

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman William E. Farrell, on March 7, 1989, at 10:00 a.m., Room 331, Capitol

ROLL CALL

Members Present: Senator Hubert Abrams, Senator John Anderson, Jr., Senator Esther Bengtson, Senator William E. Farrell, Senator Ethel Harding, Senator Sam Hofman, Senator Paul Rapp-Svrcek, Senator Tom Rasmussen, Senator Eleanor Vaughn

Members Excused: None

Members Absent: None

Staff Present: Eddy McClure

HEARING ON HB 139

Presentation and Opening Statement by Sponsor:

Representative Bruce Simon stated the bill he brings before the committee today is at the request of the Department of Commerce, and noted the substance of the bill is on page 3. He indicated that, originally, the bill called for an increase in the per diem for travel to Taiwan and Japan, but it was amended in committee to change it to a foreign country, noting that, in looking ahead, representatives of the state may be traveling to places other than just Taiwan and Japan. He stated this allows those people traveling, on behalf of the State of Montana, to foreign countries, representing our state, to receive a compensation which is more commensurate with the costs involved in making those trips. Representative Simon noted that some of those sitting on this committee have made similar trips, and know that the per diem allowed by state law simply does not hold up in some of these places. He stated he thinks it is unreasonable to ask people traveling on behalf of the state to dig into their own pockets to finance that.

Representative Simon directed the committee to the bottom of the page, and noted that, currently, if a person stays at a

commercial nonreceiptable lodging facility, they can only get \$7.00, and this bill would raise that to \$12.00. He stated that is the substance of the bill.

List of Testifying Proponents and What Group they Represent:

Carolyn Doering, Administrator, Management Services,
Department of Commerce

Testimony:

Ms. Doering stated that HB139 was proposed by the Department of Commerce and, at this time, it has a primary impact. She indicated that, with out-of-state rates for meals at \$22.50 per day, a lot of their people are paying a lot of money out-of-pocket to go to Japan and Taiwan. She stated the state per diem travel allowance is intended to substantially cover the cost of lodging and meals at adequate, suitable and moderately priced facilities, including costs for mandatory service charges, tips, taxes, and incidentals such as laundry and dry cleaning. She reported that is calculated using the average cost for a single room, plus 3 meals, which includes taxes, service charges and tips, and the resulting estimate is increased 10% to cover expenditures for laundry and dry cleaning, etc. She indicated that rate is adjusted every 2 weeks to reflect a 3% change in the exchange rates. Ms. Doering indicated they hope the committee will support this legislation.

List of Testifying Opponents and What Group they Represent:

None.

Questions From Committee Members:

- Q. Senator Bengtson asked if there is a fiscal note on this.
- A. Representative Simon responded there was a fiscal note prepared, which shows there will be no adjustments to budgets as a result of this particular bill.
- Q. Senator Bengtson asked why not.
- A. Representative Simon responded that he did not draw up the fiscal note, and that he thinks there will be some increase in expense, but noted they seem to think those expenses can be absorbed in other areas. He stated he does not know, but that, obviously, there will be some increased cost, because there are people traveling out

of the country. He indicated there will be some increased costs, but he does not, for sure, know what the increased costs would be, noting there is no way for him to estimate. He pointed out that the committee has the fiscal note.

Senator Bengtson stated she sees that, and it is strange.

Closing by Sponsor:

Representative Simon stated he thinks the need for the bill is quite obvious, that he does not think it needs any further explanation, and urged the committee's support.

Chairman Farrell announced the hearing on HB139 as closed.

DISPOSITION OF HB 139

Discussion:

Senator Bengtson offered a motion that HB139 be concurred in.

Recommendation and Vote:

Motion passed by the committee that HB139 be concurred in.

HEARING ON HB 210

Presentation and Opening Statement by Sponsor:

Representative Chuck Swysgood stated that HB210 is an act to provide that the interest earned on gross revenue generated by the state lottery, revenue that is in the lottery enterprise fund in the State Treasury, be distributed to the Superintendent of Public Instruction for the equalization of teachers' retirement. He indicated that, under current law, the interest earned on annuities, on the monies that the lottery holds, is put in to the general fund through the interest and income bracket. He stated that, when the people of the state passed the lottery, the statute was very clear, and provided that all monies generated from lottery revenues, after distribution back to prizes, commissions and admini-

stration, go back to teachers' retirement, and that, in turn, will, hopefully, have a reducing effect on the property tax levy to those counties eligible for this, through the millage levied through the teachers' retirement. He indicated that this bill will take the interest earned on this money out of the general fund, where it is not flowing, and put it back into the OPI for redistribution back to the eligible counties, hopefully, for a reduction in the property taxes.

Representative Swysgood stated that amounts to about \$195,000, per year, and indicated the legislative auditor told him it was somewhat higher than that the first year, because the monies generated by the lottery were held for 9 months before they were distributed, and the interest accrued was more considerable than what it is now, on a quarterly redistribution. He stated that, for the last part of 1987 and the first part of 1988, before it was distributed, the interest amounted to about \$.5 million, and that now they estimate it, over the biennium, to be around \$390,000 to \$500,000, but noted that the fiscal note says \$195,000 each year. He referred the committee to page 2 of the bill, which states, "That part of all gross revenue not used for payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue and must be paid quarterly from the enterprise fund established under the statute to the Superintendent of Public Instruction for distribution as equalization aid to the retirement fund obligations of elementary and high school districts, in the manner provided by statute." He indicated that is all this bill does, noting this further enhances the revenue for equalization.

List of Testifying Proponents and What Group they Represent:

None.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Bengtson asked Representative Swysgood where the interest was going before.
- A. Representative Swysgood responded it was going to the general fund under the heading of interest and income, and that the money was used for a variety of purposes

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through the appropriations process. He added that some of it was in the ending fund balance.

- Q. Senator Bengtson asked if this is called earmarking.
- A. Representative Swysgood responded that he does not believe so, that he thinks this is doing what the people wanted when they passed the lottery bill.
- Q. Senator Bengtson stated that she agrees this is more money to be distributed to the counties for property tax relief, noting Representative Swysgood stated \$195,000, and asked if that is per quarter.
- A. Representative Swysgood responded that is per year.
- Q. Senator Bengtson stated that, actually, that is the additional amount of money that will be distributed.
- A. Representative Swysgood responded that is correct, indicating that money is currently flowing into the general fund.
- Q. Senator Bengtson indicated they have had discussions on the floor involving earmarking monies, that they have earmarked a lot of that, which has all been going into the general fund, and appropriated out.
- A. Representative Swysgood responded that, if you consider the lottery revenues, as the people voted on the lottery, an earmarked account, then this would become part of that account. He stated he considers it a property tax relief, that this is what the lottery was passed for, and that is all he is attempting to do here; make sure all the monies generated from those revenues go to the purposes so designated in the statute, and by vote of the people.
- Q. Senator Abrams indicated there is a fiscal report on this, and that it would be helpful if the committee had that.
- A. Representative Swysgood asked if the committee does not have one and, upon response that they do not, indicated he does not know why, and offered his copy to the committee.
- Q. Senator Vaughn asked if this would be effective from now on, and the money that has already been put in the

general fund would not have to be reverted back to this, that it would go into effect as of passage of this bill.

- A. Representative Swysgood responded that is correct, adding that, when this bill passes, this would become part of law, and would automatically continue as long as the lottery is a viable source of revenue.
- Q. Senator Hofman asked, regarding the gross revenue, before it is distributed, if it is invested.
- A. Representative Swysgood responded that he is not sure, noting that he is sure a lot of it goes into annuities and an enterprise fund, which is invested in short-term investments, because it has to be redistributed, and it could not be put in long-term investments. He stated he would assume the Board of Investments, or whoever handles the interest and the bonding, and other interest and income measures, handles these same monies.
- Q. Senator Abrams asked if that is in line 3 of the fiscal note. Upon Representative Swysgood's response that he does not have the fiscal note, Senator Abrams read the line, which indicates the entire cash balance is to be invested in short-term investments.
- A. Representative Swysgood responded that he thinks they are out on short-term investments because of the fact that they have to be redistributed every quarter.
- Q. Senator Anderson stated that it was the intent that all this money from the lottery, originally, go into the teachers' retirement fund.
- A. Representative Swysgood responded that is the way he interprets the lottery, as it was passed by the people, which said all revenues generated by the lottery, after the paying of expenses, commissions and prizes, was to go back to the office of public instruction for redistribution back to those eligible counties for teachers' equalization, thereby reducing the millage levy for the retirement. He indicated that is the way he interprets it, that he guesses that is in the eyes of the beholder, but assumes his interpretation is one that the people would support.
- Q. Senator Anderson asked what does the present statute provide as far as where the interest money would go.

