

HOUSE BILL 935

Introduced by S.J. Hansen, et al.

2/19	Introduced
2/19	Referred to Taxation
2/19	First Reading
2/19	Fiscal Note Requested
2/23	Fiscal Note Received
2/25	Fiscal Note Printed
3/12	Hearing
3/19	Tabled in Committee

1 HOUSE BILL NO. 935
 2 INTRODUCED BY Rep. Paul Henshaw, Park Shive
 3 Ammonia Peterson
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A TRUST
 5 FUND AND PROVIDE FOR IN-HOME SERVICE PROGRAMS FOR MONTANA'S
 6 OLDER CITIZENS AND PERSONS WHO ARE CONSIDERED TO BE
 7 DISABLED; TO PROVIDE FUNDING FOR THE TRUST FUND AND THE
 8 IN-HOME SERVICE PROGRAMS THROUGH A TAX ON VIDEO GAMBLING
 9 MACHINES; AMENDING SECTIONS 17-7-502 AND 23-5-610, MCA; AND
 10 PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

12 NEW SECTION. Section 1. Legislative findings --
 13 policy. (1) The legislature finds that the needs of
 14 Montana's older citizens, especially those who are
 15 considered to be at risk or frail, exceed the resources
 16 available to meet the needs. The legislature further finds
 17 that the best interests of all Montanans are served by
 18 providing services to Montana's older citizens that will
 19 allow those persons to maintain an independent lifestyle,
 20 avoid unnecessary institutional care, and live in dignity in
 21 their homes.

22 (2) The legislature declares that it is the policy of
 23 the state to provide for many of the needs of Montana's
 24 older citizens through a variety of sources and programs

1 including the Montana Older Americans Act and [sections 1
 2 through 6].

3 NEW SECTION. Section 2. Definitions. In [sections 1
 4 through 6] the following definitions apply:

5 (1) "Board" means the older Montanans trust fund board
 6 created in [section 4].

7 (2) "Developmentally disabled" has the same meaning as
 8 provided in 53-20-102.

9 (3) "Older Montanan" has the same meaning as provided
 10 in 53-5-702.

11 NEW SECTION. Section 3. Older Montanans trust fund
 12 account. (1) There is an older Montanans trust fund account
 13 in the state special revenue fund.

14 (2) Except as provided in subsection (5), the older
 15 Montanans trust fund account is composed of the money
 16 allocated to the account as provided in 23-5-610(4)(c) and
 17 any other money appropriated to the account.

18 (3) All interest earned on the principal of the older
 19 Montanans trust fund account must be allocated to the
 20 governor's office on aging for the purposes described in
 21 [section 5].

22 (4) The principal of the older Montanans trust fund
 23 account, composed of the allocations made under subsection
 24 (2), may only be appropriated by a two-thirds vote of each
 25 house of the legislature.



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1 (5) When the principal in the older Montanans trust
 2 fund account reaches \$50 million, all revenue allocated to
 3 the account under 23-5-610(4)(c) that would cause the
 4 principal of the account to exceed \$50 million is
 5 statutorily appropriated, as provided in 17-7-502, to the
 6 governor's office on aging for the purposes described in
 7 [section 5].

8 **NEW SECTION. Section 4. Older Montanans trust fund**
 9 **board -- composition -- compensation -- duties.** (1) There is
 10 an older Montanans trust fund board that is attached to the
 11 governor's office on aging for administrative purposes only.

12 (2) The board is composed of five members, as follows:

13 (a) the governor's coordinator on aging;

14 (b) two directors of area agencies on aging who must be
 15 elected by the Montana area agency on aging directors
 16 association, one of whom must be from a multicounty area and
 17 the other of whom must be from a single-county area;

18 (c) the president of the governor's advisory council on
 19 aging; and

20 (d) the director of the department of social and
 21 rehabilitation services or his designee.

22 (3) Members of the board are entitled to reimbursement
 23 under 2-18-501 through 2-18-503.

24 (4) The duties of the board are to:

25 (a) review and provide counsel on the allocation of

1 funds under [section 6(2)]; and

2 (b) have prepared and distributed any reports on the
 3 services and programs described in [section 5] as the board
 4 considers appropriate.

5 **NEW SECTION. Section 5. In-home services for older**
 6 **Montanans.** (1) There is a program administered through the
 7 governor's office on aging to provide services to older
 8 Montanans. Services to be provided through this program are
 9 subject to available funding and may include a directory of
 10 available services and the following services as defined in
 11 the Montana Aging Services Manual, adopted pursuant to part
 12 6 of this chapter:

13 (a) home delivered meals or homemaker services;

14 (b) home chore or personal care;

15 (c) health screening, respite care, home health aid,
 16 medical transportation, case or care management, physical
 17 therapy, or skilled nursing;

18 (d) visiting or telephone reassurance; or

19 (e) other related services that will allow older
 20 Montanans to maintain an independent lifestyle, avoid
 21 unnecessary institutional care, and live in dignity in their
 22 homes.

