

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on February 12, 1991,
at 7:40 a.m.

ROLL CALL

Members Present:

Bill Strizich, Chairman (D)
Vivian Brooke, Vice-Chair (D)
Arlene Becker (D)
Dave Brown (D)
Robert Clark (R)
Paula Darko (D)
Budd Gould (R)
Royal Johnson (R)
Vernon Keller (R)
Thomas Lee (R)
Bruce Measure (D)
Charlotte Messmore (R)
Linda Nelson (D)
Jim Rice (R)
Angela Russell (D)
Jessica Stickney (D)
Howard Toole (D)
Tim Whalen (D)
Diana Wyatt (D)

Members Excused: Rep. Boharski (R)

Staff Present: John MacMaster, Leg. Council Staff Attorney
Jeanne Domme, Committee Secretary

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

EXECUTIVE ACTION ON HB 610

Motion: REP. BROWN MOVED HB 610 DO PASS.

Motion: REP. BROWN moved to amend HB 610.

Discussion: REP. BROWN stated he moves the amendments to this
bill with some trepidation. I don't like the consumer council

having the veto power. I believe the utilities also has a topped out provision. Meaning, if they get into the business or the rate case and see what the commission wants them to do, and they want to back out they can back out. PSC had some concerns about that and the use of the consumer counsel to mitigate the difference between those two uses.

REP. MEASURE stated he agrees that technology is changing and we have to be adaptable. This is a substantial step we are taking with this legislation and the committee seems to be taking it lightly. We do not spend enough time on research on such important bills as this.

REP. BROWN stated that bills like this we do not have the staff or the time to spend an overabundance of research. We depend on the industry to inform us of the substance of the bill.

Vote: Motion to amend HB 610 carried unanimously.

Motion/Vote: REP. BROWN MOVED HB 610 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 467

Motion: REP. MESSMORE MOVED HB 467 DO PASS.

Motion/Vote: REP. LEE moved to amend HB 467. EXHIBIT Motion carried unanimously.

Discussion: REP. RICE asked Mr. MacMaster if these offenses are not covered by current law? Mr. MacMaster said the carrying of the weapons is covered by current Montana Law only to the extent that you are carrying a concealed weapon. This law would apply to it somewhat. There is some kind of federal statute that makes it illegal to carry a weapon on the train. There is already numerous possession of dangerous drugs and selling of dangerous drugs that would cover that.

Motion/Vote: REP. WHALEN MOVED HB 467 BE TABLED. Motion failed.

Discussion: REP. BROWN stated he does not see the need for this bill. All of the things that are required to be enforced are enforceable. I am voting against this bill.

REP. LEE stated when he was asked to carry the bill his main question was whether or not this bill was needed and they kept reassuring me there was a great need for this bill and that is why I am still in support of this bill.

REP. TOOLE wondered why they didn't include mental states?

John MacMaster said there is a section in the criminal code that says for every criminal offense you have to have the mental state

of knowingly, purposely or negligently. Often you see knowingly, or purposely or knowingly and purposely. It also says if you do not have any of those mental states you have to have one of two things. One is you are imposing absolute liability. If you did it you are liable even if you had no intent. Secondly, you cannot have any term of incarceration as a penalty and the fine cannot exceed \$500. The options are to limit the penalty of the bill to a maximum of \$500 fine or state that liability is absolute even with out a mental state.

REP. LEE asked the committee if they would object to John MacMaster, Staff Attorney, drafted a knowingly and purposely amendment being a conception to the bill.

THERE WAS NO OBJECTION BY ANY COMMITTEE MEMBER.

Motion: REP. LEE moved to amend HB 467 by placing mental state within the context of the bill. Motion carried unanimously.

Motion: REP. LEE MOVED HB 467 DO PASS AS AMENDED.

Vote: Motion carried 14 to 6 with Reps. Brooke, Becker, Whalen, Nelson, Measure, and Brown voting no.

HEARING ON HB 417
PROHIBIT ACTIVITIES DESIGNED TO FURTHER CIVIL DISORDER

Presentation and Opening Statement by Sponsor:

REP. ELLIOTT, HOUSE DISTRICT 51, stated this bill is what I describe as the Montana Anti-Terrorist Act. The primary intent of the act is to prohibit and inhibit in Montana, paramilitary training activities which are designed to create civil disorder, cause property damage, and create bodily injury or death. It also makes such offense a felony. Currently there are two groups active in the State of Montana who have been identified as using criminal activities to further their political needs. These are the Aryan Nations and the Ku Klux Klan. The KKK has organized themselves in Northwest Montana and is the first responder to the Area Nation. If the Aryan Nations get into trouble, the KKK will be there to support them. The main intent of this law would be to inhibit these activities and is a difficult law to enforce. You have to prove the purpose of the training is to create civil disorder. Therefore, those cases which have been prosecuted and prosecuted successfully have relied on people working within the organization. The main intent of the law is to act as a deterrent to these activities. This law might make people think twice about moving to Montana or engaging in paramilitary activities. Because of the delicate balance of freedom of speech and the carrying out of that freedom into legal actions. EXHIBIT 1

Proponents' Testimony:

Tim McWilliams, Sanders County Task Force for Human Dignity, stated he has alot of concerns about this paramilitary activity. It is a real problem. We have several people in our area that have direct ties with the Aryan Nations and Ku Klux Klan. There is a long list of crimes with the Aryan Nations. I do not believe that this bill infringes on 1st and 2nd amendment rights. HB 417 will deter radical groups from engaging in paramilitary activity that is intended to use in a violent manner against our government and citizens of this great nation. I strongly urge the committee to give this bill a do pass.

Wilbur Rehmann, Helena Human Rights Task Force, stated we are talking about people who engage in a specific activity that is paramilitary. These groups of people are small but very wide spread throughout the state and they must be stopped. We have to give our law enforcement some way to get a handle on it. I urge your do pass for this bill.

Steve Oswald, citizen of Great Falls, stated the situation in Montana is wide spread with Area Nations and Klu Klux Klan. We need this legislation to help protect the citizens of the state from these people. Please consider this bill and give it a do pass.

Diane Sands, Montana Women's Lobby, stated they endorse this bill and think it is very important that we deal with the challenge in the country which is to live in a society that is culturally diverse. We know none of us in this community, certainly, support raciest activity, but there are groups currently that are very active in hate group activity. It is important the state has this tool and make the statement about paramilitary activities. We urge do pass.

John Ortwein, Montana Catholic Conference, stated he is in favor of HB 417.

John Conner, Montana County Attorney's Association and The Attorney General for the State of Montana, stated we have reviewed this bill and think it is a needed piece of legislation. The problems are real and encourage your do pass consideration.

Dan Russell, Administrator - Division of Corrections, stated there are some potential prison impacts from this bill. We have had nobody that has been in prison in the past for a similar offense because they didn't exist. In order to get a fix on an estimate on what this kind of legislation might do for the populations of the prisons, we contacted the Attorney General's Office, Criminal Investigation Bureau and there best estimates are that we would have at least 4 or 5 inmates per year, falling to 2 or 3 each year after the first year.

REP. DARKO, stated she supports the bill. We have some racist

activity in our community. This is a good bill and is a strong statement against this kind of military activity.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor:

REP. ELLIOTT stated the major affect of a bill similar to this in Idaho was deterring paramilitary activity. There is always a need to remind ourselves that racism exists in Montana, as long as it does exist. I ask that you give this bill a do pass.

HEARING ON HB 608

GIVE PSC QUASI-JUDICIAL POWER INCREASE FINE TO \$500 A DAY

Presentation and Opening Statement by Sponsor:

REP. WHALEN, HOUSE DISTRICT 93, stated he has some amendments for the committee. EXHIBIT 1. HB 608 is designed to do two things. One is it tries to expand the powers of the public service commission to enforce it orders and secondly, it imposes a fine for intentional or willful disobedience of the order. The amendments would take out the provision giving the public service commission quasi judicial authority. Because, at this time, I have not had enough time to determine what the impact would be in regards to this provision. Right now if there is a violation of public service commission order you are put in a position of having to go through a private complaint with the commission and by the time this is noticed out you are talking about 9 months. Also the amendments increase the fine to \$500 a day.

Proponents' Testimony: none

Opponents' Testimony:

Leo Barry, Attorney - Burlington Northern Railroad, stated he had looked at the original bill and not intended to testify. I had no objection to the bill. I had no objection to raising the penalty to \$500 a day. However, you are changing the bill with the amendments and I haven't had a chance to digest them to see what the outcome would be. We object to the bill as amended.

Questions From Committee Members:

REP. TOOLE asked REP. WHALEN asked what is the effect of the amendments? REP. WHALEN said to take the provision provided by the public service commission for quasi authority. It takes a

\$500 a day fine and allows it to stay in the present statute. REP. TOOLE then asked what the rationale is for changing quasi authority? REP. WHALEN said the Montana Power Company didn't like it.

Closing by Sponsor: none

HEARING ON HB 635
UNIFORM RIGHTS OF THE TERMINALLY ILL ACT

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE MEASURE, HOUSE DISTRICT 6, stated he rises in support of HB 635 revising Montana Living Will Act. It conforms with the uniform rights of the Terminally Ill Act. The problem with it are in the areas of those without protections under a declaration of a living will presently primarily and also the needs of the medical community and others that have to make the decision to those individuals where there is no clear declaration of their intent. The bill provides where an act of declaration is not available for the medical communities, the service provider, or the family to make the declaration, subsequent to the individuals inability to make the declaration themselves. In addition, there are provisions for the treating physician to make that decision as well.

Proponents' Testimony:

Steve Browning, Montana Hospital Association, stated the Uniform Rights of the Terminally Ill Act is a model bill that has worked as a living will act. With it a person can direct a physician to withhold or withdraw life sustaining treatment or designate another individual for making the decision of withhold or withdraw life sustaining treatment. It gives decision making authority to certain family members so that patients who do not set out their wishes in writing, can have medical decisions made on their behalf by the people in the best position who know their personal values and treatment preferences. This is a good bill and I hope you support this bill.

John Ortwein, Montana Catholic Conference, gave written testimony in favor of HB 635. EXHIBIT 2

Hank Hudson, Aging Coordinator - Governor's Office, gave written testimony in favor of HB 635. EXHIBIT 3

Fred Patten, American Association of Retired People, stated they are in support of this bill and ask the committee to give it a do pass.

Opponents' Testimony: none

Questions From Committee Members:

REP. MESSMORE asked Mr. Hudson if he finds most living seniors do have a living will in affect and if those living wills are honored? Mr. Hudson said he does believe they are being honored because a case of not honoring them has not been brought to my attention. The problems we have seen is when there has not been any directions left, and disagreement and confusion is being seen among family members. It is our impression that physicians and healthcare providers welcome the living will and honor them.

REP. TOOLE asked Mr. Browning if every situation does require the patient has to be in a mental condition that he is no longer able to make the decision regarding what he or she may want done? Mr. Browning said that has always been the case. If they are in the position they can make a decision they will make it. REP. TOOLE then asked if there is a case such as a person who is mentally incompetent but capable of living for any length of time, wouldn't that be a case to fall through the cracks? Mr. Browning said that is a special case and it would probably be taken to court such as the Cruzan Case.

