

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 18, 1985

The fortieth meeting of the Business & Industry Committee met on March 18, 1985 at 10 a.m. in Room 410 of the Capitol Building. The meeting was called to order by Chairman Mike Halligan.

ROLL CALL: All committee members were present.

DISPOSITION OF HOUSE BILL 460: Representative Fred Thomas, House District #62, is the chief sponsor of this bill which he explained was at the request of the Department of Commerce. It would change from 80% to 100% the costs of recovering the administration of the banks inspection program. He would like to change the bill to state that the funds going into the general fund would go into a special reserve revenue fund so that if the fees collected were higher than needed for one year it could remain in the account for the following year.

PROPONENTS: Les Alke, representing the Montana Banker's Association, stated they recognize this is primarily a bill establishing a users fee covering the total cost of the financial division. It would affect banks, credit unions, savings & loans and consumer loan licensees. They feel it should be put into a special revenue account so that it would not be a form of tax. They are in support of the 100% user fee appropriating enough to finance the total operation. (EXHIBIT 1)

Sam Hubbard, Deputy Director of the Department of Commerce, stated Montana is one of few states still using general fund for this administration and this would just update legislation and also save \$158,000 general fund over the next biennium. They do not object to the funds being put into a special revenue fund.

OPPONENTS: There were none.

Questions were then called for. Senator Goodover wondered why the House had amended it back into general fund. Les Alke felt the original intent was not to make it 100% funded and if that were the case then it would have to have been general fund. Senator Gage asked if part of the supervision of banks includes examining trust assets. Les Alke explained they just see that the trusts are being administered properly but the fee is based on the assets of the bank plus the \$200 fee. Fred Napier, stated the assessment fee was based on assets but that this legislation would base it on the actual cost of administration. Les Alke noted the bill requires the commissioner to establish the assessment fee at a level that will fund the total cost of the division administration.

Senator Thayer wondered about the wording in the bill and was told the rulemaking authority would be the same but instead of going into the general fund the revenue would go into a special revenue account. The hearing was closed on House Bill 460 by Representative Thomas.

CONSIDERATION OF HOUSE BILL 574: Representative Fred Thomas, House District 62, is the chief sponsor of this bill. He explained this bill deals with the situation when a consumer's bill is in error, the utility would not be able to go back more than six months to ask for the correct amount owed. He added it is the present policy of the Public Service Commission to do this now. After a compromise they drafted this bill for the consumer's interests.

PROPOSERS: Taffy Miller, from the Public Service Commission, explained this particular rule came about after they had received several complaints concerning this problem. She stated they have had no complaints from the utilities since implementing this rule and she felt this was a good consumer bill.

Mike Zimmerman, Montana Power Company representative, stated he had left-handed support for the bill. He noted they had participated in the rulemaking and have abided by this rule ever since. (EXHIBIT 2)

Gene Phillips, Pacific Power & Light Company representative; they they also support this legislation.

Teri England, MontPIRG, stated they are also in support of this bill.

OPPONENTS: Dennis Lopach, representing Mountain Bell, stated they are in opposition to this measure. They feel the impact to their industry could be very substantial. He feels it is focused primarily toward utilities and not the telecommunications industry. He explained the way telephone billing is done is far more complicated and sometimes harder to detect than a utility billing error. He noted there is an industrial customer exclusion and that the telephone company has no such class. He felt there should be some sort of an inclusion stating that the telecommunications industry has no industrial class. He suggested a ceiling level of perhaps \$5000 a month would be considered industrial level. He explained their billing is done by computers outside the state and they might perhaps have to hire input technicians to feed information regarding backbilling on a local basis. He was especially concerned about cases involving third party billing and the problems that might occur in this area. He felt the statute of limitations worked in two ways. For the customer it would be not more than 6 months but for Mountain Bell he felt it would be 8 years. He would like to see an exclusion made for providers of telecommunications services. He noted the language would have to be stricken from the Statement of Intent also.

Questions were then called for. Senator Christiaens asked what the statutory provision was now and was told 8 years. Senator Weeding wondered if a bill was in dispute if the six months would apply and Taffy Miller stated that it starts from the time the utility discovers the error and then goes back six months. Senator Weeding also inquired about the problems incurred with third party billing. Taffy Miller admitted this was a problem but she felt this was not the bill to deal with that particular situation.

Senator Gage wondered if this bill just deals with residential customers and Taffy Miller stated the way it is set up it is for all but industrial customers. Opal Winebrenner, Staff Attorney for the PSC, stated the reason they were excluded was because they feel industrial customers understand the bill procedures better. Senator Gage also wondered if a utility could get around this by just marking a bill "corrected" but Taffy Miller stated there are rules regarding this. Taffy Miller then distributed a copy of their position statement for House Bill 574. (EXHIBIT 3)

Senator Williams wondered how far back they went before on correcting backbilling and was told 8 years prior to this ruling. Senator Thayer asked Mike Zimmerman if the committee were to exclude telecommunications providers if this would alter his position. Mike Zimmerman of Montana Power stated it would not nor would it change Pacific Power & Light's position.

Senator Goodover asked Dennis Lopach just what he would like to see amended and he stated he would like to see a complete exclusion of providers of regulated telecommunications services. Senator Halligan asked Opal Winebrenner if the PSC just couldn't have broad enough authority to do this now but she stated they did not have the authority. She stated that the reason for the additional rulemaking authority in the Statement of Intent was because they realize that all billing is not done the same by every utility.

