

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 9, 1981

The twenty-third meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 309:

REQUIRING INVESTIGATIONS FOR STATE-
PROFESSIONAL OR OCCUPATIONAL LICENSING
BOARDS BE AVAILABLE TO THE BOARD.

Senator S. Brown introduced the bill and outlined what it would do.

CONSIDERATION OF SENATE BILL 312:

AMENDING PROVISIONS RELATED TO THE
GOVERNOR'S APPOINTMENTS TO CERTAIN
MEDICAL BOARDS.

Senator S. Brown introduced the bill and described it.

CONSIDERATION OF SENATE BILL 227:

GENERALLY REVISING THE GAMBLING LAWS.

Senator B. Brown introduced the bill as shown on Exhibit A, attached to these minutes, stating that the purpose of the bill is to clarify any ambiguity in Montana law regarding the definition of "authorized card games."

Special F.B.I. agent Bill Holmes, attached to the F.B.I. Forensic Laboratory, stated that the poker machines are gambling devices, not a simulated game of poker. He then gave a technical description of how the machines work as opposed to an actual game of casino poker. He explained the many factors which could be utilized to win a poker game, such as bluffing, psychological factors, folding, etc., and pointed out that in games against a machine, winning is based solely on chance.

County Attorney Rae Kalbfleisch, of Shelby, said that there has been a large proliferation of the machines in his area, with some bad results. Law enforcement officers have been accused of accepting payoffs; county attorneys have been threatened with suits unless they allow the machines into the county. He

stated that the machines take four hundred dollars to one thousand dollars per week per machine, and that this money comes from the paychecks of the people playing. He said that while one county may allow the machines, others may not; and he would like clarification of the law relative to their legality.

Don White, County Attorney from Gallatin County, spoke next in support of this bill. He said that there is an absence of clear-cut law on the machines, so he had allowed a few of them into his area. From that beginning there has been a continuous stream of distributors into his office, asking for permission to introduce their machines into the area. He has been threatened with a lawsuit if he didn't allow a Poker-All device into the county, and has since ordered all the devices taken out of the county because of the attendant problems. He feels that his county has received very little income from the machines, but that the work load on law enforcement has increased greatly because of the increase in burglaries and other criminal activity. He said that skimming was a problem with the machines, as was trying to keep them from being tampered with to reduce the payoff.

Written testimony was presented by George Harper and Pastor Gary Jensen (Exhibits B and C, attached to these minutes). Harold Hanser, Yellowstone County Attorney, testified that Yellowstone County has always outlawed the machines, and will continue to do so. He said that the Attorney General has ruled (1) that the machines are illegal, (2) that they are legal, and (3) that he doesn't know whether they are legal or not. He noted a great proliferation over the last year or two in the number, types, and sophistication of the machines. He felt they should be classified as slot machines. He advocated establishing a Gambling Commission if the machines are legalized, to help deal with the problems that would arise. He said that local law enforcement could not possibly cope with the type of people who would ultimately control machine gambling in Montana.

John Poston, lobbyist for the Montana Coin Machine Association, was the first to speak in opposition to the bill. He began by admitting that the machines are gambling devices, and stated that nobody had tried to suggest that they are anything else. He said that the new constitution had changed the law relative to gambling by allowing the legislature to permit it within the state. He felt that some members of the Legislative Gambling Committee believed that current laws would allow the poker machines to operate legally. He added that county attorneys should not ask the legislature to remove their present prerogative in allowing or disallowing the machines in their areas -- they should want to retain jurisdiction over the matter themselves. He said that if the machines cost the

county money, the county can levy charges against the income from the machines to alleviate the cost. Mr. Poston said that the poker machines do not work the same way that slot machines work -- that their internal machinery more closely resembles the random number generators used by the Fish and Game Department in selecting permits, and by the IRS for deciding who will be audited. He added that Poker-All does not work the same way, and that its use is being challenged in the Supreme Court.

John Stocksedale, owner of D & R Music and Vending Company in Bozeman, and representative of the Montana Operators Association, said that he feels that his relationship with the Gallatin County Attorney has been a good one not involving coercion. He stated that he took out a loan on the basis of the machines having been approved, and that the status of his loan would be affected adversely by the passage of this bill.

Phil Benson, representing Montana Music Rentals in Missoula, said that he has forty machines out in several counties, and in each county he had the law enforcement officers check and license the machines, at a total cost of over seventeen thousand dollars. He purchased the business on the basis of the machines having been legalized. His business will be bankrupt if the bill passes.

Bill Craig, Missoula Mayor, read a letter requesting that the committee kill this bill, written by the Missoula City-County Gambling Commission (marked Exhibit D and attached to these minutes).

Also speaking in opposition to the bill were Bob Pavlovick, representing Silver Bow County Tavern Association; Representative Pistoria, Cascade County, who said that the cities and counties need the income from the machines, and that in his county there had been no problems from their use; Jim Sewell, of Cottonwood Vending Co., whose testimony is marked Exhibit E and attached to these minutes; Edward Buller, representing the Moose Lodge; Bill Hardy, Sidney, who gave a rundown of the Moose Lodge's charitable outlay made from the money taken in from the proceeds of the machines; Louie Riviera, of the Elbon Club in Great Falls; Ernie Grasseschi, Black Eagle, member of many civic groups, who has a machine in his business; Kevin Maguire, VFW Post 1087, in Great Falls; Pete Tuss, representing the American Legion Dept. of Montana, F.O.E., and V.F.W., who stated the income from these machines is necessary to the charitable groups if they are to achieve their goals; Toby Dailey, Elks Club 214; and Mayo Ashley, who stated that the bill would outlaw all the forms of keno and bingo presently played.

Senator Mazurek asked Poston how, realistically, all the

different county attorneys can be expected to read the bill and draw the same conclusions regarding its enforcement. Mr. Poston replied that he didn't feel that they were required to draw the same conclusions -- that each had been given the right to decide what his area wanted to support in the way of gambling, and that these diverse rulings are what the law intended.

Senator O'Hara asked Mr. Poston what the average machine costs, the percentage of the tavern owner's take, the amount of taxes collected from each machine, and what the customer gets. Mr. Poston replied that the average cost per machine is four thousand dollars; there is a 78% return; taxes can be levied by the local governments, and usually range from \$200 to \$750 for annual license fee per machine, plus the income tax paid on a privately owned machine.

Senator Crippen asked whether, under the definition of "free play", the Atari-type games would be included. Harold Hanser replied that they would fall under this definition so long as they did not involve a pay off, and explained that free games were not considered pay off of something of value.

Senator Olson asked Mr. Benson if the percentage of take can be altered by hand; and Mr. Benson replied that it could not be done any longer, although at one time that had been possible. Missoula's county attorney was quoted as saying that the keno and bingo games would, in his opinion, be outlawed if this bill passed.

At Senator Anderson's request, J. D. Lynch gave his source for stating that keno and bingo would be prohibited under the bill as page 4 of the bill, lines 17 through 20.

Senator Halligan asked Holmes and Racicot about the difference between the one-handed and two-handed machines. Holmes replied that the two-handed version is more comparable to the casino game of poker, but it still is not a poker game. The winning combinations are still regulated by a machine, and it still is a game of chance.

In closing, Senator B. Brown stated that the fact that money is being made on the machines is not adequate reason for the committee to kill the bill. He added that the legislature should either legalize slot machines or pass this bill to clarify the fact that no gambling machines are currently allowed.

CONSIDERATION OF SENATE BILL 311:

REESTABLISHING THE COMMISSION FOR HUMAN RIGHTS.

Senator S. Brown introduced the bill as its sponsor. He pointed out that the Human Rights Commission was enacted in 1974 in accordance with a national trend to establish such an agency for the enforcement of constitutional guarantees. He said that the audit report on the Commission found that its record has been very good. Without the Human Rights Commission, the federal E.E.O.C. laws would still be in effect, but without the existence of the Commission the authority would be dispersed to the federal government and several state agencies rather than gathered in one agency.

Karen Townsend, outgoing chair of the H.R.C., spoke in support of the bill, and presented a report (marked Exhibit F and attached to these minutes) to support her stand. She outlined the work the Commission does and stated that without the H.R.C. in Montana federal investigation out of Denver would handle future complaints under federal law. She gave a copy of the Sunset report into evidence (marked Exhibit G and attached to these minutes). She said the efficiency of the Commission has increased dramatically under the six years of its existence.

Ray Brown spoke in support of the bill.

Lee Topash, Montana United Indian Association, said that he feels the H.R.C. is an important agency for protecting and improving the social and economic conditions of the Indians of this state. He gave written testimony (marked Exhibit H and attached to these minutes).

