellowstone River Compact. **EXHIBIT 2** was also handed out by **Ms. Cosens**.

Owen Williams, Chief of the National Park Service's Water Rights Branch, presented his written testimony. **EXHIBIT 3**

{Tape: 2; Side: A}

Harley Harris, Assistant Attorney General, presented testimony of Attorney General Joseph P. Mazurek in support of SB 203. Written testimony, **EXHIBIT 4**.

Opponents Testimony: None.

Informational Testimony: None.

(Problem with tape.)

Questions From Committee Members and Responses:

SENATOR BRUCE CRIPPEN commented that the water right downstream would help recreational areas because of the preservation of the instream flow. **Ms. Cosens** stated that an instream flow right can only benefit downstream, whether it is for recreation or whether it is for an irrigator who wants to revert.

Closing by Sponsor:

SENATOR GROSFIELD stated that the creeks involved are very small creeks. Layout Creek flowed 1.2 cfs. Deadman Creek flowed at .1 cfs. Trail Creek 1 cfs. Dryhead Creek was the largest at 10 cfs. This is a negotiated settlement. It is the result of a process which has been ongoing for three years. The draft before the Committee is the draft which was agreed to. This was not drafted by the Legislative Council. In the case of a compact, every word in the compact was by agreement of all the negotiating

parties. The compact is given to the Legislative Council. The Legislative Council does not change anything. Amending the compact is different from amending a normal bill. An amendment that would be made would have to go back to the negotiation process and to be sure that all the parties agree to the exact wording of each amendment. Because of the proximity of the Crow Tribe, there was a lot of concern by the Crow Tribe. If there were amendments, the Commission would have to go through them with the Park Service, Department of Justice, Department of Interior and the Crow Tribe.

HEARING ON 109

Opening Statement by Sponsor:

SENATOR GROSFIELD, Senate District 13, presented SB 109 which deals with the question of determining the legal age for gambling in Montana. At first they thought of raising the age from 18 to 21. Under our constitution, a person 18 years of age or older is an adult for everything except purchasing, consuming, or possessing alcoholic beverages. It would take a constitutional amendment to change the age. This bill does not set the age. It enables the legislature to set and establish the age as the legislature may deem appropriate. In Montana, because gambling is tied to liquor licenses, the only places which can have gambling machines are places which have liquor licenses. It is legal for an 18 year old to gamble any place in Montana. It is problematic to have an 18 year old gambling where other people are drinking. Up to 80% of 18 year olds are still in high school.

Proponents' Testimony:

Ellen Engsteat, Don't Gamble With the Future, stated that their goals are to prevent any expansion of gambling in the state of Montana and to promote more stringent regulation of the gambling that is already in place. They support SB 109. She presented her written testimony, **EXHIBIT 5**.

Lil McBride stated she supports SB 109. Teens are 2.5 times more likely to become problem gamblers than adults. One million teenagers in the United States are pathological gamblers. This is a prevention bill. She presented her written testimony, **EXHIBIT 6**.

Jean Agather, Gambling Advisory Counsel, commented that for the last five years she has spent a great deal of time discussing gambling related issues with people from all walks of life in Montana. She has gathered information from all over the nation on gambling. She presented her written testimony, **EXHIBIT 7**.

Carolyn Ennis, Don't Gamble with the Future, stated Montana's

most precious resource is our youth. They are our future. Government fostered gambling is bad enough. Governmental support of juvenile gambling is unconscionable. She presented her written testimony, **EXHIBIT 8**.

Pat Melby, Rimrock Foundation, commented that Rimrock's ultimate goal is to prevent addictive diseases. **Mr. Melby** presented a handout, **EXHIBIT 9**.

Mary Ruby presented her written testimony, **EXHIBIT 10**.

David Henion, Montana Association of Churches, stated the association is comprised of the American Baptist Churches of the Northwest, the Christian Church Disciples of Christ in Montana, the Episcopal Church Diocese of Montana, the Evangelical Lutheran Church of American, the Presbyterian Church, the Roman Catholic Church, the Diocese of Great Falls/Billings and the Diocese of Helena, the United Church of Christ and the United Methodist Church. The Association's general assembly adopted the position that the human suffering that has resulted from the increase in gambling in Montana is reflected by the establishment of gamblers anonymous groups. Montanans have also begun seeking treatment for compulsive gambling and drug dependency programs. Commercial gambling poses a serious threat to any social order. Gambling provides no essential services to a community. It undermines our economic and social order, places an added strain on the family structure, potentially corrupts government at all levels and creates the potential for many related crime and law enforcement problems. They ask that the issue of raising the age be placed before the public and allow the voters to decide this issue.

Leila Wright stated that a law enforcement official explained to her that enforcing the drinking law in a casino is next to impossible since an 18 year old can gamble legally.

Susan Smith commented that gambling is parasitic because it creates no economic goods and no real wealth. It doesn't take much research to see that gambling doesn't benefit society. What we do for and in behalf of our youth now will ultimately guide them in the future.

Sharon Hoff, Executive Director of Montana Catholic Conference, stated they stand in support of SB 109. Gambling appears to be the new right of passage for our teenagers, from childhood to adulthood.

Allen Ruby presented his written testimony **EXHIBIT 11**.

Arlette Randash, Eagle Forum, announced they rise in favor of SB 109. Americans are now spending more on gambling than on all other forms of entertainment combined.

Laurie Koutnik, Christian Coalition of Montana, stated they are concerned about the destructive consequences of gambling.

Opponents' Testimony:

Bob Campbell, Author of Article II, Section 14, Adult Rights, stated that it was 23 years ago that he put in the adult rights proposal which passed in the legislature 82 to 1. In the Constitutional Convention they faced the question of gambling. The 1889 Constitution said no gambling. The people voted not to have a total ban on gambling in the new constitution. They wanted the legislature to regulate gambling. The legislature has the power to ban gambling without amending the Constitution. There wasn't a bill issued this time to support programs to treat gambling addiction. These programs could be supported by gambling revenues. Let the people decide. Is gambling so bad that we want to change our whole policy and forbid it? If gambling starts at 14, as the studies showed, would a change of the law to 21 decrease the number who are already illegal under the present law? We need some change of social concern by a majority of the population if we want to get to the problems. Eighteen year olds can enter into a contract with anyone in this state. They can marry and adopt children. Does that mean that they are not responsible? They can be elected to every city office. They are all presumed to have enough maturity to be able to handle these responsibilities. They can run for the legislature and then decide if they should take away your rights under some element of the Constitution that they decide you are not mature enough to handle by yourself. The constitutional provisions are not put in to be changed every two years by the legislature. This would allow you to take a portion of some person's rights. Mr. Campbell presented a hand out, **EXHIBIT 12**.

Richard Harwood stated he has no objection to placing a constitutional issue on the ballot. He is opposed to any amendment that changes the legal rights of a citizen.

Diana Rodeghiero presented her written testimony, **EXHIBIT 13**.

{Tape: 3; Side: A}

Richard Harwood stated he would like to see the legislature propose legislation to use part of gambling funds for those people who have problems and the possibility that one of the reasons that there is so much gambling going on right now is that the people are driven to gambling because they see no way of advancing themselves.