Senator Williams wondered what percentage of the problems were with telecommunications and PSC felt only a small percentage. Representative Thomas felt there was a need for the bill because we are dealing with a monopoly of regulated utilities and we need a good sound rule. Regarding an amendment he felt we should address something that will accomodate real problems but rejected the idea of a blanket exclusion of the telecommunications industry because he felt it would violate the intent of the bill. He then closed the hearing on House Bill 574.

CONSIDERATION OF HOUSE BILL 707: Representative Loren Jenkins, House District 13, Big Sandy, is the chief sponsor of this bill which the rural water users wanted him to introduce. He explained there had been meetings of negotiation between rural water users, plumbing unions, building contractors and the plumbing board. He explained they have had problems in small towns and rural areas where an inspector is not always available. The plumbers would like to be able to be licensed in more than one state and this was also included in the bill. There was also language in the measure dealing with discipline. He noted these agreements had been worked out between all the parties involved.

PROPOSERS: Alvin Thomas, from the Board of Plumbing, stated they had found some inconsistencies in the rules and had worked out an agreement they could all agree to. He was in favor of the amendment that would be presented by the contractor's association.

Bill Olson, Secretary-Manager of the Montana Contractor's Association, distributed copies of the amendment being proposed. (EXHIBIT 4) He explained the amendment would return Section 7 back to the original form. It would establish a line 2 feet from the property line where the plumbers would have jurisdiction inside the building and the outside two feet and from there on the laborers could be used. There was also some discussion of the meter location. He explained with the technological advances in plumbing it lends itself to the laborers doing more of the outside work. He urged concurrence in the bill.

Stan Dugdale, of Dugdale Construction of Butte, stated they had worked out these amendments and felt the bill as originally written was the way they would like to see it pass and urged concurrence.

Questions were then called for. Senator Gage wondered if discipline concerning work habits was included in other licensing areas and was told there were. Shirley Miller from the Professional Licensing Bureau stated a contested discipline was a situation when a person is being disciplined or his license has been revoked and then he goes before a hearing of the board for review.

Senator Goodover wondered if this bill would affect the private homeowner working on his own residence and was told he would be exempt in his own home. On a duplex however he might be required to hire a plumber. Senator Williams asked what a public water supply was considered and was told anything over 2 hookups was considered public. Rep. Jenkins felt you could do your own private watering systems on a ranch. Senator Kolstad wondered if you would have to come up to code and be inspected if you did your own work. Shirley Miller explained the inspection is a responsibility of the building codes division and she did not know if they did inspections of residences and farms. She would have an attorney present at executive session to answer questions. Representative Jenkins noted this bill actually expands the farm and ranch exemptions. Senator Williams wondered if this was going to create more FTE to do inspections and was told it would not. Representative Jenkins then closed the hearing on House Bill 707.

DISPOSITION OF SENATE BILL 391: Senator Halligan asked the committee if they wanted to act on this bill or HB 236 first. Senator Boylan felt his bill had been in committee long enough and should be put before the floor for discussion. Senator Kolstad asked Gary Bennett if this was a statewide poker machines bill and was told that it was. Senator Thayer thought one area that might give the bill a better chance would be to devise the split on revenue to give the maximum benefit back to the cities and towns. Senator Goodover wondered if there had been any thought given to an option of whether or not you wanted to be tied to the computer and then perhaps coming back in two years to see which was working better. John LaFaver was asked to explain the department of revenue's figures on the estimated revenues. (EXHIBIT 5) Senator Boylan felt the local governments should receive more of the revenues. Senator Fuller felt that the more that went into the general fund the better chance the bill had for survival. The committee then began going through the amendments proposed by the subcommittee. (EXHIBIT 6)

Senator Fuller MOVED TO PROVIDE A FACILITY FOR THE INSPECTION OF VIDEO DRAW POKER MACHINES TO ENSURE CONFORMANCE. (Amendment #1) The motion carried.

Senator Thayer then MOVED TO STRIKE THE MANUFACTURER HAS TO BE IN THE STATE OF MONTANA. The motion carried. (Amendment #2)

Senator Weeding MOVED TO CHANGE COIN TO CASH. Motion carried. (Amendment #3)

Senator Kolstad MOVED TO CHANGE TO INSPECTED IN THE STATE OF MONTANA FOR CERTIFICATION AND LICENSING BY THE DEPARTMENT. (Amendment # 4) Motion carried.

Senator Thayer MOVED TO CORRECT OUT COME to OUTCOME. (Amendment #5) Motion carried.

Senator Kolstad MOVED TO REMOVE 13 INCH TO READ MACHINE MUST USE A COLOR DISPLAY WITH IMAGES OF CARDS. (Amendment #6) It would just eliminate using just one type of screen. The motion carried.

There had been a motion on Friday, March 15, to eliminate the 40/40 split and after talking with constituents there was some consensus the bar owner might opt for a lesser percentage.

