

707 *de* *Smirnov*
 2 INTRODUCED BY *Arnott* *Boharski*
 3 *Walters* *House BILL NO. 425* *Wells* *Adams*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING THE ELIMINATION OF ELECTRONIC VIDEO
 5 GAMBLING TO THE QUALIFIED ELECTORS AT A SPECIAL ELECTION TO BE HELD IN NOVEMBER 1997;
 6 AMENDING SECTIONS 17-7-502, 23-5-110, 23-5-111, 23-5-112, 23-5-113, 23-5-114, 23-5-115,
 7 23-5-118, 23-5-123, 23-5-136, 23-5-138, 23-5-161, 23-5-162, 23-5-171, 23-5-172, 23-5-177, 23-5-311,
 8 23-5-405, AND 23-6-106, MCA; REPEALING SECTIONS 23-5-130, 23-5-602, 23-5-603, 23-5-607,
 9 23-5-608, 23-5-610, 23-5-611, 23-5-612, 23-5-613, 23-5-614, 23-5-616, 23-5-620, 23-5-621, 23-5-622,
 10 23-5-625, 23-5-628, 23-5-629, AND 23-5-631, MCA; AND PROVIDING AN EFFECTIVE DATE."
 11 *Rohben* *Storall* *Wagner* *Carey* *Teatery* *Chs*

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

Section 1. 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; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409; ~~23-5-610; 23-5-612; 23-5-631~~; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;

1 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;
2 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301;
3 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

4 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
5 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
6 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
7 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
8 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
9 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
10 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
11 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates
12 July 1, 2001.)"

13

14 **Section 2.** Section 23-5-110, MCA, is amended to read:

15 **"23-5-110. Public policy of state concerning gambling.** (1) The legislature finds that for the
16 purpose of ensuring the proper gambling environment in this state it is necessary and desirable to adopt
17 a public policy regarding public gambling activities in Montana. The legislature therefore declares it is
18 necessary to:

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

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

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

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

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

30 (f) promote programs necessary to provide assistance to those who are adversely affected by

1 legalized gambling, including compulsive gamblers and their families.

2 (2) The legislature adopts the policy that an applicant for a license or permit or other department
3 approval under ~~parts 1 through 8 of~~ this chapter does not have a right to the issuance of a license or permit
4 or the granting of the approval sought. The issuance of a license or permit issued or other department
5 approval granted pursuant to the provisions of ~~parts 1 through 8 of~~ this chapter is a privilege revocable only
6 for good cause. A holder does not acquire a vested right in the license or permit issued or other department
7 approval granted. A license or permit issued under ~~parts 1 through 8 of~~ this chapter may not be sold,
8 assigned, leased, or transferred.

9 (3) Revenue to fund the expense of administration and control of gambling as regulated by ~~parts~~
10 ~~1 through 8 of~~ this chapter must be derived solely from fees, taxes, and penalties on gambling activities,
11 except the gambling activities of the Montana state lottery and the parimutuel industry."
12

13 **Section 3.** Section 23-5-111, MCA, is amended to read:

14 **"23-5-111. Construction and application.** In view of Article III, section 9, of the Montana
15 constitution, ~~parts 1 through 8 of~~ this chapter must be strictly construed by the department and the courts
16 to allow only those types of gambling and gambling activity that are specifically and clearly allowed by
17 ~~these parts~~ this chapter."
18

19 **Section 4.** Section 23-5-112, MCA, is amended to read:

20 **"23-5-112. Definitions.** Unless the context requires otherwise, the following definitions apply to
21 ~~parts 1 through 8 of~~ this chapter:

22 (1) "Applicant" means a person who has applied for a license or permit issued by the department
23 pursuant to ~~parts 1 through 8 of~~ this chapter.

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

26 (3) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be
27 inspected by the department and that randomly selects the numbers.

28 (4) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5
29 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with
30 each letter above one of the columns. More than 75 numbers may not be used. One number must appear

1 in each square, except for the center square, which may be considered a free play. Numbers are randomly
2 drawn using authorized equipment until the game is won by the person or persons who first cover one or
3 more previously designated arrangements of numbers on the bingo card.

4 (5) "Bingo caller" means a person 18 years of age or older who, using authorized equipment,
5 announces the order of the numbers drawn in live bingo.

6 (6) "Card game table" or "table" means a live card game table:

7 (a) authorized by permit and made available to the public on the premises of a licensed gambling
8 operator; or

9 (b) operated by a senior citizen center.