Informational Testimony: None.

Questions From Committee Members and Responses:

SENATOR AL BISHOP questioned why anyone under 21 was not at the hearing testifying about their rights. **Ms. Agather** stated that this is final week in Kalispell so the young adults who wanted to be at the hearing with her could not attend. **SENATOR BISHOP** questioned whether **Mr. Campbell** was saying that the Constitution should not be changed for any reason. **SENATOR BISHOP** felt that the Constitution is a document that should grow along with the people. **Mr. Campbell** stated that all people should be treated equally under the Constitution. He would rather see all gambling banned instead of fracturing people's rights. **SENATOR BISHOP** maintained that in 1972 we did not have legalized gambling in Montana. **Mr. Campbell** stated the Constitution banned it completely. There was a side issue asking whether the people wanted the legislature to regulate gambling or not. The people said "yes".

SENATOR LINDA NELSON asked whether the sponsor had an age in mind for the bill. **SENATOR GROSFIELD** answered that the only reason to raise it to 19 would be to get it out of the high schools. The logical age would be 21. **SENATOR NELSON** questioned whether the wording of the bill should be changed to read "21 for adult rights". She also stated that the pattern for gambling probably starts a long time before 18 years of age. **SENATOR GROSFIELD** stated that was a good point. We live in an electronic game age where the games are associated with placing a quarter in a machine. **SENATOR NELSON** further questioned about day care rooms in casinos. **Ms. Agather** stated that there are day care rooms in a Great Falls casino.

SENATOR SUE BARTLETT noted that the material submitted from Rimrock Foundation notes in it that pathological gamblers start gambling in their early teens. If the problem starts in the early teens, how much difference will it make if we raise the gambling age to 21? **Mr. Melby** stated he couldn't answer that question but would attempt to get that information from the Rimrock Foundation.

SENATOR SHARON ESTRADA asked how this would affect Indian Reservations where Tribes have entered into compacts with the state. **SENATOR GROSFIELD** stated those compacts addressed different types of gambling. He wasn't sure that they involved the issue of age. He asked that the staff attorney check into that concern.

Closing by Sponsor:

SENATOR GROSFIELD stated that Congress decided that 21 should be the legal age for drinking. He felt that the Legislature would also chose 21 as the age for gambling. There were no opponents at the hearing who owned liquor license or had gambling machines. Governmental support of youthful gambling is unconscionable. Local governments have become partially reliant on Montana

teenager's losses to support them. High school students only talk about the money they won on gambling. They will never mention the losses.

ADJOURNMENT

Adjournment: Meeting adjourned at 12:00 p.m.

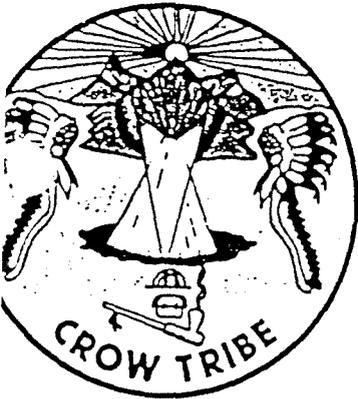


BRUCE D. CRIPPEN, Chairman



JUDY J. KEINTZ, Secretary

BC/jjk



CROW TRIBAL COUNCIL

P.O. Box 159
Crow Agency, MT 59022
(406) 638-2601

203
SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 11/26/95
FILE NO. 203

Clara Nomee, Madam Chairman
Joseph Pickett, Vice-Chairman
Marvin Stewart, Secretary
Dennis Big Hair, Vice-Secretary

Crow Country

November 21, 1994

Chris D. Tweeten, Chairman
Reserved Water Rights Compact Commission
State of Montana
1520 East Sixth Avenue
P.O. Box 202301
Helena, MT 59620-2301

Dear Mr. Tweeten:

My staff has reviewed documents related to the negotiations for reserved water rights between the Little Bighorn Battlefield National Monument/Big Horn Canyon National Recreation Area and the State of Montana.

As far as the Crow Nation is concerned, we have no objections to the water negotiation at issue, with the understanding that the Crow Water Rights are not affected.

Should you have any questions, please feel free to contact me at (406) 638-2601.

Sincerely,


Clara Nomee, Madam Chairman
CROW TRIBAL COUNCIL

MT. RESERVED WATER RIGHTS COMPACT COMMISSION / NATIONAL PARK SERVICE
WATER RIGHTS COMPACT PROPOSAL

203

Little Bighorn Battlefield National Monument/Bighorn Canyon National Recreation Area
January, 1995

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 11/24/95
FILE NO. 203

INTRODUCTION

- * Montana Reserved Water Rights Compact Commission (RWRCC) created in 1979 by Montana Legislature as part of the State's general stream adjudication.
- * Authorized to negotiate settlements with federal agencies and Indian tribes claiming federal reserved water rights in Montana.
- * A federal reserved water right is a right to use water that is implied from an act of Congress, a treaty, or an executive order establishing a tribal or federal reservation.

BACKGROUND OF NATIONAL PARK SERVICE NEGOTIATIONS

- * 1993 - Legislature approved compact for Yellowstone National Park, Glacier National Park, and Bighole National Battlefield.
- * RWRCC and National Park Service (NPS) negotiated water rights settlement for two remaining units, **Bighorn Canyon National Recreation Area and Little Bighorn Battlefield National Monument.**
- * Compact approved by the full RWRCC and NPS management.
- * Compact must be adopted by the Montana Legislature, signed by U.S. Department of the Interior and U.S. Department of Justice. Following Legislative approval Compact must be integrated into Water Court decrees for each water basin involved.

PUBLIC INVOLVEMENT

- * Mailing list developed by RWRCC and NPS (200+ names). Summary of proposal sent to all names on list.
- * Comments solicited from local water users and Crow Tribal officials during negotiating process.
- * Public meetings: Crow Agency, April 1994; Lodge Grass and Billings, November 1994.
- * Negotiating sessions open to the public.

COMPACT AGREEMENT

- * Quantification of NPS reserved water rights in no way conflicts with current or future water rights of the Crow Tribe or with rights derived from Crow Tribal rights.
- * Any administration by the State to enforce the NPS right is limited to new water uses obtained by permit application to the State after the date of the compact, and may also be limited by any future determination of Crow jurisdiction over water rights on the Reservation.
- * NPS water right includes:
 - consumptive uses to be diverted from streams or supplied from groundwater for visitor and administrative facilities and ground maintenance at the two areas;
 - instream flow on Little Bighorn River and west side of Bighorn Canyon Recreation Area.

Little Bighorn Battlefield National Monument

Consumptive use (present and future) = 84.9 acre-feet/year.

Instream flow on the Little Bighorn River where it borders the Monument:

51 cubic feet per second (cfs) low flow, year-round.

950 cfs channel maintenance flow for 15 days only between May 1-June 30.

- During May or June, NPS may ask Montana Department of Natural Resources and Conservation (DNRC) to inform junior users (new permits after the date the Compact is effective) that they must stop using water for 15 days if the flow drops below 950 cfs and 950 cfs level could be reached by such a call on junior users.
- Call ends after 15 days of channel maintenance flow or on June 30, whichever occurs first.
- If river cannot reach 950 cfs by calling junior users, there will be no call.
- If river stays above 950 cfs during 15 day period, there will be no call.
- If river runs at 950 cfs flow or more during March or April those days are counted against the 15 day period of 950 cfs the NPS is allowed in May and June.
- DNRC to administer the call.