REP. RICE asked Mr. Browning that some people do not want a living will and their spouse does. It appears there is a particular change in the law as to what options we can give to people. I read this bill as saying, if you don't make a declaration, you are not only deciding that you don't want to be unplugged you are deciding you want someone else to make that decision. It seem we would force people to make a living will declaration if they want to be in control of their own destiny. Can you respond to this? Mr. Browning said it isn't quite that black and white that if you don't make a living will, therefore, you have decided you don't want to be unplugged. It may mean that or you haven't decided anything and the way this operates in respect to the consent section, it doesn't require the person to provide consent to conclude you did not want to have life support withdrawn. The family has to decide in good faith what you would want.

REP. LEE asked Mr. Browning if the a person who in effect, does not make that decision, do they have to have that decision made for them? Mr. Browning said he didn't know what the family member is going to do decide. This type of situation is not a prevalent as you might think. Many people talk about this type of thing with their family members and it is well known what that person may or may not want done to them.

Closing by Sponsor:

REP. MEASURE stated this is a difficult area of law that always has been difficult. I would ask the committee to consider this bill and give it a do pass.

HEARING ON HB 673
GENERALLY REVISE GAMBLING LAWS

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE BROWN, HOUSE DISTRICT 72, stated this bill generally revises the gambling laws in the state of Montana. He then gave an outline of the contents of the bill. EXHIBIT 4 He stated he wants to remove Crane Games from the bill.

Proponents' Testimony:

Russ Ritter, Local Government Representative - Gaming Advisory Council and Vice Chairman, stated this is a good bill and he is here to oppose any 21 or any increase in gaming throughout the state of Montana. We think we have enough where it is and should be left there and support the Dept. of Justice in its attempt to try to bring this thing. From day one I have opposed publicly and privately and within my commission, the proliferation of gaming especially in the area of 21.

Robert Deschamps, Law Enforcement Representative - Gaming Advisory Council, stated there are things in this bill that he doesn't agree with. Overall, the majority ruled and have presented a good package to the committee. I would implore you to consider the whole thing. The 21 proposal is my main concern. After listening to a lot of testimony for and against and in the end I decided to vote for 21. I don't think it is such a big event that everyone paints it to be. The legalization of 21 is ultimately a political decision that will have to be addressed by the legislature. If you do decide to legalize 21, I suggest to you HB 673 as a superior product and one you should adopt.

Mark Staples, Montana Tavern Association, stated we participated in this process for the last two years and I echo Mr. Deschamps sentiments. This was not thrown together and it wasn't done just on little bits of information. It was a strenuous process and that committee worked as hard as any committee I have ever seen and we feel the bill, in its entirety, has integrity. It would be remiss for us to we support the gaming advisory council but. There are some things in it we didn't get that we wanted. There is some things in it that some of our members like and some didn't'. I think it was as representative and a strenuously argutive process as I have seen. The information was vast and the committee worked months on it and we urge your do pass.

Ron Ulrich, Businessman-Missoula, gave written testimony in support of HB 673. EXHIBIT 5

Michael Sherwood, Montana Trial Lawyers Association, stated they are in support of this bill and offer some amendments. EXHIBIT 6 He said he would like to testify further at the sub-committee hearing.

SEN. GAGE, SENATE DISTRICT, stated he co-signed this bill with Rep. Brown. The advisory council tried to work through what we did and did not like and come upon a compromise to submit to the committee. It is a good bill and does represent a good balance of all concerned.

Jim Gusick, Member of Gaming Advisory Council, stated he support this bill. There are a couple of areas that we have worked on that I am concerned about. It is a good compromise and a good balance and I would hope you give it a do pass.

Barbara Moore, President of Montana Licensed Gaming Employees Association, stated the passage of this bill will ensure jobs for many Montanans that now have to work out of state. There is no job security in Montana and the dealing jobs in Montana are not well paid. This bill will give dealers in Montana Job Security and we support this bill.

Stewart McQuade, Vice President of Montana License Gaming Employee Association, stated he is in support of the bill and would like to echo what Barbara Moore stated. I hope that you will consider this bill and the support of 21 later on as the legislature proceeds.

Jim Hubert, Poker Dealers - Great Falls, stated they started having meetings over a year ago so we could have a voice about our jobs. The passage of this bill will enable poker dealers to stay and work in Montana. We do not support the pooling of tips. A dealer has a rapport with many players and the players will tip their favorite dealer and they will not tip if there is pooling. This also gives dealers no incentive to improve, because the more experienced dealer will carry the inexperienced dealer. We do not support number 28 but support the rest of the bill.

Gary Bennett, Montana Coin Machine Operators Association, stated they have consistently opposed any expansion of gambling in the state of Montana for many legislative sessions now. This bill we support should this committee exceed to the wishes of Rep. Brown to remove blackjack from it.

Robert Robinson, Department of Justice, gave written testimony in favor and against HB 673. EXHIBIT 7 & 8

Opponents' Testimony:

Mark Racicot, Attorney General, stated he would like the committee to see the differences between SB 208 and HB 673 if you ultimately choose to leave 21 within this particular bill. I would like to talk to you today from a law enforcement regulatory perspective about our concerns with moving forward with the game 21 or blackjack. I would voice my opposition personally and as a member of the law enforcement community to any further expansion in this particular area. We feel our ability to regulate the

current gambling activities effectively in the state of Montana, is something that is questionable in light of the fact we have so many extraordinary responsibilities. We believe the effectiveness of any regulatory agency with respect to blackjack, is something that poses a unique problem we have never had with banking live card banking games in the state of Montana. We do not have any experience with their regulatory requirements. We have visited other gaming states to gather as much information about that process and found it is a very extensive arena with which to provide regulatory control. It is very labor intensive and as a consequence of that it will take a fairly significant investment in the investment and regulatory resource to properly regulate the industry should you proceed in this fashion to authorize 21.

Another concern is consolidation and integration of the industry. In many respect we have reached the saturation point that our small business people can possibly withstand in terms of additional gaming opportunities. We know have games concentrated in the hands of small business people in the state of Montana. With further expansion, particularly in this arena, would require larger facilities, more staff, more administrative expense, more surveillance, floor managers and all the kinds of investment that lend themselves well to larger commercial interest. As a result there will be significant integration of industry vertically. We believe it is important to keep the industry healthy and contributing positively to the economy and the people of Montana.

I have some real concerns about the Indian Gaming Regulatory Act and its provisions and how they interact with the state of Montana. We have an equal provision of gaming whether on or off a reservation in Montana. I do not believe that is necessarily guaranteed if we don't proceed in a fashion that is contemplated by the Indian Regulatory Act. The act requires the state of Montana enter into negotiations with all Montana Tribes. We have begun that process and involved intensely with a number of tribes. We can expect some very positive results. However, I am worried about proceeding in any fashion with any expansion until such time as we have reached compacts with all of our tribal neighbors that allows all of us to read from the same sheet of music. If we proceed with authorizing 21 at this point in time, there is no guarantee that we will be in any position to in any way exact the tribes agreement. Nor are they in a position to automatically have to agree to the same concerns additions and regulations that will apply in the Gaming Law for Reservations.

I am not ignorant of the possibilities of economic development in further expansion of gaming in Montana. I am fully aware of the economic reality and the difficulties that face many communities and local governments throughout the state. In the absence of the ability to marshall a consensus concerning tax reform, revenue increases, or the consolidation of governmental services. The allurements of tax revenues and increase business opportunity pursuant to expanded gaming is difficult to resist. Our

inability to address the roote cause of some of our problems led us to consider a band-aid solution to what could be systematic difficulty or disease. I ask you to not pass this bill.

Joe Roberts, Don't Gamble With the Future, stated we represent the first time that a organized group outside of the churches has opposed gambling and expansion legislation in the legislature. We are concerned with where the continual expansion of gambling is leading in Montana. We are also concerned about adequate enforcement of the laws that we already have. Our group is not a strictly a moralistic concern against gambling on a moral ground although many are. They are also concerned about the quality of life in this state. As we see the continuing casinoizations and the drift of where we are going, I think that concern is spreading.

Rick Gratz, Publisher of Montana Magazine, stated he is interested in increasing tourism in Montana and creating more jobs by luring businesses here. The Montana Travel Promotion division has been involved in a very aggressive campaign to increase our outdoor recreation an tourism industries. We are trying to convince businesses to locate here in Montana and create jobs for us. Everything they do is based on quality. Quality of life in Montana, freedom from visual blight and relative freedom from social ills that face other states. Gambling in the state of Montana can only detract from this. We urge you to do not pass this bill.

Sue Rolfig, Don't Gamble With the Future, gave written testimony in opposition of HB 673. EXHIBIT 9

Mona Sumner, Rimrock Foundation, gave written testimony in opposition of HB 673. EXHIBIT 10

Carolyn Ennis, Don't Gamble With the Future, gave written testimony in opposition of HB 673. EXHIBIT 11

Harley Warner, Montana Association of Churches, gave written testimony in opposition of HB 673. EXHIBIT 12

Mike Kecske, Citizen of Helena, gave written testimony in opposition of HB 673. EXHIBIT 13

Kurt Larson, Owner/Operator of American Timber Company, gave written testimony opposing HB 673. EXHIBIT 14

Questions From Committee Members:

REP. MESSMORE asked REP. BROWN why the crane games are being removed from this legislation? REP. BROWN said because there are

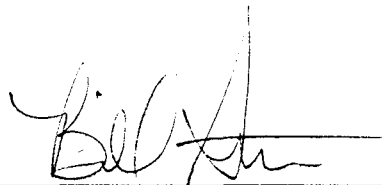
two bills that came out of the gaming advisory council. This one and the treatment bill Rep. Forrester is carrying. The third area that the council worked on was on amusement games. The industry and the department could not get together with a compromise until after we had finished our activities and reported to the legislature. It is taken care of in a better fashion than this would in SB 270.

Closing by Sponsor:

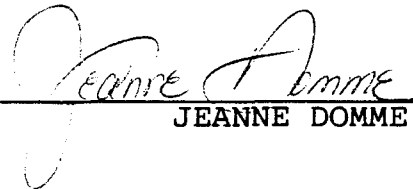
REP. BROWN stated he has an amendment to provide at the appropriate time which will exclude fishing derbys from the definitions of SB 431. He stated that he has all the council votes in all areas of the bill and if the committee has any questions about the votes, he will make the information available. Rep. Brown asked the committee for their do pass recommendation.

ADJOURNMENT

Adjournment: 11:18 a.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 2-12-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		/
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		/
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

HOUSE STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on Judiciary report that House Bill 610 (first reading copy -- white) do pass as amended .

Signed: 
Bill Strizich, Chairman

And, that such amendments read:

1. Page 2, line 5.

Insert:

"STATEMENT OF INTENT

A statement of intent is necessary for this bill because [section 8] grants the public service commission general rulemaking authority and [section 6] grants the commission authority to adopt rules relating to the appropriate scope of promotions, rebates, and market trials. The legislature intends that if rules are adopted by the commission, the rules should permit reasonable flexibility to providers of regulated telecommunications services in the marketing of their services."

2. Page 3, line 22.

Following: "interest;"

Strike: "and"

Insert:

"(f) will enhance economic development in the state;

(g) will result in the improvement of the telephone infrastructure in the state; and"

Renumber: subsequent subsection

3. Page 4, line 9.

Following: "regulation"

Insert: "or the consumer counsel may object to the proposed order"

4. Page 4, line 10.

Following: "withdrawn"

Insert: "or the consumer counsel objects to the proposed order"

Strike: ";"

Insert: "."

