

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

#### JOINT SUBCOMMITTEE ON INSTITUTIONS & CULTURAL EDUCATION

Call to Order: By CHAIRMAN MARJORIE I. FISHER, on January 13, 1995, at 8:00 a.m.

#### ROLL CALL

##### Members Present:

Rep. Marjorie I. Fisher, Chairman (R)  
Sen. Larry J. Tveit, Vice Chairman (R)  
Sen. Gary C. Aklestad (R)  
Rep. William T. "Red" Menahan (D)  
Rep. Steve Vick (R)  
Sen. Mignon Waterman (D)

Members Excused: None

Members Absent: None

Staff Present: Lorene Thorson, Legislative Fiscal Analyst  
Shirley Benson, Office of Budget & Program Planning  
John Patrick, Office of Budget & Program Planning  
Brandee Decrevel, Committee Secretary

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

##### Committee Business Summary:

Hearing: Department of Justice  
- Gambling Control Division  
Executive Action: Department of Justice  
- Legal Services Division  
- Highway Patrol Division

*{Tape: 1; Side: A; Approx. Counter: 1; Note: The beginning of this meeting was recorded on Tape 3 - Side B of the tapes for meeting of January 12, 1995. Consequently, the minutes for this meeting--January 13--begin at the end of the minutes for January 12.}*

EXECUTIVE ACTION ON DEPARTMENT OF JUSTICE  
LEGAL SERVICES DIVISION (continued)

Motion/Vote: SEN. AKLESTAD MADE A SUBSTITUTE MOTION TO POSTPONE ACTION ON THE ELECTED OFFICIAL NEW PROPOSAL. The motion carried unanimously.

EXECUTIVE ACTION ON DEPARTMENT OF JUSTICE  
AGENCY LEGAL SERVICES

Motion/Vote: REP. VICK MOVED TO ACCEPT THE BASE BUDGET FOR 1994. REP. MENAHAN seconded the motion. The motion carried unanimously.

Motion/Vote: REP. VICK MOVED TO ACCEPT THE STATEWIDE PRESENT LAW ADJUSTMENTS. The motion carried unanimously.

Discussion: Ms. Lorene Thorson, LFA, told the committee that item #4, vacant position for an attorney, was vacant in 1994. It was filled in 1995 because of the increase in demand, but is not reflected in the base budget.

Motion/Vote: REP. MENAHAN MOVED TO APPROVE ITEM #4, VACANT POSITION PRESENT LAW ADJUSTMENT. SEN. WATERMAN seconded the motion. The motion carried 5-1 with SEN. AKLESTAD voting no.

Discussion:

SEN. AKLESTAD asked if there will be an increase in fees with the vacant position proposal. Ms. Thorson told the committee that the fees will stay the same at \$53 per hour for attorney time.

JanDee May, Department of Justice, also told the committee that the rates will remain the same.

Motion/Vote: SEN. WATERMAN MOVED TO ACCEPT THE INSTALLMENT PURCHASE PRESENT LAW ADJUSTMENT. SEN. TVEIT seconded the motion. The motion carried unanimously.

Discussion: Ms. Thorson explained that the executive budget new proposal is approximately \$27,000 per year in personal services reductions.

Motion/Vote: REP. VICK MOVED TO ACCEPT THE PERSONAL SERVICES REDUCTION. SEN. TVEIT seconded the motion. The motion carried unanimously.

{Tape: 1; Side: A; Approx. Counter: 161; Comments: None.}

**EXECUTIVE ACTION ON DEPARTMENT OF JUSTICE**  
**HIGHWAY PATROL DIVISION**

**Motion/Vote:** SEN. LARRY TVEIT MOVED TO ACCEPT THE 1994 BASE BUDGET FOR THE HIGHWAY PATROL DIVISION. REP. RED MENAHAN seconded the motion. The motion carried.

**Motion/Vote:** REP. MENAHAN MOVED TO ACCEPT THE STATEWIDE PRESENT LAW ADJUSTMENTS. SEN. TVEIT seconded the motion. The motion carried.

**Discussion:** Ms. Thorson told the committee that the increase in contracted services addresses the kind of prisoner per diem charges.

**Motion/Vote:** REP. STEVE VICK MOVED TO ACCEPT THE CONTRACTED SERVICES. REP. MENAHAN seconded the motion. The motion carried.

**Motion:** REP. MENAHAN MOVED TO ACCEPT THE OTHER EXECUTIVE PRESENT LAW ADJUSTMENTS, ITEMS #4 through #11 WITH THE REDUCTION IN RENT FOR MCSAP AS DISCUSSED EARLIER.

**Discussion:** REP. VICK asked about why the highway patrol needs such a large increase in fuel.

Dennis Taylor, Department of Justice, told the committee that there are several reasons for the price of gasoline. The use a charge card for gas, there are always increases in fuel and they also travel many miles per hour.