Call cannot extend to:

- all use pursuant to state-based rights, senior to the effective date of the Compact;
- senior Crow Tribal rights;
- all domestic or stockwater wells under 35 gallons per minute (gpm) and 10 acre-feet per year (afy) [NPS may object to new permits for wells over 35 gpm and 10 afy but must prove hydrologic connection to the Little Bighorn River];
- all instream stock water uses,
- all non-consumptive uses.

Bighorn Canyon National Recreation Area

Consumptive use (present and future) = 251.5 acre-feet/year.

Instream flows for streams and springs on the west side of Bighorn Canyon:

On North and South Fork Trail Creek, and Trail Creek: closure to new consumptive uses. Closure does not affect:

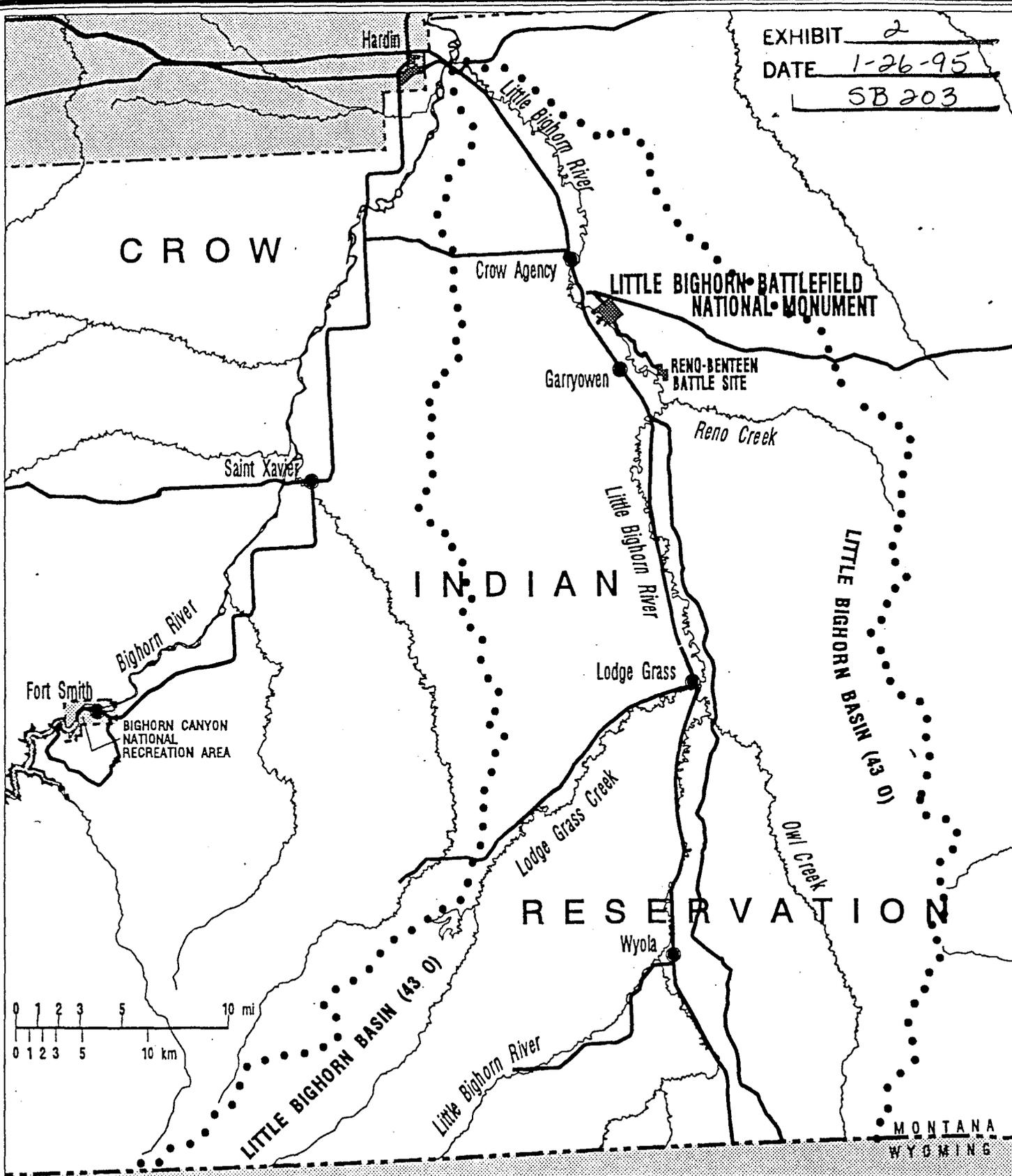
- all use pursuant to state-based rights, senior to the effective date of the Compact;
- senior Crow Tribal rights;
- new domestic or stockwater wells under 35 gallons per minute (gpm) and 10 acre-feet per year (afy);
- new instream stock water uses,
- new non-consumptive uses.

On Dry Head Creek, Deadman Creek, Davis Creek and Layout Creek: same as above streams, but a small amount of water is allocated to new consumptive uses prior to closure.

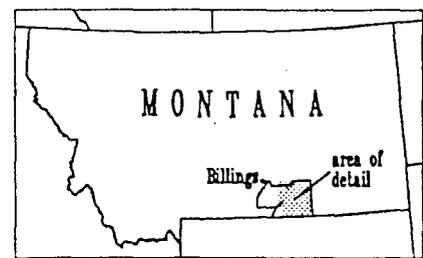
On Pete's Canyon Creek NPS will receive one-half the flow, and on Annerer Spring 1 gpm.

Stream segments occurring on Crow Reservation lands are excluded from NPS claims.

EXHIBIT 2
DATE 1-26-95
SB 203



**LITTLE BIGHORN BATTLEFIELD
NATIONAL MONUMENT /
LITTLE BIGHORN BASIN (430)**





IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Water Resources Division
1201 Oak Ridge Drive, Suite 250
Fort Collins, Colorado 80525-5596

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 1/26/95
SRS NO. 203

TESTIMONY OF OWEN R. WILLIAMS

NATIONAL PARK SERVICE

RESERVED WATER RIGHTS COMPACT NEGOTIATION TEAM SPOKESPERSON

ON SENATE BILL 203

January 26, 1995

Mr. Chairman and members of the committee, I am Owen Williams, Chief of the National Park Service's (NPS) Water Rights Branch in its Water Resources Division. While located in Fort Collins Colorado, this unit is a component of the National Park Service's Washington Office. Thank you for the opportunity to testify on behalf of the NPS with regard to the Draft Compact between the State of Montana and the United States for reserved water rights in Bighorn Canyon National Recreation Area and Little Bighorn Battlefield National Monument.

To begin with, let me provide some background on the Federal negotiating team. I served as the NPS lead in Compact negotiations and my staff, led by Chuck Pettee, provided the technical support required by the team. Richard Aldrich, who is the Field Solicitor from Billings, served as the lead from the Department of the Interior's Office of the Solicitor and James DuBois was the attorney representing the Department of Justice.

