

TAXATION COMMITTEE
45TH LEGISLATURE

Rep. Herb Huennekens, Chairman of the House Taxation Committee, called this meeting to order at 8:10 a.m., March 21, 1977, in room #405, Capitol Building, Helena. All members were present. Bills to be heard were SB 97, 177, 309.

Senator Bob Brown, District #10, Flathead County, chief sponsor of SB 97, explained this bill clarifies the definition of bingo to exclude bingo-type games involving electronic devices other than blowers - specifically keno. They want the people to decide what they want since they did vote for some sort of gambling.

SENATE BILL

97 The attorney general ruled the law was not specific enough to declare keno was not allowed. The case was brought to the Supreme Court and they ruled that bingo and keno were similar enough, that Montana law was not clear enough, to not allow keno.

SB 97 restores the law to what Montana law meant when talking about keno and bingo devices. Bingo and keno have moved into the state of Montana. If this loophole is left open, Montana will be into machine gambling. Machine gambling games were not legal, but as a result of a Supreme Court decision during the interim, they have become legal. If this is left open, machine gambling will become more prevalent.

Dorothea Armstrong, Kalispell, MT, said those of us who have come to testify at the Legislature have been bade to take the stand we have taken. She said she phoned Mr. Ritchie, Executive Director of the National Gambling Commission, reporting on the Moore Report presented to the U.S. Congress, to ask if in their three years of study, did they consider keno to be the same game as bingo? His answer was that at no time did the National Gambling Commission consider keno to be bingo - they are not the same game - they are different and distinctive games. The Moore Report says keno is different from bingo. Keno and bingo are open at Nevada concessions. Keno is different from bingo.

She said all we are wanting this morning is a fair open hearing. The committee is here to hear testimony in support of SB 97. It is very disconcerting to hear rumors indicating a trend that is different from what you hoped would happen. Rumors are that there are mighty peculiar rules and changes taking place. It has been rumored that this committee will oppose any reduction in gambling and that every gambling bill will be left as is. She made rather direct derogatory accusations about the committee members integrity in connection with gambling.

Senator Turnage said the question the bill presents is whether you want the Supreme Court to do your legislating, or do you want to do your own. There was no intent to have keno and slot machines involved. The Supreme Court changed this intent. If you want to legalize keno and slot machines and try it on the floor, simply do this. Make it legal and get the Supreme Court out of legislating gambling. He thinks the Supreme Court was wrong. Lawyers representing the gambling interests were successful in getting this ruling. Do you approve the liberalization of gambling? If you do not, do something. Slot machines will be

legalized. You protect the status quo if you leave the law alone as it is. How can you protect a lot of jobs by legalizing slot machines? Look at this carefully in its true context, forget lobbying, and look at the bill and see what it is intended to do.

Rev. Lyle Person, Evangelical Covenant Church, Helena, spoke in support of SB 97.

Rev. George Harper, United Methodist Church, Helena, and Conference of United Churches favor this bill because they are opposed to any further extension of gambling in Montana. Bingo and keno are not the same game. The National Commission doesn't think so and other states do not think so. Bingo and keno electronic machines are not a normal extension of bingo and keno. They are afraid of the extension of gambling because pastors are dealing with persons affected by gambling. It is apparent that any kind of widespread gambling is not in the best interests of the people. This law, which will allow the Legislature to clear up its enactments, is one that we should support.

Rev. Tim Berry, Montana Conference of Seventh Day Adventists, Helena, said there is an obvious difference between keno and bingo. There appears to be an obvious concern that some may lose their jobs. He suggested those operating games switch over to something more socially productive. The figures spent on gambling are staggering in their enormity, and are spent at the cost of materials and goods.

Art Kussman, Helena, talked with the Select Conference Committee on February 15, 1975. Quite a number of people were there from the Deaf and Blind School. If keno were legalized, they would then have an opportunity to put many people to work in the Deaf and Blind school in Great Falls making cards. This shows how a small group of paid lobbyists can make it appear something really is wanted when actually they speak for a small portion of the population. He believes the biggest part of the population of Montana want keno, which came in through the backdoor, to be done away with. Testimony attached.

Rev. James M. Hunter, Helena, United Church, said loss of employment is one consideration. Unless the ones who are operating the game profit in excess of the cost of the games, they wouldn't be operating them. In order for any money to be made by the operator, it means the people who play the game lose that amount. The people of Montana have to lose \$10 to \$20 for every dollar that is paid out in salaries. This is taking money away from people to make jobs because if they weren't making money, they couldn't be running the game. They have to be making more than they spend. Every kind of gambling takes money away from the people, and is a depressant on the economy. Supports SB 97.

Minnie Walette, Kalispell, does not want gambling devices. She supports SB 97. Testimony attached.