Also presenting testimony in support of the bill were Jan Gerke, Montana Women's Caucus (written testimony marked Exhibit I and attached to these minutes); Phyllis Bock, Montana Legal Services; Cindy Wevers, Helena N.O.W. (written testimony attached to these minutes, marked Exhibit J); Michael Dahlem, representing Associated Students of U.M.; Alan Ostby, Common Cause; Sheryl D. Motl, whose written testimony is marked Exhibits K and L and attached to these minutes; Kathy Karp, of L.W.V.; and Ed Kennedy (written testimony marked Exhibit M and attached to these minutes).

CONSIDERATION OF SENATE BILL 224:

PROVIDING A CIVIL REMEDY FOR CONSTITUTIONAL SEARCH AND SEIZURE VIOLATIONS AND ALTERING THE EXCLUSION OF EVIDENCE RULE.

Senator Ryan, District 19, Cascade County, sponsor of the bill, introduced it to the committee. He said that he would like it amended, and will turn over to the committee written amendments. He quoted Chief Justice Burger as asking for

help in dealing with crime, and said that he felt the purpose of this bill was to provide that help by giving an advantage to law enforcement rather than always to the criminal.

Judge R. J. Nelson, from Great Falls, representing Cascade County Crime Control Organization, supported the bill, and said that he would like it amended to provide that the disciplinary action recommended in the bill would be in addition to and not in limitation of the authority of the employing agency to take any other kind of disciplinary action, such as dismissal.

Chuck Follick, Vice Chairman of Cascade Crime Control Organization, spoke in support of the bill.

Tom Honzel, representing the County Attorneys Association, said that his group supports the concept of the bill. He pointed out that the exclusionary rule is a judge-made rule, not a part of the Constitution. He added that the alternative to the exclusionary rule has to come from the legislative body. He suggested that the committee compare this bill with House Bill 626 before taking action on it.

John Scully, representing the Sheriffs and Peace Officers Association, spoke in opposition to the bill. He said that it would put the peace officers in the position of having to decide themselves what the court system has failed to do -- a proper procedure for search and seizure. He said that the terms "prudent" and "ordinary care" are too vague for the peace officers to know how they should proceed; and that any error in judgment on their part would leave them open to suit and discipline. He ended by saying that this bill would not properly address the problems caused by the exclusionary rule.

Mike Meloy, representing the Trial Lawyers Association, stated that Chief Justice Burger has not summoned the majority of the Supreme Court in support of this bill. He felt that the conditions of the bill are too weak, and that county attorneys, not peace officers, should be the ones held liable for errors in judgment.

Jack Williams, representing Montana Chiefs of Police Association, also spoke in opposition.

In closing, Senator Ryan stated that the bill covers the situation of a mistake or error in judgment that could occur, and urged the committee to pass it.



Senator Anderson
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/09/81

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.



Montana County Attorneys Association

January 26, 1981

At a special meeting of the Montana County Attorneys Association at the Lewis and Clark County Courthouse on January 23, 1981 by unanimous vote of those members of the Association attending the following resolution was passed.

WHEREAS, there has been a proliferation of electronic machine gambling in Montana under such trade names as "Poker All", "Draw Poker" and "Poker-Matic" and;

WHEREAS, there has developed a difference of opinions among the various County Attorneys and the Attorney General of the State of Montana, concerning the legality of the machines and;

WHEREAS, the County Attorneys in conference at Billings in December of 1980, were presented with expert testimony by the Federal Bureau of Investigation to the effect that these machines are gambling devices and are not a simulation of the game of poker;

NOW, THEREFORE, BE IT RESOLVED:

That it is the opinion of the Montana County Attorneys Association that the aforesaid machines and variations of such machines are gambling devices that do not simulate the game of poker and are therefore illegal under existing laws of the State of Montana.

BE IT FURTHER RESOLVED that the Montana County Attorneys Association supports SB 227 which will correct any alleged ambiguities in the existing law.

Exhibit A

SENATOR BOB BROWN, SPONSOR
SENATE BILL 227

Mr. Chairman and members of the Senate Judiciary Committee, for the record I am Senator Bob Brown, representing State Senate District 10 and appearing today as principal sponsor of Senate Bill 227.

The primary purpose of Senate Bill 227 is to clarify any ambiguity in Montana law regarding the definition of "Authorized Card Games" as presently defined in paragraph 2 of 23-5-302 MCA, which states:

"(2) Card game means any game played with cards for which the prize is money or any item of value."

That seems clear enough. Card games are played with a deck of cards. But as the result of the 1976 Treasure State Games v. the State of Montana handed down by the Montana Supreme Court, and confusing interpretations of the law by the Attorney General, electronic coin operated gambling devices, which ostensibly simulate the game of poker, have started to flood into the state.

As a member of the "Select Committee on Gambling" which drafted the Card Games Act over the 1973-74 interim, I know it was the intention and purpose of the Committee to legalize only card games by that act, and not slot activated gambling machines.

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Senator Bob Brown, Sponsor
Senate Bill 227

Futhermore, as a member of the 1974 Legislature, I know that that legislature intended to legalize only card games by the enactment of the Card Games Act as recommended by the Select Gambling Committee.

Mr. Chairman and members of the Committee, the Montana County Attorneys Association has been the guiding force behind this legislation, and I would like to conclude my testimony by presenting, as part of the record, a brief resolution recently approved by the Association.

NAME: Pastor Gary Jensen DATE: 2-9-81
ADDRESS: 1067 Cheyenne Rd., Helena
PHONE: 458-5797
REPRESENTING WHO? Montana Conference of Seventh-Day Advents
APPEARING ON WHICH PROPOSAL: SB227
DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: Nothing is so demoralizing or intoxicating
as the acquisition of money or property without
labor. All devices to obtain money without
value received foster the idea that there is an
easier way of obtaining money than by earnest,
honest work, which requires persevering energy
and strict economy.

As Senator Turnidge mentioned at a hearing
on SB85, anytime cash is involved, ^{in games of} you are ^{chance}
encouraging gambling + opening the door to a Pandora's box of trouble.
Therefore, we would strongly urge your support
of SB227.

Exhibit C

IN SUPPORT OF SENATE BILL 227

Rev. George Harper
St. Paul's United Methodist Church
Helena, Montana 59601

On behalf of the Yellowstone Annual Conference of the United Methodist Church

We support this bill which will clarify present laws concerning the use of machines for gambling purposes.

Such a re-writing of the law is necessary at this time because people have mistaken the intent of the original legislation written in 1974 by this Legislature.

Following the adoption of our 1972 Constitution, the Legislature interpreted the will of the people of Montana this way:

We do not want wide open gambling of any type anywhere; we do not want machine gambling or punch boards; we will permit bingo, some card games, raffles and office sports pools, but we want strict limits that assure the recreational aspects of gaming as over against commercialized gambling business.

So the laws were written. The legislators were convinced that thousands of little old ladies in nursing homes could not live happy and fulfilled lives without the thrill of Bingo. They were convinced that churches and fraternal organizations could not keep their doors open without raffles. And they were convinced that no organized commercial gambling interests had any possible use for card games like poker except to give a nice recreational-parlor atmosphere to clubs and bars.

BUT - since the laws were passed, we have learned all over again that the real point of gambling is making money. The gambling laws are not viewed by some people who operate gambling businesses as laws they would feel sworn to uphold. Instead they are seen as problems to be overcome: how do we get around them? how do we bend them? how do we ignore them?

And the answers are ingenious at times. Instead of the famous mousetrap, build a machine (or find a way to circumvent a law) that will make more dollars more rapidly and the gambling world will beat a path to your door.

People who were here in this Legislature in 1974 know what the laws intended, but we have seen those intentions twisted and ignored until new machines for gambling are making laws permitting slot machines and high stake card games practically unnecessary for gambling interests to carry on as they will.

Now this bill comes before us to clarify the situation and restore the law to its original intent, and citizens who still do not want Montana to mimic Nevada favor such clarification. Then we will expect our law enforcement agencies to be able to operate with much more assurance when they seek to interpret the law.


George Harper

MISSOULA CITY-COUNTY GAMBLING COMMISSION

Exhibit D

February 6, 1981

Senator Mike Anderson
Chairman
Senate Judiciary Committee
State Capitol
Helena, Montana 59601

Dear Senator Anderson:

Please accept this letter as a request to kill S.B. 227, or in the alternative, as a request to amend the bill to allow those kinds of electronic gambling devices currently in use in Missoula. This letter represents the opinion of the Missoula City-County Gambling Commission from a vote taken at its February 5, 1981 meeting. The Commission consists of the County Attorney, the Sheriff, the Chief of Police, the Mayor, a member of the County Commissioners, a city councilman, a representative of the ministerial association, a representative of the tavern owners association, and a member at large. At our meeting all but one member voted to endorse this letter, with the chair not voting.

The Missoula City-County Gambling Commission has extensively studied the issue of electronic gambling devices. Some time ago we determined that certain of them, particularly bingo, keno and two handled poker machines simulated the live games they are named after, and therefore were legal under Montana law. As a result, the City and County of Missoula currently license those machines and derive annual license taxes of about \$17,000 from them.