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- A. Representative Swysgood responded that he had some difficulty finding that out, when he first decided to go forward with this bill, noting that nobody really quite understood how it could be used, and for what. He indicated that the Legislative Auditor told him it does go into the general fund, as does all interest and income from other monies that are invested by the state, and it is divvied out as a whole, in the different areas of the appropriations process. He stated it will take \$195,000 a year away from the general fund, if you want to come right down to it, which he does not have any problem with. He noted the lottery was not put into effect to support the general fund.
- Q. Senator Bengtson stated you would think the office of public instruction would be here supporting this bill.
- A. Representative Swysgood responded that he is a lone wolf on this, that no one appeared in the House committee, and it passed the House committee without a dissenting vote. He indicated he is here, again, on his own, noting he does not know if they are afraid of him, or what it is, but stated he thinks it is a good bill. He added that evidently it is, or he would have a whole line of opposition, and indicated he does not know why there is no one here supporting the bill, and he does not really care.
- Q. Senator Vaughn asked if he has had any contact with the OPI, and have they expressed their feelings to him one way or the other.
- A. Representative Swysgood responded no, that he did not talk with the OPI when he decided to do this, and they have not come forward to lend their expertise, or anything else on it. He indicated he talked with Senator Stimatz, before this Session started, because he was the father of the lottery bill the people passed, and asked him if he had any problems with it, and he said he did not see any.
- Q. Senator Hofman asked if we are setting any kind of precedent, noting all the other funds go into the Board of Investments, and are invested, and asked if the interest on a lot of other accounts go back with where they came from, or is this doing something a little different.

- A. Representative Swysgood responded that he does not think this is setting a precedent, and indicated he is strictly going by the law that the people passed, noting the law says "all monies". He stated he considers interest monies earned on the annuities as part of that overall money generated by the lottery, and he does not see where it is a precedent setting mechanism. He indicated that most of the other funds, interest and income from other investments, are coal monies, or whatever, invested by the state, and that the people did not really vote on all that. He stated this is a specific piece of legislation that the people of the State of Montana voted for, and he is interpreting it to say that all those monies that have been generated go to a specific purpose, other than those designated by law to run the lottery, and to pay the prizes, and that they should go back to the equalization of teachers' retirement. He again stated he does not see that as precedent setting, that he does not think there is going to be a run on all the interest and income to be divvied back out, and he thinks this is a specific instance, it is unique.

Closing by Sponsor:

Representative Swysgood indicated he thinks he has said about all of it, and that he thinks it is a good bill, noting that, if it was not, there would be a lot of opposition. He added that, because there are no other proponents, that maybe they have enough confidence in him to do it on his own. He stated he wishes the committee will look favorably on this bill.

Chairman Farrell announced the hearing on HB210 as closed.

DISPOSITION OF HB 210

Discussion:

Senator Rapp-Svrcek noted that it may be out of line, but asked Chairman Farrell, as long as Ms. Dowling is here, could he ask her a question about HB210. Chairman Farrell responded for informational purposes, only.

- Q. Senator Rapp-Svrcek asked if Ms. Dowling is aware of this bill and, indicating he noticed the amendment she offered to maximize the net revenue, asked if that amendment would take care of Representative Swysgood's concern in this regard.

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- A. Ms. Dowling responded that Representative Swysgood just speaks to the interest, and indicated that, now, the general fund gets all the interest.
- Q. Senator Rapp-Svrcek asked Ms. Dowling how does her first amendment, maximizing net revenue, deal with interest.
- A. Ms. Dowling responded it does not deal with interest. She stated that, hopefully, there will be more net profit to earn more interest.

Senator Rasmussen offered a motion that HB210 be concurred in. Senator Bengtson asked if this is an enterprise fund, like the other funds that they de-earmarked. She stated she knows the lottery law is separate, and added that she does not believe in all the de-earmarking, and that she has no problem with the bill. She noted that she had a problem with what they did on the Senate floor.

Recommendation and Vote:

Motion passed by the committee that HB210 be concurred in, with Senator Hofman opposed.

HEARING ON HB 207

Presentation and Opening Statement by Sponsor:

Representative Budd Gould testified that HB207 is the lottery bill, that it is a very important bill, and is a bill that implements whether we will have a lottery in Montana, or whether we won't have a lottery in Montana.

Representative Gould gave the committee a little background on his involvement with the lottery, reporting that, in 1985 and 1986, he was going to Washington, D.C. about once a month. He stated that he was able to schedule his trips so that he could go to many of the state lotteries in the east, which is really where state lotteries started. He indicated the one thing that Diana Dowling, and other people, can tell you is that the people who run lotteries are a breed unique among themselves in that they are absolutely the most helpful people that he has ever talked to in his life. He noted he has gone to the Maryland lottery, Delaware, Washington, D.C., and the Tri-State Lottery, which is a terrific example of how states can work together, which is Maine, Vermont and New Hampshire, and noted that he has been to the Washington State lottery,

along with many others. Representative Gould stated that virtually every lottery starts out the same as the Montana lottery did, with an instant game, and that it takes a couple of years to get the in-line game started. He indicated an in-line game is a computer-generated game, where you pick your own numbers, there is usually a weekly drawing and, when things really get going well, they usually have bi-weekly drawings, such as they have now in both Oregon and Washington. He indicated this is the thing that really does make the lottery.

Representative Gould stated that, until you get an in-line game going, the first year, the lottery will start out with a bang, the same as the Montana lottery did, which set records for sales. He indicated that, after the first year, lottery sales of instant tickets slump, that people do lose interest, indicating that is understandable, and that many lotteries have come very close to going belly-up before they ever have an in-line game going. He stated many of them have saved their lotteries by innovation, and gave a couple of examples. He reported that Delaware, which has a population of 603,000 people, 200,000 less than the State of Montana, their lottery went broke shortly after it started. He indicated they were able to put it together by a very innovative idea. He noted that Harrisburg, Pennsylvania is not far from Dover, Delaware, and they put in a dedicated phone line, contracted with the State of Pennsylvania and Control Data Corporation, and now they are putting \$13 million to \$15 million a year into the Delaware general fund. He stated those are the types of things where you come from the depths of despair to victory, and that is what they are looking for with the lottery in Montana.

Representative Gould stated that HB207 carries a lot of little things that clean-up things which they thought, when it was first being set up, would be necessary, but they find are not. He indicated that, for example, every person who becomes a lottery retailer would have to be finger-printed, and pointed out that, if a person has had a grocery store in Red Lodge for 40 years, or St. Regis, or someplace like that, and everyone has known him since he was born, there is not much point in having that person finger-printed. He stated the main thing is to go through a really thorough financial check of that person, so that they know, when they deliver lottery tickets to that person, they will get their money. He stated that is what is really important, not whether the person has any criminal background, when everyone knows the individual. He indicated there are 2 things in the bill which are very important, and pointed out that the word "regional" was to be

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removed but, through a drafting error, was not caught. He noted that, on the Governor's desk in South Dakota, there is a bill which would allow for a regional lottery, and that Idaho is working on that, if their lottery is passed. He indicated it may be that Montana may want to contract with the State of Washington but, since we are divided by Idaho, it was the Attorney General's opinion that we could only contract with states that are bordering us, because of the word regional.

Representative Gould stated the second thing, which is much more important, is that the lottery should not be run like state government. He indicated that, in all of the lottery states that he has gone to, the lottery offices are completely separate and divorced from regular state government. He stated the lottery is a business, and, in order to run a business, they need to have flexibility. He noted that, for example, if Chairman Farrell was told that he could only buy fuel for his trucks at Conoco stations where fuel is \$.10 per gallon more than anywhere else, and he could only carry 28,000 pounds, it would not be long before his trucking business was broke. Representative Gould stated that he has to do things in his business to be a good business person, and make that business run for a profit, or it will not be long before his business is no longer a business, at all, indicating that is the same thing that needs to be done with the lottery. He noted one of the things that has been done, when states have gone from the beginning, where they were very dependent upon just the instant ticket sales, is to put in a game that will, instead of having a 45% pay-out, which is the way the law reads in Montana, have a larger pay-out. He indicated that, for example, Connecticut increased their ticket sales by 10 times, and noted that, if you have 35% of nothing, you have absolutely nothing, adding, if you have 20% of numerous millions, you have a large amount of money. Representative Gould stated the thing that is very important to him, as a legislator, and to the 70% of the Montanans that voted for the lottery, is that they maximize the profits that go to the teachers' retirement. He indicated that, in the House, unfortunately, there was an amendment put on the bill on the floor, and he would have to say that, probably, the idea was that some of the people who voted for it did not like the idea of the lottery, and stated that, if that amendment is to be left in this bill, he thinks there is only one thing for this committee to do, and that is to bring the lottery to an end, and not let it just die a lingering death.

He stated what they need is flexibility, that they need to do what they can in order to put the most amount of money into

the state coffers in teachers' retirement. He indicated they are not that far away from being able to have an on-line game and, once they get the on-line game, noting there are possibilities of having a regional game, they could have a larger lotto game, Lotto America, and they could also have a Montana game. He stated those are the things that are very important.

