

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By CHAIRMAN DON HARGROVE, on February 12, 1997,
at 10:03, in Room 331.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Delwyn Gage (R)
Sen. Fred Thomas (R)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: David Niss, Legislative Services Division
Mary Morris, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SR 13, SB 268 - 2/7/97
Executive Action: None

HEARING ON SR 13

Introduction:

CHAIRMAN DON HARGROVE introduced Adjutant General Gene
Prendergast.

{Tape: 1; Side: A; Approx. Time Count: 10:06; Comments: None.}

Proponents: None

Opponents: None

Opening Statement:

Gene Prendergast, Adjutant General for the State of Montana and
Director of Military Affairs presented his resume, a National
Guard pamphlet and a Ramsey School News Letter to the committee.
EXHIBITS 1, 2 & 3.

{Tape: 1; Side: A; Approx. Time Count: 10:22; Comments: None.}

Proponents' Testimony: None.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. KEN MESAROS inquired whether the dramatic drop of traditional guard pay in the Air Guard is due to the number of personnel involved.

General Prendergast stated that the number of guards and AGR are among the factors.

SEN. MESAROS asked if there have been any reported findings of old shells or weapons in the old training site in the north portion of the Helena Valley.

General Prendergast replied that two items have been turned in and that more people are coming forward causing a necessary expansion farther north. He added that this is a serious issue.

SEN. MESAROS asked how much expansion is anticipated.

General Prendergast stated that the expansion would be approximately one half mile to one mile up the hill.

SEN. VIVIAN BROOKE noted that there were many barriers to communication between counties during the East Fork Dam situation near Missoula and asked how the National Guard Emergency services operate within the counties.

General Prendergast responded that Disaster and Emergency Services have a representative in each county. He stated that when it is required for an emergency, the National Guard is put on state active duty and the proclamation is signed by **Governor Racicot**. He expressed his concern about the breakdown in communication.

SEN. BROOKE clarified that the East Fork Dam situation involved three counties and that Granite County did not have a plan in place for this type of emergency. She stated she is attempting to put a plan in place and inquired whether the National Guard should be involved.

General Prendergast suggested contacting Disaster and Emergency Services and indicated he would meet with her at later time to provide more detail.

SEN. BROOKE noted the negative media attention the military has received recently in regard to sexual harassment. She asked whether Montana has any type of training in place to raise awareness of this issue.

General Prendergast stated that a continuous training process is in place, that each commander and MCO receives training as well as each director and full-time employee. There are also personnel offices on both the state and federal level to which any incidents can be reported. An Inspector General for the Department of Military Affairs is also available to any state, federal or military personnel needing to report sexual harassment.

SEN. BROOKE asked if the national attention the situation has received has caused an increase of reports in Montana.

General Prendergast responded that the number of reports has not increased. There have been two hot-line reports, but none since then.

SEN. DEL GAGE noted that **General Prendergast** seems to be the goodwill officer for the state and asked if he sees himself in this role.

General Prendergast responded that he does intend to do goodwill toward the people of Montana. He commended Veteran Affairs and stated that the department makes every effort to assist veterans.

SEN. GAGE inquired whether an ongoing relationship exists between the department and the Law Enforcement Academy.

General Prendergast stated that a formal relationship does not exist, however, the department does offer the use of its fire ranges to the Academy whenever needed as well as honoring any other request made by the academy.

SEN. GAGE inquired what funding is used when the Guard is put on active status.

General Prendergast replied that the funding is from the General Fund. There is an emergency fund that is funded at \$2 million. That fund is now down to \$600,000 after the past year's disasters. He referred to a letter he recently signed for **SEN. BROOKE** to raise the amount in the fund from \$2 million to \$4 million in anticipation of spring floods caused by the 150 to 200% increase in snow-pack.

CHAIRMAN HARGROVE commented on the important role of the Native American Youth Olympics.

General Prendergast noted that he has a close relationship with the Native American community. He recalled a trip he and members of the Russian military made to Northern Cheyenne Reservation and the special feeling of community that resulted from the festivities.

CHAIRMAN HARGROVE inquired if there is random drug testing for all grades.