As you are aware, approximately three years ago the State of Montana, through its Reserved Water Rights Compact Commission, and the United States, through the National Park Service, committed to a concerted effort to negotiate issues to produce a federal Reserved Water Rights Compact. Before you is the second product of that effort; the second one in which both parties may take pride, in my opinion. The first Compact, ratified last year, is already operational at Big Hole National Battlefield and Glacier and Yellowstone National Parks. With the completion of the Compact before you today, all claims to Federal Reserved Water Rights on National Park Service land in Montana will be settled.

I am unable, today, to speak for anyone other than the negotiation team itself. However, the team, joined by line officers of the affected parks, has passed the draft Compact on to the responsible officers of the Department of the Interior and the Department of Justice

with a strong recommendation for approval. Washington staff of these Departments have concurred and recommended approval to their principals. Approval has been recommended because, in our collective view, this agreement accomplishes several things which are of paramount importance for the protection of these two NPS units.

First, the Compact protects the water-related resource values of each park to accomplish each "reservation's purposes". It assures continued instream flows in tributary streams at Bighorn Canyon NRA for fish, riparian vegetation, and recreation. It protects the historical context of Little Bighorn Battlefield National Monument by maintaining the flows necessary to keep the Little Bighorn River at the park functioning as it has since the historical battle. This Compact will help assure that the generations which follow us will have opportunities to enjoy the undiminished benefits of the recreation area and to reflect upon and be enlightened by this important memorial to the history of this great country and its people.

Second, water for the use of existing and future visitors and staff will be assured. The existing and reasonable future consumptive uses of water at these units are quantified by the Compact and will be protected. This gives both the State and the NPS the certainty needed to respond to growth when it occurs. Also, private water rights holders will be more secure in the knowledge that their rights are no longer put at risk by an un-quantified senior Federal Reserved Right.

Third, the Compact will avoid the substantial expenditures of financial and staff resources that are associated with contentious and uncertain litigation. During times of heightened concern over governmental expenditures, this is not a trivial matter.

Finally, while recognizing existing water uses, the Compact also makes provision for a reasonable level of future water development by the people of Montana. This development can occur in an unhurried and planned manner because the Compact settles the un-quantified Federal Reserved Right question and provides protection for present and future non-federal uses. Similarly, the NPS can plan with more certainty because the Compact specifies the level of future water use of the surface and ground water which is tributary to the parks.

I want to emphasize that this agreement is sensible for all parties. It is the view of the NPS negotiators that a good litigation case with very substantial supporting data could be brought to court. It is also our view that little would be served by such a course of action. Instead, through the Compact existing private water rights will be protected. Also, future water development will be provided while the protection required for these nationally important NPS units will be assured.

In conclusion, I would like to recommend that this body take favorable action on the NPS Compact. I would also like to reiterate the NPS's commitment to work closely with the State of Montana in the administration of the Compact, and to cooperatively use this mechanism to protect these special places to benefit the people of the State and the Nation.



203

TESTIMONY OF ATTORNEY GENERAL JOSEPH P. MAZUREK
IN SUPPORT OF SENATE BILL 203

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. H

SENATE JUDICIARY COMMITTEE, JANUARY 26, 1995 1/26/95

SEN. BILL 203

Chairman Crippen, members of the Committee, my name is Harley Harris. I am an Assistant Attorney General for the State and I represent the State in water and Indian law cases. I am appearing today on behalf of Attorney General Joe Mazurek to indicate his support for SB 203 and to urge the Committee to pass it on to the full Senate for approval.

Other than indicating Attorney General Mazurek's support, I do not intend to delve into the substance of the Compact. At the request of the sponsors I will, however, try to explain the "big picture" of why we are here today and underscore the importance of the water right compact process as the "Montana solution" to the complex issues of law and policy presented by federal and Indian reserved water right claims. Since--like me--many members of the Committee were not around at the beginning of this process, this starts with a brief history.

A federal reserved water right is a right that may be implied when the federal government reserves a tract of land for a particular purpose. Reserved water rights have been found to exist, in varying quantities, for Indian reservations, national parks, monuments, recreation areas, and national forests. Since those rights may have a senior priority, generally have never been quantified, and in some cases may be large, they represent a potential source of uncertainty for people who have acquired water rights under state law.

In order to reduce some of the uncertainty caused by federal reserved water rights Montana, like many other western states, is attempting to quantify them through an adjudication process. Montana's effort goes back to the mid-1970s when the United States and some Indian tribes filed several actions in federal district court in Billings, Great Falls, and Missoula seeking to establish the nature and scope of federal reserved water rights for Montana Indian reservations and several other federal reservations. Needless to say, the filing of those actions touched off a firestorm of protest. That, plus a concern that Montana needed to get a better handle on its water rights in order to protect itself against the claims of downstream states, led to the enactment of Senate Bill 76 in 1979.

Senate Bill 76 established the general water rights adjudication process whereby every water right in Montana is to be adjudicated. It was set up specifically to conform to the requirement of a federal law called the McCarran Amendment, which allows the United States to be sued in state water adjudication proceedings. No sooner was the ink was dry on Senate Bill 76 than it was challenged in court. Ultimately, the both the United States Supreme Court and the Montana Supreme Court held that the Montana adjudication process was an adequate and comprehensive mechanism for the state to exercise jurisdiction over the United States' and Indian reserved water rights.

As a way to avoid the high cost of litigating federal and Indian water right claims, and as a way to retain a greater level of control over the process of resolving those claims, the

legislature established the Reserved Water Rights Compact Commission, which was charged with the responsibility of negotiating with the federal government and the Indian tribes to resolve their water right claims. After the dust settled on the various legal challenges to the adjudication in the mid-1980s, compact negotiations started in earnest. Since that time the Compact Commission has reached, and this Legislature has approved, compacts with the Assiniboine and Sioux Tribes of the Fort Peck Reservation, the Northern Cheyenne Tribe of the Northern Cheyenne Reservation and, as discussed earlier, the National Park Service for Yellowstone and Glacier National Parks. Negotiations are ongoing with other tribes and federal agencies.

The compacting process is Montana's solution to quantifying reserved water rights and protecting state water users from federal water claims. It is proving to be one of the most successful and cost-effective ways of resolving issues which are difficult and expensive to resolve through traditional legal processes. A traditional water rights adjudication will result in a decree that sets forth the bare elements of the federal water right, but which does not take into account the rights of other water users on the stream or questions of how the federal right is to be administered. A compact, on the other hand, allows the State the flexibility to negotiate for the protection of state water right holders, to assure water for future growth, and to provide for a measure of state control over how the federal water right is administered. In resolving these questions up front, the compacting process reduces the possibility that the state may find itself fighting the United

the possibility that the state may find itself fighting the United States or Tribe in court.

When many of the western states that are dealing with reserved water right issues are having trouble with--and second thoughts about--their adjudication processes, the Montana approach is beginning to stand out as a success story. While we in Montana must remain willing, if necessary, to vigorously contest federal water right claims in court, we must also remain committed to the compact approach because the costs of litigating every federal reserved water right claim in court are high, and the results of such litigation are unpredictable and often unsatisfactory.

