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House BILL NO. *314*
INTRODUCED BY *Lynch, Zamboni, Mondak, Ellard, Murphy, McFadden, Propella, Kelly, Mular*

A BILL FOR AN ACT ENTITLED: "AN ACT TO LEGALIZE GAMBLING; CREATE THE MONTANA GAMING CONTROL BOARD; TO PRESCRIBE ITS DUTIES AND POWERS; TO PROVIDE FOR CLASSES OF GAMING LICENSES, LICENSE FEES AND TAXES; TO PROVIDE FOR THE COLLECTION AND DISPOSITION OF LICENSE FEES AND TAXES; TO PROVIDE FOR LOCAL OPTION ELECTIONS; AND TO PROVIDE PENALTIES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. This act may be cited as the "Montana Gaming Control Act".

Section 2. Definitions. As used in this act:

(1) "Applicant" means any person, partnership, firm or corporation who has applied for the issuance of a state gaming license under the provisions of this act.

(2) "Application" means a request for the issuance of a state gaming license under the provisions of this act.

(3) "Board" means the state gaming control board established by this act.

(4) "Chairman" means the chairman of the state gaming control board.

(5) "Member" or "board member" means a member of the

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state gaming control board.
(6) "City" means any incorporated city or town.
(7) "County" means any political subdivision of the state designated by state law as a county.
(8) "Establishment" means any premises wherein or whereon any gaming is done.
(9) "Game" or "gambling game" means any banking or percentage game played with cards, dice or any mechanical or electric device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing to roulette, keno, bingo, twenty-one, blackjack, craps, poker or any variation thereof, slot machine or pin ball machine, but shall not include social games played solely for drinks, cigars or cigarettes served individually or games played in private homes or residences for prizes.
(10) "Gaming" or "gambling" means to deal, operate, carry on, conduct, maintain or expose for play any game as herein defined.
(11) "Gaming device" means any mechanical or electrical contrivance or machine used in connection with gaming or any game.
(12) "Hearing examiner" means a member of the state gaming control board or other person authorized by the board to conduct investigative hearings.

1 (13) "License" or "gaming license" means any license
2 issued by the board under this act which authorizes the
3 person named therein to engage in gaming.

4 (14) "Licensee" means any person to whom a valid
5 gaming license has been issued.

6 (15) "License fees" means any money required by law to
7 be paid to obtain or renew a gaming license.

8 (16) "Operation" means the conduct of gaming.

9 (17) "Party" means the board or any licensee or other
10 person appearing of record in any proceedings before the
11 board or hearing examiner, and any licensee or other person
12 appearing of record in any proceedings for judicial review
13 of any action, decision or order of the board.

14 (18) "Year" means a period of twelve (12) consecutive
15 months commencing on July 1 in any year.

16 (19) "Person" means any corporation, firm,
17 association, trust, partnership or natural person.

18 (20) "Respondent" means any licensee or other person
19 against whom a complaint has been filed with the board.

20 (21) "Slot machine" means any mechanical, electrical
21 or other device, contrivance or machine which, upon the
22 insertion of a coin, token or similar object therein or upon
23 the payment of any consideration whatsoever, is available to
24 play or operate, the play or operation of which, whether by
25 reason of the skill of the operator or application of the

1 element of chance, or both, may deliver or entitle the
2 person playing or operating the machine to receive cash,
3 premiums, merchandise, tokens or anything of value, whether
4 the payoff is made automatically from the machine or in any
5 other manner, excluding however, punch boards, pull tabs and
6 sports pools as defined in this act.

7 (22) "Punch board" means any board, spindle, jar or
8 other device which contains numbered tabs and is played by
9 the insertion of a peg, manually pulling from a spindle or
10 withdrawing from a jar or other container, a tab, and for
11 which money or other consideration is paid to win a prize
12 consisting of money, merchandise or other items of value.

13 (23) "Sports pool" means a card divided into squares
14 or spaces for which a consideration in money is paid by the
15 person playing for each square or space for the chance to
16 win money or other items of value on any baseball, football,
17 basketball game or horse race; or other pool wherein for a
18 money consideration the person playing by chance or
19 selection attempts to pick the winning teams in any sports
20 event for the chance to win money or other items of value.

21 (24) "Distributor's license" means a license to sell
22 or distribute any coin-operated gaming device, punch board,
23 sports pool or other mechanical or electrical gaming device.