List of Testifying Proponents and What Group they Represent:

Diana Dowling, Director, Montana Lottery
Senator Chet Blaylock
Spencer Hegstad, Chairman, Montana Lottery Commission
W. E. Stevens, Executive Director, Montana Food Distributors
Association
Senator Larry Stimatz

Testimony:

Ms. Dowling stated the Montana lottery is now 20 months old; the Montana lottery is a business; it is a multi-million dollar business, and it's a fun business. She stated they sell pleasure; they sell smiles, entertainment, fun, and dreams. She reported they are a business run by the state, at no cost to the state, indicating the committee may remember that the lottery was appropriated \$1.5 million for start-up, which was paid back within a matter of weeks, with interest, and that the lottery went on to earn an additional \$8.4 million in profit to the state in its first year. She pointed out that is \$8.4 million they did not need to raise by property taxes. Ms. Dowling handed out copies of newspaper headlines, a copy of which is attached as Exhibit 3, and stated that this collage of headlines really tells the success story of the lottery's first year. She stated she is here to testify on HB207 which, if passed as originally drafted, will insure that the lottery will continue to be a successful Montana business.

Ms. Dowling distributed copies of her testimony, a copy of which is attached as Exhibit 4. She reported that Section 2, which provides for rulemaking authority be given to the Commerce Director for lottery staff sales incentives and bonuses for retailers's commissions, was at the request of Governor Stephens, and was put in by an amendment in the House committee. Regarding Section 3, Ms. Dowling indicated that Representative Gould spoke to increased payouts, and noted that is a very important part of the bill. She read a paragraph from the March issue of Forbes magazine, an article on lotto mania, indicating it talks about the Massachusetts ticket sales. She reported they went from \$50 million, in

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1982, to a probable \$600 million this year, noting this is instant ticket sales, alone. She read the article, which states "Massachusetts is generally recognized as one of the best run lotteries in the country, and it boasts the highest per-capita sales in the business. One reason is that Massachusetts has been paying out more and more of the lottery sales in prizes. As much as 60%, versus 45% only 5 years ago. She asked, why not give the customer 60% of its money back, and indicated that the state's profit, based on \$600 million, is a heck of a lot more than based on \$50 million. She noted that, although it used to be 35% of \$50 million and, now, maybe it is only 20%, the bottom line is a great deal more, because they are paying out more prizes. She reported that, in the February issue of Gaming and Wagering, they talked about this same thing, and stated there is no question in anyone's mind that hiking the instant prize pay-out to 55% or 60% will translate into additional sales. She noted that, in New York, where lottery players were forced to contend with a miserly 40% prize pay-out, the recently legislated boost to 50% has created an instant sales success. She noted sales are up 75% since the first game hit the street.

Ms. Dowling continued with a summary of the sections of the bill. Regarding Section 4, she reported that there are 4 members of the Legislative liaison committee; Senator Stimatz is chairman, Senator Tveit is a member, Representative Vincent and, of course, Representative Budd Gould are members of the lottery liaison committee. She stated that, under law, they have to meet with the lottery commission at least once a year. Regarding Section 6, she reported that, when the lottery was audited, the auditor felt that it was not clear because, actually, due to free tickets, commissions run about 5.6% of revenue, and you never know which pack of tickets has how many free tickets, so they just give them 5% on the face value of the ticket. Ms. Dowling stated she anticipates that rules could be adopted, something like Colorado, where retailers are paid 5%, if they sell 1,000 tickets. She noted that, if they increase their sales by a certain percentage, they will get 6% or, if they increase it by an even greater percentage, they will get 7% or 8%, noting this encourages retailers to increase their sales, because they not only increase their bottom-line commission, but they get a lot bigger commission, the more they sell.

With regard to Section 10, Ms. Dowling indicated that subsection (1) provides that the lottery commission could determine, from game to game, what the pay-out would be. She stated that subsections (2) and (3) would allow the lottery, as other agencies, to go to the appropriations committee, and prove its

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case as far as budget needs, as well as providing that the lottery budget would be the same as all other agency budgets. Regarding new subsection (4), she stated that, for instance, if the appropriations committee approved a \$3 million budget, which is what the lottery needs, and if they had a 55% pay-out for the game, and are selling tickets like crazy, they would need to order more tickets, and their expenses would go up. She indicated they could revise the operational plan, and get authority to have more spending authority to buy more tickets.

Ms. Dowling stated that, regarding Section 11, the current law states that the Legislative Auditor has to do the work, indicating they subcontract all of their other audit work out, and this clarifies that the lottery is no different than other agencies.

Ms. Dowling distributed copies of the proposed amendments, a copy of which is attached as Exhibit 5. She went over the amendments. Regarding Amendment #1, she stated this puts into law what the Montana lottery has always assumed, that the business purpose of the lottery is maximize profits for the state, noting it specifies that all rules and policies must comply with this purpose. She noted that, for instance, if the lottery commission were to decide that they will provide a 55% pay-out, and the purpose, of course, is to increase profits to the state, and they found they were not selling a lot of extra tickets to, indeed, increase the bottom-line, they would have to reverse that policy. She indicated that, regarding any policy they adopt, the purpose will be to increase the profit to the state, noting that, if it is not working that way, they need to adopt another policy.

Regarding Amendment #2, Ms. Dowling stated that the 35% restriction has been likened to a farmer being given 100,000 acres by the state to run, and the state saying he can do whatever he wants, but has to give the state 35% off the top. She indicated she is sure that farmer would be deciding how he can cut costs, and what can he live without, that perhaps he could live without fertilizer this year but, if he goes without fertilizer, he is not going to grow as many crops, and will not make as much profit. She indicated it does not matter if there is a drought, or he does not have money to buy seeds with, he has to pay 35% off the top, noting you can not run a business that way.

Ms. Dowling referred to an editorial she read, which said something in the terms that we must remember the lottery, although it is not going to solve all the ills of the state,

was passed to raise some money for the state, to let our retailers earn some commissions, to make a few people hysterically happy, and let people have fun playing the lottery. She stated it is a fun way to raise a few bucks and, whether the profit is \$1 million or \$4 million, or \$10 million, or \$20 million, it is profit to the State of Montana that it sorely needs at times like this.

Testimony:

Senator Blaylock stated it is strange for him to be supporting a gambling bill, indicating that he served on the Constitutional Commission, and gambling was a big issue in that. He stated it was so hot that they finally put it on as a side issue, noting it is very fortunate they did, because that is the only reason they got the new constitution adopted. He stated that so many people wanted gambling, they voted for the constitution for that reason. He indicated it may not have been a good reason, but that is what happened, noting he did not support Senator Stimatz, when he had this lottery bill up, but it passed, and over 70% of the people supported this.

Senator Blaylock pointed out that we have it now, and indicated that he thinks we should let it run, and let it run as a business, from the evidence he has seen, that is the only way it is going to be successful. He reported that he attended a meeting of the lottery commission, and the head of the Department of Commerce, at that time, was sitting there as a member of the commission. He stated he would like to have the committee very seriously consider taking the part out which provides that the Director of the Department of Commerce may adopt rules relating to lottery staff sales incentives or bonuses, and sales agents commissions. He indicated that seems, to him, to be taking a lot of the power away from the commission, on which he sits, and indicated he does not know why that is in there, or why they need that, and he would very much like to have the committee consider taking that out of there or, if they decide to leave it in, have good reason why they want to leave it in, noting he does not see it, at this point. He stated he thinks that, while his retirement is involved because he is a retired school teacher, the commission and Ms. Dowling have an excellent point, that this business of saying they have to give 35% right off the top is unreasonable. He asked the committee to let them run that commission so that more people will buy these tickets, noting he is running into a lot of his constituents who are saying they never win, and are going to quit. He indicated

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that he thinks, if this thing is going to be successful, they have got to have the money to offer in prizes, so that people will be given the incentive to buy, and stated that he thinks, if we do keep this business going, and the bill is going through here, they should be allowed to tap into these regionals. He stated he thinks it is a move in the right direction and, as long as we are going to do this, let's keep it running. He stated he very much supports this, and hopes the committee will consider the amendments.

Testimony:

Mr. Hegstad stated he comes before the committee, not only as chairman of the Montana Lottery Commission, but also as a successful private business. He reported that he has been self-employed for 24 years and, for the last 20, has been a Sears merchant, catalog business. He indicated that, prior to that, he was in the garbage business. He stated that, because of his business experience, he is also allowed to serve on a savings and loan association board of directors, noting he has some background, with success, that deals with business. He stated he believes the critical issue before the lottery today is that it be allowed to operate as a business. He noted that he has been involved in other state commissions, and knows the demands of state government, and that the Montana Lottery is at a very important cross-roads now, in its second year.

