

SENATE BILL NO. 431

INTRODUCED BY GAGE, HARPER, B. BROWN, MAZUREK,
ADDY, STRIZICH, MERCER, CRIPPEN, HANNAH,
HARP, VAN VALKENBURG

BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE SENATE

FEBRUARY 15, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 17, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
	STATEMENT OF INTENT ADOPTED.
FEBRUARY 20, 1989	PRINTING REPORT.
	SECOND READING, PASS CONSIDERATION.
	ON MOTION, REREFERRED TO COMMITTEE ON JUDICIARY.
MARCH 2, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 3, 1989	PRINTING REPORT.
MARCH 6, 1989	SECOND READING, DO PASS AS AMENDED.
MARCH 7, 1989	ENGROSSING REPORT.
MARCH 8, 1989	THIRD READING, PASSED. AYES, 33; NOES, 16.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.

APRIL 10, 1989

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 11, 1989

PASSED CONSIDERATION FOR THE DAY.

APRIL 12, 1989

SECOND READING, CONCURRED IN AS
AMENDED.

ON MOTION, RULES SUSPENDED TO ALLOW
BILL PLACED ON THIRD READING THIS DAY.

THIRD READING, CONCURRED IN.
AYES, 92; NOES, 8.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 15, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

APRIL 17, 1989

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 18, 1989

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 21, 1989

FREE CONFERENCE COMMITTEE REPORTED.

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 21, 1989

FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 21, 1989

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *431*
 2 INTRODUCED BY *Rep. Hagan Bob Brown Maszuch*
 3 *Alley* BY REQUEST OF THE DEPARTMENT OF JUSTICE
 4 *McRae* *MERCER* *Harper* *Van Valkenburg*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
 6 PUBLIC GAMBLING LAWS OF MONTANA; PROVIDING FOR LICENSURE AND
 7 REGULATION OF GAMBLING ACTIVITIES BY THE DEPARTMENT OF
 8 JUSTICE; PROVIDING FOR STATUTORY APPROPRIATION; AMENDING
 9 SECTIONS 17-7-502, 23-5-101 THROUGH 23-5-104, 23-5-108,
 10 23-5-123, 23-5-131, 23-5-135, 23-5-311 THROUGH 23-5-313,
 11 23-5-321, 23-5-331, 23-5-412 THROUGH 23-5-414, 23-5-431,
 12 23-5-503, 23-5-509, 23-5-602, 23-5-603, 23-5-607, 23-5-608,
 13 23-5-610 THROUGH 23-5-613, 23-5-616, 23-5-625, 23-5-631,
 14 23-5-1101, AND 23-5-1105, MCA; AND REPEALING SECTIONS
 15 23-5-105 THROUGH 23-5-107, 23-5-109, 23-5-121, 23-5-122,
 16 23-5-124 THROUGH 23-5-127, 23-5-132 THROUGH 23-5-134,
 17 23-5-141 THROUGH 23-5-144, 23-5-201 THROUGH 23-5-211,
 18 23-5-301 THROUGH 23-5-303, 23-5-314 THROUGH 23-5-316,
 19 23-5-322, 23-5-323, 23-5-332, 23-5-401 THROUGH 23-5-403,
 20 23-5-411, 23-5-415 THROUGH 23-5-418, 23-5-421 THROUGH
 21 23-5-423, 23-5-504 THROUGH 23-5-508, 23-5-510, 23-5-511,
 22 23-5-601, 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617,
 23 23-5-618, 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103,
 24 AND 23-5-1104, MCA."
 25



1 STATEMENT OF INTENT
 2 This bill requires a statement of intent because
 3 [section 7] authorizes the department of justice to adopt
 4 administrative rules to implement [this act]. [This act] is
 5 intended to provide uniform statewide regulation of gambling
 6 in Montana under the supervision of the attorney general.
 7 It is the intent of the legislature that the department
 8 of justice adopt necessary rules to implement uniform
 9 statewide regulation of gambling in Montana consistent with
 10 the purposes and policies set forth in [section 1] of this
 11 bill.
 12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 NEW SECTION. Section 1. Public policy of state
 15 concerning gambling. (1) The legislature finds that for the
 16 purpose of ensuring the proper gambling environment in this
 17 state it is necessary and desirable to adopt a public policy
 18 regarding public gambling activities in Montana. The
 19 legislature therefore declares it is necessary to:
 20 (a) create and maintain a uniform regulatory climate
 21 that assures players, owners, tourists, citizens, and others
 22 that the gambling industry in this state is fair and is not
 23 influenced by corrupt persons, organizations, or practices;
 24 (b) protect legal public gambling activities from
 25 unscrupulous players and vendors and detrimental influences;

(c) protect the public from unscrupulous proprietors and operators of gambling establishments, games, and devices;

(d) protect the state and local governments from those who would conduct illegal gambling activities that deprive those governments of their tax revenues;

(e) protect the health, safety, and welfare of all citizens of this state, including those who do not gamble, by regulating gambling activities; and

(f) promote and fund programs necessary to provide assistance to those who are adversely affected by legalized gambling, including compulsive gamblers and their families.

(2) The legislature adopts the policy that an applicant for a license or permit or other department approval under parts 1 through 6 of this chapter does not have a right to the issuance of a license or permit or the granting of the approval sought. The issuance of a license or permit issued or other department approval granted pursuant to the provisions of parts 1 through 6 of this chapter is a revocable privilege. A holder does not acquire a vested right in the license or permit issued or other department approval granted. A license or permit issued under parts 1 through 6 of this chapter may not be sold, assigned, leased, or transferred.

(3) Revenue to fund the expense of administration and

control of gambling as regulated by parts 1 through 6 of this chapter must be derived solely from fees, taxes, and penalties on gambling activities, except the gambling activities of the Montana state lottery and the parimutuel industry.

NEW SECTION. Section 2. General application. This chapter applies only to public gambling activities within the state of Montana.

Section 3. Section 23-5-101, MCA, is amended to read:

"23-5-101. Definitions. Unless the context requires otherwise, the following definitions apply to parts 1 through 6 of this chapter:

(1) A slot machine is defined as a machine operated by inserting a coin, token, chip, trade check, or paper currency therein by the player and from the play of which he obtains or may obtain money, checks, chips, tokens, or paper currency redeemable in money. Merchandise vending machines where the element of chance does not enter into their operation are not within the provisions of this part. "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 6 of this chapter.

(2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information

1 required for issuance of a license.

2 (3) "Authorized equipment" means, with respect to live
 3 keno or bingo, the receptacle and numbered objects drawn
 4 from it, the master board upon which such objects are placed
 5 as drawn, the cards or sheets bearing numbers or other
 6 designations to be covered and the objects used to cover
 7 them, the boards or signs, however operated, used to
 8 announce or display the numbers or designations as they are
 9 drawn, public address system, and all other articles
 10 essential to the operation, conduct, and playing of live
 11 keno or bingo.

12 (4) "Bingo" means a game of chance played for prizes
 13 with a card bearing a printed design of 5 columns of 5
 14 squares each, 25 squares in all. The letters B-I-N-G-O must
 15 appear above the design, with each letter above one of the
 16 columns. No more than 75 numbers may be used. One number
 17 must appear in each square, except for the center square
 18 which is considered a free play. Numbers and letters are
 19 drawn from a receptacle and announced by a bingo caller
 20 using authorized equipment, and the game is won by the
 21 person who first covers a previously designated arrangement
 22 of numbers on the bingo card.

23 (5) "Bingo caller" means a person licensed by the
 24 department to work as a live bingo caller who, using
 25 authorized equipment, announces the order of the objects

1 drawn in live bingo.

2 (6) "Card game table" or "table" means a live card
 3 game table authorized by permit and made available to the
 4 public on the premises of a licensed gambling operator.

5 (7) "Dealer" means a person with a dealer's license
 6 issued under part 3 of this chapter.

7 (8) "Department" means the department of justice.

8 (9) "Distributor" means a person who:

9 (a) purchases or obtains from another person equipment
 10 of any kind for use in gambling activities; and

11 (b) sells, leases, or otherwise furnishes the
 12 equipment to another person for use in public.

13 (10) "Gambling" or "gambling activity" means risking
 14 money, credit, deposit, check, property, or any other thing
 15 of value for a gain that is contingent in whole or in part
 16 upon lot, chance, or the operation of a gambling device or
 17 gambling enterprise.

18 (11) "Gambling device" means a mechanical,
 19 electromechanical, or electronic device, machine, slot
 20 machine, instrument, apparatus, contrivance, scheme, or
 21 system.

22 (12) "Gambling enterprise" means an activity, scheme,
 23 or agreement or an attempted activity, scheme, or agreement
 24 to provide gambling or a gambling device to the public.

25 (13) "Illegal gambling device" means a gambling device

1 not specifically authorized by statute or by the rules of
2 the department.

3 (14) "Illegal gambling enterprise" means a gambling
4 enterprise that violates a statute or a rule of the
5 department.

6 (15) "Keno" means a game of chance in which prizes are
7 awarded using a card with 8 horizontal rows and 10 columns
8 on which a player may pick up to 10 numbers. A keno caller,
9 using authorized equipment, shall select at random 20
10 numbers out of numbers between 1 and 80, inclusive.

11 (16) "Keno caller" means a person licensed by the
12 department to work as a live keno caller who, using
13 authorized equipment, announces the order of the numbers
14 drawn in live keno.

15 (17) "License" means an operator's, dealer's, caller's
16 or manufacturer-distributor's license issued to a person by
17 the department.

18 (18) "Licensee" means a person who has received a
19 license from the department.

20 (19) "Live card game", "card game", or "game" means a
21 card game that is played in public between persons on the
22 premises of a licensed gambling operator.

23 (20) "Lottery" or "gift enterprise" means a scheme, by
24 whatever name known, for the disposal or distribution of
25 property by chance among persons who have paid or promised

1 to pay valuable consideration for the chance of obtaining
2 the property or a portion of it or for a share or interest
3 in the property upon an agreement, understanding, or
4 expectation that it is to be distributed or disposed of by
5 lot or chance. However, "gift enterprise" does not mean:

6 (a) lotteries authorized under part 10 of this
7 chapter; or

8 (b) cash or merchandise attendance prizes or premiums
9 that the county fair commissioners of agricultural fairs and
10 rodeo associations may give away at public drawings at fairs
11 and rodeos.

12 (21) "Manufacturer" means a person who assembles from
13 raw materials or subparts a completed piece of equipment or
14 pieces of equipment of any kind to be used as a gambling
15 device.

16 (22) "Operator" means a person who purchases, receives,
17 or acquires, by lease or otherwise, and operates or controls
18 for use in public, a gambling device or gambling enterprise
19 authorized under parts 1 through 6 of this chapter.

20 (23) "Permit" means approval from the department to
21 make available for public play a gambling device or gambling
22 enterprise approved by the department pursuant to parts 1
23 through 6 of this chapter.

24 (24) In--addition--to--their--ordinary--meaning,--the
25 words--"person" "Person" or "persons"--as--used--in--this--part,

include means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious, ~~fraternal~~, and charitable organizations.

(25) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(26) "Public" means:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access; or

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious, fraternal, or charitable organization.

(27) "Raffle" means a gift enterprise in which each participant buys a chance or chances to win a prize.

(28) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or

both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

(29) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

NEW SECTION. Section 4. Authority of local governments to regulate gambling. (1) A local government may not license, regulate, or otherwise limit a form of gambling authorized by parts 1 through 6 of this chapter unless specifically authorized by statute.

(2) An incorporated city or town may enact an ordinance or resolution defining certain areas within its incorporated limits in which gambling is prohibited.

(3) A county may enact a resolution defining certain areas in the county, not within an incorporated city or town, in which gambling is prohibited.

(4) A county or incorporated city or town may not restrict the number of licenses that the department may issue.

NEW SECTION. Section 5. Department as criminal justice agency. The department is a criminal justice agency.

1 Designated agents of the department are granted peace
2 officer status to investigate, regulate, and control all
3 legal and illegal gambling activities in this state
4 regulated by parts 1 through 6 of this chapter and the rules
5 of the department.

6 NEW SECTION. **Section 6.** Department employees --
7 activities prohibited. An employee of the department
8 directly involved with the prosecution, investigation,
9 regulation, or licensing of gambling may not:

10 (1) serve as an officer or manager of a corporation or
11 organization that conducts a gambling activity;

12 (2) receive or share in, directly or indirectly, any
13 profit of a gambling activity regulated by the department;

14 (3) have a beneficial or pecuniary interest in a
15 contract for the manufacture or sale of a gambling device,
16 the conduct of a gambling activity, or the provision of
17 independent consultant services in connection with a
18 gambling activity.

19 NEW SECTION. **Section 7.** Powers and duties of
20 department -- licensing. (1) The department shall administer
21 the provisions of parts 1 through 6 of this chapter.

22 (2) The department shall adopt rules to administer and
23 implement parts 1 through 6 of this chapter.

24 (3) The department shall provide licensing procedures,
25 prescribe necessary application forms, and grant or deny

1 license applications.

2 (4) The department shall prescribe recordkeeping
3 requirements for licensees, provide a procedure for
4 inspection of records, provide a method for collection of
5 taxes, and establish penalties for the delinquent reporting
6 and payment of required taxes.

7 (5) The department may suspend, revoke, deny, or place
8 a condition on a license issued under parts 1 through 6 of
9 this chapter.

10 (6) The department may not make public or otherwise
11 disclose information obtained in the tax reporting
12 processes, except for general statistical reporting or
13 studies.

14 NEW SECTION. **Section 8.** Injunction and other
15 remedies. (1) If it appears to the department that a person
16 has engaged in or is about to engage in an act or practice
17 constituting a violation of a provision of parts 1 through 6
18 of this chapter or a rule or order of the department, it
19 may:

20 (a) issue a temporary cease and desist order with
21 reasonable notice and opportunity for hearing. Following a
22 hearing or if the person to whom the notice is addressed
23 does not request a hearing within 15 days after receipt of
24 the notice, the department may issue a permanent cease and
25 desist order that must remain in effect pending an appeal or

1 judicial review by the person aggrieved by a final order of
2 the department.

3 (b) bring, without the issuance of a cease and desist
4 order, an action in district court to enjoin the act or
5 practice. On a proper showing, the court may grant a
6 permanent or temporary injunction, a restraining order, or
7 other appropriate writ and appoint a receiver or conservator
8 for the defendant or the defendant's assets. The department
9 may not be required to post a bond.

10 (c) place a licensee on probation;

11 (d) suspend a license for a period not to exceed 180
12 days;

13 (e) revoke a license;

14 (f) deny renewal of a license upon its expiration;

15 (g) impose a civil penalty not to exceed \$10,000 for
16 each violation of a provision of parts 1 through 6 of this
17 chapter or a rule of the department, whether or not the
18 person is licensed by the department;

19 (h) impose a combination of the penalties provided in
20 subsections (1)(a) through (1)(g).

21 (2) A fine imposed by a district court or by the
22 department under this section must be collected by the
23 department and deposited in the special revenue account as
24 provided in 23-5-123.

25 (3) Imposition of a fine under this section is an

1 order from which an appeal may be taken pursuant to [section
2 12].

3 (4) If a person fails to pay a fine imposed under this
4 section, the fine is a lien on all of the assets and
5 property of the person in the state and may be recovered by
6 the department in a civil action.

7 (5) If a person fails to pay a fine imposed under this
8 section, he may not be licensed to operate a gambling device
9 or gambling enterprise in the state under parts 1 through 6
10 of this chapter.

11 **Section 9.** Section 23-5-123, MCA, is amended to read:

12 "23-5-123. Disposal of money confiscated by reason of
13 violation of gambling laws. All money seized or taken by any
14 peace officer and confiscated by order of any court, by
15 reason of a violation of the gambling laws of the state of
16 Montana, shall be deposited with the county treasurer of the
17 county in which such seizure and confiscation was made and
18 shall be credited to the poor fund of the county. All fines,
19 penalties, forfeitures, and confiscated money collected by
20 criminal, civil, or administrative process for a violation
21 of a provision of parts 1 through 6 of this chapter or a
22 rule of the department must be deposited in a special
23 revenue account for use by the department for:

24 (1) training law enforcement personnel in the
25 investigation of illegal gambling activity;

1 (2) training persons licensed under the authority of
 2 the department; or

3 (3) funding programs designed to treat persons with
 4 habitual gambling problems."

5 **NEW SECTION. Section 10. Qualifications** for
 6 licensure. (1) A person whom the department determines is
 7 qualified to receive a license under the provisions of this
 8 chapter, except for the provisions of part 10, may be issued
 9 a state gambling license.

10 (2) The applicant has the burden of proving his
 11 qualification to receive a license.

12 (3) An application for a license may not be granted
 13 unless the department is satisfied that the applicant is:

14 (a) a person of good character, honesty, and
 15 integrity;

16 (b) a person whose prior activities, criminal record,
 17 if any, reputation, habits, and associations do not:

18 (i) pose a threat to the public interest of the state
 19 or to the effective regulation and control of gambling; or

20 (ii) create or enhance the dangers of illegal
 21 practices, methods, and activities in the conduct of
 22 gambling or in the carrying on of the business and financial
 23 arrangements incidental to the conduct of gambling; and

24 (c) in all other respects qualified to be licensed
 25 consistent with the declared gambling policy of the state.

1 (4) A license to operate a gambling activity may not
 2 be issued unless the applicant has demonstrated to the
 3 department that:

4 (a) the applicant has adequate business probity,
 5 competence, and experience; and

6 (b) the proposed financing of the entire operation is:

7 (i) adequate for the nature of the proposed operation;
 8 and

9 (ii) from a suitable source. A lender or other source
 10 of money or credit that the department finds does not meet
 11 the standards set forth in subsection (3) may be considered
 12 unsuitable.

13 **NEW SECTION. Section 11. Operator of gambling**
 14 **establishment -- license -- fee.** (1) It is a misdemeanor for
 15 a person who is not licensed by the department as an
 16 operator to make available to the public for play a gambling
 17 device or gambling enterprise.

18 (2) An operator's license must include the following
 19 information:

20 (a) a description of the premises upon which the
 21 gambling will take place;

22 (b) the operator's name;

23 (c) a description of each gambling device or card game
 24 table licensed to the operator by the department for play
 25 upon the premises, including the type of game and license

number or decal number for each licensed game; and

(d) any other relevant information determined necessary by the department.

(3) The operator's license must be issued annually along with all other licenses for gambling devices or games licensed to the operator.

(4) The operator's license must be updated each time a gambling device or card game table license is newly issued or the device or game is removed from the premises.

(5) The department may not charge a fee for the issuance of an operator's license.

(6) The operator's license must be prominently displayed upon the premises for which it is issued.

NEW SECTION. Section 12. Judicial review. (1) (a) A person aggrieved by a final order of the department may obtain a review of the order in district court by filing with the court, within 30 days after entry of the final order, a written petition requesting that the order be modified or set aside in whole or in part.

(b) A copy of the petition must be served upon the department at the same time. When the department receives the copy of the petition, it shall certify and file in court a copy of the filing, testimony, and other evidence upon which the final order was entered by the department. When these have been filed with the court, the court has

exclusive jurisdiction to affirm, modify, enforce, or set aside the final order in whole or in part. A temporary cease and desist order from the department must remain in effect and cannot be set aside by the court until a hearing has been held and a final order has been issued pursuant to [section 8].

(2) (a) The review must be conducted by the district court without a jury and must be confined to the record. In a case of alleged irregularity in procedure before the department not shown in the record, proof may be taken by the court. The court, upon request, shall hear oral argument and receive written briefs.

(b) The court may not substitute its judgment for that of the department as to the weight of the evidence on questions of fact. The court may affirm the decision of the department or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(i) in violation of a constitutional or statutory provision;

(ii) in excess of the statutory authority of the department;

(iii) made upon unlawful procedure;

(iv) affected by other error of law;

(v) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record;

(vi) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or

(vii) inadequate because findings of fact, upon issues essential to the decision, were requested but not made.

(3) The commencement of proceedings under this section, unless specifically ordered by the court, may not operate as a stay of the department's final order.

Section 13. Section 23-5-131, MCA, is amended to read:

"23-5-131. Losses at gambling may be recovered in civil action. If any person, by playing or betting at any of the games prohibited by this part, loses to another person any sum of money or thing of value and pays or delivers the same or any part thereof to any person connected with the operating or conducting of such game, either as owner, dealer, or operator, the person who so loses and pays or delivers may, at any time within 60 days next after the loss and payment or delivery, sue for and recover the money or thing of value so lost and paid or delivered or any part thereof from any person having any interest, direct or contingent, in the game as owner, backer, or otherwise, with costs of suit, by civil action before any court of competent

jurisdiction, together with exemplary damages which in no case shall be less than \$50 or more than \$500, and may join as defendants in said suit all persons having any interest, direct or contingent, in such game as backers, owners, or otherwise. A person, or his dependent or guardian, who, by playing or betting at an illegal gambling device or illegal gambling enterprise, loses money, property, or any other thing of value and pays and delivers it to another person connected with the operation or conduct of the illegal gambling device or illegal gambling enterprise, within 1 year following his loss, may:

(1) bring a civil action in a court of competent jurisdiction to recover the loss;

(2) recover the costs of the civil action and exemplary damages of no less than \$500 and no more than \$5,000; and

(3) join as a defendant any person having an interest in the illegal gambling device or illegal gambling enterprise."

Section 14. Section 23-5-135, MCA, is amended to read:

"23-5-135. Discharge of defendant. Upon discovery and repayment of the money or other thing, the person discovering and repaying the same, with costs and such an amount of exemplary damages as may be agreed upon by the parties or fixed by the court, shall be acquitted and

~~discharged from any further or other forfeiture, punishment, penalty, or prosecution he or they may have incurred for so winning such money or thing discovered and repaid.~~ (1) A person against whom a civil action is brought as provided in 23-5-131 may move to have the action against him dismissed if he has repaid to the person who suffered the loss or his dependent the gambling loss, the costs of bringing the civil action, and the exemplary damages agreed upon by the parties or assessed by the court.

(2) A civil action brought to recover gambling losses does not bar or interfere with another proceeding or action, whether criminal, civil, or administrative, that may be brought under the laws of the state.

(3) The clerk of the court shall notify the department of a civil action based on a violation of a provision of this chapter."

Section 15. Section 23-5-102, MCA, is amended to read:

"23-5-102. Gambling prohibited ---penalty. Except as otherwise---provided-by-law, a person who engages in gambling in any form with cards, dice, or other implements or devices of any kind wherein anything valuable may---be---wagered---upon the---outcome---or---who---keeps---any---establishment,---place, equipment, or apparatus for such gambling or any---agents---or employees for such purpose is guilty of a misdemeanor and is punishable by a---fine---of---not less than \$100 or more than

\$1,000 or imprisonment not less than 3 months or more than 1 year or by both such fine and imprisonment specifically authorized by statute, all forms of public gambling, lotteries, and gift enterprises are prohibited."

NEW SECTION. Section 16. Counterfeiting or defacing documents -- penalty. (1) A person commits the offense of counterfeiting or defacing a document when he purposely or knowingly counterfeits, alters, or wrongfully displays a seal, decal, license, identification number or device, or other document issued by the department.

(2) A person convicted of the offense of counterfeiting or defacing a document is guilty of a felony and must be punished in accordance with [section 24].

Section 17. Section 23-5-108, MCA, is amended to read:

"23-5-108. Soliciting or persuading persons to visit play illegal gambling resorts device prohibited. Any---person who---persuades---or---solicits---another---to---visit---any---room,---tent, apartment, or---place---used---or---represented---by---the---person soliciting---or---persuading---to---be---a---place---used---for---the---purpose of running any of the games prohibited by this part shall be punished by a fine of not less than \$100 or more than \$1,000 or imprisonment not less than 3 months or more than 1 year or---by---both---such---fine---and---imprisonment---in---the---county---jail. A person who advertises for or solicits another person to play or engage in the use of an illegal gambling device is guilty

1 of a misdemeanor and is punishable under [section 23]."

2 NEW SECTION. Section 18. Obtaining anything of value
3 by fraud or operation of illegal gambling device or
4 enterprise. (1) A person who by gambling obtains money,
5 property, or anything of value that does not exceed \$300 in
6 value by misrepresentation, fraud, or the use of an illegal
7 gambling device or an illegal gambling enterprise is guilty
8 of a misdemeanor and is punishable as provided in [section
9 23].

10 (2) A person who by gambling obtains money, property,
11 or anything of value that exceeds \$300 in value by
12 misrepresentation, fraud, or the use of an illegal gambling
13 device or an illegal gambling enterprise is guilty of a
14 felony and is punishable as provided in [section 24].

15 NEW SECTION. Section 19. Gambling on cash basis. (1)
16 In every gambling activity the consideration paid for the
17 chance to play must be cash. A participant shall present the
18 money needed to play the game as the game is being played. A
19 check, credit card, note, I O U, or other evidence of
20 indebtedness may not be offered or accepted as part of the
21 price of participation in the gambling activity or as
22 payment of a debt incurred in the gambling activity.

23 (2) A person who violates this section is guilty of a
24 misdemeanor and must be punished in accordance with [section
25 23].

1 NEW SECTION. Section 20. Minors not to participate --
2 penalty. (1) A person under 18 years of age may not be
3 permitted to participate in a gambling activity.

4 (2) A person who violates this section is guilty of a
5 misdemeanor and must be punished in accordance with [section
6 23].

7 Section 21. Section 23-5-103, MCA, is amended to read:

8 "23-5-103. Possession of illegal gambling implements
9 device prohibited -- exception. Any (1) Except as provided
10 in [section 22] and subsection (2) of this section, it is a
11 misdemeanor punishable under [section 23] for a person who
12 has to have in his possession or under his control or who
13 permits to permit to be placed, maintained, or kept in any
14 room, space, enclosure, or building owned, leased, or
15 occupied by him or under his management or control any--faro
16 box,--faro--layout,--roulette--wheel,--roulette--table,--crap
17 table,--punchboard,--or--any--machine--or--apparatus--of--the--kind
18 mentioned--in--23-5-102--is punishable by a fine of not less
19 than \$100 or more than \$1,000 and may be imprisoned for not
20 less than 3 months or more than 1 year in the discretion of
21 the court, provided that this section shall not an illegal
22 gambling device. This section does not apply to a public
23 officer or to a person coming into possession thereof of an
24 illegal gambling device in or by reason of the performance
25 of an official duty and holding the same it to be disposed

1 of according to law.

2 (2) (a) The department may adopt rules to license
3 persons to manufacture gambling devices that are not legal
4 for public play in the state and are manufactured only for
5 export from the state.

6 (b) A person may not manufacture or possess an illegal
7 gambling device for export from the state without having
8 obtained a license from the department. The department may
9 charge an administrative fee for the license that is
10 commensurate with the cost of issuing the license."

11 **Section 22.** Section 23-5-104, MCA, is amended to read:

12 "**23-5-104. Slot--machines-----possession--unlawful---**
13 **exception Possession of antique slot machines.** (1) **Except-as**
14 **provided-in-subsections-(2)--through--(5)--it--shall--be--a**
15 **misdemeanor--and--punishable-as-hereinafter-provided-for-any**
16 **person-to-use,-possess,-operate,-keep,-or-maintain--for--use**
17 **or--operation--or--otherwise--anywhere--within-the-state-of**
18 **Montana,-any-slot-machine-of-any-sort-or-kind-whatsoever,-**

19 **(2)--The-provisions-of-subsection-(1)-and--23-5-121--do**
20 **not--apply--to-antique-slot-machines-possessed,-located,-and**
21 **used-in-accordance-with-subsections-(2)-through-(5).-For-the**
22 **purposes-of-subsections-(2)-through-(5),--an--antique--slot**
23 **machine--is--a--slot-machine-manufactured-prior-to-1950,-the**
24 **operation-of-which-is-exclusively-mechanical-in-nature--and**
25 **is-not-aided-in-whole-or-in-part-by-any-electronic-means. An**

1 antique slot machine is a slot machine manufactured prior to
2 1950 that is operated exclusively by mechanical means and is
3 not aided in whole or in part by any electrical means.

4 (3)(2) Except as provided in subsection (4) (3), an
5 antique slot machines machine may be possessed, located, and
6 operated only in a private residential dwelling.

7 (4)(3) ~~Antique-slot-machines~~ An antique slot machine
8 may be possessed or located for purposes of display only and
9 not for operation in any public museum owned and operated by
10 the state ~~of-Montana~~, or a county, or a city.

11 (5)(4) No antique slot machine may be operated for any
12 commercial or charitable purpose."

13 **NEW SECTION. Section 23. Criminal liabilities --**
14 **misdemeanor.** A person who purposely or knowingly violates a
15 provision of parts 1 through 6 of this chapter, the
16 punishment of which is for a misdemeanor, must, upon
17 conviction, be fined not less than \$500 or more than \$5,000,
18 or imprisoned for not more than 1 year, or both, for each
19 violation.

20 **NEW SECTION. Section 24. Criminal liabilities --**
21 **felony.** A person who purposely or knowingly violates a
22 provision of parts 1 through 6 of this chapter, the
23 punishment for which is a felony, may upon conviction be
24 fined not more than \$50,000 or imprisoned for not more than
25 10 years, or both, for each violation. However, if the

person previously has been convicted of a felony involving a gambling device, gambling activity, or gambling enterprise, he must be imprisoned for at least 2 years.

NEW SECTION. Section 25. Prosecution. The county attorney of the county in which a violation of a provision of parts 1 through 6 of this chapter occurs shall prosecute all gambling actions within the jurisdiction of the department. However, if the county attorney declines prosecution or fails to commence an action within a reasonable time, the attorney general may initiate and conduct the prosecution on behalf of the state.

Section 26. Section 23-5-311, MCA, is amended to read:

~~"23-5-311. Authorized card games. {1}-it-is-unlawful for-any-person-to-conduct-or-participate-in-any-card-game-or make-any-tables-available-for--the--playing--of--card--games except-those-card-games-authorized-by-this-part-~~

~~{2}{1}~~ The card games authorized by this part are and are limited to the card games known as bridge, cribbage, hearts, panguingue, pinochle, pitch, poker, rummy, solo, and whist, ~~solo, and poker.~~

(2) A person may only conduct or participate in a live card game or make a live card game table available for public play of a live card game that is specifically authorized by this part and described by department rules.

(3) This part does not apply to games simulated on

electronic video gambling machines authorized under part 6 of this chapter."

NEW SECTION. Section 27. Presence and control of dealer. A live card game may not be played except on a live card game table in the presence and under the control of a licensed dealer on the premises of a licensed operator.

NEW SECTION. Section 28. Card game dealers -- license. (1) A person may not deal cards in a live card game without being licensed annually by the department.

(2) The fee for each year in which the license is effective must be commensurate with the administrative costs associated with dealer licensing as established by department rules. The fee may not be prorated.

(3) The department shall retain for administrative purposes the license fee charged for the issuance of a dealer's license.

(4) A licensed dealer shall have on his person, and display upon request, his dealer's license when he is working as a dealer.

(5) The department may adopt rules to implement temporary licensing procedures until a permanent license is issued to a dealer. The department may delegate the authority to issue temporary licenses to local governments including the authority to assess and retain a fee for the temporary license.

NEW SECTION. Section 29. Live card game table -- permit -- fees -- disposition of fees. (1) A person who has been granted an operator's license under [section 11] and a license under 16-4-401(2) to sell alcoholic beverages for consumption on the premises may be granted an annual permit for the placement of live card game tables.

(2) The annual permit fee in lieu of taxes for each live card game table operated in a licensed operator's premises may not be prorated and must be:

(a) \$250 for the first table;

(b) \$750 for the second table; and

(c) \$1,000 for the third and each additional table.

(3) The department shall retain for administrative purposes \$100 of the fee collected under this part for each live card game table.

(4) The department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (2) to the treasurer of the county, or the clerk, finance officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or municipal treasury. The local government portion of this fee is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury.

Section 30. Section 23-5-321, MCA, is amended to read:

"23-5-321. licensing Issuance of permits by local

governing bodies prohibited. ~~(1)-Any~~ A city, town, or county may not issue licenses permits for the live card games provided--for or live card game tables authorized in this part. ~~to-be-conducted-on-premises-which-have--been--licensed~~ for-the-sale-of-liquor, beer, food, cigarettes, or any other consumable products. ~~Within--the--cities--or--towns,--such~~ licenses may be issued by the city or town council or commission. ~~licenses-for-games-conducted-on-premises-outside~~ the limits of any city or town may be issued by the county commissioners of the respective counties. ~~When-a-license-has~~ been required by any city, town, or county, no game as provided for in this part shall be conducted on any premises which have been licensed for the sale of liquor, beer, food, cigarettes, or any other consumable product without such license having first been obtained.

~~(2)-Any-governing-body-may-charge--an--annual--license~~ fee for each license so issued under this part, which license fee, if any, shall expire on June 30 of each year, and such fee shall be prorated.

~~(3)-Any--license-issued-pursuant-to-this-part-shall-be~~ deemed to be a revocable privilege, and no holder thereof may acquire any vested rights therein or thereunder."

Section 31. Section 23-5-312, MCA, is amended to read:

"23-5-312. Prizes not to exceed one three hundred dollars. No prize for any individual game shall exceed the

1 ~~value--of-\$100-~~ A prize for an individual live card game may
 2 not exceed the value of \$300. Games ~~shall~~ may not be
 3 combined in any manner so as to increase the value of the
 4 ultimate prize awarded."

5 NEW SECTION. Section 32. Live card game tables --
 6 hours of play -- restriction -- exception. Live card game
 7 tables must be closed for play between the hours of 2 a.m.
 8 and 8 a.m. each day. However, in the jurisdiction of a
 9 local government where the table is located, the local
 10 government may adopt an ordinance defining the hours of play
 11 within that jurisdiction.

12 **Section 33.** Section 23-5-313, MCA, is amended to read:

13 "23-5-313. Rules of play to be posted -- rake-off
 14 approved. Rules governing the conduct of each game ~~shall~~
 15 must be prominently posted within the sight of the players
 16 at a live card game table on the premises of ~~any--licensed~~
 17 ~~establishment--where--such--game--is--conducted~~ a licensed
 18 operator. Such ~~The~~ rules ~~shall~~ must include notice of the
 19 maximum percentage rake-off, if any, and ~~shall~~ must require
 20 that the person taking the rake-off do so in an obvious
 21 manner ~~and--only--after--announcing--the--amount--of--each~~
 22 ~~rake-off--which--shall--only--be--taken--at--the--conclusion--of~~
 23 ~~each--game--when--the--winner--of--each--individual--pot--has--been~~
 24 ~~determined."~~

25 **Section 34.** Section 23-5-331, MCA, is amended to read:

1 "23-5-331. Penalty. Every A person who ~~willfully~~
 2 purposely or knowingly violates or who procures, aids, or
 3 abets in the--~~willful~~ a violation of this part or any
 4 ordinance, resolution, or regulation rule adopted pursuant
 5 ~~thereto--shall--be--deemed to this part~~ is guilty of a
 6 misdemeanor ~~and--upon--conviction--shall--be--punished--by--a--fine~~
 7 ~~of--not--more--than--\$1,000--or--imprisonment--in--the--county--jail~~
 8 ~~for--not--more--than--3--months--or--both~~ punishable pursuant to
 9 [section 23]."

10 NEW SECTION. Section 35. Authorized live bingo, keno,
 11 and raffles. (1) A person may only conduct or participate in
 12 a live bingo and keno game or raffle operated pursuant to
 13 this part.

14 (2) This part does not apply to a game simulated on a
 15 video gambling machine authorized by part 6 of this chapter.

16 NEW SECTION. Section 36. Exempt charitable
 17 organizations. An organization qualified for exemption under
 18 26 U.S.C. 501(c)(3) and (c)(4) is exempt from the taxation
 19 and license fees imposed by this part. The organization
 20 shall comply with other statutes and rules relating to the
 21 operation of live bingo and keno or raffles. A qualified
 22 organization shall apply to the department for a cost-free
 23 permit to conduct charitable live bingo and keno games or
 24 raffles.

25 NEW SECTION. Section 37. Bingo and keno callers --

1 qualifications -- license -- fee. (1) A person may not act
2 as a bingo or keno caller without being licensed annually by
3 the department.

4 (2) The fee for each year in which the license is
5 effective must be commensurate with the costs associated
6 with bingo or keno caller licensing as established by
7 department rules. The fee may not be prorated.

8 (3) The department shall retain for administrative
9 purposes the license fee charged for the issuance of a bingo
10 or keno caller's license.

11 (4) A bingo or keno caller shall have on his person,
12 and display upon request, his bingo or keno caller's license
13 whenever he is working as a bingo or keno caller.

14 (5) The department may adopt rules to implement
15 temporary licensing procedures until a permanent license is
16 issued. The department may delegate the authority to issue
17 temporary licenses to local governments, including the
18 authority to assess and retain a fee for a temporary
19 license.

20 NEW SECTION. Section 38. Live bingo or keno permit --
21 fees -- disposition of fees. (1) A person who has been
22 granted an operator's license may be granted an annual
23 permit by the department to conduct live bingo or keno games
24 on specified premises.

25 (2) The permit fee for each of the premises in which a

1 live bingo or keno game is conducted may not be prorated and
2 must be \$500.

3 (3) The department shall retain the permit fee for
4 administrative costs.

5 NEW SECTION. Section 39. Bingo and keno gross
6 proceeds tax -- records -- distribution -- quarterly
7 statement and payment. (1) A licensee who has received a
8 permit to operate bingo or keno games shall pay to the
9 department a tax of 3% of the gross proceeds from the
10 operation of each live bingo and keno game operated on his
11 premises.

12 (2) A licensee shall keep a record of gross proceeds
13 in the form the department requires. At all times during the
14 business hours of the licensee the records must be available
15 for inspection by the department.

16 (3) A licensee shall, within 15 days after the end of
17 each quarter, complete and deliver to the department a
18 statement showing the total gross proceeds for each live
19 keno or bingo game operated by him and the total amount due
20 as live bingo or keno gross proceeds tax for the preceding
21 quarter. This statement must contain any other relevant
22 information required by the department.

23 (4) The department shall forward the tax collected
24 under subsection (3) to the treasurer of the county or the
25 clerk, finance officer, or treasurer of the city or town in

1 which the licensed game is located for deposit to the county
2 or municipal treasury. A county is not entitled to proceeds
3 from taxes on live bingo or keno games located in
4 unincorporated cities and towns within the county. The tax
5 collected under subsection (3) is statutorily appropriated
6 to the department as provided in 17-7-502 for deposit to the
7 county or municipal treasury.

8 **Section 40.** Section 23-5-412, MCA, is amended to read:

9 "23-5-412. Bingo Card prices and prizes. The price for
10 an individual bingo or keno card may not exceed 50 cents.
11 Bingo prizes may be paid in either tangible personal
12 property or cash; except--that--a--prize--must--be--paid--in
13 tangible--personal--property--if--the--game--is--played--on--a
14 player-operated-electronic-video-game-machine. A prize may
15 not exceed the value of \$100 \$300 for each individual bingo
16 award or keno card. The price for an individual bingo card
17 may--not--exceed--50--cents. It shall-be is unlawful to, in any
18 manner, combine any awards so as to increase the ultimate
19 value of such the award."

20 **Section 41.** Section 23-5-413, MCA, is amended to read:

21 "23-5-413. Raffle prizes restricted---exemption. (1)
22 Raffle prizes must-be-in-tangible-personal-property-only-and
23 not--in---money,---cash,---stocks,---bonds,---evidences---of
24 indebtedness,--or--other--intangible--personal--property--and must
25 not exceed the value of \$1,000 for each individual raffle

1 card ticket. It shall-be is unlawful to, in any manner,
2 combine any awards so as to increase the ultimate value of
3 such-award the prize awarded for each ticket.

4 (2) A separate permit must be issued by the board of
5 county commissioners for each raffle conducted within its
6 jurisdiction. The permit must be issued before the raffle
7 may be conducted. A person who has conducted a raffle must
8 submit an accounting to the board of county commissioners
9 within 30 days following the completion of the raffle. The
10 sale of raffle tickets authorized by this part is restricted
11 to events and participants within the geographic confines of
12 the state.

13 {2}{3} (a) The restrictions of subsection (1) do not
14 apply to a raffle conducted by a nonprofit corporation,
15 religious corporation sole, or other nonprofit organization
16 when if the corporation or organization is licensed
17 permitted by the board of county commissioners to conduct
18 the raffle. A--separate--license--shall--be--required--for--each
19 raffle-conducted;

20 (b) The nonprofit organization or corporation seeking
21 the license permission under subsection {2}{3}(a) must shall
22 apply to the board of county commissioners for the license
23 permit and must provide the following information:

- 24 (i) the cost and number of raffle tickets to be sold;
25 (ii) the charitable purposes the proceeds of the raffle

are intended to benefit; and

(iii) the proposed prizes and their value.

(c) The proceeds from the sale of the raffle tickets are--to may be used only for charitable purposes or to pay for prizes. The raffle prize must be in tangible personal property only and not in money, cash, stock, bonds, evidence of indebtedness, or other intangible personal property. None of the proceeds may be used for the administrative cost of conducting the raffle.

{d}--The corporation--or--organization--conducting--the raffle--must--submit--an--accounting--to--the--board--of--county commissioners--within--30--days--following--the--completion--of--the raffle--The person or persons submitting the application--to the board of county commissioners along with the corporation or--organization--conducting--the--raffle--shall--be--responsible for--submitting--the--accounting--to--the--board--of--county commissioners."

Section 42. Section 23-5-414, MCA, is amended to read:

23-5-414. Restrictions on bingo, and keno, and raffles ---bingo-or-keno-machines-in-establishment-limit---hours-of operation-----exception. {1} In the playing of live bingo or keno, no a person who is not physically present on the premises where the game is actually conducted shall may not be allowed to participate as a player in the game.

{2}--Raffles--authorized--by--this--part--shall--be

restricted--to--events--and--participants--within--the--geographic confines--of--the--state--of--Montana;

{3}--No--establishment--may--receive---licenses---under 23-5-421--for--or--make--available--for--play--more--than--15--bingo or-keno-machines--A--local--governing--body,--however,--may restrict--the--number--of--licensed--machines--available--for--play in--an--establishment--to--less--than--15,--but--must--allow--at--least 5;

{4}--(a)--Except--as--provided--in--subsection--(4)(b),--an establishment--that--receives--a--license--to--make--a--bingo--or keno-machine--available--for--play--must--have--the--machine--shut off--each--day--during--the--hours--provided--in--16-3-304--for closure---of---licensed---retail---alcoholic---beverage establishments;

{b}--A--local--governing--body--may--establish--any--hours--of play--for--bingo--or--keno-machines--that--it--determines--proper."

NEW SECTION. Section 43. Hours of play -- restrictions -- penalty. (1) A live bingo or keno game must be closed for play between the hours of 2 a.m. and 8 a.m. of each day. However, in the jurisdiction of a local government where the live bingo or keno game is played, the local government may adopt an ordinance defining other hours of play within that jurisdiction.

(2) A violation of this section is a misdemeanor punishable under [section 23].

Section 44. Section 23-5-431, MCA, is amended to read:

"23-5-431. Penalty Criminal penalty. Every A person who willfully purposely or knowingly violates or who procures, aids, or abets in the willful a violation of this part or any ordinance, resolution, or regulation rule adopted pursuant thereto shall be deemed to this part is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000 or imprisonment in the county jail for not more than 3 months, or both punishable pursuant to [section 23]."

Section 45. Section 23-5-602, MCA, is amended to read:

"23-5-602. Definitions. As used in this part, the following definitions apply:

(1) "Associated equipment" means all proprietary devices, machines, or parts used in the manufacture or maintenance of a video draw-poker gambling machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, and metering devices, and cabinetry.

{2}--"Department"--means the department of commerce;

(2) "Bingo machine" means an electronic video gambling machine that, upon insertion of cash, is available to play bingo as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by

the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(3) "Draw poker machine" means an electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker, as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

{3}{4} "Keno machine" means an electronic video game gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of keno or bingo as provided in part 4 of this chapter, utilizing defined by rules of the department. The machine utilizes a video display and microprocessors, in which, by the skill of the player, or by chance, or both, the player may receive free games or credits that can may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

{4}--"Licensed establishment"--means:

(a) with respect to the licensure of keno machines, an establishment that is licensed to sell alcoholic beverages for consumption on the premises or an establishment licensed under 23-5-421, and

(b) with respect to the licensure of video draw poker machines, an establishment that is licensed to sell alcoholic beverages for consumption on the premises.

(5) "Licensee" means an individual, partnership, corporation, or association that has been issued a license by the department for the placement and operation of video draw poker machines or keno machines in the licensed establishment of the individual, partnership, corporation, or association.

(6) "Manufacturer-distributor" means an individual, partnership, corporation, or association that assembles, produces, and makes or supplies video draw poker machines or associated equipment for sale, use, or distribution in this state.

(7)(5) "Net machine income" means money put into a video draw poker or keno gambling machine minus credits paid out in cash.

(8) "Used keno machine" means a keno machine, as that term is defined in this section, that is owned or possessed by an applicant on the day he applies for a license for the used machine and that was owned or operated in the state

prior to June 30, 1987.

(9) "Used video draw poker machine" means a video draw poker machine, as that term is defined in this section, which is owned or possessed by an applicant on the day he applies for a license for the used machine and which was owned or operated in the state prior to February 3, 1984.

(10) "Video draw poker machine" means an electronic video game machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker, as provided in this part, utilizing a video display and microprocessors in which, by the skill of the player or by chance, or both, the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, tokens, or anything else of value.

(6) "Video gambling machine manufacturer-distributor" means a person who assembles, produces, makes, supplies, or repairs video gambling machines or associated equipment for sale, use, or distribution in the state."

Section 46. Section 23-5-603, MCA, is amended to read:

"23-5-603. Video draw poker or keno gambling machines -- possession -- play -- hours of play -- restriction. (1) No person may place an electronic video game machine that simulates or offers a game of poker, bingo, or keno in his licensed establishment unless he is licensed under 23-5-612.

A person may only make available for public play the video gambling machines specifically authorized by this part.

(2) The video gambling machines specifically authorized by this part are bingo, keno, and draw poker machines. A person may not make available for public play a video gambling machine unless he has obtained an operator's license. Machines licensed Only machines for which permits have been granted under 23-5-612 are legal, and it is legal to play such machines, except that a person under the age of 18 years may not play a video draw poker or keno machine may be made available for play by the public on the premises of a licensed operator.

(2) Except as provided in subsection (3), an establishment that receives a license to make a video draw poker machine available for play must have the machine shut off each day during the hours provided in 16-3-304 for closure of licensed retail alcoholic beverage establishments.

(3) A local governing body may establish any hours of play for video draw poker machines that it determines proper.

(4) The provisions of part 3 of this chapter do not apply to or prohibit video draw poker or keno machines or the playing of such machines."

Section 47. Section 23-5-611, MCA, is amended to read:

"23-5-611. State license Machine permit qualifications -- limitations ---right-to-hearing. (1) (a) A person who has been granted a license under 16-4-401(2) to sell alcoholic beverages for consumption on the premises may be granted a license for the placement of video draw poker machines in his licensed establishment. Only a person who has been granted an operator's license under [section 11] and a license under 16-4-401(2) to sell alcoholic beverages for consumption on the premises may be granted a permit for the placement of video gambling machines in his premises.

(b) Each applicant for a license shall on the application form disclose to the department any previous experience or involvement as an owner or operator of gambling devices and establishments. Previous experience or involvement includes:

(i) controlling of gambling devices as an owner or operator;

(ii) employment with the owner or operator of gambling devices;

(iii) employment in establishments where gambling is offered to the public; and

(iv) conviction of violation of state or local gambling laws in any jurisdiction.

(2) An applicant for a permit shall disclose on the application form to the department any information required

1 by the department consistent with the provisions of [section
2 10].

3 {2}{3} A licensee may not have on the premises or make
4 available for play on the premises of--his--licensed
5 establishment more than five 20 machines of any combination
6 that are legal under this part. In the jurisdiction of a
7 local government where video gambling machines are played,
8 the local government may by ordinance or resolution limit
9 the number of video gambling machines to no less than five
10 per operator premises.

11 {3}--A person denied a state license has the right to a
12 hearing before the department. The hearing must be conducted
13 in--accordance--with--the--provisions--of--the--Montana
14 Administrative Procedure Act."

15 **Section 48.** Section 23-5-612, MCA, is amended to read:

16 "23-5-612. State license Machine permits -- fee --
17 used--keno-machines. (1) {a} The department, upon payment of
18 the fee provided in subsection {1}{b} {2} and in conformance
19 with rules adopted under 23-5-605 this part, shall issue to
20 the licensee operator a license permit for each video draw
21 poker-or-keno gambling machine.

22 {b}{2} The department shall charge an annual license
23 permit fee of \$100 \$200 for each video draw-poker-machine
24 and-\$100-for-each--keno gambling machine. The department
25 shall retain \$100 of the total license permit fee collected

1 for purposes of administering this part,--except--23-5-615.
2 The remaining \$100 must be returned on a quarterly basis to
3 the local government jurisdiction in which the gambling
4 machine is located.

5 {3} The license permit expires on June 30 of each
6 year, and the fee may not be prorated.

7 {2}--A--used--keno--machine--may--be--licensed--under
8 subsection--{1}--without--meeting--the--requirements--of--23-5-609
9 if--the--applicant--for--licensure--can--establish--to--the
10 satisfaction--of--the--department--that,--on--the--date--of
11 application, he owns or possesses a machine that--was--owned
12 or--operated--in--the--state--prior--to--June--30,--1987. A license
13 issued under this subsection expires--for--all--purposes--no
14 later than June 30, 1989."

15 **Section 49.** Section 23-5-631, MCA, is amended to read:

16 "23-5-631. Examination and approval of new video draw
17 poker gambling machines and associated equipment -- fee. (1)
18 The department shall examine and may approve a new video
19 draw---poker---machines gambling machine and associated
20 equipment which is are manufactured, sold, or distributed
21 for use in this the state before the video draw-poker
22 gambling machine or associated equipment is sold, played, or
23 used.

24 (2) A video draw-poker gambling machine or associated
25 equipment may not be examined or approved by the department

1 until the video gambling machine manufacturer-distributor of
2 the machine or associated equipment is licensed as required
3 in 23-5-625.

4 (3) All video gambling machines approved by the
5 department of commerce prior to [the effective date of this
6 act] must be considered approved under this part.

7 (3)(4) The department shall require the
8 manufacturer-distributor seeking the examination and
9 approval of a new video draw--poker gambling machine or
10 associated equipment to pay the anticipated actual costs of
11 the examination in advance and, after the completion of the
12 examination, shall refund overpayments or charge and collect
13 amounts sufficient to reimburse the department for
14 underpayments of actual costs.

15 (5) The department may inspect and test and approve,
16 disapprove, or place a condition upon a video gambling
17 machine prior to its distribution and placement for play by
18 the public."

19 **NEW SECTION. Section 50.** Video gambling machine
20 specifications -- rules. The department shall adopt rules
21 describing the video gambling machines authorized by this
22 part and stating the specifications for video gambling
23 machines authorized by this part.

24 **Section 51.** Section 23-5-616, MCA, is amended to read:

25 "23-5-616. Removal of machine from public access. If a

1 machine fails to meet the specifications and requirements of
2 ~~23-5-606, 23-5-607, or 23-5-608~~ this part or any rule of the
3 department at any time after its initial license permit
4 has been issued, the licensee operator shall immediately
5 remove the machine from public access until it meets all
6 requirements."

7 **Section 52.** Section 23-5-625, MCA, is amended to read:

8 "23-5-625. ~~Manufacturer-distributor--of--video--draw~~
9 ~~poker-----machines~~ Video gambling machine
10 manufacturer-distributor -- license -- fees. (1) It is
11 unlawful for any person to assemble, produce, manufacture,
12 sell,--or--distribute supply, or repair any video draw-poker
13 gambling machine or associated equipment for use or play in
14 this the state without having first been issued a video
15 gambling machine manufacturer-distributor's license by the
16 department.

17 (2) The department shall charge an annual license fee
18 of \$1,000 for the issuance or renewal of a video gambling
19 machine manufacturer-distributor's license.

20 (3) In addition to other license fees, the department
21 may charge the applicant a one-time video gambling machine
22 manufacturer-distributor's license application processing
23 fee. The processing fee may not exceed the department's
24 actual costs for processing an application.

25 (4) All video gambling machine

1 manufacturer-distributor's licenses expire on June 30 of
2 each year, and the license fee may not be prorated.

3 (5) The department shall retain the license and
4 processing fees collected for purposes of administering this
5 part, ~~except-23-5-615~~ unless otherwise provided."

6 **Section 53.** Section 23-5-610, MCA, is amended to read:

7 "23-5-610. Video draw-poker-and-keno gambling machine
8 net income tax -- records -- distribution -- quarterly
9 statement and payment. (1) Each A licensee shall pay to the
10 department a video draw-poker-and-keno gambling machine tax
11 of 15% of net machine income from each video draw-poker--and
12 keno gambling machine licensed under this part.

13 (2) Each A licensee shall keep a record of net machine
14 income in such form as the department may require. The
15 records must at all times during the business hours of the
16 licensee be subject to inspection by the department, ~~its~~
17 ~~agents, or employees.~~

18 (3) Each A licensee shall, within 15 days after the
19 end of each quarter, complete and deliver to the department
20 a statement showing the total net machine income from each
21 video draw-poker-and-keno gambling machine licensed to him,
22 together with the total amount due the state as video draw
23 poker--and--keno gambling machine net income tax for the
24 preceding quarter. The statement must contain such other
25 relevant information as the department may require.

1 (4) (a) The department ~~must--deposit~~ shall forward
2 one-third of the tax collected under subsection (3) ~~in to~~
3 the general fund.

4 (b) The department ~~must~~ shall forward the remaining
5 two-thirds of the tax collected under subsection (3) to the
6 treasurer of the incorporated county or the clerk, finance
7 officer, or treasurer of the city or town in which the
8 licensed machine is located, for deposit to the county or
9 municipal treasury. Counties are not entitled to proceeds
10 from taxes on income from video draw-poker-and-keno gambling
11 machines located in incorporated cities and towns. The
12 two-thirds local government portion of tax collected under
13 subsection (3) is statutorily appropriated to the department
14 as provided in 17-7-502 for deposit to the county or
15 municipal treasury."

16 **Section 54.** Section 23-5-608, MCA, is amended to read:

17 "23-5-608. Limitation on amount of money played and
18 value of prizes -- payment of credits in cash. (1) A video
19 draw-poker-or-keno gambling machine may not allow more than
20 \$2 to be played on a game or award free games or credits in
21 excess of the ~~value-of-\$100-per-hand~~ following amounts:

22 (a) \$100 a hand or \$800 a game for a video draw poker
23 machine; and

24 (b) \$800 a game for a video keno or bingo machine.

25 (2) Each A licensee shall pay in cash all credits owed

to a player as shown on a valid ticket voucher provided in
23-5-606(4)(k)."

Section 55. Section 23-5-607, MCA, is amended to read:

"23-5-607. **Expected payback -- verification.** The department shall prescribe the expected payback value of one credit played awarded to be at least 80% of the value of a one credit played. Each video draw-poker-or--keno gambling machine must have an electronic accounting device that the department may use to verify the winning percentage. The department--may--not--publish--or--otherwise--disseminate--income figures--and--other--statistics--obtained--in--the--payback verification--process--or--contained--in--payback--verification reports--in--a--manner--that--allows--or--helps--a--person--to identify--a--particular--machine--or--to--match--a--particular machine--with--a--particular--income--or--statistic."