I would be happy to answer any questions the Committee may have, and will close by again urging the Committee to pass SB 203 on to the full Senate for approval.

Thank you.

TESTIMONY SB 109

CONSTITUTIONAL AMENDMENT TO ALLOW LEGISLATURE OR PEOPLE TO
ESTABLISH THE LEGAL AGE FOR GAMBLING

Mr. Chairman and Members of the Committee:

For the record my name is Ellen Engstedt, Executive Director and Lobbyist for Don't Gamble With The Future. The goals of our organization are to prevent any expansion of gambling in Montana and to promote more stringent regulation of the gambling that is currently in place.

We strongly support Senator Grosfield's Senate Bill 109 which will provide for an amendment to the Montana Constitution in Article II, Section 14, to include gambling as an activity for which the Legislature can establish the legal age as it can for drinking. The issue would be placed on the November 1996 ballot for voter approval.

When video gambling machines became legal in 1985, the permitting system established for those machines tied the gambling permit to either an all-beverage liquor license or an on-premise beer and wine license. The intent of the Legislature by tying drinking and gambling together was that the gambling machines would be located in bars and not in an atmosphere frequented by children. This is the connection that places the 18-year-old in a bar or casino where he is legally allowed to gamble with a 21-year-old friend who can legally gamble and drink.

There are those who argue that when an individual reaches age 18, that person should be an adult for all purposes. It is the opinion of Don't Gamble With The Future that drinking and gambling are recreational activities - not rights - and it is only logical that the age for both activities be the same - 21.

There is no magic age for maturity. Some folks never do mature. However, the state and its lawmakers have the duty and responsibility to arbitrarily set age limits on a variety of activities. Remember - the legal driving age is 15.

Many responsible individuals in the gambling industry want the age raised because of the enforcement and liability difficulties they have in maintaining the current differing laws. With nationwide studies proving teenagers compose one of the fastest growing age groups for gambling addiction, the least Montana can do is move the gambling age upward and out of the teen years to coincide with its companion activity of alcohol consumption.

Thank you for your favorable consideration of SB 109.

Testimony on Senate Bill 109
January 26, 1995

Mister Chairman and members of the committee, my name is Lil McBride. I'm a homemaker from Billings and I came today to testify in favor of Senate Bill 109 because of my deep concern for our youth.

Virtually all of my volunteer efforts in Billings in the last 15 years have centered on youth advocacy and prevention programs. Before having a family I was the Executive Director of a Runaway Program for troubled youth.

The facts are clear: Teens are 2.5 times more likely to become problem gamblers than adults. Already 1 million teenagers in the United States are pathological gamblers.

This bill is a prevention bill. It will cost the state of Montana absolutely nothing. With all of the problems that Montana's youth are struggling with today and it isn't necessary

for me to elaborate - you are informed - why would the state intentionally give our youth yet another stumbling block to deal with? We must postpone exposure to this highly addictive and potentially lethal activity - gambling.

If you are serious about wanting to invest in Montana's future, which is our youth, then it is incumbent upon you as a legislator to provide a responsible environment for our teenagers to live in and be nurtured in. It is incumbent upon you to pass Senate Bill 109 and raise the legal gambling age to 21.

Thank you.

EXHIBIT NO. 7DATE 1/26/95BILL NO. 109

My name is Jean Agather and I live in Kalispell, Montana. I am an appointed member of the state Gambling Advisory Council, the sole "public at large" member, a lonely position on a council composed mainly of those having an economic interest in the advancement of gambling revenues. As a representative of the public of Montana, I take my position seriously and for the past five years have spent a great deal of time and effort discussing gambling related issues with people from many walks of life. In addition, I have gathered extensive information from national sources that include studies, periodicals, media coverage and experts in the field of gambling. It is from this position that I address you today on the question of an appropriate gambling age.

Gambling industry representatives, at the November meeting of the Gambling Advisory Council, testified that their membership, as a whole, saw no problems with the current gambling age of 18 and would oppose any change. Given their obvious orientation, this testimony is predictable.

But, let me tell you what other groups of Montanans are feeling and saying regarding this issue.

**PARENTS are surprised to find out the gambling age is 18 and not 21. I haven't spoken to one parent of a teenager who isn't distressed at the thought of their child hanging out at the local casino or convenience store, plugging quarters in gambling machines. They hope their children's hard earned money will be used for loftier purposes.

**EDUCATORS are beginning to realize that although they have their share of drug and alcohol problems, this new addiction is one they can't see or smell. It is subtle, but causes severe problems for its victims. This "addiction for the 90's" is compulsive gambling and our educators are not equipped to deal with its fallout.

**LAW ENFORCEMENT is now aware that they are unable to prevent conflicts from arising when we allow teenagers in bars where they mix with older people and alcohol. The county attorney in Kalispell is quick to remember his prosecution of a teenager in a bar in Whitefish, who began the evening playing pool in a local bar, and ended the evening by killing an older patron of the bar in a brawl. Sadly, this teenager is not faring well in prison.

****YOUNG PEOPLE** tell me that kids don't know how addictive gambling is and wonder why the state would sanction teenage gambling knowing how damaging it can be. They ask why game rooms for children are allowed in casino and are disgusted by the idea of day cares in casinos. Young people are acutely aware that taking them to gambling places as a family activity is a parental introduction to gambling which strongly influences children. Jobless 19 and 20 year olds are seen as the greatest at risk young gamblers.

****MEMBERS OF GAMBLER'S ANONYMOUS AND TREATMENT COUNSELORS** understand the thrills and excitement gambling holds for teenagers, the adrenalin rush they crave that leads to an addiction rate 2 1/2 times that of adults. They also talk about 18 year olds bringing their 16 and 17 year old friends along to gamble, and that they are not discouraged as long as they are putting quarters in the machines.

****YOUTH ALCOHOL AND DRUG WORKERS** are appalled that we are going to enormous lengths to get our youth out of bars and educate them on the danger of alcohol and drugs on the one hand and then invite them to the casinos to experiment with the third addiction--gambling.

****GAMBLING REGULATORS** in most other states offering video gambling have chosen 21 as a more appropriate gambling age.

****Finally, many BAR OWNERS** tell me they are overwhelmed with the responsibility of separating the 18 year old gamblers from the 21 year old drinker--a bad combination at best. Bartenders and bar employees are inadvertently serving these kids. Many responsible people in the industry want the age raised because of the enforcement and liability difficulties they face with the current law.

I am here today to tell you that, in spite of what the gambling industry says, there is a youthful gambling problem in this state and Parents, Educators, Law Enforcement, Young People, Treatment Counselors, Gambling Regulators, Youth Alcohol and Drug Counselors, and individual Bar Owners, along with the individual people of Montana, have the right to have these concerns illuminated and debated. Let's look in the right places when we ask "Is there a problem?" and by your actions here, allow the people of Montana to study the issue and make that decision.

EXHIBIT 7
DATE 1-26-95
SB 109

I would like to end by quoting a Missoulian Editorial, dated December 1st, 1994 on this subject.

"If the state's going to be a party to enticing people to give away their money, then the least it should do is focus on actual suckers and not merely on those too young and inexperienced to have good judgement."