Senator Gage made a MOTION TO ADD IF UNDER LEASE AGREEMENT TO THE SENTENCE ON LINE 15, PAGE 8. The motion carried. (Amendment #7)

Senator Goodover wondered where the machines were going to be leased and was told there were several out of state manufacturers that were interested. He felt the bigger chunk of revenue ought to go to local governments. Senator Boylan expressed the same thought. It was noted the 80/20 split was the same but this deals with that split from the 20%. John LaFaver, from the Department of Revenue, explained version 2 and 3 state that 30% of this goes to state and local governments but the two versions split the percentages that the state would receive and what the local governments would receive. (REFER TO EXHIBIT 5)

On page 9 there is an amendment proposing to allow the department the powers granted in title 15 for collection of delinquent taxes. Senator Fuller MOVED TO GRANT THE DEPARTMENT THESE POWERS TO COLLECT THESE DELINQUENT TAXES. The motion carried. (Amendment #8)

Senator Fuller MOVED TO ALLOW THE DEPARTMENT OF REVENUE AUTHORITY TO TAKE UP TO 30% OF THE LICENSE FEE REVENUE THE FIRST YEAR TO SET UP THE OPERATION. The motion carried. (Amendment #9)

Senator Weeding MOVED TO ADOPT THE AMENDMENT GRANTING THE DEPARTMENT RULEMAKING AUTHORITY. (Amendment #10) The motion carried.

Senator Fuller MOVED TO GIVE THE DEPARTMENT OF REVENUE EMPLOYEES PEACE OFFICER STATUS. (Amendment #11) The motion carried. Senator Gage wondered if a person has a license and then decides to incorporate if he has to apply for another license. Mary McCue would research this.

Senator Thayer MOVED TO STRIKE THE LANGUAGE CONCERNING THE MANUFACTURER'S LICENSE HAVING TO BE A PERSON IN THE STATE. (Amendment # 12) The motion carried.

Senator Weeding MOVED TO INSERT LANGUAGE STATING THAT THE DISTRIBUTOR MAINTAINS A FACILITY FOR THE INSPECTION OF VIDEO DRAW POKER MACHINES TO ENSURE CONFORMANCE. (Amendment #13) The motion carried.

Amendment #14 changes the fee from \$7,500 to \$12,000 per year. The reason for this was because they lost the licensing authority and so they are upping the fee. Senator Thayer MOVED TO CHANGE THIS FIGURE FROM \$12,500 AND A \$10,000 BOND MUST BE POSTED. The motion carried.

Senator Williams MOVED TO CHANGE THE LANGUAGE TO SAY INSPECTED RATHER THAN MANUFACTURED OR ASSEMBLED IN THE STATE. (Amendment #15) The motion carried.

Amendment #16 would just add if under a lease on line 25, page 12 at the beginning of the sentence. Senator Kolstad MOVED TO ADD IF UNDER A LEASE. The motion carried.

Senator Williams MOVED TO CHANGE TO 30 MONTHS THE TIME PERIOD ON THE LEASE AGREEMENT. The motion carried. It was felt that the 60 month time period was just too long and could be paid off in a much shorter time period.

Amendment #18 strikes the language that states that no person may own interest in more than one type of business. This is to prevent a monopoly from occurring. It does not set up quotas but just makes you go through the state for licensure. Senator Thayer MOVED TO REMOVE THIS LANGUAGE CONCERNING INTEREST IN MORE THAN ONE TYPE OF LICENSE. The motion carried.

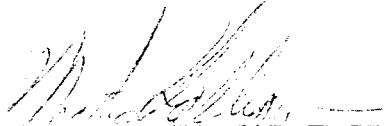
Senator Christiaens made a suggestion that an amendment be added in concerning allocation of \$200,000 to go to the department of institutions to gamblers anonymous from the state's portion of revenue. Senator Goodover asked John LaFaver to comment on such earmarked funds and he had no comment on this idea. Senator Christiaens then MOVED TO EARMARK \$200,000 for gamblers anonymous funds for the department of institutions. On a roll call vote the motion failed 7 to 4 with Senator Halligan, Senator Boylan, Senator Gage, Senator Goodover, Senator Kolstad, Senator Neuman and Senator Williams voting "no".

A motion was then made by Senator Christiaens TO PASS SENATE BILL 391 AS AMENDED. The motion carried. On a roll call vote, Senator Gage and Senator Kolstad voted "no".

DISCUSSION OF POLICY FOR ECONOMIC BOARD: Senator Thayer felt it was okay to grant funds for multi-family dwellings but it should be at the low end of priorities. Dale Harris, from the Board of Economic Development, stated they clearly have the authority to finance multi-family housing but there had never been any discussion of this for IDB Bonds. He stated the board presently has 4 applications for such a project and they needed some guidance from the legislature. Senator Fuller felt we should send a letter

stating they should review all the criteria and give preference to all the criteria and the list of applicants for job creations, etc. and use this as a last resort to grant funding. Senator Goodover felt the committee could not give this authority. Senator Williams asked if it would harm private industry by giving them another advantage. Senator Fuller thought perhaps the chairman could write a letter of intent. Dale Harris explained a hearing has to be conducted before such a project is considered. The committee felt they were not prepared to do anything definite at this time.

The meeting was adjourned at 12:30 p.m.



SENATOR MIKE HALLIGAN, CHAIRMAN

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ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/18/85

SENATE
SENT
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NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
Senator Boylan	X		
Senator Fuller	X		
Senator Gage	X		
Senator Goodover	X		
Senator Kolstad	X		
Senator Neuman	X		
Senator Thayer	X		
Senator Williams	X		
Senator Weeding	X		

Each day attach to minutes.