2:05

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JDD

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5. Page 5, line 9.
Following: "state."
Insert: "For a service detariffed under this subsection,
the provider shall maintain a current price list on
file with the commission and shall provide notice of
changes in the price list as prescribed by the
commission."
6. Page 5, lines 15 and 16.
Strike: lines 15 and 16 in their entirety
Re-number: subsequent subsections
7. Page 6, line 17.
Following: "(2)"
Insert: "(c)"
8. Page 6, line 18.
Following: "to"
Strike: "the"
Insert: "any"
9. Page 6, line 20.
Following: "interest."
Strike: "Carrier"
Insert: "Noncompetitive local exchange access to end-users
and carrier"
10. Page 6, lines 21 and 22.
Strike: "Services" on line 21 through end of line 22
11. Page 7, line 3.
Following: "discounts,"
Insert: "discounts in promotional offerings, or"
12. Page 7, lines 4 and 5.
Following: "manner" on line 4
Strike: remainder of line 4 through "offerings" on line 5
13. Page 7, lines 13 through 16.
Strike: subsection (7) in its entirety
14. Page 8, line 25.
Following: "customer"
Insert: "or potential customer"

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15. Page 9, line 4.
Following: "the commission"
Strike: "shall"
Insert: "may"
16. Page 9, line 11.
Following: "tariffs"
Insert: "or price lists"
Following: "file"
Strike: "and approved by"
Insert: "with"
17. Page 9, line 17.
Following: "Thereafter,"
Insert: "for the term of the contract,"
18. Page 9, line 20.
Following: "tariffs"
Insert: "or price lists"
Following: "file"
Strike: "and approved by"
Insert: "with"
19. Page 9, line 25.
Following: "provide"
Strike: "the commission with"
Following: "notice"
Insert: ", in the form prescribed by the commission,"
20. Page 10, lines 1 through 3.
Strike: "at least" on line 1 through "provide" on line 3
Insert: ". The notice must include"
21. Page 10, line 3.
Following: "service"
Insert: ", a minimum price,"
22. Page 10, lines 4 through 9.
Strike: "If the" on line 4 through "service." on line 9
Insert: "At the end of a 10-day comment period for
interested parties, the commission may immediately
approve, suspend, or disapprove the new service
offering or it may allow the interim introduction of
the service pending a hearing at a later date."

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23. Page 10, line 10.
Following: "of"
Strike: "14"
Insert: "30"
Following: "days"
Insert: "following issuance of notice"
24. Page 10, lines 12 and 13.
Strike: ", " on line 12 through "costs" on line 13
25. Page 10, lines 16 and 17.
Following: "public." on line 16
Strike: the remainder of lines 16 and 17
26. Page 10, line 18.
Following: line 17
Insert: "(3) For purposes of this section, "new service" means any service that is introduced separately or in combination with other services and that is not functionally required to provide local exchange service or that is not a repackaged current service or a direct replacement for a regulated telecommunications service."
Renumber: subsequent subsection
27. Page 10, lines 23 through 25.
Following: "hearing." on line 23
Strike: the remainder of lines 23 through 25
28. Page 12, line 4.
Following: "offer"
Insert: ", for a limited period of time,"
29. Page 12, lines 7 through 10.
Following: "practices." on line 7
Strike: the remainder of line 7 through "cost-effective." on line 10.
Insert: "Promotional pricing of services that remain fully tariffed requires advance approval of the commission. No promotional offering may combine monopoly services with competitive services."
30. Page 12, line 12.
Following: "complaints."
Insert: "The commission may determine whether a particular sales activity under this subsection is unfairly discriminatory or is not cost-effective. Costs and expenses incurred or revenue foregone with respect to sales activities that the commission determines are

2:03
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TDP

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unfairly discriminatory or not cost-effective are the responsibility of the provider's shareholders in rates set by the commission."

31. Page 12, line 18.

Following: line 17

Insert: "NEW SECTION. Section 7. Costs for services provided -- jurisdiction over complaints. (1) Prices charged for a regulated telecommunications service must be above relevant costs unless otherwise ordered by the commission. If the commission determines that a price is below relevant costs, it may ensure that shareholders and not ratepayers are responsible for any relevant costs not recovered through prices.

(2) With regard to competitive services, the term "relevant costs" includes the price for any components that are used by the telecommunications provider and that would be essential for alternative providers to use in providing the competitive services pursuant to commission-approved methodology.

(3) The commission has jurisdiction to consider complaints and initiate investigations to determine whether the price charged by a provider of regulated telecommunications service is above relevant costs. The commission may also consider complaints that a pricing or promotional practice violates any provision of this title.

NEW SECTION. Section 8. Rulemaking authority.
The commission may adopt rules to implement this part."

Renumber: subsequent sections

32. Page 12, line 25.

Following: line 24

Insert: "(1)"

Following: "2"

Strike: "and"

Insert: ", "

Following: 5

Insert: ", and 7"

33. Page 13, line 3.

Following: "2"

Strike: "and"

Insert: ", "

Following: "5"

Insert: ", and 7"

February 13, 1991

Page 6 of 6

34. Page 13, line 4

Following: line 3

Insert: "(2) [Section 8] is intended to be codified as an integral part of Title 69, chapter 3, part 3, and the provisions of Title 69, chapter 3, part 3, apply to [section 8]."

HOUSE STANDING COMMITTEE REPORT

February 12, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Judiciary report that House Bill 467 (first reading copy -- white) do pass as amended.

Signed: 
Bill Strizich, Chairman

And, that such amendments read:

1. Page 1, line 9.

Strike: "railroad"

Insert: "train"

2. Page 1, line 10.

Following: "person"

Insert: "not authorized to carry a weapon in the course of his
official duties"

Following: "to"

Insert: "knowingly or purposely"

3. Page 1, line 11.

Following: "a"

Strike: "railroad car,"

Following: "train"

Strike: ", or locomotive"

4. Page 1, line 12.

Strike: "of a railroad"

5. Page 1, line 14.

Strike: "railroad car,"

Following: "train"

Strike: ", or locomotive"

6. Page 1, line 19.

Strike: "railroad"

Insert: "train"

7. Page 1, line 20.

Following: "a"

Strike: "railroad car,"

Following: "train"

Strike: ", or locomotive"

Insert: "in this state"

8. Page 1, line 20.

Following: "he is"

Insert: "knowingly or purposely"

9. Page 1, lines 21 and 22.

Strike: "form of railroad transportation"

Insert: "train"

10. Page 1, line 24.

Strike: "railroad"

Insert: "train"

11. Page 1, line 25 through page 2, line 1.

Following: "a" on line 25

Strike: "railroad" on line 25 through "months" on line 1

Insert: "a train in this state is subject to the penalties
provided in 45-9-102"

EXHIBIT 1

DATE 2-12-91

HB 467

Amendments to House Bill No. 467
First Reading Copy

For the Committee on Judiciary

Prepared by Bart Campbell
February 12, 1991

1. Page 1, line 9.

Strike: "railroad"

Insert: "train"

2. Page 1, line 10.

Following: "person"

Insert: "not authorized to carry a weapon in the course of his
official duties"

Following: "to"

Insert: "knowingly or purposely"

3. Page 1, line 11.

Following: "a"

Strike: "railroad car,"

Following: "train"

Strike: ", or locomotive"

4. Page 1, line 12.

Strike: "of a railroad"

5. Page 1, line 14.

Strike: "railroad car,"

Following: "train"

Strike: ", or locomotive"

6. Page 1, line 19.

Strike: "railroad"

Insert: "train"

7. Page 1, line 20.

Following: "a"

Strike: "railroad car,"

Following: "train"

Strike: ", or locomotive"

Insert: "in this state"

8. Page 1, line 20.

Following: "he is"

Insert: "knowingly or purposely"

9. Page 1, lines 21 and 22.

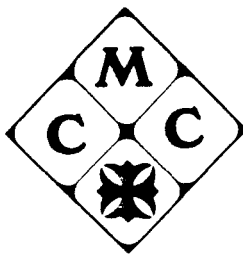
Strike: "form of railroad transportation"

Insert: "train"

10. Page 1, line 24.

Strike: "railroad"

Insert: "train"



Montana Catholic Conference

HB 635

February 12, 1991

EXHIBIT 2

DATE 2-12-91

HB 635

CHAIRMAN STRIZICH AND MEMBERS OF THE COMMITTEE

I am John Ortwein, representing the Montana Catholic Conference. I serve as the liaison for the two Roman Catholic Bishops of the State of Montana in matters of public policy.

The National Bishops' Committee on Pro-Life Activities has not endorsed or encouraged the enactment of living will legislation. However, as the number of states that have enacted living will legislation has grown, the Committee has sought to provide guidance by pointing to problems which deserve the special attention of legislators such as yourselves. To this end the Committee has developed two documents entitled: Guidelines for Legislation on Life-Sustaining Treatment (1984) and Statement on the Uniform Rights of the Terminally Ill Act (1986). The latter document is particularly relevant because the Montana Living Will law is based on the Uniform Act. The two guiding principles used by the Committee are: (1) One is obliged to use "ordinary" means of preserving life--that is, means which can effectively preserve life without imposing grave burdens on the patient--and the failure to supply such means is "equivalent to euthanasia"; and (2) Recognition of the patient's right to refuse "extraordinary" means--that is, means which provide no benefit or which involve too grave a burden.

The Montana Catholic Conference has several concerns about HB 635. The first deals with the definition of "terminal condition" on page 3, line 24. This definition is extremely important because it defines the overall scope of the bill. A proxy decisionmaker can demand withholding or withdrawal of virtually any health care that sustains life so long as the patient is in a "terminal condition." A patient is terminal so long as he/she will die in a "relatively short time" if treatment is not administered. This will allow for withdrawal of ethically ordinary means from otherwise medically stable patients to hasten their deaths, even if the patient could have lived a long time with the continued use of some easily provided form of assistance. For example, a mentally incompetent but otherwise robust diabetic person could be classified as "terminal" under this bill (because his diabetes is not curable and he will die soon without insulin). Then, by one interpretation of the bill, the insulin could be removed, because continuing the insulin would only "prolong dying" (that is, it will only prolong existence in this "terminal condition" albeit for many years).

Our concern is that the bill fails to distinguish between ordinary and extraordinary means of treatment. If a patient is terminal in the more traditional sense of the term--i.e., is dying soon no matter what we do for him or her, we can reasonably conclude that most forms of life-sustaining treatment are useless and therefore morally optional. If a patient needs some treatment to survive, and can live a long time with its provision, we would see a moral obligation to provide this beneficial treatment unless its use imposes grave burdens. Because the proposed legislation covers patients in this latter category and makes no distinction between treatments that are or are not gravely burdensome, it could authorize denial of ordinary means of survival.

We would suggest that the patient is in a "terminal condition" if he or she will die in a short time "notwithstanding the administration of life-sustaining treatment" or words to that effect.