10 (7) "Card game tournament" means a gambling activity for which a permit has been issued
11 involving participants who pay valuable consideration for the opportunity to compete against each other
12 in a series of live card games conducted over a designated period of time.

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

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

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

16 (a) purchases or obtains from a licensed manufacturer, distributor, or route operator equipment of
17 any kind for use in gambling activities; and

18 (b) sells the equipment to a licensed distributor, route operator, or operator.

19 (11) "Gambling" or "gambling activity" means risking money, credit, deposit, check, property, or
20 any other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation
21 of a gambling device or gambling enterprise. The term does not mean conducting or participating in a
22 promotional game of chance and does not include amusement games regulated by Title 23, chapter 6, part
23 1.

24 (12) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot
25 machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling
26 activity.

27 (13) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity,
28 scheme, or agreement to provide gambling or a gambling device to the public.

29 (14) "Gift enterprise" means a gambling activity in which persons have qualified to obtain property
30 to be awarded by purchasing or agreeing to purchase goods or services. The term does not mean:

1 (a) a cash or merchandise attendance prize or premium that county fair commissioners of
2 agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos;

3 (b) a promotional game of chance; or

4 (c) an amusement game regulated under chapter 6 of this title.

5 (15) "Gross proceeds" means gross revenue received less prizes paid out.

6 (16) "Illegal gambling device" means a gambling device not specifically authorized by statute or by
7 the rules of the department. The term includes:

8 (a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may
9 match numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push
10 card, tip board, pickle ticket, break-open, or jar game, except for one used under chapter 7 or under part
11 5 of this chapter or in a promotional game of chance approved by the department; ~~and~~

12 (b) an apparatus, implement, or device, by whatever name known, specifically designed to be used
13 in conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table,
14 or craps table or a slot machine except as provided in 23-5-153; and

15 (c) an apparatus, implement, or device, specifically designed to electronically offer an otherwise
16 legal form of gambling or live gambling.

17 (17) "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically
18 authorized by a statute or a rule of the department. The term includes:

19 (a) a card game, by whatever name known, involving any bank or fund from which a participant
20 may win money or other consideration and that receives money or other consideration lost by the
21 participant and includes the card games of blackjack, twenty-one, jacks or better, baccarat, or chemin de
22 fer;

23 (b) a dice game, by whatever name known, in which a participant wagers on the outcome of the
24 roll of one or more dice, including craps, hazard, or chuck-a-luck, but not including activities authorized by
25 23-5-160; and

26 (c) sports betting, by whatever name known, in which a person places a wager on the outcome
27 of an athletic event, including bookmaking, parlay bets, or sultan sports cards, but not including those
28 activities authorized in chapter 4 of this title and parts 2, 5, and 8 of this chapter.

29 (18) "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal
30 rows and 10 columns on which a player may pick up to 10 numbers. A keno caller, using authorized

1 equipment, shall select at random at least 20 numbers out of numbers between 1 and 80, inclusive.

2 (19) "Keno caller" means a person 18 years of age or older who, using authorized equipment,
3 announces the order of the numbers drawn in live keno.

4 (20) "License" means a license for an operator, dealer, card room contractor, manufacturer of
5 devices not legal in Montana, sports tab card manufacturer, manufacturer of electronic live bingo or keno
6 equipment, other manufacturer, distributor, or route operator that is issued to a person by the department.

7 (21) "Licensee" means a person who has received a license from the department.

8 (22) "Live card game" or "card game" means a card game that is played in public between persons
9 on the premises of a licensed gambling operator or in a senior citizen center.

10 (23) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of
11 property among persons who have paid or promised to pay valuable consideration for the chance of
12 obtaining the property or a portion of it or for a share or interest in the property upon an agreement,
13 understanding, or expectation that it is to be distributed or disposed of by lot or chance. The term does not
14 mean lotteries authorized under chapter 7 of this title.

15 (24) "Manufacturer" means a person who assembles from raw materials or subparts a completed
16 piece of equipment or pieces of equipment of any kind to be used as a gambling device and who sells the
17 equipment directly to a licensed distributor, route operator, or operator.

18 (25) "Nonprofit organization" means a nonprofit corporation or nonprofit charitable, religious,
19 scholastic, educational, veterans', fraternal, beneficial, civic, senior citizens', or service organization
20 established for purposes other than to conduct a gambling activity.