NEW SECTION. Section 56. Video gambling machines -- hours of play -- penalty. (1) A video gambling machine may not be played between the hours of 2 a.m. and 8 a.m. each day. However, in the jurisdiction of a local government where the video gambling machine is played, the local government may adopt an ordinance defining the hours of play within that jurisdiction.

(2) A violation of this section is a misdemeanor punishable under [section 23].

Section 57. Section 23-5-613, MCA, is amended to read:

"23-5-613. **Investigations-and--violations** Violations.

(1)---The---department---or---duly---authorized---department representatives--shall--make--necessary--investigations,--suspend or--revoke--state--licenses--for--violations--of--this--part,--except 23-5-615,--and--hold--hearings--on--such--matters. A--license--may be--suspended--prior--to--a--hearing--upon--a--finding--of--danger--to public--health--and--welfare--but--may--not--be--revoked--until--the hearing--is--completed.

(2)---A Unless otherwise provided in this part, a violation of this part,--except--23-5-615, or a rule promulgated under--23-5-605 by the department is a criminal offense,--and--a--fine--not--to--exceed--\$10,000--for--the--first violation--and--\$15,000--for--a--subsequent--violation--must--be imposed misdemeanor punishable under [section 23].

(3)---If--a--video--draw--poker--machine--is--operated--in violation--of--this--part,--except--23-5-615,--it--may--be--seized under--23-5-121--and--the--provisions--of--23-5-122--apply.

(4)---Employees--of--the--department--or--duly--authorized department--representatives--designated--as--enforcement--agents may--investigate--the--background--of--license--applicants--to--the extent--judged--necessary--by--the--department,--but--no--person--may be--investigated--prior--to--his--submission--of--an--application for--a--license.

(5)---(a) Findings--of--suspected--illegal--activity--must--be reported--to--the--appropriate--law--enforcement--agency.

~~(b)--The clerk of the court shall, upon final judgment of conviction of a licensee, report to the department the name of the licensee convicted of violating a local gambling ordinance.~~

~~(c)--On receipt of such report, the department may commence proceedings to revoke or suspend the licensee's video draw poker license.~~

~~(6)--Any peace officer of this state may arrest a person for tampering with a video draw poker machine, attempting or conspiring to manipulate the outcome or the payoff of a video draw poker machine, or manipulating the outcome or payoff of a video draw poker machine by physical tampering or other interference with the proper functioning of the machine."~~

NEW SECTION. Section 58. Tampering with or manipulating video gambling machine -- penalty. (1) It is a felony to manipulate or attempt or conspire to manipulate the outcome or payoff of a video gambling machine by physical tampering or other interference with the proper functioning of the machine.

(2) A violation of this section is a felony and must be punished in accordance with [section 24].

Section 59. Section 23-5-503, MCA, is amended to read:

"23-5-503. Rules. (1) The card used for recording the pool and upon which the squares or spaces appear shall

clearly **state** indicate in advance of the sale of any chances the number of chances to be sold in that specific pool, the name of the event, the consideration to be paid for each chance, and the total amount to be paid to the winners.

(2) No A chance to participate in a sports pool may not be sold other than upon the premises in which the sports pool is conducted. No An individual chance to participate in a sports pool shall may not be sold for a consideration in excess of \$1, and the total amount to be paid to the winners of any individual sports pool shall may not exceed the value of \$100. The winner of any sports pool shall receive a 100% payout of the value of the sports pool."

Section 60. Section 23-5-509, MCA, is amended to read:

"23-5-509. Penalty. Every A person who willfully purposely or knowingly violates or who procures, aids, or abets in the willful a violation of this part shall be deemed is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000 or imprisonment in the county jail for not more than 3 months, or both punishable pursuant to [section 23]."

Section 61. Section 23-5-1101, MCA, is amended to read:

"23-5-1101. Definition. As used in this part, "Calcutta pool" means a form of auction pool in which persons bid or wager money, with winnings awarded based on

the--outcome--of--an--event,--except--that conducted by an organization qualified for exemption under 26 U.S.C. 501(c)(3) or (c)(4) and authorized by the department. The Calcutta pool must be an auction pool in which:

(1) a person's wager is equal to his bid;

(2) the organization conducting the pool has no direct interest in the pool;

(3) the rules of the pool are publicly posted;

(4) no more than one wager for each competitor is allowed;

(5) at least 50% of the total pool is paid out in prizes;

(6) persons may not bid or wager money on any elementary school or high school sports event; and

(7) the underlying event has more than two entrants."

Section 62. Section 23-5-1105, MCA, is amended to read:

"23-5-1105. Penalty. Any A person who violates a provision of this part is guilty of a misdemeanor and--upon conviction--shall-be-fined-not-more-than-\$1,000-or-imprisoned in--the--county--jail--for-a-term-not-to-exceed-3-months,--or both punishable pursuant to [section 23]."

Section 63. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an

appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; [section 29]; [section 39]; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.

1 (4) There is a statutory appropriation to pay the
 2 principal, interest, premiums, and costs of issuing, paying,
 3 and securing all bonds, notes, or other obligations, as due,
 4 that have been authorized and issued pursuant to the laws of
 5 Montana. Agencies that have entered into agreements
 6 authorized by the laws of Montana to pay the state
 7 treasurer, for deposit in accordance with 17-2-101 through
 8 17-2-107, as determined by the state treasurer, an amount
 9 sufficient to pay the principal and interest as due on the
 10 bonds or notes have statutory appropriation authority for
 11 such payments. (In subsection (3): pursuant to sec. 15, Ch.
 12 607, L. 1987, the inclusion of 15-65-121 terminates June 30,
 13 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
 14 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
 15 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
 16 1987, terminates July 1, 1988.)"

17 NEW SECTION. Section 64. Reorganization procedure.
 18 The provisions of sections 2-15-131 through 2-15-137 govern
 19 the transfer of the various functions contained in [this
 20 act] from the department of commerce to the department of
 21 justice.

22 NEW SECTION. Section 65. Implementation. (1) The
 23 governor shall by executive order implement the provisions
 24 of [this act].

25 (2) The governor may by executive order assign to the

1 department of justice in a manner consistent with [this act]
 2 functions allocated to the department of commerce by the
 3 51st legislature relating to the implementation of Title 23,
 4 chapter 5, parts 1 through 6, that are not transferred by
 5 [this act].

6 NEW SECTION. Section 66. Repealer. Sections 23-5-105
 7 through 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124
 8 through 23-5-127, 23-5-132 through 23-5-134, 23-5-141
 9 through 23-5-144, 23-5-201 through 23-5-211, 23-5-301
 10 through 23-5-303, 23-5-314 through 23-5-316, 23-5-322,
 11 23-5-323, 23-5-332, 23-5-401 through 23-5-403, 23-5-411,
 12 23-5-415 through 23-5-418, 23-5-421 through 23-5-423,
 13 23-5-504 through 23-5-508, 23-5-510, 23-5-511, 23-5-601,
 14 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618,
 15 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103,
 16 23-5-1104, MCA, are repealed.

17 NEW SECTION. Section 67. Extension of authority. Any
 18 existing authority to make rules on the subject of the
 19 provisions of [this act] is extended to the provisions of
 20 [this act].

21 NEW SECTION. Section 68. Codification instruction.
 22 (1) [Sections 1, 2, 4 through 8, 10 through 12, 16, 18
 23 through 20, and 23 through 25] are intended to be codified
 24 as an integral part of Title 23, chapter 5, part 1, and the
 25 provisions of Title 23, chapter 5, part 1, apply to

LC 0179/01

1 [sections 1, 2, 4 through 8, 10 through 12, 16, 18 through
2 20, and 23 through 25].

3 (2) [Sections 27 through 29 and 32] are intended to be
4 codified as an integral part of Title 23, chapter 5, part 3,
5 and the provisions of Title 23, chapter 5, part 3, apply to
6 [sections 27 through 29 and 32].

7 (3) [Sections 35 through 39 and 43] are intended to be
8 codified as an integral part of Title 23, chapter 5, part 4,
9 and the provisions of Title 23, chapter 5, part 4, apply to
10 [sections 35 through 39 and 43].

11 (4) [Sections 50, 56, and 58] are intended to be
12 codified as an integral part of Title 23, chapter 5, part 6,
13 and the provisions of Title 23, chapter 5, part 6, apply to
14 [sections 50, 56, and 58].

15 (5) The code commissioner shall recodify the
16 provisions of Title 23, chapter 5, part 11, as an integral
17 part of Title 23, chapter 5, part 2.

18 NEW SECTION. **Section 69. Severability.** If a part of
19 [this act] is invalid, all valid parts that are severable
20 from the invalid part remain in effect. If a part of [this
21 act] is invalid in one or more of its applications, the part
22 remains in effect in all valid applications that are
23 severable from the invalid applications.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB431, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the public gambling laws of Montana; providing for licensure and regulation of gambling activities by the Department of Justice; and providing for statutory appropriation.

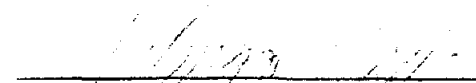
ASSUMPTIONS:

1. The Department of Justice will be given authority to regulate all currently legal forms of gambling in Montana except the state lottery and horse racing.
This includes:
 - video poker, video keno, and video bingo which are currently regulated in the Department of Commerce with contractual help from the Department of Revenue for investigations.
 - live keno, bingo and live card games including poker which are currently regulated by local governments.
2. Programs and staff related to video gambling located at the Department of Commerce will be transferred to the Department of Justice.
3. Programs and staff related to investigations for video gambling purposes will be transferred from the Department of Revenue to the Department of Justice. Investigators will be upgraded from grade 14 to grade 16.
4. The Department of Justice will be given authority to create training programs for licensees and law enforcement personnel. In addition, programs for addicted and problem gamblers will be created.
5. Assumptions included here only address currently legal forms of gambling. This estimate does not include the legalization of "21", punchboards, pulltabs or any other forms of gambling which might be legalized by the legislature.
6. Estimates of current local government income and numbers of live poker, live keno, live bingo, card dealers and bingo callers derived from local government survey conducted in spring of 1987.
7. Current funding level of the Department of Commerce is the governor's recommended budget less the modification for a Gaming Commission.
8. Funds in current level Department of Commerce operating expense for contracting investigations in the Department of Revenue have been shown in the proposed level as Personal Services in the Department of Justice.
9. Department of Revenue expenditures will decrease by \$186,777 and \$185,864 for Personal Service in FY90 and FY91 respectively and \$58,588 and \$58,301 in Operating Expenses in FY90 and FY91 respectively.



RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 2/22/89


DELWYN GAGE, PRIMARY SPONSOR

DATE 2/27/89

Fiscal Note for SB431, as introduced

SB 431

Fiscal Note Request, SB431 as introduced
Form BD-15
Page 2

FISCAL IMPACT:

Revenue:	FY90			FY91		
	Current	Proposed		Current	Proposed	
	Law	Law	Difference	Law	Law	Difference
License Fees:						
Machines	\$ 1,500,000	\$ 2,000,000	\$ 500,000	\$ 1,550,000	\$ 2,100,000	\$ 550,000
Live Card Games	-0-	75,000	75,000	-0-	75,000	75,000
Live Bingo/Keno	-0-	190,000	190,000	-0-	190,000	190,000
Dealers/Callers	37,328	75,000	37,672	37,328	75,000	37,672
Taxes:						
Machines	13,000,000	13,000,000	-0-	13,500,000	13,500,000	-0-
Live Card Games	70,000	387,500	317,500	70,000	387,500	317,500
Live Bingo/Keno	28,000	1,140,000	1,112,000	28,000	1,140,000	1,112,000
Penalties	75,000	110,000	35,000	75,000	110,000	35,000
Total	\$14,710,328	\$16,977,500	\$2,267,172	\$15,260,328	\$17,577,500	\$2,317,172
Fund Information:						
General Fund	\$ 4,290,000	\$ 4,290,000	\$ -0-	\$ 4,455,000	\$ 4,555,000	\$ -0-
Special Revenue Fund	1,075,000	1,450,000	375,000	1,075,000	1,500,000	425,000
Local Governments	9,345,328	11,237,500	1,892,172	9,730,328	11,622,500	1,892,172
Total	\$14,710,328	\$16,977,500	\$2,267,172	\$15,260,328	\$17,577,500	\$2,317,172

Local government revenues shown under current level above include those collected at the local level under current law. These will be collected by the state and passed back to the local government under the proposed law.

Expenditures:

Department of Commerce

Personal Services	\$ 305,660	\$ -0-	(\$305,660)	\$ 306,165	\$ -0-	(\$306,165)
Operating Expenses	469,082	-0-	(469,082)	467,335	-0-	(467,335)
Equipment	30,467	-0-	(30,467)	13,895	-0-	(13,895)
Total	\$ 805,209	\$ -0-	(\$805,209)	\$ 787,395	\$ -0-	(\$787,395)

Department of Justice

Personal Services	\$ -0-	\$ 898,800	\$ 898,800	\$ -0-	\$ 899,305	\$ 899,305
Operating Expenses	-0-	262,023	262,023	-0-	260,276	260,276
Equipment	-0-	111,467	111,467	-0-	51,895	51,895
Total	\$ -0-	\$ 1,272,290	\$1,272,290	\$ -0-	\$ 1,211,476	\$1,211,476

Total Expenditure Impact: \$ 805,209 \$ 1,272,290 \$ 467,081 \$ 787,395 \$ 1,211,476 \$ 424,081

EFFECT ON COUNTY OR OTHER LOCAL REVENUE EXPENDITURES:

Under the proposal, revenues of \$11,237,500 in FY90 and \$11,622,500 in FY91 will be collected by the Department of Justice and returned to local government. It is estimated that local government revenues will increase \$1,892,172 each year. Local government expenses should decrease each year because all gambling licensing and tax collection will be administered by the state.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

The wording in section 55 prescribing the expected payback value of a video gambling machine is statistically inapplicable. A suggested amendment is " . . . the expected value of the payback of one credit played to be at least 80% of the value of the credit."

SB 431

APPROVED BY COMMITTEE
ON JUDICIARY

1 SENATE BILL NO. 431
2 INTRODUCED BY GAGE, HARPER, B. BROWN, MAZUREK,
3 ADDY, STRIZICH, MERCER, CRIPPEN, HANNAH,
4 HARP, VAN VALKENBURG
5 BY REQUEST OF THE DEPARTMENT OF JUSTICE
6
7 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
8 PUBLIC GAMBLING LAWS OF MONTANA; PROVIDING FOR LICENSURE AND
9 REGULATION OF GAMBLING ACTIVITIES BY THE DEPARTMENT OF
10 JUSTICE; ~~PROVIDING--FOR--STATUTORY--APPROPRIATION;~~ AMENDING
11 SECTIONS ~~17-7-502,~~ 23-5-101 THROUGH 23-5-104, 23-5-108,
12 23-5-123, 23-5-131, 23-5-135, 23-5-311 THROUGH 23-5-313,
13 23-5-321, 23-5-331, 23-5-412 THROUGH 23-5-414, 23-5-431,
14 23-5-503, 23-5-509, 23-5-602, 23-5-603, 23-5-607, 23-5-608,
15 23-5-610 THROUGH 23-5-613, 23-5-616, 23-5-625, 23-5-631,
16 23-5-1101, AND 23-5-1105, MCA; AND REPEALING SECTIONS
17 23-5-105 THROUGH 23-5-107, 23-5-109, 23-5-121, 23-5-122,
18 23-5-124 THROUGH 23-5-127, 23-5-132 THROUGH 23-5-134,
19 23-5-141 THROUGH 23-5-144, 23-5-201 THROUGH 23-5-211,
20 23-5-301 THROUGH 23-5-303, 23-5-314 THROUGH 23-5-316,
21 23-5-322, 23-5-323, 23-5-332, 23-5-401 THROUGH 23-5-403,
22 23-5-411, 23-5-415 THROUGH 23-5-418, 23-5-421 THROUGH
23 23-5-423, 23-5-504 THROUGH 23-5-508, 23-5-510, 23-5-511,
24 23-5-601, 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617,
25 23-5-618, 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103,

1 AND 23-5-1104, MCA."

2
3 STATEMENT OF INTENT
4 This bill requires a statement of intent because
5 [section 7] authorizes the department of justice to adopt
6 administrative rules to implement [this act]. [This act] is
7 intended to provide uniform statewide regulation of gambling
8 in Montana under the supervision of the attorney general.

9 It is the intent of the legislature that the department
10 of justice adopt necessary rules to implement uniform
11 statewide regulation of gambling in Montana consistent with
12 the purposes and policies set forth in [section 1] of this
13 bill.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 NEW SECTION. Section 1. Public policy of state
17 concerning gambling. (1) The legislature finds that for the
18 purpose of ensuring the proper gambling environment in this
19 state it is necessary and desirable to adopt a public policy
20 regarding public gambling activities in Montana. The
21 legislature therefore declares it is necessary to:

22 (a) create and maintain a uniform regulatory climate
23 that assures players, owners, tourists, citizens, and others
24 that the gambling industry in this state is fair and is not
25 influenced by corrupt persons, organizations, or practices;

1 (b) protect legal public gambling activities from
2 unscrupulous players and vendors and detrimental influences;

3 (c) protect the public from unscrupulous proprietors
4 and operators of gambling establishments, games, and
5 devices;

6 (d) protect the state and local governments from those
7 who would conduct illegal gambling activities that deprive
8 those governments of their tax revenues;

9 (e) protect the health, safety, and welfare of all
10 citizens of this state, including those who do not gamble,
11 by regulating gambling activities; and

12 (f) promote and fund programs necessary to provide
13 assistance to those who are adversely affected by legalized
14 gambling, including compulsive gamblers and their families.

15 (2) The legislature adopts the policy that an
16 applicant for a license or permit or other department
17 approval under parts 1 through 6 of this chapter does not
18 have a right to the issuance of a license or permit or the
19 granting of the approval sought. The issuance of a license
20 or permit issued or other department approval granted
21 pursuant to the provisions of parts 1 through 6 of this
22 chapter is a revocable privilege. A holder does not acquire
23 a vested right in the license or permit issued or other
24 department approval granted. A license or permit issued
25 under parts 1 through 6 of this chapter may not be sold,

1 assigned, leased, or transferred.

2 (3) Revenue to fund the expense of administration and
3 control of gambling as regulated by parts 1 through 6 of
4 this chapter must be derived solely from fees, taxes, and
5 penalties on gambling activities, except the gambling
6 activities of the Montana state lottery and the parimutuel
7 industry.

8 NEW SECTION. **Section 2.** General application. This
9 chapter applies only to public gambling activities within
10 the state of Montana.

11 **Section 3.** Section 23-5-101, MCA, is amended to read:

12 "23-5-101. Definitions. Unless the context requires
13 otherwise, the following definitions apply to parts 1
14 through 6 of this chapter:

15 (1) A slot-machine-is-defined-as-a-machine-operated-by
16 inserting--a--coin,--token,--chip,--trade--check,--or--paper
17 currency--therein-by-the-player-and-from-the-play-of-which-he
18 obtains-or-may-obtain-money,--checks,--chips,--tokens,--or-paper
19 currency--redeemable--in-money;--Merchandise-vending-machines
20 where-the-element--of--chance--does--not--enter--into--their
21 operation--are--not--within--the--provisions--of--this-part;
22 "Applicant" means a person who has applied for a license or
23 permit issued by the department pursuant to parts 1 through
24 6 of this chapter.

25 (2) "Application" means a written request for a

1 license or permit issued by the department. The department
 2 shall adopt rules describing the forms and information
 3 required for issuance of a license.

4 (3) "Authorized equipment" means, with respect to live
 5 keno or bingo, the receptacle and numbered objects drawn
 6 from it, the master board upon which such objects are placed
 7 as drawn, the cards or sheets bearing numbers or other
 8 designations to be covered and the objects used to cover
 9 them, the boards or signs, however operated, used to
 10 announce or display the numbers or designations as they are
 11 drawn, public address system, and all other articles
 12 essential to the operation, conduct, and playing of live
 13 keno or bingo.

14 (4) "Bingo" means a game of chance played for prizes
 15 with a card bearing a printed design of 5 columns of 5
 16 squares each, 25 squares in all. The letters B-I-N-G-O must
 17 appear above the design, with each letter above one of the
 18 columns. No more than 75 numbers may be used. One number
 19 must appear in each square; ~~except for the center square~~
 20 ~~which is considered a free play.~~ Numbers and letters are
 21 drawn from a receptacle and announced by a bingo caller
 22 using authorized equipment, and the game is won by the
 23 person who first covers a previously designated arrangement
 24 of numbers on the bingo card.

25 (5) "Bingo caller" means a person licensed by the

1 department to work as a live bingo caller who, using
 2 authorized equipment, announces the order of the objects
 3 drawn in live bingo.

4 (6) "Card game table" or "table" means a live card
 5 game table authorized by permit and made available to the
 6 public on the premises of a licensed gambling operator.

7 (7) "Dealer" means a person with a dealer's license
 8 issued under part 3 of this chapter.

9 (8) "Department" means the department of justice.

10 (9) "Distributor" means a person who:

11 (a) purchases or obtains from another person equipment
 12 of any kind for use in gambling activities; and

13 (b) sells, leases, or otherwise furnishes the
 14 equipment to another person for use in public.

15 (10) "Gambling" or "gambling activity" means risking
 16 money, credit, deposit, check, property, or any other thing
 17 of value for a gain that is contingent in whole or in part
 18 upon lot, chance, or the operation of a gambling device or
 19 gambling enterprise.

20 (11) "Gambling device" means a mechanical,
 21 electromechanical, or electronic device, machine, slot
 22 machine, instrument, apparatus, contrivance, scheme, or
 23 system USED OR INTENDED FOR USE IN ANY GAMBLING ACTIVITY.

24 (12) "Gambling enterprise" means an activity, scheme,
 25 or agreement or an attempted activity, scheme, or agreement

1 to provide gambling or a gambling device to the public.

2 (13) "GROSS PROCEEDS" MEANS GROSS REVENUE RECEIVED LESS
3 PRIZES PAID OUT.

4 (13)(14) "Illegal gambling device" means a gambling
5 device not specifically authorized by statute or by the
6 rules of the department.

7 (14)(15) "Illegal gambling enterprise" means a gambling
8 enterprise that violates a statute or a rule of the
9 department.

10 (15)(16) "Keno" means a game of chance in which prizes
11 are awarded using a card with 8 horizontal rows and 10
12 columns on which a player may pick up to 10 numbers. A keno
13 caller, using authorized equipment, shall select at random
14 20 numbers out of numbers between 1 and 80, inclusive.

15 (16)(17) "Keno caller" means a person licensed by the
16 department to work as a live keno caller who, using
17 authorized equipment, announces the order of the numbers
18 drawn in live keno.

19 (17)(18) "License" means an operator's, dealer's,
20 caller's or manufacturer-distributor's license issued to a
21 person by the department.

22 (18)(19) "Licensee" means a person who has received a
23 license from the department.

24 (19)(20) "Live card game", "card game", or "game" means
25 a card game that is played in public between persons on the

1 premises of a licensed gambling operator.

2 (20)(21) "Lottery" or "gift enterprise" means a scheme,
3 by whatever name known, for the disposal or distribution of
4 property by chance among persons who have paid or promised
5 to pay valuable consideration for the chance of obtaining
6 the property or a portion of it or for a share or interest
7 in the property upon an agreement, understanding, or
8 expectation that it is to be distributed or disposed of by
9 lot or chance. However, "gift enterprise" does not mean:

10 (a) lotteries authorized under part 10 of this
11 chapter; or

12 (b) cash or merchandise attendance prizes or premiums
13 that the county fair commissioners of agricultural fairs and
14 rodeo associations may give away at public drawings at fairs
15 and rodeos.

16 (21)(22) "Manufacturer" means a person who assembles
17 from raw materials or subparts a completed piece of
18 equipment or pieces of equipment of any kind to be used as a
19 gambling device.

20 (22)(23) "Operator" means a person who purchases,
21 receives, or acquires, by lease or otherwise, and operates
22 or controls for use in public, a gambling device or gambling
23 enterprise authorized under parts 1 through 6 of this
24 chapter.

25 (23)(24) "Permit" means approval from the department to

1 make available for public play a gambling device or gambling
 2 enterprise approved by the department pursuant to parts 1
 3 through 6 of this chapter.

4 ~~{2}{24}{25}~~ In--addition-to-their-ordinary-meaning,-the
 5 words-"person" "Person" or "persons",-as-used-in-this--part,
 6 include means both natural and artificial persons and all
 7 partnerships, corporations, associations, clubs, fraternal
 8 orders, and societies, including religious,-fraterna,- and
 9 charitable organizations.

10 ~~{25}{26}~~ "Premises" means the physical building or
 11 property within or upon which a licensed gambling activity
 12 occurs, as stated on an operator's license application and
 13 approved by the department.

14 ~~{26}{27}~~ "Public" means:

15 (a) a place, building, or conveyance to which the
 16 public has access or may be permitted to have access; or

17 (b) a place of public resort, including but not
 18 limited to a facility owned, managed, or operated by a
 19 partnership, corporation, association, club, fraternal
 20 order, or society, including a religious, fraternal, or
 21 charitable organization.

22 ~~{27}{28}~~ "Raffle" means a gift enterprise in which each
 23 participant buys a chance or chances to win a prize.

24 ~~{28}{29}~~ "Slot machine" means a mechanical, electrical,
 25 electronic, or other gambling device, contrivance, or

1 machine that, upon insertion of a coin, currency, token,
 2 credit card, or similar object or upon payment of any
 3 valuable consideration, is available to play or operate, the
 4 play or operation of which, whether by reason of the skill
 5 of the operator or application of the element of chance, or
 6 both, may deliver or entitle the person playing or operating
 7 the gambling device to receive cash, premiums, merchandise,
 8 tokens, or anything of value, whether the payoff is made
 9 automatically from the machine or in any other manner. This
 10 definition does not apply to video gambling machines
 11 authorized under part 6 of this chapter.

12 ~~{29}{30}~~ "Video gambling machine" is a gambling device
 13 specifically authorized by part 6 of this chapter and the
 14 rules of the department."

15 NEW SECTION. Section 4. Authority of local
 16 governments to regulate gambling. (1) A local government may
 17 not license, regulate, or otherwise limit a form of gambling
 18 authorized by parts 1 through 6 of this chapter OR ASSESS OR
 19 CHARGE ANY FEES OR TAXES unless specifically authorized by
 20 statute.

21 (2) An incorporated city or town may enact an
 22 ordinance or resolution defining ZONING certain areas within
 23 its incorporated limits in which gambling is prohibited.

24 (3) A county may enact a resolution defining ZONING
 25 certain areas in the county, not within an incorporated city

or town, in which gambling is prohibited.

(4) A county or incorporated city or town may not restrict the number of licenses that the department may issue.

NEW SECTION. **Section 5.** Department as criminal justice agency. The department is a criminal justice agency. Designated agents of the department are granted peace officer status to investigate, regulate, and control all legal and illegal gambling activities in this state regulated by parts 1 through 6 of this chapter and the rules of the department.

NEW SECTION. **Section 6.** Department employees -- activities prohibited. An employee of the department OR ANY OTHER PERSON directly involved with the prosecution, investigation, regulation, or licensing of gambling may not:

(1) serve as an officer or manager of a corporation or organization that conducts a gambling activity;

(2) receive or share in, directly or indirectly, any profit of a gambling activity regulated by the department;

(3) have a beneficial or pecuniary interest in a contract for the manufacture or sale of a gambling device, the conduct of a gambling activity, or the provision of independent consultant services in connection with a gambling activity.

NEW SECTION. **Section 7.** Powers and duties of

department -- licensing. (1) The department shall administer the provisions of parts 1 through 6 of this chapter.

(2) The department shall adopt rules to administer and implement parts 1 through 6 of this chapter.

(3) The department shall provide licensing procedures, prescribe necessary application forms, and grant or deny license applications.

(4) The department shall prescribe recordkeeping requirements for licensees, provide a procedure for inspection of records, provide a method for collection of taxes, and establish penalties for the delinquent reporting and payment of required taxes.

(5) The department may suspend, revoke, deny, or place a condition on a license issued under parts 1 through 6 of this chapter.

(6) The department may not make public or otherwise disclose information obtained in the APPLICATION OR tax reporting processes, except for general statistical reporting or studies.

NEW SECTION. **Section 8.** Injunction and other remedies. (1) If it appears to the department that a person has engaged in or is about to engage in an act or practice constituting a violation of a provision of parts 1 through 6 of this chapter or a rule or order of the department, it may:

(a) issue a temporary cease and desist order with reasonable notice and opportunity for hearing. Following a hearing or if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice, the department may issue a permanent cease and desist order that must remain in effect pending an appeal or judicial review by the person aggrieved by a final order of the department.

(b) bring, without the issuance of a cease and desist order, an action in district court to enjoin the act or practice. On a proper showing, the court may grant a permanent or temporary injunction, a restraining order, or other appropriate writ and appoint a receiver or conservator for the defendant or the defendant's assets. The department may not be required to post a bond.

(c) place a licensee on probation;

(d) suspend a license for a period not to exceed 180 days;

(e) revoke a license;

(f) deny renewal of a license upon its expiration;

(g) impose a civil penalty not to exceed \$10,000 for each violation of a provision of parts 1 through 6 of this chapter or a rule of the department, whether or not the person is licensed by the department;

(h) impose a combination of the penalties provided in

subsections (1)(a) through (1)(g).

(2) A fine imposed by a district court or by the department under this section must be collected by the department and deposited in the special revenue account as provided in 23-5-123.

(3) Imposition of a fine under this section is an order from which an appeal may be taken pursuant to [section 12].

(4) If a person fails to pay a fine imposed under this section, the fine is a lien on all of the assets and property of the person in the state and may be recovered by the department in a civil action.

(5) If a person fails to pay a fine imposed under this section, he may not be licensed to operate a gambling device or gambling enterprise in the state under parts 1 through 6 of this chapter.

Section 9. Section 23-5-123, MCA, is amended to read:

"23-5-123. Disposal of money confiscated by reason of violation of gambling laws. ~~All money seized or taken by any peace officer and confiscated by order of any court by reason of a violation of the gambling laws of the state of Montana, shall be deposited with the county treasurer of the county in which such seizure and confiscation was made and shall be credited to the poor fund of the county. All fines, penalties, forfeitures, and confiscated money collected by~~

1 criminal, civil, or administrative process for a violation
 2 of a provision of parts 1 through 6 of this chapter or a
 3 rule of the department must be deposited in a special
 4 revenue account for use by the department for:

5 (1) training law enforcement personnel in the
 6 investigation of illegal gambling activity;

7 (2) training persons licensed under the authority of
 8 the department; or

9 (3) funding programs designed to treat persons with
 10 habitual gambling problems."

11 **NEW SECTION. Section 10. Qualifications for**
 12 **licensure.** (1) A person whom the department determines is
 13 qualified to receive a license under the provisions of this
 14 chapter, except for the provisions of part 10, may be issued
 15 a state gambling license.

16 (2) The applicant has the burden of proving his
 17 qualification to receive a license.

18 (3) An application for a license may not be granted
 19 unless the department is satisfied that the applicant is:

20 (a) a person of good character, honesty, and
 21 integrity;

22 (b) a person whose prior activities, criminal record,
 23 if any, reputation, habits, and associations do not:

24 (i) pose a threat to the public interest of the state
 25 or to the effective regulation and control of gambling; or

1 ~~(ii) create or enhance the dangers~~ **A DANGER** of illegal
 2 practices, methods, and activities in the conduct of
 3 gambling or in the carrying on of the business and financial
 4 arrangements incidental to the conduct of gambling; and

5 (c) in all other respects qualified to be licensed
 6 consistent with the declared gambling policy of the state.

7 (4) A license to operate a gambling activity may not
 8 be issued unless the applicant has demonstrated to the
 9 department that:

10 (a) the applicant has adequate business probity,
 11 competence, and experience; and

12 (b) the proposed financing of the entire operation is:

13 (i) adequate for the nature of the proposed operation;
 14 and

15 (ii) from a suitable source. A lender or other source
 16 of money or credit that the department finds does not meet
 17 the standards set forth in subsection (3) may be considered
 18 unsuitable.

19 **NEW SECTION. Section 11. Operator of gambling**
 20 **establishment -- license -- fee.** (1) It is a misdemeanor for
 21 a person who is not licensed by the department as an
 22 operator to make available to the public for play a gambling
 23 device or gambling enterprise.

24 (2) An operator's license must include the following
 25 information:

1 (a) a description of the premises upon which the
2 gambling will take place;

3 (b) the operator's name;

4 (c) a description of each gambling device or card game
5 table licensed to the operator by the department for play
6 upon the premises, including the type of game and license
7 number or decal number for each licensed game; and

8 (d) any other relevant information determined
9 necessary by the department.

10 (3) The operator's license must be issued annually
11 along with all other licenses for gambling devices or games
12 licensed to the operator.

13 (4) The operator's license must be updated each time a
14 gambling device or card game table license is newly issued
15 or the device or game is removed from the premises.

16 (5) The department may not charge a fee for the
17 issuance of an operator's license.

18 (6) The operator's license must be prominently
19 displayed upon the premises for which it is issued.

20 NEW SECTION. **Section 12.** Judicial review. (1) (a) A
21 person aggrieved by a final order of the department may
22 obtain a review of the order in district court by filing
23 with the court, within 30 days after entry of the final
24 order, a written petition requesting that the order be
25 modified or set aside in whole or in part.

1 (b) A copy of the petition must be served upon the
2 department at the same time. When the department receives
3 the copy of the petition, it shall certify and file in court
4 a copy of the filing, testimony, and other evidence upon
5 which the final order was entered by the department. When
6 these have been filed with the court, the court has
7 exclusive jurisdiction to affirm, modify, enforce, or set
8 aside the final order in whole or in part. A temporary cease
9 and desist order from the department must remain in effect
10 and cannot be set aside by the court until a hearing has
11 been held and a final order has been issued pursuant to
12 [section 8].

13 (2) (a) The review must be conducted by the district
14 court without a jury and must be confined to the record. In
15 a case of alleged irregularity in procedure before the
16 department not shown in the record, proof may be taken by
17 the court. The court, upon request, shall hear oral argument
18 and receive written briefs.

19 (b) The court may not substitute its judgment for that
20 of the department as to the weight of the evidence on
21 questions of fact. The court may affirm the decision of the
22 department or remand the case for further proceedings. The
23 court may reverse or modify the decision if substantial
24 rights of the appellant have been prejudiced because the
25 administrative findings, inferences, conclusions, or

1 decisions are:

2 (i) in violation of a constitutional or statutory
3 provision;

4 (ii) in excess of the statutory authority of the
5 department;

6 (iii) made upon unlawful procedure;

7 (iv) affected by other error of law;

8 (v) clearly erroneous in view of the reliable,
9 probative, and substantial evidence on the whole record;

10 (vi) arbitrary or capricious or characterized by abuse
11 of discretion or clearly unwarranted exercise of discretion;
12 or

13 (vii) inadequate because findings of fact, upon issues
14 essential to the decision, were requested but not made.

15 (3) The commencement of proceedings under this
16 section, unless specifically ordered by the court, may not
17 operate as a stay of the department's final order.

18 **Section 13.** Section 23-5-131, MCA, is amended to read:

19 "23-5-131. Losses at gambling may be recovered in
20 civil action. ~~if any person, by playing or betting at any of~~
21 ~~the games prohibited by this part, loses to another person~~
22 ~~any sum of money or thing of value and pays or delivers the~~
23 ~~same or any part thereof to any person connected with the~~
24 ~~operating or conducting of such game, either as owner,~~
25 ~~dealer, or operator, the person who so loses and pays or~~

1 ~~delivers may, at any time within 60 days next after the loss~~
2 ~~and payment or delivery, sue for and recover the money or~~
3 ~~thing of value so lost and paid or delivered or any part~~
4 ~~thereof from any person having any interest, direct or~~
5 ~~contingent, in the game as owner, backer, or otherwise, with~~
6 ~~costs of suit, by civil action before any court of competent~~
7 ~~jurisdiction, together with exemplary damages which in no~~
8 ~~case shall be less than \$50 or more than \$500, and may join~~
9 ~~as defendants in said suit all persons having any interest,~~
10 ~~direct or contingent, in such game as backers, owners, or~~
11 ~~otherwise. A person, or his dependent or guardian, who, by~~
12 ~~playing or betting at an illegal gambling device or illegal~~
13 ~~gambling enterprise, loses money, property, or any other~~
14 ~~thing of value and pays and delivers it to another person~~
15 ~~connected with the operation or conduct of the illegal~~
16 ~~gambling device or illegal gambling enterprise, within 1~~
17 ~~year following his loss, may:~~

18 (1) bring a civil action in a court of competent
19 jurisdiction to recover the loss;

20 (2) recover the costs of the civil action and
21 exemplary damages of no less than \$500 and no more than
22 \$5,000; and

23 (3) join as a defendant any person having an interest
24 in the illegal gambling device or illegal gambling
25 enterprise."

Section 14. Section 23-5-135, MCA, is amended to read:

"23-5-135. Discharge of defendant. Upon discovery--and repayment---of---the---money--or--other--thing,--the--person discovering-and-repaying-the-same,--with-costs--and--such--an amount--of--exemplary--damages--as-may-be-agreed-upon-by-the parties-or-fixed--by--the--court,--shall--be--acquitted--and discharged-from-any-further-or-other-forfeiture,--punishment, penalty,--or-prosecution-he-or-they-may-have-incurred-for-so winning-such-money-or-thing-discovered--and--repaid: (1) A person against whom a civil action is brought as provided in 23-5-131 may move to have the action against him dismissed if he has repaid to the person who suffered the loss or his dependent the gambling loss, the costs of bringing the civil action, and the exemplary damages agreed upon by the parties or assessed by the court.

(2) A civil action brought to recover gambling losses does not bar or interfere with another proceeding or action, whether criminal, civil, or administrative, that may be brought under the laws of the state.

(3) The clerk of the court shall notify the department of a civil action based on a violation of a provision of this chapter."

Section 15. Section 23-5-102, MCA, is amended to read:

"23-5-102. Gambling prohibited ---penalty. Except as otherwise--provided-by-law,--a-person-who-engages-in-gambling

in-any-form-with-cards,--dice,--or-other-implements-or-devices of-any-kind-wherein-anything-valuable-may--be--wagered--upon the---outcome---or---who--keeps--any--establishment,--place, equipment,--or-apparatus-for-such-gambling-or-any--agents--or employees-for-such-purpose-is-guilty-of-a-misdemeanor-and-is punishable--by--a--fine--of--not-less-than-\$100-or-more-than \$1,000-or-imprisonment-not-less-than-3-months-or-more-than-1 year-or-by-both--such--fine--and--imprisonment specifically authorized by statute, all forms of public gambling, lotteries, and gift enterprises are prohibited."

NEW SECTION. Section 16. Counterfeiting or defacing documents -- penalty. (1) A person commits the offense of counterfeiting or defacing a document when he purposely or knowingly counterfeits, alters, or wrongfully displays a seal, decal, license, identification number or device, or other document issued by the department.

(2) A person convicted of the offense of counterfeiting or defacing a document is guilty of a felony and must be punished in accordance with [section 24].

Section 17. Section 23-5-108, MCA, is amended to read:

"23-5-108. Soliciting or persuading persons to visit play illegal gambling resorts device prohibited. Any--person who--persuades--or-solicits-another-to-visit-any-room,--tent, apartment,--or--place--used--or--represented--by--the--person soliciting--or-persuading-to-be-a-place-used-for-the-purpose

~~of running any of the games prohibited by this part shall be punished by a fine of not less than \$100 or more than \$1,000 or imprisonment not less than 3 months or more than 1 year or by both such fine and imprisonment in the county jail. A person who advertises for or solicits another person to play or engage in the use of an illegal gambling device is guilty of a misdemeanor and is punishable under [section 23].~~"

NEW SECTION. Section 18. Obtaining anything of value by fraud or operation of illegal gambling device or enterprise. (1) A person who by gambling obtains money, property, or anything of value that does not exceed \$300 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a misdemeanor and is punishable as provided in [section 23].

(2) A person who by gambling obtains money, property, or anything of value that exceeds \$300 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a felony and is punishable as provided in [section 24].

NEW SECTION. Section 19. Gambling on cash basis. (1) In every gambling activity the consideration paid for the chance to play must be cash. A participant shall present the money needed to play the game as the game is being played. A check, credit card, note, I O U, or other evidence of

indebtedness may not be offered or accepted as part of the price of participation in the gambling activity or as payment of a debt incurred in the gambling activity.

(2) A person who violates this section is guilty of a misdemeanor and must be punished in accordance with [section 23].

NEW SECTION. Section 20. Minors not to participate -- penalty. (1) A person under 18 years of age may not be permitted to participate in a gambling activity.

(2) A person who violates this section is guilty of a misdemeanor and must be punished in accordance with [section 23].

Section 21. Section 23-5-103, MCA, is amended to read:

"23-5-103. Possession of illegal gambling implements device prohibited -- exception. Any (1) Except as provided in [section 22] and subsection (2) of this section, it is a misdemeanor punishable under [section 23] for a person who has to have in his possession or under his control or who permits to permit to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by him or under his management or control ~~any--faro box--faro--layout--roulette--wheel--roulette--table--crap table--punchboard--or--any--machine--or--apparatus--of--the--kind mentioned--in--23-5-102--is punishable by a fine of not less than \$100 or more than \$1,000 and may be imprisoned for not~~

~~less--than-3-months-or-more-than-1-year-in-the-discretion-of~~
~~the-court,-provided-that-this-section-shall-not~~ an illegal
~~gambling device. This section does not~~ apply to a public
officer or to a person coming into possession thereof ~~of an~~
~~illegal gambling device~~ in or by reason of the performance
of an official duty and holding the same it to be disposed
of according to law.

(2) (a) The department may adopt rules to license
persons to manufacture gambling devices that are not legal
for public play in the state and are manufactured only for
export from the state.

(b) A person may not manufacture or possess an illegal
gambling device for export from the state without having
obtained a license from the department. The department may
charge an administrative fee for the license that is
commensurate with the cost of issuing the license."

Section 22. Section 23-5-104, MCA, is amended to read:

"23-5-104. ~~Slot--machines-----possession--unlawful---~~
~~exception~~ Possession of antique slot machines. (1) ~~Except-as~~
~~provided-in-subsections-(2)--through--(5),-it-shall-be-a~~
~~misdemeanor--and--punishable-as-hereinafter-provided-for-any~~
~~person-to-use,-possess,-operate,-keep,-or-maintain--for--use~~
~~or--operation--or--otherwise,-anywhere--within-the-state-of~~
~~Montana,-any-slot-machine-of-any-sort-or-kind-whatsoever,-~~

~~(2)--The-provisions-of-subsection-(1)-and--23-5-121--do~~

~~not--apply--to-antique-slot-machines-possessed,-located,-and~~
~~used-in-accordance-with-subsections-(2)-through-(5),-For-the~~
~~purposes-of-subsections-(2)-through--(5),--an--antique--slot~~
~~machine--is--a--slot-machine-manufactured-prior-to-1950,-the~~
~~operation-of-which-is-exclusively-mechanical-in--nature--and~~
~~is-not-aided-in-whole-or-in-part-by-any-electronic-means,-An~~
~~antique slot machine is a slot machine manufactured prior to~~
~~1950 that is operated exclusively by mechanical means and is~~
~~not aided in whole or in part by any electrical means.~~

(3)(2) Except as provided in subsection (4) (3), an
antique slot ~~machines~~ machine may be possessed, located, and
operated only in a private residential dwelling.

(4)(3) ~~Antique-slot-machines~~ An antique slot machine
may be possessed or located for purposes of display only and
not for operation in any public museum owned and operated by
the state ~~of-Montana~~, or a county, or a city.

(5)(4) No antique slot machine may be operated for any
commercial or charitable purpose."

NEW SECTION. Section 23. Criminal liabilities --
misdemeanor. A person who purposely or knowingly violates a
provision of parts 1 through 6 of this chapter, the
punishment of which is for a misdemeanor, must, upon
conviction, be fined not less than \$500 or more than \$5,000,
or imprisoned for not more than 1 year, or both, for each
violation.

NEW SECTION. Section 24. Criminal liabilities --

felony. A person who purposely or knowingly violates a provision of parts 1 through 6 of this chapter, the punishment for which is a felony, may upon conviction be fined not more than \$50,000 or imprisoned for not more than 10 years, or both, for each violation. However, if the person previously has been convicted of a felony involving a gambling device, gambling activity, or gambling enterprise, he must be imprisoned for at least 2 years.

NEW SECTION. Section 25. Prosecution. The county attorney of the county in which a violation of a provision of parts 1 through 6 of this chapter occurs shall prosecute all gambling actions within the jurisdiction of the department. However, if the county attorney declines prosecution or fails to commence an action within a reasonable time, the attorney general may initiate and conduct the prosecution on behalf of the state.

Section 26. Section 23-5-311, MCA, is amended to read:

~~"23-5-311. Authorized card games. (1) It is unlawful for any person to conduct or participate in any card game or make any tables available for the playing of card games except those card games authorized by this part:~~

~~(2)(1)~~ The card games authorized by this part are and are limited to the card games known as bridge, cribbage, hearts, panguingue, pinochle, pitch, poker, rummy, solo, and

~~whist, solo, and poker.~~

(2) A person may only conduct or participate in a live card game or make a live card game table available for public play of a live card game that is specifically authorized by this part and described by department rules.

(3) This part does not apply to games simulated on electronic video gambling machines authorized under part 6 of this chapter."

NEW SECTION. Section 27. Presence and control of dealer. A live card game may not be played except on a live card game table in the presence and under the control of a licensed dealer on the premises of a licensed operator.

NEW SECTION. Section 28. Card game dealers -- license. (1) A person may not deal cards in a live card game without being licensed annually by the department.

(2) The fee for each year in which the license is effective must be commensurate with the administrative costs associated with dealer licensing as established by department rules. The fee may not be prorated.

(3) The department shall retain for administrative purposes the license fee charged for the issuance of a dealer's license.

(4) A licensed dealer shall have on his person, and display upon request, his dealer's license when he is working as a dealer.

(5) The department may adopt rules to implement temporary licensing procedures until a permanent license is issued to a dealer. The department may delegate the authority to issue temporary licenses to local governments including the authority to assess and retain a fee for the temporary license.

NEW SECTION. Section 29. Live card game table -- permit -- fees -- disposition of fees. (1) A person who has been granted an operator's license under [section 11] and a license under 16-4-401(2) to sell alcoholic beverages for consumption on the premises OR WHO OPERATES AN ESTABLISHMENT FOR THE PRINCIPAL PURPOSE OF GAMING AND HAS BEEN GRANTED AN OPERATOR'S LICENSE UNDER [SECTION 11] may be granted an annual permit for the placement of live card game tables.

(2) The annual permit fee in lieu of taxes for each live card game table operated in a licensed operator's premises may not be prorated and must be:

- (a) \$250 for the first table;
- (b) \$750 for the second table; and
- (c) \$1,000 for the third and each additional table.

(3) The department shall retain for administrative purposes \$100 of the fee collected under this part for each live card game table.

(4) The department shall forward on a quarterly basis the remaining balance of the fee collected under subsection

(2) to the treasurer of the county, or the clerk, finance officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or municipal treasury. ~~The local government portion of this fee is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury.~~

Section 30. Section 23-5-321, MCA, is amended to read:

"23-5-321. Licensing Issuance of permits by local governing bodies prohibited. (1) Any A city, town, or county may not issue ~~licenses~~ permits for the live card games provided for or live card game tables authorized in this part. ~~to be conducted on premises which have been licensed for the sale of liquor, beer, food, cigarettes, or any other consumable products.~~ Within the cities or towns, such licenses may be issued by the city or town council or commission. Licenses for games conducted on premises outside the limits of any city or town may be issued by the county commissioners of the respective counties. When a license has been required by any city, town, or county, no game as provided for in this part shall be conducted on any premises which have been licensed for the sale of liquor, beer, food, cigarettes, or any other consumable product without such license having first been obtained.

(2) Any governing body may charge an annual license fee for each license so issued under this part, which

license--fee--if-any, shall expire on June 30 of each year,
and such fee shall be prorated.

{3}--Any license issued pursuant to this part shall be
deemed to be a revocable privilege, and no holder thereof
may acquire any vested rights therein or thereunder."

Section 31. Section 23-5-312, MCA, is amended to read:

"23-5-312. Prizes not to exceed one three ONE hundred
dollars. No prize for any individual game shall exceed the
value of \$100. A prize for an individual live card game may
not exceed the value of \$300 \$100. Games shall may not be
combined in any manner so as to increase the value of the
ultimate prize awarded."

NEW SECTION. **Section 32.** Live card game tables --
hours of play -- restriction ---exception. Live card game
tables must be closed for play between the hours of 2 a.m.
and 8 a.m. each day. However, in the jurisdiction of a
local government where the table is located, the local
government may adopt an ordinance defining the hours of play
within that jurisdiction.

Section 33. Section 23-5-313, MCA, is amended to read:

"23-5-313. Rules of play to be posted -- rake-off
approved. Rules governing the conduct of each game shall
must be prominently posted within the sight of the players
at a live card game table on the premises of any licensed
establishment where such game is conducted a licensed

operator. Such The rules shall must include notice of the
maximum percentage rake-off, if any, and shall must require
that the person taking the rake-off do so in an obvious
manner and only after announcing the amount of each
rake-off, which shall only be taken at the conclusion of
each game when the winner of each individual pot has been
determined."

Section 34. Section 23-5-331, MCA, is amended to read:

"23-5-331. Penalty. Every A person who willfully
purposely or knowingly violates or who procures, aids, or
abets in the willful a violation of this part or any
ordinance, resolution, or regulation rule adopted pursuant
thereto shall be deemed to this part is guilty of a
misdemeanor and upon conviction shall be punished by a fine
of not more than \$1,000 or imprisonment in the county jail
for not more than 3 months, or both punishable pursuant to
[section 23]."

NEW SECTION. **Section 35.** Authorized live bingo, keno,
and raffles. (1) A person may only conduct or participate in
a live bingo and keno game or raffle operated pursuant to
this part.

(2) This part does not apply to a game simulated on a
video gambling machine authorized by part 6 of this chapter.

NEW SECTION. **Section 36.** Exempt charitable
organizations. An organization qualified for exemption under

26 U.S.C. 501(c)(3) and (c)(4) is exempt from the taxation and license fees imposed by this part. The organization shall comply with other statutes and rules relating to the operation of live bingo and keno or raffles. A qualified organization shall apply to the department for a cost-free permit to conduct charitable live bingo and keno games or raffles.

NEW SECTION. Section 37. Bingo and keno callers -- qualifications -- license -- fee. (1) A person may not act as a bingo or keno caller without being licensed annually by the department.

(2) The fee for each year in which the license is effective must be commensurate with the costs associated with bingo or keno caller licensing as established by department rules. The fee may not be prorated.

(3) The department shall retain for administrative purposes the license fee charged for the issuance of a bingo or keno caller's license.

(4) A bingo or keno caller shall have on his person, and display upon request, his bingo or keno caller's license whenever he is working as a bingo or keno caller.

(5) The department may adopt rules to implement temporary licensing procedures until a permanent license is issued. The department may delegate the authority to issue temporary licenses to local governments, including the

authority to assess and retain a fee for a temporary license.

NEW SECTION. Section 38. Live bingo or keno permit -- fees -- disposition of fees. (1) A person who has been granted an operator's license may be granted an annual permit by the department to conduct live bingo or keno games on specified premises.

(2) The permit fee for each of the premises in which a live bingo or keno game is conducted may not be prorated and must be \$500.

(3) The department shall retain the permit fee for administrative costs.

NEW SECTION. Section 39. Bingo and keno gross proceeds tax -- records -- distribution -- quarterly statement and payment. (1) A licensee who has received a permit to operate bingo or keno games shall pay to the department a tax of 3% 5% of the gross proceeds from the operation of each live bingo and keno game operated on his premises.

(2) A licensee shall keep a record of gross proceeds in the form the department requires. At all times during the business hours of the licensee the records must be available for inspection by the department.

(3) A licensee shall, within 15 days after the end of each quarter, complete and deliver to the department a

statement showing the total gross proceeds for each live keno or bingo game operated by him and the total amount due as live bingo or keno gross proceeds tax for the preceding quarter. This statement must contain any other relevant information required by the department.

(4) The department shall forward the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed game is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from taxes on live bingo or keno games located in unincorporated cities and towns within the county. ~~The tax collected under subsection (3) is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury.~~

Section 40. Section 23-5-412, MCA, is amended to read:

"23-5-412. Bingo Card prices and prizes. The price for an individual bingo or keno card may not exceed 50 cents. Bingo prizes may be paid in either tangible personal property or cash, ~~except that a prize must be paid in tangible personal property if the game is played on a player-operated electronic video game machine.~~ A prize may not exceed the value of ~~\$100~~ \$300 \$100 for each individual bingo award or keno card. ~~The price for an individual bingo card may not exceed 50 cents.~~ It shall be is unlawful to, in

any manner, combine any awards so as to increase the ultimate value of such the award."

Section 41. Section 23-5-413, MCA, is amended to read:

"23-5-413. Raffle prizes restricted---exemption. (1) ~~Raffle prizes must be in tangible personal property only and not in money, cash, stocks, bonds, evidences of indebtedness, or other intangible personal property and~~ must not exceed the value of \$1,000 for each individual raffle card ticket. It ~~shall be~~ is unlawful to, in any manner, combine any awards so as to increase the ultimate value of such award the prize awarded for each ticket.

(2) A separate permit must be issued by the board of county commissioners for each raffle conducted within its jurisdiction. The permit must be issued before the raffle may be conducted. A person who has conducted a raffle must submit an accounting to the board of county commissioners within 30 days following the completion of the raffle. The sale of raffle tickets authorized by this part is restricted to events and participants within the geographic confines of the state.

~~(2)(3)~~ (a) The restrictions of subsection (1) do not apply to a raffle conducted by a nonprofit corporation, religious corporation sole, or other nonprofit organization when if the corporation or organization is licensed permitted by the board of county commissioners to conduct

1 the raffle. ~~A separate license shall be required for each~~
 2 ~~raffle conducted.~~

3 (b) The nonprofit organization or corporation seeking
 4 the license permission under subsection (2)(3)(a) must shall
 5 apply to the board of county commissioners for the license
 6 permit and must provide the following information:

7 (i) the cost and number of raffle tickets to be sold;

8 (ii) the charitable purposes the proceeds of the raffle
 9 are intended to benefit; and

10 (iii) the proposed prizes and their value.

11 (c) The proceeds from the sale of the raffle tickets
 12 are to may be used only for charitable purposes or to pay
 13 for prizes. The raffle prize must be in tangible personal
 14 property only and not in money, cash, stock, bonds, evidence
 15 of indebtedness, or other intangible personal property. None
 16 of the proceeds may be used for the administrative cost of
 17 conducting the raffle.