**Vote:** The motion carried. SEN. GARY AKLESTAD and SEN. LARRY TVEIT voted no.

**Discussion:**

Ms. Thorson told the committee that there are two pieces of language requested by the executive to be included in HB 2. The first piece of language deals with the federal crime bill. This would provide federal grants if they are available to fund a portion of the training of cadets. The language has requested that if the federal funds are not received that the federal appropriation be decreased or deleted and that state special revenue then be increased to replace that. The second language request authorizes the transfer of the retirement contributions from the highway patrol clearing account to the Montana highway patrol officers' retirement pension trust fund.

**Motion/Vote:** SEN. WATERMAN MOVED TO ACCEPT THE LANGUAGE REQUESTED BY THE EXECUTIVE. SEN. TVEIT seconded the motion. The motion carried.

Discussion:

**Ms. Thorson** told the committee that federal funding for the accident prevention unit will end September 30, 1995, and this new proposal replaces lost federal funds with highways state special revenue. The federal funds will continue for the first quarter of FY96,, so if a motion is made the committee must adjust for this.

**SEN. WATERMAN** asked if the state special revenue comes out of the \$3.2 million.

**Ms. Thorson** replied that this comes from highway state special revenue.

**CHAIRMAN FISHER** told the committee that some of the money came from the highway traffic safety. This came out of the money for the motorcycle helmet law.

**SEN. WATERMAN** asked if the APU-fund switch is a gas tax.

**Ms. Thorson** told the committee that currently highway traffic safety has been funding this unit but the funds are going to run out the end of September 1995. Then it is proposed that the highway special revenue tax funds will fund this.

Motion/Vote: **REP. VICK** MOVED TO ACCEPT THE IN CAR-AUTOMATION/SUPPLY PANELS. **REP. MENAHAN** seconded the motion. The motion carried.

Motion/Vote: **REP. MENAHAN** MOVED TO ACCEPT THE RENT/AMMO/TRAINING PROPOSAL. **REP. VICK** seconded the motion. The motion carried.

Motion/Vote: **SEN. WATERMAN** MOVED TO ACCEPT THE APU-FUND SWITCH WITH THE REVISED FUNDING. **REP. MENAHAN** seconded the motion. The motion carried 5-1 with **SEN. AKLESTAD** voting no.

Motion: **REP. MENAHAN** MOVED TO ACCEPT THE NEW PATROL OFFICERS. **SEN. WATERMAN** seconded the motion.

Discussion:

**REP. VICK** asked what the salary of a new highway patrol officer is. **Col. Craig Reap, Montana Highway Patrol**, said the starting salary is approximately \$22,000.

**REP. VICK** asked why they are appropriating \$55,000 per each new FTE. **Co. Reap** said there are additional costs when new people are hired, such as the cost of new equipment.

**REP. VICK** asked if each officer has his own patrol car. **Mr. Reap** said that was correct.

**Vote:** The motion carried 4-2 with SEN. AKLESTAD and SEN. TVEIT voting no.

*{Tape: 1; Side: B; Approx. Counter: 347}*

**Motion:** SEN. WATERMAN MOVED TO ACCEPT THE LEGISLATIVE CONTRACT AUTHORITY INCLUDING LANGUAGE. REP. MENAHAN seconded the motion.

**Discussion**

**Ms. Thorson** told the committee that the language proposed on page D-34 of the budget analysis book is for all the legislative contract authority throughout the Department of Justice.

**Vote:** The motion carried.

**Motion/Vote:** REP. VICK MOVED TO ACCEPT THE PERSONAL SERVICES REDUCTION. SEN. TVEIT seconded the motion. The motion carried 4-2 with SEN. WATERMAN and REP. MENAHAN voting no.

**HEARING ON DEPARTMENT OF JUSTICE**  
**GAMBLING CONTROL DIVISION**

**Attorney General Joe Mazurek** told the committee that this is the first opportunity for them to look at the operating side of the proposal. The automated dial-up system is a very important part of the proposal. This has been through the executive review process and is a proposal which is supported by the Governor's Office. The Legislative Auditor conducted a review of the operations and determined that this industry has grown so fast since the beginning in 1988, and that the division is simply unable to keep up with the responsibility of the law, and with the staff that they have they are unable to keep up with the growth in machine play.

This is an alternative proposal. The division was given two options in the legislative audit report: to either ask for 23 FTE (which they now feel would need to be 25) or implement a dial-up system. They chose the most reliable, faster and cheaper process and that is to automate and propose a dial-up system which, as opposed to the on-line system, is less expensive to operate. If the legislature is unwilling to allow the agency to automate they will strongly urge the committee to authorize the FTE to do the job to keep up the manual system. **EXHIBIT 1**

**Janet Jessup, Administrator, Gambling Control Division,** gave written testimony on the general overview and responsibilities and specific budget requests. **EXHIBIT 2**

*{Tape: 2; Side: A; Approx. Counter: 771}*

**Proponents' Testimony:**

**Ellen Engstedt, Don't Gamble with The Future**, handed in written testimony strongly supporting the proposal by the Attorney General and Governor Racicot. **EXHIBIT 3**

**David Hemion, Montana Association of Churches**, told the committee that he felt that this proposal is very good and hopes that the legislature supports it also.