Thank you.

Jean Agather

TESTIMONY ON SENATE BILL NO. 109

Thursday, January 26, 1995

Mr. Chairman and Members of the Committee, my name is Carolyn Ennis. I live at 3000 Walden Place in Billings. I am an organizing member of the Billings Chapter of DON'T GAMBLE WITH THE FUTURE, a statewide grassroots coalition. Our goal is to rally Montanans who are opposed to the expansion and promotion of gambling to convince you legislators to call a halt to this lame form of entertainment and "business."

I am here today to ask you to vote in favor of Senate Bill 109, raising the gambling age to twenty one. Montana's most precious resource is our people - our youth at that. Our future. Government-fostered gambling is bad enough. Governmental support of juvenile gambling is unconscionable. It's no secret that children learn by imitation. The gambling industry has figured out that all they need to do to produce a generation of habitual gamblers is to intersperse children's video machines with adult gambling machines. Or - get this - providing day care facilities in the casinos!

The last message we want to send our youth is the false notion that luck, chance, randomness, and fate, rather than industriousness, thrift, hard work, deferral of gratification, and studiousness lead to a productive life.

Scientific literature consistently indicates that adolescents are most at risk for developing addictive patterns of behavior, including pathological gambling. There is no reason for us to send a message to our youth that we welcome them in bars and are reliant

on their losses to support government.

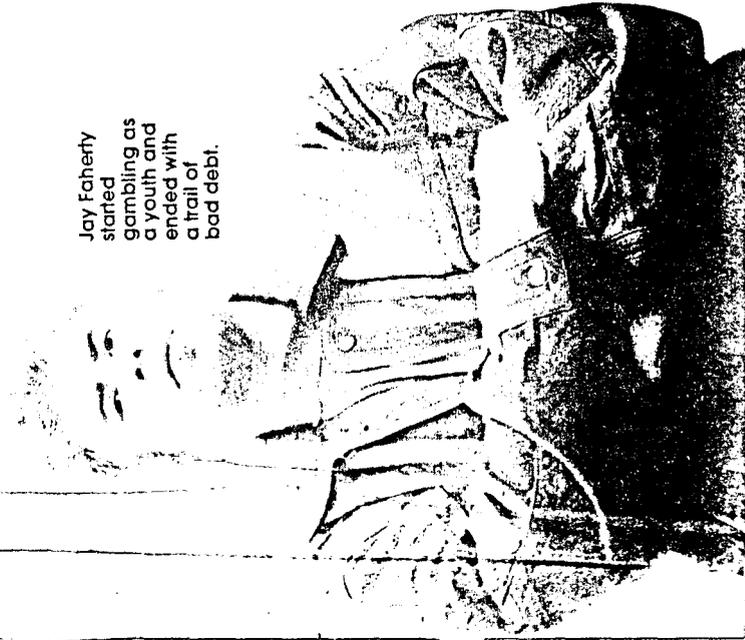
Rather, we, and you as lawmakers, need to be concerned about setting the stage for engaging our youth productively, educating and promoting their welfare. This is where long term benefits are.

SB 109 is a bill we can be proud of! It is consistent with our notions of what environments produce good citizens.

I urge you to vote to raise the legal age for gambling to twenty-one. Thank you.

Compulsive betting grows among teens

Jay Faherty started gambling as a youth and ended with a trail of bad debt.



MINNEAPOLIS (AP) — Jay Faherty's gambling habit began innocently enough, watching a church bingo game from his mother's side at age 12.

It ended nearly a decade later with a trail of bad checks and maxed-out credit cards. Like many gamblers, he was drawn by the lure of easy money.

"Whether you play 15 minutes or three hours, it's the same adrenaline rush," he says. "But the second you get away from the table, it's gone."

And, like a growing number of compulsive gamblers, Faherty was hooked on betting before he was old enough to buy a drink.

"We have an epidemic in America, a little-noticed epidemic," said Dr. Durand Jacobs, a clinical psychologist in Redland, Calif., and a pioneer in treatment of compulsive gambling.

Experts say compulsive gambling among teens is growing along with the gambling industry in the United States. Lotteries are operating in 37 states and the District of Columbia. Greyhound tracks have sprung up from Texas to Wisconsin. And, in the past five years alone, casinos have spread from Nevada and New Jersey to 15 additional states.

The amount of money wagered legally in the United States has also grown to an estimated \$330 billion in 1992, an increase of 162 percent in a decade, according to Gaming & Wagering Business Magazine.

While gambling becomes more accepted and accessible, experts say little is being done to warn teens about its hidden perils.

"Some of these kids are going to wind up

having disastrous gambling careers, and it's preventable," said Henry Lesieur, chairman of the criminal-justice department at Illinois State University. He has spent two decades studying gambling's effects.

Statistics are scarce, but experts say anecdotal evidence is building that more teens are becoming problem gamblers. Valerie Lorenz, executive director of the Compulsive Gambling Center in Baltimore, has seen a regular increase in the number of calls from teens since its national hotline started in 1987.

Jacobs says the rate of problem gambling among youths who gamble is at least 10 percent, twice that of adults.

Because gambling has all the properties kids love — instant gratification, blood-pumping excitement — some experts believe they're more liable than adults to get into trouble once they start.

"Teens who win just get an enormous ego boost from gambling," Lesieur said. "A teen can hope to work at maybe \$4.50 an hour if they're lucky. Here, they gamble and can win \$80 on a pulltab. That's big money."

Faherty knows that lure all too well. While attending college at the University of Minnesota-Duluth, it drew him regularly to the Fond du Luth Casino, just a few miles from his dormitory.

During his sophomore year, the same year he started supporting himself, live blackjack made its debut at the casino — and his gambling habit spiraled out of control.

By the summer of 1992, he was broke and constantly lying to his parents. One fateful weekend, he decided to win some of it back during a road trip with friends. But he ended up losing so much money at a dog track that his rent check and several others would have bounced if his parents hadn't bailed him out.

"Without their understanding and help, there's no way I would have survived," he said. A Minnesota study has found that young gamblers are increasingly raising their sights — from sports and other informal betting to lottery, playing scratch tabs and video gambling.

"It's a trend in an uncomfortable direction. ... There's the lure of big-time winning," said Ken Winters, who conducted the study for the University of Minnesota's Center for Adolescent Substance Abuse.

Faherty, now a newspaper reporter in Duluth, hasn't gambled since June, aside from a single lottery ticket he purchased over the summer. He says he's grateful to have stopped before winding up in jail or hurting himself.

"But others might not be so lucky. 'My guess,' Faherty said, 'is that there's a lot more people like me out there. Kids think it's just another acceptable thing to do.'"

“Whether you play 15 minutes or three hours, it's the same adrenaline rush.”
—Jay Faherty

**IF YOU CARE ABOUT MONTANA'S TEENS
RAISE THE LEGAL GAMBLING AGE**

SENATE JUDICIARY COMMITTEE 109

EXHIBIT NO. 9

DATE 1/26/95

SEN. NO. 109

Fact: Teens are 2.5 times more likely to become problem gamblers than adults.

Fact: One million teenagers are pathological gamblers in the United States.