Our second concern arises on page 9 of the bill (Section 6, lines 19 and 20). In both the 1984 and 1986 statements I referred to earlier, the Bishops' Committee urged the establishment of a strong presumption in favor of hydration and nutrition. The proposed legislation fails to establish such a presumption. The clause on "comfort care", though welcome, does not help solve this issue. The unconscious or otherwise incompetent patients generally singled out for removal of all food and fluids will be seen as incapable of feeling the discomfort of dehydration--and if there is any question, analgesics could be provided during the dehydration process to prevent conflict with the law's "comfort care" requirement. To us the fundamental issue is that nutrition and hydration could be denied by a proxy decisionmaker even in cases where it is morally an ordinary means for sustaining life. Recently, the Pennsylvania Catholic Conference advocated that artificial feeding couldn't be withheld from a person unless they stated in a signed living will document that they didn't want it if they became terminally ill or comatose. We would advocate such a statement in the proposed legislation.

Again, the Catholic Conference on the national level has taken a neutral position on living will legislation. However, the Bishops' Pro-Life Committee has set out guidelines to help in the discussion of proposed legislation. This would be our intent here today. I would hope our suggestions to the proposed legislation will be helpful in the discussion of living will legislation as this is a life and death issue for the most helpless members of our society.

GOVERNOR'S OFFICE ON AGING

EXHIBIT 3
DATE 2-12-91
HB 635



STAN STEPHENS, GOVERNOR

(406) 444-3111

STATE OF MONTANA

February 11, 1991

CAPITOL STATION
HELENA, MONTANA 59604

TO: House Judiciary Committee
Rep. Bill Strizich, Chairman

FROM: Hank Hudson, ¹⁶⁴Aging Coordinator

RE: HB 635, Uniform Rights of the Terminally Ill Act

These changes and additions to what is currently known as Montana's Living Will Act are supported by the Governor's Office on Aging.

Of particular interest to advocates for senior citizens are the following provisions of the bill:

1. Language within the model declaration that clarifies the definition of "incurable or irreversible condition."
2. Provisions for designating another individual to make decisions for you if you are terminally ill and unable to make decisions.
3. Recognition that our current durable power of attorney statute may be used to appoint a health care decision-maker for these situations.
4. A procedure for obtaining consent by others in the event no declaration has been executed.

These changes will increase the utility of the living will and address those situations in which no advance directives exist.

If this legislation is enacted the Aging Services Network, including the Area Agencies on Aging and Community Senior Centers around the State, will work to inform seniors of these changes and provide access to these decision-making tools.

SUMMARY OF HOUSE BILL NO. 673

Prepared for the Gaming Advisory Council
By Lois Menzies, Administrative Officer

February 8, 1991

Section 1, which has an immediate effective date, amends the definition of "gambling" to exclude the operation of a crane game.

Section 2: (1) strikes the definition of "authorized equipment", which removes the Department of Justice's authority to inspect live bingo and keno equipment; (2) lists specific examples of illegal gambling devices and illegal gambling enterprises; (3) adds a definition of "nonprofit organization"; and (4) clarifies the definition of "raffle". Section 2, which is effective October 1, 1991, also includes the amendments contained in section 1.

Section 3: (1) adds definitions of "blackjack" and "drop"; and (2) revises the definition of "live card game". Section 3, which is effective January 1, 1992, also includes the amendments contained in sections 1 and 2.

Section 4 clarifies provisions concerning prohibited activities for Department of Justice employees and former employees. The section prohibits a designated employee from participating in a gambling activity regulated by the Department or from being employed by a licensed operator in any capacity involving the conduct of a gambling activity regulated by the Department.

Section 5 permits the Department of Justice to publicly release the following information concerning gambling license and permit applications: (1) name of the person applying for a license or permit; (2) address of the establishment where the gambling activity is to be conducted; (3) name of persons with an ownership interest in the establishment; and (4) types of permits requested.

Section 6 requires penalties, fines, and forfeitures collected in a criminal proceeding for violation of a gambling statute or Department of Justice rule to be distributed in the same manner as penalties, fines, and forfeitures collected in justice or district court (i.e., in accordance with 3-10-601 and 46-18-235, MCA). In addition, two-thirds of the money collected through a civil or administrative proceeding must be distributed to the local government where the violation occurred and the remainder to the Gambling Control Division.

Section 7 permits the Department of Justice to issue a warrant for distraint against an operator who fails to pay a civil penalty imposed by the Department or the video gambling machine tax. When issuing and executing a warrant, the Department must follow the same procedural requirements imposed on the Department of Revenue in 15-1-701 through 15-1-709, MCA. The section also provides that the local government portion of penalty payments is statutorily appropriated.

Section 8 provides that it is a misdemeanor to operate an illegal gambling enterprise. The section also permits an illegal gambling device to be possessed or located in a public museum for display purposes only.

Section 9 provides that it is a misdemeanor for a person to solicit another person to participate in an illegal gambling enterprise.

Section 10: (1) permits a minor to participate in noncommercial raffles; (2) prohibits a minor from participating in all other forms of gambling; and (3) provides a penalty for violations.

Section 11 requires the Department of Justice to revoke all gambling licenses and permits issued to a person convicted of a felony gambling offense.

Section 12 prohibits the Department of Justice from issuing a gambling license to an applicant who has been convicted of a felony offense or gambling-related misdemeanor within five years of application, is awaiting trial on charges of committing a felony offense, or is on probation, parole, or deferred prosecution for committing a felony offense. In addition, the section provides that certain provisions relating to occupational licensing do not apply to issuance of a gambling license.

Section 13 permits only one gambling operator's license to be issued for a premises, regardless of the number of on-premises alcoholic beverage licenses issued for that premises.

Section 14 prohibits the Department of Justice from issuing a gambling operator's license to a city, county, or other political subdivision or to a person or entity who has leased a local government's liquor license unless: (1) the local government entity has obtained a golf course beer and wine license or an airport all-beverages license; or (2) an individual or entity has leased such license from the local government.

Section 15 authorizes the Department of Justice to issue a six-month seasonal operator's license to any person who chooses to operate a gambling activity for six months or less during any 12-month period. Fees for permits issued under a seasonal

operator's license cost one-half the amount charged for permits issued under a regular operator's license.

Section 16 allows renewal of live card game table permit for a "grandfathered" establishment if: (1) the majority of the natural persons holding a financial interest in the establishment remain the same; or (2) a spouse or child acquires controlling financial interest in the establishment. A "grandfathered" establishment is an establishment that operated live card games on January 15, 1989, but did not have a liquor license. The section also requires that live card game permits be prorated on a quarterly basis. In addition, it exempts the card games of bridge, cribbage, hearts, pinochle, pitch, rummy, solo, and whist from the live card game table permit fee. The section is effective October 1, 1991.

Section 17 includes the provisions of section 16 plus prohibits a grandfathered establishment from obtaining a card game table permit for conducting blackjack. The section is effective January 1, 1992.

Section 18 provides that a person may not deal cards in a card game of panguingue or poker without being licensed as a dealer. The section is effective October 1, 1991.

Section 19 includes the provisions of section 18 plus requires a blackjack dealer to be licensed. The section is effective January 1, 1992.

Section 20 requires a live card game, except a game played as part of a tournament, to be played on a live card game table on the premises of a licensed operator. In addition, a card game of panguingue or poker must be played under the control of a licensed dealer. The section is effective October 1, 1991.

Section 21 includes the provisions of section 20 plus requires that a card game of blackjack be played under the control of a licensed dealer. The section is effective January 1, 1992.

Section 22 adds blackjack to the list of legal card games.

Section 23 exempts card games conducted as part of a tournament from the \$300 pot limit.

Section 24 prohibits an operator conducting a card game other than blackjack, panguingue, or poker from taking a rake-off or collecting any other form of remuneration from a player.

Section 25 limits the number of blackjack tables to five per premises and imposes a permit fee of \$1,000 on each table.

Section 26 imposes a one percent tax on the nominal value of the drop from the operation of each blackjack table.

Section 27 requires a blackjack table to be equipped with: (1) a double-locking or triple-locking drop box; and (2) a dealing shoe or shuffling device that holds at least two but no more than six decks of cards.

Section 28 prohibits cash wagering and cash gratuities in a blackjack game.

Section 29 allows a player to play up to two spots at a blackjack table at one time and limits the initial wager to \$10.

Section 30 authorizes the Department of Justice to adopt rules for administering the blackjack statutes.

Section 31 defines the conditions under which a card game tournament may be conducted. It includes limits on the number and duration of tournaments, permit and card table requirements, and provisions governing participant fees and prizes.

Section 32 clarifies existing exemptions to the live bingo and keno tax. In addition, an exemption from payment of the tax is extended to: (1) fraternal and veterans' organizations granted an exemption under 26 U.S.C. 501(c)(8) or (c)(19); (2) nursing homes; (3) retirement homes; and (4) senior citizen centers.

Section 33 replaces the \$500 annual permit fee for the operation of a live bingo or keno game with: (1) a \$250 permit fee for operating live keno games; and (2) a tiered permit fee structure for operating live bingo games. The bingo fees range from \$250 to \$3,000, depending on the number of players.

Section 34: (1) increases the maximum payout per keno card to \$800; and (2) authorizes the use of way tickets in keno games, subject to the bet and payout limits. Way tickets permit a player to select three or more numbers on a single card, place bets on various combinations of these numbers, and receive payouts on winning combinations.

Section 35 rearranges and clarifies certain raffle provisions. It also prohibits a board of county commissioners from charging a permit fee or an investigative fee for a raffle conducted by a religious corporation sole or nonprofit organization. In addition, the section requires a person or organization, other than a religious corporation sole or nonprofit organization, to own in advance of ticket sales all prizes to be awarded as part of the raffle.

Section 36 strikes the definition of "nonprofit organization"; this definition is included in the amendments to 23-5-112, MCA

(sections 2 and 3). It also broadens the definition of "sports pool" by eliminating reference to a card divided into squares or spaces with the names of the participants written within the squares or spaces.

Section 37 sets criteria for the design of a sports pool and authorizes the Department of Justice to adopt rules describing authorized sports pools.

Section 38 limits the maximum bet and payouts to \$5 and \$500, respectively, and places certain prohibitions on persons or organizations conducting a sports pool to ensure that the pool is used as a trade stimulant only.

Section 39 defines "promotional device" and "promotional tournament" in relation to video gambling machines.

Section 40 requires video gambling machines to be placed in a location where alcohol is permitted to be sold or consumed as determined by the Department of Revenue when issuing a liquor license. Furthermore, the machines must be within sight and control of the operator or his/her employees to restrict access by minors.

Section 41 increases the maximum payout for a game of video draw poker from \$100 to \$800 to match the video bingo and keno game payout limits.

Section 42 changes the name of the video gambling machine tax from a net income tax to a gross income tax.

Section 43 allows renewal of certain video keno and bingo machine permits for a "grandfathered" establishment if: (1) the majority of the natural persons holding a financial interest in the establishment remain the same; or (2) a spouse or child acquires controlling financial interest in the establishment. A "grandfathered" establishment is an establishment that operated video keno or bingo machines on January 15, 1989, but did not have a liquor license. The section also removes the 10-machine limit on draw poker machines. The cap of 20 video gambling machines per premises is retained.

Section 44 requires video gambling machine permits to be prorated on a quarterly basis.

Section 45 strikes the requirement that the rules adopted by the Department of Justice on video gambling machine specifications substantially follow the statutory specifications in effect on September 30, 1989. This section also lists minimum standards for the machine specifications. The specifications must permit a machine to contain a mechanism that accepts \$10 and \$20 bills.