**George Ochenski, Hotel and Restaurant Employees**, told the committee that the machines generate a lot of money into their organization. He feels that the gambling machines are just like computers. One of the concerns of the people that he represents is if the Department of Justice wishes to implement this system there will be some costs that will have to come from the industry side to bring the machines up to standards to be hooked up to the technical system. He told the committee that he felt that there should be some consideration for the people that he represents to make sure they don't end up on the short side of the stick or wind up being the victims of this battle.

**Opponents' Testimony:**

**Dennis Casey, Executive Director of the Gaming Industry Association**, told the committee that in the draft report for the division there are some errors on pages 15 and 16. **EXHIBIT 4** This has to do with the incomes that the division is claiming. The latest information is that South Carolina went to bid and received no bids. The South Carolina legislature is back in session to correct the problem. **Mr. Casey** stated he hoped Montana is not using South Carolina figures as a benchmark cost. The gaming industry feels that experts need to be involved to determine what the costs are going to be.

In the report that was referred to, the gambling control division estimated costs of upgrading machines at \$350. Industry manufacturers with expertise would have systems and machines throughout the United States and the rest of the world. A determination of the cost needs to be made. The report states that there are 1,525 machines that are too costly or impossible to upgrade.

The heart of the audit is the part which has been recorded on paper that 28% to 38% of the reports were in error and additionally another 10% to 20% of the requests submitted by operators did not have enough information to make a determination that they were correct or not. In regards to that portion in which incomplete information was available, **Mr. Casey** stated taxes were paid. In regard to the errors, the gaming industry recognize the need for improvement and in respect to this the association and other businesses have conducted seminars that are used annually. They continue to urge their people to be careful

in mathematical calculations and tape processing. If this isn't done they will take appropriate measures on these people.

**Mark Staples, Montana Tavern Association**, said they are against this proposal because it is much too costly. He also feels that Montana should not be minimized because they do not have this automated system because there are other states that do not have this. The state would need more people and more money to go about this proposal. The Montana Tavern Association would also like to remind the committee that it will cost \$300 to convert each machine. He submitted a written statement from **Scott Seacat, Montana Legislative Auditor**. EXHIBIT 5

{Tape: 2; Side: B; Approx. Counter: 614}

**Daryl Keck, President Montana Tavern Association**, told the committee that he sits on the advisory council for the Attorney General. As president of the tavern association he represents mostly small taverns. For himself and the people he represents, he must oppose the automated dial-up system. The cost imposed on small businesses is prohibitive. Some of the smaller operators have 100% of their machines that are not convertible.

**CHAIRMAN FISHER** asked about the electronic reading of bank accounts. **Daryl Keck** told the committee that this is an optional provision in which the operators could have their taxes electronically taken out of their bank accounts.

**Phil Kiser, Small Operator from Great Falls**, said his main concern is the lack of input from operators. He feels that there is a lot of misinformation and a lot of statements made that are greatly exaggerated. The one time costs are not possible. The two fastest changing industries in the world are computers and gambling. He can't believe that the Department wants to buy a system that won't be continually upgraded. The costs will go on and on. The cost that they are asking for will not cover the cost of converting the machines or increase the business or increase productivity. It will not lower the overhead. The state is going to pay \$1 million and the industry is going to have to come up with anywhere between \$5 to \$15 million. A bank wants to know if productivity or profitability is going to be increased before they lend money to borrowers.

#### Questions From Committee Members and Responses:

**REP. VICK** asked about the increased government expense. In the budget book it says that if they do not implement the system they will have to hire 23 more employees as auditors which will cost \$1.3 million the first year and \$900,000 each year thereafter. The government expense is less with the system. He asked **Mr. Casey** if he felt that the system needs the new auditors or is the system being audited properly already.

**Dennis Casey** told the committee that he disagrees with the Attorney General in that the audit only allows two options. The understanding of the agency government is that they can respond with recommendations.

**Phil Kiser** stated that he feels there is a need for some auditors. But the department needs to hire some temporary employees to come in until things get caught up and find out what needs to be done to do the system right.

**REP. VICK** asked if they could raise fees to keep the present system. **Mr. Casey** told the committee that it seems like a reasonable request, but he couldn't speak for all.

**Daryl Keck** told the committee that he would like to respond to **REP. VICK'S** first question. Regarding the department by its own estimation they are true and honest. It is 10 to 15 times better than the period of an audit. It was done as far as getting license out. This audit was running a period of transition.