18 (d) ~~The corporation or organization conducting the~~
 19 ~~raffle must submit an accounting to the board of county~~
 20 ~~commissioners within 30 days following the completion of the~~
 21 ~~raffle. The person or persons submitting the application to~~
 22 ~~the board of county commissioners along with the corporation~~
 23 ~~or organization conducting the raffle shall be responsible~~
 24 ~~for submitting the accounting to the board of county~~
 25 ~~commissioners."~~

1 **Section 42.** Section 23-5-414, MCA, is amended to read:

2 23-5-414. Restrictions on bingo, and keno, ~~and raffles~~
 3 ~~---bingo or keno machines in establishment limit---hours of~~
 4 ~~operation---exception.~~ (1) In the playing of live bingo or
 5 keno, no a person who is not physically present on the
 6 premises where the game is actually conducted ~~shall~~ may not
 7 be allowed to participate as a player in the game.

8 (2) ~~Raffles~~ authorized by this part shall be
 9 ~~restricted to events and participants within the geographic~~
 10 ~~confines of the state of Montana.~~

11 (3) ~~No establishment may receive licenses under~~
 12 ~~23-5-421 for or make available for play more than 15 bingo~~
 13 ~~or keno machines. A local governing body, however, may~~
 14 ~~restrict the number of licensed machines available for play~~
 15 ~~in an establishment to less than 15, but must allow at least~~
 16 ~~5.~~

17 (4) (a) ~~Except as provided in subsection (4)(b), an~~
 18 ~~establishment that receives a license to make a bingo or~~
 19 ~~keno machine available for play must have the machine shut~~
 20 ~~off each day during the hours provided in 16-3-304 for~~
 21 ~~closure of licensed retail alcoholic beverage~~
 22 ~~establishments.~~

23 (b) ~~A local governing body may establish any hours of~~
 24 ~~play for bingo or keno machines that it determines proper."~~

25 NEW SECTION. **Section 43.** Hours of play --

1 restrictions -- penalty. (1) A live bingo or keno game must
 2 be closed for play between the hours of 2 a.m. and 8 a.m. of
 3 each day. However, ~~in the jurisdiction of a local government~~
 4 ~~where the live bingo or keno game is played, the local~~
 5 ~~government may adopt an ordinance defining other hours of~~
 6 ~~play within that jurisdiction:~~

7 (2) A violation of this section is a misdemeanor
 8 punishable under [section 23].

9 **Section 44.** Section 23-5-431, MCA, is amended to read:

10 "23-5-431. Penalty Criminal penalty. Every A person
 11 who willfully purposely or knowingly violates or who
 12 procures, aids, or abets in the willful a violation of this
 13 part or any ordinance, resolution, or regulation rule
 14 adopted pursuant thereto--shall--be deemed to this part is
 15 guilty of a misdemeanor and--upon--conviction--shall--be
 16 punished--by--a fine of not more than \$1,000 or imprisonment
 17 in the county jail for not more than 3 months, or--both
 18 punishable pursuant to [section 23]."

19 **Section 45.** Section 23-5-602, MCA, is amended to read:

20 "23-5-602. Definitions. As used in this part, the
 21 following definitions apply:

22 (1) "Associated equipment" means all proprietary
 23 devices, machines, or parts used in the manufacture or
 24 maintenance of a video draw poker gambling machine,
 25 including but not limited to integrated circuit chips,

1 printed wired assembly, printed wired boards, printing
 2 mechanisms, video display monitors, and metering devices,
 3 and cabinetry.

4 {2}--"Department"--means the department of commerce.

5 (2) "Bingo machine" means an electronic video gambling
 6 machine that, upon insertion of cash, is available to play
 7 bingo as defined by rules of the department. The machine
 8 utilizes a video display and microprocessors in which, by
 9 the skill of the player, by chance, or both, the player may
 10 receive free games or credits that may be redeemed for cash.
 11 The term does not include a slot machine or a machine that
 12 directly dispenses coins, cash, tokens, or anything else of
 13 value.

14 (3) "Draw poker machine" means an electronic video
 15 gambling machine that, upon insertion of cash, is available
 16 to play or simulate the play of the game of draw poker, as
 17 defined by rules of the department. The machine utilizes a
 18 video display and microprocessors in which, by the skill of
 19 the player, by chance, or both, the player may receive free
 20 games or credits that may be redeemed for cash. The term
 21 does not include a slot machine or a machine that directly
 22 dispenses coins, cash, tokens, or anything else of value.

23 {3}{4} "Keno machine" means an electronic video game
 24 gambling machine that, upon insertion of cash, is available
 25 to play or simulate the play of the game of keno or bingo as

1 provided-in-part-4-of-this--chapter,--utilizing defined by
 2 rules of the department. The machine utilizes a video
 3 display and microprocessors, in which, by the skill of the
 4 player, or by chance, or both, the player may receive free
 5 games or credits that can may be redeemed for cash. The term
 6 does not include a slot machine or a machine that directly
 7 dispenses coins, cash, tokens, or anything else of value.

8 {4}--"Licensed-establishment"--means:

9 {a}--with-respect-to-the-licensure-of-keno-machines,--an
 10 establishment--that--is-licensed-to-sell-alcoholic-beverages
 11 for-consumption-on-the-premises-or-an-establishment-licensed
 12 under-23-5-421;--and

13 {b}--with-respect-to-the-licensure-of-video-draw--poker
 14 machines,--an--establishment--that--is--licensed--to--sell
 15 alcoholic-beverages-for-consumption-on-the-premises.

16 {5}--"Licensee"--means--an--individual,--partnership,
 17 corporation,--or--association--that--has--been--issued--a--license
 18 by-the-department-for-the-placement-and-operation--of--video
 19 draw--poker--machines--or--keno--machines--in--the--licensed
 20 establishment-of-the-individual,--partnership,--corporation,
 21 or-association.

22 {6}--"Manufacturer-distributor"--means--an--individual,
 23 partnership,--corporation,--or--association--that--assembles,
 24 produces,--and--makes--or--supplies--video-draw-poker-machines--or
 25 associated--equipment--for--sale,--use,--or--distribution--in--this

1 state.

2 {7}{5} "Net machine income" means money put into a
 3 video draw-poker-or-keno gambling machine minus credits paid
 4 out in cash.

5 {8}--"Used-keno-machine"--means-a-keno-machine,--as-that
 6 term-is-defined-in-this-section,--that-is-owned-or--possessed
 7 by--an-applicant-on-the-day-he-applies-for-a-license-for-the
 8 used-machine-and-that-was-owned-or--operated--in--the--state
 9 prior-to-June-30,--1987.

10 {9}--"Used-video-draw-poker-machine"--means-a-video-draw
 11 poker--machine,--as--that--term--is--defined--in--this--section,
 12 which-is-owned-or-possessed-by-an-applicant-on--the--day--he
 13 applies--for--a--license--for-the-used-machine-and-which-was
 14 owned-or-operated-in-the-state-prior-to-February-3,--1984.

15 {10}--"Video-draw-poker--machine"--means--an--electronic
 16 video--game--machine--that,--upon--insertion--of--cash,--is
 17 available-to-play-or-simulate-the-play-of-the-game--of--draw
 18 poker,--as--provided-in-this-part,--utilizing-a-video-display
 19 and-microprocessors-in-which,--by-the-skill-of-the-player--or
 20 by--chance,--or--both,--the-player-may-receive-free-games-or
 21 credits-that-can-be-redeemed-for-cash,--The--term--does--not
 22 include--a--machine--that--directly--dispenses--coins,--cash,
 23 tokens,--or--anything-else-of-value.

24 {6} "Video gambling machine manufacturer-distributor"
 25 means a person who assembles, produces, makes, supplies, or

repairs video gambling machines or associated equipment for sale, use, or distribution in the state."

Section 46. Section 23-5-603, MCA, is amended to read:

"23-5-603. Video draw poker or keno gambling machines -- possession -- play -- hours-of-play --- restriction. (1) No--person--may--place-an-electronic-video-game-machine-that simulates-or-offers-a-game-of-poker,-bingo,-or-keno--in--his licensed-establishment-unless-he-is-licensed-under-23-5-612-

A person may only make available for public play the video gambling machines specifically authorized by this part.

(2) The video gambling machines specifically authorized by this part are bingo, keno, and draw poker machines. A person may not make available for public play a video gambling machine unless he has obtained an operator's license. Machines-licensed Only machines for which permits have been granted under 23-5-612 are-legal,-and-it-is-legal to-play-such-machines,-except-that-a-person-under-the-age-of 18-years-may-not-play-a-video-draw-poker-or-keno-machine may be made available for play by the public on the premises of a licensed operator.

(2)--Except---as---provided---in---subsection---(3),--an establishment-that-receives-a-license-to-make-a--video--draw poker--machine-available-for-play-must-have-the-machine-shut off-each-day-during--the--hours--provided--in--16-3-304--for closure---of---licensed---retail---alcoholic---beverage

establishments-

(3)--A-local-governing-body-may-establish-any-hours--of play--for--video--draw--poker--machines--that--it-determines proper-

(4)--The-provisions-of-part-3-of-this--chapter--do--not apply--to--or--prohibit-video-draw-poker-or-keno-machines-or the-playing-of-such-machines:-"

Section 47. Section 23-5-611, MCA, is amended to read:

"23-5-611. State-license Machine permit qualifications -- limitations ---right-to-hearing. (1) (a)-A-person-who-has been-granted-a-license-under-16-4-401(2)-to--sell--alcoholic beverages--for--consumption-on-the-premises-may-be-granted-a license-for-the-placement-of-video-draw--poker--machines--in his--licensed--establishment: Only--a A person who has been granted an operator's license under [section 11] and a license under 16-4-401(2) to sell alcoholic beverages for consumption on the premises OR WHO OPERATES AN ESTABLISHMENT FOR THE PRINCIPAL PURPOSE OF GAMING AND HAS BEEN GRANTED AN OPERATOR'S LICENSE UNDER [SECTION 11] may be granted a permit for the placement of video gambling machines in his premises.

(b)--Each---applicant---for--a--license--shall--on--the application-form-disclose-to--the--department--any--previous experience--or--involvement--as--an--owner--or--operator--of gambling-devices-and-establishments.-Previous-experience-or

involvement includes:

(i) controlling of gambling devices as an owner or operator;

(ii) employment with the owner or operator of gambling devices;

(iii) employment in establishments where gambling is offered to the public; and

(iv) conviction of violation of state or local gambling laws in any jurisdiction.

(2) An applicant for a permit shall disclose on the application form to the department any information required by the department consistent with the provisions of [section 10].

(3) A licensee may not have on the premises or make available for play on the premises of his licensed establishment more than five 20 machines of any combination that are legal under this part. In the jurisdiction of a local government where video gambling machines are played, the local government may by ordinance or resolution limit the number of video gambling machines to no less than five per operator premises.

(3) A person denied a state license has the right to a hearing before the department. The hearing must be conducted in accordance with the provisions of the Montana Administrative Procedure Act."

Section 48. Section 23-5-612, MCA, is amended to read:

"23-5-612. State license Machine permits -- fee -- used keno machines. (1) (a) The department, upon payment of the fee provided in subsection (b) (2) and in conformance with rules adopted under 23-5-605 this part, shall issue to the licensee operator a license permit for each video draw poker or keno gambling machine.

(b) (2) The department shall charge an annual license permit fee of \$100 \$200 for each video draw poker machine and \$100 for each keno gambling machine. The department shall retain \$100 of the total license permit fee collected for purposes of administering this part except 23-5-615. The remaining \$100 must be returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located.

(3) The license permit expires on June 30 of each year, and the fee may not be prorated.

(2) A used keno machine may be licensed under subsection (1) without meeting the requirements of 23-5-609 if the applicant for licensure can establish to the satisfaction of the department that, on the date of application, he owns or possesses a machine that was owned or operated in the state prior to June 30, 1987. A license issued under this subsection expires for all purposes no later than June 30, 1989."

Section 49. Section 23-5-631, MCA, is amended to read:

"23-5-631. Examination and approval of new video draw poker gambling machines and associated equipment -- fee. (1) The department shall examine and may approve a new video draw--poker--machines gambling machine and associated equipment which ~~is~~ are manufactured, sold, or distributed for use in this the state before the video draw--poker gambling machine or associated equipment is sold, played, or used.

(2) A video draw-poker gambling machine or associated equipment may not be examined or approved by the department until the video gambling machine manufacturer-distributor of the machine or associated equipment is licensed as required in 23-5-625.

(3) All video gambling machines approved by the department of commerce prior to [the effective date of this act] must be considered approved under this part.

~~{3}~~(4) The department shall require the manufacturer-distributor seeking the examination and approval of a new video draw--poker gambling machine or associated equipment to pay the anticipated actual costs of the examination in advance and, after the completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayments of actual costs.

(5) The department may inspect and test and approve, disapprove, or place a condition upon a video gambling machine prior to its distribution and placement for play by the public."

NEW SECTION. Section 50. Video gambling machine specifications -- rules. The department shall adopt rules describing the video gambling machines authorized by this part and stating the specifications for video gambling machines authorized by this part.

Section 51. Section 23-5-616, MCA, is amended to read:

"23-5-616. Removal of machine from public access. If a machine fails to meet the specifications and requirements of 23-5-606, 23-5-607, ~~or~~ 23-5-608 this part or any rule of the department at any time after its initial licensure permit has been issued, the licensee operator shall immediately remove the machine from public access until it meets all requirements."

Section 52. Section 23-5-625, MCA, is amended to read:

"23-5-625. ~~Manufacturer-distributor--of--video--draw~~ Video gambling machine ~~poker-----machines~~ manufacturer-distributor -- license -- fees. (1) It is unlawful for any person to assemble, produce, manufacture, sell, or distribute supply, or repair any video draw--poker gambling machine or associated equipment for use or play in this the state without having first been issued a video

1 gambling machine manufacturer-distributor's license by the
2 department.

3 (2) The department shall charge an annual license fee
4 of \$1,000 for the issuance or renewal of a video gambling
5 machine manufacturer-distributor's license.

6 (3) In addition to other license fees, the department
7 may charge the applicant a one-time video gambling machine
8 manufacturer-distributor's license application processing
9 fee. The processing fee may not exceed the department's
10 actual costs for processing an application.

11 (4) All video gambling machine
12 manufacturer-distributor's licenses expire on June 30 of
13 each year, and the license fee may not be prorated.

14 (5) The department shall retain the license and
15 processing fees collected for purposes of administering this
16 part, except-23-5-6+5 unless otherwise provided."

17 **Section 53.** Section 23-5-610, MCA, is amended to read:

18 "23-5-610. Video draw-poker-and-keno gambling machine
19 net income tax -- records -- distribution -- quarterly
20 statement and payment. (1) Each A licensee shall pay to the
21 department a video draw-poker-and-keno gambling machine tax
22 of 15% of net machine income from each video draw-poker-and
23 keno gambling machine licensed under this part.

24 (2) Each A licensee shall keep a record of net machine
25 income in such form as the department may require. The

1 records must at all times during the business hours of the
2 licensee be subject to inspection by the department, ~~its~~
3 ~~agents, or employees.~~

4 (3) Each A licensee shall, within 15 days after the
5 end of each quarter, complete and deliver to the department
6 a statement showing the total net machine income from each
7 video draw-poker-and-keno gambling machine licensed to him,
8 together with the total amount due the state as video draw
9 poker-and-keno gambling machine net income tax for the
10 preceding quarter. The statement must contain such other
11 relevant information as the department may require.

12 (4) (a) The department ~~must--deposit~~ shall forward
13 one-third of the tax collected under subsection (3) in to
14 the general fund.

15 (b) The department ~~must~~ shall forward the remaining
16 two-thirds of the tax collected under subsection (3) to the
17 treasurer of the incorporated county or the clerk, finance
18 officer, or treasurer of the city or town in which the
19 licensed machine is located, for deposit to the county or
20 municipal treasury. Counties are not entitled to proceeds
21 from taxes on income from video draw-poker-and-keno gambling
22 machines located in incorporated cities and towns. The
23 two-thirds local government portion of tax collected under
24 subsection (3) is statutorily appropriated to the department
25 as provided in 17-7-502 for deposit to the county or

1 municipal treasury."

2 **Section 54.** Section 23-5-608, MCA, is amended to read:

3 "23-5-608. Limitation on amount of money played and
4 value of prizes -- payment of credits in cash. (1) A video
5 draw--poker-or-keno gambling machine may not allow more than
6 \$2 to be played on a game or award free games or credits in
7 excess of the ~~value-of-\$100-per-hand~~ following amounts:

8 (a) \$100 a-hand-or-\$800 a game for a video draw poker
9 machine; and

10 (b) \$800 a game for a video keno or bingo machine.

11 (2) Each A licensee shall pay in cash all credits owed
12 to a player as shown on a valid ticket voucher ~~provided--in~~
13 ~~23-5-606(4)(k).~~"

14 **Section 55.** Section 23-5-607, MCA, is amended to read:

15 "23-5-607. Expected payback -- verification. The
16 department shall prescribe the expected payback value of one
17 credit played awarded to be at least 80% of the value of a
18 one credit played. Each video draw-poker-or-keno gambling
19 machine must have an electronic accounting device that the
20 department may use to verify the winning percentage. ~~The~~
21 ~~department-may-not-publish-or-otherwise--disseminate--income~~
22 ~~figures--and--other--statistics--obtained--in--the--payback~~
23 ~~verification-process-or-contained--in--payback--verification~~
24 ~~reports--in--a--manner--that--allows--or--helps--a-person-to~~
25 ~~identify-a-particular--machine--or--to--match--a--particular~~

1 machine-with-a-particular-income-or-statistic."

2 **NEW SECTION. Section 56.** Video gambling machines --
3 hours of play -- penalty. (1) A video gambling machine may
4 not be played between the hours of 2 a.m. and 8 a.m. each
5 day. ~~However,--in-the--jurisdiction--of--a--local--government~~
6 ~~where--the--video--gambling--machine--is--played,--the-local~~
7 ~~government-may-adopt-an-ordinance-defining-the-hours-of-play~~
8 ~~within-that-jurisdiction.~~

9 (2) A violation of this section is a misdemeanor
10 punishable under [section 23].

11 **Section 57.** Section 23-5-613, MCA, is amended to read:

12 "23-5-613. ~~Investigations--and--violations~~ Violations.
13 ~~(1)---The---department---or---duly---authorized---department~~
14 ~~representatives-shall-make-necessary-investigations,--suspend~~
15 ~~or-revoke-state-licenses-for-violations-of-this-part,--except~~
16 ~~23-5-615,--and--hold-hearings-on-such-matters.--A-license-may~~
17 ~~be-suspended-prior-to-a-hearing-upon-a-finding-of-danger--to~~
18 ~~public--health--and-welfare-but-may-not-be-revoked-until-the~~
19 ~~hearing-is-completed.~~

20 ~~(2)---A~~ Unless otherwise provided in this part, a
21 violation of this part,--except--23-5-615, or a rule
22 promulgated under-23-5-605 by the department is a criminal
23 offense,--and--a--fine--not--to-exceed--\$10,000-for-the-first
24 violation-and-\$15,000-for-a-subsequent--violation--must--be
25 imposed misdemeanor punishable under [section 23].

{3}--If--a--video--draw--poker--machine--is--operated--in
violation--of--this--part,--except--23-5-615,--it--may--be--seized
under--23-5-121--and--the--provisions--of--23-5-122--apply.

{4}--Employees--of--the--department--or--duly--authorized
department--representatives--designated--as--enforcement--agents
may--investigate--the--background--of--license--applicants--to--the
extent--judged--necessary--by--the--department,--but--no--person--may
be--investigated--prior--to--his--submission--of--an--application
for--a--license.

{5}--(a)--Findings--of--suspected--illegal--activity--must--be
reported--to--the--appropriate--law--enforcement--agency.

(b)--The--clerk--of--the--court--shall,--upon--final--judgment
of--conviction--of--a--licensee,--report--to--the--department--the
name--of--the--licensee--convicted--of--violating--a--local--gambling
ordinance.

(c)--On--receipt--of--such--report,--the--department--may
commence--proceedings--to--revoke--or--suspend--the--licensee's
video--draw--poker--license.

{6}--Any--peace--officer--of--this--state--may--arrest--a
person--for--tampering--with--a--video--draw--poker--machine,
attempting--or--conspiring--to--manipulate--the--outcome--or--the
payoff--of--a--video--draw--poker--machine,--or--manipulating--the
outcome--or--payoff--of--a--video--draw--poker--machine--by--physical
tampering--or--other--interference--with--the--proper--functioning
of--the--machine."

NEW SECTION. **Section 58.** Tampering with or
manipulating video gambling machine -- penalty. (1) It is a
felony to manipulate or attempt or conspire to manipulate
the outcome or payoff of a video gambling machine by
physical tampering or other interference with the proper
functioning of the machine.

(2) A violation of this section is a felony and must
be punished in accordance with [section 24].

Section 59. Section 23-5-503, MCA, is amended to read:

"23-5-503. Rules. (1) The card used for recording the
pool and upon which the squares or spaces appear shall
clearly state indicate in advance of the sale of any chances
the number of chances to be sold in that specific pool, the
name of the event, the consideration to be paid for each
chance, and the total amount to be paid to the winners.

(2) No A chance to participate in a sports pool may
not be sold other than upon the premises in which the sports
pool is conducted. No An individual chance to participate in
a sports pool shall may not be sold for a consideration in
excess of \$1 \$10, and the total amount to be paid to the
winners of any individual sports pool shall may not exceed
the value of \$100. The winner of any sports pool shall
receive a 100% payout of the value of the sports pool."

Section 60. Section 23-5-509, MCA, is amended to read:

"23-5-509. Penalty. Every A person who willfully

purposely or knowingly violates or who procures, aids, or abets in the willful a violation of this part shall--be deemed is guilty of a misdemeanor and upon conviction shall be--punished--by--a--fine--of--not--more--than---\$1,000---or imprisonment--in--the--county--jail--for--not--more--than--3--months, or both punishable pursuant to [section 23]."

Section 61. Section 23-5-1101, MCA, is amended to read:

"23-5-1101. Definition. As used in this part, "Calcutta pool" means a form of auction pool in--which persons--bid--or--wager--money, with winnings awarded based on the outcome of--an--event,--except--that conducted by an organization qualified for exemption under 26 U.S.C. 501(c)(3) or (c)(4) and authorized by the department. The Calcutta pool must be an auction pool in which:

(1) a person's wager is equal to his bid;

(2) the organization conducting the pool has no direct interest in the pool;

(3) the rules of the pool are publicly posted;

(4) no more than one wager for each competitor is allowed;

(5) at least 50% of the total pool is paid out in prizes;

(6) persons may not bid or wager money on any elementary school or high school sports event; and

(7) the underlying event has more than two entrants."

Section 62. Section 23-5-1105, MCA, is amended to read:

"23-5-1105. Penalty. Any A person who violates a provision of this part is guilty of a misdemeanor and upon conviction shall be fined not more than \$1,000 or imprisoned in the county jail for a term not to exceed--3--months, or both punishable pursuant to [section 23]."

~~**Section 63.** Section 17-7-502, MCA, is amended to read:~~

~~"17-7-502. Statutory appropriations--definition--requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.~~

~~(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:~~

~~(a) The law containing the statutory authority must be listed in subsection (3).~~

~~(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.~~

~~(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;~~

1 15-25-123;--15-31-702;--15-36-112;--15-65-121;--15-70-101;
 2 16-1-404;--16-1-410;--16-1-411;--17-3-212;--17-5-404;--17-5-424;
 3 17-5-804;--19-8-504;--19-9-702;--19-9-1007;--19-10-205;
 4 19-10-305;--19-10-506;--19-11-512;--19-11-513;--19-11-606;
 5 19-12-301;--19-13-604;--20-4-109;--20-6-406;--20-8-111;
 6 23-5-610;--~~{section-29};~~~~{section-39};~~23-5-1027;--33-31-212;
 7 33-31-401;--37-51-501;--39-71-2504;--53-6-1507;--53-24-206;
 8 67-3-205;--75-1-1101;--75-7-305;--76-12-123;--80-2-103;
 9 80-2-220;--82-11-136;--90-3-301;--90-3-302;--90-3-412;--90-4-215;
 10 90-9-306;--90-15-103;--section-13;--House-Bill-No-861;--Laws-of
 11 1985;--and-section-17-Chapter-454;--Laws-of-1987;
 12 {4}--There-is-a--statutory--appropriation--to--pay--the
 13 principal;--interest;--premiums;--and-costs-of-issuing;--paying;
 14 and-securing-all-bonds;--notes;--or-other-obligations;--as-due;
 15 that-have-been-authorized-and-issued-pursuant-to-the-laws-of
 16 Montana;--Agencies--that--have--entered--into--agreements
 17 authorized--by--the--laws--of--Montana--to--pay--the--state
 18 treasurer;--for--deposit-in-accordance-with-17-2-101-through
 19 17-2-107;--as-determined-by-the-state--treasurer;--an--amount
 20 sufficient--to--pay--the--principal-and-interest-as-due-on-the
 21 bonds-or-notes-have-statutory--appropriation--authority--for
 22 such-payments;--{In-subsection-{3};--pursuant-to-sec-157-Ch-
 23 607;--B-1987;--the-inclusion-of-15-65-121-terminates-June-30;
 24 1989;--pursuant--to-sec-107-Ch-664;--B-1987;--the-inclusion
 25 of-39-71-2504-terminates-June-30;--1991;--and-pursuant-to-sec-

1 67-Ch-454;--B-1987;--the-inclusion-of-sec-17--Ch--454;--B-
 2 1987;--terminates-July-1;--1988;}"
 3 NEW SECTION. SECTION 63. EXEMPTION FROM SUNRISE
 4 PROVISIONS. THE PROVISIONS OF TITLE 2, CHAPTER 8, PART 2,
 5 AND 5-4-207 DO NOT APPLY TO [THIS ACT].
 6 NEW SECTION. Section 64. Reorganization procedure.
 7 The provisions of sections 2-15-131 through 2-15-137 govern
 8 the transfer of the various functions contained in [this
 9 act] from the department of commerce to the department of
 10 justice.
 11 NEW SECTION. Section 65. Implementation. (1) The
 12 governor shall by executive order implement the provisions
 13 of [this act].
 14 (2) The governor may by executive order assign to the
 15 department of justice in a manner consistent with [this act]
 16 functions allocated to the department of commerce by the
 17 51st legislature relating to the implementation of Title 23,
 18 chapter 5, parts 1 through 6, that are not transferred by
 19 [this act].
 20 NEW SECTION. Section 66. Repealer. Sections 23-5-105
 21 through 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124
 22 through 23-5-127, 23-5-132 through 23-5-134, 23-5-141
 23 through 23-5-144, 23-5-201 through 23-5-211, 23-5-301
 24 through 23-5-303, 23-5-314 through 23-5-316, 23-5-322,
 25 23-5-323, 23-5-332, 23-5-401 through 23-5-403, 23-5-411,

23-5-415 through 23-5-418, 23-5-421 through 23-5-423,
 23-5-504 through 23-5-508, 23-5-510, 23-5-511, 23-5-601,
 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618,
 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103,
 23-5-1104, MCA, are repealed.

NEW SECTION. Section 67. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 68. Codification instruction.
 (1) [Sections 1, 2, 4 through 8, 10 through 12, 16, 18 through 20, and 23 through 25] are intended to be codified as an integral part of Title 23, chapter 5, part 1, and the provisions of Title 23, chapter 5, part 1, apply to [sections 1, 2, 4 through 8, 10 through 12, 16, 18 through 20, and 23 through 25].

(2) [Sections 27 through 29 and 32] are intended to be codified as an integral part of Title 23, chapter 5, part 3, and the provisions of Title 23, chapter 5, part 3, apply to [sections 27 through 29 and 32].

(3) [Sections 35 through 39 and 43] are intended to be codified as an integral part of Title 23, chapter 5, part 4, and the provisions of Title 23, chapter 5, part 4, apply to [sections 35 through 39 and 43].

(4) [Sections 50, 56, and 58] are intended to be

codified as an integral part of Title 23, chapter 5, part 6, and the provisions of Title 23, chapter 5, part 6, apply to [sections 50, 56, and 58].

(5) The code commissioner shall recodify the provisions of Title 23, chapter 5, part 11, as an integral part of Title 23, chapter 5, part 2.

NEW SECTION. Section 69. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-

1 SENATE BILL NO. 431

2 INTRODUCED BY GAGE, HARPER, B. BROWN, MAZUREK,

3 ADDY, STRIZICH, MERCER, CRIPPEN, HANNAH,

4 HARP, VAN VALKENBURG

5 BY REQUEST OF THE DEPARTMENT OF JUSTICE

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
8 PUBLIC GAMBLING LAWS OF MONTANA; PROVIDING FOR LICENSURE AND
9 REGULATION OF GAMBLING ACTIVITIES BY THE DEPARTMENT OF
10 JUSTICE; ~~PROVIDING FOR--STATUTORY--APPROPRIATION;~~ PROVIDING
11 FOR A GAMING ADVISORY COUNCIL; AMENDING SECTIONS ~~17-7-502,~~
12 23-5-101 THROUGH 23-5-104, 23-5-108, 23-5-123, 23-5-131,
13 23-5-135, 23-5-311 THROUGH 23-5-313, 23-5-321, 23-5-331,
14 23-5-412 THROUGH 23-5-414, 23-5-431, 23-5-503, 23-5-509,
15 23-5-602, 23-5-603, 23-5-607, 23-5-608, 23-5-610 THROUGH
16 23-5-613, 23-5-616, 23-5-625, 23-5-631, 23-5-1101, AND
17 23-5-1105, MCA; AND REPEALING SECTIONS 23-5-105 THROUGH
18 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124 THROUGH
19 23-5-127, 23-5-132 THROUGH 23-5-134, 23-5-141 THROUGH
20 23-5-144, 23-5-201 THROUGH 23-5-211, 23-5-301 THROUGH
21 23-5-303, 23-5-314 THROUGH 23-5-316, 23-5-322, 23-5-323,
22 23-5-332, 23-5-401 THROUGH 23-5-403, 23-5-411, 23-5-415
23 THROUGH 23-5-418, 23-5-421 THROUGH 23-5-423, 23-5-504
24 THROUGH 23-5-508, 23-5-510, 23-5-511, 23-5-601, 23-5-605,
25 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618, 23-5-626,

1 23-5-627, 23-5-635, 23-5-636, 23-5-1103, AND 23-5-1104,
2 MCA."

4 STATEMENT OF INTENT

5 This bill requires a statement of intent because
6 [section 7] authorizes the department of justice to adopt
7 administrative rules to implement [this act]. [This act] is
8 intended to provide uniform statewide regulation of gambling
9 in Montana under the supervision of the attorney general.

10 It is the intent of the legislature that the department
11 of justice adopt necessary rules to implement uniform
12 statewide regulation of gambling in Montana consistent with
13 the purposes and policies set forth in [section 1] of this
14 bill.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 NEW SECTION. **Section 1.** Public policy of state
18 concerning gambling. (1) The legislature finds that for the
19 purpose of ensuring the proper gambling environment in this
20 state it is necessary and desirable to adopt a public policy
21 regarding public gambling activities in Montana. The
22 legislature therefore declares it is necessary to:

23 (a) create and maintain a uniform regulatory climate
24 that assures players, owners, tourists, citizens, and others
25 that the gambling industry in this state is fair and is not

1 influenced by corrupt persons, organizations, or practices;

2 (b) protect legal public gambling activities from
3 unscrupulous players and vendors and detrimental influences;

4 (c) protect the public from unscrupulous proprietors
5 and operators of gambling establishments, games, and
6 devices;

7 (d) protect the state and local governments from those
8 who would conduct illegal gambling activities that deprive
9 those governments of their tax revenues;

10 (e) protect the health, safety, and welfare of all
11 citizens of this state, including those who do not gamble,
12 by regulating gambling activities; and

13 (f) promote and fund programs necessary to provide
14 assistance to those who are adversely affected by legalized
15 gambling, including compulsive gamblers and their families.

16 (2) The legislature adopts the policy that an
17 applicant for a license or permit or other department
18 approval under parts 1 through 6 of this chapter does not
19 have a right to the issuance of a license or permit or the
20 granting of the approval sought. The issuance of a license
21 or permit issued or other department approval granted
22 pursuant to the provisions of parts 1 through 6 of this
23 chapter is a revocable privilege. A holder does not acquire
24 a vested right in the license or permit issued or other
25 department approval granted. A license or permit issued

1 under parts 1 through 6 of this chapter may not be sold,
2 assigned, leased, or transferred.

3 (3) Revenue to fund the expense of administration and
4 control of gambling as regulated by parts 1 through 6 of
5 this chapter must be derived solely from fees, taxes, and
6 penalties on gambling activities, except the gambling
7 activities of the Montana state lottery and the parimutuel
8 industry.

9 NEW SECTION. Section 2. General application. This
10 chapter applies only to public gambling activities within
11 the state of Montana.

12 Section 3. Section 23-5-101, MCA, is amended to read:

13 "23-5-101. Definitions. Unless the context requires
14 otherwise, the following definitions apply to parts 1
15 through 6 of this chapter:

16 (1) A-slot-machine-is-defined-as-a-machine-operated-by
17 inserting--a--coin,--token,--chip,--trade--check,--or--paper
18 currency--therein--by--the--player--and--from--the--play--of--which--he
19 obtains--or--may--obtain--money,--checks,--chips,--tokens,--or--paper
20 currency--redeemable--in--money. Merchandise-vending-machines
21 where-the-element--of--chance--does--not--enter--into--their
22 operation--are--not--within--the--provisions--of--this-part.
23 "Applicant" means a person who has applied for a license or
24 permit issued by the department pursuant to parts 1 through
25 6 of this chapter.

1 (2) "Application" means a written request for a
 2 license or permit issued by the department. The department
 3 shall adopt rules describing the forms and information
 4 required for issuance of a license.

5 (3) "Authorized equipment" means, with respect to live
 6 keno or bingo, the receptacle and numbered objects drawn
 7 from it, the master board upon which such objects are placed
 8 as drawn, the cards or sheets bearing numbers or other
 9 designations to be covered and the objects used to cover
 10 them, the boards or signs, however operated, used to
 11 announce or display the numbers or designations as they are
 12 drawn, public address system, and all other articles
 13 essential to the operation, conduct, and playing of live
 14 keno or bingo.

15 (4) "Bingo" means a game of chance played for prizes
 16 with a card bearing a printed design of 5 columns of 5
 17 squares each, 25 squares in all. The letters B-I-N-G-O must
 18 appear above the design, with each letter above one of the
 19 columns. No more than 75 numbers may be used. One number
 20 must appear in each square, except for the center square
 21 which is considered a free play. Numbers and letters are
 22 RANDOMLY drawn from a receptacle and announced by a bingo
 23 caller using authorized equipment, and the game is won by
 24 the person who first covers a previously designated
 25 arrangement of numbers on the bingo card.

1 (5) "Bingo caller" means a person licensed by the
 2 department to work as a live bingo caller who, using
 3 authorized equipment, announces the order of the objects
 4 drawn in live bingo.

5 (6) "Card game table" or "table" means a live card
 6 game table authorized by permit and made available to the
 7 public on the premises of a licensed gambling operator.

8 (7) "Dealer" means a person with a dealer's license
 9 issued under part 3 of this chapter.

10 (8) "Department" means the department of justice.

11 (9) "Distributor" means a person who:

12 (a) purchases or obtains from another person equipment
 13 of any kind for use in gambling activities; and

14 (b) sells, leases, or otherwise furnishes the
 15 equipment to another person for use in public.

16 (10) "Gambling" or "gambling activity" means risking
 17 money, credit, deposit, check, property, or any other thing
 18 of value for a gain that is contingent in whole or in part
 19 upon lot, chance, or the operation of a gambling device or
 20 gambling enterprise.

21 (11) "Gambling device" means a mechanical,
 22 electromechanical, or electronic device, machine, slot
 23 machine, instrument, apparatus, contrivance, scheme, or
 24 system USED OR INTENDED FOR USE IN ANY GAMBLING ACTIVITY.

25 (12) "Gambling enterprise" means an activity, scheme,

1 or agreement or an attempted activity, scheme, or agreement
 2 to provide gambling or a gambling device to the public.

3 (13) "GROSS PROCEEDS" MEANS GROSS REVENUE RECEIVED LESS
 4 PRIZES PAID OUT.

5 (14) "Illegal gambling device" means a gambling
 6 device not specifically authorized by statute or by the
 7 rules of the department.

8 (15) "Illegal gambling enterprise" means a gambling
 9 enterprise that violates a statute or a rule of the
 10 department.

11 (16) "Keno" means a game of chance in which prizes
 12 are awarded using a card with 8 horizontal rows and 10
 13 columns on which a player may pick up to 10 numbers. A keno
 14 caller, using authorized equipment, shall select at random
 15 20 numbers out of numbers between 1 and 80, inclusive.

16 (17) "Keno caller" means a person licensed by the
 17 department to work as a live keno caller who, using
 18 authorized equipment, announces the order of the numbers
 19 drawn in live keno.

20 (18) "License" means an operator's, dealer's,
 21 caller's or manufacturer-distributor's license issued to a
 22 person by the department.

23 (19) "Licensee" means a person who has received a
 24 license from the department.

25 (20) "Live card game" OR "card game" OR "game"

1 means a card game that is played in public between persons
 2 on the premises of a licensed gambling operator.

3 (21) "Lottery" or "gift enterprise" means a scheme,
 4 by whatever name known, for the disposal or distribution of
 5 property by chance among persons who have paid or promised
 6 to pay valuable consideration for the chance of obtaining
 7 the property or a portion of it or for a share or interest
 8 in the property upon an agreement, understanding, or
 9 expectation that it is to be distributed or disposed of by
 10 lot or chance. However, "gift enterprise" does not mean:

11 (a) lotteries authorized under part 10 of this
 12 chapter; or

13 (b) cash or merchandise attendance prizes or premiums
 14 that the county fair commissioners of agricultural fairs and
 15 rodeo associations may give away at public drawings at fairs
 16 and rodeos.

17 (22) "Manufacturer" means a person who assembles
 18 from raw materials or subparts a completed piece of
 19 equipment or pieces of equipment of any kind to be used as a
 20 gambling device.

21 (23) "Operator" means a person who purchases,
 22 receives, or acquires, by lease or otherwise, and operates
 23 or controls for use in public, a gambling device or gambling
 24 enterprise authorized under parts 1 through 6 of this
 25 chapter.

{23}(24) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

{2}{24}(25) In--addition-to-their-ordinary-meaning,-the words-"person" "Person" or "persons",-as-used-in-this--part, include means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious,-fraternal, and charitable organizations.

{25}(26) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

{26}(27) "Public GAMBLING" means GAMBLING CONDUCTED IN:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access; or

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious,-fraternal, or charitable organization.

{27}(28) "Raffle" means a gift enterprise in which each participant buys a chance or chances to win a prize.

{28}(29) "Slot machine" means a mechanical, electrical,

electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

{29}(30) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

NEW SECTION. Section 4. Authority of local governments to regulate gambling. (1) A local government may not license, OR regulate,--or--otherwise--limit a form of gambling authorized by parts 1 through 6 of this chapter OR ASSESS OR CHARGE ANY FEES OR TAXES unless specifically authorized by statute.

(2) An incorporated city or town may enact an ordinance or resolution defining ZONING certain areas within its incorporated limits in which gambling is prohibited.

(3) A county may enact a resolution defining ZONING

certain areas in the county, not within an incorporated city or town, in which gambling is prohibited.

(4) A county or incorporated city or town may not restrict the number of licenses that the department may issue.

NEW SECTION. Section 5. Department as criminal justice agency. The department is a criminal justice agency. Designated agents of the department are granted peace officer status to investigate, regulate, and control all legal and illegal gambling activities in this state regulated by parts 1 through 6 of this chapter and the rules of the department.

NEW SECTION. Section 6. Department employees -- activities prohibited. An employee of the department OR ANY OTHER PERSON directly involved with the prosecution, investigation, regulation, or licensing of gambling may not:

(1) serve as an officer or manager of a corporation or organization that conducts a gambling activity;

(2) receive or share in, directly or indirectly, any profit of a gambling activity regulated by the department;

(3) have a beneficial or pecuniary interest in a contract for the manufacture or sale of a gambling device, the conduct of a gambling activity, or the provision of independent consultant services in connection with a gambling activity.

NEW SECTION. Section 7. Powers and duties of department -- licensing. (1) The department shall administer the provisions of parts 1 through 6 of this chapter.

(2) The department shall adopt rules to administer and implement parts 1 through 6 of this chapter.

(3) The department shall provide licensing procedures, prescribe necessary application forms, and grant or deny license applications.

(4) The department shall prescribe recordkeeping requirements for licensees, provide a procedure for inspection of records, provide a method for collection of taxes, and establish penalties for the delinquent reporting and payment of required taxes.

(5) The department may suspend, revoke, deny, or place a condition on a license issued under parts 1 through 6 of this chapter.

(6) The department may not make public or otherwise disclose information obtained in the APPLICATION OR tax reporting processes, except for general statistical reporting or studies.

(7) THE DEPARTMENT SHALL ASSESS, COLLECT, AND DISBURSE ANY FEES, TAXES, OR CHARGES AUTHORIZED UNDER PARTS 1 THROUGH 6 OF THIS CHAPTER.

NEW SECTION. Section 8. Injunction and other remedies. (1) If it appears to the department that a person

1 has engaged in or is about to engage in an act or practice
 2 constituting a violation of a provision of parts 1 through 6
 3 of this chapter or a rule or order of the department, it
 4 may:

5 (a) issue a temporary cease and desist order with
 6 reasonable notice and opportunity for hearing. Following a
 7 hearing or if the person to whom the notice is addressed
 8 does not request a hearing within 15 days after receipt of
 9 the notice, the department may issue a permanent cease and
 10 desist order that must remain in effect pending an appeal or
 11 judicial review ~~by the person aggrieved by a final order of~~
 12 ~~the department.~~

13 (b) bring, without the issuance of a cease and desist
 14 order, an action in district court to enjoin the act or
 15 practice. On a proper showing, the court may grant a
 16 permanent or temporary injunction, a restraining order, or
 17 other appropriate writ and appoint a receiver or conservator
 18 for the defendant or the defendant's assets. The department
 19 may not be required to post a bond.

20 (c) place a licensee on probation;

21 (d) suspend a license for a period not to exceed 180
 22 days;

23 (e) revoke a license;

24 (f) deny renewal of a license upon its expiration;

25 (g) impose a civil penalty not to exceed \$10,000 for

1 each violation of a provision of parts 1 through 6 of this
 2 chapter or a rule of the department, whether or not the
 3 person is licensed by the department;

4 (h) impose a combination of the penalties provided in
 5 subsections (1)(a) through (1)(g).

6 (2) A fine imposed by a district court or by the
 7 department under this section must be collected by the
 8 department and deposited in the special revenue account as
 9 provided in 23-5-123.

10 (3) Imposition of a fine under this section is an
 11 order from which an appeal may be taken pursuant to [section
 12 12].

13 (4) If a person fails to pay a fine imposed under this
 14 section, the fine is a lien on all of the assets and
 15 property of the person in the state and may be recovered by
 16 the department in a civil action.

17 (5) If a person fails to pay a fine imposed under this
 18 section, he may not be licensed to operate a gambling device
 19 or gambling enterprise in the state under parts 1 through 6
 20 of this chapter.

21 **Section 9.** Section 23-5-123, MCA, is amended to read:

22 **"23-5-123.** Disposal of money confiscated by reason of
 23 violation of gambling laws. ~~All money seized or taken by any~~
 24 ~~peace officer and confiscated by order of any court, by~~
 25 ~~reason of a violation of the gambling laws of the state of~~

1 Montana, shall be deposited with the county treasurer of the
 2 county--in--which--such--seizure--and--confiscation--was--made--and
 3 shall be credited to the poor fund of the county. All fines,
 4 penalties, forfeitures, and confiscated money collected by
 5 criminal, civil, or administrative process for a violation
 6 of a provision of parts 1 through 6 of this chapter or a
 7 rule of the department must be deposited in a special
 8 revenue account for use by the department for:

9 (1) training law enforcement personnel in the
 10 investigation of illegal gambling activity;

11 (2) training persons licensed under the authority of
 12 the department; or

13 (3) funding programs designed to treat persons with
 14 habitual gambling problems."

15 **NEW SECTION. Section 10. Qualifications** for
 16 licensure. (1) A person whom the department determines is
 17 qualified to receive a license under the provisions of this
 18 chapter, except for the provisions of part 10, may be issued
 19 a state gambling license.

20 (2) The applicant has the burden of proving his
 21 qualification to receive a license.

22 (3) ~~An--application--for--a~~ A license may not be granted
 23 unless the department is satisfied that the applicant is:

24 (a) a person of good character, honesty, and
 25 integrity;

1 (b) a person whose prior activities, criminal record,
 2 if any, reputation, habits, and associations do not:

3 (i) pose a threat to the public interest of the state
 4 or to the effective regulation and control of gambling; or

5 (ii) create ~~or enhance the dangers~~ A DANGER of illegal
 6 practices, methods, and activities in the conduct of
 7 gambling or in the carrying on of the business and financial
 8 arrangements incidental to the conduct of gambling; and

9 (c) in all other respects qualified to be licensed
 10 consistent with the declared gambling policy of the state.

11 (4) A license to operate a gambling activity may not
 12 be issued unless the applicant has demonstrated to the
 13 department that:

14 (a) the applicant has adequate business probity,
 15 competence, and experience; and

16 (b) the proposed financing of the entire operation is:

17 (i) adequate for the nature of the proposed operation;

18 and

19 (ii) from a suitable source. A lender or other source
 20 of money or credit that the department finds does not meet
 21 the standards set forth in subsection (3) may be considered
 22 unsuitable.

23 **NEW SECTION. Section 11. Operator** of gambling
 24 establishment -- license -- fee. (1) It is a misdemeanor for
 25 a person who is not licensed by the department as an

1 operator to make available to the public for play a gambling
2 device or gambling enterprise.

3 (2) An operator's license must include the following
4 information:

5 (a) a description of the premises upon which the
6 gambling will take place;

7 (b) the operator's name;

8 (c) a description of each gambling device or card game
9 table licensed to the operator by the department for play
10 upon the premises, including the type of game and license
11 number or decal number for each licensed game; and

12 (d) any other relevant information determined
13 necessary by the department.

14 (3) The operator's license must be issued annually
15 along with all other licenses for gambling devices or games
16 licensed to the operator.

17 (4) The operator's license must be updated each time a
18 gambling device or card game table license is newly issued
19 or the device or game is removed from the premises.

20 (5) The department may not charge a fee for the
21 issuance of an operator's license.

22 (6) The operator's license must be prominently
23 displayed upon the premises for which it is issued.

24 NEW SECTION. **Section 12.** Judicial review. (1) (a) A
25 person aggrieved by a final order of the department may

1 obtain a review of the order in district court by filing
2 with the court, within 30 days after entry of the final
3 order, a written petition requesting that the order be
4 modified or set aside in whole or in part.

5 (b) A copy of the petition must be served upon the
6 department at the same time. When the department receives
7 the copy of the petition, it shall certify and file in court
8 a copy of the filing, testimony, and other evidence upon
9 which the final order was entered by the department. When
10 these have been filed with the court, the court has
11 exclusive jurisdiction to affirm, modify, enforce, or set
12 aside the final order in whole or in part. A temporary cease
13 and desist order from the department must remain in effect
14 and cannot be set aside by the court until a hearing has
15 been held and a final order has been issued pursuant to
16 [section 8].

17 (2) (a) The review must be conducted by the district
18 court without a jury and must be confined to the record. In
19 a case of alleged irregularity in procedure before the
20 department not shown in the record, proof may be taken by
21 the court. The court, upon request, shall hear oral argument
22 and receive written briefs.

23 (b) The court may not substitute its judgment for that
24 of the department as to the weight of the evidence on
25 questions of fact. The court may affirm the decision of the

1 department or remand the case for further proceedings. The
2 court may reverse or modify the decision if substantial
3 rights of the appellant have been prejudiced because the
4 administrative findings, inferences, conclusions, or
5 decisions are:

6 (i) in violation of a constitutional or statutory
7 provision;

8 (ii) in excess of the statutory authority of the
9 department;

10 (iii) made upon unlawful procedure;

11 (iv) affected by other error of law;

12 (v) clearly erroneous in view of the reliable,
13 probative, and substantial evidence on the whole record;

14 (vi) arbitrary or capricious or characterized by abuse
15 of discretion or clearly unwarranted exercise of discretion;
16 or

17 (vii) inadequate because findings of fact, upon issues
18 essential to the decision, were requested but not made.

19 (3) The commencement of proceedings under this
20 section, unless specifically ordered by the court, may not
21 operate as a stay of the department's final order.

22 **Section 13.** Section 23-5-131, MCA, is amended to read:

23 "23-5-131. Losses at gambling may be recovered in
24 civil action. If any person, by playing or betting at any of
25 the games prohibited by this part, loses to another person

1 any sum of money or thing of value and pays or delivers the
2 same or any part thereof to any person connected with the
3 operating or conducting of such game, either as owner,
4 dealer, or operator, the person who so loses and pays or
5 delivers may, at any time within 60 days next after the loss
6 and payment or delivery, sue for and recover the money or
7 thing of value so lost and paid or delivered or any part
8 thereof from any person having any interest, direct or
9 contingent, in the game as owner, backer, or otherwise, with
10 costs of suit, by civil action before any court of competent
11 jurisdiction, together with exemplary damages which in no
12 case shall be less than \$50 or more than \$500, and may join
13 as defendants in said suit all persons having any interest,
14 direct or contingent, in such game as backers, owners, or
15 otherwise. A person, or his dependent or guardian, who, by
16 playing or betting at an illegal gambling device or illegal
17 gambling enterprise, loses money, property, or any other
18 thing of value and pays and delivers it to another person
19 connected with the operation or conduct of the illegal
20 gambling device or illegal gambling enterprise, within 1
21 year following his loss, may:

22 (1) bring a civil action in a court of competent
23 jurisdiction to recover the loss;

24 (2) recover the costs of the civil action and
25 exemplary damages of no less than \$500 and no more than

1 \$5,000; and

2 (3) join as a defendant any person having an interest
3 in the illegal gambling device or illegal gambling
4 enterprise."

5 **Section 14.** Section 23-5-135, MCA, is amended to read:

6 "23-5-135. Discharge of defendant. Upon discovery--and
7 repayment---of---the---money--or--other--thing,--the--person
8 discovering-and-repaying-the-same,--with-costs--and--such--an
9 amount--of--exemplary--damages--as-may-be-agreed-upon-by-the
10 parties-or-fixed-by--the--court,--shall--be--acquitted--and
11 discharged-from-any-further-or-other-forfeiture,--punishment,
12 penalty,--or-prosecution-he-or-they-may-have-incurred-for-so
13 winning-such-money-or-thing-discovered--and--repaid: (1) A
14 person against whom a civil action is brought as provided in
15 23-5-131 may move to have the action against him dismissed
16 if he has repaid to the person who suffered the loss or his
17 dependent the gambling loss, the costs of bringing the civil
18 action, and the exemplary damages agreed upon by the parties
19 or assessed by the court.

20 (2) A civil action brought to recover gambling losses
21 does not bar or interfere with another proceeding or action,
22 whether criminal, civil, or administrative, that may be
23 brought under the laws of the state.

24 (3) The clerk of the court shall notify the department
25 of a civil action based on a violation of a provision of

1 this chapter."

2 **Section 15.** Section 23-5-102, MCA, is amended to read:

3 "23-5-102. Gambling prohibited ---penalty. Except as
4 otherwise--provided-by-law,--a-person-who-engages-in-gambling
5 in-any-form-with-cards,--dice,--or-other-implements-or-devices
6 of-any-kind-wherein-anything-valuable-may--be--wagered--upon
7 the---outcome---or---who--keeps--any--establishment,--place,
8 equipment,--or-apparatus-for-such-gambling-or-any--agents--or
9 employees-for-such-purpose-is-guilty-of-a-misdemeanor-and-is
10 punishable--by--a--fine--of--not-less-than-\$100-or-more-than
11 \$1,800-or-imprisonment-not-less-than-3-months-or-more-than-1
12 year-or-by-both--such--fine--and--imprisonment specifically
13 authorized by statute, all forms of public gambling,
14 lotteries, and gift enterprises are prohibited."

15 **NEW SECTION. Section 16.** Counterfeiting or defacing
16 documents -- penalty. (1) A person commits the offense of
17 counterfeiting or defacing a document when he purposely or
18 knowingly counterfeits, alters, or wrongfully displays a
19 seal, decal, license, identification number or device, or
20 other document issued by the department.

21 (2) A person convicted of the offense of
22 counterfeiting or defacing a document is guilty of a felony
23 and must be punished in accordance with [section 24].

24 **Section 17.** Section 23-5-108, MCA, is amended to read:

25 "23-5-108. Soliciting or persuading persons to visit

1 play illegal gambling resorts device prohibited. Any--person
 2 who--persuades--or-solicits-another-to-visit-any-room,-tent,
 3 apartment,-or--place--used--or--represented--by--the--person
 4 soliciting--or-persuading-to-be-a-place-used-for-the-purpose
 5 of-running-any-of-the-games-prohibited-by-this-part-shall-be
 6 punished-by-a-fine-of-not-less-than-\$100-or-more-than-\$1,000
 7 or-imprisonment-not-less-than-3-months-or-more-than--1--year
 8 or--by-both-such-fine-and-imprisonment-in-the-county-jail. A
 9 person who advertises for or solicits another person to play
 10 or engage in the use of an illegal gambling device is guilty
 11 of a misdemeanor and is punishable under (section 23)."

12 NEW SECTION. Section 18. Obtaining anything of value
 13 by fraud or operation of illegal gambling device or
 14 enterprise. (1) A person who by gambling obtains money,
 15 property, or anything of value that does not exceed \$300 in
 16 value by misrepresentation, fraud, or the use of an illegal
 17 gambling device or an illegal gambling enterprise is guilty
 18 of a misdemeanor and is punishable as provided in [section
 19 23].

20 (2) A person who by gambling obtains money, property,
 21 or anything of value that exceeds \$300 in value by
 22 misrepresentation, fraud, or the use of an illegal gambling
 23 device or an illegal gambling enterprise is guilty of a
 24 felony and is punishable as provided in [section 24].

25 NEW SECTION. Section 19. Gambling on cash basis. (1)

1 In every gambling activity, EXCEPT RAFFLES AS AUTHORIZED IN
 2 [SECTION 41], the consideration paid for the chance to play
 3 must be cash. A participant shall present the money needed
 4 to play the game as the game is being played. A check,
 5 credit card, note, I O U, or other evidence of indebtedness
 6 may not be offered or accepted as part of the price of
 7 participation in the gambling activity or as payment of a
 8 debt incurred in the gambling activity.

9 (2) A person who violates this section is guilty of a
 10 misdemeanor and must be punished in accordance with [section
 11 23].

12 NEW SECTION. Section 20. Minors not to participate --
 13 penalty. (1) A PERSON MAY NOT PURPOSELY OR KNOWINGLY ALLOW A
 14 person under 18 years of age may--not--be--permitted to
 15 participate in a gambling activity.

16 (2) A person who violates this section is guilty of a
 17 misdemeanor and must be punished in accordance with [section
 18 23].

