

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
58th LEGISLATURE - REGULAR SESSION**

**JOINT APPROPRIATIONS SUBCOMMITTEE ON CORRECTIONS AND PUBLIC  
SAFETY**

**Call to Order:** By **CHAIRMAN STANLEY (STAN) FISHER**, on January 28,  
2003 at 8:05 A.M., in Room 317-A Capitol.

**ROLL CALL**

**Members Present:**

Rep. Stanley (Stan) Fisher, Chairman (R)  
Sen. Corey Stapleton, Vice Chairman (R)  
Sen. Keith Bales (R)  
Rep. Tim Callahan (D)  
Rep. Carol C. Juneau (D)  
Rep. Dave Lewis (R)  
Sen. Trudi Schmidt (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Marian Collins, Committee Secretary  
Christi Moyer, OBPP  
Lorene Thorson, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion  
are paraphrased and condensed. The time stamp for these  
minutes appears at the beginning of the content it  
refers to.

**Committee Business Summary:**

Hearing & Date Posted: Department of Justice  
Public Hearing, 1/24/2003  
Executive Action: None

**{Tape: 1; Side: A; Approx. Time Counter: 1.7 - 30.6}**

**{Tape: 1; Side: B; Approx. Time Counter: 2.1 - 13.8}**

**Bill Unger, Administrator, Forensic Science Division (Crime Lab), Missoula,** stated that the Division is the only crime lab in Montana, and provides forensic services for local, state and federal law enforcement. The purpose of the Crime Lab is to analyze evidence, determine the findings on that evidence, and issue a report. The Crime Lab's scientists often testify as expert witnesses, they train officers to collect and submit evidence, and they are state-mandated to train law enforcement officers who handle intoxilizers. The 79 intoxilizers currently in Montana are repaired, maintained and re-calibrated yearly by the scientists at the Crime Lab. Seventeen hundred law enforcement officers are trained and certified to use the intoxilizers. **Mr. Unger** presented information regarding the workload and turnaround time in each section at the Crime Lab. He also gave examples of crimes solved by the various sections of the Crime Lab. All felony convictions require submission of a DNA sample to the Crime Lab. A profile is completed on that sample and the information is entered into the CODIS (Combined Offenders DNA Information System) database. If the conviction is overturned, the individual must petition the court for removal of the record. The Court then instructs the Crime Lab to delete that individual's DNA record from the system.

**Mr. Unger** informed the Subcommittee that within the last two years, the national computerized database, CODIS, has helped solve five crimes in Montana where suspects were not previously identified. CODIS has also been used to help exonerate falsely-convicted individuals. There is also a national database for fingerprints.

**Mr. Unger** expressed concern for equipment replacement costs. The seventeen major instruments currently in the Crime Lab cost approximately \$100,000 each. Current budget allocations would not allow replacement of this equipment.

**{Tape: 1; Side: B; Approx. Time Counter: 14.5 - 24}**

The Forensic Science Division originally requested permission to hire a Latent Print Examiner. At this time, the Division withdraws that request due to the fact that the 70% federal funding has been denied.

**Mr. Unger** is asking this Subcommittee for approval to hire a chemist for the High Intensity Drug Trafficking Area (HIDTA) Program. The position is federally funded. The other request is

for a rent increase for the latter half of 2005 amounting to \$13,000.

**EXHIBIT (jch18a01)**

**EXHIBIT (jch18a02)**

**CHAIRMAN FISHER** referenced the concerns on page D-51 of the Legislative Budget Analysis 2005 regarding the Crime Lab using earmarked alcohol tax funds. He asked for clarification of this issue.

*{Tape: 1; Side: B; Approx. Time Counter: 25 - 25.9}*

**Larry Fasbender, Deputy Director, Department of Justice**, stated that House Bill 291 opens the section of the Montana Codes to include language allowing the Departments of Corrections, Labor and Justice, to be authorized to use the alcohol tax funds. All three Departments have been using the funds since approximately 1976. The issue has never been challenged by the auditors or anyone else. The language is being changed to eliminate the question of legality of this practice.

*{Tape: 1; Side: B; Approx. Time Counter: 26 - 32}*

*{Tape: 2; Side: A; Approx. Time Counter: 0.2 - 9.5}*

**CHAIRMAN FISHER** suggested charging law enforcement agencies for services rendered by the Forensic Lab. The equipment is expensive and these charges would produce funds for new equipment.

**Mr. Unger** stated that this discussion has taken place on the national level, and the common concern is that, if agencies were to begin charging for services, many smaller communities would have to prioritize what is sent to the Crime Lab due to the costs. Extensive discussion by this Subcommittee followed.

**Ms. Thorson** stated that a Committee bill would be necessary requesting a change to the statute concerning the Forensic Science Lab. Some type of fee structure would have to be worked out with the Department to determine where fees are going to be charged. **CHAIRMAN FISHER** asked Ms. Thorson to look into this issue and report back to the Committee.

*{Tape: 2; Side: A; Approx. Time Counter: 10.6 - 18.9}*

**Gene Huntington, Administrator, Gambling Control Division (GCD)**, gave a brief history of gambling in Montana, and an overview of the Division. All gambling activities are authorized by the Legislature, with the exception of the Montana Lottery and horse racing. The Lottery and horse racing are overseen by other

agencies because they are "promotional." In addition to management of the GCD, **Mr. Huntington** stated that he also negotiates the Tribal compacts, and serves on the Gaming Advisory Council.