ADJOURNMENT

Adjournment: 10:40 am

*Marjorie I. Fisher* \*

MARJORIE I. FISHER, Chairman

*P. Barnewell*

BRANDEE J. DECREVEL, Secretary

*for*

MIF/bjd

Note: These minutes were edited by Lorene Thorson.

*\* These minutes were revised 4 months  
after the meeting. I do not sign as  
to their accuracy.*

# INSTITUTIONS

## Joint Appropriations Subcommittee

ROLL CALL

DATE 1-18-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Marj Fisher, Chairman	X		
Rep. Red Menahan	✓		
Rep. Steve Vick	✓		
Sen. Larry Tveit, Vice Chairman	X		
Sen. Gary Aklestad	X		
Sen. Mignon Waterman	✓		

Henderson C  
1-13-95

STATE OF MONTANA  
**DEPARTMENT OF JUSTICE**  
GAMBLING CONTROL DIVISION

EXHIBIT One  
DATE 1-13-95  
CR 110112

Joseph P. Mazurek  
Attorney General



2687 Airport Road  
PO Box 201424  
Helena, MT 59620-1424

**MONTANA VIDEO GAMBLING MACHINE DIAL-UP ISSUES**  
Study Group Report  
Compiled by Wilbur W. Rehmann  
January 12, 1995

**TABLE OF CONTENTS**

	page
EXECUTIVE SUMMARY .....	2
GLOSSARY .....	4
DESCRIPTION OF A DIAL-UP SYSTEM .....	6
STAFFING REQUIREMENTS .....	10
TELECOMMUNICATIONS COST ESTIMATES .....	12
GAMBLING INDUSTRY OVERVIEW .....	13
GCD TAX AND AUDIT FUNCTIONS .....	17
OTHER STATES AND PROVINCES .....	19
DIAL-UP COST ESTIMATES .....	22
GCD BUDGET PROJECTIONS .....	24

**APPENDIX**

- A: Department of Justice outline of Dial-up review and study group.
- B: Proposed Dial-up bill.
- C: Brief history of gambling in Montana.
- D: Machine upgrade costs.
- E: Manufacturer market share.
- F: Request for Preliminary Planning Information

The original of this document is stored at  
the Historical Society at 225 North Roberts  
Street, Helena, MT 59620-1201. The phone  
number is 444-2694.

1-13-95  
Janet Jessup  
Gambling Control  
Administration

1996-7 Budget Presentation  
Gambling Control Division, Department of Justice

EXHIBIT 100  
DATE 1-13-95  
SB 1101

INTRODUCTION: General Overview and Responsibilities

Since there are some new committee members this year, I would like to start by giving you a brief history of Montana's recent regulation of gambling, a description of the major responsibilities and functions of the Division and a description of the Division's bureaus and sections.

Our 1972 constitution made all forms of gambling illegal unless approved by the legislature or a vote of the people. Although there were legal forms of gambling ongoing in the state such as live keno and bingo, things really began to change in 1985 when the legislature passed the Video Poker Machine Act which permitted video poker and allowed unlimited keno games. Two years later, the Legislature changed the statutes to provide for taxation of gross machine revenues (by the way, gross machine revenues is the amount the "house" keeps after paying out winnings; it is the amount on which the 15% tax is applied). In 1986, when statewide data began to be collected, there were around <sup>2800</sup> video poker machines and an unknown number of keno machines, which produced \$32 million for their owners and over \$3 million in fees. This was just the beginning.

In 1989, the Legislature created the Gambling Control Division and charged it with the responsibility of regulating the industry and enforcing the new, statewide gambling statutes. Prior to this time, gambling was primarily a local issue. But gambling, primarily machine play, was becoming big business. By FY94, Montanans wagered over \$500 million on the major forms of legal gambling; of this, \$444,500,000 or 88 % was spent on video gambling machines. Machine play is by far the most popular form of gambling; traditional live games such as horseracing, cards, bingo or keno are actually experiencing decreases. Of the nearly half a billion wagered on all machines, approximately 55% was paid out in prizes, leaving a gross income of over \$200 million for the gambling industry. 15% of this amount, \$30 million, went to taxes, one-third to the state and two-thirds to local governments. Statewide there are now approximately 15,000 machines operating at any time, producing an average of \$6,500 per machine in gross income per year for the smallest locations to over \$24,000 for each machine in the largest locations, and these numbers continue to grow. In some casinos, individual machine can bring in over \$100,000 per year. Our last quarter of taxes was another record-breaker. If this rate continues, we can expect to have around \$32 million in taxes for FY95.

That's a snapshot of the revenue picture. I'd like to give you more information about our overall regulatory and enforcement activities.