19 Section 21. Section 23-5-103, MCA, is amended to read:

20 "23-5-103. Possession of illegal gambling implements
 21 device prohibited -- exception. Any (1) Except as provided
 22 in {section-22} 23-5-104 and subsection (2) of this section,
 23 it is a misdemeanor punishable under [section 23] for a
 24 person who--has to PURPOSELY OR KNOWINGLY have in his
 25 possession or under his control or who-permits to PURPOSELY

1 OR KNOWINGLY permit to be placed, maintained, or kept in any
 2 room, space, enclosure, or building owned, leased, or
 3 occupied by him or under his management or control any--faro
 4 box,--faro--layout,--roulette--wheel,--roulette--table,--crap
 5 table,--punchboard,--or any machine or apparatus of--the--kind
 6 mentioned--in--23-5-102--is punishable by a fine of not less
 7 than \$100 or more than \$1,000 and may be imprisoned for--not
 8 less--than 3 months or more than 1 year in the discretion of
 9 the court, provided that this section shall not an illegal
 10 gambling device. This section does not apply to a public
 11 officer or to a person coming into possession thereof of an
 12 illegal gambling device in or by reason of the performance
 13 of an official duty and holding the same it to be disposed
 14 of according to law.

15 (2) (a) The department may adopt rules to license
 16 persons to manufacture gambling devices that are not legal
 17 for public play in the state and are manufactured only for
 18 export from the state.

19 (b) A person may not manufacture or possess an illegal
 20 gambling device for export from the state without having
 21 obtained a license from the department. The department may
 22 charge an administrative fee for the license that is
 23 commensurate with the cost of issuing the license."

24 **Section 22.** Section 23-5-104, MCA, is amended to read:

25 **"23-5-104. Slot--machines-----possession--unlawful---**

1 exception Possession of antique slot machines. (1) Except as
 2 provided in subsections (2) through (5), it shall be a
 3 misdemeanor and punishable as hereinafter provided for any
 4 person to use, possess, operate, keep, or maintain for use
 5 or operation or otherwise, anywhere within the state of
 6 Montana, any slot machine of any sort or kind whatsoever.

7 (2) The provisions of subsection (1) and 23-5-121 do
 8 not apply to antique slot machines possessed, located, and
 9 used in accordance with subsections (2) through (5). For the
 10 purposes of subsections (2) through (5), an antique slot
 11 machine is a slot machine manufactured prior to 1950, the
 12 operation of which is exclusively mechanical in nature and
 13 is not aided in whole or in part by any electronic means. An
 14 antique slot machine is a slot machine manufactured prior to
 15 1950 that is operated exclusively by mechanical means and is
 16 not aided in whole or in part by any electrical means.

17 (3)(2) Except as provided in subsection (4) (3), an
 18 antique slot machines machine may be possessed, located, and
 19 operated only in a private residential dwelling.

20 (4)(3) Antique slot machines An antique slot machine
 21 may be possessed or located for purposes of display only and
 22 not for operation in any public museum owned and operated by
 23 the state of Montana, or a county, or a city.

24 (5)(4) No antique slot machine may be operated for any
 25 commercial or charitable purpose."

NEW SECTION. Section 23. Criminal liabilities --
misdeemeanor. A person who purposely or knowingly violates a
 provision of parts 1 through 6 of this chapter, the
 punishment of which is for a misdemeanor, must, upon
 conviction, be fined not less than \$500 or more than \$5,000,
 or imprisoned for not more than 1 year, or both, for each
 violation.

NEW SECTION. Section 24. Criminal liabilities --
felony. A person who purposely or knowingly violates a
 provision of parts 1 through 6 of this chapter, the
 punishment for which is a felony, may upon conviction be
 fined not more than \$50,000 or imprisoned for not more than
 10 years, or both, for each violation. However, if the
 person previously has been convicted of a felony involving
 a gambling device, gambling activity, or gambling
 enterprise, he must be imprisoned for at least 2 years.

NEW SECTION. Section 25. Prosecution. The county
 attorney of the county in which a violation of a provision
 of parts 1 through 6 of this chapter occurs shall prosecute
 all gambling actions within the jurisdiction of the
 department. However, if the county attorney declines
 prosecution or fails to commence an action within a
 reasonable time, the attorney general may initiate and
 conduct the prosecution on behalf of the state.

Section 26. Section 23-5-311, MCA, is amended to read:

"23-5-311. Authorized card games. ~~(1) It is unlawful~~
~~for any person to conduct or participate in any card game or~~
~~make any tables available for the playing of card games~~
~~except these card games authorized by this part.~~

~~(2)~~(1) The card games authorized by this part are and
 are limited to the card games known as bridge, cribbage,
 hearts, panguingue, pinochle, pitch, poker, rummy, solo, and
 whist, ~~solo, and poker.~~

~~(2)~~ A person may only conduct or participate in a live
 card game or make a live card game table available for
 public play of a live card game that ONLY IF IT is
specifically authorized by this part and described by
department rules.

~~(3)~~ This part does not apply to games simulated on
electronic video gambling machines authorized under part 6
of this chapter."

NEW SECTION. Section 27. Presence and control of
dealer. A live card game may not be played except on a live
 card game table in the presence and under the control of a
 licensed dealer on the premises of a licensed operator.

NEW SECTION. Section 28. Card game dealers --
license. (1) A person may not deal cards in a live card game
 without being licensed annually by the department.

(2) The fee for each year in which the license is
 effective must be commensurate with the administrative costs

1 associated with dealer licensing as established by
2 department rules. The fee may not be prorated.

3 (3) The department shall retain for administrative
4 purposes the license fee charged for the issuance of a
5 dealer's license.

6 (4) A licensed dealer shall have on his person, and
7 display upon request, his dealer's license when he is
8 working as a dealer.

9 (5) The department may adopt rules to implement
10 temporary licensing procedures until a permanent license is
11 issued to a dealer. The department may delegate the
12 authority to issue temporary licenses to local governments
13 including the authority to assess and retain a fee for the
14 temporary license.

15 **NEW SECTION. Section 29.** Live card game table --
16 permit -- fees -- disposition of fees. (1) A person who has
17 been granted an operator's license under [section 11] and a
18 license under 16-4-401(2) to sell alcoholic beverages for
19 consumption on the premises ~~OR WHO OPERATES AN ESTABLISHMENT~~
20 ~~FOR THE PRINCIPAL PURPOSE OF GAMING AND HAS BEEN GRANTED AN~~
21 ~~OPERATOR'S LICENSE UNDER [SECTION 11]~~ may be granted an
22 annual permit for the placement of live card game tables.

23 (2) The annual permit fee in lieu of taxes for each
24 live card game table operated in a licensed operator's
25 premises may not be prorated and must be:

1 (a) \$250 for the first table;

2 (b) \$750 for the second table; and

3 (c) \$1,000 for the third and each additional table.

4 (3) The department shall retain for administrative
5 purposes \$100 of the fee collected under this part for each
6 live card game table.

7 (4) The department shall forward on a quarterly basis
8 the remaining balance of the fee collected under subsection
9 (2) to the treasurer of the county, or the clerk, finance
10 officer, or treasurer of the city or town in which the live
11 card game table is located for deposit to the county or
12 municipal treasury. A COUNTY IS NOT ENTITLED TO PROCEEDS
13 FROM FEES ASSESSED ON LIVE CARD GAME TABLES LOCATED IN
14 INCORPORATED CITIES AND TOWNS WITHIN THE COUNTY. ~~The local~~
15 ~~government--portion--of--this--fee--is--statutorily--appropriated~~
16 ~~to--the--department--as--provided--in--17-7-502--for--deposit--to--the~~
17 ~~county--or--municipal--treasury.~~

18 **Section 30.** Section 23-5-321, MCA, is amended to read:

19 "23-5-321. Licensing Issuance of permits by local
20 governing bodies prohibited. ~~(1)~~ Any A city, town, or county
21 may not issue licenses permits for the live card games
22 provided for or live card game tables authorized in this
23 part. ~~to--be--conducted--on--premises--which--have--been--licensed~~
24 ~~for--the--sale--of--liquor--beer--food--cigarettes--or--any--other~~
25 ~~consumable--products--Within--the--cities--or--towns--such~~

1 licenses--may--be--issued--by--the--city--or--town--council--or
 2 commission--bicenss-for-games-conducted-on-premises-outside
 3 the-limits-of-any-city-or-town-may-be-issued-by--the--county
 4 commissioners-of-the-respective-counties--When-a-license-has
 5 been--required--by--any--city--town--or-county--no-game-as
 6 provided-for-in-this-part-shall-be-conducted-on-any-premises
 7 which-have-been-licensed-for-the-sale-of-liquor--beer--food--
 8 cigarettes--or-any-other--consumable--product--without--such
 9 license-having-first-been-obtained.

10 {2}--Any--governing-body--may-charge-an-annual--license
 11 fee-for-each--license--so--issued--under--this--part--which
 12 license--fee--if-any--shall-expire-on-June-30-of-each-year--
 13 and-such-fee-shall-be-prorated.

14 {3}--Any-license-issued-pursuant-to-this-part-shall--be
 15 deemed--to--be--a-revocable-privilege--and-no-holder-thereof
 16 may-acquire-any-vested-rights-therein-or-thereunder."

17 **Section 31.** Section 23-5-312, MCA, is amended to read:

18 "23-5-312. Prizes not to exceed one three ONE THREE
 19 hundred dollars. No--prize--for--any-individual-game-shall
 20 exceed-the-value-of-\$100. A prize for an individual live
 21 card game may not exceed the value of \$300 \$100 \$300. Games
 22 shall may not be combined in any manner so as to increase
 23 the value of the ultimate prize awarded."

24 **NEW SECTION. Section 32.** Live card game tables --
 25 hours of play -- restriction ---exception. Live card game

1 tables must be closed for play between the hours of 2 a.m.
 2 and 8 a.m. each day. However--in--the--jurisdiction--of--a
 3 local--government--where--the--table--is--located--the-local
 4 government-may-adopt-an-ordinance-defining-the-hours-of-play
 5 within-that-jurisdiction.

6 **Section 33.** Section 23-5-313, MCA, is amended to read:

7 "23-5-313. Rules of play to be posted -- rake-off
 8 approved. Rules governing the conduct of each game shall
 9 must be prominently posted within the sight of the players
 10 at a live card game table on the premises of any-licensed
 11 establishment--where--such--game--is--conducted a licensed
 12 operator. Such The rules shall must include notice of the
 13 maximum percentage rake-off, if any, and shall must require
 14 that the person taking the rake-off do so in an obvious
 15 manner and--only--after--announcing--the--amount--of--each
 16 rake-off--which--shall--only--be-taken-at-the-conclusion-of
 17 each-game-when-the-winner-of-each-individual--pot--has--been
 18 determined."

19 **Section 34.** Section 23-5-331, MCA, is amended to read:

20 "23-5-331. **Penalty.** Every A person who willfully
 21 purposely or knowingly violates or who procures, aids, or
 22 abets in the--willful a violation of this part or any
 23 ordinance, resolution, or regulation rule adopted pursuant
 24 thereto--shall--be--deemed to this part is guilty of a
 25 misdemeanor and-upon-conviction-shall-be-punished-by-a--fine

1 ~~of--not--more--than--\$1,688--or--imprisonment--in--the--county--jail~~
 2 ~~for--not--more--than--3--months--or--both~~ punishable pursuant to
 3 [section 23]."

4 NEW SECTION. Section 35. Authorized live bingo, keno,
 5 and raffles. (1) A person may only conduct or participate in
 6 a live bingo and keno game or raffle ONLY IF IT IS operated
 7 pursuant to this part.

8 (2) This part does not apply to a game simulated on a
 9 video gambling machine authorized by part 6 of this chapter.

10 NEW SECTION. Section 36. Exempt charitable
 11 organizations. An organization qualified for exemption under
 12 26 U.S.C. 501(c)(3) and (c)(4) is exempt from the taxation
 13 and license fees imposed by this part. The organization
 14 shall comply with other statutes and rules relating to the
 15 operation of live bingo and keno or raffles. A qualified
 16 organization shall apply to the department for a cost-free
 17 permit to conduct charitable live bingo and keno games or
 18 raffles. THE DEPARTMENT MAY REVOKE OR SUSPEND THE PERMIT OF
 19 A QUALIFIED ORGANIZATION THAT, AFTER INVESTIGATION, THE
 20 DEPARTMENT DETERMINES IS CONTRACTING WITH A NONQUALIFIED
 21 ORGANIZATION TO OPERATE LIVE BINGO, KENO, OR RAFFLES IN A
 22 PREDOMINANTLY COMMERCIAL MANNER.

23 NEW SECTION. Section 37. Bingo and keno callers --
 24 qualifications -- license -- fee. (1) A person may not act
 25 as a bingo or keno caller without being licensed annually by

1 the department.

2 (2) The fee for each year in which the license is
 3 effective must be commensurate with the costs associated
 4 with bingo or keno caller licensing as established by
 5 department rules. The fee may not be prorated.

6 (3) The department shall retain for administrative
 7 purposes the license fee charged for the issuance of a bingo
 8 or keno caller's license.

9 (4) A bingo or keno caller shall have on his person,
 10 and display upon request, his bingo or keno caller's license
 11 whenever he is working as a bingo or keno caller.

12 (5) The department may adopt rules to implement
 13 temporary licensing procedures until a permanent license is
 14 issued. The department may delegate the authority to issue
 15 temporary licenses to local governments, including the
 16 authority to assess and retain a fee for a temporary
 17 license.

18 NEW SECTION. Section 38. Live bingo or keno permit --
 19 fees -- disposition of fees. (1) A person who has been
 20 granted an operator's license may be granted an annual
 21 permit by the department to conduct live bingo or keno games
 22 on specified premises.

23 (2) The permit fee for each of the premises in which a
 24 live bingo or keno game is conducted may not be prorated and
 25 must be \$500.

(3) The department shall retain the permit fee for administrative costs.

NEW SECTION. Section 39. Bingo and keno gross proceeds tax -- records -- distribution -- quarterly statement and payment. (1) A licensee who has received a permit to operate bingo or keno games shall pay to the department a tax of ~~3%~~ 5% of the gross proceeds from the operation of each live bingo and keno game operated on his premises.

(2) A licensee shall keep a record of gross proceeds in the form the department requires. At all times during the business hours of the licensee the records must be available for inspection by the department.

(3) A licensee shall, within 15 days after the end of each quarter, complete and deliver to the department a statement showing the total gross proceeds for each live keno or bingo game operated by him and the total amount due as live bingo or keno gross proceeds tax for the preceding quarter. This statement must contain any other relevant information required by the department.

(4) The department shall forward the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed game is located for deposit to the county or municipal treasury. A county is not entitled to proceeds

from taxes on live bingo or keno games located in unincorporated INCORPORATED cities and towns within the county. ~~The tax collected under subsection (3) is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury.~~

Section 40. Section 23-5-412, MCA, is amended to read:

"23-5-412. Bingo Card prizes and prizes. The price for an individual bingo or keno card may not exceed 50 cents. Bingo prizes may be paid in either tangible personal property or cash, ~~except that a prize must be paid in tangible personal property if the game is played on a player-operated electronic video game machine.~~ A prize may not exceed the value of ~~\$100~~ \$300 \$100 for each individual bingo award or keno card. ~~The price for an individual bingo card may not exceed 50 cents.~~ It shall be is unlawful to, in any manner, combine any awards so as to increase the ultimate value of such the award."

Section 41. Section 23-5-413, MCA, is amended to read:

"23-5-413. Raffle prizes restricted-----exemption -- PERMITS -- EXCEPTION. (1) Raffle prizes must be in tangible personal property only and not in money, cash, stocks, bonds, ~~evidences of indebtedness, or other intangible personal property~~ and must not exceed the value of \$1,000 for each individual raffle card ticket. It shall be is unlawful to, in any manner, combine any awards so as to

1 increase the ultimate value of ~~such-award~~ the prize awarded
2 for each ticket.

3 (2) A separate permit must be issued by the board of
4 county commissioners for each raffle conducted within its
5 jurisdiction. The permit must be issued before the raffle
6 may be conducted. A person who has conducted a raffle must
7 submit an accounting to the board of county commissioners
8 within 30 days following the completion of the raffle. The
9 sale of raffle tickets authorized by this part is restricted
10 to events and participants within the geographic confines of
11 the state.

12 {2}{3} (a) The restrictions of subsection (1) do not
13 apply to a raffle conducted by a nonprofit corporation,
14 religious corporation sole, or other nonprofit organization
15 when if the corporation or organization is ~~licensed~~
16 permitted by the board of county commissioners to conduct
17 the raffle. ~~A--separate-license-shall-be-required-for-each~~
18 ~~raffle-conducted.~~

19 (b) The nonprofit organization or corporation seeking
20 ~~the-license~~ permission under subsection {2}{3}(a) ~~must~~ shall
21 apply to the board of county commissioners for the license
22 permit and must provide the following information:

23 (i) the cost and number of raffle tickets to be sold;

24 (ii) the charitable purposes the proceeds of the raffle
25 are intended to benefit; and

1 (iii) the proposed prizes and their value.

2 (c) The proceeds from the sale of the raffle tickets
3 ~~are--to~~ may be used only for charitable purposes or to pay
4 for prizes. The raffle prize must be in tangible personal
5 property only and not in money, cash, stock, bonds, evidence
6 of indebtedness, or other intangible personal property. None
7 of the proceeds may be used for the administrative cost of
8 conducting the raffle.

9 {d}--~~The-corporation--or--organization--conducting--the~~
10 ~~raffle--must--submit--an--accounting--to--the--board--of--county~~
11 ~~commissioners--within--30--days--following--the--completion--of--the~~
12 ~~raffle--The-person-or-persons-submitting-the-application--to~~
13 ~~the-board-of-county-commissioners-along-with-the-corporation~~
14 ~~or--organization--conducting-the-raffle-shall-be-responsible~~
15 ~~for--submitting--the--accounting--to--the--board--of--county~~
16 ~~commissioners."~~

17 **Section 42.** Section 23-5-414, MCA, is amended to read:

18 23-5-414. Restrictions on bingo, and keno, ~~and-raffles~~
19 ~~---bingo-or-keno-machines-in-establishment-limit---hours-of~~
20 ~~operation-----exception.~~ {1} In the playing of live bingo or
21 keno, no a person who is not physically present on the
22 premises where the game is actually conducted ~~shall~~ may not
23 be allowed to participate as a player in the game.

24 {2}--~~Raffles--authorized--by---this---part---shall---be~~
25 ~~restricted--to-events-and-participants-within-the-geographic~~

confines-of-the-state-of-Montana:

{3}--No--establishment--may--receive---licenses---under
23-5-421--for--or-make-available-for-play-more-than-15-bingo
or-keno-machines--A--local-governing-body--however--may
restrict--the-number-of-licensed-machines-available-for-play
in-an-establishment-to-less-than-15--but-must-allow-at-least
5-

{4}--(a)--Except-as-provided-in--subsection--(4){b}--an
establishment--that--receives--a--license-to-make-a-bingo-or
keno-machine-available-for-play-must-have-the--machine--shut
off--each--day--during--the-hours--provided-in-16-3-304-for
closure---of---licensed---retail---alcoholic---beverage
establishments:

{b}--A--local-governing-body-may-establish-any-hours-of
play-for-bingo-or-keno-machines-that-it-determines--proper."

NEW SECTION. Section 43. Hours of play --
restrictions ---penalty. {1} A live bingo or keno game must
be closed for play between the hours of 2 a.m. and 8 a.m. of
each day. However, in the jurisdiction of a local government
where the live bingo or keno game is played, the local
government may adopt an ordinance defining other hours of
play within that jurisdiction:

{2}--A--violation--of--this--section--is--a-misdemeanor
punishable-under-{section-23}:

Section 44. Section 23-5-431, MCA, is amended to read:

"23-5-431. Penalty Criminal penalty. Every A person
who willfully purposely or knowingly violates or who
procures, aids, or abets in the willful a violation of this
part or any ordinance, resolution, or regulation rule
adopted pursuant thereto shall be deemed to this part is
guilty of a misdemeanor and upon conviction shall be
punished by a fine of not more than \$1,000 or imprisonment
in the county jail for not more than 3 months, or both
punishable pursuant to [section 23]."

Section 45. Section 23-5-602, MCA, is amended to read:

"23-5-602. **Definitions.** As used in this part, the
following definitions apply:

(1) "Associated equipment" means all proprietary
devices, machines, or parts used in the manufacture or
maintenance of a video draw-poker gambling machine,
including but not limited to integrated circuit chips,
printed wired assembly, printed wired boards, printing
mechanisms, video display monitors, and metering devices,
and cabinetry.

{2}--"Department"--means-the-department-of-commerce:

(2) "Bingo machine" means an electronic video gambling
machine that, upon insertion of cash, is available to play
bingo as defined by rules of the department. The machine
utilizes a video display and microprocessors in which, by
the skill of the player, by chance, or both, the player may

1 receive free games or credits that may be redeemed for cash.
 2 The term does not include a slot machine or a machine that
 3 directly dispenses coins, cash, tokens, or anything else of
 4 value.

5 (3) "Draw poker machine" means an electronic video
 6 gambling machine that, upon insertion of cash, is available
 7 to play or simulate the play of the game of draw poker, as
 8 defined by rules of the department. The machine utilizes a
 9 video display and microprocessors in which, by the skill of
 10 the player, by chance, or both, the player may receive free
 11 games or credits that may be redeemed for cash. The term
 12 does not include a slot machine or a machine that directly
 13 dispenses coins, cash, tokens, or anything else of value.

14 (3)(4) "Keno machine" means an electronic video game
 15 gambling machine that, upon insertion of cash, is available
 16 to play or simulate the play of the game of keno or bingo as
 17 provided in part 4 of this chapter, utilizing defined by
 18 rules of the department. The machine utilizes a video
 19 display and microprocessors, in which, by the skill of the
 20 player, or by chance, or both, the player may receive free
 21 games or credits that can may be redeemed for cash. The term
 22 does not include a slot machine or a machine that directly
 23 dispenses coins, cash, tokens, or anything else of value.

24 (4) "Licensed establishment" means:

25 (a) "With respect to the licensure of keno machines, an

1 establishment that is licensed to sell alcoholic beverages
 2 for consumption on the premises or an establishment licensed
 3 under 23-5-421; and

4 (b) "With respect to the licensure of video draw poker
 5 machines, an establishment that is licensed to sell
 6 alcoholic beverages for consumption on the premises.

7 (5) "Licensee" means an individual, partnership,
 8 corporation, or association that has been issued a license
 9 by the department for the placement and operation of video
 10 draw poker machines or keno machines in the licensed
 11 establishment of the individual, partnership, corporation,
 12 or association.

13 (6) "Manufacturer-distributor" means an individual,
 14 partnership, corporation, or association that assembles,
 15 produces, and makes or supplies video draw poker machines or
 16 associated equipment for sale, use, or distribution in this
 17 state.

18 (7)(5) "Net machine income" means money put into a
 19 video draw poker or keno gambling machine minus credits paid
 20 out in cash.

21 (8) "Used keno machine" means a keno machine, as that
 22 term is defined in this section, that is owned or possessed
 23 by an applicant on the day he applies for a license for the
 24 used machine and that was owned or operated in the state
 25 prior to June 30, 1987.

{9}--"Used-video-draw-poker-machine"--means-a-video-draw poker-machine, as that term is defined in this section, which is owned or possessed by an applicant on the day he applies for a license for the used machine and which was owned or operated in the state prior to February 3, 1984.

{10}--"Video-draw-poker-machine"--means-an-electronic video-game-machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker, as provided in this part, utilizing a video display and microprocessors in which, by the skill of the player or by chance, or both, the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, tokens, or anything else of value.

(6) "Video gambling machine manufacturer-distributor" means a person who assembles, produces, makes, supplies, or repairs video gambling machines or associated equipment for sale, use, or distribution in the state."

Section 46. Section 23-5-603, MCA, is amended to read:

"23-5-603. Video draw-poker or keno gambling machines -- possession -- play -- hours-of-play -- restriction. (1) No person may place an electronic video-game-machine that simulates or offers a game of poker, bingo, or keno in his licensed establishment unless he is licensed under 23-5-612. A person may only make available for public play ONLY the

video gambling machines specifically authorized by this part.

(2) The video gambling machines specifically authorized by this part are bingo, keno, and draw poker machines. A person may not make available for public play a video-gambling-machine unless he has obtained an operator's license. Machines licensed Only machines for which permits have been granted under 23-5-612 are legal, and it is legal to play such machines, except that a person under the age of 18 years may not play a video-draw-poker or keno machine may be made available for play by the public on the premises of a licensed operator.

{2}--Except as provided in subsection {3}, an establishment that receives a license to make a video-draw poker-machine available for play must have the machine shut off each day during the hours provided in 16-3-304 for closure of licensed retail alcoholic beverage establishments.

{3}--A local governing body may establish any hours of play for video-draw-poker machines that it determines proper.

{4}--The provisions of part 3 of this chapter do not apply to or prohibit video-draw-poker or keno machines or the playing of such machines."

Section 47. Section 23-5-611, MCA, is amended to read:

1 "23-5-611. State-license Machine permit qualifications
 2 -- limitations ---right-to-hearing. (1) ~~{a}~~-A person who has
 3 been granted a license under ~~16-4-401~~(2) to sell alcoholic
 4 beverages for consumption on the premises may be granted a
 5 license for the placement of video draw poker machines in
 6 his licensed establishment. Only a A person who has been
 7 granted an operator's license under [section 11] and a
 8 license under 16-4-401(2) to sell alcoholic beverages for
 9 consumption on the premises OR WHO OPERATES AN ESTABLISHMENT
 10 FOR THE PRINCIPAL PURPOSE OF GAMING AND HAS BEEN GRANTED AN
 11 OPERATOR'S LICENSE UNDER {SECTION 11} may be granted a
 12 permit for the placement of video gambling machines in his
 13 premises. A PERSON WHO LEGALLY OPERATED AN ESTABLISHMENT ON
 14 JANUARY 1 JANUARY 15, 1989, FOR THE PRINCIPAL PURPOSE OF
 15 GAMING AND HAS BEEN GRANTED AN OPERATOR'S LICENSE UNDER
 16 [SECTION 11] MAY BE GRANTED A PERMIT FOR THE PLACEMENT OF
 17 BINGO AND KENO MACHINES IN HIS PREMISES.

18 **{b}**--Each applicant for a license shall on the
 19 application form disclose to the department any previous
 20 experience or involvement as an owner or operator of
 21 gambling devices and establishments. Previous experience or
 22 involvement includes:

23 **{i}**--controlling of gambling devices as an owner or
 24 operator;

25 **{ii}**--employment with the owner or operator of gambling

1 devices;

2 **{iii}**--employment in establishments where gambling is
 3 offered to the public; and

4 **{iv}**--conviction of violation of state or local gambling
 5 laws in any jurisdiction.

6 **(2)** An applicant for a permit shall disclose on the
 7 application form to the department any information required
 8 by the department consistent with the provisions of [section
 9 10].

10 **{2}{3}** A licensee may not have on the premises or make
 11 available for play on the premises of his licensed
 12 establishment more than five ~~20~~ 10 KENO AND BINGO machines
 13 of any combination ~~that are legal under this part~~ AND 10
 14 DRAW POKER MACHINES. ~~in the jurisdiction of a local~~
 15 government where video gambling machines are played, the
 16 local government may by ordinance or resolution limit the
 17 number of video gambling machines to no less than five per
 18 operator premises. IN THE JURISDICTION OF A LOCAL GOVERNMENT
 19 WHERE VIDEO GAMBLING MACHINES ARE PLAYED, THE LOCAL
 20 GOVERNMENT MAY BY ORDINANCE OR RESOLUTION LIMIT THE NUMBER
 21 OF VIDEO GAMBLING MACHINES TO NO LESS THAN FIVE PER OPERATOR
 22 PREMISES AND NO MORE THAN ALLOWED BY THIS SECTION.

23 **{3}**--A person denied a state license has the right to a
 24 hearing before the department. The hearing must be conducted
 25 in accordance with the provisions of the Montana

1 **Administrative-Procedure-Act."**2 **Section 48.** Section 23-5-612, MCA, is amended to read:

3 **'23-5-612. State-license Machine permits -- fee --**
 4 **used--keno-machines.** (1) ~~{a}~~ The department, upon payment of
 5 the fee provided in subsection ~~{1}~~~~{b}~~ (2) and in conformance
 6 with rules adopted under 23-5-605 this part, shall issue to
 7 the licensee operator a license permit for each video draw
 8 poker-or-keno gambling machine.

9 ~~{b}~~(2) The department shall charge an annual license
 10 permit fee of ~~\$100~~ \$200 for each video draw-poker-machine
 11 ~~and-\$100-for-each--keno gambling machine~~. The department
 12 shall retain \$100 of the total license permit fee collected
 13 for purposes of administering this part,--except--23-5-615.
 14 The remaining \$100 must be returned on a quarterly basis to
 15 the local government jurisdiction in which the gambling
 16 machine is located.

17 (3) The license permit expires on June 30 of each
 18 year, and the fee may not be prorated.

19 ~~{2}--A--used--keno--machine--may--be--licensed--under~~
 20 ~~subsection--{1}--without-meeting-the-requirements-of-23-5-609~~
 21 ~~if--the--applicant--for--licensure--can--establish--to--the~~
 22 ~~satisfaction--of--the--department--that,--on--the--date--of~~
 23 ~~application,--he--owns--or--possesses--a--machine--that--was--owned~~
 24 ~~or--operated--in--the--state--prior--to--June--30--1987--A--license~~
 25 ~~issued-under-this-subsection--expires--for--all--purposes--no~~

1 ~~later-than-June-30--1989."~~2 **Section 49.** Section 23-5-631, MCA, is amended to read:

3 **"23-5-631. Examination and approval of new video draw**
 4 **poker gambling machines and associated equipment -- fee.** (1)
 5 The department shall examine and may approve a new video
 6 ~~draw---poker---machines~~ gambling machine and associated
 7 equipment which ~~is~~ are manufactured, sold, or distributed
 8 for use in this the state before the video draw-poker
 9 gambling machine or associated equipment is sold, played, or
 10 used.

11 (2) A video draw-poker gambling machine or associated
 12 equipment may not be examined or approved by the department
 13 until the video gambling machine manufacturer-distributor of
 14 ~~the-machine-or-associated-equipment~~ is licensed as required
 15 in 23-5-625.

16 (3) All video gambling machines approved by the
 17 department of commerce prior to [the effective date of this
 18 act] must be considered approved under this part.

19 ~~{3}~~(4) The department shall require the
 20 manufacturer-distributor seeking the examination and
 21 approval of a new video draw-poker gambling machine or
 22 associated equipment to pay the anticipated actual costs of
 23 the examination in advance and, after the completion of the
 24 examination, shall refund overpayments or charge and collect
 25 amounts sufficient to reimburse the department for

underpayments of actual costs.

(5) The department may inspect and test and approve, disapprove, or place a condition upon a video gambling machine prior to its distribution and placement for play by the public."

NEW SECTION. Section 50. video gambling machine specifications -- rules. The department shall adopt rules describing the video gambling machines authorized by this part and stating the specifications for video gambling machines authorized by this part.

Section 51. Section 23-5-616, MCA, is amended to read:

"23-5-616. Removal of machine from public access. If a machine fails to meet the specifications and requirements of 23-5-606, 23-5-607, or 23-5-608 this part or any rule of the department at any time after its initial licensure permit has been issued, the licensee operator shall immediately remove the machine from public access until it meets all requirements."

Section 52. Section 23-5-625, MCA, is amended to read:

"23-5-625. Manufacturer-distributor---of---video---draw poker-----machines Video gambling machine manufacturer-distributor -- license -- fees. (1) It is unlawful for any person to assemble, produce, manufacture, sell,--or--distribute supply, or repair any video draw-poker gambling machine or associated equipment for use or play in

this the state without having first been issued a video gambling machine manufacturer-distributor's license by the department.

(2) The department shall charge an annual license fee of \$1,000 for the issuance or renewal of a video gambling machine manufacturer-distributor's license.

(3) In addition to other license fees, the department may charge the applicant a one-time video gambling machine manufacturer-distributor's license application processing fee. The processing fee may not exceed the department's actual costs for processing an application.

(4) All video gambling machine manufacturer-distributor's licenses expire on June 30 of each year, and the license fee may not be prorated.

(5) The department shall retain the license and processing fees collected for purposes of administering this part, except-23-5-615 unless otherwise provided."

Section 53. Section 23-5-610, MCA, is amended to read:

"23-5-610. Video draw-poker-and-keno gambling machine net income tax -- records -- distribution -- quarterly statement and payment. (1) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER THIS PART shall pay to the department a video draw-poker-and-keno gambling machine tax of 15% of net machine income from each video draw-poker-and-keno gambling machine licensed under this part.

(2) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER THIS PART shall keep a record of net machine income in such form as the department may require. The records must at all times during the business hours of the licensee be subject to inspection by the department, ~~its agents, or employees.~~

(3) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER THIS PART shall, within 15 days after the end of each quarter, complete and deliver to the department a statement showing the total net machine income from each video ~~draw~~ draw poker--and--keno gambling machine licensed to him, together with the total amount due the state as video ~~draw-poker--and~~ keno gambling machine net income tax for the preceding quarter. The statement must contain such other relevant information as the department may require.

(4) (a) The department ~~must--deposit~~ shall forward one-third of the tax collected under subsection (3) ~~in to~~ the general fund.

(b) The department ~~must~~ shall forward the remaining two-thirds of the tax collected under subsection (3) to the treasurer of the incorporated county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county or municipal treasury. Counties are not entitled to proceeds from taxes on income from video ~~draw-poker-and-keno gambling~~ machines located in incorporated cities and towns. The

two-thirds local government portion of tax collected under subsection (3) is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury."

Section 54. Section 23-5-608, MCA, is amended to read:

"23-5-608. Limitation on amount of money played and value of prizes -- payment of credits in cash. (1) A video ~~draw-poker-or-keno gambling~~ machine may not allow more than \$2 to be played on a game or award free games or credits in excess of the ~~value-of-\$100-per-hand~~ following amounts:

(a) \$100 a-hand-or-\$800 a game for a video draw poker machine; and

(b) \$800 a game for a video keno or bingo machine.

(2) Each A licensee shall pay in cash all credits owed to a player as shown on a valid ticket voucher ~~provided-in~~ 23-5-606(4)(k)."

Section 55. Section 23-5-607, MCA, is amended to read:

"23-5-607. Expected payback -- verification. The department shall prescribe the expected payback value of one credit played awarded to be at least 80% of the value of a one credit played. Each video ~~draw-poker-or-keno gambling~~ machine must have an electronic accounting device that the department may use to verify the winning percentage. ~~The department--may--not-publish-or-otherwise-disseminate-income figures--and--other--statistics--obtained--in--the--payback~~

verification--process--or--contained-in-payback-verification reports-in-a--manner--that--allows--or--helps--a--person--to identify--a--particular--machine--or--to--match-a-particular machine-with-a-particular-income-or-statistic:"

NEW SECTION. Section 56. Video gambling machines -- hours of play ---penalty. {1} A video gambling machine may not be played between the hours of 2 a.m. and 8 a.m. each day. However,--in--the--jurisdiction--of--a--local-government where-the--video--gambling--machine--is--played,--the--local government-may-adopt-an-ordinance-defining-the-hours-of-play within-that-jurisdiction:

{2}--A--violation--of--this--section--is--a-misdemeanor punishable-under-{section-23};

Section 57. Section 23-5-613, MCA, is amended to read:

"23-5-613. Investigations-and--violations Violations. {1}--The---department---or---duly---authorized---department representatives-shall-make-necessary-investigations,--suspend or-revoke-state-licenses-for-violations-of-this-part,--except 23-5-615,--and-hold-hearings-on-such-matters,--A--license--may be--suspended-prior-to-a-hearing-upon-a-finding-of-danger-to public-health-and-welfare-but-may-not-be-revoked--until--the hearing-is-completed.

{2}--A Unless otherwise provided in this part, a violation of this part,--except--23-5-615, or a rule promulgated under--23-5-605 by the department is a criminal

offense,--and-a-fine-not-to--exceed--\$10,000--for--the--first violation--and--\$15,000--for--a-subsequent-violation-must-be imposed misdemeanor punishable under [section 23].

{3}--If-a-video--draw--poker--machine--is--operated--in violation--of--this--part,--except-23-5-615,--it-may-be-seized under-23-5-121-and-the-provisions-of-23-5-122-apply.

{4}--Employees-of-the--department--or--duly--authorized department--representatives-designated-as-enforcement-agents may-investigate-the-background-of-license-applicants-to--the extent-judged-necessary-by-the-department,--but-no-person-may be--investigated--prior--to-his-submission-of-an-application for-a-license;

{5}--(a)-Findings-of-suspected-illegal-activity-must-be reported-to-the-appropriate-law-enforcement-agency;

(b)--The-clerk-of-the-court-shall,--upon-final--judgment of--conviction--of--a-licensee,--report-to-the-department-the name-of-the-licensee-convicted-of-violating-a-local-gambling ordinance;

(c)--On-receipt-of--such--report,--the--department--may commence--proceedings--to--revoke--or-suspend-the-licensee's video-draw-poker-license;

{6}--Any-peace-officer--of--this--state--may--arrest--a person--for--tampering--with--a--video--draw--poker-machine, attempting-or-conspiring-to-manipulate-the--outcome--or--the payoff--of--a--video-draw-poker-machine,--or-manipulating-the

outcome-or-payoff-of-a-video-draw-poker-machine-by--physical
tampering--or-other-interference-with-the-proper-functioning
of-the-machine."

NEW SECTION. Section 58. Tampering with or
manipulating video gambling machine -- penalty. (1) It-is-a
felony-to A PERSON COMMITS THE OFFENSE OF TAMPERING WITH A
VIDEO GAMBLING MACHINE IF HE PURPOSELY OR KNOWINGLY
manipulate MANIPULATES or attempt ATTEMPTS or conspire
CONSPIRES to manipulate the outcome or payoff of a video
gambling machine by physical tampering or other interference
with the proper functioning of the machine.

(2) A violation of this section is a felony and must
be punished in accordance with [section 24].

Section 59. Section 23-5-503, MCA, is amended to read:

"23-5-503. Rules. (1) The card used for recording the
pool and upon which the squares or spaces appear shall
clearly state indicate in advance of the sale of any chances
the number of chances to be sold in that specific pool, the
name of the event, the consideration to be paid for each
chance, and the total amount to be paid to the winners.

(2) No A chance to participate in a sports pool may
not be sold other than upon the premises in which the sports
pool is conducted. No An individual chance to participate in
a sports pool shall may not be sold for a consideration in
excess of ~~\$1 \$10~~ \$1 \$5, and the total amount to be paid to

the winners of any individual sports pool shall may not
exceed the value of ~~\$100 \$500~~. The winner of any sports pool
shall receive a 100% payout of the value of the sports
pool."

Section 60. Section 23-5-509, MCA, is amended to read:

"23-5-509. Penalty. Every A person who willfully
purposely or knowingly violates or who procures, aids, or
abets in the willful a violation of this part shall--be
deemed is guilty of a misdemeanor and-upon-conviction-shall
be--punished--by--a--fine--of--not--more--than--\$1,000--or
imprisonment--in-the-county-jail-for-not-more-than-3-months,
or-both punishable pursuant to [section 23]."

Section 61. Section 23-5-1101, MCA, is amended to
read:

"23-5-1101. Definition. As used in this part,
"Calcutta pool" means a form of auction pool in--which
persons--bid--or-wager-money--with-winnings-awarded-based-on
the-outcome--of--an--event--except--that conducted by an
organization qualified for exemption under 26 U.S.C.
501(c)(3) or (c)(4) and authorized by the department. The
Calcutta pool must be an auction pool in which:

- (1) a person's wager is equal to his bid;
- (2) the organization conducting the pool has no direct
interest in the pool;
- (3) the rules of the pool are publicly posted;

(4) no more than one wager for each competitor is allowed;

(5) at least 50% of the total pool is paid out in prizes;

(6) persons may not bid or wager money on any elementary school or high school sports event; and

(7) the underlying event has more than two entrants."

Section 62. Section 23-5-1105, MCA, is amended to read:

"23-5-1105. Penalty. Any A person who violates a provision of this part is guilty of a misdemeanor and upon conviction shall be fined not more than \$1,000 or imprisoned in the county jail for a term not to exceed 3 months, or both punishable pursuant to [section 23]."

Section 63. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations definition--requisites for validity--(1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment;

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3);

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section;

(3) The following laws are the only laws containing statutory appropriations: 2-9-202, 2-17-105, 2-18-812, 10-3-203, 10-3-312, 10-3-314, 10-4-301, 13-37-304, 15-25-123, 15-31-702, 15-36-112, 15-65-121, 15-70-101, 16-1-404, 16-1-410, 16-1-411, 17-3-212, 17-5-404, 17-5-424, 17-5-804, 19-8-504, 19-9-702, 19-9-1007, 19-10-205, 19-10-305, 19-10-506, 19-11-512, 19-11-513, 19-11-606, 19-12-301, 19-13-604, 20-4-109, 20-6-406, 20-8-111, 23-5-610, [section 29], [section 39], 23-5-1027, 33-31-212, 33-31-401, 37-51-501, 39-71-2504, 53-6-150, 53-24-206, 67-3-205, 75-1-1101, 75-7-305, 76-12-123, 80-2-103, 80-2-228, 82-11-136, 90-3-301, 90-3-302, 90-3-412, 90-4-215, 90-9-306, 90-15-103, section 13, House Bill No. 861, laws of 1985, and section 17, Chapter 454, laws of 1987.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations as due that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount

sufficient--to--pay-the-principal-and-interest-as-due-on-the
bonds-or-notes-have-statutory--appropriation--authority--for
such-payments--{in-subsection-{3}}--pursuant-to-sec-15-Ch-
607-b-1987-the-inclusion-of-15-65-121-terminates-june-30-
1989--pursuant-to-sec-18-Ch-664-b-1987-the-inclusion
of-39-71-2584-terminates-june-30-1991--and-pursuant-to-sec-
6-Ch-454-b-1987-the-inclusion-of-sec-17-Ch--454-b-
1987-terminates-july-17-1988-}"

NEW SECTION. **SECTION 63.** EXEMPTION FROM SUNRISE
PROVISIONS. THE PROVISIONS OF TITLE 2, CHAPTER 8, PART 2,
AND 5-4-207 DO NOT APPLY TO [THIS ACT].

NEW SECTION. **SECTION 64.** GAMING ADVISORY COUNCIL --
ALLOCATION -- COMPOSITION -- COMPENSATION -- ANNUAL REPORT.

(1) THERE IS A GAMING ADVISORY COUNCIL.

(2) THE GAMING ADVISORY COUNCIL IS ALLOCATED TO THE
DEPARTMENT FOR ADMINISTRATIVE PURPOSES ONLY AS PRESCRIBED IN
2-15-121.

(3) THE GAMING ADVISORY COUNCIL CONSISTS OF NINE
MEMBERS. ONE MEMBER MUST BE FROM THE SENATE, AND ONE MEMBER
MUST BE FROM THE HOUSE OF REPRESENTATIVES. THE SENATE
COMMITTEE ON COMMITTEES AND THE SPEAKER OF THE HOUSE OF
REPRESENTATIVES SHALL APPOINT THE LEGISLATIVE MEMBERS OF THE
COUNCIL. THE SEVEN REMAINING MEMBERS MUST BE APPOINTED BY
THE DEPARTMENT, WITH TWO REPRESENTING THE PUBLIC AT LARGE,
TWO REPRESENTING LOCAL GOVERNMENTS, AND THREE REPRESENTING

THE GAMING INDUSTRY.

(4) EACH GAMING ADVISORY COUNCIL MEMBER IS APPOINTED
TO A 2-YEAR TERM OF OFFICE. A MEMBER OF THE COUNCIL MAY BE
REMOVED FOR GOOD CAUSE BY THE APPOINTING BODY PROVIDED FOR
IN SUBSECTION (3).

(5) THE GAMING ADVISORY COUNCIL SHALL APPOINT A
CHAIRMAN FROM ITS MEMBERS.

(6) LEGISLATIVE MEMBERS OF THE GAMING ADVISORY COUNCIL
ARE ENTITLED TO COMPENSATION AND EXPENSES, AS PROVIDED IN
5-2-302, WHILE THE COUNCIL IS MEETING. THE REMAINING MEMBERS
ARE ENTITLED TO TRAVEL, MEALS, AND LODGING EXPENSES AS
PROVIDED FOR IN 2-18-501 THROUGH 2-18-503. EXPENSES OF THE
COUNCIL MUST BE PAID FROM LICENSING FEES RECEIVED BY THE
DEPARTMENT.

(7) THE GAMING ADVISORY COUNCIL SHALL, WITHIN ITS
AUTHORIZED BUDGET, HOLD MEETINGS AND INCUR EXPENSES AS IT
CONSIDERS NECESSARY TO STUDY ALL ASPECTS OF GAMBLING IN THE
STATE.

(8) (A) THE GAMING ADVISORY COUNCIL SHALL SUBMIT AN
ANNUAL REPORT TO THE DEPARTMENT, AT A TIME DESIGNATED BY THE
DEPARTMENT, WITH RECOMMENDATIONS FOR AMENDMENTS TO THE
GAMBLING STATUTES, THE NEED FOR ADDITIONAL OR MODIFIED
DEPARTMENT RULES, THE CLARIFICATION OF EXISTING RULES, AND
OTHER RECOMMENDATIONS ON THE OPERATION OF THE DEPARTMENT OR
ANY OTHER GAMBLING-RELATED MATTER.

1 (B) THE ANNUAL REPORT REQUIRED UNDER SUBSECTION (8)(A)
 2 MUST BE AFFIXED TO THE ANNUAL DEPARTMENT REPORT ON GAMBLING
 3 IN THE STATE.

4 (C) THE COUNCIL MAY SUBMIT INTERIM REPORTS TO THE
 5 DEPARTMENT AS THE COUNCIL CONSIDERS NECESSARY.

6 (D) THE COUNCIL SHALL MEET WITH THE DEPARTMENT UPON
 7 REQUEST OF THE DEPARTMENT.

8 (E) THE DEPARTMENT SHALL MEET WITH THE COUNCIL UPON
 9 REQUEST OF THE COUNCIL.

10 NEW SECTION. Section 65. Reorganization procedure.
 11 The provisions of sections 2-15-131 through 2-15-137 govern
 12 the transfer of the various functions contained in [this
 13 act] from the department of commerce to the department of
 14 justice.

15 NEW SECTION. Section 66. Implementation. (1) The
 16 governor shall by executive order implement the provisions
 17 of [this act].

18 (2) The governor may by executive order assign to the
 19 department of justice in a manner consistent with [this act]
 20 functions allocated to the department of commerce by the
 21 51st legislature relating to the implementation of Title 23,
 22 chapter 5, parts 1 through 6, that are not transferred by
 23 [this act].

24 NEW SECTION. Section 67. Repealer. Sections 23-5-105
 25 through 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124

1 through 23-5-127, 23-5-132 through 23-5-134, 23-5-141
 2 through 23-5-144, 23-5-201 through 23-5-211, 23-5-301
 3 through 23-5-303, 23-5-314 through 23-5-316, 23-5-322,
 4 23-5-323, 23-5-332, 23-5-401 through 23-5-403, 23-5-411,
 5 23-5-415 through 23-5-418, 23-5-421 through 23-5-423,
 6 23-5-504 through 23-5-508, 23-5-510, 23-5-511, 23-5-601,
 7 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618,
 8 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103,
 9 23-5-1104, MCA, are repealed.

10 NEW SECTION. Section 68. Extension of authority. Any
 11 existing authority to make rules on the subject of the
 12 provisions of [this act] is extended to the provisions of
 13 [this act].

14 NEW SECTION. Section 69. Codification instruction.
 15 (1) [Sections 1, 2, 4 through 8, 10 through 12, 16, 18
 16 through 20, and 23 through 25] are intended to be codified
 17 as an integral part of Title 23, chapter 5, part 1, and the
 18 provisions of Title 23, chapter 5, part 1, apply to
 19 [sections 1, 2, 4 through 8, 10 through 12, 16, 18 through
 20 20, and 23 through 25].

21 (2) [Sections 27 through 29 and 32] are intended to be
 22 codified as an integral part of Title 23, chapter 5, part 3,
 23 and the provisions of Title 23, chapter 5, part 3, apply to
 24 [sections 27 through 29 and 32].

25 (3) [Sections 35 through 39 and 43] are intended to be

1 codified as an integral part of Title 23, chapter 5, part 4,
2 and the provisions of Title 23, chapter 5, part 4, apply to
3 [sections 35 through 39 and 43].

4 (4) [Sections 50, 56, and 58] are intended to be
5 codified as an integral part of Title 23, chapter 5, part 6,
6 and the provisions of Title 23, chapter 5, part 6, apply to
7 [sections 50, 56, and 58].

8 (5) The code commissioner shall recodify the
9 provisions of Title 23, chapter 5, part 11, as an integral
10 part of Title 23, chapter 5, part 2.

11 (6) [SECTION 64] IS INTENDED TO BE CODIFIED AS AN
12 INTEGRAL PART OF TITLE 2, CHAPTER 15, PART 20, AND THE
13 PROVISIONS OF TITLE 2, CHAPTER 15, APPLY TO [SECTION 64].

14 NEW SECTION. Section 70. Severability. If a part of
15 [this act] is invalid, all valid parts that are severable
16 from the invalid part remain in effect. If a part of [this
17 act] is invalid in one or more of its applications, the part
18 remains in effect in all valid applications that are
19 severable from the invalid applications.

-End-

STANDING COMMITTEE REPORT

April 10, 1989

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Mr. Speaker: We, the committee on Judiciary report that Senate Bill 431 (third reading copy -- blue), with statement of intent attached, be concurred in as amended.

Signed: 
Dave Brown, Chairman

[REP. STRIZICH WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 10.
Following: "~~APPROPRIATION,~~"
Insert: "PROVIDING FOR STATUTORY APPROPRIATION;"
2. Title, line 11.
Following: "~~17-7-502,~~"
Insert: "17-7-502,"
3. Page 3, line 13.
Strike: "and fund"
4. Page 3, line 23.
Strike: "revocable"
Following: "privilege"
Insert: "revocable only for good cause"
5. Page 3, lines 23 through 25.
Strike: "A holder" on line 23 through "granted." on line 25
6. Page 5, lines 6 through 14.
Strike: "the receptacle" on line 6 through "bingo" on line 14
Insert: "equipment that may be inspected by the department and that randomly selects the numbers or symbols"
7. Page 5, line 15.
Strike: "game of chance"
Insert: "gambling activity"
8. Page 5, line 19.
Following: "75 numbers"

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Insert: "or symbols"
Following: "One number"
Insert: "or symbol"

9. Page 5, line 21.
Following: "play"
Insert: ", except for the center square, which may be considered a free play"
Strike: "and letters"
Insert: "or symbols"

10. Page 5, lines 22 and 23.
Strike: "from a receptacle and announced by a bingo caller"

11. Page 5, line 23.
Strike: ", and"
Insert: "until"

12. Page 5, line 24.
Following: "the person"
Insert: "or persons"
Strike: "covers"
Insert: "cover"

13. Page 5, line 25.
Following: "numbers"
Insert: "or symbols"

14. Page 6, lines 1 and 2.
Strike: "licensed by the department to work as a live bingo caller"
Insert: "18 years of age or older"

15. Page 6, line 3.
Strike: "objects"
Insert: "numbers or symbols"

16. Page 7, line 15.
Following: line 14
Insert: "at least"

17. Page 7, lines 16 and 17.
Strike: "licensed by the department to work as a live keno caller"
Insert: "18 years of age or older"

18. Page 7, line 21.
Strike: "caller's"

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19. Page 11, line 9.
Following: "status"
Insert: ", with the power of search, seizure, and arrest,"
20. Page 11, lines 9 and 10.
Strike: ", regulate, and control all legal and illegal"
21. Page 11, line 12.
Following: "department"
Insert: "and to report violations to the county attorney of the county in which they occur"
22. Page 11, line 14.
Following: "department"
Insert: ", a former department employee during the first 365 days following termination of employment,"
23. Page 11, line 15.
Strike: "OTHER PERSON"
Insert: "peace officer or prosecutor"
24. Page 11, line 18.
Following: "organization"
Insert: ", other than a nonprofit corporation or organization,"
25. Page 12, line 25 through page 14, line 20.
Strike: "it appears" on line 25 through page 14, line 20
Insert: "a person has engaged or is engaging in an act or practice constituting a violation of a provision of parts 1 through 6 of this chapter or a rule or order of the department, the department may:
(a) issue a temporary order to cease and desist from the act or practice for a period not to exceed 60 days; and
(b) following notice and an opportunity for hearing, and with the right of judicial review, under the Montana Administrative Procedure Act:
(i) issue a permanent order to cease and desist from the act or practice, which order remains in effect pending judicial review;
(ii) place a licensee on probation;
(iii) suspend for a period not to exceed 180 days a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;
(iv) revoke a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;~
(v) impose a civil penalty not to exceed \$10,000 for

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- each violation, whether or not the person is licensed by the department; and
(vi) impose any combination of the penalties contained in this subsection (1)(b); and
(c) bring an action in district court for relief against the act or practice. The department may not be required to post a bond. On proper showing, the court may:
(i) issue a restraining order, a temporary or permanent injunction, or other appropriate writ;
(ii) suspend or revoke a license or permit; and
(iii) appoint a receiver or conservator for the defendant or the assets of the defendant.
(2) A civil penalty imposed under this section must be collected by the department and deposited in the state's general fund as required by 23-5-123. If a person fails to pay the civil penalty, the amount due is a lien on the person's licensed premises and gambling devices in the state and may be recovered by the department in a civil action."
26. Page 15, lines 7 through 14.
Strike: "a special" on line 7 through "problems" on line 14
Insert: "the state's general fund"
27. Page 15, line 18.
Following: "may"
Insert: ", based on information available to, required by, or supplied to the department under department rules,"
28. Page 15, line 20 through page 16, line 22.
Strike: subsection (2) in its entirety
Insert: "(2) The department shall issue a license unless the department can demonstrate that the applicant is:
(a) a person whose prior activities or criminal record:
(i) poses a threat to the public interest of the state or the effective regulation and control of gambling; or
(ii) creates a danger of illegal practices, methods, or activities in the conduct of gambling or in the carrying on of the business and financial arrangements incidental to gambling; or
(b) receiving a substantial amount of financing for the proposed operation from an unsuitable source. A lender or other source of money or credit that the department finds to meet the provisions of subsection (2)(a) may be considered an unsuitable source."
29. Page 18, line 13.
Strike: "must"
Insert: "may"

30. Page 18, line 14.
Strike: "and cannot be set aside by the court"

31. Page 19, line 23.
Following: "losses at"
Insert: "illegal"

32. Page 21, line 25.
Following: "of a"
Insert: "judgment in a"

33. Page 24, line 2.
Strike: "[SECTION 41]"
Insert: "23-5-413"

34. Page 24, line 8.
Following: "activity."
Insert: "The use of a check or credit card to pay for other goods or services in the establishment or to obtain cash is not a violation of this section."

35. Page 26, lines 13 through 16.
Strike: "An" on line 13 through line 16
Insert: "For the purposes of this section, an antique slot machine is a slot machine manufactured prior to 1950, the operation of which is exclusively mechanical in nature and is not aided in whole or in part by any electronic means."