21 (26) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and
22 operates or controls for use in public, a gambling device or gambling enterprise authorized under ~~parts 1~~
23 ~~through 8~~ of this chapter.

24 (27) "Permit" means approval from the department to make available for public play a gambling
25 device or gambling enterprise approved by the department pursuant to ~~parts 1 through 8~~ of this chapter.

26 (28) "Person" or "persons" means both natural and artificial persons and all partnerships,
27 corporations, associations, clubs, fraternal orders, and societies, including religious and charitable
28 organizations.

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

1 (30) "Promotional game of chance" means a scheme, by whatever name known, for the disposal
2 or distribution of property among persons who have not paid or are not expected to pay any valuable
3 consideration or who have not purchased or are not expected to purchase any goods or services for a
4 chance to obtain the property, a portion of it, or a share in it. The property is disposed of or distributed by
5 simulating a gambling enterprise authorized by ~~parts 1 through 8~~ of this chapter or by operating a device
6 or enterprise approved by the department that was manufactured or intended for use for purposes other
7 than gambling.

8 (31) "Public gambling" means gambling conducted in:

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

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

14 (c) a place, building, or conveyance to which the public does not have access if players are publicly
15 solicited or the gambling activity is conducted in a predominantly commercial manner.

16 (32) "Raffle" means a form of lottery in which each participant pays valuable consideration for a
17 ticket to become eligible to win a prize. Winners must be determined by a random selection process
18 approved by department rule.

19 (33) "Route operator" means a person who:

20 (a) purchases from a licensed manufacturer, route operator, or distributor equipment of any kind
21 for use in a gambling activity;

22 (b) leases the equipment to a licensed operator for use by the public; and

23 (c) may sell to a licensed operator equipment that had previously been authorized to be operated
24 on a premises.

25 (34) "Senior citizen center" means a facility operated by a nonprofit or governmental organization
26 that provides services to senior citizens in the form of daytime or evening educational or recreational
27 activities and does not provide living accommodations to senior citizens. Services qualifying under this
28 definition must be recognized in the state plan on aging adopted by the department of public health and
29 human services.

30 (35) "Slot machine" means a mechanical, electrical, electronic, or other gambling device,

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

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

9
 10 **Section 5.** Section 23-5-113, MCA, is amended to read:

11 **"23-5-113. Department as criminal justice agency -- seized property.** (1) The department is a
 12 criminal justice agency. Designated agents of the department are granted peace officer status, with the
 13 power of search, seizure, and arrest, to investigate gambling activities in this state regulated by ~~parts 4~~
 14 ~~through 8~~ of this chapter and the rules of the department and to report violations to the county attorney
 15 of the county in which they occur.

16 (2) Upon conviction for any violation of ~~parts 1 through 8~~ of this chapter, the court may order any
 17 property seized by a department or local law enforcement agent during a lawful search to be forfeited to
 18 the department, sold, if necessary, and disposed of under 23-5-123."

19
 20 **Section 6.** Section 23-5-114, MCA, is amended to read:

21 **"23-5-114. Department employees -- activities prohibited.** (1) An employee of the department
 22 directly involved with the prosecution, investigation, regulation, or licensing of gambling, as designated by
 23 the attorney general, may not:

24 (a) serve as an officer of a business or organization that conducts a gambling activity, other than
 25 as an officer of a nonprofit organization;

26 (b) be employed by a licensed operator in any capacity that requires assisting in conducting a
 27 gambling activity regulated under parts 1 through ~~6~~ 5 of this chapter or maintaining records for the
 28 gambling activity;

29 (c) have a beneficial or pecuniary interest in a contract for the manufacture, lease, or sale of a
 30 gambling device, the conduct of a gambling activity, or the provision of independent consultant services

1 in connection with a gambling activity; or

2 (d) participate in a gambling activity governed by parts 1 through ~~6~~ 5 of this chapter, except in
3 performing assigned employment duties. An employee may participate in a gambling activity governed by
4 chapter 4 or 7 of this title.

5 (2) The prohibitions in subsections (1)(a) through (1)(c) apply to a former designated department
6 employee during the first year following termination from employment with the department if the employee
7 was directly involved with the prosecution, investigation, regulation, or licensing of gambling immediately
8 before termination."

9

10 **Section 7.** Section 23-5-115, MCA, is amended to read:

11 **"23-5-115. Powers and duties of department -- licensing.** (1) The department shall administer the
12 provisions of ~~parts 1 through 8~~ of this chapter.