General Prendergast stated that there is.

CHAIRMAN HARGROVE recalled testimony concerning unfair competition with contractors from the department and asked **General Prendergast** for his explanation of the situation.

General Prendergast explained that the department is asked to do many things because of the equipment it possesses. The department is very careful not to infringe on private business. He believes some of the concern is due to the department's recently acquired paving company. It was the department's plan to do paving for state agencies, but the private industry is concerned that business will be taken away from them. He stated that he has informed **SEN. ARNIE MOHL** that he will share with him any missions the department has in order to prevent infringing on any private industry. He expressed concern that the department is sometimes questioned about its use of helicopters in emergency situations because of the desire of a private industry to provide the helicopter. All Guard missions must be cleared by Scott Air Force Base.

CHAIRMAN HARGROVE asked how the paving company would be trained.

General Prendergast expressed gratitude to Rick Day of the Department of Corrections for setting up the company and explained that the company will be training with the private industries, such as Helena Sand and Gravel. He stated he feels somewhat bad that the department will be taking the equipment out of state to pave some of the armory parking lots and roads at the National Training Center in California.

CHAIRMAN HARGROVE agreed that there is continued conflict over the issue of using tax payers' money to train people in state then have them use the training out of state. He asked what the policy of the department is in responding to a request from a member of the legislature on behalf of a constituent.

General Prendergast replied that he tries to distance himself from the legislature in order to avoid any appearance of impropriety.

CHAIRMAN HARGROVE inquired whether members of the department acting unilaterally have a policy of contacting the Adjutant General or others in command before giving advice or information about a situation.

General Prendergast stated that the department has an open door policy with regard to giving information about the department and that if the person being contacted does not have the information, the request will be passed to someone who does.

CHAIRMAN HARGROVE commented on the difficulty of trimming the budget of the Department of Military Affairs due to the importance of each function within it. He asked **General**

Prendergast how he evaluates and prioritizes the importance of the programs within the department.

{Tape: 1; Side: A; Approx. Time Count: 10:44; Comments: END OF SIDE ONE.}

General Prendergast commended the legislature for handling its difficult budgeting tasks. He stated that a Board of Directors meets every Monday and reviews critical areas of the budget. Most of the agency's funds are federal. Budgeting can be very difficult due to the need to satisfy DES and Centralized Services. The Board of Directors of the Army National Guard meets every Tuesday. Budgets are being cut significantly at the national level. He stated that he has attempted for the past four years to bring the Challenge Program to Montana, however, Congress has cut the budget for it. The program is for 16 to 19 year old youths without any drug or alcohol problems who have quit school and have no aim. He is attempting to get federal funding to bring 50 of these kids into a five month class at Fort Harrison, running 150 to 200 kids a year through the program. The program is much like basic training and the students receive a GED at the end. After the completion of the program, members of the Guard would act as mentors to the students for one year. He has been told by Senate Majority Leader Trent Loft that this is the most successful program in the nation at this time with a 78% success ratio.

SEN. GAGE asked what the percentage is of positive drug tests.

General Prendergast answered that the percentage is 1.7%, from a total of 2,700 members.

SEN. GAGE inquired if there are areas the department is currently involved in that might be better served by other agencies or private enterprise.

General Prendergast responded that the department's current involvement in the areas it serves is necessary and there are, in fact, other areas where the service of the department has been requested.

SEN. GAGE asked what the estimated cost would be for the Challenge Program.

General Prendergast responded that it would be approximately \$1.5 million.

SEN. MESAROS asked how the selection process is completed for the random drug testing.

General Prendergast explained that there is a funding constraint from the National Guard Bureau. The goal is to test approximately 50 to 75% of the members per year, as that is all that funding allows. He explained that he was randomly tested at

a recent drill. The test is done under strict control and the results are from a lab in Denver.

SEN. GAGE requested information on the Challenge Program to share with House Select Committee on Juvenile Corrections.

{Tape: 1; Side: B; Approx. Time Count: 10:54; Comments: None.}

Closing Statement:

General Prendergast thanked the committee for the time to share his goals and expressed the honor he feels serving in his position.