***{Tape: 2; Side: A; Approx. Time Counter: 19 - 30.5}***

**Mr. Huntington** stated that 71% of funding for GCD other than the dial-up system, comes from gambling special revenue, and 29% comes from the Liquor Enterprise Fund which is received from the Department of Revenue to pay for liquor-related field work done by GCD.

The Automated Accounting and Reporting System (AARS) dial-up system is partially funded by the general fund. A contract was signed in 2001 with LGS, a Nevada company, to build the AARS. By the summer of that year, it was clear the system would not be delivered in a timely manner, and the State of Montana filed suit against LGS. A settlement was reached in June 2002. No more money has been paid as of this date because the system is not up and running error-free. The AARS system has been delivered, set up, and tested twice. Conditions of the settlement agreement contained clearly written requirements on how the system would have to perform prior to acceptance by the State of Montana. The system has not met those requirements. **Mr. Huntington** stated that GCD feels that the problems with the system can be fixed, and the contractor is working to fix them. After repairs are completed, another round of tests will be performed.

**Mr. Huntington** stated that GCD is now handling paperwork for both liquor and gambling license applications. GCD has organized and implemented a new records management plan which will be automated soon to integrate into the AARS.

***{Tape: 2; Side: B; Approx. Time Counter: 2.1 - 30.8}***

**Mr. Huntington** stated that a primary budget issue of concern to the Gambling Control Division is a decline in special revenue funds due to a reduction in the number of machines being operated. An increase of \$20 on all video gambling machine permit fees is proposed in House Bill 162. This fee increase would temporarily offset the decrease in the special revenue fund balance.

**SEN. SCHMIDT** asked what the percentage of tax is on video gambling machines. **Mr. Huntington** stated that Montana's video gambling tax is 15% of the "gross revenue." Gross revenue is the

money left in the machine after prizes are paid out. The money collected from the video gambling tax goes to the general fund.

**Mr. Huntington** referred the Subcommittee to page D-26, and further explained the Present Law Adjustments.

***{Tape: 3; Side: A; Approx. Time Counter: 0.8 - 8.6}***

**Mr. Huntington** presented the Subcommittee with language the GCD would like inserted in House Bill 2 that would re-appropriate the \$350,000 needed to buy out the contractor and pay the settlement agreement for AARS. This is not a request for new money; the money has been appropriated. This would give GCD the flexibility necessary to negotiate with the company concerning delivery, installation and completion of the AARS system. Payment of the \$350,000 will not be made until the system is up and running correctly.

***{Tape: 3; Side: A; Approx. Time Counter: 10 - 12.8}***

Senate Bill 40 would streamline several requirements that were conflicting between Department of Revenue and the Gambling Control Division. Senate Bill 40 would require that 100% of the video gambling application fee would go into the Liquor Enterprise Fund. This is approximately \$23,000 the GCD will no longer receive.

**EXHIBIT (jch18a03)**

***{Tape: 3; Side: A; Approx. Time Counter: 10 - 28.1}***

**Ms. Thorson** stated that Page D-14 gives an overview of the AARS and how much general fund money has been committed to the system. If this Subcommittee wants to replace those general funds with state special revenue, options are listed on the bottom of Page D-15. Statute says that gambling regulation is supposed to be derived solely from fees, taxes and penalties on gambling activities. If this Subcommittee replaces those general fund monies with some increase in permit fees or a portion of the tax, it would be a savings to the general fund in this biennium and the next biennium of about \$470,000, which would require a change of legislation. **REP. CALLAHAN** asked if the money taken out of the state special account has been repaid to the general fund.

**Mr. Huntington** stated that Ms. Thorson's report gives a very fair accounting, and the money is nearly all paid back. Slightly over \$200,000 per year will be spent over the next two years to continue debugging, testing and the support necessary during installation.

**Mr. Huntington** stated that House Bill 122 will update the original Act and give GCD the ability to start writing rules pertaining to the AARS system. Hopefully, by summer 2003, the rules will be in place in order to begin installing the system. The benefit to the operator of the AARS system will be less paperwork and ease of record keeping. **SEN. SCHMIDT** asked if installation of the AARS system is optional. **Mr. Huntington** stated that it is voluntary at this time. However, if an establishment is not connected now and it is sold, successive owners have five years to bring the establishment into compliance. Also, people in small communities or rural areas don't have to connect to AARS. **SEN. SCHMIDT** asked about internet gambling. **Mr. Huntington** stated that the Gaming Advisory Committee is writing legislation to include a specific internet prohibition statute into Montana's codes. The Legislature has never authorized internet gambling, so it is assumed that it cannot be done. Also, there is a law against credit gambling, and generally internet gambling involves the use of credit cards.

*{Tape: 3; Side: A; Approx. Time Counter: 28.6 - 30.5}*

*{Tape: 3; Side: B; Approx. Time Counter: 2.3 - 5.1}*

**CHAIRMAN FISHER** invited discussion on writing a Committee bill to get some funding into the Forensic Lab. **CHAIRMAN FISHER** felt that the Lab should be charging for their services instead of adding to the burden on the taxpayer. **REP. LEWIS** suggested bringing this issue up in the full Appropriations Committee. **CHAIRMAN FISHER** asked Larry Fasbender to look into the legality of the Forensic Division passing on some of their expenses to local communities.

**ADJOURNMENT**

Adjournment: 10:40 A.M.

\_\_\_\_\_  
REP. STANLEY (STAN) FISHER, Chairman

\_\_\_\_\_  
MARIAN COLLINS, Secretary

SF/MC

**EXHIBIT (jch18aad)**