Section 46 prohibits a manufacturer-distributor from selling a video gambling machine to any person other than another manufacturer-distributor or an operator. It also provides that an operator or a lien holder (e.g., a financial institution) may sell machines subject to certain restrictions.

Section 47 requires a promotional device used in a video gambling machine promotional tournament to be examined and approved by the Department of Justice.

Section 48 allows a licensed operator to apply to the Department of Justice for a permit to conduct a video gambling machine promotional tournament. No entrance fee may be charged to participate in a promotional tournament, and prizes awarded to tournament winners may exceed the \$800 maximum payout on video gambling machines.

Section 49 statutorily appropriates the local government portion of penalty payments to the Department of Justice for deposit in the county or municipal treasury. The section is effective October 1, 1991.

Section 50 contains the same provisions as section 49 plus statutorily appropriates the local government share of the blackjack drop tax to the Department of Justice for deposit in the county or municipal treasury. The section is effective January 1, 1992.

Section 51 provides that justice, municipal, and city courts have concurrent jurisdiction with the youth court over a gambling violation alleged to have been committed by a minor.

Section 52 permits two or more persons in a public place to wager on the outcome of any contest, subject to certain restrictions. These bets may be held by a gambling operator until completion of the contest.

Section 53 defines a "fantasy sports league".

Section 54 legalizes the conducting of fantasy sports leagues.

Section 55 applies certain restrictions on conducting a fantasy sports league.

Section 56 prohibits sports betting in conjunction with fantasy sports leagues.

Section 57 provides that a violation of the fantasy sports league statutes is a misdemeanor offense.

Section 58 defines a "crane game", "department", and "person".

Section 59 prohibits a person from making a crane game available for public play without obtaining an annual crane game operator's license and crane game permit.

Section 60 describes the application process for obtaining a crane game operator's license.

Section 61 describes the application process for obtaining a crane game permit and imposes a \$35 fee for each permit issued.

Section 62 imposes certain restrictions on the operation of crane games.

Section 63 authorizes the Department of Justice to adopt rules to administer the crane game statutes.

Section 64 prohibits a local government from licensing or regulating a crane game or assessing any fee or tax.

Section 65 provides that it is a misdemeanor offense for a person to violate the crane game statutes.

Section 66 provides that a violation of a crane game statute or Department rule must be prosecuted in the same manner as a gambling violation.

Section 67 grants the Department of Justice the same administrative remedies for addressing a violation of a crane game statute or rule as are available for gambling violations.

Section 68 repeals the income tax on live bingo and keno games.

Section 69 codifies the new sections of the bill, except for those pertaining to crane games, within the gambling code.

Section 70 provides that if a part of the bill is invalid, all valid parts remain in effect.

Section 71 provides that the provisions concerning crane games, department rulemaking, codification, severability, and effective dates are effective on passage and approval. The provisions exempting certain organizations from the live bingo and keno permit fee, revising the bingo and keno permit fee, and repealing the bingo and keno tax are effective July 1, 1991. The blackjack provisions are effective January 1, 1992, and the remaining provisions are effective October 1, 1991. The crane game provisions terminate December 31, 1993.

I SUPPORT THIS BILL
By Rep. Brown

AS AMENDED
EXHIBIT 5
DATE 2/2/91
HB 673

My name is Ron Ulrich. I am a businessman in Missoula. I reside there with my wife and _____ children. In late 1989 I decided to investigate locating a bar in the Five Valley Bowl in Missoula. I located a liquor license and signed a buy-sell contingent upon state approval. I contacted an attorney regarding approval of the premises by the department of revenue and the gambling control division. We had architectural plans drawn up and forwarded to the department of revenue. They approved the plans.

The plans provided for separate exterior entrances, separate and discrete location of the premises from the other bar located in the building and for doors and accordion walls which allowed the two premises to be completely sealed off and locked. My attorney, who handles a considerable number of these transfers annually, advised me that the gambling control division was deferring to the department of revenue for premises approval.

In April of 1990, after public notice and hearings, the gambling control division adopted rules. None of them placed any restrictions upon or defined the term "premises". In April of 1990, I applied for a liquor license transfer. On May 10, 1990, my attorney contacted the gambling control division to double check that the gambling control division was still deferring to the department of revenue for approval of premises. They were.

Five Valley Bowl underwent hundreds of thousands of dollars in remodelling to accomodate my new premises. I committed the the business to a \$5,000 per month lease, I went through with the liquor purchase, spending approximately \$60,000 in cash and assuming approximately another \$65,000 in contract. In late

Exhibit 5

2-12-91

HB 673

September, when the remodeling was only days away from completion, Wayne Capp, and investigator for the department of revenue, came to the new premises and said that the premises was illegal. That it did not meet the rules adopted by the gambling control division. I consulted my attorney. He reviewed the rules. No such rule had been adopted. He reviewed the Attorney General's opinions. No opinion had been issued. He reviewed court decisions. No decision had come down.

When we contacted the Gambling Control Division, we were advised that they had changed their mind regarding approval by the department of Revenue and had now adopted a new standard. This had been done without public hearing and without any notice. I have applied for a gambling license and machine permits. They have been denied. I have brought an action in Missoula District Court to ask the court to order that the licenses be issued. That case is still pending.

In the mean time I have lost approximately \$50,000 in revenue and the business is insolvent. If this is not resolved soon, the business will have to declare bankruptcy. Please amend Section 13 of this bill to allow two licenses in the same building when the licenses are separately owned, the businesses occupy separate locations within the building, they have separate exterior entrances, and are capable of being sealed off and locked from each other.

EXHIBIT 6
DATE 2-12-90
HB 673

Proposed amendment to HB 673
By Michael Sherwood
Representing Ronald Ulrich

At page 35, lines 15 thru 17, after "(3)", strike:

"Regardless of the number of on-premises alcoholic beverage licenses issued for a premises, the department may issue only one operator's license for the premises."

At page 9, line 10, after "department.", add:

"For purposes of this chapter more than one premises licensed for gambling may be located within the same building provided that the businesses located upon the respective premises are separately owned, the premises occupy separate physical spaces within the building, have separate exterior entrances or share a common exterior entrance accessed by a common area or hallway, and are capable of being separated and locked so as to preclude public access from one to the other."

AMENDMENTS TO HOUSE BILL 673

Presented by the Gaming Industry Association
February 12, 1991

Exclusions from "gambling" definition. Amendments 1, 5 and 15 change the definition of "gambling" in Sections 1 through 3 of HB673 to specifically exclude shaking for the music or drinks and promotional games of chance. Shaking for the music meets the definition of gambling. However, the Department of Justice has allowed this activity to continue -- this amendment gives them the authority to do so. Promotional games of chance, as defined by amendments 2, 12 and 21, do not meet the strict definition of gambling because they do not require consideration from the participant. However, they may involve an authorized gambling device or gambling enterprise. This amendment makes it clear that these kinds of trade stimulants are not subject to the gambling regulations.

Definition of "gambling." Current law defines gambling as any activity involving consideration and reward that depends "in whole or in part" on the operation of chance. This is an incredibly broad definition. Most other states use the definition found in amendments 4 and 14. Adoption of this definition would bring Montana into line with the substantial case law surrounding this issue.

Banking card games. Prior to passage of SB431 last session, some jurisdictions allowed play of variations of authorized card games "against the house." The most widely known of these, "Jacks or Better," was played in the Flathead Valley for about ten years. The Department determined that SB431 precluded continued play of this game, and the court upheld their position. Amendments 3 and 13 define a banking card game, and amendments 9, 10 and 19 permit their play like all other authorized card games.

Illegal gambling devices and enterprises. SB431 removed from statute the partial "laundry list" of illegal devices and enterprises; the Gaming Advisory Council adopted the Department's request to re-insert that language. In addition, the Department has created a category of "per se" illegal devices. These present a very serious problem to the industry because there is no definitive list on which we can rely. Amendments 6, 7, 8, 16, 17, and 18 clean up this mess by clearly defining a "gambling device" and keeping the definition of "illegal device" and "illegal enterprise" as they currently read.

"Anti-stacking" provisions. The Department is concerned about the potential practice of an operator acquiring several on-premises alcohol licenses for a single premises, then attempting to place more than the allowable 20 gaming machines in that premises. We share that concern. However, the current statute which permits the

Department to decide what constitutes an acceptable premises simply doesn't work from an industry perspective. Amendments 11 and 20 define a "premises" for the purpose of the gambling statutes. This is, with one exception, the definition the Department currently uses. In order to protect some substantial investments, amendment 26 "grandfathers" existing businesses and applicants.

Technical amendments. Amendment 27 cleans up GAC language on "way tickets" in live keno games. Amendments 28 and 29 address placement of video gaming machines, making it clear that the operator is responsible to ensure that players are 18 and over. Amendment 30 cleans up placement of video gambling machines for two "grandfathered" bingo establishments. Amendment 31 clarifies that the new language on video gambling machine specs does not make obsolete any equipment currently in play

AMENDMENTS TO HOUSE BILL 573
Introduced Copy

1. Page 6, line 20.
Following: "through 67]"
Insert: ", an activity in which a participant rolls one or more dice for a chance to obtain a drink or music, or conducting or participating in a promotional game of chance"
2. Page 9, following line 10.
Insert: "(29) 'Promotional game of chance' means a scheme by whatever name known, for the disposal or distribution of property by chance among persons who have not paid and are not expected to pay any consideration, or who have not purchased and are not expected to purchase any goods or services, for a chance to obtain the property, a portion of it or a share in it."
Renumber: subsequent subsections.
3. Page 10, following line 21.
Insert: "(3) 'Banking card game' means a variant of any card game authorized by 23-5-311(1) involving a bank or fund that receives money wagered and lost by a participant and from which a participant receives money won."
Renumber: subsequent subsections.
4. Page 12, line 1.
Following: "is"
Insert: "predominantly"
Following: "contingent"
Strike: "in whole or in part"
5. Page 12, line 4.
Following: "through 67]"
Insert: ", an activity in which a participant rolls one or more dice for a chance to obtain a drink or music, or conducting or participating in a promotional game of chance."
6. Page 12, line 8.
Following: "intended"
Insert: "by the person or persons possessing the device"
7. Page 12, line 17.
Following: "department."
Strike remainder of subsection.
8. Page 13, line 8.
Following: "department."
Strike remainder of subsection.