Since we authorized the machines, local businessmen have purchased many of them, with the current local investment in the machines and support facilities exceeding \$200,000. Furthermore, we have found the machines to be extremely popular with the public as under our regulations the machines must pay back approximately 78%, which compares favorably with other kinds of gambling currently available in Montana. At the same time, because of the small amount required to play (\$.25) the machines offer inexpensive and relatively harmless recreation for players, and in addition, allow small establishments to provide some form of gambling to their patrons since most do not have the volume to financially justify live poker, bingo or keno.

Finally, while the machines have been in operation in Missoula for several years, our law enforcement agencies report that there has only been a problem with them twice. On both occasions the difficulty arose because of a machine malfunction, and on both occasions the matter was resolved with the customer.

Page 2
Senator Anderson
February 6, 1981

We wish to emphasize that we do not allow the one-handed poker machines common in other parts of the state in that they, in our opinion, do not simulate the game of poker and closely resemble the slot machines in their method of functioning.

Sincerely,

A handwritten signature in cursive script, reading "Robert L. Deschamps III". The signature is written in dark ink and is positioned above the typed name.

Robert L. Deschamps III
Missoula County Attorney
Chairman City-County Gambling Commission

RLD/ckm

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Exhibit E

February 9, 1981

TO: Senate Judiciary Committee

Re: Senate Bill 227

Cottonwood Vending Co. operates coin-operated amusement devices in several Montana Counties. These devices take many forms, including pinball machines and electronic devices commonly known as "Video" games.

The video games are electronic devices which utilize a TV screen and digital circuits to project visual images of tanks, missiles and the like. These kinds of machines reward scoring levels with additional missiles, etc. and would be within the scope of the term "thing of value" in Section 1 lines 22 and 23 of SB 227.

Although the bill attempts to exclude "free-play" console machines from the definition in Section 1, the language used in lines 23-25 page 2 and 1-11 page 3 clearly does not meet the definition of video games, thereby presumable making such devices illegal.

We believe the bill should be killed for that reason.

As an additional consideration we would like to point out that as a practical matter it is NOT THE DEVICE which creates the gambling, but the ability of the player to collect money for "free plays" won. "DRAW POKER" is a video game-it works on the same principles as the others. If gambling is the object then gambling should be what is prohibited, not video games.

This "shotgun" approach to legislation on gambling is illconceived and poorly drafted, and we respectfully request that it be killed by this committee.

Cottonwood Vending Co.
Deer Lodge, MT
R.J. Sewell

*Exhibit 5
Judiciary Committee
February 9, 1981*

REPORT TO THE SENATE JUDICIARY COMMITTEE
ON SENATE BILL 311

February 9, 1981

Karen S. Townsend, Chair
Montana Human Rights Commission

Raymond D. Brown, Administrator
Montana Human Rights Division

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TESTIMONY BEFORE THE SENATE JUDICIARY COMMITTEE

February 9, 1981

By Karen S. Townsend, Chair
Montana Commission For Human Rights

INTRODUCTION

In 1977, the Montana State Legislature passed the "sunset bill" That law provides that the Commission for Human Rights automatically terminates July 1, 1981 unless reenactment legislation is approved by the 47th Legislature. That law further provides that the Legislative Audit Committee is to conduct performance reviews prior to termination. Such a review was conducted by the staff of the Legislative Auditor. It began approximately a year ago and culminated in the Report that you have before you. That staff report was reviewed by the Legislative Audit Committee at a public hearing last September. The Committee then voted unanimously to recommend to the 47th Legislature that the Commission be reestablished. SB 311 is the concrete form of that recommendation.

The 1974 Legislature passed the Human Rights Act which prohibited discriminatory practices and created the Montana Commission for Human Rights. The Commission together with its staff was designated as the enforcement agency in the Human Rights Act. The basic purposes of the Human Rights Act were to protect Montanans from discriminatory practices and to implement the equal dignities provision of the 1972 Constitution. Montana did not act alone in this area. Similar agencies and commissions were set up in other states. Today 47 states, the District of Columbia, Puerto Rico, the Virgin Islands and 42 counties or cities have agencies that administer anti-discrimination laws. The Equal Employment Opportunity Commission (EEOC) is responsible for administering and enforcing most of the federal anti-discrimination laws.

STRUCTURE (SUNSET REPORT PG. 4-5)

The Commission itself is composed of 5 citizen volunteers appointed by the Governor. Because the Commission is a quasi-judicial board, one of those 5 must be an attorney licensed to practice in the Montana. I have served in that capacity for the last 4 years. Members of the Commission are not state employees. All but one of us was employed full time in other capacities. Those of us who work for the state or a political subdivision of the state receive no compensation for the time we put in on Commission business. Two of us have been in that category for the past 2 years. The other members of the Commission receive our travel expenses up to the limits of state per diem. The Commission must meet 4 times per year. We have usually met every other month in order to conduct commission business. We have frequently conducted some additional meetings by conference call in order to save travel expenses.

The Commission is authorized by the Human Rights Act to employ a staff. Our staff is known as the Human Rights Division. The individuals who work there are state employees. Although we are authorized for 8 FTE's, budgetary constraints have forced us to reduce personnel to 6.75 FTE. We also have contracts with 4 attorneys to serve as hearings officers. Two of those attorneys are members of the Attorney General's staff in the Agency Legal Services Bureau. One is a private attorney in Billings and one is a private attorney here in Helena. His contract is for 1 case only and was required because the Agency Legal Services attorneys are defending one of the Respondents in that case.

FUNDING (SUNSET REPORT PGS. 5-7, 25)

The Commission is funded by appropriations from the State General Fund and contract funds from the EEOC. The Commission has an agreement with EEOC and is known as a "706" Agency. Many of the areas and causes of discrimination under Montana law are also illegal under Title 7 of the 1964 Civil Rights Act, the major federal anti-discrimination act. Thus 1 investigation can determine the facts for both the state and the federal agency. A 706 agency receives federal money for investigating these cases and the EEOC must give "substantial weight" to our final determination. The Commission receives \$350.00 for each Title 7 case we complete. A complete case is one where a final determination has been made. That determination can be either there was discrimination or just as importantly, there was not. To date we have completed approximately 800 cases. Our findings have been accepted by EEOC in all but 3 cases. Our acceptance rate this past year was 100%. In 1979-80 we completed a total of 248 cases at an average cost/case of \$701.00. In 175 of those cases, violations of both state and federal laws were claimed. We received \$350.00 for each of those 175 cases from EEOC because their case was considered completed at the same time our state case was completed. This 706 funding not only subsidizes the cost of state investigations, but allows Montanans to deal with local people and not the federal agency that is located in Denver.

PROCESS (SUNSET REPORT PGS. 11-20)

The following procedures are followed by the staff and the Commission in processing complaints.

- 1.) Inquiry - All inquiries are handled by the staff's intake officer. The intake officer screens out frivolous complaints and accepts no case for further treatment unless the person calling can present sufficient facts to establish a prima facie case. Last year 1800 inquiries were made and only 240 cases accepted and opened. Although inquiries are increasing rapidly, this screening process has resulted in a decrease in the actual numbers of complaints opened. Once a formal complaint is filed, the Respondent is notified.

- 2.) Investigation - One of the 2.75 investigators is assigned the case once a formal complaint is opened. This person begins an investigation to see if there are facts to substantiate the complaint. This person can and will examine documents, speak to potential witnesses who can shed light on the allegations and also ask for the Respondent's side and speak to persons who can shed light on those statements.
- 3.) Fact-Finding Conference - If the fact situation is simple and if both sides agree, the investigator will set up a fact finding conference. The investigator acts as mediator, each side presents the facts as he or she sees them and a proposed solution. The Conference is designed as a "no-fault" solution to quickly resolve the problem. There is no determination of whether or not discrimination occurred - there is only an attempt to reach a mutually satisfactory solution. Aproximatley 50% of our cases are handled in this matter.
- 4.) Finding - If no mutually agreeable solution can be reached at the fact finding conference or if no conference is held, the investigator must next prepare a finding. That finding is either that there is or is not reasonable cause to beleive that a discriminatory act took place. Sometimes more facts must be gathered before that determination can be made. The investigator's proposed finding must be concurred in by the staff attorney and the staff administrator. That finding must be objective. Last year, out of 240 cases opened, 105 of those have moved through the investigation stage. Cause was found in 47 of those 105 cases or 47%. No cause was found in 39 of those 105 cases or 37%. Settlements before finding were made in 11 of those 105 cases or 10%. The rest (8) have been closed for other reasons. 135 cases are still under investigation. All no cause findings and settlements must be approved by the Commission.
- 5.) Concilliation - If there has been a finding of reasonable cause, the staff must attempt to concilliate the matter. Concilliations are reached frequently. Out of the 240 cases filed last year, with reasonable cause found in 47 of those cases, concilliations have been reached in 32 of those 47 cases or 68%. In 10 of those 47 cases it has been determined that no concilliation is possible. In 5 cases there are still attempts being made to consilliate.
- 6.) Contested Case Hearing - If there is no concilliation the case is certified for hearing and one of the hearing officers is appointed and assigned the case. The parties are still free to settle the case prior to hearing and many do. If the hearing is conducted, the

rules of evidence are followed and the burden is on the complaintant to prove that discrimination took place. Hearing officers take testimony and receive exhibits and draft a proposed Order for the Commission. Either side may contest the proposed order in an appeal to the Commission.