36. Page 26, line 23.
Following: "city."
Insert: "A licensed manufacturer-distributor may possess and sell antique slot machines."

37. Page 27, line 5.
Following: "conviction"
Insert: "of a first offense"
Strike: "less"
Insert: "more"

38. Page 27, lines 5 through 7.
Strike: "or more" on line 5 through "violation" on line 7

39. Page 27, line 7.
Following: "."
Insert: "Upon a second conviction within 5 years of a first conviction, a person must be fined not more than \$1,000 or imprisoned in the county jail for not more than 6 months, or both. Upon a third conviction within 5 years of a second conviction, a person must be fined not more than \$10,000 or

imprisoned in the county jail for not more than 1 year or both. Upon a fourth conviction within 5 years of a third conviction, a person must be fined not more than \$10,000 or imprisoned in the county jail for not more than 1 year, or both, and the department shall revoke all licenses and permits the person holds under parts 1 through 6 of this chapter and the person is forever barred from receipt of any license or permit under this chapter. When 5 years have passed following a conviction, the record of that conviction may be made available only to criminal justice agencies or upon court order."

40. Page 27, lines 13 through 16.
Strike: "However" on line 13 through end of line 16

41. Page 28, line 7.
Following: "poker"
Insert: "(including jacks or better)"

42. Page 28, line 24.
Strike: "each"
Insert: "the first"

43. Page 28, line 25 through page 29, line 2.
Strike: "must be" on line 25 through "rules" on page 29, line 2
Insert: "is \$75, and the annual renewal fee is \$25"

44. Page 29, line 9.
Strike: "may"
Insert: "shall"

45. Page 29, line 11.
Following: "dealer."
Insert: "The rules must provide that a temporary license may be obtained at the place where a person locally applies for a driver's license and that the receipt received upon mailing an application for a permanent license by certified mail, return receipt requested, also constitutes a temporary license."

46. Page 29, lines 11 through 13.
Strike: "delegate" on line 11 through "authority to" on line 13
Insert: "not"
Following: "assess" on line 13
Strike: "and retain"

47. Page 30, line 1.
Following: ";"
Insert: "and"

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48. Page 30, line 2.

Strike: "\$750"

Insert: "\$500"

49. Page 30, lines 2 and 3.

Strike: "the second" on line 2 through "third and" on line 3

50. Page 30, line 17.

Following: "~~treasury~~."

Insert: "The local government portion of this fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury."

50. Page 32, line 5.

Following: "~~jurisdiction~~."

Page 39, line 24.

Page 53, line 13.

Following: "~~section 23~~."

Insert: "However, in the jurisdiction of a local government where a game is played, the local government may adopt an ordinance allowing play between 2 a.m. and 8 a.m."

52. Page 33, line 12.

Following: "and (c)(4)"

Insert: "on January 15, 1989,"

53. Page 33, line 13.

Following: "part."

Insert: "An organization qualified for exemption under that section after that date is exempt from taxation under, and need only pay one-half the license fees under, this part if the organization carries on gambling activities for no more than 60 days a calendar year and if the activities are limited to its main premises or place of operations and to events at other places operated by other charitable organizations or by a government unit or entity."

54. Page 33, line 23 through page 34, line 17.

Strike: section 37 in its entirety

Renumber: subsequent sections

55. Page 35, lines 3 and 4 and line 18.

Strike: "gross proceeds"

56. Page 35, line 7.

Strike: "gross proceeds"

Insert: "net income"

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57. Page 35, line 9.

Following: "premises."

Insert: "For purposes of this section, 'net income' means gross proceeds, as defined in 23-5-101, minus the cost of equipment, supplies, personnel, and advertising allocated to the games. If in any year 5% of net income does not equal 1% of gross proceeds, then the licensee shall pay a tax of 1% of gross proceeds."

58. Page 35, lines 10 and 16.

Following: "gross proceeds"

Insert: "and net income"

59. Page 35, lines 14 and 15.

Strike: ", within 15 days after the end of each quarter,"

Insert: "annually"

60. Page 35, line 19.

Strike: "quarter"

Insert: "year"

61. Page 36, line 5.

Following: "~~treasury~~."

Insert: "The tax collected under subsection (3) is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury."

62. Page 36, line 17.

Following: "award."

Insert: "A player may give the caller a card with instructions on the card to play that card and its marked numbers for up to the number of successive games that the house allows and that the player has indicated on the card, upon payment of the price per game times the number of successive games indicated. The caller shall keep the card until the end of the number of games indicated, and the department may by rule provide that at that time the caller shall pay the player any prizes won."

63. Page 43, line 16.

Following: "makes."

Insert: "or"

64. Page 43, lines 16 and 17.

Strike: ", or repairs"

65. Page 43, line 25.

Following: "the"

Insert: "number of approved"

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66. Page 44, line 7.
Following: "Only"
Insert: "the number of approved"

67. Page 45, line 6.
Following: "~~Only a~~"
Insert: "(a)"

68. Page 45, line 13.
Following: "premises."
Insert: "(b) A person who has been granted an operator's license under [section 11] and is not entitled to a permit under subsection (1)(a) may be granted a permit for the placement of up to two video keno or bingo gambling machines in his premises if the premises have been licensed for the sale of food, cigarettes, or any other consumable product other than liquor or beer. If only one machine is allowed under subsection (1)(c), one more may be allowed under this subsection (b)."

(c) If video keno or bingo gambling machines were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed under 16-4-401(2) or operated for the principal purpose of gaming and there is an operator's license for the premises under [section 11], a permit for the same number of video keno or bingo gambling machines as were operated on the premises on that date may be granted to the person who held the permit for such machines on those premises on that date; to an ancestor, descendant, sibling, or spouse of that person; or to a person who purchases or leases the business that is on the premises. If the business is moved to another premises, the permittee remains eligible for the same number of permits.

(d)"

69. Page 46, line 12.
Strike: "10 KENO AND BINGO"
Insert: "20"

70. Page 46, line 13.
Following: "AND"
Insert: "no more than"
Following: "10"
Insert: "may be"

71. Page 46, lines 18 through 22.
Strike: "IN THE" on line 18 through the end of line 22

72. Page 47, line 7.

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Page 10

Strike: "each"
Insert: "an approved"

73. Page 47, line 11.
Following: "machine"
Insert: "permit"

74. Page 48, line 1.
Following: "~~1989.~~"
Insert: "(4) A used keno machine may be licensed under subsection (1) without meeting the requirements of 23-5-609 if the applicant for licensure can establish to the satisfaction of the department that, on the date of application, he owns or possesses a machine that was owned or operated in the state prior to June 30, 1987. A license issued under this subsection expires for all purposes no later than June 30, 1989."

75. Page 49, line 10.
Following: "part."
Insert: "The specifications in the rules must substantially follow the specifications contained in 23-5-606 and 23-5-609 as those sections read on September 30, 1989. The department shall adopt rules allowing video gambling machines to be imported into this state and used for the purposes of trade shows, exhibitions, and similar activities."

76. Page 49, line 15.
Following: "department"
Insert: "which specification or requirement existed at the time the machine was approved"

77. Page 49, line 24.
Following: "~~distribute~~"
Insert: "or"
Following: "supply"
Strike: ", or repair"

78. Page 52, line 11.
Strike: "\$100"
Following: "a hand or 6000"
Insert: "\$800"

79. Page 53, lines 24 and 25.
Strike: "or a rule promulgated"
Strike: "by the department" on line 25

80. Page 59, line 9.

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Following: line 8

Insert: "Section 62. Section 17-7-502, MCA, is amended to read:
"17-7-502. Statutory appropriations -- definition --
requisites for validity. (1) A statutory appropriation is an
appropriation made by permanent law that authorizes spending
by a state agency without the need for a biennial
legislative appropriation or budget amendment.
(2) Except as provided in subsection (4), to be
effective, a statutory appropriation must comply with both of
the following provisions:
(a) The law containing the statutory authority must be
listed in subsection (3).
(b) The law or portion of the law making a statutory
appropriation must specifically state that a statutory
appropriation is made as provided in this section.
(3) The following laws are the only laws containing
statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-
203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-
31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410;
16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504;
19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-
512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109;
20-6-406; 20-8-111; 23-5-610; [section 29], [section 38],
23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-
6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123;
80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412;
90-4-215; 90-9-306; 90-15-103; section 13, House Bill No.
861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.
(4) There is a statutory appropriation to pay the
principal, interest, premiums, and costs of issuing, paying,
and securing all bonds, notes, or other obligations, as due,
that have been authorized and issued pursuant to the laws of
Montana. Agencies that have entered into agreements
authorized by the laws of Montana to pay the state
treasurer, for deposit in accordance with 17-2-101 through
17-2-107, as determined by the state treasurer, an amount
sufficient to pay the principal and interest as due on the
bonds or notes have statutory appropriation authority for
such payments. (In subsection (3): pursuant to sec. 15, Ch.
607, L. 1987, the inclusion of 15-65-121 terminates June 30,
1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
1987, terminates July 1, 1988.)"

Renumber: subsequent sections

81. Page 59, line 24.
Strike: "TWO"
Insert: "one"

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82. Page 59, line 25.
Following: "GOVERNMENTS,"
Insert: "one being a Native American,"

83. Page 60, line 3.
Strike: "2-YEAR"
Insert: "3-year"
Following: "OFFICE"
Insert: ", except that three of the first-appointed original
members shall serve a 1-year term, three (including both
legislative members) shall serve a 2-year term, and three
shall serve a 3-year term"

84. Page 61, line 3.
Following: "STATE."
Insert: "The department and council shall submit the two most
recent department and council reports to each of the next
two regular sessions of the legislature."

85. Page 61, line 10.
Following: line 9
Insert: "(9) The department shall give each council member
notice and a copy of each proposed change in administrative
rules relating to gambling. The notice and copy must be
given at the time a notice of proposed rules changes is
filed with the secretary of state. The council shall review
the proposal, may comment on it, and may attend any hearing
on the proposal. The department shall consider any comment
by any council member or by the council as a whole prior to
adopting the proposed change.

NEW SECTION. Section 65. Construction. In view of
Article III, section 9, of the Montana constitution, [this
act] must be strictly construed by the department and the
courts to allow only those types of gambling and gambling
activity that are specifically and clearly allowed by [this
act]."

Renumber: subsequent sections

86. Page 61, lines 13 and 20.
Following: "commerce"
Insert: "and the department of revenue"

87. Page 62, line 25.
Page 63, line 3.
Strike: "39"
Insert: "38"
Strike: "43"

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Page 13

Insert: "42"

88. Page 63, lines 4 and 7.

Strike: "50"

Insert: "49"

Strike: "56"

Insert: "55"

Strike: "58"

Insert: "57"

89. Page 63, line 14.

Following: line 13

Insert: "NEW SECTION. Section 71. Coordination instruction."

(1) The reference copy of House Bill No. 576 of the 51st legislature is amended to insert, on page 2, line 9, after "23-5-609(4) (L)", the phrase ", as that section read on September 30, 1989".

(2) The reference copy of House Bill No. 251 of the 51st legislature is amended to change "license" to "permit" on page 2, lines 2 and 13.

(3) The reference copy of House Bill No. 448 of the 51st legislature is amended to delete the amendments made to 23-5-104(1). Subsection (1) of 23-5-104 and the first sentence of 23-5-104(2) are deleted, as provided in [section 22], and the amendments to the remainder of 23-5-104 by [section 22] and House Bill No. 448 take effect."

Renumber: subsequent section

COMMITTEE OF THE WHOLE AMENDMENT
SENATE BILL 431
Representative Bruce Simon

April 12, 1989 9:53 am
Page 1 of 1

Mr. Chairman: I move to amend SENATE BILL 431 (third reading copy -- blue).

Signed: 
Representative Bruce Simon

And, that such amendment to SENATE BILL 431 read as follows:

1. Page 44, line 24.

Following: ~~"machines."~~

Insert: "(3) Machines on premises licensed to sell alcoholic beverages for consumption on the premises must be placed in the room, area, or other part of the premises in which the alcoholic beverages are sold and normally consumed."

COMMITTEE OF THE WHOLE AMENDMENT
SENATE BILL 431
Representative Jim Rice

April 12, 1989 1:17 pm
Page 1 of 1

Mr. Chairman: I move to amend SENATE BILL 431 (third reading copy -- blue), as reported by the House Judiciary Committee on April 10, 1989 (green sheet).

Signed: 
Representative Jim Rice

And, that the amendment to the Judiciary Committee's amendments to SENATE BILL 431 read as follows:

1. In the House Judiciary Committee report amendment number 62 (green sheet -- page 8) amend the insert as follows:

Following: "indicated." on line 6 of the amendment

Insert: "The player must remain on the house premises until the card is played or withdrawn."

Retain the sentence beginning "The caller shall"

HOUSE

SB431

60 SB431.1

820953CW.HBV

ADOPT

REJECT

HOUSE

SB431

821317CW.HBV

ADOPT

REJECT

SENATE BILL NO. 431

INTRODUCED BY GAGE, HARPER, B. BROWN, MAZUREK,

ADDY, STRIZICH, MERCER, CRIPPEN, HANNAH,

HARP, VAN VALKENBURG

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE PUBLIC GAMBLING LAWS OF MONTANA; PROVIDING FOR LICENSURE AND REGULATION OF GAMBLING ACTIVITIES BY THE DEPARTMENT OF JUSTICE; ~~PROVIDING FOR STATUTORY APPROPRIATION; PROVIDING FOR STATUTORY APPROPRIATION; PROVIDING FOR A GAMING ADVISORY COUNCIL; AMENDING SECTIONS 17-7-502, 17-7-502,~~ 23-5-101 THROUGH 23-5-104, 23-5-108, 23-5-123, 23-5-131, 23-5-135, 23-5-311 THROUGH 23-5-313, 23-5-321, 23-5-331, 23-5-412 THROUGH 23-5-414, 23-5-431, 23-5-503, 23-5-509, 23-5-602, 23-5-603, 23-5-607, 23-5-608, 23-5-610 THROUGH 23-5-613, 23-5-616, 23-5-625, 23-5-631, 23-5-1101, AND 23-5-1105, MCA; AND REPEALING SECTIONS 23-5-105 THROUGH 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124 THROUGH 23-5-127, 23-5-132 THROUGH 23-5-134, 23-5-141 THROUGH 23-5-144, 23-5-201 THROUGH 23-5-211, 23-5-301 THROUGH 23-5-303, 23-5-314 THROUGH 23-5-316, 23-5-322, 23-5-323, 23-5-332, 23-5-401 THROUGH 23-5-403, 23-5-411, 23-5-415 THROUGH 23-5-418, 23-5-421 THROUGH 23-5-423, 23-5-504 THROUGH 23-5-508, 23-5-510, 23-5-511, 23-5-601, 23-5-605, 23-5-606, 23-5-609,

23-5-615, 23-5-617, 23-5-618, 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103, AND 23-5-1104, MCA."

STATEMENT OF INTENT

This bill requires a statement of intent because [section 7] authorizes the department of justice to adopt administrative rules to implement [this act]. [This act] is intended to provide uniform statewide regulation of gambling in Montana under the supervision of the attorney general.

It is the intent of the legislature that the department of justice adopt necessary rules to implement uniform statewide regulation of gambling in Montana consistent with the purposes and policies set forth in [section 1] of this bill.

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

NEW SECTION. Section 1. Public policy of state concerning gambling. (1) The legislature finds that for the purpose of ensuring the proper gambling environment in this state it is necessary and desirable to adopt a public policy regarding public gambling activities in Montana. The legislature therefore declares it is necessary to:

(a) create and maintain a uniform regulatory climate that assures players, owners, tourists, citizens, and others that the gambling industry in this state is fair and is not

1 influenced by corrupt persons, organizations, or practices;

2 (b) protect legal public gambling activities from
3 unscrupulous players and vendors and detrimental influences;

4 (c) protect the public from unscrupulous proprietors
5 and operators of gambling establishments, games, and
6 devices;

7 (d) protect the state and local governments from those
8 who would conduct illegal gambling activities that deprive
9 those governments of their tax revenues;

10 (e) protect the health, safety, and welfare of all
11 citizens of this state, including those who do not gamble,
12 by regulating gambling activities; and

13 (f) promote ~~and fund~~ programs necessary to provide
14 assistance to those who are adversely affected by legalized
15 gambling, including compulsive gamblers and their families.

16 (2) The legislature adopts the policy that an
17 applicant for a license or permit or other department
18 approval under parts 1 through 6 of this chapter does not
19 have a right to the issuance of a license or permit or the
20 granting of the approval sought. The issuance of a license
21 or permit issued or other department approval granted
22 pursuant to the provisions of parts 1 through 6 of this
23 chapter is a revocable privilege REVOCABLE ONLY FOR GOOD
24 CAUSE. ~~A holder does not acquire a vested right in the~~
25 ~~license or permit issued or other department approval~~

1 granted. A license or permit issued under parts 1 through 6
2 of this chapter may not be sold, assigned, leased, or
3 transferred.

4 (3) Revenue to fund the expense of administration and
5 control of gambling as regulated by parts 1 through 6 of
6 this chapter must be derived solely from fees, taxes, and
7 penalties on gambling activities, except the gambling
8 activities of the Montana state lottery and the parimutuel
9 industry.

10 NEW SECTION. Section 2. General application. This
11 chapter applies only to public gambling activities within
12 the state of Montana.

13 Section 3. Section 23-5-101, MCA, is amended to read:

14 "23-5-101. Definitions. Unless the context requires
15 otherwise, the following definitions apply to parts 1
16 through 6 of this chapter:

17 (1) A slot machine is defined as a machine operated by
18 inserting a coin, token, chip, trade check, or paper
19 currency therein by the player and from the play of which he
20 obtains or may obtain money, checks, chips, tokens, or paper
21 currency redeemable in money. Merchandise vending machines
22 where the element of chance does not enter into their
23 operation are not within the provisions of this part.
24 "Applicant" means a person who has applied for a license or
25 permit issued by the department pursuant to parts 1 through

6 of this chapter.

(2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

(3) "Authorized equipment" means, with respect to live keno or bingo, ~~the receptacle and numbered objects drawn from it, the master board upon which such objects are placed as drawn, the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them, the boards or signs, however operated, used to announce or display the numbers or designations as they are drawn, public address system, and all other articles essential to the operation, conduct, and playing of live keno or bingo~~ EQUIPMENT THAT MAY BE INSPECTED BY THE DEPARTMENT AND THAT RANDOMLY SELECTS THE NUMBERS OR SYMBOLS.

(4) "Bingo" means a ~~game of chance~~ GAMBLING ACTIVITY played for prizes with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. No more than 75 numbers OR SYMBOLS may be used. One number OR SYMBOL must appear in each square, ~~except for the center square which is considered a free play,~~ EXCEPT FOR THE CENTER SQUARE, WHICH MAY BE CONSIDERED A FREE PLAY. Numbers ~~and letters~~ OR SYMBOLS are

~~RANDOMLY drawn from a receptacle and announced by a bingo caller using authorized equipment, and UNTIL the game is won by the person OR PERSONS who first covers COVER a previously designated arrangement of numbers OR SYMBOLS on the bingo card.~~

(5) "Bingo caller" means a person ~~licensed by the department to work as a live bingo caller~~ 18 YEARS OF AGE OR OLDER who, using authorized equipment, announces the order of the objects NUMBERS OR SYMBOLS drawn in live bingo.

(6) "Card game table" or "table" means a live card game table authorized by permit and made available to the public on the premises of a licensed gambling operator.

(7) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

(8) "Department" means the department of justice.

(9) "Distributor" means a person who:

(a) purchases or obtains from another person equipment of any kind for use in gambling activities; and

(b) sells, leases, or otherwise furnishes the equipment to another person for use in public.

(10) "Gambling" or "gambling activity" means risking money, credit, deposit, check, property, or any other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise.

1 (11) "Gambling device" means a mechanical,
 2 electromechanical, or electronic device, machine, slot
 3 machine, instrument, apparatus, contrivance, scheme, or
 4 system USED OR INTENDED FOR USE IN ANY GAMBLING ACTIVITY.

5 (12) "Gambling enterprise" means an activity, scheme,
 6 or agreement or an attempted activity, scheme, or agreement
 7 to provide gambling or a gambling device to the public.

8 (13) "GROSS PROCEEDS" MEANS GROSS REVENUE RECEIVED LESS
 9 PRIZES PAID OUT.

10 {13}(14) "Illegal gambling device" means a gambling
 11 device not specifically authorized by statute or by the
 12 rules of the department.

13 {14}(15) "Illegal gambling enterprise" means a gambling
 14 enterprise that violates a statute or a rule of the
 15 department.

16 {15}(16) "Keno" means a game of chance in which prizes
 17 are awarded using a card with 8 horizontal rows and 10
 18 columns on which a player may pick up to 10 numbers. A keno
 19 caller, using authorized equipment, shall select at random
 20 AT LEAST 20 numbers out of numbers between 1 and 80,
 21 inclusive.

22 {16}(17) "Keno caller" means a person licensed-by-the
 23 department-to-work-as-a-live-keno-caller 18 YEARS OF AGE OR
 24 OLDER who, using authorized equipment, announces the order
 25 of the numbers drawn in live keno.

1 {17}(18) "License" means an operator's, dealer's,
 2 caller's or manufacturer-distributor's license issued to a
 3 person by the department.

4 {18}(19) "Licensee" means a person who has received a
 5 license from the department.

6 {19}(20) "Live card game" OR "card game" or "game"
 7 means a card game that is played in public between persons
 8 on the premises of a licensed gambling operator.

9 {20}(21) "Lottery" or "gift enterprise" means a scheme,
 10 by whatever name known, for the disposal or distribution of
 11 property by chance among persons who have paid or promised
 12 to pay valuable consideration for the chance of obtaining
 13 the property or a portion of it or for a share or interest
 14 in the property upon an agreement, understanding, or
 15 expectation that it is to be distributed or disposed of by
 16 lot or chance. However, "gift enterprise" does not mean:

17 (a) lotteries authorized under part 10 of this
 18 chapter; or

19 (b) cash or merchandise attendance prizes or premiums
 20 that the county fair commissioners of agricultural fairs and
 21 rodeo associations may give away at public drawings at fairs
 22 and rodeos.

23 {21}(22) "Manufacturer" means a person who assembles
 24 from raw materials or subparts a completed piece of
 25 equipment or pieces of equipment of any kind to be used as a

1 gambling device.

2 {22}(23) "Operator" means a person who purchases,
3 receives, or acquires, by lease or otherwise, and operates
4 or controls for use in public, a gambling device or gambling
5 enterprise authorized under parts 1 through 6 of this
6 chapter.

7 {23}(24) "Permit" means approval from the department to
8 make available for public play a gambling device or gambling
9 enterprise approved by the department pursuant to parts 1
10 through 6 of this chapter.

11 {24}(25) In--addition-to-their-ordinary-meaning--the
12 words--"person" "Person" or "persons"--as-used-in-this--part,
13 include means both natural and artificial persons and all
14 partnerships, corporations, associations, clubs, fraternal
15 orders, and societies, including religious--fraternat, and
16 charitable organizations.

17 {25}(26) "Premises" means the physical building or
18 property within or upon which a licensed gambling activity
19 occurs, as stated on an operator's license application and
20 approved by the department.

21 {26}(27) "Public GAMBLING" means GAMBLING CONDUCTED IN:

22 (a) a place, building, or conveyance to which the
23 public has access or may be permitted to have access; or

24 (b) a place of public resort, including but not
25 limited to a facility owned, managed, or operated by a

1 partnership, corporation, association, club, fraternal
2 order, or society, including a religious--fraternat, or
3 charitable organization.

4 {27}(28) "Raffle" means a gift enter prise in which each
5 participant buys a chance or chances to win a prize.

6 {28}(29) "Slot machine" means a mechanical, electrical,
7 electronic, or other gambling device, contrivance, or
8 machine that, upon insertion of a coin, currency, token,
9 credit card, or similar object or upon payment of any
10 valuable consideration, is available to play or operate, the
11 play or operation of which, whether by reason of the skill
12 of the operator or application of the element of chance, or
13 both, may deliver or entitle the person playing or operating
14 the gambling device to receive cash, premiums, merchandise,
15 tokens, or anything of value, whether the payoff is made
16 automatically from the machine or in any other manner. This
17 definition does not apply to video gambling machines
18 authorized under part 6 of this chapter.

19 {29}(30) "Video gambling machine" is a gambling device
20 specifically authorized by part 6 of this chapter and the
21 rules of the department."

22 NEW SECTION. Section 4. Authority of local
23 governments to regulate gambling. (1) A local government may
24 not license, OR regulate,--or--otherwise--limit a form of
25 gambling authorized by parts 1 through 6 of this chapter OR

ASSESS OR CHARGE ANY FEES OR TAXES unless specifically authorized by statute.

(2) An incorporated city or town may enact an ordinance or resolution defining ZONING certain areas within its incorporated limits in which gambling is prohibited.

(3) A county may enact a resolution defining ZONING certain areas in the county, not within an incorporated city or town, in which gambling is prohibited.

(4) A county or incorporated city or town may not restrict the number of licenses that the department may issue.

NEW SECTION. Section 5. Department as criminal justice agency. The department is a criminal justice agency. Designated agents of the department are granted peace officer status, WITH THE POWER OF SEARCH, SEIZURE, AND ARREST, to investigate, ~~regulate, and control all legal and illegal~~ gambling activities in this state regulated by parts 1 through 6 of this chapter and the rules of the department AND TO REPORT VIOLATIONS TO THE COUNTY ATTORNEY OF THE COUNTY IN WHICH THEY OCCUR.

NEW SECTION. Section 6. Department employees -- activities prohibited. An employee of the department, A FORMER DEPARTMENT EMPLOYEE DURING THE FIRST 365 DAYS FOLLOWING TERMINATION OF EMPLOYMENT, OR ANY OTHER--PERSON PEACE OFFICER OR PROSECUTOR directly involved with the

prosecution, investigation, regulation, or licensing of gambling may not:

(1) serve as an officer or manager of a corporation or organization, OTHER THAN A NONPROFIT CORPORATION OR ORGANIZATION, that conducts a gambling activity;

(2) receive or share in, directly or indirectly, any profit of a gambling activity regulated by the department;

(3) have a beneficial or pecuniary interest in a contract for the manufacture or sale of a gambling device, the conduct of a gambling activity, or the provision of independent consultant services in connection with a gambling activity.

NEW SECTION. Section 7. Powers and duties of department -- licensing. (1) The department shall administer the provisions of parts 1 through 6 of this chapter.

(2) The department shall adopt rules to administer and implement parts 1 through 6 of this chapter.

(3) The department shall provide licensing procedures, prescribe necessary application forms, and grant or deny license applications.

(4) The department shall prescribe recordkeeping requirements for licensees, provide a procedure for inspection of records, provide a method for collection of taxes, and establish penalties for the delinquent reporting and payment of required taxes.

(5) The department may suspend, revoke, deny, or place a condition on a license issued under parts 1 through 6 of this chapter.

(6) The department may not make public or otherwise disclose information obtained in the APPLICATION OR tax reporting processes, except for general statistical reporting or studies.

(7) THE DEPARTMENT SHALL ASSESS, COLLECT, AND DISBURSE ANY FEES, TAXES, OR CHARGES AUTHORIZED UNDER PARTS 1 THROUGH 6 OF THIS CHAPTER.

NEW SECTION. Section 8. Injunction and other remedies. (1) If it appears to the department that a person has engaged in or is about to engage in an act or practice constituting a violation of a provision of parts 1 through 6 of this chapter or a rule or order of the department, it may:

(a) issue a temporary cease and desist order with reasonable notice and opportunity for hearing. Following a hearing or if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice, the department may issue a permanent cease and desist order that must remain in effect pending an appeal or judicial review by the person aggrieved by a final order of the department;

(b) bring, without the issuance of a cease and desist

order, an action in district court to enjoin the act or practice. On a proper showing, the court may grant a permanent or temporary injunction, a restraining order, or other appropriate writ and appoint a receiver or conservator for the defendant or the defendant's assets. The department may not be required to post a bond;

(c) place a licensee on probation;

(d) suspend a license for a period not to exceed 180 days;

(e) revoke a license;

(f) deny renewal of a license upon its expiration;

(g) impose a civil penalty not to exceed \$10,000 for each violation of a provision of parts 1 through 6 of this chapter or a rule of the department, whether or not the person is licensed by the department;

(h) impose a combination of the penalties provided in subsections (1)(a) through (1)(g);

(2) A fine imposed by a district court or by the department under this section must be collected by the department and deposited in the special revenue account as provided in 23-5-123.

(3) Imposition of a fine under this section is an order from which an appeal may be taken pursuant to section 12.

(4) If a person fails to pay a fine imposed under this

section, the fine is a lien on all of the assets and property of the person in the state and may be recovered by the department in a civil action.

(5) if a person fails to pay a fine imposed under this section, he may not be licensed to operate a gambling device or gambling enterprise in the state under parts 1 through 6 of this chapter. A PERSON HAS ENGAGED OR IS ENGAGING IN AN ACT OR PRACTICE CONSTITUTING A VIOLATION OF A PROVISION OF PARTS 1 THROUGH 6 OF THIS CHAPTER OR A RULE OR ORDER OF THE DEPARTMENT, THE DEPARTMENT MAY:

(A) ISSUE A TEMPORARY ORDER TO CEASE AND DESIST FROM THE ACT OR PRACTICE FOR A PERIOD NOT TO EXCEED 60 DAYS; AND

(B) FOLLOWING NOTICE AND AN OPPORTUNITY FOR HEARING, AND WITH THE RIGHT OF JUDICIAL REVIEW, UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT;

(I) ISSUE A PERMANENT ORDER TO CEASE AND DESIST FROM THE ACT OR PRACTICE, WHICH ORDER REMAINS IN EFFECT PENDING JUDICIAL REVIEW;

(II) PLACE A LICENSEE ON PROBATION;

(III) SUSPEND FOR A PERIOD NOT TO EXCEED 180 DAYS A LICENSE OR PERMIT FOR THE GAMBLING ACTIVITY, DEVICE, OR ENTERPRISE INVOLVED IN THE ACT OR PRACTICE CONSTITUTING THE VIOLATION;

(IV) REVOKE A LICENSE OR PERMIT FOR THE GAMBLING ACTIVITY, DEVICE, OR ENTERPRISE INVOLVED IN THE ACT OR

PRACTICE CONSTITUTING THE VIOLATION;

(V) IMPOSE A CIVIL PENALTY NOT TO EXCEED \$10,000 FOR EACH VIOLATION, WHETHER OR NOT THE PERSON IS LICENSED BY THE DEPARTMENT; AND

(VI) IMPOSE ANY COMBINATION OF THE PENALTIES CONTAINED IN THIS SUBSECTION (1)(B); AND

(C) BRING AN ACTION IN DISTRICT COURT FOR RELIEF AGAINST THE ACT OR PRACTICE. THE DEPARTMENT MAY NOT BE REQUIRED TO POST A BOND. ON PROPER SHOWING, THE COURT MAY:

(I) ISSUE A RESTRAINING ORDER, A TEMPORARY OR PERMANENT INJUNCTION, OR OTHER APPROPRIATE WRIT;

(II) SUSPEND OR REVOKE A LICENSE OR PERMIT; AND

(III) APPOINT A RECEIVER OR CONSERVATOR FOR THE DEFENDANT OR THE ASSETS OF THE DEFENDANT.

(2) A CIVIL PENALTY IMPOSED UNDER THIS SECTION MUST BE COLLECTED BY THE DEPARTMENT AND DEPOSITED IN THE STATE'S GENERAL FUND AS REQUIRED BY 23-5-123. IF A PERSON FAILS TO PAY THE CIVIL PENALTY, THE AMOUNT DUE IS A LIEN ON THE PERSON'S LICENSED PREMISES AND GAMBLING DEVICES IN THE STATE AND MAY BE RECOVERED BY THE DEPARTMENT IN A CIVIL ACTION.

Section 9. Section 23-5-123, MCA, is amended to read:

"23-5-123. Disposal of money confiscated by reason of violation of gambling laws. All money seized or taken by any peace officer and confiscated by order of any court, by reason of a violation of the gambling laws of the state of

~~Montana, shall be deposited with the county treasurer of the county in which such seizure and confiscation was made and shall be credited to the poor fund of the county. All fines, penalties, forfeitures, and confiscated money collected by criminal, civil, or administrative process for a violation of a provision of parts 1 through 6 of this chapter or a rule of the department must be deposited in a special revenue account for use by the department for:~~

~~(1) training law enforcement personnel in the investigation of illegal gambling activity;~~

~~(2) training persons licensed under the authority of the department; or~~

~~(3) funding programs designed to treat persons with habitual gambling problems~~ THE STATE'S GENERAL FUND."

NEW SECTION. Section 10. Qualifications for licensure. (1) A person whom the department determines is qualified to receive a license under the provisions of this chapter, except for the provisions of part 10, may, BASED ON INFORMATION AVAILABLE TO, REQUIRED BY, OR SUPPLIED TO THE DEPARTMENT UNDER DEPARTMENT RULES, be issued a state gambling license.

~~(2) The applicant has the burden of proving his qualification to receive a license.~~

(2) THE DEPARTMENT SHALL ISSUE A LICENSE UNLESS THE DEPARTMENT CAN DEMONSTRATE THAT THE APPLICANT IS:

(A) A PERSON WHOSE PRIOR ACTIVITIES OR CRIMINAL RECORD:

(I) POSES A THREAT TO THE PUBLIC INTEREST OF THE STATE OR THE EFFECTIVE REGULATION AND CONTROL OF GAMBLING; OR

(II) CREATES A DANGER OF ILLEGAL PRACTICES, METHODS, OR ACTIVITIES IN THE CONDUCT OF GAMBLING OR IN THE CARRYING ON OF THE BUSINESS AND FINANCIAL ARRANGEMENTS INCIDENTAL TO GAMBLING; OR

(B) RECEIVING A SUBSTANTIAL AMOUNT OF FINANCING FOR THE PROPOSED OPERATION FROM AN UNSUITABLE SOURCE. A LENDER OR OTHER SOURCE OF MONEY OR CREDIT THAT THE DEPARTMENT FINDS TO MEET THE PROVISIONS OF SUBSECTION (2)(A) MAY BE CONSIDERED AN UNSUITABLE SOURCE.

(3) An application for a license may not be granted unless the department is satisfied that the applicant is:

(a) a person of good character, honesty, and integrity;

(b) a person whose prior activities, criminal record, if any, reputation, habits, and associations do not:

(i) pose a threat to the public interest of the state or to the effective regulation and control of gambling; or

(ii) create or enhance the dangers A DANGER of illegal practices, methods, and activities in the conduct of gambling or in the carrying on of the business and financial arrangements incidental to the conduct of gambling; and

1 (c) in all other respects qualified to be licensed
2 consistent with the declared gambling policy of the state.

3 (4) A license to operate a gambling activity may not
4 be issued unless the applicant has demonstrated to the
5 department that:

6 (a) the applicant has adequate business probity,
7 competence, and experience; and

8 (b) the proposed financing of the entire operation is:

9 (i) adequate for the nature of the proposed operation;
10 and

11 (ii) from a suitable source. A lender or other source
12 of money or credit that the department finds does not meet
13 the standards set forth in subsection (3) may be considered
14 unsuitable.

15 **NEW SECTION. Section 11. Operator of gambling**
16 **establishment -- license -- fee.** (1) It is a misdemeanor for
17 a person who is not licensed by the department as an
18 operator to make available to the public for play a gambling
19 device or gambling enterprise.

20 (2) An operator's license must include the following
21 information:

22 (a) a description of the premises upon which the
23 gambling will take place;

24 (b) the operator's name;

25 (c) a description of each gambling device or card game

1 table licensed to the operator by the department for play
2 upon the premises, including the type of game and license
3 number or decal number for each licensed game; and

4 (d) any other relevant information determined
5 necessary by the department.

6 (3) The operator's license must be issued annually
7 along with all other licenses for gambling devices or games
8 licensed to the operator.

9 (4) The operator's license must be updated each time a
10 gambling device or card game table license is newly issued
11 or the device or game is removed from the premises.

12 (5) The department may not charge a fee for the
13 issuance of an operator's license.

14 (6) The operator's license must be prominently
15 displayed upon the premises for which it is issued.

16 **NEW SECTION. Section 12. Judicial review.** (1) (a) A
17 person aggrieved by a final order of the department may
18 obtain a review of the order in district court by filing
19 with the court, within 30 days after entry of the final
20 order, a written petition requesting that the order be
21 modified or set aside in whole or in part.

22 (b) A copy of the petition must be served upon the
23 department at the same time. When the department receives
24 the copy of the petition, it shall certify and file in court
25 a copy of the filing, testimony, and other evidence upon

1 which the final order was entered by the department. When
 2 these have been filed with the court, the court has
 3 exclusive jurisdiction to affirm, modify, enforce, or set
 4 aside the final order in whole or in part. A temporary cease
 5 and desist order from the department must MAY remain in
 6 effect ~~and cannot be set aside by the court~~ until a hearing
 7 has been held and a final order has been issued pursuant to
 8 [section 8].

9 (2) (a) The review must be conducted by the district
 10 court without a jury and must be confined to the record. In
 11 a case of alleged irregularity in procedure before the
 12 department not shown in the record, proof may be taken by
 13 the court. The court, upon request, shall hear oral argument
 14 and receive written briefs.

15 (b) The court may not substitute its judgment for that
 16 of the department as to the weight of the evidence on
 17 questions of fact. The court may affirm the decision of the
 18 department or remand the case for further proceedings. The
 19 court may reverse or modify the decision if substantial
 20 rights of the appellant have been prejudiced because the
 21 administrative findings, inferences, conclusions, or
 22 decisions are:

23 (i) in violation of a constitutional or statutory
 24 provision;

25 (ii) in excess of the statutory authority of the

1 department;

2 (iii) made upon unlawful procedure;

3 (iv) affected by other error of law;

4 (v) clearly erroneous in view of the reliable,
 5 probative, and substantial evidence on the whole record;

6 (vi) arbitrary or capricious or characterized by abuse
 7 of discretion or clearly unwarranted exercise of discretion;
 8 or

9 (vii) inadequate because findings of fact, upon issues
 10 essential to the decision, were requested but not made.

11 (3) The commencement of proceedings under this
 12 section, unless specifically ordered by the court, may not
 13 operate as a stay of the department's final order.

14 **Section 13.** Section 23-5-131, MCA, is amended to read:

15 "23-5-131. Losses at ILLEGAL gambling may be recovered
 16 in civil action. ~~If any person, by playing or betting at any~~
 17 ~~of the games prohibited by this part, loses to another~~
 18 ~~person any sum of money or thing of value and pays or~~
 19 ~~delivers the same or any part thereof to any person~~
 20 ~~connected with the operating or conducting of such game,~~
 21 ~~either as owner, dealer, or operator, the person who so~~
 22 ~~loses and pays or delivers may, at any time within 60 days~~
 23 ~~next after the loss and payment or delivery, sue for and~~
 24 ~~recover the money or thing of value so lost and paid or~~
 25 ~~delivered or any part thereof from any person having any~~

1 interest, direct or contingent, in the game as owner,
 2 backer, or otherwise, with costs of suit, by civil action
 3 before any court of competent jurisdiction, together with
 4 exemplary damages which in no case shall be less than \$500 or
 5 more than \$500, and may join as defendants in said suit all
 6 persons having any interest, direct or contingent, in such
 7 game as backer, owners, or otherwise. A person, or his
 8 dependent or guardian, who, by playing or betting at an
 9 illegal gambling device or illegal gambling enterprise,
 10 loses money, property, or any other thing of value and pays
 11 and delivers it to another person connected with the
 12 operation or conduct of the illegal gambling device or
 13 illegal gambling enterprise, within 1 year following his
 14 loss, may:

15 (1) bring a civil action in a court of competent
 16 jurisdiction to recover the loss;

17 (2) recover the costs of the civil action and
 18 exemplary damages of no less than \$500 and no more than
 19 \$5,000; and

20 (3) join as a defendant any person having an interest
 21 in the illegal gambling device or illegal gambling
 22 enterprise."

23 Section 14. Section 23-5-135, MCA, is amended to read:

24 "23-5-135. Discharge of defendant. Upon discovery and
 25 repayment of the money or other thing, the person

1 discovering and repaying the game, with costs and such an
 2 amount of exemplary damages as may be agreed upon by the
 3 parties or fixed by the court, shall be acquitted and
 4 discharged from any further or other forfeiture, punishment,
 5 penalty, or prosecution he or they may have incurred for so
 6 winning such money or thing discovered and repaid. (1) A
 7 person against whom a civil action is brought as provided in
 8 23-5-131 may move to have the action against him dismissed
 9 if he has repaid to the person who suffered the loss or his
 10 dependent the gambling loss, the costs of bringing the civil
 11 action, and the exemplary damages agreed upon by the parties
 12 or assessed by the court.

13 (2) A civil action brought to recover gambling losses
 14 does not bar or interfere with another proceeding or action,
 15 whether criminal, civil, or administrative, that may be
 16 brought under the laws of the state.

17 (3) The clerk of the court shall notify the department
 18 of a JUDGMENT IN A civil action based on a violation of a
 19 provision of this chapter."

20 Section 15. Section 23-5-102, MCA, is amended to read:

21 "23-5-102. Gambling prohibited ---penalty. Except as
 22 otherwise provided by law, a person who engages in gambling
 23 in any form with cards, dice, or other implements or devices
 24 of any kind wherein anything valuable may be wagered upon
 25 the outcome or who keeps any establishment, place,

equipment,--or--apparatus-for-such-gambling-or-any-agents-or
employees-for-such-purpose-is-guilty-of-a-misdemeanor-and-is
punishable-by-a-fine-of-not-less--than--\$100--or--more--than
\$1,000-or-imprisonment-not-less-than-3-months-or-more-than-1
year--or--by--both--such--fine-and-imprisonment specifically
authorized by statute, all forms of public gambling,
lotteries, and gift enterprises are prohibited."

NEW SECTION. Section 16. Counterfeiting or defacing
documents -- penalty. (1) A person commits the offense of
counterfeiting or defacing a document when he purposely or
knowingly counterfeits, alters, or wrongfully displays a
seal, decal, license, identification number or device, or
other document issued by the department.

(2) A person convicted of the offense of
counterfeiting or defacing a document is guilty of a felony
and must be punished in accordance with [section 24].

Section 17. Section 23-5-108, MCA, is amended to read:

"23-5-108. Soliciting or persuading persons to visit
play illegal gambling resorts device prohibited. Any person
who-persuades-or-solicits-another-to-visit-any--room--tent--
apartment--or--place--used--or--represented--by--the-person
soliciting-or-persuading-to-be-a-place-used-for-the--purpose
of-running-any-of-the-games-prohibited-by-this-part-shall-be
punished-by-a-fine-of-not-less-than-\$100-or-more-than-\$1,000
or--imprisonment--not-less-than-3-months-or-more-than-1-year

or-by-both-such-fine-and-imprisonment-in-the-county-jail. A
person who advertises for or solicits another person to play
or engage in the use of an illegal gambling device is guilty
of a misdemeanor and is punishable under [section 23]."

NEW SECTION. Section 18. Obtaining anything of value
by fraud or operation of illegal gambling device or
enterprise. (1) A person who by gambling obtains money,
property, or anything of value that does not exceed \$300 in
value by misrepresentation, fraud, or the use of an illegal
gambling device or an illegal gambling enterprise is guilty
of a misdemeanor and is punishable as provided in [section
23].

(2) A person who by gambling obtains money, property,
or anything of value that exceeds \$300 in value by
misrepresentation, fraud, or the use of an illegal gambling
device or an illegal gambling enterprise is guilty of a
felony and is punishable as provided in [section 24].

NEW SECTION. Section 19. Gambling on cash basis. (1)
In every gambling activity, EXCEPT RAFFLES AS AUTHORIZED IN
[SECTION-41] 23-5-413, the consideration paid for the chance
to play must be cash. A participant shall present the money
needed to play the game as the game is being played. A
check, credit card, note, I O U, or other evidence of
indebtedness may not be offered or accepted as part of the
price of participation in the gambling activity or as

1 payment of a debt incurred in the gambling activity. THE
 2 USE OF A CHECK OR CREDIT CARD TO PAY FOR OTHER GOODS OR
 3 SERVICES IN THE ESTABLISHMENT OR TO OBTAIN CASH IS NOT A
 4 VIOLATION OF THIS SECTION.

5 (2) A person who violates this section is guilty of a
 6 misdemeanor and must be punished in accordance with [section
 7 23].

8 NEW SECTION. Section 20. Minors not to participate --
 9 penalty. (1) A PERSON MAY NOT PURPOSELY OR KNOWINGLY ALLOW A
 10 person under 18 years of age may--not--be-permitted to
 11 participate in a gambling activity.

12 (2) A person who violates this section is guilty of a
 13 misdemeanor and must be punished in accordance with [section
 14 23].

15 **Section 21.** Section 23-5-103, MCA, is amended to read:

16 "23-5-103. Possession of illegal gambling implements
 17 device prohibited -- exception. Any (1) Except as provided
 18 in {section-22} 23-5-104 and subsection (2) of this section,
 19 it is a misdemeanor punishable under [section 23] for a
 20 person who--has to PURPOSELY OR KNOWINGLY have in his
 21 possession or under his control or who-permits to PURPOSELY
 22 OR KNOWINGLY permit to be placed, maintained, or kept in any
 23 room, space, enclosure, or building owned, leased, or
 24 occupied by him or under his management or control any-faro
 25 box,-faro--layout,-roulette-wheel,-roulette-table,-crap

1 table,-punchboard,-or-any-machine-or-apparatus-of-the-kind
 2 mentioned-in-23-5-102-is-punishable-by-a-fine--of--not--less
 3 than--\$100-or-more-than-\$1,000-and-may-be-imprisoned-for-not
 4 less-than-3-months-or-more-than-1-year-in-the-discretion--of
 5 the--court,-provided-that-this-section-shall-not an illegal
 6 gambling device. This section does not apply to a public
 7 officer or to a person coming into possession thereof of an
 8 illegal gambling device in or by reason of the performance
 9 of an official duty and holding the-same it to be disposed
 10 of according to law.

11 (2) (a) The department may adopt rules to license
 12 persons to manufacture gambling devices that are not legal
 13 for public play in the state and are manufactured only for
 14 export from the state.

15 (b) A person may not manufacture or possess an illegal
 16 gambling device for export from the state without having
 17 obtained a license from the department. The department may
 18 charge an administrative fee for the license that is
 19 commensurate with the cost of issuing the license."

20 **Section 22.** Section 23-5-104, MCA, is amended to read:

21 "23-5-104. Slot-machines--possession-unlawful--
 22 exception Possession of antique slot machines. (1) Except-as
 23 provided--in--subsections--(2) through--(5)--it shall-be-a
 24 misdemeanor-and-punishable-as hereinafter-provided--for--any
 25 person--to--use,-possess,-operate,-keep,-or-maintain-for-use

1 or-operation-or-otherwise,--anywhere--within--the--state--of
 2 Montana, any slot machine of any sort or kind whatsoever,
 3 {2}--The--provisions--of-subsection-(1)-and-23-5-121-do
 4 not-apply-to-antique-slot-machines-possessed,--located,--and
 5 used-in-accordance-with-subsections-(2)-through-(5);-For-the
 6 purposes--of--subsections--(2)--through-(5);-an-antique-slot
 7 machine-is-a-slot-machine-manufactured-prior--to--1950,--the
 8 operation--of--which-is-exclusively-mechanical-in-nature-and
 9 is-not-aided-in-whole-or-in-part-by-any-electronic-means. An
 10 antique-slot-machine-is-a-slot-machine-manufactured-prior-to
 11 1950-that-is-operated-exclusively-by-mechanical-means-and-is
 12 not-aided-in-whole-or-in-part-by-any-electrical-means. FOR
 13 THE PURPOSES OF THIS SECTION, AN ANTIQUE SLOT MACHINE IS A
 14 SLOT MACHINE MANUFACTURED PRIOR TO 1950, THE OPERATION OF
 15 WHICH IS EXCLUSIVELY MECHANICAL IN NATURE AND IS NOT AIDED
 16 IN WHOLE OR IN PART BY ANY ELECTRONIC MEANS.

17 {3}{2} Except as provided in subsection {4} (3), an
 18 antique slot machines machine may be possessed, located, and
 19 operated only in a private residential dwelling.

20 {4}{3} Antique--slot--machines An antique slot machine
 21 may be possessed or located for purposes of display only and
 22 not for operation in any public museum owned and operated by
 23 the state of Montana, or a county, or a city. A LICENSED
 24 MANUFACTURER-DISTRIBUTOR MAY POSSESS AND SELL ANTIQUE SLOT
 25 MACHINES.

1 {5}{4} No antique slot machine may be operated for any
 2 commercial or charitable purpose."

3 NEW SECTION. Section 23. Criminal liabilities --
 4 misdemeanor. A person who purposely or knowingly violates a
 5 provision of parts 1 through 6 of this chapter, the
 6 punishment of which is for a misdemeanor, must, upon
 7 conviction, OF A FIRST OFFENSE be fined not less MORE than
 8 \$500 or more than \$5,000, or imprisoned for not more than 1
 9 year, or both, for each violation. UPON A SECOND CONVICTION
 10 WITHIN 5 YEARS OF A FIRST CONVICTION, A PERSON MUST BE FINED
 11 NOT MORE THAN \$1,000 OR IMPRISONED IN THE COUNTY JAIL FOR
 12 NOT MORE THAN 6 MONTHS, OR BOTH. UPON A THIRD CONVICTION
 13 WITHIN 5 YEARS OF A SECOND CONVICTION, A PERSON MUST BE
 14 FINED NOT MORE THAN \$10,000 OR IMPRISONED IN THE COUNTY JAIL
 15 FOR NOT MORE THAN 1 YEAR, OR BOTH. UPON A FOURTH CONVICTION
 16 WITHIN 5 YEARS OF A THIRD CONVICTION, A PERSON MUST BE FINED
 17 NOT MORE THAN \$10,000 OR IMPRISONED IN THE COUNTY JAIL FOR
 18 NOT MORE THAN 1 YEAR, OR BOTH, AND THE DEPARTMENT SHALL
 19 REVOKE ALL LICENSES AND PERMITS THE PERSON HOLDS UNDER PARTS
 20 1 THROUGH 6 OF THIS CHAPTER AND THE PERSON IS FOREVER BARRED
 21 FROM RECEIPT OF ANY LICENSE OR PERMIT UNDER THIS CHAPTER.
 22 WHEN 5 YEARS HAVE PASSED FOLLOWING A CONVICTION, THE RECORD
 23 OF THAT CONVICTION MAY BE MADE AVAILABLE ONLY TO CRIMINAL
 24 JUSTICE AGENCIES OR UPON COURT ORDER.

25 NEW SECTION. Section 24. Criminal liabilities --

1 felony. A person who purposely or knowingly violates a
 2 provision of parts 1 through 6 of this chapter, the
 3 punishment for which is a felony, may upon conviction be
 4 fined not more than \$50,000 or imprisoned for not more than
 5 10 years, or both, for each violation. However, ~~if the~~
 6 ~~person previously has been convicted of a felony involving~~
 7 ~~a gambling device, gambling activity, or gambling~~
 8 ~~enterprise, he must be imprisoned for at least 2 years.~~

9 NEW SECTION. Section 25. Prosecution. The county
 10 attorney of the county in which a violation of a provision
 11 of parts 1 through 6 of this chapter occurs shall prosecute
 12 all gambling actions within the jurisdiction of the
 13 department. However, if the county attorney declines
 14 prosecution or fails to commence an action within a
 15 reasonable time, the attorney general may initiate and
 16 conduct the prosecution on behalf of the state.

17 Section 26. Section 23-5-311, MCA, is amended to read:
 18 "23-5-311. Authorized card games. ~~(1) It is unlawful~~
 19 ~~for any person to conduct or participate in any card game or~~
 20 ~~make any tables available for the playing of card games~~
 21 ~~except those card games authorized by this part.~~

22 ~~(2)(1)~~ The card games authorized by this part are and
 23 are limited to the card games known as bridge, cribbage,
 24 hearts, panguingue, pinochle, pitch, poker (INCLUDING JACKS
 25 OR BETTER), rummy, solo, and whist, ~~solo, and poker.~~

1 (2) A person may only conduct or participate in a live
 2 card game or make a live card game table available for
 3 public play of a live card game that ONLY IF IT is
 4 specifically authorized by this part and described by
 5 department rules.

6 (3) This part does not apply to games simulated on
 7 electronic video gambling machines authorized under part 6
 8 of this chapter."

9 NEW SECTION. Section 27. Presence and control of
 10 dealer. A live card game may not be played except on a live
 11 card game table in the presence and under the control of a
 12 licensed dealer on the premises of a licensed operator.

13 NEW SECTION. Section 28. Card game dealers --
 14 license. (1) A person may not deal cards in a live card game
 15 without being licensed annually by the department.

16 (2) The fee for each THE FIRST year in which the
 17 license is effective ~~must be commensurate with the~~
 18 ~~administrative costs associated with dealer licensing as~~
 19 ~~established by department rules~~ IS \$75, AND THE ANNUAL
 20 RENEWAL FEE IS \$25. The fee may not be prorated.

21 (3) The department shall retain for administrative
 22 purposes the license fee charged for the issuance of a
 23 dealer's license.

24 (4) A licensed dealer shall have on his person, and
 25 display upon request, his dealer's license when he is

1 working as a dealer.

2 (5) The department ~~may~~ SHALL adopt rules to implement
3 temporary licensing procedures until a permanent license is
4 issued to a dealer. THE RULES MUST PROVIDE THAT A TEMPORARY
5 LICENSE MAY BE OBTAINED AT THE PLACE WHERE A PERSON LOCALLY
6 APPLIES FOR A DRIVER'S LICENSE AND THAT THE RECEIPT RECEIVED
7 UPON MAILING AN APPLICATION FOR A PERMANENT LICENSE BY
8 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ALSO CONSTITUTES A
9 TEMPORARY LICENSE. The department ~~may delegate the authority~~
10 ~~to issue temporary licenses to local governments including~~
11 ~~the authority to~~ NOT assess and ~~retain~~ a fee for the
12 temporary license.

13 NEW SECTION. Section 29. Live card game table --
14 permit -- fees -- disposition of fees. (1) A person who has
15 been granted an operator's license under [section 11] and a
16 license under 16-4-401(2) to sell alcoholic beverages for
17 consumption on the premises ~~OR WHO OPERATES AN ESTABLISHMENT~~
18 ~~FOR THE PRINCIPAL PURPOSE OF GAMING AND HAS BEEN GRANTED AN~~
19 ~~OPERATOR'S LICENSE UNDER [SECTION 11]~~ may be granted an
20 annual permit for the placement of live card game tables.

21 (2) The annual permit fee in lieu of taxes for each
22 live card game table operated in a licensed operator's
23 premises may not be prorated and must be:

- 24 (a) \$250 for the first table; AND
25 (b) ~~\$150~~ \$500 for the second table; and

1 ~~(c) -- \$1,000 for the third and each additional table.~~

2 (3) The department shall retain for administrative
3 purposes \$100 of the fee collected under this part for each
4 live card game table.

