



MONTANA LEGISLATIVE BRANCH

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TO: Legislative Finance Committee

FROM: Lorene Thorson

RE: Video Gambling Dial-up System

DATE: September 18, 2001

The Department of Justice (department) will provide an update on the lawsuit surrounding the automated accounting and report system (dial-up) at the October LFC meeting. The following paragraphs provide a brief overview of the dial-up system as background for the department's presentation.

The 1999 legislature passed HB 109, which authorized a voluntary dial-up system and approved a biennial appropriation of \$940,000, including \$380,000 general fund. In addition, HB 2 language stated: “. . .It is the intent of the legislature that an annual general fund commitment of \$380,000 be continued in each year of the 2003 biennium. . . “

The 2001 legislature approved funding for 2.0 FTE to support and maintain the system and approved similar language to HB 2, which stated: “. . .The general fund appropriation of \$380,000 in each year of the 2003 biennium reflects continuation of a 5-year general fund commitment for this project through the 2005 biennium. It is the intent of the legislature that an annual general fund commitment of \$236,250 be continued each year of the 2007 biennium. . .”

In addition, the 2001 legislature passed HB 577 authorizing the department to borrow up to \$1.1 million for dial-up system collection units¹. The general fund appropriated in HB 2 will be used to pay for direct costs associated with the system and to pay debt service on the \$1.1 million.

The department entered into a contract with Lodging and Gaming Systems, Inc. (LGS) to develop, implement, and maintain an electronic dial-up system. Problems started to develop in the winter of 2000/2001 and have resulted in the Department of Justice filing suit against LGS for failing to fulfill its contract obligation to deliver a system to connect video gambling machines to a central computer system. LGS also filed suit in Nevada stating the department failed to keep its promises regarding the communications protocol.

The department will provide the LFC with an update of the lawsuit and also address any fiscal impacts that may result from this action. In addition, the department has been asked to address the following questions in their presentation:

- I. Status of dial-up project
 - a. With the termination of the contract with the Nevada firm, what plans does the department have to continue to pursue a dial-up system and what is the timeline?

- b. At this time, are any significant changes in the dial-up system anticipated from the original proposal?
- c. Is the gaming industry still supportive of the system? Is the gaming industry supportive if there are any significant, anticipated changes?

II. Financial ramifications

- a. What funds have been spent for the system to date? The 1999 and 2001 legislatures appropriated general fund and state special revenue and recognized in language a continuing general fund commitment through fiscal 2007 in HB 2 for the dial-up system. A portion of the general fund amounts will be used to make loan payments on the amounts borrowed under HB 577, which allows the department to borrow up to \$1.1 million from the Board of Investments for the video gaming system collection units. Will additional funds above these amounts be needed to finish development and to implement a dial-up system? If so, how will the costs be covered? And how does the department anticipate informing or seeking input from the legislature?
- b. Will the department be able to recover the hardware it owns that is in the hands of the defaulted contractor?
- c. What is the status of the \$2.8 million in state special revenue appropriated for system interface boards? Will the boards and other hardware that have already been purchased be used if a different contractor develops the system or is different from the system originally planned?
- d. Is any of the future work on the system going to be handled in house? If so, what impact will this have on the agency? Will this delay other projects planned for the 2003 biennium, such as the Motor Vehicle system? Will modified FTE be required?
- e. Does the department have an estimate of the cost of this lawsuit? If so, what?

III. How did this happen and can it be prevented in the future

- a. Has the department determined how and why the breach of contract occurred? Process? Oversight?
- b. Has the termination of this contract caused the department to change its procurement processes?
- c. Would the department suggest any changes in the laws for contracting and procurement that may have made a difference if those changes had been in place when this contract was negotiated? If so, did SB 90, passed by the 2001 legislature, correct any of those problems?

¹ Each location that has volunteered to connect to the system requires a data collection unit. The data collection units are essentially a personal computer at each establishment where the video gambling machines are connected and from which data can be retrieved by the state's central computer.