- 7.) Commission Review - If one party wishes to contest the proposed Order, written objections and briefs are filed with the Commission and a hearing is provided if requested with the opportunity given each side to present oral arguments. After the hearing the Commission issued a final Order in the case. If the Commission finds that discrimination occurred, monetary damages can be awarded. If they find no discrimination took place, the case is dismissed. As of June 30, 1980, 31 orders have been issued. In 14, the Commission found in favor of the complaintant. Monetary damages were awarded in 13 of those cases; In 17 cases, the Commission found in favor of the Respondent and the case was dismissed.
- 8.) District and Supreme Court Review - The final Commission Order can be appealed to the district court. Four cases which have been decided by the Commission have been appealed to district court in which the Merits of the cases have been at issue. In one of those cases the Commissions decision that there was no discrimination was reversed. In another case, the Commission's decision that there was discrimination and the monetary award was reversed. That case is presently on appeal to the Montana Supreme Court. In the two other cases, the Commissions decision was affirmed. In one of those two cases, the Commission found discrimination and awarded damages, in the other we dismissed the complaint.

CONCLUSION

This Committee and ultimately the 47th Legislature must decide whether or not to continue the Commission for Human Rights. The Legislative Audit Committee has unanimously recommended that the Commission continue. Pages 35-37 of the Sunset Report discusses the effect of Commission termination. The bottom line of that report is, and I quote:

"There is no reason to believe that disbursing the Commission's functions among other state agencies would provide better service or cost savings to the state."

Let's examine briefly the areas of service and cost savings.

EEOC would continue to handle many of the cases we now handle for them -- but parties would be forced to deal with federal employees in Denver who do not always understand local problems and who are not required to come to the local community to hold hearings. Title VII does not, however, cover all that Montana's law does. Any employee of an organization of less than 15 is not covered. The Labor Department estimates that 80 percent of private employers are in that category. Title VII does not cover marital status cases, age cases for those under 45 years of age, political belief cases, or handicap cases -- about 30 percent of our cases. These parties would have to resort to our overcrowded court system for redress or have no place to go. The Report suggests that internal grievance procedures or the Personnel Appeals Division might be able to take state agency complaints, but without major legislative changes, no monetary damages or reinstatement orders could be given in those cases where the complainant prevails. Such increased work on these agencies would no doubt require increased funding without the benefit of EEOC contract assistance to offset the cost of the state's investigation.

The Commission and its staff have experienced numerous growing pains as we have evolved from our beginning in 1974. Our efficiency has increased dramatically. The Sunset Report on page 18 shows that the number of cases completed per year has increased 5 times while the average cost of completing a case has been cut in half. Continued emphasis has been given by the Commission to its staff that we are an agency of state government that is designed to be a neutral, investigative agency and not an advocacy agency. Staff members who do not reflect that position do not remain on the staff. Members of the Commission have actively sought out criticisms of our operating procedures and personnel in an attempt to improve what we do and in order to properly exercise our responsibility to this state.

Members of the Judiciary Committee, on behalf of John Frankino, the incoming Chair of the Commission, and the other members of the Commission who have just completed service or who will

continue, and the staff of the Division, I urge that you concur with the Audit Committee and that a recommendation of "do pass" be given to SB 311.

Submitted on behalf of the Human Rights Commission, John Frankino, Chair Designee, by Karen S. Townsend, outgoing Chair.

2/9/81

Exhibit H

Montana United Indian Association



P.O. Box 5988
Helena, MT
59601

February 9, 1981

Senate Judiciary Committee
State Capitol
Helena, MT 59601

Dear Committee Members:

The Montana United Indian Association wishes to thank the committee for providing us the opportunity to present our testimony regarding Senate Bill 311.

On behalf of the Montana United Indian Association and the Montana Inter-Tribal Policy Board, jointly representing a constituency of 50,000 Indian people in Montana, we strongly urge the Montana Human Rights Commission be recognized and retained in its entirety. We go on record supporting the passage of Senate Bill 311, which reestablishes the Commission for Human Rights.

The goal of the Montana United Indian Association and the Inter-Tribal Policy Board is to improve the social and economic self sufficiency of all Montana Indians. We are deeply concerned with the preservation of all inherent rights of all Indian people as guaranteed in the treaties with the United States Government.

We are equally concerned with the basic rights of all as guaranteed under the laws of Montana. The State of Montana has one of the finest Human Rights law protecting its people, and the division is to be complimented in carrying it out. Our association with Human Rights Division has been very positive.

Time has matured the Human Rights Division and its law, and strong support is vital if we are to continue in a positive manner of protecting our future rights as Montana citizens. This goal can only be assured with the continuation of the Human Rights Division which must remain autonomous to insure equality to all.

-----MUIA IS AN EQUAL OPPORTUNITY EMPLOYER-----

BILLINGS AMERICAN INDIAN COUNCIL
BILLINGS, MONTANA
NORTH AMERICAN INDIAN ALLIANCE
BUTTE, MONTANA


HELENA INDIAN ALLIANCE
HELENA, MONTANA
MISSOULA OJA OJA CORPORATION
MISSOULA, MONTANA

NORTH AMERICAN INDIAN LEAGUE
DEER LODGE, MONTANA
ANACONDA INDIAN ALLIANCE
ANACONDA, MONTANA

Page Two
Senate Judiciary Committee
February 9, 1981

Serious consideration must be given if the rights of all Montanans are to be protected. We urge the passage of Senate Bill 311.

Thank you.



Ben Bushyhead
Executive Director

SENATE BILL 311

TESTIMONY OF HELENA WOMEN'S POLITICAL CAUCUS

Nearly 80% of Human Rights Commission complaints have been for discrimination in employment. Of these, about 78% have involved women.

Without the Commission, those with discrimination complaints who work for large employers could turn to the Equal Employment Opportunities Commission for help. But we must remember that 80% or more of the employers in Montana are not under the authority of the EEOC. Women and men working for small employers would have to press their claims in district court--and this procedure is prohibitively costly for most of us.

Unlike the Montana Human Rights Act, Title VII of the Federal Civil Rights Act does not cover discrimination in areas other than employment, or that based on creed, physical or mental handicap, age, marital status or political belief. People who are discriminated against because of these things could not turn to the EEOC but would also have to press their complaints in district court. Charges of discrimination because of creed, physical or mental handicap, age, marital status or political belief have comprised 37.5% of Human Rights cases--a substantial number.

The work of the Human Rights Commission makes the guarantees in Article II, section 4, of the Montana Constitution real guarantees--not simply words on paper.

The Helena Women's Political Caucus urges continuation of the Human Rights Commission--its work is important to all Montanans. We believe that the Commission should remain an independent state agency. Distributing the functions to other agencies would require additional staffing for those agencies and would be less efficient and less cost-effective.

The audit report shows that in the past two years the handling of cases has been faster and more economical than in the early days of the Commission. In spite of the increase in cost-effectiveness, the number of pending cases is increasing. We must conclude that increased staff is needed to deal with the pending cases.

The Women's Political Caucus believes that the social and political environment is every bit as important to the happiness of the citizens of Montana as is the physical environment. The work of the Commission on Human Rights substantially increases the quality of our social and political environment. The Commission should be retained.

G. Wevers
J

Testimony for Senate Bill 311
Judiciary Committee
February 9, 1981

It has been nearly twenty years since the racial upheavals of the Sixties and subsequent passage of the Civil Rights Acts. But, with the passing of these twenty years, we still do not have equal pay for women. Very few management positions are held by women and minorities. The handicapped are hardly visible in the work force. Sexual harassment on the job is still very much in evidence.

We have strong state and federal laws in Montana. We need an agency that can enforce these laws; an independent body that is able to make decisions on the critical issues of staffing, casework priority, and budgetary allotment within their own agency.

The Montana Human Rights Commission, as an autonomous body, has been very effective in achieving job reinstatements, back pay, and other favorable settlements for many rightly deserving Charging Parties. It has also been able to objectively screen out those cases that have no merit.

I am here as a woman, and as a member of the National Organization for Women, who is interested in equal opportunity and objectivity for all people so that their cases may stand or fall on their own merits. I believe that in the past, the Montana Human Rights Commission has fulfilled its obligation to the citizens of Montana to objectively, and without bias, investigate and determine discrimination claims within the framework of our Montana State Constitution.

I urge you to support the passage of Senate Bill 311. Thank you.