If you could prevent a serious illness from impacting a Montana Teenager today, at absolutely no cost, would you do it?

Of course you say, that's what prevention should be about!

The current legal age for gambling in Montana is 18, raising the legal age for gambling by Montana youth, to 21, can go a long way toward preventing kids from becoming addicted. Problem and pathological gamblers start gambling in their early teens--the more access to this activity we provide, the more kids we put at risk.

Kids are more vulnerable to gambling addiction--they are 2.5 times more likely to become addicted than adults. During the most vulnerable time of their life, adolescence, many kids are easy prey to an activity that looks exciting, involves risk and makes them feel like a big shot. Gambling does all of this and more for young people. It is also an easy escape from responsibility and the stress of dealing with growing up.

*Employees of Montana casinos have asked **Don't Gamble with the Future** to sponsor and support raising the legal age for gambling to 21 because they find it impossible to enforce the legal age for drinking when teens are allowed to gamble in casinos.*

We are encouraging substance abuse when we allow teenage gambling in casinos!

Gambling addiction among teens has been called the Invisible Addiction because it's hard to see and harder to believe this deadly addiction could rob a young person of their college money, family, friends and life itself!

PLEASE SUPPORT THIS PREVENTIVE EFFORT FOR OUR YOUNG PEOPLE



DON'T GAMBLE WITH THE FUTURE

P.O. Box 2301
Kalispell, Montana 59903-2301

1-26-95

I'm here before you today with my family, husband & 3 children, because I wanted my kids to see this process & to understand this cause I'm involved in. We have a tremendous system at work in this state, sometimes cumbersome, but a great system nonetheless, and I felt my children should be exposed to the educational value of coming here to the Legislature. Their teachers agreed with me. I felt it was important that you know how an average parent feels about this issue.

Please allow me some bragging rights:
I'll spare you the photographs. My kids are above average in IQ, they enjoy competition & are good athletes, participating in sports. They enjoy school, handle numbers well & are good students. I'm training them ^{to be} ~~that~~ hard working.

According to the Compulsive Gambling Center in Baltimore Maryland - they share these same traits with compulsive gamblers.

These same traits that ~~is~~ I would hope to take them into adulthood & make them productive

members of society could backfire with a wrong choice on their part.

A 1992 study by the Mt. Dept. of Corrections & Human Services shows that here in Montana 22% of problem gamblers started to gamble at 14 years of age or younger. Another 11% started at 15-17.

I was 18 once, you were all 18 once and looking back I realize how lucky & inexperienced I was in making some of my choices in handling the real world.

Now as a parent, I try to train my kids to make sound choices. I know if I offer them too many choices, they get confused, flustered & indecisive. I have learned they do much better & are more pleased with their decision when I limit their selection of choices.

The people of Montana must have felt the same when they chose 21 as the legal age for alcohol - why not its social companion of Gambling. ~~It~~
Its effects can also be devastating.

Sincerely,
Mary Helen Ruby
320 Hilltop Ave
Kalispell, MT.



DON'T GAMBLE WITH THE FUTURE

P.O. Box 2301
Kalispell, Montana 59903-2301

Mr. Chairman, Committee members
Ladies and Gentlemen, 11/26/95

Good morning, My name is Alan Ruby and I'm from Kalispell. I came here to address this committee in support of increasing the gambling age to 21.

This is the first time I've spoken to a group like this. So if I sound nervous, it's because I am.

It took an issue that hit home hard to make me miss a day of work and drive 400 miles round trip, with my three kids no less, to speak for 3 minutes.

I was unaware of the legalized age for gambling in Montana until last spring. I assumed it was 21. Someone said we should raise the gambling age and I replied, "Why, what's wrong with 21?" I was surprised to learn the legal age was 18. That's the reaction most folks have when I tell them about Senate Bill 109.

I began to educate myself some years ago about gambling and the consequences it can have. I started noticing news articles in the paper and on T.V., both local and national. News items about



DON'T GAMBLE WITH THE FUTURE

P.O. Box 2301
Kalispell, Montana 59903-2301

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a young mother abandoning her baby while she gambled six hours on a Mississippi Riverboat; 15-17 year old boys losing thousands of dollars in Minnesota casinos < the city attorney of Deadwood, S.D. warning a Congressional House committee on gambling about the increase in fraudulent checks and court time since opening up gambling >

Before this I only noticed the winners. You know the headline, "Sanitor wins \$7 million lottery." Like everyone I thought, wow! this could happen to me. But now I realize the news is pretty one-sided.

I never read a story describing a young man losing his car because he lost \$20 every week on video poker or the lottery. Of course not. That's not news. That same young man would have to lose thousands, then steal to get more, ruin his life and his family's to make the news.

Why? Can't we as a people recognize a problem until it's too late? I think we can. We just need something to get our attention, to galvanize us to act. Well, we've started to act.

EXHIBIT 11
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SB 109



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I've coached soccer for 14 years and watched these kids grow up. Now I have 3 of my own, the oldest is 12, the youngest 4. Like all parents, I notice their fascination with T.V. I have to turn off the T.V. to get them to the supper table. It's mesmerizing. Now it's computer games, game boy, Mario and the most popular game - solitaire. Good, it keeps them busy, I thought, at least they're not fighting.

Then something changed my mind - opened my eyes. I took my soccer team of 10 yr. olds to a Pizza Place for their end of season party. After shoveling down 8 large pizzas they all gathered around several video games, plugging in quarters - mesmerized. The colorful lights, sounds and rapidly changing scores louder and louder urging to "try again" "try again!" They came back to parents to get more and more quarters.

Now there are machines for these same kids to play that give tokens redeemable for prizes. Great place for birthday parties (I ^{you think} thought) (Then I looked through the open doorway to the adult side where folks my age and younger sat on bar stools in front of video



DON'T GAMBLE WITH THE FUTURE

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Kalispell, Montana 59903-2301

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poker machines that looked just like the ones my son and his friends were playing. I light flashed on in my head. Hey! This is one incredible marketing program.

I have a term for it now, its "pre-conditioned". Kids are pre-conditioned to accept video gambling as harmless. It's just like playing solitaire on the computer isn't it?

It's not! Gambling is the fastest growing teen addiction in the United States according to the National Center for Compulsive Gamblers. And Montana is right up in the pack.

So now I finally recognized the problem. Do I have to wait till it strikes home with my son or daughter? What can I do? The best place to start is this Senate Bill 109 to increase the legal gambling age to 21.

I remember being 18 and knowing everything. That was definitely a dangerous time for me and I believe it still is for young adults today. I think the legal gambling age of 18 implies that it is "safe" to gamble then. I discovered I learned more in the 3 years between 18 and 21 than any phase in my life. There are many pitfalls

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SB 109



DON'T GAMBLE WITH THE FUTURE

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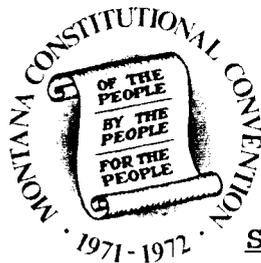
in a young life and if we can manage to postpone one for 3 years until my kids and yours are better able to recognize gambling as a potential problem then I think we're points ahead.