COMMITTEE ON BUSINESS & INDUSTRY

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

NAME: Les Alke DATE: 3/18/85

ADDRESS: 41 East Chance Gulch - Helena

PHONE: 443-4122

REPRESENTING WHOM? Mont. Bankers Assoc.

APPEARING ON WHICH PROPOSAL: H.B. 460

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: With amendments to revert to bill
as originally submitted to House

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 1
BUSINESS & INDUSTRY
March 18, 1985

NAME: Mike Zimmerman DATE: Mar 18

ADDRESS: 40 E Broadway

PHONE: 723-5441

REPRESENTING WHOM? MPC

APPEARING ON WHICH PROPOSAL: HB 574

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS:

① The bill repeats a rule adopted by PSC.

② MPC does not object

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 2
BUSINESS & INDUSTRY
March 18, 1985

PUBLIC SERVICE COMMISSION

2701 Prospect Avenue • Helena, Montana 59620
Telephone: (406) 444-6199

Thomas Schneider, Chairman
John Driscoll
Howard Ellis
Clyde Jarvis
Danny Oberg

POSITION STATEMENT

The Montana Public Service Commission is proposing a new statute to address problems that have arisen concerning a public utility's discovery of a customer billing error. The most common billing errors are when the utility finds that a customer has been underbilled for service received, or when the utility finds that a customer has not been properly billed under normal billing practices. The proposed statute defines what a billing error is, and clearly provides that if the failure to bill a customer is due to the customer committing a theft of the service, the provisions of this statute will not apply to that customer.

The proposal also provides that once a billing error is discovered by a utility, the utility may only backbill a customer for a period of six months. This time limit provides for a balancing between the interests of both the customer and the utility. The utility should strive to prevent any billing errors from occurring, but should also be allowed to receive compensation for service that has been rendered to the customer involved. The

customer should be able to rely on the utility bill he receives as an accurate reflection of his service cost, but he should not be allowed to receive service for no charge because a billing error has occurred. The Commission believes that the six month time limit will encourage utilities to do what is necessary to prevent billing errors, while protecting customers from being required to pay for service billing errors that may have been in existence for a number of months or years.

The Commission has proposed that the new statute apply to public natural gas and electric utilities, telephone utilities, and privately-owned water and sewer utilities, thus exempting municipally-owned water and sewer utilities. Since the Commission has only partial regulatory jurisdiction over municipally-owned utilities, the Commission's jurisdiction does not extend to the determination and settlement of such billing errors.

The proposed statute would also exempt industrial class customers from its provisions. Industrial class customers are more likely to be aware of any variations in their bills that might indicate a billing error has occurred, and should bear greater responsibility for bringing the possible error to the utility's attention.

Residential and smaller commercial customers of gas and electric utilities, on the other hand, are less likely to be aware of variations in their billing that would indicate an error because of their smaller consumption and more varied energy usage.

The bill does not limit the time period for a customer to recover for overbilling by a utility; the appropriate Statute of Limitations would apply in those instances.

PROPOSED AMENDMENT

HOUSE BILL 707 (3RD READING)

AMENDMENT

Sec. (7)(A) is amended to read:

(7)(A) ~~Plumbing- Except as provided in subsection (7)(B),~~
"Plumbing System" means all potable water supply and
distribution pipes, plumbing fixtures and traps, drainage and
vent pipes, and building drains, including their respective joints
and connections, devices, receptacles, and appurtenances,
~~within the property lines of any premises up to 2 feet beyond~~
~~the building foundation line WITHIN THE PROPERTY LINES OF ANY~~
~~PREMISES, up to the meter location beyond the building~~
~~foundation line or up to 2 feet beyond the building foundation~~
~~line, whichever is further,~~ and includes potable water piping,
water heaters, and vents for the premises ~~building PREMISES-~~
building.

NOTE: This amendment returns section (7)(A) to the same form
as introduced, ~~with the exception of the reference to meter~~
~~location.~~ On multi story buildings, the 2 feet ~~would probably~~
~~apply, and~~ would essentially be the property line.

DEPARTMENT OF REVENUE

EXHIBIT 5
BUSINESS & INDUSTRY
March 18, 1985

TED SCHWINDEN, GOVERNOR

MITCHELL BUILDING

STATE OF MONTANA

HELENA, MONTANA 59620

March 15, 1985

MEMO

TO: Senate Business and Industry Committee

FROM: John D. LaFaver
Director *John D. LaFaver*

SUBJECT: Alternate Revenues for SB391

SB391 As Introduced

	<u>FY86</u>	<u>FY87</u>	<u>Biennium Total</u>
State (20% x 25%)	\$3.8M	\$6.3M	\$10.1M
Locals (20% x 75%)	<u>4.1M</u>	<u>7.8M</u>	<u>11.9M</u>
Total Public Revenues	\$7.9M	\$14.1M	\$22.0M

Version #2 SB391

State (30% x 50%)	\$6.5M	\$11.5M	\$18.0M
Locals (30% x 50%)	<u>4.1M</u>	<u>7.8M</u>	<u>11.9M</u>
Total Public Revenues	\$10.6M	\$19.3M	\$29.9M

Version #3 SB391

State (30% x 75%)	\$8.6M	\$15.4M	\$24.0M
Locals (30% x 25%)	<u>2.0M</u>	<u>3.9M</u>	<u>5.9M</u>
Total Public Revenues	\$10.6M	\$19.3M	\$29.9M

(The state revenue shown in all three versions also includes \$3.3 million in FY86 and \$4.2 million in FY87 for licensing fees.)

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INTRODUCED BY *Sen. Bill No. 391*
Sen. Bill No. 391
O'Connell
 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LICENSING
 AND PLACEMENT OF VIDEO DRAW POKER MACHINES; PROVIDING POWERS
 AND DUTIES FOR THE DEPARTMENT OF REVENUE; PROVIDING FOR
 DISTRIBUTION OF REVENUES; PROVIDING A PENALTY PROVISION; AND
 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Short title. [Sections 1 through 12] shall
 be known and may be cited as the "Video Draw Poker Control
 Law of 1985".

Section 2. Definitions. As used in [sections 1 through
 12], the following definitions apply:

(1) "Department" means the department of revenue.

(2) "Distributor" means an individual, partnership, or
 corporation that buys, sells, or leases video draw poker
 machines ~~except as machine owner~~.

(3) "Licensed establishment" means a restaurant, bar,
 tavern, motel, hotel, or club that has a license for the
 sale of alcoholic beverages for on-premises consumption.

(4) "Machine owner" means an individual, partnership,
 or corporation that owns, services, and maintains video draw
 poker machines for placing in licensed establishments.

and provides a facility for the inspection of
 video draw poker machines to ensure conformance
 with [sections 1 through 12].

#2

(5) "Manufacturer" means an individual, partnership,
 or corporation that manufactures or assembles video draw
 poker machines in the state of Montana.

(6) "Net machine revenue" means gross machine revenue
 less the value of prizes paid as shown on the machine's
 meters.

(7) "Video draw poker machine" means a machine that,
 upon insertion of ~~a coin~~ ^{CASH}, is available to play or simulate

the play of the game of draw poker, as provided in [sections
 1 through 12], 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, except the ticket voucher required by [section 3].

Section 3. Description and specifications. (1) Each

video draw poker machine must:

(a) be ~~manufactured or assembled~~ ^{inspected} in the state of
 Montana, by a person licensed under [section 10];

(b) be connected with a system consisting of
 player-operated terminals and control computers. The
 terminals must be intelligent devices operated by the
 players in the manner specified in [sections 1 through 12].
 The control computers must interrogate the individual
 machines and generate the performance and statistical

for certification and ~~licensing~~ ^{introduction} BILL
 by the department.

SB 391

#1

- 1 reports required by [sections 1 through 12];
- 2 (c) not have any switches, jumpers, wire posts, or any
- 3 other means of manipulation that could affect the operation
 4 ~~or out-come of a game; and~~ ^{the machine must have two mechanisms that accept}
- 5 (d) offer the game of draw poker and have the
- 6 following method of operation:
- 7 (i) the cards must be shuffled after each hand of
- 8 poker is dealt;
- 9 (ii) the game must have one memory location for each
- 10 card in the deck. The deck must be shuffled by use of a
- 11 random number generator to exchange each card in the deck
- 12 with another randomly selected card;
- 13 (iii) after shuffling, five cards must be dealt from
- 14 the top of the deck;
- 15 (iv) any discarded cards must be replaced by remaining
- 16 cards in the deck, starting with the sixth card and using
- 17 the cards in the order of the deck;
- 18 (v) after the first five cards of a hand have been
- 19 dealt, the player must be allowed to raise his wager up to
- 20 the amount of his initial ante, not to exceed eight
- 21 quarters;
- 22 (vi) the game must display the hands for which free
- 23 games or credits will be awarded and the number of free
- 24 games or credits for each hand;
- 25 (vii) the machine must have doors to two locking areas,
- 1 one area containing the logic board and software for the
- 2 game draw poker and the other housing the cash compartment
- 3 and mechanical meters. These areas must be locking and
- 4 separated. Access to one from the other must not be allowed
- 5 at any time.
- 6 (viii) the machine must have two mechanisms that accept
- 7 quarters;
- 8 (ix) the machine must use ¹¹⁶ ~~a 13-inch~~ color display with
- 9 images of cards that ~~are 2 1/2 x 1 3/4 inches and~~ ^{are 2 1/2 x 1 3/4 inches and} closely
- 10 resemble standard poker playing cards;
- 11 (x) the machine must be capable of printing a ticket
- 12 voucher for the player at the completion of each game. If
- 13 credits are owed the player, the ticket must contain:
- 14 (A) the name of the licensed establishment;
- 15 (B) the name of the city, town, or county in which the
- 16 licensed establishment is located;
- 17 (C) the value of the prize in numbers;
- 18 (D) the value of the prize in words;
- 19 (E) the time of day, in hours and minutes in a 24-hour
- 20 format;
- 21 (F) the date;
- 22 (G) the machine license number or serial number up to
- 23 eight digits;
- 24 (H) the sequential number of the ticket voucher; and
- 25 (I) an encrypted validation number from which the

1 validity of the prize can be determined;

2 (xi) an exact copy of each printed ticket voucher must
3 be printed and retained within the machine;

4 (xii) the machine must have nonresettable mechanical
5 meters housed in the cash compartment that keep a permanent
6 record of:

7 (A) coins accepted by each coin acceptor;

8 (B) credits played by player;

9 (C) credits won by player; and

10 (D) credits printed out by the ticket voucher printer;
11 (xiii) the machine must contain electronic metering
12 using meters that record the following and display them on
13 the video screen:

14 (A) total coins in mechanism 1, total coins in
15 mechanism 2, and total coins in mechanisms 1 and 2 combined;

16 (B) total credits, total credits played, and total
17 credits won;

18 (C) total hands of poker played and total hands of
19 poker won;

20 (D) total winning hands, consisting of a pair, two
21 pair, three of a kind, a straight, a flush, a full house,
22 four of a kind, a straight flush, or five of a kind;

23 (E) total errors from the logic board random access
24 memory; and

25 (F) total examination of electronic meters;

1 (xiv) the machine must have a memory area in which the
2 electronically metered data is stored that is accessible
3 remotely by the computer system;

4 (xv) the data from the electronic meters must be
5 transferred to the control computer system on a daily basis
6 and on a request basis;

7 (xvi) the machine may not have any functions or
8 parameters adjustable by or through any separate video
9 display or input codes, except for the adjustment of
10 features that are wholly cosmetic;

11 (xvii) the machine must have the following
12 communication specifications:

13 (A) be capable of communication with the control
14 computer over standard service telephone lines;

15 (B) be capable of utilizing existing telephone lines
16 at the location of the machine; and

17 (C) when communications are in progress, all other
18 telephones and telephone devices on the same telephone line
19 must be disabled by the machine;

20 (xviii) the machine must issue, by activation of an
21 external switch, an accounting ticket containing a
22 performance synopsis of the machine. The ticket must
23 contain:

24 (A) the name of the licensed establishment;

25 (B) the name of the city, town, or county in which the

1 licensed establishment is located;

2 (C) the license number of the machine;

3 (D) the time of day, in hours and minutes in a 24-hour
4 format;

5 (E) the date; and

6 (F) the electronic meter readings required by
7 subsection (3)(1);

8 (xix) control computers used to interrogate the
9 machines must be arranged in a satellite configuration, with
10 a city, town, or county computer terminal monitoring the
11 operation of all games in the city, town, or county and a
12 master computer located at the central office of the
13 department of revenue that monitors the operation of the
14 entire system.

15 (2) The department must bear the cost and maintenance
16 of the master central computer located in its offices. The
17 machine owners must bear the cost of and maintain the
18 computers in the towns, cities, and counties, on a pro rata
19 per-machine basis whenever necessary. The machine owners
20 must install, maintain, and bear the cost of the
21 communication system, on a pro rata per-machine basis
22 whenever necessary. A town, city, or county governing body
23 must provide a place in its offices in which a town, city,
24 or county computer will be kept.

25 Section 4. Winning percentage -- verification of

1 revenue due and winning percentages. The department shall
2 prescribe the winning percentage, which must be at least
3 80%, and necessary video draw poker machine accounting
4 information. Each machine must have dual electronic
5 accounting devices to verify revenue due and winning
6 percentages. At least one device must be connected by
7 telephone line to the control computers at the owner's
8 expense, and access to the stored data must be readily
9 available to the department and the city, town, or county in
10 which the machine is located.

11 Section 5. Limitation on amount of money played and
12 value of prizes. A machine may not allow more than \$2 to be
13 played on a game or award free games or credits in excess of
14 the value of \$100 per hand.

15 *If under lease only*
16 Section 6. Distribution of proceeds. (1) The net
17 machine revenue derived from a video draw poker machine must
18 be distributed as follows:

18 (a) ~~40% to the machine owner;~~ *2*

19 (b) ~~40% to the licensed establishment in which the~~
20 ~~machine is located;~~ *30%*

21 ~~20% to the department to be disbursed as follows:~~

22 (i) 25% of the 20% to the state general fund; and

23 (ii) 75% of the 20% to the general fund of the city or
24 town in which the machine is located or of the county if the
25 machine is not located in a city or town.

The department may use any of the powers granted in Title 15 for the collection of delinquent taxes to collect amounts that remain unpaid after the due date provided in this subsection.

LC 1295/01

(2) Net revenues must be collected by the machine owner. The amount referred to in [section 6(1)(c)] must be sent each month to the department on a date determined by the department. Simple interest at 18% a year, calculated daily, must be paid to the department on any balance outstanding after the remittal date.

(3) Each month, the machine owner must give the department a report containing the:

- (a) serial number of each video draw poker machine;
- (b) name and address of the establishment where each machine is located; and
- (c) computer printouts of the net revenue of each machine, taken directly from the machine's electronic accounting devices, if requested by the department, by the city or town in which the machine is located, or the county if a machine is not located in a city or town.

Section 7. Video draw poker fund. There is an account in the enterprise fund type, as defined in 17-2-102, to be known as the video draw poker account. The license fee revenue provided by [sections 1 through 12] must be deposited in the account to be used as follows:

- (1) Up to 15% may be used by the department to administer [sections 1 through 12]; and
- (2) the remainder must be paid quarterly from the enterprise fund type account into the state general fund.

During the first fiscal year of operation under this act, up to 30% may be used by the department to administer [sections 1 through 12]. Thereafter, up to 15% per fiscal year may be used to administer

[Sections 1-12].

(1) The department shall administer and control the provisions of [sections 1 through 12].

Renumber: subsequent subsections

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Section 8. Powers and duties of department -- licenses. (1) The department shall adopt rules implementing [sections 1 through 12] and:

- (a) provide licensing procedures;
 - (b) prescribe necessary application and reporting forms; and
 - (c) grant or deny license applications.
- (2) The department may not deny or place a condition on a license except for reasonable cause.