Cynthia L. Wevers
Helena Resident
President, Helena Chapter of the
National Organization for Women

(12)

2/9/81

TESTIMONY IN SUPPORT OF SENATE BILL 311

Exhibit K

Mr. Chairman and members of the Committee,

I am Sheryl Motl, a graduate student in Public Administration from the University of Montana, presently residing in Helena. I appear today in support of Senate Bill 311 on my own behalf. I have just recently completed my masters paper on the Montana Human Rights Commission and will submit a copy of it to the committee for your inspection.

The HRC must be reestablished for reasons that others will cite here today. I appear here in concern that the Human Rights Commission be reestablished with its present authority and rules. As Senate Bill 311 now reads, that authority would be maintained. Yet the question of autonomy for the Human Rights Commission has already been raised this session on the Senate floor. It is for this reason that I appear to urge your support of the present authority of the Human Rights Commission.

It was claimed earlier this session that an autonomous Human Rights Commission lacks an accountability to the state government. Through several months of research and interviews, I find that claim of lack of accountability to be true if only very narrowly construed. I would like to distribute a graph to the members of the committee demonstrating what I believe to be extensive lines of accountability for the Human Rights Commission. Through my research I came to believe that when the Legislature originally granted autonomy in 1974, these established lines of accountability were taken into consideration and the question of accountability resolved.

I urge your support of SB 311 in its present form .

Excerpts from:

THE MONTANA HUMAN RIGHTS COMMISSION

By

Sheryl D. Motl

B.Sc. University of Minnesota, 1976

Presented in partial fulfillment of the requirements for the degree of
Master of Public Administration

UNIVERSITY OF MONTANA

1980

APPENDIX A CONTINUED

Attached for administrative purposes only

Water Rights Commission (Gov. Off.)
Board of State Canvessers (Sec. of State)
Board of Examiners (Admin.)
Public Employees' Retirement Board (Admin.)
Board of County Printing (DCA)
Coal Board (DCA)
State Banking Board (Bus. Reg.)
Board of Wastewater and Water Operators (DHES)
Montana Wheat Research and Marketing Committee (Agric.)
Board of Hail Insurance (Agric.)
Montana Pork Research and Marketing Committee (Livestock)
Rangeland Resource Committee (DNRC)
33 Department of Professional and Occupational Licensing Boards

Boards which are the heads of departments

Public Service Commission (Public Serv. Reg.)
Board of Livestock (Dpt. of Livestock)
Board of Regents (Dpt. of Education)

For the purpose of this paper, this expectation of independence provides a further reason for the necessity of full operating autonomy for the Human Rights Commission.

For the reasons just discussed, full operating autonomy is vital for the HRC. Legally, the due process of the complainant would not appear to be infringed upon by a lack of autonomy. Administratively, the agency could be designated either with or without autonomy without being unduly cumbersome to the parent department. Yet, the overriding factor in the issue of autonomy is that, politically, the lack of autonomy would simply be unwise. The neutrality inherent in a quasi-judicial function could potentially be continually subject to political influence. On this basis, the full operating autonomy for the Human Rights Commission must remain.

The Proper Location

In examining the question of the proper location for the HRC in Montana government, four possible options must be considered:

- Movement of the HRC into the Governor's Office;
- The HRC could become the 20th department in state government;
- The HRC could become part of the 20th department in state government; or
- The HRC could be moved to a department other than Labor and Industry.

Each option will be considered separately.

cited problems. This type of potential for a conflict of interest provides an additional argument for the necessity of full operating autonomy for the HRC.

The Expectation of Independence

A quasi-judicial function, as opposed to a quasi-legislative function, involves the exercise of judgment and discretion in matters that directly affect named parties. The HRC was designated a quasi-judicial agency because its job is to enable it to investigate complaints of discrimination. Therefore, a further argument for full operating autonomy is that the quasi-judicial function and the subject of human rights by definition imply an expectation of independence from the political pressures for the HRC.

Montana law does not specify that agencies with a quasi-judicial function should be insulated from political pressures. Yet the combination of quasi-judicial functions and the area of human rights implies this expectation of independence. Supreme Court Justice Jackson expressed this sentiment in 1943 in delivering the opinion of the Court in the case of West Virginia State Board of Education v. Barnette. Justice Jackson said in part:

The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no election.

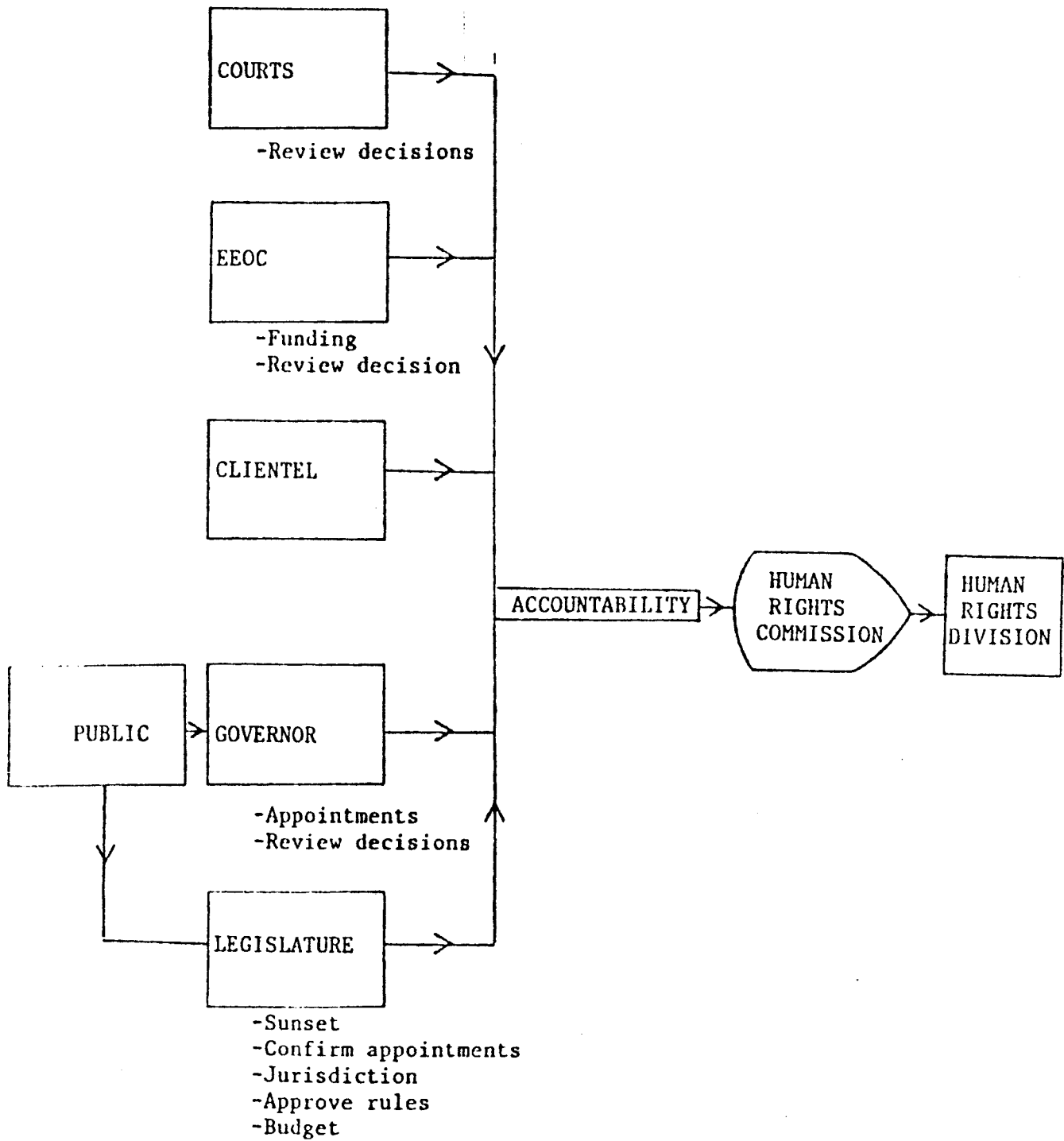
As demonstrated, the decisions, policies, budget and funding of the HRC are continually being scrutinized. Three branches of state government, as well as a federal agency and the public, all provide a check and balance system for the HRC, even though it exists with operating autonomy. In this context, the Executive Office's argument that the HRC lacks accountability to the people of Montana is valid only if accountability is very narrowly construed.

The Potential for Conflict of Interest

As argued by the opponents of SB 110, the potential for a conflict of interest exists when a quasi-judicial agency dealing with human rights is directly responsible to a department head. The problems that led to the original granting of autonomy in 1975 and the politics of the 1978-79 budgetary process involving the Department of Labor and Industry verify that a conflict of interest can exist. Any department head that could have possible budgetary and staffing authority over their own investigation by the HRC faces an unavoidable conflict of interest.