24 (25) "Manufacturer's license" means a license to
25 manufacture any coin-operated gaming device, punch board,

1 sports pool or other mechanical or electrical gaming device.

2 Section 3. Construction of this act. In construing
3 the provisions of this act, save when otherwise plainly
4 declared or clearly apparent from the context:

5 (1) Words in the present tense shall include the
6 future tense.

7 (2) Words in the masculine shall include the feminine
8 and neuter genders.

9 (3) Words in the singular shall include the plural,
10 and in the plural shall include the singular.

11 Section 4. Board. There is a Montana state gaming
12 control board which consists of five (5) members.

13 Section 5. Board qualifications. (1) Each member of
14 the board shall be:

15 (a) a citizen of the United States; and

16 (b) a resident of the state of Montana for more than
17 five (5) years prior to appointment.

18 (2) No member of the legislature, no person holding
19 any elective office in state or local government, nor any
20 officer or official of any political party is eligible for
21 appointment to the board.

22 (3) It is the intent of the legislature that the board
23 shall be composed of the most qualified persons available,
24 preferably no two (2) of whom shall be of the same
25 profession or major field of industry.

1 (4) Not more than three (3) members of the board shall
2 be of the same major political affiliation.

3 Section 6. Board membership. (1) The members of the
4 board are appointed by the governor with the advice and
5 consent of the senate.

6 (2) The governor designates a member to serve as
7 chairman of the board.

8 (3) Initial appointment to the board, except to fill
9 unexpired terms, is as follows:

10 (a) three (3) members for terms of four (4) years;

11 (b) two (2) members for terms of (2) years;

12 (c) thereafter, all members are appointed for a term
13 of four (4) years.

14 (4) Appointments to fill vacancies on the board are
15 for the unexpired term of the member to be replaced, and are
16 appointed by the governor with the concurrence of the
17 senate.

18 Section 7. Board compensation. The board members are
19 entitled to receive a per diem allowance of twenty-five
20 dollars (\$25) per day while engaged in board business and
21 are reimbursed for travel and expenses incurred while
22 attending meetings of the board.

23 Section 8. Board discretionary powers. (1) The board
24 may:

25 (a) establish and from time to time alter such plan of

1 organization as it deems expedient;

2 (b) employ and discharge an administrator who receives
3 an annual salary not to exceed fifteen thousand dollars
4 (\$15,000), to be set by the board;

5 (c) employ and discharge other personnel as it deems
6 necessary;

7 (d) acquire furnishings, equipment, supplies,
8 stationery, books, license forms, tax stamps, and all other
9 things it deems necessary or desirable in carrying out its
10 functions;

11 (e) incur other expense, within the limit of funds
12 available, it deems necessary.

13 (2) All costs of administration incurred by the board
14 are paid out on claims from the general fund in the same
15 manner as other claims against the state are paid.

16 Section 9. Main office. (1) The board shall keep its
17 main office at Helena, Montana, in space provided by the
18 department of administration.

19 (2) The board may, if deemed necessary, maintain a
20 branch office at any other place in this state, in space to
21 be provided by the department of administration.

22 Section 10. Meetings. (1) Regular and special
23 meetings of the board may be held, at the discretion of the
24 board, at times and places it deems convenient, but at least
25 one (1) regular meeting shall be held each month.

1 (2) Public notice of the time and place of special
2 meetings shall be given at least seven (7) days prior to
3 that meeting.

4 (3) All meetings of the board are open to the public.
5 Investigative hearings may be conducted by the board, or a
6 member, in private, at the discretion of any member.

7 (4) A majority of the members constitutes a quorum of
8 the board, and a majority of members present at any meeting
9 determines the action of the board.

10 (5) Investigative hearings may be conducted by one (1)
11 or more members with the concurrence of a majority of the
12 board, without notice, at times and places the member or
13 members consider convenient.

14 Section 11. Board to keep records of all proceedings.
15 (1) The board shall make and keep records of all
16 proceedings occurring at regular or special meetings of the
17 board; these records are open for public inspection.

18 (2) The board shall keep and maintain a file of all
19 applications for licenses under this act, together with a
20 record of all action taken with respect to those
21 applications; this file and record is open to public
22 inspection.

23 (3) The board may maintain other files and records it
24 deems desirable.

25 (4) All information and data required by the board to

1 be furnished to it under this section or which may be
 2 otherwise obtained relative to the earnings or revenue of
 3 any applicant or licensee is confidential and shall not be
 4 revealed in whole or in part except as follows:

5 (a) in the course of the necessary administration of
 6 this act;

7 (b) upon the lawful order of a court of competent
 8 jurisdiction; or

9 (c) to a duly authorized agent of the federal bureau
 10 of investigation, the United States department of the
 11 treasury or the director of the internal revenue service of
 12 the United States.

13 (5) All files, records and reports and other
 14 information pertaining to gaming matters in possession of
 15 the department of revenue of the state of Montana shall be
 16 made available to the board as necessary for the
 17 administration of this act.

18 Section 12. Policy. (1) It is the policy of this
 19 state that all establishments where gambling games are
 20 conducted or operated or where gambling devices are operated
 21 in the state of Montana shall be licensed and regulated to
 22 better protect the public health, safety, morals, good
 23 order, and general welfare of the inhabitants of the state
 24 of Montana.

25 (2) Any license issued under this act is deemed a

1 revocable privilege, and no holder thereof is deemed to have
 2 acquired any vested rights therein or thereunder.

3 Section 13. Board duties. (1) The provisions of this
 4 act with respect to state gaming licenses are administered
 5 by the board which shall administer the same for the
 6 protection of the public and in the public interest in
 7 accordance with the policy of this state.

8 (2) The board shall investigate the qualifications of
 9 each applicant for licenses under this act before any
 10 license is issued and shall continue to observe the conduct
 11 of all licensees to the end that licenses are not issued to
 12 nor held by unqualified or disqualified persons or
 13 unsuitable persons or persons whose operations are conducted
 14 in an unsuitable manner or for unsuitable or prohibited
 15 places or locations. The board has full power and authority
 16 to deny any application for a license, or the limitation,
 17 conditioning or restriction of any license, or the
 18 suspension or revocation of any license for any violation of
 19 this act or rules established by the board.

20 (3) The board and its agents, inspectors and employees
 21 may:

22 (a) inspect and examine all premises wherein gaming is
 23 conducted;

24 (b) inspect all equipment and supplies in, upon or
 25 about those premises;

1 (c) summarily seize and remove from those premises and
2 impound any equipment or supplies for the purpose of
3 examination and inspection;

4 (d) demand access to and inspect, examine and audit
5 all papers, books and records of applicants and licensees
6 respecting the gross income produced by gaming devices
7 licenses, and require verification of income and all other
8 matters affecting the enforcement of the policy of or any of
9 the provisions of this act.

10 Section 14. Other board duties. The board shall, from
11 time to time, adopt, amend, or repeal rules, consistent with
12 the policy, objects, and purposes of this act. In these
13 rules the board shall:

14 (1) prescribe the method and form of application an
15 applicant shall follow and complete prior to consideration
16 of his application by the board;

17 (2) prescribe the information to be furnished by any
18 applicant or licensee concerning that person's antecedents,
19 habits, character, associates, criminal record, business
20 activities and financial affairs;

21 (3) require fingerprinting of an applicant or licensee
22 or employee of a licensee or any other method of
23 identification;

24 (4) prescribe the manner and procedure for all
25 hearings conducted by the board or any hearing examiner of

1 the board, including special rules of evidence applicable
2 thereto and notices thereof;

3 (5) require any applicant to pay all or any part of
4 the cost of investigation of that applicant;

5 (6) prescribe the manner and method of collection and
6 payment of fees and issuance of licenses;

7 (7) define and limit the area, games and devices
8 permitted and the method of operation of those games and
9 devices for the purposes of this act;

10 (8) prescribe conditions under which nonpayment of a
11 gambling debt by a licensee is deemed grounds for revocation
12 or suspension of his license;

13 (9) require any applicant or licensee to waive any
14 privilege with respect to testimony at any hearing or
15 meeting of the board, except those privileges afforded by
16 the constitution of the United States or this state;

17 (10) prescribe the qualifications of, and the
18 conditions under which, attorneys, accountants and others
19 are permitted to practice before the board.

20 Section 15. Board to investigate violations. (1) The
21 board shall investigate any apparent violations of this act
22 or any rule adopted under this act which come to its
23 attention and, when disciplinary or other action is to be
24 taken against a licensee, shall conduct the necessary
25 investigative hearings.

1 (2) If, after the investigation, the board determines
 2 a license should be limited, conditioned, suspended or
 3 revoked, it shall issue an order to show cause setting forth
 4 the name of the licensee, the nature of the alleged
 5 violation, and the time and place of the hearing. The
 6 licensee may appear at that time and place with his attorney
 7 and witnesses and produce testimony for and on his behalf
 8 and he may cross-examine any and all witnesses appearing for
 9 and on behalf of the board and the attorney for the board
 10 may cross-examine the witnesses produced by the licensee. A
 11 record or transcript of all testimony adduced at the hearing
 12 shall be made. The board shall make, at the conclusion of
 13 all testimony, its findings and render a final order, a copy
 14 of these shall be sent to the licensee by certified mail.
 15 The licensee may appeal to the district court of the first
 16 judicial district of the state of Montana, and the appeal
 17 shall be heard on the record made at the hearing. No other
 18 testimony shall be introduced unless the court, upon good
 19 cause shown, allows the additional testimony.

20 (3) The order of the board is effective until reversed
 21 or modified upon appeal, except the board may stay its order
 22 pending appeal upon such terms and conditions it deems
 23 proper.

24 (4) The transcript of the hearing on the order to show
 25 cause in the district court shall be furnished by the board

1 at the expense of the licensee.

2 (5) Notice of appeal shall be filed with the board and
 3 the district court within ten (10) days of receipt by the
 4 licensee of the findings and final order of the board and
 5 the transcript of the record shall be filed in the district
 6 court within sixty (60) days thereafter.

7 Section 16. Prohibitions. (1) It is unlawful for any
 8 person, either as owner, lessee, or employee, whether for
 9 hire or not, either solely or in conjunction with others:

10 (a) to deal, operate, carry on, conduct, maintain or
 11 expose for play in the state of Montana, any game or slot
 12 machine as defined in this act, or to operate, carry on,
 13 conduct, or maintain any sports pool; or

14 (b) to provide or maintain any information service,
 15 the primary purpose of which is to aid the placing or making
 16 of wagers on events of any kind; or

17 (c) to receive, directly or indirectly, any
 18 compensation or reward or any percentage or share of the
 19 money or property played for keeping, running, carrying on,
 20 or permitting the same to be carried on without first
 21 procuring, and thereafter maintaining in full force and
 22 effect, all federal and state licenses as required by law.

23 (2) It is unlawful for any person to lend, let, lease
 24 or otherwise deliver or furnish any equipment of any
 25 gambling game, including any slot machine, for any interest

1 or any percentage or share of the money or property played,
2 under guise of any agreement whatever, without first
3 procuring a state gaming license for the same.

4 (3) It is unlawful for any person to lend, let, lease,
5 or otherwise deliver or furnish, except by a bona fide sale,
6 any slot machine under guise of any agreement, where any
7 consideration is paid or is payable for the right to possess
8 or use the slot machine, whether the consideration is
9 measured by a percentage of the revenue derived from the
10 machine or by a fixed fee or otherwise, without first
11 procuring a state gaming license for the machine.

12 (4) Any person who knowingly permits any gambling
13 game, slot machine, or device to be conducted, operated,
14 dealt or carried on in any house or building or other
15 premises owned by him, in whole or in part, except by a
16 person who is licensed hereunder, or his employee, is guilty
17 of a misdemeanor.

18 Section 17. Power of licensee. Any person licensed by
19 the board may purchase, own and operate those gaming devices
20 defined in this act and may purchase those gaming devices by
21 bona fide sale for cash or on a time payment plan,
22 conditional sales contract, or other commercial security
23 instrument.

24 Section 18. License requirements. To obtain a state
25 license a person shall:

1 (1) be a resident of the state of Montana for one (1)
2 year prior to application;

3 (2) be a citizen of the United States;

4 (3) not have been convicted of a felony, or of a crime
5 which, if convicted in the state of Montana, would have been
6 a felony, or of a crime involving moral turpitude;

7 (4) have good moral character and reputation.

8 Section 19. Applications. (1) Application for a
9 state gaming license is made to the state gaming control
10 board on forms furnished by it and in accordance with the
11 regulations of the board. The applications include:

12 (a) the name of the proposed licensee;

13 (b) the location and place of business;

14 (c) the number and kinds of gaming devices to be
15 operated;

16 (d) the names of all persons, directly or indirectly,
17 interested in the business and the nature of that interest;
18 and

19 (e) any other information and details the board
20 requires in order to discharge its duties under this act.

21 (2) The board shall furnish to the applicant
22 supplemental forms which the applicant shall complete and
23 file with the application. The supplemental forms shall
24 require, but are not limited to, complete information and
25 details with respect to the applicant's ancestors, habits,

1 character, criminal record, business activities, financial
2 affairs and business associates, for at least a five (5)
3 year period immediately preceding the date of filing the
4 application.

5 Section 20. License fees and classes of licenses. The
6 following basic license fee is paid by each person as
7 follows:

8 (1) Class I license. A person whose license is
9 limited to the operation of punch boards, bingo, keno or
10 sports pools only shall pay an annual license fee in the sum
11 of two hundred fifty dollars (\$250).

12 (2) Class II license. A person whose license is
13 limited to gaming devices, including card games, shall pay
14 an annual license fee in the sum of two hundred fifty
15 dollars (\$250).

16 (3) Class III license. A person whose license is
17 limited to the operation of slot machines only shall pay an
18 annual license fee of five hundred dollars (\$500).

19 (4) Class IV license. A person whose license
20 authorizes the operation of gaming encompassing those
21 activities set forth in subsections (1), (2) and (3) shall
22 pay an annual license fee in the sum of seven hundred fifty
23 dollars (\$750).

24 (5) Class V license. A person who manufactures within
25 the state of Montana for sale, lease, or rent, any gaming

1 device shall pay an annual license fee in the sum of five
2 thousand dollars (\$5,000).

3 (6) Class VI license. A person who sells, leases,
4 rents, or distributes, either for a flat rate or a
5 percentage of the income, any gaming device to any person in
6 the state of Montana shall pay an annual license fee of one
7 thousand dollars (\$1,000).

8 (7) Class VII license. A person who sells, leases,
9 rents or distributes, either for a flat rate or a percentage
10 of the income, punch boards, shall pay an annual license fee
11 in the sum of one thousand dollars (\$1,000).

12 Section 21. Additional annual fees -- penalties.

13 (1) In addition to the basic license fees under section 20,
14 there are the following annual license fees:

15 (a) one hundred dollars (\$100) per year for each card
16 table on the premises of an establishment when poker or any
17 variation thereof, twenty-one, blackjack, panguingue are
18 played for money, or any item of value, and where the games
19 are dealt by the licensee or his employee and the licensee
20 banks that game or receives a percentage of the wagers made;

21 (b) ten dollars (\$10) per year for each card table on
22 the premises of an establishment where rummy, pinochle,
23 pitch, and other card games are played by individuals and
24 for which an hourly charge is made for the use of the table;

25 (c) five hundred dollars (\$500) per year for each slot

1 machine on the premises of an establishment;
 2 (d) five hundred dollars (\$500) per year for each
 3 roulette wheel on the premises of an establishment;
 4 (e) five hundred dollars (\$500) per year for each dice
 5 table on the premises of an establishment.

6 (2) It is unlawful for any person, manufacturer,
 7 wholesaler, distributor or retailer to sell at retail to any
 8 person licensed under this act, without first affixing
 9 thereto and canceling, state gaming stamps issued by the
 10 state of Montana in the sum of three dollars (\$3) on each
 11 punch board having one thousand (1,000) or over punches or
 12 pull tabs, and in the sum of two dollars (\$2) on each
 13 punchboard having less than one thousand (1,000) punches or
 14 pull tabs. It is unlawful for any licensee to display or
 15 exhibit for play any punch board or pull tabs to which the
 16 required state gaming stamps have not been affixed and
 17 canceled.

18 (3) A person who operates, conducts or maintains any
 19 bingo or keno game shall pay in addition to the basic
 20 license fee a sum equivalent to five percent (5%) of the
 21 gross income received in the operation of any game. This
 22 fee shall be paid monthly to the state gaming control board
 23 and shall be reported on forms provided by the board.

24 (4) In addition to any other license fees and taxes
 25 imposed by this act, there is, upon each slot machine

1 operated in this state, a tax equal to the amount of any
 2 credit which may be allowed against the tax imposed on slot
 3 machines by 26 U.S.C. 4461 for the payment of a state tax.
 4 If no credit is allowed, no tax is payable under this
 5 subsection.

6 (5) A license of ten dollars (\$10) per year shall be
 7 paid by each employee who deals, operates or controls any
 8 gambling game, bingo or keno game, sports pool or punch
 9 board.

10 Section 22. Limit on gaming devices. The number of
 11 gaming devices which may be operated, maintained or
 12 conducted on any premises licensed under this act is limited
 13 to five (5) in number and the number of card tables at which
 14 poker or any variation thereof, twenty-one, blackjack, or
 15 panguingue are played for money or any item of value and
 16 which games are dealt by the licensee or his employee and
 17 the licensee banks that game or receives a percentage of the
 18 wagers made, is limited to four (4) in number; provided,
 19 however, that this limitation does not apply to punch
 20 boards, sports pools, or card tables when the players pay an
 21 hourly rental or charge for their use and games such as
 22 rummy, pitch, or pinochle are played among individuals for
 23 social entertainment.

24 Section 23. Posting of licenses -- inspection of
 25 licenses. (1) Unless otherwise provided by the board all

1 basic licenses and other licenses shall be posted by the
2 licensee in a conspicuous place in the establishment for
3 which it was issued until replaced by a succeeding license.

4 (2) All licenses may be inspected by authorized state,
5 county or municipal officers who shall report, in writing,
6 to the board and sheriff of the county where gaming devices,
7 punch boards or other gambling equipment are located, any
8 and all gambling carried on without a valid license.

9 Section 24. Renewal of licenses. (1) Subject to the
10 power of the board to deny, revoke, suspend, condition or
11 limit licenses, any license in force may be renewed by the
12 board for the next succeeding license year by the proper
13 application for renewal and payment of all required fees.

14 (2) All licenses shall be renewed before July 1 of
15 each year.

16 (3) Application for renewal shall be filed with the
17 board and all license fees paid prior to June 1 of each
18 year.

19 (4) Renewal fees are the same as fees required for the
20 issuance of a new license.

21 Section 25. Gaming devices exempt from federal law.
22 Under 15 U.S.C. 1171-1177, the state of Montana, acting by
23 and through its duly elected and qualified members of the
24 legislature, declares and proclaims it is exempt from the
25 provisions of that law in all cases concerning the

1 transportation of bingo cards and gaming devices
2 specifically authorized by statute for use in this state.

3 Section 26. Legal shipments under federal law. All
4 shipments of gambling devices, including slot machines, into
5 this state, the registering, recording and labeling of which
6 have been duly had by the manufacturer or dealer in
7 accordance with sections 3 and 4 of the act of congress of
8 the United States entitled, "An act to prohibit
9 transportation of gambling devices in interstate and foreign
10 commerce", 64 Stat. 1134, and also designated as 15 U.S.C.
11 1171-1177, are deemed legal shipments into this state.

12 Section 27. Deposit of fees and taxes -- allocation of
13 same. License fees and taxes collected under this act shall
14 be deposited with the state treasurer not later than the
15 close of business the next business day after receipt. The
16 state treasurer shall credit fifty percent (50%) of the
17 gross revenue received to the state general fund;
18 twenty-five percent (25%) to the common school fund; and
19 twenty-five percent (25%) to the county treasurer or city
20 treasurer, as the case may be, in the proportion that the
21 gross revenue received by the board from license fees and
22 taxes from gaming statewide. The state treasurer may
23 transmit the county or incorporated municipality share
24 quarterly.

25 Section 28. Certification of locality to keep out

1 gambling. Any gaming conducted in conformity with this act
 2 is declared to be lawful in the state of Montana; provided,
 3 however, any county or city may declare, by a majority of
 4 the votes cast in an election called for such purpose,
 5 gaming in that county or city unlawful. The election shall
 6 be called by the county commissioners or the city council,
 7 as the case may be, upon presentation of a petition
 8 containing the names of thirty percent (30%) of the
 9 registered voters of the county or city as shown by the
 10 number of votes cast for governor at the last general
 11 election within that county or city. The procedures of the
 12 general election laws shall govern the conduct of the
 13 election insofar as they are applicable. If a majority of
 14 the votes cast are opposed to gaming in the county or city,
 15 then the operation, possession or maintenance of any gaming
 16 device as herein defined is a misdemeanor.

17 Section 29. Age limitations on players. (1) No person
 18 under the age of nineteen (19) may:

19 (a) play or be allowed to play any gaming device
 20 licensed under this act;

21 (b) loiter or be permitted to loiter or be employed in
 22 or about any room or immediate area where any licensed
 23 gaming is conducted and operated.

24 (2) Any licensee, employee, agent or other person
 25 knowingly violating or knowingly permitting the violation of

1 any of the provisions of this section, and any person under
 2 nineteen (19) years of age who violates any of the
 3 provisions of this section is guilty of a misdemeanor.

4 (3) Conviction of a licensee for violation of this
 5 section may be grounds for suspension or revocation of his
 6 license.

7 Section 30. Unlawful conduct -- penalty. (1) It is
 8 unlawful to conduct, carry on, operate, deal, expose for
 9 play or allow to be conducted, carried on, operated or
 10 dealt, any game or games played with cards, dice or any
 11 mechanical device, or any combination of the same, which may
 12 have in any manner been marked or tampered with to deceive
 13 the public or equipped with electrical or any other device
 14 which may render the game more liable to win or lose. The
 15 use of marked cards, loaded dice, plugged or tampered with
 16 machines or devices to deceive the public is expressly made
 17 unlawful.

18 (2) It is unlawful for any individual player to use
 19 any cheating or thieving device or any mechanical,
 20 electrical or other device or combination of the same or to
 21 in any way tamper, damage or otherwise control any gaming
 22 device or slot machine or to introduce into any game marked
 23 cards, loaded dice, or other means designed and intended to
 24 increase the chance of winning.

25 (3) Any violation of the provisions of this section is

1 a misdemeanor, and upon conviction the violator shall be
 2 punished by a fine of not less than one thousand dollars
 3 (\$1,000) or by imprisonment in the county jail for not less
 4 than six (6) months, or both.

5 Section 31. Willful violation -- revocation of
 6 license. (1) Any person who willfully violates any
 7 provision of this act is guilty of a misdemeanor, unless
 8 another penalty is specifically provided.

9 (2) In addition, upon certification to the board by
 10 any court of competent jurisdiction that a licensee has been
 11 convicted of a violation of any of the provisions of this
 12 act, the board may revoke or suspend his license for any
 13 period of time deemed justifiable.

14 (3) Any person who willfully fails to report, pay and
 15 truthfully account for and pay over any license fee or tax
 16 imposed by the provisions of this act, or willfully attempts
 17 in any manner to evade or defeat any license fee or tax or
 18 payment thereof, is guilty of a misdemeanor and upon
 19 conviction shall be punished by a fine of not less than one
 20 thousand dollars (\$1,000) or by imprisonment in the county
 21 jail for not more than one (1) year, or both.

22 Section 32. Duty of any peace officer to seize.
 23 (1) Whenever it comes to the attention of any sheriff,
 24 peace officer or employee of the board that any person has
 25 in his possession any unlicensed gaming device, slot

1 machine, punch board or is operating and conducting any card
 2 game not properly licensed, that sheriff, peace officer or
 3 employee of the board shall seize and take the gaming
 4 device, slot machine, punch board, or gambling equipment
 5 before a magistrate of the county in which it is found.

6 (2) It is lawful for officers, in executing the duties
 7 imposed upon them by this section, to break open doors for
 8 the purpose of obtaining possession of any unlicensed gaming
 9 device, slot machine, punch board or gambling equipment
 10 after first obtaining a valid search warrant.

11 (3) The magistrate shall inquire of any witness he
 12 summons or who appears before him on the nature of these
 13 unlicensed gaming devices, slot machines, punch boards or
 14 gambling equipment; and if the magistrate determines that
 15 this equipment is unlicensed, he shall order it forfeited to
 16 the state for appropriate disposition.

17 Section 33. Penalty. The violation of any provision
 18 of this act designated a misdemeanor and for which a
 19 specific penalty is not set forth is punishable by a fine
 20 not exceeding five hundred dollars (\$500) or by imprisonment
 21 in the county jail not exceeding six (6) months, or both.

22 Section 34. Forfeiture of bail by a person charged
 23 with a violation of this act constitutes a conviction, for
 24 purposes of this act.

25 Section 35. Allocation. The board is allocated to the

1 department of revenue for administrative purposes only as
2 prescribed in section 82A-108.

3 Section 36. Severability. If a part of this act is
4 invalid, all valid parts that are severable from the invalid
5 part remain in effect. If a part of this act is invalid in
6 one or more of its applications, the part remains in effect
7 in all valid applications that are severable from the
8 invalid applications.

9 Section 37. Effective date. This act is effective
10 July 1, 1975.

-End-

STATE OF MONTANA

REQUEST NO. 204-75

FISCAL NOTE

Form BD-15

In compliance with a written request received February 11, 19 75, there is hereby submitted a Fiscal Note for House Bill 314 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 314 legalizes gambling, creates the Montana Gaming Control Board, prescribes the duties and powers of the Board, provides classes of gaming licenses, sets license fees and taxes, provides for the collection and disposition of such fees and taxes, provides for local option elections, and provides penalties.

ASSUMPTIONS:

1. House Bill 314 provides for the following licenses, license fees and taxes:

Classes I through IV	licenses for operation of various combinations of gambling; fees range between \$250 and \$750 per year.
Class V	manufacturer license - \$5,000 per year
Class VI and VII	licenses for selling, leasing, renting, or distributing gaming devices and punchboards - \$1,000 per year.
Card table license	table used for poker, twenty-one, blackjack, or panguingue - \$100 per year.
Card table license	table used for rummy, pinochle, or pitch - \$10 per year.
Slot machine license	\$500 per year per each device
Roulette wheel license	\$500 per year per each device
Dicetable license	\$500 per year per each table
Punchboard gaming stamps	\$3 per each punchboard with 1,000 or more punches; \$2 per each punchboard with less than 1,000 punches.
Bingo or Keno gross income tax	5% of the gross income received.
Slot machine tax	Tax equals amount of any credit allowed against tax on slot machines by 26 U.S.C. 4461.
Employee tax	\$10 per employee involved with any gaming devices

2. Local governmental jurisdictions are provided the option of prohibiting gambling.

3. In light of the various fees and taxes imposed and the option given local governments, it is not possible to provide an estimate of the number of establishments that would participate in gambling. Thus, no revenue estimates are provided in this fiscal note.

4. The Montana Gaming Control Board would require a three member administrative staff and a seven member investigation unit to administer the proposed legislation. Nine percent salary increases and six percent operating expense increases are estimated in FY 77.

5. Required office space is available without added cost. Seven automobiles and various office equipment are required.

6. The five members of the Montana Gaming Control Board will hold eighteen meetings per year and receive the authorized \$.12 per mile travel allowance and \$25 per day per diem reimbursement.

7. All administrative expenses are paid from the General Fund.

CONTINUED

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

STATE OF MONTANA

REQUEST NO. 204-75

FISCAL NOTE

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In compliance with a written request received February 11, 19 75, there is hereby submitted a Fiscal Note for House Bill 314 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

ASSUMPTIONS: Cont inued

8. Fifty percent of tax and fee collections are allocated to the state general fund, twenty-five percent to the Common School Fund, and twenty-five percent to the county or city treasurer.

FISCAL IMPACT:

	FY 76	FY 77
Estimated increase in expenditures by category:		
Personal Services	\$ 142,419	\$ 155,237
Operating Expenses	69,843	73,637
Capital Outlay	48,000	0
Total estimated increase in expenditures	<u>\$ 260,262</u>	<u>\$ 228,874</u>

CONCLUSION:

Enactment of House Bill 314 will result in an indeterminable increase in tax and license fee collections. Fifty percent of the additional collections will be allocated to the state general fund, twenty-five percent to the Common School Fund and the remainder to the appropriate county or city. Enactment of the legislation will increase general fund expenditures by an estimated \$490,000 during the 1975-77 biennium.

TECHNICAL NOTES:

Section 29, page 23, of the proposed bill prohibits persons under the age of 19 years to participate in the gambling authorized in the bill. Given the present 18 year age limit for patronization of bars, enforcement may be difficult. Section 27, page 22 states that 25% of fees and taxes collected shall be allocated to "the county treasurer or city treasurer, as the case may be, in the proportion that the gross revenue received by the board from license fees and taxes from gaming statewide". The decision as to when the 25% accrues to the city rather than the county is not clear, nor is the exact statewide distribution between local units.

Michael B. Bellings

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: February 21, 1975