

MINUTES OF THE MEETING
TAXATION COMMITTEE
49TH LEGISLATURE
SPECIAL SESSION III
HOUSE OF REPRESENTATIVES

July 1, 1986

The eleventh meeting of the taxation committee was called to order in room 312-1 of the state capitol at 8:00 a.m. by chairman Gerry Devlin.

ROLL CALL: All members were present as were Dave Bohyer, researcher for the legislative council, and Alice Omang, secretary.

CONSIDERATION OF HOUSE BILL 53: Representative Ellerd, house district 77, stated that this bill, which is an act to revise the video draw poker machine control law by reducing the license fee to \$45 per machine and to impose a net income tax of 30% on these machines, will generate about \$15 million in revenue, according to figures presented by the department of revenue. See exhibit 1. He also distributed exhibit 2, a statement of intent.

PROPONENTS: Senator Towe, senate district 44, advised that these machines have a present payoff of 80% and this would take 30% of the difference between the payoff and the money that goes into the machine.

He contended that the machine owners can afford to pay the 30% as on the average, these machine will net \$4,186 per quarter or \$16,744 per machine per year, but some make more and some make less.

Bill Campbell, representing the Montana Education Association, said that this is one of the bills in their tax program and while it is not their preference, they do want to go on record as supporting this bill.

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There were no further proponents.

OPPONENTS: Representative Pavlovich, house district 70, Butte, and secretary of Silver-Bow County Tavern Association, advised the committee that last year there were two bills in the session - HB 36 and SB 391 - and when SB 391 came out of the senate, there was an assumption that there would be \$52 million generated on poker machines, that there would be 5,000 machines in the state of Montana and as of last year, there were little over 2,900 licenses issued, generating approximately \$30 million.

He proposed an amendment to this bill by taking out the 30% and putting it at 10% and giving all the money back to the cities and towns. See exhibit 3.

Representative Pistoria, house district 36, Great Falls, stated that this is not the time to change this now and this is the most outrageous thing he has ever heard of and they have other problems that they need to take care of in order to balance the budget.

John Poston indicated that, because this came up in such a short time, he does not know if he represents all the coin operators in the state of Montana, but he knows that he represents the ones who have the largest routes, and two-thirds of these machines are owned by people who run these routes. He asked what is the real intent of this bill and he knows that the two sponsors have vehemently opposed anything in this area previously. He said that if they want to severely restrict electronic gambling, this bill will do it - there is no question about that.

Phil Benson, representing Montana Music in Missoula, Big Sky Amusements and Century Amusements, and also

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president of the Montana Coin Machine Operators, stated that when they talk about all the big profits, they do not talk about the monitors that blow out, Canadian coins (in Missoula, they had a \$780 loss on these) and all the problems they have with these machines.

Larry Lippon, representing D & R Music in Bozeman, Automatic Music in Billings, and Treasure State Games in Bozeman, testified that in their business, they operate over 1,500 machines and poker machines are less than 15% of those machines, and he believes that they will be losing almost one-half of their machines if this bill passes.

Roland Pratt, representing the Montana Restaurant Association, stated that many of their people who are working on a marginal basis, are using the income that is derived from these machines to keep their doors open and if this is taken away from them, they may lose their whole business.

Don Peoples, chief executive of Butte-Silver-Bow, said that he is not convinced that the revenue projections are correct and they are also preempting an established local source of revenue for local governments throughout Montana.

Roger Tippy, representing the Montana Beer and Wine Wholesalers, collaborated with the contention that the tavern industry is on the endangered species list and judging from the numbers they see on the wholesale beer deliveries, what they say is true so anything adverse to this is probably going to be adverse to the whole economy.

Dan Sigby, Great Falls, testified that he owned a cocktail lounge in Great Falls and for the five years, he has been in business, he has never made

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a profit selling food, but his marginal profit has always been in the machines and for a bill like this to pass, it would put him out of business.

Robert VanDerVere, a concerned citizen, indicated that he felt they should wait until the next session and then work on this.

Alec Hanson, representing the Montana League of Cities and Towns, stated that he unequivocally supported the amendments presented by Representative Pavlovich and they feel that this could decrease the amount of revenue to local governments at this time. He figured that the city-county share would be about \$2.6 million and presently under the old system, cities and counties receive about \$2.85 million on 3,000 machines. He stressed that they also have local licensing control and he thought that across the state of Montana, cities and counties are imposing an average license fee of about \$200. He contended that under this bill, the total tax on each machine would be about \$7,000 and it is going to be increasingly difficult for the cities and counties to impose additional local fees.

Phil Strobe, representing the Montana Taverns' Association, noted that the administration was absent in connection with this bill and if this is a \$15 million tax bill, why is the administration not supporting the bill and he thought the reason was that this bill will not be in force in the next six months as one-half of the 32 district judges would sign an order that this is excessive and abusive legislation.