The Division is responsible for all forms of legalized gambling except horse racing and

the Montana Lottery. We license gambling operators, machine manufacturers, distributors, and route operators, card dealers and card room contractors. We conduct license investigations, investigate both criminal and civil violations of gambling statute, provide investigative services to the DOR Liquor Division, collect taxes on video gambling machines, collect taxes and fees from live game activities such as keno and card games, and issue special permits and licenses. It is rare that one agency has this wide range of responsibilities in the gambling field, encompassing regulation, enforcement AND tax collection.

As a relatively new agency, we are in what I would characterize our adolescent phase. 1989 was spent consolidating staff from the Departments of Commerce and Revenue and creating emergency rules by which the new statewide statutes could be implemented. The staff consisted of 31 positions. In 1990 and 1991, provisional licenses were issued to all operators and businesses involved in gambling (most were already in operation, and there was no time to investigate all of them under the new laws so existing businesses were given provisional licenses). Also in 1991, some adjustments were made to gambling statute to incorporate traditional forms of gambling, legalize them, and bring them under state regulation (such as sports tabs games). A budget request for 23 new positions was not approved but five new FTE's were added to enhance field staff and to provide one position to inspect machines on site. The total Division staff at this point was 36.

In 1992 and 1993, licensing activity became the main focus of the Division as a high rate of turnovers (as much as one-quarter of the operators) resulted in demand for new licenses and as provisional licenses were phased out. This demand on staff time resulted in a decrease of enforcement activities, a problem we have been addressing for the past year; however, with the present staff level, it is difficult to balance the licensing workload versus enforcement and audit responsibilities.

In July 1993, as a result of legislative action, the Liquor Investigator Unit from the Department of Revenue were transferred to the Gambling Control Division. This included six investigators and two clerical positions. These FTE were dispersed across the state to meet regional needs. All investigative responsibilities related to liquor laws as well as cigarette taxes were transferred along with these positions. The consolidation of liquor and gambling investigations has resulted in time-savings for the licensees, who now see one investigator instead of two. But since the statutes and requirements are still different for gambling and liquor, the time savings for the investigators has been minimal. Approximately 44% of all license investigations are liquor-only and do not involve gambling.

Today, the Division has 44 FTE (including the eight positions transferred from Revenue) located in Helena and in eight field offices located in Missoula, Kalispell, Butte, Great Falls, Bozeman, Billings, Glasgow, and Miles City. The Investigations Bureau, with 22 positions, is responsible for regulatory and criminal investigations; in FY94, this section performed 418 offense investigations and conducted 987 gambling investigations in

addition to Liquor activities. The Licensing Section, with five employees is responsible for the issuance of licenses and permits and records management; in FY94, this section issued over 950 licenses and over 17,000 machine permits, in addition to 265 live card game permits, 143 live bingo and keno permits, in addition to special permits for casino nights and other activities. The Tax and Audit Section, with seven employees, is responsible for field and desk audits, tax collection and distribution, and financial investigations; in FY94, this section conducted 2,400 desk audits and 50 field audits, which, after refunds, resulting in additional taxes collected of \$202,204. The Tax and Audit section also processed over 60,000 quarterly tax reports and issued 2,900 problem letters, conducts between 300-400 financial investigations on license applications, and completed 300-400 follow-up financial reviews each year. The Technical Services Section, with four permanent employees, is responsible for machine evaluation and testing, on-site machine inspection and internal computer services. In FY94, this section inspected 1,522 machines, input over 10,000 service forms; tested four entirely new machines, and tested 196 modifications to machines. Finally, the Administrative Unit, with six employees is responsible for general operations, administrative hearings, legal review, public information, and State-Tribal negotiations. Last year this unit conducted 22 administrative hearings or settlements (we will exceed that number this year), processed nearly 80 cases related to violations or license actions, issued 13 cease and desists for non-payment of taxes, and conducted negotiations with three Tribal Councils for Class III gaming.

In 1993 the Division implemented a program to streamline license application processing. As a result of using teams to conduct the investigation, and keeping the applicant informed at the outset of the information that would be required, the Division was able to bring the average number of days required for processing down from 72 to 45 days, with no increase in staff. However, the large number of license applications (running 7% above the same time last year) is resulting in longer delays. Despite streamlining efforts, a current snapshot of the activity in the Division showed that each investigator had 16 active license investigations at any given time; and each Revenue Agent had 30 license investigations. This is in addition to their other responsibilities. Delays occur not because the investigation takes a long time to complete but because it takes a long time before an application is first in line for processing. Other delays occur when the investigation uncovers undisclosed or unsuitable ownership and management, and the license investigation becomes an offense investigation as well.