5 (4) The department shall forward on a quarterly basis
6 the remaining balance of the fee collected under subsection
7 (2) to the treasurer of the county, or the clerk, finance
8 officer, or treasurer of the city or town in which the live
9 card game table is located for deposit to the county or
10 municipal treasury. A COUNTY IS NOT ENTITLED TO PROCEEDS
11 FROM FEES ASSESSED ON LIVE CARD GAME TABLES LOCATED IN
12 INCORPORATED CITIES AND TOWNS WITHIN THE COUNTY. The local
13 government portion of this fee is statutorily appropriated
14 to the department as provided in 17-7-502 for deposit to the
15 county or municipal treasury. THE LOCAL GOVERNMENT PORTION
16 OF THIS FEE IS STATUTORILY APPROPRIATED TO THE DEPARTMENT,
17 AS PROVIDED IN 17-7-502, FOR DEPOSIT TO THE COUNTY OR
18 MUNICIPAL TREASURY.

19 **Section 30.** Section 23-5-321, MCA, is amended to read:

20 "**23-5-321. Licensing** Issuance of permits by local
21 governing bodies prohibited. ~~(1) Any~~ A city, town, or county
22 may not issue licenses permits for the live card games
23 provided for or live card game tables authorized in this
24 part, ~~to be conducted on premises which have been licensed~~
25 ~~for the sale of liquor, beer, food, cigarettes, or any other~~

1 consumable--products;--Within--the--cities--or--towns;--such
 2 licenses--may--be--issued--by--the--city--or--town--council--or
 3 commission;--licenses-for-games-conducted-on-premises-outside
 4 the-limits-of-any-city-or-town-may-be-issued-by--the--county
 5 commissioners-of-the-respective-counties;--When-a-license-has
 6 been--required--by--any--city;--town;--or-county;--no-game-as
 7 provided-for-in-this-part-shall-be-conducted-on-any-premises
 8 which-have-been-licensed-for-the-sale-of-liquor;--beer;--food;
 9 cigarettes;--or-any-other--consumable--product--without--such
 10 license-having-first-been-obtained;

11 (2)--Any--governing--body--may-charge-an-annual-license
 12 fee-for-each--license--so--issued--under--this--part;--which
 13 license--fee;--if-any;--shall-expire-on-June-30-of-each-year;
 14 and-such-fee-shall-be-prorated;

15 (3)--Any-license-issued-pursuant-to-this-part-shall--be
 16 deemed--to--be--a-revocable-privilege;--and-no-holder-thereof
 17 may-acquire-any-vested-rights-therein-or-thereunder;"

18 **Section 31.** Section 23-5-312, MCA, is amended to read:

19 "23-5-312. Prizes not to exceed one three ONE THREE
 20 hundred dollars. No--prize--for--any-individual-game-shall
 21 exceed-the-value-of-\$100; A prize for an individual live
 22 card game may not exceed the value of \$300 \$100 \$300. Games
 23 shall may not be combined in any manner so as to increase
 24 the value of the ultimate prize awarded."

25 NEW SECTION. **Section 32.** Live card game tables --

1 hours of play -- restriction ---exception. Live card game
 2 tables must be closed for play between the hours of 2 a.m.
 3 and 8 a.m. each day. However;--in--the--jurisdiction--of--a
 4 local--government--where--the--table--is--located;--the-local
 5 government-may-adopt-an-ordinance-defining-the-hours-of-play
 6 within-that-jurisdiction; HOWEVER, IN THE JURISDICTION OF A
 7 LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL
 8 GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2
 9 A.M. AND 8 A.M.

10 **Section 33.** Section 23-5-313, MCA, is amended to read:

11 "23-5-313. Rules of play to be posted -- rake-off
 12 approved. Rules governing the conduct of each game shall
 13 must be prominently posted within the sight of the players
 14 at a live card game table on the premises of any--licensed
 15 establishment--where--such-game--is--conducted a licensed
 16 operator. Such The rules shall must include notice of the
 17 maximum percentage rake-off, if any, and shall must require
 18 that the person taking the rake-off do so in an obvious
 19 manner and--only--after--announcing--the--amount--of--each
 20 rake-off;--which-shall-only-be-taken--at--the--conclusion--of
 21 each--game--when--the-winner-of-each-individual-pot-has-been
 22 determined."

23 **Section 34.** Section 23-5-331, MCA, is amended to read:

24 "23-5-331. Penalty. Every A person who willfully
 25 purposely or knowingly violates or who procures, aids, or

1 abets in the--willful a violation of this part or any
 2 ordinance, resolution, or regulation rule adopted pursuant
 3 thereto--shall--be--deemed to this part is guilty of a
 4 misdemeanor and upon conviction shall be punished by a fine
 5 of not more than \$1,000 or imprisonment in the--county--jail
 6 for--not--more than 3 months, or both punishable pursuant to
 7 [section 23]."

8 **NEW SECTION. Section 35.** Authorized live bingo, keno,
 9 and raffles. (1) A person may only conduct or participate in
 10 a live bingo and keno game or raffle ONLY IF IT IS operated
 11 pursuant to this part.

12 (2) This part does not apply to a game simulated on a
 13 video gambling machine authorized by part 6 of this chapter.

14 **NEW SECTION. Section 36.** Exempt charitable
 15 organizations. An organization qualified for exemption under
 16 26 U.S.C. 501(c)(3) and (c)(4) ON JANUARY 15, 1989, is
 17 exempt from the taxation and license fees imposed by this
 18 part. AN ORGANIZATION QUALIFIED FOR EXEMPTION UNDER THAT
 19 SECTION AFTER THAT DATE IS EXEMPT FROM TAXATION UNDER, AND
 20 NEED ONLY PAY ONE-HALF THE LICENSE FEES UNDER, THIS PART IF
 21 THE ORGANIZATION CARRIES ON GAMBLING ACTIVITIES FOR NO MORE
 22 THAN 60 DAYS A CALENDAR YEAR AND IF THE ACTIVITIES ARE
 23 LIMITED TO ITS MAIN PREMISES OR PLACE OF OPERATIONS AND TO
 24 EVENTS AT OTHER PLACES OPERATED BY OTHER CHARITABLE
 25 ORGANIZATIONS OR BY A GOVERNMENT UNIT OR ENTITY. The

1 organization shall comply with other statutes and rules
 2 relating to the operation of live bingo and keno or raffles.
 3 A qualified organization shall apply to the department for a
 4 cost-free permit to conduct charitable live bingo and keno
 5 games or raffles. THE DEPARTMENT MAY REVOKE OR SUSPEND THE
 6 PERMIT OF A QUALIFIED ORGANIZATION THAT, AFTER
 7 INVESTIGATION, THE DEPARTMENT DETERMINES IS CONTRACTING WITH
 8 A NONQUALIFIED ORGANIZATION TO OPERATE LIVE BINGO, KENO, OR
 9 RAFFLES IN A PREDOMINANTLY COMMERCIAL MANNER.

10 **NEW SECTION. Section 37.** Bingo and keno callers--
 11 qualifications----license----fee--(1) A person may not act
 12 as a bingo or keno caller without being licensed annually by
 13 the department.

14 (2) The fee for each year in which the license is
 15 effective must be commensurate with the costs associated
 16 with bingo or keno caller licensing as established by
 17 department rules. The fee may not be prorated.

18 (3) The department shall retain for administrative
 19 purposes the license fee charged for the issuance of a bingo
 20 or keno caller's license.

21 (4) A bingo or keno caller shall have on his person,
 22 and display upon request, his bingo or keno caller's license
 23 whenever he is working as a bingo or keno caller.

24 (5) The department may adopt rules to implement
 25 temporary licensing procedures until a permanent license is

1 issued--The--department--may--delegate--the--authority--to--issue
2 temporary--licenses--to--local--governments--including--the
3 authority--to--assess--and--retain--a--fee--for--a--temporary
4 license.

5 NEW SECTION. Section 37. Live bingo or keno permit --
6 fees -- disposition of fees. (1) A person who has been
7 granted an operator's license may be granted an annual
8 permit by the department to conduct live bingo or keno games
9 on specified premises.

10 (2) The permit fee for each of the premises in which a
11 live bingo or keno game is conducted may not be prorated and
12 must be \$500.

13 (3) The department shall retain the permit fee for
14 administrative costs.

15 NEW SECTION. Section 38. Bingo and keno gross
16 proceeds tax -- records -- distribution -- quarterly
17 statement and payment. (1) A licensee who has received a
18 permit to operate bingo or keno games shall pay to the
19 department a tax of ~~3%~~ 5% of the gross-proceeds NET INCOME
20 from the operation of each live bingo and keno game operated
21 on his premises. FOR PURPOSES OF THIS SECTION, "NET INCOME"
22 MEANS GROSS PROCEEDS, AS DEFINED IN 23-5-101, MINUS THE COST
23 OF EQUIPMENT, SUPPLIES, PERSONNEL, AND ADVERTISING ALLOCATED
24 TO THE GAMES. IF IN ANY YEAR 5% OF NET INCOME DOES NOT EQUAL
25 1% OF GROSS PROCEEDS, THEN THE LICENSEE SHALL PAY A TAX OF

1 1% OF GROSS PROCEEDS.

2 (2) A licensee shall keep a record of gross proceeds
3 AND NET INCOME in the form the department requires. At all
4 times during the business hours of the licensee the records
5 must be available for inspection by the department.

6 (3) A licensee shall ~~within 15 days after the end of~~
7 ~~each quarter,~~ ANNUALLY complete and deliver to the
8 department a statement showing the total gross proceeds AND
9 NET INCOME for each live keno or bingo game operated by him
10 and the total amount due as live bingo or keno gross
11 proceeds tax for the preceding quarter YEAR. This statement
12 must contain any other relevant information required by the
13 department.

14 (4) The department shall forward the tax collected
15 under subsection (3) to the treasurer of the county or the
16 clerk, finance officer, or treasurer of the city or town in
17 which the licensed game is located for deposit to the county
18 or municipal treasury. A county is not entitled to proceeds
19 from taxes on live bingo or keno game located in
20 unincorporated INCORPORATED cities and towns within the
21 county. ~~The tax collected under subsection (3) is~~
22 ~~statutorily appropriated to the department as provided in~~
23 ~~17-7-502 for deposit to the county or municipal treasury.~~
24 THE TAX COLLECTED UNDER SUBSECTION (3) IS STATUTORILY
25 APPROPRIATED TO THE DEPARTMENT, AS PROVIDED IN 17-7-502, FOR

1 DEPOSIT TO THE COUNTY OR MUNICIPAL TREASURY.

2 **Section 39.** Section 23-5-412, MCA, is amended to read:

3 "23-5-412. Bingo Card prices and prizes. The price for
 4 an individual bingo or keno card may not exceed 50 cents.
 5 Bingo prizes may be paid in either tangible personal
 6 property or cash;--except--that--a--prize--must--be--paid--in
 7 tangible--personal--property--if--the--game--is--played--on--a
 8 player-operated--electronic-video-game-machine. A prize may
 9 not exceed the value of \$100 \$300 \$100 for each individual
 10 bingo award or keno card. The-price-for-an-individual-bingo
 11 card-may-not-exceed-50-cents. It shall-be is unlawful to, in
 12 any manner, combine any awards so as to increase the
 13 ultimate value of such the award. A PLAYER MAY GIVE THE
 14 CALLER A CARD WITH INSTRUCTIONS ON THE CARD TO PLAY THAT
 15 CARD AND ITS MARKED NUMBERS FOR UP TO THE NUMBER OF
 16 SUCCESSIVE GAMES THAT THE HOUSE ALLOWS AND THAT THE PLAYER
 17 HAS INDICATED ON THE CARD, UPON PAYMENT OF THE PRICE PER
 18 GAME TIMES THE NUMBER OF SUCCESSIVE GAMES INDICATED. THE
 19 PLAYER SHALL REMAIN ON THE HOUSE PREMISES UNTIL THE CARD IS
 20 PLAYED OR WITHDRAWN. THE CALLER SHALL KEEP THE CARD UNTIL
 21 THE END OF THE NUMBER OF GAMES INDICATED, AND THE DEPARTMENT
 22 MAY BY RULE PROVIDE THAT AT THAT TIME THE CALLER SHALL PAY
 23 THE PLAYER ANY PRIZES WON."

24 **Section 40.** Section 23-5-413, MCA, is amended to read:

25 "23-5-413. Raffle prizes restricted-----exception --

1 PERMITS -- EXCEPTION. (1) Raffle prizes must-be-in--tangible
 2 personal--property--only--and--not--in--money, cash, stocks,
 3 bonds,--evidences--of--indebtedness,--or--other--intangible
 4 personal--property--and must not exceed the value of \$1,000
 5 for each individual raffle card ticket. It shall-be is
 6 unlawful to, in any manner, combine any awards so as to
 7 increase the ultimate value of such-award the prize awarded
 8 for each ticket.

9 (2) A separate permit must be issued by the board of
 10 county commissioners for each raffle conducted within its
 11 jurisdiction. The permit must be issued before the raffle
 12 may be conducted. A person who has conducted a raffle must
 13 submit an accounting to the board of county commissioners
 14 within 30 days following the completion of the raffle. The
 15 sale of raffle tickets authorized by this part is restricted
 16 to events and participants within the geographic confines of
 17 the state.

18 {2}{3} (a) The restrictions of subsection (1) do not
 19 apply to a raffle conducted by a nonprofit corporation,
 20 religious corporation sole, or other nonprofit organization
 21 when if the corporation or organization is licensed
 22 permitted by the board of county commissioners to conduct
 23 the raffle. A-separate-license-shall-be-required-for--each
 24 raffle-conducted.

25 (b) The nonprofit organization or corporation seeking

1 ~~the license permission~~ under subsection ~~{2}~~(3)(a) ~~must shall~~
 2 ~~apply~~ to the board of county commissioners for the ~~license~~
 3 ~~permit~~ and ~~must~~ provide the following information:

4 (i) the cost and number of raffle tickets to be sold;

5 (ii) the charitable purposes the proceeds of the raffle
 6 are intended to benefit; and

7 (iii) the proposed prizes and their value.

8 (c) The proceeds from the sale of the raffle tickets
 9 ~~are to may~~ be used only for charitable purposes or to pay
 10 for prizes. The raffle prize must be in tangible personal
 11 property only and not in money, cash, stock, bonds, evidence
 12 of indebtedness, or other intangible personal property. None
 13 of the proceeds may be used for the administrative cost of
 14 conducting the raffle.

15 ~~{d}--The--corporation--or--organization--conducting--the~~
 16 ~~raffle--must--submit--an--accounting--to--the--board--of--county~~
 17 ~~commissioners--within--30--days--following--the--completion--of--the~~
 18 ~~raffle--The--person--or--persons--submitting--the--application--to~~
 19 ~~the--board--of--county--commissioners--along--with--the--corporation~~
 20 ~~or--organization--conducting--the--raffle--shall--be--responsible~~
 21 ~~for--submitting--the--accounting--to--the--board--of--county~~
 22 ~~commissioners--"~~

23 **Section 41.** Section 23-5-414, MCA, is amended to read:

24 **23-5-414. Restrictions on bingo, and keno, and raffles**
 25 ~~---bingo-or-keno-machines-in-establishment-limit---hours-of~~

1 ~~operation---exception.~~ {1} In the playing of live bingo or
 2 keno, ~~no~~ a person who is not physically present on the
 3 premises where the game is actually conducted ~~shall~~ may not
 4 be allowed to participate as a player in the game.

5 ~~{2}--Raffles---authorized---by---this---part---shall---be~~
 6 ~~restricted-to-events-and-participants-within-the--geographic~~
 7 ~~confines-of-the-state-of-Montana--~~

8 ~~{3}--No---establishment---may--receive--licenses--under~~
 9 ~~23-5-421-for-or-make-available-for-play-more-than--15--bingo~~
 10 ~~or--keno--machines--A--local--governing--body--however--may~~
 11 ~~restrict-the-number-of-licensed-machines-available-for--play~~
 12 ~~in-an-establishment-to-less-than-15--but-must--allow-at-least~~
 13 ~~5--~~

14 ~~{4}--(a)--Except--as--provided--in--subsection--(4)(b)--an~~
 15 ~~establishment--that--receives--a--license--to--make--a--bingo--or~~
 16 ~~keno--machine--available--for--play--must--have--the--machine--shut~~
 17 ~~off--each--day--during--the--hours--provided--in--16-3-304--for~~
 18 ~~closure---of---licensed--retail--alcoholic--beverage~~
 19 ~~establishments--~~

20 ~~{b}--A--local--governing--body--may--establish--any--hours--of~~
 21 ~~play--for--bingo--or--keno--machines--that--it--determines--proper--"~~

22 **NEW SECTION. Section 42. Hours of play --**
 23 **restrictions ---penalty.** {1} A live bingo or keno game must
 24 be closed for play between the hours of 2 a.m. and 8 a.m. of
 25 each day. ~~However--in-the-jurisdiction-of-a-local-government~~

1 ~~where the live bingo or keno game is played, the local~~
 2 ~~government may adopt an ordinance defining other hours of~~
 3 ~~play within that jurisdiction.~~

4 {2} ~~A violation of this section is a misdemeanor~~
 5 ~~punishable under {section 23}.~~ HOWEVER, IN THE JURISDICTION
 6 OF A LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL
 7 GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2
 8 A.M. AND 8 A.M.

9 **Section 43.** Section 23-5-431, MCA, is amended to read:

10 "23-5-431. Penalty Criminal penalty. Every A person
 11 who willfully purposely or knowingly violates or who
 12 procures, aids, or abets in the ~~willful~~ a violation of this
 13 part or any ordinance, resolution, or regulation rule
 14 adopted pursuant thereto ~~shall be deemed to this part is~~
 15 guilty of a misdemeanor and ~~upon conviction shall be~~
 16 ~~punished by a fine of not more than \$1,000 or imprisonment~~
 17 ~~in the county jail for not more than 3 months or both~~
 18 ~~punishable pursuant to [section 23]."~~

19 **Section 44.** Section 23-5-602, MCA, is amended to read:

20 "23-5-602. **Definitions.** As used in this part, the
 21 following definitions apply:

22 (1) "Associated equipment" means all proprietary
 23 devices, machines, or parts used in the manufacture or
 24 maintenance of a video draw ~~poker~~ gambling machine,
 25 including but not limited to integrated circuit chips,

1 printed wired assembly, printed wired boards, printing
 2 mechanisms, video display monitors, and metering devices,
 3 and cabinetry.

4 {2} ~~"Department" means the department of commerce.~~

5 (2) "Bingo machine" means an electronic video gambling
 6 machine that, upon insertion of cash, is available to play
 7 bingo as defined by rules of the department. The machine
 8 utilizes a video display and microprocessors in which, by
 9 the skill of the player, by chance, or both, the player may
 10 receive free games or credits that may be redeemed for cash.
 11 The term does not include a slot machine or a machine that
 12 directly dispenses coins, cash, tokens, or anything else of
 13 value.

14 (3) "Draw poker machine" means an electronic video
 15 gambling machine that, upon insertion of cash, is available
 16 to play or simulate the play of the game of draw poker as
 17 defined by rules of the department. The machine utilizes a
 18 video display and microprocessors in which, by the skill of
 19 the player, by chance, or both, the player may receive free
 20 games or credits that may be redeemed for cash. The term
 21 does not include a slot machine or a machine that directly
 22 dispenses coins, cash, tokens, or anything else of value.

23 {3}{4} "Keno machine" means an electronic video game
 24 gambling machine that, upon insertion of cash, is available
 25 to play or simulate the play of the game of keno or bingo as

provided--in--part--4--of--this--chapter,--utilizing defined by rules of the department. The machine utilizes a video display and microprocessors, in which, by the skill of the player, or by chance, or both, the player may receive free games or credits that can may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

{4}--"Licensed-establishment"--means:

{a}--with--respect--to--the--licensure--of--keno--machines,--an establishment--that--is--licensed--to--sell--alcoholic--beverages for--consumption--on--the--premises--or--an--establishment--licensed under--23-5-421,--and

{b}--with--respect--to--the--licensure--of--video--draw--poker machines,--an--establishment--that--is--licensed--to--sell alcoholic--beverages--for--consumption--on--the--premises.

{5}--"Licensee"---means---an--individual,--partnership, corporation,--or--association--that--has--been--issued--a--license by--the--department--for--the--placement--and--operation--of--video draw--poker--machines--or--keno--machines--in--the--licensed establishment--of--the--individual,--partnership,--corporation, or--association.

{6}--"Manufacturer-distributor"---means--an--individual, partnership,--corporation,--or--association--that--assembles, produces,--and--makes--or--supplies--video--draw--poker--machines--or associated--equipment--for--sale,--use,--or--distribution--in--this

state:

{7}{5} "Net machine income" means money put into a video draw-poker-or-keno gambling machine minus credits paid out in cash.

{8}--"Used-keno-machine"--means--a--keno--machine,--as--that term--is--defined--in--this--section,--that--is--owned--or--possessed by--an--applicant--on--the--day--he--applies--for--a--license--for--the used--machine--and--that--was--owned--or--operated--in--the--state prior--to--June--30,--1987.

{9}--"Used-video-draw-poker-machine"--means--a--video--draw poker--machine,--as--that--term--is--defined--in--this--section, which--is--owned--or--possessed--by--an--applicant--on--the--day--he applies--for--a--license--for--the--used--machine--and--which--was owned--or--operated--in--the--state--prior--to--February--3,--1984.

{10}--"Video--draw--poker--machine"---means--an--electronic video--game--machine--that,--upon--insertion--of--cash,--is available--to--play--or--simulate--the--play--of--the--game--of--draw poker,--as--provided--in--this--part,--utilizing--a--video--display and--microprocessors--in--which,--by--the--skill--of--the--player--or by--chance,--or--both,--the--player--may--receive--free--games--or credits--that--can--be--redeemed--for--cash. The term does not include a machine that directly dispenses coins, cash, tokens, or anything else of value.

{6} "Video gambling machine manufacturer-distributor" means a person who assembles, produces, makes, OR supplies

or--repairs video gambling machines or associated equipment
for sale, use, or distribution in the state."

Section 45. Section 23-5-603, MCA, is amended to read:

"23-5-603. Video draw-poker-or-keno gambling machines
-- possession -- play -- hours-of-play--- restriction. (1)
No-person-may-place-an-electronic-video--game--machine--that
simulates--or--offers-a-game-of-poker,bingo,or-keno-in-his
licensed-establishment-unless-he-is-licensed-under-23-5-612.

A person may only make available for public play ONLY the
NUMBER OF APPROVED video gambling machines specifically
authorized by this part.

(2) The video gambling machines specifically
authorized by this part are bingo, keno, and draw poker
machines. A-person-may-not-make-available-for-public-play-a
video--gambling-machine-unless-he-has-obtained-an-operator's
license. Machines--licensed Only THE NUMBER OF APPROVED
machines for which permits have been granted under 23-5-612
are-legal, and it is legal to--play--such--machines,--except
that-a-person-under-the-age-of-18-years-may-not-play-a-video
draw-poker-or-keno-machine may be made available for play by
the public on the premises of a licensed operator.

(3)--Except---as---provided---in---subsection--(3)--an
establishment-that-receives-a-license-to-make-a--video--draw
poker--machine-availabile-for-play-must-have-the-machine-shut
off-each-day-during--the--hours--provided--in--16-3-304--for

closure---of---licensed---retail---alcoholic---beverage
establishments.

(3)--A-local-governing-body-may-establish-any-hours--of
play--for--video--draw--poker--machines--that--it-determines
proper.

(4)--The-provisions-of-part-3-of-this--chapter--do--not
apply--to--or--prohibit-video-draw-poker-or-keno-machines-or
the-playing-of-such-machines.

(3) MACHINES ON PREMISES LICENSED TO SELL ALCOHOLIC
BEVERAGES FOR CONSUMPTION ON THE PREMISES MUST BE PLACED IN
THE ROOM, AREA, OR OTHER PART OF THE PREMISES IN WHICH THE
ALCOHOLIC BEVERAGES ARE SOLD AND NORMALLY CONSUMED."

Section 46. Section 23-5-611, MCA, is amended to read:

"23-5-611. State-license Machine permit qualifications
-- limitations ---right-to-hearing. (1) (a)-A-person-who-has
been--granted--a-license-under-16-4-401(2)-to-sell-alcoholic
beverages-for-consumption-on-the-premises may-be-granted--a
license--for--the--placement-of-video-draw-poker machines-in
his-licensed-establishment. Only-a (A) A person who has been
granted an operator's license under (section 11) and a
license under 16-4-401(2) to sell alcoholic beverages for
consumption on the premises OR-WHO-OPERATES-AN-ESTABLISHMENT
FOR-THE-PRINCIPAL-PURPOSE-OF-GAMING-AND-HAS-BEEN-GRANTED--AN
OPERATOR'S-LICENSE--UNDER--(SECTION--11) may be granted a
permit for the placement of video gambling machines in his

premises.

(B) A PERSON WHO HAS BEEN GRANTED AN OPERATOR'S LICENSE UNDER [SECTION 11] AND IS NOT ENTITLED TO A PERMIT UNDER SUBSECTION (1)(A) MAY BE GRANTED A PERMIT FOR THE PLACEMENT OF UP TO TWO VIDEO KENO OR BINGO GAMBLING MACHINES IN HIS PREMISES IF THE PREMISES HAVE BEEN LICENSED FOR THE SALE OF FOOD, CIGARETTES, OR ANY OTHER CONSUMABLE PRODUCT OTHER THAN LIQUOR OR BEER. IF ONLY ONE MACHINE IS ALLOWED UNDER SUBSECTION (1)(C), ONE MORE MAY BE ALLOWED UNDER THIS SUBSECTION (B).

(C) IF VIDEO KENO OR BINGO GAMBLING MACHINES WERE LEGALLY OPERATED ON A PREMISES ON JANUARY 15, 1989, AND THE PREMISES WERE NOT ON THAT DATE LICENSED UNDER 16-4-401(2) OR OPERATED FOR THE PRINCIPAL PURPOSE OF GAMING AND THERE IS AN OPERATOR'S LICENSE FOR THE PREMISES UNDER [SECTION 11], A PERMIT FOR THE SAME NUMBER OF VIDEO KENO OR BINGO GAMBLING MACHINES AS WERE OPERATED ON THE PREMISES ON THAT DATE MAY BE GRANTED TO THE PERSON WHO HELD THE PERMIT FOR SUCH MACHINES ON THOSE PREMISES ON THAT DATE; TO AN ANCESTOR, DESCENDANT, SIBLING, OR SPOUSE OF THAT PERSON; OR TO A PERSON WHO PURCHASES OR LEASES THE BUSINESS THAT IS ON THE PREMISES. IF THE BUSINESS IS MOVED TO ANOTHER PREMISES, THE PERMITEE REMAINS ELIGIBLE FOR THE SAME NUMBER OF PERMITS.

(D) A PERSON WHO LEGALLY OPERATED AN ESTABLISHMENT ON JANUARY-1 JANUARY 15, 1989, FOR THE PRINCIPAL PURPOSE OF

GAMING AND HAS BEEN GRANTED AN OPERATOR'S LICENSE UNDER [SECTION 11] MAY BE GRANTED A PERMIT FOR THE PLACEMENT OF BINGO AND KENO MACHINES IN HIS PREMISES.

(b)--Each---applicant---for---a---license---shall---on---the application-form-disclose-to-the-department---any---previous experience---or---involvement---as---an---owner---or---operator---of gambling-devices-and-establishments--Previous-experience-or involvement-includes:

(i)--controlling--of--gambling-devices--as-an-owner-or operator;

(ii)--employment-with-the-owner-or-operator-of--gambling devices;

(iii)--employment--in--establishments--where-gambling-is offered-to-the-public;--and

(iv)--conviction-of-violation-of-state-or-local-gambling laws-in-any-jurisdiction;

(2) An applicant for a permit shall disclose on the application form to the department any information required by the department consistent with the provisions of [section 10].

(2)(3) A licensee may not have on the premises or make available for play on the premises of--his---licensed establishment more than five 20 10--KENO--AND--BINGO 20 machines of any combination that-are-legal-under this-part AND NO MORE THAN 10 MAY BE DRAW POKER MACHINES. In-the

jurisdiction of a local government where video gambling machines are played, the local government may by ordinance or resolution limit the number of video gambling machines to no less than five per operator premises, in the jurisdiction of a local government where video gambling machines are played, the local government may by ordinance or resolution limit the number of video gambling machines to no less than five per operator premises and no more than allowed by this section.

{3} A person denied a state license has the right to a hearing before the department. The hearing must be conducted in accordance with the provisions of the Montana Administrative Procedure Act."

Section 47. Section 23-5-612, MCA, is amended to read:

"23-5-612. State license Machine permits -- fee -- used keno machines. (1) {a} The department, upon payment of the fee provided in subsection {1}{b} (2) and in conformance with rules adopted under 23-5-605 this part, shall issue to the licensee operator a license permit for each AN APPROVED video draw poker or keno gambling machine.

{b}(2) The department shall charge an annual license permit fee of \$100 \$200 for each video draw poker machine and \$100 for each keno gambling machine PERMIT. The department shall retain \$100 of the total license permit fee collected for purposes of administering this part, except

23-5-615. The remaining \$100 must be returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located.

(3) The license permit expires on June 30 of each year, and the fee may not be prorated.

{2} A used keno machine may be licensed under subsection (1) without meeting the requirements of 23-5-609 if the applicant for licensure can establish to the satisfaction of the department that, on the date of application, he owns or possesses a machine that was owned or operated in the state prior to June 30, 1987. A license issued under this subsection expires for all purposes no later than June 30, 1989.

(4) A USED KENO MACHINE MAY BE LICENSED UNDER SUBSECTION (1) WITHOUT MEETING THE REQUIREMENTS OF 23-5-609 IF THE APPLICANT FOR LICENSURE CAN ESTABLISH TO THE SATISFACTION OF THE DEPARTMENT THAT, ON THE DATE OF APPLICATION, HE OWNS OR POSSESSES A MACHINE THAT WAS OWNED OR OPERATED IN THE STATE PRIOR TO JUNE 30, 1987. A LICENSE ISSUED UNDER THIS SUBSECTION EXPIRES FOR ALL PURPOSES NO LATER THAN JUNE 30, 1989."

Section 48. Section 23-5-631, MCA, is amended to read:

"23-5-631. Examination and approval of new video draw poker gambling machines and associated equipment -- fee. (1) The department shall examine and may approve a new video

1 draw---poker---machines gambling machine and associated
 2 equipment which is are manufactured, sold, or distributed
 3 for use in this the state before the video draw-poker
 4 gambling machine or associated equipment is sold, played, or
 5 used.

6 (2) A video draw-poker gambling machine or associated
 7 equipment may not be examined or approved by the department
 8 until the video gambling machine manufacturer-distributor of
 9 the-machine-or-associated-equipment is licensed as required
 10 in 23-5-625.

11 (3) All video gambling machines approved by the
 12 department of commerce prior to [the effective date of this
 13 act] must be considered approved under this part.

14 ~~(3)~~(4) The department shall require the
 15 manufacturer-distributor seeking the examination and
 16 approval of a new video draw--poker gambling machine or
 17 associated equipment to pay the anticipated actual costs of
 18 the examination in advance and, after the completion of the
 19 examination, shall refund overpayments or charge and collect
 20 amounts sufficient to reimburse the department for
 21 underpayments of actual costs.

22 (5) The department may inspect and test and approve,
 23 disapprove, or place a condition upon a video gambling
 24 machine prior to its distribution and placement for play by
 25 the public."

1 NEW SECTION. Section 49. Video gambling machine
 2 specifications -- rules. The department shall adopt rules
 3 describing the video gambling machines authorized by this
 4 part and stating the specifications for video gambling
 5 machines authorized by this part. THE SPECIFICATIONS IN THE
 6 RULES MUST SUBSTANTIALLY FOLLOW THE SPECIFICATIONS CONTAINED
 7 IN 23-5-606 AND 23-5-609 AS THOSE SECTIONS READ ON SEPTEMBER
 8 30, 1989. THE DEPARTMENT SHALL ADOPT RULES ALLOWING VIDEO
 9 GAMBLING MACHINES TO BE IMPORTED INTO THIS STATE AND USED
 10 FOR THE PURPOSES OF TRADE SHOWS, EXHIBITIONS, AND SIMILAR
 11 ACTIVITIES.

12 Section 50. Section 23-5-616, MCA, is amended to read:
 13 "23-5-616. Removal of machine from public access. If a
 14 machine fails to meet the specifications and requirements of
 15 23-5-606, 23-5-607, or 23-5-608 this part or any rule of the
 16 department WHICH SPECIFICATION OR REQUIREMENT EXISTED AT THE
 17 TIME THE MACHINE WAS APPROVED at any time after its initial
 18 licensure permit has been issued, the licensee operator
 19 shall immediately remove the machine from public access
 20 until it meets all requirements."

21 Section 51. Section 23-5-625, MCA, is amended to read:
 22 "23-5-625. Manufacturer-distributor--of---video---draw
 23 poker-----machines Video gambling machine
 24 manufacturer-distributor -- license -- fees. (1) It is
 25 unlawful for any person to assemble, produce, manufacture,

~~sell, or distribute OR supply, or repair~~ any video draw poker gambling machine or associated equipment for use or play in ~~this~~ the state without having first been issued a video gambling machine manufacturer-distributor's license by the department.

(2) The department shall charge an annual license fee of \$1,000 for the issuance or renewal of a video gambling machine manufacturer-distributor's license.

(3) In addition to other license fees, the department may charge the applicant a one-time video gambling machine manufacturer-distributor's license application processing fee. The processing fee may not exceed the department's actual costs for processing an application.

(4) All video gambling machine manufacturer-distributor's licenses expire on June 30 of each year, and the license fee may not be prorated.

(5) The department shall retain the license and processing fees collected for purposes of administering this part, ~~except-23-5-615~~ unless otherwise provided."

Section 52. Section 23-5-610, MCA, is amended to read:

"23-5-610. Video draw-poker-and-keno gambling machine net income tax -- records -- distribution -- quarterly statement and payment. (1) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER THIS PART shall pay to the department a video draw-poker-and-keno gambling machine tax of 15% of

net machine income from each video draw-poker-and-keno gambling machine licensed under this part.

(2) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER THIS PART shall keep a record of net machine income in such form as the department may require. The records must at all times during the business hours of the licensee be subject to inspection by the department, ~~its agents, or employees.~~

(3) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER THIS PART shall, within 15 days after the end of each quarter, complete and deliver to the department a statement showing the total net machine income from each video draw poker--and--keno gambling machine licensed to him, together with the total amount due the state as video draw-poker--and keno gambling machine net income tax for the preceding quarter. The statement must contain ~~such~~ other relevant information as the department may require.

(4) (a) The department ~~must--deposit~~ shall forward one-third of the tax collected under subsection (3) ~~in to~~ the general fund.

(b) The department ~~must~~ shall forward the remaining two-thirds of the tax collected under subsection (3) to the treasurer of the incorporated county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county or municipal treasury. Counties are not entitled to proceeds

from taxes on income from video draw-poker-and-keno gambling machines located in incorporated cities and towns. The two-thirds local government portion of tax collected under subsection (3) is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury."

Section 53. Section 23-5-608, MCA, is amended to read:

"23-5-608. **Limitation on amount of money played and value of prizes -- payment of credits in cash.** (1) A video draw-poker-or-keno gambling machine may not allow more than \$2 to be played on a game or award free games or credits in excess of the ~~value-of-\$100-per-hand~~ following amounts:

(a) ~~\$100 a-hand-or-\$800~~ \$800 a game for a video draw poker machine; and

(b) \$800 a game for a video keno or bingo machine.

(2) Each A licensee shall pay in cash all credits owed to a player as shown on a valid ticket voucher ~~provided-in~~ 23-5-606(4)(k)."

Section 54. Section 23-5-607, MCA, is amended to read:

"23-5-607. **Expected payback -- verification.** The department shall prescribe the expected payback value of one credit played awarded to be at least 80% of the value of a one credit played. Each video draw-poker-or-keno gambling machine must have an electronic accounting device that the department may use to verify the winning percentage. The

department--may--not-publish-or-otherwise-disseminate-income figures--and--other--statistics--obtained--in--the--payback verification--process--or--contained-in-payback-verification reports-in-a-manner--that--allows--or--helps--a--person--to identify--a--particular--machine--or--to--match--a--particular machine-with-a-particular-income-or-statistic."

NEW SECTION. Section 55. Video gambling machines --

hours of play ---penalty. (1) A video gambling machine may not be played between the hours of 2 a.m. and 8 a.m. each day. However,--in--the--jurisdiction--of--a--local-government where-the--video--gambling--machine--is--played,--the--local government-may-adopt-an-ordinance-defining-the-hours-of-play within-that-jurisdiction-

(2) A--violation--of--this--section--is--a-misdemeanor punishable-under-(section-23)- HOWEVER, IN THE JURISDICTION OF A LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2 A.M. AND 8 A.M.

Section 56. Section 23-5-613, MCA, is amended to read:

"23-5-613. **Investigations--and--violations Violations.** (1)---The---department---or---duy---authorized---department representatives-shall-make-necessary-investigations,--suspend or-revoke-state-licenses-for-violations-of-this-part,--except 23-5-615,--and--hold-hearings-on-such-matters.-A-license-may be-suspended-prior-to-a-hearing-upon-a-finding-of-danger--to

1 public--health--and-welfare-but-may-not-be-revoked-until-the
2 hearing-is-completed-

3 {2}--A Unless otherwise provided in this part, a
4 violation of this part, except 23-5-615, or a rule
5 promulgated under 23-5-605 by the department is a criminal
6 offense, and a fine not to exceed \$10,000 for the first
7 violation and \$15,000 for a subsequent violation must be
8 imposed misdemeanor punishable under [section 23].

9 {3}--If a video draw poker machine is operated in
10 violation of this part, except 23-5-615, it may be seized
11 under 23-5-121 and the provisions of 23-5-122 apply.

12 {4}--Employees of the department or duly authorized
13 department representatives designated as enforcement agents
14 may investigate the background of license applicants to the
15 extent judged necessary by the department, but no person may
16 be investigated prior to his submission of an application
17 for a license.

18 {5}--(a) Findings of suspected illegal activity must be
19 reported to the appropriate law enforcement agency.

20 {b}--The clerk of the court shall, upon final judgment
21 of conviction of a licensee, report to the department the
22 name of the licensee convicted of violating a local gambling
23 ordinance.

24 {c}--On receipt of such report, the department may
25 commence proceedings to revoke or suspend the licensee's

1 video-draw-poker-license.

2 {6}--Any peace officer of this state may arrest a
3 person for tampering with a video draw poker machine,
4 attempting or conspiring to manipulate the outcome or the
5 payoff of a video draw poker machine, or manipulating the
6 outcome or payoff of a video draw poker machine by physical
7 tampering or other interference with the proper functioning
8 of the machine."

9 NEW SECTION. Section 57. Tampering with or
10 manipulating video gambling machine -- penalty. (1) It is a
11 felony to a PERSON COMMITS THE OFFENSE OF TAMPERING WITH A
12 VIDEO GAMBLING MACHINE IF HE PURPOSELY OR KNOWINGLY
13 manipulate MANIPULATES or attempt ATTEMPTS or conspire
14 CONSPIRES to manipulate the outcome or payoff of a video
15 gambling machine by physical tampering or other interference
16 with the proper functioning of the machine.

17 (2) A violation of this section is a felony and must
18 be punished in accordance with [section 24].

19 Section 58. Section 23-5-503, MCA, is amended to read:

20 "23-5-503. Rules. (1) The card used for recording the
21 pool and upon which the squares or spaces appear shall
22 clearly state indicate in advance of the sale of any chances
23 the number of chances to be sold in that specific pool, the
24 name of the event, the consideration to be paid for each
25 chance, and the total amount to be paid to the winners.

(2) No A chance to participate in a sports pool may not be sold other than upon the premises in which the sports pool is conducted. No An individual chance to participate in a sports pool ~~shall~~ may not be sold for a consideration in excess of ~~\$1 \$10 \$1 \$5~~, and the total amount to be paid to the winners of any individual sports pool ~~shall~~ may not exceed the value of ~~\$100 \$500~~. The winner of any sports pool shall receive a 100% payout of the value of the sports pool."

Section 59. Section 23-5-509, MCA, is amended to read:

"23-5-509. **Penalty.** Every A person who ~~willfully~~ purposely or knowingly violates or who procures, aids, or abets in the ~~willful~~ a violation of this part ~~shall be~~ deemed is guilty of a misdemeanor ~~and upon conviction shall~~ be ~~punished by a fine of not more than \$1,000 or imprisonment in the county jail for not more than 3 months, or both punishable pursuant to [section 23].~~"

Section 60. Section 23-5-1101, MCA, is amended to read:

"23-5-1101. **Definition.** As used in this part, "Calcutta pool" means a form of auction pool ~~in which persons bid or wager money, with winnings awarded based on the outcome of an event, except that~~ conducted by an organization qualified for exemption under 26 U.S.C. 501(c)(3) or (c)(4) and authorized by the department. The

Calcutta pool must be an auction pool in which:

(1) a person's wager is equal to his bid;

(2) the organization conducting the pool has no direct interest in the pool;

(3) the rules of the pool are publicly posted;

(4) no more than one wager for each competitor is allowed;

(5) at least 50% of the total pool is paid out in prizes;

(6) persons may not bid or wager money on any elementary school or high school sports event; and

(7) the underlying event has more than two entrants."

Section 61. Section 23-5-1105, MCA, is amended to read:

"23-5-1105. **Penalty.** An A person who violates a provision of this part is guilty of a misdemeanor ~~and upon conviction shall be fined not more than \$1,000 or imprisoned in the county jail for a term not to exceed 3 months, or both punishable pursuant to [section 23].~~"

~~**Section 63.** Section 17-7-502, MCA, is amended to read:~~

~~"17-7-502. **Statutory appropriations--definition--** requisites--for--validity--(1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.~~

1 {2}--Except--as--provided--in--subsection--{4},--to--be
2 effective,--a--statutory--appropriation--must--comply--with--both
3 of--the--following--provisions:

4 {a}--The--law--containing--the--statutory--authority--must--be
5 listed--in--subsection--{3}:

6 {b}--The--law--or--portion--of--the--law--making--a--statutory
7 appropriation--must--specifically--state--that--a--statutory
8 appropriation--is--made--as--provided--in--this--section:

9 {3}--The--following--laws--are--the--only--laws--containing
10 statutory--appropriations:--2-9-202;--2-17-105;--2-18-812;
11 10-3-203;--10-3-312;--10-3-314;--10-4-301;--13-37-304;
12 15-25-123;--15-31-702;--15-36-112;--15-65-121;--15-70-101;
13 16-1-404;--16-1-410;--16-1-411;--17-3-212;--17-5-404;--17-5-424;
14 17-5-804;--19-8-504;--19-9-702;--19-9-1007;--19-10-205;
15 19-10-305;--19-10-506;--19-11-512;--19-11-513;--19-11-606;
16 19-12-301;--19-13-604;--20-4-109;--20-6-406;--20-8-111;
17 23-5-610;--~~{section-29}~~;--~~{section-39}~~;--23-5-1027;--33-31-212;
18 33-31-401;--37-51-501;--39-71-2504;--53-6-150;--53-24-206;
19 67-3-205;--75-1-1101;--75-7-305;--76-12-123;--80-2-103;
20 80-2-228;--82-11-136;--90-3-301;--90-3-302;--90-3-412;--90-4-215;
21 90-9-306;--90-15-103;--section-13;--House-Bill-Not-861;--Laws-of
22 1985;--and--section-17-Chapter-454;--Laws-of-1987:

23 {4}--There--is--a--statutory--appropriation--to--pay--the
24 principal;--interest;--premiums;--and--costs--of--issuing;--paying;
25 and--securing--all--bonds;--notes;--or--other--obligations;--as--due;

1 that--have--been--authorized--and--issued--pursuant--to--the--laws--of
2 Montana;--Agencies--that--have--entered--into--agreements
3 authorized--by--the--laws--of--Montana--to--pay--the--state
4 treasurer;--for--deposit--in--accordance--with--17-2-101--through
5 17-2-107;--as--determined--by--the--state--treasurer;--an--amount
6 sufficient--to--pay--the--principal--and--interest--as--due--on--the
7 bonds--or--notes--have--statutory--appropriation--authority--for
8 such--payments;--{in--subsection--{3}};--pursuant--to--sec;--15;--Ch;
9 607;--by--1987;--the--inclusion--of--15-65-121--terminates--June-30;
10 1989;--pursuant--to--sec;--107;--Ch;--664;--by--1987;--the--inclusion
11 of--39-71-2504--terminates--June-30;--1991;--and--pursuant--to--sec;
12 67;--Ch;--454;--by--1987;--the--inclusion--of--sec;--17;--Ch;--454;--by
13 1987;--terminates--July-1;--1988;}

14 SECTION 62. SECTION 17-7-502, MCA, IS AMENDED TO READ:

15 "17-7-502. Statutory appropriations -- definition --
16 requisites for validity. (1) A statutory appropriation is an
17 appropriation made by permanent law that authorizes spending
18 by a state agency without the need for a biennial
19 legislative appropriation or budget amendment.

20 (2) Except as provided in subsection (4), to be
21 effective, a statutory appropriation must comply with both
22 of the following provisions:

23 (a) The law containing the statutory authority must be
24 listed in subsection (3).

25 (b) The law or portion of the law making a statutory

1 appropriation must specifically state that a statutory
2 appropriation is made as provided in this section.

3 (3) The following laws are the only laws containing
4 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
5 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
6 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101;
7 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;
8 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;
9 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;
10 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111;
11 23-5-610; [section 29]; [section 38]; 23-5-1027; 33-31-212;
12 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206;
13 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103;
14 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215;
15 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of
16 1985; and section 1, Chapter 454, Laws of 1987.

17 (4) There is a statutory appropriation to pay the
18 principal, interest, premiums, and costs of issuing, paying,
19 and securing all bonds, notes, or other obligations, as due,
20 that have been authorized and issued pursuant to the laws of
21 Montana. Agencies that have entered into agreements
22 authorized by the laws of Montana to pay the state
23 treasurer, for deposit in accordance with 17-2-101 through
24 17-2-107, as determined by the state treasurer, an amount
25 sufficient to pay the principal and interest as due on the

1 bonds or notes have statutory appropriation authority for
2 such payments. (In subsection (3): pursuant to sec. 15, Ch.
3 607, L. 1987, the inclusion of 15-65-121 terminates June 30,
4 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
5 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
6 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
7 1987, terminates July 1, 1988.)"

8 NEW SECTION. SECTION 63. EXEMPTION FROM SUNRISE
9 PROVISIONS. THE PROVISIONS OF TITLE 2, CHAPTER 8, PART 2,
10 AND 5-4-207 DO NOT APPLY TO [THIS ACT].

11 NEW SECTION. SECTION 64. GAMING ADVISORY COUNCIL --
12 ALLOCATION -- COMPOSITION -- COMPENSATION -- ANNUAL REPORT.

13 (1) THERE IS A GAMING ADVISORY COUNCIL.

14 (2) THE GAMING ADVISORY COUNCIL IS ALLOCATED TO THE
15 DEPARTMENT FOR ADMINISTRATIVE PURPOSES ONLY AS PRESCRIBED IN
16 2-15-121.

17 (3) THE GAMING ADVISORY COUNCIL CONSISTS OF NINE
18 MEMBERS. ONE MEMBER MUST BE FROM THE SENATE, AND ONE MEMBER
19 MUST BE FROM THE HOUSE OF REPRESENTATIVES. THE SENATE
20 COMMITTEE ON COMMITTEES AND THE SPEAKER OF THE HOUSE OF
21 REPRESENTATIVES SHALL APPOINT THE LEGISLATIVE MEMBERS OF THE
22 COUNCIL. THE SEVEN REMAINING MEMBERS MUST BE APPOINTED BY
23 THE DEPARTMENT, WITH TWO ONE REPRESENTING THE PUBLIC AT
24 LARGE, TWO REPRESENTING LOCAL GOVERNMENTS, ONE BEING A
25 NATIVE AMERICAN, AND THREE REPRESENTING THE GAMING INDUSTRY.

(4) EACH GAMING ADVISORY COUNCIL MEMBER IS APPOINTED TO A 2-YEAR 3-YEAR TERM OF OFFICE, EXCEPT THAT THREE OF THE FIRST-APPOINTED ORIGINAL MEMBERS SHALL SERVE A 1-YEAR TERM, THREE (INCLUDING BOTH LEGISLATIVE MEMBERS) SHALL SERVE A 2-YEAR TERM, AND THREE SHALL SERVE A 3-YEAR TERM. A MEMBER OF THE COUNCIL MAY BE REMOVED FOR GOOD CAUSE BY THE APPOINTING BODY PROVIDED FOR IN SUBSECTION (3).

(5) THE GAMING ADVISORY COUNCIL SHALL APPOINT A CHAIRMAN FROM ITS MEMBERS.

(6) LEGISLATIVE MEMBERS OF THE GAMING ADVISORY COUNCIL ARE ENTITLED TO COMPENSATION AND EXPENSES, AS PROVIDED IN 5-2-302, WHILE THE COUNCIL IS MEETING. THE REMAINING MEMBERS ARE ENTITLED TO TRAVEL, MEALS, AND LODGING EXPENSES AS PROVIDED FOR IN 2-18-501 THROUGH 2-18-503. EXPENSES OF THE COUNCIL MUST BE PAID FROM LICENSING FEES RECEIVED BY THE DEPARTMENT.

(7) THE GAMING ADVISORY COUNCIL SHALL, WITHIN ITS AUTHORIZED BUDGET, HOLD MEETINGS AND INCUR EXPENSES AS IT CONSIDERS NECESSARY TO STUDY ALL ASPECTS OF GAMBLING IN THE STATE.

(8) (A) THE GAMING ADVISORY COUNCIL SHALL SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT, AT A TIME DESIGNATED BY THE DEPARTMENT, WITH RECOMMENDATIONS FOR AMENDMENTS TO THE GAMBLING STATUTES, THE NEED FOR ADDITIONAL OR MODIFIED DEPARTMENT RULES, THE CLARIFICATION OF EXISTING RULES, AND

OTHER RECOMMENDATIONS ON THE OPERATION OF THE DEPARTMENT OR ANY OTHER GAMBLING-RELATED MATTER.

(B) THE ANNUAL REPORT REQUIRED UNDER SUBSECTION (8)(A) MUST BE AFFIXED TO THE ANNUAL DEPARTMENT REPORT ON GAMBLING IN THE STATE. THE DEPARTMENT AND COUNCIL SHALL SUBMIT THE TWO MOST RECENT DEPARTMENT AND COUNCIL REPORTS TO EACH OF THE NEXT TWO REGULAR SESSIONS OF THE LEGISLATURE.

(C) THE COUNCIL MAY SUBMIT INTERIM REPORTS TO THE DEPARTMENT AS THE COUNCIL CONSIDERS NECESSARY.

(D) THE COUNCIL SHALL MEET WITH THE DEPARTMENT UPON REQUEST OF THE DEPARTMENT.

(E) THE DEPARTMENT SHALL MEET WITH THE COUNCIL UPON REQUEST OF THE COUNCIL.

(9) THE DEPARTMENT SHALL GIVE EACH COUNCIL MEMBER NOTICE AND A COPY OF EACH PROPOSED CHANGE IN ADMINISTRATIVE RULES RELATING TO GAMBLING. THE NOTICE AND COPY MUST BE GIVEN AT THE TIME A NOTICE OF PROPOSED RULES CHANGES IS FILED WITH THE SECRETARY OF STATE. THE COUNCIL SHALL REVIEW THE PROPOSAL, MAY COMMENT ON IT, AND MAY ATTEND ANY HEARING ON THE PROPOSAL. THE DEPARTMENT SHALL CONSIDER ANY COMMENT BY ANY COUNCIL MEMBER OR BY THE COUNCIL AS A WHOLE PRIOR TO ADOPTING THE PROPOSED CHANGE.

NEW SECTION. **SECTION 65.** CONSTRUCTION. IN VIEW OF ARTICLE III, SECTION 9, OF THE MONTANA CONSTITUTION, [THIS ACT] MUST BE STRICTLY CONSTRUED BY THE DEPARTMENT AND THE

1 COURTS TO ALLOW ONLY THOSE TYPES OF GAMBLING AND GAMBLING
 2 ACTIVITY THAT ARE SPECIFICALLY AND CLEARLY ALLOWED BY [THIS
 3 ACT]].

4 NEW SECTION. Section 66. Reorganization procedure.
 5 The provisions of sections 2-15-131 through 2-15-137 govern
 6 the transfer of the various functions contained in [this
 7 act] from the department of commerce AND THE DEPARTMENT OF
 8 REVENUE to the department of justice.

9 NEW SECTION. Section 67. Implementation. (1) The
 10 governor shall by executive order implement the provisions
 11 of [this act].

12 (2) The governor may by executive order assign to the
 13 department of justice in a manner consistent with [this act]
 14 functions allocated to the department of commerce AND THE
 15 DEPARTMENT OF REVENUE by the 51st legislature relating to
 16 the implementation of Title 23, chapter 5, parts 1 through
 17 6, that are not transferred by [this act].

18 NEW SECTION. Section 68. Repealer. Sections 23-5-105
 19 through 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124
 20 through 23-5-127, 23-5-132 through 23-5-134, 23-5-141
 21 through 23-5-144, 23-5-201 through 23-5-211, 23-5-301
 22 through 23-5-303, 23-5-314 through 23-5-316, 23-5-322,
 23 23-5-323, 23-5-332, 23-5-401 through 23-5-403, 23-5-411,
 24 23-5-415 through 23-5-418, 23-5-421 through 23-5-423,
 25 23-5-504 through 23-5-508, 23-5-510, 23-5-511, 23-5-601,

1 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618,
 2 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103,
 3 23-5-1104, MCA, are repealed.

4 NEW SECTION. Section 69. Extension of authority. Any
 5 existing authority to make rules on the subject of the
 6 provisions of [this act] is extended to the provisions of
 7 [this act].

8 NEW SECTION. Section 70. Codification instruction.
 9 (1) [Sections 1, 2, 4 through 8, 10 through 12, 16, 18
 10 through 20, and 23 through 25] are intended to be codified
 11 as an integral part of Title 23, chapter 5, part 1, and the
 12 provisions of Title 23, chapter 5, part 1, apply to
 13 [sections 1, 2, 4 through 8, 10 through 12, 16, 18 through
 14 20, and 23 through 25].

15 (2) [Sections 27 through 29 and 32] are intended to be
 16 codified as an integral part of Title 23, chapter 5, part 3,
 17 and the provisions of Title 23, chapter 5, part 3, apply to
 18 [sections 27 through 29 and 32].

19 (3) [Sections 35 through 39 38 and 43 42] are intended
 20 to be codified as an integral part of Title 23, chapter 5,
 21 part 4, and the provisions of Title 23, chapter 5, part 4,
 22 apply to [sections 35 through 39 38 and 43 42].

23 (4) [Sections 50 49, 56 55, and 58 57] are intended to
 24 be codified as an integral part of Title 23, chapter 5, part
 25 6, and the provisions of Title 23, chapter 5, part 6, apply

1 to [sections 50 49, 56 55, and 58 57].

2 (5) The code commissioner shall recodify the
3 provisions of Title 23, chapter 5, part 11, as an integral
4 part of Title 23, chapter 5, part 2.