Chairman Devlin noted that they were about out of time and he asked the opponents remaining to please stand and to leave a brief statement with the secretary. About ten people stood up.

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QUESTIONS ON HOUSE BILL 53: Representative Raney asked if he (Representative Pavlovich) could live with 15% and a \$45 to \$75 license fee.

Representative Pavlovich replied that if they eliminate the 1500 and also take out the loss that the cities and towns will have on there, he could support this.

Representative Raney asked if they took the percentage to the cities and towns at 50/50, would it be compatible.

Representative Pavlovich responded that he would like to see the whole 15% go to the cities and towns.

There were no further questions.

Representative Ellerd asked if Senator Towe could close for him.

Senator Towe stated that the county and city licenses are preserved, and he asked if they knew of any businesses anywhere where they could pay back their entire cost in three months and the average machine netted \$4,186 so in three months time the average machine is paid for. He contended if they took one-third of that, maybe it would take six months; and he can't believe that this is going to run them out of business.

EXECUTIVE SESSION:

DISPOSITION OF HOUSE BILL 53: Representative Harp moved that this bill DO NO PASS, saying that they know that this bill will not go through the process as the governor has told them so.

Representative Raney moved to amend the bill by striking 30% and inserting 15% and to strike 81 and 19% and insert 50% and 50%. He indicated that if this goes out on the floor, it would be in some kind of a debatable form.

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Representative Harrington moved that they amend this to show 10% and it does repeal and it goes to the cities and counties.

Representative Sands stated that he had to speak against the amendment as they came here to balance the budget, not to reduce it.

A vote was taken on the amendment and it failed with 2 voting for and 10 voting against it.

Representative Raney made a substitute motion to change 30% to 15% and to give 50% to the cities and towns and 50% to the general fund. He indicated that he thought they would be ending up with about \$3.75 million going to the state and \$3.75 million going to the cities and towns under the current revenues coming in and that is making a pretty big assumption.

A vote was taken on the proposed amendment and it passed with 11 voting aye and 9 voting nay. See roll call vote #1.

Representative Ream moved to amend the bill by making the refund retroactive. The motion carried unanimously.

Representative Gilbert moved to amend by striking section 25, which is the local licensing authority and if they are going to go 50/50, they are allowing those people to add another \$1,000 or whatever they want, he advised.

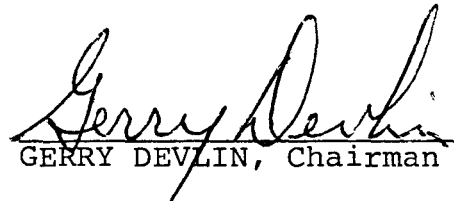
There was some discussion and a vote was taken on the motion and it failed with 7 voting for the amendment and 13 voting against it. See roll call vote #2.


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Representative Williams made a substitute motion to DO PASS AS AMENDED.

Representative Asay made a substitute motion to the previous substitute motion to TABLE this bill. The motion passed on a 17 to 3 vote. See roll call vote #3.

ADJOURNMENT: There being no further business, the meeting adjourned at 9:15 a.m.


GERRY DEVLIN, Chairman


Alice Omang, Secretary

DAILY ROLL CALL

TAXATION

COMMITTEE

49th LEGISLATIVE SESSION -- 1986
Second Special

Date July 1, 1986

| NAME | PRESENT | ABSENT | EXCUSED |
|------------------------------|---------|--------|---------|
| DEVLIN, Gerry, Chairman | ✓ | | |
| WILLIAMS, Mel, Vice-Chairman | ✓ | | |
| ABRAMS, Hugh | ✓ | | |
| ASAY, Tom | ✓ | | |
| COHEN, Ben | ✓ | | |
| ELLISON, Orval | ✓ | | |
| GILBERT, Bob | ✓ | | |
| HANSON, Marian | ✓ | | |
| HARRINGTON, Dan | | | |
| HARP, John | ✓ | | |
| IVERSON, Dennis | ✓ | | |
| KEENAN, Nancy | ✓ | | |
| KOEHNKE, Francis | ✓ | | |
| PATTERSON, John | ✓ | | |
| RANEY, Bob | ✓ | | |
| REAM, Bob | ✓ | | |
| SANDS, Jack | ✓ | | |
| SCHYE, Ted | ✓ | | |
| SWITZER, Dean | ✓ | | |
| ZABROCKI, Carl | ✓ | | |
| | | | |
| | | | |
| | | | |

AMENDMENTS ADOPTED BY THE COMMITTEE ON TAXATION
ON HOUSE BILL NO. 53
First Reading (White) Copy
July 1, 1986

1. Title, line 7.
Strike: "30"
Insert: "15"

2. Page 7, line 23.
Strike: "30%"
Insert: "15%"

3. Page 8, line 15.
Strike: "81%"
Insert: "50%"

4. Page 8, line 16.
Strike: "19%"
Insert: "50%"

5. Page 9, line 9.
Strike: "19%"
Insert: "50%"

6. Page 9.
Following line 17

Insert: "NEW SECTION. Section 7. Licensure -- refund of license fee. (1) Any licensee issued a video draw poker license for the period July 1, 1986, through June 30, 1987, prior to the effective date of this act shall be refunded, in full, the total amount of the video draw poker machine license fee for each machine so licensed, less \$45 for each machine so licensed. The \$45 license fee shall be retained by the department of revenue for the administration and enforcement of this act.