Despite the addition of five FTE's in 1991, gambling activity has increased faster than our capability to regulate it. We have significant backlogs in field and desk audits. We are not satisfied with licensing processing times and we would like to decrease these further but are currently constrained by staff availability. We continue to look for ways to do our work more efficiently without sacrificing thoroughness and accuracy. We have been able to address a serious backlog in enforcement actions only by realigning resources to increase our legal staff time. By 1992, we had even outgrown our Helena office and we began a long effort to find new, reasonably priced space; with luck and cooperation from the weather, we will move into new location across from the Highway department in April of this year.

I'd like to point out that the Division does not receive any gambling taxes for its operations; we are funded entirely through permits and licensing fees. Even with the changes proposed in this budget request, we do not anticipate needing any fee increases in the next biennium.

### **Discussion: Specific Budget Requests**

The Attorney General's legislative and budget package for this upcoming session does not represent a change in what we are doing in the regulation of gambling but is instead a change in how we are regulating. There are no DOJ proposals for substantive amendments to the existing gambling statutes nor are there any budget proposals for new programs that change the Division's mission. What we are asking for in the budget package is the ability to do our present job better, faster, more efficiently, and accurately.

The budget represents business as usual with this exception: we are trying to address -- through two different budget proposals -- the concerns that were expressed in the Performance Audit conducted by the Legislative Auditor in 1992 and as reported to the Legislative Audit Committee in January 1994. This audit concluded that the Division cannot adequately account for machine play and taxes due given the present manual reporting system. We have almost 1,700 locations and approximately 15,000 operating machines located throughout the state and the audit determined that we could not effectively nor efficiently monitor all these machines. The audit found that 28 to 38% of establishments pay an improper amount of tax and that an additional 18 to 22 percent could be paying an improper amount. The problem we have encountered in trying to determine the exact nature of the problem is that the reporting system and the quality of reports received is so inadequate that no one can accurately determine whether the state is receiving too little or too much in taxes. And we now have more gambling activity than when the audit was conducted in 1992 -- more machines, more tax revenue, more activity to review -- yet we have no additional staff to address these problems.

We have tried to address both current and future compliance needs through a request for six additional FTE's. These positions (which are discussed in your LFA report on pg D-47) include one compliance specialist to help process the quarterly reports, begin desk audits immediately after the quarterly reporting period, and to address problems identified in the reports sooner, problems which now go unnoticed or are not addressed for months after the occurrence. When the state had 8,000 machines, we believed that two compliance specialists were sufficient; now with 15,000 machines reporting, we need to add one more position. Three Revenue Agents have been requested to eliminate the field audit backlog (currently around 70 audits), to prevent future backlogs, and to speed licensing review -- as well as to perform follow-up audits on licenses to ensure compliance with licensing restrictions. One additional machine inspector will increase the number of inspections prior to the time that automation is implemented and to maintain acceptable inspections on a more timely basis (currently, we inspect each machine every seven years) Finally, a clerical position has been requested to assist the Tax & Audit staff. At the present time, the

staff of seven individuals has limited clerical assistance from the Division's receptionist.

Although these requested positions would be needed to reflect current activity regardless of whether the audit had been conducted, these positions will also help us address some of the issues identified in the report. The audit made a series of recommendations that can be summarized in two categories. First, the audit recommended that better internal information systems should be created to pinpoint compliance problems which would allow the Division to target necessary audits and machine inspections. In other words, additional programs should be created to help make some sense out of the massive amount of information submitted to the Division. With this information in a manageable form, the major compliance problems could more easily be identified and acted upon. The audit also recommended the increased use of penalties and other statutory sanctions to ensure industry compliance. We will need the existing staff and the requested six new positions to comply with these goals.

Second, the audit recommended that the Division present a plan to implement an automated or "dial-up" system to the 1995 Legislature. The alternative to this recommendation, according to the audit, would be the addition of a substantial number of staff to increase on-site monitoring and auditing of machine activity. The audit recommended the addition of 23 positions related to improving auditing and inspection functions if the present manual reporting system was maintained; we believe that, given the increase in machine activity since the audit was conducted in 1992, 25 positions would be necessary, at a cost of over \$1 million year after year.

We agreed with the Audit's recommendation that an automated system or dial-up is the best way to go and is significantly cheaper over the long run. Consequently, we decided last spring to proceed with a request for automation and we began an internal study of systems now in place. What dial-up will do is get the information on machine play in a reliable and timely way for the Division to act upon. The technology is nothing new; we use reporting and tracking systems that are on line in many major industries, from banking to billing systems to water metering systems. Depending on the type of system implemented, it can provide better management information for machine owners and significantly decrease their paperwork as well. Casino owners will have assurance that their competitors are paying their fair share of taxes; players will have assurance that the machines are being monitored; and local governments will have confidence that they are receiving the correct amount of taxes due to them. By contrast, let us show you how the present manual system operates.