5 (6) [SECTION 64] IS INTENDED TO BE CODIFIED AS AN
6 INTEGRAL PART OF TITLE 2, CHAPTER 15, PART 20, AND THE
7 PROVISIONS OF TITLE 2, CHAPTER 15, APPLY TO [SECTION 64].

8 NEW SECTION. SECTION 71. COORDINATION INSTRUCTION.

9 (1) THE REFERENCE COPY OF HOUSE BILL NO. 576 OF THE 51ST
10 LEGISLATURE IS AMENDED TO INSERT, ON PAGE 2, LINE 9, AFTER
11 "23-5-609(4)(L)", THE PHRASE ", AS THAT SECTION READ ON
12 SEPTEMBER 30, 1989".

13 (2) THE REFERENCE COPY OF HOUSE BILL NO. 251 OF THE
14 51ST LEGISLATURE IS AMENDED TO CHANGE "LICENSE" TO "PERMIT"
15 ON PAGE 2, LINES 2 AND 13.

16 (3) THE REFERENCE COPY OF HOUSE BILL NO. 448 OF THE
17 51ST LEGISLATURE IS AMENDED TO DELETE THE AMENDMENTS MADE TO
18 23-5-104(1). SUBSECTION (1) OF 23-5-104 AND THE FIRST
19 SENTENCE OF 23-5-104(2) ARE DELETED, AS PROVIDED IN [SECTION
20 22], AND THE AMENDMENTS TO THE REMAINDER OF 23-5-104 BY
21 [SECTION 22] AND HOUSE BILL NO. 448 TAKE EFFECT.

22 NEW SECTION. Section 72. Severability. If a part of
23 [this act] is invalid, all valid parts that are severable
24 from the invalid part remain in effect. If a part of [this
25 act] is invalid in one or more of its applications, the part

1 remains in effect in all valid applications that are
2 severable from the invalid applications.

-End-

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Mr President and Mr. Speaker:

We, your Free Conference Committee on SB 431 met and considered:

The House amendments to SB 431 (third reading copy -- blue) in their entirety.

We recommend that SB 431 (reference copy -- salmon) be amended as follows:

1. Title, line 11.

Following: "FOR"

Insert: "AN APPROPRIATION AND A"

2. Title, line 18.

Strike: "AND"

3. Title, page 2, line 2.

Following: "MCA"

Insert: "; AND PROVIDING EFFECTIVE DATES"

4. Page 4, line 1.

Following: "~~granted.~~"

Insert: "A holder does not acquire a vested right in the license or permit issued or other department approval granted."

5. Page 5, lines 16, 21, and 25.

Page 6, lines 4 and 9.

Strike: "OR SYMBOLS"

6. Page 5, line 22.

Strike: "OR SYMBOL"

7. Page 12, line 9.

Following: "manufacture"

Insert: ", lease,"

8. Page 15, line 12.

Following: "THE"

Insert: "gambling activity,"

Following: "ACT"

Insert: ", "

9. Page 17, line 7.

Following: "deposited"

Insert: "one-half"

10. Page 17, line 14.

Following: "FUND"

Insert: "and one-half in the general fund of the county in which the violation occurred"

11. Page 18, line 14 through page 19, line 14.

Strike: subsections (3) and (4) in their entirety

12. Page 24, lines 17 through 19.

Strike: subsection (3) in its entirety

13. Page 31, lines 24 and 25.

Strike: "(INCLUDING JACKS OR BETTER)"

14. Page 33, line 16.

Page 50, line 21.

Strike: "under 16-4-401 (2)"

15. Page 33, line 20.

Following: "tables."

Insert: "If one or more live card game tables were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed under 16-4-401(2) but were licensed on that date to sell food, cigarettes, or any other consumable product, an operator's license and an annual permit for the placement of live card game tables may be granted to the person who legally operated the premises on January 15, 1989."

16. Page 49, line 21.

Following: "operator."

Insert: "The department shall adopt rules allowing a video gambling machine that needs repair to be temporarily replaced while it is being repaired with a video gambling machine that is approved under the permit provisions of this part. A fee may not be charged for the replacement machine."

17. Page 51, lines 2 through 10.

Strike: subsection (B) in its entirety

Renumber: subsequent subsections

continued

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continued

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18. Page 51, line 13.
Strike: "UNDER 16-4-401 (2)"
Insert: "to sell alcoholic beverages for consumption on the premises"

19. Page 51, lines 19 through 23.
Strike: "; TO AN" on line 19 through "PERMITS" on line 23

20. Page 54, line 3.
Following: "located."
Insert: "The local government portion of the fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit in the local government treasury."

21. Page 59, line 13.
Strike: "\$800"
Insert: "\$100"

22. Page 61, line 3.
Following: "part."
Insert: "a person who purposely or knowingly violates or procures, aids, or abets"

23. Page 61, line 5.
Following: "department"
Insert: "or an ordinance, resolution, or rule adopted under this part"
Following: "is"
Insert: "guilty of"

24. Page 63, lines 24 and 25.
Strike: "qualified" on line 24 through "(4) and" on line 25

25. Page 64, lines 3 and 4.
Strike: subsection (2) in its entirety
Insert: "(2) the proceeds from the pool, minus administrative costs and prizes paid, are contributed to a charitable or nonprofit corporation, association, or cause."
Renumber: subsequent sections

26. Page 67, line 11.
Following: "23-5-610;"
Insert: "23-5-612;"

27. Page 72, line 4.
Following: line 3
Insert: "NEW SECTION. Section 69. Proration of certain fees. A fee imposed under 23-5-321, 23-5-421, 23-5-612, 23-5-625, or

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23-5-631 between [the effective date of this section] and October 1, 1989, must be prorated to cover only the period between the date the permit or license takes effect and October 1, 1989.

NEW SECTION. Section 70. Appropriation. The following appropriation is made from a state special revenue account to the department of justice for the purpose of implementing [this act] and administering chapter 5 of Title 23:

Fiscal year beginning July 1, 1989	\$527,081
Fiscal year beginning July 1, 1990	\$449,081"

Renumber: subsequent sections

28. Page 74.
Following: line 2
Insert: "NEW SECTION. Section 75. Effective dates. (1) [Subsection (2) of section 7 and sections 63 through 67, 69, 72, 73, and this section] are effective on passage and approval.
(2) [Section 70] is effective on July 1, 1989.
(3) The remaining sections are effective on October 1, 1989."

And that this Conference Committee Report be adopted.

FOR THE SENATE

FOR THE HOUSE

Sen. Gage, Chairman

Rep. Dave Brown, Chairman

Sen. Bob Brown

Rep. Strizich

Sen. Mazurek

Rep. Gould

SENATE BILL NO. 431

INTRODUCED BY GAGE, HARPER, B. BROWN, MAZUREK,

ADDY, STRIZICH, MERCER, CRIPPEN, HANNAH,

HARP, VAN VALKENBURG

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE PUBLIC GAMBLING LAWS OF MONTANA; PROVIDING FOR LICENSURE AND REGULATION OF GAMBLING ACTIVITIES BY THE DEPARTMENT OF JUSTICE; ~~PROVIDING FOR A STATUTORY APPROPRIATION; PROVIDING FOR AN APPROPRIATION AND A STATUTORY APPROPRIATION; PROVIDING FOR A GAMING ADVISORY COUNCIL;~~ AMENDING SECTIONS 17-7-502, 17-7-502, 23-5-101 THROUGH 23-5-104, 23-5-108, 23-5-123, 23-5-131, 23-5-135, 23-5-311 THROUGH 23-5-313, 23-5-321, 23-5-331, 23-5-412 THROUGH 23-5-414, 23-5-431, 23-5-503, 23-5-509, 23-5-602, 23-5-603, 23-5-607, 23-5-608, 23-5-610 THROUGH 23-5-613, 23-5-616, 23-5-625, 23-5-631, 23-5-1101, AND 23-5-1105, MCA; AND REPEALING SECTIONS 23-5-105 THROUGH 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124 THROUGH 23-5-127, 23-5-132 THROUGH 23-5-134, 23-5-141 THROUGH 23-5-144, 23-5-201 THROUGH 23-5-211, 23-5-301 THROUGH 23-5-303, 23-5-314 THROUGH 23-5-316, 23-5-322, 23-5-323, 23-5-332, 23-5-401 THROUGH 23-5-403, 23-5-411, 23-5-415 THROUGH 23-5-418, 23-5-421 THROUGH 23-5-423, 23-5-504 THROUGH 23-5-508, 23-5-510, 23-5-511,

23-5-601, 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618, 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103, AND 23-5-1104, MCA; AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

This bill requires a statement of intent because [section 7] authorizes the department of justice to adopt administrative rules to implement [this act]. [This act] is intended to provide uniform statewide regulation of gambling in Montana under the supervision of the attorney general.

It is the intent of the legislature that the department of justice adopt necessary rules to implement uniform statewide regulation of gambling in Montana consistent with the purposes and policies set forth in [section 1] of this bill.

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

NEW SECTION. **Section 1.** Public policy of state concerning gambling. (1) The legislature finds that for the purpose of ensuring the proper gambling environment in this state it is necessary and desirable to adopt a public policy regarding public gambling activities in Montana. The legislature therefore declares it is necessary to:

(a) create and maintain a uniform regulatory climate that assures players, owners, tourists, citizens, and others

1 that the gambling industry in this state is fair and is not
2 influenced by corrupt persons, organizations, or practices;

3 (b) protect legal public gambling activities from
4 unscrupulous players and vendors and detrimental influences;

5 (c) protect the public from unscrupulous proprietors
6 and operators of gambling establishments, games, and
7 devices;

8 (d) protect the state and local governments from those
9 who would conduct illegal gambling activities that deprive
10 those governments of their tax revenues;

11 (e) protect the health, safety, and welfare of all
12 citizens of this state, including those who do not gamble,
13 by regulating gambling activities; and

14 (f) promote ~~and--fund~~ programs necessary to provide
15 assistance to those who are adversely affected by legalized
16 gambling, including compulsive gamblers and their families.

17 (2) The legislature adopts the policy that an
18 applicant for a license or permit or other department
19 approval under parts 1 through 6 of this chapter does not
20 have a right to the issuance of a license or permit or the
21 granting of the approval sought. The issuance of a license
22 or permit issued or other department approval granted
23 pursuant to the provisions of parts 1 through 6 of this
24 chapter is a revocable privilege REVOCABLE ONLY FOR GOOD
25 CAUSE. ~~A holder does not--acquire--a--vested--right--in--the~~

1 ~~license--or--permit--issued--or--other--department--approval~~
2 ~~granted. A HOLDER DOES NOT ACQUIRE A VESTED RIGHT IN THE~~
3 ~~LICENSE OR PERMIT ISSUED OR OTHER DEPARTMENT APPROVAL~~
4 GRANTED. A license or permit issued under parts 1 through 6
5 of this chapter may not be sold, assigned, leased, or
6 transferred.

7 (3) Revenue to fund the expense of administration and
8 control of gambling as regulated by parts 1 through 6 of
9 this chapter must be derived solely from fees, taxes, and
10 penalties on gambling activities, except the gambling
11 activities of the Montana state lottery and the parimutuel
12 industry.

13 NEW SECTION. Section 2. General application. This
14 chapter applies only to public gambling activities within
15 the state of Montana.

16 Section 3. Section 23-5-101, MCA, is amended to read:

17 "23-5-101. Definitions. Unless the context requires
18 otherwise, the following definitions apply to parts 1
19 through 6 of this chapter:

20 (1) ~~A slot machine is defined as a machine operated by~~
21 ~~inserting--a--coin,--token,--chip,--trade--check,--or--paper~~
22 ~~currency--therein--by--the--player--and--from--the--play--of--which--he~~
23 ~~obtains--or--may--obtain--money,--checks,--chips,--tokens,--or--paper~~
24 ~~currency--redeemable--in--money,--Merchandise--vending--machines~~
25 ~~where--the--element--of--chance--does--not--enter--into--their~~

1 operation--are--not--within--the--provisions--of--this-part.
 2 "Applicant" means a person who has applied for a license or
 3 permit issued by the department pursuant to parts 1 through
 4 6 of this chapter.

5 (2) "Application" means a written request for a
 6 license or permit issued by the department. The department
 7 shall adopt rules describing the forms and information
 8 required for issuance of a license.

9 (3) "Authorized equipment" means, with respect to live
 10 keno or bingo, the--receptacle-and-numbered-objects-drawn
 11 from-it,--the-master-board-upon-which-such-objects-are-placed
 12 as-drawn,--the-cards--or--sheets--bearing--numbers--or--other
 13 designations--to--be--covered--and-the-objects-used-to-cover
 14 them,--the--boards--or--signs,--however--operated,--used--to
 15 announce--or-display-the-numbers-or-designations-as-they-are
 16 drawn,--public-address-system,--and--all--other--articles
 17 essential--to--the--operation,--conduct,--and-playing-of-live
 18 keno-or--bingo EQUIPMENT THAT MAY BE INSPECTED BY THE
 19 DEPARTMENT AND THAT RANDOMLY SELECTS THE NUMBERS OR-SYMBOLS.

20 (4) "Bingo" means a game-of-chance GAMBLING ACTIVITY
 21 played for prizes with a card bearing a printed design of 5
 22 columns of 5 squares each, 25 squares in all. The letters
 23 B-I-N-G-O must appear above the design, with each letter
 24 above one of the columns. No more than 75 numbers OR-SYMBOLS
 25 may be used. One number OR-SYMBOL must appear in each

1 square, except for the center square which is--considered--a
 2 free--play, EXCEPT FOR THE CENTER SQUARE, WHICH MAY BE
 3 CONSIDERED A FREE PLAY. Numbers and-letters OR-SYMBOLS are
 4 RANDOMLY drawn from--a-receptacle-and-announced-by-a-bingo
 5 caller using authorized equipment, and UNTIL the game is won
 6 by the person OR PERSONS who first covers COVER a previously
 7 designated arrangement of numbers OR-SYMBOLS on the bingo
 8 card.

9 (5) "Bingo caller" means a person licensed-by-the
 10 department-to-work-as-a-live-bingo-caller 18 YEARS OF AGE OR
 11 OLDER who, using authorized equipment, announces the order
 12 of the objects NUMBERS OR-SYMBOLS drawn in live bingo.

13 (6) "Card game table" or "table" means a live card
 14 game table authorized by permit and made available to the
 15 public on the premises of a licensed gambling operator.

16 (7) "Dealer" means a person with a dealer's license
 17 issued under part 3 of this chapter.

18 (8) "Department" means the department of justice.

19 (9) "Distributor" means a person who:

20 (a) purchases or obtains from another person equipment
 21 of any kind for use in gambling activities; and

22 (b) sells, leases, or otherwise furnishes the
 23 equipment to another person for use in public.

24 (10) "Gambling" or "gambling activity" means risking
 25 money, credit, deposit, check, property, or any other thing

1 of value for a gain that is contingent in whole or in part
2 upon lot, chance, or the operation of a gambling device or
3 gambling enterprise.

4 (11) "Gambling device" means a mechanical,
5 electromechanical, or electronic device, machine, slot
6 machine, instrument, apparatus, contrivance, scheme, or
7 system USED OR INTENDED FOR USE IN ANY GAMBLING ACTIVITY.

8 (12) "Gambling enterprise" means an activity, scheme,
9 or agreement or an attempted activity, scheme, or agreement
10 to provide gambling or a gambling device to the public.

11 (13) "GROSS PROCEEDS" MEANS GROSS REVENUE RECEIVED LESS
12 PRIZES PAID OUT.

13 (14) "Illegal gambling device" means a gambling
14 device not specifically authorized by statute or by the
15 rules of the department.

16 (15) "Illegal gambling enterprise" means a gambling
17 enterprise that violates a statute or a rule of the
18 department.

19 (16) "Keno" means a game of chance in which prizes
20 are awarded using a card with 8 horizontal rows and 10
21 columns on which a player may pick up to 10 numbers. A keno
22 caller, using authorized equipment, shall select at random
23 AT LEAST 20 numbers out of numbers between 1 and 80,
24 inclusive.

25 (17) "Keno caller" means a person licensed--by--the

1 department--to-work-as-a-live-keno-caller 18 YEARS OF AGE OR
2 OLDER who, using authorized equipment, announces the order
3 of the numbers drawn in live keno.

4 (18) "License" means an operator's, dealer's,
5 caller's or manufacturer-distributor's license issued to a
6 person by the department.

7 (19) "Licensee" means a person who has received a
8 license from the department.

9 (20) "Live card game" OR "card game"--or--"game"
10 means a card game that is played in public between persons
11 on the premises of a licensed gambling operator.

12 (21) "Lottery" or "gift enterprise" means a scheme,
13 by whatever name known, for the disposal or distribution of
14 property by chance among persons who have paid or promised
15 to pay valuable consideration for the chance of obtaining
16 the property or a portion of it or for a share or interest
17 in the property upon an agreement, understanding, or
18 expectation that it is to be distributed or disposed of by
19 lot or chance. However, "gift enterprise" does not mean:

20 (a) lotteries authorized under part 10 of this
21 chapter; or

22 (b) cash or merchandise attendance prizes or premiums
23 that the county fair commissioners of agricultural fairs and
24 rodeo associations may give away at public drawings at fairs
25 and rodeos.

1 (21)(22) "Manufacturer" means a person who assembles
 2 from raw materials or subparts a completed piece of
 3 equipment or pieces of equipment of any kind to be used as a
 4 gambling device.

5 (22)(23) "Operator" means a person who purchases,
 6 receives, or acquires, by lease or otherwise, and operates
 7 or controls for use in public, a gambling device or gambling
 8 enterprise authorized under parts 1 through 6 of this
 9 chapter.

10 (23)(24) "Permit" means approval from the department to
 11 make available for public play a gambling device or gambling
 12 enterprise approved by the department pursuant to parts 1
 13 through 6 of this chapter.

14 (24)(25) In-addition-to-their-ordinary-meaning,--the
 15 words--"person" "Person" or "persons",--as-used-in-this-part,
 16 include means both natural and artificial persons and all
 17 partnerships, corporations, associations, clubs, fraternal
 18 orders, and societies, including religious,--fraternal, and
 19 charitable organizations.

20 (25)(26) "Premises" means the physical building or
 21 property within or upon which a licensed gambling activity
 22 occurs, as stated on an operator's license application and
 23 approved by the department.

24 (26)(27) "Public GAMBLING" means GAMBLING CONDUCTED IN:
 25 (a) a place, building, or conveyance to which the

1 public has access or may be permitted to have access; or

2 (b) a place of public resort, including but not
 3 limited to a facility owned, managed, or operated by a
 4 partnership, corporation, association, club, fraternal
 5 order, or society, including a religious,--fraternal, or
 6 charitable organization.

7 (27)(28) "Raffle" means a gift enterprise in which each
 8 participant buys a chance or chances to win a prize.

9 (28)(29) "Slot machine" means a mechanical, electrical,
 10 electronic, or other gambling device, contrivance, or
 11 machine that, upon insertion of a coin, currency, token,
 12 credit card, or similar object or upon payment of any
 13 valuable consideration, is available to play or operate, the
 14 play or operation of which, whether by reason of the skill
 15 of the operator or application of the element of chance, or
 16 both, may deliver or entitle the person playing or operating
 17 the gambling device to receive cash, premiums, merchandise,
 18 tokens, or anything of value, whether the payoff is made
 19 automatically from the machine or in any other manner. This
 20 definition does not apply to video gambling machines
 21 authorized under part 6 of this chapter.

22 (29)(30) "Video gambling machine" is a gambling device
 23 specifically authorized by part 6 of this chapter and the
 24 rules of the department."

25 NEW SECTION. Section 4. Authority of local

governments to regulate gambling. (1) A local government may not license, OR regulate--or--otherwise--limit a form of gambling authorized by parts 1 through 6 of this chapter OR ASSESS OR CHARGE ANY FEES OR TAXES unless specifically authorized by statute.

(2) An incorporated city or town may enact an ordinance or resolution defining ZONING certain areas within its incorporated limits in which gambling is prohibited.

(3) A county may enact a resolution defining ZONING certain areas in the county, not within an incorporated city or town, in which gambling is prohibited.

(4) A county or incorporated city or town may not restrict the number of licenses that the department may issue.

NEW SECTION. Section 5. Department as criminal justice agency. The department is a criminal justice agency. Designated agents of the department are granted peace officer status, WITH THE POWER OF SEARCH, SEIZURE, AND ARREST, to investigate ~~regulate, and control all legal and illegal~~ gambling activities in this state regulated by parts 1 through 6 of this chapter and the rules of the department AND TO REPORT VIOLATIONS TO THE COUNTY ATTORNEY OF THE COUNTY IN WHICH THEY OCCUR.

NEW SECTION. Section 6. Department employees -- activities prohibited. An employee of the department, A

FORMER DEPARTMENT EMPLOYEE DURING THE FIRST 365 DAYS FOLLOWING TERMINATION OF EMPLOYMENT, OR ANY OTHER PERSON PEACE OFFICER OR PROSECUTOR directly involved with the prosecution, investigation, regulation, or licensing of gambling may not:

(1) serve as an officer or manager of a corporation or organization, OTHER THAN A NONPROFIT CORPORATION OR ORGANIZATION, that conducts a gambling activity;

(2) receive or share in, directly or indirectly, any profit of a gambling activity regulated by the department;

(3) have a beneficial or pecuniary interest in a contract for the manufacture, LEASE, or sale of a gambling device, the conduct of a gambling activity, or the provision of independent consultant services in connection with a gambling activity.

NEW SECTION. Section 7. Powers and duties of department -- licensing. (1) The department shall administer the provisions of parts 1 through 6 of this chapter.

(2) The department shall adopt rules to administer and implement parts 1 through 6 of this chapter.

(3) The department shall provide licensing procedures, prescribe necessary application forms, and grant or deny license applications.

(4) The department shall prescribe recordkeeping requirements for licensees, provide a procedure for

inspection of records, provide a method for collection of taxes, and establish penalties for the delinquent reporting and payment of required taxes.

(5) The department may suspend, revoke, deny, or place a condition on a license issued under parts 1 through 6 of this chapter.

(6) The department may not make public or otherwise disclose information obtained in the APPLICATION OR tax reporting processes, except for general statistical reporting or studies.

(7) THE DEPARTMENT SHALL ASSESS, COLLECT, AND DISBURSE ANY FEES, TAXES, OR CHARGES AUTHORIZED UNDER PARTS 1 THROUGH 6 OF THIS CHAPTER.

NEW SECTION. Section 8. Injunction and other remedies. (1) If it appears to the department that a person has engaged in or is about to engage in an act or practice constituting a violation of a provision of parts 1 through 6 of this chapter or a rule or order of the department, it may:

(a) issue a temporary cease and desist order with reasonable notice and opportunity for hearing. Following a hearing or if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice, the department may issue a permanent cease and desist order that must remain in effect pending an appeal or

judicial review by the person aggrieved by a final order of the department.

(b) bring, without the issuance of a cease and desist order, an action in district court to enjoin the act or practice. On a proper showing, the court may grant a permanent or temporary injunction, a restraining order, or other appropriate writ and appoint a receiver or conservator for the defendant or the defendant's assets. The department may not be required to post a bond.

(c) place a licensee on probation;

(d) suspend a license for a period not to exceed 180 days;

(e) revoke a license;

(f) deny renewal of a license upon its expiration;

(g) impose a civil penalty not to exceed \$10,000 for each violation of a provision of parts 1 through 6 of this chapter or a rule of the department, whether or not the person is licensed by the department;

(h) impose a combination of the penalties provided in subsections (1)(a) through (1)(g);

(2) A fine imposed by a district court or by the department under this section must be collected by the department and deposited in the special revenue account as provided in 23-5-123.

(3) Imposition of a fine under this section is an

1 ~~order from which an appeal may be taken pursuant to {section~~
2 ~~12}-~~

3 ~~{4}--If a person fails to pay a fine imposed under this~~
4 ~~section, the fine is a lien on all of the assets and~~
5 ~~property of the person in the state and may be recovered by~~
6 ~~the department in a civil action:~~

7 ~~{5}--If a person fails to pay a fine imposed under this~~
8 ~~section, he may not be licensed to operate a gambling device~~
9 ~~or gambling enterprise in the state under parts 1 through 6~~
10 ~~of this chapter. A PERSON HAS ENGAGED OR IS ENGAGING IN AN~~
11 ~~ACT OR PRACTICE CONSTITUTING A VIOLATION OF A PROVISION OF~~
12 ~~PARTS 1 THROUGH 6 OF THIS CHAPTER OR A RULE OR ORDER OF THE~~
13 ~~DEPARTMENT, THE DEPARTMENT MAY:~~

14 ~~(A) ISSUE A TEMPORARY ORDER TO CEASE AND DESIST FROM~~
15 ~~THE GAMBLING ACTIVITY, ACT, OR PRACTICE FOR A PERIOD NOT TO~~
16 ~~EXCEED 60 DAYS; AND~~

17 ~~(B) FOLLOWING NOTICE AND AN OPPORTUNITY FOR HEARING,~~
18 ~~AND WITH THE RIGHT OF JUDICIAL REVIEW, UNDER THE MONTANA~~
19 ~~ADMINISTRATIVE PROCEDURE ACT:~~

20 ~~(I) ISSUE A PERMANENT ORDER TO CEASE AND DESIST FROM~~
21 ~~THE ACT OR PRACTICE, WHICH ORDER REMAINS IN EFFECT PENDING~~
22 ~~JUDICIAL REVIEW;~~

23 ~~(II) PLACE A LICENSEE ON PROBATION;~~

24 ~~(III) SUSPEND FOR A PERIOD NOT TO EXCEED 180 DAYS A~~
25 ~~LICENSE OR PERMIT FOR THE GAMBLING ACTIVITY, DEVICE, OR~~

1 ENTERPRISE INVOLVED IN THE ACT OR PRACTICE CONSTITUTING THE
2 VIOLATION;

3 (IV) REVOKE A LICENSE OR PERMIT FOR THE GAMBLING
4 ACTIVITY, DEVICE, OR ENTERPRISE INVOLVED IN THE ACT OR
5 PRACTICE CONSTITUTING THE VIOLATION;

6 (V) IMPOSE A CIVIL PENALTY NOT TO EXCEED \$10,000 FOR
7 EACH VIOLATION, WHETHER OR NOT THE PERSON IS LICENSED BY THE
8 DEPARTMENT; AND

9 (VI) IMPOSE ANY COMBINATION OF THE PENALTIES CONTAINED
10 IN THIS SUBSECTION (1)(B); AND

11 (C) BRING AN ACTION IN DISTRICT COURT FOR RELIEF
12 AGAINST THE ACT OR PRACTICE. THE DEPARTMENT MAY NOT BE
13 REQUIRED TO POST A BOND. ON PROPER SHOWING, THE COURT MAY:

14 (I) ISSUE A RESTRAINING ORDER, A TEMPORARY OR
15 PERMANENT INJUNCTION, OR OTHER APPROPRIATE WRIT;

16 (II) SUSPEND OR REVOKE A LICENSE OR PERMIT; AND

17 (III) APPOINT A RECEIVER OR CONSERVATOR FOR THE
18 DEFENDANT OR THE ASSETS OF THE DEFENDANT.

19 (2) A CIVIL PENALTY IMPOSED UNDER THIS SECTION MUST BE
20 COLLECTED BY THE DEPARTMENT AND DEPOSITED IN THE STATE'S
21 GENERAL FUND AS REQUIRED BY 23-5-123. IF A PERSON FAILS TO
22 PAY THE CIVIL PENALTY, THE AMOUNT DUE IS A LIEN ON THE
23 PERSON'S LICENSED PREMISES AND GAMBLING DEVICES IN THE STATE
24 AND MAY BE RECOVERED BY THE DEPARTMENT IN A CIVIL ACTION.

25 **Section 9.** Section 23-5-123, MCA, is amended to read:

1 "23-5-123. Disposal of money confiscated by reason of
 2 violation of gambling laws. ~~All money seized or taken by any~~
 3 ~~peace officer and confiscated by order of any court, by~~
 4 ~~reason of a violation of the gambling laws of the state of~~
 5 ~~Montana, shall be deposited with the county treasurer of the~~
 6 ~~county in which such seizure and confiscation was made and~~
 7 ~~shall be credited to the poor fund of the county. All fines,~~
 8 ~~penalties, forfeitures, and confiscated money collected by~~
 9 ~~criminal, civil, or administrative process for a violation~~
 10 ~~of a provision of parts 1 through 6 of this chapter or a~~
 11 ~~rule of the department must be deposited ONE-HALF in a~~
 12 ~~special revenue account for use by the department for:~~
 13 ~~(1) training law enforcement personnel in the~~
 14 ~~investigation of illegal gambling activity;~~
 15 ~~(2) training persons licensed under the authority of~~
 16 ~~the department; or~~
 17 ~~(3) funding programs designed to treat persons with~~
 18 ~~habitual gambling problems~~ THE STATE'S GENERAL FUND AND
 19 ONE-HALF IN THE GENERAL FUND OF THE COUNTY IN WHICH THE
 20 VIOLATION OCCURRED."

21 NEW SECTION. Section 10. Qualifications for
 22 licensure. (1) A person whom the department determines is
 23 qualified to receive a license under the provisions of this
 24 chapter, except for the provisions of part 10, may, BASED ON
 25 INFORMATION AVAILABLE TO, REQUIRED BY, OR SUPPLIED TO THE

1 DEPARTMENT UNDER DEPARTMENT RULES, be issued a state
 2 gambling license.

3 ~~(2) The applicant has the burden of proving his~~
 4 ~~qualification to receive a license.~~

5 (2) THE DEPARTMENT SHALL ISSUE A LICENSE UNLESS THE
 6 DEPARTMENT CAN DEMONSTRATE THAT THE APPLICANT IS:

7 (A) A PERSON WHOSE PRIOR ACTIVITIES OR CRIMINAL
 8 RECORD:

9 (I) POSES A THREAT TO THE PUBLIC INTEREST OF THE STATE
 10 OR THE EFFECTIVE REGULATION AND CONTROL OF GAMBLING; OR

11 (II) CREATES A DANGER OF ILLEGAL PRACTICES, METHODS, OR
 12 ACTIVITIES IN THE CONDUCT OF GAMBLING OR IN THE CARRYING ON
 13 OF THE BUSINESS AND FINANCIAL ARRANGEMENTS INCIDENTAL TO
 14 GAMBLING; OR

15 (B) RECEIVING A SUBSTANTIAL AMOUNT OF FINANCING FOR
 16 THE PROPOSED OPERATION FROM AN UNSUITABLE SOURCE. A LENDER
 17 OR OTHER SOURCE OF MONEY OR CREDIT THAT THE DEPARTMENT FINDS
 18 TO MEET THE PROVISIONS OF SUBSECTION (2)(A) MAY BE
 19 CONSIDERED AN UNSUITABLE SOURCE.

20 ~~(3) An application for a license may not be granted~~
 21 ~~unless the department is satisfied that the applicant is:~~

22 ~~(a) a person of good character, honesty, and~~
 23 ~~integrity;~~

24 ~~(b) a person whose prior activities, criminal record,~~
 25 ~~if any, reputation, habits, and associations do not:~~

1 {ii}--pose--a-threat-to-the-public-interest-of-the-state
 2 or-to-the-effective-regulation-and-control-of--gambling;--or
 3 {iii}--create--or-enhance-the-dangers A-DANGER of-illegal
 4 practices;--methods;--and--activities--in--the--conduct--of
 5 gambling-or-in-the-carrying-on-of-the-business-and-financial
 6 arrangements-incident-to-the-conduct-of-gambling;--and
 7 {c}--in--all--other--respects--qualified-to-be-licensed
 8 consistent-with-the-declared-gambling-policy-of--the--state.
 9 {4}--A--license--to-operate-a-gambling-activity-may-not
 10 be-issued-unless--the--applicant--has--demonstrated--to--the
 11 department-that:
 12 {a}--the---applicant--has--adequate--business--probity,
 13 competence;--and--experience;--and
 14 {b}--the-proposed-financing-of-the-entire-operation-is:
 15 {1}--adequate-for-the-nature-of-the-proposed-operation;
 16 and
 17 {2}--from-a-suitable-source;--A-lender-or--other--source
 18 of--money--or-credit-that-the-department-finds-does-not-meet
 19 the-standards-set-forth-in-subsection-(3)-may-be--considered
 20 unsuitable.
 21 NEW SECTION. Section 11. Operator of gambling
 22 establishment -- license -- fee. (1) It is a misdemeanor for
 23 a person who is not licensed by the department as an
 24 operator to make available to the public for play a gambling
 25 device or gambling enterprise.

1 (2) An operator's license must include the following
 2 information:
 3 (a) a description of the premises upon which the
 4 gambling will take place;
 5 (b) the operator's name;
 6 (c) a description of each gambling device or card game
 7 table licensed to the operator by the department for play
 8 upon the premises, including the type of game and license
 9 number or decal number for each licensed game; and
 10 (d) any other relevant information determined
 11 necessary by the department.
 12 (3) The operator's license must be issued annually
 13 along with all other licenses for gambling devices or games
 14 licensed to the operator.
 15 (4) The operator's license must be updated each time a
 16 gambling device or card game table license is newly issued
 17 or the device or game is removed from the premises.
 18 (5) The department may not charge a fee for the
 19 issuance of an operator's license.
 20 (6) The operator's license must be prominently
 21 displayed upon the premises for which it is issued.
 22 NEW SECTION. Section 12. Judicial review. (1) (a) A
 23 person aggrieved by a final order of the department may
 24 obtain a review of the order in district court by filing
 25 with the court, within 30 days after entry of the final

1 order, a written petition requesting that the order be
2 modified or set aside in whole or in part.

3 (b) A copy of the petition must be served upon the
4 department at the same time. When the department receives
5 the copy of the petition, it shall certify and file in court
6 a copy of the filing, testimony, and other evidence upon
7 which the final order was entered by the department. When
8 these have been filed with the court, the court has
9 exclusive jurisdiction to affirm, modify, enforce, or set
10 aside the final order in whole or in part. A temporary cease
11 and desist order from the department must MAY remain in
12 effect ~~and cannot be set aside by the court~~ until a hearing
13 has been held and a final order has been issued pursuant to
14 [section 8].

15 (2) (a) The review must be conducted by the district
16 court without a jury and must be confined to the record. In
17 a case of alleged irregularity in procedure before the
18 department not shown in the record, proof may be taken by
19 the court. The court, upon request, shall hear oral argument
20 and receive written briefs.

21 (b) The court may not substitute its judgment for that
22 of the department as to the weight of the evidence on
23 questions of fact. The court may affirm the decision of the
24 department or remand the case for further proceedings. The
25 court may reverse or modify the decision if substantial

1 rights of the appellant have been prejudiced because the
2 administrative findings, inferences, conclusions, or
3 decisions are:

4 (i) in violation of a constitutional or statutory
5 provision;

6 (ii) in excess of the statutory authority of the
7 department;

8 (iii) made upon unlawful procedure;

9 (iv) affected by other error of law;

10 (v) clearly erroneous in view of the reliable,
11 probative, and substantial evidence on the whole record;

12 (vi) arbitrary or capricious or characterized by abuse
13 of discretion or clearly unwarranted exercise of discretion;
14 or

15 (vii) inadequate because findings of fact, upon issues
16 essential to the decision, were requested but not made.

17 (3) The commencement of proceedings under this
18 section, unless specifically ordered by the court, may not
19 operate as a stay of the department's final order.

20 **Section 13.** Section 23-5-131, MCA, is amended to read:

21 "23-5-131. Losses at ILLEGAL gambling may be recovered
22 in civil action. ~~if any person, by playing or betting at any~~
23 ~~of the games prohibited by this part, loses to another~~
24 ~~person any sum of money or thing of value and pays or~~
25 ~~delivers the same or any part thereof to any person~~

1 connected-with-the-operating-or--conducting--of--such--game,
 2 either--as--owner,--dealer,--or--operator,--the-person-who-so
 3 loses-and-pays-or-delivers-may,--at-any-time-within--60--days
 4 next--after--the--loss--and-payment-or-delivery,--sue-for-and
 5 recover-the-money-or-thing-of-value--so-lost--and--paid--or
 6 delivered--or--any--part--thereof--from-any-person-having-any
 7 interest,--direct--or--contingent,--in--the--game--as--owner,
 8 backer,--or--otherwise,--with-costs-of-suit,--by-civil-action
 9 before-any-court-of-competent--jurisdiction,--together--with
 10 exemplary-damages-which-in-no-case-shall-be-less-than-\$50--or
 11 more--than-\$500,--and-may-join-as-defendants-in-said-suit-all
 12 persons-having-any-interest,--direct-or-contingent,--in--such
 13 game--as--backers,--owners,--or--otherwise: A person, or his
 14 dependent or guardian, who, by playing or betting at an
 15 illegal gambling device or illegal gambling enterprise,
 16 loses money, property, or any other thing of value and pays
 17 and delivers it to another person connected with the
 18 operation or conduct of the illegal gambling device or
 19 illegal gambling enterprise, within 1 year following his
 20 loss, may:

21 (1) bring a civil action in a court of competent
 22 jurisdiction to recover the loss;

23 (2) recover the costs of the civil action and
 24 exemplary damages of no less than \$500 and no more than
 25 \$5,000; and

1 (3) join as a defendant any person having an interest
 2 in the illegal gambling device or illegal gambling
 3 enterprise."

4 **Section 14.** Section 23-5-135, MCA, is amended to read:

5 "23-5-135. Discharge of defendant. Upon-discovery-and
 6 repayment--of--the--money--or--other---thing,---the---person
 7 discovering--and--repaying--the-same,--with-costs-and-such-an
 8 amount-of-exemplary-damages-as-may-be--agreed--upon--by--the
 9 parties--or--fixed--by--the--court,--shall--be-acquitted-and
 10 discharged-from-any-further-or-other-forfeiture,--punishment,
 11 penalty,--or-prosecution-he-or-they-may-have-incurred-for--so
 12 winning--such--money--or--thing-discovered-and-repaid; (1) A
 13 person against whom a civil action is brought as provided in
 14 23-5-131 may move to have the action against him dismissed
 15 if he has repaid to the person who suffered the loss or his
 16 dependent the gambling loss, the costs of bringing the civil
 17 action, and the exemplary damages agreed upon by the parties
 18 or assessed by the court.

19 (2) A civil action brought to recover gambling losses
 20 does not bar or interfere with another proceeding or action,
 21 whether criminal, civil, or administrative, that may be
 22 brought under the laws of the state.

23 ~~(3) The clerk of the court shall notify the department~~
 24 ~~of a JUDGMENT IN A civil action based on a violation of a~~
 25 ~~provision of this chapter."~~

Section 15. Section 23-5-102, MCA, is amended to read:

"23-5-102. Gambling prohibited ---penalty. Except as otherwise provided by law, a person who engages in gambling in any form with cards, dice, or other implements or devices of any kind wherein anything valuable may be wagered upon the outcome or who keeps any establishment, place, equipment, or apparatus for such gambling or any agents or employees for such purpose is guilty of a misdemeanor and is punishable by a fine of not less than \$100 or more than \$1,000 or imprisonment not less than 3 months or more than 1 year or by both such fine and imprisonment specifically authorized by statute, all forms of public gambling, lotteries, and gift enterprises are prohibited."

NEW SECTION. Section 16. Counterfeiting or defacing documents -- penalty. (1) A person commits the offense of counterfeiting or defacing a document when he purposely or knowingly counterfeits, alters, or wrongfully displays a seal, decal, license, identification number or device, or other document issued by the department.

(2) A person convicted of the offense of counterfeiting or defacing a document is guilty of a felony and must be punished in accordance with [section 24].

Section 17. Section 23-5-108, MCA, is amended to read:

"23-5-108. Soliciting or persuading persons to visit play illegal gambling resorts device prohibited. Any person

who persuades or solicits another to visit any room, tent, apartment, or place used or represented by the person soliciting or persuading to be a place used for the purpose of running any of the games prohibited by this part shall be punished by a fine of not less than \$100 or more than \$1,000 or imprisonment not less than 3 months or more than 1 year or by both such fine and imprisonment in the county jail. A person who advertises for or solicits another person to play or engage in the use of an illegal gambling device is guilty of a misdemeanor and is punishable under [section 23]."

NEW SECTION. Section 18. Obtaining anything of value by fraud or operation of illegal gambling device or enterprise. (1) A person who by gambling obtains money, property, or anything of value that does not exceed \$300 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a misdemeanor and is punishable as provided in [section 23].

(2) A person who by gambling obtains money, property, or anything of value that exceeds \$300 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a felony and is punishable as provided in [section 24].

NEW SECTION. Section 19. Gambling on cash basis. (1) In every gambling activity, EXCEPT RAFFLES AS AUTHORIZED IN

~~{SECTION-41}~~ 23-5-413, the consideration paid for the chance to play must be cash. A participant shall present the money needed to play the game as the game is being played. A check, credit card, note, I O U, or other evidence of indebtedness may not be offered or accepted as part of the price of participation in the gambling activity or as payment of a debt incurred in the gambling activity. THE USE OF A CHECK OR CREDIT CARD TO PAY FOR OTHER GOODS OR SERVICES IN THE ESTABLISHMENT OR TO OBTAIN CASH IS NOT A VIOLATION OF THIS SECTION.

(2) A person who violates this section is guilty of a misdemeanor and must be punished in accordance with [section 23].

NEW SECTION. Section 20. Minors not to participate -- penalty. (1) A PERSON MAY NOT PURPOSELY OR KNOWINGLY ALLOW A person under 18 years of age may--not--be-permitted to participate in a gambling activity.

(2) A person who violates this section is guilty of a misdemeanor and must be punished in accordance with [section 23].

Section 21. Section 23-5-103, MCA, is amended to read:

"23-5-103. Possession of illegal gambling implements device prohibited -- exception. Any (1) Except as provided in {section-22} 23-5-104 and subsection (2) of this section, it is a misdemeanor punishable under [section 23] for a

person who--has to PURPOSELY OR KNOWINGLY have in his possession or under his control or who-permits to PURPOSELY OR KNOWINGLY permit to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by him or under his management or control any-faro box-faro--layout--roulette--wheel--roulette--table--crap table--punchboard--or-any-machine-or-apparatus-of-the-kind mentioned-in-23-5-102-is-punishable-by-a-fine--of--not--less than--\$100-or-more-than-\$1,000-and-may-be-imprisoned-for-not less-than-3-months-or-more-than-1-year-in-the-discretion--of the--court--provided-that-this-section-shall-not an illegal gambling device. This section does not apply to a public officer or to a person coming into possession thereof of an illegal gambling device in or by reason of the performance of an official duty and holding the-same it to be disposed of according to law.

(2) (a) The department may adopt rules to license persons to manufacture gambling devices that are not legal for public play in the state and are manufactured only for export from the state.

(b) A person may not manufacture or possess an illegal gambling device for export from the state without having obtained a license from the department. The department may charge an administrative fee for the license that is commensurate with the cost of issuing the license."

Section 22. Section 23-5-104, MCA, is amended to read:

~~"23-5-104. Slot-machines-----possession-unlawful----
exception Possession of antique slot machines. (1) Except-as
provided--in--subsections--(2)--through--(5)--it-shall-be-a
misdemeanor-and-punishable-as-hereinafter-provided--for--any
person--to--use, possess, operate, keep, or maintain-for-use
or-operation-or-otherwise, anywhere--within--the--state--of
Montana, any slot-machine-of-any-sort-or-kind-whatsoever.~~

~~(2)--The--provisions--of-subsection-(1)-and-23-5-121-do
not-apply-to-antique-slot-machines-possession, located, and
used-in-accordance-with-subsections-(2)-through-(5). For-the
purposes--of--subsections--(2)--through--(5), an-antique-slot
machine-is-a-slot-machine-manufactured-prior-to-1950--the
operation--of--which-is-exclusively-mechanical-in-nature-and
is-not-aided-in-whole-or-in-part-by-any-electronic-means. An
antique-slot-machine-is-a-slot-machine-manufactured-prior-to
1950-that-is-operated-exclusively-by-mechanical-means-and-is
not-aided-in-whole-or-in-part-by-any-electrical--means. FOR
THE PURPOSES OF THIS SECTION, AN ANTIQUE SLOT MACHINE IS A
SLOT MACHINE MANUFACTURED PRIOR TO 1950, THE OPERATION OF
WHICH IS EXCLUSIVELY MECHANICAL IN NATURE AND IS NOT AIDED
IN WHOLE OR IN PART BY ANY ELECTRONIC MEANS.~~

~~(3)(2) Except as provided in subsection (4) (3), an
antique slot machines machine may be possessed, located, and
operated only in a private residential dwelling.~~

~~(4)(3) Antique--slot--machines~~ An antique slot machine
may be possessed or located for purposes of display only and
not for operation in any public museum owned and operated by
the state of Montana, or a county, or a city. A LICENSED
MANUFACTURER-DISTRIBUTOR MAY POSSESS AND SELL ANTIQUE SLOT
MACHINES.

~~(5)(4) No antique slot machine may be operated for any
commercial or charitable purpose."~~

NEW SECTION. Section 23. Criminal liabilities --
misdemeanor. A person who purposely or knowingly violates a
provision of parts 1 through 6 of this chapter, the
punishment of which is for a misdemeanor, must, upon
conviction, OF A FIRST OFFENSE be fined not less MORE than
\$500 or-more-than-\$5,000, or-imprisoned-for-not-more-than-1
year, or-both, for-each-violation. UPON A SECOND CONVICTION
WITHIN 5 YEARS OF A FIRST CONVICTION, A PERSON MUST BE FINED
NOT MORE THAN \$1,000 OR IMPRISONED IN THE COUNTY JAIL FOR
NOT MORE THAN 6 MONTHS, OR BOTH. UPON A THIRD CONVICTION
WITHIN 5 YEARS OF A SECOND CONVICTION, A PERSON MUST BE
FINED NOT MORE THAN \$10,000 OR IMPRISONED IN THE COUNTY JAIL
FOR NOT MORE THAN 1 YEAR, OR BOTH. UPON A FOURTH CONVICTION
WITHIN 5 YEARS OF A THIRD CONVICTION, A PERSON MUST BE FINED
NOT MORE THAN \$10,000 OR IMPRISONED IN THE COUNTY JAIL FOR
NOT MORE THAN 1 YEAR, OR BOTH, AND THE DEPARTMENT SHALL
REVOKE ALL LICENSES AND PERMITS THE PERSON HOLDS UNDER PARTS

1 THROUGH 6 OF THIS CHAPTER AND THE PERSON IS FOREVER BARRED FROM RECEIPT OF ANY LICENSE OR PERMIT UNDER THIS CHAPTER. WHEN 5 YEARS HAVE PASSED FOLLOWING A CONVICTION, THE RECORD OF THAT CONVICTION MAY BE MADE AVAILABLE ONLY TO CRIMINAL JUSTICE AGENCIES OR UPON COURT ORDER.

NEW SECTION. Section 24. Criminal liabilities -- felony. A person who purposely or knowingly violates a provision of parts 1 through 6 of this chapter, the punishment for which is a felony, may upon conviction be fined not more than \$50,000 or imprisoned for not more than 10 years, or both, for each violation. ~~However,--if--the person--previously--has--been--convicted--of--a--felony--involving a--gambling---device,---gambling---activity,---or---gambling enterprise,--he--must--be--imprisoned--for--at--least--2--years.~~

NEW SECTION. Section 25. Prosecution. The county attorney of the county in which a violation of a provision of parts 1 through 6 of this chapter occurs shall prosecute all gambling actions within the jurisdiction of the department. However, if the county attorney declines prosecution or fails to commence an action within a reasonable time, the attorney general may initiate and conduct the prosecution on behalf of the state.

Section 26. Section 23-5-311, MCA, is amended to read:

"23-5-311. Authorized card games. (1)--It--is--unlawful for any person to conduct or participate in any card game or

make any tables available for the playing of card games except those card games authorized by this part.

(2)(1) The card games authorized by this part are and are limited to the card games known as bridge, cribbage, hearts, panguingue, pinochle, pitch, ~~poker~~ ~~(including jacks or better)~~, rummy, solo, and whist, ~~solo, and poker.~~

(2) A person may only conduct or participate in a live card game or make a live card game table available for public play of a live card game that ONLY IF IT is specifically authorized by this part and described by department rules.

(3) This part does not apply to games simulated on electronic video gambling machines authorized under part 6 of this chapter."

NEW SECTION. Section 27. Presence and control of dealer. A live card game may not be played except on a live card game table in the presence and under the control of a licensed dealer on the premises of a licensed operator.

NEW SECTION. Section 28. Card game dealers -- license. (1) A person may not deal cards in a live card game without being licensed annually by the department.

(2) The fee for each THE FIRST year in which the license is effective must--be--commensurate--with--the administrative--costs--associated--with--dealer--licensing--as established by department--rules IS \$75, AND THE ANNUAL

1 RENEWAL FEE IS \$25. The fee may not be prorated.

2 (3) The department shall retain for administrative
3 purposes the license fee charged for the issuance of a
4 dealer's license.

5 (4) A licensed dealer shall have on his person, and
6 display upon request, his dealer's license when he is
7 working as a dealer.

8 (5) The department ~~may~~ SHALL adopt rules to implement
9 temporary licensing procedures until a permanent license is
10 issued to a dealer. THE RULES MUST PROVIDE THAT A TEMPORARY
11 LICENSE MAY BE OBTAINED AT THE PLACE WHERE A PERSON LOCALLY
12 APPLIES FOR A DRIVER'S LICENSE AND THAT THE RECEIPT RECEIVED
13 UPON MAILING AN APPLICATION FOR A PERMANENT LICENSE BY
14 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ALSO CONSTITUTES A
15 TEMPORARY LICENSE. The department may ~~delegate the authority~~
16 ~~to issue temporary licenses to local governments including~~
17 ~~the authority to~~ NOT assess and ~~retain~~ a fee for the
18 temporary license.

19 NEW SECTION. Section 29. Live card game table --
20 permit -- fees -- disposition of fees. (1) A person who has
21 been granted an operator's license under [section 11] and a
22 license ~~under 16-4-401(2)~~ to sell alcoholic beverages for
23 consumption on the premises ~~OR WHO OPERATES AN ESTABLISHMENT~~
24 ~~FOR THE PRINCIPAL PURPOSE OF GAMING AND HAS BEEN GRANTED AN~~
25 ~~OPERATOR'S LICENSE UNDER SECTION 11~~ may be granted an

1 annual permit for the placement of live card game tables.
2 IF ONE OR MORE LIVE CARD GAME TABLES WERE LEGALLY OPERATED
3 ON A PREMISES ON JANUARY 15, 1989, AND THE PREMISES WERE NOT
4 ON THAT DATE LICENSED UNDER 16-4-401(2) BUT WERE LICENSED ON
5 THAT DATE TO SELL FOOD, CIGARETTES, OR ANY OTHER CONSUMABLE
6 PRODUCT, AN OPERATOR'S LICENSE AND AN ANNUAL PERMIT FOR THE
7 PLACEMENT OF LIVE CARD GAME TABLES MAY BE GRANTED TO THE
8 PERSON WHO LEGALLY OPERATED THE PREMISES ON JANUARY 15,
9 1989.

10 (2) The annual permit fee in lieu of taxes for each
11 live card game table operated in a licensed operator's
12 premises may not be prorated and must be:

13 (a) \$250 for the first table; AND

14 (b) \$750 \$500 for ~~the second table~~; and

15 (c) ~~\$1,000 for the third~~ and each additional table.

16 (3) The department shall retain for administrative
17 purposes \$100 of the fee collected under this part for each
18 live card game table.

19 (4) The department shall forward on a quarterly basis
20 the remaining balance of the fee collected under subsection
21 (2) to the treasurer of the county, or the clerk, finance
22 officer, or treasurer of the city or town in which the live
23 card game table is located for deposit to the county or
24 municipal treasury. A COUNTY IS NOT ENTITLED TO PROCEEDS
25 FROM FEES ASSESSED ON LIVE CARD GAME TABLES LOCATED IN

INCORPORATED CITIES AND TOWNS WITHIN THE COUNTY. The local government portion of this fee is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury. THE LOCAL GOVERNMENT PORTION OF THIS FEE IS STATUTORILY APPROPRIATED TO THE DEPARTMENT, AS PROVIDED IN 17-7-502, FOR DEPOSIT TO THE COUNTY OR MUNICIPAL TREASURY.

Section 30. Section 23-5-321, MCA, is amended to read:

"23-5-321. Licensing Issuance of permits by local governing bodies prohibited. (1) Any A city, town, or county may not issue licenses permits for the live card games provided for or live card game tables authorized in this part, to be conducted on premises which have been licensed for the sale of liquor, beer, food, cigarettes, or any other consumable products. Within the cities or towns, such licenses may be issued by the city or town council or commission. Licenses for games conducted on premises outside the limits of any city or town may be issued by the county commissioners of the respective counties. When a license has been required by any city, town, or county, no game as provided for in this part shall be conducted on any premises which have been licensed for the sale of liquor, beer, food, cigarettes, or any other consumable product without such license having first been obtained.

(2) Any governing body may charge an annual license

fee for each license so issued under this part, which license fee, if any, shall expire on June 30 of each year, and such fee shall be prorated.

(3) Any license issued pursuant to this part shall be deemed to be a revocable privilege, and no holder thereof may acquire any vested rights therein or thereunder."

Section 31. Section 23-5-312, MCA, is amended to read:

"23-5-312. Prizes not to exceed one three ONE THREE hundred dollars. No prize for any individual game shall exceed the value of \$100. A prize for an individual live card game may not exceed the value of \$300 \$100 \$300. Games shall may not be combined in any manner so as to increase the value of the ultimate prize awarded."

NEW SECTION. **Section 32.** Live card game tables -- hours of play -- restriction -- exception. Live card game tables must be closed for play between the hours of 2 a.m. and 8 a.m. each day. However, in the jurisdiction of a local government where the table is located, the local government may adopt an ordinance defining the hours of play within that jurisdiction. HOWEVER, IN THE JURISDICTION OF A LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2 A.M. AND 8 A.M.

Section 33. Section 23-5-313, MCA, is amended to read:

"23-5-313. Rules of play to be posted -- rake-off

1 approved. Rules governing the conduct of each game shall
 2 must be prominently posted within the sight of the players
 3 at a live card game table on the premises of any--licensed
 4 establishment--where--such--game--is--conducted a licensed
 5 operator. Such The rules shall must include notice of the
 6 maximum percentage rake-off, if any, and shall must require
 7 that the person taking the rake-off do so in an obvious
 8 manner and--only--after--announcing--the--amount--of--each
 9 rake-off, which shall only be taken at the conclusion of
 10 each--game--when--the winner of each individual pot has been
 11 determined."

12 **Section 34.** Section 23-5-331, MCA, is amended to read:
 13 "23-5-331. Penalty. Every A person who willfully
 14 purposely or knowingly violates or who procures, aids, or
 15 abets in the--willful a violation of this part or any
 16 ordinance, resolution, or regulation rule adopted pursuant
 17 thereto shall--be--deemed to this part is guilty of a
 18 misdemeanor and upon conviction shall be punished by a fine
 19 of not more than \$1,000 or imprisonment in the county jail
 20 for not more than 3 months, or both punishable pursuant to
 21 [section 23]."

22 **NEW SECTION. Section 35.** Authorized live bingo, keno,
 23 and raffles. (1) A person may only conduct or participate in
 24 a live bingo and keno game or raffle ONLY IF IT IS operated
 25 pursuant to this part.