(2) Any machine licensed under the conditions of subsection (1) or after the effective date of this act is subject to the provisions of this act.

(3) Each machine licensed under the conditions described in subsection (1) continues to be licensed for the period July 1, 1986, through June 30, 1987, and is subject to the video draw poker machine net income tax as provided in [section 5]."

Renumber: subsequent sections

3GA

Garry Devlin
.....
REP. DEVLIN

Chairman.

ROLL CALL VOTE

Paratoin COMMITTEE

Date: July 1, 1986 Bill # 53 Number 1-A

Motion: Harrington

| Name | Aye | Nay |
|-----------------------|-----|--------------|
| DEVLIN, Gerry, Chm. | | ✓ |
| WILLIAMS, Mel, V.Chm. | | ✓ |
| ABRAMS, Hugh | | ✓ |
| ASAY, Tom | | ✓ |
| COHEN, Ben | | ✓ |
| ELLISON, Orval | | ✓ |
| GILBERT, Bob | | ✓ |
| HANSON, Marian | | ✓ |
| HARRINGTON, Dan | ✓ | |
| HARP, John | | ✓ |
| IVERSON, Dennis | ✓ | ✓ |
| KEENAN, Nancy | ✓ | |
| KOEHNKE, Francis | | ✓ |
| PATTERSON, John | | ✓ |
| RANEY, Bob | | ✓ |
| REAM, Bob | | ✓ |
| SANDS, Jack | | ✓ |
| SCHYE, Ted | | ✓ |
| SWITZER, Dean | | ✓ |
| ZABROCKI, Carl | | ✓ |
| Totals | 2 | 10 |

ROLL CALL VOTE

Taxation COMMITTEE

Date: 7/1/86 Bill # 57 Number 1

Motion: Raney's amendment

| Name | Aye | Nay |
|-----------------------|-----|-----|
| DEVLIN, Gerry, Chm. | | ✓ |
| WILLIAMS, Mel, V.Chm. | | ✓ |
| ABRAMS, Hugh | | ✓ |
| ASAY, Tom | ✓ | |
| COHEN, Ben | ✓ | |
| ELLISON, Orval | | ✓ |
| GILBERT, Bob | ✓ | |
| HANSON, Marian | | ✓ |
| HARRINGTON, Dan | ✓ | |
| HARP, John | | ✓ |
| IVERSON, Dennis | ✓ | |
| KEENAN, Nancy | ✓ | |
| KOEHNKE, Francis | ✓ | |
| PATTERSON, John | | ✓ |
| RANEY, Bob | ✓ | |
| REAM, Bob | ✓ | |
| SANDS, Jack | | ✓ |
| SCHYE, Ted | ✓ | |
| SWITZER, Dean | | ✓ |
| ZABROCKI, Carl | ✓ | |
| Totals | 11 | 9 |

30' to 15'
50' - 50' split

ROLL CALL VOTE

Toronto COMMITTEE

Date: 7/1/81 Bill # 53 Number 2

Motion: Ballot Amendment

| Name | Aye | Nay |
|-----------------------|-----|-----|
| DEVLIN, Gerry, Chm. | | ✓ |
| WILLIAMS, Mel, V.Chm. | | ✓ |
| ABRAMS, Hugh | | ✓ |
| ASAY, Tom | | ✓ |
| COHEN, Ben | | ✓ |
| ELLISON, Orval | | ✓ |
| GILBERT, Bob | ✓ | |
| HANSON, Marian | ✓ | |
| HARRINGTON, Dan | ✓ | |
| HARP, John | | ✓ |
| IVERSON, Dennis | ✓ | |
| KEENAN, Nancy | ✓ | |
| KOEHNKE, Francis | | ✓ |
| PATTERSON, John | ✓ | |
| RANEY, Bob | ✓ | |
| REAM, Bob | | ✓ |
| SANDS, Jack | | ✓ |
| SCHYE, Ted | | ✓ |
| SWITZER, Dean | | ✓ |
| ZABROCKI, Carl | | ✓ |
| Totals | 7 | 13 |