A comparison with some other states that have video gambling machines was conducted by the Legislative Auditor. Dial-up or on-line systems are used in almost all states that have video gambling machines and in the Canadian provinces offering machine play. Most jurisdictions implement dial-up when they authorize machines; two states, Nevada and Colorado, have beefed up their audit and testing staffs instead, although Nevada has recently considered a dial-up system when the Gaming Control Board was considering switching from a fee-based system to gross income taxation. As a point of comparison, Colorado has approximately 57 casinos in two confined geographic areas in the state, and



they have a staff of over 60 employees handling gambling regulation.

We have requested a total of \$950,000 for a study to identify the best system for Montana's specific needs and to begin implementation during the next biennium. We anticipate that the study will be a very small portion of the total expenditure. Admittedly, the estimated cost of implementing dial-up is still a "soft" figure; we need to conduct the study to define and select the options that will determine actual cost. We are very mindful of the concerns that the gambling industry has over the impact of a dial-up system on their businesses, and we want to make sure that we have adequately studied the options and systems available to us and can carefully plan for the implementation of the system to minimize start-up problems. This is why we have asked for a study phase; we can't simply switch on a dial-up system one day and then walk away from it.

This fall we issued a request for information to obtain additional technical data on existing technology in the market place. In addition, DOJ technical and administrative staff recently visited South Dakota and Saskatchewan to learn more about their current dial-up systems. The information we have gathered has just been compiled in the report which we have handed out to you today. We believe that this information will enable the State to make a more informed choice concerning the proposal we have brought to the legislature.

The technology itself will not resolve all the compliance and audit issues before us; people will still be needed to process and act on the data provided by automation.

It is important to make this point clear: dial-up will improve the basic data on machine activity that we have to work with; it will not eliminate the need for human beings to assure compliance, address identified problems and audit needs, and to respond to inquiries from machine owners. Although we will reexamine manpower needs after implementation of dial-up, we anticipate that work will be reconfigured not eliminated, and that better data may result in the need for even more follow-up. We have asked for additional compliance staff because we believe we are currently understaffed even if a dial-up system were in place (and we have come to this conclusion after contacting or visiting other states with such systems). In addition, there will be a lag in time between studying the dial-up system, implementing it, and closing out the audits conducted under the old manual system. Once dial-up is fully implemented, we anticipate continued retraining and reassignment of staff. It is important to point out again that the audit was conducted in the Spring of 1992, and we are continuing to fall behind given the current staffing because of the increase in gambling activities. These staff changes address problems specific to only two of the Division's sections: the Tax and Audit and the Technical Services Sections. Although demands have increased in other sections as well, we are not asking for any other additional personnel at this time.

Other changes in the budget are relatively minor, and I'd like to briefly describe those items contained in the LFA report that I have not already discussed. Under present law adjustments, on page D-44 of your report, we are proposing changes in the way we pay for legal services (to date the Division has received but not reimbursed the County Prosecutor Services office in DOJ, and we anticipate higher usage in the future. We are also anticipating increases in other legal costs as the Division continues to increase

enforcement actions in both the criminal and administrative venues. For example, we issued approximately 75 proposed department actions in FY94; this year we issued 115 in the first five months of the fiscal year. Overall the trend shows we will be experiencing more legal costs than in the past. We have also asked for more budget authority to cover the cost of an increasing number of out-of-state investigations, which are fully reimbursed by the companies seeking to be licensed in Montana. All of this reflects a higher level of gambling activity in this state and throughout the nation.

On page D-45 of your report, additional changes we are proposing include one new vehicle for an auditor that will be assigned to field work, and a replacement fax machine and new laptop computer for field offices. We are proposing enhanced integration (or migration) to increase compatibility with statewide computer systems, allowing electronic communication with other state agencies including the Liquor Division. The original estimate of costs to switch entirely to the state standards were in the hundreds of thousands of dollars; with changes in how major computer systems "talk" to each other, we will only have to go part of the way towards total integration, and we plan to phase this in over three different bienniums. Another change in our budget are additional rental costs related to the move of our Helena headquarters; this is discussed on pg. D46. The need for space was identified in 1992; we began the search for space in early 1993 and coordinated our effort with DOA because of the mandate to co-locate state agencies whenever possible. The space we will be moving into will be shared with a larger Division from SRS, and we will be able to share common space and infrastructure to save costs.

One change that may cause some confusion is the recent inclusion of General Fund revenues in place of Liquor Enterprise Revenues for the services our Division provides for liquor investigations and enforcement activities. When liquor investigations were conducted by DOR, the function was funded by liquor funds; when the function was transferred to DOJ, the funding followed with it. An interim audit recommendation by the Legislative Audit has been implemented to move Liquor Enterprise Funds into the General Fund for Liquor Division functions. The net impact on the General Fund is zero because the liquor enterprise funds previously used for these purposes are now transferred into the General Fund to cover the same costs.