Mr. Hegstad indicated it is just beginning to understand how its product fits into the Montana market, and it must be thought of in business terms, not in governmental terms. He noted they must talk in terms of profit and business expense, not cutting costs and budgets. Mr. Hegstad stated the market place demands immediate reaction, noting that, in his business, over the past 20 years, 80% of his business is out of a sales catalog, that Sears has just gone through a change whereby they know the people wait for sales, and it actually cuts back on business. He noted it took them a long time to figure that out. He stated people drive the market, and you have to be able to react instantly to that market. He indicated he could tell the committee that Sears in Dillon, Montana has been very successful, and that the savings and loan operation he is involved with on the board of directors is a very successful operation, but, if either of those were required to have a 35% profit every year, year in and year out, even though they have been very successful, their doors would be closed right now, if they were not allowed to operate, as a business. He stated we must give the Montana Lottery the business flexibility that it needs to operate,

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especially in this critical second year. He indicated that, if not, in his opinion, they may just as well close the doors and go home, noting that, if the committee does not take favorable action on this bill, he believes that will effectively cause the lottery a slow death and, in his humble opinion, if this does not pass this committee, they should take a hard look at shutting the lottery down, noting the people of the state would be very disappointed in that, because it is very successful.

Testimony:

Mr. Stevens reported that his membership comprises some 70%, or better, of the lottery agents, of people who are selling, noting that most of them are grocers. He stated they are here to support the original bill, as presented by Representative Gould. He indicated it can not work, in their opinion, as amended, and they would urge the committee to put it back the way it was. He noted that, additionally, they are sponsoring HB446, in which they are requesting additional commissions. He indicated that, if this bill is passed the way it is amended, neither bill are going to be any good, especially for the grocer. He stated they are going to lose interest out there by the people who are selling it, noting that they have already lost some interest, apparently, from the people who are buying these tickets. Mr. Stevens asked the committee to please put this bill back the way it was to begin with.

Testimony:

Senator Stimatz reported that he initiated the lottery, many years ago, although not the one that passed. He indicated the first 2 bills he introduced were defeated in the Senate. He stated the bill before the committee was introduced in the House, and passed, noting that the lottery has had a fabulously successful first year, with \$20 million in sales. He indicated that, beginning their second year, as Ms. Dowling reported, the sales have fallen off, and they are predicting \$13 million, which is a \$7 million loss. He stated this fall-off in sales, as Representative Gould mentioned, is a natural result of the operational aspects of the lottery. He indicated that, when he started this, noting he was alone, a trail-blazer, there were 13 lottery states, and added that, now, there are well over 25, and growing. He stated he had 3 volunteers, consultants, who appeared for him free and that, on the first bill he introduced, it was a man named Silverman from Connecticut. He indicated that, on the second lottery bill, it was a Webster Bridges, indicating he forgets whether he was the nephew or son of Senator Bridges from Connecticut,

but noted that Webster, on his own, was one of the original lottery directors of the State of Connecticut, and served in that capacity, if his memory is correct, for 8 years. He indicated he was also a member of the Connecticut legislature. Senator Stimatz stated that Owen Hickey, who was the advisor on the third and last bill, was the first director of the Colorado State Lottery, and he left that to go consulting. He stated Mr. Hickey was hired by the Montana Lottery to be a consultant but, as the committee may recall, he had an unfortunate early death while in Helena in February of 1987. He noted they did not get the benefit of Mr. Hickey's advice during their formative period of time, but noted the point about those 3 people is that he wrote the bill himself, using the Michigan, and various other states, lottery bills, and that he did not take any of the packaged bills that came down from Scientific Games, the purveyors of equipment, or any of these consultants, or anyone else. He again stated he wrote it himself, and they critiqued it. He stated that the first thing all of them put their finger on was why do we think we can run the lottery on a percentage of 15%, plus the 5% commission, which is 20% general expenses. He stated each one of them, unequivocally and forcefully, said we can not do that, the state is too small and, percentage wise, will not get enough money in sales to run this thing. He indicated he told them we needed that to pass this bill, and they said okay, if you think you need it, but you are going to have to amend it after your first two years of trial, that you are going to find that it will not work, you are not going to generate enough money; your sales in the second year are going to drop. Senator Stimatz stated these are people who ran games, who consulted the 13 states that did it. He indicated that the amendments are asking to get rid of that limitation of 35%, and put it back the way it originally was, referring the committee to page 16, line 2, section 10. He stated they need flexibility, and noted they are an enterprise fund, they are not a part of state government, and not the part of an agency that subcommittees and committees write rules for, write laws for, to help them run their business on a day-to-day basis. He indicated all of his consultants have told him the main thing we need in a lottery, number 1, is integrity, and, number 2, flexibility. He stated they certainly have had integrity in the operation of the Montana Lottery, noting the Director of Security, John Onstad, has done a marvelous job, and reiterated that they have the integrity. He stated the lottery has to have integrity, or it will disappear. Senator Stimatz indicated the lottery has done everything right, that everything is as predicted, but noted it needs to get back to the way it was. He stated there was not a drafting error, that he put the word "regional" in because there was nothing

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else, and the only potential was the northeastern part of the United States, with Connecticut and Massachusetts and New Hampshire and Vermont, who were going to form the Northeast Regional Lottery. He reported that the technique of computers was not developed at that time, so there was no capability, from a technical point of view, for Montana to join them but, now, with computers, they can join the lottery in Florida, Texas, all over the United States, noting there is one called Lotto America. He indicated he used the word regional simply because that is what they were calling the first proposed one. He stated the Attorney General gave a very narrow interpretation of what regional meant, based on good business law and precedent, but noted it was not based on any kind of lottery precedent. He indicated he intended that they do what they are capable of doing, that this is the only reason he used the word regional, and he would have been happy to leave it out. He reported that he told the Attorney General he did not intend to limit it and indicated, if he is looking for legislative intent, as far as the rest of the legislature is concerned, he is sure none of them even know that word is in the law. Senator Stimatz stated it was not his intent to make an adjacent state the only one we could enter. He noted that, at that time, they thought North Dakota and Idaho would pass a lottery bill, but both of them failed that year.

Senator Stimatz stated they need the word regional taken out so they can join these other states. He indicated the lottery director and the commission have done a fine job, but the lottery needs flexibility, that it needs to be run, and continue to be run, as a business; it does need independence. He noted, regarding the director of commerce, that was not in the bill he originally drafted, and was not in the bill originally passed, indicating he would like to see that come out. He assured the committee that his intention in starting the lottery was very primary, very simple: (1) make money. (2) let the people have fun. He stated the main purpose of the law was to make money and have tax relief, that there is no other purpose in the lottery, and indicated you don't start this, and run a big operation, just so the people will have fun. He stated they wanted money, and it was a side issue to have fun. He asked the committee to remember their slogan, when they were bringing this to the people for a vote, "If you don't play, you don't pay", and noted this is not a tax, or anything like a tax. He stated that, unless a person plays the lottery, it doesn't cost them anything, but that person reaps the benefits of the money that is collected. He stated there was significant tax relief, \$8.4 million the first year of operation of the lottery, but noted it will drop considerably now, because are sales are down. He stated sales

can go up, that many people have told him they will not play because they never win, and stated they need to increase the percentage pay-out, which all these states have done, and that his advisors said, in the future, they will want to do this. He indicated they stated those percentages are shackling them, but he said we need them, we have got to give the people and the legislature something they can see and relate to. He indicated to them that, if it was open-ended, people might think there is some skull-duggery afoot, and that we are trying to pull a fast one. He noted that is the original reason for the percentages, and that he fully expected them, 2 years after operation, to come back to this session and change them. Senator Stimatz stated the forces moved much more quickly, and stated the lottery is, and can be a great success, that it will increase its revenues, but noted that 35% of a falling amount is not nearly as much as what they will pay when sales are increased. 35% of nothing is nothing.

Senator Stimatz stated the proposed amendment that Ms. Dowling submitted, maximizing the net revenue paid, is a good watch word, noting it was always the intention. He indicated they wanted to get as much money coming in, so there could be as large a tax relief as possible. He indicated the committee members could ask any county commissioner or county superintendent of schools the amount of money the lottery has done for them, indicating it is very substantial. He stated the lottery did pass the state on the initiative, that every county in the state voted for the lottery, and he thinks the least amount was 52%, noting that the highest amount was over 80%. He urged the committee to give the lottery the flexibility it needs, asked them not to fear it, noting it has ample controls, that Scott Seacat is looking over their shoulder, absolutely constantly. He reported he worked very closely with Mr. Seacat, when he wrote the bill, and asked him to write whatever he needed to write in for accounting, and that he did. He stated he also went to the Department of Commerce, and asked them to do a few things. He stated this is a shake-down cruise, that they are learning as they go, and that they will be back in 2 years with more little things. He indicated most of what Ms. Dowling told the committee about are technicalities that are just picking up what they would have expected would be the needs of the lottery.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Rapp-Svrcek pointed out to Ms. Dowling that everyone who testified talked to the need for flexibility in the lottery, and yet Section 10 locks them in to a 45% minimum pay-out, indicating it seems to him that goes against their need for flexibility, and asked why do they not just leave that open.
- A. Ms. Dowling responded that is a good question. She indicated the point is that it is a minimum, and not an absolute pay-out, adding that she does not think they could sell ticket one if they went any lower than 45% pay-out. She stated that she thinks it is proper to lock them in at a minimum because, to pay out any less than that, they would not sell any tickets.
- Q. Senator Rapp-Svrcek stated that several people have testified we are in a downward spiral with the lottery, as it is right now, and asked what are they doing to reverse that spiral, and what happens if it continues, at what point do we cut our losses.
- A. Ms. Dowling responded that is, again, a good question. She commented that this is a great committee to come before, stating that she thinks they are all very experienced in asking the hard questions, and she appreciates that.