9. Page 14, line 23.
Following: "means"
Strike: "a"
Insert: "an authorized"
10. Page 14, line 24.
Following: "card game"
Insert: ", including banking card games,"
Following: "public"
Strike: "between persons"
11. Page 16, line 6.
Following: "application"
Strike: "and approved by the department."
Insert: ". The premises must:
 - (a) be a structure or facility that is clearly defined by walls extending from floor to ceiling;
 - (b) have a unique address assigned by the local government in which the premises is located;
 - (c) have a public external entrance leading to a street or other common area; and
 - (d) if the premises shares a common wall with another premises for which an operator's license has been issued, have the common wall permanently installed, opaque, and extending from floor to ceiling, but may have one or more internal entrances adequate for ordinary ingress and egress."
12. Page 16, following line 7.
Insert: "(29) 'Promotional game of chance' means a scheme by whatever name known, for the disposal or distribution of property by chance among persons who have not paid and are not expected to pay any consideration, or who have not purchased and are not expected to purchase any goods or services, for a chance to obtain the property, a portion of it or a share in it."
13. Page 17, following line 21.
Insert: "(3) 'Banking card game' means a variant of any card game authorized by 23-5-311(1) involving a bank or fund that receives money lost by a participant and from which a participant receives money won."
Renumber: subsequent subsections.
14. Page 19, line 9.
Following: "is"
Insert: "predominantly"
Following: "contingent"
Strike: "in whole or in part"

15. Page 19, line 12.
Following: "through 67]"
Insert: ", an activity in which a participant rolls one or more dice for a chance to obtain a drink or music, or conducting or participating in a promotional game of chance."
16. Page 19, line 16.
Following: "intended"
Insert: "by the person or persons possessing the device"
17. Page 19, line 25.
Following: "department."
Strike remainder of subsection.
18. Page 20, line 16.
Following: "department."
Strike remainder of subsection.
19. Page 22, line 2.
Following: "blackjack"
Insert: "or other banking card games"
20. Page 23, line 17.
Following: "application"
Strike: "and approved by the department."
Insert: ". The premises must:
 - (a) be a structure or facility that is clearly defined by walls extending from floor to ceiling;
 - (b) have a unique address assigned by the local government in which the premises is located;
 - (c) have a public external entrance leading to a street or other common area; and
 - (d) if the premises shares a common wall with another premises for which an operator's license has been issued, have the common wall permanently installed, opaque, and extending from floor to ceiling, but may have one or more internal entrances adequate for ordinary ingress and egress."
21. Page 23, following line 18.
Insert: "(29) 'Promotional game of chance' means a scheme by whatever name known, for the disposal or distribution of property by chance among persons who have not paid and are not expected to pay any consideration, or who have not purchased and are not expected to purchase any goods or services, for a chance to obtain the property, a portion of it or a share in it."
Renumber: subsequent subsections.

22. Page 28, line 2.
Strike: "special revenue"
Insert: "general"
Following: "fund"
Strike: language beginning with "account" on line 2 through "rules" on line 6
23. Page 34, line 9.
Following: "offense"
Strike: "or a gambling-related misdemeanor"
24. Page 34, line 11.
Following: "application,"
Strike: "is awaiting trial on a charge of committing felony offense,"
25. Page 34, line 19.
Strike: subsection (3) in its entirety.
26. Page 35, line 17.
Following: "premises."
Insert: "The restriction of one operator's license per premises does not apply to a person who on January 1, 1991 was licensed to operate a business in a premises not meeting the requirements of 23-5-112(26), or to a person who has filed with the department on or before January 1, 1991 an application for an operator's license for a premises not meeting the requirements of 23-5-112(26). The department may not fail to renew an operator's license for such businesses, or deny an operator's license to such applicants, solely on the basis of the premises not meeting the requirements of 23-5-112(26)."
27. Page 56, line 4.
Strike: "a"
Insert: "each"
28. Page 65, line 9.
Following: "within"
Strike: "sight and"
29. Page 65, line 10.
Following: "or"
Strike: "his employees"
Insert: "a designated agent"
30. Page 68, line 3.
Following: "placement of"
Strike: "bingo and keno"
Insert: "video gambling"

- 31 Page 71, following line 23
Insert: "(3) Any video gambling machine approved or permitted by the
department on January 1, 1991 shall be considered to conform to this section
and the rules of the department adopted under this section."

STATE OF MONTANA
DEPARTMENT OF JUSTICE
GAMBLING CONTROL DIVISION

EXHIBIT 8
DATE 2-12-91
HB 673

Marc Racicot
Attorney General



2687 Airport Road
Helena, MT 59620-1424

TESTIMONY ON HOUSE BILL 673

Submitted by Robert J. Robinson, Administrator
Gambling Control Division

February 12, 1991

The committee should be aware that two bills submitted upon request of the Department of Justice contain several amendments to existing laws, some technical in nature and some substantive policy issues, that should be considered together with HB 673. Several provisions of HB 673 are considered alternatively in the Department bills.

Both HB 673 and the Department technical issue bill contain appropriation language and should be able to be considered appropriation bills and be subject to the appropriation transmittal deadline. The extra time should allow consideration of all three bills simultaneously.

The following items address portions of HB 673 which are of concern or are extremely important to the Gambling Control Division.

Section 2 - Page 10 - "Authorized Equipment". The Gaming Advisory Council discussed the role of the Division with regard to inspecting and approving equipment used in connecting live keno and bingo games. At that time, the Division asked for guidance relative to inspections or in the alternative to eliminate the responsibility.

The Division had received no requests for inspection up to that time as most live bingo and keno games were using mechanical equipment. Subsequently several manufacturers began marketing electronic, microprocessor driven devices and requested Division evaluation. Prospective purchases also were concerned about reliability and accuracy as well. As events developed, the Division believes electronic devices ought to be tested for randomness and proper accounting capabilities at a minimum.

Section 2, Pages 13 and 14 - Definition of illegal gambling devices and enterprises.

Section 8, Pages 30 and 31- Possession of illegal device or conduct of illegal enterprise.

Section 8 - Incorporates the illegal gambling enterprise concept with the current law concerning possession of illegal gambling devices and provides for the same misdemeanor penalty provision.

Section 2 then provides what is essentially a reinstatement into the statute of a concept that was removed in the 1989 rewrite of the gambling law. The expansion of the definitions of illegal gambling device and illegal gambling enterprise provides specified guidance for gambling operators and the agency.

Approval of these amendments will reduce a great deal of uncertainty and disagreement related to Department interpretation of what constitutes an illegal device or enterprise.

Section 4, Pages 24 and 25 - Prohibited employee activity. Amendments to this section clarify the gambling activities a Department employee can participate in and establishes limitations

concerning employment that could result in a conflict of interest. The Department's technical issue bill addresses this issue by providing more flexibility relative to the types of outside employment and procedure to designate those employees affected.

Section 5, Page 27 - Disclosure limitations. The amendment expands the information that may be disclosed concerning a licensee to include the name of the individuals owning the business. Currently, the Department only can provide the licensees' business name, address of the business and the types and number of permits issued. The Division is currently being sued to provide additional information under the constitutional right-to-know provision.

In addition to the above information, the Department bill authorizes release of tax information to the IRS and Department of Revenue and provides for release of sources of financing and other information subject to public disclosure requirements.

Section 12, Pages 33 and 34 - License Qualifications. The amendment establishes a definite waiting period during which a gambling license could not be issued to an individual convicted of certain crimes. This provision is essential to eliminate uncertainty and the perception of unequal treatment of applicants for gambling licenses.

In addition, gambling licensees need to be clearly exempted from the provisions of the Professional and Occupational Licensing Law that prohibits any refusal to issue a license based on criminal background. The Department has experienced two hearing officer decisions that directed the agency to issue licenses to convicted felons based upon the occupational licensing law.

Section 13, Page 35 - License stacking - Premise Approval. The Department of Revenue, Liquor Division is presently issuing more than one on-premise alcohol license to a single location. Gambling operators are acquiring multiple licenses for a single establishment in an attempt to circumvent the 20 video gambling machine limit. HB 673 and the Department policy bill address this issue to make it clear that multiple alcohol licenses issued by the Department of Revenue do not provide a basis to circumvent the statutory machine limit. The Department policy bill establishes specific criteria for premises approval.

Sections 16, 33, and 44 - Permit fee proration. Amendments to these sections require quarterly proration of permit fees for card tables, live bingo and keno games and video gambling machines. The net effect will be a reduction of more than \$200,000 annually shared nearly equally by local government and the administration's special revenue account.

Section 16, Page 38 - Card Table Fees. Elimination of card table permit fees for card games other than poker and panguingue will result in enforcement problems. The Division anticipates that small tavern card tables will be permitted as social game tables without payment of permit fees only to see playing of poker or those tables in many cases. Currently only eight of the 293 permitted tables offer only games other than poker and pan.

Sections 23 & 31 - Elimination of prize limits for card games in tournaments and duration of tournament play.

The Division supports the inclusion of a provision to allow card game tournaments and proposed such to the Gaming Advisory Council. However, the Division believes this ten day duration is excessive in that nearly all social tournaments are conducted over a three day period.

Exemption of tournaments from any pot limits essentially abandons the control scheme in present law. An alternative requiring a method of point accumulation per game or hand in tournament play that would insure no single game exceeded the pot limit would be preferential to unlimited prize levels as proposed by HB 673.

Sections 25 through 30 - Blackjack. Attorney General Racicot will provide comments.

Section 33 - Bingo/keno permit fees. Classification of bingo/keno permit fees by number of players participating is unworkable for a licensing agency and may well be a problem for operators. The proposed structure, establishing separate permit fees for operators with less than 50, from 50 to 300 or more than 300 players creates an inspection requirement before a permit is issued, a source of disagreement as to the premise size as well as a supervision problem for the operator on a busy night. Is the operator going to turn away the next potential player that would exceed the permit level? If not, is he operating illegally when more players are in attendance than the permit allows. This will be a never ending source of conflict between operators and this agency.

Section 39 - Promotional tournaments for video gambling machines. This section would allow a licensed distributor to remove the "memory Board" from a video gambling machine and temporarily replace it with a board designed to permit gambling machine play without payment and without impacting the tax reporting memory banks.

Section 40 - Placement of video gambling machines. The Department has extreme concerns about this section as it essentially relies

on the Department of Revenue's broad approval of a premises to determine location of video gambling machines. The Department's technical amendment bill limits machine placement to those locations where alcohol is sold or consumed and is within sight and control of the operator or an employee.

TESTIMONY IN OPPOSITION TO HOUSE BILL NO. 673
"Generally Revise Gambling Laws"EXHIBIT 9
DATE 2-12-91
HB 673Presented to the House Judiciary Committee
At its 2/12/91 Hearing

My name is Sue Rolfing, and I'm from Columbia Falls where my husband and I are involved in both agriculture and tourism, with a breeding farm and summer backcountry packing operation.

We support Don't Gamble With the Future's position that gambling expansion should be held at present levels and no further expansion should occur.

Though the bill before you has been characterized as mostly "housekeeping, except for the blackjack provisions," it actually contains significant expansions and huge increases. Some of these are:

- Doubling the number of draw poker machines per premises
- Permitting them to accept \$10 and \$20 bills
- Authorizing sports pools, promotional tournaments and fantasy sports leagues

Don't Gamble With the Future has compiled perhaps the state's largest collection of well-documented research, authoritative reports, interviews with experts . . . and these convince us of one thing:

This entire industry (if you can call it that) is built on pipe dreams.

Those who gamble have dreams of getting rich quick. Communities dream that casinos will attract high rolling tourists to end their economic drought. The industry must be dreaming when it tells us there really isn't much of a social impact or addiction problem.

The facts are brutal. The cold reality is nobody is getting rich except the casino owners. The "industry" isn't creating stable economic growth. It produces no product or bona fide service. It merely shifts money from one pocket to another - from the dreamer's to the schemer's.

Sure, our local governments are being paid well to look the other way and hope the social, criminal and quality of life problems that inevitably develop won't happen here as they absolutely have in other places. But this is just a dream too. We don't have to go to Nevada to find a connection between gambling and alarming crime, addiction or social problem statistics. Montana now has plenty of its own if we will just listen to our county attorneys, treatment center professionals, teachers and prison administrators.