Section 9. License qualifications. (1) A person may not be granted a license unless he is of good character, honest, has adequate financing from suitable sources, is a citizen of the United States, and has resided in this state for at least 1 year prior to the application.

(2) No license may be granted to a person who has been convicted of being or is the keeper of a house of prostitution or has had a license issued under [sections 1 through 12] revoked for cause.

(3) A license may not be renewed if the licensee no longer meets the requirements for granting a license.

(4) If a license applicant is a partnership, each partner, including a limited partner, must qualify under subsections (1) through (3).

(5) If a license applicant is a corporation:

- (a) it must have been a registered Montana corporation

(4) The department is a criminal justice agency and designated employees are granted peace officer status with powers of search, seizure, and arrest to regulate and control those persons licensed under [sections 1 through 12].

A distributor shall maintain a facility for the inspection of video draw poker machines to ensure conformance with [sections 1 through 12] and the facility must be registered with the department and open at any time to the department and law enforcement agencies.

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1 for at least 1 year prior to the application;

2 (b) at least one-half of its directors must have
3 resided in Montana for at least 1 year;

4 (c) each officer must qualify under subsections (1)
5 through (3); and

6 (d) each stockholder must be a natural person and, if
7 he owns 5% or more of the stock of the corporation, he must
8 qualify under subsections (1) through (3).

9 (6) A person denied a license has the right to a
10 hearing before the department. The hearing must be conducted
11 in accordance with the provisions of the Montana
12 Administrative Procedure Act.

13 Section 10. Legality of machines -- types of licenses.
14 (1) No person may manufacture, distribute, own, operate, or
15 keep a video draw poker machine unless he is licensed under
16 this section. Machines licensed under this section are legal
17 and it is legal to play such machines. The provisions of
18 Title 23, chapter 5, part 3, do not apply to or prohibit
19 video draw poker machines or the playing of such machines.

20 (2) A manufacturer's license may be issued to a person
21 that manufactures or assembles video draw poker machines for
22 use in this state. The annual fee is \$5,000, and a \$5,000
23 cash bond must be posted. A plant manufacturing or
24 assembling machines must be registered with the department
25 and be open at any time to inspection by the department and

1 law enforcement agencies.

2 (A) A distributor's license may be issued to a person
3 that buys, sells, or leases video draw poker machines in
4 this state if the annual fee is \$12,500 ^{#13} and a \$5,000 cash bond ^{#10,000}
5 must be posted.

6 (A) A machine owner's license may be issued to a
7 person that owns, services, and maintains video draw poker
8 machines for placement in licensed establishments. The
9 annual fee is \$10,000 for the first 1 through 25 video draw
10 poker machines placed, and a \$10,000 cash bond must be
11 posted. For each additional video draw poker machine, the
12 annual fee is \$400. No video draw poker machine may be
13 licensed in the state of Montana that has not been
14 ^{inspected} manufactured or assembled in the state of Montana. ^{#15}

15 (A) A licensed establishment license may be issued to
16 a person who owns a license for the sale of alcoholic
17 beverages for on-premises consumption. The annual fee is
18 \$400 per year per machine. The fee for a machine may be
19 prorated on a quarterly basis. The holder of a license under
20 this subsection does not have to meet the residency
21 requirement. No licensed establishment may have more than
22 five machines.

23 (A) Each licensed video draw poker machine must have
24 the license prominently displayed on it.

25 (A) No video draw poker machine may be placed in a

Handwritten note: #12-
#16

1 licensed establishment unless the owner, lessee, or other
 2 person operating the licensed establishment has entered into
 3 a contract with a machine owner for the placement of the
 4 machines for a minimum term of ³⁰60 months. #17
 5 ~~(8) No person may, directly or indirectly, hold or own~~
 6 ~~an interest in more than one type of license.~~ #18
 7 ~~(9) A license may not be sold, assigned, or otherwise~~
 8 transferred.

9 Section 11. Investigations and violations. (1) The
 10 department shall make necessary investigations, suspend or
 11 revoke licenses for violations of [sections 1 through 12],
 12 and hold hearings on such matters. A license may be
 13 suspended prior to a hearing upon a finding of danger to
 14 public health and welfare, but may not be revoked until the
 15 hearing is completed.

16 (2) A violation of [sections 1 through 12] or a rule
 17 promulgated under [section 8] is a criminal offense, and a
 18 fine not to exceed \$5,000 for the first violation and
 19 \$15,000 for a subsequent violation must be imposed.

20 (3) If a video draw poker machine is operated in
 21 violation of [sections 1 through 12] it may be seized under
 22 23-5-121, and 23-5-122 applies.

23 (4) Employees of the department designated as
 24 enforcement agents may investigate the background of license
 25 applicants to the extent judged necessary by the department,

1 but no person may be investigated prior to his submission of
 2 an application for a license.

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

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

12 Section 12. Preemption of local taxes. Video draw
 13 poker machines are exempt from taxes or fees levied by any
 14 government entity except as provided in [sections 1 through
 15 12].

16 Section 13. Severability. If a part of this act is
 17 invalid, all valid parts that are severable from the invalid
 18 part remain in effect. If a part of this act is invalid in
 19 one or more of its applications, the part remains in effect
 20 in all valid applications that are severable from the
 21 invalid applications.