She reported that she has never encountered, in 20 years with the federal government, anything that engenders such rumors as the lottery does, noting that some have been wonderful rumors, but wrong, and others have been not so good rumors, and equally wrong. She told the committee that, anything in the back of their minds, don't be afraid to ask.

Ms. Dowling responded to Senator Rapp-Svrcek's question regarding the downward spiral, indicating that was news to her, that she knew nothing about lotteries, and the biggest mistake they made was to not plan for a second-year down trend. She stated that she thinks one reason is that the state is full of excitement, and they could not sell tickets fast enough, when they first came out. She indicated they sold about 8 million tickets the first game, that the odds of that first game were 1 in 8 or 1 in 9. She noted they were selling millions of tickets, there were millions of winners, and people knew winners. She indicated then, as it falls off, people do not see as many winners, and think it is not as good a game,

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adding that they are coming out with a new game tomorrow, called Montana Scratch, which is going to have a \$10,000 top prize, and odds of 1 in 3.8. She indicated that, still, when they are not buying as many tickets, people don't see as many winners. She noted the trend has started back up, since December, that they are selling more tickets, but added that it is a natural phenomena that second year sales are always down, noting that most of the states sell half as many the second year. Ms. Dowling indicated they did not know that, they did not plan for that, and their budget was based on sales of \$25 million. She noted that, as sales kept going down, they had to slash the budget and, when you get down to rock bottom when you can not slash anymore, and have so many fixed costs, you slash promotions, and get into a vicious circle. She indicated you can not promote it, can not advertise it, and, therefore, people don't think there are any winners out there, so they don't buy as many tickets, and you don't have a budget to promote.

Ms. Dowling stated that was a good question, and indicated that, if the trend continues, there is a point. She noted they are asking the committee to give the lottery the flexibility to bring it out of this, that they will have an on-line game, adding that she is sure the trend won't continue but, if it does, the Governor will fire the lottery commission, fire the lottery director, that they will come back in 2 years, and the legislature will put a lid on it, kill it. She indicated they are not satisfied with just \$1 million in profit, they think it is not worth it, and there would be a point where the legislature would have to say they do not want a lottery unless it can make a certain volume of profit.

Representative Gould stated one thing that was really eye-opening, and interesting to him, was when he went to Maine, Vermont and New Hampshire. He indicated the biggest thing there, in the way of a sales tool, is word of mouth, winners, and that type of thing, much more so than paid advertising. He noted that increasing the percentage does that to a great degree. He indicated that, even when you have \$10, \$15, \$20 winners, lots of them talk about it. He stated that, when they started the Tri-State Lottery in Maine, Vermont and New Hampshire, they had sales of about \$800,000 a week, and then there were several weeks of roll-overs, the jackpot got quite large, and they sold millions of tickets in a week. He indicated then it was won, and the next week, where they had been at \$800,000, and then the big jump,

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it went to about \$1.2 million with that first big one. He stated that it leveled off, then there were several weeks of roll-overs, and there was a big week in sales. He noted that, instead of a base of \$1.2 million, they were at \$1.4, and it steadily increased, adding they had only been going about a year and a half when he was there. He stated the point is that there are people in Montana that do not play the lottery but, if a neighbor says he just won \$20 in the lottery, the other neighbor, the next time he is at Buttrey's or Albertson's, Thrift-way, whatever store it might be, will probably buy a lottery ticket. He stated that is the big way of stopping the downward spiral. Representative Gould noted the figures from the other states are tremendous.

- Q. Senator Rapp-Svrcek indicated Ms. Dowling had mentioned HB446, and asked, if this bill passes, will they still need that bill, or does this bill give the commission the flexibility to increase commissions without HB446.
- A. Ms. Dowling responded yes, it does, but indicated she thinks they would argue they still want HB446. She stated HB446 would allow the lottery commission to set the base salary at 8%, noting it does not mandate 8%, but lets the lottery commission, if so chooses, to set it at 8%. She indicated the incremental bonuses, which this bill provides for, would be in addition to the 8%, and that both bills could pass together, that they are not in conflict.
- Q. Senator Bengtson stated the committee was not privy to the 4 amendments that were put on in the House, and asked what were the arguments for that amendment being put into the bill which established the 35% limit.
- A. Ms. Dowling indicated she can not answer that, and deferred to Ron Duda.

Mr. Duda responded that Representative Hannah's argument was that he wanted to protect the money for the teachers' retirement, that he did not want to have that open-ended. Mr. Duda indicated Representative Hannah thought that the lottery was asking for a minimum of 45% for prize payout, and 5% for commissions, and that it opened up the operating expenses, noting he was afraid there would be no protection for the teachers' retirement. He stated that amendment passed by about 2/3, about 60 to 39.

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- Q. Senator Rasmussen indicated that Senator Blaylock made the comment that this would put the state into the gambling business, noting it has, and that he was hoping to get his perspective because he has looked at this for quite a while, over a 26 year period. Senator Rasmussen then asked Representative Gould to briefly comment on his statement, indicating that we have quite a gambling industry in the private sector now, that it seems to be growing, and it appears to him that this bill is giving the state the opportunity to compete more strongly with the private sector. He noted we have government competing, in this industry, with the private sector. Senator Rasmussen then indicated we are trying to entice our people to gamble more, and asked Representative Gould if these 2 statements are true.
- A. Representative Gould responded that he would say that they are somewhat true, with the possible exception that most people, when they buy a lottery ticket, are at the grocery store, indicating he would guess the majority are bought by women shoppers at the grocery store. He stated that is why the gaming laws have said that, whenever you gamble, you have to gamble with cash, and you can not gamble with a check, noting that you can not go into a poker place and buy \$20 worth of chips and use a check, that you have to pay for them in cash, adding that should change with this bill. He indicated taverns sell a small amount of lottery tickets, in comparison to what grocery stores sell and, as far as the state in the gambling business, he stated he can not say the lottery is gambling. He noted that may sound like a real dumb statement, but pointed out that, if a person is going to gamble, they will go to a bar, noting that poker and keno machines have to pay out 80%, and most of them pay out 86% to 89%, because the machines that pay back the most take in the most. He stated the lottery is a lot more what has to be termed as enjoyment, just fun. He reported that, a week ago Sunday, his daughter went to the grocery store, and bought a lottery ticket when she bought groceries. Representative Gould explained that he was back in the bedroom, and that he thought the place had caught on fire, that the stove had blown up, that the whole place was coming down, with all the screaming. He indicated that she had won \$16 on the lottery, and noted it could have been \$16,000, and could not have caused her any more enjoyment. He stated that, if you don't play, you don't pay, and he can see where a lot of forms of gambling, such as poker, sitting all day at a poker table, would be a much more intense gambling type of

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thing than going through a line at the grocery store and picking up a few tickets.

Q. Senator Rasmussen asked Ms. Dowling if it is correct that our people have dumped \$25.9 million into the lottery, as of last year.

A. Ms. Dowling responded that to date, it is probably \$36 million.

Q. Senator Rasmussen re-stated \$36 million for 20 months, approximately.

A. Ms. Dowling indicated she would like to speak to the last question, and reported that Gamblers Anonymous does not consider the lottery gambling, that they have not found compulsive gambling problems with anything like that.

Q. Senator Hofman asked what about the 4 wheel drive vehicles, are they about to be replaced, and how many miles do they have on them.

A. Ms. Dowling responded that there is a varying amount, and that perhaps Mr. Onstad could speak to this better than she can. She indicated the plan is to replace them at 100,000 miles, and that they will have to replace 5 of them this fiscal year.

Mr. Onstad indicated that is correct, 5 of them, adding that the mileage is currently ranging between 40,000 and 60,000, depending on the territory where they are located. He indicated some of the regions are vast, and accumulate more miles, and some are smaller.

Q. Senator Hofman asked Mr. Onstad if he feels like they still need 4 wheel drive vehicles for this.

A. Mr. Onstad responded that, for the last 7 winters, not including this one, they probably could have gotten along with something else but, this winter particularly, they needed just exactly what they have, noting they worked very well for them. He stated they have been very cost-effective vehicles, that their maintenance costs are low on them.

Q. Chairman Farrell asked Senator Stimatz if he would rather see the portion providing that the director of the Department of Commerce may adopt rules stay with this

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bill, and asked if the director of the Department of Commerce is on the commission.