1 (2) This part does not apply to a game simulated on a
 2 video gambling machine authorized by part 6 of this chapter.

3 **NEW SECTION. Section 36.** Exempt charitable
 4 organizations. An organization qualified for exemption under
 5 26 U.S.C. 501(c)(3) and (c)(4) ON JANUARY 15, 1989, is
 6 exempt from the taxation and license fees imposed by this
 7 part. AN ORGANIZATION QUALIFIED FOR EXEMPTION UNDER THAT
 8 SECTION AFTER THAT DATE IS EXEMPT FROM TAXATION UNDER, AND
 9 NEED ONLY PAY ONE-HALF THE LICENSE FEES UNDER, THIS PART IF
 10 THE ORGANIZATION CARRIES ON GAMBLING ACTIVITIES FOR NO MORE
 11 THAN 60 DAYS A CALENDAR YEAR AND IF THE ACTIVITIES ARE
 12 LIMITED TO ITS MAIN PREMISES OR PLACE OF OPERATIONS AND TO
 13 EVENTS AT OTHER PLACES OPERATED BY OTHER CHARITABLE
 14 ORGANIZATIONS OR BY A GOVERNMENT UNIT OR ENTITY. The
 15 organization shall comply with other statutes and rules
 16 relating to the operation of live bingo and keno or raffles.
 17 A qualified organization shall apply to the department for a
 18 cost-free permit to conduct charitable live bingo and keno
 19 games or raffles. THE DEPARTMENT MAY REVOKE OR SUSPEND THE
 20 PERMIT OF A QUALIFIED ORGANIZATION THAT, AFTER
 21 INVESTIGATION, THE DEPARTMENT DETERMINES IS CONTRACTING WITH
 22 A NONQUALIFIED ORGANIZATION TO OPERATE LIVE BINGO, KENO, OR
 23 RAFFLES IN A PREDOMINANTLY COMMERCIAL MANNER.

24 **NEW SECTION--Section 37--Bingo and keno--catters--**
 25 **qualifications--license--fee--(1) A person may not act**

1 as-a-bingo-or-keno-caller-without-being-licensed-annually-by
2 the-department;

3 {2}--The-fee-for-each-year--in--which--the--license--is
4 effective--must--be--commensurate--with-the-costs-associated
5 with-bingo--or--keno--caller--licensing--as--established--by
6 department-rules--The-fee-may-not-be-prorated;

7 {3}--The--department--shall--retain--for-administrative
8 purposes-the-license-fee-charged-for-the-issuance-of-a-bingo
9 or-keno-caller's-license;

10 {4}--A-bingo-or-keno-caller-shall-have-on--his--person;
11 and-display-upon-request--his-bingo-or-keno-caller's-license
12 whenever-he-is-working-as-a-bingo-or-keno-caller;

13 {5}--The---department--may--adopt--rules--to--implement
14 temporary-licensing-procedures-until-a-permanent-license--is
15 issued---The--department-may-delegate-the-authority-to-issue
16 temporary--licenses--to--local--governments--including--the
17 authority--to--assess--and--retain--a--fee--for--a-temporary
18 license;

19 NEW SECTION. Section 37. Live bingo or keno permit --
20 fees -- disposition of fees. (1) A person who has been
21 granted an operator's license may be granted an annual
22 permit by the department to conduct live bingo or keno games
23 on specified premises.

24 (2) The permit fee for each of the premises in which a
25 live bingo or keno game is conducted may not be prorated and

1 must be \$500.

2 (3) The department shall retain the permit fee for
3 administrative costs.

4 NEW SECTION. Section 38. Bingo and keno gross
5 proceeds tax -- records -- distribution -- quarterly
6 statement and payment. (1) A licensee who has received a
7 permit to operate bingo or keno games shall pay to the
8 department a tax of 3% 5% of the gross-proceeds NET INCOME
9 from the operation of each live bingo and keno game operated
10 on his premises. FOR PURPOSES OF THIS SECTION, "NET INCOME"
11 MEANS GROSS PROCEEDS, AS DEFINED IN 23-5-101, MINUS THE COST
12 OF EQUIPMENT, SUPPLIES, PERSONNEL, AND ADVERTISING ALLOCATED
13 TO THE GAMES. IF IN ANY YEAR 5% OF NET INCOME DOES NOT EQUAL
14 1% OF GROSS PROCEEDS, THEN THE LICENSEE SHALL PAY A TAX OF
15 1% OF GROSS PROCEEDS.

16 (2) A licensee shall keep a record of gross proceeds
17 AND NET INCOME in the form the department requires. At all
18 times during the business hours of the licensee the records
19 must be available for inspection by the department.

20 (3) A licensee shall ~~within-15-days-after-the-end--of~~
21 ~~each---quarter;~~ ANNUALLY complete and deliver to the
22 department a statement showing the total gross proceeds AND
23 NET INCOME for each live keno or bingo game operated by him
24 and the total amount due as live bingo or keno gross
25 proceeds tax for the preceding quarter YEAR. This statement

1 must contain any other relevant information required by the
2 department.

3 (4) The department shall forward the tax collected
4 under subsection (3) to the treasurer of the county or the
5 clerk, finance officer, or treasurer of the city or town in
6 which the licensed game is located for deposit to the county
7 or municipal treasury. A county is not entitled to proceeds
8 from taxes on live bingo or keno games located in
9 ~~unincorporated~~ INCORPORATED cities and towns within the
10 county. ~~The tax collected under subsection (3) is~~
11 ~~statutorily appropriated to the department as provided in~~
12 ~~17-7-502 for deposit to the county or municipal treasury.~~
13 THE TAX COLLECTED UNDER SUBSECTION (3) IS STATUTORILY
14 APPROPRIATED TO THE DEPARTMENT, AS PROVIDED IN 17-7-502, FOR
15 DEPOSIT TO THE COUNTY OR MUNICIPAL TREASURY.

16 **Section 39.** Section 23-5-412, MCA, is amended to read:

17 "23-5-412. Bingo Card prices and prizes. The price for
18 an individual bingo or keno card may not exceed 50 cents.
19 Bingo prizes may be paid in either tangible personal
20 property or cash; except that a prize must be paid in
21 tangible personal property if the game is played on a
22 player-operated electronic video game machine. A prize may
23 not exceed the value of \$100 \$300 \$100 for each individual
24 bingo award or keno card. The price for an individual bingo
25 card may not exceed 50 cents. It shall be is unlawful to, in

1 any manner, combine any awards so as to increase the
2 ultimate value of ~~such the~~ award. A PLAYER MAY GIVE THE
3 CALLER A CARD WITH INSTRUCTIONS ON THE CARD TO PLAY THAT
4 CARD AND ITS MARKED NUMBERS FOR UP TO THE NUMBER OF
5 SUCCESSIVE GAMES THAT THE HOUSE ALLOWS AND THAT THE PLAYER
6 HAS INDICATED ON THE CARD, UPON PAYMENT OF THE PRICE PER
7 GAME TIMES THE NUMBER OF SUCCESSIVE GAMES INDICATED. THE
8 PLAYER SHALL REMAIN ON THE HOUSE PREMISES UNTIL THE CARD IS
9 PLAYED OR WITHDRAWN. THE CALLER SHALL KEEP THE CARD UNTIL
10 THE END OF THE NUMBER OF GAMES INDICATED, AND THE DEPARTMENT
11 MAY BY RULE PROVIDE THAT AT THAT TIME THE CALLER SHALL PAY
12 THE PLAYER ANY PRIZES WON."

13 **Section 40.** Section 23-5-413, MCA, is amended to read:

14 "23-5-413. Raffle prizes restricted-----exemption --
15 PERMITS -- EXCEPTION. (1) Raffle prizes must be in--tangible
16 personal--property--only--and--not--in--money,--cash,--stocks,
17 bonds,--evidences--of--indebtedness,--or--other--intangible
18 personal--property--and must not exceed the value of \$1,000
19 for each individual raffle card ticket. It shall be is
20 unlawful to, in any manner, combine any awards so as to
21 increase the ultimate value of such-award the prize awarded
22 for each ticket.

23 (2) A separate permit must be issued by the board of
24 county commissioners for each raffle conducted within its
25 jurisdiction. The permit must be issued before the raffle

1 may be conducted. A person who has conducted a raffle must
 2 submit an accounting to the board of county commissioners
 3 within 30 days following the completion of the raffle. The
 4 sale of raffle tickets authorized by this part is restricted
 5 to events and participants within the geographic confines of
 6 the state.

7 {2}(3) (a) The restrictions of subsection (1) do not
 8 apply to a raffle conducted by a nonprofit corporation,
 9 religious corporation sole, or other nonprofit organization
 10 when if the corporation or organization is licensed
 11 permitted by the board of county commissioners to conduct
 12 the raffle. ~~A separate license shall be required for each~~
 13 ~~raffle conducted.~~

14 (b) The nonprofit organization or corporation seeking
 15 the license permission under subsection {2}(3)(a) must shall
 16 apply to the board of county commissioners for the license
 17 permit and must provide the following information:

18 (i) the cost and number of raffle tickets to be sold;
 19 (ii) the charitable purposes the proceeds of the raffle
 20 are intended to benefit; and
 21 (iii) the proposed prizes and their value.

22 (c) The proceeds from the sale of the raffle tickets
 23 are to may be used only for charitable purposes or to pay
 24 for prizes. The raffle prize must be in tangible personal
 25 property only and not in money, cash, stock, bonds, evidence

1 of indebtedness, or other intangible personal property. None
 2 of the proceeds may be used for the administrative cost of
 3 conducting the raffle.

4 ~~{d}--The--corporation--or--organization--conducting--the~~
 5 ~~raffle--must--submit--an--accounting--to--the--board--of--county~~
 6 ~~commissioners--within--30--days--following--the--completion--of--the~~
 7 ~~raffle--The--person--or--persons--submitting--the--application--to~~
 8 ~~the--board--of--county--commissioners--along--with--the--corporation~~
 9 ~~or--organization--conducting--the--raffle--shall--be--responsible~~
 10 ~~for--submitting--the--accounting--to--the--board--of--county~~
 11 ~~commissioners."~~

12 **Section 41.** Section 23-5-414, MCA, is amended to read:

13 **23-5-414. Restrictions on bingo, and keno, and raffles**
 14 ~~---bingo--or--keno--machines--in--establishment--limit---hours--of~~
 15 ~~operation---exception. {1} In the playing of live bingo or~~
 16 ~~keno, no a person who is not physically present on the~~
 17 ~~premises where the game is actually conducted shall may not~~
 18 ~~be allowed to participate as a player in the game.~~

19 ~~{2}--Raffles---authorized---by---this---part--shall--be~~
 20 ~~restricted--to--events--and--participants--within--the---geographic~~
 21 ~~confines--of--the--state--of--Montana;~~

22 ~~{3}--No---establishment---may--receive--licenses--under~~
 23 ~~23-5-421--for--or--make--available--for--play--more--than--15--bingo~~
 24 ~~or--keno--machines;--A--local--governing--body,--however,--may~~
 25 ~~restrict--the--number--of--licensed--machines--available--for--play~~

1 in-an-establishment-to-less-than-15,-but-must-allow-at-least
2 5:

3 {4}--(a)-Except--as--provided--in-subsection-(4)(b),-an
4 establishment-that-receives-a-license-to--make--a--bingo--or
5 keno--machine--available-for-play-must-have-the-machine-shut
6 off-each-day-during--the--hours--provided--in--16-3-304--for
7 closure----of----licensed----retail----alcoholic----beverage
8 establishments:

9 (b)--A-local-governing-body-may-establish-any-hours--of
10 play--for-bingo-or-keno-machines-that-it-determines-proper:"

11 NEW SECTION. Section 42. Hours of play --
12 restrictions ---penalty. (1) A live bingo or keno game must
13 be closed for play between the hours of 2 a.m. and 8 a.m. of
14 each day. However, in the jurisdiction of a local government
15 where the live bingo or keno game is played, the local
16 government may adopt an ordinance defining other hours of
17 play within that jurisdiction.

18 {2}--A-violation--of--this--section--is--a--misdemeanor
19 punishable--under--{section-23}: HOWEVER, IN THE JURISDICTION
20 OF A LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL
21 GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2
22 A.M. AND 8 A.M.

23 **Section 43.** Section 23-5-431, MCA, is amended to read:

24 "23-5-431. Penalty Criminal penalty. Every A person
25 who willfully purposely or knowingly violates or who

1 procures, aids, or abets in the willful a violation of this
2 part or any ordinance, resolution, or regulation rule
3 adopted pursuant thereto shall be deemed to this part is
4 guilty of a misdemeanor and upon conviction shall be
5 punished by a fine of not more than \$1,000 or imprisonment
6 in the county jail for not more than 3 months, or both
7 punishable pursuant to [section 23]."

8 **Section 44.** Section 23-5-602, MCA, is amended to read:

9 "23-5-602. Definitions. As used in this part, the
10 following definitions apply:

11 (1) "Associated equipment" means all proprietary
12 devices, machines, or parts used in the manufacture or
13 maintenance of a video draw-poker gambling machine,
14 including but not limited to integrated circuit chips,
15 printed wired assembly, printed wired boards, printing
16 mechanisms, video display monitors, and metering devices,
17 and cabinetry.

18 {2}--"Department"--means-the-department-of-commerce-

19 (2) "Bingo machine" means an electronic video gambling
20 machine that, upon insertion of cash, is available to play
21 bingo as defined by rules of the department. The machine
22 utilizes a video display and microprocessors in which, by
23 the skill of the player, by chance, or both, the player may
24 receive free games or credits that may be redeemed for cash.
25 The term does not include a slot machine or a machine that

1 directly dispenses coins, cash, tokens, or anything else of
2 value.

3 (3) "Draw poker machine" means an electronic video
4 gambling machine that, upon insertion of cash, is available
5 to play or simulate the play of the game of draw poker, as
6 defined by rules of the department. The machine utilizes a
7 video display and microprocessors in which, by the skill of
8 the player, by chance, or both, the player may receive free
9 games or credits that may be redeemed for cash. The term
10 does not include a slot machine or a machine that directly
11 dispenses coins, cash, tokens, or anything else of value.

12 (3)(4) "Keno machine" means an electronic video game
13 gambling machine that, upon insertion of cash, is available
14 to play or simulate the play of the game of keno or bingo as
15 provided in part 4 of this chapter, utilizing defined by
16 rules of the department. The machine utilizes a video
17 display and microprocessors, in which, by the skill of the
18 player, or by chance, or both, the player may receive free
19 games or credits that can may be redeemed for cash. The term
20 does not include a slot machine or a machine that directly
21 dispenses coins, cash, tokens, or anything else of value.

22 (4)--"Licensed establishment"--means:

23 (a)--with respect to the licensure of keno machines, an
24 establishment that is licensed to sell alcoholic beverages
25 for consumption on the premises or an establishment licensed

1 under 23-5-421, and

2 (b)--with respect to the licensure of video draw poker
3 machines, an establishment that is licensed to sell
4 alcoholic beverages for consumption on the premises.

5 (5)--"Licensee"--means--an individual, partnership,
6 corporation, or association that has been issued a license
7 by the department for the placement and operation of video
8 draw poker machines or keno machines in the licensed
9 establishment of the individual, partnership, corporation,
10 or association.

11 (6)--"Manufacturer distributor"--means--an individual,
12 partnership, corporation, or association that assembles,
13 produces, and makes or supplies video draw poker machines or
14 associated equipment for sale, use, or distribution in this
15 state.

16 (7)(5) "Net machine income" means money put into a
17 video draw poker or keno gambling machine minus credits paid
18 out in cash.

19 (8)--"Used keno machine"--means a keno machine, as that
20 term is defined in this section, that is owned or possessed
21 by an applicant on the day he applies for a license for the
22 used machine and that was owned or operated in the state
23 prior to June 30, 1987.

24 (9)--"Used video draw poker machine"--means a video draw
25 poker machine, as that term is defined in this section,

1 which--is--owned--or--possessed--by--an--applicant--on--the--day--he
2 applies--for--a--license--for--the--used--machine--and--which--was
3 owned--or--operated--in--the--state--prior--to--February--3,--1984;

4 {10} "Video--draw--poker--machine"--means--an--electronic
5 video--game--machine--that,--upon--insertion--of--cash,--is
6 available--to--play--or--simulate--the--play--of--the--game--of--draw
7 poker,--as--provided--in--this--part,--utilizing--a--video--display
8 and--microprocessors--in--which,--by--the--skill--of--the--player--or
9 by--chance,--or--both,--the--player--may--receive--free--games--or
10 credits--that--can--be--redeemed--for--cash;--The--term--does--not
11 include--a--machine--that--directly--dispenses--coins,--cash,
12 tokens,--or--anything--else--of--value;

13 (6) "Video gambling machine manufacturer-distributor"
14 means a person who assembles, produces, makes, OR supplies,
15 or--repairs video gambling machines or associated equipment
16 for sale, use, or distribution in the state."

17 **Section 45.** Section 23-5-603, MCA, is amended to read:

18 "23-5-603. Video draw poker or keno gambling machines
19 -- possession -- play -- hours-of-play-- restriction. (1)
20 No person may place an electronic video game machine that
21 simulates--or--offers--a--game--of--poker,--bingo,--or--keno--in--his
22 licensed establishment unless he is licensed under 23-5-612.
23 A person may only make available for public play ONLY the
24 NUMBER OF APPROVED video gambling machines specifically
25 authorized by this part.

1 (2) The video gambling machines specifically
2 authorized by this part are bingo, keno, and draw poker
3 machines. A person may not make available for public play a
4 video gambling machine unless he has obtained an operator's
5 license. Machines--licensed Only THE NUMBER OF APPROVED
6 machines for which permits have been granted under 23-5-612
7 are legal, and it is legal to play such machines, except
8 that a person under the age of 18 years may not play a video
9 draw poker or keno machine may be made available for play by
10 the public on the premises of a licensed operator. THE
11 DEPARTMENT SHALL ADOPT RULES ALLOWING A VIDEO GAMBLING
12 MACHINE THAT NEEDS REPAIR TO BE TEMPORARILY REPLACED WHILE
13 IT IS BEING REPAIRED WITH A VIDEO GAMBLING MACHINE THAT IS
14 APPROVED UNDER THE PERMIT PROVISIONS OF THIS PART. A FEE
15 MAY NOT BE CHARGED FOR THE REPLACEMENT MACHINE.

16 {2}--Except--as--provided--in--subsection--{3},--an
17 establishment--that--receives--a--license--to--make--a--video--draw
18 poker machine available for play must have the machine shut
19 off--each--day--during--the--hours--provided--in--16-3-304--for
20 closure--of--licensed--retail--alcoholic--beverage
21 establishments;

22 {3}--A--local--governing--body--may--establish--any--hours--of
23 play--for--video--draw--poker--machines--that--it--determines
24 proper;

25 {4}--The--provisions--of--part--3--of--this--chapter--do--not

1 apply--to--or--prohibit--video--draw--poker--or--keno--machines--or
2 the--playing--of--such--machines--

3 (3) MACHINES ON PREMISES LICENSED TO SELL ALCOHOLIC
4 BEVERAGES FOR CONSUMPTION ON THE PREMISES MUST BE PLACED IN
5 THE ROOM, AREA, OR OTHER PART OF THE PREMISES IN WHICH THE
6 ALCOHOLIC BEVERAGES ARE SOLD AND NORMALLY CONSUMED."

7 Section 46. Section 23-5-611, MCA, is amended to read:

8 "23-5-611. State--license Machine permit qualifications
9 -- limitations ---right-to-hearing. (1) {a}-A-person-who-has
10 been--granted--a--license-under-16-4-401(2)-to-sell-alcoholic
11 beverages-for-consumption-on-the-premises-may-be-granted--a
12 license--for--the--placement-of-video-draw-poker-machines-in
13 his-licensed-establishment. Only-a (A) A person who has been
14 granted an operator's license under [section 11] and a
15 license under--16-4-401(2) to sell alcoholic beverages for
16 consumption on the premises OR-WHO-OPERATES-AN-ESTABLISHMENT
17 FOR-THE-PRINCIPAL-PURPOSE-OF-GAMING-AND-HAS-BEEN-GRANTED-AN
18 OPERATOR'S--LICENSE--UNDER--{SECTION-11} may be granted a
19 permit for the placement of video gambling machines in his
20 premises.

21 {B}-A-PERSON-WHO-HAS-BEEN-GRANTED-AN-OPERATOR'S
22 LICENSE-UNDER-{SECTION-11}-AND-IS-NOT-ENTITLED-TO-A-PERMIT
23 UNDER-SUBSECTION-{1}{A}-MAY-BE-GRANTED-A-PERMIT-FOR-THE
24 PLACEMENT-OF-UP-TO-TWO-VIDEO-KENO-OR-BINGO-GAMBLING-MACHINES
25 IN-HIS-PREMISES-IF-THE-PREMISES-HAVE-BEEN-LICENSED-FOR-THE

1 SALE-OF-FOOD,--CIGARETTES,--OR-ANY-OTHER-CONSUMABLE-PRODUCT
2 OTHER-THAN-LIQUOR-OR-BEER,--IF-ONLY-ONE-MACHINE-IS-ALLOWED
3 UNDER-SUBSECTION-{1}{C},--ONE-MORE-MAY-BE-ALLOWED-UNDER-THIS
4 SUBSECTION-{B}.

5 {C}{B} IF VIDEO KENO OR BINGO GAMBLING MACHINES WERE
6 LEGALLY OPERATED ON A PREMISES ON JANUARY 15, 1989, AND THE
7 PREMISES WERE NOT ON THAT DATE LICENSED UNDER-16-4-401(2) TO
8 SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES OR
9 OPERATED FOR THE PRINCIPAL PURPOSE OF GAMING AND THERE IS AN
10 OPERATOR'S LICENSE FOR THE PREMISES UNDER [SECTION 11], A
11 PERMIT FOR THE SAME NUMBER OF VIDEO KENO OR BINGO GAMBLING
12 MACHINES AS WERE OPERATED ON THE PREMISES ON THAT DATE MAY
13 BE GRANTED TO THE PERSON WHO HELD THE PERMIT FOR SUCH
14 MACHINES ON THOSE PREMISES ON THAT DATE,--TO-AN-ANCESTOR,
15 DESCENDANT,--SIBLING,--OR-SPOUSE-OF-THAT-PERSON,--OR-TO-A
16 PERSON--WHO--PURCHASES-OR-LEASES-THE-BUSINESS-THAT-IS-ON-THE
17 PREMISES,--IF-THE-BUSINESS-IS-MOVED-TO-ANOTHER-PREMISES,--THE
18 PERMITEE-REMAINS-ELIGIBLE-FOR-THE-SAME-NUMBER-OF-PERMITS.

19 {B}{C} A PERSON WHO LEGALLY OPERATED AN ESTABLISHMENT
20 ON JANUARY-1 JANUARY 15, 1989, FOR THE PRINCIPAL PURPOSE OF
21 GAMING AND HAS BEEN GRANTED AN OPERATOR'S LICENSE UNDER
22 [SECTION 11] MAY BE GRANTED A PERMIT FOR THE PLACEMENT OF
23 BINGO AND KENO MACHINES IN HIS PREMISES.

24 {b}--Each--applicant--for--a--license--shall--on--the
25 application--form--disclose--to--the--department--any--previous

1 experience--or--involvement--as--an--owner--or--operator--of
2 gambling-devices-and-establishments. Previous-experience--or
3 involvement--includes:

4 (i)--controlling--of--gambling--devices--as--an--owner--or
5 operator;

6 (ii)--employment-with-the-owner-or-operator-of--gambling
7 devices;

8 (iii)--employment--in--establishments--where-gambling-is
9 offered-to-the-public;-and

10 (iv)--conviction-of-violation-of-state-or-local-gambling
11 laws-in-any-jurisdiction;

12 (2) An applicant for a permit shall disclose on the
13 application form to the department any information required
14 by the department consistent with the provisions of [section
15 10].

16 (2)(3) A licensee may not have on the premises or make
17 available for play on the premises of---his---licensed
18 establishment more than five 20 10--KENO--AND--BINGO 20
19 machines of any combination that-are-legal-under--this--part
20 AND NO MORE THAN 10 MAY BE DRAW POKER MACHINES. In-the
21 jurisdiction-of-a--local--government--where--video--gambling
22 machines--are--played,-the-local-government-may-by-ordinance
23 or-resolution-limit-the-number-of-video-gambling-machines-to
24 no-less-than-five-per-operator-premises. IN-THE-JURISDICTION
25 OF-A-LOCAL-GOVERNMENT--WHERE--VIDEO--GAMBLING--MACHINES--ARE

1 PLAYED,-THE-LOCAL-GOVERNMENT-MAY-BY-ORDINANCE-OR-RESOLUTION
2 LIMIT-THE-NUMBER-OF-VIDEO-GAMBLING-MACHINES-TO-NO-LESS--THAN
3 FIVE--PER-OPERATOR-PREMISES-AND-NO-MORE-THAN-ALLOWED-BY-THIS
4 SECTION.

5 (3)--A-person-denied-a-state-license-has-the-right-to-a
6 hearing-before-the-department.-The-hearing-must-be-conducted
7 in--accordance--with---the---provisions---of---the---Montana
8 Administrative-Procedure-Act."

9 Section 47. Section 23-5-612, MCA, is amended to read:

10 "23-5-612. State--license Machine permits -- fee --
11 used-keno-machines. (1) (a) The department, upon payment of
12 the fee provided in subsection (1)(b) (2) and in conformance
13 with rules adopted under 23-5-605 this part, shall issue to
14 the licensee operator a license permit for each AN APPROVED
15 video draw-poker-or-keno gambling machine.

16 (b)(2) The department shall charge an annual license
17 permit fee of \$100 \$200 for each video draw--poker--machine
18 and---\$100--for--each--keno gambling machine PERMIT. The
19 department shall retain \$100 of the total license permit fee
20 collected for purposes of administering this part--except
21 23-5-615. The remaining \$100 must be returned on a quarterly
22 basis to the local government jurisdiction in which the
23 gambling machine is located. THE LOCAL GOVERNMENT PORTION OF
24 THE FEE IS STATUTORILY APPROPRIATED TO THE DEPARTMENT, AS
25 PROVIDED IN 17-7-502, FOR DEPOSIT IN THE LOCAL GOVERNMENT

1 TREASURY.

2 (3) The license permit expires on June 30 of each
3 year, and the fee may not be prorated.

4 {2}--A--used--keno--machine--may--be--licensed--under
5 subsection--(1)--without--meeting--the--requirements--of--23-5-609
6 if--the--applicant--for--licensure--can--establish--to--the
7 satisfaction--of--the--department--that,--on--the--date--of
8 application,--he--owns--or--possesses--a--machine--that--was--owned
9 or--operated--in--the--state--prior--to--June--30,--1987. A--license
10 issued--under--this--subsection--expires--for--all--purposes--no
11 later--than--June--30,--1989.

12 (4) A USED KENO MACHINE MAY BE LICENSED UNDER
13 SUBSECTION (1) WITHOUT MEETING THE REQUIREMENTS OF 23-5-609
14 IF THE APPLICANT FOR LICENSURE CAN ESTABLISH TO THE
15 SATISFACTION OF THE DEPARTMENT THAT, ON THE DATE OF
16 APPLICATION, HE OWNS OR POSSESSES A MACHINE THAT WAS OWNED
17 OR OPERATED IN THE STATE PRIOR TO JUNE 30, 1987. A LICENSE
18 ISSUED UNDER THIS SUBSECTION EXPIRES FOR ALL PURPOSES NO
19 LATER THAN JUNE 30, 1989."

20 **Section 48.** Section 23-5-631, MCA, is amended to read:

21 "23-5-631. Examination and approval of new video draw
22 poker gambling machines and associated equipment -- fee. (1)
23 The department shall examine and may approve a new video
24 draw--poker--machines gambling machine and associated
25 equipment which is are manufactured, sold, or distributed

1 for use in this the state before the video draw-poker
2 gambling machine or associated equipment is sold, played, or
3 used.

4 (2) A video draw-poker gambling machine or associated
5 equipment may not be examined or approved by the department
6 until the video gambling machine manufacturer-distributor of
7 the machine-or-associated-equipment is licensed as required
8 in 23-5-625.

9 (3) All video gambling machines approved by the
10 department of commerce prior to [the effective date of this
11 act] must be considered approved under this part.

12 {3}(4) The department shall require the
13 manufacturer-distributor seeking the examination and
14 approval of a new video draw--poker gambling machine or
15 associated equipment to pay the anticipated actual costs of
16 the examination in advance and, after the completion of the
17 examination, shall refund overpayments or charge and collect
18 amounts sufficient to reimburse the department for
19 underpayments of actual costs.

20 (5) The department may inspect and test and approve,
21 disapprove, or place a condition upon a video gambling
22 machine prior to its distribution and placement for play by
23 the public."

24 **NEW SECTION. Section 49.** Video gambling machine
25 specifications -- rules. The department shall adopt rules

describing the video gambling machines authorized by this part and stating the specifications for video gambling machines authorized by this part. THE SPECIFICATIONS IN THE RULES MUST SUBSTANTIALLY FOLLOW THE SPECIFICATIONS CONTAINED IN 23-5-606 AND 23-5-609 AS THOSE SECTIONS READ ON SEPTEMBER 30, 1989. THE DEPARTMENT SHALL ADOPT RULES ALLOWING VIDEO GAMBLING MACHINES TO BE IMPORTED INTO THIS STATE AND USED FOR THE PURPOSES OF TRADE SHOWS, EXHIBITIONS, AND SIMILAR ACTIVITIES.

Section 50. Section 23-5-616, MCA, is amended to read:

"23-5-616. Removal of machine from public access. If a machine fails to meet the specifications and requirements of 23-5-606, 23-5-607, or 23-5-608 this part or any rule of the department WHICH SPECIFICATION OR REQUIREMENT EXISTED AT THE TIME THE MACHINE WAS APPROVED at any time after its initial license permit has been issued, the licensee operator shall immediately remove the machine from public access until it meets all requirements."

Section 51. Section 23-5-625, MCA, is amended to read:

"23-5-625. ~~Manufacturer-distributor--of---video---draw~~ Video gambling machine ~~poker-----machines~~ manufacturer-distributor -- license -- fees. (1) It is unlawful for any person to assemble, produce, manufacture, sell, or distribute ~~OR supply,--or--repair~~ any video draw poker gambling machine or associated equipment for use or

play in ~~this the~~ state without having first been issued a video gambling machine manufacturer-distributor's license by the department.

(2) The department shall charge an annual license fee of \$1,000 for the issuance or renewal of a video gambling machine manufacturer-distributor's license.

(3) In addition to other license fees, the department may charge the applicant a one-time video gambling machine manufacturer-distributor's license application processing fee. The processing fee may not exceed the department's actual costs for processing an application.

(4) All video gambling machine manufacturer-distributor's licenses expire on June 30 of each year, and the license fee may not be prorated.

(5) The department shall retain the license and processing fees collected for purposes of administering this part, ~~except-23-5-615~~ unless otherwise provided."

Section 52. Section 23-5-610, MCA, is amended to read:

"23-5-610. ~~Video draw-poker-and-keno gambling machine~~ net income tax -- records -- distribution -- quarterly statement and payment. (1) Each ~~A licensee~~ AN OPERATOR ISSUED A PERMIT UNDER THIS PART shall pay to the department a ~~video draw-poker-and-keno gambling machine~~ tax of 15% of net machine income from each video ~~draw-poker-and-keno~~ gambling machine licensed under this part.

(2) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER THIS PART shall keep a record of net machine income in such form as the department may require. The records must at all times during the business hours of the licensee be subject to inspection by the department, ~~its agents, or employees.~~

(3) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER THIS PART shall, within 15 days after the end of each quarter, complete and deliver to the department a statement showing the total net machine income from each video draw poker ~~and keno~~ gambling machine licensed to him, together with the total amount due the state as video draw poker ~~and keno~~ gambling machine net income tax for the preceding quarter. The statement must contain such other relevant information as the department may require.

(4) (a) The department ~~must deposit~~ shall forward one-third of the tax collected under subsection (3) ~~in~~ to the general fund.

(b) The department ~~must~~ shall forward the remaining two-thirds of the tax collected under subsection (3) to the treasurer of the incorporated county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county or municipal treasury. Counties are not entitled to proceeds from taxes on income from video draw poker ~~and keno~~ gambling machines located in incorporated cities and towns. The

two-thirds local government portion of tax collected under subsection (3) is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury."

Section 53. Section 23-5-608, MCA, is amended to read:

"23-5-608. Limitation on amount of money played and value of prizes -- payment of credits in cash. (1) A video draw poker ~~or keno~~ gambling machine may not allow more than \$2 to be played on a game or award free games or credits in excess of the ~~value of \$100 per hand~~ following amounts:

(a) ~~\$100 a hand or \$800 \$800 \$100~~ a game for a video draw poker machine; and

(b) \$800 a game for a video keno or bingo machine.

(2) Each A licensee shall pay in cash all credits owed to a player as shown on a valid ticket voucher ~~provided in 23-5-606(4)(k).~~

Section 54. Section 23-5-607, MCA, is amended to read:

"23-5-607. Expected payback -- verification. The department shall prescribe the expected payback value of one credit ~~played~~ awarded to be at least 80% of the value of a one credit played. Each video draw poker ~~or keno~~ gambling machine must have an electronic accounting device that the department may use to verify the winning percentage. ~~The department may not publish or otherwise disseminate income figures and other statistics obtained in the payback~~

verification--process--or--contained-in-payback-verification reports-in-a--manner--that--allows--or--helps--a--person--to identify--a--particular--machine--or--to--match-a-particular machine-with-a-particular-income-or-statistic."

NEW SECTION. Section 55. Video gambling machines -- hours of play ---penalty. {1} A video gambling machine may not be played between the hours of 2 a.m. and 8 a.m. each day. However,--in--the--jurisdiction--of--a--local-government where-the--video--gambling--machine--is--played,--the--local government-may-adopt-an-ordinance-defining-the-hours-of-play within-that-jurisdiction:

{2}--A--violation--of--this--section--is--a--misdemeanor punishable-under-{section-23}: HOWEVER, IN THE JURISDICTION OF A LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2 A.M. AND 8 A.M.

Section 56. Section 23-5-613, MCA, is amended to read:

"23-5-613. Investigations--and--violations Violations. {1}--The--department--or--duly--authorized--department representatives-shall-make-necessary-investigations,--suspend or-revoke-state-licenses-for-violations-of-this-part,--except 23-5-615,--and--hold-hearings-on-such-matters. A-license-may be-suspended-prior-to-a-hearing-upon-a-finding-of-danger--to public--health--and-welfare-but-may-not-be-revoked-until-the hearing-is-completed.

{2}--A Unless otherwise provided in this part, A PERSON WHO PURPOSELY OR KNOWINGLY VIOLATES OR PROCURES, AIDS, OR ABETS a violation of this part, except 23-5-615, or a rule promulgated under--23-5-605 by--the--department OR AN ORDINANCE, RESOLUTION, OR RULE ADOPTED UNDER THIS PART is GUILTY OF a criminal offense,--and--a--fine--not--to--exceed \$10,000-for-the-first-violation-and-\$15,000-for-a-subsequent violation--must--be--imposed misdemeanor punishable under [section 23].

{3}--If-a-video--draw-poker--machine--is--operated--in violation--of--this--part,--except-23-5-615,--it-may-be-seized under-23-5-121-and-the-provisions-of-23-5-122-apply.

{4}--Employees-of-the--department--or--duly--authorized department--representatives-designated-as-enforcement-agents may-investigate-the-background-of-license-applicants-to--the extent-judged-necessary-by-the-department,--but-no-person-may be--investigated--prior--to-his-submission-of-an-application for-a-license.

{5}--{a}--Findings-of-suspected-illegal-activity-must-be reported-to-the-appropriate-law-enforcement-agency.

{b}--The-clerk-of-the-court-shall,--upon-final--judgment of--conviction--of--a-licensee,--report-to-the-department-the name-of-the-licensee-convicted-of-violating-a-local-gambling ordinance.

{c}--On-receipt-of--such--report,--the--department--may

1 commence--proceedings--to--revoke--or--suspend--the--licensee's
 2 video-draw-poker-license.
 3 (6)--Any-peace-officer--of--this--state--may--arrest--a
 4 person--for--tampering--with--a--video--draw--poker-machine,
 5 attempting-or-conspiring-to-manipulate-the--outcome--or--the
 6 payoff--of--a--video-draw-poker-machine,or-manipulating-the
 7 outcome-or-payoff-of-a-video-draw-poker-machine-by--physical
 8 tampering--or-other-interference-with-the-proper-functioning
 9 of-the-machine."

10 NEW SECTION. Section 57. Tampering with or
 11 manipulating video gambling machine -- penalty. (1) It is a
 12 felony to A PERSON COMMITS THE OFFENSE OF TAMPERING WITH A
 13 VIDEO GAMBLING MACHINE IF HE PURPOSELY OR KNOWINGLY
 14 manipulate MANIPULATES or attempt ATTEMPTS or conspire
 15 CONSPIRES to manipulate the outcome or payoff of a video
 16 gambling machine by physical tampering or other interference
 17 with the proper functioning of the machine.

18 (2) A violation of this section is a felony and must
 19 be punished in accordance with [section 24].

20 **Section 58.** Section 23-5-503, MCA, is amended to read:

21 "23-5-503. Rules. (1) The card used for recording the
 22 pool and upon which the squares or spaces appear shall
 23 clearly state indicate in advance of the sale of any chances
 24 the number of chances to be sold in that specific pool, the
 25 name of the event, the consideration to be paid for each

1 chance, and the total amount to be paid to the winners.

2 (2) No A chance to participate in a sports pool may
 3 not be sold other than upon the premises in which the sports
 4 pool is conducted. No An individual chance to participate in
 5 a sports pool shall may not be sold for a consideration in
 6 excess of \$1 ~~\$10~~ \$1 \$5, and the total amount to be paid to
 7 the winners of any individual sports pool shall may not
 8 exceed the value of \$100 \$500. The winner of any sports pool
 9 shall receive a 100% payout of the value of the sports
 10 pool."

11 **Section 59.** Section 23-5-509, MCA, is amended to read:

12 "23-5-509. Penalty. Every A person who willfully
 13 purposely or knowingly violates or who procures, aids, or
 14 abets in the willful a violation of this part shall--be
 15 deemed is guilty of a misdemeanor and-upon-conviction-shall
 16 be--punished--by--a--fine--of--not--more--than---\$1,000---or
 17 imprisonment--in-the-county-jail-for-not-more-than-3-months,
 18 or-both punishable pursuant to [section 23]."

19 **Section 60.** Section 23-5-1101, MCA, is amended to
 20 read:

21 "23-5-1101. Definition. As used in this part,
 22 "Calcutta pool" means a form of auction pool in--which
 23 persons--bid--or-wager-money,with-winnings-awarded-based-on
 24 the-outcome--of--an--event,--except--that conducted by an
 25 organization qualified--for--exemption-under--26--U.S.C.

1 501(c)(3)-or-(c)(4)-and authorized by the department. The
 2 Calcutta pool must be an auction pool in which:

3 (1) a person's wager is equal to his bid;
 4 (2) the organization conducting the pool has no direct
 5 interest in the pool;

6 (2) THE PROCEEDS FROM THE POOL, MINUS ADMINISTRATIVE
 7 COSTS AND PRIZES PAID, ARE CONTRIBUTED TO A CHARITABLE OR
 8 NONPROFIT CORPORATION, ASSOCIATION, OR CAUSE;

9 (3) the rules of the pool are publicly posted;

10 (4) no more than one wager for each competitor is
 11 allowed;

12 (5) at least 50% of the total pool is paid out in
 13 prizes;

14 (6) persons may not bid or wager money on any
 15 elementary school or high school sports event; and

16 (7) the underlying event has more than two entrants."

17 **Section 61.** Section 23-5-1105, MCA, is amended to
 18 read:

19 "23-5-1105. Penalty. Any A person who violates a
 20 provision of this part is guilty of a misdemeanor and upon
 21 conviction shall be fined not more than \$1,000 or imprisoned
 22 in the county jail for a term not to exceed 3 months, or
 23 both punishable pursuant to [section 23]."

24 **Section 63.** Section 17-7-502, MCA, is amended to read:

25 "17-7-502. Statutory appropriations-----definition---

1 requisites for validity.---(1) A statutory appropriation is
 2 an appropriation made by permanent law that authorizes
 3 spending by a state agency without the need for a biennial
 4 legislative appropriation or budget amendment.

5 (2) Except as provided in subsection (4), to be
 6 effective, a statutory appropriation must comply with both
 7 of the following provisions:

8 (a) The law containing the statutory authority must be
 9 listed in subsection (3);

10 (b) The law or portion of the law making a statutory
 11 appropriation must specifically state that a statutory
 12 appropriation is made as provided in this section;

13 (3) The following laws are the only laws containing
 14 statutory appropriations: 2-9-202, 2-17-105, 2-18-812,
 15 10-3-203, 10-3-312, 10-3-314, 10-4-301, 13-37-304,
 16 15-25-123, 15-31-702, 15-36-112, 15-65-121, 15-70-101,
 17 16-1-404, 16-1-410, 16-1-411, 17-3-212, 17-5-404, 17-5-424,
 18 17-5-804, 19-8-504, 19-9-702, 19-9-1007, 19-10-205,
 19 19-10-305, 19-10-506, 19-11-512, 19-11-513, 19-11-606,
 20 19-12-301, 19-13-604, 20-4-109, 20-6-406, 20-8-111,
 21 23-5-610, [section 29], [section 39], 23-5-1027, 33-31-212,
 22 33-31-401, 37-51-501, 39-71-2504, 53-6-150, 53-24-206,
 23 67-3-205, 75-1-1101, 75-7-305, 76-12-123, 80-2-103,
 24 80-2-228, 82-11-136, 90-3-301, 90-3-302, 90-3-412, 90-4-215,
 25 90-9-306, 90-15-103, section 137, House Bill No. 861, laws of

~~1985, and section 17, Chapter 454, Laws of 1987.~~

~~{4}--There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments--{in subsection (3)--pursuant to sec. 15, Ch. 607, by 1987, the inclusion of 15-65-121 terminates June 30, 1989, pursuant to sec. 107, Ch. 664, by 1987, the inclusion of 39-71-2504 terminates June 30, 1991, and pursuant to sec. 67, Ch. 454, by 1987, the inclusion of sec. 17, Ch. 454, by 1987 terminates July 1, 1988.}~~

SECTION 62. SECTION 17-7-502, MCA, IS AMENDED TO READ:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both

of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-612; [section 29]; [section 38]; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements

1 authorized by the laws of Montana to pay the state
2 treasurer, for deposit in accordance with 17-2-101 through
3 17-2-107, as determined by the state treasurer, an amount
4 sufficient to pay the principal and interest as due on the
5 bonds or notes have statutory appropriation authority for
6 such payments. (In subsection (3): pursuant to sec. 15, Ch.
7 607, L. 1987, the inclusion of 15-65-121 terminates June 30,
8 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
9 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
10 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
11 1987, terminates July 1, 1988.)"

12 NEW SECTION. SECTION 63. EXEMPTION FROM SUNRISE
13 PROVISIONS. THE PROVISIONS OF TITLE 2, CHAPTER 8, PART 2,
14 AND 5-4-207 DO NOT APPLY TO [THIS ACT].

15 NEW SECTION. SECTION 64. GAMING ADVISORY COUNCIL --
16 ALLOCATION -- COMPOSITION -- COMPENSATION -- ANNUAL REPORT.

17 (1) THERE IS A GAMING ADVISORY COUNCIL.

18 (2) THE GAMING ADVISORY COUNCIL IS ALLOCATED TO THE
19 DEPARTMENT FOR ADMINISTRATIVE PURPOSES ONLY AS PRESCRIBED IN
20 2-15-121.

21 (3) THE GAMING ADVISORY COUNCIL CONSISTS OF NINE
22 MEMBERS. ONE MEMBER MUST BE FROM THE SENATE, AND ONE MEMBER
23 MUST BE FROM THE HOUSE OF REPRESENTATIVES. THE SENATE
24 COMMITTEE ON COMMITTEES AND THE SPEAKER OF THE HOUSE OF
25 REPRESENTATIVES SHALL APPOINT THE LEGISLATIVE MEMBERS OF THE

1 COUNCIL. THE SEVEN REMAINING MEMBERS MUST BE APPOINTED BY
2 THE DEPARTMENT, WITH TWO ONE REPRESENTING THE PUBLIC AT
3 LARGE, TWO REPRESENTING LOCAL GOVERNMENTS, ONE BEING A
4 NATIVE AMERICAN, AND THREE REPRESENTING THE GAMING INDUSTRY.

5 (4) EACH GAMING ADVISORY COUNCIL MEMBER IS APPOINTED
6 TO A 2-YEAR 3-YEAR TERM OF OFFICE, EXCEPT THAT THREE OF THE
7 FIRST-APPOINTED ORIGINAL MEMBERS SHALL SERVE A 1-YEAR TERM,
8 THREE (INCLUDING BOTH LEGISLATIVE MEMBERS) SHALL SERVE A
9 2-YEAR TERM, AND THREE SHALL SERVE A 3-YEAR TERM. A MEMBER
10 OF THE COUNCIL MAY BE REMOVED FOR GOOD CAUSE BY THE
11 APPOINTING BODY PROVIDED FOR IN SUBSECTION (3).

12 (5) THE GAMING ADVISORY COUNCIL SHALL APPOINT A
13 CHAIRMAN FROM ITS MEMBERS.

14 (6) LEGISLATIVE MEMBERS OF THE GAMING ADVISORY COUNCIL
15 ARE ENTITLED TO COMPENSATION AND EXPENSES, AS PROVIDED IN
16 5-2-302, WHILE THE COUNCIL IS MEETING. THE REMAINING MEMBERS
17 ARE ENTITLED TO TRAVEL, MEALS, AND LODGING EXPENSES AS
18 PROVIDED FOR IN 2-18-501 THROUGH 2-18-503. EXPENSES OF THE
19 COUNCIL MUST BE PAID FROM LICENSING FEES RECEIVED BY THE
20 DEPARTMENT.

21 (7) THE GAMING ADVISORY COUNCIL SHALL, WITHIN ITS
22 AUTHORIZED BUDGET, HOLD MEETINGS AND INCUR EXPENSES AS IT
23 CONSIDERS NECESSARY TO STUDY ALL ASPECTS OF GAMBLING IN THE
24 STATE.

25 (8) (A) THE GAMING ADVISORY COUNCIL SHALL SUBMIT AN

1 ANNUAL REPORT TO THE DEPARTMENT, AT A TIME DESIGNATED BY THE
 2 DEPARTMENT, WITH RECOMMENDATIONS FOR AMENDMENTS TO THE
 3 GAMBLING STATUTES, THE NEED FOR ADDITIONAL OR MODIFIED
 4 DEPARTMENT RULES, THE CLARIFICATION OF EXISTING RULES, AND
 5 OTHER RECOMMENDATIONS ON THE OPERATION OF THE DEPARTMENT OR
 6 ANY OTHER GAMBLING-RELATED MATTER.

7 (B) THE ANNUAL REPORT REQUIRED UNDER SUBSECTION (8)(A)
 8 MUST BE AFFIXED TO THE ANNUAL DEPARTMENT REPORT ON GAMBLING
 9 IN THE STATE. THE DEPARTMENT AND COUNCIL SHALL SUBMIT THE
 10 TWO MOST RECENT DEPARTMENT AND COUNCIL REPORTS TO EACH OF
 11 THE NEXT TWO REGULAR SESSIONS OF THE LEGISLATURE.

12 (C) THE COUNCIL MAY SUBMIT INTERIM REPORTS TO THE
 13 DEPARTMENT AS THE COUNCIL CONSIDERS NECESSARY.

14 (D) THE COUNCIL SHALL MEET WITH THE DEPARTMENT UPON
 15 REQUEST OF THE DEPARTMENT.

16 (E) THE DEPARTMENT SHALL MEET WITH THE COUNCIL UPON
 17 REQUEST OF THE COUNCIL.

18 (9) THE DEPARTMENT SHALL GIVE EACH COUNCIL MEMBER
 19 NOTICE AND A COPY OF EACH PROPOSED CHANGE IN ADMINISTRATIVE
 20 RULES RELATING TO GAMBLING. THE NOTICE AND COPY MUST BE
 21 GIVEN AT THE TIME A NOTICE OF PROPOSED RULES CHANGES IS
 22 FILED WITH THE SECRETARY OF STATE. THE COUNCIL SHALL REVIEW
 23 THE PROPOSAL, MAY COMMENT ON IT, AND MAY ATTEND ANY HEARING
 24 ON THE PROPOSAL. THE DEPARTMENT SHALL CONSIDER ANY COMMENT
 25 BY ANY COUNCIL MEMBER OR BY THE COUNCIL AS A WHOLE PRIOR TO

1 ADOPTING THE PROPOSED CHANGE.

2 NEW SECTION. SECTION 65. CONSTRUCTION. IN VIEW OF
 3 ARTICLE III, SECTION 9, OF THE MONTANA CONSTITUTION, [THIS
 4 ACT] MUST BE STRICTLY CONSTRUED BY THE DEPARTMENT AND THE
 5 COURTS TO ALLOW ONLY THOSE TYPES OF GAMBLING AND GAMBLING
 6 ACTIVITY THAT ARE SPECIFICALLY AND CLEARLY ALLOWED BY [THIS
 7 ACT].

8 NEW SECTION. Section 66. Reorganization procedure.
 9 The provisions of sections 2-15-131 through 2-15-137 govern
 10 the transfer of the various functions contained in [this
 11 act] from the department of commerce AND THE DEPARTMENT OF
 12 REVENUE to the department of justice.

13 NEW SECTION. Section 67. Implementation. (1) The
 14 governor shall by executive order implement the provisions
 15 of [this act].

16 (2) The governor may by executive order assign to the
 17 department of justice in a manner consistent with [this act]
 18 functions allocated to the department of commerce AND THE
 19 DEPARTMENT OF REVENUE by the 51st legislature relating to
 20 the implementation of Title 23, chapter 5, parts 1 through
 21 6, that are not transferred by [this act].

22 NEW SECTION. Section 68. Repealer. Sections 23-5-105
 23 through 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124
 24 through 23-5-127, 23-5-132 through 23-5-134, 23-5-141
 25 through 23-5-144, 23-5-201 through 23-5-211, 23-5-301

through 23-5-303, 23-5-314 through 23-5-316, 23-5-322, 23-5-323, 23-5-332, 23-5-401 through 23-5-403, 23-5-411, 23-5-415 through 23-5-418, 23-5-421 through 23-5-423, 23-5-504 through 23-5-508, 23-5-510, 23-5-511, 23-5-601, 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618, 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103, 23-5-1104, MCA, are repealed.

NEW SECTION. SECTION 69. PRORATION OF CERTAIN FEES.

A FEE IMPOSED UNDER 23-5-321, 23-5-421, 23-5-612, 23-5-625, OR 23-5-631 BETWEEN [THE EFFECTIVE DATE OF THIS SECTION] AND OCTOBER 1, 1989, MUST BE PRORATED TO COVER ONLY THE PERIOD BETWEEN THE DATE THE PERMIT OR LICENSE TAKES EFFECT AND OCTOBER 1, 1989.

NEW SECTION. SECTION 70. APPROPRIATION. THE

FOLLOWING APPROPRIATION IS MADE FROM A STATE SPECIAL REVENUE ACCOUNT TO THE DEPARTMENT OF JUSTICE FOR THE PURPOSE OF IMPLEMENTING [THIS ACT] AND ADMINISTERING CHAPTER 5 OF TITLE 23:

<u>FISCAL YEAR BEGINNING JULY 1, 1989</u>	<u>\$527,081</u>
---	------------------

<u>FISCAL YEAR BEGINNING JULY 1, 1990</u>	<u>\$449,081</u>
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NEW SECTION. Section 71. Extension of authority. Any

existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 72. Codification instruction.

(1) [Sections 1, 2, 4 through 8, 10 through 12, 16, 18 through 20, and 23 through 25] are intended to be codified as an integral part of Title 23, chapter 5, part 1, and the provisions of Title 23, chapter 5, part 1, apply to [sections 1, 2, 4 through 8, 10 through 12, 16, 18 through 20, and 23 through 25].

(2) [Sections 27 through 29 and 32] are intended to be codified as an integral part of Title 23, chapter 5, part 3, and the provisions of Title 23, chapter 5, part 3, apply to [sections 27 through 29 and 32].

(3) [Sections 35 through 39 38 and 43 42] are intended to be codified as an integral part of Title 23, chapter 5, part 4, and the provisions of Title 23, chapter 5, part 4, apply to [sections 35 through 39 38 and 43 42].

(4) [Sections 50 49, 56 55, and 58 57] are intended to be codified as an integral part of Title 23, chapter 5, part 6, and the provisions of Title 23, chapter 5, part 6, apply to [sections 50 49, 56 55, and 58 57].

(5) The code commissioner shall recodify the provisions of Title 23, chapter 5, part 11, as an integral part of Title 23, chapter 5, part 2.

(6) [SECTION 64] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 2, CHAPTER 15, PART 20, AND THE PROVISIONS OF TITLE 2, CHAPTER 15, APPLY TO [SECTION 64].

NEW SECTION. SECTION 73. COORDINATION INSTRUCTION.

1 1989.

-End-

1 (1) THE REFERENCE COPY OF HOUSE BILL NO. 576 OF THE 51ST
 2 LEGISLATURE IS AMENDED TO INSERT, ON PAGE 2, LINE 9, AFTER
 3 "23-5-609(4)(L)", THE PHRASE ", AS THAT SECTION READ ON
 4 SEPTEMBER 30, 1989".

5 (2) THE REFERENCE COPY OF HOUSE BILL NO. 251 OF THE
 6 51ST LEGISLATURE IS AMENDED TO CHANGE "LICENSE" TO "PERMIT"
 7 ON PAGE 2, LINES 2 AND 13.

8 (3) THE REFERENCE COPY OF HOUSE BILL NO. 448 OF THE
 9 51ST LEGISLATURE IS AMENDED TO DELETE THE AMENDMENTS MADE TO
 10 23-5-104(1). SUBSECTION (1) OF 23-5-104 AND THE FIRST
 11 SENTENCE OF 23-5-104(2) ARE DELETED, AS PROVIDED IN [SECTION
 12 22], AND THE AMENDMENTS TO THE REMAINDER OF 23-5-104 BY
 13 [SECTION 22] AND HOUSE BILL NO. 448 TAKE EFFECT.

14 NEW SECTION. Section 74. Severability. If a part of
 15 [this act] is invalid, all valid parts that are severable
 16 from the invalid part remain in effect. If a part of [this
 17 act] is invalid in one or more of its applications, the part
 18 remains in effect in all valid applications that are
 19 severable from the invalid applications.

20 NEW SECTION. SECTION 75. EFFECTIVE DATES. (1)
 21 [SUBSECTION (2) OF SECTION 7 AND SECTIONS 63 THROUGH 67, 69,
 22 72, 73, AND THIS SECTION] ARE EFFECTIVE ON PASSAGE AND
 23 APPROVAL.

24 (2) [SECTION 70] IS EFFECTIVE ON JULY 1, 1989.

25 (3) THE REMAINING SECTIONS ARE EFFECTIVE ON OCTOBER 1,