The blackjack boon to tourism is a dream, as well. Irrefutable statements by the top two officials of North Dakota's Department of Tourism are entirely contrary to claims of Montana's casino expansionists that blackjack has significantly increased their state's Canadian tourism. The University of Montana research center and the state's own gambling revenue statistics offer no support to the promise that blackjack will increase tourism. Only 4.8% of respondents to the most recent U of M survey said they gambled while here. Justice Dept. figures show no correlation between gambling expenditures and our tourist seasons.

By the way - tourists have families too, even Canadians. All humanity seems susceptible to shark attacks.

EXHIBIT P.5/5
DATE 2-12-91
HB 673

Rolfing testimony
H.B. 673, 2/12/91

Yes, gambling has provided welcome relief to a financially struggling state. But we'd be foolish to consider it anything more than a short term fix that has allowed us some breathing room to work on long-term solutions.

We can't allow ourselves to get hooked on a revenue source dependent on exploiting human weakness. Or an industry that racks up social costs and human casualties while casino owners rake in the dough.

So, where is all the money coming from? Apparently it's not from tourists. It's from the people of Montana. We're not talking tourism or revenue here. We're talking a cannibalistic economy where schemers prey on dreamers.

Jue Rolfing

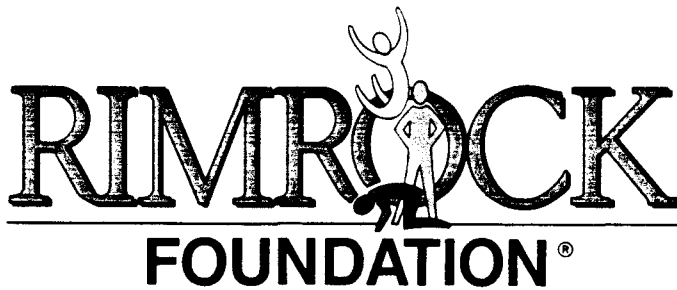


EXHIBIT 10
DATE 2-12-91
HB 673

Leading Quality Addiction Treatment in the Northern Rockies

TESTIMONY IN OPPOSITION TO HB 673
MONA L. SUMNER

You are being asked to believe that this legislation generally revises existing gambling laws. And indeed it does. It also, however, expands gambling with 21 and black jack...the 'big games' proponents claim can make only good things happen for Montana! Tourists, jobs, and more revenue. What proponents do not discuss, is the down side of gambling as it exists right now in our state and what will occur with further expansion.

Facts, not rhetoric are in order as you seek to make this crucial decision. And facts we have in abundance, based upon 25 years of national experience with gambling.

The National Congressional Commission on Review of Gambling documents that, as legal forms of gambling increase, two things happen; illegal gambling increases and addiction rates increase.

In Montana, both have happened. Addiction rates have increased from one half of one percent of patients seeking addiction treatment in 1984, to 6% as of 1989. We ask you to study the Fact sheet we have provided you so that you can avail yourself of the some of these facts. What difference, ~~the~~ proponents argue, does this make? No doubt these addicts are just out there anyway, if it isn't gambling it will be something else. Wrong. Gambling in and of itself, causes people to become addicted who would not otherwise develop addiction problems. Further, 68% of compulsive gamblers will resort to illegal activities to relieve the financial pressures created by their addiction. Thus, the greatest impact and largest hidden costs occur in the criminal justice system. The experience of Deadwood South Dakota bears this out and so does the experience of New Jersey and Nevada. In New Jersey, 30% of prisoners, are incarcerated directly due to gambling related activity. In Nevada, its 50%. Our own Chairman of the Montana Parole Board indicates it's starting to happen here. Our Justice department has testified as to their current inability to enforce the gambling we already have.

There have been forums held throughout the state presenting these facts, if you have not attended one, we ask you to avail yourself of the data sheets. What can possibly be the hurry to rush forward with a decision of

PAGE 2.

this magnitude, offering the potential to generate so many social and criminal justice problems? Surely, we can take the time to assess this issue and develop measures to protect our citizens and our justice system from unwarranted costs.

Be assured that ordinary citizens around this state, in significant growing numbers are alarmed at the speed with which Montana is rushing to expand this industry, and at the huge sums of money being spent by the industry to pressure for more and more--the ordinary citizens who will ultimately pay for the social costs our opponents do not want to address.

SOCIAL IMPACT FACTS:

Exhibit # 10
2/12/91 HB 673

Survey findings indicate that the widespread availability of legal gambling causes an increase in the incidence of compulsive gambling.

- In Montana, since the expansion of gambling in 1984, the incidence of compulsive gamblers admitted for treatment have increased from 1/2 of 1% to 6%.
- The Montana Parole Board, during this same period, has seen an increase in gambling-related incarcerations.
- A local Billings Bank, representing 10% of the banking industry in the area, estimates a loss of five hundred accounts per year due to compulsive gambling.

NATIONAL FINDINGS

*** Studies of various groups show that:**

- 5% of high school students in New Jersey and 1.7% to 3.6% (depending on what indicator is used) in Quebec can probably be considered compulsive gamblers. (Henry Lesieur, Ph.D. & Robert Klein, M.H.S. (1987). Pathological gambling among high school students. (Addictive Behaviors, 12, 129-135. Robert Ladouceur Ph.D & Chantal Mireault (1988) Gambling behavior among high school students in the Quebec area. Journal of Gambling Behavior, 4, 3-12).
- 4-6% of college students in recent surveys were estimated to be compulsive gamblers. (Henry Lesieur, Ph.D. (1986). Survey conducted in connection with the South Oaks Gambling Screen. Michael Frank, Ph.D. (1988) (Casino gambling and college students: Three sequential years of data. Paper presented at The Third National Conference of Gambling Behavior, New York, (May)).
- 30% of prisoners in New Jersey and Michigan were found to be probable compulsive gamblers. (Henry Lesieur, Ph.D. & Robert Klein, M.H.S. (1985). Prisoners, gambling and crime. Paper presented at the Annual Meetings of the Academy of Criminal Justice Sciences, Las Vegas, Nevada (April).

Compulsive Gamblers and Crime:

- 68% of female compulsive gamblers have engaged in some form of illegal activity.
- 65% of hospital inpatient compulsive gamblers have engaged in some form of illegal activity.
- 13% of both male and female prisoners are in prison as a result of gambling related debts.
- 24% of female compulsive gamblers and 38% of male compulsive gamblers have been involved in embezzlement.

SOCIAL COSTS OF COMPULSIVE GAMBLERS

Impact of Family Life:

1. General disruption of family functioning - Compulsive gambling creates a secretive and mistrusting environment.
2. High incidence of separation and susceptibility to divorce - when compared with the general population, compulsive gamblers are more likely to have been married three or more times. (Kallick et al (1979) A survey of gambling attitudes and behavior. Ann Arbor, Mi: Institute for social research.)
3. Exploitation of family finances - 67% of total household debt is attributable to gambling (study of Gam-Anon members).
4. Effect on spouse
 - 62% of spouses are harassed by creditors
 - 61% of spouses are violent toward gambler
 - 78% of spouses suffer from insomnia
 - 11% of spouses attempt suicide

Impact on Quality of Work and Job Security:

1. Compulsive gamblers are preoccupied with gambling or related debts while at work. (Robert Custer & Harry Milt (1985) When Luck Runs Out. New York: Facts on File Publications).
2. Unemployment is twice as high among compulsive gamblers as in the general population. (Rachel Volberg & Harry Steadman (1986) Refining Prevalence Estimate of Pathological Gambling. Paper presented at the Second Annual Conference on Gambling Behavior.
3. Those who maintain jobs may be involved in embezzlement or employee theft - 25% of female compulsive gamblers and 40-50% of male compulsive gamblers have reported this. (Henry Lesieur, Ph.D. (1984) The Chase: Career of the Compulsive Gambler.
4. Those who own their own businesses usually exploit their assets as well as those of suppliers and other creditors. (Lesieur, 1984 & Custer with Milt, 1985).

**THE SOCIAL IMPACT
OF GAMBLING IN
DEADWOOD, SOUTH DAKOTA**

Jeffrey Bloomberg
States Attorney
Lake County
Deadwood, SD

2/6/91

Exhibit # 10
2/12/91 HB 673

Prosecutor offers gambling caution

By KEVIN McRAE
Gazette Helena Bureau

HELENA — Montanans should move cautiously with any efforts to expand gambling because a rapid change could invite crime and other social problems, a South Dakota prosecuting attorney said at a forum Tuesday night.

Jeffrey Bloomberg, a state prosecutor from Deadwood, S.D., told an audience of 200 people that the 1989 legalization of poker, blackjack and slot machines in Deadwood drove main street stores out of town and increased the crime rate by nearly 70 percent.

"Think about what you're getting into before you get into it, because the ramifications can be life-threatening in some cases," Bloomberg said.

Bloomberg spoke at Helena's Colonial Inn at a forum sponsored by Don't Gamble with the Future, a statewide organization that opposes expanded gambling in Montana.

Although they were not participants in the forum, representatives from the Montana Gaming Industry Association attended, passing out literature in support of a legislative bill to legalize the card game blackjack.

Bloomberg said his remarks were a description of Deadwood's experiences and were not a prediction of what might happen in Montana if gambling were expanded.

But he also said some of the changes in Deadwood appear universally linked to gambling, such as increased criminal activity by gambling addicts.

"We are being inundated with bad checks," he said, explaining that

in several cases, people have written thousands of dollars worth of bad checks in small denominations at virtually all types of businesses in town. "We have people driven by gambling. The bottom line is, it has been a problem."

Bloomberg noted several statistics related to activity in Deadwood before and after voters there installed wide-open gambling, which started Nov. 1, 1989. Among the figures:

- Felonies and misdemeanors related to physical assault increased by 69 percent, while court caseloads rose 71 percent. Forgery crimes rose 480 percent, burglaries 300 percent and grand theft 1,000 percent.

- Three car dealerships, a large clothing store, a shoe store and other main street type businesses left town, replaced by some of the 86 gaming establishments in the community of 1,800 people.

- The new gaming tax revenue received by the county, about \$190,000 last year, was enough to pay for the increased costs of law enforcement but provided little additional money for other county services.

Larry Akey, lobbyist for the Gaming Industry Association, said in an interview that he thought Bloomberg's statistics were presented "in a vacuum" and were distorted.

"We've only heard part of the story," Akey said. "He didn't talk about the 1,100 new jobs that were created."

Akey said that anytime a community grows, crime will increase. "Talk to the people in the hospitality industry or someone on Main Street in Deadwood; they'll tell you it's not a problem," Akey said.

TESTIMONY ON HOUSE BILL No. 673

Tuesday, February 12, 1991

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

I am here today to ask you to vote against House Bill 673. I do not like what has happened since 1972 when we approved our new Constitution which prohibited all gambling unless it was approved by the legislature or by the people. The gambling interests have shown up at every legislative session and have convinced the legislature to accept, at first, raffles and bingo, followed by card games, live keno, video poker, then video keno. Incredibly our state of nearly 800,000 people now has issued over 1,727 casino licenses. That, in spite of the fact that in 1982 the voters of Montana spoke with a 68% margin against the expansion of authorized gambling. The initiative that year would have allowed black-jack, punch board, and other forms of gambling. Those forms were denied then and should be denied now.