13 (2) The department shall adopt rules to administer and implement ~~parts 1 through 8~~ of this chapter.

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

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

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

21 (6) The department may not make public or otherwise disclose information obtained in the
22 application or tax reporting processes, except for general statistical reporting or studies or as provided in
23 23-5-116.

24 (7) The department shall assess, collect, and disburse any fees, taxes, or charges authorized under
25 ~~parts 1 through 8~~ of this chapter."

26

27 **Section 8.** Section 23-5-118, MCA, is amended to read:

28 **"23-5-118. Transfer of ownership interest.** (1) In this section, "licensed gambling operation"
29 means a business for which a license was obtained under ~~parts 1 through 8~~ of this chapter.

30 (2) Except as provided in subsection (3), an owner of an interest in a licensed gambling operation

1 shall notify the department in writing and receive approval from the department before transferring any
2 ownership interest in the operation.

3 (3) This section does not apply to the transfer of a security interest in a licensed gambling
4 operation or to the transfer of less than 5% of the interest in a publicly traded corporation."

5

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

7 "**23-5-123. Disposal of money confiscated by reason of violation of gambling laws.** All fines,
8 penalties, forfeitures, and confiscated money collected by criminal, civil, or administrative process for a
9 violation of a provision of ~~parts 1 through 8~~ of this chapter or a rule of the department must be deposited
10 one-half in the state general fund and one-half in the general fund of the county in which the violation
11 occurred."

12

13 **Section 10.** Section 23-5-136, MCA, is amended to read:

14 "**23-5-136. Injunction and other remedies.** (1) If a person has engaged or is engaging in an act or
15 practice constituting a violation of a provision of ~~parts 1 through 8~~ of this chapter or a rule or order of the
16 department, the department may:

17 (a) upon clear and convincing evidence, issue a temporary order to cease and desist from the
18 gambling activity, act, or practice for a period not to exceed 60 days;

19 (b) following notice and an opportunity for hearing, and with the right of judicial review, under the
20 Montana Administrative Procedure Act:

21 (i) issue a permanent order to cease and desist from the act or practice, which order remains in
22 effect pending judicial review;

23 (ii) place a licensee on probation;

24 (iii) suspend for a period not to exceed 180 days a license or permit for the gambling activity,
25 device, or enterprise involved in the act or practice constituting the violation;

26 (iv) revoke a license or permit for the gambling activity, device, or enterprise involved in the act or
27 practice constituting the violation;

28 (v) impose a civil penalty not to exceed \$10,000 for each violation, whether or not the person is
29 licensed by the department; and

30 (vi) impose any combination of the penalties contained in this subsection (1)(b); and

1 (c) bring an action in district court for relief against the act or practice. The department may not
2 be required to post a bond. On proper showing, the court may:

3 (i) issue a restraining order, a temporary or permanent injunction, or other appropriate writ;

4 (ii) suspend or revoke a license or permit; and

5 (iii) appoint a receiver or conservator for the defendant or the assets of the defendant.

6 (2) The department may issue a warrant for distraint against an operator who fails to pay a civil
7 penalty imposed under subsection (1) or a tax imposed under 23-5-409 ~~or 23-5-610~~. The department may
8 issue the warrant for the amount of the unpaid penalty or for the amount of the unpaid tax, plus penalty
9 and accumulated interest on the tax, and shall follow the procedures provided in 15-1-701 through
10 15-1-708.

11 (3) (a) A civil penalty imposed under this section must be collected by the department and
12 distributed as provided in 23-5-123. The local government portion of the penalty payment is statutorily
13 appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury.

14 (b) If a person fails to pay the civil penalty, the amount due is a lien on the person's licensed
15 premises and gambling devices in the state and may be recovered by the department in a civil action."
16

17 **Section 11.** Section 23-5-138, MCA, is amended to read:

18 **"23-5-138. Evidence in administrative proceedings.** When conducting an administrative proceeding
19 under ~~parts 1 through 8 of~~ this chapter, the department may consider hearsay evidence approved by the
20 hearing examiner in a prehearing conference at which a determination is made that the evidence possesses
21 sufficient guaranties of trustworthiness and does not involve a question of the credibility of a witness or
22 of the credibility of a witness's subjective observations or analysis."
23

24 **Section 12.** Section 23-5-161, MCA, is amended to read:

25 **"23-5-161. Criminal liabilities -- misdemeanor.** A person who purposely or knowingly violates a
26 provision of ~~parts 1 through 8 of~~ this chapter, the punishment of which is for a misdemeanor, shall upon
27 conviction of a first offense be fined not more than \$500. Upon a second conviction within 5 years of a
28 first conviction, a person shall be fined not more than \$1,000 or imprisoned in the county jail for not more
29 than 6 months, or both. Upon a third conviction within 5 years of a second conviction, a person shall be
30 fined not more than \$10,000 or imprisoned in the county jail for not more than 1 year, or both. Upon a

1 fourth conviction within 5 years of a third conviction, a person shall be fined not more than \$10,000 or
2 imprisoned in the county jail for not more than 1 year, or both, and the department shall revoke all licenses
3 and permits the person holds under ~~parts 1 through 8~~ of this chapter and the person is forever barred from
4 receipt of any license or permit under this chapter. When 5 years have passed following a conviction, the
5 record of that conviction may be made available only to criminal justice agencies or upon court order."
6

7 **Section 13.** Section 23-5-162, MCA, is amended to read:

8 **"23-5-162. Criminal liabilities -- felony.** (1) A person who purposely or knowingly violates a
9 provision of ~~parts 1 through 8~~ of this chapter, the punishment for which is a felony, may upon conviction
10 be fined not more than \$50,000 or imprisoned for not more than 10 years, or both, for each violation.

11 (2) In addition to any penalty imposed under subsection (1), the department shall revoke all licenses
12 or permits issued to the person under ~~parts 1 through 8~~ of this chapter and may not issue the person
13 another license or permit under ~~parts 1 through 8~~ of this chapter."
14

15 **Section 14.** Section 23-5-171, MCA, is amended to read:

16 **"23-5-171. Authority of local governments to regulate gambling.** (1) A local government may not
17 license or regulate a form of gambling authorized by ~~parts 1 through 8~~ of this chapter or assess or charge
18 any fees or taxes unless specifically authorized by statute.

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

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

23 (4) A county or incorporated city or town may not restrict the number of licenses that the
24 department may issue."
25

26 **Section 15.** Section 23-5-172, MCA, is amended to read:

27 **"23-5-172. Prosecution.** The county attorney of the county in which a violation of a provision of
28 ~~parts 1 through 8~~ of this chapter occurs shall prosecute all gambling actions within the jurisdiction of the
29 department. However, if the county attorney declines prosecution or fails to commence an action within
30 a reasonable time, the attorney general may initiate and conduct the prosecution on behalf of the state."

1 **Section 16.** Section 23-5-177, MCA, is amended to read:

2 **"23-5-177. Operator of gambling establishment -- license -- fee.** (1) It is a misdemeanor for a
3 person who is not licensed by the department as an operator to make available to the public for play a
4 gambling device or gambling enterprise for which a permit must be obtained from the department.

5 (2) To obtain an operator's license, a person shall submit to the department:

6 (a) a completed operator's license application on a form prescribed and furnished by the
7 department;

8 (b) any other relevant information requested by the department; and

9 (c) a license application processing fee, as required in subsection (8).

10 (3) Before issuing an operator's license, the department shall approve, in accordance with
11 23-5-117, the premises in which the gambling activity is to be conducted.

12 (4) Except as provided in 23-5-117, regardless of the number of on-premises alcoholic beverage
13 licenses issued for a premises, the department may issue only one operator's license for the premises.

14 (5) An operator's license must include the following information:

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

16 (b) the operator's name;

17 (c) a description of each gambling device or card game table for which a permit has been issued
18 to the operator by the department for play upon the premises, including the type of game and permit
19 number for each game; and

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

21 (6) The operator's license must be issued annually along with all other permits for gambling devices
22 or games issued to the operator.

23 (7) The operator's license must be updated each time a ~~video gambling machine~~, bingo, keno, or
24 card game table permit is newly issued or the ~~machine or game~~ is removed from the premises.

25 (8) The department shall charge an applicant who has submitted an operator's license application
26 on or after July 1, 1991, a one-time license application processing fee to cover the actual cost incurred by
27 the department in determining whether the applicant qualifies for licensure under 23-5-176. After making
28 its determination, the department shall refund any overpayment or charge and collect amounts sufficient
29 to reimburse the department for any underpayment of actual costs.