Gambling-only regulation will continue to be paid by permit and fee revenue received by the Division. We do not receive any General Fund revenues for these purposes. No increase in fees is being proposed at this time, and we believe that the budget proposals can be funded through the existing funding sources. We will continue to monitor revenues and ongoing costs to determine if fee increases will be needed in the FY98-99 biennium.

The State has a choice to make in the regulation of machine activity. If we do not implement an automated system, we need 25 more positions to do the job required by statute. Eventually, this will result in fee increases substantially larger than would ever be needed if we automated now and made the significant changes in processing that will not only bring us up to the standards used in other states but will help us cope with the future.

1-13-95

EXHIBIT FILE  
DATE 1-13-95  
SB 17072

TESTIMONY - APPROPRIATIONS SUBCOMMITTEE ON INSTITUTIONS  
JANUARY 13, 1995 *Proponents*

Madam Chairman and members of the Subcommittee, for the record my name is Ellen Engstedt, representing Don't Gamble With The Future, a statewide organization opposed to the expansion of gambling and in favor of stronger regulation of the gambling in place and allowed by Montana law.

We strongly support the proposal by Attorney General Mazurek and agreed to by Governor Racicot, that a dial-up monitoring system be implemented by the State of Montana for regulation of video gambling machines.

There has been a 121 percent increase in the number of gambling machines in Montana from 1987 to 1993. Video gambling is taxed on gross income which represents money put into a video gambling machine less prizes paid out in cash. The gross income is taxed. In the same six-year period that gross income has increased 156 percent.

My point here is not to say that business should not increase and that people should not make money. From my early years in the banking industry I learned that businesses are in business to turn a profit. That is a simple concept. Another simple concept is that those businesses do what they can to streamline their operations. I feel that is exactly what Attorney General Mazurek proposes: simplifying the regulatory duties assigned to the personnel in the Gambling Control Division by eliminating the time-consuming manual system and installing a new technology instead of adding more employees.

Don't Gamble With The Future is strongly in favor of the \$950,000 line item in the Division's budget because it would provide the funding necessary for a study of the exact type of system that would be best for Montana and the funds to implement the system.

It is my understanding that the funds proposed to be used for this purpose are special revenue funds paid by the gambling industry in its current permitting fees and would have no impact on the General Fund.

The enabling legislation for a dial-up monitoring system is a bill sponsored by Senate President Bob Brown. Don't Gamble With The Future also strongly supports the enabling legislation. Both pieces of legislation are necessary to ensure that implementation of a dial-up system is enacted.

On behalf of the more than 1,800 Montana citizens in my group, I thank you for your time and attention.

Handout 4  
1-13-95

# Office of the Legislative Auditor

State of Montana

EXHIBIT Four  
DATE 1-13-95  
SB 17072

Report to the Legislature



January 1994

## Performance Audit Report

### Regulation and Monitoring of Video Gambling Machines

Department of Justice  
Gambling Control Division

This report contains recommendations for improvements to program operations. The recommendations address:

- ▶ Division inspections of video gambling machines.
- ▶ Division enforcement activity.
- ▶ Automated monitoring of video gambling machines.

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

Direct comments/inquiries to:  
Office of the Legislative Auditor  
Room 135 State Capitol  
PO Box 201705  
Helena MT 59620-1705

92P-39

opponent

Handout 5  
EXHIBIT  
DATE 1-13-96  
HB 176-11 Staples

STATEMENT OF SCOTT SEACAT  
MONTANA LEGISLATIVE AUDITOR  
BEFORE THE GAMING ADVISORY COUNCIL  
April 7, 1994

"Mr. Chairman, I want to make one point real clear, because there was a comment on tampering. I have various obligations under federal and state law for reporting in cases of fraud, illegal acts, or cheating. We have no such instances and I want to make that absolutely clear - we had no instances of tampering or illegal acts or illegal activity, and I can assure you, as the members of the Legislature can confirm, if there would have been some, I would have pursued them. We have none."

HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

House of Representatives SUB-COMMITTEE

DATE 1-13-95

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Jim Oppedahl	Justice		
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Stacy May	Justice		
Kirk Oak	Justice		
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Jesse Munson	Justice - HP		
Craig Reed	Justice - HP		
Jan Wall	Smith / m'Coner		
Chris Tweeton	Justice		
David Hammon	MT Assoc. of Churches		
Chuck Johnson	Lee News paper		
Wilbur W. Rehman	DOT		

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HOUSE OF REPRESENTATIVES  
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Rich & Miller	Best Bet Casino M/LA		✓
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Dennis Caskey	Gaming Ind. Assn		✓
Phil Kiser	PARADISE Amusement		✓
C. Mark Fowler	Dept. of Just.		
Darrell Keck	MTA GAC		✓
MARK STAPLES	MONTANA TAVERN ASSOCIATION		✓
LARRY AKEY	VIDEO LOTTERY TECHNOLOGIES, INC.		
Joe DiCicco	Governor Office	✓	

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