ROLL CALL VOTE

Toraction COMMITTEE

Date: 7/1/81 Bill # 53 Number 3

Motion: Table

| Name | Aye | Nay |
|-----------------------|-----|-----|
| DEVLIN, Gerry, Chm. | ✓ | |
| WILLIAMS, Mel, V.Chm. | | ✓ |
| ABRAMS, Hugh | ✓ | |
| ASAY, Tom | ✓ | |
| COHEN, Ben | | ✓ |
| ELLISON, Orval | ✓ | |
| GILBERT, Bob | ✓ | |
| HANSON, Marian | ✓ | |
| HARRINGTON, Dan | ✓ | |
| HARP, John | ✓ | |
| IVERSON, Dennis | ✓ | |
| KEENAN, Nancy | ✓ | |
| KOEHNKE, Francis | ✓ | |
| PATTERSON, John | ✓ | |
| RANEY, Bob | ✓ | |
| REAM, Bob | ✓ | |
| SANDS, Jack | | ✓ |
| SCHYE, Ted | ✓ | |
| SWITZER, Dean | ✓ | |
| ZABROCKI, Carl | ✓ | |
| Totals | 17 | 3 |

Poker Tax

Current law:

- 2800 machines currently licensed
- weighted average = \$4186 net (gross less cash payouts) last quarter
 $\times 4$ quarters
 \$16,744 average net per machine, per year.
- \$1500 license fee annually - due 1 July each year - pro-rated.
- \$75⁰⁰ to DOR for administration ~~\$2300 (\$950) to~~
- \$950⁰⁰ ($\frac{2}{3}$ rds of balance $1500 - 75 = 1425$) to local governments
 - to city if machine is in the city
 - to County if machine is outside city limits.

B

- 30% net (gross less cash payout)
- \$1500 license fee is repealed - \$45 fee to cover administrative costs
- Revenue - assume 3000 machines - average per year.
 - \$16,744 \times 3000 = \$50,232,000
 - $\times 30\%$
 - \$15,069,600
 - 19% of 30% to local govts - $\frac{19\%}{30\%}$
 - 2,863,224 to cities and towns
 - To General Fund - 15,069,600
 - 2,863,224 to local govts
 - 12,206,376
 - less 1,636,776 General Fund under old law.
 - 10,569,600 = additional General Fund Revenue.

(1)

Exhibit 2
HB 53
July 1, 1986
Rep. Ellend

STATEMENT OF INTENT

____ Bill No. ____ [LC 28]

A Statement of Intent is required for this bill because section 2 grants additional rulemaking authority to the Department of Revenue. The rules should at a minimum:

- (1) assure compliance with this bill;
- (2) provide for adequate recordkeeping and the retention of records for an adequate period of time;
- (3) assure that records will be adequately inspected so that, among other things, the tax will be properly paid; and
- (4) provide for a simple and effective method of collecting tax money.

1.
Exhibit 3

HB 53

July 1, 1986

Rep. Parlovich

Assumption at 10%

The number of machines will increase to 4,000 because of seasonal and marginal placements. Given that 1,000 of these machines are seasonal and or marginal they will generate only one-half of the income the current 3,000 machines are producing. There will be no income tax loss to the State. There will be no loss investment in the private sector. There are no operating expenses figured in the revenue estimate.

Revenue:

| | |
|-------------------------------------|--------------------|
| 3,000 machines @ 360 per week @ 10% | |
| \$56,160,000 @ 10% | \$5,616,000 |
| 1,000 machines @ 180 per week @ 10% | |
| \$9,360,000 @ 10% | <u>936,000</u> |
| Net Revenue to the State: | <u>\$6,552,000</u> |

VISITORS' REGISTER

COMMITTEE

BILL NO. MB-53

DATE June 1986

SPONSOR Rep. Elford

| NAME (please print) | RESIDENCE | SUPPORT | OPPOSE |
|---------------------|------------------------------------|---------|--------|
| Gary Bennett | Helena | | ✓ |
| John P. Poston | " | | ✓ |
| PHIL BENSON | MISSOULA | | ✓ |
| LARRY LIPPIN | BOZEMAN | | ✓ |
| Jon Meredith | Helena | | |
| D.W. Larson | Helena | | ✓ |
| Phil Campbell | MTA | ✓ | |
| Ronald R. Pratt | MT Restaurant Assoc | | ✓ |
| Roger Lippin | MT Beer & Wine Wholesalers, Helena | | ✓ |
| Robert Van Dyke | Helena | | ✓ |
| Paul M. Bostoria | MT. Falls | | ✓ |
| Chester Bullock | BASIN MTA | | ✓ |
| Roselea Bullock | Silver Saddle Inn | | ✓ |
| Plummer | GY. FALLS | | ✓ |
| MATT DUSEN | MFT | | |
| | | | |
| | | | |
| | | | |

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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