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

1 **Section 17.** Section 23-5-311, MCA, is amended to read:

2 **"23-5-311. Authorized card games.** (1) The card games authorized by this part are and are limited
3 to the card games known as bridge, cribbage, hearts, panguingue, pinochle, pitch, poker, rummy, solo, and
4 whist.

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

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

10

11 **Section 18.** Section 23-5-405, MCA, is amended to read:

12 **"23-5-405. Authorized live bingo, keno, and raffles.** ~~(1)~~ A person may conduct or participate in
13 a live bingo and keno game or raffle only if it is operated pursuant to this part.

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

16

17 **Section 19.** Section 23-6-106, MCA, is amended to read:

18 **"23-6-106. Gambling and illegal gambling devices and enterprises prohibited.** An operator,
19 concessionaire, nonprofit organization, or arcade may not make available for play a gambling or illegal
20 gambling device or enterprise governed under Title 23, chapter 5, parts 1 through ~~6~~ 5."

21

22 NEW SECTION. **Section 20. Repealer.** Sections 23-5-130, 23-5-602, 23-5-603, 23-5-607,
23 23-5-608, 23-5-610, 23-5-611, 23-5-612, 23-5-613, 23-5-614, 23-5-616, 23-5-620, 23-5-621, 23-5-622,
24 23-5-625, 23-5-628, 23-5-629, and 23-5-631, MCA, are repealed.

25

26 NEW SECTION. **Section 21. Effective date.** If approved by the electors, [this act] is effective July
27 1, 1998.

28

29 NEW SECTION. **Section 22. Submission to electorate.** This amendment shall be submitted to the
30 qualified electors of Montana at a special election to be held in November 1997 in conjunction with the

1 general election provided for in 13-1-104(2) by printing on the ballot the full title of this act and the
2 following:

3 FOR eliminating electronic video gambling.

4 AGAINST eliminating electronic video gambling.

5 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0425, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill submitting the elimination of electronic video gambling to the qualified electors at a special election to be held in November 1997.

ASSUMPTIONS:

1. The fiscal note assumes that the electors will approve the statewide elimination of electronic video gambling effective July 1, 1998.
2. In calculating lost revenue, this note assumes the video gambling machine tax and permit fee revenue will be as projected by the Revenue Oversight Committee (ROC). In FY99, the ROC estimates that the 15% tax on video gambling machine net proceeds will generate \$36.186 million. Two-thirds of that is distributed to counties and cities, and the remaining 1/3 goes to the state general fund.
3. With the elimination of video gambling machine activity, there would be a significant reduction in the number of gambling operator licensees, and complete elimination of video gambling machine manufacturer, route operator and distributor licenses.
4. This note also assumes an increase in live game permits issued to licensees.
5. The elimination of electronic video gambling would reduce the staff of the Gambling Control Division (GCD) of the Department of Justice by 56% or 25 FTE. The operating budget for FY99 would be reduced by 55%.

FISCAL IMPACT:

Gambling Control Division:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
FTE	0	(25.00)
Personal services	0	(\$917,000)
Operating	0	(\$280,000)
Equipment	<u>0</u>	<u>(\$35,100)</u>
Total	0	(\$1,232,100)
<u>Funding:</u>		
State special (02)	0	(\$1,232,100)
<u>Revenues:</u>		
Gambling taxes (01)	0	(\$12,062,000)
Gambling licenses & permits (02)	<u>0</u>	<u>(\$1,535,000)</u>
Total	0	(\$13,597,000)
<u>Net Impact on Fund Balance: (revenue minus expense)</u>		
General fund (01)	0	(\$12,062,000)
State special (02)	<u>0</u>	<u>(\$302,900)</u>
Total	0	(\$12,364,900)

(continued)

David Lewis 2-6-97
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

PEGGY ARNOTT, PRIMARY SPONSOR DATE

Fiscal Note for HB0425, as introduced

HB 425

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local government revenues for FY99 would be reduced by \$24.124 million, representing two-thirds of the video gambling tax. This bill would have no impact on expenditures for local governments.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The long-range effect of the proposed legislation is a net reduction in revenue in excess of \$12 million per year on the state general and special revenue funds and in excess of \$24 million to local governments.

Another aspect, that we are unable to calculate, is the economic impact of diverting \$213 million (FY96 video gambling machine gross income), currently wagered from that use to other expenditures. Alternative choices made by the people currently expending those dollars on gambling would be so diverse as to make it impossible to calculate.