CHAIRMAN HARGROVE requested materials on the subject matter of days questioning.

{Tape: 1; Side: B; Approx. Time Count: 10:55; Comments: None.}

HEARING ON SB 268

Sponsor: SEN. TOM KEATING, Senate District 5, Billings.

Proponents: John P. Glyn
Kitty Medina
Betty Waddell, Montana Association of Churches
Arlette Randash, Eagle Forum
Verner Bertelsen, Montana Senior Citizens
Association
Ellen Engstedt, Don't Gamble with the Future

Opponents: REP. BOB PAVLOVICH, House District 37, Butte
Peter Blouke, Director of Department of Commerce

Opening Statement by Sponsor:

SEN. KEATING explained that the bill simply repeals the state lottery and takes the state out of the gambling business. He was not in favor of the lottery when it began. Surveys indicate that 70% of his district is opposed to gambling. He told of constituents asking why the money from the lottery hadn't gone toward decreasing taxes or toward funding education as had been promised. He stated that in his position on the Legislative Audit Committee, he saw the promise made to the people of the state dissolve. The profits from the lottery were to go toward Teachers' Retirement, thereby reducing property taxes by offsetting the funding to come from taxes. Within two years, 10% of the revenue was going to Juvenile Justice to provide for processing juvenile delinquents through the court system. He finds it paradoxical that gambling is being promoted to people whose kids end up in the court system they fund. The revenue is now all going into General Fund.

He stated that he served on the Board of the Rimrock Foundation for ten years. The foundation expanded its services from chemical dependency treatment to treatment of all emotional disorders. Within three years of lottery and keno machines coming into existence in Montana, the treatment of compulsive gambling increased to 25% of the foundation's business. It was determined that a significant number of those being treated had started gambling by buying lottery tickets. Those most susceptible to starting their addiction in this manner are 18 and 19 year old youths. He noted that there is no provision for setting aside some tax money for treatment of the problems that arise from open gambling. Therefore, we are reaping an expense outside of the lottery system that is being paid for by General Fund, Medicaid or other sources. This sets up a "pay now or pay later" circumstance. Lottery tickets sales are \$32 million per year. Approximately 52% goes back in prizes. Another 18 to 20% goes toward the cost of administration and materials. The net of approximately \$8 million goes into the General Fund. In regard to the winnings, over half the money people pay out for tickets goes to very few winners, so some people get a lot of money and a lot of people have less money. New wealth is not generated, rather, the fruits of people's labor are redistributed. A portion of the small percentage that does go into the General Fund is paid out to the problems produced by gambling.

He related the story of a woman who purchased \$20 worth of groceries and did not receive enough change to buy a lottery ticket. The woman then put back a box of cereal to be able to purchase the ticket. He stated that this confirmed his suspicion that money that could be going toward food is going toward lottery tickets. He related that when a dollar is spent at a business, it rolls through the economy about six times. That dollar supports jobs and generates new wealth. This also creates taxable revenue. Income tax is the biggest source of revenue for the General Fund. He argued against the concern about losing the \$8 million that ticket sales generate for the General Fund by pointing out that the \$32 million spent on the tickets would be more beneficial if used to purchase commodities, thereby generating the need for manufacture of more commodities. He referred to an article from the May, 1996 issue of Money Magazine entitled "Lotto Fever: We All Lose" and written by Peter Keating, which is a study of all states that have the lottery. The statistics in the article indicate that, regardless of the amount of money the lottery brings in, the state still increases spending and taxation. He summarized his former points and added that he believes that, morally, gambling sets a poor example for the youth.

{Tape: 1; Side: B; Approx. Time Count: 11:25; Comments: None.}

Proponents' Testimony:

EXHIBIT 4 submitted by John P. Mc Glyn.

EXHIBIT 5 submitted by Kitty Medina.

Betty Waddell, Montana Association of Churches questioned what the lottery does to the moral character of Montanans. She pointed out that many come to or stay in Montana for its beauty, while aware they may not make much money. The lottery has introduced the belief that one must no longer work for what one receives. This belief is especially destructive to those who are desperate and of lower income. She explained that she won a car and had a difficult time dealing with the emotions that resulting from winning something she didn't deserve. She feels the lottery is equally destructive to those who win.

She pointed out the social costs of gambling. Compulsive gamblers comprise 1.3% of the state's population. Goodman's 1992 study states that the social cost of each compulsive gambler is \$13,200. This figure includes loss of jobs, money spent on the justice system for embezzlement cases and bail-out money provided by family members. This totals \$145 million spent on the gamblers in this state. A low estimate of treatment cost is \$3,000. In-patient treatment costs \$9,200. She noted that 13% of prisoners are incarcerated due to gambling enterprises. She asked the committee to consider the impact of the lottery on the character of the people in Montana as well as the economic impact.

{Tape: 1; Side: B; Approx. Time Count: 11:30; Comments: None.}

Arlette Randash, Eagle Forum, supported the statements made by SEN. KEATING and added the amount of revenue returned to the people decreased to 29% in 1995. She stated that the typical charity in the United States returns \$.75 of every \$1 it receives and that the Salvation Army returns \$.88 of every \$1.

{Tape: 1; Side: B; Approx. Time Count: 11:31; Comments: None.}

Verner Bertelsen, Montana Senior Citizens Association, expressed his gratitude for being appointed by the Senior Citizens Association as a lobbyist. He has been appointed to attempt to gain control of gambling, oppose any increase in gambling and to attempt to decrease gambling in the state. He stated that during his five terms in the House of Representatives he strongly opposed gambling in the state. He believes that it is a mistake to not only allow gambling, but to be a state sponsor of gambling. The lottery is taking money from the poor and that is a terrible way for the state to make money.

{Tape: 1; Side: B; Approx. Time Count: 11:34; Comments: None.}

Ellen Engstedt, Don't Gamble with the Future, presented written testimony. EXHIBIT 6.

{Tape: 2; Side: A; Approx. Time Count: 11:39; Comments: BEGAN ON TAPE 1, SIDE B, TIME COUNT 11:34.}

Opponents' Testimony:

REP. BOB PAVLOVICH, House District 37, Butte, stated that he and former Sen. Lawrence Stimatz were authors of the lottery bill.

In 1983 it became clear that the lottery bill would not be passed out of the legislature, so he initiated a referendum that did pass. **EXHIBIT 7.** He referred to the testimony of **Mr. Bertelsen** and noted that the senior citizens in his community, including himself, have not been polled regarding the lottery. He pointed out that he is a Roman Catholic from a predominantly Catholic community and that the Catholics in his community also were not polled regarding the lottery. He stated that the church to which he belongs is overwhelmingly in favor of the lottery.

The money from the lottery initially went to OPI, but neither OPI nor the Board of Education wanted the money, so it was shifted into the General Fund. He stated that getting rid of the lottery would be throwing out \$8 million to \$10 million a year. He pointed out that 35 states and several foreign countries have the lottery, but that those lotteries are better because tax does not have to be paid on the winnings. He suggested promoting the lottery by eliminating the state tax. He noted that in Georgia, students with a 3.0 or above grade point average have their college education paid by the revenue from the lottery and suggested that we start this practice in Montana. He passed along the regret of former **Sen. Stimatz** for not being able to appear at the hearing to testify.

{Tape: 2; Side: A; Approx. Time Count: 11:43; Comments: None.}

Peter Blouke, Director of Department of Commerce, stated that he does not oppose the bill in his position as Director, rather he is providing testimony from members of the Montana Lottery Commissioners who could not attend the hearing. **EXHIBIT 8.**

{Tape: 2; Side: A; Approx. Time Count: 11:46; Comments: None.}

Questions From Committee Members and Responses:

SEN. BROOKE asked **Dr. Blouke** if the research results he submitted were gathered by an independent professional survey group.

Dr. Blouke deferred to **Gerald LaChere, Director of the Lottery**, who replied that the research was done by an organization called Clear Water Research. He added that all participants in the survey were over 18 years old and were Montana residents.

SEN. BROOKE requested written copies of the questions and responses.

SEN. BILL WILSON stated that, personally, he is not a fan of gambling. He asked **Ms. Waddell** if the Catholic Church is part of the group she represents.

Ms. Waddell explained that policy of the association is formulated by representatives from each of the eight dominations she represents. The policies represented must be approved unanimously at an annual assembly. The Bishops and their delegates to the association have approved the policy she is presenting.

SEN. WILSON asked if the Catholic Church still sanctions playing bingo for money as it did when he was growing up. And if it does, how does it reconcile this with opposing the lottery.

Ms. Waddell stated that historically there has been a difference in how these activities have been approved in the state. Bingo and raffles are under a different legislative system than the lottery or video gambling and that issue hasn't been addressed by the association.

SEN. MESAROS referred to **Ms. Engstedt** testimony that 7% of lottery players become compulsive gamblers and asked her to provide information that would define a compulsive gambler as well as documentation of the statistics to which she referred.

Ms. Engstedt stated that the statistics to which she referred were from a study done by the University of Illinois and that she could provide him with complete information at a later time. She added compulsive gamblers are identified under criteria from the American Psychiatric Society. She clarified that the 7% statistic refers to the percentage of those who play the lottery, not of the population as a whole.

SEN. MESAROS asked if the results represent the nationwide population.

Ms. Engstedt responded that since the study was performed in Illinois, the results were likely specific to Illinois. She added that Montana is woefully behind in performing studies. The studies that are appearing indicate that Montana is, unfortunately, on target with the addiction.

SEN. GAGE referred to the testimony of **Ms. Engstedt** that upper-income households spend an average of \$5 a month on the lottery while lower-income households spend an average of more than \$90 a month and asked where the determination lies of what is upper-income as opposed to lower-income.

Ms. Engstedt stated that the information is from the same report from the University of Illinois and that she would find that information.

SEN. FRED THOMAS asked **Ms. Engstedt** if information could be provided that shows the origin of gaming dollars.

Ms. Engstedt explained that Montana has what is called convenience gambling and it does not attract tourists.

SEN. THOMAS clarified that he understands that the dollars come from Montana citizens, however he would like to know where the citizens money originates--whether it is from minimum wages salaries, welfare transfer, high salaried income, social security income, etc.

Ms. Engstedt stated it is her belief that the money comes from all the areas mentioned and that she would try to provide statistics to that effect.

SEN. BROOKE referred to the fiscal note which states that if the lottery is eliminated the money will not be received in the General Fund and asked SEN. KEATING if there will be a contingent clause in the bill.

SEN. KEATING stated that there will not be a contingency clause and added that the money that is not paid toward the lottery will pass through the system of commerce generating taxable income and will come back in some other form.

CHAIRMAN HARGROVE asked SEN. KEATING if he considered not signing the fiscal note based on the \$8 million not going into the General Fund.

SEN. KEATING responded that he felt it appropriate to sign the fiscal note and added that the \$8 million is an accurate figure.

SEN. GAGE asked SEN. KEATING if he had ever seen information that told the amount of income tax paid for the every dollar spent in Montana.

SEN. KEATING responded that he had not seen such information, but reiterated that he had seen information that when \$1 is spent, it is turned over six times increasing the spending by six times.
{Tape: 2; Side: A; Approx. Time Count: 12:00; Comments: None.}

Closing by Sponsor:


SEN. KEATING stated that he is Roman Catholic of Irish descent, that REP. PAVLOVICH is Roman Catholic of Serbian descent and that the director of the lottery system is also Roman Catholic. His presenting the bill does not reflect on those running the lottery as he feels they are good workers and administrator who have always have clean audits. He is simply suggesting that the ramifications of the lottery with regard to the expenditure of funds on social programs causes one to question whether the \$8 million is truly profit. The contribution of gambling to social ills must be considered when looking at the costs of correctional facilities and welfare.


{Tape: 2; Side: A; Approx. Time Count: 12:02; Comments: None.}

ADJOURNMENT

Adjournment: 12:02


SEN. DON HARGROVE, Chairman


MARY MORRIS, Secretary


ELAINE BENEDICT, Transcriber

DH/EMB