22 Section 14. Effective date. This act is effective on
 23 passage and approval.

-End-

STANDING COMMITTEE REPORT

MARCH 18

85

Page 1 of 4

MR. PRESIDENT

We, your committee on **BUSINESS & INDUSTRY**

having had under consideration **SENATE BILL** No. **391**

first reading copy (**white**)
color

LICENSING AND PLACEMENT OF VIDEO DRAW POKER MACHINES

Respectfully report as follows: That **SENATE BILL** No. **391**
be amended as follows

1. Page 1, line 19.
Following: "machines"
Strike: ", except a machine owner"
Insert: "and provides a facility for the inspection of video
draw poker machines to ensure conformance with [sections 1
through 12]"
2. Page 2, lines 1 through 3.
Strike: subsection 5 in its entirety
Re-number: subsequent subsections
3. Page 2, line 8.
Following: "or"
Strike: "a coin"
Insert: "cash"
4. Page 2, line 18.
Following: "be"
Strike: "manufactured or assembled"
Insert: "inspected"

(continued)

~~XXXXXX~~
DO PASS

~~XXXXXXXXXX~~
DO NOT PASS

Chairman.

5. Page 2, line 19.

Following: "Montana"

Strike: "by a person licensed under [section 10]"

Insert: "for certification and licensure by the department"

6. Page 3, line 4.

Following: "or"

Strike: "out come"

Insert: "outcome"

7. Page 4, line 8.

Following: "use a"

Strike: "13-inch"

8. Page 4, line 9.

Following: "that"

Strike: "are 2 1/2 x 1 3/4 inches and"

9. Page 8, lines 18 through 20.

Following: "(a)" on line 18

Strike: remainder of line 18 through end of line 20

Insert: "80% to the machine owner if the same as the owner of the licensed establishment; or

(b) if the machine is placed in a licensed establishment under a lease agreement, 80% to the machine owner and the licensed establishment to be divided by agreement between them;"

10. Page 9, line 6.

Following: "date."

Insert: "The department may use any of the powers granted in Title 15 for the collection of delinquent taxes to collect amounts that remain unpaid after the due date provided in this subsection."

11. Page 9, lines 22 and 23.

Following: "(1)"

Strike: remainder of line 22 through line 23

Insert: "During the first fiscal year of operation under this act, up to 30% may be used by the department to administer [sections 1 through 12]. Thereafter, up to 15% per fiscal year may be used by the department to administer [sections 1 through 12]."

(continued)

12. Page 10, line 2.

Following: "licenses."

Insert: "(1) The department shall administer and control the provisions of [sections 1 through 12]."

Renumber: subsequent subsections

13. Page 10, line 10.

Following: line 9

Insert: "(4) The department is a criminal justice agency, and designated employees are granted peace officer status with powers of search, seizure, and arrest to regulate and control those persons licensed under [sections 1 through 12]."

14. Page 11, line 20 through line 1, page 12.

Strike: subsection 2 in its entirety

Renumber: subsequent subsections

15. Page 12, line 4.

Following: "state."

Insert: "A distributor shall maintain a facility for the inspection of video draw poker machines to ensure conformance with [sections 1 through 12], and the facility must be registered with the department and be open at any time to the department and law enforcement agencies."

Following: "is"

Strike: "\$7,500"

Insert: "\$12,500"

Following: "and a"

Strike: "\$5,000"

Insert: "\$10,000"

16. Page 12, line 14.

Following: line 13

Strike: "manufactured or assembled"

Insert: "inspected"

17. Page 12, line 25.

Following: "(7)"

Strike: "No"

Insert: "If under a lease agreement, no"

(continued)

MARCH 18

85

..... 19.....

18. Page 13, line 4.

Following: "of"

Strike: "60"

Insert: "30"

19. Page 13, lines 5 and 6.

Strike: subsection 6 in its entirety

Renumber: subsequent subsection

AND AS AMENDED

DO PASS

Mike Halligan.....

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS & INDUSTRY

Date March 18, 1985 SENATE Bill No. 391 Time

NAME	YES	NO
Chairman Mike Halligan		x
V-Chrm. B. F. Christiaens	x	
Senator Paul Boylan		x
Senator David Fuller	x	
Senator Delwyn Gage		x
Senator Pat Goodover		x
Senator Allen Kolstad		x
Senator Ted Neuman		x
Senator Gene Thayer	x	
Senator Bob Williams		x
Senator Cecil Weeding	x	

Carol Duval
Secretary

Mike Halligan
Chairman

Motion: Motion by Senator Christiaens to earmark \$200,000
of the revenues to go to department of institutions for grants
going to organization of gamblers anonymous. The motion failed
7 - 4.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS & INDUSTRY

Date March 18, 1985 SENATE Bill No. 391 Time

NAME	YES	NO
Chairman Mike Halligan	X	
V-Chrm. B. F. Christiaens	X	
Senator Paul Boylan	X	
Senator David Fuller	X	
Senator Delwyn Gage		X
Senator Pat Goodover	X	
Senator Allen Kolstad		X
Senator Ted Neuman	X	
Senator Gene Thayer	X	
Senator Bob Williams	X	
Senator Cecil Weeding	X	

Carol Duval
Secretary

Mike Halligan
Chairman

Motion: Motion by Senator Christianes to PASS SENATE BILL
391 AS AMENDED. Motion carried 9-2 against. Senator Gage
and Senator Kolstad voted against the bill.