OPPONENTS:

Neil J. Lynch, Tax Relief Association, Butte, is opposed to SB 97. He appears in opposition to SB 97 and in support of the State Council of Churches, as he is opposed to the statement that the organization of churches is representing every major church in the state since not all the churches in the state are opposed to

gambling. Are we preserving the status quo or not? Senator Turnage says we did not intend having keno. Keno and bingo have the same origin - lotto, which originated in Italy in 1500. In some places bingo is the big game. The same equipment can be used to play both games. He does not see where the Court was wrong since you can see one in the other. We won't allow keno, if it is really possible to have a definition of bingo without including keno. What problems can you think of have we ever had; that organized crime is coming in and has not been proven. There are 500 jobs directly and indirectly connected with 1,000 other jobs that are connected with these games.

The vote of the people in 1972 showed they wanted some form of gambling, but left it up to the discretion of the Legislature to decide what type of gambling is to be allowed. All but one committee member comes from a county that voted for gambling. People favor liberalization of gambling. Preserve the status quo is what they are asking for. If you don't pass this bill, it has been stated you will see a real expansion of keno and see slot machines come in. Why don't you see slot machines now? You see them nowhere else in the state either. You hear about up to 200 games in the state, but they are down to 100. He is asking that those people who have invested in what they think the law says should be protected. He doesn't think it is creating a social problem and is not creating an evil. You will find people in Montana aren't opposing bingo.

John Poston, Montana Coin Machine Operators' Association, Helena, opposes SB 97. Keno became legal when the 1972 Constitution was voted on and passed 118,000 to 116,000. A side issue was whether you wanted to make gambling unconstitutional. The people voted to let the Legislature decide, 138,000 to 88,000.

The anti-people say we want to have bingo. The Crime Commission spent a lot of money finding out what the attitudes of the people really were. This policy shows what the people really want. The Select Committee came up with a package of bills which would allow certain things. The House never got a chance to vote on the Select Committee's bills.

The county attorneys asked the attorney general's opinion relative to those laws. His opinion was that the question was to see whether the definition of bingo includes the game of keno. Keno and bingo are both derivations of lotto it was stated. The equipment used in keno is identical to the equipment used in bingo. The bar owners relied on the law. No social problem can be shown at the present time.

The bill came in, was amended, and went back to the committee. A skilled person could "palm" numbers, so the bill as written, when requiring manual operation provides for cheating. The 1975 Legislature considered the amendments that are in this bill in connection with a bill in the Senate and in 1975, the Senate voted against those amendments. After being fully debated on the floor, the Legislature acted, the courts acted, people acted on the basis of law, and now they want their interests protected. He urged you to kill SB 97.

Bob Durkee, Montana Tavern Association, Helena, representing 650 members of small businesses, who are people who have invested money and are employing people involved in keno operations. He is not an attorney - the Supreme Court and attorney general will interpret the law. There is no difference between

keno and bingo - the difference is in the method of play. You can play keno during the course of a lunch, whereas bingo is a separate game played specifically for that reason. Bingo games being conducted by their members prefer keno because it requires a small area and that same area can be used for other purposes simultaneously, such as for drinking or eating. They are advocates of gambling and have been. The unfortunate part many feel is that the state does not derive any money from gambling at the present time.

Linda McCormick, a keno writer from Missoula, is making house and car payments and paying a baby sitter so she can work. Losing her job would mean she would have to learn another trade. Going back to school would make her eligible for welfare and they would pay for a baby sitter, she could collect unemployment, etc. She wrote down the names of regular players she has of which 14 were over 65, 4 over 50. Most of the people are living alone and are senior citizens living a block from where she works and they walk over and play. If they can have a keno card in their hand, they can sit there and not be loitering. They don't spend much money while the bar drinkers spend a great deal. Most of the players drink coffee and play, and don't drink liquor. She would like to keep her job as a keno writer. She opposes SB 97.

John W. Wolf, representing 2,000 members of the Eagles #14. He helps with the bingo every week which are mechanically, electrically or manually operated. He said he thought we were advancing with age, but this will put us back to the "horse and buggy" days. Older people like to play bingo. These people want to leave the law as it is; and oppose SB 97.

Sandy Keith, Gonzaga Club, Butte, runs a keno game in Butte where 3 people are employed directly with keno and probably 3 others will lose their jobs. They don't take in \$10 for every dollar spent. Keno is an incentive for people to come into his place where they can eat or drink. He needs this to keep the operation in business. Very much opposed to SB 97.

Ernest Moe, manager of the Village Inn in Ulm, has a keno operation in which he has \$6,000 invested in keno equipment which has not been paid for from keno proceeds. They enjoy a very good business at the Village Inn. 75% of their customers who are of age will play the game. Actually a great deal of money is not made from keno, but he thinks this is a business incentive and helps business in other ways than the keno operation itself. He opposes SB 97.