The pro-gambling forces cite increased jobs and increased revenues for our local governments as benefits of gambling expansion. In Billings, both our Yellowstone County Commissioners and our City Council have gone on record opposed to gambling. These responsible elected officials recognize that no amount of revenue could ever offset the social impact of gambling: higher crime rates, higher incidents of compulsive gambling, losses of locally owned small businesses, restaurant failures, and a general tendency of the gambling industry to prey on the weaknesses of our citizenry. The revenue raised from gambling is essentially a

regressive tax, the people who support it most are the people who can least afford it. A friend of mine happened to pass through Laughlin, Nevada, the other day. At first he said he was impressed by the little Arizona/Nevada border town. Then he looked around and saw that the businesses were casinos. One particular sign caught his eye: Welfare Checks Cashed Here.

Government-fostered gambling for big stakes institutionalizes windfalls and supports the false notion of the importance of luck, chance, randomness, and fate, rather than the importance of industriousness, thrift, deferral of gratification, hard work and studiousness to a productive life. Is it coincidence that government-supported lotteries and other forms of skill-less gambling are booming at a time when we are concerned about the nation's productivity, competitiveness, savings rate, and the academic performance of our youth?

We cannot delude ourselves that the expansion of gambling is "economic development." Basically, it will just help some casino owners get richer while they pay low wages to their employees. Too much money will go to people who profit by preying on others. We Montanans deserve better than that.

Finally, I want to remind you that I traveled over here in my own car at my own expense because I care about the future of this state. I was not bribed aboard a bus at the Play Inn with the promise of a free ride to Helena and a free lunch if I would show up at these hearings.

The majority of Montanans want to continue to enjoy crime-free cities, better-than-average educational opportunities for our children, meaningful employment and a limited amount of gambling. I urge each of you to vote against House Bill 673. Thank you.

Montana
Association of
Churches

EXHIBIT 12
DATE 2-12-91
HB 673

MONTANA RELIGIOUS LEGISLATIVE COALITION • P.O. Box 745 • Helena, MT 59624

PHONE: (406) 442-5761

WORKING TOGETHER:

American Baptist Churches
of the Northwest

Date Submitted: February 11, 1991

Bill Number: HB 673

Submitted by: Harley E. Warner

Christian Churches
of Montana
(Disciples of Christ)

Chair, members of the committee, I am Harley E. Warner.
I represent the Montana Association of Churches.

Episcopal Church
Diocese of Montana

We oppose further expansion of legalized gambling in
Montana.

Evangelical Lutheran
Church in America
Montana Synod

The proponents of expanded gambling are consistently
talking about how increased gambling will add to the
tourism business in Montana. I submit to you that the
tourist are not the largest majority of gamblers in
Montana. Most of the gamblers in Montana are our
friends and neighbors, these are the people who will
make the largest addition to the casinos' profits.

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

Only a few individuals will profit from the proposed
expansion of gambling. This profit will not only be at
the expense of those who gamble, but it will also be at
the expense of society in general. Who is going to
provide support for families of gamblers no longer able
or willing to care them? The rest of our caring
society, of course.

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

Roman Catholic Diocese
of Great Falls - Billings

The new jobs and increased taxes do not justify the
social impact which will be created by the new forms of
gambling proposed by House Bill 308. The end does not
justify the means. The loss in value of the quality of
life can not be measured by a few dollars in added tax
revenue.

Roman Catholic Diocese
of Helena

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

The Montana Association of Churches is also opposed to
the expansion of so called charitable gambling in
Montana. ~~An enterprise which preys upon the weakness
of another can not be viewed by a reasonable person as
charitable.~~

United Methodist Church
Yellowstone Conference

The Montana Association of Churches is opposed to HB
673.

EXHIBIT 12
DATE 2-12-91
HB 673

WITNESS STATEMENT

NAME MIKE KECSKES BUDGET HB # 673

ADDRESS 7540 W. HWY 12 MERENA MT. 51601

WHOM DO YOU REPRESENT? SELF & FAMILY OF G.

SUPPORT _____ OPPOSE XXX AMEND _____

COMMENTS: LEGALIZING BLACK JACK IS THE ECONOMIC
EQUIVALENT OF SHOOTING HEROIN OR COCAINE IN
YOUR ARM. AND IT WOULD HAVE EQUALLY DEVASTATING
RESULTS. ITS A "QUICK FIX". IT WILL MAKE US
FEEL GOOD FOR A WHILE. BUT LATER WE'LL
HAVE TO PAY THE PRICE. IN INCREASED CRIME, IN
BROKEN FAMILIES AND LIVES, IN HIGHER RATES OF
ALCOHOLISM, DRUG ADDICTION, BURGLARIES, EMBEZZLEMENT
PROSTITUTION, AND HIGHER TAXES TO ADDRESS THESE
NEWLY CREATED PROBLEMS.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

THE COST OF GAMBLING TO EMPLOYERS

EXHIBIT 14
DATE 2-12-91
HB 673

Submitted by: Kurt Larson
American Timber Company
Olney, Montana
February 11, 1991

As an employer I am opposed to increased gambling in Montana because I think it will cost me money. In fact it already has.

My problems started with some employees complaining that one of their co-workers was not doing his job properly. I spent some time trying to identify the problem but could not tell for certain if one existed even after speaking with the lagging employee.

Some time later this same employee called the office an hour after he should have been at work. He was crying and said he had family problems and couldn't come to work. Then he said he didn't want to live anymore and hung up. I asked some local E.M.T's to check on him and then began making arrangements to fill in for him. This involved having one employee work more overtime and stay "on-call," plus moving several others to different jobs.

The man with the problem eventually did return to work and was referred to our employee assistance program. Our company pays for an insurance policy which covers most of the costs of treatment for alcoholism or other personal problems. While he was in treatment, his position was covered by hiring a temporary untrained worker and moving several others around to fill in positions.

During the closing interview of his treatment program, I found out that although he had an alcohol problem, the primary cause for his trouble was an addiction to gambling. He felt compelled to put money into the poker machines. His normal shift schedule didn't allow him to reach the casinos before closing time, but if he let some of his work slide, he could leave work fifteen minutes early and stuff some quarters in the machines. I'll never know how many extra breakdowns we had because he was trying to get to the casinos.

Although this case did not involve an industrial injury, I expect that some others will. Our insurance carrier has convinced us to do several things to reduce our industrial injuries. In the process of being trained about accident prevention, one of the things I remember learning is that a person with severe personal problems

(not work related) is much more likely to file a Workmen's Compensation claim than a person without these problems. The man that called me on the phone definitely had personal problems that were affecting his work, and these related to his addiction to gambling.

EMPLOYER COSTS RELATED TO DEALING WITH AN EMPLOYEE
WITH A GAMBLING PROBLEM:

1. Poor morale of other employees.
2. Time spent by supervisors trying to identify the problem.
3. Time spent trying to correct behavior.
4. Decreased production.
5. Increased maintenance.
6. Increased overtime.
7. Increased risk of accidents.
8. Decreased availability of vacation time for other employees.
9. Increased use of inexperienced personnel which affects accidents, production, maintenance, etc.
10. If insurance policy is used enough--increased rates.

All of this could occur if your employee has a gambling problem and might be almost as bad if their spouse has the same addiction.

Kent Larson

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary

COMMITTEE

BILL NO. HB 417

DATE 2-12-91

SPONSOR(S) Rep. Elliott

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Tim McWilliams Po Box 133 Noxon MT	Sanders County Task Force for Human Dignity	✓	
Steve Oswald Box 482 T. Falls MT	self	c	
5411 2nd St KERRY PAULSON WHITEHALL	self		
W. S. Sand	MT - Women's Lobby	✓	
Wilbur N. Rehmann	Helena Human Rights task force		
John Connor	MT. Attorney General		
Bill F. FEINER	MT. County Attys Assn	X	
	Mont SHERIFFS & PSACE OFFICERS ASSOC	X	
Jody Bakker	Vineyard Patio Lounge	✓	
PAUL DEVAUD	IGTA MONT		
JOHN ORTWEIN	MT CATHOLIC CONFERENCE	✓	
Toole Walker	MATP	✓	
Kent Frampton	White Fish	✓	
Janette J. McQuade	Kalispell	✓	

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HOUSE OF REPRESENTATIVES
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House Judiciary

COMMITTEE

BILL NO. HB#608

DATE 2-12-91

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Rep Whalen

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Martha Anne Walther	SELF Helena, Mont.	✓	
Alvin B. Svalsted	SELF	✓	

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HOUSE OF REPRESENTATIVES
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House Judiciary

COMMITTEE

BILL NO. HB#635

DATE 2-12-91

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
John Ortolevi	MT Catholic Conference	✓	
Steve Browning	MT Hospital Assn	✓	
Inez Patten	AARP	✓	
William Olson	AARP	✓	
Rose Hughes	MT Health Care Assn	✓	
Larry C. Gilley	interested citizen		
Cheryl Svalstad	AARP	✓	
Martha Anne Walker	Self - Helena, MT	✓	
Mike Heeler	Plentywood MT	✓	
Rich E Miller			

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HOUSE OF REPRESENTATIVES
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1264

House Judiciary

COMMITTEE

BILL NO. HB#673

DATE 2-12-91

SPONSOR(S) Rep. Brown

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
George Harper 38 Cloverview Helena, Mt. 59601	Self - U. Methodist Church.		X
Art Kussman 409 So. Mont. 59601	Self - Don't Gamble with Future		X
Shelly Laine Mike Kecske's	City of Helena SELF		X
Mark Noland PO Box 2464 Kalispell MT 59403	Kalispell SELF LDS Church		X
Chuck Anderson	Kalispell	X	
Gini Ogale	"		X
Pat Winkal	Kalispell		X
Pat Murphy	"		X
Jerry Berziny	Kalispell		X
Jerry Seed	Kalispell		X
Linda Wicklund	Kalispell		X
Donald D. Snow	Kalispell		X

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Judiciary

COMMITTEE

BILL NO.

673

2/12

SPONSOR(S)

Brown

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
John B. Lovelace	Self		✓
John L. Kierman	Club Saloon	✓	
Joe R. R. R.	Dart Garden w. N. The Fair		✓
Arthur J. M. L. L.	21 in 91	✓	
Susan Worcott	Self		✓
Michael Skene	Rev. Ulrich	as amended by R. Brain	
How. R. R. R.	Self	" "	
MARY AKEY	GAMING INDUSTRY ASSOC.	" w/o amend	
Rich & Miller	Best Bet Casino, Mo. A	✓	
Bundy Regan	Gold Nuggets	✓	
Frank AGATHER	KALISPELL GLACIER INS.		✓
Paul E. E.	B. E. E.	X	
He Roifing	DEWIF		✓

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

JUDICIARY COMMITTEE BILL NO. 673
DATE 2/12 SPONSOR(S) Brown

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jana Driscoll	DMY		✓
CHRIS WARREN	MONT. COIN OPERATORS	✓	
JERRY BELISLE	Gold Nugget Casino	✓	
Kymme Montague	BLG		✓
Carolyn Ennis	Billings		✓
Chuck An	SKispell	✓	
Tracy LaSalle	Missoula	✓	
Robert L. Deschamps III	Missoula	✓	
Lucy Weeder	Heritage Inn Gt Falls	✓	
Jim Gusick	Billings	✓	
Paul Anderson	Helena	✓	✓
Debra Smith	Heritage Inn Gt Falls	✓	
JIM Hubred	Heritage INN Gt Falls	✓	
Martha Anne Walker	self Helena, Montana		✓

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