- A. Senator Stimatz responded he is not, by law, on it.
- Q. Chairman Farrell indicated that he thinks, in his statement, Senator Stimatz stated he would rather see it go.
- A. Senator Stimatz responded he would rather see that go, but indicated he does not know how much trouble it is to make it go.
- Q. Chairman Farrell indicated he thinks Senator Blaylock referred to that.
- A. Senator Stimatz responded that he did, very strongly, and indicated his original bill said the lottery commission would adopt the rules. He stated the director of the Department of Commerce is not in a position to adopt rules, that he really does not have a hands-on, day-to-day knowledge of the operation of the lottery, noting that is the key. He indicated the Governor appoints the commission members, who are businessmen, and they are trying to run the thing the best way they can. He indicated they are alert and active, on a day-to-day basis, on what is going on.
- Q. Senator Bengtson asked who sets the salary for the commission, and who pays the employees.
- A. Ms. Dowling responded the lottery director, and that the lottery director's salary is set, by law, at 90% of that of the director of the Department of Commerce. She indicated the employees are as all other state employees, that they are subject to the same grades and steps as the rest of state employees.
- Q. Senator Bengtson asked if they are paid back by the proceeds of the lottery.
- A. Ms. Dowling responded yes, and indicated the lottery gets nothing from the general fund, that they totally operate on their own.
- Q. Chairman Farrell asked Ms. Dowling to comment regarding the director of the Department of Commerce.

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- A. Ms. Dowling responded, regarding the director of the Department of Commerce adopting rules, that, when they say they would like to see that go, the rules are very important, rules which allow for sales incentives and bonuses for retailers, and that it is very important that stays in because the employees are under the personnel plan, and there is some doubt that they could be paid bonuses or commissions without a rule. She indicated that who adopts the rules is what she thinks is the contention. She stated the lottery commission does adopt all other rules.
- Q. Senator Vaughn indicated she heard some complaints about the fact that it goes to the schools, that there are people who object to all this money going to the schools, and asked Ms. Dowling if she has heard anything about that.
- A. Ms. Dowling responded they have heard a lot about that, indicating that she thinks it has hurt sales, and that it is a misunderstanding. She indicated that people think the retired teachers are getting a bigger retirement allowance, but they don't understand it is actually property tax relief, which is why they put it there. She noted that she thinks Governor Stephens has recommended it go into a general school fund, rather than be earmarked for teachers' retirement, adding that she thinks that would probably be a very good idea, mainly because it is so misunderstood.
- Senator Abrams stated that, in his area, they would be very happy, because there are 2 that do not get any money.
- Q. Senator Anderson indicated that he remembers visiting with Senator Stimatz, when he introduced the bill, and stated he thinks it has brought in a lot more revenue than was anticipated at that time, and asked Senator Stimatz if that is not true.
- A. Senator Stimatz responded that all depends on who was anticipating. He stated the Governor's office said they would be blinkety-blank lucky to get \$2 million to send to the OPI, noting that he said they would get in the range of between \$8 million and \$15 million. He indicated that Senator Pavolich, the eternal optimist, started at \$15 million to \$25 million. Senator Stimatz stated that, with the on-line games, the \$15 and \$20 are, certainly, distinct possibilities, adding that the

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lottery has brought in a lot more money than most of the critics and newspapers ever said, noting they predicted it would be as low as \$1 million.

Q. Senator Anderson stated he remembers they heard a lot of talk about \$4 million at that time.

A. Senator Stimatz stated he thinks the Governor started at \$4 million, and then dropped it down.

Q. Senator Anderson stated his point is it was anticipated that the second year would drop, noting that is normal. He asked Senator Stimatz if he thinks, if the economy of the state turns around, it will help sell lottery tickets, also.

A. Senator Stimatz responded yes, he does, but noted they need the new game, that they need the on-line games, and they need the regional, noting that is the history, and that is what his advisors kept insisting. He stated that was way back in 1983, that these are men experienced in running these things and, if they were here today, they would be saying that everything is going according to normal.

Senator Stimatz added, to clarify, noting it is in the bill, that the lottery is attached to the Department of Commerce only for purposes of administration, not for any control.

Closing by Sponsor:

Representative Gould stated the lottery is a business, that it should be run like a business and, if you want to keep the lottery, it is very necessary that they have the bill in the proper form, so they can run it like a business.

DISPOSITION OF HB 207

Discussion:

Senator Bengtson asked if the wording has been figured out to deal with the director of the Department of Commerce in the bill. She noted she does not have any problem with the suggested amendment. Chairman Farrell asked if the committee should wait, and work with Ms. McClure on the proper wording for the amendment. Senator Bengtson indicated she would like to wait.

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HEARING ON HB 26

Chairman Farrell announced to the committee that Representative Ray Peck, the sponsor of HB26, has asked that the hearing on HB26 be cancelled until further notice.

ADJOURNMENT

Adjournment At: 11:50 a.m.


WILLIAM E. FARRELL, Chairman

WEF/mhu
HB139.037

ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE: March 7, 1989

NAME	PRESENT	ABSENT	EXCUSED
HUBERT ABRAMS	✓		
JOHN ANDERSON, JR.	✓		
ESTHER BENGTON	✓		
WILLIAM E. FARRELL	✓		
ETHEL HARDING	✓		
SAM HOFMAN	✓		
PAUL RAPP-SVRCEK	✓		
TOM RASMUSSEN	✓		
ELEANOR VAUGHN	✓		

SENATE STANDING COMMITTEE REPORT

March 7, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 139 (third reading copy -- blue), respectfully report that HB 139 be concurred in.

Sponsor: Simon (Rapp-Svrcek)

BE CONCURRED IN

Signed: William E. Farrell
William E. Farrell, Chairman

W.E.F.
3/7/89
1:15 P.M.

SENATE STANDING COMMITTEE REPORT

March 7, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 210 (third reading copy -- blue), respectfully report that HB 210 be concurred in.

Sponsor: Swysgood (Farrell)

BE CONCURRED IN

Signed: *Farrell*
William E. Farrell, Chairman

*4/10/89
3:29
1: p.m.*

EXHIBIT NO. 1

DATE 3/7/89

BILL NO. HB139

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

Carolyn Doering

DATE:

Address:

Dept. of Commerce

Phone:

Representing whom?

Appearing on which proposal?

HB139

Do you:

SUPPORT?

AMEND?

OPPOSE?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 2

DATE 3/7/89

STATE ADMINISTRATION COMMITTEE

BILL NO. HB 207

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME: Deana Dowling

DATE: 3-6-89

Address: _____

Phone: 444-LUCK

Representing whom? Lottery

Appearing on which proposal? HB 207

Do you: SUPPORT? AMEND? OPPOSE?

Comments: See Exhibits 4 & 5

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

RAVALLI REPUBLIC
Hamilton, MT 59840
(Mon-Fri. 4,423)

OCT 6 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

Lottery gives county a check for \$265,500

By RUTH THORNING
Ravalli Republic Staff Writer

At the end of its first fiscal year the Montana Lottery transferred \$8.4 million to the state Office of Public Instruction. The Ravalli County share of that money was \$265,500.

The county received its share of the lottery money on Oct. 6. The county's share of the lottery money was \$265,500. The county's share of the lottery money was \$265,500.

THE STILLWATER SUN
Columbia, MT 59019
(Thurs. 7,760)

OCT 6 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

Funds deposited in county

The Stillwater County treasury grew considerably over the past month when funds from the Montana Lottery and the federal government were deposited.

According to a news release from the county, the funds were deposited on Oct. 6.

POWDER RIVER EXAMINER
Broadus, MT 59317
(Thurs. 1,400)

OCT 6 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

Lottery money received

The lottery payment for 1988 has been made to Montana's public schools by State Superintendent Ed Argenbright.

WESTERN NEWS
Libby, MT 59933
(Wed. 4,244)

SEP 29 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

School lottery gain marked to retirement account fund

Lincoln County last week received \$223,989—its share of the state lottery money—for the county-wide high school and elementary teachers' retirement fund.

received, Hudspeth said, it isn't "new money" because the county anticipated receiving about \$200,000.

Since the school districts didn't have solid information on how much the lottery would provide when the school budgets had to be finalized by July 4, the money wasn't budgeted into the 1988-1989 school budgets, Hudspeth said.

THE MADISONIAN
Virginia City, MT 59755
(Thurs. 2,765)

SEP 29 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

Lottery Returned \$63,531

by Dick Pace
A total of \$63,531 went to high school \$1,601.12, the lottery money. School budgets for the will be in 1989 to \$74,002. The county's share of the lottery money was \$63,531.

County Superintendent of Schools Dorothy Laird. If not for the lottery money, the retirement fund, frozen by tax initiative 105, would have come up short this year, Laird said.

"No one has come up with an answer of what you do if you're short in that fund," Laird said.

She said the Egan School District received \$116,125.88 for elementary schools, \$6,804.76 for the high school and \$11,601.12 for the elementary schools.

Colin County received \$9 million in prize revenue, \$1.6 million in prize winnings, \$1.4 million in retailer commissions, and \$4.5 million in operating expenses and start-up costs.

KALISPELL WEEKLY NEWS
Kalispell, MT 59901
(Fri. 7,950)

OCT 6 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

Flathead received \$650,752 from lottery

The Montana Lottery recently transferred \$8.4 million to the state Office of Public Instruction for distribution to Montana counties for its first year.