Charles F. Follick, VFW and American Legion, and DAV, Great Falls, said this bill is about 180 degrees wrong. The bill is very wide. You can shut down everything that is coin operated. He is a member of the VFW and DAV and is speaking for the Great Falls Club having members of 1,300 and 15,000 at the Legion. This money isn't as large as that of the food and drink business, but it goes for charitable purposes. Their budget is very small, but this is a very big item in their budget, and brings in enough for their programs. If this bill is passed, it would do them a lot of harm. Opposes SB 97.

Rep. R. Budd Gould, District #98, Missoula, would like to speak in opposition to SB 97. A woman whose husband is not able to work, works in a keno operation and makes enough to keep them at home. His own wife has had to go to work because of his blindness also. He is in opposition to SB 97.

Lucille Shull, Anaconda, keno writer, said the place she works employs three people besides herself. Most customers are older people and they don't play excessively. They play keno and have dinner. She wants to keep her job and opposes SB 97.

Carl Heishman, Lobby Cafe and Bar, Great Falls, purchased this bar and cafe which caters to older people in Great Falls. When he bought the place, keno was legal. He bought the bar and paid the price knowing what the revenue from keno was. If taken out, he would have trouble paying for the place. He hasn't seen any troubles or crimes related to keno. This would drastically affect his operation. He opposes SB 97.

Other persons opposing SB 97 that left witness sheets were Nance Seversan, Great Falls; Glenn Davis, Missoula; Marlene Davis, Missoula; Tom Heisler, Great Falls; Earl Cereck, Great Falls.

Rep. James T. Mular, District #85, Butte, left 31 pages of petitions signed in opposition to SB 97. See his witness sheet. He opposes SB 97 personally, also.

Senator Brown said the purpose of the original bill was not to legalize electronic games. The law was vague enough to allow keno and other electronic games to be played. There is a 70% average return to the player. The average payoff for 50¢ cards is tremendously in favor of the house. Keno and bingo have the same origin. There are several claims that the same source is lotto. The Montana Council of Churches held that they were opposed to any extension of gambling which is different from approving of gambling.

Basically 1/3 people approved of all gambling, 1/3 were against, 1/3 for partial. It is possible for someone to lose his whole paycheck. Perhaps \$5 a day could be spent from a social security check. Talking about 500 people at the most that would lose their jobs - 100 operations with 5 people per operation.

People invested in good faith in a keno operation because of the court decision. In 1948-1952 Montana had slot machines. They didn't come in as a result of a court decision, so the Legislature voted them out. Very capricious - laws can be changed very quickly. The original intent of the Legislature has to be clarified to show that bingo and raffles were what was really approved. Keno and electronic devices have been sneaked in through the back door.

Jack Williams, Chief of Helena Police Department, was requested to appear as neither a proponent or opponent. He advised there has been only one problem in connection with any gambling in Helena. He feels there could be quite a bit of revenue from licenses and dealers.

During questions from the comments, it was learned that definition problems occur when keno is to be specifically eliminated. To exclude mechanical games, bingo would have to be operated manually. It would be very difficult to try to distinguish between certain electronic games. Essentially you can have a machine without a writer except for the person playing it, but that type of game is illegal in Montana law. A machine cannot be operated by itself - have to go to the bartender in order to play the game.

When operations decreased from 200 to 100, approximately 98-102 persons lost their jobs Mr. Lynch estimated. Five hundred persons would be affected if keno operations were closed. They receive from \$2.50 to \$5 per hour, depending on experience. Usually there are between 2 and 3 persons on a shift.

The local government has to supply the policing of these operations to keep them honest. So far no one has ever thought they were being cheated on bingo or keno. Decision as to who would decide had expertise in learning about cheating could be incorporated into the bill.

Rep. Vincent suggested extending an effective date until January 1, 1978 in order for owners of equipment and employees to have time to blend into Montana's economy in other fields. The bill would become effective July 1, 1977 otherwise if it passes.

The question of whether a local government could prohibit gambling arose. Mr. Lynch advised that the governing body can do anything the law allows, but not more than the law allows. State law supersedes any action of the local governing body. What the state allows is legal in all localities unless it could be controlled by a prohibitive tax. Cities can pass ordinances.

When a legislative body attempts to restrict something people want, it causes a lot of problems and the same analogy here would cause problems.

People acted within a Supreme Court ruling when they established keno operations. However, the state of Montana wouldn't be liable as other such things have happened, and no reimbursements have been made.

Rep. Lien asked if a local government could license out of existence any certain type of gambling they did not approve. Armstrong advised that in a petition to authorize the Legislature to legalize bingo (not keno) and raffles and to outlaw all other forms of gambling, 9-10,000 people signed the petitions, and this was taken to court which ruled that you may not diminish the existing state law.