On a national basis, 63 percent of the human rights agencies are autonomous in order to circumvent this potential conflict.⁶ Of the 31 percent that are dependent on a parent agency, only 5 percent in a national survey indicated no dissatisfaction with their status.⁷ Staff being pirated off to other projects, planned use of funds being overruled, and interference with case investigations were the commonly

TABLE EIGHT
OVERSIGHT OF THE HRC



On this basis it can be argued that the legislative and executive intent in 1975 was to make the HRC an exception to the Act. The legislature qualified that exception by granting the HRC full operating autonomy while remaining administratively attached to the Department of Labor and Industry. The 46th legislature affirmed this exception.

Granting the HRC full operating autonomy does not mean that the Commission has any less accountability than any other state agency. From an examination of the HRC functions, the following lines of accountability can be traced:

- The enabling legislation for the HRC subjects all decisions to judicial review.
- The Executive Planning Process of the Governor's Office approves the HRC budget and any program modifications. The Governor appoints all members of the Commission and designates a chairperson. The Governor may also remove the Commission members for cause.
- The Equal Employment Opportunity Commission (EEOC) has the authority to review all decisions of its deferral agencies. In addition, the deferral agency must meet certain criteria to obtain and maintain EEOC funding.
- Clientel groups provide indirect support of HRC policies by their willingness to use the service of the agency and demonstrate their support in hearings and legislative proceedings.
- The Legislature subjects the HRC to sunset review every six years. In addition, the legislature defines the jurisdiction of the HRC (age, handicap, political belief), provides a check on all administrative rules passed by the Commission, and approves all budget amendments and final appropriations for the agency. Furthermore, all appointments to the Commission are subject to Senate approval.
- The public indirectly supports and checks the HRC through their elected officials.

The following diagram illustrates these lines of accountability.

On this basis it can be argued that the legislative and executive intent in 1975 was to make the HRC an exception to the Act. The legislature qualified that exception by granting the HRC full operating autonomy while remaining administratively attached to the Department of Labor and Industry. The 46th legislature affirmed this exception.

Granting the HRC full operating autonomy does not mean that the Commission has any less accountability than any other state agency. From an examination of the HRC functions, the following lines of accountability can be traced:

- The enabling legislation for the HRC subjects all decisions to judicial review.
- The Executive Planning Process of the Governor's Office approves the HRC budget and any program modifications. The Governor appoints all members of the Commission and designates a chairperson. The Governor may also remove the Commission members for cause.
- The Equal Employment Opportunity Commission (EEOC) has the authority to review all decisions of its deferral agencies. In addition, the deferral agency must meet certain criteria to obtain and maintain EEOC funding.
- Clientel groups provide indirect support of HRC policies by their willingness to use the service of the agency and demonstrate their support in hearings and legislative proceedings.
- The Legislature subjects the HRC to sunset review every six years. In addition, the legislature defines the jurisdiction of the HRC (age, handicap, political belief), provides a check on all administrative rules passed by the Commission, and approves all budget amendments and final appropriations for the agency. Furthermore, all appointments to the Commission are subject to Senate approval.
- The public indirectly supports and checks the HRC through their elected officials.

The following diagram illustrates these lines of accountability.

free and independent. an exception to Executive Reorganization. In reference to the aide's earlier cited comments on the HRC being an "administrative sore thumb," the legislator replied that "by its nature, it has to be . . . the HRC has to stick out, it has to be able to look at state government."

Autonomy has become the Achilles tendon of the HRC. The narrow margin of Senate votes indicate that the issue of autonomy may not have been permanently resolved by the legislative branch of government. Nor has the issue been resolved within the executive branch. On this basis, the issue of autonomy will undoubtedly resurface again and once more a resolution will be sought.

From an examination of the HRC thus far, the intent of this paper is to propose that the most meritorious answer to the question of autonomy lies in full operating autonomy for the Human Rights Commission. This resolution is proposed for several reasons, each of which will be addressed separately.

Accountability

An issue that is raised in every autonomy debate is the apparent lack of accountability of the Human Rights Commission. The argument that is offered focuses on the Executive Reorganization Act. As discussed earlier, every board and commission must be responsible to a department head. The only exception to this is the elected offices.⁵ Complete autonomy for an agency is not possible under the Reorganization Act. Yet, the 44th legislature granted the HRC an exception to that Act. Originally the Governor's Office supported that exception.

helena indian alliance

436 North Jackson
Helena, Montana 59601
(406) 442-9334



Exhibit M

EDWARD KENNEDY
Executive Director

JOHN L. SINCLAIR
President

C. JEFFERY POCHA
Vice-President

CHARLENE BELGRADE
Secretary

February 9, 1981

Senate Judiciary Committee
Capitol Station
Helena, Montana 59601

Dear Committee Members:

The Helena Indian Alliance, an Urban Indian Alliance representing 3,000 Native Americans, wishes to thank you for giving us this opportunity to present this testimony.

We would like to go on record, urging the continuation of the autonomous Human Rights Commission.

Only by remaining autonomous can they be guaranteed the "freedom" to make fair and impartial decisions.

The other imperative concern is that the Human Rights Commission be funded at a level adequate to provide their invaluable services to all the people of Montana.

Walk In Pride,

Edward Kennedy
Executive Director

EK/bc

23

DATE:

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

DATE: 2/27/81

ADDRESS: JOHN SCULY

PHONE: 587-1365

REPRESENTING WHOM? Mon. Chemist & Peace Off

APPEARING ON WHICH PROPOSAL: SB. 224

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: _____

23

NAME:

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

COMMENTS:

DO YOU: SUPPORT? Y AMEND? _____ OPPOSE? _____

COMMENTS: _____

Source: <http://www.fishbase.org>

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NAME: Frederick E Sherwood DATE: 2/9/81

ADDRESS: 1836 Flowerree Helena

PHONE 442-0032

REPRESENTING WHOM? Mt Human Rights Commission

APPEARING ON WHICH PROPOSAL: SB 311

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: As staff attorney for the Commission,
I am available for questions from the
Committee or Legislative Council.

NAME: EDWARD KENNEDY DATE: 2/9/81

ADDRESS: 501-8TH AVE.

PHONE: 442-3297-HOME 442-9334

REPRESENTING WHOM? HELENA INDIAN ALLIANCE

APPEARING ON WHICH PROPOSAL: S.B. 311

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: SEE WRITTEN TESTIMONY

NAME: KATHY KARP DATE: 2-9-81

ADDRESS: 1000 Birch Helena

PHONE: 443-4321

REPRESENTING WHOM? LEAGUE OF WOMEN VOTERS

APPEARING ON WHICH PROPOSAL: SB 311

DO YOU: SUPPORT? Yes AMEND? OPPOSE?

COMMENTS: The League wishes to express its support of
this bill

For many years, the LWV has been combating
discrimination in a variety of areas, and Montana's
Human Rights Commission has been quite successful in
dealing with discrimination and all matters affecting
human rights, and should most certainly be re-established
to continue the handling of these kinds of matters.

NAME: ALAN OSTBY DATE: _____

ADDRESS: 816 S. RODNEY, HELENA

PHONE: 442-2065 (wk) 442-9073 (hm)

REPRESENTING WHOM? COMMON CAUSE

APPEARING ON WHICH PROPOSAL: SB 311

DO YOU: SUPPORT? ☒ AMEND? _____ OPPOSE? _____

COMMENTS: SUNSET LAWS WERE ORIGINATED BY COMMON CAUSE
OF COLORADO. PERIODIC TERMINATION OF AGENCIES IS PROVIDED
IN ORDER FOR CAREFUL SCRUTINY TO BE GIVEN TO EACH AGENCY'S
GOALS AND FUNCTIONING. THESE REFORMS IMPROVE THE PROCESS AND EFFICIENCY OF
A THOROUGH ANALYSIS OF THE HRC HAS BEEN PERFORMED.
THIS SCRUTINY HAS BEEN ONLY GIVEN TO THE HUMAN
RIGHTS COMMISSION. IT HAS BEEN FOUND ~~TO~~ MERIT
RE-ESTABLISHMENT.

GOV'T.
AGENCIES

COMMON CAUSE SECONDS THIS RECOMMENDATION.

NAME: Michael Dahlem DATE: Feb. 9, 1981

ADDRESS: 1004 N. Park

PHONE: 442-6708

REPRESENTING WHOM? Associated Students of UM

APPEARING ON WHICH PROPOSAL: SB 311

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: We believe that discrimination

affects everyone in Montana - including

students - and that an effective Human

Rights Commission is necessary to adequately

deal with the problems that arise. The

Commission has proven itself efficient in processing

both state and federal EEOC cases. Education

and employment discrimination and sexual

harassment complaints are particularly common

among students. Without an effective avenue

of recourse, such as the HRC, many more

of these cases will be finding their way into

the courts. We support the reestablishment

of the Commission.

NAME: Charles J. ... DATE 2-8-81

ADDRESS: 1000 1st St. N. W. Washington, D. C. 20004

PHONE: 442-1876

REPRESENTING WHOM? None

APPEARING ON WHICH PROPOSAL: SEP 57

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

23

NAME: Phyllis A. Bock DATE: 2/9/81

ADDRESS: Helena

PHONE: 442-9830 (work)

REPRESENTING WHOM? MT. LEGAL SERVICES; MT.'S POWER TO THE PEOPLE

APPEARING ON WHICH PROPOSAL: SB 311

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: *anonymous* We support SB 311 to reestablish an
Human Rights Commission with sufficient
funding to carry out their business
of protecting human rights so that
people in Montana are not discriminated
against in the areas of employment, training
or education, housing, public accomodation,
financing and govt. services b/c of their
race, religion, sex, handicap, political
belief or marital status.

NAME: Jan Gerke DATE: 2-8-81

ADDRESS: 1014 Cherry

PHONE: 443-3128

REPRESENTING WHOM? Nln Women's Political Caucus

APPEARING ON WHICH PROPOSAL: SB 311

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: See written + oral testimony

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: LEE TOPASH DATE: 2-9-81

ADDRESS: 1285 Van Dusen Road

PHONE: 443-5350 - 458-9023 H

REPRESENTING WHOM? Montana United Indian Association

APPEARING ON WHICH PROPOSAL: Human Rights SB 311

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

See written testimony

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Barbara Simon DATE: 2/1/51

ADDRESS: 615 Lexington Ave. New York 17

PHONE: UN 9-7000

REPRESENTING WHOM? 1. United States Government

APPEARING ON WHICH PROPOSAL: 2-1

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: See attached statement

NAME:

DATE:

ADDRESS :

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Marlin Waylander DATE: 2-9-81

ADDRESS: 214 So 2nd Livingston MT

PHONE: 222-1492

REPRESENTING WHOM? Yellowstone Music Co

APPEARING ON WHICH PROPOSAL: SB 227

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: I invested a great deal of
Money to purchas video poker
machines only after getting
a approval by the County attorney and
County commissioners in both Park
and Sweetgrass County This would
prove a severe Financial hardship to
~~the~~ lose this income.

NAME: Jan Brown DATE: 2/9/81

ADDRESS: 906 Madison, Helena

PHONE: 443-3824

REPRESENTING WHOM? Mt. Assn. of Churches

APPEARING ON WHICH PROPOSAL: SB 227

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: We are not testifying on this bill.

Our position on gambling is to oppose
further liberalization of gambling - so
we have no position on SB 227.

NAME: Henry Kuben DATE: Feb 9, 1981

ADDRESS: 82 St SE 616

PHONE: 482-3555

REPRESENTING WHOM? Siding Moon Lodge # 856

APPEARING ON WHICH PROPOSAL: 227

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

23

NAME:

DATE: _____

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

NAME: Allen Chronister DATE: 2-9-81

ADDRESS: Attorney Gen. Office.

PHONE: 2026

REPRESENTING WHOM? Atty. Gen.

APPEARING ON WHICH PROPOSAL: SB 227

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Jack Williams DATE: 2-9-81

ADDRESS: Ulena

PHONE: 442-5831

REPRESENTING WHOM? 1st Term member of the Assoc

APPEARING ON WHICH PROPOSAL: SB 207

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS: 504 Limit on the Ball machine

Agree limit on the Ball machine?

Law enforcement to be used in the

Limit on number of machines?

1st term member of the Assoc

NAME: Jack Williams DATE: 2-9-81

ADDRESS: Helena

PHONE: 442-3231

REPRESENTING WHOM? Montana Chiefs of Police Assoc

APPEARING ON WHICH PROPOSAL: SB-924

DO YOU: SUPPORT? AMEND? X OPPOSE?

COMMENTS: 50¢ Limit on Pin Ball machines

Mayors
Age limit on Pin Ball machine?

Limit on Pin Ball machine

Law enforcement able to seize illegal

machines

Limit on number of machines?

for location in the state

NAME: RALPH LAR DATE: 2-8-81

ADDRESS: 403 So. YELLOWSTONE

PHONE: 332-2740

REPRESENTING WHOM? ELKS LIVINGSTON, MT.

APPEARING ON WHICH PROPOSAL: 227

DO YOU: SUPPORT? _____ AMEN? _____ OPPOSE? X

COMMENTS: Represent 600 Members

NAME: Eugene PIAZZA SR DATE: FEB - 9 - 81

ADDRESS: 1103 E GALLATIN ST LIVINGSTON MT

PHONE: 222-0968

REPRESENTING WHOM? MOOSE LODGE 559 - + POST 23 AMERICAN LEGION

APPEARING ON WHICH PROPOSAL: 227

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒

COMMENTS: Represent Soc member

NAME: B. L. Rantala

DATE: 2. 9-81

ADDRESS: 1800 7th St So - Hot Falls Mont

PHONE: 452-2706

REPRESENTING WHOM? VFW 4109 Fairfield

APPEARING ON WHICH PROPOSAL: 227

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: represent a body of 104 members

NAME: MARC NACIOT DATE: 2-9-81

ADDRESS: HELENA MT

PHONE: 449-3816

REPRESENTING WHOM? County Attorneys

APPEARING ON WHICH PROPOSAL: 5B 227

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: J. MAYO ASHLEY DATE: _____

ADDRESS: 1111 NO. MONROE

PHONE: 442-3100

REPRESENTING WHOM? Tropic Industries

APPEARING ON WHICH PROPOSAL: SB 227

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒

COMMENTS: NO PREPARED STATEMENT.

NO DIRECT TESTIMONY.

& SB WOULD, AS WRITTEN, MAKE

KENO WHICH HAS BEEN PLAYED IN MONT.

FOR 6 YEARS ILLEGAL.

NAME: John K. Warkley DATE: 2-9-81

ADDRESS: 814-1 Ave. No. West Gr. Falls, Mont.

PHONE: 452-1314 WRK. 454-1350

REPRESENTING WHOM? EIKS Club 214 - OVER 3000 men

APPEARING ON WHICH PROPOSAL: 227

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: We have had no personal problems
whatsoever with the electronic poker
mach. the members of the club enjoy playing
it plus we use the proceeds for the
annual childrens Xmas party. ~~the club~~ in
loosing the use of the machines it would
~~be quite~~ it would financially hurt the
the activities of the ~~club~~ organizations
we help through the club

John K. Warkley

NAME: John J. Tuss DATE: 2/9/81

ADDRESS: P.O. Box 852 Lewistown MT 59457

PHONE: 406-538-3810

REPRESENTING WHOM? AMERICAN LEGION F.O.E. VFW DISTRICT #7

APPEARING ON WHICH PROPOSAL: SB 227

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? L

COMMENTS: IN THE ORGANIZATIONS I REPRESENT We Find
No Trouble With The electronic operated machines
and with our programs for the youth of the state
and find no obstacle for these programs to
improve the knowledge of the youth and assist the
elderly as well. the organizations I represent will
have in excess of 20,000 members and our programs
will have a very wide scope from youth care thru
to the elderly. from birth defects to youth programs
to battling the many diseases of our mankind Heart
Cancer etc. to Boys state Girl state - Baseball bowling,
all phases of discipling good sound Harmon leaders and
Minds. Thank you

NAME: Kevin B. Maguire DATE: 2/9/81

ADDRESS: 2119 Cent Ave - Mt Falls Mt.

PHONE: 453-4518

REPRESENTING WHOM? V. F. W. Post 1087. 1241 Members 480 Aux.

APPEARING ON WHICH PROPOSAL: 227

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: This bill would sharply cut into funds
which are used for community services. Mostly
in the realm of the V. A. Hospitals. In the
past few years we have placed 32 TV sets
at Fort. Harrison V. A. Hospital & a pool table &
4 TV sets & a piano at Mt. Venter Home
at Ft. Collins - courtesy of our V. F. W. Post & Aux.

NAME: Ernie Grasses-hi DATE: 2-9-81

ADDRESS: Box B Black Eagle

PHONE: 761 0300

REPRESENTING WHOM? Black Eagle Civic Club

APPEARING ON WHICH PROPOSAL: 227

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒

COMMENTS: Civic leader & Tavern owner

NAME: Louis Rivera DATE: 2-9-81

ADDRESS: 2243 Fox Farm Road CT Falls MT 59404

PHONE: Home 453-3568 Work 761-3800

REPRESENTING WHOM? ELBON CLUB 450 Members

APPEARING ON WHICH PROPOSAL: 227

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: IT WOULD DEPRIVE MEMBERS OF ENTERTAINMENT
& ENJOYMENT. WE HAVE HAD NO PROBLEMS. IT WOULD
TAKE AWAY FUNDS THAT HELP THE OPERATION OF OUR CLUBS.
IT WOULD HURT THE CLUB FINANCIALLY TO LOSE THE MACHINE.
IN CASCADE COUNTY WE DO NOT HAVE A PROBLEM
IN USING THE POKER MACHINES. OUR MEMBERSHIP
IS IN FAVOR OF KEEPING THE MACHINE IN OUR CLUBS
FOR BOTH ENTERTAINMENT AND THE REVENUE IT
PRODUCES TO HELP THE CLUBS OPERATE. THEY PROVIDE
A LOW PRICED METHOD OF ENTERTAINMENT.

Louis Rivera

NAME: William L. (Bill) Hardy DATE: Feb 9, 1981

ADDRESS: Rt 1 Box 123

PHONE: 482-3017

REPRESENTING WHOM? Sidney Moore Lodge # 851 1250 members

APPEARING ON WHICH PROPOSAL: S.B. 227

DO YOU: SUPPORT? AMEND? OPPOSE? ☒

COMMENTS: We have many worth while
civic affairs projects which are mainly
derived from Penn and Raffle

NAME: EDWARD C BULLER DATE: Feb 9-1981

ADDRESS: P.O. Box 3044 Great Falls Mont

PHONE: 761-0591 — 452-5420

REPRESENTING WHOM? Moose Lodge

APPEARING ON WHICH PROPOSAL: bill # 227

DO YOU: SUPPORT? AMEND? OPPOSE? yes

COMMENTS: I'm representing the moose lodge from
Great Falls with 1400 members also
for the Montana moose assoc. we contacted
22 lodges in the state 16 lodges reported back
to us asking us to speak against bill
227. we have members here from all
over the state to back this up Secretary
from Sidney ^{moose} lodge Bill Hardy will explain
what most of the lodges are doing with
the money

Edward C Buller Secy
Great Falls moose

NAME: Cottonwood Lending Co DATE: 2-9-81

ADDRESS: Box 430 Deer Lodge, MT 59722

PHONE: (406) 4846-2051

REPRESENTING WHOM? self

APPEARING ON WHICH PROPOSAL: SB - 227

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: Written comments submitted to
Committee Secretary

NAME: Paul H. Historia - State Rep DATE: Feb 9, 1981
Dist #39

ADDRESS: 2421 - Central Ave.

PHONE: 453-3665 Hl. Falls - 443-1473 Helena

REPRESENTING WHOM? Self - State Rep

APPEARING ON WHICH PROPOSAL: S.B. 227

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒

COMMENTS: I gave verbal Testimony

NAME: Rep Don Peeples - District 26 DATE: 2/9/81

ADDRESS: 1375 Lanning Ave

PHONE: 223-9092

REPRESENTING WHOM: SILVER BOW TAV. ASSC.

APPEARING ON WHICH PROPOSAL: SB-227

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: In SILVER BOW COUNTY OUR
MAYOR DON PEEPLES & COUNTY ATT. Don
Mc CARTY FEEL THAT THEY HAVE NO
PROBLEMS WITH THESE ELECTRONIC
MACHINES. THEY GENERATED APP
\$22,000.00 TO OUR GEN. FUND.
WHICH IS GREATLY NEEDED IN OUR
AREA DUE TO THE ECONOMIC IMPACT
THAT ARKO HAS CREATED THERE.

NAME: PHIL BENSON DATE: 2/9/81

ADDRESS: 629 Woody Missoula, MT 59801

PHONE: 543-5119

REPRESENTING WHOM? Montana Music Rentals & coin operators

APPEARING ON WHICH PROPOSAL: against SB 227

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒

COMMENTS: I do not have a prepared statement —
~~except~~ But if SB227 goes thru it will
bankrupt my company and hurt our community,
namely, Missoula, Lake, Mineral, Sanders, Ravalli,
and Granite counties —

Phillip Benson

NAME: John P. Stockdale DATE: 2-9-81

ADDRESS: 3324 Sundance Rd. Bozeman, MT.

PHONE: 586-9696

REPRESENTING WHOM? D&R Music & Vending, Inc.

APPEARING ON WHICH PROPOSAL: 227

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒

COMMENTS: From letters of approval we invested in many
Draw Poker machines only to now find they have changed
their opinion.

Our banker is attending this meeting also.

John P. Stockdale

NAME: Rae v KawBF laisd DATE: _____

ADDRESS: 5 helby, MONTANA

PHONE: 434-5417

REPRESENTING WHOM? MONTANA COUNTY ATTY ASSEM

APPEARING ON WHICH PROPOSAL: 22?

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

Need For CLARIFICATION
UNIFORMITY ON OPERATION
electronic devices

Don White

DATE: 2/9/81

Law & Justice Center Bozeman

587 3141

Gallatin Co. W. H. Horney

56 227

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

23

NAME: HAROLD HANSEN DATE: 2-9-81

ADDRESS: 508 Courthouse, 4th Howard County, Billings

PHONE: 252-5181 ex. 230

REPRESENTING WHOM? 78 Houston County Attorney

APPEARING ON WHICH PROPOSAL: 56 227

DO YOU: SUPPORT? YES AMEN? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

DATE

February 9, 1981

COMMITTEE ON

Judiciary

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Edo S. Luceri	Self	227		✓
Recco L. Zavanelli	Amoco	227		✓
John E. Wolf	Eagles #14 Great Falls Mon	227		✓
Z. Robinson	American Music Co	227		✓
James J. Maguire	O'Hare Motor Inn	227		✓
Walt Varasich	Self	227		✓
PHIL BENSON	MONTANA MUSIC RENTALS ^{MSLA}	227		✓
John P. Stockdale	D & R Music & Vending	227		✓
Carl W. Beyer	Bozeman Elks	227		✓
VERN VOEGELE	1 ST NAT'L BANK	227		✓
Harold A. Hofmann	American Legion - Great Falls	227		✓
Brad Schoeff	Schoeff Amusement-Kellogg	227		✓
AL MILLER	ALPINE VENDING	227		✓
KEW PETERSON	Eagles 234 Pittsburg	227		✓
Bill Kneedler	Self Kneedler	227		✓
K. R. Kjeldberg	Bull Dog & Develop	227		✓
James B. Halverson	Big Sky Amusement	227		✓
George Wellcome	Elks, Anacost	227		✓
Ken Myers	Baker Amusement	227		✓
Tom Baker	Baker Amusement	227		✓
Wm. A. Marquardt	Fraternel Order of Eagles	227		✓
Leif J. Halonen	NF of Clubs	227		✓
James H. De Vries	ELKS, Hawks, etc	227		✓
Allert Varasich	Eagles & H of C	227		✓
Joe Suwan	Elks, Hawks, etc	227		✓

DATE February 9, 1981COMMITTEE ON Quarincy

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Robert Dugall	Elks, Shelby Mont	227		✓
George G. Eaton	Engle, End Bank	227		✓
Lytle Marshall	Moose Club	227		✓
St. M. - Quade	Hand ^{Natashell} Quade	227		✓
Pat Longstaff	Pancho Valley	227		✓
Richard Allen	Capitan Music ^{Habert} Inc	227		✓
John B. Shawen	SHAWEN'S Music Lewistown	227		✓
David S. Bant	Moose Lodge - Lewistown	227		✓
Henry A. Hanson	Elks Lodge - Lewistown	227		✓
Steve Schomper	Owens Bar - LT Falls	227		✓
Clarence A. Hornum	Winnipeg Bay C.F.	227		✓
Thomas M. Connors	Steinhaus ^{H. Falls}	227		✓
Terry, Little	Kerner Kent Bogema	227		✓
Bella M. Menus	Wendover Boulder	227		✓
John F. and E. Cooper	Hopst ^{Forest Hill}	227		✓
Cindy Price	Helena	227		✓
Michael Wilson	Forest Falls	227		✓
John J. Fleming	Forest Falls	227		✓
Robert J. Fleming	Forest Falls	227		✓
John H. Fleming	Forest Falls	227		✓
Barry Smith	G. H. Hager	227		✓
John F. Dillbeck	John F. Dillbeck	227		✓
Charles Dillbeck	John F. Dillbeck	227		✓
Richard J. Rathie	DE CLUB, McROSE	227		✓
John W. Hooper	Ballantine Co. Lewistown	227		✓

DATE _____

Friday

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with 3 copies)

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sign up sheet IB 311 ^{January 7, 1981} ~~February~~ Human Rights

Support | Oppose

- Gypmfe Topash, 1955 Vandrail Helena V
Kuma Madan Chhane

- Nuova India (Città vecchia)

January - two 436 K Jackson.

430 N. Jackson Palma L

[illegible]

1812 Pasta Helena

Jan Mariani ✓ Sel & Paul Helena ✓

Bill Kinsley

*unpublished letter to R. F. Ho. Helena ✓

Harriet Kennedy 301-3rd Ave. New York

Helena Hooker Alchance

William W. Jones 105 FORESTDALE HILDAVA ✓

Chauvin Belgarde 2317 Chateau Helena ✓

See Topash 846 Front St. Helms ✓

Synthia Weiss R. Box 720 Helena 59624

Aminda Hays 1916 Cockey Helena 59601 ✓

San Merbe 10141 Desig Hkn. 2

— 300 —

Box 524 E. Helena

David L. Hunter Dept of Labor Hulan ✓