I remember Mark Twain's often quoted remark something like, "when I was 18 I was appalled at how stupid my Father was. when I was 21 I was amazed at how much he'd learned." what was true then is still true today.

I noticed a poster in a casino this summer distributed by the Gambling industry in Montana. It said, "Gambling is more fun when you know your limits." I couldn't help but agree and I couldn't help but notice the similarity to ads for alcohol. We should know our limits and we know that the lower limit for drinking is 21 and it should be for gambling too.

Thank you,

Alan R. Ruby
320 Hilltop Ave
Kalispell, Mt. 59901



MONTANA CONSTITUTIONAL CONVENTION
STATE CAPITOL • HELENA, MONTANA 59601 • TELEPHONE 406/449-3750

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 12

DATE 1/26/95

FILE NO. 109

SENATE JUDICIARY COMMITTEE HEARING---SB 109

JANUARY 26, 1995 ROOM 325

TESTIMONY IN OPPOSITION TO SB 109

BOB CAMPBELL
DELEGATE, DISTRICT 18
MONTANA CONSTITUTIONAL CONVENTION
HELENA, MONTANA

AUTHOR OF ARTICLE II, SECTION 14, ADULT RIGHTS.

MEMBERS OF THE COMMITTEE:

I am not here to support or condemn gambling, but to defend principles. Our state government is supported by a faith that our citizens that the promises to protect them in the Declaration of Rights will be kept as each of you promised in your oath of office.

You have a very high standard of review when a proposal such as this asks you to vote to remove protections promised to the people in the Declaration of Rights. You must set personal preference and emotional appeals aside to decide for yourself if a compelling state interest has been established to allow such deletion of rights to occur.

SB 109 asks for an amendment to the adulthood provision to allow future legislators to restrict adults of any age from having the right to gamble. Although pre-session publicity targeted 18, 19, and 20 year olds as lacking the maturity to exercise this aspect of adulthood, the present proposal places no limitation on what age group may be targeted in future sessions.

As guardian of the people's rights, you have the responsibility of voting Do Not Pass on such proposals where no compelling state interest has been proven. You should not shirk that duty on others by passing a flawed proposal to the floor of the Senate, the House, or to the people for a vote after a long and expensive ballot campaign.

The people whose rights would be lost are the ones that supported you, worked on your campaign, and celebrated your election which placed you in the position of the trust you now hold to protect their rights. The argument before you is that they need to lose this right to protect them from themselves.

Is this the less government and more individual freedom promised in the opening days of the session? It is just the opposite. Please vote Do Not Pass on SB 109.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 13
DATE 11/26/95
SERIAL NO. 109

Diana Rodeghiero

I am here not to make a statement for or against gambling, but for the rights guaranteed to each of us by the Constitution. Montana is uniquely committed to individuals' rights: It is these rights that I feel are at issue here today.

Age 18 is the age at which individuals become adults - that has already been explicitly decided in our state Constitution. We know that there isn't any magic to the number, the number could have been 19 or 22, but 18 is the number chosen by the general consensus. 18 is the age of responsibility.

Of course there may be positive results brought about by raising that age of responsibility when it comes to gambling or other activities that we feel could be harmful to young adults. But, those projected results do not justify a restriction on the individual rights guaranteed by the Constitution. If that were the case, there would be innumerable areas we could restrict to protect young adults. For example, we could raise the drinking age to 25.

If we want to change the age of responsibility to 21 then we should do that. We shouldn't set the age at which one becomes an adult at 18 then continue to add exceptions.

Groups such as the one that is responsible for bringing this bill before you today desire to protect young adults, but we can't be parental forever - we have to draw the line somewhere, and that line has already been drawn at age 18. Passage of this bill would be taking a notable step toward the deterioration of the individual rights here in Montana.

We've heard testimony of how harmful gambling is to young adults, so today we set the stage to limit the right to gamble. Next year maybe we'll hear of how dangerous cigarettes are to young adults and how smoking seems to be tied with drinking. So, next year we'll raise the age for smoking. Then perhaps there will be a considerable number of hunting accidents with youngsters one year, so we'll raise the age for hunting. This bill would be just the beginning.

It's true that the age for drinking was raised to 21, but we all know that it was done because Montana and other states were financially pressured through the federal highway program. That in itself is disturbing - that perhaps our rights are for sale if the price is right. But, we need to stop there.

We are not being financially blackmailed here today - we do have a choice. You have the opportunity to say that even though it may be healthier or more morally sound to raise the age or even outlaw an activity whether that activity is gambling, drinking, smoking, whatever. You have the opportunity to say that we are not going to limit the rights and choices of individuals at the expense of the Montana Constitution and at the expense of the people to whom those rights belong.

Everyone wants to protect young people and set them on the right path, but a Constitutional amendment further limiting rights is not the proper way to protect them. Raising the age is a bandaid solution to any problems caused by allowing 18-20 year olds to gamble. We cannot legislate morality.

It could be asked "What's going to be hurt by putting this before the people of Montana - if they don't like it, they'll vote against it and we won't have to worry?" But, we can't kid ourselves by saying that it will be the 18-20 year olds making this decision. Perhaps if the vote was only put to them it would be fairer. But, what's going to happen is that one group of people will be voting to take away the rights of another group.

Even the initial passage of this bill- even if this bill fails in the election in November - shows that these rights granted by the Constitution are not something upon which we can rely.

Take the opportunity to exemplify how strongly Montanans feel about our individual rights and the protection of those rights. We need to stand behind our Constitution and show that it is more than just an antiquated piece of paper. It is a meaningful, contemporary document that Montana should be proud of upholding. I urge you to vote against Senate Bill 109.

DATE 1/20/95

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 109
SB 203

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Laurie Koestnik	Christian Coalition of MT	109	✓	
Arlette Rindash	Eagle Forum	109	✓	
Bob Campbell	Declaration of Rights	109		X
SHARON HOFF	MT CATH CONF	109		
DAVE BROWN	self			✓
Owen Williams	National Park Service	203	✓	
Richard Aldrich	US Dept. of the Interior ^{Solicitor}	203	✓	
Pat Melby	Pinnacle Foundation	109	✓	
Diana R. Rodeghiero		109		✓
Chris Tweeten	Per Water Rts Compact Comm	203	✓	
Rich E Miller	Self			✓
MARK Simonich	DNRC	203	✓	
Harley Huns	AG	203	✓	
Richard J. Sawood	SELF	109		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 1/26/95

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 109 / SB 203

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
David Hemion	MT Assoc of Churches	SB109	✓	
Carolyn Ennis	Don't Gamble	SB109	✓	
Judy Griffith	Helena Schools	SB109	✓	
Mary Ruby	Kal. DGWTF	SB109	✓	
Alan K. Healy	Kal. DGWTF	SB109	✓	
Roberta Stewart	Raise It"	SB109	✓	
Tom Smith	Raise DGWTF	SB109	✓	
Nancy Kigg	Don't Gamble with the Future	SB109	✓	
Cheryl Ross	Kalispell Don't Gamble	SB109	✓	
Jean Heather	Kalispell Don't Gamble	SB109	✓	
Leila Wright	Billings	SB109	✓	
ELLEN EUGSTERT	DON'T GAMBLE - HELENA	SB109	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY