

HOUSE BILL 852

IN THE HOUSE

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| February 17, 1979 | Introduced and referred to Committee on Taxation. |
| March 8, 1979 | Committee recommend bill, do not pass. |
| March 9, 1979 | Report adopted. Objection. |
| March 10, 1979 | Printed and placed on members' desks. |
| March 13, 1979 | Second reading, as amended, do not pass. |

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House
Senate
INTRODUCED BY *Wyrick* *Carlson* *Johnston* *Monette* *Quinn* *Thompson*
BILL NO. *852*

A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A GAMING CONTROL BOARD; PROVIDING FOR LICENSING AND REGULATION OF GAMBLING AUTHORIZED BY LAW; PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING THAT THE BOARD TERMINATES ON JUNE 30, 1981."

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

Section 1. Gaming control board. (1) There is a gaming control board.

(2) The board is allocated to the department of administration for administrative purposes only as prescribed in 2-15-121. However, the board may hire its own personnel.

(3) The board consists of five members appointed by the governor. The members must be:

(a) United States citizens and residents of this state for at least 5 years preceding appointment to the board;

(b) appointed so that each member is a resident of one of the following districts:

(i) first district: Blaine, Chouteau, Daniels, Dawson, Fergus, Garfield, Glacier, Golden Valley, Hill, Liberty, McCone, Musselshell, Petroleum, Phillips, Pondera, Prairie,

1 Richland, Roosevelt, Sheridan, Toole, Valley, and Wibaux
2 Counties;

3 (ii) second district: Big Horn, Carbon, Carter, Custer,
4 Fallon, Powder River, Rosebud, Stillwater, Sweetgrass,
5 Treasure, and Yellowstone Counties;

6 (iii) third district: Broadwater, Cascade, Jefferson,
7 Judith Basin, Lewis and Clark, Meagher, Teton, and Wheatland
8 Counties;

9 (iv) fourth district: Beaverhead, Deer Lodge, Gallatin,
10 Granite, Madison, Park, Powell, Ravalli, and Silver Bow
11 Counties;

12 (v) fifth district: Flathead, Lake, Lincoln, Mineral,
13 Missoula, and Sanders Counties;

(c) appointed so that not more than three members are
14 of the same political party;

(d) appointed so that no two members are from the same
15 profession or major field of industry.

(4) No board member may hold an elected state or local
16 government office or act as an officer or official of a
17 political party.

(5) The board is designated a quasi-judicial board for
18 purposes of 2-15-124.

Section 2. Short title. [Sections 2 through 26] may be
19 cited as the "Montana Gaming Control Act".

Section 3. Definitions. As used in [sections 2 through
20

-2- *HB 852*
INTRODUCED BILL

1 26], the following definitions apply:

2 (1) "Applicant" means a person, partnership, firm, or
3 corporation that has applied for the issuance of a state
4 gaming license.

5 (2) "Application" means a request for the issuance of
6 a state gaming license.

7 (3) "Board" means the gaming control board provided
8 for in [section 1].

9 (4) "Distributor's license" means a license to sell or
10 distribute a gaming device that is authorized by law.

11 (5) "Establishment" means any premises where any
12 gaming is done.

13 (6) "Game" or "gambling game" means any banking or
14 percentage game played with cards, dice, or any mechanical
15 or electric device or machine for money, property, checks,
16 credit, or any representative of value that is permitted by
17 law.

18 (7) "Gaming" or "gambling" means to deal, operate,
19 carry on, conduct, maintain, or expose for play any game.

20 (8) "Gaming device" means any mechanical or electrical
21 contrivance or machine used in connection with gaming or any
22 game.

23 (9) "Hearing examiner" means a member of the gaming
24 control board or other person authorized by the board to
25 conduct investigative hearings.

1 (10) "License" or "gaming license" means a license
2 issued by the board under [section 11] that authorizes the
3 person named therein to engage in gaming.

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

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

8 (13) "Manufacturer's license" means a license to
9 manufacture a gaming device that is authorized by law.

10 (14) "Member" or "board member" means a member of the
11 gaming control board.

12 (15) "Operation" means the conduct of gaming.

13 (16) "Party" means the board or any licensee or other
14 person appearing of record in a proceeding before the board
15 or a hearing examiner or a licensee or other person
16 appearing of record in a proceeding for judicial review of
17 an action, decision, or order of the board.

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

20 Section 4. Organizational powers. (1) The board may:

21 (a) establish and from time to time alter such plan of
22 organization as it considers expedient;

23 (b) employ and discharge an administrator;

24 (c) employ and discharge other personnel as it
25 considers necessary;

1 (d) acquire furnishings, equipment, supplies,
2 stationery, books, license forms, tax stamps, and all other
3 things it considers necessary or desirable in carrying out
4 its functions;

5 (e) incur other expenses, within the limit of funds
6 available, it considers necessary.

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

10 Section 5. Main office. (1) The board's main office is
11 at Helena, Montana, in space provided by the department of
12 administration.

13 (2) The board may maintain a branch office at any
14 other place in this state in space to be provided by the
15 department.

16 Section 6. Meetings. (1) Regular and special meetings
17 of the board may be held at times and places it considers
18 convenient, but at least one regular meeting must be held
19 each month.

20 (2) Public notice of the time and place of special
21 meetings must be given at least 7 days prior to that
22 meeting.

23 (3) A majority of the members constitutes a quorum of
24 the board, and a majority of members present at any meeting
25 determines the action of the board.

1 (4) Investigative hearings may be conducted by one or
2 more members with the concurrence of a majority of the board
3 without notice and at times and places the member or members
4 consider convenient. Investigative hearings may be conducted
5 by the board or a member, in private, at the discretion of
6 any member.

7 Section 7. Board records. (1) The board shall make and
8 keep records of all proceedings occurring at regular or
9 special meetings of the board. The records are open to
10 public inspection.

11 (2) The board shall keep and maintain a file of all
12 applications for licenses under [section 10] together with a
13 record of all action taken with respect to those
14 applications. This file and record is open to public
15 inspection.

16 (3) The board may maintain other files and records it
17 considers necessary.

18 (4) Information and data required by the board to be
19 furnished to it under [sections 2 through 26] or that may be
20 otherwise obtained relative to the earnings or revenue of
21 any applicant or licensee is confidential and may not be
22 revealed in whole or in part except:

23 (a) in the course of the necessary administration of
24 [sections 2 through 26];

25 (b) upon the lawful order of a court of competent

HB 852

1 jurisdiction; or

2 (c) to a duly authorized agent of the federal bureau
3 of investigation, the United States department of the
4 treasury, or the director of the internal revenue service.

5 (5) All files, records, and reports and other
6 information pertaining to gaming matters in possession of
7 the department of revenue of the state of Montana shall be
8 made available to the board.

9 Section 8. Prohibited gaming activity. (1) It is
10 unlawful for any person, either as owner, lessee, or
11 employee and whether for hire or not to receive, directly or
12 indirectly, any compensation or reward or any percentage or
13 share of the money or property played for keeping, running,
14 carrying on, or permitting gaming to be carried on without
15 first procuring and maintaining in full force and effect all
16 federal and state licenses required by law.

17 (2) It is unlawful for any person to lend, let, lease,
18 or otherwise deliver or furnish any equipment of any
19 gambling game, for any interest or any percentage or share
20 of the money or property played without first procuring a
21 gaming license.

22 (3) Any person who knowingly permits any gambling
23 game, or gaming device to be conducted, operated, dealt, or
24 carried on in any building or other premises owned by him,
25 in whole or in part, except a person who is licensed

1 hereunder, or his employee, is guilty of a misdemeanor.

2 Section 9. License requirements. (1) In order to
3 obtain a state gaming license, the applicant must be a
4 United States citizen, a resident of this state for at least
5 1 year prior to the application, and of good moral character
6 and reputation.

7 (2) No person convicted of a felony, a crime which if
8 committed in this state would be a felony, or a crime
9 involving moral turpitude may obtain a license.

10 Section 10. Application for license. (1) Application
11 for a gaming license must be made to the gaming control
12 board on forms furnished by it and in accordance with the
13 rules of the board.

14 (2) The application must include:

15 (a) the name of the proposed licensee;

16 (b) the location and place of business;

17 (c) the number and kinds of gaming devices to be
18 operated;

19 (d) the names of all persons directly or indirectly
20 interested in the business and the nature of that interest;
21 and

22 (e) any other information the board requires in order
23 to discharge its duties under [sections 2 through 26].

24 (3) The board shall furnish to the applicant
25 supplemental forms that the applicant must complete and file

1 with the application. The supplemental forms must require
 2 but are not limited to complete information and details, for
 3 at least a 5-year period immediately preceding the date of
 4 filing the application, concerning the applicant's habits,
 5 character, criminal record, business activities, financial
 6 affairs, and business associates.

7 Section 11. Board duties. (1) The board shall
 8 investigate the qualifications of each applicant for
 9 licenses before a license is issued and shall continue to
 10 observe the conduct of all licensees to insure that licenses
 11 are not issued to or held by unqualified, disqualified, or
 12 unsuitable persons or persons whose operations are conducted
 13 in an unsuitable manner or in unsuitable or prohibited
 14 places.

15 (2) The board may deny an application for a license or
 16 limit, suspend, or revoke a license for a violation of
 17 [sections 2 through 26] or rules established by the board.

18 (3) The board and its employees may:

19 (a) inspect and examine all premises where gaming is
 20 conducted;

21 (b) inspect all equipment and supplies in or about
 22 those premises;

23 (c) summarily seize and remove from those premises and
 24 impound any equipment or supplies for the purpose of
 25 examination and inspection;

1 (d) inspect, examine, and audit all papers, books, and
 2 records of applicants and licensees respecting the gross
 3 income produced by gaming devices licenses and require
 4 verification of income and all other matters affecting the
 5 enforcement of the policy of or any of the provisions of
 6 [sections 2 through 26].

7 Section 12. License fees. A basic license fee shall be
 8 established by the board for the various games and gaming
 9 devices that are authorized by law.

10 Section 13. Allocation of fees. License fees collected
 11 under [sections 2 through 26] are allocated to the general
 12 fund.

13 Section 14. Limit on gaming devices. The number of
 14 gaming devices that may be operated, maintained, or
 15 conducted on any premises licensed under [sections 2 through
 16 26] shall be determined by the board.

17 Section 15. Posting and inspection of license. (1)
 18 Unless otherwise provided by the board, a license must be
 19 posted by the licensee in a conspicuous place in the
 20 establishment for which it was issued until replaced by a
 21 succeeding license.

22 (2) Licenses may be inspected by authorized state,
 23 county, or municipal officers who must report in writing to
 24 the board and sheriff of the county where gaming devices or
 25 other gambling equipment is located any gambling carried on

1 without a valid license.

2 Section 16. Renewal of licenses. (1) Subject to the
3 power of the board to deny, revoke, suspend, condition, or
4 limit licenses, any license in force may be renewed by the
5 board for the next succeeding license year upon the proper
6 application for renewal and payment of all required fees.

7 (2) All licenses expire on June 30 of each year.

8 (3) Application for renewal must be filed with the
9 board and all license fees paid prior to June 1 of each
10 year.

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

13 Section 17. Gaming devices exempt from federal law. As
14 provided in 15 U.S.C. 1171 through 1177, the state of
15 Montana declares it is exempt from the provisions of that
16 law in all cases concerning the transportation of gaming
17 devices specifically authorized by statute for use in this
18 state.

19 Section 18. Legal shipments under federal law. All
20 shipments of gambling devices into this state, the
21 registering, recording, and labeling of which have been duly
22 had by the manufacturer or dealer in accordance with 15
23 U.S.C. 1171 through 1177, are legal shipments into this
24 state.

25 Section 19. Age limitation on players. (1) No person

1 under 19 years of age may:

2 (a) play or be allowed to play a gaming device
3 licensed under [sections 2 through 26];

4 (b) loiter or be permitted to loiter or be employed in
5 or about any room or immediate area where any licensed
6 gaming is conducted and operated.

7 (2) Any licensee, employee, agent, or other person
8 knowingly violating or permitting the violation of any of
9 the provisions of this section or any person under 19 years
10 of age who violates any of the provisions of this section is
11 guilty of a misdemeanor.

12 (3) Conviction of a licensee for violation of this
13 section is grounds for suspension or revocation of his
14 license.

15 Section 20. Adoption of rules. The board shall adopt
16 and enforce rules consistent with [sections 2 through 26],
17 including rules to:

18 (1) prescribe the method and form of application for a
19 license;

20 (2) prescribe the information to be furnished by an
21 applicant or licensee concerning that person's habits,
22 character, associates, criminal record, business activities,
23 and financial affairs;

24 (3) require fingerprinting or any other method of
25 identification of an applicant or licensee or employee of a

1 licensee;

2 (4) prescribe the procedure for hearings conducted by
3 the board or any hearing examiner of the board, including
4 special rules of evidence applicable thereto and notices
5 thereof;

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

8 (6) prescribe the manner of collection and payment of
9 fees and issuance of licenses;

10 (7) define and limit the area, games, and devices
11 permitted and the method of operation of those games and
12 devices for the purposes of [sections 2 through 26];

13 (8) prescribe conditions under which nonpayment of a
14 gambling debt by a licensee is considered grounds for
15 revocation or suspension of his license;

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

20 (10) prescribe the qualifications of and the
21 conditions under which attorneys, accountants, and others
22 are permitted to practice before the board.

23 Section 21. Investigation of violations -- hearing.

24 (1) The board shall investigate any apparent violations of
25 [sections 2 through 26] or any rule adopted under [sections

1 2 through 26] that come to its attention and when
2 disciplinary or other action is to be taken against a
3 licensee conduct the necessary investigative hearings.

4 (2) If after the investigation the board determines a
5 license should be limited, suspended, or revoked, it shall
6 issue an order to show cause setting forth the name of the
7 licensee, the nature of the alleged violation, and the time
8 and place of the hearing. The licensee may appear at that
9 time and place with his attorney and witnesses and produce
10 testimony for and on his behalf, and he may cross-examine
11 any witnesses appearing for and on behalf of the board, and
12 the attorney for the board may cross-examine the witnesses
13 produced by the licensee. A record or transcript of all
14 testimony at the hearing must be made.

15 (3) After the conclusion of all testimony, the board
16 shall make its findings and final order, a copy of which
17 must be sent to the licensee by certified mail.

18 Section 22. Appeal. (1) The licensee may appeal to a
19 district court, and the appeal shall be heard on the record
20 made at the hearing. No other testimony may be introduced
21 unless the court, upon good cause shown, allows the
22 additional testimony.

23 (2) The order of the board is effective until reversed
24 or modified upon appeal, except that the board may stay its
25 order pending appeal upon such terms and conditions it

1 considers proper.

2 (3) The transcript of the hearing on the order to show
3 cause in the district court shall be furnished by the board
4 at the expense of the licensee.

5 (4) Notice of appeal must be filed with the board and
6 the district court within 10 days of receipt by the licensee
7 of the findings and final order of the board, and the
8 transcript of the record must be filed in a district court
9 within 60 days after the notice of appeal is filed with the
10 board.

11 Section 23. Unlawful conduct — penalty. (1) It is
12 unlawful to conduct, carry on, operate, or deal any game
13 with cards or dice or any mechanical device that has in any
14 manner been marked or tampered with to deceive the public or
15 equipped with electrical or any other device that affects
16 the outcome of the game.

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

24 (3) A person convicted of violating this section shall
25 be fined not less than \$1,000 or be imprisoned in the county

1 jail for any term not less than 6 months, or both.

2 Section 24. Revocation of license. (1) Upon
3 certification to the board by any court of competent
4 jurisdiction that a licensee has been convicted of a
5 violation of any of the provisions of [sections 2 through
6 26], the board may revoke or suspend his license for any
7 period of time considered justifiable.

8 (2) For the purposes of this section, forfeiture of
9 bail by a person charged with a violation of [sections 2
10 through 26] is treated as a conviction.

11 Section 25. Penalty. A person convicted of violating
12 any provision of [sections 2 through 26] for which a
13 specific penalty is not provided shall be fined not less
14 than \$500 or be imprisoned in the county jail for any term
15 not to exceed 6 months, or both.

16 Section 26. Duty of any peace officers. (1) If it
17 comes to the attention of any sheriff, peace officer, or
18 employee of the board that any person has in his possession
19 any unlicensed gaming device or is operating and conducting
20 any game not properly licensed, the sheriff, peace officer,
21 or employee of the board shall seize and take the gaming
22 device or gambling equipment before a justice of the peace
23 of the county in which it was found.

24 (2) The justice of the peace shall inquire of any
25 witness he summons or who appears before him concerning the

1 nature of the gaming devices or gambling equipment, and if
2 the magistrate determines that the equipment is unlicensed,
3 he shall order it forfeited to the state for appropriate
4 disposition.

5 Section 27. Severability. If a part of this act is
6 invalid, all valid parts that are severable from the invalid
7 part remain in effect. If a part of this act is invalid in
8 one or more of its applications, the part remains in effect
9 in all valid applications that are severable from the
10 invalid applications.

11 Section 28. Termination date. This act terminates on
12 June 30, 1981.

13 Section 29. Codification. Section 1 is intended to be
14 codified as an integral part of Title 2, chapter 15, part
15 10, and the provisions contained in Title 2, chapter 15,
16 part 10, apply to section 1.

-End-

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Committee on Taxation

Objection Raised to
Adverse Committee Report

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INTRODUCED BY *House* *Senate* *Hamilton* *Danly* *Courcy*
Kanduck *Wyrick* *Carlson* *Johnston* *Monahan* *Quinn*
Annunzio *Thoft*

BILL NO. 852

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18 the governor. The members must be:

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8 committed in this state would be a felony, or a crime
9 involving moral turpitude may obtain a license.

10 Section 10. Application for license. (1) Application
11 for a gaming license must be made to the gaming control
12 board on forms furnished by it and in accordance with the
13 rules of the board.

14 (2) The application must include:

15 (a) the name of the proposed licensee;

16 (b) the location and place of business;

17 (c) the number and kinds of gaming devices to be
18 operated;

19 (d) the names of all persons directly or indirectly
20 interested in the business and the nature of that interest;
21 and

22 (e) any other information the board requires in order
23 to discharge its duties under [sections 2 through 26].

24 (3) The board shall furnish to the applicant
25 supplemental forms that the applicant must complete and file

1 with the application. The supplemental forms must require
 2 but are not limited to complete information and details, for
 3 at least a 5-year period immediately preceding the date of
 4 filing the application, concerning the applicant's habits,
 5 character, criminal record, business activities, financial
 6 affairs, and business associates.

7 Section 11. Board duties. (1) The board shall
 8 investigate the qualifications of each applicant for
 9 licenses before a license is issued and shall continue to
 10 observe the conduct of all licensees to insure that licenses
 11 are not issued to or held by unqualified, disqualified, or
 12 unsuitable persons or persons whose operations are conducted
 13 in an unsuitable manner or in unsuitable or prohibited
 14 places.

15 (2) The board may deny an application for a license or
 16 limit, suspend, or revoke a license for a violation of
 17 [sections 2 through 26] or rules established by the board.

18 (3) The board and its employees may:

19 (a) inspect and examine all premises where gaming is
 20 conducted;

21 (b) inspect all equipment and supplies in or about
 22 those premises;

23 (c) summarily seize and remove from those premises and
 24 impound any equipment or supplies for the purpose of
 25 examination and inspection;

1 (d) inspect, examine, and audit all papers, books, and
 2 records of applicants and licensees respecting the gross
 3 income produced by gaming devices licenses and require
 4 verification of income and all other matters affecting the
 5 enforcement of the policy of or any of the provisions of
 6 [sections 2 through 26].

7 Section 12. License fees. A basic license fee shall be
 8 established by the board for the various games and gaming
 9 devices that are authorized by law.

10 Section 13. Allocation of fees. License fees collected
 11 under [sections 2 through 26] are allocated to the general
 12 fund.

13 Section 14. Limit on gaming devices. The number of
 14 gaming devices that may be operated, maintained, or
 15 conducted on any premises licensed under [sections 2 through
 16 26] shall be determined by the board.

17 Section 15. Posting and inspection of license. (1)
 18 Unless otherwise provided by the board, a license must be
 19 posted by the licensee in a conspicuous place in the
 20 establishment for which it was issued until replaced by a
 21 succeeding license.

22 (2) Licenses may be inspected by authorized state,
 23 county, or municipal officers who must report in writing to
 24 the board and sheriff of the county where gaming devices or
 25 other gambling equipment is located any gambling carried on

1 without a valid license.

2 Section 16. Renewal of licenses. (1) Subject to the
3 power of the board to deny, revoke, suspend, condition, or
4 limit licenses, any license in force may be renewed by the
5 board for the next succeeding license year upon the proper
6 application for renewal and payment of all required fees.

7 (2) All licenses expire on June 30 of each year.

8 (3) Application for renewal must be filed with the
9 board and all license fees paid prior to June 1 of each
10 year.

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

13 Section 17. Gaming devices exempt from federal law. As
14 provided in 15 U.S.C. 1171 through 1177, the state of
15 Montana declares it is exempt from the provisions of that
16 law in all cases concerning the transportation of gaming
17 devices specifically authorized by statute for use in this
18 state.

19 Section 18. Legal shipments under federal law. All
20 shipments of gambling devices into this state, the
21 registering, recording, and labeling of which have been duly
22 had by the manufacturer or dealer in accordance with 15
23 U.S.C. 1171 through 1177, are legal shipments into this
24 state.

25 Section 19. Age limitation on players. (1) No person

1 under 19 years of age may:

2 (a) play or be allowed to play a gaming device
3 licensed under [sections 2 through 26];

4 (b) loiter or be permitted to loiter or be employed in
5 or about any room or immediate area where any licensed
6 gaming is conducted and operated.

7 (2) Any licensee, employee, agent, or other person
8 knowingly violating or permitting the violation of any of
9 the provisions of this section or any person under 19 years
10 of age who violates any of the provisions of this section is
11 guilty of a misdemeanor.

12 (3) Conviction of a licensee for violation of this
13 section is grounds for suspension or revocation of his
14 license.

15 Section 20. Adoption of rules. The board shall adopt
16 and enforce rules consistent with [sections 2 through 26],
17 including rules to:

18 (1) prescribe the method and form of application for a
19 license;

20 (2) prescribe the information to be furnished by an
21 applicant or licensee concerning that person's habits,
22 character, associates, criminal record, business activities,
23 and financial affairs;

24 (3) require fingerprinting or any other method of
25 identification of an applicant or licensee or employee of a

1 licensee;

2 (4) prescribe the procedure for hearings conducted by
3 the board or any hearing examiner of the board, including
4 special rules of evidence applicable thereto and notices
5 thereof;

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

8 (6) prescribe the manner of collection and payment of
9 fees and issuance of licenses;

10 (7) define and limit the area, games, and devices
11 permitted and the method of operation of those games and
12 devices for the purposes of [sections 2 through 26];

13 (8) prescribe conditions under which nonpayment of a
14 gambling debt by a licensee is considered grounds for
15 revocation or suspension of his license;

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

20 (10) prescribe the qualifications of and the
21 conditions under which attorneys, accountants, and others
22 are permitted to practice before the board.

23 Section 21. Investigation of violations -- hearing.

24 (1) The board shall investigate any apparent violations of
25 [sections 2 through 26] or any rule adopted under [sections

1 2 through 26] that come to its attention and when
2 disciplinary or other action is to be taken against a
3 licensee conduct the necessary investigative hearings.

4 (2) If after the investigation the board determines a
5 license should be limited, suspended, or revoked, it shall
6 issue an order to show cause setting forth the name of the
7 licensee, the nature of the alleged violation, and the time
8 and place of the hearing. The licensee may appear at that
9 time and place with his attorney and witnesses and produce
10 testimony for and on his behalf, and he may cross-examine
11 any witnesses appearing for and on behalf of the board, and
12 the attorney for the board may cross-examine the witnesses
13 produced by the licensee. A record or transcript of all
14 testimony at the hearing must be made.

15 (3) After the conclusion of all testimony, the board
16 shall make its findings and final order, a copy of which
17 must be sent to the licensee by certified mail.

18 Section 22. Appeal. (1) The licensee may appeal to a
19 district court, and the appeal shall be heard on the record
20 made at the hearing. No other testimony may be introduced
21 unless the court, upon good cause shown, allows the
22 additional testimony.

23 (2) The order of the board is effective until reversed
24 or modified upon appeal, except that the board may stay its
25 order pending appeal upon such terms and conditions it

1 considers proper.

2 (3) The transcript of the hearing on the order to show
3 cause in the district court shall be furnished by the board
4 at the expense of the licensee.

5 (4) Notice of appeal must be filed with the board and
6 the district court within 10 days of receipt by the licensee
7 of the findings and final order of the board, and the
8 transcript of the record must be filed in a district court
9 within 60 days after the notice of appeal is filed with the
10 board.

11 Section 23. Unlawful conduct -- penalty. (1) It is
12 unlawful to conduct, carry on, operate, or deal any game
13 with cards or dice or any mechanical device that has in any
14 manner been marked or tampered with to deceive the public or
15 equipped with electrical or any other device that affects
16 the outcome of the game.

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

24 (3) A person convicted of violating this section shall
25 be fined not less than \$1,000 or be imprisoned in the county

1 jail for any term not less than 6 months, or both.

2 Section 24. Revocation of license. (1) Upon
3 certification to the board by any court of competent
4 jurisdiction that a licensee has been convicted of a
5 violation of any of the provisions of [sections 2 through
6 26], the board may revoke or suspend his license for any
7 period of time considered justifiable.

8 (2) For the purposes of this section, forfeiture of
9 bail by a person charged with a violation of [sections 2
10 through 26] is treated as a conviction.

11 Section 25. Penalty. A person convicted of violating
12 any provision of [sections 2 through 26] for which a
13 specific penalty is not provided shall be fined not less
14 than \$500 or be imprisoned in the county jail for any term
15 not to exceed 6 months, or both.

16 Section 26. Duty of any peace officers. (1) If it
17 comes to the attention of any sheriff, peace officer, or
18 employee of the board that any person has in his possession
19 any unlicensed gaming device or is operating and conducting
20 any game not properly licensed, the sheriff, peace officer,
21 or employee of the board shall seize and take the gaming
22 device or gambling equipment before a justice of the peace
23 of the county in which it was found.

24 (2) The justice of the peace shall inquire of any
25 witness he summons or who appears before him concerning the

1 nature of the gaming devices or gambling equipment, and if
2 the magistrate determines that the equipment is unlicensed,
3 he shall order it forfeited to the state for appropriate
4 disposition.

5 Section 27. Severability. If a part of this act is
6 invalid, all valid parts that are severable from the invalid
7 part remain in effect. If a part of this act is invalid in
8 one or more of its applications, the part remains in effect
9 in all valid applications that are severable from the
10 invalid applications.

11 Section 28. Termination date. This act terminates on
12 June 30, 1981.

13 Section 29. Codification. Section 1 is intended to be
14 codified as an integral part of Title 2, chapter 15, part
15 10, and the provisions contained in Title 2, chapter 15,
16 part 10, apply to section 1.

-End-

STATE OF MONTANA

Request No. 424-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 28, 1979, there is hereby submitted a Fiscal Note for House Bill 852 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 852 creates a Gaming Control Board that is attached to the Department of Administration for administrative purposes. The Board will license and regulate gambling authorized by law.

ASSUMPTIONS:

The revenue and expenditure impacts of House Bill 852 are estimated on the basis of the following assumptions.

1. There are 2,400 Liquor Licenses in the State of Montana, and it is assumed that all of the establishments will be requesting a gaming license.
2. The cost of a Gaming License would be established at \$200 each, with an annual renewal fee of \$200.
3. Each gaming facility would have an average of five gaming devices.
4. Each gaming device would be licensed annually at a cost of \$50 per device.
5. A Gaming Control Board would need a divisional staff to license and regulate the Gaming Control Act.

FISCAL IMPACT:

| | <u>FY 80</u> | <u>FY 81</u> |
|---|-------------------|-------------------|
| Additional revenues under proposed law | \$1,080,000 | \$1,080,000 |
| Less: Additional expenditures under proposed law | | |
| Personal services | 241,866 | 256,378 |
| Operating expenses | 137,840 | 146,110 |
| Equipment | 96,200 | 10,000 |
| | <u>475,906</u> | <u>412,488</u> |
| Net additional revenues to the state General Fund | <u>\$ 604,094</u> | <u>\$ 667,512</u> |

Richard L. Lang for

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/28/79