23 (2) The in-home services and programs listed in
 24 subsection (1) may also be provided by area agencies on
 25 aging to developmentally or physically disabled persons, but

1 only if:

2 (a) an in-home services program is currently in place
3 in the community and services are being provided by the area
4 agency on aging to older Montanans; and

5 (b) services provided to developmentally or physically
6 disabled persons are paid for from funding provided under
7 [section 6] only after it has been determined by the area
8 agency on aging that the services are not available to the
9 developmentally or physically disabled person under
10 reimbursement from medicaid, medicare, or any other source.

11 NEW SECTION. **Section 6. Allocation of funds.** The funds
12 statutorily appropriated to the governor's office on aging
13 in 23-5-610(4)(c) and [section 3(5)] for the programs
14 described in [section 5] must be allocated as follows:

15 (1) not more than 10% of the funds to the governor's
16 office on aging, which may only be used to administer the
17 programs described in [section 5] and of which not less than
18 75% must be further allocated to the local area agencies on
19 aging to be used only to administer the programs described
20 in [section 5]; and

21 (2) after the allocation made in subsection (1), the
22 remainder to be allocated as follows:

23 (a) not less than 90% of the remaining funds for the
24 purposes described in [section 5], which funds must be
25 allocated to Montana's area agencies on aging according to

1 the approved statewide funding formula adopted in the state
2 plan, as defined in 53-5-601; and

3 (b) not more than 10% of the remaining funds for the
4 purposes described in [section 5], which funds are
5 discretionary and may be further allocated in a manner
6 considered appropriate by the governor's office on aging to
7 any of the programs or services listed in [section 5],
8 except that none of the funds allocable under this
9 subsection (b) may be used for administrative costs.

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

11 **"17-7-502. Statutory appropriations -- definition --**
12 **requisites for validity.** (1) A statutory appropriation is an
13 appropriation made by permanent law that authorizes spending
14 by a state agency without the need for a biennial
15 legislative appropriation or budget amendment.

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

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

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

24 (3) The following laws are the only laws containing
25 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;

1 10-3-203; 10-3-712; 10-3-314; 10-4-301; 13-37-304; 15-1-111;
 2 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;
 3 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;
 4 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;
 5 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;
 6 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;
 7 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;
 8 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; [section 3];
 9 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205;
 10 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103;
 11 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613;
 12 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws
 13 of 1985.

14 (4) There is a statutory appropriation to pay the
 15 principal, interest, premiums, and costs of issuing, paying,
 16 and securing all bonds, notes, or other obligations, as due,
 17 that have been authorized and issued pursuant to the laws of
 18 Montana. Agencies that have entered into agreements
 19 authorized by the laws of Montana to pay the state
 20 treasurer, for deposit in accordance with 17-2-101 through
 21 17-2-107, as determined by the state treasurer, an amount
 22 sufficient to pay the principal and interest as due on the
 23 bonds or notes have statutory appropriation authority for
 24 such payments. (In subsection (3), pursuant to sec. 10, Ch.
 25 664, L. 1987, the inclusion of 39-71-2504 terminates June

1 30, 1991.)"

2 **Section 8.** Section 23-5-610, MCA, is amended to read:

3 "23-5-610. Video gambling machine net income tax --
 4 records -- distribution -- quarterly statement and payment.

5 (1) An operator issued a permit under this part shall pay to
 6 the department a video gambling machine tax of:

7 (a) 15% of net machine income from each video gambling
 8 machine licensed under this part; and

9 (b) the percentage determined under subsection (5) of
 10 net machine income from each video gambling machine licensed
 11 under this part.

12 (2) An operator issued a permit under this part shall
 13 keep a record of net machine income in such form as the
 14 department may require. The records must at all times during
 15 the business hours of the licensee be subject to inspection
 16 by the department.

17 (3) An operator issued a permit under this part shall,
 18 within 15 days after the end of each quarter, complete and
 19 deliver to the department a statement showing the total net
 20 machine income from each video gambling machine licensed to
 21 him, together with the total amount due the state as video
 22 gambling machine net income tax for the preceding quarter.
 23 The statement must contain other relevant information as the
 24 department may require.

25 (4) (a) The department shall forward one-third of the

1 tax imposed under subsection (1)(a) and collected under
2 subsection (3) to the general fund.

3 (b) The department shall forward the remaining
4 two-thirds of the tax imposed under subsection (1)(a) and
5 collected under subsection (3) to the treasurer of the
6 county or the clerk, finance officer, or treasurer of the
7 city or town in which the licensed machine is located, for
8 deposit to the county or municipal treasury. Counties are
9 not entitled to proceeds from taxes on income from video
10 gambling machines located in incorporated cities and towns.
11 The two-thirds local government portion of tax imposed under
12 subsection (1)(a) and collected under subsection (3) is
13 statutorily appropriated to the department as provided in
14 17-7-502 for deposit to the county or municipal treasury.

15 (c) The department shall forward one-half of the tax
16 imposed under subsection (1)(b) and collected under
17 subsection (3) to the older Montanans trust fund account
18 created in [section 3].

19 (d) The department shall forward one-half of the tax
20 imposed under subsection (1)(b) and collected under
21 subsection (3) to the state treasurer, which amount is
22 statutorily appropriated, as provided in 17-7-502, to the
23 governor's office on aging for the purposes described in
24 [section 5].