Diana Dowling, Lottery Director, said. "With \$25.9 million in revenue, \$11.6 million in prize winnings, \$1.4 million in retailer commissions, and \$4.5 million in operating expenses and start-up costs, we have a net income of over \$8 million!"

A review of Dun and Bradstreet figures, the average reporting business had net revenue of 5-8% of gross receipts.

STEVENSVILLE STAR
Stevensville, MT 59470
(Wed. 1,600)

OCT 5 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

Lottery profits after year

The Montana Lottery transferred \$8.4 million to the state Office of Public Instruction for distribution to Montana counties for its first year.

The lottery saw profits of over 30% which is many times higher than one measure of a successful business according to the Director of the University of Montana.

The amount is based on the distribution to operation. of the more than benefits statewide.

ANACONDA LEADER
Anaconda, MT 59711
(Wed & Fri. 3,602)

OCT 5 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

Schools net lottery receipts

Anaconda-Deer Lodge County schools will receive \$103,903 as their share of the state lottery receipts.

Because that is on the revenue side of the budget, the amount was estimated by County Superintendent of Schools Carl Stutzner.

reporting business had net revenue of five to eight percent of gross receipts," Polzin said. However, more is needed to cover the county's share.

The Montana Lottery transferred \$8.4 million to the state Office of Public Instruction for distribution to Montana counties for its first year.

JUDITH BASIN PRESS
Stanford, MT 59479
(Thurs. 1,015)

OCT 6 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

County share of lottery funds totals \$26,705

The Montana Lottery transferred \$8.4 million to the state Office of Public Instruction for distribution to Montana Counties for its first year of operation.

—We began a multimillion dollar business one week earlier than mandated by the Legislature, an incredible feat, with one of the smallest lottery staffs in the country (35). Today, the Montana Lottery is one of the top 60 businesses in the state in gross receipts.

RANGER-REVIEW
Climax, MT 59030
(Thurs. & Sun. 4,174)

SEP 29 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

Lottery to reduce tax bills

By JERI IVERSON
Ranger-Review Staff Writer
The average Dawson County taxpayer will be assessed 5.35 mills less this year for teachers retirement, thanks mostly to the Montana Lottery.

WHITEFISH PILOT
Whitefish, MT 59937
(Thurs. 3,450)

SEP 29 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

Whitefish schools receive \$80,000 nest egg

Whitefish schools have been allowed more than \$80,000 from state lottery proceeds received by the county Sept. 13.

County Superintendent of Schools Dorothy Laird. If not for the lottery money, the retirement fund, frozen by tax initiative 105, would have come up short this year, Laird said.

"No one has come up with an answer of what you do if you're short in that fund," Laird said.

Of the \$650,752 paid to Flathead County, the Whitefish elementary district will receive \$60,520 and the high school district will be paid \$21,841. Money from the state's lottery is designated to go toward funding teacher retirement.

She said the Egan School District received \$116,125.88 for elementary schools, \$6,804.76 for the high school and \$11,601.12 for the elementary schools.

Colin County received \$9 million in prize revenue, \$1.6 million in prize winnings, \$1.4 million in retailer commissions, and \$4.5 million in operating expenses and start-up costs.

PLENTYWOOD HERALD
Plentywood, MT 59251
(Wed. 2,825)

SEP 29 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

MONTANA LOTTERY PROVES PROFITABLE

The lottery payment for 1988 has been made to Montana's public schools by State Superintendent Ed Argenbright. This payment, totalling \$8,375,890, represents approximately \$57.18 per student.

ELGIN
Elgin, MT 59347
(Wed. 1,634)

SEP 29 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

Lottery profits after year

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The lottery saw profits of over 30% which is many times higher than one measure of a successful business according to the Director of the University of Montana.

TIMES-CLARION
Hortonsville, MT 59038
(Thurs. 1,810)

OCT 6 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

Lottery makes first year payments for MT schools

The Montana Lottery has transferred \$8.4 million to the state Office of Public Instruction for distribution to Montana counties for its first year.

Because that is on the revenue side of the budget, the amount was estimated by County Superintendent of Schools Carl Stutzner.

BOULDER MONITOR
Boulder, MT 59632
(Thurs. 1,300)

SEP 29 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

Lottery Payments Made To Schools

The lottery payment for 1988 has been made to Montana's public schools by State Superintendent Ed Argenbright.

JORDAN TRIBUNE
Jordan, MT 59337
(Thurs. 800)

SEP 22 1988

SUPERIOR CLIPPING SERVICE
BILLINGS, MT 59105-0789

Lottery money received

The lottery payment for 1988 has been made to Montana's public schools by State Superintendent Ed Argenbright.

"We anticipated use it and we budget, but we knowing what said."

This payment, totalling \$8,375,890, represents approximately \$57.18 per student. The amounts of this payment mailed to county treasurers include:

Garfield County \$19,099.

The Montana Lottery transferred \$8.4 million to the state Office of Public Instruction for distribution to Montana Counties for its first year of operation.

—After handling \$25.9 in revenue, we have yet to write off a bad debt. —We paid out \$11.6 million in prize winnings to hundreds of

Lottery sales top estimate

By BOB ANEZ
 Associated Press Writer
 HELENA — The nearly \$26 million in first-year Montana Lottery ticket sales topped early predictions, but Director Diana Dowling said Friday that revenue in the second year could drop 20 percent as some of the game's novelty wears off.

Still, the lottery has done what it was supposed to do by funneling millions of dollars into public schools' employee retirement programs to provide tax relief for property owners, she told the Lottery Commission.

While the \$1.4 million in prizes for 10 counties for a short of the \$10 million prize pool, Dowling noted it was the result of lottery revenue that is being reviewed by the state.

June 26. She said the first-year lottery revenue, a week early by the law and in with one of the state's 20 people.

The lottery's gross revenue of \$26 million is one of Montana's biggest and the highest other states. Don State Comm. Director Diana Dowling said the lottery's gross revenue of \$26 million is one of Montana's biggest and the highest other states. Don State Comm. Director Diana Dowling said the lottery's gross revenue of \$26 million is one of Montana's biggest and the highest other states.

Montana Lottery take tops forecast

The Montana Standard, Butte, Sunday, October 2, 1988—5

Lottery meets its expectations

HELENA (AP) — The nearly \$26 million in first-year Montana Lottery ticket sales topped early predictions, but Director Diana Dowling said Friday that revenue in the second year could drop 20 percent as some of the game's novelty wears off.

Still, the lottery has done what it was supposed to do by funneling millions of dollars into public schools' employee retirement programs to provide tax relief for property owners, she told the Lottery Commission.

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Montana Lottery meets its goal of property-tax relief

HELENA (AP) — Here is a list of the \$1.4 million in first-year lottery revenue paid to counties for use in offsetting some property taxes in school districts throughout the state. The amounts were determined by the Lottery Commission.

Three counties — Fallon, Rosebud and Wibaux — did not receive money because they do not levy the necessary millage of their school districts for retirement programs.

Beaverhead — \$91,868

Big Horn — \$130,256
 Blaine — \$86,578
 Broadwater — \$42,602
 Carbon — \$98,440
 Carter — \$15,029
 Cascade — \$781,074
 Chouteau — \$66,990
 Custer — \$131,864
 Daniels — \$28,878
 Dawson — \$118,057
 Deer Lodge — \$103,803
 Ferngus — \$128,208
 Flathead — \$650,732
 Gallatin — \$414,735
 Glacier — \$182,002
 Golden Valley — \$10,179

Granite — \$30,538
 Hill — \$182,160
 Jefferson — \$88,718
 Judith Basin — \$26,705
 Lake — \$245,033
 Lewis & Clark — \$518,428
 Liberty — \$28,790
 Lincoln — \$223,989
 Madison — \$63,531
 McCone — \$28,134
 Meagher — \$20,472
 Mineral — \$40,428
 Missoula — \$741,846
 Musselshell — \$51,523
 Park — \$121,115
 Petroleum — \$8,347
 Phillips — \$61,244
 Pondera — \$74,511

Powder River — \$28,077
 Powell — \$63,131
 Richland — \$16,928
 Prairie — \$265,505
 Ravalli — \$245,505
 Richland — \$14,564
 Roosevelt — \$153,653
 Sanders — \$101,101
 Sheridan — \$59,074
 Silver Bow — \$331,027
 Stillwater — \$18,569
 Sweet Grass — \$37,055
 Teton — \$71,194
 Tongue — \$55,011
 Treasure — \$10,965
 Valley — \$104,303
 Yellowstone — \$23,874
 Yellowstone — \$1,200,747

County breakdown

HELENA (AP) — Here is a list of the \$1.4 million in first-year lottery revenue paid to counties for use in offsetting some property taxes in school districts. The amounts were determined by enrollment.