Senator Brown closed saying the intent of this bill is to clarify the intent of the Legislature by allowing people to vote for type of gambling they want, and to close the loophole that was found.

Senator William Mathers, District #26, Custer County, chief sponsor of SB 309, said this bill was introduced on behalf of the oil and gas companies, and would provide that royalty interests may be required to share the burden of the resource indemnity trust tax on a pro rata basis.

SENATE BILL

309 Royalty owners would be required to pay their share pro rata of any mineral royalty due to the indemnity trust fund out of their 1/8 royalty fees from production, unless he has a contract with the producer wherein the producer will pay the tax. The producer will pay the tax due from production on federal, state or municipal lands

Don Allen, Montana Petroleum Association, Helena, said the trust indemnity tax is paid 70% from oil and gas, 20% from coal, and 10% from other minerals. SB 309

allows settlements under lease or proceeds orders or other contracts to be shared pro rata also.

There were no other proponents and no opponents.

The producer will pay the resource indemnity trust fund tax, and will deduct the tax out of the royalty owner's share figured on pro rata ownership of any fragmented shares. The producer owns 7/8 of the whole production, and the owner's have a 1/8 share. The producer will pay the RIT fund tax from federal, state and municipal lands. The Senate Taxation committee felt that this would be the only way they could get any money for what is produced on federal lands.

Senator Frank Dunkle, District #15, Lewis & Clark County, said this bill of which he is chief sponsor, is the result of considerable work by the Snowmobile Association of Montana. This will put in line the needs of the snowmobile industry and it will meet the needs of the land owner and of the public land manager.

SENATE BILL

177 This bill provides that a one-time fee of \$3 shall be charged for a certificate of ownership for a snowmobile, 1/2 to be retained by the county treasurer and 1/2 forwarded to the state registrar of motor vehicles. It also provides for a \$6 temporary use permit. Under SB 177, interest from the tax-paid decal collections would be placed in the snowmobile earmarked revenue fund for use in developing snowmobile facilities; and snowmobile fines are to be used for safety and education purposes. The bill provides for dealer registration certificates and allocates the income from this source.

This bill has been amended to take in railroad right-of-ways and other things, and it has been found this was not acceptable because of other state and federal laws, and Sen. Dunkle would like to have the Taxation Committee take out these amendments as they are inserted, if the committee doesn't have any problem with this viewpoint. Railroad proposed amendments correcting problems is attached.

Ken Hoovestall, Montana Snowmobile Association lobbyist, explained the amendments that have been made in the bill in detail. Copy of the amendments and his explanation is attached.

Everett E. Woodgerd, President Missoula Snowmobile Club, Missoula asked that some of the restrictions be stricken from the law because they are causing a lot of trouble. They want the Highway Patrol to keep complete control of all highways, but don't feel it is necessary for them to have to give a written permit for every person. Sometimes it is necessary to get on a plowed road, and in order to do this legally, a snowmobiler would have to have a written permit. He supports this bill himself and as a representative of the club.

John Delano, Montana Railroad Association, supports the proposed railroad amendments. The railroads have had some trouble with snowmobilers riding on the railroad right-of-ways, and these amendments are necessary.

Barney Bowles, Seeley Lake Drifter Riders, and Daniel I. Cainan, Seeley Lake Business Men's Association, Seeley Lake, support SB 177.

There were no opponents to SB 177.

Senator Dunkle closed saying snowmobile people are policing themselves. Any funds that go to the department must meet all of the state's requirements for expenditure and accountability and those funds are all appropriated through the Legislature to the agency. The decal is the license to operate the machine. It shows a certificate of ownership or title and those machines can run anywhere they are legal. He thinks it will do a job for the snowmobilers.

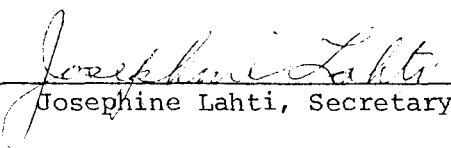
Rep. Williams raised the question of what can be done with snowmobilers who run on public roads and streets in a municipality. The municipality would have to enact an ordinance requiring no use of city streets for snowmobilers. These city ordinances in cities would state where snowmobilers can operate. The ordinances would have to be established by the governing body or the county commissioners. They cannot run on city streets now without a permit, and that is the way they want to keep it. This way it is totally up to the local governing body. He also would like to have the word "emergency" added so that in an emergency no authorization would have to be obtained. To make this legal, this would have to have authorization by ordinance in the case of a municipality.

Rep. Waldron question why the 48" limitation in the definition of a snowmobile was in the bill. This was to cover only small snowmobiles so trails wouldn't have to be so wide.

Meeting adjourned at 11:45 a.m.



REP. HERB HUENNEKENS, CHAIRMAN



Josephine Lahti, Secretary