25 (5) (a) The percentage tax rate to be imposed in

1 subsection (1)(b) is as follows:

2 (i) If the amount of principal in the trust fund
3 created in [section 3] is less than \$10 million, the
4 percentage tax rate is 5%.

5 (ii) If the amount of principal in the trust fund
6 created in [section 3] is greater than or equal to \$10
7 million but less than \$20 million, the percentage tax rate
8 is 4.5%.

9 (iii) If the amount of principal in the trust fund
10 created in [section 3] is greater than or equal to \$20
11 million but less than \$30 million, the percentage tax rate
12 is 4%.

13 (iv) If the amount of principal in the trust fund
14 created in [section 3] is greater than or equal to \$30
15 million but less than \$40 million, the percentage tax rate
16 is 3.5%.

17 (v) If the amount of principal in the trust fund
18 created in [section 3] is greater than or equal to \$40
19 million but less than \$50 million, the percentage tax rate
20 is 3%.

21 (vi) If the amount of principal in the trust fund
22 created in [section 3] is greater than or equal to \$50
23 million, the percentage tax rate is 1%.

24 (b) The change in the percentage tax rate required
25 under subsections (5)(a)(i) through (5)(a)(vi) applies

1 beginning on July 1 following the date that the threshold is
2 exceeded."

3 NEW SECTION. Section 9. Codification instruction.
4 [Sections 1 through 6] are intended to be codified as an
5 integral part of Title 53, chapter 5, and the provisions of
6 Title 53, chapter 5, apply to [sections 1 through 6].

7 NEW SECTION. Section 10. Effective date. [This act] is
8 effective July 1, 1991.

9 NEW SECTION. Section 11. Applicability. [This act]
10 applies to all video gambling machine tax revenue recorded
11 on or after July 1, 1991, regardless of when the tax
12 obligation accrued.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0935, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to establish a trust fund and provide for in-home service programs for Montana's older citizens and persons who are considered to be disabled; to provide funding for the trust fund and the in-home service programs through a tax on video gambling machines; amending sections and providing an applicability date.

ASSUMPTIONS:

Department of Justice:

1. Net video machine income will be \$117,603,000 in FY92 and \$123,484,000 in FY93.
2. The principal in the established trust fund will be below \$10,000,000 in both FY92 and FY93 and the 5% tax will be in effect in both FY92 and FY93.
3. There will be no effect on expenditures in the Department of Justice to collect the additional 5% tax.
4. Revenue generated by the 5% tax will be \$5,880,000 in FY92 and \$6,174,000 in FY93.


Department of Family Services:

5. Trust principal will receive 50% of the tax each year (\$2,940,000 FY92 and \$3,087,000 FY93).
6. Interest earnings of 9.35% in FY92 and 9.46% in FY93, on the trust principal plus 50% of the next year's income, will be \$137,445 in FY92 and \$426,044 in FY93.
7. Funds available for expenditure will be 50% of the tax income not placed in the trust and the interest income.

FISCAL IMPACT:

see next page


ROD SUNDSTED, BUDGET DIRECTOR 2-22-91 DATE
Office of Budget and Program Planning


STELLA JEAN HANSEN, PRIMARY SPONSOR 2/25/91 DATE
Fiscal Note for HB0935, as introduced HB 935

Fiscal Note Request, HB0935, as introduced

Form BD-15

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FISCAL IMPACT:

Department of Family Services:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Operating Cost	68,419	160,010	91,591	68,419	172,263	103,844
Grants	<u>1,126,027</u>	<u>4,698,061</u>	<u>3,572,034</u>	<u>1,126,027</u>	<u>5,175,928</u>	<u>4,049,901</u>
Total	1,194,446	4,858,071	3,663,625	1,194,446	5,348,191	4,153,745
<u>Funding:</u>						
General Fund	333,105	333,105	0	333,105	333,105	0
Older Mt. Trust (02)	0	0	0	0	0	0
Older Mt. Special (02)	0	3,663,625	3,663,625	0	4,153,745	4,153,745
Federal Aging (03)	<u>861,341</u>	<u>861,341</u>	<u>0</u>	<u>861,341</u>	<u>861,341</u>	<u>0</u>
Total	1,194,446	4,858,071	3,663,625	1,194,446	5,348,191	4,153,745

Revenue:

Interest on Trust	0	137,445	137,445	0	426,044	426,044
Older Montanan Trust Balance			2,940,000			6,027,000

Department of Justice:

<u>Revenue:</u>						
General Fund	5,880,000	5,880,000	0	6,174,000	6,174,000	0
Older MT Trust (02)	0	2,940,000	2,940,000	0	3,087,000	3,087,000
Older MT Special (02)	0	2,940,000	2,940,000	0	3,087,000	3,087,000
Cities and Counties	<u>11,760,000</u>	<u>11,760,000</u>	<u>0</u>	<u>12,348,000</u>	<u>12,348,000</u>	<u>0</u>
Total	17,640,000	23,520,000	5,880,000	18,522,000	24,696,000	6,174,000

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