Jefferson	\$83,719
Judith Basin	\$24,705
Lake	\$245,033
Lewis and Clark	\$118,428
Liberty	\$28,790
Lincoln	\$223,989
Madison	\$63,531
McCone	\$28,134
Meagher	\$20,472
Mineral	\$40,428
Missoula	\$741,846
Musselshell	\$51,523
Park	\$121,115
Petroleum	\$8,347
Phillips	\$61,244
Pondera	\$74,511
Powder River	\$28,077
Powell	\$63,131
Richland	\$14,564
Roosevelt	\$153,653
Sanders	\$101,101
Sheridan	\$59,074
Silver Bow	\$331,027
Stillwater	\$18,569
Sweet Grass	\$37,055
Teton	\$71,194
Tongue	\$55,011
Treasure	\$10,965
Valley	\$104,303
Yellowstone	\$23,874
Yellowstone	\$1,200,747

LOTTERY WINDFALL

HELENA (AP) — Here is a list of the \$1.4 million in first-year lottery revenue paid to counties for use in offsetting some property taxes in school districts. The amounts were determined by enrollment.

Big Horn	\$130,256
Blaine	\$86,578
Broadwater	\$42,602
Carbon	\$98,440
Carter	\$15,029
Cascade	\$781,074
Chouteau	\$66,990
Custer	\$131,864
Daniels	\$28,878
Dawson	\$118,057
Deer Lodge	\$103,803
Ferngus	\$128,208
Flathead	\$650,732
Gallatin	\$414,735
Glacier	\$182,002
Golden Valley	\$10,179
Granite	\$30,538
Hill	\$182,160
Jefferson	\$88,718
Judith Basin	\$26,705
Lake	\$245,033
Lewis & Clark	\$518,428
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Lincoln	\$223,989
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Tongue	\$55,011
Treasure	\$10,965
Valley	\$104,303
Yellowstone	\$23,874
Yellowstone	\$1,200,747

MONTANA LOTTERY

Testimony before the Senate State Administration Committee
on House Bill 207 Third Reading copy (blue)
sponsored by Rep. R. Budd Gould
at the request of the Montana Lottery Commission

March 7, 1989

The Montana Lottery is a self supporting, revenue generating agency that does not rely on a single tax dollar for its funding. Money for its funding comes solely from the sale of lottery products. Sales for the first year were \$25.6 million with \$8.4 million in profits going to the State of Montana.

- 1) The Montana Lottery is a complex business driven by market forces and must be given flexibility in order to maximize profits.
- 2) The people of Montana overwhelmingly approved the creation of a lottery and the intent of the people was also to maximize profits to the state.
- 3) An operational budget based on a percentage of revenue has hampered the Lottery commission in its attempt to operate as a business.

The lottery must be able to plan for market expansion, improvement of the product line, cost reduction, and organizational development as would a private business.

These plans cannot be made or carried out unless the operational budget is a guaranteed amount.

The Lottery's budget should be set by the Legislature as are the budgets of all other state agencies.

- 4) There should be sales incentives for Lottery staff.
- 5) There should be sales incentives for Lottery retailers.
- 6) There should be flexibility in prize payout in the instant ticket games in order to increase sales.
- 7) Montana should be able to enter into games with other states to increase its product line.

- Section 7 This section also makes two changes. First, it clarifies that tickets may not be purchased on credit. This avoids any dispute about paying for lottery tickets by check or redeeming free lottery tickets for another ticket. This change is recommended by the Legislative Auditor.
- Secondly, household members, be they family members or not, are excluded from playing the Lottery's games.
- Section 8 This section makes fingerprinting retailers permissive instead of mandatory.
- Section 9 This section also refers to "household" members instead of "family" members.
- Section 10 Subsection (1) does two things. First, it removes the 45% as an absolute payout and makes it a minimum payout. This minimum includes prizes on regional games. Secondly, it makes prize money statutorily appropriated as recommended by the Legislative Fiscal Analyst.
- Subsections (2) and (3) remove the statutory appropriation for operating expenses as recommended by both the Governor's Budget Office and the Legislative Fiscal Analyst. It also removes the 15% ceiling. This means that the Lottery's budget must be appropriated by each Legislature as are all other state agency budgets.
- Subsection (4) is re-numbered and provides for net revenue to be statutorily appropriated as recommended by the Legislative Fiscal Analyst.
- New subsection (4) allows an operational plan review and approval by the budget office should unanticipated marketplace demands require revised spending authority during the biennium.
- Section 11 This section clarifies that the Legislative Auditor may subcontract work on the annual audit of the Lottery. It comes as a recommendation from the Legislative Auditor.
- Section 12 This section extends rule making authority to changes in the law based on this bill.
- Section 13 This section provides that this bill will become law upon passage and approval.

MONTANA LOTTERY

Testimony before the Senate State Administration Committee
on proposed amendments to
HB 207

March 7, 1989

Amendment #1 will put into the law what the Montana Lottery has always assumed--that the business purpose of the Montana Lottery is to maximize profits for the State of Montana. This amendment specifies that all rules and policies must comply with the purpose of maximizing the profit (net revenue) which is sent to the Office of Public Instruction.

Amendment #2 will reinstate the original language of HB 207 which was introduced to allow the Lottery to run like a business by removing percentage restrictions on operating expenses.

HB 207, as amended on the floor of the House, requires the transfer of 35% of all Lottery revenues to the Office of Public Instruction. This is a most unusual business restriction. The bill also requires a minimum of 45% going to prizes and 5% (actually 5.6% because of free tickets) to retailers for their commissions.

Thus, HB 207 as amended would allow the Lottery 14.4% for operating expenses. At the present time the Lottery projects 1989 fiscal year revenue at \$13 million. 14.4% of \$13 million is \$1,872,000--more than \$1 million short of the \$3 million the Lottery needs at a minimum to operate effectively. To be frank, with an operating budget of \$1.8 million the Lottery could not operate at all.

By reinstating the original language, HB 207 would then comply with Legislative intent and allow the Lottery to be treated like all other state agencies--by going to the Appropriations committees beginning with the 1989 Legislature and pleading its case as to what dollar amount is needed to run the BUSINESS of the Lottery (without any reference to percentages).

The Lottery must have a guaranteed budget, especially at this time, in order to recover from a downward trend in instant ticket sales and to implement an on-line lottery. On-line vendors need to know they are dealing with a stable, growing organization.

With a guaranteed budget and the flexibility granted to the Lottery by HB 207, the Lottery will have the tools it needs to increase sales and profits.

Without a guaranteed budget, the downward spiral cannot be stopped, and might even pick up momentum, giving the state of Montana 35% of nothing.

SENATE STATE ADMIN.

EXHIBIT NO. 6

DATE 3/7/89

STATE ADMINISTRATION COMMITTEE

BILL NO. HB 207

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

SPENCER HEGSTAD

DATE:

3-7-89

Address:

Phone:

Representing whom?

Montana Lottery Commission

Appearing on which proposal?

Do you: SUPPORT? _____ AMEND? _____ OPPOSE? _____

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 7

DATE 3/7/89

STATE ADMINISTRATION COMMITTEE

BILL NO. HB207

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

DATE:

WE Stevens

Address:

Box 5775

Helena MT

Phone:

449-6394

Representing whom?

MT Food Dist Assn

Appearing on which proposal?

HB 207

Do you:

SUPPORT?

X

AMEND?

X

OPPOSE?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STATE ADMIN.
EXHIBIT NO. 8
DATE 3/7/89
BILL NO. HB 207

AMENDMENT
HB 207, Third Reading Copy, Blue

1. Page 8, line 1

Insert: "(3) maximize the net revenue paid to the superintendent of public instruction under 23-5-1027 and insure that all policies and rules adopted further such maximization."

Renumber: subsequent subsections.

2. Page 16, line 2.

Strike: "THIRTY-FIVE PERCENT of all gross revenue"
Insert: "That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses"

SENATE STATE ADMIN.

EXHIBIT NO. 9

DATE 3/7/89

STATE ADMINISTRATION COMMITTEE

BILL NO. HB 26

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME: Roy A. Shuman

DATE: 3-7-89

Address: Mt. Univ. System

Phone: _____

Representing whom?

Appearing on which proposal?
H.B. 26

Do you: SUPPORT? AMEND? OPPOSE?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

DATE: March 7, 1989

NAME	REPRESENTING	BILL #	Support	Oppose
Tomie Niklas	MBA	210	Interest	
Frank [unclear]	ASMSM			
Lucas McHugh	-			
Annabel Dunsford	self	210		
Helen D ^e Gidic	"	210		
Beverly Weelen	Soc			
Joyce Lee		207		oppose
Walter Mann				
Connie [unclear]				
Row Dula	Mt - Lottery	207	X	
Donna Warner	State Auditor	26		
Joan Bourner				
[unclear]				
Shirley [unclear]	Mt Food Dist Assn	207	X if amended	
WE Stevens	Mt Food Dist Assn	207	X ✓	✓
John Onstad	Mt - Lottery	207	X	
Diana Hawley	" "	207	X	
Al M	College Coalition	24		
Mike Craig	ASSOCIATED STUDENTS OF UNIV. OF MT	HB 26		